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HOUSE OF REPRESENTATIVES—*Wednesday, March 24, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

And now abideth faith, hope, love; these three; but the greatest of these is love.— I Corinthians 13: 13.

Our Heavenly Father, we bring to Thee our humble gratitude for Thy goodness so graciously bestowed upon us all the days of our lives. As we enter this new day may it be with greater faith, greater hope, and greater love because Thou art with us all the way. May Thy spirit which has touched our lives touch others through us. Keep our minds pure, our hearts loving, our thoughts positive, and our conduct worthy of our faith. Strengthen the weak, comfort the sorrowing, give light to those in darkness, and lead us, every one to the peace of Thy presence.

Now, O God, give courage and wisdom to our leaders in Government that they and we as a nation may walk in Thy ways, obey Thy commandments and live the life of the believing heart to the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on March 23, 1976, the President approved and signed bills of the House of the following titles:

H.R 6516. An act to amend title VII of the Consumer Credit Protection Act to include discrimination on the basis of race, color, religion, national origin, and age, and for other purposes;

H.R. 8835. An act to amend the Truth in Lending Act to protect consumers against inadequate and misleading leasing information, assure meaningful disclosure of lease terms, and limit ultimate liability in connection with leasing of personal property primarily for personal, family, or household purposes, and for other purposes; and

H.R. 12193. An act to amend the Federal Water Pollution Control Act to increase the authorization for the National Study Commission.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6346. An act to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972.

DR. MIKHAIL SHTERN DESERVES HUMANITARIAN CONSIDERATION FROM SOVIET UNION

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, late last night, I was informed that Dr. Mikhail Shtern, an imprisoned Soviet Jew, has had his clemency appeal denied by Soviet authorities. His humanitarian appeal was based on the physical deterioration that this man has suffered ever since he was wrongfully incarcerated 2 years ago. He suffers from a debilitating spinal condition, heart disease, and he is unable to see without his glasses, which have been denied to him. Dr. Shtern's family has been told that he is kept drugged most of the time.

Dr. Shtern filed his appeal only after it was suggested that the authorities would be amenable to a humanitarian grant of clemency. Once again we find that such rumors from the Soviet Union are unfounded, with no basis in fact.

I have been seeking signatures on a letter to Secretary Brezhnev asking for humanitarian consideration for this suffering human being, which I will be sending out tomorrow. I hope more Members will join me in light of this latest development.

We cannot let up on our attempts to focus world opinion on the practices of persecution in the Soviet Union, so that those like Dr. Shtern who find themselves the victims of persecution and repression, can once more be reunited with their families and do not have to rot in Soviet prisons for exercising the basic rights of all human beings.

REVENUE SHARING

(Mr. ROUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, the Federal revenue-sharing program under which $30.2 billion has been distributed to some 39,000 State and local governments will expire December 31, 1976. However, the Congress through its committees is presently considering legislation to extend revenue sharing. I expect to support a bill extending revenue sharing. Like many others I had grave doubts about revenue sharing when it was first passed in 1972. It is a respected and a proven principle that the legislative bodies which vote for the taxes that support programs, such as those provided for under revenue sharing, should have some control over those programs. The Congress has exercised some discretionary authority over the revenue-sharing programs. I hope that that is continued.

It is also equally true that local communities and the States often are better able to determine how to best meet their own particular needs. In light of that principle, revenue sharing makes a great deal of sense.

Local officials from the Fourth Congressional District in Indiana which I represent have been writing me urging extension of revenue sharing. I have been pleased to hear from them, as often they listed for me, exactly what revenue-sharing funds have accomplished in their communities and this has helped to convince me that revenue sharing can work.

I would like at this time to provide a condensed version of what the city of Fort Wayne, Ind., has accomplished with general revenue-sharing funds:

Revenue Sharing 1972 thru 1975

Project	*Total disbursements*
Street lighting, resurfacing, curb and sidewalks, maintenance and trees	$1,507,571
Summer youth and recreation	292,836
Demolition or rehabilitation of housing	102,313
Neighborhood participation and improvements	4,301,745
Park Department revenue sharing	216,328
School safety	47,253
Fire Station II	116,762
Police garage, Training Academy, EMS upgrade and gas	342,314
Air terminal improvements	300,000
MIS system, Women's Bureau and Educational TV	67,555
Miscellaneous projects	142,023
Total all disbursements	7,436,700

In light of these services provided the community, I believe revenue sharing deserves to be extended. It is a unique experiment in Federal-State cooperation and I believe it is working well.

HARRIS POLL SUGGESTS PUBLIC IGNORANCE OF LEGISLATIVE BRANCH

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, people of both parties have lamented the woeful lack of public understanding of Congress. Louis Harris, the respected pollster, has furnished us with some new figures that suggest that public ignorance of the legislative is even worse than many of us had feared.

A Harris poll of March 11 shows that a 56-to-12-percent majority of the people feel that Democrats can run Congress better than Republicans. They have allowed the Democrats to control Congress for 39 out of the last 43 years.

Yet another Harris poll shows that only 13 percent of the people approve of the job the Democrat-run Congress is doing. The Democrats may give the people a lot of confidence; but they give them very little in the way of satisfaction and performance.

The American people are simply going to have to get it through their heads that the only way to change this Congress of which they do not approve is to change the majority leadership. And the only way to accomplish this is to change party control of Congress.

TAX TREATMENT OF EXCHANGES UNDER FINAL SYSTEM PLAN FOR CONRAIL

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 12490) to provide tax treatment for exchanges under the final system plan for ConRail, which was unanimously reported with amendments to the House by the Committee on Ways and Means on March 22, 1976.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder whether the gentleman could offer an explanation of the legislation.

Mr. ULLMAN. If the gentleman will yield, Mr. Speaker, H.R. 12490 deals with the tax treatment of the parties involved in the transfer of certain railroad properties into the Consolidated Rail Corporation.

The need for this legislation arises from the bankruptcy of the Penn Central and a number of other Northeastern and Midwestern railroads during the late 1960's and early 1970's. The insolvency of these rail carriers led to the enactment of the Rail Acts of 1973 and 1976, which provided for the restructuring of the Midwest and Northeast railroad system and authorized the formation of a new railroad corporation, Consolidated Rail Corporation, referred to as ConRail, in order to provide a financially self-sustaining rail service.

ConRail is to acquire, rehabilitate and operate as one system the rail properties of Penn Central and six other bankrupt railroads. ConRail will issue its common and preferred stock to the transferor railroads in return for their rail properties. Each transferor will also receive "certificates of value" which represent a guarantee by the Federal Government that the transferors will realize at least a minimum cash value for their properties. The transfer of rail properties to ConRail is scheduled to take place on April 1.

The present tax rules for insolvent railroad corporation reorganizations are similar to the rules for corporate reorganizations generally. Under these rules, the insolvent railroad corporation generally recognizes neither gain nor loss when its assets are transferred to another corporation. In addition, the shareholders and security holders of the insolvent railroad also do not recognize gain or loss on surrendering their interest in the insolvent corporation for a similar interest in the new company. With respect to the assets transferred from the bankrupt company to the new company, there is a carryover basis. This means that the basis of the assets in the new company would be the same as the basis in the hands of the transferor company.

The ConRail reorganization does not meet the technical requirements under the present tax rules for reorganizations of bankrupt railroads. Your committee believes, however, that since Congress has specifically approved the ConRail reorganization, the existing tax treatment for reorganizations of insolvent railroads should apply to the ConRail reorganization.

By applying the nonrecognition treatment under present law to ConRail, the bill extends to ConRail a carryover tax basis in the rail properties it will receive from the bankrupt railroads. This is important to ConRail for depreciation purposes since the basis of the assets in the hands of the transferors which is to be carried over to ConRail is higher than the current fair market value, which would be the basis of the properties to ConRail if the reorganization were taxable.

In the case of the railroads which transfer their rail properties to ConRail, the nonrecognition treatment of either gain or loss on the transfer will also apply, but these transferors will take a tax basis in the stock and certificates they receive equal to their present bases in the properties which go to ConRail. As in the case with railroad reorganizations generally, if the transferor railroads receive money or other property in addition to ConRail stock, securities, and the certificates of value, and if they realize a gain on the overall transaction, they will be taxed on this gain up to the amount of money or other property received. The gain will not be taxed to the railroads, however, if the money or other property is distributed to their own shareholders and creditors.

The shareholders and secured creditors of the transferors also will not generally recognize gain or loss if they receive the certificates and ConRail stock in return for their interests in the bankrupt railroads. This is also the tax treatment for tax free reorganizations generally.

A final part of your committee's bill deals with the treatment of net operating losses incurred by the transferor railroads in tax years before and during the year of the ConRail transfer. Most, if not all, of the transferor railroads have incurred large net operating losses during these prior tax years. In insolvency reorganizations generally, present law is not clear on whether the bankrupt company's net operating losses carry over to the successor company or are retained by the transferor company. Since ConRail neither needs nor wants the net operating losses of the transferor companies, the bill provides that ConRail is not to succeed to the transferor's net operating losses.

In the case of the transferor companies, however, your committee intends that existing law applicable in the case of railroad bankruptcies generally is to apply in determining whether a transferor company in this situation retains its own net operating losses as carryovers.

If it is determined that the net operating losses are retained by the transferor, the committee is also aware that certain problems exist because of the open-ended features in the ConRail transaction. The exchanges of rail assets for stock and certificates of value will not be completed in 1976, but will occur under court supervision over a period of years. The courts may also order additional cash payments to be made to the railroads and additional cash may also be paid to them on the redemption of the certificates of value as late as 1987. If the exchanges were all completed in 1976, and if any railroad realized an overall gain, any cash which it received would be taxable. In this case, the railroad could set off against that taxable amount its own net operating loss carryovers.

The complexities of the ConRail transaction, however, will delay the determination and eventual payment to the railroads until subsequent years, possibly as late as 1987, at which time their allowable carryforwards of net operating losses will have expired. In recognition of this problem, the bill provides that to the extent their allowable net operating losses were not absorbed by income reported during the regular carryforward period, the unused losses may be revived in a later year and applied against income which a transferor may ultimately realize from the ConRail reorganization through either court proceedings or a redemption of the certificates of value. The bill makes this net operating loss revival provision available in other railroad reorganizations generally.

The amendments made by the bill are

to apply to taxable years ending after March 31, 1976, which covers the April 1, 1976, transfers to ConRail.

It is estimated that the bill will cause no revenue loss for fiscal years 1976 and 1977 or for other immediate future fiscal years, because ConRail will incur net operating losses under present law during its early years of operation and because the transferor railroads may have available large net operating loss carryforwards.

Mr. Speaker, the Committee on Ways and Means believes that this tax bill is needed to facilitate the ConRail reorganization. I should add that enactment of this bill by April 1 will in large measure contribute to an orderly transfer of the rail properties to ConRail. I urge that the bill be adopted.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

Mr. SCHNEEBELI. Mr. Speaker, I rise in support of this bill. H.R. 12490 deals with the tax treatment of transfers of certain railroad properties to the Consolidated Rail Corporation—ConRail—under the provisions of the Regional Rail Reorganization Act of 1973—the 1973 act—and the Railroad Revitalization and Regulatory Reform Act of 1976—the 1976 act. The tax questions which this bill treats include those regarding the tax basis of the transferred assets in ConRail's hands and the effect of such transfer on the transferring companies and their shareholders and creditors.

The bill provides that transfer of the properties to ConRail will not result in gain or loss to the transferor companies and that security holders of the transferors generally will not recognize gain or loss on the exchange of their existing securities for ConRail stock and U.S. Railway Association—USRA—certificates of value. Additionally, under H.R. 12490 the basis of the assets transferred to ConRail in this reorganization by the railroad companies will, for tax purposes, be the same in ConRail's hands as in the transferors.

With regard to net operating losses of the transferor railroads in the reorganization, under present law it is unclear whether certain tax attributes, such as net operating losses, of a bankrupt company would be carried over to the transferee or retained by the transferring bankrupt company. Inasmuch as ConRail is not interested in receiving the net operating losses of the transferring companies, and since they desire retention of such losses, this bill prohibits any such losses from being carried over to ConRail.

Further with regard to net operating losses, this bill provides a special rule with regard to certain net operating loss carryovers which might lapse, absent special provision in this bill, before the transferring companies in question could use such losses. This situation is present because under the 1973 act and the 1976 act a special court is to determine the amount of certain compensation, which determination may not be made until several years in the future, to be paid to the transferring railroads. Prior to such determination, net operating losses of the transferring companies which are now available and which could be used to offset any income from such compensation may expire. Therefore, this bill provides that such otherwise expiring losses will remain available to offset any possible income recognized as a result of the special court's determinations.

Concerning certain questions as to the carryover basis in some of the assets transferred to ConRail by the transferors and of nonrecognition of gain or loss on such transfer, this bill is necessary because the present provisions of the Internal Revenue Code with regard to bankrupt railroads apply only to transfers of properties pursuant to order of a court with jurisdiction in a proceeding under section 77 of the Bankruptcy Act. Technically, the transfers under the 1973 and 1976 acts do not meet the requirements of the special tax rules for insolvent railroads. Additionally, under the final system plan the transferring railroads could at a later time receive sufficiently large amounts of cash, as a result of various valuation determinations, that they would not meet certain requirements regarding "continuity of interest" which apply generally in tax-free reorganizations.

However, the committee believes that since Congress has provided specifically for the reorganization into ConRail, the tax treatment now provided in the Internal Revenue Code with regard to such transfers by insolvent railroads should be available here, and the traditional "continuity of interest" concept should not be applied in this case.

In light of these factors, and in order to implement the congressional intent expressed in the 1973 and 1976 acts, I believe that this bill is necessary. I urge its passage.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL

(a) IN GENERAL.—Section 374 of the Internal Revenue Code of 1954 (relating to gain or loss not recognized in certain railroad reorganizations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—

"(1) IN GENERAL.—No gain or loss shall be recognized if, in order to carry out the final system plan, rail properties of a transferor railroad corporation are transferred to the Consolidated Rail Corporation (or any subsidiary thereof) pursuant to an order of the special court under section 303(b)(1) or 305(d)(2) of the Regional Rail Reorganization Act of 1973 in exchange solely for stock of the Consolidated Rail Corporation and certificates of value of the United States Railway Association.

"(2) EXCHANGES NOT SOLELY IN KIND.—If paragraph (1) would apply to an exchange if it were not for the fact that the property received in exchange consists not only of property permitted by paragraph (1) to be received without the recognition of gain or loss, but also of other property or money, then rules similar to the rules set forth in paragraph (2) or (3) of subsection (a) (whichever is appropriate) shall be applied.

"(3) BASIS.—The basis of the property transferred to the Consolidated Rail Corporation (or any subsidiary thereof) in an exchange to which paragraph (1) or (2) applies shall be determined under rules similar to the rules set forth in subsection (b).

"(4) DENIAL OF NET OPERATING LOSS CARRYOVERS TO CONRAIL.—Neither the Consolidated Rail Corporation nor any subsidiary thereof shall succeed to any net operating loss carryover of any transferor railroad corporation.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RAIL PROPERTIES.—The term "rail properties' means rail properties within the meaning of paragraph (12) of section 102 of the Regional Rail Reorganization Act of 1973.

"(B) TRANSFEROR RAILROAD CORPORATION.—The term 'transferor railroad corporation' means a corporation which, on March 11, 1976, was—

"(i) a railroad in reorganization (within the meaning of paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973) in the region (within the meaning of paragraph (15) of such section 102), or

"(ii) a corporation owned, leased, or otherwise controlled by such a railroad in reorganization.

"(C) FINAL SYSTEM PLAN.—The term 'final system plan' means the final system plan (within the meaning of paragraph (6) of section 102 of such Act). Such term includes supplemental transactions under section 305 of such Act.

"(D) SUBSIDIARY.—The term 'subsidiary' means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Consolidated Rail Corporation."

(b) BASIS AMENDMENTS.—

(1) BASIS OF PROPERTY RECEIVED BY TRANSFEROR RAILROAD CORPORATIONS.—Section 358(a) of such Code (relating to basis to distributees) is amended by striking out "or 371(b)" and inserting in lieu thereof "371(b), or 374".

(2) ALLOCATION OF BASIS.—Subsection (b) of section 358 of such Code (relating to allocation of basis) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN EXCHANGES INVOLVING CONRAIL.—To the extent provided in regulations prescribed by the Secretary or his delegate, in the case of an exchange to which section 354(d) (or so much of section 356 as relates to section 354(d)) or section 374(c) applies, for purposes of allocating basis under paragraphs (1), stock in the Consolidated Rail Corporation and the certificate of value of the United States Railway Association which relates to such stock shall, so long as they are held by the same person, be treated as one property."

(e) EFFECTS ON SHAREHOLDERS AND SECURITY HOLDERS.—Section 354 of such Code (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end thereof the following new subsection:

"(d) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—No gain or loss shall be recognized if stock or securities in a corporation are, in pursuance of an exchange to which paragraph (1) or (2) of section 374(c) applies, exchanged solely for stock in the Consolidated Rail Corporation and certificates of value of the United States Railway Association."

(d) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET COURT AWARDED INCOME IN RAILROAD REORGANIZATIONS.—Section

374 of such Code is amended by adding at the end thereof the following new subsection:

"(e) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET COURT AWARDED INCOME IN RAILROAD REORGANIZATIONS. If—

"(1) any corporation receives any award from the court having jurisdiction of such corporation in—

"(A) a proceeding under section 77 of the Bankruptcy Act, or

"(B) a proceeding before the special court to carry out section 303(e) of 306 of the Regional Rail Reorganization Act of 1973,

"(2) any portion of such award is includible in the gross income of such corporation for the taxable year in which such portion is received or accrued, and such taxable year begins not more than 5 years after the date of such award, and

"(3) under section 172(b)(1) the net operating loss of such corporation for any prior taxable year—

"(A) was a net operating loss carryover to the first taxable year of such corporation ending after the beginning of the proceeding referred to in paragraph (1) in which such award is made, but

"(B) is not a net operating loss carryover to the taxable year referred to in paragraph (2),

then such net operating loss shall be a net operating loss carryover to the taxable year described in paragraph (2) but only for use (to the extent not theretofore used under this subsection to offset other awards) to offset the portion referred to in paragraph (2)."

With the following committee amendments:

Page 2, line 6, strike out "section 303(b)(1) or 305(d)(2)" and insert in lieu thereof "section 303 or 305(d)".

Page 2, beginning in line 9, strike out "and certificates of value" and all that follows down through line 10, and insert in lieu thereof ", securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof."

Page 3, beginning in line 17, strike out "owned, leased, or otherwise controlled" and insert in lieu thereof "leased, operated, or controlled".

Page 4, line 21, strike out "stock in" and insert in lieu thereof "stock of".

Page 5, line 9, strike out "stock in" and insert in lieu thereof "stock of".

Page 5, beginning in line 10, strike out "and certificates of value" and all that follows down through line 11, and insert in lieu thereof ", securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof.'"

Page 5, after line 11, insert the following new sentence:

Clause (i) of section 356(d)(2)(B) of such Code (relating to receipt of additional consideration is amended by striking out "subsection (c) thereof" and inserting in lieu theerof "subsection (c) or (d) thereof".

Page 5, strike out line 12 and all that follows down through line 20 on page 6, and insert in lieu thereof the following:

(d) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—Section 374 of such Code (relating to gain or loss not recognized in certain railroad reorganizations) is amended by adding at the end thereof the following new subsection:

"(e) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—

"(1) IN GENERAL.—If—

"(A) any corporation receives or accrues any amount pursuant to—

"(i) an award in (or settlement of) a proceeding under section 77 of the Bankruptcy Act,

"(ii) an award in (or settlement of) a proceeding before the special court to carry out section 303(c), 305, or 306 of the Regional Rail Reorganization Act of 1973,

"(iii) an award in (or settlement of) a proceeding in the Court of Claims under section 1491 of title 28 of the United States Code, to the extent such proceeding involves a claim arising under the Regional Rail Reorganization Act of 1973, or

"(iv) a redemption of a certificate of value of the United States Railway Association issued to such corporation under section 306 of such Act,

"(B) any portion of such amount is includible in the gross income of such corporation for the taxable year in which such portion is received or accrued, and such taxable year begins not more than 5 years after the date of such award, settlement, or redemption, and

"(C) the net operating loss of such corporation for any taxable year—

"(i) was a net operating loss carryover to, or arose in, the first taxable year of such corporation ending after March 31, 1976 (or, in the case of a proceeding referred to in subparagraph (A)(i) which began after March 31, 1976, ending after the beginning of such proceeding), but

"(ii) solely by reason of the lapse of time, is not a net operating loss carryover to the taxable year referred to in subparagraph (B), then such net operating loss shall be a net operating loss carryover to the taxable year described in subparagraph (B) but only for use (to the extent not theretofore used under this subsection to offset other amounts) to offset the portion referred to in subparagraph (B).

"(2) SPECIAL RULE.—For purposes of paragraph (1)(C)(i), a corporation which was a regulated transportation corporation (within the meaning of section 172(j)) for its last taxable yaer ending on or before March 31, 1976, shall be treated as such a regulated transportation corporation for its first taxable year ending after such date."

The Committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. DOWNEY of New York. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 131]

Andrews, N.C.
Ashley
Baldus
Barrett
Bell
Biester
Burton, John
Conyers
Dellums
Diggs
Esch
Evans, Colo.
Fraser
Gibbons
Guyer
Harkin
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Hinshaw
Hyde
Jones, Tenn.
Karth
Lundine
McKinney
Macdonald
Mathis
Mills
Moorhead, Pa.
Nix
Nolan
Patten, N.J.
Pepper
Riegle
Sarbanes
Scheuer
Sikes
Skubitz
Stanton, James V.
Steiger, Wis.
Stratton
Stuckey
Teague
Thompson
Udall
White
Wilson, Tex.

The SPEAKER. On this rollcall, 384 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDING TITLE 10 OF THE ECONOMIC OPPORTUNITY ACT OF 1964.

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10799) to amend title 10 of the Economic Opportunity Act of 1964.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10799, with Mr. MIKVA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice has the oversight responsibility for the new Legal Services Corporation. We are charged with insuring that the Nation's poor receive competent legal assistance consistent with the American Bar Association's Code of Professional Responsibility. This is a difficult task since only a limited amount of resources and money are available. Approximately 12 million of the Nation's poor—about 40 percent—live in areas where there are no legal services.

H.R. 10799, a bill which has been cosponsored by all the members of the subcommittee, Mr. RAILSBACK, Mr. WIGGINS, Mr. PATTISON of New York, Mr. BADILLO, Mr. DRINAN, Mr. DANIELSON, and myself, is one important effort to preserve the resources which are available to deliver legal assistance and related services to the Nation's poor.

H.R. 10799 is a bill which would amend

title 10 of the Economic Opportunity Act of 1964—better known as the Legal Services Corporation Act of 1974—to allow the Legal Services Corporation to fund support activities of research, training, technical assistance, and clearinghouse activities by grant or contract. The Legal Services Corporation Act of 1974 presently restricts the Corporation to the direct undertaking of such functions.

What is the practical effect of that restriction? The subcommittee has held 2 days of hearings on this restriction. Representatives of the American Bar Association legal services projects, National Legal Aid and Defender Association, and a former Justice Department attorney with 30 years experience have testified in support of this legislation to remove the present restriction. Written support has been received from legal and bar associations in Boston, Chicago, New York City, the District of Columbia, and State bars of California, New York, Ohio, Oregon, and Michigan. No opposition has been received from any bar association.

These supporters have cited the dangers of the present restriction:

First. It handicaps the Corporation in its task of delivering legal services by the most effective method.

Second. It overlooks the experience of funding support activities by grant and contract—a practice which was developed by the Office of Economic Opportunity and its predecessor Community Services Administration.

Third. It ignores the expertise and continuity of support centers which have been serving the legal services community and clients over the past 10 years. Seventeen support centers have been receiving grants from the Community Services Administration. These centers have been highly praised by a recent study team which was commissioned by the Legal Services Corporation. Their expertise includes areas such as consumer law, senior citizen assistance, and housing law. The study teams have concluded that removal of the present restriction would benefit the Corporation, by allowing it to fund quality services on a cost-efficient basis. Valuable services and irreplaceable staff workers will be lost without removal of the present restriction.

Fourth. The restriction in section 1006(a)(3) of the act has consumed much energy of the new Corporation. The Board of the Legal Services Corporation has been troubled by the restriction. They have spent 9 months analyzing it, and cataloging the activities of the 17 support centers which are most directly affected by it. They have tentatively concluded that, since the Corporation cannot represent clients other than itself and since the purpose of the act is to insure quality legal assistance consistent with the code of professional responsibility, that the Corporation may provide funds by grant or contract for programs providing legal assistance to eligible clients, whether these programs are organized on a local, State, or national level.

Although the legal reasoning of the Corporation's opinion and resolution is very convincing, the practical effect of the present restriction would still result in the dismantling of four support centers—legal services training program, management assistance program, National Paralegal Institute, and the Clearinghouse Review. The present restriction could also result in the Corporation being forced to undertake "in house" certain activities which the other 13 centers have been performing: For example, manuals for attorneys and paralegals, training programs for legal services personnel, newsletters and other informational materials. Such a result runs counter to the conclusions of the study teams commissioned by the Corporation. These teams composed of high quality lawyers and legal services representatives have concluded that removal of the restriction will allow the Corporation the flexibility it needs to structure support services on a reasonable basis.

Why is the present restriction in the act? There was concern expressed by some of my colleagues that the support centers were not responsive to clients' needs. Yet the necessity for this restriction no longer exists. Why?

First. Because the act itself offers a series of controls—controls on the types of cases—for example no desegregation or nontherapeutic abortion cases; controls on the attorneys and other staff members—for example no political activities or lobbying is allowed. Disciplinary procedures are set out in the act for handling any violations. These controls insure accountability to the clients and to the Corporation.

Second. Because the Corporation now is formed and governed by the Presidentially-appointed and Senate-confirmed 11-member Board of Directors—presently all attorneys who had practical experience in the law, and who have exercised caution in their responsibilities.

Third. The present restriction was a last-minute concession in July 1974, to President Nixon who had threatened to veto the bill unless this amendment were added. The original bill which the administration had proposed in 1973 allowed the Corporation to undertake the support activities directly or by grant or contract. The conference bill which was adopted by this House on May 16, 1974—227 to 143—accepted those three methods of funding support services.

I suggest that the time is ripe now for Congress after intensive hearings on the subject and a study commissioned by the Board—to remove that restriction and give the Corporation the discretion and flexibility to fund support services based on the most efficient and economical basis.

We are not requiring the Corporation to fund any particular center; we are only allowing them the option of making funding decisions on a reasonable basis. We have created a Corporation; this legislation will enable it to perform its full task.

Mr. RAILSBACK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. HUTCHINSON).

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I want to concur in the remarks of my distinguished subcommittee chairman, the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. Chairman, H.R. 10799 restores the discretion of the Legal Services Corporation to fund the research, training, technical assistance, and clearinghouse functions of the back-up centers either directly—bring functions "in-house"—or by grant or contract—continue to have the functions performed by the centers as presently constituted or reorganized as the Corporation sees fit. The Legal Services Corporation Act presently authorizes the Corporation to provide such funding "directly and not by grant or contract."

H.R. 10799 basically amends section 1006(a)(3) of the act, restoring the language to that proposed in the original administration bill of 1973, and agreed to by the House and Senate conferees in May, 1974. The conference report on H.R. 7824, issued on May 13, 1974, retained the Senate language, authorizing the Corporation to provide funding for the centers either directly or by grant or contract. On May 16, 1974, the House voted 190 to 183 to reject a motion to recommit, and 227 to 143 to adopt the conference report. Thus in the early summer of 1974, the House and Senate were agreed upon a bill which gave the Corporation the discretion to bring the centers in-house or to fund them by grant or contract.

There are over 1,500 paralegals working in Legal Services. They are widely recognized as very valuable to effective delivery of services to the poor. Since 1972 they have been provided with training material and support by the National Paralegal Institute, NPI. These paralegals are in need of training designed for the particular functions they perform. The skills and substantive law areas they need to know are different from those needed by paralegals working for private lawyers. For example, Legal Services paralegals handle much of the legal services caseload in welfare, social security disability, and supplemental security income. Outside of training designed by NPI there is virtually no appropriate training available in the country for Legal Services paralegals in these subjects.

One unfortunate affect of section 1006(a)(3) of the act is that the Corporation may have to terminate the National Paralegal Institute. The Corporation's study team, created to analyze the work of the backup centers, found that NPI was the only organization in the country providing training materials and other essential support to Legal Services paralegals. They also found that the quality of the work done at NPI was extraordinarily high and that the material they produced was vital to Legal Services. Training experts on the study team advised the Corporation against undertaking to do paralegal training itself, since the training function should not be combined in the same organization responsible for evaluation, monitoring and refunding.

Nothing in the legislative history of 1006(a)(3) indicates that paralegal training was an intended target or a source of concern. Yet the Corporation now believes it is required to terminate NPI and, against the advice of its own study team experts, undertake a function which was already being done effectively elsewhere. This is one more argument for adoption of H.R. 10799.

One probable effect of the Legal Service Act as it now stands will be the complete elimination of the independent lawyer and paralegal training programs that have been built up over the years. There are important considerations on the effect that bringing the training programs in-house will have. I think the Legal Service should be able to decide how to structure the training programs.

For example, many in the program feel it will be a great loss if the corporation must abandon the open nature of the training methodology used by the Legal Service training program and in the materials and curricula of the National Paralegal Institute. Many people believe that bringing training into the Corporation will impair the credibility of the trainers, destroy the creative environment for both the development and delivery of training that has been developed, and remove the insulation from political and bureaucratic pressure. There is a serious risk that training conducted by the funding entity might lose credibility because evaluation of trainees and programs might creep into the training, causing the loss of free exchange of ideas or the discussion of problems that may adversely reflect on a particular project. From the trainees' point of view this could have a chilling effect.

Some of the concerns apply to the delivery of technical assistance to projects. In order to advise a project, the adviser must have a complete and candid picture of how that project is conducting itself.

There could well be fear of revealing possible bad judgment to the funding source, I believe we should permit the Corporation to address these concerns, and decide what in its judgment is best for the programs. H.R. 10799 should be adopted.

Mr. HUTCHINSON. Mr. Chairman, there were six of us, I believe, in the Committee on the Judiciary who voted against reporting this bill. Four of us joined in the minority views.

I hold in my hand a letter dated January 26, from the White House, addressed to Senator McClure, from which I am happy to state that the President also opposes this bill. I quote from this letter:

> Before the Legal Services Corporation Act of 1974 was enacted, one of the major agreements reached by the Administration and the Congress in arriving at an acceptable bill was that continued funding of the backup centers would be prohibited . . .
>
> The President is opposed to reversal of this agreement, as provided in H.R. 10799.

I too am opposed to this repeal of the Edith Green amendment. I thought that it was a very worthwhile improvement to the Legal Services Act when it was adopted in the House in 1973. And here, even before or just at the time that the Edith Green amendment is to become effective, an effort is being made to repeal it, even before it has had an opportunity to work.

Mr. Chairman, it is true this bill concerns itself with a very narrow point in the legal services statute: Whether the Legal Services Corporation may be permitted to finance its legal research by grants or whether it must do its research itself. But this very issue was the subject of the Edith Green amendment adopted in 1973. And the backup centers which the Green amendment abolished are still in business because only now is funding for legal services to be made through the Legal Services Corporation Act. The effect of this bill will be to cancel their abolishment, and keep them in business, to nullify the Edith Green amendment.

Legal services has been funded under the OEO and the Community Services Act until now. Under those agencies, backup centers have been, all too often, the source of personal crusades which had as their intent and purposes not quality legal service to the poor, but rather furtherance of what a particular lawyer or group of lawyers believed to be needed social change. Often, the legal services client would be used to fight the establishment, operate advocacy movements for workers against employers and lobby for social reform, all at the expense of the taxpayer. Ofttimes their attacks were aimed at the small farmer, the small businessman, and the policeman who could not afford to be hounded into civil courts on unmeritorious claims, dreamed up out of innovative and untried legal theories by law students in those backup centers.

Lawsuits financed by the Legal Services Corporation are civil suits. It seems to me to be only fair that the resources of attorneys on both sides of a civil case should be those of the law firms involved. It is hard enough when a small businessman or a farmer must go out and engage a lawyer to defend him in a civil suit when the lawyer on the other side is a Government attorney, armed with all the resources of the U.S. Government in the preparation of his case. But if this bill goes through, the Government attorney can also have the benefit of legal think tanks, called backup centers. Such services are not available to the defendant, unless he too is definitionally poor. In most cases, the defending party is not poor, but he is far from rich. He is likely to be part of that great middle class of honest hard-working Americans who are paying taxes and making a living.

The Legal Services Corporation has taken a neutral stand on this legislation. They have not asked for it. In other words, this legislation is not needed by the agency in order for it to do its job. The bill will destroy Mrs. Green's amendment even before it is operative. I oppose this bill.

Mr. RAILSBACK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10799. Presently, there exist throughout the country 16 or 17 legal support and research centers. They are funded until March 31, 1976, through Community Services Administration. Four of these centers will probably be phased out entirely, while others, if used, would only be used for providing legal assistance to eligible clients, other than research, training, or as clearinghouses. It is my opinion that some of these activities should and could best be handled by the Corporation. What this legislation will do is permit, but not require, the use and clarify any ambiguities that exist. A recent study undertaken by the Legal Services Corporation rated the respective centers as doing high quality work and a valuable asset in providing needed legal service to the poor.

As we well know, a few years ago, a couple of these support centers became beachheads for personal crusades with little or no concern given to representing the client. This is what concerned the 93d Congress when it adopted Mrs. Green's amendment which precluded the Corporation from extending grants or entering into contracts for research training and information clearinghouse activities.

The situation has changed since the adoption of the Green amendment. The 11-member Board has been appointed by President Ford. We now have the advantage of knowing the makeup of the Board and the Corporation's officers who are demonstratively aware of and sensitive to the political problems surrounding this legislation. A recent example of this concern was demonstrated by Mr. Tom Ehrlich, president of the Corporation, when he recommended to the Board of Directors, that any business given support centers be done through contract and not by grant, because "contracts will insure strict and continuous accountability."

If the Corporation chooses to contract a legal support center under this legislation—and I stress it is discretionary with the Board—there are a number of restrictions and safeguards under the existing law which would become applicable to the support center. For example, section 1004(f) provides that the Board request the Governor of each State to appoint an advisory council for such State.

The advisory council is charged with notifying the Corporation of any apparent violation of the provisions of law. Section 1007(a)(5) provides that no funds made available by the Corporation shall be used directly or indirectly to influence the issuance, amendment, or revocation of any executive order or similar promulgation of any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by Congress or by any State or local legislative body. Section 1007(a)(6) prohibits attorneys from engaging in political activities; section 1007(b)(7)

(8) provides that no funds made available by the Corporation may be used in school desegregation or nontherapeutic abortion litigation. In addition, the bill limits the amount spent by the Corporation on such centers to no more than ten percent of their yearly appropriation. This was an amendment added to the bill by CHUCK WIGGINS who also supports this legislation.

What all of this amounts to is control of the development of legal services. A control that we never had under the old structure. I believe the chance for abuse and misuse of support centers has been greatly reduced under our new structure. Giving the Corporation flexibility to utilize support centers will enhance its efficiency and in many cases save time and money. More importantly, it will enable it to better carry out our mandate of quality legal assistance to those Americans who can least afford it and we will have come a little bit closer to what must be our overall objective, "Equal justice under law."

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, the measure before us is a very simple one. It amends the Legal Services Act to permit the Legal Services Corporation to perform research, technical assistance, training and clearinghouse activities through grants and contracts, as well as through in-house activities. The intent of the bill is to enable the Corporation to carry out the will of Congress in effectively representing poor clients.

When the Legal Services Act was enacted, many specific limitations were placed on the attorneys participating in the program. They went too far. By restricting research activities to the Corporation, while mandating that litigation itself must be carried out by the support centers the twin functions of research and representation were separated. Further, the ability of specialists in specific statutes to provide training to other attorneys while litigating on behalf of clients was seriously impaired. It is this situation that the bill before us seeks to rectify.

It is a permissive piece of legislation. It does not stipulate that the Corporation turn over specific activities to support centers—it merely permits it to do so. When the Committee of the Judiciary held hearings on the measure, it received the support of the American Bar Association, legal services attorneys, individuals specializing in poverty law, organized labor and well-known legal experts.

Because of the obvious need for the legislation, the committee gave it bipartisan, overwhelming support. I urge my colleagues to do likewise and pass the bill.

Mr. RAILSBACK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, the focus of the opposition to the bill before us is on the activities conducted heretofore by backup centers. It is believed that those activities are in some manner contrary to the public interest and ought, therefore, to be carefully limited. The bill, however, does not address itself to the activities of backup centers. Abuses have been well documented and have been dealt with in earlier legislation.

If this bill is defeated, for example, the activities of backup centers, as limited by the Legal Services Corporation Act, could and in all probability would go forward.

The Legal Services Corporation is not prohibited by law from maintaining its own backup centers. It may not fund, however, the research, technical assistance or clearing house activities of a backup service by the means of grant or contract. It may, however, fund those activities directly under present law.

Accordingly, if we defeat this bill because of some perceived opposition to backup centers, we will in no way have limited the activities of a backup center, but simply have narrowed the discretion of the Legal Services Corporation in how it may fund those backup centers.

In summary, the bill, then, is not addressed to the existence of backup centers at all, or the activities in which those centers may be engaged; rather it is addressed to the flexibility of funding, that is, as to whether or not those centers may be funded directly or indirectly by grant or contract.

It has been said a few moments ago by my distinguished and valued friend, the gentleman from Michigan (Mr. HUTCHINSON) that this is a repeal of the Green amendment, which this Congress debated in 1973. It does not repeal the purposes of the Green amendment.

Just before taking the floor, I reread the debate in 1973 over the Green amendment. The Green amendment provided a condition for funding three activities historically conducted by backup centers. That condition was that the activities could not be funded by grant or contract, but permitted the funding of those activities directly by the Legal Services Corporation itself.

To demonstrate the misunderstanding that is present here, let me read just the first line of the dissenting views. The dissenters commence:

> We believe the judgment of the majority of the committee in authorizing the use by the Legal Services Corporation of backup centers is unwise. . . .

But, of course, that was not the judgment we made. Congress itself made a contrary judgment in 1973. This bill speaks only to the techniques of funding those activities.

Further on in the Dissenting Views it is stated:

> . . . the 93rd Congress, after many hours of debate, reorganized this program, precluded the use of backup centers and severely restricted the . . . activity . . .

Congress did not preclude the use of backup centers.

I am not standing here. Mr. Chairman, as an apologist of the gross and demonstrated excesses of some backup centers as practiced under the old OEO program. Those centers often were utilized as a means of social reform, as perceived by the reformers, rather than the representation of the legal interests of clients. But Congress spoke to this issue in the 1973 act and prohibited the Legal Services Corporation from engaging in a wide range of lobbying, social and political activities. That is in the law, and the bill before us today does not change that law.

This is a narrow issue. I urge that we not deny to the Legal Services Corporation the legitimate option of funding permissible activities by grant or contract.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding. I would say to the gentleman from California that I would like to support the bill before us today but I am not sure I understand the full import of the legislation. I would ask the gentleman how this could help, or how would it work as far as a person is concerned who comes into the legal aid program for help?

Mr. WIGGINS. The gentleman asks how would it help the individual?

Mr. WYLIE. How would it work if a person came into a legal aid center for assistance?

Mr. WIGGINS. If the problem involved an area in which a legal aid backup center had developed a certain expertise and competence, then the local Legal Services Corporation Office would, in all probability, call upon the backup center for their special competence in rendering legal assistance to the client.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAILSBACK. Mr. Chairman, I yield 5 additional minutes to the gentleman from California.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Will there be additional cost? I think the gentleman said that he did not conceive that there would be additional cost. As a matter of fact, it is a reallocation of the moneys which have already been appropriated to the program; is that correct?

Mr. WIGGINS. No. This bill, if adopted, does not result in any additional authorization for the Legal Services Corporation. However, the committee—and I believe in its wisdom—limited the amount of the existing authorization which could be allocated to backup centers to not more than 10 percent of an annual authorization.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I think that maybe we should point

out that the 16 or 17 legal support centers are now being funded but funded under the Community Services Administration, which is still Federal funding, however.

Mr. WYLIE. Mr. Chairman, will the gentlman yield further?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

So this bill, then, would amount to a decentralization of the program which is ongoing; is that a fair statement?

Mr. WIGGINS. No. The whole concept of the Legal Services Corporation is to centralize the delivery of legal services to the poor into the hands of independent body which is controlled, as it should be, by lawyers. Heretofore the delivery of legal services to the poor has been controlled by social programers, namely, the Office of Economic Opportunity. Fortunately, we have moved and are moving away from that concept.

Mr. WYLIE. But, as I understand it, at the present time the Office of Economic Opportunity supervises the program. Under this the Legal Services Corporation would supervise it and could contract out to local community organizations for the work contemplated under this bill.

Mr. WIGGINS. The Office of Economic Opportunity will lose in a very short period of time its entire management, control, and supervision over these centers, and they shall be supervised hereafter under the Legal Services Corporation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

I would like to have the gentleman explain what he means by funding directly. This permits grants or contracts, and then the gentleman says if we do not do that, they can fund directly. It is my understanding that any backup center arrangement would have to be done in-house, that the corporation would have to have any backup activities themselves rather than funding anyone else to do it.

Mr. WIGGINS. Yes. I believe that the option available to the Corporation would be to create within its structure a section, which we will call for want of a better term, a "backup center section," and to discharge those functions regionally around the country in regional backup centers. But the administration of those centers and their control would be directly under the Legal Services Corporation. Such an arrangement is possible now even if the bill is defeated. It would remain possible if the bill is approved. The bill, however, permits the flexibility of financing these regional centers by grant or contract of the option of the Corporation.

Mr. QUIE. If the gentleman will yield further, is it not better with the experience of the backup centers that we require the Legal Services Corporation to conduct the backup operation itself because the problem, as I view the backup centers, was that they were established by Federal money; then they got some additional money and got into all of these undesirable activities which they could do on their own time. I believe the services ought to be performed, as I believe the gentleman does, but it seems to me it would be preferable at least for them to try it themselves in-house, and then afterwards to come and tell us, we cannot do it; we have to have Harvard or somebody else do it.

Mr. WIGGINS. That may, indeed, be preferable. It may, in fact, be the decision of the Legal Services Corporation to do all of these things in-house; but it will lose, unless this bill is adopted, the flexibility of using an alternative funding mechanism.

Mr. QUIE. If the gentleman will yield further, it seems to me they ought to try it in-house before they be given the flexibility, rather than before they try it, give them the flexibility to go ahead and fund it.

Mr. WIGGINS. The discretion granted in the bill, I trust, would be exercised judiciously. I am seriously concerned about limiting the exercise of good judgment, however.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, let me just say in response to the question of my good friend, the gentleman from Minnesota, that Mr. Ehrlich who is the president of the Corporation, has in fact made a recommendation, after basing his recommendations on a study made of the backup centers, that indeed certain functions which have been performed at four different backup centers, one relating to information dissemination and another one relating to paralegal training, that those particular functions should be kind of incorporated into the activities of the Corporation.

If the gentleman will yield further, let me just continue by saying the remaining 12 backup centers have developed a certain expertise in such areas as housing as far as Indians, as far as employment, as far as health, and the study showed that the expertise developed by those 12 remaining centers has indeed been utilized in helping to provide legal assistance to poor people.

There has been, so far as I know, no abuse, in other words no crusades that really meant we should adopt the Quie amendment.

Mr. WIGGINS. If I may claim the balance of my time, I am satisfied there have been abuses under the old OEO backup program, but we have responded to that problem in the new act. We wrote a host of provisions into the new Legal Services Act to limit the activities of the backup centers.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, what bothers me is we were aware of these abuses, and OEO was under the Nixon administration, and being aware of those abuses they could not change it by the good judgment of the people running the program, the political pressure was so high. What we will do is subject the new centers to those kinds of pressures and we are putting limitations on which do not seem to me to be limitations. It seems to me 10 percent is a great deal of money.

Mr. WIGGINS. I dispute the statement that the Legal Services Corporation is going to respond to political pressures. It is created as an independent body. I have a high regard for Mr. Ehrlich, who is the former dean of the law school at Stanford. I do not think he would yield to political pressures.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield, is it not true when we had Mr. Crampton before our subcommittee that he demonstrated a great sensitivity to the political problems that had been historically evidenced by earlier legislation?

Mr. WIGGINS. That is true. Roger Crampton, who is now at Cornell as its dean, and is Chairman of the Board of Directors of the Legal Services Corporation, is not only a bright and scholarly student of the law but he is also hard-headed and practical. He is not going to be persuaded by politicans to deflect this program from its proper purpose.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, it was not just the politicians who put the pressures on. It was the American Bar Association itself and it seems to me the ABA can put the pressure on even under this.

Mr. WIGGINS. I respect the gentleman's views. I think he is fearful the discretion which may be exercised by the new Corporation may not be exercised prudently and in the national interest. I do not share that fear. The new Corporation is entitled to a presumption of responsibility. But if it abuses its discretion, this Congress which oversees the program, would be quick, in their oversight function, to respond to those abuses.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I commend the gentleman and I concur in his remarks.

Mr. Chairman, I yield such time as he may consume to the distinguished committee chairman, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I rise in support of H.R. 10799. This bill will give the Legal Services Corporation the flexibility it needs to provide comprehensive support services to local legal services programs in the most efficient and effective manner possible. It will enable the Corporation to preserve existing resources, where appropriate, and to develop new resources in whatever form appears best.

Mr. Chairman, on October 29, 1975, Mr. F. William McCalpin, the distinguished chairman of the American Bar

Association's Standing Committee on Legal Aid and Indigent Defendants, appeared before the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Mr. McCalpin testified in support of H.R. 10799 on behalf of the ABA, having been designated to do so by the president of the ABA, Mr. Lawrence E. Walsh.

I think that many of Mr. McCalpin's remarks are extremely helpful in understanding the necessity for passage of H.R. 10799, and I would like to share them with you. Mr. McCalpin said:

> The record of past ABA actions clearly supports the enactment of the bill. [H.R. 10799] For the past ten years we have consistently supported the provision and expansion of legal assistance to the poor in a manner which assures independent, professional and effective advocacy on their behalf. Similarly, the Association has consistently opposed any efforts to limit the scope or quality of such services. The most recent policy statement of the Association, adopted by its Board of Governors in May, 1974, urged the enactment of H.R. 7824, the Legal Services Corporation Act of 1974, as reported by the House-Senate Conference Committee. (H. Rept. 93–1039) Since this version included provisions similar to those which would result from the enactment of H.R. 7005 [now H.R. 10799], it is clear that the policy of the Association supports the enactment of the legislation before the Subcommittee.
>
> In keeping with the political and professional independence which the Corporation structure is designed to provide to the national legal services program. I would argue strongly that the back-up function be continued as an autonomous structure dependent upon the Corporation only for funding. The appearance of independence from policy control or direction is most important in this program which depends so heavily on client confidence for its success. In arguing for independence however, I do not overlook the policy and quality control which must, and quite properly, is exerted by funding decisions of the Corporation. There must be accountability for the expenditure of public funds, and the grantmaking process of the Corporation must be designed with that public accountability in mind . . .
>
> Perhaps the most compelling argument for the enactment of the legislation, Mr. Chairman, is the need to provide to the directors and officers of the Legal Services Corporation the flexibility to experiment with the variety of structures and systems which will provide the most effective, efficient, and highest quality legal services to the poor of this country. As close observers and supporters of the program over the past ten years, the American Bar Association has been impressed with the performance of the back-up centers and other specialized programs which train legal and para-professional personnel. To force upon the Corporation a complete and abrupt restructuring of these functions would be a most serious mistake in my judgment. We would argue most strongly that you assure the Corporation that it will have the flexibility it needs to provide effective legal services to the poor.

Mr. Chairman, as we consider H.R. 10799, I think it is important that we remember Mr. McCalpin's reasoned support for H.R. 10799, and remember that in endorsing H.R. 10799, he speaks for the entire American Bar Association.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I thank my chairman for yielding.

First of all, I wish to commend both my subcommittee chairman, the gentleman from Wisconsin (Mr. KASTENMEIER), the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from California (Mr. WIGGINS) for the very excellent leadership that they have given with respect to this bill and all the work we have done in connection with it.

Mr. Chairman, I wish to touch upon one point only. There has been some concern expressed as to the direction in which the Legal Services Corporation may discharge its responsibilities. Those responsibilities will be discharged under the direction of the Corporation's Board of Directors, all of whom—and I repeat, all of whom—are the appointees of President Gerald Ford. They include the following:

Dean Roger Cramton, dean of Cornell University Law School,

Dean Thurman of the University of Utah,

Professor Breger of the University of Texas, and

Dean Ehrlich of Stanford University Law School, who is the new Executive Director of the Corporation.

From the political field, former U.S. Senator Marlow Cook, Senator Glee Smith, former president of the Kansas State Senate.

Among the practicing lawyers there are Melville Broughton of Raleigh, N.C.

Mr. Robert Kutak of Omaha, Nebr.

Mr. Glenn Stophel of Chattanooga, Tenn.

Mr. Revius Ortique of New Orleans, La., and Mr. Rudy Montejano of Santa Ana, Calif.

I want to repeat, all of these are appointees of our incumbent President, Mr. Ford. I submit that that should be enough to allay any concern that the Legal Services Corporation will follow some course of procedure which would be repugnant to the goals we have set up.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I would like to join in hearty support of this legislation. As a member of the Board of the legal services program in my district. I know some of these programs and I know the value of the program and the dedication the members and staff give to their work. I think the judgment they have exercised is commendable, and the flexibility provided in this legislation is most desirable.

Mr. DANIELSON. Mr. Chairman, I thank the gentlewoman for this valuable contribution and I yield back the balance of my time.

Mr. LEGGETT. Mr. Chairman, the issue before us today is but the latest episode in the long and tortured history of our efforts to establish and maintain a quality legal services program for the nation's poor. If we can recall impressions of the late 1960's, perhaps few thoughts brought a brighter gleam to the eyes of the members of the Nixon team arriving in 1969 than their determination to eradicate the Office of Economic Opportunity. And for Mr. Howard Phillips, assigned to the noble cause of conducting its dismemberment, few more appealing targets existed than OEO's legal services program. Mr. Phillips' success in this endeavor was blunted primarily by delaying actions in the courts.

The battle has been renewed in the last few years with our efforts to reconstitute legal services as a public corporation. For 3 years running, we tried to pass legislation toward that end. Finally, in 1974, the third year of repeated and repetitive debate, we passed a bill establishing the Legal Services Corporation. And at long last, its Board of Directors was installed and began operating last July.

Of the many issues which arose in this long and difficult debate, few have received more attention than the problem posed by the backup and support centers funded by OEO to provide legal research, information, and training for local legal services entities. To opponents of the program, these centers were symbols of the abuses which they felt were characteristic of the legal services program. Critics insisted that these centers concentrated on policy advocacy—legislative drafting, lobbying, and services to advocacy groups on inappropriate issues like abortion, the draft, desertion from the armed services, and desegregation—to the exclusion of legitimate representation of clients. The view that their services went beyond the necessary and appropriate for legal services prevailed in the House by wide margins as well as in the final bill, in the form of a provision prohibiting contracts or grants for research, training, technical assistance, and clearinghouse activities.

I felt at that time, as I do now, that this provision is fundamentally misguided and reduces significantly the quality of the services which the Corporation is able to set up for poor Americans. If there were abuses in the legal services program, and I contend that they were greatly exaggerated, we included provisions in Public Law 93–355 establishing the Legal Services Corporation which would stop them without precluding the Corporation from issuing contracts or grants. We included provisions dealing with abortion, selective service, desertion, and desegregation suits. We prohibited political activities and lobbying by legal services attorneys. We provided controls over appeals, class action suits, and amicus curiae actions. In short, as our committee has emphasized, we included in the law sufficient restrictions on the activities of legal services projects and attorneys to allay the apprehensions of those who supported the Green amendment in 1973 and 1974.

To me, this is not an ideological battle between liberals and conservatives—the crux of the matter is whether we want to provide quality legal representation for poor people. Good representation requires specialized expertise, effective research, and extensive information gathering. Just because law firms can provide these services is no reason to assume that your local legal services project has the same resources. It does not. It is this critical gap that the support centers were and are designed to fill.

To assert that they engage in nonclient representation is a red herring, for without them project attorneys are far less able to meet their clients' needs. Moreover, the experience of project offices with their almost 20,000 requests to the 16 support centers existing in 1974 showed that they were very responsive to clients' needs. There is much to gain at little cost, 10 percent or less of the funds appropriated to the Corporation.

Our committee's hearings indicated that the concept of outside, specialized services enjoys wide support within the legal community as does the notion that LSC should have the option to decide how best to fund them.

That is what this bill would do. It would provide LSC the option to fund outside entities, but it would not require the Corporation to support any particular center or activity.

Let me say, in conclusion, that we established the Legal Services Corporation as a separate entity, substantially free of political control. Let us now provide it the authority and opportunity to choose which is the most effective method of providing legal support and representational services.

With that, I urge my colleagues to support the bill.

Mr. ASHBROOK. Mr. Chairman, I rise in strong opposition to H.R. 10799, which would authorize the use of backup centers by the Legal Services Corporation. These centers have been hotbeds of social activism, aimed at political agitation rather than legal aid for the poor.

The question of backup centers was thoroughly debatd in the 93d Congress. After lengthy debate, we adopted the view that providing legal aid to the poor does not mean financing research centers directed toward changing social policy in America. Responsibility for changing social policy rests with the Congress and the legislatures of the 50 States—not some federally funded center.

That is still the key issue before us today. Are we going to use tax funds to promote a poverty lawyer's private definition of what is the public interest? Are we, under the guise of giving legal aid to the poor, going to use public funds to support research centers directed toward changing basic social policy?

Federal funding of backup centers has meant taxpayer subsidy of causes like busing, welfare rights, and prison reform. Backup centers have engaged in such activities as organizing welfare rights chapters and prisoner rights movements. They have advocated quotas in employment and education. They have represented May Day demonstrators and published radical propaganda.

Backup centers have also drafted model legislation, conducted research on national health insurance programs, joined in busing suits, and worked to change the abortion laws. In summary, millions of taxpayers' dollars have been spent on nothing but efforts to change social policy—policy supposedly determined by the Congress and State legislatures of the United States.

I cannot justify such expenditures in a program that is supposedly designed to provide legal aid for the poor. I strongly urge the House to uphold the Green amendment that was adopted in the 93d Congress. I urge the House to vote against this bill.

Mr. HUNGATE. Mr. Chairman, I rise in support of H.R. 10799. As you know, I have been concerned over the years about the paucity of accountability and control of the legal services program in general and the activities of a certain type of legal services lawyer specifically. I refer of course to those lawyers who tended to practice issue advocacy rather than focusing on the problems of individual clients. I have consistently opposed the use of Government resources to promote the philosophical interests of individual poverty lawyers. It is for this reason that I joined with our former colleague Representative Edith Green of Oregon, and others, in support of the so-called Green amendment. The thrust of that amendment was to tighten up the control and accountability of the legal services program and its lawyers to the end that the taxpayer's dollar would be used in the way in which it was intended, that is to provide quality legal services to qualified individuals who cannot afford a lawyer.

The situation has changed markedly since the passage of the Green amendment. I think it is fair to say that this change, in a positive direction I might add, was a direct result of that amendment. Let us look for a moment at what has happened. First, the President has appointed a moderate to conservative Board of Directors, all of whom are prominent lawyers determined to correct the excesses and insure accountability and control of the legal services program. They have hired a highly competent staff led by the former dean of one of this country's great law schools who has now taken steps to implement the thrust of the Green amendment. And I might add here parenthetically that it was precisely during this process that the need for clarification of 1006(a)(3) became apparent. Let us look for a moment at some of the concrete steps that have been taken by the Corporation and its staff toward implementation of Section 1006(a)(3) of the Legal Services Corporation Act—the Green amendment. On March 5, 1976, after months of study, the Board of Directors of the Legal Services Corporation concluded that:

> No longer can Corporation funds be used to provide, by grant or contract, research, training, technical assistance, and information clearinghouse activities, that relate to, but are not a part of providing legal assistance to eligible clients.

The Board actually terminated a significant number of backup centers, among which are: First, the Legal Services Training Program; second, the National Paralegal Institute; third, the National Legal Aid and Defender Association's Management Assistance Project; and fourth, the Clearing House Review.

Much of the activity of the remaining centers is expected to be significantly curtailed. This is the area in which the difficulty arises for training research and technical assistant's directly related to the representation of individual clients would not be prohibited. But these are the difficult gray areas to which the Green amendment does not address itself. And here is where the Corporation needs guidance from the Congress. In my judgment the Board of Directors of the Corporation and its staff has earned the right to this guidance for it has taken important steps to correct the abuses of the past, both real and imagined, and it has established a blueprint for responsible administration of the legal services program with maximum potential for accountability and control. In short, the Board has made an excellent start and I am satisfied that it is committed to continuing in this vein.

H.R. 10799 would be of tremendous assistance in clarifying the Board's authority under the act and at the same time extending to the Corporation the flexibility it must have if it is to effectively and economically carry out the overall purposes of the act, providing high quality legal services to the poor of our Nation.

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 10799. This amendment to the Economic Opportunity Act will restore to the Legal Services Corporation the discretion of funding support services such as research, training, and technical assistance through grants and contracts. Funding for 16 existing support centers expires March 31. Unless the Congress acts now to permit the Corporation to continue funding these centers, they will most likely disband and their legal expertise, developed over many years, will be lost to the many poor individuals whom they serve.

No one will dispute that the poor are entitled to the same quality legal services available to those who can afford to pay, and that the high professional and ethical standards expected of lawyers are the same regardless of the economic status of the clients served. Yet without the support services provided by these national specialized centers, legal services lawyers and their indigent clients would be deprived of the technical research and expertise necessary for handling complex litigation.

Legal services programs generally operate out of storefront offices without adequate space or library facilities. Most of the lawyers handle a caseload of from 50 to 100 cases and their days are spent either in court, at agency hearings, or back at the office interviewing waiting clients. Due to the pressure of immediate demands that legal services clients face daily, such as eviction, loss of welfare benefits, utility shut off or loss of children, there is little time left for tackling broader or complicated problems. It is in such instances that a program attorney will turn for assistance to a backup center which already has expertise in this area and is familiar with the available resources. These services assist the neighborhood lawyer in initiating the landmark cases which vindicate the constitutional rights of the poor.

Any law firm which handles general litigation has specialists that it can turn to for dealing with unique and complex problems. Legal services organizations should have no less. In New York City we have two of the finest such centers—The National Employment Law Project and the Center for Social Welfare Policy and the Law—which specialize respectively in title VII employment law, and welfare and medicaid litigation. The work of these centers has opened up jobs to women and racial minorities, and made the bureaucratic welfare laws more responsive to the client population.

Backup centers do not exist in isolation, dreaming up ways to change the world. Rather they are available with the technical expertise, which local legal service lawyers often lack, to respond to the immediate threat of harm which clients face.

Even assuming that the Corporation itself could provide these services under the law as it is written, it would take them considerable time to build up the experienced staff which these centers already employ. Although this legislation does not guarantee that all of the existing centers will be continued by the corporation, it gives them the discretion to continue those which are providing high quality and necessary legal services.

In a letter to the Judiciary Committee, the New York City Bar Association had high praise for the work of these centers, quoting Judge Jack Weinstein, of the U.S. District Court for the eastern district of New York, who stated that their work was of similar caliber to the city's largest and most respected law firms. This is the quality of legal services which the Congress should insist on providing the indigent in this country. If we are to meet our goal of equal justice for all, there must be the same quality of legal services available to the poor as is available to others who can afford to pay for them. This bill moves us closer to achieving this goal.

Mr. MEEDS. Mr. Chairman, as we consider H.R. 10799, certain points of critical importance must be remembered.

Section 1006(a)(1)(A) of the act authorizes the corporation "to provide financial assistance to qualified programs furnishing legal assistance to eligible clients," regardless of whether those programs are organized on a local, State, or national level. Nothing in the act precludes this; specifically, no section of the act distinguishes among programs furnishing legal assistance to eligible clients on the basis of the geographic area covered, the types of clients served, or the substantive law in which the programs specialize.

In particular, section 1006(a)(3) does not distinguish between local and national programs. "Research" in section 1006(a)(3) means generalized research not related to the delivery of legal assistance to eligible clients. To conclude otherwise would mean that the local neighborhood offices could not do research as part of their representation of eligible clients.

Moreover, since section 1006(c)(1) prohibits the corporation from "participat[ing] in litigation on behalf of clients other than the corporation," it is clear that research related to the representation of eligible clients cannot be funded directly by the corporation. The proceeding in a judicial setting is only the final act in the litigation process; research is the necessary first step in representing eligible clients in litigation.

It should also be remembered that programs providing legal assistance are authorized to furnish "the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients." See section 1007(b)(3). Thus, although section 1006(a)(3) requires that the corporation perform "in-house that training which is related to but not a part of providing legal assistance to eligible clients," it is clear that local programs can train their own staff, or for efficiency and economy purposes, join other programs in their area to train program staffs.

Mr. DOWNING of Virginia. Mr. Chairman, H.R. 10799, removes a serious dilemma facing the Legal Services Corporation. The act now authorizes the corporation to perform certain activities itself, but not by grant or contract. These include research, technical assistance, training and clearinghouse activities. At the same time the act prevents the Legal Services Corporation from representing clients itself. This means research by the corporation on the one hand and litigation by independent programs on the other hand. Unfortunately, this bifurcation means greater cost and less efficiency in providing legal services.

You will not find a successful private law firm which researches an issue through an attorney in one building, but which litigates precisely the same issue through another attorney in another building across town. For this reason, every study of support centers buttresses the notion of delivering all specialized legal resources through a single support program. Typical examples include the study and communication of the latest statutes, cases, and regulations in areas such as consumer law, administrative law, or housing law.

The present statute, which H.R. 10799 will amend, creates duplication of the efforts by the Corporation, by specialists in the area, and by local attorneys with a client affected by the recent law. While a lawyer asserting a statute in litigation may be the most well-versed person on the intricacies of that statute, the current law may very well prevent that lawyer from providing training to other lawyers in that same legal area. Instead, a person on the staff of the Corporation who lack litigation experience in that area might be the only possible trainer without this amendment. Rather than receive the benefits of the practical experiences of the lawyer who has studied the new development in the context of representing a client, education may have to come from Washington-based, Government lawyers who are not involved in the practical aspects of the law.

H.R. 10799 is an efficiency measure, and commonsense requires its support.

Ms. HOLTZMAN. Mr. Chairman, I support H.R. 10799 which would enable the Legal Services Corp. to improve the training of lawyers and paralegals who work in projects which it funds.

The present law requires the Legal Services Corp. to provide training for its lawyers and paralegals in-house. The corporal is prohibited from contracting with outside experts to provide such training.

Since the corporation cannot contract for training, it must develop a full range of experts in curriculum design and teaching in-house. This is inefficient and unnecessary, especially when good training facilities already exist elsewhere. Moreover, since there are relatively few people in the country who have expertise in providing training for poverty lawyers, it may be exceedingly difficult for the Legal Services Corp. to provide the highest caliber training in-house.

Federal agencies are generally authorized to contract for training with outside parties such as schools, universities and the like. Many agencies exercise this option to contract for such training by third parties and no rational reason exists for denying the Legal Services Corp. the same right.

This bill will thus permit the Legal Services Corp. to provide high quality training so that legal services lawyers and paralegals can best assist people in need of legal help.

Mr. YOUNG of Georgia. Mr. Chairman, H.R. 10799 involves the question of the method of delivery of the backup activities of research, training, technical assistance, and clearinghouse information related to but not directly involved with the representation of eligible clients.

In July of 1974, this Congress agreed to restrict the discretion of the Legal Services Corporation and prohibit it from funding these critical functions by grant or contract.

Acceptance of this restriction was the price paid for approval by President Nixon for the entire Legal Services Corporation Act. H.R. 10799 will return to the Corporation and its presidentially appointed Board the discretion to determine how best to deliver these vital backup activities.

I support this bill and hope that this body will vote to give the Legal Services Corporation the full power to determine what arrangements will be made to assure the most effective mechanism of delivery whether performed by grant or contract or by the Corporation itself.

There has been some misunderstanding about the meaning of section 1006(a)(3), particularly as it related to the so-called backup centers. There were many types of backup centers: Some performed only training or technical assistance, or clearinghouse activities. Others prepared manuals and newsletters, model briefs, topical updates, and other research and technical assistance to assist local legal services attorneys to better represent their clients. It was believed that preventing the Corporation from funding 1006(a)(3) activities by grant or contract would eliminate many of these functions of backup centers.

The original act did not contemplate, however, that the essential advocacy functions, including research, performed by the legal services program that was necessary for representation of a client, would be restricted by the limitation of corporation funding of research, training, technical assistance, and clearinghouse activities. This is so for several reasons.

First, section 1006(a)(1)(A) of the act authorizes the Corporation to fund legal services programs which provide legal assistance to eligible clients. At the time the act was passed, programs providing such representation consisted of local programs, statewide programs, regional programs, and national programs. This section does not impose any geographical restrictions. Moreover, it clearly authorizes the funding of programs providing specialized representation to eligible clients.

At the time of the act's passage, two types of such programs existed: Those providing representation in certain subject areas and those providing it to certain groups of clients.

Second, section 1006(a)(3) did not, by its terms, apply to only one type of legal services program. It applied to all programs whether funded to serve clients in a local area, statewide area, or throughout the Nation. No program could carry on research or training or technical assistance relating to the delivery of legal assistance; only the Corporation could do so. Section 1006(a)(3) nowhere mentions advocacy and representation of eligible clients; that is authorized in section 1006(a)(1)(A).

Third, the term research could not have meant the research that is carried on as part of the representation of an eligible client. If it had meant that, no program could provide research in its representation. And since the Corporation could not, under 1006(c) of the act engage in litigation on behalf of eligible clients, it also could not provide this research. Thus, no client representation research could go on at all. This is obviously not what was contemplated by the act. The research to which the act referred was generalized research related to but not a part of representation of an eligible client.

This bill, therefore, does not affect the method of delivery of the advocacy functions; it affects only the method of delivery of the backup functions of research, training, technical assistance, and clearing house activities.

The alternative to this bill may be the creation of another monolithic bureaucracy. The existing statute authorizes the Legal Services Corporation to take over the research, training, technical assistance, and clearinghouse functions of the backup centers. By concentrating these with the numerous other functions of the Corporation, the establishment of another Washington-based bureaucracy becomes all too likely. This bill simply provides an option to the Legal Services Corporation to avoid this result. It is an important option, but it is simply that. The Legal Services Corporation Board should be given the opportunity to organize support functions in the manner that makes the most sense to the delivery of quality legal services to the poor. I urge your support for this bill.

Mr. RAILSBACK. Mr. Chairman, I have no further requests for time.

Mr. KASTENMEIER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, no amendments are in order amending any provisions of the Economic Opportunity Act of 1964, as amended, except amendments to section 1006(a)(3) of said act which relate solely to the method of delivery of those support activities provided under that subsection and amendments germane to section 1010(d), as proposed, to be added to said act by section 2 of the bill.

The Clerk will read.

The Clerk read as follows:

H.R. 10799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (3) of section 1006(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2996e), as added by the Legal Services Corporation Act of 1974 (Public Law 93-355), is amended to read as follows:

"(3) to undertake, either directly or by grant or contract, the following activities relating to the delivery of legal assistance—

"(A) research,

"(B) training and technical assistance, and

"(C) to serve as a clearinghouse for information.".

SEC. 2. Section 1010 of the Economic Opportunity Act of 1964 (42 U.S.C. 2996i), as added by the Legal Services Corporation Act of 1974 (Public Law 93-355), is amended by adding at the end thereof the following new subsection:

"(d) Not more than 10 per centum of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year, and for the transition period beginning on July 1, 1976, and ending September 30, 1976, shall be available for grants or contracts under section 1006(a)(3) in any such year or period.".

The CHAIRMAN. If there are no amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. MIKVA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10799) to amend title 10 of the Economic Opportunity Act of 1964, pursuant to House Resolution 1093, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HUTCHINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 143, not voting 33, as follows:

[Roll No. 132]

YEAS—256

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Chisholm
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn

Esch
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Helstoski
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay

McKinney
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price
Pritchard
Railsback
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Slack

Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Stokes
Studds
Sullivan
Symington
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Weaver
Whalen
Wiggins
Wilson, C. H.
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NAYS—143

Abdnor
Ambro
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Dent
Derrick
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Eshleman
Flowers
Forsythe
Fountain
Frey
Fuqua
Goodling
Grassley
Hagedorn
Haley
Hammerschmidt
Hansen
Henderson
Hightower
Holt
Hughes
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lott
Lujan
McClory
McCollister
McDonald
McEwen
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Nichols
O'Brien
Passman
Poage
Pressler
Quie
Quillen
Randall
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Runnels
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sisk
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Treen
Vander Jagt
Waggonner
Walsh
Whitehurst
Whitten
Wilson, Bob
Winn
Wydler
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—33

Barrett
Bell
Biester
Bonker
Evans, Colo.
Giaimo
Goldwater
Guyer
Hayes, Ind.
Hébert
Heckler, Mass.
Hinshaw
Howe
Hyde
Jones, Tenn.
Karth
Kemp
Macdonald
Moffett
Moorhead, Pa.
Nix
Pepper
Riegle
Ruppe
Sarbanes
Sikes
Stanton, James V.
Steiger, Wis.
Stratton
Stuckey
Udall
White
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Moorhead of Pennsylvania for, with Mr. Hébert against.

Mr. Barrett for, with Mr. Jones of Tennessee against.

Mr. Nix for, with Mr. Sikes against.

Mr. Pepper for, with Mr. Hyde against.

Until further notice:

Mr. Sarbanes with Mr. Bell.

Mr. James V. Stanton with Mr. Ruppe.

Mr. White with Mr. Howe.

Mr. Macdonald of Massachusetts with Mr. Steiger of Wisconsin.

Mr. Giaimo with Mr. Kemp.

Mr. Evans of Colorado with Mr. Charles Wilson of Texas.

Mr. Hayes of Indiana with Mrs. Heckler of Massachusetts.

Mr. Karth with Mr. Goldwater.

Mr. Riegle with Mr. Biester.

Mr. Moffett with Mr. Bonker.

Mr. Udall with Mr. Guyer.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TO REPEAL THE 1-PERCENT ADD-ON FEATURE IN CIVILIAN AND MILITARY RETIREMENT SYSTEMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–421)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

My 1977 Budget recommends a program of tax reduction and spending restraint designed to reduce the growth of Government, help sustain our economic recovery, and give our citizens a greater say in managing their own affairs. It proposes changes in many programs in order to hold Federal spending below the levels that would otherwise occur in 1977 and in later years.

One of these changes, as indicated in the budget, is elimination of the provision in Federal civilian and military retirement systems which over-compensates retirees for cost-of-living adjustments. Since 1969, these retirees have been paid $1.6 billion more than the amount needed to adjust their retirement pay for changes in the cost of living. Unless the law is changed, the taxpayer will be forced to shoulder an ever-larger burden to pay for benefit increases far exceeding real changes in the cost of living.

Under existing law, when annuities under the Civil Service, Foreign Service, Central Intelligence Agency, and military retirement systems are adjusted to reflect changes in the cost of living, an extra 1 percent is added automatically. Because the extra 1 percent has been compounded each time the system has been adjusted, retirement payments are running substantially ahead of the actual rise in the cost of living. This procedure threatens the financial integrity of the retirement systems.

Since the one percent add-on became a part of the law in 1969, Government retirement annuity adjustments have led to increases totaling 63 percent. Yet during this same period, the actual increase in the Consumer Price Index was 50 percent. As a result, annuitants under these retirement systems received $1.6 billion more by the end of fiscal year 1975 than they would have if the adjustments had simply kept pace with the actual increases in the CPI. Furthermore, the liability for future Federal personnel retirement payments increased $11.2 billion in just 6 years because of the 1 percent add-on. Each future increase, under current law, will mean at least $1.9 billion in added liability for future payments.

Retired Federal employees deserve to be protected from the ravages of inflation. The Federal retirement system is a good one and its guarantee of automatic adjustments directly related to rises in the CPI is not widespread in the private sector. But the Federal systems are unique in providing 1 percent over and above the actual rise in the CPI. It is neither appropriate nor fiscally responsible for the Federal government to continue to provide such an added benefit.

Accordingly, the Civil Service Commission, the Department of State, the Department of Defense and the Central Intelligence Agency are submitting bills to repeal the 1 percent add-on feature in the civilian and military retirement systems they administer.

I urge the Congress to consider these proposals and act on them promptly and favorably.

GERALD R. FORD.

THE WHITE HOUSE, *March 24, 1976.*

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 10799.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

U.S. INFORMATION AGENCY AUTHORIZATION ACT, FISCAL YEAR 1976

Mr. YOUNG of Georgia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1088 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1088

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11598) to authorize appropriations for the United States Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Georgia (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Georgia. Mr. Speaker, I yield the usual 30 minutes for the minority to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1088 is an open rule providing 1 hour of debate on H.R. 11598, a bill to authorize appropriations for the U.S. Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976.

H.R. 11598 authorizes a total of $263.7 million for fiscal year 1976 and $68 million for the transition quarter for the activities of the U.S.I.A. These amounts are $10.3 million below the administration request for fiscal year 1976 and $5 million below the transition quarter request.

Mr. Speaker, H.R. 11598 was reported unanimously by the Committee on International Relations. I know of no controversy with respect to this bill and I urge the adoption of House Resolution 1088 so that we may proceed to its consideration.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Georgia has pointed out, House Resolution 1088 is the rule providing for the House to resolve itself into the Committee of the Whole for consideration of H.R. 11598, the U.S. Information Agency Authorization Act for fiscal year 1976. The rule allows for 1 hour of general debate, and the bill is open to all germane amendments.

H.R. 11598 authorizes appropriations for the U.S. Information Agency for fiscal 1976 and the transition period totaling $331,687,000, which is $15,316,000 below the executive branch request. The funds are to be used for salaries and expenses, special international exhibitions, and radio activities.

The International Relations Committee reported this bill on February 24 by a unanimous voice vote. I know of no objections to the rule, and I urge its adoption.

Mr. Speaker, I have no requests for time.

Mr. YOUNG of Georgia. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11598) to authorize appropriations for the U.S. Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. Hays).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11598, with Ms. Holtzman in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. Hays) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. Buchanan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Hays).

Mr. HAYS of Ohio. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this is the annual authorization bill for the U.S. Information Agency, or the USIA. There are not very many Members on the floor and I do not expect very many. This bill only expends one-quarter of a billion dollars, most of that totally useless, but it is a simple bill and except for one small amendment by the committee it is limited to authorizations for the agency's operations for fiscal year 1976.

I want to say this to the Members: I am the first to admit it is pretty late to come in with an authorization for 1976. The appropriations have been made but the agency cannot expend that money unless there is an authorization.

Why did we not have an authorization earlier? I will tell the Members. There were two Commissions appointed to study the USIA. One was the Stanton Commission and one was the Murphy Commission. They made extensive studies and filed extensive reports and in effect recommended we roll an extensive restructuring of USIA and combine some of its operation with the Cultural Affairs Bureau of the State Department and save a great deal of money.

The committee debated this pro and con and we tried our level best to get some statement of policy from the Executive on what it wanted done. We delayed and we delayed and we never did get any reaction. We could not agree on putting the agency out of business; so here is the authorization.

The Executive requested a total of $274 million-plus, which is more than a quarter of a billion. The committee reduced this to $263,677,000, a reduction of $10,337,000. The principal reduction was in the item of salaries and expenses, which we cut $3,497,000.

I just want to say this to the Members, and again I know that there will not be anything in the paper because there is not anybody in the press gallery to report it. Maybe, there is one in the gallery and if there is he is behind the clock and I cannot see him or her, whichever it is. But last year this agency spent $7,150,000 in travel, which is 14 times, approximately, as much as the Congress spent, the whole Congress, and there have been 14 million words written about how much the Congress spent and not one word about what this agency spent, but that is the way it is.

It also engaged in what it calls a poll of the Voice of America listeners. Frankly I was not impressed by its charts which were deceptive and misleading and which cost $180,000; but again that is mere chicken feed. I could have given them better results at a much lower price.

One of the most persistent problems is the overlapping jurisdiction of the agency and the Cultural Affairs Bureau of the State Department. I never really knew much about this until this year. Overseas in Ankara or London or Bucharest, for example, the people who do the cultural affairs work for the State Department and the people who do the USIA work for the USIA are the same people but they have two sets of bosses, two bureaucracies in Washington telling them what to do.

This does not make a bit of sense but up until now I have been unable to get anything done about it. In fact, I was down at the Press Club on Monday, speaking about the FEC. Somebody from the press sent a question up and said: "Why do you continue hazing the USIA?" My answer was: "I am not hazing them. I am just trying to put them out of business, that is all."

I do not think we need them. We can debate the Voice of America until the cows come home. We sent out a poll from our committee and our poll told us almost nobody listens to them. They sent out a poll, and God knows to whom they sent it, maybe their own employees, and they say everybody listens to them.

I have been doing a bit of traveling abroad and perhaps the next time any of the Members go they can ask people: "Do you listen to the Voice of America?" I think they will find that 90 percent of the people, including Americans, will say: "No." Then if Members ask the people: "Do you listen to any foreign broadcast?" occasionally someone will say: "I do." If they are asked: "Which one?" they will say: "BBC."

If we ask them why, they will say because it presents news and not propaganda. I am not against propaganda, but I am against ineffective propaganda.

We reduced by $6,840,000 the request for radio activities which they originally set up and the executive later concurred in our reduction. They were going to build new radio transmitters in the Philippines. We suggested to them that by the time they have been built, they might not be able to use them. We have been ordered by the Japanese to get out of Okinawa. We do not know by the time we get them built whether we would be ordered by the Filipinos to get out of the Philippines; so we just said, "Don't build them unless you build them on American territory, maybe the Marianas or someplace like that."

For the transition quarter, we reduced the appropriated amount by $4,979,000. They did not want us to change the appropriation. The gentleman from Alabama has an amendment to raise that slightly, not to the full figure, I believe, and I will not really fight the gentleman very hard on it. I do not know whether they need it or not. They say they do. I doubt it, but I have had it, anyway.

The only thing we did substantively to them besides cut them a little bit was to order them to resume their broadcasts in Slovenian, which they, for some strange reason, cut out. We had testimony from the gentleman from Kansas (Mr. SKUBITZ), a Member of this body, and from former Senator Lausche, both of Slovenian ancestry. They had been there, and this was a broadcast that the Slovenians really wanted to hear. I know they broadcast to a lot of places where nobody wants to hear them, but we thought that they really wanted to hear them and we had some evidence that the broadcasts ought to be resumed.

We had a lot of hearings on this bill and gave it a lot of scrutiny. I have sketched it very briefly. I know the gentleman from Alabama (Mr. BUCHANAN), the ranking majority Member of the subcommittee, is going to offer an amendment to adjust some of the figures. I think I am prepared to accept the gentleman's amendment, but I would like to hear the gentleman's arguments.

Mr. KETCHUM. Madam Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. KETCHUM. Madam Chairman, I know the gentleman's experience in this field. I would like to pose this one question. In the gentleman's experience with this agency, which presumably spreads the word about democracy and democratic forms of government, as opposed to a communistic form of government, in the gentleman's opinion has this slowed down the advance of communistic philosophy anywhere in the world?

Mr. HAYS of Ohio. That is a very difficult question to answer objectively. Any answer I make will be my opinion. I would like to think that it has slowed it down some. I have not seen very much evidence that this agency alone has slowed it down, but probably some of the other contributions we have made, like keeping troops in Europe and keeping atomic weapons poised at the ready have had more to do with slowing down the advance of communism than the U.S. Information Agency did, if it did anything. I want to give them the benefit of the doubt. If it has done anything, it might have lent some encouragement to those few people behind the Iron Curtain who get a chance to listen to it. Beyond that, I doubt it has been very useful in any way. I sometimes think it would be better for us to contract it out to one of the broadcasting services in the country on a rotating basis and let them broadcast straight news, as they do here, sometimes slanted, but we cannot control them. We do try to control them, and let them try to broadcast that same news abroad.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentlewoman from New York.

Ms. ABZUG. I wonder if in the course of the gentleman's consideration of the USIA the gentleman dealt with some of the problems that the Government Information and Individual Rights Subcommittee of Government Operations which I chair, has come across. We had some hearings in which there was testimony that the Voice of America works under several layers of policy bureaucrats at USDA and the State Department, who daily send down what are euphemistically called "VOA Morning Notes" and "Noon Notes," and Office of Policy and Plans "Infoguides" and "Media Treatment" papers. In addition, because of the peculiar organization of USIA's power structure, each U.S. ambassador abroad feels free to cable VOA directly and "advise" what play he or she may want given a certain story taking place in the ambassador's assigned country of responsibility.

At hearing held last year by the Government Operations Subcommittee on Government Information and Individual Rights, which I chair, it was disclosed that this interference with VOA's coverage of hard news stories was fairly regular, particularly the coverage of events in Southeast Asia during the Vietnam war. here, the wire services and other news sources were sometimes presenting a different, broader view of events than the tailored VOA stories. And I understand that this attempted distortion of its reporting by the State Department and some of our ambassadors, continues unabated.

I would like to see the Voice of America permanently insulated from this interference by severing its ties with the Government propaganda agency, the USIA. At the very least, it would seem in VOA's own interest, to clearly label all news analysis and policy statements the administration wants to air as policy statements, and to make clear that news judgments about the reporting of breaking stories are to be made by newsmen, not Foreign Service officers.

Quite a bit of evidence has been before our committee in hearings indicating that the coverage of hard news stories has not always been limited to hard news, but has tended to be influenced by persons in the USIA and State Department. As I look at this, if we are going to have a Government information agency, the integrity of its news reporting is crucial.

I have been concerned over a long period of time, particularly since we have had these hearings, that we have not figured out a way to make sure of this. I would like to see the Voice of America insulated from influence or pressure from the USIA or State Department; at the very least, where there are policy influences in the news story, they should be clearly labeled as such.

I am just wondering whether the gentleman has given that any consideration. I wish he would indicate to us whether any of this was considered in the bill before us today, or how we can make sure that such improper influences will not continue.

Mr. HAYS of Ohio. Madam Chairman, I will say to the gentlewoman that we have given it a lot of consideration. One of the recommendations I might say to the gentlewoman I also share her concerns, and I think they are legitimate—one of the recommendations of the Stanton Commission was that the Voice of America be set up as an independent broadcasting entity with an independent board of directors.

As I said in my brief remarks, we tried to get some kind of an expression from the executive branch about what it thought about this. We never were able to. The committee was unable to agree among ourselves to go ahead and take that drastic step. I personally would do it, but the committee was not prepared to do it. I suppose we are going to go through this little dance again immediately, and I presume we will be in with an authorization for 1977 before May 15.

If I had my way, we would combine the Cultural Affairs Office and the rest of USIA under one head, either within or without the State Department, but certainly subject to State Department overall policy making, and then set the broadcasting system up as a separate entity to broadcast pure, unadulterated news, without coloring it or without slanting it or without leaving part of it out and inserting something else.

Ms. ABZUG. Well, I am glad to hear the gentleman say so, because I think at the very least this is what the information revealed at the hearings we conducted on this issue would seem to indicate would be appropriate.

Mr. HAYS of Ohio. I can say to the gentlewoman—and I do not want to stir up any controversy—but I understand from reliable sources that there is a great deal of controversy within the agency. The head of the Voice of America does not see eye to eye with the director. He does resent the attempts at censorship, or so I have been told. Of course, this town, is as leaky as a sieve. I do not know whether it is true or not, but I suspect it has some basis in fact. I suspect that the only way we are going to cure it is to set it up under an independent board of directors who will be responsible for its content. While they would have a man running it on a day-to-day basis, they will try to run it as an objective news broadcasting agency. That is what I want to see.

Ms. ABZUG. I hope we can work something like that out, and in the not too distant future.

Mr. HAYS of Ohio. Madam Chairman, I reserve the balance of my time.

Mr. BUCHANAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of this legislation, and perhaps with some more enthusiastic support than my illustrious chairman. I share some of the feelings he has about this matter.

In specific response to the question of the gentlewoman from New York a moment ago, as the chairman knows, I lean essentially toward the recommendations of the Stanton Commission, the Murphy

Commission, as to the reorganization of this function. I think the plan that the chairman has outlined would be a better way to do business.

It makes no sense to me to have two separate bureaucracies administering one group of people in the field, that is, the Cultural Affairs Department of the State Department and the USIA. It is topheavy with bureaucracy. I think that can be changed. I disagree with the chairman pertaining to the present value and usefulness of the Voice of America activities. I would concur in the judgment the chairman has repeatedly made that BBC is a far better operation than VOA. But what I would like to see us do is to try to so improve the Voice of America so that it would be clearly comparable to BBC, and I believe that the new structure might help to achieve that result.

Mr. HAYS of Ohio. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Ohio, Mr. HAYS.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

I think the only way we are going to achieve that is to get some credibility for the Voice of America. I think the gentlewoman from New York (Ms. ABZUG) had a valid point when she said that the present setup is susceptible to editing from above. And that is why I think the gentleman from Alabama and I both have come to the conclusion that maybe the VOA should be a separate agency or, rather, a separate entity—I will put it that way because I do not like to call it an agency—administered by a separate board of directors, with a director responsible to them.

There is room for honest difference of opinion here about how valuable this is. It may be more creditable abroad than I think it is. But I can only base my conclusions upon my own personal observations.

Mr. BUCHANAN. As the chairman knows, I share his basic position as to where we ought to go. I would say this one word of caution: The people who are being reached by the Voice of America do not all have the same background that we do, in terms of knowledge of all of the things that are right with our country.

It is natural that the electronic media would stress the atypical, the sensational, the negative, whatever commotion is going on. People we are trying to reach, whose minds we are trying to reach, can be reached by a very powerful medium, the medium of radio. Radios can be very cheaply produced. There are radios in the hands of people of many countries. And we can influence, influence for the good of our country, through the use of this medium. But I think we do have to have some amount of portrayal of the whole truth of what our country is—not anything that is phony or anything that is not true, but something beyond what is normally carried on the wire service networks, television or radio services which tend to emphasize more the sensational, the atypical, the negative, rather than the good things that are going on every day in a country like this country.

I would hope that somehow this medium could be used not in terms of editorial censorship, or anything that is negative, but to tell the whole story of our country the way it is, particularly since it reaches out to people who do not have the background to know these things unless the picture is painted fully and clearly, positively and negatively.

I would say it is more effective in that job now than the chairman would believe and contend. I think he and I agree as to where we want to go, in essence, and what we ought to do to try to improve that performance.

As to the bill itself, I think this is a modest budget, considering the importance of the work that this agency can do in trying to win the minds of people. I think it can have a real impact both behind the Iron Curtain and in the developing world. I believe to some extent it does, as of this moment. So I would urge the funding of this resolution.

I will offer an amendment, and I will describe it shortly, when I offer it, but in essence it will enable the agency, like other agencies, to meet the demand of the October 1975, pay raise for its employees. The amendment I will offer will be primarily for that purpose and that requirement.

I urge the adoption of the resolution.

Mr. DERWINSKI. Madam Chairman, I rise in support of H.R. 11598. I firmly support the mission of the U.S. Information Agency, for some very good reasons.

In the first place, there is a genuine value in "telling America's story to the world." It behooves us in this Bicentennial Year to make our message of freedom and democracy loud and clear. The U.S. Information Agency is one of the few ways we have to let the peoples of other countries know the current meaning of our historical experience. I am proud of that experience, and I want the world to know about it.

For our informational cultural diplomacy to be effective, we have to maintain regular continuing efforts, or run the risk of diminishing the momentum such programs already have gained. And at this particular point, we need to retain all the advantages we have.

In this day when many around the world are uncertain as to America's resolve in international affairs, it will do us no good and indeed may do us serious mischief if we permit our presence to diminish in the cultural and informational spheres as it has in the military area. For this reason, our informational and cultural diplomacy may be more important than ever before. Those nations likely to be our adversaries make it a practice to control very closely the information available to their peoples. If we are to cope with these "programed" societies, we must maintain a vigorous effort to keep America's story before the world. This may be the greatest gift we can give the new nations.

Then too, Madam Chairman, it is worth noting that the Communist countries deal heavily in cultural and educational exchange when they want to emphasize developing relations between themselves and other countries. I am sure you remember "ping pong" diplomacy—it proved most effective from Peking's point of view. If we begin to slacken our efforts in the informational and cultural areas, it will surely be interpreted by the Communists, and many others, as another sign of American isolation and growing weakness.

The security assistance bill now in conference provides for nearly $4 billion in military aid and related programs. I think we can afford the equivalent of a 16th of that to remind the world of what we believe in. I would hate to conclude in America's Bicentennial Year, that we no longer believe in America's story.

Madam Chairman, I urge the passage of H.R. 11598.

Mr. HAYS of Ohio. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BUCHANAN. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Information Agency Authorization Act, Fiscal Year 1976".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following:

(1) For fiscal year 1976:

(A) $254,195,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)".

(B) $6,187,000 for "Special International Exhibitions".

(C) $3,295,000 for "Acquisition and Construction of Radio Facilities".

(2) For the period July 1, 1976, through September 30, 1976:

(A) $66,000,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)".

(B) $1,750,000 for "Special International Exhibitions".

(C) $260,000 for "Acquisition and Construction of Radio Facilities".

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) Of the funds appropriated under subparagraph (A) of subsection (a)(1), $90,000 and such additional amounts as may be necessary shall be used to reinstate the daily one-half hour broadcast to Slovenia.

SEC. 3. Funds authorized to be appropriated by any subparagraph of paragraph (1) or paragraph (2) of section 2(a) may be appropriated for a purpose described in any other subparagraph of that paragraph, which appropriation shall be in addition to the appropriation specifically authorized for such purpose, except that the total amount appropriated for a purpose described in any such subparagraph may not exceed by more than 10 per centum the amount specifically authorized by such subparagraph for such purpose.

Mr. HAYS of Ohio (during the reading). Madam Chairman, I ask uanimous consent that the remainder of the bill be considered as read, and that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT BY MR. BUCHANAN

Mr. BUCHANAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 2, immediately after line 10, insert the following:

"(D) $3,100,000 for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs."

Page 2, line 13, strike out "$66,000,000" and insert in lieu thereof "$69,700,000"; and in line 16, strike out "$1,750,000" and insert in lieu thereof "$1,940,000".

Mr. BUCHANAN. Madam Chairman, this amendment has two parts: First, the $3,100,000 for increases in salary, pay, retirement, and other employee benefits authorized by law and other nondiscretionary costs pertaining to fiscal year 1976. The second portion pertains to the transition quarter and is for similar purposes.

This money is provided in essence to meet the costs of the October 1975 pay raise. This action by the Congress resulting in the October 1975 pay raise meant that the wage and health benefit increases unavoidably placed agency costs $3.9 million higher. The Agency is going to absorb $800,000 of these costs but is asking for $3,100,000 to be provided as supplemental funds. With only 5 months left in the fiscal year, the Agency cannot absorb such costs through the normal process of attrition, and the absorption could only be accomplished by curtailing Bicentennial activities and other programs such as Portuguese broadcasting and other rather vital programs.

We have in our authorization as it stands cut the Agency below the appropriation level, and this would only restore a portion of the funds. The Agency both in the fiscal year 1976 and in the case of the transitional quarter, will be absorbing some of the costs mandated by the October 1975 Federal pay raise, but it cannot absorb beyond this level those actual costs without cutting programs. These are programs that I do not believe we want to cut, and if they were forced to reduce their activities, I believe that would be unwise.

Perhaps an additional word of explanation is in order concerning the transitional quarter.

The Agency's request for the transition quarter, TQ, necessarily exceeded 25 percent of the 1976 total because of continuing wage and price increases in the TQ; payment of multiyear leases and an extra work day in the TQ—66 work days—and annual and semiannual supply and program contracts that fall due during the July to September period.

Some specific examples of significant program costs that are incurred in the July to September period at a rate in excess of 25 percent of the annual requirement and other special considerations are:

First. Bulk purchases, totaling $963,000, for printing paper, ink, and other supplies, representing 69 percent of the annual requirement for these items.

Second. Renewal of all magazine subscriptions procured in the United States—$350,000.

Third. Payment of approximately one-half of annual costs—$707,000—for education allowances at overseas posts.

Fourth. Assignment and transfer of personnel—$2,033,000—accounting for about 42 percent of annual total.

Fifth. Payment for full-year transmitter operations and maintenance of RIAS—$950,000—the USIS radio station in Berlin.

Sixth. Payment of multiyear leases, totaling $355,000, in Nigeria and Indonesia.

Seventh. Salary and related costs of $250,000 for an extra work day in the TQ—66 days.

Eighth. Anticipated local employee wage scale increases—$250,000—and general inflation for contract goods and services—$305,000—in the TQ.

Ninth. Heavy schedule of fall fairs and showings of Bicentennial exhibits during the TQ.

Madam Chairman, I urge the adoption of this amendment.

Mr. HAYS of Ohio. Madam Chairman, I move to strike the last word.

Madam Chairman, I am going to fight the gentleman's amendment. When we made these cuts, it was our thought, I believe, that the agency should absorb these amounts by attrition, but it went merrily on its own way, spending at the same rate it did last year, and now they have reached the point where if they had to absorb the cuts by attrition, they could not do it.

How we are ever going to get these agencies to understand that when they get cut, that means they get cut and they should not come running in and getting supplemental appropriations, I do not know.

I pledge to the Members that while I will not oppose this amendment because I think that would work hardship on this agency at this late date, I am going to do my very level best to get an authorization bill for 1977 in here within plenty of time, and as far as I am concerned, they will have to live with the amount the committee gives them. If they do not, I will fight with every resource I have to prevent them from getting a supplemental appropriation. That goes for the State Department and any other department for which we have to make authorizations.

Madam Chairman, the only reason that I do not oppose the gentleman's amendment is because the fiscal year is so far gone. As far as I am concerned, I am willing to allow the amendment to be agreed to.

Mr. BAUMAN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I listened with great interest to the remarks made earlier by the gentleman from Ohio (Mr. HAYS).

I happened to agree with him. Two years ago, when last we had such an authorization bill before us, I voted as he indicated the House should have, in opposition to continued funding at this level of this agency.

The gentleman has presented a very persuasive case as to why we should either terminate these programs completely or at least reform them in some manner, as he has suggested.

The gentleman from Alabama (Mr. BUCHANAN) has, in substance, agreed with this position. Yet now we are being asked to increase by about $7 million the funding for this agency, even though it is only for the remainder of this year.

Madam Chairman, I take the two gentlemen at their word. I think they have made a very good case that we should not increase the funding. The committee took this position. I think we ought to stand by the committee and by the chairman on the position they have taken and oppose any increase in funding. I hope that will be the action that the committee takes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The question was taken; and on a division (demanded by Mr. BAUMAN), there were—ayes 15, noes 7.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Ms. HOLTZMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11598) to authorize appropriations for the United States Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976, pursuant to House Resolution 1088, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 81, not voting 24, as follows:

[Roll No. 133]

YEAS—327

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gibbons
Gilman
Goldwater
Gonzalez
Gradison
Green
Gude
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Ichord
Jarman
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kazen
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Litton
Lloyd, Calif.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steelman
Stephens
Stokes
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—81

Abzug
Anderson, Calif.
Andrews, N.C.
Archer
Ashbrook
Bafalis
Bauman
Bennett
Brinkley
Burleson, Tex.
Burlison, Mo.
Burton, John
Chappell
Clancy
Clawson, Del
Collins, Tex.
Conlan
Conyers
D'Amours
Dellums
Dent
Devine
Dickinson
Downey, N.Y.
Duncan, Tenn.
Early
Edgar
Eshleman
Evans, Ind.
Flowers
Gaydos
Ginn
Goodling
Grassley
Haley
Hansen
Harrington
Hays, Ohio
Hechler, W. Va.
Hefner
Holland
Holtzman
Howe
Hungate
Hutchinson
Jacobs
Jenrette
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kelly
Ketchum
Landrum
Lehman
Lloyd, Tenn.
Long, Md.
McDonald
Maguire
Martin
Miller, Calif.
Moffett
Mottl
Murtha
Myers, Pa.
Neal
Pattison, N.Y.
Poage
Rogers
Schroeder
Sebelius
Seiberling
Sharp
Shuster
Snyder
Stark
Steiger, Ariz.
Studds
Symms
Teague
Weaver
Young, Fla.

NOT VOTING—24

Ashley
Barrett
Bell
Biester
Brown, Mich.
Evans, Colo.
Giaimo
Guyer
Hayes, Ind.
Hébert
Hinshaw
Hyde
Leggett
Macdonald
Nix
Pepper
Riegle
Stanton, James V.
Steiger, Wis.
Stratton
Stuckey
Udall
White
Wilson, Tex.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Ashley.

Mr. Barrett with Mr. Hayes of Indiana.

Mr. Nix with Mr. Hyde.

Mr. Pepper with Mr. Evans of Colorado.

Mr. Giaimo with Mr. Riegle.

Mr. White with Mr. Stuckey.

Mr. James V. Stanton with Mr. Bell.

Mr. Macdonald of Massachusetts with Mr. Charles Wilson of Texas.

Mr. Leggett with Mr. Biester.

Mr. Udall with Mr. Steiger of Wisconsin.

Mr. Stratton with Mr. Brown of Michigan.

Messrs. DOWNEY of New York, PATTISON of New York, HOWE, JONES of Tennessee, EDGAR, NEAL, KASTENMEIER, MURTHA, and SEIBERLING changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 11598), just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12567, AUTHORIZING APPROPRIATIONS FOR THE FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. YOUNG of Texas, from the Committee on Rules, reported the following privileged resolution (H. Res. 1103, Rept. No. 94-945), which was referred to the House Calendar and ordered to be printed:

H. RES. 1103

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12567) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the Act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1103 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 1103?

The question was taken; and two-thirds having voted in favor thereof, the House agreed to consider House Resolution 1103.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1103 is an open rule providing 1 hour of general debate on H.R. 12567, a bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes.

The bill would authorize appropriations for fiscal year 1977 in the amount of $20,500,000, $15,000,000 for the National Fire Prevention and Control Administration and $5,500,000 for the National Bureau of Standards Fire Research Center. The bill would further authorize $26,000,000 for fiscal year 1978, $20,000,000 for the National Fire Prevention and Control Administration and $6,000,000 for the National Bureau of Standards Fire Research Center.

Losses from fires continue to be at high levels in the United States. Each year more than 11,000 persons lose their lives as a direct result of fires. About 200 of those are firefighters who die in the performance of their dangerous duty. Property losses caused by fire are estimated to exceed $3 billion per year. Other indirect costs, for instance, the cost of maintaining fire departments, when added in, push the total cost of fires to over $10 billion annually.

The prevention and control of fires is primarily the responsibility of local authorities. To make a contribution in certain fields where only a national effort can meet the needs, the National Fire Prevention and Control Administration and the Fire Research Center of the National Bureau of Standards were established by the Federal Fire Prevention and Control Act of 1974. That act gave initial authorization for fiscal years 1975 and 1976.

Mr. Speaker, I urge the adoption of House Resolution 1103 so that we may proceed to the consideration of H.R. 12567.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been explained, House Resolution 1103 provides for 1 hour of general debate and is an open rule, on the authorization for H.R. 12567, the Federal Fire Prevention Control Act of 1974. Of course, the purpose of the bill is to extend the authorization of the Fire Prevention Control Act and the Fire Research Center through fiscal years 1977 and 1978 at what is stated are appropriate levels.

The cost, Mr. Speaker, for fiscal year 1977 is $20,500,000; $15 million for the National Fire Prevention Control Administration and $5,500,000 for the National Bureau of Standards Fire Research Center. For fiscal year 1978, the cost is $26 million; $20 million for the National Fire Prevention and Control Administration and $6 million for the National Bureau of Standards, Fire Research Center.

We are advised that the committee voted by a vote of 22 yeas, with 15 members not voting. There are no minority views. However, we understand that the administration position is that they support the extension of the authorization through 1977 and 1978, but object to the sums voted by the committee, of $20.5 million provided for 1977. That is more than twice the amount requested by the President. The administration prefers, "such sums as may be necessary," language, or in lieu of that, a 1977 authorization of $10.2 million, the amount of the 1977 budget request.

Mr. Speaker, I know of no opposition to the rule. It is an open rule. I have no further requests for time, and recommend that the rule be adopted.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12566, AUTHORIZING APPROPRIATIONS TO THE NATIONAL SCIENCE FOUNDATION

Mr. YOUNG of Texas, from the Committee on Rules, reported the following privileged resolution (H. Res. 1104, Rept. No. 94–946), which was referred to the House Calendar and ordered to be printed:

H. RES. 1104

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1104 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 1104?

The question was taken; and, two-thirds having voted in favor thereof, the House agreed to consider House Resolution 1104.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1104 is an open rule providing 1 hour of general debate on the bill H.R. 12566, a bill authorizing appropriations to the National Science Foundation for fiscal year 1977.

Mr. Speaker, H.R. 12566 would authorize appropriations to the National Science Foundation for fiscal year 1977 in the amount of $801 million. This authorization is $1 million below the administration request.

Mr. Speaker, the bill was reported from the Committee on Science and Technology by a rollcall vote of 25 to 1. Mr. Speaker, I urge the adoption of House Resolution 1104 so that we may proceed to the consideration of H.R. 12566.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been explained by the gentleman from Texas, House Resolution 1104 provides for 1 hour of general debate on H.R. 12566, authorizing appropriations for the National Science Foundation.

Mr. Speaker, this is an open rule. I know of no objection to the rule.

Mr. Speaker, I have no further request for time, and I recommend its adoption.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT TITLE V OF THE RURAL DEVELOPMENT ACT OF 1972

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6346) to extend authorization of appropriations for carrying out title V of the Rural Development Act of 1972, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That subsection (a) of section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663(a)) is amended—

(1) by striking out "is" and inserting in lieu thereof "are";

(2) by striking out the word "and"; and

(3) by changing the period at the end thereof to a comma, and adding the following: "not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.".

SEC. 2. Subsection (b) of section 3 of the Farm Labor Contractor Registration Act of 1963, 78 Stat. 920, as amended (7 U.S.C. 2041–2055), is amended—

(1) by striking the word "or" at the end of paragrahph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof a new paragraph (8) as follows:

"(8) any custom combine, hay harvesting, or sheep shearing operation.".

Amend the title so as to read: "An Act to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1962, and for other purposes."

The SPEAKER. Is there objection to

the request of the gentleman from Washington?

Mr. FORD of Michigan. Mr. Speaker, I reserve the right to object.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, the bill before us today, the Rural Development Act, H.R. 6346, was passed by the other body with an amendment which exempted custom harvesting operators and sheep shearers from the provision of the Farm Labor Contractor Registration Act.

It has been in the nature of a technical problem. The custom harvesting combine and hay harvesting operators and sheep shearers have been considered, technically, within the range of this act. They are not labor contractors or migrant laborers. They provide both capital and labor services to farmers, and are in the nature of independent contractors who until now have not been subjected by the Labor Department to the provisions of the Farm Labor Contractor Registration Act.

Mr. Speaker, the purpose of this amendment is merely to exempt them, to take care of this technical difference in the coverage of the act, to make clear that the act is not intended to cover them and its registration and provisions will not apply to them.

Mr. FORD of Michigan. Mr. Speaker, I reserved the right to object so that I might solicit the explanation that the distinguished chairman of the Committee on Agriculture has just given.

Mr. Speaker, under normal circumstances I would object most vigorously to an amendment to a labor bill under the jurisdiction of my Subcommittee on Education and Labor, that it be amended by the Senate as they have here, by attaching the amendment to an agricultural bill. However, as the chairman has explained, we are in agreement that this effects a technical amendment that is consonant with the original intent of the legislation. This problem was first brought to my attention by the distinguished gentleman from Minnesota (Mr. BERGLAND). Subsequently an amendment was introduced by my colleague from the Education and Labor Committee, the distinguished gentleman from South Dakota (Mr. PRESSLER). We attempted to have this resolved administratively by the Department of Labor. However, since the Labor Department has been slow or reluctant to make the administrative changes to accommodate the original intent of the legislation, we feel that it is a necessary amendment and I will not object. But I wish to place on the RECORD that I am serving notice that any future attempt to secure exemptions for this act through this route will meet with objections and resistance and that this should not be taken as a suggestion that a quick, easy way to amend labor bills is to attach them to agricultural bills.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING APPROPRIATIONS FOR THE FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the bill (H.R. 12567) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes, be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 12567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "and" after "June 30, 1975,", and

(2) by inserting immediately after "June 30, 1976" the following: ", not to exceed $15,000,000 for the fiscal year ending September 30, 1977, and not to exceed $20,000,000 for the fiscal year ending September 30, 1978".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f), is amended—

(1) by striking out "and" after "June 30, 1975", and

(2) by inserting immediately after "June 30, 1976" the following: ", not to exceed $5,500,000 for the fiscal year ending September 30, 1977, and not to exceed $6,000,000 for the fiscal year ending September 30, 1978".

(c) Section 8(e) of the Federal Fire Prevention and Control Act of 1974 is amended by inserting immediately after "nonprofit associations" the following: ", and shall not conduct any research which is included in the fire research program, authorized by the amendment made by section 18 of this Act, without the specific authorization of the Secretary".

SEC. 2. Section 7(h) of the Federal Fire Prevention and Control Act of 1974 is amended—

(1) by inserting "(1)" before "Of the sums authorized", and

(2) by adding at the end thereof the following:

"(2) No commitment to obligate funds for the construction of any facility of the Academy under paragraph (1) shall be made unless—

"(A) at least sixty days before such commitment is made, the Secretary submits to the chairman of the Committee on Science and Technology of the House of Representatives and to the chairman of the Committee on Commerce of the Senate the plan or plans for the construction of such facility, and

"(B) neither House of Congress, during the sixty-day period beginning on the date such plan or plans are submitted under subparagraph (A), adopts a resolution the substance of which disapproves the commitment to obligate funds for the construction of such facility under such plan or plans."

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 12567, the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of the bill, H.R. 12567 authorizing appropriations for the Federal Fire Prevention and Control Act of 1974.

In passing the Federal Fire Prevention and Control Act of 1974, the Congress expressed its belief that the Federal Government should take a larger role in the national effort against fire. The National Fire Prevention and Control Administration—Fire Administration—and the Fire Research Center of the National Bureau of Standards were established by the act to serve as the Government's agencies for this purpose.

Authorizations given in the 1974 act for the two new agencies extended through fiscal years 1975 and 1976. The bill before you today, H.R. 12567 will grant authorizations for those agencies in fiscal years 1977 and 1978.

The $15,000,000 authorized by H.R. 12567 for the Fire Administration during fiscal year 1977 will allow for Fire Administration obligations equal to or slightly above the $9.3 million originally requested by the Fire Administration for its own programs and will permit the expenditure of funds in significant amounts for construction of the National Academy for Fire Prevention and Control.

The $20,000,000 authorization for the Fire Administration during fiscal year 1978 will permit further maturation of the Fire Administration and significant academy construction.

These levels of authorization are deemed necessary and appropriate to insure that the benefit of the money already spent by the Fire Administration is realized through the establishment of an effective program.

The $5.5 million authorized by H.R. 12567 for the Fire Research Center during fiscal year 1977 will allow for a small increase in Federal fire research programs, and will permit the consolidation of three extramural granting programs—currently operated by the Fire Administration, the Fire Research Center, and the National Science Foundation—in the Fire Research Center at the same level of expenditure as in fiscal year 1976. The $6 million authorized for fiscal year 1978 should offset inflation between fiscal year 1977 and fiscal year 1978 and permit a small increment in size.

TABLE 1.—BUDGET SUGGESTIONS FOR FISCAL YEAR 1977 COMPARED WITH FISCAL YEAR 1976 ESTIMATED OBLIGATIONS[1]

[In thousands of dollars]

Budget category	Source of suggested amounts, fiscal year— 1976 estimated obligations	1977 budget submitted to Congress	1977 budget submitted to OMB by Commerce, September 1975	1977 budget recommended by Joint Council of National Fire Service Organizations	1977 budget recommended by Committee on Science and Technology
Public education	230	229	1,226	1,224	1,600
National Academy for Fire Prevention and Control	1,429	2,082	2,679	[2]7,549	7,600
National Fire Data Center	1,138	1,280	1,962	1,941	2,200
Technology and planning (less $900,000 for sec. 18 grants)	2,288	1,979	2,766	2,755	2,800
General administration	611	452	711	698	800
Subtotal, NFPCA (less $900,000 for sec. 18 grants)	5,096	6,022	9,344	14,167	15,000
Fire Research Center (directly appropriated funds only)	3,200	3,256	4,034	3,933	4,600
Additional $900,000 for sec. 18 grants	900	900	900	900	900
Subtotal, Fire Research Center (plus all sec. 18 grants)	4,100	4,156	4,934	4,833	5,500
Total	9,796	10,178	14,278	19,000	20,500

[1] The budget estimates actually put forward have been altered by relocating $900,000 for sec. 18 type grants from the Fire Administration to the Fire Research Center.

[2] The Joint Council suggested that all of this amount be spent for programs and that a separate authorization (not noted on this table) be granted for Academy construction.

TABLE 2.—BUDGET SUGGESTIONS FOR FISCAL YEAR 1978[1]

[In thousands of dollars]

Budget category	Source of suggested amounts, fiscal year— 1978 budget suggested in Fire Administration draft 5-yr plan	1978 budget recommended by Joint Council of National Fire Service Organizations	1978 budget recommended by Committee on Science and Technology
Public education	4,100	3,000	2,200
National Academy for Fire Prevention and Control	29,429	26,000	9,500
National Fire Data Center	3,720	4,000	3,300
Technology and planning (less $900,000 for sec. 13 grants)	4,338	9,100	4,000
General administration	1,100	1,000	1,000
Subtotal fire administration (less $900,000 for sec. 18 grants)	42,687	43,100	20,000
Fire Research Center (directly appropriated funds only)	5,700	6,000	5,100
Additional $900,000 for sec. 18 grants	900	900	900
Subtotal Fire Research Center (plus all sec. 18 grants)	6,600	6,900	6,000
Total	49,287	50,000	26,000

[1] The budget estimates actually put forward have been altered by relocating $900,000 for sec. 18 type grants from the Fire Administration to the Fire Research Center.

Mr. MOSHER. Mr. Speaker, I move to strike the requisite number of words.

Mr. MOSHER. Mr. Speaker, I do not want to seem to be in disagreement with the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), but I believe it is true that the administration is not happy with the additional amount of money represented in this bill. That is some $10 million.

Nevertheless, our committee was unanimously in support of the legislation we are proposing today, including the minority side, and I do personally support the bill. I do not know of any serious opposition from any source other than the fact that the administration has pointed out that this is $10 million more than it would like to have.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, as the chairman of the committee, I can certainly be in error, but it is my understanding that the additional money represents the amount the administration was going to ask for in a supplemental bill. This was done in this way merely to save time and trouble for the administration.

Mr. MOSHER. Mr. Speaker, I hope that the committee chairman is accurate in that understanding, and he may well be.

Mr. Speaker, H.R. 12567 authorizes appropriations for the National Fire Prevention and Control Administration and the National Bureau of Standards Fire Research Center for fiscal years 1977 and 1978.

This is the first such request since the Congress enacted the Federal Fire Prevention and Control Act of 1974, 2 years ago.

It would authorize $15 million and $20 million respectively for fiscal years 1977 and 1978 to the National Fire Prevention and Control Administration.

It also authorizes $5.5 million and $6 million respectively for fiscal years 1977 and 1978 for the National Bureau of Standards Fire Research Center.

Responsible testimony indicated these are reasonable amounts, enough to allow the Federal fire program to continue at a steady level of effort.

The National Fire Prevention and Control Administration is a product of the 93d Congress. It was established to provide a Federal focus to the important task of coping with the terrible ravages of fire.

The Fire Administration has had an active first 2 years. Its five areas of expenditure are public education, a National Academy for Fire Prevention and Control, a National Fire Data Center, technology and planning, and general administration.

The Fire Administration's public education activities are directed at alerting the general population of the dangers of fire, how to avoid it and how to extinguish it when it occurs.

For example, one element of this effort is to educate citizens as to the real harm which false fire alarms can cause. False alarms are not merely idle pranks, but can result in fire equipment being dispatched to nonexistent fires to the detriment of their prompt availability to respond to actual fires.

The National Fire Data Center acts as a collection point and clearinghouse for fire information. The analysis of extensive fire data can give insights on how best to cope with fire problems.

The technology and planning activity has three main thrusts: Improvement of fire fighting equipment, planning assistance to State and local government, and support of fire research. Elements of this activity include developing better clothing and equipment for firefighters, low-cost fire suppression systems and a review of building codes.

The National Academy of Fire Prevention and Control was directed to be established in our 1974 legislation. The Fire Academy is designed to serve as an educational center for teaching advanced fire prevention and control techniques to fire fighters. Its focus will be on the latest technology and techniques. Thus it is not intended to duplicate the function of our many State and regional fire training centers.

The Fire Administration is currently undertaking a site review study to determine the Fire Academy's location. The selection process should be completed by the beginning of fiscal year 1977. The Fire Act of 1974 designated $9 million as available for construction expenditures related to the Fire Academy.

The committee has repeated the admonition contained in our 1974 legislation that emphasis should be given to existing Federal and State facilities. Locating the Fire Academy at an underused or surplus existing facility would be most cost effective. In order to insure that the Fire Administration fully complies with the congressional intent, H.R. 12567 provides that construction plans for the Fire Academy be supplied to the House Committee on Science and Technology and Senate Commerce Committee 60 days before funds may be committed. Either House may block such a commitment by a resolution within the 60-day period.

H.R. 12567 includes authorization for the National Bureau of Standards Fire Research Center. The Fire Research Center predates the Fire Administration. It is composed of the long standing fire research programs of the NBS. The Fire Research Center has two divisions: Fire Science and Fire Safety Engineering.

The Fire Science Division focuses on hazard analysis of fire prone materials and develops case histories for various material. It also studies the chemistry, physics, and combustion dynamics of fire such as toxic effects, heat transfer, and gas dispersion. One objective is to learn enough about the behavior of specific building materials so that we could predict the course of large fires.

The Fire Safety Engineering Division concentrates on product safety and warning systems. For example, it develops test procedures and recommends flammability standards for consumer products such as children's sleepwear, rugs, and furniture.

Last year the Members may recall the Fire Research Center's evaluation of the seat material used in D.C. Metrobuses. Similar fire safety evaluations are contemplated for the seat cushions to be used in the new D.C. subway system.

Mr. Chairman, as I noted at the beginning of the statement, the authorization levels in H.R. 12567 are modest and will permit a continued Federal fire effort. The original request as submitted by the President did not specify a funding level. The levels in H.R. 12567 are a straightforward extension of earlier funding levels.

No administration opposition has been communicated to me regarding them and I expect none.

Mr. Chairman, H.R. 12567 is a bill which carries on the conviction of the 93d Congress that the property loss and human suffering caused by fire are intolerable in light of our advanced state of technology. H.R. 12567 seeks to adapt the technology of today to mitigate man's oldest scourge.

I believe that every Member in this Chamber can enthusiastically support this bill.

Mr. SYMINGTON. Mr. Speaker, I would like to express my support of the bill, H.R. 12567, authorizing appropriations for the Federal Fire Prevention and Control Act of 1974. This bill provides authorization for continued funding at modest levels of the National Fire Prevention and Control Administration and the National Bureau of Standards Fire Research Center for fiscal years 1977 and 1978. The bill authorizes expenditures of $20,500,000 in fiscal year 1977 and $26,000,000 in fiscal year 1978.

Let me remind you of the scope of the fire problem in this Nation which makes a national effort against fire so necessary. Recent estimates placed the value of property destroyed by fire in 1 year in the United States at over $4 billion. The total annual cost of fires, including expenses such as the cost of maintaining fire departments, has been estimated by the National Fire Prevention Association to exceed $11 billion. In comparison with these tremendous costs, the $20 million "ounce of prevention" authorized by H.R. 12567 is modest, indeed.

The loss of money caused by fire is accompanied by a tremendous loss of life. Each year more than 11,000 persons lose their lives in the United States as a direct result of fires. About 200 of those are firefighters who die in the performance of their dangerous duty.

Appallingly, this rich and industrialized Nation has the worst fire record of any of the world's major industrialized countries. While differing reporting procedures make exact comparison impossible, available figures indicate that our fire death rate of about 60 per million persons annually is twice that of the next worst industrialized country.

The fight against fire, it should be emphasized, is primarily a local responsibility. This was recognized in the passage of the Federal Fire Prevention and Control Act of 1974, and it is recognized by H.R. 12567, which extends authorizations given in the 1974 act for 2 further years. This bill will in no way reduce the responsibilities of the Nation's firefighting forces. The thousands of dedicated firefighters, fire officers, and other fire service members across the country will continue to be the primary focus for community fire protection, and their communities will continue to have responsibility to pay for their services. This bill is aimed, however, at providing better information, better equipment, and better training to the fire services.

The National Fire Prevention and Control Administration began its life by rapid growth in 1975. The growth has continued in 1976. The Administrator, Howard Tipton, is an energetic man who has been commended to the Committee on Science and Technology by all the fire services with which we have had contact. Mr. Tipton and his Fire Administration have set as their goal the reduction of U.S. fire losses by half by 1995. The Fire Administration is not yet near maturity. The $15 million authorization for the Fire Administration given in H.R. 12567 for fiscal year 1977 will permit further maturation of the Fire Administration toward a state in which it may be expected to fulfill its pledge to reduce fire loss by half in the next generation. The $20 million Fire Administration authorization for fiscal year 1978 will permit continued growth.

An area of Fire Administration activity in which this House has shown keen interest is the National Academy for Fire Prevention and Control. The Academy's mission is to provide high quality training and education to advance the professional development of fire service personnel. The 1974 act envisioned a modest but adequate central facility for the Academy and provided that a site must be selected for the facility by October 1976. The Academy Superintendent, David McCormack, who heads the site selection board, and the other two site selection board members were appointed this January. A site has not yet been selected. I said earlier that interest in the Fire Academy is keen because about 60 Members of the House have written to the Fire Administration recommending sites for the Academy. I hope the 59 Members who are disappointed when the site is selected will not think worse of the Fire Administration. H.R. 12567 contains a provision concerning the Fire Academy's central facility. The authorization given by H.R. 12567 is sufficient to support Fire Administration activities at roughly the level suggested to OMB by the Fire Administration during preparation of the fiscal year 1977 budget. The authorization is sufficiently large to allow up to about $5 million to be spent for Academy facility construction, as well. In order to be sure that the Academy facility is not excessive, the bill provides that Congress must be sent construction plans. Either House of Congress may then prevent obligations for construction by adopting a resolution within 60 days which disapproves obligations for construction under the plans.

The other substantive provision of the bill, beyond authorization of appropriations and the 60-day waiting period, is a provision which would consolidate responsibility for the management of fire research. The bill places under a single administrative unit, the National Bureau of Standards Fire Research Center, the funding and administration of all fire research work supported by the Department of Commerce of the type described in section 18 of the Federal Fire Prevention and Control Act of 1974. Such research principally concerns investigations of fire itself, how it starts, develops, and combusts, and investigation of the effects of fires on individual human beings. In past years, and in fiscal year 1976, three agencies have made grants for fire research work at universities. The three agencies are the Fire Research Center, the Fire Administration, and the National Science Foundation. In the fiscal year 1976 authorization for the National Science Foundation, it was provided that the Foundation should transfer its fire research program to the Fire Research Center. H.R. 12567 further legislates the consolidation of fire research in the Fire Research Center.

Mr. Speaker, under the mandate given it by the Federal Fire Prevention and Control Act of 1974, the National Fire Prevention and Control Administration has organized itself in five sections for the administration of programs. These sections are general administration, public education, National Academy for Fire Prevention and Control, National Fire Data Center, and technology and planning.

The general administration activity provides staff assistance in the general management and administration of the Fire Administration budget, program planning and analysis, management and organization, information, contract and grant management, legal, and other administrative areas.

The goal of the public education program is to reduce fire-related deaths, injuries, and property losses through educating the public about fire—how to avoid it, and how to deal with it if it occurs. The public education program will develop methods of educating the public, concentrating on high-risk groups. The developments will be tested, and those education methods that have been shown to work will be disseminated. Public education in the fire area is not a simple matter. For example, a west coast city recently tried to educate its citizens about false alarms. At the end of the education campaign false alarms had increased somewhat.

As I mentioned earlier, the National Academy for Fire Prevention and Control is to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control. The Superintendent of the Academy was appointed in January 1976. By the beginning of fiscal year 1977, a site is to be selected for the physical location of the Academy. During fiscal year 1977, plans under the President's budget include the development of six additional programs of instruction, presentation of courses developed in 1976 to 2,000 fire service personnel, establishment of an assistance program through grants for the development and implementation of 12 statewide education and training plans, and development and testing of four or more innovative demonstration projects in fire service education.

The National Fire Data Center is charged by law to provide an accurate nationwide analysis of the fire problem, assist in setting priorities, and monitor the progress of programs to reduce fire losses. During fiscal year 1977 current plans under the limited budget include extending the fire data system to six additional States, initiating the collection of foreign data for comparison and analysis, starting an investigative program for specific fire types, and implementing an information network to tell fire services about important facts that have been discovered.

The technology and planning program currently has three main thrusts: The technological improvement of fire-related equipment and systems, the provision of assistance to State and local governments to establish master plans for fire prevention and control, and the support of extramural fire research. The technology program expects, for example, to perfect improvements in clothing and equipment for the protection of fire fighters, to study the potential development of low-cost automatic fire suppression systems for houses and apartments, and to review building codes. Approximately $900,000 of the extramural fire research support previously handled through this program is of the type which would be consolidated in the Fre Research Center under H.R. 12567, and would not, therefore, be handled by the Fire Administration beginning in fiscal year 1977.

The other activity authorized by H.R. 12567 is the National Bureau of Standards Fire Research Center. The Fire Research Center is more mature than the Fire Administration. Although both the Center and the Administration were created by the 1974 act, the Center was built from preexisting fire research programs of the National Bureau of Standards, whereas the Administration started from scratch.

In fiscal year 1976 the total Research Center program costs about $5.4 million. Of that, $3.2 million comes directly appropriated—via the Fire Administration—and the remaining $2.2 million is provided to the Center by other Federal agencies as payment for fire research services rendered to the agencies by the Center.

The Fire Research Center is organized in two divisions: The Fire Science Division devoted primarily to developing new basic information, and the Fire Safety Engineering Division dedicated to applying new knowledge to the fire problem.

FIRE SCIENCE DIVISION

Four programs are in the division:

First, information and hazard analysis investigates fire incidents, analyzes materials involved in fire, develops case histories, et cetera. Currently the group is focusing on fires involving plastics.

Second, chemistry studies the fundamentals of combustion processes.

Third, toxicology of combustion products works to determine the toxic effects of smoke and gases from fires.

Fourth, physics and dynamics has the objective of understanding the heat transfer and gas dynamics of fires in a variety of enclosures. One intent is to learn enough about physical effects to be able to predict the behavior of large fires—like a house fire—from knowledge of the materials involved and their placement in the structure.

FIRE SAFETY ENGINEERING DIVISION

Five programs are in the division:

First, consumer products develops test methods and recommends flammability standards for improving the fire safety of consumer products—rugs, children's sleepwear, upholstered furniture, et cetera. The emphasis is on control of ignition.

Second, furnishings places emphasis on the control of the spread of fire through the setting of appropriate standards for the flammability of ignited furnishings.

Third, construction is responsible for fire safety of buildings themselves as opposed to their contents.

Fourth, detection and control systems works to set standards for the performance of such systems.

Fifth, design concepts uses the results of other Fire Research Center work to make recommendations for use by architects, fire officials, and the like.

The $5.5 million authorized by H.R. 12567 for the Fire Research Center during fiscal year 1977 will allow for a small increase in Federal fire research programs, and will permit the consolidation of three extramural granting programs—currently operated by the Fire Administration, the Fire Research Center, and the National Science Foundation—in the Fire Research Center at the same level of expenditure as in fiscal year 1976. The $6 million authorized for fiscal year 1978 should offset inflation betwen fiscal year 1977 and fiscal year 1978 and permit a small increment in size. It is anticipated that other agency activities of the Fire Research Center will be funded at roughly the same level in fiscal year 1977 and fiscal year 1978 as in fiscal year 1976.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. The Chair will inquire, does the gentleman from Texas (Mr. TEAGUE) desire to take general debate on the next bill?

Mr. TEAGUE. Mr. Speaker, as chairman of the Committee on Science and Technology, I would like to complete general debate on the next bill, H.R. 12566.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 12566.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING APPROPRIATIONS TO THE NATIONAL SCIENCE FOUNDATION

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12566) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Teague).

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. Speaker, I will withdraw that point of order if I may have some explanation as to why we are now taking up further legislation beyond what was announced to the House, and I ask unanimous consent to proceed for 1 minute for that purpose.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Maryland (Mr. Bauman) for 1 minute.

Mr. BAUMAN. Mr. Speaker, it was my understanding that we were to take up the fire prevention and control bill. We have completed the debate on that, and the bill has been passed. We agreed to a rule on the National Science Foundation authorization, and it was my understanding that further consideration would not be had until tomorrow.

We are now moving to go into the consideration of the National Science Foundation authorization, and some of us have amendments that we will offer at the proper time. We have not had the time to fully prepare them, and yet we are now moving to go ahead with consideration of the bill.

The SPEAKER. The Chair will state that the Chair has only agreed to go into the general debate and not into the 5-minute rule on the bill.

Mr. BAUMAN. Mr. Speaker, I would say that that is not the understanding of what the program was to be, but I withdraw my point of order with respect to a quorum not being present.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Teague).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12566, with Mr. Danielson in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. Teague) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Mosher) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Teague).

Mr. TEAGUE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Science and Technology has made an intensive review of the National Science Foundation and its budget request for fiscal year 1977. Members on both sides of the aisle have been active in perfecting this bill and in formulating the numerous views adopted by the Committee in its report. The Committee's actions and views were based on 8 days of authorization hearings and on the vigorous oversight of the NSF conducted throughout the year. H.R. 12566, the bill that I am presenting to you today, is the result of this sustained Committee effort, and I strongly recommend its adoption by the House.

In a moment I will turn to the gentleman from Missouri (Mr. Symington), the chairman of the Subcommittee on Science, Research and Technology which worked on this bill. He will present in some detail the results of the Committee's oversight activities and the reasons for specific Committee actions on the NSF budget request. First, however, I would like to mention one aspect of NSF oversight which I personally took charge of, and then I will provide a brief budget and program review.

During last year's Committee review of the NSF budget request and the subsequent debate here on the floor, a number of concerns were expressed about the curriculum implementation activities of the NSF and, in particular, about an introductory anthropology course whose development and implementation were supported by the NSF. This course was entitled "Man: A Course of Study," or "MACOS."

In its report authorizing appropriations for the NSF for fiscal year 1976, issued on March 20, 1975, the Committee on Science and Technology directed the NSF to defer further funding of implementation activities for the MACOS course, pending a thorough review of the Foundation's overall curriculum implementation policy as well as the specific course in question. In that same report I was directed by the Committee, in my capacity as its Chairman, to appoint an independent group of distinguished citizens to conduct a study of the science curriculum implementation policy of the NSF. On April 2, 1975, I appointed such a group.

Earlier, on March 13, 1975, I requested the Comptroller General of the General Accounting Office to conduct a complete investigation of NSF's policies, procedures and practices for developing, evaluating and implementing precollege science education projects, and their specific application to MACOS. On April 7, 1975, the Director of the NSF also appointed a review team to undertake a detailed study of NSF activities in precollege curriculum development.

These reports were available to the committee on October 1, October 14, and May 1975, respectively; and, individually as well as together, they have provided us with a very thorough examination and review of this area. In response both to problems revealed by these studies and others, and to careful committee oversight, the NSF has introduced a number of management changes and improvements within the past year. Mr. Symington will expand on these findings and management actions. These have been central to the committee's deliberations and final actions on the NSF authorization bill.

Mr. Chairman, H.R. 12566 is a good bill. It provides a balanced program of support for the sciences. At the same time it has stayed within the administration's budget request—and in fact is slightly under that request. I include at this point in the Record a table which presents the funding levels for NSF programs for fiscal year 1976, the fiscal year 1977 budget request and the levels authorized by the committee for fiscal year 1977, as follows:

SUGGESTED NATIONAL SCIENCE FOUNDATION BUDGET, FISCAL YEAR 1977

[In millions of dollars]

	Fiscal year 1976 program	Request to Congress	Committee change	Committee action
Mathematical and physical sciences and engineering	193.4	233.3	−2.9	230.4
Astronomical, atmospheric, earth and ocean sciences	219.3	245.0	2.3	242.7
Biological, behavioral and social sciences	110.4	132.3	−3.8	128.5
Subtotal, research	523.1	610.6	−9.0	[1] 601.6
Science education	64.8	[2] 65.0	+9.0	[2] 74.0
Research applied to national needs	73.6	64.9	−1.0	63.9
Scientific, technological and international affairs	22.2	22.0		22.0
Program development and management	42.6	43.5		43.5
Special foreign currency	5.3	6.0		6.0
Total	731.6	[2] 812.0	−1.0	[2] 811.0

[1] The total amount recommended for basic research in fiscal year 1977 is $78.5 million more than the fiscal year 1976 Program (601.6−523.1=78.5).

[2] Includes $10 million deferred from fiscal year 1976.

The administration bill would have authorized the appropriation of a lump sum of $796,000,000 for fiscal year 1977. In addition, the bill would have provided authority for the appropriation of $6,000,000 in excess foreign currencies.

The committee bill would authorize the appropriation of $795,000,000 in new obligational authority and $6,000,000 in excess foreign currencies for fiscal year 1977. However, a number of changes, which are outlined in more detail below, were made by the committee. These changes include an increase of $9,000,000 to science education, offset by a $10,000,000 decrease applied to four of the other line items in the bill.

In addition to the new obligational authority which would be provided in the bill, the NSF will have available the sum of $10,000,000 which was deferred by the administration from the fiscal year 1976 budget. Thus the total budget available to the NSF in fiscal year 1977 would be $805,000,000 plus $6,000,000 in excess foreign currencies. This represents an increase of nearly 11 percent over the fiscal year 1976 budget.

The entire $9,000,000 increase was made in the science education program. The recommended increase is based upon the committee's determination to stem the downward trend in the science education budget which has been declining absolutely and relatively since 1970. This $9,000,000 increase raises the science education percentage of the total NSF budget to 9 percent—approximately the same percentage as in fiscal year 1976. The committee has also recommended certain adjustments within the Science education program which are discussed in the committee report.

The planned increase from fiscal year 1976 to fiscal year 1977 for the mathematical and physicial sciencies and engineering was 39.9 million or a 21-percent increase. The Committee action reduces the magnitude of this increase such that it is only 19-percent higher than the fiscal year 1976 program plan, thereby helping to offset the increase in science education and aiding the Astronomical, Atmospheric, Earth and Ocean Sciences Directorate in carrying the additional costs of Antarctic support. This action results in an increase over fiscal year 1976 which still will help stop the serious erosion of the Nation's basic research support.

A decrease of $2,300,000 directed to the Astronomical, Atmospheric, Earth and Ocean Sciences was made. The proposed increase of $25.7 million or 12 percent over fiscal year 1976 contains $6,900,000 of additional operational support for U.S. research in the Antarctic. The fiscal year 1976 budget includes $18 million for aircraft. If these are accounted for in the total increase requested, the fiscal year 1977 increase proposed by the administration is 18-percent higher than in fiscal year 1976. The committee recommends reducing the requested increase for the Astronomical, Atmospheric, Earth and Ocean Science to 17 percent in fiscal year 1977; thereby distributing the added burden of operation support in the Antarctic over the three basic research directorates.

The administration requested a 20 percent increase over fiscal year 1976 for the biological, behavioral and social sciences in fiscal year 1977. The committee action results in a 16-percent increase in this program, offsetting part of the increase in science education and carrying part of the additional burden of operation support in the Antarctic. The increase over fiscal year 1976 is believed to be of sufficient magnitude to help check the erosion of support for the Nation's basic research effort in these areas of science.

A decrease of $1,000,000 in the program of research applied to national needs—RANN—was made. This decrease amounts to a total reduction of $9.7 million over last year and includes an $8.7 million reduction proposed by NSF. The funding level proposed by the Committee will provide for a moderate slowdown in the resources, environment, productivity, and exploratory research and technology assessment divisions of RANN, pending an NSF review of RANN management and research evaluation procedures, and of the overall effectiveness of RANN programs. The recommended budget reflects another major shift in energy R. & D. responsibility from NSF to ERDA.

The Committee included, in section 2(a) of the bill, four recommendations regarding the allocation of science education and research applied to national needs funds for fiscal year 1977. These serve to emphasize the balance which the Committee recommends that the NSF maintain among programs in these two directorates. Of the total amount authorized in section 1 for science education, $16,100,000 would be available for "Graduate Student Support," $37,400,000 for "Science Education Support," and $10,500,000 for "Science Education Innovation." The Committee also directs that of the total amount authorized for research applied to national needs, 10 percent be expended to small business concerns.

Mr. Chairman, I know that others here today are going to emphasize the crucial importance of basic research to the welfare of the Nation. Let there be no mistake about it, without this kind of vigorous activity, our country is going to find itself in trouble—economically, environmentally, and from the standpoint of national defense. The President himself acknowledged the importance of basic research in his approval of large increase for the NSF basic research directorates and in public statements since that time.

Although the Committee bill makes modest reductions in the basic research programs of the foundation from the administration request, these programs will receive a substantial increase over the fiscal year 1976 levels. The Committee and the Congress have long been concerned that, in order to keep American science strong, America's science education must also be of the highest quality, and this concern is again expressed in the priorities set in the overall budget which we recommend.

Taken together the Foundation's programs for fiscal year 1977 represent a strong and well balanced set of science support activities that will make significant contributions to the national effort to maintain U.S. scientific strength.

The proposed fiscal year 1977 program strengthens basic research in all major fields of science. Additionally, the program gives emphasis to areas where research results are closely coupled to improvements in technology and economic productivity; it continues research in the polar regions and at five major research centers sponsored by the NSF; it strengthens major international cooperative research efforts in oceanography and the atmospheric and earth sciences; it provides support capabilities in science policy research and analysis; and it provides for continued international scientific and technological activities.

Science Education is an important responsibility of the National Science Foundation. The Foundation's programs in this area are designed to improve the quality of science manpower, to strengthen the science education and research training capabilities of colleges and universities, to improve science instruction at all educational levels and to increase public understanding of science and technology.

The Foundation's applied research support is concentrated in the program of Research Applied to National Needs—RANN.

Another major feature of the Foundation's program is scientific, technological and international affairs. Included here are a range of international cooperative science efforts with more than 20 nations science information activities and a variety of science resources policy studies and assessment and planning activities.

At this time I would like to highlight some of the various aspects of these programs.

In fiscal year 1977 the mathematical and physical sciences and engineering—MPE—activity provides funds for fundamental research projects in mathematics, computer science, physics, chemistry, engineering, and materials research. In each area, activities will continue to focus on fundamental research on natural phenomena from which may arise new opportunities for technological accomplishments and increased options for improving the quality of life. Continued research support will be provided for all areas of mathematics, including classical analysis and geometry, topology, foundations, applied mathematics, statistics, modern analysis, probability, and algebra; for studies involving techniques for increasing the quality and reliability of computer software, the technical aspects of privacy and security, and computer system fault tolerance.

Physics research support will continue in elementary particle physics; intermediate energy physics; nuclear physics; atomic, molecular and plasma physics; theoretical physics; and gravitational physics. Recent discovery of new particles produced with accelerators have given us new insights into the nature of matter. Many of these phenomena can only be examined experimentally with accelerators, whose use has been severely curtailed over the past several years due to increasing costs of electrical energy. Additional funding provided in fiscal year 1977 will increase this usage more nearly to the available capacity.

Continued support will also be provided for research in all areas of chemistry to increase our understanding of the laws and principles that govern the chemical transformation of matter; on engineering concepts which will enable industry to conserve energy through reduced consumption and elimination of energy-intensive steps; and for studies of the fundamental properties of materials to increase understanding of the behavior of materials in complex environments of technological importance, as well as for studies on materials-limited technologies.

The astronomical, atmospheric, Earth, and ocean science activity supports primarily basic research in several disciplines to increase our knowledge of the physical environment, both on Earth and in space. The activities in these areas have the following objectives: to generate new knowledge in astronomy and the atmospheric sciences over the entire spectrum of physical phenomena; to arrive at a better understanding of the physical and chemical makeup of the Earth and its geologic history; and to increase our insight into the oceans—their composition, structure, behavior, and resources.

Astronomical science includes research on the solar system, stars and stellar systems and motions, galactic and extragalactic astronomy, as well as development and operation of astronomical facilities and instrumentation.

Atmospheric sciences is a discipline in which knowledge of physics, chemistry, and biology is used and combined in different ways to improve our understanding of the atmosphere, and provide a basis for dealing with atmospheric problems. The problem of possible depletion of the atmospheric ozone layer through photodissociation of fluorocarbons and subsequent chemical reactions in the stratosphere is one very important area of study supported by NSF through this program.

Earth sciences research is supported to obtain basic information on the nature, origin, history, and behavior of rock formations and the oceans' basins. Such information will help in understanding the forces that affect the Earth's interior and modify its surface. The overall goal of the ocean science program is improved understanding of the nature of the ocean and its influence on man's activities and man's impact on the marine environment.

The U.S. antarctic and arctic research programs include environmental research, and research related to mineral and marine resources. The antarctic program is carried out within the context of the Antarctic Treaty and continues U.S. presence in that area.

The four budget subactivities of the biological, behavioral and social sciences activity are a key element of the biological and social phenomena. Programs supported under this activity are expected to provide new knowledge and insure future scientific capability which ultimately will be applicable to individual and societal needs and goals. It will provide an effective and broad base for the Nation to prepare for emerging problems of the future, and to insure that U.S. science maintains its position at the frontier of world research.

The increase in fiscal year 1977 will provide for new research opportunities in fundamental areas and continued mphases in areas related to energy, the environment, food resources, productivity, inflation and employment.

The fiscal year 1977 will support: Studies of key aspects of behavior and the nervous system during early development; research on brain structure, and its function in cognitive process; increased support for anthropological research including studies of the impact of technology on change in non-Western cultures; and an increased emphasis on social psychologiy in real life settings.

The goal of the Science Education Program Activity is to initiate and support programs to strengthen science education programs at all levels.

To accomplish this goal the foundation provides, on a competive basis, support for institutions to improve their capabilities for teaching science and engineering; for needed innovations in curricula, materials, and technologies for teaching science and engineering. Support is given to able individuals to enable then to pursue careers in the sciences and engineering. Accomplishing program objectives in more effective fashion is the major thrust for fiscal year 1977, and one which is being initiated this year.

The Foundation's program of Research Applied to National Needs—RANN—focuses U.S. scientific and technical resources on selected problems of national importance for the purpose of contribution to their timely, practical solution. RANN serves as a bridge between the Foundation's basic research programs and operational programs of Federal mission agencies, State and local governments, and industry. FANN is coordinated from the program to the project level with the related efforts of these institutions.

Research supported under the RANN resources program is directed toward improving the Nation's management of its natural resources by developing alternative solutions to emerging scarcity problems before the crisis stage is reached as it was with petroleum. Research supported under the RANN environment program is directed toward enhancing the Nation's capability to mitigate environmental hazards, whether natural or man caused.

The basic objective of the RANN productivity program is to support policy research and experiments with new technologies to help improve the productivity of the public and private sectors of the economy; while those of the RANN Intergovernmental Science and R. & D. Incentives program are to ensure that science and technology are effectively integrated into the policy planning, program planning, and program execution activities in State and local governments, and to test and evaluate selected incentives which the Federal Government may properly and effectively use to increase R. & D. investment in the private sector where new technology is needed in the national interest. The Exploratory Research and Technology Assessment program supports research and assessment effort to provide greater visibility on the longer range social, environmental and economic impacts of new technology applications, and to identify and analyze emerging national problems which may be avoided or ameliorated by effective applications of science and technology.

The Scientific, Technological, and International Affairs activity—STIA—collects data, supports research, conducts studies, administers international science activities, and undertakes science and technology policy analysis, providing advice on how science and technology can better meet national and international economic and social objectives.

The main emphasis of the International Cooperative Scientific Activities program is to foster international cooperation between U.S. scientists and their foreign colleagues through its support of U.S. participation in joint research and exchange activities. Science Information Activities stimulate and support efforts to improve accessibility and use of scientific and technical information.

The objective of the Science Resources Studies—SRS—program is the development and maintenance of a current factual and analytical basis for planning and policy formulation in the area of science and technology resources. The Policy Research and Analysis program which examines the impact of science and technology on the full range of national interests and develops policy option analyses regarding relevant Federal actions, shows a reduction in anticipation of the establishment of the White House Office of Science and Technology.

The Program Development and Management—PD&M—activity provides for the operation, support, management and direction of all NSF programs and activities and includes the salaries and operational expenses of NSF staff and the National Science Board.

The Special Foreign Currency programs support collaborative scientific work between U.S. and foreign scientists in countries where the United States owns foreign currencies derived largely from the sale of surplus agricultural commodities. Funding is provided for joint research projects, travel of U.S. scientists for participation in research and in technical conferences, and the translation into English of foreign scientific and technological publications that have been identified as important for U.S. scientists.

Science and technology alone cannot solve many of the major perplexing problems confronting the Nation, such as unemployment, inflation, energy, transportation, stagnating productivity, and the increasing cost of Government at all levels. But these and other problems have a significant science and technology component, and it is essential that U.S. scientific resources be applied to national efforts to help resolve them. The ability to make significant progress is increasingly dependent upon a broadening base of scientific understanding that can be provided only through a stronger national effort. H.R. 12566 provides authorization for funds to maintain a strong national effort. I urge its favorable consideration and adoption by the House.

Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Missouri (Mr. SYMINGTON).

Mr. SYMINGTON. Mr. Chairman, I thank the committee chairman, the gentleman from Texas (Mr. TEAGUE) and the minority leader, the gentleman from Ohio (Mr. MOSHER), for this opportunity to discuss the National Science Foundation authorization bill.

Mr. Chairman, I rise in support of the bill. However, before I describe its general features and the issues which must be considered here today, I wish to extend my deep thanks and appreciation to the Chairman of the full Committee, the gentleman from Texas (Mr. TEAGUE), for his very special kind of leadership. Fine judgment, fairness, and integrity are among the words that come to mind when one talks about the gentleman from Texas—and about our ranking minority member, the gentleman from Ohio (Mr. MOSHER), who has been a constant source of wise counsel for me and other members of the Committee. Finally, let me thank the members of the subcommittee for their work on this bill and on the very extensive oversight activities of the past year.

This bill would provide authorization for the amount of $811.0 million: $801.0 million in new obligational authority and $10.0 million in funds deferred from fiscal year 1976. It is important for the members to note that the recommended amount is $1.0 million less than the budget request. I believe that it is fiscally responsible in that it does not exceed the request made by the President for the National Science Foundation.

The Subcommittee on Science, Research and Technology held hearings beginning on November 20, 1975 and ending on February 19, 1976 to review NSF fiscal year 1976 performance and its fiscal year 1977 budget authorization request. Testimony was also taken from a number of outside individuals and organizations on both the Foundation's basic research and science education programs. Nobel Prize Laureates, representatives of universities, colleges, and industry participated in the hearings—along with members of public interest groups and science teacher organizations. Hundreds of letters have been received. The accompanying report to H.R. 12566 contains summaries of the outside testimony and letters—some are critical of the Foundation, but most are favorable.

In addition, extensive oversight hearings and investigations were carried out on subjects related to the management and operation of the Foundation. Certain of these investigations are still in progress. Numerous staff reviews were made of various NSF facilities and programs. Several General Accounting Office investigations and Congressional Research Service studies have been completed for the subcommittee. A new GAO study was requested by the gentleman from Ohio (Mr. MOSHER) and myself on March 18, 1976 to clear up any remaining questions about certain problems in the precollege science education area. Our intention to ask for the study was discussed with the Director of the Foundation and the Chairman of the National Science Board; both strongly welcomed an independent review by the GAO.

Finally, two studies directed by the chairman of the full Committee on precollege science education were carried out by an independent group—the Moudy Committee—and the General Accounting Office, respectively. Reports based on these two studies have been used in the subcommittee's review of the Foundation's management, operations and budget request.

As is the case for the House Report (94–930) which accompanies this bill, my remarks will be divided into five major sections which consider committee actions, recommendations and views on the budget, basic research, science education, research applied to national needs, and Foundation management.

THE BUDGET

To reflect the Committee's desire to adjust the priorities as presented in the President's budget, an increase of $9 million is proposed in science education. The recommended increase is based upon the Committee's determination to stem the downward trend in the science education budget which has been declining absolutely and relatively since 1970. This $9,000,000 increase raises the science education percentage of the total NSF budget to 9 percent—approximately the same percentage as in fiscal year 1976. It also restores the science education budget to the level authorized and appropriated for fiscal year 1976. The Committee has also recommended certain adjustments within the Science Education program which are discussed later.

This increase for science education is offset by a recommended decrease in the President's budget request for basic research of $9.0 million. This action still allows for a greatly needed increase in basic research over the fiscal year 1976 program. Finally, a modest decrease of $1.0 million is recommended for the Research Applied to National Needs program, pending an NSF review of RANN management and research evaluation procedures, and the overall effectiveness of certain RANN programs.

BASIC RESEARCH

Within its overall budget, the Foundation request for basic research was $610.6 million which, as described a moment ago, was reduced by $9 million to offset the increase in science education. This action is consistent with the committee's intent not to increase the total authorization request of the Foundation. Another way of looking at the committee action is to consider that the basic increases proposed by the President were shaved back by a modest amount.

The resulting increase of $78.5 million—$601.6 million for fiscal year 1977 compared with $523.1 million for fiscal year 1976—over the fiscal year 1976—although not quite as large as the President requested, is still consistent with the committee's strong support of basic research by the Federal Government. At first glance it might appear that the recommended increase for 1977 in comparison to 1976 is large. However, this increase should be evaluated in light of certain considerations which follow.

The NSF request for basic research for fiscal year 1976 was $563.7 million. In Public Law 94–86 an amount of $573.3 million was authorized; however, as a result of appropriations actions in Public Law 94–116, basic research was reduced to the $523.1 level. Hence, the Committee is recommending for authorization a basic research amount which is only $28.3 million higher than was authorized by the Congress last year. However, perhaps more to the point than what was authorized by Congress for fiscal year 1976 is an analysis of trends in support of basic research—nationally and by the NSF—which takes inflation into account.

Recent testimony before the committee noted that, although there has been a steady increase in Federal funding of all types of research and development, in terms of constant dollar support the increase from about $15 billion in fiscal year 1965 to an estimated $21 billion in fiscal year 1976 actually represents a 30-percent decrease in R. & D. funding, when inflation is considered.

Basic research, which is only one component of this decrease, has been affected by this trend over the past decade. Although national spending for basic research has shown an upward trend from 1965 to 1975, if these dollars are adjusted for inflation the actual level of research has been declining significantly since about 1967, and is now about 20 percent below the 1967 level.

Universities and colleges perform much of this basic research. These performers accounted for 54 percent of the total national expenditures for such research in 1974, and are responsible for appoximately 75 percent of all U.S. scientific research reports.

Total expenditures by universities and colleges for basic research increased continuously from 1960 to 1975 in current dollars; the constant dollar expenditures, however, have shown a distinct downward trend since 1968—with minor "upticks." The leveling off and decline in constant dollar expenditures for basic research is due mainly to reduced growth of funding by the Federal Government combined with inflation.

The increase in basic research proposed by the NSF in its budget request, and supported by the committee—with minor revisions—is intended to stem the serious erosion of the Nation's basic research capabilities. Unless the decline is stopped, the committee strongly believes that in the years ahead the scientific, technological and economic capabilities of the Nation will be seriously impaired. Problems requiring the insights and knowledge from basic research become more numerous, not fewer; they become more complex, not more simple. And in the long search for understanding our universe, our world and ourselves, we are probing outward to distant galaxies around us into the complexities of our living environment, and inward to the unfolding mysteries of mind and cells and particles. In short, the frontiers of knowledge are expanding, not contracting.

Other factors are at work which underscore the fact that the proposed increase for basic research is not as large as it appears. For example, there has been a growing trend, which is of concern to the committee, for other agencies of government to drop research facilities and programs with the idea that the NSF will pick them up. Current examples of this trend are:

First. The Air Force is giving up its solar physics observatory at Sacramento Peak, N. Mex. Because of its importance from a national point of view, there was little question of closing it down. OMB looked at ERDA and NSF as candidates for assuming support and settled on the NSF.

Second. The ERDA fiscal year 1977 budget submission to Congress indicates that ERDA plans to reduce its level of support for basic research in nuclear science. Certain facilities at Maryland and Iowa State may look to the NSF for help to stay in operation. Earlier the Space Radiation Effects Laboratory at Newport News in Virginia was dropped by NASA and picked up by the NSF because its capability was important to the Nation.

Third. A transfer of another kind to the NSF involves the U.S. Antarctic program. Of the total amount requested—$45 million—$40 million is for logistics and $5 million is for basic research—although the entire amount appears in the basic research budget activity, Astronomical, Atmospheric, Earth and Ocean Sciences. For fiscal year 1977, the final increment of logistic support provided by the U.S. Navy and U.S. Coast Guard was transferred to the NSF—$6.9 million. This transfer reduces the effective amount of the increase for basic research described earlier. This transfer was based on a recent Presidential decision that the NSF should be, for all practical purposes, the "U.S. Manager in the Antarctic." This development leads to a strong committee recommendation that the large logistic support element of the Antarctic program not be considered in competition with the other responsibilities of the Foundation, and that a separate NSF appropriation be established for the Antarctic program beginning with fiscal year 1978.

Summary.—All the above information is provided to indicate Committee concern about the recent and disturbing trends in the Federal Government's support of basic research.

In summary, the Committee believes that:

First. The downward trend in support of basic research—nationally and by the NSF—should be stemmed;

Second. The trend toward the concentration of Federal support for basic research in the National Science Foundation is one that must be discouraged;

Third. The National Science Foundation does have a balancing role in the total Federal R. & D. program and should pick up support for those areas of basic research which are not adequately funded by the mission agencies; however, this balancing role is not the only role that the National Science Foundation should have. One strength of the Nation's research system is a result of the pluralistic approach to funding science, and this fact demands strong, independent efforts by the NSF and by the mission agencies.

SCIENCE EDUCATION

The National Science Foundation requested a fiscal year 1977 Science Education program of $65 million which included $55 million of New Obligational Authority and $10 million of deferred fiscal year 1976 money. The Science Education program has gone through a number of major program transformations and budget changes since the NSF was established in 1950. Analysis of budget data shows without question that, while at one time Science Education was a major component of the total NSF program, its budget importance has been declining absolutely and relatively since 1971.

The Committee has been disappointed by the decreasing emphasis on science education; further, in order to insure that it has a role in establishing priorities and directions in science education, the Committee has in the past decided that it was necessary to establish specific programs legislatively and to allocate specific budget levels. Two programs initiated by the Committee in fiscal year 1976—Research Implementation and Support—and Comprehensive Assistance to Undergraduate Science Education—have sparked broad national interest and the Foundation has been inundated with proposals.

During the past 15 months the Committee has devoted an extraordinary amount of its oversight to science education. The gentleman from Texas (Mr. TEAGUE) has already referred to special studies on the precollege curriculum area which he asked be done by an independent group and the GAO. As a result of these studies and those performed internally by the NSF and by Congressional direction—a broad range of management changes and improvements have been introduced within the Science Education Directorate during the past year.

Clearly the Committee is faced with a number of complex problems in the area of science education, particularly in the precollege programs. As discussed earlier, the Committee has been and continues to be a strong supporter of the science education role of the Foundation. The importance of effective science education programs from precollege through post-doctoral students and faculty has been well established in the past. The issues before the Committee can be divided into these general categories: General support of science education, NSF management, and support of specific science education programs.

The committee is recommending that:

First. The downward trend in the science education budget should be reversed.

Second. Membership on the National Science Board should be broadened to include more individuals whose expertise is science teaching or education research.

Third. More attention should be given by the NSF to the science education needs of junior and community colleges.

Fourth. The precollege science education area has been restructured by the committee to allow for limited continuation of curriculum development and to embark upon a modest basic research effort. No funds for implementation of courses are authorized—and the NSF has been urged to conduct a complete reassessment of its role in the precollege area and to conduct a comprehensive needs assessment during the coming year.

RESEARCH APPLIED TO NATIONAL NEEDS

The Research Applied to National Needs (RANN) Directorate of the National Science Foundation has a number of problems and complexities unique within the Foundation. The committee believes that several aspects of RANN deserve further attention and study during the coming year.

A principal objective of RANN is to insure that scientific knowledge is effectively used by the Nation. Projects funded by RANN normally include, therefore, plans for implementing the results of the projects. While endorsing the concept that useful results of RANN-supported research should be widely disseminated and implemented, the Committee is concerned that there appears to be a need for stronger quality control and evaluation in RANN management procedures to insure that only useful RANN-supported research results receive implementation funding. This concern arises from experiences with the Foundation's education directorate and from recent General Accounting Office and National Academy of Sciences reports.

In light of these independent findings concerning RANN management, the committee recommends that the Foundation reexamine the RANN program and take such actions as may be necessary. During the period of this reexamination the committee has proposed a modest slowdown in RANN. This slowdown is manifested by a one-million-dollar recommended decrease in the amount authorized for RANN from the NSF request—from $64.9 to $63.9 million. It is not intended that this reduction be applied to programs within the division of Intergovernmental Science and Research and Development Incentives which was recently transferred to RANN.

The committee believes that small businesses can be effective performers of applied research. The Committee also believes that small business should be encouraged to perform applied research.

During fiscal year 1976 the NSF authorization requires that at least 7.5 percent of RANN obligations be made to small businesses. The Foundation has estimated that 8.5 percent of RANN obligations will be made to small businesses in fiscal year 1977. This represents an increase of only five average-sized grants. The committee believes that the Foundation can usefully obligate a larger portion of RANN funds to small business. The committee directs the Foundation to expend not less than 10 percent of RANN funds to small business concerns in fiscal year 1977.

NATIONAL SCIENCE FOUNDATION MANAGEMENT

During the summer and fall of 1975 the Foundation reorganized its basic structure. The committee examined this reorganization as part of its oversight and held hearings in November 1975.

The committee believes that the new organization is potentially sound and can be an improvement over the old one. Whether the new organization will be more successful, the committee believes, depends upon the ability and will of the National Science Foundation staff. The functioning of the new structure will be followed closely during the coming year.

The committee has exercised strong oversight of the Foundation in the area of how the Foundation decides who will receive individual grant awards. The Foundation's decisionmaking methods are based on the review of applications by scientific peers of applicants and are generally known as peer review procedures. During July 1975, the Subcommittee on Science, Research and Technology held 6 days of special oversight hearings into these peer review procedures. The report of the Subcommittee on Science, Research and Technology concerning peer review was recently published.

Since June 1975 the Foundation has made broad changes in its application evaluation procedures. All changes made thus far are in accordance with the views expressed in the subcommittee's peer review report. It is anticipated that further changes in the Foundation's peer review procedures will be made. The subcommittee's report recommended that the National Science Board play a central role in the institution of changed Foundation policies concerning peer review. The National Science Board has established an ad hoc committee of several of its members to monitor the Foundation's response to the subcommittee report.

Changes have been made already in several areas. The most important of these are the following:

First. Management oversight.—In each directorate an "action review board" has been established to review all proposed awards of the directorate. Each of the boards is chaired by an Assistant Director or Deputy Assistant Director. Staff members from related directorates serve on each board as well as a representative from the Office of the General Counsel and a grants and contracts specialist from the Administration Directorate. The boards meet once a week or more frequently as required to examine key points, including the following, with regard to each proposed grant or contract:

Is the purpose and thrust of the individual project consistent with the objectives of the program?

Were NSF award and contract policies and procedures followed?

Were the reviewers appropriate?

Was full and adequate consideration given to reviewer's comments?

Are the investigators qualified and are the institutional resources adequate to carry out the project?

Is the title of the proposed project meaningful to the extent possible?

A seventh review board—the Director's Action Review Board chaired by the Deputy Director of the Foundation—has been established to review all proposed actions that require the approval of the National Science Board.

Second. Openness.—By action of the National Science Board, beginning in January 1976 the Foundation will provide the unsigned verbatim comments of proposal reviewers to grant applications upon request. Formerly, the policy was that verbatim reviews should not be given to applicants. The Foundation will not, under this new policy, provide the names of reviewers to applicants.

This action provides a significant increase in the openness of Foundation procedures. Openness was a key issue of the subcommittee's peer review hearings. The Subcommittee report recommended that the greatest degree of openness of the Foundation's award decisionmaking processes consonant with effective proposal evaluation and reasonable efficiency be achieved. The subcommittee cosponsored with the National Science Board a survey of the scientific community to determine the community's feelings about openness. The subcommittee staff took part in construction of the questionnaire and the General Accounting Office audited performance of the survey by the Foundation.

The scientific community backed the Foundation's current policies strongly in response to the survey. About 80 percent of the 3000 applicants surveyed responded. Of those applicants who responded, 77 percent approved providing a verbatim copy of each review to the applicant with the reviewer's name deleted, but 67 percent disapproved providing signed verbatim reviews. Reviewers, 1500 of whom were also polled, made a nearly identical response. Moreover, 62 percent of the 900 or so reviewers who responded indicated they would continue reviewing but on a more limited basis or would refuse to review if their name was to be attached to a review provided to an applicant.

The committee believes, therefore, that present Foundation policies regarding this aspect of openness are sound.

Third. Appeals.—A formal procedure for reconsideration of actions on proposals has been established. This provides for review by the assistant directors and the deputy director—together with the individual proposers and their institutions—for any cases in which prospective investigators feel the process has not been carried out adequately.

Fourth. Delays.—Procedures to expedite the processing of proposals have been initiated. While normally action on proposals is taken within 4 to 6 months and will continue on that timetable, an upper limit of 9 months has been established. The program office concerned must obtain approval to extend proposal consideration beyond 9 months and the prospective investigator must be so notified.

The committee believes these changes made by the Foundation are sound and will lead to more effective management of the grant decisionmaking process.

Because the Foundation has taken strong action in the area of grant decisionmaking and is continuing to respond to the committee, the committee believes that legislation concerning peer review at the Foundation is neither necessary nor desirable at this time.

Mr. Chairman, in summarizing my rather lengthy statement I would like to make these points:

First. While the committee increased the science education program and made several adjustments within it, I want to emphasize that the total authorization request is slightly less than the President's request.

Second. Support of basic research is vital to the well-being of our Nation and it is imperative that we reverse the downward trend in real expenditures at colleges and universities for research.

Third. The vitality of science education from the elementary school through post-doctoral work is of central importance to the health of science and technology, which in turn are major underpinnings of our Nation's economic, political, and military strength. Solutions to the tough problems of the environment, transportation, urban and rural decay, health—to mention a few—in coming years and decades will depend upon today's commitment to basic research and science education at all levels.

Fourth. The committee has engaged in virtually continuous oversight over the activities of the National Science Foundation, and while problems have emerged, policy and management changes introduced by the Foundation on its own part or recommended by the Congress and the General Accounting Office should go a long way to correcting these problems. There is no doubt that the National Science Board and the Foundation itself have undertaken a substantial and significant program of management improvement to cope with an expanding array of responsibilities.

Mr. Chairman, the result of our work during the past year of oversight activities and on the authorization request is a bill which I think merits the strong support of the committee and the House. I am pleased to join the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), and my other colleagues in urging the House to give this bill favorable consideration.

Mr. MOSHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the subcommittee chairman, the gentleman from Missouri (Mr. SYMINGTON), knows very well that I share his support for this legislation. I am in complete support of the legislation.

However, I have just become aware of an extreme amount of unhappiness on our side of the aisle about the fact that we suddenly are having general debate on this bill this afternoon, because several Members were preparing remarks for that debate tomorrow, and they are not prepared to debate it this afternoon.

Therefore, Mr. Chairman, I am going to reserve the balance of my time upon the completion of my remarks in general debate, until tomorrow, or at such time as the leadership may establish for continuing the general debate.

Mr. Chairman, this fiscal year 1977 National Science authorization bill provides the crucially needed wherewithal for the NSF to continue its high level of achievement in supporting basic research in the sciences.

Mr. Chairman, on Tuesday of this week the President sent to the Congress a special message urging our passage of his proposed budget for research and development. The message emphasized his deep conviction that research and development insures our continued progress.

He gave special attention to the NSF as the main Federal agency supporting basic research, particularly in colleges and universities. I believe the Congress can demonstrate that it shares the President's concerns and objectives by acting promptly to approve the NSF authorization bill.

Our committee recommends an authorization level of $810 million which happens to be $1 million less than requested by the President. Despite the $1 million committee decrease, the $811 million figure is nevertheless $60 million above last year's House authorization.

In today's climate of budgetary restraint, this proposed increase requested by the President is an emphatic endorsement of the NSF and its programs. The President and the committee recognize that basic research is indispensable if our Nation is to maintain its preeminence in science and technology. This recognition of the importance of basic science is rooted in the conviction that our economy and standard of living are largely dependent on scientific advances.

It is fitting to acknowledge the patience and perseverance of the gentleman from Missouri (Mr. **Symington**) and members of the Subcommittee on Science, Research and Technology, in shepherding this year's NSF authorization bill. Subcommittee Chairman **Symington** has especially distinguished himself.

The normal oversight activities of the subcommittee have been compounded by the need to address substantial allegations of mismanagement within the NSF, as well as random criticisms of some innovative science education programs. Several cases of poor management have been brought to light. The NSF has taken prompt action to remedy the causes of past abnormalities and I am confident that agency is well on the way to putting its house in order. Our committee is actively, strongly in support of these NSF efforts to reform.

Also, Mr. **Symington** and I have requested the General Accounting Office to make a further investigation currently in process. The NSF Director, Dr. Guy Steven is completely in support of our request to GAO, and in fact requested it.

In comparison with last year's authorization levels, the research directorates within NSF have received a major share of the increases in the President's budget. Over the past several years, such support for basic research has declined because of the combined effect of inflation and relatively steady absolute dollar allotments. The fiscal year 1977 NSF budget seeks to reverse this unhealthy trend and compensate in part for the past erosion.

Because of the long leadtime required to implement the results of basic research, the adverse effects of several past years of decreased support can be mitigated by taking strong corrective action now. However, it would be unwise to wait any longer than we already have. While the long leadtimes in research permit some flexibility in timing our funding, some programs have already reached the turning point, dividing continued viability from irreversible atrophy.

The major portion of NSF's funds are distributed among the three research activities which represent the classical scientific disciplines. The three basic research activities are: mathematical and physical sciences and engineering; astronomical, atmospheric, Earth and ocean sciences; and biological, behavioral, and social sciences. Out of the $811 million total NSF budget, $602 million is devoted to these three research activities.

The NSF's physics programs continue to support investigations spanning atomic and nuclear physics, elementary particles and material studies. The studies seek a better understanding of the structure of matter both at the subparticle level and macroparticle level. At the subparticle level scientists are working to determine the proper symmetry, conservation and equations of state which describe the behavior of subnuclear particles. At the macroparticle level researchers seek to advance our knowledge of the physical, mechanical, and electrical properties of compounds. The results of the studies should lead to improved materials for use in electronics and energy transmission systems.

The atmospheric sciences will focus on research topics of current high interest. NSF programs will include studies of the Earth's upper and lower atmosphere; the acquisition of data on physical processes related to circulation and climate; and climatic parameters associated with short term weather phenomena.

For example, studies will address the problem of trace contaminants in the stratosphere and of pollutants in the lower atmosphere. The former problem will investigate the impact of SST's and fluorocarbons on the ozone layer. The latter problem deals with the quality of the air we breathe. It will seek better models of pollutant dispersion in order to improve our ability to predict the effects of emissions into the atmosphere.

The NSF's role in Antarctic research has grown in recent years because of the decision to have it responsible for maintaining the U.S. presence at the South Pole continent. The unusually harsh environmental and logistic situation of Antarctic research means that the major portion of the funding is used for operational support.

In previous years the Navy and Coast Guard had provided operational support at their own cost. The Navy and Coast Guard will continue to provide such support but now they will be reimbursed for their costs by the NSF. I wish to emphasize my own personal concern that the added costs for operational support should not be at the expense of research programs elsewhere within the NSF.

If the Executive has shifted the full support burden to NSF, then it should provide adequate funding to carry out this added responsibility. The squeeze should not be put on research programs. The committee articulated this concern in its report and I believe it is a point which warrants special attention.

The science education activity represents the backbone of the Federal effort to maintain the excellence of our scientific human resources. It is axiomatic to say that our research programs will be no better than the caliber of the scientists who carry them out. Science education includes support for graduate fellowships and undergraduate scholarships as well as programs aimed at upgrading the understanding of the process and techniques of educating our youth in the sciences.

Science manpower improvement is fostered by fellowship and scholarship programs directed at students with a special aptitude in the sciences. Education resource improvement is achieved through programs for strengthening the capabilities of schools, colleges, and universities for science education and research training. Elements of this effort include teacher training, instructional equipment support and continuing education programs.

Another valuable feature of the science education activity are its programs aimed at enhancing the level of scientific comprehension across the board. Although we have many persons who are outstanding scientists, the fact remains most citizens do not have scientific backgrounds. As our technology becomes more sophisticated it becomes more difficult for the average person to appreciate its significance and place it in proper perspective.

The gap between technology and its understanding at the grassroots level is unfortunate. It can lead to uninformed public opposition to technologies which offer great benefits or, conversely, can lead to public acceptance of spurious hypotheses.

The NSF is attempting to narrow this gap by supporting the development of innovative science education techniques aimed at the precollege level. The goal is to develop new pedagogical approaches which will make the sciences a stimulating and interesting experience for even the average student. A better scientific foundation will enable our youth who do not pursue scientific careers to be more informed citizens.

Research Applied to National Needs—RANN—is another NSF activity which seeks to bridge the gap between high technology and everyday utility. RANN programs aim at shortening the leadtime between basic scientific discoveries and relevant practical applications. One

RANN program addresses the problem of resource conservation. It includes work on improved agricultural feedstocks, crop rotation, fertilizers, and nonconventional techniques for producing protein.

RANN also addresses the topic of improving productivity at the State and local level. It deals with ways to improve the operation of local government through better delivery systems for essential services such as police, fire, and health. The NSF can play a meaningful role in adapting federally developed technology to meet local needs. The problem is one of tailoring existing technology rather than pursuing the advancement of technology itself.

Mr. Chairman, our Nation's position as a world leader and our standard of living are American qualities which the rest of the world seeks to emulate. It is our excellence in science and technology which has enabled us to achieve this success, and it is science and technology which will permit us to maintain and strengthen these qualities.

I am proud that over the past decade and a half I have been able to play a small part in shaping Federal research activities. Some of the fruits of these efforts are benefiting each of us today, but I know that many more benefits will follow in the years ahead. The NSF is one mainstay in our chain of sustained progress and deserves our fullest support.

The great plant geneticist Mendel was dead by the time his theories of plant mutation were finally appreciated; Galileo was persecuted for his ideas on planetary motion which is disbelieved. A dynamic NSF assures that another Mendel or Galileo or Copernicus will not be passed over because there is no source of encouragement, understanding, or support.

Mr. **TEAGUE**. Mr. Chairman, at this time I reserve the balance of my time, and I move that the Committee do now rise.

The **CHAIRMAN**. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 12566) to authorize appropriations for activities of the National Science Foundation, and for other purposes, had come to no resolution thereon.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 200

Mr. **HOLLAND**. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill H.R. 200, the Marine Fisheries Conservation Act.

The **SPEAKER** pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 94-948)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

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SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these value fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organization, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and

(6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than

the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.

Sec. 3. Definitions.

As used in this Act, unless the context otherwise requires—

(1) The term "anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

Colenterata

Bamboo Coral—*Acanella spp.;*
Black Coral—*Antipathes spp.;*
Gold Coral—*Callogorgia spp.;*
Precious Red Coral—*Corallium spp.;*
Bamboo Coral—*Keratoisis spp.;* and
Gold Coral—*Parazoanthus spp.*

Crustacea

Tanner Crab—*Chionoecetes tanneri;*
Tanner Crab—*Chionoecetes opilio;*
Tanner Crab—*Chionoecetes angulatus;*
Tanner Crab—*Chionoecetes bairdi;*
King Crab—*Paralithodes camtschatica;*
King Crab—*Paralithodes platypus;*
King Crab—*Paralithodes brevipes;*
Lobster—*Homarus americanus;*
Dungeness Crab—*Cancer magister;*
California King Crab—*Paralithodes californiensis;*
California King Crab—*Paralithodes rathbuni;*
Golden King Crab—*Lithodes aequispinus;*
Northern Stone Crab—*Lithodes maja;*
Stone Crab—*Menippe mercenaria;* and
Deep-sea Red Crab—*Geryon quinquedens.*

Mollusks

Red Abalone—*Haliotis rufescens;*
Pink Abalone—*Haliotis corrugata;*
Japanese Abalone—*Haliotis kamtschatkana;*
Queen Conch—*Strombus gigas;*
Surf Clam—*Spisula solidissima;* and
Ocean Quahog—*Artica islandica.*

Sponges

Glove Sponge—*Hippiospongia canaliculta;*
Sheepswood Sponge—*Hippiospongia lachne;*
Grass Sponge—*Spongia graminea;* and
Yellow sponge—*Spongia barbera.*

if the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management council established under section 302.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(D) any operations at sea in support of or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing including, but not limited to, preparation, supply, storage, refrigeration transportation or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Sec. 101. Fishery Conservation Zone.

There is established a zone contiguous to the territorial set of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Sec. 102. Exclusive Fishery Management Authority.

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

(1) All fish within the fishery conservation zone.

(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

(3) All Continental Shelf fishery resources beyond the fishery conservation zone.

Sec. 103. Highly Migratory Species.

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to highly migratory species of fish.

Sec. 104. Effective Date.

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec. 201. Foreign Fishing.

(a) In General.—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

(1) is authorized under subsection (b) or (c);

(2) is not prohibited by subsection (f); and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) EXISTING INTERNATIONAL FISHERY AGREEMENTS.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202 (b) or (c)), if such agreement—

(1) was in effect on the date of enactment of this Act; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a "governing international fishery agreement". Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time.

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b) (10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation:

and will abide by any other monitoring compliance, or enforcment requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b) (7).

(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) ALLOCATION OF ALLOWABLE LEVEL.—The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the exclusive fishery management authority of the United States. In making any such determination, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) RECIPROCITY.—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) PRELIMINARY FISHERY MANAGEMENT PLANS.—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303 (a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishing,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b) (2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

SEC. 202. INTERNATIONAL FISHERY AGREEMENTS

(a) NEGOTIATIONS.—The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201 (c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into any other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) TREATY RENEGOTIATION.—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) INTERNATIONAL FISHERY AGREEMENTS.—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 201(c).

(d) BOUNDARY NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

SEC. 203. CONGRESSIONAL OVERSIGHT OF GOVERNING INTERNATIONAL FISHER AGREEMENTS.

(a) IN GENERAL.—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) REFERRAL TO COMMITTEES.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) COMPUTATION OF 60-DAY PERIOD.—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term "fishery agreement resolution" refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

SEC. 204. PERMITS FOR FOREIGN FISHING.

(a) IN GENERAL.—After February 28, 1977, no foreign vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) ELIGIBILITY.—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) FORMS.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) CONTENTS.—Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted;

and shall include any other pertinent information and material which the Secretary may require.

(4) TRANSMITTAL FOR ACTION.—Upon receipt for any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

(5) ACTION BY COUNCIL.—After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) APPROVAL.—After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve the application, if he determines that the fishing described in the application will meet the requirements of this Act.

(7) ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by

the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it issued.

(C) The requirements described in section 201(c)(1), (2), and (3).

(D) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) Notice of Approval.—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmital to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(9) Disapproval of Applications.—If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefor. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) Fees.—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

(11) Issuance of Permits.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) Sanctions. If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) Registration Permits.—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms for such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

Sec. 205. Import Prohibitions.

(a) Determinations by Secretary of State.—If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204(b) (7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) Prohibitions.—Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) Removal of Prohibition.—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) Definition.—As used in this section—

(1) The term "fish" includes any highly migratory species.

(2) The term "fish products" means any article which is produced from or composed of (in whole or in part) any fish.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Sec. 301. National Standards for Fishery Conservation and Management.

(a) In General.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) Guidelines.—The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans.

Sec. 302. Regional Fishery Management Councils.

(a) Establishment.—There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(1) New England council.—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1)(C) (at least one of whom shall be appointed from each such State).

(2) Mid-Atlantic council.—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New

Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19 voting members, including 12 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(3) SOUTH ATLANTIC COUNCIL.—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(4) CARIBBEAN COUNCIL.—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(5) GULF COUNCIL.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(6) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(7) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b)(1)(C) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(b) VOTING MEMBERS.—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable constituent State. With respect to the initial such appointments, such Governors shall submit such lists to the Secretary as soon as practicable, not later than 45 days after the date of the enactment of this Act. As used in this subparagraph, (i) the term "list of qualified individuals" shall include the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and (ii) the term "qualified individual" means an individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

(2) Each voting member appointed to a Council pursuant to paragraph (1)(C) shall serve for a term of 3 years; except that with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(3) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) NONVOTING MEMBERS.—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geological area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate of GS–18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties.

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.

(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Servies shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established ununder subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND PANELS.—

(1) Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each Council shall establish such other advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

(1) prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(B), and any fishery management plan or amendment transmitted to it under section 304(c)(2);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

(4) submit to the Secretary—

(A) a report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year,

(B) such periodic reports as the Council deems appropriate, and

(C) any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specification made pursuant to section 303 (a)(3) and (4) with respect to the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight theerof, areas in which fishing was engaged in, time of fishing, and number of hauls.

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be limited, or shall not specify types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery.

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries.

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations; and

(7) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) PROPOSED REGULATIONS.—Any Council may prepare any proposed regulations which it deems necessary and appropriate to carry out any fishery management plan, or any amendment to any fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 304 and 305.

(d) CONFIDENTIALITY OF STATISTICS.—Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary from which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

SEC. 304. ACTION BY THE SECRETARY

(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—Within 60 days after the Secretary receives any fishery management plan, or any amendment to any such plan, which is prepared by any Council, the Secretary shall—

(1) review such plan or amendment pursuant to subsection (b); and

(2) notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment.

In the case of disapproval or partial disapproval, the Secretary shall include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council receives such notification.

(b) REVIEW BY THE SECRETARY.—The Secretary shall review any fishery management plan, and any amendment to any such plan, prepared by any Council and submitted to him to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law. In carrying out such review, the Secretary shall consult with—

(1) the Secretary of State with respect to foreign fishing; and

(2) the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(c) PREPARATION BY THE SECRETARY.—(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan if such fishery requires conservation and management; or

(B) the Secretary disapproves or partially disapproves any such plan or amendment and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a)(2).

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(2) Whenever, pursuant to paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall promptly transmit such plan or amendment to the appropriate Council for consideration and comment. Within 45 days after the date of receipt of such plan or amendment, the appropriate Council may recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provisions of this Act, and any other applicable law. After the expiration of such 45-day period, the Secretary may implement such plan or amendment pursuant to section 305.

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) ESTABLISHMENT OF FEES.—The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits.

(e) FISHERIES RESEARCH.—The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservaiton and management, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) MISCELLANEOUS DUTIES.—(1) If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Council concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical area of authority of adjacent Councils.

SEC. 305. IMPLEMENTATION OF FISHERY MANAGEMENT PLANS.

(a) IN GENERAL.—As soon as practicable after the Secretary—

(1) approves, pursuant to section 304 (a) and (b), any fishery management plan or amendment; or

(2) prepares, pursuant to section 304(c) any fishery management plan or amendment;

the Secretary shall publish in the Federal Register (A) such plan or amendment, and (B) any regulations which he proposes to promulgate to implement such plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

(b) Hearing.—The Secretary may schedule a hearing, in accordance with section 553 of title 5, United States Code, on any fishery management plan, any amendment to any such plan, and any regulations to implement any such plan or amendment. If any such hearing is scheduled, the Secretary may, pending its outcome—

(A) postpone the effective date of the regulations proposed to implement such plan or amendment; or

(B) take such other action as he deems appropriate to preserve the rights or status of any person.

(c) Implementation.—The Secretary shall promulgate regulations to implement any fishery management plan or any amendment to any such plan—

(1) after consideration of all relevant matters—

(A) presented to him during the 45-day period referred to in subsection (a) and

(B) produced in any hearing held under subsection (b); and

(2) if he finds that the plan or amendment is consistent with the national standards, the other provisions of this Act, and any other applicable law.

To the extent practicable, such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

(d) Judicial Review.—Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

(d) Emergency Actions.—If the Secretary finds that an emergency involving any fishery resources exists, he may—

(1) promulgate emergency regulations, without regard to subsections (a) and (c), to implement any fishery management plan, if such emergency so requires; or

(2) promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency.

Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection (A) shall be published in the Federal Register together with the reasons therefor; (B) shall remain in effect for not more than 45 days after the date of such publication, except that any such regulation may be repromulgated for one additional period of not more than 45 days; and (C) may be terminated by the Secretary at any earlier date by publication in the Federal Register of a notice of termination.

(e) Annual Report.—The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources that were undertaken under this Act during the preceding calendar year.

(f) Responsibility of the Secretary.—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

Sec. 306. State Jurisdiction.

(a) In General.—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

(b) Exception.—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

Sec. 307. Prohibited Acts.

It is unlawful—

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204 (b) or (c).

Sec. 308. Civil Penalties.

(a) Assessment of Penalty.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) Review of Civil Penalty.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) Action Upon Failure To Pay Assessment.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) Compromise or Other Action by Secretary.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 309. Criminal Offenses.

(a) Offenses.—A person is guilty of an offense if he commits any act prohibited by—

(1) Section 307(1) (D), (E), (F), or (H); or

(2) section 307(2).

(b) Punishment.—Any offense described in subsection (a)(1) is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine for not more than $100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than $100,000, or imprisonment for not more than 1 year, or both.

(c) Jurisdiction.—There is Federal jurisdiction over any offense described in this section.

Sec. 310. Civil Forfeitures.

(a) In General.—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo), used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(e) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of Courts.—Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) Judgment.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

(1) the disposition of forfeited property,

(2) the proceeds from the sale of forfeited property,

(3) the remission or mitigation of forfeitures, and

(4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designed for such purposes by the Secretary.

(d) Procedure.—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311(d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (A) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (B) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable Presumption.—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

Sec. 311. Enforcement.

(a) Responsibility.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to each committee of the Congress listed in section 203(b) and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) Powers of Authorized Officers.—Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has commited an act prohibited by section 307;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of the Act.

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Issuance of Citation.—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) Jurisdiction of Courts.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Definition.—For purposes of this section—

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term "violation of any provision of this Act" includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

Sec. 312. Effective Date of Certain Provisions.

Sections 307, 308, 309, 310, and 311 shall take effect March 1, 1977.

TITLE IV—MISCELLANEOUS PROVISION

Sec. 401. Effect On Law of the Sea Treaty.

If the United States ratifies a comprehensive treaty which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

Sec. 402. Repeals.

(a) The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081–1086), is repealed as of March 1, 1977.

Sec. 403. Fishermen's Protective Act Amendments.

(a) Amendments.—The Act of August 27, 1954 (22 U.S.C. 1972), is amended—

(1) by amending section 2 thereof to read as follows:

"Sec. 2. If—

"(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

"(A) are unrelated to fishery conservation and management,

"(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

"(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

"(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the

Secretary of State shall immediately take such steps as are necessary—

"(i) for the protection of such vessel and for the health and welfare of its crew;

"(ii) to secure the release of such vessel and its crew; and

"(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act."; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence; "For purposes of this section, the term 'other direct charge' means any levy, however, characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee."

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect March 1, 1977. The amendment made by subsection (a)(2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) AMENDMENT.—Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)(B)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect March 1, 1977.

SEC. 405. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) AMENDMENT.—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect March 1, 1977.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

(1) $5,000,000 for the fiscal year ending June 30, 1976.

(2) $5,000,000 for the transitional fiscal quarter ending September 30, 1976.

(3) $25,000,000 for the fiscal year ending September 30, 1977.

(4) $30,000,000 for the fiscal year ending September 30, 1978.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
THOMAS N. DOWNING,
ROBERT L. LEGGETT,
GERRY E. STUDDS,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
FRITZ HOLLINGS,
EDMUND S. MUSKIE,
THOMAS J. MCINTYRE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES L. BUCKLEY,
TED STEVENS,
J. GLENN BEALL,
L. P. WEICKER, Jr.,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text and provided a new title for the House bill, and the House disagreed to the Senate amendments.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate to the text of the House bill, with an amendment which is a substitute for both the text of the House bill and the Senate amendment to the text of the House bill. The committee of conference also recommends that the Senate recede from its amendment to the title of the House bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to provide for the protection, conservation, and enhancement of the fishery resources of the United States. To achieve this objective, the conference substitute follows both the House bill and the Senate amendments in—

(1) Establishing a zone contiguous to the territorial sea of the United States and extending 200 nautical miles from the baseline from which that sea is measured, to be known as the fishery conservation zone; and by providing that the United States shall exercise exclusive fishery management authority within this zone over all fish (except highly migratory species), and beyond this zone, over all anadromous species of fish that spawn in U.S. rivers and streams and migrate to ocean waters, to the extent of their range, and over all fishery resources of the Continental Shelf which appertains to the United States; and

(2) Providing for the development, implementation, administration, and enforcement of fishery management plans and regulations, in accordance with national standards for fishery conservation and management, with respect to any fish over which the United States exercises exclusive fishery management authority; and by providing for foreign fishing consonant with such conservation and management measures pursuant to U.S.-issued permits, and in accordance with new governing international fishery agreements with the United States acknowledging this exclusive U.S. fishery management authority.

The legislation is not intended to interfere with or to preempt pending negotiations at the third session of the Third United Nations Law of the Sea Conference. First, the provisions establishing the fishery conservation zone, exclusive U.S. authority (title I), and enforcement (sections 307–311) shall not take effect until March 1, 1977. Second, it is a declared policy of Congress in this legislation "to support and encourage continued active United States efforts to obtain an internationally acceptable treaty which provides for effective fishery conservation and management" (sec. 2(c)(5). Third, the conference substitute follows the House bill in granting the Secretary of Commerce authority to conform regulations issued pursuant to this Act to the fishery management jurisdiction provisions of an international fishery agreement that may result from any United Nations Conference on the Law of the Sea once that agreement has been ratified by the United States and in anticipation of that agreement coming into force and effect or otherwise being applicable to the United States (sec. 401). The provisions are not only provisional, pending international agreement, but they are also substantially consistent with the developing consensus within the Third United Nations Law of the Sea Conference.

The conference substitute maintains the existing ocean jurisdiction of the United States without change for all purposes other than the conservation and management of fishery resources (sec. 2(c)(1)), and it follows both the House bill and the Senate amendment in specifically excluding highly migratory species of fish from exclusive coastal nation management authority (sec. 103). Highly migratory species are to be managed pursuant to international fishery agreements established for such purpose.

Title II of the conference substitute authorizes foreign fishing for species and resources under the exclusive fishery management authority of the United States pursuant to (1) an international fishery agreement which is in effect as of the date of enactment of this legislation pending renegotiation (in the case of a treaty) or expiration (in any other case), and (2) pursuant to a "governing international fishery agreement". It is the sense of Congress that a governing international fishery agreement between the U.S. and a foreign fishing nation shall contain specified provisions essential to the conservation and management of fishery resources (sec. 201(c)). The conference substitute follows the House bill in providing that such an agreement shall not become effective until it has been submitted to and reviewed by the Congress (sec. 203). The total allowable level of foreign fishing with respect to any fishery under exclusive United States authority shall be that portion of the optimum yield from such fishery which will not be harvested by vessels of the United States. No foreign fishing vessel shall engage in fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the United States beyond this zone (except as to highly migratory species), after February 28, 1977, unless the vessel has on board a valid permit issued by the Secretary of Commerce, through the Secretary of State, pursuant to section 204 of this legislation. United States imports of certain foreign-produced fish and fish products shall be prohibited by the Secretary of the Treasury if the Secretary of State determines and certifies, among other things, that the foreign nation involved bars United States fishing vessels fom its waters, subjects them to conditions and restrictions unrelated to fishery conservation and management, or seizes U.S. fishing vessels in violation of or without authorization under agreement (sec. 205).

Title III of the conference substitute establishes a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S.

fishery management authority. The provisions of this title follow the analogous provisions of the House bill and the Senate amendment and are premised upon the conclusion of the committee of conference that fishery resources must be conserved and managed in such a way as to assure that an optimum supply of food and other fish products, and that recreational opportunities involving fishing, are available on a continuing basis and that irreversible or long-term adverse effects on fishery resources are minimized.

Title III follows the House bill and the Senate amendment in setting forth certain national standards with respect to fishery conservation and management, which are to be applied by new Regional Fishery Management Councils and by the Secretary of Commerce in the preparation of fishery management plans and regulations. The conference substitute follows the Senate amendment in directing the Secretary of Commerce to establish guidelines based on these standards to assist in the development of a management plan for each fishery.

Eight Regional Fishery Management Councils are established, as follows, with the States listed in parenthesis as the constituent States thereof and with authority over the fisheries in the waters seaward of the States in the respective such regions:

New England Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut).

Mid-Atlantic Council (New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia).

South Atlantic Council (North Carolina, South Carolina, Georgia, Florida).

Caribbean Council (Virgin Islands, Puerto Rico).

Gulf Council (Texas, Lousiana, Mississippi, Alabama, Florida).

Pacific Council (California, Oregon, Washington, Idaho).

North Pacific Council (Alaska, Washington, Idaho).

North Pacific Council (Alaska, Washington, Oregon) (with authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska).

Western Pacific Council (Hawaii, American Samoa, Guam).

Each Council shall have voting and nonvoting members. The voting members shall be the principal State official with marine fishery management responsibility and expertise in each constituent State; the regional director of the National Marine Fisheries Service for the geographical area concerned; and a specified number of members required to be appointed by the Secretary of Commerce from lists of qualified individuals submitted by the Governors of the constituent States. The nonvoting members shall be representatives of the United States Fish and Wildlife Service, of the Coast Guard, of the Marine Fisheries Commissions, and of the Department of State.

Each Council is directed to prepare a fishery management plan for each fishery within its geographical area of authority, with respect to any fish over which the United States exercises exclusive fishery management authority. The required (sec. 303(a)) and discretionary (sec. 303(b)) provisions of each such plan are described in detail. A Council-prepared plan may include such proposed regulations as the Council deems appropriate to carry out such plan (sec. 303(c)). It is mandatory, *inter alia*, that each fishery management plan require the submission of catch statistics and other pertinent data to the Secretary of Commerce, but the conference substitute follows the House amendment in providing that such statistics shall be confidential and only released in an aggregate or summary form which does not disclose the identity or business of the persons making such submissoions (sec. 303(d)). Each fishery management plan shall, *inter alia*, (1) specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery involved, and (2) assess and specify the capacity and extent to which U.S. fishing vessels will harvest such optimum yield and the portion of such optimum yield which will not be so harvested and which can be made available for foreign fishing (sec. 303(a) (3) and (4)). Amendments to such fishery management plans may include any matters with respect to the fishery involved which may be included in such a plan, including revised assessments and specifications as to optimum yield and the portion thereof which can be made available for foreign fishing.

The Secretary of Commerce is directed to review and either approve, partially disapprove, or disapprove each fishery management plan submitted to him (and any amendment to an existing such plan). In the case of partial disapproval or disapproval, the Secretary shall return the plan to the originating Council with a request for corrective amendments. The Secretary's review shall be designed to determine whether the fishery management plan is consistent with the national standards for fishery conservation and management, the other provisions and requirements of this legislation and any other applicable law. In carrying out such review, the Secretary shall consult with the Secretary of State (as to foreign fishing) and with the Secretary of the department in which the Coast Guard is operating (as to enforcement at sea). If no fishery management plan is submitted by the appropriate Council within a reasonable period of time, or if corrective amendments to a partially-disapproved or disapproved plan are not submitted within 45 days after notification, the Secretary of Commerce is authorized to prepare the appropriate plan or amendment.

As soon as practicable after the Secretary (1) approves a Council-prepared fishery management plan or (2) prepare such a plan, he shall publish such plan or amendment in the Federal Register together with any regulations which he proposes to promulgate in order to implement it. After a 45-day period for the submission of written data, views, or comments thereon, the Secretary shall implement the plan or amendment and promulgate such regulations, unless the Secretary schedules a hearing in accordance with 5 U.S.C. 553, on such plan, amendment, and regulations, in which case implementation and promulgation shall take place as soon as practicable after the hearing.

The general responsibility for the carrying out of fishery management plans rests with the Secretary of Commerce (sec. 305(g)), although, with respect to enforcement of the provisions of this Act and of any regulation or permit issued under this Act, that responsibility is shared with the Secretary of the department in which the Coast Guard is operating (sec. 311(a)).

The conference substitute follows the Senate amendment in directing the Secretary of Commerce to initiate and maintain a comprehensive program of fishery research to carry out and further the protection, conservation, and enhancement of United States fishery resources (sec. 304(d)).

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State. The exception in section 306(b) would authorize the Federal government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reasons for which Federal regulation was assumed no longer prevail.

The conference substitute contains provisions on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement, which follow the comparable provisions of the House bill or the Senate amendment, or both.

Title IV of the conference substitute follows the House bill in amending the Fishermen's Protective Act, the Marine Mammal Protection Act of 1972, and the Atlantic Tunas Convention Act of 1975; follows the Senate amendment in repealing the Act of May 20, 1964 (better known as the Bartlett Act) (its substantive provisions are incorporated in the conference substitute), and follows the House bill and the Senate amendment in repealing the Act of October 14, 1966.

Appropriations are authorized to the Secretary to carry out the provisions of this legislation, in the following amounts; $5 million for the balance of the current fiscal year; $5 million for the transmittal fiscal quarter ending September 30, 1976; $25 million for the fiscal year ending September 30, 1977; and $30 million for the fiscal year ending September 30, 1978.

ACKNOWLEDGMENTS

The conferees wish to acknowledge the extraordinary efforts invested in the development of this legislation by its original sponsors—Senator Warren G. Magnuson and Representative Gerry E. Studds—and by Senator Ted Stevens and Representative Leonor K. Sullivan, Robert L. Leggett, and Edwin B. Forsythe, the other cosponsors of the legislation, and the members of the committees involved.

SECTION-BY-SECTION DISCUSSION

Section 2. Findings, purposes, and policy

This section follows the analogous provisions of both the House bill and the Senate amendment, with modifications to reflect more precisely the provisions of the conference substitute.

Section 3. Definitions

This section defines the various terms used throughout the conference substitute. The definitions follow, except for minor technical and clarifying changes made necessary by reason of the conference agreement, the pertinent definitions in the House bill and the Senate amendment. Where appropriate to this statement, particular definitions are discussed in relation to the major substantive provisions to which they relate.

The conference substitute follows the House provision and omits the Trust Territory of the Pacific Islands from the coverage of the legislation since it is operated by the United States pursuant to the terms of a trusteeship agreement with the United Nations and is not considered to be a possession of the United States.

The conference committee would like to make it clear that inclusion of American Samoa and Guam within the definition of State would not, and is not intended to, affect the Treasury Department's interpretation of the Nicholson Act (46 U.S.C. 251–252) with regard to American Samoa and Guam.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Section 101. Fishery Conservation Zone

This section establishes, and defines the boundaries of the "fishery conservation zone" of the United States. Its inner boundary is a line coterminous with the seaward boundary of each of the coastal States of the United States (the term "State" is defined to include, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other U.S. Commonwealth, territory, or possession) and its outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured. The term "seaward boundary" when used in reference to a coastal state has the same meaning as is given to such term in the Submerged Lands Act of 1953 (43 U.S.C. 1301(b)). This provision of the conference substitute is similar to provisions in both the House bill and the Senate amendment.

Section 102. Exclusive Fishery Management Authority

This section follows the substance of the House bill and the Senate amendment in directing the United States to exercise exclusive fishery management authority in the manner provided in this Act over—

(1) All fish within the fishery conservation zone (the definition of "fish" in section 3(6) does not include highly migratory species);

(2) All anadromous species of fish spawned in the fresh or estuarine waters of the United States throughout their migratory range beyond the fishery conservation zone (except when they are found in a foreign nation's territorial sea, fishery conservation zone, or the equivalent to the extent that either is recognized by the United States); and

(3) All Continental Shelf fishery resources of the United States beyond the fishery conservation zone.

It should be noted that the definition of "fishing" in section 3(10) does not include scientific research conducted by a scientific research vessel. The conference committee does not consider the conducting of tests of fishing gear to be scientific research within the meaning of the bill.

Section 103. Highly migratory species

This section follows the House bill and the Senate amendment in providing that the exclusive management authority of the United States shall not include, or be construed to extend to, highly migratory species of fish. Highly migratory species are defined in section 3(15) to mean species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean. Since there is no jurisdiction for coastal nation jurisdiction over such species, this section declares them subject to management pursuant to international fishery agreements established for that purpose. The conferees believe that current international fishery agreements which regulate tuna are not functioning as adequately as they should and should be supplemented by stronger international tuna fishery agreements.

Section 104. Effective date

The effective date of this title is March 1, 1977. The effective date of the comparable provision of the House bill was July 1, 1976, and the effective date of the comparable provision of the Senate amendment was July 1, 1977 for enforcement as to violations. By adopting the effective date of March 1, 1977, for this title, the conferees have provided for a period of transition between passage of the Act and full operation of the provisions of title I. The conferees expect this transition to the new regime established in the Act to occur through negotiations between the United States and affected nations, as described in title II of the Act.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Section 210. Foreign fishing

This section follows the House bill and the Senate amendment in allowing and setting prerequisites for and conditions on, foreign fishing for fish subject to the exclusive fishery management authority of the United States.

Section 201(a) prohibits foreign fishing within the fishery conservation zone established by section 101 or for anadromous species or Continental Shelf fishery resources beyond this zone, unless it is authorized by an existing international fishery agreement (including a treaty), as provided in section 201(b), or by a governing international fishery agreement, as provided in section 201(c). In addition, the reciprocity requirement of section 201(f) must be satisfied, and each fishing vessel of the foreign nation so authorized must have a valid and applicable permit issued for that vessel under section 204, and fish in accordance with the conditions and restrictions of such permit.

Section 201(b) authorizes such foreign fishing to be conducted pursuant to an existing international fishery agreement (other than a treaty) until such time as that agreement expires or pursuant to an existing international fishery agreement treaty until such time as that treaty is renegotiated (to conform it to the purposes, policy, and provisions of this legislation) or ceases to be of force and effect as to the United States.

Section 201(c) authorizes such foreign fishing to be conducted pursuant to a governing international fishery agreement (which is not a treaty) if such agreement is entered into pursuant to this subsection and if it becomes effective following application of section 203 (congressional oversight). The committee on conference intends that governing international fishery agreements will be the primary mechanism through which foreign fishing is authorized. One of the purposes of this agreement is to acknowledge the exclusive fishery management authority of the United States as set forth in this legislation.

It is stated to be the sense of Congress that any such agreement shall set forth certain terms and conditions; *inter alia* (1) that each foreign nation and its vessels will abide by all regulations promulgated by the Secretary of Commerce implementing this Act and any applicable fishery management plan; (2) that each foreign nation and its vessels will abide by all applicable enforcement procedures; (3) that each foreign nation and its vessels will adhere to all requirements for observers to enforce the Act and will pay the cost for such observers; (4) that each foreign nation and its vessels prepay any license fee to the United States; (5) that each foreign nation and its vessels have appointed agents on whom legal process can be served; (6) that each foreign nation will assume responsibility for reimbursement of United States citizens for any loss or damage of their fishing gear or catch caused by any fishing vessel of such nation.

Subsection (a) provides that fishing by foreign nations is limited to that portion of the optimum yield of any fishery subject to the fishery management authority of the United States which will not be harvested by vessels of the United States. The conference committee intends that, in determining whether U.S. fishermen "will not" harvest an optimum yield, the Councils are to give consideration to both the desire and capacity of U.S. fishermen to harvest such yield. Both the optimum yield and the "surplus" to be made available for foreign fishing are to be determined by the appropriate Regional Fishery Management Council or by the Secretary in fishery management plans and amendments to such plans.

Within the total allowable level, of foreign fishing in any fishery, allocations must be made among the various foreign nations interested in such fishing. Section 201(c) provides that the Secretary of State, in cooperation with the Secretary of Commerce, shall allocate, among foreign nations, the total allowable catch for foreign nations on the basis traditional fishing and other specified factors.

Traditional foreign fishing means long standing, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation. Traditional or historic foreign fishing was recognized in the Act of October 16, 1966 (80 Stat. 908), which created the existing nine-mile contiguous fishery zone. Whether any nation has traditionally fished must be determined on a case-by-case basis. Nations which only recently began to fish clearly have not traditionally fished. However, nations whose fishermen have continually fished on a particular stock for a substantial number of years in compliance with any applicable fishery treaties or domestic law would have a strong case for a preference for an allocation of the total allowable level of foreign fishing.

Section 201(f) provides that any nation which seeks fishing authority from the United States must satisfy the Secretary of Commerce and the Secretary of State that it extends substantially the same fishing privileges to fishing vessels of the United States; if any, as the foreign nation is seeking from the United States.

The Secretary is required, by section 201 (g), to prepare a preliminary fishery management plan for any fishery if the Secretary determines if no fishery management plan for that fishery will be prepared and implemented before March 1977, in accordance with 5 U.S.C. 553, interim regulations. They would be applicable, under March 1, 1977 to foreign fishing in fisheries subject to U.S. authority and would remain in effect until a fishery management plan, prepared by the appropriate Regional Fishery Management Council, is reviewed, approved, and implemented pursuant to the provisions of this Act. The conferees do not intend that this power be used to interfere with, or to preempt, the functions of the Councils in any way. Interim regulations promulgated by the Secretary to implement a preliminary fishery management plan would remain in effect until regulations implementing any fishery management plan are promulgated under section 305.

Section 202. International Fishery Agreements

Neither the House bill nor the Senate amendment calls for the abrogation of existing international fishery agreements. The conference substitute preserves this intent and requires the Secretary of State, in cooperation with the Secretary of Commerce, to enter into negotiations with any nation to conform any agreements to the provisions of the Act. In addition the conference substitute follows the House bill and Senate amendment in directing the Secretary of State, at the request of and in cooperation with the Secretary of Commerce, to enter into negotiations on behalf of United States fishermen who wish to fish within the fishery conservation zone (or for anadromous species or Continental Shelf fishery resources of any other nation to seek agreements for the management and conservation of anadromous species and highly migratory species.

At present, the United States is a party to 23 bilateral or multilateral treaties and executive agreements. Many are short-lived executive agreements, negotiated for only one or two years, although in many cases they have been renewed or extended continuously over much longer periods of time. Others are treaties within the meaning of section 2 of Article II of the Constitution.

Section 202(b) directs the Secretary of State, in cooperation with the Secretary, to initiate (promptly after the date of enactment of this legislation), the renegotiation of any treaty which pertains to foreign fishing in waters which will fall within the fishery conservation zone, or to fishing for anadromous species or Continental Shelf fishery resources, in order to conform the provisions of any such treaty to the purposes, policy, and provisions of this Act. Such renegotiation, in the opinion of the committee of conference, would include the filing of notices of intent to withdraw from the International Convention for the Northwest Atlantic Fisheries (ICNAF) and similar such treaties, in accordance with the provisions of such treaties, so that the withdrawal of the United States from such treaties will become effective by March 1, 1977 if such treaties have not been renegotiated to conform with this Act by that date.

Section 202(c) provides that no international fishery agreement (other than a treaty) which is in effect on June 1, 1976 and which pertains to foreign fishing for U.S. fishery resources shall be renewed, amended, or extended, except in accordance with section 201(c) of the Act (which provides for governing international fishery agreements). Application of this particular provision in the Act is delayed until June 1, 1976, in order to permit the constinuation of existing arrangements with Canada.

Section 202(d) authorizes the Secretary of State, in cooperation with the Secretary, to initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation. The immediate and primary concern should be the boundaries with Mexico, Canada, the Soviet Union, and certain Caribbean nations.

Section 202(e) states that it is the sense of Congress that the United States shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent), if (1) such nation fails to consider and take into account the traditional fishing activities of the United States with respect to any fish over which such nation asserts exclusive management authority, (2) fails to recognize and accept that highly migratory species are to be managed by the applicable international fishery agreement, whether or not such nation is party to such agreement, or (3) such nation imposes on fishing vessels of the United States conditions which are unrelated to fishery conservation and management. This provision follows the Senate language in requiring that the U.S. will not recognize jursdictional claims by any other nation which go beyond that reasonably necessary for management of fishing and which unreasonably exclude fishing by vessels of the United States.

Section 203. Congressional Oversight of Governing International Fishery Agreements

This section follows the House bill in providing for Congressional oversight of, and authority to disapprove, certain international fishery agreements. All international fishery agreements provided for in section 201(c) must be referred by the President to Congress for a period not to exceed 60 calendar days of continuous session of the Congress after the date of transmittal. No such agreement shall become effective until after the 60-day period. During this 60-day period, the Congress may review such an agreement and, if desired, proceed to consider a joint resolution of either House, the effect of which would be to prohibit the entering into force and effect of such an agreement as transmitted to the Congress.

This section spells out in some detail (1) the process involved in transmitting the documents to Congress; (2) referral to the House Committee on Merchant Marine and Fisheries and the Senate Committees on Commerce and Foreign Relations; (3) the method by which the 60 calendar day period will be computed; (4) the nature of the joint resolution which the Congress can consider with regard to agreements; (5) the time for reporting a "fishery agreement resolution"; and (6) the Congressional procedures involving the rules of the House and Senate for consideration of a joint resolution to disapprove a governing international fisheries agreement.

Section 204. Permits For Foreign Fishing

Section 204 follows the House bill and the Senate amendment in setting forth the procedure to be followed to allow for fishing by foreign vessels in the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone. Under section 204(a), no foreign vessel will be permitted to engage in fishing within the fishery conservation zone established by section 101, after March 1, 1977, for any species, except hghly migratory species, unless that vessel has on board a valid permit issued by the Secretary under this section. Such a permit will also be required in order for a foreign vessel to fish for anadromous and Continental Shelf fishery resources beyond the fishery conservation zone of the United States.

Section 204(b) sets forth the requirements, procedures, and applicable provisions for the application for and issuance of foreign fishing permits under governing international fishery agreements. Each foreign nation which has entered into such an agreement with the United States shall apply each year for permits for all fishing vessels operating under its flag that wish to engage in any fishing within the U.S. fishery conservation zone or, beyond such zone, for U.S. anadromous species or Continental Shelf fishery resources (para. (1)). The application and permit forms are to be prescribed by the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating (para. (2)). The permit forms will have to be designed in such a way that the issued permit can be "prominently displayed" in the wheelhouse of the vessel for which it is issued: that it contains, in a form suitable for examination by enforcement officers, a statement of all of the conditions and restrictions that are attached to it and which govern fishing by that vessel for fish subject to exclusive U.S. fishery management authority; and that it contains appropriate space for a record of any citations issued under section 311(c) (and a statement of any such citations issued under any previous permits issued for that vessel).

Paragraph (3) specifies the minimum subject-matter content for an application for such permits. Paragraph (4) provides that the Secretary of State shall, when satisfied that a permit application complies with these content requirements, publish the application in the Federal Register and transmit it to the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, the appropriate Regional Fishery Management Councils, and designated committees of Congress. Within 45 days after it receives such an application, the applicable Regional Fishery Management Council may comment, as it deems appropriate regarding the application (para. (5)). Such comments may include recommendations regarding approval and suggested conditions and restrictions on the fishing contemplated by the application.

"The Secretary of Commerce is required to consult with the Secretary of State and the Secretary of the department in which the Coast Guard is operating about each such application. After taking into consideration the views and recommendations of these officers and those submitted by any of the Councils, the Secretary may approve the application if he determines that the fishing described in the application will meet the requirements of this legislation (para. (6)). After such approval the Secretary of Commerce shall establish specific conditions and restrictions which shall be included in permits issued pursuant to that application (para. (7)). Paragraph (8) directs the Secretary to transmit a copy of each approved application together with all conditions and restrictions imposed on the application to the Secretary of State, to the Coast Guard, to any regional Fishery Management Council which has authority over any fishery specified in that application, and to designated committees of Congress. Paragraph (9) provides that the Secretary shall promptly inform the Secretary of State in the event that he does not approve such an application; the Secretary of State shall notify that nation of the disapproval and the reasons for the disapproval and shall inform that nation that it may submit a revised application at any time. "Reasonable" fees are to be paid to the Secretary of Commerce by any foreign fishing vessel for which such a permit is issued. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees. These fees must apply without discrimination with respect to any foreign nation and, in determining the amount of the fees, the Secretary may take into account the cost of management, research, administration, enforcement, etc. (para. (10)). As soon as a foreign nation notifies the Secretary of State that it accepts the conditions and restrictions established with respect to its approved application, and upon payment of the applicable fees, the Secretary shall (through the Secretary of State) issue permits for the appropriate fishing vessels of that nation (para. (11)).

Paragraph (12) deals with sanctions relating to permits issued under this subsection (i.e., under a governing international fishery agreement). If a fishing vessel of a foreign nation holding such a permit is used in the commission of any act prohibited by section 307, or if overdue criminal penalties under section 309 or overdue civil penalties under section 310 (pertaining to that vessel) have not been paid, the Secretary may revoke the permit (and may bar future permits for a specified number of years); may suspend the permit for an appropriate period of time; or may impose additional conditions and restrictions on all of the permits issued to the nation under whose flag that vessel operates. The Secretary is not required to give notice or hold any kind of hearing prior to such permit revocation, suspension, or modification since a hearing will already have been held to determine whether the vessel was in fact used in the commission of a prohibited act (or in the assessment of a civil penalty under section 308(a) or the imposition of a criminal penalty under section 309). If a permit is suspended for nonpayment of a civil penalty, the permit must be reinstated upon payment of that penalty plus interest.

Section 204(c) is the comparable subsection with respect to fishing subject to exclusive U.S. fishery management authority pursuant to an existing international fishery agreement or treaty, to cover the period until that agreement expires or that treaty is renegotiated and is replaced by a governing international fishery agreement under section 201(c). Each fishing vessel of a foreign nation fishing under such an existing agreement or treaty will be issued a "registration permit," upon application, if it wishes to engage in any fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the U.S. beyond that zone. Each registration permit shall set forth the terms and conditions of the international fishery agreement or treaty involved. A registration permit is also subject to the requirement that it be prominently displayed in the wheelhouse of the fishing vessel for which it is issued. The Secretary of State, after consulting with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications may be made for registration permits, and the form thereof. Fees may be charged for registration permits, but the cost may not exceed the administrative cost of issuing them.

Section 205. Import Prohibitions

This section directs the Secretary of State and the Secretary of the Treasury, respectively, to take certain actions if the Secretary of State finds that any foreign nation (1) refuses to negotiate or fails to negotiate in good faith to achieve an agreement with the United States, pursuant to which United States fishing vessels could continue to fish for fish subject to such foreign nation's fishery management jurisdiction in accordance with their fishing practices and under conditions and restrictions equivalent to the conditions and restrictions prescribed by the United States for foreign fishing vessels; (2) refuses to allow U.S. fishing vessels to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement; (3) fails to comply with its obligations under any existing agreement concerning fishing by United States fishing vessels for fish subject to such foreign nation's fishery management jurisdiction; or (4) seizes any vessel of the United States while it is fishing in waters beyond that foreign nation's territorial sea under circumstances not recognized by the United States or authorized under international law or an agreement with the United States. In any such case, the Secretary of State shall certify such determination to the Secretary of the Treasury. Upon receipt of such a certification, the Secretary of the Treasury shall immediately impose import restrictions on fish and fish products from the foreign fishery involved or, upon the Secretary of State's recommendation, on other fish or fish products of such foreign nation. Such a prohibition on imports shall be removed when the Secretary of State finds and notifies the Secretary of the Treasury that the reasons for the imposition of such prohibition no longer prevails. This section follows a provision in the House bill.

It is the intent of the committee of conference that, for purposes of an import prohibition under this section, all fish which are caught by fishing vessels of the United States are fish or fish products of the United States (regardless of where such fish are caught or off-loaded) and not fish or fish products of the foreign nation involved. Naturally, the owner or operator of such United States flag vessels would be expected to assist the Secretary of the Treasury in identifying fish or fish products as fish caught by United States flag vessels.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Section 301. National Standards for Fishery Conservation and Management

This section requires that fishery management plans prepared under this Act and regulations promulgated to carry out such plans be consistent with seven specified national standards for fishery conservation and management. These standards, or basic objectives for a viable conservation and management program for the Nation's fishery resources, are designed to assure that management plans and regulations take into account the variability of fish resources, the individuality of fishermen, the needs of consumers, and the obligations to the general public, now and in generations to come. The first of these national standards is regarded by the conferees as being of particular importance. It declares that conservation and management measures shall be designed, implemented, and enforced to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. The term "optimum" is defined in this context (in section 3(18)) to mean the amount of fish from a fishery which, if produced, will provide the greatest overall benefit to the Nation (especially in terms of food production and recreational opportunities) and which is prescribed for that fishery on the basis of the maximum yield sustainable therefrom (a biological measure) as modified by any relevant economic, social, or ecological factor. Except for technical drafting and clarifying changes, this requirement and these standards are the same as those set forfth in both the House bill and the Senate amendment.

Subsection (b) of this section follows the Senate amendment in directing the Secretary of Commerce to establish guidelines, based on these national standards, to assist in the development of fishery management plans. In establishing these guidelines, the Secretary shall coordinate the work of the Department of Commerce with formal and informal participation by industry representatives and other knowledgeable and interested individuals.

Section 302. Regional Fishery Management Councils

This section directs the establishment, within 120 days after the date of enactment of this legislation, of eight Regional Fishery Management Councils, as previously described in the "Summary and Description" part of this statement. The House bill and the Senate amendment each provided for the establishment of only seven such councils—the House bill did not provide for a separate Caribbean Council and the Senate amendment did not provide for a separate New England Council. The conference substitute includes both as separate entities, for a total of eight such councils.

Although similar in structure, purpose, and functions, the eight Fishery Management Councils vary in size in terms of the total number of voting members and the number appointed by the Secretary from lists of qualified individuals recommended by the Governors of the constituent States, as follows: New England Council (17; 11); Mid-Atlantic Council (19; 12); South Atlantic Council (13; 8); Caribbean Council (7; 4); Gulf Council (17; 11); Pacific Council (13; 8); North Pacific Council (11; 7, 5 of whom shall be appointed from Alaska and 2 from Washington); Western Pacific Council (11; 7). The voting members appointed by the Secretary from lists of qualified individuals shall serve for 3-year terms, except that the terms of the initial such members shall be staggered. The voting members of the Councils who are not government employees shall be compensated on a daily basis at the GS-18 rate and all voting and certain nonvoting members shall be reimbursed for actual expenses incurred in the performance of duties for the Councils.

Each council shall conduct all meetings and hearings within the geographical area of concern. In the case of the North Pacific Council "in geographical area of concern" means within the State of Alaska.

Council decisions shall be by majority vote of the members present and voting, with a majority of the voting members constituting a quorum. The voting members of each Council shall select one of their number to serve as Chairman, and each Council shall meet at the call of its Chairman or by request of a majority of its voting members. In case of disagreement, a disagreeing Council member may submit a statement thereof, with reasons, to the Secretary. Each Council is authorized to appoint and obtain staff and administrative support and other services, and it is charged to determine, prescribe, and publish its organization, practices, and procedures. Each Council is directed to establish a scientific and statistical committee and such other advisory panels as are necessary or appropriate.

Each Regional Fishery Management Council is authorized and directed, inter alia, to develop fishery mangement plans and amendments to such plans; to submit periodic and other reports to the Secretary of Commerce; to continually review and revise assessments as to optimum yield and allowable foreign fishing; and to conduct other necessary and appropriate activities, with respect to the management and conservation of the fisheries over which it has authority.

Each Council shall conduct public hearings with respect to the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of this legislation. Each Council is directed to establish a scientific and statistical committee and necessary advisory panels to assist in the development or amendment of any fishery management plan. Each advisory panel shall be composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of, the applicable fishery group of fisheries. The regional Councils and their committees and panels should receive maximum public input. The provisions of the Federal Advisory Committee Act apply, and therefore meetings must be open to the public, with few exceptions. Each Council shall conduct all meetings and hearings within its geographical area of concern. In the case of the North Pacific Council, "in the geographical area of concern" means within the State of Alaska.

The foregoing provisions follow the House bill or the Senate amendment, or both.

Section 303. Contents of Fishery Management Plans

This section specifies the contents of a fishery management plan.

Each fishery management plan is required to include, with respect to the fishery involved—

(1) necessary management measures governing foreign and domestic fishing, which must be consistent with the national standards and other applicable law;

(2) a complete description of the fishery, including gear, species, location, management costs, revenue, recreational interests, and existing foreign and Indian harvesting rights;

(3) an assessment and specification of the fishery's present condition, probable future condition, maximum sustainable yield, and optimum yield, and an assessment and specification of the capacity and desire of the U.S. fishing fleet to harvest this optimum yield and the portion of this optimum yield which will not be so harvested and can be made available to foreign fleets;

(4) specification of pertinent statistics which must be submitted to the Secretary on fishing effort, gear, species taken, and locations of activity; and

In addition, Councils may, at their discretion, include—

(1) a permit requirement for each vessel engaged in the fishery;

(2) designations of the manner in which fishing shall be limited by zones, vessels, or gear;

(3) catch limitations based on area, species, size, number, weight, sex, or other criteria;

(4) prohibitions on types of gear, vessels, or equipment, and requirements for utilization of devices facilitating enforcement;

(5) to the extent practicable, measures for conservation and management presently employed by the nearest States;

(6) creation of a limited entry system, based on past participation, economic dependence, existing investments, and other factors; provided that a majority of the Council members present and voting (of the Council concerned) agree; and

(7) any other provisions which are determined to be necessary for the conservation and management of the fishery.

Councils may also propose regulations necessary to implement fishery management plans.

This section also requires that statistics submitted by the Secretary pursuant to a management plan must not be released to the public in the form of individual records unless pursuant to court order.

The House and Senate provisions for this section were not mutually exclusive and the foregoing provisions utilize parts of both versions.

The required provisions of section 303(a) were taken from the Senate amendment while the discretionary provisions were from the House bill. The proposed regulations in section 303(c) follow the House bill. The provision regarding confidentiality of statistics in section 303(d) is also largely from the House bill, although both the House bill and the Senate amendment were similar on the subject of statistical requirements.

In any case in which a fishery extends beyond the geographic area of authority of any one Council, the Secretary (1) may designate which Council shall prepare the fishery management plan for such fishery, or (2) may require that such plan be prepared jointly by the Councils concerned (sec. 304(f)). The House bill provided for the Secretary to designate which Council would prepare the management plan, and the Senate amendment directed the Councils concerned to coordinate or combine their efforts.

Section 304. Action by the Secretary

Section 304 represents an amalgam of the House and Senate versions.

Section 304(a) provides that within 60 days after receiving a fishery management plan submitted by a Council, the Secretary must review the plan and notify the Council as to whether he approves, partially disapproves, or disapproves of the plan. A Council has 45 days to amend a plan wholly or partially disapproved.

Section 304(b) provides that, in reviewing a plan, the Secretary must examine it for consistency with the national standards, the provisions of the Act, and other applicable law. Consultation with the Secretary of State and with the Coast Guard is provided for where their areas of responsibility are affected.

Section 304(c) authorizes the Secretary of Commerce to prepare a fishery management plan or amendment if (1) a Council fails to prepare a plan for a fishery in need of conservation, or (2) if the Secretary partially or wholly disapproves of a plan submited by a Council and the Council fails to make necessary changes. If the Secretary prepares his own plan, the Council has 45 days to recommend changes; thereafter, the plan is implemented by the Secretary. However, the Secretary is prohibited from preparing a plan which includes a limited entry system unless such system has been first approved by a majority of the voting members of each appropriate Council.

Section 304(d) directs the Secretary to set, by regulation, the level of any fees which may be charged under fishery management plans for U.S. fishing vessels. This level cannot exceed the Secretary's administrative costs in issuing these permits.

Section 304(e) directs the Secretary of Commerce to initiate and maintain a program of fisheries research. This new research effort is required to include, but need not be limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

Section 305. Implementation of Fishery Management Plans

This section sets forth the process for implementation of fishery management plans, including a period for written comment, authorization for hearings, judicial review, and emergency action and includes certain general provisions on the responsibility of the Secretary of Commerce to carry out such plans and to report thereon annually to the Congress and the President.

As soon as practicable after the Secretary approves a fishery management plan or amendment prepared by a Council, or prepares such a plan or amendment (in accordance with section 304), the Secretary is directed to publish that plan or amendment in the Federal Register along with any regulations he proposes to promulgate to implement that plan or amendment. The Secretary shall afford interested persons at least 45 days within which to submit, in writing, data, views, or comments with respect to the plan or amendment and the proposed regulations (sec. 305(a)).

The terms "fishery management plan" and "regulations" are not used interchangeably in this Act. In this Act, the fishery management plan is the comprehensive statement of how the fishery is to be managed, including time and area closures, gear restrictions, and the like. "Regulations", as used in this Act, means the regulations promulgated to implement what is contained in the fishery management plan.

Section 305(b) authorizes the Secretary to schedule and conduct a public hearing under 5 U.S.C. 553 and any plan, amendment, or proposed implementing regulations and to postpone the effective date of the regulations pending such hearings. The conferees anticipate that the Secretary will not normally hold hearings on fishery management plans prepared by the Regional Fishery Management Councils inasmuch as the plans (and amendments thereto) are themselves the product of mandatory public hearings by the Councils. However, hearings may be appropriate in cases (1) in which written submissions are received asserting that the proposed regulations are inconsistent with the plan to be implemented thereby, (2) in which the plan was prepared by the Secretary himself under section 304(c), or (3) in which there are controverted issues of material fact.

Section 305(c) directs the Secretary to promulgate regulations to implement a fishery management plan, or an amendment to such a plan, after review and consideration of all matters raised in the written submissions and any oral presentations, if he finds that the plan or amendment is consistent with the national standards, the other provisions of this legislation, and any other applicable law.

Regulations to implement a fishery management plan are subject to judicial review under the Administrative Procedure Act (5 U.S.C. ch. 7), if a petition for judicial review of such regulations is filed within 30 days after the date of promulgation except that the reviewing court is without authority to enjoin the implementation of those regulations pending the judicial review and such regulations may only be set aside if found to be arbitrary and capricious (sec. 305(c)).

Section 305(d) authorizes certain emergency actions to save fishery resources if the Secretary finds that any emergency involving any fishery resources exist. Emergency regulations, or emergency amendments to a fishery management plan, are only effective for a maximum of 45 days with authority to repromulgate for one aditional 45-day period. Emergency regulations are subject to judicial review on the same basis as implementing regulations.

The Secretary is directed to prepare, not later than March 1 of each year, an annual report of fishery conservation and management (sec. 305(e)), and he is given "general responsibility to carry out a fishery management plan or amendment" (sec. 305(f)), including the authority to promulgate regulations to discharge that responsibility or to carry out any other provision of this Act.

The implementation process provisions follow comparable provisions in the House bill and the Senate amendment, except that (1) the mandatory-hearing provision in the House bill (whenever objections are filed by a citizen who may be adversely affected or whenever requested by a State) is not included in the conference substitute in favor of an optional-hearing provision; and (2) the provisions in the Senate amendment establishing a 5-member, President-appointed "Fishery Management Review Board" to determine appeals from regulations promulgated by the Secretary is not included in the conference substitute in favor of judicial review.

Section 306. State jurisdiction

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is regitered under the laws of such State. The exception in section 306(b) would authorize the Federal government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reasons for which Federal regulation was assumed no longer prevail.

Section 307. Prohibited acts

This subsection sets forth the prohibited acts.

Under paragraph (1), it is unlawful for any person to violate any provision of this legislation or any regulation promulgated under this legislation; to violate any condition or restriction of a permit issued pursuant to this legislation or to fish upon revocating or during the suspension of such a permit; to violate any provision of a governing international fishery agreement entered into pursuant to this legislation, to refuse to permit any authorized officer to board a fishing vessel under such person's control for purposes of carrying out any search or inspection relating to the enforcement of this Act or of any regulation or permit issued under this Act; to use force to assault or otherwise interfere with such an officer who is engaged in such a search or inspection or to resist a lawful arrest for any act prohibited by this subsection; or to ship, purchase, sell, etc., any fish taken or retained in violation of this Act or any regulation or permit issued under this Act. Under paragraph (2), it is unlawful for any foreign fishing vessel, or for its owner or operator to engage in fishing within the territorial waters of the United States or (unless such fishing is authorized by a permit issued pursuant to section 204) to engage in fishing within the fishery conservation zone or for anadromous species or for Continental Shelf fishery resources. This subsection follows the House bill and the Senate amendment, and the Bartlett Act provisions are incorporated as part of this Act in view of the repeal of that Statute.

Section 308. Civil penalties

This section empowers the Secretary of Commerce to levy a civil penalty against any person who is found, after notice and an opportunity for a hearing in accordance with 5 U.S.C. 554, to have committed an act prohibited by section 307. The amount of the civil penalty could not exceed $25,000 for each violation, but each day of a continuing violation constitutes a separate offense for this purpose. The actual amount of the civil penalty would be at the discretion of the Secretary, after he has taken into consideration the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

If a civil penalty is assessed against any person under subsection (a) of this section, that person may seek review of the penalty in the appropriate Federal court by filing a notice of appeal within 30 days of such an order. If the Secretary's decision is not found to be supported by substantial evidence, as provided in 5 U.S.C. 706(2), the penalty shall be set aside by the court.

Subsection (c) requires the Attorney General of the United States to recover, in an action in an appropriate U.S. District Court, the amount of any assessed civil penalty after it has become a final and unappealable order or after judgment in favor of the Secretary in a review filed under subsection (b). In such an action by the Attorney General, the validity and appropriateness of the final order imposing the civil penalty would not be reviewable by the district court.

Subsection (d) authorizes the Secretary to compromise, modify, or remit any civil penalty which may be or has been imposed.

This section follows the House bill.

Section 309. Criminal offenses

Criminal offenses are provided for certain prohibited acts, as follows:

A person who refuses to permit an authorized enforcement officer to board, for purposes of inspection, a fishing vessel under his control; who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any such officer who is engaged in such an inspection; or who resists a lawful arrest for any act prohibited under section 307, shall be fined not more than $50,000, or imprisoned for not more than 6 months, or both. If, however, such a person uses a deadly or dangerous weapon in the course of such conduct, he shall be fined not more than $100,000 or imprisoned for not more than 10 years, or both.

A person who commits any act prohibited by section 307(2) shall be fined not more than $100,000 or imprisoned for not more than 1 year, or both. This provision follows the Senate amendment and the criminal penalty provision currently in the Bartlett Act, which the conferees agreed to repeal (as proposed by the Senate amendment) following the incorporation of its pertinent substantive provisions, including this one, in the conference substitute.

Section 310. Civil forfeitures

Section 310(a) provides that any vessel (including its fishing gear, furniture, appurtenances, cargo, and stores) may be forfeited to the United States if it is used in any manner in connection with or a result of the commission of any act prohibited by section 307, and that all fish taken or retained in connection with or as a result of any such prohibited act shall be forfeited to the United States, under this section. Forfeiture, does not lie, however, if the relevant prohibited act was one for which the issuance of a citation under section 311(c) is sufficient sanction.

Any district court of the United States shall have jurisdiction, upon application by the Attorney General, to order any forfeiture authorized under subsection (a) and any seizure-related action authorized under subsection (a). (Sec. 310(b)).

Subsection (c) incorporates by reference, with respect to forfeiture under this section, the relevant provisions of the customs laws, except that the duties and powers involved shall be performed by officers or other persons designated by the Secretary of Commerce.

Subsection (d) prescribes the procedure to be followed when process in rem is issued under this Act. The execution of such process shall be stayed, and any fish seized in case of levy shall be released, upon the posting of a bond with security satisfactory to the court involved, conditioned upon delivery of the fish seized or the payment of the monetary value of such fish.

Subsection (e) follows the Senate amendment in specifying that it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

This section is an amalgam of pertinent provisions of the House bill and the Senate amendment.

Section 311. Enforcement

Section 311(a) provides that the responsibility for enforcing this legislation and any management regulations and fishing permits issued under this legislation rests with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating (i.e., the Secretary of Transportation, in peacetime). The two Secretaries are authorized to employ for this purpose not only the resources of their respective departments but also, by agreement on a reimbursable or other basis, the personnel, services, equipment, and facilities of any other Federal agency and of any State agency. The conference substitute specifically provides that the utilizable equipment of other agencies includes aircraft and vessels and that the Federal agencies required to cooperate in such enforcement include all elements of the Department of Defense. With respect to State agencies, however, it is the understanding of the conferees that State officers will be employed widely in assisting in the enforcement of this Act, however, in general it is expected that such State officers will be employed primarily in areas proximate to their own States and where Federal personnel are unavailable. The two Secretaries are required to report semiannually to the duly authorized committees of the Congress and to the Regional Fishery Management Councils on the degree and extent of compliance. Where indicated, these reports may include recommendations (i.e. for amendments to applicable fishery management plans) which may increase compliance, facilitate the detection of violators, or reduce delay.

Section 311(b) specifies the powers of any officer who is authorized to enforce the provisions of this Act, by the Secretary of Commerce, by the Secretary of the department in which the Coast Guard is operating, or by any agency which has entered into an enforcement agreement with the two Secretaries. Any such officer may, with or without a warrant, arrest any person upon responsible cause to believe that such person has committed an act prohibited by section 307; board and search or inspect any fishing vessel subject to the fishery management authority of the United States; seize any fishing vessel used or employed in the violation of any provision of this Act; seize any fish taken or retained in violation of any such provision; and seize any other evidence related to any such violation. Any such officer may also execute any warrant or other process issued by any officer of court of competent jurisdiction and exercise any other lawful authority.

Subsection (c) provides for a less drastic sanction in cases of technical or minor violations. Instead of citing the master of fishing vessel for a violation of section 308(a), an authorized enforcement officer may issue a warning to the master of such vessel. Any such warning shall be noted by the officer on the permit issued to such vessel and a record of all such citations shall be maintained by the Secretary of Commerce. The two Secretaries shall, by jointly issued regulations, provide glidelines for the use of this "citation" power as an alternative to arrest, seizure, forfeiture, etc.

Section 311(d) grants exclusive jurisdiction, and appropriate powers, over all cases arising under this legislation to the district courts of the United States.

Section 311(e) defines "provisions of this Act" and "violation" broadly for purposes of this section only. The remedies provided by this Act, however, are all tied to the commission of an act prohibited by section 307.

The conference substitute is a composite of the enforcement provisions of the House bill and the Senate amendment.

Section 312. Effective date of certain provisions

This section provides that the effective date of the enforcement-related provisions of title III (sections on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement) shall be March 1, 1977. See above under section 104.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. Effect of Law of the Sea Treaty

This section follows a provision in the House bill authorizing the Secretary of Commerce to promulgate such changes in regulations under this Act as may be necessary or desirable to conform such regulations to the fishery management jurisdiction provisions of a comprehensive treaty, if any, resulting from the Third United Nations Conference on the Law of the Sea, if such treaty is ratified by the United States and in anticipation of its taking effect.

Section 402. Repeals

This section repeals, effective March 1, commonly known as the Bartlett Act, which established the 9-mile contiguous zone, and (2) the Act of May 20, 1964, as amended, commonly known as the Bartlett Act, which prohibited certain foreign fishing. The conference substitute follows the House bill and the Senate amendment with respect to (1) and the Senate amendment with respect to (2).

Section 403. Fishermen's Protective Act amendments

The conference substitute follows the House bill with respect to amending the Fishermen's Protective Act (Act of August 27, 1954).

The House bill provided for reimbursement resulting from the seizure of an American fishing vessel, if the vessel had fished in such nation's waters in the past, for the particular stock of fish involved. Concern was expressed by the committee of conference that such a provision might actually encourage seizures of American fishing vessels and that it would endorse fishing by American vessels in a foreign nation's waters under circumstances which would not be allowed with respect to fishing subject to the exclusive fishery management authority of the United States. The conference substitute authorizes such reimbursements only if the conditions and restrictions applied to U.S. vessels are more stringent than the conditions and restrictions applied to foreign fishing vessels by the United States.

Section 404. Marine Mammal Protection Act amendment

This section follows the House bill in amending the term "waters under the jurisdiction of the United States" in the Marine Mammal Protection Act of 1972 to encompass the waters within the fishery conservation zone of the United States, as declared in title I of this legislation.

The provision amending the Marine Mammal Protection Act is not intended to alter U.S. obligations under any existing international agreement which applies to the taking of marine mammals, for example, those applying to whales or fur seals. The conferees desire also that the Secretary of State vigorously pursue the international program for marine mammal protection provided for in the Marine Mammal Protection Act. The amendment made by this section takes effect March 1, 1977.

Section 405. Atlantic Tunas Convention Act amendment

This section follows the House bill in amending the term "fisheries zone" in the Atlantic Tunas Convention Act of 1975 to mean the fishery conservation zone of the United States, as declared and defined in title I of this legislation. The amendment takes effect March 1, 1977.

Section 406. Authorization of appropriations

The House bill authorized the appropriation of "such sums as may be necessary" to carry out the purposes of this legislation. The Senate amendment authorized the appropriation of a total of $49.5 million (through September 30, 1977) to the Secretary of Commerce and a total of $29.25 million (through September 30, 1977) to the Secretary of the department in which the Coast Guard is operating. The conference substitute authorizes the appropriation to the Secretary of Commerce of not to exceed (1) $5 million for the fiscal year ending June 30, 1976, (2) $5 million for the transitional fiscal quarter ending September 30, 1976, (3) $25 million for the fiscal year ending September 30, 1977, and (4) $30 million for the fiscal year ending September 30, 1978.

The committee of conference intends that this authorization of appropriations shall be in addition to, and not in substitution for, any other appropriations authorized for fisheries management, research, and development etc. While large, the sums involved are minute by comparison with the benefits attainable.

Authorizations for Coast Guard enforcement expenditures under this Act will be included in the annual Coast Guard authorization Acts.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
THOMAS N. DOWNING
ROBERT L. LEGGETT,
GERRY E. STUDDS,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
FRITZ HOLLINGS,
EDMUND S. MUSKIE,
THOMAS J. MCINTYRE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES L. BUCKLEY,
TED STEVENS,
J. GLENN BEALL,
L. P. WEICKER, Jr.
BOB PACKWOOD,
Managers on the Part of the Senate.

FINANCIAL REFORM ACT AMENDMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ALLEN. Mr. Speaker, on yesterday I submitted to the members of the Banking, Currency and Housing Committee a proposed amendment to the financial Reform Act of 1976, now under consideration by the committee.

In order to give you some background which has prompted me to offer this amendment, I would like to read to you this testimony and admission I elicited from Dr. Arthur Burns, Chairman of the Federal Reserve Bank, last Thursday, March 18:

Mr. ST GERMAIN. Mr. Allen?

Mr. ALLEN. Thank you Mr. Chairman.

Question. Dr. Burns, I shall try to be very brief and pointed in my questions. How much in bank reserves are held today by the Federal Reserve, in round figures?

Dr. BURNS. In round figures, there are some 30-odd billion dollars.

Mr. ALLEN. How much interest does the Fed pay to the banks which have these reserves on deposit?

Dr. BURNS. Not one penny.

Mr. ALLEN. Well, now if the Fed did pay interest on the money placed with it, say one per cent less than the current discount rate at all times, would this not make it possible for member banks of the Federal Reserve to lend money at a lower rate of interest? That is my primary concern, in trying to reduce the interest rates.

Dr. BURNS. Well, I think that it would have an influence probably in that direction, yes.

Mr. ALLEN. Thank you, sir.

Thus, the Chairman of the Federal Reserve, Dr. Arthur F. Burns, admitted that, of the $123 billion in assets of the Federal Reserve Banks, "There are some 30-odd billion dollars" in reserves owned and deposited by member banks on which the Federal Reserve is paying to the banks "Not one penny" in interest.

This is simply not right. The purpose of my amendment is to require the Federal Reserve to start paying to its member banks a reasonable interest on the reserves which they have on deposit; such interest to be not less than 1 percent below the Fed's current discount rate.

It would then require these banks—which for the first time would be receiving interest on their reserves held by the Federal Reserve—to make this $30 billion available for construction loans and mortgages on low cost and medium priced housing at a rate no higher than 1 percent more than what the Federal Reserve would then be paying such banks.

This would cut the interest rates on such construction loans roughly in half, and would be a great stimulus to a revival and revitalization of the home building industry.

The member banks, by receiving for the first time, say "5 percent interest" on their reserves deposited with the Fed, on which they now are receiving "not one penny," and by then making loans available for construction of low cost and medium priced housing an amount equal to such reserves, at say "6 percent interest," would be earning 5 plus 6 percent, the equivalent of 11 percent on their money. But the builder, or housing contractor, would be paying only 6 percent.

The construction and home building industry is the bellwether of our economy. Only its revitalization can bring a return to anything approaching full employment and a healthy economy. It simply must be revived by the Congress passing legislation that will make sufficient money available at reasonable interest rates, so that once again people on low and modest incomes can afford to build and buy new homes at interest rates and monthly notes they can afford to pay.

This is the true key that will unlock the door and make possible an expanded economy with full employment for all citizens able and willing to work.

This amendment would go a long way toward that goal, by making over $30 billion available for construction loans and mortgages on low cost and medium priced housing.

I can only hope that this proposal will receive the favorable consideration of the members of the Banking and Currency Committee, and of the Members of both the Senate and the House of Representatives.

For the information of all Members of this body, a copy of my proposed amendment follows, which I include as part of these remarks:

AMENDMENT OFFERED BY MR. ALLEN

Title V, entitled "The Federal Reserve System", Section 503, of the Financial Reform Act of 1976, is amended by adding on Page 108, after line 17, two new subsections, to wit:

(c) From and after sixty days from the date this Act becomes effective, the Federal Reserve System shall pay interest to member banks on the reserves which each such bank has on deposit with the Federal Reserve System; said interest to accrue and be payable on demand at a rate not less than one per cent below the current Federal Reserve discount rate or rates during the period when said reserves were held or on deposit with any Federal Reserve bank.

(d) Commencing with such effective date, each member bank of the Federal Reserve System shall be required to make available, on a priority basis, an amount equal to the total reserves it has on deposit with any Federal Reserve bank, said funds to be made available for housing construction loans and mortgages on low-priced and medium-priced residential housing, as hereinafter provided, at a rate of interest no higher than one per cent above the interest being earned by said bank on its reserves held by the Federal Reserve bank.

First priority shall be given by such member banks to granting construction loans for such low-cost and medium-priced residential housing, which may include single-family houses, duplexes, and/or condominimums, to be constructed by or for owners or prospective purchasers intending to reside therein; second priority shall be given to lending money on short term mortgages on such houses or such housing projects; and third priority shall be given to the lending of money on intermediate and long-term mortgages on residences or condominium apartments intended to be used as residences by said purchasers.

What shall be considered and construed to be low-cost housing and medium-priced housing in any area shall be determined by the Board of Governors of the Federal Reserve System which is hereby vested with the responsibility and duty of regulating and enforcing this section, under Congressional oversight as herein otherwise provided.

DISCRIMINATION AGAINST WOMEN IS WORLDWIDE, AND MUST BE STOPPED—ESPECIALLY AT THE U.N.

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have concluded an analysis of the executive officers of the U.N.'s System of Organizations. My findings lead me to one conclusion: the U.N. has a policy of continuing neglect in and bias against the hiring of women for executive positions. As of January 1, 1976, of the top 384 officers in the U.N., only eight are women. That is 2.1 percent. If the U.N. were solely an American organization, it would be a prime candidate for a sex discrimination case under title VII.

What angers me so is that the U.N. has been cognizant of this discrimination for quite some time. A U.N. Institute for Training and Research report in 1973 documented this discrimination. It stated:

> As of May 31, 1972, the overall proportion of men to women on the professional staff was 4 to 1, but at the directorial level, the gap widened to 37 to 1. Of the 293 men and eight women in the ranks from D–1 (Director) to USG (Under Secretary General), 30 men were at the level of Assistant of Under Secretary General, while no woman was higher than D–2 (Director). From "The Situation of Women in the United Nations".

The situation remains essentially unchanged today. Reports were issued during International Women's Year pointing out the situation and imploring change. What was the result? The International Women's Year Conference adopted resolution 8 urging that something be done to end this discrimination. Another resolution passed the U.N. on December 8, 1975 urging that the U.N. increase its efforts to hire women for executive positions. I was surprised to see such honesty in the resolutions, as it noted—

> The limited progress made to date in the recruitment and promotion of women in the senior and policy-making positions, and the declining percentage of women staff members in the Secretariet.

Yet I remain unconvinced by all these resolutions. Simply because the situation has not changed. I am reminded of Eliza Doolittle in "My Fair Lady," who sang "It's been words, words, words, and I'm so sick of words,"—in the showstopper, "Show Me."

As a member of the Foreign Operations Subcommittee of the Appropriations Committee, I have had a chance to take a closer look at several of the U.N. organizations to which we make a voluntary contribution. The following is a listing of some of the U.N. organizations, the number of women in executive positions, and the amount of money we voluntarily contributed in 1975.

VOLUNTARY U.N. ORGANIZATIONS RECEIVING U.S. FUNDING—1975 DOLLAR AMOUNT

1. U.N. Development Program—of 41 top positions listed in U.N.'s System of Organization Manual, there is only one woman.—$77 million.
2. UNICEF—of the top 17 positions, there is only one woman.—$17 million.
3. U.N. Institute for Training and Research—there are no women in executive positions.—$400,000.
4. U.N. Relief Agency for Palestine Refugees—there are no women in executive positions.—$23 million.
5. U.N. World Food Program—there are no women in executive positions.—$1.5 million.

I think the example of UNICEF is particularly instructive. Of the eight executive positions, there is only one woman. She is not on the Executive Board, and she is not even secretary to the Executive Board. She is director of the greeting card operation. UNICEF may be the best in its purposes, but it is as guilty as the rest of them in its bias against women.

I think the United States should take a more active role in pressuring the U.N. to make real changes in its hiring practices. Last year, we contributed about $125 million to these voluntary organizations, in addition to the assessed dues we pay the U.N. We have every right to call the U.N. to task for their discrimination against women. If the U.N. does not move quickly and decisively on this issue, decent men and women everywhere must condemn it for this and other reasons—simply one more immorality committed by that organization.

COMMENTARY ON CONFERENCE REPORT ON HATCH ACT

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, those responsible for crafting and creating legislation ostensibly designed to update the Hatch Act now are in the unenviable position of being left with a medley of absurdities which boggle the mind of any impartial observer. Like new authors, they must be stealing glances at the latest version of their handiwork to make sure that the ink has not smudged.

In their headlong rush to perpetuate the fallacious thesis that Federal employees somehow were being deprived of their constitutional rights, proponents succeeded in transforming a patently mischievous piece of legislation into a monumental monstrosity. There is no other way to assess the language which has been incorporated into the conference committee report on H.R. 8617. In effect, it asks us to clap our hands, if we still believe in Peter Pan.

When this legislation was debated earlier in the House, proponents trumpeted the need for all Federal employees to be free to exercise their political rights. At the same time, they cautioned against establishing a double standard which they said would result if senior officials in the administration were permitted to seek elective office. If the all-for-one, one-for-all principle was valid last October, why has it now been abandoned by the House managers of this bill?

It is not too difficult to come up with an answer. Principle was sacrificed for political expediency. What the House managers of this bill now are telling us is that a little bit of selectivity is not incompatible with political freedom. How else can you explain away the language of the conference committee report which now would deny the full range of political activity to certain employees of the CIA, the IRS, and the Justice Department?

In view of the conference report, I think it is appropriate to repeat the question chorused by backers of this legislation when they objected to the so-called double standard approach to political activity: "What kind of equity is this?" There can be no justification for permitting one kind of Federal employee free political rein while restricting selected groups of Federal employees.

Let me also remind the House it was the same backers of this legislation who last October were voicing concern about the "fragmented nature and coverage of the Hatch Act." Now, if we are to believe these same spokesmen, a little bit of political segregation is only a venial sin which can be conveniently overlooked in the rush to legislative enactment.

In their all-out drive to put something into the law books, House backers of the legislation even jettisoned the effective date of the measure. When it left the House, H.R. 8617 was to be applicable for the 1976 elections. Presumably, that effective date would give a new dimension to political freedom for Federal employees since it coincided with our Bicentennial observance. Now, the House is being asked to reverse its stand and delay the effective date of the bill until January 1, 1977. If political freedom really is the issue, can we tolerate any delay?

But there is an even more compelling reason for rejecting the conference report, and it can be summed up in a word—experience. Since 1939, the Hatch Act has demonstrated its worth and provided Federal employees with the assurance they are rated on quality of job performance rather than political connections.

There is no conceivable way of preserving an impartial Federal service, if it is to be ravaged at will by virtually unrestricted partisan political activity. To invite the emasculation of a workable merit system is to encourage a quick return to the spoils system complete with pestilential stench.

There is widespread evidence that neither the public nor the vast majority of Federal employees want this bill enacted into law. In the interests of good government, this deplorable piece of legislation which now encompasses the worst of both worlds should be soundly rejected.

PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, negotiations between our Government and the Republic of Panama over future ownership of the Panama Canal are continuing despite a strong sentiment among the people of this country that the United States should retain ownership.

Although the negotiations are taking place at a slower pace, it is unknown at present just how far the talks will be carried.

I strongly oppose any change in the ownership of this strategically-important link between the Atlantic and the Pacific Oceans and I have introduced legislation calling on the Congress to state its opposition clearly and unequivocally.

As you all recall, when the Department of State appropriation bill came before the House last year, language was included to prohibit the State Department from using any funds for the purpose of negotiating the giveaway of the canal. I supported this language and it is unfortunate that the Senate did not add any similar language. The House language was watered down in conference and we finally ended up with a provision which had no binding effect.

I firmly believe that if the canal ceases to exist as an entity of the United States and is relinquished to the Republic of Panama, it will just be a matter of time before the operation of the canal is under the influence of Fidel Castro, supported by the Soviet Union.

Russia has constantly supported the efforts of Panama to gain control of the Canal. It has been reported that the Russians have even expressed an interest in building a new sea-level canal or modifying the present canal to handle larger vessels, similar to the manner in which the Russians did the Aswan Dam for the Egyptians.

Obtaining ownership and control of the Canal from the United States has been a long-time goal of the Russians. John Reed, an American journalist who covered the Russian revolution, reported that Lenin realized the importance of the canal and was determined to force the United States to give up unilateral control of the waterway.

The strategic nature of the canal to international commerce and to the military defense of the Western Hemisphere are two good reasons why the United States should never let the canal slip from its control.

The United States completed construction of the canal in 1914 after 10 long years of hard work. We took up the project after the French had failed. The United States paid Panama $10 million and agreed to pay $250,000 a year rent forever for the area. Since then, the annual payment has been raised to $2 million a year.

The cost to the United States of building the canal was $380 million.

A revolutionary coup headed by Brig. Gen. Omar Torrijos of the National Guard has been in control of Panama since President Arnolfo Arias was overthrown in 1968, 11 days after he was elected. This military regime of Panama has been friendly with Communist countries and has been agitating for control of the canal.

Panamanians are divided on the canal issue and militant factions have threatened bloodshed if the canal is not relinquished. Our two countries have been involved in negotiations and debate for years.

I do not like the direction in which we are going on this issue. Unless we can reverse the trend of recent years, one day we may be asking the Russians for permission to use the canal. This is unthinkable and I strongly urge each of you to do everything possible to keep such a situation from occurring.

DEATH PENALTY: ALIVE AND WELL?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, one of the ablest reporters that I know, Bob Waters, has written a thoughtful and provocative article on the death penalty.

I urge my colleagues to take a few minutes from their busy schedules to read this excellent article:

DEATH PENALTY: ALIVE AND WELL?

(By Robert Waters)

WASHINGTON.—One of the oldest news business cliches is the one where reporters tell each other: No story ever ends.

So it comes as no surprise to read that the U.S. Supreme Court, in its majestic wisdom, is on the verge of deciding the constitutionality of the death penalty—again.

The high court's 1972 decision, long awaited as the final word on this emotional issue, was something of a dud.

The court, you may remember, went off in all directions at once and came up with a 5-4 ruling that removed the shadow of death from several hundred men on death row—but settled nothing.

Primarily on the strength of a dissent by Chief Justice Warren Burger, Connecticut and 33 other states passed new capital punishment laws to overcome the court's majority ruling that capital punishment, as it then existed, was unconstitutional because it wasn't even-handed and fair.

Burger said the opinion implied that the states could pass new death penalty laws provided that the legal killing wasn't capricious and arbitrary.

How is the court going to rule this time?

The guess from this corner is that capital punishment is alive and well and will stay that way.

The high court may try to spell out the conditions a little more carefully than some of the state statutes have them at present. But it seems quite doubtful that the justices are prepared to rule that the death penalty is "cruel and unusual punishment."

This guess is predicated not on the fact that the court has become more conservative since 1972.

The most compelling argument will probably turn out to be the skyrocketing murder rate.

A recent Rand Institute study for the New York City police department gives a strong hint of the way things are going. The study, in brief, found that killings in "crimes of passion" are declining while murders where the killer and the victim were strangers are going up—perhaps as much as 36 per cent of the total homicides.

This is the worst kind of bad news for the anti-capital punishment crowd.

The ban-the-death-penalty movement is fueled in good part by the truism that most murderers didn't plan to kill their victims. It just happened. A spouse kills his or her mate in a fit of jealously or anger. A drunken boy friend is rejected and decides to get even. This pattern is familiar to nearly every police department in the land.

But any study that shows this type of killing on the decline—while "deliberate" murders show a dramatic upsurge—brings us back to a pretty basic question:

How much value does society place on the life of the victim?

Leaving aside completely any discussion of whether the death penalty will deter the crime of murder, anticapital punishment advocates must decide whether their own lives—or anyone else's—are to be valued less than the life of a deliberate murderer.

This question goes far beyond the "eye for an eye" concept of punishment and poses for all mankind the question of misplaced compassion.

In his book, "Punishing Criminals," Ernest van den Haag, brings his reader face-to-face with a most disturbing thought:

A complete abolition of the death penalty can be seen as a symbolic "loss of nerve: social authority no longer willing to pass an irrevocable judgement on anyone. Murder is no longer thought grave enough to take the murderer's life . . ."

All but the most callous who have ever witnessed an electrocution, or a hanging or any other form of legal killing, will tell you they came away from the experience with a profound sense of shock.

This revulsion has also aided the anti-capital punishment cause. It is most compelling to listen to the argument that society cheapens its own regard for human life when it passes laws permitting the death penalty.

But, in the end, this argument must turn itself around to face Haag's question: Was the life of the victim less important than the life of his deliberate murderer?

Taking the murderer's life certainly won't restore the victim's. And the arguments over the deterrent question can be endless.

But it is just possible that the Supreme Court, which can read statistics as well as anyone else, can figure out what is happening: Victims are dying, murderers aren't.

CONGRESSIONAL SCIENCE AND ENGINEERING PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE. Mr. Speaker, I welcome this opportunity to join in sponsoring a resolution expressing the appreciation of Congress to a number of professional societies which have instituted the congressional science and engineering programs. These programs are designed to bring scientists and engineers into the congressional process allowing them to learn the public policymaking process, and at the same time contribute their skills and experience to the decisionmaking process.

I have the honor of being the chairman of the House Armed Services Committee and the R. & D. subcommittee, and on this committee we are faced with making policy decisions on a multitude of technological programs. Over one-half of all the federally supported R. & D. draws its funding from DOD programs directly authorized by the Armed Services Committee. I have accepted two congressional science and engineering fellows—Dr. Harold Rosenbaum, American Institute of Aeronautics and Astronautics; Dr. Thomas Cooper, American Society of Mechanical Engineers—to serve on the staff of the R. & D. subcommittee of the House Armed Services Committee. They are here to contribute their knowledge and experience to our committee in its authorization deliberations. They are here also to learn the decisionmaking process so that they may carry back to their respective disciplines a better appreciation of what is needed by Congress from the science and engineering communities.

This is the first year of our participation in the congressional science and engineering program. In the short time they have been with us, I have been impressed with the two fellows serving on my committee. I want to congratulate their respective societies and also the American Association for the Advancement of Science for the central role it has assumed in integrating this program. I would urge these societies to continue their support of this innovative program, and I urge my colleagues to partake of the opportunity to use these science and engineering fellows should the opportunity arise.

WE MUST SEPARATE PEACEFUL AND MILITARY NUCLEAR COMPONENTS OF THE ERDA BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, during the last session, the House was presented with authorization and appropriation bills for the Energy Research and Development Administration for the current fiscal year, which included funding for both peaceful and military uses of nuclear energy. During the course of the debate on these bills, there were objections expressed that the authorization for ERDA, an agency charged primarily with developing and supervising peaceful uses of nuclear energy, included over $1 billion for nuclear weapons development and testing. More than 100 House Members supported amendments which I offered to those bills to delete those funds. Those who voted in favor of the amendments, as well as many of those who voted against them, indicated that they favored separate legislation in the future, apart from the ERDA authorization for energy, to cover nuclear weapons testing and development.

It was pointed out by many of those opposing the amendment last year that the time factor prevented a separation of the programs at that point, but that it should be done for the authorization and appropriation for the 1977 fiscal year. Separate legislation covering the weapons program alone would allow for a reasoned debate on the extent of the need for these weapons, rather than subordinating that debate to the consideration of the overall ERDA authorization.

The administration has once again included funds for nuclear weapons testing and development in its ERDA authorization request, which it has sent to the Congress. The Joint Atomic Energy Committee is again considering both peaceful and military nuclear uses together. If the committee reports out one bill combining these diverse issues, the spirit of the statements made during the ERDA debate will be contravened, and we will again have to handle these issues in a combined package. This procedure would prevent us from having the open and intensive discussion for which many Members expressed support.

I have therefore prepared a letter to the chairman and cochairman of the Joint Atomic Energy Committee urging that these issues be placed in separate legislation. An explanation has been circulated to Members asking them to cosign this letter. I would call upon all those seeking to have the nuclear weapons issue dealt with appropriately to cosign this letter.

FEDERAL NO-FAULT AUTOMOBILE INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Metcalfe) is recognized for 5 minutes.

Mr. METCALFE. Mr. Speaker, an editorial in today's New York Times indicates the need for Federal no-fault automobile insurance.

The Consumer Protection and Finance Subcommittee has reported out a no-fault bill. The bill is presently pending before the Interstate and Foreign Commerce Committee.

Mr. Speaker, the editorial follows:

Federal No-Fault

After years of controversy, the Senate is moving toward a vote on a bill to establish Federal standards for no-fault automobile insurance. No-fault is a reform that, if properly carried through, would serve the interests of millions of motorists better than the prevailing hodge-podge of personal liability suits.

Unfortunately, the concept has been oversold and in the wrong terms. Supporters have too often suggested that its enactment would necessarily lead to lower insurance rates. When these failed to materialize or proved ephemeral, disillusionment was inevitable.

Under the no-fault concept, a motorist involved in an accident is reimbursed for medical expenses, physical rehabilitation and lost wages by his own insurance company, without need to establish which driver had been at fault. The plan's chief merits are that it provides for prompt payment, for certain payment, and for reimbursement of all actual expenses and losses.

Under the old liability system, nearly half of all accident victims or their families never collect anything. This is because motorists who are themselves solely at fault cannot collect nor can those hurt in accidents where both drivers are equally negligent or where no negligence can be established. Also excluded, of course, are drivers in one-car accidents, which account for more than one-third of all fatal crashes.

The liability system is erratic. Many motorists who have suffered minor injuries routinely sue for general damages for "pain and suffering." Insurance companies often settle these cases out of court for a few hundred dollars rather than go to the expense of a trial. But companies usually do litigate large claims. Severely injured victims who persist and who are lucky may collect huge settlements. But others who cannot afford to wait years for money to pay their medical bills have to settle for less than they should receive. Still others fail to convince a jury and get small awards or nothing.

No-fault laws would stabilize premiums and relieve the congestion of minor accident cases in the courts if victims were allowed to sue for "pain and suffering" damages only when they suffer permanent, serious disfigurement or impairment. That is the strict standard established in Michigan, which has passed the nation's model no-fault law.

But New York and most other states with weaker laws have failed to reap the maximum benefits from reform because they still permit a victim to sue if he requires medical treatment that costs more than a certain figure. In New York that figure is $500, and in some other states it is $1,000. Either "threshold" is too low. The bill now pending in Congress would essentially follow the strict Michigan standard with the added proviso that a victim could sue if he had been disabled for more than ninety days.

Except in unusual instances of severe injury because of gross personal irresponsibility by another driver, most automobile accident cases have no business being in the courts. It is time that automobile insurance becomes like health insurance, fire insurance and workmen's compensation and recompenses victims automatically without trying to assess the imponderables of personal negligence. The bill scheduled for action in the Senate within a few days would accomplish that objective.

PROFILE IN COURAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Burke) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, may I take this opportunity to include a newsstory that appeared in today's Washington Star with relation to the proposal to raise revenue in order to stabilize the social security trust fund. I want to make it known to all the Members of the U.S. Congress that as the chairman of the Social Security Subcommittee I did everything possible to raise revenue by using an increase in the wage base from $16,500 to $18,900 beginning January 1, 1977, and the transfer of $1 billion from general revenue to finance the minimum social security benefits. This move of mine was rejected by a tie vote of the full Ways and Means Committee. I realize this is election year. However, we have a responsibility. We cannot be loved by everybody. We must not allow election year to interfere with our sworn duty. I regret that no action will be taken this year. This postponement of a decision that should have been made only compounds the problem. I am afraid there will be no chapters written this year entitled "Profiles in Courage." The article follows:

Social Security Tax Rise Doomed

(By Leon Cohn)

The House Budget Committee will reject President Ford's proposal for an increase in Social Security payroll taxes, committee sources predict.

As the panel worked on revenue targets today, the sources said it certainly will approve extension of antirecession tax cuts but probably will turn down Ford's recommendation for about $11 billion of additional reductions.

Ford contends that Social Security taxes on employes and employers should be raised from 5.85 to 6.15 percent each to bring the trust fund's outlays and receipts into closer balance. Opponents argue that the need is not urgent. They warn that a tax increase would impede the economic recovery by draining purchasing power, and would aggravate inflation by raising labor costs.

Antirecession tax cuts, scheduled to expire June 30, almost surely will be extended well into 1977. However, Congress is expected to reject all or most of the additional tax cuts proposed by Ford, because it wants to leave room to increase spending above his recommendations without raising his deficit by the same amount.

The House committee is drafting a resolution setting tentative targets for the budget in fiscal 1977, the year starting next Oct. 1, and is working on revenues first.

Chairman Brock Adams, D-Wash., presented his recommendations to the committee yesterday. He proposed $363 billion of revenues, compared with the President's estimate of $351.3 billion; $412.8 billion of expenditures, compared with $394.2 billion in Ford's budget, and a $49.8 billion deficit, compared with $43 billion projected by the President.

Adams recommended rejection of Social Security tax increases and proposed extension of antirecession tax cuts through fiscal 1977, without additional reductions.

Apart from issues of policy, Adams charged that Ford's budget underestimated outlays by at least $7 billion. For example, he said, the President failed to allow for cost-of-living increases in veterans' benefits, and grossly overestimated receipts from offshore oil leases.

Administration sources denied that Ford deliberately understated expenditures to make the budget look good and to blame the Democratic Congress for raising his numbers. He simply decided, for example, not to propose a cost-of-living increase for veterans, they said.

Despite the denials that the President had finagled the figures, the sources said the Office of Management and Budget later today will send Congress revisions increasing the administration's spending estimates somewhat above $394.2 billion.

Adams said revisions probably will raise his own spending recommendation from $412.8 billion to $415 billion or a little higher.

His recommended spending total, up from an estimated $374.9 billion this fiscal year, represents a substantial reduction from the $424.9 billion of expenditures that the Congressional Budget Office calculates would be needed to continue existing programs next year. He sharply reduced the $442 billion total of outlays suggested by other House committees.

While restraining "normal" growth of most programs, the Adams plan would provide substantially more money than Ford proposed in such areas as public service jobs, aid to state and local governments, education and health—the broad "human resources" category.

Adams recommended cutting the President's proposed defense outlays from $101.1 billion to $99.6 billion, compared with an estimated $91.9 billion this year.

Most of the reductions in Ford's budget recommended by Adams would hit procurement. Outlays for purchases of weapons are spread over a period of years, so his cuts in the fiscal 1977 spending total for defense would be relatively mild. A better indication of the proposed reductions is the figure for defense budget authority (mainly appropriations), which Adams proposed cutting from $114.9 billion to $107.7 billion.

Adams recommended acceptance of the President's plan to hold federal civilian and military pay increases next October $1.2 billion below amounts indicated by formulas for "comparability" with pay in private industry. The Ford plan would raise pay by an average 4.7 percent, with a minimum increase of 3 percent and a maximum or "cap" of 5 percent.

THE B-1 BOMBER, A VITAL WEAPON FOR NATIONAL DEFENSE

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, this country's national defense remains a favorite target of shortsighted proposals to cut military spending, shift proven defense priorities, and to delay the development of new, modernized weapons systems. It would be wonderful if we could afford the luxury of slashing the amount we spend on defense. But the realities of the world in which we now live are such that we cannot afford to become a second rate military power. Our vital interests are too important to follow shortsighted proposals to stall the development of new weapons.

One such proposal, which has been given much attention recently, urged a halt in the development of the B–1 strategic bomber. The report, entitled "Modernizing the Strategic Bomber Force: How and Why," was prepared by Alton H. Quanbeck and Archie L. Wood and published last month by the Brookings Institution. In the study, the authors view strategic bombers as only backup weapons for ballistic missiles and call for scuttling the B–1 development program in favor of a wide-bodied jet armed with cruise missiles.

I cannot agree with the findings of the Brookings authors.

They apparently underestimate the capabilities of the TRIAD concept used by the Air Force for our national defense. All our weapons—strategic bombers, intercontinental ballistic missiles, ICBM's, and submarine-launched ballistic missiles, SLMB's—dovetail into a military force which can prevent a would-be attacker from successfully knocking out our defenses.

Each weapon in the Air Force arsenal compliments and backs up the other. And long-range bombers—including the planned B–1 bomber—are in the forefront of our defense network. Without continued development of the B–1, we will be in a sorry second place to Russian air superiority.

More than 10 years and $1.5 billion in research and development has already gone into the B–1. When fully fielded within the next 10 years, the B–1 will be the most thoroughly studied, tested, and researched aircraft ever developed by the military.

Considering the known rate at which the Soviets turn out sophisticated new military hardware, any delay in getting the B–1 into the air could be very costly in terms of our national defense preparedness. Air Force Secretary Thomas C. Reed addressed the subject of Soviet military build-up in light of a continued dismantling of U.S. Armed Forces in recent years:

Not since the German rearmament in the 1930's has the world seen such a rapid expansion of military capabilities. In the last decade, the Soviets have increased the size of their military establishment by a million men. Their force of intercontinental ballistic missiles has increased more than sevenfold. The number of sea-launched ballistic missiles has grown from only a few to well over 700. The number of Soviet strategic warheads and bombs has jumped 450 percent.

Hand in glove with this quantitative growth has been a vast improvement in quality. Since 1972, the Soviets have fielded three new intercontinental ballistic missiles—two with a multiwarhead capability—and they are developing a fourth which we believe would be mobile based. They have completed construction of 34 Yankee-class submarines—equivalent to our Polaris—and 11 Delta-class subs that carry missiles comparable in range of those we plan for our Trident subs but will not have until fiscal year 1979. Initial deployment has been completed for the Soviet Backfire, the most advanced operational bomber in the world today.

Other, newer systems are in the pipeline—part of an immense Soviet research and development effort.

And yet, in recent years, we have begun to systematically dismantle our Armed Forces. Our defense spending, in terms of real dollars, has diminished some 20 percent since 1964, prior to the Vietnam war. Our military manpower is now about 2 million men—less than half of the Soviet total—and still declining.

Our Navy's active fleet has dropped below 500 ships, the lowest point since before Pearl Harbor. The number of aircraft we have in the Air Force has dropped below pre-Korean war levels.

Today, I believe we have the best air force in the world. Best, because the quality of our people and equipment offsets Soviet numerical advantages. Yet we cannot hope to maintain that position unless we recognize and respond to these disturbing and potentially decisive trends. We need not match the Soviets man for man, gun for gun. But we must maintain a position of parity if we expect to remain free and independent today and in the future.

I agree with Secretary Reed. Our future as a free nation rests in large measure on the strength of our defenses. And the B–1 strategic bomber will play an important part of that future. Without this vital weapon system our country will militarily lag even further behind the Soviet Union.

There are several points in the Brookings study which bear close consideration, in my opinion.

Bombers are clearly superior to missiles in their ability to survive a surprise enemy attack, and the Strategic Air Command has demonstrated its capability of responding. The report, however, attempts to lightly dismiss this fact.

Additionally, the authors of the study plead the case of a wide-body cruise missile carrier against the B–1 bomber, claiming added efficiency. According to Department of Defense studies, while the Boeing 747—the aircraft the report opts for—carriers twice the weapon load as the B–1, it also consumes twice the fuel and requires twice the number of air refuelings. So in reality, the wide-body transport is not more efficient than the B–1.

Secretary Reed discussed the subject of the Boeing 747 as an alternative to the B–1, in terms of effectiveness:

Yet a third alternative considered was loading up a wide-bodied transport such as a Boeing 747 with a supply of standoff air launched cruise missiles—ALCM's. The trouble is, this concept is less effective than the B–1 in both the launch and penetration phases.

During takeoff, the wide-body cargo aircraft would be more susceptible to missile attacks than the B–1 because a relatively few transports, each with many ALCM's, would be lucrative targets. Similarly, when airborne, such a concentration of weapons on a few aircraft would invite attack by long-range interceptors before the cruise missiles could be launched.

During the penetration phase, the ALCM itself will not have the potential capability of the manned bomber in electronic countermeasures, range, accuracy, or ability to evade enemy defenses.

The net result would cost as much as the B–1 without the flexibility and other advantages of the manned penetrating bomber and would be less effective.

I believe that a careful reading of the contents of the Brookings report does not bear out the conclusions it draws.

Mr. Speaker, we will be called upon to vote on the continued funding of the B–1 bomber project later this year. In order that our colleagues will have benefit of some of the information surrounding the B–1's development and capabilities, I will include related fact sheets and other information from the Air Force following my remarks. Included in this material is a discussion of the Brookings study prepared by Air Force.

Without a strong bomber force—one that is strengthened as soon as possible by the B–1—the United States has little prospect of adequately defending itself from possible attack. We can ill afford to accept the short-sighted minimum security requirements called for in the Brookings study.

The material referred to follows:

FACT SHEET—B–1 STRATEGIC BOMBER

SYSTEM DESCRIPTION

The B–1 strategic bomber is being developed by the Air Force to modernize its strategic bomber force. As a key element of the nation's strategic Triad of manned bombers, land-based and sea-launched missiles, the new bomber will be able to serve the United States' nuclear deterrence objective through its ability to deliver heavy payloads over long ranges and through a hostile environment.

A medium gross weight bomber powered by four 30,000 pound thrust (13,600 kilograms) class augmented turbofan engines, the B–1's three large weapons bays will provide it the flexibility to carry nuclear air-to-surface missiles, nuclear or conventional gravity bombs, mines, other weapons or fuel as required by varying mission requirements. It will carry a crew of four.

While only two-thirds the size of the B–52, the B–1 is designed to carry nearly twice the payload. Its variable geometry, or "swing," wing will enable it to fly efficiently at supersonic speeds at high altitudes and at high subsonic speeds at treetop altitudes. This swing-wing feature will permit faster takeoff from much shorter runways. The aircraft will have greater hardness to the effect of a nuclear blast, far faster penetration speed, lower penetration altitude and a greatly reduced radar cross section compared to the B–52.

The B–1 will also:

Through a combination of rapid acceleration, short runway requirement, subsystem design and improved hardness to nuclear effects, reach a safe escape distance from its launch base much faster than the B–52. This significantly improves its survivability should en enemy attempt a surprise ICBM or SLBM attack.

Takeoff in a much shorter distance and will thereby be able to use about 150 more existing runways than are available to the B–52. This permits greater dispersal and faster reaction by the Strategic Air Command (SAC) alert-bomber force.

Have a greater capability to penetrate an enemy's defenses. This stems from higher speeds at lower altitudes as well as advance electronic countermeasures and a small radar cross section.

DEVELOPMENT PROGRESS

Today's B–1 is the product of over 14 years of studies, design, development, fabrication and exhaustive testing. Air Force developmental contracts were awarded in June 1970; North American Rockwell (now Rockwell International Corp.) was selected to build the B–1 airframe and General Electric the F101 turbofan engines. Four aircraft currently are included in the developmental program.

Construction of the first aircraft was completed in Rockwell's final-assembly facility at Air Force Plant 42, Palmdale, California, and was rolled out there on October 26, 1974. First flight of the B–1 was successfuly completed on December 23, 1974, with a 1 hour and 18 minute test flight from Palmdale to nearby Edwards AFB.

Work on the second B–1 aircraft is proceeding on schedule with fabrication, assembly and mating complete on most of its major structural sections. The aircraft completed eight months of structural proof loads testing at Lockheed Aircraft Corporation's Palmdale facility in June 1975, and is currently undergoing system installation. It will serve primarily as the structural loads flight test aircraft, with first flight currently scheduled for mid-1976.

The third B–1 aircraft has completed assembly and the mate of its structural sections at Palmdale, and is undergoing final subsystem installation and checkout. It will be used for integration and flight testing of the B–1 offensive avionics system, and is expected to fly in early 1976.

Development of the fourth B–1 commenced on August 15, 1975, with the award of an Air Force contract amendment to Rockwell International. The aircraft will include cost reducing design refinements to the forward fuselage (ejection seats instead of the current crew escape capsule) and engine nacelles, and redesign of the forward fuselage and aft avionics bay to accommodate defensive avionics equipment. It will be used for flight test of the B–1 defensive avionics and is currently expected to fly for the first time in early 1979.

General Electric's F101 turbofan engine successfully completed it Preliminary Flight Rating Test (PFRT) on April 16, 1974. It is currently undergoing Product Verification (PV) testing and is expected to be tested sufficiently to verify readiness for initial production and service by the fall of 1976.

If a production go-ahead is given in late 1976, the first of 240 production B–1s could enter the Air Force inventory in mid-1979. Initial operational capability with SAC would then occur in late 1981.

FLIGHT TEST PROGRAM

First flight of the B–1 marked the beginning of several years of flight testing, which will later include the other B–1 test aircraft. This flight test program, in keeping with the Department of Defense "try-before-buy" policy, will be one of the most comprehensive ever developed for a military aircraft. It will include nearly two years of extensive test data to support a production decision currently scheduled for November 1976.

Test flights from Edwards AFB are being scheduled up to four times per month. This allows time for Air Force and Rockwell engineers to assimilate the extensive test data gathered on each flight.

Flights during the early portion of the program were built one upon the other to clear the B–1 for initial operation and performance of its primary penetration mission. This required the aircraft to fly at terrain-following altitudes at nearly the speed of sound.

The B–1 has accumulated over 110 hours of flight testing, including over 4½ hours at supersonic speeds. Flight test accomplishments to date include:

Top speed of 1.6 Mach (approximately 1,070 mph; 1,722 km/h).

Top altitude of 50,000 feet (15,250 meters).

Demonstration of low altitude penetration capability, including flight at .83 Mach (approximately 625 mph; 1,006 km/h) at 200 feet (61 meters) above ground.

Full wing sweep.

Aerial refuelings.

Maximum weight takeoff.

Assisted and unassisted engine airstarts.

Maximum speed landing gear operation.

Manual terrain following radar evaluation.

Weapons bay door operation while carrying eight inert Short Range Attack Missiles (SRAM).

Flutter and flying qualities evaluations.

ENVIRONMENTAL IMPACT

Development of the B–1, from the program's inception, has been in consonance with all Federal environmental laws, executive orders, regulations and with criteria and standards published by the Environmental Protection Agency. Every effort is being made to minimize the effects of the aircraft on the environment.

The B–1's engines incorporate new technology that makes them among the cleanest and most efficient ever built. Tests indicate that the F101 engine has a combustion efficiency of 99.5 percent and is virtually smokeless. Engine emissions are lower than other aircraft and much lower than other operational bombers.

While specific fuel consumption is classified, the B–1 will use about 25 percent less fuel than the B–52 for the same mission. And by spending more time on alert and less time in the air, the B–1 force will consume less than one-quarter of the fuel used by today's force of B–52s. Fuel savings are expected to be close to a half-billion gallons (1.89 billion liters) a year.

Noise levels of the B–1, when its afterburners are not in use, are considerably lower than those of other military aircraft; they compare favorably with the newest commercial aircraft. Afterburners noise levels are comparable with other aircraft.

The B–1 is capable of flying at supersonic speeds, and therefore can cause sonic boom. Such impacts are expected to be minimal, however, since only a very small percentage of the B–1's flight time will be at supersonic speeds. Supersonic flights will be limited to established corridors which will minimize disturbance to population centers and national park areas.

The aircraft is not expected to have an impact on the stratospheric environment because of its low emission levels and the small amount of time flown at those altitudes.

FUNDING

Fiscal Year 1974 and Prior Years: $1.582 billion.

Fiscal Year 1975: $445 million.

COST DATA

In the absence of inflation, B-1 costs have changed very little since the program went on contract in 1970. The initial estimate of $9.9 billion is now $11.0 billion—a 12 percent increase or about 2½ percent a year. Inflation through calendar year 1974 has added $4.5 billion to the total program costs making it $15.5 billion in 1975 dollars. If inflation is forecasted through program completion in the mid-1980s, total program cost is estimated to reach $21.2 billion in "then-year" dollars.

The following tables show current program cost estimates in "no-inflation" 1970 dollars, and in forecasted "then-year" dollars. (Procurement unit cost is the average cost to produce an aircraft [airframe, engines, avionics and other government-furnished equipment], the peculiar cost to deploy one aircraft [ground support equipment, training equipment, etc.] and the cost of initial spares. Program unit cost includes the development cost amortized over the total number of aircraft [244] to be built.)

PROGRAM COST ESTIMATE

[Dollar amounts in millions]

	Aircraft quantity	Dollars		
		1970	1975	Then year
Development	4	$2,810.0	$3,647.0	$3,946.0
Procurement	240	8,188.0	11,830.0	17,473.0
Total	244	10,998.0	15,477.0	21,419.0
Procurement unit cost		34.1	49.3	72.8
Program unit cost		45.1	63.4	87.8

The bulk of increases to the Air Force B-1 cost estimate (some 88 percent) has been due to the effects of economic inflation. Forty-eight percent of the total program cost estimate is inflation.

B-1 DIMENSIONS/PERFORMANCE

Maximum Speed: Supersonic speed at high altitudes; high subsonic at treetop altitudes.

Range: Intercontinental (unrefueled).

Tanker Support: Existing KC-135 tankers.

Crew: Four: pilot, copilot and two systems operators (provisions for two instructors).

Maximum Gross Takeoff Weight: 350,000-400,000 pounds (158,760-181,440 kilograms).

Weapons Payload: Approximately twice that of the B-52: 24 SRAM internally or 75,000 pounds (34,020 kilograms) of bombs internally.

Length: 151 feet (46 meters).

Height: 34 feet (10.4 meters).

Wing Span, Forward: 137 feet (41.8 meters); Swept: 78 feet (23.8 meters).

CONTRACTORS

System: Rockwell International Corporation, B-1 Division, Los Angeles, California.

Engine: General Electric Company, Aircraft Engine Group, Cincinnati, Ohio.

Avionics Subsystem Interface: The Boeing Company, Aerospace Company, Seattle, Washington.

Radio Frequency Surveillance/Electronic Countermeasures Subsystem: Cutler-Hammer, Inc., AIL Division, Deer Park, New York.

PROGRAM MANAGEMENT

Air Force Systems Command's (AFSC) Aeronautical Systems Division, Wright-Patterson AFB, Ohio, is responsible for overall B-1 system development. Major General Abner B. Martin is the B-1 Program Director.

On-site management of B-1 contracts is provided by Air Force Plant Representatives under the direction of AFSC's Air Force Contract Management Division, Kirtland AFB, New Mexico.

FACT SHEET

B-1 Test Program

The B-1 testing program is one of the most comprehensive programs ever planned for a military aircraft. It has been specifically aimed at determining that the aircraft has been developed according to specifications, and verifying that it will be operationally effective and supportable.

In the first year of testing, the airplane successfully demonstrated virtually all of its critical design points, including high-speed, low-altitude penetration, flying and handling qualities, sustained supersonic speed at high altitudes, heavy weight takeoffs and compatibility with operational Air Force FC-135 tankers in aerial refuelings. Specific achievements include full wing sweep, engine airstarts, simulated manual terrain following, flight at 50,000 feet, supersonic speeds up to 1.6 Mach, .83 Mach at 200 feet, .85 Mach at 500 feet, and flutter evaluations. Aircraft number one has completed 25 flights which have totalled 119 hours and 19 minutes—four hours and 36 minutes supersonic.

Before the first flight, scores of ground tests were conducted on components, subsystems, structures, and the aircraft itself to insure it was ready to begin the flight-test phase. Additional ground tests, as well as flight tests, will continue through 1982. The ground tests encompass wind tunnel, propulsion, structural integrity and subsystem tests, while the major flight tests include structures, propulsion, avionics, and operational effectiveness.

Wind tunnel testing. The aircraft design configuration has been subjected to extensive wind tunnel testing to define, develop, and verify B-1 airframe and engine characteristics. Over five years, more than 23,000 hours of wind tunnel tests have been performed in 17 different tunnels, using 43 models. By first flight, 22,000 hours were completed compared to 12,500 in the XB-70, 7,000 in the B-52, and 5500 in the F-111 programs prior to their first flights.

Subsystem testing. Thorough programs have been carried out to develop and verify designs of subsystems such as avionics, hydraulics, electrical power, fuel distribution, and flight controls. The offensive avionics have undergone three years of extensive testing at Boeing's System Development Laboratory and almost a full year of performance evaluation aboard a C-141 flight test bed. A full flight-control and landing gear simulator were used in design and development of those systems.

Structures. Fracture mechanics technology was used for the selection of optimum B-1 materials in 1970. Since then, over 680 static tests of aircraft specimens and sections of various size established basic design concepts, checked specific configurations, and vertified analytical results. The next major series of ground tests, the Design Vertification Tests (DVTs), subjected full scale sections of structurally critical elements to extensive static and fatigue tests. An additional series of fatigue testing began in June 1975 and eventually will subject structural specimens to the equivalent of four lifetimes of testing. By November 1976, about two equivalent lifetimes will be completed.

Prior to its first flight, aircraft number one was subjected to preflight operational and proof loads. Aircraft number two completed an eight-month limit and proof load test prior to further structural testing in the air. The final structural integrity test will be a full-scale airframe fatigue test, scheduled in 1980.

Engines. General Electric began propulsion testing of the B-1 engine in October 1971. The engine has completed nearly 6000 turbofan test hours and nearly 14,000 component test hours. All design reviews have been completed and product verification is underway. Full qualification of the engine will be accomplished prior to a production decision.

Flight Testing. On December 23, 1974, the first B-1 entered flight testing with a sound base of developmental ground tests and demonstrations. During the two years of combined developmental and operational flight testing, extensive data will be obtained on B-1 performance.

Initial offensive avionics testing will be flight tested on aircraft number three which will begin flight tests early in the spring of 1976 and be joined in the summer of 1976 by aircraft number two. All efforts in 1976 are directed towards continuing the outstanding performance of 1975, leading up to an expected production decision late this year by the Air Force, the Department of Defense and Congress.

REMARKS BY HON. THOMAS C. REED, SECRETARY OF THE AIR FORCE

Five weeks ago I was sworn in as Secretary of the Air Force. That has been enough time to get up to date on Air Force operations, to review the 1977 budget request I helped formulate in the Office of the Secretary of Defense, and to present and defend that budget to the pertinent committees of the House and Senate.

Having done that, I am now delighted to be in Lancaster to discuss what I have learned and to start my Air Force career anew.

Lancaster is the right place for several reasons. For one, it represents a return to the beginning. Twenty years ago I graduated from Cornell University, received an Air Force ROTC commission and a set of orders, and proceeded to Edwards Air Force Base as my first duty station.

It was an exciting place then. A whole new generation of century series fighters was completing flight test. The nation was strong and at peace.

Edwards is an exciting place now, too, but in a different way. The B-1 is here—casting the somber shadow of responsibility, of high stakes, across the communities of Lancaster, Palmdale, and Edwards.

Today, the United States Air Force is a potent force, ready to respond to the President in support of national policy. With the cumulative might of the Air Force and the other branches of the armed forces, we are deterring any direct threat to our national security.

However, there are drums sounding in the distance. Familiar drums, foreboding rhythms—drums that urge us to squarely evaluate where we stand in the world and what is required if we are to remain a free and viable nation.

History shows that Americans are a peace-loving people—preferring, almost always, the plowshare over the sword. Yet when our national security is threatened, that preference takes second place to protecting vital interests. We have been fortunate in the past. Friendly neighbors and vast oceans provided that most precious of all commodities—time. Time to retool, rearm, regroup, reinforce.

Yet, today's technology has taken away that precious element. The atomic age ushered in the need for standing armies. As we embark on our nation's third century, the drums in the distance require us to take stock of our national security and determine where we are and where we should be.

Since the current Soviet leadership took power a decade ago, that nation has embarked on a steady, determined, unchanging drive for military superiority.

Not since the German rearmament in the

1930s has the world seen such a rapid expansion of military capabilities. In the last decade, the Soviets have increased the size of their military establishment by a million men. Their force of intercontinental ballistic missiles has increased more than sevenfold. The number of sea-launched ballistic missiles has grown from only a few to well over 700. The number of Soviet strategic warheads and bombs has jumped 450 per cent.

Hand-in-glove with this quantitative growth has been a vast improvement in quality. Since 1972, the Soviets have fielded three new intercontinental ballistic missiles—two with a multi-warhead capability—and they are developing a fourth which we believe could be mobile-based. They have completed construction of 34 Yankee-class submarines—equivalent to our Polaris—and 11 Delta-class subs that carry missiles comparable in range to those we plan for our Trident subs but will not have until FY 1979. Initial deployment has been completed for the Soviet Backfire, the most advanced operational bomber in the world today.

Other, newer systems are in the pipeline—part of an immense Soviet research and development effort.

Despite disastrous grain shortages and economic crises, the Soviets have increased their commitment to defense expenditures by three to four per cent per annum during this decade. They are now devoting twice as high a percentage of their entire gross national product to defense, compared to the United States.

And yet, in recent years, we have begun to systematically dismantle our armed forces. Our defense spending, in terms of real dollars, has diminished some 20 per cent since 1964, prior to the Vietnam war. Our military manpower is now about two million men—less than half of the Soviet total—and still declining. Our Navy's active fleet has dropped below 500 ships, the lowest point since before Pearl Harbor. The number of aircraft we have in the Air Force has dropped below pre-Korean war levels.

Today, I believe we have the best Air Force in the world. Best, because the quality of our people and equipment offsets Soviet numerical advantages. Yet we cannot hope to maintain that position unless we recognize and respond to these disturbing and potentially decisive trends. We need not match the Soviets man for man, gun for gun. But we must maintain a position of parity if we expect to remain free and independent today and in the future.

Since taking office as Secretary of the Air Force, I have been impressed with Air Force people. They are dedicated, capable, and forward looking. Despite the reductions in recent years in both manpower and equipment, they remain confident, conscientious, and resolute.

Yet they hear the drums also. They look at the growing Soviet capability and the corresponding reductions in our own forces. And the scene looks painfully familiar.

The President's FY 1977 budget submission is a pivotal document for the Defense Department, the Air Force, and the nation. No budget in recent years has undergone a tougher scrub than this one. The defense portion represents a moderate growth in real terms and reverses the downward trends of previous years. It responsibly meets the challenge to "be more efficient," "cut the frills," "improve the teeth to tail ratio." Yet it provides adequate resources for our future security.

The Air Force share of this budget provides a six per cent growth in real terms over the FY 1976 levels—with a very necessary concentration in procurement. Our research and development efforts in previous years are now paying off. We have left the Vietnam era behind. We have a number of new systems in advanced stages of development that will balance the Soviet advances.

Central to the strategic balance issue is the B–1. Nineteen seventy-six is the year of decision for this aircraft: the question is, Should the Congress now commit over one billion dollars to initiate full-scale production of the B–1? You, in this community, bear a major responsibility in connection with this decision.

Over the past 15 years we have maintained strategic stability by means of a Triad of forces. Submarine lanuched missiles, long-range bombers, and land-based intercontinental ballistic missiles, taken together, have posed an insoluble targeting problem to the Soviets. The diversity of this Triad provides a hedge against technological breakthroughs in any one field.

The manned bomber, in particular, has contributed a high degree of flexibility and mobility to the Triad. In times of crisis, it can be launched under positive control, dispersed from its main bases, or even placed on airborne alert.

It provides time for assessment and decision on both sides, and reduces the potential for rapid, irreversible escalation during a crisis.

Most important, the manned bomber involves human judgment throughout its mission, from launch to final weapons delivery.

It has been tested and proven in combat. During the 1972 Linebacker attacks on Hanoi, against a very concentrated ground defense environment, B–52 attrition rates were only two per cent.

Over half the strategic megatonnage in our Triad is now carried by the bomber force. SALT limitations on missile silos have resulted in a Soviet advantage of over four to one in missile throw weight. We cannot let the American counterbalance in bomber payload slip from our inventory.

Bombers pose a very difficult defensive problem to the Soviets. We estimate that they are spending the equivalent of two to three times the cost of our bomber force per year on air defense—an expenditure which does not directly threaten our security.

But our B–52s are growing old. By the end of this decade they will have been with us for over 20 years. As clearly demonstrated in the Mid-East war, Soviet air defense systems are increasing in sophistication. We must modernize the force.

For well over a decade the Air Force has been developing an advanced manned strategic bomber, first on paper, then in the shops. A year and a half ago the result was rolled out: the first B–1 from the Rockwell plant here in Palmdale.

I am satisfied that it is a well thought-out airplane. Although smaller than the B–52, it has twice the payload capacity. It has the range, speed, defensive avionics, and low altitude capabiilty to operate effectively against the projected defensive threats through the rest of this century.

The B–1 also has a fast escape capacity, allowing it to fly out from under any perceived incoming missile attack. That, in itself, is a greatly stabilizing influence.

I am satisfied that the Air Force has exerted a full effort to keep costs under control.

I have reexamined the alternatives to the B–1. One was to upgrade the aging B–52 through major modifications. Such a modification would cost about $27 million each in today's dollars and would not be as cost effective as the B–1. We would still have, in many respects, a 25-year old airplane.

Another alternative was to extend the range of the FB–111 by developing a "stretched" version. Such an aircraft could carry about one-half of the B–1 weapon load. It would still be range limited. This alternative was only about one-fourth as cost effective as the B–1.

Yet a third alternative considered was loading up a wide-bodied transport such as a Boeing 747 with a supply of standoff Air Launched Cruise Missiles (ALCMs). The trouble is, this concept is less effective than the B–1 in both the launch and penetration phases.

During takeoff, the wide-body cargo aircraft would be more susceptible to missile attacks than the B–1 because a relatively few transports, each with many ALCMs, would be lucrative targets. Similarly, when airborne, such a concentration of weapons on a few aircraft would invite attack by long-range interceptors before the cruise missiles could be launched.

During the penetration phase, the ALCM itself will not have the potential capability of the manned bomber in electronic countermeasures, range, accuracy, or ability to evade enemy defenses.

The net result would cost as much as the B–1 without the flexibility and other advantages of the manned penetrating bomber and would be far less effective.

In net, then, I am in complete accord with the objective of deploying the B–1 as soon as possible. I have urged the Congress to appropriate production funds now for use once the Secretary of Defense formally certifies that the aircraft has met the test objectives.

Production, however, is contingent upon our being quite certain that the aircraft is ready, so let me review the test program.

The first aircraft has been flying since December 1974 and has logged over 119 hours. It has flown at Mach 1.6—over 1,070 miles per hour—as well as subsonically—and has operated at altitudes from 200 feet to 50,000 feet.

On several occasions I have talked at length with test pilots Colonel Ted Sturmthal and Charlie Bock. They are enthusiastic about the B–1 and confident of its performance.

The first aircraft has completed 25 flights in its test program, and we are getting a second B–1 ready. We expect it to fly in the spring.

A third B–1—which will be flying this summer—has already undergone demanding structural loading tests. These tests have given us extensive data. Having this kind of data this early is unusual in aircraft development programs.

This morning I visited the B–1 fatigue test facility in Los Angeles. Down there, we are doing fatigue testing on critical major aircraft structures. Two of the most important subassemblies in the B–1's design are the wing carry-through structure and the tail section. We are concentrating on these major structures because any fatigue problems in these areas could require a major redesign—with severe impact on the program.

The results of this extensive scrutiny and, of course, the hundreds of other tests I haven't mentioned—involving avionics, engine endurance, flight subsystems, and piece parts—will be monitored and evaluated continuously throughout this critical period. The result should be enough data for the Air Force to recommend production fund release by the end of the year.

By then, we expect to have three aircraft flying, the offensive avionics operating, and engine qualification endurance testing completed.

We will have accomplished fatigue testing on major aircraft structures equal to two lifetimes—more preproduction structural and fatigue testing than on any aircraft in our history.

But we are not going to make this production decision blindly or prematurely. The B–1 is so important—the political, financial, and military stakes are so high—that we simply have to be sure that the B–1 can do the job.

As Secretary of the Air Force, I will recommend production only when I am convinced that we are ready, and that's where you come in. A decision to produce the B–1 represents a substantial financial commitment from the nation. I do not take that responsibility lightly, and I need your help.

Most of you in this community are part of this test program, in one way or another. Whether you or someone in your family is flying the plane, testing the structure, working on bench checks, accepting components, typing the reports, analyzing the results, preparing the coffee, or driving the trucks, you are part of the team. Everyone on this team must be careful, thorough, prompt, and honest.

If there are serious difficulties, I want to know about them, without distortion. If not, we must keep the test program moving, on schedule.

Two centuries ago Thomas Paine wrote, "Public money . . . is not the product of riches alone, but of the hard earnings of labor and poverty. It is drawn even from the bitterness of want and misery. Not a beggar passes, or perishes in the streets, whose (tax) is not in that mass."

A century and a half later, Alfred North Whitehead said, "The race which does not value trained intelligence is doomed. Not all your heroism, not all your social charm, not all your wit, not all your victories on land or at sea, can move back the finger of fate. Today we maintain ourselves. Tomorrow science will have moved forward yet one more step, and there will be no appeal from the judgment which will then be pronounced on (those who fall behind)."

Both quotations apply to the B–1. The stakes are enormous. The costs are staggering.

Our ability to remain independent of Soviet pressure in the '80s hangs in the balance. There is not a moment, nor a dollar, to lose.

We may never be able to silence those drums sounding in the distance. But we can, and must prepare for the future. Time is our ally only if we use it wisely.

Comments on Modernizing the Strategic Bomber Force—Why and How Quanbeck & Wood Study

(By the Brookings Institution)

(Note.—This document was prepared by the Assistant Chief of Staff, Studies and Analysis, United States Air Force, and released by Secretary of the Air Force, Thomas C. Reed, on 10 Feb 1976.)

The study acknowledges the importance of maintaining bombers in our strategic forces. It only quarrels with the composition of the bomber force and the required pace of modernization. The study acknowledges that few alternatives to the bomber are available with which to maintain essential equivalence in numbers of strategic vehicles, and useful payload or throw weight. The DOD agrees that without a viable bomber force the U.S. has little prospect for maintaining equivalence in these and other measures of strategic force capability over the next decade.

The authors, however, reject the principle of essential equivalence as a criterion for evaluating our strategic force needs and bomber force needs in particular. They propose, to the contrary, that U.S. forces should be based on a minimum assured destruction retaliatory mission. Further, bombers are viewed in the TRIAD context only as a back up to ballistic missiles, so the least expensive insurance is all that is required.

The TRIAD concept incorporates bombers, ICBMs and SLBMs in a force that precludes a successful disarming strike by a would-be attacker, complicates his defense planning and is constituted so that each component backs up the others. The authors' narrow view understates the requirements for effective deterrence and misinterprets the TRIAD concept.

The DOD views cruise missiles as having value in enhancing penetrating bombers. The subject was described in some detail in the DOD Joint Strategic Bomber Study which was reviewed by the GAO and provided to the Congress last year. The point of divergence is not that cruise missiles have no utility, but that the authors, in their enthusiasm, were overly optimistic about cruise missile performance and that they proposed the most inappropriate targeting, i.e., against high value, terminally defended economic/population centers.

The conclusions of the study are not supported by the body of the study:

a. A hard, fast aircraft, their label for the B–1, is acknowledged as clearly superior in surviving a surprise enemy attack. But the study tries to dismiss this fact by labeling as implausible the response postures that SAC has already demonstrated.

b. Cruise missiles are acknowledged to be ineffective against terminal SAMs without prior suppression. Further the study admits that such suppression cannot be assumed if SAMs are mobile. But even today the Soviets have mobile low altitude-capable SAMs.

c. Ballistic missiles are suggested for the suppression role even though the cruise missile concept is designed to insure against failure of ballistic missiles. Furthermore, air launched ballistic missiles are mentioned for the suppression role even though the 600 KM limit on such missiles in the Vladivostok understandings is admitted by the study to virtually preclude the use of these missiles for defense suppression.

d. Looking at cost on a per unit basis, the wide-body cruise missile carrier preferred by the authors is a more costly alternative than the B–1.

Some areas of factual disagreement are:

a. To exaggerate the cost of fielding the B–1, the study burdens the B–1 with a new tanker fleet on the basis that KC–135s are being given to our reserve forces. This transfer of KC–135s does not make them unavailable to support strategic bombers as the study presumed nor does the Air Force see a need for new tankers for the B–1.

b. The authors' preference for a wide body aircraft for airborne alert is based on its apparent efficiency. It turns out, however, that while a Boeing 747, for example, might carry twice the weapon load of a B–1, it also consumes fuel at twice the rate and requires twice the air refueling onload at about the same time in the mission. Thus, a wide body transport is not more efficient in the airborne alert mode as claimed in the study.

c. Performance characteristics attributed to cruise missiles are not supported in the referenced DOD testimony and are optimistic compared to engineering estimates from DOD development programs.

The penetration analysis model used in this study, contrary to claims by the authors, is known to bias results in favor of cruise missiles. It ignores important characteristics of systems such as speed, altitude, radar cross section, ECM, and threat handling capacity. It ignores the dynamic interaction of offensive and defensive forces such as attack timing, defense command and control, and geographical location. In the Joint Strategic Bomber Study provided by DOD to the Congress last year these necessary factors were taken into account. That study showed forces containing substantial numbers of B–1s to be more cost-effective than forces, such as proposed by the authors, that rely heavily on cruise missiles.

Finally, the study's overall tone tries to have it both ways by suggesting that today there is no threat to penetrating bombers and yet if there is one in the future it will be more readily accommodated by heavy reliance on cruise missiles than with the current DOD program which includes the B–1. This study conclusion is contrary to the results of careful and detailed DOD analysis and is substantially eroded by a careful reading of the body of the study.

The B–1 has been over ten years in study and development and is not expected to be fully fielded for another ten. No more optimistic timetable is available for a cruise missile alternative. Considering the known rate at which the Soviets are turning out new-generation hardware, we are planning to deploy the B–1 none too soon.

THE PLIGHT OF THE KISHINEVSKY FAMILY

(Mr. SOLARZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SOLARZ. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Kishinevsky family:

Moisey Aronovich Kishinevsky

Birthdate: 1946.

Occupation: Technician.

Marital Status: Married, one daughter.

Applied: November 1974.

Refused: March 1975, with 5 subsequent refusals.

Reason for Refusal: "State Secrets."

Army Service: 1970–72.

Moisey Aronovich Kishinevsky, Leningradskaya 96/7, Beltsy, Moldavian SSR, USSR.

Mother: Mrs. Leah Moiseyevna Kishinevskaya, Levin St. 3/10, Petach Tikvah, Israel.

Moisey Kishinevsky and his wife live in Beltsy, Moldavian SSR. Last year, they rejoiced at the birth of their baby girl. Their happiness would be that much more complete if they could share the joy of their baby daughter with the rest of the family in Israel.

Moisey applied for visas in November 1974. His first refusal came in March 1975 with 5 more refusals quickly following. While Moisey did serve in the army from 1970 on, his group was demobilized in 1972. Surely enough time has elapsed for him to have forgotten any state "secrets" acquired during his term of duty.

In a plea written on November 1, 1975, his parents wrote from Israel.

"I, Leah, the mother, and Aaron, the father of Moisey Kishinevsky appeal to you. . . We take the opportunity to remind all people to whom freedom is dear the story of our son. . . . Please help our son get permission to leave for Israel and settle there. We are deeply grateful. Sincerely."

POLLUTION CONTROL CREATES JOBS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, this morning Russell Peterson, Chairman of the Council on Environmental Quality, joined the executive committee of the Environmental Study Conference in a discussion of pollution controls and employment. Dr. Peterson emphasized that research conducted by CEQ shows substantial net gains in employment from implementation of controls. The following CEQ study, "Pollution Control and Employment—An Assessment of Relevant Research," is a good, brief summary of the possible and promising results for increasing the number of jobs due to pollution controls.

POLLUTION CONTROL AND EMPLOYMENT—AN ASSESSMENT OF RELEVANT RESEARCH

INTRODUCTION

The possible impact of pollution control programs on employment has been an issue of particular concern during the past year as the country suffered from high unemployment rates. It is alleged that pollution control programs have added to this problem. Such programs can affect employment both in a positive and a negative fashion. Possible negative effects can occur for several different reasons. Pollution control regulations can force plants to close down. They can interfere with the normal expansion of production capacity (directly by inhibiting new construction, or indirectly by diverting capital way from capacity expansion or generally interfering with smooth economic growth). And they might stimulate firms to shift new production capacity out of the United States to countries which have less stringent pollution control regulations.

On the other hand, cleaning up the environment also creates jobs. People are employed constructing pollution abatement systems, manufacturing the equipment used in these systems, and operating and maintaining the systems after they are built. The following paper summarizes the available information on both the job losses and the job gains that can be attributed to pollution control programs.

JOB LOSSES

EPA maintains an "early warning system" which collects information on threatened and actual plant closings which, it is alleged, are caused in part by pollution control requirements. This system has found evidence of 75 such closings affecting 15,700 employees.[1] The Bureau of Economic Analysis has also attempted to obtain information on closings. Their 1975 survey found that one-half percent of the firms surveyed reported closing a process or plant in 1975 at least, in part, because of environmental regulations.[2] This was a sample survey, and there is no indication how many closures there were in firms that were not surveyed. However, the BEA results suggest that the problem may be more serious than EPA's information would indicate, because a comparison between the two lists of closures showed little apparent correspondence between the firms included in the BEA sample, and the plants identified by EPA.[3] The Oil, Chemical, and Atomic Workers International Union (OCAW) also analyzed plant closures which affect its workers.[4] They, and subsequently EPA, found little evidence that environmental regulations have been a significant factor in these closings.[5]

It is not clear what these plant closings mean, either in terms of economic impact or in terms of lost jobs. Many of the closures take place in older facilities which economic considerations would have probably forced to close anyway, particularly during a severe recession such as the country has experienced. Nor is it true that the number of employees affected is an indication of the number of jobs lost. Even in the affected plant the number of lost jobs may well be less than the number of employees affected. U.S. Steel's closures of its Gary, Indiana, open-hearth furnaces affected at least 2,500 workers, but only 250 to 500 employees actually lost their jobs. In addition, the production lost from closing one facility is likely to be made up by increasing production—and therefore employment—at another facility.[6] These factors make it particularly difficult to assess the impact of closings on employment, although they can clearly create serious local problems, particularly when they occur in areas already suffering high unemployment rates.

In terms of plants shifting abroad, almost all the analyses done on this issue indicate that it is a relatively minor problem with little employment impact.[7]

EMPLOYMENT GAINS

But environmental programs have also created employment. There is a rapidly expanding industry manufacturing pollution control equipment. And hundreds of thousands of jobs are involved in constructing municipal sewage treatment systems and industrial pollution control systems, and in operating these systems once they are built.

One of the earliest studies of the employment generated by environmental programs was the work carried out by Bruce M. Hannon and Roger H. Bezdek at the University of Illinois.[8] Their work, using an input-output model, focused on Federal programs, and analyzed the employment (and energy) impacts of constructing wastewater treatment facilities compared to possible alternative expenditures. Their analyses showed that one billion (1975) dollars allocated to such construction would employ a total of 82,000 people.[9] This is more employment than would result from the same amount of money being spent on highway construction or water resource projects, but less than would result from several other programs. Expenditures on construction programs in general stimulate less employment than equivalent expenditures in areas such as health or law enforcement.

One important point about the Hannon and Bezdek estimates is that they include both direct and indirect employment. They include not only the direct employment at the construction site and in making the equipment, but also such indirect employment as that involved in providing goods and services for the personal consumption of the people who are employed directly. Most of the 82,000 people would never associate their employment with the construction of wastewater treatment systems. For instance, EPA estimates that a $1 billion expenditure creates 20,000 jobs at the construction site; this is only one-fourth the total number of jobs that Hannon and Bezdek estimate are generated by this expenditure.

The Bureau of Labor Statistics undertook a similar employment study, which concentrated on different aspects of Federal environmental expenditures.[10] They estimated that only 53,600 jobs were generated by each billion dollars spent on the construction of wastewater treatment systems, but 76,000 to over 78,000 jobs resulted from a billion dollars spent on research and on administering the pollution control programs. These estimates were apparently based on 1972 dollars, and therefore would have to be adjusted downward to take account of the inflation that has occurred since then.

All these estimates have been given on the basis of jobs per billion dollars expended. Converting these into total job estimates at current rates of expenditure indicates that 200,000 to 300,000 jobs are related to the municipal grants program (including the state and local share), and about 125,000 jobs are related to other Federal pollution abatement expenditures.

There are fewer studies available on the impact of private pollution abatement expenditures on employment. EPA has sponsored studies of manpower requirement to build and operate pollution control devices. The most recent study to be completed on this subject concluded that there are 3.76 million employees involved in operating industrial water pollution control equipment with an equivalent full-time employment of 575,000 man years.[11] Although the study was carefully done and was based on sample surveys, these estimates seem very high. It does not seem reasonable that one-half percent of our labor force is involved only in operating industrial pollution control equipment.

One employment estimate that has received a substantial amount of publicity recently is that made by Kenneth Leung and Jeffrey Klein in a report on the environmental equipment industry prepared for the Council on Environmental Quality.[12] Based on an estimate that a total of $15.7 billion was being spent for pollution abatement in 1975, and assuming that, on the average, a billion dollars generates 70,000 jobs (directly and indirectly), they estimated that over one million jobs were associated with air and water pollution control programs last year. This is a very crude estimate, but can be supported by comparing pollution control expenditures as a percent of the total labor force. The Nation is spending somewhat more than 1 percent of its GNP on abataing air and water pollution, and as a result would expect these expenditures to employ about 1 percent of the labor force. This amounts to about 1 million people.

These are not all new jobs, nor are they all attributable to Federal environmental legislation. And finally, many of these one million people would most likely have been employed somehow even in the absence of this legislation. To analyze the net increase in jobs resulting from environmental expenditures, one has to look not at the types of studies listed here, but at macro-economic studies such as those sponsored by CEQ and EPA.[13] These studies indicate that during a period such as the present when environmental programs are forcing increased expenditures while the economy is suffering unemployment, these programs have a net beneficial impact on employment. The most recent analysis estimates that the unemployment rate has been 0.3 to 0.4 percent lower with environmental programs than it would have been without them.[14] This means that approximately 300,000 people are now employed who would otherwise not be. This positive employment effect can, of course, only occur during periods when the country would otherwise be experiencing unemployment. It is expected to disappear as the economy recovers from the recession and as the price increases associated with environmental expenditures begin to have a slight dampening effect on GNP growth. In the long run, however, no significant net impact on unemployment is projected to result from the programs.

In brief, then, pollution control expenditures are seen as having a net positive impact on employment at the present time. And a new industry has been established which has been a source of growing employment during the past few years. This industry has the opportunity and challenge to devise innovative abatement systems which will conserve natural resources, save energy, and reduce costs. If it is successful in meeting this challenge, this industry will not only provide a source of continuing employment itself, but will help contribute to the continued viability and stability of our whole economy.

FOOTNOTES

[1] Environmental Protection Agency, "1975 Third Quarter Report of the Economic Dislocation Early Warning System," Dec. 31, 1975.

[2] Bureau of Economic Analysis, "Capital Expenditures By Business for Air, Water, and Solid Waste Pollution Abatement, 1974 and Planned 1975." Survey of Current Business, Vol. 55, n. 7, July, 1975, pp. 15–19.

[3] Personal communication from Roy Gamse, Director of the Office of Economic Analysis, Environmental Protection Agency, February 1976. Because the BEA surveyed firms and the EPA lists individual plants, it is impossible to determine how many of

the plants on the EPA list are actually included in the BEA sample without a further survey of the BEA reported closings.

[4] "Health, Safety and Environmental Considerations as Factors in OCAW Plant Closings, 1970–1975." Prepared by the Research Department of the Oil, Chemical, and Atomic Workers International Union, January 1976.

[5] See OCAW report, statement by Tony Mazzochi, Legislative Director of OCAW before the Environmental Study Conference (2456 Rayburn House Office Building, Washington, D.C.) on February 23, 1976; and memorandum from Chris Moore to Roy N. Gamse, "Plant Closings—Oil, Chemical, and Atomic Workers International Union (OCAW," undated (prepared February 1976).

[6] It is unlikely that the employment effects will balance. The plants that go out of business are relatively inefficient, and therefore are likely to employ more workers for a given output than the average firm in the industry.

[7] See CEQ's Sixth Annual Report, pp. 542-543, for the brief summary of these studies.

[8] Bruce M. Hannon and Roger H. Bezdek, "Job Impact of Alternatives to Corps of Engineers Projects," *Engineering Issues—Journal of Professional Activities,* American Society of Civil Engineers, Vol. 99, n.PP4, Oct. 1973, pp. 521–531; and "Energy, Manpower, and the Highway Trust Fund," *Science,* Vol. 185, 23 August, 1974, pp. 669–675. Also Bezdek, Roger A. "Toward Manpower and Energy Dimensions for the Federal Budget." *Journal—Environmental Systems,* Vol. 5(1), 1975.

[9] Bezdek and Hannon, *Ibid.*

[10] U.S. Department of Labor, Bureau of Labor Statistics, "Impact of Federal Pollution Control and Abatement Expenditures on Manpower Requirements," Bulletin 1836, 1975.

[11] E. Joe Middlebrooks, "Manpower Needs of Manufacturing Industries," *Journal of the Water Pollution Control Federation,* Vol. 47, n. 12, Dec. 1975, pp. 2850–2862.

[12] Kenneth Ch'uan 'K'ai Leung and Jeffrey A. Klein, "The Environmental Control Industry" a report submitted to the Council on Environmental Quality, December, 1975.

[13] Chase Econometrics, Inc. "Macro-economic Impacts of Federal Pollution Control Programs," a study prepared for the Council on Environmental Quality and the Environmental Protection Agency, 1975.

[14] The results of an updated analysis are expected in April, 1976.

THE MINORITY ENTERPRISE ACT OF 1976

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matters.)

Mr. MITCHELL of Maryland. Mr. Speaker, today it is my distinct privilege to introduce into this House a bill entitled the "Minority Enterprise Act of 1976." I consider this bill, unquestionably, the most important piece of legislation that I have introduced since coming to the Congress in 1971.

From the time I was initally elected to the House of Representatives until this very day, my offices have been continuously deluged with the problems of minority entrepreneurs who valiantly try to weave themselves into the economic fabric of our Nation. In most cases, the efforts of these minority entrepreneurs were met with formidable opposition from the larger community. In many cases, initial entry into the market was gained only to be very short lived due to the vestiges of racism which are still extant in the land. In some cases, survival has been attained, despite entrepreneurs being almost bereft of those resources needed to sustain successful business ventures in America.

Minimal efforts have been made by the Congress and various administrations to address the problems of minority businessmen. However, the bottom line problems of inadequate capital financing and nonavailability of contractual opportunities still plague, and often destroy, minority business after business.

Meetings have been held, conferences have been convened, hearings have been conducted, problems have been defined; but no substantive action has been taken.

Today, Mr. Speaker, I am taking that action in what is the next, and only, logical step toward seriously moving the minority business community in the direction of economic parity by introducing the Minority Enterprise Acts of 1976.

This bill launches a three-pronged attack on the real problems of minority enterprise, generally as follows. Title I of the bill seeks to amend the Small Business Act to expand assistance to minority small business concerns. Among other things, an Associate Administrator for Minority Small Business and Procurement Assistance would be "legislatively" established to corral and administer those existing SBA programs which impact greatest on minorities.

Title II will provide much needed statutory standards for contracting and subcontracting by our Government with minority small business concerns. It mandates that minority business enterprise have a maximum opportunity to participate in the future building of our Nation and obtain the financial benefits of such participation.

Title III establishes a Commission on Federal Assistance to Minority Enterprise to develop methods and modes to guarantee the survival and growth of the minority business community within our larger economic context.

The fact cannot be hidden that the Minority Enterprise Act of 1976 is a tough bill, a strong bill, and a far-reaching bill. More, much more importantly, it is a comprehensive bill and a needed bill.

If this 94th Congress is at all serious about providing solutions to the problems of minority business, which we must definitely understand are unalterably tied to the solutions to our larger economic difficulties, the Minority Enterprise Act must be passed—and passed this year.

Mr. Speaker, I include the full text of the legislation in the RECORD at this point for the perusal, analysis, and support of my colleagues:

H.R. 12741

A bill to amend the Small Business Act to expand assistance under such Act to minority small business concerns, to provide statutory standards for contracting and subcontracting by the United States with respect to such concerns, and to create a Commission on Federal Assistance to Minority Enterprise, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Enterprise Act of 1976".

FINDINGS

SEC. 2. The Congress finds and declares that:

(1) Over the last quarter century, minorities have been making concerted attempts to develop business enterprises which can compete effectively in the economy of the United States.

(2) Although those attempts have not been completely unsuccessful, many minority business enterprises cannot achieve competitive viability without assistance.

(3) Present programs of the private sector of the economy of the United States do not adequately assist the development and maintenance of minority business enterprises.

(4) Although present programs of the Federal Government also do not adequately assist minority business enterprises, those programs can be modified at a minimal additional cost to provide vastly improved assistance to minority business enterprise.

PURPOSES

SEC. 3. (a) The purposes of the amendments to the Small Business Act in title I of this Act are—

(1) to give the Small Business Administration more explicit authority to determine the contract, subcontract, and procurement opportunities available to small business concerns under section 8(a) of the Small Business Act; and

(2) to reorganize the Small Business Administration in order that all programs assisting minority small business concerns are administered by the Associate Administrator for Minority Small Business and Procurement Assistance.

(b) The amendments made to the Federal Property and Administrative Services Act of 1949 in title II of this Act are for purposes of enacting into law and expanding regulations previously issued by the Administrator of the General Services Administration to assure that a fair proportion of all contracts let by the United States are let to minority business enterprises.

(c) The Commission on Federal Assistance to Minority Enterprise is established by title III of this Act for purposes of—

(1) establishing guidelines for and evaluations of programs of agencies of the United States for assisting minority enterprises;

(2) disseminating information on plans, programs, and activities providing assistance to minority enterprises;

(3) developing effective methods of analysis and development of programs to assist minority enterprises; and

(4) assisting the development of business enterprise programs for socially and economically disadvantaged individuals, including Vietnamese veterans of the Vietnam War.

TITLE I—AMENDMENTS AFFECTING THE SMALL BUSINESS ACT

DEFINITION OF MINORITY SMALL BUSINESS CONCERN

SEC. 101. Section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting "(a)" immediately after "Sec. 3." and by adding at the end of such section the following new subsection:

"(b) For the purposes of this title, a minority small business concern shall be deemed to be a small business concern that is owned or controlled by minority group members or by socially or economically disadvantaged individuals. For purposes of this definition—

"(1) such disadvantage may arise from cultural, racial, chronic economic circumstance or background, or other similar circumstance or background, and

"(2) a minority group member is a Negro, Puerto Rican, Spanish-speaking American, American-Oriental, American-Indian, American-Eskimo, or an American-Aleut."

OFFICE OF MINORITY BUSINESS PROCUREMENT PERSONNEL

Sec. 102. Subsection (a) of section 4 of the Small Business Act (15 U.S.C. 633(a)) is amended by inserting "(1)" immediately after "Sec. 4. (a)" and by adding at the end thereof the following new paragraphs:

"(2)(A) There is established in the Small Business Administration the Office of Minority Small Business Assistance Personnel which shall be under the authority of the Associate Administrator for Minority Small Business and Procurement Assistance. The functions of such Office shall include working with all agencies of the Government having procurement powers to (1) identify contracts suitable for programs administered under section 8(a) of this Act, and (2) assist the development of minority business programs within such agencies.

"(B) There shall be assigned to each regional office (or other office with similar responsibility) of the Administration one additional individual who shall supervise and coordinate minority small business programs administered by such office and shall be responsible for the management, development, and operation of all such programs, including the supervision of all personnel assigned or designated to work for minority small business programs."

EXECUTIVE AGENCY REQUIREMENTS

Sec. 103. "There shall be assigned within each small business office (or other office with similar responsibility) of agencies of the Government having procurement powers an individual responsible for minority small business programs, and such individual will coordinate related activities with the Office of Minority Small Business and Procurement Assistance Personnel of the Small Business Administration."

ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND PROCUREMENT ASSISTANCE

Sec. 104. (a) The sixth sentence of section 4(b) of the Small Business Act (15 U.S.C. 633(b)) is amended to read as follows: "One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and Procurement Assistance and shall be responsible to the Administrator for (1) the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns, (2) the review of the Administration's execution of such programs in the light of such policy, and (3) the administration of Administration programs under sections 7(i), 7(j), 7(k), and 8(a) of this Act."

(b) The Administrator shall appoint the Associate Administrator for Minority Small Business on the effective date of this title as the first Associate Administrator for Minority Small Business and Procurement Assistance.

(c) Paragraph (11) of section 5316 of title 5, United States Code, is amended by striking out "(3)" and inserting in lieu thereof "(4)".

AMENDMENTS TO BUSINESS LOAN PROGRAM

Sec. 105. Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraphs (4) and (5) thereof by striking out "$350,000" each time it appears therein and inserting in lieu thereof "$1,000,000";

(2) in paragraph (8) thereof by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1977", and by striking out "$400,000,000" and inserting in lieu thereof "$600,000,000"; and

(3) at the end thereof by adding the following new paragraph:

"(9) Not less than 25 percent of the aggregate amount of direct loans under this subsection shall be made to minority small business concerns."

AMENDMENTS TO EQUAL OPPORTUNITY LOAN PROGRAM

Sec. 106. Paragraphs (1) and (3) of section 7(i) of the Small Business Act (15 U.S.C. 636(i)) are amended by striking out "$50,000" each time it appears therein and inserting in lieu thereof "$350,000".

ADMINISTRATION OF PROGRAMS UNDER SECTIONS 7(i), (j), AND (k)

Sec. 107. Section 7 of the Small Business Act (15 U.S.C. 636) is amended at the end thereof by adding the following new subsection:

"(l) Subsections (i), (j), and (k) of this section shall be under the administrative authority of the Associate Administrator for Minority Small Business and Procurement Assistance."

AMENDMENTS TO CONTRACT AND SUBCONTRACT PROCUREMENT ASSISTANCE PROGRAM

Sec. 108. Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended—

(1) by striking out "Sec. 8. (a) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary" and inserting in lieu thereof "Sec. 8. (a)(1) The Associate Administrator for Minority Small Business and Procurement Assistance is authorized";

(2) by redesignating paragraphs (1) and (2) of such subsection as subparagraphs (A) and (B), respectively;

(3) by striking out of such subparagraph (A), as redesignated, "be authorized in his discretion" immediately after "such officer, such officer shall";

(4) by inserting in subparagraph (B), as redesignated, ", minority small business concerns," immediately after "small-business concerns"; and

(5) by adding at the end of section 8(a) the following new paragraphs:

"(2) No minority small business concern owned or controlled by any minority group member (as described in section 3(b) of this Act) shall be disqualified from receiving assistance under this section if such member owns or controls less than three such concerns.

"(3) No minority small business concern shall be required, as a condition of receiving any contract under this section, to provide any bond under the first section of the Act entitled 'An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work', approved August 24, 1935 (49 Stat. 793, 40 U.S.C. 270a et seq.).

"(4) Any small business concern selected by the Administration to perform any Government procurement contract to be let pursuant to paragraph (1) may, when practicable, participate in any negotiation of the terms and conditions of such contract.

"(5)(A) Whenever any Government procurement contract to be let pursuant to paragraph (1) is not let to any small business concern selected by the Administration to perform such contract because the Administration and any officer of the Government having procurement powers do not agree on any term or condition of such contract—

"(i) such offcer shall state in writing his reasons for not agreeing with such term or condition; and

"(ii) such concern may seek judicial review of such officer's failure to agree, as provided in chapter 7, title 5, United States Code.

"(C) The district courts of the United States shall have jurisdiction over any review sought pursuant to this paragraph and may, upon proper showing, award appropriate equitable and legal relief.

"(6) Not less than six months after the effective date of this title, the Administration shall prepare and publish in the Federal Register rules governing the maximum size of small business concerns qualified to receive contract and subcontract procurement assistance under section 8(a) of the Small Business Act."

DISQUALIFICATION OF SMALL BUSINESS CONCERNS FROM CONTRACT AND SUBCONTRACT PROCUREMENT ASSISTANCE

Sec. 109. (a) During the two-year period beginning on the effective date of this title, no small business concern engaging in business before the effective date of this title shall be disqualified from receiving assistance under section 8(a) of the Small Business Act because such concern fails to comply with rules promulgated pursuant to paragraph (6) of such section.

(b) Any contract awarded to a small business concern under section 8(a) of the Small Business Act before the end of the two-year period beginning on the effective date of this title may be performed by such concern notwithstanding any rule promulgated pursuant to paragraph (6) of such section.

REPORTS TO THE PRESIDENT AND THE CONGRESS

Sec. 110. Section 10(a) of the Small Business Act (15 U.S.C. 639(a)) is amended by adding at the end thereof the following new sentence: "With respect to minority small business concerns, the report shall include the proportion of loans and other assistance under this Act provided to such concerns, the goals of the Administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to minority small business concerns under this Act."

APPROPRIATIONS AUTHORIZED

Sec. 111. There is authorized to be appropriated to carry out this title $201,600,000 for the fiscal year ending September 30, 1977.

EFFECTIVE DATE

Sec. 112. This title and the amendments made by it shall take effect beginning on October 1, 1976.

TITLE II—AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Sec. 201. Title III of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new section:

"UTILIZATION OF MINORITY BUSINESS ENTERPRISES

"Sec. 311. (a) It is the policy of the United States that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of contracts let by any officer or Agency of the United States.

"(b)(1) The clause stated in paragraph (2) of this subsection shall be included in all contracts governed by this Act except any contract which—

"(A) may not exceed $5,000;

"(B) including all subcontracts under such contract, will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; or

"(C) is for services which are personal in nature.

"(2) The clause required by paragraph (1) shall be as follows:

" 'UTILIZATION OF MINORITY BUSINESS ENTERPRISES

" '(a) It is the policy of the United States that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of contracts let by any officer or agency of the United States.

" '(b) The contractor shall carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business in lieu of an independent investigation.'

"(c)(1) The clause stated in paragraph (3) of this subsection shall be included in all contracts governed by this Act which—

"(A) may exceed $500,000;

"(B) are required to contain the clause stated in subsection (b)(2); and

"(C) in the opinion of the procuring authority, offer substantial subcontracting possibilities.

"(2) Any contractor other than a small business concern (as defined in section 3 of the Small Business Act) which is awarded any contract which may not exceed $500,000, but which, in the opinion of the procuring authority, offers substantial subcontracting possibilities shall be urged by such authority to accept the clause stated in paragraph (3).

"(3) The clause required by paragraph (1) of this subsection shall be as follows:

'MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

'(a) Prior to commencement of contract work, the Contractor agrees to establish and aggressively conduct a program which will enable minority business enterprises (as defined in the clause entitled "Utilization of Minority Business Enterprises") to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall:

'(1) Designate a liaison officer who will administer the Contractor's minority business enterprise program.

'(2) Provide adequate and timely consideration of the potentialities of minority business enterprises known by the Contractor in all "make or buy" decisions to provide materials or service.

'(3) Notify the procuring authority prior to entering into any subcontract in excess of $10,000 of the extent to which minority business enterprises have been considered for such subcontract.

'(4) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises.

'(5) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, (iii) specific efforts to identify and award contracts to minority business enterprises, (iv) any person to whom the contract was awarded when a minority bid was submitted but was not accepted.

'(6) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer subcontracting opportunities, including any subcontract which may exceed $5,000.

'(7) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct.

'(8) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (5), above, in such form and manner and at such time (not more than ten quarterly) as the Contracting Officer may prescribe.

'(b) The Contractor further agrees to insert in any subcontract hereunder which may exceed $500,000 provisions which shall conform to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.'

"(d) Except any contract for which procurement assistance is provided under section 8(a) of the Small Business Act, with respect to any contract governed by this Act which may exceed $1,000,000, minority business enterprises shall, to the extent practicable, be awarded not less than the greater of—

"(1) two percent of the total amount of the contract, or

"(2) five percent of the total amount of subcontracts under such contract.

"(e)(1) Before the award of any contract governed by this Act and required to contain the clause stated in subsection (c)(3), the apparent low responsive bidder shall submit to the procuring authority a Minority Business Enterprise Subcontracting Program Plan which describes the type and percentage of work under the contract that the bidder expects to be performed by minority business enterprises. Such Plan and the bidder's compliance with other such plans under other contracts shall be considered by the procuring authority in determining the responsibility of such bidder for the award of the contract.

"(2) No contract shall be awarded to any bidder unless the procuring authority determines that such Plan provides the maximum practicable opportunity for minority business enterprises to participate in the performance of the contract.

"(f) The failure of any contractor or subcontractor to comply with—

"(1) any clause required by subsection (b) or (c) to appear in any contract awarded to such contractor or subcontractor, or

"(2) any Minority Business Enterprise Subcontracting Program Plan submitted by such contractor or subcontractor with respect to such contract or subcontract

shall be a breach of such contract or subcontract.

"(g)(1) Before any performance on any awarded contract with respect to which a Minority Business Subcontracting Program Plan has been submitted under subsection (e), the contractor awarded such contract shall identify to the procuring authority the specific minority business enterprises which shall perform work under such contract.

"(2) If sufficient minority business enterprises are not practicably available to comply with such Plan, the procuring authority may waive compliance with such Plan to the extent that such enterprises are not practicably available.

"(3) If minority business enterprises are practicably available to perform work under any contract and the contractor's failure to comply with such Plan is in good faith, the procuring authority shall waive any requirement of such contract which imposes a penalty for failing to commence or complete such contract within a specified period to the extent that the failure to commence or complete the contract is due to the time needed to idenify minority business enterprises pursuant to this subsection.

"(h) The procuring authority shall encourage expeditious payment of any minority business enterprise performing any work on any contract pursuant to a Minority Business Enterprise Subcontracting Program Plan. If any minority business enterprise is not paid expeditiously, the procuring authority may withhold payments to any contractor which does not so pay such enterprise."

SEC. 202. This title and the amendment made by it shall take effect beginning on October 1, 1976.

TITLE III—COMMISSION ON FEDERAL ASSISTANCE TO MINORITY ENTERPRISE

ESTABLISHMENT

SEC. 301. There is established a commission to be known as the Commission on Federal Assistance to Minority Enterprise (hereinafter in this title referred to as the "Commission").

PURPOSES

SEC. 302. The purposes of the Commission shall be to—

(1) develop methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital and determining financial resource availability;

(2) develop methods of assisting minority enterprises in generating markets for goods and services;

(3) develop methods of providing more effective management assistance, technical assistance, and training for minority enterprises;

(4) develop methods of providing effective business education to minority enterprises;

(5) develop methods of assistaing minority enterprises in complying with Federal, State and local law;

(6) provide information on economic and social developments which effect minority enterprises;

(7) maintain and disseminate information on public and private plans, programs and activities which relate to minority enterprises;

(8) evaluate the efforts to assist of minority enterprises of agencies of the United States which have minority enterprise programs or which have established minority enterprise program goals and objectives;

(9) evaluate the efforts of business and industry to assist minority enterprises; and

(10) do such other things as may be appropriate to assisting the development and strengthening of minority enterprises.

MEMBERSHIP

SEC. 303. (a)(1) The Commission shall be composed of 15 members to be appointed by the President by and with the advice and consent of the Senate from members of minority groups and representatives of minority-dominated enterprises, trade associations, and community development corporations who are knowledgeable in the problems of minority participation in the economy. At the time of appointment, the President shall designate one of the members as Chairman of the Commission.

(2) The Associate Administrator for Minority Small Business and Procurement Assistance of the Small Business Administration and the Administrator of the Office of Minority Business Enterprise of the Department of Commerce shall be ex officio voting members of the Commission.

(3) Members of the Commission shall serve for a term of office of two years, and may be appointed for additional terms.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(b) The Commission shall meet not less than once during every two-month period and at other times at the call of the Chairman.

(c)(1) Except as provided in paragraph (2), members of the Commission shall be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

STAFF

SEC. 304. (a) The Commission shall have an Executive Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of basic pay in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332).

(b) Subject to such rules as may be adopted by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as he deems desirable.

(c) The Executive Director and any additional personnel appointed by the Executive Director may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter II of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual appointed by the Executive Director may receive pay in excess of the annual rate of basic pay in effect for grade GS–17 of the General Schedule.

EXPERTS AND CONSULTANTS

SEC. 305. Subject to such rules as may be adopted by the Commission, the Executive Director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code.

STAFF OF FEDERAL AGENCIES

SEC. 306. Upon request of the Commission, the head of any agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

SEC. 307. (a) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

DEFINITION OF MINORITY ENTERPRISE

SEC. 308. As used in this title, the term "minority enterprise" means a business that is owned or controlled by minority group members or by socially or economically disadvantaged individuals. For purposes of this definition—

(1) such disadvantage may arise from cultural, racial, chronic economic circumstance or background, or other similar circumstance or background, and

(2) a minority group member is a Negro, Puerto Rican, Spanish-speaking American, American-Oriental, American-Indian, American-Eskimo, or an American-Aleut.

REPORTS TO CONGRESS

SEC. 309. Within seven months after the effective date of this title, and at six-month intervals thereafter, the Commission shall submit to each House of Congress a report concerning its activities.

APPROPRIATIONS AUTHORIZED

SEC. 309. There is authorized to be appropriated to carry out this title $748,000 for the fiscal year ending September 30, 1977.

EFFECTIVE DATE

SEC. 310. This title shall take effect beginning on October 1, 1976.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, yesterday I was not present for the vote on House Resolution 1093, to make in order consideraiton of H.R. 10799. Had I been present, I would have voted "yea."

PROVIDING FOR PRINTING AS A HOUSE DOCUMENT OF REPORT OF SELECT COMMITTEE ON INTELLIGENCE

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, on Monday, March 22, 1976, I introduced House Resolution 1100, a resolution providing for the printing, as a House document, of a report of the Select Committee on Intelligence.

As clearly stated in my introductory speech, my motivation for introducing this resolution was three-fold:

First, the previously "secret" committee report was no longer secret, it had been printed—verbatim—in a New York newspaper.

Second, the previous concern for making certain sensitive foreign relations matters "official" by means of a formal House document was moot—those matters already had been made official through statements of the President or the Secretary of State.

Third, the only remaining parts of the report which have not been leaked, or otherwise released, are the "dissenting views", "minority views", and "additional views"—none of which contained either classified or sensitive information.

The introduction of this resolution has caused some unexpected events to occur and has precipitated speculation among press reporters and self-styled "political pundits" within the House.

Since the introduction of this resolution involved my own work, my own thoughts and my own actions, I feel that I can speak with authority concerning my own intentions.

First, let me briefly discuss the background leading up to this matter. The week of January 26, 1976, the Select Committee on Intelligence finished its work and finalized its report. From my own knowledge and from the public testimony of the chairman of the Select Committee on Intelligence—before the Rules Committee on January 28, 1976—the report undisputedly contained classified data and other information that many considered to be damaging to our foreign relations with certain nations.

I lead an effort in the Rules Committee and on the floor to cause the report to be printed as a classified document. The majority of the House concurred.

There were good reasons at that time to restrict public distribution of the committee report. It did contain certain technical details that would compromise on-going and important intelligence efforts. It did contain information that would seriously complicate foreign relations with certain nations.

Second, as a result of the argument that I offered in the Rules Committee and on the floor, many members told me that they had voted to restrict the report because they believed what I had said to be valid: I was not only grateful for their faith and confidence, but I also felt that I must keep that faith by playing the game straight. The general membership of the Congress did not have an opportunity to read the report, much less have access to the many technical briefings that were necessary to understand the full implications and contents of the committee report.

If—indeed—I did persuade any Members to cast their vote to restrict the report, this would also compel a responsibility, on my part, of being sure that their particular point of view was protected. As everyone knows, the vote was backed by a conglomerate of Republicans, Democrats, liberals, and conservatives. Party was not an issue and philosophy was not an issue. The majority of Members simply were seriously concerned about what the release of the report would be to the welfare of this Nation.

Third, surely everyone will recognize that the situation changed from those conditions present on January 29th—when the restricting resolution was passed.

Prior to January 29, there had been numerous leaks that had appeared in newspapers and on television. But the vital technical details had not been published. Furthermore, while there had been various press accounts of the sensitive foreign relations matters, there had been no official acknowledgment of these events.

In February, Mr. Daniel Schorr unilaterally decided that he was the best judge of this Nation's welfare and clandestinely caused to be published a verbatim copy of the committee report.

Mr. Schorr should not solely be credited with this feat. Bearing equal responsibility, some Member of Congress or some congressional staff member or some official in the administration must share the guilt. If one of the above had not illegally given Mr. Schorr a copy of the report, it would not have been published.

Mr. Speaker, this brings me to the point in this speech. As stated in the beginning, my introduction of House Resolution 1100, to declassify the committee report, has caused some unexpected events to occur and has precipitated a massive amount of speculation about my intentions.

One speculation would have me introducing the resolution to: "Gut the Ethics Committee's efforts to find out who 'leaked' the report." This is ridiculous.

I strongly support the Ethics Committee's effort. I not only endorse their effort to receive the full funding request of $350,000, but will back them for $3,500,000, if that amount is necessary to find out the full details of the committee, staff, or administration leaks.

Another speculative argument contends that: "If the committee report is publicly released, it will make their effort moot because official House release of the report will nullify the question." Balderdash.

The unauthorized release of national security information is a violation of law and the House rules. Law violators and rule violators must be brought to justice. For one to say that "the public release of the report—that has already been publicly released—makes the situation moot" is like saying "we will not punish the murderer because the victim is dead."

In the same way that murder is against the law, unauthorized release of security information continues to also be a violation of law. Congressmen, staffers, or administrative agency officials are not beyond the law.

The fact remains, vital national security details have been handed over to adversary nations, to the detriment of this country. Those responsible, whether they be newsmen or Members of Congress, should be called for a full accounting. The Ethics Committee is the only vehicle, within the House of Representatives, to obtain this accounting. I support this effort to the maximum extent possible.

My introduction of House Resolution 1100 has spawned other unexpected and nonauthoritative speculation. I noted in a Washington newspaper one press account that suggested my resolution might be a "coordinated effort to diminish the controversy that has surrounded the report and its unauthorized publication."

The same newspaper account infers that I am among "a growing number of House Members (that) may want to tone down the affair—the Ethics Committee investigation—if not wash their hands of it altogether". The fact that the CONGRESSIONAL RECORD is a public document prevents me from appropriately responding to this speculation. I would have to use "cuss" words to put this one in perspective.

Mr. Speaker, I really do not know how to make my case any plainer than I have already expressed it. I did not want the Select Committee on Intelligence Report made public, simply because it contained information that was damaging to our national security and on-going intelligence and foreign relations efforts.

In spite of anything that I could do, that very information was made public and hence available to our adversaries by means of the combined efforts of irresponsible Government officials and one so-called journalist.

Pragmatically recognizing the fact that the information was readily available to everyone, except the American public, I saw no reason not to let them in also—particularly since one vital part of the report has neither been "leaked" or published.

Mr. Speaker, many people contend that the makeup of the House Select Committee on Intelligence was not really representative, in philosophical makeup, of the House as a whole. Therefore, the committee report was not truly representative of the House views. This suspicion was given credence when the House itself voted down the committee's desire to publish its report as a public document. Had the committee truly represented the general House view, we would not be facing the decisions that are now before us.

For these reasons, I submit that the one final part of the House Select Committee on Intelligence Report, that has never been leaked or publicly released, should now be made public. I am referring to the dissenting views, the minority views, and the additional views.

Since the majority on the House Select Committee on Intelligence did not reflect the majority views in the House, the various views may be the only real reflection of majority House opinions. Therefore their significance may be of major importance.

As long as the committee report is legally restricted, these views cannot be released. Since there is now no valid reason to keep the committee report in a classified mode, there is no reason why the American public should not also have access to the differing views. These views provide a totally different insight to the entire committee investigation.

Mr. Speaker, let me sum it up in my best fashion as we would do it in the east Texas village of Bug Tussle. The "secret" report is no longer secret. Those responsible for the situation should be called on the carpet for an accounting. Our Ethics Committee is our only vehicle for producing such an accounting. The Ethics Committee should spend whatever energy or money that is necessary to obtain such an accounting.

Whether it involves Members of Congress, congressional staff members, or administrative officials, let the chips fall where they may.

FOOD STAMP REFORM—AN ANSWER TO SYLVIA PORTER

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, in a column in the Washington Star on March 22, economic writer Sylvia Porter takes out after President Ford's recently announced reforms of the food stamp program.

Mincing no words, she says his action will "wreck the program," and accuses the President of having "literally taken the law into his own hands."

Her analysis of the particulars of the Ford proposals, and indeed of the food stamp program in general, betray a serious lack of knowledge and understanding of the program, and a thorough lack of objectivity in reporting the true situation.

Combined with her virulent language, these failings add up to an article that is a real disservice to those who have worked hard to bring some sense to the scandalous food stamp program.

The President has complete statutory authority to undertake the reforms he has announced, and, in fact, the House Appropriations Committee strongly urged him to do it, setting aside $100,000 for the task. For Ms. Porter, that amounts to "sidestepping Congress." To me, it seems like considerably more congressional-executive cooperation than we have been used to in recent years.

The regulations themselves are the product of interaction between Congress and the White House which has been going on for over a year, ever since the Dole resolution of February 1975, calling for a detailed reform study.

Ms. Porter further alleges that the President, by acting now, is going to precipitate "two major upheavals" in the program, the second coming when Congress passes a reform bill. But will such a bill necessarily be very different from the new regulations? And if it is, would it not be vetoed? If it is, and the veto is sustained—as it probably would, given the strong support for the kind of reform the regulations represents—then the regulations stand, and there is no second upheaval at all.

Moreover, what if the congressional activity does not result in passage of a reform bill at all? How long is the President to wait before exercising to the best of his ability the law already passed by Congress—which gives him authority to do precisely what he has done in proposing the new regulations?

Ms. Porter singles out three provisions of the President's reforms for particular criticism. First, she objects to the 30-percent purchase requirement. Her fears in this regard are illusory. Because it is applied to net income, the purchase requirement is still far below what most persons in the same income range and family size pay for food. The Consumer Expenditure Survey estimated that 32.6 percent of gross income is spent on food by a family of four at the poverty line.

And the basic question which must be asked on this item is this: What does Ms. Porter think the first 30 percent of a family's income ought to be spent for, if not food? Postage stamps to write Congress? Newspapers carrying her column? Booze? Bobby pins?

The purchase requirement must, of course, be taken in concert with the other provisions of the regulations, especially the standard deduction, which specifically assist persons at the lowest end of the economic spectrum.

She also objects to the income cutoff point for eligibility, getting the whole thing completely wrong by claiming that the Ford reforms would set it at the poverty line. In fact, because of the standard deduction, it is $1,200 above the poverty line. Moreover, use of the official poverty definition is a sensible procedure. What is such a definition for, anyway? It does not lag 12 to 24 months behind inflation as she claims; OMB has already announced the new figures based on 1975.

Her final detailed objection has to do

with the 90-day retrospective period on income, in which she sees "no sense at all." The sense of it is simply this: that a person is not in need of a subsidy the first day he loses his job; he may, after all, get another, even a better one, the very next day. The 90-day wait does make sense, both to assess real need and to reduce the incidence of error.

Ms. Porter professes, albeit obliquely, to be in favor of food stamp "reform." But if all she means by "reform" is the elimination of the purchase requirement—and she certainly does not come out for anything else—I must reply that such a move is no reform at all, but rather a compounding of the already intolerable food stamp mess.

Right now, the food stamp program is a $6 billion a year disaster, which is bleeding the taxpayer, feeding chislers and ripoff artists, and leading the truly poor down a primrose path where promises abound but performance lags.

The President's reforms, following as they do the general tone of reform legislation which has over a hundred cosponsors on both sides of the Hill, will redirect more of the program's resources at those who truly need help in providing for their family's nutrition, while at the same time making badly needed administrative reforms, ending the immoral eligibility of millions of persons who are in no ways poor, and saving the taxpayers $1 billion or more.

NICARAGUAN HUMAN RIGHTS VIOLATIONS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, I received the following document from the Washington office on Latin America.

If the document is correct, it tells a desperate story. How can a country that professes democratic principles and purportedly insures freedom and due process of law for its own citizens actively support repression, mental and physical torture, and total disregard for human rights abroad?

The article follows:

HUMAN RIGHTS VIOLATIONS IN NICARAGUA

Recently a document of unimpeachable authenticity depicting serious violations of civil and human rights in Nicaragua has been brought to my attention. In the light of recent legislation in the Congress of the United States dealing with the question of the violation of human rights in countries which are the recipients of United States' Economic Assistance (Nicaragua, on a per capita basis, has received more such aid than almost any other Latin American country), I deem it of the utmost importance that the contents of this document, condensed in the interest of saving space, be brought to the attention of my colleagues.

The document, which speaks for itself, reads in part:

"Over the last eight months, more than 500 persons have been arrested by the Political Police of the Somoza regime. Many of them have been subjected to all kinds of torture. To begin with, as a general rule, prisoners are hooded. Their heads are covered with a hood of rough, dark cloth, and they remain like this for days and even weeks.

"Prisoners are tortured by electric shock, by immersion in water, by deprivation of sleep through many means, and by being placed in refrigeration chambers or rooms with very low temperatures.

"The arrests have occurred throughout the Republic, but especially in the northern and western states. It is important to clarify that a very large number of people have been detained in spite of having no connection with the guerillas in these zones. Such was the dramatic case of Tucio Martinez of Ocotal, who was arrested because of an accusation made against him, and tortured so barbarously that he lost his speech due to throat trauma and injuries.

"Accounts of deaths, missing persons and multiple human rights violations abound, especially among the peasantry. In the city of Ocotal, capital of the state of Nueva Segovia, there have been more than 300 arrests in the last few weeks. In the city of El Viejo, Chinandega, there were more than 25 arrests.

"Among those arrested without warrants in Ocotal are Pedro Zelaya, an employee of the Banco Nicaraguense, Guillermo Banz, Jaime Agurcia, Orland Pereira, Mateo Olivas, Jesus Olivas, Carlos Olivas, and Alfonso Moreno, who was secretary of Police.

"Among those arrested in El Viejo are Justo Nunez, Apolonio Nunez, and an entire family whose last name is Bonilla."

Repression against labor unionists may be demonstrated with the list of the following arrests:

1. Alejandro Solorzano Obregon, 38, 1 Secretary for Grievances of the SCAAS in Managua. He was detained within the area of the Civic Center on August 19. Nothing is known of his present situation. Lawyers Diego Robles and Victor Manuel Ordonez have appealed to judicial and military authorities and no one knows of his whereabouts.

2. Jose Antonio Davila Meza, 39, member of SCAAS in Managua. He was detained together with Alejandro Solorzano.

3. Salvador Suarez Miranda, 37, union adviser to the Masaya Labor Center (Central de Trabajadores de Masaya.) He was arrested in Masatepe, in July. In abuse of his authority, for he is not entitled to take such action, the Judge of the Masaya police sentenced him to six months in prison without trial. He is being held in the Tipitapa Jail.

4. Juan Sequeira, activist of the Masaya Labor Center. He was detained together with Suarez and also sentenced to six months imprisonment for the same reason as Suarez Lopez.

5. Domingto Sanchez Salgado, 60, President of the Nicaraguan Confederation of Laborers and Peasants. He was arrested in the Las Mercedes International Airport as he returned from Mexico. Nothing is known of his whereabouts. All appeals to the Supreme Court have been futile. He has been imprisoned since July without trial.

6. Juan Triana Chavez, 28, President of the Printers' Syndicate. He was arrested in June in the neighborhood of the Managua Cooperative Market. It is known that he is being held incommunicado at the Managua Central Police Station, but lawyers have not been able to do anything for him, or even see him.

7. Gonzalo Navarro Miranda, 32, the Secretary for Grievances of SCAAS in Jinotepe. This is the third time he has been imprisoned this year. He was detained in August in the office of the State Labor Inspector while performing his union duties. He is accused of being a member of the Nicaraguan Socialist Party.

8. Pablo Herrera Hernandez, 40, Director of SCAAS in Jinotega. He was arrested in September for the second time this year, together with Enrique Siles, three worker-leaders, and 28 peasants. The workers were freed, but Herrera Hernandez and the peasants were not. They are all imprisoned in Jinotega.

9. Uriel Baleano C., 23, was arrested on the Nicaragua-Costa Rica border as he entered Nicaragua by land. He is in very poor physical condition at the 12th Police Section, in Bello Horizonte. As in the other cases, no charges have been made against him and the authorities have issued no reports about him.

10. Liana Rosa Benavides Grutter, Costa Rican citizen. She was captured under duress by the National Guard on October 8, in the city of Chinandega and taken to the Managua Security Offices.

11. Jairo Gurierrez, 27, was arrested at the beginning of October at Las Mercedes Airport as he returned from Mexico. Nothing is known of his whereabouts or his state of health.

12. Manuel Cajina Molina, 30, was arrested at the beginning of October at the airport. Nothing is known of his whereabouts.

13. Guillermo Vallencillo, 20, was arrested on the Nicaragua-Costa Rica border. Nothing is known of his whereabouts.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. STEIGER of Wisconsin (at the request of Mr. RHODES), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. KEMP, for 1 hour, today.

(The following Members (at the request of Mr. HOLLAND) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Ms. HOLTZMAN, for 30 minutes, today.

Mr. PRICE, for 5 minutes, today.

Ms. ABZUG, for 20 minutes, today.

Mr. METCALFE, for 5 minutes, today.

Mr. FORD of Michigan, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WAGGONNER, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,287.

Mr. MITCHELL of Maryland, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,001.

(The following Members (at the request of Mr. GOODLING) and to include extraneous material:)

Mr. ARCHER in two instances.

Mr. BELL.

Mr. Myers of Pennsylvania.

(The following Members (at the request of Mr. Holland) and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Drinan in two instances.

Mr. Fisher in 10 instances.

Mr. Nowak.

Mr. Lundine in 10 instances.

Mr. Wolff in four instances.

Mr. Yatron.

Mr. Charles H. Wilson of California.

Mr. Rees in two instances.

Mr. Karth.

Mr. Litton.

Mr. Simon.

Mr. Fraser.

Mr. Harrington.

Mr. Beard of Rhode Island.

Mr. Obey in two instances.

Mr. Ashley in two instances.

Ms. Abzug in three instances.

Mr. Young of Georgia.

Mr. Russo.

Mr. Rogers in five instances.

Mr. Nolan.

Mr. Florio.

Mr. Metcalfe.

ADJOURNMENT

Mr. HOLLAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Thursday, March 25, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2883. A letter from the President of the United States, transmitting a draft of proposed legislation to amend title 18, United States Code, to authorize applications for a court order approving the use of eletronic surveillance to obtain foreign intelligence information (H. Doc. No. 94–422); to the Committee on the Judiciary and ordered to be printed.

2884. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed criteria for funding applications for graduate and undergraduate international studies programs for fiscal year 1976, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2885. A letter from the Executive Director Privacy Protection Study Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2886. A letter from the Under Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Kiowa, Comanche and Apache Indians in dockets 257 and 259–A before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

2887. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 76–10, that the making of an agreement with the Government of Syria for the sale of certain food commodities under title I of the Agricultural Trade Development and Assistance Act is in the national interest of the United States, pursuant to section 103 (d)(3) of the act (80 Stat. 851); to the Committee on International Relations.

2888. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the texts of two agreements proposing the modification of the terms of debts owed to the United States by the Governments of Pakistan and Bangladesh, pursuant section 4 of Public Law 93–333; to the Committee on International Relations.

2889. A letter from the Assistant Secretary of State for Congressional Relations, transmtting a report on political contributions made by Ambassador-designate Richard J. Bloomfield and his family, Liaison Officer-designate Thomas S. Gates and his family, Ambassador-designate David S. Smith and his family, and Ambassador-designate W. Beverely Carter, Jr., and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2890. A letter from the president, Overseas Private Investment Corporation, transmitting a report on the possibilities of transferring OPIC activities to the private sector, pursuant to section 240A(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2891. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Shelby, Ohio, GSA/FSS Depot, Building P 31, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committe on Public Works and Transportation.

2892. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Washington, D.C., West Heating Plant, pursuant to section 7(a) of the Public Buildings Act of 1959, 1959, as amended; to the Committee on Public Works and Transportation.

2893. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms during July-December 1975, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office Civil Service. H.R. 11337. A bill to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes; with amendment (Rept. No. 94–944). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1103. Resolution providing for the consideration of H.R. 12567. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes (Rept. No. 94–945). Ordered to be printed.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1104. Resolution providing for the consideration of H.R. 12566. A bill authorizing appropriations to the National Science Foundation for fiscal year 1977 (Rept. No. 94–946). Ordered to be printed.

Mr. MADDEN: Committee on Rules. House Resolution 1108. Resolution providing for the cosideration of H.R. 12262. A bill to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas broadcasting facilities (Rept. No. 94–947). Referred to the House Calendar.

Mrs. SULLIVAN: Committee of conference. Conference report on H.R. 200 (Rept. No. 94–948). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY:

H.R. 12756. A bill to stimulate the purchase of new and existing housing, to assure the steady flow of capital into the mortgage market, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. AuCOIN:

H.R. 12757. A bill to amend title XX of the Social Security Act to provide for the reallotment of unused Federal funds for social services, in any fiscal year, to States whose regular allotments of such funds were insufficient to meet their needs; to the Committee on Ways and Means.

By Mr. BAUMAN (for himself, Mr. du Pont, and Mr. Downing of Virginia):

H.R. 12758. A bill to amend the Regional Railroad Reorganization Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. BEARD of Rhode Island:

H.R. 12759. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. BELL (for himself, Ms. Abzug, Mr. Badillo, Mr. Bafalis, Mr. Burgener, Mr. Burke of Massachusetts, Mrs. Chisholm, Mr. Downey of New York, Mr. Drinan, Mr. Helstoski, Mr. Hillis, Mr. Lagomarsino, Mrs. Mink, Mr. Moakley, Mr. Murphy of New York, Mr. Ottinger, Mr. Richmond, Mr. Rosenthal, Mrs. Spellman, Mr. J. William Stanton, and Mr. Stark):

H.R. 12760. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Secret Service; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. Ford of Michigan, Mr. Carney, Mr. Hechler of West Virginia, Mr. Udall, Mr. Fraser, Mr. Moakley, Mr. Studds, Mr. Harrington, Mr. Drinan, and Mr. Fithian):

H.R. 12761. A bill to reform electric utility rate regulation, to strengthen State electric utility regulatory agencies, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN (for himself and Mr. Ottinger):

H.R. 12762. A bill to amend chapters 5 and 7 of title 5 of the United States Code to provide for the award of reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in proceedings before Federal agencies, and for other purposes; to the Committee on the Judiciary.

By Mr. FITHIAN:

H.R. 12763. A bill to amend section 142 of title 13 and section 411(a) of title 7, United States Code, to prevent a change in the definition of a farm prior to June 30, 1976, to relieve the Secretary of Commerce of the responsibility for taking a census of agriculture every fifth year, and require the Secretary of Agriculture to collect comparable information using sampling methods; jointly to the Committees on Post Office and Civil Service, and Agriculture.

By Mr. HAYES of Indiana:

H.R. 12764. A bill to terminate the authorization of the navigation study and survey of the Wabash River, Ind., to the Committee on Public Works and Transportation.

By Mr. KETCHUM:

H.R. 12765. A bill to amend chapter 5 of title 5, United States Code, to require that administrative hearings be held within the municipality, county, or State concerned, and for other purposes; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.R. 12766. A bill to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans; to the Committee on Education and Labor.

By Mr. MOAKLEY:

H.R. 12767. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. MOAKLEY (for himself, Ms. Chisholm, Mr. Downey of New York, Mr. Florio, Mr. Kasten, Mr. Krebs, Mr. Lent, Mr. Mikva, Mr. Mosher, Mr. Ottinger, Mr. Richmond, and Mr. Stark):

H.R. 12768. A bill to revise chapter 99 of title 18 of the United States Code to provide for the punishment of sexual assaults in the special jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. MOSHER (for himself, Mr. Vander Veen, Mr. Ottinger, Mr. Moffett, Mr. Russo, and Mr. Hinshaw):

H.R. 12769. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. OBEY:

H.R. 12770. A bill to amend the Internal Revenue Code of 1954 to provide rules for Federal estate taxation more equitable than those presently in effect; to the Committee on Ways and Means.

H.R. 12771. A bill to amend the Internal Revenue Code of 1954 to provide rules for Federal estate taxation more equitable than those presently in effect; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 12772. A bill to amend title 38 of the United States Code to provide that certain veterans who were prisoners of war shall be deemed to have a service-connected disability of 50 percent; to deem certain prisoners of war to be permanently and totally disabled for the purposes of receiving wartime disability compensation; to provide a 10-year presumptive period of service connection for chronic diseases of certain prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself, Mr. Roberts, Mr. Hammerschmidt, Mr. Teague, Mr. Edwards of California, Mr. Montgomery, Mr. Carney, Mr. Danielson, Mr. Wolff, Mr. Brinkley, Mr. Mottl, Mr. Hefner, Mr. Hannaford, Mr. Beard of Rhode Island, Mr. Holland, Mrs. Heckler of Massachusetts, Mr. Walsh and Mr. O'Brien):

H.R. 12773. A bill to amend title 38 of the United States Code in order to revise the provisions therein relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities; to the Committee on Veterans' Affairs.

By Mr. ULLMAN (for himself and Mr. Conable):

H.R. 12774. A bill to amend the Internal Revenue Code of 1954 to provide an election under which State and local governments may issue taxable obligations and receive a Federal subsidy of 35 percent of the interest yield on such obligations; to the Committee on Ways and Means.

By Mr. VIGORITO:

H.R. 12775. A bill to authorize the design and development of a swimming beach area at the Federal water resources development project at Shenago River Lake, Ohio River Basin, Pennsylvania and Ohio; to the Committee on Public Works and Transportation.

By Mr. WON PAT:

H.R. 12776. A bill to provide for the payment of unemployment compensation to individuals residing in Guam on the basis of Federal service or service in the Armed Forces; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Georgia:

H.R. 12777. A bill to assure low-income households the opportunity to attain adequate levels of nutrition by increasing their purchasing power, to strengthen the food sector of the economy, and for other purposes; to the Committee on Agriculture.

By Mr. BALDUS (for himself, Mr. Cornell, Mr. Duncan of Tennessee, Mr. English, Mr. Hungate, and Mr. Kastenmeier):

H.J. Res. 885. Joint resolution to prohibit, during a specified period, the Secretary of Agriculture or any other Federal official from reducing services provided by offices of the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, or the Soil Conservation Service in any county in any State until a proposed plan for reducing such services in that State has been published, hearings have been held on it, and a final plan has been adopted and published; to the Committee on Agriculture.

By Mrs. SMITH of Nebraska:

H.J. Res. 886. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as National Beta Sigma Phi Week; to the Committee on Post Office and Civil Service.

By Mr. YATRON:

H.J. Res. 887. Joint resolution authorizing the President to proclaim the week beginning on November 7, 1976, as National Respiratory Therapy Week; to the Committee on Post Office and Civil Service.

By Mr. PRICE (for himself, Mr. Teague, Mr. McCormack, Mr. Mosher, and Mr. Brown of California):

H. Con. Res. 594. Concurrent resolution expressing appreciation to the American Association for the Advancement of Science, and to other professional societies for the congressional science fellowship programs; to the Committee on Science and Technology.

By Mr. DRINAN (for himself and Mr. Krebs):

H. Res. 1105. Resolution to impeach Richard M. Helms, Ambassador to Iran; to the Committee on the Judiciary.

By Mr. JONES of Tennessee (for himself, Mr. Burgener, Mr. Cederberg, Mr. Conlan, Mr. Goldwater, Mr. Green, Mr. Hall, Mr. Lagomarsino, Mr. Long of Maryland, Mr. McCloskey, Mr. Miller of California, Mr. Mineta, Mr. Moore, Mr. Moorhead of California, Mr. Ruppe, Mr. Stark, Mr. Wiggins, Mrs. Lloyd of Tennessee, and Mr. Hefner):

H. Res. 1106. Resolution to authorize the President to issue a proclamation designating the week beginning April 4, 1976, as National Rural Health Week; to the Committee on Post Office and Civil Service.

Mr. MELCHER (for himself, Mr. Seiberling, Mr. Steelman, Mr. Baucus, Mr. Miller of California, Mr. Meeds, Mr. Vigorito, Mr. Won Pat, and Mr. Kastenmeier):

H. Res. 1107. Resolution providing for the consideration of the bill (H.R. 9725) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

330. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Virginia, relative to locating the National Academy for Fire Prevention and Control in Virginia; to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 12778. A bill to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes; to the Committee on House Administration.

By Mr. DELLUMS:

H.R. 12779. A bill for the relief of Klaus Wilhelm Wendel; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

427. The SPEAKER presented a petition of John F. McManus, Belmont, Mass., and others, relative to the United Nations, which was referred to the Committee on International Relations.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of March 23, 1976, page 7722:

HOUSE BILLS

H.R. 12121. February 26, 1976. Judiciary. Allows recovery by the prevailing party of attorney's fees from the United States in civil actions where the United States is a party which does not prevail.

H.R. 12122. February 26, 1976. Interior and Insular Affairs. Authorizes additional appropriations for the continuance of civil government for the Trust Territory of the Pacific Islands. Permits the President to extend Federal loan and grant assistance provided to the States and to specified territories.

H.R. 12123. February 26, 1976. House Administration. Amends the Internal Revenue Code to authorize and establish procedures for publicly financing general election campaigns of candidate for election to Congress. Establishes the Congressional General Election Payment Account, out of which qualified candidates shall be paid funds to match the amounts such candidate has raised through private contributions.

H.R. 12124. February 26, 1976. Education and Labor. Adds to the Elementary and Secondary Education Act of 1965 "Title X—Emergency Education Revenue Act", to authorize the Secretary of Health, Education, and Welfare to make grants to a local education agency which demonstrates that: (1) for bona fide budgetary reasons it has been forced to reduce the expenditure of funds for essential elementary and secondary education services, making it impossible to maintain such services at a quality level; and (2) that it or the local government unit responsible for providing its revenue has made bona fide efforts to raise the revenue necessary to support essential elementary and secondary educational services and maintain quality education.

H.R. 12125. February 26, 1976. Ways and Means. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 12126. February 26, 1976. Ways and Mans. Amends the International Revenue Code to exclude life insurance companies from filing consolidated returns with an affiliated group of corporations.

H.R. 12127. February 26, 1976. Education and Labor. Includes children of parents employed on Federal property, who attend school in a State contiguous to the State in which such property is located, in the determination of Federal aid entitlement of the local educational agency having jurisdiction over such school.

H.R. 12128. February 26, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction in an amount not to exceed $1,000 for amounts paid by the taxpayer to an eligible educational institution for tuition for the attendance of the taxpayer or any eligible dependent.

H.R. 12129. February 26, 1976. Public Works and Transportation. Modifies the project for hurricane-flood protection at New London, Connecticut. Requires concurrence of appropriate non-Federal interests with specified conditions prior to initiation of construction.

H.R. 12130. February 26, 1976. Agriculture. Authorizes the Secretary of Agriculture to appraise and sell so much of the trees and other forest products found upon National Forest System lands as may be compatible with the multiple Use-Sustained Yield Act of June 12, 1960 and the Forest and Rangeland Renewable resources Planning Act of 1974.

Repeals the requirement that such forest products be sold for use only in the State or territory in which the timber reservation from which such products were taken is located.

Increases the maximum value of timber and cord wood which the Secretary may sell without advertisement.

H.R. 12131. February 26, 1976. Post Office and Civil Service. Revises the factors required to be considered by the Postal Rate Commission in making a recommended decision on a request for changes in postal rates or fees by specifically excepting from the requirement that each class of mail or type of service bear the direct and indirect costs attributable to that class or type only those costs which cannot by any reasonable means be attributed to any such class or type.

H.R. 12132. February 26, 1976. District of Columbia. Amends the District of Columbia Medical and Dental Manpower Act to extend through fiscal year 1977 the authority of the Secretary of Health, Education, and Welfare to make grants to nonprofit medical and dental schools.

H.R. 12133. February 26, 1976. Atomic Energy. Directs the Nuclear Regulatory Commission to cease the granting of licenses or construction authorizations for certain nuclear power plants pending the outcome of a comprehensive study by the Office of Technology Assessment. Requires a five-year independent study of the nuclear fuel cycle by the office of Technology Assessment with final reports and recommendations to be made to the Congress.

H.R. 12134. February 26, 1976. Public Works and Transportation. Prohibits the landing or taking off, except in emergencies, of any supersonic aircraft which generates a noise level in excess of the level prescribed for new subsonic aircraft from Dulles International Airport or Washington National Airport.

H.R. 12135. February 26, 1976. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to prohibit a pipeline company engaged in the transportation of oil from transporting any oil through its pipelines if such company has an interest in such oil.

H.R. 12136. February 26, 1976. House Administration. Amends the Federal Election Campaign Act of 1971 to give the President power to appoint the members of the Federal Election Commission by and with the advice and consent of the Senate. Permits the appointment to the Commission of persons presently members of the Commission.

H.R. 12137. February 26, 1976. Ways and Means. Repeals the corporate investment credit under the Internal Revenue Code.

Reduces the corporate normal tax rate to 16 percent.

Terminates the tax exemption treatment accorded to Domestic International Sales Corporations (DISC).

Reduces the corporate surtax rate to 24 percent.

H.R. 12138. February 26, 1976. Ways and Means. Amends the program of grants to States for services of the Social Security Act to authorize each State to determine the staffing standards with respect to child day care services for which the State receives payments under such program.

H.R. 12139. February 26, 1976. Education and Labor. Requires, under the Labor-Management Reporting and Disclosure Act of 1959, that national and international labor organizations, and intermediate labor organization bodies, shall elect their officers by secret ballot.

H.R. 12140. February 26, 1976. Ways and Means. Amends the Internal Revenue Code to (1) provide graduated investment credit rates; (2) establish graduated corporate income tax rates; (3) increase the corporate surtax rate and surtax exemption; (4) authorize the election of nonrecognition of gain on the sale or exchange of qualified small business property to the extent that the amount realized is reinvested in like property; and (5) allow the executor of an estate to elect to pay the estate tax in installments if the value of an interest in a closely held business exceeds 35 percent of the value of the gross estate or 50 percent of the value of the taxable estate.

H.R. 12141. February 26, 1976. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish assistance for relief and rehabilitation of refugees and other needy people of Lebanon.

Requires that such assistance be distributed, to the maximum extent practicable, under the auspices of the United Nations.

H.R. 12142. February 26, 1976. Government Operations. Amends the Federal Advisory Committee Act to provide that the charters of agency advisory commitees shall be filed with the President pro tempore of the Senate and the Speaker of the House of Representatives, rather than with the standing committees having legislative jurisdiction of the agencies to which such advisory committees report. Requires such charters to include: (1) the number of members to be appointed to such committees, (2) the qualifications of such members, and (3) the method of selecting and appointing such members.

H.R. 12143. February 26, 1976. Post Office and Civil Service. Requires the U.S. Postal Service to consider specified factors in determining the need for an existing third- or fourth-class post office. Sets guidelines relating to such determinations.

H.R. 12144. March 10, 1976. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status with respect to public accommodations, public facilities, public education, and federally assisted opportunities. Sets forth procedures for the enforcement of prohibitions under such act.

Amends the Education Amendments of 1972 to prohibit such discrimination in education programs receiving Federal financial assistance.

Prohibits such discrimination in housing sale, rental, financing, and brokerage services. Sets forth penalties for intimidation or discrimination in housing.

H.R. 12145. February 26, 1976. Public Works and Transportation. Authorizes the Secretary of Transportation to provide Federal financial assistance to bridge owners for the construction or alteration of bridge protection systems.

Revises procedures for approval and financing of the alteration, reconstruction, relocation, or removal of bridges over navigable waters of the United States.

SENATE—*Wednesday, March 24, 1976*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 12th verse, 90th Psalm:

Teach us to number our days, that we may apply our hearts unto wisdom.

O Lord our God, holy and just, "to whom a thousand years are but as yesterday when it is past and as a watch in the night," Thou knowest us through and through. We need Thee every hour.

The magnitude of the world's problems seem beyond the scope of mortal man and defy human wisdom. To the solution of this Nation's problems we give our best efforts. Yet the problems still baffle the mind and multiply in number. We need strength and wisdom from beyond ourselves. We need Thee now and always. We ask for light upon one step at a time. Help us to take each step as it is illuminated before us and walk with Thee to the very end.

In Thy holy name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 23, 1976, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar, beginning with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with "New Reports," will be stated.

CORPORATION FOR PUBLIC BROADCASTING

The second assistant legislative clerk read the nomination of Diana Lady Dougan, of Utah, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Frederick Irving, of Rhode Island, a Foreign Service officer of class 1, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the diplomatic and Foreign Service which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. RIBICOFF) is recognized for not to exceed 15 minutes.

SENATE RESOLUTION 413—SUBMISSION OF A RESOLUTION REGARDING FREEDOM OF THE PRESS AT THE OLYMPICS

(Referred to the Committee on Foreign Relations.)

Mr. RIBICOFF (for himself, Mr. HUMPHREY and Mr. PERCY) submitted the following resolution:

S. RES. 413

Whereas freedom of the press is essential to the free flow of information between countries;

Whereas the Helsinki Agreement includes a commitment to the free flow of information;

Whereas Radio Free Europe has been one of the news organizations covering the Olympic Games since 1952;

Whereas the revocation of the accreditation of Radio Free Europe to cover the Winter Olympics under pressure from the Soviet Union and its allies constitutes a violation of both the principle of freedom of the press and the Helsinki Agreement;

Whereas no news organization had, prior to the exclusion of Radio Free Europe on February 4, 1976, ever been excluded from coverage of the Olympic Games; and

Whereas press censorship is contrary to both the spirit of the Olympic Games and the spirit of the Helsinki Agreement: Now, therefore be it

Resolved, That it is the sense of the Senate that Radio Free Europe should be granted the same privileges granted to other news organizations covering the Olympic Games.

Mr. RIBICOFF. Mr. President, today I am submitting a resolution to put the Senate on record as opposing press censorship at the Olympic games. I am pleased to be joined in this effort by Senator HUBERT HUMPHREY and Senator CHARLES PERCY.

This winter for the first time an accredited news organization was excluded from the Olympic games. The Soviet Union and its allies succeeded in pressuring the International Olympic Committee to accept the Soviet definition of acceptable press. Let me briefly describe what happened. Radio Free Europe has covered the Olympics since 1952. In 1968 and 1972 Soviet challenges to its presence were denied.

This year Radio Free Europe had obtained credentials from the Austrian organizing committee. On the opening day of the games the International Olympic Committee revoked those credentials. Radio Free Europe learned of this action not from the International Olympic Committee but from a broadcast by Tass, the official Soviet news agency. Tass stated that the exclusion was the result of protests by the Soviet Union and its allies. Five days later the president of the International Olympic Committee, Lord Killanin of Ireland, did nothing to deny this charge when he said:

> We do not want the Olympic games to be used for propaganda or as a bait—an attraction—for propaganda.

Last year in Helsinki the signatory nations agreed—and here I quote from the final document—to "make it their aim to facilitate the freer and wider dissemination of information of all kinds." What did this promise mean if it did not apply to Olympic coverage? If sports news is censored, what news will not be censored?

Actions by East Germany this month can only make us more uneasy. Three weeks ago a West German correspondent employed by a radio station which broadcasts to the East was barred by East Germany from covering an Olympic handball qualification match. Last week three West German correspondents were excluded from the Leipzig Trade Fair at which West Germany was a major exhibitor. Are we witnessing a major campaign to censor western stations which broadcast into Eastern Europe?

The introduction of press censorship to the Olympics is contrary to the whole spirit and concept of the games. It also sets a dangerous precedent.

Further exclusion will now be easier. In 1980, the Olympic games will be in Moscow; the Soviet organizing committee will make the first decision on press credentials. Who will be denied entrance then? Will news organizations which air shows offensive to the Soviet government in the next 4 years risk exclusion from the 1980 Olympics?

The issue here is not Radio Free Europe. It is the principle of freedom of the press. The question is not which news station do we prefer, but do we believe all should be granted equal privileges? If we ignore the censorship of Olympic coverage we ignore an action abhorrent to our basic beliefs. We should not shut our eyes to actions which violate generally agreed-to principles.

The Canadian organizing committee has granted Radio Free Europe accreditation to this summer's Montreal games—accreditation subject to the approval of the International Olympic Committee. Will the actions of Innsbruck be repeated?

This resolution would indicate our support for the U.S. Olympic Committee in its attempt to guarantee fair treatment to Radio Free Europe in Montreal this summer.

Mr. President, I want to share with my colleagues several press reports which discuss the points I have raised. The first is a column by Frank Starr which appeared in the February 16, 1976, Chicago Tribune. The second is George F. Will's column in the March 7, 1976, Washington Post, and the third is a column by Michael Getler in the March 17, 1976, Washington Post.

Mr. President, I ask unanimous consent that the articles to which I referred be printed in the RECORD.

There being no objection, the articles

were ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Feb. 16, 1976]

LETTING DOWN THE OLYMPIC BARS TO SOVIET CENSORSHIP

(By Frank Starr)

WASHINGTON.—The temptation to use the Olympic Games for political purposes has always been too great for some to resist. Now the International Olympic Committee has officially endorsed the practice. In Innsbruck censorship on political grounds became policy.

Here is what happened. On the opening day of the games the Radio Free Europe [RFE] broadcasting team was notified that the press credentials issued to it would have to be returned on orders of the International Olympic Committee [IOC].

For several days no official reason was given. A spokesman said the credentials had not been properly endorsed, but they were identical to other credentials that weren't revoked. Another explanation came from Radio Moscow and the Soviet press agency Tass, which reported immediately that the IOC had acted on a protest of the Soviet Union and its allies because RFE "represents no one and engages in slanderous subversive propaganda against the socialist countries" RFE, Tass said, "has won notoriety in the world for its misinformation and foul slander and its reporters were "poisoners of the air waves."

Five days later the IOC president Lord Killanin of Ireland, appeared to confirm the Soviet report in an interview on West German television: "We do not want the Olympic Games to be used for propaganda or as a bait—an attraction—for propaganda."

Finally, as the games drew to a close, Killanin offered a new explanation, the first in writing. "The IOC," he said, "basically recognizes national bodies and press being resident in their own countries, besides the five international news agencies. The position of RFE does not come into these categories. . . ."

The bylaws on accreditation do not mention "press being resident in their own countries," but even if it did RFE would qualify. Its transmitters are in Germany but its headquarters is in Washington.

There is no little irony in all this. RFE reporters had covered every Olympic meet since 1952. Soviet challenges to their credentials were turned down by the IOC in Mexico City in 1968 and in Munich in 1972. In 1974 Congress removed Central Intelligence Agency funding of RFE and placed it under congressional control, increasing the authorization 30 percent last year.

Moreover, just six months ago the Soviets and their allies signed a long agreement in Helsinki which said in part: "The participating states will favor cooperation among public or private, national or international radio and television." The agreement said they would favor "expansion in the dissemination of information broadcast by radio . . . so as to meet the interest of mutual understanding."

The practical problem here is the precedent set for the games this summer in Montreal and, more importantly, the 1980 games in Moscow. The bylaws say the committee of the host country "shall issue" accreditations either on its own authority or the endorsement of the Olympic committee of the respective country, subject to approval by the International Olympic Committee.

Since the IOC has finally agreed to Soviet censorship, it has in effect encouraged the Russians to use the Moscow games to favor their friends and penalize their adversaries.

That the IOC executive committee voted to participate in Soviet censorship is especially disturbing, considering the countries represented in its membership: the Soviet Union, Hungary, Tunisia, Spain, Brazil, Japan, West Germany, Ireland, and Canada.

[From the Washington Post, Mar. 7, 1976]

A FAREWELL TO "DETENTE"

(By George F. Will)

Gerald Ford, the semanticist, has announced that never again will the word "detente" pass his lips. Henceforth, that word is as unwelcome at the White House as oh, Alexander Solzhenitsyn. Throughout the civilized world, and in the Kremlin, too, learned men with knitted brows are pondering this of Mr. Ford's thoughts: " 'Detente' is only a word that was coined. I don't think it is applicable anymore."

Mr. Ford's decision to reform his vocabulary, if not his policies, is proof of the Law of Government Inertia: Things continue as they are until people begin to snicker. Mr. Ford, having consulted poll data and other sources of his foreign policy convictions, has decided that the word "detente" now is a snicker-producer.

Indeed it is. The public has come to understand that the administration can neither define the word nor defend the policy that the word denotes.

The original explanation of detente was that it would produce lots of agreements with the Soviet Union, and that these agreements, some large but most of them small, would amount to a restraining web. The Soviet Union would be bound down like Gulliver beneath the Lilliputians' ropes, each of which was a weak thread, but which together were strong.

According to the original and short-lived theory of "linkage," the Soviet Union would temper its behavior, lest it jeopardize its beneficial links with the U.S., such as links with the wheat fields of Nebraska. But there never has been any behavioral evidence—the only kind of evidence that matters—that this detente "linkage" works.

The Soviet Union was not helpful in ending the Vietnam war; it incited the October, 1973, Yom Kippur War; it incited the oil embargo. Today the Soviet Union desperately needs and is receiving U.S. grain, even while it is involved in Angola in a way deeply obnoxious to the U.S. The "linkage" is no more restraining than a chain carved from tapioca pudding.

So by last summer the administration's doctrine about detente had been turned inside out. The rationale was no longer that detente would produce agreements, but that agreements would produce detente. Thus the administration craved even transparently fraudulent agreements like the one produced with a flourish at Helsinki—anything to fuel the "momentum" of detente.

So at Helsinki the U.S. signed an agreement that ratified Soviet conquests in Eastern Europe. We rationalized this shabby exercise by emphasizing the amount of ink devoted in the Helsinki Agreement to human rights.

On that piece of paper Leonid Brezhnev, like all signatories, "note(d) the expansion in the dissemination of information broadcast by radio and express(ed) the hope for the continuation of this process." But since the Helsinki conference the Soviet Union has continued to spend far more to jam the broadcasts of Radio Free Europe and Radio Liberty than it costs to transmit the broadcasts.

And today the Soviet Union and its satellites are waging a vitriolic propaganda attack against RFE and RL. The Soviet Union is interpreting the Helsinki Agreement's language to mean that the agreement supports only freedom for those broadcasts that please signatory governments.

The U.S. government was dim enough to go to Helsinki and give the fraudulent agreement a patina of respectability. Now other foolish people in the West are helping the Soviet Union make a shambles of the human rights section of the agreement. At the Winter Olympics at Innsbruck, the International Olympic Committee, casting about for a new way to disgrace itself, surrendered to Soviet pressure and banned Radio Free Europe reporters.

Today the Soviet Union is seeking a similar ban on RFE reporters at the Montreal summer games. If the spineless wonders on the International Olympic Committee cave in to the Soviet Union, the U.S. team should stay home. And the U.S. government should tell the IOC that there will be no U.S. team at the 1980 Summer Olympics in Moscow unless freedom of press coverage is guaranteed by something more substantial than detente as represented in the Helsinki Agreement.

Stern words addressed to the IOC would be more impressive than Mr. Ford's stern but empty words about the word "detente." And if Mr. Ford will not say stern words to the IOC, perhaps President Jackson will.

[From the Washington Post, March 17, 1976]

CAMPAIGN SEEN TO HAMPER WEST'S BROADCASTS TO BLOC

(By Michael Getler)

LEIPZIG, EAST GERMANY, March 16.—East Germany has barred three West German radio correspondents from covering a major East-West trade fair in Leipzig in a move that some observers interpret as part of a stepped-up effort to erode the ability of Western countries to broadcast into Eastern Europe.

West Germany reacted sharply to the incident, the third of its kind in recent weeks, by withdrawing its highest representative at the fair, Economics Minister Hans Friderichs.

Friderichs told reporters that the East German move had "cast a shadow over relations" between the two Germanys and he protested officially to East German Foreign Trade Minister Horst Soelle.

In Bonn, the Cabinet of Chancellor Helmut Schmidt and the Parliament planned to discuss the incident Wednesday. West German government spokesman Klaus Boelling told reporters here that "East Germany must consider what it is risking and such action cannot be without consequences for general relations."

Last month, the International Olympic Committee, at the urging of East European countries, revoked the credentials of Radio Free Europe's correspondents at the Winter Olympics in Innsbruck, Austria.

RFE, operated by the United States, broadcasts news and commentary into Eastern Europe from its headquarters in Munich, West Germany, and had come under increasingly sharp criticism from the Soviet and East European press.

Two weeks ago, a correspondent for a West German radio station that also broadcasts to the East was barred by East Germany from covering an Olympic handball qualification match at Karl Marx Stadt in East Germany.

The three correspondents barred this week from coming to Leipzig also work for quasi-government stations that broadcast to the East. Two are employed by Deutschlandfunk, which broadcasts to East Germany, and the other works for Deutsche Welle, West Germany's equivalent of the Voice of America.

It was the first time these networks have been barred from the semiannual Leipzig fair and follows a pattern of Communist allegations that networks that broadcast into the East from the West violate the spirit of last year's Helsinki agreement by interfering in the internal affairs of Communist states.

Friderichs, the first Bonn Cabinet minister to visit Leipzig, left abruptly after the East Germans made it clear Monday that they would not reconsider the barring of the journalists.

The timing of the East German action surprised and puzzled the West Germans, since West Germany not only has the second largest representation here with some 870 firms showing their wares—but is also an increasingly important trading partner of East Germany.

Last year, trade between the two Germanys totaled almost $3 billion, an increase of more than 7 per cent from the previous year. West Germany is clearly East Germany's largest export market in the West, with roughly 11 per cent of East German exports going to West Germany.

The East is also important to Bonn, especially during recent years of recession in other Western markets. Last year, about 10 per cent of Bonn's exports went to Communist East Europe, with East Germany second only to the Soviet Union as a leading trade recipient.

Although Bonn's economy is generally much bigger and healthier than that in the East, trade with East Germany is still important to Bonn for psychological reasons. Also, a small number of West German companies have as much as 25 percent of their business with East Germany. At a time of high unemployment in West Germany, any reduction in trade could hurt.

Bonn has consistently had a trade surplus with East Germany. The East now has a deficit of some $900 million in its trade with West Germany.

All of these factors have contributed to the puzzlement over why the East Germans would choose their biggest showcase trade fair to pick a fight with the West Germans.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 20 minutes, with statements therein limited to 5 minutes each.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—HOUSE JOINT RESOLUTION 857

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate takes up Calendar No. 672, House Joint Resolution 857, a joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes, to which will be offered the Dole amendment, I ask unanimous consent at that time that there be a time limitation of 20 minutes to each side, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States submitting the nomination of Ermen J. Pallanck, of Connecticut, to be U.S. Marshal for the District of Connecticut.

FEDERAL RETIREMENT PROGRAMS—MESSAGE FROM THE PRESIDENT

The Acting President pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Post Office and Civil Service, the Committee on Armed Services and the Committee on Foreign Relations, jointly, by unanimous consent:

To the Congress of the United States:

My 1977 Budget recommends a program of tax reduction and spending restraint designed to reduce the growth of Government, help sustain our economic recovery, and give our citizens a greater say in managing their own affairs. It proposes changes in many programs in order to hold Federal spending below the levels that would otherwise occur in 1977 and in later years.

One of these changes, as indicated in the budget, is elimination of the provision in Federal civilian and military retirement systems which over-compensates retirees for cost-of-living adjustments. Since 1969, these retirees have been paid $1.6 billion more than the amount needed to adjust their retirement pay for changes in the cost of living. Unless the law is changed, the taxpayer will be forced to shoulder an ever-larger burden to pay for benefit increases far exceeding real changes in the cost of living.

Under existing law, when annuities under the Civil Service, Foreign Service, Central Intelligence Agency, and military retirement systems are adjusted to reflect changes in the cost of living, an extra one percent is added automatically. Because the extra one percent has been compounded each time the system has been adjusted, retirement payments are running substantially ahead of the actual rise in the cost of living. This procedure threatens the financial integrity of the retirement systems.

Since the one percent add-on became a part of the law in 1969, Government retirement annuity adjustments have led to increases totaling 63 percent. Yet during this same period, the actual increase in the Consumer Price Index was 50 percent. As a result, annuitants under these retirement systems received $1.6 billion more by the end of fiscal year 1975 than they would have if the adjustments had simply kept pace with the *actual* increases in the CPI. Furthermore, the liability for future Federal personnel retirement payments increased $11.2 billion in just six years because of the one percent add-on. Each future increase, under current law, will mean at least $1.9 billion in added liability for future payments.

Retired Federal employees deserve to be protected from the ravages of inflation. The Federal retirement system is a good one and its guarantee of automatic adjustments directly related to rises in the CPI is not widespread in the private sector. But the Federal systems are unique in providing one percent over and above the actual rise in the CPI. It is neither appropriate nor fiscally responsible for the Federal government to continue to provide such an added benefit.

Accordingly, the Civil Service Commission, the Department of State, the Department of Defense and the Central Intelligence Agency are submitting bills to repeal the one percent add-on feature in the civilian and military retirement systems they administer.

I urge the Congress to consider these proposals and act on them promptly and favorably.

GERALD R. FORD.

THE WHITE HOUSE, *March 24, 1976.*

Mr. CANNON subsequently said: Mr. President, I ask unanimous consent that a message from the President of the United States relative to Federal retirement programs be referred jointly to the Committee on Post Office and Civil Service, the Committee on Armed Services, and the Committee on Foreign Relations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 3:52 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 6346) to extend authorization of appropriations for carrying out title V of the Rural Development Act of 1972.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATION FOR THE PRIVACY PROTECTION STUDY COMMISSION

A communication from the President of the United States, transmitting a proposed supplemental appropriation in the amount of $250,000 for fiscal year 1976 for the Privacy Protection Study Commission (with accompanying papers); to the Committee on Appropriations.

PROPOSED FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1976

A communication from the President of the United States, transmitting a draft of proposed legislation to amend Title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 3130. A bill to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes (Rept. No. 94–709).

By Mr. MONTOYA, from the Committee on Public Works, without amendment:

S. 3201. An original bill to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes (Rept. No. 94–710).

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976—CONFERENCE REPORT

Mr. MAGNUSON, from the committee of conference, subitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes (Rept. No. 94–711).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS (for himself, Mr. BROOKE and Mr. CRANSTON):

S. 3198. A bill to extend the Emergency Home Purchase Assistance Act of 1974, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN (for himself and Mr. ALLEN:

S. 3199. A bill for the relief of Jonty Skinner. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 3200. A bill to promote rail-highway safety by requiring light-reflecting markings on railroad locomotives and cars. Referred to the Committee on Commerce.

By Mr. MONTOYA (from the Committee on Public Works):

S. 3201. An origial bill to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes. Placed on the calendar.

By Mr. KENNEDY (for himself and Mr. PELL):

S. 3202. A bill to authorize appropriations for activities of the National Science Foundation for fiscal year 1977, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3203. A bill to amend section 203(b)(1) of the National Sea Grant College and Program Act of 1966, as amended, to extend the appropriation authorization for fiscal years 1977 through 1979. Referred to the Committee on Commerce and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself, BROOKE and Mr. CRANSTON):

S. 3198. A bill to extend the Emergency Home Purchase Assistance Act of 1974, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MATHIAS. Mr. President, I am introducing today a bill to Extend the Emergency Home Purchase Assistance Act of 1975.

I am pleased to be joined in sponsoring this legislation by my distinguished colleagues, Senator BROOKE and Senator CRANSTON.

The bill would extend the expiration date of the original Act for 1 year and 3 months—from July 1, 1976 to October 1, 1977, the end of fiscal 1977. The purpose of this extension is to give the Government National Mortgage Association—GNMA—sufficient time to insure wise allocation of the moneys appropriated under this act.

It would also place a ceiling on sales prices for each dwelling unit financed under this program at not to exceed the median sales price for the housing market area in which the dwelling is located. The median sales price for each local housing market area would be determined by the HUD Secretary. The effect of such a ceiling by market area is to relate the program to local housing costs on a geographic basis. High cost areas, therefore, would not be penalized because the sales price ceiling would be relatively higher for that area.

The Emergency Home Purchase Assistance Act, signed by the President on July 2, 1975, was designed to stimulate construction of housing that would be within the reach of middle-income Americans. The bill authorized $10 billion for GNMA to purchase mortgages with a 7½-percent interest rate in the second mortgage market.

To date, $7 billion has been appropriated by the Congress under the authorization and $2.2 billion in mortgage commitments have been made by GNMA. Unless the Emergency Home Purchase Assistance Act is extended as I am proposing, GNMA will have to commit the bulk of the appropriated funds in the next 3 months. In my judgment, such hasty commitment of these funds would be unwise.

The bill I am introducing today simply extends the expiration date of the Emergency Home Purchase Assistance Act of 1975 to the end of fiscal 1977 in order to insure that the money presently available is committed intelligently. An added advantage to such an extension is that it will permit monitoring of the housing sector to determine if the remaining unobligated funds should be released. In addition, it sets a ceiling on sales prices of homes financed under this program to correct an oversight in the law which resulted in 41 percent of the loans going to families with incomes greater than $21,600.

Mr. President, although we now see some signs that the housing sector may be rallying from its 1975 slump, we cannot ignore the effects of that slump.

In 1975 there were fewer housing starts in America than at any time since 1946. Last year we produced only 1.16 million housing units. And 30 yearse ago the figure was 1.02 million but in the intervening years our population has increased by more than 50 million people. Housing construction in 1975 plunged from the peak 1973 level of 2.5 million starts to less than half that amount.

Further imbalances in housing production in 1975 were caused by the very uneven distribution of new housing starts between single family and multifamily units. While single family starts rose 8 percent over the 1974 level, multifamily starts were down 33 percent from 1974. In all, only 349,000 multifamily units were built in the entire country in 1975.

The situation in residential housing has had several unfortunate results in addition to causing widespread unemployment in the construction industry. With fewer rental properties becoming available, pressure on existing rentals has increased to the point that rental vacancies have virtually disappeared in some parts of the country. Where rentals are available, rents have escalated.

The median sales price of a new single family home today is well beyond the reach of more than 75 percent of the American people. The median sales price for a new home in 1975 was $39,200. Only families with a minimum annual income of $19,600 can afford to buy a house at that price. Thus, more and more potential homeowners—young married couples, or families with several children whose annual income is less than $19,600—are obliged to continue in the rental market which, of course, greatly increases the already existing pressures there.

Meanwhile, builders are turning to the custom house market in growing numbers because it is safe. The small elite group that can afford custom housing today is not deterred by the 9 or 9½ percent interest rate, nor by the required 20 percent downpayment, nor even by the huge monthly payments required. For the middle income family, custom housing is out of sight.

By providing 7½ percent mortgages, the GNMA program seeks to restrain the inflationary trends in housing prices and rents while encouraging production. Such financing is designed to promote the building of housing priced within the reach of families earning $15,000 to $20,000.

Unfortunately, the original program which had a $42,000 mortgage ceiling did not stipulate a home sales price ceiling. Thus, those who were able to provide a substantial downpayment bought homes in the $50,000 to $60,000 range and ended up with a $42,000 mortgage. I do not believe this is what the Congress intended.

A recent study by George M. von Furstenberg, former Senior Staff Economist with the President's Council of Economic Advisers, revealed some of the misdirected effects of the GNMA tandem program. For example, Mr. von Furstenberg found that while the median income of American families is $12,834 the average income of families assisted by the tandem program was $21,516. The average downpayment made under the tandem program was $8,347. More than half the homes financed under this program sold for over $40,000.

The program clearly is not reaching the middle income group who have been shut out of the home buying market.

Although HUD has restricted use of the most recently released moneys to FHA-financed multifamily rental housing, I think this proposed ceiling on single family sales housing is needed now to avoid future misdirection of the program.

The Department of Housing and Urban Development—HUD—has stipulated that $3 billion of the funds appropriated under the Emergency Home Purchase Assistance Act be used to purchase FHA-insured multifamily mortgages. HUD estimates that this will facilitate construction of 120,000 housing units in multifamily rental structures where rents cannot exceed certain program limits.

This program is but one small facet of what must be a multifaceted approach to providing housing for all Americans. It, like all other good ideas, we, in Congress have codified into law, must be assured of adequate and timely funding as well as prudent administration. It should be integrated into a comprehensive program which would establish long range housing goals and then set about achieving them. Only in that way can we hope to realize the American dream of a decent home for every American in a healthy living environment.

I ask my colleagues' prompt approval of this measure.

By Mr. KENNEDY (for himself and Mr. PELL):

S. 3202. A bill to authorize appropriations for activities of the National Science Foundation for fiscal year 1977, and for other purposes. Referred to the Committee on Labor and Public Welfare.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1977

Mr. KENNEDY. Mr. President, I am introducing today, together with Senator PELL, legislation authorizing appropriations for the National Science Foundation for fiscal year 1977.

This legislation is based on the recommendations of the National Science Board; testimony presented at hearings held by my Subcommittee on the National Science Foundation; extensive correspondence and conversations with leaders of the scientific community, researchers and educators; continuing contact with representatives of public interest, minority and women's groups; as well as my own review of the priorities which this Nation should establish in order to maintain the strength of science and technology.

In introducing this legislation, I want to say how pleased I am that the President has sent a special message to Congress on science and technology. This step underscores the key role that must be played by research and development in solving many of our national problems. The administration's total request of $24.7 billion for research and development represents a welcome, even if small, increase over the starved research and development budgets of the last 7 years. As the Congress moves ahead to authorize the appropriate funds for specific research and development programs, I intend to do everything I can to assure that these funds are targeted toward priority research and development projects which are responsive to our real national needs. I am also gratified that the President appears ready to sign the legislation reestablishing a White House Office of Science and Technology Policy. The Senate and House conferees on this bill have been working hard to adjust the differences between the two bills, and we hope to have a final, approved bill on the President's desk for signature early next month.

It is the responsibility of the National Science Foundation to advance scientific progress in the United States. The NSF carries out this mission by sponsoring basic scientific research in all major fields of science, and by sponsoring applied scientific research in areas where results are closely coupled to improvements in technology and economic productivity. The NSF also has the primary responsibility within the Federal Government for strengthening science education in order to: Insure the Nation an adequate pool of scientific and technological personnel with greater participation of minorities and women; improve science education to meet the needs of a broad range of students; promote public understanding of issues involving science and technology; and improve the general effectiveness and efficiency of science education. The NSF also sponsors five major research centers; international cooperative research efforts; and science policy research and analysis activities.

Eighty-seven percent of the NSF program is performed by colleges and universities. This support is a major determinant of the overall U.S. basic research effort and is the key to the effectiveness of the college and university system in expanding frontiers of scientific knowledge. More than 1,300 academic and nonprofit institutions participate in NSF research and science education programs in all 50 States and the District of Columbia. In addition, a growing number of small research and development and other industrial firms are taking part in the Foundation's applied research programs, giving a new dimension to NSF research support activities.

The impact of NSF programs on the scientific community is extensive. In fiscal year 1975, for example, 18,000 principal investigators—outstanding scientists and science educators—carried out Foundation supported programs with the assistance of more than 12,000 graduate students and technicians. Over 1,650 graduate students held NSF fellowships, and these young men and women selected 164 different institutions to pursue their education in science and engineering.

Seventy-eight percent of the total NSF budget is devoted to basic research—in an area where there has been a 23 percent decline in overall Federal support, measured in constant dollars, since fiscal year 1968. The 19.5 percent increase proposed by the administration for NSF's programs in this area will contribute to the effort to reverse this decline.

For fiscal year 1977 the National Science Board, the policymaking body for the National Science Foundation, recommended a budget of $852 million which was described by the Director of NSF as follows:

> It is a tight, fiscally responsible program geared to the need to make science and technology full partners in the effort to achieve economic growth, a high quality environment, and scientific strength in all major fields.

When the Office of Management and Budget approved a budget request of only $802 million and made significant reductions in science education programs, the Director of the NSF stated:

> I believe that these reductions would cut far too deeply into activities that are of great importance for maintaining the continued capability of U.S. science.

He further pointed out:

> The declining performance of students in science and the increasing functional illiteracy of the general public in scientific matters make a substantial national effort in this area highly desirable.

The authorization which I am introducing today, which provides $851.4 million in new budget authority for the foundation, restores most of the reductions made by the Office of Management and Budget and will insure the continuity of science research and education efforts. It represents a 6 percent increase over the administration's request and will mean that over the last 5 years the NSF budget has increased by an average of just 7.6 percent a year.

This authorization will permit the foundation to sustain scientific strength in the major fields of science and to support research directed to areas where there is a high potential for societal benefit or major advances in science.

Mr. President, the authorization I am introducing today is summarized in the attached factsheet, and I ask unanimous consent that the text of the bill and the factsheet be printed at this point in the RECORD.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 3202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act, 1977".

TITLE I—APPROPRIATIONS AUTHORIZED

AUTHORIZATION FOR ACTIVITIES OF THE NATIONAL SCIENCE FOUNDATION

SEC. 101. (a) There is authorized to be appropriated to the National Science Foundation for the fiscal year 1977, for the following categories:

(1) Mathematical and Physical Sciences and Engineering $236,250,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences $249,000,000.

(3) Biological, Behavioral, and Social Sciences $135,350,000.

(4) Science Education Programs $81,200,000.

(5) Research Applied to National Needs $74,100,000.

(6) Scientific, Technological and International Affairs $26,000,000.

(7) Program Development and Management $43,500,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amount authorized under category (2) of subsection (a) of the first section, $22,200,000 shall be available for the program "Oceanographic Facilities and Support";

(2) of the amount authorized under category (4) of subsection (a) of this section—

(A) $18,000,000 shall be available for the programs "Graduate Fellowships in Science and Engineering" and "National Needs and Fellowships";

(B) $15,000,000 shall be available for the program "Comprehensive Assistance to Undergraduate Science Education", of which not less than 66⅔ percent shall be available on a competitive basis for four-year institutions of higher education which do not grant a doctor's degree;

(C) $6,000,000 shall be available for the program "Research Initiation and Support";

(D) $5,500,000 shall be available for the programs "Instructional Improvement Implementation" and "Elementary and Secondary School Materials Development, Testing and Evaluation", with special emphasis on the support of activities to improve the general level of scientific literacy and to increase the ability of students to make use of the methods of science and the results of scientific discovery;

(E) $2,000,000 shall be available for the program "Minorities and Women in Science" for programs and research designed to improve scientific literacy and to encourage and assist minorities and women to undertake and to advance in careers in scientific research and science education; and

(F) $1,000,000 shall be available for the program "Ethical and Human Value Implications of Science and Technology", including ethical and value issues arising in the context of physical science, biological science and clinical medicine;

(3) of the amount authorized for category (5) under subsection (a) of this section—

(A) $10,000,000 shall be available for the program "Earthquake Engineering";

(B) $6,000,000 shall be available for the support of especially promising proposals for small scale research on advanced forms of energy, provided that such research proposals do not duplicate programs supported by the Energy Research and Development Administration and are fully coordinated with the Energy Research and Development Administration; and

(C) not less than 10 percent of such amount shall be expended to small business concerns.

PROGRAM ADMINISTRATION

SEC. 102. (a)(1) The Director of the National Sceince Foundation shall report on the activities of the Foundation in carrying out the provisions of section 552 of title 5, United States Code, commonly known as the Freedom of Information Act, and the Federal Advisory Committee Act.

(2) With respect to section 552 of such title 5 the report shall include, but not be limited to, for each inquiry received—

(A) the source of each inquiry and the nature of the material requested from the Foundation;

(B) the basis on which each such inquiry was granted or denied;

(C) the time and personnel resources required by the Foundation to compile and furnish the material so requested together with the cost of that requirement; and

(D) the amount of the charges made, if any, for complying with such request, and the basis for granting or denying each waiver.

(3) With respect to the Federal Advisory Committee Act, the report shall include, but not be limited to—

(A) a listing of all Advisory Committees serving the Foundation and their membership;

(B) the number of such Advisory Committee meetings held since January 1, 1975;

(C) the number of such Advisory Committee meetings held since January 1, 1975, which were closed or partially closed to the public;

(D) a statement of the subject matter covered by each such Advisory Committee at a closed or partially closed meeting, the specific reason why the meeting was closed or partially closed and whether a transcript of such a meeting was made;

(E) a statement of each denial of a request to appear before, or to attend or to file a statement with any such Advisory Committee made pursuant to the provisions of the Federal Advisory Committee Act the basis on which the request was denied, the source of the request, and the nature of the Advisory Committee meeting involved.

(4) The report required by this section shall be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate within ninety days after the date of enactment of this Act.

(b) Whenever any material is published, which is based upon or developed under a project assisted by the National Science Foundation, the publication shall contain an acknowledgement of National Science Foundation support and a statement that the author or grantee is solely responsible for the findings, opinions, conclusions, or recommendations contained in that material.

(c) Copies of all publications and reports based upon or developed under any project assisted by the National Science Foundation shall be furnished to the National Technical Information Service of the Department of Commerce by the National Science Foundation within thirty days of receipt of the report by the Foundation, or of notification of its publication.

(d) Not later than one year after the completion of research projects assisted under the program "Research Applied to National Needs", or any similar program, the Director of the National Science Foundation shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on—

(1) the extent to which the results of the research conducted under such project have been utilized, and

(2) any barriers to such utilization which have been identified with respect to each such project.

(e) The Director of the National Science Foundation is directed to notify the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate and subsequently make available to the public a monthly report on all grants or contracts completed during the previous 30-day period. The report required by this subsection shall include, but not be limited to—

(1) the organization, name and address, and principal investigator conducting the grant or contract; and

(2) the title, duration and amount of the grant or contract.

(f) No funds may be transferred from any particular category listed in section 1 to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 1 from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director or his designate has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason thereof, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

TITLE II—NATIONAL AND INTERNATIONAL NEEDS AND RESOURCES

INTERNATIONAL SCIENTIFIC RESEARCH, EDUCATION AND POLICY ANALYSIS

SEC. 201. To make the results of scientific research conducted abroad more readily available to United States scientists, engineers, and technologists, to further the Nation's foreign policy objectives, to promote international cooperation in science and technology, and to assist in the resolution of critical and emerging problems with significant scientific or technical components, such as the world food and population problems, the National Science Foundation is authorized and directed to support basic and applied research and education programs, and to conduct and support policy analysis, information dissemination, and international cooperative programs designed to—

(1) improve understanding of international science and technology issues involving the needs of the developing world and the opportunities which exist for United States science and technology to further United States foreign policy objectives by contributing to the resolution or alleviation of international problems, particularly problems relating to agriculture and nutrition;

(2) develop comparative data among nations in areas of particular concern such as environmental problems and policies, energy resources, food nutrition, and health care, and facilitate the dissemination of such data;

(3) identify significant international implications of United States research activites;

(4) improve understanding of the international institutional requirements requested by international scientific and technological developments;

(5) support basic and applied research, including interdisciplinary research, in agriculture and nutrition related fields which is oriented to the socioeconomic, technical, and cultural characteristics and resources of the developing world, and encourage the utilization of the results of such research;

(6) improve the capability of United States research institutions and facilities to adapt and apply new research findings in science and technology to the agriculture and nutrition related problems of the developing world;

(7) provide United States scientists and engineers with necessary financial support and special education to enable them to conduct effective research on agriculture and nutrition related problems in laboratories and research institutions in the United States and abroad; and

(8) design and initiate international cooperative programs of scientific and technical research and education in international problem areas, particularly food and nutrition.

INTERDISCIPLINARY RESEARCH

SEC. 202. The National Science Foundation is directed to encourage and promote the conduct of interdisciplinary research through the support of broadly based undergraduate interdisciplinary education programs, interdisciplinary research projects which provide for apprenticeship training, interdisciplinary fellowship programs, and arrangements for degree training, including post-graduate degrees in more than one discipline, in institutions of higher education.

SCIENCE FOR CITIZENS

SEC. 203. (a) The National Science Foundation is authorized and directed to conduct a "Science for Citizens Program", which shall be designed to—

(1) improve public understanding of public policy issues involving science and technology;

(2) facilitate the participation of quali-

fied scientists and engineers in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects;

(3) facilitate the participation of undergraduate and graduate students in scientific and technical aspects of community and citizen group activities aimed at the resolution of public policy issues; and

(4) enable nonprofit, citizens, and public interest groups to acquire necessary scientific and technical expertise to assist them in dealing with the scientific and technical aspects of public policy issues.

The program required by this section shall include awards and planning grants in accordance with the provisions of this section.

(b) Awards made by the National Science Foundation in the conduct of the Science for Citizens Program shall include support for—

(1) qualified scientists and engineers to work on public policy issues with significant scientific and technical components in conjunction with public interest groups, units of state and local government, or nonprofit media organizations;

(2) internship programs for science and engineering undergraduate or graduate students to work on public policy issues with significant scientific and technical components in conjunction with public interest groups, units of state and local government, or nonprofit media organizations, as part of their academic training;

(3) forums, conferences and workshops on public policy issues with significant scientific and technical components;

(4) new and existing independent journals for the publication of research and for commissioning or publishing reports or papers generated by public interest activities to be circulated among scientists and engineers, and among public interest groups in a form understandable by the general public;

(5) new and existing media programs utilizing radio or television to increase public understanding of public policy issues with significant scientific and technical components;

(6) public interest groups to acquire necessary technical expertise relating to the scientific and technical aspects of public policy issues and to enable such groups to bring together in appropriate forums experts whose research has been directed to the resolution of such issues; and

(7) travel and related expenses incurred by scientists, engineers or members of public interest groups to facilitate the exchange of information regarding the scientific and technical components of public policy issues.

(c) Planning grants under this program shall be available for—

(1) the design and use of registries of scientists and engineers to serve as a resource to local decision makers, community and citizens public interest groups, including the study of past and present registries and their effectiveness;

(2) the establishment of at least one regional center to support projects involving public policy issues with significant scientific and technical components, which have been proposed by state and local organizations and institutions; and

(3) the establishment of a national clearinghouse with at least one regional branch to facilitate access by scientists, engineers and the general public to research and other information and material related to the scientific and technical components of public policy issues.

(d) The evaluation of applications for awards and planning grants under this program shall be conducted by review panels which include a balanced group of scientists and engineers, representatives of public interest groups, representatives of minority groups, representatives of women's groups, and non-scientists.

(e) The Director of the Foundation shall appoint an Advisory Committee for the Science for Citizens Program to participate in the development, planning and implementation of the programs required by this section. The Advisory Committee shall consist of fifteen members, not less than eight of whom shall be representatives of public interest groups, minority groups and women's groups, and not less than three of whom shall not be scientists or engineers.

(f) Of the amount authorized for category (4) of section 101(a) $5,000,000 shall be available for the Science for Citizens Program.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 204. (a) The National Science Foundation shall initiate an educational program of continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program developed under this section shall include, but not be limited to—

(1) the development of special curriculums and education techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) The Foundation is authorized and directed to make grants to, and to enter into contracts with, institutions of higher education and other academic institutions, nonprofit institutes and organizations, and private business firms, for the purpose of developing courses and curriculums specially designed for continuing education in science and technology under this section.

(d)(1) The Foundation is authorized to award continuing education fellowships to scientists and engineers to enable them to pursue appropriate courses of study.

(2) The Foundation shall allocate fellowships under this subsection in such manner, insofar as practicable, as will—

(A) attract highly qualified applicants; and

(B) provide an equitable distribution of such fellowships throughout the United States.

(3) The Foundation shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such persons and their dependents) as it may prescribe by regulation designed to accomplish the purposes of this Act.

(4) Fellowships shall be awarded under this section upon application made at such times and containing such information as the Foundation shall by regulation require.

(e) Of the amount authorized under category (4) of section 101(a) $3,500,000 shall be available for the activities authorized by this section.

MINORITY CENTERS FOR GRADUATE EDUCATION IN SCIENCE AND ENGINEERING

SEC. 205. In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to establish and provide continuing support to Minority Centers for Graduate Education in Science and Engineering in accordance with this section.

(b) The Centers shall be established at six geographically dispersed educational institutions which—

(1) have substantial minority student enrollment,

(2) are geographically located near minority population centers,

(3) demonstrate a commitment to encouraging and assisting minority students, researchers and faculty, and

(4) have an existing or developing capacity to offer doctoral programs in science and engineering.

(c) Each Center, established under this section, shall—

(1) support basic research and the acquisition of necessary research facilities and equipment;

(2) serve as a regional resource in science and engineering for the minority community which the Center will serve; and

(3) develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

(d) The Director, after consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, and with the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, shall appoint a seven member National Advisory Board to participate in the development and implementation of the program established by this section. At least five members of the Advisory Board shall be minority scientists.

(e)(1) For the purpose of this section the term "minority" refers to (A) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (E) as determined by the Director, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (2) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(f) From funds authorized under category (4) of section 101(a), $6,000,000 shall be available to carry out the provisions of this section.

OFFICE OF SMALL BUSINESS RESEARCH AND DEVELOPMENT

SEC. 206. The National Science Foundation is authorized and directed to establish within the Office of Government and Public Programs an Office of Small Business Research and Development. The Foundation through the Office of Small Business Research and Development shall—

(1) foster communication between the National Science Foundation and the small business community, monitor all awards made to small business concerns by the Foundation, and ensure that the small business concerns set aside provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized;

(2) collect, analyze, compile and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns;

(3) prepare a list of scientific and technical expertise and capability in the small business community in collaboration with organizations representing small business concerns;

(4) assist individual small business concerns in obtaining information regarding programs, policies and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit;

(5) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community; and

(6) make quarterly reports to the Congress concerning the activities of the Office of Small Business Research and Development.

MINORITIES AND WOMEN

SEC. 207. (a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, blacks, Chicanos, American Indians and members of other minority groups to fill executive level positions in the National Science Foundation. In carrying out the requirement of this section, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities and women. The Director shall improve the representation of minorities and women on advisory committees, review panels and all other mechanisms by which the scientific community provides assistance to the Foundation.

(b) The Director of the National Science Foundation shall report quarterly to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the status of minorities and women and activities undertaken pursuant to this section.

ADVISORY COUNCIL TO THE NATIONAL SCIENCE FOUNDATION

SEC. 208. (a) The National Science Foundation is authorized to establish an Advisory Council on the National Science Foundation (hereinafter in this section referred to as the "Advisory Council") composed of twenty-four members appointed by the Director.

(b) No such Advisory Council may be established, unless—

(1) at least twelve members appointed to the Advisory Council are individuals who are not scientists;

(2) the Advisory Council furnishes advice to the Board and the Director on broad policy matters relating to the activities of the National Science Foundation, particularly science research and education policy, and promotes public understanding and access to information concerning activities of the Foundation; and

(3) The Advisory Council selects its own chairman and vice chairman.

(c) Each member of the Advisory Council authorized by this section who is appointed from private life shall receive $50 per diem, (including travel time) for each day during which that member is engaged in the actual performance of duties as a member of the Advisory Council. Any member of the Advisory Council who is in the legislative, executive, or judicial branch of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

TITLE III—NATIONAL SCIENCE AND TECHNOLOGY POLICY

NATIONAL SCIENCE FOUNDATION

SEC. 301. Section 3(d) of the National Science Foundation Act of 1950 is amended to read as follows:

"(d) The foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national and international problems."

NATIONAL SCIENCE BOARD

SEC. 302. (a) Section 4 of the National Science Foundation Act of 1959 is amended—

(1) by inserting before the period at the end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress" and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of science, social science, engineering, agriculture, industry, education, or public affairs, (2) shall be selected solely on the basis of established records of distinguished service, and (3) shall be so selected as to provide representation of the views of leaders from a diversity of fields and points of view from all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land-Grant Colleges, the Sea Grant Association, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, by other scientific, technical, public interest or educational associations, and by organizations committed to the advancement of minorities and women in science."

(b) Section 4(b) of such Act is amended—

(1) by inserting after "the Director," the following: "after consultation with the Chairman of the Board";

(2) by striking out "GS–15" and inserting in lieu thereof "GS–18"; and

(3) by inserting after the second sentence in such section the following: "No individual may be appointed under this subsection who has been employed by the Foundation during the 12 month period prior to the appointment under this subsection.".

ASSISTANCE TO THE OFFICE OF SCIENCE, ENGINEERING AND TECHNOLOGY POLICY

SEC. 303. In order to carry out the purposes of the National Policy, Organization and Priorities for Science, Engineering and Technology Act of 1976, the National Science Foundation is authorized to——

(1) gather and analyze information regarding Federal expenditures for research and engineering activities, and the employment and availability of scientific, engineering, and technical manpower, which the Foundation has assembled pursuant to paragraphs (1), (5), (6), and (7) of section 3(a) of the National Science Foundation Act of 1950 in order to appraise the implementation of the policies set forth in section 2 of the National Policy and Priorities for Science and Technology Act of 1976;

(2) provide such information and appraisals to the Office of Science, Engineering, and Technology Policy; and

(3) provide such additional information and staff assistance to the Office of National Policy and Priorities for Science and Technology Act of 1976.

TITLE IV—GENERAL PROVISIONS

FOREIGN EXPENDITURES LIMITATION

SEC. 401. In addition to such sums as are authorized by section 101 not to exceed $6,000,000 is authorized to be appropriated for fiscal year 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

CONSULTATION AND EXTRAORDINARY EXPENSE LIMITATIONS

SEC. 402. Appropriations made pursuant to this Act may be used, but not to exceed $5,000 for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

OBLIGATION LIMITATION

SEC. 403. Appropriations made pursuant to this Act shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

INFORMATION REQUIREMENT

SEC. 404. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1977—FACT SHEET

TITLE I—APPROPRIATIONS AUTHORIZED

Mathematical and Physical Sciences Engineering	$236, 250, 000
Astronomical, Atmospheric, Earth and Ocean Sciences	249, 000, 000
Biological, Behavioral and Social Sciences	135, 350, 000
Science Education Programs	81, 200, 000
Research Applied to National Needs, of which not less than 10% is set aside for small businesses	74, 100, 000
Scientific, Technological and International Affairs	26, 000, 000
Program Development and Management	43, 500, 000
Funds earmarked	
Graduate Fellowships	18, 000, 000
Comprehensive Assistance to Undergraduate Science Education, of which ⅔ is available for four year institutions of higher education which do not grant a doctor's degree	15, 000, 000
Research Initiation and Support	6, 000, 000
Curriculum Development and Implementation, with emphasis on efforts to improve scientific literacy	5, 500, 000
Minorities and Women in Science	2, 000, 000
Ethical and Human Value Implications of Science and Technology	1, 000, 000
Earthquake Engineering	10, 000, 000
Oceanographic Facilities and Support	22, 000, 000

Program administration

NSF is directed to report to the Congress on activities pursuant to the Freedom of Information Act and the Federal Advisory Committee Act.

NSF is directed to require that all material published with Foundation support contains a statement that the author or grantee is solely responsible for the findings, opinions, conclusions or recommendations contained in that material.

NSF is directed to furnish publications and reports based on or developed with Foundation assistance to the National Technical Information Service of the Commerce Department.

NSF is directed to report to the Congress on the utilization and/or barriers to utilization of each applied research project within one year of its completion.

NSF is directed to make available monthly to the Congress and the public listings of all projects completed during the previous 30-day period.

No funds in excess of 10% may be transferred by NSF between program categories without prior notification to the Congress.

TITLE II—NATIONAL AND INTERNATIONAL NEEDS AND RESOURCES

International scientific research, education and policy analysis

To ensure that US science and technology makes the fullest contribution to research problems which cross national boundaries and to alleviate the human suffering which exists in the developing world as a result of scientific and technical problems related to food, nutrition and agriculture, the NSF is directed to support new research and education programs and to conduct and support policy analysis, information dissemination, and international cooperative programs.

Interdisciplinary research

NSF is directed to encourage and promote interdisciplinary research through undergraduate programs, research projects which provide for apprenticeship training, fellowship programs, and arrangements for degree training, including post graduate degrees in more than one discipline, in institutions of higher education.

Science for citizens

NSF is directed to support activities in science and public policy as follows: fellowships for scientists and engineers; internship programs for science and engineering undergraduate or graduate students; forums, conferences and workshops; new and existing independent journals; new and existing media programs; public interest groups; travel and related expenses to facilitate the exchange of scientific and technical information.

NSF is directed to provide planning grants as follows: for the design and use of registries of scientists and engineers to serve as a resource to local decision makers, community and citizens public interest groups; regional centers to support projects involving public policy issues with significant scientific and technical components; and a national clearinghouse with at least one regional branch to facilitate access to information by scientists, engineers and the general public.

NSF is directed to establish review panels for Science for Citizens proposals which include scientists and engineers, representatives of public interest groups, representatives of minority groups, representatives of women's groups, and non-scientists.

NSF is directed to establish a 15-member Advisory Committee, not less than eight of whom must be representatives of public interest groups, minority groups, and women's groups, and not less than three of whom shall not be scientists or engineers.

$5,000,000 is earmarked for this program.

Continuing education in science and engineering

NSF is required to develop a program of continuing education in science and engineering to enable scientists and engineers to render more valuable contributions to the to the Nation. The program includes the development of special curricula and educational techniques, as well as the award of fellowships. The program builds on the limited program currently supported by the Foundation, and is targeted on experienced scientists and engineers who have been engaged in their careers for at least five years and is designed to enable them to increase the competence and currency of their knowledge and to prepare for new careers in concert with changes in national priorities.

$3,500,000 is earmarked for this program.

Minority centers for graduate education in Science and engineering

NSF is directed to establish and provide continuing support for Minority Centers for Graduate Education in Science and Engineering to promote increased participation by minorities in careers in science and engineering.

Six centers are authorized to be located at institutions which have substantial minority student enrollments; which are geographically located near minority populations; which demonstrate a commitment to encouraging and assisting minority students, researchers and faculty; and which have an existing or developing capacity to offer doctoral programs in science and engineering.

NSF is directed to appoint a 7-member Advisory Board to participate in the development and implementation of the program, at least five of whom are to be minority scientists.

$6,000,000 is earmarked for this program.

Office of small business research and development

NSF is directed to establish an Office of Small Business Research and Development to monitor all awards made to small businesses and to ensure that the 10% set aside of applied research funds is fully and effectively utilized. The Office will collect and disseminate information concerning grants awarded to small businesses, analyze the scientific and technical expertise which exists in the small business community, assist individual small companies to obtain information regarding the procedures and programs of the Foundation, and recommend such changes in procedures to the Director of NSF and the National Science Board as may be appropriate to meet the needs of the small business community.

The Office will report quarterly to the Congress on its activities.

Minorities and women

NSF is directed to intensify efforts to place qualified women and minorities in executive positions at the Foundation, on advisory committees, and on review panels. This effort is to be conducted in cooperation with organizations active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities and women.

Advisory Council to the National Science Foundation

NSF is authorized to establish such a Council only if at least half of the members are individuals who are not scientists, if it furnishes advice to the Board and the Director on broad policy matters and if it promotes public understanding and access to information concerning activities of the NSF.

TITLE III—NATIONAL SCIENCE TECHNOLOGY POLICY

National Science Foundation

The NSF Act is amended to require that the Foundation aid in the development of national policies to foster the application of scientific and technical knowledge to the solution of national and international problems.

National Science Board

The NSF Act is amended to clarify the policy making role of the National Science Board and broaden the membership of the Board to emphasize more industrial, technical, and public membership.

The NSF Act is amended to strengthen the staff support available to the National Science Board.

Assistance to the Office of Science, Engineering and Technology Policy

NSF is authorized to provide information and assistance to the Office of Science, Engineering, and Technology Policy.

TITLE IV—GENERAL PROVISIONS

Foreign expenditures limitation

$6,000,000 is authorized for expenses incurred outside the US to be paid for in excess foreign currencies.

Consultation and extraordinary expense limitations

Not more than $5,000 may be used for official consultation, representation or other extraordinary expenses on the approval or authority of the NSF Director.

Obligation limitation

Appropriations are to be available for obligation or expenditure for such period as specified in Acts making such appropriations.

Information requirement

The Director of the National Science Foundation must keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all activities of the National Science Foundation.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3203. A bill to amend section 203 (b) (1) of the National Sea Grant College and Program Act of 1966, as amended, to extend the appropriation authorization for fiscal years 1977 through 1979. Referred to the Committee on Commerce and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

Mr. MAGNUSON. Mr. President, today I am introducing, by request and for appropriate reference, a bill to amend section 203(b) (1) of the National Sea Grant College and Program Act of 1966, as amended, to extend the appropriation authorization for fiscal years 1977 through 1979.

The committee presently has under consideration a bill entitled "Ocean and Coastal Resources Act of 1976." I am certain that the administration's views will be taken into consideration as the committee continues to look at this legislation.

I ask unanimous consent that the letter of transmittal be printed in the RECORD together with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(b) (1) of the National Sea Grant College and Program Act of 1966, as amended (80 Stat. 988; 87 Stat. 170; 33 U.S.C. 1121–1124), is further amended by inserting after "$50,000,000," the words "for the fiscal years 1977, 1978, and 1979, not to exceed the sum of $25,000,000 for each year,".

THE SECRETARY OF COMMERCE,
Washington, D.C., March 2, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To amend section 203(b) (1) of the National Sea Grant College and Program Act of 1966, as amended, to extend the appropriation authorization for fiscal years 1977 through 1979," together with a statement of purpose and need in support thereof.

This proposed legislation has been reviewed by the Department in the light of Executive Order No. 11821 and has been determined not to be a major proposal requiring evaluation and certification as to its inflationary impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

Elliot L. Richardson.

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier today relative to the National Sea Grant College and Program Act be referred jointly to the Committee on Commerce and the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2015

At the request of Mr. Eagleton, the Senator from Nevada (Mr. Laxalt) was added as a cosponsor of S. 2015, a bill to amend title 39, United States Code, to assure that certain publications of institutions of higher education continue to qualify as second-class mail.

S. 2881

At the request of Mr. Fannin, the Senator from Oklahoma (Mr. Bartlett) and the Senator from North Carolina (Mr. Helms) were added as cosponsors of S. 2881, a bill to amend the Education Amendments of 1972 to provide that Boys State, Boys Nation, Girls State, and Girls Nation's conferences shall not be subject to title IX of such act.

S. 3004

At the request of Mr. Humphrey, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. 3004, a bill to establish a National Commission on Food Costs and Pricing to appraise the food marketing industry.

S. 3077

At the request of Mr. Allen, the Senator from South Carolina (Mr. Thurmond), the Senator from Arizona (Mr. Fannin), the Senator from Virginia (Mr. William L. Scott), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Delaware (Mr. Roth), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of S. 3077, a bill to amend title 28 of the United States Code to limit the discretionary equity power of courts of the United States in the formulation of certain remedies.

S. 3098

At the request of Mr. Javits, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 3098, a bill to amend the Community Services Administration Act of 1974.

SENATE JOINT RESOLUTION 140

At the request of Mr. Buckley, the Senator from Indiana (Mr. Hartke) was added as a cosponsor of Senate Joint Resolution 140, a joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons.

SENATE JOINT RESOLUTION 165

At the request of Mr. Hatfield, the Senator from South Dakota (Mr. McGovern) and the Senator from Indiana (Mr. Hartke) were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate April 8, 1976, as National Food Day.

SENATE RESOLUTION 319

At the request of Mr. Curtis, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of Senate Resolution 319, a resolution relating to the occupation of certain Baltic Nations by the Soviet Union.

SENATE RESOLUTION 414—SUBMISSION OF A RESOLUTION AUTHORZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

(Referred to the Committee on Rules and Administration.)

Mr. TOWER (for Mr. Church, for himself and Mr. Tower) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 414

Resolved, That section 2 of Senate Resolution 377, Ninety-fourth Congress, agreed to March 1, 1976, is amended by striking out the amounts "$300,000" and "$5,000" and inserting in lieu thereof "$450,000" and "$10,000," respectively.

SENATE CONCURRENT RESOLUTION 104—SUBMISSION OF A CONCURRENT RESOLUTION ON QUOTAS ON THE IMPORTATION OF SPECIALTY STEEL

(Referred to the Committee on Finance.)

Mr. BENTSEN submitted the following concurrent resolution:

S. Con. Res. 104

Resolved by the Senate (the House of Representatives concurring), That the Congress does not approve the action taken by, or the determination of, the President under Section 203 of the Trade Act of 1974, transmitted to the Congress on March 16, 1976.

Mr. BENTSEN. Mr. President, I am certain that many of my colleagues in this Chamber, especially those from States where specialty steel manufacturing is a major factor in the local economy, share my concern over the growing dimensions of unfair foreign trade practices and the resultant impact on employment opportunities and industry growth in this country. For example, the continuing increase of imports of stainless steel in spite of restrictions and the fact that such imports currently make up about 69 percent of total U.S. consumption are alarming.

I applaud the recent recommendations by the International Trade Commission for the imposition of some very moderate import quotas to alleviate this problem. I cannot applaud, however, President Ford's decision not to endorse the ITC's recommendation.

I share President Ford's hope that negotiations during the coming weeks will result in a resolution to this problem satisfactory to the United States, but I am not optimistic. Our trade negotiators have not excelled in the past in convincing our major trading partners to cease promoting exports and discouraging imports through unfair trade and tax devices. Consequently, I do not really expect any significant change of heart by these nations, unless they can be convinced that without significant concessions on their part the U.S. Congress will overrule the President and move to implement the International Trade Commission's recommendations.

Therefore, I am today submitting a resolution of disapproval of the President's action. This resolution will strengthen the hands of our negotiators by emphasizing to our major trading partners that, if voluntary restraint agreements are not reached, the Congress will not hesitate to act to provide some relief to U.S. workers and industry injured through unfair foreign competition. With specialty steel imports up sharply from 1974 and with unemployment rates in the steel industry as high as 40 percent last year, the Congress can do no less. Mr. President, it is simply high time that U.S. trade policy no longer be held hostage to U.S. foreign policy. In view of January's $72.6 million trade deficit, the first in a year, it is even more imperative that greater attention be focused on the economic dimensions of our foreign policy. I hope that our negotiators will give the closest attention to the concern expressed in the resolution I have introduced over the alarming impact on our economy of the flood of specialty steel imports into this country.

AMENDMENTS SUBMITTED FOR PRINTING

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976—S. 3015

AMENDMENT NO. 1519

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 3015) to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline airport grant-in-aid process and strengthen national airport system planning, and for other purposes.

AMENDMENT NO. 1520

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. Brooke, Mr. Cranston, Mr. Kennedy, Mr. Stafford, and Mr. Tunney) submitted an amendment intended to be proposed by them jointly to the bill (S. 3015), supra.

FOREIGN RELATIONS AUTHORIZATION ACT, 1977—S. 3168

AMENDMENT NO. 1521

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (S. 3168) to authorize fiscal year 1977 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1508

At the request of Mr. Ford, the Senator from Utah (Mr. Moss) was added as a cosponsor of amendment No. 1508 intended to be proposed to S. 3015, a bill to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes.

ANNOUNCEMENT OF HEARINGS

Mr. HUMPHREY. Mr. President, I am pleased to announce that the Subcommittee on Foreign Assistance of the Committee on Foreign Relations has scheduled the following hearings on fiscal year 1977 authorizations for International Security Assistance and related programs on the following dates:

Friday, March 26 at 10 a.m. in room 4221, DSOB, with Secretary of State Kissinger as the principal witness.

Friday, April 2 at 10 a.m. in room 4221, DSOB, with Deputy Secretary of Defense Ellsworth and Deputy AID Administrator Murphy as the principal witnesses. Deputy Secretary Ellsworth will be accompanied by Lt. General Howard Fish, Director of the Defense Security Assistance Agency and Deputy Administrator Murphy by Mr. Robert Nooter, Assistant Administrator.

NOTICE OF HEARINGS ON THE METRO SECURITY FORCE

Mr. EAGLETON. Mr. President, the District of Columbia Committee will hold hearings on April 1, 1976, on H.R. 8719, to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority. The hearings will be held at 9:30 a.m. in room 6226, Dirksen Senate Office Building.

NOTICE OF CANCELLATION OF HEARING

Mr. HASKELL. Mr. President, I wish to announce for the benefit of my colleagues and the public that the hearing on S. 520 set for April 8, 1976, has been canceled. This action is necessary in order to allow the possible scheduling of a series of critically important investigative hearings before the Subcommittee on the Environment and Land Resources beginning on April 7. The committee is currently considering rescheduling the hearing on S. 520 later in the session.

ADDITIONAL STATEMENTS

SENATOR PACKWOOD'S TESTIMONY ON S. 2598

Mr. MANSFIELD. Mr. President, Thursday, March 18, the Senate Subcommittee on Agricultural Research and General Legislation opened hearings on S. 2598, the Dairy and Meat Import Inspection and Identification Act of 1975. This important legislation makes needed reforms in our existing programs for the inspection and identification of imported meat and dairy products. This has been a matter of great concern to me in recent years, and I supported a similar proposal several years ago.

As a cosponsor of S. 2598, I urge careful consideration by my Senate colleagues of remarks by Senator Bob Packwood, the bill's sponsor, before the Agriculture Committee yesterday morning. Senator Packwood clearly demonstrates why the Senate should promptly consider and approve this vital legislation, and I ask unanimous consent that his statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony by Senator Bob Packwood on S. 2598, the Dairy and Meat Import Inspection and Identification Act of 1975, Before the Senate Agriculture Committee, Subcommittee on Agricultural Research and General Legislation, on March 18, 1976

Mr. Chairman, forty-six of my Senate colleagues join me this morning expressing a common concern over the inspection of meat and dairy products imported into the U.S., It is our contention that these imported products are not required to measure up to the high standards imposed on their domestic counterparts. While we do not quarrel with these standards, we insist upon equitable treatment for both imported and domestic meat and dairy products. We act out of a desire that fair treatment be extended to those who produce meat and dairy products in the U.S. and out of concern for the health of every American consumer.

In order to correct existing inequities regarding the treatment of imported meat and dairy products, my colleagues and I have introduced S. 2598, the Dairy and Meat Import Inspection and Identification Act of 1975. The bill addresses our concerns in two principal ways:

1. Inspection requirements for these imported products are tightened.
2. Imported meat and dairy products are required to be labelled "imported".

In the first portion of my statement this morning I will point out existing inequities in our inspection of imported dairy and meat products. I will conclude my remarks with the subject of labelling.

Mr. Chairman, it would certainly be safe to say that domestic dairy products are the most regulated and inspected of all food commodities in the U.S. Municipalities, states and the Federal government all get into the act of regulating and inspecting dairy products. On the Federal level, both the U.S. Department of Agriculture and Food and Drug Administration issue regulations and make inspections. The U.S.D.A. regulations must be complied with by all dairy producers in the U.S. who want their products graded prior to retailing by U.S.D.A. New regulations were recently published and went into effect on January 2, 1976. These regulations take up fully 20 pages of the Federal Register and cover everything from employees washing hands before work to the type and color of wall finish that is acceptable for dairy plants. In order to ensure that these regulations are being observed, U.S.D.A. inspectors make quarterly inspections of each plant and take samples of products for subsequent analysis. The inspection and analysis must be paid for by the plant operator.

Supplementing U.S.D.A.'s efforts to regulate and inspect our domestic dairy industry are similiar activities by the U.S. Food and Drug Administration. F.D.A.'s dairy products regulations would take up another 100 pages of the Federal Register. In addition, F.D.A. actually samples domestic dairy products in interstate commerce to ensure purity and wholesomeness and can, without notice, inspect any dairy plant or vehicle used to transport dairy products that may be introduced into interstate commerce. An inspection may be prompted by analysis of a sample taken by F.D.A. or a tip-off from U.S.D.A. that a violation was encountered in the course of one of U.S.D.A.'s quarterly grading inspections. On the basis of such sampling and inspections, the F.D.A. can seize dairy products and prohibit such products from entering interstate commerce in the future. All told, in FY 1975 U.S.D.A. made over 4,000 inspections of U.S. dairy plants and F.D.A. supplemented with over 1,500 inspections of its own.

Mr. Chairman, as I previously mentioned, these regulations by F.D.A. and U.S.D.A. are supplemented throughout the U.S. by a host of state and municipal regulations all designed to protect the consumer from contaminated or adulterated domestic dairy products. It strikes me as incongruous, then, that we do not impose comparable regulations on imported dairy products and insist that U.S. inspectors personally visit foreign dairy plants to see that these regulations are complied with.

Government officials will testify this morning that we do not need to impose any additional regulations and inspections on imported dairy products and that such restrictions will amount to trade barriers. My colleagues who have joined me in co-sponsoring S. 2598 do not agree.

In the first instance, opponents will testify that there are no uniform standards for dairy products in the U.S. and that we would be imposing unequal treatment on imports if regulations were imposed on imports. Those who make this argument are merely hunting for technicalities. It would be safe to say that a minimum of 85 to 90% of the dairy processing plants in this country either have their products graded and thus must comply with U.S.D.A. regulations or ship their products in interstate commerce coming under the watchful eye of F.D.A. It is certainly not an impossible task for the government to sort through these regulations and draft a set of standards for dairy products themselves and for all plants and equipment used in the production and transportation of dairy products that are destined for export in the U.S.

Secondly, you may hear today that it is not necessary for Federal dairy inspectors to visit foreign plants to ensure compliance with regulations imposed by the U.S. Government officials may argue that such a program is costly and unnecessary. They may point towards agreements being negotiated by F.D.A. with foreign governments designed to ensure purity and wholesomeness of dairy products exported to the U.S. The hippocracy in all this is that U.S. officials admit to the need for personally inspecting most dairy plants in the U.S. as much as quarterly and are trusting enough to never feel the need to poke their nose inside the door of a dairy plant overseas. For years we have had a program in effect requiring the inspection by U.S. officials of all foreign meat packing plants that do business with the U.S. There are currently over 1,000 such plants scattered throughout 45 countries. Surely if we have one program we can have the other.

Finally, F.D.A. officials may point to statistics which show that last year they found fewer contaminated or adulterated dairy products entering the U.S. than any other previous year, thereby questioning the need for increased inspections. That news leaves little room for rejoicing by U.S. consumers because, without regulations and an inspection program, there can be no guarantee that last year's good record will ever be repeated. Indeed, we may well see a re-run of 1970 when the F.D.A. inspected only 14% of all lots of dairy products entering the U.S. and rejected a whopping 24% of those inspected.

Mr. Chairman, S. 2598 would correct these existing deficiencies in our imported dairy products inspection program. The bill would require the Secretary of Agriculture to set minimum standards for the purity and wholesomeness of imported dairy products and for the facilities and equipment used to manufacture, process and transport such products. In addition, the Secretary is authorized to make appropriate inspections to ensure that the established requirements are being met.

Mr. Chairman, I have taken some length to bring you our concerns about the inspection of imported dairy products but I can assure you that the sponsors of S. 2598 are no less concerned about the inspection of imported meat. We can commend U.S.D.A. officials for taking steps years ago to establish minimum sanitation requirements for foreign meat packing plants who exported to the U.S. and implementing our own inspection program to ensure compliance. However, recently there has been a good deal of attention paid to the increasing levels of pesticides and other chemical residues that are showing up in our food. These pesticides and residues are basically of two types:

1. Those which are assimilated by an animal in the course of normal activities such as eating.

2. Chemicals given animals directly for such purposes as controlling disease or stimulating growth.

The U.S. Food and Drug Administration either sets tolerance levels for these residues in meat or requires the destruction of meat with any trace of the residue whatsoever. Testing for residues is the job of APHIS—The Animal Plant Health Inspection Service of U.S.D.A. For both imported and domestic meat, a computer is used to tell APHIS inspectors where and when to look for residues. The inspector goes to the location of slaughter if domestic meat is being tested. There, as requested by the computer, the inspector takes a sample of the fat, muscle, liver or kidney of the animal and sends it to an APHIS laboratory for testing for a particular residue.

The importance of having samples of internal organs available for testing is obvious. Liver and kidneys act as screening devices through which the digestive tract is able to keep most unwanted materials from entering other portions of the body. Thus, when an animal has eaten food contaminated with pesticides, for example, most of the pesticide residue will be retained in the liver and kidneys and only smaller amounts will show up in other parts of the body such as muscle or fat.

In his book "Clinical and Veterinary Toxicology," Dr. Buck of Iowa State University pinpoints the need for having internal organs available for residue testing. Dr. Buck uses an example showing the levels of arsenic found in animals 3 days after being fed arsenelic acid, a feed additive used both domestically and in foreign countries. Tests showed that the animals kidneys contained 3.1 parts arsenelic per million, the livers 2.9 and muscle tissue only .29. Dr. Buck indicates that levels of pesticides and other residues exist in these tissues at comparable ratios.

Indeed, none of this information is new to APHIS. In testing for arsenic in 1974 in domestically produced cattle, for example, APHIS took 446 samples of kidney and liver and only 198 of muscle. The results were predictable. Of the 129 kidney samples taken, APHIS found arsenic in 61 of them. On the other hand, only 20 of 198 muscle tissue samples taken were found to contain arsenic.

The importance of having internal organs available for use as tissue samples for testing is further underscored when one reviews the results of a positive finding by APHIS that a sample taken for a residue test contains a prohibited residue or one above tolerances permitted by F.D.A. By the time APHIS has finished testing the sample, the animal from which the samples were taken has already been processed and cannot be retrieved. But to ensure against future violations APHIS can impose pretest restrictions on the livestock or poultry grower who raised the animal or fowl from which the sample was extracted. Under these pretest restrictions the grower must send required samples to APHIS and private laboratories for testing before marketing additional livestock or poultry.

This computerized, random, sampling and testing of samples by APHIS then is the trigger mechanism for the pretest. There is a much greater chance of finding most prohibited residues in internal organs than in other tissues such as muscle or fat. Thus the system that uses internal organ tissues for testing for residues is going to trigger the most pretests and better protest consumers. A system that does not have internal organs available as test issue samples is not nearly as reliable.

Here is the first deficiency in the APHIS residue testing program that S. 2598 attempts to resolve. The only tissues that APHIS has available to test for prohibited residues in imported meat are those that actually enter the U.S., the meat itself. The internal organs have long since been disposed of overseas at the place of slaughter. S. 2598 would make samples of those tissues available so that appropriate tests for residues could be conducted, just as is done with domestically slaughtered livestock and poultry in the U.S.

The second deficiency in the meat inspection program which S. 2598 addresses, concerns the certification of foreign laboratories authorized to test samples of meat and internal organs for banned or prohibited residues. As previously mentioned, if APHIS discovers that imported or domestic meat has prohibited levels of a residue, then pretest requirements go into effect. In the U.S. when pretest requirements are imposed the livestock or poultry grower is required to send specified samples of meat or internal organs both to APHIS and laboratories approved by APHIS. These labs then check the samples carefully for the prohibited residue prior to marketing of the livestock or poultry. If prohibited residues are found in imported meat, then a pretest requirement is imposed by APHIS on the foreign meat packing plant in which the meat was processed prior to U.S. entry. In this situation any future shipments of meat destined for the U.S. must be pretested prior to export. But the pretesting of samples may be done in any laboratory acceptable to the foreign country. There is no requirement that such laboratory be approved by APHIS for the particular kind of testing required.

This is where those who have joined me in co-sponsoring S. 2598 find a second fault in our residue inspection program. Residue testing requires sophisticated equipment, highly trained personnel and strict observance of scientific procedures. If any residue testing is to be performed in foreign countries for purposes of certifying meat in conformance with F.D.A. residue restrictions, then we insist that such tests be executed only in laboratories which have been approved by APHIS. Approval would require on site inspection by U.S.D.A. officials of laboratory facilities and scrutiny of the qualifications of the personnel and the procedures utilized in residue testing. In addition to laboratory certification, APHIS would be required to check test the results of these foreign laboratories from time to time.

Check testing is a program APHIS uses in the U.S. to monitor U.S. approved labs. It involves testing a sample of meat or internal organ both in an APHIS lab and the one being checked so the performance of the non-APHIS lab can be evaluated.

Mr. Chairman, it should be obvious enough that if we only permit residue testing in the U.S. by labs approved by APHIS, we should require no less in foreign countries. However, the obvious is even more apparent as when we consider a program that F.D.A. has instituted with the Mexican Government for establishing a pesticide analysis program in Mexico for vegetables imported into the United States. The program began in 1974 and since that time nine Mexican chemists have been trained in the United States in pesticide residue analysis for vegetables. F.D.A. has identified a total of four laboratories in Mexico capable of such analysis. Between now and 1980 F.D.A. will be involved in a Quality Assurance Program designed to fine tune the proficiency of these laboratories in residue analysis. F.D.A. estimates that in 1980 they will be able to certify these labs as competent to check for residues in vegetables intended for export to the U.S. However, even after certification, there will be an ongoing check testing program between F.D.A. and these Mexican laboratories to ensure accurate analysis.

Certainly, Mr. Chairman, if the F.D.A. is this circumspect with reference to the ability of foreigners to monitor pesticide levels in vegetables, we should be no less vigilant with respect to their ability to analyze such residues in animals. This is especially true since looking for D.D.T. in a carrot is a vastly easier task than trying to find the same thing in a cow.

In concluding my remarks this morning I would like to touch briefly on the subjects of labeling and the cost of labeling and inspections for both imported meat and dairy products. S. 2598 requires all imported meat and dairy products to be labeled "imported" or "imported in part". In addition, the bill would require the cost of such labeling and inspection to be allocated among those who export such products to the U.S.

The reason for the labeling requirement is essentially twofold. First, it must be pointed out that our programs of laboratory analysis for meat and dairy products are only a second line of defense for the American consumer.

These programs constitute a last minute attempt to make sure that meat and dairy products are safe for consumption before they take their places on grocery shelves. The first line and best defense consists of prior approval of any drug or chemical that may be used in the U.S. and subsequently find its way into the food chain. This defense is provided by the Food and Drug Administration and other regulatory agencies as well as Congress itself. Any of these institutions can ban the use of a drug or chemical and F.D.A. and agencies with related functions can require approval prior to their use. In this whole process consumers have their say and thus are able to have a definitive impact on those drugs and chemicals used in this country. But our consumers will never have that impact in foreign countries where drugs and chemicals will continue to be used that have not been cleared for use in this country. Thus the consumer's best defense of prior approval is not available to them and they must rely solely on our second defense; random, limited inspection, as the sole means of protecting them against dangerous substances in imported meat and dairy products. Those consumers who are not content to rely on this second line of defense as their only safeguard can protect themselves if imported meat and dairy products are labelled "imported".

Secondly, I think it only fair that those consumers who wish to use their purchasing power to support U.S. meat and dairy products are able to do so. Labelling would accomplish this.

U.S.D.A has previously objected to the labelling of imported meat on financial grounds. They have estimated it would cost them $800,000 annually to accomplish this task. If should be noted that the cost of labelling required by S. 2598 is allocated to the product and not the U.S. government. Additionally, the cost of our current foreign meat inspection program and the funds required for the additional inspections called for by S. 2598 would also be transferred from the government to the product. Currently, U.S.D.A. expends approximately $1,126,000 on its foreign meat inspection program and an additional $1,597,000 inspecting imported meat after it lands in the U.S.

Mr. Chairman, witnesses who testify today may question the meaning of various parts of S. 2598 and propose changes. Let me state the objectives of this legislation so that those who testify will have a clear idea of precisely what the sponsors of S. 2598 urge this Committee to recommend.

1. That the U.S. promulgate regulations covering (a) the purity and wholesomeness of imported dairy products, and, (b) minimum sanitation requirements for facilities and equipment utilized in the transportation, manufacture and processing of imported dairy products.

2. That the U.S. institute a program whereby inspections can be made to ensure compliance with these regulations.

3. That the foreign meat inspection program be changed to require residue analysis of samples of internal organs of animals and fowl intended for export to the U.S.

4. That foreign governments who export meat to the U.S. certify that such meat does not contain such prohibited residues or such residues above tolerances permitted by the U.S. government.

5. That U.S.D.A. institute a program of certification for any foreign laboratory which is authorized by a foreign country to test for such residues in meat imported to the U.S.

6. That imported meat and dairy products be labelled "imported" and the cost of labelling and inspecting those products be borne by the product as opposed to the government.

Mr. Chairman, I will close my remarks this morning with a general observation about S. 2598. This bill should cause no rejoicing among those who wish to restrict the imports of meat and dairy products into the U.S. This legislation was not drafted for the purpose of restricting imports and it will not have that effect. The bill is simply a message to the Administration that we in Congress are vitally concerned that imported products measure up to the same high standards we require of domestic ones.

SENSIBLE GROWTH IN ANNE ARUNDEL COUNTY

Mr. MATHIAS. Mr. President, the Anne Arundel County chapter of the Home Buiders Association of Maryland has prepared the following statement on the issue of sensible growth in Anne Arundel County, Md. The Anne Arundel County delegation to the Maryland General Assembly introduced the statement as a house joint resolution, earlier this year. I believe many of the points raised in this resolution will be of interest to my colleagues, particularly as they pertain to the relationship between planning and the concept of sensible growth. Certainly these thoughts are worthy of consideration on a national scale.

Mr. President, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENSIBLE GROWTH RESOLUTION

Whereas, the words Sensible Growth describe a reasonable and responsible effort to balance concerns for the environment, the economy, and the social well-being of Anne Arundel County in fulfilling this Nation's stated goal of a "decent home and a suitable living environment for every American Family", and

Whereas, Sensible Growth recognizes the need for communities as well as builders to correct past deficiencies in growth patterns and to provide reasonable safeguards of the environment for future generations without unduly curtailing the supply of needed housing, and

Whereas, Sensible Growth is planning today for tomorrow's needs. Planning which places arbitrary limits on the supply of housing or excessive development costs on new construction is counter-productive and not responsive to this country's need for housing, and

Whereas, the cornerstone, therefore, of Sensible Growth is planning. Planning which protects and preserves the environment while providing affordable housing. Planning which accounts for all geographic areas (urban, suburban and rural) of Anne Arundel County; planning which provides for the development of low, moderate, middle, and upper income housing; and community facilities, and transportation, and

Whereas, the planning process begins by developing a comprehensive general plan. The comprehensive general plan establishes general policies and objectives to guide the physical development of Anne Arundel County, and

Whereas, additional and more detailed studies must be developed examining specific areas of concern such as housing, transportation, community facilities, parks and recreation, natural resources and other areas of interest to Anne Arundel County, i.e., historic preservation, and

Whereas, the housing element assesses the present and future housing needs of Anne Arundel County and formulates specific policies and objectives for a housing program. The transportation element reviews present and future requirements for roads, rail and transit systems. The community facilities element deals with services such as police, fire, education, health, and welfare. The parks and recreation element examines open space needs, both active and passive recreation; and the natural resources element covers water, sewer, storm sewer, and environmentally critical areas, and

Whereas, the County general development plan and accompanying studies are effective only when implemented. The general policies and objectives articulated in the plan must be translated into strategies for implementation. These take the form of County legislated programs and regulations and include the County's capital improvement and operating budgets, Zoning Ordinance, Subdivision Regulations, Master Sewer and Water Plan, and a Housing Program, and,

Whereas, the Anne Arundel County Capital Improvement and Operating Budget charts the financial means and method by which additional community facilities are provided and funded and assures an adequate supply of developable land to meet the housing needs of the County. Arbitrary limits on new housing construction should not be made implicit by unreasonably limiting capital improvements, and

Whereas, the Comprehensive Zoning Maps and Zoning Ordinance establish the densities and uses permitted in accordance with the plan. Sufficient flexibility should be provided allowing the use of cluster and planned unit development. Incentive zoning such as density bonuses should be made available to achieve the objectives of the plan, and

Whereas, subdivision regulations must reflect the current thinking on the latest development techniques. Standards should be directly related to performance. Cost effective residential development standards must serve as guidelines for the subdivision regulations. Permit approval times should be specifically prescribed and reasonable fees and changes established, and

Whereas, the Master Sewer and Water plan must reflect a positive attitude on the part of Anne Arundel County to provide needed services and facilities to existing as well as future residents, and

Whereas, a Housing Program based on the housing element must be instituted with the development of a system for the allocations of numbers and types of units to the prescribed election districts within the planning maps, and

Whereas, therefore, specific requests for zoning which comply with the plan should be granted administrative approval without undue delay, and

Whereas, deviations from the plan should be limited to those cases of exceptional merit. A strong legal presumption of validity should be accorded those plans reflecting a balanced approach. Concurrently, development proposals which are consistent with the plan should be accorded a similar presumption of validity, and

Therefore, be it resolved, the Anne Arundel County Chapter of the Home Builders of Maryland request that this resolution receive the widest public dissemination of its position, both to civic, public bodies and the press, and

Further, be it resolved, that a copy of this resolution be forwarded to the U.S. Representative in Congress for Anne Arundel County for insertion in the Congressional Record, and

Further be it resolved, that this resolution be submitted to Anne Arundel County for recommendation that a formal resolution be adopted by the County Council at the first meeting after its receipt, and

Further be it resolved, that this resolution constitutes the policy and position of this Association for the Year 1976.

Adopted this 3rd day of February, 1976 at a special meeting of the Board of Directors of the Anne Arundel County Chapter of the Home Builders Association of Maryland.

FRANK A. MIANO,
President.

Attested:

DONALD KLINE, *Secretary*.

THE FOOD STAMP PROGRAM

Mr. PELL. Mr. President, last month in this Nation, more than 18 million persons received assistance through the food stamp program. In my State of Rhode Island, where unemployment is presently 13.5 percent of the work force, or 57,100 persons, and where it has been as high as 16.4 percent over the last 12 months, 108,954 Rhode Island citizens were enrolled in the food stamp program in January. The vast majority of those who were enrolled needed to do so in order to permit them to purchase enough food to live marginally, on what the Department of Agriculture ostentatiously calls a "Thrifty Food Plan" but which is, in fact, a bare bones diet.

The food stamp program has proven to be one of the fundamental building blocks in our national effort to assure a decent standard of living to every American. Even in good economic times, it serves as protection for the elderly, for children, and for low income families, whether they are striving to live on a small retirement income, or to help themselves get an education, get employed, and better their situation.

In the worst of economic times, this program provides the greatest protection, coupled with unemployment compensation and public service jobs, which we afford against the ravages of depression and massive unemployment and inflation.

In addition, the food stamp program was also designed to expand the market for domestically produced food by adding to the food purchasing power of low income families, and also serves, in effect, as a buffer for the agriculture industry against hard times.

The food stamp program has grown rapidly in the 11 years of its operation. In fiscal year 1965, the program served 400,000 recipients in 100 counties, and provided $35 million in benefits. After 5 years of operation, in fiscal year 1970, it had extended to 4.3 million recipients in 1,750 counties, and delivered $578 million of benefits. In fiscal year 1975 the program had as many as 19.5 million participants in a single month and provided food benefits of $4.7 billion.

The growth this program has experienced is a function of three interrelated circumstances.

First, the program intentionally began as a small pilot program, which was designed to expand once the Government knew more about how to operate it, and as State and local governments decided to accept it.

Second, the program grew as food prices increased, as Congress broadened eligibility standards, lowered the cost to beneficiaries, and as the Federal Government assumed a greater proportion of the administrative costs.

Third, and most importantly, utilization of the program grew in direct response to our national economic distress and high unemployment. Nowhere was that growth more evident or more urgently justified than in Rhode Island.

By reviewing statistics on the last 3 months for which complete figures are available, we can see the relationship between Rhode Island unemployment and participation in the Food Stamp Program.

In November of 1975, with unemployment at 53,200 persons or 12.1 percent of the work force, 105,786 Rhode Islanders participated in the program. Through the program these persons purchased an additional $1,829,199 worth of food, for an average monthly incremental bonus of $17.29 per person.

In December of 1975, unemployment rose to 54,600 persons or 12.7 percent of the work force, and food stamps participation increased to 108,242 with a total food bonus of $1,922,244 or $17.76 per participant.

Then, in January of this year, with unemployment up again to 60,500 or 14.2 percent, food stamp benefits were extended to 108,954 persons at a Federal cost of $2,061,800, or an average of $18.92 per recipient.

This relationship between increases in unemployment and the extension of total benefits under the food stamp program, exemplifies its vital role in combating the ravages of hard economic times.

However, any program which is forced to respond so quickly to a rapidly growing need will be found to have flaws and abuses, and such has been the case with the food stamp program. And the size of its very growth would indicate that it has gotten out of hand.

There are three main criticisms of this program.

The first criticism is that the program is too extravagant and that overliberal benefits often go to those who do not need it, giving aid to many middle income and well-off households, to the so-called voluntary poor including strikers and college students, and to so-called welfare cheats.

The sceond criticism is that the program is poorly administered and ineptly regulated, lending itself to fraud on the part of recipients as well as by bureaucrats themselves, and that the program eligibility standards are so complex that it suffers from a high level of over and under payments.

Third, the program is criticized as embodying a misdirection of scarce dollar and manpower resources. Many observers question the adequacy of the nutritional delivery of the program to the very lowest income recipients, in effect arguing for a shift in benefits to direct a greater proportion of its assistance to the very neediest. The practice of requiring purchase of the stamps, which is in effect a "matching requirement," has been criticized, as has been the requirement that outreach efforts accompany each project, and that supplemental security income recipients be deemed automatically eligible in most States.

In response to these issues, all of which possess some validity, recent proposals for comprehensive change in the nature of new program regulations have been developed by the Ford administration, and the Senate Agriculture Committee has responded with a comprehensive reform bill.

While I agree with the necessity for some overall changes and tightening up, several of the proposed reforms would impose special and severe hardships upon truly needy persons, and would drastically curtail food stamps benefits in Rhode Island.

For example, the committee bill would base eligibility for stamps on the household income received during the 30 days prior to the date an application is filed, and the administration's proposed regulations would extend that period to the prior 90 days.

This would be particularly harmful to Rhode Island because of our high seasonal unemployment.

I estimate that under the "90-day rule" close to 28,000 Rhode Island recipients would lose their benefits. This would drop one out of every four Rhode Island recipients from the program, and cost our unemployed families $529,760 per month in badly needed food. This would mean a loss of $6,357,120 a year in Rhode Island if unemployment does not abate.

This proposal is especially harsh in a State like Rhode Island which not only suffers from seasonal unemployment but where, as the State recovers from deep unemployment, workers can frequently find only part time or on-again off-again employment, waiting for full-time jobs to develop. An applicant and his or her family would have to wait for at least 90 days with an additional period tacked on for administration paperwork. It would strike especially hard at workers who are able to find only temporary or seasonal employment, in effect keeping them from ever becoming eligible under the new formula, although their annual incomes would make them eligible under the present rules.

Another unfounded and unjustifiable revision would establish a standard deduction of $100 per household to be used in determining eligibility for benefits. In Rhode Island, where fuel and heating costs average 35 percent higher than the rest of the country and contribute to unusually high rent costs, this would be an unreasonably and unfairly low deduction. This provision would be all right in those parts of our country where the climate is milder and the fuel is cheaper.

The administration's regulations would also require a monthly written report from each household on its income, its size, its resources, and some vaguely defined "other household circumstances," and would remove any household from eligibility should that monthly report be filed late.

I contend that this would vastly enlarge the paper explosion which is presently plagueing our Government. It would generate almost a hundred million new pieces of paper every year.

In Rhode Island, I estimate this would require the filing out, mailing, reading, checking up, and filing of 435,816 new forms each year. And for every one of those 100 million pieces of official forms which got lost, or was chewed up by a computer, or which slipped between two desks, another family would go without the food and nutrition that they needed and to which they were entitled.

There is no question but that the food stamp program does need to be reformed. The present system of deductions can and has led to abuses, and as with every social service program we legislate, there are hard choices about how and where to spend limited resources, which we must make and to which we must adhere.

There must be a tighter rein on benefits to the "voluntary and temposary low-income individual," and I am particularly concerned with college and university students who, were it not simply for their separate residence from their families, would not otherwise be able to qualify as recipients. Yet, we should continue to assist students from truly poor families, whose attendance at college is only possible as a result of scholarship or tuition assistance, and whose education may represent the only opportunity they and their families have to escape from poverty. But we should exclude students whose families would not qualify. These students oftentimes appear to be living on their own, but are in fact heavily subsidized by their parents, and I do not believe that the food stamp program constitutes a justifiable type of Federal assistance for them.

Mr. President, it is evident that the food stamp program will be changed, as it should be clear to all of us that it needs some revision. I hope that, as it is amended, we look to make it work more effectively and meet our real needs more adequately, rather than simply cut it back. We cannot make hunger and malnutrition go away by withholding the means and resources necessary to conquer them. In so doing, we would only be guaranteeing ourselves a society which would not be healthy enough to live up to its vast potential.

THE CHILD AND FAMILY SERVICES ACT: BILLIONS FOR KID CONTROL

Mr. HELMS. Mr. President, it is commonly understood that free societies have enjoyed a short life span in the history of mankind. For the most part, men have lived in a state of tyranny and oppression. The United States of America is rare in the family of nations and in the history of the world, if only because it is one of the very few civilizations that has enjoyed the blessings of liberty for any meaningful length of time. Although we often take our freedom for granted, we also know from observation that liberty is a fragile, highly perishable commodity which is easily lost. The list of nations in the 20th century that have fallen to despotism is very long, and continues to grow with each passing decade.

Here in the Senate, we speak in a mixture of tongues, debating whether this law or that law is in the best interests of the American people. Addressing ourselves to specific concerns, special interests, and the minutiae of the thousands of bills that we daily encounter, we find that we are often overwhelmed by petty details. There is no time for discussion of general principles. The larger issues that loom on the horizon are obscured by the rush of legislation. We are too busy being politicians to be statesmen. We worry more about the next election, as the saying goes, than about the next generation.

And yet, the longer I serve as a Member of this body, the more I realize that there is a common concern among us. We do not speak of it on the floor very often, but we hear it all the time—in the cloakrooms, during informal discussions, in our home States. I refer to the widespread recognition among all of us that we are not only in danger of losing our liberty, but have indeed already sacrificed more than is safe for the good of the Republic. This concern is not always clearly articulated, but it is nevertheless a recurrent theme of our public debates.

As I observe America in this, our Bicentennial Year, I sense a feeling of uneasiness among the American people that this may be our last Bicentennial, and a general feeling that we are in a state of decline but are helpless to do anything about it.

Among great political thinkers, there is almost unanimous agreement that liberty is never lost all at once, through the actions of a single generation or a solitary figure; rather, it erodes, imperceptibly and gradually, because the people have become confused by their leaders or are preoccupied with other concerns. They cease to understand or cherish the freedoms that they have inherited from their ancestors. Increasingly, the friends of liberty become fewer in number, until, like Cicero, they are part of a small minority, standing alone against the storm.

We, as Members of the Senate, hold a position not only of public office, but of public trust. The duty, therefore, devolves upon us to alert the American people—and not just those whom we directly represent—to the dangers which threaten them, and to identify actions of the Federal Government which undermine the foundations of our liberty. If we perform no other function during our terms of office but this, we have served our countrymen faithfully and effectively. This is a task that must be performed on a regular basis, not only during the 94th Congress, but in every Congress, so long as we are a free and independent people.

If I were to single out each of the political developments that have taken place in my lifetime that have weakened the fabric of our free society, I would be hard put to find the time to accomplish the task. Indeed, it is frightening just to contemplate the sum and variety of property rights and economic liberties that we lost in recent years, to say nothing of the other freedoms that have been qualified and requalified until they are shorn of substance.

I do believe, however, that there is almost universal agreement among Members of Congress that the growth of bureaucracy in this century is one of the most ominous signs of tyranny in the American political scene. To be sure, I cannot recall a single instance where a Member of this body has stood on the floor and said publicly: "Yes, this overgrown bureaucracy that we have is a good thing. Bureaucrats are good for America, and they will protect our freedom. What this country needs is more bureaucrats on the public payroll to tell more Americans what to do and how to do it."

Mr. President, if any Senator walked onto the Senate floor and made such a statement, he would become an object of public ridicule and contempt. No Senator in his right mind would make such an utterance. And yet the irony of it is that so many Senators, week after week, month after month, year after year, introduce legislation to establish more Federal agencies, more Federal regulations and controls, and more Federal bureaucracies. The bureaucracies in turn add more restrictions to those originally established, because they are granted broad discretionary powers by Congress "to fill in the details" of the general statute. By attempting to legislate everything, Congress often legislates nothing and abandons the field to the bureaucrats. The unhappy result is the Federal Register, the official publication of our bureaucratic managers of the state. It is filled with hundreds and hundreds—maybe thousands, no one seems to know—of new Federal regulations which go far beyond the original scope of legislation anticipated by its supporters. If America does lose its liberty, we shall probably read about it first in the Federal Register.

Of course, those Americans who fail to keep up with the array of new regulations published in the Federal Register are taking a major risk of losing their freedoms. On March 5, 1976, for example, the Fourth U.S. Circuit Court of Appeals told attorney Monroe Freeman of Reston, Va., that he should have read the Federal Register before parking his automobile at Wolf Trap Farm Park in Fairfax County, Va.

It seems that the luckless Mr. Freeman was given a parking ticket on June 26, 1975, for leaving his car in a nondesignated area of the park, where there were no signs to warn him against parking. He was subsequently convicted and appealed on his own behalf, claiming innocence on the ground that the grassy area where he left his car was not posted. Not so, said a fourth circuit panel in blackrobed unanimity. It would be unreasonable, said the reasonable judges, to require the U.S. Park Service to post signs in all of the no parking areas of national parks. Citing a ruling of the Supreme Court, the panel of judges also noted that the appearance of a regulation in the Federal Register is adequate notice of its existence. In this instance, the regulation banning parking in undesignated areas was, said the court:

> Initially published at 24 F.R. 11014 (December 30, 1959) and was redesignated at 31 F.R. 16655 (December 29, 1966). It has, of course, since been codified at 36 C.F.R. 50.33 (1975).

Even lawyers, it seems, have been negligent in reading and putting to memory the code of Federal regulations.

It is little wonder that the rulemaking system which Congress has established is widely criticized. Indeed, there is even proposed legislation to improve the system, such as Senator BROCK's S. 2258, a bill that I am pleased to cosponsor which would provide for congressional review of rulemaking by independent regulatory commissions and executive departments. It is not too early for Congress to examine this legislation and move in the direction of reform. In the meantime, however, we have a situation whereby many of the laws of this country are actually made by unelected bureaucrats—to say nothing of the Federal judges who are doing the same thing by different means. The end result is a system of government which makes a mockery of the principles of rule of law and sends the Monroe Freemans of this country off to jail. To a frightening degree, we are now living under rule of men rather than rule of law.

In my judgment, too many Members of Congress respond to this situation by sending out press releases and making speeches against those "terrible bureaucrats," while at the same time introducing and supporting legislation to create more agencies, more bureaucrats, and more regulations. It seems to me that all of these efforts to limit the administrative rulemaking powers of the Federal bureaucracy will have only a limited effect on the scope of American freedom until Congress takes a definite stand against the creation of any new bureaucracies. Here we are talking on the one hand of limiting the authority of the bureaucrats, while on the other we are continuing to consider and enact legislation to establish more agencies.

A typical example of this is the Child and Family Services Act of 1975, introduced by the distinguished Senator from Minnesota (Mr. MONDALE), with 26 cosponsors: Senators JAVITS, ABOUREZK, CLARK, BROOKE, CASE, CHURCH, CRANSTON, CULVER, HATFIELD, HATHAWAY, GARY HART, PHILIP A. HART, HOLLINGS, HUMPHREY, KENNEDY, MCGEE, MCGOVERN, METCALF, NELSON, PELL, RANDOLPH, RIBICOFF, SCHWEIKER, STAFFORD, STEVENSON, and WILLIAMS. Since the time of introduction, Senators HASKELL, PERCY, and MANSFIELD have joined as cosponsors, giving us a grand total of 30 Senators who are supporting this legislation. This is nearly one-third of the total membership of the U.S. Senate.

If the Child and Family Services Act reflects the true sentiments of the Senate, then our freedoms are in greater jeopardy than we realize. Gus Hall would be hard put to come up with a more appropriate piece of legislation to undermine the American family, weaken American liberty, strengthen the arrogant American bureaucracy, and push us closer to the brink of national bankruptcy. It is no exaggeration to say that the Child and Family Services Act is a model of pernicious legislation.

It is unfortunate that the American press has failed to give wide publicity to this bill, because our fellow Americans would be outraged if they knew that the time and resources of the U.S. Senate are being frittered away on this kind of legislation; and they would be alarmed if they knew that their pocketbooks and their liberty were held in such low esteem by those who supposedly represent their best interests.

The authors of this bill propose that we establish another layer of bureaucracy in the Department of Health, Education, and Welfare called the Office of Child and Family Services. This office would assume responsibility for day care centers, home care, educational programs, health and recreational programs, food services, social services, treatment of visual, hearing, speech, medical, dental, nutritional and other physical, mental, and emotional problems, plus "other such services as the Secretary deems appropriate in furtherance of the purposes of the Act." Unless I am mistaken, this bill gives the Secretary of Health, Education, and Welfare the power to do just about anything that he pleases, since almost any program or policy can be construed as falling within the broad, multifarious "purpose of this Act to provide a variety of quality Child and Family services in order to assist parents." In other words, the supporters of this legislation are requesting that we give the Secretary of HEW a blank check. This is a clear example, in my mind, of delegation of legislative authority run rampant.

That there is absolutely no need for this legislation is suggested by the fact that the bill would duplicate hundreds of welfare programs that are already in existence. Take for example the area of health care, where we have a dozen Federal and State programs, including early periodic screening, diagnosis and treatment, maternal and child health, community mental health centers, developmental disabilities, family planning, neighborhood health centers, the migrant children and Indian health programs. and crippled children's services. Through the good offices of HEW, the American taypayer is already coughing up some $13.2 billion annually into about 200 programs that directly or indirectly affect the health, education, or welfare of American children.

Consider too, Mr. President, the fact that this bill constitutes a Federal takeover of State-run children service programs, in flagrant violation of the Federal principle and States' rights. If this bill is enacted, the Federal Government and the HEW bureaucracy will be given the power to deal directly with thousands of local governments and voluntary service programs, pushing State governments out of the picture. Under present statutes, the several State governments set their own welfare program priorities, and decide for themselves, as they should under our traditional Federal-State relationship, how best to allocate Federal, State, and local welfare funds to meet these priorities. Instead of allowing the Governor, or the State legislature, or a single State agency to allocate these resources and supervise their expenditure, the Child and Family Services Act would turn this authority over to the czar of giveaway, the omnipotent Secretary of HEW and his restless army of social engineers—I say army because this bill will require an army of Federal bureaucrats in Washington and in the Department's 10 regional offices to carry out the countless tasks of planning and monitoring that are presently performed under the auspices of the several States. And what is the cost of the Child and Family Services Act? A billion dollars in the second full year of program operation, and this would be just the beginning. But then, the cynic might ask: "What is another $1 billion since we are already confronting a national deficit of more than $60 billion?"

The fiscal madness of the Child and Family Services Act is exceeded only by the more serious dangers that it poses to the American family. Instead of strengthening parental authority and parental involvement with children, the bill places the child directly under the influence of HEW bureaucrats. As former Secretary of Health, Education, and Welfare, Caspar Weinberger, emphasized in his statement against the Child and Family Services Act:

> The family is—and rightly should be—the primary influence on the development of children. Any government program that touches on the child—be it day care, education, or any other social service—should complement the familiar relationship, not threaten damage to it.

Implicit in this bill is the dangerous assumption that HEW bureaucrats know what is best for our children; that they can and should substitute their values for those of the parents in the rearing of children. This assumption is nowhere stated in the bill, but it must be understood that the Child and Family Services Act does create new opportunities for HEW bureaucrats to fix their beliefs in the minds of young children who will be under their daily care and direct influence. But, of course, if the rising generation is to embrace the attitudes and values of the managers of the State and the HEW social engineers, what better method is there than HEW supervision of our children and family life?

Mr. President, the Child and Family Services Act may be suitable for some totalitarian societies, where communal living is practiced, so that parents will have fewer opportunities to pass along their values and beliefs to the next generation; but it is not a piece of legislation that is fit for free men. Experience has shown that when the State has direct control over the thoughts of men, particularly at the formative stage, it is easier for the managers of the State to suppress heretical views, such as those associated with liberty and religion, which tend to weaken the authority of the State. To be sure, the Child and Family Services Act is in many respects one of the most reactionary proposals that I have ever seen; for it sends us backwards, in the direction of prehistorical times, when the family structure was weak, and the children, who knew not the concept of fatherhood, were raised by the tribe. There is nothing progressive about primitive communism.

And there is nothing to recommend support of the Child and Family Services Act. If this legislation is brought to the floor of the Senate, I am confident that it will be forcefully opposed. It should be soundly defeated.

GENERAL REVENUE SHARING

Mr. STENNIS. Mr. President, on April 25, 1975, the President transmitted to the Congress proposed legislation to extend and revise the State and Local Fiscal Assistance Act of 1972. The act, and the general revenue sharing which it authorizes, expires on December 31, 1976.

The President's recommendation was that the program be extended through 1982 without any basic change in the law. The President's fiscal year 1977 budget contains $6.6 billion for this program.

I am convinced, Mr. President, that this program has been a success to a degree far beyond that of some programs by Federal agencies or departments. By the end of fiscal year 1976 general revenue sharing will have provided over $25 billion to 50 States and some 39,000 local governments. Under the law, these governments could use these funds as they saw fit to meet their priority needs. This measure is setting a pattern that could well lead to a series of block grants to include many existing Federal aid programs.

I am also convinced that this program should be extended as recommended by the President. The revenue-sharing funds have become a vital and essential part of the economy and fiscal structure of the States, the city, town, and county governments. They have meant such things as new crime fighting equipment, more police on the streets, help for mass transportation, a better environment, improved fire protection, needed buildings and other capital improvements, and many other useful governmental purposes.

While there may have been some abuses, I believe that they are very, very minor in relation to the scope of the program. I believe that, by and large, general revenue sharing funds have been handled by the governments receiving them in a responsible and useful manner. I know this is true in the State of Mississippi. The present formula for distribution has proven fair and equitable.

I am concerned, Mr. President, that we have not yet moved with legislative action with respect to the extension of this law. The bill is being marked up in the House. I consider it urgent that the Senate committee act on the measure as soon as possible. Far greater return on the money will be realized if we act in a timely way in order for State and subdivision boards to use the funds judiciously. Time is running out.

In summary, I believe that an early renewal is important, Mr. President. It is not just that the existing law will expire on December 31. Equally important is the necessity for effective financial planning by the States, cities, towns, and county governments which receive these funds. Such planning is almost impossible unless it is known whether general revenue sharing funds will be available after December 1976.

Therefore, Mr. President, I urge that action on the bill to extend this program be speeded up to the extent which is reasonably possible. I believe it would be a serious mistake to wait until the last minute to pass this vital and important legislation.

MR. PETER SMITH

Mr. STAFFORD. Mr. President, on behalf of my colleague, the distinguished Senator from Vermont (Mr. Patrick Leahy) and myself, I would like to take note of a significant event which took place here in the Nation's Capital this past week.

That event was the award presented by the National Council on Community Services and Continuing Education to Mr. Peter Smith, president, Community College of Vermont, as the 1976 National Man of the Year for accomplishments in community services and continuing education.

All Vermonters have reason to be proud of this recognition, and Senator Leahy and I offer our congratulations to Peter Smith and all his associates at the Community College of Vermont. On a more personal note, I might add that this award gives this Senator particular satisfaction since Peter was once a summer intern in my congressional office here in Washington.

In connection with the award, I ask unanimous consent that excerpts from remarks of Dr. James Gollatschechi, who made the award, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Dr. James Gollatschechi of the National Council on Community Services and Continuing Education

In 1970 there burst upon the community college scene a young man and a new college that has in six years made an impact upon not only community college education, but all of higher education. The college is perhaps the most community-based, performance-oriented in existence.

Since 1970, the college has consistently tried to serve those who have no means of attending any of the campus-based colleges in the State. The average student is fully employed during the day, has a family, a low income, and first enrolls in an evening course to improve employment skills.

In a letter of commendation to the president, the Chairman of the Commission on Institutions of Higher Education praised the college's "access to students, the responsiveness of its contracting system to student needs, and its utilization of community resources."

Dedicated to minimizing the financial, geographical, and personal barriers that stand between its constituents and post-high school education, the college has been challenged as well as encouraged by achieving accreditation. In economically difficult times, the community college's stated purpose has been brought into focus more sharply than ever; offering higher education to Vermonters at a minimal cost.

By now most of you know that I am speaking of the Community College of Vermont and its founding president, Peter Smith. While most of us have been talking about community-based programs, credit for experiential learning, and competency-based education, Peter has been doing them and frequently under the most adverse of circumstances.

It is my distinct pleasure, on behalf of the National Council on Community Services and Continuing Education, to name Peter Smith as the 1976 National Man of the Year for accomplishments in community services and continuing education and to give Peter this plaque as a token of our esteem and gratitude.

WESTLANDS WATER DISTRICT CONTRACT WITH INTERIOR DEPARTMENT

Mr. NELSON. Mr. President, last week I joined Senator Haskell in sending a letter to Secretary of the Interior Thomas S. Kleppe, urging him to "suspend and reexamine" a proposed amendatory contract between the Westlands Water District and the U.S. Department of the Interior. The contract is a revised version of a working agreement that allows the Bureau of Reclamation to deliver water to the almost 600,000-acre district in California's Central Valley.

Senator Haskell, acting chairman for the Committee on Interior and Insular Affairs for the hearings, and I, as chairman of the Small Business Committee, recently completed Washington and field hearings on the district's handling of portions of the Federal reclamation law intended to encourage family farming. At the hearings, which are part of a Small Business Committee survey of family farm survival prospects, both Senator Haskell and I, along with local small family farmers and would-be family farmers, expressed great dissatisfaction with the Bureau's implementation of reclamation policy in Westlands.

The 1902 Reclamation Act was originally intended as a means to foster the settlement of small family farmers on land the Federal Government was irrigating. The hearings indicated that land is very rarely going to such small family farmers. Instead, it is largely being controlled by groups of purchasers, many or most of whom have no connection with farming. Farm sizes in the district remain substantial.

Moreover, the contract makes no provisions for altering the rate charged for water, a rate established in the early 1960's, and not open for change until 1996. This comes at the same time that the Bureau has indicated that the Central Valley project, of which Westlands is a part, is operating at a loss.

I ask unanimous consent that the letter to the Secretary of the Interior be printed at this point in the Record, along with several news clippings about the situation.

There being no objection, the letter and news clippings were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., March 19, 1976.

Hon. Thomas S. Kleppe,
Secretary of the Interior,
Washington, D.C.

Dear Mr. Secretary: Last July, sitting jointly with the Senate Interior Committee, the Senate Select Committee on Small Business held two days of hearings addressing the question, "Will the Family Farm Survive in America?" The hearings were devoted to an examination of the Bureau of Reclamation's administration of the policies affecting family farming, and, as a case study, examined the sales of land under recordable contract in the Westlands Water District, a Bureau project in the Central Valley Project.

The Committees received testimony from several persons and groups highly critical of the Bureau of Reclamation policies, particularly as they relate to the implementation and administration of the excess land laws. Others raised questions about water quality impacts on other areas, particularly the San Francisco Bay Delta. In general, all critical witnesses expressed great concern over the proposed amendatory contract between the Westlands Water District and the Bureau of Reclamation.

During the July hearing, Commissioner Stamm indicated that the Secretary had the authority to reject the contract at any time prior to its being signed by you. As you are probably aware, the required approval by the California State Treasurer's Office, the election by landowners, and the validation proceedings have not yet occurred. Congress is still looking at the contract, in the light of its provisions calling for greater expenditures than are now authorized by law.

Testimony received at the July hearings strongly indicated that, in fact, the excess land program was not being administered in a manner that had served, or was likely to serve the fundamental purpose of the Reclamation Act, which is to settle farming families on the land.

A preliminary conclusion from the July hearings was that the proposed amendatory contract would not improve the prospects for settling farm families on the land in Westlands and might possibly make them worse.

Shortly after the first of the year, the two committees announced that further joint hearings would be conducted in California. The committees had been asked by the Westlands Water District and Governor Brown to be heard on the matter. The Governor's office also released a comprehensive report on the various aspects of Westlands' situation, a copy of which is enclosed.

In February, the committees held two additional days of joint hearings, in Fresno, California. The hearing was preceded by a tour of the Water District, conducted by the Bureau of Reclamation and a local group, the National Land for People.

In announcing the hearings, the committees publicly asked four questions:

(1) Are there small, family farmers who want to buy land and operate farms in the Westland Water District?

(2) Are farms within the present law's acreage limitations economically practical and socially desirable?

(3) Are current policies and practices of the Westlands Water District and the Bureau of Reclamation making it more or less difficult for family farming to develop?

(4) Are the interest and water-rate subsidies that are being received by large landowners too high and stretched out over too long a time?

The answer to the first question, based on the hearings, is emphatically yes. The answer to the second is also yes. Although agricultural economists gave somewhat divergent testimony on efficiency, several family farmers in the area described persuasively their continuing success as small operators.

Current practices and policies of the Bureau of Reclamation appear to be doing little or nothing to encourage the settlement of these family farmers on the land. The Bureau has contended that they lack the necessary authority to do this, although there is considerable evidence that existing authority is more than adequate. Speaking to this matter at the hearing, one of us (Senator Nelson) and Mr. Dauber discussed the Bureau of Reclamation's ability to suggest remedial legislation designed to give it the authority it believes it needs. This exchange is enclosed at the end of this letter. Since any suggestion made by the Bureau might well be accomplished as a change in the contract, as well as in separate legislation, we believe the contract should be delayed until the Bureau has had an opportunity to submit draft proposals to the committees.

Finally, in regard to the interest and water-rate subsidies provided to the district by the Government, a consultant's report to the Small Business Committee, an Interior Department-funded study, the State of California, and the General Accounting Office all have reported that the Government is providing tremendous amounts of money to district landowners. Moreover, the Bureau has indicated that the Central Valley Project, of which the San Luis Unit is a feature, is operating at a loss because of construction and operation cost inflation. In view of all this, the contract could give the Bureau an opportunity to adjust both the subsidy and its inadequate revenues by renegotiating the price of water, thereby giving the project a more solid base of fiscal integrity.

Congressman Miller of California made the further point on the contract, that it had been negotiated in secrecy, and the results would be particularly damaging to water users in his district. The committees' staffs have also learned in the course of their work that the Bureau of Reclamation in California has been undertaking a lengthy study, "The Central Valley Basin Total Water Management Study." To contract and commit water by signing the Westlands contract prior to the conclusion of this important study would appear to defeat its purpose.

Moreover, close examination of the proposed changes in the excess lands section of the contract suggests that those changes will not enhance the opportunities for those seeking to purchase excess land for the establishment of family farms.

As a result of all the above, we believe and recommend that pursuant to your existing authority, you should suspend and reexamine the contract. Those with conflicting interests should be allowed to present their case. If necessary, and it appears that it might be, the Department should seek to renegotiate the contract in appropriate details.

We have directed the staffs of the committees to prepare a report based on the hearings and would urge that any decision on the part of your office to proceed with the contract be delayed until we have an opportunity to present our findings in a public report.

Your consideration of this matter and a prompt indication of your views will be appreciated.

Sincerely,

GAYLORD NELSON,
Chairman, Select Committee on Small Business.

FLOYD K. HASKELL,
Acting Chairman for the Hearing Committee on Interior and Insular Affairs.

[From the San Francisco Sunday Examiner and Chronicle, Feb. 29, 1976]

PAPER FARMERS AND LAWMAKERS

The profound political influence of big corporate farmers is neatly illustrated by the everything-is-swell testimony this month by three state legislators before a U.S. Senate panel in Fresno. They now concede without embarrassment that their statements were based on drafts and other suggestions supplied by helpful Ralph M. Brody, the $81,200-a-year manager of the Westlands Water District.

Other testimony at the hearings confirmed what Examiner readers already know: The revised contract pending between U.S. Interior Department and the nation's biggest irrigation project amounts to a colossal giveaway of public resources for private gain. Technical compliance with the 160-acre limitation on federal water is producing paper farmers, not the tillers of their own soil envisioned by Congress.

In surprise testimony that ended half a century of state government indifference toward the growing corporate control of California farmlands, Gov. Brown noted that the Homestead Act and National Reclamation Act were seen as ways to strengthen the rural roots of democracy. Instead of settlers, he added, the Westlands project had attracted operators, a term "with a different connotation."

Because of a 40-year taxpayer subsidy for the Westlands estimated at $2 billion, Congress should suspend the proposed water contract.

The state legislature should resolve immediately to back up Gov. Brown's promise to cooperate with federal agencies in guaranteeing family farmsteads.

It's plain that legislators in farm country have a difficult time representing a nonexistent constituency—the would-be family farmer—when under pressure from agribusiness, corporate farm operators, land barons and big growers.

Without backing from rural Congressmen and state legislators, the U.S. Bureau of Reclamation has allowed a massive perversion of the 74-year-old federal law that put it in business. Abundant documentation shows circumvention of the 160-acre limit per farmer, weakening of the anti-windfall safeguards and non-enforcement of the key to putting people on the land—the residency requirement.

Congressman B. F. (Bernie) Sisk, the Fresno Democrat with 21 years of seniority and a seat on the House Rules Committee, has asked for a federal investigation of land deals in the Westlands. At the same time, he concedes that Brody and Bureau of Reclamation officials drafted the bill that he has proposed as a solution to the Westlands mess.

City folks end up paying the social and economic costs of industrialized agriculture. Their federal income taxes finance huge reclamation subsidies now captured by big landowners and paper farmers. It's time for their elected representatives to demand fulfillment of the promise of federal reclamation law.

[From the San Francisco Examiner, Feb. 8, 1976]

HUNDREDS OF FARMERS WAIT TO BUY IN WESTLANDS

(By Lynn Ludlow and Will Hearst)

Hundreds of would-be family farmers say they will buy 160-acre parcels in the Westlands Water District and live on their own land as intended—but seldom enforced—under the National Reclamation Act.

"It's more healthy," said Wallace Brown, 58, who wants to leave San Francisco and move back to the cotton fields near Fresno where he was replaced years ago by cotton-picking machines. "What we need is more small farmers."

Three groups and various individuals plan to testify about land-buying hopes when a U.S. Senate panel meets Feb. 16 and 17 in Fresno. It is investigating why absentee investors appear to be collecting most benefits of a federal investment estimated at $2 billion in direct subsidies for Westlands landowners.

Willoughby Houk, a third-generation farmer near the controversial irrigation district, has organized 400 applicants.

"There's no question but what a young couple could make a good living out there on 160 acres apiece with row crops and grains," said Houk. "It would be a great thing."

Value of croplands in the 572,072-acre district has increased tenfold because of cheap federal water from the San Luis Canal/California Aqueduct. Reclamation law says users must sell off lands in excess of 160 acres at a price that doesn't reflect the public investment in water.

Robert DeGravelles, a Tracy real estate broker, says 5 he has signed up 500 applicants (with hundreds more on a waiting list) for 160-acre parcels that the Southern Pacific Land Co. doesn't want to sell.

Because the railroad is refusing to negotiate with middlemen, another group, National Land for People, has asked the U.S. Bureau of Reclamation to halt water delivery to SP lands, quit all land sales, appraise SP parcels and settle the dispute.

The Fresno-based organization is represented by Arthur Brunwasser, a San Francisco attorney, who said, "We are seeing a scandal. That's the significance of Westlands."

Andy Anderson, an SP spokesman, said, "One of the problems is we don't want to turn over the land to speculators or somebody who pretends to be a farmer. We have buyers lining up all over the place."

Some 83,000 acres of the railroad's 106,000 acres in the district are under contract for federal water. This means the holdings must be broken up within 10 years.

The pattern of land sales in the district thus far shows that most 160-acre units have been sold to absentee investors, paper farmers, members of trust groups and speculators from as far away as the Netherlands Antilles. (The SP hasn't made any sales yet.)

For years, big landowners and government officials have argued forcefully that 160-acre and 320-acre farms are not feasible economically in the Westlands district.

Because the Bureau of Reclamation doesn't enforce the live-on-the-land rule of federal reclamation law, most parcels are sold to investors and leased to farm operators. The average farm in the Westlands is 2,000 acres.

Houk, 47, has lived all his life near Firebaugh on irrigated lands similar to Westlands. With his father, two brothers and a brother-in-law, he farms 640 acres in cotton, grain, sugar beets and corn. The families own only 180 acres and lease the rest.

"With government water, you wouldn't have disasters from drought," he said. "There's no weather problem here. The only disaster would be in marketing, and you could avoid this through diversification of crops."

He said such farming doesn't require great skills or vast experience if the farmer is willing to follow the advice and practices of his more successful neighbors.

"It's hard work," he added.

DeGravelles, the Tracy real estate man, said his clients intend to live on the land. Most are attracted by the prospect of low prices, and a few have already talked to contractors about homes.

Hank Roberts of Crow's Landing, one of the applicants, is now a commercial harvester of tomatoes. He hopes to plant tomatoes in the Westlands with his sons and a son-in-law. But he won't live on the land, he said, in the beginning.

"The land looks good," he said.

DeGravelles said, "These are not speculators. No syndicates. I am only interested in putting people who want to farm out there."

The real estate man is himself an absentee owner of 160 acres in the Westlands, product of an earlier deal in the sales of lands once owned by corporate farmer Russell Giffen.

Giffen has often said that today's young farmer wouldn't want to work for the relatively small profits of 160-acre farming. When his lands were offered by advertisement a few years ago, Giffen said, no qualified buyers were available. His large holdings were eventually broken up and sold to relatives, business associates and executives.

Landowners in the district lobbied for federal water after years of pumping from deep wells caused overdrafts from the underground water basin.

George Ballis, executive director of National Land for People, said hundreds of landless farm workers and others have registered with the Fresno-based organization in the hope of obtaining farms in the Westlands.

The group petitioned the Bureau of Reclamation last year for government procedures in excess land sales. Such procedures now exist in a collection of internal memos, legal opinions and letters that mystify many would-be family farm buyers.

Sellers handle the sales, and the bureau checks only for technical compliance with its rules and the law.

[From the New York Times, Feb. 25, 1976]

Senators Tackle Issue of Who Will Own Federally Irrigated Lands in California

(By Les Ledbetter)

Fresno, Calif., February 19.—In the late 1940's, Cye G. Vaughan joined his father and mother in an attempt to raise wheat, cotton, potatoes, milo and alfalfa on 320 acres of "raw land" they had bought near Bakersfield, 108 miles south of this central California city in the San Joaquin Valley.

After two years, the deep well the Vaughans had drilled could no longer properly irrigate the farm, and low crop prices and high equipment costs made further drilling impracticable.

"So, the decision was made to sell the farm," the tall, angular man said as he appeared before a joint hearing of the Select Committee on Small Business and the Committee on the Interior and Insular Affairs of the United States Senate.

WANTS TO GO BACK

"My long-range plans and desires, however, have always been to go back into farming," Mr. Vaughan told Senators Gaylord Nelson, Wisconsin Democrat, and Floyd K. Haskell, Colorado Democrat.

"If through the actions of your committees, we are successful in obtaining this excess land, we will sell our present business [a motel in Lodi, Calif.] and devote our full time and energy to making a success of what for us has been a long-time goal . . . to own our own farm."

The hearings two days this week were part of a continuing inquiry by the Senate committees into whether the family farm will survive in America.

The focus was on the Westlands Water District, 572.072 acres of former range and desert just west of here that have been turned into some of the richest agricultural lands in the world with water and irrigation systems subsidized by taxpayers across the nation.

At issue were the application of a 73-year-old populist land reform law limiting ownership of federally irrigated land to 160 acres for "any one landowner" and requiring that owner be a "bona fide resident of such land or occupant thereof residing in the neighborhood of said land;" the policies of the state and Federal governments in providing assistance to small family farmers, against support for large agribusinesses, and the basic policy of reclamation projects that spend hundreds of millions and even billions of taxpayers' dollars to take the water from one area to benefit another.

"Reclamation involves far more than watering land to produce crops," testified Paul S. Taylor, emeritus professor of economics of the University of California at Berkeley, an acknowledged expert on land and water resources.

"Specifically, it can and does determine whether that society is to be a balanced community or whether it is to be a polarized society dividing the few from the many," continued Professor Taylor.

"It is well to remember that the health of our nation is involved, as well as the production of food and fiber," he added.

He then quoted Nevada Congressman Francis G. Newlands, who said in 1902 that without the proper reclamation law and policy, "we would have fastened upon this country all the evils of land monopoly which produced the great French Revolution, which caused the revolt against the church monopoly in South America, and which in recent times has caused the outbreak of the Filipinos against Spanish authority."

For two days, the hearings here in the still-unfinished auditorium of Fresno City College were the site of a polite but determined struggle between hundreds of farmers, ex-farmers, would-be farmers, agribusiness representatives, politicians and public officials seeking to influence public policy and determine who will get control over the fertile Westlands and why.

The Westlands, about the size of Rhode Island, originally comprised about a dozen large land holdings such as the Southern Pacific Land Company's 109,000 acres accumulated a century ago during the building of the transcontinental railroad.

About 40 years ago, shrewd and adventurous farmers such as Russel Giffen turned the range and desert lands into rich growing soil by sinking wells as deep as 2,500 feet.

It was brackish water, laden with salts, but melons, cotton, barley, alfalfa and safflower seemed to flourish, as did the large corporate farms owned by Standard Oil, Bangor-Punta, Inc., the Anderson, Clayton Company and the Getty Oil Company as well as Giffen, Inc. and Southern Pacific. But by the early 1950's some underground basins had been sucked so dry that the fields had settled 29 feet.

So the large landowners and their representatives convinced the Federal Government that a massive reclamation project was needed to prevent a California dust bowl. And they got millions to build a canal project as part of the California Aqueduct that carries water from the northern part of the state south.

The landowners promised, when lobbying for the reclamation project as vital to American agriculture, that they would abide by the National Reclamation Act of 1902 and sell their excess land over 160 acres.

However, at the hearings this week, critics contended that regulations and interpretations of the Interior Department's Bureau of Reclamation had provided a $2 billion give-away to the large landowners.

The critics said that the Bureau of Reclamation regulations giving land owners years from the time they begin to receive subsidized water before they must dispose of their excess land holdings amounted to a billion-dollar subsidy. Neighboring farmers must pay $23.50 an acre foot (the water filling one acre to the depth of one foot, or about 325,000 gallons) for nonsubsidized state water and nearby city residents pay as much as $61 an acre foot. Westlands growers pay only $7.50 an acre foot.

The Westlands growers also get electricity below cost from the reclamation project—an estimated subsidy of half a billion dollars—and they will not be required to pay interest on the cost of the irrigation project, estimated to be another half-billion dollar subsidy.

In fact, since the Bureau of Reclamation will not require repayment of the half-billion dollar cost of the project before "substantial" completion of the still unfinished project, the large landowners may grow profitable crops for a decade before selling off their excess lands or paying capital costs.

"In return for this huge subsidy, we're supposed to be getting small family farms," said one Westlands expert after a day of hearings. "But, you don't see the land dotted with a lot of small farms. Instead we're ending up with paper farmers—absentee owners, dummy investment corporations and large concerns who farm large tracts of leased land."

[From the Los Angeles Times, Feb. 18, 1976]

Small Farmers Win Brown Aid on Water—Governor Pledges Support in Dispute on Westlands Area

(By Robert A. Jones)

Fresno—Gov. Brown threw the support of his Administration behind the cause of small farmers in the dispute over lands within the Westlands Water District Tuesday, promising that he would work toward "vigorous enforcement" of the 160-acre law within the mammoth irrigation project.

Calling the resettlement of lands within Westlands a "unique opportunity" to ensure the survival of family farms, Brown said: "What has been lacking (in the past) is not legal authority but political will. That can be changed, that will be changed, and that's why I came here today."

Brown's remarks came at the second day of joint hearings before the U.S. Senate Committee on Small Business and Interior Affairs here.

The hearings, cochaired by Sens. Gaylord Nelson (D-Wis.) and Floyd Haskell (D-Colo.), were called to investigate charges by small farmer groups that large landowners and corporate interests within Westlands have circumvented the intent of federal laws designed to foster the growth of family farms.

Under the Reclamation Act of 1902, no

land owner is permitted to own more than 160 acres within a federal irrigation district. Later changes in the law permitted larger holdings but only on the condition that the landowner sell land in excess of 160 acres within a 10-year period.

Speaking to reporters after his testimony, Brown said the Bureau of Reclamation, which administers the district, "has not been doing the job envisioned by Teddy Roosevelt and the authors of Reclamation Law who had the vision of settlers" filling the territory within Westlands.

The sprawling federal irrigation district, once a near desert, has bloomed into one of the richest agricultural regions in the world since the arrival of huge amounts of government subsidized water in 1964. Thus far the principal benefits of the project have gone to farming operations that occasionally reach staggering sizes, some as large as 75,000 to 100,000 acres.

Though nearly one-sixth of the 600,000 acres of Westlands has changed hands under the reclamation law, few family farms exist today inside the project. Land syndicates and corporate operations have often combined many 160-acre parcels into farms nearly as large as the originals.

The Brown Administration pledge to back stricter enforcement of the reclamation law apparently will move along two fronts. The state will attempt to enter into "cooperative agreements" with the Department of Interior designed to train and finance family farm ventures in Westlands.

In addition, according to Ronald Robie, director of the state Department of Water Resources, the state will also seek changes in an upcoming contract between the water district and the federal government. The changes, if accepted, would diminish several of the federal subsidies that, according to state and federal studies, now mainly benefit large landowners. One other suggested change would ensure the upholding of water quality standards in the Sacramento-San Joaquin Delta area.

While the contract's primary approval is by Congress, state Treasurer Jess Unruh also retains the power of review, as do the courts. When questioned whether he would move to stop the contract at either point should the state suggestions be ignored, Brown said, "Anything is possible. I do not want to foreclose any steps that the state might take."

Supporters of reform in Westlands were elated over the Administration support. George Ballis, executive director of National Land for People, said, "In the 20 years we have been working on this issue, we have never received the backing of any administration, whether Democratic or Republican. We are very pleased."

As expected, however, the Brown position was met less warmly by the Westlands Water District Administration. Ralph Brody, manager of the district, called the address "a lot of pious declarations." Brody said he had no objections to the governor's recommendations but accused him of being "badly misinformed about the present situation in Westlands."

In later testimony before the committee, Brody applauded the history of Westlands, saying landowners had fully complied with reclamation law policy.

Since the water district was formed, Brody said, 350,000 acres of excess lands have been pledged for transfer. On the 109,000 acres already sold under the program, the number of operators has increased from 28 to 93.

Conceding that few owner families have come to live on the land they own in Westlands, Brody said a requirement to live on or near the land—one provision of the reclamation law—would work hardships on many families who cannot "pull up their roots" and move to the district.

Critics of the project's administration have produced records showing many of the new landowners reside as far away as Phoenix or New York City, and some show their principal occupations as dentists, attorneys and other professionals.

Sen. Nelson said at one point that "it is pretty clear to me that when sales are made to a large number of people who do not intend to farm the land—who are primarily investors—and they get the land instead of true farmers, then that is a fraud of the law."

Several farmer groups have produced witnesses testifying that their efforts to purchase 160-acre units from some of the largest holders in the district have proved fruitless.

"If there is no way to stop such circumventions of the intent of reclamation law," Nelson said, "then the law must be changed."

[From the Los Angeles Times, Feb. 17, 1976]

Efforts To Buy Land in Water District Told—Hundreds Denied Parcels Despite Law To Create Family Farms, Senate Panel Hears

(By Robert A. Jones)

Fresno.—Hundreds of would-be small farmers have been refused the right to buy farmland inside the huge Westlands Water District in spite of federal laws designed to create family farms there, a joint U.S. Senate committee was told Monday.

Robert DeGravelles, a real estate broker in Tracy, told the committee he had approached several of the largest landowners inside the district with offers to purchase 160-acre parcels on behalf of his clients—all of whom wish to start family farms in Westlands, he said—but all his offers had been rebuffed.

"We want to buy farms; we want to buy farms now," DeGravelles said. "But the big landowners have turned us down every time."

Under the federal Reclamation Act of 1902, many of the landowners inside Westlands are being required to sell their holdings in excess of 160 acres. The purpose of the law is to prevent land monopolies within federal irrigation districts in which heavily subsidized water deliveries have greatly enhanced the value of farmland. Since the arrival of irrigated water in 1964, the 600,000-acre Westlands district has become one of the richest agricultural regions in the world.

The Senate Committee on Small Business and Interior Affairs opened a two-day investigation Monday into charges by several small farmer groups that the reclamation law is being circumvented. In his opening statement, Sen. Gaylord Nelson (D-Wis.), co-chairman of the hearings, said the creation of family farms in Westlands, the original goal of the law, "has been virtually forgotten."

DeGravelles and other witnesses told the committee that the large landowners have refused many genuine small farmers in favor of sales to land syndicates that combine many 160-acre parcels into new farms almost as large as the original.

Describing his attempts to Sens. Nelson and Floyd Haskell (D-Colo.), DeGravelles said that in one instance he had approached the Southern Pacific Land Co., which owns 106,000 acres within the district, with offers from 303 small farmers to buy units ranging from 80 to 100 acres. All were refused without explanation, he said.

Ned A. Smith, Southern Pacific's chief agronomist, said the company's policy has been to favor sales to those who have managed the company's land over the past years. Other Southern Pacific spokesmen said that the company feared DeGravelles' offer was "speculative" and noted that the broker stood to gain more than $1 million in real estate fees had the 303 parcels been sold through his office.

In other testimony, witnesses debated the ability of small farmers to compete with large operators in the modern agricultural economy. Assemblyman Ernest N. Mobley (R-Fresno), chairman of the Assembly Committee on Water, told the senators that restricting farm size to 160 or 320 acres—a married couple is entitled to a double allotment—"would only give many of those who work it a license to slowly starve themselves to death."

But the viability of the small farm was given a spirited defense by Phillip LeVeen, a University of California professor of agricultural economics. According to hypothetical models, LeVeen said, a 320-acre farm in Westlands could produce 2½ times the average farm income in the United States and could produce a profit of between $19,000 and $100,000 per year.

At present, according to Robert Palmer, an economic consultant to the committee, less than 5% of the huge federal subsidies within the district go to those who occupy the land they farm. About 70% of the subsidies go to absentee owners living more than 50 miles from the district, he said. A state-sponsored study has put the total Westlands subsidies at $1.89 billion.

One provision of the Reclamation Act requires new owners to live on or "in the neighborhood" of the land they acquire through the law. The Bureau of Reclamation which administers the irrigation district, however, has not enforced the provision, on the grounds that later changes in the law fail to underscore the requirement.

Brown Administration officials are expected to testify at the hearings today, marking the first time the state government has moved into the 160-acre issue in California.

[From the Los Angeles Times, Feb. 16, 1976]

Small Farmers in Land Battle With Corporations—Firms Violate Intent of Law, Group Claims

(By Robert A. Jones)

Since the first settlers came to California, people have passed quickly through the west side of the San Joaquin Valley. It is a severe terrain, bare of trees, a near desert. And even today the few settlements have a tenuous quality, as if the people there remain unconvinced of their permanence. One wonders why any man would fight for this land.

But it is here, in the sprawling Westlands Water District, that one of the great land battles in the state's history has been joined.

For years the domain of large corporate interests such as the Southern Pacific Land Co. and Standard Oil of California, Westlands property is now being demanded by groups of small farmers who claim their right to the land under federal law.

The outcome of the battle could have enormous economic and social repercussions in central California's central valley, for the arid appearance of Westlands is deceptive. In the last decade it has been transformed from marginal farmland to one of the richest agricultural regions in the world.

This week in Fresno, joint hearings of the Senate Committees on Small Business and Interior Affairs will listen to complaints of the farmer groups who maintain that Westlands corporate interests are violating the intent of the Reclamation Act of 1902, a federal statute designed to foster the growth of family farms and curtail the spread of land monopolies in the American West.

But it is likely that the Fresno hearings will gain an added importance. The Brown Administration is expected to use the panel as a forum to begin its own campaigns for reform in Westlands.

If it does so, it will mark the first time that the state government has moved into the awesome complex of legal, social and economic issues surrounding what is known as the 160-acre law. It also will represent a major victory for the small farmers, for though state government has no direct power to control events in the Federal Westlands project, its considerable influence could become critical in the next months as federal officials decide which the way the pendulum will swing.

While Brown Administration officials have stressed that the governor has not yet committed himself to backing the small farmers, their cause was given a dramatic boost in recent weeks after the Administration reluctantly released lengthy analysis of the Westlands project prepared by several state agencies.

The study amounts to a scathing indictment of present policies in Westlands, which is administered by the federal Bureau of Reclamation. It concludes in part that total federal subsidies in Westlands will reach $1.89 billion, and the major beneficiaries of such subsidies are a few large landowners and corporations.

"This project represents an enormous public investment by all federal taxpayers," the study says, "and its principal beneficiaries are the irrigators of Westlands.

"Such public expense can only be justified when a fundamental public interest is served. That public interest, in the case of the Reclamation Act of 1902, was to provide an economic opportunity for those who would build homes and farm the land. The program was intended to help those who had relatively little capital, but who were willing to invest their labor.

"Its purpose was not to further enrich the wealthy, whether they are individuals or corporations. Enormous profits are being made in Westlands, but the purpose of the Reclamation Act is not being served."

The story of Westlands is one of land and water. For almost a century after California was settled by Americans the land here remained fallow, too dry for any but the hardiest of crops.

In the 1920s deep wells were drilled and for two decades cotton and a few grain crops flourished. Increasingly the farms came under control of a few large landowners such as Russell W. Giffen, a Fresno farmer, who eventually controlled 77,000 acres, and the Southern Pacific Land Co., which owns 106,000 acres.

The prosperity, however, was short-lived. By the early 1950s the wells began to run dry. In an interview last spring, Giffen said, "We did not want to turn to the federal government, but we had to. It was that or see the land turn back to a desert."

By 1964 the federal government had indeed saved Westlands from economic ruin. Millions of acre feet of water came rolling down the San Luis canal, built at a cost of $512 million, and Westlands bloomed as it never had before.

With enough water, almost anything grew well in Westlands: wheat, rice, tomatoes, grapes, almonds, lettuce, barley, cotton, cantaloupes, sugar beets, squash, watermelons, walnuts, green beans, garlic, asparagus, broccoli, and others.

"It was the kind of thing farmers dream about," Giffen said.

The revenues from Westlands soared along with the land owners' spirits. From $80 million in 1964, annual farm income reached $275 million 10 years later. The value of produce pouring from Westlands is now greater than the farm income of nine states.

Today many of the men saved by the federal irrigation project are wealthy indeed. Giffen, now 74 years old, governs his empire from a suite of paneled offices in downtown Fresno and from River Ranch, a palatial estate on the King's River near Sanger.

But the same law used to authorize the Westlands project—the Reclamation Act of 1902—contained a catch, and it is that catch that has become the center of the land battle in Westlands.

Written in the same spirit as the Homestead Act several decades before, the Reclamation Act prohibited any person from owning more than 160 acres of land that received federally irrigated water. Later amendments allowed persons to own more than 160 acres but with a critical proviso: they must agree to sell their holdings in excess of 160 acres within 10 years of the arrival of the water.

There were two additional requirements of the act that have become the most controversial.

The sale price of excess land holdings must be appraised at its prewater value. In Westlands, farms without water are worth very little.

The buyer of the excess land must be a "bona fide resident on such land, or occupant thereof residing in the neighborhood of said land." Later interpretation defined "neighborhood" as meaning within 50 miles of the land.

The reason for such requirements was clear. The Reclamation Act sought to encourage family farms and discourage land monopolies. In Westlands, more than 300,000 acres—an area equal to half the size of Rhode Island—is now classified as excess land some already has been offered for sale.

But the result has not been family farms in Westlands. Landowners have been given wide latitude by the Bureau of Reclamation to choose the purchasers of their land, and the sales have gone almost exclusively to syndicates which combine many 160-acre parcels into farms nearly as large as the original.

In one instance, 2,235 acres of Giffen property was sold to a syndicate controlled by Giffen's son, Price Giffen, for $2.37 million. Since each member of the syndicate was assigned 160 acres or less, the sale satisfied most of the technical requirements of the Reclamation Act, although the entire unit will now be operated as one farm.

But neither that sale nor any other such sale of excess land in Westlands has gone to persons who were "bona fide residents of said land," because the Bureau of Reclamation and its parent agency, the Department of Interior, have declined to enforce the residency provision.

The Interior Department has maintained that the residency requirement is outmoded by modern agricultural techniques and that the provision was effectively eliminated when later changes in the Reclamation Act failed to underscore it.

A 1972 federal district court decision in San Diego—in a case separate from the Westlands dispute—declared the Interior Department's policy to be illegal. The case is now under appeal and the agency has said it will continue its nonenforcement practice until the question is decided by the U.S. Supreme Court.

Such litigation could consume five to 10 years, however, and in the meantime hundreds of thousands of Westlands acres could be sold to nonresidents.

According to one section of the state's study prepared for Gerald Meral, deputy director of the Department of Resources, "to defer action until there has been a final judicial determination may result in an empty enforcement order."

Faced with this, several state officials involved in the Westlands study have suggested that California take advantage of one section of the Reclamation Act that provides for "cooperative agreements" with the state. According to the act, such agreements would be used in "securing and selecting of settlers" for federal water districts.

Such an agreement would require the cooperation of the Interior Department, however, and there has been the suggestion that the state could wield a far greater influence through its power of review over a new water supply contract between Westlands and the federal government.

The proposed contract, which calls for an increase in water deliveries and a $200 million increase in federal funding of the project, is badly needed by Westlands because the original funding will be exhausted by September or October of this year.

Federal law provided that the state treasurer, now Jess Unruh, has the power of review over the contract, as does the state Supreme Court.

"There is a feeling that the contract is the level we have needed," said one state official involved in the study.

Using the threat of a veto, Unruh could force significant changes in the contract, possibly including a change in the enforcement practice of the Reclamation Act's residency requirement.

But this week in Fresno, Sens. Gaylord Nelson (D-Wis.) and Floyd Haskell (D-Col.) will also face a question that has worried state and federal officials alike: Are there enough family farmers who wish to live in Westlands, can they obtain financial backing, and can they survive on 160- or 320-acre farms?

George Ballis, executive director of National Land for People, believes there are not only enough small farmers who can survive but that ultimately they will produce more efficiently than large farming concerns.

"A man who lives on his land, cares for it and watches over it carefully, will always outperform corporate farms that are manned with hired labor," Ballis said.

To underscore that belief, National Land for People recently approached the Southern Pacific Land Co. with an offer to buy 534 acres of the company's excess lands for use by family farmers. Southern Pacific turned down the purchase offer, however, saying the offered price was too low and that the company intended to give sale preference to managers who have farmed SP land under contract over the past years.

One section of the state study projected that conversion to small farms—about 844 new farms are possible, it said—would mean an increase in farm income and employment in the central valley.

However, the study also noted that such a conversion would be expensive, cost about $477,000 in capital improvements per farm, and many crops currently farmed in Westlands may not be suitable for small-scale cultivation.

"Only a few of the high-income potential crops showed sufficient family farm income potential to make them economically attractive," the study said. It listed such crops as alfalfa, lettuce, sugar beets and tomatoes.

The purpose of the federal hearings, according to Ray Watts, counsel for the Senate committee, is to determine whether the government can now encourage the return of healthy family farms in Westlands.

"The 1902 federal law requires us to encourage family farms and our job is to see whether it can be done in a modern agricultural age," Watts said. We should either practice what we preach or change our preaching."

[From the Sacramento Bee, Feb. 21, 1976]

BACKBONE FOR THE BUREAU

Gov. Edmund G. Brown Jr. may be right when he says no new laws are really needed to make the Bureau of Reclamation administer the law in the Westlands Water District so as to promote family farms.

However, we sympathize with the bureau that it is in a politically uncomfortable position and since the bureau wants some direction from Congress, Congress ought to give it by all means.

The governor made his assessment at a hearing conducted by two U.S. Senate committees in Fresno on the application of federal reclamation law in Westlands, the 600,-

000-acre water district in Fresno and Kings Counties served by the San Luis unit of the Central, Valleys Project. In a few words Brown cut right to the heart of the matter.

He declared the Homestead Act, the Reclamation Act of 1902 and its extension of 1926 were passed by Congress to strengthen the democratic fabric of this country with family farms, but that goal was not being realized in Westlands.

Under reclamation law, one person is entitled to federally subsidized water to irrigate 160 acres. Land over that limitation must be sold off as so-called excess land. Critics of the way the law is being carried out contend the land is being sold to "paper farmers" and is being cultivated in large aggregates as before.

Brown told the senators Congress and the federal bureaucracy need the "will" to see that family farms are established in Westlands. He didn't name the Bureau of Reclamation, but clearly he meant it.

The governor's indictment of the Reclamation Bureau was confirmed by the rather pathetic testimony of Regional Director Billy E. Martin and others of the bureau staff.

In answer to the insistence by Sen. Gaylord Nelson, D-Wis., that excess land should be sold only to owner-operators and not to doctors, lawyers and businessmen, and other nonfarmers who then lease the parcels to large farmers, Martin declared he favors Nelson's interpretation. But, Martin declared, the bureau lacks the authority to require this.

Richard J. Dauber, one of Martin's legal advisors, added to the picture of a helpless bureau by calling for "congressional assistance" in carrying out the requirement that those who buy the land must actually farm it.

What is surprising in these remarks is that the law has been in effect 74 years and yet the bureau still doesn't know how to administer it in favor of family farms.

There is some uncertainty in the law and it is up to the bureau to go before Congress to seek to clear these ambiguities.

For one thing, there is a question about what constitutes a family farm in today's agriculture. In 1902, a family farm was judged to be 160 acres or 320 for a husband and wife. Many contend more acreage is needed today for an economically successful farm.

Another much-debated aspect of reclamation law is the requirement that the landowner must reside on or near the land. The 1926 act did not include residency as a requirement and the question has been in the courts for 2½ years.

In the absence of a court ruling. Congress could ease the burden of the bureau by establishing residency guidelines for family farms. And Congress should consider whether the present acreage limitation is unrealistic for modern-day family farming.

U.S. EXHIBIT IN SOVIET UNION

Mr. BROOKE. Mr. President, several weeks ago I had an opportunity to participate in the opening of a housing exhibit in the Soviet city of Minsk. This exhibit, called "Technology for the American Home," sponsored by the U.S. Information Agency, featured such items as sample rooms, appliances, and home construction methods. All of these were of great interest to Soviet visitors.

The exhibit's primary feature, however, in the eyes of the 1.2 million Soviet citizens who have stood in line for up to 8 hours to see it, was its 22 young American Russian-speaking guides. For many of the Soviet visitors to the exhibit, this was their first and possibly only contact in a lifetime with an American. It was their only opportunity to ask those questions which they had always wanted answered—about this country and its culture and people. An urban worker might be surprised to learn that workers in the United States enjoy unemployment benefits and medical insurance. A farmer might be concerned with indoor plumbing or the price of a cow. But whatever the questions, and whatever the response, every Soviet visitor was left with an impression of a cordial, honest, and informed young American with whom he had spoken.

These young guides are to be commended, as is the Agency which regularly sponsors such exhibits and programs in the Soviet Union and Eastern Europe. These exhibits provide a forum in which literally millions of people, who may never be allowed to travel abroad and might otherwise never be able to converse with an American in their own tongue, can learn something of Western society, and the system and the people which produced it.

I ask unanimous consent that two newspaper articles, recounting the experiences and impressions of the American guides, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 22, 1976]

SOVIET KITCHEN DEBATES YIELD ODD VIEWS OF U.S.

(By Davide K. Shipler)

MINSK, U.S.S.R.—Once again America kitchens on display in the Soviet Union have become the scenes of debate, and the confrontations—this time between young Americans and ordinary Soviet citizens—have revealed the extent to which Soviet perceptions of the United States are permeated by bizarre images and caricatures, despite detente.

Like the famous Nixon-Khrushchev kitchen debate of 1959, these have taken place in an exhibition sponsored by the United States Information Agency, titled "Technology for the American Home" and containing model rooms, new building materials and labor-saving gadgets, it is closing now after traveling to six Soviet cities in 15 months, the longest run of any American exhibition in the Soviet Union so far.

Aside from the dishwashers and the sofa-beds, the greatest attractions have clearly been the 22 Russian-speaking American guides. They have been bombarded with questions and drawn into discussions that have provided abundant documentation of the effectiveness of Soviet propaganda about American life.

U.S. LIFE SEEMS ANARCHICAL

"They think there are only fat capitalists and unemployed, that everybody lives either in 80 story high-rises or out in the country without electricity," said Dolores Harrod, one of the guides.

"When you tell them 72 percent of the people have their own homes, this blows their minds—they can't handle it. American life seems anarchical to them—sick people dying in the streets because they can't afford hospitals, people running around with guns like the Wild West," she said.

One woman asked me, '"Why are you American women so thin?" and another said, "Because food is so expensive they can't afford to buy it."

After months of this, the guides say, it is usually easy to differentiate between honest questions and organized heckling, between plain misconceptions and harassment by agitators trying to disrupt any serious conversation that offers positive views of America.

NO HECKLING ELSEWHERE

According to Frank A. Ursino, the exhibition's director, hardly any such heckling occurred in Baku, Tashkent, Leningrad, Moscow or Zaporozhye. But he and the guides said it had been thick in Minsk, where they have seen the same people come often, meet in the middle of the exhibition and then fan out to various displays.

"A guy comes up and asks you six questions in a minute so you can't answer, then says, 'Come on, stop the bull—you've got all these problems, show us your problems'," said Thomas Robertson, a 25-year-old Princeton graduate who has completed graduate work in international studies at Johns Hopkins.

"You have people who will ask you three or four questions and you start to answer and they walk away," he said. Or the agitator will interrupt a discussion about life in the United States to ask narrow questions about a toilet on display until the crowd get bored and disperses.

"They try to prevent any information from getting across," said John Herbst, another guide. "If they can't challenge us, they'll challenge their own people. One woman asked me about unemployment benefits; an agitator said to the woman, 'Why do you ask this question?' The woman left."

The questions do get asked, though, and Mr. Robertson estimates that only about 20 percent of the questions have concerned the exhibition. Most deal with prices, salaries, unmployment, the cost of medical care and of higher education, racial discrimination, crime, slums—in short, the array of American problems that are dramatized and often exaggerated by the Soviet press.

"They just believe what they read in their press about the States," Mr. Robertson remarked.

Curiously, the misconceptions seem little affected by the improved governmental relations between the two countries. Vernon Geisel, an architect who worked at an exhibition in Minsk 11 years ago, finds no change between the questions of 1965 and 1976; only the official reception has improved.

"I'm the token Negro," said Carl Lee, "and so I get all the race questions. Their perceptions are really warped. They think there's nothing but discrimination."

"They think that Boston is typical," he added, in a reference to the busing clash, "and that slavery just ended about five years ago." The consultant to Yale University on East European and Soviet affairs, brought along a copy of Ebony magazine to show the Soviet visitors. "They are absolutely surprised that there are middle-class blacks," he said. "They have a really warped view of it—and they're all sure they know the truth."

Some Russians, regarding the Americans as propagandists, are astonished when the guides talk candidly about American problems. Joseph Repka, a 32-year-old graduate student in Slavic literature at Brown, responded to one Russian's question about problems by discussing racial prejudice, poverty, unemployment and the like.

A 19TH-CENTURY VIEW

"You haven't mentioned the major problem," the Russian said.

"What's that?" Mr. Repka asked.

"You know," said the Russian.

"No, I really don't," the guide replied.

"Well, capitalism, of course," the Russian declared.

"Their view of capitalism," Mr. Repka noted, "is a very 19th-century notion—that you have the robber baron sitting there and he owns everything and controls everything and the workers are downtrodden and have no rights."

Few seem to have any idea of the existence of small entrepreneurs and storekeepers, he said.

Many of the guides have found on their tour through various Soviet republics that citizens from diverse ethnic backgrounds—Russians, Byelorussians, Lithuanians, Uzbeks and Azerbaijanis—know about unemployment in America, but not about unemployment insurance; about the high cost of medical care but not about health insurance; about the high cost of education but not about scholarships.

LIFE FOUND CHAOTIC

Furthermore, explanations of such complex financing arrangements in a free-market economy seem to deepen the Russians' sense of American life as unpredictable, chaotic and insecure.

"Life in America is very scary to them," Mr. Robertson said. "I have been asked, 'What happens when you're done with college? Do they give you a job?' I say, 'No, you have to find one yourself.' It seems to them like a very insecure place to live."

The current guides who have traveled with the exhibition for the last six months, have been struck by the great differences in sophistication between Leningrad, where they had good, serious discussions—the same was true of Moscow, Mr. Ursino said—and the provincial cities of Minsk and Zaporozhye, where the people were often hostile and incredulous.

[From the Christian Science Monitor, Mar. 16, 1976]

Inside Russia, as Seen by Young Americans

(By Elizabeth Pond)

Minsk, U.S.S.R.—Warm people and a chilling system—this is what the Russian-speaking American guides to the U.S.A. home exhibition found in their seven months in the Soviet Union.

For Tamara Dombrovsky there have been some fantastic experiences in meeting people. For Richard Asch, who describes himself as an "average liberal-left American person," it has been a disturbing acquaintance with a system he says George Orwell's "1984" did not begin to portray.

After seeing Soviet secret police drag visitors out of the hall and hearing of the blackmailing of one American guide in Tashkent, many of the young Americans are going home ready to vote for hard-liner Henry M. Jackson. New Englander Carl Lee is determined to participate more actively in his local town meeting.

All of the guides are glad to be taking vacations after the constant organized heckling in Minsk, by far the most grueling of the six Soviet cities where the exhibition has appeared in a little more than a year. They struck the show for the last time March 14.

As with the other American exchange exhibitions that have come here, the show, "Technology for the American Home," has had a strong double impact—of the Soviet Union on the guides, who will be tomorrow's Russian-language teachers and diplomats, and of the guides on the 1.2 million visitors.

For the guides, exposure to Christians who cannot obtain Bibles, to survivors of Siberian labor camps, and to workers who have been fired and barred from other jobs after trying to introduce new methods of work has been devastating. One guide viewed it as Soviet "tormenting of their own people."

In their own work the guides found Minsk the most difficult Soviet city. They faced a lot of heckling here, and they did not have the compensation of the spontaneity of Soviet children visiting the typical American children's room. In the other cities Soviet children sat in the pint-sized chair, played with the toys, blackboard, and bunk beds in the room, and made fresh drawings to hang on the walls.

But in Minsk children under 16 were barred from the show when local schools were closed temporarily for health reasons. They continued to be barred from the show by Soviet authorities even after the schools were reopened.

Heckling in Minsk included harangues about unemployment, race discrimination, imperialism, and lack of suffering in World War II in America. Some hecklers goaded guides into saying "who lives better, Americans or Russians" and then scolded them for "criticizing" the Soviet Union.

After weeks of this, several of the guides began arguing and even shouting at the hecklers. But John Jursinic was just saddened by it and felt it was like "kids out to spoil the party." He tried not to be diverted into debate and sometimes replied, "Maybe you're right: maybe we have a boring society," then turned his attention to the majority of exhibition visitors who did want to see how American families live.

The impact of the guides on their Soviet visitors is difficult to gauge. The guides were not sure if they managed to break either of the commonest Soviet stereotypes of America—as a magic land where anything is possible, or as a capitalist monster.

Nor were they able to answer such questions as how much a kilo of fat costs at the butcher's in the U.S., how much a gold tooth costs, or how much a cow costs that gives five liters of milk per day.

Beyond such specifics, the American guides shared with those Slavs and Balts and Uzbeks who wished it a camaraderie that will linger for both sides. Many visitors invited the guides to their homes or gave them souvenirs like lapel pins, postcards, and plastic necklaces.

Many, especially in cities other than Minsk, wrote favorable remarks in the comment book: "The most pleasant and interesting thing in the exhibit is discussions with the young guides"; "To your exhibit—the friendship of our people and yours. Let it be repeated each year for the happiness of our generation."

And one vistior, with tears in her eyes, ended her tour by saying, "Thank you for being so nice to us."

VIOLATIONS OF HUMAN RIGHTS CONTINUE IN PARAGUAY

Mr. ABOUREZK. Mr. President, one of my biggest disappointments and most frustrating experiences during the few years which I have been in the Senate is to witness the almost total neglect for human rights by our Department of State. In case after case, in Korea, in the Phillipines, in Chile and scores of other countries, the United States continues to refuse to lift a finger to assist people of those countries who are imprisoned, tortured and assasinated.

In spite of laws recently passed by the Congress mandating a greater concern for human rights, in spite of the window dressing in the State Department with its human rights offices, and in spite of the stated concern on the part of high ranking administration officials, the most unfortunate neglect for those rights continues.

Recently, Dr. Richard Arens, a law professor from Temple University and a person long concerned for human rights wrote a letter to the editor in the Washington Post on the continuing violations of human rights in Paraguay.

Dr. Arens reports that the most recent examples of the atrocious violations of rights in Paraguay involve an eminent anthropologist and senior staff members of a project principally funded by a U.S. Government agency. Undeniable evidence of torture has been received by a number of church groups, the International League for the Rights of Man, and other human rights organizations.

Unfortunately, the State Department prefers to turn its head when such evidence is laid before them. They have been contacted on numerous occasions with pleas to intercede on behalf of Dr. Miguel Chase Sardi, the anthropologist, and his colleagues. But to no avail.

It is anybody's guess when things will change around here. But it has to happen sometime. The conscience and will of the American people will sooner or later be imposed, and, it simply cannot happen too soon.

Mr. President, I ask unanimous consent that the letter by Dr. Arens be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

A Violation of Human Rights in Paraguay

The failure of the government of the United States to protest the violation of human rights inherent in the arrest and torture since December, 1975, of reputable anthropologists working upon an Indian aid project in Paraguay financed by the government of the United States is a page of shame in American diplomatic history. Professor Miguel Chase Sardi, the senior anthropologist may in fact have died of his injuries according to information received by the International League for the Rights of Man.

The page of shame turns into a page of crime when confronted with the mendacity of State Department officials who have parrotted the Paraguayan government line that an "internal matter" involving no uncivilized practices is involved.

It is not irrelevant to note that Paraguay is the beneficiary of generous United States military and economic aid which is taken out of our tax dollars, to say nothing of the munificent private investment exemplified by Exxon and kindred ecopolitical centers.

In 1974 the Inter-American Commission on Human Rights of the O.A.S., acting upon the authority of the American Declaration of the Rights and Duties of Man, found the Paraguayan dictatorship guilty of the barbaric mistreatment of almost 100 political prisoners, none of whom had been charged or tried in a court of law.

In 1974 the International League for the Rights of Man formally charged the Paraguayan government with complicity in the genocidal extermination of the Ache Indian forest nation both in the U.N. and the O.A.S. The Paraguayan government responded to inquiries by the Inter-American Human Rights Commission with silence.

The embarrassment of the charges, however, led to the establishment in Paraguay in 1974 of the Project Marandu, financed principally by the Inter-American Foundation, a United States government agency.

In December 1975, the Marandu Project came to a halt with the arrest of its director and senior staff members. The director of the project is Dr. Miguel Chase Sardi, an eminent anthropologist, professor, and Director of the Department of Anthropology of the Catholic University of Asuncion. Three other senior members of the staff were also arrested.

In December of 1975 as well as in January and February of 1976, the International League for the Rights of Man received information that those arrested had been badly tortured. Dr. Chase Sardi was initially drugged, beaten and subjected to submersion in water. He suffered a broken rib, could not use his arms well and had an ear infection. He had not been allowed to see a doctor. Another of the three imprisoned with Dr. Chase Sardi was reported in worse condition. These reports come from unimpeachable sources directly on the scene whose names cannot be revealed for fear of reprisal.

Credible evidence of torture has been made available not only to the International League for the Rights of Man, but to the Inter-American Foundation, international human rights organizations and church organizations throughout the world.

But independently of the available evidence of barbarism against Dr. Miguel Chase Sardi and his associates, and we still cling to the hope that somehow against all odds that they may have survived, the purpose of the Paraguayan exercise was to halt all aid to the forest Indians who had been shown to be upon the verge of extermination by studies placed in the Congressional Record as well as in the uncontroverted and documented complaints in the U.N. and the O.A.S. The silence of the State Department, to say nothing of its attempt at depicting Paraguayan atrocities as "internal matters" raises not only the ghost of Watergate, but the credibility of American humanitarianism in its foreign policy both in Latin America as well as elsewhere.

RICHARD ARENS.

Philadelphia.

CARTER CHARISMA

Mr. GOLDWATER. Mr. President, why people stop me, a practicing Republican and ask me what is making Jimmy Carter tick and tick so well in the Presidential primaries is beyond me but it is almost an hourly happening. I went through very carefully in last Sunday's Washington Post account of an interview by their staff with Mr. Carter, and I came upon one answer of his that could be the major part of the Carter explanation. The question was, "You're describing a charisma or personality appeal that you have rather than any issue or any matter of substance. You would put that first, your personal appeal?" There followed his answer which, to me, really gets down to the bottom of what is bothering Americans, and I am proud that this young man from Georgia has recognized it and had the courage to talk about it. I ask unanimous consent that the question and the answer be printed in the RECORD.

There being no objection, the question and answer were ordered to be printed in the RECORD, as follows:

You're describing a charisma or personality appeal that you have rather than any issue or any matter of substance. You would put that first, your personal appeal?

I think there are two issues of substance that are generic in nature. They seem obvious to me. The people in this country are intensely patriotic, they love their government so much it almost hurts. They feel that they've been betrayed. They don't understand why something is going on in our nation's government that's a matter of embarrassment and shame. The competence of government is not an accepted characteristic anymore. No matter what a person hopes to do, ultimately in life, no matter what their top hope or aspiration might be, generally they feel that Washington is an obstacle to the realization of that hope, rather than an asset to be tapped in the future in the consummation of that hope.

ITEM PRICING

Mr. MOSS. Mr. President, having considered legislation which would require individual item pricing of goods in the supermarket, I welcome the endorsement of the concept announced yesterday by the retail food industry's UPC public policy subcommittee.

I have long believed that the public has a legitimate claim to full and complete price disclosure. The evidence which has been submitted to the Consumer Subcommittee during our scrutiny of automated checkout systems, indicates that the savings attributable to the elimination of item prices are minimal, and the inconvenience to the consumer well worth the cost of item pricing. Additionally, I am aware that the cost of 100 percent shelf marking accuracy, which would be necessary without item pricing, would absorb a considerable amount of the savings attributable to eliminating item pricing.

The public policy subcommittee is to be congratulated for its initiative in ascertaining consumer acceptance and needs with the advent of automated checkout. Hopefully, the stores and organizations most deeply involved in the development and implementation of automated checkout will fulfill the good intentions of the public policy subcommittee.

Mr. President, I ask unanimous consent that the text of the public policy subcommittee's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

POLICY STATEMENT ON ITEM PRICING

(Issued by the Public Policy Subcommittee of the Ad Hoc Committee on the Universal Product Code)

When checkstand scanning became operational in supermarkets in North America in the summer and fall of 1974, the grocery industry's Ad Hoc Committee on the Universal Product Code recognized that the possibility of the removal of item pricing in some stores had produced considerable debate among all interested parties. In an effort to make the debate fruitful rather than destructive, the Committee took two steps. First, it issued a policy statement on the subject. In that statement the Committee noted that on the basis of current studies, stores could expect to achieve savings by substituting shelf pricing and/or alternative forms of price information for item pricing (as was now technically feasible). It was also believed and noted by the industry—in the absence of information to the contrary—that the move away from item pricing should not present significant problems for consumers in their shopping efforts.

The Committee recognized that further work was needed to confirm both the savings for the stores and the lack of problems for consumers. Toward that end, it recommended that the new system be tried with prices off as well as prices on. It further urged that the results be carefully studied before any final position was taken.

As its second step in trying to make sure that the price information issue was resolved properly, the Ad Hoc Committee established the Public Policy Subcommittee to serve as a forum for discussing the issue. The Subcommittee was set up to include a member of the organized consumer movement—Mr. James Turner—and to include a tie with labor in the person of Mr. Wayne Horvitz of the Joint Labor-Management Committee.

In the months following the advent of scanning, the debate on the price removal issue moved into the legislative arena. At the same time, the debate became extremely heated and at times emotional on all sides. The industry members of the Public Policy Subcommittee thought that this turn of events was unfortunate and counter-productive. It was their hope that this very important issue would be resolved without resorting to laws that could well freeze the entire UPC system. The industry members strongly felt that the legislative approach was premature, and that position was made clear in legislatures across the country.

The entire subcommittee also recognized that in order to move toward resolution of the price removal issue, it would be necessary to gather additional facts—facts on the ability of consumers to shop in "prices-off" stores compared to conventional markets and facts on the levels of dollar savings that would result from price removal. In order to gather those necessary facts on the effect of price removal on consumers, the Public Policy Subcommittee sponsored a major research project conducted by Drs. John Allen and Gilbert Harrell, of Michigan State University, and Dr. Michael Hutt, of the University of Vermont. That research project was conducted with the valuable input of consumer groups. It was designed to tell us as much as possible at this point in time about the effect of item pricing removal.

That study has been described in detail. The results indicated at this point that some shoppers in "prices off" stores do experience a measurable reduction in price awareness and consciousness compared to shoppers in conventional stores. This overall finding is of major concern to the Public Policy Subcommittee. In fact, although current studies indicate that the savings from removal of item pricing are in accordance with earlier industry projections, some consumers today apparently have problems in shopping in a "prices off" environment.

Thus, the Public Policy Subcommittee is recommending to the industry that scanner stores follow the same, traditional approach to individual item marking as is used in conventional supermarkets. It should be noted that traditional pricing methods currently omit price marking in selected categories such as fresh produce, specials, and selected high volume items, and this approach would be continued in scanner stores. In addition, warehouse centers and small volume stores have traditionally not priced individual items. The Subcommittee also recommends that discussions continue to be held with consumer and labor representatives through the Public Policy Subcommittee and other appropriate forums on the development of continued experimentation with alternative methods of price information and other aspects of the UPG system.

The full Subcommittee urges that this statement of position be used to discourage further legislative action while opening the door to more constructive dialogues between consumers, labor, and the food retail industry on a local and a national basis.

The Subcommittee believes that creating and maintaining consumer price awareness, while lowering the cost of food, are worthy and complex goals. The concepts and techniques of attaining these goals are far from resolved.

The Subcommittee recognizes that it will take innovation and experimentation in consultation among consumers, labor and industry representatives before any consideration might be given to the substitution of other forms of price information for item price marking.

EXTORTION ATTEMPT IN HAITI

Mr. PROXMIRE. Mr. President, earlier this month the Subcommittee on Priorities and Economy in Government received testimony about an attempted extortion by government officials in Haiti from an American firm doing business in Haiti. The testimony was part of a hearing initiated some months ago on the subject of "Abuses of Corporate Power." The purpose of the hearings is to inquire into the economic ramifications of improper payments by business firms in foreign countries and in the United States.

In order to present an aspect of the problem that has not been given much attention, the subcommittee invited the executive officers of a small American firm, Translinear Inc., to testify about a situation which had come to the subcommittee's attention.

The chairman of the board of Translinear is William H. Crook. Mr. Crook is our former Ambassador to Australia and has served in several other capacities in the Government with high distinction. The president of the company is William Carden.

DETAILED TESTIMONY OF EXTORTION ATTEMPT

Ambassador Crook and Mr. Carden testified on March 2, 1976, in great detail. They alleged that about a year ago persons who they believe are officials in the Government of Haiti approached Mr. Carden with demands that Translinear make cash payoffs amounting to $500,000 and, in addition, transfer half of the stock of their firm to unnamed individuals. Further, it was demanded that Translinear dismiss their attorney in Haiti and hire another named individuals. Mr. Carden was told that if the firm did not submit to these demands the business venture which Translinear had been pursuing with the Government of Haiti for several years would not receive final approval and would get permanently bogged down in government redtape.

AMERICAN FIRM REFUSES TO MAKE PAYOFFS

Ambassador Crook and Mr. Carden made a decision which appears to be somewhat out of temper with the times. They refused to make any payoffs. Instead, they immediately contacted the American Embassy in Haiti and notified it of the reported extortion. They also reported the incident to officials in Haiti.

It is a sign of the times that the disclosure of Translinear's refusal to submit to extortion and pay bribes was an event worthy of attention by the news media. There was considerable news reporting of the testimony and the news reports were noted by the Government of Haiti.

HAITIAN AMBASSADOR CRITICAL OF NEWS ACCOUNTS

One day following the testimony the Ambassador to the United States from Haiti, the Honorable Georges Salmon, addressed letters to the editors of the Washington Post and the New York Times criticizing their accounts of the testimony.

According to Ambassador Salomon the news accounts did not accurately reflect what was said in the hearings.

At the request of Ambassador Salomon I placed copies of the full texts of his letters to the editors, and an additional letter from the Under Secretary of Commerce and Industry for Haiti to Mr. William Carden, in the CONGRESSIONAL RECORD on Monday, March 22, 1976. So as to let the spokesmen for Haiti speak for themselves, I made no comment when I placed the letters in the RECORD.

However, I do want to comment today because in my judgment what Ambassador Salomon had to say is as revealing as was the testimony obtained by the Subcommittee on Priorities and Economy in Government. First, I would like to say that Ambassador Salomon is in error with respect to the news accounts that appeared in the Washington Post and the New York Times. Both accounts, it seems to me, accurately reflect the testimony that was provided to the subcommittee. At the close of my remarks I intend to request that the two news articles be placed in the RECORD.

HAITI AMBASSADOR DISPUTES TESTIMONY

Ambassador Salomon disputes the testimony of Ambassador Crook and Mr. Carden. The Ambassador from Haiti maintains that—

> The allegation of bribes in the mentioned case is an outright fantasy apparently directed to mislead the honest opinion in Congress and the press and to put some kind of pressure on the government of Haiti to enter into a deal or contract it resisted as sensitive and encroaching upon the sovereignty and privileges of the Nation.

GOVERNMENT OF HAITI FAILS TO INVESTIGATE CHARGES

To understand the significance of this statement I should point out that there is no evidence that the Government of Haiti ever investigated the initial charges of the attempted extortion made by Translinear nearly a year ago. For the Government of Haiti to now conclude that the allegation of bribes is an outright fantasy, without having inquired into or investigated the allegations when they were made, is itself fantastic.

The subcommittee, of course, is in no position to make final judgments about the allegations. To do so would require an in depth investigation in Haiti, including interrogation of witnesses and those who are alleged to have been involved in the attempted extortion. On the other hand, there is much circumstantial evidence to support the testimony.

FACTS SUPPORT ALLEGATIONS

The fact that the officers of Translinear immediately reported the incident to the U.S. Embassy, that they reported to officials in the Government of Haiti, and that they also reported the attempted extortion in a telegram addressed to the President of Haiti, dated July 16, 1975, a copy of which was sent to and received by our own State Department, all lend great weight to the charges.

Ambassador Salomon also states that—

> In no case as indicated in the statement made at the hearings, an official of the Haiti government has been directly or indirectly involved in bribes or has attempted to solicit improper payments from Translinear Inc. . . .

I must take issue with the Ambassador's statement. The evidence presented to the subcommittee and the testimony provided by Ambassador Crook and Mr. Carden demonstrate beyond any question that there was an attempted extortion, which was immediately reported to authorities in the U.S. Embassy and to government officials of Haiti. Ambassador Crook and Mr. Carden are of the strong conviction that the extortion attempt was made by Haiti Government officials.

NO BASIS FOR HAITI AMBASSADOR TO DISPUTE TESTIMONY

On what basis does Ambassador Salomon disagree with the evidence and the testimony? He offers no facts, no evidence, nothing to support his assertions.

In any system of justice the requirements for fairness and due process require that serious allegations of a crime be treated seriously.

AMERICANS DENIED DUE PROCESS

The fact that a crime is alleged by businessmen from a foreign country should make no difference. The government should investigate the charges. They should not be dismissed out of hand. Every individual whether he is a citizen or a foreigner is entitled to due process and to the protection of the law.

I do not mean to engage in a quarrel with the Government of Haiti. I only want to call its attention to the facts in this case. Two reputable businessmen, one of them a former U.S. Ambassador, made serious charges about an attempted extortion almost 1 year ago. The charges were never investigated. The Ambassador from Haiti, therefore, has no basis on which to make his conclusion that the incident never occured or that if it did occur Haitian Government officials were not involved.

AMERICAN INVESTMENT EXPROPRIATED

The facts are that following the courageous decision on the part of Ambassador Crook and Mr. Carden to defy the demands for improper payoffs, the threats against them materialized. Their business venture did get bogged down in redtape. It was shifted from ministery to ministery. Negotiations were suspended, then resumed again, and then terminated. Their investment and their property in Haiti has been, in effect, expropriated.

Because of the long delays, Translinear seems to have lost the approximately $3 million it invested in its projects in Haiti. Several hundred thousand dollars worth of equipment alone has been allowed to rot away on a site in Haiti to which Translinear has been denied access.

I must also say that the actions and the attitude of our own State Department, and particularly the embassy in Haiti, have so far been less than helpful. I intend to discuss this aspect of the case on another occasion.

The point I want to stress now is that the government officials in Haiti failed to offer the protection of the law to Ambassador Crook and Mr. Carden. On the contrary, the government ignored their pleas for help and now heaps injustice upon injury.

I ask unanimous consent that a copy of the telegram dated July 16, 1975, sent by Ambassador Crook to Jean Claude Duvalier, President of Haiti; copies of news articles from the Washington Post and the New York Times, dated March 3, 1976; and an article from the Baltimore Sun dated March 3, 1976, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Telegram]

His Excellency the Honorable
Jean Claude Duvalier,
President for Life of Haiti,
Port-au-Prince, Haiti.

I am directed to respectfully seek clarification on the following matters of grave concern to Trans-Linear, Inc.

Item 1. On May 8, 1975, culminating two years of negotiations, this company was assured by Minister Bayard that our pending contract met all basic requirements and was acceptable to Haiti. On May 9, 1975 our representative Mr. Bill Carden was accosted in the park by an individual purporting to represent the President for Life of Haiti. Mr. Carden was instructed to pay a bribe of one-half million dollars and 50 percent of stock of this American company before the contract would be signed. Mr. Carden was verbally abused for his race, nationality, and as a foreign investor in Haiti. He was threatened with the blockage of the contract unless a letter addressed to your Excellency accepting the above conditions and others was sent. Trans-Linear rejected this extortion attempt and reported it immediately to the American Embassy and officials of your government. Within three days, all negotiations were abruptly blocked and all progress ceased. Since that date, it has been impossible for Trans-Linear to gain entrance to any office of your government and all requests for clarification and information have been denied or ignored. Our firm conviction is that you were not aware of this spokesman acting in your name. I am sure, sir, that you can understand our consternation and appreciate our need for official clarification on the status of the contract.

Item 2. In April 1972, Trans-Linear entered into a 100-year-lease agreement on approximately 5,000 acres of Haitian land through a valid contract then existing between the Haitian State and du Pont Caribbean. Our work was ordered stopped and our personnel evicted from the site. A military guard was placed in our camp and the air strip was barricaded to prevent planes from landing. We were instructed by Haitian officials that any attempt to reach the island by sea would result in our boat being blown out of the water. Mr. President, we respectfully request clarification of Haiti's position in recognizing Trans-Linear's legitimate right to this leasehold property. An official letter from your government recognizing our rights is in our files.

Item 3. At the time of the work stoppage, we were forced to abandon a helicopter, boats, vehicles, materials and more than one-half million dallers in bulldozers and heavy earth moving equipment. Twenty kilometers of road and infrastructure preparation were left unfinished and exposed to the elements. For twelve months all requests to inspect the property were rejected by your government. On May 6, 1975, Mr. Carden and I were permitted (under military escort) one inspection trip, but free or additional access to the island is still denied. Mr. President, we respectfully request clarification concerning the confiscation of this property. We assume, sir, that none of these matters are known to you and this communication is sent in the hope that you will personally act on our behalf to prevent our suffering further delay and financial loss. The last of five contracts drawn changed and modified at the request of your government is a fair and potentially profitable joint venture between the sovereign State of Haiti and this American company. It was written in accord with the spirit of your aspirations for Haiti and submitted under the direct supervision and request of your government.

I join with our stockholders and board of directors in entreating your excellency to honor the large monetary investment now totalling approximately USDLRS 3,000,000.00. For three years, we have acted in good faith, we have obeyed every law, we have observed every ethic, we have complied with every request and followed every suggestion of your government. We are not promoters. Money invested has come from the stockholders and bank loans. We are honest and successful businessmen asking only for the protection of international laws and the priviledge of investing in your country on fair terms and in an honorable manner. Your personal attention and actions on these matters will be greatly appreciated. Upon instructions of my board of directors, copies of this telegram are being sent to the U.S. Secretary of State, Mr. Henry Kissenger, Senator John Sparkman, chairman of the Foreign Relations Committee, Senator John Tower and Senator Lloyd Bentsen, both of Texas, Senator Edward Brooks of Massachusetts, Senator Edward Kennedy of Massachusetts, Senator Henry Jackson of Washington State, Congressman Charles Wilson and Congressman Jake Pickle of Texas.

We are always available to discuss these and other matters of concern with yourself or designated officials of your government.

Respectfully yours,

William H. Crook,
Chairman of the Board, Trans Linear, Inc., San Marcos, Tex.

[From the Washington Post, Mar. 3, 1976]

Haitians Demanded Bribes, Firm Says

(By William H. Jones)

U.S. investors in a proposed Haiti free port complex have lost an estimated $3 million after refusing to give in to extortion by Haitian officials, officials of Translinear, Inc., testified before the Congressional Joint Economic Committee yesterday.

In trying to succeed in Haiti, the officials said, they found business life included demands for a $500,000 bribe, an early morning telephone call and a summons to meet at an intersection in a Port-au-Prince suburb.

Sen. William Proxmire (D.-Wis.) held the hearings in response to American businessmen's claims that widespread payoffs were a way of life abroad that they could not escape if they wanted to compete with European and other companies.

The case of Translinear was described by Proxmire as evidence of what happened when "honest and responsible businessmen refused to become part of the bribery system."

In effect, Translinear ended up being kicked out of Haiti. The U.S. Embassy in Port-au-Prince and the State Department in Washington ignored the situation, company officials said.

"This case," said Proxmire, "raises the most serious questions about the policy and actions of the U.S. government regarding bribes and other payoffs." When federal agencies decide to ignore such problems, he implied, it creates an environment in which "bribery flourishes."

The saga of Translinear began Dec. 4, 1970, when the Texas firm and Haiti signed an agreement for a 99-year lease on Ile de la Tortue (Tortoise), an 85-square-mile island some six miles north of Haiti that was discovered by Columbus on his first voyage to the new world.

According to the Translinear Chairman William H. Crook, a former U.S. ambassador to Australia, and company president William R. Carden, planning started for a giant complex of hotels, leisure time and retail ventures modeled after Freeport in the Bahamas that would provide jobs for over 6,000 Haitians on an island that previously had no roads, no internal combustion engines and 10,000 people living in poverty.

The island was surveyed, architects created a master plan, and heavy equipment was moved in for the start of construction in the summer of 1972.

The U.S. businessmen were warned that a shortage of water might hamper the development, but exploration uncovered a huge reserve of artesian water.

In March, 1973, trouble began, according to Crook and Carden.

Initially, the Haitian government said a dispute with another party required all work on the project to be halted.

"Bulldozers, earth-moving equipment, rock crushers and a helicopter were abandoned where they sat," Crook said. A new road was left to deteriorate, a manager and foreman were "hustled off the island," leaving behind all the blueprints, engineering plans, topographical maps and plats.

Officials of Translinear and their employees have not been permitted to return, although the U.S. ambassador to Haiti once escorted another businessman on a tour of the island—an unidentified businessman said to be a native of the United States who has become a Haitian citizen, Crook and Carden said.

One Haitian air force officer allegedly told Carden that any Translinear attempt to travel to the island would result in its ship being blown "out of the water," while an airstrip on the island was lined with barrels to prevent landings.

On-again, off-again negotiations then began with various officials of Haiti. "Be patient, you will be back soon," Carden said he was told.

Last April 15, Carden was summoned by a "frightened employee to the clandestine meeting in a Port-au-Prince suburb, where Carden said the following demands were made by a man who works for Haiti's Department of Justice:

Translinear must fire its lawyer, known for a refusal to make payoffs, and hire another man—later identified as a Haiti Justice Department employee.

The U.S. firm must deposit $500,000 in Haiti's national bank.

Unnamed third parties were to be given one-half of Translinear stock.

A letter must be written to President Jean-Claude Duvalier, son of the late dictator Francois Duvalier, "praising his administration and promising to begin work in 30 days" if the contract was approved.

If the demands were not met, Carden was told, the U.S. firm would be subjected to so much red tape that eventually the Americans would give up their project.

[From the New York Times, Mar. 3, 1976]

Bribe Requests in Haiti Alleged—Dallas Realty Concern Says Refusal To Comply Cost It $3 Million Investment

(By Robert M. Smith)

Washington, March 21.—Executives of a Dallas real estate development company told a Congressional subcommittee today that after they refused to pay bribes totaling $250,000 to Haitian officials they were forced to give up their initial $3 million investment in the development of a free port in Haiti.

The businessmen testified at a hearing held by Senator William Proxmire, Democrat of Wisconsin, on the twin questions of whether American businesses must pay bribes overseas to survive and what is the United States Government's attitude toward such payments.

In the case history presented to a subcommittee of the Joint Economic Committee, the company appears to have lost its entire investment. In the words of William H. Crook, chairman of the board of Translinear Inc., and a former American Ambassador to Australia, "The result is to have your pride and go bankrupt."

As for the policy of the American Government, the former Ambassador said that, despite pleas by Translinear to the American Embassy in Port-au-Prince, the company received little help from the embassy.

TWO BRIBE REQUESTS ALLEGED

According to the testimony of Mr. Crook and William R. Garden, Translinear's president, the company was twice asked to pay bribes in Haiti.

On the first occasion, Mr. Garden said, he arrived in Haiti to find a frightened local employee. A telephone call summoned him and the employee—in separate cars—to a square in Petionville, a Port-au-Prince suburb. There, he said, sitting in his car, he was joined "by a small black man who closely resembled a Hollywood grade-B gangster."

"He wore a black suit, black tie, black shoes, reflecting sunglasses—it was almost out of a James Bond movie," Mr. Garden said.

Mr. Garden recalled that the man said he was from the palace, the residence of Jean-Claude duvalier. "He said that it was going to be very unhealthy for Translinear and for other American companies if they didn't cooperate," Mr. Garden said.

Among other things, the man asked Translinear to dismiss its Haitian lawyer and hire one employed in the Haitian Department of Justice, deposit $200,000 in a fund for the widows and orphans of Haitian soldiers and policemen and give unidentified third parties one-half of Translinear's stock, Mr. Garden added.

Mr. Garden said that he had been told that the National Defense Fund—the fund for widows and orphans—went to members of the family of President Duvalier. At a subsequent meeting with his employee, he said, 12 associates of the man with reflecting sunglasses showed up.

"It is my personal belief," Mr. Garden maintained, "that the demands did originate somewhere in the Haitian Government," because of the company's disastrous experiences with the Government after its refusal to pay.

On another occasion, Mr. Garden asserted two business associates of his in Haiti relayed a demand for $50,000 from the Haitian Under Secretary of Commerce, Henri Bayard.

"When I refused," Mr. Garden testified, "no further discussions took place, and I was told by several sources that the project was now dead for good."

It was impossible to confirm the accuracy of the narrative offered by the two Translinear officials. Mr. Crook sent Senator Proxmire a telegram offering to testify, and their testimony was clearly an effort to induce the United States Government to come to their assistance by pressuring Haiti or to embarass the Haitian Government directly and thereby encourage the return of their assets.

Translinear, which is privately held, had its offices in Dallas until they closed a few months ago. Its plan was to develop an island five miles off the northeast coast of Haiti called Tortuga into a free port that would include hotels, small businesses and condominiums.

According to Mr. Crook, the company has been denied access to equipment, plans and material it owns in Haiti.

He thinks the failure of the Haitian Government to abide by the contract signed by President Duvalier and to cooperate with Translinear was motivated by the company's refusal to pay the bribes and a desire on the part of the Government to give the project to someone else.

"All we have are allegations," Mr. Garden said. "But we have heard that a part of the Presidential family, which is now living in the United States is soon to join with a European consortium. The only thing they are waiting for is for us to get sick and tired."

Senator Proxmire pressed the witnesses about the role of the American Embassy. He asked about the response of a deputy charge of mission to whom Mr. Crook related the story of the bribe request.

"It was a nonresponse," Mr. Crook said. "He listened, was courteous—he made no response."

Both witnesses said they had hoped for a stiff protest or some other vigorous action by the embassy, but got none. It is possible, they agreed, that the embassy had made requests on their behalf without telling them, but they said they thought that was unlikely.

[From the Baltimore Sun, Mar. 3, 1976]

Bribery Bid Laid to Haiti—U.S. Investors Say $550,000 Was Demanded

(By Stephen E. Nordlinger)

Washington.—Two American businessmen charged yesterday that the government of Haiti blocked the continued building of their multi-million dollar resort and industrial complex on Tortuga after they refused to pay two bribes totaling $550,000.

Testifying before a congressional committee, the two executives accused the State Department of failing to intervene forcefully to protect the $3 million already invested, which they said may be totally lost.

William H. Crook and William R. Carden, chief officers of Translinear, Inc., a Dallas real estate investment firm that is approaching insolvency because of the collapsed Haiti deal, told the committee a story that included a clandestine meeting outside Port au Prince with a man dressed totally in black and wearing reflector sunglasses, an alleged threat by a Haitian official to blow their boat out of the water," and the dispatching of a military guard to halt construction of the resort.

The witnesses said that they and other employees and lawyers for the company made more than 150 trips to Haiti over the last four years to arrange a contract for finishing the resort but, after refusing the requests for pay-offs, they were told never to return.

Bulldozers, rock crushers and a helicopter have been abandoned on the island of Tortuga, north of the Haitian mainland, where the $15 million complex of hotels, golf courses, harbors, and industrial parks was to have been built as a free port, the two men testified.

"This is shocking," said Senator William Proxmire (D., Wis.), who denounced the State Department for failing "to protect the interests of the American citizens" in this case. Mr. Proxmire presided over the hearing held by a congressional joint economic subcommittee that has been investigating the payment of bribes by United States companies to foreign officials.

The hearing in the Translinear case was designed to show the consequences to a business of the refusal to pay bribes.

Mr. Crook, board chairman of Translinear and ambassador to Australia in the Johnson administration, declined to say he was shocked by the State Department's behavior but he said he was "disappointed." Mr. Carden, as president of the firm, said he had made three visits to the State Department in Washington and "countless trips" to the American Embassy in Port au Prince seeking help.

Last July Mr. Crook said he sent to Henry A. Kissinger, the Secretary of State, a copy of a telegram he had sent to Haiti's President Jean Claude Duvalier complaining of the firm's treatment.

There was no response from the State Department until a call from the Haiti desk last Friday after the Senate hearing was scheduled, Mr. Crook said.

State Department officials said that they normally do not become closely involved in the attempts of a company to win a contract from a foreign government. However, they said they have attempted to protect the investment of $3 million already made by Translinear. In addition, they said it had not appeared necessary to respond to the copy of a telegram sent to Mr. Duvalier because no specific action was requested.

Robert S. Ingersoll, the deputy secretary of state, is to testify before the subcommittee in the next few days.

The Haitian government said last night that in 1975 it had cancelled negotiations for a new contract because Translinear had done nothing over four years to develop the Tortuga property and had met none of the deadlines specified in the original agreement.

Initially, Translinear was formed to lease land from another American firm, Dupont Caribbean, Inc. (unrelated to the Delaware corporation), which had signed a 99-year contract to develop the 23-mile long island. When this company ran into legal trouble with Haiti, Translinear attempted to negotiate a new contract to develop the scenic but impoverished island as a free port, similar to Nassau in the Bahamas.

The troubles in reaching an agreement began about the time that Translinear discovered enough artesian water to serve a population of 10,000. Earlier, officials had said that there was virtually no water on the island.

After the $3 million investment was made, Haitian officials abruptly stopped work at the island on March 23, 1973.

A military guard was placed at the construction site and barrels were lined up on the runway to prevent planes from landing, Mr. Crook testified.

CONSERVATION CORPS MEANS JOBS FOR 200 SOUTH DAKOTA TEENAGERS THIS SUMMER

Mr. ABOUREZK. Mr. President, the Senate passed March 9, Senate Resolution 385, assuring that the Youth Conservation Corps would have the full $32 million appropriated by Congress.

In disapproving the deferral of YCC funds proposed by the administration, strong bipartisan support for this successful program was again apparent.

Youth unemployment continues to trouble both urban and rural areas. The Youth Conservation Corps summer jobs give unemployed teenagers—15 to 18 years old—the opportunity to earn money, learn about the environment and make necessary improvements on the Nation's public lands. It means a rewarding summer for thousands of high school students, and a bargain for the taxpayers.

Anyone who has observed the Youth Conservation Corps the past two summers, or talked to the enthusiastic teenagers who took part, needs no further evidence of the value of this outstanding program.

But I want to share with my colleagues information I recently received about the YCC activities in my own State of

South Dakota this summer. The ambitious and well-designed projects will mean over 200 new jobs for young people and important conservation work in every area of the State.

The press release and factsheet prepared by the South Dakota Department of Labor shows not only the variety and extent of YCC job opportunities, but also the cooperation between the State governments, Forest Service, and Department of the Interior, which has characterized the youth jobs program.

I ask unanimous consent that the press statement and factsheet concerning the Youth Conservation Corps in South Dakota be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[News Release from the South Dakota Department of Labor, Office of the Secretary, March 19, 1976]

YOUTH CONSERVATION CORPS RECRUITMENT PERIOD

PIERRE.—Youth seeking summer employment may wish to consider the Youth Conservation Corps. The opening of the Youth Conservation Corps recruitment period was today announced by John Cournoyer, State YCC Recruitment Officer from the South Dakota Department of Labor. The Youth Conservation Corps, administered jointly by the Department of Agriculture/Forest Service and Interior, offers youth, 15 to 18 years of age, gainful employment in the healthful atmosphere of the National Parks, National Forests, and other public land and water areas of the Nation. Each summer, young men and women from all parts of the country spend several weeks learning about conservation of our lands and water areas, and doing meaningful work towards their preservation.

This summer South Dakota will be offering a variety of programs, including ten state non-residential camps in the following areas: Madison, Beresford, Canton, Sturgis, Garretson, Redfield, Clear Lake, Aberdeen, Burke and Arlington. These will be commuter camps, requiring the youth to travel to and from the campsite daily, and will employ approximately 60 youths.

The Bureau of Indian Affairs will sponsor three live-in camps, one at Eagle Butte on the Cheyenne River Reservation; one on the Standing Rock Reservation, in Fort Yates, North Dakota, and one at Sisseton. Each camp will employ 24 youth.

A commuter camp in the Belle Fourche area involving 26 youths will be sponsored by the Bureau of Land Management; and the Bureau of Reclamation will be offering a program for 30 youths at Hot Springs with conservation efforts aimed at preservation of the Angostura Reservoir.

Also in the Black Hills area, will be two Forest Service Camps, one at Spearfish and one in the Rapid City area. Further information on these camps may be obtained by calling either the Pactola Ranger District or the Spearfish Ranger District.

Participants in the program will be chosen by random selection and will be paid no less than the federal minimum wage for the approximate 8 week period. Interested young men and women should contact their school counselor, the local or area JOB SERVICE officer, or Mr. Gordon Severson, Job Service Division, P.O. Box 1730, Aberdeen, SD 57401, PHONE: (605) 622-2307. Information on any of the programs may also be obtained by calling toll free South Dakota Tie-Line 1-800-592-1865 or writing Mr. John Cournoyer, State YCC Recruitment Officer, South Dakota Department of Labor, Joe Foss Building, Pierre, SD 57501, (PHONE: (605) 224-3101).

Applications must be postmarked no later than midnight April 16, 1976.

YCC—SUMMER EMPLOYMENT FOR YOUTH 15–18

WHAT IS THE YCC?

Once again we are pleased to announce the opening of the application period for the Youth Conservation Corps, and we are asking for your assistance in recruitment. The YCC, administered by the U.S. Department of Interior, the U.S. Department of Agriculture/Forest Service, and State governments, was established by the President and the Congress to offer youth gainful summer employment in the healthful outdoor atmosphere of the National Parks, National Forests, and other public land and water areas of the nation. Each summer young women and men from all parts of the country spend several weeks learning about conservation of our lands and water areas, and doing meaningful work towards their preservation.

WHO IS ELIGIBLE?

Young men and women, who have attained age 15 by June 1, 1976 but are not yet 19 years of age by August 31, 1976, who are permanent residents of the United States, its territories, or possessions, are eligible for employment without regard to social, economic, racial or ethnic backgrounds. They must have no history of serious criminal or other antisocial behavior; be physically qualified to participate fully in the various work and training projects of the YCC program; have or be able to obtain a work permit as required under the laws of the State in which they will be working; and have a social security number.

WHAT PROGRAMS ARE OFFERED?

This summer four separate programs will be offered including:

(1) Ten State 5 day non-residential camps.

(2) Three 7 day residential camps sponsored by the Bureau of Indian Affairs.

(3) Two 5 day non-residential camps under the auspices of the Bureau of Land Management and Bureau of Reclamation.

(4) Two camps under the control of the Department of Agriculture—Forest Service.

a. one 5 day residential.

b. one 5 day non-residential.

For purposes of explanation it should be understood that a 5 day residential camp is defined as one where the youth reside for 5 consecutive days at a time, leaving for the weekend, and then returning at a specified time. A 5 day non-residential program is one where the youths reside at home and daily commute to the public land to conduct their work-learning experience. A 7-day residential camp requires the enrollees to live at a camp site for the duration of the camp.

Work Week—40 hours divided as follows:

a. 30 hours paid employment per week.

b. 10 hours per week of environmental training.

Enrollees will be paid no less than the established minimum wage for the 30 hours of labor per week.

Camp Duration—approximately 8 weeks beginning on or about the second week of June.

Meals—non-residential camp participants will be required to furnish their own lunches during the program.

Residential camps will furnish meals during the enrollee's stay.

Transportation—arrangements for travel to and from the non-residential camp sites will be announced at a later date. Weekend transportation for the enrollees to and from 5 day residential camps will be the responsibility of the enrollees.

WHAT TYPE OF PROGRAMS DOES SOUTH DAKOTA OFFER?

State camps

This program will consist of approximately 60 youth of high school age in a work-learning experience in 10 State parks and recreation areas throughout the state. The groups will consist of 5 youths and 1 group leader. They will be 5 day non-residential in nature; consequently necessitating recruitment from within a reasonable radius of the camps. Camps will be located in the following areas.

Lake Herman State Park, Madison area.

Union County State Park, Beresford area.

Newton Hills State Park, Canton area.

Bear Butte State Park (2 groups), Sturgis area.

Palisades State Park, Garretson area.

Fisher Grove State Park, Redfield area.

Lake Cochrane—Oliver Recreation Area, Clear Lake area.

Richmond Lake Recreation Area, Aberdeen area.

Burke Lake Recreation Area, Burke area.

Lake Poinsett Recreation Area, Arlington area.

All sites, with the exception of the Lake Cochrane and Lake Poinsett areas, will be involved in the construction, improvement, interpretation, and use of hiking and/or nature trains. The Lake Cochrane—Oliver Recreation Area camp effort will be directed at shoreline cleanup and restoration involving dead tree removal, brushing out thickets, tree trimming, and piling debris for removal. The Lake Poinsett Recreation Area group's primary project will involve the maintenance and care of new and established tree plantings. Youth from all the projects will be involved to some degree in the care and maintenance of trees and shrubs as well as weeding, mulching, watering, pruning, and normal non-hazardous park maintenance.

Bureau of Indian Affairs YCC Camps

Three residential YCC camps will be operated under the Bureau of Indian Affairs. The sites of these camps will be the Sisseton-Wahpeton Reservation, Sisseton, S.D., the Standing Rock Reservation at Fort Yates, North Dakota and the Cheyenne River Reservation at Eagle Butte, South Dakota. They will be full 7 day residential in nature and will require the hiring of at least 72 enrollees. More information on these camps will be available at a later date.

Bureau of Land Management YCC Camp

This federally operated program will involve 26 youths in a 5 day non-residential camp situation located in the Belle Fourche area. More information on the camp and its projected efforts will be released later.

The Bureau of Reclamation will be offering a 5 day non-residential camp at Hot Springs involving 30 youths. The camp projects will center around the Angostura Reservoir.

Forest Service YCC Camps

There will be two Forest Service Camps offered, each involving 24 youths. They will offer approximately the same type of environmental program as the State camps.

a. *Spearfish Camp*—this will be a 5 day residential camp. During the work week enrollees will be housed at Black Hills State College.

b. *Rapid City Camp*—this will be a 5 day non-resident camp.

For more information on these projects please contact either the Pactola Ranger District—phone: 343-1567, or the Spearfish Ranger District—phone: 642-4622.

APPLICATION PROCEDURE

Eligible youth may obtain applications at their local or area Job Service Office or by writing or phoning Mr. Gordon Severson, Job Service Division, P.O. Box 1730, Aberdeen, South Dakota, 57401, Phone: (605) 622-2307.

Completed application should include camp preference and be sent to: Mr. John Cournoyer, State YCC Recruitment Officer, SD Department of Labor, Joe Foss Building, Pierre, SD 57501, Phone: (605) 224-3101.

SENATE SELECT COMMITTEE ON SMALL BUSINESS

Mr. DURKIN. Mr. President, I rise today as a cosponsor of Senate Resolution 104, a resolution to provide legislative authority to the Senate Select Committee on Small Business. I support it as wholeheartedly today as I did when the resolution was introduced.

This measure is long overdue. In 1950, the Senate established the select committee, but left legislative authority in the hands of the Senate's Committee on Banking, Housing and Urban Affairs. That committee's jurisdiction, however, has now become so widespread that the small business community often feels its concerns and interests do not receive the attention they deserve.

I need not point out that small businesses employ, directly or indirectly, more than 100 million Americans, or that goods and services provided by small business account for 43 percent of the gross national product. I also need not point out that small businesses, more than ever, are feeling the crunch from banks, from the Government, and from insatiable conglomerates, chain stores, and multinational corporations.

In 1953, Congress recognized the pendency of these problems by establishing the Small Business Administration as an independent agency within the executive branch. Congress needs now to make the same recognition in its own internal organization.

We are behind. The House has already granted legislative authority to its small business committee. And in the Senate, I think we have demonstrated the worth of the Senate select committee by the fine work done on such issues as pension reform, the paperwork burden, and small business tax reform. Senator Nelson, as chairman, has proven that the select committee is the most competent to handle certain legislative matters affecting small businesses.

Senate Resolution 104 makes sense. The Veterans' Affairs Committee has legislative authority over the affairs and concerns of veterans. The Agriculture Committee has legislative authority over the affairs and concerns of the Nation's farmers. Let us complete the analogy for the struggling, self-reliant businessman.

New Hampshire, Mr. President, is an excellent example of a State economy which is inseparable from small businesses. From the ski area operator to the general store manager, from the motel owner to the small independent fuel dealer, New Hampshire's business is small business. Even on the crucial issue of solar energy, New Hampshire has several small firms actively engaged in research, production, and installation of solar heating systems.

Members of the Banking, Housing and Urban Affairs Committee argue that they should continue to have legislative authority because the most pressing problem for small businessmen is still the problem of acquiring loans and capital. Perhaps that was true 25 years ago. And perhaps that is true in a few large metropolitan areas. I can testify, however, that in New Hampshire and New England, the problems go well beyond that in 1976—to problems of government regulation, management, labor relations, and encroachment by big business.

It has been 26 years since the Senate Select Committee on Small Business was created. It is now time for the Senate to follow through on the expectations it raised by granting legislative authority to the same group.

RESOLUTIONS FROM THE STATE OF GEORGIA

Mr. TALMADGE. Mr. President, a number of resolutions pertaining to issues of State and national importance, which were adopted by the Georgia House of Representatives during the recent session of the General Assembly, have been transmitted to me.

On behalf of my colleague (Mr. Nunn), I bring these resolutions to the attention of the Senate and ask unanimous consent that they be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

A Resolution Urging the United States Congress To Enact the "Administrative Rulemaking Control Act", House Resolution 3658; and for Other Purposes

Whereas, federal agency rulemaking has grown and become so pervasive that a fourth branch of government has been created beyond the immediate control of the people; and

Whereas, in 1974 while the United States Congress enacted some 400 public laws, federal agencies adopted and promulgated more than 7,000 rules and regulations affecting each and every citizen in uncountless numbers of ways; and

Whereas, the Honorable Elliott Levitas has introduced before the United States Congress, House Resolution 3658 entitled the "Administrative Rulemaking Control Act" which would give the United States Congress authority to review regulations adopted by federal agencies and would allow either house of Congress to disapprove those regulations which are unnecessary, abusive, or clearly outside the intent of Congress; and

Whereas, House Resolution 3658 has 156 cosponsors, including 9 of 10 Georgia Members of the House of Representatives and has bipartisan sponsorship and support from Congressmen of all walks of life; and

Whereas, a similar bill has been introduced in the United States Senate by the Honorable Sam Nunn.

Now, therefore, be it resolved by the House of Representatives that this body does hereby strongly urge the United States Congress to speedily enact House Resolution 3658 entitled the "Administrative Rulemaking Control Act".

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this Resolution to the Honorable Elliott Levitas, the Honorable Sam Nunn, each and every other member of the United States House of Representatives and Senate elected from the State of Georgia, the Speaker of the United States House of Representatives, and the President of the United States Senate.

A Resolution to the Ownership of Land in the State of Georgia by the U.S. Forest Service; and for Other Purposes

Whereas, the U.S. Forest Service is the largest landholder in the State of Georgia; and

Whereas, federal ownership of land impairs the ability of many of Georgia's counties to grow and to collect adequate tax revenue for effective operation; and

Whereas, the financial return to Georgia's counties from the U.S. Forest Service on timber sales is among the lowest in the nation; and

Whereas, much effort and energy has been expended in an attempt to arrive at a solution to this problem.

Now, therefore, be it *resolved* by the House of Representatives that the U.S. Forest Service is hereby urged to consider making lump sum payments in lieu of taxes to cover lost tax revenues by the counties of this State, and the Forest Service is encouraged to base the amount of such payments on a ratio consistent with the tax burden borne by other forest landowners in the State of Georgia.

Be it further *resolved* that the Clerk of the House of Representatives is hereby instructed to transmit a copy of this resolution to the U.S. Forest Service, to the Governor of Georgia and to the members of the Georgia Congressional Delegation.

A Resolution Urging the United States Congress to Repeal the Occupational Safety and Health Act of 1970; and for Other Purposes

Whereas, this is a time of particular economic difficulty in Georgia and throughout the entire nation; and

Whereas, the economic problems of the nation have resulted in ever-increasing numbers of unemployed; and

Whereas, the building industry is one industry hardest hit by the economic problems of the current recession; and

Whereas, the requirements imposed by the Occupational Safety and Health Act of 1970 upon all industries and especially upon the hard-hit building industry have caused considerable problems and expense to such industries; and

Whereas, the considerable problems and expense so caused are not in the public interest.

Now, therefore, be it *resolved* by the House of Representatives that the United States Congress is hereby urged to take those steps necessary to repeal the Occupational Safety and Health Act of 1970.

Be it further *resolved* that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this resolution to each member of the Congressional Delegation from Georgia.

A Resolution Urging Congress To Formulate a Plan That Will Reimburse States and Political Entities for the Use of Lands Owned or Used by the Federal Government; and for Other Purposes

Whereas, the Federal Government owns or occupies lands in the several states of these United States on which it pay no taxes; and

Whereas, the states and other political entities can ill afford to give up any of their property without receiving revenue therefrom; and

Whereas, it is incumbent upon the states and other political entities to provide police, fire and other means of protection to such properties at no expense to the Federal Government; and

Whereas, it seems only fitting and proper that some plan of remuneration should be formulated by Congress in order that the states may be compensated in some manner for the use of such lands, particularly those properties which are used in such a way as to generate or bring revenue to the benefit of the Federal Government.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring, that each and every member of the Georgia Congressional Delegation is hereby urged to take such action as may be necessary to formulate a plan whereby the several states of the United States and political entities will be compensated by the Federal Government for the use of lands in such states or political entities used or owned by the Federal Government.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to each member of the Georgia Congressional Delegation.

A RESOLUTION RELATIVE TO THE UNITED STATES POSTAL SERVICE; AND FOR OTHER PURPOSES

Whereas, the United States Postal Service, in order to effect economies, has proposed the closing of many small postal facilities throughout the country; and

Whereas, if these facilities are closed, serious hardships will be effected upon the people of this country and particularly of this State; and

Whereas, this body is opposed to further inconveniences to the public which would occur by the denial of access to convenient locations for postal service.

Now, therefore, be it resolved by the House of Representatives that this body does hereby urge each and every member of the Georgia Congressional Delegation to exert their influence to oppose any further curtailment of services and closing of facilities by the United States Postal Service.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to each and every member of the Georgia Congressional Delegation.

A Resolution urging the Georgia Delegation to the United States Congress to support federal legislation to encourage industrial development to produce aluminum ore from kaolin; and for other purposes.

Whereas, Georgia is extremely rich in high quality kaolin clay deposits consisting of approximately 6½ billion tons; and

Whereas, the technology exists and it is now economically feasible to produce aluminum ore from such kaolin clay; and

Whereas, approximately 95% of the current source of the aluminum ore, bauxite, is imported from foreign countries, and the possibility of the supply thereof being drastically reduced and the cost thereof becoming completely prohibitive is very great; and

Whereas, the foreign taxes of such imported bauxite has increased 500% during recent years; and

Whereas, the ready availability of the vast quantities of high quality Georgia kaolin clay places this mineral at a decided advantage over imported high cost bauxite; and

Whereas, the distinct possibility exists that the scarcity and high cost of imported bauxite in the United States will lead to an aluminum crisis similar to the present energy crisis; and

Whereas, the vast quantities of high quality kaolin clay provide an excellent opportunity to avoid such a crisis; and

Whereas, very little bauxite is available within the United States, and the importation of 95% of the supply at inflated prices has a very detrimental effect on the balance of payments of the United States; and

Whereas, a federal depletion allowance for kaolin clay to include as mining costs all processing steps through the production of aluminum ore when used as a primary source of aluminum would provide a very important incentive to the aluminum industry to produce aluminum from kaolin clay in great commercial quantities; and

Whereas, because of Georgia's rich deposits of high quality kaolin clay such an incentive would lead to profound industrial development in our State providing thousands of jobs for our citizens; and

Whereas, such industrial development will be made in conformity with environmental protection laws and would be completely compatible with the preservation of the environment; and

Whereas, the members of the Georgia Delegation to the United States Congress are aware of the great potential for our State for the production of aluminum from kaolin, and such members should be urged to use their influence to provide federal incentives for taking advantage of such potential.

Now, therefore, be it *resolved* by the House of Representatives that the members of this body do hereby urge the members of the United States Congress to use their influence and persuasive powers to encourage the adoption of federal legislation to provide a depletion allowance for kaolin clay that would include as mining costs all processing steps through the production of aluminum ore and to take such other steps as may be desirable to encourage the commercial production of aluminum from kaolin clay.

Be it further *resolved* that the Clerk of the House of Representatives is hereby authorized and instructed to transmit an appropriate copy of this Resolution to each member of the Georgia Delegation to the United States Congress.

NATURAL RESOURCE PLANNING WITH LANDSAT

Mr. ABOUREZK. Mr. President, for several years now, the Earth Resource Observation System—EROS—Data Center near Sioux Falls, S. Dak., has provided vital information acquired from aerial photography and Landsat satellites for use in land and natural resource planning. Using this information, the South Dakota Planning Bureau, along with EROS and other State and Federal agencies, is developing a Land Resource Information System—LRIS—to assess the present and potential uses of land within the State. LRIS utilizes techniques beyond the present capabilities of Landsat to measure the accuracy of information obtained through the satellite remote sensing and data acquisition systems to support government in its decisionmaking and planning process for local land use. The need for this system to provide for a more orderly growth and better utilization of man's limited resources is certainly undeniable.

An excellent article which outlines some of the actual and potential applications of this system appeared in the last quarterly bulletin of the Government Research Bureau, Public Affairs. Mr. President, I ask unanimous consent that that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LANDSAT: SPACE TECHNOLOGY IN NATURAL RESOURCE PLANNING

(By Paul A. Tessar, C. Kenneth Meyer, M. B. Verlaque, and W. B. Elkjer)

In 1973, the Earth Resource Observation System (EROS) data center was established near Sioux Falls, South Dakota. One objective of the center has been to provide information acquired from aerial photography and Landsat satellites which is useful in land and other natural resource planning activities. These satellites cover the globe and provide potential repetitive coverage every nine days through the use of remote sensing devices [1]—devices which are capable of electronically recording and transmitting the different reflection characteristics of the earth's surface. For instance, urban development areas possess different energy reflection properties than do those of agricultural areas. Since many objects have unique radiant characteristics, these remote sensing instruments have greatly improved the potential for gathering more detailed and complete information.

This information is important when one considers that today there are roughly 205 million Americans occupying and depending upon approximately 2.3 billion acres of land. This means that the per capita land share in 1976 is about eleven acres, compared with a per capita share of over seventeen acres in 1940. An estimated six and two-thirds acres share is expected by the year 2000. However, there are some natural restrictions on the suitability of one's eleven acres for general human habitation and use; as one author has stated:

"Some of the land is already taken up by cities, towns, airports, and highways. About two acres are producing food and fiber, and some of the land is barren mountain types, some is desert, and some is frozen tundra.

"As our population increases and our per capita land resources dwindle, we need to use the resources we have more efficiently—to meet our food and fiber needs and to preserve a suitable and pleasant environment." [2]

These factors underscore the need for optimum utilization of all natural resources. In recognition of this need, the South Dakota State Planning Bureau, in conjunction with the EROS data center and other state and federal government agencies, is developing a Land Resource Information System (LRIS) to assess the present and potential uses of land within the state. The inventory resulting from this effort will consist of information derived from a coordinated technical effort utilizing data gathered by satellites, high- and low-altitude aircraft, and ground surveys. However, this information system is not so sophisticated as to be beyond the talent, equipment, or resources available in local and regional planning offices.

LAND RESOURCE TECHNOLOGY SATELLITE

On July 23, 1972, the National Aeronautic and Space Administration (NASA) launched Landsat-1,[3] the first in a series of land resource survey satellites. This initiated an intensive effort to collect more detailed and up-to-date information concerning the earth's resources than had previously been available. Prior to the launching of Landsat-1, the usefulness of remote sensing was demonstrated in the Gemini and Apollo space missions. The astronauts photographed parts of the earth with hand-held cameras and the results were encouraging, since large sections of the earth were shown in each space image than was previously possible with conventional aerial photos. As a result of this effort, it was concluded that the earth's resources could be more effectively surveyed from space. The Landsat project was created to test the effectiveness and efficiency of such surveying methods. A second satellite, Landsat-2, was added to the system on January 22, 1975.

The LRIS program utilizes other data recording systems to complement and supplement the data received from Landsat. These systems are high-altitude photography, low-altitude photography, and ground-data sur-

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Footnotes at end of article.

veys. High-altitude photography is used for more detailed large area analysis and verification of results produced by satellite imagery. Conventional low-altitude photography is used for detailed analysis, especially in urban and environmentally sensitive areas. Ground-data surveys serve the purpose of on-the-spot verification of information obtained through remote sensing.

These techniques not only provide a source of information which is beyond the present capabilities of Landsat, but also serve to measure the accuracy and general reliability of information obtained through the satellite remote sensing and data acquisition systems. The integration of these separate, although related, information gathering processes is essential to the construction of a statewide natural resource inventory and land utilization classification system. In addition, supplementary information obtained from soil surveys prepared by the Soil Conservation Service of the U.S. Department of Agriculture is being acquired for selected counties throughout the state. As these surveys are developed for individual counties, they can be added to the statewide inventory system. Since the soil survey and other data can be displayed and analyzed with the use of overlay techniques, both the actual and the potential land use and land cover of an area can be more thoroughly and accurately determined by developing land capability and suitability studies.

GOALS OF LRIS

The emphasis of the program is to apply land resource information to state and regional planning efforts. The overall goal is to provide detailed, accurate land cover and natural resource information to improve and support governmental decision making, the comprehensive planning process, and state and local land use and policy formation. The objectives of the program, integrating all available data sources, are:

1. To provide a strong qualitative and quantitative information base for state and local land use and natural resources policy formulation;

2. To enhance the capability to analyze the condition of natural resources within the state quickly and accurately;

3. To monitor the changes in land and resource utilization patterns;

4. To develop the ability to perform land capability and suitability modeling;

5. To interact with other planning information systems.[4]

PROGRAM IMPLEMENTATION

The LRIS project consists of a three phase program designed to implement the Land Resource Information System. Prior to a discussion of these phases, it is necessary to explain the land classification system used in South Dakota, as adapted from James Anderson's system of land use categorization.[5]

This Anderson classification system assigns land use categories on the basis of three information levels: Level I (generalized), Level II (intermediate), and Level III (detailed) as displayed in Figure 1. These levels represent varying degrees of land use detail ranging from broad categories in Level I to more specific categories in Level III.

In the initial phase of the project, a statewide Level I inventory was visually interpreted from Landsat imagery and Level II and partial Level III information was digitally interpreted for selected areas of South Dakota. After this, Level II and partial Level III information will be digitally analyzed for the entire state. This phase will employ high-altitude photography to resolve any land use classification discrepancies and also to systematically verify the reliability of the digital information. Other components of this stage will consist of developing an inventory of existing resource data and the preparation of a land capability/suitability study for a metropolitan area. The final major activity will be the visual interpretation of high-altitude photography for selected urban areas and areas of environmental concern.

In the final implementation phase, Level III land use information will be generated for the entire state. All the operating information systems will then be coordinated and utilized according to the needs of the state. The data base will be updated thereafter on a two to five year cycle, dependent upon the following factors: the amount of change in land use since the last update; anticipated development pressure; and changes in resource management policies.

Several types of natural resources data will be added during the third phase. Some examples include, but are not limited to, oil, topographic, geologic, hydrologic, climatic, surface and subsurface resources, and air and water quality data. With this information available, the State Planning Bureau, as well as local planners and officials, will be able to perform a variety of analyses which will be of benefit in state and local planning and policy formulation. The remaining task to be performed will consist of creating linkages between the Landsat generated information and the State Planning Bureau's broader Policy Information System. This system will contain comprehensive statewide social, economic, fiscal and demographic data.[6]

CURRENT CAPABILITIES AND APPLICATIONS

Level I categories relevant to South Dakota include urban and built-up areas, cropland, rangeland, forest land, water, non-forested wetland and barren land. These land use and land cover categories developed during the first stage are shown in the accompanying map.

Satellite data was manually interpreted for this portion of the project—a process that proved rather time-consuming for the amount of information generated. This was especially true in the eastern part of the state which is characterized by a complex land use pattern including small-acreage farming and scattered, sparsely populated urban areas. Using manual techniques, the satellite sensors can effectively distinguish only relatively large homogenous areas (from forty to 160 acre plots, depending on the scale of imagery used). In addition to this, the data interpreted from the satellite photography was generalized in the mapping process. For example, in areas which are predominantly rangeland, cropland areas of less than a section (640 acres) were often generalized into the rangeland category. While this does slightly decrease the overall accuracy of the map, the general land use patterns show up much more clearly, making it possible for the map to better serve its goals of public information and education. While this level of interpretation was sufficient for the western areas of the state, it frequently could not distinguish small town areas. Only those urban areas which correspond to predetermined scientific resolution criteria and are shown on base maps, such as those produced by the U.S. Geological Survey, were delineated. The Level I inventory was primarily designed for determining general land cover and for providing a public information and education product showing general land use patterns in the state.

FIGURE 1.—*Land use categories adapted from Anderson's system*

LEVEL I	LEVEL II	LEVEL III
000 Uncategorized		
100 Urban and built up		
	110 Residential, old	
	115 Residential, new	
	120 Commercial	
	130 Industrial	
	140 Transportation	
	160 Mixed	
	170 Other	
200 Agriculture		
	210 Cropland	
		211 Bare soil
		212 Fallow
		213 Small grains
		215 Large grains
	240 Other	
300 Rangeland		
400 Forest land		
	410 Deciduous	
	420 Evergreen	
	430 Mixed	
500 Water		
600 Wetland		
	630 Riverbottom	
700 Barren land		

SOURCE: Paul A. Tessar, "Innovative Methods for the Generation of State and Regional Land Use Information: An Operational Landsat Demonstration Project," October, 1975.

Level II data provides more detailed information than Level I, due primarily to the use of computerized analysis techniques supplemented by high and low-altitude photography in addition to the satellite data. Aerial photography is especially useful in urban areas since it provides a higher resolution capability than satellite imagery. For instance, to the Level I category of "urban and built-up" the following new categories may be added: old and new residential, commercial, and industrial, as well as transportation facilities such as airports, highways and railroads.

Regional Level II data is primarily produced by electronically processing CCT's on computers. With this method it is possible to identify a broader range of land uses (most

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Footnotes at end of article.

Level II categories and many categories actually belonging to Level III) in greater detail (down to individual acres) than is possible by the manual analyses. In addition to the categories mentioned in the "urban and built-up" category, agricultural lands can be sub-divided into small grains (oats, wheat, etc.), large grains (corn, soybeans), bare soil, and other land cover types.

The repetitive nature of the Landsat data makes it possible to detect changes in land use and cover over time. For example, rangeland that is converted to cropland, urban and built-up areas replacing cropland on the fringes of metropolitan areas, and land being replaced by water in new reservoirs can be easily and accurately determined utilizing remote sensoring imagery. This information is valuable to state, county and municipal planners in the preparation of comprehensive plans, and other planning documents.

Level III further expands upon the information system developed in Level II by incorporating information accumulated through previous environmental, agricultural, land-use, and geological studies. This level is being applied in the Sioux Falls metropolitan area land suitability study. In addition to the Level II land use data produced by LRIS, this study used existing information, such as U.S. Geological Survey maps, data concerning natural resources, soil types, subsurface resources, surface water, physical characteristics of the terrain, and flood potential areas. This broad information base will be available to local planners to aid them in making comprehensive planning decisions.

NEAR FUTURE POTENTIAL APPLICATIONS

In some instances the present inventory system has capabilities that due to technical problems cannot currently be applied. These capabilities may, however, become operational in the near future. Some images are not suitable for the LRIS project due to adverse weather conditions present when the sensing takes place. However, if clear images could be made promptly available to analysts and planners, a number of additional applications would be feasible. For example, various crops could be monitored so that harvests could be projected in a more timely fashion. Crop vigor could be measured for early detection of pest infestation and disease. Remote sensors in the satellite, as shown by several studies,[7] can detect loss of plant vigor before it is possible to detect it on the ground. This would permit early treatment and might thereby save much of the otherwise damaged or destroyed harvest.

Additional applications are being developed by hydrologists in the area of water resource planning and management. Several of the objectives identified in this area are: (1) to provide remote sensing solutions to hydrologic problems; (2) to provide improved data for water management; (3) to measure various soil parameters in agricultural regions; (4) to improve forecasts of snow runoff; and (5) to measure the characteristics of water by remote sensing.[8]

These forecasts are expected to assist in predicting the amount of water flowing into the state's reservoirs and perhaps avoid the necessity of excessive water releases. In turn, this would aid in the preservation of riverbank areas downstream which may include urban areas, natural wildlife habitats, woodland and farm land. Normal observations of river stage levels and discharge rates, as well as the water level of lakes and reservoirs are important in the determination of available surface water. Sequential satellite data could provide regional indices on water availability which are impossible to achieve utilizing traditional techniques.

Many investigators in various disciplines are attempting to develop methods for measuring soil moisture content, and for preserving lakes through the use of remote sensing technology. The LRIS project currently plans to study the prairie lakes region in an attempt to assist local governmental units in their lake preservation efforts. Early spring imagery will be used to identify bare soil areas within drainage basins. Topographic and soils maps will be studied to identify those areas with the highest erosion potential. This information combined with suggested governmental actions will be reported to the participating agencies and possibly the legislature for consideration and action.

Other applications exist in the area of wildlife habitat evaluation. Biomass, for example, can be estimated to determine the carrying capacity for grazing species, both domestic and wild. Using sequential data obtained from Landsat, water level fluctuations can be measured to determine the relative amounts of suitable waterfowl and fish habitat. Forested areas and types can be identified for determining the potential support capacities for various wildlife species, as well as providing estimates of the acreage and density per acre of various species of trees from which potential timber harvests can be calculated. As in the agricultural sector, the spread of disease and insect infestations can be monitored in order to apply appropriate and timely forest management techniques. Damage assessment of burn areas can be determined as well as the extent of reforestation needs. Accordingly, a better understanding of vegetation, hydrology, climatology, soils, and topography will allow for the development of management practices compatible with the optimum carrying capacity of given areas.

These, then, are a few of the applications of remote sensing which will be available in the near future. In most of these cases, the technology currently exists to gather the needed information. In other instances, real time data acquisition or more frequent data collection is needed to make the data more useful for the purposes of natural resources planning and policy analysis.

LONG RANGE POTENTIAL APPLICATIONS

Professional planners and geographers are suggesting numerous long range potential applications for Landsat material. In the field of geology, it has been demonstrated that that remotely sensed data, supplemented with data from other geological sources can be invaluable in studies of areas where little information currently exists. Even in well-known and currently mapped areas remote sensing might provide information that would be difficult and expensive to obtain by conventional methods. With such information, updated geological maps could be produced showing distribution of rocks and soils along with determination of their composition, origin, and history. Mapping could also be done for thermal anomalies including volcanic and geyser activity as well as thermal pollution in lakes, streams, and rivers. The data concerning rocks, soils, and land structure can be useful in the search for new petroleum and mineral resources. Land and soil characteristics at known mine and well sites are compared with other areas, and when similarities in land and soil types are identified, more comprehensive mineral exploration techniques may be applied.

Application of remotely sensed data to hydrology and water resources may also include the prediction and assessment of flood damage. It may be possible in the future to identify new resources of fresh water and to monitor pollution levels in existing water bodies. One way this could be done is with the use of special thermal-sensitive devices making it possible to discern and map temperature variations in rivers, lakes, and streams.

Some of the applications of remote sensing that are expected for the future and which could be applicable to South Dakota may be summarized:

1. In geology updated maps (including information on rocks and soils), new oil and mineral resources, and mapping thermal anomalies.
2. In hydrology improved water management, prediction and assessment of flood damage, new sources of fresh water, surveillance of snow distribution, and monitoring water pollution.
3. In agriculture and forestry, determining changes in land-use, soil classifiction and mapping, assessing crop and timber stand vigor, forecast yields, detection of disease, insect infestation, drought, soil conservation studies, and fire detection.
4. Other areas include land use studies, detection of unknown archaeological sites, and effects of land use, vegetation cover, distribution of snow cover and water on weather and long range climatic trends.[9]

This is not an exhaustive list of the many long range applications of remotely sensed data. Rather it is intended to provide a sampling of the wide ranging implications for satellite data, that if combined with extensive land use studies, indicators of economic activities, and general demographic characteristics will assist state, regional and local planners as well as other interested agencies and the scientific community in natural resource planning, management, and endeavors.

POTENTIAL USES OF LRIS

This paper has outlined some of the actual and potential applications of remote sensing techniques and other quantitative information systems pertaining to state, county, and community policy formulation and planning activity. These technological advances and improvements comprise a useful set of tools for the planner interested in maximizing the orderliness of growth and the best possible utilization of man's limited resources. Intuition, at one time heavily relied upon, no longer provides an adequate basis for administering the use, which frequently meant "using-up," of vital environmental resources and areas.

The Land Resource Information System will assist in meeting some of the needs for effective and efficient resource utilization. The South Dakota Landsat Demonstration project is developing the capacity to provide current and useful information that will assist public officials in their collective decision and policy making activities related to natural resource management areas.

Potential uses in state policy making include resource development policy, land use policy, critical area identification and evaluation, and natural resource management.

Potential uses in local planning include comprehensive land use and resource planning, land use change analysis, local technical assistance, flood plain delineation, and land suitability studies.

Potential uses in environmental monitoring include critical area identification and evaluation, water resources planning, water quality monitoring, and wildlife habitat evaluation.

Potential uses in agriculture include land capability analysis, crop inventories and yield forecasting, rangeland condition evaluation, and pest infestation and crop disease monitoring.

Potential uses in economic development include transportation and transmission corridor studies, land capability and suitability modeling, state development policy, and future alternatives projection.

However, for this information system to be beneficial, "human institutions must be able to absorb and use the information . . . before it loses its validity or effectiveness."[10]

Footnotes at end of article.

A basic acceptance and implementation of technological advances, such as those provided by Landsat—"a project which places space technology into the service of all mankind"[11]—are important not only to South Dakota but to the nation if the environment is to be effectively managed.

FOOTNOTES

[1] See the glossary for explanation of this and other special scientific terms in this article.

[2] "Of Our Land: A National Inventory." Program Aid No. 984, Soil Conservation Service, U.S. Department of Agriculture, 1971, p. 77.

[3] "Landsat" stands for land satellite.

[4] Paul A. Tessar, "Innovative Methods for the Generation of State and Regional Land Use Information: An Operational Landsat Demonstration Project," paper presented at the Conference of the American Institute of Planners, San Antonio, Texas, 25 October, 1975.

[5] Anderson, James R., Ernest E. Hardy, and John T. Roach, A Land Use Classification System For Use With Remote-Sensor Data, Geological Survey, Washington, D.C., 1972.

[6] Tessar, op. cit.

[7] Some notable studies which illustrate the use of remote sensing techniques for early detection of disease and insect infestation are: R. N. Colwell (1956), grain crop diseases; Meyer and Calpouzas (1968), leaf disease in sugar beets in North Dakota and Minnesota; MacDonald et al. (1972), corn blight in midwestern states; and Meyer and Chiang (1971), insect infestations.

[8] Charles J. Robinove, "Remote Sensing in Geology, Hydrology, and Geography," Earth Resources Survey Systems vol. 1, National Aeronautics and Space Administration, Washington, D.C.: 1972, p. 58 (NASA SD-283).

[9] George A. Rabchevsky, "Remote Sensing of the Earth's Surface," Journal of Remote Sensing, 1970 vol. 1, No. 5, pp. 14–17.

[10] Melville C. Branch, City Planning and Aerial Information. (Cambridge; Harvard University Press, 1971) p. 77.

[11] U.S. Geological Survey, Status and Plans of the Department of the Interior EROS Program, July 1975, p. 9.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the American Bar Association has recently reversed its long-held stand on the Genocide Convention. After many years of strong objection to United States ratification of the treaty, they have voted to endorse favorable action on the Convention. That position has long been held by the leadership of the association, yet only now has the full membership endorsed that stand. The New York Times has heartily supported the action taken by the American Bar Association in an editorial appearing in that paper on February 26, 1976.

Mr. President, I ask unanimous consent that the editorial on the recent ABA vote be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO BANISH GENOCIDE

At long last, the American Bar Association has reversed its stand against the United Nations Genocide Convention and recommended United States ratification of that humanitarian treaty. The turnaround by the A.B.A. House of Delegates at its recent meeting in Philadelphia removes an aura of respectability in which opponents of the convention—in the Senate and elsewhere—had been able to cloak themselves for more than a quarter century.

With memories still fresh of Hitler's "find solution" for six million Jews, the United States delegation and individual Americans played leading roles in drafting the treaty—known formally as the Convention on the Prevention and Punishment of the Crime of Genocide—and in getting it approved unanimously by the U.N. General Aseembly in 1948. Then, despite repeated endorsements by Presidents, Secretaries of State and Attorneys General, the United States stalled on ratification.

The A.B.A. first came out against ratification in 1949, and very narrowly reiterated this stand in 1970, in the face of support for the treaty by its own president and three of its committees. While conjuring up bogus spectacles of Americans being summoned before alien courts on charges of racial discrimination at home, Senate opponents invariably fell back on the A.B.A. attitude as the clincher for their arguments.

A decisive majority on the Senate Foreign Relations Committee has long favored ratification and so reported in 1973, only to lose two attempts the next year to invoke cloture and end a filibuster on the issue. The gains liberals have made in the Senate, the reduction to sixty in the votes required for cloture and, above all, the shift in position of the A.B.A. should remove any doubt about the affirmative outcome of the next Senate vote.

Four score nations, including all the leading powers, have now ratified the Genocide Convention. It is past time for the United States to join them in striking a blow both for humanitarianism and for a significant extension of international law.

THE HOUSE BUDGET COMMITTEE'S POSITIVE ACTION ON TAX REFORM

Mr. KENNEDY. Mr. President, by its call today for $2 billion in tax reform for fiscal year 1977, the House Budget Committee has taken an important step toward making meaningful tax reform legislation by Congress a reality this year.

The committee's target is eminently sensible and achievable. What it means is that the days of massive freewheeling and inequitable Federal spending programs through the Internal Revenue Code are over. Federal tax expenditures, now running at $100 billion a year in the form of tax subsidies and special benefits for special classes of taxpayers, are being subjected to the same strict scrutiny and discipline as direct Federal spending through appropriation.

The budget process is working well in the House of Representatives, and I hope the Senate follows suit. The result will be the end of free rides for wealthy taxpayers, a lower deficit for the Treasury, and a fairer tax system for all citizens.

RELIGION AND AMERICA'S BICENTENNIAL

Mr. HUMPHREY. Mr. President, recently I was privileged to be the keynote speaker at the annual seminar in Washington sponsored by the Christian Life Commission of the Southern Baptist Convention.

In my remarks, entitled "A Challenge to Responsible Citizenship," I endeavored to review part of the history of the vital contributions of religious communities toward challenging and to fulfill the promises of the founding documents of our Nation. I believe that these contributions so far have been largely overlooked in our Bicentennial observances and literature. This is a serious omission, for we cannot begin to define the character and purposes of America unless we understand our religious tradition as the foundation of our Nation, the fiber which has bound us together as a people, and the source of the repeated renewals and new horizons to which we have been called.

I outlined an agenda of current challenges to citizenship—the major problems confronting our Nation today—which demand the concern of religious communities in addressing the responsibilities of exercising compassion, doing justice, and strongly affirming hope.

Mr. President, I ask unanimous consent that the text of my prepared remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

I welcome this opportunity to address the Christian Life Commission of the Southern Baptist Convention on the subject of "A Challenge to Responsible Citizenship"—a very appropriate subject during our nation's Bicentennial observance.

The religious communities of this nation have a special responsibility for leading us in a proper Bicentennial observance.

It is from the religious communities that we got those great affirmations about God, human nature and human society, on which the nation's political covenant was founded.

It is from the religious communities that we have received those great impulses based upon faith, love and hope which have led to renewal in our political life.

It is from the religious communities that we shall receive those resources which will help us address the problems we face in our own time.

Therefore, the religious communities have a special responsibility to lead us in thanksgiving for the blessings God has bestowed upon this land; and to help us take stock of our real strengths and confess our failings as a people.

The challenge to our churches and synagogues is to call our people to a renewed dedication to the many unfinished tasks which are before us—to demand that we press on toward the goal of assuring "liberty and justice for all," precisely because we are "one nation, under God."

Some people are worried that our Bicentennial will be "rockets' red glare", signifying little or nothing.

Some people, to whom America has been slow about keeping promises, will only note that the Bicentennial is taking place, as they continue to struggle for existence in the midst of our affluence.

Peoples throughout the world will be watching us during this Bicentennial era to see if we shall take to heart Arnold J. Toynbee's advice to "rejoin our American Revolution."

I believe we can and I believe we shall. I believe, furthermore, that religious communities such as the Southern Baptist Convention should take the leadership in making this Bicentennial era a creative and constructive period in our nation's history.

Let us call to heart and mind some of those great religious convictions on which our institutions are based; those great debates about the public good which have taken place in our past; and those achievements and failures that are the hand of history placed on our shoulders to guide us through the present and toward the future.

I

John Adams, our first Vice President, once said that the American Revolution took place in the hearts and minds of Americans long before the first shot was fired in that Eighteenth Century conflict. And he was right.

The apostle Paul had told the Christians in Galatia, "you have been called to freedom." So now, seventeen centuries later, men and women accustomed to freedom in their personal approach to God insisted upon freedom in the public expression of their ideas and in the ordering of their lives.

The Declaration of Independence, in fact, put in words a tremendous political revolution springing from a spiritual emancipation. Men's minds and souls were to be free—free to build a new world. They were to be regarded as equal in the eyes of their Maker. The political literature of our early republic is permeated with a firm conviction of human dignity—dignity not achieved by man himself, but dignity because each human soul is part of the spirit of God.

Drawing insights from their Hebrew, Christian, and Classical heritages, and assessing their own colonial experiences, our forefathers began to develop their own ideas of what it takes to make a free government.

Some of them came to the conclusion that because of the deep corruption of the Old World and because of a conspiracy they felt existed against American liberties, they were justified in severing ties with England. On the basis of their religious convictions they wrote those great and abiding testaments of our revolutionary period—the Declaration of Independence, the Constitution of the United States, and the Bill of Rights.

The time is now at hand to reaffirm those covictions.

Our forefathers believed, in the first place, that God is sovereign, "King of kings, Lord of lords," the source of all power.

By God's own rule of law, by God's own demands of justice and mercy, God sets the purpose of government to be to serve the public good and to be limited in its powers precisely to carry out this fundamental purpose.

The Mayflower Compact, the first written constitution to govern Americans, *begin* with the words, "In the name of God, Amen." It asserted that the whole purpose of these determined Pilgrims, in their struggle to found a new "kingdom" of free men and women, was "for the glory of God."

To understand the tremendous impact in the world of the Eighteenth Century of those great words in the founding documents of the United States, imagine you are hearing them for the first time:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. . . ."

"We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity do ordain and establish this Constitution for the United States of America."

Those words hit the established world order of the Eighteenth Century like a thunderclap!

The exclusive "divine right" of kings, by which God's purposes were to be mediated, was rejected outright!

No more would there be an automatic caste-system among the people—where a child born to a peasant family would automatically be a peasant the rest of his life.

No longer would there be a separate existence given to the "State" as such—instead, the people would be the final arbiters of government—only by their voluntary social contract and consent would government be instituted. And that government would exist only to carry out specific purposes clearly set forth in a piece of paper which would now be the final law of the land.

These documents, for the first time, applied to the sphere of government the possibilities God had granted throughout history to people who would live in his true freedom. But they also applied to the operations of government the judgment of God in His righteousness upon the limitations and failings of men and women created and living in the bond of His love, but choosing so often to wander in the wilderness.

Reinhold Niebuhr, that great theologian who was also one of America's major political philosophers, borrowed a passage from the apostle Paul to speak of all of us as being both "the children of light and the children of darkness." Applying this fundamental truth to the possibilities and limitations of government, Niebuhr said:

"Man's capacity for justice make democracy possible; but man's inclination to injustice makes democracy necessary."

Our forefathers tried to devise a system of government which would provide for the participation and consent of the people, and at the same time prevent the abuse of power or the corruption of power to serve special interests.

They diffused power so that interest might check interest. They separated the various functions of government to keep government from becoming arbitrary. But they also tried to relate all these parts effectively so that government might not be inert, but would actively help provide for the general welfare.

Our forefathers also believed that God fulfills His purposes in many different ways, and that it is presumptuous of any person or groups of people to claim to know God's ways with complete certainty. Indeed, they believed the best way to ascertain God's will is through civil and religious liberty and through the openness which this liberty would provide citizens to debate and discuss public policy.

Some of our forefathers believed that the worst engine of tyranny was a combination of political power sanctioned by ecclesiastical establishment.

Early in our colonial history Roger Williams, William Penn, and Cecil Calvert argued for a greater degree of toleration. Gradually, thanks particularly to the persistent efforts of Baptists, our Founders enlarged guarantees of religious liberty.

They drew a new line of separation, to use James Madison's image, between civil and religious institutions to diffuse civil and religious power, and yet to provide for a proper interaction between them.

We know—and novelists like Gore Vidal have reminded us—that our first citizens had warts and that our American Revolution had its seamy side. For example, our Founders fought a revolution in the name of liberty, but denied freedom to slaves. They sought to diffuse power and check it, yet they denied it altogether to women, Indians, Blacks, and others.

I do not minimize their failures for one moment. But it is on the basis of their great affirmations that we have been prodded to live up to their early promises about equality, and liberty and justice for all.

John F. Kennedy reminded us in his Inaugural Address that the revolutionary ideas of our forefathers are still at issue, and he echoed their belief "that the rights of man come not from the generosity of the state, but from the hand of God."

II

Here is the time and place we should recall some of the great movements through which religious communities have helped to shape the consciousness and conscience of the nation. Our history as a people has been one of remarkable openness, of constant debate about public policy, and of achievements and failure. We should recall at this time that it has often been a case of Christian struggling against Christian to determine what might and what might not be in the public interest.

Early in our national history, many Americans wanted to show God's love in the conduct of their own lives, to express that love in what they called "benevolence," and engage in the reform of American society. Prodded in causes often stimulated by the gentle Quakers, they organized many reforming societies.

They formed societies to educate the public about moral concern, to persuade people to change their attitudes and life-styles, and to change public policies.

They organized societies: to train children for citizenship and to champion public education; to alleviate the conditions of the poor and the destitute; to ease the entry problems of the thousands of immigrants coming to these shores; to alleviate the condition of the sick, the orphan, the prisoner, the emotionally disturbed; to address the sufferings of displaced Indian tribes; to stop the senseless practice of duelling, and to change the drinking habits of Americans; and, to do away with the slave trade and to outlaw slavery itself.

It was, in fact, a moral logjam of national conscience that erupted in our Civil War and our Indian Wars, from which we still bear the scars.

After the Civil War, we faced the problem of a rapid industrialization and a rapidly changing society. Religiously motivated people—Washington Gladden, Walter Rauschenbush, Frances Willard, John Augustine Ryan—saw people living in the misery caused by the new revolution in our economic life and the fearful cost in human life and natural resources.

Affirming the "fatherhood of God and the brotherhood of man," as they often put it, they fought for the rights of the people.

They preached, they lectured, they wrote, they organized in order to gain a living wage for workers, to stop the exploitation of women and child labor, to restrict working hours, to improve working conditions and make them safer, and to establish compensation for disability and illness.

We have not resolved all of our industrial problems, and they have been complicated further by the technological developments in more recent years. But these complex demands were foreseen in the 1930's by a movement called "Christian realism", and led by my good friend and teacher of us all, Reinhold Niebuhr.

Niebuhr saw that we were not facing up to hard realities. He warned us of a growing and dangerous gap between enormous wealth and pervasive poverty in this country and throughout the world.

Niebuhr called us to reconsider some of the basic insights of persons like James Madison who knew the necessity of checking power with power. Liberty must be the condition of order. Justice must be the criterion of law. Both liberty and justice, according to Niebuhr, are essential to domestic tranquility, the general welfare, and in the short and long run, to the defense of the nation's vital interests.

Niebuhr taught us by his Christian commitment and compassion, by his cogent social criticism and decisiveness, and by his belief that our quest for the public good must be salted and leavened by forgiveness and the willingness always to begin again in our quest. He led us in a new quest for equality, liberty and justice for all.

In the past few years we have been confronted with many other problems: the continued denial of civil rights to minority groups; the pollution of our environment; the need to develop and conserve energy resources; and a crisis of confidence in governmental leadership.

Our people confront constantly rising costs of health care.

Young families cannot find homes or afford mortgages.

Millions of American workers desperately hunt for jobs; while millions of our older citizens struggle to make ends meet on fixed incomes in a time of continuing inflation.

Too often, our cities are unable to afford the cost of maintaining public services and are left with an inevitability of decline and decay.

The level of violent crimes and crimes against property is a matter of serious concern to all our people.

Too many family farms are going under due to high costs; while consumers confront rising food prices.

The list could go on.

But the point of all this is that today, perhaps as never before, there are issues that challenge our Christian citizenship, that demand the best that is in us in hard thinking and decisive action.

But we have not been left alone in this task. We are surrounded by a "great cloud of witnesses" who call upon us to continue the pursuit of the public good in faith and love and hope, and with determination.

III

One of those witnesses was that great Baptist preacher, Dr. Martin Luther King, Jr. Back in 1963, he stood at the Lincoln Memorial and expressed a dream he had for America—a dream of a better life for all of God's children.

It is a dream we all share. It is a dream that still beckons.

But now we also have to consider that dream in global terms, as Dr. King did. We truly are living in an interdependent world.

I tell the young people in my home state of Minnesota that what happens in the Middle East may be more important than anything that happens in the Middle West—in terms of their day-to-day lives. And correspondingly, what happens in the Middle West, in the production of food and fiber, will have worldwide repercussions because America is a major food producer for the world.

Today, the world envelops us like a tidal wave.

We are exposed, through newscasts and television, to a rapid bombardment of change.

For example, the advent of nuclear weaponry has drastically changed the world and the way we look at the world.

Moreover, the state of the economy has brought forth unprecedented problems. Never before have we had recession and inflation simultaneously, never in the history of mankind. Yet now it is a worldwide phenomenon.

In the midst of this change, the old solutions no longer apply. Domestic remedies no longer are suitable for an interdependent world economy, and the old formulas no longer fit the facts.

Our own prosperity in America has brought change. We are forced to decide whether or not people living in democratic freedom can maintain self-discipline and high moral standards in the midst of affluence and abundance—whether self-restraint, prudence, and a reasonable degree of moral integrity, are only dependent upon times of trouble, depression, or war.

The responsibilities of the United States have grown enormously since the two World Wars, and we are still assessing our role in world affairs after our tragic involvement in Southeast Asia.

But in working out the new demands of leadership in the free world—in doing rightly the things that make for a better peace—we again are guided by the principles and history of our religious tradition.

Very early in our history there were people, motivated by God's love and their desire to show His "benevolence" in their lives, who had a deep concern about peace throughout the world.

The American Peace Society was organized in the early part of the Nineteenth Century. It promoted the establishment of a world court and a world assembly to deal with the affairs of nations around the world—it was far ahead of its time.

In the Twentieth Century, the religious communities were primary supporters of the League of Nations and the United Nations. In the midst of World War II, the Commission on a Just and Durable Peace, sponsored by the Federal Council of Churches, and led by a dedicated layman, John Foster Dulles, began the vital task of alerting the public to the complex demands of building a better world out of the ashes of a devastating world conflagration.

Some two decades later, challenged by the dramatic encyclical of Pope John XXIII, the historic Pacem in Terris world conference was held.

But today, as well, Christian citizens must give leadership in dealing with our worldwide problems.

One of the things religious communities may do is to warn us all of our pretensions and to prick our inflated self-righteousness.

Again referring to Reinhold Niebuhr, in his remarkable little book, the *Irony of American History*, he showed how we have tended to take credit for our greatness, when in fact much of it is due to our fortunate physical circumstance. He showed how, in pursuit of "safety and happiness," we have achieved the opposite. Despite an abundance of creaturely comforts, we have become increasingly unhappy; despite our great military and economic power, we have become increasingly unsafe.

Were he alive today, he would probably point out another irony in our situation. Precisely in response to the ideals proclaimed by the United States—ideals of an equal partnership in the community of nations, and of the rights of free people in independence—the newly formed nations of the third world, representing a major part of the earth's people, have claimed their place along side us in international councils and in world trade.

Their intense spirit of nationalism, equal to our own revolutionary fervor of 200 years ago, has often placed them in disagreement with America's view of appropriate courses of action in international relations.

Having learned well the lessons of resource exploitation by the industrialized nations, they now employ our critical need of natural resources—whether oil, scarce minerals, or agricultural commodities unique to their climate—as leverage to bargain for an equal place in the sun of world trade, which is crucial to their economic development.

These profoundly significant developments challenge us to avoid the reflex action of self-righteous indignation. They counsel us to learn that our great military and economic power, unparalleled in history, does have its limits. They should teach us that this power now must be exercised with restraint and wisdom, as well as with clear-sighted firmness.

And, they remind us that too often we have been a world power with a half-world knowledge—a lesson that the agonizing experience of our military involvement in the conflicts in Vietnam and Cambodia ought to have seared into our minds and consciences.

But the fundamental lesson we must learn again—the lesson which our religious communities never must let us forget—is that we cannot, in the face of all these complex challenges and seeming frustrations, retreat from our global responsibilities.

We have "soul-size" problems on our hands which call for a re-evaluation of the way in which we live as Americans, which call for us to reexamine and reorder our priorities, and which call upon us to make sacrifices for the good of the whole human race.

Of course, we cannot do all that needs to be done in the world, alone. We must in good faith make progress with other nations in controlling and reducing world armaments and the world arms race. We must in good faith make progress in dealing with our real enemies throughout the world: illiteracy, disease, poverty, hunger, the fear of war, the violation of civil and religious rights.

We must explore and experiment with better ways by which we can use our vast human and natural resources, including our food, to help people, to reduce the tensions that make for conflict, and, hopefully to produce a new era of mutual respect and cooperative effort among the peoples of the world.

But we cannot begin to take up the challenges before us unless there is a rebirth of Chrisian citizenship—a citizenship owing its allegiance to the final authority of faith and love; and a citizenship that unites us with all peoples of the earth.

"God so loved the world"—Can we do anything less?

IV

There is one last thing which I consider an essential responsibility of citizenship. That is: Hope.

I sense there is much cynicism, come desperation and some despair, abroad in the land today.

It is only natural that during our Bicentennial we should look backward, hopefully to learn from the past. But I believe that our greatest challenge is to look forward.

We live by faith and love. We also live by hope. We cannot presume that we have the knowledge and will to reach the Promised Land—to resolve all of our national and international problems—overnight.

But I am an optimist, and I refuse to be intimidated by the size of our problems or by the possibility of making mistakes, or to give up because I do not have the final answer to our problems. I refuse to be a cynic and despair.

I believe we are on a great pilgrimage toward molding a better nation and world.

Our religious communities well understand the meaning of this pilgrimage.

The parish priest, the circuit rider, the lay preacher were to be found wherever the wagons had halted to form a community on the American frontier in the last century. Our religious communities were an integral part of the pioneer spirit of America, strengthening its moral fiber, searching for ways of God with men in a new land and a totally new situation.

And it is that same pioneer spirit to which we are called today—not to cross a geographical boundary, but to press forward to meet new challenges, to grasp hold of new opportunities, with the same determination.

President Franklin Delano Roosevelt said:

"The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with a strong and active faith . . . . I do not believe that the era of the pioneer is at an end. I only believe that the area for pioneering has changed. The country needs bold, persistent experimentation . . ."

We are now two hundred years old as a people. In celebrating our birthday in this Bicentennial year we shall probably be engaged in some local and national birthday ceremonies and parties. But we would do well to remember the words of Adlai Stevenson in the conclusion of his book, *Call to Greatness*:

"Now at Maturity we shoulder the heaviest burdens of greatness, for in the last analysis the epic struggle for our civilization, for government by consent of the governed, will be determined by what Americans are capable of. In bearing burdens, in ennobling new duties of citizenship, is the greatness of men and nations measured, not in pomp and circumstances."

Long before Stevenson spoke these words, the prophet Micah warned about pomp and circumstance and ceremony, signifying nothing. His words are engraved on the walls of the Library of Congress for all of us to read this Bicentennial year, and as a reminder of the responsibilities of citizenship:

"What does the Lord require of you, but to do justice, and to love mercy, and to walk humbly with your God." (Micah 6:8)

An old Welsh hymn, full of the thunder and determination of soldiers marching into combat, puts the case well in a verse that reads:

"We are living, we are dwelling
in a grand and awful time.
In an age on ages telling,
to be living is sublime."

This *is* an age that will determine the course of the future, for better or worse.

We must make the most of the time, for the hour is late. God willing, the promise of America will become a reality for all our people, and the hope for a better quality of life in a world of peace.

SENATOR FANNIN'S LEADERSHIP ON REGULATORY REFORM PRAISED

Mr. HANSEN. Mr. President, as my colleagues are aware, there has been a series of colloquies on the Senate floor to discuss the problems of Government regulation and the issues involved in regulatory reform. So far there have been four such colloquies, one a month, with others to follow. I have been privileged to participate in these discussions which I have found to be very informative. I hope my colleagues have derived as much useful information out of this education process as have I.

To date, these colloquies have concerned the problem of Government overregulation; how Government regulation infringes on civil liberties and personal freedoms; how Government regulation hurts consumers; and how Government regulation hurts small business. Next month I believe our colloquy will concern the effects of Government regulation on energy, the environment, and natural resources.

Of course, words come cheaply, and there has been a lot of political rhetoric, but little action so far in the Congress on regulatory reform. Nevertheless, these colloquies serve an important, positive purpose: they inform and educate both the Congess and the public as to the economic costs and harmful effects of regulatory overkill.

While the response in the Washington media has been nonexistent, the wire services have reported favorably on our efforts. Moreover, the response in the Senate has been gratifying. The last colloquy on small business regulation brought excellent contributions from 24 Members of this body. Clearly, there is widespread agreement that Government regulation is not always a good thing, and that something must be done by the Congress to eliminate unnecessary costly and harmful regulations and improve the regulatory process.

Mr. President, the man who has been most responsible for the success of these colloquies is our distinguished colleague, Senator FANNIN. I think he deserves a great deal of credit for his leadership, time, and persistence. He is determined to see that regulatory reform will be something more than just another glamour issue soon forgotten in the heat of politics. He should be commended for his efforts in organizing these colloquies and in proposing positive reforms, especially S. 2792, the Regulatory Reform Act, which I am pleased to cosponsor.

In this regard, Mr. President, I call to the attention of my colleagues a recent syndicated column by Mr. Stanton Evans which discusses regulatory reform issues and the work of the distinguished Senator from Arizona. I ask unanimous consent that the complete text of Stan Evans' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PAUL FANNIN: BLOWING WHISTLE ON BUREAUCRACY

(By Stanton Evans)

"He has erected a multitude of new offices and sent hither swamps of officers to harass our people, and eat out their substance."

That was the complaint of the founding fathers against the British king 200 years ago, set forth in the Declaration of Independence.

One wonders what their view would be today. In terms of offices, swarms of agents, harassment of citizens and gobbling up of substance, the current practices of the U.S. government put George III completely in the shade.

Just how bad the situation is has been spelled out on the floor of the U.S. Senate by a battalion of lawmakers under the leadership of Sen. Paul Fannin, R-Ariz.

In a series of speeches launched in December and continued through January and February, these solons have documented the apalling costs of federal overregulation. And they have proposed a method for doing something about it.

A multitude of offices? Sen. Fannin observes that, in the past 10 years, the number of major federal agencies has grown by roughly 33 percent—from 77 to 102.

And these are simply figures for the major bureaus. If we subdivide into specific programs, many of which are duplicated from one department to the next, we get an even more disturbing picture of the bureaucratic maze.

According to Sen. William Scott, R-Va., there are more than 1,000 domestic assistance programs on the books these days, including "82 environmental programs, 75 manpower and labor programs, 74 agricultural programs, 58 community development programs, 54 legal services programs and 53 consumer protection programs."

In the past 15 years, Scott notes, 236 new federal programs have come into being, only 21 have been disbanded.

Swarms of officers? Federal civilian employment grew from 2.5 million to 2.8 million in a decade, and while nobody seems to know for sure how many people are involved in regulatory efforts, the number is prodigious.

Last summer U.S. News & World Report estimated the number of federal employes with regulatory functions at 63,444.

A computation by the Office of Management and Budget puts the figure even higher—100,980.

And these employes harass the citizen with unflagging zeal—monitoring, inspecting, demanding, forbidding. Rules and guidelines affecting American businesses and others are published on a daily basis in the Federal Register.

Sen. J. Glenn Beall, R-Md., informs us that the register for 1975 alone contains 60,000 pages, including 7,000 amendments to previous regulations and 3,000 other regulatory documents.

To process all these regulations and insure that American citizens are in compliance costs an estimated $40 billion a year.

There are more than 6,000 federal forms that must be filled out by private citizens, an exercise that costs American business 130 million manhours a year.

These are only start-up costs. In terms of wasted time, lost opportunities, misdirected energies and higher prices to consumers, the costs are immensely greater.

The President's Council of Economic Advisers had figured these additional costs at $130 billion a year—$2,000 for every American family.

Sen. Clifford Hansen, R-Wyo., gives this breakdown: $45 billion to $60 billion for economic regulation; another $50 billion to $60 billion for environmental regulation; and another $10 billion or so for health, safety and product regulation.

Among the specifics: U.S. industry will pay $112 billion to comply with environmental standards in the decade 1971–82; compliance with OSHA noise regulations alone will cost $13.5 billion; anticompetitive airline regulations cost consumers up to $538 million a year, railway regulations as much as $2.4 billion; auto safety regulation so far has cost consumers $3 billion a year and could quadruple that by 1978.

Sen. Fannin and his colleagues propose an efficacious remedy: No such regulation can go into effect until the bureaucrats can show its benefit exceeds its cost—a requirement that could put the whose bureaucracy out of business.

FARMING—THE CHALLENGE AHEAD

Mr. HUMPHREY. Mr. President, the Christian Science Monitor recently published a series of articles by Peter Tonge entitled "Farming—The Challenge Ahead."

The American farmer is, indeed, facing a challenge for at least the remainder of this century. As a major exporter of food, the United States has the opportunity to encourage farmers to produce as much as possible and to encourage our youth to seek jobs in farming, agriculture-related professions, and support industries. An "estimated 40,000 to 50,000 new farm operator jobs will open up every year through the 1980's just to keep up with the demand for food."

Tonge points out that despite the 1.15 billion metric tons of grains harvested last year around the world, many areas had to cope with shortfalls in supply. Next year there will be nearly 100 million more people to feed.

The author reminds us that we have all benefited from technological advances made during the last few decades, advances which now allow each farmer to produce enough food for 52 people, as compared to 16 people in 1956.

At the same time, Mr. Tonge notes, there are costs attributable to increased efficiency, such as the amount of energy used, the additional cost of using marginal lands, and the rising costs of agricultural inputs.

As an agricultural exporter, the United States sells over 500 products, valued at approximately $22 billion in recent years, as compared to $8 billion in 1972. This figure calls attention to the need for a firm Government position on export embargoes. Tonge calls to our attention a USDA analysis that—

> Every dollar received from farm exports generates something like 75 cents in non-farm areas of the economy—storing, packaging, processing, merchandising, and shipping.

It is not only the farmer who is financially hurt by export embargoes.

Despite the increase in efficiency and exports, Tonge questions how much longer the American farmer will be able to keep up this pace. Paraphrasing Wesley F. Buchele, professor of agricultural engineering at Iowa State University, he states:

> Farmers must learn to coax more food from fewer acres, using less fuel, fertilizer, water, and pesticides than the present state of their art allows. While most agriculturists believe the world can feed itself at current levels of technology through the balance of this century, few are optimistic about doing it beyond the year 2000 without further advances in per acre productivity or a drastic curbing of the world's population spiral or both.

Tonge cites many examples of how increased research will assist the world food situation. Buchele believes, for example, that soil conservation should be a priority research item.

I agree that research in many areas—including nitrogen fixation, photosynthesis, and animal genetics—will have a major international impact.

Mr. President, I ask unanimous consent that this series of articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Mar. 9, 1976]

Growing Food: The World's Most Important Business

(By Peter Tonge)

New Holland, Pa.—Bob Herr lives what he calls a "quality life" on 18 acres of rolling Pennsylvania Dutch countryside here. Polled Dorsett sheep are the principal products of a farm which also provides important "dirt farmer" experience for his role in directing vocational agriculture ("vo-ag") in the Lancaster County school system.

Dr. Herr has turned down lucrative offers from industry because he feels his "most significant contribution" lies in turning out students with a knowledge of and an interest in farming.

Agriculture is the world's biggest and most important business by far, he says, and right now it is on the verge of great expansion. It must grow if the world is to be fed and must become even more efficient. "We're going to need lots of dedicated people in agriculture, the very best," he says.

Last year the world's farmers harvested 1.15 billion metric tons of grain—a record in corn, wheat, oats, rice, and other much needed cereals. Even so, that bumper total harvest included shortfalls in many regions: the Soviet Union for instance. It was barely adequate to meet general world needs; and each year ahead that harvest must increase by 2 percent (to an annual total of 1.88 billion tons by the turn of the century) just to stay ahead of demand on a planet where the population currently jumps by about 98 million people (about 2 percent) a year.

INCREASED PRODUCTION NEEDED

Put another way, this year the world's farmers must produce 23 million more tons of cereals than they did in the past 12 months (dust storms in the U.S. and other vagaries of nature notwithstanding), if the world is not to grow a little hungrier in 1976.

There must be similar increases in production of vegetables, fruits, and meat, even as growing urbanization snatches more land from the plow and mechanization eats up still greater quantities of the very fuels that have made possible American and European agriculture's past impressive gains.

On the surface, then, the problems seem formidable. Yet, U.S. agriculturists generally are optimistic. They believe they can meet the challenge at home, and that world food production can be increased several fold even with present technology.

There is something of a missionary zeal to Dr. Herr's response to the challenge. He believes the better the student the vo-ag teacher can turn out, the better off the whole world will be. "Do you realize," he said, emphasizing the point, "that only three out of 150 of this world's countries [the U.S., Canada, and Australia] export more food than they import!"

This means still more will be asked from the exporting countries and from those with the potential to be exporters. He thus sees great challenges, but "tremendous opportunities" ahead for the agriculture student.

JOB OPPORTUNITIES EXPAND

Job opportunities are expanding at an ever greater rate. "There need be no unemployment in agriculture today," says Dr. Herr. Indeed the U.S. Department of Labor has estimated 40,000 to 50,000 new farm-operator jobs will open up every year through the 1980s just to keep up with the demand for food. And the backup support in agri-business is likely to be even greater than that.

A National Research Council study on world food and nutrition (1975) has recommended to President Ford increased support be given agricultural research and education.

"Trained manpower is essential if the U.S. is to respond to national and international concerns to help solve the world food problem. . . . A manpower-training program should be part of an expended research investment in food production capacity," the study recommends.

John E. Mitchell, vice-president of the Massey Ferguson tractor company in North America notes in today's specialized agriculture it takes five agri-business people to back up each farmer or rancher. He predicts the number will increase as demand for specialists continues to grow.

VO-AG TEACHERS NEEDED

A career orientation film, "Challenge, Change, Choice," put out by the Sperry New Holland company, which manufactures harvesting equipment, states there are more than 1,000 specific jobs in agriculture and 500 in the scientific and development side of agri-business alone. Some of these need college degrees, but many do not.

Besides farm management, the basic areas are research, machine sales and servicing, communications, chemistry, banking, insurance, agricultural engineering, construction, veterinary science, and transportation. Then there is teaching.

"There is a glut of schoolteachers on the U.S. market at present," says Dr. Herr, "but we can't get enough vo-ag teachers." Roger Bruene, placement officer at Iowa State's College of Agriculture, agrees. "Every vo-ag teaching student is placed the moment he graduates," he says, adding that demand for agriculture graduates is also intense: "I've had other companies crying for graduates when we've had none to offer."

One reason for the particularly heavy demand for teachers is that they frequently are drawn off into industry. Harold Crawford, head of the Agricultural Education Department at Iowa State, says after three or four years of practical experience the vo-ag teacher acquires such a broad, well-rounded understanding of agriculture he "can fit into any number of slots in agri-business."

FARMING BACKGROUND NOT NECESSARY

A farm background still is an obvious advantage to anyone seeking a career in agriculture. But it is not necessary, says Dr. Herr. Indeed, it had better not be or agriculture would be in "deep trouble" he adds.

Between 1959 and 1974 farm families in the U.S. declined by 1.3 million to a current total of around 2.8 million. Recent reports suggest the trend has leveled off and may even reverse itself slightly. But that still leaves a rather slim reserve for agriculture on which to draw.

When Dr. Herr introduced vocational agriculture into the Lancaster County school system, it was aimed primarily at those children in farming districts. It was a boys-only program too. However, city parents soon asked that their children be included.

"We quickly found that the city kids did just as well as farm-raised youngsters," says Dr. Herr. And when girls were allowed to join, "they did just as well as the boys." Now, says Dr. Herr, the city youngsters in the program are in the majority.

FARM BACKUP JOBS

In the past agriculture has lost too many talented youngsters because they were simply not aware of the opportunities. "They thought that if they couldn't afford a farm they couldn't get into agriculture," says Dr. Herr. Vo-ag training dispells such ignorance. They learn of the tremendous amount of effort (job opportunities) that goes into backing up the farmer who ultimately tills the field and raises the crops.

Such a backup team consists of agronomists, soil scientists, plant nutritionists, bacteriologists, bacterial geneticists, plant geneticists, plant physiologists, biochemists, extension specialists, veterinarians.

Then, too, there is manufacturing. "It designs and produces everything from small chicken-feeding troughs to mammoth combines, prefabricated sheds, and silos," says Dr. Herr.

When the automobile industry was laying off workers by the thousand there was no shortage of work on tractor assembly lines. In turn, tractors and other farm machinery require servicing so that opportunities as service technicians are expanding too.

Irrigation engineers, water-and-soil conservation specialists, people to develop new cultivation techniques . . . the list of needed talents is almost endless, Dr. Herr points out. Trucking is yet another specialized need of agriculture as are banking and insurance.

Meanwhile more and more school systems are getting into agriculture, says Dr. Crawford. So are two-year community colleges. And correspondence courses from the recognized four-year schools of agriculture have proliferated in recent years so that anyone wishing this kind of training should be able to get it, says Dr. Crawford.

[From the Christian Science Monitor, Mar. 10, 1976]

CAN FARMERS MAINTAIN PRODUCTIVITY?

(By Peter Tonge)

DES MOINES.—Howard Elson left college 15 years ago to farm 600 acres of the blackest soil you will find anywhere. Now his spread a few miles northeast of here has increased to 1,100 acres.

By most standards in this cornbelt community, he is successful—the type of efficient American farmer that turned the Midwest into the breadbasket of the world. In 1972 he was one of four in the United States to be named "farmer of the year" by the Junior Chamber of Commerce.

Even so, if conditions were to return to those of the early 1960s when he began farming, he reckons he'd quit. He worked "like a dog" seven days a week, 12 months of the year in those days. Now he farms almost double the acreage and still has time for a winter vacation.

Steadily advancing technology has made it all possible, he says, explaining: "It used to take us from 5 in the morning to 7 at night just to *harvest* 2,000 bushels of cob corn. Now it's harvested, shelled, and delivered to town all in one day."

Soil preparation has been cut in half, too—by more powerful tractors, six-bottom plows, and disks and harrows that prepare a 35-foot-wide stretch of soil in one pass. Modern corn planters can handle 20 rows at a time. "I can now plant 200 acres in one day," says Mr. Elson.

EFFICIENCY INCREASING

Such then is the distance farming has come in a relatively short period. So, where 20 years ago each farmer in the U.S. produced enough food for himself and 15 other people, each farmer today feeds 52 people.

This performance is unmatched anywhere else in the world or at any previous time in history. One hour of farm labor currently produces three times as much food as it did two decades ago. The output per man hour on farms is increasing at more than twice the rate of industry (33 percent as against 14 percent in the past 10 years, according to U.S. Department of Agriculture [USDA] figures).

But increasingly of late this "efficiency" is being questioned. Its cost, apparently, has been very high in terms of energy—in the heavy consumption of finite and increasingly expensive fossil fuels. While the energy value of food produced is greater at harvest than the energy input in fertilizers and farm-used fuels (2½ to 1 in the most efficient plant, corn, according to Dr. David Pimentel of Cornell University) this profit becomes a huge deficit in the long process from the farm gate to the family dinner table.

There are some indications that energy prices may stabilize for a while. But in the long run costs must rise as fossil fuels begin to run out or become-harder to retrieve from deep ocean beds and other geographically challenging locations.

CLIMATIC EFFECTS

There are other factors that point to a slowing down of agriculture's achievements. The returns on new technology appear to be leveling off and, as more marginal land is brought into cultivation, per-acre yields are declining. Then there is the weather.

Meteorologists point to climate changes that indicate more variable seasons lie ahead. This, they say, could result in hot years and cold years, and though temperatures would average only a few degrees above or below present norms this could markedly alter crop yields. Increasing food production, then, is likely to become more difficult and a lot more costly in the future.

Meanwhile if current technology has been good to those farmers who could survive the competition (an 8.7 percent farm population in 1960 has dropped to a current 4.6 percent of total U.S. population today) it has done even more for consumers. It has made U.S. food the cheapest in the world when priced relative to income.

Thus, despite recent increases in supermarket prices, Americans spend only 17 percent of their after-tax dollar on food—up 1 percent since 1972 but well below the 20 percent of 1960. In 1952, the cost of food was at 23 percent. In the period since 1952, while wage hikes have averaged 150 percent, food has risen only 50 percent.

Farmers currently receive 40 cents of every consumer dollar spent on food, says the USDA. Out of that must come farm production costs And such costs run pretty high on the larger "economical" farms of the Midwest—anywhere from $100,000 to $500,000 a year to operate, according to the USDA.

COSTS RISING

"My out-of-the-pocket cost to produce an acre of corn was $115 last year," says Mr. Elson. "I'm talking about actual cash outlay, not figuring anything for land value, interest, taxes, or machinery investment. I'm not even figuring in my labor—just seed, fuel, fertilizer, and herbicide.

"Ammonia that cost me 7.8 cents a pound in 1972 now costs 23 to 25 cents a pound. Three years ago I paid $100 per horsepower for a 100 horsepower tractor. Now it's $200 per horsepower. A couple of years ago we were paying $20 to $22 a bushel for seed corn. Last year it was $45."

Despite these rising costs, Mr. Elson contends a good farmer has made a "reasonable living" in recent years. In 1973, the average farmer's after-tax income even rose above that of his average city cousin for the first time. But it now is down to 92 percent of city earnings. That's still much higher than has historically been the case.

According to USDA figures, 115,000 U.S. farmers realized an average net income of $83,000 in 1974, 355,000 averaged $20,000 and 588,000 cleared an average of $11,000. At the other end of the scale almost 2 million farms averaged only $2,400 of net income.

RISKS HAVE BEEN INCREASED

At the same time the risks have risen tremendously for the big grain farmer. "It used to take three bad years to put a farmer out of business," Mr. Elson says, "but one really bad year now can wipe him out."

Mr. Elson was hoping for 130 bushels of corn an acre last season, a harvest that would have given him a nice return on investment. Instead, he watched his corn wilt through seven weeks of blazing weather during July and August. When rains finally came, close to 40 percent of the crop was beyond saving. "I got only 90 bushels an acre. At times like these," he says, "you breathe a sigh of relief if all you've lost is your labor."

Because of the dry weather, Mr. Elson's income in 1975 was half that of the previous year. Another Iowa farmer whose similarly drought-troubled lands yielded only 75 bushels to the acre talks of an income just one-tenth of the previous year's. "Just one good rain in July and I would have hit 100 bushels an acre," says Bob Deere ruefully. A farmer, he adds, can easily clear $50,000 this year and lose all that and more the next. "You wonder why farmers are so conservative? I'll tell you why: They do all their gambling on the farm."

[From the Christian Science Monitor, Mar. 11, 1976]

FOOD—AMERICA'S NO. 1 EXPORT

(By Pete Tonge)

BOSTON.—If good rains and lush fields this summer mean some degree of prosperity for farmers they will mean a good deal more for the U.S. economy as a whole. Indeed, the leading product of American agriculture is cash—the money that pours in from other nations in exchange for farm products.

No other U.S. industry does as well in foreign trade. With one harvested acre in four going for exports, farm products earned $21.9 billion last year; $22 billion the year before. In 1972 the figure stood at $8 billion—then a record high. Increased need on the part of overseas nations and, in many instances, their growing purchasing power have fueled the dramatic upsurge.

Some 150 nations buy U.S. food—grains principally, but all told 500 different products including ginseng sold to Hong Kong, licorice extract sold to Denmark, beef liver and tongue sold to France and feather meal sent to Japan.

The Japanese, top U.S. customers by far, bought more than $3 billion worth of farm products last year. Other leading importers are the Netherlands, West Gemany, and Canada (all in excess of $1 billion).

The Soviet Unon, which ranked 14th on the customer list last year ($0.4 billion) is becoming an increasingly important buyer of U.S. goods—mainly wheat, but also other grains. Lane Palmer, editor of Farm Journal, contends that unfavorable weather conditions (a natural dry period just when spring wheat needs water most) will never allow the Soviets to produce as much grain as they want.

On a recent trip through the U.S.S.R. he saw "construction cranes everywhere. I'm convinced," he says, "that the Soviet economy can generate enough money to buy grains from us for decades to come." Soviet consumer habits, too, are fueling demand, he says. "They are demanding more and better food—particularly meat."

But U.S. farmers are concerned about federal crop restrictions and the antagonism of labor unions as seen in the refusal of longshoremen to load wheat and corn for Russia last year. "We get incensed when the Arabs embargo oil supplies to us, yet we embargo food exports much more regularly," farmers are quick to point out. They cite the soybean embargo to Japan in 1973 and last fall's order to cut back on wheat and corn sales to the Soviet Union. In both cases prices to farmers fell immediately.

PROFIT AND LOSS

Before the embargo, the announced intention of the Russians to buy grain pushed the price of these products up by about $1 a bushel. Such an increase, according to United States Department of Agriculture (USDA) figures, adds between 3½ and 4½ percent to the cost of food to the U.S. consumer. But since food accounts for less than 20 percent of a consumers' living costs, the overall hike in expenditures is less than 1 percent.

On the other hand, that $1 a bushel can spell the difference between profit and loss, farmers say. They also point out that corn, wheat, and soybeans (even without Soviet demand) account for 70 percent of the total value of all farm exports; that if a free market is allowed to set the price for these products, the U.S. trade balance will be that much better. Also, according to the USDA, every dollar received from farm exports generates something like 75 cents in non-farm areas of the economy—storing, packaging, processing, merchandising, and shipping.

Howard Elson, an Iowa grain farmer, makes a typical complaint when he says "The farmer is always being made the economic scapegoat. Yet look at how much labor's wage demands have boosted living costs."

According to Kansas State agricultural economist Leonard Shruben, "Since the end of World War II the price of a pound loaf of bread has risen 24.8 cents, yet the cost of the wheat in that bread has increased only 1.8 cents. If farmers gave away their wheat, bread would still cost 32.6 cents," he says.

FARMER GETS LESS

Don Paarlberg, director of agricultural economics for the USDA, highlights the widening marketing spreads (the difference between the price a farmer gets for his produce and its retail cost to the consumer).

In the final quarter of 1975, he says, prices farmers received for a typical "market basket" of food declined 7 percent. Yet, in the same period prices to the consumer rose 1½ percent. While fats and oils dropped a full 25 percent at the farm gate, consumer costs remained the same. Pork, down 6 cents a pound at the supermarket, dropped 22 cents a pound to the farmer.

The farm-retail price spread includes costs normally paid for processing, transporting, distributing, and selling the food product. "Each of these includes labor, energy, capital, taxes, and other costs which, along with profits earned by firms, make up the price spread," Mr. Paarlberg notes.

In other words, a spokesman for the Sperry New Holland company, says "high costs to the housewife don't necessarily mean fat profits for the farmer."

On the other hand agribusiness generally is optimistic. The large farm surpluses of recent decades are probably gone for good. With occasional, localized exceptions, food produced will be food sold which means that, outside of drought or other natural calamities, farmers should not be hard pressed to make a living.

As Ken Thompson, president of Sperry New Holland puts it:"We've seen the end of the big farm exodus of past decades." It's a sentiment that is repeated throughout the industry.

[From the Christian Science Monitor, Mar. 12, 1976]

LESS LAND, LESS ENERGY, MORE FOOD

(By Peter Tonge)

AMES, IOWA.—Wesley F. Buchele, professor of agricultural engineering at Iowa State University, tells his students: "You're living in the afterglow of the golden age. I'm sorry you missed it."

By this he means that the days of cheap, underpriced energy which spawned the throwaway society and "modern" farming are coming to a close.

America is running out of energy, soil, and water "all at the same time," Dr. Buchele warns. Despite these statements, though, he is optimistic about the future. The challenges can be met, he says, through conservation, innovation, and "a lot more self-discipline."

Stated simply, farmers must learn to coax more food from fewer acres, using less fuel, fertilizer, water, and pesticides than the present state of their art allows. While most agriculturists believe the world can feed itself at current levels of technology through the balance of this century, few are optimistic about doing it beyond the year 2,000 without further advances in per acre productivity or a drastic curbing of the world's population spiral or both.

MORE RESEARCH NEEDED

The immediate need is to expand research in soil and water conservation, plant and animal genetics, fertilizers, pest control, photosynthesis, nitrogen fixation, and new energy sources. Agribusiness and the scientific community are unanimous on this point, and a National Research Council food and nutrition study commissioned by President Ford stresses the need.

Soil conservation must and will be a particular priority of future research. Where agriculture is practiced, soil loss through wind and water erosion can be horrendous. In the United States, the total is put at close to 5 billion tons a year or, as Dr. Buchele puts it, "we lose 10 pounds of soil for every pound of grain we produce." It has to stop, he says. He believes better methods of cultivation can cut it "to about one-tenth of a pound per pound of grain."

Then there is the loss of prime agricultural land to urban sprawl, highways, power lines, and strip mining, a loss put at 1.4 million acres a year by the Citizens Advisory Committee on Environmental Quality to the President.

The National Research Council's study calls for a complete inventory of U.S. land and water resources, including soil maps describing soil types and fertility. This would provide the basic data, says the report, "for determining priorities for land development, and application of specific soil and water-management practices, including drainage, irrigation, and range and pasture improvement."

Refinements in wind and water-erosion control then are being sought plus cultivation techniques that disturb the soil as little as possible.

One approach involves a variety of tilling concepts generally referred to as conservation tillage—the practice of using the least amount of tillage needed for quick seed germination and a good crop stand. In this approach, herbicides are used to kill or retard growth of the natural cover. Seed is then planted directly in the cover.

According to Art Peterson, University of Wisconsin-Madison soil scientist, saving the soil is the "real nuts and bolts value of these tilling operations." He estimates that, in recent seasons, more than 25 percent of Wisconsin farmers have forsaken conventional plowing and disking for no-till.

CASE FOR CONSERVATION TILLAGE

Advocates of the new method claim conservation tillage will almost eliminate soil loss, conserve fuel, reduce surface sealing, lower production costs, improve soil structure, and, in some cases, increase yields.

In a University of Wisconsin study, conservation tillage was tested against conventional plowing, disking and harrowing methods for six years. On one occasion, two inches of rain fell just two days after planting on fields with an 8 percent slope. While there was virtually no soil loss from no-plow planted acres, says Dr. Peterson, the conventionally planted plots lost 10½ tons of soil per acre. In addition, 1.75 inches of the rain drained from the plowed lands while only 0.7 inches drained from the unplowed lands.

Gene Barnes, a businessman with farming interests in Illinois, is particularly enthusiastic about the new method after initial experiments last summer. He raised his "best-ever corn crop" on a tract of long-standing pasture using this method.

"It's the way of the future," says Mr. Barnes, who talks of modifying the approach. Instead of killing the grass outright, he says a growth retardant could be used so that the grass will recover and be available for grazing again after the corn has been harvested. No-till, he points out, opens steeper and otherwise highly erodable areas to grain cultivation.

WATER GROWS SCARCE

Water, while a renewable resource, is distinctly limited and becoming increasingly scarce around the world, the National Research Council points out. While agriculture's demands are rising rapidly, urban, industrial, and recreational needs for water in the United States are increasing at a much greater rate.

So the council has called for research into and development of techniques to: store as much excess water as possible and prevent runoff into the sea; drain for removal and storage water from individual fields; harvest water through better watershed management; cut back on evaporation; recycle city water.

Some 4.3 trillion gallons of water a day falls on the United States, of which almost three-quarters transpires or evaporates. Wind breaks, soil covers, and such techniques as no-till cultivation cut back on evaporation from the soil. A variety of experiments, including floating plastic, shows promise of reducing evaporation from behind dams and from storage ponds.

New nonspray methods have already proved to be the most efficient way to irrigate. They could ultimately eliminate spray irrigation, the Research Council study finds.

Much of the hope for a future of plenty, though, is laid at the geneticists' door. Plants with still more vigorous growth, more tolerance of heat and cold, higher food value, and an ability to grow well on less water and reduced fertilizer are being asked of the geneticist. Similar requirements are being sought in animals. The days of breeding just for show are gone.

It is a tough but not impossible task. An increase in the understanding of photosynthesis (the process by which plants take the sun's energy and translate it into food and fiber) will help.

Corn, the showpiece of genetic accomplishments, still has not reached full potential, according to Dr. William L. Brown, a geneticist and executive vice-president with the Pioneer Seed Company here. From 45 bushels an acre 40 years ago, corn now yields around 140 bushels on good lands. Last summer Herman Warsaw of Saybrook, Illinois, set a new record with 338 bushels to the acre.

Currently, a much-talked-about achievement (Farm Journal describes it as a "breakthrough") is in wheat. The discovery recently of a new dwarf gene has enabled breeders to lower and strengthen the stalk of wheat plants. Previously, the spindly wheat plant would fall over if fertilized enough to produce a heavy ear. The new plant can take additional amounts of nitrogen and still stand upright.

WHEAT HOLDS PROMISE

As with corn, wheat holds promise of responding significantly to additional nitrogen. So where wheat normally produces 80 bushels an acre under irrigation (40 under dry-land conditions), the new strains have yielded 200 bushels under irrigation in the Northwest where they were recently introduced.

Now much wider crosses are being planned. Already wheat and rye have been hybridized in an attempt to inject rye's winter hardiness and lycene content into wheat. Corn-sorghum is a likely cross of the future. If sorghum's remarkable ability to withstand drought can be introduced into corn, a long, dry summer will no longer be the fearsome thing it is in the corn belt.

The wheat-rye cross is known as triticale. It's a new genus, and many varieties of it with widely different characteristics can be produced. Low fertility, late maturing, and lodging are among early weaknesses which have been largely overcome, say Joseph Hulse and David Spurgeon of the International Development Research Center in Ottawa.

In Mexico, the best triticale varieties have outyielded the best wheat varieties in both summer and winter plantings. There have been similar successes in India and Ethiopia so that Messrs. Hulse and Spurgeon feel that triticale will soon become an important food crop.

BERMUDA GRASS MEASURED

According to a 1967 report in Crop Science, bermuda grass with a 10 percent increase in digestibility produced a 30 percent increase in the weight gained by grazing steers compared with others on standard bermuda grass. Very little genetic work with forage grasses has been done in the past, the National Research Council points out, so that improved rangelands would become "one of the greatest untapped sources of food for livestock."

Ruminants such as cattle, sheep, and goats are valuable for converting grasses, nutritionally useless to man, into protein. And grass along with corn-stalk silage will become the principal animal feed as more grain is diverted for human food.

Meanwhile, a new hybrid could become the beef-producing animal of the future. This cross between cattle and the American buffalo (bison) can gain weight more rapidly than cattle on rough forage.

For years such crosses had failed because the offspring were sterile. But persistent experimenting by D. C. Basolo, a California breeder, finally produced fertile calves. Now the breed can reproduce itself. It promises less-expensive steaks in the future.

Meanwhile, geneticists hope to cut our dependence on chemical fertilizer. A variety of bacteria and blue-green algae fix nitrogen from the air. By conservative estimate, these organisms are thought to fix 175 million tons of nitrogen around the world each year, including an estimated 90 million tons on agricultural soil. That's not enough, so 40 million tons of commercial nitrogen fertilizer are manufactured each year to augment nature's bounty. Unfortunately, chemically produced nitrogen consumes vast amounts of expensive energy.

ATMOSPHERIC NITROGEN FIXED

Bacteria in symbiosis with legumes, such as beans and peas, fix atmospheric nitrogen in the soil for the plant's benefit. And now test-tube systems are being used to transfer genes for symbiosis with these bacteria, from legumes to nonlegumes such as cereal crops. At the same time naturally occurring bacteria that fix nitrogen for grasses have been discovered along with others that do the same thing in the heartwood of decaying trees.

Geneticists work with bacteria, too. So with the basic materials now available, improved strains of nitrogen-fixing agents can be developed. Finally, there is hope for less energy-intensive chemical systems for fixing atmospheric nitrogen through the use of new catalysts.

While only one-fifth of the energy consumed by the United States is used on the farm as a whole, savings on farms can be made.

Combinations of wind and solar power are already being used experimentally to dry grain. Other possibilities include digesters that convert crop and animal residues to methane gas that in turn will power generators on "all-electric" farms. The slurry will ultimately be returned to the fields as a rich liquid fertilizer.

WHEN THE LIBERTY BELL CAME TO HASTINGS

Mr. **HRUSKA**. Mr. President, the theme of the celebration our Nation's 200th birthday has been developed so that every community can take part in the festivities.

The importance of this participation is illustrated by an event that happened more than 60 years ago in Hastings, Nebr.—the Liberty Bell came to town. The story of this great event was recently recalled by Dorothy Einsel in a publication of the Adams County Historical Society.

As Mrs. Einsel writes:

> To see the symbol of American liberty was an emotional experience for all of those present. Babies from the crowd were passed forward and allowed to touch the Bell; one small tad was even allowed to sit on it. Many people in the crowd passed coins, bracelets, brooches and other pieces of jewelry to those on the car to have them touched to the Bell. Police pleaded that they touch the underside of it, to keep from scratching the Bell.

Mr. President, the celebration of the Bicentennial is an emotional experience for all of us. Each person in this great country—whether he or she lives in Hastings, Nebr., or Washington, D.C., has the opportunity to take part in this great event. Each will do so in his or her own way. What is important, however, is the fact that the opportunity is there. That is the American way. The Constitution and our great free enterprise system provides those opportunities. What we do with them is up to us.

Sixty years ago, Americans felt strongly about patriotism and the symbols of our country's great heritage. I believe we still feel the same way today.

Mr. President, so that my colleagues and others may share in the joy experienced by those Nebraskans 60 years ago who had an opportunity to see the Liberty Bell, I ask unanimous consent that the article, "When the Liberty Bell Came to Hastings," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN THE LIBERTY BELL CAME TO HASTINGS

(By Dorothy Einsel)

With Bicentennial activities in the United States focussing attention on the historical symbols of this country, few Adams County residents realize that more than sixty years ago, on July 9, 1915, the Liberty Bell itself came to Hastings. In the hour that it was parked along the Burlington tracks, between 18,000 and 20,000 eager patriots looked at it, even touched it.

It was a time of peace, prosperity and patriotism; most of the immigrants who had come to the United States—those from northern Europe and the British Isles during the 80's and 90's, and those from southern Europe from 1900 onward—were now newly-naturalized Americans, with intense pride in their new country.

There was no television to show people the symbols of their new land, and few newspapers had facilities to reproduce photographs. Although most people had American flags, which they revered and waved at appropriate occasions, few had had a chance to see the bell whose very name, the Liberty Bell, represented to them all that they had found in this new land of opportunity.

Native-born Americans were as excited at the prospect of seeing it as the newly-naturalized ones.

Although Europe was at war—headlines of the week told of "British Ships Sunk by Germans," "Germany Framing New Rule of War," and "Lusitania Sunk by Torpedo"—Americans themselves were confident with the knowledge that their country could not become involved. They were soon to become nervous about war with Mexico, to be sure, but in mid-1915, all was peaceful.

The Daughters of the American Revolution sponsored the visit of the Liberty Bell in various parts of the United States. According to the Hastings Daily Tribune of July 6, 1915, "Philadelphia said goodbye to the Liberty Bell. Escorted by the First Brigade National Guard of Pennsylvania, the old revolutionaries, the relic passed between the lanes of thousands of persons to the Pennsylvania railroad station where it was hoisted on a specially-constructed car and amid cheers, left for the Panama-Pacific Exposition."

The bell had been cast in England in 1752, and its $300 cost was paid for by the colony of Pennsylvania. Around its perimeter was cast the legend, "Proclaim liberty throughout all the land unto all the inhabitants thereof," and in years to come, as the colonists began to chafe under English restrictions, the meaning of the bell became more precious.

During its first year in the colonies, the bell cracked when it was rung, and it was recast the next year from its original metal.

In the next hundred years it was rung on many occasions to commemorate significant events—for the convening of the Continental Congress, as a warning when the British occupied Philadelphia, as a toll for George Washington's funeral.

In 1853 the bell cracked again while it was ringing for the funeral of John Marshall, Chief Justice of the United States, and since then has not been rung. In 1944, however, when the Allied Forces landed in France on D-Day, the bell was struck and the sound magnified and broadcast all over the United States.

Preparations for the arrival of the Liberty Bell in Hastings were well organized, for there was to be great community activity before the train—and the Bell—arrived. General chairman of the activities was Mrs. A. E. Allyn, regent of the local DAR chapter, whose only child, A. E. Allyn, Jr., was two years later to be killed in France, one of the first World War I casualties from Hastings.

Mrs. A. E. Stitt was in charge of the train committee, Mrs. William Madgett of the Courthouse Square meeting, Mrs. W. E. Barnes of the music, and Mrs. G. O. Churchill of the parade. Each chairman had a large committee of eager volunteers helping her.

Schoolchildren between the ages of six and twelve were to assemble at the high school at 2:30 in the afternoon, dressed in white clothing, to march to the Courthouse Square; because regular school was not in session, Sunday school teachers and superintendents were in charge of chaperoning the youngsters.

Automobile owners were encouraged to participate "whether they had been personally invited or not," the newspaper said, lining up their automobiles on Burlington avenue between First and Third streets at 2:30; the DAR announced later that more than 200 automobile owners had registered and that the parade was sure to be the longest automobile procession ever seen in this part of the state. It was expected that the cars would be decorated in some way with bunting and flags.

The automobile parade was dependent upon the weather, which would determine not only the number of cars which could arrive over the unpaved county and city streets, but also the length and course of the parade. If the streets were passable, the parade would extend into the residential district; otherwise, it would be confined to the paved part of town.

Of course it rained. The DAR and the Chamber of Commerce, however, had done their jobs well of appealing to the sense of duty of every American to take advantage of viewing the Liberty Bell in patriotic tribute in "these days of strife." Everyone in a radius of 25 miles was urged to participate.

The parade was diminished to 50 automobiles because of the rain. Mayor William Madgett led in the first car, with J.N. Clarke and the Rev. A.A. Brooks, speakers for the afternoon, and Edwin Smith, Commander of the local GAR post of Civil War veterans, following in succeeding cars. Then came the Monroe Fife and Drum Corps, Civil War and Spanish-American War veterans, the Daughters of the American Revolution, and then the citizens.

For a half-hour the parade wound itself over the paved streets and came to a halt at the eastside of the courthouse. The children sang several partriotic songs, the mayor gave a welcoming address, and J. N. Clarke, president of the Chamber of Commerce, spoke, followed by the Rev. Mr. Brooks, national president of the TPA. Then the 16-member Hastings band performed; one of the highlights of the afternoon music was a cornet duet performed by Mr. and Mrs. John Leick, who were "enthusiastically encored by the audience," the newspaper of the day reported.

Following the activities at the Courthouse Square, the crowd marched to the train station, everyone wearing hats, the men straw boaters, the women substantial ones of the day. The rain stopped and the train arrived at 5:55 p.m., amid the cheering of thousands and a deafening salute of whistles from the Hastings Brewery, which made a valiant attempt to play "America" on the whistles. Most residents, however, could not make out the tune.

The flat-car with the Bell was switched to a side track just east of the passenger station, and was adorned with two wreaths of flowers, gifts from the Omaha DAR chapter. One was a three-foot wreath composed of native flowers; the other was half that size and was made up of white roses and fern. Company G of the National Guard, from Hastings, stood at attention.

There was a narrow platform on the south side of the car, and men, women and children lined up and marched four abreast to see the Liberty Bell. The north side of the car was arranged so that automobiles could be driven by and their occupants could see the Bell from that point.

To see the symbol of American liberty was an emotional experience for all of those present. Babies from the crowd were passed forward and allowed to touch the Bell; one small tad was even allowed to sit on it. Many people in the crowd passed coins, bracelets, brooches and other pieces of jewelry to those on the car to have them touched to the Bell. Police pleaded that they touch the underside of it, to keep from scratching the Bell.

The thirty officials on board the train were lavish in their praise of Hastings; "no where have we seen such an excellent array of automobiles and pedestrians," they told the newspaper reporter. One official endeared himself to the town by saying that "you look at the Bell; we look at the belles, the prettiest since we left home."

The train was scheduled to remain in Hastings for thirty minutes but stayed an hour, leaving at 6:55 with a roaring send-off of cheers from the enthusiastic crowd and blasts from the brewery whistles. Its next stop was McCook. Hastings was the only stop between Lincoln and McCook, a matter of pride to the local residents.

FOOD STAMP CONTROVERSY CONTINUES

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate an article in the March 17 issue of the Washington Post by Dan Morgan entitled "The Food Stamp Controversy."

This article develops and explains some of the issues and controversy surrounding the food stamp program.

There has been a whole range of articles both critical and supportive of the program in recent months.

One of the main questions is the basic purpose of the program. Some see it as an income supplement or baseline nutritional diet support for all Americans. The program was begun, at least in part, as a way of utilizing U.S. food surplus commodities.

Critics of the program contend that it has become a major income transfer program. Richard Nathan describes food stamps as "mini negative income tax that operates with funny money."

Defenders of the program point out that most Americans who receive food stamp benefits have very limited incomes with, according to the USDA's own studies, 97 percent of the recipients having less than $9,000 in income. And yet the major debate over the program has been that some individuals with middle level incomes have been receiving food stamps.

There also have been repeated and documented charges of poor administration of the program.

Mr. President, this is a most informative article, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FOOD STAMP CONTROVERSY

(By Dan Morgan)

Until Jane Smith came here last fall to work as an unpaid intern in a congressional office, she had paid her own way through three years of college without outside help.

That is the way things are done in her "work ethic" family, she said. Next year, she hopes to begin law school after receiving credit for the year worked here.

Last week, though, Jane Smith, who asked that her real name not be used, was applying for food stamps at the District Food Certification Office at 122 C St. nw.

Her savings were gone, a loan had been used up and she needed the stamps as a last resort, she explained.

"I think they're for people who need them," she said. "I've struggled to get by for as long as I could. I'm from a middle-class family. To get thrown into circumstances where you have to take something—it isn't easy. But my father has $12,000 a year, a mortgage and a daughter in college. My parents would have suffered if they'd sent money."

That Jane Smith, a white middle-class woman on her way to law school, is eligible for food stamps indicates the broad reach of a program that now provides an economic safety net for some 18.6 million Americans. But it is also a matter of some controversy in the widening national debate about its costs and intentions.

Last week, newspapers reported that Charles Abourezk, 22, the son of Sen. James Abourezk (D-S.D.), has been receiving food stamps while living on a South Dakota Indian reservation. There was no question that Charles Abourezk was eligible. The law says stamps can go on young persons living on their own if they are not supported by their parents or claimed as tax deductions.

Yet in a program that already has spawned much rhetoric and many misconceptions, that is not likely to still the voices of the critics.

Many conservatives in Congress say the federal government has no business subsidizing the food buying of people such as Charles Abourezk or Jane Smith, who are not chronically poor.

They say the food stamp program has quietly taken the nation across a major ideological threshold, to a new concept of welfare in which the government undertakes to support the income of all citizens.

Experts agree that food stamps are unique in the panoply of welfare programs.

Other welfare and government payment schemes cater to special categories of needy people. To receive unemployment compensation, a person must have worked. To draw Medicare, a person must be at least 65, and to qualify for child welfare, one parent must be disabled or absent from the family home

The food stamp program spreads benefits to young and old, disabled and healthy, long-time welfare cases and temporarily unemployed professionals.

The program also benefits many taxpaying workers, albeit low-paid ones, as well as those permanently out of work.

The program's benefits have spread far beyond the nation's welfare rolls.

Only 45 per cent of all stamp beneficiaries are welfare clients receiving such help as aid to families of dependent children and supplemental security income for the aged, blind and disabled poor.

Now, however, President Ford has ordered a complete overhaul of food stamp regulations. New rules that will take effect in June will cut $1.2 billion annually from the program's $5.8 billion cost and remove 5 million of the 18.6 million beneficiaries, including many near-poor workers, from its rolls.

That step is sure to be challenged in the courts and in Congress by broad coalition embracing hunger, poverty and civil rights groups, labor unions, churches, state governments and others.

The food stamp controversy already has been tagged by some Democrats in Congress as an election-year ploy of President Ford. They conceded that many voters dislike the program intensely.

Sen. Herman E. Talmadge (D-Ga.), expressing a common complaint of alleged food stamp abuses, said at a Senate Agriculture Committee meeting in February that nothing makes working families angrier than "living alongside a guy who is not hitting a lick at a snake and getting all sorts of welfare benefits."

But welfare experts say the current controversy is broader than election year politics and rhetoric. They say it also signifies a backlash against the program's costs and confusion over its aims.

As a report released by the General Accounting Office in January said, the program's objectives have "evolved [since the 1960s] from an attempt to strengthen the market for agricultural commodities to an attempt to provide enough income to meet baseline diets for all Americans today."

GAO found that rapid food inflation, increasing unemployment and "decreasing real income" were the main causes for the program's rapid expansion from 2.8 million beneficiaries in 1969 to 18.6 million today.

To conservatives, this growth added a new dimension to American welfare policies.

David Swoap, a former California welfare chief, says the program "has become a fairly major income transfer program, without anybody considering it that."

As the program works now, eligible persons receive food stamps, negotiable at grocery stores, with a dollar value sufficient for them to purchase food for themselves or their family for two weeks or one month. How much of their own money they pay to the government for the stamps depends on their monthly income, less certain deductions.

The program has amounted to a "welfare reform," says Richard Nathan of the Brookings Institution. Nathan who thinks the program has accomplished a great deal, says it was a "sleeper."

He believes food stamps have gone far toward doing what former President Nixon once set out to achieve with his welfare reform package, called the family assistance plan.

Nixon later scuttled the plan, which would have guaranteed a subsistence income to all families through cash payments from the government. The payments could have gone to families that were together, rather than to those in which children are fatherless or living in families in which the breadwinner is disabled.

Nathan describes food stamps as a "mini-negative-income tax that operates with funny money."

If a family of four has no income from any source, including welfare, it can qualify today for $1,992 a year in free food stamps. That figure is close to the one that Nixon suggested as the income guarantee for a family of that size.

Conservatives say that the stamps are a form of negative income tax, disguised as a nutrition program.

Others say that while there are similarities between the present program and the Nixon plan, they are not the same.

Robert Greenstein, associate editor of the Community Nutrition Institute's weekly newsletter, says that only 4 per cent of food stamps beneficiaries have no income at all, and so qualify for the maximum $1,992 for the four-member family. Greenstein also noted that the stamps can only buy food, whereas government cash payments could buy anything.

As the food stamp debate widens, the cost and management of the program are major issues.

Supporters say costs are exaggerated. Annual federal payments for food stamps, running close to $6 billion, are a small part of the $150 billion transferred to people under all payment programs such as unemployment compensation, Medicare, veterans' benefits and Social Security.

According to Agriculture Department's statistics there is a good chance that the number of persons eligible for the program will decline, or, at worst, increase ony marginally by 1980.

The program's backers say the Agriculture Department's own studies do not indicate widespread chiseling. They report that 92 percent of all food stamp families have less than $7,000 annual income, 95 per cent less than $8,000 and 97 per cent less than $9,000.

The GAO report issued in January, citing an Agriculture Department study, said: Program abuse has been held to a low level."

Allegations of fraud have centered on cheating by the private vendors who distribute food stamps and collect cash benefits from recipients for the federal government.

While fraud may exist, it is not widespread enough to justify the massive cutbacks proposed by the Ford administration, according to experts familiar with welfare reform.

The main losers would be near-poor workers, who are attempting to make it on their own but still lack adequate income.

"These changes are moving away from aiding the working poor—and that goes against good Republican philosophy," says Brookings' Nathan.

HON. ANDREW PEACOCK, AUSTRALIAN MINISTER FOR FOREIGN AFFAIRS, ADDRESSES THE AMERICAN AUSTRALIAN ASSOCIATION

Mr. BAKER. Mr. President, in the course of my recent travels in the western Pacific, it was my very great pleasure to meet the Minister for Foreign Affairs of the Government of Australia, the Honorable Andrew Peacock, M.P. At the time, Minister Peacock impressed me as a most able and distinquished representative of his government. That impression recently was reinforced by the receipt from the Embassy of Australia of a copy of the address of Minister Peacock before the American Australian Association in New York on March 16.

The address contained a reaffirmation of the strong bond of affection and friendship that exists between Australia and the United States. Happily, that goes pretty much without saying; although it is always good to hear it said. More to the point, and particularly during these challenging and trying times, the address contains a perceptive and enlightened discourse on the difficulties inherent in our shared democratic systems of government that complicate the process of developing an effective and consistent foreign policy.

I feel that this address will be of interest and benefit to all my colleagues and, for that reason, Mr. President, I ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

American Australian Association

It is my honour and my pleasure to be the first Minister of the new Australian Government to address this Association, indeed the first to give any public address in the United States. The fact that this is the bicentennial anniversary of this great democracy adds greatly to the honour.

I think that I should tell you that apart from the attention that your anniversary is attracting, there are vague but persistent rumours abroad that you are going to have an election this year. If this is so, may I congratulate you on clinging to this increasingly unfashionable way of choosing your Government. It may yet catch on!

We in Australia, as you may know, had our election at the end of last year. The circumstances surrounding it received a great deal of attention internationally as well as in Australia itself, but I do not intend discussing them further today. The only really relevant verdict on them was passed in the appropriate way by the Australian people, on election day, December 13.

As I am the first member of the new Government to speak in the United States, and as my business is foreign affairs, it is appropriate that I talk about what the change of Government signifies in this area. I would not want you to think, however, that I so restrict myself because there are no significant changes in the domestic sphere. On the contrary, there are far-reaching changes, and if I just mention one fact—that this year, for the first time in three decades and after a recent history of extremely rapid expansion, there will be no growth in the public service—you will appreciate their thrust and the seriousness with which they are being pursued. The steps we are taking are partly a response to current economic problems, but they are more than that. They are informed by a belief that it is essential to create conditions which will encourage and disseminate enterprise and initiative throughout Australian society.

I now turn to the question of change and continuity in foreign policy.

Change in foreign policy depends much more on factors beyond the control of governments than does change in domestic policy. The independent will of others—by now nearly a hundred and fifty sovereign states—has to be taken into account, as well as the movement of forces which are not clearly subject to the control of any will.

Because of this, Governments are not masters of their fate to the same degree as they are at home. Now in the last few years there have been profound changes on the international scene which would have necessitated adjustments in Australian foreign policy under any Australian Government: the changed relationship between the superpowers, the rapprochement between the United States and China, the end of the Indo-China war, the new importance of the non-aligned countries, the increased significance of economic issues and so on.

I say this for two reasons: first, to remind you that not all the changes in Australia's foreign policy in the last few years have been due to changes of Government. Secondly, to emphasize that the recent change in Government does not mean that there is now going to be a return to pre-1972 policies. Events have moved on too much for that, even if we wanted to do it—and we do not.

The foreign policy of the Australian Government in 1976 will not, I repeat, not be what it was in 1972 and earlier. However, neither will it be what it was in 1975. For one thing, the look will be different. Dean Acheson—one of your great policy-makers—once identified as a source of instability in foreign affairs, "the popular conception that, as in women's fashions and automobile design, novelty and change are essential to validity and value. A combination of illusion and fashion leads to a demand for yearly models in diplomatic design". This is not without relevance to recent Australian experience. When a party comes to Government after a very long spell in Opposition, it is naturally concerned to register its presence, to establish that it is conspicuously different from its predecessors. In such a situation there is a likelihood that change, innovation, will be valued for its own sake.

The danger in such a situation, as Acheson recognized, is that the element of instability and unpredictability in international relations is increased. Countries can only conduct relations with each other satisfactorily to the extent that a degree of consistency and predictability is present—heaven knows, it is difficult enough even then. And instability on the part of one country is likely to set up a kind of multiplier effect throughout the system. This is particularly bad for economic relations where decisions with very long-term implications concerning investment, sources of raw materials, and trading patterns, often have to be made.

The Australian Government of 1976 is therefore concerned to strengthen, and where necessary to restore, elements of stability and cohesion in foreign policy, to remove ambiguity and uncertainty where they have appeared. To take an important example, Australia is richly endowed with natural resources and has become a major exporter of minerals in a world in which many of them are in increasingly short supply. It will be a principal concern of the present Australian Government to restore a predictable, stable framework for the discovery, development and marketing of these commodities leaving as much of the field as possible to private enterprise.

In this developmental endeavor there will be need for capital from overseas. The Australian Government recognises that before putting up money, the foreign investor will need clarity and unambiguity in Australian policy. This I promise you will have. I also promise that the policy toward foreign investment will be one of partnership on terms fair and reasonable to each of the partners. The Australian Government does not intend "to sell out the farm" but neither does it intend to keep it all for itself.

I would now like to talk more particularly about the relations between our two countries. Before leaving Canberra, an Australian businessman resident in this country (I shall not divulge whether or not he is present) told me with reference to this occasion, "whatever you do, don't give us the Hands-Across-the Sea routine. We always get that." While deploring his cynicism, I take his point.

But the present Australian Government does wish to reaffirm the centrality which the American relationship has in its foreign policy. During the last few years, the United States has experienced more than its share of difficulty and trauma, and, as always in this most open of societies, they have been well publicised. Some countries have rejoiced in this, some have despaired, some have sought to exploit your difficulties, some have drawn away. The present Australian Government does none of these things. We believe that America will overcome its present problems. We believe, further, that without the full and committed participation of the country which is the greatest democracy in the world, the greatest economic power in the world, and one of the two greatest military powers, most of the awesome global problems which now face us all must either remain unsolved, or be solved in ways which will be very uncomfortable for a country like Australia.

Australia will remain a firm partner of the United States. In this partnership the ANZUS Alliance is an essential part. We will never be an unquestioning partner but we will agree with you willingly when we think you are right and when our national interests coincide with your own. When we do not agree, we will tell you so honestly and seek earnestly to reach a meeting of minds. Given all that lies between us, the occasions for agreement will clearly be most frequent, disagreement will be in the exception. This is a situation which will best serve, I submit, each of our countries. An Australia subservient to the United States would do the United States little good.

As far as detente, which has been a centre-piece of recent American policy, is concerned, we appreciate the need to distinguish between aspirations and realities. I continue to use the word "detente" until someone comes up with a more precise expression. We understand the need for clarity which led to the re-formulation by President Ford on 1 March of the basic principles underlying relations between the superpowers. The members of the present Australian Government have always felt that detente is not an alternative to a balancing of power and a readiness to resist attempts to seize unilateral advantage, but that detente depends very much on such a balance and such a readiness. Detente without a basis of balance is an illusion, a dangerous illusion. This is why, in the Indian Ocean, Australia now supports the extension of the American defence facilities at Diego Garcia and is *now* building a naval station at Cockburn Sound in Western Australia, which will be available to American as well as Australian ships. For as we see it, if the Indian Ocean is ever to become a zone of peace, it will first have to become a zone of balance.

This is also why the Australian Government as well as your own has watched with concern recent developments in Angola. If detente permits Angolas, the pursuit of it becomes a more doubtful quest. Like the United States, Australia will be watching very closely future developments in Southern Africa.

In closing, I want in this bicentennial year, as a visitor, to refer to an observation made by another visitor, one of the most acute political and social observers ever to come to these shores. In his great seminal work, "Democracy in America" Alexis de Tocqueville maintained that democracy was not a system of government well suited to the conduct of foreign policy. "Foreign politics", he claimed, "demand scarcely any of the qualities which are peculiar to a democracy; they require, on the contrary, the perfect use of almost all those in which it is deficient."

The Governments of the United States and Australia, as two of the few effectively functioning democratic governments in the world, are well-placed to recognise the uncomfortable element of truth in that observation. The essence of the difficulty is that politics within a democracy are conducted under different circumstances, and therefore according to different rules, from those which prevail in international affairs. But those responsible for foreign policy in a democracy have to operate simultaneously in both spheres, and have to seek to resolve the tensions between them—between the demands of a policy based on law and civility, and a politics based on power; between the right to know and to criticise, on the one hand, and the need for discretion and secrecy on the other.

The dilemma is a real and inescapable one. It is not to be resolved by denying the realities of international politics and pretending that if one ignores them, they will change, or by self-isolation. We have seen in this century that when this is attempted the consequences can be dire. But neither is it to be resolved by denying the legitimate demands of the democratic community, for these too are realities, and to ignore them will lead to domestic division and strife. The first is an exercise in delusion, the second the road to domestic defeat.

The task of democratic statesmanship in foreign policy is, then, to pursue a course which is at once realistic in that it recognises the conditions of international politics, and enlightened, in that it takes account of the values and aspirations of the community on which it is based.

I do not know whether the Australian Government of which I am a member will successfully meet this challenge—time will tell. But at least we are well aware of the problem, and are determined, if I may end with an Australianism, "to give it a go". In doing so, we shall be sustained by the knowledge that while it may be difficult to reconcile the demands of democracy and the needs of foreign policy, when the two are successfully reconciled, when responsible policy is supported by an informed and willing consensus, the ground is laid for real progress.

ENERGY POLICY AND THE DEMOCRATIC PARTY PLATFORM

Mr. KENNEDY. Mr. President, the Democratic Party is in the early stages of writing its platform for the 1976 Presidential election. Gov. Philip Noel, the acting chairman of the platform committee, is organizing a series of hearings and public forums where concerned Democrats can express their views on the critical issues that ultimately will come before the delegates to the 1976 Democratic National Convention for debate and decision.

Reflecting its heritage of concern for people and their problems, the Democratic Party is seeking the guidance of the people and their elected leaders in regional hearings and in special meetings such as took place last month in Washington when Democratic Governors presented their views to Governor Noel.

Mr. President, I ask unanimous consent that the schedule of regional hearings and related forums before the Democratic National Platform Committee be printed at this point in the RECORD.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

SCHEDULE OF THE 1976 DEMOCRATIC PLATFORM COMMITTEE HEARINGS

Sunday, February 22, 1:30 p.m., Democratic National Committee, Washington, D.C., Democratic Governors.

Sunday, March 14, 1:30 p.m., Democratic National Committee, Washington, D.C., Democratic mayors.

Saturday, April 3, Providence, Rhode Island, eastern regional hearing (Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Vermont, Virgin Islands):

Morning session, The Economy: Full Employment and Balanced Growth.

Afternoon session, general session with emphasis on regional issues.

Saturday, April 17, Atlanta, Georgia, southern regional hearing (Alabama, Arkansas, Canal Zone, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, West Virginia):

Morning session, Government and Human Needs.

Afternoon session, general session with emphasis on regional issues.

Saturday, April 24, Kansas City, Missouri, midwestern regional hearing (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin):

Morning session, the Federal Budget and Government Reform.

Afternoon session, general session with emphasis on regional issues.

Saturday, May 1, Denver, Colorado, western regional hearing (Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming):

Morning session, States, Counties and Cities—Problems and Prospects.

Afternoon session, general session with emphasis on regional issues.

May 17, 18, 19, Senate Caucus Room, Washington, D.C., hearing for Full Platform Committee and election of members of the Drafting Subcommittee (15).

June 11, 12, 13, Mayflower Hotel, Washington, D.C., Platform Drafting Subcommittee meeting.

June 14, 15, 16, Mayflower Hotel, Washington, D.C., Full Platform Committee prepares committee report.

No later than July 2, Mail Report of Platform Committee to delegates.

July 12, New York, N.Y., Democratic National Convention convenes.

Mr. KENNEDY. Mr. President, last month Gov. Thomas P. Salmon of Vermont, Chairman of the National Governors' Conference Committee on Natural Resources and Environmental Management, presented his views on energy policy before the Platform Committee. I commend Governor Salmon's testimony to every Senator. He provides a balanced and sensible outline of the energy policies that should be contained in the Democratic platform and that should be the foundation of our Nation's energy program.

Governor Salmon stresses the importance of a serious national effort to halt the unnecessary waste of our energy resources. He notes in his prepared statement:

> The indispensable linchpin strategy in effectively beginning to deal with the energy crisis is entitled conservation.
>
> Conservation to me does not mean the Ford program of raising prices to encourage energy efficiency with no impact on the rich and devastating impact on the poor. . . .
>
> As has been said, most solutions today which increase supply are uncertain in technology, slow, costly, risky, and of short-term benefit. Most solutions which reduce demand are quick, economical in the long run, safe, lasting, and do not contain the risk of unsure development. The American people can play a premier role in conserving their way out of the present dilemma if we have the national will, spirit, and leadership to do so.

Governor Salmon goes on to point out that an effective conservation program will permit the balanced expansion of additional energy supplies, such as natural gas, oil, coal, and renewable energy sources, particularly solar energy. And he notes that nuclear power will be part of our energy mix until other energy sources and supplies are available at a price we can afford to pay.

We have heard it said that the United States has no energy policy. I recommend that persons who believe this allegation read Governor Salmon's testimony. It points the way to a rational and sane energy program and I strongly hope that this viewpoint will prevail when the delegates to the Democratic National Convention gather in New York City this July to adopt the national Democratic platform.

Mr. President, I ask unanimous consent that the prepared text of Governor Salmon's testimony before the Democratic National Platform Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

REMARKS OF GOVERNOR THOMAS P. SALMON

About half a century ago, a Democrat of some prominence, Al Smith, set a standard that the electorate of 1976 would do well to accept: "let's look at the record."

It is nearly five years since President Nixon favored us with his first energy message. The record since then is tattered. We were warned that we were rapidly approaching the point where imports would make us vulnerable to foreign suppliers and that our increase in energy use was outstripping both domestic production and domestic reserves. Yet nothing was done to reverse these trends from further muddying the waters. The 1973 Arab Embargo showed exactly how vulnerable we had become.

Do you remember an exercise entitled Project Independence—the Nixon address to the nation outlining an attainable goal of total energy independence in a handful of years; and, the proclamations of February of 1974 that the "back of the energy problem was broken?" In the winter of our greatest discontent, 1973–1974, we realized that some seventy Federal agencies had some jurisdiction over energy matters. We had no national energy policy, only energy fiefdoms.

So let's look at the record.

We are the most gluttonous nation on earth in our use, and misuse of energy, and if this gluttony continues unchecked, it is likely that we will have neither the resources nor the capital to meet our future demands. West Germany, for instance, uses 44 percent lest energy per capita than do Americans. We import about six million barrels of oil a day mainly from insecure sources, at a yearly cost of $24 billion. Our foreign imports have risen dramatically from 15 percent in 1960 to about 40 percent in 1974.

Oil and gas production from domestic sources are down, and prices are up.

Conservation measures are inadequate and what few we have adopted were weakened in an acerbic debate between the Congress which sponsored them and the Administration which belittled them.

Oil and gas are exhaustible resources and no significant expansion of supply is likely within the next several years except for completion of the Alaskan Pipeline. Every single possible substitute for oil is beset with technical, financial or environmental problems, or a combination of the three.

The national recession and inflation in this country has been triggered by the world price of oil and the cartel which rigs the prices and effectively uses the large-scale import requirements of the United States to maintain a world shortage.

We have half the coal reserves on this planet but no national coal policy. There exists the necessity for a Manhattan-type effort to bring alternative sources of energy such as solar or geothermal on line, but no urgent timetable so to do.

The era of cheap energy is over and too few Americans are willing to accept this fact.

Spiraling prices of oil have taken a fearful toll among the poor, the elderly, and those on fixed incomes.

The American people believe that they have been ripped off by a series of policies drafted for—if not by—special interests. We have failed to produce a coherent *national* policy and a *national* program.

We gather here today to discuss not where we have been but where we should be going. We meet here today to try to frame a platform which will show Americans that a responsive and responsible political party can show the way to bring order out of confusion. All Americans and our friends elsewhere in the world should have confidence in the integrity and effectiveness of American solutions to major long-term problems.

First, we must stand for an open *process* to forge a national policy. As Democrats, we have long since committed ourselves to the proposition that *national* means more than *federal*.

We must involve the grassroot's level of government as well as the grassroot's view of our nation's needs as the essential underpinning of any national policy.

We must develop a capacity to produce a credible and reliable judgment on how much energy we will need five years, ten years, twenty years from now. We must determine how to meet those needs based on domestic production of fuel; a level of imports that does not make us vulnerable to international blackmail; the wider use of energy sources which are today still being developed. Then we must devise programs and commit the resources required to meet these targets. Government must develop a program with targets on time tables to get the job done through private enterprise to the fullest possible extent. But the responsibility for removing bottlenecks must be shouldered by the Federal government. We must accept the fact that we are dealing with a long-term strategy that will require long lead times that will be important to those who succeed us in public leadership positions so they will not have to start programs in a crisis environment as we are required to do.

We must develop a strategy for dealing with the oil producing and exporting nations. OPEC is probably stronger today than it was when the embargo was first imposed. Our OPEC strategy has been quixotic. At first we toyed with the idea of sending in the Marines. Then we sent them arms based in part on the campaign to recapture our oil dollars. Now we are apparently even afraid to sit down with them at the bargaining table. As an avid football fan I have participated in debates on the wisdom of punting on third down rather than fourth down. As an American I am embarrassed by our tendency to punt on first down when dealing with OPEC. The American people must understand that the international cartel is dedicated to keeping the price of oil high and restricting production to achieve this goal. At the present levels of production and use the United States has been unable to undermine this monopoly. The price of energy is up, yet production has not shown the same kind of quantum jump and the waste of energy continues unabated.

The indispensable linchpin stategy in effectively beginning to deal with the energy crisis is entitled conservation.

Conservation to me does not mean the Ford program of raising prices to encourage energy efficiency with no impact on the rich and devastating impact on the poor.

It does not mean preaching about the sins of excess use and then not doing anything about it. In my part of New England, conservation has been successful not so much for a genuine desire to use less but for the harsh economic realities of high unemployment and inflation coexisting in a region with the highest energy costs in the country.

As has been said, most solutions today which increase supply are uncertain in technology, slow, costly, risky, and of short-term benefit. Most solutions which reduce demand are quick, economical in the long run, safe, lasting and do not contain the risk of unsure development. The American people can play a premier role in conserving their way out of the present dilemma if we have the national will, spirit and leadership so to do.

And conservation of scale is unlikely to occur without significant energy saving programs, significant Federal support of the insulation of homes and small businesses, the creation of mass transit systems, architectural energy efficiency design in construction of buildings of all kinds, and energy efficiency breakthroughs in the automobile industry.

And so conservation is the essential program to buy time. We need to slow down eneregy growth rates by getting more useful work out of the energy we use. The time we buy must then be used to develop alternative sources. Without an all-out conservation effort imports will soar and we'll be plagued by shortages that will stunt economic growth.

But conservation alone can only buy time.

Domestic production of energy must be expanded because both natural gas and oil are currently being produced at or near peak production level. We must turn to the next likely principal energy resource to fill that gap and my candidate would be coal. Coal remains a slumbering U.S. giant. We have half the coal reserves on this planet in this country. We hear a lot of talk but no program for increasing production.

Production remains static; coal prices are up, and too frequently coal production has resulted in a rape of the land and the injury and death of too many men in the mines. New technology remains a promise and not a reality because adequate funds have not been committed to this effort. We must find better ways to extract and use coal in an environmentally acceptable way. This should be a premier priority.

I sense that in the short term this country will continue to view nuclear power as an essential component of our energy mix until other energy reliable sources and supplies are available at a price we are willing to pay. We will recognize that interruption of energy supplies may result in chaos and therefore we cannot tie our energy needs to any single type or source of supply unless it has been proven to be reliable, acceptable to society, and available at a price we can afford. In my view nuclear should not be the only horse in this race. We should invest in solar and other renewable fuels on a scale that makes sense. I recommend a ten year Manhattan-type multi-billion dollar project designed to harness the energy of the sun as a large-scale energy source. It is an option no more uncertain than the fast breeder reactor, not as speculative as nuclear fusion, a project whose time may well have come.

On a personal note. Based on experiences in my state; an increased and understanding and awareness of the nuclear option; and a better understanding of the workings of the Nuclear Regulatory Commission, I sense that in the long term the American people would be wise to regard the nuclear option with caution. I will this week seek to raise the level and the quality of the nuclear debate in this country through creation on my National Governors' Committee on Natural Resources and Environmental Management of a reasonable, professional and objective forum where a dialogue designed to create more light than heat and to begin to cope with this enormously complex and often emotional problem. This Committee which I chair may be a credible vessel through which a careful reevaluation of our nuclear commitment can be weighed.

Whether we talk about coal, nuclear or renewable fuels, we are really talking primarily about electricity.

We should be spending much more to perfect our technology in producing, transmitting and using electricity. We must find ways to move electricity without losing so much of it in transmission. We must develop processes for more efficient storage, and use so that electric cars and trucks will be a reality, not a novelty. This means expanded research and development.

We reject the idea that America must aim at elimination of all imports of energy. They may well be foolish from the standpoint of cost effectiveness. However, in dealing with OPEC, we must be mindful never to become dependent on its goodwill. The *government,* not the fuel companies, must take the responsibilities.

The oil companies have no incentive to reduce the international price of OPEC oil because it provides an upward pressure on domestic prices. Only the government has both the muscle and the perspective to represent the nation's interest. It should assume the responsibility.

Research and development will shape the future. Laboratory work done today will determine what kinds of fuels will be available ten years hence and what we can do with it. Massive research on coal is crucial because we have half the world's reserves here in our own country. America's strength has been its capacity to innovate—its "know how." We must continue to capitalize on that strength.

Energy is a sector of our economy where government and private enterprise must work together. A program that suggests government should drop dead will kill the country. The federal government owns most of the remaining fuel. It must protect the environmental against the *natural* instincts of the energy exploiters and as long as cartels and monopoly dominate the market it must help curb the natural motives of any company.

As the government develops the resources it owns and perfects new technology, the people of the United States should at least possess a yardstick capability to own what they have paid to produce. TVA and Bonneville show that the government can operate efficiently. They demonstrate that they can meet massive needs. I reject the theory that every government enterprise winds up like the postal service just as I rejected the notion that every private enterprise produces Edsels.

In essence, I believe that energy is so essential a component of today's society that the government must accept the responsibility to make sure that every person has a survival supply available at a decent price. When otherwise desirable programs jeopardize some region—or specific groups of individuals or businesses—compensatory programs should be used to protect them. No sector of the society should be required to bear an unfair burden. Waste or misuse of fuels can be eliminated without necessarily sacrificing communities or groups of businesses.

The Democratic Party has long recognized that no person should be denied food or medical care because they live in a remote area or because, despite their own reasonable efforts, they lack financial resources to compete on the open market in an environment of shortage. So be it with energy.

Woodrow Wilson was magnificently prophetic when he said:

> "America is now sauntering through her resources, and through the mazes of her politics, with easy nonchalance; but presently there will come a time when she will be surprised to find herself grown old—a country crowded, strained, perplexed—when she will be obliged to pull herself together, adopt a new regimen of life, husband her resources, concentrate her strength, steady her methods, sober her views, restrict her vagaries, trust her best, not her average, members. That will be the time of change."

And change, as John Gardner wisely reminded us, has its enemies. And if change does happen the Democratic Party with its mission in history, will be at the cutting edge of that change.

BUCKLEY'S QUANDARY, THE FIRST AMENDMENT AND S. 2712

Mr. FANNIN. Mr. President, it has been my view that in order to strengthen free speech and free press in America, the National Labor Relations Act should be changed to permit a journalist to join or not to join a labor union, as he chooses, rather than be compelled by law to submit to the discipline of the union chosen by the majority in the employee unit. In enacting the Federal labor laws, Congress gave to a private labor organization power to enforce strict obedience to its commands and thereby deny fundamental rights to members of the printed and electronic press. I believe that Congress should change these laws to restore to commentators, columnists, and other journalists the full panoply of first amendment rights and freedoms. To that end I was pleased to introduce S. 2712, the Journalists' Freedom of Choice Act.

S. 2712 would amend the National Labor Relations Act to guarantee to the journalists of the print and electronic media a genuine freedom of choice in bargaining and labor relations matters. This would be done by exempting such employees from the exclusive representation requirement of section 9(a) of the act. Membership in a labor union would not be prohibited or required as a condition of continued employment on the news staff of a newspaper or radio or television station. It would be unlawful, however, to require journalists to join, support or pay membership dues to a union in order to exercise their first amendment rights.

Mr. President, the legislation I have proposed deals with a subject of considerable concern to members of the working press; namely, do their legal obligations as members of a labor organization to obey strike orders and other union commands take precedence over, and infringe upon, their rights and duties as journalists to express their beliefs and opinions on important public issues? Although this matter has been before the Federal courts, the fundamental issues remain unanswered.

As our colleagues will recall, commentators William F. Buckley, Jr., M. Stanton Evans, and Nat Hentoff, together with National Review, and Fulton Lewis III, brought actions against the American Federation of Radio and Television Artists, AFL-CIO—AFTRA—challenging the constitutionality of the statutory requirement that a journalist join and pay dues to that union and maintain membership in good standing or be denied their right to comment on public affairs. The plaintiffs won their case in the Federal district court but were reversed in the circuit court of appeals. The Supreme Court later denied a petition for a writ of certiorari.

At the time he brought his suit, Mr. Buckley argued that a collective-bargaining agreement making him an involuntary member of AFTRA amounted to a "writ of indenture" and was unconstitutional. In an interview with Nation's Business, he stated that:

> The basic argument is an extremely simple one—that the right of free speech is especially singled out for protection by the First Amendment to the Constitution of the United States; that it is inconceivable that the Constitution, having forbidden to Congress the right to encumber one's freedom of speech, should permit Congress to pass a law which, in turn, allows somebody else to encumber freedom of speech.
>
> We take the position that what Congress can't do, AFTRA can't.

Mr. President, this argument seems as valid today as it did when Mr. Buckley filed suit, and to date, the courts have failed to address it or resolve the fundamental questions.

Having failed to obtain a decision on the merits from the judiciary, Mr. Buckley and Mr. Evans went back to the National Labor Relations Board for a ruling. However, the NLRB, like the courts, refused to accept jurisdiction on this matter. The Board found for AFTRA on the grounds that there was no justiciable issue because AFTRA said that it had already agreed that the petitioner did not have to join a union in order to express his views on the airwaves.

So where do we stand? The issues are still up in the air and the problems are still unresolved. Where does this leave Mr. Buckley? Still uncertain about his status as a commentator and wondering if he can, in fact, drop his present membership in AFTRA and still be able to pursue his professional interests as a journalist.

Mr. President, I am pleased by the favorable response that the Journalists' Freedom of Choice Act has received since its introduction. Recently I have received a number of letters from individuals, including newsmen and union members, around the country endorsing the bill in principle. It is clear from the statements of these writers and from the experience of Mr. Buckley, Mr. Evans and others, that the current Federal law poses an unreasonable prior restraint of speech and that required union membership has a "chilling effect" on journalists' rights.

It is also clear that the best remedy is for Congress to amend the Federal labor law along the lines I have proposed in S. 2712. It may be the only solution, too, for all other means have failed.

After all, the Congress enacted the statutory language which has created a serious problem for many persons besides Messrs. Buckley and Evans. Moreover, Congress, as the representative branch of Government, has the prime responsibility for insuring that freedom of the press is meaningful and is enjoyed by all—by journalists no less than other Americans who cherish their liberty.

Mr. President, citizen-journalist Buckley now finds himself in a predicament: While everyone insists that his constitutional rights are not being abridged and he need not accept union discipline, broadcasters refuse to engage his services unless and until he joins AFTRA. He discusses his quandary and the issues he has raised in his column.

I ask unanimous consent that the text of the article by William F. Buckley, Jr., as it appeared in the Washington Star of March 21, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NLRB PATS YOU ON HEAD, BUT DOES NOTHING

(By William F. Buckley, Jr.)

Would you care for an example of the reasons why some people die young, and lose their marbles?

1. 1965. I find a note from my secretary on my desk: "WFB: I have been asked to pass this message to you from the American Federation of Television and Radio Artists—you cannot appear on any more radio or TV unless you become a member of AFTRA." A little while later a Mr. Groot, the local executive secretary of AFTRA in New York—which is the union that decides whether you listen to Walter Cronkite, or for that matter Archie Bunker—used plain language and wrote me, "Since AFTRA has the union shop in all of its collective bargaining agreements it is necessary that persons who appear on radio or television in AFTRA-covered employment be members of AFTRA within the period prescribed by law."

2. So, with my colleague M. Stanton Evans, I filed a lawsuit. In the course of the argumentation, AFTRA abruptly changes its position. It says I don't have to be a member of the union—merely pay dues and initiation fee. Not a cent for tribute, say I. The lower court sides with me, but the higher court disagrees on the question of whether I need to pay dues, and suggests we knock on the door of the National Labor Relations Board for advice, which we do.

3. The National Labor Relations Board finds—for AFTRA. But on the following grounds: that "there is no justiciable issue." After all, says the NLRB, AFTRA agrees that Buckley doesn't have to join the union, so what is there to settle? Indeed, AFTRA, in its legal brief, said that it had "stated publicly and repeatedly that the only 'membership' requirement it can impose upon petitioners as a condition of employment is payment of initiation fees and dues."

4. But, in fact, AFTRA has not "publicly and repeatedly" made any such statement. In its copious literature, it has *not* repeatedly made any such assertion. Nor has it ever accosted the question why Mr. Evans and I should enjoy liberties not extended to, say, Mr. Eric Sevareid and Mr. Dan Rather.

5. Meanwhile, I write to a broadcast company that has the standard contract with AFTRA. It happens I plan to do business with this company and I ask now whether I can drop membership in AFTRA inasmuch as AFTRA has said repeatedly (but only before courts of law) that I don't have to join. The company writes back that under Paragraph 84 of the Code of Fair Practice, which is a part of their contract with AFTRA, it is the company's responsibility to see to it that all contractees belong to AFTRA. The company added that if its own "contract with AFTRA is ever amended or revised so that (the company) is no longer under a duty to broadcast only AFTRA members we should be glad to reconsider our position with respect to you. Until then we must comply with our contract with AFTRA and insist on your continued membership as a condition of your employment."

6. So that you have the court of appeals and the National Labor Relations Board saying to you, in effect, that you have nothing to complain about, since everybody agrees that you are right. It is as though Party A sued Party B for $10,000 allegedly owed. Party B replies by saying: "As a matter of fact, you are quite right—I do owe you the money." With which facts before it, the courts decline to award a judgment to Party A on the grounds that it is redundant. Meanwhile, Party A, trying to get his hands on his property, is ignored, and is frustrated by Party B's instruction to its bank to refuse to honor any request by Party A for restitution.

It is all so cozy this way. Everyone concerned fawns over the rights Mr. Evans and I enjoy under the Constitution of the United States. We don't have to be members . . . don't have to accept union discipline . . . don't have to observe a picket line in order to give our views over the airwaves. But prospective employers insist on membership. It is, to use carefully the overused word, Orwellians; the bureaucrat's solution: everyone gets rhetorical satisfaction, and nothing changes.

What next? One would not think the issues at stake so subtle that they should escape the capacity for discrimination of the eminent men whose burden Mr. Evans and I and the National Right to Work Defense League have been carrying for lo these many years. But alas many prominent broadcasters would rather praise the First Amendment then call for its enforcement.

THE NEXT 25 YEARS—HOW YOUR LIFE WILL CHANGE

Mr. HUMPHREY. Mr. President, in the March 22, 1976 issue of U.S. News & World Report are two articles which I wish to commend to the attention of my fellow Senators and others who are concerned about our Nation's future and the nature of change affecting it. The first is entitled "Next 25 Years—How Your Life Will Change." The second is "How to Find Jobs For All—Big Debate of the 1970's."

As the first article illustrates, there are many changes and shifts occurring in the U.S. population today, which have far reaching implications relating to jobs, housing, crime, women, the elderly and even politics. While demographers now expect a major slowing in the total expansion of our Nation's population, they nonetheless remind us of a number of special characteristics about our country's population which we must be more than just casually mindful of as we assess the future.

Unfortunately, many of these special problems—as they affect many people's lives today—should have, and could have, been addressed and planned for many years ago, but were not.

Planning at the highest level of our national life is still nonexistent. Most of the problems we are faced with today were created for us many years ago when our leaders failed to look ahead or even to relate known facts such as postwar baby-boom statistics, to our Nation's future and changing needs. And despite this "non-planning" experience since World War II, we still have not created the kind of analytical capability and national planning process required if we are to avoid repeating many of these same mistakes in the future.

Even as late as 1972, in the President's Report on Population and America's Future, we were warned of the urgency of the "employment" and "housing" tasks that were immediately before us in this decade. In that report, the Nation was told that 35 million more people would be looking for their first job in the 1970's than were looking in the 1960's. We also were advised that we could expect a 33-percent jump in new household establishment in the 1970's over that experienced in the 1960's. These requirements would have been challenge enough even in the best of economic times and with the best of planning, let alone in the worst of economic times accompanied by no planning at all.

The postwar baby-boom wave continues to move through time creating within each new decade its own special set of needs and problems. The question is, are we going to begin anticipating what these special needs and problems may be and plan accordingly, or are we just going to let things happen on a totally unplanned basis as we have in the past.

Surely we have learned enough as a Nation, even in the past few years, to reject the latter course.

The United States can have a bright and glorious future, but only if it plans for such a future. As a people we must decide what kind of a future we want and what we realistically can expect to achieve. Then we must develop the plans for getting there and provide the leadership necessary to insure their fulfillment.

Bills such as S. 1795, which Senator JAVITS and I introduced, and S. 50, in which Congressman HAWKINS and I recently introduced a substitute amendment, represent serious efforts on our part to provide our Nation with the type planning efforts and national leadership required to obtain such a future for our Nation.

Mr. President, I ask unanimous consent that the two U.S. News & World Report articles I have mentioned be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, Mar. 22, 1976]

NEXT 25 YEARS—HOW YOUR LIFE WILL CHANGE

American life is in for dramatic changes during the next quarter century. Shifts in population patterns have caught the experts by surprise, forcing them to change their view of the future.

Jobs, politics, housing, crime, the role of women, the elderly—all are to be deeply affected.

If the experts are right, it will be a good time to be a child. It will also be a good time to be retired. But it will be a tough period for those in their working years.

At the heart of the outlook is this:

The United States, as it moves into its third century, will rapidly become a maturing nation. Adults, who outnumbered children under 15 by only 2 to 1 in 1960, will have a 3-to-1 edge by the year 2000.

For the first time since 1955, there will soon be more Americans over 30 than under, and their majority will grow as the century nears its end.

"Im still amazed." The main reason for this phenomenon is that the children of the post-World War II "baby boom" years—the mid-1940s into the early 1960s—are not building families nearly as fast as their parents did.

"Something incredible happened. The baby-boom mothers didn't have children. To this day, I'm still amazed by it," says Leon Bouvier, vice president of the Population Reference Bureau, a private organization in Washington, D.C.

As a result, demographers who had expected the U.S. population to pass 300 million and perhaps soar to as high as 362 million by the year 2000 now see a far different picture. The most recent U.S. Bureau of the Census projections indicate the nation's population will probably grow relatively modestly from about 215 million now to some 262 million by the end of the century.

If these projections are on the mark, the growth in population will not overwhelm the country, as it threatened to do only a short time ago.

The kind of growth that now seems likely "poses no major problems that I can see," says Norman Ryder of the Office of Population Research at Princeton University. "We have a host of problems in this country. But population seems to me to be a relatively minor component."

Most of the population-related problems of the next quarter centry will not be caused by mere numbers. Instead, they will arise from adjustments caused by an uneven age spread among people, specifically, the relatively small generation of children born during the depression of the '30s, followed by the huge baby-boom generation and then another relatively smaller generation.

"It's like a python swallowing a pig," says Richard Tabors of the Center for Population Studies at Harvard University in describing the impact of the baby boom children. As these groups of people move through their life span, just what will it mean to Americans?

JOBS: A TOUGHER MARKET

Because the baby-boom generation is bigger than the one before and the one after, it will be harder for them to find jobs than for members of smaller generations. And there will be fewer young people coming up to be bossed.

While the growth in the adult population and new families should cause an expanding economy, the real competition will be for good jobs and rapid advancement.

Denis Johnston of the Federal Office of Management and Budget says the single biggest problem in the future will be that of absorbing the worker—especially the educated worker—into the job market.

Adults born during the population explosion of the '40s and '50s will find opportunities for re-education, job advancement or changing to a new job severely limited, warns Karl E. Taeuber, professor of sociology and fellow of the Institute for Research on Poverty at the University of Wisconsin in Madison. He says:

"The baby-boom adults will discover they cannot achieve their expectations for a life style similar to the prosperity they grew up in. There may be cut-throat competition for upper-level jobs, an increase in white-collar crimes, wide-spread dissatisfaction with the lower-level jobs and more mental-health problems.

HOMES: A SCRAMBLE

The fact that the young women of the baby boom are having smaller families than the experts expected does not mean there will be fewer babies. Because of the size of the baby-boom generation, the next several years will see a surge in the creation of new families.

Roger Revelle, director of the Harvard University Center for Population Studies, explains:

"We're going to have the largest number of family formations we've ever had in the United States during the next 10 to 15 years. And these people will have to look for new houses."

Complicating the search for housing is the fact that most of the older houses coming onto the market were built for bigger families. The new families will find them larger than they need, expensive to heat and maintain.

Most Americans will, unavoidably, end up living in or near big cities.

Mr. Bouvier has calculated that only a small portion of the added 50 million Americans will be able to live in either rural areas or cities under 50,000. The rest will have to find homes in the existing metropolitan areas or move into cities that are now in the 50,000-to-250,000 range, most of them in the South and West. Even those who seek a small-town life will find themselves part of a process that will make big cities out of little ones.

WOMEN: GROWING ROLE

By their decision to hold down the sizes of their families, the women of the baby-boom generation have already had a profound and unexpected influence on the nation's future. That influence will continue in important and, in some cases, unpredictable ways.

It is still possible that many young women will decide to have another child, and that could throw off all the population projections. Some experts think that is going to happen. But it is also possible today, in what one expert calls "the perfectly contraceptive society," for women simply to stop having babies.

In an economic depression like that of the 1930s, says Mr. Ryder of Princeton, "we could have a collapse of fertility."

What now seems more likely than either of these extremes is that women will have relatively small families and be much more of a factor in the job market.

" 'Women's lib' and the decline in the birth rate are really just two sides of the same coin," Mr. Revelle of Harvard says. "Not only do the women want to have fewer children because they're liberated, but the fact that they have fewer children means that they can be liberated and they can take jobs. . . . You're going to see competition intensifying for jobs at all levels."

One of the big problems of the next quarter century will be that older women will vastly outnumber older men.

DRASTIC CHANGE

"The life expectancy for American males has not changed at all for the last 20 years," says Mr. Revelle. "American females' expectancy has gone up somewhat. It's now about 75 years' life expectancy at birth for a newly born American girl child. . . . For a boy, it's about 66 years. It's quite a big difference. That's raising hell with our sex ratio in older ages.

"By the year 2000, we're liable to have about 50 per cent more women than men over age 65. That's one of the two or three most serious demographic phenomena that we're experiencing in this country at the present time. It makes for great unhappiness, particularly for the women, because men and women need each other just as much at age 70 as they do at age 20, though for different reasons.

"Maybe something like polygamy is what's required. Or maybe you'd have to have some kind of communal arrangements where the company of a small number of men can be shared by a large number of women."

Mr. Tabors, a colleague of Mr. Revelle's at Harvard, thinks new kinds of relationships already are developing among the elderly. Explain Mr. Tabors:

"There is a lot more of a sort of communal activity. Even government policies—such as the U.S. free-lunch program, which is now set up for people over age 65—encourage that type of mixing. The socializing aspect is a way of bringing people together again, and there's been a tremendous amount of a kind of unusual living arrangements associated with the elderly as well as with just teen-to-20 groups. . . . There's a lot of 'living together' among older singles, basically in order to have companionship."

STREET CRIME: DECLINE AHEAD?

Although the causes of crime are still poorly understood, there is growing evidence that those who commit such crimes as murder, rape, robbery, assault, burglary and auto theft and many of the victims of violent crimes are predominantly in the 15-to-24 year age group. This is the fact behind the hope that, as the percentage of Americans of those ages declines, the crime rate will drop as well.

Albert Biderman, of the Bureau of Social Science Research in Washington, D.C., is one who thinks Americans may already have seen a peak in crimes against property. But it may take "a few more years" for violent crimes to peak because they tend to be committed by a slightly older group than those who commit property crimes, he adds.

Such factors as mobility of the population make it difficult to predict the crime rate, experts emphasize.

For instance, Larry Long of the Bureau of the Census notes that crime has leveled off in some cities while rising in the suburbs. He concludes that crime "is not likely to decrease any time soon."

Despite that view, other experts believe the shifting age patterns of the population will have an impact sooner than people might think. Mr. Bouvier says there should be a dramatic drop in the crime rate before the end of this decade, as the baby-boom generation grows out of the 15-to-24 age group.

CHILDREN: THE GOOD LIFE

In the past, members of small birth groups, or "cohorts," as the demographers call them, have tended to enjoy the good life. They have found schools uncrowded, jobs plentiful and life relatively easy. Those who follow the baby-boom generation can expect the same. Explains Mr. Revelle:

"There were only two adults per child under 15 in the U.S. in 1960. By the year 2000, there will be more than three adults per child, and you can be very sure that the adults will see who's boss under those circumstances. Children need adult companionship and adult relationships of many different kinds, and I believe this increased ratio of adults to children will be an unmitigated blessing."

Census Bureau projections show that school enrollment from elementary through college is likely to remain relatively stable between now and the year 2000.

This means, says Mr. Bouvier, that the nation as a whole will not have to provide vast numbers of new classrooms as it did in the 1950s and 1960s although, with the highly mobile American population, there will certainly be need for new schools in many areas.

With the pressure for school construction eased, the way is open for great improvement in the quality of education.

Says Mr. Bouvier: "For many years, quality education was almost unattainable because of a shortage of trained personnel. Over the next 25 years, there will be a surplus of professionally trained persons available to teach the nation's youth. This could be the occasion to change priorities and organize a major effort to elevate the quality of education from nursery school to graduate school."

In any event, he says, those in the adult population in 2000 will be much better educated than those of 1976.

FAMILIES: EMPTY NESTS

With the tendency toward small families, the time that a man and wife spend in child raising will become a relatively short portion of their lives. During the baby-boom years, many couples had three or more children; now, typical couples are having one or two.

For many couples, there is today a deliberate delay in having the first child and, after the children have left home, an empty-nest period that begins in early middle age and extends into old age.

Mr. Bouvier sees this as an important development.

"Marriage occurs earlier today than 70 or 80 years ago, a larger proportion of people marry, they have fewer children on the average, and the children leave home at an earlier age. In other words, the pace of the family cycle has accelerated.

"The results are a shortened time in which the major adult role of 'parent' is performed and a much longer empty-nest period after the last child leaves."

ELDERLY: MORE FOOTLOOSE

The freedom and mobility that began when the children leave home will continue into old age for many couples.

Calvin Beale, a demographer with the Department of Agriculture's Economic Research Service, notes that people are now retiring younger, in better health and with better incomes than in the past. With children grown—and in many cases living far from home—there is no longer the need to "stay put," he says.

If the population picture develops as now seems reasonable to demographers, the number of people in the U.S. above 65 will increase in the next 25 years. Their share of the population, however, will probably increase only slightly because of the rise in total population.

In 1960, 9 per cent of the population was over 65. By now, they account for 10.6 per cent of the population and probably will grow to 11.7 per cent in 2000.

Despite the current worries about the decline in the Social Security System's reserve fund, the billions in taxes paid by the largest work force in the nation's history should provide relatively generously for those who are retired during the coming quarter century. It is later, when the children of the baby boom themselves enter the ranks of the elderly and the Social Security System is supported by a relatively smaller working force, that life for older people is likely to become much tougher financially. At that point, the conflict between the workers who foot the bills and those who have retired could become a major political issue.

POLITICS: LIBERAL OR CONSERVATIVE?

As the century approaches its end, the nation's median age will rise steeply, from 28.8 years in 1975 to 31.1 in 1985 and to 34.8 in 2000. Although it is commonly assumed that people become more conservative as they grow older, that is not necessarily true of people or a nation, sociologists believe.

Mr. Revelle comments:

"We have a definitely aging population. This doesn't necessarily mean the conservatizing of America. The average age of the Swedish population in 1969 was nearly 36 years. Yet Sweden is certainly not in any way a very conservative country."

Kingsley Davis, chairman of the Population and Urban Research Institute for International Studies at Berkeley, Calif., agrees. "Actually," he says, "there seems to be no correlation between the age structure and political outlook." For example, Mr. Davis notes, South Africa and Portugal have young populations but they are more conservative than the people of Sweden and West Berlin, where the average age is much higher.

Children of the baby-boom years hold a key to future trends. These young people "were sort of explosive in the '60s," says Mr. Tabors of Harvard. "Will they continue that way? It seems to me they won't."

Mr. Taeuber of the University of Wisconsin, however, raises this possibility:

"The baby-boom kids got sidetracked from their ideals for social change by Vietnam and Watergate. If they return to those ideals when the going gets rough at the end of the century, we could see the developmnt of a welfare state along the lines of Western European countries. We could see a trend away from the lift-yourself-up-by-your-own-bootstraps ethic that this country was founded on."

RACE: AS BLACKS INCREASE

The number of blacks in the U.S. will climb much more rapidly than the number of whites because of the younger age and higher birth rate of the black population, according to forecasts.

The Census Bureau's middle-of-the-road projection shows that the number of blacks will grow from 24.9 million in 1976 to 33.3 million in 2000, an increase of 33.9 percent. At the same time, the white population is expected to expand by only 18.3 percent.

But, because the white population is so much larger, blacks, who make up 11.6 percent of the population now, will comprise only about 12.7 percent in 2000.

By far the biggest uncertainty in the U.S. racial picture in the next quarter century is the number of Spanish-speaking immigrants who will enter this country illegally from Latin America.

Most population experts assume that legal immigration of all nationalities will continue at about 400,000 a year. But illegal immigration, most of it across the southern border of the U.S., is believed to run up to twice that figure, although no one is sure.

What disturbs officials of the Immigration and Naturalization Service and of Zero Population Growth, a private organization that is concerned about population trends, are these figures: Working-age populations of Mexico, the Dominican Republic, Colombia, Guatemala and the Caribbean are expected to increase from 35.1 million in 1975 to 58.3 million in 1990.

Immigration Service officials see this mushrooming population on the nation's southern border as the basis for one of the great social problems of the next 25 years—whether the U.S. permits millions of immigrants to enter or whether it tries to keep them out.

THE REST OF THE WORLD: A PROBLEM?

As in Latin America, many other poorer countries are gaining population much more rapidly than the U.S. and other developed nations are.

Does this imbalance between the "have" and the "have not" nations pose a threat to the U.S. in the next quarter century? The experts disagree.

Richard Falk of the Woodrow Wilson Institute at Princeton says the American scale of consumption "is a tremendous drain on world resources. . . . It'll constantly create a kind of tension as we depend on external materials to sustain this kind of economy at such a high level."

Mr. Ryder, who is also at Princeton, says, "I see no signs of impending catastrophe, whether related to population growth or not. It will not happen that way."

2001 AND BEYOND

Problems associated with population may well begin to increase as America moves into the 21st century.

The mere fact that there almost certainly will be more Americans will mean increasing pressure on space and resources. How large the increase will be depends on the rate of fertility between now and then, a matter of personal preference that experts find difficult to predict.

Another problem will come when members of the babyboom generation move into the ranks of the retired. Because of their numbers, there may well be growing tension between those who have retired and the smaller number in the work force who will be supporting them.

Perhaps the most serious population-related problem of the next century will be the simple fact that the country has been lived in longer by more people. The land and other natural resources may well show wear and tear only dimly foreshadowed by today's ecological concerns.

The next 25 years, with all their changes, may not be a golden era in American life But those alive in 2025 may well look back and call the last quarter of this century "the good old days."

[From U.S. News & World Report, Mar. 22, 1976]

HOW TO FIND JOBS FOR ALL—BIG DEBATE OF THE 1970'S

For the rest of this decade, Americans are going to be wrestling with the question of how to provide jobs for all who want to work.

Debate already is sharp within Congress and among the Government's top policy makers.

Chairman Arthur F. Burns of the Federal Reserve Board has one plan. President Ford has another. A third was unveiled on March 12 by Senator Hubert H. Humphrey (Dem.), of Minnesota, and Representative Augustus F. Hawkins (Dem.), of California, a member of the "black caucus."

The debate will play a major role in the election campaign this year.

Besides Senator Humphrey, Democrats who openly aspire to the Presidency are mounting a vigorous attack on President Ford on the grounds that he isn't doing enough to combat the unemployment problem.

That problem, despite recent improvement in the official figures, still is severe by any postdepression standards.

At last report, more than 7 million people were seeking work and unable to find it. That is a seasonally adjusted estimate equal to 7.6 per cent of the civilian labor force.

In 34 cities, more than 1 out of every 10 workers is still out of work. And among unskilled laborers, teen-agers and blacks, unemployment rates range from 12 to 19 per cent.

What's more, Government surveys indicate that there are about a million people who have dropped out of the labor market because they figure there is no use looking for the kinds of jobs they want. They are not counted among the unemployed.

Isn't the business recovery creating more work? Yes. About 1.8 million jobs have opened up since last May.

But in the same period, the labor force has grown by nearly 700,000, despite those discouraged workers who have dropped out of the market.

Net result: The rolls of jobless Americans in the labor force have dropped by about 1.1 million from what were the highest numbers this country has known since the 1930s.

The President's advisers say that, at best, the unemployment rate will be close to 7 per cent on Election Day. That's more than 6 million unemployed. And when they peer beyond 1976, the advisers expect unemployment to decline to something like a "normal" postwar level—but not before 1980.

That assumes that—

The nation's gross national product will grow fairly steadily at a rate of more than 6 per cent a year in noninflationary or "real" terms. That's much better than the average long-term growth rate of the United States.

The labor force actually will begin to grow less rapidly, making it easier to reduce unemployment.

Even so, nearly 6 million, or 5.8 per cent, of the labor force are projected to be out of work in 1979, four years after the 1973–75 recession.

THE EXTREMES

Today's heavy unemployment and the gloomy outlook for curing it are behind the growing debate over whether the Government needs a more active program to create jobs and, if so, what kind of program. At one extreme is a proposal for the Government to guarantee jobs for all who want them and can't find them in industry. At the other extreme are suggestions for new tax incentives to spur job-creating investments.

A variety of new or expanded Government programs are being urged. Study this welter of proposals and counterproposals and you find three basic approaches to getting unemployment down to a normal level.

The most startling—but in some respects the most conservative—suggestion is the one from Chairman Burns of the Federal Reserve Board.

He would commit the Federal Government to providing funds to hire anyone who wants work and is unable to find it.

What kind of work? Mr. Burns ticks off several possibilities—in hospitals, schools and public parks, for example. He explains that he hasn't tried to develop an exhaustive list. That could be done, he suggests, by a commission of businessmen and public officials.

Some of the jobs might be provided by federal agencies, others by States and localities. The number would depend on economic conditions and on the number of people willing to accept the wages Mr. Burns would offer.

CRUCIAL PAY RATES

Here's where the conservative side of Mr. Burns's proposal comes into play:

He would peg the pay for these guaranteed jobs at less than the current minimum wage of $2.30 per hour—and at still less for teenagers who lack training and work experience.

The low rate of pay is crucial to Mr. Burns' size-up of the problem. He points out that roughly 4 million Americans are now working for the minimum wage and about 3 million are working for even less in jobs not covered by the federal standard. What will happen to these people, Mr. Burns wonders, if the new public-service jobs pay the minimum wage or perhaps more?

The obvious answer is that many will be tempted to quit their present jobs and go to work for the Government. When that happens, their present employers will be forced either to offer higher wages or to seek some new labor-saving techniques. If they adopt the first alternative, there will be an added push behind the wage-price spiral. If they move the other way, the program will have the effect of merely substituting public jobs for private jobs.

Furthermore, the higher the wage the Government pays, the more the plan will cost and the less incentive the people who get the jobs will have to look for private employment.

Mr. Burns wants to be sure that the jobs provided for under his plan will be regarded by the unemployed as a "last resort," so that they will be inclined to keep on looking for better jobs in private industry. He would allow time off for answering want ads and continuing the search for employment.

But Congress will be under constant pressure to raise the level of pay. Under the present, limited program of public-service jobs, the average pay, including fringes, is about $8,600 a year, far above the minimum wage. Some workers get as much as $10,000.

Mr. Burns' plan would be much less remunerative—and hence less costly to the Federal Government. He proposes to keep it that way by incorporating it in a constitutional amendment with a proviso limiting the rate of pay in order to insulate the program from political pressures. Otherwise, he fears, it will turn out to be inflationary.

Inflation, if it follows the pattern of 1969 and 1973, will then lead to a new recession with a loss of jobs and more unemployment, instead of less.

Mr. Burns would even go a step further to hold down the cost of a federal-job guarantee. He would reduce the period during which jobless workers can draw unemployment benefits—now 65 weeks in some places—to 13 weeks. With "last resort" jobs available to all, Mr. Burns sees no need to allow the worker who loses his job more than a moderate amount of idleness to cast about for another.

The cut in unemployment benefits would, in turn, help offset the cost of the guaranteed jobs, so there might be no increase in Government outlays.

It should be noted that this plan is only one ingredient in a broader approach to dealing with unemployment and inflation. Mr. Burns also suggests stretching out the timetables for meeting new safety and pollution standards; a lower minimum wage for teenagers to encourage employers to hire more of them; and an "incomes policy," relying on "quiet intervention" and, if necessary, public hearings to discourage excessive price or wage increases.

The proposal has yet to win any open support in the Ford Administration.

Some Democratic leaders, however, are sympathetic to the idea of a federal-job guarantee—but on much more liberal and more costly terms. They won't allow the pay for the new jobs to be less than the minimum wage, and they won't agree to the drastic reduction in unemployment benefits that Mr. Burns recommends. Such a version of the job guarantee is included in the Humphrey-Hawkins bill outlined on page 65.

What else do the Democrats propose?

Generally, their approach to unemployment comes down to this: Pour more billions into public works. Increase the present program of public-service jobs. Expand federal subsidies for such things as housing, urban development and mass transit.

The Joint Economic Committee complained in a report issued on March 10 that the President's policy is a "blueprint for recession-level unemployment and high inflation for several years." The Democratic majority proposed a federal budget 18 to 24 billion dollars larger than Mr. Ford's.

Will their solution lead to more inflation? The Democrats say, "No," not as long as there are a lot of idle workers and machines. And besides, they argue, a little inflation will be less costly than excessive unemployment.

Where jobless rate runs highest

[Based on unemployment figures as of February, 1976]

	Percent
BY AGE AND SEX	
Teen-age males	19.3
Teen-age females	19.1
Women, age 20 and over	7.5
Men, age 20 and over	5.7
BY RACE	
Nonwhites	13.7
Whites	6.8
BY MARITAL STATUS	
Single men	16.8
Single women	11.9
Married women	7.2
Married men	4.1
BY OCCUPATION	
Laborers	14.1
Production workers	9.8
Service workers	8.9
Craftsmen, foremen	6.7
Clerical help	6.1
Sales workers	5.2
Farm workers	3.9
Professional, technical	3.6
Managers, administrators	2.9

Note: Figures are seasonally adjusted except for single men, women.

Source: U.S. Department of Labor.

MORE GOODS, BUT

Unemployment does impose substantial burdens. Federal estimates indicate the nation would be producing an additional 180 billion dollars' worth of goods and services this year, if the unemployment rate were 4 per cent instead of more than 7.

According to Nancy H. Teeters, assistant director of the House Budget Committee staff, the Federal Government would take in 17 billion dollars a year in additional tax receipts, including Social Security payroll taxes, and pay out 2.5 billion dollars less in unemployment benefits for each percentage point reduction in unemployment down to the 4 per cent rate.

Other costs of unemployment are stressed by various experts. M. Harvey Brenner, medical sociologist at Johns Hopkins University in Baltimore, says: "Recession and unemployment are related to higher levels of heart disease, suicide and alcohol abuse."

High unemployment also leads to family and community problems that, in the opinion of Patrick Murphy, president of the Police Foundation, are associated with such crimes as "homicide, rape, street robbery and burglary—the type of crime which has turned city neighborhoods into warrens of fear."

The difficulty, as the Ford Foundation sees it, is that the "savings" the Democrats hope to achieve by reducing unemployment will be more than offset by more-rapid inflation.

According to this viewpoint, the fast rise in the federal budget will have two effects:

The economy will indeed grow more quickly and produce more work for the unemployed but, in the near future, shortages of materials and labor will begin to appear. Businessmen will then find it easier to raise prices. Unions will be able to win bigger pay raises. People will once more be making plans on the premise that inflation will not only continue but accelerate.

At the same time, the deficit will get out of control, Republicans warn, and the Federal Reserve will find it harder to manage the money supply.

RECORD DEFICITS

Isn't it true that more economic activity will mean more federal revenue? Yes, but there's no guarantee that spending will increase by that much and no more. In the Nixon years, the Government turned to heavier spending and a rapidly growing money supply to speed recovery from the 1969–70 recession. Economic growth increased, but the deficit nevertheless set new peacetime records, and, behind a facade of wage and price controls, inflationary pressures grew.

Mr. Ford's advisers are afraid the same thing will happen again, if the Democrats get their way.

The inevitable result of such a situation, the Administration reasons, is that the Federal Reserve will be forced eventually to jam on the brakes, interest rates will shoot upward, and the economic speedup will crash into another slump.

Democratic strategists say such disasters can be avoided through more careful planning. But even economists of the Kennedy and Johnson Administrations wonder about the Government's ability to plan so carefully.

Between the innovative approach suggested by Mr. Burns and the traditional approach of the Democrats lies the Ford Administration's strategy. In brief, it urges—

Tax incentives to encourage investment and business expansion, so that, in theory, production will keep pace with consumer demand as employment grows, and shortages will be avoided.

A federal budget that will permit only moderate increases in spending and lead to a smaller deficit.

A recovery that is calculated to win prizes for endurance rather than speed, and slowly bring the unemployment rate down to the 5 per cent level by 1980 or thereabouts.

BEYOND THE ELECTION

According to that scenario, workers and businessmen will have no reason to fear a revival of "double-digit inflation," and high unemployment, while it lasts, will help to discourage excessive-pay demands.

What does it all add up to? The argument over what's to be done is likely to generate more sound than action this year. The problem therefore will persist beyond the 1976 election. It's an issue that political leaders and economic planners will be grappling with for years to come.

Highlights of Democrats' Plan for "Full Employment"

Legislation to underwrite employment through federal-spending programs, easier credit and elaborate Government planning was introduced by Democrats in Congress on March 12.

They view it as a major extension of the "full employment" idea that was written into law at the end of World War II.

Their bill is called the "Full Employment and Balanced Growth Act of 1976." It bears the names of Senator Hubert H. Humphrey of Minnesota and Representative Augustus R. Hawkins of California. Sponsors include the chairman of the House Banking, Currency and Housing Committee, Representative Henry S. Reuss of Wisconsin.

Aim of the measure: to guarantee job "at fair rates of compensation" for "all adult Americans able, willing and seeking to work."

The bill requires that the President at the very outset produce a plan for getting unemployment, now at 7.6 per cent of the labor force, down to 3 per cent or less within four years.

How could this be accomplished?

For one thing, a series of "federally operated or approved employment projects" would gradually be put into operation by a new "full-employment office" in the Department of Labor.

A special effort would be made to find jobs for young people, including cleanup teams in the inner cities, conservation projects reminiscent of the Civilian Conservation Corps of the 1930s, and a variety of other public-service jobs.

The pay for work under federal funding would be either the minimum wage, currently $2.30 per hour, or the prevailing wage for similar work, if that is higher.

The planning powers and responsibilities of the White House would be vastly increased. Each year, the President would have to come up with an economic blueprint specifying goals for employment, production and purchasing power.

If the Federal Reserve Board did not operate in the money markets to help achieve those goals, the President would tell the Board to mend its ways.

New federal-credit programs would be devised to make it easier to get loans in the inner cities and in "depressed" regions of the country.

At all times, the Government would be required to maintain a sheaf of spending plans that could be put into effect quickly to counter any recession. These include more public-service jobs, special grants to States and localities to stabilize their revenues in times of slump and assorted "standby" public works.

Would all this result in a greater bias toward inflation in the American economy? The bill takes a bow in the direction of anti-inflation policies. The presidential plans would have to include ways of dealing with that problem.

ELECTRONIC SURVEILLANCE TO OBTAIN FOREIGN INTELLIGENCE INFORMATION

Mr. HRUSKA. Mr. President, yesterday the Senator from Massachusetts, Mr. Kennedy, introduced S. 3197, a bill to be cited as Foreign Intelligence Surveillance Act of 1976.

On that same day the President of the United States addressed a letter to the President of the Senate, a letter transmitting the text of the bill which is now before the Senate as S. 3197. The letter also undertook to describe briefly the purpose and reasons for the bill which would authorize the use of electronic surveillance to obtain foreign intelligence information upon issuance of a court order for that purpose.

I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, March 23, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed for your consideration and appropriate reference is a legislative proposal to amend Title 18, United States Code, by adding a new Chapter 120 to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

On February 18, 1976, in a Message to the Congress on the activities of our intelligence agencies, I stated that the Administration would work with the appropriate leaders of Congress to develop legislation to deal with a critical problem involving personal privacy—electronic surveillance. The Attorney General has met with a number of Congressional leaders, and the discussions have been marked by a bipartisan spirit of cooperation. This spirit also characterized today's meeting which I had with leaders from the Congress at which we discussed the need for this legislation. I welcome the support of those who have agreed to co-sponsor and work towards speedy enactment of this bill.

At the present time electronic surveillance within the United States for foreign intelligence, including counterintelligence, purposes is approved by the Attorney General, pursuant to explicit Presidential authorization, in cases involving agents of or collaborators with foreign powers. The proposed bill would provide a procedure for seeking a judicial order approving the use, in a particular case, of electronic surveillance to obtain foreign intelligence information and would establish standards that must be satisfied before any such order could be entered. The bill follows the framework established by the provisions of Title III of the Omnibus Crime Control Act, 18 U.S.C. § 2510 et seq., governing electronic surveillance undertaken for criminal law enforcement purposes, with substantive and procedural adjustments necessary to meet the singular needs and purposes of foreign intelligence investigations.

The enactment of this bill will ensure that the government will be able to collect necessary foreign intelligence. At the same time, it will provide major assurance to the public that electronic surveillance for foreign intelligence purposes can and will occur only when reasonably justified in circumstances demonstrating an overriding national interest, and that they will be conducted according to standards and procedures that protect against possibilities of abuse.

I urge the early consideration and adoption of this timely and needed proposed legislation.

Sincerely,

Gerald R. Ford.

WESTERN STATES FORESTRY TASK FORCE SUPPORTS HUMPHREY BILL

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate a resolution which was passed on March 23, 1976, by the Western States Forestry Task Force.

This group was created by the State legislatures of Washington, Oregon, California, Idaho, and Montana. It has strongly supported S. 3091, which I introduced, and the companion legislation, H.R. 12503, which was introduced by Representative Harold Johnson.

This group met for a number of days and carefully reviewed the bills being considered on both the House and Senate sides.

These individuals considered carefully all aspects of the national forests and their renewable resources and felt that the bill which I have introduced adequately met the environmental concerns and also assured a reasonable off-take of timber.

Mr. President, I also wish to share with this body my statement at the March 22 hearings of the Committees on Agriculture and Forestry and Interior and Insular Affairs.

In my testimony, I indicated some of the main differences between the Humphrey and Randolph forestry bills, and I pointed out that our hearing needed to look toward finding ways whereby the two approaches could be brought together.

There were a number of very compelling statements offered at that hearing, and I plan to share some of these with my colleagues at a later date.

Mr. President, I ask unanimous consent that this statement along with the earlier mentioned resolution be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement by Senator Hubert H. Humphrey

The two committees have already received testimony from an awesome number of witnesses on the pending forestry bills.

Senator Randolph and I have offered bills with differing approaches. But the objective which we seek is the same: The wise management of our forests and all of their renewable resources.

Today we need to begin to look toward finding ways or areas where the differing approaches can be brought together. And we have another impressive list of witnesses to provide guidance and counsel.

In approaching the issue of how our forests are to be managed, we should base our approach on the Multiple Use and Sustained Yield Act of 1960. But we need to strengthen our efforts and do a better job than in the past.

We also need to draw on the Forest and Rangeland Renewable Resources Planning Act of 1974 as an example of how different groups with differing viewpoints can come together to approach common goals.

One of the major issues in this debate has been the role of the Forest Service and the extent to which it can be trusted in guarding and managing our renewable resources.

Even the Forest Service would be compelled to concede that its record has not been without flaw. But this does not mean that we should make it impossible for the organization to carry out its assignment.

The bill which I have introduced, S. 3091, seeks to assure that the Forest Service would act responsibly by providing specific guidelines on which detailed regulations would be built. The regulations would allow the flexibility needed in responding to differing conditions regarding tree species, soil conditions, slopes, wildlife and fish while allowing for the evolution of new scientific and ecological knowledge and practices.

In introducing S. 3091, I said that the bill would require the Secretary of Agriculture to:

"First. Prescribe by regulation the environmentally approved forest practices and cutting methods generally available for application on the national forests. And the law and accompanying report would provide specific guidance to insure that the regulations will be scientifically and environmentally sound.

"Second. Define forest regions, forest types, and forest species.

"Third. Spell out the practices generally applicable to each region, type, and species.

"Fourth. Make certain that foresters apply these practices in an interdisciplinary manner so that all of the renewable resources would be treated in an ecologically sensible manner.

Fifth. Establish that forest cutting would proceed only if done in accord with the approved guidelines, with the exception that, for research purposes, the exploration and application of new concepts could be applied on a limited basis."

At the same time I also stated:

"To me it is not enough that we modernize the methods by which timber is sold. This bill does much more.

"Its basic purpose is to assure that the multiple uses are realized and their yields are sustained. This bill seeks to strengthen resource management so that it is ecologically effective.

"It ties together the multiple use plan, with the specific resource plans that flow from it, and the contracts and permits that flow from resource plans. It requires that direction be publicly charted and described. It ties this to the budget process through the Renewable Resources Planning Act of 1974.

"The days have ended when the forest may be viewed only as trees and trees viewed only as timber. The soil and the water, the grasses and the shrubs, the fish and the wildlife, and the beauty that is the forest must become integral parts of resource managers' thinking and actions."

But I also am a pragmatist and willing to seek improvements and attempt to address legitimate concerns.

We need to make a greater effort to strengthen our wildlife management program and devote more attention to clean water and soil management.

I would welcome suggestions from concerned conservationists on ways in which improvements can be made in S. 3091 to bring it and S. 2926 more closely together.

I share the concern of Mr. Poole of the Wildlife Management Institute who indicated that funding for wildlife programs has been less than adequate. In his March 15 testimony, he pointed out that the Forest Service in its Assessment and Program suggested a 13-fold increase in the fish and wildlife management budget and less than a doubling of the timber resource management budget.

We need to address these concerns in the budget process itself and in the context of the Forest and Rangeland Renewable Resources Planning Act of 1974.

In my bill certain public policy goals are targeted. It deals with all renewable resources on forest and rangelands using the concepts of multiple use and sustained yield.

Change is what ecology is all about, and what we in Congress need to do is write a law that helps man work with rather than against Nature.

The Audubon Guide on birds tells us that for every land bird that is less abundant when the Pilgrims landed, 5 or 6 times as many species are more abundant today. There are now around 215 million people whereas there were only a few million two centuries ago when the nation was founded.

I would like to comment briefly on some of the issues and differences of the two bills. S. 2926 generally specifies standards only for timber production; S. 3019 covers all the renewable resources.

S. 2926 would prescribe an absolute even flow for timber and require that the quality of timber could not decline. S. 3091 prescribes a sustained yield flow for all renewable resources.

It is a legitimate public policy issue whether trees are to be grown for timber on long rotations and where growing high quality wood is the number one goal. I would prefer to strive for a good combination of volume and quality—but always in the MULTIPLE use context.

Both bills would require the Secretary to develop, in a form that is better understood and more rigorously applied, utilization standards—not only for trees—but all renewable resources.

Forest harvest systems are covered by both bills with S. 2926 writing in prescriptions that would rigorously limit what is called "even aged management" and "clearcutting" and further would prescribe "selection cutting" and "uneven aged management" for Eastern hardwoods.

Frankly this degree of specificity in law troubles me. Wildlife experts indicate that it presents problems in their field. I am convinced that we could require the Secretary to use the systems of management and silviculture that are adapted to the site in establishing a healthy plant and animal community. We also require greater use of proven research data in applying any management system.

Both bills require a more open process so that the public can be involved to a greater extent in the sale of timber and the management of the national forests.

I do not believe that we should approach the cutting of timber on the basis of a statutory definition of maturity. As the forest grows, a flexible system is essential if MULTIPLE use values are going to be secured.

On the marketing of timber, it seems to me that the requirements of the 1897 Organic Act are far too rigid. Unless evidence from professional silviculturists shows that it is necessary that all trees be marked at all times, I do not see the advantage of continuing this as a requirement.

Another topic of concern is what is referred to as type conversion. This is defined to mean changing an area's tree stand from a hardwood type to a conifer type. Here I would want to see some proof which shows that National Forest land best suited by Nature to growing one kind of tree is being purposely converted to a different kind of cover and that the decision is based on simply growing trees for money.

I have introduced legislation earlier to redesign the system of payment in lieu of taxes, and I continue to support reform in this area. Action is needed in this area, but the matter should be considered in separate legislation. Adding a multi-million dollar section to this legislation could well assure its veto.

While much of the attention has focused on concerns other than timber, there is no need to downplay its importance to our economy or the lives of the American people.

The jobs of as many as 130,000 workers in the lumber and wood products and the pulp and paper industries could be lost if the recent court decisions are extended to all 155 National Forests. Employment in the forest-based industries totals over 1,600,000 people. About twice this number—3,200,000 people—hold jobs with businesses that supply and service these industries and thus depend upon timber resources to varying degrees for their livelihoods. When families are taken into consideration, based on the national average of 3.7 persons per family, the forest industries and allied enterprises directly suport nearly 18 million people.

It should be noted that an average size single-family house uses 12,000 board feet of lumber and 5,000 square feet of plywood, in addition to wooden doors, windows, flooring and millwork. Further constraints on federal timber supplies would add to the scarcity and the prices, just at a time when there is hope of a housing recovery.

As I stated last fall to the Society of American Foresters and the American Forestry Association, I believe that forestry should be practiced in the forests rather than in the courts.

This is a complex and scientific profession. We need to provide effective guidance—both in law and regulation—but allow enough flexibility so that the foresters can do the job.

In conclusion, I would suggest that the degree to which we write rigid standards into law ought to depend on the extent to which we get unreserved commitments from the Secretary of Agriculture that in developing regulations he will effectively and openly consult with the public. We also can judge from his willingness to follow the Multiple Use and Sustained Yield principles rather than turning the National Forests into tree production programs which override other values.

RESOLUTION

(Be it resolved this 23rd day of March, 1976, by the Western States Forestry Task Force that this statement of position be presented to the Congress.)

The Western States Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, strongly commends those members of Congress concerned with the disruptive impact on forest resource management and the economy resulting from the *Monongahela* and *Tongass* court decisions.

States within the jurisdiction of the Ninth Circuit Court of Appeals harvest about 85% of the total national forest timber, pay about 90% of the national forest gross revenues, and receive about $112.5 million for roads and schools in national forest counties. Congressional action could directly and indirectly affect hundreds of thousands of jobs in the five western states.

The Western States Forestry Task Force also recognizes the need to preserve and enhance all of the productive elements of the forest resource base. We believe that this can best be accomplished by giving forest managers discretion in the use of proven management techniques.

We therefore wish to go on record as being in full support of the measure *as introduced* by Senator Humphrey and Congressman Johnson (S. 3091 and H.R. 12503).

It has also come to the attention of the Western States Forestry Task Force that the President's Budget for the 1977 Fiscal Year proposes to cut Clarke-McNary, Section 2 funds from the $22.596 million in Congressional appropriations for the 1976 Fiscal Year to $11.712 million. In addition, the Administration has declared its intention to phase out CM-2 appropriations completely in the 1978 Fiscal Year. Congressional appropriations for forest fire prevention and suppression under Section 2 of the Clarke-McNary Act, have been a vital factor in the protection of forest and water resources in the United States for fifty years. Without this federal support many states could not maintain their forest fire protection programs at the current levels.

The Western States Forestry Task Force therefore strongly urges Congress to restore the full $22.596 million CM-2 appropriations for the 1977 Fiscal Year and to resist any attempt to phase out the CM-2 program in the future.

Respectfully submitted by Assemblyman Barry Keene for the Members of the Western States Forestry Task Force.

TOXIC SUBSTANCES CONTROL ACT—CANCER AND YOUTH

Mr. TUNNEY. Mr. President, once again we only have to look at the pages of the daily newspaper to find a new and more terrible justification for the prompt enactment and implementation of the Toxic Substances Control Act. The March 23, 1976, Los Angeles Times contains a story entitled "Children's Cancer Deaths Linked to Population Rise."

According to the report, cancer is now the primary killer of children under the age of 15. The National Cancer Institute has confirmed that the 1974 cancer death rate of 5.2 per 100,000 children was higher than any other fatal disease for the group. The horrifying truth is that the increasing incidence of cancer in youth is directly traceable to environmental causes. The story in the Los Angeles Times states that—

> The spreading incidence of environmental illness is largely attributable to the introduction of new chemicals into the ecosystems, increased levels of air and water pollution and crowding.

Mr. President, the time is long overdue for Congress to enact responsible and effective legislation to protect children, as well as the rest of society, from the introduction of hazardous chemicals into the marketplace and workshop. I ask unanimous consent that the article from the Los Angeles Times be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CHILDREN'S CANCER DEATHS LINKED TO POPULATION RISE

(By Don Shannon)

WASHINGTON.—Cancer is the primary killer of children less than 15 in the United States and population growth is at least partly to blame, three environmental researchers said in a study published Saturday.

The assertion was made by Lester R. Brown, president of Worldwatch Institute, and institute staff members Patricia L. McGrath and Bruce Stokes. Their report, "Twenty-two Dimensions of the Population Problem," warned that accelerating population growth—in addition to the threat of famine—posed an array of other dangers, from disease to inflation.

"A growing share of all illness and death in the world today is directly attributable to human changes in the environment," the authors said. "These changes stem from new technologies, population growth and the need to produce ever more goods to satisfy human needs."

Worldwatch Institute is a nonprofit research organization dedicated to "global problem solving." It was initially financed by the Rockefeller Brothers Fund and has received support from the U.N. Environment Program. Its study of population growth was paid for by the U.N. Fund for Population Activities.

The National Cancer Institute confirmed that the 1974 cancer death rate of 5.2 per 100,000 children was higher than any other fatal disease for this group.

The spokesman said also that the conquest of other diseases had helped make cancer the leading cause of death in children because its incidence has remained relatively steady.

The Worldwatch study, in discussing "environmentally induced illnesses," said that "cancer now ranks as one of the most feared killers in industrial societies."

"The spreading incidence of environmental illness is largely attributable to the introduction of new chemicals into the ecosystem, increased levels of air and water pollution, and crowding, it said.

Brown and his colleagues said that if cancer were the price of population increase in industrial nations, developing nations had been afflicted by schistosomiasis, a disease caused by microscopic parasites that thrive in water and attack the bladder and liver.

It is a growing menace in the developing world because nations there are expanding irrigation in the face of the rising food needs of their growing populations, the study said. Two out of five Egyptians, a total of 15 million people, are victims of the nearly incurable disease.

The earth's increasing number of inhabitants also is responsible for increased inflation, the study said.

In the last 15 years, it found, half of all production gains had been absorbed by the added consumers and the other half by an increase in per capita consumption.

"With 4 billion consumers already on the scene and 200,000 more being added each day, scarcity-induced inflationary pressures may grow chronic," the Worldwatch study said.

"Indeed, inflation poses one of the most difficult challenges that political leaders will face in the years ahead. What they must now realize is that, without a marked slowdown in population growth, inflation simply may not be manageable."

THE IMPORTANCE OF ENERGY CONSERVATION

Mr. JAVITS. Mr. President, I bring to the attention of our colleagues an article appearing in the "Point of View" section of last Sunday's New York Times. March 21, 1976, by Dennis Hayes.

The article, entitled "Conservation as a Major Energy Source" highlights some of the many areas where conservation measures can be utilized to bring major near-term results toward energy independence. Mr. Hayes has written an excellent paper for the Worldwatch Institute on the same subject called, "Energy: The Case for Conservation," which was supported by the Federal Energy Administration, of which this article is a part.

Each piece shows that our concentration on methods of increasing energy supply is not the optimum emphasis now; that we could save more than any increased supply amounts through economic conservation measures that are environmentally beneficial and job creating as well. I am not suggesting that we let up in our search for better methods of producing our traditional fuels or for alternative sources that will provide us with energy in the future. In fact, I believe some of these efforts, particularly with regard to the use of our vast resources of coal, and with the use of unlimited potential from solar power, should be pursued even more vigorously and urgently.

But conservation methods have barely begun to tap the available energy savings. The measures legislated in the Energy Policy and Conservation Act, while welcome and important, only scratch the surface. Other specific measures will provide further incentives to conserve, such as the building standards and low-income insulation assistance provisions of the recently passed Energy Conservation in Buildings Act, H.R. 8650.

However, many other legislative actions are needed if we are to achieve any significant part of the vast conservation potential that lies before us, as illustrated by the examples in the Hayes article.

Among those measures that I believe are necessary are passage of the Energy Conservation Act of 1976, which provides loan assistance to homeowners and small businessmen for insulation and other conservation equipment, the Brooke amendment to provide a partial tax credit for home insulation materials, and ERDA authorization that puts emphasis on conservation R. & D. and a loan program to enable business to develop new and innovative ideas in the conservation field.

The attached article brings to light some of the benefits of conservation and its huge potential. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, March 21, 1976]

CONSERVATION AS A MAJOR ENERGY SOURCE

(By Dennis Hayes)

Virtually all Federal money directed at the nation's energy problems is intended to expand, ensure, or regulate energy supply. Only about 1 percent is earmarked for energy conservation. Yet conservation holds far more promise over the next few decades than do any of the proposed new sources of supply.

For example, ceiling insulation in a typical home costs about $300 installed and will save about seven barrels of oil each year for the lifetime of the house. Oil saved is as valuable as new oil pumped out of the ground. Using very conservative discount rates, the present value of the energy to be saved by the ceiling insulation in future years is 60 barrels. When heating oil cost only $3 per barrel, insulation was not economically attractive. But today heating oil often costs $16 per barrel. By comparison, ceiling insulation is a dirt cheap source of new energy.

The largest, cheapest, and most secure nearterm source of energy available to the U.S. is the one-half of our energy budget currently being wasted. We could derive more than twice as much useful work from the fuel we consume if we better insulated our buildings, improved the efficiency of our machines, and carefully matched each energy source to its highest and best use. Instead of doubling our consumption of fuel, we could make our current fuel consumption go twice as far. Energy conservation is the least expensive, most reliable, safest and least polluting source of energy we can tap.

Industry currently consumes 40 percent of the country's fuel. Recent studies by the Conference Board and the Ford Foundation's energy policy project suggest that enormous energy savings can be made without adversely affecting industrial productivity. The primary metals industries use about one-fifth of all industrial fuel. By adopting technologies now widely employed in other countries, the steel industry can reduce its fuel demands about 50 percent by 1995. The refining of aluminum by the new chloride process instead of by the traditional Hall method yields energy savings of about one-third. Recycled scrap aluminum requires only 5 percent as much energy as aluminum refined from ore. Forty-five percent of industrial fuel is used to generate process steam. If this steam were first used to generate electricity and then used as steam, more electricity would be produced than the entire industrial sector now purchases from utilities.

The American Institute of Architects believes that 30 percent to 50 percent of the operating energy in most existing buildings can be economically conserved, and that 50 percent to 80 percent can be saved in new buildings. The lower figures assume optimal insulation and the use of efficient furnaces and air conditioners. The higher figures assume the use of more sophisticated technologies, including solar devices, heat pumps, and "total energy systems." A significant national commitment to upgrading the energy efficiency of buildings would by 1990 save the equivalent of 12.5 million barrels of oil a day.

Legislation has been introduced in the Congress that would guarantee up to $10 billion in loans over the next four years and subsidize interest rates at 2 percent to 5 percent for loans to promote insulation of homes and small businesses. The states would receive $50 million to promote and administer the program.

Transportation now amounts to 24 percent of direct United States fuel consumption. An input-output economic analysis by a team from the University of Illinois found that transportation accounts for another 18 percent of the energy budget indirectly—to build and maintain vehicles, construct roads, rail beds and airports and the like.

The Energy Conservation and Oil Policy Act of 1975 mandated that average automobile mileage must reach 27.5 miles per gallon by 1985. This must now be followed by other steps, such as promoting the widespread use of mass transit vehicles and switching freight to more energy efficient transportation modes. At present, trucks consume one-half of the fuel used for freight transportation while moving only one fifth of the nation's freight. The energy efficiency of trucks can be increased 12 percent with a cheap "add-on" aerodynamic device to reduce wind resistance.

Other possibilities for savings abound. A comprehensive national program of metal recycling should be established, and Interstate Commerce Commission regulations which discriminate against recycling ought to be reversed to discriminate in its favor. Human and animal waste and other organic debris now thrown away are potentially valuable as fertilizers and sources of energy. Lighting standards are twice as high as they need to be and most light bulbs are shockingly inefficient. Energy efficiency standards belong in all building codes. Implementation of the Solar heating and Cooling Demonstration Act can be accelerated; the entire country should follow the lead of the 13 states that have already passed tax incentives favoring solar residential heating. Decentralized electrical generation would allow waste heat to be productively employed as it is through much of Europe to heat commercial buildings and residences.

In some official circles the merits of more comprehensive measures are being debated. One proposal with obvious political risks is the primary energy tax, sometimes called the Btu (British thermal unit) tax. Such a tax would encourage conservation through higher prices for such primary fuels, as oil, coal, and uranium, but award the windfall to the Government rather than to energy companies. Although taxes just on gasoline or electricity would be regressive, placing a disproportionate burden upon the poor who spend a higher fraction of their earnings directly on energy, a primary energy tax would be proportional to income. By taxing all fuels at their source, an energy tax would encompass the indirect use of energy (the energy used to make steel, to fly planes and so on) as well as direct fuel consumption by the individual consumer. If such a tax were combined with "lifeline" rates—or rebates for poor people—it would be an equitable and effective measure. If, in addition, the tax revenues were earmarked for investments in energy conservation, the original fuel savings could be multiplied.

Another comprehensive measure being considered is the "energy impact statement." This proposal is based on the belief that the energy impact of important Federal decisions should be scrutinized as carefully as the environmental impact or the implications for employment.

Whether as a spate of piecemeal reforms or as a comprehensive package, energy conservation legislation will almost certainly pass the Congress this year. Some proposals would be better than others but any might be better than none. The United States ranks only 14th among the 18 members of the International Energy Agency in terms of effective energy conservation efforts. There is substantial room for improvement.

THE REPRESSIVE PARK GOVERNMENT

Mr. KENNEDY. Mr. President, I have become increasingly disturbed over the past several years by the clear drift of the Park Government toward a policy of systematic repression. Any objective review of the collective effect of the major decisions taken by Mr. Park, during the past 2 years, points to the erosion of most of the fundamental precepts of democratic life, institutions, and principles.

Last year, in an apparent effort to silence any remaining opposition, President Park proclaimed "Emergency Measure No. 9" declaring illegal any criticism of his government, under threat of imprisonment for up to 15 years. This month, we have witnessed a chilling demonstration of the effect of this sweeping and undemocratic proclamation.

On March 1, at an ecumenical prayer service held in Seoul Cathedral, a "Declaration on Democracy" was read, calling for the restoration of freedom of speech, press, and assembly, a return to parliamentary democracy, and an independent judiciary. The declaration also called for the resignation of President Park. This document was signed by 12 religious, political, and academic leaders in Korea. Among them were Mr. Kim Dae Jung, the opposition candidate in the Presidential election of 1970, Mr. Yun Po Sun, former President of South Korea, and Mr. Chung, onetime foreign minister.

Within hours of the public reading of this document, these 12 individuals and their wives were arrested and detained for interrogation by the KCIA. A few were released the following day. However, the South Korean Government announced that Mr. Kim Dae Jung and 10 other critics would be charged with attempting to overthrow the government of President Park Chung Hee.

The New York Times quoted an official South Korean spokesman explaining his government's actions in the following way:

> It is the government's interpretation that calling for the President's resignation is the same as calling for the overthrow of the Government of Korea.

Yet what could be more fundamental to the principles of democracy—and human rights—than freedom of speech, including the freedom to criticize one's own government?

The United States has real economic and security interests in Korea, particularly as an adjunct to our commitment to Japan. Some 40,000 American troops are stationed in Korea; and many thousands of Americans fought and died in that country in a long and bitter war. All told, we have spent nearly $12 billion in foreign economic and military assistance for Korea over the last quarter century.

Yet the security of Korea does not rest upon economic strength alone. It has long been clear that the steady, systematic erosion of liberties in that country are undermining the basis of cohesion, commitment, and common action that Korea must have to provide for its own security. The cancer from within is damaging South Korea's real interests—and our interests in that country just as surely as any potential threat from without.

Yet despite overwhelming evidence of the perversion of human rights and the weakening of the political fabric of Korean society through repression—the administration has never, to our knowledge, expressed public concern over the growing repression of the Park regime. At best, it occasionally pays lip service to a commitment to promote democratic principles and institutions in Korea. Yet without strong public signals to the contrary, many Americans and Koreans suspect that U.S. military support somehow condones or even contributes to the long wave of repression.

Last month, the Senate passed the International Security Assistance and Arms Export Control Act of 1976. This legislation, which passed the House in similar form and is now in conference, contains explicit provisions calling for the promotion and protection of internationally recognized human rights. These provisions state clearly that the policy of the United States is that security assistance will be withheld from any country which engages in a consistent pattern of gross violations of human rights. It specifies that a principal goal of U.S. foreign policy shall be to promote the increased observation of internationally recognized human rights; and it directs the President to formulate and conduct international security assistance programs that will help promote the achieving of that objective.

Under these measures—if signed into law—the full Senate or the Senate Foreign Relations Committee, may request the Department of State to file a report within 30 days, to include the following information:

First, a detailed description of the human rights practices of the country in question;

Second, steps taken by the United States to discourage such practices which violate human rights, and to disassociate security assistance from such practices;

Third, and whether aid should be continued regardless, in the national interest.

Also, under these provisions, the Congress by concurrent resolution can, within 30 days, reject the report of the Secretary of State, and thus modify or end security assistance to the country in question.

It is my intention to join with my distinguished colleague from California (Mr. Cranston) to request the State Department to begin a detailed investigation of the alleged human rights violations in South Korea, and on the basis of the results of this investigation, that Congress undertake a full review of U.S. economic and military assistance to that country.

These are not actions which I undertake lightly. I accept that the United States still has a commitment to the Republic of Korea. What is being proposed is not any action which would threaten either America's or Korea's long-term security interests; rather I am seeking to promote them. Indeed these very interests may be in greater danger now, in the atmosphere of fear and repression encouraged by the Park regime than from a threat of military confrontation.

Mr. President, I ask unanimous consent that several articles and editorials on the situation in South Korea be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 19, 1976]

South Korea's Most Dangerous Man

A dangerous man is on the loose in South Korea, one who threatens to provoke internal upheaval and to cost his country the support of its leading foreign ally. Indeed, given the ruthless centralization of power in Seoul, this man is in a position to do more damage to Korea's stability and security than any other figure. He often makes the monomaniac who runs North Korean, Kim Il Sung, look like an ineffectual ward politician. He is, of course, South Korean President Park Chung Hee.

President Park is as spoiled a despot as any ruling today. He started his political career unexceptionably enough. But the narrowness of his electoral victory over Kim Dae Jung in 1971—a contest in which his party extorted $3 million from Gulf Oil alone—apparently frightened him. He reacted over the next two years by turning South Korea into a personal dictatorship. Meanwhile he played on the solicitude many Americans have felt for his country since the Korean War, and on the gratitude some Americans expressed for his help in Vietnam, and he got the United States at once to build up his army and ignore the increasingly repressive quality of his rule.

The other day a dozen or so brave Koreans gathered in a church in Seoul to read a "declaration of decency and national salvation." They asked President Park to resign so that democracy could be restored. The group included his old nemesis Kim Dae Jung and leaders of South Korea's Christian community. Arrested promptly, they are evidently to be charged with plotting to overthrow the government. If convicted, they could be executed—eight other Korean political challengers were executed last year. The arrests are described as the last gasp of the political opposition. This does not mean that political opposition will end but that it will be forced underground. President Park offers no alternative.

Now, President Ford laid hands on President Park with a visit a year or so back. Secretary of State Kissinger's position, that Mr. Park's geopolitical role is too important for the United States to take issue with the way he runs the country, is all too well known. Still, it is dangerous and dishonorable for the Ford administration to remain silent about President Park's domestic savagery. Administration mumbling notwithstanding, this is not the United States' only choice.

We do not believe that the United States should abandon the South Korean people or otherwise act in a way that would tempt war. But we do believe that the administration's permissive tolerance of Korean police rule, far from allowing American officials to wield a softening influence by quiet diplomacy, has simply permitted President Park to tighten his grip. We suspect that President Park is laughing up his sleeve at Gerald Ford and Henry Kissinger and the American people. He is telling himself that there is no assault on American values that the United States cannot be conned into condoning in the name of anti-communism. If the administration cannot bring itself to set President Park straight, then the Congress, which controls the funds that keep him afloat, should do so on its own.

[From the Baltimore Sun, Mar. 13, 1976]

Mr. Park's Critics

Never let it be said that President Park Chung Hee and his Korean Central Intelligence Agency are insensitive to criticism. They have most recently demonstrated their sensitivity by arresting participants in a March 1 prayer meeting at which a document was read calling for Mr. Park's resignation. Eleven persons, including Kim Dae Jung, the loser in the 1971 election by which Mr. Park ratified his own rule, have been charged with agitating to overthrow the government. At least 16 others have now been released, and word of their treatment in captivity has reached foreign newsmen. Most were reportedly interrogated around the clock for several days by teams of questioners who refused to let them sleep. A New York *Times* reporter was told that the Rev. Kim Mong Eun, pastor of the Catholic cathedral where the prayer meeting was held, was questioned nonstop for 55 hours by a rotating team of ten agents.

Explanations by Seoul officials suggest more fear of the critics than might have seemed in order. "What do you think would happen if we didn't respond firmly to such actions?" one official demanded, as if the protests of a few dozen opponents portended the deluge. But if Mr. Park's government betrays worry about its own position at home, its interrogation methods also suggest concern for foreign criticism. Previous waves of arrests have been followed by charges of beatings and torture more hideous than deprivation of sleep. It is not inconceivable that this moderation of KCIA torture methods is a response to continuing criticism by foreigners, particularly United States congressmen, whose hand on the American military purse string is well known to Mr. Park. Torture is no less wrong for being less violent. But if Mr. Park's KCIA has been forced to flinch once, congressmen should take heart that their continued efforts may further relax both the torture and the repression practiced by Washington's client.

[From The New York Times, March 19, 1976]

Seoul: Time To Voice U.S. Disapproval

To the Editor:

Internal political conditions in South Korea have steadily deteriorated during the past five years. In the 1960's the Government of President Park Chung Hee, which came to power in 1961 via a military coup, made great economic progress and seemed to be gradually developing an open political process that would eventually vindicate the massive American economic and military aid to the Republic of Korea. In a series of moves since 1971, however, Park changed the constitutional system to guarantee his lifetime rule and has now suppressed even token public dissent.

He has crippled the opposition political parties, punishing the exercise of free speech, prevented free association, censored the media, curbed the courts, subdued the universities, restricted religious groups, controlled labor movements and generally created an atmosphere of fear and intimidation. Those who have tried to resist the ruthless extermination of the Korean democratic experiment have met economic sanctions, threats to their persons and families, arrest, kidnapping, torture and even death.

The latest outrage occurred this week when Park arrested many of Korea's finest leaders, devout believers in democratic government who refuse to accept Park's repeated efforts to justify dictatorship by exaggerated cries of "threat from the North." This courageous group includes: Kim Dae Jung, who distinguished himself as opposition party candidate in Korea's last relatively free presidential election; the wife of former President Yun Po Sun; Y. H. Chyung, former Foreign Minister, and his wife, Lee Tai Young, leading feminist who won the 1975 Magsaysay award, and other civic and religious figures.

This tragic policy will create subversion where there was none. It will defeat American efforts to divest ourselves of the moral taint that comes from our support of unnecessarily repressive regimes. And it raises the specter of the U.S. again being drawn into a costly war on the Asian mainland in defense of a corrupt, unpopular secret-police/military dictatorship.

It is time for our political leaders in the executive branch and in Congress and for candidates in the Presidential primaries vigorously to express their disapproval of policies that narrow the distinctions between South Korea and its repressive counterpart in North Korea and to point out the extent to which Park's actions diminish the American willingness to support South Korea. [Editorial March 12.]

Edwin O. Reischauer,
Jerome Alan Cohen.

Cambridge, Mass., March 11, 1976.

[From the Washington Post]

Seoul; Looks Normal, but Seethes Below

(By John Saar)

Seoul.—The word "Kafkaesque" has seen a lot of use in Seoul over the past two weeks. On March 1 a coalition of militant Christian leaders and opposition politicians challenged the government of President Park Chung Hee with a moderate, even vapid, declaration for a return to democratic government.

The response was brisk and bare-knuckle.

Thirty-four suspects were rounded up for questioning by the Korean Central Intelligence Agency (KCIA). Eleven still are being held on a prosecutor's accusation that they plotted to overthrow the government.

It is mostly foreign analysts who describe the conflict realities as "Kafkaesque." Government officials, with a sharp nose for the scent of rebellion, speak gravely of conspirators seeking the violent overthrow of the government under the pretext of a religious service. Opposition people still free to comment often do so with a robust sense of the ridiculous, laughing off the allegations as "nonsense."

Almost stranger than the events, though, is the atmosphere in Seoul of total normality on the surface and secret seething below.

Most citizens appear totally unaware of the protest staged during an ecumenical Mass at Myungdong Cathedral, or the arrest which followed. The government ordered a total news blackout until the Seoul prosecutor revealed the ongoing investigation nine days later in a fiercely denunciatory statement.

Meanwhile, the KCIA kept very busy with day and night questioning of witnesses and measures to prevent clandestine circulation of the dissidents' statement. Korean reporters working for three international wire services kept sending the story out in defiance of indirect pressures. Japanees reporters said they, too, received veiled warnings.

Those who shared the secret and wanted to know more—diplomats, activists and journalists—avoided the telephone for fear of bugging. Pointing to the phone on his desk, one man said, "This is not mine, it's the government's phone."

Former Foreign Minister Chung Il Hyung, 72, was one of these arrested for questioning. His was one of 12 names appearing on the Myungdong statement. Though warned not to talk to foreign correspondents, he was at home after his release and describing the experience when a dapper man in a square-cut blue suit walked into the living room.

"KCIA," Chung whispered. "Better change the subject," an aide added.

Surveillance, long a fact of life in South Korea, became open and intensified. At a routine afternoon Mass in the Catholic Myungdong cathedral one day last week, six plainclothes agents working from the cover of a brick column were taking notes and scrutinizing members of the congregation. Afterward, casually joking among themselves, they strolled to the end of a path to watch the worshippers leaving.

Formal charges have not yet been presented against former opposition leader Kim Dae Jung or the priests, ministers and former theological professors now lodged with him in Seoul's Westgate prison. The meaning, however, is plain: South Korea's immensely powerful ruler is bent on another no-quarter confrontation with the battered opposition, a loose alliance of prestigious politicians and Christian leaders.

It raises new questions about the character and direction of the South Korean government and has aroused misgivings even among some Americans here who favor continued U.S. support for President Park. In particular, the crackdown on the Christian leadership presages new debate in the United States religious freedom in South Korea.

In dealing with what most foreign observers regard as a brave but futile gesture, Park displayed a need for domestic obedience that supersedes the cost to the country's reputation abroad.

Overshadowing every debate on politics in South Korea is the threat of invasion by North Korea and how best to prevent it. The opposition's foredoomed plea on March 1—anniversary of the equally hopeless 1919 uprising against Japanese rule—was for a return to democracy through freedom of speech, press, assembly and an independent judiciary.

Park is ruthlessly efficient in pursuit of his vision of a state militarily strong, economically vital and untroubled by internal political disputes. Intolerant of criticism and fired by a feeling of historical destiny, he has assumed limitless powers and entrenched his rule behind draconian emergency laws.

Korea's 3.4 million Protestants and 800,000 Catholics are the vanguard of Western civilization and their leaders cling tenaciously to the ideals of democracy.

With the press powerless and the students neatly hamstrung by laws forbidding demonstrations, the church people feel a responsibility to challenge the government. Park's government holds the country in a net of laws and cannot allow any transgressions for fear of a general unravelling and an intervention by North Korea.

The opposition had been quiet since last May and the Myungdong demonstration seems to have taken the government and the KCIA agents in the cathedral by surprise. That the 12 principles were able to organize and communicate under the noses of their KCIA watchdogs was undoubtedly worrisome.

[South Korean Protestant leader Kim Kwan Suk said today that his name was signed to the manifesto without his permission UPI reported. "I did not sign that statement, nor did I authorize anyone else to sign my name," Kim said.]

The United States has supported Park because his government has been stable and successful. Many Americans in Seoul, however, are uncomfortable with the actions of the last two weeks and uneasy about the directions in which Park may be headed.

Opposition figures tend to be rough on the United States for not publicly pressuring Park. "Helping a dictatorial government is not the way to defend Korea against communism," a politician maintains. "The U.S. should put pressure for the restoration of human rights."

Yun Po Sun the aged but still eloquent former president who was questioned for seven hours last week later commented, however: "This government doesn't care what people in other countries think. They are too much preoccupied with staying in power—they couldn't care less."

Some of the older opposition leaders warn that Park will risk a genuine uprising if he continues with repressive policies. Yun Po Sun warns of "people reaching the boiling point," and "undesirable consequences," which would be "very sad for all parties concerned."

[From the Los Angeles Times, March 12, 1976]

For Those Who Cannot Speak

The South Korean dictatorship of President Park Chung Hee has once again moved to stamp out peaceful dissent and to compel political conformity, this time on a legal pretext so farfetched as to insult common sense.

Eleven persons—among them Christian leaders, professors and a former presidential candidate who has been held under house arrest since he was kidnapped from Japan in 1973—have been charged with plotting a "people's uprising." The only announced basis for that charge stems from a "Declaration of Democracy and National Salvation" read at an ecumenical Mass in Seoul's Catholic cathedral. Included in the declaration was a call for Park to step down from power.

In the regime's interpretation, that constituted public "agitation for the subversion of the government," a crime punishable by execution.

This is not the first time that a statement of protest has been equated with rebellion in South Korea. But this time the government did not even try to connect the alleged sedition with any threat from Communist North Korea. Being a dictatorship with open contempt for civil rights, it did not even really have to try.

South Koreans have steadily had taken from them the means, the opportunity and the freedom to speak out against such injustices.

That is all the more reason why others, elsewhere, must do so.

[From the Washington Post, March 12, 1976]

Korean Charges

Seoul.—Lee Hee Ho, wife of jailed Korean dissident leader Kim Dae Jung, said the Korean government brought false charges against her husband to "imprison him for a long time."

She called "absolutely false" the charge that an anti-government statement read at an ecumenical Mass meant Kim and 10 others planned to overthrow President Park Chung Hee. She said the allegation was an excuse to separate Kim from the South Korean people and prevent him from criticizing Park's rule to foreign correspondents.

Other dissidents and Western diplomats interviewed called the charges "unbelievable" and "nonsense."

[From the New York Times, Mar. 12, 1976]

Seoul Dissidents Report a Grilling—Say Park Intelligence Aides Put Them Through Days of Nonstop Questioning

(By Andrew H. Malcolm)

Seoul, South Korea, March 11.—Dissidents just released from custody here told friends today that they had undergone days of incessant interrogation by teams of Government intelligence agents, shouting matches and open threats that had left them exhausted, frightened and in some cases hospitalized.

These detailed reports, confided only to the closest of friends, form a pattern of intense official concerns with the organization, daily movements and clandestine communications network of those critical of President Park Chung Hee.

They also indicate the seriousness officials here attach to their opponents' latest move, a prayer meeting March 1, in which a document was read calling for the resignation of Mr. Park.

FORMER CANDIDATE CHARGED

Yesterday 11 persons, including Kim Dae Jung, the unsuccessful 1971 presidential candidate, were charged with agitating to overthrow the Government by signing that document.

"What do you think would happen if we didn't respond firmly to such actions?" A high Government official said today. He implied that the charges and arrests, which were believed to number at least 28 so far, were intended to thwart further opposition moves in the coming warm days of spring, historically a time of rebellion in Korea.

Agents of South Korea's Central Intelligence Agency appeared convinced that the prayer meeting document was only the first phase in a larger opposition plan. This has been denied repeatedly by critics of the Government. But time after time during their interrogations, dissidents said, the agents demanded to know what other plans there were and when and how they were to be put in force.

SOME ENTER HOSPITALS

These and other details of recent events were obtained from reliable sources here. It is against the law for South Koreans to criticize their government to a foreign reporter. Some of the 16 questioned and later released by the authorities still face possible charges and were fearful of being interviewed. Others have entered a hospital for rest. But today through a variety of means, details of their lives in custody became available.

They said they were questioned in small modern rooms at intelligence agency headquarters, not far from downtown Seoul. Typically, the prisoners were driven there after being taken into custody without warrants at their homes by local policemen and held several hours at a neighborhood police station.

Sometimes the agents paced back and forth like trial lawyers, pointing a finger and demanding to know why certain passages were included in the March 1 declaration and who had written them.

They wanted to know the names of everyone involved in the opposition's plans, how word of the prayer meeting had spread and who carried the declaration's various drafts between the authors. Sometimes as many as 10 agents moved about an interrogation room. Some shouted questions. Others attempted cajolery or implied they knew the answers already but were checking the person's veracity.

One of those seized told a friend she had been ordered to write an hour-by-hour diary of her life for every day since Jan. 1. She was told that she could not sleep until she finished.

The Rev. Kim Mong Eun, pastor of the Myongdong Roman Catholic Cathedral where the prayer meeting was held, was said to have been interrogated for 55 hours nonstop by a team of 10, who rotated the work. They reportedly demanded to know why he had permitted the use of the church.

Another of those questioned did not sleep for almost six days and finally broke into a rage, flinging pens and pencils across the room and shouting, "I still have some right."

One of those questioned recalled feeling so tired after days of talking that he could not eat the bowls of food brought in nor could he talk for what seemed to be hours at a time.

"Finally," the person was said to have confided to friends, "a new man arrived. He was very very polite and spoke softly. He said, 'Are you tired? Would you like to rest? Well, just answer a few more questions'."

Another person, fatigued by questioning, reportedly screamed at the agents, "Now I know how you make people admit they are Communists."

In the past there have been reports here of physical torture beyond denial of sleep. So far, there have been no such reports from the recent interrogations.

[From the Washington Post]

Harassment by Korean CIA Alleged

(By Jay Mathews)

South Korean intelligence agents are waging a campaign of harassment against Koreans living in the United States who oppose the Seoul government, a House subcommittee was told yesterday.

Korean Central Intelligence Agency (KCIA) agents have disrupted demonstrations in U.S. cities, brought pressure to close an anti-Seoul government newspaper in Los Angeles and ignored warnings from the State Department about their activities, according to testimony by an American university professor, a former State Department officer and a Korean-language newspaper editor.

Questioned by a report, a spokesman for the South Korean embassy attending the hearing before the International Organizations subcommittee of the House Committee on International Relations said he did not believe the allegations.

He said he had no knowledge of any KCIA harassment activities in the United States.

Kim Hyung Il, president of a Korean residents association in Los Angeles, told the subcommittee he knew of no cases of KCIA intimidations in his community.

However, Donald L. Ranard, who retired in 1974 after four years as director of the State Department Office of Korean Affairs, testified he asked the FBI to investigate KCIA agents' activities in 1973 but got few results.

"An investigation began but for reasons which I never quite understood, it never really got off the ground," Ranard said. "When it finally petered out several months later it had produced little more than mere confirmation of the basic information I had submitted initially."

"Much . . . seemed to be made of an explanation that to proceed properly, the FBI would need to talk directly to KCIA personnel at the Korean Embassy which obviously the State Department had no power to direct because of their diplomatic immunity," Ranard said.

But Ranard said he knew, based on U.S. intelligence reports, that the KCIA "has organized demonstrations in support of the [President Park Chung Hee] government, and at other times attempted to break up demonstrations against that government."

He offered to provide more specific testimony in closed session, which a subcommittee staff member said would probably be scheduled soon.

Kim Woon Ha, editor of New Korea, a Korean-language newspaper published in Los Angeles, said the KCIA tried for months to close his paper or end his criticism of the Park government by pressuring businessmen to cancel advertisements, offering him money, free tickets to Korea or a government job, and spreading rumors he was a Communist.

He said that when two staff members quit he could find no one willing to replace them and now puts out his newspaper with the help of his wife.

A fourth witness before the subcommittee chaired by Rep. Donald M Fraser (D-Minn.), was Prof. Gregory Henderson of Case Western Reserve University. Henderson, a Korean expert, called the KCIA "a vast, shadowy world of an estimated 100,000 to 300,000 buraucrats, intellectuals, agents and thugs," and said he knew at least 18 agents were stationed in the United States.

[From the Christian Science Monitor, Mar. 15, 1976]

South Korea: The Curbs Tighten

The government of President Park is at it again. It is lowering the boom on South Koreans who dare criticize or oppose the Park regime—including the cream of the country's opposition leadership. A group of them courageously issued a statement asking for Park Chung Hee's resignation, for ending of emergency powers, and for restoration of political freedoms. As a result, 28 persons have been arrested, with others intensively questioned and then released. In the crackdown, the President already has put under detention two of his foremost political foes.

In a move that could have even more significant effect on the next generation of Korean leaders, the Park government has forced the dismissal or resignation of more than 400 university professors determined to be opposed to the regime. Designed to get rid of "idle" and "incompetent" teachers, these changes in the country's tenure law certainly undercut whatever freedom of intellectual thought remained there.

Such high-handed measures to stifle criticism deserve the widest condemnation by South Korea's friends, including the United States. The trouble is that simply blowing the whistle on Mr. Park does little good. His men argue that under the 1972 constitution a change of government can only be brought about through elections, and that the statement issuers therefore are legally wrong. Of course the constitution was deliberately worded to give the President almost unlimited powers, which is exactly what a number of Koreans are objecting to. Now they are being shown that even calling for a change won't be tolerated by what some describe as the most repressive government in the world.

Among those caught in the government dragnet was former President Yun PoSun, Mr. Park's predecessor, who was ousted by the 1961 coup that brought Mr. Park to power. The elderly Mr. Yun was questioned for seven hours. His wife endured eight days of grilling by the Korean Central Intelligence Agency. Strong-arm methods such as this can only be deplored when carried out against distinguished citizens whose only apparent offense was to sign a declaration against what they regard as tyranny. South Korean prisons are not the kindest in the world, and no bail is permitted, so the accused will remain in jail during their trial.

The controversial Mr. Park would do well to weigh the unfavorable effect this curbing of his opponents is going to have in Japan, the United States, and among his own Korean countrymen. It could be worse than letting an opponent speak out occasionally.

[From the New York Times, March 17, 1976]

South Korea Affirms It Will Prosecute Violators

Seoul, South Korea, March 16—The South Korean Government will prosecute all who participate in political activities that are banned under the current emergency decree, the Prime Minister, Choi Kyu Hah, told a National Assembly session today.

Answering a question from the floor by an opposition legislator, he declared that the previously arrested political and religious leaders would be "dealt with according to law" because they had allegedly used religious ceremonies for illegal political purposes.

Eleven Government critics, led by the former opposition presidential candidate, Kim Dae Jung, were arrested two weeks ago after signing a statement criticizing the Government and asking President Park Chung Hee to resign.

Nine others, including former President Yun Po Sun, are being investigated without detention.

An opposition demand to have an independent parliamentary committee investigate the arrests was rejected by Government supporters within the Assembly. The refusal was based on a contention that any Assembly initiative would prejudice ongoing investigations.

[From the Washington Post, March 16, 1976]

Around the World

South Korea's Roman Catholic Council of Bishops disputed charges that seven priests had conspired to overthrow the Korean government.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3065, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the two amendments to be offered by the distinguished Senator from Alabama are called up, there be a time limitation of 30 minutes on each, the time to be equally divided between the sponsor of the amendment and the managers of the bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not, I suppose it is possible that there could be an amendment proposed. What would be the situation then?

Mr. MANSFIELD. If there is, I would change it to 10 minutes on all amendments to the amendment, motions, and appeals, and in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection to the majority leader's unanimous-consent request as amended?

Mr. PACKWOOD. Reserving the right to object, Mr. President.

The ACTING PRESIDENT pro tempore. The reservation is heard.

Mr. PACKWOOD. I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the amendment of the distinguished Senator from Alabama (Mr. ALLEN) on disclosure is brought up, there be a time limitation of 30 minutes on the amendment, and 10 minutes on amendments, motions, and appeals, and that it be in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN EMPLOYEES SERVING IN THE OFFICE OF A SENATOR TO GIVE TESTIMONY IN THE CASE OF COMMON CAUSE ET AL. AGAINST BENJAMIN BAILAR, ET AL.

Mr. MANSFIELD. Mr. President, I send to the desk a resolution on behalf of the majority and minority leaders, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 411) authorizing certain employees serving in the office of a Senator to give testimony in the case of Common Cause et al. v. Benjamin Bailar, et al.

Mr. MANSFIELD. Mr. President, Common Cause has instituted a legal proceeding to have the court declare the franking statute unconstitutional on its face. The Senate itself is not a party to this lawsuit; the Common Cause action is against the Postmaster General and the Secretary of the Treasury.

But, as has been the case in the past, in other actions to which the Senate was not a party, Senate employees are being called upon by subpena to appear for their deposition, to testify, and to produce memorandums and other Senate records.

In fact, Common Cause has served subpenas on 100 Senate employees—the administrative assistants to each Member of this body—in connection with this lawsuit. And the Senate, as has also been done in the past, must now determine, by resolution, whether and in what manner Senate employees may furnish information which has come into their possession in the performance of their official duties.

Because of impact of these subpenas upon operations of the Senate—and their potential for disrupting the functions of this body—the leadership of both parties recently designated five Senators as an ad hoc committee to look into this matter and to make recommendations as to the course that the Senate should take. The recommendations of this committee—Senator METCALF, chairman, and Senators TALMADGE, PASTORE, HRUSKA, and JAVITS—have been presented to both the Democratic and Republican conferences of the Senate.

With the concurrence of the distinguished Senator from Pennsylvania, the Republican leader, a Senate resolution embodying these recommendations has been prepared and is before the Senate for consideration at this time.

Under this resolution, the Senate claims its traditional privilege that information secured by employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

Second, following long-established custom, when it appears that the testimony of an employee of the Senate is needed for use in any court for the promotion of justice, it is the Senate which will make that determination, as well as the determination as to the manner and extent of any such testimony.

Third, the Senate resolution, therefore, authorizes, but does not require, each Senate employee in the office of an individual Senator who has received a subpena to give testimony limited to setting out, by affidavit, the meaning assigned to each of the codes actually used for franked mail by that Senate office during the period July 1, 1973, through December 31, 1975, as shown in the computer printout prepared from work orders processed by the Senate Service Department for mailings under the frank during that period. Such affidavits and printouts shall identify both Senators and Senate employees only by numbers with the key to the number-name code transmitted to the court in camera.

Having supplied the information relevant to the use of the frank, the Senate should resist any further intrusion in the operations of the Senate and individual Senate offices. It is the responsibility and duty of the Senate to deal with such matters of internal operation.

Finally, let me say that the resolution expressly points out that the dissemination of information by a Senator to his constituency concerning legislation proposed or enacted by the Congress, as well as the administration of such legislation by the executive branch, and the review of such matters by the courts is a part of the official business of a Senator under the Constitution of the United States. Such a declaration is intended to cover services to constituents performed by Members of Congress, including informing constituents through newsletters, news releases, and speeches delivered outside the Congress on such matters. These activities are clearly acts within the official business of a Senator and may be properly conducted by mailings under the frank unless the mailing also contains personal or political matter.

Mr. HUGH SCOTT. Mr. President, I join the distinguished Senator from Montana, the majority leader, in urging adoption of this resolution. I wish to make absolutely clear that this resolution represents the considered view of Senators on both sides of the aisle.

It is unfortunate that we should even have to propose such a resolution. But it is made necessary because 100 subpenas have been served on the administrative assistants of the 100 Senators demanding both testimony and the producing of all memoranda and documents relevant to the codes by which Senators' offices classify names and addresses kept by them in the Senate computer for mailing purposes.

Although the suit giving rise to the subpenas relates only to the franking privilege, the plaintiffs have refused to limit the scope of the subpoenas to codes actually used for franked mail. They have also insisted there be no deletions of material—even though such material does not concern franked mail—from any documents called for by the subpena.

Now, Mr. President, while I had thought this suit, brought by Common Cause, was concerned only with the franking privilege of Members of Congress, instead, the terms of the subpena make it quite clear this organization is determined to obtain access to the operation of each Senator's office.

Mr. President, we are not about to permit anyone but our constituents to be the Arbiter of what the U.S. Senate does, and what the Members do. We cannot permit this to happen. It would be in derogation of the Senate's constitutional function.

Therefore, our resolution responds to the subpenas by authorizing the Senate employees concerned only to give testimony by affidavit setting forth meanings attached to each of the codes listed in a computer printout of mailings under the frank from July 1, 1973, through December 31, 1975. No office files, nor matter not connected directly with use of the frank, will be provided by this resolution. It will not permit oral testimony by Senate employees, or their being questioned by counsel.

We mean no disrespect to the Court by limiting our response in this fashion. In 1880 the Supreme Court said:

> It is . . . essential to the successful working of this system that the persons entrusted with power in any one of the branches shall not be permitted to encroach upon the powers confined to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department, and no other.

We are after all the independent branch of the Federal Government in whom all legislative powers are vested.

The basic truth the Supreme Court enunciated so clearly 96 years ago is as important today, at our Bicentennial, as it was then, for the very warp and woof of our Nation depends on it.

Mr. President, Congress is entirely and completely the representative branch of Government. Only one other office outside of Congress is elective. Every Representative, every Senator, has a limited term of office, and must at stated intervals present himself to the voters in his district or State for reelection or rejection.

In carrying out our legislative powers, we have a duty to inform our constituents as to what we are doing, how the executive branch is administering the laws we enact, and how the Courts are interpreting these same laws.

Except through our oversight responsibilities, we cannot, nor should we, be involved in the day-to-day administration or interpretation of the laws we enact. But one of the surest ways of discovering administrative ineptitude, or worse, is from our constituents. If we are to represent in the full sense of the word, we must respond when Government fails to meet the needs of the people, or when it fails to administer laws equitably.

As Government has expanded its regulatory and social programs, so have communications expanded in proportion from constituents to Senators and Representatives about such programs. And this is as it should be.

With these facts in mind, let us consider the basic complaint of Common Cause. It seeks to have the courts declare the franking privilege unconstitutional on the grounds it gives an unfair political advantage to the incumbent Senator or Representative as against a challenger.

By this line of reasoning, a Member of Congress who keeps constituents informed, who replies to constituent mail, who seeks the opinions of constituents to help in the performance of his legislative duties, is acting illegally.

But how else can he do his job when he must spend virtually all his time on the business of Government and his performance will be scrutinized in every detail? Particularly when his challenger is operating on home soil and can at his leisure criticize every move he makes. I would think, after the sweat and toil and sacrifice involved in winning election to office, that he would at least be able to communicate with the people he represents.

I would insist that if a Member of Congress is truly to represent his constituents, he must communicate with them.

What Common Cause seeks is to make all of us who are elected to office, and who have the responsibilities of office, unable to communicate with the millions of people who elected us to that office.

With each Senator's office effectively silenced by eliminating the franking privilege—then who would pass judgment on a Senator's performance? How would he state the considerations which impelled him to the positions he took? A non-incumbent has no legislative record to be attacked. A non-incumbent has not been forced, during the preceding 6 years, to stand up and be counted literally thousands of times. In military terms, it is well known that ratio of advantage between the offense and the defense is as three to one. Is communicating with one's constituents about one's record to be silenced against the tens—even hundreds—of thousands of criticisms which we have all experienced in the course of our duties?

Who, then, would determine whether a Senator is performing his duties properly?

Why, Common Cause, of course. Or the great trade, labor, educational, agricultural and other lobbying groups.

Or, the newspaper and television commentators.

Mr. President, that is why we must refuse to comply with the demands incorporated in the subpenas served on our offices.

Finally, the Constitution imposes on us, and not on the courts, the responsibility of keeping our own house in order. We know that we hold a public trust. We know that we must not permit public moneys to be used for mere personal or purely political purposes.

This is exactly why we enacted the franking statute we did. It expressly prohibits the use of the frank for such purposes. The Senate Select Committee on Standards and Conduct has issued a stern warning against any such use. It states that every citizen has the right to expect a Senator will use his frank only in the proper exercise of his office. We know its cost is ultimately paid by the taxpayer. Indeed, the regulations say that an improper use of the frank by an assistant to a Senator—even an inadvertent mistake on a single letter—will be imputed to that Senator.

In view of recent advances in technology which could not be contemplated when the franking statute was created, specifically in this instance the computer-mail technology, it is possible that changes in the Senate rules regarding permissible use of the traditional franking privilege as well as other Government-paid facilities should be made. A number of us have come to feel so. Such a change may be proposed, and I personally feel it is our obligation to do so. But mature and careful consideration of all the factors at issue is also our obligation. The meat-ax approach will eliminate a legitimate avenue of communication with our constituents which has been of inestimable value in carrying on the affairs of the Senate and the Congress.

Common Cause itself does not complain of violations of the franking statutes. It complains because the frank permits congressional newsletters to be mailed free of charge. These newsletters deal with the impact of laws on individual citizens and report public actions taken by Members of Congress. They present arguments for or against such actions. They may take the form of questionnaires seeking constituent opinion on pending legislation, or on other broad public issues.

Thus, the suit seeks to stop completely and entirely this type of communication with constituents under the frank, although it is clearly part of our official duties under the Constitution as elected representatives of the people.

We have no choice but to oppose as vigorously as we can an attempt, in effect, by Common Cause to amend the Constitution, and make us something less than representatives of the American people.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 411) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, in the case of Common Cause, et al. v. Benjamin Bailar, et al. (Civil Action No. 1887–73), pending in the United States District Court for the District of Columbia, subpenas have been issued and served upon employees of the Senate serving in the office of a Senator directing them to appear and give testimony and produce documents, papers, or records in the office files of that Senator; and

Whereas, the dissemiation of information by a Senator to his constituency concerning legislation proposed or enacted by the Congress, the administration of such legislation by the Executive Branch and the review of such matters by the courts is a part of the official business of a Senator under the Constitution of the United States: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States, information secured by employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

SEC. 2. When it appears that testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 3. (a) The Sergeant at Arms of the Senate shall have produced a computer printout showing separately by each Senator the codes used by Senators on work orders processed by the Senate Service Department for mailings under the frank made during the period July 1, 1973, through December 31, 1975. Such printout shall be produced in a manner consistent with the provisions of a protective order previously agreed to by the plaintiff in the case of Common Cause et al. v. Benjamin Bailar, et al.

(b) In response to a subpena issued by the United States District Court for the District of Columbia in the case of Common Cause et al. v. Benjamin Bailar, et al, and served upon any employee in the office of a Senator directing him to appear and give testimony and to produce documents, papers, or records with respect to such case, that employee is authorized to give testimony by affidavit setting out the meaning assigned to each of the codes as contained in the computer printout for that Senator produced pursuant to subsection (a). Any such affidavit shall be executed in a manner consistent with the provisions of the protective order previously agreed to by the plaintiff in such case.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of Columbia.

SENATE RESOLUTION 412—TO RECOGNIZE THE INTERNATIONAL ASTRONAUTICAL FEDERATION'S "IAF '76" CONGRESS TO BE HELD OCTOBER 10 THROUGH OCTOBER 16, 1976, IN THE UNITED STATES OF AMERICA

Mr. MOSS. Mr. President, by direction of the Committee on Aeronautical and Space Sciences, I report favorably an original Senate resolution to recognize the International Astronautical Federation's "IAF '76" Congress to be held October 10 through October 16, 1976, in the United States of America and ask unanimous consent for its immediate consideration.

Mr. HATFIELD. Will the Senator yield?

Mr. MOSS. Yes.

Mr. HATFIELD. I would like to ask if this has been cleared with the minority?

Mr. MOSS. It has been cleared with the minority.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 412) to recognize the International Astronautical Federation's "IAF '76" Congress to be held October 10 through October 16, 1976, in the United States of America.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MOSS. Mr. President, this Senate resolution was sponsored by the Senator from Arizona (Mr. GOLDWATER) and me.

The purpose of the resolution is for the Senate to recognize the 27th Congress of the International Astronautical Federation which will be held in Anaheim, Calif., from October 10 through October 16, 1976.

The International Astronautical Federation is a nongovernmental association of scientific and technical organizations from throughout the world. The president of the International Astronautical Federation for 1976 is Mr. Leonard Jaffe, NASA's Deputy Associate Administrator for Space Applications.

The federation has two affiliated organizations—the International Academy of Astronautics and the International Institute of Space Law. Together, they selected the United States for their 1976 Congress in recognition of our Bicentennial and named it "IAF '76".

This "IAF '76" Congress will be chaired by Dr. George E. Mueller, former NASA Associate Administrator for Manned Space Flight.

The International Astronautical Federation and its affiliated organizations represent about 65,000 scientists, engineers, and lawyers including many of the world's leading authorities in astronautics, the space sciences, and space law. Hundreds of these will attend this 27th congress to exchange information and views on space science, technology, and law.

The American Revolution Bicentennial Administration has recognized this Congress as a significant contribution to the Horizon '76 theme of our national Bicentennial commemoration.

Mr. President, this resolution was prompted by our belief that we should acknowledge the "IAF '76" Congress and its sponsors for bringing the Congress to the United States not only because of its technical, scientific, and legal merit but also because of the genuine international cooperation that is realized when individuals from differing backgrounds and social systems come together to interact with each other on the common ground of scientific, technical, and legal development.

The motivating spirit behind the "IAF '76" Congress should remind us that the quest for world peace takes many paths. One of the most important paths leading to that objective is the international cooperation that has developed in the U.S. space program—a program that has offered the world untold benefits, opportunities, and solutions to growing problems on Earth. I believe that the proper use of the environment of space is the next great frontier that man must penetrate in his search for a better and more fulfilling existence.

Mr. President, because the International Astronautical Federation has selected the United States as the location for its 27th Congress in recognition of our Bicentennial, I believe it is fitting that the Senate formally recognize this work of the IAF. In so doing, we are offering our encouragement and best wishes to the "IAF '76" delegates for a successful Congress.

Mr. GOLDWATER. Mr. President, the International Astronautical Federation, known as the IAF, is a nongovernmental organization created in 1950 by national societies concerned with the development of rockets and space exploration. Thus, it was in existence 7 years prior to the launching of the first artificial Earth satellite. It was a small organization during its early days but greatly expanded in importance as space activities caught the attention of the nations of the world.

Today the IAF, through its member associations and societies, represents nearly 65,000 engineers, scientists, and tecnnicians from 35 nations around the globe.

The International Astronautical Federation chose the United States as the location of their 27th congress in recognition of our Bicentennial. The IAF '76 Congress which will meet in Anaheim, Calif., during the second week in October will bring together the world's leading authorities in astronautics and space law. I was, therefore, glad to join my colleague from Utah in sponsoring this resolution and to have it reported from the Committee on Aeronautical and Space Sciences.

Mr. President, I believe it is entirely fitting for the U.S. Senate to recognize this IAF '76 Congress of the International Astronautical Federation. Moreover, the federation and its affiliated organizations are to be commended for selecting the United States as the location for this congress in recognition of our Bicentennial and to further commend the host organizations of the United States for sponsoring this congress.

Mr. President, I move that the resolution be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 412) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the International Astronautical Federation is a unique, international, nongovernmental, interdisciplinary federation of societies devoted to fostering the exploration of space through space science and the development of space technology and space law; and

Whereas the International Astronautical Federation and its affiliated organizations, the International Academy of Astronautics and the International Institute of Space Law, represent the world's leading authorities in astronautics, the space sciences and space law; and

Whereas the International Astronautical Federation will hold its 27th Congress in Anaheim, California, during 1976, the Bicentennial Year of our Nation, in recognition of the vital contributions made by the United States to the scientific, technical and legal wealth of our civilization; and

Whereas the host organizations for this 27th Congress, to be called the "IAF '76" Congress, are the American Institute of Aeronautics and Astronautics, the American Astronautical Society, the Aerospace Medical Association, the New York Cardiological Society and the Rocket Research Institute, Inc.; and

Whereas the "IAF '76" Congress will be attended by hundreds of people who belong to the International Astronautical Federation's affiliated organizations and member societies from many nations; and

Whereas the "IAF '76" Congress will conduct sessions and present papers in all areas of astronautics, and the space sciences, and space law thereby advancing and strengthening international cooperation and understanding in these critical areas of science, technology, and law; and

Whereas the American Revolution Bicentennial Administration recognizes the "IAF '76" Congress as a significant contribution to the Horizon '76 theme of the national Bicentennial commemoration; and

Whereas the International Astronautical Federation, its affiliated organizations, and its member societies represent considerable hope and promise to the world for the continued advancement of man's accomplishments in the fields of astronautics, the space sciences, and space law, such accomplishments having brought a better life to all humanity; and

Whereas the International Astronautical Federation strongly supports man's exploration of space and the proper use of the environment of space in order to help fulfill man's greatest aspirations and meet his vital needs on earth: Now, therefore, be it

Resolved, That the Senate of the United States recognizes the importance of the 27th Congress of the International Astronautical Federation to be held in Anaheim, California, from October 10 through October 16, 1976; commends the International Astronautical Federation and its affiliated organizations for selecting the United States as the location for its 27th Congress in recognition of the Bicentennial of the United States; and commends the host organizations of the United States for sponsoring the Congress.

SEC. 2. The Secretary of the Senate shall transmit a suitably enscribed copy of this resolution to the International Astronautical Federation.

Mr. MOSS. I thank the Senator from Nevada for his kindness.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. CANNON. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 3065.

AMENDMENT NO. 1516

Mr. CANNON. Mr. President, I call up my amendment in the form of a substitute to S. 3065.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself, Mr. HATFIELD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ROBERT C. BYRD and Mr. GRIFFIN proposes an amendment in the nature of a substitute numbered 1516.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the substitute be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of March 23, 1976, pages 7622 through 7630.)

Mr. CANNON. Mr. President, yesterday afternoon an amendment in the form of a substitute to S. 3065 was introduced by myself, Senator HATFIELD, Senator MANSFIELD, Senator HUGH SCOTT, Senator ROBERT C. BYRD, and Senator GRIFFIN. This substitute represents an attempt by both sides of the aisle to set forth a reasonable compromise proposal which we can discuss and hopefully reach agreement on in the near future.

It is understood that there are a number of amendments to this substitute which will be proposed and considered by the Senate. At this time, however, I would like to set forth the changes and modifications which this substitute amendment would make to S. 3065 as it had been amended on the floor prior to yesterday.

The essential structure, and in many important respects, the substance of S. 3065 remains intact with the following modifications:

First of all, section 102 of S. 3065, creating an eight-member commission—the number of commissioners was expanded from six to eight by Senator MATHIAS's amendment which was approved by the Senate—remains the same, with the deletion of the provision prohibiting outside business activities of commissioners and the deletion of the provision requiring in a majority vote of the commission that no less than two of the five-member majority be affiliated with the same political party.

In the definitional section 102 a provision was added excluding from the definition of expenditure for limitation purposes partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party. Such partisan activity would, however, be required to be reported. This addition had been approved by the Senate as an amendment to an earlier substitute but had not been proposed as an amendment to S. 3065. In addition, the substitute would delete a surplus definition of independent expenditure which is not used in the bill or the substitute as a defined term.

Section 104 of S. 3065 contained some provisions related to reports by political committees and candidates, in particular the reporting requirement for independent expenditures. Here the substitute has included the reporting requirement proposed by Senator PACKWOOD for expenditures made by corporations' and labor organizations' communications to their stockholders or members expressly advocating the election or defeat of a clearly identified candidate. This reporting requirement has been expanded to equitably apply to all membership organizations requiring them to report expenditures directly attributable to such communications and for that reason has been transferred to the reporting sections of the act from the section which dealt only with corporations and labor organizations.

I might add here that I understand that there will be an amendment proposed to set forth a reasonable floor on such reports to the Commission to relieve the burden of such reporting on small businesses and membership organizations, as well as to clarify the nature of the expenditures which must be reported. I personally feel such an amendment would be an equitable and clarifying addition to this disclosure provision and intend to give it my strong support.

The portions of S. 3065 which relate to the general enforcement powers of the Commission which have been previously discussed on the floor remain intact. These are sections 106 and 108 of S. 3065 and the only change is a minor one to clarify that where a conciliation agreement, unless violated, constitutes an absolute bar to any further action by the Commission, it is a bar to further action with respect to the violation which is the subject of the agreement.

The substitute amendment deletes all the advisory opinion provisions of S. 3065. The effect of this is to retain existing law in section 437f of title 2, United States Code, exactly as it now is.

The substitute also would delete those provisions in S. 3065 relating to the House of Representatives procedure for considering the Commission's proposed rules and regulations, leaving this as a matter for the House to act upon at a later time.

The substitute does not make any changes in the section of S. 3065 relating to limitations on contributions and expenditures, as amended to date by the Senate, except in the following specific respects. First, a provision is added to provide for an unlimited transfer of funds between and among political committees of the same political party together with a provision to assure that the antiproliferation rule of S. 3065 would not apply to contributions by a political party through a national committee and to contributions by that party through a single State committee in each State. Second, the amendment to S. 3065 proposed by Senator JOHNSTON and previously adopted by the Senate is modified to clarify that contributions by the specified party committees do not aggregate more than $20,000 in an election year.

This substitute also modifies the section of S. 3065 related to the solicitation of contributions by corporations and labor organizations to segregated political funds to allow, in addition to what is in S. 3065, corporations and labor unions and their segregated funds, to solicit in writing one contribution during the calendar year for use in connection with primary election campaigns and one contribution during the calendar year for use in connection with general election campaigns from any stockholder, officer, or employee of a corporation or the families of such persons provided, however, that such solicitation is made only by mail addressed to the stockholder, officer, or employee at his residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not. This restriction is a valuable protection against person-to-person coercion, and provides a degree of anonymity so corporations or unions cannot set up elaborate systems to monitor who contributes and who does not.

This same section was further modified to expand the provision prohibiting coercion by corporations and labor organizations by adding three specific prohibitions to protect employees during the solicitation process. In addition, the penalty provisions of S. 3065 were amended to provide up to a 2-year imprisonment or a fine of not more than $50,000, or both, for violation of the coercion prohibition portion of this section.

The substitute also makes a modification of the section permitting solicitation to segregated funds by government contractors so that it conforms to and is governed by the revised provisions which relate to corporations and labor organizations.

Mr. President, the final change which the substitute would make to S. 3065, as amended, is a modification of the provision amending section 3210(a) (5) (D) of title 39, United States Code, regulating the use of franked mail before elections. This modification would alter existing law only to the extent of changing the 28-day period prior to an election during which certain franked mass mail may not be sent out by a Member of Congress up for election to a 60-day period.

I should expand a little on that, it is not a prohibition on franked mail, it is on the franked mass mailing.

I would like to commend my Republican colleagues for their support of this substitute amendment. Although there are provisions in or omissions from the bill with which we all may not be completely satisfied, this substitute to S. 3065 does represent a significant coming together of many of the divergent views which have been expressed in the past weeks. It represents a number of necessary and constructive changes in the Federal election campaign laws and I recommend it to the Senate for its consideration and approval.

At this time I would like to yield to any of my colleagues who may wish to speak on this substitute or to offer amendments which they would like to have considered by the Senate.

Mr. HATFIELD. Mr. President, I am very happy to join with the chairman of the Rules Committee (Mr. CANNON) and my colleagues Senator HUGH SCOTT and Senator GRIFFIN, who are also on the Rules Committee as well as the minority leaders, along with Senator MANSFIELD and Senator ROBERT C. BYRD, the majority leadership, in introducing this compromise bill.

Mr. President, I signed the minority views on the later substitute to S. 3065, the Federal Election Commission Amendments of 1976, with the understanding that there were five areas of disagreement with the original majority bill.

First, the original version seriously crippled an independent election commission. In the compromise version we bring to the floor today, I believe that most of the crippling provisions have been removed.

The provisions which would have curtailed the advisory opinion method of enforcement and statutory construction have also been removed. Advisory opinion power is left as it was under the 1974 Act, and I believe this is a definite improvement.

The bill is still more favorable to incumbents than the previous bill, but the more obvious favoritism is no longer included in this compromise version.

The third objection we found was that the original bill placed restrictions on national party organizations and their associated and subsidiary committees. One will find the compromise bill does take out most of those more objectionable features. I am particularly pleased that the transfer between committees can be made so that it is possible to pay debts of party committees that might otherwise face virtual bankruptcy.

The original compromise draft we approved on Monday night was essentially a fair compromise along many lines suggested by the majority.

I must say that two proposals to seriously limit the political solicitation of the separate, segregated funds have been accepted by the minority as a price for a reconstituted Federal Election Commission and removal of other objectionable features.

As the chairman of the committee has stated, we, too, accept, with some degree of reluctance, these compromises. As with any compromise, this bill doesn't represent the druthers of either side, but we join in the sponsorship of this substitute S. 3065.

I think we will have an opportunity later to discuss some of the matters which we have found less desirable in accepting this compromise, but I only want to emphasize at this time that, true to any compromise, one does not achieve all that he or she would like to achieve.

All of us, both the majority and the minority, have seen that we have a public responsibility to move this bill into some kind of form that we can accept and, hopefully, get the President of the United States to sign.

Obviously, in that sequence I just gave, I omitted one of the most important of all the steps, and that is to find agreement with the House of Representatives. None of us can predict what the House will do at this time. Hopefully, it can be in some general area of similarity to the Senate version. Hopefully, the Senate will accept our compromise proposal, the Cameron-Hatfield bill, and we would then go to conference.

Mr. President, I believe it is very obvious that since this expiration of the commission has occurred, we are again under a certain degree of pressure, particularly from the candidates for President. Since the Democrats have more candidates than the Republicans, I assume that they feel the pressure even more keenly than we. But I think that this original bill was enacted in good faith, although I did not personally subscribe to the public funding section of the bill. Therefore, we led the candidates to believe that they could count upon a certain contribution based upon the formula in the act as their campaigns progressed.

A rather sizable amount of money already has been disbursed under the original act. Of course, we find ourselves in an accelerated situation following each primary that has occurred, and the acceleration carries with it, no doubt, additional costs and expenditures.

So we have here a situation in which many candidates are out on the road, no doubt with great question as to where their future support is going to come from. They are making commitments and make those commitments in good faith, based upon their expectation of this act being sustained or revised, but at least being carried out through this particular election.

With the intervention of the Supreme Court in knocking down certain provisions of the act we are, therefore, confronted with the responsibility of reconstituting the Commission and attempting to maintain the continuity of the act, including the disbursement of funds.

I must say in all candor, that, from the constituents with whom I have discussed this matter, there has not been any great enthusiasm about the disbursement of funds from the Treasury to the candidates, but that is neither here nor there. The act was passed, however, and there developed an expectation, an honest expectation, from the candidates regarding the financing sections.

I am not here this morning pleading for the candidates, because that is only one part of the act. There are many other sections that, of course, concern all of us in this body and in the House. Therefore, I feel that the sooner we can take action on this substitute measure and maintain the continuity of the campaign funding as well as the rules under the general act that was enacted earlier, the better it will be for the Nation.

I want to also say, Mr. President, I think it is very obvious that whatever we develop we are going to find, through the experience and exercise we are now engaged in, of primaries, and later in the general election, certain bugs and certain problems that will necessitate our addressing this issue following the election. I think out of the experience of this election we will no doubt find the inadequacies of this measure that we cannot foresee in every instance when we are in the process of drafting such a precedent-setting act.

Again, I commend the majority for compromising, as they did, because there was strong sentiment on the part of the majority to address some of what they believed to be deficiencies already experienced during this campaign in the existing act, and to attempt to perhaps reorganize the act through such a bill now in the midst of the campaign.

The minority objected to this procedure. I speak now on general behalf of the minority; it is not unanimous. The minority felt very strongly that we had committed ourselves to a particular bill that was enacted into law. We were embarked upon this campaign, we were in the midst of this campaign, and to change the rules of the game at this particular juncture short of meeting the objections of the Supreme Court was not timely.

We felt this strongly and we pursued that particular viewpoint throughout the committee review and on the floor of the Senate.

Again I emphasize the point that this is not to assume that the act is perfect nor that there are not already requirements that we could identify that will have to be reviewed, discussed and debated. But I think we will be in a far stronger position to take the right action at the time we have concluded a presidential year election, and the various other elections that would be affected by this law. Then, in the next session of the Congress, we can come back with that data in hand and make a very careful review of what changes might be proper.

Mr. President, we also have in the substitute the Mondale amendment, which is very important because of the fact that it sets up a review commission to consider the review of presidential primaries. The way this is worded in the bill makes it very obvious that we are not locked into one narrow interpretation of what this commission can do.

It is very obvious that this commission can address itself to many things that occur, or review many aspects of the nominating system, during this election year. I do not think it is locked in necessarily just to a projected future idea of presidential primaries. I believe they will have to make judgments based upon this present system of primaries that are occurring now throughout the country.

So if there are current and immediate problems that may arise, we have in the Mondale provisions another vehicle to review those incidents and those concerns, as well as the presentation of such problems to the election commission once it is reconstituted.

For those who have felt keenly about certain amendments that they have authored and have proposed during the debate here in the Chamber during the last few weeks, I would say to them that even though the compromise may not incorporate all such amendments, those ideas certainly are not dead nor are they cast aside. Those ideas can be reviewed and can be studied by such a Commission if that part of this substitute proposal is sustained through the conference committee and a Presidential signature.

Mr. President, we are hopeful that both sides of the aisle will show some unusual restraint as to the offering of amendments to this particular substitute. We in no way are trying to close out or shut out the freedom and the right of any Senator to offer an amendment. But we discussed this matter very thoroughly in our conferences, the majority and the minority, and we both committed ourselves to the simple fact that we would try to dissuade our colleagues from offering copious and numerous amendments. I believe that if we can keep this substitute as clear of such amendments and as simple as it is now constituted, we will have not only a far better chance of passing this substitute on the floor but perhaps sustaining it in conference. I cannot speak for the President directly but I do feel, after conferences at the White House yesterday morning, there are provisions in this bill now that the President can accept, and hopefully will sign.

I stress the point I do not commit the President nor attempt to be presumptuous enough to speak for the President at this point. The President has not yet had the chance to even read the substitute proposal, which has just been printed this morning.

In general discussions with the President and minority leaders at the White House yesterday, though, I am at least persuaded that the bill is within the scope of possibility of obtaining the President's signature.

This is very significant, because our labors could be totally in vain if we face an automatic or a promised veto. With our Cannon-Hatfield substitute I think we have removed that particular cloud hanging over the actions of the Senate.

I am again very grateful for the openness, the flexibility, and the obvious expressed desire on the majority side of the aisle for reaching some kind of an understanding and resolving this problem. Particularly I commend the leadership, Senator MANSFIELD, Senator HUGH SCOTT, Senator ROBERT C. BYRD, and Senator GRIFFIN for their intervention at a time when I think it was most appropriate to try to get this whole matter off dead center. Chairman CANNON has demonstrated many times in the committee and here on the floor his profound understanding of the details of this bill and of the previous bill, and also expressed strong philosophical commitments and viewpoints.

I again emphasize that none of us individually are looking at a bill we would personally sit down and draft, but because of our concern over getting this action moving and getting results, the chairman and all of the members have made sacrifices for that common objective of action and solution.

So I join with the majority, even with reservations on some portions of the bill, in asking my colleagues on the minority side of the aisle to support this bill and to exercise restraint in not voting it down, nor in raising up a lot of issues that could possibly be better undertaken at a later date. We still will have the legislative process itself at a future time, or, in the interim, by the Elections Commission, or by the primary review commission created in this compromise bill.

Mr. PACKWOOD. Mr. President, I, too, wish to rise and compliment the chairman and the ranking Republican member and the others who were involved in this compromise. I think if I had to vote up or down right now, I would support it.

I agree with my colleague that I have never yet voted for a bill that was 100 percent the way I wanted it, and I suspect that if I stay here 30 years I would never get a bill completely to my satisfaction. I am not quite sure how certain features of this bill work, and I think some debate would be helpful on those. I think we are both aiming in the same general direction, particularly in connection with soliciting that middle group, nonunion, nonsupervisory employees.

I do not quite understand how the bill works without the solicitors knowing who they are, or without someone knowing who they are. I do not know how they can get a gage, or get some kind of identifiable, qualifiable instrument that can be turned in. I do not know how we can do that without violating the terms of the limitation of $100 on a national campaign.

I believe we want to go the same route. I do not want pressure brought on members and employees who may be recalcitrant. I am concerned about the question of primaries; does a convention count as a primary? Does the money have to be spent in a primary, or can it be spent in a general election?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. PACKWOOD. I am happy to yield, so I can figure out what some of the answers are.

Mr. CANNON. First, with respect to a primary, there is no limitation on spending other than the limitations that exist with respect to the separate, segregated funds; so it does not matter whether it is primary or general, we have limited it to two solicitations, and while it is true that it is not clear in the bill, I would assume that if a State does not have a primary, but has a convention, it would be my intention, at least, that the one solicitation could apply to the convention in lieu of the primary, and the other apply to the general election.

That was arrived at solely to fix the numbers, so that you could not have solicitation after solicitation.

Mr. PACKWOOD. I agree with the Senator. In other words, we are talking about two solicitations a year, period.

Mr. CANNON. That is correct.

Mr. PACKWOOD. But this could also be in a nonelection year; not just two to a campaign.

Mr. CANNON. Yes.

Mr. PACKWOOD. And the money raised in the primary does not have to be spent on the primary?

Mr. CANNON. No limitation on the expenditures, other than the limitations on contributions by the separate segregated funds.

Mr. PACKWOOD. Right.

Mr. CANNON. But that relates to another provision of the bill.

Mr. PACKWOOD. I think that before we are done here we can probably redraft that language a bit to make sure it reflects what the Senator and I anticipate—two solicitations a year, be it a campaign year or not, that is, with no continual dunning of employees month after month about "do you want to give?"

Mr. CANNON. But, mind you, that is only with respect to that particular solicitation alternative.

Mr. PACKWOOD. That middle group.

Mr. CANNON. That middle group.

Mr. PACKWOOD. Right. The unions do not——

Mr. CANNON. But the middle group is expanded through the definition of the term, so that that solicitation can go to nonunion members or to union members. It can be a solicitation by the corporation or the separate segregated fund of the corporation, or a solicitation by the union.

Mr. PACKWOOD. Correct.

Mr. CANNON. So it gets at the principal group that was excluded, let us say, in the nonunion shop.

Mr. PACKWOOD. So, in other words, a corporation can solicit all of its employees twice.

Mr. CANNON. In that fashion.

Mr. PACKWOOD. Union or nonunion; they can solicit shareholders and executive officers as much as they want. The unions can solicit all employees twice, and their officers and shareholders and members as much as they want.

Mr. CANNON. That is correct.

Mr. PACKWOOD. We are in perfect agreement on that. Now, to get down to the second part, about the union or no union; how does this physically work?

Mr. HATFIELD. Mr. President, will the Senator from Oregon yield before he leaves the first point he made?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. I think there is real confusion here in this language, and I would only ask the indulgence of the chairman at this moment to suggest that on page 39, in this language that starts with line 9, we are talking here about one contribution when actually we should be talking about one solicitation. I think changing that word would clarify this a little bit further.

I offer this only as a possible suggestion: to make this two written solicitations during a calendar year from any stockholder, and so on. We can go ahead and define it as both primary and general, or leave it in general terms to cover both a primary and a convention situation. But the bill now puts the emphasis on one contribution for the primary and one contribution for the general. Actually our emphasis was intended to be on the communication, the solicitation, which might involve contributions over a period of time rather than a single-shot contribution.

Mr. PACKWOOD. I think the chairman is right, because we always talk about the possibility of a checkoff. That should not be 12 contributions a year, with only a single solicitation.

Mr. HATFIELD. That is right. So I think it was a matter of semantics rather than policy that it came out with the emphasis on the contribution rather than the solicitation. The whole emphasis during our discussion, and I think the chairman will agree, was on the question of communications and solicitations. Again, this may not be the exact wording to correct it, but I think it could be clarified and perhaps be something of an answer to the Senator's question.

Mr. PACKWOOD. I think the way it reads, in addition, the corporation would be prohibited from soliciting even their own shareholders more than twice, and the union would be prohibited from soliciting its members more than twice. I think that is fine. This way, we would have two solicitations during a year, and I think that is enough.

Mr. CANNON. If the Senator will yield, we could even spell that our further by saying "any election." So it would not be interpreted as two solicitations for the general or the primary, or even the convention. The general idea we wanted to get over in the compromise was that they would not be solicited more than one time in the nominating procedure, and once in the general election.

Mr. PACKWOOD. But they could also be solicited twice in the preceding nonelection year.

Mr. CANNON. Because that is on a calendar year basis.

Mr. PACKWOOD. Yes, twice in a calendar year.

Mr. CANNON. Yes, the Senator is correct. But the theme we were trying to strike was in an election year, particularly.

Mr. PACKWOOD. Yes.

Mr. CANNON. Although we did use the language "in a calendar year," which would give them the opportunity to solicit in a year prior to the election.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Oregon (Mr. HATFIELD) proposes an amendment to amendment No. 1516. On page 39, strike lines 12 through 15 and insert in lieu thereof the following: "to make two written solicitations for contributions during the calendar year from any stockholder,"

Mr. HATFIELD. Mr. President, now we pick up with the same language that is in the bill. I will explain this briefly. I think it has been pretty well brought out in the colloquy up to this point.

In order to clarify the situation in those States where there are primaries, versus the States where there are no primaries, this new language would be broad enough to incorporate both situations.

Second, during the discussions that we held in the conferences leading up to this substitute proposal, it was very clear that our emphasis was upon the communication, the solicitation, for contributions. The language here—inadvertently, I think—tends to convey that the emphasis is on the contribution itself. Therefore, I think that the amendment is really more technical and perfecting than it is anything else.

So I suggest that it might strengthen the understanding of the intent of those who drafted the substitute and provide a more inclusive situation for those States with primaries or States without primaries.

Also, it provides for the emphasis upon the calendar year, which means that solicitations could be made in a nonelection year, a year before an election, for example.

Mr. PACKWOOD. And the money collected does not have to be spent in the primary if it is collected before the primary?

Mr. HATFIELD. The Senator is correct, in that this removes any question as to whether or not such funds collected for a primary or for a convention situation have to be expended.

Mr. PACKWOOD. We have taken that language out altogether.

Mr. HATFIELD. That is right.

Mr. PACKWOOD. The only other question I have is this: I ask the Senator to look at page 38, line 25, through line 8 on page 39. That is the language that allows unlimited solicitation by corporations of shareholders and employees of unions and union members. With that language, you can solicit them as often as you wish. Is that language limited by what we have added, or are these people still exempt from the two times a year contribution by the appropriate organization?

Mr. HATFIELD. We go back to page 38, line 23, which says, "except as provided in paragraphs (b) and (c)".

Mr. PACKWOOD. That is fine. I want to make sure that our legislative history is correct on that.

Mr. HATFIELD. I think that is the qualifying language there.

Mr. CANNON. I interpret it to mean that that does not make a limitation on the prior provisions.

Mr. PACKWOOD. It does not?

Mr. CANNON. It does not make a limitation. So that a corporation, for example, or a separate segregated fund established by a corporation could solicit its stockholders and their families and its executive and administrative personnel and their families at any time and in any fashion they saw fit.

Mr. PACKWOOD. And as many times as they want, to their hearts content?

Mr. CANNON. That is right. The same applies to a labor organization and its members and their families. However, while this limitation does permit the solicitation of the same persons, it really gets the body of people who cannot be solicited by either the separate segregated fund of the corporation or the separate segregated fund of the union.

Mr. PACKWOOD. I agree with that interpretation.

Mr. HATFIELD. Mr. President, are there any other questions on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. PACKWOOD. Mr. President, I am curious about the second part of the paragraph and how literally the anonymity is protected. Let us use Sun Oil, which is the example everybody uses. Say we have a union pact fund and an employer pact fund, and they send out written solicitation to all the employeees of the company. The union says, "Please contribute." To what—"to our pact fund?" Is that the form of the solicitation?

Mr. CANNON. They can make it in whatever form they see fit. I assume that they would do it to their political action fund, whatever that is. I am not going to try to spell out on the floor of the Senate what they would do. If it requires spelling out, I think the Federal Election Commission is the one to do it.

The intent here is that they cannot send out a form and have it returned to them to indicate who the contributor is. There are many ways they could do it. They could establish that fund in a trust account in the bank and say, "Send your contribution in care of so and so at the bank." Obviously, many contributors would send in their contribution by check. That certainly would not be a violation, even though they could not protect their anonymity if they sent it in by check.

Mr. PACKWOOD. What I want to make sure of is this: Are we saying that this is going to be a specially carved out exception for recordkeeping? We are not talking about a separate segregated fund. This is really a second generation separate segregated fund run by a trustee in a bank, for lack of a better descriptive term. That trustee is prohibited from reporting the names of the people. I imagine that most of the money will come in by check, and he will have a record. If he is a good trustee, he should keep a record. Is he prohibited from disclosing that to anybody? He would not file anything with the FEC, and the FEC would have no right to look at his records in order to see where his money came from?

Mr. CANNON. We have considered a provision elsewhere that says—if the Senator is worried about the more than $100 issue—that the contributor, himself, must report if he has given, in the aggregate, more than $100.

Mr. PACKWOOD. But that destroys his anonymity.

Mr. CANNON. If the contributor wants to give up his anonymity, then he can do it. This provision is to protect the contributor.

Mr. PACKWOOD. The Senator says that the person we are concerned with is the contributor, and if he does not care, we do not care, if he wants to report it. Is that correct?

Mr. CANNON. That is correct.

Mr. PACKWOOD. As I understand the law, a contributor of more than $100 does not report. It is the independent organization of the candidate to whom the $100 is given who does the reporting.

Mr. CANNON. That is correct.

Mr. PACKWOOD. A person gives $125 to this trustee. That contributor does not have to report. Does the trustee have to report that?

Mr. CANNON. Obviously, he would. Whoever controls the fund, in amounts more than $100, would have to make the reporting, under the provisions of the law elsewhere.

Mr. PACKWOOD. The trustee, then, will have to keep track of everybody who gives, because we have this aggregation rule that if you give $25 five times, you have to report.

Mr. CANNON. We also provide that burden on the contributor, so that if he contributes more than a hundred dollars in the aggregate, he does it.

Mr. PACKWOOD. We do not require the contributor to report anyplace, unless it is an independent expenditure, and then we require it as an expenditure.

Mr. CANNON. Let me correct that. Counsel tells me that we did not adopt that particular amendment. We were considering it.

Mr. PACKWOOD. Unless it is an independent expenditure, to the extent it is given to a committee, it is up to the committee.

I take it that this means that the trustees must keep records of everybody who gives, so that when this aggregation problem comes up, the trustee can say yes or no: "John Jones did not give over a hundred dollars," or, "Yes, he did give over a hundred dollars."

Mr. CANNON. I suppose he would want to keep them. I assume that the FEC would set up some rules to govern this precise thing.

Mr. PACKWOOD. They have rules now on this aggregation of money, in the present law. It talks about aggregation.

All those who ran in the last campaign, in terms of keeping track of our contributors, recall what we had to do to make sure that we caught a situation in which someone gave us more than a hundred dollars in two or three sums.

In order to protect himself, the trustee will have to keep these records. Who has access to those records? Can the FEC come in before the election and demand to see those records?

Mr. CANNON. Certainly, the FEC could. These separate segregated funds are a political committee, within the definition of the act.

Mr. PACKWOOD. But this is a trustee account. We are designing this, really, for a different purpose than our normal political committee.

Mr. CANNON. One will not be able to go through a dodge by setting up a trustee and saying, "We do not want to report under the provisions of the act."

Mr. PACKWOOD. I do not want to go through a dodge, either, but I do understand how it works.

Apparently, we are talking about a second generation political fund, an unrelated fund, not the first separate segregated fund that a SUNPAC sets up or that the union sets up as a COPE. I do not understand, on the one hand, how we protect the anonymity and you do not have access to it period, and on the other hand we say, "However, reporting is going to be required for certain circumstances."

Mr. CANNON. There is no question as to the reporting that will be required under certain circumstances, though I can assure the Senator that he is not going to have to worry very much about the $100 contributions under these circumstances.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARY HART). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. CANNON. Mr. President, there has been a question raised on page 39, subparagraph (b), where the language reads that it shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization, and then going on to the two written solicitations per year. The question has been raised as to whether that language might permit the corporation and the separate segregated funds of the corporation, both to solicit twice a year, and the same thing with respect to a labor organization and its separate segregated fund, to permit each organization to solicit twice a year.

That is not the intent. The total solicitation of the corporation and/or its separate segregated fund and the total solicitation of the labor organization and/or its separate segregated fund should only amount to two in a year.

Therefore, to eliminate any question on this issue, I propose an amendment on line 11, to strike the letter "a" where it appears in two places in that line, and insert in lieu thereof the word "such," and I propose that in the form of an amendment, Mr. President.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Nevada send the amendment to the desk?

Mr. CANNON. I ask the clerk to state the amendment. I think the clerk has the essence of it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 39, line 11, strike "a" wherever it occurs and insert in lieu thereof "such".

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I agree with the intent and I support the amendment. At some stage later, I have another question about the constitutionality of limiting these separate segregated funds.

I hope that this is constitutional. I support it, and when we have this discussion later on on the constitutional issue, I will raise that issue. It is not appropriate here.

But I do agree, it was not our intention to allow four solicitations, two by the fund and two by the corporation that creates it, two by the union, two by the fund.

Mr. ALLEN. Will the Senator yield for a question?

Mr. CANNON. Yes.

Mr. ALLEN. This all occurs to me, even though these expenditures by these organizations are permitted under this statute. What about the possible stockholder suit by a stockholder who feels that this might be a misuse of corporate funds or funds of an organization, a labor organization, or otherwise?

Mr. CANNON. I think the court has already held that it is proper to establish a separate segregated fund and proper to communicate with a limited number of people. I believe that is adequate to cover it.

But, certainly, I would assume if the corporation did not have advice from its lawyers that they could do so safely, and they would not run any risk, they would not attempt to solicit the use of any corporate funds.

Mr. ALLEN. The separate segregated fund might do the soliciting and that would not be the use of corporate funds, is that correct?

Mr. CANNON. That is correct.

I would take it, in most instances it would be the separate segregated fund that would do the soliciting.

Mr. ALLEN. I believe that would be the answer.

Mr. PACKWOOD. Is the Senator from Alabama asking or talking about the initial solicitation by the corporation using corporate funds of its shareholders, saying that we want to set up a separate fund, please contribute to it? Is the Senator suggesting the shareholder, just because of that initial instance, might have a course of action against them?

Mr. ALLEN. I suggest that possibility and, right at that point, would that be one of the two solicitations permitted, when they announce the setting up of a separate fund?

Mr. PACKWOOD. No. The setting up of the fund is permissible under present law. The setting up of the fund is not a solicitation for contribution to the fund.

Is that the chairman's understanding?

Mr. ALLEN. When they announce setting up the fund, obviously, that is a solicitation right there. There is a need to cover that, it would seem, in some language.

Mr. PACKWOOD. If they are only soliciting their shareholders, we have already agreed on this, there is no limit to the number of times they can do that.

Mr. CANNON. There is no limitation with respect to shareholders. The only limitation applies with respect to what someone described as the unreachable group included in this amendment, and this amendment as it is now in the bill simply says that it shall not be unlawful for the corporation to solicit these people twice in a year in the fashion we prescribed, in writing by mailing.

Mr. ALLEN. I would not think setting up this fund, the original announcement would be limited to the stockholders; because they need also to advise the employees, I would think.

Mr. PACKWOOD. The initial setting up of the fund—that is a good question, asking could they solicit everybody when setting up the fund.

Mr. ALLEN. And they are to send that same notice, I assume, to the employees. They would be left in the dark about the setting up of the fund. That would be the solicitation unless it is covered in the language. It could be considered.

Mr. PACKWOOD. I guess, what I think mine would be, although in my estimation, a corporation can do two initial solicitations in setting up the fund, and to the group it can solicit as often as it wants, administration and friend, is not that expensive.

I would say a union or corporation solicited everybody and how we are going to set up a fund that would properly count as one of the two solicitations they are entitled to——

Mr. ALLEN. That is the point of the Senator from Alabama. The Senator from Oregon has come around to the view of the Senator from Alabama. That would constitute a solicitation.

Mr. PACKWOOD. The reason I think it is not an overwhelming problem is twofold.

First, one sets it up, and the stockholders or shareholders, as often as one wants. Second, once it is set up, I presume it is not going to be set up every year, it will be a continuing fund, and after first creation, an initial cost at least for the creation——

Mr. ALLEN. Would it or would it not constitute one of the two solicitations?

Mr. PACKWOOD. My interpretation, I do not want to be bound by it, if one solicited everybody——

Mr. ALLEN. By everybody, the Senator means employees, not the public generally?

Mr. PACKWOOD. I mean all corporate employees and shareholders. The union sends out a mailing, the corporation does, and says, "Please join our political action committee," that would fit it as one of the two solicitations they are entitled to make in a year.

Mr. CANNON. If that is sent out in writing, in accordance with this provision of the act, that certainly would constitute one of the two solicitations.

Mr. ALLEN. And after that is set up, they have one more solicitation?

Mr. PACKWOOD. For that year.

Mr. CANNON. The Senator is correct.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, the question has been under discussion as to the problem of the $100 and over and the less than $100 contribution. If a person contributes more than $100, obviously it is required to be reported under the provisions of the law. To further define that matter in connection with the language in subparagraph (b) on page 39, which permits the written solicitations of two per year to the so-called unreachables, I have an amendment I want to propose on page 15, between lines 18 and 19.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon) proposes an amendment:

On page 15, between lines 18 and 19, insert the following:

"(3) Any person who makes a contribution in response to a solicitation under section 321(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.".

On page 15, line 19, strike out "(3)" and insert "(4)".

On page 16, line 8, strike out "(4)" and insert "(5)".

Mr. CANNON. Mr. President, the purpose of this amendment is to make it clear that if a solicitation is made under the provisions of subparagraph (b) on page 39, and an individual sends in contributions that, in the aggregate, total more than $100 to a particular recipient, whether it be a trustee or a separate segregated fund, or whatever the designee may be, he must notify the recipient so that the recipient, to meet the requirements of a political committee under the other provisions of the act, can make that report in accordance with the law.

This is solely so that the person who maintains the fund would have that information available to make his reports.

Mr. PACKWOOD. Will the Senator yield?

Mr. CANNON. I yield.

Mr. PACKWOOD. I agree with the amendment so long as what we are doing is clear. We are not requiring every person who gives over $100 to any recipient not in this section, but the Republican Election Committee, the Packwood or Cannon election committees. It is up to us to report that, and that contributor does not have to make a further identification of himself.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. But because we are trying to avoid somebody lying under this particular section trying to guarantee an anonymity, if that person gives over $100 in aggregated sums, that person reports it to the recipient committee and that recipient committee reports it to the Federal Election Commission.

Mr. CANNON. The limitation is spelled out in the amendment if it is a limitation under the provisions of this section.

Mr. PACKWOOD. Right.

Mr. ALLEN. I do have a point I want to bring up as soon as the amendment is acted upon.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Will the Senator yield?

Mr. CANNON. I yield.

Mr. ALLEN. I would like to direct the chairman's attention also to page 39, starting on line 19, where it says that this solicitation shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

I would like to inquire as to how in the world that will be implemented when they send out a letter asking people to make contributions and the mail comes in. Are they going to throw the mail away? What are they going to do? How could they keep from knowing who contributes, unless the contribution is made in cash? Then one would have to know who brought it in, I assume.

Mr. CANNON. Mr. President, we have had considerable discussion on that very point. This, I believe, is a proper area for the Federal Election Commission to design how an organization should meet this particular provision. We were talking earlier in our colloquy in terms of a trustee. They may say, "Send this to" such and such "trust account at the First National Bank. Send your contribution there."

The point we are trying to get to is that they cannot, in the designation of that form that they use, maintain a file of information as to who did and who did not contribute, because, as soon as we do that, we open the matter up wide to the pressure interests.

Mr. ALLEN. This duty of the segregated fund to file reports should not be delegated to a trustee, would be my judgment. In other words, somebody has to make a report of these receipts.

Mr. CANNON. Yes, but in the reporting provision we have spelled that out, if it is less than $100, the information concerning the contributor need not be reported.

Mr. ALLEN. Still, records have to be kept of what is contributed, whether the report is made or not.

Mr. CANNON. The Senator is correct. The records have to be kept as to the moneys received, yes.

Mr. ALLEN. Could the committee delegate that responsibility and clear itself of liability under the statute?

Mr. CANNON. I am not trying to say that a trustee is the method to use. I would prefer to let the Federal Election Commission solve this problem as to the mechanics of it. But if a trustee is used and the trustee makes that reporting as a political committee, I would say that that certainly would satisfy the obligation. But the obligation is not in the amounts of less than $100. It is in the contributions of $100 or more. We have just now spelled out that the contributor must let him know. This is to take care of the type of situation where a contributor, maybe, makes a contribution of $50 at one particular time as a result of a solicitation and then, maybe, makes a contribution of $75 another time. Now he has gone over the $100 and, therefore, his anonymity is not protected and that must be reported.

Mr. PACKWOOD. If I might respond to the Senator from Alabama, I raised the same question awhile ago and I still have misgivings about how it works—and

I will vote for this provision—if there is a separate segregated fund. Taking COPE, for example, the national president of the AFL–CIO is Mr. George Meany. The secretary-treasurer is Mr. Lane Kirkland.

If all of these little contributions come in to COPE, I think we are fooling ourselves if we think that somebody who maybe we would not want to see them is not going to see them. I do not know how to get around that. With the corporation fund, probably the officers of the separate corporation fund are going to be the president of the corporation and the treasurer of the corporation. So we have this balancing act. We are going to require everybody over $100 to be reported but we have this difficult balancing act, and we are giving in to the Federal Election Commission to try to draw a rule that on the one hand protects the anonymity and on the other hand says, "But you better keep records good enough so that if we want to come in and see if there has been a miscarriage of justice, you have the records for us to examine."

Mr. ALLEN. The bill had a provision saying that if a corporation had a method for collection of these contributions, they would have to make the same method available to the unions. I am thinking about a checkoff contribution. If that was reported, too, that would disclose the names, it seems to the Senator from Alabama.

Mr. PACKWOOD. We had just about reached that point. The Senator from Nevada and I have a disagreement. He says that an employee cannot authorize a checkoff. The fact that the employee does not care if he is known, he is happy to have his name listed on Senator ALLEN's reelection committee, the Senator from Nevada says you cannot use a checkoff.

Mr. ALLEN. Under this you cannot.

Mr. CANNON. Under this provision, that is correct. That was the intent. This does not get at the stockholders. It does not get at the supervisory and executive officers of a corporation. It does not get to the members of a labor union, insofar as their union is concerned.

The Senator was referring to COPE; obviously COPE is going to have records as to who contributes, I would assume, but they are members of the union and they are not in this untouchable group which is the one we are limiting.

Mr. PACKWOOD. Except that when COPE, which will be entitled to make solicitations at the homes or residences of these middle group employees, says, "Please contribute," they can say, "Please contribute to COPE," and here comes through the check of this nonunion, nonsupervisory employee to COPE, and then COPE will certainly have his name and address there on the check.

Mr. CANNON. This will not affect the individual who may elect to do away with his anonymity. If he elects to send in a check he is free to do so. What we are trying to do is eliminate the pressures on the part of either the labor organization or the management organization, to be able to put pressure on the individual by knowing who he is and keeping a record of whether or not he contributes. Obviously if he wants to contribute by check he can do so, and if he does that they are certainly going to know who made the contribution, but then they will not be in violation of this provision of the law.

Mr. PACKWOOD. Certainly most people are going to make contributions by check. They are not going to run down with cash some place. If that employee can make a contribution by check, why not allow a checkoff? What difference does it make? What do you accomplish by saying, "You can make a contribution by check, but not through a checkoff"?

Mr. CANNON. What you gain is eliminating the pressures that would be applied to enter into a checkoff provision. This in itself is a form of pressure.

Mr. PACKWOOD. But that is another matter. We are concerned about the anonymity. The reason for eliminating a checkoff is because people's names shall not be known; but their names will certainly be known if they give a check. The Senator is saying the reason for eliminating a checkoff, be it by the union or company, is what?

Mr. CANNON. I am sorry; I missed that.

Mr. PACKWOOD. If the purpose of eliminating the checkoff is to make sure that nobody can be unduly pressured by an employer looking at this payroll records and saying, "Jones has agreed to a $2 checkoff, or has not agreed to it; if, on the other hand, Jones gives a check for $20, is not the same fact revealed?

Mr. CANNON. The same fact is revealed, but the check was given voluntarily by the contributor, and not as a result of pressure from someone else, either through a checkoff or any other system. It was just for the purpose of giving, so that a man who wants to say "I gave at the office" can do so.

Mr. PACKWOOD. That is what I am getting at. If the guy wants his identity to be known, he can be protected if he does not want it known under this provision, but if the man wants it to be known, why not let him use a checkoff?

Mr. CANNON. Because once you permit the use of the checkoff, you put the people in a position to maintain a list, and to be able to say, "Here are the people who have contributed by a checkoff; we better see about the people who did not."

Mr. PACKWOOD. But if they have a check, they are going to be able to keep track of the people who gave.

Mr. CANNON. Not if it is not over $100. The problem is not that great.

Mr. PACKWOOD. I am not worrying about the $100; we can take care of that. But I am talking about the recipient committee that gets a check for $50, and that is all you give this year. That committee, to protect itself, is surely going to keep track of that person's name and what he gave, so that if the FEC comes to that committee and says, "Let us see your records," they are not going to say, "We shredded them all under $100."

Mr. CANNON. They are not required to keep that record.

Mr. PACKWOOD. Are they not required to keep a record of and report contributions of over $100, or list? As I understand the law, they must keep the record of who gave.

Mr. CANNON. They are not required to keep such records. They have to keep the aggregate of sums they receive, but they are not required to keep the record of the man, address, and occupation of the particular contributor.

Mr. PACKWOOD. Say that again?

Mr. CANNON. They are not required to keep the name and address and occupation of the particular contributor.

Mr. PACKWOOD. I just wanted to make sure. This is where we raised it from $10 to $100 in the bill. So now anybody who gives a check for $50, the committee is not required to keep a record of who that donor was, that donor's address, or anything to do with that donor?

Mr. CANNON. This is the way the law would then read:

> Every person who receives a contribution in excess of $100 for a poiltical committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount of the contribution and the identification of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee. . . It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of all contributions made to or for such committee; the identification of every person making a contribution in excess of $100, and the date and amount thereof; and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any); . . .

Mr. PACKWOOD. All right. What do you have to keep if a contribution is under $100? We are not talking about contributions which never aggregate $100. Does the treasurer have to keep his name, his address, or anything else?

Mr. CANNON. He has to keep the amount of contributions made to such committee.

Mr. PACKWOOD. But not the identity of the person?

Mr. CANNON. But not the identity of the person.

Mr. PACKWOOD. Here is a contribution that comes in from John Jones to the committee. It does not have to keep a record of who gave it that money?

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. All right.

Mr. CANNON. Under the old law it was under $10, and the recordkeeping requirement proved to be so onerous on people who have had expeirence with it that we made the determination that that ought to be raised from $10 to $100.

Mr. PACKWOOD. I just want it to be understood what it is, so that the treasurers, this year, may realize they do not have to worry about that person's residence, address, or occupation, or whatever it is, or name.

Mr. CANNON. Wait; do not say they do not have to keep track of it. They have to keep track of the money.

Mr. PACKWOOD. But not the donor. What you would have, at the end of the campaign, even if the average is substantially under $100, you could have a tremendous amount of money given for which you would have no identification, because it came in amounts under $100.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. ALLEN. This method of solicitation under (b), is this cumulative as to any other method permitted under the bill?

Mr. CANNON. Yes. The answer is yes. In other words, a stockholder—the definition is such that it includes everybody—but a stockholder can be solicited without any limit. So really, what it in essence means is that people who are not otherwise reachable, whom we referred to a while ago as the unreachables because they are not stockholders, they are not supervisory personnel or executive officers of the corporation, or members of the labor union—those people can be solicited by their parent body unlimited in any fashion, so this is not a limitation on them.

Mr. ALLEN. Yes; that is the point the Senator from Alabama is making. In other words, a labor organization can solicit orally and in public meetings or union meetings without limit?

Mr. CANNON. The Senator is correct its labor union members.

Mr. ALLEN. So really this method here just says it shall not be unlawful for this to happen; actually, there would be no necessity of the labor organization using (b) here, would there? In other words, they could solicit by word of mouth?

Mr. CANNON. Oh, I should say because under this provision they could solicit the stockholders of the corporation, if they wanted to do it; and under this provision they could solicit the nonunion people if they wanted to do it. Absent this provision, the only people they could solicit are their members.

Mr. ALLEN. But there would be no need of using method (b) then. Possibly I was not precise enough. There would be no need of using section (b) then to solicit their own members. That can be done at any time by anyone.

Mr. CANNON. In any fashion.

Mr. ALLEN. In any amount.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I see. Really then, the new ground that it produces, so to speak, is to allow a corporation or segregated fund to solicit in writing twice a year contributions, is that right, from the employees, whether union or otherwise?

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Yes.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Really this gives corporations certain benefits and labor organizations certain benefits that they do not have under the rest of the bill.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I see.

Mr. CANNON. And it gives them the identical benefits with respect to from whom they can solicit.

Mr. ALLEN. I believe it is a good section, I say to the distinguished Senator.

Mr. CANNON. Mr. President, if no one has any questions at this time, I am prepared to yield the floor. I understand there will be other amendments offered and we will deal with them as we get to them.

The PRESIDING OFFICER (Mr. NELSON). Who yields time?

Mr. HATFIELD. Mr. President, is it true that we are not under controlled time?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. ALLEN. Mr. President, will the Senator withhold that request?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I send an amendment to the desk and ask for it to be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment:

On page 45, between lines 13 and 14, insert the following new section:

"ACCEPTANCE OF EXCESSIVE HONORARIA

"SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honoraria (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

On page 45, line 14, strike out "Sec. 328." and insert in lieu thereof "Sec. 329.".

On page 21, line 1, strike out "section 328 (a)" and insert in lieu thereof "section 329 (a)".

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is there a time limit on this particular amendment?

The PRESIDING OFFICER. There is a time limit of 30 minutes on this amendment.

Mr. CANNON. Mr. President, I would suggest the absence of a quorum for the purpose of letting Senators know that this amendment is now pending. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Parliamentarian advises the Chair that there is no time limit on this particular amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that, at the hour of 2 p.m., we start consideration of the amendment that has been offered by the Senator from Alabama relating to honoraria.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, the purpose of the Senator's request is to allow Senators who oppose this amendment to be notified so they can be present; is that correct?

Mr. PACKWOOD. That is correct.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair in his capacity as the Senator from Wisconsin suggests the absence of a quorum, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 18, strike the words "or House of Representatives,"

On page 35, beginning with line 21, strike the words "the Democratic National Congressional Committee, the National Republican Congressional Committee,".

Mr. JOHNSTON. Mr. President, a few days ago, I offered an amendment on behalf of myself, Senator STEVENS, and Senator BENTSEN, the effect of which would be to increase the amount which senatorial campaign committees and the House campaign committees could give to a candidate from $5,000 per election to $20,000 per year. After that amendment had passed—of course, we have intervened with this substitute bill, but, in the meantime, we have heard from our colleagues in the House, who tell us that making this applicable to the House committees would have the untoward and unwanted effect of raising expectations of House Members way beyond reality. They tell us that, whereas they may be able to give $1,000 or $2,000 per Member of Congress, with this kind of language, Members of Congress would come in expecting their $20,000.

I do not know whether we are going to be able to approach anything close to those kinds of numbers on the Senate campaign committees. We shall have to wait to see how our respective fund-raising events come out to determine how successful we are in that respect. But the House people assure us that it is way beyond reality and it would have the very mischievous effect of disappointing many Members of the House. Accordingly, they asked to be deleted from the special treatment which our amendment of last week gave. All this amendment, therefore, does is excise the words "Congress" or "Democratic Congressional Committee" or "Republican Congressional Committee" from the amendment, which, in turn, makes the amendment, the $20,000 limit, applicable only to the Senate committees and not to the House committees.

Mr. CANNON. Mr. President, that amendment is acceptable to me as the manager of the bill, on the basis that the Senator has stated it. I am willing to accept the amendment.

Mr. JOHNSTON. I thank my colleague.

I ask for its consideration, Mr. President.

Mr. PACKWOOD. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 25, between lines 4 and 5, insert the following:

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a), as redesignated by section 105, is amended by striking out "or may be used for any other lawful purpose." and inserting in lieu thereof the following: "may be contributed by him to the National committee or State committee of a political party, or returned by him to his contributors on a pro rata basis (as determined by the Commission), or contributed by him to another candidate."

Mr. CLARK. Mr. President, the purpose of this amendment clearly is simply to correct a flaw in the present law, which could, under certain circumstances, result in the conversion of excess campaign funds to personal use. This amendment would simply add a section whereby we would correct that.

I might say this amendment was suggested by Congressman BERKLEY BEDELL. I think it is a good one. We have talked to the manager of the bill and to other parties interested in this bill. What it would do, frankly, is to say that, in addition, if one has campaign contribution money left over, in addition to the two present ways in which that money can be disposed of—namely, to defray office expenses or to contribute to a charity—we are now providing three additional ways that the money can be disposed of without converting to personal use. Those are to contribute it to a State or National party committee, to contribute it to another candidate's committee, or to return it on a pro rata basis to the contributors.

We think this is important because we know historically that money has been converted from political committees to personal use if income tax is paid on it, and we would like to prevent that, and that is the purpose of the amendment, and I urge its adoption.

Mr. PACKWOOD. Mr. President, will the Senator from Iowa yield?

Mr. CLARK. I yield.

Mr. PACKWOOD. Do I understand from the Senator's amendment that at the moment a candidate would be prohibited from giving this surplus to the National committee or a State committee?

Mr. CLARK. It is not clear whether they would be prevented under present law, but we would like to make it very clear, at any rate, that that would be permissible under the law.

Mr. PACKWOOD. Well, in that case, why strike out "for any other lawful purpose"? Why not add the Senator's amendment indicating this is a lawful purpose?

Mr. CLARK. Well, the reason we are striking "for any other lawful purpose" even though that phrase seems to us rather clearly to allow State and National committees to take funds is that we would like to make it possible in addition for them to return the money to their contributors as an alternative way of disposing of the money and to allow them to contribute to another candidate.

In other words, it is not at all clear that those other two methods we are now adding are permissible under the law presently.

Mr. PACKWOOD. I have no objection to the Senator's amendment, but I come back again why not simply leave in "for any other lawful purpose" and put in the Senator's definitions of lawful purpose, what that would include. What are we striking out when we strike out "or for any other lawful purpose"? What can a candidate now do with money that a candidate could not do with that stricken out?

Mr. CLARK. The point is under the present law it seems quite clear that a person can convert campaign funds to personal use if he pays income tax on it lawfully, and that is why we are striking that section and specifying the exact ways in which the money can be converted. In other words, it would leave the bill as it is under present law if we leave this phrase in, that candidates can indeed convert campaign funds for personal use.

Mr. PACKWOOD. What bothers me—and I agree with the Senator that they should not be converted to personal use—is what might be any other lawful purpose we are thinking of that is not conversion to personal use that we are striking out by striking out that phrase?

Mr. CLARK. Well, we are not aware of any other purpose for which campaign funds, in our judgment, ought to be used.

Mr. PACKWOOD. Mr. President, will the Senator withhold his amendment then and let me try to draft an amendment because I agree with the Senator about conversion, but I would like to make sure that we limit it to that purpose.

When we legislate on the floor, things come up that we do not think about, and I would not want us to trap a member, unconsciously trap a member, of the House or of the Senate who is now spending it for a lawful conversion and which that amendment might strike out.

Mr. CLARK. I would be happy to consult with the Senator.

Mr. President, I request that my amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, and it is withdrawn.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send an unprinted amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 25, between lines 4 and 5, insert the following:

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

Mr. CLARK. Mr. President, the amendment which was just read, we are convinced, comes closer to achieving the purpose that we had in mind than the original amendment that was offered because the problem that we face and that we want to try to correct is the problem of a candidate's converting campaign contributions to personal use. It is quite clear, based on present law, that that is being done or has been done. So we think by simply leaving the bill as it is but inserting an additional line which simply says "except that no such amount may be converted to any personal use" is quite clear and achieves the purpose which we want to achieve.

I urge its adoption.

Mr. PACKWOOD. Mr. President, I agree with the Senator from Iowa. I think we should have it clear in this colloquy, we should make it clear, that just because the Senator's previous amendment was withdrawn, it is still our assumption that money can be given to a State political or the national committee or any other political organization, subject to the limits that are now in the law as to how much you can give.

Mr. CLARK. That is correct.

Mr. PACKWOOD. The specific type of thing we are aiming at is literally converting it to personal use in almost an Internal Revenue definition because if you pay a tax on it you can take a trip to Europe because you are converting funds at the moment, and this is legal as long as you pay a tax on it. This will prohibit you from doing that. You can still use it for any purpose other than personal use, which is prohibited by law. By this amendment you cannot convert it to your own personal use just because you pay a tax on it.

Mr. CLARK. The Senator is absolutely right. That is the intention and that is the purpose. We think it would be a good amendment to this bill because it corrects a very, very serious problem, conversion of campaign contributions to personal funds.

I yield, Mr. President.

Mr. CANNON. Mr. President, the amendment is acceptable to the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment:

On page 40, line 13, after "request" insert the following: "and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby,".

Mr. PACKWOOD. Mr. President, this amendment has been worked up with the chairman and I think is agreed upon.

What we are simply trying to do here is that if the corporation uses a checkoff to collect political funds, if it is legal, that they must make that available to the union.

This simply says that if the union chooses to exercise its privilege to use that checkoff, they shall have to pay the cost incurred in making the lists available to them and using the checkoff.

Mr. CANNON. Mr. President, I think that is a reasonable amendment.

We already have in the bill the provision that same system has to be made available to a labor organization representing any members working for the corporation. This would simply say they pay the cost attributable to making that method available.

I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, if there are no other amendments to come up now, we have an amendment pending at 2 o'clock.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment:

Page 54, line 9, strike "or" and insert "unless the candidate".

Mr. PACKWOOD. Mr. President, this is designed to clarify the amendment offered by Senator TAFT a few days ago, and again I think there is unanimous agreement on it. Senator TAFT's amendment would restrict and limit the amount of funds a candidate could get unless he got a certain percentage of votes in two successive primaries. However, with now 30 primaries and who knows how many we will have, most candidates do not participate in all primaries. They just do not have the money and they choose to skip some primaries. By this language, we would allow a candidate to be exempted from this two-primary 10-percent rule if the candidate says, "I am not a candidate in that primary."

The Chair knows well what I am talking about because Florida and Oregon place candidates on the ballot. A candidate is on the ballot even if he does not want to be on the ballot. He may not want to campaign in that State, not spend his money there, but he cannot get off the ballot. He cannot sign a certification that says, "I am not a candidate."

This would make it clear that if a candidate notifies the commission that he is not a candidate in that particular primary, whatever the finish, the order of finish, or percentage of votes that the candidate received in that State would not be a factor in determining whether or not in two successive primaries he had received less than 10 percent of the vote.

Mr. CANNON. Mr. President, the amendment is a good amendment. I think it makes clear the intent that was desired, at least, in the discussion of the Taft amendment a couple of days ago. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

RECESS UNTIL 2 P.M.

Mr. CANNON. Mr. President, if there are no further amendments to come up at this time, I move that the Senate stand in recess until 2 p.m., at which time the one Allen amendment would be the pending amendment under the previous agreement.

The motion was agreed to, and at 1:08 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GARN).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, this matter probably should not be before the Senate at this time because, certainly, it was not necessary to make any different provision about honoraria that Federal employees and Members of the Congress can receive in order to meet the objections of the Supreme Court to the provisions of the Federal election law. But an amendment was passed in the Senate knocking out a provision in the bill which did place a limit on honoraria.

Up until last year, there was no limit whatsoever on the amount of honoraria, that is, payments for speeches or appearances, that might be received by Federal employees or Members of the House or Senate, or the judiciary, for that matter.

Congress in its wisdom then, feeling that some limitation should be placed on the amount of honoraria that Federal employees and Members of Congress might charge for appearances and speeches that they might make outside the line and scope of their official duties, placed that limitation at $1,000 per appearance with a limit in any one year of $15,000.

That was made a part of the Federal election law. But when the Supreme Court said that the Federal Election Commission was not so constituted that it could carry out executive function, it was necessary for the Congress, if it wanted the Federal Election Commission to continue in any meaningful fashion, to amend the law to reconstitute the commission by making the six members—or whatever number of members the Congress wanted to provide—appointed by the President.

It certainly was not necessary to lift the limitation that Congress made in 1974 in the Federal election law.

Mr. President, I do not speak only with reference to Members of Congress; as I say, it includes members of the Federal Judiciary and other Federal employees. They are adequately compensated without having some method whereby they gain additional compensation by making appearances before various groups, and—I am somewhat hesistant to say this—many times appearing before groups that have an interest in legislation that might come before the Congress and, unquestionably, the desirability of their speech and their appearance is springing somewhat from their official position.

I wonder how much in honoraria might be drawn by some member of the Federal establishment if he did not have that particular position with the Federal establishment.

Mr. ABOUREZK. Will my friend yield?

Mr. PACKWOOD. Will the Senator yield?

Mr. ALLEN. Well, two want to ask questions, and rather than favor one over another, I will just continue for a while and then I will yield to one or the other.

So what was done was to lift this ban? That was done some several days ago, but now, the substitute is pending.

What the present amendment provides is that we will return to the limitation that was written into the law when this Federal Election Commission was set up.

I believe, actually, it was in 1971. I believe that it was actually set up then. So this limitation has been in force for several years.

Why is it necessary at this time to lift that limit and to pave the way for payments of any amount that the Federal official might care to charge and that his listeners might be willing to pay, and no limitation whatsoever on the amount that an official could receive in a year's time?

Mr. President, just last year Congress over my objection and the objection of a number of Senators here, put the compensation of the Members of Congress on the same basis as Federal employees generally and this guaranteed the Members of Congress an annual increase in salary.

I believe last year it was some $2,100 based on the increase in cost of living. It would probably be considerably more this year. And each year the salary of not only Members of Congress, but every Federal judge, every Cabinet officer, every head of a Federal agency or a member of a Federal agency board, is going to get an annual salary increase.

Why, then, would we want to provide for no limitation whatsoever on honoraria that Federal employees, Federal judges, Members of the Congress might receive?

I believe a $15,000 outside income by Members of Congress should be adequate.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. ALLEN. Just a moment, let me finish this thought.

Added to the present compensation of a Member of Congress, that would permit earnings of some $60,000 a year, and, of course, the Supreme Court is over $60,000 already and that would enable them to go up to $75,000.

I am delighted to yield to the Senator.

Mr. ABOUREZK. I tend to agree with what the Senator is saying. I have no problem in leaving a limitation of $15,000 per year, per Congressman, for honoraria.

The Senator made a statement that he thinks $15,000 outside income is adequate for any Senator. I probably would agree with that, as well.

I am curious to know if the Senator would accept the amendment I intend to offer which would limit any outside income, not just honoraria, but law practice income, stocks and bonds, dividend income, savings account income, rental income, business income of any kind?

Mr. ALLEN. The Senator is getting pretty far afield.

Mr. ABOUREZK. It is no more far afield than the Senator's amendment is.

Mr. ALLEN. That is the Senator's view and he will have a right to vote against the amendment, as I anticipate that he will.

I think the Senator certainly is going pretty far afield in suggesting that a person's income from investments he might possibly have should be limited.

I do not see any justification for that. If he would like to put in a separate amendment, I would have no objection to the Senator doing so. But I would hate for him to burden down the amendment the Senator from Alabama is offering.

Mr. ABOUREZK. My desire is not to burden down the amendment, but to do as the Senator said; if it is far afield, it is only following his lead. He said $15,000 outside income is sufficient. I think he is right.

Mr. ALLEN. The Senator does not quite understand the connection. The Senator from Alabama said that many of these appearances are based on the fact not, for instance, the Senator from South Dakota might be a great speaker, a great orator——

Mr. ABOUREZK. I will accept that.

Mr. ALLEN. And people would like to mirror his forensic ability. I would think that his listeners might be more interested in the fact that he is a U.S. Senator with an opportunity to vote in this body.

Mr. PACKWOOD. Will the Senator yield at that juncture?

I am curious now. I recall a specific appearance that Senator RIBICOFF and I had—in fact, it is the first time I met David Mathews—at the University of Alabama, in 1970. Senator RIBICOFF and I were both paid. The students wanted a Republican and a Democrat to come and speak specifically on the war. Is the Senator suggesting that the covert purpose was really to get Senator RIBICOFF and I there to lobby us on something that the University of Alabama had, some kind of secret purpose in this appearance?

Mr. ALLEN. The Senator can state what his motive was. I do not attribute anything to it. I said that many times the listeners were more interested in the fact that a person serving in the Senate or serving in the House might have influence in this body, and not necessarily on account of the forensic skill that the various speakers might possibly have.

Mr. ABOUREZK. Will the Senator yield on that point? Is that same statement true for someone who has a law practice and is serving in the Congress?

Mr. ALLEN. I do not know about a law practice. The Senator from Alabama does not practice law even though he is a lawyer. He does not have outside income from that source.

Mr. GARY HART. But if one were looking for a law firm to represent him, it might be nice to have a firm in which there is a U.S. Senator.

Mr. ALLEN. If the Senator will offer that amendment, the Senator from Alabama would be glad to vote for it.

Mr. ABOUREZK. I would like to offer it as an amendment to the Senator's amendment.

Mr. ALLEN. Wait a minute. That is assuming that the Senator would then vote for the amendment.

Mr. ABOUREZK. I would like to offer, at this time, an amendment to the Allen amendment.

Mr. President, I send an amendment to the desk.

Mr. ALLEN. I have not yielded for that purpose. I yielded for a question only.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. ALLEN. I yield for a question.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding. I arrived in the Chamber during the discussion of his amendment, so I am not familiar with all of its provisions. I heard the Senator from Alabama refer to the congressional pay raise and also to a $15,000 limitation upon honorariums. I would be glad to support the distinguished Senator on the $15,000 limitation on honorariums.

However, I believe that oftentimes Members of Congress are unduly made whipping boys on pay raises. I believe it is fair to say—and I believe the Senator from Alabama is fully aware—that the only pay raise that a Member of the U.S. Senate has received since 1969 is one 5-percent raise.

There are some of us in this body who are wholly dependent or substantially dependent upon the salaries we receive as Senators. Moreover, the pay of members of the legislative branch of Government is below the executive and judicial branches. Both Cabinet officers and Supreme Court Justices are receiving more than $65,000, $22,000 more per year for Cabinet officers and for members of the Supreme Court.

I am not speaking in favor of a pay raise for Members of Congress, but I do believe, in fairness to ourselves, we ought to put this into proper perspective. I like to think of the legislative branch as a coequal branch of the Government. We live in the type of society where the salary a person earns does have something to do with his standing. We are making ourselves, through our own actions, second to, rather than coequal to the Cabinet officers, and members of the Supreme Court.

Perhaps the other branches are overpaid. However, we cannot do it to the Supreme Court for constitutional reasons and I rise merely to suggest the unfairness of continuing to criticize Congress without reference being made to the other branches of Government.

I have the greatest respect for my friend from Alabama, but I just sort of hate to see this done. I will add that I have accepted few or no honorariums during my service in Congress. So, $15,000 is $15,000 more than this Senator will make in honorariums.

Mr. ALLEN. I thank the Senator. I assure the Senator that the amendment of the Senator from Alabama takes into account that we are three coequal branches, because the limitation applies alike to the executive branch, the legislative branch, and the judicial branch. So all three branches of the Government are, under the Senator's amendment, being treated as coequal branches.

Mr. President, the general practice in the Senate is to take this amendment limiting honoraria that might be charged by any person in the Federal Establishment and weighting it down with other amendments to the point where it will be absolutely absurd. The Senator from South Dakota is talking about limiting what a person might draw in U.S. Government bonds or E bonds that he might receive on a payroll deduction plan. He is seeking to limit all sorts of things such as that and not facing the issue about how much it is proper for a Federal employee or a Federal official to earn in speaking appearances that would result in his receiving an honoraria or a payment for an appearance or a speech.

Mr. ABOUREZK. Will the Senator yield again?

Mr. ALLEN. I yield for a question, yes.

Mr. ABOUREZK. Would the same thing hold true for law practice income? Would the same thing hold true for dividend income from stocks and bonds in some private industry over which we, as Members of the Senate and Members of the House, have some sort of jurisdiction? The Senator is talking about a conflict of interest. That is what he is talking about.

Mr. ALLEN. The Senator misses the point in talking about limiting a person's income from other sources. What I am seeking to limit is the compensation he gets for his personal services of an official nature. If a person might happen to have a Government bond, the income from that should not be proscribed; it should not be prohibited, as the Senator would seek to do.

I will say to the Senator if he feels so strongly about investments in Government bonds, or the like, he might offer a subsequent amendment.

Mr. ABOUREZK. I would like to, if the Senator will let me.

Mr. ALLEN. I say a subsequent amendment. Let us act on this now.

Mr. ABOUREZK. I think, to be fair, it ought to be considered with the Senator's amendment. That is all we are trying to do, to be fair. The Senator is singling out one kind of income. I think all income ought to be proscribed.

Mr. ALLEN. I just wonder if the Senator is interested in that or in killing this amendment by weighting it down with somewhat unrealistic proposals.

Mr. ABOUREZK. I have never been very good at putting anchors on other amendments or other bills. It has never worked very well for me. I am interested, as I stated before, in some kind of equality and fairness in this matter. I think if the Senator from Alabama, who is generally very fair in his treatment of everything, would continue that attitude of fairness, he would accept my amendment to his amendment. Because that would proscribe everybody's income. Why would the Senator want to discriminate against anyone's income?

Mr. ALLEN. I think the Senator understands when I say to him that investment income is somewhat different. Say, for example, that Senator PELL, who is reputed to be a man of great wealth, would not be able to stay in the Senate because he has investment income that would bring in more than $15,000. I do not believe the distinguished Senator from South Dakota would want to do that.

Mr. ABOUREZK. What was that again? I would not want to do what?

Mr. ALLEN. I do not think the Senator would want to see the Senate and the country lose the services of the distinguished Senator from Rhode Island because his investment income would run far beyond the $15,000.

Mr. ABOUREZK. I feel the same way about some of the other Senators in this body whom, if they do not earn over $15,000 in honorariums, we might lose. I do not earn that much any more.

Mr. ALLEN. Oh; any more?

Mr. ABOUREZK. I did not come anywhere near that last year.

Mr. ALLEN. I wonder if the Senator's use of the words "any more" has any significance?

Mr. ABOUREZK. It does, yes; because at one time I made considerably more than $15,000.

Mr. ALLEN. I see. I do not yield any more. Mr. President; I wish to conclude my remarks, and ask other distinguished Senators to seek the floor in their own right if they want to torpedo this amendment, which would place a restriction back on the amount of income that members of the Federal establishment—not just Members of Congress—can receive for personal appearances and for speeches.

I am wondering, as to the distinguished Senator from South Dakota, whether his services might be in such demand if he were not a Member of the U.S. Senate. I think therein lies the difference between investment income received by one Senator—not the Senator from Alabama, I am sorry to say—but therein lies the difference, in the playing upon one's official position. A limit ought to be placed on the ability to do that.

Mr. ABOUREZK. Would the Senator like me to answer that?

Mr. ALLEN. Take a member of the Supreme Court appearing before some body of some sort. The fact that he is a member of the Supreme Court would naturally allow his honorarium to go up from what he might receive if he were merely a practicing attorney and not a member of the Supreme Court.

Mr. President, the House bill has this limitation in it, the limitation that the Senator from Alabama is seeking to attach to this bill. In other words, it restates the present law. It puts the limitation at $1,000 per appearance, and a maximum of $15,000 in any 1 year. That is outside income, in addition to the $44,600 that is paid to a Member of Congress.

I believe that that should be sufficient. The House of Representatives thought so, and in the conference, no matter what the Senate does, the House bill will have that limitation in it; and if the Senate lifts the ban, that will not be the end of the battle, because it will have to be battled out also in conference, with the House taking the side of a reasonable limit and the Senate, up to now, being in favor of no limit.

I do not believe that Senators are that much more interested in obtaining outside income than Members of the House of Representatives, but maybe they are.

Mr. President, I have a modification of my amendment at the desk. I modify the amendment by substituting for it the modification which I have at the desk.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

Amend amendment in the Nature of a substitute to 3065 as follows:

On page 50 lines 10 and 14 strike the following "616."

The PRESIDING OFFICER. The amendment is so modified.

Mr. ALLEN and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, this modification has exactly the same thrust as the original amendment. It approaches it in a little different fashion.

Let us start with the House bill, where the bill originated. The House bill has a provision repealing section 616 of title 18 of the United States Code. That is a section which makes it a criminal offense for a member of the Federal establishment—legislative, executive or judicial—to receive more than the limits that I have stated for appearances and speeches, that is, $1,000 per speech or appearance and a total of $15,000 in any 1 year.

The House bill repealed that section, but they put in another section carrying out the same thrust. That is, they provided for the exact same limitation in another section of this bill. Then when the bill came to the Senate, the Senate went along with the repeal of section 616, and the committee amended the amount that could be received, and made it a limit of $2,000 per appearance, or a total of $24,000 in any one year.

When that alternate amendment came to the Senate floor, the limitation was stricken out here on the floor by a voice vote. So the House bill still has the repeal of section 616 and the substitution of the $1,000 and $15,000 limits, putting that under the control of the Federal election law, but now here in the Senate, the alternate provision, which was as the House had it, and the Senate had it all the way through committee action, has been stricken out, leaving section 616 repealed and no provision in its place.

Instead of inserting or seeking to insert an amendment reimposing the limitation, the thrust of the modification is merely to strike out section 616 from the repealed provision.

So if this amendment is adopted it will accomplish the same thing as the original amendment, by leaving section 616 still the law in the Senate bill.

So the effect of agreeing to the amendment of the Senator from Alabama, as modified, would be to place this limitation back in the Senate bill, the limitation of $1,000 per appearance or speech, with a maximum of $15,000.

I hope the Senate will go along with this amendment in order that the two bills will coincide and will mesh. In any event, as the Senator from Alabama said, the House bill, no matter what we do here in the Senate, will still have the limitation in the bill.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes; I yield for a question.

Mr. GOLDWATER. I am wondering if the Senator is aware of exactly how this language got into the bill, and to bring him up to date, although I know——

Mr. ALLEN. Yes; I am aware of how it got in the bill. I was on the conference committee where it was put in.

Mr. GOLDWATER. May I have permission to read only a few sentences as to how this came about?

Mr. ALLEN. As long as that is treated as a question, yes.

Mr. GOLDWATER. It is a question.

It was originally added to a Senate-passed campaign finance bill by Members of the House of Representatives, not as a reform measure, but to openly punish and pressure Members of the Senate who had not gone along with the idea of steep pay raises for Members of Congress. The House author of the honorariums limitation, Congressman ANNUNZIO, vocally announced his purpose in proposing the provision. During what brief discussion there was of the section in the House, the author of this restriction stated that:

"In the main, it is aimed at the members of the other body who have been so piously proclaiming from time to time that Members of Congress do not need any pay raises."

He repeated this purpose when discussing the conference report which became law, adding the hope that we Senators, in his words, "will now come along to acting more wisely when the measure of a pay raise comes up."

Surely, Mr. President, there is no room in Federal law for provisions such as this, which are run through by one House of Congress out of pique with the other body, and as a self-serving tool for pressuring that other body to approve congressional pay raises. Mr. President, this bit of background on the origin of what is now section 327 highlights what is wrong with it. It is a narrow and badly worded limitation on outside income of Members of Congress and other Government officials. When an amendment was offered during debate on the Campaign Finance Law which called for a far-reaching restriction of outside payments and fees to Members of Congress, it was beaten down by a vote of 61 to 31. That proposed amendment had been offered by Senator ALLEN and it would have prohibited the receipt by Members of Congress and Government officials of nearly all payments other than their official salaries. This is the kind of honest amendment I can vote for and, although I did cast my vote against tabling the Allen amendments, it was badly beaten.

I just wanted to have it a part of the record that this provision received absolutely no consideration by either body of Congress; it was capriciously put on by a man who wanted to get even with the Senate or in some way pressure the Senate into going along with the pay raises that the House of Representatives wanted.

There has been far more discussion on this matter on March 18 and today than there appeared during the whole time we were considering this bill in the past.

I think we should express our gratitude to the Senator from Alabama for having allowed us to tell of our feelings relative to this matter.

I personally think it is unconstitutional to tell any Member of Congress whether he can or cannot make an outside income, and if we ever get to the point of having to live on the exact income that we make, after paying taxes here, in Arizona, and every other place they can get ahold of you, the business of being a Senator is not going to be monetarily attractive.

Mr. ALLEN. I thank the Senator for his explanation of the origin of the bill.

Of course, the Senator also pointed out this same issue has been debated here in the Chamber, and there was an amendment by the Senator from Alabama that would have sought to place a limit on honoraria that could be paid to members of the Federal establishment.

The Senator from Alabama is not concerned with what may have motivated the Members of the House of Representatives to introduce such an amendment, but when the election bill got to conference, the House provision was for a limitation of $10,000 per annum, and the conferees, apparently feeling that the Senate might want a somewhat higher figure, did arrive at the $15,000 limitation. So that is how it came about. I do not know the motives that prompted Members of the House of Representatives to offer that amendment. Whatever motivated it, it is a good provision, and it is a provision that was accepted by the conferees and that was agreed to here in the Senate by the acceptance of the conference report.

It has been the law of the land and has been working fairly well, I assume, for some years; and now, when we are trying to amend the campaign law to meet the Supreme Court's objections and criticisms, why, it is necessary to bring up the honoraria question. I am sure the Members of the Senate and the Senator from Alabama had no idea whatsoever of going into the honoraria question again until action was taken here in the Chamber lifting the ceiling. Once that that was done, it left the Senator from Alabama, feeling as a matter of principle that this limit should be placed on such income, no recourse but to seek to restore that amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ALLEN. That is the purpose of this amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ALLEN. I will not only yield but I will yield the floor and give the Senator from Oregon an opportunity to speak in his own right.

Mr. PACKWOOD. Mr. President, first let me respond——

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes, I yield.

Mr. ABOUREZK. I wonder if I might be able to offer my amendment at this time and then if the Senator wants to——

Mr. PACKWOOD. Yes.

Mr. ABOUREZK. I have an amendment at the desk to the Allen amendment which I would like to offer. Mr. President, first of all——

The PRESIDING OFFICER. As drafted the amendment of the Senator from South Dakota would not be in order unless the amendment of the Senator from Alabama is divided.

Mr. ABOUREZK. I ask for a division of the Allen amendment.

The PRESIDING OFFICER. The amendment will be so divided. The amendment will be stated.

The legislative clerk read as follows:

On page 50, line 10 strike "616" and insert the following: § 616 of title 18, U.S.C. is amended to read as follows:

"§ 616. Acceptance of outside income.

"No elected or appointed officer or employee of any branch of the Federal Government may receive any salary, wage, or other income of any nature in excess of $15,000 per annum, other than Federal Government compensation established by law while serving as such an officer or employee. Violation of this section is punishable by a fine of $5,000."

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Simply by brief way of explanation, as I said in the colloquy that Senator ALLEN and I had a few minutes ago, I can very easily live within any limitation that the Senate wishes to impose on outside income, including the $15,000 limitation. That does not bother me.

What bothers me is that one source of outside income is singled out for limitation while all other sources are allowed to remain limitless, and that includes income from law practices, business interests, ownership of stocks and bonds and their dividends that are received thereby, and income of all other sources.

I simply think it is unfair for this Congress to do such a thing, so I think all income ought to be limited. If we are going to limit one, let us limit them all.

I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I wonder if the Senator from Alabama would yield for a question.

Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. The Senator has the floor.

Mr. ABOUREZK. I had the floor.

Mr. PACKWOOD. I thought I had the floor.

Mr. ALLEN. The Senator from Oregon had the floor. He yielded to the Senator from South Dakota for purposes of submitting the amendment, and he still maintains the floor.

Mr. PACKWOOD. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. If the Senator wants to yield the floor, the Senator from Alabama will be glad then to yield to the Senator from Oregon.

Mr. PACKWOOD. No; I do not want to yield the floor. But will the Senator yield for a question while I have the floor?

Mr. ALLEN. No; that would hardly be in order. I will yield if I have the floor. Not having the floor, I have nothing to yield.

Mr. PACKWOOD. I am intrigued with the theory of the Senator from Alabama. He has alluded to Senators and Congressmen being bought, that they go to appear before groups that are not interested in hearing our oratorical ability or thoughts upon legislation but really want to pay us off in exchange, apparently, for a vote or favorable consideration because they have invited us to speak; or, at least, I judge that is what he is driving at. Although, he said that does not apply to all groups. I certainly do not think he would indicate that it applied to the University of Alabama when Senator RIBICOFF and I spoke there.

But we are well aware of the rumors—I cannot verify this; I think the rumors probably are true—of lawyers in Congress—and I am a lawyer—who take partnership shares from a law firm. They do no work for the law firm. The law firm has clients that have interests before Federal agencies or before Congress.

We are all aware that there are Members—or at least rumors of such—who have interests in farming operations, interests in brokerage houses, who are still receiving money from those operations, although they do not put in any significant time in the running of those operations.

We do not have time. If we are going to be responsible Congressmen, we have to spend the bulk of our time in Washington, attending to public business.

When I was elected to the Senate in 1968, I sold all my interests in the law firm and have received no interest from it at all from the time I started serving.

However, it seems to me that if the Senator is talking about conflicts of interest here, if he means to allude to the fact that perhaps we are invited to speak before groups who want us to come or to write articles for groups or publications put out by special interest groups because they are interested in incurring our favor, then his amendment is drawn too narrowly. We should require public disclosure of all income, from whatever source derived, of whatever amount, and then let the public make up their minds as to whether or not there is a conflict of interest, based upon that disclosure.

If the Senator is not really alluding to the fact that we are being bought or that our favor is being incurred but that it takes too much time away from Congress, I point out that I cited the other day the earnings of the top money earners on the speaking circuit; and their attendance is above that of the average in the Senate. They are not missing business because of that. Others who do not make much money from speaking are missing more votes than that group.

The thing that intrigues me about the Senator's proposal is that we cannot be paid more than $1,000 to write an article or to make a speech, or more than $15,000 a year, but there is no limit on what we can be paid to write a book.

I was approached by a publishing company to write a book. I am no good at writing. I thought of taking a whirl at it. But writing is a painfully slow process. I admire journalists. I admire people who are glib of pen. I chose not to do it.

If the Senator is opposed to somebody being paid a thousand dollars to write a book, I would think he would be opposed to a Senator or a Member of the House being guaranteed $25,000 or $50,000 by a publishing house to write a book.

The Senator says it is only because we are Senators that we are asked to make these appearances.

Mr. President, apparently, it is only because we are Senators that we are asked to write a book. Nobody ever asked me, when I served in the State legislature, to write a book. Nobody ever asked me, when I was practicing law privately, to write a book. When I came to the Senate, I was asked to write one. Yet, the Senator's limitation would say that it is perfectly all right. Instead of writing one article and calling it an article and being paid, it is all right, in essence, to write 20 articles, string them together, call it a book, have it published, and be paid $20,000. To me, that kind of distinction is nonsense.

In this bill, we are talking about disclosure. The very reason why we are talking about honorariums in this bill is that the Rules Committee made a change in the law regarding honorariums. This was not sprung on the floor for the first time. The Rules Committee made a change when the matter came out of the Rules Committee. It is germane to this bill. A limitation was put in 2 years ago, when the bill was passed initially.

We are all familiar with the fact that the House has very strict rules of germaneness, and there are very few bills that are relevant and germane and under consideration by the House to which this proposal can be attached.

So it is relevant to this bill; it is germane to this bill.

In all fairness, if we are going to talk about either full disclosure or limiting our outside income, it should be all income which, by any conceivable stretch of the imagination, might be tainted, because we receive it because we are Senators. To draw this artificial distinction and say that it refers only to that income from speeches, only that income from writing little articles, not big books, which is going to be limited, that, to me, is unfair and is artificial.

Again I say that if the Senator or others are alluding to the fact that special interest groups are trying to buy us, we have taken care of that problem in the Senate. It was taken care of before I came to the Senate, by requiring that these honorariums be listed. A Member has to tell where he went, to whom he spoke, on what date, and how much he was paid. That information is filed every May 15. They are public documents and normally are published every year in the newspapers, including our home papers.

We all have to run for reelection. We have to answer to our voters in connection with whom we spoke to, where, and when. It seems to me that that is a much better body to be responsive to than to set an artificial limitation, an artificial amount for a very narrow spectrum of activities, and not attempt in any other way to limit any other outside income that might allegedly come to us solely because we are Members of the U.S. Senate.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. GOLDWATER. Mr. President, I think this matter has been discussed thoroughly. It was debated thoroughly the other day, and I move that——

Mr. President, I withhold my motion.

Mr. PACKWOOD. Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, while the Senator from Oregon is making a call for a Senator who is not in the Chamber, I will try to explain to my colleagues and those citizens who may not understand the genesis or the source of the so-called honorarium.

To begin with, "honorarium" is not even explained in the proposed legislation. I looked it up in a dictionary, and it reads:

> An honorary payment or reward, usually in recognition of gratuitous or professional services on which custom or propriety forbids any price to be set.

There is not even that simple explanation in the proposed legislation.

Mr. President, I never have figured out how much money is available through colleges alone in this country, to pay for a series of lectures. I do not know of many colleges in this country that do not have annual sessions of speakers. They range all the way from prominent businessmen to professional this, professional that, and certainly included would be the attitudes and the thinking of Members of Congress or men in politics. I do not know all the sources of these funds. But I think they come mostly—as I know with respect to colleges in Arizona—from local people who have sufficient sums of money to see that the school is provided with enough money to bring in speakers.

In the colleges I know of in Arizona, the student's fee to attend these lectures is included in the student union dues. Then additional tickets are sold to citizens of the community or citizens of the State. I know of two such programs that earn a considerable sum of money on top of the money that they pay to the person who is speaking.

I know that these honorariums, so-called, sound like a devastatingly large amount of money, and it is a large amount of money. But when you take one-third off the reported fee, which goes to the man or the company that has arranged a date, and then you have travel arrangements, which are not always included, you are lucky if you wind up with half the money that was reportedly paid to the person who is accepting the so-called honorarium.

That is as brief an explanation as I can give of these amounts that are available to public speakers all over the country. I might say, Mr. President, having been in this business for many, many years, that the agencies are always looking for new speakers. They never have enough to fill the bill, or even take the invitations that are offered.

I think this is a service that can be offered the universities of the country. I think it would probably be very nice if each one of us felt that we could afford to travel across this country. One night next week I am going out to Brigham Young University in Utah. I shall get my expenses paid and I shall spend all night getting back. Last night I was in Wichita, Kans., as we say in Spanish, "por nada," or for nothing.

I enjoy doing it, but I like to feel that once in a while, when one organization that I know can afford it says to me, "Look, we would like to have you be the principal speaker at our convention, and we will pay you, give you $3,000," I should like to think that I could take that.

I do not think I am any different from the average person in this body. I am reportedly a wealthy man. I think that is the most costly reputation I have ever had come about. When a grandfather of 10 is supporting 7 of them and 2 children who have broken families, it is not easy. When I look at what I have to spend—and, as I say, I am no different from any other Member of this body—when I look at what I have to spend on the first of January, before I even buy a loaf of bread, every penny I make in this body is gone.

People might say, "Well, why don't you get out of it and go back to something that you can do better at?" I am too old for that. Nevertheless, on this business of the grass is always greener on the other side—$44,000 is a lot of money. I remember when I was president of my corporation, I finally got the board to raise my annual salary to $6,500. That was the third biggest salary paid in the State of Arizona. The same corporation has not a salary now within $3,000 of being that low.

This being on the Government payroll, trying to keep a home at home and a home here, even though we are allowed some tax benefit, having an automobile at home and an automobile here, double expenses—I can tell my colleagues, I can tell the American public that it is not all it is piped up to be. It is costly.

I think it is perfectly all right, perfectly legal for us to be able to accept honorariums whenever they are offered. My good friend from Oregon has mentioned books. I had my first book published in 1941; and you know who published it? BARRY GOLDWATER, all by himself. I made some money on it, so it was all right. But now, lo and behold, I am a U.S. Senator. Like my friend from Oregon, I find writing very difficult, but I do enjoy it. I do it mostly because I have staff members who can put my English into understandable English. Most of my English, I will admit, could not be printed. But after my staff gets through with it, it reads in a rather nice way.

I am on a radio program. Nobody is going to ask Mr. GOLDWATER of Arizona to go on a radio program. I go on television shows once in a while. I am a union member of the Television Actors Guild, a dues-paying member, and very proud of it. And I do pretty well with it. But that is not prohibited.

So here I stand, able to make far, far more money than most Members of this body only because the bill we are talking about was so narrowly drawn, it has such a vicious, mean purpose behind it, that we did not have time, really, to think it out. I think that if we really want to go the whole way, I would favor the amendment offered by my friend from Alabama last year and the effecting amendment now being offered to his amendment to say, you are going to get—whatever it is, $42,000, $42,350 a year—and that is it. Although I keep remembering that probably the best legislators we ever had were not paid anything, I do not propose that we go back to that.

I just wanted to say these few words because I do not think this amendment of the Senator from Alabama and the amendment that is proposed to it by the Senator from South Dakota are necessary. Therefore, Mr. President, I move that we lay——

Mr. PACKWOOD. Mr. President, will the Senator withhold?

Mr. GOLDWATER. For the same purpose we discussed before?

Mr. PACKWOOD. Yes; I should like to suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, has a motion been made to lay the amendment on the table?

The PRESIDING OFFICER. Does the Senator withdraw the motion?

Mr. GOLDWATER. I did not make that motion.

Mr. MANSFIELD. I thought I heard the Senator make it.

Mr. GOLDWATER. I was in the motion of making a motion, and I stopped the motion of making the motion.

Mr. MANSFIELD. Mr. President, did the Senator from Arizona make a motion or not?

The PRESIDING OFFICER. He was in the middle of making a motion.

Mr. GOLDWATER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I understand to accommodate absent Senators a request is going to be made that the motion to table soon to be made by the distinguished Senator from Arizona (Mr. GOLDWWATER), whom I admire so very much, after that motion is made the matter will be passed over in order that another amendment can be offered and discussed, and then have a back-to-back vote on the amendment or motion to table, whatever might be pending.

I would like to comment a little bit though on what the distinguished Senator from Arizona has said about the general subject of honorariums and writing books and one thing and another.

He spoke of his writing books and then his staff would brush up what he had written. Well, I assumed he was talking about his publishing staff rather than his Senate staff making those changes because I do not believe he would have his Senate staff working on a book he is about to publish. But, in any event, the staff would brush up the Senator's draft of his book and then send it to the publisher. I, of course, would be delighted to purchase any of Senator GOLDWATER's books because I know they would be well worth reading.

I was—it is hard to say amused—somewhat chagrined would be a better word, to hear the distinguished Senator speaking of this business of——

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senator withhold? We will have order in the Senate so the Senator from Alabama can be heard.

Mr. ALLEN. I was somewhat chagrined, possibly even disappointed, at the remarks about the sad state of those members of the Federal Establishment who are on the lecture circuit. They have to pay a third of their honorariums to booking agents. They apparently would book a U.S. Senator just like they might book a talking dog act or some sort of a sideshow, and I would think it a little bit beneath the position of a U.S. Senator to have booking agents to book him into towns and to pander his services to various people who might want to hear from a Senator.

So I am not too outraged at the plight that such members of the Federal Establishment might find themselves in. The high cost of booking agents would seem to have entered into the discussions on this bill, and that is real bad, and I guess we ought to condemn by passing in the Senate a sense-of-the-Senate resolution, Mr. President, like we do about these SALT agreements, SALT I and SALT II—pass a sense-of-the-Senate resolution decrying the high rates of compensation of booking agents for speeches by Senators.

I might say I would vote for such a sense of the Senate resolution because they should not treat our Senators that way. They should not charge them a third of the take. They should not charge them that. That is too high a compensation for a booking agent to get, to get one-third as much as the U.S. Senator who has to leave these hallowed Halls to rush to the place where he is to make a speech and spend 30 minutes making a speech, and pick up his check and then come back to these hallowed Halls and for that the booking agent gets one-third. [Laughter.]

I would be willing to join in the introduction of a resolution that would decry this high cost of booking agents or the high fees of booking agents for Senators' speeches because that is what apparently makes this limitation so confining.

One thousand dollars is not enough when you take into consideration that you have to pay your booking agent—and I guess every self-respecting Senator has got him a booking agent. I am not very self-respecting because I do not have such a booking agent. [Laughter.]

But I am certainly willing to accommodate the wishes of those who are seeking to defeat this amendment, and if it is the wish of the leadership to make unanimous-consent request I have no objection to that.

Mr. MANSFIELD. I thank the Senator from Alabama.

Mr. GOLDWATER. Mr. President, I move to table division one of the Allen amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent—and I do this because I understand there are about 10 Members down at the White House at the present time for the signing of the Marianas covenant bill which passed both Houses and which is on the President's desk—that the vote on the motion to table the Allen amendment be set aside; that the Senate proceed to the Allen amendment No. 1517 on which there is a time limit of 30 minutes equally divided; that upon the disposition of the Allen amendment No. 1517 the Senate vote on the motion to table the original Allen amendment.

Mr. GOLDWATER. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER (Mr. TOWER). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, if the Senator will yield, what is the pending business?

The PRESIDING OFFICER. Is the Senator from Alabama offering his amendment?

AMENDMENT NO. 1517

Mr. ALLEN. I call up my amendment No. 1517, and inasmuch as it was offered prior to the introduction of the substitute amendment, I modify my amendment to conform to the wording of the substitute amendment.

The PRESIDING OFFICER. Without objection, it will be so modified.

The clerk will report the amendment of the Senator from Alabama.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) offers a proposed amendment 1517, as modified to amendment No. 1516.

SEC. . (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse, during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

Mr. ALLEN. Mr. President, I yield myself such time as I may need.

Mr. President, this is a very simple amendment. In this age where disclosure is not only sought but demanded by the public and we require disclosure of information in many areas, I think it might be well for the entire Federal Establishment to make a disclosure of their assets, of their income, the sources of that income each year, and that this disclosure be made a matter of public record.

That is all that the amendment does. It provides that any Federal employee, including Members of the House and Senate, including members of the judiciary, including members of the executive department, each year shall file a financial statement giving a listing of his assets, the value of such assets, and the liabilities, nature of such liabilities and amount of liabilities, and, subtracting one from the other, giving his net worth.

And then not only give a statement giving their assets and liabilities and net worth, but also give a statement of their income for the preceding year and the sources of that income.

In lieu of making the second half of the disclosure, that is, the nature of income, the sources of income and the amount of the income, they might file, if they saw fit, a copy of their Federal income tax for the preceding calendar year which would, of course, contain all of this information required.

This information would be kept by the Comptroller General, filed as an official record open to the public.

I feel that this amendment is in line with the desire and demand of the public generally, that those who serve the public should advise the public of how they are profiting from such public service and from income outside such public service, and also give a statement of their assets and liabilities so that the comparison can be made of their financial status at any given time and in comparison with any previous year.

Such a report would not be required under the amendment of anyone making $25,000 or less, but as to any person in the Federal employ making in excess of $25,000 per year, this statement would be required.

Many such bills have been introduced in the Senate. I have been a cosponsor of such a bill. I believe the distinguished Senator from New Jersey (Mr. CASE) has been a pioneer in this effort. But for some reason or another, these bills do not seem to get out of the committee. They do not seem to get on the Senate floor for consideration.

So this is an opportunity to vote on this measure which I think is very definitely in the public interest and is well within the right of the public to demand to know.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 5 minutes.

I simply wish to respond to the Senator and say that his statement a moment ago, that these proposals never get out of committee, is in error.

Right now, there is pending, of course, a number of proposals on this particular point that are referred to committee, but a predecessor bill that I introduced (S. 366) was passed by the Senate. That was part of an election bill, that had a similar provision in it. S. 372 in 1973 and again in 1974, as a part of the bill S. 3044, had a very similar provision in it, although some of them were a little broader than the precise proposal of the Senator at this time.

Accordingly, I am going to attempt to broaden it right now.

Mr. ALLEN. Will the Senator yield just a moment for a question?

Mr. CANNON. Yes.

Mr. ALLEN. I heard the Senator's recital of the bills that had gotten out on the floor. I did not seem to hear him say that was an independent bill of this sort. It was always part of another bill, such as we are trying to do right here. Is that correct?

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I thank the Senator.

Mr. CANNON. S. 366, S. 372, and, again in 1974, as part of S. 3044.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from Nevada that the amendment is not in order. This is an amendment to the Allen amendment?

Mr. CANNON. This is an amendment to the Allen amendment.

The PRESIDING OFFICER. The amendment will not be in order until the time has been used or yielded back on the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that it be in order to offer this amendment now. I think it will probably be acceptable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 15, after the period insert the following: "The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within 30 days after the date on which he becomes a candidate within the meaning of such section, and on each February 15th thereafter so long as he is such a candidate.".

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, the essence of the amendment has been stated now. It would apply to any person who was a candidate for Federal office, and require him to comply with the reporting provisions of the bill, and to file a reporting within 30 days after they become a candidate.

Mr. ALLEN. I think it is a fine amendment. I am delighted to accept it. I think it improves the thrust of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Will the Senator yield me a minute?

Mr. CANNON. I yield to the Senator.

Mr. MAGNUSON. Mr. President, I am not opposed to this amendment. We have a State law in my State which requires this anyway. But we are, as in some other States—though not too many—a community property State. This raises serious legal questions because a spouse owns half of the property. Also, agreements can be made where a spouse can have separate property which would belong only to her. I am wondering how this amendment would apply under the community property law. Suppose the spouse said, "Well, I am not responsible for this because I had the bad judgment to marry a Senator. I should not be made a second-class citizen. I have my own property and I should be no different than anyone else."

How would this apply to that situation?

Mr. ALLEN. The amendment provides for the person and his spouse. It would not only cover men and their wives but women and their husbands.

Mr. MAGNUSON. Yes, it would work both ways.

Mr. ALLEN. It would apply. That is one of the burdens he would assume on becoming a Federal employee.

Mr. MAGNUSON. If it applied, it would apply to community property that was acquired during the time of the marriage. But there is some legal doubt about whether the separate property is put on the table. If there is a divorce or a separation suit, the judge puts it all on the table and makes a decision.

It seems to me it might be a little bit harsh on a spouse who has a separate income, not from politics, that he or she should be subject to this ruling. The problem only arises in what we call community-property States, of which I believe there are seven or eight.

There might be a spouse who would say, "I am not going to tell anybody. I am not a public official. I will not tell anybody unless I want to." As far as the Senator from Washington is concerned, I have voluntarily complied with this provision in accordance with Washington State law. This provision poses a real legal problem when applied to community property.

Mr. ALLEN. I imagine that anyone objecting to the filing of this could make a legal point of it. The law is probably going back to the Supreme Court.

Mr. MAGNUSON. It would not be the public official herself or himself who would object, but it would be the spouse who says, "I am not a public official."

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. ALLEN. I think there would be more reason for requiring this in a community property State than there would be where there was separate image. At least the husband would have community property with his wife's property as well. If anyone objects to doing this, they could make a legal point of it.

Mr. MAGNUSON. I will probably get popular with the women's lib. Legally, there have been some cases where the husband is supposed to be the breadwinner and there are court decisions, where the wife became the breadwinner for the family and he happened to be a public official. This poses some problems.

As the Senator says, I suppose this matter will be taken to the court.

The PRESIDING OFICER. Who yields time?

Do the Senators yield back their time?

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

Mr. CANNON. Will the Senator withhold? This is on my amendment to the Allen amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada to the amendment of the Senator from Alabama.

The amendment to the amendment was agreed to.

Mr. CANNON. Mr. President, I yield myself 5 minutes on the amendment of the Senator from Alabama.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on H.R. 49 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Tower). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 49 to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of March 23, 1976 beginning at page 7677.)

Mr. CANNON. Mr. President, I move the adoption of the conference report on the Naval Petroleum Reserves Production Act of 1976—H.R. 49—and in connection therewith I have a brief statement.

The report was signed by all the conferees of the House and the Senate. The Senate will act first on the report.

The bill, as reported by the conferees, represents what I consider to be an excellent compromise between two substantially different pieces of legislation—H.R. 49 on the part of the House and S. 2173 on the part of the Senate.

H.R. 49, as passed by the House, authorized the establishment of national petroleum reserves under the administration of the Interior Department and directed that the naval petroleum reserves become a part of the national petroleum reserves. The national petroleum reserves were then to be produced at the maximum rate with the oil going into the Nation's pipelines to ease the energy crisis.

S. 2173, on the other hand, retained Navy jurisdiction over the existing reserves, but directed that they be produced with the oil being sold on the open market and the proceeds used to help defray the costs to complete the development of the naval reserves and to fill a strategic storage system.

Mr. President, there were 26 conferees on this bill from the Armed Services and Interior and Insular Affairs Committees of both the House and the Senate. The conference met in formal, open session seven different times to reach agreement on the many issues.

The bill as it is presented in this report accomplishes the objectives of both pieces of legislation as originally passed by the respective House. Navy jurisdiction is retained over Naval Petroleum Reserves 1, 2, and 3 and immediate production is directed. The oil produced is to be sold on the open market with adequate protection provided for small, independent refiners. Initial production is for a 6-year period and there is a mechanism to extend that period providing the Congress does not object. The proceeds from the sale of the oil are to go into a special account where they will be available as offsetting receipts to reduce outlay requirements, not only for continued exploration and development of the naval reserves, but also for the construction and filling of a strategic storage system as authorized in the Energy Policy and Conservation Act and for operations in the Alaska reserve which I shall discuss next.

The huge, largely unexplored reserve in Alaska presented a different case than the three naval reserves in the continental United States. The outlay of capital that will be required to explore and develop the Alaskan reserve and the extremely difficult environmental problems that can be expected, strongly suggested that retention of Navy jurisdiction was inappropriate. Therefore, the conferees agreed to transfer jurisdiction of Naval Petroleum Reserve 4 in Alaska to the Interior Department on June 1, 1977. It is made very clear that the ongoing program of petroleum exploration is not to be jeopardized, but any development leading to production is specifically prohibited until the President directs a study on production alternatives and gets congressional approval before proceeding.

Mr. President, this bill accomplishes several things:

First, it puts domestic oil in the Nation's pipelines, thereby reducing import requirements;

Second, it puts dollars in the Treasury as a result of the sale of oil. These dollars are earmarked to pay for further development of the naval reserves and for a strategic storage system that more adequately protects this country from energy blackmail; and

Third, it maintains necessary congressional oversight of these important national resources.

I know of no opposition to the conference report. The Departments of Interior and the Navy and the Federal Energy Administration have been consulted during the course of our deliberations and, as far as I know, support the concepts we have reported.

I move the immediate adoption of the conference report.

Mr. CRANSTON. Mr. President, after nearly 3 years of congressional effort—impeded alternately by stalemate and inertia—I am delighted that we are at long last on the threshold of opening up the oil-rich Elk Hills Naval Petroleum Reserve to full production.

Today the Senate has before it the conference report on H.R. 49, the Naval Petroleum Reserves Production Act of 1976. Title I provides for a transfer of authority for administering the vast Petroleum Reserve No. 4 in Alaska from the Secretary of the Navy to the Secretary of the Interior, effective June 1, 1977. A major exploration program is authorized, but development and production are precluded at this time.

Title II amends title 10 of the United States Code which previously prohibited any production from the naval petroleum reserves except for national defense purposes and only after a recommendation by the President and an act of Congress. The new provision maintains Navy jurisdiction over reserves numbered 1, 2, and 3, but authorizes and directs that within 90 days of enactment, the Secretary shall commence oil production for 6 years at the maximum efficient rate—MER. For Elk Hills, the MER is now estimated to be approximately 350,000 barrels a day.

The Secretary is also authorized to construct, acquire or contract for the use of storage or shipping facilities. If necessary, the Secretary may condemn any pipeline not operated as a common carrier if the owner refused to carry, without discrimination and at a reasonable rate, any petroleum produced at the reserve. In addition, if new pipelines are required, rights-of-way may be acquired by the use of condemnation under Federal statutory authority, but such pipelines must be operated as common carriers. At Elk Hills, pipelines and associated facilities capable of handling 350,000 barrels of oil a day are required to be in place not later than 3 years after enactment in order to assure the availability of the necessary facilities to transport petroleum from the reserve and to maintain production at the maximum efficient rate.

While this production is authorized for only 6 years, the bill also provides a mechanism whereby additional 3-year extensions of the production authority can be accomplished. If, at the end of the first 6 years of production, or a subsequent 3-year extension, the President determines the necessity for continued production, he must submit a recommendation to the Congress, together with a certification that the continued production is in the national interest. If neither the House nor the Senate affirmatively disapproves this Presidential recommendation, production is then authorized for another 3-year period.

SMALL REFINERS

The Secretary is required to structure bids for the sale of the Government's share of the oil in such a manner as to insure a full and equal opportunity for the acquisition of petroleum from the reserves. In no event may more than 20 percent of the Federal share of petroleum produced from Elk Hills be acquired by a single purchaser.

In addition, the Secretary has the authority, if he finds it to be in the public interest, to set aside up to 25 percent of the estimated Federal production for small refiners not having an adequate source of petroleum of their own.

COMMON CARRIER PIPELINES

When the Senate considered its version of H.R. 49 last summer, I offered an amendment to conform to the committee bill to that passed by the House on the issue of requiring that pipelines serving the reserves be common carriers. This was necessary to insure that successful bidders on the U.S. share of oil from any of the reserves not face any risk of being unable to transport it from the reserve to the refinery through discrimination by private carriers. I am thus pleased that the conferees have fashioned common carrier language which requires that any pipeline used to carry any petroleum from the reserves must accept such petroleum produced from them without discrimination and at reasonable rates.

Mr. President, I wish to commend the distinguished chairman of the Armed Services Committee's Subcommittee on Naval Petroleum Reserves (Mr. CANNON) for his diligent efforts to bring this long-stalled issue to fruition. It was nearly 3 years ago—during the critical fuel shortages in the winter of 1973—that Senator TUNNEY and I first called upon the Congress to authorize production from these reserves. It was especially ironic during those dark days of fuel shortages—when Californians faced the spectre of rolling blackouts, long gasoline lines, and temporary industrial shut-downs—to know that 1 billion barrels of crude oil lay in the ground untapped just a few miles away in Kern County, Calif.

Today, the Senate takes its final step toward finally opening up these reserves to production. While we are fortunately not facing severe and immediate fuel shortages such as those created by the Arab oil embargo, the production of oil from Elk Hills and other reserves is an important insurance policy against suffering such shortages again. Furthermore, the 350,000 barrels a day that can eventually be produced from Elk Hills will displace 350,000 barrels a day of oil we are now importing. That can have a positive economic impact by curbing the current outflow of oil dollars.

Mr. President, I strongly urge the Senate to approve this conference report so that we can get on with the business of assuring our citizens that we will have adequate domestic sources of energy for our future needs. The authorization of production from the naval petroleum reserves, together with the exploration program planned for the huge reserve in Alaska, is an important spoke in the wheel that may move us toward a measure of energy self-sufficiency.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CANNON. I yield 1 minute to the Senator from California.

Mr. CRANSTON. Mr. President, I am delighted that the Senator from Nevada has brought this measure to the floor in the form it is in. I commend him for his work on it. It is a very significant piece of legislation which I believe will mean a great deal in making more oil available on this continent.

Mr. CANNON. I yield 1 minute to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I commend the Senator from Nevada on the resolution the conference committee has made to the problems we may have had initially in the consideration of this measure. It is my understanding that they have been resolved to the satisfaction of all conferees. I share with him his satisfaction with the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN). Who yields time?

Mr. CANNON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alabama has 9 minutes. The Senator from Nevada has 8 minutes. Who yields time?

Mr. CANNON. I yield the Senator from California such time as he may require.

Mr. CRANSTON. Mr. President, there may be only one other amendment to be offered. That is one I would like to offer. Since apparently there is no more to be said at this time on the Allen amendment, I ask unanimous consent that I may submit my amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, what is the amendment?

Mr. CRANSTON. It is the amendment the Senator's staff has seen regarding the amendment suggesting the $1,000 threshold.

Mr. PACKWOOD. $1,000 for organizational limits, or $1,000 per candidate per year?

Mr. CRANSTON. $1,000 for each communication. I am seeking permission to send it up now, that is all I am asking, so that we can discuss it.

Mr. PACKWOOD. I thought the Senator was moving its adoption.

Mr. CRANSTON. No, I am asking unanimous consent to call it up.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question recurs on agreeing to the amendment of the Senator from Alabama.

ADDITIONAL STATEMENT SUBMITTED ON AMENDMENT NO. 1517

Mr. ROTH. Mr. President, I am voting in favor of the Allen amendment, not because I believe that it is a complete or the best means of preventing corruption by public officials, but because the Senate has so far failed to make any meaningful reforms in this area.

My reservations to the approach embodied in the Allen amendment are basicly two in number. First, it would strip some public officials of their rights to financial privacy without any evidence that these individuals are involved in criminal activity. Second, I fear that it might actually prove to be counterproductive to the prevention of corruption by public officials by lulling the press and public into the belief that public disclosure is an effective check where in reality, it may not be much of a check at all. Those who would abuse the public trust would also not hesitate to lie about their personal finances, just as they would on their tax returns. The only way to check would be through a complete and exhaustive audit.

A better approach to this problem, in my judgment, lies in Senate Resolution 175 which I introduced last summer. This resolution would require that the very extensive confidential financial disclosure statements now filed by Senators, Senate officers, and staff aides who are paid at the rate of $15,000 annually or higher would automatically be made available on request to any competent Federal or State court in any case involving alleged criminal misconduct by that Senator, officer, or employee. The resolution would also require that the financial disclosure statements would be provided to a grand jury investigating allegations of criminal misconduct by a Member of the Senate.

I believe that this approach would preserve the privacy rights of public officials while insuring that they would be fully accountable for their financial records in the event that there were suspicion of crime.

Mr. ALLEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 1517, as amended) of the Senator from Alabama (Mr. ALLEN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARY HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until Senators take their seats. The Senate will be in order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 76, nays 13, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—76

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Laxalt
Magnuson
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—13

Buckley
Byrd, Harry F., Jr.
Curtis
Eastland
Hansen
Hruska
Long
McClellan
Ribicoff
Scott, William L.
Stennis
Talmadge
Young

NOT VOTING—11

Bayh
Biden
Brock
Church
Gravel
Hartke
Inouye
Jackson
Leahy
McGee
Percy

So Mr. ALLEN's amendment was agreed to.

Mr. CANNON. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question now recurs on the motion to table division 1 of the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered.

Mr. CANNON. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Mr. President, if the motion to table is agreed to, does that carry the Allen amendment and the amendment to the Allen amendment that is pending?

The PRESIDING OFFICER. Division 1 of the Allen amendment and the Abourezk amendment thereto would fall.

CHILD DAY CARE SERVICES UNDER TITLE XX OF THE SOCIAL SECURITY ACT—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 9803 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HANSEN). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9803) to postpone for six months the effective date of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no lower than those in effect in September 1975, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of March 9, 1976, beginning at page 5841.)

Mr. LONG. Mr. President, under the Social Services Amendments of 1974, child care operators receiving funds under the social services program are required to meet certain Federal standards including standards with respect to the number of staff in relation to the number of children served. The 1974 legislation would have required child care facilities to come into compliance with the standards by October of last year or face a denial of Federal funds. Because these standards would have increased substantially the cost of operation for many child care operators, possibly resulting in a cutback in the amount of care provided, Congress deferred the effective date of these staffing standards insofar as they apply to preschool children to February 1, 1976. This was intended to allow time for the development of legislation which would make it possible to implement the standards without curtailing services.

In January, the Senate passed the bill H.R. 9803, which would have provided the necessary funding to enable States to come into compliance by raising the annual limit on social services funding by $250 million starting with $125 million in fiscal year 1976. This bill would have also provided substantial incentives for States to meet the new staffing standards by employing welfare recipients. It would have modified the child care requirements somewhat in the case of family day care homes and would have allowed State rather than Federal standards to apply in facilities serving only a few federally funded children.

Because the House conferees could not reach an accommodation with the House Budget Committee over certain technical matters, action on this measure was delayed and the House ultimately was unable to accept the Senate provisions on a permanent basis although the House conferees did not, I believe, have any substantive disagreement with the Senate provisions. However, agreement was reached to adopt the provisions temporarily through September 30 of this year, and I feel confident that it will be possible to further extend them at a later date. Thus, the conference agreement largely follows the Senate provisions although on a somewhat limited and temporary basis. A more detailed description of the agreement is presented in the statement of the conferees, and I ask unanimous consent that the statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. Mr. President, since the time the conferees reached agreement on H.R. 9803, the lawyers of the Department of Health, Education, and Welfare have discovered that, by a contorted reading of the language in the legislation, they can find a way to interpret it to defeat its purposes. While I do not see how any reasonable reading of the bill could reach that conclusion, I want to make the legislative history on this point completely explicit. The provisions of section 3(d)(2) of the bill as agreed to by the conferees are intended to operate only as a limitation on the provisions of section 3(d)(1). Thus, these two paragraphs taken together have the effect of increasing the Federal matching rate for child care services from 75 to 80 percent but making that increased matching applicable only to the additional $125 million in funding provided by this bill. There is no intent to in any way limit, restrict, or reduce the social services funding otherwise available to States under existing law.

EXHIBIT 1

DESCRIPTION OF CHILD CARE CONFERENCE REPORT—(H.R. 9803)

The House bill provided for the suspension until April 1, 1976, of Federal staffing standards for the care of preschool children in child care facilities receiving funding under the Social Security Act. The Senate amendment provided that these standards will be suspended until July 1, 1976. The conference substitute suspends the standards until July 1, 1976.

The Senate amendment added a statement of findings and purpose to the effect that the new child care standards will require increased expenditures and that the purpose of the bill is to provide funding to meet these added costs. The conference substitute includes this statement.

The Senate amendment added a provision which would increase the $2.5 billion limit on Federal funding for social services programs by $250 million annually beginning with fiscal year 1977 (with $125 million in fiscal year 1976 and $62.5 million for the July-September 1976 transition quarter). The additional funds would be available only for matching State child care expenditures and 80 percent of the funds (prior to the fiscal year beginning October 1, 1977) would be allocated among the States on the basis of State population. The Senate amendment required that the new funds be used in such a way as to increase the employment of welfare recipients and other low-income persons in child care related jobs to the maximum extent feasible as determined by the States. The conference substitute provides that $62.5 million in additional Federal child care funding will be available for fiscal 1976 and $62.5 million for the July-September transition quarter. No funding is provided beyond September 30, 1976.

The Senate amendment permitted States to use a part of the additional funding to reimburse providers of child care for the costs of employing welfare recipients. Under the Senate provisions, the amount payable to a qualified provider could not exceed $4,000 (an additional $1,000 in Federal funding would be available as a tax credit or, in the case of public and nonprofit providers, as a Treasury Department payment in lieu of tax credit). These payments could be made only to child care providers having a clientele at least 20% of which is composed of children receiving child care funded under the Social Security Act. The conference substitute generally follows the Senate provision except that payments to public and nonprofit providers could be made up to amounts equal to $5,000 per year per employee. (Such providers would not be eligible for a payment in lieu of the tax credit.)

The Senate amendment provided that the additional social services money available for child care would be eligible for matching State expenditures at an 80% rate rather than the current-low rate of 75%. The conference substitute accepts this Senate provision.

The Senate amendment provided that 20% of the additional funding available in fiscal year 1976, the July-September 1976 transition quarter, and fiscal year 1977 would be allocated by the Secretary of Health, Education, and Welfare to States which he determines to need additional funds because of special difficulty in meeting the child care standards. Funds set aside for special needs but not used would be reallocated on the basis of State population. The conference substitute includes this provision with respect to the additional funding provided for fiscal 1976 and the transition quarter.

The Senate amendment extended the work incentive program expense credit allowed by section 40 of the Internal Revenue Code of 1954 to permit a credit for a portion of the wages paid to an individual who is a Federal welfare recipient who is employed in connection with a child day care services program, and made several other changes in the rules applicable to the computation of the credit allowable for expenses of employing such an individual. Specifically—

(1) the limitation on the amount of the credit allowable for work incentive program expenses under section 50A(a)(2) of the Code, which limits the maximum credit to $25,000 plus 50 percent of tax liability in excess of $25,000, would not apply to so much of the credit as is attributable to Federal welfare recipients employed in connection with a child day care services program;

(2) the amount of the credit allowable for wages paid to any particular Federal welfare recipient could not exceed $1,000;

(3) the credit would be allowed to a State, a political subdivision of a State, or a tax-exempt organization;

(4) the credit is allowed for wages paid to such a Federal welfare recipient after September 30, 1975, and before January 1, 1981; and

(5) the full credit would be refunded to the taxpayer even if the amount of the credit allowed exceeded his tax liability (in the case of a State, a political subdivision of a State, or a taxexempt organization, the entire amount of the credit would be refunded).

The conference substitute is the same as the Senate amendment, with the following exceptions:

(1) Under the conference substitute, States, political subdivisions of States, and tax-exempt organizations are not eligible for the credit against tax allowed by section 40 of the Internal Revenue Code of 1954 (relating to expenses of work incentive programs).

(2) Under the conference substitute the credit is not refundable in excess of the taxpayer's liability for tax.

(3) Under the conference substitute, the credit is allowed only with respect to wages paid after the date of enactment of the conference substitute and before October 1, 1976.

A taxpayer who intends to claim the credit allowed by section 40 of the Internal Revenue Code of 1954 for the taxable year can, of course, adjust his quarterly payments of estimated tax, or his withholding (in the case of an individual), to take account of the amount of the credit he expects to claim.

The Senate amendment would permit State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served (or, in the case of a center, there are no more than 5 such children), provided that it is infeasible to place the children receiving Federally funded care in a facility which does meet the Federal requirements. The amendment would also modify the limitations on the number of children who may be cared for in a family day care home by providing that the family day care mother's own children not be counted unless they are under age 6. This change would apply retroactive to October 1, 1975. The conference substitute accepts the Senate amendment on a temporary basis effective through September 30, 1976.

The Senate amendment added a provision making permanent certain modifications provided under P.L. 94–120 governing funding of services for addicts and alcoholics. The provisions involved (which expired January 31, 1966) require that special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available to persons in institutions. The conference substitute accepts the Senate amendment.

Mr. CURTIS. Mr. President, I oppose this legislation and urge my colleagues to reject the conference report.

In all fairness, I must state that my

objections go principally to the bill itself rather than to the specific action of the conference committee. The distinguished chairman of the Committee on Finance has handled the conference in a manner to which I have no objection. As our chairman has explained, the conference committee accepted most of the provisions of the Senate bill. The duration of these provisions was limited, however, to accommodate the objections of the House Budget Committee.

Thus, from the Senate's standpoint, this was a "successful" conference. Nevertheless, this is still ill-advised legislation and I urge its rejection. As the Senate is aware, this legislation continues for a brief period the suspension of the day care staffing ratios imposed under title XX of the Social Security Act. Once this brief suspension expires on July 1, 1976, the staffing ratios will go into effect. This bill also provides that States will receive additional title XX funds to comply with these requirements.

The fallacy of this bill is that it continues the assumption that Congress has such a monopoly on wisdom and sensitivity that only we can be trusted to decide how many children can be adequately cared for by one adult in a day care center. I cannot accept this notion as a matter of principle.

Moreover, in this particular case, we must candidly admit that the standards we now impose and fund are ones which may not even be appropriate. The standards continue to be controversial even among day care professionals and the administration is even now engaged in a study that we directed to determine what standards are appropriate. Even if a case for mandatory Federal staffing ratios could be made, it has not been made yet.

Given these facts, I cannot accept the argument that we should let the standards go into effect and then provide additional money to enable States to comply with these standards. At the very least, I would like to obtain the facts first. As our colleague, Senator Packwood, noted earlier when we debated this bill, when we make a mistake, it is imposed nationwide. In my view, we are continuing a serious mistake here and seeking to bury it in an avalanche of Federal dollars.

Thus, while I commend our chairman for our "successful" conference, I must oppose this bill. We should reject this conference report and then pass legislation simply postponing these staffing ratios. This will give us time both to ascertain the facts and to consider other alternatives such as the President's social services block grant proposal.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Under Secretary Marjorie Lynch of HEW.

There being no objection, the letter was ordered to be printed in the Record, as follows:

March 15, 1976.

Hon. Hugh Scott,
Minority Leader, U.S. Senate,
Washington, D.C.

Dear Mr. Scott: This letter is to express to you the Department's strong opposition to the conference report on H.R. 9803 and to ask you to bring our concerns over the report to the attention of other Members of the Senate.

The conference report would authorize an additional $125 million over and above the $2.5 billion ceiling on funding under title XX of the Social Security Act to assist States in meeting the costs of full enforcement of the Federal interagency day care requirements (FIDCR) as modified under title XX. Favorable congressional action on this new entitlement—to be available to the States for the balance of the current fiscal year and for the July 1–September 30, 1976 transition quarter—would effectively commit the Congress to perpetuation of the controversial FIDCR staffing standards and later authorization of $250 million annually in order to help States meet the costs of their full implementation.

As you know, the President has recommended, as part of his social services block grant proposal introduced as S. 3061 and H.R. 12175, that FIDCR, and particularly the costly and controversial staffing standards, be deleted from Federal law. Under the President's proposal, each State would be required to have in effect its own appropriate mandatory standards, including requirements relating to safety, sanitation, and protection of civil rights, for day care services provided under title XX. We strongly believe that the formulation of staff-to-children ratios and related standards for day care services is most appropriately left to State discretion just as the formulation of teacher-pupil ratios and related standards is left to the States under Federal education assistance programs.

Also, enactment of the conference report would violate the spirit and intent of both title XX as it exists and the President's block grant proposal by earmarking a specific amount of title XX services funds for a specific purpose. The States fought long and hard in the years preceding enactment of title XX to win the flexibility to make their own decisions on the best uses of Federal services funding.

Thus, should the Congress act favorably on the conference report, it would signal a retreat from the historic steps toward a more productive Federal-State partnership taken in title XX just a year ago.

Moreover, the conference report contains a substantial technical defect. We are advised that section 3(d)(2) of the report is intended to integrate the report's provision for 100 percent Federal payment of "Federal welfare recipient employment incentive expenses (*i.e.*, the salaries of welfare recipients employed to provide child day care services in child day care facilities) with the report's provision to establish an 80 percent Federal share for other child day care services under title XX. Because this intent is so imperfectly rendered by the section, the report instead appears to limit the "total amount of the Federal payments which may be paid to any State" for fiscal year 1976 and the transition quarter to a small fraction of the amount that would be paid under current law.

In lieu of the conference report, we urge that the Congress extended to October 1, 1976, the moratorium on imposition of the child day care staffing standards enacted by Public Law 94–120 last October. This will give the Congress time to pass the President's title XX block grant proposal.

We are advised by the Office of Management and Budget that enactment of H.R. 9803 would not be consistent with the Administration's objectives.

Sincerely,

Marjorie Lynch,
Under Secretary.

Mr. CURTIS. Frankly, Mr. President, the objection to this legislation is that the States should be allowed to decide how many children an adult in charge of a day care center can look after. The idea that such matters should be determined by the Congress of the United States is ridiculous. It is denying the right of local self-government. It is preventing parents and local interested citizens from having something to say about this in their local communities, and it is turning it over to some incompetent and often theoretical professionals.

Mr. President, I shall not vote for the conference report.

Mr. JAVITS. Mr. President, if Senators will read the letter to which Senator Curtis has properly referred, they will see that the whole premise of the letter is the President's block grant proposal. The President's block grant proposal, in my judgment, considering the fact that it ends up with the recipients receiving less and less and less, is simply, I think, as one Senator, not going to go very far, very fast.

Therefore, the States are left in the position in which a professionally backed up finding about what it takes to run a decent day care center program is going to leave them between two stools.

My State, for one, cannot stand the gaff financially. When, as, and if another program is adopted to replace this one, OK, we can do it. But until we do, we just do not have it, and the people who are going to suffer are the children. Therefore, I very much hope, Mr. President, that the Senate will approve this conference report.

I wish to ask the chairman of the committee a question on another matter. There is also pending the need, based on a House bill, for a short-term extension, under title 20, of the inhibition against putting into effect the new regulations with respect to the old people's centers. This is a very serious matter, because an individual means test will be imposed if those regulations go into effect as of April 1. We have put in a bill on that score which has over 30 cosponsors. I ask the chairman of the committee whether or not there is any likelihood of action on that bill which has come over from the House, which extends the situation, leaves it where it is, until October 1, 1976.

Mr. DOLE. Mr. President, I must reluctantly vote against the conference report on H.R. 9803, but not because I am in disagreement with its goals of improving the availability and quality of day care services. On the contrary, I believe there is a real need for a limited Federal role in encouraging these programs; unfortunately, the provisions of this measure do not represent the best and proper means of achieving those objectives.

In the minority views of the Finance Committee's report on this measure, we expressed the feeling that day care staffing standards should be left to the discretion of the respective States—without any uniform magic Federal formula. This legislation is inconsistent with that principle, however, in that it mandates the application of strict Goverment-determined ratios in all States, effective July 1, 1976.

This is another example of Congress sayiling, "What's Good For New York is Good For Kansas or Wyoming or California," and I cannot go along with that type of paternalism. The far more desirable approach would be to allow the States to decide for themselves what is necesary and appropriate for themselves in this area—and then extend our support in helping them meet those criteria.

H.R. 9803's failure to do that may very well result in its being vetoed, since the administration has stated similar preferences. In any event, I am hopeful that we may soon be able to reverse this trend of telling the States and localities what they have to do—not just with day care services, but with all related programs.

Even conceding the legitimacy of the standards to take effect by this legislation, we are being very premature to call for their enforcement before HEW has a chance to complete its study on the matter—which will not happen for more than a year. For these reasons, Mr. President—and without forsaking any commitment to upgrading the private and public care given our children of working parents—I would urge the defeat of this report, and hope for the development of a better solution.

Mr. MONDALE. Mr. President, I rise to comment briefly in support of the pending conference report on H.R. 9803.

The bill before us today resolves a difficult and painful choice in what I believe to be a moderate and reasonable fashion.

The Social Services Amendments of 1974 relaxed the standards applying to federally assisted day care, but strengthened the requirement that these standards be enforced. As the effective date—last October 1—approached, it became clear that much of the day care provided under title XX did not meet these standards with respect to staffing ratios and with respect to health and safety requirements as well. Since spending for social services was and is virtually at the statutory ceiling, meeting the standards under existing law would require children to be dropped from day care, or would require hard-pressed State governments to come forward with substantial additional State funding.

Under legislation originated in the House of Representatives, the effective date of the standards was postponed until last February 1, to permit development of a solution.

And the distinguished Senator from Louisiana (Mr. LONG) designed an innovative new approach, an approach I was pleased to cosponsor and which is embodied in the legislation before us today.

In essence, there are three key provisions in the pending bill.

First, the bill further relaxes the application of day care standards, first, by permitting States to waive Federal child-staff ratios in centers with fewer than five or fewer than 20 percent title XX-connected children, and second, by permitting the disregard of two of a family day care mother's own school age children in the application of child-staff ratios to family day care homes.

Second, the bill provides additional funding for day care at the annual rate of $250 million, effective as of this April 1. These funds, which will be available as an entitlement on an 80–20 Federal-State matching basis, will help to meet the additional cost of compliance with the standards.

Third, where day care employees are hired from the welfare rolls the bill would permit States to reimburse 100 percent of the cost of the first $5,000 of salary cost, with no Federal match. With respect to profitmaking day care centers, the bill would limit such reimbursement to $4,000, with the remaining $1,000 supplied by an extension of the existing incentive tax credit, scheduled to expire June 30. I believe this emphasis is a hopeful one, promising both to reduce the net cost of this program by reducing Federal and State welfare payments, and to provide productive work for many who long for this opportunity. I would note that funds for training are available on an 80–20 matching basis under this bill, and on a 75–25 basis under existing law outside the title XX ceiling.

Fourth, the bill extends suspension of the child-staff ratios from February 1 until July 1, to permit necessary adjustments to be made.

In order to satisfy objections raised by the House Budget Committee, all provisions in this bill would expire on October 1 of this year. Grants of $125 million to States would be available during the 6-month life of this bill, further extension will be in order following adoption of the first concurrent resolution on the budget, scheduled to take place by May 15.

This compromise bill would cut the cost of compliance with day care standards in half. It supplies funding to meet those costs. It is within the congressional budget, as measured by both Budget Committees.

Mr. President, this bill does not require States to change their own day care standards. It says only that where Federal funds are used to provide care for children outside their homes, then the Federal Government has some responsibility to see that the care they receive meets minimum standards.

And I hope the President will take account of the alternatives when he considers H.R. 9803.

If this bill does not become law, there will be no waiver. The cost of compliance will double.

If this bill does not become law, there will be no funds to help States, local governments, and day care providers come into compliance.

If this bill does not become law, the existing, tougher standards must be applied retroactively, back to February 1.

I am hopeful that this bill will become law. I wish to express my thanks to all those who have worked so hard toward that end.

I wish again to express my deep admiration for the skill and dedication demonstrated by the distinguished chairman of the Senate Finance Committee (Mr. LONG) in shepherding this measure through the Congress.

And—speaking, I think for all those who have worked for this bill—I wish to give special recognition to the hard work and perseverance of Liz Robbins, whose efforts went far beyond the call of duty, and without whom we would still be on the drawing boards.

Mr. President, I ask unanimous consent that editorials which appeared in the Washington Post and the New York Times of March 15 may appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 15, 1976]

DAY CARE SAVINGS

The provisions of the Social Security Act which support child care programs may be substantially nullified unless the House acts favorably on a bill which provides funds to bring local day care programs up to the standards required by Federal law.

Most states were already severely strapped for social services money when, in 1974, Congress enacted mandatory standards for federally assisted day care facilities covering such matters as health, nutrition and staff-child ratios. The trouble was that Congress failed to provide funds to help the states meet those standards and, as the time for putting them into effect approached, many programs were in danger of being cut off. To meet that problem, Senator Russell B. Long of Louisiana drafted a bill to provide the money and added strong incentives for programs to hire people off the welfare rolls.

There is now some reluctance in the House—bolstered by menacing noises from the White House—to act favorably on the measure because it will cost $125 million for the balance of this fiscal year. That is a pound-foolish view because in addition to serving nearly two million children, the program helps shave welfare costs. The director of Social Services in Georgia has estimated that its implementation in his state alone will produce an overall saving of $2 million. The House ought not to miss this rare opportunity to do good and save money at the same time.

[From the Washington Post, Mar. 15, 1976]

GIVING DAY CARE A CHANCE

There is little doubt that the day care program has been a great benefit to working women in this country, especially those who have been trying to make the transition from welfare to careers. No one can accurately count the dollars saved in welfare payments, or the dollars gained in the economy from goods and services sold or tax revenue received. But day care has proved that it makes sense to help people work. Now, because of legislative and bureaucratic entanglements, the day care programs in most of the 50 states are in jeopardy.

The House, acting under a suspension of its rules, will vote today on whether to accept a $125 million conference report intended to assist the states in meeting a set of tough health, safety and staffing standards in their day care programs. Without those additional funds, the day care programs in most of the states will not be in compliance with federal regulations. Failure to comply with any one of the standards can mean loss of all federal funds.

A survey of the 50 governors has found that meeting those health and safety standards has been impossible for most of them with the funds available up to now. In many states, the staff requirements have been difficult to meet, but most governors say they can't meet the health, safety and management standards either. Yet, those standards are important if the parents of children are going to have confidence in the day care program. They must feel their children are in a safe and healthy setting.

In themselves, the standards pose no other problem than the money to help the states meet them. There is an argument from some

Republicans on the Hill that the answer might be to delay putting into effect standards indefinitely. That is decidedly not the solution. Further delay only means either cutting services to meet the standards out of existing revenue or exposing small children to the danger that might befall them because the standards are not being met.

Neither of those is as attractive an alternative as that of having the House accept the conference report. It is an investment whose benefits demonstrably outweigh the cost. In addition to helping the states meet the physical standards, that $125 million will result in the employment of more welfare recipients in the day care program. We think the House should make the investment without further delay.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

Mr. JAVITS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. I yield the floor gladly.

Mr. GOLDWATER. Is not the parliamentary situation the vote on tabling the Allen amendment? We have been here all day. We have called people back from the White House. Now we are off on something altogether different.

The PRESIDING OFFICER. It is the opinion of the Chair that the presentation of the conference report by the chairman of the Committee on Finance is a privileged matter under rule XXVII. It is under that rule that it is now being considered.

Mr. MANSFIELD. Mr. President, I call the attention of the Chair to the fact that it was a unanimous-consent request which laid aside temporarily the tabling motion of the Senator from Arizona (Mr. GOLDWATER), the vote to be followed immediately by a vote, on which there was a time limitation attached, to the amendment of the Senator from Alabama. I raise a point of order: If there is going to be a rollcall vote on this, I want a vote on the Goldwater motion first. I ask for a ruling from the Chair.

Mr. CHILES. Is the Chair going to rule on that?

The PRESIDING OFFICER. Yes, it is. It will announce when it is going to rule.

Mr. JAVITS. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. I yield to the Senator from Montana, of course, and to the Senator from Florida. I just wanted to keep the floor.

The PRESIDING OFFICER. The Chair holds the point of order not well taken and reads rule XXVII:

> The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

Mr. MANSFIELD. Mr. President, it was my understanding that a unanimous consent, if agreed to, superseded anything and everything except a motion to adjourn.

Mr. LONG. Mr. President, as I understand it——

Mr. MANSFIELD. Mr. President, could I have a ruling?

The PRESIDING OFFICER. You may, indeed. Will the Senator suspend for a moment?

The opinion of the Chair is that the unanimous-consent request permitted consideration of an amendment prior to voting on the motion to table, which vote was to be had upon disposition of the amendment. Yet, despite that fact, rule XXVII, in the opinion of the Chair, would be governing since the unanimous-consent order did not require the vote on the motion to table immediately without intervening motions of a privileged nature.

Mr. MANSFIELD. I appreciate what the Chair has just said, but it was not to postpone the consideration of an amendment; it was to vote on the Goldwater motion to table an amendment.

In view of the fact that the leadership and the Senate as a whole made a commitment to Senators who were absent, and therefore delayed this vote, I ask unanimous consent that the vote occur immediately on the Goldwater motion to table.

Mr. LONG. I object.

Mr. MANSFIELD. Then we will go back on this other one.

Mr. LONG. My objection, Mr. President——

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. There is going to be some more talk and they want the yeas and nays.

Mr. LONG. That is all right with me, too. If they want the yeas and nays, let us have the yeas and nays.

I ask for the yeas and nays, myself.

Mr. MANSFIELD. I do not mind about the yeas and nays, but I do place some value on a promise made to delay a vote because 10 Members were down at the White House.

Mr. PASTORE. I was here when the promise was made.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on agreeing to the conference report.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CANNON. Mr. President, a parliamentary inquiry.

Mr. MANSFIELD. Call the roll.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. JAVITS. Mr. President, I asked a question. Do I get an answer? I will take a limitation of 30 seconds, but I would like an answer. What is the Senator going to do about title 20 for the older people?

Mr. LONG. That is not in this bill. As soon as we vote on this report, let us get together and we shall talk it over.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been asked for. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON) and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 59, nays 30, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—59

Abourezk
Baker
Beall
Bentsen
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Fong
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Laxalt
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Tunney
Weicker
Williams

NAYS—30

Allen
Bartlett
Bellmon
Buckley
Byrd, Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Fannin
Ford
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
McClellan
McClure
Morgan
Nunn
Packwood
Proxmire
Roth
Scott, William L.
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Bayh
Biden
Brock
Church
Gravel
Hartke
Inouye
Jackson
Leahy
McGee
Percy

So the conference report was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The question recurs on the motion by the Senator from Arizona (Mr. Goldwater) to table the Allen amendment, division No. 1.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that the Senator from Vermont (Mr. Leahy) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock) and the Senator from Illinois (Mr. Percy) are necessarily absent.

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—57

Abourezk
Baker
Bentsen
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Cranston
Curtis
Dole
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hatfield
Hollings
Hruska
Huddleston
Humphrey
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Schweiker
Scott, Hugh
Sparkman
Stevens
Stevenson
Stone
Symington
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—31

Allen
Bartlett
Beall
Bellmon
Bumpers
Byrd, Robert C.
Clark
Culver
Domenici
Durkin
Eagleton
Fong
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Helms
Kennedy
Mansfield
McIntyre
Morgan
Nelson
Proxmire
Randolph
Ribicoff
Roth
Scott,
William L.
Stafford
Stennis
Taft
Thurmond

NOT VOTING—12

Bayh
Biden
Brock
Church
Gravel
Hartke
Inouye
Jackson
Leahy
McGee
Pastore
Percy

So the motion to lay on the table division 1 of Mr. Allen's amendment was agreed to.

The PRESIDING OFFICER (Mr. Buckley). The question recurs on division 2 of the Allen amendment.

Mr. ABOUREZK. Mr. President, I have an amendment to division 2 of the Allen amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Abourezk) proposes an amendment:

On page 50, line 14, strike "616" and insert the following: Section 616 is amended to read as follows:

"§ 616. Acceptance of outside income.

"No elected or appointed officer or employee of any branch of the Federal Government may receive any salary, wage, or other income of any nature in excess of $15,000.00 per annum, other than Federal Government compensation established by law while serving as such an officer or employee. Violation of this section is punishable by a fine of $5,000.00.".

Mr. ABOUREZK addressed the Chair.

Mr. PACKWOOD. Will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. PACKWOOD. As I understood, the amendment just offered is identical to the amendment upon which we just voted. It was a decisive vote. I plan to move to table this amendment. I do not want to cut anyone off, and I will withhold the motion for a moment.

I will make the motion to table. As I understand it, the amendment is identical to the amendment upon which we just voted.

Mr. ABOUREZK. As I understand, the Allen amendment had to be divided into two parts, and I offered my amendment to the second part similarly to the way I offered my amendment on the first part. If the Senator is going to move to table, the only reason this is being done is because of procedural limitations. It is the same thing as we had before.

Mr. PACKWOOD. I do not plan to ask for the yeas and nays unless some other Senator wants them.

Mr. ABOUREZK. I do not need a rollcall vote.

Mr. PACKWOOD. I do not want to cut anybody off, but if there is no discussion, I would move to table the amendment. I understand the motion to table would carry with it both division 2 of the Allen amendment and the amendment of the Senator from South Dakota to division 2 of the Allen amendment.

The PRESIDING OFFICER. The motion to table the Allen amendment would carry with it the Abourezk amendment.

Mr. PACKWOOD. I so move to table.

The PRESIDING OFFICER. The motion is to lay on the table.

The motion to lay on the table division 2 of the Allen amendment was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, is it in order to move to reconsider the previous vote by which the motion to lay on the table division 1 of the Allen amendment was agreed to?

The PRESIDING OFFICER. It is in order.

Mr. PACKWOOD. I move to reconsider that vote.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, line 16, after the word "expenditures", insert the following language: "in excess of $1,000".

Mr. CRANSTON. Mr. President, unless this amendment is adopted, the following would occur under the bill as it is now before us:

If a local chamber of commerce invited a candidate for Congress to speak on behalf of his candidacy at its regular meeting, the chamber of commerce—local, State, or whatever—would have to attribute a portion of the cost of the meeting, rental of the hall, and the cost of the meal based on the number of minutes the candidate spoke, and then fill out a Federal form and file that in Washington.

If a local union business agent, going from job site to job site to settle grievances, took several minutes at each job site to urge union members to vote for a candidate, he would have to keep track of the actual number of minutes spent, figure the total cost of his time and transportation, and come up with a cost per minute figure, all of which he would have to report in writing with the Federal Elections Commission.

If the president of a small business, at a meeting of his management officers, urged them to work for the defeat of an antibusiness candidate, he would have to keep a record of his time and costs, and report the whole affair to the Federal Government.

The amendment I have offered would place a $1,000 threshold on this reporting requirement. It would remedy this intrusion into the normal activities of organizations and the enormous volume of paperwork involved, by assuring that the reporting requirement is confined to significant activities whose fundamental purpose is to influence the election of a candidate.

We have set up a Federal Commission on Paperwork to do away with needless paperwork, but if we do not watch carefully what we are doing here, we are going to create the most amazing proliferation of paperwork that one could imagine.

The language now in the bill has no threshold above which reports must be filed about efforts that may relate in only a very minor way or an insignificant way to an election. Every requirement in the bill except the particular requirement my amendment addresses itself to has a threshold. Without a reasonable threshold, every minute of an employee's time, every minute spent at a stockholders' meeting, every speech before a Rotary Club advocating the election or defeat of a candidate would have to be translated into dollars and cents and reported to the Federal Government. Every sentence in a letter from a union agent to union members, every line in an industry trade publication, every word in a political club's monthly newsletter which urged the election of a candidate would necessitate the filling out of a Federal form to be filed in Washington.

I think these consequences are intolerable, for three simple reasons:

First. This reporting requirement is a totally unnecessary intrusion of the Federal Government into the routine political activities of individuals and organizations.

Second. The amount of paperwork required to make these reports would be staggering and would particularly discourage the activities of volunteer political clubs and organizations, which are usually the only way the average citizen can be active in politics. I think that this time, when there is so much cynicism and despair about politics, is the very worst time to do anything more to discourage individuals from working together in political activities.

Third. The average small business, individual union local, or voluntary membership organization would find it technically very difficult and very troublesome to allocate costs so as to come up with an accurate dollars and cents figure for relatively insignificant communications and activities.

So I propose this amendment, in summary, to put a $1,000 threshold on the reporting requirement of the amendment offered to this bill by the Senator from Oregon (Mr. PACKWOOD). This would enable us to distinguish between significant political efforts by an organization and the routine expression by an organization of its political opinions.

We have a responsibility, I think, in all cases, to temper any Federal reporting requirements which could serve to harass or intimidate reasonable and legal private activities by individuals and groups, whether in political activities or any other type of activities. Particularly in the area of political expression, we want to be very sure we do not intimidate or discourage people from getting organized or involved in politics. This amendment is aimed at protecting the little company, the union local, the membership group, or whatever it may be. I think this amendment is important because there would be reporting of activities by such groups, and I urge the adoption of the amendment.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. NELSON. I would like to have the Senator respond to some questions for clarification in my own mind.

Do I correctly understand that the pending legislation requires that a businessman or a union member keep track of time spent supporting a candidate, or is that a regulation of the Federal Election Commission?

Mr. CRANSTON. Let me read to the Senator from line 11, page 15 of the pending bill, which will stand if the bill is passed without my amendment or some similar language:

> A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures under paragraph (1) to the extent that they are directly attributable to such communications.

That means that someone working on union time or business time, putting out a communication to stockholders, a communication to members of a labor union, communications to members of any organization, business, labor, or private, would be required to count whatever time or money was spent. If they put out a mailing, a newspaper to union members, or a bulletin to stockholders—and this would include verbal communications—advocating the election of a candidate, they would have to figure out that cost and report it.

Mr. NELSON. This applies to corporations and businesses of all kinds?

Mr. CRANSTON. It applies to a corporation, labor organization, or other membership organization. That could be the members of Sierra Club or other organization.

Mr. NELSON. Does it apply to all of the members of Sierra Club or other organization?

Mr. CRANSTON. It would apply to a communication made to the members, so that if a member speaks as an individual to the group advocating a candidate or if the organization sends out a mailing to its members, that would count. Certainly if an official, particularly a party official, communicates in any way in behalf of a candidate, that would count.

Mr. NELSON. So the Senator is saying that his interpretation of this provision in the bill is that a member of the Sierra Club or any other association who went out on his own time, in the evening, to speak in behalf of a specific candidate, would have to do this?

Mr. CRANSTON. I think it is unclear as to an individual member working on his own time. But any official of the business group or the organization as well as anyone paid by a union, the chamber of commerce, and so forth, who spoke or who says in an official publication representing the organization, a publication which may consist of 99 percent of something else, but in one point "Relect Senator NELSON," that would count.

Mr. NELSON. Then is it the Senator's interpretation that it has to be a paid employee or owner?

Mr. CRANSTON. It is not clear. I suspect that might be the way that it would be interpreted, but the language is not clear in the bill as written.

Mr. NELSON. Simply for my own information and clarification I shall ask: If there is a small business which is incorporated, with two owners, who are husband and wife, and they run a little business operation of some kind, are they covered by that?

Mr. CRANSTON. Yes; if it is a publication of a corporation or small business, a communication to their members or stockholders.

Mr. NELSON. I understood the Senator to say if they spoke in behalf of the candidate.

Mr. CRANSTON. If an official speaks, or if a labor union member speaks on union time.

Mr. NELSON. No; I start out with a case of a small corporation, say a little business incorporated with two or three owners.

Mr. CRANSTON. All right.

Mr. NELSON. They do not have any publication, but the owners decide to take time off, go out and peddle literature, go to meetings, and speak in behalf of the candidate. Are they required to report that as a contribution?

Mr. CRANSTON. To members of his group, yes; to the general public, no. Let me add this point. Even a volunteer, after he came to a meeting and spoke, would have to figure out the cost of the meeting, the hall, food served, and so forth, and allocate that. If 5 minutes were taken by someone who was allowed a platform to advocate some candidate, then the cost of 5 minutes' worth of that meeting becomes an attributable, reportable cost.

Mr. NELSON. So if the League of Women Voters has a meeting, and they invite candidates, as is their practice to invite candidates, to come and respond to questions expressing their views——

Mr. CRANSTON. They have provided a platform for the advocacy of the election of a particular candidate. The cost of that meeting to that extent would have to be allocated under this bill as written.

Mr. NELSON. In the course of the activities of the league, they are not endorsing, but it is the practice to invite candidates for Congress, from both parties, candidates for State legislatures, from both parties, mayors, city councilmen, aldermen. Now they have a league meeting, and all of these candidates come. Does the league then have to report that they provided the facilities, and so forth, for a candidate to speak in his own behalf or someone else in his behalf?

Mr. CRANSTON. The interpretation of the counsel of the Committee on Rules and Administration of this language, as written, is yes, that would have to be reported. It is similar to providing a billboard so a candidate's name can be blared forth. That is obviously a campaign expense. This is the same. It is a meeting provided as a platform for advocacy of an election of a particular candidate.

Mr. NELSON. It sounds like an act of insanity on our part to include such a provision in legislation. What are we trying to do?

Mr. CRANSTON. I do not think that it was intended to be that broad, but that is as broad as it appears to be. That is why I am offering an amendment in a moment of sanity on my part.

Mr. NELSON. Let me pursue this a little further. So the league is going to have to report, and if the amendment of the Senator from California is adopted, then, in this particular case, the league would have to keep track of all time. At such stage as they shall have computed the cost for the contribution to reach $1,000, then they have to report even under the Senator's amendment. Is that correct?

Mr. CRANSTON. No; under my amendment if there was one meeting or one communication that could be interpreted as having a value of $1,000 that would have to be reported. But there would not be an accumulative aggregate building up.

Mr. NELSON. How is the value of the meeting determined?

Mr. CRANSTON. They have to compute the cost. Any rent for the hall, any cost of the utilities that had to be paid, any expense for food and alcoholic beverages served.

Mr. NELSON. Then if a member, let us say an employee of the union, a union officer, goes to a meeting of another union, or goes to a meeting forum of any kind——

Mr. CRANSTON. A meeting of his union. Forget about another union, because that apparently would not count. But a meeting of his union members on his union time, that would be reportable.

Mr. NELSON. So if the president, secretary-treasurer, business agent, or anyone who is employed by the union, makes a speech at a union meeting, saying, "I, president of this union, believe that we ought to elect so-and-so," that is chargeable?

Mr. CRANSTON. Right.

Mr. NELSON. How do we compute the cost there? Do we have to take the value of the hall?

Mr. CRANSTON. We have to find out the value of the hall, any utility bills they have to pay, the lighting for the particular moment he is speaking, his salary, and how much time out of his 8-hour or 12-hour day he took for this particular purpose. If he gave a 30-minute speech for one candidate, then that much is charged. If he mentioned his name and took a couple of minutes, he still would have to calculate the value of that.

Mr. NELSON. That is something.

Then, if he gives a half-hour speech, he has to compute what his hourly rate of pay would be if he translated his salary into an hourly rate; is that what the Senator is saying?

Mr. CRANSTON. Right.

Mr. NELSON. This union official in this case goes to a meeting at night. There is a rally, say, called in the labor temple. A thousand people come. They are having the candidate there, and the union official is there. It is in the union hall, and the union official gives a speech. Even though it is in the evening and everyone comes on his own time, he has to compute that as a contribution?

Mr. CRANSTON. I would assume that it would be considered part of his official work. He might have his travel expenses paid, and he might be paid for whatever he spent on parking and for his meals, and so forth. The union, presumably, would pay something for the use of that hall. Therefore, all of that would have to be computed and reported.

Mr. NELSON. Then, when a corporate president, such as Mr. Geneen, whose salary the last time I knew it was $750,000 a year, gives a brief speech to his executives, he would have to compute out the 8 hours a day and divide it into this $750,000 and compute his computation that way; is that right?

Mr. CRANSTON. Yes; if that were a $250,000 board room or some meeting in the Bahamas or some convention in Bermuda, he would have to calculate all the costs of the very expensive board room, or the cost of the trip to Bermuda, or wherever the pitch was made, for a candidate.

Mr. NELSON. This does not apply to lawyers, I take it, who represent corporations or represent unions, or does it? Suppose a lawyer has a retainer from General Motors and another one has a retainer from the AFL–CIO, as a lawyer, but he goes out and does some campaigning. Is he covered?

Mr. CRANSTON. That is not clear. If a lawyer made a communication to a 40-member law firm saying, "I think we all ought to support so-and-so," that would count.

Mr. NELSON. Even though the law firm is not incorporated?

Mr. CRANSTON. It would not matter whether it was incorporated or not.

Mr. NELSON. So if one of the members of the law firm had a strong conviction about a candidate and decided to send a letter to members of the law firm, the secretaries, manager of the office, and so forth, writing it on his own time and saying this, "I think you ought to vote for so-and-so and here is the reason," that counts?

Mr. CRANSTON. He would have to tell Uncle Sam how much all of that cost in writing, filing it here in Washington.

Mr. NELSON. Then under the amendment that the Senator from California has offered, the provisions of this section would not be triggered, so to speak, until such time as this individual or this organization had made a contribution equivalent to $1,000 or more?

Mr. CRANSTON. An expenditure, an effort, or an endorsement that costs $1,000.

I should like to add that anybody who did not manage to comply with this law as it is now written would be subject to a $5,000 fine, even if they did not report some very penny-ante expenditure which was covered under this law.

Mr. NELSON. Nevertheless, even under the amendment of the Senator from California, all these thousands and thousands and thousands of people in the country will have to start keeping a personal written record, so that they will know when they get to a thousand dollars.

Mr. CRANSTON. Most people do not spend a thousand dollars on a particular event. Most groups do not. But if they do, they will be pretty conscious of it, I think.

If I spent $30 today, $40 tomorrow, and $50 the day following, I would not have to add all that up. Under my amendment, it would have to be an action, a meeting, a communication that cost at least $1,000 before it would have to be reported.

Mr. NELSON. I am curious. Why does the Senator not offer an amendment to knock out the entire section? It strikes me as a preposterous, bureaucratic interference with the activities of people. It is totally unmanageable. I think we should have the paperwork commission that is now studying Federal paperwork study this matter and give us a report before we put such stuff in the statutes, with criminal penalties.

Mr. CRANSTON. I say to my colleague that this section was originally offered as an amendment by the Senator from Oregon. I voted against the amendment, but it prevailed by a fairly reasonable margin, not overwhelming. It is, therefore, the will of the Senate. I do not think the Senate understands exactly the consequences of this section. We analyzed it and found that these were the real implications. Maybe the Senate would reverse itself. But since the Senate adopted it, I offered an amendment which I thought was a reasonable compromise with the will of the Senate as expressed in the vote the other day.

Mr. NELSON. I must say that the matter puzzles me. I may have some more questions, but I will be happy to step aside momentarily, while the Senator from Louisiana makes whatever inquiries or observations he desires.

Mr. JOHNSTON. Mr. President, I have one question, if the Senator will yield.

Mr. CRANSTON. I yield.

Mr. JOHNSTON. The section sought to be amended speaks of a communication, and therefore the thousand-dollar limit would define or limit the cost of a communication. The Senator means, I take it, to make the duty to report a cumulative duty; so that if an organization or a corporation sent a series of mailings of which the individual cost was less than a thousand dollars but the cumulative cost was more than a thousand dollars, there would be a duty to report.

Mr. CRANSTON. The answer is "No." We felt that for the reasons developed pretty well by the Senator from Wisconsin in his questions, it would be an intolerable burden to keep track of a number of actions that would be very minor, communications that might be very insignificant in size and in cost, but which eventually could add up to a thousand dollars over the course of a year-long political campaign. Those of us who drafted the amendment I have offered felt that we should just limit it to a single action which cost $1,000 and have that as the threshold.

Mr. JOHNSTON. Suppose someone puts out a mailing on Monday to the A's which cost $999, and did that for 26 days in a row, at a total cost of $25,000——

Mr. CRANSTON. Very plainly, that would be a deliberate evasion of the law, and that would count as one communication.

Mr. JOHNSTON. By what test does the Senator determine one communication or a series?

Mr. CRANSTON. I should think that it would be the test of reason. If you start with the letter "A" and mail the letter "B" the next day, that might be because you do not have the capacity to mail the entire alphabet in 1 day.

Mr. PACKWOOD. Mr. President, will the Senator yield? I could not hear the Senator.

Mr. CRANSTON. The Senator from Louisiana was asking about somebody trying to get around this by just mailing the letter "A" one day, costing $900, and the letter "B" the next day, costing $800, as to whether that would have to be reported. I say that it would have to be reported. That obviously would be a single communication, even though it were done on different days.

Mr. PACKWOOD. Suppose it is the letter "A" today and a telephone solicitation tomorrow?

Mr. CRANSTON. I am not certain. Perhaps the Senator from Wisconsin has a wiser idea: We should eliminate the entire section and not be faced with such knotty questions.

Mr. PACKWOOD. Do I correctly understand the Senator's initial presentation to be—in looking at his sheet, I see reference to the chamber of commerce—that he contends we are imposing this intolerable burden of reporting on little organizations that communicate with their members and that that is unfair? Is that the thrust of the Senator's amendment?

Mr. CRANSTON. Will the Senator repeat the question?

Mr. PACKWOOD. As I read the Senator's examples—the chamber of commerce, the local union, the president of a small business—we are imposing upon them an intolerable recordkeeping burden, to see that they do not make communications that are valued at more than a thousand dollars.

Mr. CRANSTON. Yes, I think that is an intolerable recordkeeping burden.

Mr. PACKWOOD. I am curious. Is it not true that under the present law, the law that was in effect before 1974, every organization that communicated with its members specifically advocating the election or defeat of a candidate had to report it as a contribution, with the exception of corporations and unions, which were exempt by the law? That has been the law, that is the law, and we have made no change, and this has existed in the past.

Mr. CRANSTON. Perhaps we have to look at that, too. I am concerned with this particular provision in this amendment, which plainly—on page 15, line 11, section 2—does what I stated it does.

Mr. PACKWOOD. The present law is that any organization that communicates with its members, advocating the specific election or defeat of a candidate, must report that as a contribution now—and that has been the law for years, with the exception of unions and corporations communicating with their members or with their shareholders. We then added this amendment last week, the so-called Packwood amendment, imposing upon unions and corporations the same thing we have imposed upon every other organization in this country for years.

Mr. CRANSTON. May I say that I believe the Senator is wrong. The present law does not include—this is section (c)—any communication by any membership, organization, or corporation to its members or stockholders, if such membership, organization, or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to office.

Mr. PACKWOOD. Read the section about contributions—specifically, paragraph (f).

Mr. CRANSTON. I did not hear the Senator.

Mr. PACKWOOD. Specifically, paragraph (f), the definition of "contribution."

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Do I correctly understand that the Cranston amendment is a perfecting amendment to the Cannon substitute?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Would a substitute to the perfecting amendment of the Senator from California be in order?

The PRESIDING OFFICER. In the second degree, the amendment would be in order.

Mr. BUMPERS. Mr. President, I send such substitute to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment in the nature of a substitute to the Cranston amendment:

Substitute for the language of the Cranston amendment the following:

On page 15, line 18 of Amendment 1516, strike the period and add the following: "*Provided, however,* That such expenditures need not be reported with respect to any candidate unless they exceed $1,000 with respect to that candidate."

The PRESIDING OFFICER. The Chair advises the Senator that since the amendment addresses itself to a line other than that of the pending amendment, it would not be in order as a substitute.

Mr. BUMPERS. The Senator understands. I will attempt a redrafting.

Mr. JOHNSTON. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. I yield.

Mr. JOHNSTON. Suppose someone had a phone bank situation in which, for a period of 30 days, let us say, he hired a building, rented telephones, paid employees on a weekly basis, and had utility expenses and other incidental expenses—coffee, all those things that go with the operation of a phone bank. All of these bills would come in separately, the payroll checks would be paid separately. Would we aggregate those expenses and treat them as a one-time expense for the purpose of the $1,000 limitation? Would it be on a daily basis? Would we characterize the expenditures? Just how would we handle that?

Mr. CRANSTON. I am not certain. That is one of the problems. I think we would just have to make a reasonable effort to calculate what were the costs involved in the particular action at the particular time it was taken.

Mr. JOHNSTON. I am inclined to agree with the Senator from Wisconsin that, rather than making this more simple, I think it might create an even greater burden. Maybe we ought to just do away with the whole provision—either that or get one we can interpret and not get into trouble every time we try to make a decision as to what it is all about.

Mr. CRANSTON. If the Senator wishes to offer an amendment to that effect, I shall certainly not be unhappy with the Senator. I explained why I offered my approach, because the Senate did vote for this section the other day. I think it is increasingly clear that the Senate did not understand all the implications. Certainly, I did not at the time even though I voted against it. I did not realize it was quite as bad as I now find it to be.

Mr. DURKIN. Will the Senator yield?

Mr. CRANSTON. Yes.

Mr. DURKIN. With the Senator's amendment, he relieves anyone of the reporting requirements?

Mr. CRANSTON. Up to $1,000.

Mr. DURKIN. Up to $1,000?

Mr. CRANSTON. Yes.

Mr. DURKIN. It seems to me, and this is a question, does that not still impose on each and every group the requirement to keep records and to set up some sort of compliance system so that they can establish the facts, if accused by the FEC in a criminal proceeding of exceeding $1,000?

Mr. CRANSTON. I should think most small groups—a local union, a small chamber of commerce, a small business—would seldom engage in a single activity that would be likely to cost $1,000. Therefore, I should not think they would have to be keeping such records. But any fairly large organization whose efforts reach any substantial number of people and whose expenditures might be in the proximity of $1,000 would have to keep records to make sure they are not in violation of the law.

Mr. DURKIN. Again, I think I agree with the thrust of the amendment, but I still think it falls short to where we are imposing a nightmare situation on an awful lot of small groups who want to express their rights and their feelings under the first amendment.

Mr. CRANSTON. Three Senators have now suggested that I do not totally cure the problem. If one of those Senators wishes to offer an amendment to strike the whole section that I am seeking to amend, that might be an appropriate procedure.

Mr. PACKWOOD. Mr. President, back to the point I made again, for the purpose of the definition of a contribution to a political campaign, I am quoting from section 431(d) "political committee," and then (e) "contribution means." Those are the definitions of contribution. "Contribution means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election or elections"—then it goes on. "Anything of value." That means that if the Red Cross or the Boy Scouts send out to their membership organization a statement that says, "Vote for Packwood," or "Vote for Culver," under the present law—and the law was in effect before 1974—that is a contribution and that must be reported. Except, under the present law, subsection (F) says "any payment made or obligation incurred by a corporation or a labor organization in communicating with their members or shareholders."

We have lived with this law for years. It has not caused intolerable burdens on little organizations. We have not seen the Boy Scouts or the Red Cross prosecuted yet under the existing law. I ask the Senator from California, if there has been no intolerable burden in the past in terms of what a contribution is, why is this Packwood amendment, offered last week to apply the same standard to unions and businesses, suddenly causing an intolerable burden on these organizations that have never felt burdened before?

Mr. CRANSTON. Do they have to report that now?

Mr. PACKWOOD. Under the present law, that is correct.

Mr. CRANSTON. The Senator did not read the whole paragraph. I am looking at the same paragraph, which reads:

> (F) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 601 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization;

I repeat, "would not constitute an expenditure."

Mr. PACKWOOD. All that section does is exempt labor organizations and corporations from the other limitations in the definition of section (e) "contribution."

Mr. CRANSTON. If it is the Senator's judgment that they have to report under present law, why is his amendment required?

Mr. PACKWOOD. Because my amendment applies to corporations or unions, that are exempt from the present law when they communicate with their members. I am simply trying to apply the same law to them that has applied to every other organization from time immemorial.

Mr. CRANSTON. Presently, a political club that makes an endorsement to its members does not have to report to the Federal Government.

Mr. PACKWOOD. It is a contribution. It has to be reported.

Mr. CRANSTON. It is not a contribution. Where is the definition in the present law that makes that a contribution?

Mr. PACKWOOD. All right. Is the Senator looking at a yellow book?

Mr. CRANSTON. Yes.

Mr. PACKWOOD. On page 10, start at the top "(e) contribtuion" means, and it lists what contributions are. Now, if a political club makes a $1,000 contribution to a Packwood for Re-Election Committee, that is certainly a gift, subscription, loan, advance, or deposit of money or anything of value and that is certainly a contribution within the present law.

Mr. CRANSTON. Where is a communication by a political organization to its members covered by page 10 language?

Mr. PACKWOOD. Under (A). It is a contribution in kind, something of value.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator rise?

Mr. BUMPERS. I am trying to help both the Senators on the floor now by offering another substitute.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. BUMPERS. Will the Senator yield for the purpose of my offering a substitute?

Mr. PACKWOOD. I shall yield for the purpose of hearing what it is. I am not sure I shall yield for the purpose of the Senator's offering it. If he will tell me first what it is, maybe then I shall yield.

Mr. BUMPERS. This would be a substitute to the Cranston perfecting amendment which would, after the words "in excess of $1,000," add the following: "In the aggregate, during the calendar year, with respect to a particular candidate." That would not eliminate all of the problems in this. I am not sure it would make this even palatable to me, but I will say that it eliminates what I perceive to be loopholes wide enough to drive a wagon and team through. This would at least limit the amount of support any of these organizations could give a candidate in a year to $1,000; that is, without reporting.

Mr. STONE. Will the Senator yield for a very brief observation?

Mr. BUMPERS. I still do not have the floor.

Mr. PACKWOOD. I shall yield in a minute. Let me respond to the Senator from Arkansas first.

I frankly prefer his amendment to that of the Senator from California, because at least it is talking about an aggregate amount for a year. I want to make sure that it does not read "per candidate per year" so that an organization—let us take New York with 38 Congressmen. A corporation or a union could say, $1,000 a year per candidate; that is $38,000; we do not have to report it. And off they go with $38,000 for a year.

I want to come back to the definition of "contribution" as "gift, subscription, loan advance, or deposit, of money or anything of value" and make the point, that this is all presently in the law. It is being imposed on all kinds of organizations except unions and businesses today. They have lived with it, they have survived. The country has not collapsed; music is still written, symphonies are still played.

I yield to the Senator from Florida.

Mr. STONE. The Senator from Florida wanted to comment about all these amendments and about the bill in general from the point of view of the experience of the Senator from Florida as chief election officer of our State for some 3½ years prior to service here. The Senator from Florida is disturbed that this body may be seeking to require the kinds of disclosures that are almost impossible accurately, fully, and appropriately to require be disclosed. If we go too far in requiring the kinds of disclosures of intangible in kind support, we are going to end up getting a total avoidance and ignoring of the law and its requirements. It will be a bootleg situation. It will be just like prohibition, as well as making it almost an offense—ethical, moral, and legal—to support anyone who wants to run for office.

I think we really have to take a hard look and aim toward a "who-gave-it" and "who-got-it" approach of the tangibles, of the measurables, of the things that traditionally are reported and need to be reported because if we go very much farther in terms of Sam comes up to Joe and say, "I would like you to support our friend Bill," and then he has to file a report we are just going to wreck the entire election reform trends in the country. That is what disturbs me about all of these provisions.

Mr. PACKWOOD. There are a number of things that the Senator and I know about. In the Oregon Legislature I served on the election committee for 6 years, and I know the problems the Senator is talking about. If you drive your friend running for the State legislature around the State in your own car, is that a contribution?

Mr. STONE. That is right. If you stop at a parking meter, do you have to stuff a voucher in the meter? You can carry this thing too far.

What we need is the kind of disclosure of the money expenses, of the money contributions, of the kind of inkind contribution that would be a billboard or something measurable in a reasonable way.

When we go so far as to require reporting of just oral presentations, I think we are going to—well, you know, there used to be a device in our legislature for killing a bill. It is called sweetening it up. If you sweeten it up too much and it gets impossible to swallow, that is what worries this Senator.

Mr. PACKWOOD. I am very happy with the compromise agreement the leadership worked out, and I would be happy to take it with no amendments. But I am curious—and I frankly say to the Senator from California—as to why it is offered. This applies not only to individuals but it applies to corporations. If we are worried about the poor little individuals, they still have to report if they give $100 or more, and if they give it to two or three candidates in terms of time we have to evaluate it. We do not seem to worry about the little, tiny contributor in this amendment. What we worry about are the organizations and, specifically, the unions and the business organizations which will now be required to allocate up to $1,000.

If they do not allocate that much, they do not have to report it when, in years past, we required all other membership organizations to report contributions of up to $100. I frankly think the amendment is being offered to make a gigantic loophole in the amendment the Senate accepted last week, and what is it worth for a union business agent as he goes around his normal duties to also at the same time pass out perhaps a bit of literature; what is it worth to have a corporate vice president who, in the course of his vice presidency visiting around the State, is doing a little politicking on the side.

Mr. STONE. Will the Senator answer how it is worded so as to be able to allocate the time and prorate it in his report, the same thing as a business executive going around?

Mr. PACKWOOD. I can tell the Senator what the Federal Election Commission did in a ruling that was filed Jannary 19. Thirty legislative days have passed, and it is now in effect, and here is what it says:

> General Rule. Expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit each can be reasonably expected to receive.

The Senator asked about the Federal Election Commission. This ruling was set before the Senate on January 19 and none of us has done anything about it.

Mr. STONE. The Senator does not want to ask the Election Commission what the value of that benefit would be, and that is almost impossible to ascertain. What the Senator from Florida is looking for here is the "who-gave-it" and "who-got-it" kind of reporting that makes sense, that can be enforced, that will not impose a totally speculative burden on the ordinary citizen who happens to be a member of an organization and wants to support someone for office. We all want to support someone for office.

Mr. PACKWOOD. We all knew specifically when we voted on this amendment last week and it passed 50 to 42 what we were directing ourselves at. We were not directing ourselves at the Boy Scouts or the Red Cross, which have lived with this apparent problem for years successfully. We were aiming it at corporations who use corporate money to solicit stockholders or their corporate officers to vote for or against people, or union telephone banks, union mailings by the hundreds of thousands to their members.

Mr. STONE. The Senator would completely agree with the Senator from Oregon on that, and I think the Senator from California's proposal is directed at that kind of an operation, phone banks, massive mailings.

But what the Senator from Florida gets a little bit disturbed about is the reach of a provision that might require an estimated reporting of the value of somebody's time while he is doing something else.

Mr. PACKWOOD. And my fear also is when you get——

Mr. STONE. Why can we not tailor this provision to avoid that?

Mr. PACKWOOD. When you get to the telephone bank, and it is set up and, frankly, I have had some experience—when I was Republican chairman in Oregon in Multnomah County I had been involved in some union telephone banks when they were supporting some of the Republican candidates, and I sat in the basement of the Labor Temple and watched the banks work all day long, banks of telephones put in there, paid for by the union, calling up their members, and if this is not a contribution, I do not know what is.

Mr. STONE. Surely it is, but is that not worth $1,000 or more?

Mr. PACKWOOD. It depends. What I am curious about, because up until this time it has been exempt, it does not have to be reported at all, but I am a little worried about the answer of the Senator from California when, in response to the Senator from Louisiana, "What about a mailing done on Monday, you can figure its value worth $900; and another mailing on Tuesday worth $900," he answered that is one communication.

Well, I can find a great number of ways to get under this $1,000, and I can find all kinds of subcommittees to set up at $900 a day and call it a continual communication and subvert the intention of this amendment.

Mr. STONE. No question that there are ways to round and "loophole in" any provision, and I think if the Senator from California seriously presses his amendment—which, I think he is doing—he should make it clear that the $1,000 he refers to is cumulative as opposed to—cumulative for any candidate as opposed to—a ceiling on any one communication. Obviously that would be a loophole big enough to drive a number of elephants through.

Mr. PACKWOOD. What the Senator is saying is that this amendment should indicate the $1,000 is cumulative for any Federal election that year not per candidate per year.

Mr. STONE. Well, I am not writing his amendment, but certainly——

Mr. PACKWOOD. No, but the Senator——

Mr. STONE. But what I think we should be doing, what the Senator from Florida thinks we should be doing, is requiring disclosure that is disclosable, that is readily disclosable, that is enforceable, that is reasonable, but we should not be so loading this bill down, and certainly not by floor amendments or by hastily drawn unreviewed provisions with the kind of required disclosure that it is impossible to do or very unlikely to do, and that all we would thereby accomplish would be to create the likelihood of abuse by the enforcement of it.

Mr. PACKWOOD. What I am intrigued with is why this amendment is offered. I come back to the original point I made which is how we have been able to live with this law for years.

Mr. STONE. Probably by not observing it.

Mr. PACKWOOD. No, probably by virtue of the fact that all of these organizations found a way to observe it, and we exempted unions and business so they do not have to observe it. Now we are saying we are going to make them observe the same law that the Boy Scouts have to observe, and you would think we were bringing the skies down.

Mr. STONE. Does the Senator know of any endorsement of political candidates by the Boy Scouts?

Mr. PACKWOOD. No, nor by the Red Cross or most other such associations.

Mr. STONE. That is why such associations were able to live with it. They did not have to do anything about it.

Mr. PACKWOOD. Here is an example that the Senator from California uses. The local chamber of commerce invites a candidate for Congress to speak on behalf of his candidacy. Well, the amendment that I had offered specifically says this: "Except that expenditures for any such communication which expressly advocates the election or defeat of a clearly identified candidate must be reported."

The chamber of commerce at its annual, monthly, or weekly meeting——

Mr. STONE. It is not advocating the election or defeat of that candidate.

Mr. PACKWOOD. It is not advocating the election or defeat of a candidate, and yet this is the example of things he uses to be reported.

If the local union business agent going from job site to job site settling grievances talks to several members about candidates both of those within the Federal Election Commission opinion are de minimis and they would not be reported now.

I just do not understand what the overwhelming concern is of the Senator from California at this late moment.

Mr. STONE. What the Senator from Florida is concerned about are exactly those two words that the Senator from Oregon has just referred to, de minimis. Let us monitor what we are putting into this compromise bill to make sure that you do not load it down with de minimis reporting and, thereby, ruin the whole thing, and set up a wave or a backlash of protest that will have us coming in here after this election, this current election, and repealing all the disclosure requirements that have been built into the reform legislation now on the books.

That is the only concern of the Senator from Florida.

Mr. CURTIS. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CURTIS. I disagree with the approach of the Senator from California and the Senator from Florida.

The amendment offered by the distinguished Senator from Oregon is understandable, it is reasonable, it is specific.

If a labor organization or a corporation directly and overtly spends money to promote the candidacy of a candidate, they have got to report it, is that not all that is involved?

Mr. PACKWOOD. All that is involved.

Forget the other small organizations for a moment. All we are imposing, when it is not a straight-out cash contribution, is to have the same kind of allocation we impose on individual citizens in Poughkeepsie, Tulsa, and anywhere else. If they give $100, they have to do it. But we are told it is an insurmountable burden for a corporation or union to figure out.

Mr. CURTIS. I hope no one will be misled by that sort of smoke screen.

The individual who is against disclosure has a right to his position and would be more forthright to oppose this on the ground that one does not want disclosure than it is on the ground that it is going to harm some innocent organizations that are not in the business of promoting a candidate.

I think the Senator is to be commended.

The Supreme Court in the *Buckley* case made a great deal of the fact of the virtue of disclosure, that there should be complete disclosure, and that that was the only way one could bring about complete and accurate reporting.

It also made mention of the principle that through disclosure the problems would solve themselves because the general public would insist upon proper actions.

I believe that the efforts of the Senator from California and those who support him are very detrimental because they are tearing down the requirement of reporting what one spends in a direct effort to elect or defeat a candidate.

I support the Senator's amendment. I commend him for it.

Mr. PACKWOOD. Trying to enlarge the loophole a bit to get more in without reporting.

Mr. CURTIS. Correct.

Mr. PACKWOOD. I do not think corporations ought to have that privilege. The Boy Scouts do not have it, and I do not think the unions should have it.

The PRESIDING OFFICER (Mr. CULVER). Who yields time?

Mr. CANNON. Mr. President, is the time controlled?

The PRESIDING OFFICER. No; the time is not controlled.

Does any Senator seek recognition?

Mr. CANNON. Mr. President, I just wish to comment on this issue.

I think the Packwood proposal as it is now is completely unreasonable in that it does not solve the de minimis problem. There ought to be some kind of a triggering provision to require reporting.

We have that in all of the other exemption provisions.

The Senator says that we do not provide any other exemptions. He is relating now to the communication of the corporations and the labor organizations. But let us take a look and see what we have done with triggering with respect to other matters.

Consider for example the definition of expenditure. An expenditure means a purchase, payment, distribution, loan, advance, deposit, or gift of money, or anything of value, made for the purpose of influencing the election, and so on. But does not include—then we have the exemption provision:

> (A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;
>
> (B) nonpartisan activity designed to encourage individuals to register to vote, or to vote;
>
> (C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;
>
> (D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate do not exceed $500 with respect to any election;

We have a triggering figure there, of $500 in that exemption.

The next is:

> (E) any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed $500 with respect to any election;

We have a triggering provision there.

We have a triggering provision back in the definition of contributions itself where we exclude the value of the services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

We also have an exclusion:

> (B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

So that is excluded from the term of a contribution.

Also, the exclusion:

> (C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

We have all kinds of exclusions, both with respect to a contribution and on expenditure—what is deemed an expenditure.

I think it is reasonable that we have—and we do have—some kind of a triggering provision.

The $500 limit was the area that was used in these other exemptions. Maybe that is a reasonable triggering figure rather than the $1,000 of the Senator from California. I do not have a strong feeling there.

Mr. PACKWOOD. Will the Senator yield?

Mr. CANNON. Just let me finish this to get it all at one point.

Then we have a blanket exclusion where we say:

> to the extent that the cumulative value of activities by an individual on behalf of any candidate under each of clauses (B), (C), and (D) does not exceed $500 with respect to any election;

We have all those triggering provisions and every one of them is based on a floor of some sort, and those are $500.

I do not know whether it is reasonable here to say $1,000 or $500. But I certainly believe that we should not have to allocate every single item that we do, that the court has already said that corporations or unions can do in communication with their membership, to try to allocate a value to it and report that value when it is an item of a de minimis nature and an undue burden, certainly, on small organizations.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Is the chairman suggesting that the limit, the threshold on individuals is $500 and that they can go up to that amount without reporting?

Mr. CANNON. No, not at all.

I was suggesting exactly what the law says here, and I think the Senator is familiar with that.

This defines the extent to which certain types of services can be contributed without being considered a contribution.

Mr. PACKWOOD. Travel, cocktail parties in one's home?

Mr. CANNON. Certain types of services that can be expended for without being considered an expenditure if they do not exceed $500.

Mr. PACKWOOD. But apart from those very limited exceptions, even under the bill it is $500 and beyond that one has to report it?

Mr. CANNON. Right.

Mr. PACKWOOD. If one goes out and spends on behalf of a number of candidates, according to the ruling I read a moment ago, filed January 19, one has to apportion that and figure out how one spent one's time.

Mr. CANNON. The contributor does not have to report it; the recipient does.

Mr. PACKWOOD. There is no way he can report it unless the contributor says he did it.

I go out, using my own time as an individual, and I do $150 worth of activities that are genuinely reportable. There is no way the recipient will know it unless I tell him.

That is the $100 threshold.

Second, the chairman makes reference to the fact that my amendment has no threshold. It has a $100 threshold. It is the same threshold we apply to everybody else. I do not know why it is any harder for a corporation to understand than it is an individual. It is probably easier for a corporation and easier for a union than an individual.

I come back again to the point I have made consistently: Every other organization with the exception of unions and corporations have had to comply with this communication to their members concept for years. That is not a new provision in the law. It has not caused hardship. They have figured out a way to live with it. I do not understand why it is going to cause such a hardship with corporations and such a hardship with unions.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. PACKWOOD. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PASTORE), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 36, nays 49, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—36

Allen
Baker
Bartlett
Beall
Bellmon
Buckley
Bumpers
Chiles
Curtis
Dole
Domenici
Fannin
Fong
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Laxalt
McClellan
McClure
Morgan
Packwood
Pearson
Percy
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—49

Abourezk
Bentsen
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pell
Proxmire
Randolph
Schweiker
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Tunney
Williams

NOT VOTING—15

Bayh
Biden
Brock
Church
Goldwater
Gravel
Hartke
Hollings
Inouye
Jackson
Leahy
McGee
McIntyre
Pastore
Young

So the motion to lay on the table was rejected.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Durkin). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I send to the desk an amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Mr. President, I send to the desk an amendment to the amendment proposed by Mr. Cranston to S. 3065.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers) proposes an amendment:

After "$1,000" in the matter proposed to be inserted insert the following: "per candidate per election".

Mr. BUMPERS. Mr. President, this amendment simply provides that instead of only allowing a contribution of $1,000 on separate days or per communication, as that section now reads, a communication could mean any number of things. As I stated earlier in a colloquy with the Senator from California, I felt that this left a loophole big enough to drive a wagon and team through. My amendment simply states that these organizations need not report contributions up to $1,000 as long as they are limited to $1,000 per candidate per election.

In the Cranston amendment as it now stands, if we leave it per communication, that would mean, for example, that an organization could have a small banquet some evening and, as long as the cost did not exceed $600 or $800 for a candidate, it would not be reportable. They could hold another banquet the next night for the same candidate at the same cost and that would not be reportable. I simply think there ought to be some limit.

The Senator from California has raised a question of accounting. How do these organizations account for what they spend? He wanted to avoid that, and it is a laudable thing to try to avoid. But as I understand it, if his amendment now stands, and they are not required to report anything unless the expenditure is over $1,000 on a given occasion or a particular communication, they would still be under an obligation to account for it to prove that they had not exceeded the $1,000 limitation

This one would not impose any greater burden on them to account for what they spent or what they gave in kind, but it would limit the amount they could give to one candidate in any one election to $1,000.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. FORD. When the Senator says "any one election," does that include the primary or general, or does he say the primary election would be one and the general election would be another?

Mr. BUMPERS. The latter.

Mr. FORD. The latter.

Mr. BUMPERS. It would be two separate elections.

Mr. FORD. Two separate, so it would be limited to $1,000 in the primary and then $1,000 in the general election?

Mr. BUMPERS. The Senator is correct. That would be my interpretation of it.

Mr. CRANSTON. Mr. President, I shall speak very briefly against the amendment of the Senator from Arkansas. I understand his reasons for proposing it. I sympathize fully with the problem that we all face and that he is seeking to correct. It would correct one aspect of it, but it would not solve the problem that caused me to offer the amendment in the first place.

There would be a cumulative, aggregate total which some person or some organization might reach, where they crossed the $1,000 threshold and then would have to report, and, thus, keep track of every expenditure.

If a labor leader called a union member and talked for 10 minutes on one matter and for 1 minute said, "I hope you will vote for so and so in the election," that would have to be calculated as to cost. It would have to be kept track of. When all such expenditures added up to $1,000, the union would have to file a report.

The same would apply to a corporation officer, on business time, talking with members of the firm about sales or whatever. He would have to keep track of any time he spent, and the cost of it, if he mentioned a candidate.

The same would apply with respect to a corporation head communicating with stockholders. They would have to keep these terribly painstaking records, and for that reason I oppose the amendment.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield.

Mr. BUMPERS. How would the Senator propose that SUNPAC or any labor organization, or any of the organizations we are talking about, prove that they had not spent more than $1,000?

Mr. CRANSTON. In any given venture, whether it is a mailing or a mass meeting or communication in some such fashion, if only a small number of people were involved, it would approach $1,000.

If it were a massive mailing to 100,000 stockholders of a company or 100,000 members of a union, then it might well be in the $1,000 class, and the burden would be upon that union to report; and it would be in violation of the law if it did not. An opposition candidate would have cause to ask the Federal Election Commission to see whether there had been a violation of the statute.

Mr. BUMPERS. If the candidate against whom this communication was made raised the question as to whether or not they had spent in excess of $1,000 and the Election Commission decided to investigate, how would that organization prove to the Election Commission that they were within the law?

Mr. CRANSTON. They would then have the responsibility of adding up the costs of that particular operation. Without the amendment I have offered, they would have that responsibility in every penny ante thing they did if it was worth $1,000. It would inhibit the active political participation of Americans.

Mr. BUMPERS. I think the Senator has a certain point. It is in those questionable cases where the expenditure is very close to a thousand dollars that they would be jeopardizing themselves if they did not keep an account of it.

Mr. CRANSTON. Yes, they would.

Mr. BUMPERS. The second part, the heart, of the perfecting amendment I have offered is that under the amendment of the Senator from California, they can do this as many times as they wish, as long as they do not exceed $1,000 on any one communication or at any one time. That would mean that a corporation or a labor union could send out a communication every week and expend $900 and be well within the law, and they could do that on behalf of any number of candidates. I think that goes against what we are talking about here in the form of election reform. There is no reform if we allow that kind of loophole to remain in this law.

Mr. CRANSTON. I grant that I do not like that situation at all, but I like less the situation in which a citizens' group, or a corporation, or a small business, or a union, or an advocacy group, or whatever, has to report everything they do, regardless of how penny ante, and file a report in Washington on that action.

Mr. BUMPERS. Mr. President, I think that almost everyone here understands the nature of the amendment. I know that everyone is anxious to go home, and I am ready to vote on the matter. I am perfectly willing to accept a voice vote.

Mr. PACKWOOD. Mr. President, will the Senator from Arkansas yield? I have had trouble hearing him.

Mr. BUMPERS. I yield.

Mr. PACKWOOD. I think I support the Senator's amendment. His amendment simply says that you must aggregate, that you have to keep records of what you spend; that once you have reached $1,000 for a candidate, you have to start reporting, including the other expenditures, and whatever else you spend afterward.

That is an amendment in the right direction, and I am prepared to accept it, if it is accepted.

I have a bit more debate remaining on the substance of the Cranston amendment, as amended. I think it is a step in the right direction.

Mr. CRANSTON. It is the difficulty in allocating the cost of an operation for some totally different purpose that creates the real difficulty. If one were just doing an operation specifically to support a group of candidates or a candidate and nothing else was going on, it would be very easy to know the cost. But, when it is a little item in a newsletter or a few remarks in a phone call or a few words in a speech on another topic, that is when you get into difficulty in trying to allocate and to keep all those records.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

All those in favor, signify by saying "aye."

All those opposed, signify by saying "nay."

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PASTORE), would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 75, nays 9, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—75

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Humphrey
Javits
Johnston
Laxalt
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
 William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NAYS—9

Abourezk
Brooke
Clark
Cranston
Griffin
Kennedy
McGovern
Stone
Tunney

NOT VOTING—16

Bayh
Biden
Brock
Church
Curtis
Goldwater
Gravel
Hartke
Hollings
Inouye
Jackson
Leahy
McGee
McIntyre
Pastore
Young

So Mr. BUMPERS' amendment was agreed to.

Mr. GRIFFIN subsequently said: Mr. President, I ask unanimous consent that on vote No. 95, which was the Bumpers unprinted amendment to the Cranston amendment, I be recorded as having voted "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. CRANSTON. Mr. President, it seems to me that the Senate has reached an overwhelming degree of unanimity on the issue we have been laboring on. There was a motion made to table my amendment that was rejected by a reasonable margin. There was an overwhelming vote now on the Bumpers amendment to my amendment. I suggest now since we have that degree of unanimity that we proceed to a vote and wrap up this bill.

As far as I am concerned, I do not ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, as amended.

Mr. PACKWOOD. I do not want to ask for the yeas and nays on the Cranston amendment, as amended, either. I think the amendment of the Senator from Arkansas was an immense improvement. I still have some misgivings about making this distinction. I am going to go along with it and support the amendment, but I have some misgivings about saying to the small $100 contributor, "You are stuck, you have to keep your records, and you will allocate."

We are saying to the others, to the corporations and unions, "We will let you have a $1,000 exemption."

If the purpose of this law was disclosure, and if the purpose of this law was not to make it a burden on the small donor, why, we have simply reversed it, and we have made it a greater burden on the smaller donor than on the large corporation, and we have made the smaller donor disclose his smaller dollar contributions, and we have said to the larger corporation, "You do not have to report it."

It flies in the face of logic.

I will not say anything further on it. I think the Senate has worked its will and I will support the Cranston amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, as amended.

The amendment, as amended, was agreed to.

Mr. CANNON. Mr. President, as far as I know, there is only one other amendment. If it is offered I am willing to accept it. I know there will be some talk against it, but I do not intend to ask for a rollcall vote on that, but I do ask for a rollcall vote on final passage, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. That amendment is on its way over now. I believe it is the Stevens amendment, is it not, and I can offer it on his behalf.

AMENDMENT NO. 1515

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration and that the clerk read it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) on behalf of Mr. STEVENS proposes an amendment:

On page 14, after line 14, add the following:

(4) Section 304(b) of the Act (2 U.S.C. 434(b) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

Mr. PACKWOOD. This is the anti-nit-picking amendment which indicates that if the treasurer or the candidate are in good faith, and they have tried to comply—and the good Lord knows they are going to have enough trouble complying, and everybody I have run across in this election year I have advised not to be a political treasurer, and that they are out of their minds if they undertake that task in the midst of this political campaign—but this merely says that if a finding is made that they have tried in good faith to try to comply with the law they shall not be harassed and they will be regarded as having made a good faith effort, and the Federal Election Commission shall take that into account.

That is all I have to say. I have nothing more to say. I hate to preclude the Senator from Alaska before he gets here.

SEVERAL SENATORS. Vote! Vote!

Mr. CLARK. Mr. President, I will not take more than 30 seconds. It seems to me—and I am certainly not going to ask for a vote, but it seems to me—as candidates or treasurers that to set up a separate standard, if we say we did it in good faith and with good intentions and made a good faith effort that we ought not to be subjected to the same prosecution—it seems to me——

Mr. PACKWOOD. That is not quite enough. You cannot close your eyes and say, "Don't tell me anything and, therefore, I am in good faith," the amendment does not allow that. I do not want to give anybody any misimpression. You cannot use the standard, "I did not know because I did not ask."

Mr. CANNON. I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a letter dated March 24, addressed to the minority leader, Senator HUGH SCOTT, and myself from Ruth C. Clusen, president of the League of Women Voters of the United States which endorses the pending substitute be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES,
Washington, D.C., March 24, 1976.

Hon. Senator MIKE MANSFIELD and Senator HUGH SCOTT,
U.S. Senate, Washington, D.C.

DEAR SENATORS MANSFIELD and SCOTT: The League of Women Voters of the United States applauds the wise leadership you have exercised in developing a compromise on the amendments to the Federal Election Campaign Act of 1971. We support the change in direction, as evidenced in your substitute bill, away from provisions that would seriously undermine the independence of the Federal Election Commission. Specifically, we are pleased to see the deletion of the section circumscribing the advisory opinion process.

In conclusion, the League of Women Voters of the United States endorses the "Mansfield-Scott" substitute and urges all members of the United States Senate to act speedily to pass this vital piece of legislation.

Sincerely,

RUTH C. CLUSEN,
President.

TERMINATING PAYMENTS TO UNSUCCESSFUL PRESIDENTIAL CANDIDATES

Mr. BENTSEN. Mr. President, yesterday there was introduced a compromise amendment as a substitute for S. 3065, the Federal Election Campaign Act amendments. I applaud my colleagues for their diligent effort in attempting to resolve the very serious questions presented by this debate, and I am hopeful that we will be able to dispose of this bill expeditiously.

I am especially pleased with section 306 of the substitute which deals with the termination of payments to unsuccessful Presidential candidates. What the provision says is that Federal payments will be stopped for any candidate who receives less than 10 percent of the vote in two consecutive primaries unless he or she is able to acquire 20 percent of a primary vote subsequent to the disqualification.

The campaign reform law permits those taxpayers who wish to participate more fully in this country's political process to earmark $1 of their taxes for use in Presidential campaigns. It is far better, Mr. President, to have millions of Americans contribute $1 to a campaign than to rely on the million-dollar contributors, as was done in past years.

But, I have been quite concerned about the basic fairness in using this money from the tax checkoff to finance campaigns of candidates who are no longer serious contenders for the Presidential nomination. In the case of my own campaign, when I decided to run only in Texas, I immediately stopped all requests for additional funding and even turned $74,000 back to the Treasury. This is only fair, Mr. President, and I urge my colleagues to adopt the section 306 formula as a statutory requirement.

Mr. BUCKLEY. Mr. President, I wish to speak very briefly on my reasons for opposing passage of this bill.

I appreciate the efforts of my colleagues on both sides of the aisle in their attempts to achieve a difficult compromise on the fundamental issues which separate them. And I believe that the compromise substitute is preferable to the special interest legislation which it replaced.

Nevertheless, the proposal before us still fails to deal with most of the underlying problems left in the wake of the Supreme Court's decision. Nothing has been done to redress the enormous advantages enjoyed by incumbents, or wealthy candidates, or those having the support of well-financed political action committees, at the expense of relatively unknown candidates of average means whose access to funding remains constricted by the limitations on contributions in the existing law.

As such candidates face enormous difficulties in raising the seed money required to launch viable campaigns, we can expect to see the advantages of incumbency magnified, and challengers restricted increasingly to the ranks of the very wealthy or of individuals who have the support of powerful special interest groups.

I predict the situation will only get worse until the Supreme Court finally rules that the current contributions limits are unconstitutional in their application. Then the political process will once again open up to allow anyone able to develop the independent financial backing necessary to challenge the wealthy and the entrenched.

In the meantime, I must underscore my opposition to the underlying law by opposing the bill even as amended.

Mr. DOLE. Mr. President, I recognize that it probably represents the best bill on which we can reach agreement in the Senate, I must nevertheless vote against S. 3065 as amended by the compromise substitute.

I can appreciate the fact that many of the amendments now included do have considerable redeeming features, but would still prefer a simple reconstitution of the Commission. I am pleased however that the amendment relating to termination of matching funds payments for lack of demonstrable support—and that requiring both corporations and unions to report the costs of campaign communications with their members and stockholders—have been retained.

Two other provisions—which I sponsored—are in the compromise version and will have the very desirable effect of strengthening and making more effective the national political party structure. These are the ones eliminating the candidate allocation requirement for voter registration drive expenses and removing the ceiling on transfers of contributions between and among various levels of the committee organization.

Although the compromise reached with respect to solicitation of funds from employees may not be totally consistent with the SUNPAC decision, it probably also represents a fair settlement of the issue. Similarly, the congressional control over the Federal Election Commission—which I continue to believe should be strong and independent—has, I think, been modified to a near acceptable level.

My greatest disappointment in this legislation, Mr. President, is that we have not seized upon it as an opportunity to do away with the public financing experiment. I have already spoken on this matter during consideration of the Weicker amendment, but would just like to reiterate that the time has clearly arrived for a new assessment of this concept.

Again, Mr. President, notwithstanding the positive aspects of the compromise reached by the party and committee leadership and the fact that it may be a fairly reasonable solution to the impasse which had developed with respect to consideration of this measure, I do not agree with its overall thrust to the extent that I can give it my support. Accordingly, without speculating as to the likelihood of a veto, I only hope that we can dispose of the matter without consuming any more of the Senate's time.

Mr. MONTOYA. Third reading.

The PRESIDING OFFICER (Mr. DURKIN). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical changes in the bill to reflect the amendments adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

The result was announced—yeas 55, nays 28, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—55

Abourezk
Beall
Bentsen
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Javits
Johnston
Kennedy
Long
Magnuson
Mathias
McGovern
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tunney
Williams

NAYS—28

Allen
Baker
Bartlett
Bellmon
Buckley
Byrd,
  Harry F., Jr.
Dole
Domenici
Durkin
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
Laxalt
Mansfield
McClellan
McClure
Metcalf
Roth
Scott,
  William L.
Sparkman
Stennis
Tower
Weicker

NOT VOTING—17

Bayh
Biden
Brock
Church
Curtis
Goldwater
Gravel
Hartke
Hollings
Inouye
Jackson
Leahy
McGee
McIntyre
Pastore
Thurmond
Young

So the bill (S. 3065) was passed, as follows:

S. 3065

An act to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAGIN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act, referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congess or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;"

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B) the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304".

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304 (b);

"(J) the payment, by any person other than a candidate or political committee, or compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K)) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATONS OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall eonly be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(4) Section 304(b) of the Act (2 U.S.C. 434(b)) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S..C 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures in excess of $1,000 per candidate per election under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Any person who makes a contribution in response to a solicitation under section 521(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.

"(4) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggesting of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day , but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(5) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof" and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complaint under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the geater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Reenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (E) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(10)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United

States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

DUTIES OF COMMISSION

SEC. 108. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 110. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection in term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee on any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee establishd and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfer between political committees of funds raised through joint fundraising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and contributions by that party through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the

Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) for purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR OGRANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress to make a contribution or expenditure in connection with any election to any political office, or in connection with any election at which political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer of any director of any corporation or any national bank or any officer at any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791 (h), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan reigstration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shal be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3)(A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two written solicitations for contributions during the calendar year from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, that method, to a labor organization representing any member working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individual employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corpoartion, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign nation directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321(b)(2), including such a violation of the provisions of such section as applicable through section 322(b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act(2 U.S.C. 431(e)(4)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 487r(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(H) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitations) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) Expenditure Limitations.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsecton:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot unless the candidate certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the gratest percentage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), of compensation to any indiivdual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1943 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations) as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairmen of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which the State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive departments, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

FINANCIAL DISCLOSURE OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 502. (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the United States a copy of such person's Federal income tax report for such calender year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year. The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within thirty days after the date on which he becomes a candidate within the meaning of such section, and on each February 15 thereafter so long as he is such a candidate.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

AUTHORIZING SUPPLEMENTAL APPROPRIATIONS TO THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 677, S. 3108.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3108) to amend Public Law 94-187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1976

That section 101(a)(5) of Public Law 93-187 is hereby amended by striking therefrom the figure "$3,158,970,000" and substituting the figure "3,188,970,000."

SEC. 2. Section 101(b) of Public Law 94–187 is hereby amended by striking from subsection (15)(G), capital equipment, the figure "$237,502,000" and substituting the figure "$241,502,000".

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE PERIOD JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

That section 201(a)(5) of Public Law 94–187 is hereby amended by striking therefrom the figure "$914,849,000" and substituting the figure "$937,849,000'.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–707), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

This bill authorizes supplemental appropriations of $34,000,000 to the Energy Research and Development Administration for fiscal year 1976 and $23,000,000 for the transition period in budget authority and $26,500,000 and $17,500,000 in budget outlays for the respective periods. The supplemental request is needed primarily to provide a balanced nuclear weapons research, development, and testing program, a capability to verify the peaceful nuclear explosive agreement now being negotiated with the Soviet Union as part of the Threshold Test Ban Treaty, and to purchase at reduced cost a needed computer now being leased for the Lawrence Livermore Laboratory.

BACKGROUND

On October 22, 1975, the President submitted to Congress amendments to the Energy Research and Development Administration's Weapons program for fiscal year 1976 and the transition period. Due to the lateness of the request, the Congress was unable to initiate action prior to adjournment of the 1st Session of the 94th Congress. As a result, Public Law 94–187, Authorization of Appropriations for Fiscal Year 1976 and Transition Period for the Energy Research and Development Administration dated December 31, 1975, did not provide this increased funding.

On January 13, 1976, the Energy Research and Development Administration transmitted to the Congress a request for increase in appropriations for fiscal year 1976 of $34,000,000 and for the transition period of $23,000,000 (see Appendix). On March 9, 1976 Senator John O. Pastore, Chairman of the Joint Committee on Atomic Energy, introduced, by request, S. 3108, to amend Public Law 94–187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes. The bill was referred to the Joint Committee on Atomic Energy.

On March 9, 1976, Representative Melvin Price, Vice Chairman of the Joint Committee, introduced an identical bill, H.R. 12388, by request, which was referred to the Joint Committee on Atomic Energy.

The Joint Committee met in executive session on March 12, 1976, and voted without dissent to report the bill favorably to the Senate. The Joint Committee met in executive session on March 18, 1976, and voted without dissent to file this report.

HEARINGS

On February 3, 1976, the Subcommittee on Legislation of the Joint Committee on Atomic Energy held an executive hearing on the request for authorization of supplemental appropriations for fiscal year 1976 and the transitional period as well as for fiscal year 1977. Testimony was presented on behalf of the Energy Research and Development Administration by Dr. Robert C. Seamans, Jr., Administrator; Alfred D. Starbird, Assistant Administrator for National Security; and Major General Joseph K. Bratton, U.S. Army, Director of Military Application.

Testimony was also heard from Dr. Harold M. Agnew, Director of Los Alamos Scientific Laboratory; Dr. Roger M. Batzel, Director of Lawrence Livemore Laboratory; and Dr. Morgan Sparks, President of Sandia Laboratories. Brigadier General William B. Maxson, USAF, Deputy Assistant to the Secretary of Defense (Atomic Energy), was present and expressed Department of Defense support for the ERDA request for supplemental appropriations.

COMMITTEE COMMENTS

The ERDA request was for an increase of $34,000,000 for fiscal year 1976 and $23,000,000 for the transition period in budget authority and $26,500,000 and $17,500,000 in budget outlays for the respective periods. ERDA states this supplemental would provide amounts for the following purposes:

(1) *Research and Development.* The level of scientific manpower in the ERDA laboratories for nuclear weapon activities has declined from about 9,800 man-years in fiscal year 1970 to about 7,900 man-years in fiscal year 1975. Since the Department of Defense requirements for engineering development of current weapons has not diminished over this period, the major impact of this reduction has been particularly serious in advanced development for future weapons where the level of efforts has reduced from about 2,150 man-years in fiscal year 1970 to about 1,450 in fiscal year 1975. Without the supplemental the total laboratories' effort will reduce to 7,600 man-years and advanced development to 1,250 in fiscal year 1976, whereas the supplemental will permit holding to approximately the fiscal year 1975 levels.

(2) *Nuclear Testing.* To accomplish all required high yield nuclear testing prior to the proposed March 31, 1976, effective date of the Threshold Test Ban Treaty, ERDA deferred all advanced development tests for over a year. Funds, which remain for the fourth quarter of fiscal year 1976 and fiscal year 1976T, will support only a few low yield tests, only 60 percent of that for recent years. Without this supplement ERDA would be unable to restore testing to a minimum required level. In addition ERDA would have to make a force reduction of approximately 800 test personnel, an area where there had already been a reduction in strength of about 50 percent during the past five years.

(3) *Special Test Detection.* Negotiations between the United States and the Soviet Union are going on and are directed toward reaching a Peaceful Nuclear Explosion (PNE) agreement by March 31, 1976. The supplemental would provide the necessary funds for development of equipment techniques, and data analysis needed for accomplishing verification that the Soviet PNE experiments are consistent with the agreement. Without these requested amounts, the United States could find itself unprepared to take the necessary Treaty verification actions for U.S.S.R. nuclear explosions. This would be an important element in completing the Threshold Test Ban Treaty signed in July 1974 between the United States and the Soviet Union.

(4) *Capital Equipment.* Because the new Control Data Corporation Star computers installed at the Lawrence Livermore Laboratory (LLL) have not yet reached anticipated capability, it has been necessary for the laboratory to hold a leased CDC 7600 computer longer than expected. Purchase rather than further leasing of that computer offers substantial financial advantages to the Government. Without this computer there would be a severe shortage of weapons program computing capacity in LLL.

The Joint Committee concurs with the request of the Energy Research and Development Administration.

TIME LIMITATION AGREEMENT—S. 3149

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill S. 3149, a bill to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, is made the pending business before the Senate, there be a time limitation thereon of 2 hours to be equally divided between Mr. TUNNEY and Mr. PEARSON; that there be a time limitation on any amendment, debatable motion, appeal or point of order if submitted to the Senate of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW AND CONSIDERATION OF HOUSE JOINT RESOLUTION 857

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, Mr. BROOKE, Mr. GRIFFIN, Mr. BARTLETT, and Mr. TALMADGE each be recognized for not to exceed 15 minutes, and that the Senate then proceed to the consideration of House Joint Resolution 857, a joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3015, S. 3149, AND H.R. 9721

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of House Joint Resolution 857, the continuing appropriation resolution on tomorrow, the Senate proceed to the consideration of S. 3015, a bill to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant in aid process and strengthen national airport systems planning, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the airport and airway bill, S. 3015, the Senate proceed to the consideration of S. 3149, concerning restrictions on certain toxic substances.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3149, the Senate proceed to the consideration of H.R. 9721, to provide for increased U.S. participation in the Inter-American Development Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TALMADGE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. TALMADGE) be recognized first among the four Senators to be recognized under the special orders tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senator from Georgia (Mr. TALMADGE) will be recognized for not to exceed 15 minutes, to be followed by Mr. BROOKE, to be followed by Mr. GRIFFIN, to be followed by Mr. BARTLETT, each to be recognized for not to exceed 15 minutes.

Upon the disposition of those special orders, the Senate will proceed to the consideration of Senate Joint Resolution 857, a joint resolution making further continuing appropriations for the fiscal year 1976 and the period ending September 30, 1976. At least one rollcall vote is anticipated on that joint resolution or on amendments thereto, or both; and upon the disposition of that joint resolution the Senate will proceed to take up the Airport and Airways Act, S. 3015, on which there is a time limitation agreement. Hopefully the Senate may dispose of that measure tomorrow. In any event, if it does not, it will resume action thereon on Friday.

Upon the disposition of S. 3015 either tomorrow or Friday, the Senate will move to the toxic substance bill, S. 3149, on which there is a time limitation agreement, and upon the disposition of S. 3149—and there will be rollcall votes on that measure and on motions and amendments in relation to the same—the Senate will then take up H.R. 9721, an act to provide for increased participation by the United States in the Inter-American Development Bank. There is a time limitation agreement on that measure.

So it is rather clear that the Senate will be in session on Friday and there will be rollcall votes, because we have time agreements on these measures. The leadership would like to state that upon the disposition of the Inter-American Development Bank bill, it is the hope that the Senate can proceed to S. 3168, the authorization bill for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting.

Then next week, upon the disposition of all those measures, the leadership would expect to move to the no-fault insurance bill, S. 354. Also waiting in the wings is the food stamp bill, S. 3136, and the other measures that were outlined in my statement of the program previously.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:07 p.m. the Senate adjourned until tomorrow, Thursday, March 25, 1976, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate March 24, 1976:

DEPARTMENT OF JUSTICE

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the district of Connecticut for the term of 4 years (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate March 24, 1976:

CORPORATION FOR PUBLIC BROADCASTING

Diana Lady Dougan, of Utah, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980.

DEPARTMENT OF STATE

Frederick Irving, of Rhode Island, a Foreign Service officer of class 1, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning William R. Brew, for reappointment in the Foreign Service as a Foreign Service officer of class 4, a consular officer, and a secretary in the Diplomatic Service of the United States of America, and ending Janet Petronis, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on Mar. 1, 1976.

EXTENSIONS OF REMARKS

TRIBUTE TO SAM McNEAL, JR.

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. REES. Mr. Speaker, on Friday, March 26, a close friend of mine and outstanding member of the southern California community, Mr. Sam McNeal, will be honored with an appreciation dinner-dance for his 20 years of service to the State of California. I would like to take this opportunity to reflect upon the life of Sam McNeal and his many contributions to society.

Samuel McNeal, Jr., is a native of New Orleans, La., graduating from the McDonald No. 35 High School. Mr. McNeal continued his education in California, obtaining an AA degree in criminology from Los Angeles City College and a bachelor of science degree in criminology at California State College, Los Angeles, where he later did postgraduate work in public administration and education in addition to serving as vice president of the extended day student body.

Sam's religious interest motivated him to study metaphysics at the Church of Religious Science, where he earned a bachelor of science degree. In addition, Sam attended Windsor University's School of Law in 1975, where he served as vice president of the student body. Later, he received a certificate of labor studies from the UCLA School of Industrial Relations. Needless to say, this educational background more than amply prepared Mr. McNeal for a career as an executive in organized labor.

For approximately 6 years, Sam McNeal was the assistant general manager of Local 434 for the Los Angeles County Employees Union. He held positions of president, first vice president, and executive board member of the A. Phillip Randolph Institution-Los Angeles Chapter. In addition, he is a member of the executive board of COPE—Committee on Political Education—of the AFL-CIO of Los Angeles. Currently, Mr. McNeal is the chief civil service advocate of Local 434. In this position Mr. McNeal handles all civil service disciplinary proceedings.

Sam McNeal has been actively involved in the civil rights struggle since birth, in that his father, Samuel McNeal, Sr., was a prime organizer of the NAACP in New Orleans. This example served as inspiration for Sam McNeal, Jr., to continue to be active in civil rights organizations including serving as first vice president and chairman of the Labor and Industry Committee dealing with civil rights complaints. He has served as an executive member of the NAACP, Los Angeles branch, and in 1971–72, he served as southern area vice president of the NAACP. Sam McNeal, Jr., has been a member of the executive board of the Southern Christian Leadership Conference-West, in addition to being one of the prime movers of the Los Angeles chapter of the Council on Racial Equality.

Perhaps the best way to summarize Mr. McNeal's work as a professional is to quote that old spiritual,

> Lord, let the work I have done speak for me.

To accurately describe Mr. McNeal's personal life, I can refer to a Biblical passage which says,

> . . . Careful how you live your life because your life may be the only Bible some people may read.

I know my colleagues will join me in congratulating Samuel McNeal, Jr., for his outstanding professional accomplishments and many contributions to the community in which he lives.

ST. PAUL SUCCESS STORY: PRODUCTION FOR OVERSEAS

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. KARTH. Mr. Speaker, St. Paul, Minn., quitely and without fanfare, is becoming one of the world's principal centers for the production of a type of industrial equipment without which our modern civilization could not function.

My reference is to cranes, derricks, and construction equipment essential to the extraction and refining of oil and to the erection of nuclear energy plants both in the United States and abroad.

The enterprising, even visionary, company in which Minnesotans take pride is the American Hoist and Derrick Co., of St. Paul. Clients and customers range from oil producers in the Middle East to oil field explorers and producers in the North Sea.

Where there is oil flowing from the ground there is a need for this company's cranes and derricks; and where harbors are needed for the shipment of oil, there also is the need for the American Hoist and Derrick Co. equipment produced in St. Paul.

Mr. Speaker, I would like to place in the RECORD an impressive account of American Hoist and Derrick's unique business and commercial success written by Dan Ridder, business writer for the St. Paul Dispatch.

I would add only one important fact to Mr. Ridder's account. When the U.S. balance of trade tips in our favor, as it has recently, much of the credit for this healthy situation must go to such farsighted and energetic enterprises as American Hoist and Derrick.

The article follows:

FOREIGN MARKETS BOLSTER AMERICAN HOIST

(By Dan Ridder)

International sales, including growing business from Middle East oil producers, have enabled American Hoist and Derrick Co. of St. Paul to amass record sales and profits for the fifth consecutive year despite a sluggish domestic economy, shareholders were told at the firm's annual meeting Monday.

Almost half of the firm's 1975 sales of $362 million—up from $316 million in 1974—were a result of purchases by foreign governments and corporations.

Impressively, in the past five years sales and profit margins have doubled and net earnings have jumped more than 300 per cent to $11.4 million this year. In 1974 earnings were $8.2 million.

Robert P. Fox, president and chief executive officer, told some 200 persons attending the meeting the impressive profits picture resulted from an increased level of business at a time when construction equipment was hard to get and from the elimination of product lines that were marginal.

Other factors involved in the firm's success were a philosophy of sound management planning and a change in marketing strategy and distribution. The latter includes introduction of hydraulic cranes "so that our distributor organization can better dominate their market places," he said.

During the only official business of the meeting, Fred T. Lanners, Jr., president and chief executive officer of Economics Laboratory, Inc., St. Paul, was named to the board of directors. Ten other directors were reelected.

Following the meeting, Fox said there are no plans to increase employment at the St. Paul plant. The facility, which employs about 2,000 persons to produce cranes and other heavy construction equipment, is operating at peak capacity, he said.

Fox noted that the plant would have to be expanded before employment could be increased. "And we are prepared to expand when the time comes," he added.

The industrial and residential construction industry has been hard hit by the recession and Fox said he forsees "slow improvement."

Construction of nuclear power plants and other energy-related facilities are still continuing, he said, and it is here that American Hoist is concentrating its domestic sales efforts.

American Hoist has been extensively involved in the oil exploration efforts in the North Sea off Scotland. This has resulted in sales of about $100 million over the past five years, but sales there now have leveled off, a company spokesman said.

Comparable to the North Sea, the Middle East has become a "significant factor" in American Hoist's operations, said Fox. Sales from this area have increased twenty times in the past five years, he said.

There is growing demand for harbors and refineries in Saudi Arabia and elsewhere, said Fox, and "as long as the money is there, work will be there."

"Our success is a result of our international business," he said, noting that it is hard to guarantee foreign markets because of the politically unstable world.

LABOR UNIONS OPPOSE S. 1

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Ms. ABZUG. Mr. Speaker, S. 1 has drawn considerable criticism for its many provisions which infringe on the constitutional rights of Americans, but few realize the dangerous impact that this codification of our Federal criminal code will have on labor unions and their right to bargain collectively and strike against their employers.

I would like to take this opportunity to reprint the resolution adopted by the New York Typographical Union on February 22, 1976, opposing S. 1 and an editorial from the Voice of the United Steelworkers outlining their opposition to this legislation:

RESOLUTION OF THE NEW YORK TYPOGRAPHICAL UNION

Whereas, Labor's right to organize, strike and bargain collectively is bound up with the Constitutional liberties of all Americans as embodied in the Bill of Rights; and,

Whereas, Two of the worst enemies of organized labor and the movements for civil rights and civil liberties, Senators John McClellan (D.-Ark.) and Roman Hruska (R.-Neb.), have introduced into the Senate a bill S–1, titled "Criminal Justice Codification, Revision and Reform Act", which would undermine democratic rights; and,

Whereas, S–1 and a similar bill in the House of Representatives (H.R. 3907) were originally prepared by Nixon's Department of Justice under the direction of Attorney Generals John Mitchell and Richard Kleindienst and have as their objectives reinstituting the atmosphere of fear, intimidation, and persecution that was characteristic of McCarthyism and the abhorrent practices revealed by Watergate; and,

Whereas, S–1 would make it possible to frame-up and imprison and/or fine labor leaders and union members on false charges of planning or executing riot actions during strikes, of "extortion" and "blackmail" because their actions are considered to subject an employer to economic injury; and,

Whereas, The January meeting of the New York City Central Labor Council (AFL–CIO) unanimously approved a resolution previously adopted by Local 3 of the Newspaper Guild which warned that S–1 "introduces stricter controls over freedom of information and the press"; now, therefore, be it

Resolved, That N.Y. Typographical Union No. 6 goes on record as opposing the passage of S–1 in any form and adds its voice to that of others in the trade union movement who have similarly spoken out against S–1—the United Steelworkers of America, American Newspaper Guild, Amalgamated Meat Cutters & Butcher Workmen, United Auto Workers, Coalition of Black Trade Unionists, International Longshoremen's & Warehousemen's, and United Electrical Workers.

[From the Voice of the United Steelworkers]

S. 1: MAKING STRIKES "SABOTAGE"

You are a member of the Steelworkers and your Negotiating Committee is unable to reach a contract agreement with the company. Sister locals in two other states experience the same situation, and together you enter into a strike action. The employer refuses to bargain during the strike, but after two months prods the federal government to take action to halt the strike under a new, revised Criminal Code, declaring that the union and its members are involved in "sabotage."

A scenario from a "1984" type script of a neo-Nixon police state? No, a very real possibility in 1976 should Congress forget the democratic traditions of the Republic in its Bicentennial year and pass an ominous piece of legislation known as Senate Bill One (S.1). For under S.1, an alleged improvement of the U.S. Criminal Code which has the backing of the Administration and powerful Senate leadership, such a strike action could be declared as:

"Delaying or obstructing the production, manufacture, construction, repair or delivery of any property . . . used in or particularly suited for use in the national defense." It does not take too much imagination for those familiar with the USWA's membership—which embraces a wide sector in the workplace involving everything from basic metals to typewriters to nails—to understand that the "national defense" that is big enough to drop over virtually every dues-paying member in the United States.

The "sabotage" section of S. 1 also embraces "damaging" or "tampering with . . . any facility engaged in whole or in part in producing raw materials necessary to the support of the national defense." To convict, the government must prove only "intent to impair, interfere or obstruct the ability of the U.S. to prepare for or engage in war or defense activities." Injunctions so familiar to the union movement become but a sinister prelude to prosecution for "impairing military effectiveness," a major felony under the Criminal Code if S. 1 becomes law. Penalties include from three to seven years in jail and fines up to $100,000 or both.

Pretty wild? Not according to the Washington Legislative Office of the USWA, which along with other major AFL–CIO and independent unions has raised the alarm about S. 1. Says Steelworkers Legislative Director John J. Sheehan: "It would try to stop union leaders from calling demonstrations . . . strikers could be jailed on sabotage charges. It really could tighten things up under an atmosphere of 'to hell with civil liberties.'"

S. 1 has caused grave concern among civil libertarians and others who care about a fair system of criminal justice. In addition to the "sabotage" provisions, there are parts of the bill which could be used to prosecute strikers if violence—whatever its origin—occurred; "anti-riot" provisions which are sweeping enough to embrace strike rallies and the assembly of workers; general anti-demonstration statutes which the American Civil Liberties Union declares would "provide a hostile administration with potent weapons to be used to stifle dissent against anti-labor legislation or high unemployment" and the full weight of criminal law to enforce government secrecy.

MINIMUM WAGE LAW PROBLEMS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. ARCHER. Mr. Speaker, although the proponents of Federal minimum wage legislation stress the need to raise the minimum wage every few years, the truth of the matter is that the Federal minimum wage does not really help but actually hurts the worker. This type of legislation—a classic example of the harmful result of governmental interference in the marketplace—creates unemployment. Political interference in the economy results in additional problems for our economy.

Mr. Allan C. Brownfeld had a very perceptive column published in the March 16, 1976, edition of the Lima, Ohio, News, which focuses on some of the economic studies analyzing the harmful effects of the minimum wage legislation. It is essential that every Member study the economic significance of minimum wage legislation before any attempt is made to raise the level again.

The article follows:

MINIMUM WAGE DISASTROUS

(By Allan C. Brownfeld)

The House Labor Committee is considering legislation which would raise the minimum wage to $3 by the end of 1977. This proposal would increase the federal minimum, with an escalator clause which would provide for automatic increases thereafter, as the cost of living rises.

Such legislation is advocated because it would "help the poor" and enable those at the bottom of the economic ladder to keep up with the price increases caused by an ever mounting inflation. As in the case of all pieces of similar social legislation, it is advocated for the best and most humanitarian of reasons.

Unfortunately, the results of such an increase in the minimum wage would have precisely the opposite effect. It would be most injurious to the poor, particularly to minority groups and those who find themselves in marginal employment positions.

For those who will take the trouble to look at the realities of the market place, it is not difficult to see how the negative effects work.

In a free labor market where many employers compete with each other for workers and many workers compete with each other for jobs, the wage rate tends to be at such a level that there are few qualified workers without jobs and few employers who cannot find workers by offering the same wage rates and working conditions as other employers. If there were either a persistent shortage of workers or a persistent surplus, that would tend to raise or lower the wage rate.

Dr. Thomas Sowell, a black economist on the faculty of UCLA, is particularly concerned with the negative effect upon blacks and other minorities of liberal tinkering with the free market. He points out:

"When a minimum wage rate is imposed in such a market, it is typically set above the level that would have occurred by uncontrolled economic forces. Otherwise there would be no point in such a law. A higher wage rate simultaneously attracts more job applicants and reduces the number of persons whom it is profitable to hire. There are many ways of getting a job done with fewer employees and as the cost of employees rises, more of these ways are used."

What happens, Dr. Sowell notes, is "that the number of jobs decreases as the number of applicants increases. One consequence is that ethnic discrimination becomes less costly—perhaps free—to the employer in a profit-seeking business. Since he now has a chronic surplus of job applicants, he can pass up whatever race, religion or nationality he does not like while still getting all the qualified workers he can actually use.

"Without the legal restriction on wages, the employer's alternative would be to offer somewhat lower wages, have somewhat fewer job applicants as a result and fill the jobs by hiring a larger percentage of qualified applicants. The opportunity to make more profit in this way is one of the economic barriers tending to erode ethnic barriers to employment," says Sowell.

While advocates of minimum wage laws do not urge this legislation in order to throw more minority group members onto the unemployment and welfare rolls, this is, in fact, the result. Sowell declares, "Minimum wage laws are not passed for the purpose of racial exclusion, but the actual economic effects do not depend upon the intentions of those who establish a given institutional situation."

Why these members of Congress who think they are helping the poor by inflating the minimum wage do not read what economists have written on the subject is difficult to say. Perhaps the economic reality and what they perceive as their political self-interest are contradictory. Whatever the politics may be, it is essential that the real economic facts be made known.

Economist Milton Friedman writes:

"The groups that will be hurt the most by an increase in the minimum wage are the low-paid and the unskilled. The ones who remain employed will receive higher wage rates, but fewer will be employed . . . Women, teenagers, Negroes and particularly Negro teenagers will be especially hard hit. I am convinced that the minimum wage law is the most anti-Negro law on our statute books—in its effect, not its intent . . . Both Negroes and teenagers are only made worse off by discouraging employers from hiring them. On-the-job training, the main route whereby the unskilled have become skilled, is thus denied them."

Similarly, Professor James Tobin, who was a member of President Kennedy's Council of Economic Advisers, states, "People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum wage laws, trade union wage pressures or other devices which seek to compel employers to pay them more than their work is worth. The more likely outcome of such regulations is that the intended beneficiaries are not employed at all."

Before 1956, unemployment among black males aged 14 to 19 years was around 8 to 11 per cent, about the same as among young white males. Within two years after the legal minimum wage was raised from 75 cents to $1 an hour in 1956, unemployment among young black males shot up to 24 per cent and among whites to 14 per cent. It has been rising since.

The proposal to increase the minimum wage would not only hurt minorities and the poor, but would fuel our general inflation. In testimony before the House Labor Committee, the U.S. Industrial Council declared, "This provision would guarantee that wage increases would chase price increases and price increases would chase wage increases in a never-ending upward spiral."

Wages must have some basis in the marketplace. They cannot be legislated by politicians whose concern is political without causing needless harm to an already troubled economy.

EXPENSES FOR PARTICIPATING IN ADMINISTRATIVE PROCEEDNGS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. DRINAN. Mr. Speaker, the Federal administrative agencies have frequently been called the fourth branch of Government. Over the years they have proliferated in number and jurisdiction. An increasingly wide variety of legal disputes now come before them for resolution, and an increasingly large number of citizens are affected by their decisions.

This expansion of jurisdiction has created a number of new problems, not initially perceived in the creation of these administrative agencies. One of the principal difficulties is the cost of participating in these agency proceedings. Both with respect to parties required to appear before the agencies and those seeking to intervene, the costs of preparing an effective case are frequently prohibitive.

Today I am introducing, with congressman OTTINGER, a bill to alleviate the monetary problems experienced by persons who seek to protect their rights in administrative proceedings. It would authorize the award of reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in the proceeding.

The bill carefully defines the class of persons eligible for such awards. Because many parties can afford to participate, the proposal would not embrace the entire class of participants. It would, however, authorize fees to persons who cannot afford to participate, who will contribute to the need for a fair balance of interests in the proceeding, and who are not already adequately represented by existing parties.

The bill authorizes eligible persons to file an itemized bill of costs with the

U.S. District Court. The clerk of such court is directed to award the fees, subject to review by a judge of the court upon motion of the agency. If the matter is brought before a judge, the agency has the option of seeking to charge one of the parties to the proceeding with all or part of the costs. The court may apportion such costs between the agency and other parties only if the latter have acted in a dilatory fashion.

Furthermore, the proposal establishes a similar mechanism if an eligible person wishes to obtain an interim award of fees so that effective participation may occur during the proceeding. Thus if a person meets the eligibility requirements, he or she may apply for an award of fees prior to the proceeding in which the person seeks to participate. The bill precludes an appeal from such an award until after the agency proceeding is completed.

Throughout the bill, very strict, expeditious, and definitive procedures and time tables are established for processing such requests for fees. The bill sets forth time limits for filing and awarding fees, and authorizes the Administrative Office of the U.S. Courts to make the payment, with that office collecting in turn from the agency or party found liable. With these safeguards, agencies and other persons cannot frustrate the intent of the bill through various legal stratagems and delays. The bill, of course, does provide for orderly appeals after final judgment, and any excessive award can ultimately be corrected.

In addition the bill provides for the award of attorney fees, expert witness expenses, and other costs reasonably incurred in agency proceedings where the unsuccessful party has to take the agency to court for vindication of rights. That is, if an aggrieved person is required to initiate judicial action to correct adverse agency action, this section of the bill would allow that aggrieved person to recover the costs incurred both before the agency and in court. All aggrieved persons would be eligible for such awards if they substantially prevail, either before or after judgment. The bill, however, permits the courts to reduce or deny the award depending on the financial resources of the aggrieved person, including any money she or he may recover because of the appeal.

Finally the bill requires the Administrative Office to submit annual reports to the Congress so that it may annually evaluate the success and impact of the legislation.

The text of the bill follows:

H.R. 12762

A bill to amend chapters 5 and 7 of title 5 of the United States Code to provide for the award of reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in proceedings before Federal agencies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 5 of the United States Code is amended by inserting immediately after section 558 of such title the following new section:

"§ 559. Expenses of participation.

"(a) Any person, whether or not a party, may be awarded reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in connection with participation in any rulemaking, licensing, adjudicatory or other proceeding conducted by an agency.

"(b) Such person shall receive an award if—

"(1) in light of the need for representation of a fair balance of interests, the person has contributed or will contribute to a fair determination of the issues in the proceeding;

"(2) (A) the monetary benefit to the person is small in comparison to the costs of effective participation in the proceeding; or

"(B) the person does not have sufficient resources to participate effectively in the proceeding without such award; and

"(3) the interest represenated by that person is not adequately represented by existing parties to the proceeding.

"(c) Within 30 days after final disposition by the agency of the matter involved in the proceeding, any person eligible for an award under subsection (b) may file an itemized bill with the clerk of the United States district court for the district in which the proceeding was held. On one day's notice, the clerk shall tax the award against the appropriate agency. On motion served within ten days after such award, the action of the clerk may be reviewed by the court, which shall render its decision within 15 days after such service. No stay of the award shall be granted pending an appeal from the decision of the court.

"(d) At any time prior to or during an agency proceeding, any person eligible under subsection (b) may file an itemized bill of interim or estimated expenses with the clerk of the United States district court for the district in which the proceeding is or will be held. On one day's notice, the clerk shall tax the award against the appropriate agency. On motion served within three days after such award, the action of the clerk may be reviewed by the court, which shall render its decision within five days after such service. In determining whether an award of interim or estimated expenses is appropriate, the court shall consider whether the ability of the person to participate in the proceeding will be significantly impaired without such award. No appeal shall lie from an award of interim or estimated expenses until final disposition by the agency of the matter involved in the proceeding.

"(e) In any award made under subsection (c) or (d), the court may, after notice and an opportunity to be heard, tax all or part of it against any party to the proceeding, other than a person eligible under subsection (b), if that party has acted during the course of the proceeding in a dilatory fashion.

"(f) Payment of fees, expenses, and other costs under subsections (c) and (d) shall be made by the Administrative Office of the United States Courts within five days after the final action on the filing by the clerk or the court, whichever is later. The Administrative Office shall seek reimbursement of the award from the appropriate agency or party or both.".

(b) Section 559 of title 5 of the United States Code is redesignated as section 560.

(c) The table of sections for chapter 5 of title 5 of the United States Code is amended—

(1) by inserting immediately after the item relating to section 558 of such title, the following new item: "559. Expenses of participation."; and

(2) in the item relating to section 559, by striking out "559" and inserting in lieu thereof "560".

SEC. 2. (a) Chapter 7 of title 5 of the United States code is amended by adding at the end the following new section:

"§ 707. Attorney fees and other expenses.

"(a) In any action or proceeding to review agency action, where the person seeking review substantially prevails, either before or after final judgment, the court shall award to such person reasonable attorney fees, expert witness expenses, and other costs reasonably incurred in the proceedings. Such an award shall be taxed against the United States or a party in accordance with subsection (c) or both. No stay of the award shall be granted pending appeal from such award.

"(b) The court may reduce or deny an award under subsection (a) on account of any direct monetary benefit secured by or the resources available to the person seeking review.

"(c) In any award made under subsection (a), the court may, after notice and an opportunity to be heard, tax a part of such award against any party to the proceeding, other than the prevailing person seeking review, if such party has acted during the course of the proceedings in a dilatory fashion.

"(d) Payment of the fees, expenses, and other costs under subsection (a) shall be made by the Administrative Office of the United States Courts within five days after the order of the court. The Administrative Office shall seek reimbursement of the award from the appropriate agency or party or both.".

(b) The table of sections for chapter 7 of title 5 of the United States Code is amended by adding at the end the following new item:

"707. Attorney fees and other expenses.".

SEC. 3. The Administrative Office of the United States Courts shall, in accordance with such rules as the Judicial Conference of the United States may prescribe, prepare and transmit to Congress an annual report on the awards made under the amendments made by the first section and section 2 of this Act. Such report shall contain statistical data and other relevant information, set out in appropriate categories, of all agency actions and civil actions and proceedings in which such awards were sought or ordered or both.

COMMUNITY DEVELOPMENT PROGRAM IS ASSESSED

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. OBEY. Mr. Speaker, the manner in which the community development program is functioning after its first year of operation since enactment of the Housing and Community Development Act of 1974 is a matter of concern to us all with regard to our legislative oversight responsibilities.

A number of studies which have been made or are underway and some of the questions currently being raised with respect to the first year of operation are the subject of a timely and worthwhile article in last month's issue of AIA Journal, monthly magazine of the American Institute of Architects.

I insert a summary by AIA of the article's findings at this point in the RECORD:

3,000 U.S. CITIES AFFECTED BY CHANGES IN FEDERAL COMMUNITY DEVELOPMENT PROGRAM

Studies of the new federal Community Development Block Grant Program in its first year of operation show a marked shift in emphasis away from helping people and neighborhoods which need help the most.

Moreover, some of the program's best

friends have begun to conclude that, standing by itself, it cannot meet its primary objective—"the development of viable urban communities by providing decent housing and a suitable living environment."

These are the major conclusions reached in an article published by AIA Journal, monthly magazine of The American Institute of Architects.

"By all accounts, the community development program works well providing short-term funds which can be used for the reclamation of older, declining neighborhoods," according to an article by Associate Editor Beth Dunlop.

"But it does not do the job of the programs it replaced, whether or not they were successful."

These programs included urban renewal and model cities.

Approximately 3,000 U.S. communities are affected by the changing character of programs which have developed out of the Housing and Community Development Act of 1974.

A possible further dramatic change could result from the outcome of a landmark court case in Hartford, Conn., challenging the manner in which suburban communities may use community development funds. This development is chronicled in a separate Journal article this month by Washington, D.C., city planner Jane A. Silverman.

"The test case challenges HUD's approval of community development block grants to seven surrounding suburbs," Silverman explains. "The plans of these suburban community development block grants to seven surrounding suburbs," Silverman explains. "The plans of these suburban communities are deficient, according to (the City of) Hartford, because they do not accurately reflect regional housing needs, especially those of the inner city."

In a decision having possible nationwide ramifications, a federal judge several weeks ago enjoined the federal government from giving $4 million in community development funds to seven suburbs involved on grounds they had failed to make projections of how many low-income residents they expected to move into their communities, or plans for housing these prospective residents.

Similar court challenges are pending in the Detroit area, and could potentially arise in other areas.

At issue in the subjects covered by the two articles are the intent of the law governing the allocation of funds, the actual administration of the program by HUD, and the results of the first year of operation.

"Although several other suits have been brought against HUD challenging its administration of Title I (housing) in the areas of citizen participation, environmental review and civil rights, "Silverman notes, "the Hartford suit and the Detroit action are the two that most directly raise the question of whether the law is intended to address regional disparities in housing distribution."

Some $2.5 billion was allocated nationwide in the first year of the new program's operation.

The studies cited in the article were made by the National Association of Housing and Redevelopment Officials (NAHRO); Potomac Institute, a Washington, D.C., human rights and poverty group, and by HUD itself.

Based on a sample of how 151 cities have used the funds, the HUD study notes that "Those neighborhoods accelerating into major decline, and nonviable heavily abandoned neighborhoods, receive less emphasis" under the new program than under the programs it replaces.

A separate study of another 150 cities was conducted by NAHRO.

"The NAHRO statistics compared with the HUD statistics provide a clue that heavy expenditures for urban redevelopment may be concentrated in relatively few cities," Dunlop writes.

"Other HUD statistics support this thesis: The report notes that between 1968 and 1972, urban renewal programs accounted for 66 per cent of all HUD funds received by cities; under community development only 34 per cent went to urban renewal-related activities."

HUD Secretary Carla Hills is essentially "advising cities to engage in a holding pattern in the most deteriorated neighborhoods and instead focus their efforts on neighborhoods where results are easier to obtain," Dunlop reports.

The result of this emphasis, the article notes, is that cities are focusing their money "where the tasks are easier and the results showier, rather than addressing the extremely complex and difficult problems posed by seriously deteriorated neighborhoods."

HUD comes under criticism in the Potomac Institute study for "uncritical acceptance of inadequate plans" proposed by cities in applying for federal funds in terms of meeting housing needs.

Many of the country's community development watchdogs "have begun to question the kind of programs which are getting underway, and where," says Dunlop. "They are also asking what happens to the neighborhoods which get left behind."

NAHRO executive director Robert W. Maffin, the article notes, "believes that what is most needed is a national public policy aimed at 'saving and rebuilding cities,' and contends that this requires three, not one, programs"—a neighborhood conservation program, an urban redevelopment program, and a housing program.

However, the Silverman article highlights, the earliest development may come on the legal front.

MRS. SULLIVAN WILL NOT SEEK REELECTION TO CONGRESS

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. LITTON. Mr. Speaker, the gentlewoman from Missouri's Third Congressional District, The Honorable Mrs. LEONOR KRETZER SULLIVAN, has announced she will not seek reelection to Congress. I accept her decision with mixed emotions—those of joy overlayed with a deep sense of loss.

I am joyful that Mrs. SULLIVAN, who has served so well, may now have the opportunity to retire to her beautiful and admiring State of Missouri.

My sense of loss is rooted in the fact that Congress must resign itself to the void her absence will create and which will defy repletion.

I am proud to have an opportunity to note some of the many services Mrs. SULLIVAN has given to the State of Missouri and the Nation.

Mrs. SULLIVAN's dedicated service to the State of Missouri actually began in 1941 with her marriage to the late Congressman John Berchmans Sullivan. For 10 years, until his death in 1951, Mrs. Sullivan capably served as her husband's administrative assistant in his office and as his campaign manager in five successive general elections.

Following her husband's death, Mrs. SULLIVAN served as administrative assistant to Congressman Leonard Irving of Independence, Mo., until she resigned in May 1952, to run for the Democratic nomination for the congressional seat formerly held by her husband. She has continuously served since first being elected to the 83d Congress in November 1952.

From the time she became a Member of Congress, Mrs. SULLIVAN has served in many distinguished capacities: The National Commission on Food Marketing, 1964 until 1966; National Commission on Mortgage Interest Rates, 1968 until 1969; National Commission on Consumer Finance, 1969 until 1972; Chairman of U.S. Territorial Expansion Memorial Commission, 1969 to the present.

Additionally, Mrs. SULLIVAN has been a member of the House Committee on Merchant Marine and Fisheries since the 83d Congress, chairing this committee in the 93d and 94th Congresses, and formerly chairman of the Subcommittee on Panama Canal from the 85th through the 91st Congresses.

Mrs. SULLIVAN is a senior member of the House Committee on Banking, Currency and Housing, where she has served since the 84th Congress and has chaired the Subcommittee on Consumer Affairs from the 83d through the 93d Congresses. She chaired the special subcommittee investigating home financing practices and abuses during the 91st Congress and has been a member of the Subcommittee on Housing since the 84th Congress.

The Honorable LEONOR SULLIVAN rendered outstanding service to the Joint House and Senate Committee on Defense Production since the 90th Congress. She has also served as secretary of the House Democratic Caucus.

The first woman to be elected to Congress from the State of Missouri, Mrs. SULLIVAN is "first" in a myriad of additional ways:

She is first in the the esteem of her colleagues in Congress, who know her to be a competent and able leader.

She is first in the opinions of her fellow legislators from Missouri, who have come to rely upon her sound judgment in the governmental affairs affecting Missouri and the entire Nation.

And—perhaps most importantly—Mrs. SULLIVAN is first in the thoughts and hearts of her constituents, who have invested their complete trust and confidence in her infinite wisdom and loyalty.

Congress will surely miss this lovely and gracious lady. Quietly but effectively, kindly but honestly, fairly but firmly, she has served not only the people of her district, but all Missourians and all Americans. Her effective work in Congress, her high standards of hard work, and her unquestionable integrity are all reasons she will be so greatly missed.

Saying farewell to so eminent a Member of Congress is not easy. Saying farewell to such an endearing friend is impossible. I prefer rather to refer to the four bells which mark the end of session as the symbol for departure for the gentlewoman from the State of Missouri.

THE SILENT PARTNER OF HOWARD HUGHES—PART XI

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. HARRINGTON. Mr. Speaker, I am inserting today the 11th installment of the Philadelphia Inquirer's exposé regarding Howard Hughes' privileged relationship with sectors of the U.S. Government. In this segment, reporters Donald L. Barlett and James B. Steele turn to Hughes' Airwest, which has been subsidized by the American taxpayer since 1970 at the rate of $1 million per month:

UNITED STATES GIVES $1 MILLION A MONTH TO HIS AIRLINE

(By Donald L. Barlett and James B. Steele)

Since 1970, American taxpayers have subsidized Hughes Airwest, a California-based airline owned by billionaire Howard R. Hughes, in the amount of $55 million, or at a rate of almost $1 million per month.

The subsidy has been handed out under a long-standing but little-known program administered by the Civil Aeronautics Board (CAB) that is designed to encourage the growth of civil aviation.

Once given to upwards of 45 airlines, the subsidy is now awarded only to eight of the 33 airlines in the continental United States.

The fact that Hughes Airwest is among the few is a measure of the reclusive industrialist's ability to employ federal programs to aid his private business enterprises

But the subsidy—which the Hughes empire waged a vigorous battle over stiff opposition to obtain—is only one of the CAB benefits that have flowed Hughes' way over the three decades.

Since Hughes first entered commercial aviation in 1939, the CAB has:

Sanctioned his bid to acquire Air West in 1969, even though serious questions about the tactics used by Hughes and his aides to gain control of the small carrier—methods that were subsequently challenged in criminal and civil actions—went unanswered.

Awarded favorable international routes to Trans World Airlines in 1945, when Hughes controlled the carrier, which gave TWA the most favorable mix of domestic and international routes of any American carrier.

Complied with Hughes requests to withhold from public inspection all financial statements relating to the Hughes organization.

Respected Hughes' penchant for secrecy by never compelling him to testify or give a deposition relating to matters affecting him before the CAB, even when no other Hughes official was able to supply necessary details.

Though Hughes has often been portrayed as a brilliant, eccentric genius of private enterprise, a throwback to an earlier era when large companies were owned and operated by one man, the fact is the Hughes empire rests mightily on the federal government, and is fed and flourishes overwhelmingly on federal dollars.

Corporations Hughes owns and controls depends heavily on government contracts, federal subsidies or regulatory agency approval to conduct their affairs. As The Inquirer has disclosed, those companies have received in the last decade more than $6 billion in contracts from different agencies of the federal government.

The evidence suggests that more American tax money has flowed into Hughes' secret business operations than into any other privately controlled or privately owned business.

How has Howard Hughes, the renowned recluse who has not made a public appearance in a generation, exercised such incredible influence?

Hughes success, as revealed in yesterday's Inquirer, is attributable to a carefully devised system for dealing with official Washington. The Hughes empire has routinely made political contributions to both major parties, hired influential Washington law firms to shepherd proposals through the bureaucracy, and even hired lawyers who were once themselves government regulators.

The story of Howard Hughes and the CAB is a classic case of how the powerful Hughes organization works its ways in Washington.

It is a story of influence peddling.

It is a story of complex interrelationships.

It is a story of a CAB attorney who opposes Hughes tactics before the CAB, only to represent him in private practice later before the same agency.

It is a story of a CAB member who approves Hughes' takeover of an airline and then is proposed for the presidency of the carrier by a Hughes attorney.

It is a story of manipulation of the price of a publicly traded stock, and of a subsequent lawsuit by the Securities and Exchange Commission (SEC) charging Hughes with violating securities laws.

But mostly it is the story of how Howard Hughes, in spite of bitter opposition and in spite of his own absolute refusal to make a full disclosure of his plans and motives, managed to triumph at a major regulatory agency.

Hughes controversial acquisition of Air West, which was approved by the CAB in 1969, is the best place to start.

Air West was formed in 1968 from the merger of three small West Coast-based carriers—Bonanza Airlines in Phoenix, Pacific Airlines in San Francisco and West Coast Airlines in Seattle.

The CAB, which rules on all airline mergers, acquisitions and control cases, approved the transaction on Feb. 23, 1968.

The result was a modest-sized air carrier employing 3,800 persons and serving 100 cities on the west coasts of Canada, the United States and Mexico. Air West's stock, traded on the American Stock Exchange, was held by about 13,000 persons.

The CAB was optimistic about the new airline's future, saying "the merger would provide substantial advantages in terms of increased service to the public . . . and economies of operation with a consequent reduction in subsidy."

But those benefits never materialized. Integrating the three carriers proved more difficult than expected. When formal service began in July 1968 under the Air West name, there were complaints of poor service, and the line began to lose money.

CORPORATE STRIFE

Moreover, though it was not apparent to the outside world, the officers of the merged company never got along. Bitter corporate strife broke out among various factions. The management difficulties further aggravated Air West's sagging economic picture.

It was at this point—the summer of 1968, that Howard Hughes, ensconced behind the drawn curtains of his Desert Inn penthouse high above Las Vegas, began to make his move.

Why Hughes wanted Air West is not clear. Originally, his aides said their boss was disturbed about the quality of Air West's service to Las Vegas, where Hughes' multi-million-dollar empire in hotels and casinos depended so much on ready, efficient air service to shuttle gamblers in and out of town.

However, during subsequent CAB hearings, Hughes attorneys would never answer directly why Hughes sought to acquire the carrier. Since Air West was losing money at an accelerating pace (eventually, its losses would reach $100,000 a day), Hughes' motives seemed as mysterious as ever.

An aviator who had set air speed records in the 1930s, Hughes had been a leading, though controversial figure in commercial aviation since 1939.

In that year, he bought an interest in TWA, and gradually increased his holdings until he owned 78 percent of TWA's stock. He ruled the airline firmly, though behind-the-scenes, even down to selecting the design of TWA aircraft.

He became embroiled in a bitter battle for control of the airline in the 1960s over the way he had managed TWA. In 1965, he sold all his TWA stock for $546 million.

Later that same year, Hughes sold controlling interest in Northeast Airlines, a regional carrier serving New England, which he had owned since 1961.

Air West presented Hughes a rare opportunity to become active once again in running an airline.

Within weeks after Air West began its first flights on July 1, 1968, Hughes aides were already hard at work trying to gain control of the airline for their boss.

Robert A. Maheu, then head of Hughes' Nevada operations, entered into secret talks to purchase Air West with Nick Bez, chairman of Air West's board. Bez began the negotiations without informing or seeking the approval of other board members.

The talks culminated in an Aug. 11 memorandum in which Bez, who claimed to represent a substantial number of shareholders, pledged his best efforts to sell Air West to the Hughes Tool Co. (Toolco).

In turn, Toolco agreed to purchase the airline for $22 a share, provided that Air West, at the time the deal was consummated, was worth no less than 75 percent of its net worth as of July 31, 1968. The $22-a-share offer would have made the purchase price roughly $85 million.

Toolco was then Howard Hughes' holding company for a variety of his businesses, including an oil tool division that was the foundation of the Hughes family fortune.

That division was sold publicly in 1972 and is still known as the Hughes Tool Co., although Howard Hughes no longer has any connection with it.

In that year Hughes incorporated Summa Corp. as his new holding company encompassing most of his enterprises, including the airline that had been renamed Hughes Airwest.

As for the 75 percent net worth provision, that was an ambiguous clause from the start. It was never spelled out precisely what would happen if Air West's net worth dipped below 75 percent of what it was on July 31, 1968.

However, the proxy statement later mailed to shareholders, suggested that the sale would not go through if Air West's value declined.

"If this condition is not met," the proxy statement said of the 75 percent provision, "HTCo (Toolco) will not be obligated to consummate the purchase."

The day after the Maheu-Bez agreement, Bez wrote other Air West directors of his actions and scheduled a board meeting to consider the Hughes proposal.

ESCALATE INFIGHTING

Bez's agreement served to escalate what was already bitter corporate infighting. Coming as it did, just six weeks after the airline began service under the new Air West name, the Hughes proposal clearly aggravated Air West's severe management and financial problems.

"News of the Bez agreement with Hughes served only to divide further Air West's already divided management," wrote Western Airlines in a CAB brief. "From August 1968 through the end of the year the primary attention of Air West's management and its board of directors was focused on the Hughes proposal."

The result: Losses were even more severe as the year wore on. By the end of 1968, Air West had recorded a staggering $10-million loss.

On Sept. 20, Air West's board met and approved the Hughes offer by a 13 to 11 vote. A meeting to seek stockholders' approval was eventually set for Dec. 27 in San Mateo, Calif.

On Nov. 18, the Air West board met to consider the purchase contract with Hughes, but was unable to reach an agreement on whether to recommend its acceptance to the shareholders. Finally, the board decided to do nothing more than submit it to stockholders at the Dec. 27 meeting without a recommendation.

As that meeting approached, two other companies—the Mallory-Randall Corp., a Brooklyn mini-conglomerate, and Northwest Airlines—each made offers of their own to acquire Air West.

But Bez, firmly committed to the Hughes proposal, discouraged consideration of new offers.

He refused to call a board meeting to even consider the Mallory-Randall offer. The Northwest proposal was never considered at the shareholders' meeting.

As Northwest later charged: "This record demonstrates that Mr. Bez and his associates never varied from their written agreement. They impeded the full consideration of competitive offers while taking direction from representatives of Toolco."

In the meantime, Hughes' men were busily promoting Toolco's offer to acquire Air West, which Hughes said would yield shareholders $22 a share.

In addition to Maheu, among those active in the campaign were Chester C. Davis, Toolco's New York attorney, who also met with Air West directors during this period, and Jimmy (The Greek) Snyder, the Las Vegas odds-maker and publicist.

From August through September, Snyder's Las Vegas public relations firm distributed stories to the news media that were highly favorable to the Hughes offer and critical of Air West directors who opposed it. Typical of Snyder's releases was one that began:

"Directors of Air West who think the Howard Hughes offer of $22 a share isn't high enough are barking up the wrong tree. Hughes makes only one offer for properties he wants to buy and it's usually above market value. After that—no quibbling."

The public relations campaign had the desired effect. On Dec. 27, Air West stockholders narrowly approved the sale of Air West to Hughes. Of a total of 3.8 million shares outstanding, about 52 percent were cast in favor of the Hughes offer.

Even so, a majority of the Air West board remained opposed to the Hughes offer, and refused to approve the purchase agreement the day after the stockholders' meeting.

Within two days, legal actions were filed against them in Delaware and New York courts seeking damages and court orders to force them to accept the Hughes offer.

The lawsuits were filed in the name of various Air West stockholders. But, according to the Securities and Exchange Commission they were initiated by Hughes. Said the SEC in a court action filed later in San Francisco:

"The Hughes defendants, while concealing their roles, sought and arranged for certain Air West shareholders to institute legal actions seeking damages from the non-approving directors, retained and advanced funds to attorneys for the actions . . . and directed the filing of the complaints in several courts."

On December 31, six of the directors opposed to the sale buckled under this legal onslaught and changed their votes. The Hughes purchase agreement was finally approved. Eighteen days later Hughes, having won bare majorities in both the vote of Air West directors and the vote of Air West stockholders, applied to the CAB for approval to acquire the airline.

FINANCIAL REPORT

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. MYERS of Pennsylvania. Mr. Speaker, as I promised the people of the 25th Congressional District of Pennsylvania during my campaign and following my election to Congress, I am today making public my net worth statement and an account of my earnings while serving as their elected Representative.

In addition, I am making public an auditing firm report by certified public accountants of all my office receipts and expenditures and, once the Clerk of the House has provided me with the required report on receipts and expenditures for salaries, travel, and communications, I shall, Mr. Speaker, make that public as well.

I do not know, Mr. Speaker, how many Members of this body have or intend to secure outside audits of their office accounts. However, I offer this, Mr. Speaker, as an example of what I consider full financial disclosure. I do know, Mr. Speaker, that the reaction among the people I represent has been highly favorable to my disclosure efforts leading to a completely open office and a full accounting of what I receive in salary and other funds from those who are paying the bills. I include my financial report at this point in the RECORD:

CONGRESSMAN GARY A. MYERS, OFFICE ACCOUNT—FINANCIAL STATEMENT AND SUPPLEMENTARY INFORMATION WITH REPORT OF CERTIFIED PUBLIC ACCOUNTANTS, YEAR ENDED DECEMBER 31, 1975

REPORT OF CERTIFIED PUBLIC ACCOUNTANTS

WASHINGTON, D.C., *January 29, 1976.*

Congressman GARY A. MYERS,
25th District, Pennsylvania,
House of Representative,
Washington, D.C.

We have examined the statement of cash receipts and expenditures of Congressman Gary A. Myers office account for the year ended December 31, 1975. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statement of cash receipts and expenditures presents fairly the cash transactions of Congressman Gary A. Myers office account for the year ended December 31, 1975.

The accompanying supplementary information, while not necessary for a fair presentation of the cash receipts and expenditures, has been examined and, in our opinion, is fairly stated in all material respects in relation to the statement of cash receipts and expenditures taken as a whole.

ELMER FOX, WESTHEIMER & CO.

Congressman Gary A. Myers, Office Account—Statement of cash receipts and expenditures (on a cash basis), year ended December 31, 1975

RECEIPTS

Stationery allowance (Note 1)	$6,500
District office expense allowance (Note 2)	1,500
Reimbursements for staff purchases	1,485
Personal funds	1,125
Flags	670
	11,280

EXPENDITURES

Stationery and supplies	4,524
Staff purchases	1,485
Subscriptions	1,060
Flags	670
Xeroxing	406
Purchase of equipment	286
Communications services	223
Tickets	77
Office	67
Meetings and receptions	49
Dues	30
Repairs to tape recorder	22
Postage	15
Bank charges	13
Total	8,927
Net increase in cash	2,353
Cash balance at beginning of year	-----
Cash balance at end of year	2,353
Cash balance represented by:	
Stationery account	1,343
The National Capital Bank	487
The United National Bank of Pittsburgh	464
Petty cash balances	59
Total	2,353

(The accompanying notes are an integral part of the financial statement.)

CONGRESSMAN GARY A. MYERS' OFFICE ACCOUNT—NOTES TO FINANCIAL STATEMENTS, DECEMBER 31, 1975

1. STATIONERY ALLOWANCE

A stationery allowance of $6,500 per regular session is provided each member of Congress for purchase of office supplies.

The entire sum may be withdrawn in cash or kept in the stationery account for purchase of stationery and office supplies through the Clerk's House Office Supply Service.

For the year ended December 31, 1975, this amount consisted of the following transactions and balance:

Office supplies and stationery purchases	$3,757
Cash withdrawals	1,400
Cash balance at Dec. 31, 1975	1,343
Total	6,500

2. DISTRICT OFFICE EXPENSE ALLOWANCE

An office expense allowance of $500 per calendar quarter is provided to Members of Congress by the Clerk of the House.

The allowance has been drawn against during the year for the first through the third quarter in the amount of $1,500. The fourth quarter has not yet been requested.

3. REPUBLICAN EXTRA ASSISTANCE FOR COMMUNICATION HELP (REACH)

The REACH program allowed a $750 quarterly allotment for frankable communication purchases during the regular session for Republican members of Congress. During the year ended December 31, 1975 REACH expenditures of $2,973 were made. The allotment and the expenditures are not reflected in the statement of cash receipts and expenditures, and the remaining balance of $27 will revert back to the REACH program.

SUPPLEMENTARY INFORMATION

Congressman Gary A. Myers, Office Account—Summary of personal funds, year ended December 31, 1975

Honorariums:	
National Society of Professional Engineers	$500
Brookings Institute	300
Shenango Area School District	75
Memorial Day speech—House	50
	925
To open bank accounts:	
The National Capital Bank of Washington	100
The United National Bank of Pittsburgh	100
	200
Total	1,125

Congressman Gary A. Myers, Office Account—Summary of petty cash balances, year ended December 31, 1975

Office:	
New Castle, Pa	$25
Butler, Pa	20
Beaver, Pa	8
Washington, D.C	6
	59

CONGRESSMAN AND MRS. GARY A. MYERS NET WORTH STATEMENT

	Dec. 31, 1974	Dec. 31, 1975
Total net worth	$56,132.61	$66,733.66
Assets:		
Cash	3,379.36	3,747.60
Savings bonds	173.93	180.96
Armco thrift plan (note 1)	16,507.45	19,879.42
Cash value of life insurance	2,781.83	3,504.77
Automobiles	4,543.00	5,675.00
Residence (note 2)	50,000.00	142,000.00
Household furnishing	4,800.00	7,200.00
Escrow in mortgage accounts	316.65	486.18
Retirement fund deductions		3,125.77
Accure income and wage tax prepayments	5,040.25	11,503.37
Total assets	87,542.47	197,303.07
Liabilities:		
Security on rental property		300.00
5½ percent mortgage secured by residence (annual amortization and interest payments amount to $1,596)	16,540.78	15,540.61
8¼ percent mortgage secured by residence (annual amortization and interest payment amount to $2,242.56)		23,284.73
9¼ percent mortgage secured by residence (annual amortization and interest payment amount to $7,106.40)		73,913.70
10.09 percent note secured by 1975 Granada	5,378.10	3,534.18
10.09 percent note secured by 1975 Maverick		2,588.30
6 percent note unsecured	701.63	
Accrued income taxes on unrealized asset appreciation (note 3)	4,662.84	5,169.69
Accrued income and wage taxes payable	4,126.51	6,238.20
Total liabilities	31,409.86	130,569.41
Total net worth	56,132.61	66,733.66

NOTES TO THE PERSONAL FINANCIAL STATEMENT OF CONGRESSMAN AND MRS. GARY A. MYERS

NOTE 1. ARMCO THRIFT PLAN

The Thrift Plan is an account accumulated through personal and company contributions and account earnings during my Armco employment prior to becoming a Member of Congress. All personal and company contributions ceased as of 12-31-75, and changes while a Member of Congress will reflect only changes in market prices of securities in the account along with earnings or losses on the securities. The number of shares of Armco Common Stock in the account were: 12-31-74—632.830 Shares; 12-31-75—688.499 Shares.

NOTE 2. RESIDENCES

The estimated values of the residences reflect an independent appraisal on the one house early in 1975 ($50,000) and the purchase price of the other house in early 1975 ($92,000).

NOTE 3. ACCRUED INCOME TAXES ON UNREALIZED ASSET APPRECIATION

Unrealized appreciation in value of assets would, if realized, require payment of taxes at capital gains rates. Therefore, the accrual has been made on that basis.

1975 statement of income, Congressman and Mrs. Gary A. Myers

Earned income:	
Member of U.S. Congress salary	$39,072.08
Armco Steel Corp. (Note 1)	4,293.64
Honorariums	925.00
Earned income total	44,290.72
Unearned income:	
Net income on rental of Butler home	878.00
Interest on savings and life insurance accounts	206.10
Unearned income total	1,084.10
Total earnings	45,374.82

NOTE 1.—Earnings from Armco Steel Corporation reflect earned income which was earned in 1974 prior to my becoming a Member of Congress, but which was not paid until after 1975 began.

WILLIAM P. LEONARDZIAK

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. YATRON. Mr. Speaker, the city of Reading, Pa., has lost her elder statesman in the passing of William P. Leonardziak.

Councilman Leonardziak had just completed the first 2 months of his third consecutive term in office when he was stricken.

Last spring, Mr. Leonardziak led a large field of Democrats as the top vote-getter in his bid to retain his city council seat.

Mr. Leonardziak was particularly appreciated in a time when honesty, forthrightness and clearheaded thinking are at such a high premium. Mr. Leonardziak was respected by his colleagues especially when council debate on various issues would reach an impasse. It was Councilman Leonardziak who always retained the uncanny ability to articulate the main point in concise and succinct terms.

The people of Reading loved Councilman Leonardziak because he understood and related to his fellow citizens very well. He brought city government closer to the people and he helped give Reading a positive identity.

His passing is a sorrowful event. Hopefully we will all learn from his inspiring example. The combination of his good will and sincere dedication to the human experience will give an added meaning to our existence. His example will, perhaps, better prepare us to face the tasks which lie beyond this plane.

Mr. Leonardziak's active and generous dedication to civic affairs has enriched the lives of many people. His unselfish acts of kindness in the community will long be remembered.

Many times his kind words and genuine friendship comforted and encouraged his constituents. He was a good friend, and his loss is a personal one for me.

PRESIDENT PARK AND SOUTH KOREA

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, on March 19, 1976, the Washington Post, in an editorial, made what I consider to be an unfortunate, untimely, and unfair attack on a country which is one of our staunchest allies in the Far East.

I speak of South Korea. Everyone knows that the government of President Park is a stern one, and I would be the last person to maintain otherwise.

It goes without saying that some of the harsh treatment and swift justice meted out to persons convicted of attempting to overthrow the Korean government, or convicted of being secret agents for North Korea, is over-reactive.

However, I say only that much of this is understandable when one realizes that President Park is attempting to rule in a country that is constantly threatened from both within and without by an enemy power. In the United States, the Korean War is thought of as something that ended 23 years ago. In Korea, it is a smouldering fire which could rekindle itself at any time.

North Korea constantly threatens. It digs tunnels for troop movements under the DMZ. It infiltrates agents to agitate and to subvert. The President of South Korea must contend with all of this and, at the same time, reassure his citizens that all that can be done to keep South Korea afloat and secure is being done. The people of South Korea have watched with apprehension the sobering press coverage of the collapse of South Vietnam, which came virtually overnight.

In view of all this, I say that many of the stern measures now employed by the Park administration in South Korea—measures which assuredly seem extreme when viewed from here, in the safety of a relatively old and enlightened democracy—are at least partly understandable.

As a known liberal Congressman, my concern for the humanities is a matter of public record. I have not suspended this concern when it comes to South Korea, however I do try to mitigate concern with commonsense. It goes almost without saying that oppression of civil rights, no matter how little, is not to be condoned. On the other hand, neither is intellectual myopia in the face of reality to be admired.

I am not saying that every thing that President Park has done is right. But I am saying that there are far, far worse and more oppressive governments—and with less reason—than the Government of South Korea.

For that reason, and for some of the others mentioned here, I have written a letter to the editor of the Washington Post, in response to that editorial which I think was so poorly conceived.

At this time I should like to enter into the Record a copy of this Washington Post editorial and my own letter in response. I urge my colleagues to read both and then ask themselves if President Park is not entitled to more understanding, and fewer hostile remarks from over here, in these uncertain times.

[From the Washington Post, March 19, 1976]

South Korea's Most Dangerous Man

A dangerous man is on the loose in South Korea, one who threatens to provoke internal upheaval and to cost his country the support of its leading foreign ally. Indeed, given the ruthless centralization of power in Seoul, this man is in a position to do more damage to Korea's stability and security than any other figure. He often makes the monomaniac who runs North Korea, Kim Il Sung, look like an ineffectual ward politician. He is, of course, South Korean President Park Chung Hee.

President Park is as spoiled a despot as any ruling today. He started his political career unexceptionably enough. But the narrowness of his electoral victory over Kim Dae Jung in 1971—a contest in which his party extorted $3 million from Gulf Oil alone—apparently frightened him. He reacted over the next two years by turning South Korea into a personal dictatorship. Meanwhile he played on the solicitude many Americans have felt for his country since the Korean War, and on the gratitude some Americans expressed for his help in Vietnam, and he got the United States at once to build up his army and ignore the increasingly repressive quality of his rule.

The other day a dozen or so brave Koreans gathered in a church in Seoul to read a "declaration of decency and national salvation." They asked President Park to resign so that democracy could be restored. The group included his old nemesis Kim Dae Jung and leaders of South Korea's Christian community. Arrested promptly, they are evidently to be charged with plotting to overthrow the government. If convicted, they could be executed—eight other Korean political challengers were executed last year. The arrests are described as the last gasp of the political opposition. This does not mean that political opposition will end but that it will be forced underground. President Park offers no alternative.

Now, President Ford laid hands on President Park with a visit a year or so back. Secretary of State Kissinger's position, that Mr. Park's geopolitical role is too important for the United States to take issue with the way he runs the country, is all too well known. Still, it is dangerous and dishonorable for the Ford administration to remain silent about President Park's domestic savagery. Administration mumbling notwithstanding, this is not the United States' only choice.

We do not believe that the United States should abandon the South Korean people or otherwise act in a way that would tempt war. But we do believe that the administration's permissive tolerance of Korean police rule, far from allowing American officials to wield a softening influence by quiet diplomacy, has simply permitted President Park to tighten his grip. We suspect that President Park is laughing up his sleeve at Gerald Ford and Henry Kissinger and the American people. He is telling himself that there is no assault on American values that the United States cannot be conned into condoning in the name of anti-communism. If the administration cannot bring itself to set President Park straight, then the Congress, which controls the funds that keep him afloat, should do so on its own.

House of Representatives,
Washington, D.C., March 23, 1976.

Mr. Philip L. Geyelin,
Editorial Page Editor, The Washington Post,
Washington, D.C.

Dear Sir: I agree with some aspects of your editorial of March 19, 1976, which pointed out certain problems in South Korea.

Admittedly, the ROK is less than a perfect democracy. However, I do wonder why it is singled out for such a bristling attack by your newspaper when there are so many other less than perfect governments, which reasonably might be expected to bear the brunt of your critical ire, countries such as North Korea, the Peoples Republic of China, the Soviet Union, Uganda and North Vietnam, to name but a few.

While I would never question your right to express the views you have, I should like to mention my own credentials for holding slightly different views on the subject: my wife is a native-born Korean. Through her, and through my many fact-finding trips to Korea, I have learned a great deal about Korea, its problems and its government. No doubt there are people with more information on the subject than I, but I suspect that I am more knowledgeable about Korea than are many of the people now criticizing that country. Since your editorials are not signed, I have no idea what expertise your writer brings to the matter at hand.

Forgive me if I suggest that perhaps from the vantage point of writing from the United States, which has been fine-tuning its own democratic principles for 200 years, your editorial writer is being overly impatient with South Korea, which has only emerged from Japanese occupation in the last 31 years, and during that time has had to stand off armed invasion by North Koreans and Red Chinese. Even today it must maintain a 600,000-man army to insure that its neighbor to the north does not carry out any of the threats that it constantly makes.

What freedoms, in the name of security, might Americans have to forego if we were so threatened by an obviously aggressive and ambitious power on our border? South Korea, I would remind you, is one of our staunchest, in fact it is one of our very few remaining allies in Asia. Why is the Washington Post so unforgiving of departures from democracy in a friendly nation that it seems to blink at and ignore in countries that are hostile to us? As I said above, if the Post is campaigning against oppressive governments, it could find much worse ones elsewhere in the world.

In The Post's obvious shock at belatedly discovering that South Korea's government utilizes various procedures of martial law, it seems to have taken no notice of the fact that true domocracy is the world's least-used form of government. When one tallies the list of countries which are gradually falling into Communism, the ones which have been Communist for years, the countries which are run by dictators, the ones run by military juntas and all of the kingdoms and sheikdoms, one quickly realizes that democracy is in the descendancy. So why this sudden, shrill cry of alarm at South Korea, a country whose friendship, in my judgement, we need.

Surely your editorial writer realizes that South Korea lives in the cannon's mouth. The tunnels that the North Koreans dug under the DMZ is not such an old story that it has been forgotten, has it? President Park has every right to be concerned for the safety of his country, and to safeguard its internal security, when he is faced with a neighboring country that even has the audacity to snatch an American naval vessel from the high seas. The Pueblo incident has not been *that* long ago.

As for Kim Dae Jung, the South Korean politician who has been imprisoned on charges of attempting to overthrow the government: Kim Dae Jung, The Post implies, is merely protesting a dictatorial form of government. But, according to newspaper stories, during the election that Kim Dae Jung lost to President Park, the former said that he himself would impose various aspects of martial law if it would help make South Korea secure. To my mind, the argument would seem to be simply which man is to run a stern government. And I should think that this is not an argument which the U.S., or The Washington Post, should want to arbitrate.

We should not do that, unless, of course, The Post is now suggesting that we return to trying to be the world's policemen. In that case, there are far, far worse crimes done in the name of government in many other countries that The Post, in its wisdom, should be blowing its whistle at.

Very truly yours,
Charles H. Wilson.

IN TRIBUTE TO THE LATE HONORABLE FLORENCE PRICE DWYER

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1976

Mrs. MINK. Mr. Speaker, it was my pleasure to have served in this House for several years as a colleague of the late Florence Price Dwyer, who died last month. Florence Dwyer has been widely praised as a true representative of her constituents in New Jersey's 12th Congressional District, as a champion of consumer rights, and as a vocal advocate of women's rights. When she retired in 1972, she was serving as the ranking minority member of the House Banking and Currency Committee.

We should remember that Florence Dwyer had been especially active in government for many years before she came to Congress in 1956, having served in the New Jersey Legislature for 16 years before her election to this House for a similar 16-year period. In New Jersey, she authored the State's equal pay for equal work law. Here in the Congress, she urged the administration to create an Office of Women's Rights and Responsibilities in the White House.

We remember Flo Dwyer for her efforts on behalf of consumers, and particularly her sponsorship of legislation in 1970, to create an independent consumer protection agency, which this House has now approved in its passage during the 94th Congress of the bill to establish the Agency for Consumer Protection.

As we pay tribute to the contributions of this esteemed former Member of Congress, we see many of the legislative goals for which Florence Dwyer worked so tirelessly now being met. That is a true mark of her vision and she will be remembered for these many contributions.

POSTMASTER RALPH COLONELL RETIRES

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. BURGENER. Mr. Speaker, San Diego's postmaster is retiring after a long and fruitful career of service to his community.

Postmaster Ralph Colonell has been part of the life of San Diego since his arrival in 1933 from Denver. Since that time he has held virtually every position in San Diego's postal operation.

But more importantly, he has constantly given of himself in civic affairs as a volunteer in unnumbered causes. Both on duty and off, Ralph has spent his time in service to his fellow San Diegans.

For the past 15 years he has been our postmaster. During these years he has been a highly visible and easily reachable public servant. He has always placed the welfare of his community and the interests of San Diegans before his personal concerns.

As the San Diego Evening Tribune pointed out in a recent article, during his tenure as postmaster he has served on numerous civic and area advisory bodies and has been "probably the most available government official in the area."

He has set a standard that will be very hard to match.

My good colleague from California (Mr. VAN DEERLIN) will be inserting in the RECORD today an article from the San Diego Union on Ralph. I request at this time that the article from the San Diego Evening Tribune be printed in the RECORD immediately following these remarks.

STARTED UNDER FDR: POSTMASTER WILL END 41-YEAR MAILS CAREER

It's been a long time since Ralph S. Colonell has been able to do anything much about his golf game or fishing prowess. But times are changing.

Colonell, 69, San Diego's postmaster for the past 15 years, says he plans to retire within the next two months, ending a 41-year career in postal service.

"First, I've got a lot of odds and ends to take care of," Colonell said in an interview. "Then, I've got a daughter getting married in April. After that, there'll be some traveling, some golf and some fishing."

A native of Denver, Colonell moved to San Diego in 1933 and began as a postal clerk in 1935. Since then he has held every job in the post office and served as assistant to two postmasters before being appointed to the top job locally in 1961 by President Kennedy.

His tenure as postmaster is believed to be a record in that position here. He also is postal district manager for San Diego County.

Probably the most available government official in the area, Colonell has served on numerous civic and area advisory and action agencies.

"I don't think Ralph ever said no to a request for civic involvement," said a long-time acquaintance. "And he's not just lending his name; he gets in there and works."

Although he's a registered Democrat, Colonell has remained clear of partisan politics in a position that used to depend on active party participation.

He has served under 12 postmasters general, starting with James A. Farley.

"They all had certain attributes that made their mark on the service," Colonell said. "I felt that (J. Edward) Day, who was not quite the politician the others were, put the most effort into the job and really tried to do something with it."

Others who made a lasting impression on him were W. Marvin Watson ("He seemed to have a real good grasp of human knowledge and stood out in his field.") and current Postmaster General Benjamin F. Bailar.

"Bailar took over something that was way down to start with and he's really trying to do something about it," said Colonell. "I think if nothing goes wrong, he'll succeed."

The postmaster said the 1970 shift of the Post Office Department from an executive agency to the independent U.S. Postal Service hasn't affected his status materially.

"It doesn't make a heck of a lot of difference at the field level," he said. "It's a little easier to get some things than it was before, such as new buildings and equipment, but the rank and file in the field haven't noticed it much."

For the statistically minded, mail receipts have increased during Colonell's term in office from $9,045,789 in 1961 to $33,934,198 in 1975. Mail volume went from 474,098,400 pieces when he began as postmaster to 908,861,000 pieces last year.

In 1961, the San Diego Post Office served 201,912 customers. Last year the figure was 295,312. Post office employment went from 1,534 in 1961 to 2,869 last year.

"We've kept pace with the city's growth and I think we've managed to do a pretty good job overall," Colonell said. "I'm sure it will continue that way."

PRISONERS OF CONSCIENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. WOLFF. Mr. Speaker, I rise to express my concern over recent developments in the Soviet Union toward Soviet "prisoners of conscience" that appear to be a new and subtle form of harassment on the part of Soviet authorities.

For the past 2 years, I have been communicating with a Soviet Jewish prisoner, Boris Penson, who was sentenced in the Leningrad trials to 10 years in a labor camp. Recently, however, my mail to Boris has been returned to me stamped "Retour Inconnu." I thought perhaps Boris had been moved to another camp, and I am in the process of trying to obtain this information from Soviet authorities.

Within a week of my mail being returned, however, I began to hear from other Members and from constituents that their mail to Soviet "prisoners of conscience" was also being returned. Also, reports have come in that mail from families in Israel to relatives in Soviet prison camps was also being sent back undelivered. The wife of Yuri Vudka, for instance, has received 30 letters back in 1 week, although she has been writing to her husband for the past 4 years at the same address.

Mr. Speaker, I am hopeful that these events will turn out to be coincidences that will be clarified, and not a new type of harassment by the Soviet Government. I would appreciate hearing from other Members whose mail to Soviet "prisoners of conscience" has been returned so that we can work together to clear up the situation.

BOXED AND OTHER PRECUT BEEF

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. BERGLAND. Mr. Speaker, there has been a great deal of discussion about the use of boxed and other precut beef. There also has been much speculation about how much money the use of precut beef could save consumers.

The Amalgamated Meat Cutters and Butcher Workmen—AFL–CIO—has prepared a very informative study of the subject. I believe it will be of interest to Members. I insert the article in the RECORD:

BOXED AND OTHER PRECUT BEEF

Ten years ago, more than 80 percent of the beef sold to consumers in retail meat markets was fully processed and fabricated on the store premises. Sides or quarters of beef carcass were delivered to and hung in the meat market's cooler. Subsequently, they were reduced to primal, sub-primal and final retail cuts in the store's back room for sale to consumers. This traditional method continues in some retail stores.

However, a major shift has occurred in the past six or seven years. Processing to primal or sub-primal cuts has moved out of the back rooms of many retail food stores. Packinghouses, central cutting plants operated by a retail food chain or plants owned by independent wholesalers now perform this part of the processing or fabricating of most beef sold today.

The central cutting plants or the wholesale plants are generally located in the area of the food stores they serve. Most packer-processors are situated in the area of cattle production where feed lots provide livestock for slaughter.

MANY PACKERS

Because of its vast promotional efforts, one firm, Iowa Beef Processors, Inc. (IBP), has been able to create the impression that it is the only producer of boxed beef. It may be the largest producer at the present time, but its output represents only a minor fraction of the total volume of beef fabricated in packinghouses. All major slaughterers of beef have moved into these operations, including Swift, Armour, Wilson and Morrell. And newly developing companies, as Missouri Beef, Illini Beef and Monfort Packing, have a substantial share of the market.

IBP's promotional efforts have also sought to create the impression that union contracts have generally denied centrally processed and fabricated beef to consumers. Actually, a recent study by W. R. Grace Company, a producer of vacuum film used to wrap boxed beef, shows that 72 percent of retail beef now sold is precut before it comes into the retail meat market. Our investigations indicate that about 25 percent is precut in packinghouses and a remaining 37 percent is processed either in central cutting plants or in independent wholesale plants.

Precut beef's 72 percent share of the market compares with slightly more than 52 percent as recently as in 1972. Less than 12 percent of beef is expected to come into meat markets in the traditional carcass form by 1980.

UNION POLICY

Unsurprisingly, our local unions have been concerned with the possible loss of jobs to their members. At the same time, many of them—along with the parent International Union, itself—have realized that it would be totally counter-productive to resist valid innovations or to deny the opportunity for possible economies in the supply of beef to consumers. Accordingly, our local unions have followed varied patterns of response to the innovation of precut beef, which has appeared significantly in the years since 1969.

Ten years ago, most of our local union agreements covering retail meat employees included a jurisdictional provision, which which was negotiated years before. It required that all meat sold be cut, processed, fabricated, priced and wrapped on the store premises. These provisions barred a shift of processing and fabricating work from the meat market back to a central cutting plant or to a packinghouse.

By now, virtually all Amalgamated local unions have exercised their autonomous right to modify these provisions in one way or another. Throughout the East Coast and the South and in many areas of the Midwest and West, there are no restrictions left against the use of beef processed in either a central cutting plant or in a packinghouse. In some Midwest and West Coast cities, our local unions have agreed to centralized cutting of beef only in plants operated in the same area. These contracts have allowed for the transfer of empolyees from retail meat markets to the cutting plants with protection of wage rates and conditions of employment.

Only in St. Louis and Chicago have the original jurisdiction clauses remained. In these two cities, representing about 4 percent of the population of the United States, all processing of beef is still done on the premises of the retail meat market.

RETAIL INDUSTRY ACCEPTANCE

An assumption of many seems to be that retail food companies desperately want to bring precut beef into their stores and particularly that produced in a packinghouse. Accompanying this view is another assumption that only the restrictions of labor-management contracts hold back the firms. Both assumptions are often wrong.

Retail food companies find each of the three types of processing—precut in packinghouses, precut in central cutting plants and fully cut in stores—economic and beneficial under different circumstances. The size of their operation, amount of specialized service promoted by the company and demanded by consumers, distance from the slaughter of cattle and flexibility desired by the company are just a few of the factors which retail food executives tell us they consider in making a decision. In fact, companies will make one decision for stores in one area and another for those in another area. And they will supplement the beef produced by the predominant method with beef processed by another method in the same stores.

Some retail executives downgrade the packinghouse precut meat. They say that its claimed economies are greatly exaggerated, that the prices often are not competitive with the meat from a local central cutting plant. They also charge that the staying power of boxed meat is exaggerated, that the beef does shrink and does deteriorate. While some bacteria do not grow at all or very slowly in the near vacuum, others thrive in it.

Also, many retail companies prefer to have the primal and subprimal cuts fabricated along their own specifications rather than those of a packinghouse. They want their own style of cut, degree of fat content, amount of trim, etc. And some retail food executives worry about becoming dependent on a comparatively limited number of slaughterers if they turn completely to boxed meat from packinghouses.

Thus, on the East Coast, where there are no restrictions in the labor-management contracts against precut meat either from central cutting plants or packinghouses, the use of boxed meat from packing plants is in a minority. In Washington, D.C., for example, there are no restrictions. But, Giant Food, Inc. predominantly uses meat cut in its own stores rather than precut. Safeway Stores, Inc., the other of the two largest food chains in the area, predominantly depends upon its own cutting plant.

SAVINGS FROM PRECUT MEAT

Secretary of Agriculture Earl L. Butz is fond of attacking our Union and particularly our alleged restrictions against the sale of "boxed beef." He charges that these "restrictions" increase the price of beef and often states that if they were removed, the saving to the consumer would amount to 5 or 6 cents a pound of beef. Our Research Department has sought an explanation from the United States Department of Agriculture on how this "5 or 6 cents saving" was determined. They asked about the methodology used to develop this data. The USDA economists responded that they could give no information since they had not supplied the "savings figure" to the Secretary.

The "estimate" could well have come from Iowa Beef Processors, Inc. itself. This company has publicly claimed a savings on its boxed meat of at least $36 for each 650 pound carcass. In 1973, our Union was involved with the company in a long wage arbitration which involved hearings with cross-examination used by both sides. In these hearings, our Union's representatives challenged the alleged $36 saving.

The Company responded only with a series of assertions concerning the economies of centralized production, the improved techniques, the gains of centralized collection of bones and scrap, the reduced transportation costs and other claimed benefits. Our representatives insisted on evidential substantiation of lowered prices to consumers or higher prices to cattle feeders or better margins for retailers from this "saving of 5 or 6 cents a pound." The Company witnesses were unable to point to any saving at any point of the cattle cycle. Neither we nor the arbitrator received any substantiation of this whole broad claim.

Our Union does not have precise data. We have no access to information showing operating costs, man-hours and production efficiencies on beef fabricating operations. Nor do we have the specific data which the retail chains use in determining what type of meat cutting is most economic and efficient for them. This data—whether from the packinghouses or the retail chains—is closely held information.

As stated previously, we have discussed these matters with retail food store executives. They tell us that under some circumstances, precut meat offers definite efficiencies. In other cases, it does not. However, the marginal difference in all these situations are to be measured in fractions of a cent per pound, they say.

ADDITIONAL COSTS

There is no doubt that the improved technology and centralized operation used in the production of precut meat does create possibilities for economies and efficiencies. However, there are also additional costs.

In our work on the 1973 arbitration with Iowa Beef, we studied these costs. The company's boxed beef is treated with gas and then gets special packaging (cry-o-vacing) to protect it during shipment. The protective material is a plastic which is made from increasingly costly petroleum. Also, there is the cost of the box in which the meat is shipped. The total packaging cost is at least 4 cents for each pound of beef or $26 a carcass. This amount is equal to the entire wage cost of slaughtering a steer and processing its carcass into boxed beef in a packinghouse.

A charge made against our Union by Iowa Beef Processors in materials distributed to some Congressmen also provides interesting information. The company charged that the contract of our Local Union in Milwaukee, Wis. provides for a wage increase of 50 cents an hour whenever precut beef from a packinghouse—not a local central cutting plant—is introduced. The company charged that this provision operated as an effective bar against the introduction of its boxed beef. But the 50 cents an hour increase would equal approximately a 0.6 cent rise in the cost of a pound of beef. How could this 0.6 cent effectively bar the promoted 5 to 6 cents saving?

BLS SURVEY OF BEEF PRICES

Perhaps the most useful check on the effect of restrictions against boxed beef on consumer prices can come from looking at the prices themselves. As previously stated, there are only two U.S. cities, Chicago and St. Louis, where labor-management contracts bar precut meat from both packinghouses and central cutting plants.

The U.S. Bureau of Labor Statistics (BLS) regularly surveys the price of beef in some major cities, including St. Louis and Chicago. The following table compares those results over a period of seven years, the time of the introduction of boxed beef, with the BLS figures for Detroit and Cleveland, where no restrictions exist.

4 CITY CHOICE BEEF PRICES

[USDA weights]

	1968	1969	1970	1971	1972	1973	1974	September 1975
Chicago	$0.935	$1.053	$1.046	$1.093	$1.183	$1.386	$1.386	$1.564
Cleveland	1.028	1.137	1.165	1.213	1.330	1.570	1.518	1.792
Detroit	$1.016	$1.153	$1.195	$1.218	$1.333	$1.570	$1.591	$1.717
St. Louis	1.090	1.211	1.245	1.216	1.311	1.488	1.481	1.693

The BLS statistics do not show a "5 to 6 cent saving." In fact, the cities with restrictions show *lower* prices. In 1968, the average St. Louis-Chicago price for a pound of beef was $1.012 compared with $1.022 for Detroit-Cleveland. By September, 1975, beef in the cities where precut meat had come in sold at an average of $1.754 as compared with $1.628 in the cities with restrictions. In the non-restricted cities, therefore, beef prices increased 73.2 cents as compared with a rise of 61.6 cents in the restricted ones.

Our Union chose Cleveland and Detroit because they were the cities nearest to Chicago and St. Louis for which the BLS had statistics. We wanted to minimize transportation cost differentials. We are including information on additional cities in the appendix.

MISCONCEPTIONS AND FACTS

Because of the political attacks by Secretary Butz and the product promotion by Iowa Beef Processors, misconceptions exist concerning precut beef. The facts are that a variety of sources for precut beef exist. Precut beef now accounts for 72 percent of the beef sold in the United States. Our Union followed a step-by-step relaxation of labor-management contract restrictions still making it possible for the new meat cutting process to operate.

Various retail food companies prefer different types of meat fabrication for their stores. Many factors go into their decisions as to which type will predominate in which set of stores. In fact, they will sometimes use another type to supplement the predominant method.

No public date exists on the alleged savings incurred from the use of precut meat from either centralized cutting plants or packinghouses or any particular packinghouses. Evidence is available that there are efficiencies and economies in precutting primal and sub-primal cuts, but there are also additional costs. Our Union has been told by retail food company executives that any savings are a fraction of a cent a pound. The alleged savings of 5 to 6 cents apparently do not exist.

U.S. Bureau of Labor statistics data on the consumer price of beef in American cities shows no benefit to consumers from the lack of labor-management contract restrictions against precut beef. In fact, the two cities remaining in the United States with contract bars against all precut beef have lower prices and lesser increases in price than two nearby cities without restrictions.

APPENDIX

CHOICE BEEF PRICES IN UNITED STATES AND 12 CITIES

	Average 1968	September 1975	Difference	Percentage increase
All United States	$1.026	$1.777	$0.751	73.2
Atlanta	1.041	1.846	.805	77.3
Baltimore	1.083	1.765	.682	63.0
Buffalo	1.004	1.758	.754	75.1
Chicago	.935	1.564	.629	69.3
Cincinnati	.998	1.790	.792	79.4
Cleveland	1.028	1.792	.764	74.3
Dallas	1.002	1.650	.648	64.7
Detroit	1.016	1.717	.701	69.0
New York	1.067	1.933	.866	81.2
Philadelphia	1.040	1.926	.886	85.2
St. Louis	1.090	1.693	.603	55.3
Washington, D.C.	1.111	1.923	.812	73.1

A MARSHALL PLAN FOR MUNICIPALITIES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. WOLFF. Mr. Speaker, I would like to share with my colleagues a recent speech of S. Stanley Kreutzer, counsel for the New York City Board of Ethics. Mr. Kreutzer addresses himself to a problem which has reached monumental proportions in our times—that of urban decay which is eroding the strength and viability of municipal governments and the quality of life for a great many Americans. Mr. Kreutzer proposes a "Marshall Plan" to tackle the problem of urban decay. I believe his idea is both timely and worthy of consideration, and I am pleased to share his remarks with my colleagues.

Mr. Kreutzer's speech, "A Marshall Plan for Municipalities" follows:

A MARSHALL PLAN FOR MUNICIPALITIES

(By S. Stanley Kreutzer)

Our local governments are in deep, deep trouble. Some of the worst bombed cities of World War II look a whole lot better than many of our cities—which have been devastated by neglect. The visible agony of urban areas falling apart before our very eyes, is a problem which must be dealt with—immediately and massively.

We provided a Marshall Plan for European nations to keep them independent, free and viable. Why not a domestic Marshall Plan for our municipalities in the form of a $150 billion appropriation, to be spread over the next ten years? Without massive help—massive help to an unprecedented extent—they cannot pull out of the mess they are in. The spending of this $150 billion would be supervised by a National Commission consisting of representatives designated by federal and local governments, whose duties would include the formulation of a program and establishment of priorities. Special task forces would be set up to deal with the complex problems arising out of this task and the Commission should require regular reports from each municipality on the manner and propriety of their expenditures. The reports should be public.

Competition for the taxpayer's dollar is becoming keener while taxpayers dollars are becoming leaner. Why? Because municipalities do not plan ahead. And they will not plan ahead because they cannot plan ahead. Counties, towns and villages are looking over each others shoulders to find out why and what and how things are being done on the other side of the municipal fence. The heavier the burdens of taxation become the more they become counterproductive. City governments seek to tax suburbanites and suburban governments seek to tax the cityites. And neither the city nor the suburb nor the citizen gets any joy out of the process.

Inflation and recession are the major causes for these problems. The costs of government have risen astronomically because of inflation and receipts have dropped drastically because of the recession. Local governments have sufffered greatly because of these conditions—conditions over which they have and have had no control whatever.

A Marshall Plan for our municipalities will prime the economic pump. It will help in rebuilding and reducing our slums. It will provide jobs. It will help our state and local governments to lessen some of their financial burdens.

The economic lifeblood of our nation will not circulate without the vitality of our cities, towns and villages. We must discard the patchwork approach in favor of national massive support if our municipalities are to be enabled to plan, to build and to serve. The need is clear. All around us we can see what neglect and stagnation have done. The three R's "Rot, Rack, and Ruin" have entrenched themselves into the fibre of our cities. To pump economic life into them requires no less than a massive infusion of federal funding. My proposal that one hundred and fifty billion dollars be appropriated over 10 years is not so large, when you consider that this is what we spent in Vietnam in the past 10 years.

We must refinance and restructive our municipalities. There has been a great shift in the supply of services from our federal to local governments. It is our municipalities which now carry the major burdens of responsibility and they are immense. When serious unemployment creates hardships and need, it is the municipality which suffers even though local governments cannot control and have little or nothing to do with the causes of unemployment. We take our municipalities for granted. Rarely do we stop to think of the valuable services which our cities, counties, towns and villages provide. The sick, the hungry, the needy—all look to their local governments for help. The unemployed march on our city, town and village halls. When police and fire protection is demanded, the target is City Hall. Public safety, sanitation and education services are demanded from the Mayor or the City Manager or the County Executive. It is the local government to which the woes of the community and of our people are addressed. And in some cases, the local government even pays welfare costs—as in New York City, to the tune of about a billion dollars.

Our cities, towns and villages seem to be falling apart. Fear and violence stalk the streets. There is anger and frustration at the inability of local governments to provide even the most basic services. These happenings are not in keeping with the purposes for which local governments were established and certainly not in consonance with the American dream.

Local governments are the closest to the people. It is to the local government that our people relate. Their burden—whether it is transit, police, fire, welfare or the arts—cannot be carried any longer without massive federal help such as this Marshall Plan suggests.

We have been talking about the needs of our municipalities at least 15 years. While we have been talking, conditions have been deteriorating. Only recently, local transit needs had to be federally subsidized for the first time in our history. But sporadic appropriations such as transit, represent a policy of drift and patches. We must plan ahead. The time for patching has gone.

If we had spent 1/10th the amount of money on our cities during the ten years that we were financing the Vietnam War, the possibility of disaster would not now be confronting us.

Every day municipalities are endangered by their inability to fund and to adequately provide essential services. Our banks, insurance companies and lending institutions had better get interested in helping too. They have many interests in our communities. These interests are often not movable. They hold mortgages and real estate properties whose values are in direct proportion to the quality and character of the city they are in. Our financial institutions are not and must not be mere spectators of our municipal struggles. Government and business and our financial institutions must join together to aid in solving the problems of our cities. We are all in this together.

The cataclysmic pressures that every city will be facing in the very near future—and I mean the very near future—must be viewed with sharp focus and not blurry generalities. If we organize and plan the use of our resources and provide the wherewithal, further reductions of police, fire, education and other necessary services can be curtailed. In short, what I am saying is that the fiscal, economic and social structure of our municipalities is so bleak that the federal government must provide that $150 billion dollars for a massive attack on the problems of cities throughout the land-or else our failures will hover about us like vultures waiting for their prey.

Here is a program around which we can rally. Here is a program that deserves the united support of labor, industry, the financial community-and all of our people. Here is a program which is neither partisan nor regional. It is one to which all parties can give their full support knowing full well that it is in the interest of a better future and a better America for all of us.

INTRODUCTION OF THE HOUSING INCENTIVE INVESTMENT ACT OF 1976

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. ASHLEY. Mr. Speaker, today I am introducing the Housing Incentive Investment Act of 1976 to stimulate the flow of money into the mortgage market at a reduced rate to the homebuyer.

Housing is caught in a terrible trap. The industry is just beginning to emerge from its worst slump since the Great Depression of the 1930's. The availability of mortgage credit continues to be subject to violent cyclical swings. Inflation has priced two-thirds of American families out of the housing market. And the government's ability to help is severely restricted by ballooning budget deficits.

The Housing incentive investment plan seeks to solve the dilemma by offering the working class family a below-market interest rate, but requiring that the Government be repaid for its assistance from the profits made by the homeowner when his home is sold or when the mortgage ends.

In addition, the plan would protect the mortgage lender from the ravages of deposit-draining rises in short-term interest rates, so-called disintermediation. Though the homebuyer would receive a fixed-interest mortgage, the lender would receive a flexible rate tied to the Treasury index of short-term rates. The Government National Mortgage Association—Ginnie Mae—would pay the lender the difference between the fixed rate and the indexed rate, and these payments would be recaptured later when the home is sold or the mortgage retired.

Here is an example of how the program would work:

A family earning $12,400 could qualify for a $35,000 mortgage to buy a new home at today's average price of $43,750. Instead of entering into a mortgage at the current market interest rate—presently 9 percent—the buyer instead could elect to pay monthly principal and interest on the basis of a 7-percent rate for the life of the mortgage. The latter option would reduce the homeowner's monthly payment to $244.73 from the $281.61 it would be if he were paying the full 9-percent interest rate.

Each month the lender would receive 7 percent from the buyer; from the Government National Mortgage Association he also would receive the difference between that amount and the current market rate—based on the Treasury index of short-term rates—adjusted every 6 months. If the index rose to 10 percent, the Government payment would amount to 3 percentage points. If the index dropped below 7 percent, the Government payment would cease and the buyer would benefit from reduced interest payments. Figuring an average 9½ percent interest rate over a 10-year period—the average time that a homeowner keeps his home—the Government contribution would amount to approximately $4,745.52.

Over the same period of time, the buyer's home—assuming a conservative 4 percent annual appreciation—would increase in value to $64,760. This would return him a profit of $21,000, less settlement costs, or much more than enough to repay the $4,745.52 in Government advances.

The impact on the new homebuyer is more fully illustrated in the following tables:

IMPACT OF HOUSING INCENTIVE INVESTMENT PROPOSAL ON NEW HOMEBUYER*

FEDERAL INTEREST LOANS

Year	Mortgage market rate [1] (percent)	Contract monthly payment [2]	Lender's payment [3]	Monthly difference [4]	Annualized difference [5]
1976	9.0	$244.73	$281.61	$36.88	$442.56
1977	8.5	244.73	269.12	24.39	292.68
1978	9.5	244.73	294.30	49.57	594.84
1979	10.0	244.73	307.14	62.41	748.92
1980	9.0	244.73	281.61	36.88	442.56
1981	8.0	$244.73	$256.81	$12.08	$144.96
1982	8.5	244.73	269.12	24.39	292.68
1983	9.5	244.73	294.30	49.57	594.84
1984	9.0	244.73	281.61	36.88	442.56
1985	10.0	244.73	307.14	62.41	748.92

*Initial house price=$43,750, $8,750 down payment, 80 percent mortgage loan=$35,000, 30 years.

[1] Mortgage rate upon which the program is based.

[2] Mortgage rate buyer received in 1976 under program 7 percent.

[3] Based upon market mortgage rate.

[4] Federally provided loan per month.

[5] Federally provided loan per year.

INCREASED VALUE OF HOME

Year	Home value at beginning of year	Increase per year [1]	Home value at end of year
1976	[2] $43,750	$1,750	$45,500
1977	45,500	1,820	47,320
1978	47,320	1,893	49,213
1979	49,213	1,968	51,181
1980	51,181	2,047	53,228
1981	53,228	2,129	55,571
1982	55,357	2,214	57,571
1983	57,571	2,303	59,874
1984	59,874	2,395	62,269
1985	62,269	2,491	64,760

[1] Assumes 4 percent increase in value per year.

[2] Based on purchase made in table 1.

TOTAL IMPACT ON BUYER

Year	Increase in home value	Annual loan	Difference
1976	$1,750	$442.56	$1,307.44
1977	1,820	292.68	1,527.32
1978	1,893	594.84	1,298.16
1979	1,968	748.92	1,219.08
1980	2,047	442,56	1,604.44
5 yr total	9,478	2,521.56	6,956.44
1981	2,129	144.96	1,984.0
1982	2,214	292.68	1,921.3
1983	2,303	594.84	1,708.1
1984	2,395	442.56	1,952.48
1985	2,491	748.92	1,742.0
10 yr total	21,010	4,745.52	16,264.48

Source: Tables 1 and 2.

If the economy declines and the homeowner does not sell at a profit, interest rates presumably would have declined, too, and the Government's contributions would be sharply reduced.

As an added protection to the homebuyer from exaggerated swings in the interest rate, the act provides that no single adjustment in the lender's interest rate may exceed one-fourth of 1 percent nor may the aggregate upward adjustment exceed 2½ percent. Thus, if the lender's rate when the mortgage was executed was 9 percent, the lender's rate including the advances could not go above 11½ percent.

The working man who buys his first home would be the primary beneficiary under this plan. Generally new family formations start with a low income base with the anticipation of higher future income. The flexibility of the plan will permit these new families to realize early home ownership through lower initial payments and a deferral of the repayment of advances to a later period of higher income.

The plan has advantages over current Government housing programs.

The inflationary index feature will encourage the flow of capital from private savings into the home mortgage market. This should substantially limit the historical destabilizing swings in mortgage credit availability.

Next, with the repayment feature, there will be minimal Treasury impact from subsidy payments, thus reducing the inflationary effects of many of our existing Government-supported housing programs.

The cost advantage of the housing incentive investment plan over the existing Tandem Federal Home Loan Bank Board borrowing is illustrated by the following charts:

TABLE 1.—COMPARATIVE FEDERAL BORROWING, 1976–85[1]

Year	Mortgage market ratd (percent)	Ashley borrowing plan	Tandem/FHLBB borrowing	Difference (2)—(1)	Accumulated Ashley borrowing	Accumulated tandem borrowing	(5)—(4)
1976	9.0	$0.12B	$5.40B	$5.28B	$0.12B	$5.40B	$5.28B
1977	8.5	.20	4.86	4.66	.32	10.26	9.94
1978	9.5	.33	4.34	4.01	.65	14.60	13.95
1979	10.0	.45	4.17	3.72	1.10	18.57	17.47
1980	9.0	.38	3.35	2.97	1.48	22.12	20.64
1981	8.0	.22	3.19	2.97	1.70	25.31	23.61
1982	8.5	.45	2.87	2.42	2.15	28.18	26.03
1983	9.5	.59	2.58	1.99	2.74	30.76	28.02
1984	9.0	.49	2.23	1.74	3.23	33.09	29.86
1985	10.0	.64	2.09	1.45	3.87	35.18	31.31

[1] See notes for underlying assumptions and estimating procedures.

TABLE 2.—FEDERAL SUBSIDIES, 1976–85[1]

Year	Mortgage market interest rate (percent)	Ashley subsidy per year (1)	Tandem/FHLBB lending subsidy per year (2)	Difference (col. 2 minus 1) (3)	Accumulated Ashley subsidies (4)	Accumulated tandem/FHLBB lending subsidies (5)	Difference (col. 5 minus 4) (6)
976	9.0	$0M	$255M	$255M	$0B	$0.26B	$0.26B
1977	8.5	0	255	255	0	.51	.51
1978	9.5	0	240	240	0	.75	.75
1979	10.0	0	240	240	0	.99	.99
1980	9.0	0	255	255	0	1.25	1.25
1981	8.0	0	255	255	0	1.50	1.50
1982	8.5	0	255	255	0	1.76	1.76
1983	9.5	0	240	240	0	2.00	2.00
1984	9.0	0	255	255	0	2.25	2.25
1985	10.0	0	240	240	0	2.49	2.49

[1] See notes for underlying assumptions and estimating procedures.

NOTES

(1) Borrowing and subsidy calculations are based on 200,000 new home loans being provided each year. The average loan size is assumed to be $30,000. The loans are assumed to have a 30-year maturity. Each year 10% of the loans made are assumed to be prepaid.

(2) The mortgage interest rates for 1976–85 were randomly chosen based on a pessimistic forecast of high and unstable interest rate fluctuation over the next decade.

(3) Tandem plan subsidies were based on a 1% below market rate interest assumption. The calculation used involves calculating the discount necessary to equate the market rate and the subsidized rate. The method is detailed in an unpublished paper by George M. von Furstenberg entitled: "The Economics of the $16 Billion Tandem Mortgages Committed in the Current Housing Slump," June 20, 1975.

(4) Ashley Plan loans were estimated based on a 2% below market rate, initial mortgage rate and a variable lender's rate for future years. A maximum lender's rate increase of 25 basis points per six months or 50 basis points per year not to exceed 2½% was utilized. All calculations were based on average annual mortgage interest rates, loans being in process for the entire year, and a 10% per year loan repayment schedule. These assumptions tend to overestimate the loan requirements of the Ashley Plan.

Table No. 1 compares the Federal borrowing involved in each of the programs assuming they had been instituted in the year 1976—for a 10-year period. The basic proposition is that each plan would finance 200,000 homes per year by offering borrowers mortgage loans at a mortgage interest rate 2 percent less than the existing mortgage rate. These programs are compared using a series of randomly chosen mortgage interest rate variations for the next 10 years. These variations were chosen in an attempt to test the two plans during a period of erratic mortgage interest rate movements such as were experienced during the past few years—see notes for additional assumptions.

In each of these years the Tandem/FHLBB lending plans would borrow significantly more Federal dollars than the deferred mortgage interest repayment plan. On a cumulative basis, there is a $31 billion difference in the total number of Federal dollars borrowed in each proposal between 1976 and 1985.

As table No. 2 indicates, the housing incentive investment plan would involve no Federal subsidy while the other plans would require large subsidies. On a cumulative basis, financing 2 million housing units over the next decade would involve a Federal subsidy of nearly $2.5 billion under the Tandem/FHLBB lending plans. In contrast, the housing incentive investment plan would involve zero Federal subsidy since these loans would be paid back.

Table No. 2 also reveals that an initial $1.0 billion funding of the housing incentive investment plan would provide 200,000 home mortgage loans each year over the period of 1976–82. This equals a 7-year total of 1.4 million new units. This assumes that mortgage interest rates average 9 percent over the period. Of course, substantially different mortgage interest rates might alter this conclusion.

Mr. Speaker, after decades of experimenting with housing assistance, I have concluded that the Government where possible must get something in return for its help. The population that needs assistance to afford housing continues to expand, and my proposal will enable more families to obtain advances without requiring huge Federal outlays. It thus is responsive to the problems caused by inflationary pressures and budgetary considerations at a time when Federal deficits must be held down.

TRIBUTE TO MRS. SAM "SOOKY" GOLDMAN

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. REES. Mr. Speaker, because of the size and anonymity of major urban communities today, it is a rarity for a private citizen to render contributions so unique and important as to become recognized in her community—Beverly Hills—and beyond her community—as a major moving force in the enhancement and development of the area in which she lives. Even in light of the tremendous odds against achieving such stature as a private citizen, Mrs. Sam "Sooky" Goldman has indeed become one of the vital and critical forces for change and improvement in her community.

Mrs. Goldman has a record of educatonal, humanitation cultural, civic, and political accomplishments that dazzle the imagination of even the full-time public official. In a period in which we, in Washington, are reappraising the benefits to be derived from continued centralization of government; and during a period in which many outside of government have begun again to consider the vital importance of popular involvement in the affairs of cities, States, and the Nation, Mrs. Goldman provides strong support for those who argue in favor of participatory democracy. Indeed, a nation comprised solely of people such as Mrs. Goldman would guarantee the sort of "state of affairs" that all Americans speak of and hope for in this Bicentennial Year.

As a result of the level of Mrs. Goldman's activity and involvement in community affairs, a complete overview of her record of accomplishments would be so extensive as to require volumes;

yet, even a brief overview conveys the substance and enormity of her commitment to the community in which she lives. In the area of education, Sooky has been a pillar of support for both local concerns, as well as for education programs in other regions of the country and world. Locally, she has been an active participant in the affairs of the Beverly Hills Board of Education, as well as the Parent-Teacher Association. In addition, she has worked hard, through the vehicle of the Beverly Hills Scholarship Foundation to develop the financial resources to aid needy and worthy students. Also, Mrs. Goldman has been an active supporter of the American Field Service—AFS—Program, which coordinates the exchange of American and foreign high school students. In fact, in the local area, AFS is understood to mean, "Ask for Sooky." Finally, Sooky has lent her attentions to education programs in other areas, including the Turnbridge School—a unique, experimental appoach to education for students at the high school level—as well as to Brandeis University, for which she has served as a board member and program chairman of the National Women's Committee.

In the area of humanitarian concerns, Mrs. Goldman is a founder and board member of the Century Institute of Living, a private, nonprofit, rehabilitation center. Concerned with the problems of the family in a highly complex society, she was also instrumental in founding the Maple Center, a community counseling center which uses community members as paraprofessionals. Her concerns for mental and physical health have extended to other areas, including the American Cancer Society, for which she founded the Beverly Hills Chapter, and served in the House of Delegates. She has also devoted considerable amounts of time to the American Heart Association, the Visiting Nurses Association of Los Angeles, and the Jewish Family Services Organization. Summarizing her humanitarian concern, Mike Maher, director of the Maple Center, suggested:

> She operates on the basis of her convictions and is willing to make whatever sacrifices are necessary to see that things happen.

And happen they do. Her activism and concern has extended into the area of cultural activities, where she served as a member of the Board of Directors of the Inner City Cultural Center, and a member of the Contemporary Art Council of the Los Angeles County Museum of Art. A founder of the Beverly Hills Community Art League, she has also actively involved herself on behalf of the University of California—Los Angeles—Art Council.

With regard to civic activity, Sooky has been a tireless worker. Her efforts on behalf of the Beverly Hills Chamber of Commerce earned her the Woman of the Year Award in 1972. She has devoted substantial time to the California League of Women Voters. At the same time, Mrs. Goldman has been actively committed to the World Affairs Council, acting among other things, as a member of the Escort and Entertainment Committee of the Center for International Visitors. Finally, within the city of Beverly Hills, she has worked unrelentingly on behalf of critical local bond issues, founded the local Teen Center, fought for the local library, and presently is the overall coordinator and chairperson for Bicentennial activities in the city. Former mayor of Beverly Hills, Phyllis Seaton, insists that—

> Sooky is one of the best workers we've ever had . . . She goes about projects quietly without making a big splash.

Though so committed, in terms of time and energy, in a range of other areas, Sooky nevertheless has taken an active role in political affairs in California. She serves as a member of the California Democratic State Central Committee, and has worked actively in a number of local, State, and Federal campaigns.

While it seems as though Sooky's incredible range of involvement would sap the interest and energies of most people—particularly those who have families, as does Sooky—she still indicates that—

> I enjoy working within my own community. In a small area, you can see the fruits of your efforts, and your voice can be heard.

As Mayor Seaton further suggests, in relation to the motivation behind Sooky's involvement, "She cares."

For her caring and toil and efforts on behalf of her community, Sooky is being honored as the Bevery Hills Business and Professional Women's Club's, "1976 Woman of Achievement." To any commendations and honors that will be bestowed upon her by that organization, I would like to offer my personal gratitude and thanks to a person of enormous character, energy, and commitment. She has so measurably contributed to the betterment of life for all those residing in her community.

911—HOT LINE FOR EMERGENCIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. ROUSH. Mr. Speaker, I am today adding several more States to the list of those having the "911" as the single emergency number in some of their communities.

Systems location	Date		Population served (thousands)
	In service	Scheduled	
AMERICAN TELEPHONE & TELEGRAPH			
New Jersey:			
Atlantic City	July 1970		58.0
Bayonne	November 1971		70.0
Camden	November 1974		106.0
Hasbrouck Heights		May 1975	23.0
Hunterdon City		June 1975	73.0
Jersey City	December 1972		306.0
Manalapan Township		September 1975	35.0
Newark		do	405.0
Trenton	April 1972		103.0
North Carolina:			
Avery County	August 1969		12.0
Lincoln County		October 1976	35.0
INDEPENDENT TELEPHONE COMPANIES			
North Carolina:			
Durham	March 1972		100.0
Creedmoor	do		3.0
Butner	do		5.0
Ohio:			
Amherst	June 1971		10.0
Clyde		May 1976	5.0
Defiance	May 1973		8.5
Milan	September 1974		1.0
Sylvania	September 1970		29.0
Vermillion	November 1973		9.0
AMERICAN TELEPHONE & TELEGRAPH			
Ohio:			
Alliance		June 1975	33.0
Sandusky	January 1969		50.0
Springfield	May 1973		82.0
Tiffin		July 1975	23.0

THE DEATH OF MARSHAL BERNARD MONTGOMERY

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. BEARD of Rhode Island. Mr. Speaker, the whole free world is saddened by the death of Field Marshal Bernard Montgomery, Lord Alamein. This remarkable soldier, by his generalship and by his extraordinary force of personality, gave the allies new hope and renewed spirit by his exploits against the Nazi forces in North Africa and later in the great struggle on the European continent.

Field Marshal Montgomery's place in history is secure and will be remembered as few men will be in the story of perseverence against seemingly insurmountable odds.

U.S. ENERGY NEEDS CHALLENGE DESIGN PROFESSIONALS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. OBEY. Mr. Speaker, the obvious requirement that we become fully conscious of the need for energy conservation also carries with it implications for the future physical appearance of the Nation's architectural landscape. The development of solar and other alternative forms of energy will make this increasingly apparent.

Some of the considerations involved in these changes are the subject of a recent article by Mr. John Eberhard in AIA Journal, monthly magazine of the American Institute of Architects.

I would like to share a summary of that article by AIA with my colleagues and that it be inserted in the RECORD. The summary follows:

NEW SOLAR ESTHETICS MAY CHANGE NATION'S FUTURE ARCHITECTURAL LANDSCAPE

Major energy and economic changes in the way the nation lives may not be the only dramatic results of the full development of the potential contained in solar and other alternate sources of power.

It can change the face of the nation as well, suggests John P. Eberhard, president of the AIA Research Corporation. His article appears in the February issue of AIA Journal, monthly magazine of the American Institute of Architects.

Writing on "Energy Conscious Design," Eberhard observes that the challenge of energy conscious design for buildings involves "not just a slight revision in our concept of 'building' but a new esthetic," and goes on to explain:

"Solar energy is being thought about by many people as the simple substitution of a solar collector on the roof for a boiler in the basement. Everything stays hidden except the collector.

"But architects should be thinking about solar energy in different terms," he stresses.

"It's an opportunity to make the methods of heating (and cooling) visible again—to make the solar energy concepts architectural features. Solar heat comes in the same package as sunshine and sunlight. This highly visible quality provides us with an architectural challenge of enormous potential."

Reviewing past history, Eberhard notes that energy source and architecture were inextricably combined.

"Beginning in about the 12th century, a fireplace was used in most buildings as a means of providing heat in cold climates. The fireplace was an architectural feature of all major and many minor rooms in houses across the world from Siberia to colonial America.

"As a visible part of the house, it was a focus of design in the simple English cottage as well as the great hall of a French palace."

But as the result of the development of central heat, he continues, the source of energy supply became hidden in basements, utility rooms, closets, or attics.

Discussing the next development in energy-related esthetics. Eberhard says he believes "we are moving rapidly towards a new accommodation by the man-made environment to nature—a *renewed* discipline to challenge our architectural creativity, a positive and welcome opportunity to provide spaces for human use that are responsive to an ethic of world-wide conservation and exploit renewable sources of energy which are nonpolluting.

"The energy of the sun, of the wind, of the oceans thermal gradients are there for us to think about in new ways. The use of natural sites, of water, wind, and trees challenge us again, as they have in the past, to capture their delights for all to use.

"It's too bad that it took an 'energy' crisis to awaken us to this challenge," Eberland observes, "but it's going to be exciting to be thinking again about design in creative terms."

He notes that almost every building constructed since World War II could be redesigned to make it more energy efficient and to utilize the new concepts of heating, cooling, and lighting which will emerge.

Eberhard foresees "a total new design with an entirely different esthetic experience for the use," and adds:

"It's high time that we face the architectural challenge directly. The challenge may make many of us uncomfortable because it points out how badly we have at times designed our buildings in blind adherence to some stylistic dogma.

"But it also contains the basis for a new esthetic or perhaps more correctly—a return to sound principles once learned and since forgotten."

Eberhard notes that studies of solar energy houses show that clients are reacting to the use of solar energy more on an emotional level than on a rational level having to do with saving energy costs.

Energy-conscious design, he states, can "provide that quality of design that Vitruvius called 'delight'—esthetic qualities that generate in the observer a response that is emotional."

He concludes: "We will need to reeducate ourselves in the basic principles of good climatic design, to learn more about the new concepts of solar and wind energy and to learn how to think about design based on a new esthetic."

"It should be an exciting period of development in architectural schools and architectural practice.

"It's not going to be easy, but it's going to give a lot of us a new sense of purpose and a new source of satisfaction."

YMCA OFFERS YOUTHS COMPREHENSIVE PROGRAMS

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. RUSSO. Mr. Speaker, it was George Bernard Shaw that once drolly observed that youth is wasted on the young. It is a wonderfully ironic quip, yet I suspect that while we might envy youth their energy and their potential, few of us would care to relive that rather painful process of maturation.

There are, fortunately for youth and for the country as a whole, people who are very much in touch with the needs of the young and have created organizations and programs to respond to them. This is a crucial requirement of society, for young people seek direction, purpose, and activity. Left to "hang out" on corners or wander aimlessly—whether it is mental or physical wandering—young people may indeed find, all too late, that their youth has been wasted on them.

One such organization that has responded successfully to the young is the YMCA. In fact, I feel that they have one of the most outstanding youth programs in the Nation. With 9 million members and program participants, the YMCA plays a key role in thousands of young lives, and today I want to commend this fine organization for a job well done and share with my colleagues the story of a particular YMCA in Oak Lawn, Ill.

I think we easily can see from reading the news story by Marg Damm the variety and scope of the YMCA program and I congratulate the Oak Lawn YMCA on their success and thank them for their community involvement:

YMCA OFFERS YOUTHS COMPREHENSIVE PROGRAMS

(By Marge Damm)

(This is the first in a series of articles dealing with the services and activities which are available to youth in our community through various area organizations. The report of the Palos Heights Youth Commission cited a need in the community for more information about such activities and services and the Regional is running this series in an effort to meet that need.)

Among the most comprehensive programs available to Palos area youth are those of the YMCA. Through its headquarters on 95th St. in Oak Lawn, the Southwest Suburban Y organizes and directs three major program areas for teens. These programs are the traditional ones of education and recreation, the outreach program for high schoolers and the school and community service program.

The Y's traditional programs include the Indian Guides for boys from kindergarten through third grade. This is followed by the Indian Warriors for boys from fourth through eighth grades. Indian Princesses is for girls from kindergarten through third grade. These Indian programs are for children and their fathers to work and play together. Over 600 children in the southwest area are participating.

The Y also sponsors a number of basketball programs and has a summer clinic in Oak Lawn as well as various leagues as part of its traditional services.

For over 26 years, the Y has sponsored a youth in government program for high school youths. Those participating form a model legislature and through the year-long program learn about the mechanics of governmental procedures. In the spring, the high schoolers spent three days in Springfield where they "take over" the state legislature. Sandburg, Stagg and Marist High Schools are among those that support the youth in government program.

A fairly new YMCA program along this line is the Model U.N. which works much the same way as youth in government. Each participant takes a country to represent and participates in mock U.N. sessions. Stagg High School and Morgan Park Academy are two of the schools which have students involved in this program.

The Southwest YMCA also sponsors a recreation center, The Barn, at 3000 W. 127th St., Blue Island, across the street from Eisenhower High School. The Barn is open every day from 3 to 5 p.m. and on Wednesday nights. Teens can relax here, play various games and learn about the many trips and recreational activities sponsored by the Y. There are regular monthly activities which include special events, field trips, dances and ski trips. No membership is required for any of these activities, although fees are charged for some of the events. The Barn and the various recreational programs are open to all area youth. A staff member is always present at the activities and cooperation and good behavior on the part of the teens result in a smoothly run program.

The outreach programs of the Y are aimed at high schoolers in four problem areas. The runaway housing project offers emergency housing to youths from 12 to 17 who have left home for any reason. Youths are placed in licensed foster homes and the director, Fred Gross, is in the process of finding more volunteer homes in the 150-square-mile area covered in the program. The Y and the Palos Community Center Foundation work together in this emergency housing project.

The outreach program also includes a drug abuse program, run in cooperation with Christ and Palos Hospitals. Greg Cary is the drug counselor on 24-hour call. He works with the medical teams and the various supportive teams at the hospitals to help teens with drug problems. Cary does some youth counseling and also makes referrals to drug abuse programs.

This drug abuse project includes an education program which offers alternatives to drugs through workshops to aid problem-solving and to help in personal growth. It also offers outdoor wilderness experiences, so an individual can "get way away from it all" to aid self growth and self understanding.

Another YMCA outreach program is the adolescent sexuality program, which is run in conjunction with Christ Hospital. One night a week is set up for appointments with teens for testing and counseling for venereal disease or pregnancy. This program offers teens sound medical help as well as information and counseling on sexual problems. This service, as well as the other YMCA programs, are offered without cost to the teens and strict confidentiality is observed.

A fourth outreach program of the Y is the H.O.W. program of advice and counseling on all personal, family and school problems. With a special 24-hour phone service, this counseling and crisis intervention program is staffed by both volunteers and professional people. Its aim is to help people—both teens and adults—to face problems and work for a solution instead of avoiding the realism of a problem.

People in need of the help offered by any of the above outreach programs can call the Y's crisis line, which operates on a 24-hour basis.

The Y's school and community service program has established student service bureaus at several area high schools including Oak Lawn and Eisenhower. Sandburg High School had previously housed a student service bureau, but this was eliminated by the school board recently.

The student service bureau provides crisis intervention and counseling by a full-time YMCA staff member in a school office. He works with the students as well as with the school staff and gets students involved in the program through increased self-awareness, personal growth and through peer counseling.

The community service program is established in three geographic areas—Beverly-Morgan Park, Blue Island and Alsip. This program emphasizes intervention and prevention of teen problems on the community level, the same as the student service bureau does in the school.

The YMCA also sponsors frequent ski trips in the winter and canoe trips and beach outings in the summer. Notice of these activities is given through local newspapers or information can be obtained by calling the YMCA office in Oak Lawn. Camping programs are also offered with day camps for children as well as family camping periods at the Y's Michigan campgrounds.

The Y also provides training experiences in various skill areas which are available to local groups such as school faculties, church groups and parent organizations. Workshops are designed with a variety of formats and are on a fee basis. These workshops include communications training, needs assessment, problem solving and decision making, alcoholism, selfawareness, assertiveness training, value education, drug education, human sexuality, mediation and risk taking.

Again, further information on any of the YMCA programs can be obtained by calling the Y office. Director of the Southwest YMCA is William Higginson and he is assisted by Bruce Maki, Mark Franzen and Dan Brady.

SEEKS CHANGES IN FOOD STAMP PROGRAM

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. YOUNG of Georgia. Mr. Speaker, today I am introducing a bill that would, if enacted, make some basic changes in the food stamp program for the good of the people who are entitled to its benefits, and for the good of the Federal and State officials who administer it. I have especially been concerned with the failure of the program as it is currently operated to reach hundreds of people, young and old, of all races and backgrounds, from all parts of the country, who need its benefits in order to feed themselves and their families the kind of diet that prevents malnourishment and disease. I have been worried about the workers and their families who must live on a "minimum wage" rate of subsistence—many of which families are large, and therefore underfed. And I have been troubled by the large numbers of errors in the administration of the program—errors which most often are the result of a very complex set of regulations which are difficult and time-consuming to implement. The Food Stamp Act of 1976 that I am introducing today deals effectively with all these concerns.

I am not a newcomer to this field of hunger. The Poor Peoples Campaign in 1968, in which I worked with the Southern Christian Leadership Conference, focused on the alleviation of hunger as one of its primary demands. We were asking for jobs and an adequate income for every American family, and an absolute guarantee that hunger in America be ended forever. This did not seem at that time to be an unreasonable demand, for this country, with all its vast resources, to meet. And today, it seems at least as legitimate and just to insist that American citizens be fed enough to keep them healthy from infancy through old age. I believe this must be accomplished regardless of the cost.

My bill addresses itself to hunger, but its cost is not overwhelming. I believe it to be an equitable approach to the concerns I expressed earlier without being outrageously expensive.

With your permission, Mr. Speaker, I will insert here an excerpt from the testimony of Robert Greenstein of the Community Nutrition Institute, Washington, D.C., which was presented to the House Committee on Agriculture on Tuesday, March 23. This excerpt describes some of the aspects of my bill in comparison with others that have been introduced in the House:

> The two major so-called "conservative" bills—the Buckely-Michel bill and the Administration bill—do certainly eliminate non-needy persons from this program. However, these bills do nothing to bring more of the truly poor into the program, and actually eliminate some of those who still need stamps, and are especially inequitable in their treatment of working families. In addition, both these bills add major new administrative complexities and administrative costs to the program and would further swell food stamp bureaucracies as more and more staff are hired to mail out monthly report forms, assess furniture, and the like.
>
> The two so-called major "liberal" bills—the Dole-McGovern and Javits bills (or Heinz and Koch-Scheuer bills on the House side) do eliminate non-needy households from the program, improve access to the program for the needy by eliminating the purchase requirement, and simplify program administration. However, neither bill really addresses the needs of large families. In addition, both bills may set income limits and entail total program costs at levels the Congress could find too high.
>
> Up until now, an enormous gap separated these two groups of bills. Yesterday, however, a new bill was introduced by Rep. Andrew Young (D-Ga.) that is a marriage of some of the features in both the conservative and liberal bills, and that is the only bill to meet all of the five major goals I have been discussing.
>
> The Young bill, which is unique in that it rewrites the entire Food Stamp Act from beginning to end, has a number of basic eligibility features that are similar to the Administration bill. Like the Administration, net income eligibility would be set at the poverty line, a 30 percent benefit reduction rate would be used, and a $100 standard deduction would be allowed.
>
> As in the Dole-McGovern, Javits, and Church bills, the food stamp purchase requirement would be eliminated.
>
> In addition, a feature contained in no other bill so far would provide an extra $5 deduction for each person in a household after the fourth person. Thus, a household of six would receive a $110 deduction. This responds at least partially to the finding of the House Committee's study that larger families now get bigger deductions than smaller families.
>
> Another new feature provides a deduction for 20 percent of a household's earned income, instead of deducting a household's taxes. Since payroll taxes run around 15 percent of earned income, this allows an additional 5 percent for commuting costs, tools, child care, and other expenses that workers must incur. It is a positive work incentive feature.
>
> The Young bill would continue to base eligibility on current income rather than past income so that the recently unemployed would get stamps and the recently affluent would not. However, the bill also contains another new feature to ensure—far more successfully than the Administration bill would—that those who turn out to be only temporarily needy and who actually lead middle class lives do not get government food stamp assistance. Under the Young bill, any household of four with an adjusted gross income of over $9,500 on its tax return would have to repay to the government the full value of all food stamp benefits it received during the tax year in question.
>
> I believe this to be an outstanding idea. It allows use of a 12 month accounting period (rather than the 3 month accounting period in the Administration bill), and yet no one would have to wait after losing income to get their food stamps. This provision is both tough and responsive to the immediate needs of the newly poor at the same time.
>
> The Young bill contains a number of other provisions to "tighten" the program. It eliminates the income exclusion payments received by VISTA volunteers. It adopts the Senate Committee language on students—eliminating those who are or could be claimed as tax dependents by ineligible

households. It sets assets limits at $3,000 but removes the assets exclusion for a second car. It disqualifies for up to one year any household found by either a court or the state to have committed fraud. It requires households to report changes in income in 10 days, and if a household does not comply it would have its benefits reduced by 150 percent of any excess benefits it received due to its neglect to report the change promptly.

The Young bill also contains new procedures for USDA dealings with states. It raises the federal share of state administrative costs to 65 percent, but then reduces this amount dollar-for-dollar for every dollar that a state collects for its own purposes by placing a sales tax on food bought with food stamps.

This would close one of the major sources of inequity and abuse in the program. A recipient in a state without a sales tax on food receives 100 percent of the value of the Thrifty Food Plan (the USDA food plan on which food stamp allotments are based). A recipient in a state with a 5 percent sales tax gets only 95 percent of the purchasing power of a plan which may already be nutritionally inadequate.

At present, some states make millions of dollars off the food stamp program and use this money for purposes Congress never envisioned in enacting the Food Stamp Act. Other states, without a sales tax on food, do not make any money off the program. The Young bill would end these inequities.

The Young bill also contains a tough provision that would require the establishment of error "tolerance rates" for food stamps and penalize a state up to 10 percent of the federal share of its administrative costs for failure to meet these limits.

Finally, the Young bill requires states to correct any failures found by the Secretary within 30 days.

The bill, in short, takes firm action to eliminate the non-needy, brings the program within the reach of the needy, deals fairly with the working poor and with large families, simplifies administration, and deals stringently with abuse and potential abuse. It is an excellent compromise among the "conservative" and "liberal" bills that is in fact far more equitable and well-conceived than any of them. I hope the Committee gives this bill the most careful consideration.

THE U.S. POSTAL SERVICE

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. NOLAN. Mr. Speaker, the U.S. Postal Service is growing and changing and trying to provide Americans with the best possible mail delivery service. Mr. Herb Goodrich, a teacher at St. Cloud State University in St. Cloud, Minn., has presented me with a unique and very positive view of the Postal Service which I think will be of great interest. His letter follows:

ST. CLOUD, MINN.,
February 1, 1976.

Hon. RICHARD NOLAN,
Longworth House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE NOLAN:

1. Throughout my life, my experience with the U.S. Post Office, including the carriers and counter people at the local post office, have been overwhelmingly positive and cordial.

2. The Post Office has been one of the most innovative forces in American society when it has had the resources to be so in the past. For example, the Post Office was the first to attempt to use the airplane functionally. The Post Office built the first working telegraph service between two cities and showed that such communication was feasible. And it was the first to try to make use of the facsimile process, which was otherwise shelved for a variety of reasons. In all these cases, commercial exploitation of the technology involved followed post-office demonstration of the technology's feasibility.

3. The charge of incompetence in the postal service may in some instances be justified, as in the case of some pathetic postmaster appointments (political ones). But over all, postal workers are hard working, steady, and decent. And what most other people in our society's work force probably do not have, they have a tradition and sense of service as their raison d'etre.

4. More basically, the hard times that have befallen the postal service have, I believe, stemmed in large measure from the change that has taken place in the Post Office's fundamental philosophy. This change has been fostered by the Executive and has been acquiesced to by Congress. It has redefined the function of the Postal Service from that of serving the public at any cost because of the importance of that service to the nation and its citizens, even if subsidy from the general revenue is necessary, to that of providing a service to the nation that must pay its way—presumably because its contribution to the country isn't as essential as it was for many years thought to be. A return to the original conception underlying the postal service when it was organized after the American Revolution—especially pertinent in this Bicentennial Year—would, I think, enable the Post Office to do a better job today.

To make my point, let me put down a few quotes from a book by Clyde Kelly—namely, United States Postal Policy. Mr. Kelly, according to the title page, was "a Member of Congress, Member of the Post Office and Post Roads Committee, and Author of Postal Legislation." That is what he said:

"Exploitation of the colonists for the profit of royal favorite was the objective of the first unified system of postal communication in the American colonies . . . Thus the fundamental policy during the period of British control was that the Post Office should be regarded as a means to an end—that of accumulating a surplus." (p. 1)

In other words, the purpose of the Post Office had no public service dimension. And the colonists resented this:

"From the very beginning, the American colonists had resented any attempt to make a profit out of their postal communication. Instinctively, they believed in postal service, not postal profits." (p. 9)

For this reason, public service was the principle that motivated the first American postal service. Again Kelly:

"The policy of postal profits for the King led to the downfall of the system and the establishment of an institution with an entirely different policy—that of service of the people. One thing was permanently settled by the record made under the original policy. Since Christmas Day, 1775, American public sentiment had steadfastly rejected any suggestion that the Post Office should be a source of revenue to the Government, through profits from its operations." (p. 19)

"The change from profit seeking to service giving was one of those acts which made American Independence more than a mere separation from England. It was a revolution in the principle and purpose of government. . . . The principle of the public good was substituted for that of governmental gain." (p. 21)

Not only was profit rejected as the aim of the postal service, but, according to Kelly, "The postal service was not being measured by money but by its contribution to national welfare." (p. 26) It still is essential to the national welfare, but we have lost sight of this. For example, it is essential to disseminate information that makes possible the implementation of our democracy, as, I believe, in this letter; it makes possible the dissemination of information that makes the economy run; and it makes possible a sense of community or togetherness among people geographically dispersed and otherwise immersed in the bureaucratization, computerization, and general impersonality of modern life. In short, the postal service can be a unifying force in a world (i.e., society) that otherwise conduces to the isolation of individuals from one another. But unification implies unification of the poor as well as the rich. Thus, postal service must cost only a nominal amount so that all can afford it, including the poorest; and, given telephone costs, the telephone is not a substitute. If the result of this is that the Post Office doesn't "pay its own way," then so be it. Let's take the moneys we need from the general revenue, obtained by means of a tax policy that generates its revenue from those people and organizations most able to provide it. Again in the words of Kelly:

"The United States Postal Commission was appointed by Congress in 1844 and ordered to report its findings as to the real purpose and value of the postal service. It listened to witnesses who presented the self-sustaining theory and those who visioned the service as a great unifying agency. The final report was worthy of statement of vision and faith in genuine democracy. 'The United States postal service was created,' reported the Commission, 'to render the citizen worthy, by proper knowledge and enlightenment, of his important privileges as a sovereign constituent of his government; to diffuse enlightenment and social improvement and national fellowship; elevating our people in the scale of civilization and bringing them together in patriotic affection.

"Such a conception of the postal service meant the doom of a money measurement policy. With such objects in view, the quest of a dollar in receipts for every dollar of expenditures, was untenable and unworthy. (p. 56)

"The experience from the postage reduction in 1845 led to a still greater reduction in 1851 and in this later Act, Congress definitely rejected the self-sustaining policy and embarked upon the service policy, which has made possible the Post Office as we know it today.

"The theory that the primary objective of the Post Office is to balance receipts exactly with expenditures could not meet the test. (p. 60)

"In any case, the policy of revenues first fell of its own weight. Congress, as the policy-making power, had faithfully tried to carry out the self-sustaining policy. . . . By 1851, it was clearly seen that this policy must give way to a better one, that of public service, extended to the widest possible range, with the lowest possible charges. (p. 61)

"In the Act of March 3rd, 1851, . . . in Section 7 . . . Congress laid down a definite policy. 'No post office now in existence . . . shall be discontinued, nor shall the mail service on any mail route in any of the states or territories, be discontinued or diminished in consequence of any diminution of the revenues that may result from this Act." (p. 63)

I believe that this policy of a publicly supported and self-sustaining postal service really began to erode, notwithstanding attacks on it all along by some, during the Eisenhower administration, and, needless to say, the situation has been getting worse and worse for several reasons: (1) our government's commitment to the pay-as-you-go philosophy, which requires that the Post Office be self-sustaining; (2) the reluctance of the government to compete with private carriers—e.g., United Parcel; and (3) the abuse of some postal classifications by private industry, such as the misuse of the second class mailing privilege by publications that are designed more as vehicles for advertising than for ideas.

The net result of all of this is, I fear, that the postal service is gradually reverting to private carriers, where it was originally, and will increasingly be operated for profit and private experience, especially once the public post has been dismantled.

Concomitantly, as costs and profits rise, the price of mail service will rise as well, thus negating the purpose of the postal service described above. Communication will become a prerogative of the rich.

For all these reasons, I share your concern about our postal service, and I hope you can help restore the public service philosophy that once impelled the Post Office's operation.

Respectfully yours,

HERB GOODRICH.

TRIBUTE TO OUR NATION'S BARBERSHOPPERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. SIMON. Mr. Speaker, recently my wife and I had the opportunity to attend a concert of the Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America. The concert was at the Kennedy Center where my wife and I were present as guests of the State president of our Illinois society and his wife, Mr. and Mrs. John Mulkin.

I noticed among others in the audience were Congressman and Mrs. George Mahon and Congressman KENNETH HOLLAND.

Barbershop quartet singing is an American institution that I have personally enjoyed participating in and thoroughly enjoyed listening to, and the concert the other evening was a great example.

It was a tribute to the history of our Nation and it had a good mixture of what goes together to make the American tradition.

My colleague GEORGE MAHON said to me the next day on the floor, "Wasn't that a marvelous concert." I could not agree more.

Organizations like this, which receive no Government subsidy, have enriched the culture of our Nation immensely. I am sure there are some in the musical field who frown on barbershop quartet singing. They have my sympathy. To be able to enjoy a good symphony orchestra—which I do—but not good barbershop quartet singing means that they are missing an important dimension in our culture.

I am grateful to the Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America as I know hundreds of thousands and perhaps millions of my fellow citizens are.

TENNESSEE MOTHER OF THE YEAR

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. FORD of Tennessee. Mr. Speaker, the family is America's most revered institution and its greatest resource. Family ties not only enrich our personal lives beyond measure, but they anchor each and every one of us to this country and its way of life. The love and concern which we share with brothers and sisters, mother, and father, nourish our minds and our spirits and provide a haven for our separate journeys through life. This same special family relationship establishes the basis for the development of an extended concern for our fellow man. The strength of our country lies in such bonds as these and the hope for our future as well.

Therefore, in recognition of the importance of family life, I am especially pleased to honor the recently selected Tennessee Mother of the Year. With great pride in her accomplishments and tremendous love for her as a counselor, advocate, and as my closest friend, I wish to announce that my mother, Mrs. Vera D. Ford, has been chosen to receive this great honor. I have known of her outstanding qualities as a person and as a parent for over 30 years. It gives me great pleasure at this time to publicly acknowledge her contributions to family life. From personal experience, I can say without reserve that she is an exceptional example of what a mother should be.

I would like to share with you the article which appeared in the Memphis Commercial Appeal on Wednesday, March 24, 1976:

> Vera D. Ford was honored yesterday in a field in which her children and friends say she's an expert: Mothering.
>
> At ceremonies in Nashville, Mrs. Newton J. Ford was presented with a citation by Gov. Ray Blanton naming her the 1976 Tennessee Mother of the Year. Later, she was guest of honor at a luncheon at the Ramada Inn on James Robertson Parkway. Mrs. Leo Burson of Memphis, 1975 National Mother of the Year, was luncheon speaker.
>
> Also honored at the two events were Merit Mothers Mrs. W. B. Townsend of Parson, Mrs. Bill Adcock of Newbern and Mrs. Ray Blanton, the governor's wife.
>
> Mrs. Ford, an affable woman, modestly says, "I guess if I have a talent, it's mothering". She is best known because of her political sons, U.S. Rep. Harold Ford, State Sen. John Ford, who also is a Memphis councilman, and State Rep. Emmitt Ford.
>
> "But," she says, "We have nine other accomplished children we could boast about, if we were bragging folk".
>
> She does say an occasional boastful word about the husbands and wives "my children had the good sense to marry", and her 29 grandchildren.
>
> Mrs. Ford still reacts to a family crisis, such as illness, in the same way she did when her children were younger. "I never will leave off the feeling that when things don't go right for them, I need to be on hand." That feeling took her to Detroit in February and to New York this month to "see after" hospitalized daughters.
>
> Mrs. Ford says there's no real secret to rearing a close-knit family to love and be proud of each other. "You have to be the example," she says. "I kept my children together because I stayed home with them. I never left them alone to run from pillar to post".
>
> "And it's not hard to teach loving and caring when they see you loving and caring for them".
>
> Mrs. John Ford says "Even now with all the children grown and most with their own families, Vera is still the motor that makes the machine go. Any of us who has a problem heads straight for her".
>
> Ambitions for their children crystallized for Mr. and Mrs. Newton J. Ford the minute their first child was born. "It was in the '30s, hard times, when we were making do with a little money and a lot of determination", she says. "But we said 'they're all going to college, no matter how many.'
>
> All are graduates of Tennessee State University in Nashville except Edmund, who still is a student.
>
> Mrs. Ford says she never attempted to influence her children in their choice of careers.
>
> The success of this philosophy shows. The Ford children, who range in age from 20 to 40, are in a variety of professions.
>
> They are Mrs. Barbara F. Branch, 40, of Piermont, New York, public school teacher; Melvin D. Ford, 38, of West Covina, California, builder; Lewis G. Ford, 37, of Pasadena, California, haberdasher; Mrs. Joyce F. Miller, 35, of Memphis, counselor; John Ford, 33; Emmitt H. Ford, 32; Harold Ford, 30; Mrs. Vera F. Walker, 28, of Detroit, social worker; James W. Ford, 26, of New York City, minister and physician (interning at Harlem Hospital); Mrs. Ophelia F. Cheatham, 25, of Memphis, executive secretary; Joseph S. Ford, 22, of Memphis, funeral director, and Edmund Ford, 20, of Memphis, student and part-time funeral director.
>
> Mrs. Ford was nominated for Mother of the Year by the Beta Epsilon Omega chapter of Alpha Kappa Alpha sorority. She is a member of Ford's Chapel African Methodist Zion Church and is an ardent church and PTA worker."

POSTMASTER RALPH COLONELL RETIRES

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. VAN DEERLIN. Mr. Speaker, as our colleague, Mr. BURGENER, has pointed out, an old friend of many years' standing, Ralph Colonell, has finally stepped aside as San Diego postmaster.

Mr. Colonell has achieved near monumental status in the city and area which CLAIR BURGENER, BOB WILSON, and I are proud to represent.

Ralph was in the postal service in San Diego for 41 years, the last 15 of them as postmaster, initially for the city of San Diego and finally with jurisdiction over postal service throughout San Diego County. He supervised 48 post offices with a total of 4,500 employees.

I was first elected to Congress about a year after Ralph became San Diego postmaster. I am in Mr. Colonell's debt for whatever knowledge I have about the postal service, as he was a true authority and always willing to help others try to understand the complexities of moving the mails. His retirement finally became official last February and I can think of no public servant who has more richly earned the right to take it easy.

A pertinent article from the San Diego Union follows:

AFTER 41-YEAR CAREER: S.D. POSTMASTER PLANS TO RETIRE

Postmaster Ralph S. Colonell confirmed yesterday that he plans to retire within two months, ending a 41-year career.

Colonell, 69, has held the county's top postal job as postmaster-district manager for the past 15 years.

He said a formal announcement of his retirement will be made February 10 at a meeting of the Postal Customers Council at Tom Ham's Lighthouse Restaurant.

James V. P. Conway, senior assistant postmaster general for employees and labor relations in Washington, D.C., is to address the group at that time.

START OF CAREER

Colonell began his postal career in 1935 as a subclerk. The Denver native had moved to San Diego in 1933.

He was named assistant postmaster in 1956.

A Democrat, Colonell was named acting postmaster here on February 14, 1961, when V. Earl Roberts resigned after serving as acting postmaster for 18 months.

Roberts, a Republican, twice had his name submitted to become postmaster by the late President Eisenhower but he was unable to get the approval of the two senators from the state.

NOT PARTISAN

Colonell himself was not active in partisan politics and repeatedly has said he believed the postmaster's job should be a nonpolitical appointment.

Under his stewardship, the post office here has seen growth equivalent to the growth of the area. The post office in San Diego employs about 1,800 persons while another 1,500 are employed in post offices throughout the county.

COSTS REDUCED

When he accepted his appointment as postmaster here, Colonell said his prime interest would be to provide San Diegans with the best possible service.

"I think we've done that," he said. "The new post office building, new equipment, new stations, mechanization . . . they've all contributed toward that goal. I also think that they have contributed to keeping down the cost of operation."

FEDERAL GOVERNMENT SHOULD PAY SECRET SERVICE COSTS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. BELL. Mr. Speaker, I am today reintroducing with 20 cosponsors a bill to require the U.S. Secret Service to reimburse local police departments for assistance provided at the request of the Secret Service.

This bill, which was originally introduced by Mr. TREEN, Mr. KOCH, and me as H.R. 256 last session, is especially timely during the current presidential election year.

There are now no funds available for such reimbursements, which is putting a severe drain on the budgets of local law enforcement agencies such as the Los Angeles Police Department—LAPD—in my district.

In Los Angeles, requests by the Secret Service for supplementary security personnel more than tripled with the passage of Public Law 90–331, which extended protection to Presidential and Vice Presidential candidates, and Public Law 91–651, which extended protection to visiting foreign dignitaries.

LAPD has been stuck with huge, unreimbursed expenditures as a result, especially during presidential election years. These tabs must come out of already overburdened departmental contingency funds.

In the 11-month period leading up to the 1972 Presidential election, LAPD incurred direct expenses totalling $168,959 in responding to 33 requests by the Secret Service.

Exemplary of the kinds of expenses they incurred in assisting the Secret Service in response to direct requests were the following:

DIGNITARY, DATE, AND COST

Vice Pres. Agnew, 3–17/22–72, $2,175
Cong. Shirley Chisholm, 5–17/22–72, $2,055.
Senator Humphrey, 5–22/6–6–72, $4,139.
Senator McGovern, 5–24/6–7–72, $9,793.
Sargent Shriver, 8–14/15–72, $6,034.
Senator Kennedy, 9–10/11–72, $4,773.
Mrs. Nixon, 9–18/22–72, $7,629.
Pres. Nixon, 9–22/28–72, $30,398.
Senator McGovern, 10–12/16–72, $11,327.
Vice Pres. Agnew, 10–29/11–2–72, $18,710.

In addition to the costs associated with political candidates, LAPD has had to bear some costly bills in connection with visits by foreign dignitaries, as the following examples illustrate:

DIGNITARY, DATE AND COST

Premier Sato (Japan), 1–5/9–72, $1,422.
Moishe Dayan (Israel), 2–8/9–72, $1,561.
Pres. Echeverria (Mexico), 6–16/21–72, $9,277.
Pres. Arana (Guatemala), 6–24/25–72, $1,998.

Nonpresidential election years are less costly, but still result in drains on local budgets. In 1973, LAPD incurred total costs of $34,985 in responding to Secret Service requests for assistance, and during 1974 a total of $53,434.

With the large field of presidential contenders in this year's election, no doubt 1976 expenses will even exceed those for 1972.

This increased burden on local communities was not reckoned with when Congress passed legislation to expand Secret Service protection. It is time, however, that this inequity be corrected and that the Federal Government assume the financial responsibility for Secret Service activities, which is what my bill is intended to accomplish.

Similar legislation will be introduced in the other body by Senators JAVITS and KENNEDY.

The complete text of my bill follows:

H.R. 12760

A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the United States Secret Service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any State or local government which makes any expenditure at the request of the United States Secret Service for the protection of any person whom the Secret Service is authorized by law to protect, may submit to the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") an application for reimbursement with respect to such expenditure.

SEC. 2. The Secretary, upon receiving any application under the first section of this Act, shall verify that such expenditure was necessary to provide the assistance requested by the Secret Service.

SEC. 3. The Secretary shall reimburse a State or local government in an amount equal to the expenditures verified under section 2.

SEC. 4. The Secretary shall prescribe such rules and regulations as he considers necessary to carry out this Act.

SEC. 5. For the purposes of this Act—

(1) the term "State" means any of the several States, the District of Columbia, the Virgin Islands, Puerto Rico, or any other territory or possession of the United States; and

(2) the term "local government" means any political subdivision of a State.

THE KOREAN PENINSULA AND U.S. POLICY—PART 1

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. FRASER. Mr. Speaker, the recent wave of repression in South Korea, along with serious allegations of illegal or improper covert operations by the Korean Central Intelligence Agency—KCIA—in the United States, have brought United States-Korean relations to a critical juncture. The U.S. Government—including the Congress—must decide how far we will go to support a government that is repressive, consistently violates internationally recognized human rights, and is apparently undertaking clandestine operations in this country.

The situation in Korea demands the careful attention of every Member of Congress. Some 40,000 American troops are stationed in South Korea.

I commend to my colleagues an address by Donald L. Ranard, the new Director of the Institute for International Policy, on the Korean Peninsula and U.S. policy. Mr. Ranard was formerly the Director of Korean Affairs for the State Department and is one of the most knowledgeable observers of the Korean scene. Part 1 of Mr. Ranard's article follows:

THE KOREAN PENINSULA AND U.S. POLICY—PART I

INTRODUCTION

(By Donald H. Ranard)

With the end of the U.S. involvement in Vietnam and Indochina, attention has turned to the Korean Peninsula where for the past two decades an uneasy peace has been maintained between two Korean governments—the one Communist, totalitarian, and revolutionary; the other non-Communist yet authoritarian, undemocratic, and indeed almost as totalitarian in its lack of regard for opposition political voices and the rights of individual. Probably nowhere else is American power and influence so greatly exposed as on the Korean Peninsula—with all the attendant risks for involving the U.S. in a land war on the Asian mainland.

It is the intention of this paper to present an explanation of U.S. policy towards both Koreas, assess briefly the strength and weakness of the two governments, examine their bilateral and international relationships and conclude with a critical review of U.S. policy considerations, including recommendations for the future.

U.S. OBJECTIVES AND POLICY

The U.S. position regarding the Korean Peninsula has changed little since 1950. Indeed, it was the Korean War which cast U.S. policy in its present mould.

Objectives: Basically, the U.S. objective has been to prevent the outbreak of hostilities on the peninsula, and U.S. policies towards South Korea have all been directed toward that goal. While laudable in itself, this objective has added significance as applied to Korea: war between the north and south would cause a confrontation among super-powers whose interests converge on the peninsula—the U.S., the Soviet Union, and China, all of whom possess nuclear weapons; and would also involve Japan, the most developed industrial power in Asia whose present role and alignment is important to the maintenance of the present balance of powers in Asia.

North Korea, i.e. the Democratic People's Republic of Korea (DPRK), has defense treaty arrangements with China and the USSR which call into play their military assistance in the event of external aggression against the North; and South Korea, i.e. the Republic of Korea (ROK), has similar arrangements with the United States under the Mutual Defense Treaty of 1954. It is important to note, however, that the defense responsibilities incumbent on the United States under this Treaty can be invoked only "in accordance with its constitutional processes", i.e. with the approval of the Congress.

There are other U.S. objectives. Of these, two are significant:

The development of a democratically oriented, politically stable and economically viable sovereign state in the South. This goal has been pursued by the U.S. Congress since the very beginning of the Korean Republic, particularly through foreign assistance measures. At almost the very inception of such assistance to Korea, Secretary Acheson made this clear in 1950 when in a note to the Korean Ambassador he stated: "United States aid—both military and economic—to the Republic of Korea has been predicated upon the existence and growth of democratic institutions within the Republic."

The development of a self-reliant and independent Republic able to provide the manpower for defense against attack from the North.

Policies: As in other forms of human endeavors, foreign policies are those actions taken to attain objectives. With regard to Korea, U.S. policy over the past quarter century has been comprised of three pillars—

Maintenance of the commitment to aid in the defense of Korea, as specified in the bilateral Treaty.

The stationing of U.S. forces in Korea, as a manifestation of this commitment to Korea's independence and security. U.S. military personnel have been stationed in Korea since 1950 without interruption. Today, approximately 42,000 remain, comprised of an infantry division, supporting ground units, an air division manning principally some three squadrons of F–4 fighter-bombers (about 72), and a small number of naval personnel. These forces along with the commitment have been described as serving as a shield behind which an independent Korea could develop.

Economic and military assistance to enable the South to maintain sovereignty and achieve viability. Since 1946 U.S. foreign assistance to Korea, including both grants and loans for military and economic purposes has been approximately $12 billion, divided almost evenly between both programs. These expenditures are but a fraction of a cost of the total expenses the U.S. has assumed since 1950 on behalf of Korean independent (e.g. the Korean war is estimated to have cost the U.S. some $164 billion).

THE TWO KOREAS

North Korea is a tightly-knit Communist State, thoroughly totalitarian in its political character, and ruled by a revolutionay who sees himself as the father of the Korean people both south and north of the DMZ. A former guerilla who fought the Japanese in Manchuria. Kim Il-sung is the hero of a cult of the personality mentality, the comparable likes of which in modern times flourished only in Stalinist Russia.

Militarily, North Korea is a garrison-state. On the ground, the North Korean Army is composed of some 410,000 troops organized around 23 divisions, and backed up further by some 1.2 million paramilitary reserves known as Red Guard Units. The North Korean Army is supplied with modern weapons, furnished by both the Soviet and Chinese, and apart from lack of recent battle experience, it is considered a formidable battle machine

In the air, North Korea is generally estimated to have approximately 600 combat aircraft, of which some 150 MIG–21 and 70 MIG–19s are the backbone, while some 300 MIG–15 and 17s are considered superannuated. Although a potent force of 40,000, North Korea's air machine is generally suspect as concerns pilot training and experience, and it is perhaps for this reason that North Korean pilots have appeared in the Mid-East at various times, including the 1973 Arab-Israeli crisis. On the sea, North Korea's small navy of 172 vessels leans heavily on several "fast boats" along with other patrol boats which have been used in the past to harass ROK fishing boats, as well as to infiltrate enemy agents along the South's coastal waters

Little is known about North Korea's economy; that which has leaked through recently would indicate that North Korea today faces a trade gap problem of serious proportions, mainly in relation to rising costs of petroleum imports from both the Soviet Union and China. This appears to have forced her to divert exports of iron ore and nonferrous metal ores, her two large foreign exchange earners, away from allocated customers (mainly Japan) to the Soviet Union and China in order to pay for petroleum imports. As a result, bilateral trade with the non-Communist world has been seriously affected and somewhere around $1 billion in trade debts have incurred with these countries. North Korea's trade problem is almost certain to impact on her credit reliability and her effort to gain acceptability outside the Communist world, and probably as well on her military expenditures which in the past have run to an astounding 20 percent of GNP.

U.S. trade with North Korea is prohibited by U.S. regulation; and passports for Americans desiring to travel to North Korea are not validated save for special categories.

South Korea.—Politically, the government of South Korea refers to herself as a democratic republic; at best this is a euphemism. There is, of course, a written constitution promulgated in 1972 which provides for the rights and duties of citizens subject to suspension by the president; and defines responsibilities of (1) a President who is elected by a National Conference on Unification which the President chairs; (2) the legislature, one-third of whose members the President appoints; and (3) a Supreme Court also appointed by the President. Obviously then, these organs of government are rigidly controlled by an authoritarian head of state whose term of office is six years without limitation on number of terms; in fact, the powers of President Park Chong-hui are almost as unlimited as those of his rival to the North. Probably the best that can be said for democracy in South Korea today is that the institutions associated with representative government are in place, but not in practice.

Souh Korea supports an impressive ground force of about 560,000 troops backed up with reserves, including a homeguard militia of about two million. The ROK Army is equipped with modern weapons supplied over the years by the U.S., the most recent acquisitions of which were financed under a five-year military modernization program which since the inception in 1971 has cost the U.S. well over $1 billion. The ROK Army is generally accredited as a first-class fighting force, with battle experience from Vietnam in modern warfare. In the air, the Republic of Korea has been considered to be at a slight disadvantage (mainly as concerns total number of aircraft) to the north, but this gap is being closed through procurement of the newly developed F–5E as well as additional F–4s both of which are classed as superior to anything in the North Korean inventory. In addition, as noted, the assets of the U.S. air force contingent in Korea include F–4s which compensate for any imbalance with the North.

The South Korean Navy is built mainly around W.W. II excess U.S. equipment. Its inventory of 136 vessels is being updated with fast patrol boats and increased fire power. In any case, however, its role in the defense of Korea is marginal.

Until 1973 and the energy crunch South Korea had enjoyed an almost miraculous record of sustained economic growth which at times ran as high as 16.5%, e.g. between 1963 and 1974 her exports rose from $175 million to $4.5 billion. In 1973, Korea had reduced her balance of trade gap to approximately $.5 billion, and she looked forward with growing confidence to self reliance; her per capita GNP was estimated at $376 in 1973 ($483 in 1974) and President Park spoke of $1,000 by 1980. Dependence on petroleum imports and other raw materials, however, triggered an increase in Korea's trade deficit which amounted to over $2 billion in 1974, and when trade statistics for 1975 are finally tallied this is not expected to be much reduced. The result has been a sharp rise in borrowing from abroad; there are reliable estimates that over the past three years Korea has been forced to borrow approximately $4 billion from various international sources. It is for these reasons that the recently announced discovery of oil off Korea's east coast holds such importance to Korea's economic future.

Korea is an important trading client of the U.S., ranking 13th in overall, and probably no lower than 4th in Asia. U.S. investment in Korea amounts to about $150 million and is growing. U.S. exports to Korea in 1974 rose to $1.7 billion and occupied about 25% of the Korean market (Japan 38%). Korean exports to the U.S. were about $1.5 billion in the same year.

In FY 1975, total U.S. economic assistance to Korea amounted to $96 million of which $74 million was under PL 480 loan arrangements; for FY 1976, the Administration has requested $158 million. Total military assistance in 1975 was approximately $145 million (the result of a Congressional ceiling because of the denial of human rights) of which $82.6 was in grant, and $59 in credits. For 1976 the Administration has requested $76 million in grant aid and $126 million in credits.

BILATERAL RELATIONSHIPS ON THE PENINSULA

From the end of the Korean War in 1953 until mid-1971, relationships between the two Koreas were frozen in hostility and bitter competition. A Demilitarized Zone four kilometers wide cut the peninsula in two along the 39th parallel, and both halves were isolated from each other by rigidly controlled security regulations which prevented practically all forms of communications except propaganda broadcasts along the DMZ.

During this period, the basic objective of the North remained the unification of the peninsula under Kim Il-sung; only the means changed. From war in 1950, the North's tactics changed to subversion and terrorism in the late 1960s (the assassination attempt against Park Chong-hui and the seizure of the U.S.S. Pueblo in 1968) and finally to diplomatic in 1971. The revelation in July 1971 that Henry Kissinger, then President Nixon's special assistant on national security affairs, had been to Peking and the following visit by President Nixon to China in early 1972 stimulated both North and South Korea to open communications between Seoul and Pyongyang. At first secret but then public, talks between both sides commenced on the humanitarian track (i.e. Red Cross) then moved also to the political level. For both governments the American overture to China was a signal that the cold-war line up in Asia was about to change, and both North and South Korea were propelled to explore with each other possible means of resolving the Korean question. How serious either side was is open to question, but each sought in front of its own audience to prove that it was the other's obstinacy that precluded communication between families long separated.

For the North, talks with the South offered a possibility to achieve at the conference table what had been denied by war and subversion, possibly an opportunity for reduction of military expenditures which had risen to an almost unbearable burden, and certainly in front of a world audience the posture of diplomatic flexibility and the promise of greater acceptability. For the South, the overture had much the same quality of stage-acting. For the ROK also faced new defense problems occasioned in part by the U.S. reduction of forces in mid-1971; and it too desired to demonstrate to the international community its statesmanlike posture of conciliation and to its audience at home the need for resolve in the face of great diplomatic initiative. (The Presidential election of April 1971 had hardly been an overwhelming victory for Park). Ultimately it was to be the South's initiatives to the North which served as the justification for Park's increased authoritarianism and abandonment of Constitutionalism.

On July 4, 1972 the fruits of discussion between both sides were revealed in a joint communique which emphasized unification of the "fatherland" as the goal of both sides and established the principles and means to this end: peaceful, without external interference, and based on homogeneity transcending differences in ideologies and systems. There was to be no more defamation of either side, and progress through Red Cross talks as well as a North-South coordinating committee; to assist in communications, a "hotline" between Seoul and Pyongyang was established.

For a limited period, relations between both sides improved, incidents on the DMZ and off South Korea's coastal waters were reduced, name-calling and psychological warfare broadcasts ceased, and both sides attempted to outdo each other as cordial hosts for exchange visits by Red Cross officials.

But by the end of 1973, relationships had about reverted to their previous status, and for all practical purposes the onward progress of bilateral talks was ended. The talks were to sputter along, but the vision of peace along the DMZ had disappeared. Undoubtedly contributing to the rehardening of the North's position was the realization that a posture of thaw and flexibility had benefited more the ROK case in the UN than that of the North. In the fall of 1973 the UN, by consensus of sponsors of both sides, had agreed not to debate the Korean question inasmuch as North and South were negotiating with each other. The kidnaping from Japan in August 1973 of Kim Dae-chung, the opposition candidate for President against Park Chong-hui in 1971, provided the excuse for the North's refusal to continue the political talks while Lee Hu-rak, the head of the Korean CIA, remained as head of the South's delegation to the Coordinating Committee. Lee Hu-rak's subsequent removal from office because of the kidnapping affair, did not, however, alter the North's adamant determination.

INTERNATIONAL RELATIONSHIPS

North Korea maintains diplomatic relations with some 85 countries, of whom her strongest ideological supporters are China and the Soviet Union. The East European, Arab and third-world countries of Africa also support North Korea, in certain cases more because of their own relations to the Soviet Union or China or their antagonism to the U.S. over Arab-Israel issues than because of a historical or logical preference between either half of the peninsula.

Both China and the Soviet Union are competitively involved for the affections of Kim Il-sung, but fortunately both appear to have a realistic assessment of the dangers of unrestrained assistance and support. Because of their own border disputes, neither China nor the Soviet Union can afford war on the Korean Peninsula which makes both cautious in response to Pyongyang's backonings. Yet neither can reject completely the demands of Kim for fear the other would gain supremacy in the North and thus achieve a strategic advantage.

North Korea favors unification through confederacy, a posture both the Soviets and China support but with varying degrees of ardor because of its extension to their other foreign policy goals. The Soviets advocate a divided Germany, and in consonance with this policy have difficulties with all-out support for a unified Korea. Thus, they gave only lip service to the 1972 Joint Communique and have been restrained since in their endorsement of Korean unification.

While China undoubtedly has reservations about a unified Korea and probably assesses such as a strategic liability on her doorstep, Peking reacts to the North Korean cause with an eye towards Taiwan. For, if China is to be consistent with her argument that there is only one China, surely then there is only one Korea.

For Japan, a unified Korea is probably viewed in an unhappy historical context: an invitation to meddling by the Soviets, the Chinese, or even the U.S. of the sort that made for major problems in the past; an obstacle in the way of Japanese detente with the Soviets and China; and continued instability in a country one hour by air across the Tsushima Straits from Tokyo. Thus, while Japan supports the cause of Korean unification, her policy is directed towards a two-Korea solution. This better provides for security on her flank, and also offers opportunities for increased trade as well. Japan has diplomatic relations only with the South, provides substantial economic credits to the ROK, and enjoys the major foreign portion of her markets. At the same time Japan unofficially engages in exchange visits with the North and until recently exported some $300 million of her products. There are some 600,000 Korean residents in Japan, the majority of whom lean toward Pyongyang and they are a constant vocal reminder to Tokyo of the larger problem ever present across the Straits.

South Korea is recognized by 93 countries, heavily West European and Latin America. None of the Communist countries recognize the South, although there has been limited trade with Eastern Europe. The Soviets have from time to time allowed visits by South Koreans but these have been limited, irregular, and framed in some sort of international setting as though removed from bilateral considerations. Easily the patron protector, and indeed the guarantor of South Korea is the United States. It was the United States that freed Korea from Japanese occupation in 1945, marshaled some 15 other nations to come to her aid in 1950, and accepted the leadership of the UN forces that engaged the North and the Chinese People's Volunteer forces. Since the end of that war it has been the United States which has borne the great burden—militarily, economically, and diplomatically, of assuring the sovereignty of the South.

South Korea's long-range goal is a unified Korea. But for the short run, South Korea is prepared to formally accept a two-Korea solution. President Park has stated he will enter the UN on a divided basis and that he will recognize the Communist countries provided South Korea is accorded reciprocal treatment. The United States supports these goals and the cause of Korean unification. As in the case of Japan, although for somewhat different reasons, its preferred solution is a recognition of the actual division which has been in effect since 1945. Acceptance of the *status quo* could lead to membership of both governments in the UN, to Soviet and Chinese recognition of the South and U.S. recognition of North Korea, a peace treaty between both halves, a stabilized peninsula and in the larger sense, a more stable Asia.

The United States has made public her willingness to have both Koreas in the UN but this is not acceptable to the North which is insistent on joining as one Korea. As a result, neither the Soviets nor the PRC, both of whom sit on the Security Council and whose approval is required for UN membership, are prepared to agree to dual entry.

THE KOREAN QUESTION IN THE UN

Almost annually since 1953 the Korean question, i.e. what to do about divided Korea, has been debated in the UN General Assembly. Initially, the UN became involved before the Korean War began, because it was to the UN that the U.S. turned in September 1947 for a solution of the Korean problem following a failure of the U.S. and the Soviets to agree on an approach to unification. Subsequently, almost immediately after the Korean War began, it was the UN membership which responded to a call of June 27, 1950 by the Security Council and placed troops and support from some 16 nations under a UN Command headed by an American general officer.

At the end of the Korean War it was the UN Commander who signed the Armistice Agreement on behalf of the "friendly" nations who had fought in that war. The UN Command has remained in Korea, although contributions by other nations have dwindled to no more than a handful today. (The U.S. ground troops in Korea while affiliated with the UN Command are actually a part of the Eighth U.S. Army; the UN Commander also wears the hat of Commanding General of all U.S. Forces in Korea.)

North Korea has never recognized the competency of the UN to resolve the Korean question, and over the years, her friends have introduced resolutions in the UN to eliminate the UN Command and remove all foreign troops. Also included annually was a recommendation to abolish the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK), an organization formed by the UN in October 1950 to provide for the unification of Korea as well as for its rehabilitation. As it became all too apparent that unification was far in the distance and that whatever the solution in all likelihood the UN would not be involved, UNCURK became an anachronism. But it was not until 1973 that it was abolished as part of the UN consensus agreement that also put to the side the annual debate on Korea that year.

But the issue of the UN Command remains much to the consternation of all parties and the confusion of most. In the beginning, unfriendly resolutions were easily defeated and friendly resolutions handily supported. But with the increasing voice of the Arabs and Africans in the UN, the situation has changed and today hostile resolutions carry equal weight.

The U.S. and the ROK, supported mainly by the West European nations and Latin America, argue that the UN Command is integrally involved in maintaining the Armistice Agreement which in turn regulates peace along the DMZ. They are prepared to dissolve the UN Command provided that steps are taken to preserve the Armistice Agreement or alternative arrangements to preserve the peace are established. The U.S. and ROK have indicated their willingness to meet with the Security Council to do this or to call a conference of the parties involved in the Armistice to negotiate the necessary arrangements. Notwithstanding, in the fall of 1975 the UNGA passed an "unfriendly" resolution calling for the end of the UN Command, and for the "real parties" (i.e. the U.S. and North Korea) to negotiate a peace treaty replacing the Armistice agreement. At the same time the Assembly also passed a "friendly" resolution calling for "all parties" (i.e. the U.S., ROK, N.K., PRC, etc.) to begin talks on new arrangements to replace the Armistice Agreement so that the UN Command could be ended by the beginning of 1976. While these two actions are internally inconsistent, and the resolutions miles apart in meaning ("all parties" vs "real parties") it nevertheless would appear that the issue of the UN Command is in the process of being moved to the side.

RESULTS OF THE QUESTIONNAIRE SURVEY OF THE 19TH OHIO CONGRESSIONAL DISTRICT

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. CARNEY. Mr. Speaker, on February 3, 1976, I sent out approximately 155,000 questionnaires to the residents of my congressional district, which is the 19th District of Ohio. In that questionnaire, I asked my constituents their opinion on some of the major issues facing our country, including: unemployment and inflation, energy and the environment, Federal spending, crime, foreign policy, and how they rate the job that President Ford and the Congress are doing. Approximately 14,900 questionnaires were completed and returned to me—many of them answered by both husbands and wives.

Mr. Speaker, the results of my questionnaire survey have now been compiled, and they are both interesting and significant. Therefore, I insert those results in the RECORD at this time for the information and consideration of the Congress and the President. The results are as follows:

RESULTS OF OPINION SURVEY OF THE 19TH OHIO CONGRESSIONAL DISTRICT

[Answers in percent]

SECTION 1—EMPLOYMENT AND THE ECONOMY

Do you favor:

a. A continuation of the Federal Revenue Sharing program?
Yes, 72. No, 28.

b. A balanced Federal budget, even if such action might mean increasing unemployment?
Yes, 49. No, 51.

c. Mandatory wage and price controls?
Yes, 62. No, 38.

d. The Federal Government providing jobs when private industry cannot maintain full employment?
Yes, 65. No, 35.

SECTION 2—ENERGY AND THE ENVIRONMENT

Which of the following Federal actions do you favor to help reduce U.S. dependence on foreign oil?

a. Higher taxes on gasoline	2
b. Gasoline rationing	4
c. A high tax on new gas-guzzling automobiles	11
d. Higher energy costs through deregulation of oil and gas prices	4
e. Increased development of solar energy	25
f. Expanding off-shore oil drilling	21
g. Using highway trust-fund money for mass transit	8
h. Relaxation of pollution controls	10
i. Widespread construction of nuclear power plants	15

SECTION 3—FEDERAL SPENDING

Listed below are 12 major areas of Federal spending along with the current (fiscal year 1976) spending levels. Please indicate whether you feel each amount should be increased, decreased, or remain the same.

	Percent		
	Increase	Decrease	Same
(a) Total budget ($375 billion)	11	43	46
(b) Health ($33 billion)	35	23	42
(c) Education and manpower ($21 billion)	27	30	43
(d) Social security ($128 billion)	39	15	46
(e) Veterans' benefits ($19 billion)	26	18	56
(f) Military spending ($92 billion)	22	43	35
(g) Foreign aid ($5 billion)	4	83	13
(h) Energy research ($1.5 billion)	60	9	31
(i) Mass transportation ($1.8 billion)	31	32	37
(j) Revenue sharing ($7.3 billion)	19	27	54
(k) Space exploration ($4.6 billion)	7	66	27
(l) Law enforcement ($3.4 billion)	57	4	39

SECTION 4—CRIME CONTROL

Do you favor:

a. mandatory minimum sentences for crimes of violence?

Yes	90
No	10

b. mandatory minimum sentences for dealing in narcotics?

Yes	85
No	15

c. the death penalty for the most serious crimes of violence?

Yes	91
No	9

SECTION 5—FOREIGN POLICY

Do you favor:

a. U.S. intervention in the Angolan conflict?

Yes	8
No	92

b. the resumption of military aid to Turkey?

Yes	29
No	71

c. continued U.S. military and economic aid for Israel?

Yes	44
No	56

d. a greater Congressional role in U.S. foreign policy?

Yes	58
No	42

e. the return of the Panama Canal to Panama?

Yes	22
No	78

f. controlling foreign investment in the U.S. in order to protect American businesses?

Yes	84
No	16

g. increased cooperation (detente) between the United States and the Soviet Union?

Yes	50
No	50

h. increased cooperation (detente) between the United States and Mainland China?

Yes	63
No	37

SECTION 6—GENERAL

a. How would you rate the job that President Ford is doing?

Excellent	3
Good	21
Fair	37
Poor	39

b. How would you rate the job that Congress is doing?

Excellent	1
Good	16
Fair	44
Poor	39

c. How would you rate your overall standard-of-living as compared to a year ago?

Better	8
Worse	52
Same	40

d. Do you favor the busing of school pupils if it is the only way to provide comparable, quality education for all pupils?

Yes	32
No	68

e. Do you favor the busing of school pupils as a way of achieving racial integration?

Yes	7
No	93

f. Would you favor abolishing the district congressional offices in Youngstown, Warren, and Niles, and having all local congressional problems handled in Washington, D.C.?

Yes	26
No	74

WASHINGTON WARMLY RECEIVES CHOPIN SINGING SOCIETY

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. NOWAK. Mr. Speaker, last week the Chopin Singing Society of Buffalo, N.Y., participated in a whirlwind tour of our Nation's Capital.

This mixed choral group of 120 men and women was greeted enthusiastically during the versatile performances at the White House, the Capitol, the Lincoln Memorial, the Embassy of Poland, the Shrine of the Immaculate Conception, and Montgomery Blair High School in Silver Spring, Md.

Following are articles from two local newspapers — the Buffalo Courier-Express and the Buffalo Evening News— which summarize the activities here of the Chopin Singing Society.

[From the Buffalo Courier-Express, Mar. 20, 1976]

AREA SINGERS SPARK CAPITAL'S FESTIVE NEW YORK STATE DAY

(By Peter C. Andrews)

WASHINGTON.—The Capitol, the White House, the Lincoln Memorial, almost everywhere in Washington Friday was bathed in song.

Outstanding choral groups from across New York State, including the Chopin Singing Society of Buffalo and the Lewiston Bicentennial Choir performed as part of the celebration of New York State Day in Washington.

Starting at the White House early in the morning, the Chopin group of about 135, wearing red coats and blue trousers or skirts, made a colorful sight as they serenaded the First Lady in the Rose Garden in the balmy spring like weather that brought the famed cherry blossoms out in almost full bloom.

MRS. FORD SERENADED

Mrs. Gerald R. Ford heard the group sing Sto Iot, a Polish song wishing her 100 years of health and happiness. She was presented a bouquet of flowers, and received a kiss from Mrs. Thaddeus J. Dulski, wife of the retired Buffalo Congressman.

Mrs. Dulski told her they had something in common—they are both named Betty.

James Jankowski, one of the members of the Chopin group, was so overcome by the occasion as Mrs. Ford was saying goodby, he fainted. He revived almost immediately and continued the heavy schedule of performance the rest of the day.

Still to come were performances in the Old Executive Office building next door to the White House, and another appearance on the steps of the Capitol where Senators James L. Buckley and Jacob K. Javits appeared just long enough to have their pictures taken with the group.

Later the Buffalo singers had luncheon and another performance in the Caucus Room of the Cannon House office building. From there the singers went to the Polish Embassy where former Rep. Dulski received the Order of Merit from the Polish government for his outstanding services to relations between the U.S. and Poland.

The singers will visit the Lincoln Memorial today.

The Lewiston Bicentennial Choir, formed about 18 months ago participated in a Bicentennial Salute to the States program in the Cannon building, sang at the Lincoln Memorial and flew home Friday evening. The Chopin group will return to Buffalo via bus on Sunday.

DUNKIRK GROUP PARTICIPATES

A unit of the New York National Guard from Dunkirk and Silver Creek also took part in the ceremonies at the Capitol, striking a picturesque note with their colonial style uniforms in gray and light blue.

Rep. Henry J. Nowak, of Buffalo and Rep. Jack F. Kemp of Hamburg were on hand for both the White House and Capitol portions of the Chopin activities. Rep. John J. LaFalce, Town of Tonawanda, introduced the Lewiston group at a luncheon. Buffalo Mayor Stanley M. Makowski was with the group throughout the day as was Buffalo Parks Commissioner Gus Franczyk.

Throughout there was a lot of singing, and patriotic songs such as God Bless America, the Battle Hymn of the Republic and some traditional Polish songs such as Czesc Polskiej Ziemi, (a tribute to the Polish land) filled the air. It was a perfect day for it. It was a grand day for singing.

[From the Buffalo Evening News, Mar. 20, 1976]

AREA CHOPIN SOCIETY, LEWISTON CHOIR TAKE WASHINGTON BY SONG

(By Roland Powell)

WASHINGTON, March 20.—The 137-member Chopin Singing Society of Western New York today enters the final full day of an extraordinarily busy and well-received series of bicentennial year appearances in the nation's capital.

The society, itself 77 years old, received enthusiastic applause wherever it appeared Friday at the White House, the Capitol, the House Office Building and the Polish Embassy.

When the members—120 of them singers, the others serving in supportive roles—were not performing they were busy taking pictures of each other at the various tourist sites of the city, often arranging for someone else to operate the cameras for group photographs.

Paralleling much of their tour Friday was that of the 35-member, one-year-old Lewiston Bicentennial Choir which raised $3000 to make the one-day trip here to do its part in the 200th birthday observance.

The only time the two choruses appeared together was at a New York Congressional Luncheon in the Cannon House Office Building at which Lt. Gov. Mary Anne Krupsak, herself a Polish-American, was the principal speaker.

The Lewiston Choir, directed by Robert Kerns, and whose president is Carol Voutour, performed "This Is My Country" and "Give Me Your Tired, Your Poor" at the luncheon.

Rep. John J. LaFalce (D., Town of Tonawanda) who introduced the singers from his district, noted their many appearances in just the first year of existence at hospitals, orphanages, nursing homes and churches.

The Lewiston group also sang at the Lincoln Memorial: "This Is My Country," "The Concord Hymn," "I Love America," "Chester," "The Battle Hymn of the Republic" and "God Bless America."

The Chopin Society's repertoire at the luncheon consisted of "The Battle Hymn of the Republic" and a medley of "God Bless America" and a Polish song "Czes Polskiej Ziemi," a tribute to the Polish land. They will appear today at the Kennedy Center, Lincoln Memorial and Montgomery Blair High School in Silver Spring, Md. Sunday, before returning home, they will sing a Latin Mass in the Shrine of the Immaculate Conception.

The members' biggest picture-taking session occurred Friday on the west steps of the Capitol. They were joined for photograph combinations including Lt. Gov. Krupsak, Mayor Makowski, Rep. Henry J. Nowak (D., Buffalo), Mayor Walter Washington of the City of Washington, and Sens. Jacob K. Javits and James L. Buckley.

The mayor said he was especially happy to meet the Western New Yorkers because he grew up in Jamestown.

"I want all of you to know this is your city," he said. With that one of the society members loaned Mayor Washington his bright red jacket and the mayor posed with the group as if he were one of its singers.

Rep. Novak, introducing the Chopin singers at the luncheon, said:

"This mixed chorus is one of the liveliest, most versatile choral groups in the nation. It is appropriate that our bicentennial observance should highlight groups like this which help continue to put into proper perspective the great contributions their cultures made to our nation.

"The Chopin Singing Society was founded to preserve and nurture the finest Polish traditions—love of music, song and dance. In the process, it has made outstanding civic and social contributions to our community."

Lt. Gov. Krupsak used the luncheon occasion to put in another plug for increased involvement and recognition of women.

She cited a number of women who took part in the revolution, many of whom were killed.

"The least celebrated history of the American Revolution in New York State is that of its patriot women," she declared.

She took note of Abigail Adams plea to her President-husband to "Remember the ladies."

"It is incredible that 200 years later women still seek the promise of the Constitution and the Bill of Rights. Surely it is time to fulfill this promise and commemorate the memory of our foremothers by ratifying the Equal Rights Amendment in 1976," she said.

At the conclusion of its performance at the congressional luncheon, the Chopin Society was presented a silver plate with the United States emblem marking their visit here. Making the presentation were Reps. Nowak and Jack Kemp (R., Hamburg), Mayor Makowski, former Rep. Thaddeus J. Dulski, and Gus Franczyk, Buffalo commissioner of parks. It was received by Theodore Mikoll, society president.

The Chopin Singing Society was founded in 1899 to preserve and nurture the fine traditions of Polish music and song. The group's visit here as part of our Nation's Bicentennial observance was marked by its traditional artistry and congeniality. Polish-Americans throughout this country, especially those of us from Buffalo—the City of Good Neighbors—are justifiably proud of this dedicated and talented citizens' chorus.

CONGRESSWOMAN BELLA ABZUG CALLS ON SENATE TO REJECT U.S. TREATY WITH JUAN CARLOS GOVERNMENT OF SPAIN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Ms. ABZUG. Mr. Speaker, in testimony before the Senate Foreign Relations Committee this morning, I called on the committee to reject the proposed U.S. treaty with the Juan Carlos government in Spain. At the very least, I said, it should postpone action on the pact, which provides more than $1 billion in military and economic aid to a government that was created by Dictator Francisco Franco and that remains an enemy of the Spanish people.

The Juan Carlos government is shaky. It is undemocratic. It lacks a popular base of support. Let us wait and see what happens to it instead of seeking to perpetuate it with a treaty of "friendship and cooperation." Our friendship must be for the people of Spain, not for their oppressors.

The Senate should not act on the treaty until the political situation in Spain is resolved in favor of the establishment of a democratic government. We should take into account that a democratically elected Government of Spain might wish to negotiate a different treaty than the one now under consideration, or none at all.

Ratification now would imply that the government of Juan Carlos has the support of the United States in whatever it chooses to do—whether it shoots down strikers, represses trade unions, limits the formation of opposition political parties, or restricts free speech and a free press.

The U.S. military bases in Spain have become technologically obsolete as far as American military interests in Europe or in the Middle East are concerned.

I also asked the Senate committee to investigate the nature of the U.S. military training provided for the Spanish Armed Forces under the proposed treaty. We will be training the Spanish Armed Forces in methods of riot control or other forms of forcible suppression that can be used against the people of Spain as they seek to achieve their democratic rights.

The complete text of my testimony follows:

TESTIMONY BY REPRESENTATIVE BELLA ABZUG BEFORE SENATE FOREIGN RELATIONS COMMITTEE ON PROPOSED U.S. TREATY WITH SPAIN, MARCH 24, 1976

Mr. Chairman, I welcome this opportunity to testify before you on the proposed U.S. treaty with the government of Spain.

We can all appreciate the uniqueness of these hearings. This is the first time in the history of the 22-year direct military relationship between our Government and the Spanish Government that any Americans—except for those in the executive branch who wrote, negotiated and signed the previous secret agreements with Spain—have been allowed a voice in determining what the relationship between these two governments should be.

I hope the Senate will use its newly bestowed voice to reject this treaty.

At the very least, it should postpone any immediate action to approve the treaty until the political situation in Spain is resolved in favor of the establishment of a democratic government, both in form and in practice.

It should take into account that a democratically elected government in Spain might wish to negotiate a different treaty than the one now under consideration, or none at all. By ratifying a treaty, with unnecessary haste—because as we know, the current agreement does not expire until September 1976—the Senate would place itself in the position of imposing a pact upon the people of Spain over which they have had no say.

It would be far better to use our voice to let the Spanish population hear from us at last that we will no longer use the wealth, power and military might of the greatest democracy on earth to deprive them of their hope of democracy.

It has been a long-deferred hope.

In the 1930's, the American Embargo on aid to the democratically elected Government of Spain when it was under attack by the military forces of General Francisco Franco, with the assistance of Hitler and Mussolini, was one of the most shameful episodes in American foreign policy. That episode was converted into a policy of outright and permanent support for the Franco regime, as it consolidated its power over the people of Spain through total suppression of their liberties.

Political parties were suppressed, unions outlawed, strikers drafted into the army or shot, the opposition press shut down, thousands imprisoned, and living and working conditions kept at abysmal level for the benefit of Franco's party and Spanish-owned and American-owned business and industry.

While other NATO countries refused to enter into any agreement with the Franco dictatorship, the United States Government gave respectability, stature and military support to the repressive government.

Whatever inclination there may have been among the Spanish population to seek overtly to regain their lost liberties must have been inhibited by their knowledge of the presence in their land of American military bases, nuclear missile submarines and thousands of American military personnel.

Like the people of Chile, Greece and the Nations of Southeast Asia, the Spanish people have learned to see the United States not as a defender of democracy but as a staunch supporter of anti-Democratic governments. The future standing of the United States in a rapidly changing world can only be weakened and undermined by such a continuing perception of the U.S. role in Spain.

The treaty before you is described as a "treaty of friendship and cooperation between the United States of America and Spain,' but, in fact, it is a treaty between two governments, and specifically with the oppressive government of King Juan Carlos, the ruler bequeathed to Spain by Franco.

In his testimony before this committee on March 3, Ambassador Robert J. McCloskey referred several times to the "new era" in Spain, cited that country's "progress toward democracy" and said approval of the treaty would be "a clear sign of our moral support for Spain at this time."

What is happening in Spain at this time?

Where Ambassador McCloskey sees "progress," others see only a feeble pretext toward progress. Clearly, the developing Democratic forces in Spain are not deceived by it.

Premier Carlos Arias Navarro remains in control of the hard-line government, while its base of support crumbles and opposition grows.

Recently, riot police sent in by the national government shot down four strikers in the Basque provinces of Northern Spain and used tear gas and brutality to suppress demonstrations by thousands of Basques who shouted, "Down with the Fascist monarchy of Juan Carlos."

It is significant that the workers' demonstrations were supported by the Catholic clergy, who are among the many dissident groups emerging in Spain.

Time magazine reported March 15 that in the provincial town of Victoria, "with the clergy's blessing, striking workers met in illegal assembly in the city's churches to air their demands for higher wages and their conviction that Madrid must yield more authority to local governments."

As recently as March 22, New York Times Correspondent Henry Giniger reported from Madrid that "of seven proposed measures to change the political and social face of Spain, the three-month-old government has acted on four, and only one of those is in effect."

He noted that "Government opponents on the left and in the center are critical of the whole program because those changes already drawn up contain restrictions and allow the government to exercise arbitrary will; because the measures have been submitted to an essentially anti-reformist parliament where they may languish for months and emerge in a still more restrictive form; and because those changes yet to come are uncertain in nature and timing."

Uncertainty is indeed the outstanding characteristic of the Juan Carlos government at this time. Contrary to Ambassador McCloskey's assertion that ratification of this treaty at this time would encourage and "give positive impetus to the transition now under way in Spain," ratification now would imply that the government of Juan Carlos has the support of the United States in whatever it chooses to do . . . whether it shoots down strikers, represses trade unions, limits the formation of opposition political parties or restricts free speech and a free press.

Others who have appeared before this committee have argued very cogently that maintenance of military bases in Spain are not essential to the security of our country or to our NATO allies.

I fully associate myself with the views expressed by professor William Braasch Watson of Massachusetts Institute of Technology who described in detail why these bases have become technologically obsolete as far as American military interests are concerned. They no longer serve the function of providing base support for U.S. bombers ballistic missile submarines, and tankers.

This is at least partly acknowledged by the U.S. agreement in this proposed treaty to withdraw its nuclear submarines from the Rota Base by July 1979. It apparently has done so, not as a token of interest in limiting the potential of nuclear warfare, but in recognition of the fact that the greatly increased operating range of the Poseidon class submarines obviates the need for forward bases in Spain.

I might add that the hope that the Spanish bases might prove helpful to the United States in the Middle East, and particularly in support of the defense of Israel, was wiped out during the Yom Kippur War when the Spanish government called for a halt to the refueling of aircraft headed for Israel by U.S. aerial tankers based in Spain. In fact, since 1967, the Spanish government has not allowed the U.S. to use the bases for military or civilian activities related to an Arab-Israeli war.

Although I do not intend to discuss the treaty itself in detail, I would like to call your attention to supplementary agreement number 7 in which the U.S. agrees to "continue to furnish on a grant basis training for personnel of the armed forces of Spain," at a value of $2 million a year or a total of $10 million for the five-year treaty.

I believe the committee should seek to ascertain what the nature of this training has been and will be, and whether the U.S. army will be training the Spanish armed forces in methods of riot control or other forms of forcible suppression that can be used against the Spanish population as they seek to achieve their democratic rights.

Mr. Chairman, the long-term interests of the American people would best be served by rejecting, or at the very least, delaying action on a treaty which provides more than one billion dollars in military and economic aid to a government that was created by dctator Francisco Franco and that remains an enemy of the Spanish people.

The Juan Carlos government is shaky. It is undemocratic. It lacks a popular base of support. Let us wait and see what happens to it instead of seeking to perpetuate it with a treaty of "friendship and cooperation." Our friendship must be for the people of Spain, not for their oppressors.

COUNTRY POWER SHIFTS TO AUSTIN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. PICKLE. Mr. Speaker, Texas has long been known as the home of some of this Nation's most popular country music performers—Tex Ritter, Jim Reeves, Bob Wills, all of whom are now deceased.

But there is a new generation of Lone Star State performers, among them Buck Owens, George Jones, and a group centered in Austin who perform in a slightly different genre of country music.

During the last 5 years or so, Austin has become a nucleus of music talent. Young singers, songwriters, and musicians have been flocking in large numbers to the capital city.

The leader of this new wave is Willie Nelson. I would like to enclose this article from the Washington Star, March 21, 1976, on Willie Nelson and the other exciting performers who are adding to the Austin cultural scene:

Country Power Shifts to Austin

(By Charlie McCollum)

They're called the Outlaws, although only a few actually relish the title and some bridle at the use of the term. In terms of both music and style, the name fits, though, and—for better or worse—that is how they will be known.

Right now, the Outlaws are taking over the country music train, much to the dismay of the establishment which still views music not in Nashville style as a threat. Even more of a threat is that the Outlaw music is recorded outside the country capital, much of it in Austin, Tex.

A quick glance at the country charts is quite enough to upset the stomach of a Nashville regular. At the top of album heap is "The Outlaws" (RCA), which features the leader of the mavericks, 43 year-old Willie Nelson. The record is also No. 14 on the pop charts, making it a relatively rare cross-over hit.

Further down on the album charts are Nelson's "Redheaded Stranger" (Columbia), "What Can You Do To Me Now" (an RCA oldie) and "Country Willie" (an even older effort on Mercury). "Texas Country," a United Artists compilation set featuring Nelson, should pop onto the charts soon with Nelson's new Columbia release, "The Sound In Your Mind," a sure bet for the top.

To top if off, Nelson has the No. 2 country single, "Remember Me," and the No. 6 country single, "Good-Hearted Woman." The latter, a duet with Waylon Jennings, is No. 32 on the pop lists as well. And there is the Grammy Nelson just picked up as best male country vocalist of the year.

Just a few years ago, this same Willie Nelson was a failure by Nashville standards. Although many of his songs—"Crazy," "Night Life," "Hello Walls" and "Funny How Time Slips Away"—were and are country classics, Nelson's own singles and albums did not sell. Further, as the Nashville sound with its overpowering strings and sappy lyrics came in Nelson's Texas-style music became less and less popular with producers and artists.

When the music changed, country writer Geoff Lane wrote not long ago, "Willie Nelson found it hard to change with it. His songs no longer suited the mood of the people as the new 'Nashville sound' replaced Texas swing and the East Texas honky-tonk of George Jones."

Nelson is not a man to forget and forgive. Pushed aside because his music did not fit the fashion and because his long hair and buckskins did not fit in Nashville's suits and ties, he bitterly moved to Austin, where there was a small group of musicians who appreciated his music. Later, on tunes like "Sad Songs and Waltzes Aren't Selling This Year," he would make sharp cracks about the Nashville mentality.

The Austin move came in 1972 and the rest, as they say, is history. Nelson's music not only found a place in the small Texas town, but record companies looking for something different began to take notice. Within three years, Nelson would sell more records and make a bigger name for himself than he had during his 25 years in Nashville.

That Nelson should be a success is only right, because he is one of the finest singer-songwriters America has ever produced. Even for people who cannot normally tolerate country, "The Sound In Your Mind" is a striking album that makes the listener laugh, cry and sympathize in turn. Included are Nelson classics like "Nightlife" plus new tunes like the title cut, a beautiful re-arrangement of "Amazing Grace" and some standards like Lefty Frizzell's "If You've Got the Money, I've Got the Time."

What makes it all work is Nelson's sense of lyrics, his gruff vocalizing and the sparse instrumental arrangements. His voice comes over as the voice of the land itself, deep and rich with a sense of survival over adversity. His own lyrics are unmatched for conjuring up visions of regular people working, playing and going about the business of keeping things running. It was the outsider and the person at the bottom of the pile who have ultimately determined the strength of America and it is these people that Nelson sings about and to.

Gone from this whole style is the sappiness and simple-minded politics and religiosity of modern Nashville. (Nelson would never think of twirling a yo-yo on stage with Richard Nixon.) The style is a direct descendant of country's finest: the swing of Bob Wills, the gritty realism of Jimmie Rodgers, Merle Haggard and Hank Williams, the East Texas honky-tonk of George Jones.

The trend is clearly forward by going backward and there are other musicians who contributed to the drift:

Waylon Jennings: Along with Nelson, the best-known of the mavericks. A former member of Buddy Holly's Crickets, Jennings looks and acts the part even more than Nelson. His music has a heavier input of rock, with "Honky Tonk Heroes" (RCA) the best recent example.

Jessi Colter: Jennings' wife and the one woman most closely associated with the Outlaws. An excellent song stylist, she is also capable of turning out a good tune. She had a hit with "I'm Not Lisa" and her new album, "Jessi" (Capitol), is showing up on both the pop and country charts. She can also be heard on "The Outlaws."

Kris Kristofferson: Although he is now more interested in film than music, Kristofferson's early success broke the ice in the pop market for artists like Nelson. His most recent albums are not his best, but some of the early ones are classics.

Jerry Jeff Walker: Best known as the writer of "Mr. Bojangles," Walker not only sells well outside the country market but has the biggest following of any maverick on the East Coast. His backup group, the Lost Gonzo Band, is one of the best, a force in its own right.

Gary Stewart: The fastest up-and-comer of the maverick group, Stewart fits most easily in the rockability slot, the sound from which rock drew Elvis Presley and Jerry Lee Lewis. His new RCA album, "Steppin' Out," is a fine piece of work and making tracks on the charts.

James Talley: Although he stayed in Nashville, Talley has more in common with Nelson than he does with recent country music. His music, particularly on the new "Tryin' Like the Devil" (Capitol), is gritty, honest blue-collar blues with a cutting edge.

Tompall Glaser: Being on "The Outlaws" with Nelson, Jennings and Colter has boosted his stock immensely. Another artist who plays up to the outlaw image, Glaser's new record, "The Great Tompall & the Outlaw Band" (MGM), is excellent and selling well.

Michael Murphey: Most would hardly associate him with outlaw country, but Murphey helped to establish the Austin maverick community. Nelson thinks enough of him to sing on his new Epic album, "Swans Against the Sun." There is enough grit in that set to suggest Murphey is still capable of making top-flight music.

Guy Clark: Perhaps the least well-known of the mavericks, Clark has already written such modern classics as "L.A. Freeway" and "Desperados Waiting for the Train." His "Old No. 1" (RCA)—which includes backup vocals by Sammi Smith and Emmylou Harris—is superb.

Asleep At the Wheel: Asleep is helping to make country swing popular again. A former Washington band, it now works out of Austin and had a country hit album with last year's "Texas Gold" (Capitol).

There are others as well. Tom T. Hall is still capable of penning a good tune now and then, although he's slid into the establishment. There are Mickey Newbury, Larry Gatlin, Billy Swan, Larry Jon Wilson and Doug Sahm, another Austin original. B. W. Stevenson may be mixing in rock and even Hawaiian rhythms, but he started in Austin. And you could also throw in Emmylou Harris from the rock world, and—in many ways—Loretta Lynn and Dolly Parton from traditionalist Nashville.

At the heart and core of the whole movement, however, is Willie Nelson. Plans are now being drawn up for his first extended tour of the East Coast in May with a Washington stop a certainty. His show is said to be outstanding. At the very least, a trip to the record store to pick up "The Sound In Your Mind" or "The Outlaws" is definitely in order.

A TRIBUTE TO AMERICA

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. BROWN of Ohio. Mr. Speaker, I insert in the Record at this point a "Tribute to America" delivered at the Clark County, Ohio, Scottish Rite Club Bicentennial Banquet celebration on Friday, February 6, by William M. Berry of New Carlisle, Ohio. The patriotic thoughts expressed herein may be of considerable value to my colleagues:

A Tribute to America

A Nation of Nations

America the Beautiful

O beautiful for spacious skies, for amber waves of grain
For purple mountains majesties, above the fruited plains.
America, America, God shed his grace on thee, and
Crown thy good with brotherhood, from sea to shining sea.

The history of man is punctuated with a few outstanding highlights which stand out clearly from the flow of events. The birth of Christ, the signing of the Magna Charta in 1215, the fall of the Roman Empire, the discovery of America, the Reformation and perhaps some others, which you might choose to set apart.

Not the least of these great events was the signing of the Declaration of Independence by the Continental Congress on July 4, 1776. This document represents the infallible rule that man, subject to tyranny, will eventually revolt and throw off the shackles of slavery.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights . . ." But what are they, and why, throughout our history has it proved so hard to define and defend these rights? Some of our most fundamental freedoms were not initially written into the Constitution, and even today, the exercise of our basic freedoms is a matter of debate, regularly contested in our courts. Are our ideals diluted in practice? Are some of us more equal than others? If liberty and duty; rights and responsibilities go hand in hand, how unfettered can freedom be?

WE HOLD THESE TRUTHS

This Is My Country

This is my Country, land of my birth,
This is my Country, grandest on earth,
I pledge thee my Allegiance, America the bold,
This is my Country, to have and to hold!

America is a land to be settled, owned, rented, mined, seeded, plowed under, asphalted over, built upon, played on, lived in. Beginning with thin slivers of civilization along the eastern coast, it now spans a continent, embraces an archipelago in the mid-Pacific, reaches into the Arctic Circle, thrusts into the Caribbean. Our wealth as a nation derives from the land, our use of it has given us the world's most productive system of agriculture and industry. How have we shaped this land and how has it shaped us? What explains our regional cultures, the growth of our cities and suburbs? Have we used the land well or wastefully? Of course we must use the land for cities and suburbs, to sustain life and make it worth living. To what extent can we have the best both of growth and harmony with nature? Who decides . . . who really owns the land?

THE LAND OF PLENTY

This Land Is Your Land

This land is your land, this land is my land, from California to the New York Island.
From the redwood forest to the gulfstream waters.
This land was made for you and me . . .

A unique mixing of people and religions, a virgin land, lofty ideals, a new republican form of government—these all gave promise that a new kind of individual, the American, would emerge to work and trade and take a place in the world. Certain social forces and institutions molded our society and our people. What sort of person did these forces create? Is there an American Character?

What part have our families, our schools, our churches, and our communities—now in the midst of tremendous change—played over the years in developing that character?

Will the American Character, whatever it may be, also change tremendously? Is the American-optimistic, convinced that just about anything is possible—changing as vistas narrow and frontiers close down? What is it that keeps us moving all the time—a restless search for new frontiers, a hunger for challenge? Where have we, as Americans, planted our deep moral roots?

GROWING UP IN AMERICA

Battle Hymn of the Republic

Mine eyes have seen the glory of the coming of the Lord;
He is trampling out the vintage where the grapes of wrath are stored,
He hath loosed the fateful lightning of his terrible swift sword,
His truth is marching on, Glory! Glory! Hallelujah!
Glory! Glory! Hallelujah! Glory! Glory! Hallelujah!
His truth is marching on.

"We the people" . . . so begins our Constitution. Yes, America is really a group of peoples. Most nations are organized around a single people; but America is based on a dream of freedom and well-being that was embraced by men and women of many tongues and traditions. Where did they come from? What led them to these shores? Courage or fear? Free choice or coercion? Hope or despair? What sort of people were they to be able to overcome hardship and create a new nation?

America, too, is a political life rare, risky, even fragile—a democracy, where every citizen has an equal voice in the affairs of the country. What is unique about our form of Democracy? Our Constitution called for "a more perfect union" among the newly independent states instituting a "federalism" which combined the advantages of liberty and stability. "Power check Power" was the maxim the founders followed, crafting a delicate balance among the executive, legislative and judicial branches. The Constitution calls for a "representative government" with power vested in the people who delegated this power to elected officials.

WE THE PEOPLE

America

My Country tis of thee, sweet land of liberty
Of thee I sing. Land where my fathers died,
Land of the Pilgrims pride, From every mountainside,
Let freedom ring.

Our father, God to thee, author of liberty
To thee we sing; Long may our land be bright,
With freedom's holy light; Protect us by thy might,
Great God, our King.

America is a workplace. To settle an untamed land, to push its borders across a continent, to build cities and factories and farms where there has been only wilderness, to establish one of the world's most prosperous nations—all that took incredibly hard work. Opportunity drew millions to America who saw hard work as the way to success. Yet, increasingly, our aim has been to gain more productivity for less toil. At the beginning of the Republic, people were closely tied to the end results of their work, but today we often do not even see the end result. Do we take less pride in our work because of this? Are we still concerned with what we do or how well we do it?

America is also a marketplace. The American Revolution gave us economy as well as political independence. Entrepreneurs were able to transform the energies and resources of the new nation into the greatest wonder of the economic world. Americans seem to have a gift for business, a genius for marrying technology and marketing.

THE AMERICAN DREAM

The American Dream . . . Archibald MacLeish said "America was and, I might add, is promises". And its promises have always motivated us—self-fulfillment, freedom and independence, a decent living. The promise of pleasure, of a life beyond mere drugery, of being new, young, in the forefront of an adventure, on top of things. The "Unalienable Rights" of "Life, Liberty, and the Pursuit of Happiness". These dreams, these purposes, brought millions to America's shores and inspired newcomers to expand the country's industry, its trades, its borders, its wealth, its influence.

Yes, I am the nation, and these are the things that I am. I was conceived in freedom and God willing, in freedom I will spend the rest of my days.

May I possess always the integrity, the courage and the strength to keep myself unshackled, to remain a citadel of freedom and a beacon of hope to the world.

This is my wish, my goal and my prayer on February 6, 1976—200 years after I was born.

God Bless America!

God bless America, Land that I love,
Stand beside her and guide her,
Through the night with the light from above,
From the mountains to the prairies,
To the ocean, white with foam,
God bless America, my home sweet home.
God bless America, my home sweet home.

NONRESIDENT TAXPAYERS ASSOCIATION PRESIDENT SPEAKS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. FLORIO. Mr. Speaker, many of the residents of my congressional district work in the Philadelphia metropolitan area. An ongoing, perplexing problem, both financially and judicially, has been the wage tax imposed on the gross income of these workers. The city of Philadelphia is seeking to raise the percentage on the wage tax.

I have long been associated with the Non-Resident Taxpayers Association, an organization dedicated to correcting the inequities of this tax on the nonresident worker. At this time I wish to share with my colleagues the testimony of the president of the NRTA, Mr. William Gould, a conscientious public employee and resident of New Jersey, before the Pennsylvania Legislative Urban Affairs Committee:

TESTIMONY FOR THE PENNSYLVANIA LEGISLATIVE URBAN AFFAIRS COMMITTEE ON THE PHILADELPHIA EMERGENCY TAX ENABLING ACT AS PRESENTED BY THE PENNSYLVANIA LEGISLATIVE COMMITTEE OF THE NON RESIDENT TAXPAYERS ASSOCIATION

(By President Wm. Gould)

Gentlemen: I am here today to testify on behalf of the Non-Resident Taxpayers Association which has a membership in Pennsylvania of many thousands. I would also like to think that I represent all of the 240,000 non-residents working in the city.

You may ask, what relevance my testimony could have to this hearing which was established to review the validity of Senator Cianfranis' Emergency Tax Enabling Act (SB #1279). One aspect of relevance was Senator Sweeney's amendment which would put a ceiling on the Philadelphia wage tax for non-residents at its current rate of $3\frac{5}{16}$ percent of gross income. May I interject that the Sweeney amendment was the first serious step to correct an obvious inequity.

Our testimony is relevant because for 37 years non-residents have been subjected to this tax without a voting voice which was guaranteed by the 14th amendment to the United States Constitution. When one considers that $\frac{1}{6}$ of the total Philadelphia General Fund is input by the non-resident worker it would seem that he would have some voice in the matters of fiscal management in the city. If no other relevancy exists to our testimony, this hearing has provided us an opportunity to be heard.

Gentlemen—the wage tax now grosses from the non-resident worker one hundred million plus! This money, the city alleges is for services rendered him while he works in the city.

Consider this if you will:

(a) Only 9 states currently authorize their cities to levy wage taxes. Philadelphia has the distinction of being the first and the highest. No other city charges its non-resident worker more than 2%.

(b) Philadelphia's fiscal year 75 Real Estate tax receipts were 103 million which grossed only 3 million more than the 100 million derived from the non-resident workers.

(c) The non-resident worker normally resides in a municipality that derives its entire operating budget from real estate taxes. Philadelphia's real estate tax falls 25 million short of paying for its Police Department.

(d) The 100 million extorted from the Non-resident worker represents money that any taxing authority would favor, for it represents a gift without any political repercussion!! Does this ring of taxation without representation!!!

(e) Taxing the non-resident at the same rate as the resident is in itself patently unfair, since the non-resident spends only a fraction of his time in the city. The gross inequity, however, is that the non-resident is categorically denied any of the rights, benefits, or services (except those accorded to any transient without charge) which the city provides its residents; However, Philadelphia residents who work outside the city do not pay wage taxes for similar "services" received in the municipalities where they work; rather, they too pay the Philadelphia wage tax. This is due to the unique tax advantage granted to Philadelphia by the state of Pennsylvania, which states no other municipality may tax a Philadelphia resident even though he works in its jurisdiction. Thus Philadelphia enjoys the best of all possible tax situations.

(f) In order to have an understanding of those factors which motivated Philadelphia to employ such a tax we refer to a presentation entitled "The Philadelphia Income Tax" made to the Bureau of Municipal Research and Pennsylvania Economy League, by Lennox L. Moak, present Finance Director of the City of Philadelphia. Commenting on declining receipts from the real estate tax, Mr. Moak said;

"The real estate tax for municipal purposes has been modified only slightly during the past two decades."

However, concerning the wage tax he enthused:

"It has proved to be a lucrative source which has risen . . . with improved earnings" and

". . . for those who pay the tax on a withholding-at-source basis it tends to become meshed with all of the other deductions and to lose its visibility."

I think, one does not have to see the noose around his neck to feel the effect.

To increase your awareness of our plight, kindly consider these facts:

(a) The Pennsylvania income tax of 2% is based on gross income as the Philadelphia wage tax. This constitutes a tax on a tax with Philadelphia being supported by both taxes. An excellent example is: The city school system receives almost 50% of its school costs from the state whereas the four surrounding counties get only 8%–10% of their school costs.

(b) The amount of wage tax I pay as a middle income worker is the same as the taxes I pay as a home owner where I live, for which I receive complete and satisfactory services.

How long can I support two communities.

Finally the important relevancy lies in the fiscal irresponsibility that has brought Philadelphia to the brink of financial disaster. "Permissiveness" has become a common word in our society. Many attribute all of our problems as stemming from this condition. Today, I would charge all of you with permissiveness as was demonstrated by the numerous Philadelphia governments who in the last 37 years have gone to the state legislature on seven separate occasions to have the limits of the wage tax raised. Let me say that as a child who steals a cookie, or defies the authority of a teacher and is excused by the permissive parent—this child ultimately reaches an end in an inexcusable crime. When the State and even the Federal Government condones the theft of monies from the non-resident, it must surely face a day of reckoning.

When you gentlemen return to Harrisburg my membership will be watching to see that each of you take a step in the direction of rectifying a basic wrong so that in our Bicentennial year it may be said that this congress took a stand for right.

PENSION TERMINATION PROBLEM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Mr. ARCHER. Mr. Speaker, I have been greatly concerned with the report that over 5,000 notices of intent to terminate pension plans have been filed with the Pension Benefit Guaranty Corporation. It has been estimated that at least 100,000 workers will lose promised pensions. I have been joined by a large number of my colleagues requesting a General Accounting Office investigation of this problem including some positive recommendations for constructive and corrective legislation. I would like to call the attention of my colleagues to an article which appeared in the March 8, 1976 issue of the New York Times on this serious problem:

PENSION PLANS CANCELED BY 5,500 SMALL COMPANIES

(By Robert Lindsey)

LOS ANGELES, March 6.—Until recently, Roy Saiki, a 34-year-old employee of the Hawaiian Papaya Company here, could look forward to his old age with two financial props—his monthly Social Security check and a check from his company pension plan.

But now there will not be any check from the company pension plan. Along with those of thousands of other private pension plans across the country, it was abolished last year, and Mr. Saiki was forced to join a growing number of Americans—many middle-aged or approaching retirement age—who have suddenly lost part of the security promised for their old age.

According to the Federal Pension Benefit Guarantee Corporation more than 5,500 private pension plans have been terminated in the last 18 months. At least 100,000 workers have lost promised pensions.

Some of the companies went out of business. Others ended the fringe benefit because of set backs caused by the recession. But many of the companies that canceled pension programs said they had done so because of the costs of complying with the Federal Pension Reform Act of 1974, which established complex new regulations governing pension plans to eliminate widely reported abuses in the private pension system.

"I had no choice," said Thomas Logan, president of Houston's Metro Builders and Hardware Company, "It was either keep the plan or keep the company." He added that the cost of continuing the pension plan for his 21 employees would have jumped from $15,000 annually to $32,000. His reaction was typical of executives of many smaller companies who were interviewed about their decisions to cancel pension plans.

Senator Jacob K. Javits, Republican of New York, and Senator Harrison A. Williams Jr., Democrat of New Jersey, co-authors of the 1974 legislation, have conceded that there are problems in administering the new law. But they say the problems are far outweighed by the advantages.

They say many of the pension plans were ended because of the poor economy and would have been canceled even if the law had not been passed. In any case, they contend, the legislation has made the future much more secure for 35 million Americans still covered by pension plans.

Even defenders of the legislation admit that the workers who have suffered disproportionately from the effects of the new laws are employees of small businesses and of the so-called "closely held" corporations in which a few people own the stock. According to some estimates, more than 80 percent of the recently canceled pension plans were at businesses with fewer than 30 employees.

According to pension experts, the officers who run many such companies are developing alternatives to insure their own financial security during retirement even as they cancel the employee plans.

"Most of the smaller pension plans in existence were established primarily for the benefit of the chief executive and for the owner of the business," said Daniel F. McGinn, a pension actuary in Los Angeles.

LAW EXTENDED PLANS

Because of Federal tax regulations, he said, the executives who enacted company pension plans had to make them available to their employees.

But now, as they drop the company-wide plans, he said, many chief executives and company owners are providing for their own retirement through "deferred compensation" techniques that do not have short-term tax benefits like the pension plans, but that commit the company to pay them specified sums in the future.

Mr. McGinn said he thought there would be "more cancellations this year than in 1975," although he doubted that the trend would affect large companies, especially those with strong unions and long-term traditional pension programs.

In some cases, according to other pension analysts, executives of the smaller companies, after withdrawing their pension plans for all employees, are diverting the money to other corporate needs or to profits.

FORSEES NOT LOSS

Irwin Kossoff, president of United States Box Craft Inc. in Brooklyn, said he decided to end his company's plan and to "give raises to all those covered by the plan." Even so, he said employees will probably suffer a net loss because they are allowed to invest only $1,500 annually in tax-free individual retirement accounts, and some raises exceeded this.

Interviews with employees in 12 cities across the country whose future has been clouded by the decisions to cancel pension plans brought a variety of reactions.

Several employees said they felt insecure and blamed the Federal Government; others, especially younger workers, said that retirement was a long way off for them; still others said they were pleased at the chance to invest in profit-sharing or in an individual retirement account.

"The experience really made me think about my future," said Mr. Saiki, the papaya company employee. "I'm glad this happened now rather than later; now, at least I have a chance to prepare for my future."

Many workers whose pensions have been eliminated are receiving a share of any monies placed in company pension funds, usually pro-rated according to the length of time worked, their salaries and how much they had contributed to the plan. Payments generally range from a few hundred dollars to several thousand.

"I need the money right now," said Michael Norman, 25, an accountant for W. Clement Stone Enterprises in Chicago. He expects about $1,500 from his company's abolished pension fund. "In the long run," he admitted, "I know I would be better off with the plan in effect." He said he would spend the money to improve his house.

"They cured the disease and killed the patient," said John Hubenthal, 59, who has worked for 16 years for Barton-Denmarsh Inc., a Pittsburgh advertising art studio. Whatever he receives from his company's canceled pension, he said, will probably be spent on college educations for his two young children.

Gene Visser, 56, a salesman for the Allied Electric Supply Company in Miami, said he saw an advantage in the loss of his pension:

"I would have had to wait until I was 65 to get it, but I might have died at 66. This way, whatever there is in the pension fund, it's in my hands now."

TESTIMONY OF REPRESENTATIVE ABZUG ON "NO FIRST USE OF NUCLEAR WEAPONS"

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1976

Ms. ABZUG. Mr. Speaker, no issue is more critical to our country than the accelerating nuclear arms race. Because of its awesome and potentially devastating effects, this question must be given foremost priority by the Congress.

On March 16 I had the opportunity to submit testimony to the International Security and Scientific Affairs Subcommittee of the International Relations Committee on this matter. I outlined to the subcommittee the benefits which would be realized if the United States renounced the first use of nuclear weapons. I would like to share my views on this issue with my colleagues:

TESTIMONY OF BELLA S. ABZUG

Mr. Chairman, I am pleased to appear today to discuss an issue which has been of great concern to me for many years, and in which I have been actively involved, both in and outside of Congress.

One of my first acts after entering the 92d Congress was to introduce a resolution banning our first use of nuclear weapons, similar to H. Res. 11 which I introduced on the first day of the 94th Congress. I also introduced this resolution in the 93d Congress. I believe the time is now right for favorable action to be taken on this measure.

For decades America has had only one approach to co-existence with the Soviet Union. This approach has been founded on the premise that we can only be respected by being ready to launch a preemptive nuclear attack. This fundamental assumption has resulted in an endless arms spiral, accompanied by a military structure consuming 26% of our national budget.

Our continued refusal to adopt a "no first use" policy can only encourage the Soviet Union to hasten the development of even more advanced weapons. This kind of environment in which fear is the basic element, is characterized by ever-increasing arms production, it has resulted in a poisoning of the atmosphere of our bilateral arms limitations talks. The failure to reach agreement in the Salt talks results in part from our contradictory goals and policies. The business-as-usual assumptions underlying these talks have prejudiced the chance of successful negotiations; it is therefore no surprise when the President begins to warn us not to expect great progress.

Members of this administration have at times attempted to condition the American people to accept what was once unthinkable; that a nuclear first strike by the United States may be a legitimate course of action. This effort is being sold as an expansion of our options, as part of a new flexibility. We currently possess so-called small nuclear devices, designed for use in so-called limited nuclear war. These tactical nuclear devices are presented to us as evidence in a public relations campaign to legitimize a first strike strategy and to promote the concept that nuclear war can be contained.

But for sophisticated members of our government to state that a small scale nuclear war can remain limited is either unbelievably naive or dangerously demagogic. The history of warfare through the ages tells us that weapons are made to be used: given the present continued proliferation of nuclear arms, once the first bomb is detonated, all agreements and restraints will be nullified.

The ominous remarks, most notably by former Secretary of Defense James Schlesinger made last spring, and more recently by Secretary of State Kissinger, on the feasibility of first use and the counterforce strategy inevitably coerce Soviet military planners into preparations against a U.S. nuclear initiative. In addition, by de-emphasizing the value of conventional weapons to the Soviet Union, to the Warsaw Pact and to NATO forces, such trial balloons help lower the nuclear threshold.

Because a "no first use" policy has never been adopted by our country, both U.S. and NATO military planning proceeds in a climate of uncertainty. Our unwillingness to take the initiative in this policy not only perpetuates the danger of nuclear war, it also weakens our military stance by preventing the development of an efficient, consistent and publicly stated, military policy. This very uncertainty could at any time be the reason behind a decision to exercise the first use option. Renunciation of first use would eliminate the possibility of such a tragic mistake, and would help us in achieving better relations with our Allies.

Those who claim that the presence of our nuclear threat is responsible for the relative quiet in Europe between eastern and western forces present a very misleading argument. The principal cause of diminished tensions is simply the absence of direct political stresses. We all hope that these stresses will continue to decline. In the event of a renewal of tensions, however, our readiness to initiate the use of nuclear weapons can only aggravate the situation. Those who preach nuclear readiness because war may break out at anytime are thus engaging in a self-fulfilling prophecy.

I must emphasize that to renounce the first use of nuclear weapons will in no way diminish the deterrent value of our existing nuclear forces. But by breaking the hopelessness and mistrust of the past, it sets the stage for negotiations to agree on further steps toward disarmament.

For over thirty years, the United States has been engaged in disarmament talks of one form or another. But in all that time, not one single nuclear weapon has been destroyed by an international agreement. The stockpiles keep getting higher; the overkill factor reaches ludicrous levels.

Let us not be fooled. Spending vast sums to further refine our nuclear warheads and to improve their accuracy and yield will not add one bit to national security. If the Soviet Union decides that we are serious about launching a first strike which would destroy them, one can only imagine the nervous fingers on their buttons, tempted to counter that risk once and for all. Given the assumptions of mutually balanced destruction, we jeopardize our defense by taking any steps beyond ensuring our own retaliatory capacity.

We must never forget that our actions have a special significance in the eyes of the rest of the world. Our decision for or against a promise on first use becomes the policy of the only nation that has ever used atomic weapons in wartime. Thus, it is most appropriate that we take the initiative in renouncing it. Our promise will reassure the rest of the world about our peaceful intentions. By our action, we can short-circuit endless international negotiations over mutually agreeable wording. And we can place great pressure on the Soviet Union and other members of the nuclear club to also renounce the first-use option.

Our deterrence policy has worked for 25 years, although there have been some close calls. The recent threats by the administration that it will employ nuclear weapons represents a clear deviation from this policy. These threatening statements can easily be interpreted as the beginning of a new aggressive stance. This campaign to change our stated policy threatens the survival of civilization. We should all take a step backward and ask what does the failure of the United States to renounce first use of nuclear weapons say about our country? To millions of people throughout the world, it says that we can conceive of circumstances in which we would be prepared to begin the destruction of our planet. It means that we refuse to forego the use of four billion lives as a bargaining chip in international politics. While there may be many disagreements on foreign policy questions among Americans, I strongly hope that none of us welcome that kind of global image for our country.

A "No first use" declaration by the United States does entail certain risks. But certainly these risks are infinitely less than those posed by the inevitable nuclear conflagration which such a policy presumes. No one can exaggerate the consequences of our actions. Our responsibility to those we represent demands that we break with the past, that we demonstrate our commitment to a less risky kind of security. Congress can take no greater step to increase the chances of success for the SALT talks than to approve a no first use resolution. We have nothing to lose and a world to gain.

HOUSE OF REPRESENTATIVES—*Thursday, March 25, 1976*

The House met at 12 o'clock noon.

Rabbi Nahum M. Ben-Natan, Beth Jacob Congregation, Baltimore, Md., offered the following prayer:

Heavenly Father, we, who have gathered in this historic Chamber, bearing the responsibilities imposed upon us by our constituents, to represent their wishes as we debate and discuss pending legislation affecting the welfare of our fellow citizens, turn to Thee in prayer for guidance, inspiration, and courage.

Hear their prayer, O Lord, uplift them with Thy wisdom, instill within their hearts and minds the qualities of sensitivity to human need, compassion for the suffering of others, and appreciation of the historic and eternal principles of freedom, justice, and democracy upon which this great Nation was founded.

May the light of Thy truth guide the deliberations and actions of this Congress, thereby enabling it to become a bastion of honesty, integrity, and moral authority for us and for all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 857. Joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 49) entitled "An act to authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves, the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9803) entitled "An act to postpone for 6 months the effective date of the requirement that a child day care center meet specified staffing standards—for children between 6 weeks and 6 years old—in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no longer than those in effect in September 1975."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12203. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12203) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. JOHNSTON, Mr. MCCLELLAN, Mr. BROOKE, Mr. HATFIELD, Mr. MATHIAS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3065. An act to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes; and

S. 3108. An act to amend Public Law 94-187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

TRIBUTE TO RABBI NAHUM M. BEN-NATAN

(Mr. SARBANES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARBANES. Mr. Speaker, it is a great personal honor for me today that the deeply moving and thoughtful opening prayer has just been offered by Rabbi Nahum M. Ben-Natan.

Rabbi Ben-Natan is presently the spiritual leader of the Beth Jacob Congregation in Baltimore having succeeded the late Rabbi Uri Miller. The Beth Jacob Congregation was founded in 1938 and in the relatively short span of 38 years has risen to a prominent position as one of the leading Orthodox synagogues in the United States.

Rabbi Ben-Natan came to Beth Jacob Congregation in 1972 after having served as rabbi of the Young Israel of Ottawa, Canada, Congregation. Previously, he held the position of chaplain of the Hudson River State Hospital, in Poughkeepsie, N.Y., and rabbi of the Knesseth Israel Congregation, Birmingham, Ala. His leadership and contributions to our community have been outstanding.

I would like to offer my thanks to Rabbi Ben-Natan for coming here today and providing us with words of inspiration as we again undertake to conduct the Nation's business.

TRIBUTE TO RABBI NAHUM M. BEN-NATAN

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LONG of Maryland. Mr. Speaker, I join my colleagues in welcoming Rabbi Nahum Ben-Natan, who without question is one of the outstanding spiritual leaders of the Baltimore community. We have all benefited very greatly from his inspirational remarks and we wish him well in the years ahead.

I am very proud that he is a constituent of mine, and delighted that he and his congregation, Beth Jacob, have been honored by the House today in the rabbi's selection to offer our opening prayer.

FIELD MARSHAL BERNARD LAW MONTGOMERY DIES

(Mr. FLYNT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, I was saddened this week to learn of the death on Wednesday of Field Marshal Bernard Law Montgomery, Viscount of Alamein.

His death, while not unexpected, came as a shock to me. He was a dear friend, not only of mine, but of many Americans.

Some have called Lord Montgomery the greatest British soldier since the Duke of Wellington. I would at least agree with that observation and add that he may well go down in history as one of the most successful British generals of all time.

He was a regular soldier and shunned the grandeur of his rank. While in the field he lived a spartan life as he commanded his troops dressed in a plain uniform and a crumpled black beret.

In the years since the war I visited him often at his country home at Alton Hampshire, England. We also corresponded and I considered him a dear friend.

My visits with him were always an enjoyable experience. He was always alert and continued to exhibit a keen interest in world affairs and particularly the activities of his American friends and the U.S. Army.

The relationship between this country and Field Marshal Montgomery was a special one. We were friends at a special time in history and together won a special victory.

With the passing of Field Marshal Montgomery this country and I have lost a good friend, a brave ally, and a great man. I will miss him.

ADMINISTRATION'S DISTORTED SENSE OF PRIORITIES

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, I would like to call the attention of this House to an amazing demonstration of our present national administration's distorted sense of priorities.

On the same day this week that President Ford sent a message to this Congress proposing a $900 million slash in the national school lunch program, administration spokesmen testified in support of a proposal to spend an additional $900 million-a-year to improve grazing lands.

Mr. Speaker, I submit that this country's most precious natural resource is its children. Anything which improves the health and well-being of the coming generation is the best possible investment we can make in the future.

While I concede that grazing lands have a place in our total national picture, I believe that place should be considerably subordinate to the welfare of our children.

APPOINTMENT OF CONFEREES ON H.R. 12203, FOREIGN ASSISTANCE APPROPRIATIONS, 1976

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12203) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none and appoints the following conferees: Messrs. PASSMAN, LONG of Maryland, ROUSH, OBEY, BEVILL, CHAPPELL, KOCH, CHARLES WILSON of Texas, MAHON, SHRIVER, CONTE, COUGHLIN, and CEDERBERG.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, SATURDAY, MARCH 27, 1976, TO FILE REPORTS ON H.R. 12438 AND H.R. 12384

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight, Saturday, March 27, 1976, to file its reports on the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loans, and for other purposes; and on the bill (H.R. 12384) to authorize certain construction at military installations, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ORPHANS OF THE EXODUS

(Mr. WAXMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WAXMAN. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Lvousky family.

ADA NAUMOVNA LVOVSKY—MARK ITSKOVICH LVOVSKY

Ada Naumovna Lvovsky lives with her husband, Mark, a chemical engineer, and baby daughter in Moscow. Four years have passed since she last saw her mother. This has meant not only four years of separation but four years of financial hardship and governmental harassment as well. Typical "refusniks," they have no way of knowing when or if ever they will be allowed to emigrate to reunite their family.

In a letter from Israel, her mother, Mrs. Form, writes:

"On this Human Rights Days, I turn to you with a request.

Four years ago our family requested permission from the Moscow OVIR to leave for Israel. On May 31, 1974, my son and I received permission and on July 2, 1974, we arrived in Israel.

My daughter, Ada Naumovna Form, and her husband, Mark Itskovich Lvovsky were refused permission. The reason for the refusal was because of the kind of work Mark was doing which would "hurt the security of the country" if he left.

Mark is a chemical engineer and he worked in clearing up water pollution. It has been four years since he worked in his specialty. For the past four years, he has been working at overseeing menial laborers.

On July 24, 1974, my daughter gave birth to a little girl and the family finds itself in difficult financial straits.

Since the refusal to leave the USSR is based on totally wrong assumptions, I beg you to request the Moscow OVIR to let them leave."

APPOINTMENT OF CONFEREES ON S. 510, MEDICAL DEVICE AMENDMENTS OF 1976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 510) to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices, with the House amendments, thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, SYMINGTON, SCHEUER, WAXMAN, HEFNER, FLORIO, CARNEY, MAGUIRE, DEVINE, CARTER, BROYHILL, HEINZ, and MADIGAN.

BYELORUSSIAN INDEPENDENCE

(Mr. RINALDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RINALDO. Mr. Speaker, I am sure I join my colleagues today in commemorating the 58th anniversary of the proclamation of independence by the Byelorussian Democratic Republic. In this, our Bicentennial Year, we should not forget those whose histories are also filled with courage and the struggle to be free.

The independence of Byelorussia was short lived; only 10 months after establishing their independence, the Byelorussians were crushed under the vicious heel of Russian tyranny. That dominance still persists today—and yet Byelorussians have refused to break, and their courage is admired the world over. Although the Kremlin today may exercise political control over Byelorussia, the fiery spirit of the Byelorussian people has not been snuffed out.

In their efforts to regain their freedom, the Byelorussian people will continue to have steadfast friends and supporters in the U.S. Congress, for it is we who measure the quality of détente, and who know that, so long as the Communist leadership ignores the fate of the captive nations, détente will be more facade than substance.

Mr. Speaker, I extend my strong support and sympathy to all Byelorussians on this anniversary.

SOCIAL SECURITY SYSTEM SHOULD TEMPER JUSTICE WITH MERCY

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, today I received a letter from a niece of mine which reported the death of a black friend whose name was Sam Connie Staten. Sam had been around my family for many, many years. Recently, he had applied for social security. He had been told to return. Before he could return, Sam Staten passed away.

Mr. Speaker, it seems to me that our Social Security System in so many cases does not temper justice with mercy. Since this is the third time that this has occurred in the past few years, I would trust that our social security people would be more thoughtful and more compassionate toward those who apply.

MUNICIPAL BANKRUPTCY LAW REVISION

Mr. EDWARDS of California. Mr. Speaker, I call up the conference report on the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, and ask for its immediate consideration.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of March 22, 1976.)

The SPEAKER. The Chair lays before the House the Senate amendments, which the Clerk will read.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That the Bankruptcy Act of 1898 (30 Stat. 544), as amended, is hereby amended to add a new chapter XVI thereto reading as follows:

"CHAPTER XVI—ADJUSTMENT OF INDEBTEDNESSES OF MAJOR MUNICIPALITIES

"Sec.
"801. Jurisdiction, powers of the court, and reservation of powers.
"802. Definitions.
"803. Eligibility for relief.
"804. Petition and filing.
"805. Stay of proceedings.
"806. Contest and dismissal of petition.
"807. Notices.
"808. Representation of creditors.
"809. List of claims and persons adversely affected.
"810. Proof of claim.
"811. Certificates of indebtedness.
"812. Priorities.
"813. Provisions of plan and filing.
"814. Voting on acceptance of plan.
"815. Modification of plan.
"816. Standing to object to plan.
"817. Hearing on confirmation of plan.
"818. Effect of confirmation.
"819. Duty of petitioner and distribution under plan.
"820. Dismissal.
"821. Retention of jurisdiction.
"822. Reference of issues and compensation.
"823. Conversion to chapter XVI.

"JURISDICTION, POWERS OF THE COURT, AND RESERVATION OF POWERS

"SEC. 801. (a) This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition or extension of the debts of certain public agencies of instrumentalities or political subdivisions. The court in which the petition is filed in accordance with subsection 804(c) shall exercise exclusive jurisdiction for the adjustment of petitioner's debts and, for purposes of this chapter, shall have exclusive jurisdiction of petitioner and its property, wherever located.

"(b) Upon the filing of a petition the court may, in addition to the jurisdiction, powers, and duties hereinabove and elsewhere in this chapter conferred and imposed upon it (1) permit the rejection of executory contracts of the petitioner, upon notice to the parties to such contracts and to such other parties in interest as the court may designate; (2) exercise such other powers not inconsistent with the provisions of this chapter.

"(c) Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"(d) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise, any public agency or instrumentality or political subdivision of the State in the exercise of its political or governmental powers including expenditure therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"(e) Subsections 60 (a), (b), (c), section 67, and subsections 70 (c), (e) of this Act shall apply in proceedings under this chapter, except that all functions of the trustee thereunder shall be assumed by the petitioner.

"DEFINITIONS

"SEC. 802. The words and phrases used in this chapter have the following meanings unless they are inconsistent with the context:

"(1) The term 'attorney' means an attorney licensed to practice law by any State and includes a law partnership or corporation.

"(2) 'Claims' shall include bonds, notes, judgments, and demands, liquidated or unliquidated, and other evidence of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.

"(3) The term 'court' means United States district court sitting in bankruptcy, and the terms 'clerk' and 'judge' shall mean the clerk and judge of such court.

"(4) The term 'creditor' means any person who owns a claim against the petitioner and any person injured by the rejection of an executory contract or an unexpired lease pursuant to this chapter or pursuant to a plan under this chapter, and may include such person's authorized agent.

"(5) The term 'lien' means a security interest in property, a lien obtained on property by levy, sequestration or other legal or equitable process, a statutory or common-law lien on property, or any other variety of charge against property to secure performance of an obligation.

"(6) The term 'plan' means a plan proposed in a case under this chapter.

"(7) The term 'person' includes a corporation or a partnership, the United States, the several States, and public agencies, instrumentalities, and political subdivisions thereof.

"ELIGIBILITY FOR RELIEF

"SEC. 803. (a) Any municipality public agency, instrumentality, or political subdivision of the State is eligible for relief under this chapter, if the municipality is first specifically authorized to file a petition initiating a proceeding under this chapter by the chief executive, legislature, or such other governmental officer or organization empowered under State law to authorize the filing of such a petition.

"(b) Any public agency or instrumentality or political subdivision subordinate to such municipality or whose responsibilities are restricted to the geographical limits thereof, including incorporated authorities, commissions and districts, for which debts such municipality is not otherwise liable, is eligible for relief as a separate petitioner and a petition seeking relief shall be jointly administered in the same proceedings in which such municipality seeks relief under this chapter if such agency, instrumentality, or subdivision is not prohibited from filing a petition by applicable State law.

"PETITION AND FILING

"SEC. 804. (a) Any entity eligible for relief under section 803 may file a voluntary petition under this chapter. The petition shall state that the petitioner is eligible to file a petition that the petitioner is insolvent or unable to pay its debts as they mature, and that it desires to effect a plan for the composition or extension of its debts. The petitioner shall file with its petition, or within such time as the court may prescribe, lists of its creditors and of other persons who may be adversely affected by a proposed plan and if an identification of all the petitioner's creditors is impracticable, the petitioner shall state the reason therefor.

"(b) The petition shall be filed with any court in whose territorial jurisdiction the municipality or any part thereof is located, and shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fee required to be collected by the clerk under other applicable chapters of this title, as amended.

"STAY OF PROCEEDINGS

"SEC. 805. (a) A petition filed under section 804 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, or which seeks to enforce any claim against the petitioner; as a stay of any act or the commencement or continuation of any court proceeding to enforce any lien on taxes or assessments, or to reach any property of the petitioner; and as a stay of the application of any setoff or enforcement of any counterclaim relating to any contract, debt, or obligation of the petitioner.

"(b)(1) A petition filed by a petitioner eligible for relief under this chapter shall operate to stay recognition or enforcement of the setoff of any claim owing by the petitioner effected or attempted to be effected within three months prior to the date of the petition or thereafter against any obligation owing to the petitioner until the stay is terminated by the court or the case is dismissed. Such stay shall not affect the right of the creditor to withhold payments to or on the order of the petitioner, except when otherwise ordered pursuant to subdivision (2).

"(2) After hearing on notice to the person asserting the right of setoff, the court may order such persons to pay to the petitioner or to its order the amount of the obligation sought to be offset if the stay is not terminated pursuant to subdivision (d). However, the court may require as a condition of the order that the petitioner furnish such protection as will adequately protect the person who is asserting the right of setoff.

"(c) Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this section, the stay provided for herein shall continue until the case is closed or dismissed or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(d) On the filing of a complaint seeking relief from a stay provided in this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

"(e) The commencement or continuation of any act or proceeding other than described in subsection (a) of this section may be stayed, restrained, or enjoined pursuant to rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

"(f) A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify the contract or lease because of the insolvency of the petitioner or the commencement of a case under this Act is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"(g) No stay, order, or decree of the court may interfere with (1) any of the political or governmental powers of the petitioner; or (2) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (3) the petitioner's use or enjoyment of any income-producing property: *Provided, however,* That the court shall enforce the conditions attached to certificates of indebtedness issued under section 811 and the provisions of the plan.

"CONTEST AND DISMISSAL OF PETITION

"Sec. 806. (a) Any creditor may file a complaint in the bankruptcy court contesting the petition for relief under this chapter. The complaint may be filed within thirty days following the filing of the petition.

"(b) The court may, upon notice to the creditors and a hearing following the filing of such a complaint, dismiss the proceeding if it finds that the petition was not filed in good faith or that it does not meet the provisions of this chapter.

"(c) A finding of jurisdiction shall be considered an interlocutory order for purposes of appeal. No appeal pursuant to section 1292 of title 28, United States Code, shall be allowed.

"NOTICES

"Sec. 807. (a) The petitioner or such other person as the court shall designate shall give prompt notice of the commencement of a proceeding or dismissal of the petition under this chapter to the State in which the petitioner is located and to the Securities and Exchange Commission and to creditors. As creditors and other persons who may be materially and adversely affected by the plan are identified, the petitioner or such other person as the court shall designate shall give such persons notice of the commencement of the proceeding, a summary of the provisions of the plan and any proposed modification of the plan, and of their right to request a copy of the plan, or modification. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court may deem proper.

"(b) The petitioner or such other person as the court shall designate shall also give notice to all creditors of the time permitted for accepting or rejecting a plan or any modication thereof. Such time shall be ninety days from the filing of the plan or modification unless the court for good cause shall set some other time.

"(c) The petitioner or such other person as the court shall designate shall also give notice to all creditors (1) of the time permitted for filing a complaint objecting to confirmation of a plan, (2) of the date set for hearing objections to such complaint, (3) of the date of hearing of a complaint seeking dismissal of the petition, and (4) of the date of the hearing on confirmation of the plan.

"(d) All notices given by the petitioner or such other person as the court shall designate shall be given in the manner directed by the court; however, the court may issue an order at any time subsequent to the first notice to creditors directing that those persons desiring written notice file a request with the court. If the court enters such an order persons not so requesting will receive no further written notice of proceedings under the chapter.

"(e) Cost of notice shall be borne by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party.

"REPRESENTATION OF CREDITORS

"Sec. 808. (a) For all purposes of this chapter any party in interest may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors, such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented, giving the name and address of each and describing the amount and character of the claim of each; copies of the instrument or instruments in writing signed by such creditors conferring the authority for representation; and a copy of the contract or contracts of agreement entered into between such committee, organization, group, or individual and the represented creditors, which contract or contracts shall disclose all compensation to be received, directly or indirectly for such representation, which agreed compensation shall be subject to modification and approval by the court.

"(b) The judge shall, for cause shown, permit a labor organization or employee association representative of employees of the debtor municipality, public agency, instrumentality, or political subdivision to be heard on the economic soundness of the plan affecting the interests of the represented employees.

"LIST OF CLAIMS AND PERSONS ADVERSELY AFFECTED

"Sec. 809. (a) The list of claims filed as required in section 804(a) shall include, to the extent practicable, the name of each known creditor to be materially and adversely affected by the plan, his address so far as known to the petitioner, and a description of each claim showing its amount and character, the nature of any security therefor and if the claim is disputed, contingent or unliquidated as to amount. With respect to creditors not identified, the petition shall set forth the reasons identification is not practicable, and shall specify the character of claim involved. The list shall be supplemented as petitioner becomes able to identify additional creditors.

"(b) If the proposed plan requires revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the holders of record of title, legal or equitable, to such real property shall be deemed persons adversely affected and shall be similarly listed.

"(c) The court may for cause modify the requirements of subsections (a) and (b) of this section.

"PROOF OF CLAIM

"Sec. 810. (a) In the absence of an objection made by any party in interest, the claim of a creditor that is not disputed, contingent, or unliquidated, is established by the list of claims filed pursuant to section 809. The court may set a date by which proofs of claim of unlisted creditors and of creditors whose listed claims are disputed, contingent, or unliquidated, must be filed. If the court does not set such a date, the proofs must be filed before the entry of the order of confirmation. The petitioner or such other person as the court shall designate shall give notice to each person whose claim is listed as disputed, contingent, or unliquidated, in the manner directed by the court.

"(b) If an executory contract or a unexpired lease is rejected under a plan or under section 801(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the next year succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"CERTIFICATES OF INDEBTEDNESS

"Sec. 811. At any time after a petition has been filed, the court may upon cause shown, authorize the petitioner to issue certificates of indebtedness for cash, property or other consideration, under such terms and conditions and with such security and priority in payment over existing obligations, secured or unsecured and other expenses of administration as the court may approve. Notwithstanding any other provision of law including section 821 of this chapter, the court shall have exclusive jurisdiction of any action which may be brought against petitioner to enforce compliance with the terms of any such certificates of indebtedness.

"PRIORITIES

"Sec. 812. The following shall be paid in full in advance of the payment of any distribution to creditors under a plan, in the following order:

"(1) The cost and expenses of administration which are incurred by the petitioner subsequent to the filing of a petition under this chapter.

"(2) Debts owed for services and materials directly provided within two months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person or entity, which by the laws of the United States (other than this Act) are entitled to priority.

"PROVISIONS OF PLAN AND FILING

"Sec. 813. (a) A petitioner's plan under this chapter may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including, but not limited to provisions for the rejection of any executory contract and unexpired leases.

"(b) The petitioner may file a plan with its petition or at such later time as may be prescribed by the court.

"VOTING ON ACCEPTANCE OF PLAN

"Sec. 814. (a) A plan may be confirmed only if, of the creditors voting in writing to accept or reject the plan, those holding two-thirds in amount and 51 per centum in numbers of each class materially and adversely affected have voted to accept: *Provided, however,* That no such acceptance shall be required from any class which, under the plan, is to be paid in cash the value of its claims or is to be afforded such method of protection as will, consistent with the circumstances of the particular case, equitably and fairly provide for the realization of the value of its claims.

"(b) Unless his claim has been disallowed, any creditor who is included on the list filed pursuant to Section 809 or who files a proof of claim pursuant to section 810 is entitled to vote to accept or reject a plan or modification thereof within the time set pursuant to subsection 807(b). Claims owned, held or controlled by the petitioner are not eligible to vote.

"(c) For the purposes of the plan and its acceptance, the court may fix the division of creditors into classes and, in the event of controversy, the court shall after hearing upon notice summarily determine such controversy.

"(d) If any controversy shall arise as to whether any creditor or class of creditors shall or shall not be materially and adversely affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

"MODIFICATION OF PLAN

"SEC. 815. Before a plan is confirmed, changes and modifications may be made therein after hearing and upon such notice to creditors as the judge may direct, subject to the right of any creditor who has previously accepted the plan to withdraw his acceptance in writing, within a period to be fixed by the judge, if, in the opinion of the judge, the change or modification will materially and adversely affect such creditor; and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however,* That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner.

"STANDING TO OBJECT TO PLAN

"SEC. 816. Any creditor or other person materially and adversely affected by the plan may file a complaint with the court objecting to the confirmation of the plan. Such complaint may be filed any time up to ten days before hearing on the confirmation of the plan or within such other time as prescribed by the court. The complaint shall be served on the petitioner and such other persons as may be designated by the court.

"HEARING ON CONFIRMATION OF PLAN

"SEC. 817. (a) Within a reasonable time after the expiration of the time within which a plan and any modifications thereof may be accepted or rejected, the court shall set a hearing on the confirmation of the plan and modifications, and the petitioner and such other persons as may be designated by the court shall give notice of the hearing and time allowed for filing objections as provided in section 807(c).

"(b) Before concluding the hearing on confirmation of the plan the judge shall inquire whether any person promoting the plan or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any creditor, and shall take evidence under oath to ascertain whether any practice obtains. After such examination the judge shall make an adjudication of this issue, and if he finds that any such practice obtains, he shall forthwith dismiss the proceeding and tax all of the costs against such person, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice.

"(c) The court shall confirm the plan if satisfied that (1) it is fair, equitable, feasible, and not unfairly discriminatory in favor of any creditor or class of creditors; (2) it complies with the provisions of this chapter; (3) it has been accepted by creditors and provision has been made for nonaccepting creditors as required in section 814; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan; and (7) it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding.

"EFFECT OF CONFIRMATION

"SEC. 818. (a) The provisions of a confirmed plan shall be binding on the petitioner and on all creditors, whether or not they are affected by it, whether or not their claims have been listed, filed, or allowed, and whether or not they have accepted the plan.

"(b) The confirmation of a plan shall extinguish all claims against the petitioner provided for by the plan other than those excepted from discharge by the plan or order confirming the plan.

"DUTY OF PETITIONER AND DISTRIBUTION UNDER PLAN

"SEC. 819. (a) The petitioner shall comply with the provisions of the plan and the orders of the court relative thereto and shall take all actions necessary to carry out the plan.

"(b) Subject to the provisions of subsection (c), distribution shall be made in accordance with the provisions of the plan to creditors (1) whose proofs of claim have been filed and allowed or (2) whose claims have been listed and are not disputed. Distribution to creditors holding securities of record shall be made to the recordholders as of the date the order confirming the plan becomes final.

"(c) When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation under the plan, such action must be taken not later than five years after the entry of the order of confirmation. Persons who have not within such time presented or surrendered their securities or taken such other action shall not participate in the distribution under the plan. Any securities, moneys, or other property remaining unclaimed at the expiration of the time allowed for presentment or surrender of securities or the performance of any other act as a condition to participation in the distribution under a confirmed plan shall become the property of the petitioner.

"(d) A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(e) The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instruments required to affect a transfer of property pursuant to the confirmed plan and to perform such other acts, including the satisfaction of liens, as the court may determine to be necessary for the consummation of the plan.

"DISMISSAL

"SEC. 820. The court shall enter an order dismissing the case after hearing on notice: (1) for want of prosecution; (2) if no plan is proposed within the time fixed or extended by the court; (3) if no proposed plan is accepted within the time fixed or extended by the court; or (4) if a confirmed plan is not consummated.

"RETENTION OF JURISDICTION

"SEC. 821. The court may retain jurisdiction of a proceeding under this chapter for such period as it determines is necessary to assure execution of the plan and discharge of the securities issued under the plan.

"REFERENCE OF ISSUES AND COMPENSATION

"SEC. 822. (a) The judge may refer any special issues of fact to a referee in bankruptcy, or special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall reference be made to a special master who is not a referee in bankruptcy. A general reference of the case to a master shall not be made, but the reference, if any, shall be only in the form of requests for findings of specific facts.

"(b) The court may allow reasonable compensation for the services performed by any such special master who is not a salaried Federal employee, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: *Provided, however,* That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of adjustment. An appeal may be taken from any order making such determination or award to the United States court of appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

"CONVERSION TO CHAPTER XVI

"SEC. 823. (a) A petitioner eligible for relief under chapter XVI who has filed a petition under chapter IX of this Act may at any time file an application to have the case proceed under chapter XVI: *Provided, however,* That any petition filed by a municipality, public agency, instrumentality or political subdivision of the State after the effective date of this Act must be filed under chapter XVI of the Bankruptcy Act as added by this Act.

"(b) After hearing on notice to the petitioner, the Securities and Exchange Commission, creditors and such other persons as the court may direct, the court shall, if it finds that the case may properly proceed under chapter XVI of the Act, approve the application and order the case to proceed under that chapter.

"EFFECT OF OTHER LAWS

"SEC. 824. Any State law which directly or indirectly deprives the petitioner of the effect of confirmation under this chapter is invalid.".

SEC. 2. The table of organization of title 11, United States Code, is amended by inserting after the reference to chapter 15, the following:

"CHAPTER 16. ADJUSTMENT OF INDEBTEDNESSES OF MUNICIPALITIES."

SEPARABILITY

SEC. 3. If any provision of chapter XVI of the Bankruptcy Act as added by this Act, or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

EFFECTIVE DATE

SEC. 4. This Act shall become effective as of the date of its enactment.

Insert the following preamble:

Whereas the Congress finds and declares this Act and proceedings thereunder providing for the composition of indebtedness of, or authorized by, municipalities to be within the subject of bankruptcies under article I, section 8, clause 4 of the United States Constitution; and

Whereas the Congress finds that the impracticability of existing Federal bankruptcy remedies for use by municipalities increase the likelihood of their default and will aggravate the adverse effects thereof; and

Whereas the Congress finds that the financial disruptions and dislocations resulting from default of such municipalities without availability of a Federal procedure to restructure their indebtedness in such fashion as to avoid continuing insolvency would have a substantial adverse effect on interstate commerce within the meaning of article I, section 8, clause 3 of the United States Constitution, by reason of the commercial importance of the municipalities involved.

Amend the title so as to read: "An Act to amend the Bankruptcy Act to add a new chapter thereto providing by voluntary reorganization procedures for the adjustment of the debts of municipalities.".

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EDWARDS of California moves that the House recede from its disagreement to the amendments of the Senate, and concur with amendments, as follows: In lieu of the matter proposed to be inserted by the Senate engrossed amendment to the text of the bill insert: That chapter IX of the Bankruptcy Act is amended to read as follows:

"CHAPTER IX

"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES AND INSTRUMENTALITIES

"SEC. 81. CHAPTER IX DEFINITIONS.—As used in this chapter the term—

"(c) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated as to amount, fixed or contingent;

"(2) 'court' means court of bankruptcy in which the case is pending, or a judge of such court;

"(3) 'creditor' means holder (including the United States, a State, or political subdivision or public agency or instrumentality of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 88(a);

"(6) 'lien' means security interest in property, lien obtained on property by levy, sequestration, or other legal or equitable process, statutory or common law lien on property, or any other variety of charge against property to secure the performance of an obligation;

"(7) 'person' includes a corporation or a partnership, the United States, the several States, and political subdivisions and public agencies and instrumentalities of the several States;

"(8) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(9) 'plan' means plan filed under section 90;

"(10) 'special tax payer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of obligations issued by the petitioner to defray the costs of local improvements; and

"(11) 'special tax payer affected by the plan' means special tax payer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (10) of this section assessed against that real estate.

"SEC. 82. JURISDICTION AND POWERS OF COURT.—

"(a) JURISDICTION.—The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) POWERS.—After the filing of a petition under this chapter the court may—

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts leases and to such other parties in interest as the court may designate;

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, and over costs and expenses of administration, not including operating expenses of the petitioner, as in the particular case may be equitable; and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) LIMITATION.—Unless the petitioner consents or the plan so provides, the court shall not, by any stay, order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or

"(3) the petitioner's use or enjoyment of any income-producing property.

"(d) DESIGNATION OF JUDGE.—After the filing of a petition, the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"SEC. 83. RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUBDIVISIONS.—Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"SEC. 84. ELIGIBILITY FOR RELIEF.—Any State's political subdivision or public agency or instrumentality, which is generally authorized to file a petition under this chapter by the legislature, or by a governmental officer or organization empowered by State law to authorize the filing of a petition, is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts. An entity is not eligible for relief under this chapter unless—

"(1) it has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(2) it has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment of its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(3) such negotiation is impracticable; or

"(4) it has a reasonable fear that a creditor may attempt to obtain a preference.

"SEC. 85. PETITION AND PROCEEDINGS RELATING TO PETITION.—

"(a) PETITION.—An entity eligible under section 84 may file a petition for relief under this chapter. In the case of an unincorporated tax for special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file an answer to the petition with the court, not later than 15 days after the publication of notice required by subsection (d) is completed, objecting to the filing of the petition. Upon the filing of such an answer, the court may dismiss the petition after hearing on notice if the petitioner did not file the petition in good faith, or if the petition does not meet the requirements of this chapter. The court shall not, on account of an appeal from a finding of jurisdiction, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction shall not affect the validity of any certificate of indebtedness authorized by the court and issued in such case.

"(b) LIST.—The petitioner shall file with the court a list of the petitioner's creditors, insofar as practicable. The list shall include for each known creditor, to the extent practicable, the name of the creditor, the address of the creditor so far as known to the petitioner, and a description of any claim of the creditor, showing the amount and character of the claim, the nature of any security for the claim, and whether the claim is disputed, contingent or unliquidated as to amount. If an identification of any the petitioner's creditors is impracticable, the petitioner shall state the reason such identification is impracticable and the character of the claims of the creditors involved. The petitioner shall supplement the list as creditors who were unknown or unidentified at the time the list was filed become known or identified to the petitioner. If the list is not filed with the petition, the pettioner shall file the list at such later time as the court, upon its own motion or upon application of the petitioner, sets.

"(c) VENUE AND FEES.—The petition and any accompanying papers, together with a filing fee of $100, shall be filed with a court in a district in which the petitioner is located.

"(d) NOTICE.—The petitioner or such other person as the court designates shall give notice of the filing or dismissal of the petition to the State in which the petitioner is located, to the Securities and Exchange Commission, and to creditors included in the list of creditors required by subsection (b) or in any supplement to that list. The notice shall also state that a creditor who files with the court a request, setting forth that creditor's name and address and the nature and amount of that creditor's claim, shall be given notice of any other matter in which that creditor has a direct and substantial interest. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court deems proper. The court shall require that a copy of the notice required by the first sentence of this subsection be mailed, postage prepaid, to each creditor named in the list required by subsection (b) at the address of such creditor given in the list, or, if no address is given in the list for a creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice may, if the court so determines, be mailed, postage prepaid, to such creditor addressed as the court may prescribe. All expense of giving notice required by this subsection shall be paid by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party. The notice shall be first published as soon as practicable after the filing of the petition, and the mailing of copies of the notice shall be completed as soon as practicable after the filing of the list required by subsection (b).

"(e) Stay of enforcement of claims against petitioner.—

"(1) Effect of filing a petition.—A petition filed under this chapter shall operate as a stay of the commencement or the continuation of any judicial or other proceeding against the petitioner, its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of an act or the commencement or continuation of a judicial or other proceeding which seeks to enforce a lien upon the property of the petitioner or a lien on or arising out of taxes or assessments due the petitioner, and shall operate as a stay of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

"(2) Duration of automatic stay.—Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this subsection, the stay provided for in this subsection shall continue until the case is closed or dismissed, or the property subject to the lien is, with the approval of the court, abandoned or transferred.

"(3) Relief from automatic stay.—Upon the filing of a complaint seeking relief from a stay provided for by this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

"(4) Other stays.—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined by the court, upon notice to each person against whom such order would apply, and for cause shown. The court may issue an order under this paragraph without requiring the petitioner to give security as a condition to that order.

"(f) Unenforceability of certain contractual provisions.—A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify, the contract or lease because of the insolvency of the petitioner or the commencement of a case under this chapter is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

"(g) Recovery of set-off.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the filing of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person against whom or which recovery is sought of the claim which arises by reason of the recovery.

"(h) Avoiding powers.—Sections 60a, 60c, 67a, 67d, 70c, 70e(1), and 70e(2), and the first three sentences of section 60b shall apply in cases under this chapter as though the petitioner were the bankrupt, debtor, or trustee. If the petitioner refuses to pursue a cause of action under a section or sentence made applicable to this chapter by this subsection, the court may, upon the application of any creditor, appoint a trustee to pursue such cause of action.

"Sec. 86. Representation of Creditors.—

"(a) Representation and disclosure.—Any creditor may act in that creditor's own behalf or by an attorney or a duly authorized agent or committee. Every person, not including governmental entities, representing more than one creditor shall file with the court a list of the creditors represented by such person, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the claim held by that creditor, and shall attach to the list a copy of the instrument signed by the holder of such claim showing such person's authority, and shall file with the list a copy of the contract or agreement entered into between such person and the creditors represented by that person. Such person shall disclose all compensation incident to the case, received or to be received, directly or indirectly, by that person. That compensation shall be subject to modification and approval by the court.

"(b) Multiple compensation.—The court shall examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if any person, not including governmental entities, promoting the plan, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any of its creditors, and shall take evidence under oath to determine whether any such compensation has occurred or is to occur. After such examination the court shall make an adjudication of this issue, and if it be found that any such compensation has occurred or is to occur, the court shall dismiss the petition and tax all of the costs against the person promoting the plan or doing anything of such a nature and receiving such multiple compensation, or against the petitioner, unless such plan is modified, within the time to be allowed by the court, so as to eliminate the possibility of such compensation, in which event the court may proceed to further consideration of the confirmation of the plan.

"Sec. 87. Reference, Expenses, and Joint Administration.—

"(a) Reference.—The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report upon such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

"(b) Expenses.—The court may allow reasonable compensation for the actual and necessary expenses incurred in connection with the case, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work has been done by the petitioner or by a representative of creditors, and may allow reasonable compensation for an attorney or agent of any of them. No fee, compensation, reimbursement, or other allowances for an attorney, agent, or representative of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan. An appeal may be taken from any order allowing compensation to the United States court of appeals for the circuit in which the case under this chapter is pending, independently of any other appeal which may be taken in the case. The court of appeals shall hear and determine such appeal summarily.

"(c) Joint administration.—If two or more petitions by related entities are pending in the same court, the court may order joint administration of the cases.

"Sec. 88. Claims.—

"(a) Allowance of claims.—In the absence of an objection by a party in interest, or of a filing of a proof of claim, the claim of a creditor that is not disputed, contingent, or unliquidated as to amount, and that appears in the list or in a supplement to the list filed by the petitioner under section 85(b) shall be deemed allowed. The court may set a date by which proofs of other claims shall be filed. If the court does not set a date, such proofs of other claims shall be filed before the entry of an order confirming the plan. Within thirty days after the filing by the petitioner of the list or any supplement to the list under section 85(b), the court shall give written notice to each person whose claim is listed as disputed, contingent, or unliquidated as to amount, informing each such person that a proof of claim must be filed with the court within the time fixed under this subsection. If there is no objection to such claim, the claim shall be deemed allowed. If there is an objection, the court shall hear and determine the objection.

"(b) Classification of Creditors.—The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights, consistent with the provisions of section 89, except that the court may create a separate class of creditors having unsecured claims of less than $250 for reasons of administrative convenience. If there is a controversy over the classification of a creditor, the court shall, after hearing on notice, summarily determine such controversy.

"(c) Damages upon rejection of executory contracts.—If an executory contract or an unexpired lease is rejected under the plan or under section 82(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a convenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the year next succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"SEC. 89. PRIORITIES.—The following shall be paid in full in advance of any distribution to creditors under the plan, in the following order:

"(1) The costs and expenses of administration which are incurred subsequent to the filing of a petition under this chapter.

"(2) Debts owed for services or materials actually provided within three months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person, which by the laws of the United States (other than this Act) are entitled to priority.

"SEC. 90. FILING AND TRANSMISSION OF PLAN AND MODIFICATIONS.—

"(a) FILING.—The petitioner shall file a plan for the adjustment of the petitioner's debts. If such plan is not filed with the petition, the petitioner shall file the plan at such later time as the court, upon its own motion or upon application of the petitioner, sets. At any time prior to the confirmation of a plan, the petitioner, or any creditor, if the petitioner has consented in writing to the modification to be filed by the creditor, may file a modification of the plan; but the modification shall comply with the provisions of this chapter.

"(b) TRANSMISSION OF PLAN AND MODIFICATIONS.—As soon as practicable after the plan or any modification of the plan has been filed, the court shall set a time, which shall be ninety days from the filing of the plan or any modification of the plan, unless the court, for good cause, sets some other time, within which creditors may accept or reject the plan and any modification of the plan. The petitioner or such other person as the court designates shall transmit by mail a copy of such plan or modification, or a summary and any analysis of such plan or modification may be accepted or rejected, and a notice of the right to receive a copy, if it has not been sent, of such plan or modification, to each creditor whose claim is affected by the plan, to each special tax payer affected by the plan, and to any party in interest that the court designates. Upon request by a recipient of such summary and notice, the petitioner or such other person as the court designates shall transmit by mail a copy of the plan or modification to that recipient. The court shall, after hearing on notice, determine any controversy as to whether a claim of a creditor or class of creditors is a claim affected by the plan and as to whether a special tax payer is a special tax payer affected by the plan.

"SEC. 91. PROVISIONS OF PLAN.—A petitioner's plan may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of any executory contract or unexpired lease.

"SEC. 92. ACCEPTANCE.—

"(a) WHO MAY ACCEPT OR REJECT.—Unless a claim of a creditor who is included in the list or in a supplement to the list filed under section 85(b) or who files a proof of claim and whose claim is not then disputed, contingent, or unliquidated as to amount, or of a security holder of record as of the date of the transmittal of information under section 90(b), has been disallowed or is not a claim affected by the plan, that creditor or security holder may accept or reject the plan and any modification of the plan within the time set by the court. Notwithstanding an objection to a claim, the court may temporarily allow such claims in such amount as the court deems proper for the purpose of acceptance or rejection under this section.

"(b) GENERAL RULE.—Except as provided in subsection (d), the plan may be confirmed only if it has been accepted in writing by or on behalf of creditors holding at least two-thirds in amount of the claims of each class allowed under section 88 and more than 50 percent in number of the claims of each class allowed under section 88.

"(c) COMPUTING ACCEPTANCE.—The two-thirds majority required by subsection (b) is two-thirds in amount of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d). The more than 50 percent required by subsection (b) is more than 50 percent in number of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d).

"(d) EXCEPTION.—It is not requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors—

"(1) whose claims are not affected by the plans;

"(2) if the plan makes provision for the payment of their claims in cash in full; or

"(3) if provision is made in the plan for the protection of the interests, claims, or lien of such creditor or class of creditors.

"(e) ACCEPTANCE OF MODIFICATION.—If the court finds that a proposed modification does not materially and adversely affect the interest of a creditor, the modification shall be deemed accepted by that creditor if that creditor has previously accepted the plan. If the court determines that a modification does materially and adversely affect the interest of a creditor, that creditor shall be given notice of the proposed modification and the time allowed for its acceptance or rejection. The number of acceptances of the plan as modified required by subsection (b) shall be obtained. The plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file a written rejection of the modification with the court within such reasonable time as shall be allowed in the notice to that creditor of the proposed modification.

"SEC. 93. OBJECTION TO PLAN.—A creditor who holds a claim affected by the plan or a special tax payer affected by the plan may file with the court an objection to the confirmation of the plan. The Securities and Exchange Commission may also file with the court an objection to the confirmation of the plan, but in the case of an objection filed under this section, the Securities and Exchange Commission may not appeal or file any petition for appeal. An objection to the confirmation of the plan may be filed with the court any time prior to ten days before the hearing on the confirmation of the plan, or within such other times set by the court.

"SEC. 94. CONFIRMATION.—

"(a) HEARING ON CONFIRMATION.—Within a reasonable time after the expiration of the time set by the court within which the plan and any modifications of the plan may be accepted or rejected, the court shall hold a hearing on the confirmation of the plan and any modifications of the plan. The court shall give notice of the hearing and of the time allowed for filing objections to all parties entitled to object under section 93. The court may, for cause shown, permit a labor union or employees' association, that represents employees of the petitioner, to be heard on the economic soundness of the plan affecting the interests of the represented employees.

"(b) CONDITIONS FOR CONFIRMATION.—The court shall confirm the plan if—

"(1) the plan is fair and equitable and feasible and does not discriminate unfairly in favor of any creditor or class of creditors;

"(2) the plan complies with the provisions of this chapter;

"(3) the plan has been accepted as required by section 92;

"(4) all amounts to be paid by the petitioner or by any person, not including other governmental entities, for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable;

"(5) the offer of the plan and its acceptance are in good faith; and

"(6) the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan.

"SEC. 95. EFFECT OF CONFIRMATION.—

"(a) PROVISIONS OF PLAN BINDING.—The provisions of a confirmed plan shall be binding on the petitioner and on any creditor who had timely notice or actual knowledge of the petition or plan, whether or not such creditor's claim has been allowed under section 88, and whether or not such creditor has accepted the plan.

"(b) DISCHARGE.—

"(1) The petitioner is discharged from all claims against it provided for in the plan except as provided in paragraph (2) of this subsection as of the time when—

"(A) the plan has been confirmed;

"(B) the petitioner has deposited the money, securities, or other consideration to be distributed under the plan with a disbursing agent appointed by the court; and

"(C) the court has determined—

"(i) that any security so deposited will constitute upon distribution a valid legal obligation of the petitioner; and

"(ii) that any provision made to pay or secure payment of such obligation is valid.

"(2) The petitioner is not discharged under paragraph (1) of this subsection from any claim—

"(A) excepted from discharge by the plan or order confirming the plan; or

"(B) whose holder, prior to confirmation, had neither timely notice nor actual knowledge of neither the petition nor the plan.

"SEC. 96. POSTCONFIRMATION MATTERS.—

"(a) TIME ALLOWED FOR DEPOSIT UNDER THE PLAN.—Prior to or promptly after confirmation of the plan, the court shall fix a time within which the petitioner shall deposit with the disbursing agent appointed by the court any consideration to be distributed under the plan.

"(b) DUTIES OF PETITIONER.—The petitioner shall comply with the plan and the orders of the court relative to the plan, and shall take all actions necessary to carry out the plan. The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instrument required to effect a transfer of property under the plan and to perform such other acts including the satisfaction of a lien, as the court determines to be necessary for the consummation of the plan.

"(c) DISTRIBUTION.—Distribution shall be made in accordance with the provisions of the plan to creditors whose claims have been allowed under section 88. Distribution may be made at the date the order confirming the plan becomes final to holders of securities of record whose claims have not been disallowed.

"(d) COMPLIANCE DATE.—When a plan requires presentment or surrender of securities or the performance of any other action as a condition to participation under the plan, such action shall be taken not later than five years after the entry of the order of confirmation. A person who has not within such time presented or surrendered that person's securities or taken such other action required by the plan shall not participate in any distribution under the plan, and the consideration deposited with the disbursing agent for distribution to such person shall become the property of the petitioner.

"(e) CONTINUING JURISDICTION.—The court may retain jurisdiction over the case for such period of time as the court determines is necessary for the successful execution of the plan.

"(f) ORDER OR DECREE AS EVIDENCE AND NOTICE.—A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"SEC. 97. EFFECT OF EXCHANGE OF DEBT SECURITIES BEFORE DATE OF THE PETITION.—The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result of any such exchange under the plan shall be included as acceptances of such plan in computing the acceptance required under section 92.

"SEC. 98. DISMISSAL.—

"(a) PERMISSIVE DISMISSAL.—The court may dismiss the case after hearing on notice—

"(1) for want of prosecution;

"(2) if no plan is proposed within the time fixed or extended by the court;

"(3) if no proposed plan is accepted within the time fixed or extended by the court; or

"(4) where the court has retained jurisdiction after confirmation of a plan—

"(A) if the petitioner defaults in any of the terms of the plan; or

"(B) if a plan terminates by reason of the happening of a condition specified therein.

"(b) MANDATORY DISMISSAL.—The court shall dismiss the case if confirmation is refused.".

SEC. 2. SEPARABILITY.—If any provision of this chapter or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

SEC. 3. If the amendment made by this Act is judicially finally determined to be unconstitutional then chapter IX of the Bankruptcy Act, as such chapter IX existed on the day before the date of enactment of this Act, is revived and shall have full force and effect with respect to cases filed after such determination.

In lieu of the amendment to the title contained in the Senate engrossed amendment insert:

Amend the title so as to read "An Act to amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities.".

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California (Mr. EDWARDS) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. BUTLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have offered House amendments to the Senate amendments to the bill, H.R. 10624, a bill to revise chapter IX of the Bankruptcy Act. These amendments are the amendments that have been agreed upon by the conferees on the bill. However, since the amendments contain matter that goes beyond the scope of the matter committed to the conference, the conferees have been required to report back in disagreement and follow the procedure of agreeing to the Senate amendments to the bill, with amendments.

In fact, agreement was reached in a remarkably short time. The differences between the two bills were technical in nature and narrow in scope. They are detailed in the joint statement that accompanied the conference report. I will not go into them now.

This bill, which passed the House by a vote of 373 to 29 last December, and the Senate by a vote of 79 to 2 the next day, is left very much intact by the conference agreement. The legislation provides a procedure by which a financially distressed municipality may seek the protection of a Federal district court while it negotiates a plan of adjustment and settlement of its debts with its creditors. The bill simply provides the procedure. It establishes the rules by which a court may protect the municipality from creditor action, and creates the forum in which all lawsuits against the city may be tried in an orderly fashion.

Mr. Speaker, this is a long overdue revision of Federal municipal bankruptcy laws, and I urge its swift acceptance.

Mr. BUTLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members of the House, I associate myself with the remarks of the gentleman from California (Mr. EDWARDS).

There were areas of disagreement which were technical in nature. It seems to me we made a very legitimate compromise of the areas of disagreement, and we have a reasonable solution to all of the problems posed by the differences between the two approaches to this problem.

Mr. Speaker, I urge my fellow Members of the House to concur in the motion offered by the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, I rise in support of the adoption of this conference report on municipal bankruptcy revision. As many of you well know, I have been, from the very beginning, extremely interested and personally involved in rewriting chapter IX of the present Bankruptcy Act. The need for this legislation is critically obvious to those large municipalities, typically such as New York City, who today stand tottering at the brink of default.

As far back as October 1 of last year, I filed an initial proposal which would allow any municipality to file a bankruptcy petition without creditor consent and which would mandate that municipality to allocate funds in the continuation of services necessary to the public health and welfare of its inhabitants. My original bill allowed a new flexibility and ease of administration in terms of notice to creditors, debt reextension and final confirmation of the recomposition. I have followed this legislation through its hearings, through subcommittee and full committee markup and through full House and conference consideration. Many very worthwhile changes have been incorporated into the legislation now before us in conference report.

Specifically, the new chapter IX no longer will require any creditor consent prior to the petitioner's filing of the petition in bankruptcy. At the time of confirmation of the plan, creditor consent is limited to only voting creditors who hold two-thirds in amount of the claims allowed of each class and more than 50 percent in number of the claims allowed of each class. This decreased need for creditor consent means that from now on a municipality may more easily avail itself of the benefits of bankruptcy relief.

However, there is no danger, as some have mistakenly alleged, that the city will thereafter be at the hands of a "bankruptcy trustee." That concept simply does not exist under the new bankruptcy law. The role of the court has been very strictly and specifically limited by section 82(c) of this bill. Although the court shall have new powers of allowing the rejection of executory contracts and the issuance of certificates of indebtedness, these powers are predicated upon the prior consent or action of the petitioner. Therefore, it is the city officials who have been elected by their constituents who will determine the city's response to continuing operating expenses and public welfare needs. This is precisely as it ought to be, for those officials were elected to run the city and they will continue to run the city even after a bankruptcy petition has been filed.

It is generally understood that this legislation will also enable the city to renegotiate all of its purely executory labor contracts, subject to current labor arbitration practices. This has been accepted and special provisions for notice have been incorporated into the bill to allow for this eventuality.

However, the fate of pension plans of all municipal employees has been relatively uncertain. Mr. Chairman, that is the primary reason for my request to make these remarks. Over the past few weeks, I have been in contact with numerous pension plan officials within my district, including Mr. Victor Gotbaum, chairman of the Municipal Labor Committee. This committee represents the interests of all the various municipal labor unions of New York City. After communicating with counsel to Mr. Gotbaum, it seemed expedient that a few remarks be made at the time of final passage which would speak to the issue of pension plans under the new legislation. In particular, I wish to address myself to those words contained in section 92(c).

In order to avoid any ambiguity inherent in the words "claims held or controlled by the petitioner" as found in section 92(c) of this bill, I wish to clarify the intent of Congress in passing this new municipal bankruptcy legislation.

As stated in the House of Representatives report No. 94–686, pages 30 to 31, this phrase arises out of the case of *American Mutual Life Ins. Co.* v. *City of Avon Park,* 311 U.S. 138, 148 (1940), which states that the abuse at which the provision is aimed—

> Is not confined to those cases where the holder of the claims is an agent of the city within the strict rules of *respondent superior*. Rather, the test is whether or not there is such close identity of interest between the claimant and the city that the claimant's assent to the plan may fairly be said to be more the product of the city's influence and to reflect the city's desires than an expression of an investor's independent business judgment.

These words become critical when one considers the situation of the retirement system and the various related pension plans in my home municipality of New York City. Since, at the present time, various officials of the city of New York cast 50 percent or more of the votes of the board or trustees for each of the five primary retirement systems within the city, an argument could possibly be made that obligations of the city held by the retirement systems are "claims held or controlled by the petitioner." However, the reality is to the contrary. New York City officials cast their votes merely as retirement system trustees and by voting in that capacity only reflect the interests of the retirement system, not the interests of the petitioner.

As is well known, the impetus for municipal bankruptcy revision arose largely in response to the continuing desperate fiscal plight of New York City. Nevertheless, it is extremely important to understand that the intent of this Congress throughout the consideration of this legislation has been to enact a new chapter IX which would accommodate any municipal bankruptcy situation, not just that of New York City. I believe that this intent carries over and explains the wide support which this legislation has received here, in the Senate, and in the executive branch.

Accordingly, if I may be presumptuous enough for the moment to speak for the entire Congress, or at least for myself, in voting passage of this legislation, I would like to clarify the intent behind the words of section 92(c); that is, "claims held or controlled by petitioner," in the following manner:

If in any municipality, a city official is required to act as trustee for an interest potentially adverse to that of the city, then the actions and intent of that person are deemed to be actions and intent of a trustee, not the actions nor intent of a city official. "Control of claims" is not to be presumed or imputed to those actions unless that person actually acts simultaneously or independently in a city official capacity. I believe that this has been the intent of Congress throughout the pendency of this bill and remains the intent of Congress today upon final passage.

Mr. Speaker, insofar as the New York City situation in particular would be involved under this bill, I now submit for inclusion as a part of the Record, the full text of a letter from a Mr. Jacobsen, counsel to Mr. Victor Gotbaum, on this subject:

Fried, Frank, Harris,
Shriver & Jacobson,
New York, N.Y., March 23, 1976.
Hon. Herman Badillo,
House of Representatives,
Washington, D.C.

Dear Congressman Badillo: At the request of Mr. Victor Gotbaum, a Trustee of the New York City Employees' Retirement System by virtue of his position as Executive Director of District Council 37 of the American Federation of State, County and Municipal Employees, pursuant to our telephone conversation of March 16, 1976 and in response to your questions, we submit this letter in connection with House consideration of the Conference Committee Report on H.R. 10624, an Act to revise Chapter IX of the Bankruptcy Act.

1. *Legal Status of the New York City Retirement Systems.*

There are seven New York City employee pension funds of which the following five are the most significant: (1) the New York City Employees' Retirement System, (2) the New York City Teachers' Retirement System, (3) the New York City Police Pension Fund, Article 2, (4) the New York City Fire Department Pension Fund, Article 1–A, and (5) the New York City Board of Education Retirement System (hereafter "Retirement Systems").

1.1 What is the present legal status of the Retirement Systems?

The relevant statute provides that the Retirement Systems are separate and distinct legal entities. New York Laws 1975, ch. 890, Section 3 provides in part:

"The city retirement systems and funds shall continue as separate and distinct bodies corporate . . ."

1.2 What is the status of the assets of the Retirement Systems?

The relevant statute provides that the assets of the Retirement Systems are held in trust for the sole purpose of paying pension benefits. New York Laws 1975, ch. 890, Section 3 provides in part:

"All assets of the city retirement systems and funds, including to the extent not otherwise provided by law, all dividends, interest and other income therefrom, are and shall hereafter continue to be held in trust for the sole and exclusive purpose of providing for pension benefits and such benefits, if any, as may be payable pursuant to variable supplements programs for members and beneficiaries of such system or fund . . ."

The relevant statute also provides that if any moneys or investments of the Retirement Systems are held by the Comptroller of the City of New York, they shall not be commingled with any other moneys or investments held by such Comptroller. New York Laws 1975, ch. 890, § 3.

1.3 Are assets of the Retirement Systems subject to the claims of creditors of the City of New York other than the members and beneficiaries of the Retirement Systems in their capacities as such?

The relevant statute provides that the assets of the Retirement Systems are available only for payment of claims to pensioners and beneficiaries of the Retirement Systems. New York Laws 1975, ch. 890, Section 3, provides in part:

". . . No creditor of the city of New York shall have any claim against the assets of such a system or fund, by virtue of his status as such creditor; provided, however, this sentence shall not be interpreted to deny to a pensioner or beneficiary of a city retirement system or fund any cause of action against the city or a retirement system or fund by virtue of his status as such pensioner or beneficiary."

1.4 What are the Retirement Systems' rights to retain income earned in excess of four percent?

Currently, income earned by the Retirement Systems in excess of four percent is used to reduce The City's current contributions due to such Systems. See, e.g., *Administrative Code of The City of New York* § B3–21.0.

This practice may soon be halted or modified. If it persists, if there is a proceeding by The City under proposed Chapter IX and if the Retirement Systems continue to earn income in excess of four percent, in our opinion the exceess would not be subject to the claims of City creditors. The practice is merely a method of applying to reduce future City contributions. The excess income is always the property of the Retirement Systems, and thus, it would not be subject to claims of creditors of The City.

1.5 Did New York Laws 1975, ch. 890, which was enacted on December 5, 1975, change the status of the Retirement Systems?

The probability is that chapter 890 did not and thus, that even before December 5, 1975 the assets of the Retirement Systems were not subject to the claims of New York City creditors generally.

Prior to the enactment of the above statute, the status of the Retirement systems was provided in the Administrative Code of The City of New York. For example, Section B3–10.0 provides with respect to the New York City Employees' Retirement System the following:

"*New York City employees' retirement system; a corporation.*—The retirement system shall have the powers and privileges of a corporation and by its name all of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property held."

The Administrative Code provisions governing the other Retirement Systems provide similarly. See *Administrative Code of The City of New York* §§ B18–17.0, B19–7.15 and B20–10.0.[1]

Moreover, the assets of the Retirement Systems have always been managed by separate and distinct boards of trustees and have always been maintained as separate and distinct funds from City funds.

The case of In re *Penn Central Transportation Company,* 484 F. 2d 1300 (3d Cir. 1973), is in contrast. In that case, the Company set up a Contingent Compensation Reserve

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[1] Sections B18–17.0 and B19–7.15 relating to the Police and Fire Department Systems are identical to the one quoted. Section B20–10.0 which relates to the Teachers' Retirement System, reads as follows:

"*Retirement board; a corporation.*—For purposes of this title, the retirement board shall possess the powers and privileges of a corporation and as such may sue and be sued."

Fund to make deferred compensation payments to certain retired employees. The summaries that were sent to the employees included a provision that the assets of the Fund remained assets of the Company subject to the rights of all creditors of the Company. Therefore, the court found that there had been no trust fund established for the payment of deferred compensation and that the assets of the Fund were available for payment of claims of creditors of the Company.

Even if chapter 890 did change the status of the retirement Systems and their assets, the four months provided for setting aside a voidable preference under Section 60 of the Bankruptcy Act will have expired by April 5, 1976.

2. *Retirement Systems' Voting Rights as Holders of City Obligations and as General Creditors of The City of New York.*

What would the Retirement Systems' voting rights as holders of New York City obligations be in a proceeding under proposed Chapter IX?

Presumably, the Retirement Systems would participate equally with all other holders of City obligations in any plan of composition for this class of creditors.

Section 88(b) of proposed Charter IX, provides that:

"The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights."

Section 92(b) of proposed Chapter IX provides that the court may only confirm the plan if it has been accepted in writing by creditors holding at least two-thirds in amount, and more than half in number, of the claims allowed in each class. (There is an exception to the above in Section 92(d) which permits the plan to be confirmed without such acceptance if the court finds that the creditor or class of creditors is adequately protected by the plan.)

However, Section 92(c) of proposed Chapter IX provides that in computing acceptances "claims held or controlled by the petitioner" shall not be counted. The House of Representatives Report No. 94–686, pp. 30–31, in discussing the above phrase, refers to the case of *American Mutual Life Ins. Co.* v. *City of Avon Park*, 311 U.S. 138, 148 (1940), which states that the abuse at which the provision is aimed

". . . is not confined to those cases where the holder of the claims is an agent of the city within the strict rules of *respondeat superior*. Rather, the test is whether or not there is such close identity of interest between the claimant and the city that the claimant's assent to the plan may fairly be said to be more the product of the city's influence and to reflect the city's desires than an expression of an investor's independent business judgment."

Since officials of The City of New York cast at least 50 percent of the votes of the Board of Trustees of four of the Retirement Systems and cast more than 50 percent of the votes of the Board of Trustees of a fifth Retirement System, an argument can be made that obligations of The City held by the Retirement Systems are "claims held or controlled by the petitioner." On the other hand, it can equally be argued that these City officials will cast their votes as Retirement System trustees and in voting in that capacity will only reflect the interests of the Retirement Systems.

In order to make this issue clear and to protect the interests of the Retirement Systems in any Chapter IX proceeding, it should be stated in floor debate on the proposed Conference Committee report that (i) claims of municipal retirement systems whose trustees are also municipal officials are not to be presumed to be held or controlled by the municipality, and indeed (ii) the municipal officials who are also trustees of such retirement systems are presumed to be casting their votes in their capacities as independent trustees and not as municipal officials.

As we shall see in Section 3 of this letter the Retirement Systems also are general creditors of The City with respect to contributions due but unpaid. Thus, they would also vote these claims with similar creditors. The same legislative history described above for the Retirement Systems as holders of City obligations should be made for the Retirement Systems as general creditors of The City.

3. *Retirement Systems' Rights to Contributions from The City of New York.*

What are the Retirement Systems' rights to New York City contributions due but unpaid?

As to New York City contributions due but unpaid the Retirement Systems would be general unsecured creditors of The City of New York.

Contribution debts with respect to services performed by New York City employees within three months of the filing of a petition under proposed Chapter IX would have a second priority.

Section 89 of proposed Chapter IX sets out certain priorities for distribution to creditors. The first priority is the cost and expenses of administration. The second priority is:

"Debts owed for services or materials actually provided within three months before the date of the filing of the petition under this chapter."

Under the present wage priority found in Section 64(a)(2) of the Bankruptcy Act, it is clear that payments to pension systems are not a priority claim. *United States* v. *Embassy Restaurant, Inc.*, 358 U.S. 29 (1959). However, the House Report makes it clear that the words "debts owed"[2] are used instead of "wages" in order to make clear that the holding of Embassy Restaurant is inapplicable under proposed Chapter IX. House Report No. 94–686, p. 29. Therefore the Retirement Systems would have a second priority claim for any contribution earned for services performed by employees within three months of the date of filing of the petition.

The fact that contributions owed to the Retirement System by New York City for services performed within three months before the date of the filing of the petition are not currently due because of the so-called "two-year funding lag" (See, e.g., *Administrative Code of The City of New York* § B3–21.0) would not deprive the claim of its second priority position. See in re *B. H. Glading Co.*, 120 Fed. 709 (D.R.I 1903); 3A *Collier, Bankruptcy*, § 64.203, at 2124 (14th rev. ed. 1975).

As respects the contributions due to the Retirement Systems for services performed prior to three months before the date of filing of the petition, there would be no priority.

As indicated at the end of Section 2 of this letter, the issue of the extent to which the Retirement Systems could vote their general creditor claims for or against any plan under proposed Chapter IX is identical to the issue discussed here.

4. *Retirement Systems' Rights to Contributions after the City has Filed for Reorganization.*

4.1 What are the Retirement Systems' rights to continuing contributions from The City during and after reorganization?

In our opinion the provisions of Article V, Section 7 of the New York State Constitution, which provide that membership in a public retirement system is a contractual relationship the benefits of which may not be diminished or impaired, would apply during a proceeding under proposed under proposed Chapter IX. Hence, the Retirement Systems would have continuing contribution rights from The City.

Section 82(b)(1) of proposed Chapter IX provides that the court may permit the petitioner to reject executory contracts, after a hearing on notice to the parties to such contracts. The House Report says that this Section is intended to grant power to reject executory contracts similar to the authority which now exists under the other chapters of the Act. House Report No. 94–686, p. 17. This authority includes the rejection of collective bargaining agreements. *Shopmen's Local Union No. 455 v. Kevin Steel Products, Inc.*, 519 F.2d 698 (2d Cir. 1975). The high standard which must be met before a court may allow rejection of such contracts is set forth in the case of In re *Overseas Airways, Inc.*, 238 F. Supp. 359, 361–362 (E.D.N.Y. 1965), as follows:

". . . the Bankruptcy Court when it has the power to reject a collective bargaining agreement, should do so *only after thorough scrutiny, and a careful balancing of the equities on both sides*, for, in relieving a debtor from its obligations under a collective bargaining agreement, *it may be depriving the employees affected of their seniority, welfare and pension rights, as well as other valuable benefits which are incapable of forming the basis of a provable claim for money damages. That would leave the employees without compensation for their losses*, at the same time enabling the debtor, *at the expense of the employees*, to consummate what may be a more favorable plan of arrangement with its other creditors." (emphasis added)

If such contracts are not rejected their provisions, including the provisions for the payment of pensions, remain in force and become an operating expense of the "reorganized" company. See *Vallejo* v. *American R. Co. of Porto Rico*, 188 F.2d 513 (1st Cir. 1951); In re *American R. Co. of Porto Rico*, 110 F. Supp. 45 (D.P.R. 1952); In re *Compania De Los Ferrocarriles De Puerto Rico*, 76 F. Supp. 521 (D.P.R. 1948). Those cases, all arising out of the same bankruptcy proceeding, conclude that payments of pensions made pursuant to collective bargaining agreements are properly continued during and after the reorganization where the executory contract is not rejected.

However, the pension provisions of collective bargaining agreements affecting the Retirement Systems are implemented by New York State law, and entrenched by the State Constitution in Article V, Section 7, described above. Proceedings under proposed Chapter IX as it is now drafted do not override such State laws and constitutional provisions.

Section 83 of proposed Chapter IX provides:

"*Nothing contained in this chapter* shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however*, That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind the creditor to such composition without his consent." (emphasis added)

This provision is identical to one found in the present Chapter IX which was included there by Congress in order to meet the Supreme Court's constitutional objection to the original municipal bankruptcy act. See *Ashton* v. *Cameron Water Improvement District No. 1*, 298 U.S. 513 (1936).

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[2] The original House version of the Bill, and consequently the Report, uses the phrase "debts or consideration owed." The "or consideration" was eliminated in the House-Senate Conference. It should be made clear that this change was to have no effect on the result sought to be achieved by using "debts" instead of wages."

In its discussion of this Section, House Report No. 94–686, p. 19 provides that:

"This section makes it clear that the chapter may not be construed to limit or impair the power of the State to control, by legislation or otherwise, and municipality, political subdivision or public agency or instrumentality in the exercise of its governmental functions. Any State law that governs municipalities or regulates the way in which they may conduct their affairs controls in all cases."

The language of Section 82(c) provides that the court may not interfere with the political or governmental powers of the petitioner, "[u]nless the petitioner consents." This implies that with such consent a court may. In discussing the quoted phrase House Report No. 94–686, p. 18, says that it is added to codify the result of *Leco Properties* v. *R.E. Crummer*, 128 F.2d 110 (5th Cir. 1942). There the municipality had neglected to have a plan confirmed but consented to leave its monies with the court for distribution to creditors. On the other hand the report says it was not intended to overrule the result of *Spellings* v. *Dewey*, 122 F.2d 652 (8th Cir. 1941). There it was held that outgoing commissioners of an Arkansas drainage district could not, even with court approval, consent to waive provisions of State law calling for the method of selection of such commissioners and thereby remain in office.

The plain meaning of Section 83 "Nothing contained in this chapter . . ." makes it clear that State power is primary. Thus, petitioners' and bankruptcy courts' power under Section 82(b) would not permit disregard of State statutes implementing collective bargaining agreements or State constitutional provisions like Article V, Section 7 of the New York State Constitution."

The provisions of Article V, Section 7 of the New York State Constitution and of State statutes implementing pension provisions of collective bargaining agreements are an exercise of the power of the state to control "by legislation or otherwise" a municipality or political subdivision "in the exercise of its political or governmental powers, including expenditures therefor," within the meaning of Section 83. Therefore, proceedings under proposed Chapter IX could not alter The City's obligation to continue to fund the payment of pensions through the Retirement Systems.

4.2 Can a court *sua sponte* reject executory contracts or new contracts under proposed Chapter IX?

In our opinion a bankruptcy court, under proposed Chapter IX, cannot on its own motion reject executory or new contracts of the municipal petitioner, including collective bargaining agreements. It may only approve or disapprove of the rejection of executory contracts on motion of the municipal petitioner.

Section 82(b)(1) of proposed Chapter IX provides that the petitioner may reject executory contracts with court permission, after a hearing on notice to the parties to such contract. Therefore, no provision is made for court action to reject, for example, collective bargaining agreements, absent action by the petitioning municipality.

Indeed, Section 82(c) provides that the court may not interfere with:

"(1) any of the political or governmental powers of the petitioner; [or]

"(2) any of the property or revenues of the petitioner; . . ."

5. *Rights of Members and Beneficiaries of the Retirement Systems.*

What are the rights of the members and beneficiaries of the Retirement Systems in any proceeding under proposed Chapter IX?

The City is not merely a surety for the Retirement Systems' payment obligations to members and beneficiaries but is also directly obligated to them to pay such benefits.

The Administrative Code of The City of New York provides that all pensions, annuities and similar benefits "are hereby made obligations of the city." *Administrative Code of The City of New York*, §§ B3–21.0, B18–27.0, B19–7.68, and B20–30.0.

Presumably, the terms of City employment contracts with each employee, as well as the provisions of its collective bargaining agreements, also make The City liable to its employees for these pension obligations.

As already noted, if The City does not reject, subject to court approval, its employment contracts and collective bargaining agreements, the rights of the members and beneficiaries would remain unimpaired, because The City would remain obligated to pay pensions to the employees and/or make payments to the Retirement Systems pursuant to those agrements.

The provisions of Article V, Section 7 of the New York State Constitution, which provide that membership in a public retirement system is a contractual relationship the benefis of which may not be diminished or impaired, apply with equal force to direct rights of individual employees, members and beneficiaries. The proceedings of the Constitutional Convention of 1938 make it clear that The City's liability is not limited to the amount on hand in the Retiremen Sysems. 3 CONST. CONV. REV. REC. 2557–2560, 2983–2990 (1938).

The limitations on The City's and a bankruptcy court's power under proposed Chapter IX to modify pension provisions which have been implemented by State law have already been discussed under Paragraph 4.1 above.

If the provisions of Article V, Section 7 do not apply for some reason, if The City should reject its employment contracts and collective bargaining agreements and if the court should approve such rejection, it appears that City employees and Retirement System beneficiaries would, at the least have claims against The City for any vested unfunded pension benefits. These claims in the aggregate would equal the amount that the Retirement Systems are under-funded. Indeed, Section 88(c) of proposed Chapter IX provides that upon rejection of any executory contract any person injured thereby has a claim against the petitioner for breach of contract as of the day of such rejection.

It should be noted that the courts have permitted direct payment of pensions to pensioners during reorganization even where no collective bargaining agreement was involved, on the theory that cessation of such payments would affect the morale of those currently working for the company. In re *Penn Central Transportation Company*, 484 F.2d 1300 (3d Cir. 1973) (court allowed payment of pensions due under a deferred compensation plan to retired executives to be paid out of operating revenues during reorganization; pension, however, were limited to $50,000 per pensioner per year).

Very truly yours,

WILLIAM JOSEPHSON.

Mr. BUTLER. Mr. Speaker, I have no requests for time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 801, MAKING SUPPLEMENTAL APPROPRIATIONS, 1975

Mr. McFALL. Mr. Speaker, I call up the conference report on the joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 22, 1976.)

Mr. McFALL (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. McFALL) for 30 minutes.

Mr. McFALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on House Joint Resolution 801 for supplemental railroad appropriations is a very good report. The resolution provides funding for items which are essential for the imminent conveyance of rail properties to the Consolidated Rail Corp. Next week, the special court overseeing the reorganization is expected to order conveyance of the rail properties now owned by Penn Central and certain other railroads to a new company, ConRail. In exchange for that property, the creditors of the estates will receive packages of series B preferred stock, common stock, and certificates of value.

In addition to the rail properties, ConRail will need Government funding for two purposes: rehabilitation and improvement of the severely deteriorated property now operated by the bankrupt railroads and cash to sustain the operating losses in the first few years of operation. In return for providing the needed funds, the Federal Government will receive debentures and senior preferred stock. The conference report provides $2,026,000,000 for the purchase of these

ConRail securities over a period of 4 years.

I know my good friends on the Interstate and Foreign Commerce Committee are hopeful, as we are on the Appropriations Committee, that ConRail can be successful and do what Penn Central could not do. The Commerce Committee worked long and hard on the Railroad Revitalization and Regulatory Reform Act of 1976. Titles II and III provide positive and important reforms in the regulation of railroads by the Interstate Commerce Commission. Title VIII provides for separate programs for light density branch lines and commuter rail operations so that ConRail and the other railroads will not be saddled with continuing financial losses in providing these services. We are all hopeful that these important reforms plus the money contained in the resolution can provide for a rail system in the Northeast and Midwest regions that is more efficient, more rational and capable of being self-sustaining in the future.

Turning to the specifics of the resolution, the conference agreement I am recommending to the House today provides for $500 million in fiscal year 1976, $965 million in the transition period, $425 million in fiscal year 1978 and $136 million in fiscal year 1979 for the purchase of ConRail securities. As the Members will recall, this is substantially in accordance with the House version of the resolution. The Conference Committee did agree to increase by $40 million the funding for fiscal year 1976 and to reduce by $40 million the funding for fiscal year 1979. This change will allow for an acceleration of rehabilitation work in the earlier years of ConRail's life. The total funding for the purchase of ConRail securities is the same as in the original House resolution—$2,026,000,000.

The House resolution contained an important provision limiting the amount of money available for operating losses. We took this action to insure that the maximum amount of funds would be used for rehabilitation and improvement of the economically sound rail properties in the region. I am pleased to report to the House that our limitation provision, which was deleted by the other body, was substantially restored in the conference agreement.

The purpose of this provision has been misunderstood by some people. It has been suggested that this provision represents an attempt on the part of the committee and the Congress to inject "political" considerations into the operating and rehabilitation decisions of ConRail management.

Nothing could be further from the truth. I believe the intent of this provision is clear from the hearings, report, and debate on this resolution. I stated my concerns on this matter on page 97 of our December 10, 1975 hearing with USRA and ConRail. Pages 5, 6, and 7 of our committee report (H. Rept. 94–832) outline in very clear language what is expected from ConRail management and the purpose of the operating loss limitation.

Finally, my remarks during the February 18, 1976, House debate—page 3651—on this resolution clearly set forth the meaning of the loss limitation provision. As I stated during the debate, our provision, in effect, says:

> We, the Congress, want you (ConRail management) to take the managerial action necessary to minimize the losses of ConRail and to become financially self-supporting as soon as is humanly possible.

I know the chairman of the House Appropriations Committee (Mr. MAHON) as well as most other members of the Transportation Subcommittee share my conviction on this matter.

Mr. Speaker, it is not our intention to cause ConRail to go into bankruptcy if the limitation provision is not capable of being achieved. The financial projections for unified ConRail are based on many thousands of economic assumptions, the most important of which is the performance of the national economy. If the current recession continues unabated, ConRail's management cannot be held accountable for failing to achieve the goals of the plan. But if the operational efficiencies contemplated by the final system plan are not achieved or the rehabilitation funds are spent haphazardly, I would expect an acounting by ConRail explaining why the goals of the final system plan have not been achieved. If such an accounting is rendered in a timely fashion coupled with management proposals to correct the problems, expeditious action to raise the operating loss provision can be taken by the Appropriations Committee and the Congress.

Mr. Speaker, the other body provided funds for the Northeast corridor improvement program in excess of the budget requests. After consideration and passage of the bill but before conference action, we held a hearing on the Northeast corridor program.

In the conference, we agreed with the Senate that this is an important program which will create thousands of new jobs during the construction period. The conference agreement includes $25 million in fiscal year 1976 and $25 million in the transition period to get the project started. It should be noted that the administration has requested no funds for fiscal year 1976 and only $15 million in the transition period.

We did not agree to the $12 million requested for interim operating assistance of the bankrupt carriers. The most recent information which we have received indicates that these funds will not be needed. We did not, however, intend to unfavorably prejudice any postbankruptcy claims. If necessary, this problem will be given prompt consideration in a later bill.

The conference agreement includes $25 million for commuter rail subsidies, which is the amount of the budget request. This is $15 million less than the Senate amount. These funds are necessary so that commuter railroad operations provided by ConRail on contract for the various urban and regional transit authorities will be done without the heavy financial losses currently being borne by Penn Central and the other bankrupt carriers. It is essential that ConRail not be burdened with these losses.

The conferees also approved $36,500,000 for Amtrak to cover its increased operating costs in the Northeast corridor. These costs, currently being borne by the operating railroads, are similar to the commuter rail subsidies I just discussed. It is imperative that Amtrak and not ConRail bear the expenses of operating passenger trains on the Northeast corridor. This money is needed whether Amtrak buys or leases the Northeast corridor.

The issue of Amtrak's control over the Northeast corridor was the most troublesome issue faced by the conference committee. The Senate conferees were of the opinion that Amtrak should buy this corridor as well as 293 miles of other railroad track located off the corridor. The Senate included over $105 million for this purpose. A majority of the House conferees felt that these properties should not be purchased at this time. Some of my friends on the authorizing committee indicated a strong desire to examine the issue of Amtrak ownership of these rail properties. Such an examination is clearly needed before these properties are purchased by Amtrak.

My personal view is that the proposed purchase of the off-corridor properties is unwise and a very dangerous precedent. All of these off-corridor acquisitions are for Amtrak routes which do not presently appear to be economically viable. It is not clear at all whether these routes should be continued indefinitely. Yet, if Amtrak is allowed to purchase these six line segments, I believe we will have removed the flexibility necessary for an evaluation of these routes. And I feel such an evaluation is essential if Amtrak's operating deficits are to be brought under control. With regard to the proposed purchase of the Northeast corridor, I stated during the conference deliberations my personal conviction that such a purchase would be unwise. The conference committee did agree to delete the funds contained in the Senate amendment for the acquisition of the corridor. However, it may be possible for Amtrak to purchase the corridor on an installment payment basis. It is my understanding that any such agreement for the purchase of the corridor must be approved by the authorizing and appropriation panels of both the House and Senate.

Mr. Speaker, the conference agreement also includes $5.8 million for administrative expenses of the U.S. Railway Association. This amount is an even split from the amounts proposed by the Senate and House.

Mr. Speaker, to repeat what I said earlier, this is a very good conference report and I urge its favorable consideration.

I shall include a table which summarizes the amounts provided under this resolution, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—SUPPLEMENTAL RAILROAD APPROPRIATIONS—H.J. RES. 801

[In thousands of dollars]

	Budget	House	Senate	Conference	Budget	House	Senate
Department of Transportation:							
Federal Railroad Administration:							
Northeast corridor improvement:							
Fiscal year 1976	0		27,400	25,000	+25,000	+25,000	−2,400
Transition period	15,000		52,000	25,000	+10,000	+25,000	−27,000
Grants to Amtrak:							
Fiscal year 1976	31,700		137,033	31,200	−500	+31,200	−105,833
Transition	5,300		5,300	5,300		+5,300	
Interim operating assistance	12,000		12,000		−12,000		−12,000
Urban mass transportation:							
Administration: Fiscal year 1976	25,000		40,000	25,000		+25,000	−15,000
United States Railway Association:							
Payments for ConRail Securities:							
Fiscal year 1976	400,000	460,000	500,000	500,000	+100,000	+40,000	
Transition period	300,000	965,000	300,000	965,000	+665,000		+665,000
Fiscal year 1977	1,326,000		1,226,000		−1,326,000		−1,226,000
Fiscal year 1978		425,000		425,000	+425,000		+425,000
Fiscal year 1979		176,000		136,000	+136,000	−40,000	+136,000
Administrative expenses:							
Fiscal year 1976	4,100	4,100	6,100	5,800	+1,700	+1,700	−300
Transition period	2,000	1,400			−2,000	−1,400	
Total	2,121,100	2,031,500	2,305,833	2,143,300	+22,200	+111,800	−162,533

Mr. Speaker, I want to extend my appreciation to the other members of the subcommittee who worked so very hard in the conference on this resolution, and I certainly want to express my appreciation to the ranking minority member, the gentleman from Massachusetts (Mr. CONTE), who did an excellent job on this conference report.

Mr. Speaker, I want to also express my appreciation to the Senator from Indiana, Senator BAYH, chairman of the subcommittee in the other body, who did an excellent job and who is very well informed on this matter and worked hard on it in the conference committee.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, as the chairman of the committee knows, I have in my hand a memorandum from my office with which I know the gentleman from California (Mr. McFALL) is familiar.

Early in 1975, the Department of Transportation—DOT—requested Congress to authorize additional funds under the Regional Rail Reorganization Act—RRRA—in order to permit essential rail operations to continue through the first quarter of 1976.

Relying on Penn Central's estimates of the cash needs, Congress authorized a total of $347 million of additional funds. Except for the $12 million of section 213 funds which have not been appropriated, all of the funds authorized in 1975 have been provided to Penn Central and the other bankrupts.

The Penn Central estimates of its cash needs have proven to be completely accurate. As a result, the funds provided in reliance on those estimates have permitted operations of the bankrupt railroads to be continued. Only one problem remains to be solved before April 1 when ConRail takes over.

For the past 3 months, Penn Central has been required by DOT to defer the payment of $20–$30 million of bills which are due and payable. Many of these bills will remain unpaid at conveyance date and will be claims against the bankrupt estates unless the remaining $12 million of section 213 funds are appropriated. It was not the intent of Congress to have this happen. DOT has recognized the need to appropriate these funds and provide them to Penn Central for application to the overdue bills. On numerous occasions and as recently as this month, DOT has advised Judge Fullam that it was working to secure the appropriation of the additional $12 million. The court has acted in reliance on this advice.

I have knowledge, as I am sure the gentleman from California has knowledge, that the big companies such as the oil companies who have been dealing with the Penn Central Railroad on such items as diesel fuel have already received their money because they made no deliveries unless there was cash on the barrelhead. So the big operators have been paid along the line. But it is the little fellows, the little businessman such as a restaurateur who took care of supplying food to the employees of the Penn Central who has not yet been paid along the line. As always, it is the little people who have been hurt, and it is the little people who need this most of all. As the Members know, if a small businessman is in debt for $30,000 or $40,000, this can almost bankrupt him.

I know that the trustees have felt strongly about this problem. We have made a commitment to them. I would just like to have a confirmation at this particular time of what is going to happen in this situation.

Mr. McFALL. I will be very glad to reply to my friend, the gentleman from Massachusetts (Mr. O'NEILL), by saying that we have some information which I think will address the concerns raised by the gentleman.

My understanding of the authorizing legislation is that funds were authorized to insure the continuation of essential rail service in the region. The authorization did not guarantee this money to the bankrupt railroads as a matter of right. We had a number of good reasons for not accepting the Senate amendment which would have appropriated $12 million to the Penn Central and the other bankrupt railroads.

First of all, we were unsure as to whether the $270 million previously appropriated for this purpose under this section 213 of the 1973 Rail Act was in fact expended. Officials from the Federal Railroad Administration have informed me through information filed with the special court that, as of March 22, $8.2 million in previously appropriated funds is still unobligated or uncommitted. In addition we have been advised that some direct loan authority under section 215 is still available and can be used.

There are also some other notable considerations. The Penn Central had earlier made its cash flow projections which did not include an additional $8 million in receipts which have now come in from various sources. Amtrak has also made payments to Penn Central totaling $5.6 million for passenger rail services which were not part of the original cash forecast. These receipts were not forecasted when the request for Federal funds was initially made to the Department of Transportation.

Also not included in the cash forecast was the receipt of $6 million in commuter support payments due from the Southeast Pennsylvania Transit Authority. If this receivable, which is a valid and current claim, is paid, then additional funds will be available for the payment of supplier and vendor claims owed by the bankrupt carriers. There is another important consideration. Ten million dollars is currently being held in a special escrow account by the bankruptcy trustees on order of the special court. This $10 million is authorized for and could be used for these claims.

As we stated in the conference report, we do not mean to deny the legitimate claims of vendors and suppliers whose continued business relationship and goodwill are needed for a successful ConRail.

In short, I am convinced that the $12 million not agreed to by the conference is not needed to maintain essential rail service before conveyance of the rail properties to ConRail. It is more prudent, in my opinion, to wait until after conveyance takes place and the bankrupt railroads can assess their end-of-operations cash position. It is very likely that some or all of the contingencies I have discussed will be realized. If not, timely consideration of legitimate vendor and supplier claims can be given at a later time.

There may be a need for further authorizing legislation to address the problem of vendor and supplier claims. I am sure my friends on the Commerce Committee would be interested in solving any problem which might arise if currently available funding is not sufficient to take care of legitimate claims. Supplemental appropriation bills scheduled for consideration later this year could include funding for this purpose, if it turns out to be necessary.

Mr. O'NEILL. I want to thank the gentleman.

I feel the trustees and the Congress have an obligation to these small vendors along the line to see that they ultimately will not be hurt. I feel it is imperative that an agreement from the committee that these people will be taken care of, and that the trustees and Congress share responsibility to see that this does not happen again.

Mr. McFALL. I agree with the majority leader that these suppliers are entitled to prompt settlement of their legitimate claims. As I stated, I believe sufficient funds are available for this purpose.

Mr. O'NEILL. I thank the gentleman.

Mr. JENRETTE. Mr. Speaker, will the gentleman yields?

Mr. McFALL. I yield to the gentleman from South Carolina.

Mr. JENRETTE. I thank the gentleman for yielding.

On page 6 of the report I notice that $85 million has been deleted. Do any of these funds go to the purchase of portions of the track? I notice Secretary Coleman is back in the fray trying to get Southern Railroad to take a portion of the track. Is this for funds? Can the gentleman enlighten me, please, on that controversy?

Mr. McFALL. The $85 million was proposed by the Senate for the purchase by Amtrak of the Northeast passenger corridor between Washington and Boston and it was not for the purchase of the rail property which the Southern Railway had proposed to acquire on the Delmarva Peninsula.

Mr. JENRETTE. I thank the gentleman very much.

Mr. McFALL. Mr. Speaker, I now yield to the gentleman from Massachusetts (Mr. CONTE) who has done his usual excellent job on this conference report.

Mr. CONTE. Mr. Speaker, before I get into my text, I want to compliment the chairman of the committee, Mr. McFALL, for the outstanding job he has done in bringing out this conference report, which I think is a good one with the exception of a few items that I fought for and, unfortunately, lost in the conference—the $20 million to enable Amtrak to buy the five lines, and $12 million for the Penn Central, which I was in favor of.

Included with those five lines was 12.1 miles in Albany, from Albany to Renselaer County, which would enable the Boston-Chicago route to run about 15 minutes less than its normal run if we could get that right-of-way and build that rail.

Mr. Speaker, this Chamber has now reached the final step in the long process of reorganizing the seven bankrupt northeast railroads into one consolidated rail corporation—ConRail.

On February 18, 1976, I last stood before this Chamber on this matter. At that time, it was necessary to amend the appropriations level because the Southern and Chessie Railway Systems were unable to consummate requisite labor agreements and could not acquire the 2,000 plus miles of the bankrupt lines. Since that time many Members have questioned the basic differences between the smaller and the larger "unified" ConRail.

To erase any apprehensions that my colleagues may have with regard to the newer ConRail structure, I should like to review several of the more important corporate aspects and financial expectations of the unified system. Naturally with the additional properties ConRail should be considered the basic rail structure for the Northeast/Midwest United States.

From a financial point of view, the Government's investment in the reorganization will realize a speedier rate of return. By 1985 the net Government investment in unified ConRail could be substantially less than that required by the recommended system in the final system plan, even though the increase costs of merging additional rail operations results in unified ConRail having peak requirement for Government funding greater than for the system recommended in the final system plan—$2.026 billion versus $1.841 billion. The primary advantage of unified ConRail, its ability to generate excess cash, occurs in the latter half of the planning period and enables it to commence repaying the Government investment sooner than under the FSP recommended system. Unified ConRail would serve a larger territory and would generate more traffic and hence more revenues than ConRail as defined in the preferred system. By 1985 uninflated freight revenues are expected to be $2.547 billion, reflecting a composite annual growth rate of 1.6 percent over the 12-year period. Similarly, it is expected that 463.8 million tons would be carried by 1985, reflecting an annual tonage growth of 1.39 percent from 1973 to 1985.

Along with the added financial attractions, the extra properties will result in more efficient maintenance and operation. The same approaches and techniques employed in the preparation of the FSP recommended system were used to prepare an operations plan, equipment program and rehabilitation program for a unified ConRail. The major differences between the two systems arise from the greater coverage by unified ConRail of areas such as Chicago, Akron-Youngstown, Buffalo, northern New Jersey, Harrisburg and Philadelphia. With this greater coverage and resulting larger traffic flows, unified ConRail would be able to use a more effective blocking strategy, taking advantage of the larger flows moving between similar origins and destinations. Unified ConRail also would have increased opportunities for terminal consolidation. Unified ConRail, with a larger fleet of cars and locomotives, accordingly would have a larger equipment acquisition and repair program than the FSP recommended system.

Before I continue to set out the new developments which have transpired in the Senate and conference since the bill originally passed the House, I should like to note a tremendous effort now being made by the Department of Transportation by its Secretary—William T. Coleman. Secretary Coleman, since the announcement by the Southern Railway on February 13, 1976, not to purchase the Delmarva Peninsula Properties, has been involved in labor negotiations between the parties to reconcile differences. Up until Tuesday, it seemed as though the parties had reached agreement. Unfortunately, another impasse was reached. Secretary Coleman has continued, in spite of the impasse to attempt to get the parties to agree on an equitable compromise. It is most important that these negotiations continue. I understand that the United Transportation Union has come to terms with the railroad—however, the Brotherhood of Railway and Airline Clerks have yet to reach a compromise with the Southern.

I am the sponsor of House Concurrent Resolution 573 which expresses that it is the sense of Congress that these negotiations continue in efforts to reach a compromise to enable the Southern and Chessie systems to acquire the bankrupt properties. The identical resolution immediately passed the Senate. It is my hope that these negotiations will continue. I commend the efforts of Secretary Coleman and feel that I speak for the Congress by saying we are behind him 100 percent.

The last time I spoke on this bill in this Chamber, I expressed my two major concerns with the legislation. My first concern was the absence of funds for a margin of safety continuing fund for unexpected or miscalculated expenses. Mr. Speaker, this matter was discussed at some length in this Chamber during the course of our deliberations over what became the Railroad Revitalization and Regulatory Reform Act of 1976. But, again, the subject matter was of such complexity and the debate so frequently concentrated on peripheral issues, that it is little wonder if the average Member of this body failed to grasp that what is being attempted here amounts to the largest corporate reorganization in our Nation's history; that if, in the course of that attempt, a proper foundation is not laid for what is being called an income-based reorganization of the several bankrupt railroads being folded into ConRail, then the Federal Government quite likely could be exposed to a multibillion-dollar liability in favor of those bankrupt rail estates. And that one of the basic issues the courts will examine to try to determine if such an income-based reorganization can be achieved, is this very question of whether or not ConRail is being adequately capitalized.

Transportation Secretary Coleman

testified before our subcommittee in early February and emphatically stated the need for full funding of the contingency fund for two very clear reasons: First, to insure ConRail's financial viability and second to demonstrate the special court that the integrity of the final system plan is specifically a corporate reorganization and not a taking. The absence of contingency funding in this bill is only due to the fact that USRA has communicated to our subcommittee that it is presently formulating a contingency fund figure for the unified ConRail and will submit their request shortly. I feel sure that upon receipt of that request the committee will recognize the need for complete funding and provide it in the presently pending second supplemental or subsequent suitable vehicles.

My second concern during previous House consideration of this bill was the existence of language in the legislation to limit the loss of operating expenses ConRail can sustain in its early years. This was also the subject of my supplemental views in House report 94–832 accompanying House Joint Resolution 801.

The investment controls which are already in place as a result of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, in and of themselves are sufficient to protect both the Federal investment and to preclude any undue diversion of those Federal funds into the subsidization of continuing ConRail operating losses beyond those estimated—and again these are only estimates—in the final system plan.

In and of themselves, those controls are reasonably and properly reflective of the Government's role as investor in ConRail; no further congressional control is needed.

I am pleased that virtually all of the limitation language was removed from the legislation. At the same time the conferees agreed to increase the total funding in ConRail's earlier years, when it is needed most, and reduce the schedule of funding in the later years. The actual dollar amount has not changed; only the funding timetable.

The Senate bill contained funding levels of approximately $274.3 million above the House bill and $184.7 million above the budget. Since Chairman McFall, who also served as chairman of the conference, has described the Senate amendments and the conference compromise in detail, I should like to comment on several of the House/Senate compromise that are of concern to me.

Senate amendments 4 and 5 provided $79.4 million for beginning the $1.5 billion Northeast Corridor rail passenger improvement system. The conferees agreed to provide $25 million for the remainder of fiscal year 1976 and additional $25 million for the transition quarter. This will serve as a substantial start on the long road to rail passenger rehabilitation in the Northeast and throughout the Nation. This is a positive step toward our goal of providing safe, efficient, economical, and convenient rail transportation as a competitive alternate to other more expensive and fuel wasteful modes.

Amendment No. 7 is the only amendment to which I excepted. I agree with the conferees decision to provide $26.5 million to Amtrak for operations costs and $10 million for one-time corridor startup costs, but I disagree with the conferees failure to enable Amtrak to purchase the Northeast rail passenger corridor and several properties outside the corridor.

First, I should like to set out my disagreement with the conferees failure to provide a means for Amtrak to acquire the Northeast Rail Passenger Corridor. Under the present plan, ConRail will have title to the passenger corridor, but Amtrak will be virtually the only operator and will be responsible for maintenance and construction. Aside from this, Amtrak will be responsible for an annual lease commitment to ConRail. Present estimates on annual costs of the lease range between $14 to $18 million per year. The cost of the corridor, at this time, is $85.1 million fiscal year 1976 dollars. Under the present leasing plan, the Federal Government will exceed the present corridor purchase price with rental fees over the next 5 years. Under this plan, the U.S. Government will spend $1.75 billion to rehabilitate the corridor which will increase its value and the price of an annual lease. Failure to purchase the corridor now or in the near future will result in unnecessary lease payments that will go on "ad infinitum." It is my hope that the concerned parties can arrive at an equitable solution to this dilemma. Perhaps, offsetting lease responsibilities to Amtrak by the amount of corridor improvement funds expended by the Federal Government might serve as an immediate interim solution.

Another item within amendment No. 7 which I disagreed with is failure to purchase rail rights-of-way outside the corridor. These rights-of-way involve locations in New York, Illinois, Indiana, Michigan, Connecticut, and Pennsylvania. Without these particular rights-of-way, Amtrak will cease operations over many of the lines in these States when the Penn Central ceases operation on April 1, 1976. Also, one of these properies include 12.1 miles of rail directly on the Boston-Chicago run in New York.

Without the 12.1 miles, Amtrak must take a circuitous route involving backing operations over a bridge resulting in a 50 minute delay in running time. The cost of this property is minimal compared to the many benefits that would have resulted including increased riderships and more efficient operating times.

Another item which is of concern is failure of conferees to agree to Senate amendment No. 6. This was a floor amendment by Senator Pastore to provide $12 million in interim operating expenses by the Penn Central. This was the result of the later ConRail startup date on April 1, 1976. ConRail was originally designed to start in February of this year. Accordingly, Penn Central has had to realize increased operating losses for the extra time period. The President recognized this need and sent a request along with a revised budget request. The report expresses the hope that suppliers will not be denied legitimate claims, but if the Penn Central pocketbook is empty as the administration is sure of, the suppliers will have to wait for a future appropriation. Failure to put the money in this bill is unwise and will create an unnecessary financial hardship on innocent parties.

Finally, I should like to note an increase for ConRail administrative expenses from the $4.1 million House level to this $5.8 million conference level. This appears in amendment No. 17.

Fellow Members, at long last we have come to the beginning of the largest corporate reorganization in the history of finance. The final system plan is a most unique operation. The most respected economists in the country have given it their seal of approval. It is my hope that the final system plan, this piece of legislation, the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), the intent of Congress, and legislative history shall evidence to the special court that every precaution has been taken to design a corporate reorganization and not a taking. Further, it is my hope that all these efforts will assure all those concerned that ConRail can work and it will work.

Fellow Members, I urge you to support this conference report.

Thank you Mr. Speaker.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to say to the gentleman, that as always I was interested in what the gentleman had to say. I want to commend the gentleman on the remarks about the Southern Railway situation which is of great economic importance to Maryland. I can predict with some certainty that as a result of the total irresponsibility of the Brotherhood of Railway and Airline Clerks, and seven other unions going along with it, we will be back here within a matter of months seeking many more billions of dollars to run ConRail. Those unions are standing in the way of the Southern Railway acquisition of the Delmarva lines as they have been for many months for no good reason.

Their actions have been termed irresponsibility by the Secretary of Transportation and others who certainly have the best interests of labor and management at heart; but standing in the way as they have been, these unions are going to prevent any private competition for ConRail, which is one of the major purposes of the act passed in 1973.

There unions are going to do great economic harm to millions of people in the Northeast by their refusal to go reach an agreement. The clock is ticking toward April 1. Time is running out, and I think the blame has to be placed on Mr. Dennis and his cohorts who are flaunting the best interests of the American people. It probably will mean the failure of the ConRail system ultimately, and the unnecessary expenditure of a great many millions of dollars by the taxpayers.

Mr. McFALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 105, not voting 39, as follows:

[Roll No. 134]

YEAS—288

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kemp
Kindness
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Long, La.
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schulze
Seiberling
Sharp
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—105

Abdnor
Allen
Anderson, Calif.
Andrews, N.C.
Archer
Armstrong
Bafalis
Beard, Tenn.
Bennett
Brinkley
Brooks
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Chappell
Clancy
Clawson, Del
Collins, Tex.
Conlan
Conyers
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Dickinson
Duncan, Tenn.
Edwards, Ala.
English
Findley
Flowers
Flynt
Ford, Tenn.
Fountain
Frey
Fuqua
Gibbons
Goldwater
Gradison
Grassley
Hagedorn
Haley
Hammerschmidt
Hansen
Hechler, W. Va.
Henderson
Holland
Hutchinson
Ichord
Jarman
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Ketchum
Krueger
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McDonald
Mann
Martin
Mathis
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Moorhead, Calif.
Mottl
Neal
Nichols
Pritchard
Robinson
Rose
Rousselot
Runnels
Ryan
Satterfield
Schroeder
Sebelius
Sikes
Snyder
Spence
Steiger, Ariz.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Winn
Yates
Young, Alaska
Young, Fla.

NOT VOTING—39

Barrett
Bell
Bevill
Biester
Burgener
Cederberg
Cochran
Conable
Downing, Va.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Guyer
Hayes, Ind.
Hébert
Hinshaw
Jacobs
Keys
McCloskey
McCollister
Macdonald
Montgomery
Nix
Pepper
Poage
Riegle
Roberts
Shipley
Steiger, Wis.
Stuckey
Udall
Vander Jagt
Vigorito
Waxman
White
Wilson, C. H.
Wilson, Tex.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.

Mrs. Keys with Mr. Montgomery.

Mr. Barrett with Mr. Guyer.

Mr. Nix with Mr. Steiger of Wisconsin.

Mr. Pepper with Mr. Vander Jagt.

Mr. Charles H. Wilson of California with Mr. McCloskey.

Mr. Macdonald of Massachusetts with Mr. Downing of Virginia.

Mr. Bevill with Mr. Erlenborn.

Mr. Hayes of Indiana with Mr. McCollister.

Mr. Roberts with Mr. Cochran.

Mr. Shipley with Mr. Conable.

Mr. Vigorito with Mr. Esch.

Mr. Waxman with Mr. Evans of Colorado.

Mr. White with Mr. Biester.

Mr. Evins of Tennessee with Mr. Eshleman.

Mr. Stuckey with Mr. Burgener.

Mr. Udall with Mr. Cederberg.

Mr. Charles Wilson of Texas with Mr. Riegle.

Mr. ABDNOR changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 3, line 16, insert: "The amount appropriated in preceding paragraph shall be added, as needed, to the limitations contained in section 306 of Public Law 94–134."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 4, line 18, insert: "' to remain available until expended."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 4, line 22, insert:

"MISCELLANEOUS PROVISIONS

"On and after the date of the enactment of the joint resolution, the provisions of section 8344 of title 5, United States Code, shall not apply to any individual serving as a member of the Commission on the Operation of the Senate."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. McFALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE PRIVILEGED REPORTS

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file reports on several privileged money resolutions.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. BYRON. Mr. Speaker, on the last rollcall vote on the conference report on House Joint Resolution 801, I find that I inadvertently voted "nay" whereas I had intended to vote "yea." I ask that this statement appear in the RECORD.

The SPEAKER. The gentleman's statement will appear in the RECORD.

AUTHORIZING APPROPRIATIONS TO THE NATIONAL SCIENCE FOUNDATION

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12566, with Mr. DANIELSON in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday the gentleman from Texas (Mr. TEAGUE) had 26 minutes remaining and the gentleman from Ohio (Mr. MOSHER) had 29 minutes remaining.

Mr. MOSHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will only take time to briefly reiterate the comments that I made on yesterday when we started the general debate on the National Science Foundation authorization bill.

Particularly this comment, that last Tuesday the President of the United States sent a message to Congress emphasizing the fact that in recent years our Federal support for basic scientific research has dwindled both in absolute dollars and as a result of inflationary influences.

The President also pointed out to us the extreme importance of reviving our Federal support for research and development, urging us to increase by 11 percent the amount of funding for basic research in the National Science Foundation.

The bill before us today represents that point of view of the President, and I think it is absolutely essential that we do this.

Although the bill is slightly under the budget request, I believe it is sufficient to maintain the National Science Foundation. It is imperative, I think, in terms of national need that we maintain the programs of the National Science Foundation at a level that will be healthy and ongoing.

Mr. CONLAN. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield 5 minutes to the gentleman from Arizona (Mr. CONLAN).

Mr. CONLAN. Mr. Chairman, it has become very clear over the past year that parents and taxpayers throughout the country strongly oppose the National Science Foundation's development, promotion, and marketing of elementary and secondary curriculum programs.

Psychosocial school programs like "Man: A Course of Study," MACOS; "Exploring Human Nature," "Human Sciences Program," and other questionable NSF courses designed to manipulate children's attitudes, values, and behavior should not be supported and promoted by the Federal Government.

As the result of criticisms from citizens throughout the country and recent evaluations by Congress and the Foundation itself, NSF curriculum programs have been largely curtailed. Promotion and marketing of curriculum materials that I sought to eliminate last year has been eliminated by the subcommittee from this authorization bill as a separately funded category. And curriculum development has been reduced to support of several long-range multimillion-dollar curriculum projects.

However, the $1.4 million in this bill for "Pre-College Materials Development, Testing, and Evaluation" is earmarked primarily for two highly questionable active curriculum products—"Individualized Science Instructional System," ISIS, being developed at Florida State University, and the "Human Sciences Program," being developed by the BSCS Co. at Boulder, Colo.

Congress has already appropriated about $4.9 million for the transition budget quarter for curriculum development by NSF grantees, and NSF has about $2 million remaining unobligated in its fiscal year 1976 budget for this purpose. These funds are quite sufficient for curriculum development, and should be used to phase out NSF curriculum activities altogether.

My amendment would reallocate the $1.4 million in fiscal year 1977 funds for curriculum development, and any remaining funds from phaseout of current curriculum programs, to summer institutes to help classroom teachers upgrade their subject-matter knowledge, and to the Foundation's comprehensive assistance to undergraduate science education—CAUSE—program.

Mr. Chairman, NSF's vast expenditure over the past decade of almost $200 million for precollege curriculum programs has badly hurt the Nation's educational effort, not helped it.

We are all familiar with the $17 million "New Math" fiasco that NSF funded and promoted throughout the Nation. The failure of NSF curriculum programs has been widespread in other areas. A letter I recently received from Robert R. Laidlaw, president of Laidlaw Bros., a division of Doubleday & Co., summarizes the view of most major school textbook publishers on this matter:

> The large R & D projects undertaken by university people, non-classroom educators, educational theorists, educational psychologists, and various research groups try to revolutionize the content or the method of teaching (the bigger and more radical the idea is, the more success they seem to have in getting federal funding) and too frequently the radical departure from present content and present methods proves to be unsuccessful because present teachers and present pupils do not have the required background of understanding and concepts on which the revolutionary change of content or method depends. Too often the revolutionary methods are impractical within the present structure of education, within the manner in which present day classrooms are organized, or within the time allotment that teachers have at their disposal. Too often these methods are in contradiction to the legal requirements of various states for teaching specific material and content.

The two curriculum programs that NSF proposes to award the bulk of the $1.4 million in this bill do not deserve or need further taxpayer support.

The ISIS program—a collection of value-oriented "minicourses" designed to replace the traditional teaching of physical science subjects in high school—already has a commercial publisher to produce the 25 or so minicourses developed so far with $3.3 million from NSF.

NSF proposes to award the ISIS project an additional $970,000 or thereabouts for its next phase of development and field-testing, which is a direct field marketing subsidy to Ginn & Co., the commercial firm that will be competing against curriculum programs of other publishers to get ISIS adopted by local school districts.

Federal funds should not be used in this way to subsidize favored commercial curriculum programs in competition with others for local school adoption. Such NSF support gives favored programs an unfair advantage in the commercial marketplace, and is an unwarranted Federal interference in local school decisionmaking.

This fact was recognized several years ago by the U.S. Office of Education, which was subsidizing local school purchase of a Ginn and Company reading program developed by the Southwest Regional Laboratory, SWRL. After complaints from citizens and the Congress, this practice of subsidizing curriculum programs was stopped by the U.S. Office of Education.

Adding to the case against further NSF support for Ginn's ISIS program is Ginn's own statement that the company can and will finish development of the course without further NSF funds.

Dr. James Ashley, Ginn's editor for ISIS, told my staff that the company was quite ready and able to continue development of the ISIS program without further NSF funds if Congress did not authorize them. He said that Ginn would like continued Federal funding to field-test ISIS materials, which would allow this commercial firm to iron out the bugs in their product at taxpayers' expense and promote marketing of the program among educators nationwide.

NSF is currently funding field-testing of ISIS materials in about 100 high schools throughout the Nation, using more than 20,000 students as guinea pigs for the course. This is a highly questionable practice which may result in significant harm to the children involved, and is a blatant commercial marketing scheme, using taxpayer dollars.

NSF expert reviewers who evaluated ISIS curriculum materials last December reported that they are full of factual and scientific errors, owing to the crash development schedule resulting in carelessness. If large sums of Federal funds were not available to the ISIS project, and the developer had to rely solely on funds from the commercial publisher, development of ISIS curriculum materials would have to be conducted much more carefully and prudently.

Furthermore, there is no justification for field-testing ISIS materials on such a wide scale at taxpayers' expense. The ISIS developer and commercial publisher are using this federally funded field-testing program as a vehicle to widely disseminate ISIS materials. ISIS trial minicourses are being used as a wedge to replace competing curriculum programs—a promotional gimmick to assure widespread sales and profits for Ginn & Co.

The proposed further funding of ISIS is even more questionable because of the shocking mismanagement and manipulation of the NSF grant award process in connection with the projects two previous grants totaling $3.3 million. These funds were approved as the result of false and misleading evaluations of the ISIS grant proposals provided to the National Science Board by the NSF staff. The General Accounting Office has documented the fact that NSF deleted all negative criticisms from reviewer evaluations, falsely representing them all as having submitted unqualified praise for the ISIS project.

I would like to include at the conclusion of these remarks a summary of the serious abuse and manipulation of NSF's grant award process in the ISIS matter.

I understand that the chairman of the House Subcommittee on Science, Research, and Technology, Mr. Symington, has again ordered the General Accounting Office to further investigate the possibility of official coverup within NSF concerning this ISIS grant award manipulation matter.

Mr. Chairman, NSF proposes to award the next largest portion of its fiscal year 1977 curriculum development funds to the BSCS Company's "Human Sciences Program." This is another series of value-laden modules for sixth, seventh, and eighth graders, with such titles as "Behavior," "Growing," "Rules," "Reproduction," "Where Do I Fit?", and "Change."

During committee consideration of H.R. 12566, I objected to funds for this particular project, since a 1974 NSF audit revealed that the BSCS Co. had misused more than $1.3 million of royalty income from a previous NSF-funded curriculum program. This money owed to the Government was used by BSCS to construct its curriculum innovation center and for other purposes, according to the committee staff.

The $1.3 million was never recovered by NSF, even though the official NSF audit report has sat in Foundation files for almost 2 years. Misuse of royalty funds owed to the U.S. Teasury by an NSF grant and further mismanagement by NSF officials involved in curriculum development activities are further evidence that such programs should be terminated altogether.

However, there are other substantial reasons involving the highly inflammatory content of the "Human Sciences Program" that require us not to authorize any further NSF funds for this curriculum project. Like MACOS, the "Human Sciences Program" is a sophisticated and lethal asault on Judaic-Christian family values, privacy of students and their families, and the mental health and development of young adolescents.

Instead of learning through normal methods of reading and teacher lectures, 11-, 12-, and 13-year-olds enrolled in the "Human Sciences Program" become little investigators and opinion pollsters collecting all manner of data on their families and friends concerning social, moral, religious, economic, and political activities and beliefs.

This psychosocial approach to learning starts with sixth graders, who are required to interview their parents and relatives, collect family documents and photographs, and write their own autobiographies to be traded with other students, discussed in class, and stored for general use in the class activity drawer.

Eleven-year-old sixth graders are also required in the "Human Sciences Program" to write and perform class plays for younger students from stories about lying and stealing. Such actions are often subtly justified in stories on supposedly humanitarian grounds, such as the story of a child who shoplifts food for another child who claims to be hungry.

Ben Franklin's rules of personal conduct are contrasted with a modern version written by a hypothetical youngster the age of the sixth graders to emphasize that Franklin's belief in frugality, industry, moderation, and so forth is old-fashioned and outmoded. The children are told to compare Franklin's code with such personal rules as "let loose * * * get high * * * be a free spirit * * * sensuality"—and then to choose between the two codes of conduct for their own model of personal behavior.

Seventh graders are required to build class data banks to store personal and community information for general use throughout the course. They investigate family relationships and parental discipline at home. Twelve-year-old girls are required to graph and discuss their menstrual cycle. Students read and discuss a proposal for human genetic experimentation to manipulate birth and development in an activity called "Reproduction in the Year 2015."

A module on "Rules" asks 7th graders to decide when it is all right to break the rules. Options for opposing rules, along with legitimate methods, include "Threaten to riot" and "Use even more extreme action."

Mr. Chairman, parents across the country strongly believe that questionable materials like these should not be funded with their Federal tax dollars. Courses like "Human Sciences Program" supplant the teaching of basic skills in these formative student years, and turn classrooms into gigantic gossip mills where everyone's personal attitudes and behavior are recorded in school files for open discussion and dissemination by anyone.

I urge House passage of this amendment requiring NSF to phase out all curriculum development activities, and to authorize the $1.4 million instead to benefit a broad base of classroom teachers through reestablished summer institutes.

NSF supported summer institutes to upgrade the instructional capabilities of teachers for many years before the Foundation unwisely started promoting and marketing certain textbook materials in 1968 or 1969. Summer institutes are a much better way to assist our education effort than by providing millions of taxpayer dollars to only a handful of career curriculum innovators.

It should be clear that the intent of my amendment is to reestablish summer institutes only to help elementary and high school teachers to upgrade their subject-matter knowledge in the physical sciences and mathematics.

These institutes are not to be used to promote particular curriculum materials or programs, teaching philosophies, or methodologies. This includes the promotion of so-called affective teaching techniques and programs that have got schools into the psychosocial, manipulative area, resulting in plummeting academic skills of students, and other troublesome problems.

A vote for my amendment is a vote for assisting the Nation's classroom teachers to upgrade their professional capabilities by remaining current with the latest knowledge and factual information in their particular subject matter specialties.

The summary referred to follows:

[From the Congressional Record, Jan. 28, 1976]

The National Science Foundation Caught in Misrepresentation and Manipulation of Multimillion-Dollar Grant Awards

Mr. Conlan. Mr. Speaker, a major scandal has developed within the National Science Foundation.

It involves deliberate misuse by the Foundation of its important peer review system, used to judge the scientific merit of all grant proposals submitted to the foundation before funding decisions for grant awards totaling more than $700 million a year are made by NSF.

It also involves repeated misrepresentations of peer evaluations and the way they are handled by NSF officials to the National Science Board and to the Congress, and an apparent willful attempt by top NSF management to cover up the facts of this serious matter and sidetrack congressional review of NSF grant management practices.

The central point at issue is administration of the NSF curriculum project "Individualized Science Instructional System"—ISIS—particularly the manner in which 11 peer reviewer evaluations were seriously misrepresented to the National Science Board by NSF staff on two occasions in 1972 and 1974 in order to push through $3.35 million of NSF funding to date for development, promotion, and marketing of the controversial ISIS curriculum.

The proposal to develop the multimillion-dollar ISIS high school program came from Florida State University, following an NSF-funded conference of 34 educators selected and invited by grant applicant Earnest Burkman, and held at Callaway Gardens, Ga., in October 1971.

The ISIS proposal called for development of 80 to 125 issue-oriented and value-laden "minicourses" for 10th and 11th grade students, covering the full range of the physical and social sciences.

These 2- to 3-weeks minicourses—with such titles as "Too Many People," "Learning and Changing Behavior," "Sex Differences," "Packaging Humans"—were designed to replace longer traditional courses in chemistry, physics, biology, economics, and so forth, in high schools across America.

This proposal to replace the objective factual teaching of physical science subjects for most students with a fragmented assortment of issue-oriented, value-infused short courses were found to result in tremendous controversy among educators and citizens.

This controversy and doubt about the ISIS proposal was reflected in the 11 peer review evaluations solicited by NSF program officer, Mary M. Kohlerman, who also attended the Callaway Gardens conference. All reviewers raised serious critical doubts about the ISIS proposal, many questioning its scope, feasibility, cost, and ultimate affect on education generally.

GAO FINDINGS

But according to the report of the General Accounting Office study* requested by Chairman James W. Symington last October, after I first brought this matter before his House Subcommittee on Science, Research, and Technology 10 weeks earlier, NSF staff summaries for the National Science Board purporting to accurately reflect the evaluations of the 11 scientists and educators who reviewed the ISIS proposal in 1972 presented only the reviewers' positive comments, substantially out of context, and with none of the serious criticisms and concerns that all reviewers had raised about deficiencies in the proposal.

Carefully omitted from NSF staff summaries to the Board, according to the GAO report, were at least 45 serious criticisms and concerns of nine reviewers in key areas involving: First, lack of need for the proposed curriculum; second, unreasonableness of the proposed ISIS budget; third, lack of diversity among project personnel; fourth, potential learning problems for students posed by the proposed curriculum's disorganized framework; fifth, inefficiency in the curriculum development method and instructional management scheme; and sixth, doubted marketability of the finished curriculum.

The GAO report states:

"The [Sept. 5, 1972] recommendation memorandum contained 33 quoted excerpts from the 11 peer reviews. The quoted passages reflected the reviewers' favorable comments, but contained none of their concerns or criticisms."

In addition to this misrepresentation by omission of all critical comments about the ISIS proposal in the memorandum prepared for the National Science Board, the NSF staff also further distorted at least five reviewer excerpts by deliberately changing the thoughts that reviewers intended to convey, according to the GAO report.

These excerpts, states the GAO, "did not accurately or completely convey the entire thoughts of the passages from which they were taken."

Typical of the misrepresentations documented by the GAO are these two examples from the five cited in the GAO report:

"Comment as appearing in recommendation memorandum . . . I am sympathetic to many of the objectives that lie beneath this proposal.

"Comment within relevant review passage—while *I am sympathetic to many of the objectives that lie beneath this proposal,* I find myself drawing back from certain essential aspects of it. My objections are partly philosophical and partly pragmatic. Because of these, I count it a serious weakness of the proposal that no discussion of some of these matters was included in the presentation. [Italics added]

"Comment as appearing in recommendation memorandum— . . . I would recommend that the project be initiated.

"Comment within the relevant passage—'Assuming the questions and concerns expressed above can be satisfactorily responded to by the proposal writers, including a large reduction of the budget, *I would recommend that the project be initiated.*'" [Italics added]

Mr. Speaker, it is apparent from these documented GAO examples of peer reviewer statements concerning the ISIS proposal, as they were represented to the National Science Board when ISIS was first funded in 1972, that the NSF staff badly misrepresented true reviewer feelings and concerns.

As the GAO report later states:

"The positive tone of the first excerpt does not reflect the overall critical tone of the sentence. In addition, the main idea of the sentence—the reviewer's doubts about certain aspects of the proposal—is excluded."

The GAO report also notes that—

"Although the second excerpt would appear to imply an unqualified recommendation for funding the proposal, the sentence in its entirety qualifies the recommendation."

The GAO also found that, while the NSF staff recommendation told the Board that all peer reviewers had recommended funding the ISIS proposal at some level, three reviewers had not explicitly recommended any funding at all. This was a further misrepresentation to the Board.

Since the Board had to approve funding for the multi-million-dollar ISIS project at each stage of development, NSF staff summaries presenting only broad general positive statements on the concept of ISIS, but carefully omitting all adverse critical comments about the scope and details of the proposal, constitute clear manipulation of the Board to obtain approval for a proposal that would otherwise go unfunded.

NSF VIOLATES "CONFIDENTIALITY"

This wholesale misrepresentation of peer reviews by the NSF staff raises serious questions, in my own mind, and I am sure in the minds of many of my colleagues, as to why any group of NSF officials would be willing to go so far to abuse and discredit the Foundation's grant management system for one questionable program, when so many other grant applications with much more favorable peer reviewer evaluations are rejected every day.

Such questions are compounded in the ISIS case, because Dr. Kohlerman, the NSF program manager who attended the Callaway Gardens Conference and was later assigned administration of the ISIS proposal, was somehow encouraged or persuaded by her superiors or others outside NSF to violate all NSF policies at that time concerning the release of complete verbatim peer review evaluations outside the Foundation by putting aside her opposition to the proposal and allowing the grant applicant a chance to rebut the peer review evaluations.

Burkman responded to the peer reviews of his ISIS proposal in a letter to Dr. Lawrence O. Binder, Kohlerman's superior at the time in the NSF Education Directorate. Burkman's letter was dated July 19, 1972. In his 10-page response, Burkman rejected on various grounds all of the criticisms, and offered to make no changes in the proposal as submitted.

NSF brought Burkman and Clifford Swartz, a staff aide, to Washington on July 24 for a meeting with Binder and Kohlerman at NSF headquarters, where Burkman renewed his case for funding of the curriculum scheme, as submitted, with no changes. No changes or revisions were made in the curriculum development plan.

After Burkman had received a formal commitment from NSF officials that they would push for National Science Board approval of the ISIS project, slight alterations were made in the budget with modest reductions in personnel salaries and consultant fees, bringing the original 22-month $1.25 million budget for the 7-year project down to $1.13 million.

The National Science Board was ultimately presented data from an eight-page September 5, 1972, NSF staff summary recommending almost full funding for the ISIS curriculum project, as originally proposed by Burkman.

The eight-page NSF memorandum, reviewed by the GAO, contained three full pages of expurgated peer reviewer quotations containing none of the reviewer criticisms or concerns about the ISIS proposal.

The NSF staff memorandum contained no explanation that the peer reviewer criticisms and the initially strong reaction against the proposal by Kohlerman, the NSF program manager, were handled simply by having Dr. Ernest Burkman, the grant applicant, reject them out of hand.

THE MORRISON REVIEW

The NSF staff came before the National Science Board again 2 years later for a continuation grant for ISIS in the amount of $2.17 million, in July 1974.

The original 11 reviews submitted to the Foundation in 1972 were again represented to the Board, without any of their initial criticisms and concerns about the ISIS proposal, as being current reviews in 1974.

And there is no evidence that the NSF staff had conducted a thorough evaluation of ISIS development and materials produced during the 2-year feasibility stage to determine whether the ignored peer reviewer criticisms and concerns were valid, or whether continued funding was warranted.

The 1974 NSF staff recommendation for continued ISIS funding contained only one quote from a peer reviewer—Dr. Philip Morrison of Massachusetts Institute of Technology—this time falsely stating that the single quoted extract accurately represented the evaluations of all reviewers.

And as the GAO has determined was the case in the 1972 NSF staff recommendation memorandum, the quotation completely distorted and misrepresented the real meaning of thoughts actually conveyed by the reviewer in his evaluation.

The 1974 NSF staff summary prefaced the quoted peer review extract with an introductory sentence, followed by the quoted portion:

"Comment as appearing in recommendation memorandum—'Representative of the overall tone of the reviewers' comments is this excerpt from Dr. Morrison's review:

"'The general scheme proposed—the system foreseen—has natural and conspicuous appeal. The flexibility and freedom of use are clear advantages. . . . The personnel and advisors are excellent. . . . The idea is good. . . .'

"Comment within relevant review passage:

"'*The general scheme proposed—the system foreseen—has natural and conspicuous appeal. The flexibility and freedom of use are clear advantages*. So much is clear. But when I read the detailed descriptions—which seem

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**Representation of Peer Review Comments for the National Science Foundation's "Individualized Science Instructional System" Project,* to the Chairman, House Subcommittee on Science, Research, and Technology, Released Jan. 16, B-133183, Jan. 12, 1976.

to me very preliminary indeed for so grand a scheme—I grew much less enthusiastic. . . . It seems to me this whole grand scheme goes too far ahead. *The personnel and advisors are excellent*, but they have done very little work to date. I would grant enough to assemble a team able to produce a sample of mini-course topics and a few prototypes. Fifty topic headings, over a wide range of disciplines and levels, and two prototype courses would seem to me a minimum basis for the grant beyond Phase I. Nor would I approve the remaining phases without a strong sample of six months work at least on the Phase I issues. They determine all: *the idea is good*, but its execution determines its utility.' " [Italic added]

Again, it is most disturbing to me—and I am sure it is disturbing to the tens of thousands of honest, hard-working, conscientious scientists, and educators who write peer reviews for the National Science Foundation, without compensation—to know that peer review evaluations of grant proposals submitted to NSF could be so badly misrepresented and misused to suit the purposes of the NSF program staff.

Dr. Morrison's quoted extract, as presented to the National Science Board in 1974, in support of the $2.17 million ISIS continuation grant, was not even an accurate representation of what Dr. Morrison really said about the original ISIS proposal when he reviewed it 2 years earlier.

The purported Morrison quotation was certainly not "representative of the overall tone of all the reviewers' comments," as the 1974 NSF staff summary to the Board in support of continued ISIS funding falsely claimed that it was.

One wonders how often this same kind of deception and abuse of the NSF peer review system has occurred in other cases that we have not yet learned about—because of the cloak of secrecy thrown up by NSF officials around the Foundation's grants management system that makes it almost impenetrable by Members of Congress who want to investigate this kind of management irresponsibility and breach of trust.

NSF COVERUP

Mr. Speaker, I first learned of the ISIS curriculum shortly after March 17, 1975, when NSF Director H. Guyford Stever had promised Chairman Olin E. Teague and members of the House Committee on Science and Technology by letter that he was suspending all NSF support for curriculum development, promotion, and marketing because of concerns raised by myself and others on behalf of citizens who objected to many of the Foundation's school programs.

Another NSF curriculum project, "Man: A Course of Study," MACOS, was the principal focus of concern at that time. Stever promised the Congress that, regardless what action Congress took on disputed NSF curriculum activities, NSF would obligate no more funds for development or implementation of any curriculum program until a thorough review of all active programs had been conducted by the Foundation, and a report had been submitted to the National Science Board and to the Congress.

A week or so following that promise from Stever to Chairman Teague and our committee, I received complaints from Atlanta citizens that NSF was still spending taxpayer funds to train 90 additional teachers to further implement the MACOS curriculum in Atlanta public schools.

I investigated, and they were correct.

These citizens also complained that another objectionable NSF course called "Individualized Science Instructional System" (ISIS) was being pilot-tested with NSF funds in Atlanta, and that their children were guinea pigs for this course.

This was all made possible because the Foundation had obligated all its fiscal year 1975 funds for curriculum programs before Stever's March 17 letter was sent to Chairman Teague. Several universities had been funded contracts of 18 to 20 months so their curriculum activities could continue uninterrupted if Congress stopped NSF promotion and marketing activities.

After making some initial inquiries about the content and funding history of ISIS, I learned of the value-bias being injected into the teaching of the physical sciences through the ISIS program, and about some of the highly objectionable sex material contained in the curriculum.

Aroused citizens in Tallahassee, Fla., familiar with the course provided me additional information, including the fact that a "super sex" program called "Human Sexuality" was developed as part of the ISIS curriculum. Despite repeated requests, I have been unable to obtain copies of this material from NSF, even though it was developed with taxpayer dollars.

I was able to learn the names of peer reviewers of the original ISIS proposal, and the quotation attributed to Dr. Morris in the 1974 NSF staff recommendation to the National Science Board for continued funding of the multi-million-dollar project.

I checked with Dr. Morrison during the first week of May 1975, to see if the quoted paragraph from his review reflecting unqualified support for the ISIS proposal was accurate. He said it definitely was not, and agreed to send me a letter stating that he had no objection to my obtaining the entire review from NSF since he had not retained a copy.

NSF Director Stever refused my repeated requests for the Morrison review on grounds that peer reviews were solicited under "an implied promise of confidentiality," and could not be released in their verbatim form to anyone, including grant applicants, outside the Foundation.

Stever did not inform me, as I was later to learn, that the Morrison review along with other ISIS peer reviews had several years earlier been sent by NSF management to Dr. Ernest Burkman, the ISIS grant applicant, for his rebuttal.

Stever continued to refuse my requests for verbatim copies of the ISIS peer reviews so that I could compare the Morrison quote in the NSF staff summary with Morrison's and other reviews, since several other reviewers had told me by this time that the quotation badly misrepresented their evaluations also.

EVASIVE NSF REPORT

ISIS was one of five curriculum programs selected as a "case study" for indepth review by the NSF Science Curriculum Review Team headed by Dr. Robert Hughes.

Concerns expressed in our committee about NSF's use of taxpayer dollars to develop, promote, and market questionable curriculum products in competition with others from the private sector had prompted this NSF internal review, along with two other studies of the MACOS curriculum by the GAO and by a special Science Curriculum Implementation Review Group appointed by Chairman Teague.

I hoped that when the NSF curriculum report was submitted to the committee we would glean some forthright and honest assessment of what I then knew to be a serious misrepresentation of peer reviewer evaluations in the administration of ISIS.

I was again disappointed.

Even though these facts must have been discovered by the NSF review team, they were covered up and skillfully evaded in the NSF's comprehensive two-volume official Hughes report submitted to Congress in late May, 1975.

Last July, Chairman Symington's Subcommittee on Science, Research, and Technology held 2 weeks of hearings concerning the NSF's peer review system. I testified about my findings and concerns relating to misrepresentation and mishandling of peer reviews by Foundation officials, in both the research and education directorates. Included in my testimony was all that I then knew about misrepresentation of the ISIS peer reviews, with proposals for appropriate reforms to prevent such abuses from recurring.

Dr. Stever testified the following day, and opened with a statement of unequivocal support for NSF program officers and the way NSF's peer review system has been handled. He rejected all possibilities of wrongdoing on the part of the NSF staff.

Dr. Hughes stated that the ISIS proposal had been "seriously revised" following receipt of the peer review evaluations, and that this justified the way those reviews were handled and represented to the National Science Board by NSF management.

This statement by Hughes was false, since the ISIS proposal was not revised or rewritten in any way. Burkman had rejected all peer review criticisms and concerns out of hand with his response to NSF. Minor adjustments in the proposed ISIS budget, unrelated to the main areas of reviewer concerns and criticisms, were the only changes made in the entire ISIS package from the time it was first submitted to NSF.

Mr. Speaker, it was only when the overwhelming weight of evidence concerning NSF mismanagement and abuse of its own peer review system closed in around the Foundation, and Dr. Stever was under direct threat of court action over his refusal to cooperate with Congress, that the Director finally released to me the verbatim ISIS peer reviews so that I could examine the full extent of NSF's duplicity in this matter.

I have asked Dr. Stever to terminate all NSF support for the ISIS project, and to recover all unspent Federal funds in the pipeline for ISIS, since the National Science Board was led to approve funding for this questionable program in 1972 and 1974 on the basis of false and misleading documentation provided by NSF management.

The law specifically requires National Science Board approval for grants of this magnitude.

I have also requested Chairman Symington to fully investigate the apparent coverup by top NSF management in the ISIS matter, and to support proposed reform of NSF's peer review and grants management system contained in my bill (H.R. 9892) which will protect peer reviewers, grant applicants, and taxpayers from the outrageous negligence and management irresponsibility that Director Stever has condoned at NSF.

In view of Dr. Stever's repeated public statements denying any possibility of wrongdoing in this ISIS case, it is clear that investigation of a coverup must be conducted by a top-flight congressional or GAO investigative team.

Mr. Chairman, I would like to include the correspondence to Dr. Stever at this point in the Record:

House of Representatives,
Washington, D.C., January 26, 1976.

Dr. H. Guyford Stever,
Director, National Science Foundation,
Washington, D.C.

Dear Dr. Stever: As you know, the General Accounting Office report concerning administration of the "Individualized Science Instructional System" (ISIS) curriculum program, submitted to Chairman James W. Symington on January 12, verifies the mismanagement and abuse of the peer review system by your staff, as outlined in my testimony before the House Subcommittee on Science, Research, and Technology last July.

Particularly, the General Accounting Office report documents that the National Science Board was deliberately misled on two occasions when it approved funds for the ISIS project totalling $3.35 million. NSF staff summaries purporting to accurately reflect evaluations of 11 peer reviewers of the ISIS proposal misrepresented the peer reviewers by presenting to the Board only their positive comments about the proposal, and omitting at least 45 criticisms and concerns in key areas involving reasonableness of the proposed budget, diversity of personnel working on the project, treatment of curriculum material at the introductory level, and the transition problem students may face in further study or in work.

Had the National Science Board received a full accounting of these criticisms from peer reviewers, and the fact that most of them were ignored by the grant applicant and NSF staff in finalizing the ISIS proposal for presentation to the Board, it is doubtful indeed that funding would have been approved.

It is unbelievable to me that your National Science Foundation internal curriculum review team headed by Dr. Robert Hughes did not discover this misrepresentation of peer reviews on the ISIS project, and acknowledge such findings fully and forthrightly in its two-volume printed report last May to the House Science and Technology Committee.

It is also of great concern to me that neither of you nor Dr. Hughes acknowledged the great seriousness of this situation, as I had described it in testimony a day earlier, during your statements before Chairman Symington's Subcommittee on July 23, 1975. Instead, you attempted to cast aspersions on my findings now verified by the GAO. Moreover, Dr. Hughes made further false statements before the Subcommittee about the ISIS proposal having been "seriously revised" to accommodate peer reviewer criticisms and concerns before it was sent to the National Science Board for funding—which your staff knew was not the case.

Since you have now seen fit to release to me the verbatim ISIS peer reviews and other materials that I first requested long before the July peer review hearings, the magnitude of your NSF staff's misrepresentations and abuse of the peer review system is fully apparent.

Also apparent is a willful attempt at some level of National Science Foundation management to keep the full facts from the National Science Board, the peer reviewers involved, the scientific community, Members of Congress, and the general public.

I have asked Chairman Symington to fully investigate this latter development of apparent cover-up in the ISIS matter. Please secure all working papers and draft materials prepared by your ISIS "case study" team and others involved in the NSF internal curriculum review under Dr. Hughes, as well as all memoranda and other documentation concerning your NSF staff and management's work in the ISIS matter.

I hope you will instruct all those involved to fully cooperate so that we can get to the bottom of this entire matter.

Since it is now clear that the National Science Board was given false and misleading information by the NSF staff to approve its recommendation to fund the ISIS project in 1972 in the amount of $1.17 million, and again in 1974 in the amount of $2.17 million, you should stop all further funding for ISIS and de-obligate all unspent NSF funds for the project.

In view of the charges I made last July in connection with ISIS, and the evidence now made public by Chairman Symington verifying those charges, I urge you to implement the cancellation clause in the ISIS grant and recover whatever unspent Federal funds are still available.

This would clearly be in the best interests of the government and the general public, and it should be done immediately.

Sincerely,

John B. Conlan,
Member of Congress.

I should like to summarize for the Members that what we have remaining in the bill in this area of curriculum development is a grant to one particular corporation that has already admitted that it not only has the contract already for the marketing of these materials, but has already admitted that it will go ahead and market it without a Federal subsidy and does not need the Federal subsidy. I submit there is no reason for us to subsidize one single corporation to the tune of almost a million dollars to develop their marketing programs of these materials.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. CONLAN. I yield to the gentleman from Texas.

Mr. FUQUA. I thank the gentleman for yielding.

I would like to clarify what the gentleman means, because he sent out a "Dear Colleague" letter, and I assume he is referring to the Ginn Company.

Mr. CONLAN. Yes.

Mr. FUQUA. It is my understanding from conversations with them this morning that they reiterate they have been somewhat misquoted and that they could only market about one-third of the programs that are already almost in the mill, and they could not market programs if the funds were cut off. They could not continue printing. Furthermore, they were selected under competitive bids, so it is not some favoritism that they have received.

Mr. CONLAN. I thank the gentleman, but we have been told in committee that this is field testing of material. They may field test and refine their material for 1,000 students in their prototype testing situation, maybe even 2,000, but they have marketed them already to 10,000 students in the last year, and now want the funds to market them to over 20,000 more students.

What we are giving them is a total marketing subsidy, not a testing grant of any type.

The other grantee, of course, wants close to a half million dollars for their programs; yet this grantee is in arrears and has been in arrears for years and has refused to pay the arrearage of over $1,300,000 of royalties that are due to the U.S. Government under previous contracts. This is the firm in the district of the gentleman from Colorado (Mr. Wirth), that has already, from previous grants, had almost $25 million in sales.

The CHAIRMAN. The time of the gentleman has expired.

The time of the gentleman from Arizona has expired.

Mr. MOSHER. I yield the gentleman 3 additional minutes.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CONLAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, will the gentleman explain what he means by "being in arrears"?

Mr. CONLAN. Yes. The corporation in the district of the gentleman from Colorado (Mr. Wirth), and I appreciate his responsiveness to the needs of his constituents, has declined to pay what the NSF has asked of them and the Accounting Office audit has indicated it owed, almost $1.3 million in royalties due on the first and second editions.

Mr. WIRTH. If the gentleman will yield again, I think this is a good example of the misrepresentation of the contractual relationship in which BSCS is accused of misusing the funds which came through the BSCS, and I think we will unquestionably get into this at the time the gentleman's amendment is discussed.

I want, for the record, at this point to again suggest there has been a great deal of misleading discussion when we talk about "being in arrears" and in the previous correspondence about "misuse" of funds, and that those are not to my best understanding accurate representations of the situation.

Mr. CONLAN. If we happen to get into it with this, my amendment takes out of the controversy in this area the $1.4 million. The subcommittee estimated all the curriculum development in this area except for two projects, one of which was in the gentleman's district, and I can understand pushing by the Members for their districts, but I do not think the rest of us want to be on record as voting for this across the Nation. I move that the funds can be taken out of these controversial subsidies and can be used for some teacher training institutes that will redound to the improvement of classroom teachers who are out dealing with the students rather than with this controversial curriculum area.

Mr. MOSHER. Mr. Chairman, I yield myself such time as I may consume so that I may respond to the gentleman who was just now in the well.

I hope the gentleman from Arizona (Mr. Conlan) is aware that by action of the gentleman from New York (Mr. Wydler) and the gentleman from Ohio, in the committee markup sessions, we are instructing the National Science Foundation that the $350,000 involved in the human sciences program contract shall not be authorized until the legal matter that the gentleman from Arizona (Mr. Conlan) was just referring to will be resolved. I want that to be made a part of the record.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman from Ohio for yielding.

Mr. Chairman, I would also like for the purposes of the record to point out in reference to a statement made by the gentleman from Arizona (Mr. Conlan) about members of the subcommittee who have projects in their district. There was a clear implication raised by the gentleman from Arizona that we are embarked on some sort of pork barrel operation. I ought to quickly point out that the grants going through the National Science Foundation to the BSCS have been doing so for practically a decade. I have been in the Congress for a little more than a year at this point. I would appreciate it if the gentleman from Arizona would withdraw that from the record or clarify what his response was meant to mean.

Mr. CONLAN. Mr. Chairman, if the gentleman will yield, I can sympathize with the project in the gentleman's district, and I can understand Members supporting projects for their own areas for dam construction and so on.

I think we are in a totally different ball game when we are subsidizing pork barrel projects basically designed to break down the moral fiber of children. The gentleman has a different viewpoint on this than I do. While the construction of dams is one area of "pork," I think it is a totally different ball game to go after "pork" of this type because I do not think it is "pork"; I think it is poison.

Mr. MOSHER. Mr. Chairman, I have been a close observer of the National Science Foundation projects for some 16 years and I am not aware of any Members of Congress indulging in pork-barrel pressures on the National Science Foundation for the location of these science grants in their respective districts.

I think the NSF has been remarkably free of that type of influence and I certainly hope it continues to be.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. SYMINGTON).

Mr. SYMINGTON. Mr. Chairman, I oppose the suggestion by the gentleman from Arizona, who has made some valuable contributions not only to the debate in this area, but also to initiatives of the committee.

It seems to me, just in brief, that the Congress cannot sit in judgment itself on every case as to what is pork and what is poison. One man's pork can be another man's poison. What we try to do is create a free and questioning community in education that can explore ways to enhance the understanding of our young people, and do it in ways that in no manner turn out to be the imposition by the Federal Government or any other government on the minds of our young or on the teaching establishments that are created to improve or educate those minds.

Mr. Chairman, I think that the gentleman from Arizona has raised very pertinent questions about NSF support of precollege science education. I think a great many improvements have been made through initiatives taken by the committee, many of them at the instance of the gentleman from Arizona. If I can just review a couple of them for the Members, I think it will give them reassurance that we have not simply sat back and let things proceed. These are some steps the Foundation has taken:

First. An Action Review Board was established which will help insure that adequate documentation exists for all major decisions and that peer reviewers have been properly selected;

Second. Procedures for reviewing and monitoring publication arrangements have been improved;

Third. A new Office of Program Integration has been established which has assumed a major role in improving evaluation efforts aimed at bettering Foundation education programs and projects. This office has been designed so as to operate independently of the program staff who fund proposals and monitor projects; and

Fourth. Procedures are being established to facilitate the participation of parents, teachers, school administrators, and other lay persons in project evaluation activities.

We have taken a number of other steps which we can discuss at another time.

Mr. CARNEY. Mr. Chairman, will the gentleman handling the bill answer a few questions?

Mr. SYMINGTON. Mr. Chairman, I will be happy to satisfy the gentleman's curiosity.

Mr. CARNEY. Mr. Chairman, I understand this is an authorization act for the National Science Foundation. We have listed in the brief here, there is going to be a total of $731.6 million and it has listed studies on mathematical and physical sciences, biological, behavioral and social sciences, scientific and technological, which covers a multitude of problems.

Now, during the last year many of us have been besieged by letters from people who think that every Congressman must be a low-grade moron and that we do not know what we are doing. I have seen them on national live TV shows berating Congress.

Here are some of the things they talk about.

They say $475,000 was spent by the Pentagon to study the frisbee.

They say we spent $121,000 to find out why people say "ain't."

They say we spent $5,000 to tabulate the difference between native American and Indian whistling ducks; $20,000 to investigate the German cockroach; $15,000 to find out how fishing boat crewmen cause conflicts in Yugoslavian towns; $5,000 to the genius who wrote the poem "lighght" (that is not the title of the poem, it is the whole thing).

They said we spent $70,000 to study the smell of the perspiration given off by Australian Aborigines and $28,361 for an odor measuring machine for this project.

Many things like this go on national TV and make it look like Congress looks at all these and approves. That is what I want to know. Are we going to have a lot of these foolish things in this new study?

Mr. SYMINGTON. I will be happy to respond to the gentleman.

A great many grants which the gentleman has listed are not grants by the National Science Foundation and are not grants over which this committee has any jurisdiction. For example, the frisbee question should be addressed to the Armed Services Committee, which has rather more control over the Department of Defense.

I say to the gentleman that rather meticulous answers to each of the so-called crazy grant requests are contained in the GAO document entitled B-168463. I will see to it that the RECORD of today's debate contains their answer to each of the points which the gentleman has made. I want the gentleman to know that the committee is equally concerned about the waste of taxpayers' money on any of these matters.

I recall in last year's debate on this subject, the question of the aborigines' perspiration came up. I recall years ago asking the same question, and learning that it was initially an effort by the Defense Department to save lives in Vietnam of GI's who were becoming dehydrated before battle. I understand our health officials have learned some other interesting things as spin-off information from that particular study.

Nevertheless, if we do look, we tend to find answers. I promise the gentleman that these answers will be contained in the RECORD, but to save time I wonder if it is necessary to read them at this point.

Mr. CARNEY. No, it is not necessary to read them now. I want to get this into the RECORD because I got over 500 letters from my district with these handouts, and I watch TV on various nights where they make us look like a bunch of nuts trying to throw money down ratholes, such as an effort to see how people smell. I know there have to be answers for this, and I hope that they will appear in the RECORD.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I yield to the gentleman from Texas.

Mr. TEAGUE. The committee has the same regard that the gentleman from Ohio has. We submitted that list of 34 items, and only 2 of those items were National Science Foundation projects. The rest were projects instituted by Agriculture, HEW, Defense, and others. The gentleman from Missouri (Mr. SYMINGTON), the chairman of the subcommittee, and the gentleman from Ohio (Mr. MOSHER), the ranking minority member have done an excellent job on this bill.

The National Science Foundation is an agency with a long illustrious history over the last 25 years of being the Nation's principal supporter of basic scientific research primarily in our Nation's universities and colleges and also the primary source of support for the improvement of science education in this country. Further the National Science Foundation also cooperated with the Committee on Science and Technology fully in its investigative efforts into its grant awards.

Mr. CARNEY. I thank the gentleman very much. I think the people have a right to have answers to some of those questions.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, as the gentleman in the well well knows, I come from a newspaper background back in our same State. I think this list that he quite appropriately has brought before us today does represent an indictment of my own news profession. The fact that the news media, hundreds of editors throughout the country, picked up that list from a propaganda source and published it without questioning the facts behind it is, to me, that seems a supreme example of irresponsibility and demagoguery on the part of some lazy newspaper editors and lazy reporters.

I would judge that any editor worth his salt would at least investigate the validity of that list before he published it.

Mr. CARNEY. I know the gentleman is an esteemed member of the fourth estate. I want to tell him that this is just one example of what is going on in America where his fourth estate does not do a very accurate job. It is just one little example.

Mr. SYMINGTON. Mr. Chairman, as a further answer to the gentleman from Ohio, I include the following material in reference to our colloquy:

SUMMARY OF INFORMATION OBTAINED REGARDING RECENT NEWSPAPER ARTICLES ON SEEMINGLY WASTEFUL GOVERNMENT SPENDING—B-168463

(By Congressional Information Services Group, Financial and General Management Studies Division, U.S. General Accounting Office, July 1974)

INTRODUCTION

In March 1974, articles by James D. Davidson, executive director of the National Taxpayers Union, appeared in newspapers throughout the country, detailing a number of seemingly wasteful Government expenditures. As a result of nationwide publicity, numerous constituents contacted Members of Congress for comment and the General Accounting Office was asked to review the projects mentioned.

This summary report contains a selection of items discussed in the various articles, identifies the agency responsible for each project, and briefly describes the nature of the project. The information was obtained from published sources and telephone interviews. No audits were performed as a result of these requests; however, the GAO had previously issued audit reports on three of the items cited and copies of those reports (B-160813, Oct. 24, 1972; B-118754, April 3, 1973; and B-146916, Aug. 1, 1973) may be obtained from the General Accounting Office, Room 4522, 441 G Street, NW., Washington, D.C. 20548.

Based upon our research, we found that the projects mentioned were not line items in the budget, specifically authorized by the Congress, but were included in larger appropriations and authorizations of agencies and departments. For example, Congress does not review individual projects supported by the Smithsonian Institution's Special Foreign Currency Program. Instead, when the agency justifications hearings are held, an illustrative list of projects is presented and all of the material is made a part of the hearing record by the Subcommittee on Interior and Related Agencies, House Committee on Appropriations.

Research was sometimes complicated by the fact that some of the projects identified were funded as long as 10 years ago. In some instances the author was unable to cite his sources and we were unable to locate them within the Federal agencies.

The characterizations which appear in the titles that follow are those used by the author in his articles.

DEPARTMENT OF AGRICULTURE

The two research projects listed below were conducted by USDA several years ago using special foreign currencies. P.L. 480 provides for the use of U.S. owned foreign currencies which cannot be converted into dollars, but which may be used for scientific research beneficial to U.S. agriculture and the American consumer. (For a further explanation of the use of "excess" foreign currencies, see the Smithsonian Institution section.)

1. *"Odor Measuring Machine Purchased for the Turks, $28,361"*.

The project is properly titled, "Development of an odor measuring instrument for use in inspection and grading of foods." It was conducted over a three-year period at Robert College Research Center in Turkey and completed in 1965. According to the USDA, the project investigated the feasibility of using odor measuring electronic devices to help in determining the quality of fresh and stored food products as an aid in grading and inspection to insure safe and high quality foods. The project developed many standardized, instrumental measurements of odors associated with food products. The USDA official stated that the machine was developed far more for its use in the United States than for its possible use in Turkey and was not a case of "the odor measuring machine we purchased for the Turks." The total cost was $29,361. (Sources: Letter from USDA official, Agricultural Research Service staff, May 1, 1974, and telephone interview.)

2. *"Study of the Blood Groups of Polish Zlotnika Pigs, $20,000"*.

This five-year study was conducted at the Agricultural College in Poznan, Poland and completed in 1967. The total amount spent was $20,556. The research investigated red blood cells and serum antigens in this new racial group of swine. According to a USDA official, the purpose was to determine blood group relationships among major swine races of the world as an aid to swine breed improvement as well as for genetic studies of the nature of immunity of swine diseases. The results were applicable to swine breeding problems in the United States as well as in Poland. (Sources: Letter from USDA official, Agricultural Research Service staff, May 1, 1974, and telephone interview.)

3. *"Payment to Queen Elizabeth for Not Planting Cotton in Mississippi, $68,000"*.

1972 Agriculture Stabilization and Conservation Service (ASCS) and Great Plains program payments include a subsidy of $67,795 to Delta and Pine Land Company. Delta and Pine, according to a USDA official, is a wholly owned subsidiary of Courtauld's Ltd., a British company. The Royal Family is a major stockholder in Courtauld's. (Sources: Agricultural Stabilization and Conservation Services official, U.S. Department of Agriculture, telephone interview; *Congressional Record*, May 3, 1973, p. E2842.)

4. *"Subsidy Payments to Ford Motor Company and Libby McNeill, $14,000 and $19,000"*.

The Department of Agriculture does not have any record of Ford Motor Company receiving subsidy payments.

Libby McNeill was paid $611 for not planting cotton and $176 for not planting sugar in 1972. In 1973, the company received a $221 sugar subsidy and $585 for not planting cotton. Total subsidy payments over this two-year period amounted to $1,593. (Source: Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, telephone interview with CRS staff, Library of Congress.)

DEPARTMENT OF COMMERCE

National Bureau of Standards

5. *"Interdepartmental Screw Thread Committee, $250,000"*.

Both the purpose of the committee and its cost have been inaccurately reported. Fiscal year 1973 expenses, according to Arthur Strang, chairman of the committee, amounted to $3,600, not the alleged yearly cost of $250,000. The Screw Thread Committee is not funded through a general appropriation request; instead, the committee's operation is handled as a side-issue of the National Bureau of Standards.

The interagency committee was formed to coordinate the efforts of the major Federal agencies concerned with the design or procurement of screw thread fasteners. This committee is composed of officials from various agencies and the private sector who generally devote only a small part of their time to the activities of the committee. (Sources: Arthur Strang, National Bureau of Standards, Chairman, Interdepartmental Screw Thread committee, telephone interview, and letter from J. E. Skillington, Chief, Budget Division, National Bureau of Standards, to David Nathan, Director, Office of Budget and Program Analysis, Department of Commerce.)

DEPARTMENT OF DEFENSE

6. *"Alaskan Chateau, $100,000"*.

The Alaskan Chateau is a facility for the use of distinguished and high-ranking visitors including those on aircraft making fuel stops at Elmendorf Air Force Base, Anchorage, Alaska. As of May 1972, 22 military personnel were operating the Chateau and Health Club at an annual cost of $170,000.

As a result of the GAO inquiry into this matter, the Air Force decided on September 8, 1972, to reduce the authorization of appropriated manpower at the Chateau to six persons—a number considered to be consistent with the necessary operations of the Chateau. (Source: GAO Letter Report to Senator William Proxmire, October 25, 1972.)

7. *"Outfitting Jets, "$600,000"*.

A GAO report indicates that $670,000 was spent on refurnishing one C-135 aircraft. The specially designed jet contained a galley with a range, freezer, trash compactor, two divans, sink and cabinet, three bathrooms and carpeting. Payment for the renovations came from two sources: P-1000 aircraft modification funds and operation and maintenance allotment. P-1000 funds are justified before Congress as necessary to "correct unforeseen safety-of-flight modifications." Operation and maintenance funds normally go for routine servicing of the aircraft.

The GAO concluded its investigation by stating that "in view of fund shortages, the expenditures for this project were not the most prudent use of available funds." Consequently, regulations now require that all modifications to command support aircraft must be approved and authorized by Air Force Headquarters. (Source: GAO Letter Report to Senator William Proxmire, August 21, 1973.)

8. *"Air Force Missile Silo Cover, $1 million"*.

In the early 1960's when the first Minuteman I missiles were being deployed, a project was undertaken to develop a tent to protect missile alignment teams. These teams, operating outside the missile silos, aligned each missile guidance set using geodetic survey techniques and equipment such as the theodolite, which is a very precise surveying instrument. The alignment procedure was required frequently, at all hours of the day and throughout the year. Under ideal conditions, it was difficult to obtain the necessary alignment accuracy with the theodolite—it was extremely difficult with strong winds or cold winter weather. The intended purpose of the tent was to shelter the personnel while aligning the missile guidance set.

Before development of the tent was complete the missile alignment procedures were changed, significantly decreasing the necessity to utilize the theodolite in the exposed position outside the silo. Consequently, the project was stopped on March 19, 1964, at a total cost of $13,057. At the time the project was stopped there has been at least one occasion in which a prototype tent blew away during a test with 60 mph winds. The contractor for this project was the Autonetics Division of North American Aviation. (Source: Letter from Col. Thomas G. McConnell, Chief, Congressional Investigations Division, Office of Legislative Liaison, USAF to Senator William Brock, July 31, 1973.)

9. *"Pentagon Frisbee Study, $375,000".*

The objective of the self-suspended flare study was to develop an improved aircraft-launched flare for naval applications which would be safe, consumable, cheap, and reliable. The study, initially funded in FY 1968, determined the concept feasible but two major problems were encountered. The flare as developed had a burn time of less than one minute and launcher complexity required added development and additional aircraft maintenance. On the basis of the results obtained, it was decided that the actual project should not be initiated. Accordingly, in the fall of 1970, the entire program was terminated.

Two firms, Honeywell and Denver Research Institute, were awarded contracts of $79,977 and $108,092 respectively. "In-House" costs totalled $186,931. Total expenditures for the project came to $375,000. (Source: Letter from Commander, Naval Air Systems Command to the Chief of Legislative Affairs, Department of the Navy, November 19, 1973.)

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Economic Opportunity

10. *"Grant to the City of Los Angeles to Extend Travelers Aid to Migrants Lost on the Freeway, $203,979".*

A grant of $243,740 was awarded to the Economic and Youth Opportunities Agency of Greater Los Angeles (now the Greater Los Angeles Community Action Agency) to be applied during a two year period from 1965 to 1967. The Federal money was, in turn, given to the Travelers Aid Society in Los Angeles, a social service agency. The primary purpose of the grant was to aid the great influx of people moving to Los Angeles. Approximately $10,000 was allocated for the use of freeway vans—trucks traveling the freeway in search of stranded motorists and others who might need help. The vast majority of the OEO funds was spent on operating a main office of Travelers Aid and a smaller office known as the Newcomers Center in South Central Los Angeles.

In late 1967, Travelers Aid petitioned for and received an additional 60 days in which to close down the records and activities operating on the basis of the grant, to report out the results of the project, etc. No further funding to the Travelers Aid Society has been supplied since February 28, 1968. (Sources: City of Los Angeles official from their Washington, D.C. office and a spokesman for the Travelers Aid Society in Los Angeles, both telephone interviews.)

11. *"Condom Stamp Program, $23 Per Item".*

Population Services International was awarded an initial grant of $47,000 by OEO to discover innovative means of providing needed sex and contraceptive information to American youth. Funds were allocated to the development of educational materials for teenage males, to testing distribution methods for these materials, to teaching young men how to avoid unwanted pregnancy and venereal disease, and finally to offering the option to purchase subsidized supplies in a nonthreatening way. (Source: Letter from Philip D. Harvey, Director of PSI, to the Washington Post in response to an editorial by Nicholas von Hoffman entitled "An $18 Value, Yours With This Coupon . . ." (printed in the Post on July 11, 1973, p. C5) (letter response dated July 13, 1973).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

12. *"Board of Tea Tasters, $117,250".*

According to an official in the Budget Office of the Food and Drug Administration, DHEW, the Board meets twice a year—once to set standards on tea importation and a second time to review and decide on all appeals arising from disputes over regulatory actions. The total cost of the Board's activities is roughly $700 per year. The figure of $117,250, for Fiscal Year 1974, approximately the amount originally requested by the FDA, includes all of the costs of tea importation regulation. This includes, for example, chemists' salaries and expenses, necessary analysis costs and compliance costs. However, due to an amendment to the final appropriation bill, expenditures on tea importation cannot exceed revenue. This has restricted all tea regulation activities to approximately $57,500 which is equal to the total amount of earnings gained from fees charged. (Source: FDA Budget Office official, telephone interview.)

13. *"Study to Figure Out Why Children Fall Off Tricycles, $19,300".*

About four years ago, the Bureau of Product Safety in the FDA conducted a study of children's hazards. This study included the hazard of children operating wheeled vehicles. The study's objective was to determine what safety standards were needed for "off-the-road" vehicles. Approximately ⅔ of the study concentrated on the stability of minibikes and trail bikes and ⅓ of the study dealt with three-wheeled vehicles, including tricycles. Aspects of this study included the need for chain guards, safety helmets, etc., as current (at the time) regulations covered only vehicles operated on public roads. According to a FDA official, the cost was about $20,000. (Source: Discussion with product safety personnel.)

National Institutes of Health

14. *"Investigating the German Cockroach, $20,000".*

Since the cockroach is one of the most resistant insects of normal methods of control, it represents a useful experimental tool for the development or testing of new methods for the reduction of insects. An NIH official identified two terminated projects utilizing the German cockroach for this purpose. The projects were funded for several years, beginning in 1965, at a cost of $20,000 per year. (Source: NIH official, telephone interview.)

15. *"Research on the Smell of Perspiration from Australian Aborigines, $70,000".*

This is one of 16 subprojects concerned with "zoophysiology in Alaska." The purpose of the subproject was to learn about the adaptation of man to his environment and involved a comparison of the Alaskan Eskimo with the Australian Aborigine and their stress reactions to climate. The investigation did not involve a study of the "smell" of perspiration, but it dealt, in part, with the balance of body fluids. The project has not been funded since 1971. It can be identified as NIH Research Grant #5TO-ES00031.

The Department of the Army lists a similar project, by the same researcher, which studied "water and electrolyte economy of desert aboriginal and New Guinea Melanesians." The grant was DADA 17–72–6–9352, terminated in 1972. The purpose of this research was to provide information on the mechanisms of heat adaptation which could be applied to the protection of the health of the US soldier to prevent heat injury and to improve military performance by US servicemen serving in hot climates, both within the United States and overseas. (Sources: DOD and NIH documents and telephone interview with DOD officials.)

National Institute of Mental Health

16. *"Study to Teach Mothers to Play with Their Children, $159,000".*

This study was first funded in 1968 with a $149,000 grant to Dr. Ira Gordon at the University of Florida's Institute of Development of Human Resources. The overall title of the study is, "Home Learning Center Approach to Early Stimulation." NIMH describes the purpose of the project as follows, "This project will study the effectiveness and practicability of a home center technique to provide cognitive language and personality development stimulation for the child and to increase the competence of the mothers through a program of parent education conducted by non-professional visits to the home and small group learning centers." This project is still active with total direct and indirect costs amounting to $576,969. (Source: Grants officer, National Institute of Mental Health, telephone interview.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

17. *"Low Cost Housing for Low Income Residents In Washington, D.C., $76,000 Each".*

In January 1969, the Redevelopment Land Agency (RLA) received a HUD grant of $29.7 million to carry out urban renewal activities during the first action year of the Neighborhood Development Program in the Shaw School and downtown urban renewal areas. RLA acquired the sites for $1,497,660. This amounts to about $27,700 for each of the 54 townhouses to be constructed on the sites. The GAO examined 35 other commercial property acquisitions to determine whether the amounts paid by RLA for the sites were representative of the amounts paid for other urban renewal properties, but could not arrive at a realistic comparison.

RLA subsequently sold the sites to a nonprofit developer, D.C. Frontiers, Inc., for $56,700 or at a cost per unit of approximately $1,050. The large difference between the price paid and the prices received resulted because RLA had acquired the land while it was zoned as commercial property, whereas, in compliance with the HUD-approved general land-use plan for the Shaw area, the land was rezoned as residential property before it was sold to the developer. (Sources: National Capital Housing Authority officials, telephone interview and "Prices Paid for Property Acquired in Urban Renewal Programs in the District of Columbia," report of the Comptroller General, April 3, 1973, B–118754.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

18. *"Development and Environmental Testing of a Zero-Gravity Toilet, $310,000".*

Funding amounts for the development of the zero-gravity toilet for the space program did not appear in the general appropriations hearings of NASA, but where, according to one NASA official, "buried in the program requests."

The information as it originally appeared in *Playboy* (April 1973) and subsequently publicized by James Davidson states that $80,000 was expended for the design of a zero-gravity bathroom for the space shuttle and an additional $230,000 for "environmental testing." The figures are confusing in that NASA actually devised and funded two types of systems. The first is a lab model. It was followed by an engineering prototype. Hamilton Standard was awarded a $73,000 contract to design and fabricate a lab model of a zero-gravity toilet. An additional $13,000 was spent testing one piece in zero-gravity airplane flights. This project was terminated in November 1972, whereupon NASA and Hamilton embarked on the second phase of the operation. In December 1972, Hamilton received an allocation of $225,000 to design, fabricate, and ground test a complete system. Ground tests were completed in February 1974. Air testing followed and cost an additional $40,000.

Total costs to date are approximately $351,000. At the time the *Playboy* article was released, $86,000 had been expended for the lab model and $225,000 for the engineering prototype.

Additional information can be found in an August 16, 1972, NASA news release entitled, "Bathroom-Commode Design for Space Shuttle Passengers," release no. 72–163. (Source:

NASA official, Life-Sciences Division, telephone interview.)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

19. *"Payment to the Author of the Poem, 'Lighthouse', $5,000"*.

According to a Foundation official, Aram Saroyan (son of William Saroyan) authored the poem "Lighght." The poem, only seven letters long, is considered a literary illustration of refracted light. It was published in 1967. He was awarded $500 when it was selected for the American Literary Anthology. The Anthology project was given Federal assistance for a period of three years in the hope that the editors (George Plimpton and Peter Ardery) could secure private funding once Federal funding expired. They failed to do so and the project was discontinued in 1970. The payment to Aram Saroyan was made sometime in 1969 (FY 1970). (Source: National Foundation official, Arts Division, telephone interview.)

20. *"History of Comic Books, $71,000."*

No information was readily available on a "history of comic books." However, Foundation officials were aware of a study conducted into the history of comic strips.

A grant of $8,700 was awarded by the Foundation to the University of California at Santa Barbara for Professor David Kunzle to study the history of 19th Century European comic strips. The study, entitled "The History of the Comic Strip, Volume II: the 19th Century," focused on the social and political style of the comic strips which was much more prevalent then than now. (Source: Foundation official, Art and Social History Division, telephone interview.)

21. *"Dictionary of Witchcraft, A Few Grand."*

In response to a general inquiry on a "Dictionary of Witchcraft," an Endowment official reported that a grant had been awarded to the University of California at Los Angeles to support the gathering of information for the reference book: "American Popular Beliefs and Superstitions," a standard work for use in the fields of linguistics, mythology, and folklore. The sum of $24,134 was awarded on February 15, 1974. The project had been supported in previous years, according to the spokesman, by a grant of $21,995.

It should be noted that this information was provided in response to a general inquiry based on the Davidson article only. It may well be that the above findings refer to something entirely different from that cited by Mr. Davidson. (Source: National Endowment Public Information Office official, telephone interview.)

NATIONAL SCIENCE FOUNDATION

Two studies referenced in the article, the Central American toad and the population biology of Indo-Australian ants, were funded in 1963 and 1964 and came under the overall heading in the foundation's justifications of "scientific research project support." An official of NSF pointed out that all titles of the foundation's research projects are listed in their annual report, in a separate volume on grants and contracts awarded. Also, almost daily, a listing of awards is sent to every Member of Congress, as they are made.

According to the Foundation, "research project proposals are considered primarily on the basis of scientific merit. Scientific merit is assessed according to the promise of significant scientific results, the possible scientific impact, the probable opening of a new field, the educational by-products, and potential application."

22. *"Study of the Mating Calls of Central Toads, $20,324"*.

The "Investigation of Mating Calls and Paratoid Gland Secretions of the Central American Toad" was conducted under a grant for $21,200 awarded in 1963 for 2 years. The study, in addition to adding to scientific knowledge of evolutionary relationships, provided data on the chemical properties of toad venoms in connection with heart stimulation studies in humans. (Source: National Science Foundation official, telephone interview.)

23. *"Study of the Population Biology of Indo-Australian Ants, $70,000"*.

This research project was conducted by E. O. Wilson of the Agassiz Museum of Comparative Zoology at Harvard University, beginning in 1964. The study lasted 36 months with costs of approximately $70,000. On Wilson's field work, he and Robert H. MacArthur of Princeton founded a new principle called equilibrium theory that has turned out to be—in the words of Cornell entomologist William L. Brown—"the central idea of modern ecology." Wilson is now chairman of the Department of Zoology at Harvard.

SMITHSONIAN INSTITUTION

The Smithsonian projects listed below are all part of the Special Foreign Currency Program, a brief description of which follows.

Under provisions of Public Law 480, the United States Government sells surplus agricultural commodities and other materials to foreign nations and foreign currencies are accepted in payment. The local currencies received are used for economic development loans to the purchasing nations and for "U.S. users" with accounts established in the purchasing nation's central bank. Agencies may then purchase foreign currencies from these accounts for programs supported by dollar appropriations. The Treasury publishes a list of so-called excess currency countries whose currencies are then made available to Washington agencies receiving a Special Foreign Currency Program appropriation. This is not considered equivalent to a dollar appropriation since no dollars, only "excess" foreign currencies are available to agencies receiving it.

U.S. expenditures include construction and operation of embassies and information centers, the Fulbright exchanges, loans to American businesses, and collaborative research and education programs. The Smithsonian's use of these funds stems from the State Deparment's request in 1966 that the Institution take over the Department's program of foreign currency grants to U.S. archeological institutions. Subsequently, the national grants program was extended to other areas of Smithsonian competence.

Congress does not review individual projects under the Special Foreign Currency Program but rather an illustrative list of projects is presented at the time of the Agency's justification hearings. All of this material is made a part of the record of the appropriations hearings by the Subcommittee on Interior and Related Agencies, House Committee on Appropriations.

24. *"Study of Lizards in Yugoslavia, $15,000."*

Estimated Federal expenditures for fiscal year 1974 are $15,000. This study aims to show how a more vigorous and adaptable species of lizards can gradually colonize and displace a less hardy species. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Program) List of Projects, submitted as a supplement to the fiscal year 1974 budget, February 1973, p. 54.)

25. *"Collection of Rare Moss in Burma, $5,000."*

The Missouri Botanical Garden and Rangoon University propose to collect the mosses of Burma to fill an important gap in the collections in St. Louis which are the best for systematic studies of the moss flora of the world. To date, this project has *not* been funded. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Program) List of Projects, submitted as a supplement to the fiscal year 1974 budget, February 1973, p. 32.)

26. *"Chasing Wild Boars in Pakistan, $35,000."*

The wild boar causes crop damage in Pakistan alone estimated at $35,000,000 annually. Its control has been of concern to the Pakistani government, as it is to the other countries stretching from India to Europe. In Muslim countries, the boar is considered, like the pig, an unclean animal and its numbers are not, therefore, controlled through regular cropping. The study provides basic biological information, and information on the behavior and feeding habits of the boar upon which a program of control can be based. Estimated Federal funding for fiscal year 1974 is $35,000. (Source: Smithsonian Institution (Special Foreign Currency Program) List of Projects, Excerpts, submitted as supplements to the fiscal year 1974 and 1975 budgets, p. 1.)

27. *"Study of Polish Bisexual Frogs, $6,000"*.

Fiscal year 1974 estimated expenditures are $6,000. A study of the "bisexual behavior" of frogs is an inaccurate characterization of this project. More properly, this study attempts to properly classify *Rara esculenta*, which is either a hybrid or a separate species of frog, by enzyme and protein analysis. In addition, the project will provide the opportunity for Polish and American scientists to share the latest techniques in species identification. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Program) List of Projects, submitted as a supplement to the fiscal year 1974 budget, February 1973, p. 54.)

28. *"Study of the Impact of Rural Road Construction in Yugoslavia, $85,000."*

To date, this project has *not* been funded. The basic question posed is: What happens when a road is built into a village or rural area previously isolated from the outside world. What happens to the people, their culture, their families, patterns of trade, immigration and emigration, etc.? (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Programs) List of Projects, submitted as a supplement to the fiscal year 1974 budget. February 1973, p. 29.)

29. *"Study of the Impact of Rural Road Construction in Poland, $85,000"*.

According to Mr. Davidson, "$85,000 was consumed learning about the 'cultural, economic and social impact on rural road construction in Poland.'" A representative of the Smithsonian Institution states that such a program has never been funded in Poland under the Institution's sponsorship. (Source: Telephone conversation with official of the Office of International and Environmental Programs, Smithsonian Institution.)

30. *"Study of Intertidal Hermit Crabs in Yugoslavia, $5,000"*.

One of the insights of modern biology has been that species often compete for the same food and dwelling space. The species which excels at this sort of competition is likely to displace the species which is less efficient in this respect; this is one of the principal mechanisms of evolution. The study aims to document a particular instance of this competition between species in nature, in this case, two species of hermit crabs in Yugoslav waters. The study has not only theoretical implications for a better understanding of organic evolution, but will document the biology and distribution of the crabs being studied. This project has *not* yet been funded, according to a Smithsonian official. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Programs) List of Projects, submitted as a supplement to the fiscal year 1974 budget, February 1973, p. 32, and Smithsonian Institution (Special Foreign Currency Program) List of Projects, Excerpts, submitted as supplements to the fiscal year 1974 and 1975 budgets, p. 1.)

31. *"Study of the Differences Between Native American and Indian Whistling Ducks, $5,000".*

Estimated Federal expenditures for fiscal year 1974 are $5,000. In the face of habitat changes caused by human encroachment some species of wildlife are able to adapt successfully while others have become extinct. Studies conducted by Texas Tech on the life cycle of whistling ducks in this country, as compared to anatomically nearly identical ducks in India, suggest that the Indian ducks have developed the ability to adapt to a more varied environment. Discovery of the reasons why a nearly identical bird species has different abilities to adapt may suggest ways in which an endangered species can be introduced, and preserved, in a different environment. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Program) List of Projects, submitted as a supplement to the fiscal year 1974 budget, February 1973, p. 46.)

32. *"Study of the Biological Rhythms of Catfish in India, $25,000".*

Experimental work was planned on daily and annual rhythms in the life of catfish with the purpose of learning whether or not catfish could multiply more rapidly and thus produce more high protein food for India. Material supplied to the House Appropriations Committee by the Smithsonian Institution states that this project will *not* be funded. (Source: Smithsonian Institution Museum Programs, Scientific and Cultural Research (Special Foreign Currency Program) List of Projects, Excerpts, submitted as a supplement to the fiscal years 1974 and 1975 budgets, p. 4.)

DEPARTMENT OF STATE

33. *"Limousine for Brezhnev".*

According to a State Department official, Soviet leader, Leonid Brezhnev has received three automobiles from the United States, the latest one being a Chevrolet Monte Carlo, marking President Nixon's most recent trip to the Soviet Union. On previous occasions, Brezhnev was given a Cadillac and a Lincoln Continental. All three cars were donated by the U.S. manufacturers at no cost to the American taxpayer. (Sources: State Department official, telephone interview; Washington Post, July 7, 1974, p. H10.)

U.S. HOUSE OF REPRESENTATIVES

34. *"Furnishings for House Speaker Carl Albert's Office, $161,650".*

The expenditures listed in the article are not for the Speaker's Office, but for the Speaker's lobby which consists of reception areas in the Capitol building for use by all Members of Congress.

On September 20, 1972, in hearings of the House Committee on Appropriations, Subcommittee on Legislative Branch Appropriations, the Chairman, Representative Casey, asked if the furnishings for the Speaker's lobby were in the fiscal year 1972 appropriations, under the appropriation for furniture and furnishings for the House side of the Capitol. He was told that the subcommittee is provided a general breakdown as to the proposed use of the lump sum. The only reference to the refurbishing of the Speaker's lobby is contained in a portion of the 1972 justification material under an item called, "Purchase Of Drapery Material, Cleaning." The line item in the appropriations bill is termed, "Furniture and Equipment" with no further breakdown.

(Source: *Supplemental Appropriation Bill, 1973,* Hearings before Subcommittees of the Committee on Appropriations, House of Representatives, 92nd Congress, Second Session, September 20, 1972.)

SOURCE UNIDENTIFIED

35. *"Purchase of a Luxury Yacht for Yugoslavia's Marshal Tito, $2 Million".*

James Davidson, author of the article, was unable to identify the source of this information, believing to have read it in a newspaper some time ago.

The State Department has no knowledge of such an expenditure. Further, they doubted if State, because of its limited budget, would ever allow such a large sum to be spent. The Agency for International Development (AID) has a "commodity code" system for Federal expenditures involving foreign countries. One official checked back as far as 1967 and found nothing listed under the "vessels and related equipment" category for Yugoslavia. An examination of Technical Assistant and Capital Assistance grants dating back as far as 1953 found no indication of any monies being spent on a yacht.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. Hechler).

Mr. HECHLER of West Virginia. Mr. Chairman, I would like to bring a positive note into this debate. I am very proud to have served on the White House staff of President Harry Truman at the time the National Science Foundation was established in 1950 under Dr. Vannevar Bush. The NSF has contributed immeasurably to the scientific, educational, and resource strength of this Nation down through the years.

The program for Astronomical, Atmospheric, Earth and Ocean Sciences comprises the largest element of the National Science Foundation's budget for fiscal year 1977. The recent reorganization of the National Science Foundation, which for this directorate was completed last September, brought together within scientific disciplines elements that were previously divided between two directorates. It consolidated what we often refer to as "big" and "little" science projects, which facilitates the overview and assessment of specific scientific disciplines by the Foundation as well as the congressional committees. By "little" science, I refer to the conventional grants of the Foundation in the $25,000 to $50,000 range; in "big" science, I include such activities as the five National Research Centers, the U.S. Antarctic research program, and the deep sea drilling project. Committee staff has visited several of these large projects during the past couple of months.

Let me now turn to some of the specifics: in the astronomical sciences, which have become one of the most exciting new frontiers in science, the Foundation supports four major research centers, in addition to individual scientific projects. During the hearings, we have also learned that the Foundation has agreed to assume responsibility for the Sacramento Peak Observatory from the U.S. Air Force to prevent this outstanding solar observatory from being closed. The bill under consideration today provides for expansion of research on our solar system, stars and stellar systems and motions, and galactic and extragalactic astronomy, as well as the development and operation of astronomy facilities and instrumentation. Progress on the construction of the very large array in New Mexico has been excellent, and first observations have been made using 2 of the planned 27 antennas of the giant radio telescope.

In the atmospheric sciences program, the committee has focused particular attention on climate research and studies of fluorocarbon contamination of the stratosphere. Research on climate is a particularly good example of how several NSF programs complement each other; deep sea cores from the ocean sediment coring program and ice cores from the polar regions provide data on past climates, oceanographic research and large-scale international meteorological programs provide the current data needed to model future changes, and the National Center for Atmospheric Research will soon have the computing capacity required for modeling the Earth's atmosphere with all its variables.

Besides the ocean sediment coring program, to which several nations besides the United States contribute funds, the earth sciences program supports a variety of studies on the nature, origin, history, and behavior of the geological formations comprising the earth's surface. An area of emphasis will be earthquake research, to support the national effort in earthquake prediction and hazard reduction. All of my colleagues are, I am sure, familiar with the outstanding success of the ocean sediment coring program, now in its fourth phase aboard the *Glomar Challenger*.

The ocean sciences program of the NSF funds the major share of the basic oceanographic research in the United States. This program, which includes the large international decade of ocean exploration program and operational support for 30 academic research vessels, provides the basic understanding of oceanic processes required by the mission agencies to accomplish their roles in national defense, environmental prediction, fisheries, location of energy and mineral resources, waste disposal, and environmental prediction.

The U.S. Antarctic research program shows a substantial increase in operational costs as a result of NSF having been assigned total funding responsibility for the program. Since these additional costs to NSF are budget base transfers from other agencies—the Departments of Defense and Transportation—this action does not result in an increase overall in the Federal budget. It is important to note that the Antarctic program involves more than research, important as it is; it involves also a significant element of "national" presence in Antarctica. The committee agrees, therefore, with the administration that the Antarctic program should not compete for funds with other elements of NSF.

Finally, an Arctic program devoted to support of research on the environment, resources, and socioeconomic matters related to resource recovery off Alaska is included in the NSF. This research is coordinated with other agencies through the Interagency Arctic Research Coordinating Committee, which is chaired by the Foundation.

I am pleased to bring these positive aspects of the National Science Foundation to the attention of the committee, and to commend the chairman of the full Committee on Science and Technology, Mr. Teague of Texas, the chairman of the subcommittee, Mr. Symington of Missouri, as well as the Director of the

National Science Foundation—Dr. H. Guyford Stever.

Mr. TEAGUE. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I rise in support of H.R. 12566.

The research on atmospheric sciences that the NSF supports provides a base of knowledge in many important topics with which we are all familiar. This research is carried out both by university researches and by scientists at the National Center for Atmospheric Research in Boulder. Colo.

For example, in the lower atmosphere researchers are studying the behavior of severe storm systems that produce needed precipitation but, at the same time, pose major hazards to life and property because of lightning, hail, and tornadoes. This basic work, which includes theory and field observations, complements the more applied efforts of the RANN program to develop weather modification techniques to minimize hail or to increase rain.

The high, upper atmosphere is a very different region which in many respects acts as a buffer between the hostile environment of space and the lower atmosphere which is more obviously related to man's activities. For instance, the ozone layer at high altitude is our protective shield against the potentially damaging ultraviolet radiation; similarly, the upper atmosphere intercepts and is continuously bombarded by energetic particles from the galaxy and, more importantly, from the sun. Research in this area of our atmosphere is directed toward its own unique physics and chemistry and the interaction between the sun and the terrestrial atmosphere; that is, solar/terrestrial relations. The most important initiative in this area in recent years is the cooperative, large experiments being performed under the international magnetospheric study. This is an interagency program aimed at studying the geomagnetic field and its interaction with the sun and the upper atmosphere.

The stratosphere has recently been the area of much attention. Scientists supported by NSF together with others from the National Center for Atmospheric Research, have played important roles in assessing the magnitude of stratospheric problems involving ozone depletion.

The problem of ozone depletion resulting from the presence of some of fluorocarbons became a matter of public concern following the publication of an article in Science in June of 1974. Briefly, the idea is that these gases, though chemically inert in the lower atmosphere, can over long periods of time—many years—work their way upward into the high atmosphere. At these very high altitudes, 10 to 20 miles, the gases are exposed to intense sunlight and other energy. This exposure causes the gases to break into their chemical components; this releases free chlorine atoms. The chlorine then interacts with the ozone that is present in the high atmosphere in a way that leads to the destruction of the ozone. This reaction is catalytic; that is, for example the chlorine participates in the chemistry but is not itself permanently altered so that one chlorine atom can destroy hundreds, perhaps even thousands, of ozone molecules.

Ozone in the high atmosphere acts as a screen or shield for the lower atmosphere by filtering out most of a band of ultraviolet light, called UVB, that is harmful to life. If the ozone is depleted in the upper atmosphere, then more of the damaging UVB will reach the Earth's surface. The UVB is believed to be responsible for skin cancer in humans; there is also considerable theory that indicates that an increase in UVB at the surface would also cause damage to plants and animals and might have a severe adverse impact on the weather and climate as well.

As previously noted, the NSF supports a significant program of basic research in the atmosphere. A portion of that basic program has direct application to the fluorocarbon-ozone problem.

The NSF effort, paralleling the work of the other agencies involved in this issue, is divided into three sections: field measurements, laboratory experiments, and theoretical studies.

Several aspects of the NSF basic research are closely allied with the specific problem of the effects of halocarbons on atmospheric ozone. These include the application of certain techniques, actually developed for interplanetary and galactic studies, to the measurement of altitude profiles of minor components of the Earth's atmosphere. Ballon measurements in the stratosphere of various trace gases, including fluorocarbons and tropospheric measurements of gases and aerosols, also are included.

The NSF research on this issue is dovetailed with a large national program. The Departments of Commerce, Defense, and Transportation, plus the Environmental Protection Agency, the Energy Research and Development Administration, and the National Aeronautics and Space Administration, are the other participants. The total Federal program will amount to nearly $22 million in fiscal year 1976. Budget plans for fiscal year 1977 call for an increase for that year.

The NSF is a member of the Interdepartmental Committee for Atmospheric Sciences—ICAS—and the FCST–CEQ Joint Task Force on Inadvertent Modification of the Stratosphere—IMOS. Through these two committees the research on the fluorocarbon issue is being closely coordinated. The NSF is also represented on a subcommittee chaired by the Department of State that is working on the international aspects of the fluorocarbon problem. In all, the NSF research is thoroughly coordinated and its efforts are well integrated into the major national undertaking to resolve the questions about ozone depletion in a timely manner.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Ohio (Mr. MOSHER).

Mr. MOSHER. I thank the gentleman for yielding.

Mr. Chairman, I believe I heard the gentleman earlier in his remarks say that this bill not only includes the material mentioned in the colloquy between the gentleman from Missouri (Mr. SYMINGTON) and the gentleman from Ohio (Mr. CARNEY).

Certainly the gentleman meant to say not only does this bill not include that material, emphasis on the word not.

The gentleman from Missouri (Mr. SYMINGTON) made it very clear that most of the research projects that the gentleman from Ohio (Mr. CARNEY) talked about are not included in the National Science Foundation jurisdiction.

Mr. WIRTH. The gentleman is absolutely correct.

Mr. MOSHER. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman and members of the committee: I am taking this time to pose several questions to the managers of the bill.

We are talking about $811 million in authorization here. I wonder how much of this is involved in indirect costs to the grantees?

This goes on out at the National Institutes of Health, among others, and I was rather perturbed to find that overhead or indirect costs to NIH grantees in more recent years have risen from something of an acceptable level of roughly 15 percent to 26 percent last year and 35 percent this year.

Has the committee gone into this subject at all in the deliberations, and, if so, what has the committee found?

Mr. SYMINGTON. If the gentleman will yield, I understand that these costs, the variables the gentleman referred to, do exist, and they do exist in varying amounts. The estimated total in this year's budget would be somewhat between 23 and 29 percent. This would be salaries and wages, mainly.

Mr. MICHEL. And would these grantees predominantly be educational institutions?

Mr. SYMINGTON. If the gentleman will yield, yes, I believe so.

Mr. MICHEL. And is what we are doing here, in effect, then subsidizing institutions, in the main, of higher learning, to the extent to which the gentleman said indirect costs are involved here, 23 to 29 percent? That is really a subsidy to these institutions of higher learning; is it not?

If it is going for salaries or for administration, it cannot really be considered as anything other than that; can it?

Mr. SYMINGTON. Well, the overhead costs of these institutions are allowed as part of the contract, and I suspect any form of assistance to an educational institution to carry out the research that it is competent to provide will go for that purpose. I suspect that some of that will naturally go into the bodies and the minds of the people doing the work. Yes, that is so.

Mr. MICHEL. Are some of these grantees private entrepreneurs from private industry?

Mr. SYMINGTON. I believe in the RANN program some of them are.

Mr. MICHEL. If so, would there be a difference in overhead costs involved here?

In other words, Mr. Chairman, what I am really driving at here and what I am inquiring about is as to whether or not we have set a national standard to which everyone is hewing? Or is it different for the National Science Foundation than it is for the National Institutes of Health or for the National Institute of Education?

Mr. SYMINGTON. Mr. Chairman, if the gentleman will yield further, I do not believe there is a national standard or a national policy. I think each situation is met with respect to how best the grantee can respond to the needs of the scientific community and the needs of the country for programs in science.

Mr. MICHEL. Mr. Chairman, may I ask the gentleman if his committee is exercising any oversight to make sure they do not just run wild in this regard?

We have $800 million here, and when we move to NIH, we are talking about $2 billion. The more money there is available, the more difficult it is for Members of this body to ride herd on the individual grants and grantees, and then we get caught in the kind of situation to which the gentleman from Ohio who preceded me in the well alluded.

What I want to make absolutely certain is whether, in the case of the National Science Foundation and these educational institutions and these medical research institutions, the pressure is on for them to hew to a rigid standard here and not open the floodgates. We have millions of dollars to play around with, and I think these questions need to be answered.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I applaud the gentleman's concern. I believe it is a concern all of us must have. It is a concern that our committee particularly must have, and I am glad to have the gentleman charge our committee with that oversight responsibility.

However, let me suggest that, when the gentleman says that these moneys subsidize certain educational institutions, I think it would be more accurate to say that these moneys subsidize certain functions, very valid and relevant functions, of educational institutions. These are exactly those functions which the President of the United States in his message to us on Tuesday emphasized are so very necessary.

Mr. MICHEL. I thank the gentleman for his comment.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. MOSHER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, back when Mr. Albert Thomas was chairman of the Subcommittee on Independent Offices, the Committee on Appropriations made a very thorough study of the questions the gentleman has asked, and they started out with making it a mandatory figure, one that they did not go above.

Mr. MICHEL. Yes. At one time we had 15 percent.

Mr. TEAGUE. Yes. There was a big argument on the 15 percent.

However, I think it is different with various groups, whether it is a private group, a government group, or whether it is from private industry.

Mr. MICHEL. Mr. Chairman, from my personal point of view, I would rather refrain from setting a mandatory figure as we have in the past. I would like to have the institutions subscribe voluntarily to something that I would consider reasonable.

However, when we get beyond 25 percent and 26 percent, then I must start raising these questions again because this really does raise a serious problem.

Mr. TEAGUE. Mr. Chairman, I agree completely with the gentleman.

Mr. MICHEL. Mr. Chairman, I wonder if one of the members of the committee could tell me, for example, how much of the basic research funds included in this bill will go to health-related research? Is it possible to have that broken down?

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I think the answer is that practically no funds in the National Science Foundation go directly to health-related matters, except that any research in the biological field is, of course, potentially of immense value.

Mr. MICHEL. I would have no real criticism if there were, other than to ask, then, the following question: Is there coordination between the National Science Foundation and the National Institutes of Health so that we are not duplicating, as between the two sources, the same kind of research?

Mr. MOSHER. If the gentleman will yield further, I think it is imperative that there be such coordination. I think there is such coordination, but it certainly can be improved when this Congress gets out of the conference committee the Presidential advisory bill because that is exactly what the function of that would be.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman for yielding.

The gentleman has actually given a very good example of where we believe there is close coordination in the health field between NSF and NIH in basic research.

Mr. MICHEL. I thank the gentleman.

Mr. MOSHER. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, it always creates a certain amount of discomfort on the part of any executive agency to have its internal workings and activities exposed to the full light of day. I think that the National Science Foundation, as was indicated in the remarks made earlier today, is one agency that has perhaps caused more consternation amongst taxpayers and consequently amongst Congressmen than most. This is simply because, as the gentleman from Ohio (Mr. CARNEY) pointed out, of the controversial nature of many individual grants which NSF has made in recent years and which lend themselves easily, as the gentleman from Ohio (Mr. MOSHER) has indicated, on occasion, to distortion by those in the journalistic field.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I think it needs to be repeated that only two of the grants that the gentleman from Ohio (Mr. CARNEY) mentioned were actually sizable grants. The others were largely from the Department of Defense and the Department of Agriculture.

Mr. BAUMAN. Mr. Chairman, I do not dispute that we went over the same list last year, but I would point out to the gentleman from Ohio (Mr. MOSHER) that the grants currently being made by the National Science Foundation are no less controversial.

For instance, last year, since our debate, they granted moneys to study the social life of prairie dogs, the evolution of song learning of finches, a more recent one that gained national headlines only in the last few weeks, a study by Dr. Robert Barron of Purdue University on the effect of scantily clad women on the behavior of male automobile drivers. The grant for that was $46,000.

Mr. Chairman, I do think that the NSF, in continuing to make these grants, presents problems for taxpayers, who are confronted with paying roughly 40 percent, on an average, of their income in taxes to Government.

Mr. Chairman, this particular authorization before us provides for almost an 11-percent increase over the funding for this Agency last year.

My good friend, the gentleman from Missouri (Mr. SYMINGTON), has assured us that his committee, in the course of oversight hearings, has brought about changes in the agency that will stop this kind of thing. I disagree.

One aspect of this entire NSF affair that has bothered me particularly is the Agency's unwillingness to give information to individual Members of Congress who, shall we say, have a more heightened concern about these individual grants that the National Science Foundation makes.

Mr. Chairman, I cite the case of my colleague, the gentleman from Arizona (Mr. CONLAN), who eventually had to threaten a lawsuit against the Agency to obtain information regarding certain of the programs about which he was concerned. I think it is a travesty that a Member of Congress should have to resort to the courts to obtain from an executive agency over which we have theoretical control information that he should have a right to automatically.

Mr. Chairman, last year I offered an amendment to this legislation which passed in the House and subsequently was demolished in rather grand style in the other body.

It became the topic of a great deal of comment in the scientific community and also in the letters that Congressmen have received.

I think it is fair to say that in retrospect it was judged not to be one that was feasible from the viewpoint of prior review of grants made by the National Science Foundation before they become final.

So, Mr. Chairman, this year I intend to offer a new section to the bill which will only reaffirm what I understood to be our constitutional right, and that is to allow any Member of the Congress to seek from this Agency full information concerning their activities, programs, grants, and contracts.

At the present time title 42, section 1882 of the United States Code has a provision which has been in the law for several years that says that either the House Committee on Science and Astronautics or the other body's Committee on Labor and Public Welfare, the jurisdictional committees, shall be fully and currently informed by the National Science Foundation. One would think that this law provides a means for us to secure information, but the National Science Foundation has used this as a block to submitting information to individual Members, saying that they only owe an obligation to give information to those two committees.

Last summer Dr. H. Guyford Stever, the Director of the National Science Foundation, testified before the subcommittee headed by the gentleman from Missouri (Mr. Symington), and said that he would not give to any individual Member of Congress information concerning these grants, unless ordered to do so by the full committee. I now understand that that gentleman has backed down and has been somewhat more cooperative to the suggestion that these committees get the information they desire. But that is not enough.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOSHER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. Chairman, my amendment would simply add to the right of the two committees to receive this information the right of all Members of Congress to receive the same information. It would provide that upon a written request from a Member of Congress the Director of the National Science Foundation within 15 days would have to provide the information requested.

And I have amended this, because concern was expressed earlier today by members of the committee, to say that nothing in this amendment will be deemed to affect the Privacy Act as it applies to the National Science Foundation. So this will protect copyrights, trade secrets, accounts or any personal information of a nature that should not be disclosed. The amendment would allow us to go behind the reasons why an agency of the Federal Government thinks that $46,000 should be spent to study why scantily clad women disrupt the behavior of male automobile drivers. I think I could answer that question without spending a nickel. With this amendment I could explain why, for instance, Dr. Donald Duesberry from the University of Florida has received almost a quarter of a million dollars over the last 9 years to study the copulation habits of rodents. When I asked why it took so long to find out the secrets of that process, the National Science Foundation told me that this was the kind of project which demonstrated that the offspring of animals were much happier if born and raised in a conducive atmosphere. Any Maryland farmer could have answered that free of charge.

In view of the fact that Members of the Congress are being battered over the head by their taxpaying constituents who want to know these answers, I believe Members of the Congress have an obligation to try to answer them. My amendment would at least provide us with the chance to obtain the information to get the answers that are needed.

The CHAIRMAN. The time of the gentleman has again expired.

The Chair will state that the gentleman from Ohio (Mr. Mosher) has 3 minutes remaining and the gentleman from Texas (Mr. Teague) has 13 minutes remaining.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. Hall).

Mr. HALL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 12566. The National Science Foundation supports research over a wide range of scientific disciplines. Often we are anxious to invest our R. & D. funds in "quick payoff" items that may solve a problem of today or maybe tomorrow. Unfortunately, fundamental research usually is not a "quick payoff" investment, yet we must support fundamental research for its value as an investment in the future.

I come from an area where farming is important. One of the serious problems facing us today is the possibility of a worldwide food shortage. With an ever increasing population in this world, the chances are high and growing higher that such a shortage will occur. A drought or other natural disaster will accelerate that possibility.

In a recent report to President Ford, the National Academy of Sciences-National Research Council called for a 3.5-percent increase in food production in developing countries over the next 20 years to avoid the threat of a global famine. The report also called for large-scale research efforts by both the United States and foreign countries because increased acreage probably will not account for more than a 1-percent increase in food production.

We must increase our productivity in other ways. One way is to stimulate agriculturally related biological research to improve our understanding of genetic variability, photosynthesis and nitrogen fixation. Understanding and describing the basic processes of physiology, pathology, and metabolism of plants is important in eventually increasing productivity. NSF now is supporting such work through programs in the Directorate for Biological, Behavorial and Social Sciences and the Directorate for Research Applications.

Another method of increasing productivity is by understanding weather and climate better so we can work with nature rather than against her. NSF had the foresight to establish a climate dynamics program in 1974, now in the Directorate for Astronomical, Atmospheric, Earth, and Ocean Sciences. The objective of that program is to develop a basis for predicting climate variation and for assessing some of the impact of climate variation on human affairs. We have arrived at a situation today where even the natural variability of the climate can and does cause upheavals in the production of food. The case of last year's Russian wheat crop is an outstanding example. The specter of a change in climate adds a serious threat to our ability to produce food in increasing quantities. Yet, an increasingly larger portion of the world's population is going to look to the United States to provide vital food supplies. This process can go on only so long before the point will be reached where not enough food can be produced under the circumstances.

Before that point is reached, studies must be undertaken to assess the impact of climate fluctuations on agriculture. Of paramount importance is the question of which of the many climate variables are most significant for agriculture in light of how well these variables can be defined observationally and how likely it is that they can be predicted with the needed accuracy. If the variables could be predicted a few months in advance for a particular crop, what strategies should be developed in response to a forecast for a poor growing season? NSF programs are developing an understanding of the basic principles that govern the climate system so that questions such as these can be addressed in the climate dynamics program at NSF.

Mr. Chairman, the Foundation is playing a major role in supporting basic research related to agriculture. This is only one example of an area where the underlying, necessary fundamental research is being provided by investigators supported by the National Science Foundation. I encourage the support by the entire House for H.R. 12566. Supporting the agency that will help give us the knowledge we need to solve tomorrow's problems is one way we can insure against future disasters.

Mr. TEAGUE. Mr. Chairman, I have no further requests for time at this moment, and I reserve the balance of my time.

Mr. MOSHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. Smith).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in full support of the amendment proposed by the gentleman from Maryland (Mr. Bauman). The gentleman said that this had caused the taxpayers of the country some problems. Let me just say that it will cause the Members of Congress some problems when the folks at home read about these absurd projects and they will be wanting to know we do not put a stop to this sort of thing.

As we have heard during the course of this debate, the National Science Foundation has encouraged some rather questionable studies in the past.

The purpose of the gentleman's amendment is merely to require the National Science Foundation to permit the Congress to be informed about its activities. As I understand it, only one reviewing committee at the National Science Foundation is privy to what the Foundation intends to emphasize in its various grant programs.

We, the Congress, have a responsibility to our constituents to review all Federal spending—especially by those agencies which have been accused of frivolous regard for the public moneys entrusted to it.

More to the point, if we do not act to restore adequate oversight we will have even more serious financial problems. We already have $80 billion deficits to try to explain to our constituents. A vote for the Bauman amendment will prevent our having still further explanations to make.

Mr. MOSHER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, I am not going to discuss the horror stories about the various questionable projects on which we have research. My concern rests in the area of the university professors, the university teachers, who are competing for these funds in order that they can attract Federal dollars into their personal coffers, thus neglecting their basic educational responsibilities.

What they do is they compete for these funds, and then they turn their teaching responsibilities to their classes in the universities over to some graduate assistant or associate professor or underling, and I think the educational process itself suffers as these men compete for Federal funds for research projects of all types.

Mr. MOSHER. Mr. Chairman, I yield myself such time as I have remaining.

Mr. Chairman, the point that the gentleman from Ohio (Mr. DEVINE) has just made is important. It must be given consideration always in our committee. And that we will.

In regard to the ridiculous sounding research examples that the gentlewoman for Nebraska (Mrs. SMITH) and the gentleman from Maryland (Mr. BAUMAN) alluded to, there nearly always are valid reasons for these bits of research, I can assure of that.

For instance, the scantily clad women item mentioned is only one tiny part of a really responsible, much larger research assignment at Purdue University having to do with the sources of human aggression.

The bit about the sex habits of rats promises to give extremely important physiological and nervous system information that can be transferred to be helpful in the treatment of human beings, and it also possibly will provide the basis for the eradication of this scourge of rats which has beset human beings now for centuries.

Mr. Chairman, I yield back the remainder of my time.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I rise in support of H.R. 12566.

When people write about "crazy grant" titles, I am reminded of the story of the elephant and the six blind men, each of whom came up with a different notion of what an elephant was, depending on which part of the beast he explored with his sense of touch. Now, we all know the story. It is used to illustrate lots of different ways in which people jump to conclusions on the basis of just too little information. But I think to some extent that is the kind of danger we encounter when we try to laugh some of these scientific projects supported by the National Science Foundation out of court, on the basis of a funny title or a brief and complicated description. We can touch that elephant called science with only one of our senses—and not use our sense at all—and call it a rope, or a tree, or a hose, or a wall, or a waste of the taxpayers' money. Or we can look behind those funny titles and complicated descriptions. And I am willing to bet that virtually every time we do, we will find that behind investment in the advance of scientific knowledge, no matter how strange the inquiry might appear at first glance, there is a problem important to every one of us and our constituents that makes that new knowledge worth pursuing.

Let me give you some examples.

I can just guess how some of my colleagues might have reacted not too many years ago when a young biologist named Joshua Lederberg proposed some studies of the sexual recombination of bacteria. Now I did not know bacteria had sex. And at the time, I might not have cared very much. But I am glad Dr. Lederberg did. That work really had to do not with the private lives of germs, at which we might snicker, but with the orderly exchange of genetic information among the simple forms of life from which we have to learn about those things. And it went on to become part of the bedrock on which our growing understanding of genetics is based. I do not know about my colleagues, but I would hate now to have seen that young man turned off because somebody saw something funny about the sex life of bacteria. He got the Nobel Prize for that piece of work, and we got ways to treat inherited diseases like sickle cell anemia. And then he went on to work out the ways in which viruses carry genetic information from one bacterium to another. Let me come back to that one in a minute.

I am not saying that every piece of research in the legislation before us is going to lead to a Nobel Prize. Nor will every one cure cancer or solve our energy problems. But these are serious men and women, these scientists. And they are not coming to the American people asking to be supported in their hobbies. They are offering their life work as their half of a partnership with the American people. And that is a partnership, that the Congress established when it set up the National Science Foundation in 1950 to help us apply to our peacetime problems the same kind of brainpower that helped us win World War II.

The history books are full of examples of what I am talking about.

Nobody could have anticipated, for instance, that we would now be on the verge of increasing the world's food production when Melvin Calvin tried to figure out what happens after a plant picks up the energy of sunlight with the marvelous photosynthesis factory it has in its green leaves. But Calvin got the Nobel Prize for helping to unravel the plants' carbon reduction cycle and led us toward the knowledge that some plants turn carbon into carbohydrates better than others because of their biochemistry. And that knowledge, plus what geneticists can now do on the basis of Lederberg's virus research, is bringing us the ability to "teach" our less efficient crop plants—like corn—the carbon-converting tricks their more efficient cousins—like sugar cane—have in their genes.

And how about Dennis Gabor? When he invented holography, it looked to most of us like a curious toy—a way we could take pictures of the Lincoln Memorial and project them in three dimensions. We might not have considered it worthy of public support. But the people who gave him the Nobel Prize for that invention knew it was no toy. And so do the doctors, for whom Gabor has married holography to ultrasound in order to get three dimensional images of human organs—soft tissues that X-rays cannot handle. And so do tunnel builders, for whom a similar technique—now out of the laboratory and undergoing field tests—promises three dimensional images of rock conditions as much as 50 feet ahead of their drilling machinery.

And how about Charles Townes? He won the Nobel Prize for "molecular stimulation by electromagnetic waves in a resonator with positive feedback." If we would snickered at that one, we would have been wrong again. Because that led to the maser and the laser. Talk to anyone who has had his retina stitched back in place with laser surgery about fuzzy-headed scientists and the value of basic research. Or what about John Bardeen? He and Leon Cooper and Robert Schrieffer were honored for their contributions to the basic theory of superconductivity—the ability of materials to conduct electricity with no resistance at all. We have not finished applying that one yet. But it is going to be one of the big answers to our energy transmission and storage problems. How might we have reacted 20 years ago when the research was done to processes that seem to work only at temperatures down around absolute zero? If we were like the blind men with the elephant, we might have given it a pretty chilly reception.

It is not funny, Mr. Chairman. We are deliberating here one of the more important pieces of legislation we are required to consider—legislation that speaks as much as any does to the future health of our Nation and of the world. It is right that we consider it carefully and not write anybody a blank check. But let us use all of our senses—and our sense—in determining an appropriate level of support for scientific research. The subject is too important for anything less.

Mr. PATTEN. Mr. Chairman, I would like to briefly remark on one aspect of this legislation that I believe is unfortunate. We all know of the controversy surrounding the MACOS project. Most of us agree that it is questionable as to whether the Government should subsidize education programs of that sort.

However, because of the furor over MACOS, a fine program is not being authorized for fiscal year 1977. The instructional improvement implementation program is a modest method by which science and mathematics teachers in elementary and secondary schools can be kept up to date in developments in both their fields and in the instruction of their areas.

Rutgers University is only one example of how an institution of higher education can help maintain and improve quality education and educators in the State's secondary schools. It is my hope that upon completion of a review currently being made on precollege curriculum development and implementation by the NSF, implementation funds will be reauthorized and appropriated to permit instructional improvement implementation programs in the States to continue to produce quality educators.

For a description of how an instructional improvement implementation works, I submit the following profile on the mathematics program at Rutgers University:

THE RUTGERS PROGRAM

Since 1953 Rutgers has held summer institutes to train and, in many cases, retrain secondary school mathematics teachers. This Rutgers University program was refocused a few years ago when these summer institutes, along with other programs, became a part of the Instructional Improvement Implementation section of NSF. Over 1000 teachers have been through the Secondary School Mathematics Curriculum Improvement Study (SSMCIS) program at Rutgers (a program designed over a ten-year period by a group of distinguished math educators). Thus, this program, the only one of its type in existence in New Jersey has provided a vehicle for exposing teachers to SSMCIS materials and other subjects, such as number theory, linear algebra, geometry, etc. Upon completion of the Rutgers program these teachers then provide further training to their colleagues through inservice training seminars within their own school districts.

The Rutgers program is a response to the requests from school systems which wish to implement new math curricula and need teachers who are familiar enough with those curricula to provide the sort of professional instruction that students need and deserve. The SSMCIS program, then, is a cooperative venture involving Rutgers and the local school districts. This program, and others like it, are essential to the school systems of New Jersey if teachers are to be kept abreast of the constant advances in mathematics and the new approaches to instruction.

Mr. LLOYD of California. Mr. Chairman, I rise in support of H.R. 12566.

Public concern for energy, food, climate change, and protection of the environment all require greatly enhanced understanding of the systems of the Earth's environment—air, sea, and ice—and the way in which they interact.

The NSF is the main source of support for research on each of these natural systems. This year, for example, NSF will fund nearly 47 percent of the total Federal support for basic research in the ocean sciences. And for the academic institutions where most of this research is performed, NSF provides over 50 percent of the support, including support for the ships and facilities needed to carry out this work.

The sea is part of our geography, our economy, and, indeed, of our whole way of life. We need few reminders about the importance of marine research. But achieving a better understanding of the processes at work in the oceans is not just a local or regional concern, but one that is national and international in scope. Ocean processes help shape weather and climate across continents, provide a source of high-quality protein for agricultural and human consumption, and serve as a repository for the growing amounts of waste generated by our industrial society.

Let me provide two recent examples of advances in understanding the relations between the oceans and atmosphere that promise over the long-term to help improve our management of the ocean's living resources and to improve the scientific basis for long-term weather and climate prediction.

In early March of 1975, field measurements taken off the coasts of Central and South America by U.S. oceanographers confirmed predictions anticipating the onset of El Niño conditions in the eastern tropical Pacific. When these conditions occur, cold waters rich in nutrients flow northward past the South American Continent and move farther offshore than usual. This results in severe disruption of fish and bird populations, particularly the anchovy. Anchovies, when ground into fish meal, are an important source of poultry feed for American farmers. In 1972 El Niño conditions devastated the anchovy fishery and cut the world fish meal market to less than half the 1968–70 level. As a result, the world's protein supply fell by 6 to 9 percent. Only through continued research on ocean currents, marine ecology, and the linkages between the sea and the air, will we gain the knowledge necessary to anticipate events like El Niño and take steps to temper their worst effects.

On a much longer time scale, the oceans hold the key to past climates locked in the fossil record of the ocean sediments. Using sediment cores collected as part of the highly successful deep sea drilling project, plus many other cores collected through years of oceanographic research, scientists have reconstructed the surface features of the ice age Earth of 18,000 years ago. Needless to say, it was a world far different than we know today. For example, thick ice sheets stretched as far south as New York. Sea surface waters were cooler by an average of 2.3° C. Sea level was lower by nearly 300 feet. And the Gulf Stream was located far to the south of its present path, running almost west to east, in sharp contrast to the more northerly course that it follows now.

But the real value of this research is not simply to describe what the Earth was like thousands of years ago. More fundamentally, careful detail reconstructions of past global conditions are required to sharpen the accuracy of highly complex and sophisticated computer models of the atmosphere. These models are the keys to developing our capabilities in long-range environmental prediction. Already scientists have used data on sea surface temperatures, ice sheet topography, and surface reflectivity from the world of 18,000 years ago to simulate climate conditions for that time. The simulated changes in surface air temperatures agree reasonably well with the estimates available from the analysis of fossil pollen and glacial data, and are consistent with simulated changes of other climate features.

As these projects illustrate, the problems undertaken by oceanographers are often large and complicated. They require long, patient study, and often demand complicated logistical and engineering preparation. Constant attention must be paid to maintaining and developing the capability to continue the work over the longer term. An important aspect of this capability is support for the operation, maintenance, and development of the ships and other facilities required to carry out oceanographic research. NSF accounts for substantially more than half the total operating support for the 30 ships of the "academic fleet." In addition, the Foundation provides funds for the improvement and upgrading necessary to keep these ships equipped and ready for service. In the past few years, a number of Federal programs have called upon ships of the academic fleet to participate in urgent baseline studies and surveys related to development of the Outer Continental Shelf. Had it not been for the support provided by the Foundation over the years, it is not likely that the fleet would have been capable of performing this service.

Mr. WINN. Mr. Chairman, I rise in support of H.R. 12566, the National Science Foundation authorization bill for fiscal year 1977.

H.R. 12566 authorizes the NSF to undertake programs totaling $811 million in fiscal year 1977. This amount is $1 million less than requested by the President. While the $1 million reduction is small, it does represent a step in the right direction in coping with our ever spiraling Federal budget. On Monday the President sent us a special message urging that we enact his research and technology budget. The President appreciates the importance of research and technology as the indispensable starting point for sustained progress. The No. 1 Federal agency supporting basic research is the NSF and the President recognized it as such in his message. We can set an example of cooperation between the branches of Government by passing the NSF bill during the same week as we received the President's message.

The NSF's basic research programs touch every major area of scientific knowledge. While it is easy to appreciate the utility of applied research, basic research is more elusive for the average layman to grasp. Despite its elusiveness, the importance of basic research can hardly be overstated. For example, research on heat transfer, gas flow, and combustion dynamics combined to give us today's rockets and jet engines. Research on seemingly obscure viruses and bacteria has given us new vaccines and immunization techniques with which to combat sickness and disease. Sometimes uninformed persons question the need for a continued, strong basic research effort. To such persons I politely draw attention to the time in the late 1890's when someone proposed closing the patent office because they believed that all the important inventions had already been discovered. We will never stop making new breakthroughs and inventions as long as we continue our commitment to research.

In addition to basic research, the NSF also carries on an applied research program concentrated on topics of special concern. One area of particular interest is the weather modification work within RANN—research applied to national needs. Every year violent weather phenomena causes millions of dollars of property damage and claims hundreds of lives. RANN is investigating ways to reduce weather hazards and weather modification technology. This program has developed a core of knowledge about atmospheric physics and convective cloud dynamics.

The NSF is the lead agency in a collective Federal effort to determine the potential for suppressing hail damage by cloud seeding. Advances have been made in the understanding of hail formation and in the circulation of hailstorms. In contrast to the effort to dispell adverse weather the NSF also is working on ways of weather modification to support agriculture. Key points here are drought alleviation, precipitation management and radiation control to moderate temperature fluctuations in order to lengthen the productive growing seasons and reduce heat stress on crops.

Another important NSF objective is integrating many diverse technologies to cope with new or different problems. For example, pollution control, environmental management and resource optimization often require the proper combination of several technologies rather than the advancement of any one particular scientific discipline. The real world is one continuous entity. For the sake of convenience we divide it into small pieces for study and investigation. This can lead to the classic dilemma of how to best fit together our many individual achievements to cope with a specific problem. RANN seeks to accelerate the normal integration process of technologies so that we can enjoy their ultimate benefits more rapidly.

Closely related to technology integration is the technology transfer area. The Federal Government has sponsored the development of sophisticated technology which offers great potential for solving problems at the everyday level. For example, space technology is being adapted to develop remote control systems for handling dangerous material; to develop medical aids for persons with impaired mobility; and to develop improved respirators and fire-restardant clothing for firefighters. These are situations where existing technologies are being reshaped to fulfill pressing needs. Considering the level of funding which originally was expended to develop the technologies, the funds required to facilitate their use on different problems are much less. In fact, it would be a tragedy not to make that small extra effort to insure that we derive the fullest benefit from our past scientific investments.

One area in which the NSF's direct role has decreased is the energy area. In previous years the NSF RANN program carried on extensive solar and geothermal energy development. Most of these activities have been transferred to the Energy Research and Development Administration—ERDA. The transfer to ERDA helps concentrate our Nation's energy program in one agency. This is desirable from the point of view of efficiency and coordination. The success of ERDA's solar and geothermal programs is a tribute to the outstanding foundation which was laid by the NSF. ERDA has picked up and built upon much of the NSF work. While the bulk of applied energy R. & D. is now within ERDA, I expect that the NSF will continue to contribute to advances in energy technology by maintaining a strong program in the basic sciences related to energy technology. The same situation is true of other agencies which possess unique capabilities applicable to the energy area such as NASA.

Mr. Chairman, the NSF's support of basic research represents the high watermark in the Federal research program. Today's NSF research programs will provide us with the answers to problems we face everyday. Above all, they will insure us a better tomorrow. They will insure that our Nation's next 50 years will be as successful as our first 200 years. I urge my colleagues to join me in voting affirmatively on H.R. 12566.

Mr. BELL. Mr. Chairman, because there is a provision in H.R. 12566 which discusses coordination between NSF/RANN and ERDA regarding the transfer of NSF-supported projects, I wish to insert an analysis of NSF/ERDA energy coordination activities prepared by program managers at the National Science Foundation:

NSF/ERDA Energy Coordination Activities

GENERAL

In FY 1976 legislation Congress required RANN to coordinate all projects with ERDA. We have attempted to keep ERDA program managers aware of proposal made to the Energy and Resources Division and coordinate our actions with ERDA. In many cases the coordination extends to joint review of NSF projects underway. The FY 1977 RANN Energy budget was described to OMB in September 1975. In November it was decided that all energy activities would be phased out of RANN except Energy Systems and that shifts of responsibility would be made to ERDA. This information was transmitted to Dr. John Teem, Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems, on December 9, 1975.

It is our intention to insure maximum coordination to preclude any projects from being overlooked. Attached is a summary of individual program activities that describe the coordination and a chronology of events illustrating the coordination and transfer of activities during FY 1976.

BIOPHOTOLYSIS/BIOCONVERSION COORDINATION
(DR. OSKAR ZABORSKY)

An *ad hoc* interagency meeting was held on May 16, 1975, for the purpose of coordinating bioconversion research between ERDA and NSF. During the intervening time, coordination has continued through informal contacts and meetings, as well as through an extensive proposal review especially with Dr. Roscoe Ward of ERDA. The entire biophotolysis program was reviewed with Dr. Ward to ensure that all present performers would be covered for renewals, and that no new grantees would be eliminated because of programmatic element refining.

This coordination is not only continuing but expanding. The ERDA laboratories (especially, Lawrence Livermore, Lawrence Berkeley, Argonne, Holifield and Brookhaven) are being informed of our activity in this area through the review process, and discussions at meetings.

SOLAR THERMAL CONVERSION/OCEAN THERMAL CONVERSION (DR. HAROLD SPUHLER)

Interactions with ERDA personnel and involvement with NSF/ERDA coordination activities have been frequent since the establishment of ERDA in January 1975. During the first months of ERDA existence, the solar energy staff were housed on the 11th floor at 1800 G. Street, N.W., making daily interactions a part of normal routine. Primary involvement during this period concerned the Solar Thermal and Ocean Thermal Conversion Programs and the coordination of NSF/ERDA program activities in these areas. Dr. Spuhler was assigned responsibility as the NSF Solar Energy Coordinator, however, and in this capacity interacted frequently with Dr. Lloyd Herwig, the Scientific Advisor to the ERDA Division Director, Solar Energy. In addition, Dr. Spuhler has been a member of the ERDA Solar Thermal Conversion Advisory Committee since its inception, and has participated in program reviews, contractor presentations, and discussions of program planning and development.

SOLAR HEATING AND COOLING OF BUILDINGS
(MR. MARCEL HARPER)

As an alternate representative to the Interagency Panel on Terrestrial Applications of Solar Energy, he attended most of the monthly meetings of the group. As the NSF representative on the Program Opportunity Announcment evaluation panel for the Project Branch of the Division of Solar Energy of ERDA, he has spent about 15 full working days exclusively on that panel since late Fall.

When Dr. Fred Morse took over the Solar Heating and Cooling Branch of ERDA, each project in the NSF/ERDA program was discussed and coordination continues on a regular basis. Mr. Harper spent two days with Dr. Morse for the exclusive purpose of helping him plan the ERDA program. He further spent three days helping Dr. Steven Sargent of that branch evaluate collector proposals.

Present NSF grantees have been notified to approach ERDA for follow-on funding. In addition, all prospective new proposers in solar heating and cooling have been sent to the proper person in ERDA. Mr. Harper has personally seen to it that all grantees who come to NSF for renewals are seriously considered by ERDA for follow-on funding.

Similarly, the coordination of the NSF solar insolation work with Mr. James Benson and his successor, Mr. Frederick Koomanoff, of the Environmental and Resources Branch of ERDA was accomplished.

WIND ENERGY CONVERSION

A large and very successful workshop/symposium held last June was sponsored by NSF, but involved planning by NSF, ERDA, and the contractor. The program summary issued by ERDA to all grantees and contractors by *both* agencies. The mailing list with over 30,000 entries is still used by both agencies.

Several project reviews have been held with participation by both agencies. Joint site visits have also been planned. In the area of energy storage, evaluation panels have involved NSF, ERDA's Division of Solar Energy, ERDA's Division of Conservation, and ERDA Laboratories.

Active NSF grantees and contractors have been referred to ERDA for renewals of their projects. In addition, potential new grantees or contractors in wind energy have been referred to the proper person at ERDA. Finally, we have been asked by ERDA to help review proposals in an evaluation panel and have agreed to do so.

PHOTOVOLTAICS (DR. TAPAN MUKHERJEE)

The Photovoltaic Program at NSF/RANN is managed in close coordination with ERDA counterparts.

On July 22, 1975, Dr. L. Magid, Program Manager, ERDA, made the following statement at the First ERDA Semi-Annual Solar Photovoltaic Conversion Program Review Meeting: "NSF is expected, however, to continue to play a significant role in the National Photovoltaic Conversion Program, primarily in the areas of basic research and applied technology, in what I trust will be close coordinated efforts with ERDA within the overall interests of the National Program." The NSF program planning philosophy is to investigate high risk and potentially high pay-off concepts. Research will be continued to the demonstration stage through FY 1976 and then projects will be transferred to ERDA. This arrangement is particularly suitable in the advanced research and technology area. ERDA program managers have been contacted frequently to discuss the program. NSF/RANN and ERDA program review meetings were held jointly in 1975 and 1976. The progress of programs reported by the grantees of both agencies were published together.

Dr. Mukherjee is a member of the ERDA Advisory Panel on Photovoltaic Conversion Program. NSF/RANN grantees are required to submit their devices to be tested under a ERDA program of Test and Evaluation at NASA/Lewis.

GEOTHERMAL RESEARCH (MR. RITCHIE CORYELL)

Coordination with ERDA in the Geothermal Research Program was a natural continuation of coordination with the AEC through the Interagency Panel for Geothermal Energy Research (IPGER). NSF's Geothermal Program Manager, Mr. Ritchie Coryell, participated in the IPGER activities and provided input as requested.

When ERDA shifted the emphasis of interagency cooperation from IPGER to the Management and Coordination Project (ref. PL 93–410) in the summer of 1975, Mr. Coryell participated as Dr. Eggers' representative. The principal subject for the remainder of 1975 was the NASA/JPL Program Definition Report under PL 43–410.

Since ERDA was activated in January 1975, 17 ERDA laboratory and headquarters personnel have been invited to participate in the review of NSF proposals. On January 12, 1976, Mr. Coryell gave Dr. Eric Willis, Director of ERDA's Geothermal Energy Division (DGE) a complete list of formal proposals at NSF.

NSF is careful to assure coordination in event of duplicate submissions by a proposer. *Example 1:* Proposal No. AER–7509588 from MIT was also considered by ERDA's Division of Physical Research. Coordination effected by phone with Dr. George Kolstad, Director, in February 1976. The joint decision was NSF to award and ERDA to decline. *Example 2:* Proposal No. AER–7500713 from SRI was declined by ERDA and awarded by NSF. Specific technical questions raised in ERDA review discussed with Mr. John Walker (DGE) at ERDA on February 26 and answered by SRI in letter of March 5. *Example 3:* Proposal No. AER–7600108 from SMU under consideration for grant. Same proposal declined by Dr. David Lombard (DGE).

ENERGY CONSERVATION (MR. SETH TUTTLE)

A continual and expanding set of contracts with ERDA has been maintained since the inception of ERDA. NSF/RANN has constantly attempted to maintain coordination and contact with other government agencies, especially in the area of energy conservation. Mr. Tuttle is a member of the ERDA-sponsored interagency committees on Energy Conservation in Buildings and Energy Conservation in Industry. In addition, he is member of the DOT directed Truck and Bus Fuel Economy Panels, the Interagency *Ad Hoc* Committee (biweekly) on energy conservation and the Department of Commerce (biweekly) seminars on energy conservation, all of which have representation from ERDA.

He has averaged at least three contacts per week with ERDA personally over the past year. These contacts have been in the form of meetings, conferences, telephone calls, correspondence and referrals of potential researchers to the appropriate ERDA contact. In fact, one of the major contributions during the past year has been directing people with researchable ideas to the appropriate person in ERDA rather than to the agency itself. He has gone to considerable pains to determine where in ERDA specific research proposals should be directed and has either forwarded or directed more than 50 proposals to ERDA.

On March 18, 1975, Mr. Charles Brunow, who was doing a survey of truck drag reduction research, was taken to see Dr. James Kane, then Acting Director of the ERDA Conservation Division. Dr. Kane was briefed on the status of research in this area and we gave him copies of NSF reports and Mr. Brunows' draft report.

In August 1975 when the ERDA truck group was beginning to take shape, Mr. Chuck Daye was sent copies of NSF reports. In January 1976, Mr. Phillip Patterson of the Transportation Group was sent copies of University of Maryland preprints of their upcoming SAE meeting presentations and a copy of Dr. Buckley's analysis of the potential for truck fuel economy which he prepared for NSF's contribution to the DOT Truck and Bus Fuel Economy Goals study. The Program Manager requested Dr. Buckley to prepare a document with the Maryland reports and progress summaries and outline of proposed future research needs for ERDA. The Program Manager arranged a meeting at ERDA for Dr. Buckley to give a briefing on their work and present ERDA with its document. Mr. Luchter and Mr. Brogan attended the briefing. At the briefing Dr. Buckley also gave the results of the recent cross country test runs before they had been released publicly.

Last Spring, Mr. Tuttle discussed the Princeton work on energy conservation in housing with Mr. Leighton and Dr. Savitz. The final result was that NSF and ERDA split-funded the FY 1976 program at Princeton with the idea that future work would be funded by ERDA. During September, Mr. Tuttle hand-carried several excellent proposals in the building area to ERDA and discussed them with Mr. Pellish. Mr. Pellish was put in contact with Chuck Sepsy of Ohio State and Richard Stein, a New York architect who is an NSF grantee. Mr. Tuttle has kept Mr. Pellish abreast of the changes in Stein's N.Y. School energy conservation program. ERDA people have given presentations at the conferences NSF sponsored on Earth Covered Buildings and Education for Energy Conservation in Schools of Architecture.

The Program Manager recently sent Mr. James Reid, whose area is technology transfer, two proposals for his consideration. These were discussed extensively and he has tentatively put them into his program plan.

Mr. Graham Hagey was a member of the advisory panel for the NSF Aerospace study on research needs for automotive energy efficiency improvement. Thus ERDA is aware of the recommendations of this study. Mr. Tuttle has also discussed and sent to Mr. Hagey for his review a proposal from Southern California on Telecommunications and Energy Conservation and has asked him to review it and to decide if he feels ERDA would be the more appropriate place for the work than NSF.

Mr. Tuttle met several times last fall with Mr. Herbert Rhinehart on the matter of Drs. Brown and Hamel who have our grant on Industrial Energy Conservation at Drexel. He was interested in having them do a study on where ERDA should direct their research on industrial equipment. ERDA has since funded Dr. Brown.

In the area of Energy Systems Analysis, Dr. Bruce Smith and Mr. Tuttle met with several members of Dr. Stewart's group. We told them about our ongoing programs and what we felt the research needs in the area would be. We also discussed which of our grants could go to ERDA in the future. Since then Mr. Tuttle has sent them proposals and referred several people to them.

ENERGY CONVERSION, STORAGE AND TRANSPORTATION—(DR. RICHARD SCHOEN AND DR. DONALD SENICH)

Energy conversion

There was cooperation in the area of energy conversion between the Department of Interior, Office of Coal Research and NSF before ERDA was formed. After ERDA was formed the cooperation continued. This cooperation took the form of joint activities such as the Energy Conversion Alternatives Study effort, the award to Stanford University in MHD and in the workshop on materials problems in MHD at MIT. Interchange of materials for review, and meetings to set policy were common.

Dr. Belding (ERDA) was informed on September 1975 that certain proposals, of a development nature, such as the General Electric turbine proposal of Dr. Sheeran would be transferred to ERDA for their consideration. Other proposals such as the Rankine Bottoming Cycle work of MIT and the Thermo Electron Corporation bottoming cycle would also be transferred to ERDA. During the meeting on January 27, 1976, Dr. John Belding was informed that all projects which were non-fossil energy, non-solar/geothermal would be transferred to the Conservation Division in ERDA.

Energy storage

Cooperation in energy storage was initiated before the start of ERDA. Atomic Energy Commission personnel took part in reviewing proposals to NSF. Programs were discussed extensively. When ERDA creation became imminent funding of NSF projects which might be transferred to ERDA were discussed. Efforts to prevent sudden funding burdens on ERDA were made by funding NSF efforts to completion were possible.

Energy transportation

Proposals in this program area were sent to ERDA for coordination. Particularly close cooperation was maintained in the field of superconductivity. The NSF supported work at Brookhaven National Laboratory was transferred to ERDA. Joint review of the Stanford work was carried out a number of times.

Automotive propulsion

The automotive propulsion grants were initiated in FY 1974 by Dr. Senich. Dr. John Belding was hired by NSF/RANN in June 1974 and was responsible for the monitoring of grants in FY 1975 and the initiation of new awards in FY 1975. As a result, he was thoroughly familiar with program thrusts and the active grants as well as proposed grants. After the departure of Dr. John Belding to ERDA/Conservation in May 1975, he was kept aware of the proposed grant activities and proposed new research through reviewed proposals and telephone conversations. In September 1975, Dr. Belding was informed that the budget of NSF/Automotive Propulsion program was severely curtailed and that most of the money allocated to FY 1976 Automotive Propulsion would be allocated to existing (on-going) projects to insure completion to a point in the research where any follow-on activities may be picked up by the lead agency, ERDA. Dr. Belding was aware of the potential of NSF to transfer those active grants to ERDA and was specifically informed on January 27, 1976, that as soon as the active grants were funded and Principal Investigator notified, the proopsals would be transferred to ERDA for follow-on monitoring.

FOSSIL ENERGY (DR. DONALD SENICH AND MR. NELLO DEL GOBBO)

This area was very close coordinated with Dr. Paul Scott of the Fossil Energy Research group of ERDA during scheduled meetings every 4 to 6 weeks. All proposals at NSF and ERDA being considered for funding (preliminary as well as formal) were discussed. If a proposal was submitted to both agencies the review of the proposals were coordinated. All program thrusts were discussed with Dr. Senich, Dr. Scott and ERDA. An example of the close cooperation was that workshops were co-sponsored and joint Principal Investigator meetings were held to insure coordinated program direction and to eliminate any duplications of efforts.

Mr. SYMINGTON. Mr. Chairman, no other area of the Foundation's activities has been subjected to more intensive oversight and detailed scrutiny by the Congress and other outside groups than has been the precollege science education program. I will oppose the amendment of the gentleman from Arizona, when it is offered.

I agree that the gentleman from Arizona has raised pertinent questions about precollege science education activities within the Foundation and a number of these have assisted the committee in its oversight. However, I believe that the kinds of problems that the gentleman from Arizona has described in the past and presents to you today have been corrected. What can only be described as sweeping changes have been introduced by the Foundation in the management of its precollege science curriculum education program. These changes have resulted from recommendations made by the committee, the General Accounting Office, an independent review group appointed by the chairman of our committee, and the National Science Board. Additionally, the Foundation has carried out a number of internal reviews which have led to significant policy and procedural changes.

The Foundation conducted a systematic assessment and evaluation of 19 existing curriculum projects during the fall of 1975 and early part of 1976. To assist in this review process the Foundation called upon 74 outside panelists nominated by various groups representing parents, school teachers, administrators, scientists, and publishers.

During January and February the Foundation reviewed the evaluations of the outside panelists along with other considerations. The draft recommendations of the science education directorate were presented to the National Science Board on February 20 and the Board gave its general approval for the NSF to proceed with a number of actions on the 19 curriculum projects.

Following the board meeting the Foundation proceeded with its final analysis and reached decisions on appropriate actions to take on specific courses.

Of a more general nature, the Foundation has taken these important steps to improve internal administration within the science education directorate.

First An Action Review Board was established which will help insure that adequate documentation exists for all major decisions and that peer reviewers have been properly selected.

Second. Procedures for reviewing and monitoring publication arrangements have been improved.

Third. A new Office of Program Integration has been established which has assumed a major role in improving evaluation efforts aimed at bettering Foundation education programs and projects. This office has been designed so as to operate independently of the program staff who fund proposals and monitor projects.

Fourth. Procedures are being established to facilitate the participation of parents, teachers, school administrators and other lay persons in project evaluation activities.

The Foundation has reaffirmed to the committee that it does not now and has not in the past attempted to influence the decisions of local authorities concerning curriculum adoptions. Its policy has been reaffirmed by the Director and the National Science Board.

In concluding, the aforementional problems have been or are being corrected. The committee has recommended a restructuring of the precollege science education area, asked for a comprehensive reassessment of the NSF's role in precollege science education and allocated $2.5 million for basic research work in science education.

Mr. TEAGUE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 12566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending September 30, 1977, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $230,400,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $242,700,000.

(3) Biological, Behavioral and Social Sciences, $128,500,000.

(4) Science Education, $64,000,000.

(5) Research Applied to National Needs, $63,900,000.

(6) Scientific, Technological and International Affairs, $22,000,000.

(7) Program Development and Management, $43,500,000.

SEC. 2. (a) Notwithstanding any other provision of this or any other Act—

(1) of the total amount authorized under section 1, not less than $16,100,000 shall be available for the purpose of "Graduate Student Support";

(2) of the total amount authorized under section 1, not less than $37,400,000 shall be available for the purpose of "Science Education Support";

(3) of the total amount authorized under section 1, not less than $10,500,000 shall be available for the purpose of "Science Education Innovation";

(4) of the total amount authorized under section 1, category (5) not less than 10 percent of such amount shall be expended to small business concerns;

(b) As used in this Act, "Science Education Innovation" means projects aimed at the development of new approaches to the teaching of science to student, teachers, and professionals, including but not limited to new curriculums, new technologies, new methods, and retraining or other efforts to make the existing scientific manpower pool better able to fulfill the Nation's manpower needs. As used in this Act, "Science Education Support" means projects aimed at building a capability to teach science, including but not limited to awards for equipment, conferences, and institutional development.

SEC. 3. In the conduct of the energy research and development activities under the "Research Applied to National Needs" category, the National Science Foundation shall coordinate all new project awards with the Administrator of the Energy Research and Development Administration or his designee.

SEC. 4. Appropriations made pursuant to this Act may be used, but not to exceed $5,000, for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. In addition to such sums as are authorized by section 1, not to exceed $6,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Appropriations made pursuant to authority provided in sections 1, 2, and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 7. No funds may be transferred from any particular category listed in section 1 to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 1 from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director of the National Science Foundation or his designee has transmited to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

SEC. 8. (a) The National Science Foundation is authorized to continue, during the fiscal year ending September 30, 1977, the

Alan T. Waterman Award for research or advance study in the mathematical, physical, medical, biological, engineering, social, or other sciences. The award authorized by this section shall consist of a suitable medal and a grant not to exceed $50,000 per year for a period not to exceed three years to support further research or study by the recipient.

(b) Awards under this section shall be made to recognize and encourage the work of younger scientists whose capabilities and accomplishment show exceptional promise of significant future achievement.

(c) No more than one award shall be made under this section in the fiscal year ending September 30, 1977.

SEC. 9. This Act may be cited as the "National Science Foundation Authorization Act, 1977".

Mr. TEAGUE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 6, line 3 insert the following new section, and renumber the succeeding sections;

"SEC. 9. Notwithstanding any other provision of law the Director of the National Science Foundation shall keep all Members of Congress including the members of the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all the activities of the National Science Foundation. Upon the receipt of a written request from any Member of Congress for information regarding the activities, programs, grants, or contracts of the National Science Foundation, the Director shall furnish such information within 15 days, including supporting documentation. Nothing in this section shall be deemed to affect the Privacy Act (18 U.S.C. 1905) as it applies to the National Science Foundation.

Mr. BAUMAN. Mr. Chairman, as I indicated a few moments ago, Federal law now contains a rather unusual requirement applying only to the National Science Foundation. Title 42, United States Code 1882, says that each of the two committees of jurisdiction in the House and in the other body are to be kept fully informed of all activities of the National Science Foundation. This particular provision of the law has been written into authorization bills for at least 3 years. This year it was not included. Strangely enough, when the NSF submitted a draft to the committee they proposed that this section be deleted completely, arguing that it was not necessary.

So we know what the position of the NSF officially is, they do not want anything in Federal law which guarantees either of these committees or the individual Members the right to have full information about the Agency's activities. They will grant that information if they see fit, and in the past they have been very stingy in the granting of information except in those instances where they felt that perhaps they were protected or were literally forced by circumstances to give up the information, and they have used a variety of excuses in order not to provide information.

The amendment I have suggested, which is before the Members, is nothing more than expanding upon the existing Federal law and extends to all Members of the House of Representatives and to the other body the same right these two committees now have; that is to be kept fully and currently informed with respect to all activities of the NSF. To formalize these procedures I require that the Members submit a written request describing the information they want and require within 15 days they will receive this information. I exempt specifically any of the areas of inoframtion which should not be released as described in the Privacy Act which now is in force, so that nothing in the way of trade secrets and financial matters, and so on, will be released.

I know some members of the committee take this as an attack upon the committee itself or its oversight function. Nothing could be further from the truth. I respect the committee and the work they have done, but I do not think any Member of this Congress should have a higher status than any other Member. If these committees have the right to the information, I think each one of us ought to have the right to the information.

We certainly live in an era when sunshine in Government is a phrase which rolls off the tongues of politicians with great ease and simplicity. This is nothing more than a sunshine-in-Government amendment. It allows us to shine light onto these areas which have been controversial and I do not think it will interfere with any legitimate function. It may interfere drastically with the waste of the taxpayers' money or with NSF activities such as have been described not only in press accounts but also by Members of Congress. It may interfere with those activities and it should.

I would urge my colleagues not to take the word of those on this floor who are constant supporters of the NSF but to read the amendment. I think it would be difficult to explain to people back home why one would vote not to give to ourselves as representatives of the people information from an executive agency so that we can answer the criticism that have been leveled.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. SCHEUER. Objection has been raised that this amendment would bring about collision with existing Federal law, namely with the Privacy Act.

Mr. BAUMAN. I would say to the gentleman, that has been answered in the amendment.

Mr. SCHEUER. It would do so by giving out trade secret information and so on.

Mr. BAUMAN. That has been answered by this language in the amendment:

Nothing in this section shall be deemed to affect the Privacy Act (18 U.S.C. 1905) as it applies to the National Science Foundation.

So all those categories would be protected against unwarranted inquiry by Members of Congress.

Mr. SCHEUER. Trade secrets and financial information?

Mr. BAUMAN. Yes.

Mr. SYMINGTON. Mr. Chairman, a point of order. We do not have five copies of the amendment as far as I can tell.

The CHAIRMAN. That is not a point of order, although the Chair hopes the copies will be provided.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I am not on the National Science Foundation Committee but I can see that this amendment is going to open up a big keg of worms. No Government agency is going to be able to function if within 15 days they have to furnish complete information on all their activities, their programs, their grants, their contracts; they just cannot function.

It is not a matter of keeping secrets. The appropriate committees of this Congress can get the information from the National Science Foundation. If I wanted any information from them, I would write them and in due time I trust I could get it. If I could not get it, I would get the committee to do it on a bipartisan basis. To disrupt this organization is just a waste of time and a foolish attitude on the part of Congress.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I might point out to the chairman of the Government Operations Committee, the gentleman from Texas, that that committee also has oversight jurisdiction over all agencies of the Federal Government. They likewise have subpena power. They can get any information that they desire appropriate for their use.

Mr. BROOKS. The gentleman is absolutely correct. I think to hamstring one agency and pick it out like this would set a precedent that could destroy the effectiveness of half the Government agencies. What if every Congressman had 15 days to get a detailed analysis of every program, every contract, every activity of the U.S. Defense Department? They would not do anything but write letters to some Members of Congress. I think this amendment is probably well intended and I do not impugn the motives of my friend, the gentleman from Maryland (Mr. BAUMAN), but I think we would be extremely foolish to pass it and very wise to kill it right now.

Mr. TEAGUE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. MOSHER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Bauman amendment.

Mr. Chairman, I recognize Mr. BAUMAN's genuine concern for the Congress "right to know." His "sunshine" amendment has some immediate appeal, but I suggest it is both unnecessary and dangerous, probably unconstitutional.

I strongly oppose the Bauman amendment because it is an unwarranted attack on a House committee's oversight authority and responsibility. The amendment would in effect set a precedent to give every individual Member of Congress a "hunting license" to go scurrying around throughout the executive branch—Jack Anderson style—capriciously demanding any information—no limits—to be used for a political headline, or any other purpose, including undoubtedly some good purposes.

The net result would be to allow every individual Member to end run a committee's responsibility, the Government operations amendment and the responsibility of the GAO, in that sort of investigative activity. That could be chaotic and extremely destructive to the efficient, responsible relationships between the legislative and the executive branches. I consider the Bauman amendment a serious threat to the constitutional check-and-balance system.

The Bauman amendment would set a precedent for some Members of Congress—and their staffs—to indulge in capricious, perhaps abusive and harassing interference with the executive agencies. It could completely "politicize" NSF's research grants system, by inviting every Congressman to become immediately and directly involved in the granting process. That surely would destroy the integrity of the granting process, to emphasize political rather than scientific considerations.

Finally, I make the point that our House Committee on Science and Technology already has complete oversight authority, and is already using that authority effectively and responsibly. Any Member who needs or desires information concerning the NSF can work effectively through the Science and Technology Committee to obtain that information.

The Bauman amendment would undercut the committee in that respect, and it would set a radical example for doing the same to every other committee.

All committees have oversight authority and responsibility. This amendment would put oversight in the hands of each of 535 Members.

Any Member now can request a committee to investigate a topic of interest. The committee definitely has pursued all serious matters which Members have brought to our attention.

But this amendment provides the opportunity for selective badgering rather than constructive oversight.

I call especial attention to what I would call the amendment's "chilling effect" on communications to the NSF, and within the NSF. It could lead to disclosure of confidential material such as peer reviews and grant applications. I repeat, it would politicize the NSF.

It would discourage candid peer reviews.

It would seriously discourage open and frank comments to the NSF by individuals in the peer review process, or on any other topic.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in rising in opposition to this amendment, I would like to try to put into context the real difference between the law as it has existed with respect to keeping the Congress fully and currently informed of the activities of an administrative agency and what the amendment would do.

Mr. Chairman, the "fully and currently informed" phrase came with the creation of the Atomic Energy Commission under the Atomic Energy Act and was provided first for the Joint Committee on Atomic Energy. It simply was a provision that the committee would be kept fully and currently informed of the activities of agencies. This then was applied also, and is applied also, to the National Science Foundation, so that it must keep the appropriate committees fully and currently informed of its activities.

But the amendment offered by the gentleman from Maryland (Mr. BAUMAN) would take this concept further and allow any Member of the Congress to demand almost an unlimited amount of information from any agency. In effect, the amendment offered by the gentleman from Maryland, instead of being consistent with the concept of the agency keeping the committee informed of what it is doing, would make it possible for any one Member of Congress to totally paralyze an executive agency indefinitely, simply by repeatedly asking questions and requesting documentation associated with these questions that would take weeks to prepare.

This is an open door to unlimited harassment.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the distinguished Speaker, the gentleman from Oklahoma.

Mr. ALBERT. I thank the gentleman for yielding.

Mr. Chairman, this could get to such a state of affairs that new employees would have to be hired down there to duplicate, send out, and carry out all of the requests, and the supporting documents connected with them, and many of these new people would not be inherently trained for the work.

Mr. McCORMACK. Mr. Chairman, I thank the Speaker for his comments. I agree completely with him, and I trust that this amendment will be defeated.

Mr. CONLAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this is a good amendment. It does not deal with the Department of Defense; it does not deal with the Air Force; it does not deal with the Atomic Energy Commission. It is limited to the National Science Foundation.

I believe the reason the gentleman from Maryland (Mr. BAUMAN) is offering this amendment has been well explained, and I think the term, "sunshine amendment," is a very appropriate one.

Mr. Chairman, I happen to be a member of the Committee on Science and Technology. A little over a year ago, at about this time of the year, some constituents of mine asked for information about a school program that was being tested in their schools, and this related to MACOS, "Man: A Course of Study." The materials were not given to the children, so they could not be brought home. The parents had no access to them in the local schools. They sought to see the films used in the classes in this program provided by taxpayer dollars through the National Science Foundation, but they could not see the films.

As a member of the Committee on Science and Technology, the committee that authorized the funds for this Foundation, I asked if I could see the materials the Foundation was funding and promulgating and promoting. I asked, and I received no answer for a month. I asked again, and I received no answer for a second month. I asked again, and finally after 3 months the NSF sent the materials to my office. I sought throughout Washington to find a projector so that I could see the film.

But this project had been developed so that the film cassette could only be viewed in one special projector. The project was developed by the Curriculum Corp. that had been receiving the grants over the years.

Subsequently I asked for the student materials. It was difficult to get them. Only when I threatened to go to the press did the materials come up to my office, and then they came within a few hours. Then I had the same situation again when I tried to get the teachers' guides.

Mr. Chairman, it has taken months for the National Science Foundation to come up with these materials. A GAO audit has now been done, and staffs of other agencies have gone into this. The National Science Foundation has gone through a tremendous internal reorganization, and they have even removed the No. 3 man and made him a scapegoat in order to protect others from charges of acting improperly.

The problem is, with all due respect to some of the senior Members of the body here who apparently have not been given a full briefing on this problem, that we have an agency here that will not be required to have hundreds or thousands of additional employees. It is just a question of this: When a Member aske for something, it would seem that a member of the authorizing committee should have that information available. When others on the outside, grantees and others outside the Government, have the information, it seems strange that the members of the committee cannot have it.

I think this is an eminently reasonable

amendment. I know that some of the members of the committee, of course, have relationships with the Foundation and feel that if they vote for this or support it, this would imperil their close work and their relationships with the executive agency. I understand their position, but to most of us I do not think there is any problem with this amendment.

I do not think there is any problem with the idea of letting the members have the privilege of getting the information that is there. This amendment affords safeguards.

So, Mr. Chairman, I support the amendment.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. CONLAN. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, I think the gentleman from Arizona should tell the Members of the House that we did get the information and that every member of the committee had a chance to see the films. I certainly agree with the gentleman when he says that we had trouble getting it, but we did get it. It was not available the first time we requested it, but it was later.

The gentleman had asked for a lot of information. I am told that the requests that he has made have, at times, caused the members of the NSF staff to work over weekends. That is an example of this 15-day business.

Mr. Chairman, the gentleman should also tell the Members of the House that, as a result of the work of the committee, the whole make-up of the education program was changed. The original MACOS program was killed by the committee.

Mr. CONLAN. Yes. Mr. Chairman, I congratulate the gentleman from Texas for the advances that the committee made. However, those advances would not have been made by our Committee on Science and Technology if I had not been perservering and if I had not threatened to go to the court under the Freedom of Information Act and exposed the skullduggery and the cover-ups and the falsification of reviews and other things that went on down there.

I thank the chairman for supporting me in a number of these areas.

Mr. TEAGUE. Mr. Chairman, if the gentleman will yield further, I took a simpler approach. I just called the director and strongly requested the information. It came right away.

Mr. CONLAN. Yes, Mr. Chairman. The chairman can do that in his position, but others of us cannot.

Mr. TEAGUE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am not an expert in interpreting legislative language; but last night when I received a copy of this amendment, I asked people who are supposed to be experts to analyze it for me.

Mr. Chairman, this is what came back to me, for whatever it is worth:

First, the second sentence of this amendment is probably unconstitutional in that it would extend to individual citizens who happen to be Members of Congress access to papers and property of citizens in the custody of the Foundation in probable violation of the fourth and fifth amendments to the Constitution.

Second, the entire amendment giving access by individual congressmen to all information within an executive agency is probably unconstitutional as infringing the separation of powers doctrine.

Third, this amendment could impair and perhaps destroy the competitive process in the award of grants and contracts. It would provide access through any Congressman by proposers and bidders to the entire content of competing proposals or bids. Due to the 15-day requirement this information could be made available to proposers and bidders between the closing date for proposals and the time set for negotiation among bidders in the competitive range.

Mr. Chairman, there are three pages of this, and I am not going to read them all; but I read the previous examples just to point out to the members that this is a most far-reaching amendment—and to be considered here on the floor now is, in my opinion, wrong.

The chairman of the Committee on Government Operations, which should handle something like this, is opposed to the amendment. If the gentleman from Maryland thinks it is good,—and I am sure he does, I think that it should be prepared as a bill and be referred to the Committee on Government Operations, just like the Freedom of Information Act.

Therefore, Mr. Chairman, I hope the Members will vote against the amendment, and I urge its defeat.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

I would just like to say to the distinguished gentleman from Texas (Mr. TEAGUE), who has just read from a memorandum probably prepared by the staff of NSF with their usual imprecision, that the arguments advanced in this memorandum are the greatest mishmash of misconstruction and misrepresentation I have ever seen in my life.

To say that giving a Congressman the right to obtain information from an executive agency in some way violates the fourth and fifth amendments, which have to do with unreasonable search and seizure and self-incrimination is not even worthy of comment.

Mr. Chairman, this is a broadside attack by those who have been very cozy with the National Science Foundation for years, people who apparently desire to hold in their hands alone the full information about what this agency is really doing. These criticisms of my amendment are without merit. Mr. Chairman, I think the real issue here is whether or not we are going to have proper oversight by every Member of Congress, by his oath, should have a right to inquire into any agencies' activities when taxpayers' funds are involved.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman from Maryland (Mr. BAUMAN) for his remarks in that respect.

I rise simply to point out that the Committee on Government Operations has already reported out of that committee, and it was sequentially referred to the Committee on the Judiciary, a "Government in the sunshine" bill which will provide far more sweeping provisions than this.

With respect to all of the independent agencies which are headed by collegial bodies, it would provide verbatim transcripts of these proceedings to be made available the following day.

Mr. Chairman, it would be very interesting to compare the views of members of the Committee on Government Operations on this amendment with their views on the "Government in the sunshine" bill which has been reported out of that Committee on Government Operations.

Mr. Chairman, I respect the consideration of that bill by the Committee on Government Operations, a bill which is now heading toward the floor.

But here we are talking only about the National Science Foundation and about making information available to Members of Congress who have to deal with the decisions that relate to the continued operation of the National Science Foundation; and it is not just the members of the committee alone that have to vote on that matter, we have to vote on such a matter today.

I certainly urge the careful consideration by the Members of this amendment, and not in the light of all the emotional flurry that has been raised concerning projects which have been conducted in the past under the grant programs where indeed some of them turned out to be not desirable, and some not even involving the National Science Foundation. But, we should put aside those emotional arguments and consider that this amendment is designed simply to help the Members of Congress do their job.

Really, the Members of Congress ought not to have so much difficulty in getting information out of a great variety of offices and agencies in the execuitve branch of the Government.

It is not a matter of conflict between the legislative and executive branches at all, but rather a matter of getting information needed for the legislative branch to do its job. There is no problem concerning the separation of powers doctrine here. There two branches of the Government must exist side by side with reasonable communication; and sometimes that communication has been cut off. I think that is what gives rise to the concern that suggests this amendment is very appropriate today.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there has been a great deal of discussion this afternoon about a lack of communication between the Congress and the National Science Foundation but I as one Member have had quite the opposite experience and have gotten very quickly all of the information that we requested from the National Science Foundation. I feel that when they have been approached in a reasonable way that we have been able to get this information.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas.

Mr. TEAGUE. There has been only one complaint that has come before our committee of members not being able to get information requested, and that is all.

Mr. WIRTH. Mr. Chairman, I thank the gentleman from Texas for his comments.

What particularly frightens me, Mr. Chairman, about this amendment, is that I believe it can significantly politicize the process of funding in the National Science Foundation. I can well imagine that if one wishes to have a grant and you have made out your application, then you write to your Congressman because he in turn is going to have the final say as to the funding of the National Science Foundation and, before we know it, we have thoroughly ruined the whole grant program process. As the gentleman from Missouri (Mr. SYMINGTON) has suggested, there have been some problems in the past but the National Science Foundation is well on its way toward correcting them.

It seems to me that the idea of Congress getting itself involved in the grant process is anathema to what we are trying to do in this year of 1976 of advancing science and scientific research in America.

Mr. Chairman, Mr. BAUMAN's amendment looks, at first glance, like the sort of thing which would increase the availability of information to the Congress. If that was the only issue I would certainly support it. Unfortunately, it would have the effect of damaging the peer review system beyond repair. Without some measure of confidentiality, it is not possible to solicit candid and substantive reviews of proposed sesearch efforts. As pointed out by the gentleman from Missouri, a great deal of attention has been given during the past year to the peer review system. For example the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology has prepared a committee print entitled "National Science Foundation Peer Review." As one who has followed this debate with interest, I consider it appropriate to strongly support the National Science Foundation and the peer review process as it is now being conducted.

Certain problems with NSF's administration of the peer review process have been brought to the attention of the Congress, and I commend Mr. BAUMAN for his efforts to bring out the facts of these cases, but these problems can be dealt with by the reforms which the NSF has undertaken. The effect of this amendment would be to establish each Member of Congress as a potential reviewer of all of NSF's funding actions, and would have the effect of: First, politicizing the award decisionmaking process and turning it away from the support of proposals on their merit; second, disuading the Foundation from funding innovative ideas; third, discouraging peers from their valuable contribution to our research effort; fourth, causing additional delays in the funding of projects. Mr. Chairman, the peer review system has not been perfect, but it is far superior to any alternative that I have heard proposed. I therefore urge the defeat of this amendment.

Mr. KRUEGER. Mr. Chairman, I rise in opposition to the amendment and I move to strike the requisite number of words. I shall not take my full 5 minutes, but I would like to point out, Mr. Chairman, that this amendment is drawn in extraordinarily broad language. The amendment says that—

> Upon the receipt of a written request from any Member of Congress for information regarding activities, programs, grants or contracts of the National Science Foundation, the Director shall furnish such information within 15 days including supporting documents.

We all know that there are times that the Congress is short of information which it requires, but there are also probably many times in which we have rather an information glut. What bothers us is the lack of time that we have to study problems, rather than the lack of information that we have to assess problems with. Nonetheless, it is our task to legislate, and to legislate with regard to the broad policies affecting the National Science Foundation, but then to allow that Agency to carry out its own operations under responsible leaders.

This amendment, as it is drawn, and as I understood the arguments in favor of it, would give Members the opportunity to assess the quality of the various grants that might be offered.

That, as my friend, the gentleman from Colorado, has just indicated, would be dangerously to politicize the scientific process. If there is one thing we are not equipped to do, it is to make judgments on what scientific grants ought to be offered. Clearly we do not want the Congress of the United States to try to make such scientific judgments. Were we to make them, we would probably make them largely on the basis of their titles rather than on the basis of their substance, and to judge a book by its cover is to make the most superficial kind of judgment.

It seems to me that this is, therefore, a dangerous amendment, risking the possibility of politicizing and of adulterating the National Science Foundation and the process whereby it awards research grants. I think not only should we avoid that, but we should avoid the kinds of infringements that would be required. If we have the power to request information regarding the activities, programs, grants, or contracts of so large an operation as the National Science Foundation, we might, for example, find out information about who the judges were for the awarding of various grants, and it could certainly lead us into extremely private areas of scientific judgment. I think that this body is simply not equipped to make those judgments intelligently, nor should it make those judgments. We have larger responsibilities than that.

Considering the record of the National Science Foundation and the role that this country has had in affording world leadership in science, I think it ill befits this House to show so little confidence in the National Science Foundation that we profess to be better qualified to judge highly detailed and technical matters than the National Science Foundation.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Virginia.

Mr. FISHER. I thank the gentleman for yielding.

I should like to support the points my colleague is making. I think they are right on target. I say this as someone who has administered research programs for many years and has taken part for at least 15 years in the review process of the National Science Foundation. I cannot think of anything that would be more unsettling to the scores of professional reviewers the National Science Foundation has than an amendment of this kind. I think it would carry us as Members of Congress into a field of detail where we would not be able to find our way. It is a most ill-advised amendment, and I stronly urge that it be voted down.

Mr. KRUEGER. I thank the gentleman from Virginia, and I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 257, not voting 39, as follows:

[Roll No. 135]

AYES—136

Abdnor
Ambro
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bedell
Bennett
Biaggi
Bonker
Bowen
Breaux

Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burke, Fla.
Burleson, Tex.
Butler
Carter
Clancy
Clausen,
Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conlan
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Delaney
Devine
Dickinson
Downey, N.Y.
Duncan, Tenn.
du Pont
Emery
English
Evans, Ind.
Fish
Frey
Gibbons
Gilman
Ginn
Goldwater
Goodling
Grassley
Hagedorn
Haley
Hammer-schmidt
Hansen
Hefner
Henderson
Hightower
Holt
Hughes
Hutchinson
Hyde
Ichord
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, N.C
Jones, Okla.
Kasten
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Levitas
Litton
Lott
Lujan
McCollister
McDade
McDonald
Maguire
Mann
Martin
Mathis
Miller, Ohio
Minish
Moakley
Moore
Moorhead,
Calif.
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Quillen
Rinaldo
Risenhoover
Robinson
Rogers
Roncalio
Rousselot
Runnels
Russo
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Seiberling
Shuster
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Stratton
Symms
Taylor, Mo.
Taylor, N.C.
Traxler
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Winn
Wolff
Wydler
Young, Alaska
Young, Fla.

NOES—257

Abzug
Adams
Addabbo
Alexander
Allen
Anderson,
Calif.
Anderson, Ill.
Andrews,
N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bergland
Bingham
Blanchard
Blouin
Boland
Bolling
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clay
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Daniels, N.J.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Diggs
Dodd
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gonzalez
Gradison
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Jarman
Jenrette
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCormack
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Mink
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson,
Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Sarasin
Scheuer
Schroeder
Sharp
Shriver
Sikes
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Staggers
Stanton,
J. William
Stanton,
James V.
Stark
Steed
Stephens
Stokes
Studds
Sullivan
Symington
Talcott
Teague
Thompson
Thone
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Walsh
Waxman
Weaver
Whalen
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—39

Barrett
Bell
Bevill
Biester
Boggs
Conyers
Dingell
Downing, Va.
Erlenborn
Eshleman
Evans, Colo.
Flowers
Guyer
Hayes, Ind.
Hébert
Hinshaw
Jacobs
Ketchum
Keys
Lloyd, Calif.
McCloskey
McEwen
Macdonald
Madden
Mitchell, N.Y.
Montgomery
Murphy, N.Y.
Nix
Pepper
Poage
Roberts
Sarbanes
Shipley
Steiger, Wis.
Stuckey
Udall
Vigorito
White
Wilson, Tex.

Mr. CARR and Mr. ZEFERETTI changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CONLAN

Mr. CONLAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONLAN: On page 3, lines 7 and 8, delete "new curriculums,".

Mr. CONLAN. Mr. Chairman, I believe this amendment conforms the bill to the committee report, wherein, on page 30, the committee report pointed out that the committee agreed that no new projects were to be funded here. This just corrects the language of the bill to conform to the decision of the committee in their report.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. CONLAN. I yield to the gentleman from Missouri.

Mr. SYMINGTON. Mr. Chairman, I believe the gentleman is correct. The language which appears on page 3, lines 7 and 8, is being corrected. Is that right?

Mr. CONLAN. That is right.

Mr. SYMINGTON. Mr. Chairman, we can accept that.

Mr. CONLAN. Mr. Chairman, the other side agrees with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. CONLAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CONLAN

Mr. CONLAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONLAN: On Page 3, between lines 14 and 15, add the following new subsection:

(c) No funds are authorized for "Pre-College Materials Development, Testing, and Evaluation" (curriculum development). Rather, an amount of $1.4 million in FY 1977 funds is authorized for Summer Institutes for elementary and secondary school teachers of science and mathematics. These Institutes are to be designed to upgrade the quality of pre-college science and mathematics instruction by providing teachers with results of the latest research findings to improve their cognitive instructional capabilities in science and mathematics. The Institutes are not to be used as mechanisms for promoting or marketing course materials, programs, or teaching methodologies. They are for the sole purpose of upgrading the science and mathematics knowledge of teachers to improve their instructional capabilities. The amount of $4.93 million included in the Transition Budget Quarter for "Pre-College Materials Development, Testing, and Evaluation," and any unobligated funds remaining from FY 1976 for this purpose, shall be used to phase out all the Foundation's curriculum development activities, or re-programmed for Summer Institutes for teachers and for Comprehensive Assistance to Undergraduate Science Education.

Mr. TEAGUE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CONLAN. Mr. Chairman, this amendment is a followup to what started out as an amendment a year ago on the "MACOS" question, "Man: A Course of Study."

The controversial textbook and written development material that had been coming out of the National Science Foundation as a result of hearings, studies, investigations, GAO auditing, and so forth, by the committee this year, resulted in the elimination by the Subcommittee on Science and Technology of funding for curriculum project development and marketing, what is called the curriculum innovation area.

With respect to these controversial textbook development matters, the subcommittee eliminated all but just a couple of projects, leaving only about $1.4 million still in the authorization budget. That was due to some internal matters within the committee.

Mr. Chairman, I think what the committee, in effect, did is to acknowledge that these programs are really inappropriate for the Government to be into, as well as highly controversial.

Parents across the country and all of us have felt that concern, I am sure, and are aware of the problem.

What this amendment does, very simply, is to take that $1.4 million and allocate it for summer institutes for elementary and secondary school teachers of science and mathematics to assist them in getting the latest information and scientific know-how in their field of expertise.

Mr. Chairman, this amendment, in effect, is one that both parents and classroom teachers are supporting. Mr. Kerrigan of the National Education Association spoke to my office earlier today and thought it was a good amendment to assist classroom teachers across the country.

I would urge its support, Mr. Chairman, because I think that when we find out, as I said in a "Dear Colleague" letter sent around to people today, that if the $1.4 million did not go to classroom teachers, it would go for a human sciences program which requires sixth to eighth grade shoolchildren to pry into everyone's attitudes and behavior and would go into a wide array of personal and classroom data gathering which would be for general dissemination.

I have with me the teachers' guide in connection with these experiments they are developing and I think the Members will find them very shocking when they see that they require children in the sixth and seventh grades to cooperate with class data banks where they gather material on the attitudes of their parents, politics, everything from their Zodiac signs to their medical history, all exposed right in the classroom. It is a type of program that is fraught with extraordinary psychosociological danger to the children.

It is very interesting when one sees that they have "Am I Regular" programs with girls in the sixth grades, together with boys in the class, where they require them to document in chart form everything from their menstrual cycles to their sexual inclinations, desires and attitudes.

I do not think that this is the type of material that our voters back in our districts would appreciate our funding any further.

They have anothre section dealing with the parents in their families, how they get along with each other. This gives a child the task of investigating and reporting on family relationships. The children are required in fact to survey and investigate each other and their parents as to their attitudes on sex, family habits, and attitudes toward drug addiction, alcoholism and other things of a sensitive nature to be placed in the family data bank in the classroom for discussion among all the youth.

This gets into the field of discussing how "good or bad" are their parental relationships, which I think is really quite "far out" for junior high students—an invasion of family privacy that I do not think most Members of this body would favor supporting. These are not the only disgusting programs. I appreciate that some Members of the Congress do favor them but I think most of the Members would rather see this money go to the classroom teachers' summer institutes.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CONLAN was allowed to proceed for 2 additional minutes.)

Mr. CONLAN. I think that the Members will find that this type of material really should not be financed any more, particularly in view of the fact that the publisher that has the contract rights, or one of them, has already indicated—although I understand from one of the Members that he has switched on the last day—but they previously indicated that they really did not need the Federal funding to go ahead with their marketing of their program under the guise of testing, that they are building their marketing programs with our dollars.

So I do not think they should get the extra $1 million for marketing.

Furthermore, I have a letter in my hand from the National Science Foundation, dated yesterday, March 24, that points out that the other grantee under this program is seeking $500,000 to conduct their marketing and the development of their program, yet this is a company which under previous grants, in previous years from the National Science Foundation, has had over $20 million in sales and are projected for last year and this year to have another $10 million in sales when the final accounting is done by the National Science Foundation and the GAO. This same company owes the National Science Foundation, the Government, $1,300,000, yet they are in the trough again for another $500,000, and the National Science Foundation pointed out yesterday that BSCS has yet to pay a total of $1,260,000 in royalties owed. This is the company that refused to pay its royalties, has for several years refused until finally the Government auditors came in, and they still refuse to pay after almost $3 million of sales—yet have the gall to want an additional $500,000.

So for financial reasons, I do not think we want to be on record in favor of this type of subsidy, and I do not think for the philosophical and moral deviations of the content of the materials that Congress should support it. I think both educators and parents would support you if you support this amendment.

Mr. MOSHER. Mr. Chairman, I rise in opposition to the amendment.

First, I think it is important for the record to mention that the legal controversy that the gentleman from Arizona just referred to is a matter of which the committee is well aware and, in fact, the committee has instructed the National Science Foundation that the proposed new funds that the gentleman from Arizona (Mr. CONLAN) refers to shall not be approved unless and until that legal controversy is resolved satisfactorily to the Government.

Mr. Chairman, the Conlan amendment is essentially one to transfer and redistribute $1.4 million. The proposal is one on which I think the overwhelming judgment of the Education Committee and certainly of our committee is in disagreement. I suggest these authorities are overwhelmingly in disagreement with the judgment of the gentleman from Arizona and, therefore, I think that is a good reason for us to reject that judgment. In fact, although this amendment as such was not presented to our committee—the gentleman from Arizona (Mr. CONLAN) wanted to but he was ill and could not—nevertheless, the committee did consider this proposal in committee and determined against it in that it was not a part of the bill which is before us. I think that an overwhelmingly number of the members of the committee are in opposition to the amendment.

The type of curriculum to which the gentleman from Arizona (Mr. CONLAN) was referring in the book that he held up is a completely voluntary curriculum. No school board, no teacher, no school district is required under any circumstances to accept it except as in the judgment of the elected officials of that district they consider it a good curriculum.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. WIRTH. Mr. Chairman, I want to associate myself with the remarks of the gentleman and also to commend the leader on the minority side for his very evenhanded and thoughtful way in which he has approached the issues in this bill.

Mr. Chairman, one of the issues which has surfaced in our debate today is the matter of an NSF audit report which identifies $1,267,800 of biological science curriculum study income as funds which should have been remitted to the Treasury. It is entirely inappropriate for this issue to be included in our debate today. First of all, in accordance with the law, within the audit report not the University of Colorado's reply has been made public at this time, and it is, therefore, impossible for the Congress to discuss the issues involved in a meaningful way. Second, the accusations which have been couched in terms like "misuse of funds" and "irregularities" imply that shady dealing is the problem.

It is my understanding of the situation that the basis of the problem is in the determination of whether or not certain payments were "royalties" or "publisher's grants." The mangement of the University of Colorado and the Biological Sciences Curriculum Study have assured my office that they are confident that they can document NSF approval for their past actions involving the funds in question. In fact, they are eager to get on with the resolution of the case as soon as possible, and I encourage the National Science Foundation to take immediate steps to resolve the matter. Mr. Chairman, issues of this sort can best be settled in accordance with established legal procedures, and what we do here today should not have the effect of prejudicing the resolution of this dispute.

Mr. Chairman, I rise in opposition to the amendment by the gentleman from Arizona. While the NSF and specific programs in precollege science curriculum development have come under a great deal of criticism, not all of it has been deserved. The content of the curriculum entitled "Human Sciences Program," or "HSP," is one aspect of this development which I believe has been presented quite unfairly.

HSP is a 3-year interdisciplinary curriculum for grades 6, 7, and 8. The subject matter is drawn from the "life sciences"—biological, behavioral and social. Because it is a course in the life sciences, it must necessarily deal directly with humans, their behavior and their environment. Consequently one must expect some potential adverse reaction to topics which may deal with these areas of our lives.

The present form of the HSP curriculum does introduce subjects which have potential psychological and/or social impacts. For example, modules on the topics of divorce, death and reproduction are being tested. These impacts may be minimized in three ways:

First. Because the materials are modular, any topics can be eliminated from the program;

Second. The project staff and trial centers are undertaking a careful study of all materials. This study includes reaction of parents as well as students. The panel believes these tests will result in an identification and revision of potentially sensitive areas; and

Third. Orientation programs can help teachers predict and cope with individual student reactions.

The NSF held a week-long conference in December 1975 to review each of 19 separate curricula in various stages of completion. The panelists were nominated from a wide range of organizations representing teachers, parents, administrators, publishers, scientists and students. The organizations themselves, not the NSF, made the selections of individuals. The panel evaluating HSP consisted of 12 individuals—laymen, science teachers, school administrators, and scientists—recommended by a variety of organizations—from 4-H to the American Psychiatric Association.

Overall, HSP received very favorable review by the panel and by each of the individual panel members. There were a few reservations expressed about the course, but none of these took the form of severe criticism.

The panelists noted, among other things, that there is a well-organized plan of project directors consulting with educational administrators, teachers, parents and scientific writers in the development of HSP. Furthermore they emphasized the fact that the modular nature of the program provide schools, teachers, students and local communities the opportunity to structure the kind of program that is meaningful to them. This is clearly no attempt to develop a master Federal scheme of education.

Mr. Chairman, I would like to briefly comment on two other misdirected criticisms leveled at the course. The first is that HSP instructs children in the art of surveillance. Mr. Chairman, I assert that there is a great distinction that must be made between surveillance and observation. HSP is, after all, a science curriculum, and the features which characterize science in the first place are observing, questioning, describing, speculating, interpreting, valuing, choosing, verifying, comparing, and experimenting. If we eliminate these features entirely from science curricula, we are not teaching science.

Mr. Chairman, I would also like to comment on my distinguished colleague's assertion that the human sciences program is value laden. The project director was asked by the NSF, "what are the stated assumptions, values and goals behind these instructional materials?" The project director replied that "the materials do not foster a given value system;" however, he did agree that as far as values inherent in HSP, that these are "critical thinking, autonomous learning, assumption of responsibility, cooperative efforts in classroom endeavors, shared managerial responsibilities between student and teacher for the classroom environment, decision-making, evaluation of data, dealing with problems, self evaluation of individual performance, scientific approaches to problem solving and value judgments based on evidence." The panel agreed with the project director in this statement.

Mr. Chairman, I contend that if the gentleman from Arizona objects to values such as these, then he is objecting to those values which the citizens of this country hold most dear. In these values lay America's hopes for the future.

Mr. MOSHER. I thank the gentleman for his comments.

Again, I do encourage the House to vote against this amendment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Ohio. He has stated the question very accurately.

Mr. Chairman, I rise in opposition to the amendment by the gentleman from Arizona. While the NSF has come under much criticism of late for aspects of its precollege curriculum development activities—and some of it has been deserved—I believe the reduced level of funding proposed for curriculum development is an appropriate amount to provide for slowed-down funding for two curriculum projects.

The gentleman from Arizona objects to one of the two curriculum development projects included in the NSF request for science education innovation. This is ISIS—the individualized science instructional system project. This is a course currently under development for high school students who will not later major in science. The course is designed for learning appropriate physical science concepts from chemistry, biology, and physics and the social implications of science and technology in an interdisciplinary manner through individual "minicourses"—and in terms which can be related to life's everyday experiences and problems.

The gentleman from Arizona has stated that there has been severe mismanagement in the way NSF has handled the ISIS project—that peer reviewer comments were misrepresented to state that all reviewers recommended funding when they did not, and that the memorandum recommending support for the ISIS proposal contained only positive peer reviewers' statements but not the negative ones.

In the first case, my colleague is correct. There were NSF management mistakes. The GAO has documented that some peer reviewer comments were misrepresented; however, the NSF has acknowledged this and has taken major steps to see that this will not happen again. In the second case, my colleague is incorrect. As GAO has documented, the NSF staff handling the ISIS proposal did explicitly address many peer reviewers' criticisms of the proposal and the NSF staff was satisfied that the ISIS proposal adequately addressed those issues.

ISIS has also been described by the gentleman from Arizona as a collection of value-biased minicourses designed to replace regular high school courses. He has also contended that hundreds of parents have risen up against objectionable materials supposedly contained in ISIS, and that children are also being subjected to experimentation by participating in field trials of the materials.

Let me respond to these charges one by one to bring out the facts:

First. This is a curriculum dealing primarily with the physical sciences as opposed to the social sciences. For instance, the "Packaging Passengers" minicourse explores the laws of physics by studying automobile passengers restraint systems. It is no MACOS. It also deals with the social implications of science. For instance, the "How Much Energy" minicourse looks at the alternatives and consequences of energy use.

Second. The minicourses, when completed, can be used individually, in groups, or as a whole year science course. They will replace other curricula only as individual schools themselves choose to do so. No school will be or can be forced to use ISIS.

Third. All NSF curricula, including ISIS, are field tested to insure their scientific accuracy as well as their effectiveness in the classroom. This is how it should be. Congress and the Nation would not want educational materials developed with taxpayer's dollars that were completely untested, inaccurate, and ineffective.

Fourth. A committee survey of ISIS trial centers—those school systems field testing the draft ISIS materials, about half at their own expense—has shown that there is no great parent and student objection to so-called value biased materials. One of the trial centers is located in my district and I am certainly not aware of parents outraged at ISIS. Indeed, the results of the survey showed that ISIS has been well received.

Finally, the distinguished gentleman from Arizona has stated that he has contacted major publishers of school materials and only two have come out in favor of NSF involvement in curriculum development and implementation. I have had the chance to review those publishers' responses. Additionally, the committee staff contacted a number of publishers at my request. I submit that the publishers' responses are not all that clear-cut. There appears to be honest disagreement among these publishers as to the appropriate degree of Federal involvement in this area. The publishers' responses do not overwhelmingly favor one side or the other. My reading of the responses, then, is that there is not overwhelming demand from the school book publishing industry to end federally funded curriculum development and implementation. This matter, I feel, warrants further study and cannot be used as an argument to end NSF funding of precollege curriculum development. I might add that during our hearings the National Science Teachers Association expressed considerable skepticism about the publishing industry's willingness or ability to invest in the research and development necessary to produce current material in a timely manner.

In summary, I believe that precollege curriculum development has been reduced sufficiently while the NSF restudies its role, especially in light of NSF's extensive management improvements described by the distinguished gentleman from Missouri. I therefore contend that there are compelling reasons for not sustaining the proposed amendment of the gentleman from Arizona.

The gentleman from Arizona has intimated that the ISIS publisher—Ginn & Co.—has a cozy relationship with the NSF and that its being the publisher for the ISIS materials allows it to profit at the expense of schools and other publishers across the Nation. Let us clear this up. Ginn & Co. was just one of many publishers asked by the ISIS project if it would be interested in publishing ISIS. Several responded with proposals—Ginn & Co. was selected as a result of that competition. Therefore, all interested publishers had a chance to compete to publish ISIS. Ginn & Co. received no "preferential treatment."

The gentleman has also contended that Ginn having exclusive rights favors it in the competition to sell materials to schools. May I remind you that ISIS, like any other curriculum, will be adopted by schools on the basis of its merit—and I believe it is a good program. No matter what the price of the curriculum, if the material is no good then the school will not purchase it. This, I contend, will be the crucial test for ISIS.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Missouri.

Mr. SYMINGTON. I thank the gentleman for yielding.

I want to commend the gentleman for giving such consideration and study to this important question and for the points he has made, not only concerning the letter that we have written asking for the National Science Foundation to take the action it did, but also for the balance he has brought to these discussions generally. I appreciate them very much.

Mr. Chairman, I oppose the amendment.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

I want to associate myself with the gentleman's views, to commend him for the fine, balanced, thoughtful leadership on this bill, and to express my deep sorrow and my deep regret that our committee and this House will be missing his wisdom and his sense of balance and his thoughtful, decent approach and compassion next year.

I cannot tell the gentleman how much our subcommittee is going to miss the gentleman's fine contribution.

Mr. MOSHER. The gentleman is very kind.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. CONLAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONLAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 232, not voting 40, as follows:

[Roll No. 136]

AYES—160

Abdnor
Alexander
Ambro
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bonker
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Derwinski
Devine
Dickinson
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Esch
Evans, Ind.
Findley
Fish
Flynt
Forsythe
Frey
Gaydos
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hammerschmidt
Hansen
Heckler, Mass.
Hefner
Heinz
Hightower
Holt
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jeffords
Johnson, Pa.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Kindness
Krebs
Lagomarsino
Landrum
Latta
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDonald
McEwen
Madigan
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Minish
Moakley
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Pa.
Natcher
Neal
O'Brien
Pettis
Pickle
Quie
Quillen
Regula
Rhodes
Rinaldo
Robinson
Rogers
Rousselot
Runnels
Russo
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Slack
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Symms
Taylor, Mo.
Thone
Traxler
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Wiggins
Wilson, Bob
Winn
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—232

Abzug
Adams
Addabbo
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Cornell
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Gonzalez
Green
Gude
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Hungate
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Koch
Krueger
LaFalce
Leggett
Lehman
Long, Md.
Lundine
McCormack
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Myers, Ind.
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Whalen
Whitten
Wilson, C. H.
Wirth
Wright
Yates
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—40

Barrett
Bell
Bevill
Biester
Boggs
Conyers
Corman
Dent
Dingell
Downing, Va.
Erlenborn
Eshleman
Evans, Colo.
Flowers
Guyer
Hayes, Ind.
Hébert
Hinshaw
Jacobs
Ketchum
Keys
Lloyd, Calif.
McCloskey
Macdonald
Madden
Montgomery
Murphy, N.Y.
Nichols
Nix
Pepper
Poage
Roberts
Sarbanes
Shipley
Steiger, Wis.
Stuckey
Udall
Vigorito
White
Wilson, Tex.

Mr. DUNCAN of Oregon and Mr. RISENHOOVER changed their vote from "aye" to "no."

Mr. CHAPPELL and Mr. FREY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977, pursuant to House Resolution 1104, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed

and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken.

Mr. SYMINGTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 358, nays 33, not voting 41, as follows:

[Roll No. 137]

YEAS—358

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derwinski
Dickinson
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Esch
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hyde
Ichord
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—33

Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Broyhill
Burleson, Tex.
Carter
Collins, Tex.
Conlan
Crane
Derrick
Devine
Duncan, Tenn.
Evans, Ind.
Goodling
Hansen
Holland
Hutchinson
Jenrette
Latta
McDonald
Miller, Ohio
Myers, Pa.
Quillen
Runnels
Schneebeli
Schulze
Shuster
Snyder
Steiger, Ariz.
Symms
Taylor, Mo.

NOT VOTING—41

Barrett
Bell
Bevill
Biester
Boggs
Clancy
Corman
Dent
Dingell
Downing, Va.
Erlenborn
Eshleman
Evans, Colo.
Flowers
Guyer
Hayes, Ind.
Hébert
Hinshaw
Hubbard
Jacobs
Ketchum
Keys
Lloyd, Calif.
McCloskey
Macdonald
Madden
Montgomery
Murphy, N.Y.
Nichols
Nix
Pepper
Poage
Roberts
Sarbanes
Shipley
Steiger, Wis.
Stuckey
Udall
Vigorito
White
Wilson, Tex.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Jacobs.

Mr. Pepper with Mr. Vigorito.

Mrs. Keys with Mr. Bell.

Mrs. Boggs with Mr. Clancy.

Mr. Macdonald of Massachusetts with Mr. Lloyd of California.

Mr. Hayes of Indiana with Mr. Guyer.

Mr. Bevill with Mr. Charles Wilson of Texas.

Mr. Nichols with Mr. Montgomery.

Mr. Montgomery with Mr. Corman.

Mr. Nix with Mr. Erlenborn.

Mr. Roberts with Mr. Dent.

Mr. Stuckey with Mr. Udall.

Mr. White with Mr. McCloskey.

Mr. Barrett with Mr. Eshleman.

Mr. Sarbanes with Mr. Madden.

Mr. Shipley with Mr. Evans of Colorado.

Mr. Murphy of New York with Mr. Ketchum.

Mr. Flowers with Mr. Biester.

Mr. Dingell with Mr. Downing of Virginia.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to a joint resolution (H.J. Res. 801) entitled "An act making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes."

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of my distinguished friend, the majority leader, the gentleman from Massachusetts (Mr. O'NEILL) as to whether he is in a position to inform the House as to the schedule for the balance of the week and next week.

Mr. O'NEILL. Mr. Speaker, if the minority leader will be kind enough to yield, I will be happy to respond.

Mr. RHODES. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of March 29, 1976, is as follows:

On Monday we will have:

House Resolution 1016, investigative funding for Committee on Merchant Marine;

House Resolution 1018, investigative funding for Committee on Post Office;

House Resolution 1038, investigative funding for Committee on Science and Technology;

House Resolution 1059, investigative funding for Committee on the District of Columbia;

House Resolution 1062, investigative funding for Committee on International Relations;

House Resolution 1079, investigative funding for Committee on Interior;

House Resolution 1081, investigative funding for Committee on Government Operations;

House Resolution 1087, investigative funding for Committee on Ongoing Computer Services of House Information Systems;

House Resolution 1097, investigative funding for Committee on Judiciary;

House Resolution 1060, supplemental investigative funding for Committee on Standards of Official Conduct.

Then we will have H.R. 49, Petroleum Reserves on Public Lands, a conference report. That is the Elk Hills matter.

Then we will have H.R. 12262, Board for International Broadcasting, under an open rule, with 1 hour of debate.

On Tuesday, Wednesday, Thursday, and Friday we will have:

H.R. 8617, Federal employees political activities, a conference report. That is the Hatch Act, as the gentleman knows.

H.R. 12406, Federal Election Campaign Act amendments, subject to a rule being granted;

House Joint Resolution 606, Atlantic Convention, under an open rule, with 1 hour of debate;

H.R. 12438, Defense authorization, subject to a rule being granted;

H.R. 12384, military construction authorization, subject to a rule being granted;

H.R. 12388, Energy Research and Development Administration supplemental authorization, subject to a rule being granted;

H.R. 12704, Environmental Protection Agency authorization, subject to a rule being granted;

H.R. 12572, Grain Standards Act amendments, subject to a rule being granted; and

H.R. 3863, Eagles Nest Wilderness, Colo., subject to a rule being granted.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. Speaker, if H.R. 12406, the Federal Election Campaign Act amendments receives a rule Monday it would be brought up on Tuesday and would take probably the greater part of Tuesday and Wednesday. The Defense authorization and the military construction bill we anticipate very well could go into 2 days. So with that in mind, Mr. Speaker, while I realize that in the past while we have announced Friday meetings, various committee chairmen have withdrawn their bills and we have not been able to have Friday meetings.

I would like to announce to the membership that the chairman of the Armed Services Committee has told us that he is ready, willing and able to call his bills up on Friday next and the membership should take note of this fact.

Mr. RHODES. Does it appear that there would be votes on Friday?

Mr. O'NEILL. There would be votes on Friday, yes.

On Friday next there could very well be votes on the Defense authorization or the Military construction bill. If we get to an hour, say, 5 o'clock, as I understand from the chairman, there would be no objection to carrying the bill over into the following Monday. While we definitely plan a Friday session, we do hope that the Members will be able to get out at a reasonable hour on Friday next.

Mr. RHODES. I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 29, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 12572

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report on the bill H.R. 12572, U.S. Grain Standards Act of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House from March 25 to March 29, 1976, the Clerk be authorized to receive messages from the Senate and the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL AGENCY CONTROL AND REVIEW ACT

(Mr. BLOUIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BLOUIN. Mr. Speaker, I am certain that many of my colleagues have been deluged, as I have been in the past year and a half, with constituent complaints about the ever-growing "fourth branch" of Government—the Federal agencies. In the course of enforcing the rules and regulations which they establish, these agencies deal with the public on an almost day-to-day basis; their work, as well as the rules which they promulgate, are often interpreted as the "spirit of the law" for which we, in the Congress, are then held accountable by the public. The situation is complicated by the fact that too often these agencies fail to adequately consider unique and special local situations in arriving at decisions. This lack of sensitivity, I think, may well be at least partially responsible for the low esteem with which the American people view their Government.

I am afraid, with all good intentions aside, that we have created an insatiable monster—a governmental bureaucracy which year after year demands an ever greater share of our national resources, our energies and our attention.

It is a natural tendency of bureaucracy to grow bigger and bigger; but as it does, it grows slower, less efficient, less productive and more expensive. It drifts further and further away from its original purpose, from the people it is supposed to serve; it loses touch with other Government agencies which end up duplicating its services.

In the past 15 years or so, we have created some 236 new Federal agencies, bureaus, or commissions. We have had the good sense to terminate only 21. We have reached the point today, in the executive branch, for instance, where the bureaucracy has grown to embrace some 10 executive departments, 86 independent agencies, and hundreds of subagencies, which employ over 2 million employees at an annual cost to the taxpayer of over $31 billion—and these figures do not include the military bureaucracy or the Postal Service.

At the present time, Congress has no effective check on this ever-growing bureaucracy of Federal agencies, save budget appropriations alone, and we are unable to effectively monitor the usefulness and responsiveness of the various agencies.

In order to help provide that check which I think the Constitutional Fathers intended Congress to have, I am introducing legislation today which will provide for a mandatory congressional review of each Federal agency at least once every 10 years. This review would be occasioned by the automatic expiration of all legislation authorizing such agencies, departments, and commissions—with the exception of Congress, the Presidency and Vice Presidency, and the courts.

Under this legislation, "The Federal Agency Control and Review Act," the constituting authority for approximately one-tenth of all Federal agencies, departments, and commissions would expire every year. The appropriate committees of the House and Senate, which have primary oversight responsibility for the individual agencies, would be required to evaluate the performance and effectiveness of the agencies and make a public report of their findings and recommendations, including proposed legislation for the extension, reorganization, or dismantling of the agencies involved. The legislation would require the Office of Management and Budget to conduct a comprehensive study of each agency's overall performance prior to the expiration date, and to submit to Congress its recommendations on whether the agency's constituting authority should be extended, revised, or allowed to expire.

I think the Federal Agency Control and Review Act is only a start, but an important start. What we are doing is building in some controls. For the first time, we are presuming that Government agencies at some point outlive their purpose or become so large and cumbersome that they no longer fulfill that purpose. This legislation gives Congress the tools it needs to fulfill its oversight responsibilities in a precise and ongoing manner. It helps insure that Federal agencies do not expand into expensive bureaucracies which, too often, outlive their usefulness and too easily thwart the purpose for which they are established by Congress.

Mr. Speaker, at this point, I would like to submit the text of the Federal Agency Control and Review Act:

H.R. 12785

A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Federal Agency Control and Review Act."

SEC. 2. For purposes of this Act—

(1) the term "agency" means any instrumentality of the United States but does not include—

(A) the legislative branch,

(B) the judicial branch, or

(C) the President and Vice President; and

(2) the term "Office" means the Office of Management and Budget.

SEC. 3. (a) The Office shall (as specified in subsection (b)) conduct a comprehensive study for not less than one year and not more than two years of each agency for purposes of evaluating such agency's organizational structure, overall efficiency, and its effectiveness in carrying out the functions and responsibilities required of it by law. Not more than 30 days after the completion of each such study, the Office shall transmit a report to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate containing—

(1) the results of such study, and

(2) any recommendation with respect to the reorganization or abolition of such agency.

(b) Except as provided in subsection (c), a study shall be conducted and a report of such study submitted—

(1) (A) in the case of each agency in existence on the date of the enactment of this Act, within the twelve-year period beginning on such date, and

(B) in the case of each agency established or substantially reorganized (as determined by the Office) after the date of the enactment of this Act, within the ten-year period beginning on the date such agency is established or substantially reorganized; and

(2) in the case of each agency with respect to which any report has been submitted pursuant to this Act (including any report previously submitted pursuant to paragraph (1) or (2) of this subsection), within the ten-year period beginning on the submission date of the immediately preceding such report.

(c) Reports shall not be submitted in any year on more than 20 percent of all agencies.

SEC. 4. The President may submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate any recommendation with respect to any agency on which a report is submitted to him pursuant to section 3.

SEC. 5. (a) Any report pursuant to section 3 or any recommendation pursuant to section 4 may be referred by the Speaker of the House of Representatives and the President of the Senate to any committee in their respective Houses of Congress with jurisdiction over the subject of such report or recommendation.

(b) Any committee to which any report or recommendation on any agency is submitted pursuant to subsection (a) of this section may—

(1) conduct an investigation of such agency's organization structure, overall efficiency, and its effectiveness in carrying out the functions and responsibilities required of it by law, and

(2) within 30 days after the completion of such investigation, submit to the appropriate House of Congress its findings and any recommendation with respect to the reorganization or abolition of such agency.

SEC. 6. Unless legislation to continue the existence of any agency is enacted within any period described in section 3(b) during which the Office is required to conduct a study and submit a report with respect to such agency, such agency shall be abolished at the end of such period.

INTERVIEW WITH JAMES A. FARLEY

(Mr. HANLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I am constantly amazed at the resilience of one of the great men of American political life, former U.S. Postmaster General and former chairman of the Democratic National Committee, James A. Farley. Few men can reach back into their own lives and allude to a personal reference involving the leaders and events which shaped so much of mid-20th century political history. He walked with giants who bent an ear to his wise counsel. No evasion or duplicity was needed by this adroit practitioner of the fine art of tact and finesse. Goodness, how the crassness of some modern politicos grates the remembrance of a Jim Farley at his chosen craft.

Though best known for his leadership within the Democratic Party, Jim Farley still maintains a lively interest in the affairs of the business world. Somewhere in his bosom, though, burn the restless coals of political bonfires banked for the time being, but ready for stoking in the cause of our country. He is without peer in his hand-shaking acquaintanceships and first-name recall of men and women from Maine to California, an important asset to anyone seeking a national constituency.

I draw the attention of the House to an article which appeared in a recent issue of the Albany Times Union of Albany, N.Y. It gives us a good look at the acuteness and precision of the mind of a master political observer. I commend it to your consideration and enjoyment.

THE COCA-COLA EXPORT CORPORATION,
New York, N.Y., March 22, 1976.

Hon. JAMES M. HANLEY,
House of Representatives,
Washington, D.C.

DEAR JIM: You will find attached a copy of an interview I had with an Associated Press reporter some days ago.

It had a wide circulation around the country and I should like very much if you could possibly place it in the Congressional Record. If it is inserted, I would appreciate your sending me a couple of copies of the Record containing the article.

For your information, I don't want to be too optimistic, but I have high hopes that I will be able to handle John Murphy's application at the next business meeting of the Friendly Sons of St. Patrick.

With warm personal regards.

Sincerely,

JAMES A. FARLEY.

FARLEY RECALLS BATTLE OF '24—LAST DEMOCRAT CONVENTION IN NYC WAS 'DONNYBROOK'

NEW YORK.—The last time the Democrats held their presidential nominating convention in New York, it took 103 ballots to nominate a man who lost anyway in November. And the delegates who arrived so confident of victory divided the party irreparably on the two hottest issues of the day: the Ku Klux Klan and Prohibition.

"It was a donnybrook," says James A. Farley, then a young delegate, later one of the big guns of the Democratic party, and now a very old man who nevertheless goes every day to an office filled with momentoes of his past.

"I have the impression that I am the only man who was at that '24 convention who's still alive; I hope I'm wrong," says Farley, 87.

He was 36 then and went on to become U.S. postmaster general from 1933 to 1940 under President Franklin D. Roosevelt. During those same years, he was chairman of the Democratic National Committee. He has attended every party convention since 1924 as a delegate from New York, except the one in 1972 (he was recovering from a heart attack that year). Now he hopes to be nominated as a delegate-at-large for the convention this July at Madison Square Garden.

If he isn't nominated, he plans to attend anyway, as a guest. "I have no desire to play a prominent role," says the man who has played a most prominent role in presidential politics for half a century.

The parallels between the 1924 Democratic convention and the one this summer go far beyond their New York City location.

The Republicans had just emerged from the Teapot Dome scandal, the Watergate of that era. President Warren G. Harding had died in office the year before while impeachment was under consideration, and Calvin Coolidge, a colorless politician, had, like Gerald Ford, moved up from the vice presidency. A month later he would get the GOP nomination to run against John W. Davis, a famous lawyer on whom the Democrats finally compromised.

The nation in 1924, as now, was just pulling out of a recession.

Farley later would write that the Democrats entered the original Madison Square Garden on East 27th Street "in a cocksure mood," tasting an easy victory in November

Two grueling weeks and a record 103 ballots later, the two leading rivals for the presidential nomination—New York's Alfred E. Smith and California's William G. McAdoo—were both done in by the issues of Prohibition, then in force, and the Ku Klux Klan. And Davis lost a landslide decision in November to Coolidge.

"There isn't any doubt in my mind that if that convention hadn't been drawn out, and the anti-Ku Klux Klan resolution hadn't been introduced, Davis would have been successful," Farley says now in an interview. He was with the Smith forces, which favored repeal of Prohibition (it wasn't repealed until 1933) and opposed the Klan.

Early in the convention, William R. Pattangall, national committeeman from Maine, rose to read the resolution that split the party almost exactly in half: "We pledge the Democratic party to oppose any effort on the part of the Ku Klux Klan to limit the civic rights of any citizens or body."

Al Smith and his mostly urban, Northern, immigrant supports backed the plank, while McAdoo would support it only if the Klan, which had backed his candidacy, was not mentioned by name.

The vote on the resolution was 541 and 3-20ths in favor, 542 and 3-20ths opposed. The resolution was defeated by exactly one vote.

From that point on, the fierce divisions on the major issue of Prohibition and the lesser issues of immigration, race, Smith's Catholicism, and even the convention site in New York, the alleged capital of sin, legitimate theater and other East-bred evils, made the Smith-McAdoo fight impossible to resolve at the convention, although it lasted two weeks.

McAdoo, who had held a lead of about 100 delegates over Smith through more than 80 ballots, lost that lead on the 86th. But neither approached the 731 votes needed for victory.

By the 99th ballot, party chiefs persuaded first Smith, and then McAdoo to free their delegates. A desperate party then took four more ballots to give what was by then a worthless nomination to Davis.

"Davis was certainly the greatest lawyer of his day, and a perfect gentleman. A brilliant man. He would have made a fine president," says Farley, who hopes the 1976 convention does not repeat the conflicts of 1924.

EXPANDING TAXPAYERS' RIGHTS

(Mr. QUILLEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. QUILLEN. Mr. Speaker, I am introducing today the Legal Fees Reimbursement Act of 1976. The purpose of this bill is to provide for the reimbursement in full of legal fees to taxpayers who prevail in cases arising from legal action originally initiated by the Internal Revenue Service.

My bill seeks a congressional redress of grievance for a demonstrably unfair legal situation which we in Congress should no longer tolerate or allow to continue. The fact is that equity and fairness are lacking in the functioning of certain aspects of our legal system, and particularly is this true in regard to legal action arising between the Internal Revenue Service and the American taxpayer.

One of the surest means of restoring equity and fairness to the system is to remove the economic obstacles presently preventing private citizens from defending themselves against the Internal Revenue Service when there is dispute between the tax collectors and the taxpayers over what tax is due to the Federal Government.

While the Government has at its disposal all the enormous and sometimes intimidating resources of a bureaucratic juggernaut, the private citizen is, in effect, rendered virtually defenseless.

When a citizen, contemplating litigation against the Internal Revenue Service to defend the validity of his or her tax return, realizes that the legal expenses incurred will almost certainly be far greater than vindication of the case could produce, the only practical alternative is to forget about defending his or her rights. The citizen is effectively coerced into submitting to the IRS ruling and paying the tax collectors what they say is owed.

Because this is the way the system operates, American taxpayers are really being denied equal access to the courts, and are therefore being denied equal justice.

I believe the bill which I am introducing today will restore the balance that the cost of litigation has upset. It will put the taxpayers on a more equal footing in disputes with the tax collectors.

The bill requires that the court shall order reimbursement in full of all reasonable litigation expenses incurred by the taxpayer as a consequence of legal defense in cases where the taxpayer prevails in legal action with the IRS.

Mr. Speaker, I think congressional action regarding this issue is long overdue. I urge my colleagues to join with me in supporting this bill so that the American taxpayer is no longer denied the right of defending his or her position in tax cases because of unfair economic obstacles, which now mean—"if you win, you lose"—because of the expense of defense.

Mr. Speaker, at this point in the RECORD, I submit the full text of my bill:

H.R. 12812

A bill to amend the Internal Revenue Code of 1954 to provide for payment by the Government of all reasonable litigation expenses to prevailing taxpayers in legal action

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Legal Fees Reimbursement Act of 1976".

Subchapter B of Chapter 76 of the Internal Revenue Code of 1954 is amended by redesignating Section 7427 as Section 7428 and by inserting after Section 7426 the following new section:

Section 7427. Reimbursement of Legal Fees.

"(a) In any litigation, proceeding, or court action arising from legal action originally initiated by the Government, even though later withdrawn by the Government, or in any action instituted by a taxpayer contesting the accuracy of a deficiency assessment or claiming a refund of taxes paid, the taxpayer having prevailed, or substantially prevailed (Government withdrawal being construed as the Government having not prevailed), the Government shall be liable for the reimbursement in full of all reasonable litigation expenses incurred by the taxpayer as a consequence of legal defense, and the court shall order such reimbursement in full.

(b) Reasonable litigation expenses shall include all actual attorneys' fees, court costs, expert witnesses, clerical assistance, travel expenses, preparation of documents, and other related and necessary expenses."

HARRY H. KLEINMAN, WEST HARTFORD DEMOCRATIC TOWN CHAIRMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, it has been my pleasure to be associated with Harry H. Kleinman of West Hartford, Conn., for the past 20 years. Mr. Kleinman, as well as being an outstanding political leader in his town and State, has also contributed immeasurably to the social and religious life of the State of Connecticut. Very few people have demonstrated the altruism, sincerity and dedication to worthwhile causes as has Harry Kleinman.

As everyone in Connecticut politics knows, Harry is a dedicated Democrat, but his concern for issues and people transcends narrow partisanship.

Recently the Hartford Times did a profile on Harry and I want to share it with my colleagues.

POLITICS, RELIGIOUS DEVOTION SHAPE HARRY KLEINMAN'S LIFE

(By Jenifer Frank)

WEST HARTFORD.—It's a long road from the synagogue to the smoke-filled room of politics, but Harry H. Kleinman has traveled that road for nearly 40 years.

Kleinman is beginning his 15th year as chairman of the West Hartford Democratic Town Committee. He was elected to his eighth two-year term earlier this month.

And if his fascination with and commitment to Democratic politics is one of Kleinman's "eternal lights," so is his equally non-flickering devotion to Judaism and Jewish community activities.

Relaxing—as much as Kleinman is capable of relaxing—in his Pratt Street law office, he discussed his 40-some-odd years in Hartford area politics and more specifically, the Democratic party's coming of age in West Hartford of which he played a large part.

"When I moved to West Hartford (nearly 30 years ago) it was politically unwise, economically stupid and socially improper to be a Demorcrat," he said, leaning back in his chair with an unlit cigar butt in his mouth.

To prove the point, he sprung out of his seat to gather voter registration statistics of the past 20 years. "We were out-registered by the Republicans 6 to 1," he pointed out.

Kleinman is a small, wirey man, fast approaching 70, who could easily pass for a dozen years younger.

He speaks like a rapid-fire tommy gun. It is also important to point out that if you have an adequate knowledge of Hebrew, French and a smattering of Latin (in that order), you will gain a lot more from a conversation with him than if you only boast English as your lingua paria.

His speech, whether addressing a room full of Democratic Town Committee members or on a one-to-one basis, is constantly peppered with quotes from the Old Testament.

"The '52 and '56 (presidential) elections were like a slaughter of the innocents," Kleinman surmised, musing over voter figures in old state manuals.

Other Kleinman-isms? On Henry "Scoop" Jackson who he recently endorsed in that candidate's presidential bid: "He has been weighed in the balance and not found wanting." Check the prophet Daniel.

Harry is a Hartford native. He is a graduate of the Arsenal School and Weaver High. He left Harvard University (cum laude 1930) with a major in state and local government and then the Yale University school of law in 1933. He was admitted to the Connecticut Bar in June of that year.

His political career began soon thereafter. He was elected as Hartford alderman from the 4th Ward at the age of 27. He served in this capacity for six years, serving as majority leader for two of them.

He also served on the Metropolitan District Commission for six years.

The list of credits continues, with Kleinman serving as judge of the old Town Court here and as deputy judge.

His list of activities in the Jewish community is as long. He is past president of Beth El Temple and now serves on the board of directors, he is a past president of the Hartford Zionist District and Ararat Lodge, B'nai B'rith.

He also served as chairman of the special gifts division of the Hartford Jewish Federation campaign and as vice president of the Federation.

But back, as always, to politics.

Kleinman will insist that when he first moved to West Hartford, "I had no intention at all of engaging in politics.

"But once you have participated in politics, it's like a disease, no, not like a disease, it's more like the clanging of a fire bell in the ancient days of the fire horse."

As Democratic Town Committee head for a decade and a half, Kleinman has certainly had his opportunities to make both friends and political opponents.

But if he has a close rein on his town committee members and local Democratic office holders, he has never been accused of using a choker.

Democratic council members and school board members will say they have never felt any attempt at political arm-twisting from Kleinman when an issue is before a board.

As one school board member once put it, "I will very occasionally get a phone call (from Kleinman) asking me to pay special attention to an issue, but I have never felt I was being put in a pressured position."

This is consistant with Kleinman's feelings toward the Democratic party and with his political philosophy.

"The Democratic party is the only party that is truly representive of all sectors of our society . . . I am not in politics to feather my own nest, but to work in the best interests of our town and our party, in that order."

Kleinman stresses that his Democratic organization is "completely non-repressive and vibrant enough to allow us to wash out our linen in public."

Kleinman's explanation of why he devotes so much time to Democratic politics ("before an election, at least one to two days a week or solid time") is given without hesitation.

"It's only the slight contribution I make for the privilege of living in a good country, it's from a need to be other than an armchair critic or a Monday morning quarterback."

Does his wife or family ever object to the tremendous amount of time he spends to politics?

"That, my dear, is the understatement of the moment, however, I am blessed with a wife of infinite goodness and an infinite patience."

As Kleinman begins his 15th year as Democratic chairman, he obviously has very few regrets when looking back over his community-oriented career.

He explains this in terms of why he never sought higher office in the state Democratic organization which he was certainly in a position to do.

"Why? Because I have always acted in accordance with the dictates of my conscience and I never wanted anyone pointing their finger at me or have to look at myself in a mirror and say 'Harry, you are not your own man'."

He continued, "Without patting myself on the back, I think you will find very few people who would say I have not conducted myself with integrity as my first thought."

There was no opposition among local Democrats this year, or in past years, against Kleinman's chairmanship, although there has always been some murmurings of discontent among several town committee members.

It is a fairly safe guess that as long as Kleinman wants to be town chairman, he will be town chairman.

Is he planning to retire within the near future?

A final Kleinman-ism for the answer: "You have to pause to thank the Lord for being allowed to continue from year to year and I will do so and continue to see the Democratic party move from strength to everincreasing strength."

SOCIAL SECURITY COMPUTER OPERATIONS IN TROUBLE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. **VANIK**. Mr. Speaker, the Ways and Means Oversight Subcommittee held several hearings this past year on the administration of the Medicare and Supplemental Security Income programs by the Social Security Administration. During these hearings, it became increasingly evident that SSA programs are being adversely affected by basic weaknesses in their computer systems capability.

I would like to announce that the subcommittee is planning to review the full range of data processing issues involving medicare and SSI, and I have asked the Comptroller General to work closely with the subcommittee on this major project.

While our major effort will be on computer programs, or "software," our efforts should also include SSA procurement practices regarding computer equipment. As an example of the need to review computer procurement policies, I have just learned that in June 1975, SSA contracted for four IBM 370/168 computer systems at a cost of about $22 million. Two systems were purchased by SSA and the first of four annual payments by social security will be made this June. The other two systems were purchased by SSA and the first of four annual payments by social security will be made this June. The other two systems were purchased by the General Services Administration for leaseback to SSA. GSA will be making a one-time $11.3 million payment in June. Supposedly, the equipment was ordered last June to achieve a savings because of a potential price increase. However, SSA did not follow normal procurement practices and SSA had neither the appropriate physical space nor the power generation sources to make use of the new systems. Also, I have good reason to question whether SSA even needs this new high-powered equipment.

As of today, SSA has not completed the necessary facilities and power source, therefore, the computer systems sit gathering dust in a warehouse with the first of four payments due this June. It is my understanding that the new facilities and power will not be available until at least December 1976. Such procurement practices, in addition to being against regulations, show a total disregard for planning and the efficient use of trust fund money.

On March 4, several members of the subcommittee and I visited the SSA computer complex in Baltimore and also were briefed by on-site GAO officials regarding their work in the data processing area. Their preliminary but significant efforts support our initial observations and suggest that we are in for a long and detailed oversight effort at SSA.

Mr. Speaker, because SSA administers programs which pay nearly 40 million people about $110 billion annually, they must have an efficient computer systems capability. They must put an end to the practice of purchasing new, high-powered equipment to run inefficient computer programs; they must attack the real problems by implementing new programs and retraining staff.

I would like to outline in some detail several of the computer problem areas which cause me greatest concern.

SSI PROGRAM

The SSI program, Public Law 92–603, was passed in October 1972, and became effective in January 1974. SSA has informed the subcommittee that the last of the subsystems comprising the SSI data system will not be implemented until March 1977, more than 3 years after the program became operational and 4½ years after enactment! Also, the operating subsystems have not been fully tested and are significantly contributing to the massive overpayment problem—about $1 billion thus far.

JULY 1975 SSA STUDY GROUP REPORT ON EDP SERVICES

A few of the areas problem areas mentioned by this social security group are as follows:

The overall quality or competence of the working staff;

Low productivity of personnel because of incomplete training;

The inadequate number of management and supervisory personnel;

Poor technical ability of supervisors and managers;

Inadequate staff of supervisors and managers;

Inadequate staff for analysis of operating performance;

Failure to respond timely to data showing poor resource utilization, abnormal job endings, possible equipment problems and frequent downtime;

Excessive removal of personnel from their work status for miscellaneous SSA sponsored activities, such as, concert band and chorus;

Inability to deal with hardware/software problems;

Inability to become professionally competent in dealing with new operations such as SSI;

Inability to match ADP resources concurrently with demand;

Incomplete documentation of systems procedures that necessitate a significant amount of programer intervention to complete jobs—this is particularly exemplified by the SSI program;

Unenforced or nonexistent performance standards;

Lack of control over programers regarding the number of program changes and quality of product.

Other data obtained at SSA shows that by using the year 1965 and the IBM 7080 system as a base period, SSA computer power has increased 20-fold in the 10 years from 1965 through 1974. Projected acquisition plans call for increasing by 1980 the 1974 capacity by 250 percent without any new or significant program requirements. In short, SSA computer capacity has increased 50-fold in 15 years.

The above SSA data indicates that SSA's traditional way to meet data processing needs is basically through the acquisition of additional computer hardware rather than questioning the level of utilization of their existing equipment and the quality of their programs.

I am still somewhat hopeful of reform when I hear of groups within SSA that present alternatives to expensive purchases of computer equipment. For example, a system/equipment task group suggested the following alternatives:

A strike force of specialized personnel to make elementary system improvements in existing production jobs;

Strong management action to reduce non-productive operations.

The task group report also has many other reasonable suggestions which the Oversight Subcommittee will be studying in an effort to improve SSA operations. The task group's concluding remarks are most significant and will serve as a focus for our efforts:

> SSA had significant additional requirements placed on it in 1965–7 with HI legislation, and in 1972–4 with SSI legislation.

> It would *not* appear that this past experience justifies an exponential growth in future computing power. This report effectively shows SSA-BDP management critical areas which require immediate attention. The technique of adding computers and replacing computers may help solve some problems; however, the mere acquisition of more and better is not the only solution to meeting our workload requirements. We believe a comparatively small amount of money could profitably be invested in personnel and the management required to develop improved systems and operation techniques.

MUNICIPAL BANKRUPTCY BILL LEAVES SERIOUS QUESTIONS UNANSWERED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 60 minutes.

Ms. HOLTZMAN. Mr. Speaker, earlier today the conference report on the Municipal Bankruptcy Act (H.R. 10624) was brought to the floor and passed by voice vote.

I deeply regret that this bill was rescheduled at the last moment, and then passed without adequate attention to the very serious questions which it raises.

It seems to me that with a great many municipalities in financial difficulty as a result of the nationwide recession and inflation, the administration's cutbacks in aid to localities, and the fallout from the New York City fiscal crisis, we ought to know exactly what this bankruptcy conference report means before it is passed. Certainly as a Member of Congress from New York City, for which bankruptcy remains a very real possibility, I want to know precisely what effect this legislation would have on my constituents and their neighbors, should New York need its remedies.

Chief among the unanswered questions is what will happen to the pensions of municipal workers who have already retired. What will happen, for example, to the thousands of elderly New York retirees who rely on their city pensions as their main source of income? This question becomes even more urgent when we realize that the pension funds have invested billions of dollars in MAC bonds which, if the city were to go bankrupt, undoubtedly could not be redeemed at face value. If the pension funds cannot pay, can these retirees rely upon a bankrupt city to make the payments instead? (The city has a contractual obligation to act as a surety for the payments.) On these technical legal questions turn the futures of thousands of elderly New Yorkers.

A member of the subcommittee which produced this bill has circulated a legal memorandum purporting to answer these questions. Unfortunately, the memorandum expresses merely the brave hope that the questions will be answered favorably for the retired workers of New York.

Thus, according to the memorandum:

> If the provisions of Article V, Section 7 [of the New York State Constitution which gives contractual rights to pension beneficiaries] did not apply, if the City should reject its employment contracts and collective bargaining agreements and if the court should approve such rejection, it appears that City employees and retirement system beneficiaries would, at the least, have claims against the City for any vested unfunded benefits.

Thus, the best that is offered to New York's elderly retirees is the hope of a lawsuit. This is little protection indeed. What would happen in the lawsuit? First, the New York State constitution's protections may well not apply, since they set up contractual obligations, and the purpose of the Federal bankruptcy power is to allow the breach of such obligations. Second, New York City may have no choice but to reject its labor contracts, either because it is forced to do so by other creditors or because it has no other way to become solvent. If these things happen, New York's retirees will have to stand in line with all other creditors—and, as the memorandum concedes, they may not even be able to vote as creditors on whatever settlement is proposed.

Clear legislative history or carefully drafted legislation might have resolved some of these problems. Unfortunately, it appears that the pension question, inasmuch as it affects retirees, was never really addressed.

I have a number of other problems with the bankruptcy bill:

First. It fails to provide assurance that a municipality in bankruptcy can raise operating cash to cover seasonal deficits. Indeed, the conference version is even weaker in this regard than the original bill, because it subordinates certificates of indebtedness—which are intended to be sold to raise cash—to daily operating expenses.

It is obvious that without a Federal guarantee certificates of indebtedness cannot be sold. It is no answer to say Congress can always enact a Federal guarantee. What happens if a city files for bankruptcy during a recess or at the end of a session? What happens if a President refuses to go along? A city would have to make massive cutbacks to make ends meet.

Second. The bill makes it easier for municipalities to declare bankruptcy, thereby making it likely that municipal borrowing will become more difficult and more costly.

Third. The bill fails totally to deal with the basic fiscal problems of our cities—the flight of business and the middle class, the welfare burden, the costs of the recession. Instead, it offers bankruptcy as an illusory remedy for troubled municipalities.

I fear, Mr. Speaker, that the futures of the citizens of New York, and of every other major municipality in this country have been gravely jeopardized by the enactment of H.R. 10624.

LEGISLATION TO PROVIDE PUBLIC FINANCING OF CONGRESSIONAL ELECTION CAMPAIGNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, today I am introducing a bill to provide for public financing of congressional election campaigns. When the bill—H.R. 12406, to amend the Federal Election Campaign Act of 1971—comes up on the floor of the House, I intend to offer my bill on public financing as an amendment to it.

For the benefit of my colleagues, following is a summary of the major provisions of my congressional public financing proposal:

First. Coverage: General elections only, beginning with 1978 congressional elections. Provides public funds only for candidates, and not for political parties.

Second. Public funds: Limited to funds derived from voluntary dollar tax checkoff on income tax returns. No use of general revenue funds.

Third. Matching amount: Contributions to candidates of up to $100 per person would be matched with funds derived from the voluntary dollar checkoff.

Fourth. Spending limits: Candidates who accept public financing would be subject to the same overall spending limits and limits on a candidate's own personal funds, originally enacted in the 1974 campaign finance law. The Supreme Court in Buckley against Valeo held that in providing public funds for campaigns Congress could condition the availability of such funds on agreeing to campaign spending limits.

Fifth. Eligibility threshold: Each candidate would have to raise at least 10 percent of the applicable spending limit in amounts of $100 or less per contribution to be eligible for any public funds.

Sixth. Matching payment limit: A candidate could not receive more than 50 percent of his/her applicable spending ceiling in public funds. In addition, all candidates in a given race could not receive public funds totaling more than 100 percent of the applicable spending ceiling in the race.

Seventh. Qualified expenditures: Matching payment money would be limited to qualified campaign expenditures including such items as broadcast air time; newspaper, magazine, and billboard advertising space; direct mail; and telephone costs.

Eighth. Matching payment period: Only funds raised after January 1 of the general election year would be eligible for matching. Matching funds received by candidates have to be placed in a special account, may be spent only for general election purposes and no actual disbursements may be made until the candidate and at least one opponent are certified for the general election ballot.

STATEMENT OF ROBERT W. KASTENMEIER UPON INTRODUCTION OF THE SMALL POST OFFICE PRESERVATION ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, I would like to draw my colleagues attention to a bill, the Small Post Office Preservation Act, which I am introducing today to address the problems created by the U.S. Postal Service's recent efforts to cut costs by closing many of our 18,300 smaller post offices throughout the country, on what appears to be an indiscriminate basis.

Many of us have been contacted over the past few months by our constituents protesting these potential closings. The appeals have varied considerably, from pleading to total outrage.

Local post offices are not simply outlets of the Postal Service, but outposts of democracy—gathering places for local townspeople, and, in all likelihood, their only direct contact with their Federal Government. In many instances, they are an absolute necessity if local businesses are to survive.

In one sample area of my district, the Postal Service has threatened to close a series of small post offices. The only doctor in a 20-mile radius in the midst of this area has said that he will leave if the local post office closes, since he depends on late afternoon service to mail blood tests and other laboratory work to the nearest test center. A veterinary hospital faces similar difficulties.

I have given this situation a good deal of consideration since submitting testimony on this issue to the House Subcommittees on the Postal Service and Postal Facilities, Mail and Labor Management, and I have come to the conclusion that legislation is necessary.

Section 101(b) of the Postal Service Reorganization Act specifically states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

Unfortunately, Congress decided to leave interpretation of this important provision to the Postal Service. In November 1975, Postal Service policy was changed drastically to allow a closing if any one of the following criteria applied to a fourth- or third-class post office.

First. An equivalent or improved level of postal service can be provided to the affected customers more efficiently.

Second. Another postal facility is located within a reasonable distance of the post office to be discontinued, is easily accessible to the customers affected and would provide an equivalent or improved level of postal service.

Third. A survey of the customers affected discloses that a majority of them approve a change in service.

Fourth. Changing conditions related to the community, or to the staffing or facilities of the post office, make it impractical to operate a post office, and effective and regular postal services can otherwise be provided to customers served by the post office.

In a letter I received, dated March 11, 1976, the senior representative of the Postal Service's Government Relations Department, Mr. William A. Johnston, noted that "the new policy comprises no radical change from past policy." After reiterating the four alternatives in use, he noted that—

> The following two arbitrary restrictions have been eliminated: (1) that, regardless of a case's individual merits, a postmaster vacancy was necessary before a discontinuance could be considered, and (2) that 25 families or fewer be served by an office considered for discontinuance.

Given the ill-defined nature of the remaining criteria in use by the Postal Service now, this statement seems at best misleading. The Small Post Office Preservation Act outlines the circumstances under which the Postal Service can effect a closing in order to force the Postal Service to consider the devastating effect such a closing can have on a community, its residents and its businesses.

Since I recognize that the Postal Service is in dire financial straits at this time—losing an estimated $3 million per day—and is predicted to incur even larger losses in the future, I feel that it is important not to prevent the Service from ever closing a post office. On the other hand, we must insure that the needs of the local patrons are not only taken into account, but met.

The three alternatives offered in my bill are designed to encourage the Postal Service to make every effort to persuade a local community that proposed changes in service will in fact offer equivalent or improved service. If the Postal Service is unable to convince a community to accept the closing and a change in service, the Postal Service could, under the bill, make a shift in service to a contract facility—provided that each community would retain its identity, name and zip code. Thus, a community would be able to count on continued local service while the Postal Service would be able to realize substantial cost reductions. A General Accounting Office study noted that, in comparing costs of actual conversions in 1974, approximately $2,000 annually is saved by shifting from a fourth-class post office to a contract facility and almost $9,000 in savings are realized in changing from a third-class post office to a contract facility.

The third alternative provided in the bill deals with a change in service from a post office to a rural route, but requires the Postal Service to meet stringent tests prior to making such a change. Given the radically different, and I feel often inferior service provided by rural delivery, and in light of section 101(b) of title 39 U.S.C. noted earlier, these tests seem clearly justified. The Postal Service would have to: First, demonstrate that an equivalent or improved level of postal service will be provided to persons who are regularly served by a post office; second, less than 35 family units are regularly served by such post office; third, insure that another postal facility is easily accessible to persons who are regularly served by the existing post office; fourth, show that a substantial decrease has occurred in the revenues and patronage of such post office over the previous 3-year period.

I think that this bill is both fair and realistic and will urge that the House Post Office and Civil Service Committee give it full consideration as a means of protecting the rights of our rural citizens to equal and fair treatment.

The situation facing rural Americans and their right to postal service is critical. Further moratoriums, studies and surveys will not solve this problem, we need to take definitive action.

The Postal Service was our Nation's first public service; what could be more appropriate in this, our Bicentennial Year, than to reaffirm that we are truly a national community, concerned with optimum communication between all citizens, and a country where each American community, however small or remote, will continue to be in touch with the rest of our Nation.

SOCIAL SECURITY: GLARING INEQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, New York City's announcement this week that it is considering terminating social security coverage for its employees is one which should be viewed with the greatest concern.

As chairman of the House Social Security Subcommittee, I intend to hold hearings on this development beginning April 26.

In an effort to fully apprise the Members of this body of the ramifications of New York City's proposal, I insert an article which appeared in the Boston Globe, March 13, 1976, by Globe columnist David B. Wilson. Mr. Wilson's excellent article, clearly and succinctly, outlines why we all have good cause for concern over what appears to be a growing trend on the part of city, county and local government.

Social Security: Glaring Inequity

(By David B. Wilson)

The Washington Post reports that 138 city, county and local government agencies have dropped out of the Social Security system in the last two years and another 207 have signified their intention to do so.

This is social, economic and political dynamite. About 9 million state and local employees presently participate, of the approximately 100 million Social Security payroll taxpayers.

Public employees have the option of dropping out, replacing Social Security with private retirement plans. So do employees of private, non-profit corporations.

This alternative is not available to the overwhelming proportion of private sector workers now required to pay Social Security taxes matched, dollar for dollar, by employer contributions.

In addition, private retirement plans need not offer members the array of medical, disability and survivors' benefits financed by SS taxes.

It is pertinent, too, to note that withdrawal of public and non-profit employees from the system could severely exacerbate its present revenue shortfall, which is steadily depleting the SS trust funds.

Such withdrawals have an inconsiderable impact on the system's burgeoning payouts to retirees. But they have an immediate and severely negative effect upon the system's revenues.

But perhaps the most shocking implication is that early retirees under public sector private retirement plans would be free to take sufficient private sector employment to qualify them for Social Security upon retirement at 62 or 65, thereby enriching themselves at the expense of people who have spent their working lives entirely in the system.

The entirely legal but otherwise questionable practice by which Federal employees take early retirements and then enter private sector employment so as to qualify for SS pensions has stirred acrimonious controversy recently.

Less attention has been paid to a parallel practice by state and local employees covered by public pension plans separate from Social Security. This advantage, of course, is not enjoyed by public employees who have elected the SS option. It furnished them with a powerful motive to opt out.

That this amounts to a profound inequity, subjecting one class of citizens—private sector employees—to a tax from which public sector employees are exempt, is an inescapable conclusion.

Indeed, the injustice of the situation is so glaring as to suggest the merits of a class action suit on behalf of private sector workers. Such a suit might argue that petitioners were victims of discrimination, denied the equal protection of the laws guaranteed by the 14th Amendment.

The way the personal income tax laws operate in this area tends to compound the injustice.

Social Security taxpayers get no personal income tax deduction for the money diverted from their pay to the payroll tax. On the contrary, their income tax liability is calculated on their income prior to extraction of SS tax.

However, employer payments to a private retirement plan are not subject to personal income tax. They are an exempt fringe benefit. The money is sequestered. So are its earnings. The Internal Revenue Service does not get at these funds until employees retire and begin to receive them.

Private sector workers have no escape from the SS tax. And, of course, their income taxes must support the advantage the government extends to participants in employer-funded private retirement plans.

A not unreasonable and certainly equitable approach to rectifying these injustices would be to oblige all workers, without exception, to participate in a Social Security system relieved of the welfarist burdens it presently bears.

Instead, public employees are dropping out, many with the intention of reinstatement, or qualification by "moonlighting." If the trend continues, the consequences for the system could be disastrous.

(Chairman Al Ullman, Democrat, of Oregon, committee on Ways and Means, U.S. House of Representatives, and Chairman James A. Burke, Democrat of Massachusetts, Subcommittee on Social Security of Ways and Means Committee, announce public hearings on New York City's request to terminate social security coverage for its employees.)

The Honorable Al Ullman (D., Oregon), Chairman of the Committee on Ways and Means, U.S. House of Representatives, and Honorable James A. Burke (D., Mass)., Chairman of the Subcommittee on Social Security of the House Committee on Ways and Means, stated that they deplored the action initiated yesterday by New York City in taking the first step in depriving its City employees of vital retirement, survivor, disability, and health insurance protection under the social security program.

The Social Security Act provides that two years notice of a proposed termination must be given, but such a request can be withdrawn at any time during this period. Once the termination is effective, however, it is irrevocable.

Mr. Burke announced that at the request of Congressman Charles B. Rangel (D., N.Y.), the Social Security Subcommittee will hold public hearings on this development as soon as can be arranged, considering the schedule of the full Committee and the Subcommittee. The exact dates and details of the hearing will be announced at a later date.

A DECLARATION OF INTERDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, a major event in this Bicentennial Year has been the formulation of a Declaration of Interdependence, written by Henry Steele Commager and endorsed by 30 Senators and almost 100 Congressmen. It was my honor to go to Philadelphia on January 31 and sign this important document, along with a number of my colleagues. A further signing ceremony here in Washington is planned for May 12.

The declaration has become the target of violent attacks by various American rightwing groups, attacks which seem to bear no relation to the declaration itself. The best response to these attacks is the text itself, and I herewith include it in the RECORD, along with a set of questions and answers about it:

A DECLARATION OF INTERDEPENDENCE

(By Henry Steele Commager)

When in the course of history the threat of extinction confronts mankind, it is necessary for the people of The United States to declare their interdependence with the people of all nations and to embrace those principles and build those institutions which will enable mankind to survive and civilization to flourish.

Two centuries ago our forefathers brought forth a new nation; now we must join with others to bring forth a new world order. On this historic occasion it is proper that the American people should reaffirm those principles on which the United States of America was founded, acknowledge the new crises which confront them, accept the new obligations which history imposes upon them, and set forth the cause which impel them to affirm before all peoples their commitment to a Declaration of Interdependence.

We hold these truths to be self-evident: that all men are created equal; that the inequalities and injustices which afflict so much of the human race are the product of history and society, not of God or nature; that people everywhere are entitled to the blessings of life and liberty, peace and security and realization of their full potential; that they have an inescapable moral obligation to preserve those rights for posterity; and that to achieve these ends all the peoples and nations of the globe should acknowledge their interdependence and join together to dedicate their minds and their hearts to the solution of those problems which threaten their survival.

To establish a new world order of compassion, peace, justice and security, it is essential that mankind free itself from the limitations of national prejudice, and acknowledge that the forces that unite it are incomparably deeper than those that divide it—that all people are part of one global community, dependent on one body of resources, bound together by the ties of a common humanity and associated in a common adventure on the planet Earth.

Let us then join together to vindicate and realize this great truth that mankind is one, and as one will nobly save or irreparably lose the heritage of thousands of years of civilization. And let us set forth the principles which should animate and inspire us if our civilization is to survive.

We affirm that the resources of the globe are finite, not infinite, that they are the heritage of no one nation or generation, but of all peoples, nations and of posterity, and that our deepest obligation is to transmit to that posterity a planet richer in material bounty, in beauty and in delight than we found it. Narrow notions of national sovereignty must not be permitted to curtail that obligation.

We affirm that the exploitation of the poor by the rich, and the weak by the strong violates our common humanity and denies to large segments of society the blessings of life, liberty and happiness. We recognize a moral obligation to strive for a more prudent and more equitable sharing of the resources of the earth in order to ameliorate poverty, hunger and disease.

We affirm that the resources of nature are sufficient to nourish and sustain all the present inhabitants of the globe and that there is an obligation on every society to distribute those resources equitably, along with a corollary obligation upon every society to assure that its population does not place upon Nature a burden heavier than it can bear.

We affirm our responsibility to help create conditions which will make for peace and security and to build more effective machinery for keeping peace among the nations. Because the insensate accumulation of nuclear, chemical and biological weapons threatens the survival of Mankind we call for the immediate reduction and eventual eliminatian of these weapons under international supervision. We deplore the reliance on force to settle disputes between nation states and between rival groups within such states.

We affirm that the oceans are the common property of mankind whose dependence on their incomparable resources of nourishment and strength will, in the next century, become crucial for human survival, and that their exploitation should be so regulated as to serve the interests of the entire globe, and of future generations.

We affirm that pollution flows with the waters and flies with the winds, that it recognizes no boundary lines and penetrates all defenses, that it works irreparable damage alike to Nature and to Mankind—threatening with extinction the life of the seas, the flora and fauna of the earth, the health of the people in cities and the countryside alike—and that it can be adequately controlled only through international cooperation.

We affirm that the exploration and utilization of outer space is a matter equally important to all the nations of the globe and that no nation can be permitted to exploit or develop the potentialities of the planetary system exclusively for its own benefit.

We affirm that the economy of all nations is a seamless web, and that no one nation can any longer effectively maintain its processes of production and monetary systems without recognizing the necessity for collaborative regulation by international authorities.

We affirm that in a civilized society, the institutions of science and the arts are never at war and call upon all nations to exempt these institutions from the claims of chauvinistic nationalism and to foster that great community of learning and creativity whose benign function it is to advance civilization and the health and happiness of mankind.

We affirm that a world without law is a world without order, and we call upon all nations to strengthen and to sustain the United Nations and its specialized agencies, and other institutions of world order, and to broaden the jurisdiction of the World Court, that these may preside over a reign of law that will only end wars but end as well that mindless violence which terrorizes our society even in times of peace.

We can no longer afford to make little plans, allow ourselves to be the captives of events and forces over which we have no control, consult our fears rather than our hopes. We call upon the American people, on the threshold of the third century of their national existence, to display once again that boldness, enterprise, magnanimity and vision which enabled the founders of our Republic to bring forth a new nation and inaugurate a new era in human history. The fate of humanity hangs in the balance. Throughout the globe, hearts and hopes wait upon us. We summon all Mankind to unite to meet the great challenge.

QUESTIONS AND ANSWERS

What is "A Declaration of Interdependence"?

"A Declaration of Interdependence" is both (1) a statement of a global view authored for the World Affairs Council of Philadelphia by Henry Steele Commager and (2) a 13-year, Bicentennial Era educational program of discussion, debate and study by professional leaders, citizen groups and students designed to produce American initiatives which respond to new global interdependencies.

Where did the Concept of "Interdependence" Originate?

The recognition of the inescapable fact that many of mankind's problems—and opportunities—extend beyond national borders has been developing rapidly through this century. Both Presidents Kennedy and Ford have called for "Declarations of Interdependence" in speeches delivered in Philadelphia. Many groups have issued interdependence statements, and the term has become increasingly used to describe the contemporary interrelationships of peoples and nations. The World Affairs Council accordingly calls the Commager document "A Declaration of Interdependence."

Why an "American Response"?

The World Affairs Council recognizes that solutions to global problems depend ultimately on the cooperation of many nations. However, it seemed appropriate during this Bicentennial period for Americans to take stock of their role in the world and to redefine their manifest destiny in contemporary times.

Is the New Declaration a Substitute for the Old?

Of course not! The Declaration of Independence remains one of the most powerful and relevant statements ever produced by any people. It clearly serves as an inspiration to those who now wish to challenge such tyrannies of our age as global inflation, escalating armament, international terrorism, intercontinental pollution, and disastrous imbalances of food and population.

Does "A Declaration of Interdependence" Call for Specific Political Action?

No. It asserts that we are economically, environmentally, culturally and in other fundamental respects interdependent. Consequently, if we seek to solve a problem which is global as if it were purely domestic, we will achieve at best only a short term solution. The Declaration challenges Americans to understand today's world and to devise ways to cope with interdependence. What these ways are to be must be decided by Americans through the various political processes of our democratic system.

Does the Declaration look toward a World Constitution and/or Government?

No. Without debating the pros and cons of world government, it is not an objective of "A Declaration of Interdependence." World order and harmony do not depend on a single world government or constitution, but they do depend on various international agreements and authorities which nations agree to establish for their common benefit. The absence of effective agreements in many areas today constitutes a major threat to world stability and progress.

Why Philadelphia as a Center for Interdependence Activity?

Philadelphia is not only an historic shrine and symbol of a people's genius in creating a new nation, but increasingly a world center for international conferences, study and institution-building. Its heritage, educational and research institutions, its geography and cultural character have combined to make it a major center of Interdependence investigation and initiative.

How can Citizens and their Organizations "Respond" to Interdependence?

They can identify one or more of the global problems; then study, discuss and debate them as fully as possible. They can then communicate their thinking to governmental representatives and non-governmental organizations in the field.

What is the Objective of "A Declaration of Interdependence"?

The World Affairs Council hopes that its program will (1) contribute to increased understanding of global problems and (2) stimulate efforts to strengthen existing international institutions or initiatives to create new institutions capable of dealing effectively with those problems.

URUGUAY: TORTURE CHAMBER OF LATIN AMERICA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, Uruguay, which used to be the Switzerland of Latin America, has become its cesspool. The appended report of Amnesty International tells you why. What the report does not tell you is how much aid, military and economic, we are giving that dictatorship. In 1975 we spent roughly $10 million in military assistance to Uruguay, and an additional $7.7 million of economic assistance in our AID program.

The blood of these tortured prisoners is on our collective hands. The report follows:

TORTURED TO DEATH IN URUGUAY: 22 CASES

Uruguay was once known as a democratic island in Latin America. This small country of 2,500,000 people had maintained a constitutional tradition, political stability, and a high level of education and culture. All of this has changed.

Beginning in the 1970's the military shattered the established traditions. Their persistent involvement in the political life of the country over a period of two years led inexorably to their assumption of absolute control over the executive. The elected civilian President, Juan Maria Bordaberry, willingly yielded his effective power to the Armed Forces. The name for what has happened is the autogolpe—the "self-coup." Compared with the immediate military takeovers in other countries, the autogolpe was gradual. The autogolpe was the first coup in Uruguay during this century.

The total number of political prisoners in Uruguay has been estimated at between 3,000 (by Newsweek, June 2, 1975) and 6,000 (by Uruguayan exile groups). Amnesty International believes that there are approximately 5,000 political prisoners in the country. What that means in a country the size of Uruguay is startling: as of December 1975, one out of every 500 citizens was a detainee on political charges.

Uruguay has the highest concentration per capita of political prisoners in the world. Approximately one out of every 50 citizens sometime in the past suffered from interrogation, temporary arrest or imprisonment. And what is the ratio between persecuted and persecutors? One out of every 50 Uruguayans is a member of the Armed Forces or the police. Due to the political and economic situation, 300,000 persons, 12% of the population, have left the country since the *autogolpe*.

Amnesty International is concerned with the terrible, consistent violations of human rights in Uruguay. Under the pretext of combatting armed subversion, ever wider circles of peaceful dissent are subjected to oppression and persecution. Widespread and systematic torture is one of the more prominent features of this tragic situation.

The information presented here has been carefully gathered and authenticated. Amnesty International is independent and nonpartisan. A major portion of its continuing work to safeguard human rights is directed toward the abolition of torture—everywhere, unconditionally, without exception.

These four pages are not easy reading. The themes are torture, death, barbarism, injustice and illegality. Husbands, mothers, wives, fathers, sons and daughters subjected to the most brutal treatment. Up to this time, the use of torture in Uruguay has received too little attention. These barbarous practices must be exposed. As part of its ongoing Campaign for the Abolition of Torture, Amnesty International is organizing a concerted international effort to raise awareness of this appalling situation.

Some of these victims of torture were known members of the National Liberation Movement—MLN, the Communist Revolutionary Party, the Communist Union, the Communist Party, and the Broad Front. Others were people with no known political affiliation or activities. Amnesty International believes that governmentally sanctioned torture, whether to extract information, intimidate the opposition and general public, or out of the petty sadism of police and military forces, is morally unacceptable in the third quarter of the twentieth century.

After the public scandal of the officially corroborated death under torture of Luis Carlos Batalla in 1972, the authorities have taken steps to prevent other cases from reaching public knowledge. Arrests have been denied, investigations stopped, relatives and doctors threatened and intimidated, requests for autopsies refused, bodies shot or thrown out of windows to simulate suicide or armed confrontation. In spite of all this, reliable reports supported by circumstantial evidence and numerous testimonies have made it possible to identify some of the people who have lost their lives at the hands of Uruguay's torturers.

We present here twenty-two verified cases of death by torture. There is no help for these victims. But their families, friends, neighbors, co-workers, teachers and students desperately need the help of the outside world.

This information comes from sources which Amnesty International considers trustworthy and reliable. In December the list was sent to President Bordaberry with the request for an impartial on site investigation. No reply has been received to date.

LUIS CARLOS BATALLA, MAY 25, 1972

The first and last death under torture to be officially admitted. Batalla was 32-years old, a building worker and father of two. He was not known to have been engaged in any illegal activities. It is believed that he was interrogated in an attempt to extract names of persons whom he thought might be linked with the Tupamaro guerrilla movement. No charges were brought against him, either before or after his death. He was arrested on May 20, 1972 and died five days later. The official death certificate read: "acute anemia caused by liver rupture." The Minister of Defense admitted on June 22, 1972 that the autopsy proved that Batalla's death had occurred under abnormal circumstances. A member of Parliament who witnessed the autopsy, Deputy Sosa Diaz, testified that he saw huge bruises, cutting wounds and other signs of torture all over the body.

EDISON MARIN, JUNE 3, 1972

An agricultural worker, Marin was among 106 prisoners who escaped from prison on September 6, 1971. Recaptured, he died at a military barrack, Regimiento de Caballeria No. 4, Montevideo. After severe torture, it is reported that he was staked to the ground and his body was torn by dogs. He died at the Military Hospital, where he was held in incommunicado.

HECTOR LORENZO JURADO AVELLANEDA, JULY 15, 1972

Methodist priest who died at the Military a few days after arrest. The official communique said he had committed suicide with a knife at the moment of capture. Although the results of the autopsy were not made public, it was reported that it revealed numerous signs of ill-treatment in addition to a bullet injury and a cutting wound.

CARLOS ALVARIZA, JULY 23, 1972

A 38-year old medical doctor and father of three, Alvariza was arrested on June 5, 1972 and died under torture. The official comunique claimed he had tried to escape and had fallen from a height of 13 feet. Testimonies indicated that he was subjected to severe torture, including bouncing the body, hung from the feet, against a wall.

ROBERTO GOMENSORO, MARCH 12, 1973

A 23-year old student of agronomy and a member of the Federation of Uruguayan University Students. He was arrested on March 11, 1973 by a military patrol and the next day it was claimed that he had escaped. After insistent inquiries to military officials, his wife obtained, in April 1974, a death certificate dated shortly after the arrest. The body was never traced.

OSCAR FELIPE FERNANDEZ MENDIETA, MAY 25, 1973

An agricultural worker, he died in custody at a military barrack in Duranzo, Regimiento No. 2 de Caballeria. The military doctors certified that he had died of a heart attack, but could not explain the numerous marks and bruises all over his body.

GERARDO ALTER, AUGUST 22, 1973, AND WALTER HUGO ARTECHE, AUGUST 22, 1973

Alter was a 27-year old Argentinian and member of the Argentinian Marxist guerilla movement, the People's Revolutionary Army (ERP). Arteche was also a 27-year old militant. Both died on August 22, 1973. It was officially announced that they had died in an armed confrontation. However, the official death certificate said "acute lung oedema", a contradiction which suggest they died as a result of torture. There was no indication that a gunbattle ever took place. The bodies wrapped in burlap were buried by the military in the Cemetery of the North.

HUGO LEONARDO DE LOS SANTOS MENDOZA, SEPTEMBER 1973

A young student of agronomy at the University of Montevideo, he was arrested and interrogated for suspected connections with the Tupamaros. This is one of the few cases which gained public knowledge and were taken into the courts. The body was returned to the family with a certificate citing lung oedema as the cause of death. An autopsy was performed by faculty members of the Medicail Institute of the Judiciary. It proved beyond doubt that he had not died of lung oedema.

Furthermore, the body was covered with signs of severe beatings and mutilation, as well as marks apparently caused by electric shocks and evidence of extremely strong blows about the head. The real cause of death was fractures. The case was taken to the highest civilian judicial authorities, but, on August 29, 1974, the Government ordered a halt to the investigation by declaring it a "military secret", on the grounds that the investigation might "endanger the security of the state".

ALBERTO GOWLAND (OR COGHLAN), DECEMBER 19, 1973

A worker and leftwing militant, he was alleged tortured in five or six different military units. Near to death, he was taken to the Military Hospital, where he died after a few hours.

ALDO PERRINI GUALA, MARCH 5, 1974

A 34-year old grocer in the town of Carmelo and father of two. He was arrested on February 26, 1974. He died apparently while being subjected to the "submarine," a method of torture where the victim's head is plunged in water or excrement until near drowning. No intervention by the civil judge or autopsy were allowed. Neighbors testified that he was a peaceful citizen without known political activities.

LAURA RAGGIO, 20 YEARS OLD, APRIL 21, 1974, SILVIA REYE, 19 YEARS OLD, APRIL 21, 1974

Both women were students and militants. They were arrested during a house search in Montevideo. At the onset of the search another woman, Diana Maidanik, received 35 shots when she opened the door. Although the authorities claimed the three girls had died in cross-fire, neighbors saw Ms. Raggio, Ms. Reyes and two men being carried away by the security men. The next day, the bodies of the two girls were delivered to the families, showing—besides bullet injuries—signs of beating and areas of the skull where large strands of hair had been pulled out.

ALBERTO BLANCO, MAY 12, 1974

He was one of the young men captured together with Laura Raggio and Silvia Reyes on April 21, 1974. On May 12, 1974, relatives were informed that he had died during an armed confrontation with the military. When relatives collected his body in Montevideo, they were reportedly made to sign a promise not to open his coffin, to bury him within four hours, and not to ask any questions. The funeral personnel who prepared the burial said the body had no legs.

NBYA SABALSAGARAY, JUNE 29, 1974

A 24-year-old teacher, she was arrested in Montevideo on June 29, 1974 and taken to a military unit where she died after being subjected to the "dry submarine," a method of suffocation with a plastic bag over the head. Only ten hours after arrest, relatives were informed that she had "committed suicide. Strong protest from the National Teachers Federation and other organizations yielded no results.

ANSELMO GARCIA, AUGUST 12, 1974

A bankworker at Banco de Seguros, Montevideo, and trade union leader, he was twice arrested and tortured. When released in August 1974 he travelled to Buenos Aires, but died shortly afterwards as a consequence of the severe torture received.

HORACIO MUJICA, NOVEMBER 1974

A young militant who died in a private clinic, Sanatorio No. 2 del Sindicato Medico, in November 1974, reportedly as a consequence of the delicate state of health after severe torture received during detention earlier the same year. It was reported that he was released because he was dying.

IVAN MORALES, NOVEMBER 22, 1974

Twenty-six years old, married and the father of three. He was arrested by plainclothed personnel on November 20, 1974. Two days later, the body was delivered to a mortuary agency with the family's address and a notice that he had committed suicide. During the funeral services witnesses could see that he was disfigured by beatings and that he had a coarsely sutured cutting wound in the neck.

AMELIA LAVAGNA DE TIZZE, APRIL 29, 1975

Fifty-eight years old. Her husband, Mr. Jose Pedro Tizze, was arrested by the security forces on April 27, 1975 at their home in the city of Manantiales. The next day, the military broke into the house and took Mrs. Tizze. A few hours later, their daughter, Mrs. Amanda Tizze de Rezzano, was requested to collect the body of her mother. Official information was that Mrs. Tizze had poisoned herself during the house search. Relatives were forbidden to open the coffin and burial took place immediately. A few days later, the daughter and her husband, Mr. Hector Ressano—parents of two small children—were also arrested.

ALVARO BALBI, JULY 30, 1975

Balbi was a 32-year-old student of medicine, married with four children and another to be born. He was a business employee and amateur musician. Arrested with other workers during a meeting on July 29, 1975, they were reportedly taken to the offices of the police intelligence services—a known torture center. After his wife had tried unsuccessfully to establish his whereabouts, the body was delivered, two days later, on July 31, with the official explanation that he had suffered an asthma attack. However, the signs of torture were evident: fractures, liver rupture, burns and multiple bruises. There are indications that he died under the "submarine" torture.

Mr. Balbi was the son of Selmar Balbi, a well-known teacher, union leader and former member of the central committee of the Communist Party.

CARLOS CURUCHAGA, SEPTEMBER 26, 1975

A 63-year-old medical doctor in the town of Mercedes, who was arrested on July 10, 1975. Interrogated by the police intelligence service, despite the fact that he suffered from hemiplegia, paralyses of half of the body. The severe torture he suffered at the hands of the Montevideo political police aggravated his health condition seriously. He was interned in a public hospital under military guard, where he died on September 26, 1975.

PEDRO RICARDO LERENA MARTINEZ SEPTEMBER 29, 1975

Thirty-three years old, a public employee, married, and the father of two. Reported to be one of the founder members of the MLN, he carried out public political activities until 1972. He was arrested on May 25, 1975.

On September 29, 1975, his body was delivered to the family with a notice that he had strangled himself. In spite of the prohibition to open the coffin, relatives examined the body and found marks of severe burns all over the body—apparently caused by soldering pipe—the two hands fractured, and the head bandaged. He had lost about 40 to 50 pounds of weight. No signs of strangulation were found.

Nor has the situation in Uruguay improved. The list sent to President Bordaberry and today was drawn up in November. Since then two more cases of death by torture have become known to Amnesty International.

Argenta Estable, aged 64, died in a military hospital on 17 December 1975 as the result of the treatment he received at the second department of the National Directorate of Information and Intelligence and at the Third Infantry Barracks.

Julian Lopez was arrested on 31 December and died, after torture, on 7 January 1976. His body was delivered to his family in a closed coffin. The family was forbidden an autopsy and not allowed to open the coffin.

FOOD STAMP REFORM: AN ANSWER TO SYLVIA PORTER—II

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, yesterday I submitted for the RECORD, a general review of a column in the Washington Star by economic writer Sylvia Porter. Today I will present a review of the example cited by Ms. Porter in her March 22 column relating to the effect of the President's food stamp regulations on an elderly woman living alone. The only possible conclusion is that she seriously misstates the facts. In fact, the example she selected—if presented correctly—would illustrate how the administration regulations significantly assist such persons.

She states that—

> An elderly woman living alone with a net income of $150 a month would have to pay $45 for $50 of food stamps, instead of the $33 she now pays.

Two examples illustrate a far different conclusion:

A: Assume the woman's gross income is equal to her net income: i.e., that she has no present deductions. Under the President's regulations:

Gross income	$150
Standard deduction	−100
Subtotal	50
Special $25 deduction for the elderly	−25
Total	25

30% of $25 = $7.50 purchase requirement for $50 worth of food stamps, $25.50 less than she now pays.

B: USDA quality control figures show that the average deduction for all one- and two-person households containing at least one elderly member is $41 per month. Assume the person in question reflected this average (if anything, it is likely to be high, since it is an average of one- and two-person households).

Gross income	$191
Current deductions	−41
Net income	150

Under the President's regulations:

Gross income	$191
Standard deduction	−100
Subtotal	91
Special $25 deduction for the elderly	−25
Total	66

30% of $66 = $19.80 purchase requirement for $50 worth of food stamps, $13.20 less than she now pays.

The only way in which the phenomenon that Ms. Porter describes could be accurate is if the elderly individual has current outside deductions of $125 per month, making her gross income $275 per month.

The same USDA quality control statistics indicate that the average deduction over the entire caseload is only $82. Page 5 of the Senate Agriculture Committee print accompanying S. 3136 cites other USDA statistics, more recent, which indicate the average deduction to be $77. Therefore, if anything, the 41 quality control average may be slightly high.

This illustrates a further way in which the administration regulations assist persons in the income range cited by Ms. Porter.

Assume the elderly individual did have gross monthly income of $275 and had, not the inordinately high deductions of $125, but the average of $41.

Gross income	$275
Current deductions	−41
Net income	234

Under the current program, a single person with net income of $234 is ineligible. Under the President's regulations, the individual in this example would—for the first time—become eligible:

Gross income	$275
Standard deduction	−100
Total	175
Net income before aged deduction	175
Special $25 deduction for the elderly	−25
Total	150

30% of $150 = $45 purchase requirement for $50 worth of food stamps, a $5 greater bonus than the amount now received by the currently ineligible individual.

SURFACE MINING LEGISLATION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the recent action by the House Committee on Rules to table the surface mining legislation, H.R. 9725, is most regrettable. With the growing use of the abundant coal resources of our country there has been an increasing public interest in the environmental problems associated with the mining of coal. H.R. 9725 would be a giant step forward to remedying environmental problems in both active and abandoned mining operations. I had an excellent opportunity to observe firsthand some of these problems such as acid mine drainage when I traveled the length of the Potomac with a group of fellow river fans in August 1975.

The oxidation of sulfides and sulfosalts from coal mined areas has been the subject of many studies with alarming conclusions. The Appalachian Regional Commission reports that approximately 10,500 miles of streams in an eight-State area of Appalachia are affected by pollution from mines. Of these streams, 5,700 are continually being infected by acid drainage. Other pollutants associated with acid drainage—including sulfates, sediments, and heavy metals—are also found in these streams but the acid is most significant.

One of our stops was at the Bloomington Dam site, where we discussed the potential problem of a highly acid reservoir building up behind the dam. The average pH of the streams entering the reservoir is 3.5, indicating high acidity. One consideration being made in the dam construction is the possibility of providing treatment for the acidic water as it moves through the dam; this will mean the reservoir waters themselves would still be of a low pH. This has major ramifications. The study performed by the Army Corps of Engineers in preparation for attacking this problem notes—

> Acid mine waters produce a reddish-yellow slime (Ferric Hydroxide) known as yellowboy on the stream bed. This ruins the natural beauty of the streams and discourages boating and swimming. It also smothers the plant and animal life used as food by fish.

Our trip confirmed this—in the most polluted sections there were no fish visible in the water, no insects flying above it, no vegetation growing in it. The river was dead. The corps study advises—

> Most of the streams North Branch Potomac River Basin are sterile or devoid of a variety of plant life and animal life characteristic of healthy streams.

The Engineers' reference to them as "ecological deserts," is particularly apt.

Adverse economic affects are apparent in the surrounding area; for example, some industries require accessibility to large quantities of quality water. The West Virginia Pulp and Paper Co.—Westvaco—at Luke, Md., advised us that they spent more money cleansing the water for manufacturing paper than they spent cleaning it after its use in the paper-making process. Because of the great rise in the cost of treating the increasingly polluted water, Westvaco would probably locate elsewhere if they had that decision to make today. In Appalachia, municipal water supply, navigational and public facilities spend an estimated, $3.5 million annually just to treat the acid problem contributed by mine drainage. Also, a relatively small amount of acid pollution can prevent the use of surface waters for some forms of recreation, thus hampering another of Appalachia's major industries.

The combination of all these effects of acid mine drainage shows conclusively the great need of effective pollution abatement—especially elimination of the pollution at its source. This is not so simple, though. Much of the acid pollution comes from inactive mines with 80 percent of the acid mine drainage in Appalachia coming from abandoned mines many of which were operated by companies that went out of business decades ago. This makes control of acid pollution a matter for Government regulation.

The present acid pollution abatement technology in itself makes a comprehensive abatement program difficult to plan. For some mines, both active and inactive, only one type of abatement may be practical because of drainage characteristics, geological situation, and type of mine. And so each mine must be approached differently and independently.

Many abandoned deep mines run slightly uphill and so all water seeping into the mine drains out at the mouth, laden with pollution. Near Luke, Md., we viewed one such mine, from which the water ran in brilliant red and yellow streaks, killing everything in its path. Sealing the mouths of such abandoned mines has been common but not always successful. Sealing can affect the ground water level. If the level changes drastically enough, damage may result. In 1966, a mine was sealed 5 miles from Latrobe, Pa., with the result that ground water levels rose enough to flood cellars and damage foundations in Latrobe. The seal had to be removed, thus nullifying the pollution control benefit. Occasionally mine seals have not been able to withstand the pressure of the pent up water and a "slug" of extremely acidic water bursts forth causing worse damage than if the mine had never been sealed.

The most common form of "at source" abatement for active mines is alkali neutralization with hydrated lime and limestone as primary materials. They are relatively inexpensive, easily obtained, and do not necessitate the pretreatment of polluted waters. Neutralization with either of these materials also creates a sludge which requires disposal. We viewed such a disposal operation at the Island Creek Coal Co.'s mine at Bayard, W. Va. The water is pumped from mine, passed through a purification system, and released to the stream with a pH of approximately 8.

The sludge residue is landfilled in an operation that compacts the fill, places layers of soil between layers of sludge, and assures proper contours to minimize runoff. Depending on the degree of water acidity, the disposal costs in general run between 7.5 and 15 percent of the total operating costs.

In addition to acid water seepage, a significant problem with some abandoned mines are the "gobs" that stand outside the mine mouth. Gobs are piles of waste materials disposed of in the course of digging and processing the coal. Two of these, several hundred feet high, stand outside the Hamil Mine at Kitzmiller, Md., forever barren of vegetation due to the high mineral content and resulting acidity leached by every rain. These must be disposed of in a manner that will eliminate acid water runoff.

With the present high costs of petroleum and the availability of new mining technology it is possible to profitably mine some coal which was not economically obtainable several years ago. Some previously inactive mines are being reopened to reclaim coal left behind by earlier operations. One type of reclamation is called daylighting which we observed in an abandoned mine close to the surface on a Garrett County site. After the mine was abandoned, the wooden supports of the tunnels rotted out and the ground subsided. This left a worthless pock-marked or checkerboard surface, which was useless even for grazing livestock. Daylighting uses large equipment and involves the removal of surface layers or overburden of earth, extraction of the coal, regrading with topsoil, and development of some type of vegetative cover. Daylightling is a type of strip mining which, when properly executed to avoid acid drainage problems, can restore badly damaged land to usefulness.

The problem of acid mine drainage is very complex. The need for acid pollution abatement is a must if we are to stop the deterioration of water quality and the demise of the natural environment. Yet, at the same time, abatement techniques are costly. The technique used on a given mine may be very different from that used on a neighboring one. In one case "at source" abatement may be possible, in another several polluted streams may be treated at a single point. Research could possibly develop innovative techniques in mine rehabilitation and develop dramatic breakthroughs in effectiveness and cost reduction.

In summary, the problem is technically complex, it affects many States, and many of the affected streams cross State lines; Federal assistance is necessary. The Government must take the lead in providing the funds to implement present techniques and developing new procedures. H.R. 9725 is important to the problems of both active and abandoned mines—it will go a long way to supplying the necessary funds—and it must be moved forward at the earliest possible time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. O'NEILL), after 3:00 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. KELLY) to revise and extend his remarks and include extraneous materials:)

Mr. STEELMAN, for 5 minutes, today.

(The following Members (at the request of Mr. TSONGAS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Ms. HOLTZMAN, for 60 minutes, today.

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. KASTENMEIER, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KELLY) and to include extraneous material:)

Mr. RINALDO.

Mr. SARASIN.

Mr. BROOMFIELD in two instances.

Mr. MCCOLLISTER.

Mr. O'BRIEN.

Mr. ROBERT W. DANIEL, JR.

Mr. DERWINSKI in three instances.

Mr. HEINZ.

Mrs. HOLT.

Mrs. FENWICK.

Mr. HAGEDORN.

Mr. COLLINS of Texas in three instances.

Mr. ANDERSON of Illinois in two instances.

Mr. ROUSSELOT in three instances.

Mr. FRENZEL in five instances.

Mr. WHALEN in two instances.

Mr. EMERY in two instances.

Mr. BOB WILSON in two instances.

Mr. WIGGINS.

Mr. ABDNOR.

Mr. BEARD of Tennessee.

Mr. KASTEN.

Mr. SNYDER.

Mr. KEMP in three instances.

(The following Members (at the request of Mr. TSONGAS) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. RANGEL.

Mr. HARRINGTON.

Mr. BINGHAM.

Mr. MOTTL.

Mr. WAXMAN in two instances.

Mr. DE LUGO.

Mr. VAN DEERLIN.

Mr. WOLFF in three instances.

Mr. ROE in two instances.

Mr. MATSUNAGA in two instances.

Mr. PATTERSON of California.

Mr. STOKES in two instances.

Mr. SOLARZ in two instances.

Mr. ASHLEY.

Mr. YOUNG of Georgia.

Mr. FAUNTROY.

Mr. RIEGLE.

Mrs. BURKE of California.

Mr. ZEFERETTI.

Mr. DODD.

Mr. FRASER in 10 instances.

Mr. DELANEY in two instances.

Mr. PATTEN.

Mr. DOMINICK V. DANIELS.

Mr. BURKE of Massachusetts.

Mr. DRINAN.

Mr. RODINO.

Mr. SCHEUER

Mr. VANIK.

Mr. STUDDS.

Mr. O'HARA in two instances.

Mr. EVINS of Tennessee in five instances.

Mr. GAYDOS.

Mr. JOHN L. BURTON.

Mr. KARTH.

Mr. CARR.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which are thereupon signed by the Speaker:

H.R. 6346. An act to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972, and for other purposes; and

H.R. 9803. An act to facilitate and encourage the implementation by States of pursuant to title XX of the Social Security child day care services programs conducted Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on March 24, 1976, present to the President, for his approval, a bill of the House of the following title:

H.R. 8507. An act to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status.

ADJOURNMENT TO MONDAY, MARCH 29, 1976

Mr. TSONGAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, March 29, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2894. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1976 and the transition quarter and a budget amendment for fiscal year 1977 for the judiciary (H. Doc. No. 94–123); to the Committee on Appropriations and ordered to be printed.

2895. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting revised budget estimates for fiscal year 1977, pursuant to section 201(g) of the Budget and Accounting Act, 1921, as amended (88 Stat. 323) (H. Doc. No. 94–424); to the Committee on Appropriations and ordered to be printed.

2896. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 1401a of title 10, United States Code, related to adjustments of retired pay to reflect changes in the Consumer Price Index; to the Committee on Armed Services.

2897. A letter from the Acting Director, Central Intelligence Agency, transmitting a draft of proposed legislation to amend the Central Intelligence Agency Retirement Act of 1964 to eliminate the extra one percent added on to each cost-of-living annuity adjustment; to the Committee on Armed Services.

2898. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2899. A letter from the District of Columbia Auditor, transmitting a report entitled "Time and Public Performance," pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

2980. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to consolidate Federal financial assistance to States for child nutrition programs, to focus such assistance on children most in need and to simplify the administration of such assistance; to the Committee on Education and Labor.

2901. A letter from the Secretary of Housing and Urban Development, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2902. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by William A. Anders, Ambassador-designate to Norway, and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2903. A letter from the Assistant Secretary of State for Congressional Relations, transmitting an amendment to section 115 of the proposed "Foreign Service Retirement Amendments of 1975" to eliminate the extra 1-percent feature in the cost-of-living adjustment formula of the Foreign Service retirement system; to the Committee on International Relations.

2904. A letter from the Acting Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend the formula for cost-of-living adjustment of annuities under the Civil Service Retirement System; to the Committee on Post Office and Civil Service.

2905. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1976 and the transition quarter for the creation and operation of the Synthetic Fuels Commercial Demonstration Fund in the Energy Research and Development Administration (H. Doc. No. 94–425); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Veterans' Administration. H.R. 9811. A bill to designate the Veterans' Administration hospital in Madison, Wis. as the William S. Middleton Memorial Veterans' Hospital, and for other purposes; with amendment (Rept. No: 94–949). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Administration. H.R. 11140. A bill to require that a national cemetery be established at Quantico, Va. (Rept. No. 94–950). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. H.R. 12704. A bill to authorize appropriations for environmental research, development, and demonstration (Rept. No. 94–951). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on access of service secretaries to military information (Rept. No. 94–952). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on improper procedures in ceiling contract at National War College (Rept. No. 94–953). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 1016. Resolution to provide for the expenses of investigations, and studies to be conducted by the Committee on Merchant Marine and Fisheries, (Rept. No. 94–954). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1018. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service (Rept. No. 94–955). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1038. Resolution to provide for the expenses of investigations, and studies to be conducted by the Committee on Science and Technology (Rept. No. 94–956). Referred to the House Calendar.

Mr. THOMPSON. Committee on House Administration. House Resolution 1059. Resolution providing for funds for the expenses of investigations and studies to be conducted by the Committee on the District of Columbia (Rep. No. 94–957). Referred to the House Calendar.

Mr. THOMPSON. Committee on House Administration. House Resolution 1062. Resolution to provide for the expenses of the Committee on International Relations for the investigations and studies to be conducted pursuant to rule XI of the Rules of the House of Representatives (Rept. No. 94–958). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1079. Resolution providing for the expenses for the second session activities of the Committee on Interior and Insular Affairs. (Rept. No. 94–959). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1081. Resolution to provide funds for the expenses of investigations, studies, oversight, and functions of the Committee on Government Operations (Rept. No. 94–960). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1087. Resolution providing funds for the expenses of the Committee on House Administration to provide for the maintenance and improvement of ongoing computer services for the House of Representatives, for the investigation of additional computer services for the House of Representatives, and to provide computer support to the committees of the House of Representatives (Rept. No. 94–961). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1097. Resolution to provide funds for the Committee on the Judiciary (Rept. No. 94–962). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on IRS tax assistance services and monitoring of commercial tax preparers (Rept. No. 94–963). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Armed Services. H.R. 12384. A bill to authorize certain construction at military installations and for other purposes; with amendment (Rept. No. 94–964). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. House Resolution 1060. Resolution to provide for the expenses of the Committee on Standards of Official Conduct, for the investigation authorized by House Resolution 1042; with amendment (Rept. No. 94–965). Referred to the House Calendar.

Mr. FOLEY. Committee on Agriculture. H.R. 12572. A bill to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes; with amendment (Rept. No. 94–966). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON (for himself and Mr. WIRTH):

H.R. 12780. A bill to provide for public financing of congressional election campaigns by amending subtitle H of the Internal Revenue Code of 1954; to the Committee on House Administration.

By Mr. ABDNOR:

H.R. 12781. A bill to amend title 38, United States Code, to increase the limitations with respect to direct loans to veterans to $29,000; to the Committee on Veterans' Affairs.

By Mr. BADILLO:

H.R. 12782. A bill to prohibit States and political subdivisions from discriminating against low and moderate income housing, and to give a priority in determining eligibility for assistance under various Federal programs to political subdivisions which submit plans for the inclusion of low and moderate income housing in their development; to the Committee on Banking, Currency and Housing.

By Mr. BEARD of Tennessee:

H.R. 12783. A bill to authorize the Federal Energy Administration to enter into an agreement with the Tennessee Valley Authority to carry out an experimental rate design project; to the Committee on Interstate and Foreign Commerce.

By Mr. BLANCHARD (for himself, Mr. Mineta, Mr. Mann, Mr. Fisher, Mr. Steelman, and Mr. Moffett):

H.R. 12784. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. BLOUIN (for himself, Mr. Baucus, Mr. Dan Daniel, Mr. Downey of New York, Mr. Derwinski, Mr. Harkin, Mr. Mann, Mr. Sikes, Mr Weaver, and Mr. Whitehurst):

H.R. 12785. A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence; to the Committee on Government Operations.

By Mr. BROWN of California (for himself, Mr. Corman, Mr. Harrington, Ms. Holtzman, Mr. Moorhead of Pennsylvania, Mr. Patterson of California, Mr. Scheuer, and Mr. Wirth):

H.R. 12786. A bill to provide for sound forest management practices in the national forests of the United States consistent with the principles of muliple use and sustained yield; to the Committee on Agriculture.

By Mr. BROWN of California (for himself, Mr. McCormack, and Mr. Thornton):

H.R. 12787. A bill to authorize a Federal program of research, development, and demonstration designed to promote research and development in efficiency of energy use, and to demonstrate the practical feasibility of investment in energy efficient equipment and processes in residential, commercial, industrial, agricultural, and governmental activities; to the Committee on Science and Technology.

By Mr. BROWN of Michigan (for himself, Mr. Regula, Mr. J. William Stanton, Mr. Mitchell of New York, and Mr. LaFalce):

H.R. 12788. A bill to amend the Housing and Community Development Act of 1974 to provide supplementary community development block grant assistance to communities with high unemployment due to adverse national economic conditions, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. DICKINSON:

H.R. 12789. A bill to amend the Solid Waste Disposal Act to prohibit the promulgation of certain regulations respecting beverage containers sold, offered for sale, or distributed at Federal facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. DODD:

H.R. 12790. A bill to amend the Internal Revenue Code of 1954 to allow the deduction of the portion of certain taxes which is allocable to the construction of sewage treatment works; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 12791. A bill to amend the Interstate Commerce Act to exempt motor vehicles being used in the transportation of members of certain religious organizations from the application of the provisions of part II of such act; to the Committee on Public Works and Transportation.

By Mr. EILBERG:

H.R. 12792. A bill to amend chapter 31 of title 5, United States Code, to authorize the employment of reading assistants for blind employees and interpreters for deaf employees; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK (for herself, Mr. Patterson of California, Mr. Fraser, Mr. Maguire, Mr. Ottinger, Mr. Badillo, and Mr. Young of Georgia):

H.R. 12793. A bill to amend the Interstate Commerce Act, as amended, to increase efficiency and competition and to reduce costs in the motor carrier industry by allowing easier entry and greater price flexibility and by removing excessive and wasteful regulation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FISH (for himself, Mr. Badillo, Mr. Blanchard, Mrs. Chisholm, Mr. Downey of New York, Mr. Helstoski, Mr. Macdonald of Massachusetts, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Rangel, Mr. Roybal, Mr. Thompson, Mr. Waxman, and Mr. Weaver):

H.R. 12794. A bill to provide an additional 26 weeks of benefits under the emergency unemployment compensation program; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 12795. A bill to establish a program of full employment, vocational training, and employment placement for all young Americans willing and able to work, and for other purposes; to the Committee on Education and Labor.

By Mr. HELSTOSKI (for himself, Mr. Howard, Mr. Maguire, Mrs. Meyner, Mr. Patten, and Mr. Nix) (by request):

H.R. 12796. A bill to grant a Federal charter to the National Opportunities Camps; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself and Mr. Stokes):

H.R. 12797. A bill to amend the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 12798. A bill to direct the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Galveston, Ind., for airport purposes; to the Committee on Government Operations.

By Mr. JOHNSON of California (for himself, Mr. McFall, Mr. Lujan, Mr. Montgomery, Mr. Don H. Clausen, and Mr. Taylor of North Carolina):

H.R. 12799. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the Act of June 4, 1897 (30 Stat. 35); to the Committee on Agriculture.

By Mr. JONES of Oklahoma:

H.R. 12800. A bill to provide for the development and conversion into electric energy and usable energy materials of the potential hydroelectric resources of Alaska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.R. 12801. A bill to amend title 39, United States Code, to establish procedures to regulate the manner in which the U.S. Postal Service may close post offices serving rural areas and small communities and towns; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.R. 12802. A bill to accelerate the formation and accumulation of the investment capital required to expand both job opportunities and productivity in the private sector of the econonmy; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 12803. A bill to amend title 39, United States Code, to provide that certain community associations shall be entitled to special third-class mailing rates; to the Committee on Post Office and Civil Service.

By Mr. KOCH (for himself, Mr. Harrington, and Mr. Murphy of New York):

H.R. 12804. A bill to amend the Internal Revenue Code of 1954 to modify the restrictions contained in section 170(e) in the case of certain charitable contributions of literary, musical, or artistic compositions, or similar property; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee:

H.R. 12805. A bill to authorize the memorial signing of the Sam Rayburn Bridge in Kingston, Tenn.; to the Committee on Public Works and Transportation.

By Mr. McDADE:

H.R. 12806. A bill to amend the Internal Revenue Code of 1954 to permit tax-free rollovers of distributions from employee retirement plans in the event of plan termination; to the Committee on Ways and Means.

H.R. 12807. A bill to amend the Internal Revenue Code of 1954 to deny the foreign tax credit for taxes which are attributable to foreign oil related income; to the Committee on Ways and Means.

By Mr. MATHIS (for himself, Mr. Steed, Mr. Runnels, Mr. Dickinson, Mr. Alexander, Mr. Bowen, Mr. Risenhoover, Mr. Ginn, Mr. Brinkley, Mr. Fountain, Mr. Poage, Mr. Rose, Mr. Stuckey, Mr. Fuqua, Mr. Jones of North Carolina, Mr. Jenrette, Mr. Henderson, Mr. Hefner, Mr. Thornton, Mr. Jones of Tennessee, and Mr. Charles Wilson of Texas):

H.R. 12808. A bill to amend sections 358, 358a, 359, and 373 of the Agricultural Adjustment Act of 1938 and title I of the Agricultural Act of 1949 for the purpose of improving peanut programs, and for other purposes; to the Committee on Agriculture.

Mr. MATSUNAGA:

H.R. 12809. A bill to amend the Watershed Protection and Flood Prevention Act, as amended; to the Committee on Agriculture.

By Mr. MATSUNAGA (for himself and Mr. Phillip Burton):

H.R. 12810. A bill to provide for a nonvoting Delegate to the House of Representatives from American Samoa; to the Committee on Interior and Insular Affairs.

By Mr. MOFFETT:

H.R. 12811. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. QUILLEN:

H.R. 12812. A bill to amend the Internal Revenue Code of 1954 to provide for payment by the Government of all reasonable litigation expenses to prevailing taxpayers in legal action; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 12813. A bill to repeal the provisions of the Postal Reorganization Act and to reenact the former provisions of title 39, United States Code; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER:

H.R. 12814. A bill to amend the National Labor Relations Act to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry; to the Committee on Education and Labor.

By Mr. SCHNEEBELI:

H.R. 12815. A bill to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization; to the Committee on Ways and Means.

By Mr. SLACK:

H.R. 12816. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12817. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 12818. A bill to amend the Internal Revenue Code of 1954 to deny the business deduction for amounts paid or incurred for lobbying before Congress or other legislative bodies; to the Committee on Ways and Means.

By Mr. STEELMAN (for himself, Mr. Fascell, and Mr. Fithian):

H.R. 12819. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. STUDDS (for himself, Mr. Cohen, Mr. Bafalis, Mr. Edwards of Alabama, Mr. Lott, Mr. O'Neill, and Mr. Burke of Massachusetts):

H.R. 12820. A bill to clarify the tax status of certain independent fishermen, and for other purposes; to the Committee on Ways and Means.

By Mr. SYMINGTON:

H.R. 12821. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. THOMPSON (for himself, Mr. Perkins, Mr. Brademas, Mr. Ford of Michigan, Mr. Biaggi, Mr. Miller of California, and Mr. O'Hara):

H.R. 12822. A bill to amend the National Labor Relations Act to expedite elections, to create remedies for refusal-to-bargain violations, and for other purposes; to the Committee on Education and Labor.

By Mr. THONE (for himself, Mr. Andrews of North Dakota, Mr. Archer, Mr. Breaux, Mr. Brown of Ohio, Mr. Collins of Texas, Mr. Crane, Mr. Derwinski, Mr. Downey of New York, Mr. Fithian, Mr. Gradison, Mr. Haley, Mr. Howe, Mr. Latta, Mr. Sarasin, Mr. Sebelius, Mrs. Smith of Nebraska, Mr. Treen, and Mr. Whitehurst):

H.R. 12823. A bill to establish a national policy for the prevention of unreasonable or excessive costs to consumers from Government programs and for priority consideration of proposals that can be expected to provide greater benefits in relation to costs to consumers, to require preparation of a consumer cost assessment for proposals for legislation or regulations which may have a significant impact on costs to consumers, and for other purposes; to the Committee on Government Operations.

By Mr. TRAXLER (for himself, Mr. Blanchard, Mr. Brodhead, Mr. Brown of Michigan, Mr. Carr, Mr. Cederberg, Mr. Diggs, Mr. Dingell, Mr. Esch, Mr. Ford of Michigan, Mr. O'Hara, Mr. Riegle, Mr. Ruppe, and Mr. Vander Veen):

H.R. 12824. A bill to authorize the Secretary of Agriculture to make financial assistance available to agricultural producers who suffer losses as the result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health; to the Committee on Agriculture.

By Mr. WAGGONNER:

H.R. 12825. A bill to amend the Consolidated Farm and Rural Development Act to increase the maximum loan amounts on certain programs, to revise the interest rate for certain loans, and to provide for congressional authorization of program levels; to the Committee on Agriculture.

By Mr. YOUNG of Georgia:

H.R. 12826. A bill to establish an Office for Minority Business Development and Assistance in the Department of Commerce; jointly, to the Committees on Small Business, and Banking, Currency and Housing.

By Mr. ANDERSON of Illinois (for himself and Mr. Cohen):

H. Res. 1109. Resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House; to the Committee on Rules.

By Mrs. FENWICK (for herself and Mr. Scheuer):

H. Res. 1110. Resolution to provide for the speedy printing and publication of the report of the Select Committee on Intelligence; to the Committee on Rules.

By Mrs. SPELLMAN:

H. Res. 1111. Resolution to establish the Vietnam veteran congressional intern program in the House of Representatives; to the Committee on House Administration.

H. Res. 1112. Resolution to direct the Committee on Appropriations and the Committee on International Relations to begin immediate studies of the relationship of the United States with the United Nations and to report, within 3 months, to the Speaker of the House of Representatives recommendations with respect to whether the manner and nature of such relationship should be changed; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

331. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Virginia, relative to amending the Constitution of the United States to provide restrictions on congressional appropriations; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRECKINRIDGE:

H.R. 12827. A bill for the relief of certain employees of the Department of Agriculture; to the Committee on the Judiciary.

By Mr. FLOOD:

H.R. 12828. A bill to authorize Chief Petty Officer Chester T. Rydzewski, U.S. Naval Fleet Reserve, to accept employment with the Government of Canada; to the Committee on International Relations.

By Mr. LEVITAS:

H.R. 12829. A bill for the relief of Maj. Ralph Edwards, U.S. Air Force, Retired; to the Committee on the Judiciary.

By Mr. MATHIS:

H.R. 12830. A bill for the relief of Lt. Col. John N. Hudgens, U.S. Air Force, Retired; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 12831. A bill for the relief of Mo Chong-Pu; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.R. 12832. A bill for the relief of Akbar Alli; to the Committee on the Judiciary.

H.R. 12833. A bill for the relief of Dalia Cuero de Obregon; to the Committee on the Judiciary.

By Mr. ZABLOCKI:

H.R. 12834. A bill for the relief of Angel Medico-Borisosky and Guillermina Herrera de Medico; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

428. By the SPEAKER: Petition of Franklin T. Gosser, Kerrville, Tex., and others, relative to hearings before the Federal Communications Commission; to the Committee on Interstate and Foreign Commerce.

429. Also petition of the board of directors, Council of Jewish Federations and Welfare Funds, Inc., New York, N.Y., relative to medicare; to the Committee on Ways and Means.

H.R. 12406

By Mr. ANDERSON of Illinois:

(An amendment in the nature of a substitute.)

Strike all after the enacting clause, and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

Sec. 101. (a) (1) The second sentence of section 309(a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a) (1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a) (1) of the Act (2 U.S.C. 437c(a) (1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309(a) (2) of the Act (2 U.S.C. 437c(a) (2)), as redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(1) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977, "(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remains in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B) the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304".

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(4) Section 304(b) of the Act (2 U.S.C. 434(b)) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures in excess of $1,000 per candidate per election under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Any person who makes a contribution in response to a solicitation under section 521(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.

"(4) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggesting of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(5) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

"ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such com- investigation made under paragraph (2) plainant is a candidate. Any notification or shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (E) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(10)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

Sec. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

DUTIES OF COMMISSION

Sec. 108. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

Sec. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

Sec. 110. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection in term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"Sec. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee on any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multi-candidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and contributions by that partv through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000;

"(B) $20,000,000 in the case of a campaign or
for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multipled by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791 (h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3)(A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two written solicitations for contributions during the calendar year from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall made available, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, that method, to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign nation directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321(b)(2), including such a violation of the provisions of such section as applicable through section 322(b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(H) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) Expenditure Limitations.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot unless the candidate certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1943 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairman of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which the State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after it final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

FINANCIAL DISCLOSURE OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 502. (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year. The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within thirty days after the date on which he becomes a candidate within the meaning of such section, and on each February 15 thereafter so long as he is such a candidate.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

By Mr. FRENZEL:

On page 2, beginning line 3, strike section 101 in its entirety.

On page 6, beginning line 11, strike section 102 in its entirety.

On page 10, beginning line 17, strike section 103 in its entirety.

On page 10, beginning line 21, strike section 104 in its entirety.

On page 14, beginning line 1, strike section 105 in its entirety.

On page 14, beginning line 6, strike section 106 in its entirety.

On page 14, beginning line 12, strike section 107 in its entirety.

On page 15, beginning line 19, strike section 103 in its entirety.

On page 18, beginning line 1, strike section 109 in its entirety.

Page 18, line 17, strike out "Notwithstanding any other provision of this".

Page 18, strike out line 18 through line 25.

On page 26, beginning line 12, strike section 110 in its entirety.

Page 27, strike out line 7 through line 21.

And redesignate the following subsection accordingly.

Page 53, strike out line 8 and all that follows through page 54, line 15.

And redesignate the following sections accordingly.

Page 39, line 13, strike out "305" and insert in lieu there "304".

On page 28, beginning line 12, strike section 111 in its entirety.

Page 39, line 6 strike out everything after the comma beginning with the words "but shall not" up to and including the words "except that" on line 15 and insert in lieu thereof the following:

"but shall not include—

"(1) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;

"(2) nonpartisan registration and get-out-the vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;

"(3) the establishment, administration, and solicitation of contributions to a separate segregated funds to be utilized for political purposes by a corporation or labor organization: 'except that.'"

Page 45, line 19, strike out "$5,000" and insert in lieu thereof "$1,000".

On page 46, beginning line 15, strike section 113 in its entirety.

On page 47, beginning line 5, strike section 114 in its entirety.

On page 47, beginning line 11, strike section 115 in its entirety.

On page 48, beginning line 13, strike section 116 in its entirety.

On page 49, beginning line, strike section 201 in its entirety.

On page 49, beginning line 11, strike section 201 in its entirety.

On page 51, beginning line 3, strike section 301 in its entirety.

On page 52, beginning line 3, strike section 302 in its entirety.

On page 52, beginning line 19, strike section 303 in its entirety.

On page 54, beginning line 16, strike section 305 in its entirety.

On page 54, beginning line 21, strike section 306 in its entirety.

On page 55, beginning line 22, strike section 307 in its entirety.

On page 57, beginning line 20, strike section 308 in its entirety.

(An amendment in the nature of a substitute)

Strike all after the enacting clause, and insert in lieu thereof the following:

That (a) the text of section 310(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)) (hereinafter in this Act referred to as the "Act") is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President, by and with the advice and consent of the Senate. No more than three members appointed by the President may be affiliated with the same political party.".

(b)(1) Subparagraph (A) and subparagraph (D) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(A), 437c(a)(2)(D)) each are amended by striking out "of the members appointed under paragraph (1)(A)".

(2) Subparagraph (B) and subparagraph (E) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(B), 437c(a)(2)(E)) each are amended by striking out "of the members appointed under paragraph (1)(B)".

(3) Subparagraph (C) and subparagraph (F) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(C), 437(a)(2)(F)) each are amended by striking out "of the members appointed under paragraph (1)(C)".

SEC. 2. (a) The terms of the persons serving as members of the Federal Election Commission upon the enactment of this Act shall terminate upon the appointment and confirmation of members of the Commission pursuant to this Act.

(b) The persons first appointed under the amendments made by the first section of this Act shall be considered to be the first appointed under section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as amended herein, for purposes of determining the length of terms of those persons and their successors.

(c) The provisions of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)), forbidding appointment to the Federal Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

SEC. 3. It is the sense of Congress that the importance of the Federal Election Commission and the orderly implementation of Federal election campaign laws in this election year require that the appointments authorized by the amendments made by this Act be made as soon as possible after the enactment of this Act.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of March 24, 1976, page 7830:

HOUSE BILLS

H.R. 12146. February 26, 1976. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 12147. February 26, 1976. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 12148. February 26. 1976. International Relations; Interstate and Foreign Commerce. Amends the Export Administration Act of 1969 to make it the policy of the United States to oppose restrictive trade practices or boycotts imposed by foreign countries against any domestic concern of the United States. Amends the Securities Exchange Act of 1934 by imposing additional disclosure requirements on any investor who proposes to acquire more than five percent of the equity securities of any United States company.

H.R. 12149. February 26, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the medicare program for specified services performed by chiropractors, including X-ray and physical examinations and related routine laboratory tests.

H.R. 12150. February 26, 1976. Judiciary. Directs the Secretary of the Treasury to reimburse local governments for the cost of protective and security services to the President or Vice President while the President or Vice President is within the jurisdiction of such local government in an official capacity or attending a national convention of a political party.

H.R. 12151. February 26, 1976. Judiciary. Directs the Secretary of the Treasury to reimburse local governments for the cost of protective and security services to the President or Vice President while the President of Vice President is within the jurisdiction of such local government in an official capacity or attending a national convention of a political party.

H.R. 12152. February 26, 1976. Ways and Means. Amends the Internal Revenue Code to allow taxpayers of any age to exclude from gross income a limited amount of gain from the sale or exchange of property if during the eight year period preceding the sale or exchange, such property has been owned and used as the taxpayer's principal residence for periods aggregating five years or more.

H.R. 12153. February 26, 1976. Government Operations. Requires that any proposed Federal legislation or regulation that may have a significant impact to assure that only legislation or regulations having a reasonable relation between consumer benefits and costs are adopted.

H.R. 12154. February 26, 1976. Interstate and Foreign Commerce. Establishes a Federal Regulatory Agency Review Commission to conduct a comprehensive study and make recommendations to Congress with respect to the structures, policies, practices, regulations, and controlling statutes of Federal regulatory agencies.

H.R. 12155. February 26, 1976. Rules. Requires review of Federal programs to determine if they warrant continuation. Directs the President to conduct such review of the programs covered by the annual budget. Requires Congress to make such review every four years.

H.R. 12156. February 26, 1976. Agriculture. Amends the United States Grain Standards Act. Establishes within the Department of Agriculture a Federal Grain Inspection Agency to inspect and supervise the weighing of grain for export. Prohibits the sale abroad of any grain not officially inspected. Prohibits specified conduct regarding the handling, inspection, and weighing of grain. Sets forth civil and criminal penalties for such violations.

H.R. 12157. February 26, 1976. Agriculture. Establishes within the Department of Agriculture a Bureau of Agricultural Statistics to obtain information regarding the prices of food paid to producers and processors and the prices of food at the wholesale and retail level. Directs such Bureau to make recommendations for legislation to provide for lower retail prices of food when the price paid to the producer for the agricultural commodity from which the food is made is decreasing or remaining constant, and the retail price is increasing.

H.R. 12158. February 26, 1976. Banking, Currency and Housing. Prohibits State and local laws which permit the construction of buildings or other obstructions which interfere with the effective operation of solar heating and cooling equipment.

H.R. 12159. February 26, 1976. Science and Technology; Small Business; Rules. Amends the Energy Reorganization Act of 1974 and the Energy Research and Development Act of 1974 to offer increased opportunities in Federal energy development programs to small business concerns and individual investors. Places special emphasis on programs to develop solar energy technology.

Directs the Small Business Administration to cooperate with the Energy Research and Development Administration in the development of such opportunities. Establishes limits on the awarding of contracts to situations where non-Federal finances are inadequate and where the awarding of such contracts will not have an adverse impact on competition.

H.R. 12160. February 26, 1976. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act to alter the time provided for specified designations made in the final system plan.

H.R. 12161. February 26, 1976. House Administration. Establishes five regional presidential primary election districts and sets dates for primary elections to be held in such districts for the purpose of electing delegates to the national political conventions. Stipulates the duties of the Federal Elections Commission under this Act and the regulations to be observed in conducting such primaries.

H.R. 12162. February 26, 1976. Armed Services. Amends the National Security Act of 1947 to make the Director of the Central Intelligence Agency responsible for protecting intelligence sources and methods from unauthorized disclosure. Imposes penalties for such disclosure. Bars prosecution for such offense where the information disclosed was not lawfully classified and where there was no process by which the defendant could obtain review of the continuing necessity for the classification.

H.R. 12163. February 26, 1976. Interstate and Foreign Commerce. Requires that electric utility rate charges for a subsistence quantity of electric energy provided to residential consumers not exceed the lowest rate charged any other electric consumer.

H.R. 12164. February 26, 1976. Agriculture. Prohibits new rules and regulations from becoming effective under the Food Stamp Act of 1964 until after the enactment of legislation with respect to the eligibility and purchase requirements of persons receiving benefits under the Food Stamp Act of 1964.

H.R. 12165. February 26, 1976. Public Works and Transportation; Ways and Means. Establishes an independent Federal corporation to be known as the Air Traffic Services Corporation. Transfers the powers, functions and duties of the Secretary of Transportation under specified laws and provisions of law relating to civil aviation to such Corporation. Transfers the personnel, assets, liabilities, contracts, unexpended appropriations, and funds in the Department of Transportation relating to civil aviation to such independent Corporation.

H.R. 12166. February 26, 1976. Public Works and Transportation. Authorizes the Secretary of Commerce to make grants for local public works projects, provided that such projects are designed to alleviate unemployment and do not involve the damming or other diversion of water.

Amends the Public Works and Economic Development Act of 1965 to revise criteria for Federal funding of job opportunities programs.

H.R. 12167. February 26, 1976. Post Office and Civil Service. Requires that a request by a Federal employee to take accrued annual leave or leave without pay for adjustment purposes immediately following the adoption by such employee of a minor child be considered as justified as would be a request for leave for such purposes immediately following the birth of a child of such employee.

H.R. 12168. February 26, 1976. Interstate and Foreign Commerce. Amends the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1977.

H.R. 12169. February 26, 1976. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to authorize additional appropriations to the Federal Energy Administration for fiscal year 1977. Extends the authority of the Administration through fiscal year 1979.

Revises penalty provisions for violations of pricing regulations under the Emergency Petroleum Allocation Act of 1973.

Stipulates that certain provisions of the Federal Trade Commission Act shall not apply where deceptive practices provisions of the Motor Vehicle Information and Cost Savings Act have been violated.

H.R. 12170. February 26, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to prohibit, except for emergency purposes, the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates noise in excess of the level prescribed for new subsonic aircraft.

H.R. 12171. February 26, 1976. Government Operations. Requires that meetings of Federal agencies be open to the public except as stipulated in this Act. Requires agencies to make a public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, and whether it is to be open or closed to the public. Requires that edited transcripts of all meetings be made available to the public. Prohibits ex parte communications during on-the-record agency meetings.

H.R. 12172. February 26, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

H.R. 12173. February 26, 1976. Veterans' Affairs. Changes the authority of the Administrator of Veterans' Affairs with regard to expenditures to correct structural defects in dwellings securing loans guaranteed or insured by the Administrator.

H.R. 12174. February 26, 1976. Science and Technology. Authorizes appropriations under the Federal Fire Prevention and Control Act and for fire research and safety programs for fiscal years 1977 and 1978.

Prohibits the Administrator of the National Fire Prevention and Control Administration from conducting fire research without the specific authorization of the Secretary of Commerce.

H.R. 12175. February 26, 1976. Ways and Means. Amends the program of grants to States for social services under the Social Security Act. Increases the Federal share of the cost of such services to 100 percent of such cost.

Removes the requirement for Federal standards of State-operated day care facilities.

Removes specified restrictions on the classes of persons to whom States may provide social services under the program.

H.R. 12176. February 26, 1976. Judiciary. Prohibits the destruction, burning, or damaging of the property of an employer, or other person near any place where work or business of the employer or owner is carried on. Redefines the term "extortion" to include actual or threatened force or violence used to induce consent in the course of a legitimate labor dispute.

H.R. 12177. February 26, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States arising from the death of a certain individual.

H.R. 12178. February 26, 1976. Judiciary. Declares a certain individual to have completed 12 years of creditable service for purposes of life insurance benefits of the Civil Service Commission.

H.R. 12179. February 26, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12180. March 1, 1976. Interstate and Foreign Commerce. Requires that electric utility rate charges for a subsistence quantity of electric energy provided to residential consumers not exceed the lowest rate charged any other electric consumer.

H.R. 12181. March 1, 1976. Veterans' Affairs. Allows an eligible veteran who is pursuing a program of education at the close of the ten-year delimiting period to continue to receive educational assistance in specified circumstances.

H.R. 12182. March 1, 1976. Judiciary. Excludes from restrictions on accommodations at places for holding court the furnishing of accommodations to Federal appellate judges at places where Federal facilities are available and the judicial council of the circuit approves.

H.R. 12183. March 1, 1976. International Relations. Requires that when the President or any other member of the executive branch limits or prohibits the exportation of any agricultural commodity, the exportation of fertilizers, tools, materials, or machinery used to produce such commodity shall be limited by a corresponding amount or prohibited.

H.R. 12184. March 1, 1976. Judiciary. Requires speedy trials for criminal defendants charged with the use of a firearm in the commission of an offense. Allows certain necessary delays and requires dismissal of the information or indictment if a defendant, through no fault of his own, is not given a speedy trial.

H.R. 12185. March 1, 1976. Veterans' Affairs. Allows an eligible veteran who is pursuing a program of education at the close of the ten-year delimiting period to continue to receive educational assistance in specified circumstances.

H.R. 12186. March 1, 1976. Armed Services. Extends the period that a member of the uniformed services has following retirement to select a home for purposes of travel and transportation allowances.

H.R. 12187. March 1, 1976. Ways and Means. Authorizes, under the estate tax provisions of the Internal Revenue Code, an executor of an estate to transfer any property of the estate to a purchaser or holder of a security interest free of any prior attached lien.

Stipulates that such lien shall then attach to the proceeds from such transfer.

H.R. 12188. March 1, 1976. Education and Labor. Makes technical and conforming amendments to the Community Services Act of 1974.

H.R. 12189. March 1, 1976. Judiciary. Prohibits the destruction, burning, or damaging of the property of an employer, or other person near any place where work or business of the employer or owner is carried on. Redefines the term "extortion" to include actual or threatened force or violence used to induce consent in the course of a legitimate labor dispute.

H.R. 12190. March 1, 1976. Judiciary. Authorizes the Secretary of the Treasury to reimburse State and local governments for expenditures made at the request of the United States Secret Service for the protection of any person the Service is authorized to protect.

H.R. 12191. March 1, 1976. Public Works and Transportation. Prohibits the use of funds under the Airport and Airway Development Act of 1970 for the planning or development of a public airport at Floyd Bennett Field within the Gateway National Recreation Area, New York.

H.R. 12192. March 1, 1976. Ways and Means. Increases the estate tax exemption, under the Internal Revenue Code, to $120,000 in the case of the estate of a decedent dying after December 31, 1979.

Increases the specific exemption for gift tax to $60,000.

H.R. 12193. March 1, 1976. Public Works and Transportation. Amends the Federal Water Pollution Control Act to increase the authorization for the National Study Commission in its investigation of thhe technological, economic, social, and environmental aspects of achieving or not achieving water quality standards.

H.R. 12194. March 1, 1976. Banking, Currency and Housing. Establishes a task force for the purpose of initiating similar procedures to be used by the Federal Housing Administration and the Farmers Home Administration in appraising and inspecting homes.

H.R. 12195. March 1, 1976. Agriculture. Amends the Rural Electrification Act of 1936 to revise criteria used in the determination of interest rates for borrowers from the Rural Electrification Administration and the Rural Telephone Bank.

H.R. 12196. March 1, 1976. Education and Labor. Authorizes Federal grants to States for the education of educationally deprived children, handicapped children; and Indian children, and for adult and vocational education programs.

H.R. 12197. March 1, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants of adolescent mothers, family planning services, social services and purchase adoption services adolescent mothers.

H.R. 12198. March 1, 1976. Interstate and Foreign Commerce. Provides, under the Uniform Time Act of 1966, that daylight savings time shall be observed annually from the last Sunday of March until the last Sunday of October.

H.R. 12199. March 1, 1976. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction for amounts paid by or on behalf of an individual for an individual retirement account, an individual retirement annuity, an individual retirement bond, an employee's trust, or an annuity contract.

HOUSE JOINT RESOLUTIONS

H.J. Res. 831. February 26, 1976. Post Office and Civil Service. Designates the seven-day period beginning September 26, 1976, as "National Port Week."

H.J. Res. 832. February 26, 1976. Post Office and Civil Service. Designates the second full calendar week in March of each year as "National Employ the Older Worker Week."

H.J. Res. 833. March 1, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week."

H.J. Res. 834. March 1, 1976. Judiciary. Proposes an amendment to the Constitution (1) to extend the rights of due process and equal protection to persons from the moment of conception, and (2) to prohibit depriving a person of life on account of age, illness, or incapacity.

H.J. Res. 835. March 2, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week."

H.J. Res. 836. March 2, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week."

HOUSE CONCURRENT RESOLUTION

H. Con. Res. 581. March 9, 1976. Rules. Appoints a delegation of Congress to go to the United Kingdom to accept a loan to the United States of the Magna Carta.

HOUSE RESOLUTIONS

H. Res. 1056. February 25, 1976. Sets forth the rule for the consideration of H.R. 10760.

H. Res. 1057. February 26, 1976. Rules. Directs the House Committee on Public Works and Transportation to convene a full scale investigation into the entire process surrounding Secretary of Transportation William Coleman's decision to grant the Anglo-French Concorde landing rights at John F. Kennedy Airport and at Dulles International Airport.

H. Res. 1058. February 26, 1976. Appropriations. Expresses the disapproval of the House with regard to proposed budget deferral D76–98 relating to budget authority for the juvenile justice and delinquency prevention program administered by the Law Enforcement Assistance Administration in the Department of Justice.

H. Res. 1059. March 1, 1976. House Administration. Authorizes expenditures by the House Committee on the District of Columbia for inquiries and investigations.

H. Res. 1060. March 2, 1976. House Administration. Authorizes expenditures by the House Committee on Standards of Official Conduct for inquiries and investigation.

SENATE—*Thursday, March 25, 1976*

The Senate met at 10 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Merciful Father, whose love passeth knowledge and whose peace passeth understanding, bind us together in bonds of mutual service, that together we may advance the Nation's welfare. May the love of party never keep us from loving one another. And may no attachment to the things of this world keep us from loving Thee with our whole mind and soul and strength. Teach us to lengthen our brief life by intensity of living, to fill swift hours with glowing deeds, and to speak kind words from warm hearts, for we pass this way but once. May our words and our work throb in unison to advance Thy kingdom and honor Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 25, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 24, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Georgia is recognized for not to exceed 15 minutes.

S. 3205—MEDICARE AND MEDICAID ADMINISTRATIVE AND REIMBURSEMENT REFORM ACT

Mr. TALMADGE. Mr. President, last year I outlined for the Senate a proposal I was developing for overall administrative and reimbursement reform of the medicare and medicaid programs. I am introducing that bill today.

As chairman of the Subcommittee on Health of the Committee on Finance, I have had years of exposure to the deep-rooted and costly problems plaguing medicare and medicaid. Those programs will cost Federal and State taxpayers more than $38 billion in fiscal 1977—an increase of $7 billion over fiscal 1976.

We just cannot go on this way. The increasing costs of these programs consistently outstrip the rate of rise in Federal revenues. The choice is a simple one—either we make medicare and medicaid more efficient and economical or we reduce benefits. We have just too many worthwhile demands on the limited Federal dollar to be able to allocate increasingly disproportionate amounts to medicare and medicaid.

There is, of course, another choice: We can increase taxes. But even if that hard decision were taken we would, without necessary changes, be pouring dollars down a bottomless pit. As they now operate, medicare and medicaid clearly could absorb every single dollar the Federal Government can come up with.

Mr. President, it is time—in fact, past time—to put our house in order. To do that, hard decisions have to be made—decisions which I believe this bill makes. If those decisions are not made now, we may well be confronted with the need to cut and slash payments to hospitals and doctors indiscriminately, and often inequitably. That path is exactly what this bill seeks to avoid.

For example, States are now starting to put ceilings on payments to hospitals. Blue Cross plans are moving in that direction. The administration proposes a flat 7-percent limit on hospital cost increases. Momentum is rapidly increasing for arbitrary controls on payments to hospitals. This bill, however, seeks to avoid indiscriminate limits of this sort. Instead, the reasonableness of a hospital's costs would be related to comparable costs in other hospitals. In fact, the bill includes incentive payments—above actual costs—to efficient hospitals.

The basic kinds of administrative and payment changes which will be described shortly are absolutely necessary prior to any expansion of the Federal role in providing more health insurance to more people. That is true regardless of which national health insurance proposal is ultimately adopted. Without basic changes in the way we administer and pay for hospital and medical care under medicare and medicaid, any expansion would be an open invitation to fiscal disaster.

This concern is shared by the many Members of the Senate who join with me in offering these necessary changes.

The bill is the product of many months of work and many years of experience by informed and interested individuals and organizations. The extensive assistance of Mr. Glenn Markus, Mr. Robert Hoyer, Mr. Jack Ebeler, and Miss Jennifer O'Sullivan of the Congressional Research Service of the Library of Congress was characterized by the superb professionalism and expertness we have come to expect and all too often take for granted. Mr. Cliff Gauss and Mr. Michael Fitzmaurice of the Office of Research and Statistics in the Social Security Administration put in many, many hours of dedicated effort toward developing necessary background on the hospital reimbursement sections of the bill. Officials of the American Hospital Association, the Council of Teaching Hospitals, the Federation of American Hospitals, and the Blue Cross Association provided assistance of a technical and counseling nature. The leadership of the American College of Radiology and the American Society of Anesthesiology provided constructive help in the development of the provisions designed to provide equitable but not excessive reimbursement for the professional services of their members. Those two professional organizations recognized and participated in the give-and-take efforts designed to give full and fair recognition to both public and professional interests.

They are to be commended for their willingness to acknowledge the existence of problems and for working to help correct those problems.

I want to emphasize that none of the proposed changes is "frozen in concrete." They are all intended to deal with real problems. Hopefully, the hearing process will lead to refinements and modifications enhancing equitable and effective solutions to those problems.

Senators can appreciate that the concern in proposing any changes in reimbursement and administration would be to assure effective administration and control of the program while, at the same time, avoiding any further inflation of health care costs. Let me describe these areas.

FEDERAL AND STATE ADMINISTRATION

In the Federal administrative area we seem to have people running off in all directions making different decisions affecting the same doctor or hospital, or nursing home. We have the Medical Services Administration in the Social and Rehabilitation Service, which has responsibility for medicaid. We have the Bureau of Health Insurance of the Social Security Administration responsible for medicare, and the Bureau of Quality Assurance responsible for Utilization Review and the PSRO program. Provision is made to establish a new combined Administration for Health Care Financing, headed by an Assistant Secretary for Health Care Financing, which would take these various units and combine them into one entity. The medicare people could, of course, continue to use the social security computer and district office system, and otherwise coordinate for administrative purposes, unless it were to be found that a separate operating system would be more efficient. This should at least achieve uniformity of policy and administration at the Federal level as well as an ability to achieve accountability. The Assistant Secretary for Health, of course, would still be responsible for health resources development under this approach toward reorganization.

Within the new agency there would be established a central fraud and abuse control unit. The central fraud and abuse control unit would have overall responsibility for: First, monitoring activities designed to deal with fraud and abuse at various program levels; and, second, initiating and conducting direct investigation of fraud and abuse in any of the Social Security Act health programs. This unit would also provide investigative support and assistance to U.S. attorneys, upon request, in development of fraud cases. While authorized to initiate inquiries on its own, the unit could also serve to assist State investigative activities when requested by a State. The fraud control unit should be adequately staffed, and a fairly large number of trained investigators should be assignable to help clean up "crisis" situations such as those which have developed in Illinois, New York, and elsewhere.

An inspector general would be responsible for directing these activities as well as overseeing the overall efficiency of the several programs.

Medicare and medicaid fraud, which is now a misdemeanor, would under this bill be a felony punishable by up to 2 years imprisonment and a $10,000 fine. Also, the HEW general counsel would be authorized to prosecute civil fraud cases when U.S. attorneys fail to act in a timely fashion.

The efficiency of State medicaid administration varies widely—characteristically, it is lax and does not meet the Federal requirements for proper program operation. Unfortunately, the Medical Services Administration—the Federal medicaid agency—is also weak and lacks credibility due primarily to: First, the lack of uniform program performance standards; and, second, the lack of effective sanctions on poor-performing States. This is because the penalty for noncompliance is a total cutoff of Federal medicaid matching—an extremely drastic action.

GAO and the HEW Audit Agency have repeatedly cited these widespread failings, essentially to no effect.

Under the legislation, the Secretary of Health, Education, and Welfare would be required to conduct annual on-site evaluations of each State's medicaid administrative structure and operation to determine whether a State was making proper payments in timely fashion for eligible persons and maintaining reasonably current data necessary for timely evaluations. A formal, uniform Federal performance standards index would be established. Where a State's system or its operation of the system was found deficient measured against this Federal program accountability system, it would have a reasonable period of time to correct the problem. At the request of a State with deficiencies, HEW would provide or arrange for technical assistance at Federal expense. Following a finding by the Secretary that a State's administrative operation was reasonably efficient, the Comptroller General would render an opinion as to whether the Secretary's procedures for making that finding in the State were adequate.

Failing that finding by the Secretary or affirmative opinions by the Comptroller General, no Federal matching funds would be available for a State's medicaid administrative costs until the problem was actually straightened out. However, in the case of a State properly operating its program and exceeding the basic performance standards, Federal matching toward general administrative costs would be increased—to 75 percent instead of the present 50 percent Federal share. This approach both places pressure upon States to correct their administrative deficiencies and provides States with incentives for efficient operation, but does not cut off Federal matching victims for medical services to the poor.

REIMBURSEMENT OF HOSPITALS, SKILLED NURSING HOMES, AND DOCTORS

Under laws and regulations governing the medicare program, hospitals and skilled nursing facilities are reimbursed for their "reasonable costs" of providing covered care. Nothing beyond "costs" is theoretically payable.

The present "reasonable costs" procedures are not only inherently inflationary—because there are no effective limits on what costs will be recognized as reasonable—but also contain neither incentives for efficient performance nor true disincentives to inefficient operation. Without any kind of opportunity to secure unrestricted working funds, hospitals and nursing homes will continue to press for undifferentiated reimbursement "plus" factors—such as cost plus 2 percent—which are unrelated to whether one hospital should get more money while another should get less. They all want to get these "pluses" without individual justification.

On the physicians' reimbursement side, there are inequities between payment to comparably qualified rural and urban doctors; excessive payments to certain specialists unrelated to their actual efforts—such as those radiologists, pathologists, and anesthesiologists who get a fixed percentage of all hospital, X-ray, and laboratory charges—as well as substandard medicaid payments which have discouraged many doctors from taking care of medicaid patients who, as a result, seek care in much more costly hospital outpatient departments. In addition, there are other relatively lesser reimbursement problems which we will also seek to resolve.

The bill includes requirements as to appropriate means of classifying and categorizing health care facilities so that apples can be compared with apples. Performance-based reimbursement, designed to provide efficient hospitals providing good care with reasonable incentive payments above their actual costs, would then operate as a means of rewarding and stimulating efficiency. The objective of these approaches will be to reward efficient hospitals and skilled nursing facilities and restrict reimbursement to inefficient facilities. Any performance-based reimbursement approach must: First, not result in windfall profits; second, not result in the curtailment of necessary patient care or manipulating patient flow—that is, taking only easy cases; and third, be designed to provide, over the long term, a brake on the inflationary spiral of hospital costs.

The hospital reimbursement amendment would be phased in over a period of years. No hospital would be subject to any reduction in eligible costs during the first 2 years and in the third year only one-half of the incentives or penalties would be paid or assessed. At the beginning of the third year the present reimbursement limitations in section 223 of Public Law 92–603 would terminate. The net effect of the hospital reimbursement provision would be toward moderation of hospital costs. It is not designed as a direct cost-cutting mechanism.

Changes in the calculation and types of costs recognized as reasonable include the following: First, we would change allowable return on net equity—equity reasonably necessary to the provision of care—in for-profit facilities to twice the rate of return on current hospital insurance trust fund investment instead of the current return of 1½ times, thus bringing the return closer to the after-tax return of competing investments. Second, to avoid abuse and excessive payment under medicaid where facilities are bought, sold or leased—as has occurred in New York and elsewhere—we will require usage of the medicare tests in determining the reasonable value of such facilities which will be recognized for purposes of calculating depreciation, interest, and allowable lease expense. Third, a specific payment factor in the reimbursement formula would be authorized toward the reasonable costs of closing or converting hospital beds determined to be surplus where the facility has an approved budget and plan for closing or converting those beds. And, fourth, through a technical amendment to present law, we will preclude usage of "factors" as purchasers of discounted medicare and medicaid billings.

Under the legislation medical specialists—such as certain radiologists, pathologists, and anesthesiologists—would be eligible under medicare-medicaid for fee-for-service, or other reasonable fixed compensation agreed upon with a hospital, for services which they personally render or which are provided under their direct personal supervision. For their administrative and general supervision of an X-ray, laboratory, or anesthesia department, the hospital could compensate them on a basis comparable to what a salaried radiologist, pathologist or anesthesiologist receives for comparable time and work. No percentage, lease, or direct billing arrangements would ordinarily be recognized for medicare or medicaid reimbursement purposes. GAO and others have described the extremely large amounts paid to many of these specialists who are paid a fixed percentage of the gross charges of a hospital department.

An example may be helpful. The bill would prohibit medicare and medicaid from recognizing percentage arrangements in which a pathologist gets a specified percentage of the revenues or income from all laboratory work, regardless of his direct personal service or involvement. This type of arrangement is highly inflationary in that it gears income to hospital charge levels which have been rising more rapidly than other costs. The percentage arrangement is not much different from the contingency fee arrangement in malpractice suits which so many doctors contend stimulates unreasonable and excessive malpractice awards unrelated to effort on the part of the attorneys involved.

The amendment, however, recognizes fee-for-service arrangements on an appropriate basis. In fact, the distinction between "physician," "educational," and "executive" activities is derived from the "Guidelines for Pathologists Contractual Relationships" published by the College of American Pathologists in 1974.

That publication defines the pathologist's activities as a physician as follows:

> As a physician providing personal patient services, the pathologist performs acts and makes judgments which require the exercise of medical judgment. These include operating room and clinical consultation, the interpretation of the significance of any material or data derived from a human being, the aspiration or removal of marrow or other materials, and the administration of test materials or isotopes.

Under the amendment, for those personal patient services which the pathologists themselves define as "physicians' services" and for which they have customarily billed on a fee basis in the past and which customarily require direct personal physician involvement, they could, of course, continue to bill on a fee-for-service basis. For those services which the College of Pathology defines as "educational" or of an "executive" nature, reasonable overall compensation would be paid related to time and effort. This could consist of a monthly fee reasonably related to what a full-time salaried pathologist would receive for proportionate time and effort in "educational" and "executive" work. In this context, the College of American Pathology defines laboratory management and direction as an "executive" service, not as a physician service.

So as to assure continued availability of medical services to medicaid recipients and to ease the movement of patients from doctors' offices because of artificially low medicaid payments to physicians in some States to high-cost hospital outpatient departments, we would establish a minimum payment requirement in addition to the present maximum limit on medicaid payments. Medicaid payments for outpatient medical care should be not less than 80 percent of the medicare reasonable charge for similar care or service.

The bill includes a section designed to encourage acceptance of "assignments" of medicare reasonable charges by doctors. There has been a steady decrease of doctors who will accept medicare's determination of a reasonable charge for payment and billing purposes. This has placed many older Americans in the position of having to pay considerably more than the medicare deductible and 20 percent coinsurance. Under the bill, physicians who agree to accept assignments on all of their medicare patients would benefit from substantial reductions in red tape, would realize enhanced cash flow, and would receive an administrative cost saving allowance over and above the regular payments. Physicians would be free not to "participate" in which case they could bill their patients who, in turn, would be reimbursed directly by medicare.

Another section of the bill would preclude automatic increases in medicare prevailing charge levels for given services or procedures in a locality to the extent that they were more than 50 percent higher than the average charge for the same service or procedure in all localities in the same State. This means that if the average charge for an appendectomy is $200 in a State, medicare would not automatically increase its payments where the prevailing charge in a given area of that State exceeded $300.

Where an allergist prepares a reasonable supply of antigens which are then forwarded to the patient's primary care doctor for administration at proper intervals, the bill provides that the allergist be directly compensated for the reasonable charge of preparing and supplying the antigen. Of course, the administering physician would not be paid for the cost of the antigens again, but only for administering or dispensing the medication. The purpose of this recommendation is to avoid any allegations of fee-splitting or confusion of medical roles.

LONG-TERM CARE

Presently, with respect to skilled nursing and intermediate care facilities, there are statutory and regulatory barriers to equitable reimbursement, administration, and timely enforcement. The bill will deal with these problems in the following manner.

First, we provide that the Secretary of Health, Education, and Welfare will be the final certifying officer with respect to the eligibility of skilled nursing and intermediate care facilities to participate in either medicare or medicaid. This is similar to an amendment approved by the Finance Committee and the full Senate in 1972 but which was only partially accepted in conference.

Second, by regulation, the Department of Health, Education, and Welfare has limited the right of patients to leave a facility to not more than six visits a year. This is theoretically intended to deal with the issue of whether the patient is sick enough to require institutional care. The real answer to the problem is effective admissions and follow-up review to assure proper patient placement. The question of frequency of the patient's home visits should then be left to the judgment of the attending doctor. By statute, any limitation on a patient's ability to leave the facility for reasonable periods of time would be barred.

Third, present law requires that by July 1, 1976, State must reimburse facilities on a reasonable cost-related basis. Draft HEW regulations preclude a profit factor from inclusion in such reimbursement. Such exclusion would be contrary to the understanding of the Committees on Finance and Ways and Means when the provision was included in H.R. 1. Specific statutory language would be added to clearly indicate that, at a State's option, a reasonable profit factor may be included in payments to for-profit facilities.

Additionally, the Health Insurance Benefits Advisory Council would be terminated, as it is no longer of significance to policy development for medicare and medicaid.

Section 235 of H.R. 1 provided 90 percent Federal matching for State development of data systems for their medicaid programs. An additional existing requirement is that States must provide an explanation of benefits paid to each medicaid recipient. GAO and the States recommend, and I will follow their recommendation, that the statute be amended to require the explanation of benefits only on a sample basis rather than to every recipient. Further, as originally intended, the new State data systems should have backup capacity compatible with medicare processing so that, if in the event of national health insurance there is an inability to secure a proper medicare agent in a State, a totally new and costly system would not be required.

H.R. 1 included provisions designed to assure appropriate operation and prevention of abuse by HMO's under medicare. During the 93d Congress, similar requirements were included by the committee and Senate in H.R. 3153 with respect to medicaid HMO's, but were never considered in conference. Most of the HMO medicaid requirements included in H.R. 3153 are included in my bill in order to prevent abuses such as those which have occurred with some of the medicaid HMO's in California. Additionally, the bill includes a series of provisions designed to assist in curbing actual and potential abuse. In large part, these provisions are based upon the work of the Subcommittee on Permanent Investigations of the Committee on Government Operations.

Further, Mr. President, preliminary work is proceeding on three additional provisions. The first is a section designed to assure that the proportion of hospital costs determined to be abnormal under this bill are not passed on to private insurers or paying patients. The second is a provision to make better use of underutilized hospital beds in rural or urban areas in terms of qualifying them for skilled nursing facility rates of payment where appropriate and agreeable to the hospital. The third involves consideration of an amendment designed to give statutory sanction to the use of relative value scales for professional medical services where the Secretary of HEW is satisfied that the various weighting attached to the services bear reasonable relationships in terms of relative time and effort.

Mr. President, I send the bill to the desk on behalf of myself, the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Utah (Mr. MOSS), the Senator from Hawaii (Mr. INOUYE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. GRAVEL), the Senator from Illinois (Mr. PERCY), and the Senator from West Virginia (Mr. RANDOLPH).

Mr. President, I ask unanimous consent that a summary and the text of the bill be printed in the RECORD at this point.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 3205

A bill to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare-Medicaid Administrative and Reimbursement Reform Act".

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ESTABLISHMENT OF HEALTH CARE FINANCING ADMINISTRATION

SEC. 2. (a) Section 702 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "SEC. 702.", and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary shall establish, within the Department of Health, Education, and Welfare, a separate organizational unit to be known as the Health Care Financing Administration (which shall include the functions and personnel of administrative entities known, as of the date of enactment of this subsection, as the 'Bureau of Health Insurance', the 'Medical Services Administration', the 'Bureau of Quality Assurance', and the 'Office of Nursing Home Affairs' and related research and statistical units) which shall be under the direction of the Assistant Secretary for Health Care Financing, who shall report directly to the Secretary and who shall have policy and administrative responsibility for the programs established by titles XVIII and XIX, part B of title XI, and for the renal disease program established by section 226. Such Assistant Secretary may not have any other duties or functions assigned to him which would prevent such Assistant Secretary from carrying out the duties imposed by the preceding sentence on a full-time basis.

"(2)(A) There shall be established, within the Department of Health, Education, and Welfare, an Office of Central Fraud and Abuse Control. Such unit which shall be under the direction of the Inspector General for Health Administration established under section 1124 shall have overall responsibility for (i) monitoring activities which are designed to deal wth fraud and abuse, at varous program levels, in the programs established by titles V, XVIII, and XIX, part B of title XI, and the renal disease program established by section 226, and (ii) initiating and conducting direct investigation with respect to alleged, actual, or potential fraud or abuse in any of such programs. Such unit shall also provide investigative support and assistance to United States attorneys and State law enforcement authorities, upon their request, in the development of fraud cases arising out of any such programs.

"(B) The General Counsel of the Department of Health, Education, and Welfare is authorized to prosecute any civil fraud case, arising out of any such programs, when in his opinion the Department of Justice has not acted in timely fashion following referral of such case to the appropriate United States attorney and when in the opinion of the General Counsel such prosecution is appropriate.".

(b)(1) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Health Care Financing, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Section 5315 of title 5, United States Code, is amended in paragraph (17) by striking out "(5)" and inserting in lieu thereof "(6)".

INSPECTOR GENERAL FOR HEALTH ADMINISTRATION

SEC. 3. (a) Title XI of the Social Security Act is amended by adding immediately after section 1123 the following new section:

"INSPECTOR GENERAL FOR HEALTH ADMINISTRATION

"SEC. 1124. (a)(1) In addition to other officers within the Department of Health, Education, and Welfare, there shall be, within such Department, an officer with the title of 'Inspector General for Health Administration' (hereinafter in this section referred to as the 'Inspector General'), who shall be appointed initially and reappointed on or after February 1, 1977, by the President, by and with the advice and consent of the Senate. In addition, there shall be a Deputy Inspector General for Health Administration (hereinafter referred to as the 'Deputy Inspector General'), and such additional personnel as may be required to carry out the functions vested in the Inspector General by this section.

"(2) The term of office of any individual appointed or reappointed to the position of Inspector General shall expire 6 years after the date he takes office pursuant to such appointment or reappointment.

"(b) The Inspector General shall report directly to the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary'); and, in carrying out the functions vested in him by this section, the Inspector General shall not be under the control of, or subject to supervision by, any officer of the Department of Health, Education, and Welfare, other than the Secretary.

"(c)(1) It shall be the duty and responsibility of the Inspector General to arrange for, direct, or conduct such reviews, inspections, and audits of the health insurance program established by title XVIII, the medical assistance programs established pursuant to title XIX, and any other programs of health care (including related programs) authorized under any other title of this Act as he considers necessary for ascertaining the efficiency and economy of their administration, their consonance with the provisions of law by or pursuant to which such programs were established, and the attainment of the objectives and purposes for which such provisions of law were enacted.

"(2) The Inspector General shall maintain continuous observation and review of programs with respect to which he has responsibilities under paragraph (1) of this subsection for the purpose of—

"(A) determining the extent to which such programs are in compliance with applicable laws and regulations;

"(B) making recommendations for the correction of deficiencies in, or for improving the organization, plans, procedures, or administration of, such programs; and

"(C) evaluating the effectiveness of such programs in attaining the objectives and purposes of the provisions of law by or pursuant to which such programs were established.

"(d)(1) For the purposes of aiding in carrying out his duties under this section, the Inspector General shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department of Health, Education, and Welfare which relate to the programs with respect to which the Inspector General has responsibilities under this section.

"(2) The head of any Federal department, agency, office, or instrumentality shall, and the head of any State agency administering or supervising the administration of any State plan related to health care approved under the Social Security Act shall, at the request of the Inspector General, provide any information which the Inspector General determines will be helpful to him in carrying out his responsibilities under this section.

"(3) The Inspector General may refer directly to any other departments or agencies for appropriate consideration and action such matters and cases as may be within their areas of concern and responsibility.

"(4) The Inspector General may, in his discretion, provide assistance within his competence, with the approval of the Secretary, to any department, agency, or subagency of the Federal Government upon request of the chief officer of any such department or agency.

"(e)(1) The Inspector General may, from time to time, submit such reports to the Committee on Finance of the Senate and the Committee on Ways and Means and the Comimttee on Interstate and Foreign Commerce of the House of Representatives relating to his activities as he deems to be appropriate.

"(2) Whenever any of the committees referred to in paragraph (1) makes a request to the Inspector General to furnish such committee with any information, or to conduct any study or investigation and report the findings resulting therefrom to such committee, the Inspector General shall comply with such request.

"(f) The Inspector General may make expenditures (not in excess of $100,000 in any fiscal year) of a confidential nature when he finds that such expenditures are in aid of inspections, audits, or reviews under this section; but such expenditures so made shall not be utilized to make payments, to any one individual, the aggregate of which exceeds $5,000. The Inspector General shall submit annually a confidential report on expenditures under this provision to the Committee on Finance of the Senate and the

Committees on Ways and Means and Interstate and Foreign Commerce of the House of Representatives.

"(g) (1) Expenses of the Inspector General relating to the health insurance program established by title XVIII shall be payable from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, with such portions being paid from each such Fund as the Secretary shall deem to be appropriate. Expenses of the Inspector General relating to medical assistance programs established pursuant to title XIX shall be payable from funds appropriated to carry out such title; and expenses of the Inspector General relating to any program of health care authorized under any title of this Act (other than titles XVIII and XIX) shall be payable from funds appropriated to carry out such program.

"(2) Notwithstanding any other provision in law, personnel requirements for the Central Fraud and Abuse Control Unit and the Office of the Inspector General shall not be subject to numerical or budgetary limitation. The personnel and budgetary requirements of such units shall be submitted as 'line items' by the President in the submission of his budget.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(h) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space within the central and regional facilities of the Department of Health, Education, and Welfare, together with such equipment, office supplies, and communications facilities and services, as may be necessary for the operation of such office and shall provide necessary maintenance services for such office and the equipment and facilities located therein."

(b) Section 5315 of title 5, United States Code, is amended by inserting at the end thereof:

"(95) Inspector General for Health Administration."

STATE MEDICAID ADMINISTRATION

SEC. 4. (a) Section 1902(a) is amended by adding at the end thereof the following new subsections:

"(37) provide—

"(A) for the making of eligibility determinations under the plan, on the basis of applications for coverage, within thirty days of the date of such application for all individuals: (i) receiving aid or assistance (or who except for income and resources would be eligible for aid or assistance) under any plan of the State approved under title I, X, or XVI (for the aged and the blind) or part A of title IV, or (ii) with respect to whom supplemental security income benefits are being paid (or who would except for income and resources be eligible to have paid with respect to them supplemental security income benefits) under title XVI on the basis of age or blindness; and

"(B) for the making of eligibility determinations under the plan, on the basis of applications for coverage, within sixty days of such application for all individuals: (i) receiving aid or assistance (or who except for income and resources would be eligible for aid or assistance) on the basis of disability under any plan of the State approved under title XIV or XVI, or (ii) with respect to whom supplemental security income benefits are being paid (or who would except for income and resources be eligible to have paid with respect to them supplemental security income benefits) under title XVI on the basis of disability;

"(C) for the making of redeterminations of eligibility for persons specified in subparagraphs (A) and (B): (i) when required on the basis of information the agency has previously obtained on anticipated changes in the individual's situation, (ii) within thirty days after receiving information on changes in an individual's circumstances which may affect his eligibility, and (iii) periodically but not less often than every six months;

"(38) provide for methods and procedures to assure accuracy in the determinations of eligibility for medical assistance and provide that the error rate for eligibility determinations made on or after October 1, 1977, may not exceed the rate specified in section 1911(b); and

"(39) provide for claims payment procedures which assure that (A) 95 per centum of clean claims (claims for which no further written information or substantiation is required from the provider or any other person, in the absence of which payment may not be made) be paid within thirty days of receipt of the claim from the provider, and that 99 per centum of such claims be paid within ninety days, and (B) both prepayment and postpayment claims review procedures are performed, including—

"(i) review, on a reasonable sample or more extensive basis, to determine the accuracy of data entry;

"(ii) review to determine that the provider is a participating provider;

"(iii) review to determine whether the service is covered under the State's plan;

"(iv) review to determine that the recipient is eligible for medical assistance;

"(v) review of claims against recipient utilization patterns;

"(vi) review to determine that the charge is a reasonable charge, and that payments made are not in excess of those allowable under the program;

"(vii) review to determine and recover any third party liability;

"(viii) review to assure that there has been no duplicate billing;

"(ix) review on a reasonable sample or more extensive basis, for determination of possible fraud, including identification and investigation of situations in which fraud may exist, and referral of such situations to law enforcement officials.".

(b) Section 1902(a)(6) is amended by adding the following at the end thereof: "such reports are to be made in an accurate and timely fashion, no later than sixty days following the close of the reporting period for monthly and quarterly reports, and no later than one hundred and five days following the close of the reporting period for yearly reports, and shall include at a minimum—

"(A) quarterly reports to the Secretary on—

"(i) eligibility determinations, including the number of applications for medical assistance pending at the beginning of the quarter, the number approved, disapproved, or withdrawn during the quarter, and the number pending at the end of the quarter, including statistics on the number of such determinations made within the time periods specified in section 1902(a)(37) (A) and (B);

"(ii) the State's quality control programs, including statistics on those declared ineligible who are found upon reexamination to be eligible, those declared ineligible who are found upon reexamination to be ineligible, and those for whom an incorrect determination of financial liability was made;

"(iii) claims payment, including statistics on the number of claims pending at the beginning of the quarter, submitted during the quarter, paid during the quarter, and pending at the end of the quarter, distributed by specified time periods during which the claim was held, including the number held for the time periods specified in subsection (a)(39)(A), and information on the results of the claims review procedures required under subsection (a)(39)(B);

"(B) statistics on the number of providers participating in the State program authorized under this title (by bed size in the case of institutions) and major geographic locations;

"(C) information on utilization of services under the State program, including statistics on—

"(i) recipients and payments by basis of eligibility and maintenance assistance status of the recipient and the type of medical services received;

"(ii) selected units of service, including admissions and days of care for inpatient care, and the number of visits or items, such as physician visits and drug prescriptions, for outpatient care;

"(iii) appropriate number of recipients in skilled nursing facilities, intermediate care facilities, and mental hospitals, whose care was reviewed with either independent professional review or medical review;

"(iv) utilization of services, by age cohorts, sex, and race of the recipient; and

"(v) information relating to the number of recipients receiving inpatient care and their primary diagnoses;

"(D) data on the eligible population, including the number of those eligible by basis of eligibility and maintenance assistance status, and information on the review procedures required under section 1902(a)(39) (B).".

(c) Amend section 1903 by adding at the end thereof the following new subsection:

"(n) (1) Effective with the calendar quarter beginning on October 1, 1977, and for each subsequent calendar quarter, the amount paid to each State under paragraphs (a)(2), (a)(3), and (a)(6) shall be subject to a reduction or termination unless the State makes a showing satisfactory to the Secretary that—

"(A) 95 per centum of medical assistance eligibility determinations are made within the time frames specified under section 1902 (a)(37) (A) and (B);

"(B) the State's error rate for eligibility determinations is equal to or below the rate specified in section 1911(b) except that for purposes of determining whether a State has met the requirements of this paragraph there shall not be taken into account the error rates for those persons whose eligibility is determined under a State plan approved under titles I, X, XIV, XVI, or part A of title IV or by the Secretary pursuant to an agreement under section 1634;

"(C) the State is processing claims for payment within the time frame specified in section 1902(a)(39)(A) and applying prepayment and postpayment claims review procedures specified in section 1902(a)(39) (B); and

"(D) the State is making timely and complete reports to the Secretary on the operation of its medical assistance program within the time frame and including such information as is specified in section 1902(a)(6).

"(2) The Secretary shall conduct an onsite survey in each State at least annually of State performance in each category under paragraph (1). The methodology and procedures employed for such onsite survey for each State must be formally approved (which may involve onsite evaluation) by the Comptroller General of the United States;

"(3) Any State which fails to meet one or more of the requirements specified in subparagraphs (A), (B), (C), or (D) of paragraph (1) as determined in an onsite survey as provided under paragraph (2) shall be formally notified within thirty days of such survey of such deficiencies and a State so notified shall be given an appropriate and specified time (not to exceed six months) for the correction of specified deficiencies:

"(4) Any State which fails to correct the deficiencies within the time frame specified under paragraph (3) as determined by the Secretary (and certified by the Comptroller General) shall be so notified and subject to a reduction in Federal matching as specified in paragraph (5) beginning on the first day of the first calendar quarter following the date on which the Secretary specified the deficiencies must be corrected under paragraph (3);

"(5)(A) In the case of a State which the Secretary has determined has failed to meet the requirements of one of the subparagraphs (A), (B), (C), or (D) of paragraph (1) and which has not made the requisite corrections as determined under paragraph (4), such State shall be subject to a reduction in Federal matching of an amount equal to 50 per centum of what the State would otherwise receive under subsections (a)(2), (a)(3), and (a)(6).

"(B) In the case of a State which the Secretary has determined has failed to meet the requirements of two or more of the subparagraphs (A), (B), (C), or (D) of paragraph (1) and has not made the requisite corrections as determined under paragraph (4), such State shall be subject to a terminatioin of Federal matching under subsections (a)(2), (a)(3), and (a)(6).

"(6)(A) Any State for which a reduction or termination in Federal matching has been imposed under paragraph (5) shall continue to have the matching reduced or terminated as specified in such paragraph applicable to such State until the Secretary has determined (and the Comptroller General of the United States has certified) that the specified deficiency (deficiencies) has (or have) been corrected.

"(B) A State which has been determined (as provided in subparagraph (A)) to have made the requisite corrections in all categories specified as deficient shall be entitled to the matching rate specified in subsections (a)(2), (a)(3), and (a)(6) beginning on the first day of the calendar quarter in which such determination was made.

"(C) In the case of a State for which matching has been terminated under subsections (a)(2), (a)(3), and (a)(6) as provided under subparagraph (5)(B) and the Secretary determines pursuant to subparagraph (A) that deficiencies continue to exist in only one of the four specified categories, such State shall, beginning on the first day of the calendar quarter in which such determination is made, be so notified and be entitled to the reduced matching rate specified in subparagraph (5)(A).

"(7) In the case of any State which is determined to substantially exceed the requirements of at least two of the subparagraphs (A), (B), (C), or (D) of paragraph (1) and meet the requirements of the remaining such subparagraphs as determined in an onsite evaluation as provided in paragraph (2), such State shall be so notified and entitled effective for the calendar quarter beginning on October 1, 1977, or for subsequent calendar quarters, whichever is appropriate, to a Federal matching rate under subsection (a)(6) of 75 per centum and such amount shall be applicable for each calendar quarter for which the Secretary determines the State continues to meet the requirements of this paragraph;

"(8) The Secretary shall in a timely fashion provide or arrange for the provision of technical assistance by experienced and qualified personnel to any State which requests assistance (and for whom the Secretary determines such request is reasonable) in meeting the requirements of paragraph (1). Such assistance may include arranging for personnel from other States with useful experience in meeting the requirements of paragraph (1) to provide technical assistance to requesting States and such arrangements shall provide for compensation of such personnel in an amount determined reasonable by the Secretary;

"(9) The Secretary shall make available to the States in a timely fashion information on actions taken by specific States which have enabled them to effectively fulfill the requirements of paragraph (1) when such information would prove useful to other States in helping them meet such requirements;

"(10) In the case of any required notification by the Secretary to a State under this section respecting identification of deficiencies, or a reduction, termination, or increase in Federal matching, simultaneous notification shall also be made to the Governor of such State, the chief executive officer of each body of the State legislature, and (to the extent such information is known) the chairman of the legislative committees in such State with jurisdiction over the medical assistance program authorized under this title.".

(d) Title XIX of the Social Security Act is amended by adding at the end thereof the following new sections:

"QUALITY CONTROL

"SEC. 1911. The Secretary shall—

"(a)(1) publish by September 1, 1976, the error rates in making eligibility determinations recorded for each State for the period October 1, 1975, through March 31, 1976, as reported under the medicaid eligibility quality control program (as specified in regulations of the Secretary prior to March 1, 1976), and specify actions (together with the projected time frame) to be taken by him to assist the States in improving the accuracy of their eligibility determination processes;

"(b) set a normative standard error rate defined as that rate which equals the 50th percentile of the rates reported by the States under (a)(1); and

"(c) provide or arrange for the provision of timely, technical, and professional assistance to the States to assist them in improving their eligibility determination process.

"REPORT BY THE SECRETARY

"SEC. 1912. (a) The Secretary shall prepare a biannual report (beginning with fiscal year 1976) on the characteristics of the State programs of medical assistance financed under this title, including as a minimum (1) a description of the amount, duration, and scope of benefits available in each State, (2) a description of eligibility criteria for all groups eligible for medical assistance in each State, (3) a specification of the reimbursement rates paid under the State program for the major types of services in each State, and (4) a listing of all fiscal agents contracted with for administration of the program. Such report shall be submitted to the Senate Committee on Finance and the House Committee on Interstate and Foreign Commerce and made generally available no later than six months following the close of the fiscal year.

"(b) The Secretary shall prepare a quarterly summary update of the report required in subsection (a) and submit it to the Senate Committee on Finance and the House Committee on Interstate and Foreign Commerce no later than four months following the close of the calendar quarter.".

PROCEDURES DESIGNED TO ASSURE ECONOMICAL PROCESSING OF CLAIMS BY CARRIERS

SEC. 5. (a) Section 1842(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) The Secretary shall by regulation establish procedures, consistent with prevailing Federal procurement requirements, which are appropriately designed to assure that claims processing functions to be performed by carriers pursuant to any contract entered into under this section will be performed on the basis of a prospective fixed price per claim. Such procedures shall provide for the establishment of such fixed price on the basis of the economical and efficient performance of such functions, and after taking into account estimates of the reasonable costs which will be incurred in the performance thereof by the various entities (including the carrier) which are available to perform such functions, under subcontract or otherwise.

"(B) Regulations under this paragraph shall provide that, in the performance of any such claims processing function under any such contract, there will be provided to the Secretary (or any duly authorized employee of the Department of Health, Education, and Welfare) such access to the claims processing operation and the costs thereof and such information and data relating thereto as he deems to be necessary or appropriate to enable him to ascertain whether such operation is being properly conducted.".

(b) The regulations referred to in section 1842(b)(6) of the Social Security Act (as added by subsection (a) of this section) shall be promulgated by the Secretary of Health, Education, and Welfare and made effective with respect to all contracts entered into, or renewed, after September 30, 1976, pursuant to section 1842 of such Act.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 6. (a) Section 1903(a)(3) of the Social Security Act is amended—

(1) in clause (A)(1), by inserting ", and capable of being integrated into," immediately after "compatible with"; and

(2) in clause (B), by inserting ", or to each individual in a sample group of individuals who are furnished such services," immediately after "covered by the plan".

(b) The amendment made by subsection (a) shall be applicable only with respect to expenditures under State plans approved under title XIX of the Social Security Act made on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

REGULATIONS OF THE SECRETARY; SAVINGS PROVISION

SEC. 7. (a)(1) Section 1102 of the Social Security Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1102.", and

(B) by adding at the end thereof the following new subsection:

"(b) Whenever the Secretary, in compliance with applicable requirements imposed by law, causes to be published in the Federal Register a general notice of any proposed rule or regulation to be promulgated by him, such notice shall indicate whether the prompt promulgation thereof is urgent. In the case of any such notice, with respect to a proposed rule or regulation, which does not indicate that the prompt promulgation thereof is urgent, such rule or regulation shall become effective not less than sixty days after publication of such notice; in any other case, such rule or regulation shall become effective without regard to the provisions of this subsection and in the manner prescribed in accordance with applicable provisions of law.".

(2) The amendments made by paragraph (1) shall be effective in the case of proposed rules published in the Federal Register on and after the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act.

(b)(1) Except as otherwise specified in this Act or in a provision of law which is enacted or amended by this Act, any regulation of the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), which is necessary or appropriate to implement any provision of this Act or any other provision of law which is enacted or modified by this Act, shall, subject to paragraph (2), be promulgated so as to become effective not later than the first day of the thirteenth month following the month in which this Act is enacted.

(2) Nothing contained in paragraph (1) shall be construed to require the Secretary to promulgate any rule or regulation, which shall become effective within the time period referred to in paragraph (1), respecting any matter, if the Comptroller General has certified that, due to circumstances or conditions beyond the control of the Secretary, it is not feasible for the Secretary to do so.

(c) The Secretary shall, in issuing any major policy guidelines (other than those issued through regulations) to carry out any provision of this Act or any provision of law enacted or modified by this Act, employ procedures with respect thereto under which interested parties will, prior to any such guideline becoming final, be afforded reasonable opportunity to make known to the Secretary their comments thereon and suggestions with respect thereto.

TERMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 8. (a) The Health Insurance Benefits Advisory Council (established pursuant to section 1867 of the Social Security Act) is abolished, effective on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act, and the terms of office of all members of such Council shall end on such first day.

(b) At the earliest practicable date after the date of enactment of this Act (and in no event later than the first day referred to in subsection (a)), such Advisory Council shall turn over all of its records, files, equipment, and materials to the Secretary of Health, Education, and Welfare.

(c) Effective with the close of the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act, section 1867 of the Social Security Act is repealed.

IMPROVED METHODS FOR DETERMINING REASONABLE COST OF SERVICES PROVIDED BY HOSPITALS

SEC. 10. (a)(1) Section 1861(v)(1)(A) of the Social Security Act is amended, in the first sentence thereof, by striking out "The" and inserting in lieu thereof "Subject to subsection (aa), that".

(2) Section 1861(v) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) For additional requirements applicable to determination of reasonable cost in the case of services provided by hospitals, see subsection (aa).",

(b) Section 1861 of such Act is further amended by adding after subsection (z) the following new subsection:

"ADDITIONAL CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

"(aa) (1) In order more fairly and effectively to determine the reasonable cost incurred in the provision of hospital services for which payment may be made under this title, not later than July 1, 1978, the Secretary shall, in consultation with appropriate knowledgeable national organizations, establish—

"(A) a uniform system of accounts and cost reporting (including uniform procedures for allocation of costs) for determining operating and capital costs of hospitals providing such services, thereby assuring that operating and capital costs will be determined in the same manner for each hospital furnishing such services, and

"(B) an ongoing system of hospital classification under which hospitals furnishing such services will initially be classified as follows:

"(i) as to size, with each of the following sizes of hospitals being classified in separate categories: (I) those having more than 5, but fewer than 25, beds, (II) those having more than 24, but fewer than 50, beds, (III) those having more than 49, but fewer than 100, beds, (IV) those having more than 99, but fewer than 200, beds, (V) those having more than 199, but fewer than 300, beds, (VI) those having more than 299, but fewer than 400, beds, (VII) those having more than 399, but fewer than 500, beds, and (VIII) those having more than 499 beds,

"(ii) as to type of hospital, with (I) short-term general hospitals being in a separate category, (II) hospitals which are the primary affiliates of accredited medical schools (with one such hospital to be nominated by each accredited medical school) being in one separate category (without regard to bed size), and (III) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine to be appropriate in light of the extent to which differences in specialty do or do not significantly affect the routine costs of such hospitals, and

"(iii) such other criteria as the Secretary may deem appropriate;

but such system of hospital classification shall not differentiate between hospitals on the basis of the ownership thereof.

"(2) As used in this subsection, the term 'routine operating costs' does not include any of the following:

"(A) capital costs (including interest expense on loans to purchase capital assets, and depreciation),

"(B) direct personnel and supply costs of hospital education and training programs,

"(C) costs of interns, residents, and medical (but not nursing) personnel,

"(D) energy costs associated with heating or cooling the hospital plant.

"(3) (A) During the calendar quarter commencing on January 1 of each calendar year (beginning with the calendar year 1977) the Secretary shall, in accordance with the succeeding provisions of this paragraph, determine for the hospitals classified in each category of the hospital classification system established pursuant to paragraph (1)(B), an average per diem routine operating cost amount which shall (except as is otherwise provided in this subsection) be utilized in determining, for purposes of making payment under this title to such hospitals for services furnished by them during the fiscal year which commences on or after July 1 of such calendar year, the reasonable cost of that portion of the hospital's costs which consists of routine operating costs.

"(B) A determination under this paragraph made during any such calendar quarter shall be made on the basis of data, with respect to amount of routine operating costs of the hospitals involved, for the preceding fiscal year.

"(C) For purposes of making any such determination, routine operating costs of the hospitals involved in any category shall be divided into two components: a personnel component, and a nonpersonnel component.

"(D)(I) The routine operating costs attributable to the nonpersonnel component and the personnel cost component for each of the hospitals (other than hospitals excluded pursuant to clause (ii)) in any particular classification category shall be aggravated to arrive at the total amount of routine operating costs of all hospitals in such category. Such total shall then be divided by the total number of days of routine care provided by the hospitals in such category to determine the average per diem routine operating cost for such hospitals.

"(ii) In making the calculations prescribed in clause (i), the Secretary shall exclude therefrom any hospital (and data pertaining to any such hospital) which has significant understaffing problems or otherwise experiences significant cost differentials resulting from failure of the hospital fully to meet the standards and conditions of participation as a provider of services under this title, as determined by the Joint Commission on Accreditation of Hospitals, State agency certification procedures, or any other finding or information available to the Secretary.

"(E) On the basis of the average per diem routine operating cost amount determined, pursuant to the preceding subparagraphs of this paragraph, for any category of hospitals, there shall be determined for each hospital in such category a per diem payment rate for routine operating costs. Such payment rate for any such hospital shall be equal to the average per diem routine operating cost amount for the hospitals of the category in which such hospital is classified, except that the personnel component thereof shall be adjusted through the use of a wage index based on general wage levels (including fringe benefit costs) in the areas in which the hospitals are located so as properly to adjust such component to the general wage levels (including fringe benefit costs) in the area in which such hospital is located. If the Secretary finds that, in the area where one or more hospitals in any such classification category are located, for the fiscal year ending June 30, 1976, the wage level (including fringe benefit costs) for hospitals is significantly higher than the general wage level (including fringe benefit costs) in such area (relative to the relationship between hospital wages and general wages in other areas), then the general wage level in such area shall, for purposes of this subsection, be deemed to be equal to the wage level for hospitals in such area, but only during the first year in which the provisions of this subsection are effective in determining payment rates to hospitals (the fiscal year beginning on or after June 30, 1979).

"(4) (A) (i) As used in this paragraph, the term 'adjusted per diem payment rate for routine operating costs', when used in reference to any hospital, means the 'per diem payment rate for routine operating costs' (as determined under paragraph (3)) applicable to such hospital plus the increase in prices per centum determined pursuant to the succeeding provisions of this subparagraph.

"(ii) The amount of the per diem payment rate for routine operating costs for any hospital for any fiscal year (as determined under the preceding provisions of this subsection) shall be increased, so as to reflect (I) the per centum of increase (if any) which has occurred in the cost of the mix of goods and services (including personnel and nonpersonnel costs) which comprises routine operating costs (as determined under the preceding provisions of this subsection), or (II) if less, the actual per centum of increase (if any) which has occurred in the costs incurred by such hospital for such goods and services during such period.

"(iii) In making payments for services furnished by such hospital prior to the date such a determination of the proper amount of increase applicable to such services is made, the Secretary may add a semiannual per centum of increase, in the cost of the mix of goods and services referred to in clause (ii), equal to whichever of the following is the smaller: (I) the per centum of such increase as estimated by such hospital, or (II) the per centum of such increase in the area applied to such hospital's costs as estimated by the Secretary.

"(iv) At the end of the fiscal year, a retrospective adjustment shall be made to the amounts paid pursuant to clause (iii) to reflect the lesser of (I) the actual cost increase incurred by the hospital or (II) the actual increase in prices which has occurred in the mix of goods and services referred to in clause (ii).

"(B) Except as otherwise provided in subparagraph (C), in determining, for puropses of payment under this title, the amount of the reasonable cost incurred by a hospital in furnishing services under this title, so much of the costs so incurred by such hospital as are attributable to routine operating costs shall be deemed to be equal—

"(i) in the case of a hospital the actual routine operating costs of which are equal to or greater than the amount arrived at through the application of such hospital's adjusted per diem payment rate for routine operating costs, an amount equal to the greater of the following:

"(I) (a) 120 per centum of the amount arrived at through the application of such hospital's adjusted per diem payment rate for routine operating costs, or, (b) if less, the amount of such hospital's actual routine operating costs, or

"(II) (a) the amount of such hospital's actual routine operating costs, or (b) if less, the amount which would have been determined for such hospital under clause (I) (a) if such hospital had been classified in the category nearest (in terms of the number of beds in such hospital and the minimum number of beds specified for the various categories of hospitals) the category to which such hospital actually is classified, and

"(ii) in the case of a hospital the actual routine operating costs of which are less than the amount arrived at through the application of such hospital's adjusted per diem payment rate for routine operating costs, an amount equal to (I) the amount of such hospital's actual routine operating costs, plus (II) whichever of the following is the smaller: (a) an amount equal to 5 per centum of such hospital's adjusted per diem payment rate for routine operating costs, or (b) an amount equal to 50 per centum of the amount by which such hospital's adjusted per diem payment rate for routine operating costs exceeds such hospital's actual routine operating costs.

"(C) Any hospital which is, pursuant to paragraph (3) (D) (ii), excluded by the Secretary from the calculation prescribed under paragraph (3) (D) (i), shall be reimbursed for routine operating costs according to the lesser of (i) actual costs or (ii) reimbursement determined under this subsection.

"(D) Not later than the April 1 following the determination by the Secretary during any calendar quarter as to the average per diem operating cost amount for each category of hospital and as to the adjusted per diem payment rate for routine operating costs applicable to each of the hospitals in such categories, such determinations shall be published by the Secretary; and the Secretary shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of such determination which affect such hospital.

"(E) In the case of a hospital determined by the Secretary to be—

"(i) located in an underserved area where hospital services are not otherwise available,

"(ii) certified as being necessary by an appropriate planning agency, and

"(iii) underutilized,

the adjusted per diem payment rate determined under this paragraph shall not apply to that portion of such hospital's routine operating costs as are attributable to the maintenance of so much of such hospital's underutilized capacity as is necessary to assure the availability of hospital services to individuals in the area served by such hospitals. Such portion of routine operating costs to which the adjusted per diem payment rate does not apply shall be reimbursed at cost.

"(F) In the case of any hospital which is determined by the Secretary to have an unusual case mix which—

"(i) requires a greater intensity of care than that obtaining generally among hospitals in the same classification as such hospital, and

"(ii) increases the level of such hospital's routine operating costs over the level obtaining generally among hospitals in the same classification as such hospital,

the adjusted per diem payment rate determined under this paragraph shall not apply to that portion of such hospital's routine operating costs as are attributable to the requirements (as described in clauses (i) and (ii)) of such hospital. Such portion of routine operating costs to which the adjusted per diem payment rate does not apply shall be reimbursed at cost.

"(G) In the case of any hospital located in Alaska or Hawaii, the Secretary may further adjust the adjusted per diem payment rate to reflect the higher prices prevailing in such areas.

"(H) In the case of any hospital which the Secretary finds has deliberately altered its patient mix, or patient flow, or lowered its quality of patient care, the routine operating costs of such hospital shall be deemed to be equal to whichever is the lesser: the amount determined without regard to this subsection, or the amount prescribed under subparagraph (B)."

(c) The Secretary shall, at the earliest practicable date, develop and on a basis consistent with this section comparable reimbursement methods with respect to payment for any or all other hospital cost centers, skilled nursing and intermediate care facilities as well as home health agencies. The Secretary shall, as such methods are developed, but not later than three years from enactment, submit appropriate recommendations to the Congress.

(d) The provisions of section 1861(aa) (2), (3), and (4) of the Social Security Act—

(1) shall be applicable for informational purposes only with respect to services furnished by any hospital prior to July 1, 1979, and

(2) shall be applied, with respect to services furnished by any hospital in the fiscal year beginning on or after June 30, 1979, as if any difference between the amount of the actual routine costs of such hospital and the amount arrived at through the application of such hospital's adjusted per diem payment rate for routine operating costs were reduced by one-half.

(3) shall be fully applied in the fiscal year beginning on or after June 30, 1980.

(e) Nothing in this section shall be construed as otherwise limiting the authority of the Secretary to continue otherwise authorized efforts toward development of improved systems of reimbursement, including development of multivariate statistical techniques (including evaluation of factors such as possible appropriate significant variation in case mix and intensity of care) as a means of making equitable comparison of the costs of institutional providers and agencies and their reimbursement.

(f) (1) Section 1902(a) (13) (D) of the Social Security Act is amended by inserting "(and after application of section 1861(aa))" immediately after "section 1861(v)".

(2) The amendment made by paragraph (1) shall take effect on the first day of the first calendar month which begins not less than sixty days after the date of enactment of this Act.

(g) To the extent that amendments made under the preceding provisions of this section are inconsistent with provisions of 1861 (v) of the Social Security Act which relate to the establishment of limits on overall covered costs, such amendments shall supersede such provisions.

INCLUSION IN REASONABLE COST OF HOSPITAL SERVICES AN ALLOWANCE FOR RETIREMENT OR CONVERSION OF UNDERUTILIZED FACILITIES

SEC. 11. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCLUSION IN REASONABLE COST OF HOSPITAL SERVICES AN ALLOWANCE FOR RETIREMENT OR CONVERSION OF UNDERUTILIZED FACILITIES

"SEC. 1132. (a) (1) (A) The Secretary shall, within the three-month period which begins on the first day of the first calendar month which commences after the date of enactment of this section, establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the 'Board') which shall consist of five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, from persons who are especially knowledgeable in hospital planning and hospital operations (including such persons who are otherwise in the employ of the Federal, State, or local governments). At least one member of the Board shall be a representative of the largest private nonprofit third-party payer for hospital services in the Nation.

"(B) The term of office of members of the Board shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

"(C) Members of the Board shall be entitled to receive per diem compensation at rates fixed by the Secretary, but not exceeding the per diem equivalent (at the time the service involved is rendered by such members) for grade GS-18 in section 5332 of title 5, United States Code.

"(D) The Board shall be provided such technical assistance by the Secretary as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

"(2) It shall be the duty and function of the Board to receive, and act upon in accordance with this section, applications by hospitals certified for participation (other than as 'emergency hospitals') under titles XVIII and XIX for transitional allowances.

"(b) For purposes of this section—

"(1) The term 'transitional allowance' means an amount which—

"(A) shall, solely by reason of the provisions of this section, be included in determining the reasonable cost incurred by a hospital in furnishing services on account of which payment is authorized to be made under title XVIII, under a plan or program approved under or instituted pursuant to title V, or under a plan approved under title XIX, and

"(B) is established by the Secretary, in accordance with the provisions of this section, for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) suffered by it because of a qualified facility conversion (as defined in paragraph (2)) made by it.

"(2) The term 'qualified facility conversion' means a retirement, modification, or change in usage, of underutilized hospital facilities—

"(A) which is carried out by a hospital which, for not less than one year prior to the commencement of such retirement, modification, or change in usage, of such facilities, furnished on a regular basis services with respect to which payment was (at the time the services were furnished) authorized to be made under title XVIII or a State plan approved under title XIX, and

"(B) the effect of which is to promote efficient and economical delivery of health care services covered under medicare and medicaid by (i) eliminating excess bed capacity, or (ii) discontinuing and underutilized service for which there are adequate alternative sources serving the same area (as determined by an appropriate health care facility planning agency) as that served by such hospital, or substituting for such underutilized service some other service which is needed in such area (as determined by such agency).

"(3) A hospital, which has carried out a qualified conversion or closure and which continues in operation following such conversion or closure, shall be regarded as having suffered a 'reimbursement detriment' because of such conversion or closure (A) if and to the extent that, solely because of such conversion or closure, there is a reduction in the aggregate of the amounts attributable to capital-related reimbursement (but only to the extent such capital was accepted as reasonable for purposes of reimbursement eligibility) which are taken into account in determining, for purposes of making payments under title XVIII or title XIX to such hospital with respect to services furnished by it, the reasonable cost (as such term is used for purposes of such title) incurred by such hospital in the furnishing of such services; (B) if such conversion or closure results, on an interim basis, in increased operating costs (such as severance pay, et cetera) to the extent that such operating costs exceed amounts ordinarily reimbursable under titles XVIII and XIX, or (C) in the case of complete closure of a non-profit, nongovernmental (except local governmental) hospital other than for purposes of replacement of such hospital, actual debt obligations to the extent previously recognized as reasonable for purposes of reimbursement, to the extent that such debt remains outstanding and less any salvage value.

"(c)(1) Any hospital may file an application with the Board (in such form and containing such data and information as the Board, with the approval of the Secretary, may prescribe) for a transitional allowance with respect to any qualified conversion or closure which was commenced after December 31, 1976, and was completed within the six-month period preceding the filing of such application.

"(2) The Board shall consider any application filed by a hospital under paragraph (1), and if, with respect to any such application filed by a hospital, the Board finds that—

"(A) the facility conversion or closure with respect to which the application relates was commenced and completed within the time limits prescribed in paragraph (1),

"(B) such facility conversion or closure is a qualified facility conversion, and

"(C) such hospital is suffering a reimbursement detriment because of having carried out such qualified facility conversion or closure.

the Board shall transmit to the Secretary its recommendation that the Secretary establish, in such amounts reasonable in relation to prior or prospective usage of such facilities by titles XVIII and XIX and for a period (which shall not be in excess of twenty years) specified by the Board, a transitional allowance for such hospital with respect to such facility conversion or closure; and, if the Board finds that the criteria specified in clauses (A), (B), and (C) are not met, it shall transmit to the Secretary its recommendation that the Secretary not establish any transitional allowance for such hospital with respect to such facility conversion or closure, in the case of an approved closure or partial closure under subsection (b)(3)(C) the Board may recommend or the Secretary may, in his discretion, approve a lump-sum payment in lieu of periodic allowances, where such payment would constitute a more efficient and economic alternative.

"(3)(A) At the time the Board transmits to the Secretary its recommendation, as prescribed in paragraph (2), with respect to a transitional allowance applied for by a hospital, it shall notify such hospital of its action and shall transmit a copy of such recommendation to such hospital.

"(B) Any hospital which is dissatisfied, wholly or in part, with such a recommendation made with respect to it may obtain an informal or formal hearing on the matter in the discretion of the Secretary, by filing (in such form and manner and within such time period as the Secretary shall by regulation prescribe) with the Secretary a request for such a hearing.

"(4)(A) The Secretary shall, within thirty days after the date he receives a recommendation from the Board respecting a transitional allowance for which a hospital has applied under this section or, if later, within thirty days after a hearing (obtained pursuant to paragraph (3)(B)) with such a recommendation, make a final determination as to whether, and if so in what amount and for what period of time, such a transitional allowance will be granted to such hospital pursuant to the application with respect to which such recommendation was received by him. Any such final determination of the Secretary shall not be subject to judicial review.

"(B) The Secretary, upon making a final determination under subparagraph (A) as to the granting of any transitional allowance to a hospital, shall notify such hospital and such other parties as may be appropriate (including State agencies administering or supervising State plans approved under title XIX) of such determination.

"(C) Any transitional allowance established under a final determination of the Secretary under this section for a hospital shall take effect on a date prescribed by the Secretary but not earlier than the date of completion of the qualified facility conversion on the basis of which such allowance was established. After such effective date, such transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by such hospital in providing services for which payment is authorized under this title.

"(d) In addition to the requirements imposed by law as conditions of approval of a State plan for material and child health services under title V or a State plan for medical assistance under title XIX, there is hereby imposed the requirements (and the plan shall be deemed to require) that, in determining the amount of the reasonable cost incurred by a hospital in furnishing services with respect to which payment is authorized by such plan, any transitional allowance established for such hospital by the Secretary pursuant to this section shall be included as an allowable cost item.

"(e)(1) Notwithstanding the foregoing provisions of this section, the Secretary shall not, prior to the expiration of the twenty-four-month period which begins January 1, 1977, establish—

"(A) a transitional allowance for any hospital after a transitional allowance for such hospital has previously been established, or

"(B) a transitional allowance for more than a total of fifty hospitals.

"(2) On or before September 1, 1979, the Secretary shall submit a report to the Congress evaluating the operation and effectiveness of the program established under this section and containing such recommendations with respect to continuing or improving the implementation of the program established under this section.".

RETURN ON EQUITY TO BE INCLUDED IN DETERMINING "REASONABLE COST" OF SERVICES FURNISHED BY PROPRIETARY HOSPITALS

SEC. 12. (a) Section 1861(v)(1)(B) of the Social Security Act is amended—

(1) in the first sentence thereof, by inserting "hospital or" immediately after "Such regulations in the case of", and

(2) in the second sentence thereof, by striking out "one and one-half times" and inserting in lieu thereof "twice".

(b) The amendments made by subsection (a) shall be applicable only with respect to services furnished by a hospital or skilled nursing facility for fiscal years of a hospital or skilled nursing facility beginning on and after the first day of the first calendar month which begins after the date of enactment of this Act.

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIAN'S SERVICES

SEC. 20. (a)(1) So much of section 1842(b)(3) of the Social Security Act as follows the first sentence thereof is amended to read as follows:

"(3A)(A) In determining the reasonable charge for services for purposes of paragraph (3), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

"(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 per centum of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made.

"(ii) In the case of physician services the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economics index data, that such higher level is justified by economic changes. Any increase under this clause (ii), by reason of findings of the Secretary regarding economic changes, in such prevailing charge level for any particular service or procedure, when performed in any particular locality of a State for which there has been established (pursuant to subparagraph (E)) a statewide prevailing charge level for physicians' services, shall not be applied if, and to the extent that, the resulting prevailing charge level for such service or procedure, when performed in such locality, would exceed by more than one-half the statewide prevailing charge level therefor.

"(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

"(C) In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary.

"(D) The requirement in paragraph (3) (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation or an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

"(E) The Secretary shall determine separate prevailing charge levels for each State with two or more localities in accordance with the criteria prescribed in the preceding provisions of this paragraph except that such prevailing charge level shall cover 50 per centum, of the charges made for similar services in such State.

"(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge for such service, if—

"(i) such service or procedure is performed in a physician shortage area (which has been designated as such by the Secretary),

"(ii) such physician has a regular practice in such area and he first established such practice therein after such area had been designated by the Secretary as a physician shortage area, and

"(iii) such charge does not exceed the prevailing charge level for such service or procedure, as determined under the preceding subparagraphs of this paragraph.".

(2) The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that the provisions of the second sentence of paragraph (3A) (B) (ii) of section 1842(b) of the Social Security Act and paragraph (3A) (E) of such section (as amended by paragraph (1) of this subsection) shall be effective only to determinations made under section 1842(b) (3A) (B) (i) (II) and (ii) of such Act for fiscal years beginning after September 30, 1976.

AGREEMENTS OF PHYSICIANS TO ACCEPT ASSIGNMENT OF CLAIMS

SEC. 21. (a) (1) Part C of title XVIII of the Social Security Act is amended by adding immediately after section 1867 the following new section:

"AGREEMENTS OF PHYSICIANS TO ACCEPT ASSIGNMENT OF CLAIMS

"SEC. 1868. (a) For purposes of this section—

"(1) the term 'participating physician' means a doctor of medicine or osteopathy who has in effect an agreement entered into pursuant to this section (except that, with respect to any claim for payment under this part for services performed outside the United States, no physician shall be considered to be a participating physician), and

"(2) the term 'nonparticipating physician' means a doctor of medicine or osteopathy who does not have in effect such an agreement.

"(b) (1) Any physician who desires to do so may enter into an agreement with the Secretary under this section under which the physician agrees to accept, with respect to any service performed by him for an individual who is enrolled under part B, an assignment of claim (which shall be in such form as may be prescribed under regulations of the Secretary) the terms of which provide that—

"(A) all claims which such individual would, except for such assignment, have under part B for payment for such service are conferred upon such physician and such physician accepts such assignment in lieu of any such payment, and

"(B) the reasonable charge for such service (as determined under this title) will be the full charge therefor.

"(2) An agreement under this section may be terminated by either party upon thirty days' notice to the other party (filed in such form and manner as may be prescribed in regulations of the Secretary).

"(b) Notwithstanding any other provision of this title, no payment under part B shall be made, on the basis of an assignment of claim, to any physician for or on account of physicians' services performed by him, if such physician is a nonparticipating physician.

"(c) In order to assure the expeditious processing of claims by participating physicians for services performed by them, the Secretary shall establish procedures and develop appropriate forms under which—

"(1) each such physician will submit his claims on a simplified and multiple-listing basis rather than on an individual patient basis.

"(2) there will, within five working days after any particular batch of such claims is received from such a physician, be paid to him an amount with respect thereto which is based on an estimate of the precise amount due (with the payment made with respect to any such batch of claims being increased or reduced, as is appropriate, on account of any prior payment, based on a previous estimate, being greater or lesser than the precise amount due); and

"(3) any such estimate, with respect to any batch of such claims submitted by such a physician, shall be designed to assure that the amount thereof is not less than 50 per centum of the amount which is estimated to be payable hereunder with respect thereto, and such estimate shall be made on the assumption that all patients with respect to whom such claims relate have met the deductible imposed by section 1833(b).

"(d) (1) In addition to other payments authorized to be made to carry out the insurance program established by part B of this title, there are hereby authorized to be made such payments as may be necessary to provide for the payment of 'administrative cost-savings allowances' as specified in the succeeding provisions of this subsection.

"(2) (A) With respect to each batch of claims submitted on a multiple-listing basis by a participating physician in accordance with the procedures established pursuant to subsection (c), there shall (subject to subparagraph (B)) be paid to such physician, an administrative cost-savings allowance equal to $1 multiplied by the number of patients for whom payment for services was claimed in such batch of claims and any such amounts shall be treated as an administrative expense for the administration of the insurance program established by part B of this title.

"(B) Not more than $1 shall be payable under subparagraph (A) to a physician with respect to any particular patient on account of services provided to such patient by such physician in more than one instance in any week. If a physician provides to a patient in two or more visits services which ordinarily would be provided in a single visit, then not more than $1 shall be payable under subparagraph (A) with respect to such patient on account of such services.

"(e) (1) Notwithstanding the preceding provisions of this section, no administrative cost-savings allowance shall be payable on account of any physicians' services performed in a hospital for an individual (whether on an inpatient or outpatient basis) unless—

"(A) such services are in the form of surgical services on anesthesiological services, or

"(B) such services are physicians' services (other than those referred to in subparagraph (A)) performed by a physician (as an attending or consulting physician) whose office or regular place of practice is at a locale other than in such hospital,

and the physician concerned ordinarily bills directly (and not through such hospital) for his services, and no administrative cost-savings allowance shall be payable on account of services which consist solely of laboratory and X-ray services (or either or such services) performed outside the office of the physician claiming payment therefor.".

(2) The amendments made by paragraph (1) shall take effect on July 1, 1977.

(b) On and after the effective date of the amendments made by subsection (a), the authority contained in section 1842(b) (3) (B) (ii) of the Social Security Act shall not be applicable to participating or nonparticipating physicians as defined in section 1868 of such Act.

HOSPITAL-ASSOCIATED PHYSICIANS

SEC. 22. (a) (1) Section 1861(q) of the Social Security Act is amended by adding "(1)" immediately after "(q)" and by adding, immediately before the period at the end thereof, the following "; except that such term does not include any service that a physician may perform as an educator, an executive, or a researcher; or any patient care service unless such service (A) is personally performed by or personally directed by a physican for the benefit of such patient and (B) is of such a nature that its performance by a physician is customary and appropriate".

(2) Section 1861(q) is further amended by adding the following new paragraphs at the end thereof:

"(2) In the case of anesthesiology services, a procedure would be considered to be 'personally performed' in its entirety by a physician only where the physician performs the following activities:

"(A) preanesthetic evaluation of the patient;

"(B) prescription of the anesthesia plan;

"(C) personal participation in the most demanding procedures in this plan, including those of induction and emergence;

"(D) following the course of anesthesia administration at frequent intervals;

"(E) remaining physically available for the immediate diagnosis and treatment of emergencies; and

"(F) providing indicated postanesthesia care:

Provided, however, That during the performance of the activities described in subparagraphs (C), (D), and (E), such physician is not responsible for the care of more than one other patient. Where a physician performs the activities described in subparagraphs (A), (B), (D), and (E) and another individual performs the activities described in subparagraph (C), such physician will be deemed to have personally directed the services if he was responsible for no more than four patients while performing the activities described in subparagraphs (D) and (E) and the reasonable charge for such personal direction shall not exceed one-half the amount that would have been payable if he had personally performed the procedure in its entirety.

"(3) Pathology services shall be considered 'physicians' services' only where the pathologist personally performs acts or makes decisions with respect to a patient's diagnosis or treatment which require the exercise of medical judgment. These include operating room and clinical consultations, the required interpretation of the significance of any material or data derived from a human being, the aspiration or removal of marrow or other materials, and the administration of test materials or isotopes. Such services shall not include such services as: the performance of autopsies; and services performed in carrying out responsibilities for supervision, quality control, and for various other aspects of a clinical laboratory's operations that are customarily performed by nonphysician personnel.

(3) Section 1861(b) of such Act is amended—

(A) by striking out "or" at the end of paragraph (6),

(B) by striking out the period at the end of paragraph (7) and inserting in lieu of such period ": or", and

(C) by adding at the end thereof the following new paragraph:

"(8) a physician, if the services provided by such physician are not physicians' services within the meaning of subsection (q).".

(b) (1) Section 1861(s) of the Social Security Act is amended by adding the following sentence at the end thereof. "The term 'medical and other health services' shall not include the services described in paragraphs (2) (A) and (3) if furnished to the inpatients of a hospital unless the Secretary finds that, because of the size of the hospital or for some other reason acceptable to him, it would be less efficient to have such services furnished by such hospital (or by others under arrangement with them made by the hospital) than to have them furnished by another party.".

(2) Section 1842(b) (3A) of such Act, as added by section 20 of this Act, is amended by adding the following new subparagraphs at the end thereof:

"(G) The charges of a physician or other person which are related to the income or receipts of a hospital or any subdivision thereof shall not be taken into consideration in determining his customary charge pursuant to subparagraph (A) to the extent that such charges exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the hospital) to the physician performing them if they had been performed in an employment relationship with such hospital plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such services) incurred by such physician, as the Secretary may in regulations determine to be appropriate.".

(c) Section 1861(v) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) (A) Where physicians' services are furnished under an arrangement (including an arrangement under which the physician performing such services is compensated therefor on a basis which is related to the amount of the income or receipts of the hospital or any department or other subdivision thereof) with a hospital or medical school, the amount included in any payment to such hospital under this title as the reasonable cost of such services (as furnished under such arrangement) shall not exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the hospital) to the physician performing them if they had been performed in an employment relationship with such hospital (rather than under such arrangement) plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such services) incurred by such physician, as the Secretary may in regulations determine to be appropriate.".

(d) (1) Section 1833(a) (1) (B) of the Social Security Act is amended by inserting "(except as otherwise provided in subsection (h))" immediately after "amounts paid shall".

(2) Section 1833(b) (2) of such Act is amended by inserting "(except as otherwise provided in subsection (h))" immediately after "amount paid shall".

(3) Section 1833 of such Act is further amended by adding at the end thereof the following new subsection:

"(h) The provisions of subsection (a) (1) (B) and clause (2) of the first sentence of subsection (b) shall not be applicable for expenses incurred for services referred to therein unless the physician performing such services has entered into an agreement with the Secretary under which such physician agrees to be compensated therefor on the basis of an assignment the terms of which are described in section 1842(b) (3) (B) (ii).".

(e) The amendments made by this section shall, except for the amendment made by subsection (d), apply with respect to services furnished after the first day of the first accounting period of the hospital with respect to which such services were furnished which begins after the month following the month of enactment of this Act. The amendment made by subsection (d) shall be effective on July 1, 1977.

PAYMENT FOR PHYSICIANS' SERVICES UNDER MEDICAID

SEC. 23. Section 1902(a) (13) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (E) thereof, and

(2) by adding after such clause (E) the following new clause:

"(F) effective July 1, 1977, that the amount which shall be paid under the plan for any physician service provided outside of a hospital setting thereunder shall not be less than 80 per centum of the reasonable charge for such service (as determined under title XVIII);".

PAYMENT FOR CERTAIN ANTIGENS UNDER PART B OF MEDICARE

SEC. 24. (a) Section 1861(s) (2) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (C),

(2) by inserting "and" at the end of clause (D), and

(3) by adding after clause (D) the following new clause:

"(E) antigens (subject to quantity limitations prescribed in regulations of the Secretary) prepared by an allergist for a particular patient, including antigens so prepared which are forwarded to another qualified person for administration to such patient, from time to time, by or under the supervision of another physician;".

(b) The amendment made by subsection (a) shall be applicable with respect to items furnished on and after the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act.

PAYMENT UNDER MEDICARE OF CERTAIN PHYSICIANS' FEES ON ACCOUNT OF SERVICES FURNISHED TO A DECEASED INDIVIDUAL

SEC. 25. (a) Section 1870(f) of the Social Security Act is amended, in the matter following clause (2) thereof, by—

(1) inserting "(A)" immediately after ", and only if", and

(2) by inserting immediately before the period the following: ", or (B) the spouse or other legally designated representative of such individual requests (in such form and manner as the Secretary shall by regulations prescribe) that payment for such services without regard to clause (A)".

(b) The amendment made by subsection (a) shall be effective with respect to payments made on and after the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act.

PROHIBITION AGAINST ASSIGNMENT OF FEES BY PHYSICIANS AND OTHERS

SEC. 26. (a) Section 1842(b) (5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any payment for a service, which under the provisions of the preceding sentence may be made directly to the physician or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude any agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing and/or collection of any such payment is unrelated (directly or indirectly) to the amount of the billing and/or payment (or the aggregate of similar billings and/or payments), and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).

(b) Section 1902(a) (32) of such Act is amended—

(1) by inserting "(A)" immediately after "provide that",

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

(3) by adding immediately before the semicolon at the end thereof the following: ", and (B) any payment for a service, which under the provisions of subparagraph (A) may be made directly to the physican or other person furnishing such service, may not be made to a person claiming such payment under an assignment, including a power of attorney (other than an assignment established by or pursuant to the order of a court of competent jurisdiction from such physician or other person furnishing such service); but nothing in this paragraph shall be construed to preclude any agent, of the physician or other person furnishing the service, from receiving any such payment, if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing and/or collection of any such payment is unrelated (directly or indirectly) to the amount of the payment (or the aggregate of similar billings and/or payments) and is not dependent upon the actual collection of any such payment (or the aggregate of such payments).".

(c) The amendments made by this section shall take effect on the first day of the first calendar month which begins not less than sixty days after the date of enactment.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 30. Section 1902(a) (13) (E) of the Social Security Act is amended by inserting "(and which may, at the option of the State, include a reasonable profit for the facility)" immediately after "cost related basis".

MEDICAID CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

SEC. 31. (a) Section 1910 of the Social Security Act is amended to read as follows:

"CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

"SEC. 1910. (a) The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State or local agencies (whichever are utilized by the Secretary pursuant to section 1864(a)) will be utilized by him for the purpose of determining whether an institution in such State qualifies as a skilled nursing facility for purposes of section 1902(a)(28). To the extent that the Secretary finds it appropriate, any institution which such a State or local agency certifies to him to be a skilled nursing facility may be treated as such by the Secretary.

"(b) The Secretary shall advise the State agency administering the medical assistance plan of his approval or disapproval of any institution certified to him as a qualified skilled nursing facility for purposes of section 1902(a)(28) and specify for each such institution the period (not to exceed twelve months) for which approval is granted, except that the Secretary may extend such term for a period not exceeding two months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such twelve-month period to determine whether such facility is complying with the provisions of this title and regulations thereunder. The State agency may enter into an agreement for the provision of services and the making of payments under the plan with any skilled nursing facility approved by the Secretary for a period not to exceed the period of approval specified.

"(c) The Secretary may cancel the approval of any skilled nursing facility at any time if he finds that the skilled nursing facility fails to meet the requirements contained in section 1902(a)(28), or if he finds grounds for termination of his agreement with such institution pursuant to section 1866(b). In such event the Secretary shall notify the State agency and the skilled nursing facility that the approval of eligibility of such institution to participate in the programs established by this title and title XVIII shall be terminated at such time as may be specified by the Secretary. The approval of eligibility of any such institution to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

"(d) Effective July 1, 1977, no payment may be made to any State under this title with respect to skilled nursing facility services furnished by any institution—

"(1) which does not have in effect an agreement with the State agency executed pursuant to subsection (b), or

"(2) whose approval of eligibility to participate in the programs established by this title or title XVIII has been terminated by the Secretary and has not been reinstated, except that payment may be made for up to thirty days with respect to skilled nursing facility services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination.".

CRITERIA UNDER MEDICAID PROGRAM FOR DETERMINING REASONABLE VALUE OF CERTAIN TRANSFERRED FACILITIES

SEC. 32. (a) Section 1902(a)(13) of the Social Security Act is amended—

(1) in clause (D) thereof, by inserting "and subsection (g)" immediately after "section 1122", and

(2) in clause (E) thereof, by inserting ", consistent with subsection (g)", immediately after "methods and standards".

(b) Section 1902 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) The reasonable value of any facility or organization (which is a hospital, skilled nursing facility, intermediate care facility, or other health care organization) shall, for purposes of determining allowable depreciation, interest or lease expense, and any related capital items of cost, be determined in accordance with the criteria employed under title XVIII for determining the reasonable value of such a facility or organization for such purpose for the period following a change of ownership (whether by sale, lease, or other transfer) of the facility or organization of the business which operates the facility or organization, if, during any period prior to such change of ownership, such facility or organization provided (or arranged for) services for which payment was made under a State plan approved under this title.".

(b) The amendment made by subsection (a) shall be applicable to facilities or organizations the ownership of which is changed after June 30, 1976.

VISITS AWAY FROM INSTITUTION BY PATIENTS OF SKILLED NURSING OR INTERMEDIATE CARE FACILITIES

SEC. 33. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(l) In the administration of this title, the fact that an individual, who is an inpatient of a skilled nursing facility or an intermediate care facility, absents himself therefrom to make visits outside the institution shall not be regarded as conclusively indicating that such individual is not in need of the services which such facility is designed to provide; but such visits, and the frequency and length thereof, shall be taken into account, together with other evidence, in determining whether such individual is in need of such services.".

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE; DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

SEC. 40. (a) Part A of title XI of the Social Security Act is amended by adding after section 1132 thereof (as added by section 11 of this Act) the following new section:

"PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE; DISCLOSURE OF OWNERSHIP AND FINANCIAL INFORMATION

"SEC. 1133. (a)(1) In determining, for purposes of ascertaining the amount of any payment for a health service, or services furnished under title XVIII, under a program established pursuant to title V, or under a State plan approved under title XIX, when such payment is based on the reasonable cost or reasonable charge for such service (or services), no element comprising any part of such cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

"(A) a commission, finder's fee, or for a similar arrangement, or

"(B) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement

which is, directly or indirectly, determined, wholly or in part as a per centum, fraction, or portion of the charge or cost attributed to any health service (or health services) (other than such element) or any health service (or health services) including, but not limited to, such element.

"(2) The Secretary shall by regulations provide that, in determining the reasonable charge or reasonable cost of any health service (for purposes of title XVIII, any program established pursuant to title V, or any State plan approved under title XIX), appropriate account will be taken of the relationship between direct and indirect overhead costs and the direct costs involved with the provision of such service, and, in connection with the making of any such determination with respect to any such service, there shall be included as a part thereof an indication of the ratio of such overhead costs with respect to such service and the total costs involved in the furnishing of such service.

"(b)(1) The Secretary shall by regulation establish procedures whereby, in the administration of title XVIII, programs established pursuant to title V, and State plans approved under title XIX, there will be review and advance approval of any contract which—

"(A) constitutes an element of cost of any health service for which payment is authorized under title XVIII, a program established pursuant to title V, or a State plan approved under title XIX;

"(B) is a consulting, management, or service contract; and

"(C) involves payments with respect to any consecutive period of twelve months which aggregate $10,000 or more.

"(2) Such procedure shall provide that advance approval of such a contract will be given only if—

"(A) the services to be furnished thereunder are found to be services which may appropriately be furnished on a contract basis;

"(B) the contracting party is qualified to furnish the services called for under such contract;

"(C) the contract price for the services called for thereunder is reasonable; and

"(D) any part of the payment called for under the contract is to be paid in advance, the amount of the payment will be based on the needs of the contracting party for the advance payment.

"(c)(1) The Secretary shall by regulations (or by contract provision) provide that any entity (other than a public agency) which is—

"(A) a provider of services which furnishes services with respect to which payment is claimed under title XVIII, under any program established pursuant to title V, or under a State plan approved under title XIX; or

"(B) a party to an agreement with the Secretary entered into pursuant to section 1816 or 1842(a);

shall promptly comply with any request, made by the Secretary or the Comptroller General of the United States for any or all of the following:

"(C) full and complete information as to the identity (i) of each person having (directly or indirectly) an ownership interest of 1 per centum or more in such entity or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such entity or any of the property or assets thereof, (ii) in case such entity is organized as a corporation, of each officer and director of the corporation, and (iii) in case such entity is organized as a partnership, of each partner;

"(D) full and complete information as to any business dealings between such entity and persons referred to in clause (C), and

"(E) a consolidated certified costs report with respect to its costs and charges, including costs and charges of related organizations (as that term is employed for purposes of title XVIII).

"(2)(A) If at the close of the sixty-day period which begins on the date a request (as described in paragraph (1)) is made of an entity described in paragraph (1)(A) or (B), such request has not been fully complied with, then—

"(i) in case such entity is an entity described in paragraph (1)(A), the Secretary shall notify such entity that no payment will be made to such entity under title XVIII, and no Federal funds shall be available with respect to any expenditures made under or pursuant to title V or XIX (or a program or plan approved thereunder), for or on account of any services furnished by such entity on or after the first calendar month which begins not less than thirty days after the date such notice is sent, and

"(ii) in case such entity is an entity described in paragraph (1)(B), the Secretary shall notify such entity that any agreement between such entity and the Secretary entered into pursuant to section 1816 or section 1842 is terminated effective on the first day of the first calendar month which begins not less than thirty days after the date such notice is sent.

In case the Comptroller General makes a request (as described in paragraph (1)) which is not complied with prior to the sixty-day period described in paragraph (2), then he shall, at the earliest practicable date after the close of such period, advise the Secretary of that fact that such request was made by him and was not complied with within such period, so as to enable the Secretary to notify the entity involved as provided in subparagraph (A) (i) or (ii).

"(B) Notwithstanding any other provision of law—

"(i) payments otherwise authorized to be made under title XVIII, and Federal funds otherwise available with respect to expenditures under or pursuant to title V or XIX (or a program or plan approved thereunder) shall be subject to the limitations referred to in a notice sent by the Secretary pursuant to subparagraph (A)(i), and

"(ii) agreements referred to in subparagraph (A)(ii) shall be terminated as indicated by the Secretary in a notice sent by him pursuant to subparagraph (A)(ii),

except that the Secretary, for good cause shown, may terminate the application of such limitation after it has been in effect for not less than three months. Whenever an agreement between the Secretary and any entity is terminated pursuant to clause (ii) of the preceding sentence, the Secretary shall not enter into another agreement with such entity under section 1816 or section 1842 sooner than three months after such agreement was so terminated.

"(d) Notwithstanding any other provision of law—

"(1) no payment shall be made under title XVIII, and

"(2) no Federal funds shall be available under title V or XIX with respect to expenditures made under a State program or plan approved thereunder,

for goods and services furnished, on or after the first day of the first calendar month which begins not less than ninety days after the date of enactment of this subsection, to a patient (directly or indirectly) by any entity which is an independent pharmacy or laboratory unless there is in effect an agreement between such entity and the Secretary or in the case of title XIX the State agency under which such entity agrees to provide to the Secretary (or any authorized officer or employee of the Department of Health, Education, and Welfare) reasonable access to the books and records thereof which pertain to the provision of billing and payment for goods and services supplied or rendered by such entity.".

(b) The amendments shall, except as otherwise specified therein, take effect, in the case of a provider, for fiscal years beginning on or after July 1, 1976, and, in the case of any other person on July 1, 1976.

STANDARDS FOR PAYMENTS UNDER MEDICAID TO HEALTH MAINTENANCE ORGANIZATIONS

Sec. 41. Section 1903 of such Act is amended by inserting at the end thereof the following new subsection:

"(m) Payment under the preceding provisions of this section shall be made with respect to any amount expended during calendar quarters commencing after December 31, 1976, by a State as payment on a per capita or similar basis for the provision of medical assistance only if—

"(1) the entity to which such payment is made meets the definition of a health maintenance organization contained in section 1876 as amended,

"(2) of the enrolled members of such entity not less than (A) 50 per centum of such members (in case such entity is not an entity described in clause (B)) are individuals who are neither entitled to benefits under title XVIII nor eligible for medical assistance under the State plan approved under this title, or (B) in case such entity serves a geographic area in which individuals (referred to in clause (A)) constitute less than 50 per centum of the total population, a per centum equal to whichever of the following is the larger: (i) a per centum of such members equal to the per centum of such total population which consists of such individuals, or (ii) 25 per centum of such members; and

"(3) such payment is made under a contract or other arrangement which has been approved in advance by the Secretary and which meets requirements imposed by regulations which the Secretary shall prescribe for the purpose of assuring that payments by a State on a per capita or similar basis for the provision of medical assistance are subject to substantially the same requirements as those imposed by subsections (a) and (i) of section 1876 with respect to title XVIII.".

AMBULANCE SERVICE

Sec. 42. (a) Section 1861(s)(7) of the Social Security Act is amended by inserting:

"(Including ambulance service to the nearest hospital which is: (a) adequately equipped and (b) has medical personnel qualified, in the opinion of the hospital, to deal with, and available for the treatment of, the individual's illness, injury, or condition)" immediately after "ambulance service".

(b) The amendment made by subsection (a) shall be applicable with respect to services furnished on and after the first day of the first calendar month which begins after the date of enactment of this Act.

GRANTS TO REGIONAL PEDIATRIC PULMONARY CENTERS

Sec. 43. (a) Section 511 of the Social Security Act is amended—

(1) by inserting "(a)" immediately after "Sec. 511.", and

(2) by adding at the end of such section the following new subsection:

"(b)(1) From the sums available under paragraph (2), the Secretary is authorized to make grants to public or nonprofit private regional pediatric respiratory centers, which are a part of (or are affiliated with) an institution of higher learning, to assist them in carrying out a program for the training and instruction (through demonstrations and otherwise) of health care personnel in the prevention, diagnosis and treatment of respiratory diseases in children and young adults, and in providing (through such program) needed health care services to children and young adults suffering from such diseases.

"(2) For the purpose of making grants under this subsection, there is authorized to be appropriated, for the fiscal year ending September 30, 1977, and each of the next four succeeding fiscal years, such sums (not in excess of $5,000,000 for any fiscal year) as may be necessary. Sums authorized to be appropriated for any fiscal year under this subsection for making grants for the purposes referred to in paragraph (1) shall be in addition to any sums authorized to be appropriated for such fiscal year for similar purposes under other provisions of this title.".

(b) Section 502(2) of such Act is amended by inserting "(a)" immediately after "511".

RESOURCES OF MEDICAID APPLICANT TO INCLUDE CERTAIN PROPERTY PREVIOUSLY DISPOSED OF TO APPLICANT'S RELATIVE FOR LESS THAN MARKET VALUE

Sec. 44. (a) Section 1902(a)(17) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof the following: "(D) provide that, in determining the amount of the resources of any individual who is an applicant or recipient of medical assistance under the State plan, there shall (in addition to all resources actually owned by the individual) be included an amount equal to the current market value of any property of such individual if and to the extent that, within the one-year period immediately preceding the date the determination is made, such property was disposed of to a relative of such individual for less than fair market value, and (E)".

PENALTY FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

Sec. 45. (a) Section 1877(b) of the Social Security Act is amended—

(1) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(2) by striking out "one year" and inserting in lieu thereof "two years".

(b) Section 1909(b) of such Act is amended—

(1) by striking out "misdemeanor" and inserting in lieu thereof "felony", and

(2) by striking out "one year" and inserting in lieu thereof "two years".

SUMMARY

I. ADMINISTRATIVE REFORMS

A. The bill combines the Medicare, Medicaid, Office of Nursing Home Affairs, and Bureau of Quality Assurance agencies into a single Administration for Health Care Financing headed by an Assistant Secretary. Medicare would continue to use the Social Security computer and District office systems. This is designed to promote uniform policy-making and enhanced accountability.

B. Within the new agency, there would be a Central Fraud and Abuse Unit charged with overall monitoring of the various health care programs on a coordinated basis. The unit would assist Federal and State investigative activities as well as provide support to Federal and State prosecutors, upon request. The unit would be under the direction of an Inspector-General who would be accountable only to the Secretary of HEW. The Inspector-General provision is similar to one previously approved by the Finance Committee and Senate in 1970 and 1972.

C. The General Counsel of HEW would be authorized to prosecute directly civil fraud cases where U.S. Attorneys have not acted in timely fashion following referral of such cases to their offices.

D. Specific performance criteria would be established with respect to State administration of Medicaid. These would require timely determination and redeterminations of eligibility; prompt payment of proper claims; effective review of those providing services and the services provided; and timely development and submission of program operating data. The Secretary would review, on-site, each State's compliance, with the Comptroller-General certifying the reasonableness of the methodology used by the Secretary. Deficiencies would be required to be corrected within periods not exceeding six months. At Federal expense, States would be provided any necessary technical or professional assistance they requested to improve their systems or correct deficiencies. Graded penalties relating to Federal matching for administrative costs would be assessed for uncorrected deficiencies. All review reports and findings would be made available to Governors and principal officers of State legislatures on a routine basis.

E. 1. A minimum period of 60 days would be required for comment on proposed HEW regulations with respect to the Social Security Act, except for those of an urgent nature.

2. Except where specifically provided otherwise, final regulations would be required to be issued within one year of enactment of this bill.

F. The Health Insurance Benefits Advisory Council (HIBAC) would be terminated.

G. Carriers who administer Part B of Medicare would continue to be reimbursed their reasonable costs for nonclaims processing services. However, for the claims processing services (entry of data, the automated operation, and data output plus related overhead) a negotiated fee per claim would be paid. The amount would be contracted for by Medicare with the carrier in accordance with Federal Procurement Regulations. The carrier, if efficient, could earn productivity incentives under this approach, where its actual costs were less than the negotiated fixed fee. The carrier would be at liberty to subcontract this aspect or undertake it "in-house". The services would be required to be rendered in a manner satisfying contractual standards of performance.

II. HOSPITAL REIMBURSEMENT REFORM

A. This section of the bill would establish a new method of reimbursement for routine operating costs for hospitals under the Medicare and Medicaid programs. The new mechanism, to be phased in over a three-year period, would provide for incentive reimbursement—rewarding hospitals whose comparable routine operating costs are less than the average, and penalizing hospitals whose routine operating costs are substantially above average.

Operation of reimbursement mechanism

1. Hospitals would be classified in national groups, with classification by comparable bed size and type of hospitals.

2. The cost elements would be made comparable by:

a. Establishing a uniform accounting and cost allocation system;

b. Limiting the incentive reimbursement system to routine operating costs (for example, routine nursing, administrative, maintenance, supply, and food costs), and excluding particularly variable cost elements such as capital costs, educational and training costs, physician costs, and energy costs. All such costs not subject to the new provisions would continue to be reimbursed as under current law.

c. Adjusting routine operating costs so as to take into account the effect of area wage differences.

3. A per diem target rate for routine operating costs would be determined for each hospital by:

a. Calculating the average per diem routine operating cost within each group of hospitals under the classification system.

b. Determining the target rate for each hospital in the group by adjusting the personnel cost component of the average to reflect the difference in wages in effect in all of the areas in which the hospitals are located.

The per diem target would also be adjusted to take into account any general wage and price changes taking place after determination of the target rate and before the end of the hospital's fiscal year.

4. Hospitals whose actual per diem routine operating costs fall below their target rate would receive one-half of the difference between their cost and their target rate, with the bonus payment limited to 5 percent of their target rate. Hospitals whose actual costs did not exceed their target rate by more than 20 percent would be paid their actual costs. Those with costs above their target rate plus 20 percent would have their reimbursement limited to that amount (target plus 20 percent).

Exceptions procedures

Provision is made for a given hospital to demonstrate that its unusually high routine costs are caused by (1) underutilization of beds or facilities but only where such beds or facilities are determined to be necessary in an underserved area, or (2) where it can establish that it has an unusual case mix which requires a greater intensity of routine care than among hospitals with which it is classified. To the extent that those additional costs can be justified and are acceptable, the target rate determined will not apply to them, and reimbursement will be made for the additional costs on the basis of reasonable costs, as under current law.

Phasing in of reimbursement system

The bill provides for a phasing-in to permit orderly implementation and to allow ample opportunity for hospitals to make appropriate professional and administrative decisions. During the first two years, the Secretary would issue listings each year on an advisory and informational basis only. This would permit hospitals to become familiar with the new methodology. The third year only one-half of the incentives would be paid or penalties assessed. The program would be fully operational after the fourth year.

Report and further development by the Secretary

Subsequently, the Secretary could, following at least 90 days notice to the Congress, apply comparable approaches to paying for the costs of other hospital departments such as radiology, laboratory, etc., and for payment to skilled nursing facilities.

B. A section provides for including in hospital reasonable cost payment, reimbursement for capital and increased operating costs associated with the closing down or conversion to approved use of underutilized bed capacity or services in the case of nonprofit short-term hospitals, (limited to increased operating costs in the case of for-profit short-term hospitals). This would include costs which might not be otherwise reimbursable because of payment "ceilings" such as severance pay, "mothballing" and related expense. Where the result of closing down or converting beds would result in a reduction in or termination of reasonable cost capital allowances in the form of depreciation or interest on debt which would ordinarily be applied toward payment of debt actually outstanding and incurred in connection with the terminated beds, such payments may be continued. In the case of complete closing down of a hospital, payments would continue toward repayment of any debt, to the extent previously recognized by the program, and actually outstanding.

Appropriate safeguards are to be developed to forestall any abuse or speculation. During the first two years not more than 50 hospitals could be paid these transitional allowances in order to permit full development of procedures and safeguards. This limited application will also provide Congress with an opportunity to assess the effectiveness and economic effect of this approach in encouraging hospitals to close or modify excess and costly capacity without suffering financial penalty.

C. A section of the bill increases the rate of return on net equity of for-profit hospitals and skilled nursing homes to two times the average rate of return on Social Secruity investment from the present one and one-half times.

D. The Medicare regulation with respect to valuation of assets upon sale or transfer of a hospital or nursing home would be made applicable to Medicaid. This is designed to deal with the problem of inflated appraisals and valuations which have been a source of costly abuse.

E. The statutory requirements for eligibility for recognition of an HMO under Medicare with respect to calculation of rates and payment of reimbursement incentives above actual cost would be made applicable to Medicaid. This section is designed to clean up many of the problems which have occurred in inflated payments to HMOs under Medicaid—particularly in California. This is a provision previously approved by the Finance Committee and the Senate in 1973.

III. PRACTITIONER REIMBURSEMENT REFORMS

A. This section of the bill represents a noninflationary approach designed to encourage acceptance of assignments of Medicare reasonable charges as the full billing amount by physicians; equalize to an extent the disparity between payments to rural and urban physicians providing the same services; and reduce red tape and administrative expense to both physicians and the Government.

11. Under the bill there would be "Participating" and "Non-participating" physicians, a concept employed by many Blue Shield plans.

a. A "participating" physician is an M.D. or D.O. who voluntarily and by formal agreement agrees to accept the Medicare reasonable charge determination on an assignment basis, as the full billing amount for all services to all Medicare patients. Agreements would be cancellable or concluded on the basis of 30 days' notice. In the case of "non-participating" physicians, M.D.'s and D.O.'s, all amounts payable under Part B for care of all his patients would be paid on an unassigned basis to such beneficiaries.

b. In the case of a participating physician: (1) the Secretary would establish appropriate procedures and forms whereby such physician may submit his claims on a simplified and multiple-listing basis rather than submitting individual claim forms; (2) not less than 50 percent of estimated allowable program payments (before deductible determinations) would be remitted to the physician within five working days of receipt of claims by the Part B agent, subject to appropriate monthly or quarterly adjustment.

c. An "administrative cost-savings allowance" of $1 per eligible patient would be payable to a participating physician covering all services provided and billed for with respect to an eligible patient which were included in a multiple billing listing. Two separate allowances would not be made for billing on two listings of items ordinarily included in a single visit or service, nor for different services which were provided to the same patient during the course of a single calendar week.

With respect to inpatient or outpatient hospital care, the administrative allowances would be payable only in the case of: (1) a surgeon or anesthesiologist, or (2) attending physician or consultant whose principal office and place of practice outside the hospital, and where in the case of (1) and (2) such physicians ordinarily bill and collect directly for their services.

No administrative allowance would be payable in the case of claims solely for laboratory tests and X-rays undertaken outside of the office of the billing physician.

As an example of how this would operate, take the case of a physician who does not accept assignments today and whose routine office visit charge is $10. If he became a "participating" physician, he would receive an extra $1 allowance for that visit plus probably save at least another $1 in billing, collection and office paperwork costs. In effect, his net practice income would increase by 20 percent as a result of "participation". The physicians with the lowest charges (often those in rural or ghetto areas) would benefit proportionately most from participation, as the cost-savings allowance and the office cost cutting would represent a greater percentage of their charges.

B. A section of the bill would require Medicaid to pay not less than 80 percent of the Medicare reasonable charge for nonsurgical care provided by physicians outside of a hospital. This is designed to remedy the situation where many Medicaid patients are going to hospital outpatient departments for care because of a lack of physicians willing to accept substandard Medicaid payments. In some instances, the costs of those outpatient visits (for non-emergency care) are running as much as $80 each.

C. Another section preserves the eligibility of radiologists, pathologists, and anesthesiologists to be paid by Medicare and Medicaid on a fee-for-service basis for patient care services which they personally perform or personally direct. The bill provides that reimbursement for the portion of his services which the physician may perform for the hospital as an executive educator or supervisor would be paid on a basis related to what would be paid in the case of a salaried physician performing similar work for an institution. Percentage or lease arrangements would ordinarily not be recognized for Medicare and Medicaid reimbursement purposes. These provisions were developed with the help and unofficial support of representatives of the American College of Radiology and the American Society of Anesthesiologists. This section will avoid excessive payment to some physicians for services which they do not personally provide.

The provision in present law which permits 100 percent payment for inpatient radiology and pathology tests, instead of 80 percent as is the case with all other physician services under Medicare, would be restricted to physicians who agree to become "participating physicians."

D. Medicare presently allows a new doctor to establish his customary charge at not greater than the 50th percentile of prevailing charges in the locality. The bill would permit him to go in at the 75th percentile (rather than the 50th) as a means of encouraging doctors to move into physician shortage areas.

E. Medicare utilizes more than 200 different "localities" throughout the country for purposes of determining Part B "reasonable" charges. In some States there are as many as 15 different localities. This has led to irrational disparities in areas of the same State in the prevailing charges for the same service. For example, the prevailing charge under Medicare is $450 in Los Angeles for a hemorrhoidectomy but only $280 in San Francisco for the same procedure. Additionally, under present law, all prevailing charges are annually adjusted upward by a fixed percentage to reflect changes in costs of practice and wage levels. The effect of present law is to further widen the dollar gap between prevailing charges in different localities.

A section of the bill would require calculation of Statewide prevailing charges (in any State with more than one locality) in addition to the locality prevailing charges. To the extent that any prevailing charge in a locality was more than 50 percent higher than the Statewide average charge for a given service, it would not be automatically increased each year. This provision would not reduce any prevailing charges currently in effect—it would operate, to the extent given charges exceed 50 percent of the Statewide average—to preclude raising them.

IV. MODIFICATIONS DESIGNED TO PREVENT FRAUD, ABUSE AND EXCESSIVE PAYMENT

The limitations on payments under Social Security Act programs which are listed below, are in large part based upon the investigative work, hearings and reports of the Senate Permanent Subcommittee on Investigations and the House Government Operations Committee. These limitations are designed to close reimbursement loopholes, prevent diversion of Medicare or Medicaid funds to non-public purposes. In so doing, the bill would make the following modifications:

A. Reimbursement to contractors, employees or related organizations, consultants, or subcontractors at any tier would not be recognized where compensation or payments (in whole or part, in cash or kind) were based upon percentage arrangements. This would include payment of commissions and/or finders' fees and lease or rental arrangements on a percentage basis. This would also include management or other service contracts or provision of services by collateral suppliers such as pharmacies, laboratories, etc. The percentage prohibition would flow both ways either from the supplier or service agency back to the provider or organization or from the original provider or organization to the supplier or service agency.

B. The Secretary's determination of the reasonableness of costs or charges would include consideration of the relationship between direct and indirect overhead costs or charges and the direct costs of the provision of service, including the ratios of overhead costs to costs of the patient services involved.

C. Where payments are made to a third-party or agent (administrative or other) in consideration of care or services provided, those funds would be required to be maintained in not more than two discrete accounts and such funds could not be commingled with non-program payments or allowances. The funds could not, directly or indirectly, in whole or part, be placed under the effective control of a non-contracting party. Any interest or such funds would be a cost-offset.

D. The Secretary would, by regulation, establish procedures for the review and prior approval (for purposes of prospective consideration as a reimbursable cost or charge) of consulting, management, and service contracts where any contract (individually or on an aggregate basis) involved amounts of $10,000 or greater. Allowing for reasonable management discretion, he would evaluate the proposed contracts in terms of appropriations for payment directly or indirectly in whole or part with program funds taking into consideration the needs of the contractor, the qualifications of the consultant or agent (including the "arms-length" nature of the contract), and the reasonableness of the contract price in relation to services to be provided.

E. A provider or agent (including administrative agents) would upon request of the Secretary and/or Comptroller-General of the United States fully disclose all financial arrangements with respect to ownership, direct or indirect, and at whatever tier, in the amount of 1 percent or more, as well as data concerning allocation of income and/or profits, and with respect to any debt outstanding. The disclosure would include a description of any financial dealings (direct or indirect) in the course of business with any owners or holders of debt (other than routine payment of dividends or interest or principal on debt).

F. Any provider, organization or agent would be required to submit a consolidated certified costs report with respect to its costs and charges. The report would include charges and costs of "related organizations" as defined by the Secretary under Medicare.

G. Any independent laboratories or pharmacies which serve as suppliers of goods and services reimbursable on a vendor payment basis would not be eligible for such payment unless a formal agreement has been entered into between the appropriate Medicaid or Medicare agency providing for reasonable access to the records of the pharmacies or laboratories relating to billing and payment for goods and services supplied or rendered.

H. A provision in the bill would close a loophole in the law under which factors have been operating as discounters of Medicare and Medicaid receivables. A 1972 statutory change prohibited the payment of assigned Medicare and Medicaid reimbursement (except under certain specific circumstances) to anyone other than the billing physician or hospital. This has been evaded through use of power of attorney agreements leading to substantial abuse and alleged fraud such as that in New York and Chicago.

I. Fraud under Medicaid and Medicare is now statutorily a misdemeanor. Under the bill, fraud would be punishable as a felony with penalties of up to two years imprisonment and a $10,000 fine.

V. MISCELLANEOUS PROVISIONS

A. The bill includes a section comparable to an amendment approved by the Finance Committee and Senate in 1972 which would make the Secretary of HEW the final certifying officer for skilled nursing and intermediate care facilities. Today, the Secretary has such authority with respect to skilled nursing facilities participating under Medicare only, or both Medicare and Medicaid, but not where they participate only under Medicaid. The principal purpose of this provision is to assure more uniform application of health and safety standards and timely termination of facilities with serious deficiencies.

B. A provision in present law provides 90 percent matching for State Medicaid data systems. As a condition of that matching, States are required to send out an "explanation of benefits" form to every Medicaid patient. A section of the bill would authorize the States to send these explanation forms out on a sample basis rather than to all recipients. Additionally, any new State systems would be required to have the capacity, either initially or with reasonable modification, to be compatible with Medicare data requirements. Thus, in the event of any national health insurance or expansion of programs, compatible systems would be available for administrative purposes.

C. The bill would prohibit the Secretary from imposing numerical limits on the number of home visits which might be made by skilled nursing home or intermediate care patients. Questions as to the appropriateness of the extent of such visits are matters for professional review rather than absolute numbers.

D. Present law would be amended so that allergists might be paid directly for preparation of a reasonable supply of antigens which would be dispensed or administered by another physician. This is designed to deal with the situation where a doctor refers his patient to an allergist who may then prepare a supply of antigens for the referring doctor's use. Today, the allergist has to be paid by the referring physician.

E. A technical change would permit payment by Medicare on the basis of a nonreceipted bill for care directly to the spouse or other legal representative of a deceased Medicare beneficiary. Under present law, Medicare can only pay where the physician accepts an assignment or where the family has actually paid the bill. Where a physician refuses an assignment, families have encountered difficulty in raising sufficient cash to pay the bill in order to be eligible for payment by Medicare.

F. Today, Medicare will pay for the ambulance service only to a hospital if it is the nearest participating institution with adequate facilities. A problem has arisen in that sometimes the nearest hospital doesn't have a staff member qualified to undertake the care (i.e., no neurosurgeon where neurosurgery is involved). A provision in the bill would cover ambulance service to more distant hospitals where the nearer hospitals do not have staff qualified to undertake the care required.

G. A section of the bill incorporates an authorization of up to $5 million annually for the support of pediatric pulmonary centers. This is identical with an amendment approved by the Senate in 1972 but which was not acted upon by the House.

MEDICARE AND MEDICAID REFORM

Mr. MOSS. Mr. President, I am pleased to join with the senior Senator from Georgia in offering medicare and medicaid reform legislation.

I am sure that most of the Members of the Senate know that my Subcommittee on Long-Term Care for some time now has been grappling with alleged fraud and abuse among a host of providers including physicians, nursing home operators, pharmacies, clinical laboratories, factoring companies, and hospitals that specialize in the care of welfare patients.

Last year, following our intensive hearings on nursing home abuse in New York City, I introduced a 48 bill medicare-medicaid reform package. Since last April, 3 of my 48 bills have been enacted. Inevitably, I am asked if the urgency that led to the introduction of these bills has evaporated or why more bills have not been passed. I reply that the Subcommittee on Long-Term Care, which I chair, and the Committee on Aging have no legislative authority. We must rely upon the appropriate legislative committees to act upon our findings and recommendations.

In this light I am particularly gratified to see that the Senate Finance Committee has incorporated several of our suggestions into this bill. I am glad to see that several of the bills I introduced a year ago have been included in this comprehensive reform bill. I will seek to amend some of the bill's provisions and I will ask that still other of my 48 bills be added.

The heart of this bill before us is the consolidation of medicare, medicaid, the Office of Long-Term Care, and the Bureau of Quality Assurance agencies of HEW into a single Administration for Health Care Financing headed by an HEW Assistant Secretary. This effort is designed to promote efficiency and accountability. Within this new agency there would be a Central Fraud and Abuse Unit which would be responsible for monitoring health care programs. This unit would be under the direction of an Inspector-General who would be accountable directly to the Secretary of HEW.

My bill S. 1570 would also establish the Office of Inspector General. As I noted when I introduced my bill, this idea of establishing the Office of Inspector General originated with Senator JOHN WILLIAMS of Delaware several years ago. Since his departure from the Senate I have taken up the advocacy for this approach.

Another proposal of mine which has been incorporated would enable small hospitals in rural areas with chronic low occupancy rates to offer care to nursing home patients. I introduced this as S. 1554 last year and patterned it after Utah's successful cost improvement project. To me it makes little sense to have empty hospital beds and yet to require small communities to raise money to build nursing homes to accommodate their needy elderly.

Another provision which has been graciously added by Senator TALMADGE is my suggestion to raise the penalty for committing medicare or medicaid fraud from a misdemeanor to a felony. The current law punishes kickbacks and other fraud by a $10,000 fine, a year in jail, or both. The suggestion I received from several U.S. attorneys was that fraud should carry greater punishment, thus increasing the deterrent effect of the legislation and justifying the expense of Federal funds on fraud prosecutions.

I also endorse this bill's efforts to provide incentives to help physicians accept assignment, and to insure the rapid payment of legitimate claims. Delay in payment of claims processing inevitably increases the possibilities for fraud.

I think the specific performance criteria for the States could be most helpful, and that it makes great sense to allow the General Counsel of HEW to prosecute civil fraud cases directly where U.S. attorneys have not acted in timely fashion following the referral of cases to their offices.

I am pleased to see the requirement for uniform cost accounting by hospitals. This will do much to provide with data concerning increasing health costs and ways to deal with them. I would hope that this requirement could be extended to nursing homes.

By the same token, I am gratified to see the language requiring full financial disclosure, including real estate and other dealings which affect the amount of medicaid reimbursement. These provisions may prevent the kind of manipulations to increase medicaid reimbursement that we found among New York's nursing homes last year.

One provision which troubles me is the section of the bill which increases the rate of return on net equity of for-profit hospitals and skilled nursing homes to two times the average rate of return on social security investment. This replaces the current one and one-half times. I do not believe this provision is justified and I will seek to have it deleted.

All in all, I believe this is a good bill and a basically sound approach. With some refinement, I believe it will take us a long way toward eliminating fraud, abuse, waste, and inefficiency. The millions of dollars we save can be reallocated to provide more services for the poor and aged. I hope the bill can be promptly enacted.

Mr. RIBICOFF. Mr. President, I was pleased to join today with Senator TALMADGE in sponsoring the Medicare and Medicaid Administrative and Reimbursement Reform Act, S. 3205. This bill makes basic and absolutely necessary changes in the way we administer medicare and medicaid, and the way we pay doctors and hospitals under those programs.

Medicare and medicaid are worthwhile programs but have an increasing price tag which is becoming more and more difficult to meet. Medicare and medicaid are anticipated to cost Federal and State Governments more than $38 billion in fiscal year 1977—another 20 percent jump in costs over the prior year. As Senator TALMADGE noted, we just cannot go on this way. If these costs continue unchecked, I think there will be tremendous pressure to reduce benefits—pressure we are already seeing in States which are cutting back on their medicaid programs. I, for one, believe that what the American people need is better and more comprehensive coverage, not less protection, but how we do that without having an effective and equitable administrative and reimbursement structure is beyond me.

S. 3205 offers what I believe to be fair answers to getting a handle on medicare and medicaid. It makes our payment structure more controlled and reasonable. It gets the bureaucracy into a position where reasonably effective operation and administration of these programs is possible. These kinds of changes, as I have noted, are not only necessary to continue the present benefit levels, but also to avoid cutbacks. These changes are absolutely necessary before we can seriously consider any expansion in Federal health insurance.

I commend Senator TALMADGE for his leadership, and I will, of course, work with him and our other sponsors in helping make these needed proposals realities.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Massachusetts is recognized for not to exceed 15 minutes.

ITALY, THE COMMUNIST CHALLENGE, AND THE ATLANTIC ALLIANCE

Mr. BROOKE. Mr. President, for three decades the Atlantic Alliance has been the cornerstone of American foreign policy. Despite many challenges to its internal unity, it has successfully preserved the security of its members and promoted the ideals they hold in common. And it continues to do so even during a time when we are trying to find some acceptable means of lessening the tensions between the Alliance and its primary adversary, the Soviet Union. Indeed, without a strong Atlantic Alliance, we risk extensive erosion of the West's security if optimistic assumptions concerning Soviet intentions prove unwarranted in the long run.

No one need be reminded that the Alliance is presently beset by many problems. There is a growing uncertainty in Europe concerning the reliability of the United States as the leader of the Alliance. There is the continuing failure of Western Europe to achieve effective political, economic, and military integration as a means of strengthening its role as an equal partner with the United States. And there is the economic recession, which affects all members of the Alliance, and has eroded the confidence of many in the ability of present institutions and democratic political parties to respond effectively to increasingly complex problems.

In the midst of the confusion and uncertainty resulting from these pressures, we also find many of our European allies facing a sophisticated challenge from their respective internal Communist parties. Feeding on economic discontent, exploiting euphoric and erroneous expectations about détente, and professing allegiance to democratic principles, the Communist parties in France, Italy, and other Western European countries present themselves as acceptable alternatives to existing democratic governments. That their professions of independence from Moscow and allegiance to democracy have a hollow ring does not diminish the fact that the challenge they pose is a formidable one.

Today, I intend to focus on that challenge as it is manifested in Italy. I do so because of my respect and affection for Italy and the Italian people. These feelings stem from my experience of fighting alongside Italian partisans in the Second World War, from the continuous interest I have had in Italian affairs since that time, and from contacts I have maintained with Italy through the Italian-American community in the United States. I do so also out of concern for the economic and political difficulties currently besetting Italy, difficulties that, if left to fester, could lead to substantial erosion of personal freedom for the Italian people and an alienation of Italy from her natural allies in the free world. I believe it is self-evident that an Italy able to guarantee internal freedom and able to carry out fully its responsibilities within the Atlantic Alliance is of vital concern to the United States and the American people.

I am particularly sensitive to current developments in Italy because of my recent visit to Rome for the Senate Committee on Appropriations. The informal conversations I held with Italian officials, journalists, and private citizens and with American diplomatic personnel further confirmed my belief that the future of United States-Italian relations should be one of the primary concerns of our foreign policy endeavors.

The Italian public, confronted with the disunity of the democratic parties, the constant reminders of mismanagement of the economy, and evidence of widespread corruption, has often expressed its frustrations by casting protest votes in favor of the Communists. Thus, while actual membership in the PCI, the Italian Communist Party, is approximately 1.5 to 1.7 million, the Communists have garnered a much larger number of votes in various elections than their party membership would warrant.

In previous years, protest voting for Communists, while a problem, had not threatened to upset the political balance in Italy. But in June 1975, a dramatic change took place. The Communist vote in the regional elections totaled 33 percent of all ballots cast. This was an impressive percentage increase over previous elections, placing the Communists clearly in reach of their goal of being the plurality party. The election results were a clear signal that reform within the democratic parties would be necessary if the tide of growing Communist influence was to be stemmed.

Conditions in Italy have continued to deteriorate since the June 1975 elections. The economic crisis has deepened. Inflation and unemployment have proved intractable. Allegations of misdeeds by Italian officials resulting, in part, from U.S. investigations of the activities of our intelligence agencies and multinational corporations have further damaged the Italian Government's credibility at home and abroad. The inability of the existing democratic parties to reconcile their differences and present a united front to the Communists have been manifested on numerous occasions. There should be little wonder, therefore, over the growing confidence of the Communists and their belief in their eventual accession to power.

Given the bleak state of affairs in Italy, some appear ready to accept Communist participation in the national government as inevitable. Many have adopted uncritically the view that efficient Communist management of several major Italian cities could readily be transferred to the central government without serious risk to the democratic fabric of Italian political life. I am convinced that such a view is unwarranted. There are far too many contradictions between Communist rhetoric and practice to justify confidence in the professed benevolent intentions of the Italian Communist Party.

For instance, the Italian Communist Party claims it is committed to Western style democracy. Yet, it continues to function as a party guided by the principle of "democratic centralism" which is little more than a euphemism for internal party dictatorship by a small group of individuals. Moreover, while the present leadership of the PCI may have abandoned certain outward manifestations of Communist rigidity, there appears to be a pervasive strain of hard-line sentiment within the party's rank and file as well as within certain levels of party officialdom that could reassert itself at any time.

The Italian Communist Party states it is not against NATO and would not insist that Italy withdraw from NATO if it becomes the ruling party. Yet the PCI advocates the withdrawal of NATO bases from Italy and a more neutral Italian posture. The PCI's long-term policy perspectives are clearly at variance with a central premise of the security alliance—the banding together to oppose a common adversary.

The PCI loudly proclaims its independence from Moscow. Yet its links to the Kremlin are extensive and founded upon sentimental, fraternal and organizational affinities. Its differences with Moscow appear to arise out of tactical necessities stemming from the situation that confronts it in Italy rather than from deep seated strategic disagreements. Moreover, major funding for the PCI currently comes from "agent fees" received for acting as an intermediary between Italian businesses desiring contracts from Moscow and the Kremlin. While this financial link to the Soviet Union may be indirect, it still indicates a significant degree of financial dependence on Moscow.

These and other more subtle contradictions provide ample reasons to doubt the advisability of an "historic compromise," the name given to a possible coalition government of the Communists and the democratic parties in Italy.

Other potential risks increase the dubious nature of such a "compromise." For instance, it is difficult to believe that the PCI, having achieved a share of power, could or would resist the temptation to infiltrate its cadre throughout the civil bureaucracy, the internal security apparatus and the military. And once having done so, it is even more difficult to believe that the Communists would conduct themselves in a democratic fashion to the point of relinquishing power if voted out of office. History certainly does not give one confidence that any Communist Party would relinquish power willingly if the popular mandate were withdrawn.

It is equally inconceivable that the Soviet Union could willingly tolerate a Communist Party leaving office because of a popular vote. It is not difficult to imagine the destabilizing effect such an event would have on Eastern Europe. I am firmly convinced that the Kremlin would go to extensive lengths to try to prevent such a vote from ever occurring.

Finally, and of more immediate concern, the cohesion of the Atlantic Alliance would be severely eroded by the participation of the Communists in the government of one of the Alliance's primary members. The disruption in NATO forums caused by communist participation in the Portuguese Government is minor compared to what would occur in the event of a Communist rise to power in Italy, and this despite the PCI's continued profession of nonbelligerence toward NATO.

Because of these risks, I cannot look upon the possibility of Communist participation in the Italian Government with any degree of equanimity. The personal freedom of the Italian people is too precious an asset to be put in jeopardy to ill-founded hopes that the rhetoric of the Italian Communists would be confirmed by their future actions.

Decisions on the "historic compromise" are, of course, the prerogative of the Italian people. Yet I am convinced that since such decisions will have a dramatic impact upon the policies and actions of Italy's friends and allies, expressions of deep concern and anxiety by them are fully justified.

If Communist participation in the Italian Government appears to be contrary to the best interests of the Italian people as well as to the basic interests of the Atlantic Alliance, what are the alternatives? First, the situation could be allowed to continue its present course. However, this would not be an alternative to the "historic compromise," for ultimately conditions would deteriorate to such an extent that the Italian populace might welcome into power any party that could promise relief from ineffective and corrupt government regardless of the risks. In essence, to do nothing means a decision to accept eventual Communist participation in the government.

The second alternative would be for the Alliance to continue to provide economic assistance to Italy as a means of propping up the tottering governmental edifice without also calling on the Italian democratic parties to reform themselves. While in the short run such an approach might avoid the dangers of the "historic compromise" and also avoid the risk of insulting Italian nationalistic sensibilities, its long term effect would be to assign Italy the status of an Alliance welfare case. I do not believe the Italian people would accept such a situation for any extended period of time.

The most desirable and yet the most difficult alternative would be reform of the democratic parties in Italy. Such reform can only lead to more effective government and greater attention to the many justified grievances of the Italian people.

While many despair that needed reform on a timely basis is possible within the Christian Democratic and Socialist Parties, I am not so pessimistic. I believe that there are elements in Italy, both within the structures of these parties and in the society at large that have begun to exert significant pressure for such reform. For instance, the Catholic Church, a traditional supporter of the Christian Democratic Party, has been a strong advocate of reform. Moreover, recent statements by church spokesmen have given great emphasis to the incompatability of communism with the basic principles of Christianity. Given time, I believe the pressure for reform coupled with the desire of many in the two major non-Communist parties to avoid the risks of Communist dominance and the desire of the vast majority of Italians to maintain their individual freedoms, can bring about a dramatic change for the better in Italy independent of the "historic compromise."

Mr. President, the United States, acting in concert with its other European allies, can assist the democratic forces in Italy who desire to bring about the needed changes. The main tool for doing so will be financial assistance designed to give the democratic forces the breathing space needed to regain their confidence and begin the process of reform. Toward this end, I believe the Congress should immediately approve U.S. participation in the funding of the proposed $25 billion Organization for Economic Cooperation and Development Special Financing Facility. This pool of funds would be used to assist nations, like Italy, which have substantial balance-of-payments deficits resulting from the dramatic increases in the price of imported oil that followed in the wake of the October 1973 Middle East war.

It is also important for the United States to clearly recognize that the Italian situation can only be handled in an Alliance framework. Any attempt to handle it on a bilateral basis is doomed to failure. Only through frank discussions within the context of Alliance relationships can we hope to achieve a workable arrangement acceptable to the Italians, our other European allies, and ourselves.

It is impossible to predict whether or not the "historic compromise" can be avoided by the course of action I have suggested here. But given the risks inherent in that "compromise" I am convinced that the United States must take every reasonable step to help the democratic forces in Italy surmount their present difficulties. An Italy fully capable of maintaining its close relationship with the United States and fulfilling its Alliance responsibilities is of vital interest to the United States not only because of our own security interests but also because we have a deep and abiding affection for the Italian peoples and desire for them what we treasure for ourselves—prosperity with freedom.

SENATE CONCURRENT RESOLUTION 105—SUBMISSION OF A CONCURRENT RESOLUTION REGARDING UNITED STATES-ITALY RELATIONS

(Referred to the Committee on Foreign Relations.)

Mr. BROOKE (for himself and Mr. CASE, Mr. DOMENICI, Mr. FONG, Mr. HUMPHREY, and Mr. MCGEE) submitted the following concurrent resolution:

S. CON. RES. 105

Whereas the Atlantic Alliance continues to be the cornerstone of the foreign policy of the United States;

Whereas the basic purposes of that Alliance are to preserve the security of member countries and promote the ideals of freedom and democracy they hold in common;

Whereas the effective functioning of the North Atlantic Treaty Organization (NATO) is crucial to the fulfillment of these purposes;

Whereas the effectiveness of NATO is dependent upon general agreement within the Alliance as to the security needs of its members and the means by which such needs are to be met;

Whereas the full and unencumbered participation of Italy in NATO is of vital importance in sustaining such agreement;

Whereas there exist between the United States and Italy strong ties of friendship, alliance, and kinship;

Whereas the people of the United States and Italy share broad ideals and viewpoints; and

Whereas the United States owes a debt to Italy in the creation and formation of our own country: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that for all these reasons the people and government of the United States reaffirm a sympathetic interest in Italian democracy and democratic institutions and call on the European friends and allies of Italy similarly to confirm their support for the Italian people and their government and to join in assisting Italy to renew her confidence and to attain full and lasting prosperity.

SEC. 2. It is the sense of the Congress that the economic viability of Italy is important to the Atlantic Alliance as a whole as well as to the United States.

SEC. 3. It is the sense of the Congress that the United States, in conjunction with other friends and allies of Italy, should stand ready to participate in efforts to provide financial assistance to Italy through the proposed OECD Special Financing Facility and/or by other means deemed appropriate.

Mr. BROOKE. Mr. President, I am today submitting a concurrent resolution that reaffirms the desire of the American people to maintain and enhance our relationship with Italy and her peoples. This resolution is also sponsored by Senator CASE, Senator DOMENICI, Senator FONG, Senator HUMPHREY, and Senator MCGEE.

I believe that all my colleagues in the Congress can readily support the sentiments expressed in this resolution and, therefore, I hope that the Committee on Foreign Relations will move to immediate consideration of the concurrent resolution and report it to the full Senate quickly.

The PRESIDING OFFICER (Mr. BARTLETT). The concurrent resolution will be received and appropriately referred.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. BROOKE. I am pleased to yield to the Senator.

Mr. DOMENICI. I thank the Senator from Massachusetts.

First, I commend the distinguished Senator for submitting the resolution and for his very significant statement today with reference to the growing problem, of which Italy is just a part.

Having Italian ancestry, as the distinguished Senator knows—both my parents were born in that country—I have had occasion to visit it, not frequently, but recently. I am very concerned; concerned as the Senator is.

I think the Senator is correct that there is an abiding and necessary relationship between those people, that country, and the United States of America.

I think there is a willingness on the part of the Italian people to address the issues that the Senator spoke of so succinctly here this morning.

I think it is a more difficult situation than the usual one wherein freedoms are being eroded in other countries of the world.

I do not think the Italian people basically want to get out of the democratic sphere and remove themselves from the relationship and the compromise that the Senator spoke of. However, needed reform in Italy is at the heart of the success of the democratic forces in that country. Whatever we can do as a people to make that transition more feasible, and give the Italian people hope that it may occur, is indeed within our responsibility and something we will never be sorry we did.

So as the Senator from New Mexico, I commend the Senator for the concern he has. I know he has a personal affinity for that country, but I think he goes beyond that today. I think he is concerned about that kind of democratic country as part of the Western alliance and that he sees the very complicated times they are going through and he is urging this body to reaffirm our relationship. In the basic text of the Senator's address, he is talking about some innovative approaches to assisting them economically, as well as others similarly situated.

I do not pass judgment on the essential mechanics at this point, but I certainly commend the Senator for the notion that it will not be conventional type relationships and institutions that will get this back into proper perspective. It will be something new and bold that will give them hope and encouragement for reform and will keep the democratic spirit alive and the historic compromise the Senator referred to in their country.

I thank the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank by distinguished colleague from New Mexico. He has certainly stated both my purpose and motivations in bringing this matter to the attention of the U.S. Senate.

I feel that the economic problems that face Italy—a country which the distinguished Senator certainly loves, and all of us here in the Congress and the American people love—compel us to direct careful attention to the manner by which we can help our Italian ally. The Marshall plan was a great success after world War II and helped Italy rebuild its economy. Similar success is called for now.

The serious problems Italy faces are of such magnitude that we cannot afford to stand by without helping them without jeopardizing our own interests. In Italy we help ourselves because the Atlantic Alliance is still as important today as it ever was, perhaps more so than it ever was.

I hope this concurrent resolution will be agreed to in the Senate and in the House of Representatives and that it will become law.

I am very pleased to have the distinguished Senator from New Mexico as a cosponsor of this concurrent resolution.

Mr. DOMENICI. I thank the Senator from Massachusetts.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Allen). Under the previous order, the Chair recognizes the distinguished Senator from Oklahoma (Mr. Bartlett) for not to exceed 15 mintes.

PRIVILEGE OF THE FLOOR—HOUSE JOINT RESOLUTION 857

Mr. BARTLETT. Mr. President, on behalf of the Senator from Kansas (Mr. Dole), I ask unanimous consent that Mrs. Carolyn Thompson of his staff be granted the privilege of the floor during the consideration of House Joint Resolution 857, including any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENCE IN LABOR DISPUTES

Mr. BARTLETT. Mr. President, according to some predictions, the year ahead may be one of special difficulty in the negotiation of contracts with organized labor. While there may be nothing Congress can do to facilitate these negotiations, there is something we can do to help insure against the violence which often results from labor disputes.

Certainly, destruction of property, threats to the well-being of individuals and even personal injury or death are covered by State and local laws; but as history has shown, local law enforcement personnel and courts are unable to handle the necessary enforcement to protect those involved, both from their own actions and from outside influences.

The Hobbs Act was adopted in 1949 in an attempt to curb the use of violence in labor disputes. This act was the result of an already existing history of violence.

However, even this did not prove effective, and the Supreme Court in 1973 provided the direction to Congress as to the proper corrective legislative action, the missing link in the act to bring this continuing violence under control.

The invitation is stated explicitly in a concurring opinion by Mr. Justice Blackmun:

> I readily concede that my visceral reaction to immaturely conceived acts of violence of the kind charged in this indictment is that such acts deserve to be dignified as federal crimes. That reaction on my part, however, is legislative in nature rather than judicial. If Congress wishes acts of that kind to be encompassed by a federal statute, it has the constitutional power in the interstate context to effect that result.

There are ample illustrations of violence, and I am not talking about the cases of simple vandalism such as a brick thrown through a window.

On January 15, 1976, labor-related violence was making the news. A Lake Charles, La., plant was the site of a dispute by two unions over representation at a construction site. This dispute did not involve the company or wages and benefits. It was a "simple" conflict over which union would represent the workers. The result of this "simple" conflict was the death of one man and physical injury to five others. Also, damage was caused to tow trailers, a pickup truck, a dozen automobiles, and a guard house.

At the present time, a grand jury has been convened in Lake Charles to investigate the death and related property destruction. The district attorney's office reports that 29 indictments have been returned, and the investigation is continuing.

This identical representation dispute was also being carried on at another of the contractor's projects. This was a refinery site in Houston, Tex., and the violence over three days resulted in approximately $1 million in damages.

The dispute in Houston has not subsided. Since January, one person has been nearly beaten to death; and while this was occurring, the plant nurse was locked in her aid hut from the outside so that she was unable to assist injured individuals.

The only charges filed so far in Houston resulted from attacks on persons with the media who were covering the violence. The whole situation is currently under investigation by the Special Crimes Bureau of the Houston district attorney's office.

At the same time that these events were occurring in Lakes Charles and Houston, Rapides Parrish, La., was the site of beatings. Five nonunion employees on a gas pipeline project were beaten with shovels. The result was one man requiring brain surgery and under intensive care.

The city of St. Louis, during the summer of 1975, saw the result of such activities. Two firebombs were thrown through the window of a franchise chainstore whose parent company was in a dispute over wages. There were no personal injuries in this case, but only because the bombings occurred after store hours. No arrests or convictions have resulted.

Other areas of the United States have seen the same record of violence directed both at personal property and human beings.

Who pays for an individual's car that is riddled with bullets while parked in front of the home during off-work hours? How do we compensate a person for his or her mental anguish and that of the family when their home is attacked with bombs or bullets shot through the window?

A number of construction projects have been the scene of substantial destruction. The issue may have been union representation, wages, hours, or fringe benefits, but the result was the same—the individuals and the public must eventually pay for the cost.

These scenes are like pieces out of what are now classified as overly violent movies and television shows. Movies and television shows with this sort of violence would be severely criticized by a large part of our society and given ratings such as "R" or not shown during prime time.

The State of Michigan has been a repeated site of excessive destruction and violence. The following are recent examples of the types of destructive actions that have occurred with no convictions having resulted:

First. $50,000 damage to a professional building at Lansing.

Second. Destruction of equipment, vehicles, and walls at a refinery near Kalkaska.

Third. $50,000 damage at a school construction site at Roscommon.

Four. $250,000 damage at a chain store construction project at Lapeer.

Five. $30,000 damage to another school project in Rochester.

These situations cannot be condoned or simply overlooked. Justice mandates Congress to follow the direction given by the Supreme Court in United States against Emmens to amend the Hobbs Act; namely, to amend the provisions of the act to specifically provide for Federal jurisdiction in situations where excessive violence has occurred.

It is literally impossible to obtain a tally of the cost of such violence to the American economy; and in many cases, it is impossible for local law enforcement officials to take action to prevent such destruction or to prosecute those responsible after the fact.

There are a number of reasons that can be cited for the lact of action by local law enforcement, but what it comes down to is that they need assistance because they simply cannot handle the problems that exist. This is one example where the Federal Government can strengthen and complement.

S. 2795, which I introduced on December 16, 1975, is not directed at the isolated incident of minor vandalism but rather to acts of violence that result in substantial damage. The damage must exceed $2,000 before this new provision would come into effect. This would prevent a vast expansion of Federal jurisdiction and retain a large amount of local authority and autonomy.

The second safeguard in my bill is that in order for the destructive action to be a Federal crime it must have been a willful act.

Third, my bill will safeguard the original jurisdiction of States in criminal matters. The bill does not seek to usurp the jurisdiction of a State when criminal actions have been taken by parties involved in the labor dispute; however, my bill does provide the assistance of the Federal Government in cases of substantial physical damage which, in many cases, would involve other criminal acts. In other words, the services of the Federal Government would be available in cooperation with local law enforcement authorities to fully investigate all incidents of major violence.

The Congress is responsible to the wishes of the people they represent. My amendment will answer the directive of the Court and meet our responsibility to the demands of the public.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the conduct of routine morning business not to exceed one-half hour, with a time limitation of 5 minutes attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO-FAULT INSURANCE

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in this morning's Post regarding no-fault insurance.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO-FAULT AND THE TRIAL LAWYERS' LOBBY

It has been quite clear for many years now that the car-owners of America as well as potential victims of automobile accidents—which is to say, nearly everybody—would be far better served and compensated under a genuine no-fault insurance system than they are under the inefficient programs that now pass as "coverage" in so many states. Virtually every segment of the public except the personal liability lawyers, who reap enormous financial benefits from the outmoded lawsuit approach, has endorsed the no-fault concept. Moreover, there is carefully drafted no-fault legislation ready for decisive votes in both houses of Congress right now; the question is whether congressional leaders will succumb to pressures from a heavily-financed trial lawyers' lobby to hold up action on the bills.

The two similar measures would establish minimum national standards for no-fault motor vehicle insurance, under which insurance companies pay directly for certain losses without costly, time-consuming litigation to determine fault. The bills respect the rights of state regulation and administration while creating a system to provide insurance purchasers and accident victims with swift, direct compensation. But the trial lawyers' lobby, with a war chest of more than $400,000 to defeat the legislation, has been busy on Capitol Hill. In the Senate, where a bill is ready for floor action, and in the House, where a subcommittee has approved a measure for consideration by the full committee on interstate and foreign commerce, lobbyists are attempting to talk each side into awaiting action by the other.

Meanwhile, this minority of the nation's legal fraternity is also working to spread the notion that no-fault systems may drive up the costs of automobile insurance rather than reduce them. In making this argument, no-fault opponents point to increases in premiums in states where various programs under "no-fault" labels—but which happen to have weak restrictions on lawsuits—have been enacted. Obviously, one of the causes of increased premiums has been inflation, in states with no-fault or without it.

The purpose of a sound no-fault system is to do away with the disproportionate amount of consumer dollars wasted in the needless, cumbersome business of identifying fault—as well as the inequities of overpayments for small claims and underpayments for seriously injured victims under the negligence system. According to actuarial estimates cited by the State Farm Insurance Companies—largest auto insurer in 32 states and the second largest in eight others—the no-fault system called for in the federal standards legislation would double the number of premium dollars available to compensate victims of economic loss without forcing up insurance costs in terms of fixed dollars.

To be sure, a no-fault system would cut into the estimated $1.8 billion a year in lawyers' fees collected from accident victims. But accident victims who now receive nothing under the fault system would be compensated promptly for medical expenses and lost wages. In Michigan, the only state that provides no-fault benefits similar to those called for in the federal legislation, there are many examples of such cases.

This is what "coverage" is supposed to mean—and assurance that when Americans set out on trips either by car or on foot, they can expect at least a certain uniformity of economic protection and medical care throughout the nation. In providing ample time for state action and leaving the primary responsibility to the states, the measures now pending in Congress—S. 354 and H.R. 9650—constitute a reasonable approach that deserves enactment—and the support of President Ford.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. BURDICK) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PUBLIC HEALTH THREAT OF INFLUENZA—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations:

To the Congress of the United States:

The nation faces a serious potential public health threat this winter from a strain of virus known as swine influenza.

One month ago this strain of influenza was discovered and isolated among Army recruits at Fort Dix, New Jersey. The appearance of this strain has caused concern within the medical community because this virus is very similar to the one that caused a widespread and very deadly flu epidemic late in 1918–19. Some Americans will recall that 548,000 people died in this country during that tragic period—and 20 million people worldwide.

I have consulted with members of my Administration, leading members of the health community and public officials about the implications of this new appearance of swine flu. I have been advised that there is a very real possibility that unless we take effective counteraction, there could be an epidemic of this dangerous disease next fall and winter here in the United States.

The facts that have been presented to me in the last few days have come from many of the best medical authorities in this country. These facts do not suggest there is any cause for alarm. The scientific community understands what we are dealing with and they have developed a vaccine that will be effective in combatting it. The facts do suggest, however, that there is a need for action now—action by the Government, action by industry and the medical community, and most importantly, action by all of our citizens.

Although no one knows at this time exactly how serious this threat could be, we cannot afford to take chances with the health of our people. Accordingly, I am taking the following action.

I am asking the Congress for a special supplemental appropriation of $135 million—prior to their April recess—to insure the production of sufficient vaccine to inoculate every man, woman, and child in the United States.

I have directed HEW Secretary David Mathews, and the Assistant Secretary for Health, Dr. Theodore Cooper, to develop and implement plans that will make this vaccine available to all Americans.

Finally, I am asking each and every American to make certain he or she receives the vaccine this fall. Inoculations are to be available at schools, hospitals, physicians' offices, and public health facilities.

Extraordinary measures are necessary because of the short time period available to assure adequate vaccine production and to mobilize the nation's health care delivery system. An extensive immunization program must be in full-scale operation by the beginning of September and should be completed by the end of November, 1976.

I urge the Congress to act immediately to pass this special supplemental appropriation separately. This $135 million appropriation, if acted on promptly, will be a key factor in putting this threat behind us before next winter.

GERALD R. FORD.

THE WHITE HOUSE, *March 25, 1976.*

MESSAGES FROM THE HOUSE

At 12:24 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10799. An act to amend title 10 of the Economic Opportunity Act of 1964;

H.R. 11598. An act to authorize appropriations for the U.S. Information Agency for the fiscal year 1976 and for the period July 1, 1976, through September 30, 1976;

H.R. 12490. An act to provide tax treatment for exchanges under the final system plan for ConRail; and

H.R. 12567. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 6346. An act to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972, and for other purposes.

H.R. 9803. An act to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:15 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 12203) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PASSMAN, Mr. LONG of Maryland, Mr. ROUSH, Mr. OBEY, Mr. BEVILL, Mr. CHAPPELL, Mr. KOCH, Mr. CHARLES WILSON of Texas, Mr. MAHON, Mr. SHRIVER, Mr. CONTE, Mr. COUGHLIN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 510) to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SYMINGTON, Mr. SCHEUER, Mr. WAXMAN, Mr. HEFNER, Mr. FLORIO, Mr. CARNEY, Mr. MAGUIRE, Mr. DEVINE, Mr. CARTER, Mr. BROYHILL, Mr. HEINZ, and Mr. MADIGAN were appointed managers of the conference on the part of the House

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes; and that the House recedes from its disagreement to the amendments of the Senate numbered 10, 18, and 20 to the aforesaid joint resolution, and concurs therein.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation to consolidate Federal financial assistance to States for child nutrition programs, and for other purposes (with accompanying papers); to the Committee on Agriculture and Forestry.

SALE OF FOOD COMMODITIES TO SYRIA

A letter from the Assistant Secretary of State transmitting, pursuant to law, a determination with statements of reasons permitting the sale of up to $19.2 million of food commodities to Syria (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT OF THE ASSISTANT COMPTROLLER GENERAL

A letter from the Assistant Comptroller General of the United States reporting, pursuant to law, on the status of impounded budget authority for 18 proposed rescissions included in the President's seventh and eight special messages (November 18 and 29, 1975); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, Budget, Labor and Public Welfare, Agriculture and Forestry, and Commerce.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Acting Director of the Office of Management and Budget transmitting a report on revised budget estimates required by the Congressional Budget and Impoundment Control Act of 1974 (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations and the Budget.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, the annual report on independent research and development and bid and proposal costs (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report on the listing of contract award dates for the period March 15, 1976 to June 15, 1976 (which an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE CENTRAL INTELLIGENCE AGENCY

A letter from the Acting Director of Central Intelligence transmitting a draft of proposed legislation to amend the Central Intelligence Agency Retirement Act of 1974 (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report of Defense Department procurement from small and other business firms for July-December 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE EXPORT-IMPORT BANK

A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on transactions supported by Eximbank during January 1976 to Communist countries (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to amend certain laws affecting personnel of the Coast Guard, and for other purposes (with accompanying papers); to the Committee on Commerce.

IMPORTED CARBON STEEL PLATE FROM MEXICO

A letter from the Assistant Secretary of the Treasury substituting certain language to a previous submission relating to the waiver of countervailing duties of imported carbon steel plate from Mexico (with accompanying papers); to the Committee on Finance.

PROPOSED LEGISLATION BY THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting a proposed amendment to the Mutual Educational and Cultural Exchange Act (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED AMENDMENT BY THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting a draft of a proposed amendment to S. 1943, a bill to amend title VIII of the Foreign Service Act of 1946 (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED DISTRIBUTION PLAN OF INDIAN JUDGMENT FUNDS

A letter from the Under Secretary of the Interior transmitting, pursuant to law, a proposed plan for the distribution of Indian judgment funds awarded to the Kiowa, Comanche, and Apache Indians by the Indian Claims Commission (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

A letter from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on the administration by the Department of HEW of the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report on extraordinary contractual actions to facilitate the national defence (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE CIVIL SERVICE COMMISSION

A letter from the Acting Chairman of the Civil Service Commission transmitting a draft of proposed legislation relating to the formula for cost-of-living adjustments (with accompanying papers); to the Committee on Post Office and Civil Service.

PROSPECTUS OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus for alterations at the Shelby, Ohio, GSA/FSS Depot (with accompanying papers); to the Committee on Public Works.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus for alterations at the Washington, D.C., West Heating Plant (with accompanying papers); to the Committee on Public Works.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following petitions, which were referred as indicated:

Joint Resolution No. 58, adopted by the Legislature of the State of New York; to the Committee on Finance:

"JOINT RESOLUTION No. 58

"Joint resolution of the Senate and Assembly of the State of New York urging Congress and the President to provide reform in the estate tax assessments on farms

"Whereas, the present and future supply of food in the State of New York is a critical concern and responsibility of the legislature of the State of New York; and

"Whereas, By chapter forty-eight of the laws of New York of nineteen hundred twenty-two, it was provided that the agriculture industry is basic to the life of our State and that it is the duty of the State to promote, foster, and encourage the agricultural industry; and

Whereas, During the years of recent memory, the number of farms in the State of New York has decreased annually, and to a level making apparent the critical problem of production of food and agricultural products for the future; and

"Whereas, One substantial contributing factor in the closing of family farm operations is the assessment practice of the federal government for estate tax purposes in assessing farm land at values substantially higher than its value for farm use; now, therefore, be it

"Resolved, That the Legislature of the State of New York hereby urges the Congress and the President of the United States to move with all deliberate speed to the enactment of legislation now under consideration which would:

"(1) require farm land to be assessed as farm land for estate tax purposes; and,

"(2) Increase the amount of farm value exempt from estate taxation which legislation would enable family farms to continue as farms and avoid, thereby, the forced sale of farm lands for payment of estate taxes; and be it further

"Resolved, That the Legislature of the State of New York hereby urges the Congress, and the President of the United States, to move with all deliberate speed to the enactment of such legislation since it will serve the critical farm need of our nation and assure future generations of our citizenry of ample produce from the bounty of the land; and be it further

"Resolved, That suitable engrossed copies of this resolution be transmitted to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and to each member of Congress from the State of New York."

Senate Resolution No. 1976-264, adopted by the Senate of the State of Washington; to the Committee on Foreign Relations:

"SENATE RESOLUTION 1976-264

"Whereas, United States diplomatic representatives are presently engaged in negotiations with representatives of the government of Panama, under a declared purpose of establishing a new treaty relationship between the United States and Panama; and

"Whereas, The United States since 1903 has continuously occupied and exercised control over the Zone, constructed the Canal, and since 1914, for a period of sixty years, operated the Canal in a highly efficient manner without interruption, under the terms of the Hay-Pauncefote Treaty of 1901, the Hay-Bunau-Varilla Treaty of 1903, and the Thomson-Urrutia Treaty of April 6, 1914, making a total investment in the Canal, including defense, at a cost to the taxpayers of the United States of over $5,695,745,000; and

"Whereas, The United States House of Representatives, on February 2, 1960, adopted House Concurrent Resolution 459, 86th Congress, reaffirming the authority of the United States over the Zone territory by the overwhelming vote of 382 to 12, thus demonstrating the firm determination of our people that the United States maintain its jurisdiction over the Canal and the Zone; and

"Whereas, The Panama Canal is essential to the defense and national security of the United States. It is of vital importance to the economy and interoceanic commerce of the United States with the remainder of the free world.

"Now, therefore, be it resolved, By the Senate, that there be no relinquishment or surrender of any essential national interest of the United States or any essential right, power, authority, or property, tangible or intangible; and

"Be it further resolved, That the elements of essential United States national interest shall be: (1) The right to defend the Canal and to intervene unilaterally to accomplish this before or after the termination of any treaty; (2) the right to expand capacity on such canal or build sea-level canal when necessary; (3) the right to use the Canal on an unrestricted basis before or after termination of the treaty; and (4) the right to operate the Canal for the duration of the treaty;

"And be it further resolved, That copies of this resolution be immediately transmitted by the Secretary of State to the Honorable Gerald R. Ford, President of the United States, Dr. Henry Kissinger, United States Secretary of State, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

Assembly Joint Resolution No. 30 adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 30

"Assembly joint resolution relative to water quality of international streams

"Whereas, Public Law 92-500 amended the Federal Water Pollution Control Act (Chapter 26 (commencing with Section 1251) of Title 33 of the United States Code) in 1972 and thereby established as national goals the elimination of discharge of pollutants into waters of the United States by 1985, the prohibition of discharge of toxic pollutants in toxic amounts, and the development and implementation of areawide waste treatment management to assure adequate control of the source of pollutants in each state; and

"Whereas, California is authorized to administer its own permit program for discharges into waters of the United States within its jurisdiction, thereby assuming responsibility for achieving national water quality goals within California; and

"Whereas, Waste discharge requirements prescribed by California's Regional Water Quality Control Boards and State Water Resources Control Board for waste discharges into waters of the United States, including such international streams as New River and Tijuana River, must implement federal interstate water quality standards and the requirement of the Federal Water Pollution Control Act that municipal sewage discharges receive secondary treatment; and

"Whereas, Cities in Mexico, such as Mexicali and Tijuana, discharge inadequately treated wastes into international streams which adversely affected beneficial uses in California; and

"Whereas, Wastes discharged in Mexico into such international streams must be adequately treated if beneficial uses are to be preserved and national water quality goals achieved in California for the waters of such streams; and

"Whereas, Funds expended by California municipalities in meeting the secondary treatment requirement of the Federal Water Pollution Control Act will be wasted as to discharges into such international streams unless discharges from Mexican cities into such streams receive adequate treatment; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Secretary of State of the United States to seek an executive agreement with the United Mexican States to provide assistance in implementing waste treatment programs to the Cities of Mexicali and Tijuana, and any other Mexican cities which may discharge wastes to international streams which affect beneficial uses of waters of the United States in California; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of State of the United States, to the Administrator of the Environmental Protection Agency, to the International Boundary and Water Commission, and to each Senator and Representative from California in the Congress of the United States."

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION

"A concurrent resolution to memorialize the Congress of the United States to refrain from repealing or making material modifications to the McCarran-Ferguson Act so that the regulation of the insurance industry may be retained by the several States

"Whereas, on the 8th day of January, 1976, the South Carolina Insurance Commission adopted a resolution which was forwarded to the President of the United States, the Governor, all members of the South Carolina Congressional Delegation, standing and permanent committees of this body and the National Association of Insurance Commissioners; and

"Whereas, the preamble of the resolution is as follows:

" 'Whereas, in 1945, immediately following the United States Supreme Court's decision in the South Eastern Underwriters Association Case, the Congress of the United States moved with dispatch to return regulation of the insurance industry to the Several States by enactment of the McCarran-Ferguson Act; and

" 'Whereas, under the State Legislatures and regulatory authorities of the Several States, an insurance responsive to the needs and desires of the people of the Several States in the tradition of competitive free enterprise has flourished and made available needed and desired insurance coverage; and

" 'Whereas, State regulation of insurance is eminently closer to the people of the Several States and thus better able to ascertain and respond to their insurance needs and desires than a regulatory authority located at a higher level of centralized government; and

" 'Whereas, "deregulation" of the insurance industry as suggested by the United States Department of Justice would in actuality result in a lessening of true competition and a tendency toward violation at least in spirit of the Federal anti-trust laws and regulations to the detriment of the people of the Several States'; and

"Whereas, this preamble expresses the opinion the General Assembly which feels strongly that the regulation of the insurance industry should remain a duty of the States.

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"That the Congress of the United States is hereby memorialized to refrain from repealing the McCarran-Ferguson Act or making any material modifications thereto and to reject any recommendations from whatever source that the regulation of the insurance industry be removed from the several states.

"Be it further resolved that copies of this resolution be sent to the presiding officers of the United States House of Representatives and the United States and to each member of the South Carolina Congressional Delegation."

House Resolution No. 997 adopted by the House of Representatives of the State of Georgia; to the Committee on the Judiciary:

"H.R. No. 997

"A resolution urging the United States Congress to enact the "Administrative Rulemaking Control Act", House Resolution 3658; and for other purposes

"Whereas, *federal agency rulemaking* has grown and become so pervasive that a fourth branch of government has been created beyond the immediate control of the People; and

"Whereas, in 1974 while the United States Congress enacted some 400 public laws, federal agencies adopted and promulgated more than 7,000 rules and regulations affecting each and every citizen in uncountless numbers of ways; and

"Whereas, the Honorable Elliott Levitas has introduced before the United States Congress, House Resolution 3658 entitled the "Administrative Rulemaking Control Act" which would give the United States Congress authority to review regulations adopted by federal agencies and would allow either house of Congress to disapprove those regulations which are unnecessary, abusive, or clearly outside the intent of Congress; and

"Whereas, House Resolution 3658 has 156 co-sponsors, including 9 of 10 Georgia Members of the House of Representatives and has bipartisan sponsorship and support from Congressmen of all walks of life; and

"Whereas, a similar bill has been introduced in the United States Senate by the Honorable Sam Nunn.

"Now, therefore, be it resolved by the House of Representatives that this body does hereby strongly urge the United States Congress to speedily enact House Resolution 3658 entitled the "Administrative Rulemaking Control Act".

"Be it further resolved that *the Clerk* of the House of Representatives *is hereby authorized and directed to transmit* appropriate copies of this Resolution to the Honorable Elliott Levitas, the Honorable Sam Nunn, each and every other member of the United States House of Representatives and Senate elected from the State of Georgia, the Speaker of the United States House of Representatives, and the President of the United States Senate."

A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Post Office and Civil Service:

"JOINT RESOLUTION

"Joint resolution memorializing the Honorable Benjamin F. Bailar, Postmaster General of the United States and the Citizens Stamp Advisory Committee to order the issuance of a special stamp commemorating General Henry Knox

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the Special Session of the One Hundred and Seventh Legislative Session now assembled, most respectfully present and petition the Honorable Benjamin F. Bailar and the Citizens Stamp Advisory Committee, as follows:

"Whereas, the American cause was in mortal danger in the winter of 1775–76. The Americans had the British penned up in Boston, with the Redcoats being unaware of the artillery shortages existing within the rebel ranks; and

"Whereas, America might have lost its fight for nationhood in its infancy if General Henry Knox, a bookseller turned soldier, had not delivered the guns which allowed George Washington to strengthen his fledgling army and liberate Boston; and

"Whereas, with the big guns from Fort Ticonderoga, Washington could defend his own siege positions, command Boston, and prevent the arrival of British supplies from the seas; and without them, the English would have massed enough men and equipment and sallied forth and crushed the Revolution; and

"Whereas, Knox, a military amateur at that time, who had helped engineer the fortification, came to Washington with a plan to go after the guns captured from the British at forts on Lake Champlain; and

"Whereas, it is recognized that General Knox performed a monumental deed by hauling 60 tons of artillery and supplies from Fort Ticonderoga in New York, across the length of Massachusetts to Boston in the dead of winter that numbed horses and oxen and terrified men; and

"Whereas, for more than 300 miles they pulled and pushed their cargo on rough-hewn sledges over treacherous mountain trails, through deep woods, across frozen lakes and rivers which often cracked under the weight, and through smothering snow; and

"Whereas, when animals refused to struggle on, men pulled an impossible load, and when men hesitated, Knox's own assurance and courage kept them going and rallied the countryside to their aid; and

"Whereas, it was impossible, but Knox, with a new Colonel's commission, and just 25 years old, set out for New York on November 17, 1775, racing as best he could on horseback over frozen roads, and thus he and his brother, William, reached Fort Ticonderoga on December 5th; and

"Whereas, Knox selected 59 guns captured the previous spring by Ethan Allen and Benedict Arnold with total weight of 120,000 pounds which were loaded onto 3 boats; and

"Whereas, Knox hurried south to prepare the land route, while William, meanwhile, began the 33-mile voyage down Lake George through a channel in the ice, which stretched a mile from each shore of the narrow lake, and on the first day out a boat struck a sunken rock and was freed only after exhausting labor; and

"Whereas, halfway down the lake, the big scow struck again and sank in shallow water, and the guns were lifted from icy water by freezing hands and repairs to the scow were made in the middle of the lake, which allowed the priceless artillery to arrive at the southern end of the lake; and

"Whereas, everything was transferred to 42 sledges pulled by 80 teams of oxen, and along crude roads, Indian trails, or none at all, through 3 feet of fresh loose powder; and they made no better than 2 miles a day, all at so great a strain that oxen and horses gave out and were abandoned with men often pushing the sleds; and

"Whereas, while crossing the Mohawk River above Albany, one of the sledges crashed through the ice and sank and the precious cargo was fished out by frozen men; and

"Whereas, when things seemed unendurable, Knox rallied the people of the countryside who came forth with fresh horses and men but only to be stalled again in Albany with thin ice; and

"Whereas, Knox spent the first days of 1776 cutting holes in the ice to force up water which froze in layers, thickening the ice on the Hudson River until it could bear the weight of heavy guns; and

"Whereas, south of Albany a sleigh shattered under its load and detained the column, but Knox plunged east into the Berkshires and reached Monterey, Massachusetts, on January 10th, and in his words, "after having climbed mountains from which we might almost have seen all the kingdoms of the earth;" and

"Whereas, when the teamsters feared to descend the mountain with their heavy load, it was Knox who rallied them again and again through the snow, the icy winds and the thick forests; and

"Whereas, Knox arrived at Washington's camp with an advance contingent on January 18th, and 'the noble train of artillery,' as he called it, was delivered on January 24, 1776, 47 days after leaving Ticonderoga; and

"Whereas, on March 2nd, Knox's guns began shelling Boston, and on March 17th the British evacuated the city, a date still celebrated annually by Bostonians; and

"Whereas, 'the Tories were repelled; the rebels were relieved and the cradle of liberty was free;' and

"Whereas, the man who performed this herculean task and perhaps saved his country was the least likely person in Washington's command to receive such a trust. When he was only 9 years old, Henry was forced to leave school and support his mother and 3-year old brother with a job at a bookstore where he continued his education; and

"Whereas, with nothing but book-learning to guide him, Knox aided in designing and building siege fortifications about Boston to which George Washington expressed great pleasure and surprise; and

"Whereas, eventually, Knox became chief of artillery for the Continental Army and one of Washington's closest friends and trusted lieutenants and became active in most of the major battles of the Revolution; and

"Whereas, Knox showed a facility at artillery warfare which continually amazed his learned British opponents and French allies alike and he designed a new gun carriage which enabled him to engage guns in greater number and mobility than Europeans had done; and

"Whereas, it was Knox who personally directed the transport of Washington's troops across the Delaware on Christmas night, 1776 with stentorian lungs and extraordinary exertions, for which he was awarded the rank of Brigadier General; and

"Whereas, Knox was with Washington at Valley Forge and at Yorktown, he organized a military academy for the new army and he was the first to embrace Washington in farewell at war's end; and

"Whereas, this self-taught bookseller-soldier became a Major General and succeeded Washington as Commander of the Army after the war; and

"Whereas, Knox became the country's first Secretary of War in Washington's Cabinet, and later enjoyed success as a businessman and country squire on his estate in Thomaston, Maine; and

"Whereas, it was Henry Knox who represented young America, this self-made general, too unsophisticated to be cowed by the impossible, and with that exquisite American capacity to do what couldn't be done, simply because it was there, and he was there, and it needed doing, and he knew he could do it when few others would dare try; now, therefore, be it

"Resolved: That We, your Memorialists, in view of this outstanding General and his record of accomplishments, recommend and urge the Honorable Benjamin F. Bailar, Postmaster General of the United States and the Citizens Stamp Advisory Committee to take appropriate action by ordering the issuance of a special stamp commemorating General Henry Knox; and be it further

"Resolved: That copies of this Memorial, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Honorable Benjamin F. Bailar, Postmaster General, and the Honorable Members of the Citizens Stamp Advisory Committee, Mr. Ernest Borgnine, Dr. James Mutejka, Dr. Virginia Noelke, Mr. John Sawyer, Mr. John Thomas, Dr. Dorothy Worcester, Mr. Belmont Faries, Mr. Stevan Dohanos, Mr. Bradbury Thompson, Mr. James Conlon, Mr. J. Carter Brown, Mr. Franklin Bruns, Mr. Emerson Clark and Mr. James Wyeth; and be it further

"Resolved: That the Secretary of State be directed to transmit forthwith suitable copies of this Memorial to the Vice President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress and to each Member of the Maine Congressional Delegation."

A resolution adopted by the National Advisory Council on Education Professions Development relating to annual reports regarding the status of the education professions; to the Committee on Labor and Public Welfare.

Two resolutions adopted by the Long Island Federation of Women's Clubs, Inc.; one relating to busing of schoolchildren; to the Committee on Labor and Public Welfare; and one relating to illegal aliens; to the Committee on the Judiciary.

A resolution adopted by the council of the city of Cleveland, Ohio, relating to the food stamp program; to the Committee on Agriculture and Forestry.

A resolution adopted by the council of the County of Kauai, Hawaii, relating to 1977 budget of the Department of Defense; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with an amendment:

S. 2023. A bill to provide for the competitive movement at fair and equitable rates and charges of household goods shipments moving in the foreign commerce of the United States, and for other purposes (Rept. No. 94-712).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Michael P. Carnes, of Texas, to be U.S. attorney for the northern district of Texas.

Alvin W. Bumann, of North Dakota, to be U.S. marshal for the district of North Dakota.

Robert E. Lee, of Colorado, to be a member of the Foreign Claims Settlement Commission of the United States.

Henry F. McQuade, of Idaho, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administrator.

Paul K. Wormeli, of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

John M. Manos, of Ohio, to be U.S. district judge for the northern district of Ohio.

Gerard L. Goettel, of New York, to be U.S. district judge for the southern district of New York.

Charles S. Haight, Jr., of New York, to be U.S. district judge for the southern district of New York.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of 25 brigadier generals in the Army for temporary promotion to major general (list beginning with William E. Eicher); and Lt. Gen. Harold Kissinger in the Army to be retired in the grade of lieutenant general. Lt. Gen. Samuel Jaskilka in the U.S. Marine Corps, for appointment to the grade of general as assistant commandant of the U.S. Marine Corps. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 75 in the Air Force for permanent promotion and 1 reappointment to the grade of lieutenant colonel and below (list beginning with William T. Watkins); and 467 in the Army for appointment to the grade of second lieutenant (list beginning with Patrick Adamcik); and 264 in the Reserve of the Army for promotion to the grade of colonel and below (list beginning with Edwin K. Adam). There are 810 in the Navy and the Naval Reserve for permanent promotion to captain (list beginning with Edwin Charles Adamson, Jr.); and 134 U.S. Naval Academy graduates for permanent appointment in the U.S. Marine Corps to the grade of second lieutenant (list beginning with Mark E. Alfers); and 49 in the line of the Navy for transfer in the permanent grade of lieutenant and temporary grade of lieutenant (list beginning with Thomas J. Fowler). There are 13 in the Marine Corps for permanent appointment to the grade of second lieutenant (list beginning with Gregory D. Mathis); and 174 in the Regular Army for permanent promotion to the grade of lieutenant colonel (list beginning with Michael R. Antopol); and 817 in the Navy and Naval Reserve for temporary promotion to the grade of commander (list beginning with Latimer T. Albert); and 1st Lt. John R. Bourgeois in the U.S. Marine Corps for appointment to the grade of captain. There are 1,163 in the Army for promotion to the grade of colonel and below (list beginning with Robert L. LaFrenz); and 82 in the Navy for temporary promotion to the grade of captain and below (list beginning with Philip T. Briska). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 4, 11, and 16, 1976, at the end of the Senate proceedings.)

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 10799. An act to amend title 10 of the Economic Opportunity Act of 1964; to the Committee on Labor and Public Welfare.

H.R. 11598. An act to authorize appropriations for the U.S. Information Agency for the fiscal year 1976 and for the period July 1, 1976, through September 30, 1976; to the Committee on Foreign Relations.

H.R. 12567. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 and the act of March 3, 1901, for fiscal years 1977 and 1978, and for other purposes; to the Committee on Commerce.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON (for himself and Mr. SYMINGTON):

S. 3204. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. TALMADGE (for himself, Mr. LONG, Mr. RIBICOFF, Mr. EASTLAND, Mr. HOLLINGS, Mr. MOSS, Mr. INOUYE, Mr. DOMENICI, Mr. RANDOLPH, Mr. GRAVEL, and Mr. PERCY):

S. 3205. A bill to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 3206. A bill providing for the study of, and formulation of legislative proposals as to, the implementation of the transfer of mineral interests under the Northern Cheyenne Allotment Act, act of June 3, 1926 (44 Stat. 690), as amended, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HRUSKA:

S. 3207. A bill for the relief of Mrs. Kwok-Fu Lee (Alice Ngar-Fong Tam). Referred to the Committee on the Judiciary.

By Mr. FONG:

S. 3208. A bill to amend the Immigration and Nationality Act, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. RANDOLPH, Mr. ROBERT C. BYRD, Mr. HUGH SCOTT, and Mr. MORGAN):

S. 3209. A bill to establish fiscal incentives for the conversion of existing oil-fired and gas-fired powerplant and industrial boilers and heat devices to coal as a primary source and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. TUNNEY:

S. 3210. A bill to provide for a national coordinated program of job creation and maintenance and for other purposes. Referred jointly, by unanimous consent, to the Committees on Public Works, Finance, and Labor and Public Welfare.

By Mr. KENNEDY:

S. 3211. A bill to amend the Internal Revenue Code of 1954 to provide an election under which State and local governments may issue taxable obligations and receive a Federal subsidy of 40 percent of the interest yield on such obligations. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself and Mr. Symington):

S. 3204. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness. Referred to the Committee on Interior and Insular Affairs.

EASTERN WILDERNESS AREAS ACT

Mr. EAGLETON. Mr. President, for myself and Senator Symington, I am introducing a bill which would amend the Eastern Wilderness Areas Act to include certain national forest lands in Missouri as wilderness study areas.

The areas include Bell Mountain in Iron County, Rockpile Mountain in Madison County, Paddy Creek in Texas County, and Piney Creek in Barry and Stone Counties.

Mr. President, the Eastern Wilderness Areas Act was passed in 1973 and signed into law in January 1974. Four Missouri areas were originally included, but were deleted from the final version because of the amount of private land included within the boundaries of the wilderness.

A compromise has now been reached which appears to be acceptable to the Missouri parties involved. Bell Mountain now contains 300 acres of private land and 8,233 acres of Forest Service land for a total of 8,533 acres. Rock Pile Mountain contains 200 acres of private land and 3,970 acres of Forest Service land, for a total of 4,170 acres. Paddy Creek contains 40 acres of private land, 120 acres of county or State owned land, and 6,728 acres Forest Service land for a total of 6,888 acres, and Piney Creek contains no private land, 40 acres owned by the Corps of Engineers and 8,392 acres of Forest Service land, for a total of 8,432 acres.

Missouri is one of the few States in the Midwest with potential wilderness areas left. Wilderness is a commodity that should be protected. It provides a clean watershed, clean air, and wildlife habitat. It also offers an undisturbed ecosystem where scientific research can take place and affords both city dwellers and rural people an outdoor recreation alternative.

An increasing population has increased pressure for commercial use of the land. I do believe that national forest land should be managed for the most efficient production of commodities necessary for the country.

Yet for the sake of future generations of Americans, we should take action now to set aside a small portion of the national forest lands to preserve them as nature intended. For in addition to the environmental advantages, we must maintain a glimpse into our heritage—into the wilderness that the American settler explored and conquered. Wilderness played an integral part in the formation of our national character, and it is now up to us to see that the last vestiges are not destroyed.

Out of a total of 1.4 million acres managed by the National Forest Service, my bill would designate 28,023 acres or 2 percent of the national forest land as wilderness study areas, removing it from commercial use until a final decision is made regarding wilderness status. This would lower the State's revenues from approximately $1,737,000 to $1,729,000.

This is a small price considering the value of the land preserved in its natural state and the additional attractiveness of the Missouri Ozarks to visitors.

A small amount of private inholdings have been included within the boundaries of the proposed wilderness areas. I might add a substantially smaller amount than the original bill.

The land owner essentially has the same rights to his inholdings within a wilderness as he did in a national forest, which includes right to access to his land. The Forest Service has no control over what the owner does with his land as long as it is compatible with wilderness and would not harm the value of the surrounding wilderness lands.

Activities which are not considered compatible include commercial timber cutting, building a resort, putting in a highway, and so on. Building permits must be obtained from the National Forest Service for a building larger than a shelter or log cabin, so the Service can determine if the building is compatible with wilderness. Residences are considered compatible, but dwellings open for public use are not.

The owner may also sell his land to the Forest Service if he chooses, and the Service will either exchange the land for other national forest land, or pay the appraised value of the land.

Wilderness proposals have often been opposed because of claims of no public access and a lack of management which might actually lead to the destruction of wilderness through fire or disease.

In actuality, the public has a complete access to camp, hike, hunt, fish, or carry on other outdoor hobbies except where use of a motorized vehicle is needed.

Although management is limited, it is not nonexistent. Where insects or disease threaten a rare stand of trees or valuable plant life outside the wilderness, the epidemic will be controlled. Fire in the wilderness will normally be controlled, whether it is man-caused or natural, because of the threat to property outside the wilderness.

It is obvious that this country's need for timber and minerals will preclude vast amounts of land from wilderness designation. Yet at the same time there has been an increasing demand for primitive types of recreation and a growing number of people seeking solitude in nature, wishing to experience wilderness.

The bill I am introducing is an attempt to help meet that demand, to preserve a portion of our heritage, to open natural areas for scientific research, and to insure that a clean environment will remain a part of American society.

By Mr. TALMADGE (for himself, Mr. Long, Mr. Ribicoff, Mr. Eastland, Mr. Hollings, Mr. Moss, Mr. Inouye, Mr. Domenici, Mr. Randolph, Mr. Gravel, and Mr. Percy):

S. 3205. A bill to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and for other purposes. Referred to the Committee on Finance.

(The remarks of Mr. Talmadge on the introduction of the above bill are printed earlier in today's Record.)

By Mr. FONG:

S. 3208. A bill to amend the Immigration and Nationality Act, and for other purposes. Referred to the Committee on the Judiciary.

Mr. FONG. Mr. President, the distinguished chairman of the Committee on the Judiciary, Subcommittee on Immigration and Nationality, the senior Senator from Mississippi (Mr. Eastland) is now holding hearings on the Immigration and Nationality Act Amendments of 1976 (S. 3074), which he introduced on March 4, 1976.

On March 17, 1976, I introduced on the floor of the Senate a series of amendments to S. 3074—amendments Nos. 1474 through 1489. These amendments are designed; first, to provide for greater facility in reuniting families; second, to better provide for the resettlement of refugees; third, to eliminate discriminatory legislative provisions related to immigration and naturalization; and fourth, to improve the day-to-day operations under the Immigration and Nationality Act.

So that my colleagues in the Senate, on the Judiciary Committee and on the Subcommittee on Immigration and Naturalization may have the benefit of the administration's proposals for what they term "the most urgently required" changes in the existing law relating to immigration, I today send to the desk a bill and the section-by-section analysis heretofore transmitted to the President of the Senate by the Department of State.

Mr. President: I ask unanimous consent that the text of the bill and of the section-by-section analysis be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, many of the provisions of the administration bill are similar to provisions in S. 3074 or to those contained in my amendments 1474 through 1489 to that bill. I shall not comment on these provisions.

While I am not in agreement with all the proposals of the administration's bill, I do feel the concept of the proposal in section 5, thereof, if not the specifics, is well worth serious consideration. Section 5, as proposed in the administration's bill, would change the order, definition, allocation of visa numbers and classification of the preference classes in section 203 of the Immigration and Nationality Act. The proposal, in essence, is to give first priority to all family reunions—this concept is good.

First preference visa numbers not to exceed 10 percent would be available to unmarried sons or daughters of U.S. citizens;

Second preference visa numbers not to exceed 24 percent would be available to spouses, unmarried sons or daughters or parents of permanent resident aliens;

Third preference visa numbers not to exceed 10 percent would be available to married sons or daughters of U.S. citizens;

Fourth preference visa numbers not to exceed 20 percent would be available to unmarried brothers or sisters of U.S. citizens;

Fifth preference visa numbers not to exceed 10 percent would be available to professionals, who have a job offer;

Sixth preference visa numbers not to exceed 10 percent would be available to skilled and unskilled labor, who have a job offer;

Seventh preference visa numbers—conditional entry in an amount not to exceed 6 percent would be available for refugees;

Eighth preference visa numbers not to exceed 10 percent would be available to immigrants: First, who will not work; second, who have such exceptional ability in the professions, science or arts that they will substantially benefit the economic or cultural interests of the United States and who will be self-employed; and third, investors of a minimum of $50,000 in an enterprise in the United States that will employ nonfamily members.

Ninth preference visa numbers comprising any left over numbers would be available under their preference classes.

In the case of second thorough fourth preference family relationship cases, visa numbers not required for prior classes are added on to the allowable percentages under each classification, and unused visa numbers in classes 1 to 7, are added on to the 10 percent limitation of the eighth preference.

Another concept in the administration's bill is one testified to by the Department of Labor at the hearings being conducted on S. 3074. Section 8 of the administration bill proposes to eliminate the requirement for individual, specific job certifications and substitute a system making aliens entering for employment ineligible only if the Secretary of Labor has determined on the basis of current market data and forecasts generally available to the Secretary that: First, there are or will be sufficient domestic labor available for such employment; or second, the employment will adversely affect wage and working conditions of similarly employed U.S. workers. Employment of 25 or more aliens in any years by any employing establishment would trigger a possible determination by the Secretary of ineligibility. This concept is worth Senate consideration.

S. 3208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration and Nationality Act Amendments of 1975."

SEC. 2. Section 101(a)(27)(A) (8 U.S.C. 1101(a)(27)(A)) is amended to read:

"(A) an immigrant who is the spouse or child of a citizen of the United States or is the parent of a citizen of the United States at least twenty-one years of age: *Provided,* That the spouse and children of such a special immigrant shall be entitled to special immigrant status derivatively, whether or not independently entitled to such status, if accompanying or following to join him. The special immigrants specified in this subparagraph who are otherwise qualified for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this Act."

SEC. 3. Section 201 (8 U.S.C. 1151) is amended to read:

"(a) Exclusive of special immigrants defined in section 101(a)(27), the number of aliens chargeable (as provided in section 202(b)) to foreign states or dependent areas located in the Eastern Hemisphere who may be issued immigrant visas or who may have their status adjusted to that of an alien lawfully admitted for permanent residence pursuant to section 245, or who may, pursuant to section 203(a)(7) enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000.

"(b) Exclusive of special immigrants defined in section 101(a)(27), the number of aliens chargeable (as provided in section 202(b)) to foreign states and dependent areas located in the Western Hemisphere and to the Canal Zone who may be issued immigrant visas or who may have their status adjusted to that of an alien lawfully admitted for permanent residence pursuant to section 245 or who may, pursuant to section 203(a)(7), enter conditionally shall not in any of the first three quarters of any fiscal year needed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000."

SEC. 4. Section 202 (8 U.S.C. 1152) is amended to read:

"(a) No person shall receive any preference or priority in the issuance of an immigrant visa or adjustment of status pursuant to section 245 except as specifically provided in sections 101(a)(27) and 203: *Provided,* That, exclusive of special immigrant visas, the total number of immigrant visas, adjustments of status pursuant to section 245, and conditional entries made available to (1) aliens chargeable to any single foreign state shall not exceed twenty thousand in any fiscal year, and (2) aliens chargeable to any single dependent area shall not exceed six hundred in any fiscal year.

"(b) Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of the numerical limitations set forth in the proviso to subsection (a) of this section when approved by the Secretary of State. Each colony or other component or dependent area of a foreign state overseas from such foreign state shall be treated as a dependent area for the purposes of such numerical limitations. All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state or dependent area to which an immigrant is chargeable shall be determined by birth within such foreign state or dependent area except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state or dependent area of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state or dependent area to which such parent has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state or dependent area from that of his spouse, the foreign state or dependent area to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state or dependent area of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state or dependent area to which such spouse has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; (4) an alien born within any foreign state or dependent area in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state or dependent area of either parent."

"(c) In the case of any change in the territorial limits of foreign states, the Secretary of State shall, upon recognition of such change, issue appropriate instructions to all diplomatic and consular offices."

SEC. 5. Section 203 (8 U.S.C. 1153) is amended as follows:

(a) Subsection (a) is amended to read:

"(a) Immigrant visa numbers authorized to be made available in any fiscal year within the numerical limitations specified in section 201 shall be made available to aliens chargeable to each such limitation as follows:

"(1) Visa numbers shall be first made available, in an amount not to exceed 10 per centum of the appropriate limitation specified in section 201, to qualified immigrants who are the unmarried sons or unmarried daughters of citizens of the United States.

"(2) Visa numbers shall next be made available, in an amount not to exceed 24 per centum of the appropriate limitation specified in section 201, plus any visa numbers not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence or who are the parents of an alien lawfully admitted for permanent residence who is at least twenty-one years of age. A child of an alien entitled to classification under this paragraph shall be entitled to the same classification derivatively, whether or not entitled to this classification in his own right. The spouse of an alien entitled to classification under this paragraph as the parent of a lawful permanent resident shall be entitled to the same classification derivatively, whether or not entitled to such classification in his own right.

"(3) Visa numbers shall next be made available, in an amount not to exceed 10 per centum of the appropriate limitation specified in section 201, plus any visa numbers not required for the classes specified in paragraphs (1) and (2), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

"(4) Visa numbers shall next be made

available, in an amount not to exceed 20 per centum of the appropriate limitation specified in section 201, plus any visa numbers not required for the classes specified in paragraphs (1) through (3) to qualified immigrants who are the unmarried brothers or unmarried sisters of citizens of the United States.

"(5) Visa numbers shall next be made available in an amount not to exceed 10 per centum of the appropriate limitation specified in section 201 to qualified immigrants who are members of a profession, or who have exceptional ability in the sciences or the arts, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

"(6) Visa numbers shall next be made available, in an amount not to exceed 10 per centum of the appropriate limitation specified in section 201, to qualified immigrants who are capable of performing specified skilled or unskilled labor and whose services are sought by an employer in the United States for the purpose of performing such labor.

"(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in an amount not to exceed 6 per centum of the appropriate limitation specified in section 201, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term 'general area of the Middle East' means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the South: *Provided,* That immigrant visa numbers in an amount not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like amount, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

"(8) Visa numbers shall next be made available, in an amount not to exceed 10 per centum of the appropriate limitation specified in section 201, plus any visa numbers not required for the classes specified in paragraphs (1) through (7), to other qualified immigrants who (i) neither intend nor need to seek employment in the United States; or (ii) have such exceptional ability in the professions, sciences, or arts that they will substantially benefit prospectively the economic or cultural interests of the United States and who will be self-employed in the United States; or (iii) have invested, or are actively in the process of investing, capital totalling at least $50,000 in an enterprise in the United States of which the alien will be the principal manager and which will employ persons in the United States other than the alien, his spouse and children, *Provided,* That the Attorney General and the Secretary of State, acting jointly, may require an investment of more than $50,000 if they determine that the rate of inflation warrants such action and publish a notification to that effect which shall set forth the prescribed minimum investment.

"(9) Visa numbers authorized in any fiscal year, less those required for issuance of visas, adjustments of status and conditional entries for the classes specified in paragraphs (1) through (8) shall be made available to intending immigrants who are entitled to a preference status and for whom numbers were not available under their preference classes. Such visa numbers shall be made available in accordance with the provisions of subsections (b) and (c) of this section.

(10) A spouse or child as defined in section 101(b)(1)(A), (B), (C), (D), or (E) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa or to conditional entry or adjustment of status under paragraphs (1) through (9), be entitled to the same status, and the same order of consideration provided in subsection (b), if accompanying, or following to join, his spouse or parent."

(b) Subsection (b) is amended to read:

"(b) In considering applications for immigrant visas under subsection (a) consideration shall be given to applicants in the order in which the classes of which they are members are listed in that subsection."

(c) Subsection (c) is amended to read:

"(c) Immigrant visas issued pursuant to paragraphs (1) through (6) and (8) of subsection (a) shall be made available to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed as provided in section 204."

(d) Subsection (d) is amended to read:

"(d) Every immigrant shall be required to establish to the satisfaction of the consular officer and the immigration officer that he is entitled to the special immigrant status under section 101(a)(27) or the preference status under subsection (a) of this section for which he is applying. In the case of any alien claiming to be a special immigrant as specified in section 101(a)(27)(A) or to be entitled to a preference status under paragraphs (1) through (6) or (8) of subsection (a), the consular officer shall not issue a visa in such classification unless the petition approved pursuant to section 204 to accord such classification is still valid.

Sec. 6. Section 204 (8 U.S.C. 1154) is amended as follows:

(a) Subsection (a) is amended to read:

"(a) Any citizen of the United States claiming that an alien is entitled to special immigrant status under section 101(a)(27)(A) or to a preference status by reason of one of the relationships described in paragraph (1), (3), or (4) of section 203(a), or any alien lawfully admitted for permanent residence claiming that an alien is entitled to a preference status by reason of a relationship described in section 203(a)(2), may file a petition with the Attorney General for such classification for such alien. A petition to accord preference status under section 203(a) (5) or (6) to an alien claiming to be entitled to such status may be filed only by a person who desires and intends to employ such alien within the United States in a full-time position which is not of a temporary or seasonal nature. Any alien claiming to be entitled to a preference status under section 203(a)(8), or any person in behalf of such an alien, may file a petition for such status for such alien with the Attorney General, if the alien is applying for adjustment of status, or with a consular officer, if the alien is applying for an immigrant visa. The petition shall be in such form as the Attorney General may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Attorney General may require.

(b) Subsection (b) is amended to read:

"(b) After an investigation of the facts in each case, and after consultation with other interested agencies of the Government, as appropriate, the Attorney General shall, if he determines that the facts stated in the petition required to be filed wih him are true and that the alien in behalf of whom the petition is filed is entitled to special immigrant status under section 101(a)(27)(A) or to a preference status under section 203 (a), approve the petition and forward one copy thereof to the consular officer concerned. In the case of a petition required to be filed under section 203(a)(8) with a consular officer, that officer, after consultation with their interested agencies of the Government, as appropriate, shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is filed is entitled to a preference status under section 203(a)(8), approve the petition."

(c) Subsection (c) is amended to read:

"(c) Notwithstanding the provisions of subsection (b), no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 102(b) (1)(E) or (F) unless necessary to prevent the separation of brothers and sisters and no petition shall be approved if the alien has previously been the beneficiary of a petition approved to accord him nonquota, immediate relative, special immigrant, or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws."

Sec. 7. Section 211 (8 U.S.C. 1181) is amended by:

(a) amending subsection (a) to read:

"(a) Except as provided in subsection (b) or (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General."

(b) by adding new subsection (c) to read as follows:

"(c) The Attorney General may in his discretion admit to the United States any immigrant inadmissible solely because he was not entitled to the visa classification exempting him from the numerical limitation on visa issuance or the preference classification specified in the immigrant visa presented at the time of application for admission, or because he was not charged to the proper foreign state or dependent area specified in such visa, if the Attorney General is satisfied that such inadmissibility was not known to and could not have been ascertained by the exercise of reasonable diligence by such immigrant prior to the departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory, or in the case of an immigrant coming from foreign contiguous territory prior to the application of the immigrant for admission. The ground of inadmissibility specified in section 212(a)(14) shall not be applicable to any alien whose case is within the provisions of this subsection."

Sec. 8. Section 212(a)(14) (8 U.S.C. 1182(a) (14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States for the purpose of employment, if the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that based on current labor market data and forecasts generally available to the Secretary of Labor (A) there are or will be sufficient qualified workers in the United States available for the general occupation and for the area within which the alien seeks to be employed, or (B) the employment of such aliens will adversely affect the wages and working conditions of the workers in the

United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in paragraph 203(a)(5), unless the Attorney General has determined that the alien is of exceptional merit and ability, and to preference immigrant aliens described in section 203(a)(6). The Secretary of Labor shall promulgate regulations which shall establish standards and procedures for making determinations authorized in the first sentence of this paragraph as well as for the submission of requests by any individual or organization for such determinations. The procedures shall include a provision for determinations by the Secretary of Labor which shall require the Attorney General to notify the Secretary after 25 petitions for classification under section 203(a) (5) or (6) are approved, and prior to approval of any additional petitions, for aliens destined to a single employing establishment in the United States in any fiscal year. A determination made by the Secretary of Labor pursuant to this paragraph shall be sustained on review by a court unless found to be arbitrary or capricious."

SEC. 9. (a) Section 212(a)(24) (8 U.S.C. 1182(a)(24)) is amended by changing the language within the parentheses to read:

"(other than natives of the Western Hemisphere and aliens described in section 101 (a)(27)(B))".

(b) Section 221(a) (8 U.S.C. 1201(a)) is amended by deleting therefrom the phrase "immediate relative,".

(c) Section 222(a) (8 U.S.C. 1202(a)) is amended by deleting from the second sentence thereof the phrase "an immediate relative within the meaning of section 201(b) or".

(d)(1) Section 224 (8 U.S.C. 1204) is amended by deleting from the second sentence thereof the pharse "an immediate relative within the meannig of section 201(b) or".

(d)(1) Section 224 (8 U.S.C. 1204) is amended by deleting therefrom the phrase "immediate relative", where appearing.

(2) The title immediately preceding section 224 is amended to read: "SPECIAL IMMIGRANT VISAS".

(3) The table of contents (Title II—Immigration, chapter 3) of the Immigration and Nationality Act is amended by changing the designation of section 224 to read: "SEC. 224 SPECIAL IMMIGRANT VISAS.".

(e) Section 241(a)(10) (8 U.S.C. 1251(a) (10)) is amended by changing the language within parentheses to read:

"(other than an alien who is a native of the Western Hemisphere or an alien described in section 101(a)(27)(B));".

(f) Section 244(d) (8 U.S.C. 1254(d)) is amended by deleting therefrom the phrase "quota immigrant, or non-quota immigrant" and inserting in lieu thereof the phrase "special immigrant, or preference or nonpreference immigrant".

SEC. 10(a). The Act entitled "An Act to Adjust the Status of Cuban Refugees to That of Lawful Permanent Residents of the United States," approved November 2, 1966 (Public Law 89–732) (8 U.S.C. 1255, note), is amended by adding at the end thereof the following new section:

"SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States as of the effective date of the Immigration and Nationality Act Amendments of 1975."

(b) Section 21(e) of the Act of October 3, 1965 (75 Stat. 921) is repealed.

SEC. 11. (a) Notwithstanding the numerical limitations on imigration specified in the Immigration and Nationality Act, any alien who, on or before the effective date of this Act, (1) has been granted by the Secretary of Labor an indefinite certification, pursuant to section 212(a)(14), for employment in the Virgin Islands of the United States which has not subsequently become invalid, and (2) has been inspected and admitted to the Virgin Islands of the United States, and the spouse and minor unmarried children of any such alien, may have his status adjusted by the Attorney General, pursuant to the provisions of section 245 of the Immigration and Nationality Act, to that of an alien lawfully admitted for permanent residence, or may be issued an immigrant visa: *Provided*, That the alien (i) makes application for such adjustment of status or immigrant visa, (ii) is eligible to receive an immigrant visa, and (ii) is admissible to the United States.

(b) Applications for adjustment of status or for immigrant visas pursuant to the provisions of subsection (a) of this section may be initiated on or after the first day of the first fiscal year following the enactment of this Act, but not later than the last day of the third such fiscal year. Application for immigrant visas pursuant to the provisions of this section shall be considered in such order as the Secretary of State may by regulations prescribe.

(c) Except as otherwise provided herein, the definitions set forth in section 101 of the Immigration and Nationality Act shall be applicable.

SEC. 12. (a) Nothing contained in this Act, unless otherwise specifically provided herein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the statutes or parts of statutes repealed by this Act are unless otherwise specifically provided herein, hereby continued in force and effect.

(b) An alien chargeable to the numerical limitation contained in section 21(e) of the Act of October 3, 1965 (79 Stat. 921), who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence immediately prior to the effective date of this Act shall be deemed to be entitled to immigrant status under section 203(a)(8) of the Immigration and Nationality Act and shall be accorded the priority date previously established by him. Nothing in this section shall be construed to preclude acquisition by such an alien of a preference status under section 203(a) of the Immigration and Nationality Act. Any petition filed by, or in behalf of, such an alien to accord him a preference status under such section 203(a) shall, upon approval, be deemed to have been filed as of the priority date previously established by such alien. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act.

SEC. 13. This Act shall become effective on the first day of the first month after expiration of ninety days following the date of its enactment.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title of the bill.

Section 2 would amend subparagraph (A) of section 101(a)(27) to delete the present text entirely and to insert, in amended form, the definition of the class of aliens now defined in section 201(b) as "immediate relatives."

The proposed transfer of this provision from section 201(b) to section 101(a)(27) (A) does not represent a substantive change, but is desirable because it places the definitions of all classes of aliens not subject to numerical limitations in a single provision of law, section 101(a)(27), and designates all such classes uniformly as "special immigrants." The present term "immediate relative" would thus disappear from use. Of equal importance, no class of aliens subject to numerical limitation would be defined in section 101(a)(27) or referred to as "special immigrants." Provision for natives of the Western Hemisphere (now contained in section 101(a)(27)(A) would be transferred to the amended form of section 201 contained in section 3 of this bill.

The amendment to the definition of the class now referred to as "immediate relatives" would provide a like status derivatively to the spouse or child of an alien so classified, whether or not such spouse or child might also be entitled to such status in his own right.

Section 3 would amend section 201 to—

(a) incorporate therein provision for the 120,000 annual numerical limitation on immigration by natives of the Western Hemisphere; and

(b) provide that immigration by natives of dependent areas would be charged directly and solely against the numerical limitation for the hemisphere in which the area was located, rather than against the foreign state limitation.

The proposal to incorporate the Western Hemisphere numerical limitation into section 201 would have the effect of applying the 20,000 individual foreign state limitation contained in section 202 and the preference system contained in section 203 (both of which are now applicable only to the Eastern Hemisphere) to the Western Hemisphere as well. The result would be a world-wide uniformity in the systems of immigration; the two hemispheric systems remaining separate, for valid reasons but otherwise becoming basically identical.

The proposed change in the chargeability of immigration by natives of dependent areas is necessary because of the proposal contained in section 4 of the bill to raise the numerical limitation on such immigration from 200 to 600 per area. Without this change, up to 60% of the foreign state limitation for the United Kingdom could be used by natives of its dependent areas.

Subsection (a) would be amended to apply solely to the Eastern Hemisphere. Subsection (b), which now contains the provision for "immediate relatives" of United States citizens, a non-numerically limited class of immigrants, would be amended to provide for the Western Hemisphere numerical limitation. The provision for "immediate relatives" would be transferred to section 101(a) (27)(A) of the Act by section 2 of this bill.

Former subsections (c), (d), and (e) would be repealed as obsolete.

Section 4 would amend section 202 as follows—

Subsection (a) would be amended to delete language barring discrimination against persons seeking visa preferences or priorities on the basis of race, sex, nationality, place of birth or place of residence as superfluous in the context used in this section; to incorporate a limitation of 600 on immigration by aliens chargeable to dependent areas; and, to delete the provision for charging dependent areas; and, to delete the provision for charging dependent area immigration against the numerical limitation of the governing country.

Subsection (b) would be amended to extend the privilege of alternate foreign state chargeability to a spouse or child following to join a principal alien as well as to one accompanying a principal alien. This change will prevent problems which can arise under present law when a spouse and child are unable, for valid reasons, to accompany the principal, only to find they face long delays in following to join him because of unfavorable foreign state chargeability.

In addition, the provision for separate treatment of dependent areas, which now appears in subsection (c), would be incorporated in subsection (b).

Subsections (c) and (d)—

Present subsection (c) would be deleted and present subsection (d) would be redesignated as subsection (c).

Section 5 would make a series of changes in the order and definition of the preference classes in section 203. First, as to the order of the preference classes, it is proposed to drop the existing third preference class (members of professions, scientists and artists of exceptional ability) to fifth preference and to redesignate the present fourth and fifth preference classes (both based on relationship) as third and fourth preference, respectively. This proposal is based upon the belief that, while provision properly should be made for the immigration of aliens with needed professional, scientific or artistic skills, there is currently an over-emphasis on the immigration of aliens so qualified and that a lower preference classification for such aliens more fairly reflects an appropriate order of priority for their cases.

With respect to the definitions of the preference classes, several changes are proposed. First, the parents of an adult resident alien would be added to the classes of aliens entitled to second preference classification. At present such aliens receive no consideration under the preference system, whereas the parents of an adult United States citizen are accorded the highest consideration by being exempted from the numerical limitations on immigration. Thus, a resident alien must now await eligibility for naturalization and petition therefor in order to confer a benefit upon his parents for immigration purposes. Since citizenship is viewed in the United States as a privilege rather than a right or an obligation, it seems anomalous to, in effect, compel a resident alien to become naturalized in order to be reunited with his parents. Because of the broadening of eligibility for second preference classification, the percentage allocation to this classification would be increased from 20% to 24%.

Next, eligibility for the proposed fourth preference classification (now fifth preference) would be restricted to the unmarried brother or sister of a United States citizen. A careful consideration of the principle of family reunification, which is one of the bases for our immigration policy, leads to the conclusion that a married sibling and family are more likely to establish their own family unit wherever employment opportunities may lead them than they are to locate with the citizen sibling. On the other hand, the likelihood that the unmarried sibling will actually join the United States citizen sibling appears to be much higher and to come within the scope of this concept. Because of the restriction in eligibility for this preference classification here proposed, it is also proposed to reduce the percentage allocation from 24% to 20%, exactly offsetting the proposed increase in percentage for second preference.

Also, the definition of the proposed fifth preference (now third preference) would be modified to include only members of a profession, scientists and artists whose services in their field were required by an employer in the United States. This proposal is based upon the view that circumstances have changed in the United States since 1965 in such a way as to make it no longer reasonable to encourage the immigration of such aliens simply because of their qualifications. It is believed no longer to be valid to say that the immigration of such aliens is, per se, a benefit to the United States. On the other hand, it is recognized that there will continue to be individual cases in which an employer will require the services of such aliens and be unable to locate such an employee domestically. In such case, fifth preference classification would be available to facilitate the alien's immigration upon petition by the prospective employer.

Finally, with regard to the nonpreference class now provided for by section 203(a)(8), it is proposed to convert this class to an eighth preference class for self-employed professionals, non-workers and investors who do not qualify for classification under the first seven preferences. The percentage allocation to this eighth preference class would be 10% of the numerical limitation.

In view of the imposition of a flat 10% allocation of the numerical limitation to eighth preference, it is possible that visa numbers might still be left after they have passed through all eight preference classes while at the same time some of the preference classes may be oversubscribed and have aliens qualified for immigration on waiting lists. In order to accommodate this exigency when it arises, we have proposed an amending provision which would prescribe that unused visa numbers then be reallocated, on the same basis as originally allocated and in the same order of preference, to the aliens on the oversubscribed waiting lists.

In addition to the foregoing substantive proposals, a series of editorials amendments are proposed both for conformity with changes proposed in other sections of the bill and also for purposes of clarification and rationalization of the technical language.

Section 6 would make editorial amendments to section 204 of the Act, both for conformity with changes proposed in other sections of the bill and for purposes of clarification.

Section 7(a) would amend section 211(a) to delete the references therein to the transition period from December 1965 to July 1, 1968.

Section 7(b) would restore discretionary authority to waive innocent defects in visas presented by entrant aliens. Subsection (c) of section 211 of the Immigration and Nationality Act was repealed by section 9 of the Act of October 3, 1965. Since the effective date of the latter act no relief has been available to an alien who innocently was not entitled to the classification shown in his visa at the time of his admission. The experience under former section 211(c) and its predecessor, section 13(d) of the Immigration Act of 1924, emphasizes the need for discretionary authority to deal with the cases of worthy immigrants in a humanitarian manner. The amendment would in effect restore subsection (c), and would authorize the Attorney General to grant relief where an entry is defective for technical reasons.

Section 8 would amend section 212(a)(14) to provide a more rational, more easily administrable procedure for making labor certifications in cases of aliens subject to this provision.

The basic purpose of this proposal is to permit the Secretary of Labor to make determinations relating to immigrants entering this country for employment on the basis of generally available labor market information, data and forecasts rather than requiring individual certifications as the existing law prescribes.

The main thrust of U.S. immigration policy which allows approximately 400,000 immigrants to settle in the U.S. annually is reunifying family groups. Labor certification by the Secretary involves approximately 10 percent of this number, i.e., those entering from the eastern hemisphere for employment and special immigrants from the western hemisphere.

Under the existing procedures of section 212(a)(14), aliens seeking to enter for employment may not enter unless the Secretary of Labor determines (A) there are not sufficient U.S. workers who are able, willing, qualified and available at the time of application for a visa and admission to the U.S. and at the place to which the alien is destined to perform, and (B) the employment of such aliens will not adversely affect labor standards of U.S. employees.

The present procedures require in most cases an individual labor certification for each such alien. The certification relates to the specific job for which a potential immigrant is applying and does not extend beyond that specific job.

The procedure's emphasis on individual certification has proved cumbersome, costly and has resulted in lengthy legal proceedings.

The proposed change in this provision states that aliens may be ineligible for visas when entering for employment *if* the Secretary has determined on the basis of current labor market data and forecasts generally available to the Department of Labor that (A) there are or will be sufficient qualified workers in the U.S. available for such employment or (B) the employment of such alien will adversely affect wage and working conditions of similarly employed U.S. workers.

The effect of this language is to permit the entry of aliens for employment unless the Secretary of Labor makes a determination of ineligibility. To facilitate determinations when they may be necessary, language has been added to specify that the certification must be based on current labor market data and forecasts generally available to the Secretary. As well, references to "time" of employment and "willing" and "able" workers is removed from the existing provision for this purpose.

Procedures to detect a possible adverse affect of admission of an alien are provided. The Secretary of Labor is required to establish standards for consideration of requests for determinations concerning availability of United States workers and possible adverse affect upon such workers. Included is a mandatory trigger for a possible determination when the Attorney General notifies the Secretary of Labor that petitions have been approved for 25 aliens destined to a single employing establishment in the United States in any fiscal year.

The bill also provides that the test on review by a court of a determination must be that the Secretary shall be sustained unless found to be arbitrary and capricious.

Section 9 would make a series of editorial amendments to various sections of the Act, all of which are required for conformity with substantive changes made by other sections of the bill.

Section 10(a) would amend the Act of November 2, 1966 by adding a new section 5 which would provide that visa numbers need not be used in connection with the adjustment of status under the provisions of section 1 of that Act of Cuban refugees in the United States as of the effective date of this bill.

The present requirement that these refugees compete with other immigrants from the Western Hemisphere has two undesirable effects: (1) it increases the waiting period for other Western Hemisphere immigrants; (2) it delays the opportunity for these refugees to benefit from legislation enacted specifically to permit the ready regularization of their status in this country.

All future cases of Cuban refugees would be processed under the provisions of section 203(a)(7) which would be made applicable to Western Hemisphere aliens by the proposal contained in section 3 of this bill.

Section 10(b) would repeal section 21(e) of the Act of October 3, 1965, which currently provides for the annual numerical limitation on immigration by natives of independent countries of the Western Hemisphere and which would be rendered obsolete by the provisions of section 3 of this bill which incorporate the numerical limitations applicable to such aliens into the Immigration and Nationality Act itself.

Section 11 would establish, for a three fiscal year period, a special program under which aliens who have been admitted to the Virgin Islands in a nonimmigrant status and who possess an indefinite labor certification granted by the Secretary of Labor pursuant to 212(a)(14) and remaining valid may, notwithstanding the numerical limitations on immigration, have their status adjusted to that of permanent resident or be issued immigrant visas. The spouse and minor unmarried children of any such alien would also be entitled to benefit from this provision.

Section 12 contains a general savings clause as well as certain additional provisions required to give effect to the operation of the savings clause in specific instances.

Section 13 would provide for a delay in the effective date of this bill to provide adequate time for completion of preparations for its implementation.

By Mr. HUMPHREY (for himself, Mr. Randolph, Mr. Robert C. Byrd, Mr. Hugh Scott, and Mr. Morgan):

S. 3209. A bill to establish fiscal incentives for the conversion of existing oil-fired and gas-fired powerplant and industrial boilers and heat devices to coal as a primary energy source, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

THE COAL SUBSTITUTION INCENTIVES ACT OF 1976

Mr. HUMPHREY. Mr. President, Federal efforts to deal with our growing foreign oil dependency have been notable in one particularly disturbing manner: the remarkable lack of agreement between the legislative and executive branches on necessary steps to minimize oil imports.

In fact, there has been only one major theme running through proposals advanced by both branches: the need to maximize domestic coal use as the most promising short-term approach to energy independence.

That is the intent of "The Coal Substitution Incentives Act of 1976" which I am offering today with Senators Randolph, Byrd of West Virginia, Hugh Scott of Pennsylvania, and Morgan.

COAL RICH

Our Nation's coal reserves are enormous. We have 437 billion tons of known—yes, known—reserves. The energy contained in that coal is over 2½ times the energy contained in all known oil reserves worldwide. It is 10 times the energy contained in reserves of the largest oil producer, Saudi Arabia. It is enough energy to supply our entire economy at 1976's rate of consumption for 200 years.

Yet, we have failed spectacularly to utilize this remarkable resource. Coal output did increase in 1975. It is true—but the record output occurred 28 years ago. From 1947 to 1974, coal's contribution to domestic energy supplies declined to 18 percent from 47 percent.

The slight improvement in use last year was encouraging. But it was hardly unexpected in view of the fact that on a Btu-equivalent basis, coal is now one-half the price of oil. We should see a further growth, and a new record output in 1976 as our economic recovery stimulates industrial production. The National Coal Association, for one, predicts a 7-percent rise in output.

MORE COAL USE NEEDED

That is a good start. But it is only a start. We still have a long, long way to go if we are to double production by 1985 as called for in Project Independence. And that sort of demand and output growth is really the minimum necessary if coal is to serve effectively to reduce our import dependency.

HOW TO INCREASE COAL DEMAND

What must be done to stimulate coal demand—to encourage the substitution of coal for expensive oil and scarce natural gas?

First, we must aggressively pursue the conversion of powerplants to coal from oil and gas. Utilities now burn 73 percent of all coal. They can achieve economies of scale in purchasing and especially in handling coal that few industries can match. Utilities are the most likely source of increased coal usage, and Federal conversion efforts as a result should be concentrated on them.

The Federal Energy Administration has ordered conversions to coal by some 74 powerplants and has required a coal-burning capability in 41 others. The Energy Policy and Conservation Act specifically extended and expanded this FEA program through 1984. Clearly, Congress supports and will continue to support mandatory coal conversions.

Second, we must see to it that our coal industry remains financially healthy, and able to supply a growing market. Realistically, there appears now to be little question that most coal producers can acquire the necessary capital for expansion—even despite the softening of coal prices since early 1975. If this situation is reversed, I believe Congress will provide whatever fiscal assistance is appropriate. It did, in fact, last December, provide up to $750 million in loan guarantees to assist smaller producers in opening new underground mines.

Third, we must resolve the conflict between the necessity for clean air and the rather spotty performance and very high cost of pollution abatement devices for coal users. We have been markedly successful in removing the visible fly-ash pollution from smokestacks, but sulfur dioxide is quite another story. The Clean Air Act of 1970 mandated rigorous air quality standards. The Edison Electric Institute has estimated that it will cost utilities $1.7 billion annually just to meet these standards.

I want clean air, and I think it is the responsibility of the Federal Government to see that we have clean air. But I believe strongly that it is also the repsonsibility of the Federal Government to promote energy independence based on greater coal use. And, part of that responsibility includes assisting firms to convert to coal if the necessary pollution abatement devices impose a severe financial burden on such firms.

COAL SUBSTITUTION INCENTIVE ACT OF 1976

For that reason, I have authored and am today introducing the "Coal Substitution Incentive Act of 1976."

In one sense, it is a companion effort to S. 1777, authored by my good friend Senator Randolph, with Senators Jackson and Magnuson as chief cosponsors. This excellent bill calls for a necessary and quite impressive mandatory transition in the next decade to a coal based economy—particularly for industry. It is a good bill, and I have joined a number of fellow Senators in cosponsoring it.

The Coal Substitution Incentive Act of 1976 complements S. 1777 in annually providing up to $500 million in loan guarantees and $100 million in low interest rate loans to assist firms converting to coal to acquire pollution abatement devices.

It establishes a 10-year program; outstanding loan guarantees could reach as high as $5 billion at any one time, and outstanding low-interest rates could total $1 billion.

The legislation provides for an insurance fund to cover defaults. As a result, this package of financial aid will be provided without the expenditure of any tax dollars. Yet, in conjunction with S. 1777, it will facilitate the conversion to coal by utilities and industrial firms now using oil and natural gas equal to 30 percent—1.8 million barrels/day—of our oil imports.

Reduced oil imports, no tax outlays, and clean air: That is what the Coal Substitution Incentive Act of 1976 is all about. I urge my colleagues to support this bill. Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coal Substitution Incentive Act of 1976."

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) The United States is now and will increasingly be dependent on unreliable foreign sources of fossil-fuel energy;

(2) This dependency can be reduced by the use of domestic energy resources to fuel steam and heat generation facilities at existing industrial installations and electric powerplants;

(3) The only domestic energy sufficiently abundant to be the primary energy source for such existing facilities is coal; and

(4) The substitution of coal in steam and heat generation facilities for oil or natural gas as the primary energy source in electric powerplants and industrial installation is expensive, and will not occur to a substantial degree without temporary Federal fiscal assistance;

(b) The purposes of this Act are—

(1) to authorize the Federal Energy Administration to provide loan guarantees and low-interest-rate loans for the purchase of pollution-abatement devices, thereby stimulating the conversion to coal as a primary energy source in existing steam and heat generation facilities now utilizing oil or natural gas; and

(2) to ease the capital requirements temporarily imposed by a conversion to coal as the primary energy source by electric powerplants and industrial installations now utilizing oil or natural gas for the generation of steam or heat.

DEFINITIONS

Sec. 3. For the Purposes of this Act:

(1) The term "Administrator" means the

Administrator of the Federal Energy Administration.

(2) The term "natural gas" includes dry natural gas, casing-head gas, and synthetic natural gas which is comingled with natural gas.

(3) The term "person" includes a Federal, State, or local agency, who owns, leases, operates, or controls any small electric powerplant or industrial installation or boiler unit thereof.

(4) The term "petroleum" includes crude oil, residual fuel oil, any refined petroleum product, liquid petroleum gas (LPG), or synthetic natural gas derived from petroleum, capable of being utilized as a primary energy source by an electric powerplant or industrial installation subject to the provisions of this Act.

(5) The term "coal" includes petroleum coke, and recovered combustible municipal solid waste residues.

(6) The term "small electric powerplant" means a fossil-fuel fired steam unit, which is part of an electric utilities system with a total net generating capacity of less than 150 megawatts, used for the generation of electric power for the purpose of sale or exchange.

(7) The term "industrial installation" means an installation, other than an electric powerplant, that contains a fossil-fuel fired boiler or heating device that by design is capable of being fired for the generation of steam or heat and includes combinations of more than one such boiler or device at the same site.

(8) The term "small industrial installation" means an installation, other than an electric powerplant, that contains or is projected to contain coal-fired boilers or heating devices which by design are not capable of being fired at a total heat-rate in excess of three hundred million British Thermal Units per hour for the generation of steam or heat.

(9) The term "primary energy source" means the principal fuel used by an electric powerplant or industrial installation as its boiler or heating device fuel for the generation of steam and heat and does not include (A) the ancillary use of fuels required for boiler start-up, testing, flame stabilization, control uses, and fuel preparation; (B) the use of fuels where required to alleviate acute short-term air quality emergencies; and (C) the use of fuels where required to alleviate any other emergencies directly affecting the public health, safety, and welfare which would be caused by electric power outages.

(10) The term "air pollution abatement devices for coal-fuel fired boilers and heating devices" means equipment designed to reduce the quantity of atmospheric pollution by coal-fuel fired units used for the generation of steam or heat, including, but not limited to boilers, process heaters, heat treating furnaces, driers, ovens, and incineration systems.

LOAN GUARANTEES

SEC. 4. (a)(1) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the bonds, debentures, notes, and other obligations issued by or on behalf of any person, electric powerplant or industrial installation, for the specific purpose of financing the purchase and installation of air pollution abatement devices for coal-fuel fired boilers and heating devices at electric powerplants or industrial installations. The aggregate amount of outstanding indebtedness guaranteed under this Section may at no time exceed $5,000,000,000. No guarantee or commitment to guarantee shall be undertaken under this Section after January 1, 1985.

(2) An applicant for a guarantee under this section shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interest of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Administrator deems appropriate.

(b) The Administrator shall guarantee or make a commitment under subsection (a) of this section, with respect to air pollution abatement devices for coal-fuel fired boilers and heating devices, subject to conditions and priorities pursuant to section 105 of this Act, and if—

(1) the Administrator is satisfied that the guarantee will significantly reduce the borrowing costs associated with acquisition of capital for the purchase of such pollution abatement devices;

(2) the Administrator is satisfied that the acquisition of such air pollution abatement devices would be significantly delayed in the absence of a loan guarantee;

(3) the amount guaranteed does not exceed 66⅔ per centum of such air pollution abatement device acquisition costs;

(4) the Administrator is satisfied that the financial assistance applied for is not otherwise available from other Federal agencies and that assistance as provided in section 104 of this Act has not been obtained for such pollution abatement devices; and

(5) the bonds, debentures, noted or other obligation for which guarantees are made shall not have redemption dates or a maturity in excess of 10 years from date of issuance.

(c)(1) The Administrator shall charge and collect such amounts as he may deem reasonable for the investigations for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments for a loan or other obligation guaranteed under this section, but such charge shall not exceed one-quarter of one per centum of the amount of the loan or other obligation.

(2) The Administrator shall charge and collect an insurance fee designed to avoid a Federal revenue loss in the event of a default of a loan or other obligation guaranted under this section, but such fee shall not exceed one-half of one per centum per annum of such guaranteed loan or other obligation during the twelve month period following enactment of this Act.

(d) No guarantee or commitment to guarantee an obligation entered into by the Administrator shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Administrator. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Administrator entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

(e)(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Administrator under this section and such default has continued for ninety days, the holder of such obligation or his agents has the right to demand payment by the Administrator of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Administrator shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Administrator as to which the obligor has defaulted, using funds collected for such purpose as insurance fees pursuant to subsection (c), unless the Administrator finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(2) If the Administrator makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Administrator shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

COAL CONVERSION LOANS

SEC. 5. (a)(1) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to make loans and to make commitments to loan to any person, electric powerplant or industrial establishment, for the specific purpose of financing the purchase and installation of air pollution abatement devices for coal-fuel fired boilers and heating devices at electric powerplants or industrial installations. The aggregate amount of loans outstanding under this section may at no time exceed $1,000,000,000. No loan or commitment to loan shall be made under this Section after January 1, 1985.

(2) An applicant for a loan under this section shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interests of the United States.

(3) Each loan shall be extended in such form, under such conditions and terms, and pursuant to such regulations as the Administrator deems appropriate: *Provided*, that the Administrator shall, from time to time as he deems appropriate and on advice of the Secretary of the Treasury, establish the interest rate or rates at which loans shall be made under this section; provided further, that this interest rate shall be established at the current rate being paid by the Secretary of the Treasury on bonds, notes and other obligations of comparable duration issued on behalf of the Federal Government, plus such fees and other charges as the Administrator may specify pursuant to subsection (c) of this section, not to exceed one percentum per annum.

(b) The Administrator shall loan or make a comment to loan under subsection (a) of the section with respect to Air pollution abatement devices for coal-fuel fired boilers and heating devices, subject to conditions and priorities pursuant to section 6 of this Act, and if—

(1) the Administrator is satisfied that the financial assistance applied for is not otherwise available from other Federal agencies and that assistance as provided in Section 4 of this Act has not been obtained for such pollution abatement devices;

(2) the Administrator is satisfied that the

acquisition of such pollution abatement devices would not occur in the absence of a loan;

(3) the loan does not exceed 66 and ⅔ per centum of the cost of acquiring and installing such pollution-abatement devices; and,

(4) the loan does not have a maturity date in excess of 10 years;

(c) (1) The Administrator shall charge and collect such amounts as he may deem reasonable for the investigations for a loan, for the appraisal of properties offered as security for a loan, or for the issuance of a commitment: Provided, such amounts shall not exceed one-half of one per centum of the loan amount authorized pursuant to subsection (a) of this section.

(2) The Administrator shall charge and collect an insurance fee designed to avoid a Federal Revenue loss in the event of a default of a loan made pursuant to this section. Such fee shall not exceed one-half of one per centum of such loan during the twelve month period following enactment of this Act.

(d) No loan or commitment to loan entered into by the Administrator shall be terminated, cancelled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Administrator.

(e) (1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Administrator under this section and such default has continued for ninety days, the Administrator has the right to demand payment of such unpaid amount, unless the Administrator finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligator has been accepted by the Administrator.

(2) In demanding payment of unpaid interest or principal by the obligor, the Administrator has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including, but not limited to, the authority to complete, maintain, operate, lease, sell or otherwise dispose of any property acquired pursuant to such loan or related agreements.

(3) If there is a default under any loan or commitment to loan, the Administrator shall notify the Attorney General who shall take such action against the obligor or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit.

(f) There are hereby authorized to be appropriated to the Administrator such sums as shall be sufficient for the purposes of this Act, but which shall not exceed the sum of $200,000,000 for each fiscal year 1977 through 1981.

CONDITIONS AND PRIORITIES

SEC. 6. (a) The Administrator shall guarantee or make a commitment to guarantee as authorized in section 4 of this Act, or loan or make a commitment to loan as authorized in section 5 of this Act, only when conditions set forth in such sections are satisfied, and if—

(1) air pollution abatement devices for coal-fuel fired boilers and heating devices to be acquired pursuant to this Act shall satisfy any applicable State, Federal, and local environmental regulations;

(2) the Administrator is satisfied that the acquisition of air pollution abatement devices for coal-fuel fired boilers and heating devices will not create serious shortages in the supply of such items, or that temporary price increases will not occur as a result of such acquisitions;

(3) the Administrator is satisfied that such air pollution abatement device is necessary to effect a substitution of coal for natural gas or oil as the primary energy source for an industrial installation or electric powerplant;

(4) the Administrator is satisfied that such air pollution abatement device does not duplicate or displace existing air pollution abatement devices with a remaining useful economic life in excess of two years and that such air pollution abatement devices are being installed for coal-fired boilers and heating devices which are—

(A) being installed on or after the effective date of this Act; or

(B) being installed to replace existing oil- or natural gas-fuel boilers or heating devices;

(5) the Administrator has determined that there will be a continued reasonable assurance of full repayment of a loan, or that a realistic plan exists for redeeming all bonds, debentures, notes or other obligations for which a guarantee is requested; and

(6) the Administrator is satisfied that competition among private entities for the provision of air pollution abatement devices for coal-fuel fired boilers and heating devices to be assisted under this Act will be in no way limited to or precluded;

(b) In making guarantees or commitments to guarantee pursuant to Section 4 of this Act, or in making loans or commitments to loan pursuant to Section 5 of this Act, the Administrator is directed to—

(1) allocate 25 per centum of available financial assistance, to the extent feasible and practicable, to small electric powerplants, and to small industrial installations; and,

(2) give priority consideration to requests for financial assistance by industrial installations and electric powerplants subject to, and in receipt of, a coal conversion order issued by the Administrator pursuant to the Energy Supply and Environmental Coordination Act of 1974.

(c) (1) The Administrator shall require all persons receiving financial assistance or guarantees under this Act whether in the form of loans, obligation guarantees, or other arrangements, to keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section or full repayment of interest and principal on a loan made or guaranteed pursuant to provisions of this Act, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the loans, obligation guarantees, or other arrangements referred to in such subsection.

SENATOR RANDOLPH COSPONSORS THE COAL SUBSTITUTION INCENTIVES ACT OF 1976

Mr. RANDOLPH. Mr. President, I join the diligent Senator from Minnesota (Mr. HUMPHREY) in introducing the Coal Substitution Incentives Act of 1976. This measure recognizes the need for financial incentives to foster greater coal utilization in compliance with national environmental policies.

The companion measure is S. 1777, the National Petroleum and Natural Gas Conservation and Coal Substitution Act of 1975. Mr. President, S. 1777 provides for a national policy that is in our country's interest as we foster a greater utilization of coal by major industrial installations and electric powerplants. I introduced this bill in May of 1975. It is cosponsored by Senators HUBERT H. HUMPHREY, HENRY M. JACKSON, WARREN G. MAGNUSON, WALTER D. HUDDLESTON, GEORGE MCGOVERN, FRANK E. MOSS, CLAIBORNE PELL, and STUART SYMINGTON. Initial markup by the Public Works Committee is anticipated soon.

The Coal Substitution Incentives Act of 1976 is drafted to supplement S. 1777. It proposes economic incentives to assure that coal conversion is accomplished in compliance with applicable air pollution control requirements. The merits of such Federal economic incentives to achieve the purposes of S. 1777 will be evaluated during our consideration of the measure.

Federal loan guarantees and low-interest loans are proposed for the purchase of the air pollution control devices necessary to facilitate coal conversion in compliance with applicable environmental requirements. For this purpose, up to $5 billion in Federal loan guarantees are provided for up to two-thirds of the acquisition costs of air pollution control devices. In addition, $1 billion in Federal low-interest loans are authorized over the 5-year period fiscal year 1977 through 1981, with similar restrictions.

In awarding this financial assistance, the Federal Energy Administrator would give priority consideration to small electric utilities and small industrial installations, which convert from natural gas and oil to coal. In addition, priority would be given to electric powerplants and major industrial installations subject to coal conversion orders pursuant to the Energy Supply and Environmental Coordination Act of 1974.

Together, Mr. President, these two measures would provide the basis for a national coal policy predicated on the premise of greater utilization of coal to foster energy self-sufficiency.

By Mr. TUNNEY:

S. 3210. A bill to provide for a national coordinated program of job creation and maintenance and for other purposes. Referred jointly, by unanimous consent, to the Committees on Public Works, Finance, and Labor and Public Welfare.

Mr. TUNNEY. Mr. President, no subject is of more importance to the well-being to this country than jobs for Americans. That is why my distinguished colleague Senator HUMPHREY recently introduced S. 50, the so-called Humphrey-Hawkins bill. I support this legislation and the concept it embodies. Our Nation must have a comprehensive blueprint for the achievement of full employment over the next several years. The bill I am going to introduce today is consistent with this concept. Indeed, my bill represents a practical, concrete step which can be taken immediately to put the economy back on the path toward full employment.

Mr. President, the small reduction in unemployment recorded in recent months should not dissuade us from our efforts to provide job opportunities for all Americans. The drop in the February unemployment figures from 7.8 to 7.6 percent, a 14-month low, was good news for the estimated 150,000 jobless who found work. But it was small consolation for the 7.1 million people who remain on the casualty list of unemployed. Nor was it comforting to the millions who have given up the search for work after months of discouragement and frustration, or who can only work part-time because of continuing economic stagnation. If they were counted, the unemployment rate would be closer to 10 percent, with almost 10 million people directly affected.

And the February figures were no help at all for 1.9 million more jobless Americans who will exhaust all their unemployment benefits before the end of 1976, according to the Labor Department. By that time, they will have been unemployed for at least 65 weeks—a year and 3 months—with no prospect of employment in sight.

The story is the same through the country. In California, 9.5 percent of the work force remained jobless in February—that is more than 1 million Californians, with thousands more uncounted.

An unemployment rate of the 7.6 percent—almost 15 percent in the construction industry—is higher than in any economic slump of the past quarter century. Even the most optimistic of the administration's economists see little chance that the unemployment rate will dip much below 7 percent by the end of 1976. In submitting his budget to the Congress, the President estimated that unemployment would average 6.9 percent throughout 1977, and 6.4 percent through 1978.

Other forecasters are less sanguine. The Senate Budget Committee, for example, has predicted that the administration budget will mean that unemployment will stay above 7 percent for the duration of 1976 and 1977, and will rise in 1978.

Clearly, this is intolerable. Every percentage point of unemployment costs the Treasury $15 billion—$12 billion in reduced tax revenues and $3 billion in increased expenditures for unemployment compensation benefits. And the added toll which prolonged unemployment takes in terms of frustration and bitterness, of crime, of the deterioration of our cities, is simply incalculable.

Yet the administration persists in telling us that this is the way it must be. Veto after veto flows from the President's pen as he rejects even the most moderate and responsible legislation designed to put America back to work. The announced rationale for this policy of malignant neglect is that we cannot afford to trigger another round of inflation.

No one wants to drive the inflation rate back to the heights of 1973 and 1974. Inflation is the single deadliest enemy of the average American family, draining its purchasing power and wreaking havoc on its budget. And inflation strikes with its greatest force at those who can least afford it—those living on small fixed incomes, including jobless workers and their families.

The best way to fight inflation, however, is to put more goods on the shelves of our Nation's businesses. Putting idle Americans back to work producing goods and services is the best insurance against inflation. Scarcity drives up prices; abundance drives them down. It is the administration's program of slow growth which will keep unemployment and inflation at intolerable rates for the foreseeable future. A sensible program to accelerate the recovery will tend to promote increased price stability.

We can push our economy further to create jobs which will insure the price stability which is essential to prosperity.

Clearly, we cannot have true prosperity while 7 to 10 million Americans are out of work. And we cannot create the economic base to sustain economic growth for the future unless we put the jobless back to work building our industrial capacity, laying the foundation of economic development.

I believe that the Federal Government and the Congress can take immediate action to provide some direct impetus to an expanded job market, holding however, to some basic guidelines:

First, primary emphasis must be on creating jobs in the private sector. Private jobs, on the whole, are more secure, better paying, and contribute to, rather than drain from, the Federal Government.

Second, job programs must emphasize two separate but equally important purposes—creation of jobs to take advantage of existing plant and facilities, and work designed to provide new productive capacity for future jobs. Without full use of existing industrial facilities, we cannot hope to match our productive potential. But without stimuli to spur development of future capacity we will not have long-term growth without inflation.

Finally, as an adjunct to the principal thrust of creating jobs in the private sector, there must be an ambitious public jobs component. While unemployment remains at its present high levels, the Federal Government must, to the maximum extent feasible, provide job opportunities for unemployed Americans. While public service jobs can never serve wholly as substitutes for private jobs which pay more and have less budgetary impact, public jobs are a valuable complement. They permit employees the chance to refine old skills and obtain new ones; they offer workers the chance to do meaningful work, and they provide manpower with which communities can maintain vital services that otherwise might be curtailed because of recession.

Above all, any program for job creation must be aimed squarely at the next critical 12 to 18 months. Without jobs, those months will be a time of desolation and despair for hundreds of thousands of families and of unnecessary stagnation for economy. By acting responsibly now to put people back on the job during the next 2 years, we can cut the unemployment substantially without rekindling the furnace of inflation.

Accordingly, I am today proposing legislation which I believe would do much to accomplish that goal. This legislation combines three fundamental aspects—first, needed public works projects; second, tax incentives tied to worker wages; and third, public service jobs for those who canot find work otherwise.

This legislative package responds to the economic realities facing us in 1976. Our economy is too large and too diverse for any single program to be a panacea for joblessness. We need measured economic policies which will deliver necessary stimulation quickly and in the right amounts.

The legislation includes:

One billion dollars in funding during the next 18 months of high-priority, labor-intensive public works projects at the State and local level;

Creation of a temporary tax credit for employers against wages of new employees, equalling 20 percent of wages paid to employees hired after several months' unemployment, and 30 percent of wages paid to the hard core unemployed;

Extension and expansion of the emergency public service jobs program originally created in response to unemployment rates in excess of 6 percent;

Steps toward the establishment of a national work security program which would guarantee productive work to long-term unemployed workers in exchange for provision of State and Federal income maintenance benefits.

The legislation not only would provide some long-term incentive, but some short-term impetus to getting people back to work as quickly as possible. During the next 12 to 18 months, it would create or preserve at least 1 million jobs, and it would do so without increased bureaucracy.

Here is more detail on the legislation:

Funding for labor-intensive public works projects. During fiscal year 1975–76, $500 million was distributed throughout the country under the title X "Job opportunities program," administered by the Economic Development Administration. This program, originally created by the Emergency Jobs and Unemployment Assistance Act of 1974, delivered funds to high-priority, labor-intensive public works projects which needed a minimum of time to get underway. In this respect, the program constituted a rebuttal to the administration's oft-repeated assertion that public works job funds are ineffective because projects require long lead times.

Unfortunately, the administration requested no fiscal year 1977 funding for the title X program, and the President's recent veto of the "jobs bill," H.R. 5247, eliminated fiscal year 1976 funding of $500 million approved by the Congress.

Clearly, this program should receive more funding. It is a successful way to channel public works funds to those high-priority projects which are most likely to have a positive impact in any area. The projects, such as industrial parks, road, building renovations and the like, are all ready to go—all that is required is additional funding, and the process of job creation, both direct and indirect, can begin.

Therefore, I would suggest that the Congress extend the title X program through fiscal year 1977, and provide $1 billion in funds for these projects. The funds, $500 million for distribution in fiscal year 1976—as previously approved by the Congress, and $500 million for fiscal year 1977—when unemployment is still expected to exceed 6.5 percent—could create as many as 200,000 jobs. More important, most of those jobs would be in the construction industry, where workers are desperately in need of Government assistance to get back on the job.

I would also suggest that the present title X program be amended so that the largest share of the fiscal year 1976 and 1977 funding be distributed on the basis of relative unemployment in States. Thus, in both 1976 and 1977, California, with over 13 percent of the Nation's unemployed, would be required to receive 13 percent of the title X funds. In this manner, the areas most in need of jobs, that is, those where unemployment is most prevalent, would receive the bulk of the funding provided.

The title X program is only aspect of an overall program designed to stimulate construction and fabrication of the linchpin of our economic well-being, our productive capacity. But it is perhaps the most important part of any strategy designed to produce large numbers of jobs over the next 1 to 2 years. Other measures which would also have a very positive impact on the public works sector of the economy would include more rapid expansion of the money supply, assuring reasonable interest rates for privately financed projects, and swift action on a program to fund long-term public works/economic development projects under the Public Works Act of 1965. Such legislation is presently before the Senate and I believe it merits our prompt approval.

Tax credits against wages for employers of new employees. Ultimately, as I have noted, the key to economic recovery must lie in the hands of private business. To create the maximum number of permanent jobs in the private sector during the coming months, I believe we need tax relief which will encourage employers to hire the unemployed.

This would not be the kind of tax relief sought by the administration, which merely would hand Federal tax dollars to private business and let them invest those dollars wherever they please. Rather this proposal would target tax relief to those employers who actually created jobs for the jobless. Tax incentives currently are given to invest in new equipment and new plants through a variety of credits and deductions for capital investment and depreciation. It is time that we equalize the benefits for hiring more workers. The tax benefits under this proposal would be temporary. The jobs, I believe, would be permanent.

Under my proposal, an employer would receive a tax credit equal to 20 percent of an employee's wages for each month during 1976 and 1977 after he hired the employee. In order for the employee to qualify, he or she would have to have been employed for at least 13 weeks prior to hiring, and would have to be employed continuously for the remainder of the taxable year for which the credit was sought. The credit would be 30 percent if the person hired had exhausted all unemployment compensation benefits. The employee's wages would not be eligible for the credit unless the positions filled represented a net increase over the largest number of positions which the employer had maintained over a baseline period. The baseline period would be any 3-month period subsequent to October 1, 1974, when unemployment statistics began to soar. In this manner, we would minimize windfall benefits accruing to the employer as a result of inevitable new hirings.

Most important, the credit would create well-paying jobs. No salary of less than $700 per month—$8,400 per year—would qualify for the credit, and the maximum credit of $250 per month would be predicated on a salary of $1,250 per month—$15,000 per year. The credit would put many of the new employees into a bracket where their incomes could sustain a family much better than welfare or unemployment insurance. The median family income in the United States is about $12,800, and 33.6 percent of all families earn between $8,000 and $15,000 per year. Moreover, such an income would take families off the welfare rolls in many States. For example, in California, an income of $9,500 per year would probably mean that a family of four could go off welfare. In the average State, such a family could leave welfare with an income of $8,500.

Such a tax credit program could well create 400,000–500,000 jobs during the next 21 months. And because it is a monthly credit, it would start to have an immediate stimulative impact.

What would be the cost of such a program? That is perhaps the most important question, and the concept's strongest feature. First, of course, there is no cost to the Federal Government until a new employee is actually hired. And for an employer to take such a credit, the qualifying employee would have to be continuously employed for the remainder of the taxable year.

Once an employee was eligible for the tax credit, it would vary, according to the salary paid from $140 to $250 per month—$1,680–$3,000 per year. That seems like a substantial amount for the Federal Government to pay for creation of a single job, but consider the following:

First. Creation of a public service job under title II or VI of the Comprehensive Employment and Training Act of 1973, costs the Government an average of $8,400 per year; and the employee gets a salary of about $8,000;

Second. Jobs under the title X job opportunities program cost at least $5,000 per job in Federal funds.

In other words, tax credits for job creation create more jobs per Federal dollar spent than would other job creation programs.

Moreover, jobs under this program will return more to the Government than they will cost. At present, the average unemployment recipient receives about $65 per week in unemployment insurance—$3,380 per year. He or she pays no social security taxes, and pays no income taxes. As well, the unemployed person probably qualifies for a variety of other income supplement programs, such as food stamps. Here are some illustrative figures:

Cost of credit	Salary	Foregone unemployment payments	Social security payments	Income taxes			Net impact
				Single	Married	Family of 4	
$1, 680	$8, 400	$3, 380	$983	$1, 128	$815	$539	$3, 222 3, 811
2, 400	12, 000	3, 380	1, 404	2, 183	1, 973	1, 561	+3, 945 4, 567
3, 000	15, 000	3, 380	1, 754	3, 163	2, 893	2, 406	+4, 540 5, 297

Clearly this proposal makes good economic sense; first, because it provides employment at less cost than other programs; second, because that minimal cost is outweighed by the positive benefits flowing to the Federal Government and the States as a result. In fact, as the job created approaches the $15,000 range, the income taxes alone cover the cost of the program. And because the program utilizes the existing tax structure, it would require little additional administrative cost.

Finally, this program not only creates jobs, but it also directly fights inflation. Qualifying firms will find that their per unit cost of production will be reduced. This will tend to offset other cost factors in the economy which have tended to drive up prices.

Extension and expansion of an ambitious public service jobs program. One of the Congress' first responses to skyrocketing unemployment rates in the fall of 1974 was the creation of an emergency public jobs program, title VI of CETA. That was a wise and timely response. Under that program and the CETA title II program, more than 300,000 public jobs have been created to help the unemployed weather the worst ravages of the recession.

Now that program is in jeopardy. The administration proposes to provide full funding for it only until January 1977, and then to allow the title VI program to disappear. Yet even the administration admits that unemployment will remain at close to 7 percent throughout 1977.

We cannot afford to dismantle public service employment program, especially so long as projections indicate continuing and prolonged joblessness for millions of Americans. Public jobs can never be the sole basis of economic recovery. Nonetheless, they can provide meaningful employment for hundreds of thousands of workers.

I would propose that the title VI emergency public jobs program be extended through the end of fiscal year 1977, and that $4 billion be authorized to fund public jobs during that time. This amount of funding would permit: first, maintenance of the program through the end of the fiscal year, in spite of funding shortfalls being experienced throughout the country; second, expansion of the program from its present size to a level of about 400,000 jobs during the next several months; and third, maintenance of the program at a level of 400,000 jobs through fiscal year 1977.

This should be a minimum level of support for CETA public jobs through the next 18 months. Both the Senate and House Budget Committees have approved increases in the size of the public service jobs program during fiscal year 1976. As yet, the program remains at its level of a year ago. I believe that expansion of this program by 25 percent, as I have proposed, would be a timely and temperate response to the continuation of high unemployment rates. If the Congress decides to expand the public jobs program even more, I certainly will support the maximum amount of funding for title VI jobs that is possible under the fiscal year 1977 budget resolutions, which will be forthcoming shortly.

This legislation is ambitious—but its goals are within reach. Those goals are: first, to put millions of idle Americans back to work in the near future; second, to increase our productive capacity so that we can sustain healthy economic growth into the decade of the 1980's: third, to fight inflation by increasing the supply of goods and services in the economy; and fourth, to make clear that our ultimate goal is that every able-bodied person should have the opportunity to work and to contribute meaningful labor to our society in exchange for which we will guarantee him or her a chance to work and a living income.

The choice before us is clear. Will we accept the continuation of policies which have closed the door to productive employment for close to 10 million Americans and their families? Will we continue to squander our Nation's most precious natural resource—the working men and women of America? Or will we move to create jobs for them, jobs at good salaries, in good working conditions—jobs which will ultimately repay our investment many times over in future years. I believe the answer is clear, and I believe we can provide jobs and promote economic stability.

Mr. President, I ask unanimous consent that the text of this legislation be reprinted in its entirety at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. That this Act may be cited as the "Job Creation Act of 1976."

"TITLE I—GENERAL"

"FINDINGS AND PURPOSE"

Sec. 101. (a) The Congress takes note of the fact that the prolonged national rates of unemployment well in excess of "full employment" levels are a matter of intense concern to the Congress.

(b) The Congress finds that the maintenance of excessively high rates of unemployment costs state governments and the Federal government billions of dollars in direct costs for income maintenance programs and for other services designed to maintain a decent standard of living for the unemployed and their families.

(c) The Congress further finds that the maintenance of excessively high rates of unemployment imposes further indirect costs of billions of dollars on the United States in terms of forgone economic growth and increased social costs, such as crime and urban deterioration.

(d) The Congress further finds that economic forecasts predict prolongation of excessively high unemployment rates under current economic policies.

(e) The Congress further finds that the economy of the United States is operating well below its potential capacity, and that programs to encourage job creation could be undertaken without stimulating inflationary pressures.

(f) The Congress further finds that a program of job creation designed both to use unused economic capacity, and to create new capacity can guarantee stable economic growth through the end of the present decade.

(g) The Congress further finds that the primary area in which jobs can be created at minimum cost to the taxpayer and at maximum benefit to the nation and to the unemployed worker is the private sector.

Sec. 102. (a) The Congress therefore declares that it would be appropriate to enact a program designed to stimulate the creation of jobs both to utilize existing economic capacity and to create new capacity.

(b) The Congress further declares that it would be especially appropriate for the Federal government to pursue temporary policies aimed at the creation of jobs during the next eighteen to twenty-four months.

(c) The Congress finds that the following policies would be among those most appropriate to stimulate the creation and maintenance of public and private jobs during the immediate future in response to projections of continuing excessive rates of unemployment during such time:

(1) Funding for labor-intensive high-priority public works projects designed to foster economic development. The Congress finds that the existing Job Opportunities Program administered by the Economic Development Administration within the Department of Commerce would be an appropriate vehicle to distribute such funds in an efficient and timely manner. In funding this program, the Congress makes explicit its intention that the funds provided by this program go in largest part to those areas which have the largest relative number of the nation's unemployed workers. In this manner the funds distributed can have their maximum impact in relieving the present effects of unemployment, and in assuring that economic development is undertaken where it is most needed.

(2) Temporary tax incentives to employers tied to the creation of new jobs and the hiring of new employees. The Congress declares that tax credits related to specific wage levels for new employees represent the most flexible and efficient to stimulate job creation throughout the economy. Such incentives can create more jobs with less Federal spending, and the jobs will be better paying and more secure than jobs created exclusively with Federal funds.

(3) Extension of emergency public service jobs programs designed to counteract effects of prolonged excessive unemployment rates. The Congress declares that such jobs are an appropriate means for workers who would otherwise be temporarily unemployed to do productive satisfying work in their local communities. Such public service jobs should not be regarded mainly as a mechanism for mitigating the effects of unemployment, and not as alternatives to jobs in the private sector, or as a means of reducing the levels of actual or potential employment for employees of local governments.

(4) Special incentives for employment of workers who have exhausted unemployment benefits. Such programs will allow such workers to maintain and improve their skills, and as an alternative to enforced idleness, will permit them to become a tangible part of local work efforts.

(d) The Congress declares that such a program, supplemented by other consistent Federal policies, such as lowering of interest rates and funding of long-term public works projects, will have the effect of creating substantial numbers of jobs during the next two years, without stimulating undue inflationary pressures.

(e) The Congress declares that the reduction of unemployment and the creation of jobs at more rapid rates than are presently contemplated will produce benefits, both economic and social, which far outweigh the costs of such job creation programs.

(f) The Congress therefore declares that it is Federal policy to enact a program such as that described, along with other consistent measures, with the intent of encouraging more rapid creation of jobs.

TITLE II—JOB OPPORTUNITIES PROGRAM

Sec. 201. Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) Where necessary to aid in carrying out the purposes of this title effectively, the Secretary is authorized to furnish appropriate assistance to eligible areas in making applications for grants under this title."

Sec. 202. Section 1003(d) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project identified and selected pursuant to this subsection, and which can be initiated or implemented promptly, and substantially completed within twelve months after allocation is made. In identifying and selecting programs pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, especially in those sectors of the labor force in which unemployment has been highest in the particular area under consideration;

(2) give priority to projects and programs in those areas where unemployment has been highest for the longest periods of time as compared to the national and statewide seasonally adjusted figures which would be relevant for purposes of comparison with the affected area;

(3) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area."

Sec. 203. Section 1003(e) of the Public Works and Economic Development Act of 1964, as amended, is further amended to read as follows:

"(e) The Secretary, if the national unemployment rate is equal to or exceeds 6½ per centum for the three most recent months, shall expedite grant applications submitted for areas within states having unemployment in excess of the national average rates of unemployment for the most recent three consecutive months. If the national average unemployment rate recedes below 6½ per centum for the most recent three consecutive months, the authority of the Secretary to make grants under this title is suspended until the national average unemployment has equaled or exceeded 6½% for the most recent three consecutive months.

SEC. 204. Section 1004 of the Public Works and Economic Development Act of 1965 as amended is amended to read as follows:

"SEC. 1004. (a) Within forty-five days after enactment of the Emergency Job and Unemployment Assistance Act of 1974 or within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with sections 1003(d) and 1004 of this title.

SEC. 205. Section 1005 of the Public Works and Economic Development Act of 1956, as amended:

"ALLOCATION OF FUNDS"

"SEC. 1005. Notwithstanding any other provision of this title, 75 per centum of all funds appropriated in any year pursuant to the authority contained in Section 1007 shall be allotted in accordance with the requirements of this section. The total amount of funding approved by the Secretary during any three-month period for projects in any single State shall bear the same ratio to 75 per centum of the funding approved for all projects during that period as the number of unemployed persons residing in such State bears to the number of unemployed persons who reside in all States. For purposes of determining the allotment for projects in any given State during any three-month period, the Secretary shall use state and national seasonally adjusted unemployment figures showing the average number of persons unemployed in the State and throughout the nation during the consecutive three-month period immediately preceding the three-month period during which allotments are to be made.

SEC. 206. Section 1007 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"There are authorized to be appropriated $500,000,000 to carry out the provisions of this title for the fiscal year 1976 and the transition period ending September 30, 1976, and $500,000,000 to carry out the provisions of this title for the fiscal year 1977, except that no further obligation of funds appropriated to authority contained in this section may be made subsequent to a determination that the national average rate of unemployment has receded below 6.5 per centum for three consecutive calendar months until a later determination shall have been made that the national average rate of unemployment for three consecutive months has again exceeded 6.5 per centum. Any amounts appropriated pursuant to the authority contained in this section which are not obligated prior to the end of fiscal year 1977 shall remain available for obligation until December 31, 1977."

"TITLE III—JOB CREATION TAX CREDIT"

SEC. 301. Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by renumbering section 45 as section 45A and by inserting immediately after section 44 the following new section:

"SEC. 45. WAGES PAID TO NEW EMPLOYEES.

"(a) General Rule.—There shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 20 percent of the wages paid by the taxpayer during the taxable year to each eligible employee designated under subsection (c) (2).

"(b) Limitations.—

"(1) 20 percent employee.—The amount of the credit allowed under subsection (a) with respect to wages paid during the taxable year to any eligible employee described in subsection (c) (1) may not exceed $250 multiplied by the number of full calendar months for which such eligible employee was employed by the taxpayer during such taxable year.

"(2) 30 percent employee.—The amount of the credit allowed under subsection (a) with respect to wages paid during the taxable year to any eligible employee described in subsection (c)(2) may not exceed $375 multiplied by the number of full calendar months for which such eligible employee was employed by the taxpayer during such taxable year.

"(3) Liability for tax.—

"(A) Notwithstanding paragraphs (1) and (2), the amount of the credit allowed under subsection (a) may not exceed the liability for tax under this chapter of the taxpayer for the taxable year.

"(B) For purposes of subparagraph (A), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year reduced by the sum of the credits allowable under—

"(i) section 33 (relating to foreign tax credit),

"(ii) section 37 (relating to retirement income),

"(iii) section 38 (relating to investment in certain depreciable property),

"(iv) section 40 (relating to expenses of work incentive programs),

"(v) section 41 (relating to contributions to candidates for public office),

"(vi) section 42 (relating to taxable income credit), and

"(vii) section 44 (relating to purchase of new principal residence).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(a) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) Eligible Employee.—

"(1) Eligible employee for purposes of 20 percent credit.—For purposes of the 20 percent credit under subsection (a) and the limitations on the 20 percent credit under subsection (b)(1), the term 'eligible employee' means an individual—

"(A) hired by the taxpayer in connection with his trade or business in the United States after December 31, 1975, and before January 1, 1978;

"(B) whose employment represents a net increase in the number of individuals employed by the taxpayer over the highest average daily number of individuals employed by the taxpayer during any consecutive 3-month period subsequent to October 1, 1974;

"(C) who receives wages from the taxpayer at a monthly rate equal to or in excess of $700;

"(D) who is employed continuously by the taxpayer during the period beginning on the date such individual is first hired by the taxpayer and ending on the last day of the taxable year for which the taxpayer claims the credit allowed by ths section; and

"(E) was unemployed during the 13-week period ending on the date on which he was hired by the taxpayer.

"(2) Eligible employee for purposes of 30 percent credit.—

For purposes of the 30 percent credit under subsection (a) and the limitations on the 30 percent credit under subsection (b)(2), the term 'eligible employee' means an individual who—

"(A) meets the requirements of paragraph (1); and

"(B) was unemployed during the 65-week period ending on the date on which he was hired by the taxpayer.

"(d) Wages.—For purposes of this section, the term 'wages' has the same definition it has under section 3401.

"(e) Recapture of Credit for Termination of Employment.—

"(1) In general.—If the employment of any eligible employee with respect to whom amounts are taken into account under subsection (a) is terminated by the taxpayer during the 3-month period beginning on the last day of the last month for which amounts with respect to such eligible employee were taken into account under subsection (a), the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount equal to the sum of the amounts allowed under subsection (a) for such taxable year.

"(2) Recapture not to apply in certain cases.—Paragraph (1) does not apply to—

"(A) the termination of employment of an eligible employee who voluntarily leaves the employment of the taxpayer,

"(B) a termination of employment of an eligible employee who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such eligible employee, or

"(C) a termination of such employment of an eligible employee, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such eligible employee.

"(f) Regulations.—The Secretary or his delegate shall prescribe such regulations as are necessary to carry out the purposes of this section.".

(b)(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 45. Wages paid to new employees.

"Sec. 45A. Overpayments of tax.".

(2) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out the semicolon and "and" at the end of clause (vii) and inserting in lieu thereof a comma and "and", and by inserting after clause (vii) the following new clause:

"(viii) section 45 (relating to credit for wages paid to new employees); and".

(3) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new sub-paragraph:

"(H) section 45 (relating to credit for wages paid to new employees), exceed".

(4) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof a comma and "44 and 45".

(c) The amendments made by this Act apply to taxable years ending after December 31, 1975, and before January 1, 1978.

"TITLE IV—PUBLIC SERVICE JOBS"

Sec. 401. Section 601 of the Comprehensive Employment and Training Act of 1973, as amended, is amended by adding at the end thereof the following new language:

"There are authorized to be appropriated $700 million for carrying out the provisions of this title during fiscal year 1976 and the transition period ending September 30, 1976, and $3.35 million for carrying out the provisions of this title during fiscal year 1977. Any amounts appropriated pursuant to the authority contained in this section, and not obligated prior to the end of the fiscal year or period for which appropriated shall remain for obligation until December 31 of the year following the end of the fiscal year for which the amounts were authorized."

Sec. 402. Sections 602(b) and 203(b) of the Comprehensive Employment and Training Act of 1973 as amended are amended to read as follows:

"Not less than 85 per centum of the funds appropriated pursuant to the funding authority for this title which are used by an eligible applicant for public service employment programs shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title."

Sec. 403. Section 208(a)(7) of the Comprehensive Employment and Training Act of 1973 as amended is amended to read as follows:

(7) of the maximum 15 per centum permitted to be used by an eligible applicant for purposes other than wages and benefits paid to persons employed in public service jobs pursuant to this title, not more than two-thirds shall be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials, or real property, and then only if such activities are directly related to the performance of jobs created with funds authorized under this title;"

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the distinguished Senator from California (Mr. Tunney) to provide for a national coordinated program of job creation and maintenance, and for other purposes, be referred jointly to the Committee on Public Works, the Committee on Finance, and the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 361

At the request of Mr. Thurmond, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 361, to amend title II of the Social Security Act.

S. 2157

At the request of Mr. Javits, the Senator from New Hampshire (Mr. Durkin) and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of S. 2157, a bill to amend title XX of the Social Security Act.

S. 2207

At the request of Mr. Fong, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 2207, a bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

S. 2812

At the request of Mr. Percy, the Senator from Florida (Mr. Chiles), the Senator from Maryland (Mr. Mathias), and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of S. 2812, the Regulatory Reform Act of 1976.

S. 2932

At the request of Mr. Mansfield (for Mr. Magnuson), the Senator from Montana (Mr. Metcalf) was added as a cosponsor of S. 2932, the Energy Conservation Act of 1976.

S. 2939

At the request of Mr. Schweiker, the Senator from Kansas (Mr. Dole), the Senator from Louisiana (Mr. Long), and the Senator from Ohio (Mr. Taft) were added as cosponsors of S. 2939, to provide a special program for financial assistance to Opportunities Industrialization Centers.

S. 2941

At the request of Mr. Abourezk, the Senator from Ohio (Mr. Taft), was added as a cosponsor of S. 2941, a bill to provide assistance to Lebanon.

Mr. ABOUREZK. Mr. President, I apologize to my good friend, the Senator from Ohio (Mr. Taft), for the delay in having him added as a cosponsor of S. 2941. He indicated his support for this legislation over a month ago, and I want the Record to reflect that interest.

S. 2989

At the request of Mr. Hugh Scott, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 2989, a bill extending period in which veterans are eligible for educational assistance.

S. 3079

At the request of Mr. Thurmond, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 3079, a bill to amend chapter 49 of title 10, United States Code.

S. 3094

At the request of Mr. Pearson, the Senator from North Dakota (Mr. Young) was added as a cosponsor of S. 3094, a bill to provide financial assistance to encourage small-business concerns to implement energy conservation measures.

S. 3098

At the request of Mr. Weicker, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 3098, a bill to amend the Community Services Administration Act of 1974.

S. 3113

At the request of Mr. Bartlett, the Senator from Arizona (Mr. Fannin) was added as a cosponsor of S. 3113, a bill to amend the Congressional Budget Act of 1974.

S. 3202

At the request of Mr. Kennedy, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 3202, a bill to authorize appropriations for the National Science Foundation for fiscal year 1977.

S. 3298

At the request of Mr. Javits, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 3098, to amend the Community Services Act of 1974.

S. RES. 413

At the request of Mr. Ribicoff, the Senator from Washington (Mr. Jackson) was added as a cosponsor of Senate Resolution 413, regarding freedom of the press at the Olympics.

S. CON. RES. 86

At the request of Mr. Church, the Senator from New Mexico (Mr. Montoya), the Senator from North Dakota (Mr. Burdick), and the Senator from Delaware (Mr. Biden) were added as cosponsors of Senate Concurrent Resolution 86, to express opposition to increase out-of-pocket payments by medicare beneficiaries.

S.J. RES. 165

At the request of Mr. Hatfield, the Senator from New Jersey (Mr. Williams) was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designated April 8, 1976, as National Food Day.

S.J. RES. 179

At the request of Mr. Bartlett, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of Senate Joint Resolution 179, to designate a National Bicentennial Day of Prayer of Thanksgiving and Guidance.

AMENDMENTS SUBMITTED FOR PRINTING

TOXIC SUBSTANCES CONTROL ACT—S. 3149

AMENDMENT NO. 1522

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

DEPARTMENT OF STATE AUTHORIZATIONS, 1977—S. 3168

AMENDMENT NO. 1523

(Ordered to be printed and to lie on the table.)

Mr. PELL. Mr. President, I rise today to submit an amendment to S. 3168, the Department of State Authorization bill for fiscal year 1977.

My amendment would revive the provisions of S. 1791 of the 93d Congress which was passed by the Senate in 1974 and include them as part of the fiscal year 1977 Department of State authorization. S. 1791 contained changes in the retirement section of the Foreign Service Act of 1946 and was aimed at insuring adequate funding for the Foreign Service Retirement System and bringing that system into closer conformity with the Civil Service Retirement System. S. 1791 did not become law because the House of Representatives did not act upon it. I understand, however, that the House is prepared to act this year on retirement provisions similar to the ones enacted in 1974 by the Senate.

The provisions of my amendment are substantially the same as the ones approved by the Senate 2 years ago. However, several technical changes recommended by the administration have been included in my amendment and certain provisions have been eliminated, as they are no longer needed. No new commitments, not included in S. 1791, are authorized in this amendment.

Mr. President, the changes in the Foreign Service Retirement System which I am proposing today, and which the Senate approved 2 years ago, are long overdue. The Foreign Service Retirement System should be made equitable in comparison with the Civil Service Retirement System, in recognition of the many risks and hardships which Foreign Service employees and their families face daily when they serve abroad. The Foreign Service is composed of highly competent and dedicated men and women, and I believe strongly that the Congress should recognize that fact by renewing its support for the retirement provisions contained in my amendment.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1469

At the request of Mr. FONG, the Senator from Rhode Island (Mr. PELL) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1469, intended to be proposed to S. 2965, the Department of Defense Authorization Act, 1977.

AMENDMENT NO. 1508

At the request of Mr. FORD, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of amendment No. 1508, intended to be proposed to the bill (S. 3015), the Airport and Airway Development Act Amendments of 1976.

HEARINGS ON HEARING AID INDUSTRY

Mr. PERCY. Mr. President, for some time, the Senate Permanent Subcommittee on Investigations has been conducting an inquiry into the hearing aid industry. The first phase of subcommittee hearings, focusing on the scientific and medical aspects of the hearing aid delivery system, which affects more than 20 million Americans, will be held on April 1 and 2, 1976, in room 3302 of the Dirksen Senate Office Building.

NOTICE OF HEARINGS ON AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT

Mr. EASTLAND. Mr. President, on March 31 and April 1 the Subcommittee on Immigration and Naturalization will continue hearings on S. 3074, a bill to amend the Immigration and Nationality Act.

The hearings will be held in room 2228 of the Dirksen Senate Office Building, beginning at 10:30 a.m.

NOTICE OF HEARING ON IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

Mr. METCALF. Mr. President, I wish to announce for the information of my colleagues and the public that a hearing has been scheduled by the Senate Interior and Insular Affairs Committee at 2 p.m. on Monday, April 5, 1976, in room 3110, Dirksen Senate Office Building.

The purpose of this hearing will be to conduct an oversight of the Federal Energy Administration's implementation of the Energy Policy and Conservation Act, and the committee will hear witnesses from FEA only. Others may submit statements for the record at the hearing.

All inquiries concerning this hearing should be directed to Dr. Benjamin Cooper, professional staff member, room 3204, Dirksen Senate Office Building, telephone 244–0611.

NOTICE OF OVERSIGHT HEARINGS ON THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. METCALF. Mr. President, I would like to announce for the benefit of my colleagues and the public that the Interior Committee oversight hearings on the Alaska Native Claims Settlement Act originally scheduled for April 29, 1976, have been postponed until June 10, 1976. Should you have any questions regarding these hearings, please contact Mr. Stephen P. Quarles of the Interior Committee staff on 224–9894.

NOTICE OF HEARINGS ON THE ENERGY INFORMATION ACT

Mr. METCALF. Mr. President, I wish to announce for the information of my colleagues and the public that hearings will be continued by the Senate Interior and Insular Affairs Committee and the national fuels and energy policy study on S. 1864, the Energy Information Act, on Friday, April 2 at 10 a.m. in room 3110, Dirksen Senate Office Building.

All inquiries concerning this hearing should be directed to Dr. Benjamin Cooper, Professional Staff Member, room 3204, Dirksen Senate Office Building, telephone 224–0611.

NOTICE OF HEARINGS ON ELECTRONIC SURVEILLANCE IN FOREIGN INTELLIGENCE

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members and the public that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will conduct hearings on bills to establish procedures for electronic surveillance in the area of foreign intelligence on Monday, March 29, 1976. The bills to be included in the hearings are: S. 743, S. 1888, and S. 3197.

The hearing will commence at 10 a.m. in room 2228, Dirksen Senate Office Building. Further information may be obtained from the subcommittee staff in room 2204, Dirksen Senate Office Building, telephone 202–224–3281.

ADDITIONAL STATEMENTS

THE SECOND BATTLE OF BRITAIN

Mr. EAGLETON. Mr. President, there is a crisis in the Mother Country. Britain is again at war.

The second battle of Britain may not entail the dropping of bombs, but its potential effect—the tragic demise of a proud nation's spirit—is the same. I refer, of course, to the financial crisis which threatens to destroy England.

In a recent CBS news special, correspondent Morley Safer summarized the genesis of England's problem when he said:

> Labor and capital have been on strike against each other for decades—one consolidating power, rather than working; the other preferring investment abroad to reinvestment in new plants at home.

The situation has so deteriorated that the Disraeli quote—"Britain is two nations"—has a new and frightening meaning. The people of Britain, so often elevated to great heights of national accomplishment, seem oblivious to any common cause. The sense of national purpose, the attitude of manifest destiny, has yielded to a debilitating class struggle—a struggle which is creating an almost unnegotiable chasm between privileged and poor.

Winston Churchill was able to rally his countrymen to defend Britain against Nazi tyranny. But can the new Prime Minister inspire the British to defend their nation against the awesome prospect of anarchy?

It is clear that the new leader will need an unprecedented mandate to win this second battle of Britain. For the remedy will require sacrifices at least as great as were summoned up in the English spirit during the blitz. Austerity must be applied with unyielding certitude. And all sides, privileged and not-so-privileged, will have to share the burdens equally.

The people of Britain have not lost their genius. They have not lost their unmatched inner strength. They may have lost their perspective. They may have lost their way.

There are lessons here for our own Nation. Our problems have not yet progressed to the crisis level, but there are disturbing indications that we may have lost some appreciation for the common purpose which has united Americans for over 200 years.

We too need new leadership with a mandate to resurrect a dedication to the common good. We too need to dispel the notion that self-aggrandizement—whether individual or organizational—supersedes the interests of the Nation. We too must create a greater awareness that short-term gain often must be sacrificed on behalf of the long-term financial health of the Nation.

These axioms of a nation's well-being must apply with equal force to labor, management, and consumer. For the uneven treatment of interest groups has created a deep cynicism among our people. If the situation is not changed soon, the United States, like Britain, will be at war with itself.

Mr. President, two excellent items are responsible for these rather pessimistic observations: the CBS news special "The Second Battle of Britain," to which I have already referred, and an article from the March 24, 1976, Washington Post entitled "Britain's Malaise: Who Is To Blame?" by Hugh Milligan. I ask unanimous consent that the transcript of the CBS special and the Post article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECOND BATTLE OF BRITAIN

CLAUD COCKBURN. This crisis—the collapse of England—has been going on since roughly 1896, and the Americans, the Germans, and later the Japanese, horned in in their vulgar manner and started to prevent the British from getting all the fat in the world.

JIMMY REID. When you talk about Britain, I ask you, which Britain? There's a Britain of the people that frequent Royal Ascot, spend a thousand quid on a hat, drink champagne, eat smoked salmon—never done any work in their life in terms of actual production of wealth and—and creation of wealth.

WINSTON CHURCHILL, Jr. Many non-Communists have gone along with the militants in the unions. Whatever was the power of Hitler in 1939 and 1940, he certainly didn't have a Fifth Column in Britain.

MALCOLM MUGGERIDGE. I think a lot of heart's gone out of the English. Circumstances have so dramatically changed for them in the world. I think in a sort of way, you know, Morley, they're tired. There's one thing that I feel quite certain of—more so than almost anything I've observed in this world—and that is that if human beings, whoever they may be—British, Americans, anybody you like—are confronted with a clear choice between anarchy and tyranny, alas, they'll always choose tyranny.

MORLEY SAFER. Can it really be Britain they're talking about? Can the choice for the people most like ourselves on this earth really be anarchy or tyranny?

I'm Morley Safer. I lived in Britain, and worked there on and off for 20 years—two decades that both the political right and left believed would be a new age of individual prosperity flowering midst the ancient oaks of British law and justice. It didn't work out that way. Instead, it's been two decades of decline, of crisis coming on top of financial crisis, culminating this past year in a kind of anarchy.

This past week the Labor Government, in desperation, tried to take measures to at least slow down the decline, but found itself wrenched apart by its own left wing. And just yesterday Prime Minister Wilson resigned.

The Britain I returned to for this broadcast is a nation at war with itself, a nation going broke—and more than that, a nation whose very democracy is being threatened. A people in the throes of a spiritual dilemma for which there seems to be no cure. In the first battle of Britain, they only had to triumph over Hitler's bombers. In the second battle of Britain, they must triumph over themselves.

ANNOUNCER. This is a CBS News Special: "The Second Battle of Britain"—with CBS News Correspondent Morley Safer.

SAFER. This textile mill in the industrial midlands of England was built in 1870. Steam-powered, a museum piece of ancient industrial design, it's still in use, competing for world markets. A triumph of 19th century engineering in an age of high-speed production and penny-splitting foreign competition. But British industry, that Victorian brass foundry to the world, is still seen by British industry to be a storehouse of genius. And if the Germans and Japanese and Americans insist on updating and automating, well, so be it. If it's British, it's best, no matter that it can't be delivered on time, no matter spare parts are unobtainable, no matter that it's twice the price.

Time seems to be running out. Labor and capital have been on strike against each other for decades—one consolidating power, rather than working; the other preferring investment abroad to reinvestment in new plant at home. And the Government seems incapable of any action but more taxation. Britain is going broke, and it seems beyond the power or interest of individuals to help. It now takes two Britons to produce as much as one American or one German or one Dane.

Britain brought the world the Industrial Revolution and trade unions and the welfare state, and now is the first nation to suffer the sickness of the post-Industrial Age, that yearning for an unspecified future or irretrievable past. What cannot be borne is the present, and you can see the sickness in the parts of Britain you never see—in the derelict factories in Wigan or Blackburn; in Batley or Huddersfield; in Bradford or Oldham or Smethick. This was the British Empire—iron and brass and steam, not the plumage and the Viceroys. It was science and engineering that conquered those distant markets; not just armies and fleets.

Well, all that's gone for good. No more Empire to exploit and supply and protect. What's left is a very expensive state at home to doctor and feed and house and pamper: the great British welfare state. The socialist dream has been described as the world's most expensive banana republic: a better life for more people; but the best of it—the health plan and pensions—is being buried by the worst, by the sheer weight of the bureaucracy. It's costing itself a fortune.

Doctors are leaving the country, discouraged, while the official policy of the Labor party is to increase the bureaucracy, eliminating the last remnants of private hospital care. One Briton in four now works for the Government. One-fourth of the entire labor force on the Government payroll, and there's every sign the numbers will increase.

This brave new world sees you from the cradle to the grave, with not much for you to do in between but fill in the proper forms.

ADMINISTRATOR. What we looked at first of all was your supplementary benefits, and to get it you have to register at the Employment Exchange.

MAN. That's right, yes.

ADMINISTRATOR. Yes, and you register as a disabled person as a result of your accident, don't you? Then we had a look at the fact that you are disabled and your wife is ill——

MAN. Right.

ADMINISTRATOR. And you've got prescriptions practically every week, either you or your wife.

MAN. God, yes, and maybe twice a week.

ADMINISTRATOR. Hmm. And you were going to the chemist and paying for them, weren't you?

MAN. Yes, that's right, yeah.

ADMINISTRATOR. And so, then we thought we would apply for an exemption certificate, so that you'd just have to produce that for the chemist and you wouldn't have to pay at all.

MAN. That's right, I got it, yeah, that's right.

ADMINISTRATOR. The other thing, which you've come in about today, is of course your special hardship allowance——

MAN. Yes.

ADMINISTRATOR. As a result of your industrial accident. You—You can't go back to doing the same kind of work.

MAN. That's right.

ADMINISTRATOR. The order book that you've got runs up to January, and then there's a card in it which you have to send in about November time to make another claim. I think you'd better come in and see me when you get to that card——

MAN. All right.

ADMINISTRATOR. And then I'll help you to complete it——

MAN. Okay, thank you very much.

ADMINISTRATOR. To make sure that you still claim it.

MAN. Thank you.

MUGGERIDGE. England has no way of life. It is simply a collection of people who have been encouraged to believe that there is such a thing as the state. And this state will, in all circumstances, look after them, educate their children, provide them with houses, feed and clothe them if they're unfortunate enough to be out of work, and produce an ever-rising standard of life—without their having to do anything particular to achieve this.

SAFER. Malcolm Muggeridge has been chronicling the British condition for most of his life, a condition that he feels has gone from serious to critical.

MUGGERIDGE. And suddenly, really out of the blue—because they've been greatly lied to, remember, by both the right and the left politically (haven't been told the truth, ever)—they suddenly are told that this can't be any more. We can't do this. Our whole economy's run down. Everything's going bankrupt.

SAFER. But there's little evidence that the message is getting through. This was Great Britain last summer—the loveliest, they said, since 1939. Or was it 1914? It was difficult to take the news of economic disaster seriously. Maybe individuals do not even understand such news—the strikes, the devalued money, the bankruptcies and unemployment. It's all just too bad to be true.

[NEWS REPORTS MONTAGE]

"This is Nicholas Wooley, and among today's P.M. reports—rail fares are going up for the third time in twelve months . . .

"Gloomy news today for people looking for jobs in East Kent. With unemployment rising, the number of vacancies has dropped to only about half the figure available . . .

"The pound plummeted to its lowest level against most foreign currencies . . .

"There's a forecast that three million people will be unemployed by 1977 . . .

"BBC radio news at twelve o'clock. Another sharp rise in unemployment. The latest monthly figure . . .

"British Leyland shares have been suspended on the stock exchange at the company's request. Apparently, the aim is to end speculation before a Commons statement tomorrow . . .

"The British Steel Corporation have announced that they want drastic cuts in the labor force . . .

"On the business front generally, unemployment is suddenly a lot worse, not far from the million . . .

"More trouble at Fords in Dagenham—1200 workers in the body plant have been laid off because of a walkout by 18 door-hangers over a . . .

"Gravediggers in Suffolk have joined the borough-wide strike by their fellow transport and general workers, the dustmen, and this, according to local undertakers, is creating new problems . . ."

SAFER. Britain's great brain, its technical genius, is still there, but there's a strain of deep bitterness that somehow history has let the old team down, that the genius no longer pays off. Scientific creativity does not translate itself into jobs and exports. Ideas, from the jet engine to radar to television, get exported, but not the goods. The goods often come too soon or too late. The world wants their science, not their products. Somehow they misread the trends. Until quite recently, Britain dominated the world motorcycle market. Today, they're practically out of it. The biggest manufacturer was saved by the Government just to keep the workers employed. A London dealer explains how it happened.

SINGLETON. We are one of England's largest motorcycle dealers. Nine out of ten motorcycles that we sell are foreign. Now, perhaps this is the reason why. Let me show you how to start an average British motorcycle. [Pumps and starts motorcycle] And now I'll start a Japanese motorcycle. [Instantly starts motorcycle]

SAFER. A market lost for the want of a starter button.

Just 25 years ago, Britain was the world's biggest exporter of cars—bigger than Detroit on the world market. Now she can barely hold onto her own market. British-made cars stack up, waiting for buyers, while four out of ten cars on British roads are imports. The British subsidiary of Chrysler, plagued by labor disputes, has slowly gone to rot. In six months last year, Chrysler lost more than $30-million. The Government finally injected $326-million just to keep people working.

The giant of the auto industry is British Leyland. When Leyland is not strike-bound, it makes just about every British car you've ever heard of. It was losing a million dollars a day last summer when the Government stepped in and took over. It will take $6-billion to make Leyland competitive, maybe.

British Steel, completely nationalized eight years ago, is still losing $12-million a day. Nationalization of the steel industry, like the railroads, is part of socialist doctrine, but in other areas of the economy nationalization is just happening through the inefficiency of private enterprise. So now the Government is sole owner or part owner of scores of industries, from computers to the sugar business, from airplane engines to those motor bikes. And it's about to go into the oil business.

For a time it was thought that North Sea oil would be the bonanza that would save Britain from bankruptcy, but American oil men got the exploration rights from Britain for a song. The steel pipe being used is almost all Japanese. The oil rigs and platforms mostly come from Norway. The British Government has announced it will claim a 51% share of the actual oil; but by the time all the costs have been sorted out, it could become just another marginal enterprise as far as Great Britain is concerned.

If the aim of British socialism was to share the wealth, then the tragedy of British socialism may be that bankruptcy will occur before the new Jerusalem rises from the ashes of the old hell. Great stretches of Britain have not been touched by the economic planners, and maybe they never will. And again, you can see it in all those parts of Britain you never see—in the industrial Midlands, in the Northeast of England, and, if you want to, even in London, in the upper reaches of Paddington and the lower reaches of Westminster—the toiletless, heatless refugee London.

Disraeli, the great reformer, said it, and so did Lenin, the great revolutionary: "Two nations, Britain is two nations." In the welfare state, there are still nearly three million people living in houses that lack either heat or plumbing; a million houses unfit for habitation, but lived in nevertheless. In some sad and crazy way, progress in Britain is a thing of the past: 1875, not 1975.

Just imagine this nation and this people a hundred years ago—the pinnacle of military and industrial economic power, and the pinnacle of pride. To be born a Briton, they said, was to have won first prize in the lottery of life, no matter what your social station. This housing, built in Glasgow a hundred years ago for working men, was the best in the world, the envy of all those lesser nations. So, not only could Britannia rule the waves, but she could make every Briton live like a prince as well. But maybe nations grow weary when they reach those heights; maybe there's a time clock that runs through a nation, so that each new generation, instead of making a fresh beginning, simply grows older and more tired. People still live in these blocks, and they wait for the state to house them elsewhere. And the state, whether it's the socialists, who want to change everything, or the conservatives, who may want to change nothing, is waiting too—for the state has run out of money, and it's running out of time and running out of confidence, and may be running out of friends as well.

SAFER. Eleven years ago at Saint Paul's Cathedral I stood and watched an extraordinary parade of history. Churchill's funeral was a time for sadness and deep reflection for that part of the world that placed some value on liberty, on law, on a social order that endured through the mutual trust of a people; a social contract that would tolerate neither anarchy nor tyranny. And there it was that day for all the world to see on the faces of Englishmen—a people who had lived a life, not an apology. But Churchill was their last link with greatness. He was born into Great Britain in 1875 when it ruled a quarter of the world. He died in little England. Everyone knew it; no one wanted to believe it.

MUGGERIDGE. I mean, I think a nation, like a person, has so much creativity in it, and this creativity can be exhausted. Often it's happened throughout history. In that sense, of course, Churchill was an enormous handicap, because he, living as he did in romantic dreams of the past, he managed to persuade the British that they still were a great power; or at any rate, to produce the sort of outward semblance of a great power when they'd ceased to be one. And that's the worst possible thing. You know, he used to talk of the Big Three when, alas, there was only a Big Two.

SAFER. Churchill once said, "When other powerful nations were paralyzed by barbarism or internal war, we won for ourselves an exceptional share of the wealth and traffic of the world." And yet, in only 25 years, Britain has fallen from second place to fifth as a trading nation. In shipbuilding—from first to fifth. Steel making—third to eighth. And she's gone from third richest nation to twelfth. Britain, the financial capital of the world, the capital of capitals, now borrows more money than any other country in the world.

But she has not given up those things we expect from her.

All the tribal customs of a great power, the quirky posturings. The British have kept their eccentricity and the outward show of civility: that peculiar British way of looking at life, that splendid insularity that enabled this island to live at peace with itself for centuries. The rock and the salvation of that was the class system. You knew exactly where you came from, and you knew exactly where you were going. It was the strength of Britain's past, and perhaps the fatal weakness in her future. As for social change, well, everyone believed in the inevitability of gradualness, that talent for muddling through, for changing without really changing. That's why the class system has survived so long.

The boys in this photograph had their names put down for Eton College before they were born. They are the sons of old Etonians. They'd be amused if you described them as the ruling class, and they'd be horrified to learn that they weren't—but they are. The future bankers, businessmen and barristers. British democracy lived with the contradictions of the class system. It was not an act of Parliament; it was a social understanding.

At the top of the heap, the rich. Among them, there is no virtue quite like idleness. Their lives revolve around the social season. The regatta at Henley is a main event.

LOUDSPEAKER. Time—three minutes, thirty-five seconds. . . .

SAFER. Life at the top still seems to be a long summer weekend of strawberries and cream, of champagne and country houses.

You can almost tell class by face: by some standard, the best people; by no standard, the brightest. If the class system is to die, let another generation bury it. Meantime, it's Ascot, and Rodney and Fiona and the honourable what's-his-name are off for a flutter on the races. Good times, bad times, the parade goes on without restraint. They were supposed to be soaked by vicious taxes. Either they're so rich they're indestructible, or they're on what the British call "the fiddle"—not exactly cheating, not exactly not cheating. Their wealth has sought the best return it could find. Industrial Britain has been left to decay. A society can bear all the moral rot in the world, so long as the wages of sin are plowed back into the economy. Otherwise, you just have rot.

In the middle of the heap, the middle class. He is going nowhere, or he's already gone—emigrated to Canada, Australia or the United States, taking with him his brains, his ambition and incentive. He's the small businessman, the white-collar professional. He saw himself as the 20th century yeoman, the backbone of Britain; but he's been bled white by taxes, his savings wiped out by 25, 30 percent inflation. No union to protect him. He's resentful of the top, whose wealth he will never have; resentful of the bottom, whose lives are subsidized by his taxes. In this past year, his standard of living has declined.

MIDDLE-CLASS BRITON. My own salary has increased several times over. By the time you take tax and you take into account inflation, my purchasing power has been reduced, since 1965. Now, if I want to pay for private education, my—I'm going to have to cut down my holidays, and can only afford to run one car. So, there's personally quite a dramatic reversal. I don't think there's any incentive left at all.

SAFER. The British middle class, once the envy of Europe, a buffer against bloody revolution. He held that place in the sun that, it was hoped, the working class would aspire to. But now he is ridiculed by angry young men and kitchen-sink dramatists. He always believed that God was an Englishman, but now he is told God is dead. Middle-class values are a joke. Today, everything goes.

At the bottom of the heap, the working class. It may be the worst sort of generalization, but the British working class sees itself as working class. The American idea of constant upward movement somehow has not taken in these islands. Class loyalty has become the only loyalty, and the idea of British labor willingly given is as dead as the British Empire.

This is the exit gate of a Newcastle shipyard fifteen minutes before quitting time.

The people who gave us "There'll Always Be An England" now present another hit record—"I'm A Union Man."

[Song—"I'm A Union Man"]

SHOP STEWARD. These men'll work, if you'll give these men direct employment on the books in accordance with the working rule agreement.

Manager. You've stopped men employed directly by us going to their work this morning.

Shop Steward. We haven't stopped them. Those men have voluntarily decided to choose to support this because they don't like what's going on with your outfit and the way you're performing. That's right.

Manager. Well, I'm not accepting that from you. I'll ask the men myself. Cubits men, directly employed . . .

Safer. The man with the glasses has called a wildcat strike. The manager is resisting. It's no longer a question of wages and hours; it is a kind of class war.

Manager. Although you're directly employed, you don't want to come in and work for Cubits, is that right?

Shop Steward. Some—Some of these men have got twenty years—twenty-one years' service in with Cubits, and that's making us stand here today, and we're supporting them.

Manager. Well, it's a great pity.

Shop Steward. It ain't a great pity——

Manager. It's a great pity.

Shop Steward. Because these men will be work—[indistinct] with Cubits till they retire, mate, and we'll make sure of that.

Manager. Well, let me put it to your face. You know how I feel about you.

Shop Steward. I don't care what you feel about me.

Manager. You—You stay out—off this site, that's all.

Shop Steward. I don't care what you feel about me. I'm staying——

Manager. Just stay off this site.

Shop Steward. Here with these men until this battle's concluded.

Manager. You can stay here till bloody doomsday, but you don't come in on that site.

Shop Steward. On that job we're not working until these men are prop——

Manager. We'll see about that.

Shop Steward. Until these men are properly employed.

Safer. "I'm all right, Jack" has become the working man's motto. It means, "I've got my union to protect me, and the state to look after me." So why bother working? Every day 2,000 London dockers are paid to stay away from work, and that union agreement is for life. Overmanning has become the rule in industry. The British work force is over-manned by something like five million men. Being on one kind of fiddle or another has become a way of life. When the cost of living went up 25%, wages rose 30%. The unions could guarantee it.

Muggeridge. The—The most powerful people—and even in real values, the most economically powerful people—are the—are the big unions. They alone can make demands. If you—If—If all the directors of companies got together and went to the Government and demanded something, any Government, Tory or Labor, would laugh aloud at the mere idea of them lifting up their heads in this way. But if the leader of the Transport and General Workers Union, or the Electricians Union, or the Miners Union, make demands, these are very serious indeed, because they can result in strike action. And as has been demonstrated to us, strike action which can picket the power stations and therefore immobilize the whole energy system in the country, there's no means of dealing with it. Each time it's happened—Tory Government, Labor Government—total surrender.

Safer. Surrender by Government, retreat by capital. The thing about Britain's decline is that the evidence is so graphic. You can see the life that was by looking at the bones that are. This is the upper Clyde. Along the banks of the river in Glasgow are the remains of the shipyards that launched the mightiest fleet of freighters and men o' war the world has ever seen. The shipbuilding business is bad everywhere these days, but nowhere is it as forlorn as here. In 20 years, employment is down by almost half. The men up here have turned to this man, to Jimmy Reid, one of their own. Jimmy Reid is an official of the Engineering Workers Union, a community leader, and a dedicated Communist. He's an embittered man. If you look at the Clydeside through his eyes, you see the ghosts of the great ships—the Queen Elizabeth, the Queen Mary, the QE II—and you hear the deadly silence. Jimmy Reid blames it all on the greed of the owners, who made millions out of the backbreaking labor on the Clydeside, but put not a penny back into the yards. The villain, he says, is capitalism.

Jimmy Reid. What we're getting with British capitalism now is the degeneration of Britain. The regeneration of Britain, I think, can only come from fundamental changes. They've tampered about with British capitalism now for the last thirty, forty years, prescribing medicine that's killing the economy, and they're a bunch of political quacks. They should be written off the political register and consigned to where they belong in some ash can of history. They're—They're useless. Their—All—All their panaceas have failed, so we've really got to get down to fundamentals.

Safer. It's fair to say that trade union leaders, particularly Communist militants like yourself, have an extraordinary amount of power.

Reid. To some extent the British trade union movement is like a sleeping giant. When it does begin to stir, I think things will happen and things will change for the better in—in Britain. But that power has never been used. The mindless militants are in the board rooms, and—and it's about time the media paid more attention to these people and the—their total lack of patriotism. And the real subversives in Britain are in the board rooms. They're down in Threadneedle Street, the banking center of Britain, and that's where the subversives lie. And this monster picture that's been created of the British working class ruining the economy—If I wanted the British economy ruined, I would sit back and applaud the activities of successive Chancellors and Prime Ministers and the—the tycoons and the monopolists in this country. They're doing an—an excellent job of destroying Britain.

Safer. You say it's a class struggle—them versus us. Yet, one of the great strengths of this country over the years has been that sense of one people pulling together, all wanting the same things for themselves and for each other.

Reid. It sounds lovely, but it's a—it's absolute fiction, absolute fiction. You see, when you talk about Britain, I ask you, "Which Britain?" There's a Britain of the people that frequent Royal Ascot, spend a thousand quid on a hat, drink champagne, eat smoked salmon—never done any work in their life in terms of actual production of wealth and—and creation of wealth. And I suppose that this illusion—this illusion, this fiction, about Britain—homogenous in class, and privilege being secondary—Class and privilege are built into the infra-structure of British society, and if you're a decent human being at all, you want to end that.

Safer. There is a long radical tradition in British politics, an indulgence of the intellectuals like Bernard Shaw, and the so-called Establishment has nurtured them as precious eccentrics. So, you're more likely to find a man like Claud Cockburn, who's been calling for revolution for 50 years, in a place like the Cafe Royal in London than some factory floor in the Midlands.

Do you think events of the past few years—these excessive wage demands, extraordinary inflation, the pushing aside of parliamentary democracy—is part of a conscious conspiracy to change this country?

Claud Cockburn. What people don't think, they don't realize, is, you see, that this—this crisis—the collapse of England—has been going on since roughly 1896 (that was rather before you were born) when Britain lost its monopoly in the world, et cetera, et cetera, when the Americans, the Germans, and later the Japanese, horned in in their vulgar manner and started to prevent the British from getting all the fat in the world. This was where the whole thing began to decline.

Safer. One of the great treasures of this country is parliamentary democracy. Are we witnessing the end of that?

Cockburn. Yes, we are, and I welcome it—in the sense that I regard it as the—It's not the collapse of parliamentary democracy. It's the adaptation of parliamentary democracy, which will make it work better, and will become a genuine democracy, which it has ceased to be. I am basically a conservative. I—I want to—I want to preserve the best things in this country, as bad as I want—I want to save civilization.

Safer. What's the part you want to throw out?

Cockburn. I want to throw out inefficiency, hypocrisy. I want to throw out people who are pretending to—pretending to be British, I mean, to have all the British virtues, but in fact are only masquerading behind that in order to make two million quid or whatever it is. In fact, they all—most of the Establishment is doing just that. It's—It's racketeering on the British tradition. So, people let them get away with it, because they say—And things people couldn't get away with in Washington you can get away with in London, because they say, "Well, he's English, he couldn't have—he couldn't have done that, could he?" And in Washington everybody knows, yes, of course he could. But in Britain they can still hide behind this English gentleman. In fact, the English gentleman is very often the most corrupt man in the world. As Bernard Shaw once said, "You can trust an English gentleman with absolutely anything, except women and money."

Safer. So, what you're saying, really, is—although you've been dancing around it—is: What this country needs is a revolution of some kind.

Cockburn. Oh, I've been dancing around it? I thought I was saying it all the time. But the—I only mean that—that I think it'll happen, in—not in terms of, necessarily, of the way any revolution's happened anywhere else.

Safer. What Cockburn means is revolution the British way—the inevitability of gradualness. Last summer, Britain seemed to be in the terminal stages of gradualness, for the big unions were no longer simply negotiating for higher wages—they were demanding the entire economy, workers' control.

UNION MILITANTS MONTAGE

What's more, we're going to fight for the fundamental transformation of our society toward socialism.

All these are expressions from the ground floor of going forward to the ultimate of this workers' control.

Because this is the first time that I've known in industry that we've had a golden opportunity, by the way, to bring about many of the things that we've been trying to bring about for many years—and that's full workers' participation.

We've got to win the fundamental argument—that society in itself has got to be changed. And from there on, workers' control will flow naturally from it.

And we should demand from this NEC a united approach to workers' control in industry, recognizing that we're not going to be able to resolve the problems of capitalism without its elimination.

Make a revolution, not a resolution.

Safer. This isn't the revolution. It's the annual convention of the Durham coal miners.

There's a thirties look to it all—the banners recalling the triumphs of labor, heroes from the coal pits and heroes of the Labor party. There's only the look of solidarity. The old democratic left is divided by ideology, by economics, by plain bloodymindedness that has made a shambles of the Labor party. But they did have a great compromiser. He's hardly a giant, Prime Minister Wilson; a perfect example of post-war, post-Industrial man; a little overweight, a little undecided. He regards himself as a man of the center, but the center has become smaller and smaller. The party, like the country, is at its own throat. And yesterday, he withdrew himself. And so, in the Labor party what are the choices?

In the left of the Cabinet, Michael Foot, Employment Minister, a hardline socialist. And Anthony Wedgewood Benn, Minister of Energy. He calls for an end to all remnants of a capitalist economy. To the right, what might be called the social democrats. James Callaghan, Foreign Secretary. Roy Jenkins, Home Secretary. And Denis Healey, Chancellor of the Exchequer. He lives with the right, but his heart may be with the left.

In front of the Durham miners, Mr. Wilson walks his tightrope.

Prime Minister WILSON. The warning I gave on that occasion was, above all, a warning of jobs . . .

SAFER. But the power no longer resides with the politicians, for even a socialist Prime Minister has become a figurehead. Like the Queen, he dare not be controversial. Unlike the Queen, he does not receive polite attention.

Today, the British seem leaderless, and even the idea of a great person taking the nation in hand is an antique notion out of another time. Like his grandfather, young Winston Churchill is a Conservative member of Parliament.

WINSTON CHURCHILL, JR. One sees an enormous determination of the mass of people not to want to know the reality. A great ostrich syndrome. They want to bury their heads in the sand. And then, of course, in a few years' time, as indeed happened in 1938 and 1938, they suddenly turn around on everyone and say, "Well, why didn't you tell us what was happening?" But today, one sees the combination of the undermining of Western society and, indeed, Western belief in democracy and freedom, and in free enterprise, by the forces of the extreme left.

SAFER. The British weren't seeing phantom Communists, Marxists and Trotsykites under the bed; they were looking them in the eye across the negotiating table: in the National Union of Miners, the National Union of Local Government Officers, the National Union of Teachers, the National Union of Journalists.

There was a resolution by the militant wing of that union to get workers' control of the newspapers, and the right to judge whether individual reporters and editors are politically correct in their attitudes. They were supported by at least two members of the British Cabinet. Freedom of the press, the oldest and strongest of British freedoms, was under direct attack. There was open Communist influence or direct control in just about every major union in the country.

But the militant trade unionists, how did they get their power?

CHURCHILL. It is the combination of the apathy of the majority and the very steady, relentless, ruthless, even, determination of this politically motivated minority, who, mark you, are damn good trade unionists. They go out of their way to help individual trade unionists with any personal problems. They get them massive wage settlements, partly because of feckless management and weak-kneed Government, but also because of the industrial power they wield. And for this reason, many moderates, many non-Communists, have gone along with the militants in the unions. Whatever was the power of Hitler in 1939 and 1940, he certainly didn't have a Fifth Column in Britain.

SAFER. Roy Jenkins, the Cabinet Minister, a socialist, trying to keep British socialism democratic.

ROY JENKINS. I appeal to the audience, the great majority of sensible audience, left or right, to sit down and listen to the speeches. The essential of democracy is a willingness to hear the arguments with which you do not agree, and I have never heard a more hypocritical demonstration than those here this evening—[Applause, derisive boos]—who claim to be speaking in the name of some sort of democratic socialism. God knows what they think it is, but whose contribution is to make it clear that they cannot bear to listen to an argument they do not like. It is hypocrisy carried to its ultimate degree. And the impression it leaves on my mind, and will leave on the minds of many other people—it will be the beginning of the end of free speech and democracy in this country. [Cheers, jeers, derisive shoutings]

SAFER. A side to British life that had been contained or repressed was more and more in evidence. [Derisive jeerings, shoutings] Whether it was dock workers like these men, or civil servants, the people were angry—angry with themselves, with their own heritage. And for the first time, Britons were thinking of some kind, any kind, of authoritarian system. If that happens, Churchill once said, it would be contrary to the whole trend of British history and to the message Britain has given to the world.

MUGGERIDGE. Doctrinaire Marxists have very heavily infiltrated the trade union movement. Those men know about power. It's the one thing they know. And it's very significant, apropos of what you were talking about before, that they have never taken the slightest trouble to get into Parliament. They've never thought it worthwhile. They've put up a few dummy candidates, but they've never bothered with it. Where have they gone? They've gone onto the shop floor—shop stewards, union officials—and that's where they're very heavily embedded. And in that—in those positions, they are very powerful.

SAFER. I think it's very difficult for Americans to accept the idea that Britain could be taken over by Communist bureaucrats.

MUGGERIDGE. I've heard that so many times, you know. People said that to me about Czechoslovakia. They said it about Hungary. They said it about China. I've heard it said about almost every country that the Communists have taken over. You mark—You watch out. Those people never adjust themselves. But the truth is that, if and when they do take over in England, it will be just as when they've taken over in other countries. There'll be no question of adjusting—the people—the English people adjusting themselves to it or producing an English version of Communists—Communism. You—You can't produce a—a totalitarian creed of that kind which is based on certain propositions dictatorily imposed upon a people. There's no nice, gentlemanly, Etonian way of doing that.

SAFER. Do you think that the United States can look to this country now and learn something?

MUGGERIDGE. Well, I think they can look at England and not just learn something, because the circumstances that have produced this situation—the preponderant power of labor, the relative collapse of the power of money in the world—all these things, all those factors, operate exactly in—as in England in—in the United States. And—And what they should really do is send over a team of sociologists to study this place in the hopes that they might thereby be able, at any rate, to delay the coming to pass. The only snag about that is that the sociologists would all (a) be leftists, and (b) incapable of writing with any clarity about anything, so that the—the data which they would take back would be both phony and misleading. Otherwise, I think it would be a good idea.

SAFER. Is there no exit from Britain's economic and spiritual dilemma? Is it to be an unstable, depressed democracy or a poor and petty little bureaucracy? Tonight, the Labor party is thrashing around trying to find a leader who will be acceptable to the moderates and the militants. In effect, another Wilson. Regardless of who they choose, it's clear that Britain is a sick nation, looked upon by the international and industrial community as a bad investment. The pound sterling has sunk below two dollars. People speak not of economic recovery but economic survival. The Labor Government says increased taxes would result in what it calls "unacceptable consequences". The opposition Conservatives warn that the weight of Government—controls and taxation—represent a formidable threat to democracy. Well, opposition parties always talk that way. But there is a desperate edge to the pronouncements by both Government and opposition. It's as if they know that the central core of the British way of life is threatened, but do not know how to deal with it.

Britain still has its old look—civilized and important—but the life's gone out of it. She is standing at the precipice and looking down. No more muddling through, no more new glories. All that's left to rescue is her law, her justice, her self-respect—all those gifts she has given to the rest of us.

[From the Washington Post, Mar. 21, 1976]

BRITAIN'S MALAISE: WHO IS TO BLAME?

(By Hugh Mulligan)

LONDON.—Almost in the same week in this bitter time of economic discontent, the British way of life was buffeted by a series of headline-making storms blowing in from every direction.

Six thousand men walked off the job at Chrysler's Linwood, Scotland, plant over a minor pay dispute involving 57 men. The walkout threatened the $324 million government rescue plan for the strike-plagued American subsidiary.

At British Leyland's Cowley plant, which in the past 18 months lost nearly 3 million man-hours and production of 87,000 vehicles to wildcat strikes, 500 night shift workers went home after 10 men complained it was too cold. An earlier Leyland stoppage came about when a dozen workers complained that the shop floor smelled of cat urine.

Rolls-Royce announced it was closing two airplane engine plants and eliminating 6,000 jobs. Thorn Electrical shut down its color TV tube factory because of competition from Japan.

Unemployment reached a post-war high of nearly 1.5 million, some 6 per cent of the labor force. There were the usual Tory cries in Parliament for the Labor government to resign.

Joe Bugner, the British heavy-weight who went the distance with Muhammad Ali in a career that brought him a million dollars, threw in the towel against the tax man. He headed off to California "or maybe the Caribbean," joining Sean Connery, Tom Jones, Engelbert Humperdinck, Ringo Starr, the Rolling Stones, golfer Tony Jacklin and a host of other glamorous tax exiles.

The same day Bugner departed, 2,500 British doctors sat for an exam in London qualifying them to practice in America, and Italy's private hospitals began recruiting in Britain for 2,000 specialists. The British Medical Association issued another "brain drain" warning.

Lady Camoys wept as auctioneers began selling off the furnishings of Stonor Park, Britain's oldest family home, owned for 800 years by a prominent Catholic family that hid hunted priests during the purges of the Reformation. "We have gone bust," sobbed Lady Camoys. "Inflation, taxes and the Arab oil price increase have done what Cromwell couldn't: driven us from our home." Another 930 stately homes were threatened with demolition, according to a report by "Save Britain's Heritage," and in the past six months they disappeared at the rate of one a day.

A pair of reports showed how Britain's inflation, still the highest in the Common Market, and the tax collector had eroded the take-home pay of wage earners at opposite ends of the social spectrum. A confidential Labor Party analysis showed that as a man's earnings rose from $50 a week to $120, the state took back 83 per cent in taxes and withdrawn benefits, so the $120-a-week worker's take-home was only $12 ahead of someone making less than half as much. The other report, by a royal commission on the distribution of wealth, showed that the "real earnings" of Britain's top managers in the $40,000 bracket had slipped 25 per cent in six years and were "substantially lower than in most developed countries."

"Even the Red Queen in Alice would have been hard pressed to think up any fiscal system half as crazy as the one we have to live with," remarked playwright William Douglas-Home, author of a dozen West End hits and brother of the former Tory prime minister, who let it be known that he was seriously considering joining the tax exodus.

THE END OF THE TUNNEL?

Ironically, this calendar of calamity unfolded just as the economic gloom seemed to be lifting a bit. Recovery might be on the way, if not yet in sight, even through the pound sterling dipped below $2 this month for the first time in history. Prime Minister Harold Wilson, who announced last week he will resign because af age, assured a banquet of London bankers that the war on inflation was being won, thanks to trade union acceptance of his $12-a-week pay raise limit. From a ruinous 28 per cent in 1975, the rate of inflation had braked to near 15 per cent, though still twice that of trade rivals.

Moderate candidates won out over Marxist extremists and Trotskyite militants for control of several powerful unions, including construction trades, electrical workers and Leyland's hapless Cowley plant, a prognosis that the chronic "British disease" of open class warfare on the shop floor might not be fatal after all.

Britain's nationalized industries, after gobbling up $18 billion in tax grants and loans over the years and running at a combined deficit of $2 billion a year, were told by the Labor Party prime minister to put production and profits ahead of social goals like full employment. Top businessmen were being brought in to run state-owned industries previously in the hands of civil servants and subject to frequent tampering by politicians—a condition which resulted in too many obsolete plants employing too many people at too many sites.

The Confederation of British Industry, this country's equivalent of the American Manufacturers Association, issued its most optimistic "state of industry" survey in two years. Indicators showed order books filling up, investment in the private sector increasing and confidence in the economy returning, although labor cuts would continue.

"MUDDLE MILE"

Amid the good news and the bad, diagnosing the British disease has become a major sport, open to all comers, amateur and professional, especially popular with Oxford dons, back benchers of every political hue, financial writers at home and abroad, television talk show personalities and consultants in every local pub.

There is a growing body of thought that Britain actually is mourning the centennial of her decline, that her economy began to recede as the Industrial Revolution, which she brought about, was taken over by developing countries and colonies with greater natural resources. Britain today imports half her food and most key raw materials except coal, although her balance of trade should improve greatly when North Sea oil starts to flow.

As for the "brain drain," Britain has been exiling her best and brightest since the palmiest days of Empire to run the gold mines, tea and tobacco plantations and far-flung territorial governments. Even now its bankers are more inclined to export their capital than to invest in home industries crying out for expansion and modernization. London is the hub of the gold trade, the commodity market, world banking and marine insurance, which accounts for the far-away look in her eye.

A number of economists blame the prevalence of the British disease and its undying notions of class struggle between management and labor on the failed plans of recent governments that encouraged the view all problems could be solved by an incomes policy or a treasury handout.

"British economic policy still tends to lurch from one half-baked expedient to another," says Oxford economist Peter Oppenheimer. "It lacks the judiciousness and assurance that come from a clear appreciation of what government can achieve and what must be left to the economy at large to do."

Cambridge economist Malcolm Fisher notes that "in Britain there seems to be a prevalent belief that people can get something for nothing—that the government can overcome all obstacles."

Ralph Harris, director of the Institute of Economic Affairs, warns, "There will be no lasting recovery from economic debility until policy combines monetary discipline with wealth-creating incentives, both made possible by a severe deflation of the bloated government sector."

Others blame a system of government, albeit the envy of the world, that entrusts planning and management of the economy to an entrenched civil service. The engine room of the British parliamentary system is said to be located beneath "muddle mile," the collection of high-windowed Victorian buildings between Westminster Abbey and Trafalgar Square where a mandarin class of university-trained non-specialists—meaning amateurs—run the various government ministries.

In Britain when a govenment falls and a new prime minister enters 10 Downing St., less than 1,000 bureaucrats change jobs or even move offices. At the treasury and other repositories of real power, a meritocracy of the middle class goes about its appointed chores of running huge industries, allocating huge sums, building airports, highways and schools. In his controversial diaries, the late Richard Crossman charged bitterly that these amiable amateurs, working within sound of Big Ben's bong, were able to sabotage Labor government policies and pursue their own plans.

Similarly, private industry in Britain has long recruited its top management from among retired civil servants and retired officers, which increases the class friction in labor relations.

Shop stewards are not the only echelon under suspicion of being work-shy. British managers, Labor MP Brian Sedgemore told a symposium at the London School of Economics, "complain about lazy workers when any foreign businessman seeking to buy British goods will tell you that if you try to contact many managers outside the hours of 10 a.m. to noon, they are unobtainable. Apparently outside these hours they preside over Britain's decline and fall like Roman generals of old, in their pubs, clubs and sauna baths."

LOW PRODUCTIVITY

If the virus strain is difficult to isolate, the debilitating effects of the British disease are manifest on the production line.

A tough cabinet "think tank" report on the declining British auto industry, which has slipped into fifth place behind the United States, France, Italy and Japan in production, had hard things to say about the assembly line worker:

"With the same power at his elbow and doing the same job as his continental counterpart, a British car assembly worker produces only half as much output per shift."

Ford U.K., for instance, with plant and tooling directly comparable to Ford Germany, achieved about only half the output per worker. The British Mini takes 232 man-hours to assemble, against 100 for the Belgian Mini. Cars rolled off British assembly lines with "more faults than on those assembled elsewhere."

The message was not new. Henry Ford II created a furor a few years back when he pronounced Ford's German sedan more reliable than the identical British model, which car workers have labeled the "Dagenham Dustbin."

A Financial Times survey comparing production and sales performance of Britain's nationalized industries with European competitors turned up uniformly dreary results. British Airways finished last among seven, British Railways last among eight, British Gas last among 10, the National Coal Board last among five. British Steel, with nearly 230,000 workers, was not only last among eight but had lower sales than Germany's August Thyssen-Hutte with only 92,000 on the payroll.

"Overmanning," lamented Auberon Waugh in the New Statesman, is "a sacred British institution. When the Post Office faces a huge deficit, it will cut its services rather than its labor force."

Paul Johnson, Socialist former editor of the New Statesman, announced in the conservative Daily Telegraph that he had grown weary of union officials who "rarely think beyond next Friday's pay packet. They concentrate on immediate high money wages and ignore the long-term prosperity of their firm.

"This is why Britain now has the lowest living standards of any industrialized West European country—indeed, its per capita income has now been passed by East Germany."

Charging "gross overmanning in steel, chemicals, printing, motorcars, heavy engineering . . . railways, the Post Office, British Airways and local government services," he cited the case of the brand new steel mill at Llanwern, Wales, "the finest of its kind in Europe, where production was held up for 11 months while obstinate and short-sighted union leaders argued about wage rates for working it."

Left-wing ideologues on the shop floor, nurturing old class hatreds, have produced what Conservative MP Angus Maude calls a coterie of "latter-day Luddites" opposed to technological progress and plant modernization.

British dockers defeated a new barge transfer system, successful on the continent, that promised new life for the port of Hull. Faced with serious problems of "product quality" plus a fall in demand that brought about losses of $10 million in two years, Imperial Typewriter, a subsidiary of Litton Industries, shut down its factories in Leicester and Hull. A tempest erupted over the teacups in the House of Commons when a committee ordered new crockery for the dining rooms from Bavaria with the explanation that Britain's famed china manufacturers could not deliver on time for Parliament's reopening.

"Because of industrial action," a BBC announcer intoned on a recent night. "It is not possible to bring you the 6 o'clock news. Instead, we have a selection of dances by the Strauss family," whom time presumably had rendered immune to the British disease.

A DECLINING LIFE STYLE

Every day the economic malignancy withers away the quality of British life. People dine out less, make fewer phone calls, take a bus instead of a taxi, pass up holidays, put off painting the house.

Forty years ago London's Underground set a standard for elegance, design and service that was the envy of subway systems around the world. Recent fare hikes have made it the most expensive public transport in Europe without halting the decay that has allowed it, in the words of author Anthony Sampson, to "degenerate into subterranean slums . . . where millions of Londoners spend an hour a day in conditions underground which they would never tolerate in their offices or at home."

Three or four years ago, the affluent British middle class was buying cozy villas in Spain and Portugal and on the islands in the Mediterranean. Now the Arabs, Persians and Lebanese have taken over the holiday real estate market, in addition to buying up huge chunks of London's best residential properties. Nearly every other home currently sold in London goes to an overseas buyer, and 2 in every 3 of those came from the Middle East.

While Lord Camoys was selling off his stuffed birds, a 17th Century four-poster bed and the other contents of Stonor Park and the Marquess of Northhampton was giving up the 100-room Elizabethan castle she no longer could afford to move into a four-bedroom rectory and the Duke of Devonshire, also in the red, was organizing a list of patrons to save his 12,000-acre stately home at Chatsworth, Prince Nawaf of Saudi Arabia was plunking down $600,000 for a 27-year lease on a town house in Knightsbridge, Sheikh Zaid of Abu Dhabi was paying a half million for a mansion in Kensington and Saudi Sheikh Yamani, who kept Harrod's open for an extra 75 minutes so his teenaged daughters could do their Christmas shopping, was paying $140,000 for a fifth-floor flat in Belgravia.

Before the bank manager informed her she was "dead broke," Lady Camoys tried to keep 800-year-old Stonor House and its surrounding 300-acre deer park going "with two dailies (maids who came in), a resident Italian gardener and myself." When Lord Camoys was growing up, there was "a cook, a kitchen maid and a scullery maid, two housemaids and an in-between maid who went rushing about, a personal lady's maid, a nanny and a nursery maid, a minimum of four gardeners, three gamekeepers, two woodsmen, an estate foreman, a brick layer and a carpenter. This is after the automobile came along, so there were no coachmen or blacksmiths. You must remember the Camoys were a Catholic family who lived very simply. They led the life of a country squire, not a grand duke."

GALLOWS HUMOR

On the other side of the tracks, times are tough, too.

In Coventry, hub of the Midlands auto industry, unemployment is expected to rise from 16,000 to 25,000 by the end of summer. Shopkeepers, color TV rental companies and home improvement firms already are feeling the pinch in this proud city of working class homeowners, where the city council has loaned out more than $100 million in mortgages. There have been some foreclosures on defaulters, but the council and the local building societies are making arrangements for delayed payments in anticipation of long dole lines and a steady economic decline.

A record number of bankruptcies last year, most of them involving small businesses, diminished Napoleon's description of Britain as "a nation of shopkeepers." There were signs that a revolt of blue collar workers and homeowners was rising against government spending and tax policies which could install Conservative Margaret Thatcher in 10 Downing St. as Britain's first woman prime minister.

In the delirium brought on by the British disease, economic dreamers on the far left saw Britain rising from her sickbed in shining socialist shrouds as "the Yugoslavia of the West." Aghast Tory traditionalists saw her in danger of becoming "just another seedy socialist republic."

With extreme unction, one despairing Cambridge debater read his own version of the last rites for a doomed nation: "Britain is going down the drain with a loud sucking sound that is the Prime Minister drawing vacuously on his pipe."

The fact that there was laughter, loud and ringing, from all sides of the hall shows the British have not lost their capacity to muddle back once again from the brink.

In the gloom there was even room for the first of the Concorde jokes: "A plane that can fly you away from Britain these days at twice the speed of sound can't be all bad."

TIMELY DISCIPLINE NEEDED FOR REFORMING FEDERAL REGULATION

Mr. PERCY. Mr. President, regulatory reform is one of the crucial issues currently confronting the Congress. There has been growing awareness lately of just how serious the problems with government regulations are.

In this respect, I would like to share with my colleagues an excellent five-part Associated Press series from the March 15–19, 1976, editions of the Chicago Daily News. In these articles, Associated Press investigative reporters Brooks Jackson and Evans Witt present a well-balanced description of some of the excessive costs imposed by Federal regulation.

The second article, "Federal Regulators Shape Your Life-Style Every Day" is especially informative, and disturbing. Jackson and Witt set out to describe where and how Federal regulations affect the life of a typical family in a single day. That influence is so pervasive that in the space allotted they are only able to get up to 1:10 p.m.

The opening article of the series has a very appropriate title: "U.S. Regulators—Into Everything." It is in an effort to deal with this vast range of government regulation that Assistant Majority Leader Robert Byrd and I introduced S. 2812, the Regulatory Reform Act of 1976. Given the sheer size of the subject, we recognized that no one solution will be the best, or even be applicable, for all regulatory problems. Consequently, S. 2812 was designed to establish a procedure through which the best approach can be identified and adopted in each area of concern.

I am pleased to report that, as a result of the demonstrated interest in responsible reform shown by Chairman Ribicoff, hearings will be held on S. 2812 in the Government Operations Committee in mid-May.

Mr. President, I take pleasure in asking that the distinguished senior Senator from Florida (Mr. Chiles), the distinguished senior Senator from Maryland (Mr. Mathias), and the distinguished junior Senator from New Mexico (Mr. Domenici) be added as cosponsors of S. 2812.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Also, I ask unanimous consent that the five-article Associated Press series, as it appeared in the Chicago Daily News, be printed in the Record, because of its timely insights into the highly complex subject of Government regulation.

There being no objection, the material was ordered to be printed in the Record as follows:

[From the Chicago Daily News, Mar. 15, 1976]

U.S. Regulators—Into Everything

(By Brooks Jackson and Evans Witt)

They decide that factory stairways must be at least 22 inches wide, and they protect bank depositors from losing billions of dollars in savings.

They won't allow cut-rate, $135-a-person airline service between New York and London, and they make commercial radio and television broadcasting feasible.

They bungle, and drive a toymaker to the edge of bankruptcy. They succeed, and save motorists' lives.

They have a voice in what Americans eat, breathe, wear and drive.

"They" are the unelected federal regulators a growing band that now makes more rules directly affecting the people than do the elected members of Congress.

In the past decade, three Presidents and Congress have vastly increased the regulators' reach and power. The number of major regulatory agencies has doubled to 24 since 1965, and they now employ 105,000 persons, up from 58,455. And the cost to taxpayers has more than doubled.

Nobody in the federal government keeps track of all the forms that departments and agencies send out to people and businesses. An Associated Press survey turned up more than 9,800. An estimated 556 million responses are sent back every year, with hundreds of millions of hours needed to gather the data and complete the forms.

This explosion in federal regulation has created a reaction.

President Ford accuses the regulators of "petty tyranny," joining other presidential candidates in seeming to attack the very government they seek to lead. Republican candidate Ronald Reagan says business and government bureaucrats share a "warm cocoon" in regulation that protects both. Democrat Jimmy Carter pledges to consolidate many government agencies into simpler, more responsive ones. Even Ralph Nader, who inspired much of the new safety regulation, wants to get rid of regulators he says are wasteful. In short, big government has become a big issue.

Critics blame the regulators for business failures, accuse them of sloth and needless nit-picking and scorn them as parasites or dictators.

The drive for change has taken on the name of regulatory reform.

Are the criticisms justified? Will Congress reverse its decade-long trend toward centralized regulation?

The answer to both questions is yes. And no.

It is true that, in sheer bulk, Washington's body of regulations is big and getting bigger. The Code of Federal Regulations, containing only the basic standing rules set down by the bureaucracy, already packs a shelf 15 feet long with 60,000 book-size pages of fine print.

The number of pages has grown 20 per cent a year for the past several years, and new regulations are being added every day.

A library of Congress study found that in 1974, Congress passed 404 laws while the federal bureaucracy churned out 7,496 new or amended regulations. That's 18 regulations for every law.

And most of the regulations carry the force of law, meaning violators could be subject to fines or jail.

The budgets and number of employees of the regulators have soared in the last decade. In 1965, the 12 major agencies spent $860 million, employing 58,455 people.

President Ford's proposed budget for this coming fiscal year lists $3.8 billion for the 24 major agencies and 105,000 employes.

That means the cost of regulation has gone from $4.43 per American to about $10.36, adjusted for inflation.

This growth came as Washington answered demands for cleaner air and water, for less job discrimination against blacks, browns, women and the elderly, for safer autos, workplaces and consumer products, and for more honest elections.

The result is a sea of alphabet soup. EPA, OSHA, NATSA.

That's the Environmental Protection Agency, the Occupational Safety and Health Administration and the National Highway Traffic Safety Administration. Then there's the FEA, FEC and the EEOC. The list goes on and on. And on.

Regulators still make up a tiny minority within the federal government. The current $3.8 billion for the 24 major agencies is less than 1 per cent of Ford's proposed budget. Yet their impact, once confined to a few industries—transportation, communications, agriculture, finance and drugs—has spread to many unaccustomed areas.

Federal job safety inspectors can fine a New York girdle maker $500 for locking his emergency fire doors. It happened recently to Anita Foundations Inc.

Auto safety officials press California, Utah and Illinois to force motorcyclists to wear approved crash helmets.

Pollution officials are moving to outlaw traditional marine toilets on even the smallest cruising boats, requiring either waste-treatment devices costing $400 and up or inexpensive but inconvenient tanks that hold waste on board.

President Ford's aides in the Office of Management and Budget has guessed that regulation's cost is $130 billion a year in artifically inflated prices, additional costs to business and lost productivity. This estimate equals about $2,000 for each family.

Does the regulation do any good? Frequently, yes.

The 3,451 people with accounts at a Houston bank didn't lose their savings when the bank collapsed. The Federal Deposit Insurance Corp. paid them $12.2 million. Of course, some say there should be more federal regulation of banks to prevent such failures.

Not all governmental nitpicking is needless. Late last year, the Food and Drug Administration got a court order to seize imported boar-bristle brushes from a Los Angeles importer because the brushes were contaminated with lice eggs.

Even the auto manufacturers concede that federal auto safety regulations save motorists' lives, probably by the thousands.

And America's air is measurably cleaner since EPA began work.

[From the Chicago Daily News, Mar. 16, 1976]

FEDERAL REGULATORS SHAPE YOUR LIFE-STYLE EVERY DAY

(By Brooks Jackson and Evans Witt)

ALLENTOWN, PA.—At 7:45 a.m., Nancy Ruddell sits down for her first cup of morning coffee, adding an artificial sweetener containing saccharin.

"Contains no cyclamate" reads the little packet of Shop Rite Superior Quality Sweetener. Cyclamate lacks saccharin's bitter aftertaste, but it cannot be sold for human consumption because of a U.S. Food and Drug Administration (FDA) ruling in 1969.

This day, started at 6:15 a.m., is a normal one for Tom and Nancy Ruddell. They take their two children to school; Tom goes to work at Pennsylvania Power & Light; Nancy makes two shopping trips; and they give a small party.

But throughout this day, the Ruddells' lives—and those of every American—are shaped by federal regulations.

The effects of most regulations slip by unnoticed, like Department of Agriculture's fat content for the choice beef sold at the local supermarket.

Others are not so hidden, like the required seat belt ignition interlock on Nancy's red Volvo station wagon, which she calls "a constant pain in the neck."

Every family in this eastern Pennsylvania town, where the Liberty Bell was hidden from British troops in 1777 in the Zion Reformed Church, is affected by the rules made in Washington, D.C. So is every family in the country.

At the Ruddell home, things go this way today:

6:15 a.m.—A burst from the alarm clock.

6:25 a.m.—Geoffrey, 5, slips out of pajamas that are flame retardant because the Consumer Product Safety Commission requires sleepwear for children to be so treated.

6:50 a.m.—Three quarts of Abbotts homogenized milk deposited earlier in the morning outside the back door are brought in by Geoffrey. Nancy makes a mix of the milk and reconstituted Shop Rite Instant Non-Fat Dry Milk, cutting the drink's calories and cholesterol. But the resulting mixture also is cheaper than ordinary skim milk because the U.S. Department of Agriculture sets a higher support price for skim milk than whole milk.

7:37 a.m.—Jennifer, 10, and Geoffrey take the Hess's brand of Fruit Flavored Chewable Multiple Vitamins. A bit later, Tom and Nancy both take a multivitamin made by the Treasury Drug Co. for the J. C. Penney Co.

The manufacture and labeling of vitamins are regulated by the Food and Drug Administration, but Sen. William Proxmire, (D-Wis.) is sponsoring a bill to prohibit the FDA from regulating the potency of such diet supplements. This would mean consumers would be able to buy massive doses of various vitamins, whether or not the FDA concludes such doses have a medical benefit.

7:50 a.m.—Tom starts for work. The federally mandated seat belt alarm on his Audi sedan doesn't make a shrill buzz when he turns the ignition key. It's been disconnected. "It's my way of protesting the system."

8:14 a.m.—Nancy backs her station wagon out of the garage on the way to take Jennifer, 10, to school. She pulls a small grayish box out of the glove compartment, presses its button and the garage door closes.

The box is a low-powered radio transmitter, a Wickes model 116–56, which was built to meet Federal Communications Commission standards.

But FCC rules are just not something Nancy thinks about. She notices the label on the back of the transmitter for the first time:

"This label is required by FCC rules. Do not remove."

8:19 a.m.—Jennifer carries her homemade lunch of a ham-and-tomato sandwich into the Union Terrace School. Many other students at Jennifer's public school will eat a lunch prepared at the school cafeteria, federally subsidized at about 23 cents for each lunch.

The Department of Agriculture requires that, to qualify for the subsidy, the school must serve a "Type A" lunch, which the department specifies must contain, 2 ounces of meat or a meat substitute, ¾ cup of at least two vegetables or fruits, bread, butter and a half pint of milk.

8:35 a.m.—The federal government is constantly looking over Nancy's shoulder as she buys the family groceries at the big, brilliantly illuminated Shop Rite supermarket.

Nancy picks up a two-pound jar of Skippy peanut butter, which the FDA says can be called peanut butter because it is 90 per cent peanuts. Any less, the FDA says, it must be called "peanut spread."

12:17 p.m.—Nancy makes her second shopping stop of the day at the Allentown Farmers Market, where mostly Pennsylvania grown produce is sold in stalls in the open-air market, largely free from federal control.

Nancy buys apples and cheese.

Both are sold by farmers under federal agricultural marketing orders, which are designed to control supply and allocate income among producers. The federal government also props up the price of cheese by keeping foreign cheese out of the country and by buying quantities of American cheese when prices fall.

1:10 p.m.—Tom goes over a report at his office. It shows, based on a poll of the company's supervisory officers, that 23 federal bodies either receive reports from Pennsylvania Power & Light or affect its business in some way. The Agriculture Department loans money for rural electric service, the Environmental Protection Agency controls smokestack pollutants at generating stations, the Federal Power Commission controls wholesale prices on interstate sales of electricity to other utilities, the Equal Employment Opportunity Commission wants to know about PP&L's minority-group employes . . . the list goes on.

So numerous are the government connections that PP&L has launched a project, in which Tom is involved, to consider whether to set up a new company department to handle all contacts with federal and state authorities.

[From the Chicago Daily News, Mar. 17, 1976]

PRICE OF REGULATION: WASTE, HIGH COSTS

(By Brooks Jackson and Evans Witt)

Because of federal regulation, it costs almost twice as much to fly from Chicago to Minneapolis as it does to fly between San Francisco and Los Angeles, even though the trips cover about the same distance.

A New Jersey company wastes 90,000 gallons of fuel a year because the government won't let the parent company's trucks carry goods for its Florida subsidiary.

Two groups filed competing applications for a radio station license in California's Central Valley 26 years ago, but the government hasn't made up its mind which application to approve.

In 1972, growers left 14,000 tons of cherries to rot in orchards because of a federal marketing order designed to keep prices up.

Inflated prices, waste, delay: these are the price Americans pay for federal agencies to regulate prices and control competition in private business.

The agencies' defenders—including generally the industries they regulate—say the costs of regulation are justified by providing services to sparsely populated areas, stabilizing prices and preventing strong firms from squeezing weaker ones out of business.

But an odd alliance of consumer advocates and conservatives reject these arguments and say many agencies' powers should be drastically cut. Ralph Nader and Ronald Reagan, Sen. Edward M. Kennedy and President Ford are among those who have called for massive changes at the Interstate Commerce Commission, Civil Aeronautics Board and other agencies.

Perhaps the clearest example of the costs of economic regulation comes with the in·

terstate airlines, which are regulated as to fares and routes by the CAB. Airlines that fly solely within a state are not subject to the CAB.

Pacific Southwest Airlines flies thousands of people every day between San Francisco and Los Angeles for $25.50 one way. That's a 347-mile trip within the state of California.

The Northwest Orient fare between Chicago and Minneapolis—about 355 miles—is $45.37. Thus, that fare, controlled by the CAB, is close to twice the far regulated only by a state government.

The CAB and major airlines argue that the concept of "public service" must be added to the cost equation. They say many smaller cities and towns would lose air service, or have it only at the higher rates, because such service is not profitable. The CAB now requires carriers to fly such routes, and the carriers argue that the profits from other routes must support the money-losing ones.

"If you think those major airlines make any money by going into those little towns, of course, "they don't," says Sen. Hubert Humphrey (D-Minn.). But it's part of a service. It's like Rural Free Delivery. We've got a lot of city slickers that don't think farmers ought to get their mail either."

The "public service" concept has led the CAB to order so many flights that it has to calculate fares on the assumption that 45 to 50 per cent of the seats on each plane will be empty. This "load factor" means wasted fuel and higher fares to make up for the empty seats.

Since there is little or no competition in fares among the airlines, the competition is reduced to expensive, but not necessarily significant areas—free champagne or drinks, stewardesses' uniforms and the variety of meals. In general, the airlines that stay within a state do not offer such frills, another reason for their lower rates.

A regulatory decision can mean millions of dollars for a company and touch thousands of people. Because of the complexity of the issues and the constitutional mandate to hear all sides, agencies often take years to decide cases.

But sometimes the cases stretch interminably.

At the Interstate Commerce Commission it has been 13 years since the Union Pacific Rd. asked to merge with the Rock Island Line, which was in financial trouble. Thousands of pages of testimony have been taken on the issues.

But now the Rock Island Line is bankrupt, and Union Pacific really doesn't want to merge any more.

On Jan. 12, the ICC once again extended the time limits for another six months for anyone interested in the case to express an opinion.

[From the Chicago Daily News, Mar. 18, 1976]

Do Regulators Save Lives?

(By Brooks Jackson and Evans Witt)

WASHINGTON.—America's highway death rate is one-third lower than it was 10 years ago when Washington began requiring safety equipment on cars.

The level of eye-burning sulphur dioxide in the nation's air has dropped 25 per cent since federal environmental controls were imposed five years ago.

If this decade of expanded federal regulation has saved lives and reduced pollution, it has also extended Washington's reach into the lives of individual citizens in ways never before experienced in this country

Since 1965, the number of major regulatory agencies has doubled from 12 to 24.

This new regulation costs money. And the record of progress has been uneven and assertions of progress hard to justify. The 5-year-old Occupational Safety and Health Administration, for example, has yet to produce solid evidence it has reduced job deaths and injuries.

But some of the agencies have made an obvious mark. The antidiscrimination laws enforced by the Equal Employment Opportunity Commission have helped blacks and other minorities increase the number of technical and professional jobs they hold by one-third.

The record of the Traffic Safety Administration, one of the first in the recent surge of new agencies, shows in a nutshell the benefits and costs of the new wave of federal regulation.

Highways are safer now. Deaths and disabling injuries have been averted, probably by the thousands. Cars cost more. And when the bureaucracy becomes too eager, it can do more harm than good.

When Congress established the agency in 1966, the traffic death rate had reversed its historic slide and had been increasing for five years. More than 50,000 were killed on highways that year, a record at the time.

Today, after nearly a decade of regulation, the death rate per passenger mile is the lowest since statistics have been kept.

A dramatic number of auto fatalities were prevented in 1974 as the byproduct of the energy crisis, the 55 mile-per-hour speed limit and a reduction in highway travel.

But last year, as speed edged up and travel resumed its upward climb, the actual number of highway deaths did not increase and the death-rate per mile continued to drop.

Even Ford Motor Co., which says regulations are becoming excessive and too expensive, estimates that cars equipped to meet 1971 safety standards kill and injure about 25 per cent fewer people than unregulated cars.

Such protection costs money. Ford estimates its 1971 Pinto carried $120 in federally required safety equipment. That soared to $325 for a 1975 model with new side-door reinforcing beams, stronger roof supports, heavier bumpers and seat belt warning systems.

In the five years since it was formed, the highly controversial Occupational Safety and Health Administration has produced no reliable indication that it has saved many workmen's lives or prevented any significant number of serious job injuries.

In fact, there is still no agreement on even how many workers are killed each year in job accidents. The Bureau of Labor Statistics estimates 5,900 died from job accidents or diseases in 1974, a projection based on reports by 600,000 employers.

But the National Safety Council says its analysis of death certificates shows work accidents caused 13,400 deaths that year.

As evidence of their effectiveness, federal job-safety officials point to a reported drop in the 1973 injury rates in such industries as logging, longshoring and roofing, the "target industries" where OSHA concentrated early enforcement efforts.

Yet the rates of serious injuries—those that resulted in lost workdays—went up in three out of the five industries in 1973. In 1974, when no special enforcement efforts were made, the rate of serious injuries declined in three and went up in two.

In short, the statistics for the very industries where OSHA concentrated its efforts, show no trend in one direction or another.

If OSHA can't yet claim any clear victory, it as least has the satisfaction of proving its critics wrong on a number of counts.

[From the Chicago Daily News, Mar. 19, 1976]

Congress Weighing Curbs on Regulators

(By Brooks Jackson and Evans Wilt)

Slash government control of airlines and truckers. Lighten the burden of federal paperwork. Let bad agencies die automatically. Veto the regulator's regulations.

After a decade of expanding federal control of American life, Congress is considering these and similar proposals with various degrees of seriousness. Congress is clearly having second thoughts.

Momentum has shifted toward reconsideration of the extent to which bureaucratic decisions, made largely by unelected officials, should rule the nation's life and business.

Perhaps the best prospect for quick passage is a proposal to allow either house of Congress to block new regulations simply by a majority vote. Presently it takes a law passed by both houses to overturn a regulation—as happened after the Department of Transportation required seat belt interlocks on new cars.

House sponsor Elliott Levitas (D-Ga.) thinks the regulators would be more careful if their regulations—1,495 in 1974—could be rejected more easily by Congress. In that year, Congress passed only 404 laws.

But critics say Congress is not equipped to handle the flood of regulations and that the congressional review period would simply mean more delay and another chance for pressure groups to push their views.

An idea with demonstrated support would put limits on the life of any new government agency and perhaps on some old ones too. The idea, dubbed "the sunset amendment," would kill the agencies after a certain period unless Congress and the President think they are doing a good enough job to deserve a continuation.

Plans also have been offered in the Senate and House to insert self-destruct clauses in the charters of nine federal agencies, a move to force congressional review of their performance.

Another plan, sponsored by Senators Robert Byrd (D-W. Va.) and Charles Percy (R-Ill.) would require the President to offer a new plan each year for five years to eliminate wasteful and unneeded regulations in specified areas, including bank, safety, pollution and others. The President's plans would be adopted automatically unless Congress blocked them or substituted its own. Under this proposal, the built-in inertia of Congress would work in favor of change and not against it.

Congress now is seriously studying removing government controls that restrict free competition between businesses, especially in the transportation industry.

Some agree with UCLA professor George Hilton:

"The Interstate Commerce Commission should be abolished, its building torn down and the ground sown with salt."

A more modest plan by the Ford administration advocates loosening, but not abolishing, economic regulation of railroads, airlines and trucks. It suggests greater flexibility in setting rates and more freedom to offer new services or cut unprofitable ones.

A modified version of Ford's railroad proposal was enacted recently, tied to federal takeover of seven financially ailing railroads.

One novel idea would eliminate volumes of government regulations and lay off platoons of inspectors and clerks almost at a single-stroke; tax rather than regulate such things as auto emissions, gasoline consumption and industrial accidents.

"We've got to find a way to let people's greed work for us, and not against," says Charles Schultze of the Brookings Institution, budget director in Lyndon B. Johnson's administration.

Robert Stewart Smith of Cornell University, a Labor Department analyst during the Nixon administration, would junk the voluminous safety rulebook of the Occupational Safety and Health Administration and substitute a tax on injuries and deaths.

A poll of 2,900 people—conducted by a New York firm for the National Advertising Council—found 43 per cent saying there is too little regulation. Only 22 per cent said there is too much, with the rest having mixed feelings or no opinion.

Another survey, by the Institute of Social Research at the University of Michigan, whose consumer confidence surveys are widely used by business, found two-thirds of the 1,431 people questioned were satisfied with their last contact with government.

Yet many politicians say their constituents don't trust government, especially since Watergate. And they say joblessness and rising prices are making voters ask whether they can afford the high cost of cleaner air, safer autos or regulated air and truck rates.

TOXIC SUBSTANCES CONTROL ACT

Mr. TUNNEY. Mr. President, in anticipation of the upcoming vote on the Toxic Substances Control Act, I bring to the attention of our colleagues some new evidence which further illustrates the immediate need for legislation to control the introduction of hazardous chemicals into the environment. Compiling this evidence has not been a difficult chore. During the past week, on every single day some new horror story has appeared in the morning paper resulting from the increased concentration of pollutants in the schoolroom, workplace, and home.

I ask unanimous consent that two articles from the March 25, 1976, Washington Post be printed in the Record. The articles are entitled "Goodrich To Probe Possible Link Between Rubber-Making, Leukemia" and "Looking into a Link Between Textiles and Cancer."

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 25, 1976]

Goodrich To Probe Possible Link Between Rubber-Making, Leukemia

(By Dan Morgan)

The B. F. Goodrich Co. announced yesterday that it would investigate a possible link between synthetic rubber manufacturing and leukemia after finding that five employees of its Texas plant had contracted the disease since 1966.

At the same time, doctors at the National Institute for Occupational Safety and Health said that private research already was underway to determine the effect on workers' health of styrene chemicals used in such manufacturing.

Drs. Joseph Wagner and Robert Kraft of NIOSH's Division of Surveillance in Cincinnati said in a telephone interview that further study was "very much in order" and deserved "immediate attention" after the Goodrich findings.

They said that the existence of a cancer hazard in the multibillion-dollar synthetic rubber industry would have broad economic impact.

The leukemia cases turned up at the Goodrich Port Neches plant, which makes synthetic rubber for tires and conveyor belts in a process involving the chemical substances styrene and butadiene.

Dr. M. N. Johnson, the company's director of environmental health, said that a 59-year-old man employed at the plant died in February and another worker who became ill with leukemia recently is receiving treatment.

Two retired employees, 76 and 64, died of the disease since 1971, and a man who had left the plant for another job died in 1966.

Cleveland Lane, manager of public affairs communications, said that the company planned to launch a "complete epidemiological study" to determine if there was a link and what substances were responsible.

There are 453 production workers at the Port Neches plant. NIOSH officials in Cincinnati said that, given that total number of employees, the number of leukemia cases turned up was "potentially significant."

But they added that more information was needed about job turnover and general health of present and former employees to determine if the findings were "just the tip of an iceberg."

The discovery of the leukemia cases came as a result of an exhaustive study of employee health records after vinyl chloride used in manufacturing by Goodrich and other companies was linked to a rare liver cancer.

Vinyl chloride is not involved in Goodrich's Texas operations.

NIOSH officials said that the industry and the Oil, Chemical and Atomic Workers Union were sponsoring research on the health impact of styrenes by Harvard and North Carolina Universities.

Employees and unions at the Texas plant were informed yesterday of the leukemia findings, and NIOSH also was informed.

Dr. Anthony J. McMichael, of the Department of Epidemiology at the University of North Carolina in Chapel Hill, said yesterday that there had been a "fairly consistent excess of leukemia deaths" at synthetic rubber company plants studied during the research project.

He said that the number of deaths had varied, but that the death rate for lymphatic leukemia, a particular type of the disease, was higher than for other types.

Lymphatic leukemia is a cancer of white blood cells that chiefly occurs late in life, after the age of 50.

[From the Washington Post, Mar. 25, 1976]

Looking Into a Link Between Textiles and Cancer

(By Douglas B. Feaver)

An environmental group asked yesterday for federal regulatory action to reduce the exposure of children to the flame-retardant chemical used in sleepwear because it may be cancer-causing.

The nonprofit, Washington-based Environmental Defense Fund petitioned the Consumer Product Safety Commission to require that garments using the chemical be labeled, "Contains the flame retardant tris. Should be washed at least three times prior to wearing."

Tris is the industrial trade name for a compound known technically as (2,3-dibromopropyl) phosphate. It is widely used by the textile industry as the flame retardant in fabrics for children's sleepwear.

A spokesman for the American Textile Manufacturers Institute said the studies on which the Environmental Defense Fund is basing its petition are "somewhat inconclusive as far as humans are concerned." He pledged the trade association's cooperation in further investigation of the matter.

Legislation requiring flame-retardant pajamas for children was won by consumers after a lengthy battle. Retardants have been required in all children's pajamas manufactured through size 6X since July, 1973, and through size 14 since last May.

But the flame retardant has come under suspicion as a cancer-causing substance because of recent studies by the Environmental Protection Agency, a group of Cornell University and by DuPont Chemical.

Those studies show that tris in certain laboratory conditions, causes mutations in cells. That does not prove that tris is carcinogenic, but it raises the question, according to a number of scientists interviewed.

Fabrics containing tris, the textile manufacturers spokesman said, constitute about 1 per cent of a $30 billion annual textile market in the United States. Tris also is used in carpets, drapes and other fabrics that are manufactured to flame-retardant specifications. The petition, however, restricted itself to wearing apparel.

The National Cancer Institute of the National Institutes of Health has just begun a study of tris because of the findings of other scientists, according to Dr. John Cooper. A definitive finding as to whether a substance is carcinogenic will take three to four years, he said.

The EDF said in its petition, "we believe that the current data does not support a ban on tris," but that "immediate action should be taken to inform the public of the potential hazards."

It recommends triple washing of sleepwear before use because studies have found that "surface tris can be reduced by greater than 95 per cent, while the total amount in the fabric will be reduced by only 12 percent." Fabrics are supposed to remain flame retardant through 50 washings.

Tris may be absorbed through the skin or ingested by infants, who frequently put pajama sleeves in their mouths, the petition said.

Robert Harris, the associate director of the Environmental Defense Fund, said in an interview that "this has really been a tough one. We don't want to scare hell out of everybody. It was a long battle to get flame retardants in the pajamas. But we think the public school know about this data."

Harris is the man who developed the data showing a statistical relationship between cancer death rates in New Orleans and the existence of known and suspected carcinogens in the Mississippi River, the New Orleans drinking water supply.

The petition on sleepwear also urges the Consumer Products Safety Commission to require tests of any other chemicals that might be used as flame retardants. The commission must reply initially within 30 days.

"BRITANNICA THREE"

Mr. BUCKLEY. Mr. President, we take for granted the Scriptural promise that "the truth shall make you free." What we often forget, however, is that there is a converse to that truism. It is less assuring but equally absolute: falsehood shall make slaves of us all.

We have in recent years learned to our sorrow that, while deceit is always bad, it is, in positions of power and prominence, horrendously destructive. That is as true in intellectual affairs as in politics, in the academic community as in government. And that is why the newest edition of the Encyclopedia Britannica is more than disappointing to those who had considered that publication a superb source of objective information. Its editors, for reasons which are difficult to fathom, assigned many of its key articles to the authorship of Marxists, not only from Western countries but also from the Soviet Union. On the other hand, a commissioned article on civil disobedience by the distinguished conservative scholar, Ernest van den Haag, was rejected by the editors for reasons of their own.

These and other alarming facts about the "Britannica Three" have been brought to light by Samuel McCracken, an assistant to the president of Boston University, in an article in the February issue of Commentary. I am sure that my colleagues will find his exposé informative, for it transcends our individual political views to address a greater matter: if the pillars of academic research are eroded by Marxist distortions then it is only a matter of time before the entire structure of learning comes tumbling down in ruins. If it is true that the American people have, to a degree, lost faith in their Government because of the deceptions which it has sometimes practiced upon them, then it is likewise inevitable that, for much the same reasons, they will lose all respect for their educational institutions.

That does not have to happen. But to prevent it, this country's educators must work to regain the confidence of the American people. Toward that goal, their first step might be a public review of "Britannica Three."

I believe that would well serve the life of the mind in America. Moreover, it would reaffirm the scholarly objectivity which remains the best—indeed, the only—basis for true academic freedom. To give this subject the open scrutiny it deserves, I ask unanimous consent that Mr. McCracken's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Scandal of "Britannica 3"

(Samuel McCracken)

The *Encyclopaedia Britannica* is, despite its name, an American institution. For over half a century, it has been published in the United States under American ownership, including that of Sears, Roebuck & Co. In public reputation, the *Britannica* has no serious rival, and a copy of the current edition is an essential in each of the country's thousands of public and educational libraries.

The recently-published 15th edition[1] represents the first thorough reworking of the *Britannica* since 1929. The decision to overhaul was undertaken, according to the editor, partially on structural grounds. As he explains it in his Preface, the structure of the *Britannica* had grown visibly more obscure over the years because revision—begun on a yearly basis in 1936—had been carried out with little regard for the original plan of the work. As a result, the encyclopedia[2] had gradually lost coherent design, and had become a collection of increasingly unrelated articles. The present edition was undertaken, among other reasons, to restore a sense of plan to the *Britannica*. There is no doubt that it is planned, and with a vengeance. But it is not clear whether the plan is an improvement, or merely an eccentric innovation.

Although known on its title page as the 15th edition, the new work is merchandised as *Britannica 3*. A more accurate, but perhaps less merchandisable, way of putting it would be "3 *Britannicas*." Or "*Britannica* in Thirds." The first section is known for some reason as the *Propaedia*, a term which must have been coined by the editors, since it occurs in no known language. The *Propaedia* fills one volume and contains a variety of ancillary material as well as an elaborate subject-index arranged according to one of those comprehensive partitions of all knowledge familiar to anyone who has come within hailing distance of the Great Books. The second section, the *Micropaedia*, comprises ten volumes containing brief articles (750 words or less), voluminous cross-references (the only alphabetical index supplied with *Britannica 3*), and abstracts of the 4,027 articles contained in the major segment of the encyclopedia, which is known as the *Macropaedia*. This third section contains the major articles and runs to nineteen volumes.

This arrangement has nothing to recommend it except commercial novelty. The *Propaedia*, at least, is harmless, for there is nothing in it that might profitably have been printed elsewhere. But the dismembering of the body of the *Britanica* into mini- and maxi-pedias is not only devoid of benefits, it has also given us the spectacle of a ten-volume index for nineteen-volume work.

There is something to be said for distinguishing between topics best dealt with in small fragments and those best integrated into larger and more comprehensive essays. But nowhere in *Britannica 3* or its publicity have its editors justified their decision to isolate the two types physically. They merely assert its desirability: "It made eminent sense to collect these major articles into one part of the encyclopaedia. Previous editions had scattered them, according to the whims of the alphabet, among a host of shorter, factual entries." The major articles are still scattered in the *Macropaedia* according to the whims of the alphabet, and it would be interesting to know why the editors did not organize them topically rather than alphabetically, a practice with distinguished antecedents in the history of encyclopedias. Is it possible that at one time it was intended to do just this, and is the *Macropaedia* the fossil record of an abandoned intention?

The *Micropaedia* was fabricated in a novel way. Although a certain amount of its almanac-like material is no doubt original, the majority of its brief articles—those that are not simply abridgements of the articles in the *Macropaedia*—are staff-produced abridgements of articles from the 14th edition.[3] That is, none of this material has had the benefit of vetting by experts. It does not seem that the Editor was particularly proud of this process, for although he has in several places written with great fullness about the manner in which *Britannica 3* was produced, the one process he never describes is the cannibalization of the 14th edition and, following digestion, its regurgitation as the *Micropaedia*. Although the names of the authors of the original articles are supplied in an appendix, being described vaguely as "authorities" for the *Micropaedia*, the *Britannica* never makes clear that the work of these scholars has simply been exploited as fodder for the none-too-tender attention of the rewrite men.

The *Micropaedia* faithfully reflects its conception and birth: it is just the sort of encyclopedia one would expect rewrite men to produce. It is rife with exactly the kind of unexplained inconsistency and eccentricity that the editor makes a point of claiming to avoid. It affects, for example, to use British spellings, though not in every case and according to no discernible principle. Yet it is alphabetized with a thoroughness that makes the telephone book look random. All kings named Henry I come in one series, followed by all kings named Henry II, and so forth. King John, lacking a numeral, is idiotically filed as John of England, between John of Damascus and John of Ephesus, placing him well after all the other kings named John, and far away from where the reader is likely to look for him. Proper names are said to be in the form used by their bearers unless there is a danger of obscurity, but the rule is applied very inconsistently (the German kings named Ludwig are listed as Louis), and although Japanese names are, as claimed, listed with family name first, sometimes the article itself confuses given and family names.

Equally erratic is the *Britannica's* practice of identifying modern governmental jurisdictions for various historical place names. This is an admirable practice in itself but it is better done not at all than done badly, as so often here. Thus, the Danish physicist Olaus Römer is said to have been born in "Aarhus, Jutland, now in Denmark," leaving presumably countless readers with the false impression that in the 17th century Jutland was not in Denmark. What is the significance of such an error? The maker must be pretty ignorant of Danish geography—a minor defect, perhaps, but surely intolerable in someone who is trying to be authoritative about Denmark.

The biography of Thomas Arundel, an Archbishop of Canterbury who died in 1414, is illustrated with Ruben's portrait of Thomas Howard, second Earl of Arundel, who died in 1646. The person (or persons) who made this and other similar errors must have almost no sense of how people have looked in the past, even in periods that are well-represented in paintings. Nor is the linguistic scholarship of the *Micropaedia* above reproach. An alleged illustration of the first bestiary in English is not only of another manuscript, but of one in Latin.

To be sure, these errors, turned up in a few minutes' browsing, are fairly trivial ones, but as a matter of fact it is for exactly this sort of minor detail that encyclopedias are apt to be relied upon. An encyclopedia that is often wrong on such matters is like a clock that strikes thirteen: by committing a preposterous and blatant mistake, it puts all that it says into doubt.

Such errors of simple incompetence, however, can at least be remedied by a careful program of revision. A more serious class of defects involves not minor errors of fact, but serious misstatements and sometimes even downright nonsense. These are the fruit of entrusting the adaptation of the *Micropaedia* to people who are not only ignorant of the fields involved, but also who seem to have trouble reading an original text and understanding it. All too often, the abridged *Micropaedia* entries resemble nothing so much as papers cribbed from the *Britannica* by an incompetent high-school sophomore: a required quantity of verbiage gets transcribed, but somehow the facts are never quite right.

The entry on René Coty, last President of the Fourth French Republic, is a good example. Coty, we are told, "was generally unable to take forceful actions to resolve the multiple ills that plagued the Fourth Republic." If this is meant to imply that another President of the Republic might have taken forceful action and solved its ills, then the reviser knows nothing whatever about the French Republic since 1875. The only hint for this misunderstanding in the 14th edition is the statement that Coty was less active than his predecessor in "trying to influence policy." Further, we are told: "In May 1958, the Algerian crisis exploded, and, in the face of a coup d'état, Coty resigned to be succeeded by General Charles de Gaulle and a new constitution." Except for the date of the Algerian crisis, this is all wrong. Coty did not resign, but threatened to do so if de Gaulle were not made Prime Minister. When he was, Coty continued in office for another six months until de Gaulle became President under the new constitution of the Fifth Republic. One can only conclude that the author of this *pastiche* was unable to read the clear statements of the 14th edition and compress them without major error. If this is the sort of thing that results "from the most exhaustive fact checking ever imposed on copy for a general encyclopaedia," one trembles to think what a more casual checking might have produced.

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[1] Encyclopaedia Britannica, Inc., 30 volumes, $699.00.

[2] Commentary's style is to use the preferred American spelling; the *Britannica* follows the English spelling. Hence the discrepancy throughout this article.—Ed.

[3] The 14th edition was in circulation between 1929 and 1974, but is ceased to carry an edition number after 1940.

Another example of the high school student at work is in the entry for Napoleon's brother, Joseph Bonaparte, of whom it is said that "as eldest brother Joseph claimed to be Napoleon's legitimate heir since both he and his brother were childless." There are three important things wrong with this statement: the term "legitimate heir" is redundant; Napoleon was not childless; whether or not Joseph was childless is irrelevant to the question of whether or not he was an heir. If one turns to the article in the 14th edition from which this rigamarole was cribbed, one understands how an uninformed rewrite man might have produced it, for the account to be found there is of the situation prevailing at the founding of the Empire in 1802. Napoleon was at that point childless, and the question of an heir to the new throne did indeed arise. As Napoleon's elder brother, Joseph did claim to be his heir, and Napoleon, for reasons that should be obvious, rejected the claim. The transcriber of these facts unknowingly lifted them out of the context that gave them precision, and generalized them into a nearly meaningless hash.

One last example is too apposite to omit: in his Foreword, Robert M. Hutchins makes the claim that the 14th edition was strong on facts but weak on setting them into context: "If one wanted to discover the birthday of Marie Antoinette [to send her flowers?] . . . one could do so and be confident of the accuracy of the information received. It was harder to discern Marie Antoinette's place in history." Whether or not the new *Britannica* in fact does a better job of getting Marie Antoinette set into the context of history than the 14th did, it has certainly done worse on her family, for her great-niece Marie-Louise is said to be at the same time the niece of Marie Antoinette and (*mirabile dictu!*) the daughter of her father as well. It may be well to let sleeping Hapsburgs lie.

As worrisome as the constant small errors that deface the *Micropaedia* is the bleary sense of proportion. There is an inordinate fascination with minor figures, so long as they are topical: all the astronauts' biographies are here, as well as those of numerous professional sports figures, including in such comparatively minor fields as golf. No doubt a certain proportion of the *Britannica's* readership finds these interesting, but surely the space could have been put to better use. How often does one have occasion to look up the birthplace of an astronaut? And why, for that matter, in a work that claims to be internationally oriented, are nearly all these sports figures Americans? For a foreigner to get in, it seems he must be a world-famous celebrity like the Brazilian soccer-player Pele; the English footballer George Best, as sensational a figure off the pitch as on it, does not appear.

These idiosyncrasies of proportion are not limited to sports. Gifford Pinchot, who is generally acknowledged as one of the great public servants of this century—founder of the Yale school of forestry, two-time governor of Pennsylvania, dean of the American conservation movement, instrumental in the founding of Theodore Roosevelt's Bull Moose party—is allotted a scant 3½ inches of space; on the same page. P. B. S. Pinchback, a comparatively obscure black Reconstruction politician from Louisiana, is given 11 inches. Pinchback's entry is a useful one, demonstrating among other things how far superior he and the other Reconstruction black legislators were to the stereotyped image held of them, but his career simply was not of the magnitude to warrant such expatiation, given the severe compression enforced upon Pinchot. There is more than a suggestion of some misguided notion of affirmative action at work here, made even harder to take by the fact that for Scott Joplin there is no entry.

To turn from the *Micropaedia*—so often apparently untouched by human mind—to the *Macropaedia* is a relief, for here at last we are faced with articles apparently written, and even proofread to some extent, by actual scholars, and the difference is immediately apparent. Much of the *Macropaedia* is of superior quality. Though it falls short of being that seamless web of knowledge claimed for it by its fabricators, still there are within its compass any number of first-rate articles. Although I am not able to comment on its substance, the writing on science—particularly in the area of zoology—is generally distinguished by its lucidity and elegance. The essay on visual arts in the West, especially the section on architecture, is exemplary. And a number of other articles as well are worthy of the tradition established by the 11th edition, and indeed add to it. It is sad that the editors of *Britannica 3* were not content with such solid excellence, and went wantoning after the strange god of innovation for its own sake.

But even the *Macropaedia* sometimes nods and falls out of its chair. The article on the topic "Encyclopaedia" is an especially spectacular example. The outline provided for it is confusing merely to read, and within the body of the text the author commits such enormities as identifying the Third New International Dictionary ("Webster III") as an encyclopedia; it may be remembered that the total exclusion of encyclopedia material from this dictionary occasioned wide protest on its publication in 1961. The account of the history of hobbies is unbelievably naive in its understanding of the place of leisure. Hobbies are alleged to have been formerly denied to the proletariat, so that scrimshaw appears not as the product of the leisure time of sailors but as an object for the delectation of the hobby-pursuing middle class.

By far the most serious flaw in Britannica 3, however, and one which is beginning to cause a major scandal in scholarly circles, is its political tendentiousness, not to say its outright bias. This is to be seen most obviously when one compares the entries for New York and Moscow. The former describes a city in crisis, beset with crime, drug addiction, random sadism, slum housing, and a variety of other problems which will come as no surprise to New Yorkers. The author has not made any of this up, and he has also included much that is favorable about New York, but the impression remains of an ungovernable garrison city on the verge of capture.

In the article on Moscow, by contrast, we find ourselves not merely on a different continent, but in a different universe. All is upbeat, even cheerful; World War II was only a passing phase: "By 1950, the painful traces of this conflict had been eliminated, and the capital had undergone a transformation unparalleled by any other major world capital." No unpleasant reality is allowed to intrude, save perhaps for the inadvertent admission contained in the statement that the government's "gigantic" housing program has as its goal (date of attainment unspecified) a flat of its very own for every Muscovite family and in that flat a room of his own for every Muscovite.

The language in which the Moscow article is written is at first puzzling—not quite American or British English, but still very good; upon reflection, one realizes it is the English one hears on Radio Moscow—the correct but clearly distinctive English of a cultural bureaucracy. And with good reason: the initials appended to the article belong to one Ivan Kirillovich Myachin, described as Head of Section, Mysl Publishing House, Moscow.

Mr. Myachin may be perfectly trustworthy in certain respects: there seems, for example, no reason to doubt his account of the Moscow subway. It's what he leaves out that is bothersome. Eloquent about the role of the Moscow workers in the revolution of 1905, and the October revolution of 1917, he simply ignores the revolution of March 1917—the revolution which deposed the Czar and brought to power the short-lived liberal regime headed by Alexander Kerensky. Mr. Myachin is equally reticent about more contemporary matters. Would not as hard a look at Moscow as is here applied to New York have turned up a thing or two wrong with the Soviet capital? Crime on the streets may be pretty well under control in Moscow, but what about crime under the streets, say in the cellars of Lubyanka prison?

Taken together, these two articles illustrate a perfect double standard. And though a Muscovite reading the article on Moscow would presumably know better than to take Mr. Myachin quite literally, a Nigerian reader equally uninformed about both cities and attempting to compare them would be bound to draw exceedingly unfavorable conclusions about New York.

The same travelogue air pervades all the articles on Eastern European countries and for the same reason: all of them have been written by government employees. Those on the Soviet Republics were actually supplied to the *Britannica* by Novosti, the official Soviet press agency.

The implications of this fact may take a moment to sink in: these *Britannica* articles have, perforce, been passed through the crystalline lattices of Soviet censorship. As surely as that censorship pulled the plug on the American networks on the occasion of Richard Nixon's last visit to Moscow, it controls, courtesy of the *Britannica*, what many Americans will know of Eastern Europe. The article on Czechoslovakia is typical of the view they will get: it somehow forgets to mention the events of August 1968. The *Britannica* does not actually suppress these unpleasant events; it simply squirrels them away in an article entitled, "Bohemia and Czechoslovakia, History of," the great virtue of such a heading being that it safely prevents the topic from getting in the way of the sunny present.

The *Britannica's* selection of authors for these articles has been justified on the principle of having foreign countries discussed by nationals of those countries. If this principle had governed the 14th edition, one can imagine who would have written the article on Germany for the 1938 revision.

The travelogue is not confined to the *Macropaedia*. The *Micropaedia* contains an article on the so-called "Karelian Autonomous Soviet Socialist Republic," in which we are told of that statelet's great progress since "the Great October Socialist Revolution." This surrender to the explicit jargon of totalitarianism comes on a small point, but it shows how far *Britannica 3* is from having any way of insuring even verbal neutrality.

The problem of political bias in *Britannica 3* goes deeper, however, than travel brochures handed out by Communist governments. In such articles, at least, the bias is easily spotted and may be allowed for by a moderately knowledgeable reader. But there are also articles by American scholars which are less blatantly, though no less dangerously, biased. One such case is the article on international relations by the historian William Appleman Williams, which sets forth the familiar revisionist interpretation of American culpability for the cold war. There is nothing inherently wrong with contributions by revisionist historians, of whom Williams is certainly among the best, but such contributors owe their readers some acknowledgement of their own position in the ideological spectrum, as well as of the range of opinion on the subject under scrutiny. These Williams does not supply. After a perfunctory sketch of the opposing view, he goes on to make highly debatable assertions as though they were self-evident.

Thus, writing about John Foster Dulles's foreign policy, Williams states that "Dulles's rhetoric about liberating the people under Communism could not be acted upon because such an effort would very probably produce a nuclear war (just as if the Soviets had intervened to liberate Mexico or Canada)."

In a world in which the Soviet Union has three times sent tanks against civilians in order to maintain its Eastern European empire, this casual equation of America's relation to Canada and Mexico with Russia's relation to its satellites amounts to deliberate deception. Such an equation would be excessive even according to the ground rules of avowed polemic; in a piece of alleged neutral scholarship it is inadmissible.

The further one looks, the more examples one finds of such bias. In the article on colonialism—which is here made interchangeable, incidentally, with imperialism—the period from 1945 to 1970 is covered by Harry Magdoff, an editor of the Marxist *Monthly Review*. Not surprisingly, the Soviet Union figures in Mr. Magdoff's discussion only as one of colonialism's opponents. In his account of colonization and imperialism he ignores the USSR's occupation and annexation of Estonia, Latvia, and Lithuania, and its annexation of portions of Poland and Germany. In his discussion of decolonization, he ignores the Central Asian colonies acquired by the Czars and to this day held on to by the Soviets. And in his discussion of neocolonialism (which he defines as "the existence of considerable foreign direction over a nominally independent nation") he ignores the empire maintained by the Soviets in Eastern Europe. He, too, ignores the invasion of Czechoslovakia in August 1968. We can look forward, in the next revision, to his account of Angola.

The editors of the *Britannica* walked onto thin ice when they assigned such obviously loaded subjects to such writers. Worse, they clearly made little or no attempt to square the text these writers produced with their own announced principle that "Articles should . . . avoid expressions of bias or prejudice on any matter about which a respectable and reasonable difference of opinion exists . . . ," and that "in all areas in which the scholarly world acknowledges significant and reputable differences of opinion, diverse views concerning such differences should be fairly presented, though the majority or accepted view may be so designated."

The fate suffered by Ernest van den Haag's article on civil disobedience is instructive in this connection. The article had originally been commissioned by the present Editor's predecessor, according to van den Haag's account of the episode,[4] and had been both accepted and paid for. When, in due course, he failed to receive galley proofs, the author queried the new Editor, who replied that owing to a "reorganization" the article would not be appearing. Further inquiries elicited the information that the article had in the end been judged not sufficiently "encyclopaedic," and that the *Britannica* had decided not to publish any article at all on civil disobedience because "we do not now think that we will be able to obtain at this time an encyclopaedically acceptable, dialectically neutral article on the subject."

As it happens the *Micropaedia* does contain a brief and rather innocuous article on civil disobedience, though on allied subjects there is an extraordinary reserve; the entries on "Freedom of Speech" and "Freedom of the Press," for example, are each one-sentence long and contain one cross-reference apiece. But this is beside the point. Equally beside the point are the merits of van den Haag's article, a scholarly and non-tendentious treatment of a complex subject, which was published both in the *National Review* and later as a Harper Torchbook. The real point is that the principle of "dialectical neutrality" by which van den Haag's piece was judged is invoked selectively and perversely by the editors. It is not applied to Marxist polemic, but is spuriously employed to silence a prominent conservative scholar, regardless of the merits of his contribution. It is almost as if the Editor had decided to reject van den Haag's piece unread.

Where does the blame for all this lie? Warren Preece, the editor, whose talents are glowingly described in the Foreword by Robert M. Hutchins, is the man officially in charge. Some of the flavor of Mr. Preece's operation is conveyed in a recent article by him in the *Britannica's* house organ, in which he jocularly reveals that shortly after a world-famous authority in linguistics had agreed to write for the encyclopedia, his chained body was fished out of an Eastern European river. When application was made on my behalf to Mr. Preece's office for the name of the central figure in so sensational an episode, his secretary said that he had forgotten the details, and that the records in the case had lamentably been destroyed.

That such a memorable incident seems to have escaped from Mr. Preece's memory and his records alike does not speak well for the tightness of his editorial ship. But given the tangled infrastructure and far-flung advisory network of the *Britannica*, it is hard to lay responsibility at any one office door. The matter is still further complicated by the equivocal relation between the *Britannica* and the University of Chicago.

Facing the title page of each volume of the *Britannica* is the statement that "The *Encyclopaedia Britannica* is published with the editorial advice of the faculties of the University of Chicago; a committee of persons holding academic appointments at the Universities of Oxford, Cambridge, London, and Edinburgh; a committee at the University of Toronto; and committees drawn from members of the faculties of the University of Tokyo and the Australian National University." Under this statement, as if to make the point quite clear, appears the coat of arms of the University of Chicago.

The statement itself is worded with exquisite care: it is only by checking a list in the back of the *Propaedia* that one discovers that the "committee at the University of Toronto" is not composed of faculty of that university, but rather of editors of its press. There is nothing wrong, of course, with having advice from university-press editors; one wonders why the editors of the *Britannica* seem to be at pains to disguise the true nature of this committee.

Who in fact serves on these committees? According to the list in the *Propaedia*, there are a number of very distinguished names among them, but there is no way of knowing just what these individuals do, or whether they have any role in setting policy. Nor, for that matter, is there any way of knowing just what is meant by "the editorial advice of the faculties of the University of Chicago," since it is obvious that those faculties do not gather to read the *Britannica* proofs. Whatever the exact nature of this advisory function, it is clear that the benefits accruing from the Chicago connection matter less than the inestimable prestige and legitimation conferred by the appearance of university sponsorship.

It must be remembered that the *Encyclopaedia Britannica* is produced, published, and distributed, not by the University of Chicago, but by a commercial enterprise called Encyclopaedia Britannica, Inc. According to the Federal Trade Commission, this corporation's sales practices include recruiting salesmen with the bait of nonexistent "executive" positions, gaining entry to houses on false pretexts, and falsely claiming that the sales price represents a sharp discount. Such practices have involved Encyclopaedia Britannica, Inc. in litigation before the FTC for the past thirty years, and an FTC judge has recently once again held them unlawful and ordered the company to cease and desist from them. It is probably generally assumed—with how little foundation should be apparent—that the intellectual standards of the *Britannica* are those of the University of Chicago rather than of dance-lesson salesmen. The Chicago connection is the principal reason for this general assumption, and the connection is therefore of immense benefit to Encyclopaedia Britannica, Inc.

What the university for its part gets out of the arrangement is less clear. According to a statement printed in the 14th edition, the university receives a royalty in exchange for its editorial services, but has no control over the operation of the *Britannica*. In effect, then, the university, whether wittingly or not, allows its name, and the prestige that it confers, to serve as a kind of trademark for a commercial enterprise which consistently fails to live up to its own intellectual standards, and to the university's as well.

Robert M. Hutchins has described the editors of *Britannica 3* as pioneers. After they had established their design "the question became one of execution . . . there were no models to imitate and no horrible examples to shun." One of these deficiencies has been made good by *Britannica 3* itself: they have their horrible example now.

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[4] In the *National Review*, January 21, 1972.

SENIOR CITIZENS OF SOUTHEAST IOWA

Mr. CLARK. Mr. President, I want to take this opportunity to express my full support and appreciation for the activities of this Nation's area agencies on aging.

More than 400 regions, which together contain 70 percent of our senior citizens, have area agencies on aging in operation. These agencies, which are authorized under the Older Americans Act, coordinate a number of services that have made a significant contribution to the lives of senior citizens.

The nutrition program for the elderly provides a hot meal each day to more than 200,000 older Americans throughout the country. Other programs include homemaker services, home health services, and model projects in education, housing, and transportation.

However, I am distressed by the fact that the administration intends to cut back on the funding of senior citizen programs for the coming year:

The State and community programs on aging would be reduced by $8 million from the fiscal 1975 outlays;

The nutrition program for the elderly would be cut by $27 million from the 1975 spending level;

No funds have been requested for the training program, the older Americans community service employment program, or the multipurpose senior centers program.

I urge the Congress to demonstrate its commitment to senior citizens by rejecting these proposals.

Despite the financial obstacles forced upon area agencies on aging, I am extremely proud of the efforts that they have made in recent years.

An example of the great strides by these agencies can be found in Ottumwa, Iowa. Among the services provided for the elderly in that area are tax preparation assistance, senior transit service, a senior citizen center, and nutrition programs.

I ask unanimous consent that an editorial in the Ottumwa Courier of Monday, March 15, 1976, be printed in the Record. This editorial describes in greater detail the efforts made by the local area agency on aging to improve the lives of the senior citizens of southeast Iowa.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

We're Good to Seniors

If there's any segment of our population that Ottumwa does its darndest for, its our senior citizens.

Iowa and the nation are doing a creditable job with aid for the elderly, but Ottumwa and Ottumwans have done a fanastic job for seniors.

The Area Agency on Aging is involved in many of the programs for seniors here, but private businesses and charitable groups also play their parts.

Here are just a few of the services and programs and benefits available to southeast Iowans who fit into the broad classification of "senior citizens." This isn't meant to be a full accounting. There are certain to be some important benefits for seniors that we've overlooked.

1. Persons 65 or older get additional deductions when computing federal and state income taxes. In addition, seniors who have trouble computing their income taxes can get free tax preparation assistance.

2. Persons 65 or older can get property tax reductions.

3. Persons 65 or older are eligible for reduced fees for hunting and fishing licenses. A senior citizen can buy a lifetime combined hunting-fishing license in Iowa for $8.50. That's the same price that's charged for a single year's sport for a younger person.

4. Bus rides are available at reduced rates in Ottumuwa and the senior transit service also is available.

5. There's a senior citizen center here where a broad variety of social, cultural and educational services are available to seniors.

6. For senior citizens who have health problems, there is a wide range of services here—some locally sponsored and some under federal auspices. They include such things as home-delivered meals, nursing service in the home, Medicaid, daily telephone checks for elderly persons who live alone, and so forth.

7. There's a congregate meals program here which provides the elderly with a low-cost, nutritious meal and a chance to socialize.

8. Ottumwa has an extremely good program to provide apartments for senior citizens.

9. Social Security benefits have been tied to the cost of living index, helping the elderly to keep pace with inflation.

10. Seniors may even get reduced rates for cable television service here.

If it ever was true that the elderly in America were disadvantaged or ill-treated, it certainly isn't true now in Ottumwa.

The Area Agency on Aging is looking for a new prime sponsor now because the present sponsor, Indian Hills Community College, thinks the agency has matured enough to operate independently.

If the community's past responses to the needs of the elderly are an indication, it's a good bet that services for seniors will continue to grow.—Jim Crane.

HOW EDUCATION AID CUTBACKS STRIKE HARD IN ONE COUNTY IN VIRGINIA

Mr. HUMPHREY. Mr. President, a great number of our Nation's public schools face a critical financial situation. Rising costs have resulted in sharp cutbacks in opportunities for our Nation's youth to acquire the highest possible quality education.

The schools of Fairfax County, Va., have been especially hit by inflation. As in other school districts across this country, the schools of Fairfax County have been forced to cut back or, in many cases, completely eliminate education programs which have been vital to providing a complete education to their students. The school district has published a "Familygram" for county residents which details strikingly those areas drastically reduced and explains the fiscal situation of the district. I wish to share this report with my colleagues.

Sacrificing programs at the expense of quality education should not be tolerated. The actions of this Congress should reflect our concern and dedication.

President Ford's fiscal year 1977 budget request for education completely fails to meet the needs of our schools. It is a budget proposal full of misrepresentations. In fact, it is inflated by including 2 years' funding for vocational education, at $539 million a year, instead of a single year's funding as with other programs.

The President promises education funding increases, but gives us budgetary reductions. It is the best example yet of creative accounting—first you see it, then it is gone. But it is America's children and youth who are the real losers.

The need for the Federal Government to respond is urgent. We must encourage sound educational and fiscal management to correspond with increased Federal aid to education. Aid to education is a solid investment in America and it is in our national interest to require effective usage of the moneys spent. Our actions must reflect our concern to insure that the students of this Nation have equal opportunities to obtain a quality education.

I draw the Senate's attention to the serious situation in schools such as those in Fairfax County. This is one of 16,000 school districts in which the effects of decreases in the Federal education budget are translated into very real deprivations for our Nation's children. We must not stand by and permit these cuts of essential services to our public school students.

Mr. President, I ask unanimous consent that the Fairfax County Public Schools "Familygram" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Dear Parents: During the past several weeks, School Board members have received hundreds of letters and phone calls protesting budget reductions and supporting specific programs in the school system. This Familygram is a response to these communications and a report to all parents on the financial problems which are causing changes in the educational opportunities for our children.

BRINGING YOU UP TO DATE

Budget development for the 1976–77 school year began last April, when school principals and department heads after consultation with their staffs and school patrons began preparing their annual accountability statements and fund requests. In September, these budget requests were submitted to the Superintendent. After review and significant reduction of these requests, Superintendent Davis in January presented to the community a budget for schools which he believed would meet the educational needs of Fairfax County.

The 11 members of the School Board spent more than a month on program-by-program study of the Superintendent's budget proposal. Based on the direction and advice of individuals and community groups, the School Board adopted an Advertised Budget which has been transmitted to the Board of Supervisors for funding.

For the first time in memory, the School Board has drastically reduced the Superintendent's budget. Recognizing that the county faces major fiscal problems, we have requested no additional funding except for health and safety requirements; for State-mandated programs in vocational and special education; for staff salary increases to offset the effect of inflation; and for critical construction needs.

WHAT HAS BEEN CUT?

Over $8 million and 197 positions for proposed and existing programs were cut as a result of the following actions:

Took $2,437,237 and 108 positions out of the special resources requests, including 36.5 teacher aides to meet School Board priorities, 21 special education staff, 20 maintenance personnel, as well as $533,100 for additional equipment and vehicles, $251,900 for instructional supplies and other materials, and $231,000 for minor improvement/maintenance projects.

Reduced area and central office departments and activities by $2,273,946 and 88 positions; the result will be some layoffs, and the permanent return to the classroom of many administrative and supervisory personnel.

Reduced the salary reserve by $1.6 million based on the decrease in positions and more current estimates of salary costs.

Eliminated the summer programs for music, special reading, mathematics, vocational education, speech, physically handicapped, learning-disabled, and emotionally disturbed, as well as summer staff training and curriculum development, and funds for transportation to the remaining remedial and special education summer programs. This will save $755,666.

Postponed for one year purchase of 40 school buses, delaying compliance with a federal standard that there be no standees after July 1, 1977. ($560,000)

Removed funds for substitutes for teachers during inservice training, and during all administrative leave (except Fairfax Education Assn. business). ($329,000)

Reduced out-of-county staff travel funds by 90 percent. ($150,000)

Eliminated paid dining room aides in elementary schools. ($149,000)

Eliminated all funds for field trips. ($108,000)

Passed on to local high school activity funds the cost ($500 per school) of Virginia High School League membership. ($11,000)

Reduced funds for accreditation of elementary schools by Southern Assn. of Colleges and Schools; affiliation status will be maintained. ($46,385)

Eliminated all funds for consultants, except for insurance and actuarial needs and utility rate negotiations. ($55,365)

Reduced late-activity buses for intermediate and high schools to three days a week ($21,875)

In spite of these reductions, our budget request to the Supervisors—combined with other County needs—may require an increase in taxes.

REVENUE PROBLEMS

Government at every level has been impacted simultaneously by the effects of inflation and recession. Inflation has driven the cost of essential services up, while recession has reduced revenue.

Federal impact aid continues to be threatened by the Administration. The Governor has already made sharp cuts in basic state aid during this school year, and we anticipate an additional reduction in state support for special education and incentive aid next year. Compensatory funds have been eliminated completely.

Fairfax County has been seriously affected by these developments. Its share of State sales tax revenue has been below expectations, and revenue from local sources has been less than projected. Midway through this school year, the Supervisors found it ncessary to reduce County support for schools by $1.6 million. Every school and department has felt the effect of the hiring freeze, the assignment of administrators to classrooms, the elimination of substitute teachers, and other actions taken to absorb this reduction.

Unless further adjustments can be made in expenditures and revenues. Fairfax County will face a deficit of millions of dollars in the next fiscal year. Obviously, the school system must prepare to absorb a fair share of the cuts necessary to balance spending and revenue without an unreasonable burden on the taxpayer.

The Board of Supervisors will review our request for school funding during their April budget workshops. These are at 7:30 p.m. on April 7, 27, 28, and 29 and at 10 a.m. on two Saturdays, April 3 and 10. Workshops are in the Board Room of the Massey Building except on April 7, 27, and 29, when they will be in the School Board room in the School Administration Building. The Supervisors will provide an opportunity for citizen comment during public hearings on April 20, 21, and 22. Between now and mid-May when final decisions are made, the Supervisors and the School Board need guidance about the level of public services—including education—we taxpayers are willing to support.

IF MORE CUTS ARE NEEDED

Thus far the School Board has tried to limit cuts to those which will have an indirect or limited effect on the program of instruction. Any significant reduction beyond the $8.2 million already made will require a decrease in the number of teachers, aides, or administrators assigned to each school. This will have a harmful effect on individualization and supervision of instruction. It will force elimination of such opportunities as instrumental music instruction in the elementary schools, reduction in extracurricular activities in intermediate and high schools, and curtailment of many advanced classes.

Because further reductions may be necessary, the School Board has instructed Superintendent Davis to assess the impact on the learning program of many possible budget actions, including these:

Obtain $1,324,000 from a rental fee on textbooks—$8.25 per elementary, $11.25 per intermediate, $13.25 per high school pupil including those in special education. Only indigent students would be exempted from the fee.

Eliminate elementary string and band programs, to save $480,600 and 43 teaching positions.

Reduce requests for replacing worn-out school equipment by $280,000.*

Save $255,200 by eliminating 22.5 resource teacher positions at: Bailey's, Dogwood, Fairhill, Jermantown, Glen Forest, Lewinsville, Mantua Elementaries; Cooper, Glasgow, Herndon Intermediates; Edison, Groveton, Lee, McLean, Stuart High Schools.*

Increase the regular school programs' pupil-teacher ratio to that in State accreditation standards, saving $1,503,801 and eliminating 132 positions.*

Eliminate all late-activity buses, saving $65,625.

Eliminate nonrequired local funds from Head Start, cutting 8 positions and saving $105,000.

Eliminate nonrequired local funds from Adult Basic Education, including eliminating one teacher each at Bailey's and Groveton Learning Centers, saving $73,500.

Set up staffing pattern for high schools including day trade "nonratio" teachers in making assignments. Cuts 38.5 positions and $430,300.*

Eliminate intermediate school student council advisor, and newspaper and yearbook advisors, saving $57,000.

Cut about in half the activities at high schools requiring supplements, including eliminating those for assistant athletic director, ticket manager, assistant coordinator for intramurals, cross country, indoor track, swimming, tennis, men's gymnastics, golf, baseball assistant, softball assistant, assistant men's and women's track, and assistant women's gymnastics. Also cut would be forensics, junior class, and liberty magazine supplements. This would save $496,800.

Eliminate the Prescriptive Learning Program laboratories serving about 800 students in low-income attendance areas with greatest need for remediation in reading and in math. Saves $158,875 and cuts 16 positions.

Reduce local school administrative, library, pupil services, and clerical staff to conform only to State standards, cutting 337.5 positions and $3,842,800. In elementary schools, 8 principals would be reduced to half-time positions; 14 assistant principals would be eliminated; 15.5 librarians, and 118 clerks would be cut. In intermediate schools, 18 assistant principals and aides, 12.5 counselor positions, 17.5 librarians, and 45 clerks would be cut. In high schools, 33 assistant principals or aides, 50.5 counselor positions (affecting all schools), 3.5 librarians, and 46.5 clerks would be cut.*

Reduce special education program by $1,070,974 and 118.5 positions, including these cuts: emotionally disturbed, $269,910 and 61 positions; preschool handicapped, $362,300 and 28 positions; Staff Development Institute, $125,756 and 9 positions; speech-handicapped, $124,852 and 10 positions; learning-disabled students, $96,050 and 4 positions; mildly retarded, $44,704 and 4 positions; physically handicapped, half-time librarian at Belle Willard, $7,474; and two media specialist positions, $39,928.

Increase the revenue side by $300,000 representing 1977 income of sale of surplus sites.

Restrict the paid instructional aide program to elementary schools, allowing one aide per school; would save $596,600 and cut 138 positions.

Further reduce area and central office departments and activities by $293,110 and 20 positions, including 4 base school human relations counselors, 2 vocational professional positions, 3 of the remaining 4 special teacher positions in each area office, and 2 Media Services supervisory positions.

A HEAD TAX?

The School Board also has considered ways to increase revenue, although we are very reluctant to institute practices which, in effect, impose a "head tax" for education. For the time being the School Board has rejected the imposition of fees for textbooks and bus transportation. However, we may have to take another look at these proposals.

IF BOND VOTE FAILS?

If the voters reject the school bond referendum on April 6, the South Lakes high school and special education facilities must be built with current revenue rather than bond funds. This will require a $10 million reduction in total County services for the next fiscal year—including items on the list of potential school budget reductions—or an equivalent increase in taxation.

WANT MORE INFORMATION?

The purpose of this message is to bring you up to date on the state of funding for our school system and to make you aware of the difficult choices ahead. Additional information on the budgets for schools and other County agencies is available at all public libraries. Answers to questions about the advertised budget may be obtained by calling 691–2812. Your understanding of the problems which we face will assist the Board of Supervisors and the School Board in making decisions that are best for our children and for the quality of life in Fairfax County.

With best regards,

Mary Anne Lecos,
Chairman, Fairfax County School Board.

MARYLAND DAY

Mr. MATHIAS. Mr. President, today is the 342d anniversary of the founding of the State of Maryland.

Every year on this day it has been my custom to single out from Maryland's rich past some act of courage or some example of devotion that might illuminate and inspire our uncertain times.

This Maryland Day, as we stand bemused on the threshold of our third century as a nation, wondering where to go and how to get there, it seems to me more important than ever to reflect upon the past and to reexamine the ideals of the men and women of Maryland who contributed so immeasurably to the creation of our Nation.

Perhaps, as we face the challenges and uncertainties of the future, we can gain strength and assurance from the example of these Marylanders who, guided by principle and often far ahead of their times, developed the ideas and the institutions that have made Maryland and this Nation great.

Who were the men and women in those two small English ships, the Ark and the Dove, that sailed up the Chesapeake Bay that March 25th 342 years ago? Those ships that landed at what is now St. Mary's City in southern Maryland carried settlers who had crossed the stormy Atlantic in winter in search of religious freedom. They were people prepared to brave the hardships of a new world to secure themselves a better life and to escape from the sectarian strife that wracked England and most of Europe.

These first Marylanders brought with them the practice of freedom of conscience, enjoined on them by their proprietor, the second Lord Baltimore.

They also brought with them an unusual degree of commonsense for, from the first, they sought friendship with the Indians. Within 2 days of their arrival, Leonard Calvert, Lord Baltimore's brother and his appointed governor, set out to visit the various tribes on the Maryland side of the Potomac River and to conclude agreements with them for occupying the east bank of St. Mary's River.

As a result of Calvert's friendly, and politic, initiative, the Maryland colonists were spared the horrors of massacre which punctuated the early days of the Virginia colony.

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* School-by-school listings of impact of this item are included in a document. In Depth Review of Potential Budget Adjustments, a copy of which is among the FY 1977 budget documents in each public library and at each school, and is being given to each local PTA and civic association president.

These Marylanders were quick to establish a framework of representative government. Within a year of their arrival, a Maryland Assembly of freemen was convened at St. Mary's City where, according to a contemporary chronicle, "wholesome laws" were enacted.

The second Lord Baltimore, however, took a dim view of freemen initiating laws, no matter how wholesome they might be. He vetoed all of them.

But, just 3 years later, assembly records show the freemen had persevered. In this assembly, they initiated and passed 41 acts, without veto.

But the greatest achievement of these early Maryland days was the adoption by the General Assembly of the Act of Toleration of 1649. This act—actually titled "An Act Concerning Religion"—was one of the landmark documents in the attainment of civil liberties in America. It provided that no person "be any waies troubled, molested, or discountenanced in the free exercise of his or her religion," and was the precursor to the religious freedom guaranteed in the first amendment to the Constitution of the United States.

It was also in Maryland that equality for women was first asserted in America. The January 21, 1648, Journal of the General Assembly of Maryland records:

> Came Mrs. Margaret Brent and requested to have vote in the House for herself and voice also.

Although the Governor denied Mrs. Brent vote and voice in the assembly, her life is a record of impressive achievement. Margaret Brent arrived in America, with her sister Mary, 3 years after the original Maryland settlement. She promptly asserted and forcefully pursued a claim to lands as large as those given the first arrivals. She became the first woman landowner when, on October 4, 1639, the General Assembly granted her a patent for 70½ acres of land. She named these acres, and the thousands she was soon to add to them, "Sisters' Freehold"; a name which has very modern flavor.

Margaret Brent was the first woman lawyer in America and was appointed by the Provincial Courts to act as attorney for Lord Baltimore. She was also appointed by Leonard Calvert to be his executrix. When the Governor denied her petition for vote and voice, however, Margaret Brent left Maryland in protest.

Maryland's men have also given much to history. Gov. Thomas Johnson nominated George Washington to be Commander in Chief of the Revolutionary Armies; John Hanson was the first President of the United States under the Articles of the Confederation; and Charles Carroll of Carrollton, the last survivor of the signers of the Declaration of Independence, served in the Maryland convention which voted for independence, went as a delegate to the Continental Congress and led the State convention which adopted Maryland's constitution and the bill of rights which became a model for the new Nation.

Not all of Maryland's history has been written by men and women acting alone. In 1765 a group calling itself the Sons of Liberty was formed in Baltimore to protest the unpopular Stamp Tax to be raised through the use of stamps on legal documents. Then, on November 23, 1765, 12 judges of the Frederick County Court decided the court should proceed with its business without the controversial revenue stamp.

The Frederick County Court's repudiation of the decree of an imperial parliament is a great judicial precedent in America. It is one of the important steps in the establishment of our State and Federal system of judges independent of either executive or legislative control.

Because Maryland Day this year falls within our bicentennial anniversary I have lingered over Maryland's colonial and revolutionary past, which culminated, of course, in the ratification of the Treaty of Paris in Annapolis.

I could just as well have sought inspiration for the present from other moments in Maryland's history. Before and during the Civil War, for instance, Maryland was crucial to the abolitionist movement. And it was in Maryland that the fugitive slave, Harriet Tubman, became the Nation's foremost leader in the underground railroad.

Wherever you look you can find examples of Maryland's contributions to the Nation.

I am proud of Maryland and of Maryland's past. I have faith in Maryland's future.

But today, as we look at America, we find that people are alienated. We find that they are disspirited. We find that they suspect our system is out of control and that they do not know what to do about it.

I urge these people—the great disenchanted majority—to reflect upon our past. The people who settled Maryland and who built her great institutions lived through periods of great change and of great challenge. They showed us that challenge can be overcome and that change can be made to serve creative purposes. They showed us that the strength of the human spirit can prevail. Their example is instructive. We must take it to heart.

SENATOR BYRD CALLS FOR AN END TO OUR "UNCLE SAP" IMAGE

Mr. ALLEN. Mr. President, our able and distinguished colleague, the courageous senior Senator from Virginia (Mr. Harry F. Byrd, Jr.) received well-deserved praise from Columnist Henry J. Taylor in a column which appeared on March 17, 1976, in the Richmond Times-Dispatch, of Richmond, Va. Senator Byrd, chairman of the Finance Committee's Subcommittee on International Finance and Resources, was praised by Mr. Taylor for calling attention to the fact that 113 foreign governments now owe the United States a total exceeding $60 billion and demanding to know why nothing is done about it. Feeling that my colleagues and the general public would benefit from a reading of this entire column by Mr. Taylor, I ask unanimous consent that the column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senator Byrd Calls for End to Our "Uncle Sap" Image

(By Henry J. Taylor)

Courageous Sen. Harry F. Byrd Jr., an Independent from Virginia who takes no nonsense from anybody, spoke in the Senate on behalf of us taxpaying peasants. Senator Byrd calls them as he sees them—and more power to him!

The occasion was a series of protracted hearings before the Senate Subcommittee on International Finance and Resources, of which Senator Byrd is chairman. These revealed that 113 foreign governments now owe the United States a total exceeding $60 billion.

If you don't pay your debt to the United States government, the U.S. Internal Revenue Service slaps you in jail. But if you're a foreign government, forget it.

This appaling $60 billion due from 113 foreign governments is in addition to the incredible billions we have given away. It has nothing to do with America's foreign aid. It is merely part of the truly due obligations incurred by debtor nations subject to collection.

Moreover, the $60 billion is $2 billion more than the amount due as late as October, 1973.

The figures are official. They were revealed to Senator Byrd's subcommittee in the testimony of James G. Lowenstein, deputy assistant secretary of state for European affairs and Paul H. Boeker, deputy assistant secretary for international finance and development. They remain due and payable to this very day. But who would know it?

For example, Britain still owes us $6.8 billion; the basic French debt is $4.68 billion. These debts go back to the days of World War I—58 years ago. That $4.68 billion figure was actually much higher. Surprise, surprise—the French negotiated it down. The result? The principal is $1.97 plus about $3 billion on unpaid interest.

In 1931 France claimed it couldn't pay that year's installment. Washington declared a one-year moratorium. Our taxpayers have been making up the difference for the last 45 years.

We gave France colossal military aid in World War I and again in World War II—all free—and postwar Marshall Plan economic aid. Then when France kicked NATO out in 1966, the United States left there $550 million in U.S. facilities usable by France. But we claimed only $370 million. Then we settled for only $100 million. Additionally, we allowed France five years to pay the $100 million—without interest.

The Soviet Union owes us taxpaying peasants $2.6 billion, net. First, the U.S.S.R. knocked off nearly $2 billion. The United States agreed. It offered only $772 million and required that a "most favored nation" trade clause be included. That clause was defeated. The $722 million became $48 million. No wonder so many millions abroad call us Uncle Sap!

We suffering American taxpayers have poured billions on billions into Latin America—and of our total "loans" at least $3 billion remains unpaid.

We have given $8 billion absolutely free to India since 1951 and a total $10 billion to date. In fact, we've given more aid to India than to any other nation in the world—nearly as much as the Marshall Plan aid which saved Europe. Yet Indian, now asking for more aid, still owes us $4 billion.

Even oil-rich Iran, ruled by arrogant Shah Mohammed Reza Pahlavi, still owes the United States $35 million for surplus property bought after World War II. It was due in 1950—a full 26 years ago. The shah is literally walking on money. He makes tremendous European investments, buys our military equipment, dickers to advance millions to Pan American Airways, etc., and lives the life of Riley. But "Ta-ta," says the shah. Our failure to collect is ridiculous.

Looking at the 113 nations, Senator Byrd is as right as rain in asking why nothing is done. He places the blame squarely where it belongs—on the State Department. Senator Byrd wisely demands that the State Department should state to those abroad that it is no longer "easy come, easy go" in the United States and that we're in a bind. It's high time that it insist that all money owed us abroad be paid.

The American people are sick and tired, fed up to the teeth, with holding the bag.

THE UNIFICATION CHURCH

Mr. BUCKLEY. Mr. President, I believe all of us are receiving increasing mail inquiring about the activities of the Unification Church and of its leader, the Reverend Moon. Many anxious parents are charging that their children are in effect being brainwashed at various houses maintained throughout the country by this movement. Others claim that its objectives are as much political as they are religious, and that funds which are solicited on a tax-exempt basis for religious or other charitable purposes are actually used for political purposes in contravention of the law.

Last February, the Senator from Kansas (Mr. Dole) chaired an all-day hearing at which citizens from across the country expressed their concerns. I attended a part of these hearings not only because the activities of Reverend Moon's followers in New York State have been the subject of a great deal of controversy, but also because I am the godfather of one of the witnesses and a longtime friend of another.

I feel there can be no doubt but that the Unification Church does represent a religious movement and as such is subject to the full protection of the first amendment. On the other hand, the church also operates through a maze of business and nonbusiness organizations that have led a number of observers to charge the movement with evasions of the tax laws and worse. That Reverend Moon thinks in political as well as cosmic terms would appear to be self-evident from statements made at the Dole hearing or written into its records.

Whatever the Moon movement is, it is a phenomenon we will all be hearing more of, one about which we will all need to develop greater familiarity. For the benefit of our colleagues, I ask unanimous consent that the following be printed in the Record:

First. A list of "Moon" organizations submitted by a women in the San Francisco area;

Second. An excerpt from "Master Speaks"—May 17, 1973—describing the Reverend Moon's thoughts on political action; and

Third. A statement by Ford Greene of Ross, Calif., describing his own experience with the movement.

There being no objection, the material was ordered to be printed in the Record, as follows:

Moon Organizations

The Unification Church.
Project Unity.
One World Crusade.
International Cultural Foundation.
International Federation for Victory over Communism.
Collegiate Association for the Research of Principles.
Freedom Leadership Foundation.
The Rising Tide (publication of the Freedom Foundation).
Rising Tide Bookstore (Washington, D.C.)
World Freedom Institute.
Little Angels of Korea.
Little Angels Korean Folk Ballet.
Professors Academy for World Peace.
Unification Church of New York, Inc.
Unification Church, International.
National Prayer and Fast for the Watergate Crisis.
Unified Family.
International Re-education Foundation.
The weekly Religion.
The Way of the World.
Tongil Seigei Monthly.
Tong I (or Tongil) Industry Company.
I Wah (or 11 Hwa) Pharmaceutical Company.
I Shin (or Il Shin) Stoneworks Company.
Ton Wha Titanium Company.
Tae Han Rutile Company.
American Youth for a Just Peace.
Sun Myung Moon Christian Crusade.
Korean Folk Ballet.
New Hope Singers International.
Committee for Responsible Dialogue.
Day of Hope Tour.
Unification Thought Institute.
Unification Church of America.
International Conference on Unified Science.
Council for Unified Research and Education.
D.C. Striders Track Club.
International Pioneer Academy (San Francisco).
International Ideal City Project (San Francisco).
Korean Cultural Freedom Foundation.
New Education Development Corporation.
Center for Ethical Management and Planning.
Eden Awareness Training Center.
Creative Community Project.
The Holy Spirit Association for the Unification of World Christianity.
San Francisco Day of Hope Committee.
International Education Foundation.
Sunburst.
New Educational Development Systems Inc.
International Exchange.
International Exchange Enterprises.
International Exchange Press.
Aladdin Coffees, Teas & Kindreds, Berkeley.
Aladdin Warehouse, Berkeley.
Rose Shop, Berkeley.
Judaism: In Service to the World.
Leamington Hotel Flower Shop, Oakland.
Seno Travel Service, Inc., 150 Powell St. San Francisco.
International Prisoner Re-Education Foundation.
Center for Ethical Management and Planning, Inc., Berkeley.

Significance of the Training Session

If that number of people are well armed with the Divine Principle, Unification Thought and Victory Over Communism ideology, their speech will influence the whole population. Then the Republican Party will want to have you on their side, while the opposition party will want to have you on their side. You must say, "Come to me." Unless we are that powerful, we cannot save this nation. The State Representative is only 23 years old now; but after three years or more, perhaps senators will come to take him to their place in a luxurious car, and they will put themselves at his disposal. That's what is happening in Korea. If the U.S. continues its corruption, and we find among the senators and congressmen no one really usable for our purposes, we can make senators and congressmen out of our members. Would you want to be wives to senators and congressmen? The male members—wouldn't you like to be senators? If you have confidence, you will make it possible and I will make you that. I have met many famous so-called "famous"—senators and congressmen, but to my eyes they are just nothing; they are weak and helpless before God. They are scared to think it might be possible that they will not be re-elected. I didn't see any confidence in them. But if our foundation has been laid, are we going to be confident persons or not? (Yes!) Then we will win the battle. This is our dream, our project—but shut your mouth tight, have hope and go on to realize it. As it now stands, forget about those things, and try hard to lay the foundation for those things. I will be with you and I will guide you.

My dream is to organize a Christian political party including the Protestant denominations, Catholics and all the religious sects. Then, the communist power will be helpless before ours. We are going to do this because the communists are coming to the political scene. Before the pulpit, all the ministers of the established churches must give their sermon on how to smash or absorb communism—but they are not doing that. We are going to do this. Unless we lay the foundation for this, we cannot carry it out. In the Medieval Ages, they had to separate from the cities—statesmanship from the religious field—because people were corrupted at that time. But when it comes to our age, we must have an automatic theocracy to rule the world. So, we cannot separate the political field from the religious. Democracy was born because people ruled the world, like the Pope does. Then, we come to the conclusion that God has to rule the world, and God-loving people have to rule the world—and that is logical. We have to purge the corrupted politicians, and the sons of God must rule the world. The separation between religion and politics is what Satan likes most.

But I am not going to send you into the political field right away—but later on when we are prepared. If we multiply the people by planting God's love in their hearts, they are naturally going to come to us. We can rule them with love. If we have 500,000 members all over the country, under one command from Master, if they are told to come and live in New York, what would happen? Upon my command to the Europeans and others throughout the world to come live in the U.S., wouldn't they obey me? Then, what would happen? We can embrace the religious world in one arm and the political world in the other. With this great ideology, if you are not confident to do this, you had better die. Are you resolved for that, and confident for that? (Yes!) Are you resolved? I don't see the possibility. Still, would you want to do that? (Yes!) Then, I come to surrender before you.

I am versatile, I am many-sided. Back in Korea, last year, we staged an athletic gathering which we called the International Religious Peoples' Olympics. If it's going to grow, the Olympics we now have will be superseded. Last year in Germany, the shooting tragedy came about after the athletic race. At that time, I said, "Since I began my project of International Religious Peoples' Olympics, it is natural that Satan would do that." They are on the slope of declining. I am going to choose a football team from this nation and send them to Korea. Are there many who are good at football? The number of athletic games will be increased. There is significance to my organizing that. The present U.N. must be annihilated by our power. That is the stage for the communists. We must make a new U.N. Then, I must be able to make out of you world-renowned personages. Wouldn't you want to be trained for that? You will have to go through training of such a type that history has never seen.

Are you anxious for that or are you scared? (Anxious!) You resemble me. I must stop here. Now you have a clear idea of what training means and what our training is going to be like. You try to put yourself in a place to suit that standard, and by going over that you will pass the judgment. By bringing in people, you raise the people to your standard; and by bringing in people here, we will raise the people to that standard, too. After awhile, if you go through training in a shorter time, then I will take them boating on the Hudson River. People will be anxious to come to Belvedere.

With a brillant hope like this we will strive on.

Statement Given by Ford Greene, of Ross, Calif., at Hearing on Unification Church Held by Senator Dole, February 18, 1976

DECEMBER 8, 1974

I heard that my younger sister, Catherine, had joined the Unification Church. It's founder, Rev. Sun Myung Moon, was accused of being an exploiter of young people's spirituality. Since as far as I was concerned this accusation was undocumented and I was interested in what my sister was doing. I decided to see for myself what she was involved in. That night a friend and I drove to where she was staying, the Ideal City Ranch in Boonesville, California. We arrived there at about 6:30 the next morning where we were enthusiastically greeted by a resident named Jim. Since everyone was just getting up and had to get organized, we had to wait a bit before we could enter.

DECEMBER 9, 1974

I was allowed almost no time alone with my sister without one or two family members present and what time was allowed was reluctantly granted and short-lived. When I asked them questions about what they studied and did, I received unclear answers, but was told I should come up for the weekend training session.

I didn't know what was happening at the Ranch, but the longer I stayed, the more I felt an inexplicable feeling of hostility toward the situation.

I visited there for about an hour because I was told the group was going to eat breakfast and had a program to follow. Since it was early in the morning, and I was offered no breakfast, I got the message I would be an undesirable factor in their activities. I asked if I could join them for the day in whatever they were doing. I was told no; but to be sure to return the following weekend for the training session.

Disturbed as to why my sister was involved with this group, I went out to the ocean to think about it. While there, I was struck by the thought that perhaps her decision to be in Booneville was attributable to the fact that she thought she did not know how to love people. Upon this I felt I had a reason to go back and talk to her again.

I went back and found her working alone in the fields. I talked to her alone, undisturbed and unpressured by others for about half an hour. I asked her if she felt she knew how to love people. With tears in her eyes she said she felt that she didn't and thought this was the place for her to learn. I felt reassured because I had reached her. I then said that no one could tell her how to live her own love.

Shortly thereafter Tricia, the girl who was then second in charge at Booneville came up to us. Catherine seemed to get scared and withdrew more into herself. Ingratiatingly polite and friendly—as they would say, love bombing—we helped them clean up their day's work and left.

That night I went to hear Rev. Moon speak at the Opera House in San Francisco. Although, I felt a harbinger of false prophetness before he spoke, afterwards in the atmosphere was a sense of peace. I felt if it meant I could be happy, even I could join this group.

DECEMBER 13, 1974

Even though we had been told it would be better to go up on the group's bus, my brother Oliver, a friend Jim and I drove up to Booneville for the weekend arriving late at night.

DECEMBER 14, 1974

In the morning we were up and around before the other new trainees. However, the trainees who had been up there for the prior week were engaged in bagging mistletoe for sale in the city. We were asked to join them. As soon as we did, the three of us were immediately separated into different groups of trainees who were involved in a contest of which group could turn out the most bags. They made a kids game out of it: when you had ten bags you took them to the "mistletoe king" and recited a rhyme. This was all happening in the lecture hall, a rerouted chicken coop called the "chicken palace".

It was cold, but I was severely chastized when I broke from the group to see if I could fix the heater. I felt the force of the chastizement was totally unjustified and got mad, but tried not to show it.

After the bagging, the five or six groups got together in a circle and sang a song. I saw no harm in this, joined in and enjoyed it. We then ate breakfast.

The next thing I remember was all the trainees, old and new, getting together in the chicken palace to listen to the rules for the weekend and the introductory lecture. The lecture consisted of about six charts, the first one stating that the reason people are skeptical is because of their own partial viewpoint and the last chart proclaimed that God is Love.

I felt excited by what I had heard.

The session was then divided into groups which met together. We were then asked to introduce ourselves, share our inspirations about the lecture, tell how it was we had come to Booneville, and make a goal for the weekend.

The day progressed at an extremely rapid pace—too rapid to fully assimilate what we'd been hearing and what was happening. Regardless of the pace and what I might have missed I was inspired by a hope of greater understanding and a higher quality of life.

During the entire weekend, the same nice two people from the ranch stayed with me at all times.

The rest of Saturday consisted of more lectures, separated by group meetings, consisting of directed discussion centering on the lectures and singing; lunch and sports.

In the evening we had dinner with our section group, during which we prepared new words to old songs. The purpose of this was for each group to entertain the others. It was fun.

After the entertainment, a male and female who had been in the "Family" for a long time gave separate talks about what they had in the "Family".

The training session then sang a final song, broke up for final group meetings and went to bed at about 11 p.m.

My male escort for the weekend slept next to me and tried to keep communication among my friend, brother and myself to a bare minimum. Inspired as I was by the day's events, I put up with this intrusion, not minding it much. This was the first time I had talked to them since we had been separated. During our brief conversation it was established that they didn't like what was happening, but that I did. On the whole, I felt the people around me seemed pretty harmless and I couldn't see any justification for any accusations of exploitation.

DECEMBER 15, 1974

Where the lectures of the first day dealt with primarily human content, the emphasis of the lectures on the second day shifted to a more political outlook. Rather than treating the hopes and problems of people, the thrust was toward the idea of establishing a centralized world government. I had serious misgivings about this concept because rather than dealing with individuals, it shifted quickly into a different, larger realm. Although the goal of world government was stated, there was no mention of how, specifically, this might be achieved. However, I felt without more concrete evidence, it would be unconscientious for me to condemn it besides which the bad feelings these concepts engendered distracted me from my personal push towards increasing the quality of my life. So I actively fought my growing suspicion of the purpose of the group.

During the last lecture the idea was put forth that it was the responsibility of each individual to search for, find and follow the truth. The concept of responsibility was to play the most major role in involving me with the Unification Church. I had considered staying for the following week, and upon hearing this lecture my decision was cemented. Also, there were a few people at the ranch I wanted to get to know better, which was more reason to stay. The Family members were overjoyed when I made my decision known.

My brother and my friend, seeing that my mind was made up to stay, left when the weekend was over.

DECEMBER 16, 1974

The pace during the week was slower, yet still tightly controlled. The only time the initiates were allowed to themselves was one hour in the afternoon during which we were specifically told to remain silent and not talk to one another. Other than this and a work period in the afternoon, the schedule was much the same as the weekend.

My suspicions were becoming more intense because I wanted to know if the situation was as true as the lectures made it sound, or if the lectures were being used to manipulate the others and myself. I knew I would have to do something to allay them if I was going to stay and be able to fully give of myself. The conflict of trying to decide whether or not this was for real or a hoax was becoming more and more agonizing.

DECEMBER 17, 1974

After I awoke, I found the schedule was to be the same again, and was horrified by the thought that I could go on doing this indefinitely.

The pressures had come to a head and it was the necessary time for me to reveal all my feelings, good and bad, about being in the group so that I could determine whether or not I would want to stay.

When the opportunity came to make this vital expression for my life, I had cold feet and did not do what was of utmost importance to myself. This was to assert the validity of my innermost self in order to see and establish whether or not this group was for me.

Beyond this point, I lost all perspective and could no longer determine exactly where I stood in relation to the group. Since something seemed wrong, from here I could only say that they, the group, was good and I was not.

I had placed more value on the hope than on my suspicions and when I lost my hope, I could no longer protect myself.

The only hope I could still muster was to say to myself, since I had given my word to myself that I wouldn't leave until I had perfectly expressed myself, that I must stay and somehow accomplish my goal. I must, somehow, completely give.

The development of this position was that the organization started to become more valid than myself.

So I continued to follow this compulsory lifestyle of singing, praying, listening to lectures, learning how to lecture, going to required group meetings, working, eating, and sleeping. The whole time the only real decision I had to make was whether I would leave or stay.

I had not decided to stay, really; it was more like I suspended a decision to leave.

Since the value system I was immersed in did not allow for individual thought or action, I could only take what I was told, no matter how much my insides objected, more and more to heart; if I stayed.

At times, I felt guilty because everybody else appeared to be so loving and although I strove to return it, I couldn't. I was desperate because I didn't know what was happening. Although I tried not to, I became more withdrawn, confused about what was right and wrong, because I didn't know if it was shady or not. I couldn't communicate.

Time was always planned for me and the schedule unceasingly rigorous. The greatest enthusiasm was sought and prodded. For in all activities, anyone not exhibiting the greatest possible enthusiasm was made to feel like he or she was slacking off and submitting to the evil of the world they had come from, a world which we were encouraged not to remember.

One of the slogans which served as a reminder of God, lectures and the purpose was 1–0–0; 100%. It meant to put out 100% effort 100% of the time.

I was continually under the impression that since the leaders at all times kept us busy doing something, singing for example, with total effort; they were trying to prevent us from thinking our own thoughts and discussing anything which might sound contrary to the purposes of the movement; which for the leaders would be an uncomfortable situation.

This was maddening and dreary, but after a long period of time, it became easier to depend on someone else to tell or show me what to do, then to act on my own. This type of behavior was further reinforced by the heavily stressed point from the lectures, that if one was to achieve perfection, one must always follow and do what one is told by one's "center man." To do otherwise, or to even think otherwise, would mean that you were giving into Satan or his evil spirits against which the movement's purpose is to fight.

The ultimate center man is Rev. Moon.

After six weeks of this type of totally structured training, I was deemed fit for service in the Bay Area.

After I arrived at the house on Berkley at 2717 Hearst Street, the pace of life accelerated to a constant emergency-like intensity. We rose at 5:30 a.m., washed up, cleaned up the yard and house, had morning house meeting, broke up into groups, ate breakfast and proceeded to do whatever we were told for the day.

After a day or two of looking for a job, my "center" told me I was going to work for one of the family enterprises, The International Exchange Maintenance Company. It has accounts with many large businesses. We could offer very low prices for the services, since we workers were paid no wages. At all times, even though I didn't necessarily believe in what I was doing, I was pressured to act as though I did and kind of kidded if I couldn't get into it.

Since my attitude was undependable and I didn't easily get along with my co-workers, I continued with this branch of the Unification Church business for not more than two weeks.

I was then shifted to "witnessing"—getting converts—but since it was difficult for me to do this and I didn't produce, I did not last long there either.

Next I was put on a flower selling team. I made anywhere from $10 to $50 for about an hour and a half's selling. We never sold under Sun Moon or the Unification Church. I turned all monies over to the "center man" who was the driver of the van. I did this for only four days because on the fifth, I broke down crying not able to sell so hard for something about which my faith was uncertain. They didn't make me sell that day. I felt burnt out, strung out and exhausted.

We all always tried to return home by 6 o'clock and tried to put on our best for the guests. We tried to impress them that the principle and the family were wonderful so that they would come up to Booneville. We would usher them out at 9:30 p.m. after eating, singing and entertainment, listening to the introductory lecture and talking afterward. Any incisive questions were deferred with a vague answer, and something to the effect of "All your questions will be answered by further lectures, come to Bonneville."

After the guests left, often we would go out flower selling not ever returning much before midnight; unless there was a prayer condition which would start at midnight.

My next job was to work for the International Exchange Union 76 Service Station, which was owned by the Church, but managed and run by people who were not church members.

I was relieved to escape the oppressiveness I felt around most church people and gladly worked there for eighteen hours a day so that I could avoid their presence as much as possible. I worked this way for two weeks, before they realized what I was doing so then I had to start showing up for the evening program. I worked there for approximately two and a half months. In this case, since the station was run by outside agents, I was paid an hourly wage. I turned over $200–$240 to the church a month for room and board. Room consisted of a sleeping bag on the floor in a house that housed about 15–30 or more of us, board consisted of unsatisfying food.

One evening the oppression of hard work, little sleep, insufficient food and intense emotional turmoil drove me to express rather desperately some of my fears to my center man. His reply of "I understand, I understand" but saying nothing more did nothing to help, but I felt better for having said something.

I guess it was decided that the Satanic pressure of the city was aggravating my spiritual difficulties because the next day I was told to go to Booneville for more training. I welcomed this because it meant I would get to sleep eight hours a night rather than four or five.

The story goes on and on, but I would not give the whole story without mentioning the fact that finally when I said God, if you're God, you're the same for me and them. Is Rev. Moon the one? Is Rev. Moon the Messiah?

Hours later that afternoon while I was listening to the lecture on predestination, I had an experience which I could only construe as God answering my prayer affirmatively. Yes.

Rev. Moon's teaching is absolute. Its validity depends on whether or not he can establish that he is the Messiah, the person upon whom the world must depend for guidance.

Members of the Unification Church freely admit if our fabric didn't lack something vital, there would be no need to follow a Rev. Moon. They also say if you show me a higher standard, I follow that.

If Rev. Moon's standard is indeed the highest, it must be clearly exhibited on all levels, under any inquiry.

Regardless of Moon's status, the membership of his organization speaks clearly to a lack in America.

Most of us probably have something we'd like to hide from, but it is our responsibility to try to bring it out. The more we hide, the more covertly or blatantly harmful we become to others and ourselves. Our former President, Richard Nixon, hid to the end; he never fessed up to what was happening. This Nixonian approach is a harsh symbol of an aspect of America that maybe we'd rather not look at.

Will the Unification Church come up front and state their business?

If Rev. Moon and the Unification Church can aid any flaw of ours, let them come forth freely under scrutiny so that we can be convinced that they truly have something to offer, are not trying to exploit the vulnerability of the United States of America, and make it clear that they do not intend, with no regard for America's people, to infiltrate her weakening society and overthrow the government.

We have not kept the American public from them, and they should not keep themselves from us.

BYELORUSSIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today is the 58th anniversary of the declaration of independence of the Byelorussian Democratic Republic in Minsk on March 25, 1918. Soon after the proclamation of Byelorussian independence, a provisional constitution guaranteeing free elections and basic human rights was adopted.

We all know how soon Byelorussian independence was swept aside. By the following January a new Soviet republic was installed in Smolensk, as Byelorussia was forced to become a part of the Soviet Union.

On this anniversary, I think it is important that we stand up and express our continuing interest in Byelorussia, in our admiration for the Byelorussian people who maintain their culture against heavy odds, and our appreciation for the constructive citizenship of Americans of Byelorussian descent.

DR. SALIM ALI

Mr. MATHIAS. Mr. President, several years ago, when on a visit to India, I was asked by Prime Minister Ghandi whether I had met the noted Indian ornithologist, Salim Ali. When I replied that I had not, she immediately arranged for me to do so and thereby opened the door to one of the most pleasant and interesting experiences that I can remember.

As a result, I spent a day with Salim Ali in the national park near Bombay. The privilege was not only in having him open my eyes to the beauty of nature in the jungle, but in sharing his experience and observations on all aspects of Indian life as he has seen it in a dramatic period of history. I learned something that day about the birds of India, but even more about the qualities of human nature that are shared by all mankind everywhere.

When the World Wildlife Fund requested nominations for the J. Paul Getty Conservation Prize I was happy to propose the name of Salim Ali I was, of course, delighted when Vice President Rockefeller announced that Dr. Ali had been chosen to receive the $50,000 award—the largest such award given today for distinguished achievement in conservation.

Wildlife conservationists in the United States, beset as they are with threats to our native wildlife, may not be aware of the work being done by kindred conservationists in other parts of the world. In a nation which may have lost up to 9 percent of its wildlife in the present century, Dr. Ali has been credited with being a "creator of an environment for conservation in India."

Major parks and preserves have been created as a result of his initiative and the work of the Bombay Natural History Society in effecting legislation, research, and public education has been accomplished through his inspirational leadership. He has written many books including a monumental work on Asian birds on which he has collaborated with Dillon Ripley, Secretary of the Smithsonian Institution. Characteristically, Dr. Ali was unable to be present for the award dinner in Washington, due to lecturing and writing commitments in India. His acceptance message sent to the dinner tells its own story, however, and I think we may profit from his experiences in a land where problems are as varied and as serious as our own, and where our own future may be foreshadowed. I ask unanimous consent that his acceptance message be printed in the Record.

There being no objection, the message was ordered to be printed in the Record. as follows:

Indian Wildlife Conservation Comes of Age

Wildlife conservation, as such, is a comparatively recent concept in India. In the days before the country gained its independence, the orientation and emphasis of the British colonial administration and of the Indian rulers of the States—the Maharajas and Nawabs—was chiefly on the preservation of animals that afforded sport, such as the larger carnivores and herbivores, and the so-called game birds—chiefly of the duck and pheasant families. Except for the predations of local tribals, who killed a few animals for food in their own neighbourhood, sporting British officials, rulers of Indian States, privileged landowners and licensed firearm possessors, animals were safe. The pressure of human population had not begun to assert itself, the demand for land for cultivation was less compelling and there were still considerable tracts of undisturbed forest where wildlife was tolerably secure and without the need for stringent special protection. In the early years of the present century the craze for birds' feathers to pander to women's fashions in the western countries, and the large amounts of easy money to be made from the plumage trade, posed a serious threat to egrets and brilliantly plumaged birds like rollers and kingfishers. Thanks, however, to the efforts of far-sighted and humanitarian naturalists and to societies like The Bombay Natural History Society, these vandalistic activities were effectively curbed—not a day too soon—by the enactment of the Wild Birds and Wild Animals Protection Act of 1912.

India's flora and fauna is undoubtedly among among the finest in the world. This single country is the haven of over 500 species of mammals, 2,000 species of birds, 700 species of reptiles, 29,000 species of insects and innumerable species of plants ranging from the tropical rain forests to the Himalayan conifers. Part of this heritage has already been lost—the hippopotamus, the giraffe, the large and pigmy horse, orangutans, baboons and chimpanzees once abounded in India—along with 11 species of elephants and 6 species of rhinoceros. In this century itself the Cheeta and the Pink-headed Duck were consigned to extinction and the existence of the Mountain Quail, Jerdon's Courser and Blewitt's Owl is uncertain. There are today 70 species of mammals, over 50 species of birds and over 20 species of reptiles classified by the Indian Government as endangered and whose export, therefore, is banned.

That game animals abounded in the forests even up to the second half of the 19th Century is evident from the boasts of intrepid British sportsmen of having killed 5 Great Indian Rhinoceroses in the course of a morning's hunt and 3 tigers before breakfast! However, with many such champion performers in the field, often vying with one another for the largest bag, with no bag limits, no closed seasons, and no odious distinctions made of age or sex, it was not long before ominous signs of a decline in game animals began to be felt and rules were framed by the Forestry Department to regulate the hunting seasons so as to afford protection to the various species during their breeding periods and to females and young at all times. The position began to deteriorate drastically between and during the two World Wars—chiefly owing to the large influx of foreign troops during the first—who hunted game freely everywhere—and to the exorbitant demands on India's timber resources for war purposes which resulted in the virtual denudation of the richest forests of both their timber and their wildlife.

Following this, the unprecedented population explosion, the millions of refugees from the newly created West and East Pakistans and the streams of repatriates from Burma, Ceylon and elsewhere raised problems of settlement and rehabilitation which made the most extravagant inroads on forest lands for cultivation and habitation and exposed wildlife to extreme harassment and to extermination.

This then was the situation when India gained her Independence on 15th August, 1947. Up to that time most of the measures for wildlife conservation—meaning thereby, chiefly "game preservation"—had been initiated by the administration in British India and by the Indian rulers in their respective States. Indian public interest in the subject—except from the ethical-cum-religious point of view—was virtually non-existent. Such practical interest as there was, was largely from the privileged few who wanted animals to be preserved for the sake of their hunting pleasure and from farmers and cultivators, loudly supported by opportunistic politicians, who wanted them destroyed because of the damage the herbivores did to their crops and the carnivores to their livestock. The latter often took the law into their own hands feeling that with the gaining of independence they had earned this new freedom—and that past denials should be compensated for by present excesses. The position was rendered more parlous because, added to all this was the fact that most British officials and others largely responsible for implementation of the preservation laws in the past had left or were leaving the country. This, in broad outline, was the situation in regard to Indian wildlife when the British left the country in 1947.

With the lapsing of the controls and the general disruption of the administration consequent on the sudden political changes of that period, wildlife was one of the main sufferers, since so many more weighty and urgent problems were thrown up for the new administration to tackle. It was during this period of transition that the damage already suffered by wildlife—through the presence of idle troops in wilderness areas with unlimited transport facilities, and an abundance of ammunition and sophisticated automatic firearms—was dangerously aggravated through the activities of poachers and anti-social elements. Not only were animals virtually wiped out in many once-rich wildlife areas, but vast tracts of their forest habitat were destroyed by illicit felling of trees, and burning for cultivation and settlement by trespassers and intruders. Thus incalculable damage was done to forests and wildlife before the administration could recover from the upheavals of independence and review the situation. It was then that the sustained efforts of dedicated naturalists, and societies like The Bombay Natural History Society and others, played a heroic role in arousing the public conscience in the cause of wildlife conservation. Their united concern—voiced through radio talks, articles in papers and magazines, illustrated non-technical books on plants and animals, inclusion of Nature Study lessons in elementary school readers and by other means helped to engender an interest in India's natural wildlife heritage, and to create an awareness of its value as an economic and aesthetic asset deserving special effort to conserve it for the people's enjoyment and for the sake of posterity. It was this climate of acceptance that gave birth to the Indian Board for Wildlife in 1952.

This quasi-official council, whose membership comprises of forestry experts and knowledgeable sportsmen and naturalists, is the chief advisory body for the Government of India in all matters relating to the conservation of wildlife and natural habitats. On it are representatives from all the Indian States, both official and non-official, and its recommendations and advice are usually accepted and implemented by all State Governments, helping thereby to integrate and harmonize wildlife preservation and management policies in the different units of the Indian Union. The Wildlife (Protection) Act, passed by the Indian Parliament in 1972 has helped to unify wildlife policy and, aided by a fast developing public conscience for conservation, augurs well for the future of Indian wildlife. There have been other more concrete indications of India's progress in the field of conservation. The doubling of the population of the Great Indian One-horned Rhinoceros from 375 in 1964 to over 700 today, and of the Central Indian Barasingha or Swamp Deer from 65 in 1966 to over 150 today, has been a source of hope, as has been the halt in the decline of the Asiatic Lion and the creation of many new national parks and sanctuaries. A significant new dimension has been added to the cause in recent years by the advent of the World Wildlife Fund in this country. "Project Tiger" is its most important contribution to Indian wildlife conservation up to the moment and, by the popularising of wildlife, the WWF has given a boost to the efforts of local institutions who have forever been plagued by the lack of funds.

The award to me of the J. P. Getty Wildlife Conservation Prize is perhaps an over-generous recognition on the part of the international jury of the WWF of whatever little I have been able to contribute to the movement in India.

I cannot point to any single flashy or spectacular achievement. In retrospect, I realize that perhaps the chief merit of my work lay in waging something like a long-drawn "war of attrition" on governmental apathy and public indifference—on the principle that constant dripping wears away stones. Its success, no doubt, owes a great deal to the efforts of those conservationists and societies, particularly The Bombay Natural History Society, that had similarly persevered over many decades, to the improved living standards of the Indian people and, quite definitely, to the solid and unfailing support that all efforts for the conservation of our wildlife and natural environment receive from the highest political levels in the country—from our present Prime Minister and from her father, Jawaharlal Nehru, before her.

The honour done to me overwhelms me. I accept the Paul Getty award with deep gratitude to the munificent donor and for the intensification of our efforts to conserve India's natural heritage.

THE MAJOR OIL COMPANIES

Mr. PHILIP A. HART. Mr. President, since the structure of the petroleum industry became a major issue several months ago, we have been bombarded by industry claims of the virtues of big oil and its integrated structure.

With increasing vehemence, the industry maintains that any serious change in the structure of the major companies would impair their efficiency and cost the consumer tens of millions of dollars. Worse, it is asserted, restructuring would destroy the industry's ability to raise capital in time of rising demand for enegry. The net result, they claim, would be calamity for the economy, not to say to the industry's shareholders, pensioners and employees.

Several weeks ago, at the request of Senator HOLLINGS, the Antitrust Subcommittee staff inquired into a petroleum matter involving the South Carolina Tax Commission. As a result, they came upon a very large amount of information directly relating to the integrated structure of the major oil companies. The information puts in serious doubt the validity of many of the arguments so forcefully advanced by the major companies. But more distressing—some of this information raises questions about the good faith of certain industry statements to the subcommittee.

The facts are rather simple. South Carolina, along with a number of other States, is involved in a dispute over the method to be used to calculate the taxable income of large corporations having different divisions and subsidiaries doing business in several States. State tax laws typically limit the State's taxing powers to that portion of a corporation's total net income derived from sources within the State. Two basic approaches are used to determine such taxable income. The State may take the income earned by the entire enterprise—including all of its divisions—and using a standard formula determine the share it may tax. Or, they may identify the income earned only by those divisions doing business in the State and determine the tax according to a standard formula.

The choice plainly affects the amount of a firm's tax liability. With some exceptions, the large, multidivisions, multistate firms prefer the second method.

If the State, however, is to tax a portion of the corporation's total income rather than just the income of the local divisions, it must demonstrate that the firm is a "unitary business." This means a business whose component parts are too closely connected and necessary to each other to justify consideration as independent units. The legal test embodied in many State tax statutes is whether the operation of a particular division within a State is dependent upon or contributes to the operation of the corporation's other divisions outside the State.

What originally aroused Senator HOLLINGS' curiosity was a lawsuit filed by Exxon for a tax refund on the grounds that its South Carolina marketing activity was unconnected with its refining and crude production elsewhere in the country. This is a fairly startling proposition for anyone who has not been in a monastery for the past 6 months. Nightly on television, Texaco shows us how each piece of the industry is essential to every other, like the interconnecting pieces of a jigsaw puzzle. Mobil has preached the same story in an unending series of advertisements.

In hearings before the Antitrust Subcommittee, Frank Ikard, president of the American Petroleum Institute, told the subcommittee:

> Learned analyses of vertical integration state that greater efficiency is gained in vertically integrated companies by economizing on the costs of transacting across different stages of production.
>
> Simply put, this means that time, money, and personnel are saved if the refining department of a large, integrated company has only to deal with the marketing department of the same company. This is efficient.

According to Mr. Ikard, if divestiture legislation were to separate the functions of the major companies it—

> would inevitably cause every company, regardless of its degree of integration, to become less efficient than it is now. Each company would have to engage in a lot of costly transactions that are simply not necessary.
>
> In the final analysis, all of the costs of these inefficiencies would be borne by the consumers.

But Exxon seems to be telling quite a different story to State tax authorities. Particularly disturbing is the fact that Exxon's arguments and evidence in these cases directly contradict certain specific claims the corporation has made to the Antitrust Subcommittee.

Mr. President, as you know the subcommittee has been holding hearings on the petroleum industry's structure and has been exploring the competitive effects of the vertical integration of the major companies. Recently, the subcommittee tried to get the major firms to disclose data which would substantiate the industry's claims about the necessity for integration and the harm divestiture could bring. Of particular concern has been the claim that marketing and refining have had to be subsidized by crude production.

On December 5, I wrote to the presidents of several major oil companies requesting certain data, including an "item 5" which called for "profit and loss statements and balance sheets, audited or unaudited, covering separately production, transportation, refineries, and marketing."

After further correspondence, Exxon's controller, Mr. A. L. Monroe, replied and stated unequivocally:

> As we indicated in our first response and as further discussed with a member of your staff, Exxon Corporation's financial records are not maintained on a functional or segment basis similar to those categories set forth in your item 5.

Mr. Monroe's letter went on to explain:

> As for further statements of revenue and expenditures data directly attributable to each of the above-mentioned groupings [crude production, refining, marketing and transportation], our earlier response, together with the above clarifications, indicate that our corporate records are not maintained in that manner, nor do our independent public accountants prepare such allocations. As we indicated in our December 16 response and in responses to other Congressional Committees, to the FTC's Line of Business and Croporate Patterns reports, and to the FASB's proposal for segment reporting, the petroleum business is unitary in nature. The most meaningful segmentation of our operations is the "upstream"/"downstream" segmentation previously furnished for the years 1972–74. Further breakdowns require many allocations and assumptions, which could lead to erroneous comparisons of data between various companies and hence erroneous conclusions.

Similar responses were received from other major oil companies from whom this data also was requested.

On two very important points Exxon's

letter directly contradicts the corporation's position in the State tax cases. First, the letter asserts "the petroleum business is unitary in nature." Yet, in a Wisconsin tax case, Mr. Thomas G. Ragatz, counsel for Exxon, stated:

> Our evidence will show that none of [Exxon's] functional departments are integral parts of a unitary business composed of all functions combined; rather it will show that each function is independent and not unitary to, or an integral part of, any other function.

Second, the Exxon letter states that the Corporation has nothing similar to profit and loss statements for the separate functions. Yet, Exxon's complaint in the South Carolina case says:

> Each of these functions is managed and accounted for on a functional operating basis. Each is a segment of [Exxon's] total corporate enterprise, but each has its own accounting, budgeting and forecasting, its own management and staff, its own profit center, its own investment center, its own physical facilities, etc. The profit or loss of each function is separately and accurately computed.

Exxon also was quite willing to implicate the rest of the industry in this seeming contradiction. In the Wisconsin trial, Exxon presented testimony from the head of the Houston office of Arthur Anderson & Co. who testified as to his personal knowledge of the fact that other major companies kept similar accounts of their functional levels.

The Exxon case has been tried before the Wisconsin State Tax Appeal Commission. Therefore, we have a complete transcript of Exxon's arguments and evidence to establish that its four functional levels of crude production, refining, transportation, and marketing, are independent entities and should not be treated as a unitary business. But before examining this, it will be useful to look at one particularly important point—a point on which I must concede to Exxon a certain degree of consistency. It involves the justification of vertical integration. On careful reading, the argument its spokesman made for vertical integration before the Antitrust Subcommittee is consistent with the one justification in the Wisconsin trial. In that trial, Exxon contended that vertical integration's purpose is to minimize risk by assuring a supply of crude to its refineries and a supply of product to its marketing outlets. In the Wisconsin trial Exxon called as its export witness the distinguished fromer member of the Council of Economic Advisors, Dr. Ezra Solomon. Dr. Solomon put the case for vertical integration quite succinctly:

> I think that is the main theory underlying vertical integration that it reduces the bumps and valleys that may occur because of excess demand for crude, excess demand for refined products or insufficient demand. In some cases the total risk of the integrated enterprise is lowered.

Further elaboration was provided by Mr. Oral L. Luper, a senior vice president of the corporation:

> There are a number of reasons, I think, why there is—why the individual separate operating facilities are combined under one single corporate entity.
>
> Some of the reasons for this—first, the petroleum—in any industry which is highly capital intensive, such as the petroleum industry, the fixed operating costs are highly relative to total operating costs, and for this is very sensitive and directly related to the reason the profitability of such an industry full utilization of the capacity of the facilities.
>
> So, in the case of the petroleum industry it is—where you have high capital investments in refineries, the existence of an assured supply of raw materials and crude is important and the assured and stable outlet for products is important and the assured and stable outlet for products is important, and therefore when there are—when these segments are under a single corporate entity, it provides for some assurance that the risk of disruptions in refining operations are minimized due to supply and demand imbalances that may occur from time to time.

If this argument represents the ultimate case for vertical integration in the petroleum industry, it deserves careful analysis. What it says is that the supply of crude, for example, may be uncertain, and, therefore, in order to minimize the risk of having expensive refining equipment sitting idle, it is necessary to have one's own supply. Because lower risk equals lower costs, the consumers supposedly benefit.

Certainly, from the perspective of Exxon, or any other oil company, this argument makes excellent sense. Whether it makes sense for the industry as a whole, however, is highly questionable. For example, it is obvious that vertical integration does not increase the security of the supply of crude oil for the whole refining industry. The total supply of crude oil has nothing to do with the extent of vertical integration. If every firm were integrated there would be no more crude oil than if none were integrated. It follows, therefore, that in an industry where only some firms are integrated, security of supply for the integrated firms is had only at the expense of nonintegrated firms. To the extent that there are "bumps and valleys" in the supply of crude or product, they occur only for the oil that moves outside the secure integrated channels. To the extent the risks are reduced for the integrated firm, they are proportionately increased for nonintegrated firms. In time of shortage, for example, the major integrated firm is able to shift the whole burden of the shortage off on the independent sector. This, of course, is exactly what happened during the shortage that began in the summer of 1973 and during the period following the Arab embargo. Then it was necessary for the Congress to intervene with the Emergency Petroleum Allocation Act to save the independent sector from annihilation.

It seems to me it is illogical to claim, as does Exxon, that consumers as a whole benefit from the reduction of risk inherent in vertical integration. The risk must be borne and paid for by the consumers in any case. The only question is whether some firms should have a lower risk at the expense of their rivals.

There is another fundamental defect in Exxon's argument on behalf of vertical integration. The distinguished chief economist of the Federal Trade Commission, F. M. Scherer, has pointed out, after studying 12 industries, that the incentive for vertical integration is directly related to the breakdown of price competition in the input markets. In other words, if your suppliers of raw materials are not competing, you will want to integrate backwards and produce your own raw material. In the oil industry this means that the risk which the refineries avoid by integrating into crude production is a risk created by the destruction of competition in the crude markets. What the industry is making is a Gargantuan version of what lawyers call the "felonious orphan" argument. This is the argument used by the child, who having killed his parents, throws himself on the mercy of the court on the grounds that he is an orphan. The major companies, having killed off competition in the crude oil market, can hardly use that as an excuse for vertical integration.

As I noted earlier, the central issue in the Wisconsin case, as in the other State tax cases, is the nature of Exxon's vertical integration. Its counsel, Mr. Ragatz, outlined the corporation's argument in his opening statement:

> The evidence will show that [Exxon] was organized on a functionally independent basis, and that its separate functions were operated as separate businesses in competition with other oil companies having similar functions and other companies which only operated in the business activity of a particular function.
>
> * * * * *
>
> Our evidence in connection with [Exxon's] exploration and porduction function will demonstrate that it is organized and run as a separate business, and that the petitioner's corporate policy of functional profitability independence is carried out by the sale of a substantial portion of the crude oil to third parties at third party prices known as 'posted field prices,' and by the transfer of other crude to the petitioner's refining department, also at the posted field prices.
>
> * * * * *
>
> The same functional profitability independence policy applies to the refining function, in that it acquires crude from outsiders and from petitioner's exploration and production function at posted field prices, and it sells and transfers the refined product to third parties at negotiated arm's length prices, and to petitioner's marketing department at such third party prices determined in relation to those published in the accepted industry publication known as Platt's Oilgram.

To establish its case, Exxon's attorneys relied heavily on the testimony of Mr. Luper, a senior vice president of the corporation, who told the Commission:

> [E]ach of the operating departments had its own separate management responsible for the proper conduct of that operation. Each of these management managers had a technical staff to provide all the supporting technical service that he needed to operate his particular operation. He also had the administrative staff when necessary to assist him. Each of these departments had its own separate and distinct field organization which conducted the operations in the field.

Mr. Luper went on to explain how each functional department deals on its own with firms outside the Exxon organization. And how each functional department is responsible for all administration relating to its employees, including training, handling benefits, and negotiating union contracts. Each establishes its own credit and collection policies. And each prepare its own capital budget, investment program, and separate financial forecasts, including forecasts of the profitability of its forward operations. And he concluded:

> When all these elements are taken together the entire organization of each of these separate functional segments is designed to permit them to operate independently and separate from each other segment . . . [T]hey were on a self-sufficient basis, except . . . the availability of some of the Coordination and Service Departments which was provided at the corporate level. These departments were free to consult with those staff departments, if they felt it was necessary.

Exxon's counsel also relied on their expert witness, Dr. Ezra Solmon. Dr. Solmon testified about the nature of the Exxon corporation in response to Mr. Ragatz' questions:

> Q. Do you have an opinion . . . as to whether Humble [i.e., Exxon] was a unitary company?
>
> A. No, by my definition. If it is integrated, it is by definition not unitary.
>
> Q. And on the same basis do you have an opinion as to whether the functional operations of the Humble Exploration and Production Department, the Refining Department and the Marketing Department were carried on as separate businesses?
>
> A. Yes, there are three separate unitary businesses, and if I remember right, there were even more, but these are the major important stages that a vertically integrated company combines.
>
> Q. Each stage, E and P, Refining and Marketing, you would say were separate businesses?
>
> A. Yes.
>
> Q. On the same basis do you have an opinion as to whether or not the Wisconsin Marketing operations were an integral part of the Humble E and P function?
>
> A. No, they are not.
>
> Q. Did you find any economic dependence between the Wisconsin operation and the E and P Department?
>
> A. No, none whatever. It appears that Humble's E and P Department was a functioning unit even before there were any Wisconsin operations.
>
> * * * * *
>
> [Dr. Solomon] Q. Could Humble's E and P Department sever its relationship with the Wisconsin operation without affecting the Wisconsin operation?
>
> [Mr. Ragatz] A. Right.
>
> A. Yes, I imagine it could.
>
> Q. And could the Wisconsin Marketing operations have been severed without damage to the E and P function?
>
> Yes, the Wisconsin Marketing end of it didn't exist for a while, and after it existed, it could have been severed without affecting the E and P viability.
>
> Q. Now, on the same basis as I previously asked, do you have an option as to whether the Wisconsin Marketing operations were during the years in issue an integral part of the Humble Refining Department?
>
> A. They were not.
>
> Q. Was there any economic dependence in that relationship?
>
> A. Not that one could see from the record at all. The Refining Department was a unitary business that could have functioned with or without the Wisconsin Marketing.
>
> Q. And so there was no—or the Department could have been feasibly economically severed without damaging the Wisconsin Marketing operations?
>
> A. You could have a Wisconsin Marketing operation without having a Refining Department.
>
> Q. Then in other words, there was an ample supply of products without obtaining them from Humble Refining?
>
> A. That's correct.
>
> Q. Could the Wisconsin Marketing operations have been feasibly economically severed without damaging Humble's Refining Department operations?
>
> A. Yes.
>
> Q. So there was an ample demand for Humble's Refining product without the Wisconsin Market?
>
> A. Yes.
>
> Q. And going back to the E and P Department for a minute, I take it that in the market there would be an ample demand for crude oil without the Humble Refining Department being in the picture so that Humble's E and P Department could have disposed of its crude oil produced?
>
> A. Yes. Many companies exist as crude oil producers.
>
> Q. And as to the Refining Department, there was an ample supply of crude oil in the market so that the Refining Department was not economically dependent upon Humble's E and P Department?
>
> A. Not in the sense that I am using the word here.
>
> Q. And the two departments could have been economically severed on a feasible basis?
>
> A. The very fact that refineries exist as independent refineries and producers exist as independent producers and on a fairly large scale suggests that this can be done.

And on redirect examination he testified:

> Q. Professor Solomon, on cross-examination you were asked questions that seemed to be driving at a dependent relationship between separate functions of an integrated oil company. Would you comment on the concept of dependence in terms of demand and supply in the market itself as to whether or not everybody in business has some dependency on market conditions and distinguish that from an economic dependency in terms of the concept of unitary?
>
> A. Well, in the case of a unitary business, the degree of dependence between the subcomponents that comprise that unit are very strong. They are essential, they are necessary. You could not feasibly run it in today's economy, or whatever economy we are talking about, without all of those components.
>
> In the case of a vertically-integrated company, the presence of business or unitary businesses within the vertical combination, the dependence is not as strong at all. It is quite a bit weaker. There is, obviously, some advantage for each unitary business belonging in a family of businesses. Size alone does provide some help. That degree of dependence is sort of trivial compared to the interdependence within each unit itself.
>
> Q. In the market could you say that the dependence for a refinery would be that there be a supply of crude in the general market itself and that there not be a dependence between ownership of a producing function and a refining function?
>
> A. Well, the common ownership of the two functions is not all that important in terms of the demand and supply of the flow of product, either crude or the products that come out of them. There is a well-established market for crude petroleum. It has a daily quotation. A refinery can buy there, a crude producer can sell there. Likewise, at the refined end there is a clear cut market for petroleum products in which a lot of people engage and in which there are daily quotations so that the degree of dependence is not that great at all.
>
> Q. In other words the refinery can get crude from market sources that have no ownership relationship to the refinery and, in turn, can sell its product to the market sources that have no ownership relationship to the refinery?
>
> A. Quite. The total demand and supply for crude is balanced. It really doesn't matter where you get it. It's the same kind of thing and you get it at the same price anyway.

It is remarkable that in discussing divestiture legislation Exxon can claim that the economic well-being of the whole country depends upon the integration of the major oil companies, yet in State tax proceedings can describe the relationship between the components of the integrated companies as "sort of trivial."

The true economic benefits from integration may indeed be trivial. But the consequence of industry vertical integration in precluding true competitive markets for crude oil and refined product is anything but trivial.

Another key point in the industry's divestiture debate is that integration is essential to its ability to raise and manage the use of the huge sums of capital necessary to meet our future energy needs. Again, the tax case evidence puts new light on this issue. According to Exxon, not only do its departments perform autonomously in an operational sense, they are treated as autonomous also for financial purposes.

Again, we owe our enlightenment to Mr. Luper:

> Each functional segment was organized into a separate department which operated independently of each other operating segment and was organized in a way so that it could perform pretty much on a stand-alone basis as a separate, single function company.
>
> Each operating department is responsible for its own performance, both operationally and financially. It has been the philosophy of the company's management for a long-standing period that each department is evaluated separately and independently of each other department from a profitability standpoint and operational standpoint and overall performance.
>
> [I]t's been the view of our management, executive management, that by having each department independently responsible for its function performance is one of the most effective management tools that we can use in measuring the performance of the departments and to improving their operations. Under this plan each department is in competition for the available funds for investment in the business activities of each of these operating functions.

In response to the State's requests for admissions in the South Carolina case, Exxon claimed that its departments "compete with one another, not only to show department profitability, but also for available company funds for investment in the activities of the separate functional operations."

What all this says is that Exxon USA's corporate management reviews the performance of each department and allocates capital, presumably to where it will bring the greatest benefit to the stockholders. In effect, Exxon has attempted internally to recreate a capital market. Its corporate bureaucracy is attempting to approximate the workings of the real capital market.

Were the functional departments spun off from the corporate shell, one can reasonably assume that they could go directly to the capital market to secure funds. Divestiture would eliminate the intermediate capital distribution now performed at the corporate management level. The capital market itself will be able to measure the performance of each functional entity and allocate capital accordingly. Such a result could hardly lead to the economic collapse of the Republic. In fact, there are some that might argue that free markets allocate goods, services, and even capital more efficiently than do bureaucrats, even corporate bureaucrats. It may be true that financial institutions have a preference for large corporations. But this preference can hardly be the basis for public policy. After all, Ford Motor Co. could lower its capital costs if it was permitted to merge with General Motors.

Moreover, it should be remembered that the functional units of the major oil companies are large by any standard. Exxon's crude producing unit after being severed would be the fourth largest corporation in the United States, behind only General Motors, Ford and IBM. There is no reason to believe that large, well-managed enterprises which produce a commodity in high demand will be unwelcome in the capital markets. The proven ability of the various functional segments to compete successfully for capital within the corporation gives us us every reason for confidence in their ability to stand alone.

It seems to me, in light of the evidence and arguments in the tax cases and in light of the refusal of the industry to supply relevant data to the various committees of the Congress, certain conclusions are in order. First, the various functional departments of the major companies can stand on their own. They have been profitable in the past and can be profitable in the future even if severed from their parent companies.

Second, the functional components have been competing for the investors' dollars within the major companies for years. To the extent that they are efficient and fill a real demand, they can compete for capital just as well in the financial world.

Finally, vertical integration may confer important benefits on the integrated companies. But there is no way these benefits can be claimed for the industry as a whole, much less can they be claimed for the consumer.

The industry's claim that the creation of open competitive markets between the functional levels of the industry will create a chaos or destroy its efficiency lacks foundation.

Our economic system has been based upon a strong presumption in favor of free markets. Mr. Ragatz, Mr. Luper, and Dr. Soloman have made a strong case for no longer making an exception for the petroleum industry.

FOOD NEEDS

Mr. PERCY. Mr. President, the present world food shortage is a serious situation that cannot be overlooked. Depleted food reserves, crop failures, and rising food prices are resulting in increased hunger and malnutrition for millions in all nations. There is a growing need for developed and developing countries alike to increase food production through international efforts.

I take this opportunity to share with my colleagues the following article which highlights many of the issues involved in the relationship between food needs and the ability to fill those needs.

Mr. President, I ask unanimous consent that the article entitled "New Tactics for World Food Supply" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW TACTICS FOR WORLD FOOD SUPPLY

(By Don Oakley)

It took from the dawn of time until 1830 to assemble the earth's first billion human beings. But it took only 100 years for the next billion. And then only 30 years for the third.

That was in 1960. In the 15 years since then, we have gathered the fourth billion, and 10 years hence will bring the fifth billion.

By the end of this century—barring some worldwide, depopulating catastrophe—between 6.5 and 7.5 billion souls will be sharing the world's dinnertable.

These familiar and oft-repeated statistics were reiterated again by S. T. Keel, senior vice president of International Minerals & Chemical Corp. (IMC), keynoting the 11th Latin American Food Production Conference held recently in San Juan, Puerto Rico.

He cited another dismal figure. At the present rate of population growth, the gap between the needs of the developing nations and the grain they produce will rise from the present 25 million tons a year to an annual deficit of 85 million tons by 1985, only 10 slim years away.

Obviously, the world needs more food and needs it quickly. The United States has embarked on a program to increase its output to the maximum and in the last two years has expanded its grain acreage from 144 million acres to 166 million acres.

But even with the all-out efforts of American farmers, the U.S. cannot make up the deficit alone. Ironically—but also giving cause for hope—it is the nations with the most rapidly growing food deficits which also possess the greatest capacity for increased production, says Keel.

The developing nations have the largest amounts of unused land and water. While they now have 35 per cent more land in grain production than the developed nations, they produce 20 per cent less on this land.

"In short," says Keel, "the largest growth in world food production can—and must—take place in the countries of chronic deficit."

This has been the impetus behind 24 food production conferences which IMC, the world's largest producer of fertilizers, has been sponsoring in Asia and Latin America since 1965. That and the fact that of all the variables involved in agriculture, fertilizer is the single most important short-term input for increasing production. Nothing else can boost crop yields as swiftly, economically and effectively.

While leading figures in government, industry and science have attended the conferences and traded ideas on new tools and techniques to increase food production from computer crop planning to chemical growth regulators to plant genetics, no problem amenable to practical solution is too small.

At one conference, for example, two hours were spent determining what kind of burlap should be used for fertilizer bags. This was very important because in that part of the world burlap bags have reuse applications like clothing and bed coverings. The after-use value of the bags made fertilizer more attractive to local farmers, and this stimulus to fertilizer purchases helped increased food production.

The world now finds itself precariously balanced between what it grows and what it eats. It may, indeed, turn out, says Keel, that for a variety of reasons—politics, wars, general economic stupidity—the world will not be properly fed.

"But we cannot accept that from our present vantage point. If we keep pressing the belief that it can be done, that the world can be fed adequately and nutritionally, we will find more ways and enough strength to do it."

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I spoke yesterday of the approval given by major newspapers across the Nation to the American Bar Association's recent endorsement of the Genocide Convention. The endorsement has come only after many years of refusal on the part of the general membership of the association to give their approval to the convention. This action by the ABA is certainly long overdue.

On February 24, 1976, the Milwaukee Journal urged rapid action by the Senate to ratify the Genocide Convention.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PASS GENOCIDE CONVENTION

The desirability of making genocide an international crime was underscored by the horrors of Nazi murders of Europe's Jews and other minorities in World War II. The US played a major part in drafting such a convention in the United Nations. The convention was adopted unanimously by the UN General Assembly in 1948, went into force in 1951 and today has been ratified by 75 nations—but not by the U.S.

For a quarter of a century the US has refused to ratify the treaty in spite of the fact that it has been supported by the Kennedy, Johnson and Nixon administrations. One of the main bases of opposition was the American Bar Association. In the initial hearings on the convention in 1950, "only the American Bar Association appeared in opposition," according to a 1973 Senate Foreign Relations Committee report.

The ABA finally has seen the light. At its recently held annual meeting, the ABA reversed itself and came down in belated support for the treaty. This should provide new impetus for the Ford administration and the Senate to act on this worthwhile measure. It is time that the United States joined the majority of the other nations on Earth in recognition of the seriousness of the crime of genocide.

A NEW INITIATIVE REQUIRED ON MARINE SCIENCE

Mr. HUMPHREY. Mr. President, the potential value of our oceans is a matter of other highest importance. The oceans can be of great benefit to mankind if only we realize their potential and seek to utilize their value for our future interests.

I am concerned because initiatives previously taken by the Congress to study the resources of the ocean have been met by indifference in the executive branch. This administration has failed to realize the role of the oceans in national affairs. The leadership is lacking to give renewed emphasis to ocean related priorities. I bring this to the attention of the U.S. Senate with a sense of urgency.

As Vice President of the United States, I had the statutory responsibility to coordinate Federal efforts to study the opportunities of the ocean and to realize the possible benefits to our people that would result from including the oceans in our public policy priorities.

A beginning was made in that direction by Congress in 1966 when the Marine Resources and Engineering Act was passed. Under this act the Council on Marine Resources and Engineering Development was established. As chairman of the Council I saw the importance of the Council's assistance to the President in understanding the potential of our oceans. It was with dedication and urgency that we worked. But with the passing of years, the momentum has ceased and our goals are now blurred.

I believe that we must reexamine the value of our oceans to our national interests and give new initiative to the agencies of Government which share the responsibility for directing policies concerning the oceans.

On March 23, 1976, I had the opportunity to testify before the Oceans and Atmosphere Subcommittee of the Senate Committee on Commerce.

Mr. President I ask unanimous consent that my testimony before that subcommittee be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR HUBERT H. HUMPHREY

It is a great pleasure to respond to your request for comment on two pieces of legislation that focus on what I regard as one of the most crucial areas of national interest, and one of the most neglected. Both S. 3165, to establish a Sea Grant College program, and S. 709, which I introduced, to establish a National Council on Marine Science, Engineering, and Resource Development, highlight the untapped potential of the oceans to contribute to human satisfaction, to strengthen our economy and to preserve a wholesome environment. And both set forth explicit ways and means by which we may promptly and effectively realize these opportunities. Quite apart from a personal conviction that I have held since 1959 that the oceans offer great benefits to humankind, I had the statutory responsibility while Vice President of the United States to study these needs and opportunities and to advise and assist the President in carrying out a new mandate passed by the Congress in 1966 to bring the oceans into the mainstream of public policy. It is from that vantage point that I should like to share some of the reasons why I regard the oceans as important to our future, and also some observations as to insufficiencies in present management of transforming a fragmented, unsteady and loosely knit caboodle of federal agencies into a broadly-based, coherent marine program sparked by a sense of urgency.

My starting point is the dilemmas of our contemporary society and the prospects offered by the oceans for developing new maritime solutions to deal with old problems. These are problems of world hunger; of growing needs for energy and materials, with sources that are not vulnerable to monopolistic pricing or threats of arbitrary cut-offs; problems of unwitting pollution of our planetary environment; problems of an unmet need for coastal recreation, simultaneously with the decay of our urban waterfront; problems of international scrambling for ocean based resources, with conflicts and threats to world order; problems of employment of our coastal populations that would choose to fish, in the face of an absurd contradiction that we are obliged to import almost half of our fishery products and continue to stress our balance of payments.

It was in that perception of national indifference to these ocean opportunities that the Congress worked hard in the middle 1960's to develop an unprecedented national policy and a strategy to focus resources of the oceans on this wide range of social goals. They passed the "Marine Resources and Engineering Development Act of 1966." That Act is still on the books. Yet I believe over the last five years that we have faltered in sustaining the vision, innovative spirit and the momentum that were accorded our nation's program in the initial attempts to implement that mandate. Our goals are blurred and timid. A large number of different agencies in the Executive Branch have fragmented, uncoordinated and even competing responsibility for carrying out various ocean functions. Their energy is dissipated in sheer rivalry. And, most important, the role of the oceans has slipped from the President's priority list. It was out of this recognition and out of this concern that over one year ago I introduced S. 709.

During this interval, I know that this Committee has mounted a comprehensive study of national ocean policy. Indeed, I should like to express my appreciation for your consideration of the bill. More than that, I should like to salute this Committee on its leadership in now opening hearings on the shortfall of our ocean accomplishments and evaluating the causes, and in its determination to develop remedies that once again might restore a sense of direction and momentum to our maritime enterprise.

It is a melancholy fact that this current initiative constitutes the fourth occasion that the Congress has had to goad the Executive Branch to recognize the role of the oceans in national affairs. There are a number of reasons for this. For one thing, although we are a maritime nation with a rich and proud maritime history, we seem to have paid attention to the oceans only in time of war. Tonnage of merchant shipping, for example, reached peaks in 1815, in 1865, in 1918, and again in 1945, thus, dramatizing the decline in maritime priorities in between these crises.

There are other reasons for this indifference. Those that study the sea, engaged in oceanographic research, had until recently very great difficulty in soliciting adequate funds. Oceanography was a late starter in the scientific disciplines and for a long time seemed to be very low in the pecking order within the scientific community itself.

Even those that use the sea for fishing, for shipping, for marine-based resources have not been articulate in expressing their interests. Small as each of these sectors has been, they sought no coalition and their soft voices did not represent a constituency that often seems necessary to animate the public process. More than once we have had cause to remember that the fish don't vote.

Apart from these problems outside of the government, there were also problems within it. The federal bureaucracy was highly disjointed. A number of new functions were generated over the years, assigned to some old and some new agencies; and it is very clear that the organizational structure of government was never carefully designed to fulfill a clear set of marine requirements. The federal enterprise grew piecemeal, sometimes accompanied by a game of bureaucratic musical chairs as agencies were expanded, modified or transferred, but virtually all of these agencies were low down in the management hierarchy, suffered from insufficient authority, low visibility, tenuous access to the top management of the government itself, and budget malnutrition.

Then there was another problem. Not only were these agency voices drowned out in the noisier clanking of larger federal enterprises, they were not singing the same song. They lacked a central focus, central leadership and central coordination.

This was the dismal state of affairs that led the Congress in its first thrust in 1959 to try to upgrade priorities for the oceans. The Administration then in power was not listening. Two years later, shortly after his inauguration, President John F. Kennedy took note of this lamentable state of affairs and gave a major boost to the federal support for research. But by 1965, the enterprise was again drifting.

This time, under the leadership of your chairman, Senator Warren Magnuson, the Congress undertook a probing diagnosis and came up with a major, indeed unprecedented, piece of legislation. The "Marine Resources and Engineering Development Act of 1966" for the first time in our nation's history declared it to be a policy of the United States "to develop, encourage, and maintain a coordinated, comprehensive and long range national program in marine science for the benefit of mankind." That declaration of policy stated what should be done. But that legislation, P.L. 89–454, also did two other things: it asserted clearly and unambiguously who should carry out these directions, and it provided high level policy planning and coordinating machinery to facilitate implementation as to how.

Thus, the legislation related the oceans to our national interest; it took note that a wide range of uses of the sea had been made the responsibility of a large number of different federal agencies whose diverse interests could be orchestrated by only one man, the constitutional bandmaster, the President of the United States.

New machinery was then created to advise and assist him—a National Council on Marine Resources and Engineering Development. This was a staff agency chaired by the Vice President of the United States, including those Cabinet officers and agency heads who headed operating arms within the Executive Branch to implement whatever marine-related goals were established by the President. The legislation also provided for a small, fulltime staff agency to support that Council, headed by a presidentially appointed staff director.

At the time P.L. 89–454 was enacted, I was privileged to be serving as Vice President of the United States. In all candor I have to say that given the constitutional definition of that office, I was thrilled by the notion that the Vice President would have some duties other than ceremonial. That is, almost for the first time in our history, the legislation assigned to the Vice President the role of assisting his boss in those difficult and complex tasks that attend the Presidency.

During that interval between 1966 and 1969, let me tell you what the Council did:

On the one hand, it identified unmet national needs; on the other, it identified new opportunities to direct federal marine science and technology to meet these needs.

It recommended priorities; it identified impediments to progress within the Executive Branch and strategies for circumventing red tape. It developed new policies and made on behalf of the President clear assignments to implementing agencies. In those cases where the programs needed the collaborative effort of several, especially where the basic statutory missions overlapped, the Council recommended one agency assume a lead responsibility.

It insured that appropriate resources of the federal government were brought to bear upon presidentially enunciated goals.

With the help of outside advisors, it evaluated federal programs so as to eliminate marginal activities and in the inevitable competition for funds, made choices as to the more important.

It developed background studies that would bring together not just the scientific and engineering components of marine affairs but also legal, economic, social and even political considerations which are essential parts of the public process.

And, last but by no means least, the Council took initiatives to develop programs to strengthen world understanding and security through international cooperative marine endeavors—to deal with the oceans as a community of nations rather than a form of parochial territorialism.

In looking back over that interval, I think it is fair to say that that new national policy and its activist implementation bore considerable fruit. In his State of the Union message, in special messages to the Congress, in statements, speeches and appropriation actions, the President employed the potential of the sea to meet national needs on sixty-five separate occasions.

Let me cite a few examples: To meet conflicting uses of the shoreline, the states were encouraged to develop their individual management plans to protect and utilize their coastal resources wisely, and new federal policies were examined to assist the states in that task.

On the basis of Council studies and preparation, the President launched an exciting International Decade of Ocean Exploration.

In that same theme, it was the Council that initiated steps toward seabed arms control that several years later led to the signing of a major treaty.

During these same years, the Council instituted measures to meet pollution emergencies from oil spills.

And the Council took special efforts to strengthen the base of science and technology including support for the initial implementation of Sea Grant.

Now, what do we find? In 1971 the authority of the Council, which had been accorded only limited life, was allowed to expire. That dismantling of the Council has had two major effects. First, opportunities have been lost to present government-wide policy options directly to the President. And, second, lacking that central, politically powerful and potentially creative leadership, the marine programs of so many different agencies that respond to diverse outside clientele have lost their sense of community and their activities are now shattered by family quarrels.

It is a strange irony that at a time when so many citizens are wringing their hands over ineffectiveness of government, over disparity of promise and performance, and over problems of setting our potenital scientific and technical resources to meet social purposes, that we should have permitted to lapse an innovative component of governmental machinery with such a record of high performance.

Certainly, there is no justification for disestablishing the Council because the oceans have lost their importance. Indeed, there is compelling evidence that the needs and opportunities to employ the oceans to meet the aspirations of the American people have increased. Let me tell you why.

The threats to world peace continue, and instead of the oceans forming a new and inviting theatre for international cooperation we now find an atmosphere in the last few years of tumultuous wrangling on the basis of narrow territorial interests and complete indifference to rational management of resources.

Over one billion people on this planet suffer nutritional deficiencies while the protein potential of the sea continues to be neglected.

The United States initiative seven years ago for the International Decade of Ocean Exploration has eroded to primarily an American rather than a multinational enterprise; it has been level funded; it has lost advocacy by policy leadership; and it has failed by virtue of that abdication of leadership to provide an antidote to the nationalistic passions that are being acted out at the United Nations.

Our domestic fisheries are in a shambles. We depend so much on imports such that we contribute well over one billion dollars a year to a negative balance of payments because the demand for fishery products is almost double the domestic supply. There is unemployment and despair among our coastal fishermen. Now with the possibility of extension of our fishery jurisdiction for a band 200 miles wide around our coasts, we discover that the U.S. government has no long range plan much less the capability to manage those fishery stocks for which we will be responsible.

As to the potential of developing oil and gas on the Outer Continental Shelf—we have restarted leasing with fits and starts that trouble the oil industry itself, as well as those who are concerned about utilization of these common property resources that are held as a public trust for all citizens. We have continued past practices of leasing that were developed in a different era without, for example, examining the benefits of separating exploration from development. If we did that, it would be possible to bank offshore resources once they are charted, and thus preserve them for future generations. The government still has too little geophysical data to assure a fair return from its leases. And we still do not have an adequate assessment of adverse impacts of offshore development on the nearby coastal communities, and systematic ways and means to assist such states to meet social costs that they may have to bear.

Marine accidents of commercial ships still continue at levels that would be unacceptable in any other form of transportation.

The potential threat of ocean pollution has not brought about the necessary monitoring and major cooperative ventures with other nations to stop using the oceans as an open sewer.

Finally, let me note that as far as the federal bureaucracy itself is concerned, the creation of the new National Oceanic and Atmospheric Administration was an important step toward strengthening our marine operating arms. But it has not proven a viable substitute for the Council. It was believed, incidentally, that the consolidation of a number of major ocean endeavors into one unit would reduce the number of agencies engaged in marine activities. Today, instead of there being fewer federal agencies, there are actually more.

As I review this statute of our current situation, I do not feel that we have lost ground from the new level of perception and priorities that were established ten years ago. But over the last five years, we have made no progress at all. Several key opportunities may be completely lost.

As you know, I introduced S. 709 in February of last year as a signal of my concern about the uneveness and the unsteadiness of the national ocean program. My present responsibilities in the Congress do not include detailed oversight of this area and, thus, I, like all of your colleagues in the Senate, look to the National Ocean Policy Study for which you have a clear leadership to deal with these problems and to develop options for improvement. I am not rigidly committed to the language of S. 709, nor do I believe that we should simply switch on a Marine Council without examining alternatives. I submit, however, that P.L. 89–454, enacted in 1966, contained the genius of legislative diagnosis as to the problems, and the key to the solutions: (1) it stated the goals of marine policy and the relationship of the oceans to our national interests; (2) it emphasized the role of the President of the United States to fill that vacuum in leadership, to correct a limpid priority for ocean affairs, and to assert administrative supervision over the participating agencies of government; and (3) it provided the President with modest staff for independent advice and counsel, and assistance in carrying out his responsibilities—to head off agencies from developing their own goals which may not coincide with those of the President, and from running off in separate directions, competing with each other, and possibly engaging in unnecessary duplication. It is one thing for me to cite the track record of the National Council on Marine Resources and Engineering Development from my post as chairman, but I think it is fair to say that a large number of observers of the scene in Congress and in the marine community have also paid tribute to that operation.

In quite a different sense, the Council was an experiment in public administration for, whatever the specialized intent, it was unique in calling on the Vice President of the United States to serve as an Assistant President.

I mentioned earlier how little the Constitution requires of the Vice President. In speaking of that office, John Adams, the first Vice President of the United States, asserted that this country had "in its wisdom contrived for him the most insignificant office that ever the invention of man contrived or his imagination conceived."

The Vice President's key role lies, of course, in his readiness to ascend to the Presidency in the unhappy event of the removal of the President from office or of his death, resignation or inability to discharge the power and duties of his office.

It has seemed to me for a long time that the President does need someone with constitutional standing and sufficient stature and prestige not too far below him to act in a continuing supportive role. In the case of the Marine Council's experience, the Vice

President was of assistance to the Chief Executive in identifying unmet needs and developing new programs and policies to serve them, in recommending priorities and matching resources to goals, in clarifying and coordinating responsibilities of various participating agencies and in minimizing conflict, and, finally, in integrating economic, social, legal and political considerations with the scientific and technical.

One reason why I am taking this occasion to mention these views is that we are in an election year. The attention of the nation is drawn to filling the Number One post in our government. I believe that we should give balanced attention also to the Number Two position. It may just be that his or her qualifications with regard to management ability and leadership deserve just as much consideration in strengthening a political ticket as the person's home state, religious affiliation, or political ideology. To consider these dimensions of the Vice Presidency, in my view, would certainly be in the national interest.

In summary, I believe there is an urgent need to examine the relationship of the oceans to our national interests and to restart the engines of the Executive Branch. The present Administration has been indifferent to these needs and opportunities. It has not asserted the necessary leadership to give coherent focus to the different interests of our nation and the different agencies of government having piecemeal responsibilities. We need a renewed dedication to ocean-related priorities and we need more energetic federal management. And, above all, we must make renewed efforts to discover how the oceans may be turned to the cause of peace and to the interests of other nations on this planet as well as our own.

This Committee is on the right track with questions it is raising. Let me assure you of my support as you formulate solutions.

READING IS FUNDAMENTAL

Mr. PERCY. Mr. President, the Washington Post and the Washington Star recently carried articles on a distressing situation in Maryland elementary and secondary schools. Statewide Maryland tests taken in October 1975, showed that one-third of its 7th graders and one-fifth of its 11th-grade students have difficulty with basic reading skills. Although the tests do not measure student competence against a grade level or national standard, the results try to assess basic skills necessary for functioning as an adult and coping with everyday demands. The skill tests included questions based on reading Government pamphlets, encyclopedias, dictionaries, and other commonplace reading materials.

The Maryland test is a new concept in that it looks beyond traditional textbook learning to practical everyday skills. Students who are identified from the test as having certain weaknesses in reading comprehension are, subsequently, given remedial aid. It is unfortunate, though, that this testing is needed, since adequate educational training should be provided for our children.

None of us can afford to be unconcerned about the lack of proficiency in reading skills. Certainly we must do everything we possibly can to insure that students know how to read and write adequately before they graduate from high school.

At this time, I would also like to bring to the attention of my colleagues a program which has been successfully adopted in more than 400 communities in 47 States. Reading Is Fundamental—RIF—a volunteer project involving parents, educators, and other community leaders attempts to motivate children to read for pleasure. The RIF program allows pre-kindergarten through sixth grade children to own books which they themselves choose.

In the 9 years that the program has been in operation roughly 600 million books have been distributed to 300 million children. RIF has proved to be a highly effective and low-cost method of motivating children to read.

In view of the distressing situation in Maryland elementary and secondary schools, and schools throughout the country, such a program which has demonstrated its effectiveness in improving reading skills deserves to be implemented in more communities throughout the country. I commend Mrs. Robert McNamara, chairman of the board of directors of Reading Is Fundamental, Inc., for her continued efforts in this worthwhile program.

I ask unanimous consent that the Washington Post and Washington Star articles plus a report by Mrs. McNamara on the Reading Is Fundamental program be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Feb. 26, 1976]

MARYLAND TEST FINDS 20 PERCENT OF PUPILS LACK "BASIC" READING SKILL

(By John Mathews)

One in five 11th-graders in Maryland public high schools and nearly one of every four seventh-grade students has difficulty with basic reading skills, such as reading job advertisements, dictionaries or encyclopedias and even figuring out a coupon on a box of Cheerios.

First statewide results of Maryland's unique "survival reading test," which tries to assess basic skills needed to function in the adult world, were downplayed, however, by state education officials.

"This doesn't mean that 20 percent or more of our students are functional illiterates," said Dr. Adel Mitzel, administrator of the state assessment program "All it tells us is that about 80 percent of the juniors and three-quarters of the seventh-grade students got 80 percent of the questions right."

Mitzel did concede that 80 percent had been set as a level indicating mastery of basic skills, but cautioned that broad conclusions should not be drawn from the first administration of a new test that might need further revision. She added that a functionally illiterate student would probably score 30 percent or lower.

The over-all average for seventh-graders on the four sections of the test, given to 67,000 students in October, was 76.7 percent. Seventh-graders scored lowest, 67.9 percent, on the section testing gaining of information, which had questions based on reading government pamphlets, dictionaries and encyclopedias.

The seventh-graders did best, 82.5 percent, on a section testing ability to follow directions by reading road signs, game rules, recipes and drug labels.

The high school juniors, with an over-all 79.7 percent average, did poorest on locating information from reference sources, scoring 69.8 percent. Questions in that section dealt with reading telephone directors, temperature from a thermometer and newspaper advertisements.

Like the seventh-graders, the 11th-grade students did best on the section testing their ability to follow directions.

The Maryland tests were designed solely for the state taking into account its culture. Among the items in the tests are advertisements from newspapers in Cumberland and Salisbury, a University of Maryland application form and state tax and licensing forms.

The tests do not measure student performance against a national standard or a grade level. Instead, they are known as criterion reference tests that measure students against one another, in this case setting an 80 percent mastery level on tests with 123 questions for seventh-grade students and 136 questions for the high school juniors.

Dr. Richard M. Petre, a reading consultant in the state education department, said preliminary work on the tests showed striking cultural differences in the state. A test item that was removed used the term "cellars." In Western Maryland, students understood the term, but most suburban students did not, using "basements" instead. Many students on the Eastern Shore did not understand either term.

Tests results for each county will be released in March.

[From the Washington Post, Feb. 27, 1976]

OVER 20 PERCENT OF PUPILS FAIL MARYLAND SKILLS TEST

(By Eric Wentworth)

One-third of Maryland's 7th graders and one-fifth of its 11th graders have failed to master the reading skills they need to be competent young consumers and citizens, preliminary statewide test results showed yesterday.

The state's new functional reading tests, taken last October by 67,000 7th graders and 55,000 11th graders, included questions on telephone directories, weather maps, job applications, cereal-box coupons, cooking recipes, first-aid instructions and other commonplace reading matter.

The Maryland tests reflect a growing trend in some educational circles to look beyond traditional textbook knowledge to the practical know-how required to cope with the everyday world.

Analyzing a Shakespeare sonnet is all very well, such educators contend, but students should also learn how to read "help-wanted" ads, supermarket cash-register tapes and medicine-bottle labels. A federally sponsored study released last October found millions of American adults lacked many such practical skills.

The tests used in Maryland last fall comprised 115 multiple-choice questions for 7th graders and 126 such questions for 11th graders. The State Department of Education, which developed the tests over the past five years, said 80 per cent or more correct answers would indicate a student's "mastery" of the skills being tested.

Against that yardstick, the preliminary results showed 65.2 per cent of the 7th graders and 80.3 per cent of the 11th graders had "mastered" these skills.

Among 7th graders, 68.9 per cent had "mastered" the ability to find information in telephone directories, dictionaries, indexes and other reference materials; 61.8 per cent had "mastered" the ability to understand cereal-box coupons, cash-register tapes, 4-H enrollment applications and other forms; 56.2 per cent had "mastered" the ability to gain information from weather maps, grocery advertisements, menus and other such materials; and 71.8 per cent had "mastered" the ability to follow directions for games, first-aid treatment, school schedules and the like.

Among the 11th graders, for whom questions included more advanced skills, "mastery" was achieved by 70.3 per cent in locating information from reference materials, 79.5 per cent in understanding forms, 80.7 per cent in gaining information from various reading materials, and 83.9 per cent in following directions.

The 11th graders were tested on such materials as government pamphlets, cooking directions, newspaper circulation data, drug prescriptions, and applications for jobs, work permits and social security cards.

A spokesman for the state education department said it was wrong to describe those with less than 80 per cent correct answers as "functionally illiterate."

Since this was the first statewide administration of the new tests, the students' performance can't be judged against prior-year results. And since the tests are a Maryland product for homestate use, the Maryland students can't be compared to those in other states.

But in April, the spokesman said the education department plans to release more detailed results for each school system and individual school within the state.

"We asked parents, educators and public agencies what they wanted the public to read," said Richard M. Petre, state reading consultant, in describing the tests' content. "These are the basic skills we want 100 per cent of the Maryland public to master."

Materials for many test questions were drawn from sources within the state—Cumberland and Salisbury newspapers, a University of Maryland application, state tax and licensing forms, and sales slips or cash-register tapes from local stores.

The State Education Department has begun distributing teaching manuals to schools throughout the state to help teachers bring instruction in skills covered by the tests into their classrooms.

Evaluation Data

In the past 10 years, Reading Is Fundamental (RIF) has been adopted in more than 400 communities in 47 States because, simply stated, it gets children into books—reading and learning.

A strong volunteer project involving parents, educators and other community leaders, the RIF design has proved to be a powerful motivating force based on two of the principles that have contributed to the phenomenal and unique development of this country in the past 200 years.

These principles are freedom of choice and pride of ownership. Add to them a large degree of parental involvement that develops in RIF projects and you have a formula that motivates children to read and to learn.

In the past few months, there has been an outcry by parents and, especially, by educators at the college level, who find that young people cannot write coherently. Last November, the U.S. Office of Education published a study that shows 23 million adult Americans are functionally illiterate. The latter figure is an increase of two million since 1971.

The answer to both situations, surely, is that students cannot write because they cannot or do not read.

RIF began as an experiment, but it is no longer so because parents, teachers and reading specialists throughout the country have found that RIF does indeed get children into books—with great enthusiasm and at low cost.

RIF uses paperback books. It lets children, pre-Kindergarten through sixth grade, choose the books that interest them. It lets them keep the books as their own.

As RIF projects continue, the growing interest in the printed word, the searching by youngsters for particular authors, the desire for books as gifts, the growing sophistication in choice as children discover that books are fun, not chores, are clearly evident.

Measuring motivation is unquestionably a difficult, if not impossible, task. Yet a number of evaluations, both on the local and national level, and in various sectors of the country, have produced identical reactions to RIF.

The most recent study (July, 1975), a national study, was made possible by a grant from the Carnegie Corporation to the Center for Advanced Study in Education of the City University of New York.

The study's conclusion: "Taken in totality, the direct reports from local RIF staffs and community members present a unified picture of enthusiasm and support. The spectacular spread of RIF in the short nine years since the pilot project of 1966 is another index of its success."

The study included a "Book Environment Factor Scale" that showed: "Substantial differences emerged between the responses of the RIF and the non-RIF children. . . . The scores of the RIF youngsters were higher, indicating a greater interest in being around books, whether in their own possession or in libraries."

Questioning teachers, the evaluators received the following responses:

95% said that their students enjoyed RIF books. A typical response: "The children love the RIF books. I personally feel that the students have a great deal of pride in owning books. The books stimulate a great deal of reading among students."

90% said they fetl the RIF program was "worthwhile." A typical response: "Yes—the children are *extremely* anxious about RIF Day. They enjoy selecting their own books. The program creates an enthusiasm about books and reading."

Another conclusion of the evaluation: "The RIF program serves functions other than its stated first-order priority of motivating children to read. When it organizes an area for book distributions, it sets into motion a network of social dynamics. Teachers, parents, librarians, other volunteers, and children come into new relationships with one another, and for a time, they focus on selected aspects of the world of books and reading.

"RIF programs in their various formats have received an overwhelming welcome from people across the nation. In addition, the rapidly expanding number of local RIF projects indicates that communities are happy about working on RIF undertakings.

When so many people from so many backgrounds express excitement over a program, it seems safe to assume that it is meeting some important social needs. Clearly, for example, RIF furnishes a focus for community spirit and a matrix for various segments of a locality to utilize in working toward common purposes."

Individual project evaluations confirm the national study.

Examples are abundant. One of the most telling is the fact that parents, children, and teachers are *buying* RIF books, from the inventories of the projects, that are unavailable from local sources like bookstores or libraries, either public or in schools.

Pittsburgh: (23,000 children) One of the first of RIF's initially experimental projects, the Pittsburgh organization is well organized and, thanks to co-sponsor by the local chapter of the National Urban League and Chatham College, it is well funded by business and industry in the city.

In its five years of serving one poor area, a total of *293,485 books were distributed free; 145,910 books were sold to children; 5,656 books were bought by teachers.*

Comments by Teachers:

"I honestly didn't believe the children would be this happy about receiving books."

"I brought our principal in to see how quiet the noisiest class in our school is."

Owensboro, Kentucky: (600 children) "Most of the children receiving the books are ones who had a intense dislike for reading when they first became involved with RIF.

". . . Some dramatic changes have taken place with hundreds of children over the 5 years of participation in the RIF project. Amazing things happen to a child when he discovers for the first time that he is able to read an entire book.

"Insecure, troublesome, unmotivated, nonreaders have become confident, enthusiastic and successful readers. This attitude has been transferred to other areas of work and social development.

"School social workers, classroom teachers, parents, principals, speech therapists, and others in special service programs have reported positive changes in children as a result of the enthusiasm for the success they have experienced from the first RIF books they have read and earned for their personal libraries . . .

"Children often select books they want to give to brothers, sisters, fathers or mothers for birthday presents or other occasions.

"The same children who hated to read early in the year come to place a high value on books. Some children, who did not want to read in the beginning, bring paper sacks to school to carry home their RIF books each night and report on them the next day."

Houston: (14,000 children) An evaluation from the Houston Independent School District reported overall:

Pupils "who participated in the RIF program gave strong evidence of not only enjoying their books, but of widely sharing them with family members and friends. Pupils were stimulated to buying books for themselves; 65 percent claimed to have bought books on their own."

Parents "expressed enthusiasm for the (RIF) 'fun' reading program. Books which were brought home were enjoyed by all members of the family. Almost 71 percent of the parents said that they had been moved to buy books for their children."

Teachers "were excited about the RIF programs. Children were motivated to read more and their pleasure in reading greatly enhanced. Increased selectivity and self-directed reading activities were promoted among the pupils."

Principals and Curriculum Coordinators "concurred in the enthusiasm for the program and wishes to see it continued and expanded."

Some individual quotations from the persons listed above give the flavor of response:

Parents: "I see my children reading more often, and they involve me in their discussions."

"I noticed when he got a book, he liked to spend more time looking at the pictures. Then he got interested enough and started to read."

"He enjoys the 'fun' books and enjoys reading other books, too."

"The children read better and also know what they have read."

"He has taken an interest in science, math, space, and many other things which I feel is good to make him drive harder to find answers."

Teachers: "Boys and girls were reading without being prompted, visiting the library and desirous of receiving books as gifts."

"Parents were pleased and became interested in getting more books for their children."

"Parents are stirred. Some have become highly active in researching for more books."

"The majority of pupils seem to enjoy reading the books, and some have read as many as 10."

"Reading so many books increases their questions of who, when, what, why, and where of things. They are better able to tell stories in sequence. In fact, they understand much better. They excitedly discuss their books with others."

"Their interest is highly aroused. Their appreciation for books is overwhelming."

"The children are doing more recreational reading and are checking more books from the library."

"There is evidence of language improvement."

Curriculum Coordinators: "Pupils are now more verbal in expressing their individual choices of reading materials and spend more of their free time reading."

"Pupils asked parents to buy books."

"The program encouraged extended reading, oral language and art."

"More pupils were seen in quiet corners reading tha never before."

"Pupils arriving early have begun to use these morning periods going to the library."

"At Christmas, some letters to Santa requested books."

"Teachers have cited instances where some students have used part of their spending money for books."

Principals: "It is such a motivating force in creating a desire to read."

"Stimulates interest of parents in acquiring books for the family."

"These books are highly successful. The children love them and take great pride in reading, sharing and owning them."

"Unsolicited notes expressing pleasure in specific books have come from some students."

"Motivation of pupils in this program was higher than that of pupils during the regular term. There was a closer teacher-pupil relationship."

"The parents weren't aware that books were for sale at the grocery store! The children asked that they buy them a book, instead of the toy they usually buy them."

The cost of reaching these levels of enthusiasm and respect for reading and, thus, learning, is very small to give a child five books a year and thus encourage him to read and to learn, amounts to an average of less than $5.00 per school year.

The richness of the return—literate citizens, a literate workforce, a sense of self, and thus responsibility—is very large indeed.

GREEK INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, in this Bicentennial year, it is especially appropriate that Americans honor our immigrant heritage and—as President Kennedy wrote—"Acknowledge a nation of people with memory of old traditions still fresh but building anew."

Today marks the 155th anniversary of Greek Independence. It is a day for all Americans to pay tribute to a nation whose people long ago bestowed upon the Western World a democratic heritage and a system of government for and by the people.

No other nation has contributed more to the foundation of our nation's institutions, nor warrants greater admiration, than Greece. And the ancient words of Pericles still hold true today as they did so long ago:

> Remember that prosperity can be only for the free, and that freedom is the sure possession of those alone who have the courage to defend it.

Throughout the centuries, the Greek people—both those in Greece and those in America—serve as an inspiration to people everywhere who treasure man's greatest right—his right to be free.

Although ancient Greece was a powerful and independent land, it was not until 1821 that Greek patriots rose in defiant revolt against their Turkish conquerors. In that year, Alexander Ypsilanti—a patriot and Archbishop of Patros—unfurled the standards that sparked the revolt leading to Greek independence.

The American people—especially the citizens of Massachusetts—became early and ardent supporters of the Greek struggle for freedom. And no greater a champion for the cause of Greek independence could be found than in Representative Daniel Webster of Boston.

In a congressional resolution introduced before the House of Representatives in January 1824 on behalf of the citizens of Boston, Daniel Webster recommended to his colleagues that:

> . . . the situation of the Greeks should engage the early and favorable attention of Congress.

And that:

> . . . the people of Boston felt a deep interest in the political situation of the Greeks and were gratified with the recent statement of the President (Monroe) that there is good reason to believe Greece will become again an independent nation.

Later, Webster launched a mighty oratorical effort in behalf of the Greek people in order to induce our Government to extend recognition to the new Greek independence movement. In customary eloquence, Webster made this ardent plea for Greece:

> The Greeks address the civilized world with a pathos not easily resisted. They invoke our favor by more moving considerations than can well belong to the conditions of any other people.
>
> They stretch out their arms to the Christian communities of the earth, beseeching them by a generous recollection of their ancestors, by the consideration of their desolated and ruined cities and villages, by their wives and children sold into an accursed slavery, by their blood which they seem willing to pour out like water, by the common faith, and in the name which unites all Christians that they would extend to them at least some token of compassionate regard.

Thus the stage was set for Congress to debate the question of American policy toward Greece. And as a result of the efforts of the people of Boston and throughout the country—the United States forcefully allied itself with the cause of Greek freedom.

While the American people felt a strong kinship with the Greek struggle for independence, the story of Greek immigration to America is a comparatively recent one. The vast majority of Greek immigrants to the United States began arriving only during the last decade of the 19th century.

However, even before our Nation's Independence, Greeks could be found in the New World. The first settlement of Greeks in the United States dates from 1768 when the Greek colony of New Smyrna, Fla., was founded. And at the time of the Greek War for Independence, American missionaries and other philhellenes brought back to the United States from Chios, Greece a number of young boys to be educated in my home State of Massachusetts at the Amherst Academy.

Greek immigrants later settled throughout the United States and left their mark in every facet of American life. Wherever we look, in business and in the labor movement, in literature and in music, in education and in the public service, at every level of our Government, we find citizens of Greek heritage.

Greek communities can be found in every major American city. In Lowell, Mass., Greek immigrants have established one of the foremost Greek communities of America.

Notable Greek immigrants have contributed much to the social development of our Nation. In 1867, the head of the Boston Perkins Institute for the Blind—the Nation's foremost resource and educational center for blind Americans—brought Michael Anagnos over from Greece, who was later to become director of the Perkins Institute and was to pioneer a new program of education and assistance for America's blind.

Michael Anagnos is just one among thousands of Greek immigrants whose significant contributions to the development of our Nation would long be honored.

In this Bicentennial Year, in my home State of Massachusetts as across the Nation, let us honor Greek Independence Day and the Greek contribution to America. Let us pay tribute to the great traditions that span the oceans and bind our two lands. Let our two peoples join together to bring peace and relief to Greek refugees in other lands. For the Greeks in America have found a home in a grateful nation. Their spirit and determination to pursue a life dedicated to the preservation of America's heritage serves well to remind all Americans that we are a nation of immigrants.

Over a century ago, Greece's "Hymn to Liberty" moved her people to rise up for independence and freedom:

From thy fearful sword I know thee
With its sharpened edge and bright,
From the glance which as the lightning
Spans the earth in length and height.

From the sacred bones thou comest
Of the brave that are no more
Liberty, we hail, oh, hail thee
Ever valiant as of yore.

Those words ring true once again today as they did so long ago in Greece and in America whose peoples celebrate Greek Independence Day and the Greek heritage of America.

ROBERT C. BAKER

Mr. MATHIAS. Mr. President, the Washington community lost one of its most distinguished residents with the death of Robert Calhoun Baker. Mr. Baker's business was banking, and he was good at it. But Mr. Baker also demonstrated a degree of civic responsibility and involvement that have helped to enrich Washington as a city for the benefit of all who live, work, or visit here. As he carried out this role we became good friends. Mr. Baker was eminently successful in both his careers, banking and community affairs, and he will be sorely missed. The Washington Post paid tribute to Mr. Baker in an editorial that eloquently discusses his accomplishments. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ROBERT CALHOUN BAKER

Among influential and concerned community leaders who knew him best, Robert Calhoun Baker, who died last week at the age of 73, enjoyed a special reputation not only as one of Greater Washington's most successful bankers over the last three decades, but also as a colleague whose determination to preserve the financial health of this city made him an enormously influential figure in local affairs. Because Mr. Baker preferred to work out of the glare of publicity, his role as a civic leader was not always accorded the same attention that his business feats deservedly commanded. But in the years after World War II—when the region's phenomenal growth presented new and complex economic challenges to downtown commerce—it was Bob Baker to whom community leaders turned to steer an ambitious urban revitalization program.

Mr. Baker, who had come to Washington from Richmond, where he had been a vice president and director of the Central National Bank, first joined the old Columbia National Bank here. When this institution merged with the American Security and Trust Co. in 1964, he was elected a vice president of American Security. Within a few years, Mr. Baker was elevated to director and then executive vice president. In 1959 he became president and three years later he took over as chairman of the bank—a position he held until 1972, when he retired, only to be returned as chairman and chief executive in mid-1974. As chief architect of American Security's transformation into one of the nation's leading banks, Mr. Baker saw the company's total assets grow from $139 million to more than $1 billion.

Throughout this period Mr. Baker's knowledge of and interest in local community development earned him a place of leadership in the circle of businessmen working to encourage economic growth in the city. In 1959, they chose him to become the first president of the National Capital Downtown Committee, later to be known as Downtown Progress, a group that has worked ever since to pump new investment into the city and to develop plans for a more attractive capital area.

Mr. Baker also worked devotedly—some would say decisively—as the initial treasurer of the John F. Kennedy Center for the Performing Arts, giving countless hours to the project in its formative years. His numerous other civic interests included the American Red Cross, the United Givers Fund, and service as a trustee and treasurer of the National Trust for Historic Preservation. Mr. Baker also was consulted periodically by Presidents over the years, in connection with local civic endeavors aimed at curbing crime, promoting tourism and increasing employment in the central city.

At American Security, Mr. Baker was affectionately known as "The Bear," a title that reflected his big frame and his gruff but friendly manner. And at the arch-rival Riggs National Bank, his counterpart, L. A. Jennings remembers him as "completely straight-forward and an outstandingly able banker." In all of Washington, Robert C. Baker's dedication to the economic health of the community will continue to stand as an example and an encouragement to others striving to build on his accomplishments.

SOUTH DAKOTA LEGISLATURE SPEAKS ON POSTAL CLOSINGS

Mr. ABOUREZK. Mr. President, both the Governor of South Dakota, the Honorable Richard F. Kneip, and the State legislature have formally announced their concern about the revised criteria for closing small post offices.

In South Dakota, three-quarters of the post offices are designated "third" or "fourth" class. They are a vital part of the life and tradition of the State and an important link between the people and the Federal Government.

Both the fact of service cuts to rural areas and the hasty procedures followed in some of the changes make rural people feel more powerless and alienated from government. I am pleased the lawsuit in which I was one of the coplaintiffs was successful in establishing the right of the community residents to be consulted and to have their views considered in a timely way.

The lawsuit did not establish whether or not modification in service to the public is the best way to cover deficits or to move the mail. This is a decision Congress must make, and I am pleased that the Senate Post Office and Civil Service Committee will have hearings later this month, with the chairmanship of GALE MCGEE, directly on this issue.

I ask unanimous consent that the resolution of the legislature of the State of South Dakota, memorializing Congress on the issue of small post offices be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE CONCURRENT RESOLUTION NO. 515

A concurrent resolution, expressing the concern and sense of the South Dakota Legislature for the provision of equal or better service and consultation with communities involved in United States Postal Service changes resulting from the promulgation of new criteria regarding administration and operation of small post offices

Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring threin:

Whereas, the United States Postal Service has announced on November 20, 1975 certain changes in policy criteria concerning the operation of small post offices throughout the country; and

Whereas, the United States Postal Service provides services which are essential to the conomy of the state of South Dakota and of especially vital concern to our small towns and rural areas; and

Whereas, any reductions in the level or quality of postal service which may result from the closing of small post offices may have deleterious effects upon the economy of the state of South Dakota:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-first Legislature of the state of South Dakota, the Senate concurring therein, that it is the concern and sense of the South Dakota Legislature that changes in postal service for small post offices in South Dakota shall not be effected without the active consultation with the communities affected and that proposed changes in service shall assure equal or better service for patrons served; and

Be it further resolved, that the Chief Clerk of the House of Representatives shall send copies of this resolution to the Postmaster General, Benjamin F. Bailar, the members of the South Dakota Congressional Delegation, and to the chairmen of the Senate and House Post Office and Civil Service Committees.

BICENTENNIAL THOUGHTS

Mr. GARN. Mr. President, in an age of long-winded rhetoric, it is refreshing to find a short, straightforward statement expressing the principles upon which this Nation was founded and which are inherent in all free, just, and strong societies. I have recently read such a statement. KSL television of Salt Lake City, Utah, recently broadcast a two-part editorial which makes a statement that I wish to share with my colleagues and those who read this RECORD.

The editorial emphasizes the growing burden of governmental bureaucracy and taxes and recalls the language of the Declaration of Independence:

> He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

Mr. Chairman, the sentiment of my constitutents is increasingly like the sentiment of our Founding Fathers. The Federal Government has become a Hydra that is sticking its many heads into affairs that should rightfully be left to the States of the people. And each head of this behemoth is harassing the people and consuming their substance.

I believe we have reached the time when Federal growth must be reversed. We can no longer afford to pay the price; both the political and economic costs are far too high.

I ask unanimous consent that the two-part editorial "Bicentennial Thoughts" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BICENTENNIAL THOUGHTS

It is instructive, and more than a little frightening, to look around us this Bicentennial year and see what has happened to "the spirit of '76."

The Revolution was fought to get the government off the backs of the people. The language of the time, referring to King George III, cited this grievance: "He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harrass our People, and eat out their Substance."

Every last word of that applies with much greater force to what government is doing to the American people today. The Multitude of new Offices. The Swarms of Officers to harrass the People. And, above all, the eating out of their substance.

The family outlay is going up the fastest not for good or energy, but for taxes. That tax money is then used to pursue programs that feed inflation, which causes further erosion of personal incomes.

The saddest part of this is that so many Americans do not see the causes of our difficulties. They still persist in selling their birthright. They surrender their freedoms, their acceptance of personal responsibility for their lot, to government, and climb on the back of the tiger. What will happen at the end of the ride when it is time to get off?

After the selling of the trinkets and the massive vulgarization of this two hundreth birthday, that is what the Bicentennial is all about. Whether this nation, as it was conceived and dedicated, can long endure?

MORE BICENTENNIAL THOUGHTS

Yesterday we offered a few Bicentennial thoughts. We noted that the Revolution was fought to escape repressive government. KSL noted the language of the time, referring to King George III: "He has erected a multitude of new Offices, and sent hither Swarms of Officers to harrass our People, and eat out their Substance." We said that sounded to us like what government is doing to the people today.

Political opportunists today speak blithely of rights. The right of food, housing, medical care, income, "meaningful" employment at a "decent" wage. Now those things are important and a just society will ensure that no person is denied them because of some artificial standard, such as race, religion, sex or "wrong side of the track" beginnings.

But the *right* to have them is another thing altogether. Food and housing and so on are not part of our natural endowment. Before food can be eaten, it must be grown. Before housing can be occupied, it must be built. Before wealth can be "redistributed," it must be created.

These things do not happen by accident or Act of Congress. They happen because people make individual decisions to invest themselves, their effort, their capital, to produce something. A society that denies its *producers* the rewards earned by their initiative, effort and responsibility risks both moral and fiscal bankruptcy. It puts it own future at hazard.

Speaking of the Bicentennial, Thomas Jefferson spoke to this question. "To take from one," he wrote, ". . . in order to spare to others who, or whose fathers have not exercised equal industry . . . , is to violate arbitrarily the first principle of association—the *guarantee* to every one of a free exercise of his industry, and the fruits acquired by it."

IMMIGRATION REFORM

Mr. KENNEDY. Mr. President, yesterday representatives of the American Council of Voluntary Agencies—ACVA—testified before the Judiciary Subcommittee on Immigration regarding pending legislation to reform the Immigration and Naturalization Act. The pending legislation includes S. 561 and S. 2405, which I introduced last year.

The ACVA statement—reflecting the views of several Catholic, Jewish, Protestant, and nonsectarian agencies—is instructive on many pressing issues in immigration policy and practice. I believe the statement deserves the thoughtful consideration of all concerned with new reform, and ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of the Committee on Migration and Refugee Affairs of the American Council of Voluntary Agencies for Foreign Service, Inc.

Mr. Chairman: I am John W. Schauer, Vice Chairman of the Committee on Migration and Refugee Affairs of the American Council of Voluntary Agencies for Foreign Service, Inc., I also serve as Director of the Immigration and Refugee Program of Church World service, which is a member agency of the Committee.

Others from the American Council accompanying me today are:

William Males, HIAS, Inc.

Miss Jean McDaniels, International Rescue Committee, Inc.

Dr. Byron Schmidt, Lutheran Immigration and Refugee Service, Lutheran Council in the U.S.A.

John E. McCarthy, Migration and Refugee Services, United States Catholic Conference.

Cyril Galitzine, Tolstoy Foundation, Inc.

Thereon Van Scoter, Secretary, Committee on Migration and Refugee Affairs American Council of Voluntary Agencies for Foreign Service, Inc.

The following statement in regard to immigration legislation is submitted on behalf of the Committee whose agencies are and have been for many years vitally concerned with, and engaged in the field of assistance to migrants, refugees, escapees, expellees, and displaced persons from all parts of the world. A listing of these agencies which are members of the American Council's Committee on Migration and Refugee Affairs is attached to this statement.

In the past twenty-five years hundreds of thousands of refugees have come to the United States, most of them with the assistance and sponsorship of the voluntary agencies which have a wide network of constituents throughout the country. The agencies' resettlement programs are linked to resettlement committees across the nation through the cooperation of local churches, synagogues, social service agencies and other organizations. This activity reflects the principle of person-to-person concern which characterizes the work of Catholic, Protestant, Jewish, and nonsectarian agencies.

REFUGEES

The agencies stress the need for legislation to give a statutory basis for a humanitarian asylum policy for the United States. Recent events throughout the world demonstrate that refugee problems continue as the flow of persecutees, escapees and expellees from countries of Eastern Europe, Asia, Far and Near East, Africa and Latin America continues.

The voluntary agencies have consistently urged that the statutory definition of refugee be in line with that of the United Nations 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, to which the United States is a signatory. We note with satisfaction that the regulations of the Immigration and Nationality Service for the Refugee Travel Document now incorporate this language.

We favor the retention of a refugee preference within the overall preference system under the numerical ceiling, to assure the admission of a set number and a fair share of the world's refugees. We firmly believe that admission on the basis of visas rather than as "conditional entrants" will facilitate the integration of those refugees into our society.

The importance of admission on parole of additional refugees in emergency situations has been demonstrated in the cases of Hungarians, Chinese, Czechoslovaks, Russians, Cubans, Ugandans and most recently the refugees from Chile, Vietnam, Cambodia and Laos. Therefore the suggested provision by which the Attorney General be clearly authorized by law to parole additional numbers of refugees to meet emergency situations is strongly commended. Experience has shown that the lack of specific legislation for the adjustment of status in the United States of paroled refugees causes serious problems in the integration of these refugees. It is important that the adjustment of these refugees paroled into the United States be not charged against the numerical ceilings.

We also favor the proposal that all refugees who apply for adjustment of their status in the United States, including adjustment under Section 245, be permitted to adjust status regardless of the manner of entry.

WORLDWIDE CEILING

The voluntary agencies are strongly of the belief that the national interest of the United States would best be achieved if the distinction between the Eastern and Western Hemisphere is removed so that a fair, equitable, and just policy exists on a worldwide basis. The preference system for the Eastern Hemisphere should be extended to the Western Hemisphere to achieve equity for family reunion, admission of needed workers and the acceptance of a fair share of the world's refugees. We also urge that parents of legally admitted aliens be included in a preference category.

While we endorse the principle of a worldwide ceiling with a uniform preference system, we believe that there should be a transition period, to enable adjustments to the new system.

We strongly recommend the provision by which persons in the United States on a temporary basis be permitted to adjust status without the necessity of leaving the United States regardless of the country of their birth.

LABOR CERTIFICATION

It is our conviction that the present system which requires individual labor certification is cumbersome, time-consuming and expensive. The provision of Section 212(a) (14) as it existed prior to the enactment of the 1965 law, allowed immigrants to enter the United States unless the Secretary of Labor certified that there were sufficient numbers of persons available in particular employment categories. This provision protected the rights of American labor, and in our opinion was a much more satisfactory arrangement.

EMPLOYMENT DISCRIMINATION BECAUSE OF ALIENAGE

In view of the recent Supreme Court decision, Espinoza v. Farah Manufacturing Company, we recommend that a provision be added to the immigration legislation currently under consideration to bar employment discrimination because of alienage.

OTHER CONSIDERATIONS

We favor the proposals which facilitate the admission of mentally retarded aliens with close relatives. extend waivers to married or unmarried sons and daughters who committed fraud in their visa or entry application, extend validity of re-entry permits from 1 to 3 years, and bring the date for making a record of lawful admission for permanent residence from June 30, 1948 to July 1, 1968.

We also urge that provision be made to enable those aliens out of status (who are otherwise admissible under the Immigration and Nationality Act) to declare their presence in the United States as of a pre-determined date—so as not to disrupt the lives of so many who have established an equity, family, home, job, etc. by a "clean sweep" mass deportation. Such adjustment should be made outside of numerical limitations and without labor certification. Every effort should be made by the Government enforcement agencies to determine that under no circumstances should this problem be allowed to recur.

The voluntary agencies commend the record of the Administration and of Congress in providing for assistance to refugees, migrants, escapees and expellees. They express their appreciation for the leadership provided and especially for the role of this Subcommittee in furthering our mutual objectives.

We wish to thank the distinguished Chairman and the members of the Committee for giving attention to the wide-ranging immigration issues which face the nation, and we know that our views will receive your most sympathetic and understanding consideration.

American Council for Judaism Philanthropic Fund, Inc.

American Council for Nationalities Service.

American Fund for Czechoslovak Refugees, Inc.

American Jewish Joint Distribution Committee, Inc.

Assemblies of God Foreign Service Committee.

Baptist World Alliance.

Catholic Relief Services, United States Catholic Conference.

Church World Service.

Hadassah, the Women's Zionist Organization of America.

HIAS, Inc.

International Rescue Committee, Inc.

Lutheran Immigration and Refugee Service, Lutheran Council in the U.S.A.

Migration and Refugee Services, United States Catholic Conference.

Seventh-Day Adventist World Service, Inc.

Tolstoy Foundation, Inc.

Travelers Aid-International Social Service of America.

United Israel Appeal, Inc.

United Lithuanian Relief Fund of America, Inc.

Young Men's Christian Association.

NUCLEAR POWER

Mr. BAKER. Mr. President, last week the Washington Post printed several letters to the editor in response to a March 1 editorial on nuclear power by Tom Braden. Mr. Braden's comments, which I inserted in the Record on March 2, were in reference to the testimony before the Joint Committee on Atomic Energy, of three former employees of General Electric. The following letters of response from spokesmen from universities, industry, and professional associations take sharp exception to Mr. Braden's conclusions, and in the interest of full and open debate on this vital issue, I ask unanimous consent that they be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 15, 1976]

Letters to the Editor: Taking Issue With Tom Braden on Nuclear Safety

On March 1 your editorial section carried a column by Mr. Tom Braden entitled "Nuclear Power: The Ugly Facts." I have carefully read the article several times and except for what I presume are accurate quotations it does not contain a single fact—ugly or otherwise.

Mr. Braden purports to describe the hearings before the Joint Committee on Atomic Energy at which three former employees of General Electric testified.

The former GE employees are certainly entitled to their opinions, and the expression of that opinion before the Joint Committee is clearly a proper exercise of the democratic process. Does Mr. Braden inform your readers that on two subsequent days of hearings industry representation carefully respond to the allegations of the former GE employees? He does not. Perhaps because he was not in attendance.

When the GE executives testified, Mr. Pastore noted the absence of press coverage.

Mr. Braden lectures the members of Congress on their responsibilities. By what right does a reporter who has so flagrantly ignored his journalistic responsibilities deign to instruct others on their responsibilities?

The outcome of the nuclear debate is of importance to this nation. There are responsible opinions on both sides of the question. It would seem that your newspaper could at least practice responsible reportage by insisting that both sides of the story be presented.

W. A. Cameron,
Senior Management Representative for Nuclear Programs, Babcock & Wilcox.
Washington.

It is difficult to believe that Tom Braden (Nuclear Power: The Ugly Facts, March 1) attended the same February 18 hearing of the Joint Committee on Atomic Energy that I did. While recognizing Mr. Braden's right to provide his commentary, one would hope to have his column at least match the facts, ugly or otherwise, as they exist. The transcript and Committee Reports will, nevertheless, speak for themselves.

As a so-called liberal columnist, he disregards the basic principle of participatory democracy, that of majority rule. In matters of technical judgment as in matters of political judgment, it is usually a matter of peer majority agreement although with greatly different proportions. I am sure Mr. Braden accepts the common wisdom of a political landslide being represented by a 70 per cent voter preference, and recognizes the will of the 51/49 majority (at least until the next election) in matters which are as (or more) profound (i.e., a declaration of war) than that of nuclear power.

Why then, when the technological "vote" in favor of nuclear power shifts from 99.9 per cent to 99.98 per cent is he so convinced of the virtue of the almost vanishingly small minority? Although no one but Braden can answer the question, I can suggest an answer; self-examination and, more importantly, self-criticism are currently fashionable. Our international political and business relationships, intelligence community practices, political shenanigans, and national energy policy (or lack thereof) all are fair game for poking and peeking, a little exploratory surgery here, a little diagnosis-from-a-distance there—and Mr. Braden is nothing, if not fashionable.

I would suggest, however, that although the nuclear power industry (and its regulators) should always be and are more than ready to stand (and survive) yet one more critical objective analysis of reactor safety, it may not survive the pseudo-moralizing analysis typified by Braden's treatment. For, although self-criticism may be felt to be purifying, self-autopsies are never successful, and neither The Post's presses nor Mr. Braden's electric vitriol machine will run on solar energy for some decades to come, despite biologist Barry Commoner's "energy expert" opinion.

Morton I. Goldman, Sc. D., P.E.,
Senior Vice President, NUS Corporation.
Rockville.

Writing from the vantage point of over 35 years in the field of nuclear energy, I found Tom Braden's article in the March 1 Post much more hypothetical than factual. His ethereal dreams of the thinking of the members of the Joint Atomic Energy Committee are without foundation.

Braden must be unaware of the tremendous effort members of the committee have made over nearly three decades to bring nuclear power to society as a safe servant to enhance our quality of life. Over 8 percent of our electricity is generated today by nuclear power and its demonstrated safety record is better than that of any other power source. The use of coal and nuclear power sources, in an environmentally acceptable manner, are required to preserve our society.

Warren F. Witzig.
State College, Pa.

(The writer is head of the department of nuclear engineering at The Pennsylvania State University.)

On March 1, you published an article by Tom Braden captioned, "Nuclear Power: The Ugly Facts." This article left the reader with the impression that the three dissentient engineers who recently cooperatively resigned from General Electric had somehow revealed to the Joint Committee on Atomic Energy a previously undisclosed truth: that the country's nuclear power generation program is too great a responsibility to bear.

The "ugly facts" were actually presented as a continuation of the nuclear scare tactics that are part of the standard operating procedure of the group to which these engineers belong, Project Survival. This group has as its primary goal the extinction of nuclear power as one of the nation's energy alternatives. If they, in fact, succeed in their goal of winning statewide moratoriums on nuclear power then indeed, the country's nuclear power program may be headed for virtual extinction through building on doubts and fears of the public, not for technical, economic or moral reasons.

A. Parks Honeywell,
Chairman, Washington Section, American Nuclear Society.
Rockville.

CITIZEN ACTION

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues a unique project initiated by a number of prominent national organizations working with the National Committee for the Peace Ballot, headquartered in Chicago, to focus attention on the arms race, human rights problems, the issues of food, population and development, the conservation of natural resources, environmental concerns, international organization, and peace-oriented institutions.

These groups have been distributing hundreds of thousands of ballots on which Americans can express their support or nonsupport of major legislative and policy initiatives. Drawing on the results of the poll, the groups will develop a platform of alternatives to current national and international policies which they will make available to candidates for national office.

This platform will inevitably please some candidates and displease others, but I think that this kind of citizen action is admirable and deserves our close attention. I am especially pleased that Mary Liebman and Lowell Livezey of Illinois are leaders in this effort, together with Luther Evans who earlier this month gave very informed and constructive testimony to the Senate Foreign Relations Committee on the role of the United States at the United Nations.

HOLLYWOOD-BURBANK ADAP LEGISLATIVE LANGUAGE

Mr. TUNNEY. Mr. President, on October 31, 1975, I wrote to the chairman of the Aviation Subcommittee on a matter of great concern to me.

It had been suggested that statutory language providing funds for the purchase of Hollywood-Burbank Airport should be included in this legislation. I wrote to Senator CANNON opposing that suggestion because an environmental impact statement had not been prepared and the affected local jurisdictions had not reached any consensus on the airport's future.

However, as the threat of the airport's closure or sale for nonairport uses existed then and now, I suggested that the report on the bill state the subcommittee's willingness to reconsider the matter as soon as the problems noted above were satisfactorily resolved.

Senator CANNON replied on December 3, 1975, agreeing to my suggestions. Unfortunately, the agreed-upon language was inadvertently omitted from the report.

Thus, in order to clarify the subcommittee's position on this issue, I ask unanimous consent that both letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE,
Washington, D.C., October, 31, 1975.
Hon. HOWARD CANNON,
Chairman, Aviation Subcommittee, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON:

I do not believe that language providing for the purchase of Hollywood-Burbank Airport through ADAP should be included in the bill currently before the subcommittee. Too many issues remain unresolved.

The local jurisdictions involved have not determined their respective roles in the purchase, nor has an environmental impact statement assessing the impact of the airport's purchase and future use upon the area been prepared.

However, as Hollywood-Burbank Airport has been named in both national and state airport plans, and since many people make use of the airport in its current configuration, I would hope that it would not be sold for uses other than an airport until these issues can be fully investigated.

The Committee cannot be certain that the current owner of Hollywood-Burbank will not sell the airport for alternative use before the local jurisdictions resolve the outstanding issue. However, I believe the Committee can help preserve the purchase option by stating in the Committee's report on the bill our reasons for not including statutory langauge at this time, making clear that if the issues involved in the purchase of the airport are resolved satisfactorily, the Committee would reconsider the issue.

Sincerely,
JOHN V. TUNNEY,
U.S. Senator.

COMMITTEE ON COMMERCE,
Washington, D.C., December 2, 1975.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: In response to your letter of October 31, 1975, I share your view that no language providing for the purchase of Hollywood-Burbank Airport should be included in the ADAP bill currently before the Aviation Subcommittee. As you know, the draft on which we have been working contains no such language.

I share your concern over recent reports that the airport may be sold for non-airport uses before a final decision on public purchase can be made. Thus, I concur with your suggestion that the Subcommittee's report on the bill include the Subcommittee's rationale for not providing ADAP funds for purchase of the airport at this time. I will recommend that the report state that if and when an environmental impact statement is prepared and evaluated, and the local jurisdictions arrive at a consensus on the airport's purchase and future use, the Subcommittee would be willing to reconsider the possibility of amending ADAP to allow for public purchase of Hollywood-Burbank.

Sincerely,
HOWARD W. CANNON,
Chairman, Subcommittee on Aviation.

STRATEGIC AIR COMMAND AT 30

Mr. HRUSKA. Mr. President, this year, the 200th anniversary of America's independence, we celebrate another birthday which also has great importance to our freedom. This is the 30th anniversary of the creation of the Strategic Air Command, headquartered in Omaha.

SAC has been instrumental in maintaining the freedom—not only of this country—but of the Western world. We owe SAC—its military might and its men and women who have served so bravely through the years—a big debt of gratitude.

I was honored to attend recently in Omaha a gathering to pay tribute to SAC and celebrate its 30th birthday.

In conjunction with this celebration, the Omaha World-Herald in its Sunday, March 21 edition printed a special section on the Strategic Air Command, entitled, "SAC: Preserving the Peace for 30 Years." This fine journalistic display, coordinated by the World-Herald's military affairs editor, Howard Silber, examined in depth the role of SAC through the years, its commanders, its weapons, its personnel, and its future.

In his anniversary salute, Air Force Chief of Staff David C. Jones succinctly described the mission of SAC:

> As it entered its fourth decade, SAC will continue to serve as a foremost servant and instrument of national policy. . . . Thus, SAC's primary mission will be to continue to provide a visible nuclear deterrent shield behind which America and her allies can build a better, fuller life.

Mr. President, SAC is more than a military force, it is a guardian of the freedom we hold dear; a freedom won by our forefathers and jealously protected through several wars—including one in our own country. There are those who would weaken our defenses and thus weaken our opportunities to protect our freedom. Let them be warned: A strong national defense is vital to the existence of our country, and an integral part of that defense is the Strategic Air Command.

Mr. President, so that my colleagues and others may benefit from the excellent information about SAC contained in the World-Herald articles, I ask unanimous consent that "SAC: Preserving the Peace for 30 Years" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SAC AT 30: CHALLENGED AS RULER OF SKIES

For at least 25 of its 30 years, the Strategic Air Command was indisputably the world's most powerful military force.

Its nuclear strike capability embodied in fleets of high-flying bombers and unmanned intercontinental ballistic missiles had no parallel.

But, as SAC observes its 30th anniversary, there is little doubt that its strength has been matched and, perhaps, exceeded.

Superiority has given way to nuclear equivalency.

The Soviet Union has engaged in an almost frenzied buildup of its strategic forces, apparently determined that it must never again have to retreat in the face of U.S. nuclear might, as it did in the 1962 confrontation over the deployment of its missiles in Cuba.

The USSR has developed a number of new families of ICBMs. Several types are bigger and far more powerful than any missile in the U.S. inventory.

The Soviets also have produced a new bomber after some two decades of having appeared to be relying principally on unmanned craft for strategic purposes.

The new Soviet Backfire is about two-thirds the size of the B1 bomber that is proposed for SAC.

Some experts maintain that the Backfire is intended essentially as a tactical aircraft; that it is designed for use in Europe, Africa and the Middle East and against China.

But the range of the swing-wing supersonic plane is such that is appears to have been planned for an intercontinental role as well—as a strategic bomber.

As the Backfire was being built, the Soviets are known to have taken related steps to develop an in-flight refueling capability.

With such refueling, the Backfire could reach the United States and, after discharging its weapons, make it to a base in Communist or other friendly territory.

The USSR also has been extremely active in building and deploying missile-launching submarines in an effort to match the Polaris, Poseidon and possibly the Trident programs of the U.S. Navy. Soviet submarines with their nuclear-tipped missiles are known to be on random patrol off the East and West Coasts of the United States.

SAC remains strong, if not the strongest. The Omaha-headquartered command has charge of all American intercontinental ballistic missiles, all-manned strategic bombers, all of the jet-powered aerial tankers and all of the strategic reconnaissance planes.

Here is the SAC lineup:

1,000 Minuteman and 54 Titan II intercontinental ballistic missiles, all of them deployed in underground silos scattered over a wide area west of the Mississippi River.

Some 400 B52 bombers arrayed at a number of bases across the United States and on Guam and about 70 FB111 bombers based in Northern New York State and New Hampshire.

More than 600 KC135 tanker aircraft based over a farflung area of the world—from Spain to Okinawa with a heavy concentration in the northern United States.

SR71 reconnaissance aircraft which can soar above 80,000 feet and fly more than three times the speed of sound plus a number of older U2 reconnaissance aircraft.

In all, SAC has more than 150,000 personnel located at 55 air bases and Air Force stations in the United States and abroad.

Apart from the proposed B1 bomber, a new family of long-range missiles now in the research and development stage, a wide-body tanker aircraft which also would carry cargo, SAC is taking other steps to prevent its strike forces from becoming obsolete.

Introduced in 1972, the Short Range Attack Missile (SRAM) is now deployed in most B52 and all four FB111 bomber squadrons.

This nuclear-tipped rocket, which is carried under the wing of the plane, can either follow the terrain in low-level flight or can soar to the edge of space as it takes a semi-ballistic path to its target.

Among the newest items of B52 equipment are special infrared and low-light television cameras which enable the crews of the bombers to identify terrain features and structures while flying at extremely low altitudes.

The Minuteman missile entered the SAC arsenal in 1961. But today's Minuteman bears little resemblance to the early bird. The later variants have markedly increased range and payload capabilities.

And SAC's 550 Minuteman III ICBMs carry multiple independently targetable warheads (MIRV).

Missiles Sprout as Soviets Close Weapons Gap

In October 1962, the Soviet Union backed down in a confrontation with the United States over the placing of offensive missiles in Cuba.

At the time, the United States enjoyed a huge superiority in the weapons capable of delivering a devastating nuclear blow against the Soviet homeland.

The odds have changed in the years since then. The U.S. advantage has slipped away, eroded by a Soviet military buildup that has brought its strategic forces to an approximate parity with the United States.

Between 1965 and 1975, the USSR increased its intercontinental ballistic missile force from 224 to 1,618. At the same time, the number of strategic nuclear warheads and bombs in the Soviet arsenal was boosted from 450 to 2,500.

The number of sea-launched ballistic missiles that could be brought to bear against the United States or any other country rose from 29 in 1965 to 730 last year, according to Defense Secretary Donald H. Rumsfeld.

At present, Rumsfeld said in his budget report to Congress, the USSR is continuing the development of four new ICBMs, two of which are being deployed with multiple independently targetable re-entry vehicles (MIRVs).

In addition, Russia is producing a new generation of ballistic missile submarines. A new sea-launched missile has a range of 4,200 miles.

The USSR also is working on MIRV missiles much larger than those of the United States with warheads of significantly higher yield.

The Soviet Rocket Forces, an independent command, is known to have improved the potential accuracy of its ICBMs.

The USSR also has produced Backfire, a bomber with both strategic and tactical capabilities. About 30 are known to be deployed.

In his message to Congress, Rumsfeld gave the following assessment of the strategic nuclear situation:

"As of today, the U.S. strategic nuclear forces retain a substantial, credible capability to deter an all-out nuclear attack. Their ability to execute controlled and limited responses is being enhanced as a result of improvements in plans, command and control and the increasing flexibility being introduced into the Minuteman force.

"However, there remains a basis for concern in three areas and that concern will deepen in succeeding years.

"First, the (U.S.) submarine and bomber forces are aging. At the same time, the Soviets are improving their antisubmarine warfare capabilities and their defense against bombers.

"Second, there is an increasing possibility that major asymmetries will develop between U.S. and Soviet strategic offensive forces because of the momentum in Soviet offensive strategic programs, and that the Soviet strategic capability will come to be seen as superior to that of the United States.

"Third, a continuation of current Soviet strategic programs—even within the constraints of SALT—could threaten the survivability of the Minuteman force within a decade. If that should be allowed to happen, our ability to respond to less than full-scale attacks in a controlled and deliberate fashion would be severely curtailed and the strategic stability could be endangered."

Sky Watch

"Without the ability to communicate, I command only my desk."

Those words, spoken by the late Gen. Thomas S. Power when he was commander-in-chief of the Strategic Air Command, explain the reason for the existence of the SAC airborne command post.

They also tell why there is a national emergency airborne command post system (NEACP) for the President, some of his key advisers and the nation's highest military leaders.

The SAC flying command post, generally known as Looking Glass, has been flying almost continuously since February 1971 with a battle staff headed by a general aboard.

It is flown on a random course and, apart from the possibility of internal sabotage, is virtually untouchable.

The NEACP system, adapted from Looking Glass, is designed to assure the survival of the so-called national command authority in the event of a nuclear attack on the United States and to enable the President or his successor to communicate and direct countermeasures and the recovery of the country.

The principal countermeasure—the second strike—would come from SAC bombers and missiles and the Navy's submarine missile force.

Looking Glass is intended to give SAC forces the direction they need for the second strike.

The staffs aboard jet aircraft used for the airborne command post are even capable of triggering the launching of Minuteman intercontinental ballistic missiles in the event ground launch crews are rendered incapable of performing that function.

The obvious difference in the case of NEACP requires that one or more of the national command post planes be kept on an alert, readily accessible to the President and his staff and capable of taking to the air on very short notice.

Looking Glass and NEACP have closely related purposes and the communications requirements are virtually identical.

As a result, Looking Glass and NEACP are moving toward the same aircraft—the big Boeing 747 jetliners containing computerized equipment and able to carry considerable numbers of people.

SAC now manages the NEACP airplanes. If Congress approves an appropriation of just under $20 million for the construction of a hangar and an operations headquarters at Offutt Air Force Base, Omaha will become the home of NEACP.

Flight crews, battle staff members and other personnel—some 400 of them—will reside here.

There always will be at least one NEACP plane on alert at Andrews Air Force Base near Washington and another at an alternate location. But these aircraft and the personnel will be rotated from Omaha.

And the Looking Glass and NEACP 747s will be interchangeable some day.

The present program calls for the use of six 747s. SAC will continue to fly EC135 aircraft to supplement the bigger planes for Looking Glass.

The continuous airborne command post concept was implemented by Power and the then vice commander-in-chief of SAC, Lt. Gen. Francis H. Griswold.

Griswold, a communications expert, retired in Omaha and is head of a Council Bluffs automobile dealership.

Anniversary Salute

(By Gen. David C. Jones)

Among the many present and former members of the Strategic Air Command, I bear a special pride and affection in looking back over the Command's 30-year record of achievement. I served many rewarding and fulfilling years in SAC, from bomber copilot to numbered Air Force commander.

One of the highlights of my career was the period I spent in the beautiful city of Omaha, home of SAC headquarters, as aide to SAC's great architect, Gen. Curtis LeMay. Throughout my association with SAC, the brightest memories are of the quiet dedication, unselfishness, and professionalism which have become the trademark of the men and women who are the bone and sinew of the world's mightiest force for peace.

As it enters its fourth decade, SAC will continue to serve as a foremost servant and instrument of national policy. In the next few years, we anticipate the intriduction of a new manned bomber and an improved missile system. Additionally, the inherent capabilities of SAC's long-range aircraft will continue to serve a variety of non-nuclear missions, including refueling, reconnaissance and greater assistance to the Navy in its maritime control activities.

In his annual report to Congress, Secretary of Defense Rumsfeld reiterated that SAC's fundamental function ". . . is to counter the strategic nuclear capabilities of the USSR. Without a major strategic nuclear force in the armory of the free world, none of the other capabilities maintained by the United States and its allies would count for much."

Thus, SAC's primary mission will be to continue to provide a visible nuclear deterrent shield behind which America and her Allies can build a better, fuller life.

Air Force thinking and methods are not mired in the past. The problems of an increased military threat, rising costs, and limited budgets, call for fresh and imaginative solutions. I am confident that many of these solutions will come, as they have in the past, from the dedicated men and women of the Strategic Air Command.

I join the rest of the Air Force in bidding congratulations, best wishes, and a "well done" to SAC on its 30th birthday.

STOPPING AMERICAN BRIBERY ABROAD

Mr. PROXMIRE. Mr. President, recently I introduced a bill, S. 3133, which I am calling "the Foreign Payments Disclosure Act." This proposed legislation requires business firms subject to the Securities Exchange Act to disclose any payment in excess of $1,000 paid to a foreign government official, a foreign political party or candidate for foreign political office, or to an agent hired to obtain business with a foreign government.

In addition, the Foreign Payments Disclosure Act makes it unlawful for a business firm to make a payment to a foreign government official for the purpose of obtaining business, or to make a payment to a foreign political party or candidate for the purpose of obtaining business from a foreign government.

In the near future the Committee on Banking, Housing and Urban Affairs will schedule hearings on this bill.

All of us are aware of the numerous disclosures and revelations of foreign bribes and questionable payments paid by American corporations. Dozens of business firms, many of them among the most prestigious and largest corporations in the country, have now been identified as having been involved in the international bribery system.

The payment of foreign bribes is deplorable, inexcusable, and must be brought to a halt. Regardless of what is presumed to be the practice in any foreign country, and whether or not businesses from other countries engage in bribery, there is no excuse for an American to go into a foreign country and violate the laws of that country. Such practices are corrupt and morally wrong.

The bill I have introduced would be an effective way to put an end to these practices, so far as Americans are concerned, by requiring full disclosure of payments and by imposing criminal penalties on any American guilty of paying a bribe in a foreign country.

From time to time I intend to introduce into the Record evidence of the payment of bribes by business firms. The vast bulk of the evidence has so far been obtained by the Securities and Exchange Commission through its vigorous investigations and its voluntary disclosure program.

Today I will introduce documents provided to SEC by the General Tire & Rubber Co. At the request of SEC, General Tire began an investigation into alleged improper payments to employees of foreign governments in Chile, Morocco, and Romania. The preliminary results of the investigation show a number of questionable transactions, including the following: First, that a foreign subsidiary of the company in an unnamed country maintained for many years a cash fund which was not recorded on the books of the foreign subsidiary. From 1969 to the fall of 1975 approximately $240,000 was paid from the fund and, according to the company:

> It appears that some payments made from this fund as well as other payments recorded on the subsidiary's books may have been improper or illegal payments to foreign government employees.

Second, another foreign subsidiary in another unnamed foreign country maintained U.S. dollar bank accounts in its name in the United States and England, as well as a local currency account in a local bank, none of which were recorded on the books of the foreign subsidiary. The company states that it has only limited information concerning the uses of those accounts, but has not yet disclosed what that limited information is. The company also states that the U.S. dollar accounts amounted to about $435,000 before they were closed out, and that they "appear to have violated the foreign currencies exchange controls of the country where the subsidiary was located."

The company concludes its disclosure by stating that the continuing investigation also includes the matter of political contributions in the United States and the degree of executive involvement in all the matters under investigation.

I request unanimous consent that the documents filed by the General Tire & Rubber Co. be printed in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

Securities and Exchange Commission—The General Tire & Rubber Co.

(State of Incorporation) Ohio

(I.R.S. Employer Identification No.) 34-0244000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class and name of each exchange on which registered:

Common Stock, 30c par value, New York and Midwest.

$5 Cumulative Preferred Stock, $100 par value, Midwest.

4¾% Subordinated Debentures, due on April 1, 1981, New York.

Securities registered pursuant to Section 12(g) of the Act: None.

The Company has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months and has been subject to such filing requirements for the past 90 days.

In November the Company sold to an agency of the Chilean government for a nominal amount its 36% stock interest in Industria Nacional de Neumaticos S.A., INSA (the carrying value of $850,000 having been fully reserved as reported in our 10-Q Report for the quarter ended August 31, 1975). This agreement also settled outstanding claims arising out of prior transactions involving INSA and established a three-year agreement with the Chilean government for the technical/service necessary to operate the plant. In addition, the Company was given an indemnity release from any civil liabilities related to those prior transactions, including claims of irregularities connected with a foreign bank account associated with INSA. Publicity with respect to the foreign bank account has occasioned a petition by a competing applicant to reopen proceedings for the renewal of the license of WNAC-TV, Boston, one of RKO's television stations; among other things, the petition as supplemented alleges that General Tire and certain of its executives had engaged in illegal bribing in Chile, Morocco, Romania and in connection with the Arab League boycott. RKO is opposing these pleadings before the Federal Communications Commission. See Note F to the RKO financial statements in Item 10(a) on page RKO-12 of this Report. See also Current Investigations below.

RKO General, a wholly owned subsidiary, reported an increase in revenues and a profit improvement in 1975 over 1974. The overall performance was affected favorably by the bottling operations, the acquisition of a new bottling and canning facility, and the elimination of certain unprofitable Cablecom-General operations. The earnings of Frontier Airlines, a 58% owned RKO subsidiary, declined in 1975 from the 1974 level, largely because of substantially higher operating costs.

Since major expansion and modernization programs had been completed recently at many of our plants and, because of the economy, certain non-critical expenditures were deferred to conserve cash, capital expenditures were greatly reduced in 1975 compared with the three previous years. In addition, other programs were instituted to conserve cash by controlling expenses and by bringing inventories into closer alignment with current sales requirements.

During the year, the Company entered into a $75 million loan agreement with an insurance company under which the Company received $26 million of new capital and $49 million of its formerly outstanding notes held by the same lender were canceled. For further details, see Note E to the consolidated financial statements in Item 10(a) on page GT-14 of this Report.

The economic recovery seems likely to continue in 1976; however, any improvement is expected to be moderate rather than sharp. Some signs—such as automobile, truck and trailer production forecasts—look promising for the Company and for the industry, but the economy, and especially the tire industry, could be affected by a heavy schedule of labor contract negotiations and various other economic and political factors.

CURRENT INVESTIGATIONS

Following publicity regarding the INSA matter in Chile, the Company was requested by the staff of the Division of Enforcement of the Securities and Exchange Commission ("SEC") to supply them with information concerning that matter, and early in December the staff broadened their request to include, generally, information regarding improper payments to employees or officials of foreign governments and foreign and domestic political contributions. In addition, in January the staff requested information relating to the allegations regarding Morocco and Romania made by the competing applicant in the license renewal proceedings for RKO's Boston television station, as well as additional information concerning the INSA matter.

At its meeting on January 23, 1976, the Board of Directors of the Company directed that an investigation be made to determine if there have been any improper payments or political contributions of the nature covered by the December request of the staff of the SEC. The Board also appointed two officers of the Company to conduct the investigation, with the assistance of counsel, and report to a special committee of two of the outside Directors. This investigation is now in process, and information in response to the January request of the SEC staff has been and is being supplied. Preliminary results of the investigation have indicated the following:

1. Aerojet-General and the Company agreed to pay a fee of $300,000 to a private Moroccan citizen for his assistance as a consultant in negotiating an arrangement with the Moroccan government pursuant to which, in the fall of 1971, the government purchased from Aerojet its one-half interest in a company that owned a communications satellite earth station in Morocco, the other half interest in which was owned by the Moroccan government. This consultant had represented the Company's interests in Morocco for some time. The arrangement also involved payment by the satellite company to Aerojet of amounts owed for Aerojet's services in the construction of the satellite station, and the release of a Moroccan tire manufacturing subsidiary of the Company (42% owned by the Moroccan government) from its guaran-

tee to the government of certain indebtedness of the satellite company. The $300,000 fee has not been paid and is carried as a payable on the books of the Company. As stated in paragraph 2 below, the consultant came under investigation by the Moroccan government. However, so far as is known to the Company, the investigation did not result from any wrong-doing in connection with this matter.

2. Late in 1969 the Company's tire manufacturing subsidiary in Morocco, 42% of the stock of which was and is owned by the Moroccan government, was granted permission to expand its manufacturing plant in Morocco and thereby continue as the then sole tire manufacturer in Morocco. The same Moroccan consultant referred to in the preceding paragraph was retained to assist in the negotiations leading to the grant of that permission. The machinery and equipment required for the expansion was ordered by the Company's international subsidiary, which also billed the Moroccan subsidiary on invoices of a European export-import firm at amounts that provided $500,000 above costs and normal charges and fees. The Company believes that the amount of $500,000 was transmitted by the export-import firm to a Swiss bank and infers that it represented payment to the Moroccan consultant; however, the Company does not know whether that sum was ever received by him. The Company understands that, in an indictment in 1972 of two Moroccan officials, one of several matters referred to was the plant expansion of the Company's subsidiary in Morocco and allegations that the Moroccan consultant made payments to government officials in connection therewith. So far as is known to the Company, the consultant was never indicted although he was under investigation for some time.

3. From late 1971 until March 1973, the Company engaged in negotiations with a Romanian Government agency concerning a contract for the construction in Romania of a large radial tire plant and for the provision of technical services after the plant is in operation. A private Romanian citizen with office facilities in Bucharest assisted the Company in these negotiations and was paid a fee of $90,000, which the Company believes to be a legitimate fee for services rendered and reimbursement of expenses. For reasons which are not clear to the Company, personnel in the Company's international subsidiary caused this fee to be paid out of the foreign bank account associated with INSA, the Company's affiliate in Chile referred to above at page iv. As a part of the settlement with the Chilean government relating to INSA, the Company paid to the central bank of Chile $90,000 plus interest as reimbursement for the above fee.

4. A foreign subsidiary of the Company in another country maintained for many years a cash fund which was not recorded on the subsidiary's books. So far as the Company has been able to determine, from the fall of 1969 until the fall of 1975, when the fund was terminated, the equivalent of approximately $240,000 was paid out of the fund, which was derived principally through rebates to the subsidiary from suppliers attempting to obtain business at prices below those fixed by government regulation. The primary use of the fund appears to have been to make payments to executive employees of the subsidiary. although it appears that some payments made from this fund as well as other payments recorded on the subsidiary's books may have been improper or illegal payments to foreign government employees.

5. Another foreign subsidiary of the Company in yet another foreign country maintained United States dollar bank accounts in its name in the United States and England, and a local currency account in a local bank, which were not recorded on the subsidiary's books. The Company as yet has limited information concerning the uses of those accounts. The United States dollar accounts, which at one time approximated $435,000, appear to have violated the foreign currency exchange controls of the country where the subsidiary was located. The accounts have been closed out.

The investigation also currently includes the matter of political contributions in the United States by executive level employees of the Company. The investigation also includes the question of the degree of executive involvement in all of the foregoing matters. When the facts have been determined, if appropriate, a Form 8–K report will be filed.

As noted above, the foregoing information is in most instances preliminary information resulting from the investigation which is continuing. Although preliminary, the information is being reported at this time because of the requirement that the Company file its Form 10–K annual report not later than 90 days after the close of its fiscal year on November 30, 1975.

WHITE PAPER ON DEFENSE

Mr. TAFT. Mr. President, several weeks ago I sent to my colleagues a white paper on defense, outlining a new systematic approach to the strategy and force structure of our general purpose forces. As a summary was not included with all of those papers, I ask unanimous consent that a summary statement of the contents of that white paper be printed in the Record. Additional copies of the entire paper are available from my office.

There being no objection, the summary statement was ordered to be printed in the Record, as follows:

White Paper on Defense

In recent years, we in Congress have been attempting to assert the legitimate role prescribed in the Constitution in the making of foreign and defense policy. We have had some successes. However, if we are to succeed fully, we must study and understand the assumptions and decision-making processes which underlie our nation's policies.

In defense, the basic issues are strategy and force structure. The White Paper which I recently issued examines those issues and their resultant foreign policy implications, and presents an alternative strategy and force structure for our non-nuclear forces.

The alternative I present is a sea power strategy. A review of the basics shows very clearly that America is by nature a sea power, not a land power. Geography, resources and economics dictate this. Our economy is dependent on imports and exports, most of which move by sea. Further, our defense commitments to our allies depend upon unquestionable control of intervening oceans.

The Soviet Union has clearly recognized our dependence of the sea. American sea power today is being challenged by the Soviet Union. The Soviets now have a navy sufficiently sophisticated and powerful as to seem likely to be able to cut the sea lanes on which we and the remainder of the free world depend. We find ourselves without adequate answers to the Soviets' abilities to interdict vital sea lanes and to neutralize our aircraft carriers.

America's security and the security of our friends abroad demand a decisive answer to the Soviet naval challenge. This means more ships. Equally important, it means new concepts, new types of ships utilizing new technology to surpass and dominate the fleet the Soviets have developed and built while America idly watched. My White Paper proposes a 10-year shipbuilding program designed to provide the new-technology Navy we need to meet the Soviet challenge.

This raises the question of how we go about financing such a major program. A close examination of our land forces shows that we can simultaneously reduce their numbers and increase their real combat capability. Of the 19 divisions in our active land forces, nine are infantry—a type of force unsuited to conflicts on a modern battlefield in Europe or the Middle East. Indeed, the only type of conflict for which such forces are suited is a Vietnam-type war. Through painful experience, this nation has learned that we must never again let ourselves become entangled in such a protracted and domestically divisive bloodletting.

By phasing out foot infantry units, which are known to be obsolete and are not cost effective, and by reducing support personnel while increasing support efficiency in Europe, we can scale down our land forces from the current level of 1,644,000 to a total of 1,352,000. This can be accomplished without losing ground combat power if we, in turn, emphasize increased mechanization and modernization of the remaining units.

The bulk of the savings would finance the new naval program. Part should be used to mechanize two Marine Corps divisions. Part should go to modernize the Army Reserve and National Guard, so that they become a truly capable and ready reserve force. The end result would be land forces more suitable to meet our global commitments than those land forces on which we rely today.

Turning to the foreign policy implications of such a strategy, we see that a sea power strategy neither compels nor forbids any particular foreign policy. In fact, it creates new options in foreign policy, and it better insures that the civilian policy-makers, not local military circumstances, will determine foreign policy. See power can be more subtle in its application than land power, and therefore is more useful in a world where direct military action seems to be less and less desirable or effective.

Congress has both a legal duty and a practical obligation to debate new options for strategy and force structure. Congress must oversee the allocation of our defense resources. Practically, Congress should be able to overcome the rivalries and 'old boy' ties in the services. Congress must accept the challenge of evaluating our present force structure, and of demanding the exploration of possibilities for using our defense resources.

ADDRESS TO SECONDARY SCHOOL PRINCIPALS

Mr. HUMPHREY. Mr. President, I am concerned over the increasingly difficult problems faced by our Nation's school principals. In my recent address to the 60th annual convention of the National Association of Secondary School Principals, I discussed the effect of societal change upon our youth, and our increasing global interdependence.

My remarks expressed a deep-felt concern that the President's budget requests for fiscal year 1977 represent a failure of national policy toward education. They fail completely even to keep up with current needs.

The President's fiscal year 1977 budget requests a $6.1 billion outlay for education division programs under current legislation. This is $1.4 billion, or 19 percent, below fiscal year 1976 enacted appropriations. These proposed cuts will hit primarily at higher education, down $765 million; title I elementary and secondary education funds, down $150 million; and impact aid, down $355 million. In fact, the budget request is highly misleading. It is inflated by including 2 years of funding for vocational education, at $539 million a year, instead of a single year's funding with other programs.

In addition, I pointed out that the administration has proposed the consolidation of the major programs of elementary and secondary education, vocational education, education for the handicapped, and library resources into a block or consolidated grant. I strongly oppose President Ford's view of Federal program consolidation because his budget clearly translates that to mean sharp reduction or even termination of Federal assistance.

The President disclosed to the secondary principals that he suddenly has changed his mind and now plans to propose a modest increase in educational spending to help sell his consolidation proposals to Congress. But in light of the President's past vetoes and rescissions of appropriations enacted by Congress for education, it may be that this last-minute proposal will, at best, only cover cost increases due to inflation.

I maintain that the role of the Federal Government should be to help States and local school districts direct resources to the area of real need. We should encourage good educational management and we should assure that the students of this Nation have equal opportunities to obtain a quality education. These should be the constructive functions of the Federal Government.

Emphasizing further the importance of equalizing educational opportunity within States, I stated that it is profoundly wrong that the quality of a child's education should continue to be dependent on the wealth or poverty of his or her community. Nationwide, we need to establish a new education policy for America, a policy to guarantee that all children and youth, without regard to circumstances of residence, family, income, or race will have a full and equal opportunity to obtain a quality education. And it is urgent that we begin spending the money in such a way that it yields results. We need to maintain accountability for participants in the educational process at all levels—for our students, for our teachers, for our principals and our State commissioners and for our elected officials and representatives. We need to set priorities, to assess the needs of our youth, to plan and to evaluate our performance.

Finally, I discussed with the secondary principals the matter of President Ford's budget message slashing away at other programs which meet the vital needs of people, such as health care for the elderly, unemployment compensation, and other human resource programs. Of course, the Congress already has overridden President Ford's first veto of this new session concerning HEW appropriations. And we shall continue to fight for funds aimed where they are needed.

Mr. President, I ask unanimous consent that my remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hubert H. Humphrey

I am honored to be invited once again to participate in this conference of the National Association of Secondary School Principals. I recall our meeting ten years ago at the 50th Annual Convention in Cleveland, and I remember it well.

Today I have the privilege of seeing you again, with the same feeling of warmth and affection, and I hope that I can say something worthy of your attention.

As you may know, I am a refugee from the classroom—and I never forget that. I have been a teacher, and in many ways I remain essentially a teacher. And because of that, I know that we agree on many things.

One of them is that we live in a time of fantastic change. And that fact is at the center of many of our difficulties. A boy or girl from your schools and classrooms experiences more changes in just one year than you or I—in our youth—experienced in ten, or than our parents experienced in 25 or 50.

When we perceive this change, especially its rapidity and intensity, we are compelled to ask just how much the human psychic make-up, the human nervous system, can bear. How much can it absorb? How quickly can it adapt?

The changes which have taken place in our society in the past few decades—or even in the ten years since we last met—are almost unbelievable. And more important, they are projected at us every hour of the day, not only by the newspapers and periodicals, the weekly and monthly magazines, but literally every fifteen minutes on television and radio.

When I was a boy growing up in South Dakota, the newspaper I received was the Watertown Public Opinion. Occasionally we got cosmopolitan and read the Sioux City Journal, and we had the Doland Times Record once a week. That was our news. And even when the radio came, we were still very much shut off from the world.

But today we are far from shut off—the world envelopes us like a tidal wave. The news rolls over us, and more often than not it is not news of hope and development; it is news of collapse, catastrophe and failure. In that barrage of information, it is understandable that people become disturbed, that they become overwhelmed. Every hour of the day and night, on every newscast, in living motion and color, we are exposed to a rapid bombardment of change.

For example, the advent of nuclear weaponry has drastically changed the world and the way we look at the world. Who would have been informed about Angola twenty years ago? Who would have cared? Who would have been able to find it on a map? Yet today it is a matter of great concern to millions and millions of people, and to our young people in particular—those whom change has made very sensitive, and indeed almost fragile.

We have witnessed incredible developments in our economy. No nation on this planet has known such prosperity as America, and that prosperity has brought change. It has forced us to consider fundamental questions, to decide whether or not people living in democratic freedom can maintain self-discipline and high moral standards in the midst of affluence and abundance.

Our very wealth itself becomes a challenge—a challenge to discover whether self-restraint, prudence and a reasonable degree of moral integrity are only dependent upon times of trouble, depression or war. We are searching for an alternative to that kind of unity, searching to discover if peace can arouse within us the same dedication as battles do.

Moreover, the state of the economy has brought forth unprecedented problems. Never before have we had recession and inflation simultaneously, never in the history of mankind. Yet now it is a worldwide phenomenon. In the midst of this change, the old solutions no longer apply. Domestic remedies no longer are suitable for an interdependent world economy, and the old formulas no longer fit the facts.

As a result, we must be willing to experiment—and that in itself will bring change. Freedom and democracy call for free thinking, for daring, for adventure, for a new sense of priorities. I tell the young people in my home state of Minnesota that what happens in the Middle East may be more important than anything that happens in the Middle West—in terms of their day-to-day lives. And correspondingly, what happens in the Middle West, in the production of food and fiber, will have worldwide repercussions because America is a major food producer for the world.

John Donne, writing in the 17th Century, could never have known how well his words would apply to the 20th: "No man is an island, entire of itself. Every man is a piece of the continent, a part of the main." We now have incontrovertible evidence that this is true.

It could not be otherwise in an age when the mass media bring the world to our doorstep, and with it a change in our attitudes.

The Vietnam War is a case in point. It was the first war in our nation's history which was covered without censorship, and the experience was to become traumatic. Very few Americans cared about or understood that war when it began. Vietnam was a remote country, 10,000 miles away; we knew virtually nothing about its people, its culture, its religion, its geography or climate. But we knew about the fighting—because it was brought right into our living rooms. It came directly into our lives, with all the ugliness, filth, degradation and horror intact. Americans were suddenly exposed, not to Jimmy Stewart or John Wayne marching into battle, but to young men from this country in a faraway jungle. The war came home to us with unbelievable force—destroying our faith in ourselves, causing us heartache and pain, arousing our passions and emotions.

It was the inevitable result of an open and honest society. Indeed, if every nation in the world had a similarly open society, if every nation could have seen what we saw, that war would have stopped much sooner.

That experience taught us the alarming extent to which we can learn and perceive change from the media. But we have not yet fully come to grips with that lesson. If it is true that the media are quick to reflect the changes in our society, it is also true that our young people are quick to follow the media—for better or worse.

Our young people see enough people killed in an average week of television viewing to wipe out the neighborhoods they live in. They see the world of muggings, robberies, stick-ups and rip-offs, a world in which the rewards of crime are immediate and the threat of punishment is vague. It would be surprising if they were not affected, since the programs they watch are carefully constructed to be engaging, entertaining and exciting. But to see *how* they are affected by the changes in our society requires an extremely alert and sensitive parent, one who can understand how deeply our traditional beliefs in law, in justice, in religion and community have been shaken.

This is not to suggest that there is no hope for our children, no possibility of renewed faith in our society. I am not a prophet of doom, and I have better advice for our Bicentennial year. To those who say that America has reached a crisis of confidence, that we have arrived at a lack of trust in our nation so profound that we cannot recover, I say: let's look at where we have been and where we're going.

We ought to remember that when this Republic was begun, support for it was far from unanimous. There was hardly universal agreement. Only one-third of the people in the Colonies advocated breaking with King George, another third were simply waiting to see how it all came out, and another third were Tories. There was no widespread enthusiasm.

We ought to remember, when people criticize the present Congress, that 200 years ago the Continental Congress was in session trying to decide whether they ought to send any food to Washington's troops, along with cannons and munitions. When they finally decided to provide the shipments, only about half of it got there—the rest was bled off into the black market. Yet out of that dissention and confusion came the nation which, with unity and purpose, rebuilt Europe after the Second World War.

Those who say that our young people are disaffected, that our younger citizens are apathetic about the electoral process, ought to recall that the average age of the signers of the Declaration of Independence was 36. Thomas Jefferson was 33. James Madison was 25. And Alexander Hamilton was only 17 at the time. Moreover, the numbers present for the signing of that document were well below the expected turnout. And for the debate over the new constitution, more than 90 people were invited—of which 55 actually came, and only 39 stayed for the completion. By the time it was over, the founders didn't even have a quorum.

But in that early turmoil and debate emerged two of our finest traditions. The first was a pragmatic sense of experimentation, the will to innovate, the spirit of the pioneer with the courage to dare something new. The second was optimism, the belief that a thing can be done, the faith in ourselves, the institutions of our government and our society. And I am sure that all of you, in this audience of leaders of American life, will agree that we need those qualities today.

We need them because we will always need them, not because we face new and insuperable problems today which we have never faced before. America is no more problematical now than it ever was. In fact, if you want to be reminded of truly staggering problems, look again at our history.

The first chief of staff of the United States Army was a traitor in the pay of the Spanish Emperor. There was compromise on the issue of slavery throughout the 1800's. There was a terrible and bloody civil war between North and South. There was spectacular corruption in the period of Ulysses Grant which makes recent offenses look puny by comparison. There were massive pay-offs. The railroads were bribing legislatures. Monopolies were running roughshod over consumers and small businessmen.

In later years there was imperialism abroad and the rape of our environment at home. There was the incredible period of the Twenties, the aftermath of World War I, and the Great Depression which followed. There was our willingness to tolerate the inhuman behavior of Adolph Hitler until we faced a World War.

In short, there has never been a point in our history in which someone could not have said, "This is the end. We have reached a point at which our problems are too great. America as we know it is finished."

But you and I know differently. We know that America has passed through each and every one of those trials and emerged stronger from them. We know that out of the rape of our environment came the conservation movement. Out of the incredible mismanagement of our banks came the Bank Reform Acts. Out of the Civil War came the Emancipation Proclamation. Out of persecution and demagoguery came our guaranteed freedoms and human rights.

And out of it all came the most marvelous republic on the face of the earth—the oldest living democracy with the oldest constitution, and yet one of the youngest nations on the globe.

I am a student of history, and I think I know what has gone wrong with this nation. But more important, I think I know what has gone right. And I think that we are on the road to progress—if we want to be.

If we want to, we are going to have to do some hard work and make some very tough decisions. Not all of them will be easy. Not all of them will be palatable. But they will be successful if we act in the best traditions of our past.

We can find a way out of this recession. We must find a way because the nation cannot afford it—financially or spiritually. Some people are talking a lot these days about waste in government. And, admittedly, there is some waste in government, just as there is waste in each of our homes—pairs of shoes that we can't wear or appliances which we will never use. Regrettably, we have lived in a society which taught and encouraged waste.

But there is a worse and more devastating kind of waste, and that is the senseless waste of human lives and resources. The waste of this recession in the last two years has amounted to $200 billion—and that doesn't begin to count the waste of hope, the waste of families broken and spirits crushed. In the period from 1974 to 1980, we will have lost one and a half trillion dollars in income which no one will ever see or receive, production that will never be marketed and revenues that will never be collected.

As I speak to you now, we are wasting 8 million people who want to work, but who are given no alternative except food stamps and the unemployment line. That is an intolerable situation. This nation ought to be able to put its working people on their feet if it can put a man on the moon.

And we can do it. But we are going to have to be willing to try new solutions, willing to run a risk, willing to take the criticism if results do not come immediately.

And we can mobilize every resource in this country to meet our energy needs. You can't open a newspaper these days without reading about the so-called "energy crisis." But you and I know differently. There is no energy crisis. We have all kinds of energy. We have enough coal alone to take care of the needs of this country for 300 years. God Almighty gave us the sun, and we ran the whole space program on solar energy.

What we think of as the energy crisis is really a crisis of national will—not of resources. When World War II began, we didn't have so much as an ounce of synthetic rubber. But when the Japanese cut off the sea lanes, and with them our supply of natural rubber, you know what happened. Within one year your government, in cooperation with industry and labor, built the synthetic rubber plants—and this country never once had a slow-down in production because of shortage in rubber.

I am of the belief that we can do the things which have to be done. I am not here to tell you that it will be easy, or that it will be painless. But it can be done. Everyone knows that you can build character in defeat. I want America to get to work, to get together, and show the world that we can build character in victory as well.

I believe in our future because I have an abiding faith in America and her people. And I also have faith in the political process. But we have witnessed a decline in confidence in our election process. Despite all the money spent on campaigns, despite the enormous amount of organizing and volunteer work, despite elections which promise the clearest ideological choice between candidates in our history—only about 55% of America's eligible voters go to the polls, the lowest percentage in a quarter of a century.

In the 1972 presidential election, some 68 million Americans didn't vote. It is time to ask why. It is time to try to understand why the United States of America, with more opportunity for free voting, free participation and freedom of election, has the lowest voter participation in politics of any free country in the world.

I can't give you the final answer. I know that there has not been a mass rejection of the institution of government. I know that there has not been an outburst of zeal for revolution. But I do see a pervasive disenchantment in our society, a national mood which presents a difficult challenge to educators.

Political expression is a direct function of education, and public education is a fundamental principle of our society. It is basic to our liberty, to the quality of our lives, to our pursuit of happiness. That is why educators have a vital interest in the political process. They have a special responsibility to counter the prevailing disenchantment with politics. They have a special reason to remember what Adlai Stevenson said about representative government: it's just like a well—you get out of it what you put into it.

Teachers often forget that they are, in many ways, politicians themselves. They work for the public. They are on the public payroll, just as I am. Sometimes I have to remind school-board members, superintendents, principals, and teachers that they, too, are part of what they call "the bureaucracy." And when there is discontent or criticism of that group, teachers ought to ask themselves, "Where do I fit into that? Are they talking about me?"

Or if they find themselves discontented with politics, they ought to jump in with both feet and change what they don't like. Our system permits maximum freedom of participation, and it's time for those who are concerned to think about how they're going to participate. If they feel that politics is dirty, if they feel that they are clean, well, then they should get in with their bar of political Ivory Soap and clean it up or shut up. One or the other.

Without that kind of participation, we are not going to be able to guarantee the future of our educational institutions because they are up against threats from every side. The President's budget for fiscal 1977 requests $6.1 billion for education programs of all sorts. That may seem like a lot of money—but not compared to an economy of $1.5 trillion. In fact, that budget request is $400 million, or 19%, below enacted appropriations for fiscal 1976.

Almost twenty percent less money for education—that should be enough to turn any educator into a political activist. Could your schools sustain a twenty percent cut in expenditures next year? Has anything gotten cheaper in the past year? Have the problems become fewer? Are the needs less pressing?

Of course not. If the President's budget were accepted, where would the additional funds come from? In the local community, the only way that you can raise money is from sales taxes and property taxes—and in some areas, the state income tax.

That is the problem with Mr. Ford's notion of how to fund education. I believe in efficiency and consolidation, too. I believe in state and local administration of programs. But I've been around long enough, as both a big-city mayor and a school teacher, to know that it also takes resources. A city or a state is limited in what it can tax. I come from the state of Minnesota, and we raise a lot of revenue out there. But we cannot tax Exxon, we cannot tax Mobil, and we cannot tax Gulf and Western. We cannot tax the giants; we can only tax the people—those who can least afford to pay, and who are already paying their full share.

That is why I get suspicious when I hear people saying that they want to put education entirely in the hands of states or localities. I listen to them, and I say, "That sounds fine—if you'll send the money along."

But this administration has no intention of sending the money along—that is why they cut the budget in the first place.

The proposed cuts would hit hardest in higher education, to be sure. But there is much that affects elementary and secondary facilities as well. The administration has proposed a consolidation of major programs, including vocational education, education for the handicapped and library resources, into a block or consolidated grant.

This legislation is hardly new. As a matter of fact, it is the very same thing which was once known as the Educational Special Revenue Sharing Act when Mr. Nixon presented it in 1973, 1974 and 1975. It is almost embarrassing that the Administration is trying the same old plan once again. They tried it last year and they couldn't find a single member of Congress to sponsor it—not one. They ought to have learned something from that. There are 535 members of Congress. And when no one in that body will consent to sponsor a bill, there has to be something wrong with it.

I am committed to the belief that if Federal aid to education is going to be effective, then state and local educational agencies must be able to set priorities and determine where and how money is to be spent. And we should help them to direct resources to areas of real need. We should encourage good educational management, and we should ensure that the students of this country have equal educational opportunity for a quality education. These are, and should be, constructive functions for the federal government.

However, I take an entirely different position from Mr. Ford in calling for fundamental changes in federal aid.

First, I strongly oppose federal program consolidation because the President's budget clearly translates that idea into sharp reductions. And in some instances it means outright termination of federal assistance.

Of course, the President has recently told you that he has "changed his mind" about the budget, and now intends to propose a modest increase in educational spending to help move his consolidation proposal through Congress. But in light of Mr. Ford's repeated vetoes, impoundments, and rescissions of appropriations enacted by Congress for education, it is likely that this last-minute proposal will at best only cover increased costs due to inflation.

That is far from enough. The federal portion of our public resources devoted to eduflation. They must be substantially increased—for the simple reason that education is the best and wisest investment this Nation can make in its future.

By contrast, we are raising the expenditure for new weapons systems by $9 billion this year alone, over and above inflation, in real increases.

Now, don't get me wrong. I believe in adequate national security. I have served on the National Security Council, and I am the only member of Congress who has. I don't believe in unilateral disarmament or in cozying up to the Soviets.

But I am a realist. I know that if you have to spread your money out over a long period of time, and make decisions about what you are going to do with it, then you have to ask yourself what your best buys are. And I've been doing a lot of comparison shopping lately.

We still have more than 450 B–52's, and we really don't need to put a billion and a half dollars into a B–1 this year. We still have the mightiest submarine fleet in the world, including the Polaris missile and the Poseidon. And even with the Trident missile underway, we still have the largest stable of MIRVed missiles in the world—with more missile warheads than any other power. We have enough, in short, to annihilate every form of humanity on the earth.

So if I have to choose between laying off teachers or closing up vital services in our schools and holding back a little while on some of the new weapons expenditures, it's not going to take me long to make up my mind,

Despite what some people will tell you, this country is not "as strong as its military." The military, for all its accomplishments, is just the cutting edge of the great strong blade of our people and our economy. This country is exactly as strong as its people. It is as strong as its workers, its productivity, and the health of its citizens. It is strong as their education, as strong as the homes they live in and the cities they build.

You put that kind of strength together with an effective and powerful military establishment, and I will show you a strong and powerful nation.

We need nothing less than a whole new educational policy for this country. We need a commitment to guarantee to all of our children—without regard to place of residence, family income or race—the best education that this nation is capable of providing.

I will repeat to you what I said ten years ago. It was true then and it remains true now. There is no instance in recorded history where a nation has become insolvent or in any way damaged its fiscal system because of its investments in health or education. Because education means productivity. Education means opportunity. And education means progress—or at least the hope of it.

Now, I don't mean to say that everything we are presently doing in education is all that it should be. You and I both know better than that. The decline in college entrance exam scores over the past ten years is ominous. It suggests to me that while we are trying to come up with new ideas in education, we ought also to be examining some of the old ones.

When I find young people coming into my classroom who can hardly read—as I did in 1969 and 1970—when I find that some of them have no capacity to write their native language, when they are all too fluent in conversation but stumble over the written word—then there is something definitely wrong.

I know that it is difficult to teach the old skills today in a world where the movies, the stereo set and the television have encroached on the written word, and where conversation is too often reduced to a string of cliches. But somebody has to learn how to read. Somebody has to learn how to write. And somebody has to learn systems of logic.

Moreover, secondary education is taking on ever greater importance as our college applications decline. An increasing number of our young people want to get into what they call "real life," whatever that means, and move directly into the job market after high school. For many, the price of a college education has simply become too high—especially when we have an Administration which is determined to cut back on student loans and fellowships, making the process of a college education even more difficult. These developments can only mean that an even greater responsibility is yours in secondary education.

It is, after all, secondary education which trains our young people for life—and you and I know that we have a bigger job to do than ever before.

But there are some things which education cannot be expected to do. Our schools cannot shape the entire personality of a child, and our principals cannot become mothers and fathers for everybody. Too many times, our children have been simply pushed off into school in the belief that it is the one place where they can find love and care and understanding, as well as education. I may be old-fashioned, but I believe that there is no substitute for the family. And we need to examine what is happening to that family in contemporary society.

Nor can we ask our teachers to be policemen, although today many of them spend far too much of their time in just that function—trying to enforce order. It is no secret why they have been relegated to that role: what any child does in school is going to be a reflection of what he or she has been doing outside of school, where students spent most of their time.

When millions of our children grow up in filth and ugliness and poverty, when they grow up in fear of hatred, and when they are raised not knowing whether they are going to have a job—much less a career—then they are going to bring their environment to school with them. They are going to find powerful temptations in alcohol and other drugs, and in various anti-social forms of behavior.

I am worried about the solid wastes and toxic gases which pollute our air and water. I am worried about their physical effects and how they cause disease.

But, ladies and gentlemen, there is a far more insidious form of pollution in our society, in the environment of hate and bigotry and racism, in the environment of despair which comes from living in ugliness and degradation. There is a far more lasting disease which can be contracted from the blight of so many of our great cities.

So when people ask me to aid them in cleaning up the air and the water, I join them. But I ask them to bring the same militancy to cleaning up the environment in our cities, to providing decent health care and decent nutrition to our people.

America must understand that our children cannot be saved in the classroom. There is much to be gained there, and it makes a real difference. But the classroom will always be a reflection of the community. And if the community is rotten within, if the community is violent, if the community is torn by bitterness or asleep with apathy, then our schools will show it.

True quality education can result from nothing less than a rebirth in the thinking of this nation.

We have to remind ourselves that our schools are part of the community and the community is part of the school. And until educators begin telling people in the community that they can't go it alone, that they can't be held accountable for everything that goes on inside until they get some help from the outside, then education is going to be suspect.

But it need not be. We can rebuild the environment of community and family. We can restore our faith in each other and the trust between people and their government. There is as much need for that dedication in education as there is in politics, as much room for that pioneering spirit in our cities as in our suburbs. Whatever is wrong in our society, we have a system to set it right; whatever is best in our society, it is in our power to preserve. What we will to do, we can do.

ENERGY INDEPENDENCE OR ENERGY COMPLACENCY?

Mr. TAFT. Mr. President, we are now 3 months into the era of the Energy Policy and Conservation Act of 1975.

We are still looking for an energy policy, and we have yet to notice a major surge in conservation.

What we are noticing is a major surge in complacency, and in the importation of foreign oil. Imports as a percent of total U.S. supply of oil were 35 percent in 1973, 37 percent in 1975, and are expected to be 42 percent in 1976. How high will this figure have to climb before we wake up to the danger of energy blackmail?

I should like to urge my colleagues to read four short editorial comments on our energy policy from four of Ohio's leading newspapers. They illustrate that this so-called energy policy may be fooling the Congress, but it is not fooling the public.

I ask that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Canton (Ohio) Repository, Mar. 4, 1976]

A FOOL'S PARADISE

From all outward signs, the energy "crisis" has disappeared from the U.S. scene.

At least that's true of gasoline. Service stations are pumping gasoline for anybody who wants it all hours of the day. The closed stations, the limits on purchases and the long lines of cars waiting to get up to the pumps—all inconveniences associated with the period of the Arab oil embargo in 1973—have been all but forgotten.

Most of the energy discussions of recent months have centered on natural gas, although there have been periodic references to the lack of progress on building nuclear power plants.

As far as gasoline and other petroleum products are concerned, we apparently are living in a fool's paradise, however.

The Kiplinger Washington Letter this week reports that our dependence on foreign suppliers is increasing steadily.

As a matter of fact, the present rate of progress in developing domestic sources of energy is so slow (almost nonexistent) that the only way U.S. supplies can keep abreast of the demand for the next 10 years is to buy more and more foreign oil, says Kiplinger.

Imports from the Mideast already have tripled since just before the 1973 embargo. Consequently, we're almost completely at the mercy of the Mideast producers in terms of price and another embargo would make the 1973 shortage look like child's play.

As we have been pointing out for many months, the federal government has accomplished next to nothing in taking meaningful steps to raise domestic production and lessen dependence on foreign oil.

President Ford keeps sending energy proposals to Congress but with a minor exception or two they all have died there.

The fact of the matter is that the energy problem is so complex and such a can of worms that Congress really doesn't want any part of it—least of all in a national election year.

Congress is the chief offender but not the only one. Environmental laws and environmental zealots have managed to block or cripple seriously most efforts to move ahead in two of the principal areas holding hope for the long-range future on increasing domestic energy—nuclear reactors and offshore drilling for oil and gas.

No responsible person actually is opposed to clean air, water and the other goals so sacred to the environmentalists. But if those objectives aren't soon tempered by practicality and reason there may be a skyrocketing market for horses and buggies and many industries may find it difficult to continue operations.

Nuclear power is the best long-range solution to this country's energy problems but there actually are efforts under way to ban any more nuclear installations.

The supply of coal is plentiful but pollution controls, fear of land damage and the probability of zooming labor costs are keeping production far below expected levels.

The output of domestic oil is dropping five per cent a year. The oil coming from the new Alaskan pipeline will ease the situation but won't reverse the downtown trend of domestic production.

The American public is complaining about the highest gasoline prices in history but the costs don't seem to be deterring anyone from driving wherever and whenever he wishes.

Until the federal government somehow musters the fortitude to spell out the present energy situation in bold detail, with no punches pulled, and then actually does something about it, the outlook for the future will be dark indeed.

Someday the whole U.S. energy production picture may disintegrate in a single puff of smoke.

And, without any adequate preparation, the American people will wonder what hit them.

[From the Athens (Ohio) Messenger]

A SENSE OF MISSION

Former Ohio University Trustee Edwin L. Kennedy made a pretty sharp observation in Athens Saturday night when he noted that a collision of politics and economics at the intersection of truth and logic results in the injury of first truth, then logic.

Kennedy, based upon more than 25 years of expertise, was analogizing the nation's energy situation, after receiving Ohio University's highest honor, its Founders Citation.

The OU alumnus possesses considerable depth of insight on matters of energy. For the past 14 years, he has been in charge of Lehman Brothers' oil department. He serves on the boards of several oil companies.

Kennedy's acceptance remarks Saturday night were energy oriented, befitting of a man who is proud of his "personal fascination with my chosen field," who proclaims that he has developed "a sense of mission about our energy picture."

Such a sense of mission should be developed by more persons, both within the energy industry and without, because it is certainly evident that the message Kennedy transmits is not widely enough received among the public.

There should be more carriers of the Kennedy message that the future supply of energy and its cost is an "horrendous problem" that may gravely jeopardize "the structure of our society, including our individual freedom, our national strength and our economic well-being."

Kennedy's analogy of a collision between economics and politics is a metaphor of the manner in which the nation is "stubbornly refusing to face facts." He put the blame right where it belongs in asserting that "our legislators provide no leadership, but rather compete with each other to attract political support by restrictive or even punitive legislation on our energy industries."

The economics of energy development clearly preclude the nation from ever achieving energy independence under the legislated constraints upon the venture capital system now being and previously imposed. If new oil and natural gas reserves are to be discovered and developed, deregulation is essential. If synthetic fuels are to be developed, private industry must have the cooperation of government. It is probably true that we should be "attacking the problem" of energy resource depletion "in the crisis atmosphere of a Manhattan Project," as Kennedy proposes.

A "sense of mission" in our national pursuit of energy independence is indeed as necessary as Kennedy believes it to be. It is the truth that our legislators have too often allowed politics to retard the accomplishmen of that mission, the logic of doing what needs to be done when it needs to be done becoming a collision casualty.

Kennedy was being none too gloomy when he cautioned that, "unless the current trends are reversed, you as consumers of electricity will, probably by the middle or late '80s, have a new experience. You will flip the switch, but no light will come on."

Had such warnings been heeded 20 years ago, they would not be so critically necessary today of frequent repetition by persons so qualified and so farsighted as Kennedy.

[From the Dayton Daily News, Mar. 9, 1976]

SAUDI ARAMCO

The takeover of the Aramco oil company by Saudi Arabia, which is being dickered in secret meetings in Florida, may be a break of sorts for U.S. foreign policy.

It has never been clear to what degree Washington's decisions—or its "tilts"—have been captured by the four U.S. oil companies in Aramco (Texaco, Exxon, Mobil and Standard of California). Whatever influence there has been, however, will end when the huge, joint company is transferred wholly to Saudi control.

It became clear in the Arab oil embargo two years ago that U.S. policy won no boost from the fact that the owning companies were technically American. Aramco was obviously as keen to keep the Saudis happy—and its profits handsome—as to please U.S. policy.

It has always been impossible to believe that the involvement of the four companies didn't compromise the State department more than it advanced U.S. interests—and that, in turn, the four didn't wring some domestic-policy advantages from their involvement, too.

When the Saudis take over the operation, any threats to the U.S. oil supply will be clearly focused, and U.S. policy at least will be free of equivocations that in the past balanced official responses off against the preservation of the U.S. corporate stake. This doesn't mean the United States will be less vulnerable to attempts by Saudi Arabia to influence its Middle Eastern policy, but it should mean that the U.S. response can be more direct and lucid.

[From the Columbus Dispatch, Mar. 8, 1976]

MATTER OF INCENTIVE

Major oil discoveries in Egypt cannot fail to refocus attention on the fact this country still has no satisfactory energy policy to reverse its dependency on foreign petroleum.

Ironically, American oil companies are making the Egyptian oil strikes which speculation indicates may launch that country as a major world producer.

Egypt has been a nonentity in the rich Persian Gulf area, debt-ridden from war with Israel, and with no industrial capability to speak of.

Reacquisition of the Sinai oil field from Israel partly restored Egypt as a producer, but it is not those fields which suddenly give it status as a potential major producer.

That prospect comes from a national policy which has brought in two dozen foreign companies, including 13 American, and resulted in three major finds elsewhere than the Sinai.

One of them, the largest well discovered in Egypt, south of the Suez Gulf, is now producing 30,000 barrels a day; another, the Ramadan field, is pumping 20,000 barrels a day.

Western and other oil experts are speculating more discoveries like these can make Egypt an oil power by 1980.

What has happened is that the government let exploration rights in certain areas of the country to the oil companies on terms which motivate intensive exploration. That has not happened in this country.

Very simply, the United States has not yet decided to compete in the world petroleum exploration market. Instead, it continues more and more to rely on imports for its petroleum energy.

Basically, Egypt allows the exploring firms to take 40 percent of the oil they find for the first five years for cost recovery and one-fifth of the remaining 60 percent thereafter. Every company, however, must spend millions each year on exploration.

It is an arrangement that appears to be working.

Instead of importing oil, as it formerly did, Egypt now believes it can produce a million barrels a day by 1980 worth $4 billion a year. It is a turnaround which Americans well may ponder.

ADDRESS TO NATIONAL FARMERS UNION CONVENTION

Mr. HUMPHREY. Mr. President, I wish to share with this body my remarks at the 74th annual convention of the National Farmers Union.

In my address to this great organization I outlined my views as to where we are in terms of agriculture and the national economy, and where we are headed.

I placed these remarks in the context of the Bicentennial and what we should be planning on and looking toward in the coming years.

I particularly pointed out the impact of the so-called market-oriented farm policy on our farmers. In 1970 the national parity ratio was 72 percent, in 1971 it was 70 percent, and in 1975 it was 73 percent. One has to go back to 1933 to find a year when farm income was below 70 percent of parity.

But as I suggested, "The sunshine boys over at the Department of Agriculture keep telling us how great things are."

I outlined some of the major elements which need to go into a national food policy. And I tried to point out the common interest of both consumer and producer in developing such policy.

I also suggested to the Farmers Union convention the close connection between agricultural and economic policies. I indicated that the last time the farmers of the Nation enjoyed 100 percent of parity was in 1952 under President Truman. And this also was the last time when we had unemployment of under 3 percent. I suggested that we need to work toward both of these goals and that we need to get away from relying on unemployment compensation and food stamps.

I indicated that each percentage of unemployment had a Federal budget impact of approximately $17 billion. I suggested "The budget deficit is a recession deficit, not a spending deficit. We must slay the myth that we have to accept a trade off of more unemployment in order to have less inflation."

I concluded my remarks by pointing out that the American people, while discouraged, are not without hope or determination regarding the future. They are interested in having leaders who lead and are willing to look ahead.

Mr. President, I ask unanimous consent that the remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

This is a great opportunity to be back wih old friends. Just a few years ago they made me a 25-year member of Farmers Union in Minnesota.

This is a good time to get together to discuss agriculture, and—since this is our Bicentennial year—to talk about where this great Nation is and should be heading.

Let's talk first about farm income and farm policy.

There doesn't have to be any great debate about what has happened since we went to the so-called "market-oriented" farm policy. You can go by your pocketbook, your net worth, or the national parity ratio.

In the past six years, we've had the three worst years for farmers in 40 years. In 1970, the national parity ratio was 72 percent, in 1971 it was 70 percent, and in 1975 it was 73 percent.

You have to go back to the year 1933 to find a time when farm income was below 70 percent of parity.

But the "sunshine boys" over at the Department of Agriculture keep telling us how great things are.

In between these valleys there have been some temporary periods of high prices—mostly when farmers didn't have very much to sell.

But something is wrong with a farm policy that allows you to go broke at a time when farm prices are at levels you didn't dare dream about a few years back.

Something is wrong with a farm policy which rarely lets you see the benefits of high productivity and high prices.

Farm prices have continued to bounce up and down, depending on world conditions, the weather and rumors of export sales.

The Administration says that it has a farm policy of full production and the free market—the incentive system.

But what kind of incentive do farmers have when price support loans on wheat and feed grains for the 1976 crop year are less than 40 percent of parity? And the target prices are well below the cost of production.

It was a mistake a year ago when the Department of Agriculture dropped the soybean loan program. But reinstating the loan program at $2.50 a bushel, or about 35 percent of parity, isn't going to keep farmers from shifting to other crops.

It is time to turn away from the neglect and the failures in food policy.

How many more times will our producers and consumers have to be burned by volatile markets?

It no longer is good enough for farmers to prosper only once in a while.

It no longer is good enough for the poor to eat only in good years.

It no longer is good enough to ask our farm families to plant their crops without a clue as to whether they will recover their investment, let alone make a profit.

It no longer is good enough for our export customers to wonder whether they will be left holding an empty bag if supplies tighten up here.

It no longer is good enough to have to choose between supplying our own people and those beyond our borders.

And, it no longer is good enough to say that we can't feed the world—to justify doing less than we are able.

It is being said that food policy is too important to be left to the Secretary of Agriculture. I disagree.

It is no solution to turn food policy decisions over to the State, Treasury or Commerce Departments, or to White House staffers who don't know a corn-cob from a combine.

I have proposed that there be a food coordinator at the White House level, but the basic initiative and responsibility ought to rest with the Department of Agriculture.

We will need to see whether the newly announced agricultural policy committee under the Secretary of Agriculture is more than an election year promise.

There wouldn't have been a leadership vacuum in the U.S.D.A. if the top officials there were not so adamant that the Federal government play no role in food policy. They believe everything should be left to the Market-place, which in today's world means left to chance.

Food policy is too important to be left to chance. But you may expect more of the same, unless there is a change of administration.

When the Nixon Administration insisted on moving away from farm stabilization programs, part of the argument was that the old programs cost too much. It's true, the farm programs did cost some money—about $40 billion from 1933 to 1972.

But when government held commodities were phased out in 1972, that action helped turn loose a scarcity psychosis and an inflationary thrust which have cost the nation's consumers an additional $57 billions on their food bills in just the past three years.

Congress has tried to restore some stability and develop an effective food policy—only to be subject to the veto and the threat of a veto.

We also have urged the executive branch to use the power it already possesses to protect farm income.

And, we are trying to make improvements in a number of sectors.

A year ago, I and others developed legislation to tighten the operations of the commodity exchanges.

We are acting now to reform the grain inspection and weighing system.

Third, we are beginning to see a new dust-bowl emerge, resulting from neglect and under-financing of the federal soil conservation programs. Congress has had to act to restore even modest funding for these programs and assure their continuation.

Fourth, Congress is nearing the point where it feels that a new investigation must be made of the food pricing and competitive situation. I have introduced legislation to carry out a study along the lines of the excellent study by the National Commission on Food Marketing in 1964–66.

The neglect of farm and food policy has also badly affected our posture throughout the world. How can we make any sense in talking about world hunger or world trade when we do not have a workable policy?

Regrettably, the Administration has shown little interest in commodity agreements, and the trade talks will lead nowhere until after our November elections.

The palm oil situation is another example of the failure to come to grips with a problem.

I wrote to the U.S.D.A. and later to President Ford, stating my concern over the rising volume of palm oil imports and urging that action be taken. The response has been totally inadequate.

The White House always seems reluctant to act on farm imports—whether it be dairy, beef or palm oil. But it has been almost eager to interfere with farm exports.

So really, the rhetoric about the free market and access to world markets is just that. And farmers, consumers and importing nations have no clue as to when the government may next intervene in the market.

There could be circumstances when export controls would be needed in the national interest.

We can't let our domestic supplies get depleted so that they are endangered for consumers—or farmers who need stocks for their poultry, beef or dairy operations.

But there wasn't any time during the past three years, and particularly not in 1975, when the supply situation called for the export limitations which were imposed.

As you have pointed out in Farmers Union testimony to the Congress, strategic reserves of food and export licensing need to be part of an overall policy, based upon abundance, and administered to avoid destroying farmers.

In recent months, I have chaired hearings conducted by the Technology Assessment Board of the Office of Technology Assessment, the Joint Economic Committee, and the Foreign Agricultural Subcommittee to develop the components of a balanced food policy.

A national food policy must be based upon a commitment to abundance. And it must be integrated with measures relating food production, processing, marketing, distribution, exports, trade, consumption and nutrition.

The specific policy objectives must include:

A fair return to farmers to sustain high-level production;

Adequate food supplies at reasonably stable prices for consumers and users of farm products;

Reliability as a supplier of farm products on the export market;

Improved nutrition for our people and support of feeding programs for the needy here and abroad;

And, assurance of adequate inputs, transportation and credit for agricultural requirements.

We no longer can rely on separate policies for different kinds of agricultural producers. Our policy must balance the interests of all agricultural producers and also relate to consumer and trade elements as well.

We also need to balance short and long-term interests and avoid the recent habit of policy-makers in taking short-term actions with little regard for the longer-term impact.

The days of plentiful and low-cost food are numbered unless we develop a sensible approach to farming and food.

Worldwide, we have entered a new era of food insecurity, and the times call for a new internationalism based upon interdependence in the areas of commodities, technology, production and trade.

We must be conscious, too, that agriculture does not function in a world of its own—that we are highly dependant upon credit, energy, transportation, tax policies and basic research.

Farmers are not immune to what is happening in the economy as a whole. But if there is any other phase of domestic policy in which the Ford Administration is failing as badly as in farm policy, it would have to be its policies relating to employment, inflation and economic growth.

The last time the farmers of the nation enjoyed 100 percent parity was in 1952 under Harry Truman.

And the last time we had less than three percent unemployment was in early 1953.

I think it's more than a coincidence that the last time we had either full parity or full employment was when we had them together.

We were then in the early years of the Employment Act of 1946. That law has been used by some administrations and ignored by others, notably the Nixon and Ford Administrations.

The Joint Economic Committee, which I am honored to chair, was created by the Employment Act of 1946.

Unfortunately, the diagnosis of the Nation's economic health as made by the Joint Economic Committee and by the White House have not corresponded very well in recent years.

Right now, the President's economic advisers and Mr. Simon, the Secretary of the Treasury, are most concerned that the economy might become overstimulated.

And they do not anticipate or plan on a significant reduction in unemployment levels during the remainder of this decade.

Seven million people remain out of work by official count, and if under-employed and discouraged workers are included, the total exceeds 10 million. The problem is especially acute for young people and for minorities.

There must be a better remedy than unemployment compensation or food stamps. Anything is better than the dole.

But capital investment is still lagging, and housing construction is far below what it should be.

Industry is operating at less than three-fourths of capacity. Annual production is $150 billion less than it would be with full employment.

Let me remind you that the Federal budget impact of each one percent of unemployment is approximately $17 billion, in lost revenues and added costs.

If the Administration's estimate of 7.7 percent unemployment is correct, the Federal budget cost of high unemployment will be about $63 billion in 1976.

But this Administration completely fails to understand that the best way to end budget deficits is to end recession, high unemployment, and unused industrial capacity.

While an administration which wanted to use the Employment Act of 1946 would have most of the authority it needs, I have developed, with Congressman Hawkins, a revised bill which would mandate full employment as a fundamental national policy obligation.

The bill, known as the "Full Employment and Balanced Growth Act of 1976," would establish the right of every American who is able and willing to work, to a suitable job at decent wages. It directs all agencies of the government, including the Federal Reserve Board, to adhere to this commitment. The goal would be to achieve a reduction in the unemployment rate to not more than three percent within four years.

We must slay the myth that we have to accept a "trade-off" of more unemployment in order to have less inflation.

Progress toward full employment and progress toward price stability are part of the same objective.

Economic growth and less inflation are not in conflict.

High unemployment today has meant more, not less, inflation.

The budget deficit is a recession deficit, not a spending deficit.

Unfortunately, the Administration which—for the first time in our history—brought us simultaneously inflation and recession, offers us only more of the same.

We don't need a President who keeps interest rates up or fights inflation by throwing people out of work.

We don't need a President who professes to support quality education, housing or emergency employment and yet vetoes the necessary funds.

We need a President who believes in work, in jobs and development—not vetoes and tight money.

This recession has been a terrible waste of production, of tools, of income, of revenues, of goods not produced, and above all, it has been a waste of people.

Americans have not lost faith in themselves or in their system. But they are impatient with Government which fails to respond and leaders who don't lead.

America needs a rebirth of confidence and purpose.

We have entered this Bicentennial Year as a wounded and shaken Nation.

Yet the basic fabric of American society is still strong. And the American people are waiting to be challenged again to greatness.

I come to you today to ask your help in bringing about a new birth of opportunity.

I ask that, in this Bicentennial Year, we rededicate ourselves to the three great principles which a 33-year-old Virginia farmer by the name of Thomas Jefferson wrote into the Declaration of Independence—which, by the way, had 16 other farmers among its signers.

These three principles, perhaps the greatest ever devised by the mind of man are:

Life, the good life, not just survival;

Liberty, not anarchy but liberty with responsibility; and

The Pursuit of Happiness.

To these principles the pioneer Americans pledged their lives, their fortunes and their sacred honor.

Americans had something to live for.

We today are called to a new destiny—a new opportunity—and the words, Life, Liberty and the Pursuit of Happiness, still give us the best foundation.

CONCERN OVER FURTHER INDICATIONS OF INCREASED GOVERNMENT SPENDING

Mr. FANNIN. Mr. President, as I have indicated in the past, I am indeed concerned over the present and future financial integrity of this country. The giant spending machine that this Congress has promoted has reached the point of being almost uncontrollable.

The recent proposal of the chairman of the House Budget Committee in launching the budget for the coming fiscal year indicates that the Federal Government will spend $412.8 billion in fiscal year 1977 or $18.6 billion more than the $394.2 billion which President Ford proposed is a further example of the irresponsible policies of this Congress to continue in their spiraling spending spree. It is clear to me that our economy cannot stand much more of the wild fiscally irresponsible policies such as those suggested by the chairman of the House Budget Committee. This proposal is similar to that advanced by the majority of the Joint Economic Committee in their annual report when they recommended government spending totaling between $412 to $418 billion. We must bring sanity back into our consideration of the budget of the Nation.

Proposals such as those advanced by the Humphrey-Hawkins bill (S. 50) as a solution to our unemployment problem in this Nation cannot be allowed to be enacted. Not only does this bill fail to consider the economic realities which we are now faced with in this Congress but even if enacted it would fail to accomplish the needed results. It is time that we realize that since 85 percent of the citizens employed in this country are employed by the private sector that it is the private sector that must be stimulated to encourage more employment rather than continually recommending programs that will provide for Government public works jobs. Such programs do not assist in the employment of those individuals who make up the largest number of our unemployed in the Nation today. Such jobs are not conducive to employing youths, blacks, or women. What they fail to realize is that such spending proposals lead in the same direction that has been taken over the last two decades which have produced the rise in inflation and the loss of productivity as well as the increases in unemployment with which we are faced today.

I believe the only sound answer to current unemployment and to fiscal soundness is to get people back into productive jobs in the private sector. There is no need to use the Government as an employer of last resort if we will only provide the atmosphere for private industry to operate at the maximum. With the modernization of current plant and equipment and the purchase of new facilities the Government will benefit not only by increasing employment and building stronger industrial complexes but will also substantially make inroads in solving our energy crisis.

I was pleased indeed to read the recent editorial in the Journal of Commerce of March 23, 1976, and I ask unanimous consent that the editorial entitled "A Sometime Thing?" be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Sometime Thing?

We sometimes marvel at what normally thoughtful men can be found doing in election years, even those who are not openly seeking high political office or very anxious to find themselves in one at the moment.

Take, for example, that "National Conference on Full Employment" sponsored in Washington last week by the Joint Economic Committee of the House and Senate. Outwardly, the purpose of the two-day affairs was to commemorate the 30th anniversary of the 1946 Employment Act. Lip service was duly given that statute by an array of speakers that included Vice President Rockefeller, Paul McCracken, former chairman of the Council of Economic Advisers, Alan Greenspan, the current chairman, Arthur Burns, chairman of the Federal Reserve Board and, of course, Sen. Hubert Humphrey.

We say "of course" in relation to Sen. Humphrey not only because he is chairman of the Joint Economic Committee but because he is among the sponsors of a new bill that goes a long way beyond the 1946 act in specifying the kind of national employment policy that would win the approval of the AFL–CIO and other unions. It would express in specific terms a policy the 1946 act never stated, although for three decades the unions and liberal congressmen have inferentially proclaimed that it did.

The 1946 act did not, for example, declare "full employment" to be the goal of Congress. Its stated goal was "maximum employment," an expression which left later generations to interpret the statute as they saw fit.

Nor did it seize upon any particular rate of unemployment as either permissible or intolerable. Liberal interpreters of the 1946 act set up their own guidelines, some at 5 per cent and some at 4 per cent, and frequently insisted that they be endowed with the sanctity of the law itself.

This is what Sen. Humphrey and his friends want to change and, to all appearances, this was the main reason for that two-day "media event" staged under the glare of TV lights in Washington last week. The new bill would make it a matter of national policy to achieve a maximum unemployment rate of 3 per cent within four years time. Any rate in excess of that would presumably galvanize the government into action on public works projects and other economic stimulants.

Sen. Humphrey wants the express "full employment" implanted in an amended 1946 act, and he wants it understood that full employment will not be achieved until the unemployment rate drops to or below 3 per cent. This is a large order, indeed, especially when it is recalled that even during most periods of high business activity, the nation has not been able to get its unemployment rate much below 5 or 4 per cent.

This perhaps explains why such relatively conservative speakers as Messrs. Rockefeller and McCracken approached the subject in rather cagey terms at that curious Washington "media event" and seemed to draw a distinction between the 1946 act and the measure Sen. Humphrey is now pushing to replace it.

It perhaps also explains why clear-cut support for the Humphrey bill was forthcoming from Murray H. Finley, president of the Amalgamated Clothing Workers, as well as Newark's mayor, Kenneth Gibson, and Vernon Jordan, president of the National Urban League. The latter seemed less interested in commemorating the 1946 act than in seeing it buried under Sen. Humphrey's new measure.

If the new bill becomes law, the government won't inject stimulants into the economy only occasionally; the injections will be going on almost all the time. Public works projects won't be treated as sometime things; they will practically be the order of the day, every day. And succeeding administrations will not be abe to argue very effectively against overspending and runaway inflation. Future congressional leaders will be able to point out that the law requires it, and so will be headquarters of the AFL–CIO.

MILITARY UNIONS

Mr. THURMOND. Mr. President, there appeared in the March 7 issue of the Colorado Springs Sun, Colorado Springs, Colo., an editorial entitled "Military Unions Loony Idea."

This article makes some interesting points about the danger of unionization of the Armed Forces.

I ask unanimous consent that this be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Military Unions Loony Idea

(By T. R. Milton)

Some months ago we began to hear a few noises about military unions. Both the American Federation of Government Employees (AFGE) and the National Maritime Union were reported studying the Armed Forces as their next target for a membership drive. In spite of the fact that the Dutch Army is unionized—or perhaps because the Dutch Army is unionized with some pretty bizarre results—the idea of our own military having a union seemed too loony for serious discussion. Well, the idea is still just as loony, but we had better face up to the fact that it might happen here. The AFGE may begin its organizing effort as early as next fall.

The all-volunteer concept for the military brought with it a number of things, not all good. Since the basic idea of an all-volunteer Army, regardless of how nicely you may wish to camoflage that idea, is to excuse the citizenry from having to serve, the business of recruiting becomes an essential enterprise, rather than the adjunct it was to the draft. Now, recruiting, whether for a college football factory, or for a corporation, or for the military, requires a little salesmanship and a few blandishments. This is not to say recruiters lie, or even embroider things beyond recognition: They simply put things in the best possible light. With the size of our present armed forces there are bound to be a certain number of volunteers who were so dazzled by the light shining on good pay, security, and fringe benefits that they failed to notice a few other things. Such as, for instance, the requirement to do what you are told, go where you are sent, and live sometimes in an uncomfortable and dangerous environment. The military life, in short, is not always like Sunday on the farm. People who joined in the expectation are good prospects for the recruiting drive of the labor organizers.

The unions have already driven an entering wedge into the military ranks by organizing several thousand National Guard technicians. These people serve in a quasi-military status and are subject to call-up with their unts. Since they do put on their uniforms for certain periods during the month, they are then indistinguishable from the active military. Or, that is, they have been up until now.

The AFGE is deceptively low-key and reassuring in its approach to the Armed Forces. It will, we are told, simply represent its military membership in economic matters, things like commissary and PX privileges, and health services. Anyone who believes that has led a sheltered life and probably believes in the Tooth Fairy. Sooner or later, very likely sooner, any military union is going to find itself in direct confrontation with the military authorities over some issue or other. Perhaps the First Sergeant used a few rough words to make his meaning clear. Maybe the job someone was given to do was too menial, or maybe some punishment handed out to one of the union brothers seemed to harsh. One way or another, there will be a confrontation. Then the big question is there to be answered: Where do the loyalties lie? In the case of other public service unions we have seen where they lie, with the unions.

The whole idea of a military labor union is anathema to any traditional military man, of whatever rank. It goes counter to the basic ethos of any military institution. The fact that it can even be seriously contemplated is itself a commentary on our confused times. The matter of a unionized military has, naturally enough, stirred up some heated opposition among such organizations as the American Legion, the Reserve Officer's Association, the Fleet Reserve Association, and the Air Force Sergeants Association. Senior military officers have, when asked, been firmly opposed to the idea. The Chairman of the Joint Chiefs of Staff, in testifying before the Senate Armed Services Committee, responded to a question on the subject with some uninhibited comments on the sad state of the unionized Dutch Army. General Brown's views on what the military union has done to the Netherland's military are widely shared in NATO and, in fact, by much of the Dutch military itself. The French Army, recently faced with a budding union, responded by throwing fifty new union members in jail. We will have to proceed most cautiously, for there are several factors at work designed to complicate matters.

The first is the obvious one: The political climate in the country today is too uncertain to allow for any heavyhanded action by the military authorities. A second factor is the general indifference of the civilian population to anything military these days, an attitude that seems to say it's a volunteer military and none of our concern. A third factor is the sympathetic treatment the military union is getting in the liberal press.

Thus it is not enough to denounce military unionization as being against tradition or because it violates the chain of command. This exercise is going to take public awakening and an aroused Congress. Opposition to this military union must begin soon, and it must be logical and vocal, not simply emotional. Above all, the growing military retired community, in its understandable concern over benefits and pay, must not be led down the garden path by union organizers promising better times. Even if they could make good on their promises, an unlikely event, what good are commissary privileges if you have to wreck the nation's defense to get them?

Mr. THURMOND. Mr. President, the March 19, 1976, issue of the Boston Globe included an article entitled "Thailand: Watchful and Jittery." The writer, Crocker Snow, Jr., pointed out that early overtures to Hanoi by Thailand had proved fruitless. He added:

> In the last few months the North Vietnamese have flatly declared their intent to assist liberation movements in the area and have labeled Thailand as a threat to peace in the area.

It is obvious that the remaining free countries in the Asia-Pacific area will be targets of Communist imperialism in due time. We have just witnessed Soviet military support of so-called liberation movements in Africa.

Mr. President, it is my hope the Congress will take into account these developments and act accordingly when considering defense and foreign military assistance requests. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAILAND WATCHFUL AND JITTERY

(By Crocker Snow, Jr.)

BANGKOK.—The air is heavy in a dank, fetid, stick-to-your-shirt sort of way. The atmosphere is dizzy with exhaust from the undernourished cars, trucks and cycles that choke the city streets. The smell is your basic Asia scent—part food, part sweat, part sewage.

But these very normal atmospherics of this capital city of Thailand are compounded by an air of distinct political uncertainty today.

The even-ingenious Thais have worked themselves into a curious position of worrying about Hanoi's armaments while sending most of the remaining U.S. military presence here packing, of calling a national election while whispering of a possible military coup.

As the most populous and prosperous country in continental Southeast Asia, the Thais tried to adjust quickly last year to the wreckage of U.S. policy in Vietnam.

But early overtures to Hanoi proved fruitless. In the last few months the North Vietnamese have flatly declared their intent to assist liberation movements in the area and have labeled Thailand as a threat to peace in the area.

Thus the specter of Thailand's ever troublesome insurgency movement in the remote northeast parts of the country is visible again.

Meanwhile and ironically, the government is engaged in haggling with American officials here over the final stages of a commitment made last year for all US "combat forces" to leave Thailand by this spring.

The great majority have already done so. But with the deadline close, negotiations are still going on about the exact numbers, locations and responsibilities of those Americans who will remain.

Embassy officials hope for a final figure of about 3000. This would be a big comedown from the halcyon days of 1973 when there were 48,000 US servicemen in the country, clustered mainly at six airbases. But the 3000 figure would allow continued operations at the old B-52 base of U Tapao as well as two secret radio and radar tracking stations upcountry at Ramasun and Kah Ka.

Thailand's strategic dilemma involving insurgency incidents and force levels is greatly compounded by political confusion surrounding the scheduled April 4 national election.

Currently the country is led by a popular and populist leader, Kukrit Pramoj, who sits uneasily at the head of an awkward coalition of 16 different parties.

Most Thais hope that the forthcoming election will simplify things and establish a better mandate for Kukrit among the total of 39 competing parties. But no one will put money on it—partly because of the unpredictable quantities of payoffs they expect to be dropped by different parties to influence the outcome.

The possibility of an election result that would be MORE confusing than it already is suggests to many here the contingent possibility of the once dominant military seizing the reins of government again.

Indeed, just last month a little coup was attempted by a group of young army officers in Bangkok. The timing was premature. The coup was stillborn. And the little adventure has been dubbed tolerantly as "the coup to which nobody came."

But senior military types are still biding their time, and the vociferous student population is watchfully waiting on the other side of the fence. The city's usually sticky atmosphere is close to parboiled.

BYELORUSSIAN INDEPENDENCE DAY

Mr. BUCKLEY. Mr. President, I would like to take this occasion to commemorate Byelorussian Independence Day. I wish to remind my colleagues of the heroic decision made by these people 58 years ago today. After centuries of rule by the Russians, the Byelorussian people proclaimed their independence on March 25, 1918. Their action came as to a response to the Allies' pledge of national self-determination for all.

Even though Byelorussia was still under the military occupation of both Germany and Austria, the people rose to the occasion and proclaimed their independence with the hope that their freedom would be guaranteed by the West.

As with other nations in that area of Europe, the freedom of this country was short-lived. By December of 1918, the country was in the hands of the Russian and Polish armies and Byelorussia was divided in two until 1939. The new Bolshevik government in Moscow set up a puppet government in the form of the Byelorussian Soviet Socialist Republic.

The Treaty of Riga in 1921, which ended hostilities between Russia and Poland, sealed the fate of Byelorussia. The Byelorussian S.S.R. was reorganized by Moscow and on December 30, 1922 incorporated into the U.S.S.R. The areas under Polish rule were incorporated at the end of World War II.

The hope and striving for freedom did not, however, end, for Byelorussians continued to strive for their independence. Many perished at the hands of the leaders in the Kremlin for their commitment to the freedom of their country. The hope of Western help in the Byelorussian fight for freedom which was generated in 1918 is still alive today; let us not let them down.

MISSISSIPPI RIVER VALLEY HIT BY EARTHQUAKE

Mr. CRANSTON. Mr. President, it is a commonly held but inaccurate view that earthquakes are principally a problem for California, Alaska, and a few other western States.

In fact, the risk of earthquake damage is a risk shared by every State. And 39 States, with a combined population of 70 million people, face a risk of moderate to major earthquake-induced damage.

This was well illustrated yesterday when 5 States within the Mississippi River Valley—Tennessee, Alabama, Mississippi, Arkansas, and Missouri—felt a moderate earthquake which measured on the Richter scale from 3.5 to 5 in magnitude. Apparently the epicentral region centered around Jonesboro, Ark.

While this earthquake was fortunately not a damaging one, this same region suffered what has been described as the greatest earthquake ever to strike the United States, in a series of three tremendous earthquakes which struck near New Madrid, Mo., in 1811–12. Topographic changes occurred over an area of 30,000 to 50,000 square miles, and the total area shaken was at least 2 million square miles.

The most seriously affected area was characterized by raised and sunken lands, fissures, sinks, sand blows, and large landslides. This area, approximately 30,000 to 50,000 square miles in extent, was from a point west of Cairo, Ill., to the latitude of Memphis, Tenn., and from Crowleys Ridge to Chickasaw, Tenn., a distance of 50 miles.

The shock was felt from Canada to New Orleans, La., and from the headwaters of the Missouri River to the Atlantic, including Boston, Mass., 1,100 miles away. Caving of river banks occurred as far away as Vicksburg, Miss. About 1 million square miles, or half the area affected, was so shaken that vibrations were distinctly felt. This far exceeds in land area affected any earthquake on this continent.

The first shock of the series—that which occurred on December 16, 1811—was distinctly felt in Washington, D.C. and as far north as Boston.

Large areas of land dropped in elevation by as much as 15 feet. In eastern Arkansas, Lake St. Francis was formed, covering an area of about 40 miles in length and a half a mile in width. Over the sunken country, many trees were killed by overflowing water. The cumulative effects of the earthquake destroyed forests over an area of 150,000 acres. The most typical sunken land of the area is Reelfoot Lake in Tennessee, which is 8 to 10 miles in length and 2 to 3 miles in width. The submergence ranged from 5 to perhaps 20 feet.

Despite the tremendous intensity of this series of earthquakes, very few lives were lost and little property was damaged. This is simply because the area was sparsely populated and the most common building, the log cabin, was peculiarly well suited to withstand the severe ground shaking which accompanied these earthquakes.

Were a similar earthquake to strike this same region today, however, the result would be far different. It has been estimated that at least $4 billion in property damage could be expected along with 2,200 lives lost. In the year 2000, it has been estimated, a reoccurrence of the 1811–12 earthquakes could result in the loss of 2,600 lives accompanied by 112,000 injuries, and a property loss of nearly $6 billion.

Mr. President, perhaps the relatively small earthquake which affected this region yesterday is a good reminder to the Congress that many parts of the Nation are at risk from future earthquake damage. I therefore strongly urge that my colleagues review my legislation, S. 1174, the Earthquake Disaster Mitigation Act, which is now pending in the Senate Commerce Committee. I would welcome additional cosponsors at any time, but in any event would hope that all Senators recognize their respective constitutients' interests in seeing that my bill is enacted into law.

WORLD FOOD PROBLEM CONTINUES

Mr. HUMPHREY. Mr. President, one of the most haunting problems facing mankind is the future availability of food. No other resource is so basic to life itself.

Yet policymakers around the world still hang onto the hope that the problem will somehow go away. Despite the resolutions and rhetoric of the World Food Conference we still do not see a significant change in the priority of an integrated international food policy in the councils of government. Rather, many would like to think that the "hunger problem" is last year's issue.

Prudence demands that the problem of hunger be afforded the highest priority now and in the years ahead. In support of this concern is a thoughtful article in the March 25th Wall Street Journal by Mr. Joseph M. Winski on food needs in the year 2000.

Mr. President, I would like to share this article with my colleagues, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

By 2000, Prevention of Starvation May Be Chief Global Concern

(By Joseph M. Winski)

Washington, D.C.—It is late September 2000. Another subfreezing morning, the U.S. Secretary of Food Policy notes as he boards an Ottawa-bound flight with his subordinates, the Secretary of Agriculture and the Secretary of State.

Again, the monsoon rains have failed in Asia. The U.S. corn harvest looks good by year-2000 standards. But why, the Secretary asks himself, can't somebody develop a 90-day corn that would yield the way 120-day corn did back in the 1970s? If it weren't for frosts nearly every May and September, he muses, the high-yielding long-season corn would still mature. And wouldn't it be nice to pile on the chemical fertilizer?

In Ottawa, the entourage is met by its Canadian counterparts. After perfunctory greetings, the delegations get down to the grim, yearly task before them: rationing the food produced by their nations to the rest of the world.

Far-fetched? Not nearly so as it would have seemed 10 years ago. The U.S. and Canada today produce about 80% of all the world's export grain. By 2000, some agricultural experts say, they may be the only two countries in the world that produce more grain than they consume. And they may well decide, in OPEC fashion, who gets how much and at what price. Grain is the key foodstuff. Directly or indirectly (after being fed to animals) it accounts for 70% of what the world eats.

ENERGY AND WEATHER

Ten years ago, world hunger was discussed only by the most foresighted, and largely in us-against-them terms. But it will touch the lives of Americans. It may create a major change in the American diet and in the structure of American agriculture. Food may be the most powerful force in international politics and domestic economics, and the "food issue" may be the leading one in the presidential election of 2000.

Two developments since 1966 have affected all projections about food. One is the energy crisis. The other is the weather. The experts and seers consulted by this newspaper in 1966 implicitly assumed that cheap energy and favorable weather were here to stay.

It now appears that they were not.

There was a major nondevelopment, too. Though Americans have done their share, the world as a whole has made little progress in reducing the rate of population growth. By 2000, the present world population of 3.9 billion will have grown to nearly 7 billion. Before 2050, it will double to 14 billion.

That means, according to studies by the United Nations and others, that food production will have to grow by an average of 3.6% to 4% a year if all those people are to be fed. These growth rates are impossibly high, many analysts believe. They say the world will be hard-pressed to match its recent food-growth rate of less than 3% a year, a rate that still leaves anywhere from 500 million to 1.5 billion people underfed.

"GREEN REVOLUTION" WILTS

The high cost of petroleum threatens the efficiency of America as a food-producing machine. David Pimentel, a food scientist at Cornell University, estimates that the 240% increase in U.S. corn yields between 1946 and 1970 was accompanied by a 310% increase in the energy used to produce that corn.

That increase was at the farming level. Other links in the food production chain, from the tractor factory to the food processor to the supermarket, consume perhaps four times as much energy as the nation's farms. John Steinhart, food and energy analyst at the University of Wisconsin, says that the U.S. food system now uses about 10 calories of fuel for every calorie of food consumed. Higher fuel costs, then, at the very least, mean higher food prices, and one study suggests that a tripling of fuel costs ultimately doubles food prices.

At some point, too, no increase in the price of food will increase its supply. "Modern agriculture . . . is an energy consumer of a magnitude that raises profound doubts as to its ability . . . to prevent wholesale starvation," a special report on food by the National Science Foundation said last year.

Most spectacularly in India, but also throughout the rest of the world, the heralded "green revolution" in farm productivity appears to have ground to a halt because of the high cost and scarcity of energy.

At the same time, the weather has taken a sharp turn for the worse, perhaps as part of a long-term cycle. Some weather experts believe that the U.S. farm belt is in the early stage of a long drought. Some think temperatures in the northern temperate zones are cooling, and that the trend will produce frequent frosts and shorter growing seasons. And some suspect that monsoon rain failures in Asia are increasing. Only one such failure occurred in the 1960s. So far in the 1970s, there have been two.

Even if the current weather is "normal," experts say, Mother Nature was unusually bountiful during the 1960s, when there were no major weather-caused crop failures in the world. Weather historians quote the odds against such a decade at 10,000 to 1. "Each good year now just increases the probability of bad ones in the future," a weatherman says.

It is a statement of fact, rather than a prediction, to say that food is going to cost substantially more in the year 2000. Only 10 years ago, U.S. food prices were rising less than 3% a year, and this newspaper was able to talk of "quite possible cheaper" food in 2000. Now food economists think that the family spending $50 a week for food today may be spending $150 a week (in today's dollars) in the year 2000.

Americans will eat less food, probably, and certainly less of some kinds of food. Marbled, grain-fed beef, a mainstay of many diets for generations, apparently is becoming a luxury. The steer is an inefficient converter of grain to meat, and Kenneth Monfort, co-chairman of Monfort of Colorado Inc., the country's largest feedlot operator, says beef consumption "will drop dramatically."

Economics aside, some people are challenging the desirability of pouring more grain into beef when people elsewhere in the world have too little grain. Many people in the meat industry dispute the assumptions underlying this view, but the sentiment still appears to be growing. "The amount of grain put into animal production in this country is a national disgrace," says Georg Borgstrom, a food scientist at Michigan State University. "We've had this enormous banquet at a time when the world was rapidly moving to the edge of the precipice."

None of this means an end to the beef business. "It certainly will mean a significant shift in the way we manage the beef animal," says Robert Bray, animal scientist at the University of Wisconsin. In the past few years, grain became so expensive that many cattle were turned out to graze the open range, just as they did in pioneering days when grain also was relatively dear. Grazing animals accounted for about half of all beef produced in the U.S. last year, and they may account for as much as 90%, some analysts believe, by the year 2000.

The steer's relative efficiency in converting grass, corn stalks and other cheap forage into beef assures the critter's survival. But today, some analysts say, there isn't enough forage land to support the cattle population, and there will be even less in 2000, so total beef output, they say, will fall.

The hog may have a bleaker future, because it isn't a grazing ruminant, and the pork chop might become a greater luxury than the steak in 2000. "I fear what might happen to pork production in this country," Mr. Bray says.

To some people it is a disturbing paradox that the Soviet Union and Japan, along with rich OPEC countries, are trying to consume more meat. Russia's big recent grain purchases didn't go to make bread to stave off hunger, but to increase livestock feeding and produce, inefficiently, more meat protein.

Research into meat substitutes will become more urgent. "If we can develop a palatable substitute for meat," says Jean Mayer, professor of nutrition at Harvard University and newly named president of Tufts University, "we'll have made a great advance in the fight against hunger."

Soybean-based meat "analogs" are on the market, though some people think their taste leaves a bit to be desired. At the moment, the question is academic because analogs cost more than the real thing. Toward the year 2000, as they become relatively cheap, some analysts think that perhaps half the "fresh meat" in a typical supermarket will consist of soybean, wheat gluten or some other nonmeat protein.

Ten years ago, food experts talked of "methodically harvesting the oceans" for a big part of the food supply in 2000. That prospect has dimmed because of pollution, overfishing and international squabbling over fishing rights. After rising steadily from 1950 to 1970, the world fish catch has fallen in three of the past five years. And some people believe the ocean already is contributing as much as it can to the food supply.

RESISTANCE TO DIET CHANGES

So, much research is directed toward developing look-alike, taste-alike substitutes for today's standard foods because even in underfed nations, resistance to dietary changes is strong. "The bulk of our effort is to make sure the product doesn't change much," says John Luck, technical director at General Mills Inc. "I don't believe that in the year 2000, we'll be living on exotic foods"—such as krill, algae or single-cell organisms.

But a few surprises could be in store. "What's difficult to estimate is the impact of triticale (a wheat-rye cross) and other results of genetic manipulation," says Prof. Mayer of Harvard. "We may have a food supply quite different from today's."

To maintain or increase yields of crops people already eat, scientists are spending a lot of time studying photosynthesis. This is the intriguing, awesome but inefficient process by which plants use light to turn carbon dioxide and water into carbohydrates. All food ultimately derives from the process. Researchers are trying such things as breeding plants with more leaf surface exposed to light, and trapping higher levels of carbon dioxide in manmade environments, to make photosynthesis more productive.

All plants require nitrogen. Most of them fail to get enough to fully realize their growth potential without large quantities of nitrogen fertilizer. Some plants, however, especially legumes like alfafa and soybeans, obtain nitrogen from the air through the work of "nitrogen fixing" bacteria. Scientists wonder whether they can breed bacteria to do the same thing for other plants, like corn. Success would constitute a major breakthrough.

"Theoretically," a researcher says, "you could take these bacteria, throw them on a field of corn and fertilize it—and win 15 Nobel Prizes all at once."

But it's all theoretical. "For the immediate future" concludes a report on agriculture by the National Academy of Sciences, "there will be continued advances in technology for both plants and livestock, but no startling breakthroughs that could place production on a new level."

So sober a view would have been heretical 10 years ago, when this newspaper concluded that "in the not too distant future" it might be possible "to produce close to 500 bushels of corn an acre." The average last year in Illinois, the top corn-producing state, was 116 bushels. "There is increasing evidence that yields are plateauing," says Glenn Pound, dean of the college of agriculture at the University of Wisconsin. "There is no way we can expect yields to continue to increase in the next 35 years as they have in the past 35." Moreover, he and others observe, there isn't enough additional acreage to counteract a stagnation in yield.

WILL MULES COME BACK?

Farmers will work their land somewhat differently. They won't manage their fields from "towers containing television scanners to keep an eye on robot tractors," as one observer expected 10 years ago. "That's an exciting thing to draw pictures of, but it costs too much," says R. E. Baumheckel, product research manager at International Harvester Co. But Mr. Baumheckel does foresee "larger and far more sophisticated" farm machines, and almost every farmer will use borrowed computer time to plan planting, capital-equipment purchases and other strategic activities.

At the same time, a worsening of the energy crisis might return older farming technology and production arrangements to favor. Farmers might, for example, use less chemical fertilizer and pesticide, more animal manure and nature pest killers. Farmers might resume crop rotation to preserve soil nutrients. They might buy smaller, less energy-consuming gear, and farms might become smaller; with energy a scarce commodity, bigness wouldn't necessarily create economies of scale. Agriculture might become more labor-intensive, and some people even see a return to draft animals for certain farm work.

Mr. Steinhart, the food and energy analysts at the University of Wisconsin, thinks home gardening and even subsistence farming will make "not insignificant contributions to future food supplies."

"REQUIRED DAILY ALLOTMENT"

The waste of food, almost certainly, will disappear, most experts say, and food generally will be more carefully considered in terms of health and nutrition. Authoritative "food efficacy committees" may pass on the merits of foods, Howard Bauman, vice president of science and technology for Pillsbury Co., thinks, and new professions may combine medicine and food science. Some day, Mr. Bauman says, it will be possible to perform biochemical tests on a new-born child that will "determine what his diet should be throughout his life."

For some people, that is an Orwellian prospect. Paul Khan, director of food protection at ITT Continental Baking Co., asks: "Is RDA—recommended daily allowance—going to mean required daily allotment?"

But an even greater nightmare is the prospect that North America will be forced to decide who will be fed and who won't in 2000.

North America's 80% share of world grain exports represents a striking change. As recently as the 1930s, observes Lester R. Brown, president of Worldwatch Institute, a research group in Washington, D.C., the world outside Western Europe was a net exporter of grain. North America was exporting five million tons a year, compared with the 96 million tons projected for this fiscal year, and even Latin America and Asia exported it.

Already, the U.S. has made selective allocations of foodstuffs. In 1973, it halted soybean shipments to Japan. Last summer it stopped grain exports to Russia and Poland. "We told these countries, 'No, you can't have any food, at least for the time being," Mr. Brown says. By 2000, he says, this selective allocation may give way to "a systematic allocation on a country-by-country basis."

Another observer thinks this would require "horrifying, excruciating" decisions that would be greatly complicated by the vagaries of weather. If the monsoons fail repeatedly, and if North America and the Soviet Union suffer major crop failures at the same time, the "gigantic, inevitable famine" that Malthus predicted in 1798 may become real.

58TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF BYELORUSSIA

Mr. TAFT. Mr. President, today, March 25, Americans of Byelorussian descent are celebrating the 58th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic. A republic that was soon to be tragically crushed by the brutal forces of Bolshevic expansionism and to remain until this day under the extreme oppression of Red Soviet imperialism.

Undaunted, the proud and strong people of this land have continued and will continue to fight for the principles of freedom and eventual emancipation. It is to their credit that Americans of Byelorussian descent are constant in the remembrance of their brothers behind the Iron Curtain, as well as all peoples of the Captive Nations.

As we celebrate the 200th anniversary of our great Nation, a nation based on the principles of liberty and justice for all, it is appropriate and right that we pause and pledge our support to all those working for the cause of liberty.

So, on the 58th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic, let us remember that liberty is not found easily and is maintained only by continued effort.

SENATOR NELSON'S ARGUMENTS IN SUPPORT OF S. 1864, THE PROPOSED ENERGY INFORMATION ACT

Mr. HASKELL. Mr. President, it has been my privilege to chair the hearings before the Committee on Interior and Insular Affairs on the proposed Energy Information Act, S. 1864, which would establish a National Energy Information Administration charged with the duty to coordinate, consolidate, and strengthen our country's complex, expensive, yet surprisingly ineffective energy information systems. At 4 days of public hearings the committee took testimony from 27 witnesses, representing a wide range of views for and against the bill.

The net effect of the hearings, in my own mind, was to affirm the need for putting our energy information house in order, along the lines proposed by S. 1864. I anticipate that the Interior Committee will proceed to markup on this measure in the near future.

The chief sponsor of S. 1864 is the Senator from Wisconsin (Mr. NELSON). In his testimony supporting the bill, he took the occasion to suggest some ways in which our present situation might be different and better had the NEIA been in existence for the past generation or two. It was thoughtful and thought-provoking testimony, which I should like to share with our colleagues.

Mr. President, I ask unanimous consent that the prepared statement of Senator NELSON in support of S. 1864 be printed in the RECORD at this point, along with his exhibit 2, consisting of 10 related newspaper articles. Because of their length and technical nature, I am omitting from this insertion the Senator's exhibits Nos. 1, 3, 4, and 5; but they will, of course, be found in the printed record of the hearings, which should be available this spring.

There being no objection, the statement and articles referred to were ordered to be printed in the RECORD, as follows:

Statement of Senator Gaylord Nelson in Support of S. 1864

Mr. Chairman and Members of the Committee:

There is no longer any room for doubt that our critical problems in energy and resources, in large and important part, are a crisis of information: confused information, contradictory information, missing and unavailable information, and mountainous information for which no sufficient machinery exists to compare, interpret, evaluate and analyze.

As Professor Robert L. Heilbroner recently wrote:

"Although we [in the United States] possess the largest and probably the best statistical service in the world, we are still woefully ignorant of many of the essential facts about our economy. When the Arab oil embargo struck, for example, we did not possess information about the size of our stocks of gasoline.[1]"

Other examples of the deficiencies in the amount and accuracy of the economic information at our disposal were cited by the chairman of this committee, Senator Jackson, upon the occasion of our introducing S. 1864.[2] Still others were mentioned by the chairman of these hearings, Senator Haskell, in his very good and very strong statement in the Senate announcing these hearings and introducing certain proposed amendments to the bill.[3]

The examples include the fact that we are still entirely reliant on the oil industry for weekly statistics; that we only recently started to get any data on petroleum market share shifts and are now getting information that is several months out of date; that our energy import and natural gas reserves statistics are confused, of doubtful accuracy, and in bad need of reconciliation; that our data on basic energy consumption patterns are woefully inadequate; and quite a few others.

It was in an attempt to deal with these problems that I first proposed the "Mineral Fuels Reserves Disclosure Act" as an amendment to the Alaska pipeline bill in the summer of 1973. That amendment was withdrawn under an agreement with Senator Jackson that he and I would work together to expand the proposal into a full-scale energy information act and introduce it as a bill. That agreement was carried out, and the "Energy Information Act" was introduced in December of 1973, under the number S. 2782, 93d Congress. Hearings were held before this committee in February 1974 and a considerable amount of mark-up work was done on the bill; but it was not reported. The latest version of the bill in the 1974 mark-up process was reintroduced by Senator Jackson and me, with Senators Haskell and Glenn as cosponsors, in June 1975. It is that bill, S. 1864 of the 94th Congress, which is under study at the present hearings.

PURPOSES OF THE "ENERGY INFORMATION ACT"

The principal purposes of this legislation are:

First. The establishment of an independent and credible permanent agency within the Federal Government to collect, analyze and disseminate basic energy-related data and information;

Second. The coordination and consolidation of Federal energy data collection to insure the comprehensiveness of the energy information base available to the public, the Congress and the executive branch and to minimize duplicative reporting by businesses in the energy industry;

Third. The establishment of standards for the handling of energy information pertaining to individual companies which strike a reasonable balance between the public's right to participate in national energy policy decisionmaking and legitimate needs of private businesses for confidentiality; and

Fourth. The authorization of a Federal program to systematically determine the location, extent and value of the domestic energy resources of the United States.

WOULD BETTER ANALYSIS HAVE CHANGED SOME PAST DECISIONS?

The New National Energy Information Administration (NEIA) which S. 1864 would create is intended to provide not only a capability for obtaining more and better information but for making better use of information.

One of our great needs in this country is for procedures and machinery to evaluate our options before we make national choices that change our lives. We need to know in far more detail the costs as well as the benefits of major technical developments and major patterns of resources and energy consumption before the policy decisions are made. Before making great commitments, we need to look more closely than we have at the widest variety of possible alternatives.

The NEIA will provide that machinery. Without itself making the choices, the NEIA will enable policymakers and the public to know what the consequences of various alternative choices may be. To gain some idea of how such an agency might help us shape a better future, consider how the present might have been affected had the NEIA existed in the past.

In the "all sad words of tongue or pen," might-have-been category, consider these possibilities.

Suppose that in the first two decades of this century, or even as late as the third and fourth, we had had a mechanism for truly thorough analysis of the costs and benefits—all the remotely foreseeable costs and benefits—of various levels and kinds of development of the several then known and projected transportation modes. Suppose that we had used that mechanism to weigh the merits of the automobile/highway mode more carefully against mass transit, and within the automobile/highway mode had considered the alternative fuel and pollution costs of various kinds of propulsion.

Suppose that when plans were being made to build the enormous system of dams and canals that now moves a finite, ever-less-adequate supply of freshwater around from one part of California's geography and population to another, there had been a scientific evaluation made to weigh the costs and benefits of given expenditures of dollars, resources and energy for creating freshwater transportation systems against the costs and benefits of like, or lesser or greater, expenditures for creating systems for seawater desalination, or waste water reclamation, or both—using, perhaps, solar power or wind power, or both, for portions of the energy requirements of the plants comprising such systems.

Suppose that when the decisions of industry and government to proceed with an ambitious, crash development of nuclear electric capacity were still in the embryonic stage, there had been an energy information agency in the Federal Government charged with the duty to project the total costs, risks and benefits of that development and compare those costs, risks and benefits with alternative means of meeting the energy needs, such as coal, of which we have a vast supply, or solar energy.

Would things have been any different, in any of these three examples? One can only speculate; but in connection with the last, I wonder, especially, whether we would have been witnessing the sort of events that we have witnessed in the first weeks of 1976: the resignations of three senior engineers in General Electric's nuclear works, on grounds of excessive dangers in nuclear development; the resignation of a senior safety official of the Nuclear Regulatory Commission on similar grounds; and the resignation of the Energy Research and Development Administration's assistant administrator for solar, geothermal and advanced energy systems on the ground (for a time suppressed but now disclosed) that the present administration is not giving solar-energy development the priority it deserves. (See exhibit 2.)

Specifically, if the National Energy Information Administration proposed by S. 1864 had been in existence since 1940, how might it have affected the complex pattern of decisions that, in fact, resulted in nuclear power development receiving 60 times more Federal subsidy than its potential alternatives, such as solar energy?

Sound policy decisions are the product of the best minds working on and with the best facts. The more and better the relevant facts, and the greater the number of good minds having access to the facts, the better are the chances of wise decisions resulting. The main function of the NEIA will be to make more and better facts available to more people, more good human minds. By this process, the NEIA will produce better decisions in future, and would have produced better decisions in the past, had it been in existence.

Certainly, in all such matters, the people have a right to know, in advance, the bases of fact and judgment on which great choices are to be made, and to participate in the choosing. How we manage and utilize our resources will determine the quality and conditions of life for future generations.

A BILL FOR MAKING WISER NATIONAL CHOICES

Several bills have been introduced in this and the preceding Congress that are intended and designed to help us make better informed, better thought-out-advance, and therefore perhaps wiser national choices.[4] Of these, thanks to the diligence and imagination of this committee and its chairman and the chairman of these hearings, the one that is farthest advanced in the legislative process is S. 1864, the "Energy Information Act." We may be grateful for that, because S. 1864 is a good bill and will be made even better by the amendments that Senator Haskell has proposed which with one or two minor exceptions and caveats I warmly endorse—and a few further amendments that will be mentioned in this statement.

First, however, let me turn briefly to the basic policy issues presented by the bill.

THE BASIC POLICY ISSUES PRESENTED BY S. 1864

Immediately after the hearings on S. 2782, the 93d Congress predecessor to S. 1864, in a memorandum to the Interior Committee which Senator Jackson and I signed on March 1, 1974, we noted—

Three policy issues on which witnesses had a wide range of conflicting opinions . . .:

1. Where in the Federal Government should the National Energy Information System be located? The issue is Placement.

2. How general or how specific should enabling legislation be in its assignment of powers, duties and responsibilities to the System? The issue is Description.

3. What kinds of information obtained by the System, if any, should be withheld from the public, or from other parts of Government? The issue is Access.[5]

Most of the Basic Questions and Policy Issues: S. 1864," which Senator Haskell inserted in the CONGRESSIONAL RECORD of Feb. 26, 1976 at page 4606), in conjunction with the notice of these hearings and the introduction of his amendments to the bill seem to fall under one or another of those same three headings.

In a separate memorandum which I shall submit for the record, I am giving my own more detailed responses to such of the committee's "Basic Questions" as I am able to

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Footnotes at end of **article.**

answer. (See exhibit 1.) Here are some short comments on those three central issues.

PLACEMENT

On the issue of placement, I believe, as Senators Jackson and Haskell do, and as is proposed both in the bill we introduced last June and in the recent Haskell amendment, that the National Energy Information Administration (NEIA) should be fully independent, patterned on the model of the General Accounting Office. In his statement of February 26, Senator Haskell noted (CONGRESSIONAL RECORD, pp. 4605–4606):

"That the Federal Energy Administration as it is now constituted cannot guarantee the independence of the energy information function. The FEA is the principal Federal regulator of the petroleum industry and the policy arm of the President in energy. These roles are in inherent conflict with the role of assembling and making available objective and comprehensive energy information which describes the total energy system and does so independently of the consequences of this information for policy."

That is one good reason for transferring the information-gathering functions of the FEA over to the new NEIA as the core of its operations. That proposal, made by the Haskell amendment, is eminently sensible and deserves full support.

Another good reason for spinning off the information functions of FEA to an independent NEIA is that the latter can and should serve as a pilot program for the National Resources and Materials Information System that the country will need to create within the near future.

DESCRIPTION

On the question, "What should the NEIA do? What should its powers and functions be?"—the issue of description—the main points I would stress are these:

This committee should defend diligently against all attacks on the bill's present provisions, and the provisions in the Haskell amendments, giving the NEIA the power to coordinate, consolidate, analyze, evaluate, rationalize and standardize our energy data.

Senator Haskell made the case for this point extremely well in his February 26 floor statement, when he said:

"The supreme irony of the system which provides our energy information is that, although it is finally quite inadequate and incomplete, it nevertheless exacts an enormous toll in effort and annoyance just to make it operate. Numerous Federal departments, agencies, commissions, administrations, bureaus, boards, and offices collect energy information from private sources. The system is burdensome and costly. Private businesses are required to submit the same information or nearly the same information to a sprawling and growing conglomeration of different Federal agencies. Forms are piled on top of forms, and increasing amounts of energy and talent must be devoted to complying with the information requests. It is almost too much after all this aggravation to be told that the end result is a system which does not really do what it is supposed to do. It does not adequately inform." [6]

Once the business community and the public understand that one major aim of the Energy Information Act is to reduce the size of the Government's information-gathering apparatus, to coordinate and to a considerable degree centralize it, to provide lower cost to the taxpayers and better results to the users, I think that any lingering opposition to this bill will melt away.

In connection with one of the major aims of the bill, to standardize our energy information reporting, I have some misgivings that the present version of S. 1864 does not include the official definitions of, and express reference to the Standard Industrial Classification (the "SIC"), and to the terms "company" and "establishment" as those terms are technically and precisely used in the SIC.

If one major aim is to standardize energy information—and it is—why not use, at least for starters, the well established, well thought-out Standard Industrial Classification system that we have now, and have had for many years? The SIC is updated every five years, and industry itself has the largest say in the definitions, so it seems sensible to use it. (See exhibit 4.)

ACCESS

The most sensitive issue of all is that of access. Who can obtain what data from whom, about whom? Every business concern would like to keep as much of its investment, assets, profit, geological and technical information to itself as it can, because it is in the company's interest to know as much as possible and disclose as little as possible.

"Knowledge is power," as Bacon said. In modern terms, we could say: "He who controls the information controls."

Accordingly, it is in the public's interest for business, and especially the giant corporations, to operate in as much sunshine as we can arrange to let in, if we want the power that knowledge brings, the control that information alone can provide, to repose in public rather than private hands, to be widely shared.

What is needed, of course, is a sensitive, sensible balance between the business interest in corporate secrecy and the public interest in corporate information disclosure, and there will never be universal agreement on where that balance is to be found.

It is my own opinion, however, that sooner or later the Congress is going to have to deal with the issue itself, and in detail, rather than, as has been its practice, contenting itself with spelling out vague guidelines and leaving the all-important details to be negotiated between the regulators and the regulated.

I am offering for the record a statement by the Small Business Committee, in its 25th Annual Report, on the benefits of corporate information disclosure. (See exhibit 5(a).)

To this end, some months ago, while I was still a member of this committee, I offered informally a proposed consolidation and amplification of the key access sections of S. 2782 of the 93rd Congress, in its fifth-draft form which has now become S. 1864. That proposal was put forward as a suggested amendment which would combine sections 202, 204 and 206 of the bill into one comprehensive new section 202. In an explanatory memo prepared at the time, it was stated:

"The principal purpose of the rewriting and consolidation was to anticipate a need, which would surely arise in the administration and interpretation of this bill if it became law, to attach convenient, layman's language names to the different categories of information, and to spell out, as clearly as possible and in some detail, what the rules would be by which the Administrator would obtain information of each category and permit access to it.

"A further purpose was to develop a nomenclature that would be entirely different and distinct from the nomenclature of 'classified information' under Executive order. While the System might well contain some classified information, in the present, technical sense of that term, the Administrator's own activities in designating information by source, type, and access categories should not be viewed as part of, or in the same light as, classification activities now carried on under existing statute and Executive order."

The memo and text amendments were accompanied by a summary of the proposed new section 202 and a cross-reference table, showing where provisions of existing sections 202, 204, and 206 could be found in the proposed new section 202. All this work has been (or is being) revised to conform with S. 1864, which is substantially identical to the July 22, 1974 committee print of S. 2782, and will be submitted for the record. I hope the committee will give further consideration to these proposed amendments. (See exhibit 5.)

CONCLUSION

It is a great pleasure to see the proposed "Energy Information Act" again receiving serious consideration in this committee, and I should like to express my appreciation and congratulations to Chairman Jackson, and to Hearings Chairman Haskell, for the hard work and important contributions they have both given to this bill. Your continued efforts and support will be critical to its future progress.

Mr. Chairman, I have appended a list of the materials I should appreciate your authorizing be printed in the record as exhibits to this statement. I shall try to answer, now or later, any questions you may have for me.

FOOTNOTES

[1] Robert L. Heilbroner, "The American Plan," *The New York Times Magazine*, Jan. 25, 1976, p. 9, 35.

[2] CONGRESSIONAL RECORD (June 4, 1975), p. 16890–1 (remarks of Senator Jackson upon introduction of S. 1864 by Senator Nelson).

[3] CONGRESSIONAL RECORD (Feb. 26, 1975), p. 4605 (remarks of Senator Haskell, "Amendment to the Energy Information Act").

[4] For citations to and a brief discussion of some of the bills and amendments in this class, and the action taken thereon, in the 93d Congress, see: Senate Small Business Committee, 24th Annual Report, S. Rept. 93–931 (June 13, 1974), pp. 81, 83–87; and Senate Small Business Committee, 25th Annual Report, S. Rept. 94–13 (Feb. 17, 1975), pp. 87, 89–94, 280–289. Among 94th Congress bills in this class are: S. 1410, "National Resources and Materials Information Act" (Nelson) and a similar House bill, H.R. 9598 (Rees); S. 1415, "Materials Information and Economic Forecasting Act of 1975" (Tunney); S. 1795, "Balanced Growth and Economic Planning Act of 1975" (Humphrey, et al.); S. 1864, "Energy Information Act" (Nelson, et al.), and similar House bills, H.R. 8243 (Wirth, et al.), H.R. 8768 (Wirth, et al.), H.R. 1445 (Daniels of N.J.), H.R. 7683 (Wirth), H.R. 7953 (Harrington); H.R. 9182, "Food Industry Antitrust Reports Act of 1975" (Mezvinsky). For discussion of some of the 94th Congress bills, see: Senate Small Business Committee, 26th Annual Report, S. Rept. 94–636 (Feb. 19, 1976), pp. 215–219.

[5] Hearings before the Committee on Interior and Insular Affairs, U.S. Senate, 93d Congress, 2d Sess., on S. 2782 (Feb. 5 and 6, 1974), part 1 p. 56.

[6] CONGRESSIONAL RECORD, Feb. 26, 1976, p. 4605 (remarks of Senator Haskell).

LIST OF EXHIBITS SUBMITTED FOR THE RECORD BY SENATOR NELSON

Exhibit 1: On the Interior Committee's questions about S. 1864:

Memorandum dated March —, 1976, containing Senator Nelson's answers to or comments on some of the Interior Committee's "Basic Questions and Policy Issues: S. 1864."

Exhibit 2 (in 10 parts): On the need for pre-decision evaluation of energy alternatives (the nuclear versus solar development issue):

2 (a): Article by H. W. Ibser, "The Nuclear Energy Game: Genetic Roulette, with boxed insert, "Uniformed Opinion," from The Progressive, January 1976, p. 15.

2 (b): Article by David Burnham, "3 Engineers Quit G. E. Reactor Division and Join in Antinuclear Movement," from The New York Times, Feb. 3, 1976, p. 12.

2 (c): Article by Morton Mintz, "Hill Probes 3 Resignations of A-Engineers," from The Washington Post, Feb. 4, 1976, p. A3.

2 (d): Article, "Indian Point Safety Head, Charging Atom Peril, Quits," from The New York Times, Feb. 10, 1976, pp. 1, 14.

2 (e): Article by Victor K. McElheny, "Top U.S. Official Defends Con Edison Over Nuclear Plant," from The New York Times, Feb. 11, 1976, pp. 1, 29.

2 (f): Article by Les Gapay, "Solar-Energy Planning Is Being Slighted by Ford, Former Chief of Program Says," from The Wall Street Journal, Feb. 26, 1976, p. 6.

2 (g): Article by George Wald, "The Nuclear-Power-Truth Maze," from the New York Times, Feb. 29, 1976, section 4, p. 15.

2 (h): Column by Tom Braden, "Nuclear Power: The Ugly Facts," from The Washington Post, March 1, 1976, p. A23.

2 (i): Article by Janis Johnson, "Churches' Panel Asks Plutonium Use Curb," from The Washington Post, March 5, 1976, p. A3.

2 (j): Column by Tom Braden, "Corporations and their Monopoly on the Sun," from The Washington Post, March 6, 1976, p. A17.

Exhibit 3 (in 4 parts): On extraterritorial jurisdiction ("long-arm") issues in S. 1864, the proposed "Energy Information Act":

3 (a): Introductory note, "Extraterritorial jurisdictional questions in the Energy Information Act," S. 1864.

3 (b): Proposed amendment to section 3(d), definition of "person," and explanation of proposal.

3 (c): Proposed amendment to section 3 (k), definition of "affiliate," and explanation of proposal.

3 (d): Draft legal opinion dated June 4, 1974, "Subject: Jurisdictional Questions Raised by S. 2782 (as originally introduced)," with introductory note and annotations relating to S. 1864.

Exhibit 4: On the Standard Industrial Classification and the aim of S. 1864 to standardize energy data: Proposed amendment to section 3, Definitions, to add definitions of "Standard Industrial Classification (SIC)," "Company" and "Establishment," with explanation of proposal.

Exhibit 5 (in 5 parts): On the access issues presented by S. 1864:

(a): Excerpt from the 25th annual report of the Senate Small Business Committee (S. Rept. No. 94–13), "General considerations concerning corporate financial disclosure."

5(b): Introductory note, "The Access Issue in S. 1864, the Energy Information Act."

5(c): Proposed amendment striking out all of sections 202, 204, and 206 and substituting a new section 202 captioned "Acquisition and Designation of Information by Source, Type, and Access Category," with interspersed notations of source in S. 1864, as introduced, and any substantive changes made by the proposed amendment.

5(d): Summary of proposed new section 202 of S. 1864, replacing sections 202, 204 and 206 of the bill as introduced.

5(e): Cross-reference table, showing location in proposed new section 202 of corresponding or related substantive provisions in sections 202, 204 and 206 of S. 1864 as introduced.

EXHIBITS TO THE PREPARED STATEMENT OF SENATOR GAYLORD NELSON IN SUPPORT OF S. 1864, THE ENERGY INFORMATION ACT

NOTE.—Senator Nelson's exhibits numbered 1, 3, 4 and 5, as listed above, are omitted. His exhibit numbered 2 follows.—F.K.H.

Senator Nelson's Exhibit No. 2 (in 10 parts), on the need for pre-decision evaluation of energy alternatives (the nuclear versus solar development issue).

EXHIBIT 2(a)

[From the Progressive, January 1976]

THE NUCLEAR ENERGY GAME: GENETIC ROULETTE

(By H. W. Ibser)

(NOTE.—H. W. Ibser is a professor of physics at the University of California, Sacramento.)

Hibakusha, they are called in Japan; the bombed ones. They are the people who survived the nuclear bombings of Hiroshima and Nagasaki. Many have suffered from leukemia and other forms of cancer, typically occurring years after their exposure to the radiation from the bombs. The time lapse is different for different kinds of cancers.

The *hibakusha* have another sort of problem, too: Even those showing no sign of harm from the bombs are victims of the prejudice of their countrymen, who fear the genetic damage suffered by the *hibakusha,* and do not wish to marry them or their descendants. *Hibakusha* who have moved from the bombed cities keep their background secret—especially those with marriageable children, lest their children be avoided by possible marriage partners.

The *hibakusha* have been studied by the Atomic Bomb Casualty Commission (ABCC) since shortly after the American occupation of Japan at the end of World War II. Much has been learned from them about the effects of nuclear radiation—the invisible, penetrating rays produced by nuclear bombs and also by materials produced in nuclear power reactors.

The plight of the *hibakusha* contrasts with the American people's lack of concern for radiation exposure taking place in our nuclear industry. The public, with no bomb to attract its attention, seems generally unaware of radiation exposure conditions within the nuclear establishment. To some extent, perhaps, our attention has been diverted by debate over potential hazards posed by nuclear reactor accidents. Whether or not such debate is justified, current conditions in the nuclear industry are such that, if they were generally known and their genetic implications understood, nuclear workers might well become the victims of social prejudice like that against the *hibakusha.*

The occupational exposure situation in the United States is quite out of harmony with the nuclear establishment's picture of "safe, clean, nuclear energy." Before describing it, and in order to make its significance more clear, let us consider the background of the regulations governing exposure to nuclear radiation.

Nobel prize winning geneticist H. J. Muller's pioneering experiments in the 1920s showed that nuclear radiation (then available only from naturally occurring radioactive materials) does genetic damage, which becomes apparent in descendants of those exposed to the radiation. The International Commission on Radiological Protection (ICRP), in proposing the allowable limits to radiation exposure which have been adopted by the nuclear establishment, stated that the genetic hazard was "of greatest concern." Indeed, that hazard was taken as the determining factor in the ICRP considerations.

The ICRP standards stipulate that except for medical purposes, members of the general public should not be exposed, on the average, to more than 0.17 rem of ionizing radiation (X-rays or nuclear radiation) per capita per year. The rem is a unit of exposure; it is a measure of the biological damage caused by radiation.

Persons unfamiliar with the ICRP's reports, including workers in the nuclear industry and their families, commonly assume that ICRP recommendations, as adopted by Federal agencies, represent safe levels of exposure—in the sense that such exposures cause no significant damage. But this was not the point of view of the ICRP when it proposed the limits.

According to the *Recommendations* of the ICRP, Document 2, 1966: "This limitation necessarily involves a compromise between deleterious effects and social benefits. . . . The Commission is aware of the fact that a proper balance between risks and benefits cannot yet be made, since it requires a more quantitative appraisal of the probable biological damage and the probable benefits than is presently possible. . . . However, recommendations in quantitative terms are needed in the design of power plants and other radiation installations and particularly in making plans for the disposal of radioactive waste products. . . . It is felt that this level provides reasonable latitude for the expansion of atomic energy programs in the foreseeable future. It should be emphasized that the limit may not in fact represent the proper balance between possible harm and probable benefit. . . ."

Some scientists have urged—unsuccessfully, so far—that the exposure limits should be greatly reduced; notable in this regard is John W. Gofman, formerly engaged for years in research for the U.S. Atomic Energy Commission on the effects of radiation.

Workers occupationally exposed to radiation are allowed to receive thirty times as much radiation as the general population limit—up to five rems per year, as much as three rems in a single quarter (thirteen consecutive weeks). The ICRP's explanation: "Genetic effects manifest themselves in the descendants of exposed individuals. The injury, when it appears, may be of any degree of severity from inconspicuous to lethal. A slight injury will tend to occur in the descendants for many generations, whereas a severe injury will be eliminated rapidly through the early death of the individual carrying the defective gene [biological unit of genetic transmissal]. Thus the sum total of the effect caused by a defective gene until it is eliminated may be considered to be roughly the same [that is, the same as that of any other]. The main consideration is the control of genetic damage [apart from aspects of individual misfortune] is the burden to society in future generations imposed by an increase in the proportion of individuals with deleteriouse mutations [genetic damage]. From this point of view, it is immaterial in the long run whether the defective genes are introduced into the general pool by a few individuals who have received large doses of radiation, or by many individuals in whom smaller doses have produced correspondingly few mutations. . . ."

Not all of the 0.17 rem per year accepted as the maximum tolerable average radiation dose for the general population is to be taken in person by the layman; some of it must be reserved for use by our proxies in the nuclear industry. The ICRP is quite explicit about this, even giving as an example a sample calculation illustrating this pooling of genetic damage. The mathematical precision of the calculation contrasts with the admission of a lack of any adequate knowledge of the biological damage to be expected from a given amount of exposure to nuclear radiation.

Thus, the relatively large radiation dose allowed nuclear industry workers is justified by the assumption that their genetic damage will be shared—diluted to "reasonable" levels by matings with the general population. But even this accommodation is not sufficient to enable the nuclear establishment to get its work done with its regular employes only. An article in the October 11, 1974, issue of Science, "Transient Nuclear Workers: A Special Case for Standards," reviews the "common and longstanding practice in the nuclear industry" which is that industry's "solution" to its problem. Robert Gillette of Science points out that the Federal agency Special Case for Standards," reviews the "common and longstanding practice in the nuclear industry" which is that industry's solution" to its problem. Robert Gillette of Science points out that the Federal agency regulating the industry "has long condoned the use of virtually untrained supplemental or 'transient' workers in potentially hazardous radiation jobs, as long as they received some instruction in safety procedures and close supervision. . . ."

Reviewing, as an example, the conditions at Nuclear Fuel Services (NFS), a currently shut down nuclear reactor fuel reprocessing plant in West Valley, New York, the prestigious journal of the American Association for the Advancement of Science tells of "workers . . . as young as eighteen and others . . . alleged to have been recruited from bars for an afternoon's work. . . . Some reached legal exposure limits within minutes and were promptly paid off—half a day's pay (at about $3 an hour)—and replaced, in the derisive phrase of a former fulltime employe, by 'fresh bodies.' "

Science asks, "Should there be no limits on the extent to which nuclear facilities may spread the burden of occupational exposure?" but points out that "any sharp restrictions on temporary employment would no doubt cause considerable anguish in the nuclear industry, for indications are that transient workers comprise a large portion of the industry's labor force. . . ."

Typically, a rather rapid succession of workers may replace one another, as each reaches his dose limit for the quarter in turn. The NFS plant manager is reported to have used six men to remove one nut from a bolt.

According to a former NFS employe (who reached his exposure limit and the end of his job in three days), "I don't recall a lecture about safety procedures as such. Mainly someone told us about the tools we would be using, that we had to remove some particles from the walls and they didn't want to burn out their technicians on the job. "We worked in a team, rotating one at a time. . . . You'd be all alone in there. The technician was outside, on the other side of an airlock and around a corner. . . . I don't know how much supervision is necessary, but I trusted them. I guess I was too dumb to be frightened."

A former NFS laboratory technician recalled, "The prevalent feeling was that these people were nuts for going in their and doing what they did." Said a former laboratory supervisor, "Some were really afraid, and they'd ask a lot of questions. I just tried to talk them into going home, but they wanted the money."

Bernard J. Verna, in the September 1975 issue of the journal of the American Nuclear Society, *Nuclear News*, expresses concern lest within a few years the nuclear industry "run into serious roadblocks due to a lack of available maintenance personnel." He describes a recent episode at Indian Point 1, a reactor owned by Consolidated Edison, New York City's electric utility company. About 1,500 men were used to locate, make welding repairs to, and cover with insulation six four-and-one-half inch hot-water pipes, parts of the plant's steam generator system. Men worked in radiation fields of up to fifteen rems per hour. Even using the maximum lead shielding possible, the welding was done in a six-rems-per-hour radiation field, allowing only about fifteen minutes of actual work per man. Verna points out that supervisors find, not surprisingly, that under such conditions work is done with extremely low efficiency and many errors. Supervision is accomplished largely by means of closed-circuit television.

Almost every union welder in the New York-Westchester area was used on the Indian Point job, after which more were imported. The repair took six months, and cost almost $2 million.

Rancho Seco, the Sacramento Municipal Utility District reactor near Sacramento, California, had budgeted up to $100,000 for the current year for "radiation protection support personnel," to be supplied through a "unit price contract" by Nuclear Plant Services, a national corporation. When SMUD directors approved the contract, they asked their chief engineer whether the competence of all the temporary employes he thought he might need for plant maintenance could be assured, and whether the regular employes' union might not object to all the temporary hirings. The chief engineer merely assured them that those matters would not be problems. He did not explain that the primary qualifications for the work was a previously unirradiated body.

We have invested many billions of dollars in a nuclear industry whose maintenance depends on the availability of the services of increasingly large numbers of people whom the industry has not found it convenient, apparently, to inform fully of the peculiar nature of the hazard they incur. It is not clear that the industry would be able to continue if it were actually forced to give its employes a complete explanation of the risks.

The general public is unaware that it is playing genetic roulette by proxy. If it is to be fully and promptly informed of all the terms of the nuclear energy bargain, a substantial educational effort will be required—an effort quite out of harmony with the recently accelerated public relations campaigns of the Atomic Industrial Forum and the American Nuclear Society.

What would be the effect of calling to the attention of the public the fine print in the nuclear energy bargain that has been struck "on its behalf" by agencies composed largely of persons having professional interests in the development of nuclear energy? Knowing that part of the price of nuclear energy is genetic, would people continue willingly to cooperate in exposing themselves to radiation so as to spare regular plant employes—given the availability of other employment? Are we willing to buy nuclear energy with a "reasonable" number of defective children?

Would young, intelligent, well-informed people take temporary jobs exposing them to many times their safe level of radiation? If not, what sort of people would be doing the maintenance work around nuclear reactors, claimed by their proponents to be operated with the most meticulous care used in any industry? What sort of wages should be considered equitable for such work?

Would nuclear industry workers be avoided as marriage partners, as the *habakusha* have been in Japan? Unlike much social discrimination, such stigmatization would have a rational basis.

The reaction of the public to a candid exposition of the genetic hazards posed by the nuclear industry can only be a matter of speculation at this time. Perhaps most people would share the attitude suggested by Dr. Frank K. Pittman when, as director of waste management and transportation for the Atomic Energy Commission and hence in charge of the disposal of radioactive materials produced by nuclear reactors, he appeared before the Subcommittee on State Energy Policy of the California Assembly in March 1973. Chairman Charles Warren asked whether Pittman would ". . . as a human being feel better about life on earth if we could develop other means of producing electricity than, say, nuclear?" Pittman responded, as recorded in the hearing transcript: "No, I don't think I'd feel any better, and I guess I have to look at this from a strictly personal viewpoint, and that is that for the time I have to remain on earth, it probably won't affect me personally, and so from that standpoint I don't think that nuclear energy—having it or not having it—is going to make any difference. . . ."

One wonders whether humanity has evolved as strong an instinct for the preservation of the species as is needed for its survival in a technological age.

UNINFORMED OPINION

Ebasco Services, a New York-based corporation which furnishes consultation, engineering, and construction services to the utility industry, recently commissioned Louis Harris and Associates to conduct "A Survey of Public and Leadership Attitudes Toward Nuclear Power Development in the United States." Results of the poll were published in August 1975.

The questions included in the poll made no reference to the genetic damage expected to occur as a result of radiation exposures permitted under present exposure limitation standards. When it proposed these standards, the International Commission on Radiological Protection considered them tolerable only because development of the nuclear industry required as much exposure as they allowed. ICRP documents make it clear that the ICRP considered the genetic *quid pro quo* to be of greatest concern in establishing the nuclear energy industry. Current practice, therefore, involves deliberate genetic damage to the population.

My inquiry as to the reason for lack of reference to this important matter by the poll elicited a candid response from Louis Harris and Associates Senior Vice President Carolyn E. Setlow:

"You have presumed in your letter that the Harris firm made a decision to omit reference to this matter in our nuclear energy survey. Unfortunately, this was not a decision but rather an oversight on our part. We built into our survey instrument, however, open-ended questioning which would allow for the expression of concerns that we had not listed in our closed-ended questioning. I have reviewed the results and learned that there was no mention by the public of concern for exposure of the human gene pool to damaging radiation levels. This seems to be an area in which the public, like those of us involved in the survey design, have received little education. . . . You can be sure that any future research we do in the area of nuclear energy will make reference to the problem of genetic damage from radiation exposure."

I compliment Carolyn Setlow for her forthright letter. But I consider it remarkable that the genetic price of nuclear energy should have been so successfully hidden from the public that even a major, experienced surveyor of public opinion, acting, as I believe, in good faith, should have conducted a detailed poll (the summary alone of the survey results is twenty-nine pages long) of public opinion regarding nuclear energy without realizing that the original promulgators of the radiation exposure standards we are using considered genetic damage "of greatest concern" in evaluating the benefits of nuclear energy.

The nuclear industry has apparently managed to bring about the acceptance of regulation expected—by those who proposed them—to lead to serious damage of the human gene pool. The public has utterly failed to comprehend the facts about these regulations, partly because of their esoteric nature, but mostly because of failure of responsible authorities to publicize them. Under such circumstances only the unscrupulous and the ignorant can urge the expansion of the nuclear energy industry on the grounds of public acceptability.—*H.W.I.*

EXHIBIT 2(b)

[From the New York Times, Feb. 3, 1976]

THREE ENGINEERS QUIT G.E. REACTOR DIVISION AND VOLUNTEER IN ANTINUCLEAR MOVEMENT

(By David Burnham)

SAN FRANCISCO, Feb. 2.—Three managing engineers from the division of the General Electric Company that builds nuclear reactors quit their jobs today and volunteered to work for the California movement to halt nuclear power.

Attempts to obtain a comment today from G.E.'s nuclear energy division were unsuccessful.

The three engineers, who abandoned positions that paid between $30,000 and $40,000 a year, said in an interview that they had decided to resign because they believed that nuclear energy represented a profound threat to man.

The decision of the three to speak out against what they had worked to build during most of their professional careers was seen as giving an important impetus to a California initiative proposal on the ballot in the June primary that eventually could lead to an end to the operation of atomic reactors in California.

Organizations in at least a dozen other states, mostly in the West, hope to get a variety of their own antinuclear initiative proposals before the voters in the November elections.

UTILITIES CONCERNED

Although industry lawyers have contended that the provisions of the California initiative and those of the other states may be found unconstitutional, the utilities and such lobbying groups as the Atomic Industrial Forum are deeply concerned about the apparently growing public opposition to nuclear power.

The three engineers who threw their experience and knowledge behind the coalition of groups trying to halt nuclear power in California were until today middle level managers in a G.E. facility in San Jose 48 miles south of San Francisco. Married, each with three grade school-age children, they are Dale G. Bridenbaugh, 44 years old; Gregory C. Minor, 38, and Richard B. Hubbard, 38. Together, they had amassed 54 years with General Electric.

"My reason for leaving is a deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet," Mr. Minor, manager for advanced controls and instrumentation, said in his letter of resignation.

"From what I've seen the magnitude of the risks and the uncertainty of the human factor and the genetic unknowns have led me to believe there should be no nuclear power," said Mr. Bridenbaugh, manager for performance evaluation and improvement.

THREAT OF ACCIDENT

"I am now convincd that there is no way you can continue to build plants and operate them without having an accident," explained Mr. Hubbard, manager for quality assurance of G.E.'s nuclear energy control and instrumentations department.

The three men discussed their decision to leave the only employer any of them has ever known and go to work for the groups opposed to nuclear energy during a three-hour interview yesterday in a hotel suite.

Each cited different incidents or problems that had played a part in his growing doubts about nuclear power, among them the explosion of a nuclear bomb by India, the disputed health effects of radiation, the American decision to sell reactors to Israel and Egypt and the serious accidental fire almost one year ago in the world's largest reactor complex at Brown's Ferry, Ala.

"I remember in 1969 or 1970 making a trip to Japan," Mr. Bridenbaugh recalled. "Up to this time I had always felt I was a white hat guy doing things to protect the environment, to clean up power plants. I had never really been directly questioned about whether nuclear power was right or wrong."

Mr. Bridenbaugh explained how he had arrived at his hotel and how, in response to a question from the bellboy, he had proudly exclaimed that he was in Japan to work on a reactor G.E. was building there.

"The bellboy kind of shrank back and said, 'I don't think that's a good thing'," he said. "I have always remembered that; it was the first time I had ever been confronted with someone other than myself with doubts."

Mr. Minor recalled an occasion when he began working for G.E. at a Government facility in Hanford, Wash., when he looked down into a pool of water glowing with the intense blue radiation that plutonium gives off.

"I looked through that 10 or 15 feet of water, the life-saving shield between me and that fuel, and I knew that if any one of those elements were to come up and hit me in the eye, that I was dead, just like that. Or if the water was gone, I was dead, just like that," he said.

"And I got the feeling right there of the very precarious balance we have between radioactive materials in a safe state and radioactive materials in an unsafe state, and the dangers to life are that close."

HUMAN ERROR

Mr. Hubbard said his work in designing control rooms had led him to believe that "human error is a very credible event."

"The Brown's Ferry incident," he said, "showed human fallacy. I have been involved in making a lot of field fixes in reactors, and I have developed a strong feeling that we don't really know what is going on inside a reactor."

All three expressed disbelief that the United States would sell reactors to Israel and Egypt.

Mr. Bridenbaugh said: "As recently as last year I was giving a sales pitch, so to speak, a talk to delegates from Egypt, explaining to them how easy and safe and comfortable it is to operate a reactor, and about the same time Dick was talking to the Israelis." I said to my boss, "How can we rationalize these sales." He said, "Well, I have struggled with myself, and I guess that the way I rationalize it, is if we don't do it, the French will, so what the hell."

The men said that after developing their private doubts over a period of years, beginning a few months ago they came together, partly with the help of a nonprofit educational organization called the Creative Initiative Foundation.

All three said they had discussed the decision, the loss of income and the expected scorn of their fellow engineers with their wives.

"She has given me 100 percent support and there are positive benefits in that, having gone through this thing together, we have become a lot closer," Mr. Bridenhaugh said. "I am sure there will be hostility in the industry, that some will see us as traitors. As far as the people I know at G.E., I don't really expect anything other than the cold shoulder."

He said that he was not so much concerned about individual decisions facing the manufacturers, utilities and the Nuclear Regulatory Commission, but with the steadily rising pressure to keep the reactors operating as the nation increases its reliance on them.

He declared that when he personally began considering the safety question in connection with more than 20 G.E. reactors in the United States, "when I defined my program objectives it was not really to assess the safety of the plant, it was to see what could be done to assure their continued operation."

According to a recent report to the Government, General Electric is the world's largest manufacturer of nuclear equipment, having supplied 27 of the 99 reactors reportedly operating as of late 1974. According to Allan Benasuli, an analyst with Drexel Burnham, G.E.'s nuclear sales are about $450 million a year or 4 percent of all its sales.

EXHIBIT 2(c)

[From the Washington Post, Feb. 4, 1976]

HILL PROBES THREE RESIGNATIONS OF A-ENGINEERS

(By Morton Mintz)

A congressional committee yesterday began an investigation into the surprise resignations of three General Electric Co. engineers who fear that continuing development of nuclear power poses grave risks for mankind.

Terming the engineers' concerns "very serious," Sen. John O. Pastore (D-R.I.) said he has directed the staff of his Joint Committee on Atomic Energy to invite them to testify at public hearings tentatively set for Feb. 18.

The committee also will invite testimony from Robert D. Pollard, a Nuclear Regulatory Commission engineer who has bowed out of the nuclear reactor program with his own public expression of distress about safety.

The GE engineers' resignations came as "a complete surprise" to NRC, a spokesman said. He said that the safety agency is seeking to interview the three to see if they have "useful and important" information.

NRC and the company, which built 27 of the 99 reactors reportedly operating as of late 1974, are expected to be invited to testify at the Pastore hearings if the engineers agree to appear.

The GE engineers, who have 47 years' experience in designing and building nuclear reactors among them, were middle-level managers at the corporation's nuclear reactor division in San Jose, Calif., until they quit Monday. The resignations were the first of their kind in the industry.

"Nuclear power has become a "technological monster," and it is not clear who, if anyone, is in control," Dale G. Bridenbaugh, 44, said in a resignation letter.

"In our engineering work we cannot design to cover the human error, and I'm convinced the safety of nuclear reactors hangs on the human errors," said Gregory C. Minor, 38.

Similarly, Richard B. Hubbard, also 38, said that unresolved problems of storing long-lived radioactive wastes; design, manufacturing and operating errors, and an ultimate risk to future generations forced him to question "the continued operation and proliferation of nuclear power plants."

None of the three expressed animosity toward GE. A company spokesman in San Jose said the resignations had come as "a complete surprise to GE management." The resignation letters present "no fresh views or argument," he said.

The spokesman also said that the letters repeat "the emotional claims" of Project Survival, an antinuclear group in the San Francisco Bay area.

He noted that the release of the resignation letters coincided with the disclosure that the three engineers have volunteered to campaign from now until June for adoption by California voters of a nuclear safeguards initiative.

If adopted, the initiative would require utilities either to prove that they can compensate the public for the death, injury and damage from a nuclear accident, or to decrease reliance on existing nuclear power plants and to build no new ones.

Each of the three resigned engineers is married, has three children, earns between $30,000 and $40,000 a year, has not found a new job and intends to live off savings. They told interviewers they had independently reached a decision to oppose nuclear power, and had not talked with each other about resigning until last December.

The company listed their job titles as follows: Bridenbaugh, a manager of performance, evaluation and improvement; Minor, manager of advanced control and instrumentation engineering, and Hubbard, manager of control and instrumentation, quality assurance.

Each man told reporters of general concerns that led to the decision to resign, including the sale by the United States, Canada, West Germany and the Soviet Union of reactors to India and other countries that may be politically unstable, and of a fire that disabled the world's largest reactor complex at Brown's Ferry, Ala.

Minor had played a key role in designing safety controls for the plant—and had believed they provided a more than adequate safety margin.

The three engineers had such specific concerns as these:

New research continually turns up faults in the design of reactor cores that, if not constantly cooled, can melt down and release radioactive particles over a wide area. "We really don't know what's going on in the core of reactors," Hubbard said.

In a safety-system design team headed by Minor, half of the men "have never seen a reactor," he said.

When a major problem common to several reactors is discovered, pressure to shut them down is overwhelming. The nation's economy "is hanging on those plants in a lot of places," Bridenbaugh said.

The NRC's Pollard, project manager for the Indian Point No. 3, an operating nuclear plant in Westchester County, N.Y., resigned last month. NRC Chairman William A. Anders, who learned of the resignation on Jan. 13 from Mike Wallace of The CBS "60 Minutes" program, has ordered an investigation into charges by Pollard that safety at the plant is insufficient, and that NRC officials have disregarded individual staff views.

EXHIBIT 2(d)

[From the New York Times, Feb. 10, 1976]

INDIAN POINT SAFETY HEAD, CHARGING ATOM PERIL, QUITS

The Federal safety engineer for the nuclear reactors at Indian Point, resigned yesterday, charging that they were unsafe in design and construction and could cause a catastrophe killing thousands of people by radiation.

"If I had the authority, I would close down Indian Point Plant No. 2 at once—it's almost an accident waiting to happen," The engineer, Robert D. Pollard, said in announcing his resignation as project manager of the United States Nuclear Regulatory Commission, formerly known as the Atomic Energy Commission.

The commission, the Consolidated Edison Company and the State Power Authority quickly issued statements denying that the three nuclear plants were unsafe.

A spokesman for the Federal commission at Bethesda, Md., said: "We've talked at length with Mr. Pollard, and all of the safety issues he has raised have been thoroughly examined and previously resolved."

"We believe we have taken every reasonable step to insure the safety of the Indian Point plants," said a spokesman for Consolidated Edison, which owns two of the three nuclear generators at Buchanan, near the Hudson River shore about 30 miles north of New York City.

And the State Power Authority, which owns the third reactor, said through a spokesman: "We're convinced that Indian Point No. 3 is a safe and efficient plant."

Of the three reactors, No. 1 is owned by Con Edison but has been shut down since October 1974 because it lacks a kind of cooling system required by the Federal Government. No. 2, owned and operated by Con Edison, is an 873,000-kilowatt generator, and No. 3, owned by the Power Authority but operated by Con Edison, is a 965,000-kilowatt plant undergoing preoperational testing.

Mr. Pollard's resignation, effective next Friday, was announced at a news conference at the Roosevelt Hotel here. The 36-year-old engineer had been the Federal Government's $27,756-a-year chief safety engineer not only for the Indian Point plants but also for nuclear ractors in North and South Carolina and Texas.

Mr. Pollard said he had long worked for change within the regulatory system but had finally concluded it would be better to work for such changes "from the outside."

He said that next week he would become the Washington representative of the Union of Concerned Scientists, a Massachusetts-based research group that conducts independent studies of nuclear power and national energy policy. His salary will be about two-thirds of his present pay.

Declaring that he could not, "in conscience, remain silent about the perils associated with the United States nuclear-powered program," Mr. Pollard said the two plants at Indian Point illustrated his concerns over safety.

"I believe that the Indian Point nuclear power station constitutes an unconscionable threat to the health and safety of the millions of people who live in the metropolitan New York area," he said, adding:

CITES VALVE SYSTEM

"The Indian Point plants have been badly designed and constructed and are susceptible to accidents that could cause large-scale loss of life and other radiation injuries, such as cancers and birth defects.

"The magnitude of the hazards associated with these plants has been suppressed by the Government because the release of such information might cause great public opposition to their operation."

He charged specifically that the No. 2 reactor had a "serious design defect—submerged valves—that could render required safety systems inoperative during an accident." He said also that valves on the No. 3 plant "which are supposed to prevent escape of radioactivity during accidents" were defective.

Furthermore, he said, electrical systems on the No. 2 plant "suffer from the same fundamental weaknesses as those which allowed a fire last year at the Brown's Ferry plant in Alabama to paralyze much of that plant's vital safety apparatus."

[From the New York Times, Feb. 11, 1976]

TOP U.S. OFFICIAL DEFENDS CON EDISON OVER NUCLEAR PLANT

(By Victor K. McElheny)

William A. Anders, chairman of the United States Nuclear Regulatory Commission, said yesterday that there was no reason to suspend operation of the Indian Point No. 2 nuclear power plant on the Hudson, as a resigning safety official of the commission had urged.

Replying to a charge by Robert D. Pollard, the safety official, that the commission "suppresses the existence of unresolved safety problems," Commissioner Anders said, "If I find anybody covering up in this agency, I guarantee we'll fire him."

Of a wide range of safety concerns cited by Mr. Pollard as reasons for his resignation, Mr. Anders said that conversations with the 36-year-old electrical engineer and memorandums he submitted over the weekend had not "developed anything more than generic problems that were well known, and were matters of public record."

"It has been difficult to pursue this matter because the statements were so unspecific," he said.

In an interview yesterday, Mr. Pollard stood by his assertions that the commission was balancing safety concerns against the possible economic impact of delaying nuclear power. He added: "In all cases of a government agency not doing its job, the answer is to open up the system. The day of the 'for official use only' document should end."

"ALMOST NEVER QUESTIONED"

He said that if expert officials of the Federal regulatory agency approved licenses for construction or operation of nuclear power plants, "they are almost never questioned." But if the official raises questions that might delay approval, Mr. Pollard said, "you're challenged every time; you're not challenged on a technical basis."

Mr. Pollard resigned from the commission staff on Jan. 13, after four months as project manager of safety reports for the Indian Point No. 3 reactor on the Hudson, now in final testing and sold just before the end of the year by Consolidated Edison Company to the Power Authority of the State of New York.

In a press conference in New York Monday, Mr. Pollard noted his resignation but did not mention when he had submitted it. He said: "I've gone as far as I can within the system. Now I'm quitting, effective Friday, to do what I can from the outside."

Mr. Pollard made these statements after a confrontation with officials of the Consolidated Edison Company, operators of the Indian Point No. 2 reactor, which Mr. Pollard said Monday was unsafe and should be shut down.

Mr. Pollard came in at the end of a news conference being held by Charles F. Luce, Con Ed's chairman, to deliver to him a letter requesting the shutdown, and was accused by John Conway, executive assistant to Mr. Luce, of disrupting the news conference. At that news conference Mr. Luce had said: "Indian Point is a safe plant. Last year it had the best operating record in the system."

Mr. Conway told Mr. Pollard, who was accompanied by Daniel Ford, executive secretary of the Union of Concerned Scientists, for which Mr. Pollard intends to open a Washington office: "During the past three months, you've been meeting with a number of our engineers and you never once voiced your concerns."

Mr. Pollard said that his responsibility was to the Nuclear Regulatory Commission, not to the company.

MORE RESPONSIBILITY ATTITUDE

In his letter to Mr. Luce, Mr. Pollard wrote, "As the owner and operator of Indian Point 2, I hope that you will take a more responsible attitude toward the safety criticisms I have made than the N.R.C."

He added: "I understand the disappointment you must feel after buying a plant designed in a way thought to be adequate, to find that rather extensive design modifications are needed to meet the standards that today's level of knowledge shows to be necessary. That you and the entire nation have been the victims of the policy of too rapid and too optimistic a nuclear program is indeed unfortunate."

On Sunday, Mr. Pollard, who has worked for United States nuclear agencies since 1969, was the focus of a segment of the CBS television news program, "60 Minutes," and he was interviewed, along with Mr. Ford, on the NBC News program, "Today" yesterday morning. This morning Mr. Anders is scheduled to be interviewed by "Today" in rebuttal.

Both Mr. Luce and Mr. Anders criticized the CBS show. Mr. Luce said his cooperation with the program had been obtained by a subterfuge, adding that Mike Wallace, a reporter for "60 Minutes," was naive about nuclear power plants and desired a tour. After two hours, Mr. Luce said, Mr. Wallace asked to see a cable tunnel about which Mr. Pollard had complained, and asked if it were safe.

Mr. Luce said that material, containing a statement by Mr. Conway that even if the tunnel were knocked out by fire, the plant would still shut down automatically, had been cut from the program.

In reply, George Hoover, a public information man for the CBS program, read a statement by John Sharnik, vice president and director of public affairs broadcasts, that such cuts were "a matter of judgment."

Mr. Anders said the reporters for the program had accumulated a large file of information about Mr. Pollard's safety concerns over several weeks before sequences with Mr. Anders were taped Jan. 13, the day Mr. Pollard's resignation was submitted. The date of the taping and of Mr. Pollard's resignation were not mentioned in the program.

"CBS was in receipt of safety concerns about nuclear power," Mr. Anders said. "If that had been somebody in industry, we would have nailed them." He said that withholding such information was a violation of law. Of CBS, Mr. Anders said, "For people who are concerned about the safety of the people of New York City, they sure had their necks on the line a long time."

For CBS, Mr. Hoover said, "We had nothing that was not available to them."

Attention focused on Mr. Pollard's resignation only shortly after three safety officials of the General Electric Company resigned and joined an arm of the California campaign to pass, by a vote on June 8, an initiative severely restricting the expansion of nuclear power in that state.

Some advocates of nuclear power, who did not wish to be named, speculated yesterday that opponents of nuclear power might have preferred the resignations to come later, with more impact and less chance for rebuttal, in advance of the California vote. The advocates added that Mr. Pollard and the others probably had found it impossible to keep silent any longer.

Mr. Pollard indicated in the interview that he had largely decided to leave the Nuclear Regulatory Commission months ago. "My wife and I decided that the problems were so bad, affecting my attitude, that I couldn't live with myself." He said that he had been "really screaming his concerns."

Exhibit 2(f)

[From the Wall Street Journal, Feb. 26, 1976]

Solar-Energy Planning Is Being Slighted by Ford, Former Chief of Program Says

(By Les Gapay)

Washington.—The Ford administration isn't giving solar-energy development the priority it deserves, charged the recently resigned head of the government's solar program.

The official, John M. Teem, former assistant administrator for solar, geothermal and advanced energy systems at the Energy Research and Development Administration, said in an interview that he had significant differences with the White House on the extent and speed with which the government should develop solar energy.

Mr. Teem said that President Ford's budget request to Congress last month for solar programs was far less than the ERDA wanted, and that he also disagreed with the scope and pace assigned by the White House to some of the agency's key solar programs.

"PERSONAL REASONS"

The White House on Jan. 30 routinely announced Mr. Teem's resignation for "personal reasons," and the disagreements on solar policy weren't disclosed.

Mr. Teem said in the interview his resignation wasn't directly because of the disagreements, and that he had several reasons. He added, however, that he differed with officials in the White House and the Office of Management and Budget. "My sense of job satisfaction decreased in view of the detailed management viewpoints being brought into the solar programs by OMB," he said. The management office's heavy involvement in solar energy policy decisions "affected the timing of my resignation," Mr. Teem added.

Mr. Teem said he favored accelerating ERDA programs to demonstrate solar energy in the heating and cooling of buildings; in agricultural areas, such as crop drying, and in various industrial processes.

He also said he was unsuccessful in efforts to increase the ERDA's role in disseminating information on solar technology to industry and the public to speed "bringing solar to the marketplace." Also, Mr. Teem said he favored a wider role for, and faster organization of, a planned solar-energy research institute within ERDA than was acceptable to the White House.

In essence, Mr. Teem said his proposals would have resulted in more government stimulation of the private sector for commercialization of solar energy than the White House and the budget office wanted.

President Ford's budget request for solar research and development programs in ERDA for fiscal 1977, starting Oct. 1, asked for a congressional authorization of $160 million, with projected outlays during the year of $116 million. Mr. Teem said that the ERDA had requested the budget office to ask for $255 million in budget authortiy and $201.6 million in outlays. In the current fiscal year, the ERDA has a budget authority for solar programs of $115 million and estimated outlays of $86 million. By contrast, the ERDA's requested budget outlays for nuclear programs for fiscal 1977 total $1.7 billion.

Mr. Teem said that solar work in heating and cooling of buildings and in agricultural and industrial processes is scientifically advanced enough so that demonstration programs "could proceed at a more rapid pace" than the budget request outlines. Mr. Teem says that those programs show the most short-term promise for solar-energy use and that "even within a constrained budget" they could have been given more priority.

PROGRAMS CRITICIZED

Congress' Office of Technology Assessment similarly criticized the ERDA's solar programs in a report last October, saying too much emphasis was being put on long-term, space-age type solar research programs at the expense of areas that can become practical sooner.

Mr. Teem said that there is the view at the budget office and the White House that because of advances in solar technology, "the private sector is in a position to undertake more programs now" without government stimulus.

A solar research institute within the ERDA was authorized by a 1974 law to do technical and analytical work to support the agency's solar-energy programs. The National Academy of Sciences had recommended to the ERDA that the institute be given a wide research role, a staff of about 1,500 and an annual budget of about $50 million. ERDA sources said that a compromise had been reached with the budget office on the size and scope of the institute, which won't be on the scale envisioned by the NAS. The sources said the institute will first only do studies, and that its actual laboratory research role will remain undefined for the first few years of operation.

Exhibit 2(g)

[From the New York Times, Feb. 29, 1976]

The Nuclear-Power-Truth Maze

(By George Wald)

(Note.—George Wald, professor of biology at Harvard University, won the 1967 Nobel Prize in Physiology or Medicine.)

Cambridge, Mass.—One of the prevalent myths of our time is that Government policy is based on the best obtainable information—that if the Government knows which policy will most promote the public welfare it will adopt that policy. It is this belief that fosters the constant call for more research.

In fact, almost the opposite is true. A policy having been decided on—usually for economic or political reasons—the information is sought that will support it. That is, information follows policy, rather than the other way around.

As for the information itself, one needs to distinguish advocacy from judgment. Advocacy is what a lawyer does for his client in making a case. It is one-sided; presumably another, perhaps, equally able advocate, prepares the other side. But judgment is something else. It must weigh both sides, one hopes impartially. There must at least be no overt bias. A judgment must be disinterested.

These are important considerations in the present public debate involving nuclear power. A bewildered and uneasy public is faced with highly technical problems, far beyond its capacity to evaluate. Hence, it is forced to rely upon the opinions of experts. But then it is crucial whether those experts are advocates or judges.

One of the main factors that undermined public confidence in the United States Atomic Energy Commission was the realization that the main thrust of this public agency was to promote the nuclear-power industry and that it was willing to compromise on standards of safety to achieve this end.

It was largely the work of persons outside both Government and industry—indeed, opposed all the way by Government and industry—that eventually forced tighter safety standards and controls.

A bewildered public seeking expert and unbiased opinion hopes to find that in the universities. And rightly so. The entire insistence on academic freedom rests on the assumption that the universities are engaged in an objective and impartial search for truth.

One looks to them for both expertise and disinterestedness; but if one had to make a choice, disinterestedness is the more important. For experts are all about us; industry and Government employ large numbers of them. Disinterestedness is the rare and precious quantity.

I make so much of this because at present the public, trying to reach a position on nuclear power, finds professors on both sides. Whom is one to believe?

It needs to be understood that, as in so many other instances, those professors do not face a symmetrical situation. They must find their way in a heavily biased context.

One outcome, favoring the rapid spread of nuclear power, the relaxation of safety standards, the optimization of benefits and minimization of the risks involved—those views enlist large political and financial support, and are greeted with official approval, eager acceptance and wide publicity.

The other viewpoint, concerned as it is with troubling problems of powerplant safety, control of nuclear pollution, plutonium 239 as a source both of high toxicity and fission bombs, and the still wholly unresolved burden of nuclear-waste disposal that promises to remain a problem for hundreds of thousands of years—that opposition viewpoint offers no reward but its own conviction. It has no client, unless society at large becomes its client.

Early in 1975 a group of 32 "notable scientists," mainly physicists, issued a "Scien- the rapid expansion of nuclear power as the only realistic solution of our coming energy needs. Recognizing potential dangers, it concluded that there exists no available alternative and that with proper care this expansion would involve benefits that far outweigh the risks.

Was this widely disseminated statement advocacy, or judgment? One hopes the latter, since these are very distinguished scientists, widely respected by their colleagues. Twenty-six of them, including eleven Nobel Prize laureates, were identified only as professors in major universities.

Hence, it was with some dismay that I read an analysis by a fellow academic physicist that showed 14 of the 26 academic signers are members of boards of directors of major United States corporations, including corporations directly and indirectly involved in energy production. I would not question the integrity of any of these persons; yet it must be recognized that such an affiliation in this connection does not suggest—it defines conflict of interest.

The only reprehensible element I would plead in the relationships themselves is in the failure to disclose them. Imagine the difference in impact had these academic signers listed themselves as directors of Exxon, Nuclear Systems, Iowa Electric Light and Power, Detroit Edison and the like!

The business of the energy industry is not to make energy but to make money. In pursuit of that single-minded purpose it continuously lobbies, infiltrates Federal agencies, funds candidates in both major parties, devotes many millions of dollars to "educational" propaganda, and does everything it can to avoid regulation.

We scientists are often asked whether it might be possible eventually to produce nuclear-power safely. That is a technical question, and the answer to it may well be *yes*. But that is the wrong way to ask the question. The real question we face is whether nuclear power can be produced safely *while maximizing profit*. The answer to that question is *no*.

We had a nice instance of the real situation at a news conference in Washington on Aug. 6, 1975, when the Union of Concerned Scientists presented to the Administartion and Congress a petition signed by 2,300 scientists and engineers asking restraint on the further construction of nuclear-power plants until problems involving their safety were under better control.

One of the speakers was Rear Adm. Ralph Weymouth, recently retired from the Navy. What had disturbed Admiral Weymouth was the great disparity between safety precautions observed by the Navy in its nuclear installations and those taken by the nuclear industry. The point is simple enough: The Navy operates without regard to profit, whereas the industry bends all its efforts to maximize profit, and regularly cuts corners to achieve that end.

Everyone is an idealist, not just you and your friends but all those on the other side. Just ask them, and they will tell you.

Having to find my way through a maze of frequently conflicting ideals, I finally adopted a rough rule of thumb: If the ideal costs something—in money, privilege, status—*that* makes it a little more credible. If, on the contrary, it pays off in any or all of those ways, then I fall back on the principle of scientific parsimony: If you have one explanation for a phenomenon there is no need to seek a second explanation.

Those of us who oppose nuclear power in its present forms have nothing to gain thereby but our share in the common good. Our opposition brings us into conflict with all the centers of power. It costs us our own money. It threatens rather than raises our professional status. Lately, three General Electric engineers and a Federal safety supervisor resigned their management jobs in nuclear-power installations. One gets no medals for such behavior, only opprobrium from Government and industry, only the lasting stigma of not being a team player.

Whom is one to believe? One cannot be sure. But it helps to know that those opposed to nuclear power have nothing to gain from their position but the public good, that they are indeed willing to pay for the privilege of speaking out.

Exhibit 2(h)

[From the Washington Post, Mar. 1, 1976]

Nuclear Power: The Ugly Facts

(By Tom Braden)

High over the floor of the U.S. Senate there is a windowless hearing room—an early architectural tribute to the needs of security—where there took place last week a confrontation more important than the one in New Hampshire.

On the one side were three men who had resigned their jobs because they honestly believed that what they were doing was too dangerous to their country to keep on doing.

On the other were 18 senators and representatives—members of the Joint Atomic Energy Committee who were facing up to their own fears and failings.

The testimony of the witnesses was dramatic and the kleig lights captured the drama for television news clips. But what they couldn't capture was the history which must have been running through the minds of the congressmen and senators who sat there and listened. After 25 years, after lavish federal subsidies, after almost unanimous support from successive legislatures and Presidents, the promise of safe, reliable nuclear power—"power too cheap to meter," it was once predicted—was going aglimmer in the words coming out of the mouths of the witnesses.

"My reason for leaving the program," said Gregory G. Minor, the General Electric Co.'s manager for advanced controls and implementation, "is my deep conviction that nuclear reactors and nuclear weapons now present a serious danger to the future of all life on this planet."

Dale G. Bridenbaugh, General Electric's manager for performance evaluation and improvement, testified as follows: "The magnitude of the risks, the uncertainty of the human factor and the genetic unknowns have led me to believe that there should be no nuclear power."

And Richard B. Hubbard, General Electric's manager for quality assurance, said this: "There is no way you can continue to build the nuclear plants and operate them without having an accident."

Congressmen and senators asked questions. What they were thinking cannot be recorded. But the thoughts must have ranged from the wistful to the sad. Some of these men and their predecessors through the years built careers supporting nuclear power. They have advanced it as a self-fulfilling prophecy. They have seen to it that nuclear power received 60 times more federal subsidy than its potential alternatives such as solar energy. And until recently, at least, they have all believed that they were presiding over the development of an energy supply that would make the nation independent, no longer a partial hostage to the oil-exporting countries.

Now they were facing reality, recited to them articulately, in dry and measured tones. It cannot have been pleasant.

They will probably thrash around for a while, which is what men usually do when confronted with ugly facts. They will try to find other experts who will try to cast doubt upon the doubts.

But the responsibility for continuing with a program which might lead to disaster is a very grave responsibility. As the testimony sinks in and the doubts grow, the responsibility will seem too great a burden to bear.

There is talk in the corridors now of abolishing the Joint Atomic Energy Committee in favor of a Joint Committee on Energy and of putting money into alternative programs. As energy expert Barry Commoner reported in a recent three-part New Yorker series on the country's energy policies, "The entire nuclear program is headed for extinction."

Exhibit 2(i)

[From The Washington Post, March 5, 1976]

Churches' Panel Asks Plutonium Use Curb

(By Janis Johnson)

ATLANTA, March 4.—The governing board of the National Council of Churches today called overwhelmingly for a moratorium on the commercial development of plutonium as an energy source.

The board, representing 40 million Protestant and Orthodox Christians in the United States, declared that caution in plutonium development is vital before irreversible technological commitmetns affecting future generations are made. The board's resolution urges the federal government to halt plutonium development "so that the people of the United States can assess the pros and cons of the issues."

The council's entry into the nuclear energy debate resulted from its belief that the issue is a moral one. Many of the delegates said they never heard of plutonium until six months ago. At the three-day meeting here they were lobbied fiercely by both sides of the nuclear power dispute.

Plutonium is one of the most poisonous substances known. Inhalation of plutonium dust can kill within hours. And researchers have linked it to certain forms of cancer in tests on animals.

Plutonium is a by-product of the fissioning of uranium fuel in nuclear reactors used to generate electricity.

The atomic energy industry argues that it has adequate safeguards for plutonium's use as a future fuel source. It is cheaper than uranium and, because it can be man made, potentially more plentiful.

But plutonium opponents contend the opportunity exists for catastrophic releases of the substance and other radioactive materials through accident or malice.

The moratorium resolution was opposed by a handful of the 157 delegates. George McGonigle of Houston criticized the resolution as "based on value judgments unrelated to the facts."

The resolution urges a halt to government plans to proceed with a research and development program on the controversial liquid metal fast-breeder reactor. The program would determine whether plutonium can be produced commercially for fuel. Congress is expected to vote this year on a $655 million appropriation for the project.

The resolution also directs the council staff to initiate a "study of the theological, economic, socio-political and technical" implications of energy use. Afterward, the staff is to write a proposed policy statement for council consideration in two years.

The resolution is a revised version of one submitted last fall by a committee headed by anthropologist Margaret Mead. The first resolution was rejected because the committee had no members from the nuclear power industry and because it flatly opposed use of plutonium.

Lobbying for the resolution was the council staff and a half-dozen members of a group called Californians for Nuclear Safeguards. The council staff flew in Gregory C. Minor, one of three California engineers in General Electric's nuclear energy division who quit in February to protest what they called the lack of safety in reactors.

The Atomic Industrial Forum, the industry trade association also meeting here, lobbied heavily against the resolution, saying the delegates had received only one-sided information from the council staff.

"The council statement seriously overstates the hazards connected with the use of plutonium and understates its importance in solving world energy problems," said Dave Rossin of Commonwealth Edison in Chicago.

Exhibit 2(j)

[From the Washington Post, Mar. 6, 1976]

Corporations and Their Monopoly on the Sun

(By Tom Braden)

Unless Congress does something to break up the big energy corporations, we may wake up shortly to find they have secured what amounts to a monopoly on the use of the sun.

Shell, Mobil, Exxon and Gulf are but a few of the big outfits which have been buying into research and development of solar energy, often taking over small enterprises lacking in capital. What the corporations are trying to do is to learn how to mass produce the photovoltaic solar "collector" cells which turn the sun's rays into electricity. If they succeed, the country should have an efficient, pollution-free substitute for oil. The problem is that these companies are already doing very well in the oil business, are invested heavily in nuclear power, and regard the solar business as something to be put off to another day. "They're covering their bets," one senator believes. "They may want to slow down solar for as long as the oil profits last."

During the last session of Congress, Sen. Edward Kennedy introduced a bill which would have limited all energy companies to one phase of the business, thus preventing this possibility that a company with a heavy stake in one energy source could develop a strong power to slow the development of another. Kennedy's bill lost by 5 votes, but the issue will come up again later this month when the antitrust subcommittee of the Senate Judiciary Committee will be asking the oil companies how much control over solar development they have gained.

"What we don't know," one antitrust expert in the executive branch of the government explains, "is whether these companies are finding out a lot of interesting things about solar and not telling anybody."

Hard questions should be asked now because the nuclear business, for which the government has given enormous subsidies to these same companies, appears to be crumbling before the realities of safety and cost. Yet efforts to beef up federal funding for solar research have uniformly met with opposition from the Ford administration. John M. Teem, the leading solar energy expert in the government, resigned last month with a blast at the White House for continuing to shortchange solar programs.

Teem charged the Ford administration with being too pro-nuclear; it has emphasized the futuristic aspects of solar energy, he complained, instead of trying to build on the reality that, in home heating and cooling, crop drying and some industrial processes, solar energy is ready for use now. He also accused the administration of foot-dragging on the siting of the Solar Energy Research Institute.

The argument over the siting of this institute—authorized by Congress two years ago—is interesting because it shows that the politicians are having second thoughts about the Ford administration's emphasis on nuclear power. The Energy Research and Development Administration has yet to establish guidelines for the Institute site proposals but Jimmy Carter spoke in Massachusetts and New Hampshire about the advantages of placing the study center in New England, and Sen. Joseph Montoya (D-N.M.), long a backer of nuclear development, has been rhapsodizing lately about New Mexico's possible new role as "The Solar Energy State." The civic-minded and dollar-wise from other states are making their own pitches to land the project.

It may be that the White House is holding off the site designation for the solar institute in order to promise the project's $50 million annual operating budget and 1,500 jobs where they will do the most political good.

But the points cannot be lost on the major oil companies; politicians are getting interested in solar energy. We can therefore anticipate a major public relations campaign to persuade the country that the people best qualified to run the solar business are the same people who have given us corporate monopoly in all other energy fields.

THE RETIREMENT OF MIKE MANSFIELD

Mr. BROOKE. Mr. President, it has been one of my very great privileges to have served for 10 years in the Senate under the leadership of MIKE MANSFIELD. He has been fair, unfailingly courteous, and always refreshingly candid. More importantly he has been a key mover not only on the many critical social issues before the Senate but also on the important institutional reforms that have come before us. Yet to me MIKE MANSFIELD has always been much more. To me he has been and always will be a friend.

When I came to the Senate in January of 1967, there were times when I thought my new surroundings would all but overwhelm me. And well they may have had it not been for the senior Senator from Montana. His help and guidance in those early months were invaluable, his friendship reassuring.

When I heard that MIKE MANSFIELD would retire at the end of this session of Congress, I knew that Montana and the Senate were losing an outstanding Senator and majority leader; and I knew that this country was losing an excellent public servant. But I also knew that my colleagues and I would be losing a courageous leader.

I will miss MIKE MANSFIELD of Montana next year. I will miss his patience, his understanding, and his guidance. I take heart in the thought that we will see him again in this city and in this Chamber as he will no doubt continue to serve our country as the statesman that he is. But I am sure that his plans call for a little time to himself and his lovely and devoted wife, Maureen. After 34 years of public service in the Congress, it will be time to which she and he are surely entitled.

THE ADMINISTRATION'S ANTITRUST TURNABOUT

Mr. KENNEDY. Mr. President, the Senate Judiciary Committee is currently marking up the omnibus antitrust bill (S. 1284) introduced by Minority Leader HUGH SCOTT and Antitrust and Monopoly Subcommittee Chairman PHILIP A. HART. A final vote on reporting the measure will take place April 6. Title IV is the companion measure to H.R. 8532, the Antitrust Parens Patriae Act introduced by House Judiciary Committee Chairman PETER RODINO, which passed the House of Representatives on March 18.

S. 1284 is supported in almost all respects by the Assistant Attorney General in charge of the Antitrust Division, Thomas E. Kauper, just as he supported the recently passed House bill. The committee also is in receipt of a letter from Deputy Attorney General Harold Tyler reaffirming the administration's support for most of the bill. I ask unanimous consent that the full text of the letters from Deputy Attorney General Tyler and Assistant Attorney General Kauper be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, many changes have been made in the legislation during its markup in subcommittee, and further changes are presently being made in the Judiciary Committee. The processing of S. 1284 was progressing in a bipartisan fashion and in a spirit of compromise and negotiation with the administration. Many of the changes made in the bill emanate from suggestions made formally and informally by Assistant Attorney General Kauper on behalf of the administration. Indeed, Mr. President, I believe it fair to state that almost all of Mr. Kauper's recommendations have been or would have been accepted by the sponsors of what clearly is the most significant antitrust bill this close to passage since 1950.

We all know that President Ford pulled the rug out from under the Department of Justice last week. Just 48 hours before House action on H.R. 8532, the President precipitously announced his opposition to a bill that the administration had supported for over 2 years. This occurred notwithstanding that the highest officials of the Office of Management and Budget and the White House were assuring the Congress that the administration supported the legislation. I ask unanimous consent that the Evans and Novak column from the Washington Post of March 24 and extracts from the White House news conference of March 17 describing the details of this turnabout be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. Mr. President, I for one was astonished and distressed at the President's action. He has made many statements in support of vigorous antitrust enforcement and the need for greater competition in the economy. I ask unanimous consent that the attached extracts from President Ford's antitrust speeches be printed in full at the conclusion of my remarks. In fact, the linchpin of his program of deregulation is reliance upon competition and vigorous antitrust enforcement. I support the need for regulatory reform and greater reliance on competition and antitrust enforcement, and I know that Senators PHILIP A. HART and HUGH SCOTT have been vigorous advocates of that position.

I am concerned, Mr. President, as to whether the definitions of stringent antitrust enforcement means one thing to me and another to the President. Not only has the President reversed the administration position on title IV, which is supported by the National Association of

State Attorneys General, but apparently bowing to heavy lobbying by Wall Street's merger makers, the White House directed the Department of Justice to reverse its position and to oppose the bill's premerger injunction provisions. Interestingly, on March 10, 1976, Assistant Attorney General Thomas E. Kauper testified before the House Judiciary Committee that he personally adhered to his previous testimony and still supported the injunction provisions.

Mr. President, I believe the Judiciary Committee and particularly the distinguished sponsors of the legislation—Minority Leader HUGH SCOTT and Antitrust and Monopoly Subcommittee Chairman PHILIP A. HART—should know who speaks for the administration, and who speaks for the President. To me, it is unconscionable for the committee to be put in the position whereby the testimony of the Assistant Attorney General—cleared by OMB and the White House and reviewed by the Economic Policy Board—cannot be relied upon. I believe we are entitled to know whether making virtually all the changes requested by Assistant Attorney General Kauper is what the President wants, particularly because we are processing S. 1284 on a bipartisan basis for the purpose of improving the antitrust laws in accordance with repeated Presidential averments.

Mr. President, on April 6 the Judiciary Committee will vote on reporting S. 1284 and on all amendments, which must be circulated to committee members in advance. Precious little time exists for an administration spokesman to come forward and continue the consultation process—which recently worked so well on the wiretap issue—but which was so abruptly shattered in the antitrust field on March 17.

The administration's attitude on antitrust policy also has harmful implications for its regulatory reform proposals. I have endorsed President Ford's efforts to provide for greater competition in the airline industry and am presently preparing my own bill on this issue. The administration also has reform legislation pending that relates to trucking and other regulated industries. I believe that relaxation of Government regulation must be accompanied by more vigorous antitrust enforcement—a principle which the President has also endorsed. But if the administration is going to back down and oppose or even waffle on legislation that would better enable both the Government and private citizens to police competition and seek to redress antitrust law violations, this will reduce the prospects for enactment of regulatory reform proposals.

Mr. President, there is an old song that goes something like:

First you say you do, and then you don't.
First you say you will, and then you won't
You're undecided now, so what are you going
to do.

These lines best describe the administration's antitrust policy. With a heavy legislative agenda in this area in the coming months, Congress should expect and receive clearer signals from the administration than we have been getting recently.

The exhibits follow:

[EXHIBIT 1]

THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., February 19, 1976.
Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: When the Subcommittee on Antitrust and Monopoly held hearings on S. 1284 during the spring and summer of 1975, the Administration expressed support for the major provisions of the bill, although it generally opposed Title VI. There has been division within the Administration, however, regarding the desirability of Title V, and the Administration position has been reconsidered in light of the scheduled consideration of the bill by the full Judiciary Committee.

Although the Administration adheres to its previously expressed position on other provisions of S. 1284, and particularly Title II of the bill, this letter is to inform you that the Administration does not now support Title V in its present form.

The Administration does not support enactment of the premerger stay provision of Title V, preferring instead to rely upon existing decisional and statutory law to govern the issuance of preliminary injunctions in merger actions filed by the Department of Justice and the Federal Trade Commission.

The Administration continues to support enactment of a premerger notification provision, providing that the waiting period and extension period are reduced to 30 days and 20 days respectively. Furthermore, to assure that challenges to pending mergers are considered on an expedited basis by district courts, the Administration would encourage enactment of a provision directing the Chief Judge of the appropriate United States Court of Appeals to assign a District Court judge who is able to proceed on an expedited basis with the case, and further to direct that a hearing on the government's motion for a preliminary injunction be held at the earliest possible time, taking precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. § 3161.

If I may be of any assistance to the Subcommittee or the Committee, please do not hesitate to contact me.

Sincerely,

HAROLD R. TYLER, Jr.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 25, 1975.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the letter of Mr. Alan A. Ransom of your staff, seeking our views on H.R. 8532, which now has been favorably reported out of the Committee on the Judiciary. You will recall that I appeared before the Subcommittee on Monopolies and Commercial Law on March 18, 1974, and testified in considerable detail about an earlier version of the bill. Subsequently, I again had occasion to consider the advisability of parens patriae legislation, this time in connection with S. 1284. See Hearings on S. 1284 before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary of the United States Senate, pp. 93–96 (1975).

The Administration has taken a position in support of the basic concept of permitting a State to sue on behalf of its citizens for damage sustained because of violations of the Sherman Act. H.R. 8532 would establish a workable mechanism for assuring that those antitrust violations which have the broadest scope and perhaps the most direct impact on consumers do not escape civil liability.

Antitrust violations that result in relatively small economic damage to each of a large number of people are very troublesome: the economic incentives for such conduct are made more alluring by the realization that no single consumer has a sufficient economic stake to bear the litigation burden necessary to maintain a private suit for recovery under Section 4. Although it was once thought that the 1966 liberalization of Federal Rule of Civil Procedure 23 might provide a satisfactory mechanism for effectuating the deterrent objectives of Section 4, the class action device is apparently of limited utility in securing relief for large classes of individual consumers, *see Eisen* v. *Carlise & Jacquelin,* 417 U.S. 156 (1974).

The parens patriae concept, as embodied in H.R. 8532, is both desirable and useful from the perspective of better antitrust enforcement. Such a provision is also consistent with the enforcement goals of the Clayton Act.

In our view, with only minor exceptions, the parens patriae provisions of H.R. 8532 are appropriately designed and limited to serve these goals.

Section 4c(b) of the bill, authorizes a court, in any suit brought pursuant to Section 4C(a), to order that the state attorney general proceed "as a representative of any class" of persons alleged to have been injured by a violation of the antitrust laws. Given the broad parens patriae authority conferred in Section 4C(a), I remain uncertain of the purpose to be served by Section 4C(b), and I continue to be apprehensive about the entanglement of parens patriae authority with interpretive problems of Rule 23. When I testified before the Subcommittee on Monopolies and Commercial Law in early 1974, the *Eisen* case had not yet been decided by the Supreme Court. The Court's decision is suggestive of the panoply of problems presented by large class actions, and I would be reluctant to make the effectiveness of H.R. 8532 dependent upon judicial construction of Rule 23. H.R. 8532 imposes certain requirements upon parens patriae actions that are less burdensome than corresponding provisions of Rule 23. Compare the notice provisions of Section 4C(c) with Rule 23(c)(23). Those less onerous requirements may be quite reasonable when taken in the context of the traditional responsibilities of an attorney general to the citizens of his State. But Section 4C(b) apparently contemplates the possibility of a class action on behalf of citizens outside the State represented by the attorney general, and in those circumstances it is unclear whether a departure from the carefully developed protections of Rule 23 is desirable. We continue to believe that deletion of Section 4C(b) would strengthen the bill.

In order to forestall any uncertainty, the Administration favors inclusion of a provision in H.R. 8532 that would make it clear that the States could sue to recover treble damages for the entire amount of overcharges or other damages sustained in connection with any federally funded state program. Under current law, it is not clear whether a State has the power under the Clayton Act to sue for such damages, but we see no reason why States should be denied the power in circumstances such as these where the deterrent purposes underlying Section 4 would be advanced. Section 4E(a) of S. 1284 contains such a provision, which we have supported, and we favor amending H.R. 8532 to conform in this respect to S. 1284.

Section 4G(1) defines the term "state attorney general" so as to exclude "any person employed or retained on a contingency fee basis." The impact that this limitation will have upon the effectiveness of the parens patriae legislation is sufficiently unclear so as to warrant careful consideration. While the primary goals of H.R. 8532 are to increase the deterrent force of the Clayton Act and provide redress for injuries caused by antitrust violations, this legislation would accomplish these objectives in a way that might have beneficial consequences extending far beyond this rationale. By drawing state attorneys general directly into the enforcement of the federal antitrust laws, the long run impact of H.R. 8532 may be to encourage the development and sophistication of state antitrust enforcement capacities.

We certainly would welcome that development, and the definition of "State attorney general" presently contained in the bill would probably force States to develop internal antitrust enforcement capacity. Such a proposition, however, is not without its trade-offs. By depriving States of the option of retaining outside counsel on a contingency fee basis, the bill would delay full implementation of the parens patriae authority until such time as States could start-up a program of rigorous antitrust enforcement. While this is a short-run concern, the restriction might cause some smaller States, with limited law enforcement personnel, to forgo completely antitrust enforcement because of the impracticality of internal development. The contingency-fee scheme has proven to be an important spur to antitrust enforcement, however, the Administration has not taken a position with regard to this provision.

Finally, the Administration has taken no position with regard to the provision in Section 3 that requires an award of attorneys' fees to a private party who secures injunctive relief in a suit brought under Section 16 of the Clayton Act.

The provisions of this legislation about which I expressed primary concern in my earlier testimony have largely been eliminated or satisfactorily modified. While we think the further refinements suggested above would strengthen the bill, we would still urge enactment of this legislation.

The Office of Management and Budget has advised this Department that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

[From the Washington Post, Mar. 24, 1976]

[EXHIBIT 2]

MR. FORD'S REFLEX ACTION

(By Rowland Evans and Robert Novak)

President Ford's sudden personal opposition last week to an antitrust bill his entire administration had long supported stemmed not from any ferocious lobbying campaign but from political reflexes developed by Gerald R. Ford over 25 years in Congress.

So, after nearly two years in the Oval Office, Mr. Ford has again revealed his distinctive resistance to change from the safe old ways of Capitol Hill.

For nearly two years, the administration had backed legislation authorizing the 50 state attorneys general to file antitrust suits for treble damages in federal courts in behalf of their citizens. Not until Jan. 17, the day before the bill reached the House floor, did Mr. Ford oppose it. Even though the House on Jan. 18 amended the bill to satisfy presidential objections before passing it, the probability is that Mr. Ford would still veto it.

While reopening old splits among House Republicans, this turnaround tells much about the President. This was no rerun of his reversal on the common situs picketing bill, when he yielded to massive lobbying and political pressure. This time, Mr. Ford *instinctively* responded to the big business position after a single telephone call from an old congressional colleague, scarcely considering the significant body of Republican opinion which feels the party must end its suicidal marriage with corporate business—or perish.

The Justice Department first supported the bill during the Nixon presidency. But shameless White House efforts to brand it a Nixon proposal are sheer nonsense. In truth, the measure never was put before either President.

It never had to go to the Oval Office because of unanimous approval inside the administration, with the Office of Management and Budget (OMB) approving endorsement of the bill by the Justice Department's antitrust division. Inside the White House, the bill received clearance early this year from Mr. Ford's Economic Policy Board (EPB). Just one month ago the Justice Department again formally endorsed the proposal.

Moreover, helping citizens recover damages from illegal price fixing fit Mr. Ford's state-of-the-union pledge to "strictly enforce the federal antitrust laws" in order to "foster competition and bring prices down for the consumer." Even some conservatives see reversion to Teddy Roosevelt Republicanism as a political imperative.

Although opposition from big business was tepid, its champions in Congress were active—particularly brainy Rep. Charles Wiggins of California, a relentless foe of the bill inside the Judiciary Committee. Wiggins was not only lobbying the White House but talking to House Republican leaders, including minority leader John Rhodes of Arizona.

On March 10, Rhodes telephoned Mr. Ford, his old comrade and predecessor as minority leader. That was the first the President had ever heard of the bill, and his instinctive, visceral reaction was negative. He ordered his staff to restudy the bill, but it was clear Mr. Ford had made up his mind. No opposite recommendation came from Atty. Gen. Edward Levi, who, curiously, informed both Wiggins and Rhodes he agreed with them and not with his own antitrust division.

When the campaigning President met privately with businessmen in Chicago March 13; a corporate executive—not knowing he was preaching to the newly converted—urged Mr. Ford to oppose the treble damages bill. The President responded that businessmen ought to be more vocal in making their wishes known.

Rep. Robert McClory of Illinois, the bill's principal Republican supporter on the Judiciary Committee, telephoned the White House to protest. "We are not the party of big business," McClory, a moderate conservative, pleaded. "We are the party of the broad cross-section of the American people."

To no avail. When the President's March 17 letter to Rhodes opposed the bill, its Republican supporters were stunned. Rep. William Cohen of Maine, who backed the bill in the Judiciary Committee following Assistant Atty. Gen. Thomas Kauper's support for it, angrily suggested on the House floor that perhaps congressional committees should accept testimony only from Cabinet members.

What followed was grimly reminiscent of 1974, when senior Republicans chided Cohen for his role in the Nixon impeachment proceedings. After Cohen charged the administration had "misled" the Judiciary Committee, the usually even-tempered Rhodes stalked into the cloakroom. Returning to the floor shortly thereafter, Rhodes engaged in a heated dialogue with Cohen observable from the galleries and overheard by several congressmen.

Will the President now sign the bill considering the changes adopted by the House? "He certainly should," McClory told us. But a key White House aide advised us that "serious reservations about the concept" remain. Against the unanimous approval of his staff and the judgment of shrewd Republican strategists, Jerry Ford is displaying the reflexive action of a party slowly suffocating in the embrace of big business.

[NEWS CONFERENCE]

AT THE WHITE HOUSE WITH RON NESSEN

MARCH 17, 1976.

* * * * *

Q. On the antitrust bill pending in the House, what did the President tell John Rhodes yesterday his position was and, related to that, to the extent there was a switch in his position, why did the President switch the Administration's stance?

Mr. NESSEN. There has been no switch in the President's position because he has never taken a position publicly on that piece of legislation. He has now had an opportunity to review the proposed bill, and later this afternoon he is going to be sending a letter to Congress explaining his position, and we will make that public for you later this afternoon.

Q. You say he never took a position before. However, the Assistant Attorney General for Antitrust testified on behalf of the Administration in May of 1975, and he sent a letter to Peter Rodino on behalf of the Administration, saying the Administration supports the concept in this bill.

So, is that not a switch if he no longer supports—

Mr. NESSEN. I said the President has never taken a public position on this legislation before.

Q. Kauper testified on behalf of the Ford Administration.

Mr. NESSEN. The letter and the testimony by the gentleman from the Justice Department was developed in the White House staff machinery through a process that is used to reconcile differences between agencies. When agencies have differences of opinion on legislation that originates outside of the Administration, there is a procedure which brings these people together to reconcile their positions. That was the procedure followed.

Now, in that procedure, it does not call for that legislation or that matter to be brought to the President's attention. The fact is it wasn't. It was not brought to the President's personal attention until either the 10th or the 11th of March, when it appeared that action on the bill in Congress was imminent and at that time it was brought to the President's attention. He has been reviewing it since then, and as I say will send a letter to Congress today explaining his position on it.

Q. Will that letter outline a form of the bill which he would not veto?

Mr. NESSEN. I think you ought to wait and see what he says about the bill, first.

Q. Can we assume that when the letter goes from the White House to Congress saying this is the Administration's position that henceforth it doesn't really mean that the President in fact himself supports that position, it is just some kind of White House staff position that is somewhat divorced, as you seem to be suggesting, from the President's position?

Mr. NESSEN. I think what I would rather do is explain to you what is the sequence of events relating to this bill. You know in general, sort of philosophical, what the letter means. I think we will put that off to another day.

Q. Does the OMB speak for the President?

Mr. NESSEN. I think I outlined what the procedure was on this bill. For a more general philosophical discussion of what the letter means, I think we should save it for another time.

Q. Has the President discussed this with the Attorney General?

Mr. NESSEN. I don't know.

Q. Will you find out?

Mr. NESSEN. Yes.

Q. Are you saying when a member of the Administration testifies before the Hill on the Administration's view of a bill, he does not speak for the President?

Mr. NESSEN. I am saying that in this particular case and with this particular bill, the differences over the bill between agencies of the Government were resolved through a procedure that did not involve the President's personal attention. Now, that applies to this bill as it went through.

As you know, and some of you probably know, the bill has been in the White House staff system since March of 1974, which is quite a way back, and actually a different Administration. It worked its way through the staff system, and the differences between agencies were resolved within the staff system, but it did not come to the President's attention until either the 10th or the 11th of March.

Q. Is that policy that it doesn't come to the President's attention and is testified to as being an Administration supported bill, or is it a breakdown in policy? In other words, are you telling us this is the way it should work or the way it just happened to work in this case, and that was a mistake?

Mr. NESSEN. This is the way it happened to work in this case.

Q. Would you explain to us what the procedure is? By the way, which of the agencies in this case disagreed, and if there is a disagreement between two agencies, what is the procedure for resolving it and, routinely, do they not go to the President for resolution?

Mr. NESSEN. I need to do more research on that general subject, Mort. I tried to nail down as much as I could the details of this particular case.

Q. Will the President attack this bill, as reported?

Mr. NESSEN. This afternoon, when we distribute the letter——

Q. I mean, it is already——

Mr. NESSEN. Helen, I think, as some folks here will tell you, this is an extremely complex piece of legislation involving difficult legal concepts, as well as very specific, complicating provisions. It is not a question that you can say yes or no to, frankly.

Q. Did the President meet with members of the business community who opposed the bill?

Mr. NESSEN. He did not

Q. Who talked to him in Chicago about the bill?

Mr. NESSEN. I think if you check back you will find the bill wasn't brought to his attention until after he had been to Chicago.

Q. Somebody talked to him in Chicago.

Mr. NESSEN. That is not correct.

Q. On that whole trip?

Mr. NESSEN. He didn't see any business group about the bill.

Q. I am talking about an individual, Ron, maybe a PFC reception, or at the Palmer House or at the Marriott.

Mr. NESSEN. To my knowledge, no.

Q. When did he hear about the bill? He went to Chicago last Thursday and Friday.

Mr. NESSEN. What were the dates?

Q. A week ago was the 10th. That is when you say he heard it.

Q. He was in Chicago on March 12 after the bill was called to his attention.

Q. So, he heard about it before he went to Chicago?

Mr. NESSEN. If those are the correct dates, that is correct.

Q. Did he discuss this with Solicitor Bork at all?

Mr. NESSEN. I don't know all the people he discussed it with.

Q. Is the President aware of the Attorney General's position on this bill?

Mr. NESSEN. Again, when you say the Attorney General's position on this bill, because of the extremely complex nature of the bill, I am not sure the Attorney General has taken a flat position on the bill.

Q. Isn't it fair to assume that the head of the Antitrust Division testified for the bill, that the Attorney General and the Justice Department as a whole favored it?

Mr. NESSEN. This bill, as you know, has been around for a long time, dating, as I say, back to the previous Administration, and it is not clear to me yet, you know, at what point various people gave their approval or disapproval.

Q. The reason I ask the question, those of us traveling around the country with the President on his campaign trips are very well aware that every time a question about big business or antitrust or multicorporations, he has only one answer; that is, Ed Levi: "I have myself a strong Attorney General who is an expert in antitrust, and he is going full blast ahead." I wonder how he justifies taking this position, which I think is very obviously against Levi's own position——

Mr. NESSEN. Wait, I think you really should not say that, Ed, until you are sure in your own mind what the Attorney General's position is.

Q. You are not, apparently, the President——

Mr. NESSEN. That is right.

Q. Does the Attorney General support the head of the Antitrust Division, because the head of the Antitrust Division is clearly for the bill?

Q. That is obvious.

Mr. NESSEN. It is not obvious to me that the Attorney General's position is that.

Q. You mean an Assistant Attorney General would go on the Hill and testify not only this was his position, it was the position of the Attorney General, and you wouldn't be sure that the Attorney General had agreed with that position?

Mr. NESSEN. It is a matter, Jim, as I say, that was resolved at the staff level. I am not sure what the involvement of the Attorney General was, and I haven't had time to track it down. But, I will say on the general subject of antitrust that I think you know the President's record on antitrust. He has raised the penalties for antitrust violations quite high—I think $1 million in the case of a corporation and I forget what the upper limit is that he raised it for private individuals—and he has increased the staff of the Antitrust Division and he has given instructions to undertake antitrust actions in areas where they had not been taken before, so I think you know he has a good record in that area, and I don't think that is the issue here.

Q. If the President holds the Attorney General in such high esteem, especially in this area, that he would want to know his position on this bill ahead of time, I am rather surprised you don't know what Levi's position is.

Mr. NESSEN. Well, I don't know, simply because of a number of other things, and trying to track this down as much as I could, I didn't touch all the bases.

Q. Is the President instituting a different modus operandi now so he will know when people go to testify in behalf of the Administration?

Mr. NESSEN. I told Mort I would——

Q. Are you saying this didn't come to his attention at all, until March 10, and it has been in the works since?

Mr. NESSEN. That is correct.

Q. He never knew such a bill was pending?

Mr. NESSEN. That is my understanding.

Q. What is a Member of Congress or a Congressional committee supposed to do when someone comes up and testifies on behalf of the Administration and then months later Congress is told this is not really the President's position, it is some White House staff member's position? Is Congress supposed to take seriously any statement of the Administration's position?

Mr. NESSEN. As I said the three other times you asked the same question, I am not prepared to bite off that big a hunk today and discuss it.

Q. You said you didn't want to have a general philosophical discussion. The fact is, as you well know, that as far back as anyone's memory goes in this town a statement by a witness before a Congressional committee that he was giving the Administration's view was unanimously and commonly interpreted that that was the view of the President.

The question is, does the President assume the responsibility for the statements made in the name of his Administration in this specific case and in other cases?

Mr. NESSEN. In this specific case, Jim, I have explained to you the process that the bill went through. It is a process for bills not proposed by the Administration. I have explained that to you, and I have said that you will have the President's position in a letter to Congress later this afternoon.

Q. When did the President's position change?

Mr. NESSEN. The President has not taken a position on the bill, so it couldn't very well change.

Q. Why is the President's position, as you are going to express it in these letters this afternoon, different from the position expressed by the Administration spokesman, the Assistant Attorney General?

Mr. NESSEN. How do you know it is?

Q. Are you suggestitng he is going to change his mind again?

Mr. NESSEN. Obviously, the President has not changed his mind because he has never taken a public position before.

Q. So, he disavows responsibility for the position taken by that witness?

Mr. NESSEN. I think you should wait and see what his letter says, Jim.

Q. I am basing it on your own words. You say the President has not taken a public position, that someone else has.

Mr. NESSEN. That is correct.

Q. You dispute or you deny that previous position was the President's position necessarily, is that correct?

Mr. NESSEN. Obviously, the President was not involved in the process until the 10th or the 11th of March.

Q. Ron, are you aware that the minority leader who succeeded Mr. Ford in that position at the House told a reporter yesterday, "The President has changed his position"?

Mr. NESSEN. He may very well have said that, Bob, but I am telling you the President had not taken a public position on this before.

Q. You keep saying "public" as though that is important.

Mr. NESSEN. Nor has he taken a private position.

Q. So, Mr. Rhodes is wrong?

Mr. NESSEN. I am trying to explain to you the sequence of events that have transpired, Bob, and I think I have explained them for you.

Q. Ron, who was the highest ranking official in the Government who signed off on a position like this that is represented then to be the position of the Administration if it is not the President?

Mr. NESSEN. Under this process that was followed in this particular bill?

Q. Yes.

Mr. NESSEN. I am not sure who was.

Q. Will you find out?

Mr. NESSEN. Yes.

Q. Could we have a briefing after this letter goes up so we could get to the bottom of this? You would then have a couple of hours to find out what happened.

Mr. NESSEN. I think you are the bottom of it, Bob.

Q. I will ask you the same question——

Mr. NESSEN. Let me finish answering Bob's question. I think you are at the bottom in that I told you the process followed that resulted in the testimony that you have mentioned. I told you when the President became aware of the bill, that he has been studying the legislation, reviewing it and has now reached his position on the bill, which we will make public this afternoon. I don't know that we have a deeper bottom to get to.

Q. I think it would be important to know whether or not the President had been informed, at the time the Solicitor General was making his testimony, if he was informed at the time what his testimony was going to be and——

Mr. Nessen. I think I said, Ted, the President became aware of the legislation on the 10th or the 11th of March.

Q. He was totally unaware of it?

Mr. Nessen. I think I answered that three or four times before.

Q. Who brought it to his attention and why?

Mr. Nessen. John Rhodes brought it to his attention because, as I said, Congressional action on the bill was imminent.

Q. Is this a climb down because of business pressure, Ron?

Mr. Nessen. I don't know what you mean a climb down, Jim. From what?

Q. A change of position.

Mr. Nessen. I told you before it is not possible for it to be a change of position since the President had taken no position.

Q. I will rephrase the question in response to your semantics. Is this a change in the Administration's position as a result of business pressure?

Mr. Nessen. The President had not taken a position on this bill until today.

Q. I didn't ask that, I asked whether it was a change in the Administration's position.

Mr. Nessen. The President has not taken a position until today, and I think what Congress is anxious to hear is what the President's position is. They have not heard it before, and they will today.

Q. Ron, could you tell us what the President's procedure was after Rhodes talked to him in deciding what he should do about this bill, who he talked to?

Mr. Nessen. I will pull together all the people he talked to. I know some of the people he talked to.

Q. Including the person in Chicago?

Mr. Nessen. I think I said earlier I am unaware the President talked to anybody outside the White House about this legislation.

Q. What time will the letter be ready?

Q. Would you ask him that question directly?

Mr. Nessen. He addressed that question this morning when I was talking to him, and he indicated he had not talked to anybody outside the White House about this legislation or the concept of the legislation.

Q. Ron, there are a lot of unanswered questions, obviously, and you may not agree with me, but I would still like to ask that you consider at least getting the facts we have asked about and having a briefing after the letter is released.

Mr. Nessen. If there are any additional facts, Bob, I will try to arrange that.

Q. Ron, you referred several times to this process used to straighten out a conflict. Who is in charge of that process? Who are we talking about? Is it OMB or staff people here?

Mr. Nessen. It is White House staff people.

Q. In this specific case, who was in charge of resolving the conflicting between the Justice Department and the other agency, whoever they may be?

Mr. Nessen. It is the OMB that normally directs it.

Q. Who specifically?

Mr. Nessen. I don't know who specifically worked on this case.

Q. Who were the other agencies involved besides the Justice Department? Whose views had to be reconciled?

Mr. Nessen. I will find out for you, Jim.

Q. Is the President unhappy that the Administration position has been put forward in the public that he is apparently now going to repudiate? We were told he was opposed to it.

Mr. Nessen. As I said repeatedly, the President has not taken a position until today, so there can be no change or repudiation of what he said before because he hasn't said anything before.

Q. Is he unhappy an Administration position has been put forward?

Mr. Nessen. I would not say so. He has had time to study the legislation now that action is imminent, and he will come forward with his position.

Q. Doesn't that make it seem like a contradiction that might make it seem like nobody seems to know who is running the store?

Mr. Nessen. I know who is running the store.

Presidential Statements on Antitrust

Listed below are the President's remarks on the importance of antitrust enforcement activities from his earlier speeches.

To increase productivity and contain prices, we must end restrictive and costly practices whether instituted by Government, industry, labor, or others. And I am determined to return to the vigorous enforcement of antitrust laws.—The President's Address delivered before a joint session of the Congress. October 8, 1974.

All of the initiatives toward regulation should be accompanied by vigorous enforcements of antitrust laws. Vigorous antitrust action must be part of the effort to promote competition.—Remarks of the President at the White House Conference on Domestic and Economic Affairs. Highway Hotel. April 18, 1975.

Agencies engaged in regulatory activities can expect that the Antitrust Division of the Department of Justice will continue to argue for competition and lower consumer prices as a participant in your agency's proceedings. Furthermore, the Attorney General will continue to insure vigorous antitrust prosecution to remove private sector barriers to competition.— President Ford, Vice-President Rockefeller, with Members of the Cabinet, and Independent Regulatory Commissioners. July 10, 1975.

This Administration . . . will strictly enforce the Federal antitrust laws.—President's State of the Union Address. January 19, 1976.

We will establish as national policy this basic fact of economic life, that Government regulation is not an effective substitute for vigorous American competition in the marketplace.

If we reduce Government regulations of business, we must make certain and positive that our antitrust laws are vigorously enforced. . . .

In short, this Administration will look at the whole range of Government sanctioned monopoly—from the small franchises protected by Federal regulations, which rule out competition, all the way to Government-endorsed cartels involving entire industries.

We must recognize this: Over the years, Government has done as much to create and perpetuate monopoly as it has done to control or eliminate it. As a result, this Nation has become accustomed to certain forms of monopoly. Some are regarded as beneficial, some not.

If an industry combines to raise prices, it violates our antitrust laws, but no laws are violated if an industry can get the Federal Government to build trade barriers, to increase support prices for the goods or services that it produces, or to police against potential competitors or price cutters.

It is sad but true—too often the Government walks with the industry along the road to monopoly.

The end result of such special treatment provides special benefits for a few, but powerful, groups in the economy at the expense of the taxpayer and the consumer.

Let me emphasize this is not—and never will be—an Administration of special interests. This is an Administration of public interest, and always will be just that.

Therefore, we will not permit the continuation of monopoly privilege, which is not in the public interest. It is my job and your job to open the American marketplace to all comers.

Ultimately, the vital reforms will be viewed—as they should be—as a pocketbook issue. Government regulation and restrictions now cost consumers billions and billions of dollars each year. We must be concerned about the cost of monopoly however it is imposed and for what reasons.—Remarks of the President before American Hardware Manufacturers Association, August 25, 1975.

AMENDMENTS TO THE CLEAN AIR ACT

Mr. GARN. Mr. President, of all the laws passed by Congress affecting the life of the average American, a case can be made that the Clean Air Act, with its subsequent amendments, has been the most significant. Following its passage, private individuals have been forced to make changes in the fuels they use to heat their homes; they have seen their gas mileage in their cars go down; they have seen their country's dependence on foreign fuel sources increase; they have been forced to pay more for the products they buy, as manufacturers have been forced to install costly pollution control devices; some products have been removed from the market because of economic pressures, thus narrowing the range of choices; labor markets have been rearranged as a result of shifts in industries affected by the controls; and, as always, power over individual decisions has shifted to Washington, where it is exercised by faceless bureaucrats.

Now I am not arguing that all of the impacts of the Clean Air Act have been bad. Quite the contrary. Many of the results have been very good, and the increased awareness of environmental relationships is very good for the Nation. But I would argue that the actual impacts of the law have been very different from those predicted, and that many of the most personal consequences were never anticipated at all.

Mr. President, we will be faced, in a very few days, with some very far-reaching amendments to the Clean Air Act, and I submit that we will again be under pressure to pass it before most of us have any clear idea of what it does, or what it does, or what its long-range consequences will be.

The Senate Public Works Committee has been working on this legislation for more than a year, and, Mr. President, to this day, there is no text of a bill. On February 5, the committee ordered the bill reported, but to this day, we do not have a copy of the report language. I have now been told that the report will probably not go to the printer until Monday, and rumors are that the bill itself will be brought to the floor just 1 week later, on April 5.

Now my question, Mr. President, is this: What is the rush? This is a bill with the most far-reaching significance, a bill which, it has been charged, will establish a no-growth policy on the United States, throw millions of people out of work, bankrupt two-thirds of American industry and give what is left to the Arabs. No doubt there are defenses to these charges, Mr. President, but I strongly feel that the charges and the defense both need a careful airing. This matter must not be disposed of in a 72-hour period, with half an hour on amendments, the time to be equally divided.

Of one thing I am certain, Mr. President, and that is that this bill will be of extreme importance to the State of Utah. Indications are that the bill will give considerable discretion over development to Federal land managers in cases where the Federal lands are affected. Well, in Utah, any development will affect Federal land, since two-thirds of the State is Federal land. Twelve years ago, we began planning for the construction of a coal-fired powerplant on the Kaiparowits Plateau in southern Utah. Because of Federal involvement, that plant has still not been built, and many more delays are possible. One important question in Utah is, What will be the impact of passage of these amendments on Kaiparowits? Last week a delegation from Utah came to Washington to try to get an answer to this question. Despite briefings by Senators and staffs, they went home without any very concrete answer. One reason, of course, is that there is still no bill. I submit that it is only fair to allow affected individuals, such as these citizens of Utah, to examine the bill in detail, and then communicate their views of its impacts through their elected representatives. That is the way I see my function here, Mr. President, and I would very much like to get my constituents' reaction. If the bill comes up on April 5, and is rushed through, I will not be able to represent those views, because I will not have them. There are environmental groups in Utah which will also have views on the bill, who may wish to have it strengthened. I need time to examine their views as well.

In addition to private citizens, government officials are vitally concerned with the passage of this law. Just 2 weeks ago I received a letter from Cal Rampton, the Governor of the State of Utah, outlining a few of his concerns about some of the provisions of the legislation, as they have been reported. The Governor expresses some very real concerns, but, in looking over his letter, I find myself unable either to confirm his suspicions or to lay them to rest, because I do not know what text of the bill he worked from, and because I have no text of the bill of my own. I ask unanimous consent that the Governor's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 11, 1976.

Senator JAKE GARN,
Dirksen Building,
Washington, D.C.

DEAR JAKE: Last fall I expressed my concern to you over certain sections of the proposed Clean Air Act Amendments of 1975 relating to the prevention of significant deterioration. The bill as it was then being marked up in the Senate Subcommittee on Environmental Pollution was totally unacceptable insofar as Utah's interests were concerned. However, I was encouraged, as I know you were, when I was informed that the full Senate Public Works Committee planned modifications that would make the bill more acceptable to the states. I have just finished reviewing the full committee version of the bill which will be reported out later this month, and I am extremely disappointed in the results. I would like you to be aware of my specific objections to the bill in its present form in the hope that they may become the basis of floor amendments that will be offered.

Section 5 of the proposed bill requires that every state will submit to the Administrator of the Environmental Protection Agency within eight months after the date of enactment an implementation plan for the prevention of significant deterioration within the two classes of air quality regions that are established by the bill. Part of the implementation plan that the state is required to adopt is an authority to issue permits on all construction of emitting facilities commenced after June 1, 1975. This is no grant of discretionary authority to the states, but merely makes them the first line of enforcement of the federal standards relating to Class II air quality regions. It is not clear from the bill where the appeals process lie for Class II standards, but Class I standards must be reviewed by the Administrator, or the Federal Land Manager who is defined in the bill as being the "Secretary of the Department with authority over any lands of the United States and Indian tribes which have legal jurisdiction over tribal lands."

Class I regions include all national parks in excess of five thousand acres which brings all of Utah's national parks under the Class I schedule for significant deterioration. All other areas are designated as Class II. The schedule for Class I and Class II sets standards for two pollutants, particulate matter and sulfur dioxide that occur over the baseline air quality concentrations. The rigid non-degradation standards for the Class I standards would not concern me were it not for the close proximity of our energy resource lands to the national parks. Although no buffer zone between the emitting source and the Class I lands is specified in the bill, they would have to be established on the basis of modeling demonstrations in order to maintain the Class I standards in the national parks. It is impossible at this time to determine how much of a buffer zone would be required, but suffice it to say that it seriously jeopardizes projected Utah coal development given the responsibility of the Federal Land Manager to take positive action to protect air quality in Class I areas pursuant to paragraphs (A), (B) and (C) of subsection (5) of the bill.

The Utah Bureau of Environmental Health has projected through their diffusion formulas that the Kaiparowits plant will fail the sulphur dioxide test for Class I over Bryce Canyon 35 miles away even assuming 90% sulphur dioxide removal and 99.5% particulate removal. It would also fail the Class II standards for both particulate matter and sulphur dioxide at Death Ridge Reservoir, the point of highest concentration between the proposed Kaiparowits site and Bryce Canyon.

I am also offended by those sections of the bill that invite the intervention of adjacent states into the permit granting process within another state. Paragraph (C) of subsection (5) authorizes the Governor of a contiguous state who has Class I lands that may be affected by a permit granted within a state to file a notice that vacates the permit until the owner of the facility can demonstrate that it meets Class I standards. Subsection (10) authorizes the Governor of an adjacent state who has Class I or Class II areas that may be affected by proposed emitting facilities to appeal to the Administrator to mediate the dispute, and if no agreement is reached between the Governors, the Administrator is empowered to decide the dispute.

The Administrator's arbitrary power is also manifest in subsection (8) wherein he is empowered to determine what pollutants in addition to sulfur dioxide and particulate matter should be controlled in order to prevent significant deterioration. He then shall recommend increments of these pollutants appropriate for Class I and Class II schedules within one year of the enactment of the Clean Air Act Amendments.

This bill is an example of good intentions run riot and what results from the lack of a coherent national energy policy. In the interest of environmental protection it imposes a no-growth policy on Utah without any regard for the long-term national interest. At approximately the time this bill moves onto the Senate floor, Secretary of the Interior Kleppe will announce his decision on the Kaiparowits Environmental Impact Statement. On June 8th, California will vote on Proposition 15 which proposes to prohibit the construction and operation of nuclear power plants in that state. If that proposition passes, as it likely will, and if Secretary Kleppe fails to approve the Kaiparowits project, or if this bill is adopted in its present form, how will the electrical power be generated to meet the needs of the American West?

I appreciate the support you have shown in the past on this overriding issue and hope that we can prevail with your colleagues in the United States Senate.

Sincerely,

CALVIN L. RAMPTON,
Governor.

Mr. GARN. Again, I ask, Mr. President, what is the hurry? I would like, as soon as the bill is available, and I have the report language, to send them to Governor Rampton, and ask his opinion of them. If the bill comes up on April 5, and is rushed through, there will be no opportunity for such an exchange.

One of the most controversial sections of the bill is the so-called "nondegredation" section. There are wildly varying estimates of its possible impact. There are those who say that nothing will happen, others who claim that its passage will send us back to the stone age. Just the simple question of the costs involved in eliminating any possible deterioration of air quality needs to be assessed, and to my knowledge, has not yet been. The Federal Energy Administration has undertaken a study and that, of course, is a good step. But, Mr. President, what do we find? We find that the study will not be available until the end of April, about 3 weeks after the bill will have passed the Senate.

What is the rush? Let us take the time to consider the costs, as they will be outlined by FEA. While we are at it, we might ask the Department of Labor to estimate the impact of "nondeg" on the labor market. So far, I have not seen much attention given to this aspect, but in my view, when the labor unions get a glimpse of the impact of this bill on jobs, there will be a mighty howl. In any event, let us slow down and take a look at it.

Although I have not seen anything about it in any Washington paper, many of my colleagues have, no doubt, seen the series of articles from the Los Angeles Times about possible manipulation of data by the Environmental Protection Agency in investigating links between air quality and health. These articles have raised some serious questions about the reliability of the standards adopted by EPA under the Air Quality Act, and in my view, the charges need some serious examination. No doubt there are defenses to be made to the charges. I notice that the Administrator of EPA has responded to them briefly, but the point is that time is needed before we go running off after still more stringent standards. Congressman Barry Goldwater, Jr., has asked the General Accounting Office to investigate the charges, and I do not think it is too much to ask us to wait until the results of that GAO report are available before we act. I will have more to say later about EPA's manipulation of data, but in the meantime, I ask unanimous consent that a series of newspaper articles and commentaries from the Los Angeles Times, the Salt Lake Tribune, and other papers be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Feb. 29, 1976]

EPA Study—The Findings Got Distorted; Research on Sulfur's Effect on Health Stirs Power Company Furore

(By W. B. Rood)

Reports from a major Environmental Protection Agency research program were systematically distorted by a former agency scientist in an effort to prove that pollution from sulfur-bearing fuels had an adverse effect on human health.

This distortion, disclosed to The Times by both government and non-government scientists, has resulted in a mounting controversy over the need to spend billions in controlling sulfur pollution from electric power plants and raised questions about the credibility of EPA research.

While scientists are generally agreed that sulfur pollution at higher levels poses a health hazard, criticisms of the distorted EPA research has raised serious questions over how low the harmful levels really are.

The EPA reports were prepared as part of the agency's Community Health and Environmental Surveillance System (CHESS) and published in 1974.

Extensive interviews with scientists and others have shown that:

Dr. John F. Finklea rewrote the work of agency scientists, often deleting what the researchers felt were important qualifiers on experimental results;

Finklea deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects;

Finklea screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution; and

Finklea overrode agency scientists' objections to publishing estimates of the health impact of pollution which were either statistically dubious or unsupportable.

The consequences of these actions have far outstripped technical debate over one set of EPA studies;

Relying heavily on the disputed CHESS studies, EPA has called for controls on sulfur pollution that would cost power companies and ultimately American consumers billions of dollars.

Citing the CHESS evidence, the agency says many of the nation's power plants will not be able to switch to coal without heavy expenditures for pollution controls—costs industry spokesmen say undermine their efforts to shed dependence on foreign oil sources.

The agency's effort to defend the published CHESS studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

Evidence of bias in the CHESS studies has led to credibility problems for the agency's research arm and charges that EPA should not be entrusted with research in support of air pollution regulations.

The man whom numerous scientists within and without EPA blame for causing these problems resigned his post with the agency last year to become director of the National Institute for Occupational Safety and Health.

In answer to the charges against him, Finklea said in an interview that if air pollution researchers make mistakes, the mistakes should be in the direction of overestimating the health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," he said.

"But if we make a mistake it should be on that side."

Controversy over conclusions drawn in the EPA studies preceded their formal publication in May, 1974, in a monograph entitled "Health Consequences of Sulfur Oxides: A Report from CHESS, 1970–1971."

Written during the summer of 1972, the studies were circulated in draft form to scientists all over the world.

In a paper prepared for delivery at an October, 1973, National Academy of Sciences conference, two scientists—Dr. Ian T. T. Higgins of the University of Michigan and Dr. Benjamin G. Ferris Jr. of Harvard—wrote:

"It is particularly disquieting . . . that there has been a rather marked tendency to overinterpret the (CHESS) data and in particular to select findings which point to an effect of pollution on health and ignore those which do not."

Scientists were quickly joined in the fray by spokesmen for the electrical utilities, who were anxious to kill proposals for installing an estimated $11 billion in equipment for controlling sulfur oxide emissions from power plants.

Encouraged by the Nixon administration, the utilities were turning to coal in an effort to reduce their dependency on foreign oil sources.

Citing the CHESS studies as a basis for its action, EPA called for installation of costly devices termed scrubbers on 30% of the utility industry's projected coal-fired capacity by 1980.

And the industry fought back as it never had before.

American Electric Power Co.—operators of a largely coal-fired utility system serving seven states in the Midwest and Appalachia—launched a $3.1 million advertising campaign to turn public opinion against what the company called EPA's "unnecessarily restrictive regulations."

Other utilities began working through government channels to discredit the CHESS studies.

The Federal Energy Administration and the Federal Power Commission also joined in.

FEA hired its own consultants to critique the CHESS studies. The $38,000 FEA consultant study concluded that "the assumption (that) the health effects of sulfur-bearing air pollutants are largely due to the formation of sulfates, is theoretical."

Just before release of the FEA-sponsored report, the Federal Power Commission staff charged the EPA's air quality goals could result in critical power shortages.

The Office of Management and Budget—responsible to the President for watching the cost and efficiency of federal programs—was also asking questions about the CHESS program.

Faced with this barrage, EPA called for an internal review of the program. The task was assigned to the agency's Science Advisory Board, a panel of outside scientists reporting directly to the agency administrator.

The board appointed an ad hoc committee headed by Dr. James B. Whittenberger, chairman of Harvard's Kresge Center for Environmental Health, to conduct the CHESS review.

In what has become known as the Whittenberger report, the committee acknowledged that charges that "EPA scientists were 'overinterpreting their data,' that their conclusions were not supported by their data led to problems of credibility for the agency."

Although members of the committee now say they were told by EPA scientists that Finklea had distorted results of the study, the Whittenberger report did not reflect that finding.

"There was considerable feeling at various levels (in EPA) that in that indeed this was a correct observation, that indeed there was something of this nature happening," said Dr. George B. Hutchison, a Harvard scientist who served on the committee.

"I don't remember to what extent our report reflects this. Some of the earlier drafts reflect this more than the final report did. That's probably true. How we came to watering it down I don't really know."

Hutchison told The Times, "Yes, the finger was pointed very much at Dr. Finklea. This was rather clearly what the statisticians at Research Triangle Park (an EPA research facility in North Carolina) told us, that he was the bete noire of this difficulty and we in fact never had any evidence to the contrary.

"I guess the best guess is that he as an individual was more responsible than anyone else we know of."

Hutchison said the published CHESS studies were "systematically distorted in the direction of tending to demonstrate more association (between sulfur pollution and health) than in fact exists.

"If this sort of thing were happening nonsystematically, some of the studies exaggerating the relationships and others playing them down, then one might imagine that the thing sort of canceled itself out," he said.

"I don't think that. I think this sort of thing tended to be largely a systematic error in the direction of exaggerating the associations—making the pollutants seem more hazardous than the data supported."

The CHESS program was born of the best scientific intentions even before EPA was formed about five years ago.

Responding to calls for action from environmentalists, Congress was on the verge of enacting the Clean Air Act Amendments of 1970, the first legislation to put teeth in the nation's effort to clean up its air.

Air quality standards were to be set—to protect the health of the most sensitive segments of our population—with a margin of safety.

The CHESS program had three main objectives: to document the benefits of air pollution cleanup, to evaluate whether air quality standards set by EPA were adequate and to provide information for use in determining new standards.

To accomplish this. EPA scientists would eventually set up air monitoring stations in about 30 communities throughout the country.

Health information about residents in those communities, including seven in Southern California, would be collected using questionnaires, lung function tests and personal diaries kept, by persons with heart and lung disease.

Data on levels of air pollutants would be correlated with health information in an effort to find cause and effect relationships.

What began as a relatively modest program with a budget of about $500,000 a year eventually became one of EPA's top research priorities with annual funding of about $5 million, according to Dr. Carl M. Shy, a former EPA scientist who helped organize CHESS.

"One of our big pushes in the CHESS program came when Jack Finklea got into the agency. He became head of the laboratory here (in North Carolina). He was an exceptionally good advocate and promoter of the CHESS program and was largely responsible for accelerating the development of it," said Shy, who left EPA in 1973 to direct an environmental studies program at the University of North Carolina.

Finklea's capacity for working long hours amazed those who worked for him at Research Triangle Park where EPA has established its largest laboratory facility.

"He could work harder than any of us," said one scientist. "If he had an objective, we were never sure what that was, but he was going to accomplish it. That was the only thing consistent about him.

"When he first came here the program had been floundering a lot more. He immediately gave us some projects to sink our teeth into and immediately that led to some publications."

Then came what EPA scientists in North Carolina call "the summer of '72."

CHESS had been under way for about two years. There had been a rash of technical problems—the kind painfully familiar to most who have conducted such studies:

Air monitoring equipment had occasionally malfunctioned, resulting in the loss of some data;

A spirometer used to measure the lung function of thousands of school children had proven unreliable and had to be replaced with another instrument;

There were problems in keeping up with the massive flow of data that was coming into Research Triangle Park.

And while researchers in North Carolina were grappling with their problems, EPA headquarters in Washington had problems of its own.

Kennecott Copper Corp. in late 1971 had sued the agency in the first legal challenge of an air quality standard set by EPA under the Clean Air Act Amendments of 1970.

After hearing the corporation's arguments challenging the agency's standard for sulfur dioxide, a U.S. Court of Appeals judge on Feb. 18, 1972, ordered the EPA administrator to supply information to "enlighten the court" on the basis for the standard.

Standards come in pairs—primary standards, those to protect the public health with a margin of safety, and secondary standards, those to prevent damage to the public welfare such as injury to plant life.

Although Kennecott had challenged only the secondary sulfur dioxide standard, EPA decided to update the information in support of both standards, according to Finklea.

Among the areas chosen for study in the CHESS program was Utah's Salt Lake Basin. A major source of pollution in the area was a Kennecott smelter near Salt Lake City, and the smelter was the springboard for the company's concern over EPA's sulfur dioxide standard.

"At that time, we were told, 'You guys have got to go out and do something with no increase in budget and you've got to begin in six weeks,'" Finklea recalls.

Until the emergency that grew out of the Kennecott court case, EPA scientists had not viewed the portions of their studies dealing with sulfur oxides as having any greater priority than CHESS studies of other pollutants.

What ensued in the spring and summer of 1972 would have lasting impact on a young bureaucracy tasked with safeguarding the environment and on the people who were caught up in those events.

For instance, it would raise questions on whether an agency pressed in court to justify its regulatory actions could, at the same time conduct objective scientific research in support of those actions.

And it would leave lasting scars on the lives of scientists—those whose marriages were broken, whose careers were threatened. Some, they say, became psychotic, and some still sweat at the memory of turning out about 20 complex scientific papers in a matter of weeks.

"In the course of June, July and August of 1972, I'd estimate that Finklea probably worked on these studies an average of 16 hours a day," recalled one scientist.

"We were here more than one weekend, Saturdays and Sundays. Well, this had only occurred on isolated occasions before. Tempers got going. Dr. Finklea kept saying this had to get out for the good of the agency."

Another said, "We probably averaged working 100 hours a week, at least that long. He (Finklea) probably put in more time than I did.

"He would call me at eight o'clock on a Sunday morning and ask me where I was."

Against this backdrop, issues arose which scientists feel—some still with the agency and some who since have left—feel threatened to ruin their professional reputations.

Papers written by staff scientists were extensively rewritten in Finklea's office.

"The paper as it came out in (publication) did not resemble the first draft that we wrote, so whether or not you want to call it a rewrite or just a whole new paper . . . The papers were not recognizable from the point which we had originally written them," said one scientist

There were cases in which Finklea went beyond revision of the drafts and ordered a new set of statistical analyses in an effort to establish a connection between sulfur pollution and health.

Health indicators such as chronic respiratory disease and asthma attacks were plotted graphically in relationship to pollution levels.

A statistical technique called multiple regression would then be performed with computers to show if there were significant relationships between pollution levels and health.

Statisticians involved in these analyses say that often Finklea would select for publication only the results that supported the connection between pollution and adverse health.

A scientist recalled a study of persons with such diseases as asthma.

"In one particular study there were 248 regressions run and those cases which showed the desired adverse effects (on health) were selected and placed in the paper," he said.

"So it's not really the things that are in the papers. It's the things that are not in the papers," said a statistician. "He would come back and say let's do this and this and this and he would take what he wanted from it."

Asked if scientists protested, he said, "probably not strongly enough, but I got to the point where I said I'm not trying to interpret this stuff any more. I'm just going to do what you tell me."

Another statistical issue arose over the publication of what are called "hockey stick functions," so named because when they are plotted graphically the pattern resembles a hockey stick.

They are based on the theory that there is a pollution level below which a certain health effect is either nonexistnt or nearly imperceptible and above which the health response rises sharply.

Publication of these functions in scientific papers attracts the sharpest scrutiny because such evidence can be used in setting air quality standards. As one EPA research administrator put it, "The lawyers in the agency are always saying, 'Give us the number'."

An extensive effort was made to discover such relationships in the CHESS data.

In each case, statisticians worked out what they called "confidence intervals" or tests by which they could judge the strength of relationships between given health effects and pollution levels.

One scientist involved in doing these analyses said there was often no statistical justification for saying any relationship existed.

Asked if the truth as he saw it was misrepresented in the papers, he said:

"I do believe that between the discussions and the selection of the data sets it did not represent the truth as I saw it as a statistician. I believe I was not the only one that perceived it in that manner."

At one point, "I practically broke down in tears once and I don't think I was the only one," the statistician recalled in describing attempts to confront Finklea with the issue.

"Several of us sort of made an attempt to stand up to him, to disagree with him. Remember we were doing this at like eight o'clock at night since being up at six in the morning and we were kind of tired.

"What it would amount to is that his personality would just dominate you and there was just no . . ." He paused.

"So that I've forgotten how he did it, but he had a way. To a couple of us he said, 'If you don't want to do this just get out and we'll get it done without you.' That kind of an effect.

"You'd already sunk maybe as many hours in those few weeks as you had in the rest of the year altogether and it represented everything the whole lab had been doing."

Finklea himself says he was unaware of such intense dissatisfaction among his scientists at EPA.

"Well, you know I'm not talking to the individuals involved and I'd have to accept your judgment and appraisal of their responses there. I think a number of the drafts were not really responsive to the problems you had to deal with," he said.

"I think that I'd almost have to have all the series of drafts and lay them out for you. I think that many of them would not have been helpful to anybody looking at air pollution about anything, and if sensibilities were offended I could only apologize.

"I think we did press very hard in the time frame available. Maybe steamrolling is the correct word."

Shortly after that hectic period, Finklea was promoted from his position as head of the health effects research program to director of the entire EPA research center at Research Triangle Park.

He said that following his promotion the drafts of documents produced while he was head of the CHESS program were sent out for review by more than 100 scientists outside the agency.

And he contends that the scientists who wrote the CHESS reports were free to incorporate criticisms that came to the agency prior to final publication of the documents.

But some of the outside reviewers have reservations.

"They (EPA) got a lot of comments. They got some praise and a lot of kicks. But my feeling is that they didn't really respond very much to the criticisms at that time and many of the things that had been criticized in the draft are still in (the published monograph)," said Dr. Ian Higgins of the University of Michigan. "This made some people unhappy."

The outside reviewers are not the only ones who are skeptical about Finklea's contention.

A former EPA official said, "Up to the moment he left that (research center in 1975, about a year after publication of the monograph) he pulled the strings in that health effects laboratory. To say that the problems with those studies were corrected free of his influence is absolute nonsense."

Up until the time he left EPA and since, Finklea has repeatedly cited the published CHESS studies on sulfur oxide pollution in congressional testimony and in research papers.

In a paper bearing his name as the lead author and released just prior to his departure from EPA, Finklea cited the CHESS studies as evidence that sulfur oxides could be responsible for "thousands of premature deaths, millions of days of illness among susceptible segments of the population, hundreds of thousands of needless acute lower respiratory illnesses in otherwise healthy children and hundreds of thousands of chronic respiratory disorders among adults."

Statements such as these have rankled many scientists, among them those still working with EPA at Research Triangle Park with masses of CHESS data yet to be reported.

"After things were (published) what happened is that Finklea moved up and people were sort of left defending what was done . . . We didn't think it was a scientific document most of us wanted to defend," said one EPA scientist.

Finklea carried his case to contacts in Congress.

"I think Jack was concerned that his scientific findings wouldn't get the attention he thought they deserved," said a source close to the Senate subcommittee on environmental pollution, who said he developed "a relatively unique relationship with Finklea."

The result was that, even before the sulfur oxides papers had been published, the CHESS studies became a major bit of ammunition in the national debate over control of sulfur dioxide emissions.

And when they were published, they became a controversy unto themselves.

"The very controversy around this caused so much scrutiny. Look, full—page ads in the New York Times and the Washington Post by the electrical power companies attacking the sulfate, sulfur dioxide, sulfur oxides control policy of the agency, which was largely predicated on the CHESS monograph," said Dr. John Knelson, who inherited the EPA program once under Finklea.

"I see this tremendous attack by industry. The Office of Management and Budget is responding to that by saying, gee, what did you guys do wrong, why is the CHESS program so controversial?

"This caused repeated review by outside experts and so forth. The review process itself brings the program to a halt, which is essentially what has happened."

The issue has placed EPA in an excruciating regulatory position.

The CHESS monograph cites sulfates as being the sulfur oxide most suspected of causing adverse health effects, yet EPA publicly says this finding needs further confirmation and, consequently, no air quality standard for sulfates can be set.

(Sulfates are a part of the sulfur oxides family and are produced in the atmosphere by a complex series of reactions from sulfur dioxide—the major sulfur pollutant emitted during fossil fuel combustion.)

They are, however, air quality standards for sulfur dioxide. The generators of electrical power say they can meet these standards by what they call intermittent control strategies—such things as tall power plant stacks and switching over to cleaner—burning fuels when sulfur dioxide exceeds allowed levels around the plants.

EPA argues this is not enough. The agency points to evidence that tall stacks loft sulfur dioxide over the area immediately surrounding power plants—that this pollutant is transported downwind and converts to sulfates as it goes.

And the agency contends that these sulfates exist for days in the atmosphere, traveling perhaps hundreds of miles from their source.

Thus, the great debate over sulfates and CHESS. Sulfate discharges over urban areas have already reached concentrations the published CHESS papers indicate are harmful to health.

So while the agency says it doesn't know enough to set a firm standard for sulfates, it has said there is sufficient information to believe existing sulfate levels pose "significant risk."

On these words, significant risk, hinges EPA's decision to call for control strategies that industry says will cost billions of dollars.

Federal law allows the agency to require emission controls on power plants converting to coal under certain conditions if they will produce pollutants for which there is at present no air quality standard—pollutants which pose a significant risk to health.

The agency has chosen to apply this "significant risk" provision only to sulfates "based on currently available health effects information," including CHESS.

At the same time, EPA has declared that it will take three to five years before research can provide the information needed to decide on an air quality standard for sulfates.

To date, EPA has published only the sulfur oxides information from CHESS studies conducted during 1970 and 1971.

Meanwhile, according to agency scientists, billions of bits of additional data have been collected—far more than served as a basis for the published monographs.

Those who have looked at preliminary reports based on the unpublished data say they contradict conclusions drawn in the published studies done during the summer of 1972.

Dr. Stanley M. Greenfield, former EPA assistant administrator and now president of a consulting firm, has been retained by the Electric Power Research Institute—an industry group.

As part of an effort to help build a research program for the institute, Greenfield is examining the CHESS studies.

"We have found definite contradictions between the published studies and those based on data from later years," he said.

He cited a study of elderly cardio-pulmonary patients in three communities in the New York City metropolitan area.

In the published studies, Greenfield said, average daily percentages of patients reporting shortness of breath were 6.7%, 25% and 30%.

A draft report of data from the following two years noted that the percentages for the three communities had dropped to 6.3%, 5% and 2%. However, Greenfield said, there was no corresponding drop in concentrations of sulfate in the three communities, which the published study linked to shortness of breath.

So the controversy over CHESS rages on even after collection of data under the program has been halted by EPA.

The man who is currently overseeing analysis of the remaining mound of data explained what it has all meant to him and to his research program.

"First of all let me say I believe the weight of evidence does indicate that, if there was not conscious overinterpretation, at least there was some selective inclusion of conclusions in (the published CHESS) report.

"What that has meant to me is that I've had one hell of a time convincing the country, if you will, that this kind of a program can be conducted to the benefit of everybody, including industry.

"It has made my job very difficult. It's made me discouraged to the point of despairing that I'll ever be successful in continuing the kind of studies that are indispensable to establishing a reasonable control strategy for the country."

[From the Los Angeles Times, Mar. 2, 1976]

Billion-Dollar Pollution Decisions Rest on Slim Data, Official Says

(By W. B. Rood)

"We are making multibillion dollar decisions about controlling air pollution on a 25-cent data base."

That statement comes not from a disgruntled industrialist but from Dr. John Knelson, the man who heads the laboratory set up by the Environmental Protection Agency to determine the links between air pollution and public health.

And laboratories are where the action is in air pollution—or at least where people like Knelson think it should be—at a time when the issue has evolved from one that drew thousands of marchers into the streets to one debated in the halls of science.

To be sure, the financial stakes are still high enough, the exchange between industry and the environmentalists still hot enough, that politicians still feel drawn to the issue.

The scientists have become the darlings of the day—wooed by industry whose executives are realizing that first banging hasn't worked, and by government officials whose policies are being subjected to increasingly sophisticated scrutiny.

Even the environmental groups have their share of Ph.Ds.

In the middle are the government scientists—doing research of their own and evaluating that of others to find a sound basis for some of the most costly regulatory decisions the country has ever made.

"You can decide that an energy policy predicated on public health, or an air-pollution control strategy that costs money and is predicated on public health is justifiable, and be wrong, be wrong in the direction of overcontrolling or controlling the wrong thing," said Knelson.

"That is why you don't wager billions of dollars in a time of financial difficulty like we're in now on almost no information.

"We are overcontrolling. That's a possibility. In the absence of information, legitimately, environmentally concerned people have a tendency to err in the direction of safety, which is right. The prudent man hedges his bet and says, "If it could be bad for me, I better watch out and control.' "

But even prudent people are scratching for rent money these days, and air-pollution scientists are under increasing pressure to come up with more exact information.

It's gotten to be almost an annual event for Congress to ask the National Academy of Sciences for a report examining the scientific basis for national air quality standards.

And the academy's replies, year after year, vary on the theme that there are great gaps in our knowledge about the effects of air pollution on health, but based on the incomplete information the standards should be left alone.

The problem, according, to those controlling air pollution, is that the law doesn't allow for ignorance. The Clean Air Act says standards should be set to protect the most sensitive segments of the population with a margin of safety.

Even some scientists who help prepare the national academy's replies to Congress are having their doubts about the legal foundations for air-pollution control.

"I think that the problem with the legislation on these matters is that it says the standards ought to be set up to protect everybody. That's a physical impossibility," said Dr. Benjamin G. Ferris, a Harvard scientist.

"I think that's a lot of window dressing to say we're thinking of the smallest sparrow, which you probably don't do. Because if you're going to adhere to that you ought to set the (pollution) levels at zero. You'll always find a sensitive bloke who will flip out on you."

The problem, according to the scientists, is that we don't have the scientific basis for clearly defining the risks and the benefits.

The prevailing sentiment among many air-pollution researchers interviewed by The Times is not that we should begin tampering with existing standards.

Rather, they say, a nation demanding adequate controls on air pollution should give its scientists the resources to determine a rational basis for those controls—something besides what EPA's Knelson calls the 25-cent data base.

When EPA's Office of Research and Development was formed along with the agency more than five years ago, agency officials expected it to contain 6,000 persons by 1975.

Most recent figures show that there are 1,999 persons in the office, and Dr. Wilson Talley, assistant EPA administrator for research and development, has been told that he must cut that number by 250 before the close of the fiscal year.

* * * * *

One is the effect of a decision to cut federal funding for the training of research physicians.

Five years ago, EPA's health effects research program included 25 physicians. Today there are none.

EPA also has trouble holding onto its physician-researchers.

Dr. Carl M. Shy, a physician who resigned from the health effects program, described the problem this way.

"You get fed up with the fact that you set up a research program with a set of objectives and find yourself constantly being torn away from it to other issues," said Shy.

"Within the federal government, the reward is not so much for great scientific work as for good administration."

Shy said he was a casualty of that system.

"I think I looked down the road and said I've been here six years. Do I want another six years of this? What are my alternatives? I looked at the alternatives and came to the university where there isn't the kind of tearing apart you get in the agency."

The agency's answer to its manpower problems has been money.

"We get plenty of money but no new positions," explained one agency official.

To a large extent, the agency's Office of Research and Development spends much of its effort finding others who can use the money.

"The research has tripled since 1960 and there are fewer people doing research. It's doubled in the last two or three years, and there are fewer people in the Office of Research and Development to do it," said Talley.

"We've gotten ourselves into a mode where, out of a quarter of a billion dollars, we only spend about $70 million in house for our own people, and all the rest is transferred to other governmental agencies, to universities, to nonprofit organizations."

Agency scientists complain that farming out research to contractors hasn't worked

"Legally, under federal regulations for administering contracts, you cannot tell a contractor's employes what to do. This severely inhibits our capabilities for doing high quality work," said one air pollution researcher.

While the agency is grappling with these administrative headaches, outsiders are beginning to ask whether EPA should even be in the research business and, if so, to what extent.

For instance, there is a growing feeling that for a regulatory agency to be doing its own research is a conflict of interest.

The conflict lies betwen the regulators, who run the agency, and the scientists who work for them.

"My feeling is that a regulatory agency, especially a young one like EPA, is anxious to justify its existence by regulating," Shy said.

"The agency wants to regulate, let's say, on less than complete evidence, because the people who are doing the regulating are not scientists. They're lawyers and engineers, and they don't understand the complexities of these kinds of studies—the fact that a study doesn't give black and white results."

The very nature of EPA's mission, some say, creates pressure for agency scientists to stretch their results in proving the connection between human health and pollution.

Such charges have prompted the agency to form panels of outside scientists to review EPA research.

One of these scientists, Dr. Ian Higgins of the University of Michigan, discussed the problem as he saw it illustrated in EPA research.

"I think (EPA scientists) were determined to get things out somehow and maybe looked upon their mission as primarily to reduce air pollution and obviously under those terms one goes into the game with a certain inherent bias," he said.

"If I looked upon my task in life as reducing air pollution, I would certainly concentrate on those cases where pollution seemed to be doing harm.

"I don't see how you can expect otherwise and I think many people have felt it was a mistake for the regulatory agency to be concerned with the collection of data which would provide the scientific background for regulating the air pollution."

Issues such as there are under study by a National Academy of Sciences task force. The study was initiated in 1974 with a $5 million congressional appropriation and is scheduled for publication in June, 1977.

Among other things, an academy spokesman said, the study will explore whether an agency such as EPA would "have the courage to initiate an experiment that would invalidate its standards."

There are stirrings in Congress as well. Several committees have been asking questions about the conflict between the agency's regulatory and research arms.

"We're concerned," said one congressional source, "because the research hasn't been adequate to date. Since they haven't been doing the job that everyone, themselves included, thinks should be getting done, we have to ask why."

[From the Los Angeles Times, Mar. 8, 1976]

MUDDYING THE POLLUTION PICTURE

Times staff writer W. B. Rood has reported strong and disturbing evidence that a senior scientist formerly with the Environmental Protection Agency systematically distorted information that was intended to be used in support of an antipollution program that could cost billions of dollars.

As a result, questions have been raised about the scientific credibility of the EPA, and about the value of one of its major enforcement programs.

At issue is the plan requiring some of the nation's electric utilities to shift from oil- to coal-burning power plants. The United States has coal in abundance. The problem is that coal, when burned, emits sulfur oxides, and sulfur pollution at high levels is a threat to human health. But at what levels exactly? EPA has sponsored research in an effort to find out.

Rood's interviews with scientists both in and out of government found that the results of this research were distorted—the EPA says "overinterpreted"—by Dr. John Finklea, who is no longer with the agency. Reviews by other government agencies strongly questioned Finklea's conclusions. So did the utility industry.

The dispute touches on the move by the EPA to require some utilities to install expensive sulfur-trapping devices, called scrubbers, in their coal-fired power plants. Ultimately, scrubber equipment could cost the utilities, which means their customers, $11 billion.

The EPA notes that the law requiring it to enforce standards for limiting emissions of sulfur oxides dates from 1970, before the disputed research on the health effects of sulfur was begun. That is true; the original sulfur-oxides standard was not influenced by the distorted study.

But the EPA has on occasion cited the suspect conclusions of the study in support of proposed control strategies for certain power plants that are to convert to coal. In these instances, the EPA has not rested its case solely on the disputed study findings.

All this raises some important questions about how the EPA works.

The EPA combines both regulatory and research functions. That dual responsibility could in some cases work to create pressures within the agency from the regulators on the scientific staff to provide quick study results, to serve as the basis for policy. The disputed study on sulfates, for example, was prepared under exhausting pressure for quick interim answers to questions of great complexity.

The decisions made by the EPA on strategies to combat pollution ultimately involve costs to the public running into the tens of billions of dollars. The scientific information on which those decisions are made must be as complete, objective and credible as possible. Neither the EPA nor the nation can tolerate anything less.

The research arm of the EPA presently is understaffed and inadequately financed, with the result predicted by an agency official of "sloppy work and slipped deadlines." Given the economic impact of the EPA's regulatory activities, given the EPA's need for the best possible information to help protect public health, that is unacceptable.

Adequate financing for the EPA's research and development activities is a must. At the same time, more environmental research might usefully be turned over to other scientific study groups, with an assurance that long-term funding would be provided for those projects where it is necessary. The purpose of such a shift would be to seek scientific information under conditions that would not be influenced by changing budgetary priorities or by pressures from the regulators within the EPA.

The distortion of data in the sulfate study has shown up weaknesses not in what the EPA is supposed to do but in how, in at least this one case, it went about doing it. The imperative now is to do what must be done to see that this mistake and the internal procedures that gave rise to it are corrected.

[From the Los Angeles Times, Mar. 18, 1976]

PROBE OF EPA REPORT URGED—SULFUR STUDY FINDINGS REPORTEDLY DISTORTED

WASHINGTON.—Three governmental agencies were asked Wednesday to investigate charges in a Feb. 29 Times article that an Environmental Protection Agency scientist systematically distorted reports from a major EPA study into the health effects of pollution from sulfur-bearing fuels.

Rep. Barry M. Goldwater, Jr. (R.-Calif.), asked Congress' General Accounting Office, the President's Office of Management and Budget and the EPA to conduct "full and exhaustive" investigations of the allegations.

The Times article, based on extensive interviews and examination of documents, reported that John F. Finklea, an EPA official who has since left the agency, distorted findings from EPA's massive Community Health and Environmental Surveillance System in an effort to muster evidence that sulfur pollution had an adverse effect on human health.

Relying heavily on this doctored evidence, the Times article said, EPA has called for controls on sulfur pollution that would cost power companies—and ultimately American consumers—bililons of dollars.

Moreover, the article said, an internal EPA inquiry into complaints about the sulfur findings uncovered evidence of Finklea's distortions, but the report of the investigation failed to reflect that evidence.

There is little dispute that sulfur emissions at some level of intensity are harmful to human health. Critics of the EPA findings have contended, however, that there is no need to control this form of pollution as tightly as those findings would imply.

Announcing in a brief speech on the House floor that he was seeking the investigations, Goldwater said his personal inquiries into the charges "have to date served to increase my feeling that there is a clear, factual basis for the allegations made in the Times article." Goldwater did not describe the extent of his personal inquiry.

The Woodland Hills Republican said he was particularly concerned about allegations that "the basis of the Finklea report has been known for some time and covered up—deliberately."

An aide said that Goldwater also, has sent a letter to Rep. Harley M. Staggers (D.-W. Va.), chairman of the House Commerce Committee, calling the charegs to his attention. That committee is completing work on amendments to the Clean Air Act that would impose new standards limiting emission of various pollutants including sulfur.

[From the Salt Lake Tribune, Mar. 3, 1976]

Effort To Prove Danger of Sulfur—Distortion in EPA Report Spurs Controversy

(By W. B. Roon)

Reports from a major Environmental Protection Agency research program were systematically distorted by a former agency scientist in an effort to prove that pollution from sulfur-bearing fuels had an adverse effect on human health.

This distortion, disclosed to The Los Angeles Times by both government and nongovernment scientists, has resulted in a mounting controversy over the need to spend billions in controlling sulfur pollution from electric power plants and raised questions about the credibility of EPA research.

While scientists are generally agreed that sulfur pollution at higher levels poses a health hazard, criticisms of the distorted EPA research has raised serious questions over how low the harmful levels really are.

The EPA reports were prepared as part of the agency's Community Health and Environmental Surveillance System (CHESS) and published in 1974.

Extensive interviews with scientists and others have shown that:

DELETED QUALIFIERS

Dr. John F. Finklea rewrote the work of agency scientists, often deleting what the researchers felt were important qualifiers on experimental results:

Finklea deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects:

Finklea screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution; and

Finklea overrode agency scientists' objections to publishing estimates of the health impact of pollution which were either statistically dubious or unsupportable.

The consequences of these actions have far outstripped technical debate over one set of EPA studies:

RELIED HEAVILY ON STUDIES

Relying heavily on the disputed CHESS studies, EPA has called for controls on sulfur pollution that would cost power companies and ultimately American consumers billions of dollars.

Scientists were quickly joined in the fray by spokesmen for the electrical utilities, who were anxious to kill proposals for installing an estimated $11 billion in equipment for controlling sulfur oxide emissions from power plants.

Encouraged by the Nixon administration, the utilities were turning to coal in an effort to reduce their dependency on foreign oil sources.

Citing the CHESS studies as a basis for its action, EPA called for installation of costly devices termed scrubbers on 30 percent of the utility industry's projected coal-fired capacity by 1980.

FOUGHT AS NEVER BEFORE

And the industry fought back as it never had before.

The Federal Energy Administration and the Federal Power Commission also joined in.

FEA hired its own consultants to critique the CHESS studies. The $38,000 FEA consultant study concluded that "the assumption that the health effects of sulfur-bearing air pollutants are largely due to the formulation of sulfates is theoretical."

Just before release of the FEA-sponsored report, the Federal Power Commission staff charged the EPA's air quality goals could result in critical power shortages.

Faced with this barrage, EPA called for an internal review of the program. The task was assigned to the agency's Science Advisory Board, a panel of outside scientists reporting directly to the agency administrator.

APPOINTED COMMITTEE

The board appointed an ad hoc committee headed by Dr. James L. Whittenberger, chairman of Harvard's Kresge Center for Environmental Health, to conduct the CHESS review.

In what has become known as the Whittenberger report, the committee acknowledged that charges that "EPA scientists were 'over-interpreting their data', that their conclusions were not supported by their data led to problems of credibility for the agency."

Although members of the committee now say they were told by EPA scientists that Dr. Finklea had distorted results of the study, the Whittenberger report did not reflect that finding.

Citing the CHESS evidence, the agency says many of the nation's powerplants will not be able to switch to coal without heavy expenditures for pollution controls—costs industry spokesmen say undermine their efforts to shed dependence on foreign oil sources.

The agency's effort to defend the published CHESS studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

Evidence of bias in the CHESS studies has led to credibility problems for the agency's research arm and charges that EPA should not be entrusted with research in support of air pollution regulations.

RESIGNED POSITION

The man whom numerous scientists within and without EPA blame for causing these problems resigned his post with the agency last year to become director of the National Institute for Occupational Safety and Health.

In answer to the charges against him, Finklea said in an interview that if air pollution researchers make mistakes. the mistakes should be in the direction of overestimating the health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," he said.

"But if we make a mistake it should be on that side."

Controversy over conclusions drawn in the EPA studies preceded their formal publication in May, 1974, in a monograph entitled "Health Consequences of Sulfur Oxides: A Report from CHESS, 1970–1971."

GIVEN TO SCIENTISTS

Written during the summer of 1972, the studies were circulated in draft form to scientists all over the world.

In a paper prepared for delivery at an October, 1973 National Academy of Sciences conference, two scientists—Dr. Ian T. T. Higgins of the University of Michigan and Dr. Benjamin G. Ferris, Jr. of Harvard—wrote:

"It is particularly disquieting . . . that there has been a rather marked tendency to overinterpret the (CHESS) data and in particular to select findings which point to an effect of pollution on health and ignore those which do not."

"There was considerable feeling at various levels (in EPA) that indeed this was a correct observation, that indeed there was something of this nature happening," said Dr. George B. Hutchison, a Harvard scientist who served on the committee.

TO WHAT EXTENT?

"I don't remember to what extent our report reflects this. Some of the earlier drafts reflect this more than the final report did. That's probably true. How we came to watering it down I don't really know."

Hutchinson told The Los Angeles Times, "Yes, the finger was pointed very much at Dr. Finklea. This was rather clearly what the statisticians at Research Triangle Park (an EPA research facility in North Carolina) told us, that he was the bete noire of this difficulty and we in fact never had any evidence to the contrary.

"I guess the best guess is that he as an individual was more responsible than anyone else we know of."

The CHESS program was born of the best scientific intentions ever before EPA was formed about five years ago.

Responding to calls for action from environmentalists, Congress was on the verge of enacting the "Clean Air Act Amendments of 1970," the first legislation to put teeth in the nation's effort to clean up its air.

Air quality standards were to be set—to protect the health of the most sensitive segments of our population—with a margin of safety.

The CHESS program had three main objectives: to document the benefits of air pollution cleanup, to evaluate whether air quality standards set by EPA were adequate and to provide information for use in determining new standards.

To accomplish this, EPA scientists would eventually set up air monitoring stations in about 30 communities throughout the country.

COLLECT LARORATORIES

Health information about residents in those communities would be collected using questionnaires, lung function tests and personal diaries kept by persons with heart and lung disease.

Data on levels of air pollutants would be correlated with health information in an effort to find cause-and-effect relationships.

What began as a relatively modest program with a budget of about $500,000 a year eventually became one of EPA's top research priorities with annual funding of about $5 million, according to Dr. Carl M. Shy, a former EPA scientist who helped organize CHESS.

Then came what EPA scientists in North Carolina call "the summer of '72."

CHESS had been under way for about two years. There had been a rash of technical problems—the kind painfully familiar to most who have conducted such studies:

Air monitoring equipment had occasionally malfunctioned, resulting in the loss of some data:

A spirometer used to measure the lung function of thousands of school children had proven unreliable and had to be replaced with another instrument;

PROBLEM IN KEEPING UP

There were problems in keeping up with the massive flow of data that was coming into Research Triangle Park.

And while researchers in North Carolina were grappling with their problems. EPA headquarters in Washington had problems of its own.

Kennecott Copper Corp. in late 1971 had sued the agency in the first legal challenge of an air quality standard set by EPA under the Clean Air Act Amendments of 1970.

After hearing the corporation's arguments challenging the agency's standard for sulfur dioxide, a U.S. Court of Appeals judge on Feb. 18, 1972, ordered the EPA administrator to supply information to "enlighten the court" on the basis for the standard.

Standards come in pairs—primary standards, those to protect the public health with a margin of safety, and secondary standards, those to prevent damage to the public welfare such as injury to plant life.

CHALLENGE STANDARD

Although Kennecott had challenged only the secondary sulfur dioxide standard, EPA decided to update the information in support of both standards, according to Finklea.

Among the areas chosen for study in the CHESS program was Utah's Salt Lake Basin. A major source of pollution in the area was a Kennecott smelter near Salt Lake City, and the smelter was the springboard for the company's concern over EPA's sulfur dioxide standard.

"At that time, we were told, 'You guys have got to go out and do something with no increase in budget and you've got to begin in six weeks," Finklea recalls.

Until the emergency that grew out of the Kennecott court case, EPA scientists had not viewed the portions of their studies dealing with sulfur oxides as having any greater priority than CHESS studies of other pollutants.

LASTING IMPACT

What ensued in the spring and summer of 1972 would have lasting impact on a young bureaucracy tasked with safeguarding the environment and on the people who were caught up in those events.

For instance, it would raise questions on whether an agency pressed in court to justify its regulatory actions could, at the same time conduct objective scientific research in support of these actions.

And it would leave lasting scars on the lives of scientists—those whose marriages were broken, whose careers were ruined. Some, they say, became psychotic, and some still sweat at the memory of turning out about 20 complex scientific papers in a matter of weeks.

"In the course of June, July and August of 1972, I'd estimate that Finklea probably worked on these studies an average of 10 hours a day," recalled one scientist.

TEMPERS GET GOING

"We were here more than one weekend, Saturdays and Sundays. Well, this had only occurred on isolated occasions before. Tempers got going. Dr. Finklea kept saying this had to get out for the good of the agency."

Against this backdrop, issues arose which scientists—some still with the agency and some who since have left—feel threatened to ruin their professional reputations.

Papers written by staff scientists were extensively rewritten in Finklea's office.

"The paper, as it came out in publication, did not resemble the first draft that we wrote, so whether or not you want to call it a rewrite or just a whole newspaper . . . The papers were not recognizable from the point which we had originally written them," said one scientist.

There were cases in which Finklea went beyond revision of the drafts and ordered a new set of statistical analyses in an effort to establish a connection between sulfur pollution and health.

Shortly after that hectic period, Finklea was promoted from his position as head of the health effects research program to director of the entire EPA research center at Research Triangle Park.

He said that following his promotion the drafts of documents produced while he was head of the CHESS program were sent out for review by more than 100 scientists outside the agency.

And he contends that the scientists who wrote the CHESS reports were free to incorporate criticisms that came to the agency prior to final publication of the documents.

But some of the outside reviewers have reservations.

"They (EPA) got a lot of comments. They got some praise and a lot of kicks. But my feeling is that they didn't really respond very much to the criticisms of that time and many of the things that had been criticized in the draft are still in (the published monograph)," said D. R. Higgins of the University of Michigan. "This made some people unhappy."

NOT ONLY SKEPTICS

The outside reviewers are not the only ones who are skeptical about Finklea's contention.

A former EPA official said, "Up to the moment he left that (research center in 1975, about a year after publication of the monograph) he pulled the strings in that health effects laboratory. To say that the problems with those studies were corrected free of his influence is absolute nonsense."

Up until the time he left EPA and since. Finklea has repeatedly cited the published CHESS studies on sulfur oxide pollution in congressional testimony and in research papers.

In a paper bearing his name as the lead author and released just prior to his departure from FRA, Finklea cited the CHESS studies as evidence that sulfur oxides could be responsible for "thousands of premature deaths, millions of days of illness among susceptible segments of the population, hundreds of thousands of needless acute lower respiratory illnesses in otherwise healthy children and hundreds of thousands of chronic respiratory disorders among adults.

[From the Christian Science Monitor, Mar. 9, 1976]

Clean Air and Credibility

The Environmental Protection Agency (EPA) is seeking to preserve a credibility that is vital to its pronouncements on everything from gasoline mileage to clean-air standards. It recognizes shortcomings in a 1974 report that is now being charged with a distorted presentation of findings on the hazards of sulfates in the atmosphere. To clarify the situation, the EPA obtained an independent study (which confirmed there were shortcomings but also sound conclusions in the report). And the EPA says it will not set forth industrial emission standards on sulfates until much more study is done over several years.

All this seems on the right track. It is important that the EPA follow through with credible research. Environmentalists need firm and authoritative government backing to continue the fight for necessary environmental safeguards and to resist efforts at rolling them back under commercial pressure.

At the moment some environmentalists feel let down because they used the 1974 report as ammunition against state moves to permit increased sulfur levels in the atmosphere and thus allow the burning of high-sulfur fuel. That report was from the EPA's Community Health and Environmental Surveillance System (CHESS). And, as reported by the Los Angeles Times News Service, one former CHESS official was seen as responsible for omissions and emphases that, in effect, made sulfate hazards seem worse than the data necessarily warranted.

Some environmental health specialists call it "overinterpretation" rather than distortion. They hope for no lowering of emission standards while the whole complex question of cause and effect is clarified. There are many pollutants in the air besides sulfates, and pinning down exactly which causes what under various circumstances is difficult. One subject considered inadequately addressed in the CHESS study, for example, was the role of smoking in combination with atmospheric effects.

The EPA notes that its own federal standards for sulfur dioxide (from which sulfates can be formed) were established in 1970, well before the CHESS study. The present controversy over the latter indicates the importance of having a variety of ongoing public and private studies to provide cross checks on each other—and on the individual research decisions that can undercut credibility.

[From the Arizona Republic, Mar. 5, 1976]

EPA Horror Story

The story of Dr. John F. Finklea, a former research official in the Environmental Protection Agency, reads like the script of a Grade-B movie about a mad scientist. And it's no less chilling.

It casts doubt on all the research of the EPA and on all the EPA regulations based on this research. Who knows how many other scientists like Dr. Finklea there are in the agency?

Meanwhile, the monster that Dr. Finklea created is going to cost the nation $11 billion in higher prices for electricity alone. No one can begin to estimate what the full cost will be, not only in money but in jobs and broken lives, as well.

Dr. Frankenstein, make way for Dr. Finklea.

The Finklea story began in 1971, when Kennecott Copper Corp. went into federal court to challenge the standards for sulfur dioxide emissions set by the EPA. The court ordered EPA to justify the standards.

EPA couldn't. It had set the standards by guess and by God without a real study of how sulfur dioxide actually affects public health or plant life.

Dr. Finklea then was director of the agency's Community Health and Environmental Surveillance System. EPA ordered him to conduct the research as quickly as possible.

Dr. Finklea went to work like a man obsessed, driving his staff to complete about 20 complex scientific papers in six weeks. The strain on them resulted in broken marriages and nervous breakdowns. Some of the men became psychotic. According to The Los Angeles Times, which broke the story, "some still sweat at the memory."

The reports didn't satisfy Dr. Finklea. They didn't prove what he wanted to prove. He rewrote some; he deleted material that did not show a connection between sulfur pollution and health; he threw out statistics that weakened or contradicted the case against sulfur oxide; he wrote in estimates of the health impact of sulfur oxide that were either dubious or unsupportable.

This became the basis on which EPA was able to order coal-fired electric utility plants, among others, to install scrubbers at a cost of billions.

A year ago, a group of scientists at such prestigious universities as Harvard, Columbia and MIT joined in a report, which said that many EPA regulations are not only costly but unrealistic, as well, and that many will do more harm than good.

Until now, it has been taken for granted that EPA's mistakes—like the catalytic converter and ordering copper smelters to install equipment based on standards developed for cement plants—were honest mistakes.

This no longer can be assumed.

If there is one zealot like Dr. Finklea in the EPA, which, incidentally, has become the largest regulatory agency in the government, there can be a dozen.

These men are issuing regulations that already have cost industry and consumers tens of billions of dollars and that have shut down plants, making thousands jobless.

[From the St. Petersburg Times, Mar. 4, 1976]

DID DIRTY-AIR TRICKS BOOST YOUR POWER BILL?

(By Christopher Cubbison)

Suncoast residents, weary of soaring power bills, may have a government scientist named John F. Finklea to thank for needlessly boosting their electricity costs.

That is the gist of a Los Angeles Times story reporting that Finklea "systematically distorted" government research to prove that the effect of power plant pollution on human health is worse than it really is.

Finklea's reported distortion, disclosed to the Los Angeles Times by government and non-government scientists, has resulted in a mounting controversy over the need to spend billions in controlling pollution from sulfur-bearing fuels used by power plants.

By exaggerating the evils of sulfur emissions from plant smokestacks, the story says, Finklea may have led the U.S. Environmental Protection Agency (EPA) to adopt tougher emission limits than necessary, forcing utilities to purchase costly hardware to control the discharges.

The consumer, in the end, pays for everything the power companies buy.

While scientists generally are agreed that sulfur pollution at higher levels poses a health hazard, criticism of the distorted research has raised serious questions over what levels are really harmful.

But the question has been how much sulfur pollution people can tolerate and how to make power plants meet the limit. This is where Finklea comes in, his work apparently having distorted reality. Extensive interviews with scientists and others, the Los Angeles Times says, show that Finklea:

Rewrote the work of EPA scientists, often deleting what the researchers believed were important qualifiers on experimental results.

Deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects.

Screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution.

Overrode agency scientists' objections to publishing estimates of the health impact of pollution that statistically either were dubious or unsupportable.

On the Suncoast, given Finklea's actions, much of a projected annual expenditure of $45.5 million by Tampa Electric Co. (TECO) for more costly low-sulfur content fuels may be unnecessary.

Much of a $29.1 million capital cost by TECO for anti-sulfur hardware may have been pointless.

All told, TECO spokesman Rod Brooker says, the company spent eight cents of every revenue dollar last year on sulfur-emissions control—an outlay of $18.8-million. When TECO completes its conversion to low-sulfur fuels, perhaps in 1977, the eight-cent figure may jump to 20 cents per dollar.

Florida Power Corp., which burns oil instead of the coal that TECO predominantly uses, has spent only a fraction of TECO's costs to control sulfur emissions because oil is less polluting than coal and the company's generating plants were made cleaner burning at the time of construction.

But if Florida Power goes ahead with a 600-megawatt, coal-fired plant in the early 1980s, sulfur pollution controls on that plant alone could cost $60-million.

Also, company official William Johnson says, Florida Power expects steeply higher fuel bills in three to five years when pollution standards require it to burn oil with a uses.

In January 1974, the EPA estimated that the power industry nationally would have to spend about $5.4-billion by 1980 to install flue gas desulfurization systems, commonly called "scrubbers," to reduce sulfur emissions.

This cost could increase the power bill of the average consumer from 15 to 20 per cent, the agency said.

St. Petersburg-based Florida Power, meanwhile, is converting two generating units in Crystal River from oil- to coal-burning to reduce dependence on expensive foreign oil. One unit was built originally for coal and already has a sulfur-oxide control device.

But Florida Power could be forced to spend $5-million to $6-million to install a sulfur-control device on the second unit being converted to coal.

In the utility's oil-burning units, sulfur emissions have been kept to a minimum because the oil's sulfur content has been relatively low. Surprisingly, company spokesman Brock Lucas says, the company's current oil fuel costs about the same as the previous fuel, although it contains slightly less sulfur.

Chemicals also have been added to the oil to make it burn cleaner.

Florida Power, through 1974, had spent $84.5-million controlling pollution but most of that went to limit emissions of particulates or dust, Lucas says.

Over the years, scientists have concluded that sulfur oxides, mixing with moisture and oxygen, can yellow plant leaves, dissolve marble and eat away iron and steel.

More importantly, sulfur chemicals also can affect human breathing. At high levels, it can irritate the upper respiratory tract, and even at lower concentrations—when carried by dust—can do greater harm by injuring lung tissue.

Relying heavily on the disputed studies, the EPA has called for controls on sulfur pollution that would cost power companies and, ultimately, American consumers billions of dollars.

The Los Angeles Times reported that the agency's effort to defend the published studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

The man who numerous scientists within and without EPA blame for causing these problems resigned his agency post last year to become director of the National Institute for Occupational Safety and Health.

Responding to the charges, Finklea said in an interview that if air-pollution researchers make mistakes, the mistakes should be in the direction of overestimating the health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," he said. "But if we make a mistake it should be on that side."

[From the San Francisco Chronicle, Mar. 1, 1976]

SCIENTIST DISTORTED FACTS—'SCARE' REPORT ON SMOG

WASHINGTON.—Reports from a major Environmental Protection Agency research program were systematically distorted by a former agency scientist in an effort to prove that pollution from sulfur-bearing fuels—primarily coal—had an adverse effect on human health.

This distortion, disclosed to the Los Angeles Times by both government and non-government scientists, has resulted in a mounting controversy over the need to spend billions of dollars in controlling sulfur pollution from electric power plants and has raised questions about the credibility of EPA research.

While scientists generally agree that sulfur pollution at higher levels poses a health hazard, criticisms of the distorted EPA research has raised serious questions over what level sulfer pollution must reach to be harmful.

The EPA reports were prepared as part of the agency's Community Health and Environmental Surveillance System (CHESS) and published in 1974.

Extensive interviews with scientists and others have shown that:

John F. Finklea—former director of the National Environmental Research Center—rewrote the work of EPA scientists, often deleting what the researchers felt were important qualifiers on experimental results.

Finklea deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects.

Finklea screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution.

Finklea overrode agency scientists' objections to publishing estimates of the health impact of pollution that were either statistically dubious or unsupportable.

The consequences of these actions have far outstripped technical debate over the CHESS studies.

Relying heavily on the disputed CHESS studies, the EPA has called for controls on sulfur pollution that would cost power companies and ultimately American consumers billions of dollars.

Citing the CHESS evidence, the EPA has said many of the nation's power plants will not be able to switch to coal without heavy expenditures for pollution controls—costs industry spokesmen say undermine their efforts to shed dependence on foreign oil sources.

The agency's effort to defend the published CHESS studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

Evidence of bias in the CHESS studies has led to credibility problems for the agency's research arm and also has resulted in charges that the EPA should not be entrusted with research in support of air pollution regulations.

Finklea, whom numerous scientists blame for causing these problems, resigned his EPA post last year to become director of the National Institute for Occupational Safety and Health.

In answer to the charges against him. Finklea said in an interview that if air pollution researchers make mistakes, the mistakes should be in the direction of overestimating the dangerous health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," he said. "But if we make a mistake it should be on that side."

Controversy over conclusions drawn in the EPA studies preceded their formal publication in May, 1974, in a monograph entitled "Health Consequences of Sulfur Oxides: A Report from CHESS, 1970–71."

Written during the summer of 1972, the studies were circulated in draft form to scientists all over the world.

In a paper prepared for delivery at an October, 1973, National Academy of Sciences conference, two scientists—Ian T. T. Higgins of the University of Michigan and Benjamin G. Ferris Jr. of Harvard—wrote:

"It is particularly disqueting . . . that there has been a rather marked tendency to overinterpret the (CHESS) data and in particular to select findings which point to an effect of pollution on health and ignore those which do not."

Scientists were quickly joined in the fray by spokesmen for the electrical utilities, who were anxious to kill proposals for installing an estimated $11 billion in equipment for controlling sulfur oxide emissions from power plants.

[From the New York Post, Mar. 1, 1976]

SAY EPA SCIENTIST SLANTED POLLUTION DATA

(By W. B. Rood)

Reports from a major Environmental Protection Agency research program were systematically distorted by a former agency scientist in an effort to prove that pollution from sulfur-bearing fuels had an adverse effect on human health.

This distortion, disclosed to the Los Angeles Times by both government and nongovernment scientists, has resulted in a mounting controversy over the need to spend billions in controlling sulfur pollution from electric power plants and raised questions about the credibility of EPA research.

While scientists are generally agreed that sulfur pollution at higher levels poses a health hazard, criticism of the distorted EPA research has raised serious questions over how low the harmful levels really are.

The EPA reports were prepared as part of the agency's Community Health and Environmental Surveillance System (CHESS) and published in 1974.

Extensive interviews with scientists and others have shown that:

Dr. John F. Finklea rewrote the work of agency scientists, often deleting what the researchers felt were important qualifiers on experimental results;

Finklea deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects;

Finklea screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution;

Finklea overrode agency scientists' objections to publishing estimates of the health impact of pollution which were either statistically dubious or unsupportable.

The consequences of these actions includes the EPA call for controls on sulfur pollution that would cost power companies and ultimately American consumers billions of dollars.

Citing the CHESS evidence, the agency says many of the nation's power plants will not be able to switch to coal without heavy expenditures for pollution controls—costs industry spokesmen say undermine their efforts to shed dependence on foreign oil sources.

In addition, the agency's effort to defend the published CHESS studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

Also, evidence of bias in the CHESS studies has led to credibility problems for the agency's research arm and charges that EPA should not be entrusted with research in support of air pollution regulations.

The man whom numerous scientists within and without EPA blame for causing these problems resigned his post with the agency last year to become director of the National Institute for Occupational Safety and Health.

In answer to the charges against him, Finklea said in an interview that if air pollution researchers make mistakes, the mistakes should be in the direction of overestimating the health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," be said.

"But if we make a mistake it should be on that side."

Mr. GARN. Again, I emphasize, Mr. President, that there are, no doubt, answers to these articles, to these charges. But they are not frivolous. They were not made by stupid men whose sole goal in life is to dirty every cubic foot of air. They are serious charges, and deserve a serious response. The exchange will take time, and it again raises the question: What is the hurry? There is no reason on Earth to rush this bill through the Senate the week of April 5. The quality of our air will not be irreparably ruined if we wait another week or two. Let us deliberate, for once, instead of running after the will-of-the-wisp of public fashion. Let us not allow special interests and self-appointed guardians of the public trust to push it through before the people who will be affected have a chance to look it over. In my view it is unconscionable to report out a bill of this size, complexity and importance and vote on it in less than a week. This Senator would like it to be known that he will not permit that kind of action, if it is within his power to prevent it.

MARYLAND DAY

Mr. BEALL. Mr. President, today marks the 342d anniversary of the founding of Maryland. As one of the early English colonies in North America, Maryland has a long-rich history which is a source of pride and strength for its 4 million citizens.

The idea for establishing Maryland was the brainchild of George Calvert, the First Lord Baltimore, who was born in 1580. He graduated from Trinity College in 1597, and served in several minor posts in the British Government becoming a clerk in the Privy Council in 1608. The next year he became a Member of Parliament and was befriended by King James I who knighted Calvert in 1617. Had it not been for his conversion to Catholicism he might have risen to even higher positions in the government.

In 1620, Calvert bought land in North America but these early colonies in Newfoundland proved to be too cold and too difficult to successfully settle. Lord Baltimore sought a grant of land from the King in warmer lands. Virginia fought against the grant of any land to a Catholic but on June 20, 1632, the lands north of the Potomac, now known as Maryland, were given to Lord Baltimore's son, Cecilius, the Second Lord Baltimore. The new Lord Baltimore commissioned the ships *Ark* and *Dove* to make the voyage to the new lands and on March 25, 1634, the first Mass was celebrated in the colony, thus signaling the founding of Maryland.

Today Maryland is a thriving and beautiful State with a population of over 4 million people, 9,874 square miles of land and almost 2,500 square miles of water, of which 1,700 square miles is contained in the Chesapeake Bay. Maryland has a highly diversified economy with 400 of the 451 classifications of industry listed by the Department of Commerce located in the State. The port of Baltimore, which handles over $3 billion of imports and exports annually, is the closest east coast seaport to the Midwest farm belt as well as the industrial rich Ohio River Valley, and the largest industrial, manufacturing, and consuming market concentration in the world. The State's many industries include wholesale and retail trade, government and service trades, and impressive amounts of agriculture and commercial fishing. In short, Lord Baltimore's colony was and has remained a land of opportunity and growth.

Mr. President, I ask unanimous consent that an article by Andrew Todaro entitled "A £20 Trip to Freedom" which appeared in the spring 1971 edition of Maryland magazine be printed in the RECORD at the conclusion of my remarks. This article tells the story of the voyage of the *Ark* and *Dove* and the landing of the settlers on St. Clement's Island on the first Maryland Day.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Maryland magazine spring 1971]

A £20 TRIP TO FREEDOM

(By Andrew Todaro)

If passengers didn't drown or starve, there was always the threat of pirates. An English ship was a ripe plum waiting to be plucked by a French or Spanish privateer. Fearful Turkish corsairs also scoured the western coast of Europe, sometimes venturing as far north as the coasts of England.

Then, there were the discomforts of sea travel itself. Ship-decks were usually strewn with freight and overcrowded with passengers who could end up smelling like the bad guys in a deodorant commercial, that is, unless they braved a salty splashing under the head rails or bowsprit.

Bedding was a straw-filled tick, and salt-preserved meat, interspersed with biscuit and peas, the culinary mainstay. Lastly, most ships leaked, and the pumps had to be manned daily. As the Quaker, Thomas Chalkey, who sailed for Maryland on the *Josiah* later in the century described it: "(we) took solemn leave of one another, as never expecting to see each other in this world. It was a solemn time indeed. We prayed for one another. . . ."

The course plotted for the two ships was hardly direct, but one well in keeping with the risks: south to the Canary Islands, then west to pick up the trade winds. The trades would carry them across "The Long Reach," 3,000 miles of open sea stretching to the West Indies.

Governor Calvert instructed Master Richard Orchard, who commanded the Dove, to sail in close, but in the event of separation to rendezvous at St. Christopher (St. Kitts). Here they planned to take on additional provisions before the final push to the Virginia Capes.

And separate they did. Only a few days out to sea, the two ships were battling their first storm. Captain Lowe, the *Ark's* master, stayed as close to the smaller ship as he dared. Suddenly in the black sea-night, the *Dove's* distress signal was seen, two lanterns swinging wildly at her masthead. Then only darkness. Those aboard the *Ark* feared their pinnace and all hands had gone down.

But the adventurers had little time to spend on mourning. In less than a week, they were battling for their lives against a terrific sea squall. The crew rushed to take in sail. Too late! The mainsail ripped from top to bottom. Some canvas was lost overboard and only retrieved with much difficulty and danger. The *Ark* bobbed about the ocean like a cork. "It is as if all the witches and sprights of Maryland are consorting against us," penned Father Andrew White in his journal of the voyage.

But the *Ark* held her own. Had she been less a ship or Master Lowe less a seaman, a different history of Maryland would certainly have been written.

Each day, at noon, the *Ark's* navigator reckoned their latitude by means of quadrants. Longitude could only be estimated from the approximate distance covered and course steered, with adjustments for drift and heavy seas taking them off their course. Sometime around December 3, the navigator indicated that the *Ark* was off the coast of Spain.

Skirting the Straits of Gibralter, the advenventurers kept a sharp eye out for Turkish pirates. The first few days, the sea appeared deserted. Father White wrote later: ". . . it seems they were returned home to celebrate their Ramadan, a great feat which happeneth about that time."

Still a foreboding of pirates hung over the sea. About December 8, three large ships were spotted bearing in about nine miles off to the west. Lowe decided to run, straining every inch of sail to lengthen the distance between the *Ark* and the oncoming ships. Since the *Ark* was well armed, some of the gentlemen aboard urged Lowe to reverse his tactics and mount a surprise attack. The Captain refused, and continued to play a waiting game, a choice that proved the wiser. The ships soon altered course for the Canary Islands. In all probability, they were friendly merchants.

Thus far fortune had favored the *Ark*. She had survived storm and squall; she had encountered neither the dreaded Turk nor the halcyon calm. But tragedy was stalking the ship. It struck, as tragedies often do, at festival time: Christmas Day, 1633.

Governor Calvert ordered out Canary sack for all. After countless bowls of peas-porridge, salt pork and soggy sea biscuit, the strong Madeira-like wine must have been a delight. But some drank too freely. The following day 30 passengers were down with ship fever. Twelve died, among them Nicholas Ferfax, gentleman, and Mr. Barefoot, servant. The *Ark* was then less than ten days out of the Barbados, her first landfall.

Dawn of the New Year, 1634, broke over the Caribbean with schools of flying fish, "very dainty for meat," marking the *Ark's* southern course. In a few days, land would be raised for the first time in over a month.

Lying about 13° from the equator, the Barbados forms the last of the Antilles Isles. In the 17th century, this tiny English island served as granary for the Caribbean. It was peopled mainly by indentured servants and criminals shipped in to work the London-owned plantations.

On January 3, the future colonists reached the Barbados harbor. Once ashore, they discovered the islanders in arms. A large, desperate band of servants had plotted to kill their masters and seize the first ship to touch the shore. Had not one of the conspirators confessed, the revolt might well have succeeded and the *Ark* would have sailed into the conspirators' net.

But criminal activity did not die with the leaders of the aborted revolt. The Barbados Council was, as Father White put it, "determined to make us pay through the eyes." Wheat, the provisional mainstay, was offered at five times the going price. The cost of corn was doubled. Turkeys and smaller poultry sold equally as high.

Still the travelers had much to enjoy. After weeks of salty sea-meals, the tropical fruits were like ambrosia: oranges, limes, pomegranates, peaches, coconuts, papayas, and especially the pineapples.

Friday, January 17, brought a heart-warming surprise. The *Dove*, accompanied by the *Dragon*, the same merchantman that the *Ark* had raced off the southern coast of England, appeared in the Barbados harbor.

The *Dove's* master, Richard Orchard, had turned her back for England during the storm that had beseiged them the previous November. Seeking a haven at Falmouth in the Scilly Isles, the *Dove* encountered the *Dragon*, which had also been driven back. Weeks later the two ships had sailed together for the Indies. But in striking for the Barbados, Orchard had acted contrary to Governor Calvert's instructions to rendezvous at St. Christopher. Orchard's disobedience probably resulted from the Captain's desire to recover a debt on the island. In any event, Orchard disappeared ashore on the pretext of locating his debtor and delayed the departure of the two ships for a week.

On Thursday, January 23, the *Ark* and the *Dove* weighed anchor and sailed out of the Barbados. Their course was northwest to St. Christopher. This last island hope before making for Point Comfort near the James River would be made to replenish provisions, for a generous reception in Virginia was not certain.

The Virginia Council resented any intrusion into what it considered its own unexplored north country. From the start, the Council had done what it could to defeat the Calvert enterprise, forcing Cecil Calvert to remain in England to defend his charter rights. Before they departed, Calvert had cautioned his captains to steer clear of the cannons at Point Comfort.

The two ships docked at St. Christopher on January 28. In an age of expansion, when the great powers fought for territory like dogs over a bone, St. Christopher's political structure was novel: jointly governed by two old enemies, England and France. Although friction erupted periodically into armed clashes, the success of a pioneering colony was almost certainly doomed without the farmer and the craftsman.

Except for the gentlemen, most of the immigrants were probably indentured servants. But if a man could raise £20 (about $50), he could outfit himself for the trip. The price included a year's supply of food, clothing, bedding, arms, tools, household implements and luggage, plus ship passage, including meals, and freight.

If the sum seems small, it was not. In the 17th century, a poor Englishman might earn only £17 (42.50) for an entire year's work. Besides this, the buying power of a pound then must have exceeded modern prospects by 30 times, at least.

If unable to raise the money, the would-be colonist could indenture himself. The Maryland indentured did not have a bad lot. Fifty acres of good land, free and clear, and a year's supply of corn was his at the conclusion of four years' honest labor.

George Alsop, an indentured servant in Baltimore in 1666, wrote: ". . . the Servants here in Mary-Land of all Colonies, distant or remote Plantations, have the least cause to complain either from strictness of Servitude, want of Provisions, or need of Apparel. . . ."

But what of the motives that prompted the Maryland Fathers to uproot themselves from English soil in the first place? Initially, religion undoubtedly played a decisive role. George Calvert, the first Lord Baltimore, for whom the Maryland Charter was orignally drawn, had to resign as Secretary of State to James I when Calvert converted to Catholicism early in 1624. Then, with his untimely death in 1632, Calvert's eldest son, Cecil, still a young man of 26, inherited the Maryland Charter and the responsibility of organizing and setting the colonizing expedition in motion.

Thereafter, it was whispered by Cecil's enemies that he planned to smuggle nuns and soldiery into the service of Spain. The voyagers, in fact, had just left Gravesend when the authorities ordered them back and administered the so-called Oath of Supremacy to the Church of England to the entire complements of both ships. Some, like Father Andrew White, who could not take the oath in good conscience, joined the expedition at the Isle of Wight. The colonizers, then, were comprised of both Catholics and Protestants, and Cecil Calvert left written instructions a week before the *Ark* and the *Dove* sailed, that there be no disputes "concerning matters of Religion." He further specified: "And this to be observed at Land as well as at Sea." Baltimore's policy was the basis for the world's first declaration of religious freedom, at St. Mary's City, this is an age when Catholics were still drawn and quartered in London, and Protestants burned in Seville.

But the economic motives, especially the desire for land, acted as a stimulus for immigration. Wages had remained low during the first half of the 17th century, while rents on pastureland, an expense that affected the vast majority of English workingmen, had increased threefold. So the promise of land spelled financial security. Under the terms offered by Lord Baltimore, a colonizer could claim head rights—100 acres for himself, 100 acres for his wife, and 100 acres for each of his children under 16 years. A widow could sail under similar agreement, with a good chance of finding a husband in the bargain. Those wealthy enough to establish a manor on the 1,000-acre land divisions of the Maryland Province would get 1,000 acres for themselves and an additional 1,000 acres for every five servants outfitted and transported on the good ships, *Ark* and *Dove*.

A little over 100 feet long, the *Ark* carried a 40-man crew, not counting her 200 passengers. The *Dove* was a much smaller ship, about half the length of the *Ark*. Not really an ocean-goer, the *Dove* lagged behind during much of the voyage. Nonetheless, such small pinnaces were useful to early colonizers in exploring inland waters and carrying trade to established colonies. In case of attack, the *Ark* carried four long cannons, capable of lobbing ten-pound balls into an attacking vessel; the *Dove* was armed with two short cannons.

Hardly out to sea, the *Ark* proved her worth in a race with the *Dragon*, a 600-ton East India Company ship. Though one-half the *Dragon's* size and carrying one less topsail, the *Ark* took the lead for "an howers space with faire winde and weather and pleasant sound of trumpets."

But all was not fair wind and weather. Some very real dangers lurked in 17th-century seas. Storms were an ever-present menace. And if a vessel survived that turbulence, it might still be blown off course and its passengers, spared from drowning, would stand to suffer an even worse fate—starvation.

St. Christopher was enjoying one of its peaceful interludes when the *Ark* and the *Dove* arrived.

So it was that the Maryland adventurers were doubly received: first, by the English Governor, and then by the President of the French colony.

The voyagers marvelled at St. Christopher's natural curiosities, including a volcano at the island's northern end and a hill of brimstone near Governor Wagner's house.

On the tenth day, February 6, the *Ark* and her pinnace left St. Christopher. Sailing north through the Anegada Passage, the voyagers cleared the Leeward Islands and pushed toward Virginia. Three weeks later, on February 27, the two ships arrived at Point Comfort. In spite of Lord Baltimore's warning, Master Lowe led the ships under the guns guarding the entrance to the James River. There was no incident.

John Harvey, the Virginia Governor, received his new neighbors kindly, promising them ample supplies and 300 fruit-grafted trees. He had, after all, been a friend of Leonard Calvert's father, George, the first Lord Baltimore. Besides, the Maryland Commissioners bore a letter from the King's Treasurer, who owed the Governor a considerable sum.

But Harvey's congeniality was not shared by the rest of the Virginia Council, especially one, William Claiborne. He had received a trading license from King Charles I and had established himself on Kent Island. Now, Claiborne's lucrative beaver-skin trade would fall under the sweeping proprietorship of Cecil Calvert.

Seeking to frighten the colonizers, the Virginia trader told them that six Spanish ships were already sailing to reduce the Maryland Province. He related further that the Indians, angered that the Marylanders had brought the Spaniards down upon them, were already up in arms.

Undaunted, the expedition on March 3 pushed on from Point Comfort. Entering Chesapeake Bay, the two ships coursed north to the Potomac, that fine beautiful river "with great variety of woode, not choaked up with undershrubs, but commonly to farre distant from each other as a coach and fower horses may travele with molestation."

Passing a promontory, the Marylanders christened it St. Gregory (Smith Point) and another, farther north, they called St. Michael's (Point Lookout). It was mid-March and the adventurers had not yet attempted a landing on Maryland soil. For one thing, the Indian fires that flickered along the shores at night made them wonder if Claiborne's tales were not indeed true.* For another, a strategic landing place that could harbor a fort had not yet been found.

Finally the decision was made. A landing would be made at the first of a group of small islands the colonizers had spotted earlier. About 300 acres in size, the island was situated in a perfect defensive position, commanding the narrowest part of the Potomac River. They called their island St. Clement's (Blakistone).

Because of the extreme slope of the island, the *Ark* and the *Dove* could not sail in close. The settlers embarked in smaller boats. One shallop overturned and a number ended the voyage by wading ashore. It was Wednesday, March 25, 1634. A 3,000-mile-plus sea-journey was about to end. But for Maryland, it was only the beginning . . .

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business to be transacted at this time? If not, morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, 1976

The PRESIDING OFFICER. Under the previous the Senate will now proceed to the consideration of House Joint Resolution 857, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 857) making further continuing appropriations for the fiscal year 1976, and for the period ending September 30, 1976, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hathaway). Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, the pending business before us is House Joint Resolution 857, making further continuing appropriations for the current fiscal year 1976 and the transition period. The present continuing resolution expires on March 31 and it is necessary to have this further continuing resolution because the foreign assistance appropriation bill, the District of Columbia appropriation bill, and certain Labor-HEW appropriations have not been enacted into law. The latter to which I referred are listed in the report of the committee before us. The original continuing resolution was passed last June and was extended in December until March 31. The resolution further extends continuing appropriations authority until September 30, which represents the last day of the so-called transition period. The report accompanying the resolution fully explains what is involved and the necessity for this further continuing resolution.

Yesterday, the Senate passed the foreign aid appropriations bill and it is anticipated that this matter will come out from under the continuing resolution as soon as it is enacted, leaving only the District of Columbia appropriation bill and certain Labor-HEW items under authority of the continuing resolution.

Mr. President, I know of no difficulty involved here. The resolution was not controversial when it was before the committee, and it is our hope that there will be no amendments in order that the resolution can be passed and transmitted to the President promptly.

I emphasize that the committee reported this resolution without amendment. It is anticipated that any needed additional appropriations can be considered in the second supplemental appropriations bill which will be received from the House in mid-April. I hope that those who have amendments will take that into account and defer them until that time, when they can be given full consideration on an appropriation bill.

If there are no questions, I am ready to proceed.

Mr. President, I ask unanimous consent to have printed in the Record excerpts from the committee report on the continuing resolution.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Committee Report

EFFECTIVE DATE OF THE RESOLUTION

The original continuing resolution was extended in December and now expires March 31, 1976. A further extension is required in order to continue certain governmental functions for which appropriations will not or may not be enacted by that date. The accompanying resolution provides continuing authority for activities funded under the Foreign Assistance and District of Columbia Appropriation Acts until September 30, 1976. It also extends authority for certain programs of the Department of Health, Education, and Welfare and the Corporation for Public Broadcasting until such date. It also provides an appropriation of $175,000 to complete the work of the National Commission on Water Quality.

The September 30 date represents the last day of the transition period—the special fiscal period designed to achieve the change of the fiscal year as required by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93–344).

In recommending extension of the continuing resolution through the transition quarter, the Committee concurs with the House Committee that it is not the intention to create 15-month appropriations. Obligations and expenditures figures for fiscal 1976 and the transition quarter will be accounted for and displayed separately for the two periods in the same manner as for program funded in regular appropriation bills.

FOREIGN ASSISTANCE

Although the Committee concluded the bulk of the hearings on the annual fiscal year 1976 foreign assistance appropriations last July, applicable authorizations have been long delayed.

On March 3, the House passed the International Security Assistance Bill. Although the House passed the Foreign Assistance Appropriation bill the following day, there is no certainty that Senate and conference actions can be accomplished and the bill sent to the White House before the existing continuing resolution expires on the last day of the month.

DISTRICT OF COLUMBIA

The budget for the District of Columbia for fiscal year 1976 was not submitted to Congress until November 5, 1975. Although the Committee has concluded hearings on estimates before the Committee, reporting of the District of Columbia bill has been delayed since that time pending receipt of amendments to the budget and enactment of revenue measures by the city government necessary to produce a balanced budget as required by law. Such an amendment still has not been transmitted to Congress and it is evident that the appropriation bill will not clear Congress and be sent to the President before the expiration of the existing continuing resolution on March 31.

LABOR-HEW APPROPRIATIONS

Late enactment of authorizing legislation makes it necessary to provide continuing authority for certain activities normally funded in the Labor-HEW Appropriation Act. Appropriations for some of these activities, i.e., those authorized by the Older Americans

Amendments of 1975 (P.L. 94–135) and the Public Broadcasting Financing Act of 1975 (P.L. 94–192) will be incorporated in the Second Supplemental Appropriation Bill. A number of ongoing health programs still lack legislative authorization for the current fiscal year. These include grants for biomedical research training, venereal disease control, immunization, lead based paint poisoning prevention and control, drug abuse prevention, and health professions educational assistance. The outlook for enactment of authorizations and appropriations for these programs before the beginning of fiscal year 1977 is uncertain. If the resolution is not extended, funding for all of these programs will end on March 31. The Committee has also recommended modifications of the language of the existing resolution to permit continuation of the training programs for allied health and public health professions, which would otherwise terminate.

NATIONAL COMMISSION ON WATER QUALITY

The Committee concurs in the action of the House in recommending an appropriation of $175,000 to permit the National Commission on Water Quality to complete its work and submit its report which is to be filed next month. This appropriation follows the authorization of additional funds which was passed by the House on March 9 and by the Senate on March 10. The Vice President and several Members of the Senate who are also members of this Commission have requested that additional funds be made available immediately so as to complete the Commission work and avoid the necessity of placing the small staff on leave without pay this week. This resolution is the only appropriate vehicle now before the Committee where these funds can be provided.

FUNDING LEVELS PROVIDED BY EXTENSION OF THE RESOLUTION

As has been the practice over a number of years, the continuing resolution provides an appropriate rate of funding for the Departments and agencies until the respective regular appropriation bills can be enacted by Congress. The extension of the effective date of the resolution continues the rates established by the original continuing resolution (Public Law 94-41 of June 27, 1975) which are based on the status of each particular bill as of July 1, 1975. The categories of funding levels which will continue are as follows:

(1) Where the applicable bill had not been passed by either House as of July 1, 1975, the rate for operations shall not exceed the current rate (the fiscal 1975 rate) or the rate provided in the budget estimate, whichever is lower as set forth in section 101(b) of Public Law 94-41. If such appropriations are not finalized, this section would apply to the Foreign Assistance and District of Columbia Appropriation bills. It would also continue to apply to a very limited number of other individual programs.

(2) Because of special circumstances in certain instances—particularly the lack of legislative authorization at the time the regular appropriation bills were considered—provision was made to continue a number of programs at either the rate of the budget estimate or the current rate (the 1975 rate). Sections 2 and 3 of the accompanying resolution shift the further continuing authority for several programs from section 101(b) to section 101(e) of the original continuing resolution. This provides that authority for such activities will be extended at the current rate (1975 rate) as explained under the preceding heading in this report.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Massachusetts, if he has any comment on the resolution.

Mr. BROOKE. Mr. President, I do not. I associate myself with what has been said by the distinguished chairman of the committee. I see no problems with it.

I understand that there is an amendment to be offered by the distinguished Senator from Kansas (Mr. Dole). If the distinguished chairman is willing, he would like to proceed with that amendment at this time.

Mr. McCLELLAN. Mr. President, is there a time limit on this amendment? Has there been some agreement?

Mr. DOLE. Yes.

The PRESIDING OFFICER. There is a time limit of 40 minutes, 20 minutes to each side.

Mr. McCLELLAN. Very well.

AMENDMENT NO. 1518

Mr. DOLE. Mr. President, I call up my amendment No. 1518.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. Dole), for himself and Mr. Cranston, proposes amendment numbered 1518:
>
> On page 2, strike out lines 3 through 6 and insert in lieu thereof the following:
>
> Sec. 3. The first unnumbered clause of section 101(e) of such joint resolution is amended by—
>
> (a) striking out "section 314(d)" and inserting in lieu thereof "sections 312, 313, 776, 792, 793, and 794(a)"; and
>
> (b) striking out the semicolon at the end and inserting in lieu thereof ": *Provided*, That the current rate for activities under section 776 shall be the fiscal year 1974 level of funding;".

Mr. DOLE. Mr. President, I ask unanimous consent that Ken Benjamin, a member of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I understand that a point of order may be raised to the amendment. Nevertheless, I should like to take a few minutes to explain its purpose.

Mr. President, this amendment is being offered simply to clear up a misunderstanding which occurred with respect to funding for emergency medical services training programs under the original continuing resolution for fiscal year 1976. It would do that by specifically designating that section 776 programs were and are to be inlcuded for funding under that measure.

LEGISLATIVE INTENT CLEAR

This is one of those situations, Mr. President, in which the legislative history on the matter was absolutely clear—but the direct underlying language was not. Unfortunately, HEW sought to capitalize on this oversight by refusing to provide any further moneys for EMS activities after September 30, 1975—claiming they had no statutory authority to do so.

To illustrate just how unmistakable the intent was, I quote from page 19720 of the Record of June 19, 1975, on which the distinguished chairman of the Labor-HEW Appropriations Subcommittee, Mr. Magnuson, made the following statement with respect to the joint resolution:

> Let me also clarify that Emergency Medical Services Training should be provided for at the fiscal year 1974 level of funding.

Following the enactment of House Joint Resolution 499, HEW issued its opinion with respect to EMS funding, and a series of letters were exchanged between Senators Magnuson and Cranston and Secretary Mathews concerning congressional intent. The General Accounting Office reluctantly went along with HEW, however, and we are now at the point where EMS activities are at a standstill—being phased out due to lack of financing.

WIDESPREAD SUPPORT FOR PROGRAM

I believe it is important to note that the EMS program has been a highly meritorious and popular one with widespread support. It passed the Senate by a 93–0 vote, for example, in 1973.

At a cost of only $6.7 million, it has funded some 57 training programs in 32 States. More than 36,000 paramedical and emergency personnel have, in turn, been trained and equipped with the critical lifesaving skills which have made this such an invaluable new concept.

SUCCESSES IN KANSAS

Although paramedics make equal contributions in urban settings, they are essential in a rural area such as Kansas—where hospitals and doctors are not always readily accessible. The program has been accorded a tremendous reception in our State—having resulted in the training of nearly 2,000 persons and the establishment of 82 EMS units.

Dr. Norman McSwain, who directs our program at the University of Kansas Medical Center, has had to react to the funding problem by cutting back sharply on supervisory support for those units and eliminating all training of advanced personnel. The program is, therefore, still operating—but at such a sharply curtailed level that its ability to sustain itself is in substantial doubt.

INTERRUPTION OF TRAINING EXPENSIVE

I think all Senators are aware that once programs of this nature have to slow down and begin phasing out, it is quite expensive to get them going again. In the case of Emergency Medical Services, for example, the sizeable startup costs have already been paid for once during its initial stages—and we would not be making very good use of Federal dollars to cause them to have to go through that again.

From an economy standpoint, then, the obvious conclusion is that if we are going to retain those training programs, we had better provide for their continued funding now—before they die out. For even if new authorizing legislation were passed tomorrow, we could not—under congressional budget guidelines and limitations—realistically appropriate any funds before next October.

CONTINUING RESOLUTION AMENDMENT IRREGULAR

We recognize, Mr. President, that it is somewhat irregular to be amending a continuing resolution. But it is equally irregular, I suggest, to allow a simple legislative drafting oversight to result in the interruption of a very worthwhile program—especially when we have the opportunity now to correct it.

It is not irregular, on the other hand, for HEW to say that "while your intentions were clear, your language was not," but it would be extremely unwise, I feel, to let them have the last word on it by not taking any remedial action. I would certainly hope, therefore, that we would be willing to do so at this time—and that the House would follow suit.

ENABLING LEGISLATION FORTHCOMING

While Members of the other body might predictably argue that they have passed authorizing legislation and that the burden is on us to do likewise, I would point out that the Senate has not been remiss in its efforts to extend EMS legislation. Indeed, we were ahead of the House in doing so during the 93d Congress—and it may have been in part due to their late action; that is, December 21, 1974, that there was not time for a successful conference.

This year, or this Congress anyway, the House has acted first to extend Emergency Medical Services programs by passing H.R. 5546 on July 11, 1975. However, I would point out that even that was after the original continuing resolution for fiscal year 1976 cleared both bodies, and therefore, section 776 programs should have been, and in fact were contemplated for inclusion.

LEGISLATION ON APPROPRIATION MEASURE

The point is, Mr. President, new enabling legislation is on its way, but that does nothing to relieve the current problem. It is entirely appropriate, in these situations, to provide interim funding by joint resolution—which is precisely what we set out to do.

This may be interpreted by some to be legislation on an appropriations measure—but if it is, then everything else in section 3 of the resolution is as well. The purpose of a continuing resolution, as I understand it, is to continue—at the minimum level of funding—the operation of programs which we want to stay in place, but which—for one reason or another—have not been formally extended.

GAO, in its analysis of the EMS situation, clearly indicated that the continuing resolution for fiscal year 1976 was an appropriate vehicle to continue funding for such activities. Moreover, I fail to see any difference between EMS programs and any other activities specifically included under section 3 of House Joint Resolution 857 as reported.

Just to point up the similarities, I would refer to the following Public Health Service Act sections already in the resolution:

SEC. 312—Traineeships for professional public health personnel;

SEC. 313—Project grants for graduate training in public health;

SEC. 792—Grants to improve the quality of training for allied health professions;

SEC. 793—Traineeships for advanced training of allied health professions personnel;

SEC. 794(a)—Grants and contracts to encourage full utilization of educational talent for allied health professions.

None of which—like EMS training programs—have been authorized for funding since the end of fiscal year 1974.

CONFERENCE NOT NECESSARY

Members of the Appropriations Committee have given Emergency Medical Services their enthusiastic backing since its inception, and the acceptance of this amendment would reinforce the commitment which they have made to the program. By our amendment, we are in no way seeking a conference or any other time-consuming deliberation on the overall measure—only a chance for the House to accept or reject the provision on its merits.

I am aware, Mr. President, that a point of order may be raised against this amendment under clause 1 of rule XVI. I also understand—as I indicated earlier—that if that is done, the Chair will very likely rule in favor of the objector.

I would find that highly disappointing in view of the fact, again, that there is absolutely no difference between the sections of the Public Health Service Act already covered by section 3 of this resolution, and what we are proposing to be included—except that those programs are presently in the measure and ours is not.

Mr. President, I ask unanimous consent that the entire GAO analysis of the EMS funding situation—including their conclusions as to both intent and statutory authority—be printed in the RECORD. I also ask that a fact sheet which I have prepared explaining this amendment be printed following that report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS

A. The Training in Emergency Medical Services Program Was Authorized and Funded in Fiscal Year 1974.

Section 3(a) of the Emergency Medical Services Systems Act of 1973, Pub. L. 93–154 (November 16, 1973), 87 Stat. 594, amended title VII of the Public Health Service Act by adding a new section 776, "Training in Emergency Medical Services." Subsection (a) of section 776 provides:

"The Secretary may make grants to and enter into contracts with schools of medicine, dentistry, osteopathy, and nursing, training centers for allied health professions, and other appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of this Act." 87 Stat. 604.

The amendment contained a one-year authorization of $10,000,000 for fiscal year 1974 for carrying out the newly established Training in Emergency Medical Services program (hereinafter, "the program"). Subsection (e) of section 776 states:

"(e) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974." *Ibid.*

The Supplemental Appropriations Act of 1974, Pub. L. 93–245 (January 3, 1974), 87 Stat. 1071, appropriated funds for the program. Specifically, that act appropriated:

"* * * $27,000,000 for carrying out the provisions of Public Law 93–154, of which $10,000,000 shall be derived by transfer from funds previously appropriated for emergency medical services activities." 87 Stat. 1076.

The Supplemental Appropriations Act did not set forth a line item amount for the program. The House version of the Bill, H.R. 11576, contained no provision funding any of the programs under the Emergency Medical Services System Act of 1973, Pub. L. 93–154. However, the Senate version provided $20,000,000 in new funds, and required the transfer of $7,000,000 in funds previously appropriated, to implement Pub. L. 93–154. Of this amount, the Senate Appropriations Committee stated that "* * * $6,667,000 is for health professions training support authorized under section 776 of the Public Health Service Act [Training in Emergency Medical Services]." S. Rep. No. 93–614, 93d Cong., 1st Sess. 25 (1973).

Thus, the program was authorized and funded through the end of fiscal year 1974.[1]

B. The Availability for Obligation of Fiscal Year 1974 Funds Appropriated for the Program Was Extended to the First Quarter of Fiscal Year 1975.

The funds appropriated for the program in fiscal year 1974 were available for obligation only until June 30, 1974. Pub. L. 93–245, § 1201, 87 Stat. 1086. However, the Second Supplemental Appropriations Act, 1974, Pub. L. 93–305 (June 8, 1974), 88 Stat. 195, extended the time these funds were available for obligation from the end of fiscal year 1974 to September 30, 1974. The act stated "* * * funds previously appropriated for training programs as authorized by the Emergency Medical Services Systems Act of 1973 shall remain available until September 30, 1974." 88 Stat. 203.

In its report on the Second Supplemental Appropriations Bill, 1974 (H.R. 14013), the Senate Appropriations Committee explained the rationale for this extension:

"* * * the Committee has provided extended availability of funds previously appropriated for training programs under the Emergency Medical Services Systems Act. The Department [HEW] has been slow in developing and publishing the regulations for this program in the Federal Register; consequently, the Committee is providing an additional three months of availability in order to assure that the Department will have sufficient time to evaluate grant applications and award the grants on a prudent basis." S. Rep. No. 93–814, 93d Cong., 2d Sess. 67 (1974).

C. No Further Authorizing Legislation Has Been Enacted for the Program.

Legislation authorizing further appropriations for the program in fiscal years 1975 and beyond passed both Houses of Congress in 1974, but died in conference. S. 3585 passed the Senate on September 24, 1974; H.R. 17084 passed the House on December 12, 1974. The Senate requested a conference, to which the House agreed. On December 19, 1974, the Conferees met in executive session, but were unable to resolve their differences and the bills died in conference upon the adjournment of the Congress.

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[1] We do not need here to pass on the exact amount of the funding. We have held that in a strict legal sense the total amount of a lump sum appropriation may be applied to any programs or activities for which it is available in any amount, absent further restrictions provided by the appropriation act or another statute. References to amounts in Committee reports are, however, reflective of the Congressional intent as to how the appropriation should be spent. B–164031(3).11, April 16, 1975. Accordingly, it is not correct, in a strict legal sense, to state that $6,667,000 was appropriated for the program.

Although similar legislation has been introduced during this Congress (H.R. 5546), none has been enacted into law authorizing further appropriations for the program. Accordingly, authorization for the program expired at the end of fiscal year 1974.

D. Neither the Continuing Resolution nor the Appropriations Acts for Fiscal Year 1975 Appropriated Funds for the Program.

The Joint Resolution making continuing appropriations for fiscal year 1975 ("Continuing Resolution for FY 1975"), Pub. L. 93–324 (June 30, 1974), 88 Stat. 281, does not provide for a continuation of, or funding for the program in fiscal year 1975.[2] Section 101(b) of the Continuing Resolution for Fiscal Year 1975 contains no reference to the program, although it enumerates several specific provisions of the Public Health Service Act.[3]

As of the date of passage of the Continuing Resolution for fiscal year 1975, no further authorizing legislation had been enacted for the program. Further, the President's budget contained no budget estimate for the program. Under these circumstances, section 101(d) would have been the appropriate section under which to provide for the continuation of the program. That section, by its terms, does not do so. It appropriates:

"(d) Such amounts as may be necessary for continuing the following activities, but at a rate for operations not in excess of the current rate—

"The following activities for which provision was made in the Departments of Labor and Health, Education, and Welfare Appropriations Act, 1974, the Supplemental Appropriations Act, 1974, or the Second Supplemental Appropriations Act, 1974:

"health planning activities under section 314 of the Public Health Service Act, as amended;

"activities under titles VI and IX, and sections 306, 309, 720, 792–794, 801, 805(b), 806, 810(d), and 821(a) of the Public Health Service Act; * * *"

This section of the Continuing Resolution for fiscal year 1975 was intended to provide for the continuation of programs where there was an absence of (1) a budget estimate, and (2) authorizing legislation for the new fiscal year. Both the Senate and House Committee Reports on the Joint Resolution state with respect to section 101(d):

"Where there is no budget estimate or if the budget request has been deferred for later consideration, the rate for operations for continuing projects or activities shall not exceed the current rate." H.R. Rep. No. 93–1119, 93d Cong., 2d Sess. 2 (1974); S. Rep. No. 93–951, 93d Cong., 2d Sess. 2 (1974).

During the House debates on H.J. Res. 1962, which became Pub. L. 93–324, Mr. Mahon, Chairman of the House Committee on Appropriations, made the following statement in clear reference to section 101(d):

"A large number of programs, mostly HEW items, are continued at the current rate, generally because they were deferred due to lack of authorization and because there is no budget estimate." 120 Cong. Rec. p. 20209.

During the same debate, the following exchange occurred between Mr. Gross and Mr. Mahon:

"Mr. Gross. * * * Let me ask the gentleman from Texas a question concerning the language found on page 2 of the committee report, the fifth paragraph, wherein it says:

" 'Where there is no budget estimate or if the budget request has been deferred for later consideration, the rate for operations for continuing projects or activities shall not exceed the current rate.'

"What precisely is meant by the 'current rate'?

"Mr. Mahon. Those are mostly Health, Education, and Welfare items that are involved here. That would be the fiscal 1974 rate that would apply. As the gentleman knows, we do not have authorization for some HEW items, so we were not able to include a number of programs in the HEW appropriation bill which we expect to pass through the House next week." Cong. Rec. page 20209.

From the quoted legislative history, it is clear that section 101(d) would have been the appropriate section of the Continuing Resolution for fiscal year 1975 in which to provide for continuation of the program since the program lacked both authorizing legislation and a budget estimate. The absence of any reference to it, however, in the list of specific sections of the Public Health Service Act appearing in section 101(d) means that the program was not funded by the Continuing Resolution for fiscal year 1975.

The Department of Labor, and Health, Education, and Welfare Appropriation Act, 1975, Pub. L. 93–517 (December 7, 1974), 88 Stat. 1634, makes no provision for the program under title II (HEW).

The Supplemental Appropriations Act, 1975, Pub. L. 93–554 (December 27, 1974), 88 Stat. 1771 appropriates further funds for the Department of Health, Education and Welfare, and, in this instance, specifically references title VII of the Public Health Service Act. 88 Stat. 1773. Neither the House nor Senate reports, however, mention section 776 in connection with the appropriation for the Health Resources Administration or title VII, only Health Professions Student Loans (section 742 of the Public Health Service Act). S. Rep. No. 93–1255, 93d Cong., 2d Sess. 15 (1974); H.R. Rep. No. 93–1378, 93d Cong., 2d Sess. 9 (1974). Indeed, the Budget Justification shows clearly that the only funding requested under title VII was for section 742, not section 776. Hearings on H.R. 16900 Before the Subcommittee on the Departments of Labor and Health, Education and Welfare, and Related Agencies, Senate Committee on Appropriations, 93d Cong., 2d Sess. 131, 138 (1974); Hearings on H.R. 16900 Before The Subcommittee on The Departments of Labor and Health, Education and Welfare, House Committee on Appropriations, 93d Cong., 2d Sess. 210, 219 (1974). Consistent with decisions of GAO such as B–164031(3).11, April 16, 1975, HEW could have used these funds for any of the programs authorized under title VII. As we have shown, however, the program under section 776 was not authorized during fiscal year 1975; its authorization had expired at the end of fiscal year 1974.

It is clear, therefore, that Congress did not provide funding for the program in the Supplemental Appropriations Act, 1975.

The Second Supplemental Appropriations Act, 1975, Pub. L. 94–32 (June 12, 1975), 89 Stat. 173, makes no provision for funding the program.

E. The Continuing Resolution for FY 1976 Does Not Provide Authority or Funding for the Program.

Section 101(b) of the Continuing Resolution for fiscal year 1976 appropriates:

"(b) Such amounts as may be necessary for continuing projects or activities (not otherwise provided for in this joint resolution) which were conducted in the fiscal year 1975 and are listed in this subsection at a rate for operations not in excess of the current rate or the rate provided for in the budget estimate, whichever is lower, and under the more restrictive authority—

* * * * *

"The following activities for which provision was made in the Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1975, the Supplemental Appropriations Act, 1975, the Second Supplemental Appropriations Act, 1975 or Public Law 93–324, and amendments thereto:

"Activities under sections 225, 314(e), 317, 318, 319, 329, 472(d) and titles VII, VIII, and X of the Public Health Service Act, as amended; * * *" 89 Stat. 226–27.

This section sets forth two prerequisites for funding by the Continuing Resolution of the programs enumerated in the section. First, the program must have been "conducted in the fiscal year 1975." Second, it must be an activity "for which provision was made" in the Labor and HEW Appropriation Act, the Supplemental or Second Supplemental Appropriation Acts, or the Continuing Resolution (Pub. L. 93–324) for FY 1975.

As we have shown in section B, above, the period of availability for obligation of fiscal year 1974 funds appropriated for the program was extended to include the first quarter of 1975. It is our understanding that funds for the program were obligated during that extended period; therefore the program was "conducted" during fiscal year 1975. However, we have also shown, in section D, above, that no provision for the program was made in the three appropriation acts or the Continuing Resolution for fiscal year 1975. Accordingly, the program is not funded under section 101(b) of the Continuing Resolution for fiscal year 1976.[4]

The President's Budget for fiscal year 1976 contains no budget estimate for the program. Section 101(e) of the Continuing Resolution for fiscal year 1976 is specifically intended to provide for the continuation of programs at the "current rate" where there is no budget estimate, without regard to whether the program was provided for in the fiscal year 1975 appropriations acts or Continuing Resolution. With respect to section 101(e), both Senate and House Committee Reports state:

"In certain circumstances where there is no budget estimate or if the budget estimate has been deferred for later consideration or other special circumstances obtain, projects or activities are continued at the current rate or as specifically provided (Sec. 101(e))." H.R. Rep. No. 94–289, 94th Cong., 1st Sess. 2 (1975); S. Rep. No. 94–201, 94th Cong., 1st Sess. 2 (1975).

Section 101(e) lists a variety of programs to be funded under these circumstances, but the program under section 776 of the Public Health Service Act (Training in Emergency Medical Services) is not among those listed. If it had been so listed, there is no doubt that the program would be funded, because the activity during the first quarter of fiscal year 1975 would have established a "current rate," and the statutory authority of Pub. L. 93-305 to conduct the program during the first quarter of fiscal year 1975 would have taken the program out of the purview of section 106 of the Continuing Resolution for fiscal year 1976, which states:

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[2] Over and above the extension of availability for obligation of fiscal year 1974 funds through the first quarter of fiscal year 1975 described in Section B, *above*.

[3] In any event, section 101(b) would not have been the appropriate section under which to make provision for the program. See p. 7, below.

[4] While section 101(b) refers to title VII of the Public Health Service Act, this can only have reference to those title VII activities for which provision was made in the Continuing Resolution for fiscal year 1975 (Pub. L. 93–324), i.e., sections 720 or 792–94 listed in section 101(d) of Pub. L. 93–324 or in the Supplemental Appropriations Act, 1975 (Pub. L. 93–534), i.e., section 742. (See section D, above.) See, S. Rep. No. 94–201, 94th Cong., 1st Sess. 4 (1975). As we have shown, the program under section 776 was not authorized for appropriations under any of these acts.

"No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations funds or other authority were not available during the fiscal year 1975." 80 Stat. 230.

The absence of any mention of the program under 101(e) necessarily leads to the conclusion that the program is not funded under the Continuing Resolution for fiscal year 1976.

This conclusion does not ignore the specific references to the program during the Senate debate on H.J. Res. 499 which became Pub. L. 94-41. In a statement reprinted in the Congressional Record, Senator Magnuson, Chairman of the Appropriations Subcommittee on Labor and HEW, stated with respect to the Joint Resolution:

"Let me also clarify that Emergency Medical Services Training should be provided for at the fiscal year 1974 level of funding." 121 Cong. Rec., page 19720.

Further, during the same debate, Senator Cranston made the following statement:

"Mr. President, I am pleased that the distinguished Senator from Washington (Mr. Magnuson), chairman of the Subcommittee on Labor-Health, Education, and Welfare Appropriations, has expressed the committee's intent that the continuing resolution for fiscal year 1976 includes the appropriation of funds for section 776 of the Public Health Service Act at the same rate of expenditure as was used in fiscal year 1974.

"Section 776 authorizes grants for training in emergency medical services to appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical servies—including the skills required in connection with the provision of ambulance service—especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of the Public Heatlh Service Act. Section 776 was added to title VII of the Public Health Service Act by Public Law 93-154, the Emergency Medical Services System Act of 1973. At that time section 776 was given a one-year authorization for fiscal year 1974 of $10 million in order to conform its expiration date to the other authorities for appropriations in title VII.

"Legislation extending title VII was adopted in both Houses of Congress last year but because the conferees were unable to come to an agreement, the title VII authorities have been operating under a continuing resolution. The Department of Health, Education, and Welfare, has failed to obligate any money under the continuing resolution for section 776 despite strong urging from the distinguished Senator from Washington (Mr. Magnuson).

"Legislation extending title VII authorities in both Houses has included an extension of section 776 at appropriations authorizations of $10 million annually. In fiscal year 1974, $6.6 million was appropriated and obligated for grants under this section, and some outstanding training programs were initiated as a result. Interest in receiving support under this section has remained very high.

"Mr. President, training is an essential component of any community's system for providing emergency medical service and the authorities in section 776 are of substantial help in providing assistance to communities in building their competence to provide comprehensive emergency medical services.

"With the inclusion of appropriations for section 776 in the Continuing Resolution for fiscal year 1976 at the level appropriated and obligated in fiscal year 1974, this valuable assistance will be available to the Nation's communities in the interim period before enactment of legislation extending the title VII authorities. I am grateful for the committee's favorable consideration of this matter." 121 Cong. Rec., p. 19724.

One can scarcely imagine a clearer declaration of congressional intent than the above statements. The message of intent is unmistakeable that the Continuing Resolution for fiscal year 1976 should provide funding for the program at the same rate as was used in fiscal year 1974.

In the interpretation of federal laws, particularly appropriations acts, this office has always been especially attuned to, and accorded great respect to the expressions of congressional intent contained in the legislative history of the acts in question. However, the necessary predicate to the effectuation of such congressional intent is the existence of a provision in the statute to which the expressions of intent may reasonably be attached. We have, therefore, recently stated that:

"[A]s a general proposition, there is a distinction to be made between utilizing legislative history for the purpose of illuminating the intent underlying language used in a statute and resorting to that history for the purpose of writing into the law that which is not there." *LTV Aerospace Corp.*, 55 Comp. Gen. —— (B-183851, October 1, 1975).

We cannot in this case recognize the expressions of legislative intent as affording a basis for holding the program to be funded, there being no provision in the Continuing Resolution for fiscal year 1976 that provides the necessary statutory basis.

FACT SHEET

Dole-Cranston amendment to Continuing Resolution relative to funding of Emergency Medical Services program.

(1) EMS training activities were *intended* by the Appropriations Committee to be included for funding in the original Continuing Resolution for FY 1976.

(2) Regardless of that intent, HEW refused to commit any funds to the program, saying there was no *specific* statutory language to cover it.

(3) GAO agreed with HEW and, until new authorizing legislation can be enacted, EMS is in danger of termination unless the misunderstanding is cleared up.

(4) This amendment does that by directly stipulating that "Section 776" activities are to receive minimum operational funding through September 1976.

(5) The cost at the current rate for six months would be about $3.3 million.

(6) The House passed an EMS extension last July and the Senate Labor and Public Welfare Committee is expected to report its bill within the next 60 days.

(7) 57 grantees from the following states are in danger of having programs terminated unless this amendment is adopted:

Alabama (3), Arkansas, Arizona, California (7), Colorado, Connecticut, Florida (2), Idaho, Illinois (2), Iowa, and Kansas.

Maine, Michigan (2), Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina (2), and Ohio (2).

Oklahoma (2), Pennsylvania (3), South Dakota, Tennessee (3), Texas (6), Vermont, Virginia, Washington, West Virignia, and Wisconsin (3).

Mr. DOLE. Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, inasmuch as this amendment covers a subject within the jurisdiction of the Subcommittee on Labor and HEW, I shall yield to the distinguished chairman of that subcommittee, the Senator from Washington. I yield such time as he may desire.

Mr. MAGNUSON. Mr. President, I want to say at the outset to the Senator from Kansas that no one is more sympathetic to a program of this type than the Senator from Massachusetts and myself. I think that this is a good program. I want to say, too, at the outset, that the minute it is authorized, I think I can assure the Senator from Kansas—it affects many of the rest of us—that we would be glad to consider the appropriation part of the authorization. But, because this is a continuing resolution and the amendment suggests starting something again, it is not in harmony with what the continuing resolution is all about. It merely continues programs that are now there.

I want to point out for the record that there is no authorizing legislation, and the legislation expired over 2 years ago. The legislative committees have not been interested enough, apparently, during this period even to report a bill. I am hopeful that they will.

Health programs, too, have already exceeded the ceiling and, by allowing this, we would add another $6.7 million.

There is over $37 million for emergency medical services in the fiscal year 1976 in the bill already for authorized programs. It is not contained in the House bill and would create a conference with the House.

If the House should put this in, we have no right to question their judgment on that, if it is a House figure. But I do not know. The chairman of the legislative committee has sent us a letter saying he opposes this. He does not say, "at this time," he says he opposes it. That is Chairman ROGERS. So, I do not know just what they will do.

I hope that we will have some authorization by the time we get to the second supplemental. I would suggest that those who are in strong support of the amendment try to prevail upon the Senate committee to authorize this particular item. I am in sympathy with it, personally.

Last, we are now, with the new budget procedures, in the process where, pretty nearly once a week, the Senator from Massachusetts and I get some referrals and rescissions. I have no doubt that if we should violate the rule and put this in, there would be a rescission that quickly up here, and we would have to pass on that, which might be against the rules, because there is no authorization.

Therefore, unless the Senator from Massachusetts wants to say something——

Mr. BROOKE. Just one comment. I agree with the distinguished chairman that we certainly are in favor of the program. As the Senator from Washington said, we would like to have the opportunity to appropriate for it. If, by chance, the distinguished Senator from Kansas can get the authorizing committee to get the authorization through, we could take it up in the second supplemental. I hope he is able to do that. But he should seek authorization first, and I am hoping there will be authorization in time for the second supplemental. I think the chairman of the subcommittee has well stated the case. I just do not think we have an alternative.

Mr. MAGNUSON. Therefore, Mr. President, unless there is something further to be said, I make a point of order against the amendment.

The PRESIDING OFFICER. The Chair will state the point of order is not in order unless the Senator from Kansas has used up his time or yielded it back.

Mr. DOLE. I shall take just a minute to say that I appreciate the interest of the distinguished subcommittee chairman (Mr. Magnuson) and the ranking minority member (Mr. Brooke) and also the chairman of the Committee on Appropriations (Mr. McClellan).

We are just trying to figure out some way to get it funded. We understand that if there is an amendment, it might need to go to conference, and there could be a delay—even though we have been assured by some on the House side that that would not be the case.

The Senator from Kansas finds it difficult; frankly, to reconcile this situation when I see other programs in the continuing resolution without authorization while EMS is not. I just thought that, somehow perhaps, we could add this one since it was supposed to have been there in the first place.

The problem, of course, is going to be getting an authorizing measure through Congress in time to catch up with a supplemental that may be coming through in April. The program is starving now for lack of funds, and even under the most optimistic circumstances, we could not expect to get a bill past the Senate, through a conference, and enacted into law before time runs out for emergency medical services.

It just seems to the Senator from Kansas that this is a good program which has considerable support. I do not believe it would be subject to unfavorable treatment by the Committee on the Budget, of which I am a member, and the GAO report—which I have already inserted in the Record—clearly states that:

> If it had been so listed (in section 101(e) of the Continuing Resolution for 1976), there is no doubt that the program would be funded.

Having said that, and recognizing that a point of order will be made. I thank the committee for its sympathetic views on the matter.

Mr. CRANSTON. Mr. President, I rise in support of Senator Dole's amendment, which I am pleased to cosponsor, which would clarify that funds to support emergency medical services training programs authorized by section 776 of the Public Health Service Act are appropriated under the continuing resolution for fiscal year 1976.

The inclusion of this program among those covered by the continuing resolution has been a matter the distinguished chairman of the Labor-HEW Appropriations Subcommittee, Senator Magnuson, and I have made clear in floor consideration of continuing resolutions in the past 2 fiscal years. However, despite this expression of congressional intent, the funds have not been made available by HEW. In order to set the record straight and insure that these funds are made available, the distinguished Senator from Kansas (Mr. Dole) and I are proposing an explicit reference to section 776 in the continuing resolution in order to remove any question as to congressional intent.

Section 776 authorizes grants for training in emergency medical services to appropriate educational entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services—including the skills required in connection with the provision of ambulance service, especially training programs affording clinical experience in emergency medical services systems receiving assistance under title XII of the Public Health Service Act.

Section 776 was added to title VII of the Public Health Service Act by Public Law 93–154, the Emergency Medical Services Systems Act of 1973, which I authored. At that time, section 776 was given a 1-year authorization for fiscal year 1974 at $10 million in order to conform its expiration date to the other authorities for appropriations in title VII.

Legislation extending title VII was adopted in both Houses of Congress last year but because the conferees were unable to come to an agreement, the title VII authorities have been operating under a continuing resolution. The Department of Health, Education, and Welfare has failed to obligate any money under the continuing resolution for section 776 despite strong urging from the distinguished Senator from Washington (Mr. Magnuson).

Legislation extending title VII authorities in both Houses in the 93d Congress included an extension of section 776 at appropriations authorizations of $10 million annually. Legislation to extend this authority in the 94th Congress is pending. In fiscal year 1974, $6.6 million was appropriated and obligated for grants under this section, and some outstanding training programs were initiated as a result. Interest in receiving support under this section has remained very high.

I introduced S. 2548, legislation to extend the Emergency Medical Services Systems Act, last October and hearings in the Senate were concluded on this and related bills. The Labor and Public Welfare Committee will complete action on this legislation very shortly.

The House of Representatives has marked up in subcommittee and introduced as a clean bill, comparable legislation. Thus I have every confidence authorizing legislation for this program will be enacted very quickly. I intend to include a provision to authorize appropriations for section 776 training programs in this legislation.

Mr. President, training is an essential component of any community's system for providing emergency medical services, and the authorities in section 776 are of substantial help in providing assistance to communities in building their competence to provide comprehensive emergency medical services.

The amount made available in fiscal year 1974 was $6.667 million, which then supported 76 grants nad two contracts and provided support for the training of 36,000 individuals in emergency medical services related activities.

With the inclusion of appropriations for section 776 in the continuing resolution for fiscal year 1976 this valuable assistance will be available to the Nation's communities in the interim period before enactment of legislation extending the section 776 authorities.

Mr. President, I ask unanimous consent that correspondence by Senator Magnuson, myself, and the Secretary of HEW related to this issue be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., April 25, 1975.

Hon. Warren G. Magnuson,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: It has just been brought to my attention that the provisions of the continuing resolution, as amended, in effect for Fiscal Year 1975 do not cover section 776 of the Public Health Service Act, Training in Emergency Medical Services. It is my understanding that this omission was inadvertent.

This section was added to the Public Health Service Act by Public Law 93–154, the Emergency Medical Services Systems Act of 1973, which we joined in sponsoring; it was made a single-year to conform with the expiration date of the remainder of title VII of the Public Health Service Act. Extension of the authorization of appropriations for this section has been included in legislation extending title VII passed by both the House and Senate in the 93rd Congress and reintroduced in both Houses in this Congress. There is thus strong evidence of Congressional intent to continue to support this program.

I urge your Committee to add to the first appropriate bill before your Committee an amendment to the continuing resolution for Fiscal Year 1975 to continue the section 776 training program this fiscal year until action on the authorizing legislation can be completed. With little more than two months remaining in the current fiscal year it is not likely that grant notifications can be distributed or adequate review made of grant applications prior to June 30, 1975. In light of this difficulty, I urge, in addition, that your Committee continue the availability of funds for section 776 through September 30, 1975, for amounts obligated pursuant to such an amendment to the continuing resolution.

You will recall that a similar extension was provided when funds were first appropriated under this authority in Public Law 93–305, the Second Supplemental Appropriations Act of 1974.

I greatly appreciate the generous consideration you have given my recommendations in the past and hope you will be able to help me here.

Sincerely,

Alan Cranston.

U.S. SENATE,
Washington, D.C., May 6, 1975.
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter supporting training programs for emergency medical services.

My understanding is that Congress intended that these training programs be continued and funded under the present continuing resolution. The problem, as I am sure you are aware, is that HEW again is not following the intent of the law, and the emergency medical services training programs are not being funded.

For your information, I have taken the liberty of writing to Secretary Weinberger on this subject, and I have urged him to get the projects funded immediately.

I hope this will be helpful.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare.

U.S. SENATE,
Washington, D.C., May 6, 1975.
Hon. CASPAR W. WEINBERGER,
Secretary of Health, Education and Welfare, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. SECRETARY: My continued support of Emergency Medical Services prompts my bringing your attention to a very important matter.

As you know, in fiscal 1975 Congress provided $37 million for Emergency Medical Services to get a nationwide program in this important area started. A problem arises, not with these funds but with the training of Emergency Medical Services personnel to operate these programs and to take a very important place in the delivery of emergency services.

It is now my understanding that HEW is *not* funding any of the training programs which were provided for under the continuing resolution.

Because these two "emergency services" programs go hand in hand, it is imperative that we continue our training of personnel in this area.

I will be looking forward to your proposal for a solution to this problem and support toward getting this program moving.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare.

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 6, 1975.
Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of May 6 about the training of Emergency Medical Services personnel. Please forgive the delay in replying.

This program, as authorized under Section 776 of the Public Health Service Act, lacks legislative authorization and appropriation and is therefore subject to the provisions of the 1975 Continuing Resolution (P.L. 94–7).

The 1975 President's Budget does not include a specific request for funds to make Emergency Medical Services training awards under Section 776; however, authority and funds do exist under Sections 772, Health Professions Special Projects, and 792, Allied Health Special Projects and Special Improvement Grants. A number of applicants have applied under these provisions. We anticipate funding projects totaling about $850,000 under Section 772 and approximately $3 million under Section 792.

We believe these aforementioned funding actions will satisfactorily continue program momentum.

Sincerely,

CASPAR WEINBERGER,
Secretary.

U.S. SENATE,
Washington, D.C., June 13, 1975.
Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am very grateful for your valuable support and strenuous efforts in urging Secretary Weinberger to obligate funds appropriated under the continuing resolution for fiscal year 1975 for the purpose of making grants under section 776 of the Public Health Service Act (training in emergency medical services). I am very disappointed at the Secretary's failure to obligate any funds under that authority, and the lack of specificity as to his reasons for not obligating these funds. His failure to do so may create an additional difficulty in providing funds for this purpose under a continuing resolution for fiscal year 1976. To avoid a recurrence of this unfortunate situation I hope you will be able to include a specific reference to section 776 in that continuing resolution and include a statement in the committee report that although HEW failed to provide funding as provided in the continuing resolution for fiscal year 1975 for programs authorized by section 776, funds are being appropriated for section 776 at the rate of expenditure for fiscal year 1974.

With best regards.

Sincerely,

ALAN CRANSTON.

U.S. SENATE,
Washington, D.C., June 23, 1975.
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you very much for your letter and continued support of the very important emergency medical services training programs under Section 776 of the Public Health Service Act.

I felt you would be interested in knowing that in my floor statement relating to the Continuing Resolution, I specifically stated that EMS training funds should be covered under this resolution at the fiscal 1974 level.

I will be following this program once the Resolution is signed into public law to insure that these programs are properly funded.

My continued best wishes.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, Health, Education, and Welfare.

U.S. SENATE,
Washington D.C., August 11, 1975.
Hon. DAVID MATHEWS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: We would like to bring to your attention the Congressional intent expressed during consideration of H.J. Res. 499, (P.L. 94–41) the Joint Resolution making continuing appropriations for the fiscal year making continuing appropriations for the fiscal year 1976, in which it was specified that that Act appropriated funds for carrying out the purposes of section 776 of the Public Health Service Act, "Training in Emergency Medical Services", at the same level of funding as was appropriated in fiscal year 1974 (S. 11066 and 11070, June 19, 1975, *Congressional Record*). That amount is $6,600,000.

We would appreciate your advising us of steps the Department has taken to obligate that sum for the section 776 authority and to notify applicants of the availability of grant support under that authority. We believe this action on your part should be taken immediately, since those projects which received first-year funding in fiscal year 1974 will be due for second-year funding on September 30, 1975, and appropriate action on your part would avoid unnecessary delay in continuing those grants which merit continuation and in awarding new grants to those programs which are approved by the review process.

With every good wish and many thanks for your cooperation.

Sincerely,

ALAN CRANSTON,
Chairman, Special Subcommittee on Human Resources, Committee on Labor and Public Welfare.

WARREN G. MAGNUSON,
Chairman Subcommittee on Labor, Health, Education, and Welfare, Committee on Appropriations.

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., Sept. 23, 1975.
Hon. ALAN CRANSTON,
Chairman, Special Subcommittee on Human Resources, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter of August 11, also signed by Senator Warren Magnuson, about the training of Emergency Medical Services personnel. I sincerely regret the delay in responding.

Unfortunately, I must provide you with a negative answer. I am advised that the program to train Emergency Medical Services personnel is not authorized in substantive legislation nor under the 1976 Continuing Resolution. Therefore, the legislative history which you cite in your letter is insufficient to overcome the absence of either authorizing legislation or appropriations.

It seems to us, therefore, that the only way the situation can be remedied, as desired by you and Senator Magnuson, is to include funds for this program either in the first FY 1976 supplemental appropriations bill or in the Continuing Resolution if it is extended beyond its current expiration date.

We feel we have no alternative other than to provide you with this advice.

Cordially,

DAVID MATTHEWS,
Secretary.

Mr. DOLE. I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MAGNUSON. Mr. President, I make the point of order again.

The PRESIDING OFFICER. There being no authorization for the program which the amendment would provide, the point of order is well taken. The Chair sustains the point of order.

Mr. DOLE. I did not hear the Chair. Would the Chair repeat it?

The PRESIDING OFFICER. There being no authorization for the program which the amendment provides for, the point of order is well taken and the Chair sustains the point of order.

Mr. DOLE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Would that same point of order lie against other programs which have not been authorized but are included in the legislation?

The PRESIDING OFFICER. No, because the rest of the resolution is House language, so a point of order would not lie.

Mr. DOLE. I did not intend to make such a point of order, Mr. President, but wanted to mention it just to point up what I consider to be somewhat of an inequity here. For if there were programs subject to a similar objection within the continuing resolution, and there certainly would be if section 3 were Senate rather than House language—it seems to the Senator that perhaps something might be worked out on a worthwhile program such as this.

I would not pursue a point of order, in any event. But I do think we should recognize that EMS activities would—were it not for this technical problem—be entirely appropriate for inclusion in this resolution.

Mr. McCLELLAN. Mr. President, if there are no further amendments, I ask for third reading.

The PRESIDING OFFICER. If there are no further amendments, the question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 857) was read the third time and passed.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 3015, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 3015) to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from Kansas (Mr. PEARSON), with 1 hour on any amendment except for the Weicker amendment, on which there will be 3 hours, and a Buckley amendment and a Beall amendment, on which there will be 2 hours each; 30 minutes on any amendment in the second degree, debatable motion, or point of order.

Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be taken out of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. PEARSON. Mr. President, I ask unanimous consent that Malcolm Sterrett, John Kirtland, and Doug Buttrey of the staff of the Committee on Commerce be granted privileges of the floor during debate on this bill and throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum, with the time being taken out of the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Bob Ginther, Frank Krebs, and Sara Ross of the committee staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 3015.

Mr. CANNON. Mr. President, do I correctly understand that there is a time limit?

The PRESIDING OFFICER. There is a time limit. The time limit on the bill is 4 hours to be equally divided and controlled between the Senator from Nevada and the Senator from Kansas.

Mr. CANNON. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I am pleased to recommend to the Senate, the favorable consideration and passage of S. 3015. This bill extends and modernizes the Airport and Airway Act development program launched by Congress in 1970 to improve and modernize the national air transportation system.

As my colleagues are well aware, the program begun 5 years ago has been a great success in beginning the process of modernizing our aviation system both at the Nation's airports and, just as importantly, throughout the national air traffic control and navigation system.

The 1970 act ended the historic problem of insufficient investment in the national air transportation system, a problem which in the late 1960's resulted in a lowered margin of aviation safety and severe congestion and inefficiency at many of the Nation's large airports and in the airspace surrounding them.

The 1970 program is based on the creation of the airport and airway trust fund which is funded not by general tax dollars, but by user charges, or taxes, levied on users of the system. Airline passengers and shippers, private aircraft owners and operators and the airlines all pay taxes which flow into the trust fund. These taxes provide the revenues which are available for capital investment in our system.

While the 1970 program has, in the main, been successful, refinements and streamlining are required to make the program more responsive to the needs of the Nation's system of publicly owned airports.

The single most important change in the 1970 program embodied in this bill is an increase in the funds available for airport development grants which have come to be known as ADAP grants. Under the authorization which expired last year, airport grants were funded at $310 million annually. This is a slight increase over the original 1970 authorization of $280 millon. We in the Subcommittee on Aviation have heard expert testimony that to accomplish $280 million worth of airport development as provided in 1970, it will cost at least $500 million in 1975 dollars. This is a sobering example of the effects of inflation on our economy over the past 5 years and particularly points up the tremendous cost increases in construction.

In recognition of this situation, the bill before us would authorize, in the first fiscal year, $540 million for airport development grants with about a 6-percent annual increase for each of the next 4 years.

Some Senators have expressed concern that the funding level in this program is a major increase in spending over the previous program. However, judged by the results of inflation, the $540 million we provide for the first year is comparable to the $300 million plus which has been available for ADAP grants for the past 2 years. I emphasize the funding level here does not indicate a tremendous new surge in money for airport grants—it does, however, reflect today's costs as compared to those when the program was begun.

We in the committee were disappointed that the administration recommended that only $350 million be spent for airport grants in the first year. In reviewing airport needs in the last half of the decade, we are convinced that the administration's recommendation is a major step backward. This is particularly disappointing in that funds for this program do not come from general revenues; they come from taxes on the users. It should be noted that there is ample revenue available in the trust fund to support the development provided for in this bill.

The administration once again is seeking to turn the airport and airway development program into a device to finance the administrative expenses of FAA rather than a capital investment program. While recommending only $350 million for airport grants, the administration's current budget request seeks a whopping $476 million for the administrative expenses of the FAA. In short, this is an attempt to raid the trust fund and use user revenues to pay for the costs of running the FAA.

We on the Commerce Committee will not support such fiscal gimmickry, the only result of which is to reduce slightly the general revenues needed to operate the FAA. We cannot allow the administration to skimp on capital investment which is so badly needed in the system.

The committee is of the view that given the fact that the trust fund is now enjoying about a $1 billion surplus, and that user revenues continue to exceed development needs, that reductions in the user charge structure are warranted in hopes of bringing the cost of air transportation down for everyone. We urge the taxing committees of Congress to give careful consideration to the Commerce Committee recommendations to reduce user charges so that they more accurately reflect revenue needs for investment.

In addition to providing additional funds for airport development in the last half of the decade, this legislation also seeks to streamline the Federal grant-in-aid program and to provide new incentives for airports to deal with the airport noise problem. For example, purchase of land for noise abatement purposes and for better use compatibility is for the first time eligible for Federal grant assistance. Further, other noise attenuating devices and landscaping will be eligible for ADAP grants in hopes that airports will take steps to make their operations more compatible with airport neighbors.

The bill provides that airports may seek grant funds for any capital improvement program which might contain many projects over the next several years. This change is made to eliminate the project-by-project approval required in the past which was extremely slow and bound in redtape. We believe this revision will greatly streamline the grant process and will enable local airport sponsors to better utilize the Federal program.

Smaller air carrier and general aviation airports, which have traditionally had difficulty raising matching funds at the local level to finance projects will get additional assistance as a result of this bill. U.S. grants for projects at small airports will be increased from a 75–25 matching ratio, to a 90–10 in recognition of the fact that scarce local tax dollars in smaller communities are needed for urgent local services and that little is available for airport development, nor are smaller airports financially self-sustaining.

Our largest airports, too, will benefit from this program particularly as a result of a new apportionment formula which will essentially guarantee each airport a minimum amount of revenues in each of the next 5 years to accomplish eligible projects. In the past, none of our airports has had much assurance, let alone a guarantee, that it would receive funds each year. Under the apportionment provided in S. 3015, each air carrier airport will know with certainty that it will receive a certain amount of grant funds each year. This will greatly facilitate orderly planning in airport development and provide a blue print of Federal assistance over the 5-year period. This feature is a major step forward in the ADAP program and will make the program much more appealing in planning funding needs to meet costs of airport development.

In recognition of the fact that most of the user funds which pay for this program are paid by the airline passenger, the bill permits ADAP grants to be used for terminal area development projects which are needed to speed the passenger and his baggage through the airport and into the surface transportation system.

In the past, ADAP grants have been limited to airfield projects only. We recognize that some of the major bottlenecks in airports today are in the terminal area and that airport development is a systems need which emphasizes both airfield development and terminal development. Nonetheless, we also believe that airfield projects should continue to have the highest priority for funds; therefore, terminal area projects will be eligible for grants on a 50–50 matching basis.

Mr. President, in addition to providing for the needs of the Nation's airports, this bill continues the capital investment in the national air navigation system; $250 million is authorized for each of the next 5 years to provide funding for the acquisition and establishment of air navigation facilities which will continue to improve the efficiency and safety of our air transportation system. We are also providing that not less than $50 million per year in trust fund revenues be used for research and development into better air traffic control in the future and efficiency gains in the air transportation system.

Mr. President, this bill represents a major improvement in the Airport and Airway Development program first begun in 1970. It falls short of providing all the funds necessary for airport development in the next 5 years, but it will be of significant assistance in allowing local airport sponsors to meet their most critical development needs.

At the same time this bill streamlines the program as a result of experience gained in the first 5 years and, hopefully, be more responsive to local needs.

Most important, the bill continues the total emphasis on capital investment which was promised the users in 1970 when Congress first enacted the taxes on the users for the support of investment in the system.

Mr. President, I urge my colleagues to join the Commerce Committee in strong support for the airport and airway program and this bill.

Mr. PEARSON. Mr. President, the committee has reported a bill which builds upon the solid foundation of the landmark Airport and Airway Development Act of 1970. The programs established in 1970 have been the subject of continuing committee oversight—the accomplishments have been gratifying and substantial.

There is not a State or region in the Nation that has not directly benefitted from airport development assistance. The airport development assistance program—ADAP—has funded construction of new runways, aprons, and other major improvements at hundreds of publicly owned airports. The safety and security of more than 200 million airline passengers, and about 90 million general aviation passengers, who each year use America's airport facilities, have been enhanced significantly by the projects approved for construction and the navigational facilities approved for installation under this legislation.

During the course of extensive oversight hearings and analysis, the committee has found that substantial increases in funding for airport development are justified. The trust fund has adequate reserves. The need for increased emphasis on airport capital improvements is well established in the hearing record. Therefore, the committee has recommended an increase of approximately 43 percent in funding levels for fiscal year 1976 above those levels authorized for 1975. This amounts to $540 million in new obligational authority for airport development for fiscal 1976. This amount would increase by $40 million annually through the 5-year term of the act.

Mr. President, local airport sponsors over the years have had difficulty in securing financing for their share of an approved ADAP project. Under existing law, the local share for major hub airports, enplaning more than 1 percent of all enplaned passengers, has been 50 percent. The local share for all other airport sponsors has been 25 percent. Under the committee bill, the local share would be reduced to 25 percent for the major hubs, and 10 percent for all other airports. Terminal construction and improvements have always been major cost items for airport sponsors. Under the 1970 act, such projects are not eligible for Federal matching share. The committee's bill would allow, for the first time, Federal participation in terminal construction projects on a 50–50 basis.

The major improvements in the committee bill address a problem raised by numerous airport sponsors. Over the years, the sponsors have been unable to rely upon an apportionment for airport development that reflects accurately their ongoing needs for capital improvements. The committee bill establishes a policy of continuity in assistance by allocating fully two-thirds of all airport development aid to air carrier airports on the basis of an enplanement formula. The remaining one-third is to be allocated at the discretion of the Secretary of Transportation. Major one-time projects which require funding above the levels assured by the enplanement formula can be financed on a priority basis in this manner.

Under the enplanement formula, the smallest air carrier airports will receive no less than $150,000—the largest will receive no more than $10 million. The limits are designed to insure that all sponsors have adequate resources to meet their obligations to the traveling public.

Mr. President, the committee can assure this body that its oversight of the ADAP program will continue. As in past years, the committee will not hesitate to recommend modifications of the program when inequities or unanticipated needs arise. In this bill, for example, we recommend that snow removal equipment be made eligible for ADAP matching funds.

The sponsors of the Nation's public airports anticipate a need for some $8 billion in capital improvements over the next 5 years to keep pace with the demands of air travel in America. Not all of these capital requirements can be funded under this legislation. Budget restraints impose limitations here, as well as in other areas. Nevertheless, the committee's bill represents an essential and substantial commitment to the funding of urgently needed projects in the years immediately ahead.

Mr. President, in concurring with the judgment of the committee, let me say that this bill rests upon the solid foundation of a very good measure passed in 1970 to provide adequate funding for the development and maintenance of our national airport system. The principal objections during the implementation of that bill through the years have generally rested upon the heavy Federal involvement, upon regulatory delay, and upon the apportionment of funds under the ADAP system.

Our committee's effort in this bill has been, when in our judgment the criticism is justified, to adapt and to adjust our efforts.

One of the essential items is in the funding for the key programs. As the chairman has stated, in measuring the difference between the $350 million in funding for last year and the $540 million recommended in this bill, the emphasis ought to be on providing for the Nation's future needs.

This bill provides, over 10 years, $4.5 billion, measured against a present national need of $8.1 billion. That need ought to be measured also in the light of the inflation which has occurred in the past, and which will surely continue to occur in the future.

Mr. CANNON. Mr. President, I send to the desk six amendments of a technical or perfecting nature, and ask unanimous consent that the amendments be considered en bloc and that their reading be dispensed with. I will make a brief statement explaining each amendment, and hope that the Senate will see fit to agree to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Cannon's amendments are as follows:

Perfecting or Technical Amendment No. 1

Perfecting Amendment to Section 20 Proposed By Mr. Cannon Relating to Discrimination Among Users of Airports

At page 29, line 9, strike the language through line 21 and insert the following:

"Sec. 20. Section 18(1) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718) is amended by striking out ";" and inserting in lieu thereof the following: ', each air carrier, authorized to engage directly in air transportation pursuant to Section 401 or 402 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially camparable rates, fees, rentals and other charges and non-discriminatory and substantially comparable rules, regulations and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and passenger/combination flights or all-cargo flights; and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assures obligations substantially similar to those already imposed on tenant air carriers; however, that nothing contained herein shall require the reformation of any contracts and/or leases entered into by the airport prior to March 1, 1976.' "

Perfecting or Technical Amendment No. 2

Technical Amendment to be Offered By Mr. Cannon Relating to Funding For Multi-Modal Passenger Terminals

On page 19, line 21, delete the sentence beginning with "In" and insert the following: "Except for projects involving construction, alteration, repair or acquisition of multi-modal (including airport) passenger terminal facilities, the United States share shall not exceed the sums apportioned under section 15 (a) (3) (A) of this Act."

Perfecting or Technical Amendment No. 3

Technical Amendments to be Offered by Mr. Cannon Relating to Annual Apportionment of ADAP Funds

On page 11, line 9, strike "on or before" and insert in lieu thereof "on".

On page 11, line 10, strike "on or before" and insert in lieu thereof "on".

On page 13, line 21, strike "on or before" and insert in lieu thereof "on".

On page 13, line 22, strike "on or before" and insert in lieu thereof "on".

On page 15, line 14, strike "on or before" and insert in lieu thereof "on".

Perfecting or Technical Amendment No. 4

Perfecting Amendment Relating to Increasing Grant Agreements by the United States

At page 21, strike out lines 22 and 23 and insert in lieu thereof the following:

"(3) by striking out in the next to last sentence thereof all after 'increased' and inserting in lieu thereof the following: 'except as authorized by the Secretary; and' ".

Perfecting or Technical Amendment No. 5

"Perfecting Amendment Defining the Term Passengers Enplaned"

On pages 14 and 15 lines 21 and 8 respectively, redesignate subsection "(c)" as subsection "(d)" and subsection "(d)" as subsection "(e)", and add on page 14 between lines 20 and 21 the following new subsection (c):

"(c) Paragraph (6) (as renumbered by this section) of such Section 15(a) is amended to read as follows:

'(6) For the purposes of this section, the term "Passengers enplaned" shall include all passengers enplaning who pay the air transportation tax imposed by Section 426(a) of the Internal Revenue Code of 1954.' "

Perfecting or Technical Amendment No. 6

Perfecting Amendment Relating to Overtime Charges for U.S. Inspection Services

At page 28, line 23, amend section 19 to read as follows:

"(c) Any inspection of quarantine service which is required to be performed, at airports of entry or other places of inspection as a consequence of the operation of aircraft, by the Federal Government or any agency thereof shall be performed without reimbursement from the owners or operators of such aircraft, if such service is performed during regularly established hours of service on Sundays or holidays to the same extent as if such service had been performed during regularly established hours of service on weekdays: Provided further that notwithstanding any other provision of law, administrative overhead costs associated with any inspection or quarantine service required to be performed by the United States Government, or any agency thereof, at airports of entry as a result of the operation of aircraft, shall be performed without reimbursement from the owners or operators thereof.".

PERFECTING AMENDMENT NO. 1—PERFECTING AMENDMENT TO SECTION 20 REGARDING DISCRIMINATION AMONG USERS OF AIRPORTS

Mr. CANNON. Mr. President, this amendment would strike the existing section 20 in this bill and insert in lieu of it language which is more specific and which will not cause serious problems with existing contracts between airports and their tenants and users.

Section 20, as presently written, was intended to insure that recipients of airport grants-in-aid under this program did not unjustly discriminate against certain classes of federally certificated airlines, namely, the supplemental or charter carriers.

Unfortunately, the present language appears to be too broad and far reaching and has been interpreted by some to require that existing contracts be nullified and new ones be agreed to before an airport could receive ADAP assistance. I assure the Senate this was not the intent of the Commerce Committee.

After we became aware of the difficulties posed by section 20, our staff, working with the airport authorities and the supplemental airlines, agreed on amending language which I am submitting today. This language is more narrowly refined and has been endorsed by the Airport Operators Council International as eliminating the problems involved in the present section 20.

The intent of the amended section 20, while the same as the original section 20, is that air carriers authorized under the Federal Aviation Act of 1958 to engage directly in air transportation shall not be subjected to discriminatory treatment at airports by reason of class of carrier; that is, scheduled or supplemental or foreign air carrier and that they shall be subject to substantially comparable rates, fees, and rentals as well as rules, regulations, and conditions dependent upon whether they are tenants or nontenants and whether they are performing passenger/combination flights or all-cargo flights. The term "substantially comparable" means that while all conditions may not be identical; such as, the term of the agreement might be 20 years for one and 5 or 10 for the other, they shall be quite similar. The term "substantially comparable" is intended to allow some flexibility on the part of not only the airport operators, but the air carrier as well, so as to enable them to agree and contract on terms that meet both parties' needs. The revised language also provides that if a carrier desires to be a tenant, the airport cannot unreasonably withhold that status from the air carrier. Circumstances might exist at a particular airport where temporarily there was no counterspace available immediately so that some alternate arrangement might have to be worked out such as sharing counters, et cetera, and that might take a little time, but it cannot take an unreasonable or inordinate amount of time.

In my judgment, this revised section vests the Federal Aviation Administration with criteria on which to base judgments and to guide administrative discretion in making findings as to whether unjust discrimination does or does not exist.

The need for this amendment arises because at some airports, not all but some, there has been and is discrimination between classes of carriers. Also, it is my understanding that some airports have not readily permitted air carriers to become tenants.

As my colleagues are aware, we have two classes of certificated airlines; namely, the scheduled and the supplemental. Both hold certificates of public convenience and necessity issued by the Civil Aeronautics Board. Both have been authorized by the Congress under the Federal Aviation Act of 1958. Both serve the public—the one providing the individually ticketed service as well as charter service; the other, the supplementals, providing only charter service to the public. This latter group of carriers was created by the Congress in 1962 pursuant to Public Law 87–528. Over the past 14 years they have distinguished themselves in their ability to provide the public with low-cost air transportation services. But yet, Mr. President, notwithstanding all of the contribution this industry has provided to the public, they continue to be discriminated against at some airports through which they must operate to serve the public.

At many airports they are restricted to the "other side of the field." At some airports they are precluded from servicing themselves being relegated in some instances to less than adequate servicing and in some instances have been considered not as air carriers but as general aviation. They have been refused tenant status. They have been subject to excessive charges, or I should say, charges way in excess of those paid by other users of the airport. This discrimination has not only affected the air carriers, but it has affected the public who use this service. The supplemental carriers have, over the past several years through extensive and lengthy negotiations, been successful in prevailing upon some airports to permit them to have tenant status; and in those instances they have accepted full responsibility under leases for adequate and uniform payments to the airport concerned. In fact, airports where they have become tenants, such as, at St. Louis, Dulles, Detroit, Chicago, now have become advocates of this class of carrier and are extremely pleased with arrangements that have been consummated, but the achievements at these airports have resulted from long, costly negotiations.

At some airports, airport authorities permit U.S. scheduled carriers to service other scheduled carriers or foreign carriers but preclude those scheduled carriers from servicing a supplemental, even though the scheduled carrier wants to be able to service the supplemental. That, gentlemen, in my estimation, is unjust discrimination. We cannot permit this to happen.

It was not too long ago that our own Federal Aviation Administration in the operation at Dulles discriminated against this class of carrier; and only after lengthy legal argument and threat of court action, did the Secretary of Transportation reverse that body and order them to permit freedom of choice on the part of the supplementals at Dulles to select their service agency.

This amendment would not be necessary if we were sure that each airport would accord equal treatment. We know from experience that some will not. We cannot permit Federal funds to be expended and sanction this type of discrimination.

I therefore propose that this body accept the amended section 20 language which I have described.

PERFECTING AMENDMENT NO. 2—RELATING TO GRANTS FOR MULTIMODAL TERMINAL FACILITIES

Mr. President, this amendment would make clear the Committee's intent to provide that the Secretary's discretionary fund under the ADAP program may be used for grants to sponsors for development of multimodal passenger terminal facilities at airports.

The bill already makes eligible for ADAP such multimodal facilities because the Committee believes that, where feasible, multimodal facilities made good sense in bringing transportation modes together for the public convenience. We believe that common transportation interfaces between air transportation and surface systems will add to efficiency and could reduce many of the bottlenecks associated with our present transportation system.

Because development of multimodal facilities would require more funds than any sponsor would be eligible for under formula, it was our intent to allow the Secretary to use his discretionary account to assist such development as he sees fit. This amendment will correct a drafting error in the bill and would permit such use. I urge the Senate to adopt the amendment.

PERFECTING AMENDMENT NO. 3—RELATING TO ANNUAL APPORTIONMENT OF ADAP FUNDS

This amendment is sought by the Senate Budget Committee and the administration to make clear that funds available each year for air carrier airports will be apportioned on October 1 for the following fiscal year and not before. Under provisions of S. 3015, the Secretary could make such apportionments on or before October 1. There is some concern that if apportionments were made before October 1, the United States would be obligated for expenditures before the beginning of the new budget year. Adoption of this amendment will ensure that such will not occur and that annual apportionments of ADAP funds for grants will be made on the first day of each new fiscal year.

PERFECTING AMENDMENT NO. 4—RELATING TO INCREASING GRANT AGREEMENTS BY THE UNITED STATES

Section 11 of S. 3015 would amend section 19(a) of the 1970 legislation, "Grant Agreements," by deleting a sentence which specifically limited the amount of ADAP grant agreement increases to 10 percent of the amount stated in the grant offer.

While the deletion of that sentence by the Committee was intended to indicate that a 10-percent maximum increase would be unreasonable in view of the past postgrant offer increases imposed on sponsors by suppliers and contractors, the deletion of the sentence in the Senate bill, without more, could be construed as deletion of any authority by the Secretary of Transportation to increase funds beyond the amount stated in the agreement. This is not intended.

This amendment explicitly retains authority in the Secretary to increase Federal funds available to a sponsor to reflect necessary increases in cost to the sponsor between the time of grant offer and final bidding by suppliers after the grant agreement is executed, but without the arbitrary 10-percent limitation in the existing statute.

Likewise, the amendment is intended to indicate that, following past practice, the Secretary may obligate funds authorized by the 1976 amendments to supplement amounts specified in pre-1976 agreements which have not yet been completed because of increasing sponsor costs and the inability of the Secretary to increase the Federal contribution because of the program cutoff on June 30, 1975.

PERFECTING AMENDMENT NO. 5—RELATING TO MODIFIED DEFINITION OF "PASSENGERS ENPLANED"

Mr. President, the purpose of this amendment is to simplify and clarify the definition of the term "passengers enplaned" in section 15 of the 1970 act. It is the present practice of the Secretary to count as passengers enplaned all passengers who pay the 8 percent air transportation tax imposed by section 4261(a) of the Internal Revenue Code of 1954. This amendment will simply incorporate this practice into the statute.

Section 15 of the 1970 Act contains a definition of "passengers enplaned" which the Secretary has relied on in making his calculations. Although no one has suggested that the present method of calculation be changed, some uncertainty has arisen as to the precise meaning of the technical definition in the act. It was the intent of Congress in 1970 that anyone who pays the air transportation tax should be counted as a passenger enplaned for purposes of distribution and apportionment of funds. This amendment will remove any doubt about that intent. It will assure the continued practice by the Secretary of counting all passengers who pay the tax, whether they board certificated route air carriers, supplemental air carriers, commuter air carriers, air taxi operators, or carriers operating intrastate.

PERFECTING AMENDMENT NO. 6—RELATING TO CHARGES FOR GOVERNMENT INSPECTIONS SERVICES

Mr. President, the final amendment is a perfecting amendment to section 19 having to do with the circumstances surrounding the collection of overtime charges for Government inspections of persons and property entering the United States aboard aircraft.

The purpose of this amendment is to preclude the U.S. Customs Service or the

Immigration and Naturalization Service from assessing administrative fees on operators of aircraft to pay the overhead costs associated with inspections of persons and property entering the United States.

The intent of section 19 is to eliminate the unfair and exorbitant overtime charges assessed against aircraft operators entering the United States on Sundays and holidays. The amendment, in addition to precluding overtime charges, will also prohibit "administrative user charges" from being levied against aircraft operators.

As my colleagues are aware, aircraft operators and airlines for many years have been subject to unfair discrimination by the inspections services by being charged for inspections which other travelers are not charged for. This amendment, while not eliminating such discrimination entirely, will reduce its impact significantly.

I urge our colleagues to support this amendment.

Mr. President, that concludes the explanation of the technical and perfecting amendments that I have sent forth to be considered en bloc, and I urge the adoption of the amendments.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CANNON. I yield back the remainder of my time.

Mr. PEARSON. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the technical amendments en bloc.

The technical and perfecting amendments were agreed to.

AMENDMENT NO. 1508

Mr. FORD. Mr. President, I call up my amendment No. 1508.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) for himself and Mr. Huddleston proposes amendment No. 1508.

The amendment is as follows:

On page 24, line 15, "section" insert a comma and "or if such State's legislature is not in regular session on such date and will not meet again in regular session before January 1, 1977, such participation has been authorized by such State's Governor.".

Mr. FORD. Mr. President, this amendment undoes something I do not believe the committee intended.

The bill indicates for demonstration projects under this legislation that the legislature must ratify or approve such demonstration program, but it is after this bill is enacted.

If we do not amend this piece of legislation, some 26 States would be excluded from having an opportunity at least to participate if they are one of the chosen three, and my amendment merely allows the Governor of those States to sign or he is authorized to sign for this demonstration program.

I do not believe there is any objection from the manager of the bill in the Chamber. I do not wish to take up any more time of the Senate or from the other major amendments.

Mr. President, the distinguished Senator from Utah (Mr. Moss), who is not in the Chamber, is very strong for this amendment and, as most of us know, he was the original mover of State demonstration projects in the general aviation program in this bill.

Mr. President, I yield to my distinguished colleague from Kentucky.

Mr. HUDDLESTON. Mr. President, I am pleased to join today with my distinguished colleague from Kentucky (Mr. Ford) in offering this amendment to S. 3015, the Airport and Airway Development Act Amendments of 1976.

Our amendment is a simple one. It speaks to a problem which would be faced by Kentucky as well as 26 other States if the language in section 28(b)(2) is not modified in the manner we have suggested. As it now stands, a State would not be able to participate in the general aviation demonstration program called for in the bill unless that State has been specifically authorized by an act of that State's legislature taken after the date of enactment of the bill.

Additionally, the bill states that the Secretary of Transportation who will be administering the State demonstration program may not "initiate any demonstration program after January 1, 1977."

What this means then is that any State whose legislature has completed its session this year before the enactment of this bill into law and that legislature will not meet again prior to January 1, 1977, then the State will automatically be ineligible to participate in the demonstration program. Our amendment would simply allow States that are automatically eliminated the option of having the Governor of the State approve the application for participation in the program.

The amendment we are offering does not seek to address the merits of the demonstration program in any manner. We are simply interested in seeing that all States have the opportunity to participate.

Mr. CANNON. Mr. President, it was not the intent of the provision in the bill to limit it so that any State could fail to qualify. The Senator has made a good point. I believe that, under the circumstances he has described, it would be appropriate for the Governor to be able to authorize State participation.

Mr. FORD. It is simply to authorize him to qualify the State to be a participant.

Mr. CANNON. Yes. That I think is a reasonable amendment. I am willing to accept the amendment.

Mr. PEARSON. I accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr' CANNON. Yes. I yield back my time.

Mr. PEARSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FORD. Mr. President, I thank the floor leaders.

AMENDMENT NO. 1423

Mr. WEICKER. Mr. President, I call up my amendment No. 1423 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Weicker) for himself, and Mr. Bayh, Mr. Brooke, Mr. Buckley, Mr. Bumpers, Mr. Case, Mr. Cranston, Mr. Durkin, Mr. Haskell, Mr. Kennedy, Mr. Nelson, Mr. Proxmire, Mr. Ribicoff, and Mr. Tunney proposes amendment No. 1423.

On page 29, after line 21, add a new section as follows:

PROHIBITION OF COMMERCIAL OPERATION OF CIVIL SUPERSONIC AIRCRAFT IN THE UNITED STATES

Sec. . Section 303(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1344(a)) is amended by striking the period at the end thereof and adding the following: ": *And provided further,* That, except in an emergency, or unless hereafter expressly authorized by Act of Congress, no expenditures may be made to take any action to authorize or permit the operation of a civil supersonic aircraft in air transportation in the United States.".

The PRESIDING OFFICER. The Chair makes this inquiry: Is this the amendment on which the Senator desires 3 hours of debate?

Mr. WEICKER. This amendment No. 1423 is the one on which I believe we have a 3-hour time agreement, that is correct.

Mr. President, I yield to the distinguished Senator from Maryland (Mr. Beall).

Mr. BEALL. Mr. President, I ask unanimous consent that Neil Messick and Maurice White of my staff be granted privileges of the floor during debate on this legislation, all amendments thereto, and votes on amendments and the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Bob Dotchin, Doug Cutler, and Geoff Baker of my staff be permitted privileges of the floor during the debate on this amendment, the bill, and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, this amendment, cosponsored by Senators Case, Buckley, Durkin, Nelson, Tunney, Cranston, Bayh, Proxmire, Brooke, Ribicoff, Bumpers, Kennedy, and Haskell, would prohibit the commercial operation of civil supersonic aircraft in the United States.

The proposal would prohibit the use of any funds authorized under section 303 of the Federal Aviation Act, that would authorize or permit, except in an emergency, the operation of civil supersonic aircraft in air transportation in the United States. By controlling the pursestrings of the FAA, we have taken the most direct means of stopping the Concorde before it gets off the ground. However, should the Congress become satisfied that Concorde can operate in an environmentally sound manner, it can take specific action authorizing the operation of this plane in the United States.

Contrary to the statements of some critics, this amendment does not limit military aircraft; does not prevent supersonic test flights; does not stand in the way of technological progress. The amendment only prohibits operations of civil supersonic aircraft in "air transportation" in the United States. As defined in the Federal Aviation Act of 1958, air transportation would "mean the carriage by aircraft of persons or property as a common carrier for compensation or hire." Flights to test any technological improvements in the Concorde would be permitted.

Indeed, if the SST is ever going to fly without endangering our health and safety, technological improvements have to be made.

In 1971, the Congress decided that expenditure of tax dollars to build an American SST, which many observers believed was technologically superior to the Concorde, was not a worthwhile investment of Federal transportation dollars.

Now the Federal Aviation Administration's final environmental impact statement indicates the SST is much more than simply "not worthwhile." Environmental dangers, drastic noise levels, unacceptable emissions, deterioration of ozone, exception from U.S. environmental laws and policies is not progress.

In testimony before Secretary Coleman, the Environmental Protection Agency, after reviewing all the facts and the environmental impact statement concluded:

> Introduction of Concorde services runs directly counter to the noise abatement and other environmental policies and programs of the United States. Such service will subject people to significant environmental impacts and will undermine and negate essential abatement efforts now underway.

In addition, President Ford's Council on Environmental Quality has concluded "on the basis of these noise impacts, we recommend that you deny permission for the landings."

The evidence offered by our own top environmental experts is powerful. Yet, today, we are faced with a fait acompleat. The SST has sped past Congress and the experts and has been cleared to land—flat on top of our environmental laws. Before EPA and others start saying "I told you so," we in the Senate should act.

The fundamental issue is whether we are willing to exempt the Concorde from environmental laws to which the current generation of American aircraft must adhere. In three specific areas, the present fleet of civil supersonic aircraft runs directly counter to environmental policies of the United States.

First, the Noise Control Act of 1972 declared that it is "the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health and safety." As older aircraft is replaced by the current generation of U.S. planes, and we seek to retrofit our existing fleet, aircraft noise is coming under control. The introduction of Concorde at this time with its noise levels would present a serious step backwards in our national noise abatement program. Concorde will be perceived as two to four times as noisy as aircraft currently in commercial service in the United States.

From the viewpoint of the people affected—those near the airports—the fact that the plane is supersonic or subsonic makes no difference.

The EPA believes that the Concorde operations will result in a detrimental noise impact. Specifically, EPA found that—

First. An increased number of people will be subject to cumulative noise levels identified as affecting the health and welfare of Americans.

Second. Low frequency contact of Concorde noise could induce building vibrations.

On January 13, the Environmental Protection Agency recommended to the FAA noise requirements for supersonic aircraft. The practical effect of these regulations is to apply the same noise level required to each supersonic aircraft which did not have flight time before December 31, 1974, as are now applicable to subsonic transport. These regulations are pending for public comment.

Mr. President, the Concorde could not meet these noise regulations. To exempt this plane is to mock our law and menace our health and environment.

Second, the Concorde will have an immediate adverse impact on the Nation's air quality. According to EPA, the requested flights into Kennedy Airport will increase air pollution by 4.4 percent. Flying into Dulles, pollution levels will go up by 8.4 percent.

Of special concern is the potential increase in carbon monoxide and hydrocarbon emissions that accompanies expanded Concorde flights. In highly congested areas such as New York City, additional pollutants could pose serious health problems to millions.

Third, the National Academy of Sciences and the Department of Transportation suggest that Concorde could cause additional deterioration of the ozone layer, possibly resulting in many additional cases of skin cancer. The FAA's environmental impact statement estimates that an additional 200 cases of skin cancer could be attributable to the few trial period flights presently proposed.

Faced with overwhelming environmental evidence, one might wonder how it is that those opposing the Concorde have their backs against the wall today.

Secretary Coleman's decision was the obvious move that put supersonic proponents in the drivers seat.

In reaching his decision to allow Concorde operations, the Secretary considered a number of factors. Clearly, possible diplomatic gains was one of those considerations. The Secretary of State, in a letter to Mr. Coleman, expressed his strong interest in permitting the Concorde to operate in the United States. I quote an excerpt from that letter:

> In terms of our political relations, we believe that this project, in which both governments have invested very large sums, represents a unique achievement by both Britain and France in a high technology aircraft that commands close attention at the highest levels in both countries, as well as intense public and governmental interest in view of the financial stake and national prestige involved in placing the Concorde into commercial service, and especially into transatlantic service. Under these circumstances, it is apparent that any Administration decision that would amount to an outright rejection of the applications of the two airlines for the limited service they intend to begin next year would be viewed as a serious blow by two of our closest friends and allies, whose interests coincide with our own in so many areas.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., October 6, 1975.

Hon. WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

DEAR BILL: I am happy to respond to your request for my views on the foreign policy considerations to be taken into account in your decision regarding the applications by Air France and British Airways to operate the supersonic Concorde aircraft to Kennedy and Dulles airports.

We have until now addressed ourselves only to the procedural aspects of entry of the Concorde into the United States. In my letter to Chairman McClellan last July 22, I pointed out that the British and French Governments had on several occasions expressed to us their concern about possible discriminatory treatment of the Concorde, and that we had assured them at the highest levels that the Concorde would be treated fairly in all aspects of U.S. Government regulation. We were pleased that the Congress agreed to allow the decision with regard to Concorde entry to be taken in accordance with the established administrative procedures and not to take specific leigslative action against such entry.

The British and French authorities are fully mindful of the considerations involved in any decision on their applications, in view of the extensive public hearings and Congressional debates on the environmental aspects of the aircraft. In terms of our political relations, we realize that this project, in which both governments have invested very large sums, represents a unique achievement by both Britain and France in a high technology aircraft that commands close attention at the highest levels in both countries, as well as intense public and governmental interest in view of the financial stake and national prestige involved in placing the Concorde into commercial service, and especially into transatlantic service.

Under these circumstances, it is apparent that any Administration decision that would amount to an outright rejection of the applications of the two airlines for the limited service they intend to begin next year would be viewed as a serious blow by two of our closest friends and allies, whose interests coincide with our own in so many areas. The impact would be particularly severe in the case of France in light of the immense disappointment the French felt earlier this year in losing the international competition to the United States in providing a new military aircraft as the replacement for the F-104 fighter aircraft in the hands of certain other NATO countries. We could expect strong public and official resentment against the United States if we were to reach a decision that they would view as not in harmony with the generally excellent relations we now enjoy with both countries on a broad spectrum of important matters. It has been suggested that there would be pressures in one or both countries to respond to such a decision with some form of retaliatory action. Although the immediate practical possibilities in this respect would appear to be limited, protectionist elements would be strengthened, with consequent adverse effects. In any case, in view of our close and mutually advantageous relations with both of these countries, we should take due account of the impact of any decisions on their interests.

I hope that in taking the Administration's initial decision with specific regard to the Concorde, you will find it possible to weigh carefully the concerns of these two close allies, together with the environmental and other criteria that you must consider.

Best regards,

HENRY A. KISSINGER.

Mr. WEICKER. Mr. President, while the 16-month trial period may have been viewed as a victory for the Secretary of State, it was a loss for the American people.

For the people living near Kennedy and Dulles Airports, the loss might better be described as a disaster. Specific actions have been taken to stop the SST by virtually every State and local government directly threatened. The New York and Maryland State Legislatures, the Virginia House of Delegates, the Nassau County, N.Y., and Fairfax and Loudoun County, Va., Boards of Supervisors all have voiced strenuous objections.

It appears that the Secretaries of State and Transportation have opted in favor of selective application of our environmental laws. Why should Americans be discriminated against and their health and safety placed in jeopardy only to score a few diplomatic points with European allies?

For all Americans, it is now up to the Senate to close the door to this creature that few people want and nobody needs.

Mr. President, I strongly believe the health and safety of our citizens must be protected. I strenuously object to setting two sets of environmental standards, one for American planes, another for our British and French friends.

Allowing the Concorde into the United States opens the door to environmental danger and establishes a doublestandard which is both irresponsible and unacceptable. And once the door is opened, we may never get it closed again.

Mr. President, the statement is made over and over in this debate that if we adopt the Weicker amendment we would be discriminating against the British and the French. I think the record has to be set very clear on this account. The discrimination is against Americans, the preference and the exception being made for the British and the French. I think probably Mr. President, I sit here as one uniquely positioned to be impartial in this controversy, having been the only U.S. Senator born in Paris, France, of a mother who is a British citizen, and now being a U.S. Senator. I think it is possible for me to view the matter on the basis of the facts and the issues raised, and not in any sort of discriminatory way.

When is Congress, when is the Government of this country going to legislate laws that apply to all, rather than exceptions that apply to a few? We wonder as to why there is a credibility gap between ourselves and the American people. I suggest that it probably is because there is a tremendous gap between our words and our deeds.

We have set, both in law and as a matter of policy, environmental standards for this Nation. It took many, many years before we were raised to a level of consciousness that gave the environment that priority consideration, but we have now done so. But, apparently, we cannot even live with those laws or those standards a few years before exception has to be made—ironically, in this instance, not even for American citizens, but for two foreign nations.

Again, insofar as application, we are talking about a handful, rather than the great mass of people who reside in this country. This is what bothers me. This is what I think bothers the people of this country. Aside from the environmental issue, when is there going to be one standard of justice that applies to all? When are we going to have laws that apply to all and are enforced against all?

If we are tired of the environmental movement, if we are tired of environmental legislation, fine; take it off the books. But do not come in through the back door and make an exception. That is the broader issue that is involved in this dispute.

I hope that my colleagues will set the record very clear, not only as to the specific environmental dangers caused by the flight of this aircraft into the United States; but that we have the courage and the consistency to apply the laws equally to foreign and to domestic manufacturer and airline alike, to the strong as to the weak, to the rich as to the poor.

This is the principle that is very much involved in this debate and, Mr. President, I hope that a majority of my colleagues will support this amendment.

I think it also is important to point out that the Senator from Connecticut has many lobbies on his side. The administration, obviously, is trying to back up the decision of its Secretary of Transportation. They have a very powerful ally in the distinguished Senator from Nevada (Mr. CANNON). But the facts and the principles—they are all on my side. Whether the votes are or not is something to be determined in the hours ahead.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 10 minutes.

Mr. President, I vigorously oppose the Senator's amendment as environmentalism run amuck. The spirit behind this amendment is reminiscent of early 20th century attacks on airplanes and automobiles as creatures of the devil dedicated to disturbing a tranquil society because they offered mankind unheard of advances in speed in meeting his transportation needs. Those earlier doomsayers, who opposed both the flight of man and the automobile, are now remembered only as eccentric curiosities, persons of little vision, who, like ostriches when confronted with new situations, simply poked their head in the sand and said, "Go away."

Today's critics of supersonic air travel are really no different from their counterparts in earlier times. Their arguments are basically the same, but unlike their earlier brethren, they have wrapped themselves in the Robin Hood-like cloak of environmental rightists, something barely understood in the early part of the 20th century. While they still basically deplore man's efforts to bring his world closer together with faster transportation, they now use highly sophisticated and esoteric arguments about the irreparable damage to the environment in attacking supersonic air travel.

As anyone who has honestly studied the so-called environmental issues knows well, these environmental attacks on the proposed Concorde SST flights are rubbish. They are poorly disguised attempts to discredit this remarkable transportation advancement by claiming it will cause skin cancer, or that its flights will cause old buildings to fall down. These arguments are reminiscent of those that claimed that automobile noise would cause chickens to quit laying eggs.

I hope that the Senate will consider supersonic travel in the proper perspective.

The Concorde is a marvelous development. I may say that I am just disappointed that we did not go ahead with an SST of our own in this country. I think we will regret that in the future. Its quantum jumps in both the safety and speed of flight are remarkable and illustrate the development of technology which promises great benefits to mankind in the years ahead. It is sad indeed to reflect on the fact that the United States, long the world pioneer in flight, gave up on this important phase of transportation development and relegated itself to a secondary position in the leadership for faster travel.

I emphasize that the history of the development of man is the history of man's transportation. From the invention of the wheel to man's flight to the Moon, the state of human life has grown more abundant with progress in transportation.

Man's quest for speed is inexorable, not for the sake of speed but for the ability that speed gives man to use his talents and resources to better humanity. Time wasted in transportation is lost forever. Time gained by faster transportation is time that may be put to use in productive fashion by productive men and women.

Concorde, or supersonic air travel, is nothing more than a time machine. It saves time—it will allow the most productive persons in our society to spend less time traveling and more time doing. And that will benefit all of society, not just those who use supersonic air travel. The development of this transportation advance was just as inevitable as the development of the diesel locomotive, the internal combustion engine, or the jet aircraft. And tomorrow the development of hypersonic air travel is as inevitable as Concorde is today. That is the history of man's effort to make better use of his time, and the quest of speed will not be thwarted by the ostriches, any more than it has been in the past.

Let us take a look at Concorde and the issues which evoke all of the fuss. Concorde is far from the perfect supersonic airplane. Nobody claims it is or that it should be except the know-nothing doomsayers, who are content to stop all progress and technological achievement. Concorde is a crude beginning on man's attempt to travel faster than the speed of sound, much as the Model A was a crude beginning to high-speed automobile travel.

While it is a remarkable achievement in terms of the technology it represents, it is the first generation of fast aircraft and, as such, represents only the very beginning, rather than the optimum, in supersonic air travel.

Indeed, if it were the optimum flying machine, its engines would not make any noise; it would be powered by water rather than fossil fuel and it would carry 500 passengers nonstop around the globe.

That is the kind of aircraft that would satisfy today's doomsayers, because it would be absolutely nonpolluting and superefficient and, at the same time, could reduce remarkably the cost of air travel. This the Concorde is not. But I hasten to add, we should not expect it to be, either.

Let me emphasize that at the time this aircraft was designed and that men began cutting metal for the first prototype, noise pollution from aircraft had yet to become a flaming issue, fossil fuel was 10 cents a gallon or less, emissions from aircraft or automobiles had yet to be attacked in a regulatory sense as a national environmental problem, and man's quest to understand better his world and the space beyond was being led by the United States, not the United Kingdom or France or the Soviet Union.

That was in 1965. There were no aircraft noise standards. There were no rules or law regarding the emissions from aircraft. There was no world energy crisis nor an OPEC oil cartel. Nor were there many who challenged the idea of a faster flying machine.

The Concorde SST was designed, conceived, funded, and carried forward by men who were not prescient enough to recognize that a decade later they would be attacked for failing to have the foresight to foresee that they would have to design a noiseless aircraft that did not burn fossil fuel and which did not emit carbon monoxide or oxides of nitrogen. This I submit is nonsense.

And yet today, a number of my colleagues are doing just that. They are blaming the developers of Concorde for failing to develop the perfect fast airplane and I suspect many can more self-righteously attack Concorde because it is British and French, rather than American.

The irony of all this is that the critics of this aircraft fail to point out that today's noise regulations cannot—and I repeat, cannot, Mr. President—be met by fully 70 percent of the aircraft flying today, because they too were designed and developed prior to the establishment of any standards whatsoever. And these critics fail to point out that our subsonic aircraft are woefully fuel inefficient in terms of 1976 technology which can give us airplanes which use 25 to 40 percent less fuel. And they overlook the fact that today's jet aircraft are not emissionless machines which do not pollute the atmosphere, because when they were designed and built the emphasis on reducing air pollution was on the automobile engine, not on jet aircraft.

But these critics would have us believe that this airplane was designed and developed in defiance of U.S. law, standards or regulations regarding noise and air pollution when in fact there were not any standards period. Sure, the Concorde is noisier than existing jet aircraft, it also emits more emissions and it uses fuel relatively inefficiently. It is far from the perfect machine. But should that lead the U.S. Government to say stay out? You cannot fly Concorde here because it is too fast, to noisy, too dirty, too expensive, and too inefficient. Should we tell the British and French that their $3 billion investment is not to our liking so keep it out of the United States? I think that is monstrously unfair and reeks of protectionism as the United States is the world's largest and most successful manufacturer of aircraft.

Now it seems to me that there might be legitimate concern for environmental damage if a fleet of hundreds of Concordes was suddenly to begin flying to the United States. But Secretary Coleman, in reaching the decision to permit Concorde operations to the United States on an experimental basis—and I repeat again on an experimental basis—put the questions in proper perspective.

We are not talking about several hundred Concordes. We are talking about 16. That is right, 16. That is the total number of aircraft committed to production. And from this 16 aircraft, only 6 flights a day would touch U.S. soil. That amounts to six takeoffs and six landings each day. The environmental impact of that kind of experiment is a little like claiming that dumping a box of detergent will pollute the Mississippi River.

I emphasize to my colleagues that we are talking about six flights a day. No more. The Secretary said in my committee hearings no more—absolutely none until the results of the experiments may be assessed to determine what dangers, if any, exist to our environment. And yet the critics and many of my colleagues ignore his statement, they refuse to read his decision—which I might say is one of the finest governmental documents I have ever seen in its reasoning, clarity, and judgment—and they refuse to address the real issue before us of six flights a day.

They cry out in anguish about environmental dangers and skin cancer despite the fact that the evidence does not exist to indicate that six flights a day will do any violence or harm whatsoever. In fact, the skin cancer argument has almost been put permanently to rest by noted and eminent scientists.

Mr. President, I submit that the critics of this aircraft are engaging in a scare campaign unprecedented in recent years, to frighten the American public into believing that this aircraft is some sort of monster being foisted on our Nation by insensitive and stupid men in Great Britain and France. I deplore such tactics.

I submit that honest and fair men could do nothing more than embrace Secretary Coleman's report as a reasonable and fair decision which, when implemented, will allow fact to replace rhetoric; will allow reasonable and factual debate rather than hysterical diatribes; which will allow every one of us to assess the pluses and minuses of Concorde supersonic travel.

We do not have all the facts, nor does the Secretary. But commonsense should tell us that six flights a day to the United States are insignificant as far as dangers are concerned and yet will allow us to measure and to assess the environmental impact of this aircraft. Mr. President, that is the six flights a day for a period of 16 months.

This is what the Secretary has proposed. I hope the Senate will strongly support his decision and will reject the ostrichlike approach to the Concorde which is embodied in the amendment before us today.

Mr. President, I just wish it were technically possible for the aircraft to be able to fly and land in my home State. We would certainly welcome having it flown into Las Vegas because we know the important impact that aviation, jet aviation, has on the country. Unfortunately, it doesn't have the range to fly that far without landing, and so, obviously, the logical experiment is at the two airports the Secretary has designated.

I hope my colleagues will look at this rationally and objectively and come to the only conclusion that I think can logically be arrived at. That is we need to have an experiment and actually find out what the results are.

The noise of the Concorde is very little different in the landing-takeoff mode than jet aircraft that are in existence at the present time. Most of the people who are complaining about it now would not be able to tell the difference with their own ears between the noisy airplanes of today, the 707's and DC-8's, and the Concorde. They would not be able to distinguish that difference if they were within a reasonable distance around the airport.

Mr. President, I reserve the remainder of my time. I yield such time as the Senator from Arizona needs. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GOLDWATER. Mr. President, over the course of the past week I have been placing in the Record daily answers to all of the threats, the questions, posed by the Concorde. I do not, therefore, expect to go over them again, but I will try to answer each allegation as I hear it.

Now, the author of the amendment, the distinguished Senator from Connecticut, asked a question, I believe, when are we going to start treating all people alike.

I do not know to what he was referring. It might be people who travel the airlines; it might be other questions, but I can answer that question as it relates to the United States and foreign countries which, I think, is one of the most important parts of this argument.

Let us go back in history to the late

1950's and early 1960's when the Boeing 707 and the Douglas DC–8 were being put into service. At that time the British had a fine, long-range transport aircraft in manufacture, which was highly efficient and far quieter than the U.S.-made jets. The British aircraft, the Britannia, was known as the "Whispering Giant." But the jets were faster, as the Concorde is today.

The British could have come up with noise or pollution standards that would have blocked operation of the U.S. jets and preserved their market for the Britannia. But they did not. Far from blocking our new aircraft, the British and the French acceded to strong American pressure to lengthen and strengthen their runways, especially to handle the U.S. jets.

In this instance, the United States relied heavily on the provision in its aviation treaty with Great Britain and in the Chicago Convention that provides that one nation should recognize the validity of certificates of airworthiness issued by other treaty nations. Without having enjoyed foreign acceptance of our new aircraft through recognition of U.S. certificates of airworthiness, we likely would have confronted great difficulties in placing our aircraft in the market.

But now the shoe is on the other foot. Foreign manufacturers have come up with an aircraft that is technologically more advanced than any commercial aircraft we have produced. The Concorde may have a decibel level that is higher on takeoff, although not a lot higher, than the older jets still in service in our country—and, I might add here to what the Senator from Nevada has said, if we want to be fair to everyone—and I notice there is an amendment here to provide something like $200 million a year to put this into operation—we will have to require all 707's and DC–8's to change engines in order to meet the now applicable noise levels, but I doubt that that will be done—but in comparison our jets, when they were first being introduced in the world marketplace against foreign aircraft, were tremendously louder than foreign competitors such as the Britannia.

In fact, it can be argued that it is we who visited the noise problem upon the world, with our 707's and DC–8's. For us now to piously shun the Concorde, because it may be slightly noisier than the noisy aircraft that we ourselves have already introduced into community life, is the height of arbitrariness. It explains why foreign people would view us in a bad light if we should now go counter to our own history of using international air agreements to our advantage when U.S.-made aircraft is at stake, and refuse to apply those agreements in an evenhanded manner when there is not U.S. technology involved.

So I say to my friend from Connecticut that if we want to be fair, let us be fair. I am perfectly willing to play this ball game across the line.

I happen to live in a State that probably has more supersonic jet flights every day than any other State in the Union and we are not tearing the roofs about it.

I tell people that I would rather hear that noise than think that my grandchildren would fly those things against some enemy some day.

Because of the position Connecticut occupies in relation to the very close-by JFK Airport, in my opinion, by the time the afterburners have been turned off on takeoff, they would not be so great, and the noise level would be the same as the 707 on takeoff and on landing.

The supersonic aircraft, whether it be the Russian or French or our own, would slow down to subsonic speed about 200 miles out to sea, producing no shock wave at all and we would not go through the speed of sound on climbing out. I say "we"—the Concorde would not go through the speed of sound climbing out until about reaching 200 miles at sea and the shock wave would be traveling in the other direction if at that time such a wave did develop.

So, Mr. President, I am in perfect accord with the Senator from Connecticut when he says, "Let's play it fair, let's give everybody the same chance."

Let us not discriminate against the Concorde just on the ground that the United States has been very shortsighted in not producing its own supersonic transport.

Mr. CANNON. Will the Senator yield for a question?

Mr. GOLDWATER. I am happy to yield.

Mr. CANNON. I have before me a chart from the Secretary's decision. The study that was made that shows the takeoff, the sideline, and the approach noise, and comparing the Concorde to the 707. The 707–300 series and the DC–8's are, as I understand it, substantially the same, and according to this chart it indicates that on takeoff the Concorde is about 6.5 EPNdB higher than the 707, which is not very high. On sideline noise, it is about 10 points higher, and on approach it is about 2 points lower.

So would the Senator say those figures are reasonably comparable insofar as perceptible noise to the ear?

Mr. GOLDWATER. I would say the average ear could not detect a 2-decibel difference. The average ear has a very hard time detecting anything below a 5-decibel limit.

The whole argument about decibelic envelope, for example, which is used, does not take into consideration the atmospheric pressure which prevails, and it does not take into consideration the temperature which prevails, nor the wind direction.

Of course, the possibility is slender, but the possibility exists that Concorde could land undetected because of the factors we have not talked about.

When we talk about a decibelic envelope, meaning the envelope in which sound can be heard, we are talking about an absolutely normal day, which rarely happens.

Mr. CANNON. The Secretary's report also stated that noise level over 100 decibels was approximately equal to or perhaps slightly less noise than heavy city traffic at a distance of 25 feet.

Has the Senator heard that we should take the traffic out of our downtown cities because of unacceptable noise levels? Have any proposals been made on that point?

Mr. GOLDWATER. The Senator asks a very interesting question, because as one who has been interested in the whole subject of electronics, and particularly sound, all of his life, I have taken my decibel meter to different parts of this city, and one would not believe this, but where trains travel, it goes over 150 decibels.

The PRESIDING OFFICER. The time has again expired.

Mr. GOLDWATER. Where heavy concrete trucks travel, it goes over 130; where the heavy trailer trucks travel on the open highway around this town, there are places and times it will approach 150 decibels.

Yet, we do not hear anybody standing up saying, "Let's take the trucks off, stop the concrete trucks, stop the trains."

I think the hallmark of progress is noise; then the hallmark of more progress is to diminish that noise.

Mr. CANNON. Is it not also a fact, that with the Concorde, the exposure to that noise level would be of less than 1 minute duration?

Mr. GOLDWATER. At the greatest, on takeoff, with full afterburner, when they would exceed the acceptable decibel level, it would be not much more than 1 minute, at which time, like on recent jets they have to pull back through their 100 or 104 percent of power and go back into subsonic. But even on takeoff, they are not traveling supersonic. The takeoff speed of the Convair, I believe, is about 180 knots; the takeoff of the 707 is about 107.

So, we are not talking about supersonic speeds; we are talking about a loud noise.

Mr. CANNON. And there would be no supersonic sound or sonic booms in or around an airport?

Mr. GOLDWATER. Absolutely none. The first time one goes through the sound area would be some 200 miles at sea, and coming in for a landing you would back off through the speed of sound on mach I at about the same level. You would have to because if you tried to make a descent of the supersonic transport with the power being necessary to have it fly at mach II, the first thing you would know, it would be mach III and you would have an airplane falling apart.

Mr. CANNON. I thank the Senator for yielding.

Mr. PERCY. Will the Senator be able to yield to me for 5 minutes?

Mr. STEVENS. I just want to make a unanimous-consent request.

Mr. President, I ask unanimous consent that a member of my staff, Gary Johansen, be granted privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. PERCY. Mr. President, first, I ask unanimous consent that Linda Asay be granted privilege of the floor during debate and voting on this pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I oppose the amendment of the distinguished Senator from Connecticut.

I say first that the Senator from Illinois has observed the careful, methodical, analytical approach taken by our colleague from Arizona who has spoken frequently on this issue, who has impassionedly addressed himself to a discussion of the various arguments brought against the landing of the Concorde in this country.

I think he has rendered a great service to all of his colleagues by providing information that has been helpful to us.

In opposing the amendment, I state that I went through a thought process on our own SST after having previously voted for the appropriation for that plane.

I found I had based my judgment on fallacious information, that I could no longer support the concept of SST as conceived in the present design and felt it would be an economic disaster for the country. I could not reconcile myself to the fact that the Federal Government would be called upon to bear a cost of not just of a billion dollars, which was the current estimate. But certain aircraft companies in this country gave me the figures leading me to believe it would require up to $20 billion of Federal funds before we would have the ability to test and determine whether or not the SST was a going economic entity and could attract the kind of commercial capital from commercial banks, investment banks, and from the public that would make it a viable project.

Airlines—and I saw the confidential reports from some of the operating divisions of some of our largest airlines—indicated that the structure of the SST would not enable them, even on long distance flights, to ever make money and operate, even at a break even point for that aircraft. So I vigorously opposed the Federal Government going ahead with that project at that particular time.

But as I recall the arguments on the Senate floor at that time, I indicated then that so long as the Concorde was in being and seemed destined itself to be an economic disaster, as it already had been, and it would take many, many years to determine whether or not it would ever break even, there was no need for us to rush; that we could benefit from the experience of the British and the French; this was, in effect, their space program—we have never considered cost effectiveness as a justification for our space program—the area of technological development of the French and the British has been in supersonic aircraft, and that this was, in effect, their space program, and I could see no point in our rushing to compete with it.

I recall using the illustration of the computer technology that was developed in this country. It was not IBM that had the original computer; it was Univac and Remington Rand, and IBM did not rush into it. They later gained some 80 percent of the market, but they waited. They benefited from the experience of the others, and when they finally went in, they went in with the right design, and then went in massively.

That is what I propose the United States do in the field of supersonic commercial transport: That when we are ready and have a body of knowledge, we can go ahead, but certainly at this stage we can benefit from the experience of our allies and friends, the British, and the French. The cost to us of doing that is very little indeed. At this stage, it is just to permit them to have landing rights to have six flights a day, four in New York and two at Dulles Airport. We can monitor those flights and learn a good deal, but more important, we can learn whether there is a real market for this plane, whether it will be an economic flying Edsel or whether it will be as successful as many of our commercial aircraft have been, the 747, the 707, all the way back to the DC-3. All of those have been economically sound. They have generally been financed by commercial markets. They have generally been provable to the point where it benefited us to go into them. Those facts, as to the SST, are not available to us today.

Even if the Concorde does prove to be an economically viable project, as I recall the arguments I used against the SST a few years ago, it would be economically feasible for us to buy them. After all, we bought Viscounts years ago. We do not have to make every single airplane we fly. Our airlines do not necessarily have to fly only American-made aircraft. Our relationship with those countries is such that we should suffer no loss of pride in buying aircraft from them. They buy a great many military aircraft from us; what would be wrong with our buying? There would be nothing wrong, as I see it, with our buying a Concorde for our American airlines, for Transworld, for PanAm, for United, or any of the others, if in their judgment it is an economically sound project and they have to go into it in order to compete.

In order to make the correct value judgments, letting this experience of 16 months go forward as proposed by Secretary Coleman seems to be a sound, sensible, modest program from which we would benefit a great deal, and certainly the British and French would benefit a great deal.

But I would say, in addition to that, we have one other overwhelming consideration we have to take into account. In traveling in Great Britain and in France this past year, and talking with people, talking with our own Ambassadors and with officials of the governments, this issue has almost become, in Europe, a litmus test as to whether the United States is really playing a fair game.

Constantly they would say back to the Senator from Illinois, "Can you imagine, if you had gone ahead with your SST and then suddenly, after you were in production, as you were about to test fly it and fly and land in Europe, we had closed the London airport to you and the Paris airports to you, and said, 'No, you cannot land here'? We can imagine what your reaction would be, in Congress and among the American people: 'These ungrateful European allies, look at all we did for them, and now look at what they are doing for us.'"

The PRESIDING OFFICER (Mr. STONE). The Senator's time has expired.

Mr. PERCY. Three additional minutes.

Mr. CANNON. Three minutes.

Mr. PERCY. We would have been in an unconscionable position at that point, and certainly, I think, when the tables are turned, now to have us be the instrument of defeating and really becoming the scapegoat for what I consider to be a relatively poor economic venture by Great Britain and France, but in the eyes of the world, if we prevent their landing, if we prevent them from trying out a commercial route that has the best chance in the world of being commercially viable, if it ever is commercially viable, for us to be the ones to sound that death note and spell out the defeat of the project, I think, would be incredibly poor judgment on our part, and I think we would be subjected to a tremendous amount of criticism.

Ken Rush, whom all of us know, our Ambassador in France, told me that already they have evidence that the Communist parties of Europe, in France particularly, were preparing all kinds of material to use against the United States, to whip up emotions. We know today the delicate position that those Communist parties are in, and that the balance could tip by reason of any one of a number of psychological things. Would we want to be the instrument which strengthened the Communist Party movement in France, in Italy, or wherever it may be? I certainly should hope not.

Finally, in conclusion, Mr. President, in addition to my concern about the asserted environmental objections to Concorde, which I believe should be tested through the 16-month program recommended by Secretary Coleman, there are certain procedural questions raised by the proposed amendment that involve serious foreign relations questions. We have been told repeatedly in correspondence from the executive branch that the British and French have on several occasions expressed to the U.S. Government their concern about possible discriminatory treatment of the Concorde.

The only relevant assurance that the United States has given with regard to this airplane is that it would be treated fairly in all aspects of U.S. Government regulation. For the Congress now to take action that would ban the Concorde summarily would very well provoke claims by the British and French Governments that the Concorde was being excluded by an arbitrary decision which they would claim to be contrary to the treaty and other international obligations of the United States. It would be argued that the proposed amendment, should it become law, would be discriminatory in banning without further consideration all Concorde flights to the United States, while not affecting the thousands of aircraft, in some respects noisier than the Concorde, which will continue to land and takeoff at all international airports in this country. These aircraft have not been required to meet the standards of FAR 36 which some of my colleagues would now want to impose on the Concorde.

It seems clear to me that the proponents of the proposed amendment share with all of us the general anxiety and frustration regarding airport noise. However, instead of concentrating on the elephantine problem of airport noise, they are striking out at the mousespeck of noise that would be generated by six aircraft a day.

Banning of Concorde will enable everyone to let off steam but will do practically nothing to alleviate the general problem of noise around airports.

I believe that a useful statement on this subject has been made by the Washington Post in its editorial of February 27, and I ask unanimous consent that it be printed in the RECORD. This editorial points out the discriminatory nature of the New York legislation and strongly advocates acceptance of the trial program advocated by the Secretary of Transportation.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EDITORIAL

The effort by the New York state legislature to ban the Concorde from flying in and out of Kennedy International Airport is more of an exercise in local politics than an attempt to deal with reality. We say that because the members of that legislature must know that the law they passed this week not only requires the concurrence of the New Jersey legislature to have an effect but is also of dubious constitutionality. Because of its specific discrimination against the Concorde, the law is likely to fail as soon as it is tested in court, if New Jersey ever lets it get that far. In the meantime, however, many New York politicians can proclaim themselves as protectors of the environment for their role in the passage of the bill.

Indeed, some members of the legislature gave the game away during debate on the bill. One complained about noise "in the middle of the night" and another said the legislation was aimed at "a noise problem that we have lived with for 10 years and have found intolerable." Yet the landing rights granted the Concorde by Secretary of Transportation William T. Coleman specifically bar operations between 10 p.m. and 7 a.m., and the law passed by the New York legislature specifically exempts the airplanes that now create the noise problem around Kennedy.

It is that latter exemption that makes the law passed by the state most vulnerable to constitutional attack. The law requires airplanes to meet noise standards that neither the Concorde nor a majority of airplanes now landing at Kennedy can meet. But it applies its standards immediately only to the Concorde—while giving all airplanes now operating five years in which to meet the new standards. That kind of discrimination seems to us to be barred by international treaty; in any case, it ought to be barred on the basis of simple fairness.

Even without the discriminatory aspect, moreover, the effort by New York State would be misguided and might be unconstitutional. The power to regulate foreign commerce rests with the federal government, not those of the 50 states, and for good reason. The view of foreign relations from a state capitol is often quite parochial; to permit 50 different views on one or another aspect of this country's trade relations is to invite anarchy. As we have said previously, there are substantial reasons for giving the British and French governments a chance to demonstrate the airplane they have built under the strict terms set forth by Secretary Coleman.

Frankly, we believe that the Concorde has all the earmarks of being the Edsel of the airways. And we do not expect that any more of them will be built than are now scheduled. If that proves to be true, the noise generated by the proposed operations at Kennedy will be so minor compared to what already exists that it may not even be noticed.

It may be, however, that a second generation of the Concorde or of some other version of a supersonic transport can be built at a price that will make it economically feasible. That, it seems to us, is the possibility on which environmentalists should focus their attention. Now is the time—before the British and French or some other government or American corporation produces plans for such a plane—to set noise and other antipollution standards for airplanes of the future. That would make more sense—and do more good in the long run—than the guerilla warfare still being waged against the Concorde.

Mr. CANNON. Mr. President, I thank the Senator for his very fine remarks, and I certainly agree with him on what he has had to say.

I yield 3 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the distinguished chairman for yielding to me, and I take this short time to ask some questions of the distinguished Senator from Arizona (Mr. GOLDWATER).

As I understand it, the permission for the Concorde to land in the United States is on the basis of 16 trial months, including six flights per day, which would involve six takeoffs and landings in the United States.

Mr. GOLDWATER. That is correct.

Mr. STAFFORD. From what I understand the Senator to say earlier, the approaches to the United States airports would be at subsonic speed as would the departures from our airports during the last 200 miles coming in the first 200 miles going out.

Mr. GOLDWATER. The Senator is absolutely correct. The speed of the aircraft in both instances, in coming in or climbing out, will be about the same speeds that we use on our long jet aircraft.

Mr. STAFFORD. In that mode the noise levels produced by the Concorde would be roughly approximate to those produced by the 707 or DC–8.

Mr. GOLDWATER. About the same with both aircraft.

Mr. STAFFORD. Then maybe the Senator could advise me on the correctness of some information that I encountered somewhere that indicated that on the average in the United States there were about 1,000 takeoffs and landings of domestic air carrier aircraft.

Mr. GOLDWATER. It would be rather difficult for me to break it down into hours. I could do it. But we would still have the problem of not knowing how many aircraft went through the speed of sound that were not supposed to go through the speed of sound. I am talking about military jets.

Taking my own State where we operate eight different modern supersonic jets, jets capable of going as fast as mach 3.1, which is faster than a .30 caliber bullet would fly, we have, I have estimated, had over a million flights in the last 5 years. I would judge it is closer to 3 or 4 million, and we pay no attention to it.

Mr. STAFFORD. I thank the Senator. I was getting to that question.

But earlier I was trying to draw a parallel between six takeoffs and landings a day in the United States by the Concorde at subsonic speeds as compared to about 1,000 per hours takeoffs and landings of subsonic American commercial aircraft in the continental United States on any given day.

Mr. GOLDWATER. We could take Nellis Air Force Base, which is in Nevada, and Luke Air Force Base, which is Arizona, and my guess—and this is purely a guess, trying to think real fast on my feet—is that during the hours of daylight when training is taking place, of the noisiest Air Force aircraft that we have, the F–15, the F–4, and the F–14 in the Navy, there would probably be taking off 25 an hour, hour after hour, after hour, and landing that many as they had to come back in.

Mr. STAFFORD. I thank the Senator again.

What I was trying to draw out was the fact that six flights a day, whether in the——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STAFFORD. Mr. President, will the Senator from Nevada yield me a couple more minutes?

Mr. CANNON. I yield 2 more minutes.

Mr. STAFFORD. The comparison is between six flights a day of the Concorde and the very large numbers of commercial flights in this country at subsonic speeds in takeoffs and landings, and then on the environmental issue, the fact that six experimental flights a day over 16 months is really a very tiny element of the number of flights, either subsonic or supersonic, in which the U.S. Government aircraft participate.

Will the Senator agree with that?

Mr. GOLDWATER. The Senator is absolutely correct. In fact, if we want to get a total decibelic noise from any airport in this country that is busy, it would be far, far higher if nothing but 707's and DC–8's, and even the modern 747 and DC–10's took off in the almost constant rate that they take off, such as at O'Hare, Los Angeles International, Baltimore, and Dulles.

So if we want to be bothered by constant noise, we are going to get far more bother out of the almost one every 10-minute takeoff of these subsonic jets.

Mr. STAFFORD. I thank the Senator very much and thank the chairman for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

I shall respond to some of the issues raised and ask a few questions of those on the other side of the issue.

First of all, I ask the distinguished Senator from Nevada as to who are the most productive persons in our society that are going to be served by this SST? I noticed in the chairman's opening comments that this is to serve the most productive persons in our society. Are these the 70 first-class passengers he is now talking about as being the most productive persons in our society?

Mr. CANNON. I say that they are the people to whom it is more important, and I am talking about future prospects rather than only an experimental one. Obviously, this experiment is very limited. But we need to carry out the experiment for the purpose of finding out what we can do in the future, what needs to be done, and what will be done. We are not going to stop progress.

Mr. WEICKER. I wished to make certain, and I thought the definition was very interesting because we were talking about 70 first-class passengers.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. WEICKER. I will be glad to yield in a minute to the distinguished Senator from Arizona.

But I think it is very important to find out exactly where the effort and energy is being directed.

I find it rather interesting that apparently we now have the most important productive members of society, the big wheels, traveling back and forth in intercontinental air passage in first-class seats as compared, very frankly, to all of us nonproductive guinea pigs in the United States on whom this little experiment is going to take place. To me that categorizes it better than anything else. The Senator stated the sort of "exception" atmosphere and direction toward the benefit of a few, which characterizes his opposition to my amendment.

Mr. CANNON. No. If I may respond, I did not realize the Senator was one of those nonproductive guinea pigs. I did not know he lived close to Kennedy or Dulles, either one, and they are the only two airports that are being experimented with in this experiment.

Mr. WEICKER. Of course, unfortunately, that is the fault of the distinguished Senator from Nevada for not understanding the geography and closeness of distances in the Northeast. I realize where he comes from distances are large, and I wish we had those distances, and I wish we had the clean air and lack of noise that he enjoys.

Unfortunately, as the crow flies actually, from La Guardia Airport, Connecticut is probably somewhere 10 miles away, and when we are talking about from Kennedy we are talking of a matter of 15 or 20 miles distance. Believe me, we sit on top of each other. and indeed the principal alternate to Kennedy, of course, is Bradley Field in Connecticut.

Mr. CANNON. Is the Senator saying he lives within 15 miles of Kennedy Airport?

Mr. WEICKER. I am saying the State of Connecticut, which I represent, is within 15 miles as the crow flies, not much more than that.

Mr. CANNON. Fifteen miles is not in the traffic pattern. That distance to Connecticut would not be affected by excessive decibel levels either in the approach, takeoff, or sideline noise. Let us be realistic about this thing.

Mr. WEICKER. I say to the Senator that I respect his knowledge of aviation but, very frankly, Connecticut is very much in the traffic pattern of New York airports. They are all over the State of Connecticut in their landing patterns and holding patterns. I respect his general knowledge of aviation, but I suggest in this area some specifics might help.

I am glad to go ahead and yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I shall give a clearer answer to the question the Senator put to the Senator from Nevada about the so-called chosen few.

There is a rule right now that no person who works for the U.S. Government, and that includes my friend from Connecticut, can transact the business on the day he lands in London, Paris, or any foreign country. We are required, unless we want to violate the rules, to knock off a day and stay in bed and get over the jet effect of a long overseas jet flight.

The gentlemen to whom the Senator was referring as a sort of select few are those people who would benefit financially by being able to get off the supersonic transport in any of the world's capitals and go immediately to work and get the job done and get back on the airplane and get back here. When you have to pay $125 to $150 to stay in a so-so hotel in London or Paris, I think it would behoove any businessman who wanted to save money to get back here as soon as possible.

I once made the mistake of trying to work the same day I landed in one of those cities, and I will never do it again. If I can make it in 2½ or 3 hours, I will get the job done and get back home and save Uncle Sam some money.

The Senator is concerned about the so-called group of people we would be using to discriminate against the rest of the Americans. Thirty percent of transocean travelers today have indicated their willingness to pay the extra fare, just as we were willing to pay it when we replaced the DC-6's and DC-8's with 707's. So we are not going to stop progress on the argument of dollars.

Mr. WEICKER. Mr. President, I appreciate the comments of the distinguished Senator from Arizona, but I must confess that I object very strenuously to the phrase that was used, "the most productive members of our society." Nobody is trying to discriminate against "the most productive members of our society." The fact is that their particular activity—and they are so described, I might add, by the Senator from Nevada, not by me—is discriminating against the rest of the members of society. He was the one who raised the issue. I merely use it to point up the rather few people who are going to benefit from this exception to our laws.

Second, the comments of the distinguished Senator from Arizona and the distinguished Senator from Vermont certainly are in the spirit of reasoned debate, and there is ample room for it on this subject. But the demagoguery and the characterization by the Senator from Nevada as to those who are behind this amendment should not go unanswered.

So far as "dinosaurs and ostriches" are concerned—and all the other terms that have been flipped around as to the proponents of this amendment—I point out to the Senator from Nevada that in the 2 years I have spent in the House and in the 6 years I have been in the Senate—I did not serve on the committee this year—I have been one of the legislative proponents and true architects of our space program in the United States. I do not consider myself an ostrich or a dinosaur when it comes to technology. When it comes to the specific technology of airplanes and airplane engines, probably no State in the Union sells more jet engines, commercial plane engines, than the State of Connecticut and the United Technologies Corp. So, it is not a question that there are know-nothings behind this amendment or that we are trying to impede progress.

One of the great mistakes the United States is making is to back off our space program or at least have it in a status quo position. We should be moving ahead in the area of aircraft technology. But we can do so and still be within the law. That is all I am saying here today.

The argument has been made that it would not be fair to enact laws which would prevent the operation of the Concorde. Nobody is talking about enacting any new laws. I do not believe in that as a matter of principle, anyway. I think it is unconstitutional. What we are talking about is conforming to the laws that already have been passed.

The amendment of the Senator from Connecticut would not eliminate technological experimentation at all. Indeed, you could continue to seek technological improvements in the SST. The amendment simply prohibits the commercial operation of civil supersonic aircraft. So experimentation and development are not involved here.

What we are talking about is engaging in commerce in a profitmaking way and doing it contrary to the laws already on the books of this country.

The Senator from Nevada keeps referring to the fact that those who are proponents of this amendment are living in the past. I point out to the Senator from Nevada that, by the statements he has made on the floor of the Senate, what he wants is the United States of 10 years ago, when there were no standards, when there were no policies, when there was no fuel shortage. That is what is embodied in the comments of the distinguished Senator from Nevada: the fact that we can go back 10 years, as though everything is just as it was then; forget the fact that we need conservation of fuel; forget the fact that we are reducing noise; forget the fact that it is important as to the quality of our air.

I am not living in the past. I am living in the year 1976, when we have said that environmental questions are matters of priority, and we reflected that concern in our legislation.

The comment has been made that this is no more than adding one box of detergent to the Mississippi River. We have passed that point in this country. We are no longer talking about adding one box of detergent to the Mississippi River. We have already made the determination—and I use this in an allegorical sense—that the Mississippi River is polluted and we are trying to get the pollution out. We have made the determination that the air is polluted, and it is especially so polluted in our urban areas, such as New York City and the New York metropolitan area, including Connecticut and New Jersey and the area of Washington, D.C., and northern Virginia. The air is polluted. We made that determination long before this SST proposition came to the United States, and it was not a question of only adding one bit more. It was a question of trying to clean it up.

One of the first things my dad taught me was that if you take a bucket of water and leave it out in the sun and do not do anything to it, it is going to evaporate. But if you add one or two drops every day, it is going to stay full.

I cannot think of a better example in relation to what is being advocated here. It is just a little bit of pollution. It is like one box of detergent in the Mississippi River. It is like one drop of water in the bucket.

I am not interested in preserving the air as it was yesterday or a week ago or 10 days ago or 10 years ago. We want to clean it up. We are not interesting in preserving the noise levels of this country, be they sampled by the distinguished Senator from Arizona or the distinguished Senator from Nevada or whoever. We are interested in lessening the noise. That is what is involved in the issue here.

The fact is that the admission has been made that this plane is dirtier and noisier—albeit so small. Those admissions have come forth. But it is said that it is only a little bit; and if we are going to have progress, that is the price we have to pay.

All this amendment does is to say, "We are not going to start making exceptions to these recently passed environmental laws. We will allow you to experiment, but not in a commercial sense." So it provides both for technology moving forward and for preserving the laws and the policies of this country when it comes to cleaning up their air, when it comes to lessening the noise. Those are the issues involved.

In other words, to sum it all up, all this reasoning that is coming forth on the floor of the Senate today would have been great 10 years ago, but for quite a while now these policies have been legislated. They are on the books. That is where the exception comes.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. WEICKER. I shall yield in a moment.

Finally, we get to the business of some of the comments of the distinguished Senator from Illinois. He referred to moving around France and talking to ambassadors and various people, that they do not want any laws after the fact.

I am not talking about laws after the fact. These laws and policies have been stated before on the books. We are not passing anything new.

All I am asking for is that our environmental standards, as already established, not as established in my proposal but as already established, be observed.

I say this to the distinguished Senator from Illinois, with respect to his comments about the Communist Party in France and the Communist Party in Italy: I advise my friends in Italy and France that if they want to get rid of the Communists, they should get off their backsides and start serving their people. Those governments long have been looking for scapegoats; but if they have problems with the Communists, it will not be because of anything to do with whether the SST lands in the United States. It will have a great deal to do with the quality of life which they should be delivering to a majority of their people but are not.

These types of irrationalities, I think, cloud what ought to be a reasoned debate. Again I repeat, this amendment in no way stops technology. It can move forward. Hopefully, there will be an SST development that will meet our environmental standards, noise and air. Maybe by that time, also, it will resolve the problem as to the ozone. All it says is that there will be no exception at this point in time, that everybody observes the law, and it is as simple as that.

Mr. GOLDWATER. Will the Senator yield 5 minutes to me?

Mr. CANNON. I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I think it is very wise that we try to keep this debate on the track and not allow it to become emotional, so I shall try to answer some of the allegations just made.

For example, the Senator's amendment says, "And provided further, that, except in an emergency or unless hereafter expressly authorized by Act of Congress, no expenditures may be made to take any action to authorize or permit the operation of a civil supersonic aircraft in air transportation in the United States."

I call the attention of my friend to the fact that we now have on the drawing boards—in fact, one on the drawing boards and one being put into tin and aluminum—supersonic transports for private use, not for airline use. That is something we are going to be confronted with very shortly.

On the matter of the ozone, I had hoped to debunk that completely. We have only been studying the ozone since about 1958 and the ozone content is stronger today than it was when we first started studying it. What we did not know—and I have to profess ignorance in this field. As a pilot of 46 years' experience, if one had asked me where the stratosphere started, I would have said at 50,000 feet. We find now that in some cases, it starts at 25,000 feet.

We always thought that the heaviest concentration of ozone would be around the equator. It is not; it is around either pole.

We will find that existing aircraft—let me give one that has not even been certificated yet and must be certificated by foreign countries, and if we give them this bad treatment; we may not get it certificated. That is the new 747 stretch, which has flown nonstop from New York to Tokyo. That airplane will be in the ai 13 hours. It will produce more damage to the ozone, assuming that the ozone level does not remain constant—and it does not—than one flight of an SST, of whatever origin it is, across the North Atlantic.

I remember when the skin cancer threat first came up. It came from a professor of meteorology, for whom I had the greatest respect, in my own university, the University of Arizona. Unfortunately, he later passed on.

The skin cancer threat is completely speculative and is based on unproven scientific theory, the validity of which has been cast in serious doubt.

Dr. Frederick Urbach, medical director of the Skin and Cancer Hospital at the Temple University Medical School, testified recently that he does "not object to Concordes on the grounds of skin cancer." In fact, he warned against "numbers games" which he said "are not measurable or useful" in evaluating the effect of SST operations.

Dr. Urbach's testimony has particular weight, since he has personal objections to the Concorde and would have reason to put the biological effect of SST operations in a bad light, if he believed that there were any rational evidence to support the charges being made against the Concorde.

If we should accept the concept behind the scare stories we are hearing about the risk of skin cancer, we would have to give up numerous of our normal activities. First, we would have to start with a ban on almost 2,000 subsonic aircraft that now operate in the lower part of the stratosphere and may be reducing stratopheric ozone by their own operations, absent any supersonic flights. Then we might add a total ban on any military supersonic aircraft operation.

Carrying our obsession with eliminating all risks of human harm to as close to absolute zero as we can, we would then impose a ban on driving automobiles, since a sizable number of traffic accidents can be predicted every year. Also, we might prohibit any new construction of buildings, since studies have shown that a certain number of accidents will occur on the job in these constructive activities.

I realize that this argument is not necessarily to the point, but we have to consider it when we hear and read about skin cancer. We have not yet heard any serious discussion about noxious oxide—NOX. This, the scientists are beginning to tell us, really produces the problem, because we use it as artificial fertilizer. The more we use artificial fertilizer, the more damage we are doing to the ozone. This is not being done by flight; it is being done by farmers all across America, and we are trying to get them to do it all around the world.

If these examples seem farfetched, they are actually based on much sounder scientific evidence than the predictions about the risk of operating the Concorde are.

One thing, in closing, about noise. I remind my friend from Connecticut, which has one of the great aircraft engine factories in the world, that the first jet engines were terribly noisy. I remember the first time I flew the F-54, back in 1945. I did not know whether I was going to come out of it with any hearing or not. Now the same-sized engine is soundless.

With regard to the 707 engines, since we invented the bypass—which means that instead of using all the air that comes in the intake of the engine, we bypass about two-thirds of it—the acceptable sound level is going down. The problem is that the airlines do not have the money to make the transformation. An amendment by my friend from New York, I understand, will try to take care of that. But that is not to this point.

We shall never make progress in engine noise until we can fly engines at the altitudes where they will be flown. We are attacking noise, and successfully. For example, the sonic boom, 10 years ago, if you looked on an oscilloscope, was a direct up and down line. It was a bang. You had a sensation, going through the speed of sound. I remember the first time I did, it shook the daylights out of me. Now you go through the speed of sound and the oscilloscope will show more of a boom curve. It is there, and you will hear it on Earth, but you will not experience it in the airplane.

So we are making progress. But we are not going to make progress if we say of the one aircraft that is capable of flying at the altitudes and the speeds that we have to test these engines that they can no longer experiment. I do not care how good the engine factories are; they have to test that engine where it is going to be used.

I will almost lay my life on it that in 10 years, sonic boom will be something that we will have to acquire an airplane from the Smithsonian to achieve.

Mr. CANNON. Mr. President, I yield myself 2 minutes. I simply want to correct the impression, whether intentional or not, I do not know, that the Senator from Connecticut has been giving. That is that this airplane is prohibited, in accordance with FAA regulations, because of the noise level. That is absolutely not true. The FAR 36 noise requirements do not apply to supersonic aircraft. Secretary Coleman has made that clear time and time again. I do not know whether the Senator just disregards that, but I should like to read from Secretary Coleman's testimony before the committee. This was in response to a question by Senator BUCKLEY. He said:

> Sir, you put a monkey in the hat that you don't want to put there. There is no standard for new supersonic aircraft. So, therefore, you can't say because there is a standard for new subsonic aircraft that a person who builds something which is not a subsonic aircraft is violating a rule when there is no such rule.

That is a fact. There is no rule, or no limitation, on supersonic aircraft from the standpoint of noise.

The FAA promulgated this rule, Federal Aviation Regulation, Part 36 (FAR 36) after more than a decade of experience with jet aircraft in commercial operation. The FAR 36 standards were originally applicable to aircraft certificated by the FAA after 1969. In 1974, however, the standards were applied to aircraft which had been issued a type certificate before 1969 but which had not been flown before 1974. This change was made largely to bring within the regulation's coverage the newly produced versions of older jets for which technology had been developed to enable them to meet FAR 36. The Federal Government has since developed the technology to retrofit older jets such as the Boeing 707 and the DC-8, which heretofore have not been covered by the noise regulations.

More of the aircraft in the United States today, flying, do not meet those regulations. The issue will probably come up on the floor here, later today, as to whether or not we ought to go back and require a retrofit of those older aircraft.

But I just want to make the record clear that there is no regulation that is being violated or would be violated by permitting the Concorde to fly into the United States. The Senator from Connecticut is either misinterpreting the regulation or he does not believe the regulation or he does not believe the testimony of the Secretary of Transportation.

I am willing to yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the Senator from Nevada for yielding.

Mr. President, at the outset, I commend Secretary Coleman for the manner in which he has handled the difficult decision on the Concorde. He accepted the responsibility personally and with it the inevitable attacks of those who disagreed. He immersed himself in the technical evidence and presided over hearings at which witnesses from all sides of the controversy were accorded full due process. In my view the Secretary's well-reasoned decision reflects a determination to balance competing forces in a way that best serves the public interest.

The United States has tried in this century to create a structure of international agreements based upon principles of negotiation, mutual trust and cooperation, and of fairness. Our commitment to national law and to our international agreements is reflected in the decision of the Secretary of Transportation to allow a limited number of Concorde flights for a trial period.

He has devised a solution that is properly narrow and carefully defined. To have admitted the Concorde without restrictions would have violated domestic law absent strong evidence that it would not be harmful environmentally. The primary purpose of the trial is to obtain the evidence essential to an informed long-range decision.

Some of the critics of the decision seem to say that they could accept the six Concorde flights but that this trial period will somehow open the door to a whole fleet of supersonic aircraft. I suggest that they examine the realities. No fleet exists. Six Concordes are now flying. Three more have been ordered by the British and French airlines and could perhaps be produced before the end of the 16 months. The production of seven more has been approved, but not one committed buyer for any of the seven has appeared on the scene. Three governments, Iran, Japan, and the Peoples' Republic of China, have at one time or another expressed some interest, but they have not even taken options.

The Concorde's economic success is in grave doubt. Why then should we anticipate the advent of a whole fleet clamoring at our doors? And even if that should ever happen, trial now will enhance the wisdom with which we meet that challenge?

The question before us is whether the Congress should summarily overturn a decision of the Secretary of Transportation that relates only to the next 16 months. It is whether action to ban the Concorde would be—and would be perceived to be—an unjust, arbitrary, and unfairly discriminatory refusal to permit the British and French to try to prove the Concorde's worth in a controlled test.

UNANIMOUS-CONSENT REQUEST

Mr. CANNON. Mr. President, will the Senator yield to me for the purpose of making a unanimous-consent request?

Mr. STEVENSON. Yes.

Mr. CANNON. Mr. President, I ask unanimous consent that the vote on the Weicker amendment occur at the hour of 2:30 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CANNON. I thank the Senator.

Mr. STEVENSON. Mr. President, I ask unanimous consent that William Mattea and Mary Ellen Miller of my staff be permitted the privileges of the floor during the consideration of this bill and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. The benefits of such a test far outweigh any risks. It will provide a measure of the commercial and community response to the Concorde; it will elicit the information we need in order to reach the most responsible judgment on future commercial supersonic applications; and it will retain the confidence and good will of two of our most important friends and allies.

To deny the trial, especially after they have participated in good faith in the long administrative process leading to the decision, would invite charges of discrimination and economic imperialism.

The Concorde is not a minor project. It represents a 13-year investment of $3 billion, of technology, political cooperation and national prestige. It is a symbol of Great Britain's union with Europe and the beginning of an effort to build an aerospace industry in the European community.

We may doubt the wisdom of the project. Economic factors have changed since its inception, and environmental concerns have intensified. I believe that we made the right decision in 1971 when we rejected a proposal to spend public funds for the development of an American commercial supersonic plane. But that is not the issue. Whether the Concorde proves to be an economic success is not our worry.

Our decision, and equally important, the way in which we make that decision, will have profound implications for our relations with both nations. If we reject the rules of due process and fair play, if the decision appears to be based not on the evidence and the merits but on false or exaggerated fears of environmental destruction, or on selfish protectionism, then we will have tragically damaged our alliance.

Legally, our mutual obligations are defined in three instruments, the Convention on International Civil Aviation, known as the Chicago Convention, a multilateral agreement negotiated in 1944; and the two bilateral aviation agreements, one with the French and one with the British, both signed in 1946.

Article 11 of the Chicago Convention reads:

> Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States *without distinction as to nationality,* and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

Some of our colleagues have suggested that article 11 would compel us to accept our applicants forthwith, once we allow a few British and French Concordes to land. As I read article 11, the operative phrase is "without distinction as to nationality." It does not suggest that we are precluded from barring other applicants for such valid reasons as safety or the protection of our environment, but only that we cannot discriminate on the basis of nationality.

My understanding of article 11 is furtheir supported by articles 6 and 68, which assume the right of a signatory nation to grant or withhold permission to operate over or within its territory and to set the terms of such operations.

Article 6 of the Chicago Convention reads:

> No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

Article 68 says:

> Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

The bilateral agreements complement the Chicago convention and reaffirm its themes of reciprocity and uniformity in the application of laws and regulations relating to aircraft operations. Nothing in any of these agreements suggests that we would be forced to accept all applicants without regard to our domestic law. Nor, in my view, does any valid provision of domestic law require that we exclude the Concorde.

The authority of the Secretary of Transportation to make the decision is vested in him by the Department of Transportation Act of 1966, directing him to administer the Federal Aviation Act, except for those duties relating to aviation safety, which are assigned to the Administrator of the Federal Aviation Agency.

The National Environmental Policy Act of 1969 establishes concern for the environment as a national policy and requires an environmental impact statement to be prepared in connection with "every major Federal action significantly affecting the quality of the human environment." Before taking such actions Federal agency officials are required to consider the facts contained in the environmental impact statements. The Secretary of Transportation has complied fully with both the procedural and the substantive requirements of the act.

The Noise Control Act of 1972 declares that it is national policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." It does not ban noise above certain levels, nor does it forbid Federal agencies to make decisions that may in fact increase noise levels.

The Noise Control Act added a new section 611 to the Federal Aviation Act. Section 611(d) requires the Administrator of the Federal Aviation Agency, in setting aircraft noise standards and regulations, to consider among other factors "whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular aircraft, aircraft, engine, appliance, or certificate to which it will apply."

Throughout the Noise Control Act are references to "noise emission standards which are feasible," and the "application of the best available technology." Nowhere in the act have we authorized or encouraged the issuance of standards that are impossible to attain, because the technology is not available. And no impossible noise standards have been promulgated, even though they have sometimes been recommended.

A decision by Congress to reverse Secretary Coleman and ban the Concorde would be interpreted as unfair discrimination both in law and in policy for several reasons: first, because a comparison with our regulation of aircraft noise would reveal a far more lenient policy toward the aircraft we ourselves have produced; second, because we are far more tolerant of domestic sources of air pollution and of possible ozone reduction; and third, because the United States has profited most from the international aviation agreements.

First, we know that the Concorde is a noisy airplane. This is not in dispute. But so are many of the subsonic aircraft produced by American manufacturers. Our regulations to reduce aircraft noise have been designed to minimize economic dislocation and permit ample opportunity for adjustment.

Subsonic aircraft noise standards are now set by Federal Aviation Regulation Part 36, a regulation which went into effect on December 1, 1969, and applied only to subsonic aircraft produced after that date. Because it was not then technologically or economically feasible retroactively to force existing aircraft to meet the standard, they were not covered by part 36. Even now, some 80 percent of the subsonic jet aircraft in the United States do not meet that standard. Yet, we are urged to impose it on a supersonic plane, knowing that its design was fixed and the plane was flown prior to the issuance of part 36, and knowing too that there is absolutely no technology that will enable the current generation of Concorde to comply. We are asked to exclude the Concorde, because it cannot meet a standard from which we still exempt 80 percent of our own aircraft.

The technology is now available for reducing the noise caused by this 80 percent of our aircraft. It could be accomplished through retrofitting each plane. However, the cost is high, and for that reason the Secretary of Transportation has not yet issued a regulation extending the application of part 36 to these planes. Our domestic airlines are opposed to it on the ground that they cannot bear the financial burden, and there is strong opposition in this body to the use of public funds to assist them. Those who are so sternly devoted to the part 36 standard that they would bar six daily flights of the Concorde should ponder what we ought to do about that problem.

Second, even though scientists have not been able to validate the theory that supersonic exhaust emissions will reduce stratospheric ozone, thus increasing the level of ultraviolet radiation and the incidence of nonmelanomic skin cancer, we cannot ignore the possibility of some risk. But it should be kept in perspective.

Supersonic flight is only one of many possible causes of changes in ultraviolet radiation. The list includes volcanic eruptions, nuclear weapons tests, nitrogen fertilizer, subsonic flight, and fluorocarbons. About 1,700 subsonic aircraft now operate in the lower part of the stratosphere, and using calculations based on the theory, the FAA has estimated that they could reduce stratospheric ozone to a level that would result in 500 new cases of nonmelanomic skin cancer in the United States, more than twice the number estimated for the Concorde flights.

Fluorocarbons from aerosol sprays, auto air conditioners, and refrigerators may reduce the ozone by 12 to 50 times the Concorde flights. But the Consumer Product Safety Commission has refused to ban aerosol spray products on the ground that scientific knowledge and the evidence of ozone reduction were insufficient.

It would not be unreasonable for the British and French to resent our excluding the Concorde when they know that we tolerate products we ourselves manufacture which may cause far greater damage to the ozone level if the theory is correct.

As in the case of noise, there is no United States or international regulation covering supersonic exhaust emissions. The Environmental Protection Agency has proposed a rule for SST's, but if it is adopted it will not go into effect until 1979, and it will not apply to supersonic engines manufactured before that date. EPA has stated that the technology necessary to meet its proposed standard is in an early developmental stage, and recognizes that there is currently no technology capable of meeting the standard. Yet, the Concorde has been accused of violating EPA exhaust emissions standards. The issue of emission standards is put into perspective by examining the effect of the proposed level of Concorde flights on air quality in the New York and Washington area. The fact is that the level of Concorde flights contemplated by the Secretary's decision will not affect air quality in either of these areas to a significant degree beyond the airport boundaries.

Third, because American aircraft manufacturers and air carriers have led the field through the whole history of aviation, we have been the principal beneficiaries of the international agreements. For example, the Chicago Agreement requires that the air worthiness certificates of the manufacturing countries be accepted by the other signatory nations. This provision has facilitated the introduction of our aircraft into international trade and transportation without the excessive delay and redtape entailed in the issuance of airworthiness certificates in each nation.

The Department of Transportation reports that almost 95 percent of the commercial and general aviation jet aircraft sold in the free world during the last 5 or 6 years have been manufactured in the United States. In a single recent year we exported $2.7 billion in aircraft and aeronautical components. This trade was second only to agriculture in contributing to a favorable balance of trade.

The Concorde represents the first development by our European allies of advanced aviation technology that might compete with ours. We profess our commitment to free competition. If the Congress now summarily repudiates the established decisionmaking process and bars the Concorde without conclusive environmental evidence, our commitment to free competition will have a hollow ring throughout the world.

Finally, what are the likely consequences of a congressional decision now instead of an administrative decision at the end of a 16 months' trial?

Having been denied the most profitable routes, the Concorde will probably prove a commercial failure. Rightly or wrongly, the United States will be blamed for killing the venture, even though it may have been destined to fail in any event. The economic damage and the loss of prestige may be followed by political pressures within Britain and France for some sort of retaliatory response. These pressures would be difficult for their governments to resist, and they could have long-term effects on our trade relations. They could certainly complicate our efforts at the coming multilateral trade negotiations in Geneva.

A ban at the end of the trial period, on the other hand, would reflect our carefully considered conclusion that uncertain fears were not false alarms and that serious environmental damage was threatened. We will have shown that our action was soundly based on environmental rather than protectionist grounds. But beyond the appearance of fairness is the reality. We will have proceeded as a responsbile member of the international community should, having accorded due process, a fair hearing, a test on the merits, and a decision grounded in actual experience. Unlike an impulsive congressional ban, our action will serve as a model of objective and fair decision-making, one that strengthens rather than undermines our belief in a world of laws as the basis for international stability. Mr. President, our own principles of fairness, as well as the serious international implications of any departure from those principles, demand that we support the decision of the Secretary of Transportation.

The **PRESIDING OFFICER**. Who yields time?

The Senator from Connecticut.

Mr. **WEICKER**. I yield to the distinguished Senator from Maryland.

Mr. **MATHIAS**. Mr. President, I appreciate the Senator from Connecticut yielding to me.

Mr. President, I ask unanimous consent to have printed in the Record at this point a study, which is a summary of surveys made by NASA of the potential depletion of ozone.

I think this study is very pertinent to the pending debate. It shows, in short, that freons, fertilizers, substances of that sort, are having a potentially larger impact on the ozone than is, in fact, supersonic flight.

There being no objection, the study was ordered to be printed in the Record, as follows:

Potential Depletion of Ozone

NATURAL VARIATION OF THE OZONE LEVEL

Total ozone varies by more than a factor of 3 from place to place and from time to time. This high degree of variability makes trends of 1 or 2 percent virtually undetectable. Total ozone is generally higher in the polar regions than in the tropics; it is higher in the spring than in the fall. Seasonal variations are minimal in the tropics and are increasingly important at higher latitudes. In addition, ozone variation appears to be related to the occurrence of solar flares, and possibly to the number of sunspots. It also exhibits an oscillation on about a two year cycle.

Superimposed on these longer term trends are rather large day-to-day changes. These changes can be as much as 30 percent and are largest in early spring and at mid and high latitudes. These are often associated with local weather patterns.

DIFFICULTIES IN MEASURING OZONE

Because of the extreme variability of ozone concentrations, it is very difficult to detect small man-caused changes. The Climatic Impact Assessment Program (CIAP) Report stated that it would take 10 years of daily observation by a comprehensive monitoring system using ground stations, balloons, and sounding rockets, to detect a 0.5 percent change over and above the natural variability. This is a very optimistic goal, and some believe that we would be hard pressed to detect a change as large as 5 percent. Even then, we could not attribute the ozone change to a particular cause with any degree of certainty.

PRELIMINARY ESTIMATES OF ANTICIPATED OZONE REDUCTION FROM CURRENT HUMAN ACTIVITIES

of the estimated ozone depletions in the stratosphere caused by current human activities. The source of this data is the addendum to the final Environmental Impact Statement of the Department of Transportation on the Concorde supersonic transport aircraft. The estimated impact on ozone shown in the table is the difference between the present ozone content and the new equilibrium value; they are *not* recurring annual reductions.

Best current estimates of anticipated ozone reduction from current human activities according to CIAP calculation methods

	Ozone reduction (Percent)
Present subsonic fleet	0.1
Concorde SST:	
12 transatlantic ops/day	0.04
40 aircraft, 7.5 hrs/day	0.29
Formerly proposed U.S. SST (500 aircraft)	15
Present USAF fleet	0.0033
Present world military ops	0.01
"Freons":	
Today's impact	0.5 to 2
Continue release at present rate	8
60 Space Shuttle flights/yr	*0.15
Fertilizer use (possibly very large)	

*Latest NASA estimate.

Note.—Figures for "Freons" represent a global average; all others are Northern Hemisphere averages, assuming all releases take place in the Northern Hemisphere and are not dispersed across the Equator.

There are sizable uncertainties (± a factor of 3) in these estimates mainly because many of the key stratospheric constituents have not yet been measured and because certain simplifications are made in the predictive models to date. A great deal of effort is now being directed toward reducing the uncertainties.

POTENTIAL OZONE DEPLETION EQUATED TO CURRENT DIFFERENCES BY GEOGRAPHIC LOCATION

To place potential ozone depletion in perspective, it is important to understand what ozone depletion means in terms of the erythema dose. (The "erythema dose" is a measure of the "sunburn effect" of the solar ultraviolet.)

The best way to visualize this is to look at the change in erythema dose as the latitude is changed. At 40°N latitude, a change of one degree in latitude (which is about the difference between Washington in the erythema dose at the surface. The following table illustrates these changes in comparison to equivalent changes in latitude and the corresponding percentages of ozone depletion.

[In percent]

Equivalent change in latitude	Increase in Erythema dose	Equivalent reduction in ozone producing same increase in Erythema dose as shown in column 2
1°, e.g., Philadelphia to Washington, D.C	4	2
5°, e.g., Minneapolis to St. Louis	20	10
14°, e.g., Seattle to Los Angeles	55	25

Material requested for the record on page 333 by Senator Mathias during the hearing before the Subcommittee on HUD-Independent Agencies—SENATE on February 24, 1976.

Question

Request for assessment of the impact of supersonic military aircraft operations at high altitude.

Answer

The assessment of the impact of supersonic military aircraft operations at high altitude (stratospheric) has been estimated in the Department of Transportation's CIAP Study. Using the estimate of Leach, Morris, and Wardman (Concorde Environmental Impact Statement, Volume VI, page 121), the world's total high altitude military operations are equivalent to 10 Concordes operating 7.5 hours per day per year.

Calculations of ozone reduction from this estimate of total military operations indicate a reduction in the ozone level of 0.08% in the northern hemisphere and 0.04% on a global basis.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, I rise in support of the Weicker amendment.

Mr. President, when I first saw the draft environmental impact statement on the Concorde 1 year ago, it was clear to me that it ought not to be allowed to land in American airports, least of all at Kennedy, with the hundreds of thousands of surrounding residents who would be subjected to levels of noise we will not tolerate in our own new model aircraft. That is why I testified against the Concorde at hearings conducted by the Department of Transportation almost a year ago and again this past January. That is why I have urged Secretary Coleman in letters and in person to prohibit commercial Concorde flights into the United States. That is why I have cosponsored bills to prohibit the Concorde from landing at our airports without explicit congressional approval; why I am now urging Members of the Senate to adopt one of these measures.

All technological innovations, like all political innovations, are not inherently good, and it is high time we stopped confusing technological advances with progress. It is time we started asking ourselves what are the benefits and what are the costs, and there the reading of the scales is crystal clear.

We are all well aware of the litany of health and environmental hazards attendant to the Concorde's operations. The actual facts are not in doubt: the Concorde is two to four times noisier than our subsonic aircraft; it causes up to five times the vibration; and it discharges 2½ to 10 times the carbon monoxide of its subsonic counterparts.

It is difficult to grasp the meaning of statistics such as "four times as loud" unless one happens to be among the 426,400 persons living around Kennedy Airport who already endure 24 hours a day of what the FAA calls "acceptable" and "unacceptable" levels of noise. As EPA Administrator Russell Train stated in his May 22 letter of response to the FAA's draft EIS:

> At the FAR 36 measuring points, the Ldn is currently greater than 85, well above the levels document criterion of 75 for protection against hearing impairment. It is therefore not correct to state that such a population is only slightly affected because of a small increase in noise levels. At such high levels, *any increase*, however small, constitutes a significant impact, especially in light of federal efforts to reduce noise immediately in such highly impacted areas.

It is difficult to understand the angry reaction to Secretary Coleman's decision unless, like the civic groups, business and homeowners associations, and concerned individuals around Kennedy, you have endured increasing noise and have redoubled your efforts to bring about relief through Federal legislation and local operation restrictions. The Federal Government permits four daily Concorde flights which could push another 4,000 persons in your community into measurably greater noise brackets.

It is difficult to understand the impact of "five times the vibration," unless, like those around JFK, you already have to cope with the vibrations from subsonic aircraft which cause your dishes and pictures to rattle against their supporting surfaces.

It is difficult to believe that an increase of 0.2 parts per million in carbon monoxide concentrations will have a measureable effect on the community around JFK, unless you realize that ambient air quality levels of carbon monoxide in New York City are already such that transportation control plans are required to control excessive emissions. As the final EIS clearly stated on page VI-194, and I quote:

> At selected times, such as in the evening hours when mixing heights are low, an increase in concentrations due to taxi operations along the runways is sufficient to cause considerable levels of CO to spread into surrounding communities.

Under the circumstances, any increment in carbon monoxide levels is important, especially during the hours when most neighbors of the airport would be home with their families, from school and work.

Mr. President, in reviewing the 61 pages of Secretary Coleman's decision and in listening to his testimony before the Commerce Committee's Subcommittee on Aviation, I was continually struck by the manner in which he isolated each environmental hazard as if each were the sole negative factor affecting this decision. Yet the combined effects of noise, vibration, and pollution have severely burdened the community around Kennedy Airport to date, and the final EIS makes unequivocally clear the degree of incremental damage that even limited operation of the Concorde would cause.

While I have the highest regard for him, and while I believe his ruling is honestly and conscientiously made. I simply cannot accept the Secretary's basic premise that because an already severely affected area would be further degraded by what he considers a comparatively small amount, that the benefits to be derived from so-called technological progress and international cooperation outweigh any adverse effect upon the environment of airport neighbors.

What are we weighing, after all? As Mr. Coleman stated on page 11 of his decision, because the International Civil Aviation Organization—ICAO—has not promulgated international noise or pollution standards for SST's, we are therefore "free to regulate unilaterally the operations of the Concorde in this country, or to ban it altogether, for environmental reasons."

In my judgment, the reasons offered in support of granting the Concorde permission to conduct even limited operations in our country are far outweighed by the actual and potential costs they would impose on the environment and health of our citizens. Yet, in spite of the costs, there are those who say we are trying to stand in the way of progress. That is nonsense. We were making progress when we decided that the time had come to start regulating aircraft noise. We were making progress when we finally learned that high levels of noise, day in and day out, represent clear and present dangers to human health that we had to bring under control.

In spite of the costs, there are those who believe that we are attempting to thwart technology. I cannot accept that charge either, for I firmly believe the purpose of technology is to serve man, not to dominate him.

In spite of the costs, there are those who charge that we will jeopardize our good relations with Great Britain and France if we deny the Concorde permission to use our airports. I fully understand that denying the Concorde landing rights may jeopardize the entire investment which the British and French have made in the aircraft, just as I understand the importance of maintaining good relations with these traditional friends. However, I do not see how these countries can consider themselves illused if we do no more than insist that the Concorde meet the same requirements with respect to noise levels that we impose on our own new-model subsonic aircraft. The regulations are not discriminatory in their application or intent, and there is simply no basis for an argument that they are designed to protect American plane manufacturers and airlines from competition from foreign manufacturers and operators of supersonic aircraft. Such a charge might be made if we were to exclude supersonic aircraft that otherwise met all the standards that we impose on ourselves in order to protect the health of our citizens. But the Concorde does not meet these standards, and no suggestion has been made that those we have established are unreasonably strict.

I honestly do not see how we can be held accountable for the collapse of what appears in retrospect to have been an ill-considered commercial venture. Great Britain and France are, after all, sophisticated, industrial nations. They must have understood that the Concorde would be required to meet existing standards in the countries they expected to service. It is just as unreasonable to expect other countries to discriminate in favor of the Concorde as it would be for other countries to discriminate against it.

With respect to the convenience of trans-Atlantic travelers, I cannot for the life of me see why thousands of New

Yorkers should be expected to put up, day in and day out, with higher levels of noise and vibration and carbon monoxide just so that a few hundred passengers a day can shave 3 hours off a trip to or from Europe. Their marginal convenience simply does not add up to the kind of overriding public interest that can justify waiving regulations that are bringing some measure of relief to thousands of Americans who live in the vicinity of our major airports.

For all those reasons, I urge support of the Weicker amendment.

Mr. President, I did hear the Senator from Illinois (Mr. STEVENSON) talking about the adverse impact on our European allies of the decision by the Congress to, in effect, suspend or reverse the decision made by the Secretary of Transportation, Mr. Coleman, in authorizing a trial period for the Concorde.

I really do not think that the fears expressed by the Senator from Illinois (Mr. STEVENSON) ought to persuade us in a rational world—and I believe that the world is not always rational.

I do not see how an industrialized nation that invests a great deal to develop a new technology, in this particular case the supersonic transport, can reasonably expect that other nations, however friendly, will in effect ignore their own regulations designed to safeguard the health of their own people and set them aside in order to provide privileged access to our markets by this foreign product.

In my judgment, it would be every bit as much an act of discrimination in favor of the Concorde to set aside the clear noise pollution standards we have developed for new model American aircraft as it would be if we were to say, "You may not come in here even though you meet all of our criteria."

So, as I say, I am sure there would be an emotional flareup among our friends in France and Great Britain, but I do not see how we can allow this to influence us, given the fact there is no rational reason why they should be disturbed and upset.

I think it is clear from anyone who read the testimony in the deliberations and the debate in connection with our own SST that had that project gone forward, the American manufacturers, both the engine and frame manufacturers, would have been required to meet the standards that we had been in the process of establishing for our own subsonic planes.

I also wish to touch on one other factor. Of course, I have constituents that are very much concerned, almost half a million people who live within the soundtrack of the flight paths of aircraft flying in and out of the John F. Kennedy Airport.

I know much has been said in taking each of the individual environmental aspects one by one, that in each instance the incremental inconvenience, or the incremental sound, or the incremental vibrations, or the incremental carbon monoxide, will not, in and of itself, prove sufficiently vexing so as to cause us to delay or defer allowing the Concorde entry into the United States.

It is very easy for any of us who live some distance from that airport to take a rather blase, cavalier attitude. But if any of us have talked, as I have, to dozens upon dozens of people who actually live in the area, who have fought over the years for the kind of regulation that is now falling into place, that is designed to reduce the noise, then we can understand that each additional quantum is a source of real disturbance, a source of real anguish.

I understand from doctors—and this is reflected in the testimony of EPA Administrator Russell Train—that even small increments can have large aggravations, large medical effects.

I think that in balancing these varying competing interests, one should ask this question: Who benefits and who pays?

In this particular instance, we can point to tens of thousands of people in the New York area, in the area of JFK, who will be inconvenienced day in and day out so long as the Concorde comes in and out, and they are being asked to make this sacrifice so that a few hundred people per day can enjoy the marginal convenience of saving 3 or 4 hours crossing the Atlantic.

Mr. President, I used to do an awful lot of long-distance traveling before I was elected to the Senate. I averaged between 50,000 and 60,000 miles a year, and most of my travel took me across either the Atlantic or the Pacific. Frankly, the transition from propeller aircraft to jets made an extraordinarily large difference in travel time, fatigue, and all the rest. In my flight from New York City to Manila, the time was reduced from 56 hours to about 20 hours. But I cannot honestly say that the fact that I could save a few more hours on that same trip would permit me to justify putting people out as they will be put out by this legislation. I, therefore, support the Weicker amendment.

Mr. WEICKER. Mr. President, I thank the Senator from New York for pointing up the very real impact, rather than the academic impact as discussed earlier here on the floor.

As the Senator from New York has pointed out, either we have an EPA, an Environmental Protection Agency and everything that entails, or we do not.

The fact is that the Environmental Protection Agency, in its findings in this area, indicated that both in the sense of noise and in the sense of air pollution, the entry of the Concorde into the United States exceeded the noise levels and the pollution levels, which are either a matter of law or a matter of policy.

I repeat, in their report as contained in the opening statement that I made, in testimony before Secretary Coleman, the Environmental Protection Agency, after reviewing all the facts and the environmental impact statement concluded:

> Introduction of Concorde services runs directly counter to the noise abatement and other environmental policies and programs of the United States. Such service will subject people to significant environmental impacts and will undermine and negate essential abatement efforts now underway.

Mr. President, that is the finding, not of some bunch of kooks or ostriches or dinosaurs vis-a-vis this particular instrumentality; that is the statement of the Environmental Protection Agency, which this Congress and the United States deemed fit to bring into being.

Now, again:

> The EPA believes that the Concorde operations will result in a detrimental noise impact. Specifically, EPA found that:
>
> (1) An increased number of people will be subject to cumulative noise levels identified as affecting the health and welfare of Americans.
>
> (2) Low frequency contact of Concorde noise could induce building vibrations.

That, again, is the statement, not of some ad hoc group, but of the Environmental Protection Agency. In the course of my debate, I have indicated my belief that the ozone problem is one that is open to debate. Reasonable men can disagree. But you cannot disagree with the statements of the very agency which we set up to preserve our health and our safety, and preserve our environment. That is their statement.

Now, it is true, the FAA is not obliged, in making its regulations, to obey the statements of EPA, but they are there, and they are on the record, and that is what we are asked to ignore at this time.

Let me read another EPA statement, as I try to counterpoint the point of arguments that have been made. As to those arguments that have been made vis-a-vis international agreements:

> It is a settled principle under U.S. law that when a statute is inconsistent with a preexisting treaty, the statue overrides the treaty rendering it null to the extent of the conflict. Thus, EPA concludes that NEPA requires that environmental considerations be taken into account in the Secretary's decision regardless of the nature of the international agreements.

Again, to get down to the subject to noise, and a point that is not being raised here that I think should be emphasized, let me quote again from the EPA statement:

> During the next twenty years, the noisiest subsonic aircraft (which the proponents have claimed to be "broadly comparable" to the Concorde but which, as recognized in the EIS, are in fact significantly quieter) will be phased out of the air transport system. If the FAA and EPA proposals are put into effect, those that remain in service for any applicable time will be retrofitted. There are no other planes coming into service at this time which even begin to approach the noise levels of the 707 and DC–8 which the Concorde is compared to. This means that a few years from now the Concorde will stand out as a noise source around airports even more than it does today. This is important since the degree of annoyance to aircraft noise is dependent to a large degree on the differential between the noise from the aircraft and the "background".

For all those men who fly the flag of advanced technology, and I have always felt I was under that banner, too, until I came out here today, we all recognize that item called leadtime. Certainly the Senator from Arizona, with his involvement in the Armed Services Committee and the space program, and the Senator from Nevada understand what lead time is all about—that in order to have something good come out of the end of the pipeline, you have to put something good in the other end several years in advance. What we are doing here is the reverse: Putting something bad into the pipeline, which will later come to dominate, at a time when we are supposed to be cutting back on noise and environmental pollution. Perhaps right now it does not stand out, since we are phasing out or refitting those engines that exceed recommended noise levels, but a few years from now it will.

Why do it? It will guarantee a disaster a few years from now, just as good lead time will guarantee a good future.

I have an idea there are those participating in this argument who would like to see the Environmental Protection Agency disappear. I hear rumblings, especially in connection with the type of difficulty encountered in trying to achieve increased capacity, et cetera. But let us not use our difficulties as an excuse to do away with this rather basic agency which is attempting to clean up our air and water and to reduce noise.

Perhaps in some instances there never was any real commitment there in the first place. But this is not some ad hoc committee or kooky group. EPA definitely states this exceeds the acceptability standards for air and noise pollution.

The ozone argument, I agree 100 percent, is up for grabs, although additional evidence is apparently to be produced on the subject by the Senator from Maryland.

However, the Concorde exceeds noise and pollution standards. And then the most important point of all, which is that once again the establishment is setting forth to make an exception to the laws of this country. Once again our credibility is diminished and eroded, as Washington says one thing but does another.

It is more concerned, indeed, with 70—what is the term again?—of the "most productive members of society" as compared to the thousands who live around JFK and Dulles airports, who are ordinary members of society. When will we begin achieving credibility by virtue of enforcing our laws, making them applicable to everyone, and not making exceptions for the sake of expediency or diplomatic commitments, or for whatever reasons? I wish we could make laws as well as we devise exceptions to those laws here in Washington. That is the whole problem in this country. That is why the credibility problem exists, and it does.

So whether it be the scientific standards of noise and air pollution, or whether it be the principle of fairness in applying the law equally—not ex post facto, as has been intimated, but merely abiding by those laws that have been in being months and years ago—that is what is at issue; and I would hope, on the basis of those facts—not on the basis of the opinion of the White House, or the opinions of those who, as I say, consider themselves superior in some fashion or other, but on the basis of the facts, I would hope that the Senate would support my amendment.

I yield to the distinguished Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding. I rise in opposition to his amendment.

In all probability, I live as close to Dulles Airport as any Member of this Chamber. My home for the past 29 years has been 5 miles from the location of Dulles Airport.

In my opinion, the Secretary of Transportation tried to listen to everyone who wanted to be heard on this matter, but citizens of Virginia are very much divided on the issue. I took a pool on it and asked the question of whether the Concorde should be permitted to land at Dulles Airport, and among those responding 52 percent said yes, and 48 percent said no. This illustrates the close division among Virginians.

The Governor is in favor of the landing. One body of our General Assembly of Virginia is in favor of it, and so voted. The other body voted the other way.

But it is my understanding that what the Secretary of Transportation is attempting to do is to have a trial period during which we can better determine whether the Concorde will have any material adverse effects on the environment and then decide whether the trial period should be made permanent. It provides for a limited number of flights at both Kennedy and Dulles Airports.

If we are going to have administrative agencies hold hearings, and then attempt to make decisions on the basis of what they have heard and what the testimony is, it seem reasonable for Congress to put credence in their decisions and not override them by amendment offered on the floor of the Senate.

I do not know how much expertise there is in this body on this specific question. But I submit that no Member of the Senate has heard as much evidence as the Secretary of Transportation did hear. Once again, if anyone in this body is affected it would be me and my own household. I am quite willing to go along with the decision of the Secretary of Transportation and am going to vote against all of the various amendments that are being offered to this bill that would prohibit the Concorde from landing and taking off for limited and temporary periods of time.

I appreciate the Senator yielding, even though I am opposing his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself 5 minutes on the time of the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I think it is important for us to try and separate myths from facts and clear the air of the charges involved here today. Like the Senator from Virginia, I am one who probably does not have an impartial view because the Concorde did operate out of Alaska, it conducted its winter tests in Alaska. I flew on the Concorde. I think many, many people in Alaska took the time to see it.

I saw the Concorde in San Francisco where I think the largest crowd I have ever seen in my whole life was out to see it. It is a beautiful airplane and I think it represents progress for the future.

Mr. WEICKER. Mr. President, I wonder if the distinguished Senator from Alaska will state as to whose time he is now speaking on.

Mr. STEVENS. I am speaking on the time of Senator CANNON.

Mr. WEICKER. I want to make sure. I did not have an understanding as to what the request of the Senator was.

Mr. STEVENS. Mr. President, as with many of the issues we address, the Concorde has provoked controversy, disagreement, and—if you will forgive me—discord. This is entirely understandable.

To our British and French Allies, it represents the work of a decade, the investment of almost $3 billion, and, as the name of the aircraft implies, the symbolic venture of Anglo-French accord which has joined England to Europe. Conceived with a vision of bright future, it advances aviation technology even as it cements political ties. In a decade it may represent the most common means of trans-Atlantic travel.

I say may because to opponents the Concorde represents quite a different vision of the future. To those concerned about the misuse of our natural resources, about damage to the air we breathe, the water we drink, our land, climate and crops, and our quiet, the Concorde is a symbol of destruction, a throwback to an era of insensitivity and exploitation. To concerned environmentalists the plan symbolizes fear of further ecological damage: It is a mechanical bird deserving extinction before it is even introduced, standing not for future benefits but for past follies.

While I share a respect for the importance of technological progress, I also care deeply about our environment. The Concorde juxtaposes these concerns. The question of whether to permit it to operate into the United States is thus a difficult one, all the more so because, as I read Secretary Coleman's decision, no Federal law compels us to turn down the British and French applications and at least one treaty suggests that we not discriminate unfairly when another nation has certificated an aircraft as air worthy. That is why I believe the 16-month test approved by Secretary Coleman represents an excellent and orderly way to evaluate the impact of these flights in as objective a way as possible. Through it, we can better predict whether the Concorde will enhance or degrade the quality of our lives.

Objectivity is essential. I have been most impressed by the care and impartiality Secretary Coleman has shown and I have also been impressed by his statements that many theories about the Concorde set forth as facts persist even after the actual facts establish the contrary. Senator GOLDWATER has suggested that the Concorde has been the subject of so many false charges and so much misinformation that it has been accused of doing everything but causing ingrown toenails.

What are the charges or myths which persist, and what are the actual facts as we know them?

THE ISSUE IN 1971

First. The first myth is that Secretary Coleman's decision in effect reverses the action taken by the Congress in 1971 to end the U.S. SST program. The argument is also made that it discriminates against U.S. manufacturers.

In fact, as an examination of the record in 1971 will reveal, Congress made a decision not to expend limited Federal resources for the development of a new commercial airplane in view of other more pressing priorities. To be sure, environmental questions were raised; but an examination of the debates does not support the suggestion that they were pivotal.

As a matter of fact, we took that step with the full knowledge that the European program was underway, and the decision of Secretary Coleman, in effect, gives that European-built SST permission to land in the United States to enable us to evaluate its impact so that we can better determine whether permanent landing rights should be approved.

I think Secretary Coleman's decision is consistent with the decision made by Congress in 1971.

For the most part, we simply did not know much about the environmental effects in 1971. We know more today, but still not enough in some areas. That is one purpose of the test Secretary Coleman has approved: to learn more. But the questions in 1971 are quite different from those in 1976. In 1971 we decided to not spend Federal funds on our own program. We understood that development of a European SST would continue. In 1976, Secretary Coleman has decided to give that European-built SST permission to land in the United States to enable us to evaluate its impact so that we can better determine whether permanent landing rights should be approved. U.S. funds for a U.S. program are not involved. And so, Secretary Coleman's decision is wholly consistent with our action in 1971 to end the U.S. development program; it is not an attempt to reverse it.

A NOSE UNDER THE TENT

Second. A second myth is that approval of these demonstration flights is a foot in the door, or, if you prefer, a nose under the tent—the first step to unlimited SST flights.

Those who have read Secretary Coleman's decision know better.

The flights are for demonstration purposes to enable us to gather environmental data and to test community and commercial response. They are subject to specific controls and restrictions. They may be halted on 4 months' notice or, in case of threat to health, welfare, or safety, immediately.

Approval of the test does not imply ultimate approval of the six flights for which applications have been made. It creates no presumption either way. Even assuming the six are finally approved, additional flights would require a new environmental impact statement and additional justification. But dealing practically, not hypothetically, with the possibility of more flights, it should be recognized that only nine Concordes will be available for flight during the test period. Only 16 are scheduled to be built, a number far below projections made a few years ago, and the commercial success of even these 16 is in doubt. The draft EIS for the Concorde has already advised the British and French that "the available environmental data would not support" a decision in favor of unlimited flights. And the British and French have announced that they plan, before 1977, to use only 3 of the 14 flights weekly approved at Dulles and only 2 of the 4 flights approved daily for JFK.

So let us be fair. What we have here is a limited demonstration, subject to restrictions. It is the shaky beginning of a difficult test, not the opening wedge of an onslaught.

Similarly, the prospect of applications by Russia, China, Japan, and Iran has been raised. These are equally remote. There simply aren't very many planes to begin with. Interest is not an order and only interest has thus far been expressed. And for Russian flights a new bilateral air transport agreement would have to be negotiated. In any event, the argument that approving flights for one country requires approval for all might apply if Concorde flights are finally approved; but it does not apply to a limited demonstration such as the Secretary of Transportation has approved.

INJURY TO U.S. CARRIERS

Third. A third myth is that permission for Concorde landings will cause the collapse of U.S.-flag international carriers already in weak financial condition and end the U.S. dominance of the international aviation industry.

It is true that Concorde flights, if they prove a commercial success, may divert some traffic and revenue from Pan Am and TWA, as they may from the flag carriers of other nations flying the same routes. But Secretary Coleman wisely excluded this possibility from consideration in his decision because of its inappropriateness given our international relations and the desire that protectionism not be permitted to control the reciprocal healthy competition which thus far has worked to our advantage. Competition has permitted the United States to become the supplier of 95 percent of the aircraft of the free world. Moreover, the Civil Aeronautics Board is the agency empowered to review air fares to insure that they are compensatory so that airlines can operate at a profit. To exclude another nation's aircraft on the grounds of competitive advantage would invite virtual trade warfare. It is contrary to the international principles of reciprocity and fair play we have established over the last 30 years with our Allies.

Let me turn to the problem of environmental policies that my friend has raised.

ENVIRONMENTAL POLICIES

Fourth. A fourth myth is that approval of the Concorde demonstrations is directly contrary to our environmental policies. This argument is bottomed on the premise that Concorde noise is so loud as to be damaging, that Concorde exhaust emissions will destroy air quality and severely damage the ozone layer, increasing skin cancer.

I think that the problem about this is that these charges simply are not borne out by the facts.

No area, save perhaps safety, has produced more outlandish exaggerations and misstatements concerning the Concorde.

It has been claimed that Concorde's noise is like 100 subway trains screeching at once or like 100 subsonic jets taking off together. It has even been compared to both a secular form of purgatory and to hell.

These charges are simply nonsense. The Concorde is noisy—twice as loud as a B–707 or DC–8, four times as loud as a B–747. The Secretary's decision and the environmental impact statement both describe it fully and accurately. They also point out some interesting information which Concorde opponents conveniently omit. Such as that the 707 and DC–8 are actually louder than the Concorde on landing when measured at the FAR 36 measuring points. Or that Concorde flights add little to the airport noise already present—4 more flights are added to some 800 daily operations at Kennedy, only 0.4 percent is added to the 485,000 residents in the NEF 30 noise contour at Kennedy, and only 2 percent added to the 112,000 in NEF 40; at Dulles less than 1,000 people added to the NEF 30 contour, and no one will reside in an NEF 40 contour.

I think that if we look at these cumulative aspects as far as the noise are concerned, the residents are exposed to far more meaningful noise patterns than the Concorde would cause.

And it is important to point out also that Secretary Coleman took into account these factors and has told us we are going to have a demonstration program during which we will have a determination made of some of the charges that were raised against the SST during our debate in the past.

But I think it is important to keep in focus that while our environmental goals must be pursued, they do not require us to ban all noise for all exhaust emissions.

They do not tell us that these measures of cumulative noise to which residents are exposed are far more meaningful than one-to-one plane comparisons. Opponents also fail to mention that 85 percent of the planes in the American fleet do not meet our own noise standards for subsonic planes. Yet it is this very standard that some would hold the Concorde to.

So the fact is that the Concorde is noisy, but that it adds little to the existing airport noise, a problem which is being solved through regulatory policies which do not apply noise standards retroactively to our own planes until the technology is present to permit compliance.

Similarly, it is charged that Concorde flights will destroy the ozone layer and cause thousands of cases of skin cancer.

The Concorde environmental impact statement reports that permanent approval of six Concorde flights might add 0.08 percent, or 200 cases of nonmelanomic, nonfatal skin cancer, to the present 250,000 cases yearly. The disease is treatable and has a 97-percent cure rate. But opponents transform theory which requires us to consider this possibility into fact. They fail to mention that the ozone reduction caused by Concorde flights, if it occurs, is too small to measure when compared to natural variations. They fail to mention that between 1960 and 1970 ozone levels actually increased despite nuclear testing, volcanic erruptions, use of aerosol sprays, fertilizers, and others of the more than 30 causes of ozone reduction. They fail to mention that while fluorocarbon sprays may cause more than 50 times the damage to ozone, the evidence of damage was considered insufficient by the Consumer Product Safety Commission to ban such sprays. That is how the British and French see us treat our own products. They fail to mention that subsonic jets flying in the stratosphere also affect ozone. They fail to mention that our ozone is affected whether or not Concordes land here because ozone does not respect national boundaries—Concorde flights anywhere in the Northern Hemisphere affect us equally. They fail to mention that both NASA and the World Meteorological Organization consider the possible ozone reduction from even 30 to 50 SST's insignificant.

I do not ignore the fact that there are risks here, as there are in most areas of human endeavor. Concorde flights may add slightly to human injury. But I do believe we ought to state the facts as we know them and not deal with what we imagine. We simply do not know whether these theories are correct. That is one reason for testing. Surely we do not want to risk human health. But we must also be cautious not to proceed precipitously without conclusive evidence. We have all seen the economic dislocations caused by our ban on cyclamates and the tragedies of those who underwent abortion fearing birth defects from having used spray glues only to find that both dangers were not supported on further investigation. So let us proceed responsibly, keeping the facts as we know them in perspective.

Finally, it is alleged that air quality will be severely damaged. This is also false. In fact, we know that there is an EPA air quality standard for subsonic aircraft, but not for SST's. There is a proposed rule, which, if adopted, would take effect in 1979. SST's which cannot meet it, would be barred. But the rule is not retroactive and the EPA has already indicated that its levels may have to be modified when it is promulgated because it is unrealistically stringent. Again, we are dealing with only six flights. The Concorde EIS demonstrates that the effect of the proposed level of operations on air quality would be negligible, with an impact restricted to the areas within the airport boundaries. Secretary Coleman's decision concluded that at Kennedy Airport, for example:

> The only measurable increase in pollutants due to the Concorde off the airport proper is an increase of .2 parts per million in carbon monoxide concentrations. The total level is still only .7 parts per million, on a one hour average, as compared to a national standard established by the EPA of 35 parts per million.

Again, the facts do not support the myth that air quality will be destroyed.

Our environmental goals must be pursued. They do not require us to ban all noise or exhaust emissions. If we did, the only aircraft permitted would be gliders. We understand that commerce and industry also have an important role to play in national life. We balance our goals. We regulate responsibly, considering economic costs and technological feasibility and trying to avoid inequity. We seek to regulate based on the best information available. These are also among our national policies. And the Concorde demonstrations are certainly consistent with them.

SAFETY

Fifth. A fifth myth is that the Concorde is unsafe. Various reasons are given: inadequate fuel reserves, a dangerous takeoff turn to minimize noise at JFK, the supposed need for special air traffic control procedures. Again, fear has hidden fact.

The FAA has statutory responsibility for air safety. And Secretary Coleman received a full report on these charges by the FAA Administrator which is included in an appendix to his opinion. It supports none of the charges. In fact, as testimony at Secretary Coleman's January 5 hearing indicated, the Concorde may be the safest plane ever put into commercial service, with over 5,000 hours of testing and design features that provide better visibility for pilots and more maneuverability.

With respect to alleged fuel inadequacy, the FAA studied the matter thoroughly and found that the Concorde not only had adequate fuel reserves, but that British and French standards were actually more stringent than FAA requirements for aircraft owned and operated into the United States by American and foreign air carriers. With respect to air traffic control procedures, it is true that the Concorde holds more fuel efficiency at 14,000 feet, which is the ceiling imposed on subsonic jets. But this was found not to present a problem since air traffic controllers would have discretion and the Concorde could be integrated into the landing and holding patterns in any way deemed appropriate without special treatment. And finally with respect to the 26° takeoff turn off runway 31 left at JFK, the turn has been tested and found safe by the FAA. Unless someone has evidence on which to base a responsible challenge to that expert conclusion, I believe it must be accepted.

These claims too, seem to evaporate on closer examination.

SINISTER CONSPIRACY

Sixth. A sixth myth is that the entire Concorde decision has been the result of a clandestine government policy to approve the flights and that the entire environmental impact statement and review process was mere window dressing. President Nixon, it has been charged, secretly promised permission to land to the British and French and Secretary Coleman was locked in by this policy.

What are the facts? Secretary Coleman has denied any pressures. President Ford was not involved in the decision. President Nixon did write Prime Minister Heath and President Pompidou letters in January of 1973. Secretary Coleman has placed these in record in response to a congressional request. And what do they say? A careful reading indicates that they promise fair and equitable treatment for the Concorde, which seems reasonable enough, they reassure the French and British that the administration would work with their officials to determine whether our SST noise rule could meet domestic requirements and not damage prospects for the Concorde, and they indicate that a fleet noise rule, then being considered but never promulgated, would not apply to the Concorde. That rule would have set an overall noise average for a fleet, so that the Concorde might be permitted, were it included, if other noisy aircraft were not used. The preferable method of regulation is to require each type of aircraft to be as quiet as possible, and that was the approach eventually taken. I find nothing sinister in all this. It is a tempest in a teapot.

So is the letter Secretary Coleman solicited and received from Secretary Kissinger as he quite properly sought the advice of the Secretary of State on the foreign policy implications of the decision on Concorde. The letter rightly points out the prestige involved for Britain and France and it indicates that a decision which was an outright rejection would be viewed as a serious blow by our allies. That is hardly a secret. They invested almost $3 billion in the project. By "outright rejection" I take the Secretary to mean an arbitrary one. By taking the course Secretary Coleman proposes, that of a demonstration, if we do decide to turn down the British and French application for permanent flights, they will find it difficult to suggest they received an outright rejection rather than a fair chance after we equitably follow all appropriate procedures. The Secretary of State asks that these factors be considered along with the environmental and other criteria to be weighed, as indeed they should.

Secretary Coleman has made one of the most open decisions on record. The EIS was issued in draft in March, hearings were held in April, a new EIS was issued in November for comment, a special hearing was called in January, a written decision was issued in February, stating reasons clearly and in scholarly fashion, and accompanied by an EIS addendum replying to comments made on the final EIS. The decision was made entirely on the public record. The process is a model not of secrecy but of open decisionmaking. Secretary Coleman should be commended for it.

In sum, Mr. President, these are the salient points of myth used to attack the Concorde decision and the facts which refute them. Surely, reasonable men may oppose the demonstration approval given by Secretary Coleman. But if so, let it at least be on the basis of a clear factual analysis and not on the basis of wild exaggeration or invention. This is a complex area in which much more remains to be learned. It is one with profound implications for international relations as well as our own environment and health. And it is an area in which we should behave with utmost responsibility, based on facts, not myths.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STEVENS. I thank the Chair.

Mr. President, I ask unanimous consent that an article prepared by Secor D. Browne, entitled "The Supersonic" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SUPERSONIC

(By Secor D. Browne)

There are four histories of the development of the supersonic transport airplane—American, British, French and Soviet. All four histories remain unfinished.

The United States, which in 1971 abandoned its program to produce prototype supersonic transport aircraft and engines, nevertheless continues government-funded exploration, both of the environment in which these airplanes operate and also of higher aerodynamic and engine cycle efficiencies. This exploration could lead to second-generation supersonic transports with improved environmental qualities and operating economics.

In November 1962, Great Britain and France merged their existing programs of supersonic transport aircraft development into a joint effort which, 13 years and $2.5 billion later, has led to the beginning intercontinental supersonic scheduled passenger services by production-line airplanes, in the fleets of their respective national carriers. In the United States, the magnitude of this achievement and its lessons for us—not just in technology but in overcoming the political, social, economic, and communications barriers to the success of large-scale international cooperation—have been lost on our political, academic and communications Luddites.

For these Luddites of our time, the significance of the recent Soviet inauguration of scheduled *internal* supersonic long-haul services, using production aircraft, has also been lost. If a totalitarian system, with virtually absolute power of allocation of men and materials, assigns those resources to a project of this magnitude, there must be some reason beyond merely the desire to remain competitive with Western technology. A reading of the Soviet literature indicates the underlying logic. In any society, the brains and energies of the leaders in various fields are probably its single most important resource. Distances within the USSR are vast, and journey times and fatigue—even in subsonic jet aircraft—over many vital routes are reflected in less effective utilization of that resource. A supersonic transport halves the journey time, with a reduction in travel fatigue which may prove to be even more significant than the time saved.

The emotional and political controversy which has arisen in the United States over the decision to permit Concorde landings on a trial basis has, despite the logic and clarity of Secretary Colemen's decision, almost totally obscured the basic facts from which that decision was drawn. In an effort to avoid further repetition of the thousands of pages of facts, pseudo-facts, science, science fiction and outright falsehoods, the following paragraphs attempt to summarize the basic issues.

THE MARKET

In conjunction with judicious aircraft scheduling, supersonic air travel makes a reality of the one-day business trip between New York and London in either direction—with up to six hours business or professional working time at destination and a return to wherever the passenger had breakfast that morning.

In terms of very long journeys—say, between Los Angeles and Melbourne or Melbourne and London—the time effectiveness of supersonic travel would be better measured in terms of "recovery time", representing a saving of perhaps two days of useful work otherwise lost. For the Japanese, who depend so much on long-distance air travel by senior officials and management, the need for supersonic air travel will ultimately become compelling.

In communist and non-communist worlds alike, the market for supersonic travel is with the leaders in all fields, the value of whose time, and effectiveness of whose work, will justify fare differentials enough in excess of carrier operating costs to provide an adequate return on investment.

Similarly, the utilization of some additional fossil fuel for supersonic flight over the requirements for a subsonic journey along the same routes is more than justified by the same time-effectiveness rationale. Until those truly major consumers of the world's petroleum resources, who can do so, shift to alternative energy sources, aviation should not be asked to reduce its relatively small demand and forfeit the expansion of the vital communications services which is provided throughout the world.

THE SONIC BOOM

Aircraft in supersonic flight generate shock waves rather like the bow and stern waves of a ship. This energy creates an increase in atmospheric pressure on the earth's surface which follows the aircraft, much as the wake follows the ship. The intensity of this over-pressure—heard (or not heard) as a sonic boom—will vary with altitude (hence distance), air temperature (hence density), and the design configuration of aircraft and engines, which determines the amount of energy generated at the sources. This means that advanced aerodynamic and propulsion research can lead to negligible over-pressures at supersonic speed and, hence, no detectable "boom". It further means that vast areas of the globe are at this time suitable for scheduled supersonic operations without subjecting populations below to the annoyance of real or imagined sonic booms.

AIRPORT AND COMMUNITY NOISE

The SST flies subsonically within several hundred miles of the airport. Consequently, the boom is not an airport noise problem. At the ariport, the issue is one of engine noise levels on takeoff and landing. The Anglo-French supersonic transport, the Concorde, meets the international noise standards in effect at the time the aircraft and engine design were commited to production. Thus, by agreement and precedent, the aircraft should be permitted to operate in the airspace and into the airports of the countries signatory to those agreements. Major commercial airports throughout the world are, in the majority, owned and operated by the national governments of their respective countries. This is not so in the United States, where only two major commercial airports, Dulles and Washington National, are owned and operated by the federal government. Of these two, for technical reasons, Concorde can operate only from Dulles. The remainder of the nation's major airports are entities of state, city, or county government or of state or bi-state "authorities". It is an understatement to say that each marches to a different political drummer.

Federal money goes to construction and operation of air navigation facilities and grants for airport improvement, but federal liability also goes to the consequences of aircraft operations. Clearly this means safety, but does it include federal "preemption" of the duty to protect the airport and community from environmental damage from aircraft operations and the liability therefor?

The Environmental Protection Act of 1969 imposed on the Federal Aviation Administration the duty of preparing an environmental impact statement in response to the requests of Air France and British Airways to amend their operating permits to include Concorde operations in the United States air space and airports: specifically Dulles and John F. Kennedy. It is on the basis of this statement, and subsequent public hearings, that the Secretary of Transportation has ruled that these operations are acceptable for a test period of 16 months from the date of the first scheduled Concorde flight to the United States by either carrier.

It has long been amply demonstrated that the reduction of subjective human reactions to finite standards of measurement has frustrated the scientific and enriched the legal professions. The noise of aircraft operations near, alongside or over a community is measured by the family of decibels—not the reactions of families with awakened bable interrupted conversations or unheard television dialogue. Further, the latter reactions are rarely tempered by the families' or communities' economic dependence on the airport or the fact that the houses may have been built long after the beginning of jet aircraft operations at that airport.

The issue of preemption now passes to lawmakers in the Congress and those state legislatures seeking to block supersonic operations, to federal and state courts responding to suits, and to those fringes of the public who seek to impose their wills with automobile and baby carriage brigades.

RADIATION AND OZONE

Perhaps the most concise reduction *from* the absurd claims of atmospheric damage due to supersonic transport operations has been provided by F. G. Clark and Arthur Gibson in a recent book on Concorde which is worth quoting here at some length:

"It is, however, worth mentioning two high-altitude environmental factors, cosmic radiation and ozone, which have sometimes been thought to present a potential health hazard. There are two types of cosmic radiation, galactic and solar. The infinitesimal amount of galactic radiation absorbed by supersonic passengers flying at higher altitudes is, because of the faster flight, actually less than that absorbed by subsonic passengers flying the same route.

"Solar radiation is associated with solar flare, which occurs over a well-established cycle. Nevertheless, a radiation warning meter is installed on the flight deck, and, when this gives warning of a sudden increase in radiation intensity, the aircraft will descend to a lower altitude and continue its journey subsonically. Records show that this would have been necessary only five times in the last 39 years. . . .

"Opponents of SSTs allege that the nitrous oxides in the engine exhausts will partially erode the ozone layer, allowing a higher intensity of ultra-violet radiation to penetrate to the earth's surface and so cause an increased incidence of skin cancer.

"The most comprehensive program of research into the possible effects of stratospheric pollution by aircraft is the Climatic Impact Assessment Program (CIAP) mounted by the United States Department of Transportation. This involved a number of other government departments and agencies in the United States of America and other countries and drew on the talents of 1,000 investigators in many American and foreign universities. In the report of the CIAP findings, one of the principal conclusions was that operations of present-day supersonic airliners and those currently scheduled to enter service would cause climatic effects which are much smaller than those minimally detectable. This minimum detectable change in global mean ozone was estimated by the Department of Transportation to be 0.5 percent, and 100 Concordes each operating in the stratosphere for up to four and a half hours every day would have less than this effect. To set this minimum detectable change in perspective, the report pointed out that the natural fluctuation over Washington, D.C., is 25 percent and that there is a natural variation of as much as 30 percent between Texas and Minnesota.

"At a press conference to introduce the report, the director of the CIAP study project, Dr. Alan Grobecker, described the SST as 'merely a pimple' on the overall environmental problem compared with other sources of pollution. When asked to relate the 0.5 percent reduction in ozone to skin cancer, Dr. Grobecker said that this was the equivalent of 45 minutes on the beach."

THE FUTURE

The growth of supersonic air travel will clearly result more from a "try it—you'll like it" form a persuasion than from the rhetoric of time saved and fatigue lessened. Direct experience in supersonic proving and demonstration flights has already convinced thousands of potential travelers. To these thousands now are being added thousands of fare-paying passengers on scheduled supersonic service to South America and the Middle East.

Very significant acceleration in passenger growth can be achieved by aggressive introduction and marketing of supersonic services over present and alternative routes. Lethargy and myopia are not unknown to mature industries, and the airlines are now older than, for example, computers and nuclear power. The same afflictions can hinder the effective support of the sponsoring governments, without whose unflagging diplomatic and economic effort, route authorizations and operating rights cannot be secured.

How seriously are alternative North American gateways being sought to avoid the intransigence of New York City and Boston? What alternative routings and passenger collection and distribution patterns throughout the rest of the world are being developed as regionally attractive solutions to present overflight and landing right problems?

Perhaps more of the energies and resources presently devoted to the technology of supersonic transport introduction must now be applied to its acceptance and marketing.

Given imagination and a sustained effort, the ultimate success of supersonic passenger travel is assured. The next requirement is for a second-generation supersonic transport with greater payload/range and higher fuel efficiency. For such an aircraft to become a reality, there must be continued research and development in supersonic aerodynamics and advanced engine cycles. The latter is particularly important if improved standards of environmental quality are to be met and maintained.

Because of the magnitude of the resources involved, it is doubtful that these programs—not only of research and development but of actual production—will be possible without expanded international cooperation. The United States does *not* have the option of deciding whether there will or will not be such programs. We *do* have the option of participating or of watching the rest of the technologically advanced world—Britain, France, Germany, Italy, Japan and the Soviet Union—carry on without us.

We will probably also be watching the end of United States dominance of the world's transport fleet. Even casual observation of the tempo of negotiations abroad by United States aircraft and engine manufacturers, and of the design and production agreements already in force, gives clear indication that *no* major future transport aircraft/engine program is possible without significant overseas involvement—not as sub-contractors but as partners.

The history of aviation and aerospace development at national levels gives repeated proof that its technology can *not* be limited in scope whenever a need has been clearly demonstrated. Such is the case of the supersonic transport. Where its technology goes, it will take along its own market and, with it, the United States' markets—*supersonic and subsonic* alike.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senator from Connecticut misses the point that our environmental laws are not our only laws.

We also have treaties. Our treaties are every bit as much binding law on us as any other law.

And we do have treaties that are applicable to in this situation to Britain and France. We also are a party to the Chicago Convention on International Civil Aviation.

These international agreements grant to the British and French the rights to operate commercial flights to the United States without discrimination. According to these treaties, certificates of airworthiness issued by one government shall be recognized as valid by the other.

No exception is specified for treating noise or emission rules differently from other criteria of airworthiness. No exception says that we can recognize a foreign certification for one purpose, but not for others.

In fact, we used these very treaties to our advantage when the 707's entered the market in the late 1950's and were much noiser than the aircraft the British were trying to sell, the "Britannia."

We also have a law, section 1102 of the Federal Aviation Act, that invokes these treaties as a part of the Administrator's duties under law. Section 1102 provides that the Administrator of the FAA shall exercise his duties "consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country."

Mr. President, if we now ignore these treaties and fail to give them the same interpretation we gave them when it was to our benefit, the Europeans can justly believe that we are discriminating against them.

Mr. WEICKER. Mr. President, to keep the record straight, in relation to the comment just made by the Senator from Arizona:

> It is a settled principle under U.S. law that when a statute is inconsistent with a preexisting treaty, the statute overrides the treaty rendering it null to the extent of the conflict.

That is from the case of Reid against Covert, 354 U.S. 1, 77 Ct. 1222 (1957).

I do not think that the argument thus presented is valid in the instance of this particular debate.

Mr. GOLDWATER. Mr. President, I answer that by saying that our environmental law does not supersede these treaties. NEPA is expressly subject to preexisting laws. It is qualified by language that NEPA is applicable only to "the fullest extent possible." The conference report which explained this language said it means that any existing law which "prohibits or makes full compliance" with NEPA impossible should prevail. Our treaties with Britain and France are exactly the kinds of law that makes "full compliance" with our environmental law impossible.

Mr. PEARSON. Mr. President, I support the amendment offered by the distinguished Senator from Connecticut (Mr. WEICKER), and urge its adoption by the Senate.

The American people properly are concerned about the quality of their environment. Although the Secretary of Transportation has authorized a limited, 16-month experimental program of Concorde operations to U.S. airports, this action was taken over the objections of the Environmental Protection Agency and the President's Council on Environmental Quality.

The environmental arm of our Government did not lightly come to the conclusion that Concorde operations, at this time, should be prohibited at U.S. airports. There are three fundamental arguments in behalf of this conclusion.

First, Concorde operations are perceived as much more noisy than those of modern subsonic aircraft. The SST cannot meet the requirements of FAR 36—the operative noise standards that must be met in the manufacture and certification of new transport aircraft. The proponents of Concorde correctly observe that FAR 36 applies only to subsonic aircraft, and that new standards for supersonic civil transport aircraft should be established which "grandfather" the Concorde. This argument, however, is not much more than a debater's point. After all, the Noise Control Act of 1972 was enacted to protect citizens generally from excessive noise—not merely from excessive noise generated by modern subsonic transport aircraft. The established guidelines reflect a considered judgment on tolerable noise levels and Concorde was developed by its sponsors with full knowledge of the American commitment to noise abatement in airport environs.

There should be some transcending benefit to Americans if Concorde is exempted from the generally recognized noise control standards. The reduction in flight time between America and the continent is not, in my judgment, adequate benefit to subordinate the established U.S. policy of noise control.

Second, Concorde exceeds the EPA's subsonic carbon monoxide emission levels by 270 percent. It exceeds unburned hydrocarbon emission standards by four times. The severely limited operations permitted by Secretary Coleman's Concorde decision will increase air pollution at Kennedy and Dulles by 4.4 percent and 8.4 percent, respectively. It is simply unnecessary, and bad public policy, to tolerate such increases in air pollution for such limited public benefits.

Mr. President, much has been said about the good relations between the United States and our British and French allies. I can appreciate the significance of a decision to ban the Concorde in terms of our relations with these allies. But there has been no assurance or commitment by our Government to relax standards to permit entry of Concorde during the development of the airplane. From the beginning, Britain and France should have been aware that the United States would be constrained to evaluate fully the environmental impact of SST operations before such operations were permitted.

In the final analysis, the commitment to environmental protection in both Europe and America requires affirmative action by governments and accommodation by industry and commerce. No foreign power can fault America if her standards in some cases are more stringent than those established elsewhere. European auto manufacturers have met our Clean Air Act requirements, for example, in order to remain in our market.

There can be no lasting erosion of mutual confidence between the United States and her European allies if the most objectionable action by this Nation is its decision to establish reasonable limits on noise and air pollution around airports—limits that do not seriously inconvenience the international air traveler.

I urge adoption of the Weicker amendment.

Mr. BROOKE. Mr. President, I have always opposed the landing of supersonic transports in U.S. airports. While I believe Secretary Coleman acted thoughtfully and in good faith in arriving at his decision to allow limited landings of the Concorde, I simply disagree with his conclusion. I am therefore cosponsoring the amendment filed by Senator WEICKER of Connecticut which would prohibit all commercial SST landings except in cases of emergency.

I believe this is the proper course for several reasons. First, the flights violate the Federal Aviation Administration's own noise level regulations. The Concorde is about 10 decibels louder than current FAA regulations permit. And to the human ear, 10 decibels is actually a doubling in loudness. Hence, the Concorde is twice as loud as conventional jets on take-offs and landings. The present FAA regulations deal only with our subsonic, conventional aircraft and therefore do not cover the supersonic Concorde. In 1970 the FAA did issue "advance notice of proposed rule making" with regard to supersonic jet noise levels, but unfortunately no further action was taken and there are no such regulations in effect today.

Second, the environmental effects of supersonic flights pose an enormous danger to the very ecological system that supports life on this planet. There is ample evidence to suggest that supersonic jets may well be reducing the ozone layer of our atmosphere and thereby destroying the earth's most important protective covering. The ozone layer shields our planet from the sun's harmful radiation. Without it life as we know it could not survive.

Yet even if we could solve the difficult environmental problems and concern ourselves only with the practical aspects of the Concorde jets, they are still not proven to be a viable means of transportation. And this leads us to the third problem: safety.

The Concorde would need special air traffic control procedures because it may be unable to stay in a holding pattern within the present controlled airspace of 14,000 feet. This could further overburden our air traffic controllers, who are already hyperextended.

Finally, there is the problem of energy. The Concorde needs more fuel than a subsonic jet in order to accelerate from subsonic to supersonic speeds. With the country in the throes of a very real energy crisis, this factor renders the Concorde all but impractical. And perhaps more important, the Concorde has a lower than normal fuel reserve because of its greater need for fuel in flight. This means that if, as happens quite often, the jet has to maintain a holding pattern at the airport due to not uncommon delays, it would not have the neded fuel reserve to either stay in the holding pattern or divert to another airport.

Those who argue that up until now the Concorde has always had enough fuel overlook the fact that all previous flights were special flights and all landing patters were clear. This will not be the case if the Concorde were to be put into commercial use unless of course special air traffic controls were imposed.

I cannot persuade myself that the convenience of a few hours of travel time saved by the tiny elite that can afford to take advantage of these flights is worth these risks.

As far as I can see, it is now up to the Congress to institute regulations concerning civil supersonic air traffic. And I hope my colleagues will agree that no Concorde jet shall touch down on American soil.

Mr. CASE. Mr. President, I ask unanimous consent that there be printed in the RECORD a statement by the Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BAYH

On February 4 Transportation Secretary Coleman decided to permit the Anglo-French supersonic passenger plane, the Concorde, to land four flights a day at New York's John F. Kennedy Airport, and two flights a day at Dulles International Airport in Virginia during the next 16 months.

As my colleagues here in the Senate recall, I offered an amendment last July, along with Senators Case, Proxmire and others, which would have stopped the Concorde. That amendment failed to pass by only two votes.

Among the arguments which were made by opponents of the amendment was one which urged that Congress should not short-circuit the administrative process. According to that argument, Congress had delegated this decision to administrative authorities who possessed the necessary expertise to arrive at a correct conclusion.

We have not only the right, but the responsibility, to review the Secretary's decision and to reverse it if it fails to serve the public good.

I think it is eminently appropriate today for each of my colleagues to look at the record of evidence about the Concorde and reach an independent judgment about the merit.

The standard is a simple and familiar one: we must consider the benefits to the interests of the people of the United States compared to its negative impact. A brief examination of some of these issues reveals almost no real benefits, and serious disadvantages and makes the need for firm Federal action to ban Concorde apparent.

First, we know that some 97,000 New Yorkers and 62,000 Virginia residents will be subjected to shattering noise.

Second, we know that thousands of residents living near Kennedy and Dulles will be subjected to shaking and structural vibrations in their homes and places of business as a result of the low frequency content of the noise generated by Concorde.

Third, we know that the Concorde increases air pollution significantly. As measured in pounds per takeoff, and landing cycle, Concorde emissions of carbon monoxide are four times greater than those of a 707, and even worse in relation to the 747 and DC–8. Concorde emissions of unburned hydrocarbons, nitrogen oxides, and particulate matter are also unacceptably high.

Fourth, studies by the Department of Transportation and the National Academy of Science indicate grounds for serious concern about the effects of Concorde on the levels of ozone in the stratosphere.

Fifth, because of its high speed, the Concorde uses fuel at a much faster rate than existing commercial aircraft on a seat-mile basis. Compared to other long-range aircraft, the Concorde consistently requires two or three times the fuel per passenger. Although the total fraction of world energy resources which will be wasted by Concorde's inefficiency is small, the federal government can hardly expect to promote enthusiasm for energy conservation while restricting American motorists to 55 miles per hour on the one hand and sanctioning an aircraft which travels at Mach 2 with the other hand.

Sixth, the Concorde is exceptionally fuel-critical, and will arrive at our airports with about 30 minutes worth of fuel left, creating severe traffic handling and safety problems.

Seventh, the introduction of Concorde service at Kennedy and Dulles will disrupt long-range planning of airport facilities and airport-area land use—not only in New York and Washington, but in the entire country. Many communities have taken steps to plan for future development of airport areas to accommodate both transportation needs and environmental concerns. This planning has been advanced by Federal Aircraft Regulation Part 36, which applies to new aircraft, and which ensures that existing noise levels would not increase, but would gradually be reduced in coming years. Concorde is a step backward from this commitment to reduced airport noise levels.

Eighth, and I believe that this is the most important problem of all—the consequences of Secretary Coleman's decision will be cumulative and will affect many more than 150,000 people in Virginia and New York. The limited number of flights sanctioned by the Secretary's decision are not, in themselves, economically feasible. Service must be expanded significantly simply to reach the break-even point, and more Concordes must be built and sold. This decision constitutes a virtual green light for expansion of a noisy, polluting Concorde fleet—the economic incentives to build environmentally acceptable planes are removed once you sanction this version.

Once permission has been granted to France and to Britain to land their planes, international conventions will require the U.S. to extend to other countries the same aircraft privileges. We are not talking about six flights a day to two airports; we are talking about an ever expanding number of flights to and from airports on both coasts.

What are the benefits to be derived from Concorde flights, and to be weighted against these disadvantages?

First, and most obviously, is its speed. But this benefit will be available to very few people. The Concorde costs three-to-four times as much per seat mile to operate compared to current subsonic jets. The round-trip flight to London will cost about $1200—more than current first-class passenger fares.

It is ironic that the speed advantage may frequently turn out to be no advantage at all. Because Concorde is so fuel-critical, adverse weather conditions may require almost immediate diversion to other airports—Bradley Field in Hartford, Logan in Boston, Friendship in Baltimore. Thus passengers will consume hours on the ground getting to New York or Washington.

Second, it has been argued that the United States, in the interests of good relations with two important allies, must allow the Concorde in.

Let us examine the basis of that argument. It is said that exclusion of the Concorde will be discrimination and unjust.

There is no discrimination in a country acting to protect the health and welfare of its people. Indeed, if discrimination is an issue, it cuts in the other direction: admission of the Concorde creates a double standard which requires current generation U.S. planes to meet noise standards, and exempts foreign aircraft.

As to justice, this is an issue founded on secret representations made by President Nixon in 1973 to President Pompidou and Prime Minister Heath. Those representations misled those governments into believing that the Concorde would be allowed to land here. Although the incident is regrettable, we are not and should not be bound by secret promises which sacrifice the interests of the American public.

This amendment is not being offered in the name of petty protectionism. It is an ad-hoc action with a history. Indeed, I believe that the British and French government have been given notice repeatedly of Congressional intent *not* to permit the landing of environmentally hazardous new aircraft. The history I am referring to begins in 1968 with passage of the Aircraft Noise Abatement Act; continues through the 1971 decision by the Congress not to extend federal aid for domestic SST development, effectively killing the project; includes the passage of the Noise Control Act of 1972; and an overwhelming Senate vote in 1973 to prohibit use of U.S. airports by civilian supersonic planes which did not comply with noise standards established for subsonic aircraft.

I suggest to you that passage of this amendment does not constitute unfair discrimination against a foreign power; and that a careful weighing of the costs and benefits to the American public reveals the benefits to be few and vastly outweighted by the social, safety, economic and environmental disadvantages.

Mr. BAKER. Mr. President, I oppose efforts to amend the Airport and Airway Development Act to prohibit the commercial operation of civil supersonic aircraft in the United States or to require such aircraft to meet noise control regulations applicable to subsonic aircraft in this country.

The dilemma posed by the applications of British Airways and Air France to operate limited commercial service to John F. Kennedy International Airport and Dulles International Airport using the Concorde supersonic transport has been addressed in a thorough, rational, and even-handed manner by the Secretary of Transportation and resolved in his decision of February 4 to permit such service during a 16-month trial period under strict conditions.

In my view, Secretary Coleman's decision was extraordinary in its candor, clarity, and comprehensive consideration of all issues, legal, economic, and environmental; and I urge all of my colleagues to read it before they vote on these amendments. Moreover, the procedure by which this decision was reached was scrupulously fair to all points of view involved on all of the issues. Rarely are governmental decisions made in such an open fashion, based on such an extensive public record.

I do not argue with those who contend that the ultimate impact of the Concorde upon the environment cannot be measured accurately at this time. The data compiled by the Federal Aviation Administration in its environmental impact statement indicates, however, that the impact upon air quality, fuel usage and the ozone layer of four flights a day into JFK and two flights a day into Dulles will be minimal.

The greatest effect of these flights will be increased noise in the area of the airports and that prospect has justifiably upset residents of Virginia and Long Island who already are subjected to the annoyance of jet aircraft noise levels. In his decision, Secretary Coleman was faced with the task of evaluating complete data on relative noise levels of the Concorde as measured against large subsonic jets such as the Boeing 707 and 747 and the DC–8, the number of people living in the vicinity of the two airports who would be subjected to greater noise levels and the effect of low-frequency noise on structures near the airports. He concluded that the "marginal impact of six additional flights would be small."

I found it interesting to note that the addition by air carriers of a few extra flights by B–707's or DC–8's under existing authority would produce a greater increase in total airport noise than would the institution of two to four flights by the Concorde. In addition, it can reasonably be assumed that the two carriers operating the Concorde would substitute Concorde flights for some existing flights by subsonic jets, thereby diminishing some of the total noise impact.

This is not to say, however, that the noise generated by today's Concorde should be considered acceptable and the issue forgotten. One of the main reasons for the Secretary's decision to authorize a trial period for the Concorde was to "permit a more intelligent and responsible decision to be made at some point in the future, after we have collected information on the subjective response to Concorde during actual operations."

The proposal to subject Concorde to the noise regulations developed under the Noise Control Act of 1972 seems to me both unfair and illogical. The FAA's noise regulations, FAR 36, were developed for subsonic aircraft and originally made applicable to aircraft certificated after 1969. Subsequently, the standards were revised to include older jets for which noise suppression technology had been developed to enable them to meet FAR 36. It is significant to point out, however, that 80 percent of subsonic jets do not comply with existing noise standards.

The Noise Control Act requires that the Administrator consider whether a proposed standard is "economically reasonable, technologically practicable, and appropriate for particular type of aircraft (or) aircraft engine. * * *"

The Concorde, whose engine was developed early in the design process, cannot meet FAR 36 standards and cannot be modified so that it will meet those standards. Secretary Coleman has indicated that, as of today, it is not possible to build a supersonic aircraft which can meet these standards on takeoff, the point at which the Concorde generates the most noise. To require the Concorde to meet FAR 36 standards as a condition of its operation in this country would, therefore, amount to an outright ban on American landings.

It is clear, first of all, that Congress did not intend that noise regulations developed under the Noise Control Act of 1972 should be applied where they were not technologically feasible. Second, it is unfair, in my view, to compare supersonic and subsonic aircraft, especially in view of the fact that subsonic technology is significantly older and more advanced. And third, I believe it inherently discriminatory to impose on the Concorde noise standards which we have not required our entire subsonic fleet to meet.

In my view, the effective choice which Secretary Coleman has made and which the Senate now has to weigh is not between the merits and disadvantages of the existing Concorde, but between the testing of a new technology and the condemnation of that technology without a trial. Only if we permit the limited operation of the Concorde in the United States will the Nation and the world have an opportunity to judge whether commercial supersonic transportation can be successful. While it seems clear that proliferation of today's SST with current noise levels would pose severe environmental problems, we should not exclude the possibility that future research will produce the technology necessary to produce quieter engines and reduce harmful emissions.

It is the unanswered questions surrounding the Concorde, both environmental and economic, which justify a trial period of limited operations rather than outright, unconditional approval of the British-French application. And it is the need to take a farsighted approach to the development of a new and exciting aviation technology which justifies approval of this experiment rather than an outright ban on supersonic flights.

I believe that Secretary Coleman has carefully weighed the evidence for and against the Concorde before reaching his decision. After reviewing his analysis of the question, I agree with his choice and I believe the Senate should let it stand.

Mr. President, I urge my colleagues to defeat these amendments.

Mr. KENNEDY. Mr. President, as cosponsor of the amendment to prohibit the commercial operation of civil supersonic aircraft in this country, I would like to discuss with my colleagues the enormous concern of the people of East Boston and Revere and Winthrop, Mass., that any additional source of aircraft noise will jeopardize the effort for a strong and effective aircraft noise abatement program at Logan Airport.

I ask unanimous consent to have printed in the Record copies of the telegrams which I have received from the secretary of transportation of Massachusetts, the mayor of Boston, and the chairman of the Massachusetts Port Authority in support of the amendment we offer today.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Telegrams]

March 18, 1976.

Senator Edward Kennedy,
Washington, D.C.

I want you to know of my vigorous support for the amendment you're co-sponsoring to prohibit expenditure of Federal airport and airways development funds in support of SST operations. We feel strongly that no SST operations should be allowed unless the aircraft can meet existing noise and other environmental standards and unless safe upper atmosphere operation can be insured. Since present SST's cannot meet these tests we are opposed to their operation in scheduled service. Furthermore, we feel strongly that the Federal Government should adopt necessary regulations to insure that all aircraft meet wise and necessary environmental health standards.

Frederick P. Salvucci,
Secretary of Transportation,
Commonwealth of Massachusetts.

March 20, 1976.

Senator Edward M. Kennedy,
Senate Office Building,
Washington, D.C.

I want to express my strong support for your co-sponsorship of the amendment to the Airport and Airway Development Act bill which would prohibit commercial operations of SST's into the United States. We in Boston are hopeful that Congress will take the lead to protect our citizens from the excessive noise and other adverse effects of the Concorde. Federal funds should be allocated for a comprehensive program to reduce the serious airport noise problems from airports such as Logan, not to further aggravate these problems.

Sincerely,

Kevin H. White,
Mayor of Boston.

Massachusetts Port Authority,
March 18, 1976.

Senator Edward M. Kennedy,
Russell Office Building,
Washington, D.C.

The Massachusetts Port Authority wishes to express its support of your co-sponsorship of the Weicker amendmnet which would prohibit the landing of civil SST's that do not meet subsonic noise standards. This amendment would endorse the policy position taken by the Port Authority at its December 1975 meeting to prohibit the use of Logan International Airport to new aircraft such as the Concorde SST which do not conform to the Federal subsonic aircraft noise emission standards (currently FAR 36).

David W. Davis,
Executive Director.
James A. Fay,
Chairman.

Mr. KENNEDY. Mr. President, all of the environmental considerations which have encouraged us to offer the amendment to prohibit the commercial operation of the Concorde in the United States have been debated here in the Senate today and are familiar to all our colleagues. We outlined these concerns in the letter we forwarded sent on February 25. And I ask unanimous consent that a copy of that letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on
Government Operations,
Washington, D.C., February 25, 1976.

Dear Colleague: When the Senate considers S. 3015, the Airport and Airways Development Act Amendments of 1976, we intend to introduce an amendment to prohibit the commercial operation of civil supersonic aircraft in the United States.

The proposal would prohibit the use of any funds authorized under Section 303 of the Federal Aviation Act, that would authorize or permit, except in an emergency, the operation of civil supersonic aircraft in air transportation in the United States.

The reasons are clear. In testimony before Secretary Coleman, the Environmental Protection Agency concluded that:

"Introduction of Concorde services runs directly counter to the noise abatement and other environmental policies and programs of the United States. Such service will subject people to significant environmental impacts and will undermine and negate essential abatement efforts now underway."

In addition, President Ford's Council on Environmental Quality has concluded "on the basis of these noise impacts, we recommend that you deny permission for the landings."

The fundamental issue before the Senate is whether we are willing to exempt the Concorde from environmental laws to which the current generation of Ameircan aircraft must adhere. In three specific areas, present civil supersonic aircraft runs directly counter to environmental policies of the United States.

First, the Noise Control Act of 1972 declared that it is ". . . The policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health and welfare. Concorde flights into Kennedy International and Dulles International will have an immediate adverse environmental-noise impact on the public that will grow worse. Concorde will be perceived as two to four times as noisy as aircraft currently in commercial service in the U.S. Additionally, residents indoors will experience considerably more vibration given the low frequency character of Concorde noise. In all respects, the noise characteristics exceed these required under Federal Aviation Administration Regulation 36.

Second, the Concorde will have an immediate adverse impact on the nation's air quality. In particular, when measured in pounds per takeoff and landing cycles, the Concorde exceeds Environmental Protection Agency's subsonic carbon monoxide levels by 270%. The Concorde's unburned hydrocarbon emissions exceed EPA subsonic standards by four times. According to the EPA, the requested flight operations into Kennedy and Dulles International Airports will increase air pollution by 4.4% and 8.4% respectively.

Third, according to the National Academy of Sciences Report, Environmental Impact of Stratospheric Flight, operation of the Concorde would cause additional deterioration of the ozone layer that could result in many additional cases of skin cancer a year, a considerable proportion of which would occur within the U.S. Over the past twenty years, National Cancer Institute study has shown that 35,000 deaths resulted from non-melanoma skin cancer, commonly referred to as "non-fatal." Additionally, the Concorde may have a long range impact on the climate and food chain. These environmental effects are an exorbitant price to pay for a reduction in air travel time.

Of great concern to us is the probability that the decision will take on a momentum its own. The Soviet Union is currently subjecting an undisclosed number of civil supersonic aircraft to test flights. Several Middle Eastern countries are said to be considering purchase of Concorde. International conventions will require the U.S. government to extend to other countries the same aircraft privileges extended to one foreign government. More flights will be landing and taking off from an ever-expanding number of airports on the East and West Coasts.

This amendment is not an attempt to thwart technological progress. The amendment specifically prohibits the operation of civil supersonic aircraft "in air transportation" in the United States. As defined in the Federal Aviation Act of 1958, air transportation would "mean the carriage by aircraft of persons or property as a common carrier for compensation or hire." Thus, the amendment would continue to allow for flights to test any technological improvements in the Concorde.

Should the Congress become satisfied that Concorde can operate in an environmentally sound manner it can take specific action authorizing the operation of this plane in the United States.

We believe our environmental laws and the health and safety of our citizens must be protected. Allowing the Concorde into the United States opens the door to environmental danger and establishes a double-standard which is both irresponsible and unacceptable.

If you have any questions or wish to cosponsor, please contact Bob Dotchin (Weicker) Ext. 49094, Mary Jane Checchi (Bayh) Ext. 45623, Nancy Talmont (Case) Ext. 43224, Bill Moomaw (Bumpers) Ext. 44847, Jeff Neddleman (Nelson) Ext. 45323, or Kitti Adams (Buckley), Ext. 49569.

Sincerely,

Lowell Weicker, Jr., Clifford Case, James Buckley, John Durkin, Gaylord Nelson, John Tunney, Alan Cranston, Birch Bayh, William Proxmire, Edward Brooke, Abraham Ribicoff, Dale Bumpers, Edward M. Kennedy, U.S. Senators.

Mr. KENNEDY. Mr. President, I would like to add one final comment to our debate today on the merits of allowing the Concorde to land in the United States—a comment concerning our relations with two of our closest allies, Great Britain and France. I am certain that no one supporting this amendment today wishes to cause any strain in the friendly and productive relationships between our countries. On the contrary, we want to encourage and support the deep and lasting sense of commitment and cooperation which has benefited the United States together with Great Britain and France for generations.

However, I have been impressed by the anxiety and concern of so many U.S. residents, living in neighborhoods near airports, that proposed Concorde landings will add to their aircraft noise problems. This has convinced me that the proposed landings will do nothing to promote cooperation and friendship between the United States and Britain and France. If local residents and airport operators do not want Concorde landings, if litigation results from efforts to halt the landings, if residents are angered and disturbed that plans for the proposed landings are proceeding against their wishes, then it is clear that understanding and cooperation between the people of our Nation and our allies will be diminished.

I am confident that the most effective way to strengthen our good relations with our neighbors in Great Britain and France is to insure that noise monitoring tests necessary to answer our questions about the commercial operation of supersonic aircraft are carried out before we ask the people in this country to provide a testing ground. I am confident that, if commercial operations of the Concorde SST in other parts of the world demonstrate that our environmental concerns can be answered, then the people of the United States living near our large metropolitan airports will be willing to examine that evidence fairly. I believe that this procedure would be in the best intests of all three countries involved.

Mr. GLENN. Mr. President, I have listened with interest to the concerns expressed by my distinguished colleague the Senator from Connecticut with respect to Concorde SST operations. The arguments which he has so eloquently advanced against the Concorde were presented in one form or other to Secretary Coleman prior to his decision to let the Concorde land at Kennedy and Dulles Airports. It was obvious from both the report accompanying the Secretary's decision as well as his public statement that the decision was an agonizing one. Considerations of foreign policy, fairness to our allies, and possible economic benefit resulting from technological innovation in commercial transport had to be balanced against a raised level of annoyance and disturbance on the part of citizens of New York and Virginia as well as an increase in the risk of other much more serious environmental insults.

Mr. President, I am going to vote against this amendment but that does not mean that I greeted Secretary Coleman's decision on the Concorde with unmixed feelings. I have, of course, always been interested in new technological developments in aviation, and have trained as a pilot, test pilot, and an astronaut but I am also concerned about the serious questions that numerous scientists have raised regarding possible long term environmental damage resulting from SST flights. In these terms the issue is not the few flights that will be made each day by a handful of Concordes during the next 16 months. The issue concerns the environmental risks we may be taking in the future if the present flights lead to an expansion of Concorde service and production so that many more Concordes are flying at a future date. It should be pointed out that Secretary Coleman took cognizance of the problem in his decision which provided for an intensified system of measurement and analysis by the FAA on the environmental effects of Concorde flights during these next 16 months. It is my understanding that a report will be issued by the FAA at or near the end of the 16-month period based upon such measurements and analysis. I believe we should let the trial period proceed and take a hard look at the resulting data with respect to the risks due to future Concorde operations. If those risks are substantial it would be foolish, irrespective of foreign policy considerations, for the present arrangement to be extended or made permanent. The future health of the American people, and indeed the people all over the world, is not an appropriate bargaining chip in improving foreign relations.

Because of the importance of this issue it would be appropriate for the FAA to follow a previous precedent and have the National Academy of Sciences review the data that will be collected and analyzed during the next 16 months, as well as the resulting FAA report and all previous data, and to independently write its own report regarding the level of risk to the environment associated with varying numbers of Concorde flights. I have been in touch with the Secretary of Transportation and my staff has discussed this with the Administrator of the FAA. We have been assured that the National Academy of Sciences will be asked to issue such a report. I believe that this method of approach to the problem, Mr. President, is fair both to our allies and to the American people.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on my amendment No. 1423.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the vote on my amendment No. 1423 take place immediately.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Connecticut. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EAGLETON. Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." I therefore withhold my vote.

Mr. MANSFIELD. Mr. President, on this vote, I have a pair with the Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. HUMPHREY. Mr. President, on this vote, I have a pair with the Senator from Indiana (Mr. BAYH). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HUGH SCOTT) would vote "nay."

The result was announced—yeas 31, nays 50, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—31

Abourezk
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Case
Church
Clark
Cranston
Culver
Durkin
Ford
Hart, Gary
Haskell
Hatfield
Javits
Kennedy
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Pearson
Proxmire
Ribicoff
Schweiker
Tunney
Weicker
Williams

NAYS—50

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Glenn
Goldwater
Hansen
Hart, Philip A.
Hathaway
Helms
Hruska
Huddleston
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
Morgan
Nunn
Packwood
Pell
Percy
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Eagleton, for.
Mansfield, against.
Humphrey, against.

NOT VOTING—16

Bayh
Biden
Brock
Gravel
Griffin
Hartke
Hollings
Jnouye
Jackson
Leahy
McGee
McGovern
McIntyre
Moss
Scott, Hugh
Symington

So Mr. WEICKER's amendment (No. 1423) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. PASTORE. Will the Senator yield so that I may bring up a privileged matter, a conference report?

Mr. BEALL. May I have my amendment called up?

Mr. PASTORE. Certainly.

AMENDMENT NO. 1426

Mr. BEALL. Mr. President, I call up my amendment No. 1426 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . No person may operate, to or from any airport in the United States, any civil transport category airplane unless—

(1) that airplane complies with the noise level requirements for subsonic transport category airplanes in Federal Air Regulation numbered 36 (14 CFR, part 36); or

(2) that airplane had flight time before December 31, 1974.

Mr. BEALL. I am happy to yield to the Senator from Rhode Island.

The PRESIDING OFFICER. Will the Senator withhold for a minute, please, so that we may have order?

The Senator from Rhode Island.

Mr. BEALL. Will the Senator yield so that I may ask for the yeas and nays?

Mr. PASTORE. Yes.

Mr. BEALL. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from Maryland yield time for the conference report?

Mr. BEALL. I ask unanimous consent it not be taken from my time.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that the Senator from Rhode Island be given time for the conference report?

Is there objection?

Mr. CANNON. Mr. President, I yield such time as the Senator may need.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. JAVITS. Will the Senator yield for a unanimous-consent request?

Mr. PASTORE. I do.

Mr. JAVITS. Mr. President, I ask unanimous consent that Mr. Charles Warren, Mr. Gary Klein and Mr. Jud Sommer be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Jack Brooks of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on House Joint Resolution 801 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BARTLETT). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 801) making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of March 22, 1976, beginning at p. 7394.)

Mr. PASTORE. Mr. President, while I am not completely satisfied with the results of this conference, I do think that we have resolved the differences between the two bills in such a way that the Senate can be pleased with it. The conference agreement appropriates a total of $2,143,300,000 in new budget authority for programs authorized under the recently enacted Railroad Revitalization and Regulatory Reform Act. That compares with $2,305,832,956 which was the total of the Senate bill and $2,031,500,000 that was in the House version. By far, the largest appropriation contained in the resolution is the $2.026 billion for ConRail. These funds will be used by the USRA to purchase the securities of ConRail as provided in the authorization bill. Also, Mr. President, I am particularly pleased with the appropriation for the Northeast Corridor improvement program which is included in the resolution. As we will recall, the Senate included $27.4 million in fiscal 1976 and $52 million in the transition for this program. We settled in conference for $25 million in 1976 and $25 million for the transition. I think that will be sufficient for this program to get the kind of start it needs to show people that we intend to carry out the legislative mandate of completing these improvements in 5 years.

The other programs for which funds are provided in the resolution are set forth in the conference report. In addition to the ones I have mentioned, funds are also provided to cover the increased passenger losses of Amtrak and the commuter losses that will be incurred in this takeover.

Mr. President, the Senate version of this resolution contained $85.2 million which would have allowed Amtrak to purchase the Northeast Corridor mainline from ConRail on April 1. We felt very strongly that Amtrak should have ownership of the track over which it had primary operating responsibility and where they will have control over the improvement program. The House conferees were adamant in their feeling that this bill should not contain that "unbudgeted" amendment since it would cause the resolution to be some $100 million over the budget. After long hours of debate over this amendment in conference, it became clear that the only way to complete it was to delete the funding for this purchase but to include language in the report making it clear that the parties involved, ConRail and Amtrak, still have the option of working out either a purchase or a lease of this track. I understand they are about to complete negotiations on a purchase over time, which requires no appropriations at this time, but will cause Amtrak to incur future increased costs which must be funded. However, should a reprograming of fiscal 1976 Amtrak appropriations be necessary to fulfill a purchase agreement, the committee has no objection to such action.

Mr. President, overall I believe that this agreement, which still has most of the Senate amendments intact, is a good one and should be passed by the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

The conference on H.J. Res. 801, which makes supplemental railroad appropriations for various programs authorized under the recently enacted Railroad Revitalization and Regulatory Reform Act of 1976, was a difficult one. Senators will recall that the Senate version of this resolution contained several appropriations which were not included in the House version and for which no budget requests had been received at the time of Senate passage. However, on pages 10 and 11 of the Senate Report accompanying H.J. Res. 801, there were listed as "pending" two budget requests which the Committee felt certain that the President would submit prior to completion of this conference. Senators should know, Mr. President, that it was like pulling hen's teeth getting those requests up here. After the first meeting of the conferees, on March 9 when it became obvious that the conference could not be completed without having the President's views on the Senate amendments, it was unanimously agreed that a letter should be sent from the

Chairmen of the House and Senate conferees, Mr. John McFall and myself, to the President advising him that such was the case. That letter went out on March 10, 1976. On March 16, we received an acknowledgement from the White House staff that the letter from the conferees had been received and was being given urgent attention. Finally, after advising these people that the House and Senate conferees had set aside the time on the 18th of March to continue, and hopefully complete this conference, we received the budget message on the morning of the 18th, in which the President acknowledged the importance of all of the Senate money amendments except that amendment which would have provided the funds necessary for Amtrak to purchase the Northeast Corridor mainline and certain other segments of track outside the Corridor. The President did not agree that those purchases should be made.

The authorizing legislation was in the making for several years. A conference was completed in December of 1975, and under threat of a Presidential veto, had to be reconvened in January of 1976 in order to accommodate the Administration's objections. Then, finally in mid-March, after the Senate had appropriated the funds for these essential programs under the Act; the funds to cover the passenger and commuter losses and the Northeast Corridor Improvement Program, and the startup costs of Amtrak in taking over these operations, the Administration got around to sending up the budget requests. And, even then, only after those of us in Congress who have the responsibility over this reorganization insisted upon having them. Those of us who have the desire to see it work and who fully intend to see that it is not doomed to fail because of the policies of this Administration which are designed to provide the short-term gain of holding down the Federal budget but which court long-term disaster.

Mr. President, while I am not completely satisfied with the results of this conference, I do feel that the issues have been resolved in such a way that the Senate can be largely pleased with it. The conference agreement provides $2,143,300,000 in new budget authority, compared with the $2,305,832,956 in the Senate bill and $2,031,500,000 in the House bill. I am particularly pleased with the agreement that was reached concerning the Northeast Corridor Improvement Program. The President's budget provided no funds in fiscal 1976 and only $15 million for the transition period for this effort. The Senate, we will recall, appropriated $27.4 million in '76 and $52 million for the transition period. The conference settled on $25 million for the balance of '76 and a like amount for the transition period.

The other programs for which funds are provided are set forth in the Statement of the Committee of Conference. In addition to the $2.026 billion for ConRail, those programs will cover the passenger and commuter losses until fiscal 1977 as well as the administrative expenses of the USRA. I understand USRA will be seeking more funds in the Second Supplemental bill.

Mr. President, as I stated earlier, the President did not send up budget requests to cover the Senate amendments appropriating $85.2 million for the purchase of the Northeast Corridor mainline from ConRail and $20 million for purchase of certain segments of track outside the Corridor. After long hours of discussion between the House and Senate conferees on these amendments, it became apparent that the conference could not be completed in time for ConRail to take over these bankrupts on April 1 unless the Senate receded from these two amendments. However, as we will note in the Statement of the Committee of Conference, the choice of whether Amtrak will purchase or lease the Northeast Corridor from ConRail has been left up to the parties themselves. I understand an agreement of purchase has been, or is about to be completed, whereby Amtrak will receive immediate title to this property and will allow ConRail to operate over it free of charge for a number of years, until the cost of the property has been paid off. So, the result that was sought by the Senate, that of allowing Amtrak to own the property over which it operates passenger service in the Northeast Corridor and where it will have a major role in making the improvements under the Act, will likely be accomplished without the appropriation being necessary at this time. However, I would point out to my colleagues that Amtrak will certainly have increased costs as as a result of this method of acquiring the property. I continue to feel that the payment up-front was a better and less expensive way to go about it, but that view could not have prevailed in the conference. The same result can be obtained this way, and we recognize that Amtrak may need to reprogram some capital funds to accomplish it. Such a reprogramming was approved for purposes of 31 U.S.C. 661, the so called antideficiency statute.

Mr. President, there is an area of this resolution which deals with the timing of the availability of the appropriation for ConRail. Senators will recall that we sent a waiver resolution to the Budget Committee because the bill contained advance FY 77 funds for ConRail. The House resolution handled these appropriations in such a way as to avoid the necessity of FY 77 funds, and did not get a waiver from their Budget Committee.

In conference, we were unable to persuade the House conferees to accept our method of handling these matters. They felt that if they receded to the Senate amendments, a point of order could be raised on the Conference Report. Since ConRail must have its funds by April 1 in order to take over these bankrupt carriers, we felt we could not allow such a possibility to arise. Therefore, on those amendments relating to the timing of ConRail's funds, we receded to the House. Total ConRail funds provided in the resolution are the same in both measures.

Mr. President, overall, I believe that this conference agreement, which still has most of the Senate amendments intact, is one that the Senate should pass, and I urge its adoption.

Mr. MAGNUSON. Mr. President, I am strongly in support of this conference report on supplemental railroad appropriations. As the chairman of the Senate Commerce Committee and a member of the Appropriations Committee, I have a strong interest in assuring that the legislation recently signed into law is properly funded. I believe that this bill makes a good start toward funding the programs created in Public Law 94–210.

In addition to providing the first appropriation for ConRail securities which will permit the initiation of the reorganization and the startup of the massive rehabilitation program outlined in the final system plan, this bill also provides for the startup of the Northeast Corridor project, which is required to invest $1.75 billion over the next 5 years in order to provide this Nation with the first example of a high-speed rail system similar to those found in many other countries.

Furthermore, the conferees recognized that Amtrak and ConRail are executing an agreement that will provide for the transfer of title to the Northeast Corridor on conveyance date in exchange for an adjustment in the moneys that ConRail would otherwise owe to Amtrak as a result of ConRail's need for trackage rights over the corridor properties for freight operations. This is an arrangement that the conferees view with favor, and feel that it provides a good middle ground between the need for Amtrak to own the properties as of conveyance date and the administration's desire not to fund any substantial improvements in rail passenger service. While I would have personally favored an appropriation of the full amount to purchase these properties right now, I feel that the essential goal of Amtrak owning the properties it will be operating and improving in conjunction with the Federal Railroad Administration can be fulfilled adequately under this arrangement.

The conferees recognized that the parties—ConRail and Amtrak—were negotiating a purchase agreement for the corridor properties, and recognize that this agreement contemplates an adjustment in the trackage rights compensation ConRail would owe Amtrak for freight operations on the corridor in exchange for conveyance of title to the properties, in accordance with the requirements of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976. This matter was discussed at length by the conferees, and it was agreed that this agreement should be negotiated by the parties—ConRail and Amtrak. Any use of Amtrak funds that have been appropriated for the purpose is dependent on the agreement negotiated, and the conferees agree that a reprograming of Amtrak capital funds may be necessary. The so-called antideficiency statute (31 U.S.C. 665) would not apply to any such reprograming.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3015) to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes.

Mr. BEALL. Mr. President, I ask unanimous consent that Lynn Weiss of the Senator from Ohio's staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BEALL. How much time do I have on this amendment?

The PRESIDING OFFICER. Two hours, equally divided, 1 hour to a side.

Mr. BEALL. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside so that Senator BENTSEN might call up an amendment of his which I understand is acceptable to the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

Mr. BENTSEN. I thank the Senator.

Mr. President, I have an amendment at the desk and I ask that the clerk state the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 22, delete the period and the quotation mark and add a semicolon and "or", and between lines 22 and 23 add the following new subparagraph:

"(C) an existing public airport which is regularly served by a carrier licensed by a state authority and operating aircraft intrastate and which operates at such airport turbojet-powered aircraft capable of carrying 30 or more persons.".

Mr. BENTSEN. Mr. President, this amendment, as I understand it, is supported by the floor manager of the bill, and I have a letter here from the Secretary of Transportation supporting the amendment, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. What we see in this particular bill is that it does not provide air carrier status for a few large airports around the country that have large aircraft operating off of them, such as the 727 and the 737. What is happening there is that passengers are being charged 8 percent on their tickets, but those airports are being shortchanged, because they will not participate in ABAP funds. This amendment would correct that situation. The House bill tries to do that, but it is rather ambiguous.

Mr. President, the bill as reported by the Commerce Committee does not designate as air carrier airports those airports served by intrastate scheduled air carriers operating large aircraft. This means that a small number of airports in the country which receive service with aircraft such as Boeing 727's and 737's are not entitled to a fair share of the ADAP funds. Each passenger traveling on intrastate carriers pays an 8-percent passenger ticket tax for improvement of airport facilities. But these passengers are being shortchanged because the bill, as reported, does not designate as air carrier airports those airports served solely by intrastate air carriers operating large aircraft. Airports served solely by intrastate carriers are important links in the national transportation system and should be considered air carrier airports.

This problem, which affects only a very few airports in the country, is an oversight. The House bill has a provision designed to relieve this problem, in part, but the House provision contains ambiguities and may very well leave several airports served by intrastate carriers without a fair apportionment.

In California the two airports affected would be Long Beach and Lake Tahoe.

In Texas, if CAB certificated carrier service is suspended or deleted at Harlingen, that airport would be affected also. Certain other Texas cities could be affected in the near future because of proposals to institute intrastate service at new Texas points. If the CAB certificated carriers withdrew from service, the airports would lose funding while their passengers continue to pay the tax. It is thus important that airports receiving service from intrastate air carriers certificated by relevant State aeronautical authorities and operating large jet aircraft be treated as air carrier airports for ADAP purposes. There is no justification for excluding airports served by these carriers from apportionments under the ADAP bill.

This amendment rectifies the problem by insuring that airports served by intrastate scheduled air carriers operating large jet aircraft capable of carrying 30 or more passengers are eligible for the apportionment of funds made available under ADAP for air carrier airports.

EXHIBIT 1

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 25, 1976.

Hon. HOWARD W. CANNON,
Chairman, Subcommittee on Aviation, Senate Commerce Committee, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's views respecting the need for an amendment to the definition of the term "air carrier airport" in S. 3015, the proposed Airport and Airway Development Act Amendments of 1976 reported by the Senate Commerce Committee on February 24, 1976.

S. 3015 does not include in the definition of air carrier airport those airports served solely by intrastate scheduled air carriers operating large aircraft such as the Boeing 727 and 737. As a result, a small number of airports which receive such service are not entitled to an apportionment of air carrier funds under proposed section 15(a)(3) of the Airport and Airway Development Act of 1970 even though the airports are important links in the national transportation system.

After reviewing this matter, the Department believes that it would be beneficial to amend S. 3015 to permit airports to receive funds under the formula applicable to air carrier airports if they are regularly served by an intrastate air carrier (within the meaning of section 101(22) of the Federal Aviation Act of 1958) operating jet aircraft capable of carrying 30 or more persons. The most immediate effect of such an amendment would be on two airports in California (Long Beach and Lake Tahoe) and two airports in Texas (Love and Hobby Fields) which receive service from certificated intrastate carriers but not from CAB certificated carriers.

In the near future, certain other airports could also be impacted by the amendment if, for any reason, certificated intrastate service at those points results in the withdrawal of service by CAB certificated carriers. In cases such as these, we do not believe the eligibility for ADAP funds should create a bias against this action which may well provide more efficient air service to the community.

Thank you for the opportunity to present these views.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I would correct the Senator when he says they will not participate in ABAP funds. They would participate in discretionary funds, and could qualify as a general aviation airport and be helped by that portion of the fund.

Mr. BENTSEN. That is true.

Mr. CANNON. I am willing to accept the amendment of the Senator from Texas. I am not sure it is necessary, but I am willing to accept it.

Mr. BENTSEN. Mr. President, the chairman is quite correct in his statement.

Mr. PEARSON. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may be added as a cosponsor of the Bentsen amendment. It is very important to the people in California in and about Lake Tahoe and Long Beach.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. BUCKLEY. Mr. President, will the Senator from Maryland yield for a unanimous-consent request?

Mr. BEALL. I yield for a unanimous-consent request.

Mr. BUCKLEY. I ask unanimous consent that Mr. Maynard Dixon of my staff be accorded the privilege of the floor during the remainder of the debate on this bill, including all rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized for 1 hour.

Mr. BEALL. I yield myself such time as I may consume.

Mr. President, my amendment would ban the operation of any aircraft—subsonic or supersonic—within the United States unless that aircraft either meets current aircraft noise regulations contained in Federal Air Regulation 36 or, alternatively, had flown before December 31, 1974, the date after which all new U.S. subsonic planes had to meet FAR 36

The affect of my amendment would be to apply the very same noise standards, including the same effective date, to supersonic aircraft which now apply to new subsonic aircraft. It is a more moderate, and hopefully, a more acceptable approach than a complete ban, as embodied in the amendment of the Senator from Connecticut (Mr. WEICKER).

I might also point out that the language of the amendment is identical to the Recommended Notice of Proposed Rulemaking on Airplane Noise Requirements for operation to or from U.S. airports which the Environmental Protection Agency submitted to the Federal

Aviation Administration on January 13, 1976. In submitting this proposed rule, the EPA stated that the rule was "necessary to protect the public health and welfare from adverse noise impacts."

I concur in the EPA's conclusion, and hope that the Senate will, by adopting my amendment, prevent this country from taking a giant step backward in our 6-year effort to put a lid on aircraft noise.

Although Secretary Coleman's decision on the Concorde related only to six flights a day into only two airports, we would be kidding ourselves if we believed his ruling will not have far greater implications.

These six flights a day are a "foot in the door" which, if no other action is taken, will lead to requests for more flights from more countries in the future. We must close that door, at least until foreign SST's can meet the same environmental standards which we apply to domestically produced subsonic planes.

Mr. President, much has been said and written regarding the noise produced by the British-French SST Concorde. Suffice it to say that everyone agrees that the Concorde is in fact noisy. According to the FAA environmental impact statement, people outdoors exposed to noise from the Concorde will perceive it as more than twice as noisy as conventional "noisy" jets and four to eight times noisier than the quieter, newer design jets. People indoors will even perceive a greater noise differential than outdoors compared with other jets due to the low frequency of SST noise and increased vibration.

In measurements taken at the Fairbanks International Airport in Fairbanks, Alaska, in February 1974, Concorde was noisier than tested subsonic jets by nearly 6 decibels on landing and nearly 9 decibels on takeoff, in terms of outdoor noise levels, and 6 decibels and 11 decibels louder in landing and takeoff, respectively, in terms of indoor noise levels.

I might point out parenthetically, Mr. President, that 10 decibels is considered to be twice as noisy.

Since late 1969, we in this country have made massive efforts to curb aircraft noise, and I am pleased to note that those efforts have been highly successful.

The first step in this effort came with the implementation on December 1, 1969, of Federal Air Regulation 36. These new noise standards at that time were made applicable to new design subsonic aircraft coming into service, such as the 747 or DC-10.

On October 26, 1973, FAR 36 was amended to require that new production turbojet and transport category subsonic airplanes comply with the same noise requirements regardless of the date of the type certification for those airplanes. The amendment established the following dates by which new production airplanes of older designs must comply with the noise requirements of the regulation:

By December 1, 1973, all new planes weighing over 75,000 pounds and powered by engines other than the Pratt & Whitney JT3D series engine had to meet FAR 36. This included such aircraft as the 727, 737, and DC-9.

And by December 31, 1974, all aircraft, including both those powered by JT3D engines and weighing less than 75,000 pounds, came under FAR 36 requirements. This covered aircraft such as the 707, DC-8 and all general aviation.

So, by that date—December 31, 1974—all new production aircraft in this country were required to meet FAR 36 standards.

My amendment would apply that same standard to supersonic craft.

Mr. President, by offering this amendment, I do not want to be viewed as standing in the way of progress.

In 1971, I voted to permit construction of a U.S. supersonic transport, and regretted that the Senate by a narrow margin failed to approve that project.

But I want to see an SST which will meet existing noise standards.

Much discussion has taken place recently regarding the question of whether sufficient technology exists today to allow supersonic transports to meet FAR 36 standards. Secretary Coleman, in testimony before the Senate Aviation Subcommittee on February 20, 1976, stated that, to his knowledge, there is no technology available today which would permit any SST to meet FAR 36 levels.

Well, Mr. President, I wish to bring to the attention of the Senate and of Secretary Coleman the testimony to the Congress which was given by the Department of Transportation officials in March 1971—fully 5 years ago—which unequivocally stated that the American SST would meet FAR 36 standards.

On March 11, 1971, Dr. Leo L. Beranek, who at that time served as chairman of the Supersonic Transport Community Noise Advisory Committee to DOT, and who was described in Congressional testimony by William M. Magruder, Director of the DOT supersonic transport development office, as "probably the outstanding acoustic engineer in the free world," testified to the Senate Appropriations Committee as follows:

> We are therefore able to report to this committee as we did to Mr. Magruder's office on February 5, 1971, that the level of technology demonstrated by Boeing and General Electric is sufficient to achieve the noise levels permitted by FAR 36. In summary, there does not appear to be any technical reason why a commercial supersonic transport cannot be built which will be acceptable with regard to noise. The airlines are presently evaluating two SST design configurations which can meet the noise standards of FAR 36.

Mr. President, this is the testimony of a distinguished acoustic engineer representing a committee composed of the most eminent technical experts on SST noise, and they said—in 1971, mind you—that FAR 36 standards could be met.

Mr. President, I ask unanimous consent that the full text of Dr. Beranek's statement to the Committee on Appropriations be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXHIBIT I

STATEMENT OF DR. LEO BERANEK

PREPARED STATEMENT

Dr. LEO L. BERANEK. Thank you, Mr. Chairman, members of the committee.

I am pleased to appear before you to express the views of this advisory committee that was described by Mr. Magruder.

I would like as the others have, to submit my prepared testimony for the record, and then to abstract from it, as I go along.

Chairman ELLENDER. Without objection, your full statement will be put into the record at this point.

(The statement follows:)

Mr. Chairman, members of the committee, I want to thank you for the opportunity to appear before you to express the views of a select group of technical experts regarding supersonic transport noise. The group of men of which I refer is known as the Supersonic Transport Community Noise Advisory Committee, of which I am its Chairman. The Committee was established in July 1970 following discussions between me and the Department of Transportation, Supersonic Transport Development Office. During these discussions, I became convinced of the earnest need for unbiased technical advice and counsel with regard to concerns being publicly expressed of the SST's potential noise hazards. The members subsequently appointed to serve on the Committee, besides myself are:

Professor Raymond A. Bauer, (Social Psychology) Harvard Business School.

Mr. Kenneth McK. Eldred, (Acoustics) Wyle Laboratories.

Professor Jack L. Kerrebrock, (Jet Engines) Massachusetts, Institute of Technology.

Mr. Franklin W. Kolk, (Chairman, SAE Committee on Aircraft Noise: A-21) American Airlines.

Mr. Aubert L. McPike, (Member, National Aircraft Noise Abatement Council) Douglas Aircraft Company.

Mr. Clifton A. Moore, (General Manager) Los Angeles Airports.

In addition, eight government liaison members were appointed who have met with the Committee on a number of occasions.

At the time the Committee began its deliberations, the noise objectives for the production supersonic transport aircraft were those established in 1966. Those objectives in present terms, called for a maximum sideline noise level during takeoff, at a sideline distance of 0.35 nautical miles of 120 EPNdB. However, information published in the January 5, 1970, issue of Aviation Week and Space Technology, which was based upon statements made by the General Electric Company, indicated that the state-of-the-art of jet noise suppression when applied to the J6G version of their GE4 engine would produce a noise level at the sideline of 124 EPNdB: a number that was 4 EPNdB in excess of the objectives. This number was based upon a primary-noise suppressor which was said to offer up to 4 EPNdB reduction in noise levels. It was also stated in the Aviation Week article that for higher thrust losses greater amounts of noise reduction might be possible.

When our Committee was established, it was stated that the purposes of the Committee were to give accurate general information on noise and noise control; second, to assist in the establishment of goals for community noise around airports that would accommodate the SST; third, to assess the available technology that could be employed by Boeing and General Electric for the control of SST noise; and last to recommend research programs that would be likely, in the time-frame of the production SST, to produce noise levels that would meet the levels recommended by the Committee for allowable community noise.

The first meeting of the Committee was held on July 31, 1970, and numerous meetings were held thereafter. By September 11, 1970, the Committee had reviewed available information in regard to the reaction of people in communities surrounding the nation's airports to aircraft noise. We had also investigated the expected effects on community noise of projected improvements that would result from the introduction of new, quieter, subsonic airplanes meeting certification requirements of *Part 36 of the Federal Aviation Regulations* (*Noise Standards: Aircraft Type Certification*). This regulation is commonly referred to as FAR 36. Finally, we held meetings with representatives from the Airport Operators Council International, those airlines contemplating purchase of the production SST and the Boeing and General Electric Companies. On the afternoon of September 11, 1970, I reported, on an interim basis, the first conclusions of the Committee; these were:

1. The noise levels for the production SST should be the same as those imposed by FAR 36 for new four-engine, intercontinental, subsonic transport aircraft.

2. To meet the above objective, added emphasis should be given by Boeing and General Electric in their respective noise programs.

As you are probably aware, the certification requirements of FAR 36 for large subsonic aircraft call for nominal noise levels of 108 EPNdB at three positions: at a point under the takeoff flight path 3.5 nautical miles from start of takeoff roll; also at a point beneath the landing path 1 nautical mile before touchdown; and at all points along a line 0.35 nautical miles to the side of the line of takeoff.

At the time of the Committee's meeting with the Boeing and General Electric Companies they stated that they could achieve 4 decibels noise reduction with a particular design of noise suppressor consisting of radial "fingers" that extend into the jet exhaust stream. They also reported that reductions of up to 12 EPNdB might be possible with a multi-tube type suppressor. Neither of these reductions were adequate to meet the requirements of FAR 36. Moreover, the multi-tube suppressor would require cooling and/or the use of high temperature materials to permit operation at afterburning temperatures.

As an additional item the Committee investigated the procedures then in use by the Boeing and General Electric Companies for converting engine noise levels measured around engine test stands (on the ground) into predicted in-motion noise levels for the SST. This study was conducted with particular emphasis on the noise levels predicted for takeoff operation with full power at positions 0.35 nautical miles to either side of the centerline of the runway. We found that based on full-scale GE4 engine static testing, together with results of F106 flight testing by NASA, Lewis Research Center, the conversion numbers they were using should be modified. The result would be a lowering of predicted in-flight perceived noise levels by about 4 EPNdB below those that they had been reporting. We recommended that the new conversion numbers be used in subsequent predictions of sideline in-motion noise levels.

In the period between September 11, 1970, and early February 1971, the Boeing and General Electric Companies reexamined the whole question of designing an SST/engine combination that would produce noise levels meeting FAR 36.

In early February, at their invitation, five members of our Committee traveled to Seattle, Washington, to the Boeing Company to investigate the status of engine and aircraft design of the production SST with respect to noise. Two versions of a commercial SST aircraft incorporating engine/noise suppressor combinations that would result in noise levels meeting FAR 36 were reviewed in detail. Both of these designs would produce sufficiently low noise levels because of the following combination of factors:

1. The engines were to be slightly larger in diameter than those proposed for the prototype SST and would accordingly have larger mass flows of air. The exhaust temperature would be substantially reduced since afterburning would not be employed during takeoff.

2. Two types of exhaust noise suppressors were presented, either of which would produce the required number of decibels of noise reduction at reasonably low thrust losses. These suppressors would be required to operate at temperatures well within demonstrated state-of-the-art.

3. Wind tunnel tests made on large-scale models of the SST at the NASA Ames Laboratory in California revealed a more efficient aerodynamic design than was expected, which resulted in lower requirements on thrust on takeoff.

On February 5, 1971, we reported our conclusions as follows:

"We conclude that the level of technology demonstrated by Boeing and General Electric is sufficient to achieve the noise level objectives we recommended. We are available to discuss our findings with you and other concerned parties as you deem appropriate."

I have attached to my prepared statement a full copy of the Committee's interim report for insertion in the record of the hearings.

With the above statement as a basis, I should like to respond to the specific issues which have been raised in the past in regard to the SST's noise. My comments should not be interpreted as an attempt to discredit or refute testimony which has been given previously, but rather to make available to this Committee and other interesed parties the findings and judgments of a group of technical experts regarding the SST as a potential noise hazard.

Issue

The sideline noise of the commercial SST during takeoff will be too great.

Status

Noise objectives for the commercial SST are consistent with the noise levels specified in FAR 36. The nominal values specified are 108 EPNdB sideline during takeoff and 108 EPNdB over the community after takeoff and during landing, at FAR 36 measuring distances.

These objectives are fully compatible with the airport environment projected for the late 1970's and beyond.

Issue

It is unlikely that the sideline noise level of the SST can be substantially reduced below 124 EPNdB.

STATEMENT OF DR. LEO BERANEK

Dr. BERANEK. I would like to add to the discussion some of the basic things that existed at the time that our committee came into existence.

At that time, the noise objectives for the production of supersonic transport aircraft were those that had been established in 1966.

Those objectives called for a maximum sideline distance of 0.35 nautical miles, of 120 EPNdB.

Information published in January 1970, in Aviation Week and Space Technology, which was based on statements made by the General Electric Co., indicated that the then state of the art of jet noise suppression when applied to the J5P version of their GE–4 engine would produce a noise level at the sideline of 124 EPNdB; a number that was 4 EPNdB in excess of the objectives. This noise level was based upon a primary noise suppressor which was said to offer up to 4 EPNdB reduction in noise levels. It was also stated in the Aviation Week article that at higher thrust losses greater amounts of noise reduction might be possible.

It was also indicated that these thrust losses were going to be large enough that they probably could not be tolerated. That is the condition under which we started.

Status

A. A big step forward has been made in the development of jet noise suppressors. This will result in a larger noise reduction for an allowable loss in thrust than that thought possible in early 1970.

B. Better aerodynamic performance of the airframe has been achieved during wind tunnel testing of large-scale models of the SST than was predicted prior to 1971. This improvement will permit the use of lower thrust levels during takeoff of the commercial SST which will result in lower noise levels.

C. Afterburning in the engine during takeoff will be eliminated thereby reducing the level of jet noise and also the difficulty of employing a suppressor.

D. Engineering calculation methods used to transfer engine test stand noise data over to in-flight noise data for the SST have been refined. The uncertainties in predicting inflight noise levels of the SST have been largely eliminated as a result of recent tests.

In summary, based on the findings of the SST Community Noise Advisory Committee, there does not appear to be any technical reasons why a commercial supersonic transport cannot be built which will be acceptable with regard to noise. The airlines are presently evaluating two SST design configurations which can meet the noise standards of FAR 36. Out of these airline evaluations, and others which undoubtedly will occur, we feel certain that a viable SST should result.

EXPLANATION OF EPNdB

Chairman ELLENDER. Doctor, do you define EPNdB in your statement?

Doctor BERANEK. Not really.

Chairman ELLENDER. What is it?

What do you mean by that?

Could you explain it?

Doctor BERANEK. Let me attempt to discuss this point.

A scale for quantifying noise must incorporate both the way our ears function as sensors, and the way our mind judges sounds in terms of their "noisiness" or the "annoyance" they cause us. In dealing with aircraft noise we have devised a scale which agrees closely with the way people judge its noisiness. We call this a scale of effective perceived noise level, and express it in units of effective perceived noise decibels, abbreviated EPNdB.

Now, this unit has in it several things. First, it accounts for the distribution of the sound with frequency. Next, it accounts for presence of any pure tones, like the "whine" of a compressor, and finally, it accounts for duration of the sound since the longer it lasts the more it is annoying.

Now, another bit of background which may be useful is the method by which aircraft are certificated by the FAA for compliance with noise regulations. Noise measurements are made at three positions. After takeoff, noise is measured at a point under the aircraft 3.5 nautical miles from the point of brake release, or start of takeoff role.

During approach to landing, the noise is measured under the landing flight path at a point 1 nautical mile from touchdown.

A third measurement is that of sideline noise during takeoff. This measurement is made along a line to either side of the center line of the runway, at the distance of about a third of a nautical mile for a large subsonic aircraft.

NOISE OBJECTIVES OF SST

Now, I started off speaking of 124 EPNdB, as being the level that GE was quoted in Aviation Week for sideline noise.

That level is considered very loud. Our committee was established, because the SST office recognized that something had to be done that would result in a significant reduction in that level.

We were asked to do several things. First of all we were to be a sort of collector of general information on noise control; second, we were to assist in the establishment of noise goals for airports that would accommodate the SST, third, we were to assess the available technology that could be employed by Boeing and GE for reducing SST sideline noise; last, we were to recommend research programs that would be likely in the time frame of the SST, to produce noise levels that would meet whatever goals we were to recommend.

We went right to work.

The first meeting of the committee was held on July 31, 1970, and numerous meetings were held thereafter. By September 11, 1970, the committee had reviewed available information in regard to the reaction of people in communities surrounding the Nation's airports to aircraft noise.

We had also investigated the expected effects on community noise of projected improvements that would result from the introduction of new, quieter, subsonic airplanes meeting certification requirements of part 36 of the Federal Aviation regulation—"Noise Standards: Aircraft Type Certification."

This regulation, is commonly referred to as FAR 36, and I will use that short term here.

We held meetings with representatives from the Airport Operators Council International, because they were expressing great concern over the possibility that the noise from the SST would be unacceptable at the Nation's airports. We also held meetings with these airlines contemplating purchase of the production SST, and they too were concerned because they felt that they would be subject to restrictions or suits, if they attempted to fly a very noisy SST. Finally we meet with the Boeing and General Electric Cos.

By September 11, 1970, the committee came to the clear conclusion that we had to go even lower in sideline noise than 112 EPNdB, which was the goal of the SST office at that time. We recommended to Mr. Magruder's office that the noise levels for the production SST should be the same as the noise levels of FAR 36 for new four engine, intercontinental subsonic transport aircraft, and to meet this objective, added emphasis should be given by Boeing and General Electric in their respective noise programs. We also recommended that other worthwhile noise reduction programs in and out of the Government should be accelerated.

SST NOISE REDUCTION EFFORTS

Now, at the time of the committee's meeting with the Boeing and General Electriic Cos., they stated that they could achieve four decibels of noise reduction of an afterburning jet stream with a particular design of noise suppressor consisting of radial spokes or chutes that extend into the jet exhaust stream. They also reviewed research underway which indicated that reductions of up to 12 EPNdB might be possible with a multitube type suppressor. Neither of these reductions was adequate to meet the requirements of FAR 36. Moreover, the multitube suppressor would require cooling and/or the use of high temperature materials to permit operation at afterburning temperatures.

In the committee's opinion, a significant advance in the state-of-the-art would be required to suppress adequately the noise from an afterburning GE-4 engine with a multiple type suppressor. We expressed our doubts, both to the SST office, and to the Boeing and the GE Cos.

One of the first things we did with Boeing and General Electric was to reexamine their engineering method of calculation in regard to converting engine noise levels measured on a test stand on the ground, into in-flight data. We found some trouble with those procedures, simply because they were using conversion numbers that had been developed for subsonic aircraft. Fortunately in this case, an advantage came from this study.

We investigated the Boeing and General Electric data, the data that was available on the Concorde, which was now starting to fly, and F-106 flight test data in regrad to how these ground measurements translated into in-flight data, and we found that actually the noise levels at the sideline were going to be about four EPNdB below those that had previously been quoted. We recommended that as a result of our investigation new conversion numbers be used in the subsequent predictions of sideline in-motion noise levels.

During the period between September 11, 1970, when we made our very strong recommendation, and early February, 1971, GE and Boeing reexamined the problem of designing the SST to meet the noise levels of FAR 36. I can assure you they must have worked 24 hour days the whole time.

In early February, at their invitation, five members of our committee traveled to Seattle, Wash., to the Boeing Co. to investigate the status of engine and aircraft design of the production SST with respect to noise.

Two versions of a commercial SST aircraft incorporating engine/noise suppressor combinations that would result in noise levels meeting FAR 36 were reviewed in detail. Both of these designs would produce sufficiently low noise levels because of the following combination of factors:

These engines were to be slightly larger in diameter than those proposed for the prototype SST and would accordingly have larger mass flows of air. The exhaust temperature would be substantially reduced since afterburning would not be employed during takeoff.

Senator PROXMIRE. What page are you on?

Dr. BERANEK. This is on page six.

This change in the engine, results in a 5 EPNdB reduction in the noise. The reason being that the exhaust velocities are reduced as a result of removing the afterburner.

Now, with a lower exhaust temperature, it is possible to use state-of-the-art noise suppressors. Two types of noise suppresors were presented, either of which would produce the required noise reduction. This exhaust suppression improvement amounted to 6 decibels for a total reduction of about 10 decibels.

Finally, there is another reduction of about one decibel because it was learned during tests of large scale models of the SST that the aerodynamic design is more efficient, which results in lower thrust requirements on takeoff.

Those improvements total a reduction of 16 EPNdB over the situation that existed when we came into the picture.

We are therefore able to report to this committee as we did to Mr. Magruder's office on February 5, 1971, that the level of technology demonstrated by Boeing and General Electric is sufficient to achieve the noise levels permitted by FAR 36. In summary, there does not appear to be any technical reason why a commercial supersonic transport cannot be built which will be acceptable with regard to noise. The airlines are presently evaluating two SST design configurations which can meet the noise standards of FAR 36. Out of these airline evaluations, añd others which undoubtedly will occur, we feel certain that a viable SST should result.

Thank you.

PROTOTYPE COSTS

Chairman ELLENDER. Mr. Magruder, you stated in your testimony, that the entire amount necessary to produce these two prototypes as far as the Government was concerned, is $1,342 million?

Mr. MAGRUDER. That is correct.

Chairman ELLENDER. Will that amount be sufficient to complete the two prototypes?

Mr. MAGRUDER. That is correct.

Chairman ELLENDER. Is that the total amount that you estimate will be necessary to be provided for by the Federal Government?

Mr. MAGRUDER. That is the total amount, providing we get funding promptly in April, and get our subsequent 1972-73 appropriations.

Chairman ELLENDER. How firm is that?

How do you know?

Mr. MAGRUDER. I think that is a very cogent question.

Chairman ELLENDER. I think it is necessary to have it, if you can give it, as to how you reach this amount, $1,342 million.

Of course I understand it has to be provided promptly, that is $290 million for fiscal 1971 and $235 million for fiscal——

Mr. MAGRUDER. $235 million. For fiscal year 1972 and the rest later.

Chairman ELLENDER. For fiscal 1972, and if that money is provided, as I understand it, the prototypes will be ready for trial in early 1973.

Mr. MAGRUDER. It will make its first flight in early 1973, and finish its 100 hours in late 1973.

Mr. BEALL. Mr. President, this assurance that the American SST could meet FAR 36 was repeated before the Transportation Subcommittee of the House Appropriations Committee. On March 1, 1971, Mr. Magruder, Director, SST development for the Department, said:

> Our Noise Advisory Committee, after almost a year's review has publicly stated that the production airplane can and will meet the new noise levels for subsonic jets of the future.

Concluded Mr. Magruder,

> The SST will meet the new noise requirements.

Finally, Mr. Magruder published an "SST White Paper," entitled, "The SST and the National Interest," dated February 4, 1971, in which he said,

> Prior to production commitment, the capability of the commercial SST to achieve noise levels consistent with those required for certification of new four-engine, intercontinental subsonic transport aircraft will be demonstrated . . .

So, the Department of Transportation 5 years ago was clearly on record in its belief that the technology did exist to allow SST to meet FAR 36 standards.

That was 5 years ago, what about today?

I wish to bring to my colleagues' attention a portion of the EPA Notice of Proposed Rulemaking on Airplane Noise Requirements for operation to or from U.S. airports, dated January 13, 1976.

In that document, EPA clearly states that technology is currently available to allow supersonic transports to meet FAR 36 standards. EPA points to several specific options now available which will bring SST's into compliance with FAR 36.

Mr. President, let me read a portion of the notice with respect to available noise technology for supersonic airplanes:

> Notwithstanding the foregoing differences in configurations between the subsonic and supersonic airplanes, definite progress has been made and will continue to be made

> in the development of current, available and future technology for the reduction of noise generated by supersonic airplanes and their propulsion systems. As used herein, current technology includes "shelf item" hardware and commonly known techniques and procedures that have been used effectively by some manufacturers. Available technology represents the results of research and development that have not been put into common practice but are available for implementation. Some performance testing may still be necessary, but reliability and effectiveness has been demonstrated in the laboratory and on model and full scale tests. Future technology represents the results of research now in progress that have not been fully tested but the results to date indicate high potential to a reasonable degree of confidence.
>
> Under a program directed to the investigation of the needs of supersonic component technology . . . it was demonstrated in model tests that an 18 dB noise reduction can be achieved under static thrust conditions for high jet exhaust velocities.
>
> Preliminary results of the NASA and DOT studies . . . indicate that current and available technology (1973–1975) propulsion systems may be capable of meeting the present part 36 noise levels. The aircraft weight, cost, and performance would be affected by the choice of the propulsion system utilized, but various options, including the following, are now technologically current and available:
>
> (1) Non-afterburning turbojet with exhaust suppressor.
>
> (2) Afterburning turbojet with exhaust suppressor.
>
> (3) Afterburning turbofan with or without exhaust suppressor.
>
> (4) Duct burning turbofan with or without exhaust suppressor.
>
> Utilizing future technology in the form of engine and aircraft weight reductions plus improved suppressor technology, further reductions of approximately 5 EPNdB less than the part 36 noise levels may be achieved for the foregoing engines.

I ask unanimous consent that the full text of that portion of the EPA notice of proposed rulemaking dealing with available noise technology for SST's be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

EXHIBIT II

[Extracted from Environmental Protection Agency "Notice of Proposed Rulemaking on Airplane Noise Requirements for Operations to and from U.S. Airports" January 13, 1976]

E. Noise Technology for Supersonic Airplanes:

Notwithstanding the foregoing differences in configurations between the subsonic and supersonic airplanes, definite progress has been made and will continue to be made in the development of current, available and future technology for the reduction of noise generated by supersonic airplanes and their propulsion systems. As used herein, current technology includes "shelf item" hardware and commonly known techniques and procedures that have been used effectively by some manufacturers. Available technology represents the results of research and development that have not been put into common practice but are available for implementation. Some performance testing may still be necessary, but reliability and effectiveness has been demonstrated in the laboratory and on model and full scale tests. Future technology represents the results of research now in progress that have not been fully tested but the results to date indicate high potential to a reasonable degree of confidence.

Under a program directed to the investigation of the needs of supersonic component technology (see DOT/FAA Study, Ref. 13, above) it was demonstrated in model tests that an 18 dB noise reduction can be achieved under static thrust conditions for high jet exhaust velocities.

Preliminary results of the NASA and DOT studies in references 13 and 14,, above, indicate that current and available technology (1973–1975) propulsion systems may be capable of meeting the present Part 36 noise levels. The aircraft weight, cost, and performance would be affected by the choice of the propulsion system utilized, but various options, including the following, are now technologically current and available:

(1) Non-afterburning turbojet with exhaust suppressor,

(2) Afterburning turbojet with exhaust suppressor,

(3) Afterburning turbofan with or without exhaust suppressor,

(4) Duct burning turbofan with or without exhaust suppressor.

Utilizing future technology in the form of engine and aircraft weight reductions plus improved suppressor technology, further reductions of approximately 5 EPNdB less than the Part 36 noise levels may be achieved for the foregoing engines. To achieve lower levels than that, however, will require the development and demonstration of new propulsion concepts such as dual-cycle engines and variable bypass engines as well as methods for controlling the aerodynamic airframe noise.

In the study regarding the influence of noise constraints on supersonic engine design conducted in Reference 23, above, similar conclusions were reached for the potential of supersonic aircraft noise technology. The report concluded in pertinent part that there are several potential propulsion systems capable of meeting the FAR noise goals. These systems include the nonafterburning turbojet engine utilizing a very high level of jet suppression, and some variable cycle engines, and the duct heating turbofan engine with a low level of jet suppression. The report also concluded that the performance and economic penalties associated with meeting noise levels that are below Part 36 can be appreciable and that in order to minimize these penalties, intensive research and development programs in the critical propusion technology areas must be undertaken.

Mr. BEALL. In short, it appears, at least on the basis of this expert testimony, that the technology is available to bring SST's within FAR 36 requirements, and I think we must require manufacturers to make use of it.

Unless we do, there will be no pressure on those who produce future SST's to lower their noise levels, and our noise abatement efforts will be severely undermined for years to come.

I do, however, recognize that we should not impose stricter standards on SST's than we have on subsonic planes. Thus, my amendment only applies the exact standards applicable to subsonics.

I am sure that some might still question whether we are requiring Concorde to meet standards it was not aware of until recently.

The facts run completely contrary to that argument. As early as 1962, prior to the time in 1965 when the basic aircraft characteristics on the Concorde had been finalized and prototype production began, the 14th ICAO Assembly held in Rome adopted the following resolution:

> The assembly resolves:
>
> (1) to urge all governments that will be associated with the development of supersonic civil aircraft to ensure that before such aircraft are put into commercial service their airworthiness and operating characteristics are such that they will . . .
>
> (c) not create a noise exceeding the level then accepted for the operation of subsonic jet aircraft . . .

Thus, Concorde designers were on notice that SST's should meet noise levels accepted for operation of subsonic jets at the time the SST goes into service, not just when it was designed. Instead, Concorde not only fails to meet today's noise standards, but also exceeds noise levels produced by the noisiest subsonic aircraft which were designed and produced many years ago—levels which the Concorde presumably was originally intended to meet.

Further, evidence that the United States was serious in its aircraft noise abatement efforts was given to Concorde manufacturers on August 6, 1970, when the FAA published an advance notice of proposed rulemaking, entitled, "Civil Supersonic Aircraft Noise Type Certification Standards." That notice clearly stated the FAA's intention to require the full application of noise reduction technology and to establish ceilings beyond which noise will not be permitted.

Unfortunately, although comments received in response to the notice indicated a unanimous agreement among industry and community interests that there was a need for an effective noise rule for SST's, the FAA failed to issue final rulemaking.

Nonetheless, one could reasonably assume that noise standards for supersonic aircraft was a matter of deep concern to this country.

Yet, Concorde's manufacturers, to my knowledge, made no major attempt to reduce the noise levels of their planes.

Mr. President, my amendment would not impose any standards upon the Concorde which have not already been imposed on our own domestic aircraft.

In fact, in an effort to be as fair as possible, my amendment specifically exempts any Concordes which were produced and flown before December 31, 1974, the date by which all new U.S. subsonics were required to meet the criteria of FAR 36.

However, in our efforts to be fair we must not allow our aircraft noise abatement standards to be ignored.

We must require that the Concorde and any other SST meet those standards.

To permit any less would be to seriously impair our entire aircraft noise abatement program.

Therefore, I urge the Senate to adopt my amendment.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BEALL. Mr. President, I yield to the Senator from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator.

Mr. President, I ask unanimous consent that Hazel Elbert of my staff be accorded privileges of the floor during this debate and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I thank the distinguished Senator.

Mr. BEALL. Mr. President, I ask unanimous consent that Lynne Davis be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. CANNON. Mr. President, I yield myself 3 minutes. I shall speak very briefly against this amendment.

This amendment is simply another whack at the Concorde issue to do away with the study that the Secretary of Transportation has recommended.

It would limit it, by precise language of the amendment, to the first two production aircraft and say that none of the other 14 could fly. It would not affect the six planned flights a day. I do not see any particular point in saying that you can only use two of those 16 airplanes if you can still fly six flights a day, as I understand it.

I ask the Senator this: Is there any limitation with respect to the six flights a day in his amendment?

Mr. BEALL. We do not interfere with the Secretary's intended——

Mr. CANNON. The only thing we are doing is interfering with the internal management of an experimental program. We would permit the same number of flights but say they can use only 2 of those 16 airplanes to do it. To me, it borders on absurdity.

If the Senator is ready to do so, I am ready to yield back the remainder of my time.

Mr. BEALL. I am ready to vote, but I yield myself 2 minutes.

We are not interfering in anybody's internal management. What we are doing is saying to the world that we in this country have established for ourselves certain environmental standards, and we are not going to relax those environmental standards for the convenience of anybody else, anywhere in the world. We are requiring our domestic airplane producers—at considerable expense to them, I might say—to meet our environmental standards; and I do not think we should allow ourselves to be brought down to the standards of other countries. We should insist that people meet our standards.

We in this country are trying to improve the quality of life for the people of America. We have gone through a very tortuous period in the last 3 years, trying to straighten out the mess we created in the environment in the preceding 50 to 100 years. We have required many people to adjust their style of life. We have required many manufacturers to adjust their production technology, to expend a great deal of their capital on preserving the environment. I do not believe that we should throw this out the window just for the convenience of a couple of foreign producers. We should require foreign producers, whatever they produce, to meet our standards if they want to take advantage of the tremendous capital that is available in this country. They are looking for business here. If they want to come here and get business, they should meet our standards and do it on our conditions. Let us not relax our standards just to make them happy.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. BUMPERS. Mr. President, I send to the desk an amendment in the form of a substitute for the Beall amendment.

The PRESIDING OFFICER. All time has not been used or yielded back. The amendment is not in order.

Mr. BUMPERS. Mr. President, a point of order. I was present at all times, and I do not recall hearing all time yielded back. The Senator yielded to me as soon as he finished speaking, and I understood that he had an hour on the amendment.

The PRESIDING OFFICER. Until the time has been yielded back, the amendment is not in order.

Mr. BUMPERS. Mr. President, a parliamentary inquiry. Is the amendment in order as soon as all time has been yielded back?

The PRESIDING OFFICER. Yes, it is.

Mr. BUMPERS. To make sure I understand the Chair, is the Chair ruling that as soon as both sides on this amendment yield back their time, my amendment in the nature of a substitute will be in order?

The PRESIDING OFFICER. The debate on this amendment would have to be completed before the substitute amendment would be in order.

Is the time on this amendment yielded back?

Mr. BEALL. Mr. President, I am prepared to yield back my time.

Mr. CANNON. Mr. President, I am prepared to yield back my time so that the Senator can offer his amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment in the nature of a substitute to amendment 1426.

The amendment in the nature of a substitute is as follows:

In lieu of the language proposed to be added, insert the following:

REQUIREMENT THAT CIVIL SUPERSONIC AIRCRAFT MUST MEET GENERALLY APPLICABLE NOISE STANDARDS

SEC. . (a) No civil aircraft capable of flying at supersonic speed, which aircraft generates noise at a level in excess of the level prescribed from time to time for new subsonic aircraft in regulations issued by the Secretary of Transportation acting through the Administrator of the Federal Aviation Administration, shall land at any place under the jurisdiction of the United States.

(b) Whenever the Secretary of Transportation has probable cause to believe that a violation of subsection (a) of this section has occurred, is occurring, or is likely to occur at any airport not operated by the United States, he shall certify such fact to the Attorney General, who shall forthwith institute suit for an injunction and any other appropriate relief in the appropriate United States district court.

(c) In addition to an injunction prohibiting future violations, and to any other relief that it may deem just, the United States district court in which suit is commenced pursuant to subsection (b) of this section is authorized to impose upon the sponsor of any airport not operated by the United States at which a landing in violation of this section takes place a civil penalty, to be paid into the Treasury of the United States, of not to exceed $50,000 for each landing in violation of this section. The court may direct that this penalty be collected by withholding the amount of the penalty imposed from payments to be made by the United States to the sponsor of the airport at which the violation or violations occurred.

(d) The Secretary of Transportation shall provide by rule for the enforcement of subsection (a) at airports operated by the United States.

(e) Any person adversely affected or aggrieved by a violation of subsection (a), whether at an airport operated by the United States or at any other airport, may institute suit in the appropriate United States district court for equitable relief. In addition, the Attorney General, whether or not he has received a certification from the Secretary of Transportation under subsection (b), may institute such a suit for equitable relief, for a civil penalty, or both, regardless of the location of the violation: *Provided, however,* That no civil penalty shall be imposed for a violation occurring at an airport operated by the United States.

Mr. BUMPERS. Mr. President, I certainly intended to vote for the Beall amendment. I believe it is a very good amendment. I believe the Senator from Nevada has raised a couple of objections that could be eliminated from the Beall amendment.

The amendment I have sent to the desk is one that I had prepared and filed almost a month ago. It simply provides that, first, a supersonic aircraft such as the Concorde would be permitted to land in the United States in case of emergency, and second, it provides that no aircraft, supersonic or otherwise, will be allowed to operate and land in the United States unless it meets the noise standards set by the Secretary of Transportation now and in all future rulings. Finally, Mr. President, my amendment provides for injunctive relief against any airport which permits a supersonic aircraft to land; and, in the discretion of the district court, a civil penalty of $50,000 per violation would be in order.

Mr. President, I am not going to take a great deal of the time of the Senator, because the issue of the Concorde has been discussed. The Weicker amendment has already been defeated. However, I honestly feel that tying the landing of the Concorde in this country to noise standards is the proper and legitimate method of approaching a problem which causes troublesome noise for nearly a million people in this country.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. BUCKLEY. The Senator said, I believe, that no SST would be allowed to land if it were in violation of the noise standards established by the Secretary of Transportation or the noise standards that now obtain for new American planes.

Mr. BUMPERS. The Senator is correct. I misstated it. The Senator's interpretation of the amendment is correct.

I add to that, for the edification of all, that that applies not only to the present standards for new aircraft but also to any standards which are set in the future. So far as I know, the Secretary of Transportation is not now planning to set any standards for supersonic aircraft. When he appeared before the Aviation Subcommittee of the distinguished Senator from Nevada, he said that one of the reasons he allowed the Concorde to land was that there are no noise standards for supersonic aircraft. There are standards for subsonic aircraft, and this amendment gets at that.

Under the Secretary of Transportation's rationale, it would mean that if somebody wanted to build a supersonic transport tomorrow that will go 3,000 miles an hour and make 4 times as much noise as the Concorde, he would be bound by the same rationale to let that plane land, also.

I thought that the arguments of the Senator from Maryland a moment ago about noise pollution were well taken. I subscribe wholly to those arguments.

We have made certain commitments in this country to our own environment. We torpedoed the SST in this country in 1971. If we are going to lay down those kinds of rules for ourselves, I see absolutely no reason for the people in this country to be subjected to the noise and pollution of nitrogen oxides or carbon monoxide which this plane emits.

I am sure all this has been covered under the Weicker amendment, but I should like to make these points.

This airplane, being flown by the French and British—who, to my knowledge, do not have a single oil well in their countries—uses three times as much fuel per passenger mile as subsonic airplanes—for example, the 747. On a per-passenger basis, the Concorde deposits 17 times as much unburned hydrocarbons, 5 times as much nitrogen oxide, and 12 times the carbon monoxide as does a large subsonic jet. Furthermore, it deposits these emissions in the middle of the thickest portion of the ozone layer, roughly 58,000 to 60,000 feet. According to the FAA, the noise levels, are perceived to be something like four times as loud as a 747 on takeoff.

The Senate can do what it wishes. I suppose it will vote pretty much as it did on the Weicker amendment, although I believe that tying the standards to the noise level is a legitimate standard to which this country should adhere. To use the rationale of the Secretary of Transportation, will produce absolutely no end to this kind of assault on the American people.

Pope Gregory used to ask Leonardo, "When will it be finished?" Well, when will it end under the rulings of the Secretary of Transportation?

I yield to the Senator from Maryland.

Mr. BEALL. In order to be able to distinguish the difference between the amendment of the Senator from Arkansas and my amendment, am I fair in stating that the Senator's amendment is substantially the same as the Weicker amendment, because the practical effect of his amendment is the same as the Weicker amendment? He is saying that no supersonic plane can land in the United States unless it meets the standards now in existence, is that correct? So all the Concordes would have to meet FAR 36 standards. Is that what the amendment is saying?

Mr. BUMPERS. The Senator is correct.

Mr. BEALL. I thank the Senator.

I am sorry that the Senator is offering this as a substitute for my amendment, because it is the same, substantially, the practical effect of the amendment is the same as that of the Weicker amendment. But I make a distinction. I do not want to discriminate against anybody, but I do want to make sure that the same environmental standards apply to planes produced outside the United States as to those in the United States. Under my amendment, planes that have flown prior to December 31, 1974, would be allowed to land, as are domestically produced airplanes. So we would be treating everybody the same.

In the Senator's amendment, it could be said, I think, that he is discriminating, because he is placing a stiffer requirement on planes produced outside the United States than on those produced inside the United States. I would propose that the Senator offer his amendment separately if mine should fail, because he is going to require the Senate to vote again on substantially the same thing they voted on in the Weicker amendment.

Mr. BUMPERS. If the Senator will permit me to make a couple of observations, he might understand why I handled this in this manner.

First, the Weicker amendment would not have permitted the Concorde to land, ever, under any conditions. That is, indeed, very discriminatory. Our amendment will allow them to land at any time they can meet the noise level standards that we are abiding by in this country. I do not consider that discriminatory. I see nothing discriminatory about asking our friends and neighbors, England and France, to abide by our rules when they are in this country. That is all this amendment does.

Second, I point out that my amendment was one of the first amendments filed on this bill, but at some subsequent time, after it was filed, there was a unanimous consent agreement obtained on this floor relative to time limitations to the bill, on amendments, and on germaneness.

Apparently, the Senator from Maryland and the Senator from Connecticut were apprised of the unanimous-consent request, because they were present to protect the germaneness of their amendments and except it from that unanimous consent agreement. I was not aware of it. I was advised by the Parliamentarian at a subsequent time that my amendment would not be germane. The floor managers were unwilling to allow my amendment to be presented separately and not object to the germaneness. I regret very much impinging on the Senator's amendment.

I did feel it would answer two basic questions raised by the Senator from Neveda.

First, it is not discriminatory and will allow supersonic aircraft to land at such time as they can meet our standards.

Second, under the Senator's amendment, two Concordes which had flight time prior to 1974 would be allowed to land in this country. My amendment does not make that exception.

Mr. BEALL. The Senator does make a clear distinction. I think that is a substantial difference. My amendment treats foreign producers exactly the same as we are treating domestic producers, because one of the conditions of the present FAR regulation is that if the plane has been airborne, has flown prior to December 31, 1974, it does not have to meet those standards. I am applying the same conditions to foreign producers.

I thank the Senator for his explanation of the reasoning attached to his amendment.

I must say to the Senator that even in spite of those circumstances, I have to oppose his amendment so I can get to a vote on mine.

Mr. BUMPERS. I regret, first of all, impinging on the Senator's amendment. Second, I regret, even more, that he feels compelled to vote against my amendment.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

First, I want to say to the Senator from Arkansas that my purpose in saying I will raise a point of order is that I have taken that position consistently on other amendments that Senators were thinking about bringing up that were not germane. It is certainly not directed at his amendment.

Mr. BUMPERS. I appreciate that.

Mr. CANNON. I felt if I failed to object to any nongermane amendment, then I would, in good conscience, have to not object to any of them.

On the other point the Senator made, he said this would simply leave it wide open at the Secretary's discretion, that he could permit some other airplanes to land. That is not true. Under the study now—it is a very limited study and goes for 16 months. The Secretary testified before our committee as to why the 16-month period was used. It only permits a very limited number of flights per day—six flights per day—and at the two airports in question.

As I have said earlier, I wish it were possible for it to land out in my home town. We would be delighted to have it land out there for an experimental period.

In any event, what the Secretary is trying to do is find out under what conditions this airplane ought to be permitted to fly into this country. If we adopt the Senator's amendment here, now, there is no way that any of those 16 airplanes that are in the process of production or being produced by France and Great Britain could ever meet the standards. There is no known technology available at the present time, despite what the Senator from Maryland said, to retrofit those airplanes because, at the time that he was referring to, the airplane had not been produced. The Secretary of Transportation testified before our committee that the technology was not there to permit this particular airplane to meet the FAR 36 standards, which do not apply, as others have been incorrectly saying, they do not apply to the supersonic aircraft. They are standards that apply to subsonic aircraft.

This is a very limited experiment. I think it ought to go forward, in good conscience. If, as a result of the experiment, the Secretary makes the determination that the noise levels are such that we cannot live with it under these conditions, then, obviously, he is going to promulgate rules that will insure the proper safeguards. But I do not think we ought to legislate on this floor what the rules and regulations ought to be without testing them, without finding out what the experience is, and what kind of a reaction we get from the people.

As I pointed out earlier, the decibel level difference is very little between the Concorde and the 707's and DC–8's. It is so little that the average person living a short distance away from that airport would never be able to perceive the difference in his ear.

Mr. President, the Senator from Maryland was talking a few minutes ago about a 10-decibel level. There is only a 12-decibel difference on takeoff noise between one of the most quiet airplanes, the 747–200, which meets the standards—there is only a 12½ decibel level difference between that and the Concorde on takeoff, and only a 10½ decibel difference between that and the airplane that does meet all the standards on the approach.

I submit, Mr. President, that this is just a re-do of the Weicker amendment, an attempt to ban this very limited experiment and ban the Concorde from landing in the United States. I hope that my colleagues will take the same position they did on the Weicker amendment and defeat it.

Mr. BUMPERS. Mr. President, I wish to make one other observation: In 1972, this body, by a vote of 62 to 17, passed what was then called the Cranston amendment to the Noise Control Act. Very simply stated, I shall read what it said. This amendment, I remind the Senators, is what this body adopted.

I recognize that the Senator from Nevada was one of the 17 opponents who voted against it. The Senate adopted this by a vote of 62 to 17:

> No civil aircraft capable of flying at supersonic speeds shall land at any place under the jurisdiction of the United States unless in compliance with noise levels prescribed for subsonic aircraft by the Administrator of the FAA and in effect on September 1, 1972.

I ask my colleagues what has happened since 1972, when this body overwhelmingly adopted an amendment to the Noise Control Act which would have absolutely prohibited the Concorde, or any aircraft similar to it, from landing in the United States?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. THURMOND). Is there a sufficient second? There is not a sufficient second.

Mr. STEVENS. Mr. President, the Concorde has become a symbol of one of our most serious problems: airport noise.

Aircraft noise is impeding the expansion of many airports so necessary to improve our national transportation system.

Aircraft noise is causing many airport proprietors to restrict types of aircraft and aircraft operations—using curfews, for example—which limits the effectiveness of air transportation.

Aircraft noise and the annoyance it causes has been the basis for legal action by airport neighbors resulting in judgments against airport proprietors of increasingly large amounts. This is developing into a difficult dilemma because of restrictions on what proprietors legally can and cannot regulate.

And aircraft noise has so affected schools in the surrounding areas that we can witness the phenomenon of jet pause teaching, as lessons are timed to the quiet between jet flights.

But barring the Concorde will not solve the problem of airport noise.

And permitting a total of six flights at two airports would not add appreciably to the cumulative noise impact from the thousands of jet flights daily in and out of American airports.

Still less, if at all, will the limited 16-month demonstration approved by Secretary Coleman of four daily flights at JFK and two at Dulles actually affect the problem of airport noise.

This underlines the importance of dealing with actual problems and not just symbols of problems.

Congress has made clear its concern and commitment to a quieter airport environment. Section 611 was added to the Federal Aviation Act in 1968. It authorized the Federal Aviation Administrator to prescribe rules to control and abate unnecessary aircraft noise and sonic boom. In 1969, Congress enacted the National Environmental Policy Act which requires Federal agencies to prepare environmental impact statements and weigh environmental concerns in major actions they take. NEPA made us trustees of the environment for future generations.

In 1972, we enacted the Noise Control Act which declared it national policy "to promote an environment for all Americans free from noise that jeopardizes their health or welfare." Section 7(b) of that act amended section 611 of the Federal Aviation Act to permit the Administrator of the Environmental Protection Agency to recommend noise rules to the FAA. The FAA must then publish the rule, hold hearings within 60 days, prepare an environmental impact statement, and "within a reasonable time" either adopt the rule, modify it, or reject it after stating the reasons. In short, the congressional mandate to abate aircraft noise is clear.

What actions have resulted from these statutes? In 1969, a year after addition of section 611 to the act, the Federal Aviation Administration promulgated FAR part 36, a noise rule for type certification of newly designed aircraft. We are all the beneficiaries of the quieter generation of wide-body jet planes which has been developed as a result—the DC-10, B–747, and L–1011. Next, in 1973, a rule was issued prohibiting sonic boom. That rule, it should be noted, applies to SST's. It means that they will be unable to fly at supersonic speed over the U.S. land mass. In 1973 and 1974 the FAR–36 standards were extended to newly manufactured aircraft of older—pre-1969—type design.

Also in 1974, the FAA published its notice of proposed rulemaking for noise retrofit, a proposal which would require that aircraft not in compliance with FAR–36 either be modified by refanning noisy engines or using sound absorptive material, or quiet nacelles, around engines to quiet the airplanes. The retrofit rule is presently being studied by the Department of Transportation. DOT is examining how such a program, which may cost from $800 million to $1 billion and take some 6 years to accomplish, might be financed and how foreign air carriers would participate. And in 1975 and 1976, the FAA published two proposed noise rules for supersonic aircraft, the second superseding the first, as submitted by the EPA. Hearings for the first have been completed; those for the second are scheduled.

These are the highlights. A chart summarizing more completely the status of these and other aircraft noise proposals is being inserted in the RECORD.

How effective have these actions been? Noise retrofit is being addressed now because, despite these rules, 85 percent of the U.S. commercial fleet—1,850 out of 2,153 planes—does not meet FAR–36 noise standards. Among these are the more than a quarter of the U.S. commercial fleet that consists of B–757's and DC–8's. Those planes, when measured at the FAR–36 certification points for aircraft, are actually louder on approach—by 1.5 and 2.5 effectively perceived noise decibels (EPNdB), respectively—than the Concorde.

And while the Concorde is louder by half again than these planes on takeoff, there are only six Concorde flights being tested for which ultimate application has been sought while there are daily about 1,587 flights in the United States by these noisy 707 and DC–8 type aircraft.

In short, keeping out the Concorde will do little to combat the real problem, airport noise, the dimensions of which far transcend Concorde, however dramatically or emotionally attractive a target it may be.

Let me illustrate further. There are a number of accepted ways of measuring aircraft noise. To compare the Concorde directly, 1-to-1, with other aircraft—say the 707 or B–747—can be done by comparing decibel levels at the FAR 36 measuring points or by comparing the single event noise contour overlaid on a map to show the area impacted by a given noise intensity during a single takeoff or landing. Using either the FAR–36 or the single event measure, it is undeniable that the Concorde is far noisier than any subsonic airplane, save, as I have mentioned, the 707 or DC–8 on approach at the FAR–36 points.

But we are talking about only six Concorde flights. And thus the more meaningful and significant measurement is one which shows the additional noise impact the Concorde flights would create—that added to present noise to which a community is exposed. That is measured by the so-called noise exposure forecast, or NEF, which depicts the cumulative noise impact of all aircraft at a given airport for a day. The computer forecast does not weigh all flights equally. Type of aircraft and flight and runway patterns are taken into account and penalty factors are added for irritating whines, frequencies which have greater impact, and times of day of greatest annoyance, especially evening flights.

Both the Concorde environmental impact statement and Secretary Coleman's decision on February 4 use the NEF, along with other measurements, to describe the community noise impact of the Concorde flights at JFK and Dulles. At JFK, the number of those already in the NEF 30 contour—the area within which people become sufficiently annoyed by airport noise to begin to express dissatisfaction—would be increased by the Concorde flights from 485,000 to 487,000, or 0.4 percent. Those within the NEF 40 contour—the area within which people are severely bothered by noise, making group action and complaints likely—would be increased from 112,000 to 114,000, an increment of 2 percent. At Dulles, because so few people are involved, the experts cannot measure any incremental noise increase within NEF 30; they do indicate, however, that fewer than 1,000 people will still reside therein. No people now reside within the Dulles NEF contour, and that will not change with the Concorde demonstration.

Thus, while airport noise is a very serious problem, one cannot escape the conclusion that Concorde flights would provide only a minute addition to the noise levels to which residents of airport communities are already exposed. Secretary Coleman was therefore correct in his conclusion that the marginal impact of the six demonstration flights would be small.

He is also persuasive in his conclusion that noise is a subjective, not an objective experience; despite the statistics of noise in the environmental impact statement, Mr. Coleman concluded that only an actual test would provide a truly meaningful indication of the community impact of these flights. This, too, makes sense.

In pointing out that we should keep the question of Concorde noise in proper perspective, I do not mean to suggest that it is not worthy of our attention. It is, but in the context of the overall reduction of airport noise, an issue larger than that of Concorde demonstrations.

The question should not be, "What can be done to ban or quiet the Concorde?" but, rather, "What can be done to make the airport environment more quiet?" To reason otherwise is like suggesting that one should search for bug spray to eliminate a flea on the elephant in one's living room. It simply misses the point.

I hope that the FAA will give early and favorable consideration to a retrofit rule. In the long run, that, far more than any meaningless Concorde ban, will lead us to the kind of airport environment we all desire.

And I hope too that the FAA will issue a meaningful SST noise rule, one which will insure that future Concordes are as quiet as possible. I say as quiet "as possible" because we are, after all, dealing with a complex area of regulation. Many people prefer not to recognize that at present we have no SST noise rule when they charge that the Concorde violates our noise rules. We do have a subsonic noise rule, adopted 10 years after jet flights began.

As I have indicated 85 percent of our subsonic aircraft do not meet its standards because it was written, as most of our regulations are, to apply prospectively. The subsonic rule is, as the SST noise rule should be, consistent with the requirement in section 611(d) of the present Federal Aviation Act that in promulgating noise rules the FAA Administrator shall consider whether the proposed rule is "economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply."

The Administrator must also consider relevant data from testing, which the Concorde demonstration will provide, and whether the rule is consistent with the highest degree of safety. In adopting our subsonic noise rules, we did not apply them retroactively. Even now, we have only begun to consider a retrofit rule once the technology was perfected. That same background is relevant if we are to adopt a reasonable SST noise rule which is consistent with our present regulatory policies. Until the technology to apply its standards retroactively—that is, to planes being manufactured based on present designs—exists, the rule should be prospectively applied. It should also be appropriate for a supersonic aircraft, given the particular noise characteristics inherent in such aircraft, economically reasonable, and technologically feasible. We cannot require what is impossible; we should require that SST's be as quiet as is possible.

What, then, should be done with the Concorde?

Because the Concorde design was fixed in 1965, before even our subsonic noise rules were adopted, and because there is no supersonic noise rule and no technologically feasible way to hold the Concorde to FAR 36 noise limits, it does not necessarily follow that we must permit the Concorde to land. If damage to our environment or health is proven in the tests, that finding clearly would govern.

What does necessarily follow, however, is that a Concorde ban is more signal than substance, and a mixed signal at that. It might, of course, positively signal our determination to "get tough" on the airport noise problem; but it would do little to genuinely quiet airport noise.

On the other hand, it might signal a change in our previous policy of domestic aircraft regulation and an abandonment of the reasonable standards Congress prescribed for the FAA Administrator in section 611. If that shift implies a new policy, it is one with serious implications for the regulatory process, for it subjects manufacturers to unpredictable government behavior, shifting standards, and risks so high as to deter investment in new technology. If that shift implies a far more limited policy change, one directed only to the Concorde, the British and French would rightly take it as a signal of unfair discrimination based on narrow protectionist interests rather than environmental purity. And that signal would provide hostile feelings and invite the possibility of needless recrimination and retaliation to satisfy the demands of foreign politics. The negative substance which attaches to this signal seem real indeed. One does not need much imagination to conjure up the vision of British trade unions boycotting goods from New York.

In short, for reasons of consistent domestic regulatory policy, and international fairness as well as effective noise abatement, a Concorde ban is extreme and counterproductive. The wiser approach is to gather necessary data for a complete evaluation of the Concorde through demonstration flights to enable us to weigh the costs as well as the benefits of regular flights. The experience gained will help us to determine acceptable limits for Concorde noise which can be embodied in an SST noise rule and made applicable to future generations of SST's and, when the technology becomes available, to this generation as well. But disrupting our regulatory pattern with a Concorde ban now absent proof of significant environmental harm, would provoke international consequences which would far outweigh the benefits obtained from the meager reduction in airport noise.

Mr. President, we must not retreat in our efforts to abate airport noise. But permitting a fair evaluation for the Concorde is fully consistent with this goal. It will enable us to keep our eyes on substantive progress and not be diverted by symbolic gestures which accomplish little and cost a great deal more than we can afford. For these reasons, I oppose the amendment and urge its defeat.

Mr. President, I ask unanimous consent that the regulations to which I have referred may be printed in the RECORD.

There being no objection, the regulations were ordered to be printed in the RECORD, as follows:

FAA AIRCRAFT NOISE REGULATIONS

A. Regulations in effect:

14 CFR 36, Noise Standards: Aircraft Type Certification, 11–24–69.

14 CFR 91, Civil Aircraft Sonic Boom, 3–23–73.

14 CFR 36, Newly-Produced Airplanes of Older Type Design, 10–19–73.

14 CFR 36, Noise Standards: Propeller-Driven Small Airplanes, 12–31–74.

B. Proposed Aircraft Noise Regulations:

ANPRM 73–32, Noise Standards: Short-Haul Aircraft, 12–28–73.

ANPRM 74–12, Two-Segment ILS Noise Abatement Approach, 3–26–74.

NPRM 74–14, Civil Aircraft Fleet Noise Regulations (Retrofit), 3–27–74.

*NPRM 74–39, Noise Standards: Propeller-Driven Airplanes, 1–06–75.

*NPRM 74–40, Minimum Altitudes, 1–06–75.

*NPRM 75–5, Civil Airplane Noise Retrofit Requirements (Retrofit), 2–27–75.

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*EPA Proposals to FAA.

*NPRM 75-6, Fleet Noise Level Requirements, 2-27-75.

*NPRM 75-15, Noise Standards: Civil Supersonic Airplanes, 3-28-75.

*NPRM 75-35, Three Noise Abatement Approach Procedures for Turbojet Airplanes: (1) Reduced Flap Settings; (2) Visual Two-Segment Approach; (3) ILS Two-Segment Approach, 9-25-75.

NPRM 75-37, Increased Stringency of Noise Standards for Subsonic Transport Category and Turbojet Airplanes, 10-05-75.

*NPRM 76-1, Noise Requirements for Airplanes Operated within U.S. (Supersedes NPRM 75-15), 2-12-76.

Mr. BUMPERS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PEARSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEARSON. What is the issue here? Is this the Bumpers amendment as it amends the Beall amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas as a substitute for the amendment of the Senator from Maryland.

Mr. PEARSON. The vote is on the amendment in the nature of a substitute?

The PRESIDING OFFICER. That is correct. "Aye" would be for the substitute, and a "No" vote would be against it.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HUMPHREY (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Indiana (Mr. Bayh). If he were present and voting he would vote "aye." If I were permitted to vote I would vote "nay." Therefore, I withdraw my vote.

Mr. PELL (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Oregon (Mr. Hatfield). If he were present and voting he would vote "aye," and if I were permitted to vote I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I further announce that the Senator from Vermont (Mr. Leahy) is absent on official business.

I further announce that, if present and voting, the Senator from Delaware (Mr. Biden) would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Nevada (Mr. Laxalt), and the Senator from Pennsylvania (Mr. Hugh Scott) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Hugh Scott) would vote "nay."

The result was announced—yeas 29, nays 49, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—29

Abourezk
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Hart, Gary
Haskell
Javits
Kennedy
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Proxmire
Ribicoff
Schweiker
Weicker
Williams

NAYS—49

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Glenn
Griffin
Hansen
Hart, Philip A.
Hathaway
Helms
Hruska
Huddleston
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
Morgan
Nunn
Packwood
Pearson
Percy
Randolph
Roth
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Humphrey, against
Pell, against

NOT VOTING—20

Bayh
Biden
Brock
Goldwater
Gravel
Hartke
Hatfield
Hollings
Inouye
Jackson
Laxalt
Leahy
McGee
McGovern
McIntyre
Moss
Scott, Hugh
Symington
Talmadge
Tunney

So Mr. Bumpers' amendment in the nature of a substitute was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BEALL. Mr. President, a parliamentary inquiry.

Mr. CANNON. The vote should next occur, Mr. President, on the amendment of the Senator from Maryland. I do not think it would take more than 2 minutes on either side to wrap it up and have a vote.

Mr. FORD. Mr. President, may we have order so we can hear?

The PRESIDING OFFICER. All time has been yielded back on that amendment.

Mr. BEALL. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BEALL. Will the Senator from Kansas yield me 2 minutes on the bill?

Mr. PEARSON. I yield the Senator 2 minutes.

Mr. BEALL. Mr. President, the vote is now going to occur on the amendment that I offered that has the practical effect of requiring foreign airplane producers to meet the same environmental noise pollution standards that we require domestic producers of airplanes to meet in this country. It means, in effect, that any supersonic transport plane that comes into the United States must meet the requirements of Federal Air Regulation No. 36. It means that any airplane produced outside the United States has to come up to the same standards we have applied on airplanes produced inside the United States.

It means, in effect, that we are requiring those outside the United States to recognize that in this country we have established certain environmental standards for ourselves. We are not going to have the quality of our lives destroyed by those outside our borders.

Mr. CANNON. Mr. President, I yield myself 2 minutes on the bill to give my interpretation of what this amendment does.

Mr. President, this amendment pure and simply says that the Secretary of Transportation can go ahead with this 16-month experiment. They can have six landings day combined at Dulles and Kennedy, but they can only use the first two production aircraft because they happened to have flight time prior to December 31, 1974. It just plain and simply interferes with the internal management of this type of an experiment and says that none of those other 14 airplanes that are identical in noise or identical in every aspect can be used in this experimental program. It is a plain and simple interference with the internal management of what I think is a well-directed experiment.

The PRESIDING OFFICER (Mr. Helms). The question is on agreeing to the amendment of the Senator from Maryland. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MATHIAS (when his name was called). Mr. President, on this vote I have a pair with the Senator from Oregon (Mr. Hatfield). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Delaware (Mr. Biden). If he were present and voting, he would vote "Yea." If I were at

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*EPA Proposals to FAA.

liberty to vote, I would vote "Nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Utah (Mr. Moss), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Vermont (Mr. Leahy) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Oregon (Mr. Hatfield), the Senator from Nevada (Mr. Laxalt), and the Senator from Pennsylvania (Mr. Scott) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. Scott) would vote "nay."

The result was announced—yeas 28, nays 51, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—28

Abourezk
Beall
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Case
Clark
Culver
Domenici
Durkin
Eagleton
Ford
Hart, Gary
Haskell
Javits
Kennedy
Metcalf
Mondale
Montoya
Muskie
Nelson
Pastore
Pell
Proxmire
Schweiker
Williams

NAYS—51

Allen
Baker
Bartlett
Bellmon
Bentsen
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Curtis
Dole
Eastland
Fannin
Fong
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Philip A.
Hathaway
Helms
Hruska
Huddleston
Humphrey
Johnston
Long
Magnuson
McClellan
McClure
Morgan
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Weicker
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mathias, against
Mansfield, against

NOT VOTING—19

Bayh
Biden
Brock
Gravel
Hartke
Hatfield
Hollings
Inouye
Jackson
Laxalt
Leahy
McGee
McGovern
McIntyre
Moss
Scott, Hugh
Symington
Talmadge
Tunney

So Mr. Beall's amendment (No. 1426) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MORGAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUCKLEY. I yield.

Mr. MORGAN. Mr. President, I ask unanimous consent that my legislative aide, Bill Johnston, be granted privileges of the floor during the consideration of this bill and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute for a unanimous-consent request?

Mr. BUCKLEY. I yield.

UNANIMOUS-CONSENT AGREEMENT—S. 3168

Mr. MANSFIELD. Mr. President, for the information of the Senate, after consultation with the acting Republican leader and interested parties, I ask unanimous consent that, when the Senate considers Calendar No. 673, S. 3168, a bill to authorize fiscal year 1977 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, and for other purposes, there be a 2-hour time limitation on the bill, 2 hours on the Bartlett amendment, 1 hour on other amendments, 30 minutes on amendments, motions, and appeals, and that it be in the regular order.

The PRESIDING OFFICER. Is there objection?

Mr. YOUNG. Mr. President, reserving the right to object, what is that?

Mr. MANSFIELD. An authorization.

Mr. YOUNG. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 3168 (Order No. 673), a bill to authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes, debate on any amendment (except one to be offered by the Senator from Oklahoma (Mr. Bartlett), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall the limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Alabama (Mr. Sparkman) and the Senator from New Jersey (Mr. Case): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3015) to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid process and strengthen national airport system planning, and for other purposes.

Mr. LONG. Mr. President, will the Senator yield to me for a moment?

Mr. BUCKLEY. I yield a minute to the Senator from Louisiana.

AMENDMENT NO. 1441

Mr. LONG. Mr. President, I call up my printed amendment No. 1441 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes Amendment No. 1441.

The amendment is as follows:

At the end of the bill, add the following:

AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND

Sec. 21. (a) Amendments of 1970 Act.—(1) Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1976 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1976);".

(2) Section 208(f) of such Act (49 U.S.C. 1742(f)) is amended by striking out "July 1, 1980" each time it appears and inserting in lieu thereof "October 1, 1980".

(b) Effective Date.—The amendment made by subsection (a)(1) shall apply to obligations incurred on or after the date of the enactment of this Act. The amendments made by subsection (a)(2) shall be effective on the date of enactment of this Act.

Mr. LONG. Mr. President, I am offering on behalf of the Finance Committee an amendment to add a new section at the end of the bill, to conform the language of the airport and airway trust fund to authorize the use of trust fund moneys for the additional areas approved by the Commerce Committee and the Senate in this bill, and also to permit the continued expenditure of trust fund moneys through fiscal year 1980.

This amendment does not affect any of the trust fund taxes, and does not affect any taxpayer's liability for taxes. The first part of this amendment is needed so that expenditures may be made out of the airport and airway trust fund for purposes as modified and included in this bill when it is enacted. The Commerce Committee's bill amends the current definition of "airport development" to include the following new areas of expenditure—not presently authorized out of the trust fund.

First, "public use" airport passenger terminal buildings or facilities—including passenger transfer vehicles;

Second, snow removal equipment:

Third, noise suppression hardware, physical barriers, landscaping, acquisition of land for buffer zones, related to noise control;

Fourth, planning for adequate ground transportation to and from a public airport; and

Fifth, land for and construction of passenger terminals located at an airport for transfer of passengers and baggage between interconnecting air, rail, or highway facilities.

The second part of the Finance Committee's amendment allows the expenditure of trust fund moneys for the period July 1–September 30, 1980, which merely conforms the 1980 expiration of the use of trust fund moneys to the Government's new fiscal year. This provision also extends for 3 months the Treasury's authority to transfer amounts from the trust fund to the general fund to reflect amounts allowed as refunds or credits under the user taxes.

Mr. President, I urge the adoption of this amendment as approved by the Finance Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I was wondering if the Senator from New York will yield to permit the acceptance of an amendment that I have talked over with the chairman of the committee and the ranking minority member.

Would he be willing to set his amendment aside with the understanding it will be considered in 1 minute?

Mr. BUCKLEY. With that understanding, I yield. I appreciate it if the time could be taken from the time of the bill and manager of the bill.

Mr. CANNON. I will take it off my time.

Mr. KENNEDY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. BROOKE, proposes an amendment:

On page 28, line 10, insert the following:

(3) the feasibility, practicability, and cost of the soundproofing of schools, hospitals, and public health facilities located near airports.

Mr. KENNEDY. This amendment requires the Secretary of Transportation to conduct a special study on the feasibility and potential costs of soundproofing of schools, hospitals, and public health facilities located near airports. We have discussed this amendment with the distinguished chairman, Senator CANNON, and we feel confident that he shares our concern that solid information is needed on the need for and potential costs of soundproofing those facilities in unacceptable noise environments.

Mr. CANNON. I thank the distinguished Senators from Massachusetts and after talking to the other members of the committee, we are prepared to accept the amendment.

Mr. BROOKE. I thank the Senator.

For a number of years, there has been a great deal of discussion about the need for soundproofing in neighborhoods located near airports, particularly in those facilities where children are trying to learn and where sick people are trying to get well. But to this date, there is still no hard data on which we can make reasonable estimates of the costs of such an undertaking and the potential benefits. We need to know for example the precise level of unacceptable noise, the numbers of schools and hospitals located in this environment, the numbers of students and patients in these facilities, and the estimated costs of undertaking soundproofing programs.

Mr. KENNEDY. The study provided for in this amendment will differentiate between soundproofing costs in various locations around the country. For example, in the neighborhoods surrounding Logan Airport, schools and hospitals are generally sturdy brick structures with heavy roofs. The costs of soundproofing these facilities may be much lower than in other parts of the Nation where the buildings are constructed with lighter materials.

Mr. CANNON. I agree with the Senators that this study is needed to give us the data we need to determine if a soundproofing program is feasible. There has been a great deal of discussion through the years on the desirability of soundproofing, but we need to know the facts and figures.

Mr. BROOKE. Our research shows that there are approximately 1.8 million students in 60,000 classrooms in an unacceptable noise environment. Even while efforts continue to reduce noise at the source, quieter airplane engines, we must examine the potential for reducing noise to acceptable levels in our schools and hospitals.

Mr. KENNEDY. Twenty-seven hundred of those students are in schools near Logan Airport. In February of 1968 and December of 1969 I held hearings in East Boston on the noise problems facing the neighborhood. The Director of the Office of Noise Abatement of FAA stated in a letter to me on March 11, 1968, that—

> Logan's noise problem tends to be rather unique in the sense that residential areas are located extremely close to the runways and are subject to a high noise environment.

That situation has not improved, only gotten worse The soundproofing study may point out the unique needs for some of our residential areas located near airports, areas like East Boston, Revere, and Winthrop near Logan Airport and may suggest that these areas have priority in a soundproofing program.

Mr. CANNON. I am happy to accept the amendment of the Senators from Massachusetts and I am sure that we all look forward to the results of the study which we will have within the year.

Mr. DOMENICI. Mr. President, I would like to augment the comments of Senator KENNEDY. New Mexico has one major hub airport, and seven small rural airports. State officials have expressed deep concern at the change in the formula for the distribution of Federal funds to air carrier airports. The basis of this concern lies in their fear that with a formula weighted toward emplanements, small airports will be unable to amass the capital to undertake any major expansion effort. Moreover, under the proposed formula, it would be virtually impossible for a new airport to be built.

I must admit to some lingering confusion as to how an emplanement-based formula has anything to do with the construction needs of our Nation's airports. The report itself on page 8 notes that the capital needs for air-side related construction is greater at our small and nonhub airports—$1.2 billion—than at our large airports—$1 billion. Yet despite such data, the committee has adopted a formula that gives the large airports the lion's share of the capital funds.

I believe that Senator KENNEDY and BROOKE's suggestion that the one-third of the capital funds remaining with the Administrator of FAA be targeted to small airports is absolutely essential to the integrity of the program. I commend Senators KENNEDY and BROOKE for taking the initiative in this matter and insuring a modicum of justice for the small airports of this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

AMENDMENT NO. 1418

Mr. BUCKLEY. Mr. President, I send an amendment No. 1418 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment numbered 1418.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICEER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, strike lines 19 through 25, and insert in lieu thereof the following:

(e) OTHER EXPENSES.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (c) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) may not exceed $150,000,000 for the period from July 1, 1975, through September 30, 1976; $300,000,000 for fiscal year 1977, $325,000,000 for fiscal year 1978; $35,000,000 for fiscal year 1979; and $375,000,000 for fiscal year 1980. In addition, the amounts appropriated in any fiscal year under this subsection may not exceed, when added to the minimum amounts authorized for that year under subsections (a), (b), and (c) of this section, the amounts transferred to the Trust Fund for that year under subsection 28(b) of the Airport and Airway Revenue Act of 1970. Each year, on or before February 20, the Secretary shall submit to the appropriate committees of the Congress a detailed report on the activities for the forthcoming fiscal year which are proposed to be financed under this subsection.

(f) Paragraph (1) of section 14(f) (as redesignated by this section) of such Act is amended by striking out "subsections (c) and (d) of this section, as amended" and by inserting in lieu thereof "this section".

(g) Paragraph (3) of section 14(f) (as redesignated by this section) of such Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

The **PRESIDING OFFICER**. The Chair inquires of the Senator from New York, is this the amendment on which we have a time limitation agreement of 2 hours?

Mr. **BUCKLEY**. Yes.

Mr. President, at this point I shall call attention to two typographical errors.

I ask unanimous consent to amend my amendment as follows:

On page 2, line 11, at the end of the line strike "(b)" and substitute "(c)", and in the next line where it says "(c)" substitute "(d)".

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The modifications are agreed to.

Mr. **BUCKLEY**. Mr. President, I am convinced that this amendment, when fully understood, is one which a substantial majority of the Members of this body will support.

Unfortunately, we all had to deal with the frustration of the volume of work, which has reached a point where it is almost impossible to communicate with one another as to the specifics of a particular bit of legislation.

I have sent out "Dear Colleague" letters. I do have a minority view touching on this amendment. I have had a chance to talk to a great number of Senators in person. My measure cannot be described as either conservative or liberal. It can be described as pro-taxpayer and as a measure that is wholly consistent with the well-established congressional policy that those who benefit from federally provided facilities and services ought to contribute their fair share to their costs.

My amendment, in fact, is wholly consistent with the explicit purpose of the legislation which created the airport and airways trust fund in 1970.

In fact, the original bill provided that in addition to capital improvements, funds in the trust fund could also be utilized for maintenance, which is what my amendment is all about.

My amendment will accomplish this underlying purpose by authorizing the use of a limited proportion of the surplus revenues that are in that trust fund to be focused on expenditures to maintain air safety equipment.

This is equipment that has been already paid for out of the trust fund. It is important to air users and the taxpayers that this equipment be maintained and that its fullest life be realized.

We are talking about equipment which is now, however, maintained by the FAA out of general taxpayers' funds.

My proposal, and I emphasize this point, does not come into effect until every last penny that is authorized for capital improvements year by year has been expended, and even then we are talking about only a portion of that surplus.

My specific proposal is comparable to one which is already in the ADAP bill that has been enacted by the House of Representatives. In fact, the House would provide $62.5 million for this purpose during fiscal 1976, and the transition quarter, and then it would move up in steps, $75 million in 1977, up to $150 million in 1980.

My amendment would provide $150 million for maintenance purposes during the 1976 fiscal year and the transition quarter, going to $300 million in fiscal 1977, up to $375 million in fiscal 1980.

Again I emphasize that none of these funds would be diverted for known airport purposes. None of these funds would be diverted from authorized capital expenditures but they would be utilized for the maintenance and the field maintenance of safety equipment.

The net effect of this shift will be that an amount in the approximate order of $300 million a year will be shifted from the general taxpayer to the user of these airport facilities. Even if my amendment is adopted, the general taxpaying public still will be supporting more than 50 percent of the cost of maintaining the Federal portion of our air service.

I point out that the average American taxpayer has a median income of approximately $12,000, whereas the average user of air travel has a median income in the area of $24,000 or $25,000 per year.

In other words, I think that the shift of that $380 million a year will do substantial justice by insuring that the general taxpayer, who has half the average income as the average air user, will be supporting 50 percent of FAA's expenditures rather than the current two-thirds. Frankly, I cannot think of a more appropriate use of a trust fund funded by user taxes than the maintenance of the equipment and systems that are essential to their safety.

I believe that my amendment also insures a much higher degree of safety than is currently the case, by serving to focus, year in and year out, both public and congressional attention on the need to maintain our very sizable investment in aviation facilities.

My amendment specifically requires that the Secretary of Transportation, on an annual basis, report what use has been made of the funds which my amendment would set aside. I believe that this specific attention will serve to prevent the premature and costly replacement of the facilities that are now being purchased out of the trust fund.

It will serve to immunize the maintenance funds from the vagaries of attempting to achieve economies in general outlays from the Treasury.

Unfortunately, it has been our experience throughout—I refer to railroads and now it is happening to highways—that the easiest dollar to cut is the dollar that is dedicated to maintenance. Yet, if we start falling behind in this vital area, we soon find that our neglect catches up with us. In the case of our railroads, where we once had the finest system of roadbeds and rails in the world, we now have a multibillion dollar job of catching up on maintenance.

Therefore, I submit that to focus funds out of the trust fund for the maintenance of this essential safety equipment can only inure to the long-term safety of air travelers.

I believe that my amendment also represents an important step toward fiscal responsibility. The committee report recommends that we deal with the growing surplus in the trust fund, which is now in excess of $900 million and is destined, according to that report, to go to more than $2 billion by 1980.

However, the committee recommends that we deal with the surplus by cutting back on the taxes that are now paid by the users of air services. In other words, the committee's solution would be not to expand the uses to which this fund can be put but to shift further the burden of maintaining our airport and air safety system from the user to the taxpayer.

If the committee's recommendations are acted upon, the net effect will be to reduce Federal revenues over the period covered by the bill up to an amount between $1.5 billion and $2 billion, without decreasing expenses by one penny. In other words, the net effect of such a reduction will be to add a $1.5 billion to $2 billion deficit between now and fiscal 1980.

I believe that the adoption of my amendment, in short, would represent a very rare thing—a well deserved victory for the taxpayer over a certain privileged group of people who, on balance, are far better off than the average taxpayer.

Mr. President, the distinguished chairman and the ranking minority member of the committee have circulated a letter urging that my amendment be defeated. Also, several groups of organizations representing airports and others have levied broad-gage attacks on my amendment. I believe that these attacks reflect a lack of full understanding of what my amendment will actually do and I would like to spend a few minutes rebutting some of these arguments.

One of the arguments used against my amendment is that it constitutes a raid on the aviation trust fund. While this is an emotional argument that is often used by those who wish to avoid confronting the substantive aspects of this important question, it is put forth so frequently that it warrants a more carefull examination.

I am going to analyze this question from three perspectives:

First. Is maintenance of the air navigation system unrelated to the sources of the trust fund revenues?

Aviation trust fund revenues are collected from several sources, but over 80 percent of the annual intake comes from the 8-percent tax on airline tickets.

These taxes are collected from aviation users for aviation purposes. Maintenance of the air navigation system in a safe and efficient fashion certainly seems a legitimate use of aviation revenues, especially since proper maintenance is too closely related to the service life and value of the FAA capital facilities which are now financed by the trust fund.

Second. Is the use of user charge revenues to finance noncapital costs an unprecedented step?

I pointed out earlier that the trust fund was intended to cover such expenses as well as capital expenses.

Also, within the Federal transportation programs, virtually all the operational costs of the Federal Highway Administration are financed by the Highway Trust Fund.

I know that the current conference report on the highway bill provides for substantial maintenance funding out of the Highway Trust Fund for our highways, which, like the railroads before them, are now increasingly in need of maintenance.

Third. Is my approach susceptible to manipulation by the executive branch?

This concern, coupled with uncertainty over the revenue generating capability of the new aviation trust fund, was the primary reason for the 1971 congressional amendment to preclude any use of user revenues for maintenance and operation of the air navigation system. Since that time, the revenue intake of trust funds has clearly demonstrated that annual surplus revenues could be made available for maintenance after providing sufficient funds to cover fully necessary capital authorizations.

To prevent any manipulation by the executive branch—and we did have a problem back in 1971—my amendment has the following three safeguards:

First. A provision which limits funds available for maintenance to the balance on an annual basis after all capital authorizations are covered fully.

Second. In addition to (a) above, a statutory annual ceiling on the maximum amount of maintenance which can be financed from the trust fund.

Third. To facilitate proper congressional oversight, a provision requiring a special separate report by the Secretary of Transportation to the Congress on the maintenance activities which are proposed for financing from the trust fund.

As my amendment offers no possibility for manipulation by the executive branch, we should return, I believe, to the goal originally expressed by the chairman of this committee, the Senator from Washington (Mr. MAGNUSON), of using trust fund revenues to lighten the burden on the general taxpayers. In fact, in his remarks in the CONGRESSIONAL RECORD of February 24, 1970, the Senator from Washington noted that early trust fund revenues will be earmarked for capital improvement, but he says:

> I am confident that in later years the general revenue appropriations needed to augment user charge revenues will decline as the user shoulders the greater financial portion of the needs of the system, as do the users of the highways today.

I submit, Mr. President, that the years have now arrived when we should make this modest shift that I propose.

Fourth. Will my proposal have an adverse impact on aviation system safety and proficiency? I believe, Mr. President, that I covered this particular question earlier by emphasizing that we would, in fact, have the chance of enhancing the quality and efficiency of our maintenance effort because we will have those funds, to a significant degree, immunized from the vagaries of the budgetary system.

Mr. President, there are a number of concerned groups, experienced groups, who have studied my amendment in the context of our total Federal system for the financing of airports and airways who have endorsed my amendment. The National Governors Conference has done so, the Conference of State Departments of Transportation, the National Conference of State Legislatures, the National Association of State Aviation Officials, and the Professional Air Traffic Controllers Organization. All of these groups have endorsed this amendment.

As I mentioned earlier, the House of Representatives has also endorsed this amendment and, in fact, incorporated its principle in the bill that they have enacted.

Finally, my amendment has the strongest possible support from the Secretary of Transportation and the administration. If I may, I wish to read a letter that I received, dated March 15, from Secretary Coleman.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. March 15, 1975.

Hon. JAMES L. BUCKLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUCKLEY: This is in response to your request for views on Senate Amendment No. 1418 which you intend to offer to S. 3015, the Airport and Airway Development Act Amendments of 1976. This amendment would permit the use of annual surplus revenues from the Airport and Airway Trust Fund for maintenance of our air navigation system in a safe and efficient manner.

I believe that this proposed amendment would accomplish the following important objectives:

1. At a time when inadequate maintenance is a growing national transportation problem, it would enhance aviation system safety and efficiency by focusing attention on the need for proper repair and upkeep of our aviation capital facilities. In addition, proper maintenance will minimize the need for costly, premature replacement of capital facilities financed from the Airport and Airway Trust Fund.

2. It would bring a greater degree of equity to the financing of this Federal program by reducing the present general taxpayer subsidy of the more affluent aviation user. Currently, the general taxpayer finances approximately two-thirds of total Federal aviation expenditures. By permitting a portion of annual surplus trust funds to be used for maintenance, some of this burden on the general taxpayer can be shifted to the aviation user *without* increasing aviation use taxes—a result which seems quite appropriate since the average aviation user is considerably more affluent than the average taxpayer. Even if this amendment is adopted, the general taxpayer will still be financing over 50% of total Federal aviation expenditures.

3. When compared to the related recommendations of the Commerce Committee which would reduce Federal revenues without any reduction in Federal expenditures, your amendment would prevent an increase in the Federal deficit of $1.5–2.0 billion over the period covered by S. 3015.

4. It would be consistent with a sound national transportation policy which seeks to minimize general taxpayer subsidy of competing modes of transportation.

The proposed amendment would also assure that adequate maintenance financing is not achieved at the expense of any needed capital improvements by providing that funds will be used for maintenance only after all annual capital authorizations are covered and by establishing a statutory ceiling on annual maintenance funding. It also assures that the maintenance funds will be used only for essential servicing by excluding administrative or executive direction costs and headquarters' costs from eligibility. It would provide for complete Congressional review of the operation of this provision.

The Administration's proposed legislation regarding the airport and airway system (S. 1455) provided for the use of annual surplus trust fund revenues for the maintenance of the Federal air navigation system. Your amendment is similar to the Administration's approach in many respects, and responsibly and effectively addresses the major budget, policy, and program issues discussed above. Furthermore I believe the maintenance of the air navigation system in a safe and efficient condition is an extremely valid use of revenues collected from aviation users. Consequently, should a bill reach the President's desk without a maintenance provision similar to the Administration's proposal or your amendment, both OMB Director Lynn and I will recommend that the President veto it.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Mr. BUCKLEY. I ask unanimous consent that various statements endorsing my amendment from various national groups also be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[Telegram]

MARCH 12, 1976.

Hon. JAMES L. BUCKLEY,
U.S. Senate,
Washington, D.C.:

National Association of State Aviation Officials reaffirms the position stated in Senate ADAP testimony that we have no objection to use of Trust Fund receipts for maintenance and operation of certain airway facilities so long as the capital improvement needs of the airport and airway system have been met. Therefore, in principle we favor your amendment to S. 3015.

JOHN A. NAMMACK,
Executive Vice President.

RESOLUTION—AVIATION

The Airport Development Aid Program came to a halt on July 1, 1975 and the safety and convenience of the public has not been provided for due to the failure to enact an airport bill.

The House passed a bill which would provide for a State general aviation airport demonstration program. The Administration proposed and the House included provision for maintenance of airways facilities from the Airport and Airways Trust Fund.

The Governors express their support for the provisions of the House bill involving State demonstration programs and maintenance of airway facilities, and urge the Congress to restore the original ADAP funding distribution formula in order that funds are distributed according to needs rather than enplanements.

(Adopted by Committee on Transportation, Commerce and Technology at NGC Winter Meeting, February 23, 1976.)

Adopted at plenary session, NGC Winter Meeting, February 24, 1976.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
March 15, 1976.

Hon. JAMES L. BUCKLEY,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BUCKLEY: I am Chairman of a Task Force on Community Affairs and Transportation of the National Conference of State Legislatures. Our Task Force is composed of approximately 100 Republican and Democratic State legislators from the 50 States. We would like to endorse the position of the National Association of State Aviation Officials in support of your amendment to S. 3015.

The Community Affairs and Transportation Task Force is especially in favor of the alleviation of the airport tax burden on the general taxpayer. We support utilization of Aviation Trust Fund receipts for airport operation expenditures in instances where capital improvement needs of the airport have been realized.

Therefore, please count on our continued approval of your endeavor to enact this worthwhile legislation. If you have any questions on our position, or would like further support of this legislation, feel free to contact the Special Assistant for Transportation of the National Conference of State Legislatures. His name, address, and phone number are as follows:

Mr. Joseph W. Mullin, Special Assistant for Transportation, National Conference of State Legislatures, 1150–17th Street, N.W., Suite 702, Washington, D.C. 20036. 202/785–8830.

Best regards,
Delegate ROBERT E. WASHINGTON,
Virginia,
Chairman, Community Affairs and Transportation Task Force, National Conference of State Legislatures.

Mr. BUCKLEY. Mr. President, I make one final comment: Aviation is no longer an infant industry. It no longer needs special coddling and care. We have, in its infancy, relied very largely on general taxpayer funds to promote it. I believe the time has come when we should start equalizing the degree of public support versus user support for competing systems of transportation.

I also note that one effect of shifting too large a portion of the burden to the general taxpayer is to encourage what is today the least efficient energy-using system of transportation. I believe that is an additional argument that ought to be taken into consideration in considering this amendment.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

I rise to oppose the amendment of the Senator from New York. Basically, the effect of this amendment would be to take funds paid by air system users and divert such funds from capital investment in the aviation system to the payment of overhead expenses of the Federal Aviation Administration. This amendment was rejected by the Senate Commerce Committee during the committee's consideration of S. 3015. I may say, it was overwhelmingly rejected.

In 1970, in order to fund a capital improvement system for the Nation's air transportation system, Congress established the Airport and Airway Trust Fund, which is maintained with revenues from a series of taxes on users of the system, of which the most significant is the 8 percent tax on airline tickets. These taxes were enacted to provide a continuous source of funds to meet a serious need for expansion and modernization of the airport and airway system. In the first year, the law authorized not less than $280 million to be spent for airport development grants. However, the administration refused to obligate more than $100 million for such purpose and spent the remainder on operations of the FAA. In response, Congress enacted an amendment to the Airport and Airway Development Act to prohibit the diversion of such funds to purposes other than capital development.

That was the so-called raiding of the trust fund proposition that I presume the Senator was referring to. That is certainly what I call it and that is what Congress prohibited in that particular amendment to the act.

Senator BUCKLEY's amendment would, once again, make it possible to channel development money—user tax revenues—away from investment so as to reduce the cost to the general taxpayer.

If this amendment were adopted, it would be a serious breach of faith with the users, who were taxed only for the purposes of a steady source of revenue to meet the investment needs of the air transportation system. Approval of the amendment will inevitably result in a return to the historic problem of inadequate investment in the system, a diminution in the safety of flying, and lead the way to serious congestion and delay in the air transport system. We believe this would be a tragic step backward.

The FAA is a governmental regulatory agency with only one mission—the promotion of a safe and efficient air transport system which is of enormous benefit to both those who fly and those who never use air transportation. The FAA's safety mission has historically been funded by general revenues in recognition of the fact that its operations benefit all citizens, not just the users of air transportation. The FAA should continue to be funded by general revenues; users have been taxed to pay for capital improvements and until we are satisfied that all capital needs are being met by the Administration, we will oppose any proposals which would short-change capital needs in order to apply user taxes to the operations of the FAA.

Mr. President, in short, this is another raid on the airport and airway trust fund. Senator BUCKLEY's amendment is an attempt by the OMB to once again drain away money from investment into the operations of the FAA. One need only look at the President's budget request to confirm this.

In the fiscal year 1977 request, only $350 million is to be obligated for airport grants—a $200 million shortfall from today's needs—and $473 million is being channeled into FAA maintenance. Any casual observer should be convinced that this is another attempt to shortchange development in attempting to reduce the Federal deficit.

I reiterate that these are trust funds which were set aside so that investment in the air transportation sysem would not fluctuate wildly each year in response to changing governmental needs and fiscal policy. The trust fund was to assure the users that their tax dollars would provide better facilities, not more bureaucrats at the FAA.

I submit that the administration must be forced to put the trust back into this trust fund and the only way to accomplish this is to soundly defeat this OMB raid on the airport and airway program. Experience has shown dramatically what occurs when the budget jugglers downtown get their hands on trust fund moneys. I hope the Senate will preclude that from ever happening again, with respect to the airport and airway trust fund.

Mr. President, I reserve the remainder of my time.

Mr. BUCKLEY. Mr. President, that was a very fine statement by the distinguished chairman of the subcommittee. The only problem is that it is not responsive; it has no relation to my amendment.

The Senator was talking about violating and busting the trust, making inroads into money that otherwise would be available for capital construction, and so forth.

As I thought I took pains to point out in my opening remarks, and as is absolutely clear from the reading of the language of the bill, not a penny can be utilized for the maintenance of safety equipment, facilities and so forth, until all the money that has been appropriated and authorized for capital construction has been expended.

We are dealing only with a surplus. Furthermore, it is a surplus that has grown so large, so much larger than the projected capital needs of the airways and airport system, that the committee report actually recommends cutting back on the tax that is yielding the funds for this trust fund.

Furthermore, it most specifically does not authorize the use of funds for all kinds of overhead expenses.

In fact, my amendment is specifically directed toward field-maintenance expenses. In other words, not a nickel of the FAA's bureaucracy in Washington or in the field offices is involved.

Third, when we refer to the experience—and it was a bad experience—in 1970, there were abuses there, and I certainly do not blame Congress for seeking to cut them off and confine them.

What happened there, as I am sure the distinguished Senator from Nevada will recall, is that the Nixon administration impounded about $140 million or $150 million worth of capital expenditures in order that there might be more noncapital money available in the trust fund to be utilized for a broad, undisciplined series of expenses.

But my amendment is precisely designed to prevent this sort of abuse.

I shall repeat the safeguards. Number one, not a nickel can be spent until we have full expenditures for capital needs.

Number two, the exact number of dollars that is authorized is spelled out, and the exact purpose for their expenditure is directed in the legislation.

Number three, the Secretary of Transportation is required to come back year after year to justify every dollar that has been expended. No, this is not an abuse of the public trust; it is not a diversion of the airport and airways trust fund for nonairport and nonairways purposes. It restores one of the original purposes. And, furthermore, if we are talking about the flyer or traveler who put in a dollar 2 years ago into that surplus, we are not touching yesterday's surplus; we are merely dealing with future surpluses.

I reserve the remainder of my time.

Mr. PEARSON. Mr. President, I yield myself 5 minutes.

I want to say to the distinguished Senator from New York that I am disappointed that more Senators are not in the Chamber.

The PRESIDING OFFICER. Would the Senator use his microphone?

Mr. PEARSON. I am disappointed that more Senators are not in the Chamber to understand and to think about the arguments the Senator has made, and to hear the response made to those points so ably developed by the Senator from New York.

I think what this amendment represents, aside from the immediate points, is the enormous attractiveness of a surplus anyplace in the Federal budgets.

The effort of the administration to use the trust fund for noncapital purposes did not begin after the enormous budget surpluses had accrued. Indeed, the history is that the administration moved in within a year after the creation of the trust fund in the sum of $180 million, giving rise to the amendment that the Senator from Nevada has made reference to.

If the Senator would indulge me for just a moment, I wish to recall the early days, in 1968 and 1969, when he first wrote this particular act. All of the expenses that the Senator now seeks by his amendment to be funded by the trust fund were being paid by the general revenues of the Federal Government. At that time, before this act, we had expenditures for airport development in the sum of between $45 million to $60 million—totally inadequate.

The public benefit achieved by the Nation at large and by the Government in a national airport system was not being served. In order to provide for user charges, an implied promise almost, to the extent that the Government can promise the governed, was made that revenues collected in the trust fund, the user charges, would be held specifically for the purposes outlined in this bill.

I do not dispute the Senator's allegation that this was an original concept. I think it was, by my memory. But under the Senator's amendment, trust fund moneys will be dedicated to maintenance after satisfaction of every construction project. That really begs the point, if I may say so respectfully, because the needs for the next 5 years are estimated at $8.1 billion. We have authorized in this bill about $4.659 billion, which is at a limit protested by the administration as being too high. They came in with a recommendation of not $540 million but $350 million.

In addition to that, it is the decision of the committee, in reference to this enormous surplus and in reference to the expenditure level, that we recommend to the Finance Committee the lowering of the user charges. It is our intent to fulfill the need of construction and development. It is our intent to make user charges consistent with the capital needs in the country. And it is our intent to accommodate the administration as to the level of spending.

The Senator has a good argument, but I fear that he fails to gain my support. Through years of experience the administration has sought time and again—and perhaps I am a captive of the past—to use trust fund assets for maintenance. Even when there is no surplus, the administration is likely to continue to do so. I think there is a great public benefit to the people and to this Government in the establishment, in the maintenance, of a national air system.

Not a single dollar of the general revenue comes into the trust fund. Yet we have enormous Government use of the airways which, I think, in part, represents the general revenue concept.

So, Mr. President, I concur in some of the arguments made by the chairman of the committee and, once again, I urge the defeat of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I yield myself such time as I may use.

First of all, I would like to state that I was given a statement by the chairman of the Budget Committee, Senator MUSKIE, who had to leave, and he said, and I will use a portion of his language here:

> Because the ADAP bill provides spending authority for fiscal years 1977 through 1980 before adoption of the congressional budget for those years, it required a waiver under section 303(a) of the Budget Act. That waiver was reported favorably by the Committee on the Budget and has been enacted by the Senate.

Senator MUSKIE then goes on to describe the considerations that the committee took into account and then, finally, it contains an endorsement of my amendment, for which I am grateful.

Mr. President, I ask unanimous consent that the statement by Senator MUSKIE be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, I would like to address the remarks of my good friend, the Senator from Kansas. I think I can then wrap this up because I know Senators are anxious to go home.

First of all, I would like to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I was very much taken by some of the remarks made by my good friend from Kansas talking about the importance of establishing the trust fund because we had gone on for years with a great deal of neglect in all kinds of aspects of developing the kind of network of airports and aviation safety systems, and so forth, that we required.

I suggest that this is an argument which strongly favors my amendment because, as we have seen in the railroads and beginning to see in the highways, one of the worst things we can do is to neglect maintenance.

If the trust fund is a mechanism which assures us of an automatic access to funding for the capital improvements we require and the safety equipment we have to purchase, then certainly it continues to be the best possible mechanism for insuring that funds are available to maintain that equipment and to make sure that it lasts a long time. We must make sure that one of these days we do not find ourselves in the situation we are in with the railroads, where we have to spend billions upon billions to re-create what we once had.

The Senator then mentioned the enormous capital requirements that lie ahead of us. He talked about $8 billion that the committee projected between now and through 1980.

Those investments are detailed in a chart that appears on page 36 of the report. But that same chart shows that at the end of that period—this expenditure of $8 billion notwithstanding—we will end up with a surplus in the trust fund of $3.55 billion.

I suggest it is financially sound to make sure that some small portion of that surplus is dedicated to maintaining the essential safety equipment that we will be installing through these vast expenditures.

EXHIBIT 1

STATEMENT BY SENATOR MUSKIE

Mr. President, today the Senate is considering S. 3015, the Airport and Airway Development Act Amendments of 1976. The bill authorizes new spending authority for ADAP for fiscal years 1976 through 1980. The bill also authorizes appropriations to support investments in air navigation facilities and equipment and research and development. Because the ADAP bill provides spending authority for fiscal years 1977 through 1980 before adoption of the congressional budget for those years, it required a waiver under section 303(a) of the budget act. That waiver was reported favorably by the Committee on the Budget and has been adopted by the Senate.

In favorably reporting the waiver, the budget committee considered a number of factors. With regard to its fiscal year 1976 budget implications, S. 3015 is not inconsistent with the second concurrent resolution on the budget, as one can see on page 29 of the March 22 Senate budget scorekeeping report. The congressional budget contemplates $19.0 billion in budget authority and $18.3 billion in outlays for the commerce and transportation budget function, in which

ADAP falls. Current re-estimates of spending in this function are unlikely to change significantly the situation with respect to the targets.

S. 3015 provides advance spending authority for ADAP of $580 million for fiscal 1977, $620 million for fiscal 1978, $660 million for fiscal 1979, and $700 million for fiscal 1980.

Mr. President, in considering S. 3015, the budget committee took note that certain federally aided programs uniquely require multi-year authorizations. We believe ADAP is such a program. The committee concluded the five-year funding contemplated in the bill is appropriate to assure adequate lead-time for airport planning and the conclusion of local cost-sharing arrangements which frequently involve revenue bonds or other long-term financing arrangements.

With regard to the amount of advance spending authority provided, the budget committee's report on S. Res. 394 points out that information presently available suggests that the levels of support contained in S. 3015 are not inconsistent with existing administration and congressional estimates of airport needs. The report also expresses the conviction, however, that full funding of ADAP at these levels needs to be reviewed each year in light of the fact that the major problem of airport congestion which led to enactment of the airport development program in 1970 has been mitigated considerably by the program's success in the first half of this decade.

By tradition, the DOT appropriations bill imposes an annual obligational ceiling on the ADAP program. The budget committee believes that use of this annual ADAP obligational ceiling provides a valuable tool for adjusting ADAP expenditures if that should prove desirable in order to accommodate changing budget resources and priorities. In its report, the committee urges the appropriations committee to review periodically updated estimates of airport capital development needs to determine the appropriate annual program level.

The budget committee also considered the fact that amounts generated by the user taxes which support the airport and airway trust fund will produce a surplus in that fund under the expenditure levels authorized by either the Senate or House versions of the legislation. The appropriate disposition of the surplus in the trust fund is a significant question which will confront the Congress each year as the surplus increases. The Congress needs to consider whether to reduce the taxes which support the trust fund or permit the appropriation of some or all the surplus to defray a portion of Federal Aviation Administration operating expenses. These FAA expenses are presently funded by the general treasury. For fiscal year 1976, these FAA expenses amount to approximately $1.5 billion.

I note that Senator BUCKLEY has offered an amendment which would permit trust fund surpluses to be used to finance a portion of the Federal costs of maintaining the FAA air navigation system in a safe and efficient fashion. The amendment provides that only the annual revenue after all annual capital authorizations are covered shall be available for such maintenance, and further provides a ceiling on the maximum amount of trust fund revenues which may be used for maintenance in any one year. This maximum amount is $150 million for the transition budget quarter and $300 million for fiscal 1977. It rises thereafter by $25 million per year, reaching $375 million in fiscal 1980.

If adopted this proposal would in no way alter the total level of Federal expenditures or revenues, and therefore would have no impact on the size of the Federal deficit. What it does is to shift a small part of the burden of paying for FAA maintenance expenses from the general fund and the general taxpayer, to the trust fund and the airport and airways users.

The amendment's proposal makes sense to me. I see no reason why the general taxpayer should be asked to bear the cost burden of assuring the travel safety of the comparatively small percentage of our population that flies. These individuals are usually in the middle and upper income brackets and can well afford to pay a portion of the cost of maintaining the air navigation control system that benefits them. Thus simple equity dictates that airport and airway users pay a reasonable share of FAA costs. The Senate considered this a sound policy position when it established the airport development program in 1970, and I believe it remains a sound position today. I intend to vote in favor of the Buckley amendment and I urge my colleagues to do likewise.

Mr. BUCKLEY. Mr. President, I am ready to yield back my time if my friends on the other side of the aisle are.

Mr. CANNON. I yield back the remainder of my time.

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will the clerk suspend until we can get some kind of order in the Chamber? Will the Senators who are conversing kindly remove their conversations to the cloakroom? The clerk will suspend until there is quiet in the Chamber.

Will the Senators conversing kindly remove their conversations to the cloakroom?

The Chair has asked the clerk to suspend until there is order in the Chamber. We will not resume the rollcall until there is order in the Chamber.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Pennsylvania (Mr. SCOTT) would each vote "yea."

The result was announced—yeas 46, nays 32, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—46

Baker
Bartlett
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Byrd, Harry F., Jr.
Case
Clark
Cranston
Curtis
Dole
Domenici
Fannin
Fong
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Helms
Hruska
Javits
Kennedy
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, William L.
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Williams
Young

NAYS—32

Abourezk
Allen
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Culver
Durkin
Eagleton
Ford
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Johnston
Long
Magnuson
Mansfield
McClellan
McClure
Metcalf
Mondale
Montoya
Morgan
Nunn
Pearson
Randolph
Sparkman
Stafford
Stennis

NOT VOTING—22

Bayh
Bentsen
Brock
Eastland
Gravel
Hartke
Hatfield
Inouye
Jackson
Laxalt
Leahy
Mathias
McGee
McGovern
McIntyre
Moss
Muskie
Scott, Hugh
Symington
Talmadge
Tunney
Weicker

So Mr. BUCKLEY's amendment (No. 1418), as modified, was agreed to.

Mr. BUCKLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The clerk will suspend until the Senate is in order. Senators, staff members, and all persons conversing on the Senate floor will please move their conversations elsewhere so that the clerk and the Senator from Nevada can be heard.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON's amendment is as follows:

At page 29, line 21, add the following:

"Sec. 21. Section 401 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1371 *et seq.*, is amended by adding the following subsection:

"(o) Notwithstanding Sec. 416 of this title, transportation of persons or property in interstate air transportation between two places within the United States or between a place in the United States and a place outside thereof procured by or under contract with any department or agency of the United States (including the Department of Defense) shall be provided exclusively by air carriers holding certificates under this section.' "

Mr. CANNON. Mr. President, this amendment would require that certified airlines be used by Government agencies in procuring——

Mr. HELMS. Mr. President, we cannot hear.

The PRESIDING OFFICER. The Senator will suspend until order is restored. The Chair asks the Senator not to continue until the Senate is in order.

Mr. SPARKMAN. Mr. President, will the Senator from Nevada yield to me for an appointment of conferees?

Mr. CANNON. I yield.

GUATEMALA DISASTER RELIEF ACT OF 1976

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3056.

The PRESIDING OFFICER (Mr. Abourezk) laid before the Senate the amendments of the House of Representatives to the bill (S. 3056) to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquakes in Guatemala.

(The amendment of the House is printed in the Congressional Record of Mar. 22, 1976, beginning at p. 7411.)

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives on S. 3056 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Sparkman, Mr. McGee, Mr. Humphrey, Mr. Case, and Mr. Javits conferees on the part of the Senate.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3015) to provide for the continued expansion and improvement of the national airport and airway system, to streamline the airport grant-in-aid process, and strengthen national airport system planning, and for other purposes.

Mr. CANNON. Mr. President, the amendment I have just sent to the desk would require that certificated airlines be used by Government agencies when contracting for commercial services. This has been a longstanding practice, to use certificated scheduled and supplemental air carriers to carry Government traffic. However, I have heard recently that there may be a consideration of changing that policy to go to contracts with private carriers.

We have relied on certificated scheduled and supplemental carriers to join with our military air fleet in times of military difficulties, and we may destroy that system if we change the policy from what it has been in the past.

The amendment does not go to the question of how much carriage there will be by the certificated carriers at all; it just goes to the question of maintaining the established policy, and I hope my colleagues will approve the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. I want it before the vote.

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. Is there any time limit involved? Do I not have a right to a quorum call before a vote?

The PRESIDING OFFICER. When the time on the amendment has expired, the Senator has that right. At this point, the time must be charged against someone's time. The Chair wishes to know, against whose time shall it be charged?

Mr. HELMS. Mr. President, I ask unanimous consent that the Senator from New York be permitted to suggest the absence of a quorum with the time charged to no one.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that a member of my staff, Dick Bryan, be accorded the privilege of the floor during the further consideration of this measure and any rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. Mr. President, I send amendment No. 1520 to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits) for himself, Mr. Brooke, Mr. Cranston, Mr. Kennedy, Mr. Stafford, and Mr. Tunney proposes an amendment, No. 1520.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain the amendment to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Viz: At the end of the bill insert a new section as follows:

AIRCRAFT NOISE REDUCTION PROGRAM

Sec. 21. (a) The Congress has previously declared that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health and welfare. The Congress has determined that in order to accomplish this objective, and improve the human environment, certain subsonic turbojet aircraft used in the United States by interstate and intrastate air carriers and commercial operators should be retired or retrofitted with noise suppression devices. To that end, it is the purpose of this section to authorize amounts in the Airport and Airway Trust Fund to accomplish this objective and to provide, subject to future appropriation, for the disbursement of these funds to air carriers and commercial operators which establish programs to retrofit or replace aircraft when necessary to comply with regulations issued by the Administrator of the Federal Aviation Administration pursuant to section 611 of the Federal Aviation Act of 1958 establishing maximum permissible noise levels. The Congress finds that special circumstances require the establishment of this program, including the present financial condition of the air transportation industry and the need for immediate action to improve the environment in the vicinity of airports used for commercial aviation. The Congress also finds and declares that the program established by this section shall terminate six years after the effective date of such regulations pursuant to such section 611.

(b) To facilitate the prompt and efficient retrofit and retirement of existing aircraft that do not meet the requirements established pursuant to section 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431), the Secretary is authorized, within the limits established in appropriations Acts, to obligate for expenditure up to $200,000,000 for each of the fiscal years 1977 through 1980 to make grants, upon such terms and conditions as are specified in this section and such others as he considers appropriate, to any interstate, intrastate, or supplemental air carrier or commercial operator engaged in the transportation of persons or property for compensation or hire, in order to facilitate—

(1) the modification of domestic subsonic turbojet-engine aircraft pursuant to any planned program of retrofit required by regulations issued pursuant to such section 611; or

(2) the acquisition of aircraft which comply with requirements established under such section 611, for use by the grantee in replacement of a domestic subsonic turbojet aircraft owned, operated, or leased by the grantee which does not meet the above-established requirements: *Provided*, That such grant does not exceed the cost of modification that would be incurred pursuant to clause (1).

(c) The Secretary shall not make a grant pursuant to this section unless he determines or requires that the modification or acquisition of the entire fleet of each air carrier will be accomplished within four years after the effective date of such regulations pursuant to section 611 requiring retrofit or replacement unless the air carrier enters into a written agreement with the Secretary stipulating that at least 15 per centum of the aircraft in that air carrier's existing fleet, which do not comply with the applicable requirements established under such section 611 will be replaced within four years by aircraft that comply with those requirements. In such cases, the Secretary shall require that modification or acquisition of aircraft to comply with the retrofit replacement regulation be accomplished within six years of the effective date of the regulations requiring such retrofitting.

(d) The Secretary, after consultation with the grantee, shall determine the times of and the amounts in which payments shall be made to the grantee. The amount of the grant shall include the capital cost of the retrofit kit and, to the extent the Secretary may determine, the reasonable installation costs related thereto.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. One hour on the bill; 30 minutes to each side.

Mr. JAVITS. Mr. President, this amendment establishes a means by which an enormous contribution may be made to the elimination of noise, or at least the material reduction of noise, in respect of the existing aircraft stock in the United States, civil and commercial fleet.

This can be accomplished by what is called retrofitting, that is, by equipping the aircraft with certain noise-deadening devices which are sustained for their efficacy and efficiency by the FAA, which has examined very carefully into this matter and confirmed that this will work and that it is very well worth doing.

The cost can be covered out of the surplus available in this trust fund, which comes out of airline passengers and other users of the system.

Mr. President, the problem of aircraft noise is one of the most serious environmental problems that has yet to be dealt with effectively by governmental regulation and control. Although two acts of Congress have been enacted that require the control and abatement of aircraft noise—first the Federal Aviation Act Amendments of 1968, which required aircraft noise standards on all future certificated aircraft, and then the Noise Control Act of 1972, which requires the Federal Aviation Administration to promulgate regulations to control and abate aircraft noise "in order to afford present and future relief to the public"—the problem is still very much with us.

It has now been approximately 4 years since the passage of that mandate and the institution of a systematic procedure to comply. But, the statutory scheme for the promulgation of the regulations has been delayed and avoided; the "reasonable time" provided in the law for FAA to act has now become 3 years; and still no regulation or explanation for the lack of a regulation has been forthcoming.

I believe it is time once again to say to the executive branch that the Congress is serious and determined on this issue and expects action to reduce both current and prospective aircraft noise.

The amendment we propose, while expressing the congressional intent toward the immediate adoption and implementation of a program of retrofit/replacement to improve the environment in the vicinity of commercial airports—which include almost every city in the Nation—does not mandate any specific program. The regulations which are required to be promulgated pursuant to the Noise Control Act of 1972 are not changed in any way. Such regulations have already been recommended to the Secretary of Transportation by the Federal Aviation Administration and are awaiting his approval or modification. We do not propose legislatively to mandate any particular regulatory approach. However, it is clear that any meaningful program of retrofit or replacement cannot exist without a mechanism for financing the program. The issue, in fact, has been one of the most significant obstacles to the prompt issuance of a final rule on this matter. It is this problem with which this amendment deals, and it does so in a way that is simple, equitable, and noninflationary.

Our amendment would authorize, subject to future appropriations, the use of funds contained in the airport and airway development trust fund, up to a maximum of $200 million per year for each of the next 4 fiscal years, for any program of retrofit/replacement that the Federal Aviation Administration may order in compliance with the Noise Control Act of 1972. No funds are obligated for this purpose. Future appropriations action will determine how much is needed efficiently to finance any program that is ordered by the FAA.

The amendment deals only with domestic carriers. Although foreign airlines contribute to the aircraft noise problem as well, it would raise serious questions of equity to allow the use of these trust fund moneys, which are collected almost entirely from domestic users using domestic airlines, to finance the retrofit of foreign aircraft. If the regulation promulgated by the FAA orders the retrofit of foreign aircraft, other methods of financing such part of the program will have to be developed. In this amendment, we intend only to authorize use of the trust fund surplus for the retrofit/replacement program that may be established for domestic aircraft.

The arguments over the need for aircraft noise standards have been gone over in this Chamber many times. Since 1968, when the Congress passed the original amendments to section 611 of the Federal Aviation Act requiring aircraft noise standards on all new certifications of aircraft, we have debated what to do about the problem of aircraft noise. Since then, we have enacted the Noise Control Act of 1972 which contained the specific and detailed procedure with which the Federal Government was to control aircraft noise.

Finally, with regard to the provisions of the amendment, we have included an incentive provision to encourage the early retirement of the earlier, noisier aircraft and their replacement by newer, quieter planes. One of the principal arguments against retrofit has been that it will prolong the life of the existing noisy fleet. This is not the intent of the sponsors nor will it be the effect of this amendment.

If any airline enters into an agreement with the Secretary obligating it to replace at least 10 percent of its older aircraft with new, quiet planes within 4 years, it will not only be allowed the cost of a retrofit kit toward purchase of each of the newer planes, it will also be given an extension of 2 years in which to comply with the retrofit requirements for the remainder of its fleet.

The inclusion of this provision will encourage our domestic air carriers to replace those aircraft that will soon be replaced anyway. This will modernize the fleet faster as well as spur employment in the recession hit aircraft industry. The amendment therefore will not prolong the use of any older aircraft longer than is absolutely necessary; it will accomplish quite the opposite.

That act did not prescribe the substance of any program, however, and although time limits were included for most aspects of the procedure—and "reasonable time" for others—the rule has taken 4 years thus far to work its way through the Federal Establishment and still no action has resulted. It is our understanding that Secretary Coleman has undertaken to decide the issue by April 10, at least as to possible funding of a retrofit program. But I believe we have waited long enough. A signal should be sent that the Congress wants immediate action on aircraft noise and is ready to provide an equitable and noninflationary method to finance any retrofit/replacement program.

Those who are opposed to implementing any retrofit program to reduce aircraft noise contend that operational procedures should be the Federal Government's answer to the mandate of the Noise Control Act requirements. I agree that all safe and effective operational procedures to reduce noise ought to be effected, and as soon as possible. But retrofit with noise suppression material is not incompatible with operational procedures; it is complementary to such actions and their effects are cumulative and compatible.

Procedures such as thrust cutback on takeoff, or two segment glide approach on landing, are useful measures. However, they deal with only a part of the problem, and avoid the effects closest to the airport. Only a retrofit program combined with operational procedures can give the fullest possible relief to the 5.5 million airport neighbors that now are subjected daily to the bombardment of continual aircraft noise that the EPA considers a danger to health.

Some say that retrofit is not cost effective. Yet the FAA has specifically found that it is cost effective, and that the increase in property values alone to their nondegraded value more than doubles the funds that are expended on retrofit. The FAA estimates that increased property value will amount to $1.9 billion and the tax benefits to localities are proportionately increased. This analysis does not even include the intangible benefits to the millions who live near airports across the country who would be significantly relieved of the worst aspects of the noise problem.

It has been proved in flight testing that a sound absorption material retrofit—SAM—will accomplish meaningful results. It is impossible to quantify the effects with precision, since different locations in the noise "footprint" suffer from different aspects of the aircraft noise problem. Some areas are impacted by takeoff noise, which is primarily low frequency and due to the jet exhaust, while other locations experience landing noise, which is high frequency and mostly due to the whir of the turbofan. However, in all cases the noise reductions are substantial.

According to studies conducted by the FAA, the Boeing 707, which is one of the noisiest of our aircraft and the yeoman of our fleet, would show a decrease of 11.8 decibels on takeoff and 12.8 decibels on landing. Similarly, for the DC-8, the decreases would be 10.5 on takeoff, and 9 on landing.

These decreased noise levels are meaningful and substantial. A 10-decibel decrease means the actual noise is cut in half. It is impossible to believe that cutting noise in half would not be perceived as substantially quieter by the exposed population, and in fact tests have been conducted that prove the difference in noise levels, with or without retrofits, is significant.

This amendment does not attempt to decide the issue of effectiveness of retrofit, or the most cost-effective method to reduce aircraft noise. The amendment provides the mechanism, use of the airport and airways development trust fund, which at the end of fiscal year 1977 will have a $1.3 billion surplus—for the financing of the program chosen by the Administration as the best method to comply with the Noise Control Act.

The trust fund is made up entirely of user taxes. Approximately 90 percent is raised by the tax on commercial passenger fares. The remainder comes from taxes on freight, general aviation fuel, aircraft registration, and international enplanements. These users of the system should properly pay the costs—all the costs, including the environmental side effects—of running the airway system. There is no more equitable way to finance an aircraft noise reduction program. Certainly the residents of areas adjacent to airports should not have to bear the full burden—both financial and psychological—that the system imposes on them for the exclusive benefit of the users.

A retrofit program does not have to be paid for by a surcharge on future air fares, or by requiring the airlines to petition the CAB for fare increases. There is no need for these inflationary options, since a surplus exists in the trust fund that is ample to finance a noise reduction program.

Moreover, the committee bill states the importance of reducing aircraft noise and its relevance to the purposes of the trust fund. The committee report states:

> Aircraft noise is perhaps the greatest problem facing aviation today and threatens the continued growth and expansion of the aviation system (at p. 4).

It barely scratches the surface of a solution to this grave threat. Noise suppression landscaping or acquisition of a noise buffer area is hardly an adequate response.

Since this serious problem does exist, not only to airport development but to the millions who daily suffer the consequences, I urge my colleagues to take meaningful action dealing with the problem. I believe this amendment is reasonable from any standpoint: fiscally, environmentally, economically, and socially. It is fair to the users of the system—past and future—and needed by the 5½ million Americans who share their airspace with the system.

Mr. President, I became interested in this amendment for two reasons: First, because it seems to be a matter of very great substance, according to the report of the FAA itself dated January 1976, and second, it has also been a matter of very intense consideration by the committee itself, which has called for a report by the Secretary of Transportation, which he is due to make by April 10.

As a practical matter, the reason for pressing the amendment at this time is because this matter has been kicking around for about 4 years and nothing has been done about it, and there does exist adequate surplus in the trust fund to begin to carry it through.

Therefore, to bring the matter to issue, I felt this was the right time to act, especially as we are concentrating our attention upon this issue of aircraft noise.

The unanimous-consent agreement, if I could have the Senate's attention—Mr. President, could I have order because I do want the Members to hear this.

The PRESIDING OFFICER. Senators will give the Senator from New York their attention and, if they wish to have a debate in the Chamber and do not have the privilege of the floor, they can use the cloakroom.

The Senator may proceed.

Mr. JAVITS. This unanimous consent under which we are proceeding today was adopted, I am told, a week or more than a week ago. At that time, I did not have this amendment in consideration and, therefore, did not object to the unanimous consent or stipulate that this amendment might be considered.

Mr. President, I am now advised that though it relates, in my judgment, directly to the question which is before us, to wit, the problems presented to the American people by aircraft noise, the point of order will be made that it is not germane which, after all, relates to a unanimous-consent request, not any law, or any rules of the Senate; therefore, I would be barred from having it considered unless the Senate overruled the ruling of the Chair, which is a situation in which none of us wish to engage. That is why I am explaining to the Senate exactly what this is about and, while I have the opportunity, also explaining to the Senate why it is germane. This is no amendment fetched out of the blue on some unrelated subject. In fact, I quite disagree with what I understand would be the ruling on this matter.

I call attention to page 3 of the bill, which is before us, wherein lines 1 to 5 on the top of page 3 relate to the fact that airport development means "any" and now I skip to line 2 on page 3:

> Noise suppression hardware, physical barriers, landscaping, and other appurtenances which are related to diminishing the effect of aircraft noise on any area adjacent to a public airport; . . .

We have just adopted an amendment qualifying in terms of cost navigation equipment and other hardware on the ground. It certainly seems to me that the generic problem dealt with aircraft noise and the way to reduce it, and that is the exact words of the bill, and the diminishment of aircraft noise on any area adjacent to a public airport is germane to this bill.

So, Mr. President, I believe that the question is an extremely close one at best and that probably it should be submitted to the Senate. Hence, whenever this point of order is made, I will have to decide whether or not to ask the Senate to vote on the germaneness question as well as on the substance in due course, and that is why I raise it now.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BROOKE. Mr. President, I rise to support the amendment of the distinguished Senator from New York. I think this is one of the most important amendments to be offered to this bill. I do not know whether the distinguished chairman or manager of the bill will raise a point of order, and I hope he will not, because as the Senator from New York has said I think it is a very close question as to the germaneness of this particular amendment.

Mr. President, it is generally recognized by aviation experts in both the Government and the aviation industry that aircraft noise is the most serious problem facing our vital air transportation system today.

Because citizens who live near airports and under flight paths are no longer willing to tolerate the aircraft noise to which they are daily—and nightly—subjected, airport developments and expansion are being stopped, airline operations are being restricted, and the communities that own and operate public airports are being held legally liable for millions of dollars in damages. This problem of aircraft noise must be solved if our air transportation system, the backbone of nationwide and worldwide commercial and personal travel, is to continue to serve the world's needs.

In the United States, part 36 of the Federal Aviation Regulations provides a framework for solving a large part of this aircraft noise problem. Part 36 sets maximum noise standards for subsonic jet aircraft. But part 36 applies only to relatively new airliners, and therefore, does not affect some 1,969 aircraft, or more than 80 percent of the current airline fleet.

For these older aircraft now exempt from present noise rules, the Federal Aviation Administration should immediately order a program of adding sound-absorbent material to their engines.

This procedure is known as SAM retrofit. The technology for SAM has been available for many years. Applying it to the present U.S. airline fleet would reduce the land area exposed to high concentrations of aircraft noise in this country by a significant amount.

As long ago as 1969, it was conclusively demonstrated that SAM retrofit provides a meaningful reduction in aircraft noise. In 1973, FAA-sponsored flyover tests of aircraft equipped with original engines compared with the same aircraft models with retrofitted engines proved that the retrofitted aircraft were far quieter, measured both in the reaction of human beings on the ground and on the dials of scientific noise meters.

Application of the SAM retrofit process to 707's, DC–8's, early 747's, 727's, 737's and DC–9's will bring these aircraft into line with the sound characteristics of the more recent quieter airliners such as the DC–10's, L–1011's and the later 747's, 737's and DC–9's. These newer, quieter aircraft have been judged unobjectionable by persons living near airports.

Retrofit's most significant effect would be on the most offensive aircraft from the noise viewpoint—the 707 and DC–8 class. It is these aircraft which provide a substantial portion of the airline service at the airports most affected by citizen opposition to noise.

Some opponents of retrofit argue that the older, noisier aircraft are being phased out of airline service, and therefore will not be a factor in the aircraft noise problem much longer. It would be economic folly, they say, to retrofit airplanes which will very shortly be retired. But the Federal Aviation Administration has calculated that between 1,300 and 1,600 of the aircraft which do not meet FAR 36 standards are likely to remain in service throughout this decade. In fact, at least one major U.S. airline has begun a program to extend the life of its 707's well into the 1980's. As advances in technology create ways to build quieter aircraft, other technological triumphs lead to lengthening the life of the old noisemakers.

Even in cases where scheduled airlines are replacing their older, noisier aircraft with quieter new jetliners, these same noisy aircraft are returning to haunt airport neighbors in the markings of third-level or charter airlines which bought them from scheduled operators. Unless a retrofit program is put into effect, FAA says, 48 percent of all aircraft flying in 1990 will not meet 1975 noise standards.

Mr. President, although American technicians have known for years how to retrofit noisy airliners to make them environmentally acceptable, FAA and its parent Department of Transportation still have not ordered a scheduled retrofit program. While we delay, our essential air transportation system is being eroded by the actions of citizens pushed to the breaking point by intolerable aircraft noise.

We can make the difference between continued objection to the noise generated by the older, noisier aircraft and community acceptance of the continued growth of aviation. By authorizing use of the Airport and Airway Trust Fund for retrofit, we can provide a non-inflationary and equitable method to achieve this noise reduction goal. We, the Congress, must act to give our citizens the relief they demand and deserve.

As I said earlier, Mr. President, this is one of the most important amendments to be offered to this bill, because aircraft noise and abatement are one of the most important issues facing airports, and those who live around airports. We are going to be in continuous trouble unless we are able to come to grips with this very important problem, and we can do so by taking money from this trust fund and retrofitting the fleet which we now have in existence. I gave the figures indicating that this fleet might be with us for the remainder of this decade and into the 1980's. But we know full well that with the inflationary cost today, airlines are going to use these airplanes as long as they possibly can, and we are going to be plagued with this noise for some time to come.

So I hope that the distinguished chairman of the committee will see fit not to raise a point of order on this amendment and will give serious consideration to acceptance of this amendment.

Mr. KENNEDY. Mr. President, the amendment I cosponsor to authorize the expenditure of trust fund moneys for retrofitting of existing aircraft is one that has very special meaning for the residents living near Logan Airport in Boston, Mass.

In 1968 and 1969, I conducted hearings in East Boston on the problems of aircraft noise for Logan's neighbors. The Office of Noise Abatement in FAA recognized the "high noise environment"; the residents were unanimous in their desire for an effective noise abatement program; the statistics proved that children and elderly citizens and hospital patients and families were living in an unacceptable noise environment. Everybody agreed—something had to be done about aircraft noise at our metropolitan airports.

It is now 1976. We are still debating the issue here today of cutting off noise at the source—the aircraft engine. We are participating in FAA and EPA hearings around the country, on the development of a Federal policy on airport noise abatement. We are discussing here in the Congress and in communities across the country the potential of a new noise source—the commercial operation of the SST. The people of Norwood, Mass., are trying to legally and effectively reduce aircraft noise sources at their airport. We are still talking and residents near neighboring airports are still struggling to reduce aircraft noise and improve the quality of their lives.

Now, we are urged to wait again today—wait until the Secretary of Transportation makes his decision on April 10th regarding promulgation of a retrofit rule.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the letter Senator TUNNEY and I asked several of our colleagues to join in signing last August when we were told the Secretary's retrofit decision was imminent.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 14, 1975.
Hon. WILLIAM T. COLEMAN,
Secretary, Department of Transportation,
Washington, D.C.

DEAR SECRETARY COLEMAN: We understand that you are about to make a decision concerning the SAM retrofit proposed rulemaking for old aircraft not in compliance with FAR 36, currently before the Department of Transportation for final promulgation. It has been over 1½ years since the FAA first proposed Rule 74–14, and over six months since the Environmental Protection Agency forwarded a draft rulemaking to the FAA for consideration. For that reason, and because the noise has continued unabated until this day, we are hopeful that your decision will be in favor of promulgation of a strong retrofit rule.

In our views, further delay in promulgation of this rule cannot be justified if the FAA and DOT are to comply with Congress directive in Section 7(b) of the Noise Control Act of 1972 to regulate the abatement of aircraft noise "in order to afford *present* and future relief and protection to the public health and welfare." (Emphasis added.) Based on the information available to us, the rulemaking would not jeopardize safety standards, nor fail the test of economic reasonableness. Thus, the rule should be promulgated without additional delay.

The Environmental Protection Agency, community groups around our Nation's jetports, airport operators and the National Academy of Science all support prompt adoption of a retrofit rule. Today, almost three years after passage of the Noise Control Act into law, citizens near airports must still bear the burden of the din, and airport operators the burden of the nuisance suit. Opposition has come mainly from the airlines themselves, and has been directed primarily at the high cost of implementing the SAM retrofit program, a cost which is far below that predicted for implementation of the not-yet-demonstrated "refan" technology which airlines say they favor.

We concur with the views of Congressman Wydler of the House Science and Technology Committee, who stated in hearings over a year ago that:

"I come to the conclusion (that) I don't think there really is a viable option here (in the refan program). If we are going to do anything in this retrofitting field . . . within the foreseeable future, I think we have to go with the SAM program at the present time."

This same Congressman delayed hearings of the Science and Technology Committee last month at the request of your agency, since indications were given that a decision was imminent. We are hopeful that this decision will be in the nature of a final rulemaking.

The strength of our support of this program is predicated on a number of factors.

First, SAM retrofit will provide meaningful relief to our citizens. The program can bring the noise levels of older jets down to those of the new wide-bodied aircraft. By 1978, the use of SAM, in conjunction with approved thrust cutbacks, can reduce the numbers of persons exposed to unacceptable levels of noise by as much as 74 percent. This is exclusive of operating procedures which, if implemented, will further reduce the number of individuals impacted. Actual tests comparing untreated and SAM-treated aircraft, and psycho-acoustic studies reveal that reduction in noise levels are perceptible to airport neighbors and that the noise levels achieveable through SAM technology result in significant, measurable reductions in annoyance. In one study, it was determined that the number of those impacted by aircraft noise at Boston's Logan Airport would be halved were SAM retrofit alone introduced.

Second, the "refan" program would not affect the most noisy segment of our older jet fleet. The NASA technology has not been developed to quiet the JT3D aircraft—the 707s and DC-8s—which comprise the louder and hence, more disturbing portion of the fleet. System costs for the refan program are anticipated to be five times those of the SAM program, without a proportional reduction in noise impact. The Department of Transportation's studies of the noise contours at 23 airports concluded that, even assuming the most optimistic results of the NASA refan program, the SAM retrofit program is considerably more cost-effective. SAM affects the entire fleet, while refan is limited to the JT8D aircraft.

Argument has been made that the JT3D aircraft will be phased out, and that SAM retrofit would, therefore, have a limited cost-benefit. This, unfortunately, is not the case. It is anticipated that with continued energy shortages, the life of the fuel-efficient JT3D aircraft will be substantially prolonged. According to the Air Transport Association, at least 400 of these noisy aircraft will still be flying in the U.S. fleet by 1981, and this is a conservative estimate. These aircraft are being given extended lives for another reason as well—the condition of our economy. The economic pinch, in large measure, has made flying a luxury. Airlines have found that it is more cost-efficient to fly the smaller jet at full capacity, than the jumbo jet (though quieter) at half capacity, from a cost-per-passenger perspective. These older JT3D aircraft, consequently are being refurbished—given the "widebody" look and a new coat of paint—and are being flown more, not less, frequently, in an effort to insure a rosier financial picture for the industry. Ironically, the airlines have spent more than the cost of retrofit to convert their old aircraft to this "wide-body" look, a cosmetic action which does little for the abatement of noise.

Third, we concur with the Environmental Protection Agency that the cost of this program, when weighed against the benefit in terms of the public health and welfare and the avoidance of nuisance suits, is not excessive. The Council on Wage and Price Stability, in a rather naive fashion, recommended against the development of the SAM program. This recommendation was based, in large part, on a faulty conception of the physical and psychological damages which aircraft noise has on neighboring populations. We hope that you bear in mind EPA's response to this statement which, in our view, amply refutes the major premises of the Council's arguments. The costs of SAM are, over a four year period, equivalent to a 60¢ charge on airline tickets sold during that period. The costs would barely touch the billion currently in the Airport and Airways Trust Fund. And yet these costs would save around 7.5 million people from the din of aircraft noise.

For these reasons, we urge immediate promulgation of a SAM retrofit rule. We are convinced, from the information available to date, that the SAM technology will bring meaningful relief to our noise-impacted communities, that the costs of aircraft modifications are proportionate to the benefits to be derived and that, since the SAM technology fulfills the statutory requirements specified in the Noise Control Act of 1972, the Department of Transportation can do no less than to promulgate its final regulation without delay.

Sincerely,

EDWARD M. KENNEDY.
PHILIP A. HART.
JOHN V. TUNNEY.
ROBERT T. STAFFORD.
WALTER F. MONDALE.
VANCE HARTKE.
BIRCH BAYH.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Environmental News outlining the Environmental Protection Agency's recommendation for a retrofit regulation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EPA PROPOSES QUIETING ENGINES OF JET AIRPLANES

A proposal to quiet the jet aircraft flown by commercial air carriers, corporations and individuals has been submitted to the Federal Aviation Administration by the Environmental Protection Agency.

To meet the proposed standard, U.S. commercial air carriers would need to spend up to $880 million over a four-year period. The carriers would be required to retrofit about 1,800 airplanes with new jet engine housings (nacelles) lined with sound absorbing material. The cost to similarly backfit the businessmen's jet fleet of 650 airplanes was estimated by EPA at $300 million over a four-year period.

An estimated 16 million Americans are now subjected to a wide range of aircraft noise. Such noise can interfere with the normal use of homes and yards and poses a particularly serious problem for such institutions as schools and hospitals.

Civil lawsuits totaling billions of dollars have been filed by citizens seeking relief from jet aircraft noise against airports in such cities as New York, Chicago, Los Angeles and Washington, D.C.

Russell E. Train, EPA Administrator, said EPA's proposals, if adopted by FAA, will bring varying degrees of relief to all of the 16 million people adversely affected by airplane noise. "The most significant relief," he said, "will be provided to the approximately 1.5 million Americans residing or working near flight paths, because they are subjected to the most severe levels of jet noise."

The total cost to retrofit the rest of the world's fleet, assuming that they would all operate from U.S. airports at some time, would be up to $720 million.

Train said the cost of quieting the U.S. commercial air carrier fleet could be recovered by additional fare charges averaging less than $2 per ticket over a period of 6 to 9 years. The principal alternative to quieting the jet engines—namely, rezoning around airports and insulating houses—would cost more than $5 billion, he said.

The proposed EPA regulations break down as follows:

1. After June 30, 1976, at least half of engine-nacelle combinations for the airplanes of an airline fleet must enable them to meet FAA noise level requirements for new airplanes specified in Federal aviation regulations part 36 (FAR 36).* New jet airplanes such as the Douglas DC 10, the Boeing 747 and the Lockheed 1011 are much quieter than such older in-use airplanes as the Boeing 707 and the Douglas DC 8. These newer planes would not require retrofit.

2. After June 30, 1978, all engine nacelle combinations must be quieted and therefore all civil subsonic turbojet engine powered airplanes must comply with the noise level requirements of FAR 36.

3. In addition, each airline operator would be required to supply FAA the data necessary to compute a fleet noise level for his fleet. The purpose is to establish a total noise level, annually for each fleet, so that when adequate technology becomes available, a basis is established for determining any additional reductions that should be made. The computation of fleet noise level, using data already being supplied by the airlines to FAA, is a simple exercise in calculations with very minimal costs involved.

Under the Noise Control Act of 1972, the EPA is required to submit to the FAA proposed aircraft noise control regulations which it determines are necessary to protect public health and welfare. Upon such submittal, FAA is required to publish the proposed regulations in a notice of proposed rulemaking and to hold public hearings. Subsequently, the FAA is required to promulgate the proposed regulations or to publish a notice explaining why it has decided not to do so.

EPA has now submitted four proposals to FAA: those announced today—jet airplane retrofit and fleet noise level—and, previously, proposal to reduce noise from small propeller-driven airplanes and to require pilots to fly higher minimum altitudes than they are now required to fly.

In March 1974, the FAA proposed retrofit regulations especially similar to the EPA proposal, but final regulations have not yet been promulgated.

Mr. KENNEDY. Mr. President, we have verified with the Department of Transportation yesterday that there is sufficient money in the trust fund to pay for a retrofit program and to provide the necessary funding to cover a portion of the Federal costs of maintaining the air navigation system as outlined in Senator BUCKLEY's amendment.

We know that by 1990 48 percent of existing aircraft if not retrofitted will still be in operation and still fail to meet noise standards.

Mr. President, the airport operators facing nuisance suits from nearby residents favor retrofit. The airlines which will receive Federal assistance to carry out the retrofit program should favor retrofit. The hundreds of workers who would find employment in retrofitting programs favor retrofit. The residents who live near airports and who have suffered in unacceptable noise environments for years favor retrofit.

By this amendment we offer the Secretary of Transportation a mechanism for funding a meaningful retrofit program. It is a program long overdue, and one I am confident the Senate will overwhelmingly endorse today.

Mr. TUNNEY. Mr. President, I am pleased to join in support of this amendment which will once and for all begin to insure the full implementation of the Congress mandate under section 7 of the Noise Control Act of 1972 which I was proud to author. This amendment au-

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*The FAA regulation placing a noise ceiling on newly manufactured jet airplanes permits levels which range between 93 and 108 decibels, depending upon the weights of the aircraft and number of engines. Measurements are taken at two points on the ground during takeoff and at one point during landing.

thorizes the use of trust fund money for retrofit of our older jet fleet, including both the JT3-D aircraft—707's and DC-8's—and the JT8-D aircraft—727's, 737's and DC-9's—which comprise the noisiest segment of our fleet. The procedure involves the fitting of sound-absorbing material—SAM—into jet engine nacelles, a technique which will bring those older jet aircraft in our fleet into compliance with Federal aviation regulation 36.

Moreover, the amendment will help stimulate employment throughout the aerospace industry. Not only will personnel be hired to construct and install the retrofit kits, but the amendment will serve to stimulate the building of new aircraft as well, thereby bringing growing numbers of employees into the industry. Under the provisions of this amendment, a clear incentive is offered to airlines which choose new production aircraft purchase over retrofit. Secretary Coleman may waive retrofit requirements for 2 years for those airlines which choose to turn over 10 percent or more of their old fleet. The purchase cost of new aircraft will be paid for from the trust fund, up to the cost of a retrofit package for the retired oldtype aircraft. Thus, airlines are given an incentive to purchase new FAR 36 compliant jets which will give the aerospace industry a badly-needed shot in the arm.

Not only will the aerospace industry profit from this amendment, but countless thousands of people living around our Nation's airports will profit. Over the past 4 years, I have addressed the need for retrofit time and time again. I have urged the Environmental Protection Agency to comply with the intent of the act, and I have urged the FAA to comply with the spirit of the law. My efforts and those of some of my colleagues have been brushed aside each time we have pressed the issue.

The litany of delay which has characterized the implementation of section 7 further reinforces the need for this amendment. The excessive noise of the existing old jet fleet is not a temporary problem which will go away soon. According to the Air Transport Association itself, 80 percent of our fleet today does not meet FAR 36 standards. By 1980, this figure will only drop to 73 percent, and even in 1990, FAA estimates that nearly half of the fleet will still not comply with FAA standards for new-production aircraft. I might point out that at the same time, EPA and FAA are considering modifications to FAR 36 which would lower even further the noise emissions permissible for new production aircraft.

The Federal Aviation Administration proposed a rulemaking for retrofit in March 1974.

In July of that year, several of my colleagues and I urged then Administrator Butterfield to implement the regulation with dispatch. He did not.

In January 1975, the Environmental Protection Agency forwarded its recommendations on retrofit to the Federal Aviation Administration for promulgation.

In July of that same year, my colleagues and I urged Secretary of Transportation Coleman to implement the regulation. He did not, despite a promise to the House that such a regulation would be forthcoming in August 1975. Indeed, the response I received indicated that the decision was not the Secretary's to make.

Documentation of the abusive history of a retrofit regulation is simple. I ask unanimous consent that the text of the letters my colleagues and I sent in 1974 and 1975 and the responses we received be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TUNNEY. Passage of this amendment should document once and for all the Congress concern that retrofit regulations have not yet been promulgated and Congress concern that the Federal Aviation Administration is not complying with the spirit of Public Law 92-574 to "protect the public health and welfare within an adequate margin of safety." Passage of this amendment will begin to safeguard our citizens from the din that has been with us for too long. Passage of this amendment will free the airport operators from the just fear that they will be burdened with inverse condemnation suits as the result of aircraft noise around their airports.

Passage of this amendment should warn Secretary Coleman that we are waiting for the regulation which he now promises within 35 days. It should warn him that Congress will not sit idly by and watch yet another 4 years of delay since the passage of the Noise Control Act.

Mr. President, I cannot see how any Member of this august body with an airport within his State can vote against an amendment which will provide the funding mechanism to safeguard his constituents against the adverse impact of aircraft noise. I urge their support of this amendment.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., July 30, 1974.

Mr. ALEXANDER P. BUTTERFIELD,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR MR. BUTTERFIELD: We understand that you are about to decide whether to revise Proposed Rule 74-14 (March 27, 1974) concerning SAM aircraft retrofit, and that promulgation of some form of the Rule will occur imminently. As members of the Senate Committees with oversight responsibility for the Noise Control Act of 1972, we are writing to ensure that you have before you a balanced view of Senate testimony and other information which we have collected on this issue.

In our view, further delay in promulgation of this Rule cannot be justified if FAA is to comply with Congress' directive in Section 7(b) of the Noise Control Act of 1972 to regulate the abatement of aircraft noise "in order to afford *present* and future relief and protection to the public health and welfare" (emphasis added). Based on the information available to us, it appears that FAA has adequately demonstrated that its proposal for the retrofit or retirement of earlier generation jets powered by JT3D and JT8D engines fully complies with statutory requirements for safety, availability of technology and economic reasonableness. Thus, the Rule should be promulgated without additional delay.

The Environmental Protection Agency, community groups around our Nation's jetports, airport operators and the National Academy of Sciences all support prompt FAA adoption of Proposed Rule 74-14. Opposition has mainly come from the airlines themselves, and has primarily been directed at the high cost of implementation of the SAM retrofit program, a cost which is far below that predicted for implementation of the not-yet-demonstrated refan technology.

(Hence, we surmise that objections on grounds of cost will be raised even more forcefully at such future time as refan technology becomes available.)

We concur with the views of Congressman Wydler, the Acting Chairman of the House Subcommittee on Astronautics and Space Technology, who stated at hearings on this issue last week:

"I come to the conclusion (that) I don't think there really is a viable opinion here (in the refan program). If we are going to do anything in this retrofitting field . . . within the foreseeable future, I think we have to go with the SAM program at the present time." (Transcript, p. 293.)

During the one-day hearing held on May 16 by the Senate Aviation Subcommittee of the Commerce Committee, the Subcommittee heard only from industry representatives on the FAA proposed regulations. Regrettably, no oral testimony was received from any of the local community or citizens' organizations around the Nation in support of FAA's program to reduce noise at its source in the aircraft engine. Had these other groups been heard, they would have supported the merits of SAM technology on the following bases:

1. SAM retrofit will provide "meaningful relief" to our citizens.

SAM retrofit program would bring the noise levels of older jets down to those of the new wide-bodied (B-747, DC-10, L-1011) aircraft. By 1978, the use of SAM would reduce the number of persons exposed to unacceptable levels of noise by 74 percent. This is exclusive of operating procedures which, if implemented, would further reduce the number of individuals impacted. Actual tests comparing untreated and SAM-treated aircraft (such as the tests conducted at Dulles Airport) and psycho-acoustic studies conducted by Columbia University reveal that reductions in noise levels are perceptible to airport neighbors and that the noise levels achievable through SAM technology result in significant, measurable reductions in annoyance.

2. The potential benefits from NASA's refan program do not justify the 3-year additional delay and a cost five times that of the SAM program.

The overwhelming weight of evidence adduced at the three oversight hearings this year suggests that the NASA refan program JT8D aircraft to reduce engine noise—is no longer a viable option to quiet today's fleet of aircraft. The refan program, while indicating the promise of substantial reductions in aircraft takeoff noise in the future, has yet to be flight tested, and final results will not be available for at least another year. In contrast, as the U.S. Department of Transportation has testified, the current commercial fleet could be completely modified by 1978 to community-acceptable levels with SAM nacelle treatments. At least a three-year delay, until 1981, would be required if the refan technology, when proven, were to be mandated for the same fleet.

Moreover, it is anticipated that with continued energy shortages, the life of the fuel-efficient JT3D aircraft [707's and DC–8's] will be greatly prolonged. According to the Air Transport Association, 400 of these noisy aircraft will still be flying in the U.S. fleet by 1981. Refan research on these aircraft was discontinued last year, so SAM-ing offers the only hope of noise relief.

System costs for the refan program are anticipated to be five times those of the SAM program, without a proportional reduction in noise impact. The Department of Transportation's study of the noise contours at 23 major U.S. airports, released on July 25 of this year, concluded that, even assuming the most optimistic results of the NASA refan program, the SAM retrofit program is considerably most cost-effective.

3. The $600–$800 million cost of SAM retrofit can be financed in part by a user tax and in part by the Airport and Airways Trust Fund.

The scheduled airlines view the $600 to $800 million cost of the SAM program as a threat to their economic well-being. No doubt this same objection will be raised against the $4 billion price tag of the refan program. While we recognize that our airlines must be kept financially viable, so, too, they must recognize the health and environmental "costs" which aircraft noise imposes on airport neighbors, local communities and airport operators.

At the Senate Aviation Subcommittee hearings in May, the FAA testified that the cost of SAM retrofit could be financed by increasing airline fares by less than one per cent—or about 60 cents per ticket. Those who fly our Nation's airways would bear this nominal cost to assure that their journey will not cause unnecessary annoyance to people on the ground. To put such a cost into proportion, the surcharge for the SAM program would be about the cost of a pack of cigarettes purchased at LaGuardia Airport in New York; less than the cost of an inflight cocktail. Some money could also be made available from the Airport and Airways Trust Fund, which should show a surplus by the end of Fiscal Year 1975.

Ironically, the airlines have spent more than the cost of retrofit to convert the interiors of their older, noisier aircraft to the new wide-body look, a cosmetic action which also extends the useful life of the planes.

4. Promulgation of proposed Rule 74–14 would not prevent or inhibit use of refan technology at such time as it becomes available.

As you stated and documented at the May 16 oversight hearing, "certainly refan could be applied to aircraft of future design as a potential [for noise relief] for such aircraft." We share your view that technological advances such as refan should be implemented for new aircraft at such time as they become available.

For these reasons, we urge immediate promulgation of proposed Rule 74–14. We are convinced, from the information available to date, that the SAM technology will bring meaningful relief to our noise-impacted communities, that the costs of aircraft modifications are proportionate to the benefits to be derived and that, since the SAM technology fulfills the statutory requirements specified in the Noise Control Act of 1972, FAA can do no less than to promulgate its final regulation without delay.

Sincerely,

Vance Hartke,
Marlow W. Cook,
Robert T. Stafford,
John V. Tunney,
Philip A. Hart,
James L. Buckley,
U.S. Senators.

Department of Transportation,
Washington, D.C., August 23, 1974.

Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: Thank you for your letter of July 30 co-signed by Senators Hartke, Cook, Hart, Stafford and Buckley presenting views on the current issue of aircraft acoustic retrofit. In our rulemaking process it is extremely helpful to receive input from Members of Congress and, accordingly, your letter is being incorporated into the public docket (Docket No. 13582, Notice of Proposed Rule Making No. 74–14).

At a recent meeting with Senators Cannon and Pearson on this subject, the Chairman expressed a desire to have the FAA meet with the Members of the Aviation Subcommittee in order to update our testimony of May 16. We have been in contact with the Committee Staff and it is my understanding that such a meeting will be held early next month. Of primary importance will be the discussion on the financing of the program as well as the international issue.

I hope that your schedule will allow you to attend this session.

Sincerely,

James E. Dow,
Acting Administration.

Committee on the Judiciary,
Washington, D.C., August 14, 1975.

Hon. William T. Coleman,
Secretary, Department of Transportation,
Washington, D.C.

Dear Secretary Coleman: We understand that you are about to make a decision concerning the SAM retrofit proposed rulemakings for old aircraft not in compliance with FAR 36, currently before the Department of Transportation for final promulgation. It has been over 1½ years since the Environmental Protection Agency forwarded a draft rulemaking to the FAA for consideration. For that reason, and because the noise has continued unabated until this day, we are hopeful that your decision will be in favor of promulgation of a strong retrofit rule.

In our views, further delay in promulgation of this rule cannot be justified if the FAA and DOT are to comply with Congress' directive in Section 7(b) of the Noise Control Act of 1972 to regulate the abatement of aircraft noise "in order to afford *present* and future relief and protection to the public health and welfare." (Emphasis added.) Based on the information available to us, the rulemaking would not jeopardize safety standards, nor fail the test of economic reasonableness. Thus, the rule should be promulgated without additional delay.

The Environmental Protection Agency, community groups around our Nation's jetports, airport operators and the National Academy of Science all support prompt adoption of a retrofit rule. Today, almost three years after passage of the Noise Control Act into law, citizens near airports must still bear the burden of the din, and airport operators the burden of the nuisance suit. Opposition has come mainly from the airlines themselves, and has been directed primarily at the high cost of implementing the SAM retrofit program, a cost which is far below that predicted for implementation on the not-yet-demonstrated "refan" technology which airlines say they favor.

We concur with the views of Congressman Wdyler of the House Science and Technology Committee, who stated in hearings over a year ago that:

"I come to the conclusion (that) I don't think there really is a viable option here (in the refan program). If we are going to do anything in this retrofitting field . . . within the foreseeable future, I think we have to go with the SAM program at the present time."

This same Congressman delayed hearings of the Science and Technology Committee last month at the request of your agency, since indications were given that a decision was imminent. We are hopeful that this decision will be in the nature of a final rulemaking.

The strength of our support of this program is predicated on a number of factors.

First, SAM retrofit will provide meaningful relief to our citizens. The program can bring the noise levels of older jets down to those of the new wide-bodied aircraft. By 1978, the use of SAM, in conjunction with approved thrust cutbacks, can reduce the number of persons exposed to unacceptable levels of noise by as much as 74 percent. This is exclusive of operating procedures which, if implemented, will further reduce the number of individuals impacted. Actual tests comparing untreated and SAM-treated aircraft, and psycho-acoustic studies reveal that reduction in noise levels are perceptible to airport neighbors and that the noise levels achievable through SAM technology result in significant, measurable reductions in annoyance. In one study, it was determined that the number of those impacted by aircraft noise at Boston's Logan Airport would be halved were SAM retrofit alone introduced.

Second, the "refan" program would not affect the most noisy segment of our older jet fleet. The NASA technology has not been developed to quiet the JT3D aircraft—the 707s and DC–8s—which comprise the louder and hence, more disturbing portion of the fleet. System costs for the refan program are anticipated to be five times those of the SAM program, without a proportional reduction in noise impact. The Department of Transportation's studies of the noise contours at 23 airports concluded that, even assuming the most optimistic results of the NASA refan program, the SAM retrofit program is considerably more cost-effective. SAM affects the entire fleet, while refan is limited to the JT8D aircraft.

Argument has been made that the JT3D aircraft will be phased out, and that SAM retrofit would, therefore, have a limited cost-benefit. This, unfortunately, is not the case. It is anticipated that with continued energy shortages, the life of the fuel-efficient JT3D aircraft will be substantially prolonged. According to the Air Transport Association, at least 400 of these noisy aircraft will still be flying in the U.S. fleet by 1981, and this is a conservative estimate. These aircraft are being given extended lives for another reason as well—the consideration of our economy.

The economic pinch, in large measure, has made flying a luxury. Airlines have found that it is more cost-efficient to fly the smaller jet at full capacity, than the jumbo jet (though quieter) at half capacity, from a cost-per-passenger-mile perspective. These older JT3D aircraft, consequently are being refurbished—given the "widebody" look and a new coat of paint—and are being flown more, not less, frequently, in an effort to insure a rosier financial picture for the industry. Ironically, the airlines have spent more than the cost of retrofit to convert their old aircraft to this "wide-body" look, a cosmetic action which does little for the abatement of noise.

Third, we concur with the Environmental Protection Agency that the cost of this program, when weighed against the benefit in terms of the public health and welfare and the avoidance of nuisance suits, is not excessive. The Council on Wage and Price Stability, in a rather naive fashion, recommended against the development of the SAM program. This recommendation was based, in large part, on a faulty conception of the physical and psychological damages which aircraft noise has on neighboring populations. We hope that you bear in mind EPA's response to the statement which, in our view amply refutes the major premises of the Council's arguments. The costs of SAM are, over a four year period, equivalent to a 60¢ charge on airline tickets sold during that period. The costs would barely touch the billion currently in the Airport and Airways Trust Fund. And yet these costs would save around 7.5 million people from the din of aircraft noise.

For these reasons, we urge immediate promulgation of a SAM retrofit rule. We are convinced, from the information available to date, that the SAM technology will bring meaningful relief to our noise-impacted communities, that the costs of aircraft modifications are proportionate to the benefits to be derrived and that, since the SAM technology fulfills the statutory requirements specified in the Noise Control Act of 1972, the Department of Transportation can do no less than to promulgate its final regulation without delay.

Sincerely,

Edward M. Kennedy,
Philip A. Hart,
John V. Tunney,
Robert T. Stafford,
Walter F. Mondale,
Vance Hartke,
Birch Bayh,
Senators.

The Secretary of Transportation,
Washington, D.C., September 10, 1975.
Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: I appreciate the letter of August 14 from you and Senators Kennedy, Hart, Stafford, Mondale, Hartke, and Bayh urging prompt action on rulemaking to require the retrofit of the older jet aircraft for noise reduction with sound absorptive material.

Our assessment of the proposed action is in the final phase, and the Acting Administrator of the Federal Aviation Administration is now consulting with me before reaching his decision, as required by section 611 of the Federal Aviation Act. We are reviewing costs and benefits, environmental impact, energy impacts, possible inflationary consequences, and alternative methods of financing the retrofit proposal now under consideration.

Thank you for your continuing interest in our noise abatement program.

Sincerely,

William T. Coleman, Jr.

Mr. CRANSTON. Mr. President, it is an undisputed fact that air transportation is the most important means of moving people and goods in the United States and throughout the world. But many of the airplanes that move these people and goods make a great deal of noise—far more noise than they need to make. And as our citizens have become aware of the importance of preserving a healthy environment and of their rights as citizens, they are no longer willing to tolerate this noise. Because of this noise, they have moved successfully on many fronts to block essential improvements to the airport and aviation systems—simply because they cannot stand the aircraft noise.

They do not have to stand this noise any longer. The newer jetliners such as the wide-bodied DC-10's, L-1011's, and later models of the 747, and advanced versions of the 727, 737, and DC-9, have engines that are demonstrably quieter than their older relatives. Communities have pronounced this new quiet generation of airliners as good neighbors.

A method exists—a practical and economically justifiable method—for making the older aircraft—those that are exempt from the noise limits of the Federal Aviation Administration's Federal air regulation part 36—comparable in noise levels to these quiet good neighbor aircraft. This method involves applying sound-absorbent material to the aircraft engines, and is know as SAM retrofit. More than 80 percent of the nearly 2,500 jets in the current airline fleet are the older, noisier types that would benefit from the SAM program. According to FAA calculations, between 1,300 and 1,600 of these aircraft will remain in service throughout this decade. If they are not retrofitted, their noise will continue to plague our citizens and drive them to actions which severely constrain the future of our aviation system.

The most significant effect of retrofit would be on the noisiest types of jetliners, the 707's, 720's and DC-8's—the aircraft which now provide a substantial portion of the service at the airports most deeply affected by citizen opposition to noise.

The takeoff noise of a 707-320B can be reduced by 10.5 effective perceived noise decibels—EPNdB—and its approach noise by 14.5 EPNdB by retrofit. For 727's, 737's and DC-9's the noise reduction is 2 to 4 EPNdB on takeoff and 6 to 8 EPNdB on approach. It is generally accepted that a reduction of 10 EPNdB is equal to a halving of the noise, and the National Academy of Sciences has found that—

> Aircraft noise reductions on the order of 6 EPNdB are quite apparent to residents near airports and result in substantially less annoyance to those residents.

The difference in sound levels between retrofitted and original aircraft can also be illustrated by the size of the flight sound contour—the amount of land, or footprint, that is affected by severe noise. For example, for a 707-320Z, the 100 EPNdB noise contour can be reduced by retrofit from about 2½ square miles to one-third of a square mile on landing, and from 7½ square miles to 2¾ square miles on takeoff, according to FAA figures.

Mr. President, the time has come for the Congress to take positive action to reduce aircraft noise to tolerable levels. It has now been 8 years since passage of the aircraft noise standards amendment that led to promulgation of FAA's part 36 noise limits, and it has been 4 years since enactment of the Noise Control Act which directed FAA to protect the public from present and future aircraft noise.

But because FAA has not yet adopted a final rule which will require a time-scheduled retrofit program for the older, noisier aircraft, Congress must find a way to direct FAA to do that in most specific terms. As the representatives of the people of the United States, we have the duty to relieve our citizens of this burden of aircraft noise, and to relieve the air transportation system of the burden that aircraft noise has placed upon it.

The amendment I am cosponsoring with its author who has done such excellent work in this matter, Senator Javits, and Senators Kennedy, Brooke, Tunney, and Stafford, provides authority for appropriations from the Airways Trust Fund to finance the costs of installing SAM retrofits on our older air fleets. These costs, I believe, are proper charges against the trust fund and will benefit the users of air travel who otherwise must pay these same costs in higher air ticket charges. I might point out that passengers contribute 90 percent of the trust fund through the 8 percent excise tax they pay on each airline ticket.

The resulting reductions in noise at major airports will enhance both the safety and, ultimately, the convenience of passengers through the new improvements to airports and passenger terminals made possible through this contribution to the solution of the noise problem at our major urban airports.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Notwithstanding the making of a point of order, if one is made, will I, nevertheless, have the time stipulated in the unanimous-consent agreement for debate of this amendment?

The PRESIDING OFFICER. The point of order will not be in order until the Senator uses the time allotted under this amendment or yields back his time.

Mr. JAVITS. If it is agreeable to the chairman handling the bill, I should like to reserve the remainder of my time. I am very anxious to hear his views.

Mr. CANNON. I yield myself 10 minutes.

Mr. President, first, I say to my colleagues that I do intend to make a point of order if the amendment is pressed, after I have concluded my response to it, and for the reasons that I shall state.

I rise to oppose this amendment as being premature, ill advised, and not necessary at this time.

The question of whether the so-called SAM retrofit program should be forced on the airlines by the U.S. Government is a controversial one. While all of us agree that we should do all that is economically and technically possible to reduce jet aircraft noise, there is widespread disagreement among policymakers and the technology experts as to whether the SAM retrofit will produce reasonable and perceivable noise reductions in relation to its costs.

The SAM program, if implemented by the FAA, would cost between $800 million and $1 billion over the next 5 or 6 years. The program, while offering some relief from jet noise as aircraft approach the runway, will not provide any measurable reduction in jet takeoff noise whatsoever. Therefore, SAM, at best, deals with only half the problem. In addition, the reduction of jet noise on approach is about 6 APNdB, a reduction which many experts feel will not be readily perceived by citizens living in the vicinity of airports.

I personally am not convinced that a SAM retrofit program is of much value. Because of the costs involved in retrofit

I would personally favor more emphasis on a phasing out of the older, noisier jets by the airlines and the acquisition of new, quieter and cleaner aircraft.

Nonetheless, this very question is before the Secretary of Transportation for a decision at this time. In fact, in about 2 weeks Mr. Coleman will transmit to the Congress the Department's recommendation in regard to the SAM retrofit. Already, the FAA Administrator has recommended in favor of the program. When Mr. Coleman reaches his decision, he will recommend, if the Department supports SAM retrofit, a financing plan to implement the new program. It is clear that the U.S. air carriers are in no financial condition to absorb the costs of this expensive program. They simply do not have sufficient earnings at present to pay for the quieter SAM nacelle treatment.

The question therefore is how this program is to be paid for if the airlines are required by regulation to quiet the domestic aircraft fleet. Senator JAVIT'S amendment would make this judgment before the SAM concept has even been approved. And worse, in my opinion, his amendment embraces the least attractive financing mechanism, that is drawing funds from the Airport and Airway Trust Fund.

Mr. President, this question is of such importance that it should not be the subject of a hastily conceived floor amendment here today. There have been no hearings in committee, no alternatives have been studied to the financing questions and no one, including the administration, has come forward with a well-reasoned recommendation on financing.

I submit that this is a very improper way to legislate on a question of such economic importance. I have made it clear that when the administration and Secretary Coleman forward to Congress a recommendation on the SAM retrofit program, my Aviation Subcommittee will hold hearings on the entire issue to explore all points of view and to give all affected an opportunity to present testimony on SAM and on financing alternatives. This is the only fair and reasonable procedure for handling this important issue. I might add that I and my subcommittee have literally spent years examining the aircraft noise issue and the retrofit question and I assure my colleagues, notwithstanding Senator JAVIT'S amendment, that no easy answer to these difficult issues is apparent.

Now to the merits of the particular policy issue. I think it unfair, and I think my colleagues will agree, that user taxes from many different types of users be used to fund the retrofit program if required. Some users who pay taxes into the Airport and Airway Trust Fund never use the airlines or their aircraft; they fly small private aircraft for business and pleasure. Should these nonairline users who are being taxed for the airport and airway development program be asked to finance the quieter jets for the airlines? I think not. I believe if public financing is the only answer to the noise question that it should be the airline passenger, the beneficiary of airline travel, who should pay. Other aviation users such as the more than 200,000 Americans who own small private aircraft should not be stuck with the tab for this expensive program. And yet, that is exactly what the Javits amendment would do. It would not place the burden on those who attain direct benefits from airline travel, rather it would place the burden on all users. This is unfair and if adopted would lead to enormous criticism of Congress by many users for using their user tax dollars to pay for a program for which they get no benefits.

Personally, if the SAM retrofit program goes forward by Government directive, I would favor a passenger surcharge on all airline passengers to pay for the cost of the program. This surcharge could be handled several ways. Congress could enact a new user tax. The airlines could raise their tariffs. The CAB could impose a surcharge on airline tickets. These are viable alternatives to the financing issue. And I submit that they are all better than raiding the trust fund to pay for a program that does not benefit all users.

Mr. President, this amendment is poor legislation—it it poorly thought out, it does not consider alternatives, it has not had a hearing and it is a direct attempt to go around the committee with jurisdiction on this issue to achieve a solution which may be the poorest of all the alternatives. I urge my colleagues to reject this amendment.

The Senator mentioned earlier that we had a surplus in the trust fund that could take care of this. I simply point out to my colleagues that in the last vote, which occurred just a few minutes ago, we accomplished a raid of in excess of $470 million on the trust fund, which says that the administration can use that money for administration purposes. So we have constituted a raid of $0.5 billion right there.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. BROOKE. Does the Senator understand—I am sure he must understand—that this amendment does not mandate the retrofitting, but merely gives the Secretary authority, if he makes the decision, to use these funds for the purpose of retrofitting?

Mr. CANNON. That is just the point that I am trying to make here now. Immediately upon our getting the Secretary's decision as to what his recommendation is, we intend to hold hearings on this very subject and try to approach it in a rational way. We have held hearings before, I may say, in the committee on this general subject. But it was very, very controversial and we could not reach a definitive recommendation because of the reasons that I have stated here earlier.

When we talk about a 6-decibel reduction and the fact that there is no reduction on takeoff noise at all, the question is, is the $1 billion cost worth the benefits that you are going to receive, that you could receive? So this is the question that I think, in all good conscience—I think we owe it to the Secretary of Transportation to permit him to make his recommendation; then let the committee hold hearings on that recommendation, get the experts in, and then proceed in a rational manner, rather than trying to legislate on the floor of the Senate something that we are not sure we know everything about.

Mr. BROOKE. When would we have hearings on this? After the Secretary has made his recommendations?

Mr. CANNON. The Secretary is to make his recommendations by the 10th of April. I anticipate that we would, within, let us say, 30 to 60 days after that time, have a hearing on that subject.

The reason I cannot specify precisely is that we have set some hearings on the regulatory reform issues and we shall work it in just as quickly as we can.

I am just as concerned as the Senator from New York and the Senator from Massachusetts about this problem. Believe me, it is a very real problem. But we do not want to go in and try to order something that is not going to achieve the results and we will have spent an awful lot of money.

Mr. BROOKE. I hope that if we go that route, it will be closer to 30 days, because the 60 days will take us, obviously, into the beginning of conventions and so on.

Mr. CANNON. I say to the Senator that I shall certainly agree that I will hold the hearings at the earliest possible time. I have no desire to delay it for 60 days. We have already scheduled hearings on the regulatory reform problems and I would, in good conscience, have to go forward and hold those hearings. But we have been pressing the Secretary to get an answer and get a recommendation on this, because goodness knows, there is a lot of pressure from all sides to try to decide what we ought to do.

As I have said, it is going to be a very expensive program. Unfortunately, I am afraid that the results to be achieved, based on what we know now, are going to disappoint a lot of people in their expectations. Be that as it may, this is precisely what the Secretary is studying. He tells us he is going to come back with his recommendation as to what we ought to do and how we ought to go about the financing.

Mr. BROOKE. Is the chairman's position that, even if we had this amendment, the Secretary would still have to make his study and make his recommendations, and all we would be doing is cutting out the hearings on it? Is that the way the chairman feels?

Mr. CANNON. I think that would be true. We would be bypassing without giving the committee the opportunity to go into it and make some recommendations. We have a lot of very knowledgeable people on our aviation subcommittee. They are not the ones who are pressing for this amendment now, precisely for the same reason. They are just as concerned, I am sure, as the Senators here are about this problem. We have no desire to brush this problem aside or to brush it under the rug. It is just not going to happen. I, myself, have held noise hearings out at some of the airports around the country, on the very precise problem.

Mr. JAVITS. Mr. President, if the Senator will yield at this point for just one fact——

Mr. CANNON. Certainly.

Mr. JAVITS. Not on his time. I yield myself 2 minutes. Then I shall yield back to the Senator.

It is a fact that this surplus in the trust fund right now is over a billion dollars and, by the end of 4 years—and this retrofit program would be phased over 4 years—it would be about $3 billion. Therefore, the figure of some $400-odd million of Senator BUCKLEY's amendment still leaves a very large amount remaining in this trust fund. I know that the committee may be thinking about the possibility of reduction of the ticket tax in terms of the size of this trust fund. The difficulty with that is that it would proffer that item to the highest level travelers, air travelers, as against the real urgency affecting some 5.5 million airport neighbors which is described in the committee's own report. That is the reason I said what I did about germaneness. The committee's own report, at page 4, says: "The committee finds this"—to wit, noise—"to be a most important unmet need in the current program. Aircraft noise is perhaps the greatest problem facing aviation today and threatens the continued growth and expansion of the aviation system."

So, Mr. President, I believe that in balancing the equities and considering the amounts available, this amount is well within the competence of this trust fund.

Mr. CANNON. Mr. President, I yield myself 5 additional minutes.

I say to the Senator that, as I pointed out earlier, the last vote accomplished a raid of the trust fund to the extent of $473 million this year. We would have to assume that there would be a similar amount, between $475 and $500 million, probably, each of the years for the next 5 years, which would eat up $2.5 billion that we are talking about in anticipated funds.

It is true that the committee recommended to the Committee on Finance a reduction in the user's taxes. If the recommendation here is for the SAM retrofit program to go forward, I personally would favor a passenger surcharge on all airline passengers to pay for the cost of the program.

There are a number of alternative approaches that could be followed. What I am saying here is that this is poor legislation to legislate on the floor of the Senate on an issue as important as this. The time differential is not going to be that great, because we are going to consider the matter and have some recommendations in a reasonable period of time. We do not disrupt the programs that we have ongoing, we do not disrupt the recommendation of the Secretary, and we do not disrupt the committee process.

I hope that the Senator will withdraw his amendment. If he does not withdraw it, then I intend to make a point of order.

I am willing to yield back my time or whatever the Senator wants.

Mr. CRANSTON. May I suggest the absence of a quorum?

Mr. CANNON. Mr. President, on whose time?

Mr. JAVITS. Mr. President, I ask unanimous consent that we may suggest the absence of a quorum without the time being charged to either of us.

The PRESIDING OFFICER. Is there an objection?

Mr. CANNON. Mr. President, reserving the right to object, we have held people here a long time today, people who are anxious to get this matter disposed of. I hope that, in good conscience, we shall try to resolve this matter. I think I have given a reasonable explanation to the Senators. I assure them that my objective is the same as theirs. I hope they will not try to invade the province of my committee in legislating here on the floor in something—we have had this under consideration for a long time. We have been studying it. I would feel bad if legislation were attempted here to try to bypass the committee process on this very, very important issue.

The PRESIDING OFFICER. Is there an objection?

Mr. JAVITS. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. BROOKE. Will the Senator yield?

Mr. CANNON. Yes, I yield.

Mr. JAVITS. Mr. President, to give the Senator an opportunity, will the Senator allow me to take time of my own? Then I shall yield.

How much time do I have?

The PRESIDING OFFICER. The Senator from New York has 12 minutes remaining.

Mr. JAVITS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nevada has the floor. He was yielding to the Senator from Massachusetts 2 minutes.

Mr. CANNON. Yes, I yield.

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, the situation is becoming more and more clear as we debate this. It has waited 4 years. It has been debated back and forth a long time. The issue that we raise is a very feasible one. There is a very close question on the issue of germaneness in this matter. This is not an amendment respecting civil rights or agriculture. This amendment relates directly to the subject of this bill, as admitted by the committee itself. I consider the raising of a point of order to be perfectly lawful, but hardly compatible with the spirit of getting an issue disposed of.

We will stand or fall on the vote on this thing, and I deeply believe that we ought to be permitted, where the ambit of the bill certainly includes this whole issue of aircraft noise, to have it voted up or down, and I think that will advance the proposition very much further than again just deferring it because it has been deferred for a matter of years. So I would very much hope that we may be able to arrive at that point.

I say to my colleague from Nevada respecting the calling of a quorum that I can have a quorum as of right at the end of the debate, so it will not save any time. It will give us an opportunity, give me an opportunity, to discuss this question with my cosponsors to see whether or not to press the issue or to seek to meet the views of Senator CANNON. So I again ask unanimous consent——

Mr. BEALL. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. BEALL. If the Senator will yield 5 or 10 minutes, I have an amendment I could discuss.

Mr. JAVITS. I do not have 5 or 10 minutes, but if the chairman is willing to accommodate this amendment while we discuss——

Mr. BEALL. Can I have 10 minutes, Mr. President? I can save everybody's time if I can take up my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. What is this now?

The PRESIDING OFFICER. Is there objection to the Senator from Maryland bringing up his amendment at this time?

Mr. CANNON. Reserving the right to object, if it is a nongermane amendment I would expect to raise the question of germaneness.

Mr. BEALL. Does the Senator want to go through that procedure, raising that question, while the Senator from New York is talking——

Mr. PEARSON. Mr. President, will the Senator yield? Is his amendment printed?

Mr. BEALL. It is not printed.

Mr. JAVITS. Mr. President, let us do one thing at a time, that I may suggest the absence of a quorum, that it be not charged to either side, and I assure the Senator——

Mr. PASTORE. Can we have a limitation on how long?

Mr. JAVITS. Two minutes.

Mr. PASTORE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. JAVITS. Mr. President, if I can have the attention of both the manager of the bill and the ranking minority Member; I think everybody realizes the situation, that is, even on germaneness it is a very close question, so I propose the following to my friend—and I think I speak accurately in that: that if the amendment is withdrawn at this time he will assure us that as closely as possible within 30 days after the report of the Secretary, which is due on April 10, he will give us a hearing and that following that hearing he will afford to us a vehicle for letting the Senate vote on the question. If he will assure us of that, I am ready to withdraw the amendment.

Mr. CANNON. Mr. President, may I say to my colleague I will certainly give him that assurance. It is my desire to try to resolve this issue. I think the key thing here is to let the Secretary make his report, let the committee hold its hearing, and then we will make a recommendation. We cannot sweep this thing aside. We have got to recommend what ought to be done, what is the best way to proceed.

Mr. JAVITS. I thank my colleague, and I yield to Senator PEARSON.

Mr. PEARSON. Yes. I wish the Senator from New York would follow that course of action. As I indicated privately, the Secretary, I am told, will come in on April 6, which is just a few days from this date, and we have been considering this question for a very long time. We have just gotten through or over a hump, and it was over my objection of a Presidential veto on this bill.

The bill has expired for many, many months. Communities all over the country are waiting for ADAP funds to proceed with planning and construction. I do not speak with a letter in my hand from the administration of a veto, but I am very fearful that if you tack on a provision which, I understand, would amount to about $1 billion over a 4-year period, that you are going to run into a very substantial problem so far as getting this bill passed.

I want to represent to the Senator from New York and to the Senator from Massachusetts that I will concur and cooperate with the chairman of the committee. We will get those hearings; we will get the vehicle, and we will make the recommendation and give you a good shot at this proposition.

Mr. JAVITS. I thank my colleague.

Mr. PEARSON. I yield to the Senator from Massachusetts.

Mr. BROOKE. I am not persuaded by the money in the trust fund because before pushing this amendment I called the Department of Transportation as to what the Buckley amendment would cost for which I voted and what this amendment would cost. The Department of Transportation said there were ample funds in the trust funds for that, but I certainly am persuaded by the word of the chairman and ranking member of the committee that they feel very strongly about this issue and will conduct hearings just as soon as they get the report because they recognize the seriousness of the retrofitting problem. It has been with us, as the distinguished Senator from New York has said, for many, many years, and many people are concerned about it.

With that assurance I think we are satisfied that we will get some action this time, and that you will have a hearing and, hopefully, find a proper vehicle after those hearings are concluded.

Mr. CANNON. I thank the Senator.

Mr. JAVITS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator from New York withdraws his amendment.

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf of myself and Senator CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 29, line 21, add the following:

"Sec. 21. Section 401 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1371 *et seq.*, is amended by adding the following subsection:

'(o) Notwithstanding Sec. 416 of this title, transportation of persons or property in interstate air transportation between two places within the United States or between a place in the United States and a place outside thereof procured by or under contract with any department or agency of the United States (including the Department of Defense) shall be provided exclusively by air carriers holding certificates under this section.' "

Mr. CANNON. Mr. President, this is the same amendment that I offered on behalf of myself——

The PRESIDING OFFICER. Will the Senator suspend for just a moment. Will the staff take their seats. Will the Senators take their seats. Will the staff retire. Everybody wants order when they are speaking, and I intend for the Senator from Nevada to have order when he is speaking.

Mr. CANNON. This amendment would require that certificated airlines be used by Government agencies when procuring commercial airlift services. That is all it does. I think it is carrying out what has been the policy of DOD in the past. It does not change what has been the policy, although they are considering broadening it up to include private carriers. I am happy to have the Senator from California (Mr. CRANSTON) join me as a sponsor.

Mr. President, under longstanding policy that goes back more than a decade, Government agencies and particularly the Department of Defense have used U.S. certificated scheduled and supplemental airlines to carry Government traffic.

This is a sound policy which has been followed by many administrations. In return for the privilege of carrying Department of Defense traffic, the U.S. certificated airlines have committed many of their aircraft to the Civil Reserve Air Fleet which can be mobilized in time of national emergency or war. At present the Department of Defense is considering abandonment of this long-honored policy by attempting to contract with noncertificated airlines or private carriers for the carriage of some Department of Defense traffic. If DOD were to breach this policy, the financial damage to certificated airlines could be severe.

While DOD well understands the severity of the situation, I have indications that the Secretary of the Air Force may still seek to contract with private carriers for the carriage of Government cargo. This amendment would require under law—as longstanding policy has always required—that all Government traffic be carried only on airlines certificated by the Civil Aeronautics Board and which have pledged aircraft to the Civil Reserve Air Fleet.

Mr. President, I urge the adoption of this amendment.

Mr. CRANSTON. Mr. President, I am most pleased to cosponsor this amendment with the distinguished Senator from Nevada.

This amendment will save between 125 and 200 jobs at Oakland International Airport—jobs held in the supplemental air carrier industry. I would like to point out that the Oakland area is hard-pressed on unemployment.

The purpose of the amendment is to make clear that the Department of Defense should not unilaterally reverse a procurement program under which certificated supplemental air carriers have made substantial capital and hiring commitments. We should keep faith with the companies who have acted on these assurances.

To reverse existing MAC procurement practices would result in the loss of many millions of dollars in business to California supplemental air carriers, as well as the loss of employment at Oakland airport and other facilities servicing the supplemental carriers.

I urge the adoption of the Cannon amendment.

Mr. CANNON. I yield back the remainder of my time.

Mr. PEARSON. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. BEALL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an amendment on page 29, after line 21 add the following new section.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, after line 21 add the following new section:

"SEC. —. Civil Rights.

"The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964."

Mr. BEALL. Mr. President, I am introducing an affirmative action amendment to S. 1972, the Airport Development Act of 1970. This amendment would, at page 43, line 17, strike out the final quotation mark and the final period and insert the following new section: Section 31, Civil Rights:

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

Mr. President, I consider this to be in the nature of a technical amendment actually but it will insure minority and female participation in program activities under the Airport Development Act. This amendment will require the development of affirmative action plans that will require that a portion of the money going to construction, concessions, and other projects of the airport development are earmarked for minority and female business persons.

Although I am aware that there has been assurance of minority and female participation in these programs by the Department of Transportation in the past I am introducing this amendment so that airport management will be required to adhere to the Department of Transportation's administrative regulations and will be required to contract with minority and female owned forms.

Mr. President, I might say that the Secretary of Transportation has given his approval to this amendment and the House has also adopted an amendment of this sort without objection. I hope the managers of the bill see fit to agree to the adoption of the amendment.

The PRESIDING OFFICER (Mr. Ford). The Senator from Nevada.

Mr. CANNON. Mr. President, if the Senator would agree not to overtry his case, and with no objection, I am inclined to agree with him on it.

Mr. BEALL. With that, I rest my case.

The PRESIDING OFFICER. Is all time yielded back?

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. PASTORE. Third reading.

Mr. CANNON. Third reading.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ADDITIONAL STATEMENTS SUBMITTED ON S. 3015

Mr. HATFIELD. Mr. President, as a Senator who is concerned with the need to decentralize, where possible, the role and influence of the ever-growing Federal bureaucracy in favor of more State and local control over government programs, I wish to express some concern over the tone, if not the content, of the section-by-section analysis and discussion of section 13 of the Airport and Airways Development Act Amendments of 1976 (pages 28–30 of the Senate Commerce Committee Report, 94–643).

I first wish to commend the committee for its fine work in drafting this legislation extending and expanding the airport development program, whose worth has been proven over the first 5 years of its existence. I do take issue, however, with what appears to be a rather one-sided analysis of the role of State aviation authorities in providing assistance and expertise in the continued planning and development of a nationwide general aviation system.

It is my belief that we in the Federal Government should turn increasingly to local officials for input on programs such as the one the Senate debates today. I submit that the Senate as well as officials in the Federal Aviation Administration and the Civil Aeronautics Board should include the States in their planning and execution of programs such as ADAP to a greater extent than is implied in the Commerce Committee report on S. 3015.

Mr. President, I ask that an excerpt from the committee's section-by-section analysis, a rebuttal to that analysis prepared by the National Association of State Aviation Officials, and a summary of Oregon's aviation investment prepared by Paul Burket, administrator of the Oregon Aeronautics Division, be included in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

[Excerpt from Senate Commerce Committee Report on the Airport and Airway Development Act Amendments of 1976 (pp. 28–30—Rept. 94–643)]

Section 13—State Demonstration Program

Section 13 provides a limited program to demonstrate the effectiveness, or lack of it, of State aeronautical agencies administering within their respective State, the general aviation airport development program now administered by the FAA.

There is no area of airport development policy more controversial than that of what role is to be played by the State and, in turn, the State aeronautical agencies.

Civil aviation, since its inception, has been highly regulated and, at the same time, promoted by the U.S. Government. The entire aviation regulatory scheme has been vested by Congress in the FAA and the CAB. Since aviation is not inhibited by artificial State boundaries, and since the airspace is a resource of the United States, the States have not played a significant role either in regulation of aviation or in providing facilities for it. In fact, the air navigation and control system is almost entirely Federal; the predominant source of funding for airports and ground facilities has been local.

Nonetheless, primarily during the past 20 years, a number of State aeronautical agencies have been created. In many cases, after they were established or created, they began searching for a mission, having been given little specific responsibilities by the legislatures.

One of their common responsibilities over the years has been coordinating search and rescue missions seeking lost or downed aircraft. In some instances State agencies have become involved in assisting local communities plan and develop airport facilities and in some cases the agencies have spent State moneys on the development of airports. In other instances State agencies have provided duplicative programs already provided by the Federal Government such as investigating aviation accidents and enforcing a State system of aircraft registration.

Over the years, the agencies have sought to wrest from the FAA and the Federal Government increasing responsibility for the development of aviation policy and facilities. In some States the agencies have sought to regulate the intrastate operations of air taxi or commuter operators. In others the agencies have served as channels or conduits through which, pursuant to State laws, Federal airport grants have flowed to local cities, and counties, or port districts.

In their zeal to find a broadened mission the agencies have turned to Congress seeking to gain control of at least parts of the airport development program.

At present, the States are mounting a major campaign to turn over to the State aeronautical authorities the general aviation development program. In this effort they are being assisted by the administration. As a prelude to a complete takeover of the Federal role in developing a national system of general aviation airports, the States have proposed to Congress a demonstration program aimed at demonstrating the feasibility and practicality of turning this segment of air transportation development over to the States. The States argued before this Committee that several studies have been done indicating that States can develop airports cheaper and more quickly than can local governments using ADAP funds and adhering to Federal standards. We do not necessarily question that contention. However, it has yet to be proven whether the States, if Federal construction, wage, and environmental standards are followed, as they must be if the States replace the Federal effort, can manage an airport development program any more efficiently than the U.S. Government. The two areas which add extreme costs to Federal projects over non-Federal projects are compliance with the National Environmental Policy Act of 1969 (NEPA) and the payment of construction wages pursuant to the Davis-Bacon Act.

In addition to our skepticism over whether States can build and administer an airport development program more effectively than the Federal Government, is our concern about the creation of new and sprawling bureaucracies in each of the 50 States to administer an airport program. There is already a large and unwieldy FAA bureaucracy in Washington and in the regions of the United States. Both the FAA and the State agencies testified that this bureaucracy would not be reduced as a result of turning the general aviation airport development program over to the States. We ask then, what is the point in creating a system of new bureaucracies overlaid on the Federal Establishment to perform a role already being effectively performed by the FAA?

We are hard pressed to find an answer. The ideal role of a State agency would be to assist very small communities in developing general aviation airports. The agency could furnish the engineering and construction expertise which many small communities cannot afford. However, that is not to say that the State must also administer all the Federal funds which are intended for local airport development.

We have resisted past attempts by the State aeronutical agencies to try and take over various aspects of the Federal airport program and we will continue to do so until it has been proven that there is any gain to the system of the users by making such a change. We are concerned that Federal dollars will be diluted, wasted, or otherwise abused inevitably if 50 agencies take over a national airport development system. We believe the State agencies, if they would stick to what they can do best, that is, help small communities with planning and development, would not have to come to Washington in search of another very ambitious mission.

Having listened to the argument, we believe the states should have the opportunity to prove the theory that they can provide more development for less dollars. We don't believe we have the evidence to prove the opposite. Therefore, we authorize a 2-year demonstration program in no more than three States to assess whether a State can in fact develop general aviation airports more effectively and more economically than can the Federal Government through State administration of Federal funds.

We have provided what we believe to be necessary safeguards to insure that this demonstration authority will not be abused and will be undertaken in States which in the past have used State moneys to assist the development of general aviation airports. First, we would not permit any Federal funds to be used to administer the program—if the State has an interest in being a demonstration State then it can use State funds to administer the grants. Second, we believe that before a demonstration State has been selected, it must have the advance approval of its legislature, not simply the approval of the State aeronautical director or the Governor. Demonstration programs will require additional personnel to administer what has been a Federal program and may involve a major staffing of the State agency. This increased staffing might require additional funds from the legislature, bodies which often turn to State user taxes on aviation when seeking funds for their aviation organizations.

With the foregoing limitations we support a demonstration program to test the effectiveness of a State-administered, federally funded general aviation airport development program.

RESPONSE OF THE NATIONAL ASSOCIATION OF STATE AVIATION OFFICIALS TO COMMERCE COMMITTEE REPORT

A. GENERAL

The elected representatives of State government, including the nation's Governors, State Legislators and their appointed State DOT Secretaries and Aviation Directors, express their collective disappointment with the several serious misrepresentations of fact and wholly confounded attributions of State government intent contained in Senate Commerce Committee Report No. 94–643 which accompanied S. 3015 on February 24, 1976. The report, prepared by Mr. Robert Ginther, staff member of the Commerce Committee, and submitted by Senator Howard Cannon, is quoted and answered below.

B. SPECIFIC

We call special attention to *pages 28–30* of the Report—*Section 13—State Demonstration Program.*

1. Paragraph 3—Civil aviation was regulated and promoted by individual States since *1911, some 15 years prior* to the enactment of the Air Commerce Act of 1926.

The "entire aviation regulatory scheme" has *not* been vested by Congress in the FAA and the CAB. The CAB acknowledges that it has no jurisdiction over purely intrastate air carriers, which are regulated by the states. Joint Federal-State *cooperative efforts* are pursued in such areas as airport inspections, aircraft accident investigation, identification and removal of obstacles to flight. States also purchase, install and maintain navigational aids to supplement the Federal navaid system.

What is "artificial" about State boundaries? Are they not genuine, drawn and approved by the Congress?

The States *have* played a very significant role in providing aviation facilities. During each of the last five years, for example, State funds averaging *$200 million* per year have been made available for airport development. Of that amount, *$121 million in State funds* were actually spent in airport development in 1974, a typical year.

2. Paragraph 4—Rather than *"a number"* of State aviation agencies being formed during the past *"20 years"*, *48* States and the Commonwealth of Puerto Rico created State aviation agencies, at least half of which date back to the *1930s or earlier*.

The State aviation agencies never had to *"search for a mission". They were assigned very clear responsibilities and missions by their respective elected State Legislatures.*

3. Paragraph 5—Airport planning and development and flight safety programs are the primary "common responsibilities" and major programs of the State agencies. "Search and rescue missions" are conducted as a formal program by a few States, but this worthwhile life-saving effort could hardly be described as a "common responsibility".

The assertion that *"in some instances* State agencies have become involved . . . and *in some cases* the agencies have spent State moneys on the development of airports" *so seriously understates the facts that it causes particular concern.* The fact is that *49 States* (Nevada the lone exception) have assisted and continue to assist local communities plan and develop airport facilities. Of that total, *45 States provide State funds* to sponsors for airport development. In addition, *State funds* have paid for most of the highway network and access roads without which no airport could survive.

The alleged "duplicative" programs, notably aircraft accident investigation, are in fact conducted *in partnership with the Federal agencies, often at their request.* Current FAA manpower shortages in the Airports Service have resulted in specific FAA requests for assistance from the State aviation agencies.

4. Paragraph 6—The allegation that the State "agencies have sought to wrest from the FAA . . . increasing responsibility for the development of aviation policy and facilities" paints *a fictitious picture of competing, rather than cooperating, Federal and State aviation agencies.* Anyone familiar with this relationship is aware of the fact that State aviation programs complement rather than compete with FAA programs.

Several State regulatory agencies do actively regulate the intrastate operations of air taxi and commuter carriers, *in accordance with the statutory responsibilities given them by their State Legislatures.* The CAB acknowledges that it has no jurisdiction over purely intrastate carriers.

5. Paragraph 7—See comments on paragraph 4. Also note that the DOT/FAA has specifically recommended that the States assume administrative responsibility for the general aviation portion of the ADAP (see Administration's ADAP bill).

6. Paragraph 8—Same as in paragraph 7, plus the fact that *members of Congress,* not the States, have proposed a State demonstration program which the States strongly endorse. The 11-State demonstration program has been overwhelmingly approved by the House of Representatives (see H.R. 9771).

Among the studies alluded to are the Burns & McDonnell study done under DOT/FAA contract, and a General Accounting Office study. In its conclusions, Burns & McDonnell stated:

"This analysis not only agreed with the States' contention that they can develop general aviation airports faster and at lower cost than the Federal program, but that they can do so and maintain a comparable quality."

Burns & McDonnell also provided a comparison of average costs for the 12 pairs of general aviation airports they studied. They concluded that:

a. "Federal average cost	$583,500
1) with Chesterfield	869,900
2) with El Monte	1,235,620
b. State average cost	394,100"

It should also be noted that State environmental protection laws are no less strict or comprehensive than Federal environmental protection laws.

7. Paragraph 9—The expression of "concern about the creation of new and sprawling bureaucracies in each of the 50 States to administer an airport program" would be commendable if there existed any real possibility of the object of the concern actually developing. We submit that *no such possibility* exists. We have surveyed every State on this question and can report the following:

a) Most States would anticipate *no increased personnel or budgetary requirements* to administer the GA ADAP in their State.

b) Those States which would require additional staff limit that requirement to *one or two persons, costing $15,000 to $30,000* in additional budget expenditures.

c) A few States would require additional support but these States are not candidates for the demonstration program.

d) The average size of the State aviation agencies—12–17 professional and clerical staff members—hardly justifies the fears connoted by the phrase "sprawling bureaucracies."

8. Paragraph 10—The question to which the author's "are hard pressed to find an answer" is fictitious, as indicated above. Again we point out that *48 States already have formed State aviation agencies.* Most of them *already administer State airport development programs involving substantially larger sums than would be received under any proposed demonstration program.*

9. Paragraph 11—We submit that the potential gains to both the system and its users resulting from State administration of the GA ADAP have been conclusively shown in the findings of the Burns & McDonnell and GAO studies.

The additional concern that "Federal dollars will be *diluted, wasted or otherwise abused inevitably* if 50 agencies take over a national airport development system" *suggests very serious reservations about the competence and integrity of State governments.*

We believe that most Members of Congress share our dismay with this line of agrument, and would reject the premises upon which it is apparently drawn.

10. Paragraph 13—The "necessary safeguards" provided to insure that the demonstration authority *"will not be abused"* again casts gratuitous doubt upon the integrity of State governments.

Finally, the requirement that each State must have the *"advance approval of its State Legislature"* before it can qualify as a demonstration State effectively *eliminates almost every State from consideration.*

Both House and Senate bills call for demonstration States to be selected and get their demonstration programs underway no later than January 1, 1977. A glance at the 1976–1977 calendar of State Legislature sessions shows that few State Legislatures will be in session at that time. The 1976 legislative sessions have already terminated in the majority of States. Furthermore, *the National Conference of State Legislatures has already expressed its formal approval of the State demonstration programs in the ADAP bill.*

CONCLUSION

The elected and appointed representatives of the States quite frankly deplore the strongly negative tone of the comments contained in Section 13 of the Commerce Committee report accompanying S. 3015, the Senate ADAP bill.

We urge the Senate to disassociate itself from the misrepresentations of fact which characterize Section 13 of the report, and from the doubts cast upon the integrity of State Governments included in paragraphs 11 and 13 of Section 13.

Whether the issue involves aviation or any other matter of mutual concern to the Federal and State governments, we do not believe that the majority of the Senate looks upon the States as 50 foreign—and possibly hostile—governments.

Summary of Oregon's aviation Investment—State aeronautics funds[1] *invested in airport development: 1957 through June 30, 1975*

Development of State-owned airports (38)	$1,508,813
Financial aid to municipal airports	$693,200
Total	$2,202,013

Fiscal years 1973–75:	
State-owned airports—development:	
State	$176,367
Federal	$461,195
Total improvement cost	$637,562
State funds—M. & O. (38 State-owned airports)	$156,781
Aid to municipal airports (State dollars)	$247,187
Resulted in total construction worth	$3,253,626

Additional facts on Oregon aviation—1975:	
Aircraft	3,367
Pilots	8,932
Public airports	131
Private-use airports	130
Heliports	73
Total	334

Total aviation assets estimate excess of 315 mil.

[1] Derived solely from State taxes of ½¢ per gallon on all jet fuel, 2¢ per gallon on aviation gasoline and annual aircraft registration fee of $20 per general aviation aircraft.

Mr. CANNON. Mr. President, there have been a number of questions raised in regard to the intent of the committee in authorizing that airport development grants may be used for development in airport terminals. While the bill provides that ADAP grants be used only in "public use areas" that should not be construed to mean that we want terminal buildings designed in an inefficient manner just to insure eligibility for ADAP. Recently the American Institute of Architects submitted to me several questions in regard to the committee intent and I ask unanimous consent that their questions and my answers be printed in the RECORD so as to clarify the committee view of the terminal area development project issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTION

We would like to raise a question on a portion of the bill. We note that Section 3(a) (1) and Section 12 provide a new definition as to which airport projects are eligible for federal assistance. Specifically, this new standard for eligibility authorizes federal assistance for airport passenger terminal development for the first time.

The question arises from the actual language of the bill. Section 12, which implements Section 3(a)(1), limits federal assistance to those portions of terminal development projects which, "(A) are directly related to safety of persons at the airport, (B) involve multimodal passenger terminal buildings or facilities, or (C) are both (i) directly related to the movement of passengers and baggage within the airport boundaries and (ii) involve public use areas which do not generate revenue for the airport sponsor."

Now part (B) of that limitation is explained in the report accompanying S. 3015, but there appears to be no explanation of the intent of part (C). Is it the intent of the Committee that federal assistance provided in this bill is to be strictly limited to facilities *only* used in getting passengers on and off airplanes and other vehicles, and that these federally assisted facilities are to be segregated and separately planned from other facilities and services in an airport, such as places for waiting or for getting meals and information?

ANSWER

The answer to your question is essentially, no. Our intent is not to limit eligibility for assistance to projects which are exclusively used for enplaning and deplaning movement, and we certainly do not intend this language to require that these facilities be physically segregated or separately planned. In fact, our intent is to encourage integrated airport terminal planning, as can be seen from the emphasis in the legislation on master planning and programmatic capital improvements. The bill specifically calls for developing multimodal facilities to integrate our various transportation systems. Your question brings up the issue of whether this language in Section 12 is to be read to imply that federal funds cannot be used for the planning and construction of facilities that allow access to other facilities and services within a terminal besides pure travel. I can firmly say that the intent here was not to foster that kind of interpretation. The public should certainly have access to other services for its comfort, efficiency, and convenience, such as information, communications, sustenance, and even respite. We would hope that the fact that these terminal projects are federally funded would not cause these ancillary services to be segregated or isolated from the traveller. The intent is not to inhibit integrated design of terminal facilities but to promote it, and such integration would include access to other facilities and services at airports beside those for pure movement.

Now, of course, private or revenue producing facilities, and items unconnected with travel, would have to pay their own way.

QUESTION

So the intent of part (c) is to exclude from federal assistance those parts of an airport development which are not public, or which actually produce revenue for the sponsor, and those facilities which do not aid the public in using terminals.

But the intent is not to exclude from federal assistance the planning and construction of facilities which integrate, into the movement of passengers, access to services which aid the traveling public, whether those services are revenue generating or not. I am speaking here of parts of a project that allow the public just to get to other service facilities, not the facilities themselves. Is that correct?

ANSWER

That is correct.

Mr. HUMPHREY. Mr. President, the Airport and Airway Development Act which we are considering today will provide for the continued expansion and improvement of the Nation's airport and airway system, streamline the airport grant-in-aid process, and strengthen national airport system planning.

The development of a national system of airports and airways sufficient to meet, without congestion or delay, the Nation's current and future safety and service needs, remains an unmet goal. Enactment of the Airport and Airway Development Act will help us realize this national objective.

I am particularly pleased to see that this legislation contains a provision to allow moneys in the Aviation Trust Fund to be used for the construction of land buffer areas, noise suppression hardware, physicial barriers, and other appurtenances to diminish the effect or aircraft noise on areas adjacent to a public airport. The airport and airway development program can be a useful tool to identify and solve the problems of airport noise, particularly in the Minneapolis-St. Paul area.

Speedy passage and enactment of this legislation is important to all of us. In Minnesota, it is of particular concern because the construction season is quite short, and many needed airport projects are in limbo because of the uncertainty of long-term Federal funding.

Safety-related projects, which could not be implemented at the Minneapolis-St. Paul Airport last year because of this, cost over $3 million in job loss alone. Other Minnesota airports were similarly affected.

Mr. President, Minnesota's airport development needs total $36 million. While the new distribution formula does allocate funds more evenly among the various categories of air-carrier airports by reducing the percentage of the total going to the large hubs and increasing the percentage of the total for the smaller airports, it eliminates any flexibility within a given State to reallocate funds to those airports which have priority projects. It also spreads the money thinly over all but the large airports with not enough left to fund projects of any size at the smaller ones.

Although the one-third discretionary fund in the new formula is supposed to alleviate this problem, the competition for discretionary funds will be fierce and many needed projects may fall by the wayside for lack of funding.

I share the concern of my colleagues that the Secretary of Transportation give careful consideration to the needs of the smaller air-carrier airports. Airport projects today on all airports, regardless of size, are expensive.

Two important Minnesota projects come to mind: One at Duluth for strengthening and widening the main runway to take care of the new and heavier jets. Preliminary cost estimates are $3 million. Worthington's important and much-needed project is a new runway alinement, also costing $3 million. Airport size does not always dictate cost; projects are all very expensive.

The issues related to this legislation

are complex, indeed, but I hope that the many concerns can be resolved as quickly as possible.

Mr. EAGLETON. Section 16(a) of the bill before us authorizes the Secretary of Transportation to "prescribe standards for airport site selection."

I think the distinction between setting standards and actually selecting sites is clear, but I would like the assurance of Senator CANNON that nothing in this section in any way changes or modifies section 16(f) of the 1970 act which makes clear the Secretary must have the agreement of all the jurisdictions affected before he can select a site for a new airport. The Secretary of Transportation cannot impose the site without that local agreement.

Mr. CANNON. The Senator is correct. There is nothing in this bill which would modify section 16(f) of the 1970 act and the Senator is correct that section 16(f) does require the local jurisdictions to agree. The Secretary of Transportation has no authority to impose a site against the wishes of local offices and citizens.

Mr. EAGLETON. I thank the distinguished chairman. Mr. President, I ask unanimous consent that a memorandum prepared by my staff on the legislative history of section 16(f) of the 1970 act be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Subsection 16(f) states that when the Secretary determines that—

"A metropolitan area comprised of more than one unit of State or local government is in need of an additional airport to adequately meet the air transportation needs of such area, and (B) that an additional airport for such area is consistent with the national airport system plan prepared by the Secretary, *he shall notify, in writing the governing authorities of the area concerned of the need for such additional airport and request such authorities to confer, agree upon a site for the location of such additional airport, and notify the Secretary of their selection.*" (Emphasis Added.)

The legislative history of Subsection 16(f) makes it clear that the Secretary has no power to approve a site over the objections of the local government authorities of the standard metropolitan statistical area of St. Louis, Missouri. We need not concern ourselves here with the question of the Secretary's power in the face of objection by only a small portion of the totality of such state and local governmental entities, nor with the question of *what* local entities must consent. Here the State of Missouri and St. Louis County—representing the bulk of the users and the bulk of the population in the metropolitan area—have formally notified the Secretary that they do not agree upon the site Columbia-Waterloo. So has the Missouri Authority. The Illinois site proposed by the Illinois Authority to serve metropolitan St. Louis is thus opposed by the State of Missouri, the County embracing most of metropolitan St. Louis, and the airport authority established by the State of Missouri. That opposition is massive and unequivocal.

While the language of Subsection 16(f) does not specifically prohibit the Secretary from selecting a site in the face of opposition, it is clear from the legislative history of Subsection 16(f) that such is the case. Congress *intended* this subsection to be a *complete* and *absolute* bar to approval of a project in the event of opposition to the extent here present, as will now be demonstrated.

The precursors of H.R. 14465, 91st Cong. 2d Sess., which became the Act, were H.R. 12374 and H.R. 12780, 91st Cong. 1st Sess. These bills, which were the subject of hearings held by the Committee on Interstate and Foreign Commerce (Aviation Facilities Maintenance and Development, Parts 1 and 2, Hearings on H.R. 12374 and 12780, July-September, 1969, Serial No. 91–22 and 91–23 (1969). They contained no provision comparable to Subsection 16(f) of the Act. Rather their comparable section dealing with submission and approval of projects simply stopped at the end of what is now Subsection (d) of Section 16. *See* Section 206, H.R. 12374, 91st Cong. 1st Sess. (1969); Section 206, H.R. 10638, 91st Cong. 1st Sess. (1969).

The debate over site selection was introduced by a separate bill, H.R. 13227, 91st Cong. 1st Sess., also considered in the hearings. This bill, introduced by Representative Murphy of New York, contained a specific provision relating to site selection. (*Hearings, supra*, Part 1, pp. 52–53). The relevant provision follows:

SEC. 9. Whenever the Secretary of Transportation determines (1) that a metropolitan area comprised of more than one unit of State or local government is in need of an additional airport to adequately meet the air transportation needs of such area, and (2) that an additional airport for such area is consistent with the national airport plan prepared by the Secretary, he shall notify, in writing, the governing authorities of the area concerned of the need for such additional airport and request such authorities to confer, agree upon a site for the location of such additional airport, and notify the Secretary of their selection. *If within five years after the written notification by the Secretary referred to in the preceding sentence, he has not received notification from the governing authorities concerned of the selection of a site for the additional airport, he shall, after notice and opportunity for a hearing, select a site for such additional airport with respect to which the Secretary will accept project applications under the Federal Airport Act for the construction of such additional airport.* Unless the Secretary, after notice and opportunity for hearing, shall modify any site selection made by him under this section, no other site in such area shall be eligible for assistance under the Federal Airport Act for construction of an additional airport in such area. (Emphasis Supplied.)

Congressman Murphy made it abundantly clear that Section 9 of his bill was inserted to permit the *Secretary* to resolve local disputes over site selection. He said:

"I have introduced legislation today that would empower the Secretary to convene a conference of State, city and local officials and compact officials in an area where he has made the determination that an additional airport is needed. The conference should be convened immediately after a determination is made that needed facilities are overdue and a second conference again 3 years later to determine if the needs have been met.

"If the locality has failed to select a site and begin construction of a new airport the conferences shall be called to attempt to resolve whatever political, financial, or other obstacles that have prevented construction.

"Should the conference fail to resolve differences and get construction going within two years of the second conference, *the Secretary will then be authorized to select the site for construction.*" (Emphasis supplied.) (*Hearings, supra*, Part 2 at p. 584)

Neither Congressman Murphy's bill, nor any of the others which were the subject of the hearings, were enacted. Instead, a month following the termination of the hearings, Congressman Staggers introduced H.R. 14465, which later was to become the 1970 Act. It contained the site selection provision found in Subsection 16(f) of the present Act. It thus adopted that portion of Section 9 of Congressman Murphy's bill, H.R. 13227, that the Secretary should be required to consult with the relevant state and local governmental entities but specifically did *not* adopt that portion of Section 9 of his bill authorizing the Secretary to act in the face of an unresolved deadlock.

H.R. 14465 was immediately referred to the Committee on Interstate and Foreign Commerce of the House and reported out, without hearings, on October 27, 1969. See H.R. Rept. 91–061, 91st Cong., 1st Sess. The bill as reported out by the Committee, however, amended Subsection 16(f) to reflect the provision of the Murphy bill permitting the Secretary to resolve local disputes on site selection:

"If, within three years after the written notification by the Secretary referred to in the preceding sentence, he has not received notification from the governing authorities concerned of a selection of a site for the additional airport, *he shall*, after notice and opportunity for a *hearing, select a site for such additional airport with respect to which the Secretary will accept project applications under this part for the construction of such additional airport.*" (Emphasis Added)

Section 16(f), as amended by the Committee to give the Secretary the right to select a site if no agreement had been reached within three years, came under heavy attack during the debates on the floor of the House, particularly from the New Jersey delegation led by Congressman Frelinghuysen. He stated that he would offer the following amendment to the bill replacing the three-year provision:

"In order to facilitate the selection of a site for an additional airport under the preceding sentence, the Secretary shall exercise such of his authority under this part as he may deem appropriate to carry out the provisions of this paragraph." (H–10645)[5]

In explaining the thrust of his amendment Congressman Frelinghuysen reflected the view that the role of the federal government should not be that of an ultimate *decision* maker, but, rather, should be that of a *mediator*, using its influence to help the parties arrive at a decision. In this regard he stated:

"If we adopt this language it seems to me we have provided a reasonable role for the Federal Government. The Secretary is directed to help facilitate a decision. There is no more that we could logically expect him to do, certainly he could not possibly ram a site location down our throats." (H–10645)

Congressman Howard of New Jersey reinforced this position:

"I do not feel that we should pass legislation which in effect says that a federal czar can select an airport site regardless of what people in that State and area say. I feel that the Governor and the State legislature, at the very least, should approve or disapprove of any such recommendations."

"The Secretary of Transportation should be encouraged to help facilitate by all the means at his command, the selection of a suitable airport site. But he should not be given the absolute authority to locate that facility on his own." (H–10645)

In continuing the debate in support of his amendment, Congressman Frelinghuysen stressed the basic principle that those persons most affected by the site location should have the ultimate responsibility for making the final decision. He stated:

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[5] These citations are to the By-Weekly Edition of the Congressional Record—House, November 6, 1969.

"Mr. Chairman, we recognize the advisability of a decision as to whether or not another airport in the New Jersey-New York metropolitan area should be constructed, and we realize also that the decision should be made with reasonable promptness. However, if there should be delay, the responsibility should not be given to a single individual here in Washington who could then proceed to reach a decision that might be in direct opposition to the views both of the Governor, the legislature, and the communities affected.

* * * * *

"But, Mr. Chairman, there is a role that the Secretary of the Department of Transportation could play and one I hope he will play from the very outset. That is, he could use persuasion and his influence to expedite a decision.

"Very simply, the proposal that I am offering in this amendment, which I repeat, receives the support of the entire New Jersey delegation, would provide that the Secretary should facilitate the selection of the site. He should do whatever he can but not interfere with the basic responsibility or transfer basic responsibility away from the governing authorities which have that responsibility." (H–10667–68)

Congressman Sandman of New Jersey expressed his support of the principle of the Frelinghuysen amendment that those persons most affected by the decision of site location should have the ultimate responsibility to make that decision as follows:

"We have heard Members on both sides of the aisle say that we have taken too much authority away from the municipalities and that we have invaded home rule too much and concentrated too much power in Washington and we should not do that. I think every Member of this House has said that.

* * * * *

"It is the kind of language that is in this bill [giving the Secretary of Transportation final authority] that would allow the very same thing to happen on a national basis. This, I think, is wrong and violates home rule and should be defeated." (H–10669)

Congressman Howard of New Jersey stressed substantially the same view:

"Mr. Chairman, as a consistent supporter of States' rights in New Jersey as well as throughout the country, I oppose the determination by the one man in the Federal Government to tell all the people, including the legislature and Governor of the State of New Jersey, what New Jersey must have and where New Jersey must have it. I do not think one man should have that right." (HR–106670)

The Frelinghuysen amendment, despite vigorous opposition from the New York delegation which supported the Committee bill giving the Secretary ultimate site selection authority (*See, e.g.,* H–10664–65), was accepted (H–10671), and the bill, as so amended, passed the House on November 6, 1969 (H–10678).

The present language of subsection 16(f) was thus contained in the bill which passed the House and was introduced in the Senate. 116 Cong. Rec. 4826 (1970). The Senate Commerce Committee reported out H.R. 14465, without hearings, as a substitute for its own bills, (S. 3108, 91 Cong. 1st Sess.), but *without* the Frelinghuysen amendment. It thus restored the provision in the bill as originally reported out by the House Committee and favored by the New York delegation giving the Secretary ultimate authority on site selection.

The debate on the floor of the Senate involved three alternatives. First, Senators Case and Williams of New Jersey introduced an amendment to restore the language of the House bill, thus depriving the Secretary of ultimate authority to determine site selection. This was the amendment ultimately *adopted,* and is the language of Section 16(f) of the Act as it exists today. Second, there was some support, principally from Senator Tydings of Maryland, for the bill as reported out by the Senate Committee which gave the Secretary ultimate authority on site selection. As just noted, this language was *rejected* in favor of the New Jersey amendment. Finally, Senators Javits and Goodell of New York, apparently concerned whether the Senate Committee bill would be successful, came up with a compromise amendment, which was ultimately *rejected.* The debates on these three positions are set forth in some detail below to show that the Senate knew *exactly* what it was doing in *refusing* to give the Secretary authority to determine site selection when there was local opposition, just as the House did.

The Javits-Goodell amendment was a proposal that after the Secretary had made a determination that a new airport was needed, and after failure of governing authorities to agree on a site selection despite having been requested by the Secretary to do so, the Secretary could establish a high-level Airport Priority Review Panel to reach a decision. If the decision was not accepted, then the Secretary would be authorized to cut off all aid to all airports in the area. Senator Javits then argued that giving the Secretary authority to withhold monies was not the same as giving him power to make a decision;

"Our amendment—Senator Goodell's and mine—would give the Secretary somewhat less authority than does the Committee bill. The Committee bill gives the Secretary plenary authority, because he would be entitled to select the site. Naturally, the States concerned—the state of New York and, I assume the state of New Jersey—are very unhappy about letting the Secretary of Transportation make a decision that they themselves ought to make. So I think it is fair to say that our amendment and, probably, the amendment of the Senators from New Jersey, are dictated by an effort to deny authority to the Secretary at this time to make the choice in lieu of letting the States do so. That is the negative part. Our amendment, just as the amendment of the Senators from New Jersey, would deny the Secretary such authority.

"The next question is, can we do anything else? That is where I think we propose a compromise. Instead of giving authority to the Secretary to pick a site, we give him authority to withhold money from that metropolitan area. . . .

"But the Secretary cannot choose a site and mandate it upon the States concerned, not even under the limited authority he possesses to withhold some funds—mind you, not funds of the whole State or even of the whole metropolitan area. . . ." 116 Cong. Rec. 5035 (1970).

Continuing the debate, Senator Goodell of New York added the following in defense of the so-called compromise amendment:

"Under the provisions of this bill, the Secretary of Transportation is directed to prepare and publish every 2 years a National Airport System Plan for the development of public airports in the United States over a ten-year time period. This provision will enable the Secretary to expend funds for airport development in a rational and planned fashion, consistent with the needs of the country as a whole and the role of aviation development throughout the United States.

"Both the Senate and House versions of the bill presently provide that if the Secretary determines that a metropolitan area is in need of an additional airport to adequately meet the air transportation needs of that area and that this is consistent with the National Airport System Plan which he has prepared, the Secretary shall notify in writing the governing authorities of that area of this need and request that they confer, agree upon a site for the location of this additional airport, and notify him of their selection.

* * * * *

"This amendment provides a two-year time period for the governing authorities to notify the Secretary of their selection of the site and their intention to submit a project application for the additional airport. If he does not receive such notification after two years, the Secretary then may establish such priority in the use of the funds granted him pursuant to this Act for aviation facilities serving the metropolitan area as is necessary in order to provide for the construction of the additional airport as soon as practicable.

* * * * *

"In summary, therefore, this amendment offers the Secretary a means whereby he may, if he so chooses, facilitate the building of an additional airport as an integral part of an improved National Transportation Plan." 116 Cong. Rec. 5037–38 (1970).

Senator Tydings of Maryland argued in favor of the language in the bill as reported out of Committee, giving the Secretary the direct right to determine where a major regional airport should be developed, although he indicated he would support the compromise Javits-Goodell amendment as preferable to the Case-Williams amendment:

"In the markup of the pending Airport and Airways Development Act of 1969 within the Commerce Committee itself, I was the Senator who pressed the language of the present Section 206(g)(1) in H.R. 14465, which basically gives the Secretary the right, when all else fails, to determine where a major regional airport should be developed. I took this position because I felt that in any modern transportation system, adequate major regional airport terminals are a fundamental necessity in the era in which we live.

* * * * *

"It is also obvious to me, as an objective bystander, that where the politics of States and communities enter into an airport location decision it is frequently impossible, despite the merits of the case, for local political leaders to accept a desirable site because of the political pressures from their constituents in that area.

"It is for that reason that I persuaded the Commerce Committee to agree to an amendment which in the case of regional airports, when all else fails, provides a mechanism for the Secretary of Transportation to make an objective decision.

* * * * *

"My amendment would have offered an alternative or a way to break the log jam. That amendment was in the Senate version of H.R. 14465 which is now before us. *The Williams-Case amendment, in effect, would have stricken that language and left no machinery within the Department of Transportation to make the hard decisions, when all else fails.*

"I am willing to accept and support the Javits-Goodell amendment because although it does not give the Secretary of Transportation the power I would give him in my amendment as incorporated in the bill reported to the floor, nevertheless, it does give him some tools, some powers of persuasion to make an objective decision." 116 Cong. Rec. 5041 (1970). (Emphasis Supplied.)

The Javits-Goodell amendment was soundly defeated by a vote of 72 to 15. 116 Cong. Rec. 5045 (1970). The Senate debates then turned to the question of whether to adopt the Williams-Case amendment, or to leave in the bill the provision giving the Secretary explicit power to make site selection decisions. Senator Williams, in previously explaining his amendment, stated the following:

"The amendment which my senior colleague and I have offered states that the decision on airport locations will not be arbitrarily made by the Secretary of Transportation. The Secretary has already commented that he does not want or need this authority. He concurs with our view that State and local decisionmaking should not be diluted through increasing the involvement of the Federal Government.

* * * * *

"[T]he amendment my senior colleague and I have offered deletes the authority for the Secretary to select the site. . . ." 116 Cong. Rec. 5042 (1970).

The senior Senator from New Jersey, Senator Case, then supported Senator Williams' statement:

"Mr. President, I supplement what my colleague has so well said in regard to the position of the Department of Transportation. And I am sure he would not have spoken without administration authority. The Secretary of Transportation specifically says he does not believe the power to select jetport sites should be given to him.[6] He does not want it. And I think it is very clear that this is something that he would be unwilling to have thrust into his hands." 116 Cong. Rec. 5042 (1970).

Senator Cotton of New Hampshire stated, quoting from his individual views filed with the Committee Report, that the provision giving the Secretary power to select sites "makes a drastic change in the historic role of airport site selection which traditionally has been the responsibility of State and local governments," and "confers no authority, which he, as Secretary, probably could and would exercise in any event." He then added that:

"It is my feeling in the first place, that the Secretary of Transportation does not want this authority. He has made it known in unmistakable terms to me, as the ranking minority member of the Commitee, that he does not want the authority which is in the bill.

"Thus, I feel constrained, for the reasons stated in my individual views, and because I have discussed the subject thoroughly with the Department of Transportation, that I shall support the amendment of the Senator from New Jersey" 116 Cong. Rec. 5045 (1970).

Thereupon, the amendment proposed by Senators Williams and Case was passed by a vote of 56 to 31 (116 Cong. Rec. 5045–56 (1970)).

This legislative history of the Act, discussed above, clearly demonstrates that the Secretary may not, as a matter of law, select an airport site over the expressed opposition of the magnitude here involved—one side favoring the Illinois site and the other an improved and expanded Lambert Field. Since the sponsors of the amendments which were finally adopted on the floor of both the House and the Senate stated that the effect of their amendments was to *preclude* the Secretary from selecting sites in the face of disagreement between governmental agencies in the area for which the project was proposed, the Act must be interpreted to require a denial or deferral of the Request for Aid now before the Secretary. The sponsor's view of the Act is definitive. As the Supreme Court has said, "It is the sponsors [of a provision] that we look to when the meaning of the statutory words is in doubt." *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–5, 71 S. Ct. 745, 750–1 (1951). See *NLRB* v. *Fruit and Vegetable Packers and Warehousemen, Local 760*, 377 U.S. 58, 84 S. Ct. 1063 (1964); *National Woodwork Manufacturers Ass'n.* v. *NLRB*, 386 U.S. 612, 878 Ct. 1250 (1967). Further, since a provision which would have allowed the Secretary to select a site when the local communities disagreed was included in some of the bills but were specificially deleted by amendment, the Act cannot be read to grant such authority to the Secretary. See *Bindczyk* v. *Finucane*, 342 U.S. 76, 72 S. Ct. 130 (1951).

Mr. CANNON. Mr. President, at this point in the debate, I ask unanimous consent that a letter from the distinguished Senator from Alaska (Mr. GRAVEL) and my letter in reply to him be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington D.C., March 22, 1976.

Hon. HOWARD W. CANNON,
Chairman, Subcommittee on Aviation,
Washington, D.C.

DEAR HOWARD: It has been widely recognized for some time that the Anchorage International Airport is in need of a North-South runway. North and South crosswinds frequently render maneuvers on the existing East-West runway extremely hazardous. Several alignment possibilities for a N–S runway were reviewd by the State sponsor for airport construction, Alaska Division of Aviation. The alignment selected (4–4), was chosen largely on the basis of low cost factors. However, air safety consultants have testified that the alignment selected by the sponsor is not as safe as an available alternative, and would cause more noise pollution to surrounding residential areas.

This alternative alignment (1–) is entirely feasible. The citizens of Anchorage, along with the Alaska Airmen's Association, favor the 1–1 alignment. The citizens advocates of alignment 1–1 have met with no success in their attempts to have this alternative accepted, despite the support of various professionals in airport planning. For this reason I will appreciate your assistance in clarifying certain procedures for reaching decisions on a matter of this type by responding to the following questions.

(1) Is my understanding correct that in its consideration of project funding under the Airport and Airway Development Act, the Committee on Commerce (and the Congress as a whole) does not itself attempt to make technical assessments of each project, but instead reserves these decisions for determination by FAA and the State sponsoring agencies which have particular expertise in these areas?

(2) Is my further understanding correct that the Congress and the Executive agencies have provided appropriate procedures for administrative and judicial appeal of those technical decisions which interested citizens believe may result in unsafe or environmentally unsound construction programs funded under the Airport and Airways Development Act?

(3) If my understanding in the above two matters is correct, is it then also correct that in the case of the project to construct a North-South runway for the Anchorage International Airport, neither the Committee on Commerce, nor the Congress as a whole has attempted to assess the technical issues related to making a determination of the proper alignment of such runway?

Thank you for your assistance in this matter.

Sincerely,

MIKE GRAVEL.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., March 22, 1976.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: Thank you for your recent letter to me explaining the dispute regarding the runway configuration for a proposed new runway at Anchorage International Airport. This is an issue which must be decided by local authorities and the Federal Aviation Administration.

Specifically, in response to your questions, neither Congress nor the Senate Commerce Committee becomes involved in technical issues affecting specific airport development projects. These questions and disputes are better left to the experts who have the benefit of far more experience and expertise in their field than does the Committee or the Congress as a whole.

Under terms of the National Environmental Policy Act and the Airport and Airway Development Act, citizens in the affected community will be afforded an opportunity to express their views on this issue as it would constitute a "major Federal action" under NEPA and would require a hearing under the Airport and Airway Development Act. In addition, all judicial remedies would be available following any administrative action taken by the FAA.

Finally, I, as chairman of the Subcommittee on Aviation, have no knowledge of any Congressional statement or determination of any kind relating to the specific alignment of the proposed new runway at Anchorage International Airport.

I hope this letter serves to responsively answer the questions you raised.

Sincerely yours,

HOWARD W. CANNON,
Chairman, Aviation Subcommittee.

Mr. GLENN. Mr. President, I wish to commend the distinguished chairman of the Aviation Subcommittee, Senator CANNON of Nevada, for his effort and skill in bringing to the floor this bill. Since 1970 the Airport and Airway Development Act has had a tremendous impact upon our national air transportation system in terms of improved safety and system capacity. Through the airport and airway trust fund, $1.3 billion in airport development funds have been obligated involving over 2,400 projects. Eighty-five new airports and one hundred seventy-eight new runways have been built and hundreds of airports have been upgraded.

Experience with the 1970 act has brought to light a number of deficiencies which must be rectified and to which this bill is addressed. Among the shortcomings of the 1970 act is a prohibition against the use of trust fund moneys for the construction and improvement of facilities directly related to the movement of passengers and baggage in airport terminals.

In major hub airports, modern automated baggage handling facilities, waiting rooms and all-weather boarding facilities have been installed either by the user airlines or by the terminal operator through user revenues. Smaller airports, relying on a much lower base of user funds, face great difficulty in financing capital improvements which do not qualify for matching grants from the airport and airway trust fund. S. 3015 will provide such funding on a 50–50 basis.

In this regard it is my understanding that the amendments to the 1970 act with respect to project costs as set forth in section 12 and related provisions of S. 3015 will apply to funds authorized to be disbursed for fiscal year 1976 beginning July 1, 1975.

It is also my understanding that an airport improvement project involving passenger and baggage movement facilities begun prior to July 1, 1975, and which is still underway as of that date can qualify under the liberalized provisions of this bill with respect to those portions of the work undertaken in fiscal year 1976 and subsequent years.

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[6] At 116 Cong. Rec. 4869–70 (1970) Senator Case introduced a letter from Secretary Volpe *opposing* the provisions of the bill as reported from the Committee giving him ultimate authority over site selection.

I request that my distinguished colleague from Nevada (Mr. CANNON) confirm this interpretation of the bill. I thank the gentleman and again commend him for his continuing efforts on behalf of aviation safety and progress.

Mr. CANNON. That is correct.

Mr. President, I ask unanimous consent that Senator CRANSTON be added as a cosponsor to the Bentsen amendment to my amendment to the Airport and Airway Development Act adopted by the Senate earlier this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am pleased to support S. 3015, legislation designed to improve and expand upon the airport and airway development program initiated by the Congress in 1970. That program was intended to respond to the rapid growth in air transportation experienced during the 1960's by providing badly needed capital investment funds for improving airport facilities and upgrading navigational aids and the entire air traffic control system.

In the 5½ years since enactment of the Airport and Airway Development Act of 1970, we have made great progress toward making our air transportation system safe and more efficient. As the report of the Committee on Commerce indicates, the act has made $1.3 billion in airport development funds available at over 2,400 airports through the airport and airway trust fund. The program has been financed through user charges paid by airline passengers, the airlines themselves, air freight shippers, and private aircraft owners and operators. Much remains to be done, however, particularly in the areas of noise control at airports, modernization of terminal facilities, and safety measures at general aviation airports. Now that the 1970 legislation has expired, we have an opportunity to continue the program and make improvements which will help to increase its effectiveness in the years ahead.

Among the improvements contained in S. 3015 is a revision in the formula for distribution of airport development grant funds which will enable each air carrier airport to plan future capital development with some certainty of the amount of development funds it will receive. In addition, the bill eliminates the current requirement for project-by-project approval by the FAA, permitting each airport sponsor to develop a 3-year capital investment plan for approval by the Administrator. Once that plan has been approved, individual projects can be implemented promptly without additional redtape.

I also support those provisions of the bill increasing the Federal share of funding for airport projects to 90 percent at all air carrier airports except the large hubs which will receive 75 percent Federal funding, and expanding the definition of "airport development" to include terminal area construction, snow removal equipment, and noise suppression devices, as well as the purchase of land adjacent to airports to alleviate the airport noise problem. In my view, these provisions recognize the increasingly heavy burdens placed on local airport sponsors who rely upon user fees and locally collected revenues to operate airports and the importance of dealing with the growing airport noise problem as a part of the planning and development process.

I am especially pleased that the committee has included in the bill an amendment which I offered to require those airports taking advantage of the availability of airport development funds for terminal improvements to provide an enplaning and deplaning facility at the terminal for general aviation aircraft. Since general aviation contributes substantial sums to the trust fund through the 7-cent-per-gallon tax on aviation fuel, I believe that it is only fair that air carrier airports making use of trust fund moneys for terminal development insure access to the terminal by general aviation aircraft.

Another provision of S. 3015 which deals with general aviation has been the subject of considerable controversy. Section 13 of the bill authorizes a limited demonstration program through which aviation agencies in no more than three States would undertake to administer the general aviation airport development program in their States which has in the past been administered by the Federal Aviation Administration. While I recognize the view of the distinguished chairman of the Aviation Subcommitee (Senator CANNON) that continued Federal administration of the airport development program is desirable in view of the fact that our air transportation system is national in character and has traditionally fallen within the regulatory authority of the Federal Government, a number of States, such as Tennessee, have created State aeronautical agencies staffed with competent and experienced personnel.

These agencies can perhaps evaluate the needs of small communities for aviation facilities more efficiently than can the Federal bureaucracy, and they can provide needed technical assistance to communities seeking to develop general aviation airports. Moreover, the States have requested the Congress to recognize their competence in this area and have indicated that they may be able to develop general aviation airports at a lower cost than the Federal Government. I believe, therefore, that we should authorize this 2-year test program to determine if State agencies can administer Federal funds for general aviation more effectively than the FAA.

Mr. President, I applaud the hard work which my colleagues on the Aviation Subcommittee and the full Committee on Commerce have devoted to fashioning what I feel to be a fair and effective approach to our airport development needs for the next 5 years. I hope that the Senate will approve the measure promptly so that we can proceed toward enactment of this important legislation as soon as possible.

Mr. MATHIAS. Mr. President, I commend the Committee on Commerce and especially the distinguished chairman of the Subcommittee on Aviation, Senator CANNON, for their work in the development of S. 3015. This bill to continue the airport and airway development program will provide for expansion of airport facilities to meet the needs of air travelers throughout our Nation as well as the needs of visitors from countries around the world.

I am very pleased to see that S. 3015 has been carefully drafted to reflect the growing public concern about the environmental impacts associated with airport development. By expanding the definition of airport development to include purchase of land adjacent to airports to provide for noise buffers between airport boundaries and the adjacent community, S. 3015 takes a valuable step in addressing this difficult problem. Provisions for the development of intermodal passenger terminals indicate that the sponsors of S. 3015 are in tune with current theories about the need for coordination in transportation planning. Without careful planning to assure adequate linkages between airports and surface transportation, time saved in the air or in the improved terminal will only be lost on the ground in a traffic jam.

While I believe that the sponsors of S. 3015 have sought to develop a bill that emphasizes the need for careful planning in the development of airport facilities, I was concerned to note that the bill contemplates the elimination of a discrete authorization for planning grants. I would appreciate an explanation of why the committee decided to eliminate authority for planning grants as a type distinct from development grants.

Mr. CANNON. The Senator from Maryland is correct in his observation that section 5 of S. 3015 eliminates the planning grant as a discrete type of grant and places the planning grant authority under the provisions pertaining to airport development grants. This change is meant to streamline the program and to eliminate the need for two distinct types of grants. Under the amendment proposed in this bill, grants for airport system planning and airport master planning will be funded from revenues reserved for airport development grants. The committee in no way intended to diminish the emphasis on planning in our efforts to establish a more streamlined grant application and award process.

Mr. MATHIAS. Making the grant application process simpler and more streamlined is certainly a commendable objective. However, I wonder if there is a danger that by combining the funds for planning and development there will be a tendency for planning to be neglected. For example, would it be likely that given a choice between preparation of a master plan and construction of a runway, most airport operators will build first and plan later?

Mr. CANNON. I fully share the Senator's concern about the need to preserve the integrity of the planning process. The intent of this bill is to expand and encourage thoughtful planning prior to the development of new airport facilities. I believe that the statutory and administrative requirements for the award of grants for construction purposes make it clear that thorough planning must come before funds can be awarded for actual development purposes.

Mr. MATHIAS. Then you would not anticipate that the elimination of a discrete authorization for planning grants would result in a reduction in the total amount of funding available for airport planning.

Mr. CANNON. No; we do not intend to reduce the funding for planning. Our intention is rather to make it a more integral part of the program. We intend to provide full support for airport systems planning on a State and national basis, as well as master planning for individual airports.

Mr. MATHIAS. Would this include the continuation of funding for airport system planning by regional councils of governments, including those which operate across State boundaries? For example, the COG in Washington, D.C., which is working on planning efforts with respect to airports in both Maryland and Virginia?

Mr. CANNON. Yes; our intent is to continue support for this type of planning by regional bodies as well as by States. We would hope that where interstate cooperation is appropriate, it would be actively encouraged.

Mr. MATHIAS. I appreciate the Senator from Nevada's answers to these questions. I am now reassured that Administrators in the FAA, in implementing this proposed modification in the funding for planning grants, will have a clear message that the Congress wishes to assure thoughtful and detailed planning prior to the commitment of Federal funds to expensive development projects.

The process of preparing airport system plans and master plans for individual airports will help to assure that airport construction or expansion is compatible with local and regional land use, transportation, and economic development planning efforts. Good planning can also help to identify how existing facilities might be used more efficiently, in the long run saving a great deal of the taxpayer's money.

An article by Michael L. Dworkin in the 1973 issue of the Urban Lawyer entitled "Planning for Airports in Urban Environments," provides an excellent outline of many important issues in airport planning. I ask unanimous consent to have printed in the RECORD one section of this article that focuses on the need for comprehensive airport planning on a regional basis to address the multi-jurisdictional nature of airport impacts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM "PLANNING AHEAD FOR UBRAN AIRPORTS"

C. COMPREHENSIVE PLANNING

In too many places, airports are "planned,' expanded and operated with no attention paid to the effects which their operations have on their neighbors.[79]

The multi-jurisdictional and metropolitan-wide nature of airport influence requires that planning for both the airport and its impact be metropolitan in scale.[80] Area-wide transportation system planning requires metropolitan planning agencies to foster and serve as a medium of exchange between the interests of the airport sponsor and those of the community. While these comprehensive planning schemes are costly, the financial cost involved in planning of this nature is probably much lower than the costs—economic, social, and environmental—that arise from poorly planned airport-community relationships. Additionally, pursuant to the Airport and Airway Development Act of 1970, the federal government is authorized to make planning grants to state, regional, and metropolitan planning agencies for airport system planning and master planning. Section 13 of this Act authorizes up to $75 million per fiscal year and directs the Secretary of Transportation to coordinate the administration of this program with the Secretary of Housing and Urban Development to preclude duplication and insure balanced planning.[81]

Comprehensive planning must include a study of the existing and expected noise exposure problems, particularly:

(1) the number and use of properties and the noise sensitivity of the land uses surrounding the airport;

(2) the number and major structural characteristics of the buildings in the area;

(3) the number and character of people exposed in the area;

(4) the market value of the property; and,

(5) the existence of special noise-sensitive activities, such as schools and hospitals.

It should additionally provide an adequate means of review actions to analyze complaints, formulate complaint profiles, and continually assess the relative usefulness and costs of alternative land use strategies.[82] Without this comprehensive study of the variables and problems incident to the relationship between the airport and its environs, the traditional means of insuring compatible land use, regardless of how vigorously they may be carried out, will continue to be ineffective.

The Minneapolis-St. Paul Metropolitan Airports Commission (MAC) is an example of the type of governmental unit that is required to administer comprehensive planning.[83] Although this commission was conceived as a means of quelling the traditional competition for scheduled air service between St. Paul and Minneapolis, it now serves the entire seven-county metropolitan area and possesses general jurisdiction over all aeronautical activity in that area, including the operation of the major air carrier airports and control over privately-owned fields.

Implicit in MAC's functioning is the necessity of insuring maximum coordination between it and federal, state, and local agencies. In coordinating its activities, MAC, because it is comprised of members from each community in the metropolitan area, represents the aviation interests of the entire metropolitan county area—the cities in which the airports are located as well as those who are only indirectly affected by them.

To a considerable extent, comprehensive planning, as it is embodied in such regional or metropolitan-wide bodies as MAC, is a marked improvement over the types of "planning" that we have had in the past. However, these comprehensive planning schemes are not flawless. As in the case of zoning, these planning schemes are not retroactive in effect. While they may plan ideally for the future, they may be virtually ineffective in alleviating the present ills associated with "impacted" airports. Furthermore, while planning agencies may develop a plan that reflects the best in technological, political. social, and environmental wisdom, there is nothing to prevent these agencies from later changing this plan to some less acceptable norm. This problem is especially significant in those instances where imminent financial crises have caused planning agencies to succumb to development pressures that may be contrary to the best interests of the entire region.

Yet, the most significant problem arising in this area is that these metropolitan-wide comprehensive planning bodies may become too parochial in their outlook, placing regional or metropolitan matters far ahead of those of national importance.[84] Thus, if there is to be any future in comprehensive planning, at least as such planning pertains to airports and air commerce, a close working relationship with the federal government will be required.

COLLOQUY ON THE FUNDING FORMULA

Mr. KENNEDY. I would like to ask the distinguished chairman of the Commerce Aviation Subcommittee for his thoughts on the use of the one-third of the funding formula for airport grants that is discretionary. I know the Senator is aware that the small airports in Massachusetts have expressed their concern that under the new formula, they will be unable to qualify for grants adequate to complete several major projects at their airports in the future.

Mr. BROOKE. The airport operators from small airports in Massachusetts who have contacted us have pointed out that the minimum provided each airport in this legislation of $150,000 would not begin to cover the costs they have projected for the next year.

Mr. CANNON. I thank the distinguished Senators from Massachusetts for bringing this to my attention, and I would be happy to comment on their concern. The one-third discretionary funding is designed to allow the Secretary the flexibility he needs to assure that major projects with high costs can be adequately funded. The increased total authorization in this bill and the flexibility in the discretionary fund will insure that the major needs of all our airports can be met.

Mr. BROOKE. We thank the distinguished chairman for his assurances. To illustrate the kinds of needs of some of our smaller airports in Massachusetts, I ask unanimous consent to have printed in the RECORD, a chart prepared by the FAA which shows the high cost of some individual airport projects.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

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[79] Fadem and Burger, *A Noisy Airport is a Damned Nuisance!* 3 S.W. L. Rev. 39 at 62 (1971).

[80] HUD-STUDY *supra* note 68.

[81] 84 Stat. 234.

[82] HUD-STUDY *supra* note 68.

[83] Harper, *The Minneapolis-St. Paul Metropolitan Airports Commission,* 55 MINN. L. REV. 363 (1971).

[84] Note, *Jetport Stimulus for Solving New Problems in Environmental Control,* 23 U. FLA. L. REV. 376 at 379 (1971).

STATE OF MASSACHUSETTS GRANT AGREEMENTS FOR AIR CARRIER AIRPORT PROJECTS—FISCAL YEARS 1971 THROUGH 1975

Location and airport	Project No	Fiscal year— 1971	1972	1973	1974	1975	Total
Boston (Logan International)	01	$84,385					
	02	391,600					
	04		$86,548				
	05			$178,059			
	06			1,550,000			
	07			222,250			
	08				$1,100,000		
	09				1,205,000		
	10				123,000		
	11				570,000		
	12					$876,000	
	13					1,677,000	
Total		475,985	86,548	1,950,309	2,998,000	2,553,000	$8,063,842
Hyannis (Barnstable Municipal)	01		90,977				
	02			57,928			
	03					159,857	
Total							308,764
Martha's Vineyard (Martha's Vineyard)	01			15,100			
	02					795,997	
Total							811,077
Nantucket (Memorial)	01					659,500	
Total							659,500
New Bedford (Municipal)	01	33,462					
	02				97,205		
	03				16,875		
	04					175,500	
Total		33,462			114,080	175,500	323,042
Worcester (Municipal)	01			244,350			
	02					436,000	
Total							680,350
Grand total		509,447	177,525	2,267,687	3,112,080	4,779,854	10,846,593

Mr. KENNEDY. In Massachusetts, we have two island airports at Martha's Vineyard and Nantucket. Construction costs at these facilities are higher because of the increased transportation costs in getting construction materials to the islands. At Martha's Vineyard last year, $795,997 in airport development was needed and at Nantucket $659,500 was needed and granted for project completion.

Mr. CANNON. Again, let me assure the Senators that the discretionary grant money is retained in the new formula precisely to deal with the situation where an individual airport has needs which exceed the grant money available to them on the enplanement formula. Many of our small airports across the country have similar needs and as in the past, the discretionary funding is set aside to make up the difference. Under the new formula, our larger airports will qualify for additional funding because two-thirds of the grant money will be distributed on an enplanement basis, so I think we can safely assume that there will be sufficient money in the discretionary fund to take care of these needs of our small airports.

Mr. BROOKE. I thank Senator CANNON and the committee, and I am certain that this discussion today will reassure our small airport operators that their needs will be met.

Mr. KENNEDY. I thank the Senator. I ask unanimous consent to have printed in the RECORD some of the letters that Senator BROOKE and I have received which discuss the projected needs of our small airports in Massachusetts.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NEW BEDFORD, MASS. MUNICIPAL AIRPORT,
December 12, 1975.
Hon. EDWARD M. KENNEDY and EDWARD W. BROOKE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY AND SENATOR BROOKE: The House Bill (H.R.) #9771. Airport & Airway Development Act Amendment of 1975 (Committee Reports—Union Calendar #287) limits the amount available to airports of our activity size to a maximum sum of approximately $150,000 yearly based on enplanement.

This would seriously effect the safety requirements of the New Bedford Municipal Airport for it has urgent need of a sum of $525,000 just to take care of three items.

Safety area for instrument runway #5-23	$50,000
Overlay for instrument runway #5-23	400,000
Crack fill and slurry seal of runway #14-23	75,000
Total	525,000

These are essential for an incident on June 13, 1975, where a Fairchild ran off Runway #23 during a severe rainstorm pointed out the need for the safety area to be brought up to specifications.

We would recommend and urge that the Senate Bill carry an amendment that the total funds for Airport and Airway purposes be made available on the basis of need for a particular airport and distributed solely on the basis of need and improvement to existing facilities and not on the basis of enplanement which is hardly the measure of the activity and workings of an airport.

In making this request, I am mindful of the needs of many airports such as New Bedford, for all of us would be badly hurt if the present version of H.R. #9771 were to become law.

We understand fully that H.R. 9771 carries the sum of $128,000,000 as a discretionary fund to be administered by the Secretary of Transportation and we are hopeful, doubtfully, that the monies will filter down from the fund to the smaller airports.

We are in need of your assistance; we would appreciate your every aid.

Sincerely,

ISIDORE EISNER,
Airport Manager.

NANTUCKET MEMORIAL AIRPORT,
Nantucket Island, Mass., December 11, 1975.
Senator EDWARD KENNEDY and Senator EDWARD BROOKE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Nantucket Memorial Airport Commission ask your support in changing the Distribution of Funds as written in H.R. 9771. Director of Massachusetts Aeronautics Commission, Crocker Snow, has contacted us stating the funding based on $6.00 per enplanned passenger is not enough for Cape and Islands Airports. He is proposing a change that is more acceptable. He can be contacted for this proposal.

Thanking you for your support.

Yours truly,

KENNETH W. HOLDGATE,
Airport Manager.

BARNSTABLE MUNICIPAL AIRPORT,
Hyannis, Mass. December 16, 1975.
Hon. EDWARD M. KENNEDY and EDWARD W. BROOKE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATER KENNEDY AND SENATOR BROOKE: We are following on our telegram of December 15th sent to your Boston office, a copy of which is enclosed with this letter.

The Barnstable Municipal Airport Commission is greatly concerned regarding H.R. 9771 as it now stands, and urgently requests your support of the amendment as submitted by the Massachusetts Aeronautics Commission.

The Commission strongly feels that funds should be allocated according to the specific needs of individual airports once ADAP projects have been approved by the Federal Aviation Administration and the Massachusetts Aeronautics Commission.

The Barnstable Municipal Airport is somewhat unique in that we are located in an area with a heavy and increasing tourist influx, along with a growing business and convention area. We are the only airport operating with a certified Part 121 Air Carrier Service (Air New England) which serves the entire County of Barnstable. We also have based at this airport a Part 135 commuter service and our general aviation and commercial jet traffic continues to grow each year. Due to the tremendous expansion required our yearly requirements have been in excess of $500,000 yearly and justifiable airport expenses for improvement and development will continue to require this yearly amount for future ADAP projects forthcoming. Our traffic count of 97,000 with 45,000 enplaned passengers for the past year was the highest ever, with expected increase in 1976.

You will readily understand our grave concern should funds be restricted and the Commission's feeling is supported by the Town of Barnstable/Board of Selectmen.

Very truly yours,

ALLAN F. JONES,
Chairman, Barnstable Airport Commission.

PAUL C. BROWN,
Chairman, Barnstable Board of Selectmen.

BARNES MUNICIPAL AIRPORT,
Westfield, Mass., December 15, 1975.

Hon. EDWARD M. KENNEDY and EDWARD W. BROOKE,
Senate Office Building, U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY AND SENATOR BROOKE: I am writing this letter as both the President of the Massachusetts Airport Management Association and as the Airport Manager of one of Massachusetts busiest airports.

My colleagues and I are quite concerned with the apparent language in the new proposed Airport Development Aid Program (ADAP), which I understand has passed the House. The formula for distribution of funding to air carrier airports would leave a number of Massachusetts airports with little or no aid available.

The needs of Worcester, New Bedford, Hyannis, Martha's Vineyard and Nantucket cannot be based on a simple enplaned passenger formula. Each airport's need must be based on its own complexity and Community demands.

The professional airport administrators in the State are hopeful you may be able to correct this flaw before it becomes a law.

Thank you for your assistance.

Best regards,

LARRY W. HEDRICK, A.A.E.,
Airport Manager—President—"MAMA".

WORCESTER MUNICIPAL AIRPORT,
JAMES D. O'BRIEN FIELD,
Worcester, Mass., December 31, 1975.

Senator EDWARD M. KENNEDY and EDWARD W. BROOKE,
Old Senate Office Building
Washington, D.C.

DEAR SENATOR KENNEDY AND SENATOR BROOKE: Federal Aviation Trust Fund financing of Airport/Airways grants ceased on June 30, 1975 and neither the proposed H.R. 9771 nor the Senate Aviation Subcommittee "Staff Committee Print No. 1—November 13, 1975" will provide Worcester International Airport with enough funds to carry out our coming five-year maintenance and improvement program. We have received close to $500,000.00 in grants each year for the past three and have projected the same for the next five-year period except for Fiscal 1979 when we hope to extend one runway to allow us to relieve Logan from some of the critical aircraft and passenger traffic.

Indications in both Senate and House versions of the replacement program are that Worcester would receive only $150,000.00 annually. The Commonwealth would continue to receive about $6,000,000.00 total each year by the formula, and a minor change in Senator Cannon's Senate bill, as suggested by Crocker Snow, would allow the Governor to divide the total amount at his discretion. Worcester would then be able to continue the present Airport Development program.

We respectfully request that you promptly intervene with Senator Cannon's committee with all your power to help solve the funding problem for the second largest Airport in the Commonwealth. We serve 825,000 residents and 1,100 primary corporations within a 25-mile radius of the Worcester Airport.

Thank you for your consideration and cooperation.

Sincerely,

CHAS. L. OLSON,
Airport Manager.

COUNTY OF DUKES COUNTY,
MARTHA'S VINEYARD AIRPORT,
Vineyard Haven, Mass., December 11, 1975.

Senators EDWARD KENNEDY and
EDWARD BROOKE,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY AND SENATOR BROOKE: It has come to my attention that the Senate companion bill of HR 9771, Section 7, contains a provision for the distribution of funds that would be disastrous to small airline airports such as Martha's Vineyard.

If I have interpreted correctly; The Cape, Islands and New Bedford airports will qualify for a maximum of $150,000.00 of Federal aid for each project. We have just completed a $1,050,000.00 runway project and have Federal aid projects of over $1,000,000.00 pending passage of the Aid bill. Obviously we will be obliged to abandon all major improvement plans under the proposed legislation.

Crocker Snow has suggested that both you and Senator Brooke might point out to Senator Stevens the virtual elimination of further improvements for airports of our size should such legislation be enacted.

Sincerely,

TRUEMAN A. PLACE,
Manager, Martha's Vineyard Airport.

Mr. CANNON. I yield back the remainder of my time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT) the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HUGH SCOTT) would each vote "yea."

The result was announced—yeas 73, nays 3, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—73

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
Metcalf
Mondale
Montoya
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Williams
Young

NAYS—3

Biden
Helms
Scott, William L.

NOT VOTING—24

Bayh
Bentsen
Brock
Eastland
Goldwater
Gravel
Hartke
Hatfield
Inouye
Jackson
Laxalt
Leahy
Mathias
McGee
McGovern
McIntyre
Moss
Muskie
Roth
Scott, Hugh
Symington
Talmadge
Tunney
Weicker

So the bill (S. 3015) was passed.

(In accordance with the order which was subsequently entered, the foregoing rollcall vote was vitiated.)

Mr. MANSFIELD. Mr. President, I do not wish to delay the Senate tonight. It has been a long week with lengthy sessions. But it has been a week of major accomplishment. So I will take only a few moments to say that no Senator deserves more credit for the successful completion of action on two major bills this week than does the Senator from Nevada (Mr. CANNON). As Chairman of the Rules Committee, Senator CANNON has managed much of the important legislation enacted this and in past years.

He deserves the gratitude of every Member of the Senate for his leadership in managing the Federal Campaign Act amendments which the Senate passed yesterday, and the airport development bill, which we have just passed. His tireless and devoted efforts provide an example for all Members of this body and are a credit to the Senate.

I want also to commend the Senator from Kansas (Mr. PEARSON), who managed the airport legislation for the minority and the Senator from Oregon (Mr. HATFIELD). Their leadership on behalf of the minority and cooperation this week helped us pass the airport bill and a complicated and controversial election bill. We are all grateful for their efforts as well as those of other Senators on these two important bills on which action was completed this week.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 9771, the bill to amend the Airport and Airway Development Act of 1970, which was passed by the House of similar nature to S. 3015, and that the Senate proceed immediately to the consideration of the House bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9771) to amend the Airport and Airway Development Act of 1970.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of H.R. 9771 and to substitute the text of S. 3015, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 9771) was passed, as follows:

That this Act may be cited as the "Airport and Airway Development Act Amendments of 1976".

AUTHORIZATION EXTENSION

SEC. 2. Section 2 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701) is amended (1) by striking out "June 30, 1980," each place it appears and inserting in lieu thereof "September 30, 1980,"; and (2) by striking out "$2,500,000,000" and inserting in lieu thereof "$4,695,000,000".

DEFINITIONS

SEC. 3. (a) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by—

(1) Amending paragraph (2) thereof to read as follows:

"(2) 'Airport development' means any—

"(A) work involved in construction, improvement, or repair of a public airport or any portion thereof including (i) the construction, alteration, repair, or acquisition of airport passenger terminal buildings or of facilities (including passenger transfer vehicles) which are directly related to the movement of passengers and baggage within the airport boundaries, (ii) the removal, lowering, relocation, marking, and lighting of airport hazards, (iii) navigation aids used by aircraft landing at or taking off from a public airport, (iv) safety equipment required by rule or regulation for the certification (under section 612 of the Federal Aviation Act of 1958) of a public airport, (v) security equipment required by rule or regulation of the Secretary to be maintained by an airport sponsor for the safety and security of persons and property on a public airport, (vi) snow removal equipment, and (vii) noise suppression hardware, physical barriers, landscaping, and other appurtenances which are related to diminishing the effect of aircraft noise on any area adjacent to a public airport;

"(B) acquisition of land, any interest in land, any easement through airspace, or any other interest in airspace (including land for future airport development) which is necessary (i) to conduct any work described in this paragraph, (ii) to remove, mitigate, prevent, or limit the establishment of airport hazards, or (iii) to assure that the land acquired is used only for purposes which are compatible with the operation of a public airport and the noise levels emanating therefrom;

"(C) work involved in preparing and establishing an airport master plan or a capital improvement program;

"(D) work involved in planning for adequate ground transportation to and from a public airport; and

"(E) the acquisition of land for, and the construction of, multimodal (including airport) terminal buildings or facilities, for the intermodal transfer of passengers and baggage between and among interconnecting air, rail, and highway transportation routes and facilities.";

(2) inserting immediately before paragraph (1) thereof the following new paragraph:

"(1) 'Air carrier airport' means—

"(A) an existing public airport which is regularly served, or a new public airport which the Secretary determines will be regularly served, by an air carrier (i) which is certificated by the Civil Aeronautics Board, under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), and which operates at such airport aircraft in excess of 12,500 pounds maximum certificated gross takeoff weight, or (ii) which is operating under an exemption granted by such Board from such section 401 and which provides service, pursuant to an order of such Board, in lieu of or in substitution for service by certificated air carrier;

"(B) an airport in the State of Alaska which is regularly served by an air carrier which is certificated by the Civil Aeronautics Board under such section 401; or

"(C) an existing public airport which is regularly served by a carrier licensed by a State authority and operating aircraft intrastate and which operates at such airport turbojet-powered aircraft capable of carrying 30 persons.".

(3) Inserting immediately after paragraph (5) thereof the following two new paragraphs:

"(6) 'Capital improvement program' means a document which identifies and describes all of the airport development projects which are planned for a specific airport during a period of not less than 3 successive fiscal years and which specifies yearly priorities and annual cost estimates. The term includes an airport layout plan showing the airport boundaries and the location of all existing and planned facilities.

"(7) 'General aviation airport' means a public airport which is not an air carrier airport.";

(4)(A) adding after "project" in paragraph (9) thereof the following: "(or separate projects submitted together)"; and (B) adding after "development" in paragraph (9) thereof the following: ", including the combined submission of all projects for an air carrier airport which are included within a capital improvement program";

(5) inserting immediately after paragraph (12) thereof the following new paragraph:

"(13) 'Reliever airport' means a general aviation airport which is designated as such by the Secretary because (A) it is capable of receiving general aviation traffic directed from an air carrier airport, and (B) its primary function is to utilize such capability to relieve congestion at such air carrier airport."; and

(6) striking out all after "public" in paragraph (16) thereof and inserting in lieu thereof the following: ", including vehicles and support facilities which are directly related to the movement of passengers and baggage within the airport boundaries.".

(b) Section 11 of such Act is further amended by (1) renumbering the paragraphs of such section, as amended by subsection (a) of this section, as paragraphs (1) through (21) thereof, respectively; and (2) making a conforming change at each place in such Act where a reference to any such paragraph appears.

REVISED NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. Section 12 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712) is amended by adding at the end thereof the following new subsection:

"(i) REVISED SYSTEM PLAN.—The Secretary shall, after further consultation with the Civil Aeronautics Board and with the governmental agencies and other interests identified in subsections (c) through (g) of this section, prepare and publish, in accordance with the subsection, a revised national airport system plan. The revised national airport system plan (1) shall be published not later than January 1, 1978; (2) shall be designed to improve, and to provide a better guide for planning for, the orderly development of a system of public airports in the United States; (3) shall not consist of a detailed project-by-project listing for each airport; (4) shall classify each airport, which the Secretary retains in or adds to such plan, in terms of its present functional role in the national airport system and in terms of the functional role anticipated for it during the 10-year period following the date of publication thereof; (5) shall identify, by type or category, the airport development projects which are appropriate for an airport of each such classification during such 10-year period; and (6) may be revised and amended by the Secretary on the basis of new information. The Secretary shall publish, not later than January 1, 1978, and annually thereafter, his estimates as to the cost of achieving the airport development envisioned in this revised national airport system plan, including estimates for the development which he considers to be of the highest priority to a national system of public airports.".

PLANNING GRANTS

SEC. 5. Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713(a)) is amended (1) by inserting immediately after "Secretary" the phrase ", for fiscal years 1971 through 1975,"; and (2) by inserting immediately after "master planning" the phrase "under this section".

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 6. (a) Section 14(a) of the Airport and Airway Development Act of 1970 (49

U.S.C. 1714(a)) is amended by adding at the end thereof the following two new paragraphs:

"(3) For the purpose of developing air carrier and reliever airports in the several States, in the Commonwealth of Puerto Rico, in Guam, in American Samoa, in the Trust Territory of the Pacific Islands, and in the Virgin Islands, and for the conduct of airport system planning to serve all classes of civil aviation, $625,000,000 for the fiscal year and the transitional fiscal quarter ending in 1976, $535,000,000 for the fiscal year ending in 1977, $570,000,000 for the fiscal year ending in 1978, $605,000,000 for the fiscal year ending in 1979, and $640,000,000 for the fiscal year ending in 1980.

"(4) For the purpose of developing general aviation airports in the several States, in the Commonwealth of Puerto Rico, in Guam, in American Samoa, in the Trust Territory of the Pacific Islands, and in the Virgin Islands, $50,000,000 for the fiscal year and the transitional fiscal quarter ending in 1976, $45,000,000 for the fiscal year ending in 1977, $50,000,000 for the fiscal year ending 1978, $55,000,000 for the fiscal year ending in 1979, and $60,000,000 for the fiscal year ending in 1980.".

(b) Section 14(b) of such Act (49 U.S.C. 1714(b)) is amended by—

(A) inserting "(1)" immediately before the first sentence thereof;

(B) striking out the term "subsection" in the second, third, and fourth sentences thereof and inserting in lieu thereof "paragraph"; and

(C) adding at the end therof the following new paragraph:

"(2) Except as otherwise provided in this paragraph, the Secretary may incur obligations to make grants for airport development from any funds made available under subsections (a) (3) and (4) of this section. This authority shall exist with respect to any funds which are made available, pursuant to subsection (a) of this section, for such purpose in any fiscal period, immediately after such funds are apportioned, pursuant to section 15(a) of this Act. No such obligation may be incurred after September 30, 1980, and the Secretary may not incur more than one such obligation with respect to any single airport development project.".

(c) Section 14(c) of such Act (49 U.S.C. 1714(c)) is amended by striking out "1975" and inserting in lieu thereof "1980, and not less than $62,500,000 for the period from July 1, 1976, through September 30, 1976.".

(d) Section 14(d) of such Act (49 U.S.C. 1714(d)) is amended to read as follows:

"(d) Research, Development, and Demonstration.—The Secretary may carry out, under section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1353(c)), such demonstration projects as he determines to be necessary in connection with research and development activities under such section 312(c). For research, development, and demonstration projects and activities under such section 312(c), the Secretary may, within the limits established in appropriation Acts, obligate for expenditure not less than $50,000,000 for each of the fiscal years ending in 1971 through 1980, and not less than $12,500,000 for the period from July 1, 1976 through September 30, 1976.".

(e) Subsection (e) of section 14 of such Act is redesignated as subsection (f) thereof, and the following new subsection is inserted as a new subsection (e) thereof:

"(e) Other Expenses.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (c) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) may not exceed $150,000,000 for the period from July 1, 1975, through September 30, 1976; $300,000,000 for fiscal year 1977, $325,000,000 for fiscal year 1978; $350,000,000 for fiscal year 1979; and $375,000,000 for fiscal year 1980. In addition, the amounts appropriated in any fiscal year under this subsection may not exceed, when added to the minimum amounts authorized for that year under subsections (a), (c), and (d) of this section, the amounts transferred to the Trust Fund for that year under subsection 208(b) of the Airport and Airway Revenue Act of 1970. Each year, on or before February 20, the Secretary shall submit to the appropriate committees of the Congress a detailed report on the activities for the forthcoming fiscal year which are proposed to be financed under this subsection.".

(f) Paragraph (1) of section 14(f) (as redesignated by this section) of such Act is amended by striking out "subsections (c) and (d) of this section, as amended" and by inserting in lieu thereof "this section".

(g) Paragraph (3) of section 14(f) (as redesignated by this section) of such Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

DISTRIBUTION OF FUNDS

Sec. 7. (a) Section 15(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)) is amended by renumbering paragraphs (3) and (4) thereof as paragraphs (5) and (6) thereof, respectively, and by inserting immediately following paragraph (2) thereof the following two new paragraphs:

"(3) As soon as possible after the date of enactment of this paragraph, and on July 1, 1976 (for the interim fiscal period), and on the 1st day of each fiscal year which begins on or after October 1, 1976 (for any fiscal year in which an amount may be obligated for the purposes of section 14(a)(3) of this Act), the amount made available for such period or fiscal year shall be apportioned by the Secretary as follows:

"(A) There shall be apportioned, to the sponsor of each air carrier airport, with respect to such airport—

"(i) six dollars for each of the first 50,000 passengers who enplaned at such airport,

"(ii) four dollars for each of the next 50,000 passengers who enplaned at such airport,

"(iii) two dollars for each of the next 400,000 passengers who enplaned at such airport, and

"(iv) fifty cents for each passenger in excess of 500,000 who enplaned at such airport.

No air carrier airport shall receive under this subparagraph less than $150,000 or more than $10,000,000 for any fiscal year (or less than $37,500 or more than $2,500,000 for the period from July 1, 1976 through September 30, 1976); except that each air carrier airport in the State of Alaska which receives air carrier service with aircraft having a maximum certificated gross takeoff weight of less than 12,500 pounds shall receive not less than $50,000 for any fiscal year (or not less than $12,500 for the period from July 1, 1976 through September 30, 1976). In no event shall the total amount of all apportionments under this subparagraph (for any fiscal year or period) exceed two-thirds of the amount authorized to be obligated for the purpose of section 14(a)(3) of this Act for such fiscal year or period. In any case in which application of the preceding sentence requires a reduction in apportionment, the Secretary shall, for each such fiscal year or period, reduce each such sponsor's apportionment proportionately until such two-thirds amount is achieved.

"(B) Any amount not apportioned under subparagraph (A) of this paragraph shall be distributed at the discretion of the Secretary.

"(C) The Secretary may, at the request of the chief executive officer of the State of Alaska, reapportion funds annually apportioned to air carrier airports in Alaska which are served by air carriers which are certificated by the Civil Aeronautics Board, under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), and which operate at such airport aircraft of less than 12,500 pounds maximum certificated gross takeoff weight. Such funds may be reapportioned to such individual airports in such State as the Secretary deems appropriate to meet the special and unique needs of air commerce in Alaska.

"(4) As soon as possible after the date of enactment of this subparagraph and on July 1, 1976 (for the interim fiscal period), and on the first day of each fiscal year which begins on or after October 1, 1976 (for any fiscal year in which an amount may be obligated for the purposes of section 14(a)(4) of this Act), the amount made available for such period or fiscal year shall be apportioned by the Secretary as follows:

"(A) seventy-five percent for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all of the States;

"(B) one percent for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, to be distributed at the discretion of the Secretary; and

"(C) twenty-four percent, to be distributed at the discretion of the Secretary, for general aviation airports."

(b) Paragraph (5) (as renumbered by this section) of such section 15(a) is amended (1) by inserting immediately after "(2)(A)" the term "or (4)(A)", and (2) by inserting after "(1)(B)" the term "or (3)(A)".

(c) Paragraph (6) (as renumbered by this section) of such section 15(a) is amended to read as follows:

"(6) For the purposes of this section, the term 'Passengers enplaned' shall include all passengers enplaning who pay the air transportation tax imposed by section 4261(a) of the Internal Revenue Code of 1954."

(d) Section 15(b), of such Act (49 U.S.C. 1715(b)) is amended—

(1) by striking out "(3)" in paragraph (2) of such subsection and inserting in lieu thereof "(5)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Not to exceed $10,000,000 for each fiscal year (and $2,500,000 for the interim fiscal period), pursuant to subsection (a)(3)(B) of this section, shall be made available for grants to planning agencies for airport system planning.".

(e) The first sentence of section 15(c) of such Act (49 U.S.C. 1715(c)) is amended to read as follows: "The Secretary shall inform each air carrier airport sponsor and the Governor of each State, or the chief executive officer of the equivalent jurisdiction, as the case may be, on or before April 1 of each year of the estimated amount of the apportionment to be made on October 1 of that year.".

STREAMLINED AIRPORT GRANT-IN-AID PROCESS

Sec. 8. (a) Section 16(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(a)) is amended by striking out the second sentence thereof and inserting in lieu thereof the following: "A project application may describe one or more proposed airport development projects and, in the case of an air carrier airport for which funds are apportioned under section 15(a)(3)(A) of this Act, may describe a capital improvement program. Until July 1, 1975, no project application shall propose any airport development which is not included in the then current revision of the national airport system plan formulated by the Secretary. After January 1, 1978, no project application shall propose any airport development which is inconsistent with the revised national airport system plan prepared under section 12(i) of this Act. All proposed airport development shall be in accordance with standards established by the Secretary, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.".

(b) Section 16(c) of such Act (49 U.S.C. 1716(c)) is amended by (1) striking out paragraphs (2) and (4) thereof; (2) renumbering paragraph (3) thereof as paragraph (2); and (3) inserting at the end thereof the following three new paragraphs:

"(3) In the case of an air carrier airport for which funds are apportioned under section 15(a)(3)(A) of this Act, the Secretary's approval of a capital improvement program shall be considered approval of each project identified and described in that plan, including, subject to such regulations as the Secretary may prescribe, projects to be funded or partially funded under section 15(a)(3)(B) of this Act. A capital improvement program may not be approved by the Secretary unless it includes, in addition to other information reasonably requested by the Secretary—

"(A) a schedule of all airport development projects, listed in order of priority, which the sponsor would accomplish, with the aid of funds apportioned to it under section 15(a)(3)(A) of this Act, for each of the fiscal years (not less than 3) involved in its capital improvement program; and

"(B) a schedule of all airport development projects, listed in order of priority, which the sponsor proposes for funding by the Secretary from the discretionary funds authorized by section 15(a)(3)(B) of this Act, for each of the fiscal years (not less than 3) involved in its capital improvement program.

"(4) No airport development project for terminal area development may be approved by the Secretary, unless the sponsor of the air carrier airport involved certifies in the applicable project application that all of the safety and certification equipment which is required for certification of such airport, under section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432), has been installed.".

(c) Section 16 of such Act (49 U.S.C. 1716) is amended by adding at the end thereof the following new subsection:

"(g) In determining compliance with the requirements of this section and Act, the Secretary may, to the greatest extent practicable consistent with the objectives of this Act, accept conclusionary certifications from sponsors who aver that they have complied or will comply with all of the statutory, regulatory, and procedural requirements which are imposed in connection with airport development projects under this Act.".

FEEDRAL SHARE OF AIRPORT DEVELOPMENT PROJECT COSTS

SEC. 9. (a) Section 17(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)) is amended by striking everything after "of this part" and inserting in lieu thereof the following: "shall be—

"(1) ninety percent with respect to airports enplaning less than one-quarter of 1 percent of the total number of passengers enplaned each year, as determined under section 15(a)(4) of this Act, and for reliever and other general aviation airports; and

(2) seventy-five percent with respect to other airports.".

(b) Section 17(b) of such Act (49 U.S.C. 1717(b)) is amended by adding at the end thereof the new sentence: "In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section; or (2) the percentage share applying on June 30, 1975, as determined under this subsection.".

(c) Section 17 of such Act (49 U.S.C. 1717) is further amended by striking out subsections (c), (d), and (e) thereof and inserting in lieu thereof the following two new subsections:

"(c) PUBLIC USE TERMINAL AREA FACILITIES.—The United States share of the project cost of an approved project for airport development shall be 50 percent of the allowable cost of construction, alteration, repair, or acquisition of public use airport passenger terminal buildings or facilities (including passenger transfer vehicles) directly related to the movement of passengers and baggage within the boundaries of an air carrier airport. The United States share of the project cost of an approved project for airport development shall be 75 percent of the allowable cost of construction, alteration, repair, or acquisition of multimodal (including airport) passenger terminal buildings or facilities (including passenger transfer vehicles) witihn the boundaries of an air carrier airport. Except for projects involving construction, alteration, repair or acquisition of multimodal (including airport) passenger terminal facilities, the United States share shall not exceed the sums apportioned under section 15(a)(3)(A) of this Act. No air carrier airport may receive grants under this subsection unless it establishes or has established a terminal enplaning and deplaning facility for the use of passengers on general aviation aircraft; except that Federal inspection agencies shall (as authorized by Public Law 87–255 (49 U.S.C. 1509)) reimburse airport sponsors for the proportionate use by such agencies of facilities provided at such airport for the inspection of passengers in foreign air transportation and of the baggage of such passengers, to the extent that the construction costs for such facilities are not provided pursuant to this Act.

"(d) AIRPORT SYSTEM PLANNING.—The United States share of the project cost of an approved project for the conduct of airport system planning, as authorized by section 14(a)(3) of this Act, shall be 75 percent.".

PROJECT SPONSORSHIP

SEC. 10. Section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718) is amended by inserting immediately after paragraph (10) thereof the following two new paragraphs:

"(11) In deciding whether to undertake specific airport development projects under this section, the sponsor shall consult with the air carriers who use the airport with respect to which such projects are proposed.

"(12) An airport sponsor shall not include in the rate base, in establishing fees, rates, and charges for users of an airport, any part of the Federal share of an airport development grant made, with respect to such airport, under this title or under the Federal Airport Act (49 U.S.C. 1101 et seq.).".

GRANT AGREEMENTS

SEC. 11. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is amended—

(1) by striking out "Upon" in the first sentence thereof and inserting in lieu thereof the following:

"(a) SPECIFIC PROJECTS.—Except as provided in subsection (b), upon";

(2) by inserting immediately after the third sentence thereof the following new sentence: "Whenever the Secretary approves an application for a project which will not be completed in one fiscal year, the offer shall, at the request of the sponsor, provide for the obligation of funds which are or will be apportioned to such sponsor, pursuant to section 15(a)(3(A) of this Act, for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project.";

(3) by striking out in the next to last sentence thereof all after "increased" and inserting in lieu thereof the following: "except as authorized by the Secretary."; and

(4) by adding at the end thereof the following new subsection:

"(b) PROJECTS INCLUDED IN A CAPITAL IMPROVEMENT PROGRAM AT AN AIR CARRIER AIRPORT.—

"(1) In the case of a project which is approved under section 16(c)(3) of this Act, the amount apportioned to a sponsor under section 15(a)(3)(A) of this Act, and such amounts as may be specified by the Secretary from funds provided under section 15(a)(3)(B) of this Act, shall become obligations of the United States pursuant to section 14(b)(2) of this Act, except as otherwise provided in paragraph (2) of this subsection.

"(2) If the obligational authority which is apportioned, under section 15(a)(3)(A) of this Act, to the sponsor of an air carrier airport for any specified fiscal year exceeds the United States share of the allowable costs for development projects in such sponsor's capital improvement program (as approved by the Secretary), such excess shall be withheld from obligation, subject to section 15(a)(5) of this Act, pending the Secretary's approval of an expanded capital improvement program.".

PROJECT COSTS

SEC. 12. Section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720(b)) is amended by striking out all after "(2)" and inserting in lieu thereof the following: "the cost of construction, alteration, repair, or acquisition of a hangar or of any part of an airport building or facility (including passenger transfer vehicles), except such buildings, parts of buildings, or facilities as (A) are directly related to the safety of persons at the airport, (B) involve multimodal passenger terminal buildings or facilities, or (C) are both (i) directly related to the movement of passengers and baggage within the airport boundaries and (ii) involve public use areas which do not generate revenue for the airport sponsor.".

STATE DEMONSTRATION PROGRAMS

SEC. 13. The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.), is further amended by inserting immediately after section 27 the following new section:

"SEC. 28. STATE DEMONSTRATION PROGRAMS.

"(a) DEMONSTRATION PROGRAM.—If the Secretary determines, after review of the certification required by subsection (b) of this section, that a State is capable of managing a demonstration program for administering United States grants-in-aid for general aviation airports in that State, the Secretary may make a grant for such purpose to such State of funds apportioned to it under section 15(a)(4)(A) of this Act and of any part of the discretionary funds available under section 15(a)(4)(C) of this Act. Such a grant shall be conditioned on a requirement that such State grant funds to applicable airport sponsors in the same manner and subject to the same conditions as the Secretary applies and imposes in making grants to such sponsors under this title.

"(b) CERTIFICATION REQUIREMENTS.—If a State wishes to manage a demonstration program for administering United States grants-in-aid for general aviation airports, the chief executive officer of such State shall certify to the Secretary, on a form and in the manner prescribed by the Secretary, that—

"(1) it complies with all eligibility requirements and criteria established by this section and by the Secretary;

"(2) such State's participation in the demonstration program has been specifically authorized by an action of such State's legislature duly taken after the date of enactment of this section, or if such State's legislature is not in regular session on such date and will not meet again in regular session before January 1, 1977, such participation has been authorized by such State's Governor;

"(3) such State has demonstrated its interest in assisting general aviation airports in such State by appropriating and expending State funds, within each of the five fiscal years preceding such certification, for the capital development of such airports; and

"(4) such State's legislature has authorized the appropriation of State funds for the capital development of general aviation airports in such State during the period for which funds are sought under this section.

"(c) RESTRICTIONS.—The Secretary shall not, pursuant to this section—

"(1) enter into demonstration projects in more than three States;

"(2) allow any funds granted to States to be used to pay costs incurred by the States in administering the demonstration programs;

"(3) initiate any demonstration program after January 1, 1977; and

"(4) make a grant to any State after September 30, 1978.

"(d) REPORT.—The Secretary shall evaluate and report to the Congress, not later than March 31, 1978, on the results of any demonstration programs assisted under this section.".

AIRPORT SECURITY IN ALASKA

SEC. 14. The Federal Aviation Act of 1958 (49 U.S.C. 1432 et seq.) is amended by adding at the end of title III thereof the following new section:

"SEC. 317. The Administrator is authorized to exempt from the provisions of sections 315 and 316 of this Act those airports in Alaska which receive service only from air carriers operating under certificates granted by the Civil Aeronautics Board under section 401 of this Act and which operate aircraft having a certificated gross takeoff weight of less than 12,500 pounds.".

COMPENSATION FOR REQUIRED SECURITY MEASURES IN FOREIGN AIR TRANSPORTATION

SEC. 15. The Federal Aviation Act of 1958 (49 U.S.C. 1432 et seq.) as amended by this Act, is amended by adding at the end of title III thereof the following new section:

"SEC. 318. (a) The Secretary of Transportation shall, upon request, compensate any air carrier, which is certificated by the Board under section 401 of this Act, for that portion of the amount expended by such carrier for security-screening facilities and procedures (as required by section 315(a) of this Act and regulations issued under such section) which is attributable to the screening of passengers moving in foreign air transportation. Any such compensation shall be reduced by the amount, if any, by which the revenues of such carrier attributable to the cost of security-screening facilities and procedures used in intrastate, interstate, and overseas air transportation exceed the actual cost to such carrier of such facilities and procedures. The Secretary may issue such regulations as he deems necessary to carry out the purpose of this section.

"(b) There is authorized to be appropriated to carry out the purposes of this section not to exceed $3,750,000 for the fiscal year and the transitional fiscal quarter ending in 1976, not to exceed $3,000,000 for the fiscal year ending in 1977, and $3,000,000 for the fiscal year ending in 1978.".

REDUCTION OF NONESSENTIAL EXPENDITURES

SEC. 16. The Secretary of Transportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance, and administrative costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such system on methods of reducing nonessential Federal expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without any adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users.

AMENDMENT TO FEDERAL AVIATION ACT OF 1958

SEC. 17. Section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)), is amended by striking out all after "safety equipment" in the last sentence thereof and inserting in lieu thereof a period.

SPECIAL STUDIES

SEC. 18. The Secretary of Transportation shall conduct studies with respect to—

(1) the feasibility, practicability, and cost of land bank planning and development for future and existing airports, to be carried out through Federal, State, or local government action;

(2) the establishment of new major public airports in the United States, including (A) identifying potential locations, (B) evaluating such locations, and (C) investigating alternative methods of financing the land acquisition and development costs necessary for such establishment; and

(3) *the feasibility, practicality, and cost of the soundproofing of schools, hospitals, and public health facilities located near airports.*

The Secretary shall consult with and solicit the views of such planning agencies, airport sponsors, and other public agencies, airport users, and other interested persons or groups as he deems appropriate to the conduct of such studies. The Secretary shall report to the Congress on the results of such studies, including legislative recommendations, if any, within 1 year after the date of enactment of this section.

LIMITING CHARGES FOR GOVERNMENT INSPECTION OF PERSONS AND PROPERTY

SEC. 19. Section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741) is amended by adding at the end thereof the following new subsection:

"(e) Any inspection or quarantine service which is required to be performed, at airports of entry or other places of inspection as a consequence of the operation of aircraft, by the Federal Government or any agency thereof shall be performed without reimbursement from the owners or operators of such aircraft, if such service is performed during regularly established hours of service on Sundays or holidays to the same extent as if such service had been performed during regularly established hours of service on weekdays: *Provided further,* That notwithstanding any other provision of law, administrative overhead costs associated with any inspection or quarantine service required to be performed by the United States Government, or any agency thereof, at airports of entry as a result of the operation of aircraft, shall be performed without reimbursement from the owners or operators thereof.".

PROHIBITING DISCRIMINATION AMONG USERS OF AIRPORTS

SEC. 20. Section 18(1) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718) is amended by striking out ";" and inserting in lieu thereof the following: ", each air carrier, authorized to engage directly in air transportation pursuant to section 401 or 402 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and passenger/combination flights or all cargo flights; and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers: *Provided, however,* That nothing contained herein shall require the reformation of any contracts and/or leases entered into by the airport prior to March 1, 1976;".

AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND

SEC. 21. (a) AMENDMENTS OF 1970 ACT.—

(1) Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1976 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1976);".

(2) Section 208(f) of such Act (49 U.S.C. 1742 (f)) is amended by striking out "July 1, 1980" each time it appears and inserting in lieu thereof "October 1, 1980".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to obligations incurred on or after the date of the enactment of this Act. The amendments made by subsection (a)(2) shall be effective on the date of enactment of this Act.

AIR TRANSPORTATION OF PERSONS OR PROPERTY

SEC. 22. Section 401 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1371 *et seq.*, is amended by adding the following subsection:

"(o) Notwithstanding section 416 of this title, transportation of persons or property in interstate air transportation between two places within the United States or between a place in the United States and a place outside thereof procured by or under contract with any department or agency of the United States (including the Department of Defense) shall be provided exclusively by air carriers holding certificates under this section.".

CIVIL RIGHTS

SEC. 23. The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate action in passing S. 3105 be vitiated, and that the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 9771.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3149 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow morning, the Senate proceed to the consideration of S. 3149, the toxic substances bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL MONDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HATFIELD ON MONDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the Senator from Oregon (Mr. HATFIELD) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORTS ON SENATE RESOLUTION 400

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that both the Committee on the Judiciary and the Committee on Rules and Administration have an extension of 3 days for the reporting of Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX TREATMENT FOR EXCHANGES UNDER CONRAIL

Mr. LONG. Mr. President, there is a bill at the desk, H.R. 12490, which deals with the tax treatment of the parties involved in the transfer of certain railroad properties into the Consolidated Rail Corporation. It is very important, in fact it is urgent that this bill should be on the President's desk by the first of next month; and with the scheduled recess, we should act on it today, if we can, so that the so-called ConRail bill as passed by Congress can go into effect without tax consequences that should be avoided.

Therefore, Mr. President, I ask unanimous consent that the bill (H.R. 12490) be taken from the desk and that the Senate proceed to its immediate consideration.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I am only using this moment to ask a question of my distinguished friend and colleague.

A number of us have various amendments which the Senators would like to go on some appropriation bill. I have one, for example, on housing, and I simply rise to ask the Senator from Louisiana, how soon, O Lord?

Mr. LONG. Mr. President, the reason we have not been able to take care of the amendment of the Senator from New York is because so many other Senators also have good amendments, and the House of Representatives would not send us but about two or three bills all last year, with the result that when we tried to put the amendments on a bill, someone would come up and object that even though all the amendments were meritorious, the bill would then be regarded as a Christmas tree and we could not move the bill.

Now, at long last, the House is in the process of sending us a considerable number of bills, about 10 or 12 bills, and I would think we should be able to take these less controversial matters and put them on these 10 or 12 bills and send them on their way.

We could have done it last year if the House had sent us more bills, or if Senators had been willing to vote on amendments on their merits, rather than insisting on objecting just because we had several amendments, perhaps 10 or 12 amendments, on a single bill.

I assure the Senator from New York we will do the best we can to move some of those bills along and get consideration for the type of thing he has in mind as soon as possible.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> An act (H.R. 12490) to provide tax treatment for exchanges under the final system planned for ConRail.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. LONG. Mr. President, the insolvency of several rail carriers led to the enactment of the Rail Acts of 1973 and 1976, which provided for the restructuring of the Midwest and Northeast railroad system and authorized the formation of a new railroad corporation, Consolidated Rail Corporation, referred to as ConRail, in order to provide a financially self-sustaining rail service. The transfer of rail properties to ConRail is scheduled to take place on April 1.

The present rules for insolvent railroad corporation reorganizations are similar to the rules for corporate reorganization generally. The ConRail reorganization, however, does not meet the technical requirements under these rules for reorganizations of bankrupt railroads. Since Congress has specifically approved the ConRail reorganization, the committee believes that the existing nonrecognition tax treatment for reorganizations of insolvent railroads should apply to the ConRail reorganization.

In the case of ConRail, the bill extends a carryover basis in the rail properties it will receive from the bankrupt railroads. This is important to ConRail for depreciation purposes since the basis of the assets in the hands of the transferors which is to be carried over to ConRail is higher than the fair market value.

In the case of the railroads which transfer their rail property to ConRail, the nonrecognition treatment of either gain or loss on the transfer will also apply, but these transferors will take a tax basis in the stock and certificates they receive equal to their present basis in the properties which go to ConRail. If the shareholders and secured creditors of the transferor railroads receive the ConRail stock or certificates of value, they also will generally not recognize any gain or loss on the transaction.

The final part of the bill deals with the treatment of net operating losses incurred by the transferor railroads in tax years before and during the year of the ConRail transfer. The bill provides that if it is determined that any net operating losses are retained by the transferors, any unused losses, which may have expired prior to the time the values for the properties transferred are determined and payment is received, may be revived and applied against income which a transferor may ultimately realize from the ConRail reorganization through either court proceedings or a redemption of the certificates of value. This revival provision is made available in railroad reorganizations generally.

The provisions of the bill providing for the use of expired net operating loss carryovers in certain circumstances may have to be applied in situations where a transferor railroad is a member of an affiliated group filing a consolidated Federal income tax return. It is expected that such situations will be dealt with administratively by interpretation or amendment of the consolidated return regulations to conform with the principles of this bill.

For example, if income arising from the redemption of certificates of value is received by a leased-line railroad corporation which transferred assets to ConRail and the operating loss from operating the railroad under lease was incurred by a lessee railroad corporation which filed a consolidated return with the leased line throughout the relevant period, the purpose of the revival provisions of the bill requires that the losses of the lessee railroad be available to offset the income of the lessor railroad in a consolidated return.

Mr. President, because of the urgency of this legislation, the committee interrupted its hearings this morning to discuss this bill. It was decided that the House-passed bill should be agreed to without any changes. It is understood that there are other matters which need to be examined in connection with this reorganization, but since the committee does not believe these matters need to be acted upon at this date and that it is important that the bill be enacted by April 1 in order to provide an orderly transfer of the rail properties to ConRail, the committee deferred consideration of these matters. The committee, however, will review them in connection with the present tax bill before us if not sooner.

Mr. President, as I have indicated, this bill is needed to facilitate the ConRail reorganization. I urge that the bill be passed.

Mr. CURTIS. Mr. President, I rise as the ranking minority member of the Committee on Finance to urge favorable action on H.R. 12490. This bill, which is supported by the administration, deals with certain tax questions that have arisen in connection with forthcoming transfers of railroad properties to Consolidated Rail Corporation, more commonly known as ConRail.

Because the Finance Committee did not issue a formal report on this bill, I want to make a few comments about its background, scope, and purpose so that we will have a complete legislative history for future guidance.

Between 1967 and 1973, a number of railroad corporations operating in the Northeast and Midwest entered into bankruptcy reorganization proceedings. In response to this threat to continuing railroad service, Congress passed the Regional Rail Reorganization Act of 1973. This act created a Government corporation—the United States Railway Association—which was directed to develop a so-called Final System Plan. This plan, whose purpose was to restructure the railroads into a financially self-sustaining system, was presented to the Congress in 1975. This Final System Plan was approved by the Congress in the Railroad Revitalization and Railroad Regulatory Reform of 1976.

A part of the plan involves the transfer of railroad properties to ConRail, a profit-oriented nongovernment corporation. These transfers are now scheduled to occur on April 1, 1976. This bill deals with several tax questions that have arisen in connection with the forthcoming transfer of rail properties to ConRail.

As my colleagues are aware, Mr. President, the Internal Revenue Code now contains comprehensive rules governing the transfer of properties in railroad reorganizations. However, the existing provisions of law apply only to transfers of properties made pursuant to the order of a court having jurisdiction under section 77 of the Bankruptcy Act. The forthcoming transfers of property to ConRail do not meet these existing rules for insolvent railroads, principally because they are occurring pursuant to an act of Congress.

Moreover, the parties making the transfers to ConRail may later receive additional cash awards for the property they transfer. Accordingly, the so-called continuity of interest rules generally applicable to reorganization may in fact not be satisfied here.

This bill reflects a decision that, since Congress has provided for the reorganization into ConRail, the tax treatment generally provided by existing law should be available here and that the traditional continuity of interest concept should not be applied here.

Thus, this bill provides that those who make the transfers of rail properties to ConRail will not result in the recognition of gain or loss for tax purposes to those making the transfers. Additionally, this bill provides that ConRail will have a carryover tax basis in the assets it receives. That is, ConRail's tax basis will be equal to the tax basis of those assets in the hands of those parties making the transfer. In this connection, Mr. President, let me note that this rule as to ConRail's tax basis is consistent with the tax consequences assumed by Congress in approving the Final System Plan.

This bill also deals with the treatment of the net operating loss deductions that may be available to the parties making the transfers. None of these loss carryover deductions will be available to ConRail and existing law will be applied to determine the extent to which these deductions will continue to be available to those making the transfers to ConRail.

Finally, the bill recognizes that the parties making the transfers may later receive additional cash awards as compensation for the property transferred to ConRail and on redemption of certain certificates of value. Under the bill, net operating losses not fully used during the regular loss carryover period may be revived in later years to offset income received as compensation for the property transferred to ConRail and to offset income received on the redemption of the certificates of value.

Mr. President, I believe that this bill is necessary to facilitate the ConRail reorganization and that it should be passed promptly so that the tax consequences will be fixed on April 1, 1976, the date the transfers occur.

In closing, let me say that I have been informed that some of the parties involved in the transfer to ConRail believe that there are additional questions which should be resolved by legislation. The committee needs additional time to study these matters and to determine whether further legislative action is appropriate. In my judgment, our best course of action is to pass this bill and consider these other matters in connection with the tax revision bill now being developed by the Finance Committee.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE BANKRUPTCY ACT—CONFERENCE REPORT

Mr. BURDICK. Mr. President, I submit a report of the committee of conference on H.R. 10624, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FORD). The report will be stated by title.

The second assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, having met, after full and free conference, have been unable to agree.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the RECORD of House of Representatives of March 25, 1976.)

Mr. BURDICK. Mr. President, I move that the Senate agree to the conference report in disagreement.

The PRESIDING OFFICER. The question is on the motion.

Mr. JAVITS. Mr. President, I wish to be recognized.

Mr. President, I am not in opposition to this report at all. But there is a critically important question which the Senator and I have straightened out between us, and it should occur in the record before the report is acted on, as it is a question of interpretation of the report.

Mr. President, one of the major questions raised in this report is what happens to the governmental powers of States and municipalities in a bankruptcy. The doctrine of preemption and exclusivity in bankruptcy is very clear, but the doctrine also runs into the other doctrine of the tenth amendment to the Constitution respecting the integrity of the States and the sovereignty of the States in the way in which our Government is organized.

Therefore, specifically, I ask my colleague, the manager of the conference report, respecting the interpretation of section 83 which seeks to reserve State power to control governmental functions of political subdivisions. That is its title. This question may relate to other functions of the State.

But I am going to confine it to one function which will be illustrative and also make the legislative history for the particular function I have in mind. The question is this:

Assume that this bankruptcy provision, which we are adopting tonight, is availed of. Then what happens to the individual pensioner of the subdivision of a State or of a State itself, or the one whose rights have been vested for a pension under State law or appropriate local law? May that pension or the vested right to a pension be dealt with in this bankruptcy proceeding in such a way as to change or modify it substantively?

In my State, for example, the constitution in article V, section 7 states as follows:

> After July 1, 1940, membership in any pension or retirement system of the State or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.

That is the State constitution.

The section in question seeks, I believe—of course, the Senator from North Dakota will give us the answer—to preserve that right by its language which reads as follows:

> Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures thereof, provided, however, that no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition and no judgment shall be ordered under such State law which will bind the creditor to such composition without his consent.

The meaning, it seems to me, clearly, then, of that section—and that is what I would like the confirmation of the Senator about—will preserve the right of an individual pensioner drawing his pension so that it will not be subjected to the Bankruptcy Act and one whose pension is vested in terms of the State law or State Constitution not being affected by the bankruptcy of that particular governmental entity.

Mr. BURDICK. The due process clause of the U.S. Constitution, of course, preserves the rights of a person which have become vested in his pension plan, if the pension plan is fully executed. Under New York law it would be, at the very least, a paramount claim on any assets of the bankruptcy.

Mr. JAVITS. I thank my colleague very much. His answer will give great assurance to many employees who have served faithfully and thought they had something until they ran into the present financial problems.

I thank him further.

Mr. BURDICK. Mr. President, I move that the Senate agree to the conference report in disagreement.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Dakota.

The motion was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Will the distinguished Senator from North Dakota yield for a question about the intent of a portion of the legislation?

Mr. BURDICK. I will yield to the question from the distinguished Senator from Nebraska.

Mr. HRUSKA. The conference report and statement of managers are silent on the rejection of a collective bargaining agreement by a municipality. Could you explain the intent of the legislation in that regard?

Mr. BURDICK. Yes. The Senate report in its version of the bill, S. 2597, makes this clear on page 15. The House report has similar language on pages 8–9. The bill provides in section 82(b)(1) that the court shall have the power to permit the rejection of executory contracts by the petitioner. It is contemplated that all continuing obligations of the petitioner including collective bargaining agreements will be considered executory contracts.

Mr. HRUSKA. But, does not the House report imply that local laws, such as those governing the negotiation and renegotiation of collective bargaining laws, might apply in such a case?

Mr. BURDICK. I am familiar with the language to which you refer. To use an example, it is my understanding that some States have laws which require the negotiation or renegotiation in good faith of all collective bargaining agreements and that during the period of negotiation and renegotiation the employees must remain on their jobs at the same salaries, conditions and terms. It is the intent of this legislation that any such laws should not be allowed to frustrate the purposes of the bankruptcy proceedings.

Mr. HRUSKA. Would these statutes be given no weight because of the bankruptcy and supremacy clauses of the Constitution?

Mr. BURDICK. I think that is certainly the case but it should be made clear that notwithstanding the constitutional considerations it is the intent of the legislation that if a State has such laws they would not apply to the petitioner negotiating or renegotiating any collective bargaining agreement during the bankruptcy proceedings.

Mr. HRUSKA. Does the distinguished Senator read section 83 of the chapter to limit section 82(b)(1)? Section 83 is the section which states that no provision of this chapter shall limit a State in the exercise of its political or governmental powers. Could a State labor law passed before the enactment of this bill and which prohibits the rejection of a collective bargaining agreement of a municipality as an unfair labor practice be deemed to supersede the power of rejection in section 82(b)(1)?

Mr. BURDICK. Definitely not. The power to reject executory contracts in section 82(b)(1) is an integral part of the legislation and is not in any way limited by section 83. The latter section is merely being carried over in this bill in deference to the Supreme Court's decisions in *Ashton* v. *Cameron Water Improvement District No. 1*, 298 U.S. 513 (1936) and *Bekins* v. *United States*, 304 U.S. 27 (1938) and is intended to have no new application because of this bill and to be construed as narrowly as possible.

Mr. HRUSKA. It is my understanding that there are some recent cases which hold that in chapter XI cases a debtor in possession may reject collective bargaining agreements on the grounds that there is no conflict in the bankruptcy and labor laws because the debtor in possession is a new entity and not a party to the collective bargaining agreement. Would the holdings of those cases limit the power of the petitioner in chapter IX to reject any contract or collective bargaining agreement?

Mr. BURDICK. No. In the context of chapter IX the petitioner is as much a new entity as the debtor in possession in chapter XI. The bill recognizes this in section 85(h) where the avoiding powers are given to the petitioner to set aside its own previous transactions. In any case where the labor laws conflict with the powers of the petitioner under this Act, it is the intent of the legislation that the Federal, State, and local labor laws should be overridden.

Mr. HRUSKA. As a practical matter do you not expect that the petitioning municipality will renegotiate most rejected collective bargaining agreements much in the same manner of its pre-bankruptcy experience?

Mr. BURDICK. Yes, but I want to make it clear that it will not be obligated to follow State or local law in that regard.

Mr. HRUSKA. Thank you for clarifying this matter.

Mr. BURDICK. Will the distinguished Senator from Nebraska answer a question about the intent of another portion of the legislation?

Mr. HRUSKA. Yes, I would be pleased to do so.

Mr. BURDICK. The Senate version of the legislation, S. 2597, required the court to find as a condition to confirmation that "it appears from petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan." What is the intent of the legislation in this regard?

Mr. HRUSKA. The balanced budget requirement as an enumerated requirement was deleted in conference between the House and Senate on the bill. This was done upon the premise that the fair, equitable and feasible requirement which is enumerated requirement section 94(b)(1) will encompass the balanced budget requirement. The court will be required to consider whether the petitioner's plan will balance its budget within a reasonable time after adoption of the plan as an essential part of its finding that the plan is fair, equitable, and feasible.

Mr. BURDICK. The House bill did not contain such a requirement and the House report at pages 32–33 contained citations to cases interpreting the "fair, equitable and feasible requirement." Is it the intent of the legislation to limit the court to those cases in applying the balanced budget requirement of the legislation?

Mr. HRUSKA. No. The intent is that the court should make the determination on a case-by-case basis and not be limited by any prior case law. The court probably will be required to have the benefit of expert testimony as to the projected balance or imbalance of petitioner's budget, based upon generally accepted accounting principles.

Mr. BURDICK. The distinguished Senator will remember that the Senate receded from its position which would have permitted the court to enforce the conditions attached to certificates of indebtedness as in section 805(g) of the Senate bill. What is the intent of the legislation with respect to enforcement of conditions attached to certificates of indebtedness?

Mr. HRUSKA. It is contemplated that in the usual case the court as a condition to the issuance of certificates of indebtedness under section 82(b)(2) will require that the petitioner give consent pursuant to section 82(c) to the enforcement of all conditions attached to the certificate of indebtedness. The consent of the petitioner as provided in section 82(c) may be given prospectively.

Mr. BURDICK. I thank the Senator from Nebraska for clarifying these portions of the legislation.

Mr. President, I move that the Senate concur in the House amendments to the Senate amendments to the bill H.R. 10624.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Dakota.

The motion was agreed to.

Mr. BURDICK. That is all.

PROGRAM

Mr. LONG. Mr. President, on behalf of our colleague, the Senator from West Virginia (Mr. ROBERT C. BYRD), I wish to remind Senators that the Senate will meet at 9 a.m. and will first take up the toxic substances bill, S. 3149, under a time limit. Then the Senate will take up H.R. 9721, the Inter-American Development Bank bill, under a time limit. There will be rollcall votes during the day.

S. 3065—AUTHORIZATION FOR TECHNICAL AND CLERICAL CORRECTIONS

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3065, the Federal Election Campaign Act amendment of 1976, and that the bill as passed be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. LONG. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 6:47 p.m. the Senate adjourned until tomorrow, Friday, March 26, 1976, at 9 a.m.

WITHDRAWAL

Executive nomination withdrawn from the Senate March 25, 1976:

Albert C. Hall, of Maryland, to be an Assistant Secretary of the Air Force, vice Walter B. LaBerge, resigned, which was sent to the Senate on March 3, 1976.

EXTENSIONS OF REMARKS

CONGRESSIONAL SALUTE TO THE PEOPLE OF BYELORUSSIA IN COMMEMORATION OF THE 58TH ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF THE BYELORUSSIAN DEMOCRATIC REPUBLIC

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ROE. Mr. Speaker, I am pleased to join in today's congressional salute to the people of Byelorussia and participate with all Byelorussian-Americans in today's commemorative ceremonies marking the anniversary of the Declaration of Independence of the Byelorussian Democratic Republic which was signed in Misk on March 25, 1918.

In today's special order in the House, during the Bicentennial Year of our Nation, we salute our common heritage of freedom, justice and tolerance in this national recognition of the valiant struggle of the people of Byelorussia in seeking the restoration of the right to exercise self-determination to national independence and sovereignty.

As a nation comprised of all nationalities from all corners of the globe, we are ever mindful and vigilant to the critical need to hold on to the traditions and cultures of all peoples throughout the world and their outstanding contributions to mankind. America is indeed fortunate to have had the benefit of the cultural inheritance and historical achievements of the Byelorussian people.

Mr. Speaker, on this anniversary observance of this historic agreement of the Byelorussian people, we here in the House can reaffirm our support of humanitarian ideals in our quest for a communion among all peoples of the world to achieve quality of life that will permit the widest possible expression of cultural and national heritage so important to mankind's purpose and objectives in attaining a rich and lasting peace throughout the world.

There is a continuing need for concerted action in mustering world opinion as a viable force in achieving universal understanding and agreement on basic human rights principles to eliminate government controls that dominate the personal freedoms of the individual to live and worship in the land of his or her choice and stifle the independence and sovereignty of a nation of people.

On March 25, 1918 the Byelorussian people achieved national independence and regained the freedoms which had been lost to the czarist Russia at the end of the 18th century. This national sovereignty, however, was short-lived and the Byelorussian people continue their valiant struggle to again achieve their national identity as a sovereign state free from the forces of communistic domination and control.

Mr. Speaker, on behalf of the people of my congressional district and the State of New Jersey, I join in this annual observance of our Byelorussian heritage and trust that it will help to reassure those people whose human rights are held captive not only behind the iron curtain of the Soviet Union but throughout the world that through world opinion we can attain international understanding and agreement that will eliminate the oppression of people and restore "human rights" and the people's rights of self-determination to national and political independence in the so-called captive nations of the world.

TRIBUTE TO THE AMERICAN OPTOMETRIC ASSOCIATION AND NATIONAL 4-H FOUNDATION EYE CARE PROGRAM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WAXMAN. Mr. Speaker, on March 16, 1976, the Subcommittee on Health and the Environment reported out the National Health Information and Promotion Act of 1976. This bill addresses the need for focusing attention and Federal support for the development and implementation of programs which promote the use of preventive health care services and foster a better public understanding of the appropriate use of medical services.

While it is important that the Federal Government support vigorously programs which further consumer awareness and involvement in the health area, medical care providers, public interest groups and youth groups can also make significant, independent and valuable contributions. Recently, an example of the latter enterprise has been brought to my attention. The American Optometric Association and the National 4-H Foundation, in 1975, sponsored pilot eye care and eye safety programs in four States—Georgia, Ohio, New Jersey, and California. In this instance, the youth has taken the lead in developing and implementing projects which foster a better understanding of the need for preventive care in the eye care and safety area. Members of the 4-H affiliates participating in the pilot projects have demonstrated that young Americans are both innovative and public interest oriented. They are to be commended for their efforts and their success.

The pilot program went far beyond its primary purpose of discovery-imaginative and effective ways that eye care and safety programs were incorporated into the 4-H program at the local level. Participation in these programs broadened youth involvement in this vital health area and fostered leadership development among teenage 4-H'ers. These young Americans were catapulted into new and exciting interaction with health professionals and community leaders. Most importantly, in a number of instances, early signs of vision problems were detected.

The jointly sponsored AOA-4H programs focused on vision education in a variety of settings: elementary school classrooms, Head Start programs, libraries, 4–H camps, and county fairs. Also, participants sponsored vision screening projects, poster and essay contests, demonstrations on vision care at 4–H meetings, and vision education programs for senior citizens.

This noteworthy 4–H project, sponsored through a grant from the American Optometric Association, is now spreading from the four pilot States to every State in the Nation. Millions of Americans, young and old, will surely benefit from acquired knowledge about their vision and eye safety.

These 4–H participants have given new emphasis to the fourth H—health. They are to be congratulated for their outstanding work and achievements, and they should be encouraged to pursue high public interest goals throughout their lives.

GEN. HENRY KNOX

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. EMERY. Mr. Speaker, Representative Wayne C. Gray from my hometown of Rockland, has researched the life and accomplishments of Gen. Henry Knox of Thomaston, who served as this country's first Secretary of War under President George Washington.

As a Bicentennial project, Mr. Gray and I have felt strongly that the Stamp Advisory Committee be encouraged to issue a special commemorative stamp memorializing this great American.

Mr. Speaker, the following resolution, which was passed by both Houses of the Maine Legislature, excellently portrays the achievements of one of Maine's greatest patriots:

Joint Resolution Memorializing the Honorable Benjamin F. Bailar, Postmaster General of the United States and the Citizens Stamp Advisory Committee to Order the Issuance of a Special Stamp Commemorating General Henry Knox

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the Special Session of the One Hundred and Seventh Legislative Session now assembled, most respectfully present and petition the Honorable Benjamin F. Bailar and the Citizens Stamp Advisory Committee, as follows:

Whereas, the American cause was in mortal danger in the winter of 1775–76. The Americans had the British penned up in Boston, with the Redcoats being unaware of the artillary shortages existing within the rebel ranks; and

Whereas, America might have lost its fight for nationhood in its infancy if General Henry Knox, a bookseller turned soldier, had not delivered the guns which allowed George Washington to strengthen his fledgling army and liberate Boston; and

Whereas, with the big guns from Fort Ticonderoga, Washington could defend his own seige positions, command Boston, and prevent the arrival of British supplies from the seas; and without them, the English would have massed enough men and equipment and sallied forth and crushed the Revolution; and

Whereas, Knox, a military amateur at that time, who had helped engineer the fortifications, came to Washington with a plan to go after the guns captured from the British at forts on Lake Champlain; and

Whereas, it is recognized that General Knox performed a monumental deed by hauling 60 tons of artillery and supplies from Fort Ticonderoga in New York, across the length of Massachusetts to Boston in the dead of winter that numbed horses and oxen and terrified men; and

Whereas, Knox spent the first days of 1776 cutting holes in the ice to force up water which froze in layers, thickening the ice on the Hudson River until it could bear the weight of heavy guns; and

Whereas, south of Albany a sleigh shattered under its load and detained the column, but Knox plunged into the Berkshires and reached Monterey, Massachusetts, on January 10th, and in his words, "after having climbed mountains from which we might almost have seen all the kingdoms of the earth;" and

Whereas, when the teamsters feared to descend the mountain with their heavy load, it was Knox who rallied them again and again through the snow, the icy winds and the thick forests; and

Whereas, Knox arrived at Washington's camp with an advance contingent on January 18th, and "the noble train or artillery," as he called it, was delivered on January 24, 1776, 47 days after leaving Ticonderoga; and

Whereas, on March 2nd, Knox's guns began shelling Boston, and on March 17th the British evacuated the city, a date still celebrated by Bostonians; and

Whereas, "the Tories were repelled; the rebels were relieved and the cradle of liberty was free;" and

Whereas, the man who performed this herculean task and perhaps saved his country was the least likely person in Washington's command to receive such a trust. When he was only 9 years old, Henry was forced to leave school and support his mother and 3-year old brother with a job at a bookstore where he continued his education; and

Whereas, with nothing but book-learning to guide him, Knox aided in designing and building siege fortifications about Boston to which George Washington expressed great pleasure and surprise; and

Whereas, eventually, Knox became chief of artillery for the Continental Army and one of Washington's closest friends and trusted lieutenants and became active in most of the major battles of the Revolution; and

Whereas, Knox showed a facility at artillery warfare which continually amazed his learned British opponents and French allies alike and he designed a new gun carriage which enabled him to engage guns in greater number and mobility than Europeans had done; and

Whereas, for more than 300 miles they pulled and pushed their cargo on rough-hewn sledges over treacherous mountain trails, through deep woods, across frozen lakes and rivers which often cracked under the weight, and through smothering snow; and

Whereas, when animals refused to struggle on, men pulled an impossible load, and when men hesitated, Knox's own assurance and courage kept them going and rallied the countryside to their aid; and

Whereas, it was impossible, but Knox, with a new Colonel's commission, and just 25 years old, set out for New York on November 17, 1775, racing as best he could on horseback over frozen roads, and thus he and his brother, William, reached Fort Ticonderoga on December 5th; and

Whereas, Knox selected 59 guns captured the previous spring by Ethan Allen and Benedict Arnold with total weight of 120,000 pounds which were loaded onto 3 boats; and

Whereas, Knox hurried south to prepare the land route, while William, meanwhile, began the 33-mile voyage down Lake George through a channel in the ice, which stretched a mile from each shore of the narrow lake, and on the first day out a boat struck a sunken rock and was freed only after exhausting labor; and

Whereas, halfway down the lake, the big scow struck again and sank in shallow water, and the guns were lifted from icy water by freezing hands and repairs to the scow were made in the middle of the lake, which allowed the priceless artillery to arrive at the southern end of the lake; and

Whereas, everything was transferred to 42 sledges pulled by 80 teams of oxen, and along crude roads, Indian trails, or none at all, through 3 feet of fresh loose powder; and they made no better than 2 miles a day, all so great a strain that oxen and horses gave out and were abandoned with men often pushing the sleds; and

Whereas, while crossing the Mohawk River above Albany, one of the sledges crashed through the ice and sank and the precious cargo was fished out by frozen men; and

Whereas, when things seemed unendurable, Knox rallied the people of the countryside who came forth with fresh horses and men but only to be stalled again in Albany with thin ice; and

Whereas, it was Knox who personally directed the transport of Washington's troops across the Delaware on Christmas night, 1776, with "stentorian lungs and extraordinary exertions," for which he was awarded the rank of Brigadier General; and

Whereas, Knox was with Washington at Valley Forge and at Yorktown, he organized a military academy for the new army and he was the first to embrace Washington in farewell at war's end; and

Whereas, this self-taught bookseller-soldier became a Major General and succeeded Washington as Commander of the Army after the war; and

Whereas, Knox became the country's first Secretary of War in Washington's Cabinet, and later enjoyed success as a businessman and country squire on his estate in Thomaston, Maine; and

Whereas, it was Henry Knox who represented young America, this self-made general, too unsophisticated to be cowed by the impossible, and with that exquisite American capacity to do what couldn't be done, simply because it was there, and he was there, and it needed doing, and he knew he could do it when few others would dare try; now, therefore, be it

Resolved: That We, your Memorialists, in view of this outstanding General and his record of accomplishments, recommended and urge the Honorable Benjamin F. Bailar, Postmaster General of the United States and the Citizens Stamp Advisory Committee to take appropriate action by ordering the issuance of a special stamp commemorating General Henry Knox; and be it further

Resolved: That copies of this Memorial, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Honorable Benjamin F. Bailar, Postmaster General, and the Honorable Members of the Citizens Stamp Advisory Committee, Mr. Ernest Borgnine, Dr. James Mutejka, Dr. Virginia Noelke, Mr. John Sawyer, Mr. John Thomas, Dr. Dorothy Worcester, Mr. Belmont Faries, Mr. Steven Dohanos, Mr. Bradbury Thompson, Mr. James Conlon, Mr. J. Carter Brown, Mr. Franklin Bruns, Mr. Emerson Clark and Mr. James Wyeth; and be it further

Resolved. That the Secretary of State be directed to transmit forthwith suitable copies of this Memorial to the Vice President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress and to each Member of the Maine Congressional Delegation.

A FREE PRESS—HOW FAR?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BOB WILSON. Mr. Speaker, I could not be more in agreement with the first amendment doctrine of a free and unrestricted press. A free press has been a cornerstone of the guarantees of individual liberty for all Americans. Free and vigorous public discussion is part of our American way of life and the press acts as the forum for such discussion.

However, the Daniel Schorr case—the unauthorized release of a document bearing on the national security of the United States—has raised serious questions in many circles, most notably among journalists themselves, as to where newsmen should draw the line in releasing information in their possession. The issue of whether Schorr had the right to take upon himself the matter of deciding what information should or should not be released to the public smacks not a little bit of an assumption of omnipotence.

This is a case in which I believe a member of the press overstepped his bounds, and if the following editorial from Editor and Publisher is any indication, so does the press.

I include the following:

[From Editor & Publisher, Feb. 28, 1976]

THE INTELLIGENCE REPORT

The Daniel Schorr—*Village Voice*—intelligence report controversy will continue for some time and could be damaging to press freedom. Certainly, it has done nothing for the advancement of a "shield law" in Congress.

Publication of the secret document, the leaked story, has been prevalent in recent months and years. This one, however, has an ingredient not present in other such cases. Editors, columnists and reporters ought to examine it from the point of view of the average reader or citizen.

This was not a report being suppressed by a bureaucrat, a government agency, or a congressional committee. Essential parts of the report had been reported but the full text was not available until Schorr obtained a copy. Schorr noted: "I could not be the one responsible for suppressing the report."

What made him think this was his sole responsibility?

Publication of the report had been approved by the House Select Committee on Intelligence. But, the full membership of the House voted to countermand that decision until the report had been cleansed of what it believed to be important classified information.

This was not a whimsical decision. Enough members of the House were convinced of its importance to national security to take another look.

We are aware of and sensitive to all the arguments about the "people's right to know." We have used them repeatedly on this page and we remain dedicated to that principle.

However, here for the first time to our recollection, the people's elected representatives (the House of Representatives) decided in behalf of the people (its constituency) that information of importance to the national security (the people's security) should be re-examined before it was released.

At that point, a member of the press disagreed and took it upon himself to act as the people's surrogate in releasing the information in spite of the fact that the people's *elected surrogate* decided otherwise. It brings up the charges we have all heard before: "Who elected the press?" And, more and more people are asking themselves that question, rightly or wrongly.

This is a difficult issue for the press. It must insist on its right to investigate, to probe, to uncover, to expose, to report. But, can it expect the support and appreciation of its readers if it exposes national security and/or international intelligence information that a majority of the House of Representatives believes should not be revealed? It is a confrontation in which we believe the press will come out second best.

THE HOUSING INCENTIVE INVESTMENT ACT OF 1976

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ASHLEY. Mr. Speaker, on March 24 I introduced H.R. 12756, the Housing Incentive Investment Act of 1976, a companion bill to S. 3193 sponsored by Senator WILLIAM BROCK of Tennessee. My explanatory remarks on the legislation appear on page 7944 of the CONGRESSIONAL RECORD of March 24, 1976, and I now insert the text of the bill and a section-by-section analysis:

H.R. 12756

A bill to stimulate the purchase of new and existing housing, to assure the steady flow of capital into the mortgage market, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing Incentive Investment Act of 1976."

SEC. 2. Title III of the National Housing Act is amended by adding at the end thereof the following new section:

"HOUSING INCENTIVE INVESTMENT INTEREST PAYMENTS"

"SEC. 314. (a) The Association is authorized to make, and to contract to make, Housing Incentive investment interest differential payments to lenders with respect to mortgages meeting the requirements of, and approved for the purpose of, this section.

"(b) The Association may not approve a mortgage for assistance under this section unless—

"(1) the mortgage was executed to finance the purchase of a one-to-four-family dwelling which is the principal residence of the purchaser;

"(2) the original principal amount of the mortgage loan was not in excess of $35,000;

"(3) the home purchaser's interest rate on the mortgage secured by the dwelling is fixed at two percentage points less than the market rate on the date of execution of the mortgage, and such rate will be maintained and reflected in the purchaser's monthly payments until the home is sold or otherwise disposed of or is no longer used by the purchaser as his principal residence, but in no case shall the home purchaser's interest rate be less than 6 per centum per annum;

"(4) the lender's interest rate under the mortgage is established and will be adjusted pursuant to subsection (d); and

"(5) the mortgage is accompanied by appropriate instruments whereby the purchaser pledges the repayment of the aggregate amount of payments under this section together with interest thereon at a rate not less than the rate on obligations issued under subsection (f).

"(c) (1) Upon any sale or other disposition of the dwelling or upon termination of use of the dwelling by the purchaser as his principle residence prior to retirement of the first mortgage, the purchaser will be required to repay the amounts advanced under this section out of the proceeds of the sale, which obligation shall constitute a second lien on the dwelling.

"(2) If at the end of the term of the mortgage, the home purchaser is still in possession of the dwelling, he shall be required to make such repayment upon such repayment upon such reasonable terms and conditions as the Association may prescribe.

"(3) If the proceeds of any sale or other disposition are not sufficient to make such repayment, after discharge of any prior liens, the purchaser will be required to make such payments.

"(d) There shall be established for any mortgage approved under this section a lender's interest rate which may not exceed the average yield on mortgages secured by one-to-four family dwellings and insured under title II of this Act or guaranteed under chapter 37 of title 38, United States Code, during the 6 calendar months preceding the date of execution of the mortgage presented for approval under this section. Upon the expiration of 6 months after the date of execution of the mortgage, and upon the expiration of each 6 months thereafter, the lender's interest rate shall be adjusted upward or downward by the Association so that such rate will be equal to the average yield of the mortgages referred to in the preceding sentence during the 6-month period immediately preceding the date of such adjustment, except that (1) no single upward or downward adjustment may exceed ¼ of 1 per centum, and (2) the aggregate upward adjustments may not exceed 2½ percentage points above the initial lender's rate. If at any time, the lender's interest rate, as adjusted, is less than the borrower's interest rate, the difference shall be credited against the amount of prior payments on behalf of the purchaser or refunded to the purchaser.

"(e) The amount of a housing incentive investment interest differential payment shall be equal to the difference between the purchaser's interest rate established under subsection (b) (3) and the lender's interest rate established under subsection (d). Such payments shall be made monthly by the Association out of the fund established under subsection (f).

"(f) (1) There is established in the Treasury a Housing Incentive Investment Interest Fund (hereafter referred to as the 'Fund') which shall be available without fiscal year limitation for the purpose of this section. The Fund shall be credited with—

"(A) such amounts as may be received as payments under subsection (b) (5);

"(B) interest or other receipts on investments of the Fund;

"(C) the proceeds of obligations issued under paragraph (2); and

"(D) receipts from any other source.

"(2) To carry out the purposes of this section, the Association is authorized to issue to the Secretary of the Treasury notes or other obligations in such an aggregate amount as may be approved in appropriations acts, but not to exceed $1,000,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States."

SEC. 3. The authority granted by this Act shall expire 5 years after the date of enactment.

SECTION BY SECTION ANALYSIS OF THE HOUSING INCENTIVE INVESTMENT ACT OF 1976

The Act is to be cited as the "Housing Incentive Investment Act of 1976".

Section 2 of the Act amends title III of the National Housing Act by adding a new section 314.

Section 314 (a) authorizes the Government National Mortgage Association to make housing incentive investment interest differential payments to lenders.

Under section 314 (b), GNMA may not approve a mortgage for assistance unless—

(1) the mortgage covers a one to four family dwelling.

(2) the home mortgage is not in excess of $35,000.00.

(3) the interest paid by the purchaser of a dwelling is 2% below the market rate of interest for home mortgages at the date of execution of the mortgage but in no case shall the purchaser's rate be less than 6%.

(4) the lender's interest rate will be adjusted every 6 months by GNMA to reflect the yield on VA–FHA mortgages.

(5) the purchaser agrees to repay the aggregate amount of differential payments with interest.

Section 314 (c) (1) provides that upon any sale or other disposition of the dwelling or upon termination of the use of the dwelling by the purchaser as his principle residence prior to retirement of the first mortgage, the purchaser will be required to repay the advances out of the proceeds of the sale, which shall be a second lien on the dwelling.

Section 314(c)(2) provides that if at the end of the term of the mortgage the purchaser is still in possession, he shall make such repayments upon such reasonable terms as GNMA may prescribe.

Section 314(c)(3) provides that if the proceeds from the sale of the dwelling are insufficient to make repayment of advances after discharging prior liens, then the purchaser is personally responsible for the repayment.

Section 314(d) authorizes GNMA to establish a lender's interest rate which may not exceed the average yield on VA–FHA mortgages during the six calendar months preceding the date of execution of the mortgage. The lender's interest rate shall be adjusted upward or downward by GNMA every six months except that no single adjustment may exceed ¼ of 1% nor may the aggregate upward adjustment exceed 2½%. If the lender's interest rate falls below the borrowers rate, the borrower shall be credited with the difference.

Section 314(e) provides that GNMA shall pay monthly to the lender the deferred mortgage interest differential.

Section 314(f) establishes in the Treasury a Housing Incentive Investment Interest Fund to carry out the purposes of this section. GNMA is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed $1,000,000,000 and the Secretary of the Treasury is authorized to purchase and sell such notes and obligations. This authorization would be carried in the Federal budget.

Section 3 of the Act provides that the authority for the program shall expire 5 years after date of enactment.

UKRAINIAN BICENTENNIAL COMMITTEE CULTURAL SALUTE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. GAYDOS. Mr. Speaker, during this year's Bicentennial, many people will be talking about the great American spirit of freedom and liberty. The American spirit, as we think of it today, is the composite of many cultural outlooks and characters. One of the important contributions to this composite spirit has been made by the Americans of Ukrainian heritage. In this 200th birthday of America, the Ukrainian Americans are also celebrating the 100th anniversary of their homeland's first substantial migration to the United States.

I am particularly pleased to note at this time that the Ukrainian Bicentennial Committee of Pittsburgh and Western Pennsylvania has recently sponsored a magnificent and impressive drama based on the post-World War II Ukrainian struggle for liberation. This play "The Invincible Call" was presented in Pittsburgh on Sunday, March 21, 1976, as a dedication to America's Bicentennial and a centennial of Ukrainians in America. The proceeds from the production will go to the Ukrainian Research Institute at Harvard University.

The inhabitants of western Ukraine are frequently remembered for their strong spirit of unity. Much of the inspiration for this spirit comes from their music. They sought strength from music even during the difficult years of political struggle and upheavals despite the threat of retribution from occupation authorities.

Thus, it is not surprising that "The Invincible Call" is a musical production full of colorful songs and dances. It was written and directed by Lubo Cepynsky, who, together with his wife, also wrote the accompanying choreography. The performances of the Ukrainian Youth Theatre of Chicago have merited generous applause from audiences in New York, Philadelphia, Detroit, Toronto, Chicago, and Pittsburgh alike.

I salute the Ukrainian Bicentennial Committee and its honorary chairmen, Very Rev. Msgr. Russell Danylchuck and Protopresbyter Andrew Beck; chairman of the committee and publicity/program book chairman, Michael Komichak; Secretary Ann Komichak; and Treasurer Michael Maynosz for selecting and sponsoring this presentation as their third cultural event for their bicentennial program.

It is efforts such as this which are truly deserving of recognition because they will make the 1976 Bicentennial in America a cherished and meaningful experience.

WASHINGTON AREA PRINTING INDUSTRY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. GUDE. Mr. Speaker, in this year of the Bicentennial, all of us are looking with pride at 200 years of achievement, and the printing industry indeed has good reason for pride in its work. Printers across the country are urging the Bicentennial idea of "Press on America." Thus, I wish to bring to my colleagues' attention the importance of the printing industry to the greater Washington area.

Washington leads the world as the No. 1 communications center. Commercial printers in this area, which includes my district, Montgomery County, Md., are vitally important to this flow of communications. They are responsible for the printing of many of our national magazines and publications. The printing demands of the many industries and trade groups headquartered here are served well by printers whose plants are located in and around Washington. The highly skilled workmen, specialized equipment and advanced technology utilized by this local industry augment the facilities of the Government Printing Office in supplying the needs of the Federal Government for many of its important documents and publications necessary for the efficient functioning of our Government.

Washington area printers are continuing the innovative practices that have distinguished them over the years. The monotype, an early advance in the process of typesetting, was invented in Washington in 1887 by Tolbert Lanston and still continues to be used by printers not only across the country but around the world.

Not too long ago, the term "graphic arts" was developed to refer to the many processes used to place the printed word on paper, either through lithography, offset, gravure or the countless other ways that modern printers use to further written communication. Sensing the high reputations of printers as craftsmen, others have used the term graphic arts to identify their products, some of which bear only faint resemblance to the printing process.

The Nation's Capital is fortunate in having a local printing industry that maintains its tradition of craftsmanship and sound business practice.

CONGRESS BECOMES EMBROILED IN DIFFICULT PROCESS FOR THE COMING FISCAL YEAR

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mrs. HECKLER of Massachusetts. Mr. Speaker, as the Congress becomes embroiled in the difficult budget process for the coming fiscal year, our attention must be focused on balancing the needs of the Nation's citizens with the oft-forgotten taxpayer. That can be a very difficult middle ground. However, one Federal agency in particular is making a real effort to meet its congressional mandate on a small budget with a small staff. The job has not been easy.

The Women's Bureau of the Department of Labor has been in existence for 55 years. Its staff is dedicated, hardworking, and has an uncanny expertise in advising both employees and employers on their rights and responsibilities in addition to answering the questions of women who feel discriminated against in their jobs.

I believe a recent article in the Providence Journal would be very enlightening reading for my colleagues. The Women's Bureau was mandated to improve the lot of the working woman and is doing just that.

The article follows:

(By David A. Narsavage)

Boston.—It's no surprise that when the Women's Bureau of the U.S. Dept. of Labor was formed 55 years ago, it was authorized only 20 employes. In 1920, the concept of women in professions was as popular as the impending, yet almost heretical acceptance of women in voting booths.

Congress conceded the importance women workers had in World War I, heaved a reluctant sigh, and bowed to the inevitable. But not without some wailing and gnashing of teeth.

"No woman on earth is worth more than $2,000 a year," wailed one senator, in setting a salary ceiling for the staff. "Soviet and Bolshevik programs" were the way critics described the bureau's early efforts to bring women out of the kitchen and into the office.

So a national staff of only 20 was understandable. But how times have changed. Now 37 million women constitute 40 percent of the work force, taking their place in virtually every profession. Now a staff of only 20 in the Women's Bureau would be obviously unreasonable.

Today, it's 79. Fifty nine in Washington, and 20 "in the field."

"I tell people that we're set up for failure," explained the bureau's New England regional director, referring to her small staff's large work load.

Earlier this fall, Vivian L. Buckles, the regional director, touched on the bureau staffing problems while speaking before a conference in Warwick sponsored by the Kent County YMCA. In a recent interview she touched a little harder.

"I've been in this job for just over a year, and the first thing I've been able to do directly with Rhode Island was attend that conference. My assistant and I just aren't enough for a six-state region. I think it's getting to be time that women's groups and others should start writing to the secretary of labor, asking why this bureau hasn't grown in proportion to women in the work force," said Miss Buckles, who described the bureau's function as improving the employability of women and their general working conditions.

Unlike other divisions of the labor department, the Women's Bureau manages no federal grants and has no power to enforce statutes, such as those governing discrimination in hiring. If it did, it would have a larger staff—and more clout.

Instead, it can only "advise" employers and employes on their responsibilities and rights, fielding questions from women who feel they've been discriminated against and referring them to the appropriate enforcement agencies. The Boston office even had the answer when someone called to find out the average height of the American woman. Between five feet, four inches and five feet, five inches.

"My office needs are amply covered, so I have no beef with that. But to show you the type of psychological shoestring we operate on, there was an article in 'U.S. News and Word Report' a little while ago that included us among federal agencies the writer thought could be easily eliminated to save money," Miss Buckles said.

The savings wouldn't be monumental. Of the Department of Labor's 1976 budget request, an official estimated no more than $5 *billion* would be for actual operating expenses. Of that, just under $2 *million* will be set aside for the Women's Bureau. And although the department has 13,431 employes, the bureau will still survive with just 79. Bureau members can at least console themselves by remembering their first national budget—$30,000, in 1920.

"Whenever any of the 79 of us get together, we talk about just surviving, not expanding. We call each other up when we have questions of our own, because there's no support group for us in the field. It produces a kind of tension that we have to deal with every day."

But Miss Buckles "loves it," adding. "This is good experience for all of us. Experience for what, I don't know, but experience."

Miss Buckles is no political appointee with dubious credentials for her position. Coming out of the Appalachian Mountains, she earned a liberal arts degree from a small Kentucky college and started work with IBM in Louisville. Then a scholarship took her to the John Hopkins School of Advanced International Studies in Washington, a step which led her into a government career.

She wrote technical reports in the research and development office of the Army Quartermaster Corps before moving to the Army's Natick Laboratories for Research and Development, in Natick Mass. She stayed there 20 years, leaving as the only woman to have been chief of the lab's review and analysis division.

In 1970, she was awarded the Army's Civilian Service Award, its second highest civilian honor, one which reportedly has been awarded to "few" women. She won it for developing procedures for evaluating technical performances in research and engineering.

"Being aware of the obstacles faced by women workers wasn't something I was just appointed to. For about six years I was the Federal Women's Program Coordinator for the Natick Laboratories," said the Natick resident who wishes she could lose the last of her lingering Southern accent. "People think all women are dumb by nature. But they find out otherwise if they get to know me."

She recently earned a master's degree in public administration, and is active in the Needham Toastmistress Club, of which she is a past president.

"We're the only group of women in the country that has a congressional mandate to improve the lot of working women," she said of the bureau, "but I think it's time to get the money and staff to really back up that mandate. I'd like to do more in Rhode Island, but I'd also like to be 10 people."

In addition to protecting the rights of women, Miss Buckles is also doing her bit personally to protect at least one prerogative of women everywhere.

"Don't ask my age," she said. "You'll just have to guess it."

MANDATORY PENALTIES FOR THE CRIMINAL USE OF FIREARMS

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. KASTEN. Mr. Speaker, yesterday, I sent a letter to Chairman Rodino urging the Judiciary Commitee to consider mandatory sentencing for the use or carrying of a firearm in the commission of a Federal felony as a separate piece of legislation.

The fact that this concept has broad-based, bipartisan support is demonstrated by the diversity of the 42 Representatives who joined as cosigners of the letter.

I firmly believe that certainty of punishment would be an effective deterrent to the illegal use of firearms. Presently, the law limits the discretion of the judge in sentencing for a second offense involving a firearm—but the latitude provided a judge for a first offense is far too great.

The official policy of the Federal Government should be that use of firearms in the commission of a crime will simply not be tolerated, under any circumstances.

Although both advocates and opponents of gun control agree on the need for mandatory sentencing, and our constituents are demanding that we do something to combat the rise in crime, the fate of this legislation is tied to the fate of gun control legislation. Mandatory sentencing should not be jeopardized.

I urge the Judiciary Committee to act expeditiously on this matter.

Mr. Speaker, I would like to insert the text of the letter to Chairman Rodino and the list of cosigners in the Record at this point.

House of Representatives,
Washington, D.C., March 23, 1976.

Hon. Peter W. Rodino, Jr.
Chairman, House Committee on Judiciary, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: The House Judiciary Committee recently voted to recommit H.R. 11193 to its Subcommittee on Crime. Whether the Committee will consider similar legislation during the 94th Congress is questionable.

Unfortunately, consideration of Section 213 of H.R. 11193, which prescribes mandatory penalties for the use or carrying of a firearm in the commission of a Federal felony might also be postponed until 1977.

We urge the Committee to consider Section 213 as a separate piece of legislation. Although we as cosigners of this letter might not agree about the issue of gun control, we do support the concept of mandatory sentencing as a method of deterring crimes committed with firearms.

We believe this concept has broad-based bi-partisan support and should be considered by the 94th Congress in view of the growing use of firearms in the commission of crimes.

We respectfully urge the Committee to promptly consider mandatory sentencing legislation and report it favorably to the House of Representatives.

Thank you for your consideration of this request.

Best regards,

ROBERT W. KASTEN, Jr.,
Member of Congress.

LIST OF COSIGNERS TO THE LETTER

Charles B. Rangel, Frank Annunzio, Alphonzo Bell, James M. Collins, W. G. (Bill) Hefner, Paul Findley, John Y. McCollister, Stanley N. Lundine, Tom Bevill, and G. William Whitehurst.

Matthew F. McHugh, Philip H. Hayes, Paul N. McCloskey, Jr., Robert W. Edgar, James W. Symington, Thomas J. Downey, Pierre S. (Pete) du Pont, Norman E. D'Amours, Richard H. Ichord, and John B. Conlan.

John W. Jenrette, Jr., J. Kenneth Robinson, George M. O'Brien, Bud Shuster, James C. Cleveland, Larry Pressler, Jim Lloyd, Willis D. Gradison, Jr., and Max Baucus.

Dominick V. Daniels, Robert J. Lagomarsino, Joseph L. Fisher, James T. Broyhill, Virginia Smith, David C. Treen, Jerry M. Patterson, Clarence E. Miller, John Krebs, Andrew J. Hinshaw, Robert C. McEwen, James J. Blanchard, and David W. Evans.

SENIOR CITIZEN INTERNS: SELECT COMMITTEE ON AGING EXPRESSES STRONG SUPPORT FOR FORMAL PROGRAM

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. MATSUNAGA. Mr. Speaker, a great many of the senior citizens I have come in contact with have expressed a strong desire to understand congressional operations, specifically as they relate to the problems of the elderly.

These senior citizens, in addition to requesting information about how the Congress is meeting the problems of the elderly, are equally as anxious to articulate their own perceptions of how the problems of the elderly should be resolved. A two-way communication link between the elderly and their elected Representatives in Congress would serve the interests of both the elderly, who would gain the knowledge they desired, and Members of Congress, who would acquire a better understanding of how the problems of the elderly could be combated.

For that reason, the House Select Committee on Aging recently endorsed strongly the concept of a senior citizen internship program, to parallel the existing LBJ summer internship program for students and teachers.

In order to give tangible effect to this expression of support, I introduced last week a resolution to establish such a formal internship program. Twenty-one of my colleagues on the select committee joined me in sponsoring the resolution bringing to 101 the number of House Members who have sponsored similar measures.

I am hopeful, Mr. Speaker, that the Committee on House Administration—and the full House itself—will approve this proposal in time for implementation during May 1976—Senior Citizens Month.

REJECTION OF FLOOR TV SYMBOLIZES NEED FOR FURTHER REFORM

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. CARR. Mr. Speaker, the recent vote by the House Rules Committee to reject televised coverage of House floor proceedings was a very unfortunate action. It was a step backward for the public's right to be informed of the actions of their elected representatives, and for the reputation and effectiveness of the House of Representatives.

The rationale used by opponents of television coverage indicate an unjustified distrust of the television networks, of the public intelligence and of the ability of fellow representatives to act responsibly.

Perhaps the most unfortunate aspect of the vote was that strong support of the resolution by the leadership would surely have resulted in its passage. But that support was lacking.

Despite the disappointment I feel over this vote, however, I believe it will have served a valuable purpose if it shows reform-minded Members of the House that we still have a long way to go in our efforts to make the House of Representatives a more open, efficient, and responsive legislative body.

A large group of freshmen Members came into the House in the 94th Congress and joined with many other Members to achieve some significant reforms, particularly in the area of committee chairmanships. But these achievements, as important as they were, are just a beginning. The failure of the television resolution is good evidence of that.

Therefore, I would like to say to all Members who seek further positive reform that we must begin now to plan for that reform in the future. We must decide what reforms we will seek and how we can successfully work for them. If the 95th Congress is to accomplish more than the 94th, the work must begin now.

THE SILENT PARTNER OF HOWARD HUGHES—PART XII

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. HARRINGTON. Mr. Speaker, I am inserting today the 12th installment of the Philadelphia Inquirer's exposé regarding Howard Hughes' privileged relationship with sectors of the U.S. Government. In this segment, reporters Donald L. Barlett and James B. Steele describe how Hughes obtained permission from the Civil Aeronautics Board to acquire an airline:

THE SILENT PARTNER OF HOWARD HUGHES—XII

The basic question the CAB had to decide was whether the proposed Hughes takeover was in the public interest. Two Hughes opponents—Northwest Airlines and Western Airlines—argued vehemently that the public interest would be be served by allowing the eccentric billionaire to once again control a commercial airline.

The Federal Aviation Act of 1958 specifically states than any carrier or person controlling an airline must be "fit, willing and able to perform such transportation properly and to conform to the provisions of this act."

Northwest contended that Hughes Tool Co. could not meet that requirement. The airline said Toolco had "entered into unlawful control relationships" in the past with TWA and Northeast, and had done the same thing in the Air West case.

Aviation law is quite clear in forbidding control of an air carrier without prior CAB approval.

The 1958 act prohibits any individual or air carrier from acquiring "control of any carrier in any manner whatsoever" unless first approved by the CAB.

Berl Bernhard, a Washington lawyer representing Northwest, argued before the CAB that Hughes had controlled Air West since August 1968 when Maheu and Bez reached their agreement aimed at selling the airline to Hughes.

Bernhard contended that the Hughes interests exercised so much control over Air West's affairs at that time that they had blocked certain managerial changes, as recommended by the airline's major creditor, that could have substantially improved Air West's profit performance.

The Bureau of Operating Rights, a CAB division which advises CAB board members on mergers and acquisitions, recommended that the board approve the Hughes purchase, but with one major stipulation—that Hughes should not receive a federal subsidy for Air West.

The federal government had been subsidizing commercial aviation since the 1920s. Originally, subsidies were awarded solely as compensation for carrying the mail. Eventually, they were given as well for the more general purpose of encouraging aviation growth.

By the late 1960s, only a few local service carriers such as Air West were still receiving the subsidy, largely because that they provided service to small towns that might not ordinarily generate sufficient traffic to warrant profitable air service.

Although Air West and its predecessors had received millions of dollars in federal subsidies leading up to Hughes proposed takeover, the CAB's Bureau of Operating rights contended that there would be no need for additional subsidies to Air West in the future.

The bureau said fare increases and management changes alone should produce a $3 million profit in 1970 "without federal subsidy."

Western Airlines, which like the CAB bureau and Northwest Airlines also opposed the subsidy, said the Air West subsidy would be a personal windfall for Howard Hughes.

Ernest T. Kaufmann, a lawyer for Western, said that while the federal subsidy was designed mainly to provide air service to small communities, it would have a decidedly different benefit if granted to Hughes.

". . . In this instance, any federal subsidy will simply flow directly to Howard Hughes' personal tax return." Kaufmann wrote in a CAB brief. "The taxpayers of this nation, saddled with ever-increasing tax burdens, should not be asked to subsidize Howard Hughes."

SPIRITED BATTLE

Hughes put up a spirited battle for the subsidy. When Chester Davis, Toolco's attorney, was asked during one hearing if Hughes would be willing to acquire control of Air West without the subsidy, Davis answered firmly.

"No. Our position is we want what we are entitled to—nothing more, nothing less."

But when Toolco was asked to outline its plans for Air West and its financial capacity to assist the carrier, Hughes men were not anxious to talk.

In fact, the record in the Air West case shows that Hughes consistently refused to comply with requests for even the simplest information. During the six-month-long proceeding:

Hughes refused to furnish detailed financial reports on Toolco that were requested by CAB attorneys in an effort to evaluate the company's capacity and ability to assist and manage Air West.

Hughes refused to provide a plan to the CAB showing how Toolco would manage and finance Air West, which was then suffering from mismanagement and a shortage of cash.

Hughes refused to provide a detailed schedule showing which cities Air West would serve if Toolco acquired control.

Hughes refused to provide any documents of Toolco board meetings relating to the acquisition of Air West.

Hughes even refused to disclose why Toolco sought to acquire Air West at all.

Hughes refused to disclose until the last day of the CAB hearings even the name of the Hughes executive who would head Air West if Toolco acquired control.

As it turned out, the executive was a retired Air Force general who had no commercial aviation experience and who was at the time managing Hughes' Las Vegas hotel and casino operations.

Exasperated by Hughes' refusal to provide information, Western Airlines had this to say in a brief to the CAB:

"There is a remarkable similarity between this proceeding and previous cases involving Hughes' control of air carriers. Thus, little information is produced, and the board is continuously bombarded with pleas to expedite the case and to eliminate as much time for reflection as possible. This proceeding has a bulky record, but in matters of substance it is sparse indeed."

There was nothing new, of course, about Hughes' reluctance to supply information.

What was noteworthy was that neither the CAB hearing examiner who presided over the case nor the CAB board itself applied any pressure on Hughes to divulge information.

Instead, they readily acceded to Hughes' requests to keep secret what little financial information he was willing to submit.

When Toolco's accountants submitted statements on the company's financial condition, Toolco filed a motion to withhold the documents from public disclosure, arguing that confidential treatment would be "in the public interest."

The CAB agreed, and an order was approved that kept the Toolco financial statements secret from everyone except the immediate parties in the case.

"The confidentiality bothered me," complained one lawyer close to the case. "Everyone else has to spread their finances on the record. What is so special about Howard Hughes?"

Hughes had received similar favorable treatment in 1962, when the CAB ordered Toolco financial reports to be kept secret during its inquiry into his effort to gain control of Northeast Airlines, a financially ailing New England-based carrier.

In that case, Hughes men also refused to supply all the financial reports and management plans requested by the CAB staff—plans they considered essential in assessing Hughes' ability and commitment to revitalizing the airline.

STRONG PROTEST

Toolco's refusal led Paul Y. Seligson, then a CAB staff attorney, to write a letter to a Hughes attorney, Chester Davis, strongly protesting Toolco's failure to cooperate in producing necessary documents and warning Davis that the CAB might not approve the Northeast acquisition.

"The basic issue here," Seligson wrote in 1962, "is whether applicants seeking approval of an acquisition of control of an air carrier, with resultant antitrust immunity, should be permitted to limit their disclosure of relevant and material evidence and thereby frustrate the board's ability to examine that which it is asked to approve.

"Put more pungently, Mr. Hughes and Toolco are attempting to compel the board to review their transactions through a looking-glass of their own design."

Hughes, of course, relied on a similiar looking-glass technique in the Air West case. Only then, seven years after Northeast, there was an ironic twist to Toolco's presentation.

Seligson, the one-time CAB attorney who had been so critical of Toolco's behavior during the Northeast case, had by 1969 joined the Toolco legal team.

Once a bitter critic of Hughes' refusal to produce documents for government review, Seligson played a leading role in Toolco's refusal to hand over certain documents to CAB staff members, the very practice he decried seven years before.

Consider the testimony of March 11, 1969, the opening day of the CAB hearing on whether Hughes should be allowed to acquire control of Air West.

Alexander N. Argerakis, counsel of the CAB's Bureau of Operating Rights, complained to hearing examiner Ross Newmann that Hughes' Toolco had failed to turn over financial statements requested by the government.

Seligson, speaking for Toolco, agreed that certain reports had not been supplied to the government and blamed the problem on the "vagaries of the United States mails." He tried to assure those present at the hearing that Toolco had every intention of complying with the government's request.

But later, Argerakis reported to the hearing examiner that Toolco had still failed to supply all the data requested. He said he had been told that the company's 1968 financial data was "not available and had not been compiled."

The CAB was seeking the 1963 data as part of its investigation to determine the financial capacity of Toolco to aid Air West, then desperately short of cash.

Argerakis representing the government, asked Seligson to supply the missing data as soon as possible. Seligson replied:

"Mr. Examiner, the Hughes Tool Co., does not wish to make any commitment at this time as to the supplying of future financial information."

Argerakis then appealed to Newmann, the hearing examiner: "I respectfully request you to direct them to comply with our request."

But Newmann was reluctant to do so: "I am not going to direct it at this time," he said. "You can renew your request during executive session when this matter is taken up, and we will discuss the pros and cons of it at that time."

In the end, Hughes got what he wanted from the CAB. The agency approved the acquisition of Air West without any major restrictions and awarded him the multi-million-dollar-a-year subsidy he had fought so hard to win.

In the decision recommending CAB approval of the purchase, Newmann, the CAB's hearing examiner, brushed aside arguments made by Hughes critics.

"Western's contention that Toolco has in effect already acquired control is without merit," he wrote.

Newmann's recommended decision, formally adopted by the CAB in July 1969, also found that "the acquisition is consistent with the public interest (and) the consideration for the acquisition is fair and reasonable to all stockholders of Air West."

One CAB member who voted in favor of the Hughes acquisition was Robert T. Murphy, who was appointed to the CAB in 1961 by President John F. Kennedy.

After Hughes' acquisition of Air West was approved, there came a new twist: Murphy was proposed for president of Hughes Air West. The proposal was made by a Washington lawyer who had helped argue Hughes' case before the CAB itself.

The details of this highly confidential matter are found in court records of a civil suit filed against Hughes in San Francisco after the Air West takeover.

One of the documents is a copy of a May 13, 1970, memorandum from Edward P. Morgan, a Washington lawyer who had long represented Hughes in the capital, to Robert Maheu, the Hughes aide who engineered the Air West acquisition.

In the memo, Morgan related how he had recently had lunch with Murphy, with whom he had maintained a friendship since their law school days together in the late 1930s at Georgetown University in Washington. Morgan said Murphy was anxious to return to private life and had mentioned Air West to Morgan.

"It soon became apparent," Morgan wrote, "that he was exploring the possibility of an association with Air West as its president. He said that he has always had a profound admiration for Mr. Hughes as an aviation pioneer and industrialist and that he would welcome the opportunity to become a part of his 'team.' "

Morgan contended that Murphy would make a "near-perfect" president of Air West because he was "universally respected" in civil aviation, had once served as counsel to the Senate Aviation subcommittee and was a gifted public speaker.

"He would be a tower of strength at the CAB (and in Congress) to obtain what we want and to head off what we don't want," Morgan wrote. "Murphy has always been our friend. He would like to become a member of the Hughes organization."

Despite such a stirring recommendation, Murphy was not destined to become president of Air West. Robert Maheu, to whom the suggestion was made in 1970, was then on the verge of being ousted as Hughes' chief aide in a bitter internal power struggle within the Hughes empire.

Murphy, whose term on the CAB expired in 1972, said he was not aware of Morgan's memo, and had neither sought nor been offered the presidency of Hughes Airwest.

"No indeed," he said, "My only ambition was to remain a member of the Civil Aeronautics Board."

As for Air West, subsequent events disclosed how little the CAB investigated Hughes' efforts to gain control of the airline in the first place.

WALL STREET JOURNAL ASSESSES BLACK - RULE MOVEMENT IN SOUTHERN AFRICA

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. STOKES. Mr. Speaker, the winds of change are sweeping the southern nations of the great African continent. The quest for liberation is heightening and the struggle to eradicate the last vestiges of apartheid and colonial rule has been set into perpetual motion.

This movement cannot be stopped neither by guns or political repression.

The daily events record in the international media point to the beginning of the end of that veritable Fourth Reich, the racist Southern African regimes of Rhodesia and South Africa.

If the United States is to forge a meaningful dialog with emerging African nations and liberation movements, we must begin immediately. It is not merely a question of Cuban troops or Soviet munitions, but a question that challenges our commitment to freedom and human dignity.

Reporter Robert Keatley gives an excellent appraisal of developing issues in Southern Africa and their impact on U.S. policy in the Tuesday, March 23, Wall Street Journal. Mr. Speaker, I urge my distinguished colleagues to read the following assessment carefully:

POLICY PROBLEM: BLACK-RULE MOVEMENT IS SPREADING IN AFRICA, PUTTING U.S. ON SPOT

(By Robert Keatley)

WASHINGTON.—First Angola. Then Rhodesia. Then Namibia. Finally, the toughest of all, South Africa.

That has long been the program of black Africans determined to end minority white rule on their continent, and it is coming to pass.

Thanks to Soviet and Cuban intervention in Angola, the movement is gaining momentum. It has also grown increasingly violent and threatens to become even more so. Black-white combat in Rhodesia will probably expand this year, as black "freedom fighters" are being trained by Cubans to oppose white rule in Namibia (formerly South-West Africa).

While no effective opposition to white control of South Africa seems likely this year, or perhaps even in this century, the trend makes black Africans more confident that someday, somehow, they will end apartheid rule there.

"The situation in southern Africa today presents the prospect of both progress and disaster," says William Schaufele, assistant secretary of state for African affairs.

PRINCIPLE VS. EXPEDIENCY

The developments give the U.S. a classic diplomatic dilemma of choosing between principle and expediency. Washington believes the blacks are morally right and has said so for years. Yet it is reluctant to offer support that might encourage warfare in southern Africa, causing casualties and economic disruption there, U.S. officials, seeing a no-win situation, resort to much mouthing of platitudes and wringing of hands.

"America has disappointed many in Africa by its failure to make equity and social justice more important than the raw materials" it gets from white-dominated areas, an African ambassador complains.

The African problem for the U.S. is compounded by the New Soviet and Cuban role. In Angola, Moscow's guns fired by Havana's soldiers brought a leftist government to power despite Western backing for two rival groups. The Cuban intervention may be repeated if local guerrillas prove ineffective against white rulers of Rhodesia and Namibia—though Cuban involvement doesn't seem imminent.

Already, for many Americans, the Communist presence has transformed African racial wars into part of a Soviet-American confrontation. Africa's white racists hope (and some U.S. officials fear) that Washington will feel impelled to give white regimes as least indirect aid in an effort to curtail Russian and Cuban influence.

If Havana's combat units (as distinct from advisers) enter new guerrilla wars, U.S. policymakers are considering direct retaliation against Cuba itself—rather than appear to be on the wrong side within Africa.

"The United States will not accept further Cuban military interventions abroad," Secretary of State Henry Kissinger said in a Dallas speech last Monday night, without indicating what countermeasures might be taken. By some accounts, possible U.S. moves under study could include a blockade of Cuba, or even military attacks against it. But it's doubtful that such ideas would be adopted; congressional opposition would be strong.

POSITION ON PORTUGAL

The whole prospect is a sorry one in the view of many American specialists on Africa, and they feel it stems largely from long U.S. neglect of that huge continent. These critics recall that the U.S. decided consciously to support Portugal's dictatorial regime in Lisbon and overlook racial problems in its African territories, including Angola. The purpose was to contain communism by propping up a weak NATO ally, but the opposite happened: Some of the African territories now are ruled by Marxists, and Portugal itself nearly went Communist last year. The critics feel the U.S. let other African issues slide as well.

"The Russians were given the chance to be heroes in Africa due to U.S. neglect," says a black African diplomat.

Many outsiders say the African Bureau of the State Department has been weak for years. During Henry Kissinger's tenure, the press of Indochinese wars, problems with the Soviet Union, the Middle East and other grave matters have put Africa about last on the U.S. priority list. According to one academic specialist who has been consulted by the State Department, Mr. Kissinger once said, "This isn't Africa's century." But, adds the specialist, "It is rapidly becoming so, whether we like it or not."

To many Africans, Washington's policy toward their continent is somewhere between equivocal and evil. Unless revised, they suggest, the policy promises to erode further the 47 African nations' already-weak support for U.S. positions in the United Nations, north-south economic talks and other international gatherings.

"The U.S. ignored the racial issues for years," a senior U.S. official concedes. "Now it is all coming back to haunt us."

NO EASY ANSWERS

Thus, although there is some new bureaucratic wheel spinning in the State Department and elsewhere, easy answers aren't apparent. American leverage in southern Africa is limited. The U.S. hasn't any substantial presence there, so at least crucial American interests aren't at stake (though southern Africa does export such important commodities as chrome, cobalt, manganese, copper and oil).

Washington feels it lacks the ability to order white rulers to change their racist ways. It also feels it can't prevent blacks from using guerrilla warfare in their quest for power. The result is U.S. ambivalence that incurs the wrath of all sides.

The Angolan affair aggravated this low esteem for American policies. The U.S. intervened in an African civil war to try to defeat a Marxist faction that imported Communist troops. The intervention angered African leftists. Moreover, the American effort failed—dismaying black African moderates and white racists alike. They see the U.S. as ineffective and unable to prevent the future use of outside forces as racial hostilities spread.

Yet some possible American actions could put a better face on this government's African policies. The current reconsideration could bring such announcements next month, when Secretary Kissinger makes his first trip to Africa. Some African diplomats and American critics of the status quo hope Mr. Kissinger will use his journey as a face-saving opportunity to redirect or reemphasize some U.S. policies.

The immediate issue concerns Rhodesia (Zimbabwe to many black African nationalists). Technically, that country remains a British colony that unilaterally and illegally declared itself independent in 1965. Half again the size of Texas, it has fewer than 280,000 whites and more than six million blacks—but all significant political power and wealth are in white hands.

For years, the white government, now headed by Prime Minister Ian Smith, has rejected even gradual transition to black rule. The most recent negotiations between the Smith government and black leaders failed last week. The whites refused to make swift concession, while the moderate blacks they talked to apparently no longer represent political activists who are being trained in neighboring Mozambique by Cuban military advisers.

In fact, border warfare has already begun, and the skirmishing is expected to grow now that the talks have collapsed. Some Africans claim 15,000 black Rhodesians now are skilled guerrilla fighters. Others say that number is much too high, but there is little doubt that blacks' military abilities and political determination are increasing.

Britain yesterday offered assistance if the Smith government promises majority rule there within 24 months. "Mr. Smith is leading his country on the path of death and destruction," British Foreign Secretary James Callaghan warned, and he said Rhodesia must quickly choose an "alternative." But many outsiders expect the white government will refuse to do so—making larger war inevitable.

For the record, the U.S. opposes minority rule in Rhodesia and elsewhere in Africa. President Ford said recently that "majority rule in Rhodesia and Nambia is the unequivocal commitment of the United States." But this doesn't satisfy many Africans, who want to know what the U.S. will do about white minority governments.

CRITICS' DEMANDS

Thus, for starters, the critics want a clear-cut U.S. statement of support for black Rhodesians and a promise that Washington won't support the whites there even if Cubans enter the fray directly. For geographical reasons. Mr. Kissinger finds such a pledge difficult, though he did say recently that the U.S. "will do nothing to help the white minority to exercise authority in Rhodesia." That statement came after the Smith government hailed U.S. pledges to thwart Cubans and Russians as indications of American help if the war expands.

Next, the critics want stronger administration efforts to repeal the so-called Byrd amendment—something that is under official consideration. The measure, sponsored by Sen. Harry Byrd (D., Va.), lets the U.S. import chrome from Rhodesia despite American pledges to honor a United Nations boycott against Rhodesia's white government. The administration annually makes a pro forma request for repeal of the amendment, which Congress then ignores. Now, critics say, it is time for the White House to push hard for repeal of the measure to demonstrate to Africans that Washington wants an end to illegal white rule in Rhodesia.

"Failure to repeal the Byrd amendment is a classic contradiction in America's African policy," a black African diplomat complains.

RHODESIAN CONNECTION

Next is the question of extra aid for African government that suffer economically because of the conflict over Rhodesia. Several states in southern Africa depend upon roads and railroads that cross Rhodesia, most of which now are closed. Most vulnerable is landlocked Zambia, which no longer can send its copper across Rhodesia to seaports or easily bring in imports. There is talk at the State Department of seeking an extra $20 million or so for Zambia, with perhaps a U.S. airlift as well. Many officials feel the clear moral issues and low dollar costs involved would win congressional approval for such a request. There also may be an extra aid request for Mozambique, which has lost railroad revenues because it has closed its border with Rhodesia.

But U.S. policies remain inhibited by fears of an expanding war. If Cubans enter the Rhodesian fray, then the U.S. has pledged to take undefined counteraction. This most likely wouldn't be in Africa itself. Yet if South Africa sends troops to combat Rhodesian blacks (or Cuban allies), the dilemma will sharpen. The U.S. wants to avoid support of Rhodesia's white government—while also stemming outside Communist influence in Africa.

"There just aren't any easy solutions," a U.S. official laments.

POSSIBLE COMPLICATION

The Namibia issue is less pressing, but can't be ignored. South Africa, which has de facto control of the territory, now is promising autonomy to blacks there but is excluding the region's most militant and important political group, called, SWAPO. The U.S. and the UN oppose this plan as a violation of the UN-asserted authority over the former South-West Africa. They argue that South Africa is trying to create a puppet regime as a political buffer between black and white Africa, while protecting South Africa's investments in Namibia.

So Washington feels increasing pressure to oppose the South African move by diplomatic and economic means. The issue would grow more complicated if Cubans in Angola enter a conflict in Namibia, as Premier Fidel Castro has hinted may happen.

As for South Africa itself, any showdown is believed to be years away. An effective police force there prevents black political opposition from forming, and there is little chance of guerrilla activity anytime soon. More likely, in black African eyes, is a spontaneous uprising some day, one that might be totally uncontrolled and extremely violent. So the U.S. is being asked to use its economic leverage on South Africa to get apartheid policies moderated. For example, many Africans want U.S. companies to close their operations there rather than expand them. That, of course, would throw many blacks out of work and thus isn't a simple matter.

For now, the U.S. merely restates its opposition to the continued monopoly of political power in South Africa by its four million whites. Officially, the U.S. favors majority rule, which would give South Africa's 16 million blacks political control. But there is increasing belief among some Africa specialists that America's policies toward that nation must take more tangible form as black-white conflicts grow in south Africa.

COMPUTER MODELS FOR OZONE DEPLETION QUESTIONED

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. EMERY. Mr. Speaker, I would like to draw your attention to an article which appeared in the December 17, 1975 issue of Computerworld magazine.

This article deals with recent efforts to simulate by computer, the release of chloroflourocarbons into the upper atmosphere. The MIT study cited in this article clearly illustrates that the factual base for the ozone depletion theory is tenuous at best, and that further study is necessary before a legislative remedy is sought.

The article follows:

MODEL FINDS OZONE DEPLETION NOT AS FAST AS THOUGHT

(By John P. Hebert)

CAMBRIDGE, MASS.—The destruction of the protective ozone layer in the earth's upper atmosphere, caused by the release of aerosol propellants and refrigerants, is less rapid than previous computer models calculated, according to the unpublished results of a computer simulation study undertaken here recently.

The rate of ozone depletion by chlorofluorocarbons—better known as Freons—was found to be 50% slower than the first depletion modeling studies predicted early in 1974, according to Dr. Derek Cunnold, a research associate at Massachusetts Institute of Technology's (MIT) Department of meteorology, who conducted the recent study.

The results of Cunnold's study, however, "are not significant—it doesn't alter the magnitude of the problem of releasing Freons into the upper atmosphere," Cunnold cautioned.

The MIT study, which was paralleled by other atmospheric modelers merely allows the scientific community and government bodies more time to decide what to do about the problem and to discover the exact nature of the chemical reactions, which are not now known, he said.

The reduction in depletion rate "brings attention to uncertainties in theories of ozone formation and depletion" and, consequently, in the accuracy of computer-based models of the atmosphere, Cunnold said.

To accomplish the modeling of ozone depletion, a batch terminal at MIT communicated with an IBM 360/95 at the Goddard Institute in Greenbelt, Md.

Atmospheric modeling is one of the most time-consuming simulations run on computer systems, Cunnold said. The simulation of ozone depletion required a myriad of mathematical calculations and took about 12 hours of machine time to run through the 100 known chemical reactions on the 360/95, he explained.

The simulation approached a real-time portrayal of ozone destruction in the stratosphere, he added.

"When studying ozone, it is clear a three-dimensional, model is necessary because ozone is produced in the equatorial atmosphere, although most of the gas is found in polar regions of the stratosphere," he said.

Any model of ozone reacting with the chlorofluorocarbons must depict the transport and distribution of molecules simultaneously, he explained.

However, results of the MIT study, which used a three-dimensional approach, did not differ significantly from other recent studies based on vertical models.

FEDERAL ESTATE TAX LAW

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. HAGEDORN. Mr. Speaker, a topic of timely and growing concern across the Nation and particularly in farm and small business oriented districts such as mine is the issue of revising the Federal estate tax law. This is a tax which affects nearly all farmers and small business owners who wish to pass their operation from generation to generation. Yet the tax has not been significantly modified since the 1940's and is totally out of step with the inflation-ravaged economy of the 1970's. Under leave to extend my remarks in the CONGRESSIONAL RECORD, I include a copy of the testimony which I gave to the House Ways and Means Committee on March 19, 1976 concerning the subject of estate tax reform:

STATEMENT OF REPRESENTATIVE TOM HAGEDORN (MINN.) BEFORE THE HOUSE WAYS AND MEANS COMMITTEE

Increasingly, in recent years, there has grown a recognition of the social costs exacted by the federal estate tax. These social costs are especially important in view of the fact that the tax offers little offsetting benefits as a revenue producing measure. During 1974, it produced for the government a total of approximately $5 billion, about 2% of the total revenues of the federal government. While still inconsequential as a revenue generating device, it has become increasing consequential as a tax against which small estates must plan; a 400% increase in the number of estates subject to the tax occurred between the years 1954–70, with a disproportionate number of these being small farm estates. 200,000 returns were filed in 1974 alone, almost 10% of all estates.

Especially hard hit by the tax, which has remained essentially in unchanged form since 1948, are small farms and businesses which commonly face a lack of liquidity in trying to raise the cash necessary to pay estate taxes owed. The United States Department of Agriculture has estimated that 70–90% of typical farm assets are tied up in land, buildings, machinery, with most farmers immediately converting most excess cash into one of these forms. The overwhelming majority of farms and estates are, thus, without sufficient liquid assets to pay their accumulated death taxes, both state and federal. Since most farm property is not readily susceptible to partitioning, heirs to the estate must commonly liquidate holdings in order to satisfy tax obligations, bringing to an end a productive small enterprise, encouraging concentration in the agriculture industry (an industry with limited economies of scale), and destroying a way of life that has contributed much to the well-being of our nation. While the estate tax is only one contributing factor, these trends are well illustrated by figures showing that the number of farmers in the nation has plummetted from 32 million to 9 million over the past 50 years.

While farmers are the class most severely impacted by the estate tax, non-farm estates, especially small businesses, are also hit hard. Although the average non-farm estate has only 22% of its value in real estate, many closely held small businesses are comprised heavily of non-marketable assets. Merger with larger enterprises offering a readily available source of liquidity is frequently the path taken by small estates upon which estate taxes have attached. It has been estimated that 63% of such mergers of smaller with larger enterprises have been attributable, at least in part, to the burdensome workings of the federal estate tax.

I would like to briefly discuss how my bill is designed to meet the basic problems currently inherent in the estate tax. There are three major provisions to the bill: (1) H.R. 12051 would increase the basic federal estate tax exemption from $60,000 to

$200,000. This is designed simply to reflect the inflation that has occurred since 1942 when the exemption was first established. I would prefer that we "indexed" this figure, or tied it to cost-of-living increases so that the government would not grow rich merely because it was successfully inflating the economy. It is estimated that the cost of this reform would be approximately $2.1 billion in lost revenues for FY 76, enabling many smaller estates to escape the tax entirely, and benefitting most those whose estates are small and who would save the most proportionately. In any event, there is no reason that estates should be required to pay estate taxes due simply to the fact that their value has been artificially enhanced by the irresponsible economic policies of the federal government. Additionally, the size and value of the economically viable farming unit has increased substantially over the past 30 years. All estates, however, would benefit through this change.

(2) The second major provision of H.R. 12051 would eliminate totally the payment of the estate tax on inter-spousal transfers at death. The current limited deduction of 50% of the value of the adjusted gross estate would be eliminated in favor of a totally exempted transfer. I do not believe that it is equitable to impose a transfer tax more frequently than once per generation. Not only does this greatly diminish the value of the estate, both for the surviving spouse, and for the heirs of the surviving spouse, but it also fails to recognize the contributions of both spouses to the development of the estate. While the 50% marital deduction represents a partial recognition of the family ownership of property, I believe that this concept ought to be carried through to its logical end in the case of the husband and wife. Our federal income tax laws recognize this through community property laws in several states, and through joint returns and income splitting in the rest of them.

The elimination of the tax on inter-spousal transfers at death would also eliminate the inequity of differential shares being taken by the children of the couple, depending solely upon whether the wealthier or poorer spouse dies first. It would also recognize the very real fact of the loss of the deceased spouse's earning capacity, a loss which diminishes the value of the estate and an event which should not be the trigger for the imposition of a new tax. A transfer tax should be levied only if there is a clear gain to the transferee. In view of prevailing and accepted notions of units of ownership in the United States, I do not believe that this occurs when a husband or wife takes property from their decedent spouse. Better that this marital deduction be extended than that the surviving spouse have to become the object of the charitable deduction.

(3) The third major provision of H.R. 12051 would enable transferees of certain estates to elect procedures under which the property would be valuated and taxed on the basis of its actual use rather than on the basis of its optimum potential use. The only obligation of the transferee is to promise not to convert the land from its farm use for a period of at least five years. Upon the transferee's death within that period, the successor transferee would also be allowed to elect the alternative valuation under the same conditions. Should the land be converted to a different use within that period, the difference between the alternatively valued tax and the regularly valued tax would become immediately due.

Some states, including my own, have seen fit to incorporate provisions such as this into their property tax statutes. In Minnesota, we call it the "Green Acres" law, and it allows farmers to maintain the agricultural status of their land even though adjacent lands may already be commercially developed. The tax differential is payable only when the land is sold, or converted to commercial use.

As urbanism has increasingly spread itself across the nation, market prices of rural and farm realty have soared enormously. Over the period 1971–74 alone, there occurred a 72% increase in the market price of farm realty, with a 62% increase in my home state of Minnesota. Concomitantly, the differential between the actual and the market value of farm properties has grown. What my legislation would do simply is to tax the farmer on the lower actual value where he promises to maintain the property for its farm purposes, thus eliminating the need for many of the forced sales encouraged by higher valuation formulas. This seems to me a far more realistic way of relieving the small estate of the weight of the estate tax than do current provisions in the law allowing ten year deferred payments. Very little use has been made of these provisions due largely to the heavy personal responsibilities imposed upon the executor or administrator of the taxed estate.

As a strong believer in free enterprise, I also reject strongly the argument of some that a provision such as this would cause economic and social stagnation by discouraging optimal land use, instead preserving uses that have outlived their justification. Rather, good arguments can be made that techniques of estate tax valuation currently employed tend artificially to promote the development of certain types of urban oriented land uses at the expense of types of land uses most compatible with more rural areas by failing to take into account fully the long term benefits of rural oriented land uses. Farms, for example, may only generate limited streams of money income, but I believe that they are also integral to the economic wealth of the nation by ensuring that adequate and nuritional food supplies remain available to the working population of the nation, enabling them to remain healthy and productive.

With hardships caused by the estate tax having grown increasingly severe and burdensome in recent years particularly in rural America, I would strongly urge the Ways and Means Committee to consider substantial revision of our current outmoded estate tax laws at the earliest opportunity possible. Ensuring the orderly transfer of small farm and business estates between generations is sound policy, both economically and for the sake of strengthening the institution of the family in America.

Thank you very much for allowing me the opportunity to express my views to your committee.

BYELORUSSIAN INDEPENDENCE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. PATTEN. Mr. Speaker, recently, I received a letter from Sergis Hutyrczyk, president of the Byelorussian-American Association, Inc., in New Jersey reminding me of the celebration which will today commemorate a short-lived, but long-remembered independence. Mr. Hutyrczyk conveys the thoughts of the Byelorussian people so eloquently, that I wanted to share part of his letter with you:

> On March 25, 1918, the Byelorussian people restored independence of their country by proclaiming the Byelorussian Democratic Republic. The newly formed Republic enjoyed its freedom shortly; it fell under the onslaught of overwhelming Communist forces. The spirit of the freedom loving Byelorussian people, however, was not defeated.
>
> Throughout the years, Byelorussians in the Free World have been commemorating the Anniversary of the Proclamation of the Byelorussian Democratic Republic. The 58th Anniversary of the Proclamation has a special meaning to Americans of Byelorussian descent. The ideals of the American Revolution and of the Byelorussian Democratic Republic are identical. The success of the American Revolution reassures the Byelorussians in the Free World, as well as in Byelorussia, of the rightfulness of their cause and inspires them in their struggle for freedom of Byelorussia.

Today, when the Byelorussian people are commemorating their past, I want to urge all the Members of the House to join me in support of the right Byelorussian people to national and political independence.

INCREASING VA DIRECT LOAN MAXIMUM

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ABDNOR. Mr. Speaker, today I am introducing legislation which will increase the Veterans' Administration direct loan maximum from $25,000 to $29,000.

Although the cost of homes and home construction may not have risen in rural areas as fast as it has in urban areas, the cost of both previously occupied homes and labor and materials for newly constructed homes has gone up enough to justify this 16 percent increase in the current direct loan maximum.

According to the Veterans' Administration, in fiscal year 1975, 23 percent of the direct loan applications were for homes over $25,000 with 19 percent between $25,000 and $30,000, averaging $27,246. These figures thus indicate the need for a revision in the current statute.

The VA direct loan program began in 1950 with the purpose to enable all veterans an equal opportunity to purchase homes even though they lived in areas where private lenders were not interested in the VA loan guaranty program or had insufficient funds to make such mortgages. This program has been a success and of valuable assistance to those veterans living in rural areas. In fact, through fiscal year 1975 over $3.2 billion had been loaned to over 322,000 veterans under the VA direct loan program.

It is important, however, that we keep the direct home loan maximum in this program up with the increased cost of housing. Therefore, this proposed increase to $29,000 will hopefully assist the veteran in keeping pace with the increased cost of housing.

HAWAII RESERVISTS COMMENDED FOR PUBLIC SERVICE

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. MATSUNAGA. Mr. Speaker, the 322d Civil Affairs Group, U.S. Army Reserve, stationed at Ft. DeRussy, Hawaii, was recently nominated for national recognition for its outstanding community service project—"Project Heart." Members of the Reserve unit spend 1 day every month helping retarded youngsters under treatment at the Waimano Home. The program included organized games, athletics and dancing, followed by hamburgers at a drive-in restaurant.

"Project Heart" is designed to help the youngsters prepare for life in their family homes and in the community. It is helping the State of Hawaii achieve its goal of reducing residency at the Waimano Home. Because of its outstanding success, "Project Heart" was selected by the commander of the IX Corps—Hawaii and Guam—for consideration by the Department of the Army as the outstanding community service project by an Army Reserve unit.

I commend the members of the 322d Civil Affairs Group, and their commander, Lt. Col. Robert T. Kagamida, for their outstanding achievement. With the thought that my colleagues will find it of interest, I am submitting for inclusion in the Congressional Record, a copy of a resolution adopted by the city council of Honolulu which contains additional details about "Project Heart":

Resolution

Whereas, the 322D Civil Affairs Group, U.S. Army Reserve, Ft. DeRussy, has had a Continuing Community Service Project called "Project Heart" since February of 1975, wherein members of the unit volunteer their time and services one Tuesday evening each month to work with residents of Waimano Home in Pearl City, engaging in organized exercises, athletics, games, and dancing, followed by an outing to the McDonald's Drive-In in Pearl City; and

Whereas, these activities help those residents of Waimano Home who are scheduled to be sent home to adjust to the community by gradually bringing them in contact with adults other than those on the staff; and

Whereas, this project is one of two selected by Brigadier General Forest C. Murphy, who is IX Corps Commander for Hawaii and Guam, for consideration by the National Department of the Army as the outstanding community service activity by an Army reserve unit; now, therefore,

Be it resolved by the Council of the City and County of Honolulu that the 322D Civil Affairs Group, U.S. Army Reserve, Hawaii, be congratulated on its fine community program which was selected as one of two outstanding community service activities in the Army Reserve in Hawaii and Guam; and

Be it further resolved that Lieutenant Colonel Robert T. Kagamida, Commander of the 322D Civil Affairs Group, be commended for his unit's outstanding achievement; and

Be it further resolved that the Clerk be, and she is, hereby directed to transmit copies of this resolution to the 322D Civil Affairs Group; Lieutenant Colonel Robert T. Kagamida, Commander of the Group; Brigadier General Forrest C. Murphy, Commander of the IX Corps; and the Honorable Martin R. Hoffmann, Secretary of the Army, for their information and appropriate action.

ELECTRIC RATE REDUCTION EVALUATION

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BEARD of Tennessee. Mr. Speaker, I am sure that many Members of the House have been overwhelmed by constituent complaints because of the staggering increases in their utility bills. I can assure you that the residents of my district as well as the rest of the Tennessee Valley, have suffered terribly under the burden of price escalations, especially in the last few years.

There is no question in my mind that Congress needs to take action to relieve the burden of continual increases in power rates. It seems to me that legislative action should take the form of a thorough evaluation and testing of all possible rate structure options. The objective of such a study would be to determine the relative advantages of various alternatives and to generate the kind of data that the Congress needs to make an informed judgment about permanent changes. It is my intention to offer legislation today to provide for such a study. This legislation would establish a rate design pilot project through a cooperative effort between the Federal Energy Administration and the Tennessee Valley Authority. TVA would be instructed to undertake a study of alternative rate structures and to report to the Congress on their potential applicability in the Tennessee Valley region, and throughout the Nation.

Specifically, this legislation calls for an analysis of, first, the economic efficiency and energy conservation resulting from "peakload pricing"; second, the efficiency and practicality of a "lifeline rate" as a means of providing subsidized or a low-cost block of power to low-income consumers, and third, the efficiency and conservation benefits of other reasonable alternate systems.

The costs associated with this bill are minimal compared to the cost savings to be derived from the development of a workable and sufficiently tested rate structure design. That kind of system could mean many millions of dollars for TVA consumers, and even more to consumers across the country. Some research in this area is already underway in both the public and private sectors. The bill I will introduce today could speed a final recommendation and legislative action in perhaps less time and at less expense than anticipated.

SYLVIA PORTER ENDORSES TOXIC SUBSTANCES CONTROL BILL

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, the March 24 edition of the Washington Star contained an article by Sylvia Porter endorsing toxic substances control legislation.

As my colleagues know, Miss Porter is widely respected as a talented writer who can translate complex national economic issues into practical, everyday language for her readers.

I am pleased that she supports toxic substances control, and that she includes in her analysis of this vital issue a consideration of the economics of environmental degradation and damage to the general public health caused by hazardous substances.

As Miss Porter points out, hospitalization costs on cancer patients currently exceed $15 billion annually. And, the National Cancer Institute has produced a report claiming that 60 percent to 90 percent of all cancer cases in this Nation are environmentally caused—many by exposure to toxic substances.

My colleagues may have seen articles in this morning's Wall Street Journal and Washington Post, citing a potential link between synthetic rubber production and leukemia deaths of workers in those rubber plants. This is just one case in point. Polyvinyl chloride-caused deaths are already a matter of public record, as is the environmental tragedy of the kepone incident.

Mr. Speaker, the appalling fact of the matter is that one out of every four Americans will die of cancer. While the American chemical industry can protest the scientific reports linking toxic chemicals with the rising incidence of cancer, I do not believe this House can ignore this tragedy any longer. Every day we delay in developing toxic substances control legislation to protect our people, we are condemning more and more Americans to death by cancer.

Mr. Speaker, the disease that is killing 25 percent of the population of our country can be combated—and probably defeated by a no-nonsense approach to toxic substances control.

The simple fact of the matter is that we are planting the seeds of destruction in the water we drink, in the air we breathe, in the products we use and in the food we eat.

The appalling toll of occupationally linked cancer should be sounding the alarm throughout the country. I have said on more than one occasion that the workers of this Nation are the miners' canaries of American society. Their deaths—over 100,000 per year—are a somber warning of what is happening or what could happen to all of us. While we delay our progress on toxic substances control, we hasten the premature deaths of fellow Americans and we drain the resources of our country in a fruitless attempt to save the terminally ill. All of this tragic waste—human and economic—could be substantially reduced if this Congress could muster the will to pass a comprehensive toxic substances control bill.

Mr. Speaker, I am sure my colleagues will be interested in Miss Porter's cogent analysis of this compelling national issue, and I include her article at this point in my remarks:

TOXIC SUBSTANCES CONTROL OR NOT?

(By Sylvia Porter)

In industrial South Baltimore, health officials have closed Swann Park—where Al Kaline, Ron Swoboda and Reggie Jackson once hit the ball over the freight tracks and down toward the Patapsco River.

The soil of the park, adjoining an Allied Chemical plant, is contaminated with Kepone, a toxic pesticide that, like DDT, decomposes very slowly into less harmful substances and builds up in living fatty tissues and the central nervous system.

In Hopewell, Va., the Life Science Product Co.'s plant was closed last July because of the effects of Kepone on employes. Later, parts of the James River were closed to fishing; the water had been contaminated with Kepone from the Hopewell plant.

Fishing has just been banned in the Hudson River. Bass found in the Hudson—and later to range the Atlantic from Delaware to Maine—were contaminated with PCB, a highly toxic vinyl chloride, originating at General Electric plants upriver.

Dangerously high levels of arsenic also were reported recently in the soil of the R. H. Bogle Chemical Co. in Alexandria, Va. Officials ordered the site fenced. A filtering system was being installed to prevent arsenic particles from entering the Potomac in rainwater runoff, when high mercury contamination also was discovered.

In communities across the land, startling and scary incidents such as these are taking place. And while federal, state and local officials are more aggressive than ever before in uncovering hazardous conditions and acting to eliminate them, new chemicals are constantly emerging from the nation's laboratories to create new dangers and damages to living people and to the genes they will pass on to generations unborn.

Yet, for more than five years, a bill that would require industry to test possibly hazardous chemicals before they are placed on the market has been before Congress—and twice the bill has come close to being enacted.

Lined up against the measure, though, have been the chemical companies, which object strongly to the additional costs of this testing. These costs, they insist, would have to be passed on to us in the form of higher prices for products we buy—a potent argument indeed during the galloping inflation years of the 1970s.

But lined up in favor of the legislation, the Toxic Substances Control Act, are concerned organizations such as environmental, consumer, labor groups; health-oriented associations, such as the Blue Cross Association, American Lung Association, March of Dimes. And new support for the bill is mounting as newspaper headlines report the horror tales about chemical threats to life.

For while the costs and burdens of pretesting cannot be downgraded, neither can the costs and tragic suffering from chemical contamination. From 60 to 90 percent of all cancers are linked to exposure to chemical and other man-produced environmental factors. Even now, cancer costs the United States over $15 billion annually. Of the more than 200,000 infants born with physical or mental damage each year, about 40,000 (or 20 percent) are suffering from defects attributed to drugs, radiation and chemicals.

The lifetime medical bills of these children alone will be staggering. Then add to this the costs for treatment of the 25 percent of our population who will develop some form of cancer.

The Toxic Substances Control Act is designed to get at the heart of our chemical contamination problem via pretesting and stiffer regulation of production, marketing, use or disposal of hazardous chemicals. There also are incentives in the proposed law for companies to seek out safety hazards in chemicals, to develop safer products and to find cheaper testing methods.

There even may be savings to the companies to help balance the costs of testing. Several paper companies have found that pressures to cut down on water pollution and eliminate odors have led to new technologies which also save millions annually in water, chemical and energy costs.

The Senate Commerce Committee has approved S3149—and the toxic substances bill is heading for a vote before the entire Senate. As Blue Cross president Walter J. McNerney says:

"Our health system should not be just a repair program. If we ignore the damage to health caused by environmental and occupational factors, the major threat of our health programs will be only to continue to repair the damage these factors do to human machinery."

A TRIBUTE TO THE CHAMPS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. MOTTL. Mr. Speaker, the coaches and members of Cuyahoga Community College, western campus, wrestling team truly deserve recognition for their outstanding efforts in winning the 1976 National Junior College Athletic Association championship.

Head Coach John Borszcz assisted by Coach Pete Zitiello helped lead 22 young wrestlers to the utopia of junior college wrestling. Their winning of the championship is a fine tribute to the dedication and skill of the team.

All of the Greater Cleveland area, including myself, are proud of the Cuyahoga Community College, western campus wrestling team. We would like to extend our congratulations to Head Coach John Borszcz, Assistant Coach Pete Zitiello, Director of Athletics Rex B. Smith, and the members of the team: Ray Barrett, John Beaune, Ed Hornyak, Mark Irvine, Robert Jones, Bill Karpowicz, Russ Koz, Don Lippert, Sam Miragliotta, Bob Nally, Marty Paul, John Nash, Rich Pelleschi, Frank Pivik, Ron Shadrack, Ralph Shubeck, Carmen Sottosanti, Al Swope, Jim Turle, Ron Varga, Don Vondruska, Mike Walsh, and Jack Schmid, manager.

Congratulations Cuyahoga Community College, western campus, wrestling team on your hard work, outstanding performance, and best wishes for continued success in the future.

CONGRESSIONAL BLACK CAUCUS RESPONDS TO PRESIDENT'S BUDGET PROPOSAL

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mrs. BURKE of California. Mr. Speaker, the Congressional Black Caucus recently held a press conference to present our response to the President's proposed budget for fiscal year 1977. We believe that the President has again shown that his policy puts people last and weapons first. I know that this Congress will not approve the disastrous proposals set forth in the President's budget, but will instead respond to the needs of the American people.

I am inserting into the RECORD the first part of the caucus' budget response. My colleagues, Congressmen WALTER E. FAUNTROY and ANDREW YOUNG, are inserting the second and third parts respectively, of our budget response:

RESPONSE TO THE PROPOSED PRESIDENTIAL BUDGET

INTRODUCTION

The Congressional Black Caucus in its reply to the President's State of the Union Address cited Mr. Ford's theme for taking America into its third century: "America can't do it." "America can't provide jobs for all of its people. America can't provide decent health care. America can't reform its demeaning and demoralizing welfare system. America can't provide income tax benefits to aid those who need relief the most. About the only thing that America can do is continue to spend more money for the military."

On January 21, 1976, in "The Budget Message of the President." Mr. Ford reiterated his State of the Union theme by not only suggesting that "America can't do it," but by going so far as to provide a detailed budget proposal as to how his Administration plans to stop us from doing it.

Ford's proposed budget—$394.2 billion—for fiscal year 1977 (which commences October 1, 1976) is the saddest but yet the most realistic commentary on what Americans can expect from this Administration for the coming year.

Mr. Ford's proposed budget mirrors the commitments and attitudes of his Administration towards the American people; his budget—proposing unprecedented defense outlays from $92.8 billion in 1976 to $101.1 billion in 1977—clearly shows where this Administration's priorities lie.

Mr. Ford states that: "The Budget of the United States is a good roadmap of where we have been, where we are now, and where we should be going . . ." A cursory look at Ford's budget certainly—at the very least—tells America where it can go.

President Ford has outlined in his budget "three important dimensions. One is the budget as an element of our economic policy . . . A second . . . is that it helps to define the boundaries between responsibilities that we assign to governments and those that remain in the hands of private institutions and individual citizens . . . and clearly, . . . the highest priority for our Government is always to secure the defense of our country." In contrast, Mr. Ford speaks categorically of domestic programs and the budget as ". . . all the things we would like to do and those things we can realistically afford to do."

This Administration's budget recommends total outlays of $394 billion in 1977 with receipts of $351 billion. Thus a deficit of $43 billion.

The fiscal year 1977 deficit, combined with other factors, is designed to increase the Federal debt from $484 billion at the end of 1976 to $558 billion at the end of 1977. What the Ford budget also contains is a $20 billion package of budget cutbacks and so called savings; and as always, crucial social programs designed expressly for the betterment of life for all Americans, are forced to take a back seat to military spending and defense.

It appears still that this conservative Republican Administration is not so concerned that as of December 1975 the unemployment rate remained unchanged at 8.3 percent with that for our nation's youth at 19.9 percent and for blacks, 13.7 percent. To reach and sustain an economic pattern designed to restore relatively full employment during the next five years will require, among other things, a strongly supportive fiscal policy.

In a recent Joint Economic Committee study it was shown that Ford's proposed budget to restrain federal expenditures at $394 billion would very definitely have some significantly unfavorable consequences for the economy:

(1) the growth of real output in 1977 would be less than 2 percent;

(2) unemployment would begin to rise again and could very easily escalate to 9 percent by the fourth quarter of 1977;

(3) the inflation rate would be somewhat higher than with a more expansive fiscal policy.

BUDGET OVERVIEW

Department of Agriculture

In the Department of Agriculture there have been a series of programs that have been proposed for omission by Ford's 1977 budget request. Many of these programs are particularly significant and the loss of the services they provide would have a devastating impact upon the urban communities of this country.

Nutrition and Family Education Program

One program in particular is the Nutrition and Family Education Program for low income areas, which is cited under Section 3(d) of the Smith-Lever Act. This Act has been the basis for providing low income families with the much needed exposure to nutrition and the implications of familyhood. The 1976 levels for this program are estimated to reach $50.6 million in outlays, and yet, the President has proposed only a $40.4 million expenditure on this program for FY 1977. This is a decrease of over 20 percent. Clearly this decrease in outlays for the Nutrition and Education Program serves as an indicator of the Administration's lack of concern for low income families.

The President has proposed a block grant in agriculture programs. Potentially the most disastrous effect that the President could provoke in our urban communities would be to consolidate nutritional programs that were specifically devised to meet the nutritional needs of children in low income communities.

It is important to note that Ford's proposal is a new legislative block grant program that will replace existing categorical programs in child nutrition. The basis of this reform is the Administration's proposed omission of six categorical programs that will require States to obligate funds specifically for the nutritional needs of low income and poverty stricken Americans, and the allowance that the reduced flow of funds be given to the States with little oversight as to how those funds should be obligated.

One program that is being proposed for consolidation is Section 32 of the Smith-Lever Act of August 24, 1935, which was designed for strengthening the market supply and distribution of food to low income persons. This program, commonly referred to as the surplus food program, had a 1976 budget authority of $238.2 million.

President Ford also intends to eliminate the Special Milk Programs and the Food Donation Programs. The Special Milk Programs were designed to encourage the consumption of whole milk by children in schools, child-care centers and summer camps. Ford obviously feels that it is no longer necessary to provide additional subsidies for milk through such special programs.

Also included in the legislative proposal for a block grant, are the elimination of the Child Nutrition Programs and Special Supplemental Food Programs (WIC). These programs will consolidate into one block grant program, payable to the States with no mandate to provide services to the needy children. The specific programs that will be eliminated are the free meals lunch program to poverty stricken children, reduced price meals for children, the hot breakfast program, the child care food program, the commodity assistance program and the elderly feeding program. These programs had a 1976 budget "spend out" of over $3.2 billion. The President proposed a block grant program with a "spend out" level of $2.0 billion and with no categorical guidelines. We cannot insure that under Ford's proposed budget those who are most in need of the services normally provided by the Department of Agriculture will in fact receive them.

Farmers Home Administration

The Administration's concern not only falters in the realm of low income recipients, it also fails to meet the needs of migrant farm workers in this country. The Farmer's Home Administration within the Department of Agriculture contains programs that have been developed to meet the needs of domestic farm laborers: (1) rural housing for the domestic farm labor program; (2) rural housing insurance program; (3) self-help housing land development fund program, and (4) mutual self-housing program. These have all been eliminated in the President's budget request. These programs are of a great importance for they are designed to meet the specific needs of areas with the significant lack of mortgage credit and the need for low income housing. Yet, sadly enough, these programs were dispersed under the auspices that they are wasteful.

The President's "new realism" budget is geared towards providing 500,000 new homes. It is rather apparent that his "new realism" is an "old and bitter realism" for the domestic farm worker.

Food Stamps

The Administration proposes enactment of food stamp legislation that would reduce expenditures by $1.2 billion, and by lowering the eligible income standard from $6,480 to $5,050 for a family of four; the Administration's proposal would ultimately reduce the number of food stamp recipients by 5.3 million people.

This Administration request is an attempt to limit the eligibility requirements of those who are presently at or below the defined level of poverty.

Department of Commerce

The Ford budget proposes to curtail the development and growth of viable program within the Department of Commerce, which were designed to reduce the incidence of persistent unemployment in our nation's economically distressed urban areas.

There are primarily three significant programs which will be drastically affected by this Administration's proposal: the Economic Development Assistance Program (EDA); the Job Opportunities Program (JOP), and the Regional Development Program.

With proposed reductions from Congress' appropriated $360 million to $223 million, and making no provisions for fiscal year 1977 appropriations for EDA, Title X, the Administration would cause the elimination of approximately 12,000 jobs at a time when the unemployment rate is already an alarming 8 percent.

The President's budget also proposes to eliminate the Job Opportunities Program that was provided for in the Emergency Jobs and Unemployment Assistance Act of 1974. Ford is proposing to eliminate the 100,000 jobs in JOP, again under the seemingly misguided notion that the recession has "bottomed-out" and that an economic recovery will be the decisive and prevalent economic factor for 1976 and 1977.

A third Commerce Department program that is being reduced is the Regional Development Program. This is a Federal-State partnership which jointly plans and executes programs to help overcome legislative and regional problems, such as energy, transportation, and resources use. It is imperative that our urban minority communities in particular, continue to be served by the Department of Commerce to sustain some equitable viability in the business mainstream. The urban and minority communities will not be victims of Administrative misconceptions for an economic recovery. If the Ford "new realism" is concerned with providing work rather than providing welfare, it should be concerned with providing additional funds for the Department of Commerce in its economic development programs.

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE STUDY OF PSRO'S

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. VANIK. Mr. Speaker, at the earlier request of Health Subcommittee Chairman ROSTENKOWSKI, the Oversight Subcommittee is beginning an examination of the Professional Standards Review Organization—PSRO—program which was established by Public Law 92–603, the Social Security Act of 1972. The subcommittee is concerned with both the quality of HEW's administration of the program as well as the results which the program is achieving.

The subcommittee has written to the 14 original PSRO's and to the 15 that were established most recently to inquire whether they have had any difficulties with HEW in terms of clarity of guidelines, promptness of reimbursement, and exchange of information. We also requested suggestions for improving HEW's supervision of the program.

In addition, we asked the original PSRO's what effect their program is having on the quality of health care in their particular area, whether their review activities have had any effect on the cost of health care and whether they have been able to reduce over-utilization of facilities.

On March 3, the Oversight Subcommittee sent a series of 30 questions concerning the PSRO program to the

Assistant Secretary of Health of the Department of Health, Education, and Welfare. We are presently awaiting his reply. The direction of the Oversight Subcommittee's investigation will depend on the nature of the responses we receive from the Assistant Secretary of Health and the 29 PSRO's we have written to. At this time we anticipate holding the first of our hearings on the PSRO program in June.

The subcommittee welcomes additional comments, observations, and ideas from members of the general public and from health organizations.

OUTSTANDING WOMAN

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DE LUGO. Mr. Speaker, I bring to the attention of my colleagues the recent death of Mrs. Annie de Chabert Clarke on January 12, 1976 in St. Croix, U.S. Virgin Islands.

"Miss Annie," as she was affectionately called, was widely known throughout the Virgin Islands as a leading business and political figure. Always active in civic and political organizations, she was for several years the Democratic National Committeewoman from the Virgin Islands, vice-president of the Red Cross, a member of the Social Welfare Board and the Board of Education, the Professional Women's Club and the League of Women Voters.

Because her accomplishments were so notable and her achievements so praiseworthy, I am inserting in the RECORD the funeral eulogy delivered by the Honorable Almeric Christian, Chief Judge of the Virgin Islands District Court which eloquently pays honor to this outstanding woman:

EULOGY DELIVERED ON THE OCCASION OF THE BURIAL OF MRS. ANSETTA ELENA DE CHABERT CLARKE

There must have been a very special celebration in the modest muckle household in Christiansted, incidentally, not too far from this church, just around the corner, on Smith's Street, on the anniversary of the birth of the great liberator, Abraham Lincoln, in February of 1908, for the day before a baby girl had been born to Ernest Muckle and Sarah, born Jeffers, and they named the infant Ansetta Elena. Today, 67 years 11 months and some five days later a heavy pall of sadness envelopes the length and breadth of the Virgin Islands as we lay that child to rest in death.

My high honor and privilege this afternoon is to, in my imperfect and woefully inadequate way, pay homage to the life lived by this extraordinary person, as she coursed the trail of all flesh, from birth to death. Time and my unsufficing capability makes impossible a full and complete logging of that voyage, and to what purpose would be the exercise. The litany is too long and too well known for meaningful rehearsal. Yet the occasion demands that at least in a fleeting glance, we call to mind a few of the sandy summits on which the remarkable footprints of this woman of distinction are so indelibly imbedded.

Child of an energetic father, his influence strongly decreed the person she was to be. In him was the happy combination of fisherman and merchant—following both pursuits out of watergut in this very town, he would go out to haul his pots before dawn, return to sell his catch in the morning, and tend his family-type store known as "The Little Red Shop" in the afternoon and early evening.

From early childhood young Ansetta was at his side in the shop. Not even the natural childhood inclination for play with brothers and sisters, (not necessarily listed in proper chronological sequence) Ena, Iantha, Axel, Casmus, Alfredo, Berhardt, Eneca and Julia, could keep her away. Eager to learn, intelligent and energetic, she in short order mastered the rudiments and vagaries of business. Not surprisingly then from her earliest teens she was placed by her dad in full charge of "The Little Red Shop"—when school did not dictate otherwise—as he plied his fisher's trade in the first half of the day.

In acknowledgment of the love and respect showered on her by father and customers in the store, an appropriate form of address was fashioned for the bright-eyed little moppet, they little knowing, at the time, that this was the name by which she would become known in virtually every Virgin Island household. Fondly they dubbed her "Miss Annie". Even her parents so addressed her.

Among those first to own a model T Ford on this island in the 1920's, Ernest Muckle added that of itinerant merchant to his activities. As often as possible Miss Annie would accompany him as he sold his wares from estate to estate. Thus was the opportunity presented for Miss Annie to learn to know, appreciate, and love her people—and they her. The contacts which would later stand her in such good stead, were early made.

In the same decade this vivacious young woman on the move caught the eye and fancy of an equally electrifying and already distinguished native son, Ralph De Chabert. Wooing and winning followed, and on July 18, 1929, Mr. Ralph and Miss Annie, monikers by which they were thereafter known, formed a partnership, cemented by holy wedlock, which was to last some 36 years, cut off as it was on the rise to its zenith by the great leveller. All his talent and accomplishment, notwithstanding, Mr. Ralph was a quiet, reticent man, qualities which, more for good than ill, never rubbed off on Miss Annie—and so the one complemented the other.

This marriage was blest with five offspring, all now in respectable adulthood, Ralph Andrew, Austin Alexander, Rita May, Mario Norman and Shirley Joyce. So first and foremost we mark Miss Annie as loving and devoted-child, wife, and mother.

As a businesswoman, few, if any, are her peers. From The Little Red Shop and itinerant merchant—and as she journeyed about in the Model T who, who can doubt that she valiantly cranked it up a few times—or at least set the sparks and gas as her daddy cranked. On her own came first the King Street store "De Chabert Fashions". Here she was owner, manager, sales lady and seamstress—sold the material—made the dress—characteristically, she got you both ways—coming and going. Next the family ventured into dairy farming and livestock raising—in the beginning the 35 acre farm at Rosegate then the many times over larger acreage at "Hope", "Jerusalem" and "Blessing".

Miss Annie's 47th birthday was an unhappy one, for five days earlier death had reached out and snatched her Ralph from her. Undaunted she persevered. The children were educated, now to the benefit of the community, doctor, lawyer, educators, business persons. The farm prospered. Came the venture into real estate sale and development, Miss Annie holding off when the time was not ripe, seizing the propitious moment and parlaying the holdings into a seven-digit fortune and giving the territory the stability of oil refineries and our first shopping center.

A feminist to the core. In an age where in this insular setting women, like children, were to be little seen and never heard, she broke the barriers of sight and sound in ways more than one. She championed women's rights, not by flaming rhetoric but rather by accomplishments. She was indefatigably active in BPW club and League of Women Voters.

In the sector of public health, who labored more assiduously, or journeyed wider for the American Red Cross, the St. Croix community blood bank as charter member, the Caribbean Mental Health Association, and the Charles Harwood Hospital Auxiliary.

In the forefront always in Government with special effort on the board of education, board of social welfare, and the citizen's rehabilitation commission.

In politics she etched out an especial niche. For many years the heart and soul of the Democratic party. Who would launch a candidacy without her blessing—not to mention financial contributions—party fund raiser beyond compare—as all upon whom she has put "the bite" from time to time will attest. V.I. national committee woman and convention delegate she walked with the Presidents, near Presidents and other luminaries on the national Democratic scene—yet never lost "the common touch".

Communicant of this church—active in all spheres consoler, stand-in at ceremonies, donor, landscaper—all of which lead naturally into her second marriage at this same alter—on November 14, 1971, to the Rev. L. Seymour Clarke—rector (I add par excellance) of this church—whom she leaves with us to mourn her passing.

But why go on—as well I could. Miss Annie will long be remembered for more than these matters I've touched on.

Frail human, she was not without taint of fault, and there may be those who on this count only will remember her. To them, if any, I answer with Tennyson,

> But friend, to me
> He is all fault who hath no fault at all
> For who loves me
> Must have a touch of earth.

So she had her touch of earth—but on the other side of the ledger she was heavy.

All heart—charitable to a fault. Students assisted. A loan here forgiven. A palm there, coming away from a hand shake with a needed crisp bill nestled in. Considerate of the poor for which she has been, it is evident, blest.

An indomitable will reaching and infusing family friend alike. Not the least bit faint hearted hence fortune sided with her. Unafraid to beat new paths, a guiding principle of her life being who never walks save where he sees men's tracks, makes no discoveries.

Always exemplifying the basics: Hard work and love—a deep love, conceived in faith, ever nurtured by hope.

Not really "born to the purple" she "bent Ulysses' bow" as the saying go.

For her many virtues a crown to two husbands. And if, as has been said, one "cannot leave a better legacy to the world than a well educated family" her bequest can hardly be surpassed.

So as she sleeps in beauty—a sleep the common fate of us all, though the loss be irreplaceable, and the sorrow pro-found, let the tears be few, for Miss Annie

> "Like the sun in its miridean [has]
> Spread [s] a lustre throughout
> [That envelops] and enlightens"

This entire corner of the universe. We will all often long for the touch of that vanished hand—for the sound of this so familiar voice, now still.

As we salute the triumph of her life over death, we remember the words of the Bard of Avon,

Thou art not conquered;
Beauty's ensign yet
Is crimson in thy lips,
And in thy cheeks,
And death's pale flag is not advanced there.

So Miss Annie, 'til we chat again—a fond adieu.

NATIONAL LABOR RELATIONS ACT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. SCHEUER. Mr. Speaker, today I am introducing a bill which would amend the National Labor Relations Act by affording similar rights to those in the entertainment industry as are now enjoyed by the construction industry.

My bill would extend the rights now guaranteed to construction unions and contractors under section 8(f) of the NLRA to those who are employed in theatrical productions. They would be permitted to sign "prehire agreements," which may become effective before a representative number of employees have been hired, and to include in such agreements, union shop provisions effective after 7 days of employment, in contrast to the 30-day union shop contract customary in other industries.

In 1959, the Congress found that there are some industries, especially construction and building trades, in which the labor force is so transient on a particular job that the ordinary delays inherent in collective bargaining might make labor negotiations practically impossible. Accordingly, the Congress permitted construction unions and companies to sign contracts before a particular job got underway so that the contractor would know his costs in advance, the union would feel secure in its job, and work stoppages could be avoided.

Circumstances surrounding employment in the performing arts are similar to those in the construction industry. Theatrical productions, like building jobs, are often temporary, and a strike on opening night would be harmful to the public as well as to performers and producers.

Repeated evidence has demonstrated that where industrial employment is temporary, the 30-day union shop provision is too long, making it impossible to hold meaningful elections to determine what constitutes the will of the majority. Therefore, my bill allows for a 7-day union shop provision for the performing arts as is now allowed for the construction industry. Even though my bill provides for "prehire agreements" which may become effective before a representative number of employees has been hired, the sections of the Taft-Hartley Act allowing for a challenge by 30 percent of the employees in a bargaining unit to the agreement would still be in force.

By expanding section 8(f) of the National Labor Relations Act we would be giving employers and employees in the performing arts that authority which is essential to efficient and fair conduct of their business.

WHAT REALLY CAUSES RISING FOOD PRICES?

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ZEFERETTI. Mr. Speaker, America's consumers are being driven to the financial wall by inflation, particularly by rising food prices. Here is the area where everyone is hurt most directly. Yet, as consumers and their representatives seek causes of such rising food prices with increasing urgency and impatience, no one element in the farm-to-market chain can be identified as a direct immediate cause of the price hikes. It is as if everyone involved is standing in a circle, pointing an accusing finger at the person next to them.

What obviously is needed are accurate, timely statistics on food prices at all stages from farm to market. To obtain such data, we should follow the lines set up by the Bureau of Labor Statistics, whereby basic indicators in the labor market are reported on monthly, in order to pinpoint where jobless problems arise. In certain specific ways this agency and its method of reporting data has helped Congress analyze where the difficulty lies in the labor market. In turn, Congress has been able to tailor legislation to cope directly with those problem areas defined by the BLS statistical reporting process.

Such a statistical survey on an ongoing basis is not in existence insofar as our food price chain is concerned. As a result, food prices have risen nearly 40 percent in the past 3 years, and we have no exact knowledge of where the price hikes have started or have been steepest. The Department of Agriculture has recently reported, in fact, that retail food prices are rising at the same time that farm prices of many food products are falling. Therefore, it is vital that we act swiftly to obtain vital information needed so Congress can intelligently and accurately attack the causes of inflated food prices.

Legislation has been introduced, which I have joined in sponsoring, to set up a Bureau of Agricultural Statistics, to require mandatory reporting at each stage of the food marketing chain. The Bureau, under the proposed legislation, will report to Congress twice annually, along with specific recommendations as to the best ways to lower food prices.

With accurate, timely figures on where along the food chain prices are rising fastest, Congress can aim its legislative solutions with telling effects. We cannot only be able to really isolate these culprits responsible for food price hikes, but who have thus far successfully hidden their role from public scrutiny and response.

Only in this manner can we do something about price rises presently wreaking havoc with incomes of Americans, particularly the elderly and poor.

THOMAS C. WALKER, NEW COMMANDER-IN-CHIEF OF THE VETERANS OF FOREIGN WARS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DODD. Mr. Speaker, on March 9 I had the pleasure of introducing Mr. Thomas C. "Pete" Walker, the new commander in chief of the Veterans of Foreign Wars of the United States, on the occasion of his first formal appearance before the full House Committee on Veterans Affairs.

I am very happy to be able to say that Pete, who is a native of New London, Conn., is a close personal friend and constituent of mine.

In his recent testimony before the House Committee, he vigorously spoke out against anticipated cuts in the VA budget for next year, and, I would at this time like to include his testimony and my introductory remarks into the RECORD.

The text of those remarks follows:

STATEMENT OF THE HONORABLE CHRISTOPHER J. DODD, A REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF THE STATE OF CONNECTICUT

Mr. DODD. Thank you, Mr. Chairman and members of the Committee. It is a great pleasure for me to be here this morning and to be able to introduce to you and the Committee, not only a constituent, but a good, personal friend, Pete Walker.

I am not going to go into too great a detail. I think most of the Committee, and certainly most of the people gathered in this hall, are more than familiar with his fine record. His military career goes back through two wars as a fighter pilot, and in the Korean War, he was the Commander of an anti-aircraft battery in the Far East.

His deep commitment to the VFW dates back almost twenty years. When he started out, he was a local Junior Vice Commander of the VFW in Connecticut.

Since that time, he has held such distinguished positions and played a major role as a member of the All American District Commanders team, as Fourth District Commander, Commander of the Department of Connecticut for the VFW, Vice Chairman for the National Convention, Vice Chairman of the General Resolutions Committee and the Eastern States Conference, Chairman of the Eastern States Conference, the Vice Chairman of the National Budget and Finance Committee, last year Senior Vice Commander-in-Chief of the VFW and now National Commander-in-Chief.

I must also add, Mr. Chairman, that Pete is not a person who is associated with just one organization. He is deeply involved as well in his own home town as a member of the Elks Club, his local country club, a member of our Volunteer Fire Department in one of our small communities.

In his addition to his responsibilities and commitments to this national organization, he has not forgotten his friends and close associates back in eastern Connecticut.

It is a particular pleasure for me to be able to introduce not only, as I say, one of my constituents, but one of my good and close friends, Thomas C. "Pete" Walker.

STATEMENT OF THOMAS C. WALKER, COMMANDER-IN-CHIEF, VETERANS OF FOREIGN WARS OF THE UNITED STATES, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS

Mr. Chairman and members of the committee: I am pleased to appear before you this morning in behalf of the membership of the Veterans of Foreign Wars of the United States, and to make a matter of record our deep and growing concern regarding the shocking cuts in the proposed Veterans Administration budget for the next fiscal year, and the mounting attack on veterans' benefits by anti-veteran forces and social welfare planners both within and without the government.

Accompanying me today are the National and State Officers who comprise the leadership of our great organization and who are responsible for the twenty-third consecutive year of increased membership which we expect will pass the 1.8 million mark this year. Also with me are the outstanding young adults who have won our "Voice of Democracy" scriptwriting contest in each of the fifty states, the District of Columbia and overseas areas. These senior high school students represent 500,000 participants in our program from 8,000 secondary schools and the five national winners will share $22,500 in scholarship awards.

The voting delegates to our National Convention held in Los Angeles, California last August passed nearly 200 resolutions. The preponderance thereof address improving veterans' benefits, enforcing those laws enunciated in the United States Code, and opposing proposed administration legislation to reduce and erode existing benefits. The most important of those coming within the jurisdiction of this Committee have been included in our pamphlet entitled "VFW Priority Goals Legislative and Security for 1976." I will not burden you with a recitation of these goals, since they have previously been furnished each of you as well as all Members of the Congress of the United States. However, and without objection, it is requested our pamphlet of Priority Goals and the Digest of Resolutions adopted by our 76th National Convention be printed in toto as a portion of the official transcript of this hearing.

I am not going into pending legislation the Veterans of Foreign Wars supports or opposes by mandates, since in the normal course of events this is accomplished by appropriate testimony before this Committee and its Subcommittees. However, we believe it necessary to discuss the VA budget.

We are most unhappy with the proposed Veterans Administration fiscal year 1977 budget. As you know, there is an outright cut of $1.4 billion from the fiscal year 1976 budget of $19.5 billion, and legislation proposed by the administration, if enacted, would further reduce the VA budget by $923.5 million for a total reduction of $2.3 billion, or an apparent budget of $17.2 billion. However, an additional $1.7 billion reflected in the 1977 budget is comprised of monies in the second supplementary appropriation for fiscal year 1976 including the transitional funds for the extended fiscal year of 1976. What we will have in reality, then, if the Administration has its way, is a budget reduced a full $4 billion. Obviously, and contrary to what we had been told previously, these figures make the Veterans Administration budget the hardest hit of all 32 Federal agencies in the President's $28 billion fiscal year 1977 budget cut. There are no funds in this budget for the construction of any new or replacement hospitals previously planned, and not even sufficient money to carry out the recommendations in the Special Survey Report on the Level of the Quality of Patient Care at Veterans Administration Hospitals and Clinics. The token gesture of increasing the staff-patient ratio from 172 to 174 per 100 patients makes shallow the President's words in his State of the Union address and I quote "I will take further steps to improve the quality of medical and hospital care for those who have served in our Armed Forces." (end of quote) In addition, there are no funds programmed for a cost-of-living increase for those in receipt of compensation for their service-connected disabilities, DIC recipients, or even for employees within the Veterans Administration. Another sham is the projected savings of $151.3 million predicated on the expiration at the end of the 1976 fiscal year of Public Law 94–169, the Veterans and Survivors Pension Interim Adjustment Act of 1975.

The Veterans Administration has quietly accepted this budget as they have inadequate funding in the past. However, some of the dire consequences to medical care are pointed out in a letter dated February 20, 1976 from the Chief Medical Director, Dr. John D. Chase, to the Directors of all Veterans Administration facilities. These instructions informed Hospital Directors how to reduce outpatient care at the expense of the veteran. Three sentences in that letter reflect the seriousness of the problem and two unthinkable solutions. First, the statement "Our current medical care resources are insufficient to support all the present demands for care;" the second, which we call brainwashing, recommends "Patient education especially for the veteran's understanding and care of his disease as well as the proper use and access to Veterans Administration medical care;" and third, a recommendation that "Appropriate and timely referral of the nonservice-connected veteran to outside health care resources, especially through counseling and review by social work service."

In addition to the foregoing, we continue to be deeply concerned with a policy which has caused 18 percent of the beds throughout the 171 Veterans Administration hospitals to remain vacant month after month. This is equivalent to closing 30 of these 171 hospitals monthly. We believe if admitting physicians were permitted to more freely exercise their professional judgment and be more compassionate, all of these hospitals would be filled to overflowing. We know and you know veterans are seeking admission.

In summary, it is clear that the VA 1977 budget will not support the program it is now required by law to administer. It will not provide the adequate care, facilities or personnel required during the FY 77. And, it will not plan for the years ahead for construction of adequate facilities. The V.F.W. sees this year's budget as a turning point for the veteran, his widow and his dependents. If additional moneys are not made available by the Congress this pivotal year, veteran programs may well suffer endlessly. To ignore the veteran and his programs is to tempt unrest, reprisals and disunity from the veteran, his organization and the public who understands that the special needs of the veteran must be met.

Each of you is aware, I know, of the anti-veteran forces and social welfare planners within and without the government who would do violence not only to the Veterans Administration Hospital and Medical Care System but to all veterans benefits. For example, the 20th Century Task Fund Report, after a one-year study of veterans programs, stated—and I quote "The nation's veterans programs which will cost the taxpayers nearly 18 billion dollars next year, should be integrated into the general social welfare system of the United States"

A quote from a recent study of veterans programs by a Ralph Nader group reported—"The long range strategy of the federal government should be to return veterans programs to their proper functions and replace nonservice-connected benefits through national health insurance, pension reform and an improved social security system."

A recent memo from a Deputy Assistant Secretary in the Department of Health, Education, and Welfare recommends that VA hospitals be sold to the private sector.

A report paid for by the Veterans Administration, known as The McKinsey Report, stated—"The VA can help to minimize unnecessary duplication of health care resources by increasing its efforts to establish sharing arrangements with community providers.'

A second document in my possession from H.E.W. to the Office of Management and Budget states "We feel strongly that it would be very desirable in the future to relate VA health care activities to the efforts of other federal agencies responsible for health care, and that those efforts be integrated into an overall health policy."

An American Enterprise Institute for Public Policy Research Report on Veterans Administration Hospitals prepared by Professor Cotton N. Lindsay, concludes that VA hospitals have long outlived their purpose of caring for the war-wounded and that veterans could be provided with better quality hospital care more conveniently and at lower cost through the use of public welfare hospitals. Professor Lindsay recommends selling VA hospitals to the private sector.

Now, and not at all surprising, this social welfare thinking has permeated the Congressional Budget Office whose Director, Dr. Alice M. Rivlin, a former Assistant Secretary of the Department of Health, Education and Welfare and a senior fellow at the Brookings Institution, recommends to Congress: (1) To retain the status quo regarding veterans' benefits; (2) To eliminate veterans programs not related to hardships incurred in military service; (3) To integrate veterans' benefits as much as possible into the existing social welfare system. As unbelievable and shocking as it sounds to me while addressing you, this third and most horrendous recommendation has been picked up as a working paper of the House Budget Committee as an alternative to veterans' benefits as we know them today. This social welfare thinking, this proposed dismantling of the Veterans Administration and veteran benefits, is what the leadership of the Veterans of Foreign Wars has been warning for years, and it has now reached into the Congress.

To the social welfare planners, everyone is equal and no one is special regardless of their contribution to our society. They ask what is so special about a veteran? I wish to use this forum today to explain the VFW's opinion as to what is so special about a veteran.

First of all, the veteran is special because he is selected. Right away, the fact that he is selected makes him something special and puts him in a class by himself; he is no longer free; he is subject to military law, and he becomes a special breed, committed to fight to the death for the ideals of freedom around the world.

He cannot be flatfooted; he cannot be lame; he cannot be uncertain or short of vision—he must be as perfect as possible. And not only physically perfect, but the veteran must be mentally alert. He cannot be moronic; he must be able to read and write; he must have some talent. Furthermore, he must be morally fit—he cannot be a criminal; he cannot be perverted; he cannot be nervously unstable. He must know the difference between right and wrong; he lives in unsegregated barracks, black and white together, as equals—they fight together and they die together for freedom.

The lame, the sick and the uncertain are rejected.

Conscientious objectors, dissident students and some key people in lucrative positions are excused or labeled "4–F." Only the best physically, mentally and morally are called to war. And, so, only the best are a special breed. And the tragedy of war is that only the best are fit to be killed. So, even in our sophisticated society this special breed performs a sacrificial service. Only the brave are selected and only a race of ingrates would forget their sacrifice.

The veteran is a special breed because only Congress can make a veteran and in our opinion only Congress can break a veteran. To the members of my organization the veteran is the special charge and the special responsibility of the Congress. And no one can take this special charge and this special responsibility from the Congress including the officials of O.M.B.

And this special breed, this select group, these physical specimens—only the best—these citizen soldiers went to war, at the behest of Congress, in defense of freedom all over the world—and they became the best fighting men history has ever known.

And they came home "Veterans"—gassed or shell shocked from Chateau Thierry, bedraggled from the Battle of the Bulge, burned from the Franklin, hungry from Corregidor, frozen from Chosen Reservoir, maimed from Vietnam. Some came back with yellow fever, some with malaria, some with TB. Some came back psycho, some alcoholic; yes, some even returned as dope addicts. No group in America suffers more than the man who served his country in time of war.

These are the men who were the best when they went to war—God only knows what condition they were in when they came back. But to the President and to the Congress, they should still be the greatest.

As time marched on, attitudes toward the enemies of freedom became more liberal, and the ugly American became more bold and brazen enough to ask: "What's so special about the veteran?" But the Congress of the people of these United States has always answered firmly: "The veteran is still something special to us. He is our charge; he is our responsibility, because he answered our call when *we* needed *him*—'first in war, first in peace, first in the hearts of his countrymen.' "

Congress has thus far kept faith with the veteran by contracting to care for the veteran with service-connected disability—and the veteran with nonservice-connected disability, whenever a bed was available and the veteran could not pay for hospital care—rather than allow the veteran, who was once the greatest, to be disgraced as a pauper or disgrace the uniform by becoming a public welfare charge.

Of one thing we can be certain—the Congress and the membership of our organization are faced with an unprecedented challenge. We must accept as fact the premise that many individuals and groups in this country are looking beyond its nation's veterans. As you know, the present climate in Washington, D.C. suggests programs for every spectrum of our society. In other words, there is something for everyone—everyone, that is, except the veteran, who made it all possible. From him they want one more drop of blood—the very benefits which a grateful nation awarded following armed conflict.

If we, the Congress of the United States and the Veterans of Foreign Wars, forget our nation's veterans, believe me, they will surely be forgotten.

The Veterans of Foreign Wars does not intend to see this happen, and I am sure you do not either. My organization will not stand idly by while social welfare planners and anti-veteran forces increase social welfare programs which now take over 35c of each tax dollar, at the expense of eroding or absorbing veterans' programs which receive a mere 5c of each tax dollar. If stemming this tide requires a Veterans March on Washington to pale the one of 1932 during the 72nd Congress, so be it. The Veterans of Foreign Wars is prepared to sponsor at any given time a half million veterans or their widows here in our Nation's Capital if protecting our hard fought and won benefits so requires.

In closing, Mr. Chairman, I want to express the appreciation of not only our 1.8 million members and 545,000 members of our Ladies Auxiliary but all veterans and their dependents for the deep concern of this Committee under your leadership in considering and advancing legislation over the years to improve and expand veterans benefits. We in the Veterans of Foreign Wars are with you.

I would be remiss if I did not also compliment your professional staff under the direction of your Staff Director, Oliver E. Meadows, and your Counsel, Mack G. Fleming, for their diligence and long hours of work and research in support of our mutual objectives.

It is our hope that each of you will be with us tonight at our annual Congressional Banquet at the Sheraton-Park Hotel. We will be honoring one of your distinguished colleagues, the Honorable F. Edward Hébert of Louisiana, the ranking member of the House Armed Services Committee and Chairman of its Investigations Subcommittee. The reception will begin at 6:00 P.M. with dinner promptly at 7:00 P.M.

COMMEMORATING THE 58TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE—MARCH 25, 1976

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WHALEN. Mr. Speaker, today, Americans of Byelorussian descent are celebrating the 58th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic, which took place in the Byelorussian capital of Minsk. In this year of reflection on the principles of freedom and democracy which we Americans cherish so dearly, let us pause and remember the struggles that the Byelorussian people have undergone against those who have taken from them their right to these self same values.

Byelorussia was made part of the Russian Empire in the late 18th century, and was known as the "northwest provinces." She proclaimed her independence on March 25, 1918 while under Austro-German occupation. Her rendezvous with sovereignty was short-lived, however, and ended when the Central Powers were defeated during World War I. The nation then was split between the Poles and the Russians, but later formally reunified as the Byelorussian Soviet Socialist Republic under Soviet domination.

World War II wrought new havoc upon this small nation. Byelorussia was ruled under Germany hegemony for 3 years, beginning in June of 1941. The Nazis tried to "restore" Byelorussian nationalism, and destroyed or remodeled everything Soviet during this period. As the Russians regained control, they in turn reversed this process. By the end of World War II, several million Byelorussians had been killed, and the Soviets had usurped full power.

Although their respite from domination has been short, the Byelorussians have managed to excel in many areas, including education and the arts. Most notable is the Byelorussian folklore, among the finest and most colorful of Eastern Europe. Byelorussians primarily work the land, and despite its lack of suitability to agriculture, have made it produce much—potatoes, fodder, flax, wheat, rye, and barley. Urban industries are developing also, especially in farm related production.

Thus, Byelorussians, while they have withstood much, have still managed to achieve much. Today, let us regard this commemoration of Byelorussian independence as a declaration of belief in the eventual triumph of freedom.

INTRODUCTION OF LEGISLATION TO END IRS HARASSMENT OF INDEPENDENT FISHERMEN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. STUDDS. Mr. Speaker, I am today introducing, with several cosponsors, legislation to end what I consider to be undue harassment of small fishermen by the Internal Revenue Service. Based on a recent, administrative change in its definition of an employee, the Internal Revenue Service has been auditing old tax returns of owners of small fishing vessels, and is attempting to force them to pay withholding taxes for those past years, even though IRS has already collected the taxes from the individual fishermen who fished on the vessels.

Many fishermen on small vessels are joint-venturers, paid only by receiving a percentage of the catch. They are not paid in dollars, and they share the loss if the catch is bad. Consequently, I do not believe it is equitable for IRS to call these fishermen employees. The bill I am introducing today makes two basic changes in existing law.

First, for boats manned by crews of five or fewer people, my bill provides that if an individual's remuneration for his services is not wages but a portion of the catch, he shall be treated as self-employed for income and social security tax purposes. More specifically, the legislation amends the Internal Revenue Code by specifically excluding the services performed by such individuals from the definition of employment under the Federal Insurance Contribution Act, by excluding wages paid for services from the definition of wages under the withholding provisions of the Federal income tax, and by excluding such individual's services from the Social Security Act definition of employment and including those services in the definition of self-employment income. The bill will allow such individuals to continue to employ the benefits of the Social Security Act as participating self-employed individuals and such individuals will continue to be eligible to recover under the Jones Act for personal injury suffered while working.

The second thing my bill would do is include the harvesting of marine resources within the definition of agriculture for purposes of establishing tax-exempt organizations.

This would extend the benefits of having a tax-exempt organization to the Nation's fishermen. These include, but are not limited to, lobstermen, oystermen, clammers, fishermen, shrimpers, and all others who reap the harvest of the sea.

Labor and farm organizations were recognized long ago by the Congress and the Federal Government as institutions which provided a service to their constituents—a service that benefited society as a whole. Federal law offers these organizations tax-exempt status to enable them to provide information and counseling services, as well as publicize events which have particular meaning to those organizations. My bill would do the same for fishing organizations.

COMMEMORATION OF BYELORUSSIAN INDEPENDENCE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. SARASIN. Mr. Speaker, today, March 25, marks the anniversary of the Declaration of Independence of the Byelorussian Democratic Republic proclaimed 58 years ago in Minsk. I would like to join my colleagues in commemorating this occasion with a mixture of both sorrow and hope—sorrow that the long-yearned for independence of the Byelorussian people should have lasted only 10 months before it was crushed by the Soviet Army, and with the hope that the Byelorussian people will persist in their struggle to maintain their unique culture and traditions as non-Russian peoples in the Soviet Union.

It is important here in this free country of ours that we occasionally remind ourselves of the freedoms that we so take for granted, and of the people in the captive nations who know only that their freedoms have long been denied. This occasion, following so closely last month's observance of the independence of Lithuania and Estonia, should remind us vividly of the sufferings of people who unwilling succumbed to Soviet rule. It is time that we lent support to the aspirations of these people, and to recognize their unique achievements and contributions.

Under Soviet rule, the people of Byelorussia have faced the threats of torture and persecution. Nonetheless, they have bravely struggled to retain their individual character and their national heritage. In 1973, the Soviet Government by setting up new administrative partitions of the country irrespective of ethnic groupings, threatened the integrity of the Byelorussian people. Despite this, these people have persisted and have resisted Soviets attempts to dilute them into a homogenous Russian people—a single Russian nation. While distinctions among people still exist, these efforts strongly combat the unifying tendency towards uniformity—the hallmark of the vaunted Soviet man, and a trait which is so inimical to Western concepts of the freedom and dignity of man.

I want to express here my hope that the policy of détente, or the relaxation of tension between us and the Soviet Union, will not cause us to shirk our moral and profoundly human commitment to those still oppressed under Soviet rule, particularly the valiant people of Byelorussia.

THE PHILADELPHIA INQUIRER ON TOXIC SUBSTANCES CONTROL

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, I wish to commend to my colleagues the second in a series of articles on the subject of occupational disease published recently in the Philadelphia Inquirer.

This article concentrates on a matter of great interest to this House—toxic substances control legislation.

As most of my colleagues are aware, there has been a massive campaign launched against the legislation by the American chemical industry. The industry claims that testing costs will be excessive, and that technological innovation will be stifled. What they are saying is that profits and their version of "progress" is more important than protecting the health and environment of our country. I certainly do not concur with this distorted view.

Mr. Speaker, I believe this country does not need another environmental disaster like the Kepone incident in Virginia. We certainly do not need another occupational health tragedy like the deaths among polyvinyl chloride workers. As my colleagues may recall, the industry claimed that reducing worker exposure to PVC would bankrupt the industry, and that thousands of jobs would be lost. Well, the industry is still here; the jobs are still here; and the cost of reducing worker exposure to PVC was nowhere near the grossly inflated estimates initially made by the industry.

Mr. Speaker, this House should bear in mind all those exaggerated industry claims about PVC control costs when it considers the toxic substances control bill. In my view, the industry's credibility is suspect when it comes to economic cost estimates. Its claim about retarded innovation may have some merit, but as I suggested earlier this week, the greatest innovation the industry could produce would be a clean and healthy environment for the American people.

Mr. Speaker, I believe my colleagues will find the article from the Philadelphia Inquirer most interesting, and I include it at this point in my remarks:

HOW LIFE-SAVING LEGISLATION SITS IN CONGRESS

(By Susan Q. Stranahan)

The nation's largest cancer research laboratory is the American workplace.

The guinea pig is the American worker.

As a result of repeated exposures to the countless substances used daily in industry, workers have unwittingly aided scientists in identifying chemicals as a major source of human cancer.

In the American workplace today, there is no requirement that a substance be proven safe before it is put to widespread use. Rather, it first must be proven guilty—with the evidence usually being human deaths—before it is subject to control.

Each day, every day, 315 American workers die because of their jobs. For many, the cause of death is the chemicals they were exposed to. Thousands of other workers are sickened and injured daily by the chemicals used in countless manufacturing and production processes.

Millions of working men and women in this country serve as early-warning devices that a chemical substance is hazardous.

When they become sick or die, then studies—using rats, mice, guinea pigs and monkeys—are begun.

The purpose of these studies: to confirm that the substance is hazardous, that rats as well as men will die.

For five years, legislation that would put an end to this problem has languished in Congress. Now, a toxic substances control bill is awaiting a vote by the full Senate. A House version of the bill—weaker than that in the Senate—has been approved by a subcommittee of the House Interstate and Foreign Commerce Committee.

If both bills are passed in their respective houses of Congress, differences will be worked out in a conference committee—the point where a toxic substance control bill died in 1974.

No one knows how many workers have died from exposure to deadly chemicals during those five years, but it seems certain the number is in the thousands. Why the delay in enacting the legislation? There are several reasons:

A change of priorities in Washington. Controlling inflation has replaced cleaning up the environment as a major goal. Both Congress and the White House are more concerned with the effect on the economy of regulating hazardous substances than they are with the effect on human life of exposure to toxic chemicals.

An unresolved difference of opinion between the House and Senate on the strength of the proposed legislation. The Senate version requires testing of all new chemical substances before they are used in the workplace. The House version requires testing of those chemicals "likely to pose substantial danger to health or the environment."

The chemical industry's massive lobbying campaign. Industry has claimed that strict regulation is unnecessary and would be like "killing a fly with a sledgehammer." A new strategy of the lobbyists is to stress the economic impact of regulations—a tactic that apparently is dissuading some senators who previously supported the measure.

A lack of widespread public awareness of the legislation. Until recently, the bill did not have even the active backing of labor unions and environmentalists, the major sources for arousing public interest. As a result, lobbyists against the measure have had no competition.

In the meantime, there is the worker.

He processes the paints in your house and dies of lung cancer, caused by chromate pigments.

He manufactures the pesticides for your garden and dies of lymph cancer, caused by inorganic arsenic.

He refines the gasoline for your car and dies of leukemia, caused by benzene.

The men and women who produce your clothing, your dog's flea collar, the food you eat for breakfast and the table it is served on, the tires on your car and the hair coloring you used last week are exposed daily to toxic substances.

Because the average consumer comes in contact with only small amounts of these substances may never suffer any adverse effects.

But the worker is not so lucky.

Society has an insatiable appetite for convenience items such as plastic and synthetics. To feed that appetite, industry produces as many as 250,000 new chemical mixtures each year, 500 to 700 of which become marketable products.

When the products are tested by industry, they are, more often than not, tested for consumer appeal, not for their short- or long-term effects on man or the environment.

The labors of the American worker have paid off well. The sale of chemicals and related products last year reached almost $90 billion, according to an industry survey. Chemicals are a business upon which much of the national economy depends.

The disquieting pricetag of industry's success and society's convenience is the statistic that the United States has the highest cancer rate of any nation in the world.

This year, 365,000 persons will die of cancer, according to the National Cancer Institute. An estimated 665,000 new cancer cases will be reported. These statistics include only cancers likely to cause death. Skin cancer—the most common form of cancer—is not counted because of its low mortality rate.

Scientists estimate that about 80 percent of these one million cancers per year are caused by hazardous substances in the environment, including chemicals and cigaret smoke. Although cigaret smoking is a better-known cause of cancer, chemicals far surpass it as a source of cancer, according to the National Cancer Institute.

BODY COUNT

"Almost everything we know now about occupational cancer comes from counting dead bodies," says Dr. J. William Lloyd, an official of the National Institute for Occupational Safety and Health.

Last fall, when the National Cancer Institute released the results of a 20-year survey of more than five million cancer deaths in the United States, it showed a consistent pattern. Where there is densely concentrated industry, there is cancer, in numbers exceeding those reported in all other areas.

A variety of cancers, including those of the lung, liver and bladder, showed up in large amounts along the East Coast, from Washington to Boston, where much of the chemical industry is concentrated.

Salem County, N.J., where 25 percent of the males work in chemical plants, has the highest bladder cancer rate in the nation.

Manuel Pollock is one of those Salem County workers with bladder cancer.

Pollock, who worked at the sprawling DuPont Co.'s Chambers Works in Deepwater for 39 years before he retired in January 1975, helped DuPont produce beta-naphthylamine, a dyestuff that killed its first worker in 1884, according to federal health officials.

Pollock also helped DuPont produce benzidine, a dyestuff no longer produced by any industrialized nation except the United States because of its cancer-causing properties.

Both beta-naphthylamine and benzidine are regulated by the federal government now, and DuPont no longer manufactures them.

But the federal regulation came only after many workers had died and others, like Pollock, discovered they had contracted an occupational disease: cancer.

What alarms scientists the most about the National Cancer Institute survey is the future trend the statistics indicate.

Most cancers take many years to develop. Workers with occupational cancer today probably were exposed as long as 20 to 25 years ago.

Therefore, the tremendous increase in the use of chemicals in this country, which has occurred in the past three decades, means that the National Cancer Institute findings may only be "the tip of an iceberg," according to some experts.

Manuel Pollock's case of bladder cancer is just one of 300 which have been reported among the Chambers Workers' 7,000 employees. Pollock believes the next 10 years will produce more cases of his type of cancer and possibly other types.

Although DuPont is no longer producing the substances which apparently caused Pollock's cancer, it continues to produce at the Chambers Works at least three chemicals that have caused tumors in laboratory animals.

The substances are alpha-naphthylamine, an additive to herbicides; MOCA, a trade name for a synthetic rubber-curing agent, and hexamethyl-phosphoric triamide (HMPA), a solvent.

DuPont has argued that MOCA, alpha-naphthylamine and HMPA, while harmful to animals, are not harmful to humans. And DuPont may be right. But it may be wrong. Only the ticking of the clock will tell.

THUMBPRINT SPOT

Manual Pollock was diagnosed as having bladder tumors eight or nine years ago. Two decades and more prior to that, he had often stripped to the waist to keep cool while mixing the dusty chemicals which produced beta-naphthylamine, benzidine and other substances.

Thomas Hills, who died in 1965 at age 53, is one of the statistics in the National Cancer Institute mortality survey. He, like Manuel Pollock, had mixed chemicals for years for his employer, the Rohm & Haas Co. of Philadelphia, without any awareness that he might be exposing himself to cancer.

In 1948, Hills began working with a new substance, bis-chloromethyl ether (BCME). Twenty-five years later, BCME would be identified by scientists as the most potent cancer-causing substance ever produced. Before exposure to BCME was regulated, Hills and 51 other Rohm & Haas workers would die of cancer.

One of Hills' daughters remembers vividly the changes in her father after he began working with BCME. For a little girl who loved to curl up beside her father in his easy chair, there was a noticeable change—a strange "fishy" smell that even a shower could not erase.

The closely knit Hills family, who lived across the street from the massive Rohn & Haas plant, became alarmed when Hills was sent to Temple University for a chest X-ray as part of an employe medical testing project.

Mrs. Caroline Hall, Hills' daughter, recalls what happened:

"Temple called him back and told him there had been a mistake on his X-ray—that a technician had gotten a thumbprint on the film. They asked him to go back down there for another X-ray.

"He went and they called him back. It wasn't a thumbprint on the X-ray. It was a spot on his lungs as big as a thumb."

Within a year, Thomas Hills was dead of cancer.

The same year Thomas Hills died, Rohm & Haas contracted with a Virginia laboratory to test whether several chemical substances, including BCME, caused cancer in animals.

It was not until 1973 that the federal government—acting under the Occupational Safety and Health Act of 1970—stepped in to regulate worker exposure to BCME.

For five years, the legislation that would control the use of toxic substances has been shuffled around Washington.

J. Clarence Davies 3d, who helped draft the original bill in 1972, while on the liberal-leaning staff of the Nixon Administration's Council on Environmental Quality, says the White House hoped to use the legislation to gain the political support of environmentalists.

"The Administration wanted to make a big splash," says Davies. "We knew damn well it wouldn't last. We figured we've just got to make the most of this as fast as we can before we get our legs cut out from under us."

The Council on Environmental Quality drafted a strong bill, which was weakened somewhat before it was sent to Capitol Hill by the removal of its requirements for pre use testing of chemicals.

Once the bill was on Capitol Hill, interest in it waned, just as the administration's commitment to a strong environmental program faded.

Over the years, the Legislation's supporters have been few: some congressmen and, more recently, a handful of labor unions and environmentalists.

The bill's opponents are numerous and well organized. Their influence is widely based, for chemicals are vital to thousands of manufacturing operations. The job of the lobbyists has been eased by a Congress which is increasingly wary of regulatory legislation and its effects on the economy.

And when the chemical industry talks economics, it does not talk in terms of a few million dollars; it talks of upsetting the whole U.S. balance of trade.

When Dr. C. Boyd Shaffer, representing the Manufacturing Chemists Association, testified last March during hearings before the Senate subcommittee on the environment on toxic substances control, he stressed that exact point.

"Our association is concerned particularly that excessive cost in complying with new regulations in the U.S. will impair the chemical industry's competitive position in world markets at a time when its contribution is needed desperately to maintain the economic strength of the nation."

The Environmental Protection Agency (EPA) estimates the cost of compliance at between $80 and $140 million a year. As much as 20 percent of that cost could be offset by the introduction of new, substitute products to replace chemicals regulated under the bill, according to the EPA.

The chemical industry claims that complying with the Senate version of the bill would cost $1.3 billion a year. A survey conducted by Dow Chemical Co. places the cost at $2 billion.

Industry has used cost figures as formidable weapons in the past.

In 1974, when the federal government stepped in to regulate exposure to vinyl chloride—which by then had killed several workers—the plastics industry announced that the regulations would force industry to shut down, throwing two million people out of work and causing a loss of production and sales as high as $65 to $90 billion.

FALSE PREDICTIONS

Less than two years later, with the regulations in effect, the predictions have proven false. Instead of an industry-wide shutdown, there are four new vinyl chloride producers.

The cost to industry to comply with the new vinyl chloride regulations, according to one private survey, has been about $300 million.

The toxic substances control bill would give government control of what chemicals enter the workplace and the marketplace—a decision which, with few exceptions, has been left entirely in the hands of industry.

In the past, industry has always done such testing, usually keeping the results secret for competitive reasons. Even when the tests have shown a chemical to be hazardous, chemical producers have not always been candid.

In the instance of vinyl chloride, which in 30 years has grown from a fireproofing product in fighter planes to a $65-billion-a-year way of life, the chemical industry kept secret for almost a year the results of industry-funded research which showed that vinyl chloride caused cancer.

The research findings were not made public until after the deaths of several vinyl chloride workers from cancer.

When Boyd Shaffer of the Manufacturing Chemists Association testified last March, he stressed self-monitoring again.

"At this point, we think it appropriate to emphasize that the chemical industry has a long history of toxicity testing in either its own laboratories or those of independent contractors, and has continued to exert leadership in the fields of testing and hazard assessment."

The president of Hohm & Hass described industry's testing methods somewhat differently. Vincent L. Gregory Jr. recalled for the Senate subcommittee on the environment how at one time a substance was determined to be hazardous:

"(In) the chemical industry, I would say generally up until about the middle 1950s and so forth, the method of safety for worker health was really one of smell and taste and, you know, if it made you cry and so forth, this type of gross exposure and acute toxicity. And the emphasis was on this, if this didn't hurt you, and if you didn't fall over, and so forth (it was safe)."

The versions of the bill awaiting a vote of the Senate requires that industry conduct a variety of specified tests on any new chemical substances and report to the EPA these results. In addition, the EPA will be permitted to order testing of substances already produced that could pose a risk to human health.

In the past, toxic substances control bills approved by the House have been considerably weaker than those coming out of the Senate. In this session of Congress, however, a bill similar to the Senate version in its testing provisions awaits action by the Interstate and Foreign Commerce Committee.

Supporters of strong toxic substance controls fear that when the House version comes up for a vote—possibly within a month—efforts to weaken it will be made by Representatives such as John Y. McCollister, a Nebraska Republican who formerly headed his family's petroleum and lubricant company.

McCollister sponsored his own bill. Endorsed by the White House, it provided that only those substances which are identified by the EPA as suspected hazards would be screened.

Critics claim that if the current bill is revised along the lines of McCollister's legislation, a substance such as vinyl chloride—which, until workers began dying, was considered "safe" because it's chemical make-up was innocent-looking would slip through without pre-testing.

The chemists' association has lobbied for the weakest versions of the legislation, supporting pre-market testing of only those substances "likely to pose substantial danger to health or the environment," the inclusion of detailed economic impact studies before any regulation is established and strict protection of testing data to protect trade secrets.

The lobbying has been, in the words of one congressional aide, "phenomenal."

"There have been letters flying in here from every mom-and-pop chemical company in the country," he says.

Industry fears the enactment of a bill similar to the Food, Drug and Cosmetic Act, which regulates food labeling, additives, containers, drugs and cosmetics.

"We don't think this is an FDA situation," says William M. Stover, vice president for governmental affairs of the Manufacturing Chemists Association. "That would be killing a fly with a sledge hammer. If you want to stop air pollution, you don't put a screwcap on all the chimneys."

Industry has argued that there presently are enough federal laws in existence to accomplish the goals of toxic substances control.

They cite environmental laws such as the Clean Air Act and the Water Pollution Control Act. They also point to the Occupational Safety and Health Act (OSHA) as protection against hazards.

TOOLS INADEQUATE

"The problems of industrial use of chemicals are being met with the specific tools which Congress has already provided," industry official Norman Phaneuf testified last summer before a House subcommittee.

He cited OSHA as the prime safeguard against industry abuse.

However, with the exception of food and drug laws and a similar pesticides control act, no existing federal law screens new substances before humans are exposed. OSHA has no provisions for screening new substances for potential hazards.

As a result, the federal government is forced to respond to crises such as the vinyl chloride deaths after they occur.

"The only way to remove ourselves from our current reactive posture is through passage of a strong Toxic Substances Control Act," Russell W. Peterson, chairman of the Council on Environmental Quality, told a group of scientists in Washington in 1974.

Supporters of the pre-market testing elements of the bill also point out that if a substance is shown to be hazardous before it goes into mass production, it can be removed from the market without widespread economic impact.

"Once a substance is on the market, a whole industry develops around it," says Jacqueline Warren, a lawyer for the Environmental Defense Fund, which, after four years of legal proceedings, obtained a ban on the cancer-causing pesticides aldrin and dieldrin, used by farmers since the 1940s.

"There is no question of shutting down a whole industry once production has begun, so you have to regulate. What we should be able to do is prevent its growth through early regulation."

The attitude toward toxic substances control has changed considerably since 1970, when environmental issues were popular and the economy was stronger.

"We were still riding the high crest of the environmental wave," recalls a former Council on Environmental Quality staff member, J. Clarence Davies. Now, he adds, economic issues "rank high" and industry has "dug in its heels."

The first roadblocks encountered for the legislation in 1970 came from the Commerce Department, which has remained an opponent of the bill ever since.

One of the leading critics of the legislation in the early days was James T. Lynn, then general counsel of the Commerce Department. Lynn currently is head of the Office of Management and Budget and still vigorously opposes the bill.

"If the Congress does pass it, there's always the possibility that the President will veto it because of economic considerations," says Davies.

The 1970 version of the bill drafted by the Council on Environmental Quality included a provision for premarket testing. That provision was eliminated by the White House on the ground that it would inhibit innovation in industry.

The provision was promptly restored to the bill when it arrived at the Senate.

The Senate version has remained essentially unchanged ever since. In the House, however, things have been quite different.

From the very first toxic substances control legislation has been "an orphan child, with no one to look after it," according to a congressional staff member.

NEW FACTORS

A number of things have occurred recently that may affect the bill's fate in this Congress.

One of the most significant is the growing strength of the labor-environmentalist lobby for the bill, countering industry's long-time lobbying activities against it.

"Labor is a sleeping giant in this thing," says a Senate subcommittee staff member, Michael Brownlee. "They have always supported this legislation but there is a difference between supporting legislation and working for it."

What motivated labor interest has been disclosures of cancer deaths among vinyl chloride and asbestos workers, according to Sheldon Samuels of the AFL–CIO's Industrial Union Department.

"We've really been shook by both," he says.

Environmental groups also have taken a new look at the legislation, also due to a growing concern over hazardous substances in the environment.

"They've done a turn-around," says Samuels. "They have realized they've got more than the birds, the bees and Yosemite to worry about."

But, just as interest in the bill and support for it outside Congress is growing, the Senate's commitment to strong legislation appears to be weakening. Industry lobbyists, apparently sensing the changing mood, have stepped up their efforts there.

"There has never been any problem with the Senate in the past," says Brownlee. "The legislation has always zinged through. This year, they (the lobbyists) are having an effect. It's not pat here anymore."

The change of attitude is not only the result of lobbying efforts. The passage of two years since the Senate approved the legislation has brought with it some new considerations.

"Those were pre-embargo days, pre-inflation, before the glitter was off the environmental movement," says Brownlee. "It's a difficult time to impose a regulatory program."

LAST CHANCE

This may be the toxic substances control bill's last chance for passage, according to Brownlee.

"If we don't reach agreement in this Congress, it will be hard to get attention on it again."

Supporters of the legislation are counting on increased public pressure to win over uncommitted congressional votes.

Time is working in their favor. With the passage of months come new reports of new hazardous substances striking down workers.

Most recently, over 30 employes of a now-defunct subcontractor of Allied Chemical Co. in Hopewell, Va., and members of their families have come down with body tremors and blurred vision as a result of exposure to kepone, a chemical that causes liver cancer in laboratory animals.

Allied is one of the major chemical producers to take an active role in opposing strong toxic substances control legislation. Another is DuPont.

DuPont has worked long and hard to prevent enactment of strict controls on new chemicals. Yet, workers at the company's Chambers Works in Salem County—where many of the most hazardous substances were and still are produced—know nothing about the legislation.

In fact, there is little sentiment among the plant's workers for the need to strengthen laws concerning exposure to hazardous chemicals.

Most workers, according to Leslie R. Morris, president of the 4,300-member independent union at the Chambers Works, are confident that the company would not expose them to hazardous substances.

"We believe in the sincerity of this company in leveling with us," says Morris.

CONGRESSIONAL BLACK CAUCUS RESPONSE TO THE PRESIDENT'S BUDGET PROPOSAL, PART II

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. FAUNTROY. Mr. Speaker, the Congressional Black Caucus recently released our analysis of the President's proposed budget for fiscal year 1977. We were disappointed that the President again failed to give adequate attention and resources to our Nation's domestic needs. My colleague, Congresswoman YVONNE B. BURKE, chairperson of the caucus, has introduced the first part of our budget response into the RECORD. I am introducing the second part of that response, and Congressman ANDREW YOUNG is introducing the third section.

The article follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH

A crucial area of concern for the minority community falls under the jurisdiction of the Department of Health, Education, and Welfare. President Ford, in acknowledging sustained growth of this Department's account, has attempted to legitimize a new legislative program of a block grant to states so that states might bear the burden of a national problem.

Mr. Ford intends to consolidate 16 programs into a health service block grant program to states. In doing so he has eliminated the categorical programs for hypertension and home health services along with proposing to reduce the Supplemental Appropriations Act of 1976 for health services from $90 million to $50 million. Mr. Ford is anticipating a legislative proposal to consolidate the Center for Disease Control and therefore proposes to cut $13 million that was appropriated specifically for rat control projects under the Public Health Service Act. The block grant mechanism would negate the health project grant system that was specifically adopted to meet the needs of local agencies and non-profit organizations. The President's Financial Assistance for the Health Care Act that would replace Preventive Health Services reduces federal expenditures for preventive health care from $141 million to $34 million. Preventive health—a regional issue—also remains a public issue and should be retained on the national level.

Also consolidated under the Financial Assistance for Health Care Act are programs which were earmarked for alcohol, and mental health. The 16 program consolidation, costing the Federal government $10 billion, cannot be specifically geared to meet low income interest if the program funding mechanism is a block grant.

President Ford has proposed to combine Medicaid and 15 categorical programs through the Financial Assistance for the Health Care Act, into the $10 billion block grant program to the States. There are three points of concern with this proposal:

(1) local governments and local non-profit organizations will be eliminated from the project grant programs that were specifically designed to meet local needs. The President has expressed a desire to rescind the Supplemental Appropriations Act of 1976 which refers to Section 317 of the Public Health Service Act with regard to rat control. This project grant was federally designated as a local program and was appropriated $13.1 million for implementation in 1976. Lead paint poisoning programs, and prevention and control of venereal and other infectious disease programs that were designated by statute will also be eliminated by the block grant mechanism. The urban and minority community must be cognizant of the Administration's attempt to phase out the power of self-determination in the local community.

(2) President Ford has once again proposed catastrophic health insurance for the elderly. Last year he proposed a $750 per year hospital insurance maximum and this year it is $500 per year. These are the pertinent points to this legislation:

(a) a maximum of $500 for hospital costs and $250 for physician services per annum for all participants;

(b) a 10 percent coinsurance for all hospital costs incurred below the maximum and over the one day hospital deductible;

(c) cost reimbursements would be limited to 7 percent for hospitals and 4 percent for physicians' fees.

It becomes rather apparent, when analyzing the income of those over 62, that this annual expense will continue to be an insurmountable burden to our elderly. This facet of proposed insurance also does not reveal the fact that $500 for hospital cost and $250 for physician service does not insure against those perils that are not covered by Medicare. This proposal also places a de facto wage control on the hospital administration. If hospital cost and physicians' fees should increase by more than 7 percent and 4 percent respectively, the Medicare recipient would be forced to supplement the difference. We cannot allow our fixed income elderly to again be the victims of inflation and cyclical variation.

(3) The President's health budget proposal is a political ploy designed to pacify the state governments and conjure support from the elderly. However, if the Administration's current $9.5 billion medicaid cost is underestimated, the states would be forced to pay a higher amount to maintain the current service level or they would cut back on the services provided to the recipient. In either case, the $10 billion block grant is well below the recently passed Labor-HEW appropriations designation for health and will not serve the needs of the states or the recipients.

The most recent Congressional Budget Office estimate of $9.5 billion for Medicaid and the $3.2 billion for other health programs proposed in consolidation, with no requirements for matching state funds, would culminate in approximately a $2.7 billion loss of health services. The elderly and project grants of the city and county administration will surely suffer from this proposed loss.

EDUCATION

In the area of Education, President Ford has proposed to consolidate 27 currently funded educational programs at a $6.8 billion level into a Financial Assistance for Elementary and Secondary Education block grants to states with a $3.3 billion funding level. This proposal would destroy the already deteriorating tax base of the inner city if any attempt was made to sustain the current program level. The President's proposal is with a total disregard for the middle class homeowner. The homeowner currently suffers from escalating property taxes used to subsidize the eixsting gap between federal and state funds for education and local needs. Any further reduction in federal support would place an insurmountable burden on the municipal bond market and the local tax base. In the dusk of the fiscal crisis of New York, the Administration must become more sensitive to urban development as an alternative to urban deterioration.

Impact aid is also cited for legislative modifications. The three tier hierarchical funding mechanism would only be funded at tier one levels. This would dictate little categorical funding for the children living in public housing. The plight of urban education is amorphous in the Presidential budget request. We will not tolerate the neglect of inner-city children and we cannot nor will we accept a Presidential request of that same nature.

WELFARE-PUBLIC ASSISTANCE

The Administration proposes to reduce the 1977 outlay in maintenance assistance (welfare) by $256 million. This will be accomplished by imposing additional restrictions on the monthly income eligibility and the subsequent 200,000 caseload reduction for current recipient families with dependent children (AFDC).

Medical Assistance under Title XIX of the Social Security Act is made available to all states with an approved plan. Currently all AFDC cash recipients are eligible for medicaid benefits. The Administration's intent is to "block grant" this federally mandated medical assistance to state governments.

Under Title XIX of the Social Security Act grants are made to states with an imposed $2.5 billion ceiling and a state grant matching aid provision of 75 percent. Day care, foster care, public assistance staff training and other social services have a projected 1976 total program cost of $3.2 billion. The Ford Administration proposes to negate the state matching requirement and initiate a block grant of $2.5 billion for social services. The $0.5 billion 1976 outlay for child welfare services is omitted from Administration concern. These funds are earmarked for the care of neglected homeless children regardless of their parents' income. Also eliminated were the training projects under Section 426 of the Social Security Act and the research and evaluation programs under Sections 1110, 1115 and 426.

NONPROFIT POSTAL RATES FOR BLOCK ASSOCIATIONS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. KOCH. Mr. Speaker, I am introducing a bill which would include community block associations among the categories of nonprofit associations eligible for special third class mailing rates. Under the United States Code, special nonprofit organization rates are limited to religious, educational, scentific, philantropic, agricultural, labor, veterans, and fraternal organizations.

In recent years, there has been an upsurge in the number and importance of community block associations. In this time of national economic trouble, it is particularly important to encourage the activity of these groups, who valuably assist in mitigating the effect of cuts in public services, and developing a stronger sense of community.

The bill I am introducing defines "community block association" as any nonprofit association or other organization which is: First, composed of residents of a community or neighborhood; and Second, organized for the purpose of considering and disposing of matters affecting such community or neighborhood; and carrying out programs and activities designed to improve the quality of life in such community or neighborhood.

Special rate privileges to nonprofit groups make it possible for associations in this category to contact their membership by mail as often as is necessary overextending their usually limited funds, also permitting the Post Office the right to handle this bulk mail on a nonpriority service basis.

It is entirely possible that the omission of block associations from the definition is due to the more limited number and lesser significance of these associations at the time the law was written, and that it is the intent of the law to include this group. My bill would correct this situation.

THE BYELORUSSIAN DEMOCRATIC REPUBLIC

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DELANEY. Mr. Speaker, today Americans of Byelorussian descent are celebrating the 58th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic.

The Byelorussian people are one of the oldest ethnic groups now under the Soviet yoke of oppression. They had been living in their homeland, which extended from the eastern borders of Poland to the approaches of Moscow, since before the ninth century. There they led a peaceful and rewarding existence until around the turn of the 16th century when Moscow launched a series of attacks against them. In fact, Byelorussia served as a cultural and artistic center for all of Eastern Europe. The Byelorussians introduced the ideas and works of the Renaissance into the area and they became the third ethnic group, after only the Germans and the Czechs, to have a Bible printed in their native tongue.

Russian military might gradually increased until Byelorussia was forced under the tyranny of the autocratic czars. One czarist government after another did its best to obliterate all Byelorussian national identity. Repeated anti-Russian uprisings occurred—especially in 1830 and from 1863–70. The great national hero, Kastus Kalinouski, among many others, died on the gallows for reminding his fellow countrymen in 1864 that they could never be happy while Moscow ruled over them.

Finally, in 1918, when the czarist government was overthrown, they saw their chance for freedom and on March 25 the All-Byelorussian Congress issued its Declaration of Independence:

> A year ago, the peoples of Byelorussia, together with all the peoples of Russia, threw off the yoke of Russian Czarism which, taking no advice from the people, had plunged our land into the blaze of war that ruined most of our cities and towns. Today we, the Rada of the Byelorussian National Republic, cast off from our country the last chains of the political servitude that had been imposed by Russian Czarism upon our free and independent land. From now on, the Byelorussian National Republic is to be a free and independent power. The peoples of Byelorussia themselves, through their own Constituent Assembly, will decide upon the future relations of Byelorussia with all other States. . . .

Their independence received immediate de jure recognition from over a dozen states and Byelorussian legations and consulates were set up in a number of foreign capitals. But Moscow, by then Bolshevik, again invaded and the new state was brutally snuffed out.

I join my colleagues in extending best wishes to our fellow Americans of Byelorussian descent as they commemorate their declaration of liberty and assure those still living under Soviet domination that their plight has not been forgotten. Theirs is a struggle for the emergence of all captive nations and their victory a necessary prerequisite for any lasting world peace.

FIFTY-EIGHTH ANNIVERSARY OF THE PROCLAMATION OF INDEPENDENCE OF THE BYELORUSSIAN DEMOCRATIC REPUBLIC

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DERWINSKI. Mr. Speaker, today, March 25, marks the 58th anniversary of that brief period in history when the Byelorussian people enjoyed national independence. In 1918, the Byelorussian National Council issued a proclamation of independence, thus forming the Byelorussian Democratic Republic and ending 3½ centuries of foreign domination. Unfortunately, the Byelorussians were allowed to enjoy their freedom only a few short months before their sovereignty was crushed by the Bolshevik forces of the Soviet Union.

This anniversary is of great significance for citizens of Byelorussian origin in the United States and in other countries in the free world. However, in Byelorussian, this national observance of independence is replaced by the celebration of the Bolshevik Revolution, which signifies the subordination of Byelorussia to Soviet Russia.

Despite continuous terrorist activities imposed upon them under the Communist regime, the Byelorussians fought at every opportunity for liberation from Soviet Russian domination. At the end of World War II, the All-Byelorussian Congress again convened to approve a second proclamation, but was dispersed by the Soviet Government.

In 1973, the Soviet Russian Government introduced an economic and administrative redistricting, dividing the entire territory of the U.S.S.R. into seven districts. This partition completely ignores the existing non-Russian ethnic groups and their individual republics within the U.S.S.R. In effect, this increases the solidarity of the Russian empire and consolidates non-Russian nationalities into a single Soviet Russian nation.

May I also take this opportunity to commend the many Americans of Byelorussian origin who continue to strive for the eventual restoration of freedom for their homeland. This anniversary serves as a reminder that the spirit of freedom continues to burn in the hearts of the Byelorussian people in the face of Communist oppression.

At this point in history, when we are commemorating the principles of freedom and democracy on which our country was founded, we should emphasize the right of self-determination for those people deprived of their rights within the Soviet Union. Therefore, I take this occasion to direct the attention of the Members to this anniversary of Byelorussian independence so that not only the people of Byelorussia but all captive nations will continue to receive our encouragement until the day comes when their freedom is restored.

CONGRESSIONAL SALUTE OF EXCELLENCE TO THE HONORABLE WILLIAM B. PIRONE OF NEW JERSEY, CHAMPION OF DISABLED AMERICAN VETERANS, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ROE. Mr. Speaker, on Saturday, April 3, residents of my Eighth Congressional District, State of New Jersey will assemble at the Roman Forum in West Paterson, N.J. to honor one of our most prominent citizens, champion and outstanding national leader of all of our veterans and servicemen, good friend and neighbor, the Honorable William B. Pirone, Adjutant of the Disabled American Veterans of New Jersey, who has achieved the highest standards of excellence in distinguished service to his country and his fellowmen.

For as long as I can remember, Bill Pirone has been in the vanguard of the "combat troops" on all fronts, at home and abroad, in seeking justice and equity for all of our people. Before his induction into the armed services of our country and combat duty with the second U.S. Cavalry in World War II, he learned the fundamental principle of exemplary sportsmanship as evidenced by his having been singled out to play professional baseball with the New York Giants farm teams at Jacksonville, Fla. and the Jersey City Giants.

Mr. Speaker, Bill Pirone was born in, and has been a lifelong resident of the historic city of Paterson of my congressional district. He received his elementary and secondary education in the city's public school system and graduated from the Stevens Institute of Technology with a B.A. degree in Business Administration.

Bill is the universally recognized champion of our disabled American veterans—not only for his sincerity of purpose and dedication to their noble cause in his quest for legislative and administrative measures to provide them with the dignity, respect, protection and security of our country which they so richly deserve, but because he too has known the pain and suffering of the wounds of battle in our armed services.

His youthful goals and ambitions which were headed toward a most promising and highly coveted career in major league baseball were redirected on February 1, 1943, when he became a member of the Armed Forces of our country to do battle in World War II. He was assigned to the European theater of combat and on June 6, 1944, participated in the massive assault on Normandy Beach that is now heralded as one of the major turning points in the war and will always be remembered by all of us as D-Day. He landed at Utah Beach, Normandy, France on D-Day and holds the Purple Heart Medal with two oak clusters for the wounds he suffered on that day, and in subsequent battles that occurred in August 1944 and March 1945. He served with the 1st Army and was among those brave and courageous soldiers of the five campaigns which were known as the Ghosts of Patton's 3rd Army who fought on the battlefields of Normandy, northern France, central Europe, Ardennes and Rhineland.

Mr. Speaker, our great country and all of our people can be justly proud of Bill's outstanding contributions in service to our country. He received his honorable discharge from the Army on July July 5, 1945, and has continued to serve in civilian life as an esteemed member of the Disabled American Veterans, American Legion, Veterans of Foreign Wars, Military Order of the Purple Heart, Amvets and the Riverside Veterans of Paterson, N.J.

Bill was president of the Veterans Council of Paterson. In the DAV he moved up through the organization's exexecutive offices to be elected department State commander in 1960–61 and national junior vice commander in 1962-1963. Since 1967 he has served as business manager and is currently the adjutant of the Disabled American Veterans, Department of New Jersey.

In addition to the leadership positions he has held in veterans' organizations, he has achieved the deepest respect and acclaim for the quality of his leadership in civic and community affairs. We are especially appreciative of the excellence of his achievements as a former city park commissioner and in his present office of public trust as Commissioner of the Board of Adjustment of Paterson.

Mr. Speaker, during this Bicentennial Year as we reflect on the history of America and the outstanding contributions made by our citizens in achieving our Nation's preeminence as a representative democracy, second to none, among all nations of the world, I am pleased and privileged to commend to you all of the good works of Bill Pirone. I share the pride of his wife, Clara, their son, William, Jr. of Paterson; and daughters, Patricia (Mrs. John) Brown of Paterson, Dorothy (Mrs. James) Amenta of Paterson, and Carol (Mrs. Robert) Orosz of California; in his exemplary accomplishments which have truly enriched our community, State, and Nation.

I particularly commend to you and seek national recognition of his unselfish and untiring devotion and dedication in seeking justice and fair play for all of our veterans and their families. I might also add that his courage and fortitude in his own personal battle against the pain and anguish of the wounds he suffered in World War II is applauded by all of us and I personally am pleased and honored to be numbered amongst his many, many friends. The Congress of the United States extends its greetings and felicitations to Bill Pirone, a champion of our disabled American veterans, community leader, and great American.

JOHN H. BARCROFT OF NEH RECEIVES AWARD

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BRADEMAS. Mr. Speaker, we hear a great deal of criticism now to the effect that the Federal Government that does not direct itself sufficient to the needs and concerns of the American people. It is a special pleasure, therefore, to recognize the outstanding accomplishments of John H. Barcroft.

In only 4 years Dr. Barcroft has developed a unique program for the National Endowment for the Humanities that is active in all 50 States and supports a wide range of local projects. Dr. Barcroft has brought his bold imagination and many talents in service to the public. In recognition of his innovative efforts, Dr. Barcroft has received the Arthur S. Fleming Award honoring outstanding young men and women in the Federal Government.

I insert in the RECORD the announcement of that award:

JOHN H. BARCROFT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES RECEIVES ARTHUR S. FLEMMING AWARD HONORING OUTSTANDING YOUNG MEN AND WOMEN IN THE FEDERAL GOVERNMENT IN 1975

WASHINGTON, D.C.—John H. Barcroft, Director of the Division of Public Programs of the National Endowment for the Humanities, has been selected as a recipient of the 28th annual Arthur S. Flemming Awards honoring outstanding young men and women in the Federal government for 1975.

Awards are made for meritorious achievements having current impact on Federal programs or operations. They will be presented in Washington on March 17 to ten young persons in the Federal government, five for technical or scientific achievements and five in the administrative category.

Dr. Barcroft was selected for the Flemming Award for his development of the State-based Program, a unit of the Division of Public Programs.

The Flemming Award Citation states that "this 'State-based' program, instituted in all 50 states in only four years, has generated over $37.9 million in private funds; supported over 3,500 locally initiated projects sponsored by a wide variety of civic, business, and educational organizations; and brought together through the efforts of over 30,000 volunteers, more than 10,000 professional humanists and approximately 20 million citizens as participants or audiences."

Dr. Ronald Berman, Chairman of the Humanities Endowment, said, "John's selection out of hundreds of nominations is a great honor to him personally; it is also an honor for the agency."

As Director of the Division of Public Programs, Dr. Barcroft is responsible for developing long range plans designed to make humanistic knowledge more accessible to the general population. In addition to the State-based Program, Dr. Barcroft's Division also includes the Museums and Historical Organizations Program, Program Development, and the Media Program.

Among other important projects, the Museums and Historical Organizations Program has supported the exhibition of artifacts from the People's Republic of China and an archeological exhibition of treasures from the museums of the U.S.S.R. The nationally acclaimed "Adams Chronicles" television series has received substantial support from the Media Program unit.

The citation for Barcroft also states, "As the result of his vision, energy, and administrative skills, a nationwide program in the humanities, unique in the world, is in operation through which citizens are acquiring a deeper understanding of local, state and national problems.

"The State-based Program reflects his belief in the importance of the humanities in national life, and his faith in our political process that depends on an informed citizenry. Public response to this unprecedented activity is testimony of a personal achievement which has intellectual and social significance for the nation."

Dr. Barcroft was a member of the NEH staff from 1966 to 1968 as Assistant Director and then Director of the Office of Planning. After two years as Provost of New College in Sarasota, Florida, he returned to the Endowment as Director of the new Division of State and Community Programs. When that Division was merged with another to constitute what is now the Division of Public Programs, Dr. Barcroft was named Director.

Dr. Barcroft has a B.A. from Brown and an M.A. and Ph. D. from the University of Minnesota. He is a member of the American Historical Association and the Conference on British Studies and has served on the faculties of Wheaton College and the University of Washington.

Currently celebrating its tenth anniversary, NEH is a Federal agency with specific legislative authority to encourage and support national progress in the humanities. There are five grant making units in NEH, each with responsibility for a major area of national need. These are the Division of Public Programs, Division of Research Grants, Division of Fellowships, Division of Education, and the Office of Planning and Analysis.

RURAL AMERICA FACED WITH ECONOMIC AND SOCIAL PROBLEMS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RUPPE. Mr. Speaker, in the past few years, rural America has been faced with a host of economic and social problems of such proportion as to raise the question of whether rural Americans are indeed second-class citizens. While there are obvious advantages in the quality of life offered there, one of the genuine pressing problems is a shortage of physicians, both general practitioners and specialists. Currently, security of health care is a constant concern for most residents, and the specter of losing even one or two physicians throws whole communities into panic. Physicians themselves are often unwilling to locate in a nonurban environment, and actual health care facilities are frequently limited.

Areas such as northern Michigan are far below the standards of the rest of the country in terms of number of doctors. Northern Michigan has 1 physician for every 1,470 people, whereas the national average is 1 to every 700 people. Only in the more heavily populated areas of the Upper Peninsula do ratios approach the national average. Today, there are roughly 340 physicians in the area, whereas 12 years ago, there were 217. However, many of the new doctors are specialists locating in major population centers.

The Federal Government has taken some steps to help rural practitioners. Efforts have been made to get medical schools to establish quotas for individuals prepared to settle in rural areas. But, in my opinion, the biggest single impediment in attracting medical practitioners to nonurban America has not been removed; that is, the outmoded and discriminatory reimbursement policies for doctors under medicare and medicaid.

The reimbursement mechanism divides the State into zones and discourages settlement by physicians in the northern part of the State because of the higher reimbursement rate for the cities. Further, it cannot help but limit the effectiveness of new facilities and equipment in outstate Michigan. Under this system, the medicare fees which are paid to physicians in Michigan's urban area are somewhat higher. Thus, equally trained, equally competent physicians are not paid on the basis of training, knowledge, experience, or ability but solely on the criteria of where they live. Writes one northern Michigan resident:

> From the time I started practicing, I was discriminated against and given lower reimbursement fees because I was in a rural area.

This practice encourages physicians to locate in metropolitan centers for their livelihood, even though these cities have an adequate supply of doctors. One community has recently contacted me to relate their problems in recruiting an anesthesiologist for their area, due in part to the discriminatory reimbursement policies.

There is no longer a need for retaining this archaic payment system. It has been traditionally defended on the grounds that the cost of living is greater in an urban area than a rural one and because of the traditional myth that the costs of running a medical practice are greater in Detroit than in the Upper Peninsula of Michigan. Recent studies have shown that costs run nearly equally in all parts of the State.

I firmly believe that the reimbursement policies of the past must not be perpetuated in the future. Therefore, I have introduced legislation, H.R. 12393, to remedy this situation. It requires that a uniform fee schedule be set in each State and reimbursement of physicians under medicare and medicaid be equalized. I would urge that the House Ways and Means Committee give serious consideration to this problem. Rural health care problems are all too serious without the continuing disincentive of discriminatory reimbursement rates.

SENSIBLE GROWTH POLICY ADOPTED BY ANNE ARUNDEL COUNTY, MD.

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mrs. HOLT. Mr. Speaker, for many years political subdivisions around the country have been wrestling with the problem of how to balance the need for housing with the need for an orderly pattern and rate of growth.

I am very pleased to offer for the RECORD this statement of a sensible growth policy adopted by the Anne Arundel County Chapter of the Home Builders Association of Maryland.

I believe this shows the concern of the homebuilders for preservation of a decent quality of life while development of needed housing proceeds.

The resolution follows:

RESOLUTION

Whereas, the words Sensible Growth describe a reasonable and responsible effort to balance concerns for the environment, the economy, and the social well-being of Anne Arundel County in fulfilling this Nation's stated goal of a "decent home and a suitable living environment for every American Family", and

Whereas, Sensible Growth recognizes the need for communities as well as builders to correct past deficiencies in growth patterns and to provide reasonable safeguards of the environment for future generations without unduly curtailing the supply of needed housing, and

Whereas, Sensible Growth is planning today for tomorrow's needs. Planning which places arbitrary limits on the supply of housing or excessive development costs on new construction is counter-productive and not responsive to this country's need for housing, and

Whereas, the cornerstone, therefore, of Sensible Growth is planning. Planning which protects and preserves the environment while providing affordable housing. Planning which accounts for all geographic areas (urban, suburban and rural) of Anne Arundel County; planning which provides for the development of low, moderate, middle, and upper income housing; and community facilities, and transportation, and

Whereas, the planning process begins by developing a comprehensive general plan. The comprehensive general plan establishes general policies and objectives to guide the physical development of Anne Arundel County, and

Whereas, additional and more detailed studies must be developed examining specific areas of concern such as housing, transportation, community facilities, parks and recreation, natural resources and other areas of interest to Anne Arundel County, i.e., historic preservation, and

Whereas, the housing element assesses the present and future housing needs of Anne Arundel County and formulates specific policies and objectives for a housing program. The transportation element reviews present and future requirements for roads, rail and transit systems. The community facilities element deals with services such as police, fire, education, health, and welfare. The parks and recreation element examines open space needs, both active and passive recreation; and the natural resources element covers water, sewer, storm sewer, and environmentally critical areas, and

Whereas, the County general development plan and accompanying studies are effective only when implemented. The general policies and objectives articulated in the plan must be translated into strategies for implementation. These take the form of County legislated programs and regulations and include the County's capital improvement and operating budgets, Zoning Ordinance, Subdivision Regulations, Master Sewer and Water Plan, and a Housing Program, and,

Whereas, the Anne Arundel County Capital Improvement and Operating Budget charts the financial means and method by which additional community facilities are provided and funded and assures an adequate supply of developable land to meet the housing needs of the County. Arbitrary limits on new housing construction should not be made implicit by unreasonably limiting capital improvements, and

Whereas, the Comprehensive Zoning Maps and Zoning Ordinance establish the densities and uses permitted in accordance with the plan. Sufficient flexibility should be provided allowing the use of cluster and planned unit development. Incentive zoning such as density bonuses should be made available to achieve the objectives of the plan, and

Whereas, subdivision regulations must reflect the current thinking on the latest development techniques. Standards should be directly related to performance. Cost effective residential development standards must serve as guidelines for the subdivision regulations. Permit approval times should be specifically prescribed and reasonable fees and changes established, and

Whereas, the Master Sewer and Water plan must reflect a positive attitude on the part of Anne Arundel County to provide needed services and facilities to existing as well as future residents, and

Whereas, a Housing Program based on the housing element must be instituted with the development of a system for the allocations of numbers and types of units to the prescribed election districts within the planning maps, and

Whereas, therefore, specific requests for zoning which comply with the plan should be granted administrative approval without undue delay, and

Whereas, deviations from the plan should be limited to those cases of exceptional merit. A strong legal presumption of validity should be accorded those plans reflecting a balanced approach. Concurrently, development proposals which are consistent with the plan should be accorded a similar legal presumption of validity, and

Therefore, be it resolved, that the Anne Arundel County Chapter of the Home Builders of Maryland request that this resolution receive the widest public dissemination of its position, both to civic, public bodies and the press, and

Further, be it resolved, that a copy of this resolution be forwarded to the U.S. Representative in Congress for Anne Arundel County for insertion in the Congressional Record, and

Further be it resolved, that this resolution be submitted to Anne Arundel County for recommendation that a formal resolution be adopted by the County Council at the first meeting after its receipt, and

Further be it resolved, that this resolution constitutes the policy and position of this Association for the Year 1976.

THE ARAB BOYCOTT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Ms. HOLTZMAN. Mr. Speaker, the Arab boycott continues to have serious discriminatory impact on U.S. businesses and U.S. citizens.

For example, New York State has apparently been penalized for enacting legislation barring such discrimination. The following New York Times articles indicate that Arab trade may have switched from the Port of New York to ports in other States. New York should not suffer for taking steps to protect its citizens from discrimination. Rather, the Congress should act now to establish a firm national policy against such discrimination.

The text of the articles follows:

LOSS OF BUSINESS LAID TO BIAS BAN—ARAB BOYCOTT LAW HEARING ASKS WITNESSES FOR FACTS

(By Edith Evans Asbury)

New York has lost a substantial amount of business and is threatened with the loss of thousands of jobs because of a new law aimed at preventing bias, according to testimony yesterday before a legislative committee.

The testimony was given at a session called to investigate the impact of the law, which was designed to protect New York concerns and employees from discrimination because of the Arab blacklist of companies doing business with Israel or employing Jews.

Assemblyman Joseph F. Lisa, Democrat of Queens, who sponsored the new law and was chairman of yesterday's hearing, challenged the testimony critical of the law and demanded that it be substantiated at a later hearing with "names and facts, not just bland outlandish statements that doomsday is here."

Assemblyman Lisa asked Jerry Ullman of the New York State Freight Forwarders Association to supply the "facts and names" at a future hearing.

Mr. Ullman had testified that "millions of tons in shipping" would be diverted from the New York port, with the consequent loss of "thousands of jobs" as a result of the New York law, which he asserted was unnecessary because of pre-existent Federal regulations.

New York's new law affects not only New York, but shippers and manufacturers all over the country, Mr. Ullman said. As a result, they have already begun to route their shipments to Arab countries through Philadelphia; Boston; Norfolk, Va.; the Great Lakes; Houston; Baltimore; Canada, and other ports, Mr. Ullman said.

After challenging Mr. Ullman to "prove your allegations with facts," Assemblyman Lisa demanded to know why, if the business was really going to the other states. Mr. Ullman could claim that the Federal regulation was adequate protection against the Arab boycott.

"Why—if they are moving to Houston—are they moving there if the Federal regulation is as strong as our New York law is?" Mr. Lisa asked.

A statement filed with the committee by the New York Chamber of Commerce and Industry also declared that "a substantial volume of the export trade to the Arab countries is bypassing New York state" already, as a result of the new law.

Gilbert Weinstein, vice president of international affairs for the chamber, was also directed by Assemblyman Lisa to provide names and facts to substantiate the "allegations" about diversion of shipments.

Earlier in the all-day hearing at Carnegie International Endowment Center, 345 East 46th Street, Assembly Speaker Stanley Steingut declared that the "United States Government appears to have been an all too-willing partner of the Arabs" in their boycott.

Mr. Steingut also asserted that "banks have played a principal role in the enforcement of the boycott."

Representatives of several New York banks will be among witnesses when the hearing continues at 10 A.M. today.

[From the New York Times, March 22, 1976]

ANTIBOYCOTT LAW TRIMS PORT'S MIDEAST TRAFFIC

(By Richard Phalon)

Exporters, apparently worried about breaching a new state law that makes aiding the Arab boycott of Israel a misdemeanor, are diverting cargo destined for the Middle East from New York City to other ports.

The law, an amendment to the State's Human Rights Act, became effective Jan. 1. According to James J. Dickman, president of the New York Shipping Association, it is too early to tell exactly how hard the port has been hit so far.

"We just know we're losing an awful lot of freight," he said in an interview. "We're probably losing a minimum of two million tons a year."

That figure would represent about 9.5 percent of the total 21 million tons of general cargo the port of New York handled last year.

The port, partly because of its comparatively high operating costs, has been losing freight to Montreal, Baltimore and other East Coast ports for years.

The "Lisa law"—Assemblyman Joseph F. Lisa, Democrat of Queens, sponsored the statute—is apparently accelerating that trend.

According to Gerald H. Ullman, general counsel for the New York Freight Forwarders Association, and Gilbert Weinstein, vice president of international affairs for the New York Chamber of Commerce, the economic pressure has already begun to eddy from the longshore labor on the docks to packing houses and freight forwarders.

Mr. Lisa could not be reached for comment. In the past he has contended that such commentary is on shaky factual ground.

But a spot check of freight forwarders (whose function is to arrange the details of a shipment from the exporter's factory to the point of consignment) suggests that business is indeed being funneled elsewhere.

Steve Palumbo, a vice president of Behring International Inc., one of New York's biggest freight forwarders, says that volume at his firm has dropped "10 to 20 percent" since the Lisa law went into effect.

Behring, in fact, has written its clients and told them it could no longer handle out of its New York office shipments certified as not being of Israeli manufacture.

Saudi Arabia, Bahrain, Syria and other Arab nations almost invariably require such a certification before they will accept delivery of purchases made here.

Exporters and freight forwarders are also required, as part of the Arab boycott of Israel, to certify—among other things—that the ship on which the goods are being moved does not call at Israeli ports and is not on the Arab blacklist.

CONDITIONS NOTED

In the letter to clients, Behring said its New York office "at the present time" would not be able "to ship freight to any country which takes part in restrictive trade practices or boycotts."

The letter also went on to note, however, that "all other B.I.I. offices will be operating under normal conditions."

"Our customers have told us they don't want any problems," Mr. Palumbo said in an interview. "They don't want to come to New York because of the Lisa law."

Thus far the law, which rolled through the Legislature with no opposition, has not been enforced. Werner H. Kramarsky, State Human Rights Commissioner, could not be reached for comment, but he has testified that he has neither the staff nor the budget to administer the law.

Though Mr. Ullman and other lawyers have broadly construed the law forbidding any "aiding and abetting" of the Arab boycott, the Human Rights Commission has not issued any guidelines or regulations under the statute.

According to one freight forwarder who said he did not want his name disclosed, the result is that "I'm not sure whether I'm breaking the law or not."

This forwarder has taken the precaution of setting up a New Jersey corporation and opening a small office in Linden, N.J., to which he intends to shift his business if the law is enforced.

"It would either mean staying in New York City and firing 40 percent of the 35 people in the office, or moving out of the city entirely," he said.

DEPARTMENT MOVED

Behring has already moved the 40-person purchasing department that used to serve the Arabian American Oil Company from New York City to Houston. Mr. Palumbo said the move was prompted by the need for "better controls" rather than the Lisa law.

Both Mr. Weinstein of the New York Chamber of Commerce and Mr. Ullman of the Freight Forwarders Association insist, however, they have been told that the new statute was the main reason for the relocation.

"That's 40 jobs the city can ill afford to lose," Mr. Weinstein declared. "Aramco alone moved millions of tons through the port—a tremendous amount, enough to keep one small port busy, all on its own."

The Chamber of Commerce official said he could not put a number on how many jobs had been affected here, but he added, "You have to think of the packing companies and others who make their living out of foreign trade.

MORAL ISSUE SEEN

The Lisa law has the backing of the American Jewish Congress, which contends that the Arab boycott is a moral issue rather than an economic issue. It takes the position that American business "complicity" in the boycott is a form of "economic warfare."

Mr. Ullman says he thinks the Lisa law could be amended in a way that "the port and everybody else could live with," although he says he sees no movement in that direction.

"We've been getting a lot of tea and sympathy in Albany," he said, "but not much of anything else."

DICK OTTINGER HONORED

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RIEGLE. Mr. Speaker, on March 16, 1976, my good friend and colleague, DICK OTTINGER, was honored as "Man of the Year" by the Westchester division of the Anti-Defamation League. It is my privilege to share with you the invocation offered that evening by Rabbi Abraham

Klausner, spiritual leader of Temple Emanu-El in Yonkers, N.Y.:

Invocation by Rabbi Abraham Klausner

There is a prayer in the breaking of the dawn
In the first cry of a newborn child
In a melody
And the splash of color
There is a prayer in the heart that feels the pain of another
In a snowflake riding the wings of the wind
In a smile, and a glistening tear
There is a prayer in a man
Who worships the needs of his people
And attends the promise of his country
And there is a prayer in a community
That joins together to honor such a man.

We invoke God's blessings upon you, Richard Ottinger
May you, now and through all your years,
Remain steadfast in your dedicated services
To this people and this land.

May you now and forever be a prayer for us.

CRIME STRIKE FORCE IS CRIMINAL MENACE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. CLAY. Mr. Speaker, in my opinion, it is a crime that this Government continues to support the so-called Federal Crime Strike Forces. Each passing day reveals, somewhere in the country, evidence that this group is squandering millions of taxpayers' dollars on highly questionable, if not illegal, schemes. In the process, reputable citizens are being maligned, abused, and forced to expend great amounts of money to protect and defend themselves.

Mr. Speaker, I commend an article by Jake McCarthy which appeared in the March 19, 1975, edition of the Post Dispatch to my colleagues:

Another Strike Force Strikeout

(By Jake McCarthy)

I always thought the term "Federal Strike Force" sounded awfully ominous—practically un-American. I guess it was intended to be scary, arising out of former President Richard M. Nixon's regime and its pretense to bring law and order back amongst us. In his case, as the 1960s ended, "law and order" meant stifling dissent, and didn't have much to do with himself or his cronies.

So the Federal Strike Force on Organized Crime came into existence to give us a false sense of well-being. Its name suggested an assault either upon the Mob, which parcels out the illegitimate goodies on one side of the tracks, or upon the conglomerates and multinational corporations who take care of breaking the law out around the country clubs and island paradises.

But as time went on, it didn't seem to be working that way.

Instead, if you watched closely, the feds were doing some strange things. On this side of the state, the Strike Force gratuitously threw the name of Representative Bill Clay, the state's first black Congressman, into a drug indictment, and it turned out to be an unsubstantiated and (for me) an unforgiveable matter. Then it went after a powerful South Side Democratic Leader, Sorkis Webbe. After a lot of smoke and wind, it found an obscure 1968 business deal and tax matter and brought charges in a trial so dull and technical that it put some jurors to sleep. On Wednesday, Webbe was acquitted.

(On the other side of the state, a U.S. Attorney's office was working the same sort of fishing expedition on former Gov. Warren E. Hearnes, an on-going attempt you'd think they would conclude one of these days. In the process they hooked local banker Donald Lasater and messed his name over; his lawyers, after Lasater's acquittal by a judge, now charge the indictment was merely part of the get-Hearnes game.)

In the course of watching such unusual exercises in the pursuit of justice, the name of Liam Coonan recurred in the news reports. As head of the local strike force, it seemed he must be an awful man, racing about picking on all the wrong people. But some mutual friends said he was an all right guy, and so we met in a kitchen one night.

Liam Coonan wears no horns; he is a charmer. Maybe I'm a sucker for a bit of a brogue; I know I am a patsy for a reasonable man who can discourse about differing opinions without rancor. Coonan does not wear the self-righteousness I had imposed upon him in absentia, nor stride about as a crusader or man to change the world, complete with flailing arms. There in the kitchen in sociable, modulated tones, he said he was simply doing his job.

"If you don't do your job," he said matter-of-factly, "you would expect to get fired. So would I."

Coonan rejected my suggestions that somebody up there was trying to get somebody down here. His own motivation, he insisted, to see justice done dispassionately. Who am I not to give him that?

But the conflict, then, seemed not to be in personalities but in the system. The vast prosecuting business having to make a living, it seemed to me. Another source on that side had told me not long ago that he had a depressed feeling because there was so much crime in high places, here in this city as well, that he despaired of a really decent society. But he had to go on prosecuting at the lower levels, anyway.

I felt some sympathy with Liam Coonan in his job; not as much as for Bill Clay or Sorkis Webbe or Warren Hearnes or Don Lasater, but with the fact that we're all caught in a system of sorts. The justice system is merely part of it; prosecutors frequently learn so much about its kinks that they become successful defense lawyers.

Thus while the Federal Government spends all that money and effort on "fighting crime," it goes on putting slobs and two-bit con artists and penny-ante gamblers and embezzlers in federal prison, dirties up other citizens' names on questionable indictments from rubber-stamp grand juries, and allows the big turkeys—the billion-dollar Mob and the multi-billion-dollar ITTS and Gulf Oils—to go on cackling.

POLISH-AMERICANS DECRY SOVIET MOVES IN POLAND

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. KEMP. Mr. Speaker, the Polish-American community in Buffalo and western New York has become increasingly concerned over recent Soviet activity within the People's Republic of Poland in an apparent effort to make that country even more closely alined with the Soviet Union.

The Communist United Workers Party in Poland has recently begun pressuring for a revision of the Polish constitution in an effort to build into the present constitution of the People's Republic of Poland subservience to the U.S.S.R. A successful resolution of Soviet efforts here would inevitably sentence Poland to virtual Soviet annexation—resulting in the loss of whatever minimum amount of independence Poland now enjoys. The Catholic Church and individuals in the intellectual community are courageously resisting along with brave Poles throughout the country.

The fact that any moves toward further Sovietization of Poland are vehemently opposed by the Polish people is documented by the growing number of demonstrations within Poland in support of the "four basic freedoms"—freedom of "religion, work, speech and information, and scientific pursuit." The efforts of the Polish people in opposition to Communist suppression of individual liberty have enlisted the support of thousands of sympathizers both within and without the country, as well as a large number of Polish-Americans whose families still remain behind the Polish border.

Mr. Speaker, a recent article in the Buffalo Courier Express by columnist Lloyd Graham outlines the details of the concerted plan by the Soviet Government which has slated Poland to be the next "domino" in the Soviet European plan of hegemony. I would like to enter into the Record this article from the February 29, 1976, Courier Express. I urge my colleagues to read it thoroughly, and to join with me in a call for an immediate halt to Soviet-supported actions within the People's Republic of Poland:

Polish Americans Here Upset by Soviet Moves in Poland

(By Lloyd Graham)

We get it by the grapevine that thousands of the respected Polish ethnic strain in our Niagara Frontier life are thoroughly upset by rumblings of big trouble in their homeland.

They have the uneasy feeling that the Russian bear is about to embrace, or try to embrace, Mother Poland with life-crushing effect. In other words, they fear that Soviet Russia is trying to nail down once and for all, complete domination of Poland, perhaps as a prelude to bringing it under the Russian banner as it has other eastern European countries.

Thereby, Russia may head off any possible trouble by those Poles who are unalterably opposed to being dominated by Moscow.

In Soviet Russia, it is the Communist Party that runs the country. It dominates the courts, the executive branch, and the legislative branch of government, such as they are. The Kremlin, it appears, is nudging the Polish United Workers Party, really the Communist party, a minority party in Poland, but the dominant one, to amend Poland's constitution. Thus, the dominance of the party would be made official as it is in Soviet Russia.

What has this to do with Buffalo and the Niagara Frontier? Just this: Thousands of Polish-Americans here are fearfully watching the situation. They wish to do what they can to preserve the shaky freedoms in Poland. Thousands of them have close family ties in that country. They are aghast at the possibility that the Poland they know and love will be completely Sovietized and dominated by Russia if the latest constitutional move succeeds.

They know that a group of 59 Polish intellectuals last December demanded that steps be taken to guarantee the four basic freedoms: freedom of faith and religious practice, freedom of work, freedom of speech and information, and freedom of scientific pursuits.

In recent weeks the protests and demands of the 59 have become the protests of thousands not only in Poland, but supported by sympathizers numbering thousands outside that country not only in Buffalo, but in Chicago, St. Paul, Milwaukee, and other American cities.

Early this month, the Polish-American Citizens Organization, of which Karol Tomaszewski is president, supported by 10 other local Polish organizations, sent an appeal to President Ford, calling attention to this "threat of a deeper Sovietization of Poland, which in many ways affects the interests and feelings of the millions of Polish-Americans in the States."

Copies of the letter to President Ford were sent to members of the House of Representatives from this area and to New York's senators.

This letter points out that the demands of the Polish intellectuals is based on the United Nations "Universal Declaration of Human Rights," to which all members, including Russia and Poland have subscribed.

Not only would the proposed change in the Polish constitution insure the party's control of the government, but, the letter asserts, "the second aim is to build into the present constitution of the People's Republic of Poland the inflexible bond of Polish subservience to the U.S.S.R."

In simple terms, Polish-Americans are begging for help to keep democracy alive in Poland. They point out that Poland is the most Western and democratic oriented society, and that this is the reason Russia is demanding the complete eradication to Poland's free spirit to insure complete subservience to the Soviets.

How can the American government help to preserve the threatened liberties of Poland?

It can help by critically reviewing United States trade and loan programs with Poland and by the threatening to withdraw the "most-favored nation" status from Poland if the Polish government pursues a course of contravention of basic human rights, as well as adverse effects on dente.

Watch for more news on this. It is coming up this spring in the Polish Sejm (parliament) and in VII Convention of PZPR (Polish Communist Party) for action.

CONGRESS MUST ACT IMMEDIATELY ON ESTATE TAX LAW

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. McCOLLISTER. Mr. Speaker, Congress must act immediately to reform the Federal estate tax law. It is necessary to revise this law to reflect today's current economic conditions.

The high cost of estate taxes, both Federal and State, is destroying not only small businesses but also small family farms throughout the country. From 1949–69, the number of farms in the United States has declined by over 2 million. In the past 33 years, Nebraska alone has experienced a loss of 53,000 small family farms. Nearly 45 percent of the farms have disappeared. On the other hand, during the last 33 years, the value of an average farm in Nebraska has increased by $244,800. The average cost per acre of a Nebraska farm in 1942 was $24; the average cost of this same acre in 1975 was $289. An unbelievable 1,060 percent increase.

In 1942, when the present estate tax exemption was enacted, the average Nebraska farm was valued at $12,600. Today, the average Nebraska farm is worth $257,400. Besides inflation, speculation and rising productivity have contributed to this phenomenal increase in the value of land.

More importantly, in 1942, it was possible to operate an efficient farm or small business worth $60,000. Today, even small businesses require far greater capitalization. Small businesses and family farms are traditionally starved for capital and at a disadvantage in obtaining adequate and reasonably priced capital for expansion.

Despite these dramatically different circumstances facing small businesses and family farms, there has been no major change in our estate tax structure. The present $60,000 basic estate tax exemption and the 50 percent deduction are no longer adequate. Though the exemptions have remained unchanged, prices have increased by 224 percent. As a result, families are forced into acquiring a second or third mortgage on their property, selling part of their land to pay the estate taxes, or selling the farm outright; thereby, losing their livelihood. Small businesses are frequently sold to pay the estate tax. When this occurs, unemployment rises and corporations, which are exempt from the estate tax law, often acquire these farms and small businesses.

It is obvious that these unfair estate taxes present a severe hardship to people who have struggled through the years to build a family owned and operated enterprise. It is time to reevaluate and reform our antiquated estate taxes before the family farms in this country are added to the endangered species list.

I have received hundreds of letters from fellow Nebraskans asking for my support to reform the Federal estate tax law. Because I firmly believe in the necessity of reforming this law, I have cosponsored H.R. 1793, the Burleson bill. Under H.R. 1793, the basic $60,000 estate tax exemption will be increased to $200,000, the marital deduction will be increased by a flat sum of $100,000 beyond the present one-half, and the method for valuing real property—farms and woodlands—will be changed to reflect current use rather than any potential use at a higher value.

All of these revisions in the estate tax structure are urgently needed. In its present form, the estate tax is a heavy burden to the hard-working middle class. If we are to preserve and stimulate the growth of family farms in this Nation, Congress must act on this necessary reform.

SECRETARIES WEEK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WOLFF. Mr. Speaker, I would like to take this time to inform my colleagues that the last week of next month will honor a group of people whose work is essential to the function of modern society. These people are the secretaries of business, industry, government, education, and the professions.

While the secretarial community contributes much to the Nation, their work has long been taken for granted. It is for this reason, that the week of April 18 through 24, of this year, will be designated national "Secretaries Week" with April 21 being set aside as "Secretaries Day."

Since its inception in 1952, the annual observance of Secretaries Week has allowed all secretaries, through their participation, to responsibly reaffirm their professional standards. Throughout this time period, the National Secretaries Association enforces it ideals with NSA sponsorship of special activities such as workshops, seminars, and educational forums. These activities are not only conducted for the benefit of secretarial NSA members, but are also conducted for the various civic, educational, and professional associations before which NSA members usually appear.

The implementation of this week provides an excellent time for all those concerned to pay tribute to a most noteworthy group of people—their secretaries. It is my hope that all my colleagues will join me in the observance of Secretaries Week, and in showing them we acknowledge their importance in the smooth running of all aspects of our Nation's business.

BILINGUAL EDUCATION HAILED

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. VAN DEERLIN. Mr. Speaker, in just a few years, bilingual education programs funded in part with Federal aid have assumed a preeminent role in helping persons who are more at home with some language other than English to achieve equality in our Nation.

San Diego County, a part of which I represent, shares a border with Mexico and contains many Spanish-speaking people.

Recently, San Diego Mayor, Pete Wilson, signed a proclamation declaring the week of March 21–27 as "Bilingual-Bicultural Education Week," in recognition of our ties with Mexico and the ongoing efforts to improve opportunities for language minorities.

The proclamation, of course, covers only the city of San Diego, but it's message is applicable wherever there is bilingualism. The proclamation follows:

PROCLAMATION OF THE CITY OF SAN DIEGO, CALIF.

Whereas, the California State Legislature passed the Bilingual Education Act in 1972; and

Whereas, bilingual/bicultural education programs have been established in San Diego city and county schools, and teacher training programs have been implemented in San Diego Colleges and universities according to the provisions of the Bilingual Education Act; and

> Whereas, Fronteras 1976 has encouraged an exchange of knowledge and a promotion of understanding with Mexico so that we might better appreciate San Diego's cultural heritage and build a new forum for regional cooperation; and
>
> Whereas, during the week of March 21, community leaders, bilingual/bicultural educators and school officials in cooperation with Fronteras 1976 will strive to promote citizen appreciation of the purposes and scope of bilingual/bicultural education; improve teacher proficiency in bilingual/bicultural teaching; and, expand student and teacher understanding across the border through classroom demonstrations, displays, international conferences and workshops and educator-student exchanges;
>
> Now, therefore, I, Pete Wilson, the Twenty-ninth Mayor of the City of San Diego, do hereby proclaim March 21–27, 1976, to be "Bilingual/Bicultural Education Week" in San Diego, in recognition of the continuing efforts to attain the goals of true equal educational opportunities for all.

PALM OIL IMPORTS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. FRENZEL. Mr. Speaker, I would like to commend my distinguished colleague from Texas on his recent statement on the dangers of palm oil imports. This statement appeared in the CONGRESSIONAL RECORD on March 16 on page 6540. I support his suggestion that all products which contain palm oil should be required to indicate this on the label, since palm oil is a very highly saturated vegetable oil. However, if we are really trying to protect and inform American consumers, we should apply such labeling requirements to all products, instead of establishing requirements which apply only to importers.

From 1974 to 1975, U.S. imports of palm oil increased by nearly 120 percent. These imports are expected to increase at an even faster rate over the next 10 years. Worldwide production of palm oil in 1976 is anticipated to be nearly double the level in 1970. About 85 percent of that increase has gone to exports.

Some of this increased production has been funded over the last 10 years by concessionary loans from the World Bank, the Asian Development Bank, and the International Development Agency. The United States does not control the Development Banks, but its contributions to them have, in effect, underwritten a large percentage of these loans. The major impact of these past loans is yet to come, however, since oil palm trees require 4 to 6 years to mature and 10 years to reach their maximum production potential. Much recent development, and the proposed additional development in Papas-New Guinea, has been financed at commercial rates because lenders understand the price and cost advantages of palm oil. It should go without saying that the United States should oppose any additional concessionary support for the development of plantations which will continue to flood the market with palm oil.

Since the early 1960's, there has been no duty on palm oil imports in the United States. Other countries have maintained a tariff rate between 4 and 14 percent. Consequently, the United States should now be negotiating with both the developers and importers of palm oil so that future palm oil production will be more evenly distributed instead of being exported almost solely to the United States.

Nevertheless, it is quite obvious that whether palm oil is sold in the United States or in other countries, it will be competing with American vegetable oils. The abundant supply of palm oil will undoubtedly continue to reduce the international market for U.S. oils, such as soybean and cottonseed oil, which are comparable to palm oil in potential usage, if not in price.

Any relief measures, such as import quotas, tariffs, or product standards—such as labeling requirements—will naturally make palm oil slightly less attractive to U.S. importers, but will still not eliminate palm oil's overall appeal in world markets. Palm oil will continue to compete with other vegetable oils both domestically and internationally in the near future.

Before deciding to take any restrictive action against palm oil, we must carefully examine the current and potential palm oil situation. In addition, the possible consequences to U.S. international trade policy and to future exports of U.S. oilseeds and vegetable oils should be evaluated.

I am pleased that the Agriculture Subcommittee on Oilseeds and Rice conducted hearings on the issue of palm oil imports on March 18. In addition, several interagency studies are now underway to examine the short- and long-range implications of increased palm oil production on the United States and international markets and to evaluate possible policy options. Hopefully, these studies will provide us with a more complete picture of the palm oil situation and an analysis of U.S. policy options.

The best solution is a speedy world recovery from the current recession. That would result in an increased demand for vegetable oils once again. It is hard to believe that less than 2 years ago, we were—mistakenly, of course—curbing exports of U.S. vegetable oils and oilseeds.

BYELORUSSIAN INDEPENDENCE DAY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BROOMFIELD. Mr. Speaker, it is a pleasure for me to rise and join my colleagues and fellow Americans in commemorating the 58th anniversary of Byelorussian independence.

The fact that we in this Nation are in the midst of celebrating 200 years of freedom and independence gives particular significance to this year's commemoration. As we pay tribute to our own free and democratic system of government, it is more important than ever that we remember the continuing struggle of the Byelorussian people to regain theirs.

Fifty-eight years ago the people of Byelorussia, much as our own Founding Fathers, declared their independence and formed a democratic government based on the basic principles of human freedom and liberty. Although the Soviet Union brutally crushed this government and forcibly annexed Byelorussia a short time later, the Byelorussian people have never relinquished their steadfast dedication to these basic democratic principles.

Against the steady onslaught of Soviet oppression, the brave people of Byelorussia continue to maintain their heritage and culture in anticipation of the day when they once again join the ranks of the world's free and independent nations.

Mr. Speaker, we in the United States must continue, through both word and deed, to show the Byelorussian people they are not alone in this effort; that the American people maintain strong support for their noble efforts to regain the cherished rights we so often take for granted.

SALUTE TO HELLAS

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DELANEY. Mr. Speaker, March 25 marks the first European echo of the American Revolution. On that date, 155 years ago, a band of dedicated patriots unfurled the flag of liberty and swore that they would have freedom or die in the attempt. On that date, in 1821, Alexander Ypsilanti and Archbishop Germanos of Patras sparked the Northwestern revolt which was to lead to Greek independence after four centuries of alien domination.

The Greek struggle for freedom stirred the American press, roused American orators, and stimulated neoclassic trends in our art, literature, and architecture. American opinion was unanimous: A people whose tradition was such a source of inspiration to our democracy, a nation fighting for its liberty, should be completely free.

When the Congress of the United States assembled in December 1823, President Monroe made the topic of the Revolution part of his annual message. A resolution of Daniel Webster in the House of Representatives was the first official expression by any government supporting the independence of Hellas. It contributed immensely toward that spirit which would free most of Greece from the yoke of the Ottoman Empire.

Mr. Speaker, one of the first motions of the new Greek Senate of May 1821 was addressed to the American people:

> Friends, Fellow Citizens, and Brothers—

They said—

> Having formed the resolution to live or die for freedom, we are drawn toward you by just sympathy, since it is in your land that

liberty has its fixed abode ... Though separated from us by mighty oceans, your character brings you near us ... Our interests are of such nature as to cement more and more an alliance founded on freedom and virtue.

On this day of national rejoicing, I salute my fellow citizens of Greek descent. I send my greetings to all the Hellenic residents of the New York metropolitan area as they celebrate their annual pageant, ball, and parade. I say to them and to their brothers and sisters across the seas: "Together, as one people, we celebrate the 155th anniversary of the glorious revolution of 1821. Together as one people, we honor our immortal heroes, who on the 25th day of March, 1821, hoisted the blue and white of Greek independence."

POLISH COUNCIL OF UNITY IN UNITED STATES ISSUE APPEAL TO THE CONGRESS

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. O'HARA. Mr. Speaker, a few weeks ago I placed in the Congressional Record the text of a letter signed by 59 Polish intellectuals, protesting wholesale changes in the Constitution of Poland being planned by the Communist leadership of that country. I did so, Mr. Speaker, because of my deep-seated concern about the future of that nation and its people, and particularly my concern about the threat of persecution of dissident views—a threat which is just as real in Poland as it is in the Soviet Union.

A recent appeal to the U.S. Congress from the Polish Council of Unity in the United States has now come to my attention. In this appeal, Mr. Stefan Korbonski, chairman of the council, eloquently states his organization's concerns about the Sovietization of Polish national life, and calls on the Government of the United States, as one of the signatories of the Helsinki agreement, to do everything in its power to prevent any action by the Polish Government that would infringe on the human rights of the people of that nation.

Under leave to extend my remarks, Mr. Speaker, I am placing in the Record the text of this appeal from the Polish Council of Unity in the United States:

A Communist Plot Against Poland—
An Appeal

From Poland, a nation that in spite of heavy odds struggles hard to keep her national identity, comes a dramatic call. Risking jail and communist persecutions 59 prominent representatives of various intellectual circles signed an appeal in the form of a letter transmitted to the speaker of the Polish parliament by Prof. Edward Lipinski, a leading economist, last December 5, in which they stated their opposition to the changes in the Polish Constitution now under official preparation by the Communist leadership. They also announced that another letter on the same subject signed by 300 university students and graduates will soon follow up.

The nation was peremptorily informed about pending constitutional changes during the recent VII Congress of the Polish United Workers Party (Communist). As it transpired afterwards, these changes planned after a Soviet pattern would establish in Poland the Communist Party as a leading and dominant force over the government and the state, and would insert in the constitution a new provision declaring everlasting unbreakable fraternal ties between Poland and the Soviet Union.

Pointing out the Helsinki conference at which the Polish government together with 24 other nations confirmed the Universal Declaration of Human Rights, the appeal demanded the implementation in Poland of the provisions of the Declaration concerning fundamental human rights as a start of a new era in the history of the nation, and urged that the change in the Constitution should guarantee the following freedoms: freedom of conscience and religion; freedom of work with freely elected trade unions; freedom of speech and information and the abolition of preventive censorship; freedom of science with autonomy for institutions of higher learning; free judiciary independent from the executive power, free elections and a parliament as a truly highest legislative body. The appeal stated that the enjoyment of these freedoms could not be guaranteed under the system of supremacy and leading role of one political party not responsible to the nation, and it concluded with a warning that the non-recognition of citizens rights and freedom constitutes a menace to the existence of the nation.

These words prompted by the pending threat of an even closer integration with Soviet Russia and Sovietization of Polish national life bear witness to an intolerable situation brought about by a growing Communist pressure aimed at destroying the fabric of the nation, depriving it of the few still remaining freedoms and turning it into a helpless instrument in the hands of Soviet imposed Communist rulers.

However, the attempt of the Polish Communist Government to achieve these results under the cloak of constitutional changes is in direct violation of the letter and the spirit of the Final Act which they signed in Helsinki together with 34 other nations among them the United States of America, and therefore it cannot be treated as a matter of purely internal and domestic concern.

The Helsinki document contains far-reaching declarations on the relationship between international security and the preservation of human rights. The Communist Government of Poland should not be allowed to cynically flaunt its obligations arising from that document while at the same time it is allowed to derive considerable economic advantages from the United States and other free nations, such as the most favored nations clause granted to it by America and a free access to the Western worlds capital markets from which it is allowed to draw billions of dollars.

The Polish Council of Unity in the United States of America appeals to the Congress and the Government of the United States, and to all the governments of the free nations who signed the Helsinki agreement to exert every effort to secure the compliance by the Polish government with its obligation arising from the Helsinki agreement, and to prevent action by the Polish government against the human rights of the people.

BYELORUSSIAN INDEPENDENCE DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RODINO. Mr. Speaker, as we commemorate two centuries of freedom in America we must not forget those whose struggle for freedom has been crushed by ruthless tyranny.

Fifty-eight years ago today the Byelorussian people proclaimed their own Declaration of Independence and formed a democratic republic. Less than a year later the Soviet army overwhelmed these freedom-loving people in the name of the socialist revolution. But military might could not destroy the spirit that survives indomitably today in the hearts of the Byelorussians and in all of us who believe in the cause of world freedom and justice.

The bravery and courage of the Byelorussians stands as a constant reminder that we must never fail to sustain liberty, nor forget how fragile is our own cherished freedom.

SWING INTO SPRING

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. JOHN L. BURTON. Mr. Speaker, in these times it has become chic to talk disparagingly about the great cities of our Nation.

In the city of San Francisco, we are fortunate to have one of the finest writers in the Nation, Mr. Herb Caen.

Last Sunday, Mr. Caen's newspaper column captured the true magic of our cities. Although the column deals with San Francisco, its essence is relevant to all of our urban centers.

I am certain the Members will find the column refreshing and provocative:

Swing Into Spring

(By Herb Caen)

Greetings, Verna L. Equinox! Gone is the winter that never arrived—no torrential rains, no overflowing gutters, no loud cries of "God, will this never end," followed by the unquenchable philosophy of the typical drippical San Francisan, "Well, it's good drinking weather, anyway." The spring we haven't earned is here, adding its modicum or maximum to the eternal guilt of city-dwelling lotus-eaters. Buds, blossoms, verdant hillsides, mairzy-doats and lambsie-divey—all these things are meant to be ours each spring, but only after long dark winters that try men's souls and turn women's heels round. Our winter was summer, our summer was fall, our fall was the opera season, and confusion rains, but only a trace. How can there be joy when we haven't suffered? Oh, the exquisite Slavic torture of it all, eh Turgenev, you old turkey? Stolichnaya.

In this era of paranoia on Powell and other cable car lines, those of us consigned to live out our lives in cities suffer all the exquisite tortures of guilt. Cities—hah! Jungles, that's what. For this we have the word of our superior white middle-class suburbanites who, by their own testimony, wouldn't be caught dead in San Francisco—but would if they lived here.

It's the new cliche of the times, firmly believed even by truth-seekers and nay-sayers: the city is doomed. It is fiscally and physically impossible. The streets and the people are dirty, in that order. The bonds and the people are beyond redemption, also in that order. The schools and the bread are crummy, the banks and the topless dancers are shaky and the future lies behind, lying in its teeth about how grand it all was.

The guilt of city-dwellers is a many-splintered thing, possibly because all or part of the foregoing is true. Further, if we are living reasonably well (the best revenge), we are guilty because of those who are not, and in a small city like San Francisco, they are painfully obvious. The poor, the lame, the halt, the blind, they are all around us. In supermarkets, we stand in line next to widows biting back the tears as they pay four bucks for next to nothing—three potatoes, three onions, a can of soup, a loaf of bread. Daily we witness the most durable San Francisco cliche of all: the homeless, friendless, penniless Skid Rowgue passed out on a South o' Market street, the empty bottle of port or muscatel attesting to the outward cause of his misery. What is eating him up inside we can only guess at, probably accurately.

I am as guilty as the next scoundrel, carping constantly about the disaster (human and otherwise) of the New Market Street, the wary pleasures of strolling through Union Square with many a backward glance, the pickpockets of Powell and the tenemental terrors of the Tenderloin and environs. This is part of the city, true, but only part.

Meanwhile, the policemen, firemen and other city workers retreat in their off-hours to their suburban addresses, where they are privileged to look down on the rest of us as "little more than animals." Thus does the estrangement grow, the gap widen, the fissures appear that divide this once-whole if not once-wholesome (no, never) city by the Bay.

Never underestimate the scorn of the petty-bourgeois small-towners for the metropolitan masses, storm-tossed and debt-ridden. The attitude of the purse-lipped and joyless toward New York City is lesson enough. As Senator Strom Thurmond, the redneck's reneck, put it recently. "The plight of New York City should serve as an example of the consequences of continued irresponsible and excessive spending." 'Way to go, Strom! Billions for bombs to burst on Russian villages, not a cent to save an American city. Millions to the fat ——— brass and not a penny for the civilian poor, thousands of whom left cold-eyed Thurmond Country for whatever crust of charity they could get in wretched but comparatively generous New York City. If the city is indeed dying, it is being killed by those afraid of life, of the living, of the infinite possibilities for greatness—yes, and happiness—that exist only in cities.

San Francisco may be dying, too, as another springtime dawns, but there is still life in the streets as there may be death around the corner. I have seen their faces—the faces of Small Town America—and I will take the faces I see every day in my walks along Mission and Market, up Powell and through Chinatown and North Beach: the faces of people who have lived hard, survived much and maybe learned a little tolerance and toleration. It is not easy to survive in the city, but the rewards may still be ample, in the terms of experience, smells, contacts, a cacaphony of accents, a constant testing of will and strength—the very fibers that go into living.

The streets are cleaner, the nights are quieter and quite possibly the schools are better out there in Shopping Plaza Land, where the food, the dialogue and the clothes are franchised, and seldom is heard a stimulating word. But there is no past out there, no history, no tradition, no memories that spring to painful life when the fog rolls in, horns blow at the Golden Gate and a cable car rattles past the mournful Dixieland sounds of a sidewalk jazz band.

Another spring is here. Savor the newborn blossoms as you walk the streets of the dying city.

FREE TRADE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DERWINSKI. Mr. Speaker, throughout our history the pendulum has swung back and forth in Government policy on trade matters.

Some years ago the slogan that carried the day was "Trade, not aid." There is a certain fundamental merit in that view. More importantly, we must keep in mind that we are a nation of consumers as well as producers, and the freest possible flow of trade benefits the American public as it stimulates job opportunities in productive as well as service fields.

The Chicago Daily News, in a very sound commentary on March 18, places positive emphasis on free trade, and I place this editorial in the RECORD at this point:

FREE TRADE SURVIVES ATTACK

President Ford faced up to a difficult and thankless challenge in rejecting import quotas on special steel this week.

After all, how much consumer and voter sentiment can be whipped up in support of free trade for something called "high-alloy steel"? Specialty steel accounts for a tiny portion of total U.S. steel output and is used mainly in industrial and agricultural tools, products far removed from consumers' pocketbooks.

The temptation was great for Ford to acquiesce in recommendations for import controls. The government's new International Trade Commission, dozens of congressmen, U.S. specialty steel producers—confined almost exclusively in the East—and the United Steelworkers union all favored limiting imports from Japan, Sweden, Canada and other countries in the name of protecting U.S. business and jobs.

Arrayed against those concentrated forces were the diffuse interests of consumers who eventually would pay, in higher prices, for the import restrictions.

Ford likely could have earned some much-needed goodwill among organized labor by opting for import controls. He could have escaped responsibility for his action by hiding behind the trade commission's strong recommendation for a five-year import-control program.

But he took a long-range view, one that is in the best interests of the nation. He gave U.S. trade negotiators 90 days to work out "orderly market agreements" in which foreign specialty steel producers would voluntarily reduce their exports to the United States. If the talks fail, Ford will restrict specialty steel imports for three years.

The President reasoned—correctly in our judgment—that import controls could hinder the pace of U.S. economic recovery. Some steel-using firms might be forced to limit their operations for want of imported, low-cost steel. Ford also feared the possibility of a trade war, with U.S. trading partners shutting out U.S. goods.

Additionally, a decision favoring import controls would have set a sticky precedent. The specialty steel case is the first major recommendation from the new trade commission. The agency has also asked for protection for U.S. shoe manufacturers and makers of stainless steel flatware, two industries that have only a tenuous claim that imports have seriously injured them.

In the interests of consumers, Ford should press for a negotiated settlement on the specialty steel problem and reject outright the pleas of producers who would rather erect tariffs than compete in the marketplace.

ROSCOE DRUMMOND DISPELS MYTHS ABOUT GUN CONTROL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DRINAN. Mr. Speaker, the House may hopefully have the opportunity of voting on gun-control legislation which would prohibit the manufacture, importation, and sale of so-called Saturday Night Specials, the cheap handguns which account for such a disproportionate share of murders, accidental deaths, assaults, and robberies.

As this key vote draws near, the gun lobby continues to propagate several remarkably durable myths concerning firearms control, including the totally false notions that handguns aid in self-defense and that Congressmen who vote in favor of gun control will be punished at the polls.

Nationally syndicated columnist Roscoe Drummond effectively dispelled these two myths in an article which appeared in the Christian Science Monitor on March 17. I commend this cogent essay to the attention of my colleagues.

MYTHS ABOUT GUN CONTROL

(By Roscoe Drummond)

WASHINGTON.—Apparently the anti-handgun bill got caught in the barbed wire of election-year politics. It was smoothly maneuvered back into the recesses of a subcommittee where it will not embarrass either its supporters or its opponents for another year.

Congress shows considerable firmness in controlling the sale of weapons to foreign countries. But it shows continuing timidity in controlling the sale of weapons which imperil the lives of Americans at home.

I believe that the intensity of the gun-sale lobby will not prevail much longer over the fears and anxieties of a public which is overwhelmingly in favor of stricter control.

But it is not too soon to prepare for next year's "battle of the handgun" when this year's immobilized legislation will come to the floor of Congress. It will have formidable advocates—law enforcement officers across the country and the mayors of nearly every city and town in the nation.

The best way public opinion can prepare to support stricter gun control is to help dispel two powerful myths which give the opposition a credibility not supported by the facts.

MYTH 1

Many people sincerely believe that handguns are a protection to the home and to the safety of persons who keep them near at hand and that stricter controls will keep guns away from innocent people who only want to protect themselves.

The facts do not support this premise. Police data show that little, if any, protection comes from handgun possession. The mere presence of a weapon in the home or on the person increases the danger of bodily harm from the criminal. There is a direct correlation between increase of gun ownership and the increase of gun crime and gun deaths.

There is precise and conclusive evidence to this effect. It is this:

Private firearms ownership is highest in the South (59 percent of all households) and lowest in the Northeast (33 percent).

Yet gun homicide is highest in the South and lowest in the Northeast.

Accidental gun deaths occur more than four times as frequently in the South as in the Northeast.

This is worth pondering in the interest of self-protection. In that part of the nation where guns are possessed by the greater percentage of people, that is where the higher rate of gun crime and gun fatalities occurs.

MYTH 2

Many people, including some in Congress, still believe that the anti-gun control lobby can politically punish nearly any congressman who votes against its wishes.

Unproved—and almost entirely disproved by these facts:

1. Twenty-seven congressmen who supported measures favorable to firearms manufacturers were defeated two years ago. But not a single congressman who supported restrictive gun legislation lost a seat in that election.

2. In answer to the question: "Would you be more likely or less likely to vote for a candidate who took a position on strict control of firearms?" Gallup found that 62 percent said "more likely," 26 percent "less likely" and 12 percent no opinion.

For several years the opinion surveys have uniformly shown that at least two-thirds of the U.S. public approves stricter gun control.

The suffocation of the latest handgun bill demonstrates that until majority opinion lifts its voice and begins to make its influence felt in Washington in ways equal to its numbers, minority government will prevail on this life-and-death issue.

CONGRESSIONAL BLACK CAUCUS RESPONSE TO THE PRESIDENT'S BUDGET PROPOSAL, PART III

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. YOUNG of Georgia. Mr. Speaker, the Congressional Black Caucus recently released our analysis of the President's proposed budget for fiscal year 1977. The caucus was extremely critical of the President's proposals. My colleague, Congresswoman YVONNE B. BURKE, chairperson of the caucus, has introduced the first part of our budget response into the RECORD, Congressman WALTER E. FAUNTROY has introduced the second part of that response, and I am here entering the third and final part:

HOUSING AND URBAN DEVELOPMENT

Housing

The Administration is requesting a 1 percent increase in the Housing Payment Program. This appropriation increase would help subsidize 175,000 new units under homeownership assistance (Section 235); rental housing assistance (Section 236); 400,000 under Section 8 low income housing and college housing grants. While increasing housing payments, Mr. Ford proposes to decrease payments for the operation of low-income housing projects by 33 percent and omitting the Rent Supplemental Program and State Housing and Development Agencies.

The Federal Housing Administration (FHA) is proposing to reduce the loan fund which provides Federal financing for the construction, acquisition, or modernization of conventional public housing projects owned by local housing authorities (LHA's) until the projects can be financed in the private market.

HUD proposed $375 million for permanent financing of 14,800 new units for the elderly or handicapped under the Section 202 program. Section 8 rental subsidy will be used to assist low income individuals and will attempt to reduce the inventory of foreclosed properties. Approximately 100,000 units in property disposition and loan management will be disposed of under Section 8.

There is included in Ford's proposed budget nearly $850 million in new budget authority to contract for a total of 400,000 assisted units of housing for fiscal year 1977.

ECONOMY AND UNEMPLOYMENT

President Ford, in his "frugal" attempt to stimulate the economy, is proposing a net $10 billion reduction in taxes starting July 1, 1976. This includes an increase in the personal exemption, from $750 to $1000, a change in the standard deduction in tax rates. Corporate income tax rates would be reduced from 48 percent to 46 percent and the earned income tax rates would be eliminated. This use of fiscal policy is supposedly designed to stimulate personal and corporate consumption of goods and services which dictates increased production and more employment.

Ford's budget also proposes to strengthen the financing of the unemployment insurance system by permanently increasing the wages subject to tax from $4,200 to $6,000 a year and by temporarily increasing the net Federal tax rate from 0.50 percent to 0.65 percent until the general funds used to finance extended benefits during the recession have been repaid. He also proposes to improve the fiscal integrity of the Social Security Trust Fund by raising the payroll tax rates by 0.6 percent, (0.3 percent each for employers and employees), and correcting the index for inflation to avoid overcompensation in retirement programs.

It is highly important to understand that the net effect of the President's proposed $10 billion economic stimulus would reduce to approximately $2 billion if Congress acts on his proposed legislation. This small net stimulus would provide very little increased production or employment to the economy. Unemployment under the President's proposed budget would average over 7.5 percent for FY 1977.

The Administration's response to over 7 million unemployed workers is a proposal to reduce manpower training and jobs creation programs by 50 percent in budget authority. The Comprehensive Employment and Training Act (CETA), Title I and Title II will continue at FY 1976 levels. Public Service Employment Programs established under Title VI are proposed for phase-out starting January 1, 1977 and terminating October 1, 1977. The President is requesting a supplemental appropriation of $1.7 billion of CETA Title II funds to place a $7,000 per annum federal salary ceiling on CETA public service jobs. The current calculation of $9,000 per job would compel local governments to either pay the difference or lose public service jobs. This added pressure in the midst of an urban fiscal crisis certainly would place an insurmountable burden on local budgets.

Local budgets will also suffer from the Administration's decision to utilize the Title II requirement of a 6.5 percent rate of unemployment in order to be eligible for funds. Many local governments will not be eligible to receive Temporary Employment Assistance Funding. These proposals eliminate almost 400,000 jobs in high unemployment areas with a sustained national unemployment average of over 7.5 percent for FY 1977.

The Mitchell-Stokes Amendment to the Second Concurrent Resolution of the FY 1976 budget provided an initial $475 million in budget authority and $75 million in outlays for 785,000 jobs in the Summer Youth Employment Program. Mandated under Section 604(c) of CETA, "the Secretary shall transmit to the Congress at the earliest appropriate date, but not later than March 1, of each calendar year a report setting forth a description of summer programs providing jobs for economically disadvantaged youth to begin in June of such year . . ." A preliminary estimate of $400 million, in a supplemental appropriations request, reduces the authorization levels to 672,000 jobs. This loss of 113,000 jobs is being proposed in spite of Administration predictions that the unemployment rate for minority teenagers will be between 30–40 percent until FY 1978.

The economy and the labor market reflect a dismal FY 1977. The budget proposal of the President refuses to acknowledge the economic forecast and will surely amplify the dismal conditions.

LAW ENFORCEMENT AND JUSTICE

Proposed FY 1977 budget outlays for law enforcement and justice programs are $3.4 billion—sadly to say—nearly the same as for FY 1976. This includes $834 million in technical and law enforcement assistance grants to State and local governments, which will decline by 8 percent in 1977. Unfortunately, the Administration intends to place all the attention on evaluation instead of providing means to deter crime itself.

The Ford Administration has also requested personnel increases in the United States Attorney's and U.S. Marshall's Office. More Federal judges are also being requested to comply with the Speedy Trials Act. Accompanying this proposed personnel increase is a request for the construction of more federal prisons.

NATIONAL DEFENSE/FOREIGN POLICY

While virtually every social program of any appreciable significance is being either drastically reduced or eliminated, President Ford has proposed a budget which could allow defense expenditures, despite the outlays, to climb from $98.3 billion to $112.7 billion.

The defense budget request represents a 14 percent increase over the 1976 budget authority. The Department of Defense ligitimizes this request with claims of Soviet military build-up arms capabilities. The Administration's new initiatives response includes funds for: B–1 Strategic Bombers; Trident strategic missiles; F–16 fighter aircraft; and CH–53E Super Stallion Helicopters.

Additional appropriations are proposed for the Navy's procurement of the lead ship Aegis class destroyer; one Destroyer Tender; one Fleet Oiler; one Submarine Tender; three additional nuclear attack submarines and one additional Trident submarine.

Clearly this "new realism" is a very new realism. This "new realism" is an unprecedented defense budget.

The proposed outlays for international affairs for 1977 are $6.8 billion; outlays for military assistance in 1977 are estimated at $739 million. According to the Administration, this assistance is for the support and defense efforts of "selected countries." The Administration's concept of "selected countries" is most disturbing when this country has yet to adopt a sound African policy.

A careful look at Ford's budget clearly reflects that approximately $1 billion of military assistance is slated for Israel; a reduction of almost $500 million from FY 1976.

Apart from a military assistance package, Israel also has been targeted as the prime beneficiary of Ford's foreign aid budget.

COSPONSORS OF H.R. 12589

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mrs. FENWICK. Mr. Speaker, when H.R. 12589 was introduced on March 17, the bill's cosponsors were erroneously listed. Mr. THOMAS J. DOWNEY of New York should have been listed as a cosponsor of the bill. Mr. THOMAS N. DOWNING of Virginia is not a cosponsor.

JOB-SEEKERS AND NON-SEEKERS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. FRENZEL. Mr. Speaker, I invite the attention of my colleagues to the following editorial from today's Wall Street Journal on the unemployed "job-seekers and non-seekers." This editorial highlights several interesting points made by Harvard economist Martin S. Feldstein in a recent Brookings study on unemployment.

Professor Feldstein's estimates indicate that a substantial number of the unemployed have been only temporarily laid off. These people, the "non-seekers," simply collect unemployment compensation benefits while they are waiting to be recalled. Since these workers usually do, in fact, get recalled as the economy improves, Congress should direct its attention toward encouraging recovery in the private sector in order to get these people back to work as quickly as possible.

In tackling the current unemployment problem, I believe we do far better providing employers in the private sector with greater incentives to rehire laid-off workers and to create new jobs, rather than throwing bushels of Federal money into dead end public service jobs or public works programs. As the following editorial implies, it is time we allow the economy to recover itself, instead of messing around with it as we have in the past.

The editorial follows:

JOB-SEEKERS AND NON-SEEKERS

A popular vision of the nation's unemployed sees an army of eight million trudging from door to door seeking work. A lot of political debate and policy revolves on that concept. But it is not an accurate vision.

A new Brookings study by Harvard economist Martin S. Feldstein finds that of the unemployed who have actually lost jobs, a sizable proportion are not seeking new ones. It estimates that proportion at 47% when unemployment was at its peak last year. And of all the unemployed, including new entrants and re-entrants into the job market, the "non-seekers" accounted for some 28%.

There is nothing very mysterious about this. The non-seekers are workers on layoff who expect to be called back when business picks up. In most cases—about 85% according to Professor Feldstein's estimates—that's exactly what happens. These people, who are protected by state unemployment benefits and in some cases by supplemental benefit plans, therefore do not waste time and energy looking for jobs.

While there is nothing at all surprising about this finding, it has broad implications. It suggests that there is a very large number of unemployed workers who are not likely to be lured out of their homes to go to work on public works or public service projects. They simply are not that desperate and can probably use their time more profitably fixing up their houses or "working for themselves" in other ways.

It also implies that the quickest way to reduce unemployment is through policies that shorten the duration of those layoffs. To some degree, that will happen naturally through the normal swings of the business cycle. But it can be encouraged by a political environment that promotes job-creating decisions by private managers and entrepreneurs. Such an environment permits a free functioning of the profit mechanism, wide latitude for management in deciding how to employ labor and resources and a free flow of capital into uses that offer the most attractive returns. It can further be accomplished by government policymakers by reducing the twin burdens of rising taxation and inflation.

For too long, federal policymakers have adhered to the Phillips Curve theory that inflation naturally recedes as unemployment rises. The notion has been planted far and wide that inflation is the price of full employment. It simply isn't true and Professor Feldstein's findings offer further proof of its untruth.

High unemployment might exert downward pressure on prices if the unemployed were seeking work actively and were willing to accept lower wages. But if a sizable proportion of them are not seeking work, and if there is no substantial downward pressure on wages, the cost of supporting their idleness adds to rather than subtracts from inflationary pressures. A good part of the answer to why you can have "stagflation," as the nation did last year, can be found here.

Public works and public service programs might seem to offer prospects at least for new entrants and re-entrants into the job market. But here too the problem is not simple. Public works projects, using construction techniques acceptable to 1976, require skilled labor and equipment, which are sometimes scarce even in times of high unemployment. And public service grants often are used not for new hires but to sustain programs that might otherwise have been dropped.

The best answer for the new entrants is to reduce barriers to job entry imposed by the minimum wage and entry qualifications imposed by labor unions. Neither, of course, is acceptable to labor unions, even though they claim to have the best interests of working people at heart.

But while it may be difficult to dismantle some of the older barriers to employment it is not necessary to erect new ones. It remains possible, for example, to shield the profit mechanism from further damage. That means no further government interference with prices and no more nonsense about so-called "excess" profits. Those "excess" profits are the natural signals for managers to make vital reallocations of resources. And those reallocations preserve jobs and create new ones by improving total economic efficiency.

How much more natural and simple that is than trying to make artificial work or support idleness with the nation's savings. It's so simple, in fact, that it is amazing how easily we forgot how to make the system work.

VETERANS' CEMETERY NEEDED ON LONG ISLAND

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WOLFF. Mr. Speaker, we are desperately in need of a new veterans' cemetery on Long Island. In addition to deteriorating conditions at the National Cemetery at Pinelawn, space at Pinelawn will be exhausted by 1978. Prior to the VA's assuming jurisdiction over the National Cemetery System, it assured me that it would give every consideration to a new veterans' cemetery for Long Island. Yet, 2 years later, conditions remain very poor and we seem no closer to establishing an additional national cemetery in our area.

The Queens County Council of the Veterans of Foreign Wars recently adopted a resolution which I would like to share with my colleagues. It addresses itself to the critical need for a new national cemetery to relieve the overcrowding at Pinelawn. Legislation has been proposed to establish a cemetery at Calverton, N.Y., and I would urge my colleagues on the Veterans' Affairs Committee, as well as the VA, to seriously consider this proposal.

The resolution adopted by the Queens County Council, VFW, follows:

RESOLUTION

Whereas, The National Cemetery at Pinelawn, New York, will be exhausted by 1978, and

Whereas, H.R. 5768 to establish a national cemetery at Calverton, New York, is now in committee, and

Whereas, The Veterans Administration is now developing plans for a new national cemetery at Calverton, New York, and

Whereas, The National Cemetery at Pinelawn is the only open national cemetery in the northeast.

Be it resolved, that the Senate of the State of New York be petitioned to memorialize the Congress of the United States and the Veterans Administration to take immediate action to open a National Cemetery at Calverton, New York.

MR. HEINZ SPEAKS OUT FOR CHARITABLE CONTRIBUTIONS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. HEINZ. Mr. Speaker, earlier this month, I introduced H.R. 12264, the Charitable Contributions Act of 1976. Its purpose is simply to allow greater tax breaks for people who contribute to nonprofit organizations.

Response to this bill has been encouraging. A typical response, for example, came from Davis Memorial Goodwill Industries, who noted:

> As you are aware, many nonprofit private agencies serving handicapped persons are finding it more and more difficult to support their programs through donations of materials and financial contributions . . . Greater tax breaks are needed for persons who want to support these organizations.

So that my colleague may study the provisions of H.R. 12264 I insert it in the RECORD. I commend its provisions to their attention:

H.R. 12264

A bill to amend the Internal Revenue Code of 1954 to allow an individual to elect a tax credit for 50 percent of his charitable contributions in lieu of the deduction allowed for such contributions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Religious and Charitable Donors' Tax Justice Act of 1975".

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by redesigning section 42 as section 43 and by inserting after section 41 the following new section:

"Sec. 42. Credit for charitable, etc., contributions and gifts.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount of the deduction which, but for subsection (d), would be allowable to the taxpayer for the taxable year under section 170 (relating to charitable, etc., contributions and gifts).

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of a joint return under section 6013).

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 37 (relating to retirement income), section 40 (relating to expenses of work incentive programs), and section 41 (relating to contributions to candidates for public office).

"(c) ELECTION.—This section shall apply in the case of an individual who, for the taxable year, elects to take the credit against tax provided by this section. Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulation.

"(d) DENIAL OF DEDUCTION.—An individual who, for the taxable year, elects to take the credit against tax provided by this section shall not be allowed the deduction under section 170 (relating to charitable, etc., contributions and gifts) for the taxable year".

(b) Section 170(d)(1) of such Code (relating to carryovers of excess contributions for individuals) is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECT OF ELECTING CREDIT UNDER SECTION 42.—In the case of any taxable year for which the taxpayer elects the credit provided by section 42 (relating to charitable, etc., contributions and gifts)—

"(i) no portion of the excess (if any) of the amount of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer during such taxable year over 50 percent of the taxpayer's contribution base for such taxable year shall be treated under subparagraph (A) as a charitable contribution described in subsection (b)(1)(A) paid in any succeeding taxable year, and

"(ii) such taxable year shall not be taken into account under subparagraph (A) except for purposes of determining the number of taxable years succeeding any contribution year.".

(c) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Credit for charitable, etc., contributions and gifts.
"Sec. 43. Overpayments of tax.".

SEC. 2. (a) Section 46(a)(3) of such Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by inserting after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to credit for charitable, etc., contributions and gifts).".

(b) Section 170(j) of such Code is amended by adding at the end thereof the following new paragraph:

"(9) For disallowance of deduction to individuals electing credits for charitable contributions, see section 42(d).".

SEC. 3. The amendments made by the first two sections of this Act shall apply to taxable years beginning after December 31, 1974.

FALSE ACCUSATIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. CLAY. Mr. Speaker, in an article entitled "How a Congressman Billed Government for Phony Travel," which appeared in the Wall Street Journal on Tuesday, March 23, I was unjustly maligned by series of inferences and false accusations which appeared therein. I wish to insert the following comments from the St. Louis Post Dispatch, which appeared on Wednesday, March 24, 1976:

MR. CLAY'S TRAVELS

Under a front-page headline, "How A Congressman Billed Government For Phony Travel," The Wall Street Journal has made a number of serious and damaging allegations against Representative William Clay of St. Louis. The article states that Mr. Clay "has repeatedly billed the government for 'official' trips that he couldn't have taken" inasmuch as he collected travel funds for trips elsewhere on the same or overlapping dates. Besides listing some specific trips and dates, the article makes the further charge that Mr. Clay was present and voting in the House on days when he claimed to have been traveling.

The obvious implication from all this is that the First District Congressman has been guilty of dishonest billing practices, a deceit at the taxpayers' expense which, if true, would justify legal action and an end to his political career. Mr. Clay has denied any wrongdoing and has said he probably will respond in detail to the Journal's accusations after checking his records. We think it crucially important to his future that he do so.

Two questions, it seems to us, are involved here. The first, and by far the more significant, is whether Mr. Clay has received government money for trips he never took. To take one of the Journal's examples, did Mr. Clay make a trip on the House committee business to Los Angeles in the Fourth of July break in 1974—a time when he also claimed to have returned to St. Louis? It should not, we would think, be particularly difficult to determine whether the Congressman was on the West Coast at that time and whether also at or about that time he paid a visit to his constituents. If Mr. Clay actually made both trips—again allowing for some imprecision in dates—it would seem that the "phony travel" issue loses its force. If not, the matter should be referred to relevant authorities.

In one case cited by the Journal the facts support Mr. Clay's version of events. The Journal pointed out that Mr. Clay received travel pay for a trip to St. Louis between Aug. 16 and Sept. 3, 1974, yet voted in Washington four days in between. Mr. Clay declares that on Aug. 16 he was in St. Louis, where he visited the Post-Dispatch, and a few days later he flew to Washington for the House's business. Our own records substantiate that the Congressman was in St. Louis Aug. 16.

Mr. Clay raises the possibility that clerical errors are responsible for the apparent contradiction in dates, which bring us to the second question. If Mr. Clay is able to demonstrate that he has not been paid for phantom trips, he is still open, in our opinion, to criticism for the incredibly casual staff work that led the Journal to its conclusions. Such practices may be common in Congress, but they give, at the very least, an impression of a cavalier attitude toward public dollars.

THE 155TH ANNIVERSARY OF THE INDEPENDENCE OF GREECE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ANNUNZIO. Mr. Speaker, March 25 marks the 155th anniversary of the day when the Greeks began a series of uprisings which led to their independence from Turkey. The struggle of Greece for independence lasted for many years until Turkish military power was broken by the destruction of their fleet at the hands of the British, the French, and the Russians.

Long before the final defeat of the oppressor and the official recognition by Turkey of Greek sovereignty in 1832, Greece had begun to plan ahead for its well-being as an independent nation. A national assembly met at Epidaurus on January 1, 1822, proclaimed independence and introduced a constitution drafted by Alexandros Mavrokordatos and Theodoros Negris.

During the long and bitter war of independence, the world was inspired by the indomitable resistance and heroic dedication of the Greek patriots. It was during the siege of Missolonghi that the famous British poet Lord Byron lost his life in defense of Greek liberty.

During the next century, the Greeks devoted their efforts to establishing a stable government and to promoting economic stability and social progress. When they were threatened anew with the opening of World War II, again they showed their fierce devotion to freedom and independence. On October 28, 1940, Greece rejected the Fascist ultimatum to surrender. "Okhi"—"No"—was the Greek reply, and this famous response is remembered annually in the Okhi Day holiday which celebrates the Greek determination to remain free.

The end of World War II brought no respite to the Greks. Their country was devastated, and they faced a new threat within their borders in the form of armed Communist bands seeking to overthrow the government. However, once more they showed courageous determination to preserve their liberty at all costs. The struggle against the Communist threat was aided substantially by America's pledge to assist the Greek people in their fight against the Communist rebels.

America's pledge became popularly known as the Truman doctrine for it came in the form of an announcement on March 12, 1947, by former President Harry S Truman. At that time, Truman noted:

The valor of Greece . . . convinces me that the Greek people are equal to the task.

In 1949, America's faith was rewarded, for hostilities came to an end and the Greek struggle against the Communist forces was successfully concluded.

The idea of democracy, born in ancient Greece over 2,000 years ago, has prevailed and has inspired other nations in their struggle against oppression. In fact, possibly no other people since their beginnings have given more to the world in the fields of thought and beauty and practicality than the Greeks. Modern philosophy was born of the reasoning and logic of Socrates, Plato, and Aristotle. Medicine is indebted to Galen and Hippocrates, mathematics to Euclid and Archimedes, law to Nestorius, the arts to Aeschylus, Sophocles, and Euripides, and politicians emulate Demosthenes.

It is thus a pleasure to extend greetings to Americans of Greek descent in the 11th Congressional District, which I take pride in representing, as well as those in Chicago and across our Nation on the occasion of their independence day and to recall a century and a half of genuine friendship between the people of America and the people of Greece.

ALBANIAN REPRESSION

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BROOMFIELD. Mr. Speaker, it is ironic that one of the most repressive, retrogressive regimes in the world—the Hoxa government in Albania—receives so little attention in this country. In Albania, human rights have been trampled and twisted to the extent that it is against the law to pray or to have a name that does not conform with the ideological standards of the Enver Hoxa brand of communism.

Part of our problem in documenting the madness of the Albanian Government is the fact that we have little firsthand information about what goes on in Tirana. The Albanian society is so closed and controlled that it is difficult or impossible for foreigners to determine what transpires behind the stark walls that have been thrown up around the country.

I would like to include in the RECORD the text of a resolution passed by the United Hellenic American Congress. The resolution, which was sent to me by the national chairman, Mr. Andrew Athens, deals with the situation of minorities in Albania. The deprivations it lists are incredible and appalling. I sincerely hope that every Member of Congress will take the time to read this document:

RESOLUTION

The following Resolution was adopted by the United Hellenic American Congress on the 12th day of March, 1976.

Whereas, the Declaration of Human Rights and the Charter of the United Nations express principles that are basic to the civilized world, including the right of all people everywhere to be free from oppression because of religious beliefs and ethnic origin, and

Whereas, there is a significant population of Greek Orthodox, Roman Catholic, Jewish, and Muslim minorities residing in Albania, and

Whereas, the Government of the State of Albania has, over the years, pursued a policy of genocide and oppression of Greek Orthodox, Roman Catholic, Jewish, and Muslim minorities residing within its borders, and

Whereas, the Government of Albania has declared that nation to be an atheist-Marxist state persecuting all religions, forbidding religious functions and the performance of sacraments, desecrating places of worship, and converting many of them into warehouses, and

Whereas, it has been recently announced that the Albanian Government has decreed that all persons living within its borders whose names do not conform with the ideological standards of the Albanian brand of communism must change their names to names approved by the Government, and

Whereas, said Decree is obviously directed against the minority population of Albania and is intended to further the illegal and immoral policy of the Albanian Government which seeks to eradicate the ethno-religious identity of the Greek Orthodox, Roman Catholic, Jewish, and Muslim population of Albania.

Now, Therefore, Be It Resolved:

1. That the United Hellenic American Congress, on behalf of its constituent organizations and the three million Americans of Greek descent, protests and objects to this unconscionable violation of human rights by the Albanian Government.
2. That the United Hellenic American Congress calls upon the Secretary-General of the United Nations and the representatives of all governments throughout the world to protest the action of the Albanian Government against the various minority groups residing in Albania and to call upon the Albanian Government to rescind its Decree and to respect the human rights and religious freedom of the Greek Orthodox, Roman Catholic, Jewish, and Muslim population of Albania.
3. That the United Hellenic American Congress calls upon the government of the United States and the representatives of the American people in the Congress of the United States to protest the aforesaid action of the Albanian Government.
4. That the United Hellenic American Congress calls upon the people of the United States, individually and through the respective organizations to which they may belong, to protest the aforesaid action of the Albanian Government.

TRIBUTE TO MATTHEW M. BAKULA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WAXMAN. Mr. Speaker, it is a great pleasure for me to warmly congratulate Matthew M. Bakula on his 95th birthday, which will be attained on April 3, 1976.

He resides at 1138 Sanborn Avenue in Los Angeles. He received commendation 5 years ago at the age of 90 and now has reached another milestone.

We wish him well and look forward to the 100 mark.

WILLIAM E. DUNKLE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. SNYDER. Mr. Speaker, this is a tribute to William E. Dunkle who, in over 35 years as an active participant and leader in the U.S. air transportation industry, has exemplified the success which may be achieved through diligence, intelligence and regard for one's fellow man.

William E. Dunkle was born in Seattle, Wash., August 30, 1917. His early life was spent in Anchorage, Alaska where as a young man he learned to fly. After completing his education, he was employed in 1938 as a pilot by one of the predecessor companies to Alaska Airlines.

In 1940, William Dunkle was employed as a copilot by United Airlines in Salt Lake City, Utah. In 1942, he flew DC-3's on domestic routes for United Airlines under contract to the U.S. Government as part of the military transport system. He was promoted to captain that year.

In the years that followed, Captain Dunkle flew the routes of United Airlines' system as well as serving as an instructor pilot while being domiciled in Seattle, New York, Los Angeles, San Francisco, and Denver. During this time Captain Dunkle was active in the affairs of the Air Line Pilots Association, the labor organization representing the pilots of United Airlines. His years on the labor side of the negotiating table provided him with valuable understanding and appreciation of the interests of labor. These insights helped him in later years as a member of management to conduct labor management relations very successfully in a spirit of professionism and mutual respect, with an issue-oriented approach to problem solving.

In 1958, a physical disability, which proved to be temporary, necessitated his removal from flying status. This temporary adversity for Captain Dunkle was an opportunity in disguise. United Airlines management, having been impressed by Bill Dunkle's leadership potential, offered him a management job. Although he regained flying status in 1960, Bill Dunkle remained an active member of management. He progressed through a series of responsibilities and in 1969 was named as United Airlines' senior vice president-flight operations division of the largest airline in the free world.

In this position, which he held until his retirement from active management in 1975, William E. Dunkle was extremely effective, earning the respect of United Airlines management, United Airlines employees and the air transportation industry.

Among the accomplishments attained under his leadership were the structuring of the most fuel efficient airline operation in the industry, leadership in advancing understanding of the human factors aspect of flight safety, safe and efficient introduction into service of the wide-body generation of jet aircraft, and, most importantly, an outstanding safety record.

William Dunkle's efforts to share the operational knowledge he had gained through his membership in numerous industry organizations served to benefit the air transportation industry and increase his stature within it.

For his long years of productive service to the U.S. air transport industry, Capt. William E. Dunkle richly deserves this recognition before the Congress this 25th day of March, 1976.

NASHVILLE BANNER CITES REGULATORY "OVERKILL"—CALLS BURGEONING BUREAUCRACY A "FRANKENSTEIN MONSTER"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. EVINS of Tennessee. Mr. Speaker, the Nashville Banner in a recent editorial underscores the incredible growth of the regulatory bureaucracy in Washington.

From 12 agencies spending $860 million 10 years ago, there are now 24 regulatory agencies with annual budgets of $3.8 billion.

As the Banner editorial points out, there can be no dispute over the need for some regulation—but in many instances what we now have is regulatory "overkill," too much regulation, too many rules, too much paperwork, red tape and guidelines.

Certainly the time has come to act against this bureaucratic imposition on the American people.

Because of the interest of my colleagues and the American people in this most important subject, I place the editorial from the Banner in the RECORD herewith.

The editorial follows:

U.S. REGULATORS: MONSTER GROWTH

The far-reaching effects of the U.S. government's army of unelected regulators was shown in great detail in a series of five articles that appeared in the Banner during the past week.

The series, written by Brooks Jackson and Evans Witt of the Associated Press, detailed the growth of federal regulatory agencies, their spiraling cost and the extent to which their edicts touch the lives of every man, woman and child in the United States.

One of the five articles, for instance, presented an almost hour-by-hour report of a day in the life of a typical American family. It covered everything from the food eaten by the family—subject to regulation by the U.S. Food and Drug Administration—to the federally-mandated seat belt alarm on the father's Audi sedan (which he had disconnected). The series pointed out that during the past 10 years, the federal regulators have grown from 12 agencies employing 58,455 persons and spending $860 million to 24 agencies employing 105,000 persons and spending $3.8 billion.

Furthermore, these regulators, who are not subject to election—or firing—by the voters nevertheless have the authority to enact rules and regulations that are just as binding as any law adopted by Congress and they enact a lot more of them.

A Library of Congress study made during 1974, for instance, showed that while Congress was enacting 404 laws, the federal bureaucracy churned out 7,496 new or amended regulations, or 18 regulations for every law.

No one, of course, disputes the need for federal regulation. The U.S. Food and Drug Administration, for instance, has the responsibility for assuring that the food and medicines that the American people buy are not injurious to health. In any nation, or state or city or county, in fact, regulations are a way of life. The question is to what extent are regulations needed and has not the national bureaucracy that performs this task taken on some of the characteristics of a Frankenstein Monster, impervious to the actual needs of the people and beyond the control of the Congress that created it?

What's to be done about it?

On the positive side, both the President and Congress are aware of the problem and a number of proposals are pending that could provide relief.

One is a regulatory veto, which would allow either house of Congress to veto a regulation by a simple majority vote. Another, called a "sunset amendment" would kill an agency automatically after a stipulated period. And, plans have been offered in both the Senate and House to insert "self-destruct" clauses in the charters of nine federal agencies. Still another would require the President to offer a new plan each year for five years to eliminate wasteful and unneeded regulations.

Finally, the surest way of all to get action in Washington is for the public to let its elected senators and representatives know it is fed up with bureaucracy and to demand that something be done about it.

THE DR. THOMAS A. DOOLEY SCHOOL, A TRIBUTE TO A SPLENDID AMERICAN

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WOLFF. Mr. Speaker, on the 18th of January 1976, the community of New York Public School 107 dedicated that school to the late Dr. Thomas A. Dooley. In celebrating the 50th anniversary of P.S. 107, the Flushing community wanted to name their school "after an individual who would inspire our children, an individual who would provide a model to help them achieve their potential as responsible adults." The changing of P.S. 107 to the Dr. Thomas A. Dooley School reflects this community desire.

Dr. Dooley was a man who, as we all remember, used his vast medical knowledge to serve mankind. His dedication and talent helped him in his work with the underdeveloped countries of Southeast Asia and he personally saved the lives of countless men, women, and children in Laos, Cambodia, Vietnam, India, Africa, and Kuala Lampur, Malaysia. Dr. Dooley's actions led to the establishment of the Peace Corps and President Kennedy said of him "This is the kind of man we want to grow in America."

I would just like to further applaud the actions of the Flushing P.S. 107 community in renaming their school after this great American. The Dr. Thomas A. Dooley School will serve not only as a shrine in his memory, but will also serve as an inspiration to the community's youth. Because Dr. Dooley was the kind of man we want our children to know of, I can think of no finer way to instill in them the admirable American qualities and ideologies portrayed by Dr. Thomas A. Dooley than to dedicate their school to him.

THE ANTITRUST LAWS STINK

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RUPPE. Mr. Speaker, I would like to bring an article that appeared in the March 22, 1976 edition of the Wall Street Journal to the attention of my colleagues.

The largest employer in the western half of my district has been forced to make massive layoffs following action by the Justice Department to block a proposed merger of the firm into a larger, more diversified corporation.

The article does an excellent job of reporting the disastrous economic and human impacts that this ill-considered action by the Antitrust Division has had on the people of northern Michigan:

DELAYED PUNCH: AS MOST OF THE NATION RALLIES, THE RECESSION ARRIVES IN WHITE PINE

(By Terry P. Brown)

WHITE PINE, MICH.—It is Friday night. At the Mineral River Shopping Plaza, only a handful of people wander from store to store.

"It's been like this most of the time since the mine laid off so many men," says Louis Wiseman, owner of the only shoe store within 40 miles. "They're getting nearly as much money now from unemployment benefits as they did when they were working, but the layoffs have had a terrible psychological impact."

A year ago, this description might have fit any number of towns around the country. But this scene isn't from a year ago; it is happening now. The recession has just arrived in White Pine.

The layoffs that worry Mr. Wiseman took place Jan. 5. Copper Range Co. sharply cut back operations at its big White Pine Copper Mine and furloughed 2,100 of the 2,900 workers there, workers who never missed a day's pay all the time that unemployment was rising elsewhere.

So, just when optimism is chasing away gloom in much of the U.S., people in these parts are really worried—not only about the existence of this company town of 1,700, but also about the economy of the entire western half of Michigan's Upper Peninsula. The area has been plagued in recent years by declining population, high unemployment and low income, but the mine layoffs threaten to make a depressed situation unbearable. Here in Ontonagon County, for example, the layoffs have pushed the unemployment rate to 25%.

"AS IMPORTANT AS A HEART"

"That mine is as important to us as a heart to a human," says State. Sen. Joe Mack. Copper Range is the region's largest employer; it's payroll pumps about $50 million a year into the economy. If the White Pine mine doesn't make a comeback soon, Mr. Mack, says, the region "will make Appalachia look like a paradise. It (the mine's trouble) will bankrupt 50% of the small businesses here."

White Pine's delayed recession isn't unique. Aftershocks of the recent sharp slump are still rumbling through the U.S. economy. "The impact of a general recession is always uneven, and so is the recovery, leaving areas of the economy stranded," says Paul W. McCracken, University of Michigan professor and former presidential economic adviser. "Because of the severity of the last recession, its aftermath may linger longer than usual."

The world-wide business slump of the last two years depressed the demand for copper and sent prices of the metal plummeting. The industry—and Copper Range in particular—was caught in a vicious cost-price squeeze. But Copper Range officials sought to avoid large-scale layoffs at the mine as long as they could. Even when copper-producing manufacturers began reducing purchases, Copper Range maintained most operations and built up inventories.

STRATEGIC CONSIDERATIONS

There were reasons for such a strategy. The White Pine mine is an underground operation requiring a knowledgeable and experienced work force; hasty layoffs might have scattered the workers, making any subsequent effort to resume full operations doubly difficult and costly. Also, Copper Range officials, including president Chester O. Ensign, who lives here, were concerned about the "devastating" effect that cutbacks would have on the local economy. Finally, there was some hope that the general economy would snap back more vigorously than it has, bringing about a rebound in copper and preventing the recession from ever reaching here at all.

But the slow national recovery frustrated efforts to hang on. Most metals analysts still believe the copper market will improve in the long run, but few are inclined to speculate just when or to what extent.

"The question is how long can a copper company last out economic hard times," says one Copper Range executive. Some observers estimate that despite some cost-cutting, the White Pine operation was losing more than $1 million a month last year. Copper Range, which also has a copper-manufacturing division and a hardwoods division, ordinarily gets 80% of its earnings from the mine. For 1975 the company reported a $13.7 million net loss, compared with a $17.9 million profit the year before.

THE DAY AFTER CHRISTMAS

So the day after Christmas, Mr. Ensign announced that 72% of the workers wouldn't return after the holidays; output at the mine and a related mill would be cut to 5,000 tons a day, or 20% of capacity. The company hoped to step up operations and recall workers March 1, but there have been no recalls yet. Company officials now plan a "mild" increase in employeemnt—by about 200 workers—at the end of March. They say there will be no major recalls until copper prices rebound.

The big unanswered question here is this: Has the recession simply dealt the area a delayed temporary blow, or is there danger of a permanent shutdown of the mine? For White Pine is among the highest-cost mines in the domestic copper industry. Its room-and-pillar mining method requires that 40% of the ore be left in place to support the mine ceiling. The nature of the ore deposits tends to restrict the size of the mine machinery and to increase the underground distances that men, equipment and ore must travel.

"Our costs range from 6 cents to 12 cents a pound more than copper mined in western open-pit operations," says Mr. Ensign, the company president. In good times, such as 1974 when copper prices averaged 83 cents a pound and peaked above $1, Copper Range can profitably mine the ore. But at times last year, copper from the White Pine was costing nearly 70 cents a pound to produce and was selling for under 60 cents.

With no work, with freezing temperatures and with several feet of snow on the ground, laid-off miners have ample time to ponder such things. While this part of the Upper Peninsula has a history of boom or bust, the latest blow has people scared.

At the peak of the region's development in the early 1900s, more than two dozen mining companies employed 21,000 workers, and a remote mining town like Calumet even boasted an opera house. But in the early 1960s, all the iron mines were closed. Later, several copper mines shut down, leaving White Pine as the last major operation. Rather than move or wait for one of the few jobs in the local ski and lumber industries, many miners signed on at White Pine as openings occurred, some of them commuting nearly 200 miles a day. "It's the last of the Mohicans," says one out-of-work miner. "If it goes, there are no other jobs and nowhere else for us to go here."

"It's the uncertainty that's so hard," says Joseph J. Kmetz of Ironwood, a conveyor-belt repairman. "At 51, I'm too young for a pension and too old to get another job. To pull up and move at our age with two small kids would be tough." So, like a number of other miners, he hopes to ride out the cutback with state unemployment compensation and company-paid supplemental lay-off benefits. He is drawing about $170 a week, or about $30 less than he was taking home before. "We're watching our budget closely," Mrs. Kmetz says, "and buying only what we absolutely need."

Many of the younger men, however, are less patient. John D. Allen operated a 40-ton ore hauler for more than four years before being furloughed. "I just bought a house here and was beginning to feel fairly secure," says the 29-year-old former auto worker. Responding to ads run by western mining companies in local newspapers, Mr. Allen and a friend now plan to use their tax refunds to travel to Colorado to look over job possibilities at a mine there. "We don't want to move," Mr. Allen says, "but if we like what we see, we'll pack up our families and walk away from this."

"I tried to discourage these young people from leaving at first," says John Cestkowski, president of Local 5024 of the United Steelworkers of America, which represents miners here. "The hunting and fishing are good, and the people are good." Then he adds:

"But that doesn't pay the bills."

Still, most people who have settled in the area aren't anxious to leave. Many fled Detroit and other large Midwestern cities. They talk of "elbow room," leave their homes and cars unlocked much of the time, and swear it's a great place to raise kids.

In general, they don't blame Copper Range's management for their predicament. "The company has done so much for their people," says Mrs. June Aho, who runs the Rainbow Motel in Silver City and whose husband was a painter at the mine before he was furloughed. "For many years people in White Pine got their water free from the company, and the company gave the land for the churches."

Copper Range still owns the hospital, the shopping center, two apartment buildings and an office building in town. And nearly all the modern, sturdy ranch homes bought by local families were built by the company.

But if people aren't upset with the company, they are certainly upset with the federal government. In a move widely supported by residents here, shareholders of Copper Range last year approved a merger of the company into Amax, Inc., a larger, diversified mining company that already owns 25% of Copper Range. But the U.S. Justice Department is trying to block the deal. Last October, a federal judge in Hartford, Conn., barred the merger on the ground that it would violate antitrust laws by reducing competition in the copper-refining industry.

"The Justice Department attorneys didn't even bother to come up here and look at our situation after they were invited," says Mr. Allen, the furloughed ore hauler. "Instead, some East Coast judge, who has it made, has taken away our jobs. The Antitrust laws stink."

Most residents feel that the merger would have allowed Copper Range to make it through times of depressed copper prices.

Although the immediate future looks bleak, County Commissioner Dan Piper nevertheless sees some opportunity amid the gloom. "Ever since the goose laid the golden egg here 20 years ago when the mine opened, people have been lulled to sleep," says the 37-year-old ironworker. "Now we're going to have to wake everyone up and try to expand our economic base. We're looking for a copper-products manufacturer and a furniture manufacturer, and our clay here could support a pottery factory." But perhaps realizing that such economic development takes time, Mr. Piper adds philosophically:

"Look, we're sitting on one of the largest copper reserves in the world. They can't leave it in the ground forever."

SCHOOL GETS HISTORY GIFT

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, at the request of residents of my district, I would like to mark a significant occasion with the inclusion of the following newspaper article in the CONGRESSIONAL RECORD. As the Virginian-Pilot reported, Smithfield High School in Smithfield, Va., has received the gift of a Freedom Shrine from the National Exchange Clubs. This reminder of our historical heritage, placed in the community largely through the efforts of Mr. Karl Gilmont, will serve as a patriotic inspiration to area residents.

The article follows:

SCHOOL GETS HISTORY GIFT

SMITHFIELD, VA.—On Washington's birthday, Smithfield High School became one of about 4,000 public institutions across the country to receive a Freedom Shrine as a gift of the National Exchange Clubs.

The Exchange Clubs of Denbigh made the presentation in the school auditorium on a rainy Sunday before about 125 people.

The Freedom Shrine is a photographic reproduction of 28 of America's most important historical documents, dating from the Mayflower Compact in 1620 to World War II's instrument of surrender in the Pacific, signed in 1945 aboard the USS Missouri in Tokyo Bay.

It has been put on a wall in the hallway of the school, but school officials said they consider it community property.

Karl Gilmont, a Smithfield High School history teacher, was credited with the idea of bringing the Freedom Shrine into the community and doing most of the work involved.

"I first saw it at the YWCA in Newport News. It is a beautiful exhibit. I knew I wanted it for our community," he said.

He praised the cooperation of school officials, the Exchange Club of Denbigh, and other members of the community for their help.

For 18 months Gilmont worked with the Exchange Club to make arrangements to receive the gift which is valued at $400.

"He worked many hours to get this, often from his hospital bed or while confined at home," said Dr. E. W. Sullins, Smithfield High School principal.

Hospitalization and confinement lasted for about a month. Gilmont's negotiations for the Freedom Shrine continued during that time. Tribute was paid him during an unscheduled portion of the program when he was presented a book featuring copies of the Freedom Shrine documents.

He said the book will be donated to the school library.

The shrine was accepted by Miss Marsha White, president of the Student Council Association, who said that "the wisdom and courage of the people represented made the dream that is America."

"Let the shrine be an inspiration," said Ben W. West, an Exchange Club director. "Let it be a forceful reminder of the duties and responsibilities of being an American."

POLITICAL COVERAGE OF THE PRESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. DERWINSKI. Mr. Speaker, too often in the national press political stories, the coverage concentrates on percentages of votes, official statements of Presidential candidates or of their press aides, statewide campaign chairmen, and other nationally quotable individuals. Rarely have we had reported the other side of the coin, that is, the thought processes of a reporter on the scene.

Here in Washington, of course, we recognize that we deal with a press corps that considers itself the most sophisticated practitioners of journalism in the world. Across the country, however, especially in community newspapers, we find conscientious, public-spirited journalists still writing stories rather than working off of detailed press releases or sometimes even leaks. Miss Stephanie Rusnak, who is a reporter and columnist for the Tinley Park Star-Herald, Tinley Park, Ill., relates in a column on March 18 her personal observations of attending a press conference held by President Ford in Chicago 2 weeks ago:

CONVERSATION WITH THE PRESIDENT

(By Stephanie Rusnak)

What do you say to the President of the United States?

I asked myself this question Friday as I watched President Gerald Ford slowly walk through a room filled with about 100 Northern Illinois Newspaper association members and guests.

We had just entered the reception room, following a press conference with the President.

The entire event, the press conference and reception, was arranged by the newspaper association. The press conference was limited to questions from the association members only, although the Chicago media were present.

I was dubious about any chance that I might even get to catch a close glimpse of the President. I mean, when Ronald Reagan was in town, members of our newspaper staff barely got close enough to see him, let alone speak with him. Security guards saw to that.

So when we received notice about Ford's granting a press conference and then also attending a small reception, I thought "Sure, and I'll need a ladder and binoculars to see anything."

Boy, was I wrong.

Sitting in the third row during the press conference, I was in such close proximity that I could see what time it was on Ford's wristwatch!

It was an odd experience—hearing reporters from papers like the Dixon Evening Telegraph, Elgin Courier-News and Joliet Herald-News asking questions at a Presidential press conference.

Ford responded extremely well to the myriad of questions. They ranged from the busing of school children to achieve racial balance to establishing stricter strip mining laws. Naturally he didn't please everyone with his answers, but he did manage to impress most with his ability to call to mind complicated facts, figures and details. He appeared to be in perfect control each second.

On my way to the event, at the O'Hare Marriott, I thought it would probably be called off since a tornado was sweeping through that area only minutes prior to Ford's scheduled arrival.

But everything ran as scheduled. Following the press conference, people shuffled into a smaller room down the hall. There we waited for several minutes for Ford's appearance. Again, the thought occurred that Ford would probably spend minimal time there. I was wrong yet another time.

The President entered the room and immediately a cluster of people formed around him.

The Secret Service men were polite and not pushy, but definitely in command. They were easy to spot since they wore a small button on the left side of their jackets and they also had what looked like hearing aids in their ears.

Ford slowly began to walk through the crowd, as the Secret Service proceeded to clear a path that cut across the room diagonally. I was amazed that we were allowed to cluster around the President of the United States as closely as we did. If I was a member of the Secret Service force, I'd be a nervous wreck. It wasn't so long ago that Lynette "Squeaky" Fromme and Sara Jane Moore gained worldwide notoriety when they were apprehended while carrying weapons.

As Ford haltingly walked across the room, he shook hands and chatted with people. Some just introduced themselves with a simple "Happy to meet you," while others stopped him for a minute or so with questions and conversation.

The closer he approached, the more indecisive I became as to whether it would be better to attempt asking a question or just simply introduce myself and leave it at that.

Standing alongside my future husband, Tony, I began mumbling weakly to myself "He may be President, but he's just another human being, right?" It was a last ditch attempt at calming myself.

The answer I received was no help at all.

"He's the most powerful man in the Western world," he said in a somber tone.

"Right," I thought to myself. At that point I was already beyond conversation. I was deeply involved in a private mental debate over whether I should:

—attempt to ask a question,

—just shake hands, introduce myself and be quiet,

—stand in awkward silence.

—run away.

I opted for a combination.

Closer and closer the President came. There were only three people between me and the President. Then two, Then one.

It was at this point that my perceptions of what took place entered a dreamlike state.

Ford could have said "I have to leave now. My jet, Air Force One, is waiting for me outside in the parking lot."

And I would probably have responded with "Yes, of course."

Then it was my turn.

"Mr. President," I said mechanically as I reached out for his hand and introduced myself.

Two things I am sure of. I stated my name and The Star-Tribune. Exactly what I said following that, I'll never recall. It was a question regarding the race in the Third Congressional district between incumbent Congressman Martin Russo and the elected candidate of the Republicans.

Russo had defeated Republican incumbent Robert Hanrahan in the last race and has been causing a stir in Washington with his anti-handgun legislation.

Ford listened, paused, then answered. Somehow he understood the question that I felt like I stumbled all over. How rough a time will the Republicans have in regaining their losses of the last election, when many party members stayed home from the polls following the Nixon disaster?

Ford said he hadn't heard much about the Third district race, but that if it was held by the Republicans in 1972, it probably wouldn't be too difficult to regain.

We were communicating.

One more question, I told myself.

"Did you see any of our tornadoes on your way out?"

"Yes, we missed one of them by about five minutes, but there was no problem," he said.

Ford did just miss a lot of bad winds that tore up portions of buildings, shattered windows and uprooted fences that could be viewed from the tollway leading to the hotel.

After having faced two would-be assassins and numerous unknown plots, what's a tornado or three?

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on March 25, 1776, the Continental Congress agreed to supply and pay the expenses of two additional battalions in South Carolina and three additional continental battalions in Virginia. Congress wished to strengthen the defenses of the southern military department because the then existing continental forces in South Carolina and Virginia would be unable to defend those Colonies against an expected British attack in the early spring.

On March 25, 1776, the Continental Congress, informed by letter from Washington that the British had evacuated Boston and that continental troops had taken possession of the city, resolved:

> That the thanks of this Congress, in their own name, and in the name of the thirteen United Colonies, whom they represent, be presented to his excellency General Washington, and the officers and soldiers under his command, for their wise and spirited conduct in the siege and acquisition of Boston; and that a medal of gold be struck in commemoration of this great event, and presented to his Excellency; and that a committee of three be appointed to prepare a letter of thanks, and a proper device for the medal.

John Adams, John Jay, and Stephen Hopkins were chosen to form the committee.

ESTATE TAX IS A HARDSHIP ON AVERAGE CITIZEN

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. O'BRIEN. Mr. Speaker, our present estate tax system is obsolete; inflation and rising property values have made it so. Last week the House Ways and Means Committee opened hearings on the estate tax issue. As a sponsor of legislation to liberalize our estate tax laws, I submitted the following statement of my views on this important matter:

STATEMENT OF HON. GEORGE M. O'BRIEN

Mr. Chairman, my name is George M. O'Brien. I represent the 17th Congressional District of Illinois and I'm here today to voice my support for estate tax revision.

In the 93d Congress and again in the 94th, I've sponsored legislation to raise the estate tax exemption, to permit farmland to be valued at its agricultural worth for estate tax purposes rather than at its fair market value. My present bill, H.R. 795, would raise the exemption to $200,000. As your colleague, Mr. Burleson knows, I'm also a co-sponsor of his bill, H.R. , which combines these proposals with an increase in the marital deduction.

I'm advocating these changes because I've seen firsthand the hardship the present law imposes on our family farmers and business people.

As you know, the present estate tax exemption is $60,000. That was fairly generous when it was set back in 1942. Land values were a lot lower. Unfortunately, prices have increased more than 200 percent in the last 34 years and today you can't buy much of a farm, much less equip it, for $60,000. The national average farm value today is closer to $165,000 and in my district, a good farm would cost a lot more.

As a result of inflation and the jump in land values, a farmer's heirs are often left with a whooping estate tax liability in the tens of thousands of dollars. Few farmers I know have that kind of cash on hand. Their money is usually tied up in fixed assets like the land, expensive farm machinery, buildings and livestock. They can't turn those assets into cash quickly without cutting into their farm's production capacity.

They frequently end up getting another mortgage on the property, if possible, or selling off part of the land and losing part of their productivity and profitability. More likely, they have to sell out the entire operation and lose their livelihood.

In other words, the present exemption is so low it's helping to drive farmers out of business. Another obsolete provision of the estate tax law is the system we use to assess farm acres for tax purposes. Farmland is now valued at its worth on the open market, not at its real worth for farming.

As an example, let's say a farmer dies and leaves his family a 125 acre farm worth about $500 an acre for agriculture. Say further that the farm adjoins a housing development where the land is going for $1,500 an acre. That farm is going to be taxed at the rate of $1,500 an acre, not $500, even if the farmer's heirs plan to continue farming.

Figuring the estate tax this way is unfair. As an attorney back in my district and now as a Congressman, I've seen case after case where the inequities of the estate tax law have cost families their farms, businesses and homes. You could say my constituency is a microcosm of the national situation.

The 17th District is made up of three counties, Will, Kankakee and Iroquois and the Chicago Heights area of Cook County. The area is dotted with small towns and cities surrounded by rich farmland. We have numerous family-owned farms and businesses; yet at the same time, industry has brought a surge of development and suburban growth.

Inflation and the new growth have drastically altered land values. It's not at all unusual for a small farm worth $200 or $300 an acre for farming to be located next to land worth $1,000 or $2,000 an acre on the open market.

It's also increasingly common for someone who earns a moderate income, owns a house or store, and saves a few dollars to have an estate worth well over $60,000. That includes a number of elderly people who may never have earned more than $5,000 or $6,000 a year all their lives.

To give you a better idea of how people in my district feel, I'll include here some excerpts from letters they've sent me on this subject.

A Will County farmer wrote:

"Land values are inflated far beyond their productivity capacity. A few years ago land valued at $300 or $400 an acre is now priced at $1,500 or $1,600 an acre. I've known heirs to have to sell their farms to pay the estate tax. We should preserve the natural beauty of our country and conserve our farmland."

From Iroquois County:

"The federal estate tax exemption is inadequate. It isn't keeping up with rising values of farmland. It should be increased a lot."

From Will County:

"With land values soaring, many widows are faced with forced sale of their husband's farms by the very people who are supposed to protect widows and orphans, the government.

"I know in my case, the land would have to be sold at a sacrifice to satisfy the estate tax, leaving the children's education and my wife's security up in the air. With this inflation, land worth $600 an acre is valued at $2,000 an acre, but no increase in yield or crop prices.

"Please support the bill to permit a farm to be taxed at it's value for farming purposes."

From Iroquois:

"Three cheers for Rep. Burleson and you! This tax is unfair and too high at present inflationary prices. Nonfarmers are investing in farms for tax loss purposes, raising valuations far beyond production possibilities.

"We worked and saved and deprived ourselves of all but necessities for years to be able to have a cushion for old age and a 'start' for our children. If we sold at present prices, capital gains would eat up all the profits and still leave nothing for the intended purposes. Our children also helped pay for our acreage, by work, and by doing without the pleasures and toys others had. We had no electricity until 1939 and no water system until 1947 nor indoor plumbing or central heating. The Congress should consider us deserving of at least an estate tax break."

From Will County:

"Pass this bill. A small farmer who wants to stay in farming, as I do, or pass his hard-earned farm to the next generation, cannot do so today with such a low exemption. The present law is old, old! Bring it up to date with a $200,000 exemption and with a method for valuing farming land on the basis of current and planned use instead of potential high value uses."

From Kankakee County: I am a senior citizen, aged 75. By hard work, frugality, and conservative investment in a home and various sound securities, my wife and I have managed to accumulate a moderate estate. I assure you that our children and grandchildren will need their inheritance very badly. It's difficult to comprehend why a non-frugal government should grab off such an outlandish share of the estate of a soon to die senior citizen.

"The $60,000 exemption for estate taxes doesn't begin to reflect the spiraling inflation and deteriorating value of the dollar that have occurred. In order to be equitable and properly reflect the current situation, it seems the exemption should at least be raised to $120,000."

From a Kankakee Attorney:

"The Ways and Means committee should consider raising the tax exemption to $300,000. Let me illustrate. If a farmer owning 400 acres of land, which is not all that much, died leaving his farm to one-half to his spouse outright and the other to her for life, in 1970 when land was worth perhaps $500 an acre, the estate would be valued at $200,000. The marital tax would reduce the taxable estate to $100,000 which would be reduced by the exemption to $40,000. The tax upon this would be $4,800 and no installment plan would be needed.

"But suppose he dies in 1974 or '75 and the land is appraised at $2,000 an acre. Now his estate is worth $800,000 and the taxable estate will be reduced by the marital deduction to $400,000 and by the exemption to $340,000 and the tax will be $75,300. Interest at 9 percent the first year on a 10-year installment payment plan would almost equal the principal payment. The interest would be $6,999.30 and the principal $7,530. If this isn't confiscation of property I don't know what is."

Personally, I can't believe that Congress ever intended the estate tax law to become such a hardship on the average citizen. Moreover, I hope that this committee and this Congress will see to it that the law is changed to provide relief.

Mr. Chairman, you have before you the means to accomplish this change. Our legislation would lift some of the burden of the estate tax, in fact, it would go a long way toward removing most of the burden.

I realize that any revision in the present estate tax system will alter federal revenues. There will be losses. But these losses are bound to be offset by new revenues from the income tax once people regain an incentive to build legacies. Right now, they are spending more avoiding the estate tax than in building estates.

I also realize that any change in the present law brings with it the possibility of opening new tax loopholes. No one wants to boost the danger of abuse in our already much-abused tax system. Still, I think these difficulties can be overcome. Certainly we should not let them stand in the way of revising the code where reform is needed.

Mr. Chairman, thank you for inviting me to testify here today. I hope you and the other members of this committee will see fit to act quickly and favorably on my request for the reforms embodied in my, and Mr. Burleson's, legislation.

CHRONICLE OF THE SLEEPING CAR PORTERS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. STOKES. Mr. Speaker, "Tracking Down 'Horror,'" by Ernest Holsendolph of the New York Times, is a chronicle of the sleeping car porter.

This article elucidates the galling indignities that these upstanding black men were subjected to by the racist policies of train companies.

Many of my colleagues in the House may not be aware that the job of sleeping car porter was the most respected profession in the black community along with the doctor, the preacher, and the teacher. They were looked up to as pillars of the community and models of intelligence and sobriety. Imagine the silent humiliation they suffered when they returned to the trains where, according to the article, they were treated like equipment rather than men.

Mr. Speaker, I am submitting Mr. Holsendolphs report which was carried in the Cleveland Sunday Plain Dealer on February 29, 1976. In light of this year's Bicentennial celebration, I hope that this account will serve as a painful reminder of the past injustices perpetrated against blacks in this country:

Tracking Down "Horror"—2,000 Pullman Porters Sue Over Past Discrimination

(By Ernest Holsendolph)

Washington.—Pullman car porters were portrayed over the years as ambassadors of goodwill, always courteous and correct, contented and eager to serve.

But there was a different view. "The train was like a spaceship, in a way," says Willie L. Leftwich Jr., a lawyer for the porters in a lawsuit brought against the company in 1963. "The porters were forced to be docile on the trains, but they came off the trains like tigers to tell about the horrors they faced daily and for years."

Judge Alfred A. Arraj of the U.S. District Court in Denver has ruled that the porters had correctly asserted that for years they were the subjects of discrimination—bound to their jobs as porters, often doing the work of conductors but not getting the promotions or the pay due them.

Pullman cars are rare since the company ceased operation in 1969—a casualty of changing transportation patterns.

But retired Pullman car porters persuaded the court that in the hundred years or so of Pullman service the job of porter was set aside for black men. And the men hired as porters were locked into that narrow role as a segregated job classification. Even though they often did the job of conductors, they were paid less and worked harder, they testified.

The Federal court ruled in their favor, and sometime in the next few months it will determine the financial liability of Pullman toward more than 2,000 porters.

Martin J. Rock, general counsel of Pullman, which is in the process of liquidation, said by telephone from his Chicago office: "With this mess, we'll probably have to wait before concluding the liquidation—until the appeal process is exhausted."

The remaining "shell" of the Pullman company has only two full-time employes, "and some desks and typewriters," Rock said. "The company also had, as of the last report period, about $8 million from sale of other assets," he continued.

A group of Pullman porters, all but one of them retired, talked to a reporter the other day about their experiences. They sounded at first as if they had just stepped off that "spaceship" referred to by their lawyer.

Joining in the interview were Hunter B. Johnson, Hal E. Leftwich, Leroy Graham, Leroy C. Richie, J. D. Shaw and George Williams, Washington-area men who have been porters for up to 35 years, and their lawyers, Leftwich and Ronald C. Jassamy.

In the 1930s, when many of the men were hired by Pullman to be porters, their jobs were a substantial share of the employment possibilities for black people, they said.

There was a note of pride in the fact that an applicant had to have an "unblemished" record to be hired by Pullman. The applicant also had to have recommendations from "two or more white people," said Hal Leftwich, 57 year-old uncle of Willie E. Leftwich Jr., who has spent 35 years with the railroads and has not yet retired. He was bitter about this requirement.

Ordinary Pullman porters had certain routine duties. They had to set out clean linen, make sure that water bottles, towels, soap and cups were available, and stand ready to receive passengers boarding the cars.

A porter might have anywhere from 22 to 42 passengers in his car, depending upon the equipment. He helped with baggage, fetched drinks and food and generally took responsibility for the passengers, their needs and their possessions.

Sometimes, when the management wanted to cut corners, they would put a porter in charge of the whole car instead of a conductor. Porters-in-charge were paid from $20.25 to $32.50 extra a month, and some of them served in this role for years—but they were not promoted to the job of conductor.

This practice was one of the primary sources of the lawsuit, begun in 1963 by Earl A. Love, a retired porter who is now stricken with prostate cancer, his lawyers say.

Salary records show that in 1946 conductors were paid $256 to $289 a month, depending upon seniority, but porters-in-charge were paid $196 to $207—a maximum difference of $93 a month.

As the years went by, the differential widened, so that in 1966 the maximum difference was $175 a month. It was not until 1967, according to court papers, that porters-in-charge were promoted to conductor.

The porters were most vociferous complaining about company attitudes that they were "part of the equipment and not men." "We were told to stay with the assigned car, no matter what happened," said Rickie, 71, who served the road for 26 years.

Sometimes disabled Pullman cars would be separated from the train on Wyoming prairies, said Hal Leftwich, where the winter temperature would be "30 to 40 below zero" and the car would be without heat.

"You would just have to sit tight and wait for a repair crew," he said.

And then there were the indignities associated with race prejudice. In some Southern states, porters-in-charge would be required to stand under a tree to wait for their tickets to be collected by train authorities because they were not allowed to enter the train stations.

In one Oklahoma town, the porters were forbidden to enter the community even to eat—and grocery stores would not sell them food. Sometimes, out of desperation, they were forced to dash off the train in the middle of the night during a brief stop to pick up food, Ritchie said.

Even more galling, they said, were some of the indignities fostered by the company. For instance, black men, even if there were available berths, were forbidden to sleep on a berth above a white woman, they said.

The porters were often forced to bathe under a makeshift shower that was a bag of soapy water. "Sometimes we'd be out there on the road one to three months before we got a decent bath, said Johnson, 64, who worked for the company for 31 years.

Dating from 1926, porters had their paychecks docked for any missing linen, even if a passenger took it or even if an unfriendly conductor merely said it was missing.

They criticized their union, the Brotherhood of Sleeping Car Porters, for being ineffective in redressing many of their grievances. "But at least the union made it possible for us to confront our accusers, and it established a grievance procedure," said Hal Leftwich.

The employment of porters reached its high-water mark in the mid-1940s, the men said, when about 15,000 were in the force. "It was in 1959 that we first noticed that the cars and the equipment began to fall down in repair," said Leftwich. "We knew then that the Pullman company was nearing its end."

POSTAL REFORM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RANGEL. Mr. Speaker, in 1970 we tried to find a cure for the ills that were facing the Postal Service at that time. We removed the Postal Service from the Federal Government and made it an independent agency, the U.S. Postal Service. At the time, Congress thought that a remedy had been found for the many problems facing the Post Office. However it appears now that the solution was no solution at all. For this reason I am today introducing legislation that will put the Postal Service back into the Federal Government.

I am sure we are all well aware of the difficulties facing the Postal Service today. The rates have been climbing at an alarming rate, up to where it now costs 13 cents to mail a first-class letter. Yet the Postal Service claims that their revenues are not matching their expenditures, and thus further increases may be necessitated.

I am not saying that the Postal Service is not attempting to reduce costs on its own. Postmaster General Benjamin Bailar has taken considerable cost cutting measures to establish internal labor-saving ideas but these have been shown to be insufficient to meet the Service's needs. Now they are turning to service cutbacks in order to save money.

One area that they have already made cutbacks is in rural mail delivery, by the closings of rural post offices. This I believe has put unfair hardships on those who would use these post offices, who now have to travel much further to get proper post office services. Also, the Postal Service recently instituted reductions in mail delivery service to businesses in several eastern cities. Future plans include cutting from 6 days to 5 during which deliveries will be made generally, eliminating Saturday deliveries.

Such drastic reductions in services have caused considerable dissatisfaction with the Postal Service both here in Congress and among the general public. Congressional concern has centered mainly on the Service cuts and the fact that the independent Postal Rate Commission does not seem to be functioning in the manner in which it was intended.

Public concern was demonstrated in a recent New York Daily News opinion poll in which twice as many of the respondents favored reestablishment of the Post Office Department as an agency of the Federal Government as opposed it. There is no reason to doubt that similar sentiment does not exist in other parts of the country as well.

One factor that must be considered is what affect those service cuts are having on the job situation. A cut in services would almost surely result in a reduction in personnel, increasing further our unemployment rate. With our economy in the state that it is, such a move is at best questionable.

I am not of the opinion that returning the Postal Service to the Federal Government would be the panacea for the many problems facing our beleagured Postal Service. Clearly however, by placing the Postal Service back within the jurisdiction of the executive, Congress can better monitor the activities of the Service and offer suggestions in the form of legislation as to how it might be improved. In short, the oversight capabilities of the Congress would be increased.

I believe that it is time for us to realize that we made a mistake in 1970 and correct that mistake before irreparable damage is done. If, to paraphrase the Postal Service, the mail moves the country, then the country will move that much faster with the adoption of my bill.

REPRESSION IN SOUTH KOREA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. SOLARZ. Mr. Speaker, I have been extremely disturbed by recent events in South Korea. Faced with a statement calling for a restoration of political liberties in South Korea, President Park Chung Hee instituted a tough new campaign of repression.

The declaration that led to President Park's brutal reaction was a moderate appeal for a return to a democratic government in Korea. One key section of the statement declares:

> In the midst of our bitter struggle against the communist regime of the north, we should always maintain our democratic force in coping with the north. Without the backing of democratic force, national defense as well as economic power is like a house standing on the sand.

The declaration was signed by some of South Korea's most esteemed former government officials and political leaders, including former Foreign Minister Chung II Hyung, former opposition leader Kim Dae Jung and leaders of the South Korean Christian community.

The Park government's reaction was swift and stringent: Almost all of the dozen or so signers of the letter were arrested and questioned intensively. Some of the courageous group of signers are still in jail and some have been released. Many others have been arrested and 400 university professors have been dismissed or forced to resign.

It is clear that President Park is determined to stamp out whatever remains of freedom in South Korea—despite the consequences in terms of maintaining support for the government within or outside the country.

These bitter events in South Korea cannot go unnoticed in the United States. We still maintain 40,000 U.S. troops and a high degree of interest in a country where many Americans fought and died 25 years ago. I believe that past American support of South Korea has been based both on the need to maintain important U.S. security interests in the region and on the desire to preserve a government that is clearly preferable to the repressive regime in the North. As the Koreas' internal politics become less and less distinguishable, the need to keep American troops in the South becomes less and less apparent.

Edwin O. Reischauer and Jerome Alan Cohen, two distinguished professors at Harvard and experts on Asia, wrote a letter that was printed in the March 19, 1976, New York Times to protest President Park's activities. They listed a series of actions designed to enhance Park's dictatorial rule:

> He has crippled the opposition political parties, punished the exercise of free speech, prevented free association, censored the media, curbed the courts, subdued the universities, restricted religious groups, controlled labor movements and generally created an atmosphere of fear and intimidation.

Reischauer and Cohen concluded the following on Park's actions:

> This tragic policy will create subversion where there was none. It will defeat American efforts to divest ourselves of the moral taint that comes from our support of unnecessarily repressive regimes. And it raises the specter of the U.S. again being drawn into a costly war on the Asian mainland in defense of a corrupt, unpopular secret-police/military dictatorship.

Mr. Speaker, I include the full text of the letter in the RECORD at this point as well as an eloquent editorial decrying the situation in South Korea from the March 18, 1976, Washington Post:

[From the New York Times, Mar. 19, 1976]

SEOUL: TIME TO VOICE U.S. DISAPPROVAL

To the Editor:

Internal political conditions in South Korea have steadily deteriorated during the past five years. In the 1960s the Government of President Park Chung Hee, which came to power in 1961 via a military coup, made great economic progress and seemed to be gradually developing an open political process that would eventually vindicate the massive American economic and military aid to the Republic of Korea. In a series of moves since 1971, however, Park changed the constitutional system to guarantee his lifetime rule and has now suppressed even token public dissent.

He has crippled the opposition political parties, punished the exercise of free speech, prevented free association, censored the media, curbed the courts, subdued the universities, restricted religious groups, controlled labor movements and generally created an atmosphere of fear and intimidation. Those who have tried to resist the ruthless extermination of the Korean democratic experiment have met economic sanctions, threats to their persons and families, arrest, kidnapping, torture and even death.

The latest outrage occurred this week when Park arrested many of Korea's finest leaders, devout believers in democratic government who refuse to accept Park's repeated efforts to justify dictatorship by exaggerated cries of "threat from the North." This courageous group includes: Kim Dae Jung, who distinguished himself as opposition party candidate in Korea's last relatively free presidential election; the wife of former President You Po Sun; Y. H. Chyung, former Foreign Minister, and his wife, Lee Tai Young, leading feminist who won the 1975 Magsaysay award, and other civic and religious figures.

This tragic policy will create subversion where there was none. It will defeat American efforts to divest ourselves of the moral taint that comes from our support of unnecessarily repressive regimes. And it raises the specter of the U.S. again being drawn into a costly war on the Asian mainland in defense of a corrupt, unpopular secret-police/military dictatorship.

It is time for our political leaders in the executive branch and in Congress and for candidates in the Presidential primaries vigorously to express their disapproval of policies that narrow the distinctions between South Korea and its repressive counterpart in North Korea and to point out the extent to which Park's actions diminish the American willingness to support South Korea. [Editorial March 12.]

JEROME ALAN COHEN.
EDWIN O. REISCHAUER.

CAMBRIDGE, MASS., *March 11, 1976.*

[From the Washington Post, Mar. 19, 1976]

SOUTH KOREA'S MOST DANGEROUS MAN

A dangerous man is on the loose in South Korea, one who threatens to provoke internal upheaval and to cost his country the support of its leading foreign ally. Indeed, given the ruthless centralization of power in Seoul, this man is in a position to do more damage to Korea's stability and security than any other figure. He often makes the monomanic who runs North Korea, Kim II Sung, look like an ineffectual ward politician. He is, of course, South Korean President Park Chung Hee.

President Park is as spoiled a despot as any ruler today. He started his political career unexceptionably enough. But the narrowness of his electoral victory over Kim Dae Jung in 1971—a contest in which his party extorted $3 million from Gulf Oil alone—apparently frightened him. He reacted over the next two years by turning South Korea into a personal dictatorship. Meanwhile he played on the solicitude many Americans have felt for his country since the Korean War, and on the gratitude some Americans expressed for his help in Vietnam, and he got the United States at once to build up his army and ignore the increasingly repressive quality of his rule.

The other day a dozen or so brave Koreans gathered in a church in Seoul to read a "declaration of decency and national salvation." They asked President Park to resign so that democracy could be restored. The group included his old nemesis Kim Dae Jung and leaders of South Korea's Christian community. Arrested promptly, they are evidently to be charged with plotting to overthrow the government. If convicted, they could be executed—eight other Korean political challengers were executed last year. The arrests are described as the last gasp of the political opposition. This does not mean that political opposition will end but that it will be forced underground. President Park offers no alternative.

Now, President Ford laid hands on President Park with a visit a year or so back. Secretary of State Kissinger's position, that Mr. Park's geopolitical role is too important for the United States to take issue with the way he runs the country, is all too well known. Still, it is dangerous and dishonorable for the Ford administration to remain silent about President Park's domestic savagery. Administration mumbling notwithstanding, this is not the United States' only choice.

We do not believe that the United States should abandon the South Korean people or otherwise act in a way that would tempt war. But we do believe that the administration's permissive tolerance of Korean police rule, far from allowing American officials to wield a softening influence by quiet diplomacy, has simply permitted President Park to tighten his grip. We suspect that President Park is laughing up his sleeve at Gerald Ford and

Henry Kissinger and the American people. He is telling himself that there is no assault on American values that the United States cannot be conned into condoning in the name of anti-communism. If the administration cannot bring itself to set President Park straight, then the Congress, which controls the funds that keep him afloat, should do so on its own.

THE U.S. GRAND PRIX WEST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ANDERSON of California. Mr. Speaker, on Sunday, March 28, the streets of downtown Long Beach will reverberate to the roar of powerful racing engines, as the U.S. Grand Prix West enjoys its inaugural run.

Grand Prix style racing, especially with formula 1 type cars, is probably the most exciting event in automobile racing. Only one other race—the Monaco Grand Prix—is held in the streets of a metropolitan area.

Last fall's highly successful Long Beach Formula 5,000 race served as a warm-up for Sunday's event. The 2 mile plus track received a lot of praise at that time from race officials and the drivers themselves, which has served to heighten the anticipation for this Sunday's race.

Street racing is never as fast as competition held on courses designed to serve as race tracks. However, the advantages of street racing include better action; a more interesting, varied track; and the excitement of running through the streets of a busy metropolitan area.

Long Beach is known as "The International City," and it will truly become one during the race. Almost one thousand members of the press are expected to be accommodated, and the Grand Prix will be reported in over a dozen languages to nations on every continent except Antarctica. The Long Beach Grand Prix may become the largest gathering of the international press in American sports history.

I would like to congratulate the Long Beach Grand Prix Association and the city family of Long Beach for their outstanding work in preparing for this Sunday's Grand Prix. Bringing European style racing to the streets of such a distinctly American city as Long Beach promises to be an interesting, exciting event.

The following article from the March 22 edition of Sports Illustrated gives an excellent account of this Sunday's first annual U.S. Grand Prix West:

GO FOR IT ALL ON GLORY ROAD

(By Robert F. Jones)

American motor racing got its start on real streets more than 70 years ago, but somewhere along the winding way it lost that sense of actuality. From 1904 to 1921, crowds of as many as 250,000 car-crazy fans looked on in ecstasy as monstrous, 16-liter Locomobiles and Panhards careened through downtown Queens and Philadelphia, Milwaukee and Santa Monica at speeds of more than 100 mph. You could sit in a saloon, sipping nickel beer and wolfing pigs' feet from the free lunch, and watch bold men risking their lives on the very pavements you walked each day on the way to work.

Then along came oval tracks and artificial road courses to remove automobile racing from the realm of Everyman's experience. But next week in Long Beach, Calif. street racing returns. And it may well be the most stirring event in American motor sports since the days of Barney Oldfield and Willy K. Vanderbilt.

The occasion is the first annual U.S. Grand Prix West, a full-bore Formula I race, the third of the current World Driving Championship series. The best of the international road-racing drivers will be on hand, just as they were in those primeval Vanderbilt Cup races, and for all the culture shock that has occurred in the intervening years, they won't be going much faster, on the average, than their predecessors.

What gives the race its special tang is the fact that it runs through the heart of a real, live, American metropolis. Remote from the electric excitement of big cities, most modern road circuits have a sterility about them, compounded of concrete and infinitely repetitive billboards. By putting a road race downtown, you may slow the speeds but you accelerate the action.

Long Beach, for example, is a mere 20 minutes (at legal speeds) from Los Angeles International Airport and less than that from Disneyland provided the ears on your Mousketeers hat don't cause too much drag with the top down. From the elegant new Pacific Terrace Convention Center, which lies at the heart of the Long Beach race circuit, a strong-armed martini drinker could flip an olive pit down one of the stacks of the *Queen Mary*, the city's main tourist attraction. Or at least he might think he could, so large does the great black hull loom in the background.

The two-mile-plus circuit is a delight both to drivers and spectators. Competitors who sorted it out during last fall's inaugural Formula 5000 race liked the constant challenge of changing road surfaces and contours—rough and slick, uphill and down, curve and straightaway—while race fans freaked on the new sounds and perspectives afforded by the constant variability of a "real" racing environment. Particularly gratifying was the overhead view from the many high-rise vantage points that stud the circuit. From ground level, modern race cars with their low profiles and wraparound helmetry look like so many outsize HO-scale toys being run by remote control. But gazing down into their cockpits from balconies that rent for as much as $1,500 during the race weekend, one can actually see the violent wrench of steering wheels and pump of pedals that produce the smooth line of "effortless" speed. It affords a sense of the human element often invisible in the sport.

Equally fascinating are the vignettes of city life that are part of the scene. The pigeons that roost on the Heartwell Building, a rococo revenant of the '30s that hulks above the Ocean Boulevard straight, swirl in red-eyed panic each time the snarling pack whips past. The California-cool kids in cutoffs rattle their skateboards through parallel back alleys in a vain, laughing effort to keep up with the race cars. There are the Navy bars and locker clubs and tattoo parlors of the Nu Pike, just athwart the Pine Avenue uphill section of the course, where in the old days a sailor could get anything he wanted—from drunk to killed to an homage to Mom engraved on his biceps—in no time flat. Old-time racing cars roll past on parade, from Bugattis to a Talbot-Lago, and their drivers are celebrities of yesterday, the likes of Indy's Pete DePaolo or Phil Hill (page 58). It's all there, behind the blur of speeding, sophisticated cars and drivers hell-bent for glory.

The easiest comparison, of course, is with Monaco—the only other Grand Prix race through actual city streets. But every city has its own actuality; Long Beach possesses a gritty, sun-washed charm that has nothing to do with Monte Carlo, princesses and effete European airs. It and its streets are strenuously American—and one concludes, finally, that Barney Oldfield would heartily approve the venue. Though he would doubtless regret the price of the beer.

CRIMINAL JUSTICE PROBLEMS IN NEW YORK

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BINGHAM. Mr. Speaker, New York's problems with its criminal justice system are not the product of our fiscal crisis. Excessive plea bargaining, failure to cope with juvenile crime, the failure of prisons as rehabilitative institutions—these problems were not the result of cash-flow difficulties, but are rather chronic problems, whose results have for years been registered in the minds of millions of New Yorkers.

The fiscal crisis, however, makes it imperative that the workings—or non-workings—of our criminal justice institutions be examined with the utmost care; for we in New York today face the problem not so much of how to cure our system with new spending, but rather how to avoid killing ourselves as we cut old spending. In such a situation, the obvious is not always true. It may, for instance, be more harmful to cut the courts' budget than the police budget; any increase in the already excessive level of plea-bargaining may well simply doom to failure the efforts of our remaining police.

A recent series of editorials on CBS News Radio 88, in New York, has seriously and intelligently examined this and other problems that face New York's criminal justice system. I commend CBS, along with reporter Jerry Nachman, for this effort.

The CBS editorials follow, in the order of their presentation:

I

"The only real, true deterrent to crime is an early, speedy, sure trial." Those words from Bronx District Attorney Mario Merola who also summed up the findings of our six-week long investigation of the criminal justice "non-system" in New York City thusly: "It just doesn't flow. It staggers. It inches along. It is not serving the public."

Governor Carey has pledged an "overhaul" of the system. WCBS wishes the Governor well. It's a tall order. But here—based on our findings—is what must be done.

First, in light of the financial squeeze, productivity must be increased through a reallocation of existing resources. Hiring more police is not the answer—increasing trial capacity is the answer.

Violent repeat offenders must be made the target. The criminal justice system should not be burdened with victimless crimes. Parole should be abolished and punishment should be tailored to fit the offense, not the offender. Judges should not be forced to ponder sentencing in felony verdicts—each crime should have prescribed minimum and maximum sentences.

Courtroom delaying tactics must be curtailed and the courtrooms themselves put to more efficient use. The average supreme court justice sits only four-and-a-half hours a day. It costs $40 a day to detain a prisoner—it would be cheaper to use that money to hire more prosecutors to move cases faster.

The judicial system should be removed from the political arena—justices should not be elected but appointed on the basis of merit—and it should no longer be used as a "way station" en route to higher political office.

And finally, there must be added the missing element—a coordinator—to make the criminal justice "system" function as an integrated unit, with each element acting in concert with the others.

We said it was a tall order. But until the violent criminal knows his acts face swift and certain judgment—until society is prepared to say, "Hello, defendant. Come on in. The courtroom is ready and waiting for you!"—until that day, violence and fear will continue to breed upon a fertile field of scorn.

II

WCBS recently concluded a six-week-long series of investigative reports on the criminal justice system in New York. The findings were frightening—foremost, the fact that the criminal justice system is NOT a system but a conglomeration of disparate elements: police, courts, corrections, defenders and prosecutors, probation and parole.

The "non-system" costs the taxpayers nearly a billion-and-a-half dollars a year to remove from the streets—and put behind bars, however temporarily—about six-thousand adult and juvenile violent offenders.

WCBS Reporter Jerry Nachman discovered it's like trying to force a mountain through a sieve—more than a half-million violent crimes resulting in one-hundred-thousand arrests resulting in sixteen-hundred trials. That's about the number of murders committed in a year, never mind the far more numerous crimes of rape, robbery, felonious assault, burglary and grand larceny. Noted Nachman: "Dangerous criminals are walking away because the system cannot or will not put them on trial."

For the select few criminals who do go to trial and thence to prison, the emphasis is on rehabilitation despite conclusive evidence that prisons fail to rehabilitate or to deter repetition of criminal activity—that rehabilitation programs tend to be used by prisoners solely as a means to get out of prison. "We should not grant parole," reporter Nachman was told, "we should grant Oscars and Emmys"—in reference to prisoner performance before parole boards. Concluded Nachman, "We are simply recycling criminals, returning them to the streets where—statistics say—they'll simply repeat their offenses."

The result of this criminal justice "non-system" is a city bathing in fear—its social sewers tiny to the task, clogged and spilling the overflow freely back into the streets. A further look tomorrow.

Who says criminals are dumb? The chances are better finding the Mets and Yankees in the World Series this fall than finding the average criminal behind bars for some felony he commits. Consider the odds—commit a crime, and the odds are 180 to 1 against your going to prison. The odds are even, that your crime will never be reported to the police. If it is reported, the odds are 5 to 1 against your being caught. If you are arrested, the odds are 18 to 1 against your going to prison—3 to 1 against even if convicted by a jury of your peers. Jimmy the Greek couldn't do better.

It's the non-system of criminal non-justice in action. 85% of the billion-and-a-half dollars we spend on it each year goes for police protection. The cops work hard and funnel a quarter-million arrests into a system equipped to handle only a few thousand. Nearly 80% of all felony arrests are reduced to misdemeanor status—there's not enough trial space. And feeding the system is a model of inefficiency—every arrest requires an average of seven hours of police overtime, about $100 worth, not counting lost manpower on the beat.

Once in court, the 20,000 felonies not reduced to misdemeanor status undergo plea bargaining, and only 1,600 actually go to trial. Those cases are heard by 117 permanent and acting Supreme Court judges in the City—fewer than 14 trials per judge per year. The average trial is another model of inefficiency—delayed at least twelve times at an average of 10 days per delay, thanks in the main to your friendly neighborhood defense attorney. And for two very practical reasons: first, delays help the defense—witnesses tire and disappear, or their memories become faulty—delays lead to dismissals; and second, there is the money motive—defense attorneys like to be paid for their work, and cases tend not to be concluded until payment is made.

It boils down to this—New York City has an unlimited capacity for violent crime with an extremely limited capability of dealing with it. In the words of Bronx District Attorney Mario Merola: "The criminal justice 'system' is really overburdened. And it's reaching the point where it's about to collapse."

IV

How many times have you heard this exasperation: "Damn kids get away with murder!"? Well, it's no understatement when it comes to our system of juvenile criminal justice.

Take the case of Rodney L., 15 and in the market for a new bike last summer. His mother wouldn't give him the money, so he took his business to Central Park where he implanted a golf iron in a girl's skull and rode off on a brand new 10-speeder for free. The girl died. And by the time Rodney L. emerged from the juvenile justice system, his punishment consisted of 18 months in an unlocked minimum security facility in the Bronx, with weekends and holidays at home, and the possibility—however remote—of being back on the streets this summer.

The juvenile justice system operates more earnestly than the adult system—it does, after all, have the responsibility of trying to save the troublesome child from an adult life of crime—but like the adult system, it fails to protect the public. Juvenile justice operates in a world of euphemisms—one does not "prosecute," one "pursues a petition"—one is not judged "guilty", instead a "finding is made." Juvenile "offenders" are neither mugged nor fingerprinted. Arrest records are not circulated between the boroughs and are wiped clean at age 16. Family court proceedings are closed to the public. Intake officers have the right to "adjust"—that is, "dismiss"—all cases at intake. In fact, 60% of all juvenile cases are "adjusted at intake." Of the 26,000 arrests last year, fewer than 2% were sent away, and then for an average of six to eight months.

Juveniles are responsible for nearly half of all serious crime, and there is growing pressure to treat juvenile offenders like criminals—to base sentences on the seriousness of the crime, not the age of the criminal or the needs of the criminal.

Governor Carey has called for "a mandatory one-year sentence for any juvenile found guilty of enumerated violent crimes and judged dangerous to society . . ." as a part of his pledge "to begin an overhaul of our system for criminal justice." A look at what else he must consider tomorrow.

H.R. 12749

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. RINALDO. Mr. Speaker, yesterday I introduced H.R. 12749, a bill which would allow licensing of citizen's band radios at the point of sale. This bill is companion legislation to S. 3164, which was introduced in the Senate by Mr. EAGLETON on March 17.

The phenomenal growth of public interest in CB radio has created a pressing need for this legislation. Under the present system, which requires licenses to be granted by the FCC, delays of 6 or even 9 months plague the hapless applicants for CB licenses. Such lengthy delays are not the fault of the FCC, which is being swamped with as many as 500,000 CB applications per month; instead, the delays are the result of a system which is entirely too cumbersome for the demands which are being placed upon it.

With the FCC anticipating that 5 million Americans will apply for CB licenses in 1976, it is clear that the present system needs to be greatly streamlined.

H.R. 12749 would accomplish this "streamlining" by authorizing the FCC to permit CB licensing at the point of sale. Licenses would be furnished to CB dealers, with each license listing a call letter for the individual CB radio transmitter. The FCC would continue to set the licensing requirements and licensing fees; it would still record each license which was issued; it would still retain the right to deny licenses to unqualified applicants.

In short, the FCC would lose none of its authority as a result of this bill. The FCC would, however, be relieved of an administrative responsibility which has now become burdensome: the responsibility of processing 500,000 CB applications per month. The processing responsibility would instead be diffused among the thousands of American CB dealers—without any dilution of the FCC's right to revoke improperly issued licenses.

Anyone who has ever applied for a fishing license knows that "point of sale licensing" is a workable concept. Given the present backlog of CB applications, the only alternative to "point of sale licensing" may be the creation of an entire class of Americans—5 million strong by the end of 1976—whose respect for governmental effectiveness has reached a new low.

Let me add, however, that this bill would do more than simply avoid the negative effects of the present "backlogged" system. This bill would also achieve the positive result of increasing the use of CB radio transmitters.

The benefits of CB use far outweigh the disadvantages. For one thing, CB radios appear to create a "CB community" whose members use their CB channels to overcome the impersonality of modern industrial society. Of more tangible importance is the role which "CB'ers" can play in reducing crime and reporting accidents.

As Mr. EAGLETON has noted, the Missouri Highway Patrol has discovered how valuable the assistance of "CB'ers" can be. Five months ago, Col. S. S. Smith, who heads the Missouri Highway Patrol, ordered CB radios installed in all 700 of the patrol cars under his command. Colonel Smith further ordered that highway patrol cars were to keep one CB channel open for any private citizen who wished to contact the patrol.

Colonel Smith now reports that—after only 5 months—CB notifications to the patrol have resulted in the arrest of 671 drunken drivers. CB reports to the patrol have also enabled the highway enforcement agency to stop 61 people who were driving the wrong way on a dual highway.

In addition, Colonel Smith reports that 20 percent of the accidents to which the patrol responded were reported by "CB'ers." Colonel Smith also found that CB reporting of accidents allowed the patrol to trim its response time by an average of 40 percent.

I feel confident that other States will soon be following the lead of Missouri—particularly if expanded CB use is encouraged by the enactment of "point of sale licensing" legislation.

I am also convinced that law enforcement agencies have only begun to explore the potential of CB as a crime-reporting network. What "CB'ers" have done to reduce and report accidents in Missouri can be the basis for a national effort to reduce the threat of crime.

I am, of course, looking into the future when I say this. The first step toward a nationwide crime-reporting network is "point of sale licensing" of CB radios.

I am aware, however, that CB radios can cause sporadic interference with home entertainment equipment—such as television sets and even stereophonic phonographs. For this reason, I urge my colleagues to join me in cosponsoring H.R. 7052, a bill which has been introduced by Mr. VANIK.

H.R. 7052 would authorize the FCC to require manufacturers of home entertainment equipment to install "filters." These filters would fully protect the users of home entertainment equipment from CB interference. Thus, this bill would allow Congress to avoid a serious "conflict of rights" situation; the bill would guard the rights of "CBers" and non-"CBers" alike.

According to Mr. VANIK, H.R. 7052 would add only 22 cents to the price of a phonograph and only $5 to the cost of a television set. This is a small price to pay for a guarantee to television set owners that their sets will be insulated from interference—plus a guarantee to the "CBers" that the exercise of their own rights will not infringe upon the rights of others.

As for H.R. 12749, my own bill, I present it now for the consideration of my colleagues:

H.R. 12749

A bill to amend the Communications Act of 1934 in order to expedite the issuance of licenses to operate citizen's band radio transmitters

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(i) (1) In order to expedite the licensing of operators of citizen's band radio transmitters the Commission may—

"(A) authorize any retail dealer selling such transmitters to issue, on a conditional basis subject to denial pursuant to clause (c), such a license furnished by the Commission complete with call number, upon application completed by the applicant on forms furnished by the Commission and mailed by registered mail to the Commission by such dealer;

"(B) authorize such dealer to collect (i) and transmit to the Commission the Commission's fee for such license, and (ii) a reasonable amount, determined by the Commission, as a compensation for such dealer's costs in supplying services authorized in this subsection;

"(C) at any time within the one-hundred-and-eighty-day period following the date of the mailing of such application, deny, by notice only mailed to such applicant, the issuance of such license upon determining that such applicant is not qualified for such license.

"(2) The Commission shall include in appropriate places in applications and licenses pursuant to this subsection—

"(A) requirements with respect to eligibility for such a license;

"(B) requirements with respect to radio usage pursuant to such a license;

"(C) a specific statement that all licensees will be expected to comply with such requirements which each applicant must agree to by signature; and

"(D) the penalties provided for violating such requirements.

"(3) The Commission is authorized to promulgate such regulations as are necessary to carry out the provisions of this subsection.".

DEMOCRAT DE-QUARTERING ACT LOCKS PEOPLE OUT OF HOUSE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, 211 years ago yesterday, the British Parliament passed the Quartering Act which required the American colonists to keep British troops in their houses. Yesterday, the House Democratic leadership, through the Rules Committee, voted to keep the American people out of their own House, the U.S. House of Representatives.

By a 9-to-6 vote, the Rules Committee recommitted House Resolution 875 to the Ad Hoc Subcommittee on Broadcasting. That resolution would have provided for the radio and television broadcast coverage of House floor proceedings. The failure of the Rules Committee to report that resolution to the full House has effectively killed broadcasting for this Congress, in my opinion. The resolution suffered death by arm-twisting in the Rules Committee, which is an arm of the Democratic leadership. The issue was decided, not on its merits, but on the basis of intramural House Democratic politics—the fierce struggle for leadership posts in the next Congress. It is now clear that these so-called Democratic leaders are still living in the 19th century. We are practically the last House in America without television.

The American people must ask why the Democratic leaders in this Congress are apparently afraid of their own image and what it is they are trying to hide. I think it is disgraceful in this Bicentennial Year of American democracy that there are still those who would close the House shutters to the electronic media on which the American people rely for most of their information about government. It is especially shameful that the people's representatives would not even have a chance now to vote on this broadcast proposal.

Mr. Speaker, the reasons given for sending this resolution back to subcommittee were flimsy at best. One faction wanted the subcommittee to re-report a multiple-choice resolution, giving the House three different options for providing broadcast coverage: a network pool arrangement, an in-house broadcast system, or covered by the Public Broadcasting System. Never mind that the resolution already reported by the subcommittee mentions no specific arrangement. We had already taken all references to the network pool which we favored out of the resolution, at the specific request of the Speaker. Never mind that the subcommittee report, as well as a report by the Joint Committee on Congressional Operations in the last Congress, already contain a thorough discussion of the alternative options available. Never mind that the Rules Committee could have marked up the resolution yesterday to specify an alternative arrangement for providing coverage, or that an amendment could have been offered on the House floor under the open rule we requested. No; for the first time to my memory, a subcommittee of this Congress was being asked not to make a recommendation—to be completely neutral—and to somehow devise a multiple choice resolution in which Members could check their preferred box.

Mr. Speaker, the other reason for recommitting this resolution to subcommittee was that the language did not guarantee that any use of the coverage by private broadcasters would be completely objective, balanced, impartial, fair, undistorted, and so forth. Never mind that section 1 of the resolution, which deals with "Findings, Purpose, and Intent," already states that—

> It is the purpose of this resolution to provide a means, in conformity with acceptable standards of dignity, propriety and decorum, by which the proceedings of the House of Representatives may be covered by television and radio broadcast—
>
> (1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House, the consideration thereof, and the action taken thereon . . .

No, we are somehow expected to provide enforceable guarantees that any broadcast use of the proceedings will not violate our own preconceived notions of what is and is not balanced coverage. In effect, the subcommittee was asked to make a tiny amendment to the first amendment of the Constitution. I would facetiously suggest that the following constitutional amendment might satisfy some:

> Congress shall make no law . . . abridging the freedom of the press unless it is necessary to insure more accurate press coverage of the proceedings of the Congress, as determined by the Congress.

Seriously, Mr. Speaker, I do not think any further amendments to our resolution would in any way dislodge the resolution from the Rules Committee, even if we brought back a resolution engraved on stone by lightning from Mount Sinai. The real miracle that is needed to send such a resolution to the House floor is the power of House and public opinion to part the waves of the Democratic leadership that are now blocking its safe passage.

Mr. Speaker, today I am joining with the gentleman from Maine (Mr. Cohen) in introducing a clean version of House Resolution 875 which differs from the subcommittee version only in the respect that the broadcast coverage would begin at the beginning of the next Congress. It will still be necessary to pass such a resolution in this session if the necessary contract and construction arrangements are to be completed in advance. At this point in the Record, I include several news articles relating to the Rules Committee action.

[From the Washington Post, Mar. 25, 1976]

House Panel Rejects Floor TV Coverage

(By Mary Russell)

The House Rules Committee, while being televised, rejected a resolution yesterday to permit fulltime television coverage of the House floor.

With a network camera crew recording the proceedings, the committee voted 9 to 6 to send the proposal back to subcommittee, a move Rep. John B. Anderson (R-Ill.) said kills it "at least for this year."

In a sometimes raucous session, members voiced fears about being shown napping and fears of not being shown at all, fears about boring the public and fears of becoming "the greatest show on earth."

While Anderson and subcommittee chairman B. F. Sisk (D-Calif.) tried to allay those fears, one thing became clear—there was no reason to fear that Rules Committee members were acting any differently with the cameras on than with the cameras off.

Rep. Ray Madden (D-Ind.) the 84-year-old chairman of the committee, has long been given to rambling monologues, mostly on the way things were back in his district.

Yesterday, in front of the camera, he was no different. At one point he said, "Hang on to your underwear here. I have an announcement to make."

Generally he worried about the effect back home of showing an empty House floor.

He said members were often busy in their committees or taking care of constituents' problems and only go to the floor to vote. "But people will think we're out fishing or hunting or playing golf or something," he fretted, and that could "endanger our chances of coming back to Washington."

Rep. Delbert Latta (R-Ohio) said the floor coverage was being promoted as gavel-to-gavel, "But it won't be gavel-to-gavel. We'll see what some person believes we ought to see in two minutes on the news. That's outright censorship."

Rep. John Young (D-Tex.) worried that television would only cover one side of an issue. He cited a committee hearing when only the opponents of nuclear power were televised, not the advocates. "I'm concerned about one-sided coverage," he shouted at the red light on the camera.

Rep. Trent Lott (R-Miss.) worried that quiet, soft-spoken members wouldn't get on camera.

Latta noted that "less sexy" committees like Agriculture rarely draw television coverage.

"People consider us a legislative body, not the greatest show on earth," he added.

Rep. Andrew Young (D-Ga.), a proponent of coverage, noted that cameras which cover Senate committee hearings don't "focus on the empty chairs" even when one senator is present.

Anderson said, "There are certain inherent risks in a free society." He said the House does not try to censor what newspaper reporters write, and should not try to censor what the electronic media cover.

The Sisk proposal would have let the Speaker contract with whomever he wanted to televise the House, but it recommended that the four networks—ABC, NBC, CBS, and PBS—do it on a pool basis.

Anderson charged that the proposal was defeated because of "arm-twisting" by the Democratic leadership, House Majority Leader Thomas P. (Tip) O'Neill had favored having the subcommittee study that matter more.

[From the New York Times, Mar. 24, 1976]

A House Panel, on TV, Rejects Plan for Television From Floor

(By Richard L. Madden)

Washington, March 24.—The House Rules Committee, in a rare departure from established practice, allowed a television camera to cover its proceedings today and then voted to shelve, and probably kill, a proposal permitting television and radio coverage of floor action of the House of Representatives.

By a vote of 9 to 6, the committee sent the matter back to its subcommittee, which has been struggling for the last nine months to devise an acceptable resolution that would allow broadcast coverage of the House floor proceedings in time for the nation's bicentennial celebration this summer.

"It was simply a polite way, if you want to call it that, of killing it," Representative John A. Anderson, an Illinois Republican who is one of the prime sponsors of the resolution, said after the committee action.

Mr. Anderson accused the House Democratic leadership of not wanting broadcast coverage of the House and of using "excessive arm-twisting" to kill the proposal. "And make no mistake about it, the Rules Committee is an arm of the Democratic leadership," he said.

FOUR UNOBTRUSIVE CAMERAS

The proposal would have permitted four unobtrusive television cameras mounted in the House galleries to record the floor proceedings of the house. The system would have been supervised by the speaker of the House and a bipartisan committee.

The subcommittee studying the matter suggested that the three national television networks plus the Public Broadcasting System install the equipment at a cost of about $2 million. Local television and radio stations around the country would have been permitted pick up portions, or all, of the proceedings for use on news broadcasts.

Under this plan, the House would have paid about $300,000 a year to this pooled system for a full taped or filmed account of each day's procedings, to go to the National Archives.

But when Representative B. F. Sisk, a California Democrat who is chairman of the subcommittee, outlined the proposal to the Rules Committee, it encountered widespread criticism from Democrats as well as Republicans.

LET'S TAKE A RUN AT IT

Mr. Sisk acknowledged that some members feared that the cameras would record representative "pulling our ears or picking our nose and we all recognize that isn't a pleasant sight to behold."

But he said broadcast coverage was "a step whose time has come . . . let's take a run at it—let's see."

The committee took the unusual step of permittiing one pool camera from the networks to record the afternoon portion of its discussion. But after some initial nervousness making speeches while looking at the camera and some fumbling with the microphones in front of them, the members of the Rules Committee soon began disputing among themselves as they do at regular committee meetings when no camera is present.

[From the Washington Post, Mar. 24, 1976]

House Leadership May Doom Live Coverage by Television

(By Mary Russell)

Strong opposition by Majority Leader Thomas P. (Tip) O'Neill Jr. (D-Mass.) may doom a proposal to open the House to live television coverage. The Rules Committee is to vote today on the resolution.

O'Neill said he would favor letting the networks cover proceedings when there was some important measure on the floor, like a Budget Committee resolution. But he added, "I just don't feel there's enough news in Congress to warrant letting the cameras cover it eight hours a day."

He admitted concern about the cameras showing a member napping or an empty floor.

O'Neill said he would differentiate between television coverage and newspaper reporters, who are allowed to cover at all times, because newspaper reporters "cover the issue. They don't focus on somebody napping."

The original resolution by Rep. B. F. Sisk (D-Calif.) would have had the four networks—ABC, CBS, NBC and PBS—pool the gavel-to-gavel coverage under a renewable contract with the House. The House would pay $300,000 a year for access to the coverage, which the Library of Congress would store.

But after Speaker Carl Albert (D–Okla.) objected that he wanted to retain control over the operation, Sisk changed the language so the Speaker would have the responsibility for implementing it and could contract with whomever he wanted. All references to the network pool were deleted, although the Sisk Rules subcommittee said in a supplemental report, "The network pool arrangement is the best and least expensive option available."

O'Neill favored postponing action on the Sisk resolution, and having the subcommittee study the matter a little more. He suggested members go to Florida where the state legislature is covered by television and find out what arrangements were made and how it works.

Sisk refused to comment on O'Neill's opposition, but he said, "This being an election year, there are those who feel televising the House offers an opportunity for distortion."

He would agree to delay making the televising effective until next January, Sisk said, but would hope that work on the equipment and control room could begin in the meantime.

> Without taking on O'Neill directly, he said, "Any attempt to dictate what is broadcast could be interpreted by the public as censorship."
>
> Sisk called it a "total misunderstanding" that the networks would control the operation. He said under his revised version the Speaker plus a committee of majority and minority leadership members would make the decisions. But if they decided to set up a "control mechanism over what went out to the public," Sisk said he would oppose that.
>
> Rep. John B. Anderson (R-Ill.) a Rules Committee member supporting Sisk, has been reluctant to talk about the involvement of the leadership. "Intramural politics on the Democratic side" and the "Covert opposition from O'Neill" is bottling up the resolution, Anderson said. "The Democratic leadership realizes if it's going to be stopped, killing it in the committee is the best way of doing it," Anderson has been quoted as saying.
>
> O'Neill said he would vote for the resolution if it got to the floor. He denied pressuring Rules Committee members, but the Rules Committee is considered an arm of the leadership, and his opposition could have a chilling effect.

THE 155TH ANNIVERSARY OF GREEK INDEPENDENCE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BRADEMAS. Mr. Speaker, today marks a significant day, a historic date, for the people of Greece, for March 25, 1976, is the 155th anniversary of the independence of the Greek people.

But, Mr. Speaker, Greek Independence Day must be a significant day for all peoples everywhere who love human freedom and cherish democratic political institutions.

For we all know that the concept of democracy was spawned by the remarkable leaders and thinkers of ancient Greece and we realize as well that their teachings inspired the Founding Fathers of our own country as well as of other democratic nations.

And we know as well, Mr. Speaker, that it was on the 25th of March 1821, that Greek patriots began a revolt against Ottoman Empire, which for centuries ruled the people of Greece with an oppressive and tyrannical hand.

Inspired, however, by the prospect of independence and supported by champions of freedom in Europe and America, the people of Greece succeeded in breaking the yoke of Ottoman domination.

I would here recall, Mr. Speaker, that in the year 1821, our own Republic was young and, therefore, the cause of Greek independence won the sympathies of many leaders of the United States.

It was President James Monroe who in 1822 wrote words that are on this day often quoted but nonetheless deserve repetition:

> The mention of Greece fills the mind with the most exalted sentiments, and arouses in our bosoms the best feelings of which our nature is susceptible. That such a country should have been overwhelmed, and so long hidden, as it were, from the world under a gloomy despotism, has been a cause of unceasing and deep regret to generous minds for ages past. . . . A strong hope is entertained that these people will recover their independence, and resume their equal station among the nations of the earth.

I want here today, Mr. Speaker, to express my own deep pleasure and, I am sure that of my colleagues in Congress of both parties, that the people of Greece are again enjoying a government that is democratic. I rejoice that the military dictatorship which for too many years ruled the Greek people was 2 years ago replaced by a democratic government.

For over 2,000 years, people of many lands, including Americans, have studied the philosophy of Socrates, Aristole, and Plato and the writings of Sophocles, Euripides, and Aeschylus.

But I would note as well, Mr. Speaker, that indispensable to the heritage of the Hellenes is their religious faith.

In this regard I would like to quote the words of His Eminence, Archbishop Iakavos, the distinguished head of the Greek Orthodox Church of North and South America:

> National might, political power, financial stability, economic strength, industrial superiority, diplomatic excellence, if devoid of morality and of elementary ethics avail you nothing, not even self-defense. For it is faith, not expediency; it is honesty, not diplomacy; moral and intellectual integrity, not cleverness and craftiness; and humility and self-respect, not arrogance . . . which should guide us as a nation.

So, Mr. Speaker, let me join my other colleagues in Congress in extending my warmest good wishes to the people of Greece, our allies and friends and a people who share with the people of America a deep commitment to democratic government and human freedom.

THE 58th ANNIVERSARY OF BIELARUSIAN INDEPENDENCE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ANNUNZIO. Mr. Speaker, March 25 is the 58th anniversary of the Declaration of the Independence of Bielarus. We in the U.S. Congress have been elected by a free people and therefore we have an obligation to take this opportunity to focus the world's attention on the conditions under which the Bielarusian people are forced to live and speak out most energetically in behalf of their freedom.

The courageous people of Bielarus are continuing their struggle to preserve their culture, traditions, and language, despite the terrible losses sustained in World War II and despite the continuing, and now official, Soviet policy of russification. Resistance in Bielarus to russification remains very strong, not only among the older generation, but among the new young writers, powers, historians, artists, and scientists.

Because of the vicious cultural oppression, the occupation, and the domination of their homeland by the Soviets, many Bielarusian people emigrated and there are some 5 million of these enterprising and resourceful people and their descendants in our own Nation. They and other Bielarusian immigrants in the free world carry on the struggle for freedom, human rights, and dignity of their people and keep the peoples of the free world informed of the plight of the people of Bielarus.

The Bielarusian Coordinating Committee of Chicago, Ill., is dedicated to the restoration of human liberty in Bielarus and I commend its members and friends for their outstanding efforts to awaken the consciousness of free peoples everywhere and to lighten the burden suffered by the people of Bielarus.

I am honored to join Americans of Bielarusian heritage in Chicago and all over this Nation as they celebrate this 58th anniversary of Bielarusian independence and I extend to them my warmest best wishes as they continue to contribute mightily to the United States and its ideals of freedom and human dignity.

A press release from the Bielarusian Coordinating Committee of Chicago on this year's Bielarusian Independence Day observance follows:

> BIELARUSIAN COORDINATING
> COMMITTEE, OF CHICAGO, ILL.,
> *March 12, 1976.*
>
> Sunday, March 28th, is set aside by Bielarusian Americans of Chicago for the observance of the 58th Anniversary of the Declaration of Independence of Bielarus (Byelorussia), and of the Bicentennial of America. Both events have a deep meaning and are of great importance for the Bielarusian Americans.
>
> The festivities will start in the morning with prayers to be offered at St. George's Byelorussian Orthodox Church, 1500 North Maplewood Avenue, and at Christ the Redeemer Church, 3107 West Fullerton Avenue, both for the Bielarusian people in Soviet Byelorussia and for America. Preceded by a cocktail hour, a banquet with commemorative program, featuring speakers and entertainment, is planned for 2:00 in the afternoon at the Regency Inn, 5310 West Diversey Avenue.
>
> The Bielarusian Americans are indeed thoughtful and proud of the many blessings bestowed upon them and pray to the Almighty that "this nation under God" with freedoms and unlimited opportunities for all be spared from external calamities.
>
> There is indeed a striking difference between our living in America and our kindred living in the Communist controlled and Russian dominated Bielarus. Despite of the agreement signed in Helsinki by the Soviet Party Chief Leonid Brezhnev last year, Bielarusian people, along with other non-Russian Soviet citizens, are being discriminated and denied the most basic human rights and freedoms. There are more people now than before being denied exit visas by the Central Soviet Government in Moscow after declaring their intentions to visit relatives abroad, and more Americans are rejected entry to visit their relatives in the Soviet Union.
>
> By observing the Bielarusian independence each year, Bielarusian Americans have aimed at keeping alive the just aspirations and ideals of the Bielarusian people as set forth in the declaration act of March 25, 1918. It is hoped that the time will come when Moscow will be forced someday to give independence to Bielarus and other non-Russian republics of the Soviet Union.

DEFICIT SPENDING AND UNEMPLOYMENT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ROUSSELOT. Mr. Speaker, just last week the Joint Economic Committee, on which I serve, concluded a 2-day National Conference on Full Employment. At the conference, which was convened on the 30th anniversary of the passage of the Full Employment Act of 1946, discussants and panel members exchanged views over the nature and causes of unemployment in our country today, as well as possible future courses the Government should take to alleviate the problem. While many diverging opinions and points of view were heard, the bulk of the conversation over possible remedies to the plight of the jobless centered around the responsibility of the Federal Government to assume a bigger roll in providing jobs and meeting the needs of the unemployed.

"The U.S. Government should be the employer of last resort," seemed to be the catch phrase at the conference, and "more public service jobs and public works projects" was the popular solution offered at the 2-day meeting to solve the unemployment dilemma.

While the "big government" solution to unemployment is often bandied about among politicians these days as an easily digested panacea to high unemployment figures, it sadly neglects the real cause of the indigestion—deficit spending.

In a well-worded, incisive editorial on the subject, columnist William F. Buckley exposes the folly of the "big government" solutions to the recession-unemployment problems of the Nation, and explains that it is actually Government largesse and deficit spending that is the cause, rather than the answer to our economic difficulties.

During this fiscal year, Buckley points out with U.S. Treasury Department figures, the Government of the United States will absorb 72 percent of all the funds available in the securities market for borrowing—mostly for purposes of financing operating deficits. Total Government borrowing will soak up about 82 percent. He goes on to correctly observe that there is no way under the Sun to provide meaningful, long-term jobs for the unemployed without having the capital with which to do it. But with the Government cornering over four-fifths of the capital market, where in the world is the private sector going to go to get the money? The answer is that they cannot go anywhere, and as a result the public cries to the Government to dry their tears and find them jobs.

The private sector can answer today's complicated economic problems and create the jobs that are needed for America's 7 million jobless, but not while the Federal Government is meddling in their affairs and confiscating their capital lifeblood.

The column by William F. Buckley, which appeared in the March 24 edition of the Washington Star effectively addresses these problems, and I commend it to my colleagues for their reading and reflection:

BIGGER GOVERNMENT WON'T CURE UNEMPLOYMENT

(By William F. Buckley, Jr.)

As one focuses on the left-vote in the primaries, mercifully diminished over four years ago, one strains to listen . . . What exactly do they want? The war in Vietnam is over; we lost it conclusively; and we are retreating from any engagements with Communist imperialism throughout the world at a speed that should satisfy the most budget is nicely unbalanced, so there shouldn't be much quarrel on that account. The need for affirmative action, integrated schooling, and the rest of it hardly needs to be accelerated. As we recently saw, employers in Wisconsin have been warned against asking the date of birth, sex, felony record, ethnic background, working experience of applicants, or educational background. You cannot beat that.

So, as we listen to Stewart Udall, and Fred Harris, et al, what is it that sifts through, if you throw away the plight of the great grandchildren of Wounded Knee, the dangers of nuclear energy, and the tax loophole on money invested in peanut butter sandwiches made in Norway?

Unemployment. The United States should be the employer of last resort. That phrase goes down now, at the populist rallies, without demurral. It is intensely unexamined. "Of last resort" ought to mean—failing the success of employment by the private sector. But the phrase is usually bandied about intending to make a moral-economic point, namely that the private sector cannot employ everyone in America who wants a job. The sum meaning of that analysis, so beloved of George Meany and his epigone, is not very different from saying: Having amputated the hands of every member of the Chicago Symphony Orchestra, I say that unless they play for us I shall listen only to phonograph records."

Nobody ever listens to Secretary of the Treasury William Simon, and there is every reason why this is so. He is obstinately correct in almost every matter, and he is simply unattracted by the political noises with which one is required to festoon all public statements in order to attract attention to them.

Recently he reported to the Joint Economic Committee of Congress that financing prospects for those companies with less than top credit ratings would remain poor, notwithstanding the general economic recovery. Why? Because of the contiued government deficit spending.

Simon informed the committee that total government borrowings during this fiscal year, including state and local government borrowing, will absorb 82 per cent of all the funds available in the securities market. Of this figure, federal borrowing alone would absorb 72 per cent of the funds; up from a figure of 57 per cent as recently as a year ago.

This is a datum of startling significance. There is no way to provide jobs without providing capital with which to create jobs. But 82 per cent of all savings allocated to capital growth is borrowed by governments—mostly to pay operating deficits. The result is that the enterpreneur seeking to expand his plant capacity, or to begin a new business, goes to the market for capital—and finds that there is nothing there. What is he then supposed to do, to carry out his traditional function of bringing about capital growth?

Moreover, Simon predicted that the competition for the small share left over of the capital market would have a particularly sharp impact on interest rates and credit availability once the economic recovery is in full swing later this year. "Funds are more readily available to more sectors of the economy today, but again this reflects the cyclical slack in the economy and to the longer-run secular force at work." He pointed out, "In the first quarter of 1975, about 3 per cent of all new bond issues were Baa-rated or less. By the fourth quarter, it was almost 10 per cent. More lesser-rated companies are able to finance today, but unfortunately a lot of these bonds are of far shorter duration—5–7 year maturity as opposed to 20–30 year maturity which was the norm not long ago."

The graph is eloquent. In 1960, the federal sector as a percentage of the total preempted 18.6 per cent of total money available for investment. In 1970, 36.2 per cent. Now, 72.2 per cent. When they talk about government emerging as the employer of last resort, they talk, really, about continuing policies that insure the attrition of the private sector: with more and more unemployment, and more and more swollen government.

SOVIETS OUTPLAY CHINA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the San Diego Union, Mar. 16, 1976]

AFRICAN STRATEGY—SOVIETS OUTPLAY CHINA

The victory of Soviet-backed Marxist forces in Angola was a reverse, not only for the United States but also for China. Peking assisted all three Angolan revolutionary factions before and after Angola gained independence, but recently has found the winning Popular Movement for the Liberation of Angola drawn away from Chinese influence by Russian armaments, money and Cuban troops that China could not match.

What has happened in Angola is indicative of the situation in other parts of Africa where China and Russia maneuver for position. In the words of the Confederate general, Nathan Bedford Forrest, the side that wins is one that "gets there fustest with the motest," and when the crunch comes the Russians have been able to fulfill the Forrest formula. With their geographical proximity, their superior financial resources, their enormous stockpiles of military equipment, their big navy, their fleets of cargo ships and transport planes and their ability to rush in combatants such as Cuban troops, the Soviets can give the kind of assistance that has greater weight with many African leaders than the less immediate sort the Chinese provide.

The total of Soviet aid in Africa has actually not been massive. In sub-Sahara Africa it is estimated the Russians have expended assistance worth only $788 million since 1959 (not counting the recent upsurge of aid to Angola) compared with $1.8 billion given Black Africa by China. But Soviet assistance has been effectively selective, both as to timing and destination, and has thus achieved maximum impact.

Angola is only one example of this strategy. Russia recently kept Idi Amin of Uganda in a cooperative mood with quickly-delivered military and financial aid. Moscow consolidated its position in Somalia during the 1974 drought with $600 million in funds and a fast, efficient airlift of 120,000 starving nomads from the parched interior to camps near the coast where they were trained by Soviet experts to be farmers and fishermen. Military base facilities resulted from this assistance, and Angola may give a similar accommodation.

China's penetration is nevertheless widespread though generally more low key than Russia's. Both powers seek to spread their brands of communism, but the Chinese tend to be more ideological and political and less military than the Russians. The Soviets angle their activities toward promoting their global power.

The one spectacular Chinese project has been the construction of the thousand-mile railway through Tanzania and Zambia to the sea at Dar-es-Salaam. On this venture the Chinese have spent about a third of their entire total of African aid but do not appear to have gained any great advantages. Elsewhere China has supported many smaller projects that capitalize on Chinese expertise derived from their own experience as a developing country.

At the moment the Russians seem to have the edge and stand to incerase their advantage through the inside track they have attained by their support of guerrillas around Rhodesia's northern frontiers that are intent on dislodging the white-dominaed Rhodesian government. And South Africa seems an eventual objective.

Over the years both powers have blundered in Africa and damaged their influence in some countries. This could happen again. Deep-seated African desires not to be dominated by either power also works against them. Their activities are a disruptive force, upsetting to the hopes of the U.S. and its allies for stable, friendly African nations evolving without bloodshed into a settlement of their internal and external problems.

LEARNING FROM EXPERIENCE: VERIFICATION GUIDELINES FOR SALT II

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. ZABLOCKI. Mr. Speaker, we all know of the controversy which has swirled around reports of alleged Soviet violations of SALT I. In some respects the debate surrounding these charges might be seen as productive if for no other reason than that they have generated wider congressional and public awareness of various important issues. On balance, however, there is no disputing the highly potential detrimental effect which these charges have had on the emerging SALT II agreement. If nothing else, the compliance flap has provided us with some important lessons by which we can more intelligently evaluate a SALT II pact if and when it is reached.

To that end, I was pleased to read in the February 1976 newsletter of the Arms Control Association an article by Walter Slocombe. Mr. Slocombe, a Washington attorney and former member of the National Security Council staff, suggests five general guidelines which can be derived from the SALT I compliance debate which would serve us all well in considering potential verification and compliance issues under a new SALT agreement.

Because Mr. Slocombe's suggested guidelines can help to prevent in the future the kind of murky and sometimes misdirected debate surrounding the SALT I issue, I am placing his article in the RECORD at this point and recommend it to the full and careful reading of my colleagues:

LEARNING FROM EXPERIENCE: VERIFICATION GUIDELINES FOR SALT II

(By Walter Slocombe)

The controversy over Soviet compliance with the terms of the 1972 Strategic Arms Limitation Talks (Salt I) agreement continues unabated. From that dispute have emerged some guidelines for the development—and the debate—of any new agreement.

The growing catalog of allegations of Soviet actions inconsistent with the terms or spirit of the SALT I agreements covers a wide range. At the one extreme is the almost absurdly comic flap in which an explosion near a Soviet natural gas pipeline was denounced in the periodical Aviation Week & Space Technology as a laser attack on a U.S. sensor satellite. At the other extreme are the tests of Soviet anti-aircraft missiles and radars that apparently ceased only after strong U.S. representations concerning the prohibitions against testing such weapons "in an ABM mode."

In between—and the focus of much of the controversy—is a series of Soviet actions consistent with a strict reading of the 1972 SALT I agreements, but inconsistent with the U.S. interpretation of those agreements expressed at that time. These include the construction of an ABM radar at a test range other than the one the U.S. identified in 1972 as the sole existing Soviet test range and the deployment of the SS–19 missile which has a volume about 40–50 per cent larger than a "light" missile as defined by the U.S. in a unilateral statement.

This is not the occasion to review the merits of all the allegations or the Soviet responses to those the Administration has raised as issues of compliance. Nonetheless, and subject to many qualifications, it is appropriate to conclude that the U.S.S.R. has pressed the 1972 SALT I agreements to the limit of legalistic interpretation. That was only to be expected. What is surprising is that the Administration has put itself in a position of accepting Soviet actions which can be squared with those agreements only by abandonment of the assurances it gave to the Congress and the American people—and thereby clearly signalled to the U.S.S.R. as its view—when the agreements were under consideration. This unsatisfactory experience with "unilateral statements" has lead to demands that any new SALT agreement be free of ambiguity, provide against all loopholes, and be one in which the United States does not interpret any provision as any more restrictive than the U.S.S.R. has explicitly agreed it to be.

These supposed lessons of the current compliance flap will have some impact on the negotiations, because they can hardly be entirely ignored by either side. To the extent that a tighter, clearer agreement results, the benefit is clear. However, whatever the substantive and verification terms of a new SALT pact, the shadow of the SALT I compliance controversy will clearly affect the ensuing debate in the United States. Indeed, discussion of verification may dominate the new debate, especially if the agreement comes before the Congress in the midst of an election year, and at a time when detente and "trusting" the U.S.S.R. have again become politically and publicly disreputable.

It therefore seems useful to suggest several general propositions—beyond the somewhat utopian call for comprehensive and unambigious treaties—which can be derived from the debate and which may serve as guidelines in considering potential verification and compliance issues under a new SALT agreement.

(1) No agreement is acceptable on strategic—and still less on political—grounds which is highly sensitive to cheating. One unfortunate effect of the legalistic turn to the debate is that we lose perspective: Only the most alarmist observers can regard any of the allegations of Soviet cheating, even if wholly true, as materially affecting the assumptions about the strategic balance underlying the 1972 SALT I agreements. The unfortunate fact of the Soviet attitude toward compliance, on which renewed attention has been focused by the latest episodes, means that we cannot risk an agreement in which real dangers to our security might follow from significant violations.

(2) Any agreement must be seen to be verifiable. Especially in a climate sensitized to the verification of issues, an important criterion of political viability of an arms control agreement in the United States is not only that it can be verified but that the military and intelligence communities also share that belief, and are willing to say so.

(3) An agreement, once operational, must also be "seen" to be verifiable in the literal sense. The process of checking compliance must take place in a sufficiently public way as to generate the confidence of the American people. To have information about alleged violations dribbled out by critics of the agreement is the worst possible way to maintain public confidence in an agreement in the face of concern about possible Soviet cheating. Here, as in so many other areas, secrecy has corrosive side effects. And it is an inadequate answer to say that the U.S.S.R. prefers to deal with these issues in private. One Soviet countercharge of American SALT violations is that information about alleged Soviet cheating, and about Soviet responses to U.S. questions, became public. While there is certainly a place for confidential exchanges, it must be made clear to the U.S.S.R. in the course of the negotiations that to maintain public support for the SALT process the United States government will have to make full and complete public reports on compliance, on the details of actions which are alleged to violate the agreement, and on the details of Soviet assurances that there is no violation.

4) Deliberate ambiguity buttressed by unilateral assertion can be a highly useful negotiating device and should not be rejected entirely in the SALT context. There are some key subjects on which the parties will not be able to agree explicitly, but which can usefully be handled by a tacit understanding or even by a clearly asserted "unaccepted" unilateral interpretation. However, in contrast to the apparent practice in 1972, any such unilateral statements of interpretations should be identified clearly to the Soviet negotiators as propositions that the United States will treat as equivalent to agreed provisions and not be *post hoc* rationalizations for Congress.

5) Contractual tightness and clarity of expression are not the prime factors that enforce international agreements. Although it may be easy enough to find pretexts for denouncing an international treaty for nonperformance by another party once the treaty is no longer felt to be advantageous, it is never easy to "call" a violation of an agreement that is still regarded as useful and viable in general. Indeed, it may be questioned whether the reaction of the United States to most of the alleged Soviet violations would have been much easier to decide upon had they explicitly been either permitted or forbidden in the agreement. Ultimately, the only sanction against violations is the willingness to renounce a hard-won and still useful agreement or exact costs in other aspects of the Soviet-U.S. relationship. If we expect agreements to be observed, however, we must be prepared to run such risks—and we must make it clear that we will do so.

Verification has been the bugaboo of arms control for a long time. The debate on the 1972 SALT agreements was focused to a remarkable degree not on potential cheating but on the actual substance of the agreement. Proponents of arms control will have no such luck this time. Verification and the potential for violations will be major issues. A "soft" approach to them is no way to advance the long term prospects for arms control—but neither is accepting the proposition that an agreement can be so clear that the Soviets could advance no conceivable defense of a violation.

LITHUANIAN INDEPENDENCE

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. BURKE of Massachusetts. Mr. Speaker, I am pleased to call to the attention of my colleagues a resolution passed by the Brockton Lithuanian Council of Brockton, Mass., on February 22, 1976. This resolution, endorsed by Americans of Lithuanian descent, commemorates Lithuanian Independence Day.

I am grateful to the council and its chairman, Mr. Bronius Burba, for continuing to remind us of the oppression of the Lithuanians. I shall not forget these valiant people and their struggle for freedom.

The resolution follows:

RESOLUTION

We, the Lithuanian Americans of Brockton, Mass., assembled this 22nd day of February, 1976, at St. Casimirs Church Hall to commemorate the restoration of Lithuania's independence, do hereby state as follows:

That February 16, 1976, marks the 58th anniversary of the restoration of independence to the more than 700 year old Lithuanian State, which was won and protected by the blood sacrifices of the Lithuanian people during the wars of independence of 1919–1920, and recognized by the international community of States;

That the Republic of Lithuania was forcibly occupied and illegally annexed by the Soviet Union in 1940, in violation of all the existing treaties and the principles of international law;

That subjection of peoples to alien domination and exploitation constitutes a denial of the right to self determination and the other fundamental human rights; is contrary to the Charter of the United Nations, contrary to the stipulations of the Helsinki agreement, and is an impediment to the promotion of world peace and cooperation.

That so many countries under foreign colonial domination have been given the opportunity to establish their own independent states: while Lithuania having enjoyed the blessings of freedom for centuries is now subjugated to the most brutal Russian oppression and is nothing but a colony of the Soviet empire:

That through the Soviet Union, through programs of resettlement of peoples, intensified russification, suppression of religious freedom and political persecutions, continues in its efforts to change the ethnic character of the population of Lithuania, the Soviet invaders are unable to suppress the aspirations of the Lithuanian people for freedom and the exercise of their human rights. Now, therefore, be it.

Resolved, That we demand that the Soviet Union withdraw its military forces, administrative apparatus and the imported Russian colonists from Lithuania and allow the Lithuanian people to govern themselves freely;

That we demand immediate release of all Lithuanians who are imprisoned for political and religious reasons and who for years are lingering in various Soviet jails and concentration camps or kept in psychiatric wards;

That in expressing our gratitude to the United States Government for its firm position of non-recognition of the Soviet occupation and annexation of Lithuania, we request an activation of the non-recognition principle by stressing at every opportunity the denial of freedom and national independence to Lithuania and the other Baltic countries;

That the Soviet Union, in seeking a policy of detente with the United States, shall be requested to demonstrate its good faith and good will by restoring freedom and national independence to Lithuania and the other Baltic States;

That we are deeply grateful to the President of the United States, Gerald R. Ford, for his firm declaration on July 25, 1975, that the United States of America will not recognize the incorporation of Lithuania into the Soviet Union; we are sincerely grateful to the House of Representatives of the United States for passage of a new resolution expressing a sense of the House relating to the status of the Baltic States, and we ask the President, Senators and Congressmen of the United States for their support of the cause of freedom for the Lithuanian nation.

That copies of this Resolution be forwarded to the President of the United States, to the Secretary of State, to the United States Senators and Congressmen from our State, and to the news media.

BRONIUS BURBA,
Chairman.

ART BUCHWALD ON MAIL SERVICE AND RATES

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. EVINS of Tennessee. Mr. Speaker, humorist Art Buchwald in a recent column suggests that the mail service may continue to deteriorate to the point that mail, like Santa Claus, will come only once a year.

While rates constantly increase, Buchwald predicts mail service will drop off to deliveries only once a year during leap year and then the Postmaster General will call for a delivery of the mail only once each Bicentennial year.

Beneath the humor, sadly enough, there is the basic element of truth—as mail service deteriorates, the cost of postage increases.

Because of the interest of my colleagues and the American people in improving the mail service, I place the column from the Washington Post by Art Buchwald in the RECORD.

The article follows:

THE BEST POSTAL SYSTEM MONEY CAN BUY

(By Art Buchwald)

"Post Office Threatens To Cut Down Deliveries to Three Times a Week"—headline in last week's newspaper.

It had to happen. In the year 1980 the Postmaster General went on television and announced to the country that because of a $600 billion deficit and Congress' refusal to permit him to charge $5 for a first-class stamp, the American people would only receive their mail one day a year. This would be known as "Mail Day" and would be considered a national holiday. He regretted the decision but assured the American people that they would still receive the best service of any postal system in the world, and he assured everyone that with only a few exceptions no one would be inconvenienced by it.

At first people were angered by the news, but pretty soon they accepted it as they have everything else the U.S. Postal Service has done to them.

In a few years Mail Day became as popular as Christmas and the excitement built up as the day came near.

Little children were told that if they were bad the mailman (he was pictured as a man in a blue uniform with a long white beard) wouldn't bring them any "records of the month." Department stores hired men to play the role of mailman and men and women and children would sit on his knee and tell them what they wanted for Mail Day.

People decorated their doors and windows with old birthday and get-well cards and put colored lights on their mailboxes.

The hit record played for weeks before Mail Day was Bing Crosby's rendition of "I'm Dreaming of a Sears Roebuck Catalog." There was a great spirit of goodwill associated with the holiday. Doormen and elevator operators and building superintendents became kinder and more attentive. People greeted each other by saying "Have a Merry Mail Day." Charity organizations raised funds on the streets for poor people who had no one to share their mail with.

Fraternal groups got together and walked through the streets singing mail carols. The churches and synagogues stayed open on Mail Day Eve so people could pray for letters from their children.

When youngsters asked where the mailman lived, their parents told them he lived at the North Pole and he spent the entire year canceling stamps on letters and packages so he could leave them on Mail Day morning for them. When they asked how he delivered the mail they were told he put it in bags and came down the chimney when everyone was sleeping. But if there was a dog in the house he would pass it by. Everyone locked up their dogs on Mail Day Eve.

On the morning of Mail Day the entire family came downstairs and opened their bags of mail. Mothers got all the bills, fathers got all the newspapers and magazines that had piled up for the year. There were letters and postcards and birthday cards and Christmas cards for everyone. Grandmothers and grandfathers opened their Social Security checks. Children gleefully ripped open the junk mail with four-color catalogs and appeals from Indian reservations that didn't exist. There were also packages from stores and mail-order houses and tax returns and alumni fund appeals.

It took all day for people to open the mail. In the evening relatives came by to exchange canceled stamps and have Mail Day dinner with each other. Every TV network put on a televised football game and Andy Williams had a special Mail Day TV program with his entire family.

For 10 years Mail Day was the most exciting day of the year. But then in January of 1990 the Postmaster General appeared on television and said that because of rising costs and a $2 trillion deficit the Post Office would be unable to deliver mail once a year as it had done in the past.

In the future, he said, mail would only be delivered one day, during leap year. He felt that in this way the Post Office could operate with more efficiency and still provide the services that so many people depend on. But he warned that if Congress did not raise the price of a first-class stamp to $49 a letter, the Post Office would have to take more drastic measures, which included only delivering the mail once every Bicentennial year.

SENATE—*Friday, March 26, 1976*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. Metcalf).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, who has watched over us during the night and brought us safely to the beginning of this new day, grant us a measure of Thy Spirit as we undertake our work. Keep our efforts under the divine perspective of the higher order when all men shall dwell in Thy kingdom on Earth, the law of which is love. Save us from minimizing what is important and from magnifying what is unimportant. In all our ways give us wisdom to live by the Apostle's injunction: *Study to show thyself approved unto God, a workman that needeth not to be ashamed, rightly dividing the word of truth.*—II Timothy 2: 15.

We pray in His name, who is Author and Finisher of our faith. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 25, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from North Carolina desire recognition?

Mr. HELMS. Mr. President, on behalf of the minority leader, I yield back his time.

TOXIC SUBSTANCES CONTROL ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3149, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from California (Mr. Tunney) and the Senator from Kansas (Mr. Pearson), with 30 minutes on any amendment, debatable motion, appeal, or point of order.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate conduct morning business, with a time limitation of 30 minutes attached thereto, and 5 minutes each for statements therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the orders for the recognition of Senators have been consummated, there be a period for the transaction of routine morning business, to extend to 1 p.m., with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 801. Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. Metcalf).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Government Operations, without amendment:

S. 3060. A bill to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes (Rept. No. 94–713).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TAFT:

S. 3212. A bill for the relief of Johnny Chua. Referred to the Committee on the Judiciary.

By Mr. CANNON:

S. 3213. A bill relating to the use of certain grazing fees collected by the Secretary of the Interior. Referred to the Committee on Interior and Insular Affairs.

By Mr. DURKIN (for himself and Mr. McIntyre):

S. 3214. A bill to declare certain waters in the State of New Hampshire to be nonnavigable for certain purposes. Referred to the Committee on Commerce.

By Mr. HUMPHREY (for himself, Mr. McGovern, Mr. Clark, Mr. Symington, Mr. Culver, and Mr. Mondale):

S. 3215. A bill to amend section 142 of title 13 and section 411(a) of title 7, United States Code, to prevent a change in the definition of a farm prior to June 30, 1976, to relieve the Secretary of Commerce of the responsibility for taking censuses of agriculture every fifth year, and require the Secretary of Agriculture to collect comparable information using sampling methods. Referred to the Committee on Post Office and Civil Service and the Committee on Agriculture and Forestry, jointly, by unanimous consent.

By Mr. BARTLETT (for himself, Mr. Nunn, and Mr. Bellmon):

S. 3216. A bill to amend chapter 85 of title 5, United States Code, so as to provide that unemployment compensation for those ordinarily steadily employed but who have become temporarily, involuntarily unemployed which is payable to a Federal employee for any week shall be reduced (but not below (zero) by the benefits payable to him with respect to such week under a Federal pension system. Referred to the Committee on Labor and Public Welfare.

By Mr. BEALL:

S.J. Res. 185. A joint resolution to amend the Regional Rail Reorganization Act of 1976. Ordered held at the desk, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 3213. A bill relating to the use of certain grazing fees collected by the Secretary of the Interior. Referred to the Committee on Interior and Insular Affairs.

Mr. CANNON. Mr. President, I introduce for appropriate reference a bill designed to require that funds collected through so-called grazing fees be expended solely for range improvement purposes, except where otherwise specifically designated for payment to the State or Indian tribes.

I believe the original intent of Congress is being subverted when these funds are used for extraneous purposes.

We have heard a lot of nonsense about how the livestock producers are being given a free ride on Federal land and how the ranges are deteriorating from livestock grazing.

At present, the rancher is the only individual who pays anything for range use and it is he who returns meat products to the Nation from a resource which is limited to very few purposes.

Cattlemen object to the BLM's using range improvement money for purposes other than range improvement. Another problem is that under most circumstances, ranchers are not even permitted to use their own funds to make range improvements until recently ordered impact statements are completed—which could mean a wait of up to 13 years in some areas.

The rancher supports the multiple use concept for the public lands and is understandably mystified when his use of the range is somehow made to appear improper. Conversion of the limited forage of the ranges to animal protein is certainly one of its most efficient uses. This can be done, as it has for many years, without significant disruption of the wildlife and scenic values of the ranges.

Mr. President, the question of range deterioration is one which has not been settled, in my opinion. People who have seen Nevada, for instance, know the ranges have never been a verdant splendor. But the ranchers have a tremendous stake in the quality of grazing and in many parts of the State, they assure me the ranges are better now than when they began ranching many years ago. These are people who have a constant and intimate knowledge of range conditions.

I urge early consideration of the question on range fee use.

By Mr. DURKIN (for himself and Mr. McIntyre):

S. 3214. A bill to declare certain waters in the State of New Hampshire to be nonnavigable for certain purposes. Referred to the Committee on Commerce.

Mr. DURKIN. Mr. President, I had hoped that I would not have to introduce this piece of legislation today. Unfortunately, the mindless and faceless bureaucracy at the Coast Guard and Department of Transportation has left no alternative.

Very simply, this bill reverses an administrative decision made by the Coast Guard last September in which the Federal Government declared two inland lakes in New Hampshire to be part of a potential navigable waterway, and thus under Coast Guard jurisdiction. The two lakes are probably known to many in this Chamber, Lake Winnipesaukee and Lake Winnisquam. They lie at the heart of New Hampshire, and the heart of her tourist area.

What is particularly annoying, Mr. President, is that the Coast Guard claim to jurisdiction over these lakes comes 35 years after the Motorboat Act of 1940—the act in which the Coast Guard was given authority to intervene in waters it determined to be navigable.

And what is particularly frustrating is that the Coast Guard, despite all pleas for commonsense, continues to view these lakes as navigable. The framers of the Constitution would have flipped their powdered wigs if they could have foreseen that the commerce clause could become so blind as to ignore tortuous rocks, dams, waterfalls, and shallow spots of the Merrimack River leading to these lakes. To put it bluntly, you would have trouble getting up the Merrimack in a rubber raft.

The worst part of this unnecessary Federal intrusion is that New Hampshire has one of the toughest and best State-run boat safety programs in this country, with standards far above those proscribed by the Federal Government. Our patrols on the two lakes in question are frequent and thorough.

What is the Coast Guard offering us instead. An opportunity to lower our boating safety standards, and standards on polluting two beautiful lakes already in some environmental danger. It is offering reckless boat operators the possibility of reduced liability in case of accidents on the lake involving personal injury. And it is offering us $35,000 more in boat safety money if our legislature changes a perfectly adequate boat numbering system.

We've been round the horn on all sorts of meetings on this assinine bureaucratic effort by the Coast Guard, Mr. President, There are legal complications, there are fiscal considerations, there are a number of practical problems to iron out as the boating season draws near.

But the commonsense is lost on the Coast Guard and Department of Transportation. We do a good job. They promise to do an inferior job. So why not leave New Hampshire alone.

Listen to the chief of Coast Guard congressional liaison, at a meeting with the New Hampshire delegation.

> The people who are most horrified by navigability determinations such as these are our own operations people, who have to muster the resources to cover another area.

The same liaison officer admits that New Hampshire has a tougher set of safety regulations than those required under the Federal act. The Federal legislation, he said, was meant to create a uniform standard for boat safety, and to assist the States whose boating programs were deficient. But I cannot believe that Congress supposed that States like New Hampshire whose boating requirement exceeded the Federal guidelines would be penalized for their nonconformity and forced to give up their superior program. The point of the law was to lift up the inferior, not bring down the superior.

There was a loophole in that 1971 Boat Safety Act. It allows the Transportation Secretary to issue an exemption from any provision of the act if he considers that boating safety will not be adversely affected. Yet despite weeks of personal effort aimed at an exclusion, Secretary Coleman informed me last week that he could not agree to such a solution to this problem.

Faced with the approach of a summer season that threatens to be nothing short of chaos on our once-proud lakes, I am offering a simple legislative solution to the Coast Guard encroachment. I am glad to be joined by the distinguished senior Senator from New Hampshire (Mr. McIntyre). I hope this bill will be quickly referred to a hearing, and will add to the pressure on the Coast Guard to accommodate the legitimate demands of our people.

By Mr. HUMPHREY (for himself, Mr. McGovern, Mr. Clark, Mr. Symington, Mr. Culver, and Mr. Mondale):

S. 3215. A bill to amend section 142 of title 13 and section 411(a) of title 7, United States Code, to prevent a change in the definition of a farm prior to June 30, 1976, to relieve the Secretary of Commerce of the responsibility for taking censuses of agriculture every 5th year, and require the Secretary of Agriculture to collect comparable information using sampling methods. Referred to the Committee on Post Office and Civil Service and the Committee on Agriculture and Forestry, jointly, by unanimous consent.

Mr. HUMPHREY. Mr. President, I am today introducing a bill to amend the agricultural census. Because of their mutual interest in this bill, I ask that it be referred jointly to the Committee on Post Office and Civil Service and the Committee on Agriculture and Forestry.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. My office has received repeated complaints from Minnesota farmers in recent months regarding the questionnaires they were required to fill out for the agricultural census. No doubt there were misunderstandings, but there have been far too many irate letters on this subject from my constituents.

There have been repeated communications between my staff and the Bureau of the Census over complaints from the farmers that this information is intended to serve. In addition, there have been both early morning and late evening calls which have disturbed those receiving the calls.

Because of the way this census was carried out and the sensitive questions included in it, those responding have often not responded accurately. And many have not responded at all—in spite of many threatening notices.

Our farm families are cooperative and law abiding. But they do not appreciate receiving threatening notices from an administration which they have grown to mistrust.

I was not surprised to learn that the Bureau of the Census had suspended publication of preliminary county data because of the incompleteness of their totals. The 1969 agricultural census was 17.6 percent incomplete according to quality checks made at that time. The current census appears to be even more deficient.

I am concerned that we must avoid a future repetition of the anger which emerged in taking the recent census of agriculture. We also must obtain more accurate and more timely information than in recent censuses of agriculture.

For this reason, I am today introducing this bill to transfer responsibility for collecting agricultural census type data from the Secretary of Commerce to the Secretary of Agriculture. In order to reduce the demands made on the respondents, and at the same time increase the accuracy of the information, the Secretary of Agriculture is directed to use sampling methods in future information collection activities.

This bill would also prevent a change in the definition of a farm prior to June 20, 1976.

Mr. President, great strides have been made in recent years by the Department of Agriculture's Statistical Reporting Service in the use of sampling methods for the collection of annual agricultural production data. American Agribusiness Associates, in a special 1973 study, concluded that more accurate agricultural data of the type collected by the agricultural census could be collected by the Statistical Reporting Service and at no higher cost.

More recently the Association of State Secretaries of Agriculture passed a resolution requesting that the responsibility for collecting agriculture census-type data be transferred from the Department of Commerce to the Department of Agriculture.

The Office of Technology Assessment, as a part of its assessment of food, agriculture, and nutrition information systems, urged that congressional committees study the desirability and feasibility of integrating the staff and activities of the agricultural census into the Statistical Reporting Service.

It is my hope that hearings will be held on this bill in the near future, at which time the substantial advantages of combining the activities of these two agencies can be developed.

This bill also reinstates through June 30, 1976, the Census Bureau's definition of a farm which was in effect prior to August 1975. At that time, the Bureau of the Census and the Department of Agriculture jointly announced the adoption of a new definition of the term "farm" for census purposes.

Under the old definition, a "farm" included any place which produced agricultural goods selling for at least $250 in a year, or any place measuring at least 10 acres and producing at least $50 in agricultural products.

Under the new definition, a "farm" includes only places which produce at least $1,000 worth of farm products in a year.

The eventual effects of this change in definition are unknown. They will be considered at future hearings. The section of the bill which would prevent a change in the definition of a farm prior to June 30, 1976, is identical to provisions which were approved by the House of Representatives on February 17 and by the Senate on March 1, 1976.

I would like to point out letters sent to the Office of Technology Assessment from Doyle Conner, the Florida Commissioner of Agriculture, and James A. Graham, the North Carolina Commissioner of Agriculture, requesting an integration of agricultural statistics into a single system, and a resolution adopted by the National Association of State Departments of Agriculture, on October 9, 1975, urging the implementation of a combined Federal statistical system built upon the existing Federal-State cooperative programs.

I would also like to share excerpts from the excellent paper, "An Integrated Agricultural Data System" by Harry C. Trelogan, prepared for the Office of Technology Assessment. Mr. Trelogan is a former Administrator of the Statistical Reporting Service.

In this paper, Dr. Trelogan reports:

> Two sets of developments have necessitated changes in methods of collecting farm statistics. They are the technological advances in farming and simultaneous progress in statistical technology.
>
> Quality checks on the 1964 and 1969 censuses of agriculture indicated incompleteness of 8 and 17.6 percent respectively. Typically, years rather than months have elapsed between the time of the collection of the data and the publication of reports. Census data no longer meets users' needs with respect to accuracy and timeliness.

This bill would provide assurances to farmers that unreasonable demands will not be placed on them, and that information provided would not be misused. Our farmers have been asking how will the information be used, who needs it, and is it not already available?

I believe that this bill represents a major improvement over our present census. Discussions have been held at the working levels, and it is widely recognized that changes are needed in the program.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD. I also ask unanimous consent that above referenced letters, resolution, and the excerpts from the Trelogan paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 142 of title 13, United States Code, is repealed and replaced by the following paragraph, "The Secretary shall continue the statistical classification of farms in effect on January 1, 1975, with respect to censuses taken under section 142 of title 13, United States Code, effective through June 30, 1976, and any statistical report issued on or before June 30, 1976, with respect to any such census shall reflect such classification, but may also include additional classifications as deemed appropriate by the Secretary".

SEC. 2. That section 411(a) of title 7 is amended by inserting "(a)" immediately before "The" and insert the following new paragraphs:

"(b)(1) The Secretary of Agriculture also shall collect information on agriculture, irrigation, and drainage, on a sample basis, comparable to the information previously collected every five years in the census of agriculture.

"(2) If the Secretary determines that the statistical method known as 'sampling' is not appropriate for the collection of information relating to the classification of farms, he may use another method to collect such information: *Provided,* That in collecting such information, the Secretary (A) shall seek to reduce the time necessary to respond to the questions involved; and (B) shall not use any method which imposes unnecessary requirements upon persons responding to such questions: *Provided further,* That the authority contained herein shall not constitute authority to secure access to or examine Federal income tax returns.".

STATE OF NORTH CAROLINA,
DEPARTMENT OF AGRICULTURE,
Raleigh, N.C., December, 5, 1975.
Mr. EMILIO Q. DADDARIO,
Director, Office of Technology Assessment, Congress of the United States, Washington, D.C.

DEAR MR. DADDARIO: I wish to report to you on the resolution passed by the National Association of State Departments of Agriculture No. MT-15 on "Agricultural Data Systems" a copy of which, I understand, has been submitted to your committee.

This resolution, which calls for the integration of agricultural statistics into a single system, is of great importance to farmers because of the burden that is being placed upon them to give reports to both the Department of Agriculture's Statistical Reporting Service and to the Bureau of Census. Evidence of this showed up in our State these past months as a reaction against the U.S. Census of Agriculture.

In addition and possibly of even greater importance is the fact that the U.S. Census of Agriculture is now obsolete in view of the new methods of getting farms and agricultural statistics through a sampling process which is employed by the Statistical Reporting Service.

The size, specialization and ownership of farms has changed to the point where it is no longer feasible to endeavor to make a canvass of all the farms in the United States to get the information. Therefore, a new system such as that suggested by the American Agri-Business Association needs to be put into effect.

There are two other advantages that I would like to stress. First, the information will become available much more promptly when it is needed than has been true with the Census for a long time. Second, when the data is collected in cooperation with the State Departments of Agriculture, as is done by the Statistical Reporting Service, it is most advantageous and efficient from the standpoint of the time, work, and expense that is incurred.

I urge your committee to give favorable consideration and support to this resolution.

Cordially,

JAMES A. GRAHAM,
Commissioner.

AGRICULTURAL DATA SYSTEM

The complexities and rapid changes of modern agriculture have a great impact on farmers, the agri-business industry, and consumers. Effective planning and management of all phases of agriculture require statistical information with great detail, timeliness and accuracy. State Departments of Agriculture in cooperation with the Statistical Reporting Service have demonstrated that joint use of resources and personnel can minimize duplication and maximize efficiency of State and Federal agricultural statistics programs. Some overlap in the agricultural data programs of the Statistical Reporting Service and the Bureau of Census is resulting in inefficiencies and duplication of statistical services that adversely affect the quality of the total agricultural data system. A detailed report entitled "New Agricultural Data System Needed" has been developed by American Agribusiness Association. The report reviews the total agricultural statistics program including the agricultural census and makes specific recommendations for improving agricultural data at the local, state and national levels.

RESOLVED, that the National Association of State Departments of Agriculture in convention at Charleston, West Virginia, October 9, 1975, endorses and pledges to work with the United States Department of Agriculture, Congress and the Executive Branch of the United States Government to implement the recommendations of the American Agribusiness Associates as a means of effectively improving agricultural data through the implementation of a combined Federal statistical system built upon the existing Federal-State cooperative programs.

THE STATE OF FLORIDA,
DEPARTMENT OF AGRICULTURE,
Tallahassee, Fla., January 2, 1976.
OFFICE OF TECHNOLOGY ASSESSMENT,
Congress of the United States,
Washington, D.C.

GENTLEMEN: I am writing to you on behalf of a resolution passed by the National Association of State Departments of Agriculture

(NASDA) at its annual convention in Charleston, West Virginia last fall relative to the agricultural census system.

I have enclosed a copy of this resolution entitled Agricultural Data System (MT–15). You will note in the resolution that NASDA is very much interested in developing an effective system of securing accurate agricultural statistical information based on existing Federal-State cooperative programing.

For many years complaints have been received from our farmers on the volume of work that had to be done regarding agricultural census and the fact that such census programs took so much time, that some of the statistics were useless, and that it took so long to get the facts and figures the census was supposed to acquire.

The NASDA office and its many allied state members have had a very successful relationship with the Statistical Reporting Service. Our past programs with that office have indicated that we were able to get out more useful information faster and much more accurately. The probability sampling approach has been perfected and is far superior as it relates to accuracy and timeliness than any other system of census taking used in the past.

We feel that the advantages of working with State Departments of Agriculture through our Washington office will enable the United States Government to get the census of all agricultural activities in greater detail, in speedier time, and on a more truthful level.

We endorse the concept proposed by the NASDA resolution and offer our complete support in pursuing and reaching the goals of the most effective agricultural data reporting system possible.

With warm personal regards, I am

Sincerely,

Doyle Conner,
Commissioner.

EXCERPTS FROM AN INTEGRATED AGRICULTURAL DATA SYSTEM

(By Harry C. Trelogan)

SUMMARY

Two sets of developments have necessitated changes in methods of collecting farm statistics. They are technological advances in farming and simultaneous progress in statistical technology.

Quality checks on the 1964 and 1969 Censuses of Agriculture indicated incompleteness of 8 and 17.6 percent respectively. Typically, years rather than months elapsed between the time of the collection of the data and the publication of the reports. Census data no longer meet users' needs with respect to accuracy and timeliness.

A program of sample surveys is proposed to integrate the collection of agricultural data now performed annually or more frequently by the Statistical Reporting Service of the Department of Agriculture and quinquennially by the Bureau of the Census in the Department of Commerce. The potentials for gaining efficiency of estimation, economies of scale, and improved employment conditions are substantial through proper design of surveys to meet differing needs.

Methods for probability sampling to yield greater accuracy of estimates are developed and in use for current crop and livestock estimates. They are funded for expansion into the gathering of economic data heretofore made available after serious delays by the Census of Agriculture.

A list sampling frame is being started in the SRS that will facilitate efficient probability sampling for making all farm estimates. Since 1970, improved samples have been developed for hog and cattle estimates. With these developments the stage is set for avoidance of considerable unnecessary duplication of work through an integrated system of farm data collection.

The requests for additional timely and more accurate data relating to United States food and fiber production are becoming more urgent. The burden on farmers to supply data is testing their endurance, as evidenced by resistance to answering recent census inquiries. Integration of the present systems offers opportunities for alleviating these problems with no more expenditures for data collection than are now projected.

Fitting samples to quality requirements

All farm data does not have to be collected in the same detail or with the same standards of quality. Some data are needed only on national bases, some only for state estimates, and still others on localized or county bases. In general, the greater the aggregation of data, the smaller the samples needed to achieve a given accuracy standard. Exceeding the quality necessary is a waste of money. Over a five-year period agricultural statistical surveys could be classified by quality requirements and scheduled by years accordingly. Where national data will suffice, surveys may be scheduled in given years, for state data surveys other years will be used, and only once every five years will it be necessary to increase the size of sample to produce county data. Exceptions could be made for those states and for those items for which particular state or federal agencies are willing to bear the extra costs. It is likely that the county data would be collected for years ending in "2" and "7" to facilitate comparisons with economic censuses for the same years.

Through this type of scheduling all needed farm data could be collected over each five-year period with the accuracy, frequency, and detail of items and geographical coverage fitted to needs. Drawing of samples to spread out the reporting load among respondents or to minimize the chances of one respondent being included in every survey may be arranged. The work of enumeration, processing, and publishing could also be spread out among years and within years to reduce the peaking of workloads. With prospects of steady work more experienced employees may be attracted, for whom more training can be afforded.

Data collection for current surveys could be made to coincide with some collection made for longer term needs. Probability samples would be designed to yield standard errors adjusted to the needs of each survey, and data collected in one could be designed to supplement and reinforce the other. This principle is now practiced in crop estimating; for example, planted acreages of crops are estimated only once for the year. When subsequent monthly surveys of crop yields are made, a small subsample of acreages is checked to see whether adjustments are needed in acreage estimates.

Possible cost savings

Assuming an integrated system of the type described, opportunities for cost savings include:

Reducing the number of times individual farms need to be contacted to collect data;

Reducing the size of questionnaires or length of interviews for farm data collection by at least 25 percent—more for items needing only national or state estimates;

Eliminating the need for two agencies to compile and maintain lists of farmers in the United States identified by size groups, enterprises, and locations;

Eliminating the printing and distribution of a million census forms that are not used;

Eliminating the need for a precensus canvass in the effort to identify farms and verify control data;

Incorporating newly required data into an operating sampling scheme in less time and at less cost;

Utilizing satellite data more quickly to improve the accuracy of sample estimation. With success, this may be translated into smaller, less expensive samples to get the same accuracy;

Savings to the economy from greater accuracy.

Savings involving appropriated funds will be offset in part by increased funds needed to complete the compilation of a list sampling frame started in SRS. An additional $3 million is required to make it operational for an integrated program.

Estimated cost

The main elements of the agricultural data system with which we are concerned are: $9.1 million for the Census of Agriculture and $28.5 million for the crop and livestock estimates, or a total of $37.6 million annually.

The projected cost for an integrated program giving higher quality statistics covering the same ground in a typical future year is $36 million.

These estimates make allowance for the cost increases and decreases discussed, except that they exclude statistics collected for state agencies and for other federal agencies. They also exclude statistical research and clearance activities presently assigned to SRS but not a part of the crop and livestock estimates. None of these exclusions bear on the budget or appropriations for the integrated services. None of these estimates make provisions for inflationary costs.

By Mr. BARTLETT (for himself, Mr. Nunn, and Mr. Bellmon):

S. 3216. A bill to amend chapter 85 of title 5, United States Code, so as to provide that unemployment compensation for those ordinarily steadily employed but who have become temporarily, involuntarily unemployed which is payable to a Federal employee for any week shall be reduced (but not below zero) by the benefits payable to him with respect to such week under a Federal pension system. Referred to the Committee on Labor and Public Welfare.

LIMITATION OF FEDERAL RETIREES' ELIGIBILITY TO DRAW UNEMPLOYMENT COMPENSATION

Mr. BARTLETT. Mr. President, today I am introducing a bill to close a loophole in the statutes relating to the payment of unemployment compensation by States to both Federal civil service and military retirees.

This is going on in my State, and some $2 million unnecessarily is being paid to such retirees. But, beyond that, retirees, as they retire, are given information as to how to qualify and how to proceed to qualify for unemployment compensation.

There are 24 other States which allow Federal civilian retirees to draw unemployment compensation and 31 other States that allow military retirees to draw unemployment compensation. This bill when enacted into law would save the American taxpayers over $100 million.

This bill is consistent with other approaches that our Government is taking. If a person receives social security and has a job and loses that job and qualifies for unemployment compensation, they deduct the social security payment from the unemployment compensation. If a person retires from Government and then takes a job with the Government, he receives the difference, crediting the retirement. So I think the provisions of this bill are consistent with other approaches that the Federal Government is taking.

The bill is not only consistent with the present attitudes and approaches of our Government, but it is also consistent with the objectives of the original unemployment compensation laws. Merrill G. Murray, member of the staff of the Committee on Economic Security which reported the basic statutes in 1935, stated in his book, "Unemployment Insurance in the American Economy," at page 26,

> The primary objective of unemployment insurance is to alleviate the hardships that result from the loss of wage income during unemployment. Other objectives are secondary.

Also, the original report to the President by the committee written in 1935 stated that,

> Unemployment compensation, as we conceive it, is a front line of defense, especially valuable for those who are ordinarily steadily employed.

Even as recently as 1973, the Department of Health, Education, and Welfare reiterated these same objectives as follows:

> Unemployment insurance programs are designed to provide cash benefits to regularly employed members of the labor force who became involuntarily unemployed and who are able and willing to accept suitable jobs.
>
> Unemployment benefits are available as a matter of right (without a means test) to unemployed workers who have demonstrated their attachment to the labor force by a specified amount of recent work and/or earnings in covered employment.

I was rather shocked when I found out that the Department of Labor did not have information on the cost of these payments to the Federal Government; however, I found some information through my own State's Employment Security Commission.

So I think that this large loophole can be easily closed and be within keeping of the intention of unemployment insurance programs. My bill does not totally disqualify Federal retirees from unemployment compensation, but it does provide that they may only draw unemployment compensation which exceeds the amount that they are entitled to from their Federal retirement program. This is entirely in keeping with approaches used in other areas and, in most cases, would eliminate the necessity of these payments entirely. I urge that this bill be expedited for consideration by the full Senate and ask for your careful consideration of the effects that this has had upon citizen attitude and the burden on our Federal budget.

By Mr. BEALL (for himself, and Mr. Roth):

S.J. Res. 185. A joint resolution to amend the Regional Rail Reorganization Act of 1976. Ordered held at the desk, by unanimous consent.

Mr. BEALL. Mr. President, I send a joint resolution to the desk for introduction and ask unanimous consent that it be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

S.J. Res. 185

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Paragraph (4) of section 206(d) of the Regional Rail Reorganization Act of 1973, as amended, is amended

(a) by striking "(4)" and inserting in lieu thereof "(4)(A)"; and

(b) by adding at the end thereof the following new subparagraph:

"(B) Notwithstanding any alternative or additional designations made in the final system plan pursuant to subparagraph (c)(1)(B) of this section, if any profitable railroad fails to notify the Association in writing of its acceptance of an offer of rail properties in accordance with the time limits in subparagraph (d)(4)(A) of this section because of a failure to reach agreements as provided in section 508(a)(1) of this Act, the properties designated in the final system plan to be offered to any such profitable railroad shall be transferred in trust for such profitable railroad on the date of conveyance established pursuant to section 303(b)(1) of this Act to the Corporation if the final system plan as delivered to the special court pursuant to section 209(c) of this Act designated the properties to the Corporation as additional designations under subparagraph (c)(1)(B) of this section. Any rail properties being held in trust pursuant to this section and any rail properties of a railroad in reorganization in the region or of a railroad leased, operated, or controlled by a railroad in reorganization in the region shall not be conveyed, transferred, leased, or otherwise abandoned, encumbered, or disposed for a period of 60 days after the date of conveyance established pursuant to section 303(b)(1) of this Act. Rail properties transferred in trust to the Corporation and rail properties not designated for conveyance under the final system plan as certified to the special court pursuant to section 209(c) of this Act shall for a period of 60 days be operated by the Corporation for the account of the profitable railroad for which such rail properties are being held in trust or, in the case of rail properties not designated for conveyance under the final system plan, for the account of the profitable railroad to which such properties were offered by the Association pursuant to subparagraph (c)(1)(B) of this section. No railroad in reorganization in the region or railroad leased, operated, or controlled by a railroad in reorganization shall take any action to interfere with the operation of rail properties under this section by the Corporation. Before the date of conveyance established pursuant to section 303(b)(1) of this Act, the Corporation and each such profitable railroad shall enter into agreements establishing terms to govern operation of the affected rail properties for the account of the profitable railroad. If the parties are not able to reach agreement establishing terms to govern operation of the affected rail properties for the account of the profitable railroad before such date of conveyance, the Secretary shall establish such terms. The profitable railroad for whose account the rail properties are operated by the Corporation shall compensate the Corporation pursuant to the agreement governing operation of the rail properties for the account of the profitable railroad if such profitable railroad agrees to accept an offer of rail properties pursuant to this subparagraph. If such profitable railroad does not agree to accept the offer of rail properties within the time limit specified in this subparagraph, such profitable railroad shall not be liable for compensation to the Corporation for operation of any such rail properties. The Corporation shall instead be entitled to compensation, pursuant to the provisions of section 601(e) of this Act as if the Corporation had been directed by the Commission pursuant to such section to operate such rail properties, but such compensation shall extend only to operation of rail properties which, but for the provisions of this subparagraph, the Corporation would not have operated.

If within 30 days after the date of the conveyance established pursuant to section 303(b)(1) of this Act, any such profitable railroad notifies the Association that the profitable railroad accepts the offer of rail properties contained in the designations in the final system plan made pursuant to section 206(c)(1)(B) of this Act, that the profitable railroad is prepared to acquire such rail properties in accordance with the terms and conditions as are prescribed and certified pursuant to section 508(a)(2) of this Act, and that such profitable railroad is prepared immediately to deposit with the special court the compensation to be paid for the rail properties contained in such offer, the Association shall, within 20 days thereafter, deliver an amended certified copy of the final system plan to the special court. Such amended certified copy of the final system plan shall certify to the special court (1) which properties held in trust for a profitable railroad by the Corporation and which rail properties held by railroads in reorganization in the region or railroads leased, operated, or controlled by a railroad in reorganization in the region and being operated by the Corporation for the account of a profitable railroad pursuant to this section are to be conveyed to a profitable railroad and (2) which shares of stock and other securities of the Corporation and certificates of value of the Association deposited with the special court pursuant to 303(a)(1) of this Act shall be returned to the Corporation and to the Association to reflect acceptance by a profitable railroad of an offer of rail properties which would otherwise have been designated as additional designations to the Corporation under subparagraph (c)(1)(B) of this section. At the same time that the Association delivers such amended certified copy of the final system plan to the special court, each profitable railroad accepting an offer of rail properties under such amended certified copy of the final system plan shall deposit with the special court the compensation to be paid for such rail properties. Upon delivery of the amended certified copy of the final system plan and deposit of the compensation by the profitable railroad, the special court shall, within 10 days thereafter, order the Corporation to transfer such rail properties as it is holding in trust for a profitable railroad to such profitable railroad and shall order the trustee or trustees of each railroad in reorganization in the region to convey forthwith to a profitable railroad those rail properties of such railroad in reorganization being operated for the account of such profitable railroad, and shall itself order the conveyance of those rail properties of any railroad leased, operated, or controlled by a railroad in reorganization in the region to the profitable railroad for whose account such rail properties were being operated by the Corporation pursuant to this subparagraph and shall direct the return of securities to the Corporation and certificates of value to the Association as specified in the amended certified final system plan. If within 60 days after the date of conveyance established pursuant to section 303(b)(1) of this Act, the rail properties being held in trust for a profitable railroad by the Corporation have not been ordered to be transferred to the profitable railroad for which such rail properties are being held in trust, such trust shall immediately be dissolved and the rail properties previously subject to such trust shall be transferred outright to the Corporation as provided in the designations in the final system plan delivered to the special court pursuant to section 209(c) of this Act. If within 60 days after the date of conveyance established pursuant to section 303(b)(1) of this Act, the rail properties of a railroad in reorganization in the region or of a railroad leased, operated, or controlled by a railroad in reorganization in the region being operated by the Corporation for the account of a profitable railroad pursuant to this subparagraph have not been ordered to be transferred or conveyed to such profitable railroad, the Corporation shall no longer operate such rail properties and such rail properties shall then become subject to the provisions of section 304 of this Act."

Section 303(b)(1) of the Regional Rail Reorganization Act of 1973, as amended, is further amended

(a) by striking "(1)" in the first sentence thereof and substituting in lieu thereof "(1)(A)"; and

(b) by adding at the end thereof the following new subparagraph:

"(B) The special court shall also order and direct the transfers and conveyances required by section 206(d)(4)(B) of this Act if a profitable railroad accepts an offer of rail properties pursuant to such section within the procedures and time limits prescribed by such section."

Paragraph (5) of section 303(c) of the Regional Rail Reorganization Act of 1973, as amended, is amended by striking "pursuant to section 303(b)(1) of this title," where it appears in the first sentence thereof, and inserting in lieu thereof "pursuant to sections 206(d)(4)(B) or 303(b)(1) of this Act,".

Subsection (a) of section 508 of the Regional Rail Reorganization Act of 1973, as amended, is amended

(a) by redesignating paragraph "(2)" thereof as paragraph "(3)"; and

(b) by inserting at the end of paragraph (1) thereof the following new paragraph:

"(2) If an acquiring railroad and the representatives of the employees of a railroad from which the acquiring railroad intends to acquire properties fail to reach agreement pursuant to paragraph (1) of this subsection, the offers of employment and the rules and working conditions which shall govern the employment of any employee who subsequently accepts employment on the railroad properties or facilities (including operating rights) so acquired, shall be prescribed by the Secretary and, if certified to the Congress by the Secretary of Labor within 25 days after the date of conveyance pursuant to section 303(b)(1) of this Act as affording fair and equitable protection and benefits to affected employees, shall govern the employment of such employees in the event of such acquisition."

Mr. BEALL. Mr. President, I also ask unanimous consent that it be held at the desk.

The PRESIDING OFFICER. Is there objection

Mr. ROBERT C. BYRD. Mr. President, for how long?

Mr. BEALL. Until further discussion.

Mr. ROBERT C. BYRD. Until further action is taken?

Mr. BEALL. Until further action is taken.

Mr. ROBERT C. BYRD. All right then.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2679

At the request of Mr. CASE, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 2679, a bill to establish a commission to monitor the Helsinki agreement.

S. 2925

At the request of Mr. MUSKIE the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 2939

At the request of Mr. SCHWEIKER, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 2939, to provide a special program for financial assistance to opportunities industrialization centers.

S. 3091

At the request of Mr. HUMPHREY, the Senator from Idaho (Mr. McCLURE) was added as a cosponsor of S. 3091, to amend the Forest and Rangeland Renewable Resources Act of 1974.

S. 3145

At the request of Mr. METCALF, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3145, the Energy Conservation Research and Development Act of 1976.

SENATE JOINT RESOLUTION 163

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Tennessee (Mr. BROCK) the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), the Senator from North Carolina (Mr. MORGAN), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Joint Resolution 163, a joint resolution to authorize and request the President to issue a proclamation designating the week beginning May 9, 1976, as "National Small Business Week."

SENATE RESOLUTION 415—SUBMISSION OF A RESOLUTION RELATING TO THE TRANSFER OF NUCLEAR MATERIAL TO INDIA

(Referred to the Joint Committee on Atomic Energy.)

Mr. TUNNEY submitted the following resolution:

S. RES. 415

Resolved, Recognizing the grave dangers inherent in the transfer of large amounts of nuclear material to nations not party to the Nuclear Non-proliferation Treaty, nations not permitting inspection by the IEAE at all nuclear facilities, and nations unwilling to accept bilateral controls or safeguards on diversion, safety or use;

Noting that the Government of India has declined to implement any or all of the above measures designed to insure the safety and peaceful use of nuclear materials and has, in the recent past used both derivative materials and technology in the fabrication and testing of a nuclear device;

Realizing that over 1000 pounds of plutonium—enough to produce 100 nuclear weapons—have already accumulated at the American-built Tarapur complex at a time when U.S. bilateral rights under the Agreement for Corporation with India have been suspended and no clear provisions for the recovery of that plutonium have been made;

Acknowledging American responsibilities to signatory states under the provisions of Article III sections (1) and (2) of the Nonproliferation Treaty requiring that special safeguards be applied to the transfer of all nuclear materials to all facilities in nonsignatory States; and at the same time;

Reaffirming the willingness of the United States to cooperate in peaceful nuclear experiments with nations party to the Nonproliferation Treaty or accepting adequate bilateral and/or international safeguards to insure the safety, security and peaceful use of nuclear materials: Now, therefore, be it

Resolved, That the Senate of the United States urges the President to suspend the planned transfer of 40,000 pounds of enriched uranium to the Government of India until a public hearing on the transfer can be held by the Nuclear Regulatory Commission and until such time as the serious dangers inherent in such a transfer can be more accurately assessed, and provisions made for the disposition of reactor-produced plutonium.

Mr. TUNNEY. Mr. President, I am submitting today a resolution urging the President to suspend the transfer of certain nuclear materials to India pending a public hearing on the implications of such a transfer by the Nuclear Regulatory Commission and until such time as the dangers posed by such a transfer can be more accurately assessed.

Last month, the NRC announced that it would approve the sale through private channels of 40,000 pounds of enriched uranium for use in the American-built dual reactor complex at Tarapur in India. No hearing was held and no opportunity was presented for interested individuals to comment on the transfer. In response on March 5 a group of concerned citizens led by the Natural Resources Defense Council, the Sierra Club and the Union of Concerned Scientists filed a petition for a public hearing. On March 12, 54 Members of the House of Representatives, led by Congressman RICHARD OTTINGER, followed suit and in a letter to the Commissioner of the NRC requested a delay in the sale until a formal hearing could be held and the potential dangers fully explored. No reply to the request has yet been forthcoming, and administration sources say only that the matter is under consideration.

Mr. President, the transfer of thousands of pounds of nuclear material to India presents grave questions about the viability of our nuclear sales program and about the procedures designed to insure that such transfers are in our national interest. As a member of the Joint Committee on Atomic Energy who has sat through many hearings on the problems of proliferation and nuclear safety, I for one am concerned about the potentially disastrous consequences of such a transfer.

In the first place, while routine inquiries are made of the Department of State by the NRC in its approval process for private sales of nuclear materials, these inquiries are often pro forma, more concerned with the political ramifications of the transfer itself than technical questions concerning safeguards against diversion, theft, terrorism, sufficiency of international inspection, safe operation and maintenance and return or safe disposition of reactor-produced plutonium. Independent sources are rarely invited to comment on the proposed transactions and hearings to discuss the appropriateness of the transfer are almost never held.

Thus, many of the objections that might otherwise be voiced on nuclear sales are never publicly aired. The Indian deal is a case in point; 40,000 pounds of uranium is enough if enriched to produce 10 Hiroshima-sized nuclear weapons. In addition to that uranium, there are indications that the Indians now possess up to 1,000 pounds of plutonium produced in the Tarapur reactor under Indian control. If reprocessed, this plutonium would be sufficient for 100 additional nuclear weapons. Today—not tomorrow or 10 years from now—but today the Indian reprocessing facility at Trombay has the capacity to produce weapons-grade plutonium. Yet that facility is subject to no international or bilateral controls.

Despite this threat, and despite the fact that the Indians have not signed the Nuclear Nonproliferation Treaty and have exploded a nuclear device, overall implementation of safeguards under the agreement for cooperation with India has been left to the IAEA and U.S. bilateral rights have been suspended. Legally, the ownership rights of the plutonium produced at Tarapur are vested in India and the United States has not required either the return of that plutonium nor its safe disposition abroad. Should India decide to abrogate its responsibilities under the agreement for cooperation there is no guarantee that the United States could ever retrieve the material. This, Mr. President, is a blueprint for disaster.

Beyond the question of the inadequacy of bilateral safeguards, there is a distinct danger that safeguards supervised by the International Atomic Energy Agency may be insufficient to prevent either theft or diversion. According to the petition filed by NRDC, the Nuclear Regulatory Commission has made no independent analysis of and finding regarding the safeguards applicable to special nuclear materials shipped to Tarapur. And while the IAEA has entered in subsidiary arrangements with India which detail the specific safeguards which have been applied, this infromation has not been made available to the NRC.

Two glaring problems arise. First, as we have seen, not all Indian nuclear installations are subject even to IAEA safeguards as called for in the Nonproliferation Treaty. Because India is not a party to the Treaty, she is therefore free to maintain nuclear facilities which are only partially safeguarded or are totally free of international inspection. The result of this according to NRDC is that India is free to use these facilities for the development of nuclear weapons. Thus, safeguards even when applied to all the special nuclear material utilized at Tarapur are not enough to insure that nonpeaceful nuclear activities are not carried on in India so long as fissionable material from unsafeguarded sources remains free of control and so long as unsafeguarded facilities are available to reprocess special nuclear material diverted from Tarapur.

Second, provisions in article VI(c) of the agreement on cooperation which permits the substitution by India of equal quantities of special nuclear material under the agreement by material not covered thereunder could be used to divert material from Tarapur to unsafeguarded facilities. Without adequate systems of measurement and inspection, there is no way to know whether this loophole has been used and safeguard provisions thus circumvented.

If these safeguards, be they bilateral or international, cannot be guaranteed, there is a strong possibility that the United States will find itself in violation both of provisions of the Nuclear Nonproliferation Treaty and of the trust of nonnuclear signatories, since article III requires the safeguarding of facilities in nonsignatory states as a prerequisite for such a transfer of nuclear materials the sale to India may result in an abrogation of our legal responsibilities. The continued shipment of such material to India in the face of her refusal to sign the NPT and the recent explosion of a nuclear device could be interpreted as frustrating the intent of the treaty and sanctioning Indian policies, encouraging other states to follow the nuclear path and discriminating in effect against those who did not.

In light of these serious dangers and the uncertainties surrounding this transfer in particular and others like it, I urge these specific steps: First, the NRC should review its rules for granting export licenses for nuclear sales to make provisions for public hearings in cases of such magnitude and involving nonsignatories to the NPT. Second, I would encourage a delay in this particular transfer until public views can be heard. Third, I believe a more detailed analysis of the impact of the transfer to India and the whole question of the adequacy of safeguards under the agreement for cooperation should be undertaken before this sale is allowed to proceed.

Mr. President, we are faced here with the frightening prospect of contributing inadvertently to the demise of the Nonproliferation Treaty, of encouraging the development of an Indian nuclear capability, and of transfering the capacity to produce over 100 nuclear weapons without adequate safeguards against diversion and misuse of potential weapons-grade material. While I firmly believe in the cause of international atomic energy cooperation, I think this transfer deserves more than the cursory examination that it has received. I urge my colleagues to join me in my effort to delay this sale until some very disturbing questions can be answered.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF STATE AUTHORIZATIONS, 1977—S. 3168

AMENDMENT NO. 1524

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, I am sending to the desk an amendment to S. 3168, the State Department authorization bill. This amendment is identical to S. 2262 which I introduced on August 1, 1975. It would establish a temporary 15-member Commission to review all aspects of U.S. participation in the United Nations. I do not wish to prejudge or preordain the outcome of this policy review but I would hope that the Commission's final report would serve to help the President and the Congress develop a new relationship with the United Nations.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

ANNOUNCEMENT OF LOCATION AND TIME OF HEARING ON SMALL BUSINESS ADMINISTRATION ADVOCACY OFFICE

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business oversight hearing on the Small Business Administration Advocacy Office and how it can be strengthened which is scheduled to be held March 29, 1976, will begin at 10 a.m. in room 3302 of the Dirksen Office Building. The Senator from New Hampshire (Mr. McINTYRE) will chair the hearing.

Further information on the hearing can be obtained from the committee offices, 424 Russell Office Building, telephone 224-5175.

ADDITIONAL STATEMENTS

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I supported S. 3015—legislation to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant-in-aid processes, and to revitalize the national airport system planning.

I supported the comprehensive provisions of S. 3015 designed to achieve those ends. The Federal Aviation Administration's airport development program was expanded by authorization for added activities within the Nation's airport and airway system—such as assistance in construction of terminal buildings and access roads, and provision for snow removal equipment. Provisions are made for greater Federal participation in safety development, and there will be efforts made to reduce redtape and delay in handling airport development project grant requests. I am pleased to see that there is substantial expansion of annual authorizations for funds for air carrier airport development.

I regret, however, that S. 3015—now embodied in H.R. 9771—does not more adequately provide obligational authority for airport development grants for general aviation airports, beyond the recommended $50 million for fiscal year 1976; $45 million for fiscal year 1977; $50 million for fiscal year 1978; $55 million for the fiscal year ending in 1979; and $60 million for fiscal year 1980.

There is a tremendous need for improvement and development of general aviation airports in West Virginia, and there are other States in a similar predicament.

Yet, under the formula for distribution of the general aviation funds, based on apportionment among the States according to area and population, West Virginia will be stringently limited in its efforts to meet the long-delayed demand for general aviation airport development within the State. Indeed, under that formula, the State of West Virginia apportioned only $227,481 for fiscal year 1976. This will not even build one runway under current construction costs.

For the record, I wish to point out that the Charleston airport, in Kanawha County, is West Virginia's only hub airport and can be categorized as a "small" hub airport. Yet, the bulk of the increased funding authorized for airport development under this new program primarily benefits hub airports.

During the hearings by the Senate Commerce Committee on measures to extend the Federal airways and airport development program, I pointed out that one major group of States—those in the Appalachian region—has only recently begun to make significant progress in the improved safety and expanded development of general aviation airports, utilizing basic grant funds from the Federal Government—through FAA's past airway and airport development plan, supplemented by grants related to that plan under the provisions of the Appalachian Regional Development Act.

Appalachian States, including my own State of West Virginia, have already taken on a heavy financial burden for improvement of all transportation modes within their areas in an effort to advance economic development and to increase industrialization. Through joint efforts at Federal, State, and local levels, solid achievements have been made in West Virginia in recent years in advancing its aviation facilities, including safety improvements. Such advancements would never have been possible without significant Federal aid.

Realistic, effective Federal funding of recognized priority aviation development and safety needs in West Virginia, both in the category of air carrier airports and general aviation airports, is the only means by which West Virginia's aviation needs can be met.

I, therefore, urged extension of the Federal Aviation Administration's Airport and Airway Development Act, and I now call for close congressional oversight to be extended to the administration of these new legislative proposals, to permit accurate evaluation of the virtues of the expanded program provisions and a clear documentation of the areas in which shortages may in the future hamper needed air transportation development locally and nationally.

WOFFORD BENJAMIN CAMP

Mr. THURMOND. Mr. President, several articles and tributes have recently come to my attention which extol the many outstanding accomplishments of Mr. Wofford Benjamin Camp of Bakersfield, Calif.

Mr. Camp is a native of Cherokee County, S.C., who moved to California in 1917 while employed with the U.S. Department of Agriculture. While there. Mr. Camp cultivated the first cotton in that State and subsequently became involved in the management of his extensive agricultural properties. Mr. Camp is considered today as the "Father of the California Cotton Industry," and many awards and honors have been bestowed upon him for the success of his work.

Mr. Camp is married to the former Louise Phifer Wise who is a very intelligent and attractive lady. She is possessed with an unusually talented voice and is in great demand for singing appearances. She is the chairman of the board of trustees of Limestone College in Gaffney, S.C. Mrs. Camp has been a great inspiration to her fine and successful husband.

Mr. President, in order that my colleagues may have the benefit of knowing more about this distinguished man and the beneficial work for which he has so often been honored, I ask unanimous consent that these recent articles and tributes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the California Farmer, July 13, 1974]

CALIFORNIA AGRICULTURE, 1974 AWARD OF HONOR PRESENTED TO WOFFORD B. CAMP, CALIFORNIA CHAPTER, AMERICAN SOCIETY OF AGRONOMY

When Sam Foss in the "Coming American" wrote, "Bring me men to match the mountains," he described this award winner, Wofford B. Camp, 56 years ago he came West from South Carolina, crossed the mountains into California and has since matched the mountains in many respects.

He brought into being a California success story that rivals the Horatio Alger rags-to-riches episodes. Use the title agri-businessman, farmer, agronomist, scientist, educator, humanitarian, entrepreneur, patriot, family man, responsible citizen—they all apply.

Raised in a family where love, not money, was their wealth, he educated himself in farming skills and completed the eighth grade. In his county he won championships for plowing and cotton picking.

With only a few savings and without a high school diploma, he went to Clemson College. By virtue of his convincing talk (a talent he still possesses) and an aptitude score that won him a $100 scholarship, he was admitted for degree work.

At 15 cents per hour he worked his way through college and graduated in agronomy in 1916. One year after graduation he was sent to California by the United States Department of Agriculture to develop a reliable source of long staple cotton so badly needed by the Air Corps to cover the wings of the newly emerging flying machines.

By 1922 he had succeeded in his mission despite the resistance he encountered from California officials who said cotton wouldn't grow well and that as a poverty crop it would create extreme social problems. He quickly established himself as the "Father of the California cotton industry." He founded and was directing the USDA Cotton Research Station at Shafter—an industry research project jointly sponsored by private and public financing.

Having proven that high yielding, long staple Acala cotton was profitable under San Joaquin Valley conditions, in 1925 he spear-headed the cotton growers' fight in the California Legislature for a one-variety cotton law. The law ultimately gave tremendous advantages to cotton growers in the San Joaquin Valley, agronomic and economic advantages that are still enjoyed today.

While at the Shafter Station, he began to do a little farming on his own and gradually acquired and leased more land. He always had a magic touch with crops, land and irrigation.

In 1929 the Bank of America had taken over land as casualties of the great depression. Appointed as head agricultural appraiser, he managed some of the land, and helped rehabilitate hundreds of farm families.

After five years with the Bank of America he was asked to go to Washington, D.C. to assist the Roosevelt Administration in drafting and administering the cotton and agricultural programs in 17 southern states. In 1936 he returned to California and became involved in the management of his own agricultural properties. In the next few years he was a major participant in developing the Kern County potato industry.

With success in his farming business, he acquired more properties in California, on his family's old homestead in South Carolina and in the state of Washington. As president of his own company, he and his sons grow, process and market 16 crops, particularly cotton, potatoes, alfalfa and grapes, as well as a livestock enterprise.

His accomplishments are so numerous that it takes over four inches of small abbreviated print in "Who's Who in America" to just list them. Here are a few:

Director, trustee and chairman of more than a dozen boards, committees and national organizations.

Recipient of honorary doctorate, Distinguished Alumnus of Clemson College. Doctor of Laws degrees from Limestone College and Whittier College.

Founder of the "Camp Irrigation Fund" at Clemson University—a project that developed from his conviction that great economic benefits could be realized by supplementary irrigation in the south.

Founder of scholarship and loan funds at several colleges for the use of needy boys and girls, assisting some 220 each year.

of President Lyndon B. Johnson.

Recipient of the personal commendations

Personal friend and confidant to many in the U.S. Department of Agriculture, in numerous government agencies and among civic groups.

Recipient of the George Washington Honor Medal from the Freedoms Foundation.

Recently national chairman of the Farm Labor Research Committee.

Other awards he has won are too numerous to mention.

He proudly proclaims his belief in the American free enterprise system and is an uncompromising foe of socialism and communism.

In all this he has had the loyal support of his wife, the former Louise Phifer, their five children and, now, 17 grandchildren.

The 1974 Award of Honor goes to Wofford B. Camp for distinguished contributions to the advancement of human welfare and the enhancement of California agriculture.

[From Camp brings cotton to Kern, the Bakersfield, Californian, Feb. 19, 1976]

The boll weevil, WWI and the fledgling aviation industry combined to bring W. B. Camp and cotton to the San Joaquin Valley.

The U.S. was preparing to enter the war in 1917 and the army needed strong cotton fabric to cover the wings and fuselage of its warplanes. But at the same time the boll weevil had struck the traditional long staple cotton production areas in the South.

"Desperate for a new area to grow cotton," the Agriculture Department decided to send "a young cotton picker" to the west "on a hunting expedition."

"And that is what it was. Just a hunting expedition to find some place in the west that could grow cotton," Camp said. "I planted cotton all over the west. Besides the San Joaquin Valley and Sacramento Valley I planted cotton in valleys in Arizona, New Mexico and even Nevada."

Camp's cotton expedition did not start under favorable auspices. The day before the young South Carolina farm boy was to leave he was called into a meeting with the Secretary of Agriculture for a final briefing.

"At that time the Agriculture Department was much smaller. When I was called into the room there was the Secretary of Agriculture and all the department heads. After the Secretary had reviewed my mission the director of Western research station said, 'Mr. Secretary, I think you are making a mistake sending this young man out to look for a place to grow cotton and work with the universities. Cotton won't grow out there and nobody can cooperate with universities.' I'll tell you, that didn't do my heart any good."

When Camp arrived in Bakersfield with his 32 varieties of cotton in tow he called on the Agriculture Commissioner who steered him to Henry A. Jastro at the Kern County Land Company.

"After discussing the mission with Jastro for a couple of hours he called in his lieutenants and told them to give me anything I wanted," Camp recalls.

"We looked at one piece of land that they thought might be good but I didn't like it for some reason. Then we went to a second plot which we both agreed on.

"The first field of cotton in Kern County and California was planted on land south of 24th Street and west of Cedar Street that is now a residential area less than a half mile from present downtown Bakersfield."

In 1918 there were from 1,000 to 2,000 acres of cotton planted in Kern County and that was the year the first one variety ordinance was passed.

As a war measure Camp campaigned to have cotton in the county limited by law to the Egyptian long staple Pima cotton needed for the manufacture of aircraft fabric.

As a war measure the county Board of Supervisors adopted an ordinance limiting production to Pima.

With a start in Kern, Camp succeeded in getting supervisors in Tulare, Kings, Fresno, the other valley counties, to follow suit.

Although Camp campaigned for the Pima cotton during the war, he said, the Acala upland cotton "showed up in the first five acre field like a sore thumb." It matured quicker and out-yielded the other varieties.

In 1925 with the war demand for the Pima finished, Camp switched his allegiance to the Acala variety. He was instrumental in getting the present one variety law passed in the state legislature limiting cotton production in the San Joaquin Valley to Acala types.

"This was the first, and currently is the only, law of its type in the world," Camp said.

"The basic idea was not new at the time. I had seen Pima growers in the Sea Island area of North Carolina, known for its Pima cotton before the weevils struck, practice voluntarily the same concept. They had a unique product and were very careful to plant only the quality Pima to avoid damaging the seed strain by accidental cross pollination."

"Before working for the one variety law, I had talked with mill operators and determined growers would receive premium price if they could guarantee quality uniform Acala cotton."

With the enactment of the one variety law the California Planting Cotton Seed Distributors also was established.

The CPCSD is responsible for collecting and disseminating cotton seed to growers. The farmer pays only for the cost of the seed plus administrative expense with an additional assessment tacked on each seed sack to support cotton research.

"There is nothing like it anywhere else in the world," Camp said. "Farmers in other areas tell me they pay more than five times as much for their seed."

As a USDA employe testing his 32 cotton varieties in locations all over the southwest, Camp was being "run to death."

Although he was getting excellent cooperation from farmers using donated test plots on different farms and in various areas it didn't take him long to decide he needed a place to grow his test cottons where he could watch them closely.

With the help of University of California, Camp was able to convince his superiors in the Ag Department to build a station at Shafter.

On Dec. 15, 1921, a four-mule scraper started clearing land for the station at its present site north of Shafter. The first buildings were constructed in early 1922.

Camp credits much of his success of introducing cotton to California to the excellent cooperation he received from farmers and their willingness to serve on advisory committees.

He is particularly proud of his discovery of the SC–5 strain of Acala. Although too long a fiber for production here, it has proved to be an excellent cotton strain for breeding purposes and is still used in breeding programs for the Southern states cotton varieties, he said.

Camp left the USDA in 1928 to become the first agricultural representative for the Bank of America. He worked for the bank until 1933 when he took charge of the cotton program of the Agricultural Adjustment Agency of President Franklin Roosevelt.

He left the agency in 1936 to start farming on his own in Kern County.

Camp, 79, is now semi-retired with his son Don operating W. B. Camp and Sons Farming.

Camp was educated at the one-room school house of Possum Trot School in South Carolina and attended Clemson University after completing the eighth grade.

[From the Boiling Springs (N.C.) Web, May 19, 1974]

Three Honorary Degrees Awarded

During commencement exercises, Gardner-Webb honored three distinguished men with honorary doctor's degrees, cited three members of the faculty and staff for service, and recognized seven students for academic and citizenship achievements.

The three honorary doctorates were awarded to James Orville Terrell, who served Gardner-Webb for more than 26 years as a member of the faculty and dean; the Rev. Charles Q. Carter, pastor of the First Baptist Church of Jonesboro, Ga., and W. B. Camp, a Gaffney, S.C., native who now is a California businessman.

Dean Terrell served as dean from 1945 to 1962 and as professor of history before his 1971 retirement. He has been active for many years in the Boiling Springs Methodist Church and area civic organizations. He was awarded the Distinguished Alumnus Award by Western Carolina University in 1958.

The Rev. Mr. Carter served as pastor of Cherryville's First Baptist church for 10 years before going to Jonesboro last fall. A graduate of Southern Baptist Theological Seminary and Mercer University, he served as the first chairman of Gardner-Webb's ministerial board of associates.

Mr. Camp gained wide recognition as a farmer after moving to California several years ago. Formerly in charge of the cooperative testing of field crops for the U.S. Department of Agriculture, he now lives in San Joaquin Valley and serves as an agronomist in charge of cotton breeding and growing experiments. He and Mrs. Camp established the W. B. and Louise Camp Gardner-Webb Loan Fund two years ago with a gift of $20,000.

[From Religious Heritage of America, June 26, 1975]

Business and Professional Leader of the Year

Presented to outstanding business and professional men and women for achieving a significant impact for good in their communities, or on a national level, by the practical application of the principles of their religious heritage in their daily lives.

AGRICULTURE

Wofford Benjamin Camp—President, W. B. Camp and Sons, Inc., Mr. Camp, a native of Cherokee County, South Carolina, worked his way through Clemson University. Established and directed experiment stations in California, Arizona and New Mexico for the U.S. Department of Agriculture. Considered the "Father of the California Cotton Industry"—he is called "Mr. Agriculture" by many in America. Director, Trustee and Chairman of over a dozen Boards, Committees and national organizations, he is the recipient of numerous citations, awards and honorary academic degrees. Address: 701 Oleander Avenue, Bakersfield. California 93304.

POSTAL SERVICE RESOLUTION

Mr. TALMADGE. Mr. President, a resolution pertaining to the U.S. Postal Service has been adopted by the Georgia State Senate during the recent session of the general assembly.

On behalf of my colleague—Mr. Nunn—I bring this resolution to the attention of the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

Relative to the United States Postal Service; and for other purposes

Whereas, the United States Postal Service, in order to effect economies, has proposed the closing of many small postal facilities throughout the country; and

Whereas, if these facilities are closed, serious hardships will be effected upon the people of this country and particularly of this State; and

Whereas, this body is opposed to further inconveniences to the public which would occur by the denial of access to convenient locations for postal service.

Now, therefore, be it resolved by the Senate that this body does hereby urge each and every member of the Georgia Congressional Delegation to exert their influence to oppose any further curtailment of services and closing of facilities by the United States Postal Service.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit an appropriate copy of this Resolution to each and every member of the Georgia Congressional Delegation.

SUPPLEMENTAL RAILROAD APPROPRIATIONS

Mr. CASE. Mr. President, as ranking minority member of the Senate Subcommittee responsible for House Joint Resolution 801, I am pleased to express my support for this bill.

After many hours the conferees have produced a bill that represents a careful balance between budgetary considerations and national priorities. I would like to mention some of the bill's more important provisions.

The central purpose of the bill is to provide the appropriations necessary to effectuate the reorganization of the bankrupt Northeast and Midwest railroads. The bill provides $2.026 billion for this purpose. The subcommittee expects that these funds will be used to build a profit making railroad freight system.

The bill also includes funds to initiate the Northeast Corridor improvement program. By appropriating $50 million for the corridor—$35 million over the administration's budget request—the conferees underlined the importance of this program and indicated that Congress was willing to take the initiative to assure its successful completion. This program will bring modern rail transit to the Nation's heaviest populated transportation corridor and will also create meaningful employment for thousands of people.

In order to assure the continuity of commuter rail services the bill contains appropriations for rail subsidies. These funds are necessary to reimburse commuter operators that will be adversely affected by the rail reorganization. The $25 million provided for commuter subsidies demonstrates that Congress intends to carry out the provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 which prohibits cross subsidization of freight and passenger operations.

Finally, the bill contains $26.5 million to cover Amtrak operating deficits and $10 million for one time start up costs associated with the Northeast Corridor.

I strongly support these provisions.

DRUGS IN EUROPE: COLLISION OF INTERESTS

Mr. NELSON. Mr. President, I invite the attention of the Senate to an article by Clyde H. Farnsworth that appeared in the financial section of the New York Times on Sunday, March 21, 1975. The article, "Drugs in Europe: Collision of Interests," discusses such matters as: first, excess prices of drugs charged by drug companies to foreign governments; second, payments made by these companies to employees of foreign governments; and third, the emoluments offered to physicians, including vacation trips, to promote the use of drugs.

The article also describes the testing of drugs in foreign countries. Mr. Farnsworth observes that in France the testing of new drugs to secure marketing approval by the Ministry of Health is financed by the drug companies, a procedure, he says, "that would seem to invite conflicts of interest," and gives a specific example of the dangers arising from company-financed drug testing.

We may be tempted to sit back and breathe a sigh of relief that the American public is protected from the ills that can befall us from unethical and unscientific testing of drugs before they reach our medicine chests. Unfortunately, this situation also exists in the United States; drug firms here finance the testing of their products. It is they who select the investigators. The testing data is filtered through the drug company before it gets to the Food and Drug Administration which has the responsibility of determining whether the drug is safe and effective for its claimed uses. As the New York Times article states:

> Company financing of preregistration testing represents a temptation.

On July 30, 1969, I introduced a bill to change the procedures by which drugs are tested in the United States. The bill—the present number is S. 1321—would make the Department of Health, Education, and Welfare responsible for the testing and evaluation of all drugs to determine whether they are safe and efficacious. If enacted into law, for the first time drugs would be tested by institutions independent of the companies that manufacture them and have a financial interest in getting them on the market. The testing would be supervised by a new National Drug Testing and Evaluation Center, which could contract with universities, medical schools, private and Government institutions. The testing costs would be reimbursed by the companies.

That the FDA should determine the safety and efficacy of a drug, as the law reads at present, solely on the basis of information supplied by the drug company making the application is irrational and intolerable. The legislation I have introduced would provide a necessary reform, and I hope that the Congress will see fit to enact it soon.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Drugs in Europe: Collision of Interests—Corporate Pricing Abuses and Payoffs Reported

(By Clyde H. Farnsworth)

Paris.—In Western Europe, national health programs are a way of life—and some questionable relationships between the drug companies who supply the medicine and the authorities who administer the health programs are a way of life, too.

Essentially there is just one dominant customer for the more than $47 billion of medicinal drugs sold in Europe in a year—not to the public, but to the government officials and medical professionals who decide in most countries which drugs will be registered for distribution, which ones will be incorporated into health insurance systems, and what prices may be charged for them.

From the customers' side there is constant—now increasing—pressure to hold down prices and cut down the proliferation of drugs that are covered. From the producers' side there is natural pressure to maximize profit, by price and sales.

An investigation of the situation by the New York Times brings out evidence that when these forces meet, the frequent result may be bribes, questionable testing procedures, false accounting, patent piracy, and other forms of abnormal competition.

To what extent American drug companies are involved in this type of operation is unknown. But it is roughly estimated that they have captured 15 percent of the European market, and it is a fact that some of the Americans have been charged or are being investigated for questionable pricing practices.

Responding to the United States Securities and Exchange Commission's request that all companies—in all industries—disclose their extraordinary overseas payments, 11 American drug producers have recently reported making payments that totaled more than $12.5 million over varying periods of years. None have said where they made the payments, nor to what individuals—and no authorities here have brought charges against any of them for making illegal payments.

A former executive of one American company—who demanded anonymity before discussing the subject—said recently that there have been payoffs here, but that they are "nickels and dimes compared to the aerospace industry", which has been capturing the blackest headlines lately. Indeed, the Lockheed Aircraft Corporation alone has admitted to almost half again the worldwide total of payments disclosed by American drug companies.

Merck & Company appears to have made the largest payments among those disclosed to the S.E.C. thus far—an amount that the company reported as "less than" $3.9 million from 1968 to 1975. The "commission type" payments were made almost entirely to "middle and lower echelon employees" of foreign governments and agencies, the company said. Merck explained its payments as "accustomed business practice in many of the countries involved," and the other companies have said much the same.

Perhaps of even greater pervasiveness than direct pay-offs are the dubious pricing practices born of Europe's splintered regulatory pattern and sometimes stringent price controls.

Merck, it has been learned, quietly agreed in 1973 to pay the French government nearly $10 million in "redressment" after being accused of charging excessive prices for one of its products.

The abuses of the spirit, if not the letter, of European law are generally explained as rising from the strains of dealing with the massive administrative machinery that governs the market, while striving to defend or to stake out a piece of what is expected to be a $12 billion-a-year business by 1980.

Most of the European population is covered by some form of national medical insurance, which finances not only drugs—about half of total sales in most countries—but, also doctor and hospital fees and allied charges. Coverage ranges from 75 percent of the population in the Netherlands to nearly 100 percent in West Germany and Britain. In Britain and West Germany the insurance funds pay 100 percent of prescription drug charges. In France, Belgium, Italy and the Netherlands, the medical insurance covers only drugs on an approved list.

Those who have worked in the European drug business classify Italy and Spain as the countries where the most flagrant anything-for-sale abuses take place. West Germany and France are put somewhere in the middle in this rough categorization, and Britain and the Netherlands are said to be the "cleanest."

Ministry of Health officials in Italy concede that irregular practices have occurred there, but they insist that controls are being tightened to prevent their continuation.

In France, a ranking officer of the drug industry association states that it is "inconceivable" that there are irregular practices in his country, asserting that French manufacturers look on such practices "with utmost contempt."

A French Health Minstry official also expressed doubt that bribery took place, for the very reason that there are so many functionaries involved in administering the controls.

Notwithstanding these assertions, many

sources described various practices that might be questioned.

In Italy, according to a former company executive who worked there for years, a dozen drug manufacturers, including some American companies, once banded together to back an industry-sponsored bill in the Italian Parliament that would have allowed manufacturers to sell their nonprescription products in supermarkets and other retail outlets. There, they would no longer be subjected to price control.

The companies were assessed $80,000 each, according to the source, with the $1 million to be put into a war chest of the Christian Democratic party.

The Government fell before the bill could be enacted, and it could not be determined definitely whether money actually changed hands. But the informant said it "undoubtedly" had. A Milan executive who was said to have made the financial arrangements now works for a different company in the city. Efforts to reach him were not successful.

Again in Italy, according to a source familiar with the situation, one multinational company got authority, after bribing fiscal inspectors, to sell throat lozenges—at import prices—that it then arranged to make locally at low cost. The practice was said to have continued for around 15 years in the 1950's and 1960's before the company decided it should "regularize" its position.

Another industry source said "bribes" of a few thousand dollars were all that was needed in Rome to get full copies from the Ministry of Health of new drug registration files. This eased the way for "pirates," usually small manufacturers, to deal in products based on patent infringement. Italy has had no drug patent legislation, which, according to the source "has made the country into a jungle."

In West Germany, hospital directors take gifts and even money from large West German drug concerns, and probably others, in return for placing pharmaceutical supply contracts with those companies, a source close to conditions there reported. The source, who is French, insisted that the practice was not so widespread in France because of the more closely controlled centralized purchasing network of the public assistance hospitals.

In all countries the drug industry argues that prices must be high enough to generate the profits needed to fund basic research.

But in France, for one, the industry spends twice as much on sales and promotion as on basic research.

Counted as promotional expenses, here and elsewhere, are free trips for doctors and their wives to company-sponsored conferences at pleasant places.

Winthrop Laboratories of Britain has an annual symposium at Deauville. Servier Laboratories of France runs an annual conference at Mégéve. Abbott Laboratories and Richardson-Merrell, both American, have held conferences in Nice.

Aside from the wooing of doctors and public officials, drug companies have adopted some questionable practices in promotions at pharmacies.

In France, manufacturers offer "bonus" under-the-counter packets, tubes or vials for every dozen ordered by the pharmacist—as much as 18 for 12, one insider reported. That gives the pharmacist a strong incentive to sell maximum quantities of the product under promotion.

Gisélle James-Safar, pharmaceutical adviser to the French Social Security system, found in an analysis by her department that because of the rather vague orders written by doctors, such as "take according to need," pharmacists tended to deliver maximum quantities of even very toxic drugs.

Since drugs represent an important item in the total expenditures of the health insurance funds—22 percent in France, 17 percent in West Germany, and 10 percent in Britain—and since most of the funds are now in deficit, there has been increasing pressure to get drug prices down, to tighten up on new drug registrations and to reduce the number of refundable products.

In Italy, the number of drugs refundable by the main government insurance organization, was cut to 6,000 from 16,000 in 1972.

All countries are more severely scrutinizing the "me too" products, those with essentially the same therapeutic characteristics of existing drugs.

In France, a therapeutic improvement must be demonstrated before a drug becomes reimbursable. Since 1971, West Germany has demanded proof of therapeutic benefit, as well as safety, before a drug may be registered.

With more exacting pricing and registration surveillance, there will be more and more incentive for companies to press their favors upon officials, several sources said, in order to get through the labyrinth of regulations.

To get around price controls—companies try to show higher costs, aiming to qualify for higher prices. The practice involves charging so-called artificial transfer prices for raw materials.

"All the companies do it," said one former executive of an American company. Another former executive, a Frenchman, observed: "It's what could be expected from unrealistic and excessively stringent price controls."

Some companies shunt their raw materials around a European circuit, establishing higher prices at each point, before actually marketing a finished product. Frequently, the only change involved is, say, a transfer of the "materials" into different-sized containers for sale in the final market as "finished product."

Two Paris laboratories buy their vitamin B-12 from a producer in the Paris region. But, according to one report here, the substance is sent to Antwerp, Geneva, Hamburg and Monaco before returning to Paris. Prices triple or quadruple during the 1,000-mile trip.

The difficulty in administering price controls lies in figuring the real element in the transfer price of raw materials.

Merck, for example, paid France the nearly $10 million after customs officials found it was charging higher than normal transfer prices for indomethacin, a raw material for Indocid 25, a drug used for rheumatism and gout.

So great was the difference between the import valuation price and what the product sold for elsewhere that customs officials alerted the Finance Ministry. Discussions went on for three years while the material continued to come in at allegedly inflated prices.

Finally, in 1973, Merck agreed to a "redressment"—the company refuses to use the term "fine."

"We never admitted any guilt and were not asked to admit any guilt," said Jean Chabre, president of the Merck subsidiary in France. The payment was "voluntary," he said, and made "to prevent harassment of our company by the French administration."

The company then decided it would no longer import the indomethacin, but instead make it in France, at a plant in Dijon.

The authorities occasionally clamp down on price control abuse, as seen in the case of Merck. But most experts agree that the problems are likely to continue at least until free trade conditions exist in the European Economic Community.

There has been little success in attempts to work out a common legal framework for drugs, providing for automatic recognition in all nine member states of drugs registered in any one of them.

The larger international corporations "are not totally displeased with the present situation," according to a report by Euroeconomists, the economic research arm of Eurofinance, a body sponsored by leading banks in North America, Japan and Western Europe.

It said that "internationalization would probably result in alignment of E.E.C. prices on the lowest prevailing national price." Now, the companies can exploit the control weaknesses of each national market.

Britain and West Germany have taken well publicized steps to get prices of certain widely marketed drugs lower. The monopolies commissions in both nations have struck at Hoffmann-La Roche's librium and valium compounds, and the German trustbusters have also attacked the price of Merck's vitamin B-12.

West German authorities also disclosed that they have been "observing" Wyeth Laboratories of Marietta, Pa., for possible price infractions on vitamin B-12.

"It is quite likely that West Germany will become one of the leaders in Europe in checking abusive drug prices," said the Euroeconomics study—if the courts uphold the monopoly commission's position.

West Germany—the only major country in Europe without price controls—has a medicare system of prescription monitoring that is being watched with interest elsewhere.

Individual doctors' prescriptions are tallied at the end of each year. Therapeutic profiles for the more common sicknesses have been drawn up. Doctors whose prescriptions are above accepted norms are asked to explain discrepancies to a medical committee and are subjected to punitive action if over-prescribing practices continues.

Government agencies control production of drugs in Europe, but nowhere on the continent are the formalities as rigorous, complex, and time consuming as in the United States. For instance, it took Fisons, a British company, seven years to get its Intal, an anti-bronchial medication, approved by American authorities, even after registration was granted in Britain.

In France, where requirements are strict but application may be lax, the companies themselves finance the testing of new drugs for the Ministry of Health permit, a procedure that would seem to invite conflicts of interest.

The testing in France is "badly done," say Jean-Pierre Dupuy and Serge Karsenty, two medically-oriented French sociologists in a recent book entitled "The Pharmaceutical Invasion."

"The fact that the tests are paid for by the companies may not be without influence in the matter," they write. "To the director of a hospital section, this financial support is often a windfall that permits him to better equip his facilities, and he is evidently little inclined to be exacting in his [testing] criteria."

Alexandre Minkowski, a distinguished Paris pediatrician, disclosed in an interview one example of the possible dangers that may result.

A leading European-based multinational, he reported, got approval to market in France a powdered milk for premature babies that risked retarding the infants' mental development because among other things it was too rich in amino acids.

The Ministry of Health had given its approval to the product, apparently based on company-financed tests by other experts.

Dr. Minkowski, director of the research center in neonatology at the Coachin-Port Royal Hospital of Paris, and a small group of other pediatricians made biochemical tests of the product and strongly urged the company to withdraw it.

Dr. Minkowski related that it was only after he wrote a signed article in Le Monde, the influential French daily, last October that was critical of multinational company efforts to sell powdered baby milk in developing countries that the manufacturer finally withdrew the chemical milk powders from the market.

Up to that time he had been told it was too late to pull the product back since distribution procedures were already well underway, and substantial investments had been made.

The essay in Le Monde represented a veiled threat to take the matter of corporate abuse to the public, something rarely done in France.

Dr. Minkowski was finally allowed to demonstrate his contentions in the company's own laboratories and confront the chemists who had invented the product. They, he observed, "knew nothing at all about babies."

It was unclear how the company had been able to get the product registered by the Ministry of Health, when tests conducted by Dr. Minkowski showed that some babies rejected the milk by vomiting it.

Dr. Minkowski declined to name the company which is headquartered outside of France, saying it would be unfair to single it out after the decision not to sell the product had been taken.

Two other leading French doctors, Professor Paul Milliez, a specialist in arterial hypertension, and J. P. Escande, a dermatologist, agreed in interviews that company financing of preregistration testing represents "a temptation."

Professor Milliez, as the result of testing he did for a drug called alpha methyl dopa (for hypertension and kidney maladies) and Merck, the manufacturer, provided funds for his research center for arterial hypertension at the Broussais Hospital in Paris.

Professor Milliez said that while he had endorsed alpha methyl dopa after testing it, he had refused to endorse three other drugs after testing them. There has been no suggestion that Professor Milliez, one of France's most distinguished doctors, did anything improper in the arrangements with Merck.

Henri Narjolet, chief of the pharmaceutical division of the Ministry of Health, explained that under French procedures the ministry supplied an authorized list of medical experts who could be used by companies to test products.

He said that the ministry was not involved in any way in the financial arrangements that individual companies made with the approved experts. "That is outside our jurisdiction," he observed.

Mr. Narjolet said his department gets 200 to 250 new drug application files a year—40 percent from American and American-controlled companies—and that it generally rejects one in three.

SALUTE TO FORMER SENATOR PAUL H. DOUGLAS ON HIS BIRTHDAY

Mr. PROXMIRE. Mr. President, today is the birthday of our friend and former colleague, Paul H. Douglas. Senator Douglas served in the Senate from 1949 to January 3, 1967.

TEACHER AND AUTHOR

Paul Douglas was and is a giant of a man. He has had a series of outstanding careers. He was a teacher at the University of Illinois, Reed College, and at the University of Chicago. He made an original contribution to knowledge in economics in his book with Cobb on "Production Functions." Typical of his generosity he put Cobb's name first on the book even though Douglas did the economic work and Cobb was hired to work out the mathematics. Douglas carried this practice over into his political career when he insisted that the name of a staff member or graduate student who prepared an article in his name not only be given on the manuscript but put first.

CITIZEN REFORMER

Douglas had a public career as a citizen reformer. It was his work which brought down Sam Insall and his utility empire. He and Arthur Goldberg were the two most prominent private citizens who supported the steel workers in their effort to organize the giant steel companies at the bottom end of Lake Michigan in the 1930's.

Further, during the 1930's he not only took part in citizen and consumer groups but he sounded the warnings against the totalitarianism of Hitler and Mussolini. A trip to Russia convinced him also that they were as totalitarian as the fascists. His public statements to this effect put him in bad graces with both the far right and the extreme left, but like George Orwell he told the truth about totalitarianism no matter what its color or hue.

ALDERMAN IN CHICAGO

Paul Douglas, before World War II, was elected as alderman in the city of Chicago where he fought a lonely battle against what some called the "machine" but which he termed the "organization." He learned a great deal about practical politics from this experience. One of his favorite stories is the number of times in his first year on the council when he would be called to the phone in the midst of a controversial issue only to find that it had been passed quickly while he was in the corridor. Paul Douglas found as a Member of the Senate and while he was fighting to get the civil rights bill of 1956 and 1957 before the Senate that such tactics are sometimes used even in this august body.

MARINE VETERAN

At age 50, Paul Douglas joined the Marine Corps as a private. He felt that as an advocate of intervention against Hitler and Mussolini he could not shirk military duty when the policies he had argued for were adopted. He got a waiver for his age, his eyes, and a bad knee from Colonel Knox, then Secretary of the Navy and Douglas' friend from the days Knox was the publisher of the Chicago Daily News. Douglas was selected as the best recruit to go through Parris Island boot camp in spite of his age.

Douglas then went overseas. He was allowed to do so provided he took a commission and agreed to a noncombatant role. Once overseas, however, as adjutant of his division, he routinely took part in battle and fought under fire when his outfit was engaged. He was wounded both at Peleliu and at Okinawa. He was awarded the Bronze Star for his bravery at Peleliu and almost bled to death when hit at Okinawa. He was hit while carrying amunition to the mortar positions at the Naha-Shuri line when his outfit was under heavy fire.

There is in the possession of Senator Douglas' former administrative assistant, and now my administrative assistant, Howard E. Shuman, a letter from the chaplain of Paul Douglas' division which tells how when he was lying bleeding to death at Okinawa he told the frontline medics that he name was Private Douglas so they would not give him any special attention or treatment before the enlisted wounded were taken care of.

Douglas felt so strongly about the men he served with in the Marine Corps—he was like Justice Oliver Wendell Holmes in the great effect the comradeship formed in combat had on his life—that he often quoted these lines of poetry about the regular soldier:

> The day and the hour the heavens were falling
>   The day when earth's foundations fled.
> Followed their mercenary calling
>   Took their wages and are dead.
> Their shoulders held the sky suspended.
>   They stood and earth's foundations stay.
> What God abandoned they defended
>   And saved the sum of things for pay.

When the world was on fire Paul Douglas carried more than his share of the ammunition and volunteered for frontline jobs beyond the call of duty. As a man of 50 he did not have to join up. As a Marine of his age he was not required to go overseas. Overseas, he did not have to engage in combat. But he volunteered to carry the ammunition and the flamethrowers and for stretcher bearing and was wounded twice.

SENATOR

In 1949, Paul Douglas was elected to the Senate. It was an upset victory in Illinois in which Adlai Stevenson was elected Governor, Douglas was elected to the Senate, and together they pulled Truman to victory in Illinois.

Douglas did not wait for years to make his name in the Senate. He believed that a liberal need not be a wastrel and he set out to dissect the various forms of subsidies and pork that went to a variety of interest groups—subsidies in the form of tariffs, public works subsidies, reclamation, payment, sugar subsidies, military waste, failure of the Treasury to earn interest on its tax accounts, second- and third-class mail rates, some of the more egregious payments to the industrialized farms, and on and on. He took them apart and laid them open for all who were willing to see.

But meantime he supported programs for the weak and the poor and those in need. But he fought against waste, because it fed no hungry children, built no schools or hospitals, and put no clothes on the backs of kids.

He was the champion of civil rights in

the Senate, a role which cost him dearly with the Inner Club.

He proposed the first truth in lending bill, shepherded the 1955 minimum wage bill through the Senate, wrote the union-management pension reform bill, championed the depressed areas legislation, and saved the Indiana dunes from those who were determined to spoil it forever.

But Paul Douglas had a moral force in the Senate and the country which would be welcomed today. He combined a massive intellect with great strength of character in a way which was unprecedented in the Senate.

While he now lives quietly here in Washington with his wife, Emily Taft Douglas, who was a public figure in her own right as a Member of the House of Representatives from Illinois, we all wish him well and many happy returns of the day.

The Senate and the country are both better places, because Paul Douglas served in the former and is a great citizen of the latter.

SENATOR THURMOND ADDRESSES THE VETERANS' EMPLOYMENT SERVICE

Mr. HARTKE. Mr. President, the Committee on Veterans' Affairs has been most concerned with the continued high unemployment amongst veterans—particularly young, minority, and disabled veterans. During the past year, unemployment rates amongst younger Vietnam-era veterans has ranged from a low of 17.9 percent to a high of 23.1 percent. At times during the year, the unemployment rate amongst these veterans approached twice that of similarly aged nonveterans. Minority veterans have experienced unemployment rates in excess of 30 percent and the disabled veterans have suffered rates that are even higher.

Recently, the regional and State employment representatives of the Veteran Employment Service of the Department of Labor gathered in Charleston, S.C., for their national conference. My distinguished colleague from South Carolina, the Honorable STROM THURMOND, the senior minority member of the Veterans' Affairs Committee, had the privilege of addressing these dedicated Federal employees whose vocation is on behalf of veteran employment.

Mr. President, I believe my colleagues would be interested in Senator THURMOND's remarks. I ask unanimous consent that the text of the comments made by my good friend from South Carolina be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR STROM THURMOND

Director Hall, my good friends in the Veterans Employment Service, distinguished guests: It is a distinct honor and pleasure for me to be with you tonight.

First, I want to commend you for choosing one of the oldest, most historic, and most beautiful cities in the Nation as the site of your annual convention in our Bicentennial year.

During the coming week, I hope you will have a chance to visit some of the points of interest around Charleston, and to learn to know the people of this area. You will find the people of Charleston to be as friendly as the city is interesting.

Tonight, I want to talk to you briefly about some of the problems facing the Veterans Employment Service, and to highlight some possible solutions.

I am pleased to note that the most recent unemployment indicators reveal a positive trend in employment. November and December, 1975 were peak months in the bleak unemployment picture for veterans.

Even though the figures for January and February are better, the situation is still not good. The latest unemployment figures for veterans, as compared to non-veterans, are disturbing.

Today, nearly 500,000 young Vietnam Era veterans are out of work.

Approximately 165,000 are in the age group 20–24 years. They are unemployed at a time when they should be training for employment or beginning a career.

Another 228,000 are in the age group 25–29 years and are out of work. They find themselves without jobs when they should be entering their most productive years, and when many of them are assuming additional family responsibilities.

Unemployment is a problem for veterans and non-veterans alike.

I cannot, however, reconcile the great disparity between the number of veterans and non-veterans who are unemployed. A year ago, 18.5 per cent of the young veterans, age 20-24, were out of work, while 11.5 percent of their non-veteran peers were unemployed. Six months ago, the corresponding figures were 22.3 percent for veterans and 13.8 per cent for non-veterans. Today, the situation has improved somewhat, but disparate figures remain for veterans and non-veterans—17.9 percent of the young Vietnam Era veterans are unemployed, while the unemployment rate for non-veterans in the same age group is 11 percent.

Another figure which I find disturbing is the trend toward higher unemployment for veterans in the age group 25–29, while the opposite is true for non-veterans in the same age group.

Unfortunately, the figures I have cited indicate that major problems still exist in implementing a National veterans priority employment program.

I have seen additional figures which tend to magnify the problem I have just mentioned. Approximately 2 million Vietnam Era veterans sought assistance from State Employment Agencies during the past fiscal year; yet, of the 2 million who sought assistance, only 22.7 percent were placed in a job which lasted over 3 days.

From my vantage point on the Senate Veterans' Affairs Committee, I have given a great deal of thought to the problems which trouble your Agency and to the widespread criticism which you have received from young veterans.

I have come to the conclusion that the effectiveness of your work depends, in large part, on four very simple components. First, you need strong leadership. Second, you need to work closely with community leaders. Third, you need the substantive tools to do the job. Fourth, you need the organizational clout to accomplish your mission.

Briefly, let me comment on these four aspects of your mission.

I. LEADERSHIP

The first component is effective leadership. You have outstanding leadership in your incumbent Director.

Ralph Hall is a man of courage and capacity. He is a former National Commander of AMVETS and a former National Executive Director of that organization. He served with distinction as Director of the Bureau of Reemployment Rights in the Department of Labor. He knows how to deal with the Congress, the bureaucracy, private industry, and the veterans organizations.

In the short time he has been Director of the Veterans Employment Service, he has made a great deal of progress in gaining a greater profile for veterans in the Labor Department, but I believe he has been handicapped by the level of authority at which he has had to work.

All of you are leaders. Leadership is a principal criteria for the important posts which you hold.

I am convinced that the problems which beset your Agency and which complicate your work do not result from a lack of leadership.

II. COMMUNITY COOPERATION

The second component for the effectiveness of your work depends on community cooperation.

In hearings before the Senate Veterans' Affairs Committee in 1974, Secretary Kolberg reminded Congress that approximately 85 per cent of the jobs in our economy are controlled by private employers. Private industry decides who they will hire.

Consequently, your relationship with the veterans organizations and community leaders is of considerable significance, since you can use your influence and expertise to assist private employers in making jobs available. You can motivate private employers by recommending programs and publicity campaigns. Your work is extremely important in molding a close relationship between the veterans community and the community at large.

The American Legion, the VFW, DAV, AMVETS, and other veterans organizations monitor your activities and assist you in your community relations programs. Where you need additional assistance from the veterans organizations, I hope you will request it. Likewise, I hope community leaders and the veterans organizations leaders will feel free to volunteer their services to you.

I want to stress my view that the government, alone, cannot cure unemployment, but that the government and private industry can work together to make jobs available.

I have discussed this aspect of your work with a number of leaders in the veterans organizations. I am convinced that your mutual cooperation is one of the strong points of your work.

III. SUBSTANTIVE TOOLS

The third component for the effectiveness of your mission is the need for the substantive tools to do the job.

Within the past two years, Congress has passed significant legislation to provide for additional job training, counselling, and placement services. Employment opportunities have been extended to young and disabled veterans, and to their wives and widows.

The 1974 veterans education amendments are the most recent substantive tools which you have to carry out your mission. For example, these amendments augment the mandatory job listing requirements for government contractors by requiring affirmative action in the employment and advancement of disabled and young Vietnam Era veterans.

Additionally, the 1974 amendments provide that the Secretary of Labor should develop specific performance standards for the priority service which should be given to veterans by all Federally funded employment agencies.

These new tools, I believe, are adequate for you to accomplish your mission, but they must be implemented and administered firmly.

Additionally, you can sell the idea that veterans make good employees. Their employment can pay extra dividends to their employers.

They have matured in the service of our country.

They are trained in self-discipline.

Former officers and non-commissioned officers have developed managerial skills, which have proved to be a great asset in business, industry, and government.

Veterans have acquired an expertise in vocational skills through mandatory MOS qualification in the military.

They have learned self-confidence through problem solving, on the field of battle or under rigorous training programs.

In my opinion, you not only have new substantive legislation, but you have a superior product to sell to prospective employers.

IV. ORGANIZATIONAL CLOUT

The fourth component necessary for the effectiveness of your mission is organizational clout.

I believe this is the major problem which troubles your Agency.

The Veterans Employment Service is located at such a low level in the bureaucratic structure of the Department of Labor that it is impossible for you to carry out effectively Congressional mandates.

The Director has little visibility when he has to deal with policy spokesmen in other governmental departments, or in his relations with the private sector. Interagency cooperation in matters involving veterans suffer significantly since the Director is not at a sufficient level of authority to eliminate channels, to cut red tape, and to make final decisions.

Under the current organizational structure, the Veterans Employment Service, which is a subordinate organization to the United States Employment Service, finds itself in the anomalous position of monitoring and evaluating its superiors.

In the organizational chain of command, the Director of the Veterans Employment Service has little access to the Secretary of Labor on policy matters.

Today, the Veterans Employment Service is merely a part of a massive bureaucracy. The Employment and Training Administration is one of the most important Agencies in the Government, but no matter how dedicated to the interest of veterans the Assistant Secretary for Employment and Training may be, it is impossible for him to devote full-time attention to veterans employment matters. He has a myriad of other responsibilities to consume his time.

What we need is a full-time spokesman for veterans at the highest policy level within the Department of Labor; namely, the Assistant Secretary level.

I feel so strongly about this matter that I have urged the President to take administrative action to create an Assistant Secretary of Labor for Veterans Employment, and to remove the Veterans Employment Service from the jurisdiction of the U.S. Employment Service.

Before Secretary Usery was nominated as the new Secretary of Labor, I talked to him about this matter, and he pledged to me that he would look into it with great care. It is my firm belief that Secretary Usery is dedicated to a strong veterans program.

Late last week, I again spoke with officials in the Department of Labor and the White House about this problem. It is now my understanding that a task force is reviewing the need to make organizational changes to upgrade the mission of the Veterans Employment Service.

On February 19, 1975, I introduced S. 760, together with Senators Hartke, Hansen and Stafford, to create an Assistant Secretary of Labor and to make the Veterans Employment Service a separate agency within the Labor Department.

If the Administration is unable to take substantive action, I think Congress should enact a law to take care of the situation.

Effective administrative implementation of the employment laws is one of the ways to resolve the veterans employment problems I mentioned earlier.

A stronger institutional role in government policy—making for the Veterans Employment Service would go a long way toward solving some of the problems which have plagued you in discharging your responsibilities.

The economic security of America's 29 million living veterans is essential if our economy is to prosper. Together with their dependents and survivors, veterans represent almost one half of our total population, and the well-being of the veteran and his family is interwoven with economic prosperity for all.

Your mission is a noble one. Your charge is an important one. If the Nation expects you to carry out a priority employment program for veterans, then I would hope both the Administration and the Congress would be willing to give you the clout you need to carry out the responsibility with which you are charged.

EVASION AND MISSTATEMENT ON THE PART OF EXXON

Mr. GARY HART. Mr. President, yesterday the distinguished senior Senator from Michigan, Mr. Philip A. Hart, pointed out to the Senate the startling contradictions between the position the Exxon Corp. was taking before congressional committees in opposing divestiture and the position it was taking in State proceedings to get its taxes cut. Senator Hart pointed out how, before the Antitrust Subcommittee, the industry was claiming that four basic levels of the industry—crude production, refining, marketing, and transportation—were inherently interdependent, and that to take the integrated firms apart would constitute "dismemberment." Yet, at the same time, to reduce its State income tax liability, Exxon has been telling State taxation authorities that its four functional parts operate as separate, distinct businesses and are virtually independent of each other.

In addition, Senator Hart recounted how the Antitrust Subcommittee had requested profit-and-loss statements for each of Exxon's four principal operations, and how Exxon replied that the only breakdown of earnings the company could make for either its foreign or domestic operations was between "upstream"—exploration and production—and "downstream"—refining, marketing, and transportation—activities. Yet, in State tax proceedings, the company has testified that it maintains accurate profit-and-loss information for each of its functional activities in the United States.

Exxon has responded to these charges with a curious blend of rhetoric, evasion, and misstatement. The rhetoric need not delay us here. It was the usual fare that we have become familiar with, courtesy of Mobil's and Texaco's admen.

But the evasion and misstatement are a serious matter. I find them particularly offensive because they are prefaced by an utterly unfounded attack on the integrity of one of the most respected and responsible men in the U.S. Senate. Exxon has responded to Senator Hart's accusation by claiming that he took the "circumstances of the tax cases out of context" and that it, in fact, has provided the information requested by the subcommittee. Neither of these claims is true.

Exxon would have us believe that the only issue in the tax cases is whether Wisconsin and South Carolina can tax income earned from Exxon's operations in other States. This is not the issue in these cases. The real question is the structure of the Exxon Corp. and the nature of vertical integration in the petroleum industry.

If the divisions of Exxon are interdependent, as it has told us, then there is every reason for the States to take their fair share from the earnings of the whole corporation. If the divisions are not dependent upon each other, as Exxon claims to the States, then the States should take their share only from the divisions doing business within their borders.

Exxon cannot get away from the fact that it is claiming to the State tax authorities that its functional levels are not interdependent and are separate businesses while it is claiming to us and the Nation that they are interdependent and cannot be separated.

The issue in the tax cases, as in the divestiture debate, is the nature of vertical integration. Is the integrated oil company a group of interdependent parts that cannot be severed, or is it a group of self-sufficient divisions, each capable of standing on its own? Exxon clearly and unequivocally has argued both positions. Both cannot be true. The unsupported assertion that the tax case material is taken out of context is simply no answer to the question raised by Senator Hart.

In order to be absolutely fair to Exxon, the Antitrust Subcommittee has reprinted as an appendix to divestiture hearings the full text of Exxon's cases in the Wisconsin and South Carolina proceedings. Anyone who wishes to examine the full context of the Exxon statements will find it quite rewarding.

Exxon's most blatant misstatement is its assertion that it had complied with the subcommittee's request for profit and loss statements for the corporation's operating functions. Any reasonable reading of the subcommittee's correspondence with Exxon renders this claim incredible.

The corporation's letters to the subcommittee stated that its records did not contain anything even similar to function-by-function profit and loss data and stated specifically that the only breakdown of earnings it attempted for its domestic or foreign operations was between upstream and downstream activities. On December 16, 1975, Exxon wrote:

> We (Exxon Corporation) have prepared schedules showing a condensed profit and loss statement for each of the four major segments of the Company's operations:
>
> U.S. upstream.
> U.S. downstream.
> Foreign upstream.
> Foreign downstream.
>
> This segregation of earnings is consistent with data that we have supplied to other Congressional committees. The operations contained in each of the above segments are indicated on the individual schedules. Exxon's financial records are maintained on a corporate basis rather than a functional or segment basis. Since there are market prices for most crude oils, it is possible to divide earnings on an upstream/downstream basis. *However, a further division of earnings is not meaningful due to the difficulties related to transfer prices and the allocation of costs.* (Emphasis added.)

The corporation straightforwardly told Senator HART that the segregation of earnings on a foreign upstream/downstream and domestic upstream/downstream basis is consistent with data it has given other congressional committees. But Exxon was not sufficiently candid to tell the Senator that it had sworn to the Wisconsin and South Carolina tax authorities that the data for domestic operations could be supplied in the form the subcommittee requested. For example, in its complaint against the South Carolina Tax Commission, Exxon declared:

> 7. Plaintiff (Exxon Corporation) is a multistate business corporation in a number of functions in the United States, including
>
> (a) exploration for oil and gas,
> (b) production or extraction of oil and gas from the ground,
> (c) refining of crude oil,
> (d) marketing of petroleum products, and
> (e) other functional operations.
>
> Each of these functions is managed and accounted for on a functional operating basis. Each is a segment of plaintiff's total corporate enterprise, but each has its own accounting, budgeting and forecasting, its own management and staff, its own profit center, its own investment center, its own physical facilities, etc. *The profit or loss of each function is separately and accurately computed.* (Emphasis added.)

Equally difficult to comprehend is how Exxon can contend, when dealing with congressional committees, that a division of earnings beyond foreign upstream/downstream and domestic upstream/downstream is not meaningful," and at the same time tell State tax authorities the earnings at each functional level can be separately and accurately computed." Moreover they insist to the tax authorities that such computation is essential to Exxon's ability to evaluate the performance of its functional departments. Oral L. Luper, senior vice president of Exxon, told the Wisconsin State Tax Appeals Commission:

> It has been the philosophy of the company's management for a long standing period that each department is evaluated separately and independently of each other department from a profitability standpoint and operational standpoint . . . it's been the view of our management, executive management, that by having each department independently responsible for its function performance is one of the most effective management tools that we can use in measuring the performance of the departments and to improving their operations.

After reading this, one has the sense of dealing with a skilled contortionist.

There is a further bit of irony in Exxon's press release that deserves mention. Senator HART sent his information request to Exxon so the Antitrust Subcommittee could examine questions raised by divestiture opponents. In his response to Senator HART's request, Exxon's controller said that Exxon believes:

> It is essential that adequate time and effort be spent to inform Congress of the full implications of divestiture.

Yet in a concluding burst of audacity, Exxon yesterday complained that the information it has submitted to Senator HART and other congressional committees "has not produced one additional barrel of crude oil or one additional gallon of gasoline." The company urges Congress to study carefully the impact of divestiture, yet complains about having to provide the information needed to do precisely that: They cannot have it both ways.

In sum, Exxon has been caught in a web of contradictions and has shunned serious explanation in favor of further contradiction to extricate itself. Given the corporation's persistent lack of candor in providing information to the subcommittee and its schizophrenic interpretations of its own corporate structure, one has to ask just what it is that Exxon wants us to know.

Mr. President, I ask unanimous consent to have printed in the RECORD, Exxon's press release of March 24, 1976, responding to Senator HART.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

SENATOR HART MISUSING INFORMATION IN DRIVE TO BREAK APART OIL COMPANIES

HOUSTON.—Exxon USA today labeled as totally unfounded and misleading a statement by U.S. Senator Philip Hart that Exxon's position on state tax assessments is inconsistent with its position on the consequences of divestiture of the petroleum industry.

Exxon said Senator Hart has taken circumstances out of context to support his personal opinion that the nation will somehow be better served by breaking the major oil companies into several pieces.

"The tax cases Senator Hart refers to are in Wisconsin and South Carolina," said Exxon. "Exxon's only business in either of these states is gasoline marketing, but both states have sought to tax income earned from Exxon's operations in other states such as its oil and gas production operations in Texas and Louisiana.

"Senator Hart has alleged that Exxon is unwilling to provide information on its various operations, but this is not true. Last December, Exxon Corp. provided the Senate Judiciary Subcommittee on Antitrust and Monopoly data on the upstream (exploration and production) and downstream (refining, marketing and transportation) financial performance of its worldwide operations split between domestic and foreign. As pointed out to the Subcommittee, Exxon Corp. does not maintain records of profitability by operating function on a worldwide basis. However, in Exxon's U.S. operations, we have prepared data along functional lines as was pointed out in the tax cases in Wisconsin and South Carolina.

The company regularly files more than 400 reports with 45 federal agencies, in addition to thousands of tax returns filed with all levels of government. In addition during the last two years the company has filed more than 9,100 pages of information in response to special questionnairies and surveys by the Congress including Senator Hart's committee. All of this information has not produced one additional barrel of crude oil or one additional gallon of gasoline.

"Breaking apart Exxon and other major oil companies will neither increase domestic energy supplies nor lower gasoline prices nor increase competition. Rather, it will increase U.S. dependency upon unreliable oil and will increase product costs to all U.S. consumers. If greater imports and higher prices are what Senator Hart wants for this country, breaking major oil companies into several pieces is the surest way of achieving that goal," said Exxon.

"Since the major portion of petroleum products are provided by companies that are integrated in refining and marketing to one degree or another, and since there are over 14 major industries in the U.S. that are vertically integrated, those responsible for providing this nation with the energy and goods and services which we all need don't seem to agree with Senator Hart's contention that integrated companies do not benefit the consumer," Exxon concluded.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in 1950 President Truman said:

> By the leading part the United States has taken in the United Nations in producing an effective international instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime.

It is ironic that, 26 years later, President Truman's remarks have yet to come to fruition. While the United States was one of the United Nations' foremost proponents of the International Convention on the Prevention and Punishment of the Crime of Genocide, and fought vigorously to gain the Assembly's approval of the treaty, we have still not ratified the convention. Not only is this inconsistent with our prior actions, it also contravenes our most basic beliefs in human rights. Eighty-three nations have ratified the Genocide Convention thus far. The United States cannot delay any longer.

As the foremost democratic nation in the world, the United States has a major role to play in promoting universal adherence to international law based on concrete guarantees of freedom and justice. Our failure to ratify the Genocide Convention has compromised our leadership among the nations of the world and exposed us to charges of hypocrisy. Ratification would be consistent with our national purpose and would serve as a major step forward in reasserting ourselves as a leader in the United Nations.

Americans have been outraged recently by our relative impotence in the United Nations. Eliminating our hypocritical behavior by ratifying the convention would bolster our importance as a leader in the organization.

Mr. President, I am gratified that the Senate has ratified the United Nations convention on the political rights of women after a similar lengthy delay. Let us now show that we are indeed a strong leader in the field of human rights by also ratifying this all-important convention on genocide.

THE ROLE OF HOME STUDY SCHOOLS

Mr. HARTKE. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I have been and continue to be quite concerned about the quality of education offered by all schools which seek to enroll veterans. Home-study of education by correspondence has been and continues to be one part of that concern. Under the current GI bill, 1,141,427 veterans or nearly 20 percent of all GI bill trainees have trained by correspondence at an esitmated cost of $657 million. Problems revealed by the General Accounting Office, investigative reporting, congressional hearings, and the Federal Trade Commission, resulted in legislation in both 1972 and 1974. The problems continue to occasion considerable discussion. Given the foregoing, I thought my colleagues would be interested in a recent speech delivered by William A. Fowler, executive director of the National Home Study Council entitled "Meeting the Needs of People—the Rededication of the True Role of Home Study Schools." Whatever your perspective is concerning home-study schools, I believe my colleagues will find the speech thought-provoking and worth reading. Accordingly, I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Meeting the Needs of People: A Rededication to the True Role of Home Study Schools

(By William A. Fowler)

Have you heard these phrases?

"Career schools—promise seldom equals dream"

"Home study schools—con game or wave of the future?"

"Most veterans not completing correspondence courses."

"Schools for profit—an educational rip-off."

These painful headlines have become all too familiar to private school educators in the past three years. Are they misleading? Yes! Inflamatory? Yes! Do they contain any grain of truth? Unfortunately, probably yes! We each have our own answer, but the headlines persist. The tales of school fraud, deception, shoddy service and illegal activity continue to be published: Boston, New York, Washington, Chicago—which city newspaper will be next? Which schools will be next to fall into the clutches of well-organized teams doing "investigative" reporting?

Although the newspaper exposes have sent shock waves of anguish, indignation, and counter-charges of media misrepresentation throughout our field, there is no assurance that the wave of "yellow journalism" has subsided. Sensational stories of "innocent" consumers being systematically "ripped off" by vocational schools apparently help to boost media readership. Yet in all of the stories, a common thread exists: There are schools that are not delivering what they promised to students and that is the nub of it: Schools are being charged with not doing what they say they will do.

So far, the attention of the critics has been focused mostly on the sales and advertising practices of schools. The newsmen have made the image of "Charlie's vocational school" take on flesh and blood. School names, salesmen's names, injured students, self righteous consumer advocates, know-everything Government administrators, almost everyone is being quoted. It all sounds so very real—and so very shocking. Salesmanagers and salesmen have been entrapped by undercover investigative reporters seeking only juicy tid-bits to embellish stories filled with half-truths, selective omissions and mis-impressions. And no end to the stories is in sight.

As directors of education, you may have felt—possibly even remarked, that "all of the problems are with the sales force" or "the marketing people get us into trouble every time." You may have drawn some small comfort from the fact that little attention has been given to the course materials or services for which you are responsible. You may have boasted that your school has never been cited in any of the news stories. You may have even ignored the stories, the charges, the allegations and the indictments.

If so, I say you have made a mistake—and I am afraid that any smuggness you may feel will be short lived, for I believe that the day is coming when the attention of our legion of critics will shift to our educational programs and services; to the quality of our courses; to the validity of our examinations; to the design of our texts and materials; to the extent of our student services; to the qualifications of our faculties; to the very value and depth of the education we give our students.

How well will your school stand up to this scrutiny? Are you prepared to endure the onslaught of unrelenting critics who will subject your courses, services—even your staff—to the examination of an investigative reporter in search of a lurid headline?

As we steel ourselves for the questions and inquiries that will probably come sometime soon, we might do well to recount some of the basic principles upon which the National Home Study Council was founded 49 years ago. We might also do well to re-examine these principles as we approach our 50th anniversary in 1976. It is truly a time for rededication.

The principles—or the building blocks—for sound, flourishing and continuingly successful correspondence education—are these:

1. The welfare of the individual student is the first and foremost concern of a home study school. It is service to students—to people—that schools have their reason for being. Home study exists to help people of various ages and talents who, for whatever reason, study and learn at home.

2. Home study offers people an alternative to traditional forms of education. It is flexible personal instruction in desired subjects where one can advance in his own place at his own pace. Home study has something to offer that is unique—and it does best when it fills this specialized role—not when it is mimicking other methods of education and is trying to be something it isn't.

3. Home study schools are ethical in their operation. This means in all of their academic and business activities. Falsehood, misrepresentation, "short-cuts" or violations of good business practice have no place in our field.

4. Home study is high quality education and training at a reasonable cost. Home study gives fair value for the tuition charged.

5. Home study is up-to-date and relevant. It is good courses based on sound educational principles. Home study prepares people to attain the objectives that are stated to them. Schools are not hardware stores or placement agencies—but institutions where learning, knowledge and understanding are offered to people who can be inspired to better things and who want to learn.

6. Home study knows no limits of geography or of race, class or creed. Home study frees education from the bounds of space and time.

7. Home study gives each individual student the attention and service needed for success in the course. A qualified and interested teacher or counsellor is always involved and is as close as the mailbox or the telephone.

Home study is education truly suited to a democracy. It offers the student unmatched freedom to choose his subject and the time and place he will study it.

I believe that by rededicating ourselves to these basic principles now, we will have no reason to fear any inquiry into our field. In fact, if we do adhere to these principles, we should welcome fairminded and honest public inquiry. We have good reason to be proud of our accomplishments—and every reason to condemn those who would ignore these principles.

How then can you, as a school administrator and director of education, rededicate yourself and your school to these principles as we approach the National Home Study council's half century mark? How can you bring about the changes which should be made? What specific steps can you—the home study educator—take now to assure that your school will measure up?

Here are some suggestions. After the seminar, when you have gone home and resumed the good fight, why not try doing the following:

1. Take an overall inventory of your school: Look at it objectively from top to bottom. Look at your policies, procedures, systems, philosophies, practices. Ask yourself these questions:

(A) Is the school living up to its stated promises?

(B) Is every person pulling together to reach these objectives?

2. Take a self-accreditation examination of your own department. Be critical. Be incisive. Take a hard look. Using the standards of the commission, how do you measure up today? What would a critic look for? Where would he find fault? Are you operating as efficiently as you could be? Are the students receiving maximum benefits from the efforts made?

3. Take a fresh look at your courses. In fact, take them yourself! Enroll in one or two at home and see what kind of service students are receiving. Test your student service system. How does it measure up?

4. Are your courses in need of revision? Are they up-to-date? Well printed? Look again at the standards of the commission and measure your courses against them.

5. Review all advertising copy and catalogs of your school. Can you as the educator make good on all of those promises?

6. Do some quick mini-surveys by mail of a sampling of students. Ask them what they really think of your school, the service, the course. Pull no punches. Then, if you must, destroy the survey returns but go to work to use what you have learned to do what is needed.

7. Visit other schools and attend professional development sessions. Compare notes on materials, techniques and services. You can learn a lot in just a few hours and the cost could well be recovered is just one idea is gained.

8. Look at your tuition charges and ask yourself—would I pay 4, 6, 8 or $900 dollars or more to enroll by son or daughter in my course? Ask your friends or relatives, too. Are you giving a good return for the tuition you charge?

9. Is your school contriving course structures, easy lessons or assignment submissions which are designed to "beat" refund policies? Is it trying to alter service or reorganize programs so that it can, by rigged interpretation, define itself as something other than a cor-

respondence school? Don't let it happen! The day of reckoning is near when schools abandon sound educational practices and resort to artificial "gimmicks" to circumvent laws, regulations and standards. Insist that your school have integrity. Integrity that is based on the students best interests.

These are just a few suggestions that may help you—and your school—gain confidence and self-respect and be successful as the controversies swirl about us.

As I contemplate 1976 and our 50th anniversary, I am reminded that our country will be celebrating a birthday, too.

Remembering events of the past few years—the FTC, unfair regulation, charges made by unthinking—and often unprincipled—critics, we home study educators can probably appreciate the feelings of our founding fathers as well as, or better than, those other fields. I believe that these times call for strong people and strong actions. If Thomas Paine were alive today and if he were operating a home study school, I am sure he would have good reason to state:

"Tyranny, like hell, is not easily conquered, yet we have this consolation with us, that the harder the conflict, the more glorious the triumph . . . 'tis dearness only that gives everything its value."—(from the American Crises)

By re-dedicating ourselves to the basic principles of quality home study education, we may all look forward to a 50th anniversary of an association of good, honest—and successful—schools helping people to a better life through education . . . and the "summer soldiers and sunshine patriots" can then impose their negative affirmation privileges on some other field!

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If there is no further morning business, morning business is closed.

TOXIC SUBSTANCES CONTROL ACT

The Senate continued with the consideration of the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and the necessary use restrictions on certain chemical substances, and for other purposes.

Mr. HELMS. Mr. President, I ask unanimous consent that a member of my staff, Dr. James McClellan, have the privilege of the floor during the discussion of S. 3149 and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Commerce have the privilege of the floor during the consideration of S. 3149: Mike Brownlee, Dan Jaffe, Jerry Kovach, Mike Pertschuk, Mal Sterrett, Lynn Sutcliffe, John Young and Allan Fox.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, today the Senate will be considering S. 3149, the Toxic Substances Control Act. In my view this legislation is the most important environmental and health protection legislation that will come before the Congress this session. S. 3149 will close major gaps in the law that leave the public inadequately protected against the unregulated introduction of hazardous chemicals into the environment. S. 3149 will assure that chemicals will receive careful premarket scrutiny before they are manufactured or distributed to the public. This provision will end the present situation where chemicals can be marketed without notification of any governmental body and without any requirement that they be tested for safety. Thus, this legislation will no longer allow the public or the environment to be used as guinea pigs in order to determine the safety of these chemicals and products.

Mr. President, S. 3149 was reported unanimously from the Senate Commerce Committee. Furthermore, support for a strong toxic substances bill is extremely widespread. Dr. Russell Peterson, Chairman of the Council on Environmental Quality for example, concluded at last year's hearings:

> Toxic substances legislation is probably the most important environmental legislation now before the Congress.

This view was echoed in a February 28, 1976, Washington Post editorial which stated in part:

> In light of all that has been learned about environmental threats to health, it hardly seems unreasonable for Congress to require that substances should not be marketed until their health effects have been assessed as well as possible, and no serious hazards have been found. That course will not produce a world entirely free of risk. But it will inject far more care into the realms of chemistry and slow down the rate at which strange substances are spread about. Given the persistent and insidious nature of many toxic materials, precaution is not just important but imperative.

The need for this legislation has become increasingly clear. In the last 3 years, for example, I have chaired hearings before the Senate Committee on Commerce which have documented time and again the lethal dangers associated with chemicals like vinyl chloride, bischloromethyl ether—BCME—mercury and other heavy metals, arsenic, asbestos, and a multitude of others. In fact, over the 15 days of hearings conducted by the Committee on Commerce on this legislation over the last 5 years, in excess of 100 chemicals have been mentioned as candidates for regulation under this legislation.

Also, the National Cancer Institute has estimated that 60 to 90 percent of the cancers occurring in this country are a result of environmental contaminants. Many doctors and scientists now believe that cancer, which has been projected to kill as many Americans in 1975 as all the battle deaths in Vietnam, Korea, and the Second World War combined, appears particularly susceptible to a preventative approach through control of toxic substances.

It is indeed unfortunate that while the record of chemical dangers continues to grow, segments of the chemical industry have presented roadblocks at every juncture of this bill's development. There is no question in my mind that a statute would now be on the books providing effective protection against chemical hazards had it not been for the concerted effort of certain segments of the chemical industry to gut the essential provisions of this legislation.

Russell Train, Administrator of the Environmental Protection Agency, for example, discussing this lobbying effort has noted:

> It is unfortunate that some segments of the chemical industry, which originally took an extremely constructive approach toward the legislation, has taken to actively lobbying against it. I do not believe that either the public interest, or the interests of the industry, are well served by charges that the legislation could—in words of one industry spokesman—"cripple" the chemical industry and give the Administrator of EPA "near-dictatorial authority over the introduction of new chemical products." The only real "crippling" that is going on is the kind which this legislation would try to prevent—the crippling of who knows how many Americans every year who contract cancer or some other affliction after exposure to some hazardous chemical agent. Nor has it been on the "near-dictatorial authority" of the EPA Administrator that so many such agents are introduced into the environment without any effort to find out what their health effects are, much less the public have any say about whether or not, or in what circumstances, it is willing to be exposed to them. Let there be no mistake: the only kind of authority that the legislation before the Congress would give us, the only kind of authority we would intend to exercise, is the authority to act reasonably and responsibly in the public interest—and that includes the very real interest the public has in a healthy and productive chemical industry.

In order to provide EPA adequate regulatory authority, the Toxic Substances Control Act will provide a mechanism to insure that that information with respect to health and environmental effects of chemicals can be collected from manufacturers and processors of chemical substances prior to manufacture. The bill contains the following important provisions:

First, manufacturers of new chemical substances must give notification to EPA 90 days in advance of first manufacture and, if required by EPA, include test data along with such notification.

Second, the EPA Administrator may require manufacturers to test or have tested those chemical substances which he determines may present an unreasonable risk of injury to health or the environment or those for which significant human or environmental exposure takes place or will take place. This provision is applicable both to new and existing chemical substances.

Third, manufacturers or processors of chemical substances are required to retain certain records and reports that will better enable the Administrator to determine if unreasonable risks exist. Also manufacturers must provide the Administrator with a list of health and safety studies on various chemical substances. The Administrator is authorized to require the submission of any study on the list. This provision is included due to the fact that, in hearings of the Committee on Commerce that I chaired, it was strongly alleged that health information that suggested certain chemicals were dangerous had been suppressed by industry from both the Government and chemical workers.

Fourth, citizens are authorized to bring suit to enjoin violation of this act and to require the Administrator of EPA to perform his mandatory duties.

Fifth, citizens are authorized to petition the Administrator to take action the purpose of which is to protect against unreasonable risks of injury to health or the environment. If the Administrator fails to take action within 90 days on such petition or denies it, judicial review of the denial or failure is authorized.

Sixth, discrimination against any employee who participates in proceedings, testifys in a proceeding, or participates in any other action necessary to carry out the purposes of the legislation is prohibited. The legislation also sets up procedures to protect such employees.

Certain industry representatives have claimed that this legislation will be detrimental to the economic health of the chemical industry. I believe this view is totally unjustified. The chemical industy in the last year had estimated sales of over $100 billion. The Environmental Protection Agency and General Accounting Office both have estimated that the costs of this legislation will be somewhere between $100 and $200 million a year. This cost is completely justified in light of the need for protection of the public from potentially vast damage to health and the environment.

The chemical industry will reap very real benefits from this legislation as well. A prudent approach of premarket investigation and scrutiny will reduce the likelihood that we will have to take action against a chemical after industry has invested vast resources in its production and marketing. Furthermore, as Russell Train has pointed out—

> Far from stifling innovation toxic substances legislation should serve to encourage the industry to turn its remarkable skills and resources towards the discovery and use of less hazardous chemicals.

Mr. President, I do not think there is a way to assure a risk free society. However, the Toxic Substances Control Act will end the situation where we play Russian roulette by introducing vast numbers of untested chemicals into the environment. This legislation will assure that we will no longer have to wait for a body count or serious health damage to generate controls over hazardous chemicals. Mr. President, in closing these remarks I would like to provide a partial list of the groups that have called for strong toxic substances legislation:

AFL–CIO.
Blue Cross Association.
American Lung Association.
Center for Science in the Public Interest.
Consumer Action Now.
Consumer Federation of America.
Environmental Action.
Environmental Defense Fund.
Environmental Lobby.
Environmental Policy Center.
Friends of the Earth.
Industrial Union Department, AFL–CIO.
League of Women Voters.
National Audubon Society.
National Foundation—March of Dimes.
Natural Resources Defense Council.
National Wildlife Federation.
Oil, Chemical and Atomic Workers.
Pulp and Paperworkers.
Sierra Club.
Textile Workers.
United Auto Workers.
United Mine Workers.
United Steel Workers.
Urban Environment Conference.

When I became a member of the Committee on Commerce 3½ years ago, Senator MAGNUSON asked me if I would be interested in chairing some hearings on the toxic substances bill, inasmuch as the bill had been before the committee for the preceding 2 years and there had not been any final action taken, as a result of the very strong lobbying influence of the chemical industry. So, approximately 3½ years ago, I started holding hearings on the legislation, with the idea of being able to move it quickly through Congress. We were able to get it through the Senate without any difficulty 3 years ago. Then we got to conference, and it was very clear in conference that the chemical industry had marshaled its forces and was going to do everything it could to sabotage the legislation in a way that was considered unacceptable not only to the Environmental Protection Agency, but to the Senate conferees as well.

I must say that I have never seen such an effective lobbying effort as was done against this legislation. I was the chairman of the Senate conferees and, for a period of 18 months we sat in conference with no appreciable headway being made because some of the vital provisions of this legislation, such as premarket notification, were provisions that were unacceptable to the House conferees. We could not get the spokesmen against the legislation who were on the conference committee to agree to ameliorating the strong opposition that they had to those provisions in the legislation.

But a lot has happened in the last 2 years. Particularly, a lot has happened in the way of educating the public in the last several months. We had a 60-minute CBS television special which outlined the impact of environmental cancer on society. We have had the National Institutes of Cancer come out with studies demonstrating that between 60 and 90 percent of cancer is environmentally induced. We have had a cover story in Newsweek demonstrating the impact of environmental cancers on our society. We have had, in the last year, a large increase in the rate of cancer afflicting society, some 3 percent last year over the year before.

I introduced into the RECORD yesterday an article which showed that cancer has now become the number one killer of youngsters 15 and under. There does not seem to be any question that it is the environmental carcinogens that are producing this cancer in youngsters.

In other words, Mr. President, what I am saying is that I think that this legislation is vitally needed and, despite the fact that there may be significant costs to the industry, it is going to save the public billions and billions of dollars in medical treatment to get rid of cancer. And, of course, it is going to save, in my view, thousands of lives.

The thing that we have learned in recent years about cancer which is so devastating for those of us who are concerned about our friends and our families is that you can be exposed to a carcinogen and never know that you have been exposed to it. It is a silent death. It takes maybe 20 to 25 years to kill you, but that death is just as sure in some instances as having put a revolver to your temple and pulled the trigger and have a bullet go into your brain.

I was horrified to learn that we have asbestos in many of our body powders, and that when youngsters' mothers put powder on them, this can be inhaled into their lungs and that absestos sits in the follicles of the lung and can produce cancer 20 years later.

In the late forties or early fifties, we used to spray the ceilings of our schools with asbestos and now this asbestos is flaking off and can get into the atmosphere of the school, the classroom, and children can inhale it and, in 20 or 25 years, die of cancer.

The same is true of vinyl chloride. Back in the late forties and early fifties, workers were exposed to vinyl chloride in a way that could produce cancer today. People working in the factories would go down and work in the reaction vats with the vinyl chloride all around them, inhaling it at a level of parts per million that, if they were all susceptible to cancer, was sure to produce the cancer. Lord knows how many people are going to die of vinyl chloride-induced cancer.

The point simply is we have learned a tremendous amount about the causes of cancer in the last 25 years, not so much as we would like to learn about how to cure it, but an awful lot about the causes of cancer. It seems to me that this legislation, which is designed to give the Environmental Protection Agency a degree of regulatory control over the introduction of new chemicals into the environment, is absolutely basic. I have many friends who are in the chemical industry. But I cannot imagine persons arguing against this degree of regulatory control over the industry.

As I say, if you are going to cost it out on an economic basis, on the basis of cost/benefit, you are going to find it is going to save billions of dollars to consumers in medical treatment that they will not need as a result of not being exposed to carcinogens in future years.

I would like to say that I deeply appreciate the leadership that has been shown by the chairman of the full committee, Senator MAGNUSON, in pushing this legislation for the past 5 years. If it had not been for his interest and his keeping the pressure on I do not know, but I am sure we would not have the bill before us today.

I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. MAGNUSON. Mr. President, I rise to strongly urge the passage of the Toxic Substances Control Act. The Senate Commerce Committee has worked diligently on this legislation, and I believe the committee has brought forth an excellent legislative package. The Senate Commerce Committee has been concerned with developing methods to control toxic substances for more than

5 years. During this period, the committee has held 15 days of hearings and received testimony and submissions from numerous experts representing the views of all the affected groups.

Despite the complex nature of this legislation, the Senate Commerce Committee was able to report the toxic substances bill unanimously on February 17 of this year. In my view, we have reported a tough, fair, and comprehensive legislative solution to the ever-growing toxic chemical problem in this Nation.

This legislation requires the Administrator of EPA to carefully consider the costs and benefits involved in promulgating rules under the testing and restrictive authorities sections of this legislation. These provisions will help to insure that regulation under this legislation will be constructed so as to impose the least burden on industry and the general public.

A prime example of the type of threat to human health and the environment which this bill is intended to prevent is that posed by PCB's. This class of chemical is not only toxic but is also exceedingly persistent. Once released into the environment PCB's present an extremely long-term threat. Furthermore, PCB's are highly concentrated by aquatic life so that fish at the top of the food chain have been found with alarming concentrations of PCB residues. There was, for example, a serious incident concerning PCB's in my own State of Washington in September 1974. An inadequately crated electrical transformer containing almost 300 gallons of PCB's was dropped on a dock while being loaded for shipping to Alaska. The casing cracked and let PCB's leak directly into the Duwamish Waterway. The transformer was allowed to simply sit on the dock for a number of days, all the while leaking PCB's into the waterway.

Toxic substances legislation could greatly reduce or even eliminate the chance of this type of incident occurring again. Under this legislation, the Environmental Protection Agency would have the authority to require that proper precautions are taken in the handling and transportation of devices containing toxic substances. Furthermore, proper labeling could be required with instructions on what to do should any accident occur.

Of course, PCB's are only one example of the type of danger this legislation would combat. Our hearings have revealed or examined the potential dangers of a multitude of other chemicals, including mercury, asbestos, vinyl chloride, and fluorocarbons.

Mr. President, the public has a right to expect that the vast array of chemicals that have become an intrinsic part of our daily life have been carefully scrutinized to determine whether they are safe. The Toxic Substances Control Act will provide this assurance. In closing I would like to particularly cite the work of Senators TUNNEY and HARTKE concerning the Toxic Substances Control Act. Their efforts were extremely valuable in facilitating the progress and development of this legislation. I believe they both deserve a great deal of credit.

The Senator from California mentioned something to the effect that we have been very active in the Commerce Committee over the years in many of these areas, and I personally am very active as the chairman of the Subcommittee on HEW Appropriations in the cancer field. As a matter of fact, the first bill I introduced in the Congress of the United States in 1938 as a young Member of the House of Representatives established the National Cancer Institute.

But, getting back to this, the Senator from California mentioned youngsters. All of us, every member of the Commerce Committee, worked hard on the bill that dealt with flammable fabrics. A great many kids were being burned up by pajamas and sleep wear catching fire. But finally the Commerce Department required of the textile people, the manufacturers, that clothing be put on the market which is nonflammable.

Well, it turned out that the clothing is nonflammable but it also turns out that here is some evidence to the effect that the chemicals they put in the cloth to make it nonflammable might cause cancer. We are now having an investigation of it, and there is pretty clear evidence.

If this bill had been enacted—and I know what the delay was about, the Senator from California mentioned it, it is well known to the Senator from Indiana, about all the problems were had on this, but had this bill been enacted, and if the conference the Senator mentioned had reported a bill back to us—there would not be the kind of chemicals in the nonflammable fabrics for the kids that there is there now.

I suppose the industry said—"Well, we will put this chemical in and it will stop a pair of pajamas or something else from burning up and killing the kid or burning him so that he is disfigured and crippled for life." But nobody examined what they were going to put into these things.

I understand for the purposes of the RECORD that they all do not use the same chemical, but there are some of them—and the major use is what we are talking about.

So the importance of getting this bill passed and getting it moving is that it can apply to all these kinds of problems. It just so happened this was called to my attention this week after we had worked a long time to get industry finally to develop nonflammable children's wear, so that these thousands of kids would not be burned.

This bill will provide that when the textile people decide to make something nonflammable it is going to have to be tested to see what kind of chemical it is going to be and what its other aftereffects or side effects are going to be. That is just one example of how very important this bill is.

I wanted to also say, Mr. President, that I do not know of any bill in which I have had the complete cooperation of everybody on the Commerce Committee to try to work out this matter. I pay my respects to the Senator from California (Mr. TUNNEY) who worked so hard and so long in the hearings; the Senator from Indiana, who did a yeoman's job in trying to solve some of these problems so that the industries would accept what we are trying to do; and many others too.

This is a very important bill. We have always said, and I have always said, down in the Appropriations Committee on HEW, with the millions of dollars that were expended for health and for research, we have not paid enough attention to what we would call preventive medicine, and that runs the gauntlet of everything.

This is preventive; that is what it amounts to. I applaud the action of the President in taking the leadership yesterday in preventive medicine and urging the availability of shots to try to stop a new flu epidemic.

The Senator from Indiana at one time stopped in—and I remember this well—when we did not have enough money in HEW and all of the doctors said, "We are going to have a rubella epidemic." We put some more money in for rubella, and it did not happen.

Now, this is preventive medicine, and it will do a great deal for the health of the Nation. I am so glad that the leadership decided in a busy schedule to bring up this legislation because of the importance of passing it quickly, if for no other reason than the one I just suggested. I am sure the Senate is going to respond, bill.

The ACTING PRESIDENT pro tempore. Who desires recognition?

Mr. PEARSON. Mr. President, S. 3149, the Toxic Substances Control Act, represents a long sought and critically needed piece of legislation. Final congressional passage now of this legislation would first, come at a time when the need to prevent unreasonable risks of injury to health or the environment associated with the manufacture, processing, distribution, use or disposal of chemical substances has never been greater; second, close an untenable chasm in Federal legislation designed to protect human health and the environment, and third, culminate over 5 years of congressional consideration of and background work on legislation designed to control toxic substances.

The wide spread introduction and use of new chemicals into our daily environment has become a fact of life. It has been estimated that there are presently nearly 2,000,000 recognized chemical compounds in existence and nearly 250,000 new compounds produced every year. Although the vast majority of these compounds are never commercially produced, the Environmental Protection Agency has recently estimated that nearly 1,000 new chemical substances are introduced yearly into the marketplace and subsequently find their way into the environment. Many of these substances pose unknown and potentially high risks to human health and the environment.

While no one can argue that tremendous benefits have not accrued as a result of many of these new chemicals, we have only recently begun to recognize that serious human health and environmental hazards are associated with the use of many of these chemicals. A partial listing of commonly utilized and widely dispersed chemicals that have been found to pose significant human health and environmental dangers includes fluorocarbons, PCB's, kepone, vinyl chloride, asbestos, mercury, and other heavy metals. Controlling the adverse effects such toxic chemicals have upon the environment and human health is perhaps the most critical environmental issue facing this Nation.

This Nation can no longer afford to accept the tragic human suffering that has resulted from our continued failure to adequately control the manufacture and use of toxic substances. The National Cancer Institute has recently estimated that 60 to 90 percent of all cancers occurring in this country result from environmental contaminants. It is thus not surprising that the highest incidence of cancer is found, almost without exception, in large industrial areas where vast quantities of industrial chemicals are manufactured and consumed. Many birth defects and occupational illnesses have also been linked to exposure to toxic substances. The costs, both in economic and human terms, associated with the harmful health and environmental effects resulting from exposure to toxic substances are simply no longer acceptable. Passage of S. 3149 would provide a means by which the public interest would be protected by assuring that safe and beneficial chemicals continue to be introduced into the marketplace while insuring that these chemical substances that have unacceptable health and environmental cost associated with them are properly restricted.

Existing Federal legislation simply does not provide the means by which adverse effects on human health and the environment can be ascertained and appropriate action taken before chemical substances are first manufactured and introduced into the marketplace. At present, the only remedy available under such Federal statutes as the Clean Air Act, the Federal Water Pollution Control Act, the Occupational Safety and Health Act, and the Consumer Product Safety Act, is to impose restrictions on toxic substances after they have been first manufactured. The shortcomings in the present system have long been evident; corrective action, as evidenced, by the Toxic Substances Control Act, is long overdue.

To correct such deficiencies, the Toxic Substances Control Act provides the EPA Administrator with authority to require essential and critically needed premarket testing of the human health and environmental effects of chemical substances and, where necessary, to regulate chemical substances found to present an unreasonable risk to human health or the environment. The existence within S. 3149 of a strong premarket screening process is a key factor in the effective operation of this legislation. We can no longer operate under the assumption that what we do not know about a chemical substance cannot hurt us. Tragic results associated with too many toxic substances have taught us that lesson all too well. Chemicals, not people, must be put to the test.

Several key factors concerning S. 3149, in addition to the critical provisions regarding premarket review of chemical substances, should be noted. First, the bill would represent the only Federal environmental statute that would exercise direct control over industrial chemicals with respect to their health or environmental effects. Thus increased emphasis and attention will be focused on these very important issues. Second, the bill provides for an ongoing mechanism that would insure that the EPA Administrator would continually have access to new information developed regarding adverse health or environmental effects associated with chemical substances. He would thus be able, on an ongoing basis, to continually evaluate on a timely basis the costs and benefits associated with any chemical substance. Third, the bill provides for both citizens lawsuits and petitions to insure adequate and viable public input with respect to the effective administration of the bill.

I can think of no piece of environmental legislation that is more critically needed than S. 3149. I urge my colleagues to strongly support this legislation.

Mr. MAGNUSON. Mr. President, I might say, if I may just have 10 seconds, that the Senator from Kansas and the minority members on the Commerce Committee have given us immense help in getting this bill worked out so that we can get it to final passage. I appreciate that very much, too.

Mr. PEARSON. I thank my colleague.

Mr. HARTKE. Mr. President, the Toxic Substances Control Act has now been pending before Congress for 5 years. This is the third time that the Senate will consider the legislation, having passed it twice before only to die in conference.

During the past 5 years, while Congress has struggled to enact toxic substances control legislation, the chemical threat has continued to grow. For example, approximately 5,000 new chemical substances have reached commercial fruition during this period. The hazards associated with chemicals like vinyl chloride, BCME, PCB's, and asbestos have all dramatically illustrated how important it is to get early warning with respect to new chemical substances and to have the opportunity for gathering test data and taking regulatory action with respect to chemicals at the earliest possible time.

During this 5-year period there have also been in excess of 1 million deaths in this country from cancer. Over a million infants have been born with physical or mental damage. The latter figure represents 7 percent of all births.

Mr. President, it is extremely important that these kinds of statistics not continue to mount. While many of the grave health risks to which human beings have declined in recent years, cancer statistics have done just the opposite. In fact, the incidence of cancer was estimated in 1975 to be some 2½ percent above the previous year.

The National Cancer Institute and the World Health Organization have estimated that from 60 to 90 percent of cancer is environmentally induced. It is estimated that cancer costs alone in this country exceed $18 billion annually.

It is no accident that the hot spots for cancer in this country are in close proximity to those locations where the chemical industry is most highly concentrated. For example, excess bladder, lung, liver, and other cancers among males are all concentrated in those counties of the United States where the chemical industry is most concentrated.

It is indeed unfortunate that most adverse effects associated with chemical substances first appear in the workplace. It is tragic that those who rely upon the industry for jobs have essentially become guinea pigs for discovering the adverse effects of chemical substances. It is also tragic that much of the information which has shown the cancer producing potential of many chemicals has come from death records of employees. For example, of 1 million current and former American asbestos workers who still survive, fully 300,000 have been projected to die of cancer. This death rate is 50 percent higher than that of the United States population at large.

It is the goal of this legislation to provide a means of preventing this suffering and death rather than merely reacting to it or treating it medically after the fact.

One of the chief stumbling blocks in the past which prevented agreement between the House and the Senate was the strong Senate position with respect to premarket notification for new chemical substances. And the House and Senate seem to be moving together on this issue. It is this provision which offers the greatest potential for discovering the threats from chemical substances at a very early date and providing a sufficient data base to take appropriate early action. None of the other environmental health statutes, except pesticides and drug and food additives law, provide for premarket review by appropriate regulatory officials. In fact, this is probably the most important provision of the act, for it will enable us to limit chemical threats before they become manifest, not after.

Quite frankly, I had reservations about earlier versions of the Toxic Substances Control Act. But in my view, the Committee on Commerce acted extremely responsibly in unanimously ordering this legislation favorably reported. I am extremely pleased to join the Senator from California in being an original cosponsor of the bill reported by the Committee.

In my view, the bill provides all of the essential elements for a proper regulatory program. The premarket screening authority will provide early warning systems for hazards to health and the environment. The bill appropriately limits the authority of the EPA Administrator under the major regulatory provisions. The bill recognizes other Federal authority and provides direction for the EPA Administrator in addressing hazards which might be reachable under other Federal statutes.

It is worth dwelling for a brief moment on the economic burdens that this legislation might impose and the manner in which the committee has addressed these types of concerns.

There have been widely varying estimates from the chemical industry of the total cost to the industry of this legislation. Estimates have ranged from the Dow Chemical estimate of $2 billion per year down to the low estimate of the Manufacturing Chemists Association of $340 million per year. The Environmental Protection Agency, on the other hand, estimated that the total annual cost to the chemical industry from this legislation would range only from $80 to $140 million per year.

At the request of the committee, the General Accounting Office examined these estimates. The GAO report seriously questioned the high estimate of Dow Chemical and the Manufacturing Chemists Association and stated that EPA's estimates were more reliable and realistic and would cost the chemical industry between $100 to $200 million per year.

It is extremely important to note that in the testing section and in the key regulatory sections it is specifically required that the Administrator evaluate the risks and benefits of his actions before taking action. Thus, costs are not to be incurred unless the Administrator has determined they are offset by benefits of at least the same magnitude. Obviously it is not feasible to reach these kinds of decisions just on the basis of quantitative comparisons and the burdens of human suffering and premature death are extraordinary. It is important to note, however, that the economic burdens to be imposed by the legislation have been recognized and appropriately dealt with.

Russell Train, Administrator of EPA, has stated:

> It is time we started putting chemicals to the test, not people. It is time we gave the people of this country some reason to believe that every time they take a breath or eat or drink or touch, they are not taking their life into their hands.

Mr. President, I agree wholeheartedly with Mr. Train and I urge the Senate to pass S. 3149, the Toxic Substances Control Act.

Mr. President, I pay special tribute to the chairman of the Commerce Committee for demonstrating humane concern for the health of this Nation which is embodied in this legislation.

I also compliment the Senator from California (Mr. TUNNEY) who has been working on this legislation for all these many years, who conducted long hearings, frequently doing it in a solitary operation, in which he was able to provide for a continued interest in the committee, and making sure that we did something affirmatively to control the detrimental effect of toxic chemicals in American society.

One thing is quite clear from what the chairman has said. We have had the help of the people who have been involved in the committee. During the markup of the bill the Senator from Kansas again demonstrated his effective leadership by helping us out of what appeared to be some very difficult situations, and doing it in a rather remarkably fast time. Yet at the same time preserving, not only the essential elements of the health protection embodied in the bill, but also the protection of the individual rights of all the people who could be adversely affected.

A worker himself is directly affected and he has to make that tremendously difficult choice as to whether or not he is going to work in an environment under conditions which might affect his health. He knows very well that if he is too critical of what happens inside his own operation with regard to the safety and health conditions that he may in the long run be cutting his paycheck off. On the other side, he knows he may be cutting his life off.

There is an immediate danger to him. He probably has a tendency to go ahead and take the chance on his life because his paycheck is needed every Friday night. The difficulty of making sure he has a job, and at the same time that he can live with some type of decency, presents him with a difficult challenge.

That is very much a part of what is involved in this bill.

The other side of the conflict always comes from the industry or the business which is involved in manufacturing the chemicals. They see themselves perhaps placed in a position where they are dealt with rather harshly in an area in which they may sincerely dispute what is going on.

I think the essential element of this legislation is that it has attempted to provide for the individual—not only who works, but for the rest of American society—the right to know what is in store as far as the toxicity of chemicals is concerned.

The fact of it is that not only do the workers not know and the general public not know, but in many cases the manufacturers and distributors and business people do not know.

What we are trying to do here is to provide some type of good judgment and common sense to improve the quality of American life.

We have come into an age in which most people, maybe for the first time in the history of man, have had a chance to spend some of their life in something other than the mere and sheer operation of trying to provide food, shelter and clothing. Yet when we get into that type position as a result of the technological and scientific age we live in, we still find ourselves in the situation where people are suffering the adverse aspects of that type of complex and, progressive society.

I would like to say that this legislation is the type of legislation which I think has the essential element of being, first, legislation which we should pass and, second, I hope, legislation which the President will feel compelled to sign. I hope the House and Senate can join hands in making sure the environment of this country is much more desirable and that the health of this country is protected. And that as far as the working people are concerned, that they no longer have the fear and uncertainty about their working environment. The Nation will reap the benefits of having healthier people by merely going ahead and making sure that we know and regulate toxic conditions in chemical manufacturing distribution.

Mr. TUNNEY. Will the Senator from Kansas object to my making a few additional comments?

Mr. PEARSON. I am pleased to have the Senator make his comments.

Mr. TUNNEY. I wish to say that in response to the comments of the chairman of the committee and the Senator from Indiana, there is no way, in my view, the legislation could have gotten through either the Commerce Committee this year or through the Senate if it had not been for the work of the Senator from Indiana.

The Senator from Indiana was a very important catalyst in developing solutions where we had opposition. He was able to achieve accommodations which in no way kept this legislation from being strong and progressive in its regulatory initiatives, but, on the other hand, did provide for some changes in the language to keep the bill from being oppressive to industry.

It can certainly be said that the Senator from Indiana played a critical role in getting this legislation into the shape it is, which makes it more acceptable, in my view, to this body as a whole.

I also wish to say that the Senator from Kansas, as the ranking minority member of the Commerce Committee, played a vital role. If it had not been for his cooperation, time and time again, I do not think we could have had this bill here today.

I know this to be true because, constantly, he was prepared to reason with those on the other side of the aisle at a time that lesser men, perhaps, would have been satisfied to posture and to make political points.

So the Senator from Kansas and others on the Republican side also played a vital role here.

Mr. PEARSON. I thank the Senator.

Mr. TUNNEY. Mr. President, I have a letter in my hand which I am going to have printed in the RECORD, but I also am going to be quoting from it from time to time during the debate—if there should be any sharp challenge to the efficacy and legitimacy of this legislation.

It is a letter from Dow Chemical U.S.A. It appears over the signature of Earle B. Barnes.

But the letter is addressed to a number of different people, perhaps 30 in number, and it goes on to say:

> Before long we will want to encourage the broadest and strongest possible grass roots political action campaign in opposition to Toxic Substances legislation. Hopefully, it will be based on mail to and calls on Senators and Representatives from employees, relatives, friends, distributors, vendors, customers, state organizations, etc. The objectives are to kill the bills or to register a minority vote sufficient to sustain a hoped-for veto or, as a last resort, to get the bills moderated significantly through floor amendments in the House.
>
> During this past summer we asked for more letters) was very gratifying. Many senators realized for the first time that important numbers of their constituents were mail to be directed primarily to senators because the situation in the Senate was then at a critical stage. The response (3,000 or

strongly opposed to this largely unnecessary piece of bad legislation.

Now, the time is near for our big push. We are not alone in this effort. Numerous other companies are also rallying grass roots campaigns; the National Association of Manufacturers has taken a strong stand in opposition, and the MCA is now strongly opposed to the two key bills which are, in the Senate, S. 776 and, in the House, H.R. 10318. The latter replaced H.R. 7229, H.R. 7548 and H.R. 7664.

So, with all this in mind, you will find the attached package of information helpful in extending our request for action to the whole Dow U.S.A. "family" plus others. Included are—

1. Summaries of the two bills in their current state.

2. Table of Existing Laws showing the overlap of a few present laws with key features of the proposed Toxic Substances Control Act.

3. Representative paragraphs and sentences which people may wish to draw upon in framing their own letters on their own (non-Dow) stationery. We suggest that form letters not be used.

4. Lists of all Senators and Representatives plus rosters of the two committees who have responsibility for this legislation, along with suggested forms for addressing letters to Senators and Representatives.

5. Tips on writing your Representative or Senator.

Advance briefing and planning sessions will be held with various Government Relations managers. Then, we will write, Telex or call them when it is time to launch this all-out effort. In the meantime, I hope you will take the necessary preparatory action.

If you need more information, please call me or Chet Otis.

Thanks for your help, and good luck.

Very truly yours,

EARLE B. BARNES.

So Dow Chemical was planning an enthusiastic, spontaneous effort, including prepared paragraphs which employees could draw upon, to bombard their Senators and Representatives to show that there was strong adverse feeling on the part of a representative group of constituents. It is this kind of effort, Mr. President, which for the past 5 years has kept this legislation from going through the Congress and being signed into law by the President.

I think when the kind of activities that they have engaged in are exposed, such as they are today by reading this letter into the RECORD, we realize the effort on the part of the Dow Chemical Co., or at least by Mr. Barnes speaking for the Dow Chemical Co., was not to address the issue or the issues involved in the legislation based upon reason, based upon the merit of the arguments, but simply to use a propaganda thrust, a political persuasion which is in no way related to the merits of the legislation.

I think it is this kind of effort which is going to do the industry in when it comes to the effectiveness of their approach in trying to block the legislation. I think the time has arrived for control of toxic substances. Lord knows, the last thing we need is more regulation where it is not necessary.

One of the things that certainly I feel, and many other Senators do, is that overregulation of industry can stifle productivity, inhibit creativity, and helps to keep the free enterprise system from operating in a fashion that it should. But when we talk about regulation of toxic substances and the prevention of these substances, these carcinogens, from getting into the environment, and protecting the health of our citizens, there can be no question, in my mind, that any society would want to have its government provide the safeguards that this legislation does. It is a miracle to me that it has taken so long to get to this point.

The ACTING PRESIDENT pro tempore. The Senator from California has consumed 41 minutes of his time.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer this amendment for myself and Senator KENNEDY.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. TUNNEY), for himself, and Mr. Kennedy, proposes an amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTIVE PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 7, immediately following "(vi)" insert "(A)", and strike "or" the second time it appears.

On page 5, line 8, strike "any".

On page 5, line 10, strike "(A)".

On page 5, line 11, strike "or as any".

On page 5, line 12, strike "such", and immediately following "(B)" insert "any substance".

On page 5, line 14, strike "or as any such".

Mr. TUNNEY. Mr. President, I have sent to the desk a series of clarifying amendments and I ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the amendments are very minor and only serve to clarify the manner in which substances used in or on foods, drugs, cosmetics, or devices are excluded from the definition of a chemical substance. Under the existing language, it is not fully clear as to whether substances produced for research and development purposes and intended only for use in or on foods, drugs, cosmetics, and devices were sufficiently excluded. As these substances are now or will be covered by the Federal Food, Drug and Cosmetic Act, it is appropriate that they not be covered here. What this amendment does is merely to clarify the exclusion that we intended to have written into the bill as it came out of the committee.

Mr. PEARSON. Mr. President, this amendment refers to several places in the bill, as the Senator indicates, and it is technical in nature. We have no objection.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time? Are there any further amendments?

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment:

Beginning on page 90, line 22, strike out all through line 6 on page 92.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Judy Robinson of my staff be granted the privileges of the floor during the course of the consideration of this bill and the rollcalls.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PEARSON. Will the Senator yield for another unanimous-consent request?

Mr. HELMS. I yield.

Mr. PEARSON. Mr. President, I ask unanimous consent that Geoff Baker of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Will the Senator yield for another unanimous-consent request?

Mr. HELMS. I yield.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Paul Parshley of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this amendment would delete the so-called employment protection provision of the act, section 23(f), which is clearly unnecessary and unwise. It has nothing to do with any discussion about toxic substances.

In the first place, section 23(f) imposes onerous bureaucratic burdens on both the Environmental Protection Agency and the employer that will unnecessarily increase the costs of administration and compliance. This section provides that "Any employee who is discharged or whose employment is otherwise interrupted, or is threatened with discharge or such interruption, or otherwise discriminated against by any person because of the results of any rule or order issued under this act, or a representative of such employee, may request the Administrator to conduct a full investigation of the matter." This section provides further that the Administrator "shall hold a public hearing on no less than 5 days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such rule."

In other words, Mr. President, this section requires the Administrator of the Environmental Protection Agency to conduct a full-scale adjudicatory hearing whenever he is requested to do so by any employee or employee representative, such as a labor union official, who thinks that a ruling issued under the Toxic Substances Control Act may endanger his employment, either permanently or temporarily. The employer would in turn be required to appear at the hearing and supply information, with only 5 days notice, relating to the effect of a ruling on his employees. The employer, of course, will bear the cost of making these appearances, which he will pass along to the consumer—and the consumer ought to make no mistake about that—and the Federal agency will bear the cost of the hearings, which it will pass along to the American taxpayer.

No matter how you look at it, the American people are going to be paying for all of this expensive Federal bureaucratic paperwork, and I submit, Mr. President, that the taxpayers and the small businessmen of this country are almost crushed under such a deluge already.

And what would it all accomplish? If past experience with similar regulatory measures is our guide, the act will simply produce more bureaucratic harassment of the business community. Employers will undoubtedly be placed on the defensive by the threat of innumerable hearings demanding that they justify each and every layoff and employment reduction. It requires no great imagination to see that many layoffs and employment reductions, whether real or imaginary, will be attributed to rulings of the EPA, and that employers will be induced to keep unnecessary employees in order to avoid bureaucratic proceedings. The added cost of labor will simply be passed along to the American people, increasing prices and adding to inflation.

That is something this country does not need, Mr. President.

In an industry employing more than a million persons, where some 1,000 new chemicals are introduced into the market each year, opportunities under section 23(f) for initiating these costly proceedings seem almost unlimited.

Now, contrary to all of the concepts of justice that I understand and appreciate, Mr. President, section 23(f) also discriminates against the employer and denies him equal treatment under the act. The manufacturer of a chemical may have his product banned without being afforded a full, trial-type hearing under the act, but every employee who perceives a possible job layoff must receive a full hearing, complete with proper adjudicatory procedures. This, frankly, is not my understanding of justice in the American system of law, Mr. President, and I am confident that my colleagues will join with me in opposing section 23(f) in recognition of its inequitable features.

In the second place, section 23(f) is unnecessary because it is duplicative. Under section 6(c)(1) of the act, the Administrator is required to make findings with respect to the economic consequences of any rules of the EPA regulating chemical substances that are allegedly an unreasonable risk to the public health or environment. But surely, Mr. President, one of the most obvious economic consequences of any rule is the potential of employment reductions; and this is the very subject which section 23(f) commands the Administrator to evaluate constantly and continually. Section 23(f) is thus redundant, in the opinion of the Senator from North Carolina, and I believe it should be eliminated.

Mr. President, the principles of fairness, the interests of economy, and pride in legislative draftsmanship demand that we delete section 23(f) from this bill. I urge my colleagues to uphold these standards by joining in support of this amendment. I hope that the distinguished manager of the bill will agree with me and accept my suggestion.

Mr. TUNNEY. Mr. President, I wish I could find in the amendment the merits that I know the Senator from North Carolina feels that it has. I would point out to my friend that this language is identical to a provision in the Water Pollution Act that was passed in 1972 and is now on the statute books, and there has been only one case that has been brought to the attention of the Committee on Commerce in which the EPA used its authority, in the 4 years that this statute has been on the books, to investigate alleged intimidation against a worker. It never even got to the hearing stage. It involved a paper mill in Alaska, and apparently when the employee made the charge to the Environmental Protection Agency alleging discrimination by the employer, the employer backed down and the man retained his job.

So there has been only one case in 4 years under an exactly similar provision in the Water Pollution Control Act.

Let me tell you what we were trying to obviate by this language in this bill. I am going to quote from a letter that was directed to me and to another Senator on the committee. It was a handwritten letter, directed to at least the two of us; it may have been directed to more. But it goes like this:

> I thought that you would like to know of the reaction to S. 776, Toxic Substances Control Act. I am in the chemical industry, and there is much pressure on us to write and oppose this bill. In fact, there is downright intimidation. We are asked to write or phone to the committee members, and our names are written down by our bosses and the list, in turn, given to their bosses. For what purpose I don't know, but a lot of people are afraid not to do as they are told.
>
> I do not think that this is fair of industry, to put pressure like this on their workers, and I would appreciate someone in the Senate speaking out against this form of "support."

Mr. HELMS. If the Senator will yield——

Mr. TUNNEY. This was written in February, the middle of February of 1976. I would be happy to yield, but I do have some other points I would like to make.

Mr. HELMS. Well, will the Senator yield at that point on my time?

Mr. TUNNEY. Yes.

Mr. HELMS. The Senator is making a great deal of a company's effort to oppose this bill, and I know the Senator is concerned about that, but this is a part of the political process, is it not? Labor unions do it, but I have not heard the Senator complain about labor unions putting pressure on their members.

I hear from union members all the time, who say to me: "Senator, I agree with you on a piece of legislation, but I would catch the devil from my union bosses if I opposed their position." So it cuts both ways, and I do not think the Senator ought to complain too much about efforts by the business community to oppose this bill. Second, I think it is fair to point out that the Senator does not know for certain whether the facts of this letter are true; it may have been written by an aggravated employee, or someone else. I think that the Senator is not justified, if he will forgive me, in stressing the importance of this letter.

The only fact I am pointing out to the Senator, and I say this to all of the Members of the Senate, is that if this amendment is not adopted, there will be harassment, intimidation, and increased costs, and the Senator will hear from it later. This is why I am opposed to this part of the bill.

Mr. TUNNEY. Well, as I have mentioned, in 4 years, under a similar provision, there has been one case brought to the EPA, and that did not even get to the hearing stage. So I do not quite understand how the Senator from North Carolina feels that this is going to result in extraordinary cost. I can understand, if we had not had any experience under similar legislation, such fears might be reasonable. But with the experience that we have had of 4 years under the Water Pollution Control Act, I would suggest to the Senator that the empirical evidence is such that there is not much merit in the proposition that the Senator is making today.

Mr. HELMS. I understand what the Senator is saying, but I do not understand how he relates water to an industry involving the introduction of a thousand new substances a year, each of which could have an effect along the lines that we are discussing here.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. NELSON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PEARSON. Mr. President, on my time, will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. PEARSON. I wonder if the Senator intends in his amendment to strike subparagraph 1, starting at line 22 on page 90. I am advised that there is in another part of the bill a requirement of the Administrator to make an evaluation of the economic impact of this particular legislation. That is general in nature. This is meant to be specific or enforcing language. It has provisions as to continuing economic implications, the shifts and reductions of employment, and so forth, under the rules and under the act.

We are advised that that particular subparagraph is one in which industry is very vitally concerned. I wonder if the Senator feels that that also is a matter which should be stricken out in his amendment.

Mr. HELMS. Mr. President, will the Senator identify the section to which he refers?

Mr. JAVITS. Mr. President, may I interrupt a minute?

I have the Foreign Minister of Turkey present. Could we introduce him for 1 minute?

Would that be agreeable to the Senator from Kansas?

Mr. PEARSON. Yes. Go ahead.

Mr. JAVITS. Mr. President, I ask unanimous consent that the time I shall take shall not be charged to either side.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

VISIT TO THE SENATE OF THE FOREIGN MINISTER OF TURKEY

Mr. JAVITS. Mr. President, we had a breakfast meeting in the Committee on Foreign Relations with the Foreign Minister of Turkey, Mr. Chaglayangil, who is here with the Ambassador.

Senator SPARKMAN, the chairman of our committee, asked me, and I have the great honor and privilege of introducing to the Senate the Foreign Minister of Turkey, a very critical factor in the NATO Alliance, and the country with which we have had a very long-standing and very friendly relationship.

I shall ask unanimous consent that after this introduction we may have a 2-minute recess so that Members who desire to do so may greet the Foreign Minister and the Ambassador.

[Applause.]

RECESS FOR 2 MINUTES

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes.

There being no objection, the Senate, at 10:02 a.m., recessed until 10:04 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STONE).

TOXIC SUBSTANCES CONTROL ACT

The Senate continued with the consideration of the bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and the necessary use restrictions on certain chemical substances, and for other purposes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have no desire to prolong this. I am glad to yield back the remainder of my time.

Mr. TUNNEY. Mr. President, for the sake of the record, I ought to make only a few substantive points.

Mr. HELMS. Mr. President, then I reserve the remainder of my time.

Mr. TUNNEY. I shall make these points with respect to the amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. TUNNEY. Section 23(f) assures that the Administrator of EPA will assess the job impact resulting from the issuance of any rule or order under the Toxic Substances Control Act, and that is what the Senator from Kansas was referring to when he indicated that this is desirable from the point of view of industry, because we should not have an administrator issuing rules that could result in the layoffs of hundreds or maybe thousands of persons without evaluating that impact upon the workers and upon the community in which they work.

The Administrator also, under the provision, will in appropriate circumstances investigate allegations that employers are discriminating against employees as a result of any rule or order issued under the act.

I think that the Senator in his amendment is really referring to this portion of section 23(f). Section 23(f)(2) clearly states that the EPA will only investigate, hold a hearing on an employee's complaint, and make findings of fact.

Therefore, the Administrator is required to take this action if he believes that an employee complaint of alleged employment effects is "because of the results of any rule or order issued under the act."

I might point out that the Administrator can hold a hearing, and make findings of fact and that is it. He can publicize the results of the hearing, but he cannot order the employer to reinstate the employee under subsection (f). I think that the manager of the company ought to take the heat that comes with public exposure of that kind of discrimination.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. TUNNEY. I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. TUNNEY. The yeas and nays have been ordered.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I also announce that the Senator from Vermont (Mr. LEAHY), and the Senator from Louisiana (Mr. LONG), are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay".

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HUGH SCOTT) would each vote "nay."

The result was announced—yeas 13, nays 54, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—13

Allen
Bartlett
Byrd, Harry F., Jr.
Curtis
Hansen
Helms
McClure
Morgan
Sparkman
Taft
Thurmond
Tower
Young

NAYS—54

Abourezk
Baker
Beall
Bellmon
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Hart, Gary
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Magnuson
Mansfield
Metcalf
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Stevens
Stevenson
Stone
Talmadge
Tunney
Williams

NOT VOTING—33

Bayh
Bentsen
Biden
Brock
Brooke
Buckley
Eastland
Fannin
Goldwater
Gravel
Griffin
Hart, Philip A.
Haskell
Hatfield
Hruska
Inouye
Jackson
Laxalt
Leahy
Long
Mathias
McClellan
McGee
McGovern
McIntyre
Montoya
Moss
Scott, Hugh
Scott, William L.
Stafford
Stennis
Symington
Weicker

So Mr. HELMS' amendment was rejected.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TUNNEY. Mr. President, will the Senator yield? I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, if the Senator will yield for a unanimous-consent request, I ask unanimous consent that James Fleming of my staff be allowed the privileges of the floor during the discussion and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that Romano Romani of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I ask unanimous consent, if the Senator will yield, on behalf of the Senator from Oklahoma (Mr. Bartlett), that Hazel Elbert be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield to me for a unanimous-consent request? I ask unanimous consent that Aubrey Sarvis of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a similar request?

Mr. CASE. Mr. President, I ask unanimous consent that Nancy Anderson of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, will the Senator yield for a similar request to me? Mr. President, I ask unanimous consent that John Steer be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Senator Morgan, that Mr. Bill Smith of his staff be permitted the privileges of the floor during the consideration of this bill.

I also make the same request for Mr. Glenn that Mr. Len Weiss of his staff have the privileges of the floor during the consideration of this measure.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield to me for the same purpose? Mr. President, I ask unanimous consent that George Shanks be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, is everybody finished?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Senator Stone, that Mr. Bruce Rowen of his staff be granted the privileges of the floor during the further consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, I have an amendment at the desk, on behalf of myself and my colleague, Senator Williams, and I ask that it be reported, but may it be reported in the form which I now hand to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the Record in full at this point.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed.

The amendment is as follows:

On page 93, between lines 8 and 9, insert the following new section:

STATE DEMONSTRATION PROGRAMS

Sec. 25(a) Establishment of Program.—The Administrator is authorized to assist no more than three states in establishing demonstration programs by such states to protect against unreasonable risks to health or the environment associated with chemical substances and mixtures. Such programs shall—

(A) identify and inventory chemical substances and mixtures within such state, including their manufacture, processing, distribution, use, and disposal;

(B) monitor the extent to which such chemical substances or mixtures are present in the environment of any such state and the human exposure to such substances or mixtures within such state;

(C) establish a program to (i) prevent or eliminate unreasonable risks to health or the environment presented by chemical substances or mixtures (ii) integrate the control of chemical substances and mixtures under this section with other programs of environmental and public health protection within such state so as to appropriately minimize the overall pollution of the environment within such state; and (iii) identify the appropriate governmental institutions and processes necessary to implement a program for the prevention of unreasonable risks to health or the environment presented by chemical substances and mixtures;

(D) analyze and evaluate the results of such programs through annual reports to the Administrator; and

(E) complement and in no way reduce Federal efforts under this Act in such state.

(b) Reports.—The Administrator shall submit a report to the appropriate committees of Congress not later than July 1 of each calendar year. Such report shall include (1) a description of progress with respect to programs assisted under this section and any suggestions for improvement in such program, (2) recommendations as to the manner by which programs within the states for the prevention of unreasonable risk to health or the environment presented by chemical substances may feasibly be implemented, and (3) the extent to which the Administrator has disseminated information regarding programs authorized under this section to other interested states and other persons.

(c) Authorization for Appropriations.—For the purposes of providing assistance under this section, there are hereby authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending September 30, 1977; $2,000,000 for the fiscal year ending September 30, 1978, and $2,000,000 for the fiscal year ending on September 30, 1979. Any funds appropriated under the authority of this subsection shall remain available until expended. Funds available under this section shall not be available for programs which would duplicate any authority or requirements of the Administrator under this Act, including sections 4, 5, 6 and 9(c). Funds available under the authority of this section shall support not more than 75 percent of the costs of any such program described under subsection (a) engaged in by the State.

(d) Priorities.—Assistance afforded under this section shall be available (subject to the requirements of subsection (a)) to those states which can establish a priority need for such assistance, as determined by the rules of the Administrator. In establishing such rules, the Administrator shall consider the existence of serious health effects associated with chemical substances within such state including cancer, birth defects, and gene mutations; the extent to which chemical substances and mixtures are manufactured, processed, distributed in commerce, used and disposed of within such state; and the extent of exposure of human beings and the environment to chemical substances and mixtures within such State. The Administrator shall approve all such programs and establish a mechanism for monitoring such programs.

(e) Disclaimer.—Nothing contained in this section shall affect any provision of Section 18 of this Act.

Mr. CASE. Mr. President, the amendment we propose would be of significant benefit in implementing the mandates of the Toxic Substances Control Act. It would enable selected States to develop demonstration programs to protect against unreasonable risks to health or the environment associated with chemical substances and mixtures.

Through a demonstration program, States like New Jersey could obtain the data necessary to make reasoned decisions as to the dangers to humans resulting from exposure to toxic substances. It would also provide the basis for State management measures to be proposed in the demonstration States and elsewhere. Especially important, it would coordinate State programs with Federal programs, demonstrating methods to minimize the burden upon industry in the requirements for submission of information and data to the several levels of government that are involved in toxic and other environmental programs.

Our amendment would provide for State demonstration grants in no less than one, and no more than three States. The key elements of such State programs would be:

First, to identify and inventory chemical substances and mixtures in the State at various stages in their cycle of use;

Second, to monitor the extent to which such chemical substances or mixtures are present in the environment of such State, and the extent to which human beings in that State are exposed to them;

Third, to establish a State program that would prevent or eliminate unreasonable risks to health or the environment from chemical substances or mixtures, to integrate toxic substances management programs with other environmental and public health programs so as to minimize the overall pollution of the State's environment, and to identify the appropriate governmental institutions and processes necessary to implement such a program.

This point is of particular importance. For too long we have seen pollution control technologies which merely serve to transfer the problem from one medium to another—such as air pollution technologies which remove contaminants from the air and put them into the water cycle instead. This is hardly a solution.

Fourth, to analyze and evaluate the results of such programs through annual reports to the Administrator of EPA.

The Administrator of EPA, in turn, must submit annual reports to the Congress on the progress of the demonstration projects, recommend ways for other States to implement toxic substances management programs, and recommend additional legislation if necessary. The Administrator's report must describe the extent to which he has disseminated the information derived from the demonstration programs to other interested States and persons.

This is not a demonstration program to be funded and then forgotten. EPA will be under a mandate to study, evaluate, and make known what has been learned from the demonstrations, so that others will benefit.

There is authorized for each fiscal year, 1977, 1978, and 1979, $2 million, with the Federal share of the program not to exceed 75 percent.

There are explicit provisions that these funds will not be used to duplicate other requirements and programs. As I stated earlier, one of the primary objectives of this demonstration program is Federal-State coordination so as to minimize the burdens on industry.

Our amendment would give priority for grants under this section to those States where the problem of the effects of toxic substances are most acute. Specifically, the Administrator's project selection must consider: First, the existence of serious health effects associated with chemical substances within such State, including cancer, birth defects, and gene mutations; second, the extent to which chemical substances and mixtures are manufactured, processed, distributed in commerce, used and disposed of within such State; and third, the extent of exposure of human beings and the environment to chemical substances and mixtures within such State.

Finally, this amendment assures that nothing in this new section increases or decreases the authorities of a State, as established under section 18, preemption.

New Jerseyans were shocked to learn earlier this year that our State has the highest rate of cancer in the country, not for one, but for all types of cancer. We were totally unprepared for this news.

We know that exposure to certain chemicals can cause cancer, but there remain many, too many, unanswered questions. We need to identify these chemicals, find out what quantities of them pose a hazard, and—most important—we must find out what we can do to reduce the risk to New Jerseyans.

It seems to us that adoption of this amendment to the toxic substances bill would provide the means to find answers to these questions.

This amendment would be of great significance in helping our State and other States with similar problems to develop demonstration programs to protect against unreasonable risks to health or the environment associated with chemical substances and mixtures. It provides for demonstration programs with Federal participation jointly with the States. It authorizes $2 million a year for 3 years, and the States must participate to the extent of 25 percent.

I understand that the amendment is agreeable to the minority and the majority.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator CASE in offering this amendment to the Toxic Substances Control Act. The amendment would authorize the EPA to establish up to three State demonstration programs in selected States to complement the Federal toxic substances control program. The State programs would in no way reduce or replace Federal efforts to control toxic substances under the act. The demonstration programs would allow a State to inventory chemical substances within its borders and monitor the extent of human and environmental exposure to these substances.

The State would be required to integrate its program for controlling toxic substances with other State environmental and public health programs, and to coordinate its efforts with those of other levels of government. By requiring the coordination of State and Federal efforts to control toxic substances, the amendment would help to reduce duplicative regulation. It would help to create greater stability of expectations in industry and end the arbitrary and often conflicting requirements imposed by various authorities which have adverse effects on investment decisions.

Senator CASE and I represent a State where the need for such a program is manifest. New Jersey has both the highest concentration of chemical plants and the highest cancer death rate in the Nation. According to the National Cancer Institute, this is no coincidence. A study done by the National Cancer Institute found a high correlation between cancer deaths and densely concentrated industry. New Jersey's 21 counties were found to be in the top 10 percent of all counties in the Nation for the rate of cancer deaths. Salem County, N.J., where 25 percent of the males work in the chemical industry, has the Nation's highest rate of bladder cancer—an occupational disease associated with chemical exposure. These figures are no less than alarming. This legislation and this amendment together address this critical matter in a comprehensive and coordinated way.

The immediate need at the State level is to begin to determine the types and quantities of toxic substances already present in the environment. This cannot be done with the monitoring systems already in place. EPA would collect the data on various chemical substances, but it would be up to the State to follow these substances through the cycle of their use—manufacture, processing, distribution, use, and disposal. While the amendment will not give the States any authority to regulate workplace exposures or duplicate any authority under the Occupational Safety and Health Act, information gathered under the amendment could complement Federal efforts under OSHA.

Like most other States, New Jersey now has an extensive monitoring network in both air and water. These systems are designed to monitor the air and water for so-called classical pollutants. This network is the major method by which New Jersey's Department of Environmental Protection has been able to define the extent of the State's environmental problems, as well as improvements in environmental quality.

But for toxic substances, new monitoring stations must be established according to different criteria, and analytical techniques must be utilized which are much more complex and time-consuming than those currently utilized.

The results of such a State demonstration program would be evaluated at both the State and Federal level and would be used as a model for other States to build their own programs.

The final result of such a demonstration program, it is hoped, would be to reduce the rate and prevalence of cancer and other environmentally related diseases.

Mr. TUNNEY. I am authorized by my distinguished friend from Kansas (Mr. PEARSON) to indicate that this amendment is acceptable to both the minority and the majority on the committee. This is an amendment that will allow States the leeway in certain circumstances to structure programs to meet particularly acute local and regional problems and, therefore, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time yielded back. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TUNNEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The clerk will suspend. The Senate is not in order. The Senate will be in order.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 2, after the period add the following:

"(15) The term 'unreasonable adverse effects on the environment' means any unreasonable risk to man or to the environment taking into account the economic, social, and environmental costs and benefits of the use of any chemical substance."

On page 52, line 5, strike out all after the word "show" down to and including the period at the end of line 11 on page 52 and substitute in lieu thereof the following: "that a situation exists in which the continued use of a chemical substance would be likely to result in unreasonable adverse effects on the environment or will involve an unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Public Law 91–135."

Mr. ALLEN. Mr. President, the amendment I have introduced is designed to provide the Administrator of the Environmental Protection Agency with the same definition of "imminent hazard" and "unreasonable adverse effects" in the Toxic Substances Control Act as are contained in the existing law which regulates the testing and registration of pesticides, the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, Public Law 92–516 and Public Law 94–140. My amendment does not in any way weaken the ability of the Administrator to restrict the use of toxic chemical substances but it would provide the consistency needed for even-handed administration of two laws, both of which would have the same intent and both of which would regulate in most instances the same industries and essentially the same subject matter.

Mr. President, when the legislation which led to the Federal Insecticide, Fungicide, and Rodenticide Act was first introduced in the Senate, it was referred jointly to the Senate Committee on Commerce and to the Senate Committee on Agriculture and Forestry. This joint referral evidenced the dual jurisdiction which exists with respect to legislation affecting the chemical industry. I would remind Senators in this connection that Senate rule XXV 1(b) specifies that all proposed legislation relating to "agricultural and industrial chemistry" shall be referred to the Committee on Agriculture and Forestry. Although no similar language is contained in rule XXV 1(f) which sets forth the jurisdiction of the Senate Committee on Commerce, very properly committee jurisdiction over the legislation which led to the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act was shared with the Committee on Commerce. Mr. President, regrettably such was not the case in the present instance. Had committee jurisdiction over toxic substance control legislation been likewise shared, I am confident the inconsistencies between the bill reported by the Senate Committee on Commerce and existing laws could have been eliminated without the necessity of extensive floor amendment.

Mr. President, I believe it is vitally important that S. 3149, the Toxic Substance Control Act, if enacted, be consistent with existing law in the standards to be used by the Administrator and his staff in administering the law regulating the use of chemicals. The Administrator and his staff have had the opportunity to apply the existing standards contained in the Federal Insecticide, Fungicide, and Rodenticide Act in actions taken by the Agency in regulating the registration and use of pesticides. It would not seem prudent or logical for the Agency, which would be responsible for the administration of two separate laws governing toxic chemicals, to be saddled with conflicting language in the two laws.

I recently had occasion to preside at 4 days of hearings before the Senate Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture and Forestry during the course of that subcommittee's investigation of the kepone contamination of the James River in the vicinity of Hopewell, Va. During those hearings I became somewhat familiar with the composition and use of the pesticide kepone. It should be no revelation that toxic chemicals are used as components of agricultural poisons, such as kepone, or that pesticides are themselves often components of toxic substances which are manufactured for entirely different uses. The questions at issue in examining the use or registration of pesticides, fungicides, and rodenticides, therefore, differ little if at all from those posed with respect to other toxic substances.

Many manufacturers who are producing pesticides are also producing other toxic chemical compounds, and it would be confusing and frustrating for a manufacturer of chemical substances to be subjected to two different standards or requirements. For example, any chemical or toxic substance would first be subject to the provisions of this act, and yet when it becomes a component of a pesticide, it would be subject to FIFRA. In many instances, the manufacturer of the component is also the manufacturer and registrant of the pesticide. It is unreasonable to expect either the Administrator or the manufacturer to carry out properly their responsibilities in the presence of conflicting legislative language regulating chemical substances.

Throughout the bill, numerous references are made to "unreasonable risk" without providing a definition of the term. The term is also used in connection with other qualifying phrases which have dissimilar connotations and which could create problems and confusion in the administration of the two statutes. These phrases include:

"Cause or contribute to an unreasonable risk of injury to health or the environment"; "present an unreasonable risk to human health and the environment"; and "is likely to present an unreasonable risk to health or the environment."

My amendment would provide that, whenever the term "unreasonable risk" is used it will be in accord with the meaning of "unreasonable adverse effects" as defined in my amendment and as defined in the Federal Insecticide, Fungicide, and Rodenticide Act. Similarly, and for the same reasons, the definition of "imminent hazard" is brought in line with the definition of that term in the Federal Insecticide, Fungicide and, Rodenticide Act.

Mr. President, I am convinced that consistency is a desirable goal in the regulation of the use of chemical substances. Since my amendment would not in any way weaken the Administrator's authority in regulating those uses, I urge that the amendment be adopted.

Mr. President, the rules state, specifically rule XXV states, that all legislation relating to agriculture and agricultural chemistry should be within the jurisdiction of the Agriculture Committee. To that end legislation having to do with FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act, having to do with pesticide legislation has always gone to the Agriculture Committee.

This bill, however, was not referred jointly to the Commerce and Agriculture Committees. I believe that the Agriculture Committee, if it had had the bill referred to it, would have made as its main contribution the reconciling of the rules with respect to the application of the rules governing the toxic substances to the FIFRA legislation so that the EPA, in administering two very closely related acts, would not have different definitions in connection with their enforcement.

All this amendment does is to conform the definitions in the toxic substances bill to the established definitions under the FIFRA legislation which has served the EPA well and under which it now operates.

I believe the amendment is satisfactory to the manager of the bill. I have discussed it with him, and I am hopeful that he will endorse the amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. TUNNEY. The Senator from Alabama has, in my view, stated the situation correctly, that his amendment is merely an amendment which makes the language in this legislation conform with the Pesticides Control Act as it relates to the imminent hazards, and I think it is important that we do have on the statute books language such as the Senator from Alabama has suggested.

Mr. TALMADGE. Mr. President, will the distinguished floor manager yield?

Mr. TUNNEY. Yes.

Mr. TALMADGE. I commend the Senator from Alabama for introducing his amendment, and I commend the distinguished manager and his counterpart, the Senator from Kansas, for accepting it. I think it is important to have toxic substances and pesticides measured by the same yardstick. That is what the Senator's amendment would do.

Mr. TUNNEY. I thank my friend from Georgia, and I agree with his statement. I think we should have the same yardstick in various statutes.

I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, we find the amendment conforming and we accept it.

Mr. TUNNEY. I yield back all my time.

Mr. ALLEN. I thank my friend from California and my friend from Kansas.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, line 13, insert immediately after the period, "In accordance with such responsibilities, the Administrator shall undertake and support programs of research and monitoring of polychlorinated biphenyls to the extent necessary to develop safe methods of disposal of polychlorinated biphenyls and for the control of risks of injury to health or the environment associated with polychlorinated biphenyls."

On page 52, between lines 2 and 3, insert the following new subsection:

"(e) POLYCHLORINATED BIPHENYLS. (1) Effective 1 year after the date of enactment of this Act, it shall be unlawful to manufacture, process, distribute in commerce, or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner, except that the Administrator may, by rule promulgated in accordance with subsection (c)(2), authorize the manufacture, processing, distribution in commerce, or use of any polychlorinated biphenyl in other than a totally enclosed manner if the Administrator finds that no unreasonable risk of injury to health or the environment is presented.

"(2) Effective 2 years after the date of enactment of this Act, it shall be unlawful to manufacture any polychlorinated biphenyl, and effective 2½ years after such date, it shall be unlawful to process or distribute in commerce any polychlorinated biphenyl, except that the Administrator may authorize, by rule promulgated in accordance with subsection (c)(2), such manufacture, processing, or distribution in commerce after such time period if the Administrator finds that no unreasonable risk of injury to health or the environment is presented.

"(3) Within 6 months after the date of enactment of this Act, the Administrator shall promulgate rules under subsection (a) which shall (A) prescribe methods for the disposal of polychlorinated biphenyls in accordance with the requirements of that subsection and (B) specify the manner in which polychlorinated biphenyls shall be marked with clear and adequate warnings and instructions with respect to their processing, distribution in commerce, use, or disposal. Any such rules shall be consistent with the requirements of paragraphs (1) and (2) of this subsection or rules issued thereunder.

"(4) For the purposes of this subsection, the term 'totally enclosed manner' means any manner which will ensure that any leakage of a polychlorinated biphenyl from its enclosure will be insignificant, as defined in rules of the Administrator."

On page 71, line 13, immediately following "5", insert "or 6".

Mr. NELSON. Mr. President, this amendment provides over a period of time the elimination of the use in open or closed systems of PCB's, polychlorinated biphenyls, unless the EPA administrator finds that there is not a serious health hazard.

He also has to weigh, of course, under the provisions of the statute, the question of cost-benefit ratio.

It is my understanding that the manager of the bill and Senator Pearson are acquainted with the proposed amendment and find it acceptable.

Mr. President, it has become clear that PCB's present a serious pollution problem.

Therefore, I am offering this amendment.

First. It bans the manufacture, processing, distribution and use of nonenclosed PCB's 1 year after enactment, unless the Administrator of the Environmental Protection Agency—EPA—finds there is no unreasonable risk of injury to health or environment from continuing such uses. These include: uses in carbonless paper, paints, coatings, soaps, and copying ink toners.

Second. The manufacture of all PCBs would be banned effective 2 years from the date of enactment; and the processing and distribution of all PCBs would be banned 6 months after that—2½ years after enactment—unless the administrator finds that no reasonable risk of injury to health or the environment is presented by PCB's. This would effectively ban all PCB use, including closed uses, such as in electrical capacitors and transformers.

Third. Within 6 months after enactment, EPA is required to issue regulations for the first, disposal of PCB's and second, labeling with warnings and instructions of all products containing PCBs with respect to their use and disposal.

Fourth. The amendment defines "totally enclosed manner" so as to insure that "any leakage of a PCB from its enclosure will be insignificant, as defined in rules" by EPA.

All imported PCB's would be subject to the same restrictions.

This amendment is patterned after one that I introduced on December 19, 1975, which Senator Bumpers joined in sponsoring.

Under the amendment, the continued use of PCB's would be allowed if the EPA Administrator finds that "no unreasonable risk of injury to health or the environment" exists. In making such a finding, it is implicit that consideration be given to the availability of substitutes for PCBs, presumably having less risk.

In addition, to the extent that PCBs continue to be authorized for use, it is assumed that EPA will regulate any recycling of them.

Mr. President, scientific evidence makes it imperative that we no longer wait to regulate and eliminate this toxic substance. The risks to human health and the environment appear to exceed the benefits of these substances, which, like DDT, are not readily biodegradable and tend to accumulate in the food chain.

According to a report on PCBs prepared by the Legislative Research Service, Library of Congress:

PCBs have been used extensively in industry for a variety of applications for 45 years. Until the mid Sixties, it was not fully recognized that large amounts of PCBs were escaping into the environment and that the substance might cause hazard to human health and the environment. High levels of PCBs are now found in carnivorous fish taken from the Great Lakes and some other areas. Levels are so high, in fact, that serious doubts have been raised over the safety of humans consuming these fish. Sports fishing programs, such as the Coho Salmon restocking projects in the Great Lakes and the commercial fishing industry in these areas are at stake. PCBs are found at low levels in human adipose tissue in all parts of the country, illustrating how pervasive and widespread the pollution has become.

"Although Monsanto, the sole United States producer of PCBs, has voluntarily limited PCB sale to a few companies for use in electrical closed systems, the problem of more PCBs entering the environment through these routes, from existing equipment containing PCBs, and from imported stocks, still exists. It has been suggested that PCB use be totally eliminated in the United States, or alternately, that its use be more tightly controlled.

The Library report further notes:

The possibility of adverse affects upon human health from PCBs was highlighted in October of 1968. In the Fukuoka prefecture in western Japan, accidental contamination by PCBs of edible rice-bran oil caused an outbreak of toxic symptoms, the "Yusho" poisoning incident. Soon afterward, PCBs were detected by the U.S. Food and Drug Administration (FDA) in milk, poultry, and other foods due to accidental leakage of PCBs from machines and PCB food packaging made from recycled paper, and in fish exposed to PCBs in the environment.

Action (tolerance) levels for PCB contamination of food, feed, and food packaging were established by FDA. The EPA initiated a test program and monitoring of PCB levels in the environment and proposed regulations governing the discharge of PCBs into waterways as an industrial effluent (under the Clean Water Act). Meanwhile, on the state level, actions were taken against point source discharges of PCBs.

The widespread occurrence of PCBs in the environment, the bioaccumulation of PCB in the food chain of fish found in the human diet, and the persistence of the chemical compounds assure that PCB environmental contamination will continue to be a problem for many years to come.

Here are the facts:

PCBs have been found, in scientific tests, to cause severe skin and liver problems in humans. University of Wisconsin Medical School researchers Dr. James R. Allen and Deborah Barsotti, have demonstrated that very low PCB levels are dangerous to primates, causing facial swelling, loss of hair, acne lesions within one month, birth defects, miscarriages, stillbirths, and death.

A 1972 report by a Federal interdepartmental task force urged a ban on all PCB uses except in closed electrical systems, restricting them to "essential or nonreplaceable uses which involve minimum direct human exposure, since they can have adverse effects on human health."

The commercial fishing industry in the Great Lakes and elsewhere are threatened with extinction, unless the PCB problem can be alleviated or eliminated. Thousands of pounds of Great Lakes fish have been condemned as unsafe because of PCB contamination, and New York State conservation officials warn against eating Hudson River fish.

Water supplies throughout the Nation are contaminated far in excess of safe drinking criteria.

There has not been adequate monitoring of the extent of the pollution, nor of the sources of the pollution.

At least 10 million pounds of PCBs are lost into the environment each year through vaporization, leaks, and spills, according to estimates reported by Thomas E. Kopp, a chemist with the EPA's Office of Toxic Substances.

At least 10 plants are dumping PCBs into U.S. waterways and another two are discharging the chemicals in municipal sewage treatment systems, according to the EPA.

PCBs have been banned for most uses in Japan—after the 1968 poisoning of more than 1,000 persons who had eaten PCB-tainted rice cooking oil.

Alternatives have been instituted in Japan, and are being developed in the United States. For example, air-filled transformers have been used for years instead of PCB-filled transformers.

Use of alternatives to PCBs may require retooling and redesigning of some electrical products and equipment which now use PCBs.

PCBs are used in about 5% of all transformers and in almost all industrial capacitors in the United States.

PCBs can be destroyed in special incinerators at very high temperatures.

PCBs can be recycled.

There is no dispute over their toxicity to wildlife and to humans.

This amendment would allow time for the phasing out of the manufacture and use of PCB's over 2½ years.

It is preferable not to enact legislation on a substance-by-substance basis but rather generically, as the Toxic Substances bill proposes to do. However, the

PCB problem shows no sign of abating and it has become so severe that it is necessary to address the problem head on, as we were forced to do with DDT.

Mr. President, I ask unanimous consent to have printed in the Record three articles illustrating the extent of the problem and the commercial impact on the Great Lakes fishing industry as well as in New York State, as a result of PCB pollution in the Hudson River and Lake Ontario.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From Wisconsin Natural Resources, January/February 1976]

Sources of Polychlorinated Biphenyls in Wisconsin

Wisconsin's interest in PCBs began in the late 1960's when interfering substances were detected in fish being tested for DDT. Later we were to learn these interfering substances were PCBs.

In 1970, the Department collected fish samples along the Mississippi River bordering Wisconsin. Analysis revealed that between Prescott and Pepin fish commonly exceeded the Food and Drug Administration (FDA) tolerance level of 5 parts per million (ppm). During 1971, Lake Michigan fish were collected and later tested. Mean concentrations of PCBs in these fish ranged from 2.7 ppm in smelt to 15 ppm in lake trout. Subsequent studies confirmed the presence of PCBs in fish in Lake Michigan and other waters of Wisconsin.

The search for PCBs in water was also underway at this time. An analysis of water from the Milwaukee River indicated that PCBs were present from West Bend to Lake Michigan and being discharged through municipal and industrial effluents. In 1971, eleven municipal wastewater treatment plant effluents in Wisconsin were sampled and nine contained PCBs. Studies of the Cedarburg wastewater treatment plant indicated that more than 70 percent of the PCBs coming into the plant were removed during the treatment process and comparatively high concentrations were found in the digester and primary settling sludges.

The Department surveyed many municipal wastewater treatment plan effluents in Wisconsin from 1972 through 1974. PCBs were delected in concentrations exceeding .05 parts per billion (ppb) in more than half of those tested even where there were no suspected industrial sources. In most cases, the discharge was well below 1 ppb and .01 pounds per day. However, higher concentrations were found in effluents from industrial areas.

Tracing sources of PCBs reaching a large municipal wastewater treatment plant is difficult and time consuming. The Department is attempting to trace sources of PCBs reaching treatment systems where the final effluent exceeds 1 ppb. At present we know of only two municipal wastewater treatment plants in Wisconsin which exceed 1 ppb—Sheboygan and Portage.

Main source of PCBs at Portage was found to be a facility that had used PCBs in the manufacture of carbonless copy papers prior to the summer of 1971. After ceasing the use and after repeated cleanings of holding tanks the discharge was substantially reduced. Residuals still remain, however, in the sewer system and the sewer sludges, resulting in an effluent of several ppb at the municipal sewage treatment plant. We are continuing to check sources of discharge at Sheboygan.

The Department has checked effluents from iron and steel foundries and aluminum foundries. Cooling water effluents from five of seven aluminum foundries contained PCBs ranging from 11.5 to 335 ppb. Close investigation revealed the common source to be leaking hydraulic fluids used in die cast machines. We are working with company officials to correct this. PCBs have been found in the cooling water effluent of only one of nine iron and steel foundries checked to date and that at a concentration of .9 ppb.

DNR has tested effluents of 17 pulp and paper mills. Nine mills which recycle wastepapers had measurable discharges ranging from .1 to more than 25 ppb. Mill representatives indicate that the paper industry no longer uses PCBs and those found in wastepapers come primarily from carbonless copy papers which were produced prior to 1972. The old carbonless copy papers were widely used in forms and continue to enter the wastepaper market as old files are discarded. Because their solubility in water is low, we believe that most of the PCBs discharged from wastepaper mills are absorbed on fibers and other particulate matter. Mill wastewater treatment systems which effectively remove particulate matter should also remove PCBs.

The electoral industry continues to use PCBs as dielectric fluids in some capacitors and transformers. Although the units are sealed some fluids may be lost as a result of accidents or disposal practices. In March 1975, the Department corresponded with major electrical companies in Wisconsin to determine current handling practices. This was followed by visits to many facilities. The companies contacted were aware of the problems, but some were not aware of recommended Guidelines of the American National Standards Institute for handling and disposal. We also found that some were storing defective capacitors until a proper disposal method could be found. As a result specific guidance was given to Wisconsin electric utilities for the proper handling and disposal.

Snow samples were collected early in 1975 to determine if PCBs were deposited on land and water as fallout from the air. Analysis of snow melt water from Racine, Kenosha, Madison and Milwaukee revealed concentrations from .17 to .24 ppb. These values suggest that fallout of PCBs from the air may be a principal source of PCBs entering the waters of the state.

PCBs are present in sediments in harbors and streams near industrial areas. The sediments act as a reservoir from which PCBs may be released slowly over a long period of time. Sediment samples have tested 3.5 ppm in the Milwaukee River near the Capitol Drive Bridge, 9 ppm in Superior Harbor, and 72 ppm in the Fox River below the outfall of the Portage sewage treatment plant.

We have tried to work out a materials balance for PCBs entering the environment using the domestic sales figures provided by the Monsanto Company and other data. So many pieces are missing from the puzzle, however, that these efforts have been unsuccessful. However, some general comments can be made.

1. PCBs have been sold by the Monsanto Company for more than 45 years. The company reported domestic sales of 795 million pounds from 1957 through 1974. In 1974 Monsanto's domestic sales were reported to be 34 million pounds for use in closed electrical systems. In addition, the Office of Toxic Substances EPA has reported that foreign sales of PCBs in the United States in 1974 exceeded 375,000.

2. The PCB problem in Wisconsin is a fishery problem caused because residues have accumulated in certain fish in Green Bay and Lake Michigan and the Upper Mississippi River in excess of the FDA tolerance level of 5 ppm. Laboratory experiments have shown that fish accumulate PCBs more than 100,000 times levels present in the water. Therefore, even parts per trillion (ppt) levels have significance to the fishery resource.

3. Our data indicates that levels of PCBs in fish in the Upper Mississippi River have declined in recent years. We have not detected a corresponding decline in levels in Lake Michigan fish.

If Lake Michigan water contains an average of 10 ppt PCB then there are more than 100,000 pounds in solution and probably a much larger poundage in the sediments. We have tested the major effluents of both municipalities and industries discharging to the Lake Michigan drainage in Wisconsin and estimate a discharge of about two pounds per day or 730 pounds of PCBs per year to Wisconsin's drainage to Lake Michigan. Most PCBs identified in our testing of major effluents occur in the wastewaters of pulp and paper mills which recycle wastepapers.

Discharges of PCBs from pulp and paper mills, which recycle wastepapers, will diminish as the mills meet discharge permit requirements. Wisconsin mills which recycle wastepapers are required to reduce discharge of suspended solids from 131,000 pounds per day (for calendar year 1973) to 45,000 pounds per day by the 1977 compliance date. Recently one mill in the state, which uses only recycled paper, began a new treatment system that has reduced the discharge of suspended solids from 40,000 pounds per day to 3,000 pounds. Tests at this facility revealed 39 ppb PCB entering the treatment system with only 1 ppb being discharged in the final effluent.

4. In our search for sources of PCBs entering the environment, we have not looked closely enough at fallout from the air. Our testing of snow melt suggests that fallout may be contributing much greater amounts of PCBs than are being contributed by industrial and municipal effluents. Trace concentrations in fallout over Lake Michigan and its watershed which cover 67,900 square miles could result in appreciable amounts entering Lake Michigan.

Because PCBs are stable compounds with low vapor pressures, little loss is expected to occur through vaporization from disposal sites where capacitors and other equipment and materials have been disposed and covered with overburden. Entry into the air may be expected to occur at locations where papers are incinerated, at foundries where imported casting waxes containing PCBs are heated to high temperatures and at manufacturing facilities. PCBs adsorbed on fine particulate matter may also be entering the air as windblown dust.

5. Further information is needed to define the amount contributed to Lake Michigan and other waters through past accumulation in sediment. A University of Wisconsin study is currently underway in Southern Lake Michigan, which should provide some answers.

DNR does not have the authority to regulate the sale or use of PCBs, but can adopt affluent standards.

In December the Natural Resources Board voted to severely limit PCB discharge. This action will be reviewed by the state legislature before it can become effective. The board also proposd legislation that would limit the sale and use of PCB's in Wisconsin.

[From Bulletin of the Lake Michigan Federation, January/February 1976]

PCBs Cost Jobs, Too

(By Elizabeth Botts)

Consumers aren't the only victims of PCB contamination in Great Lakes fish and waters. Fishermen had their livelihoods abruptly cut off when the Food and Drug Administration issued a ban on their contaminated produce last August. A group from Green Bay, Wisconsin, reported to the Federation that they plan to make their grievances publicly known.

Mrs. James Hermes, of Green Bay, wrote to the Federation last October to ask for help in stopping the sources of PCB pollution in her area. "As long as little is done to stop the source, not merely the result," wrote Mrs. Hermes, "many more will suffer."

But stopping the sources is a generous impulse that will help others, not the Hermes family. "If PCB discharge is stopped, then how do we clean up the existing poison they have left with us?" she asked. "I'm sure the industries won't volunteer. They have gotten rich at everyone's expense but their own."

Although there is growing concern in various government agencies on the effects of PCBs, the FDA is presently the only Federal agency with authority over their use, and can only ban contaminated wildlife that are harvested and processed for food consumption. That's why the Hermes' fisheries and other small fishing businesses like them were the only ones to suffer a federal injunction against their fishing activities. The sources of the Lakes' PCBs, e.g., paper-recycling mills, are free from penalties.

The Hermes are fourth-generation commercial fishermen. Ever since Jim Hermes' great-grandfather came to Wisconsin from Germany, before the turn of the century, the family has been sailing out of Green Bay. Now there are two Hermes fisheries. Jane and Jim Hermes caught Lake Michigan carp and shipped them to Missouri as stock for private and municipal fishing ponds in and around St. Louis. Jim's cousin, Lee, and his wife, Glory, sold to canneries around Green Bay. Then, without warning, both groups were ordered to stop working.

Not only could they not sell their fish, the St. Louis municipal authorities had to poison all species of fish in the city's private and public fishing ponds to be sure of removing the Hermes carp.

Lee Botts, then Federation Director, responded to Mrs. Hermes appeal, by arranging for both Hermes families to attend the National Technical Conference on PCBs organized by the EPA and other Federal agencies and held in Chicago last November. They told their story at the conference and on WGN–TV, pointing out that even if a ban were imposed immediately it would be years before PCB levels in fish went down enough to permit harvesting.

Things don't look good for the Hermes family. "We don't know what we're going to do," says Mrs. Hermes. "My husband and his cousin are going to try to work on some of the inland lakes where the PCB levels are low, but there aren't a lot of fish there. I don't know what will happen." Jane and Jim have four children and Lee and Glory have seven, so "it's quite a large family to lose their livelihood."

The Hermes fisheries and others in the Green Bay area tried to get themselves declared a disaster area so they would qualify for Small Business Administration loans, but the request was denied.

The Wisconsin Department of Natural Resources doesn't have a lot of help for the Hermes either. According to Ron Poff, of the Great Lakes fishing section of the DNR, the Wisconsin Natural Resources Board had decided to call for stiff discharge limits and to draft legislation for a total ban on manufacture and sale of PCBs, but neither of these measures—if they are carried out—will be effective until 1977. There are powerful interests, including the Wisconsin Paper Council, who can be expected to oppose them. "Considering what paper means in Wisconsin," Poff says, "it's pretty substantial action. And it's the only action we can legally take."

The only immediate help the DNR can offer to Green Bay fishermen is to look for areas where levels may be low enough to allow harvesting. Poff says a few fisheries are already back at work on the Bay's far western edge.

Still, it's probably too late for the Hermes, though Mrs. Hermes hasn't lost her anger or her determination. She's circulating a petition calling for a ban on PCB discharge, and hopes that this is one issue on which the sports and commercial fishermen of Lake Michigan can get together.

The Hermes have retained a lawyer and are investigating the possibility of a lawsuit, but "there are so many dumping we wouldn't know where to start." And despite her hopelessness over her own situation, Mrs. Hermes still believes that something can be done about PCBs in Lake Michigan.

"It's too late for us," she says now, "but maybe it won't be too late for some others."

[From the American Medical News, Mar. 8, 1976]

PCB DISCOVERY LEADS TO FISH BAN

Polychlorinated biphenyls (PCBs) from industrial pollution have contaminated fish in the Hudson River and Lake Ontario. As a result, New York State has banned commercial fishing in the Hudson, and advised sportsfishermen to restrict their consumption of fish caught in these waters. The ban does not include shad; analyses of these fish have shown low PCE levels.

The FDA has set a ceiling of 5 parts per million (ppm) as the limit of PCB permissible in fish to be consumed by humans. PCBs cause an acne-like skin eruption, pigmentation of the skin and nails, excessive eye discharge, and swelling of the eyelids.

FDA has found PCB levels as high as 31.3 ppm in fish caught in the Hudson and 24.6 ppm for salmon from Lake Ontario.

Mr. TUNNEY. Mr. President, I have had the opportunity to look at this amendment. It was submitted by the Senator from Wisconsin yesterday. I commend him in his efforts to control the hazards associated with the PCB's. We know how dangerous they can be.

I think the Senator's amendment strengthens the legislation and I am prepared to accept it for both minority and majority on the Commerce Committee.

Mr. President, I commend the distinguished Senator from Wisconsin on his efforts to control the hazards associated with PCB's. PCB's have long been of concern to the Committee on Commerce as evidenced by hearings held on the subject by the Subcommittee on the Environment last October 24.

Those hearings documented the fact that despite assurances from the sole domestic manufacturer of PCB's, they are still escaping into the environment in awesome quantities, in fact some 10 million pounds per year. Although an agreement several years ago by the Monsanto Co. supposedly restricted PCB's use to closed systems, Monsanto obviously has no control over those to whom it sells PCB's nor does Monsanto have any control over those who import PCB's. Thus, PCB's are still being used for nonclosed system uses.

At the same time, PCB's have been shown to cause cancer in one study, and to interfere with reproduction.

In my view, the amendment of the Senator from Wisconsin is indeed appropriate. It phases PCB's out by eliminating nonclosed system uses within 1 year and eliminating PCB's altogether within 2 year, to find their way into our environizing uses of PCB's beyond these time limits should that be appropriate so that we do not create worse problems than those we solve.

In my view, the amendment is a fine addition to the bill, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON) proposes an amendment:
>
> On page 36, line 17, insert the following:
>
> After the word "risk," insert a comma and the words "using the least burdensome of effective controls."

Mr. CANNON. Mr. President, I ask unanimous consent that Senator JOHNSTON be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, this is simply a clarifying amendment to be sure that the administrator does use the least burdensome effective procedure. I hope the Senator will be willing to accept it.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I yield 2 minutes to the distinguished Senator from Maryland (Mr. BEALL).

Mr. BEALL. I thank the distinguished Senator from Kansas for yielding.

Mr. President, I rise to support S. 3149, the Toxic Substances Control Act, and hope that the Senate will give its overwhelming endorsement to this measure.

Twice before, in 1972 and 1973, the Senate passed toxic substances legislation, only to be frustrated in our efforts to reach agreement with the House of Representatives on this matter. This year, however, indications are that chances for Senate-House agreement are good, and thus we will be able to place a strong toxic substances bill on the President's desk prior to adjournment of the 94th Congress.

I can think of no more persuasive argument in favor of this legislation than the stories which have appeared almost daily in the press regarding the serious chemical hazards now present in our environment. In recent months, we in this country have become painfully aware of the catastrophic long-term effects that such chemicals as kepone, vinyl chloride, mercury, and PCB's may have on humans. In fact, approximately 1,000 new chemicals are marketed each years. There are mechanisms for authorment. These chemicals need to be pretested before they enter the market, and this bill accomplishes that purpose in a reasonable and responsible manner.

The committee has also made great efforts in this legislation to balance the health needs of our people with economic realities. Throughout the bill, the Administrator of the Environmental Protection Agency is required to fully consider the reasonably ascertainable economic effects of his actions and publish them for the public record.

Mr. President, the terrible effects of toxic chemicals are often not evident until many years after initial exposure. Russell Train, Administrator of the EPA, recently pointed out that Americans were, without either their knowledge or consent, often engaging in a grim game of chemical roulette. This legislation seeks to end that game, which can have no winners, and I urge the Senate to give its strong support to this much-needed and long-awaited legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mr. TUNNEY. Mr. President, I have had an opportunity to review——

Mr. CHILES. Mr. President, I cannot hear the Senator, I wonder if the Senator would use his microphone.

Mr. TUNNEY. Mr. President, I have had an opportunity to review the amendment that is being offered by the Senator from Nevada and I would like to ask him a question with respect to it.

If the Senator's amendment is agreed to and is made a part of the law, unreasonable risks must still be prevented and protected against, must they not?

Mr. CANNON. Is the Senator talking about the amendment we just acted upon or the other amendment we are considering?

Mr. TUNNEY. I am talking about the amendment the Senator offered, after the word "risk," insert a comma and the words "using the least burdensome of effective controls."

The PRESIDING OFFICER. The Chair advises the Senator, that is the pending amendment, it is now pending.

Mr. CANNON. Yes; the answer to the Senator's question is "Yes."

Mr. TUNNEY. Fine.

Then under those circumstances, I do not see any reason at all that this amendment should not be accepted. I feel that as long as it is very clear in the RECORD that unreasonable risks must still be prevented under the regulatory framework, certainly it would be important to use the least burdensome of effective controls to effectuate that desired result.

So I accept the amendment.

Mr. PEARSON. Mr. President, it is my understanding the effective control is still the essentiality of what the Administrator will do.

Mr. CANNON. Yes.

Mr. PEARSON. And this amendment just seeks the least burdensome procedure to get there?

Mr. CANNON. The Senator is correct.

Mr. PEARSON. I find it acceptable.

Mr. CANNON. We do not want to give the Administrator unlimited authority and let him say, "I will impose this control," if there are other controls that are effective and are less burdensome on the industry.

That is really what is intended.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I am not aware of any other amendments, but the possibility that the Senator from Massachusetts——

Mr. HARTKE. The Senator from Nevada has another amendment, Mr. President.

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON) for himself, Senator LAXALT, and Senator JOHNSTON proposes an amendment:
>
> On page 52, line 2, after "(3)" insert "in those situations where compliance with the requirements of subsection (c) (2) or (3) would present an unreasonable risk of death, serious or substantial personal injury (including illness) or serious or substantial environmental harm."

Mr. CANNON. Mr. President, in the Commerce Committee several members expressed concern that a provision in the bill authorizing the Administrator to make rules regulating chemical substances immediately effective was too broad. Efforts were made to narrow that authority to those situations where the public interest required, and an existing provision in the Administrative Procedure Act was referenced.

Unfortunately, the language in the APA is somewhat ambiguous and could be interpreted to permit the EPA Administrator to waive the due process requirements of the rulemaking provisions at whim. That certainly was not the intent.

Therefore, this amendment that is submitted is perfecting the language of section 6(d)(2) of the bill.

The perfecting language prohibits the Administrator from waiving the due process requirements of section 6 rulemaking unless compliance would present an unreasonable risk of serious or substantial injury to health or the environment. This limits the authority to put rules into effect quickly to those cases where there is real need to protect the public health or environment immediately and I think carries out better the intent of the committee and particularly my intent in offering the original amendment in committee.

I would hope that the amendment would be agreed to, Mr. President.

Mr. HARTKE. Mr. President, let me say about the amendment submitted by the Senator from Nevada that I think this amendment should be satisfactory to the committee and also to the manager of the bill. This was the heart of a lot of discussion in the Senate Commerce Committee. I think the Senator from Nevada has correctly stated the situation. We want to make sure that the Administrator has the authority; we want to make sure that due process is protected; we want to make sure that there is not an unreasonable delay in absolute prohibition in case it needs to be done.

On the other side of the coin we wanted to make sure there was not some type of arbitrary decision by the Administrator. I believe the amendment by the Senator from Nevada does carry out the intent of the committee at the time. We had long discussions about this matter. I do think possibly it could be misinterpreted or be ambiguous in the way it was originally drafted.

Mr. TUNNEY. I want to thank my friend from Indiana for that explanation. I am impressed by his comments, and by what the Senator from Nevada said.

I would like to ask the Senator from Nevada a question. What is meant by serious and substantial personal injury as it is contained here, or serious or substantial environmental harm?

Mr. CANNON. A "serious" illness would be one causing a high degree of illness to a relatively small number of people whereas a substantial illness would be one involving a lesser degree of illness but affecting a large portion of the population.

Mr. TUNNEY. I have no objections to the amendment and I am prepared to accept it. I am authorized to accept it for the minority. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TUNNEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PEARSON. Mr. President, if I could have the attention of the Senator from South Carolina, how much time will the Senator require?

Mr. THURMOND. About 10 minutes.

Mr. PEARSON. Mr. President, I yield

10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I have received numerous letters from companies operating in my State, and some out of the State, concerning this bill.

I would like to call to the attention of the Senate a few of these letters.

Certainly, I want to take every step possible to protect our people, but it appears that this bill goes further than necessary.

I have a letter in my hand from Milliken Chemicals, which I would like to read into the Record.

The Toxic Substances Control Act is probably the most serious threat the chemical industry has ever faced. This bill could require that before any chemical is sold, even in research quantities, it be subjected to all the tests required of a new drug.

The tests that could be required would easily cost $100,000 and, in many cases, much more. The authority to determine just how many tests and what tests would be run will reside with the administrator of the EPA. While it is possible that a reasonable administrator would not be too severe, it is undesirable to have the welfare of one's business hang on the whim of an administrator. Furthermore, according to the bill, any person may initiate a civil action for injunctive relief. Therefore, any manufacturer is not only at the mercy of the administrator but is also at the mercy of any citizen who has an "axe to grind".

Five reasons for you to oppose this bad piece of legislation:

1. It is unnecessary: We already have 27 health and environmental laws which cover the "toxic chemicals" that this bill would regulate.

2. It will be inflationary: It will increase the cost of production because of the severe testing required. It will reduce the number of products available and require the use of more expensive products in many cases.

3. It will stifle progress: Unnecessary restrictions will seriously hamper the flow of new products and we will be frozen into products we now have—some of which products have serious limitations and which could be improved if research and development were allowed to continue with reasonable caution.

4. It will drive industry overseas: Many companies will be forced to take their research and production to other countries where laws are less oppressive.

5. It is vague. The bill gives an EPA Administrator very broad authority with very few restrictions.

6. It probably won't work. Even one who supports the bill admits, "this bill will not, of course, catch all of the dangers. Some of the adverse effects occur in such unique circumstances or after very long times (up to 20 years in some cases) that it would be extremely difficult to diagnose their dangers. Very long-term testing would be very costly to industry and would seriously delay use of some valuable new chemicals." The logic here is inescapable.

This bill will have a serious effect throughout industry. Even those who use specialty chemicals or buy products that require specialty chemicals in their manufacture will have problems.

The large companies may be able to meet the excessive costs and red tape involved but it is bound to increase their costs. It is questionable if the small company can survive.

I appeal to you to seriously consider the reasons outlined in this letter and put the face of your office behind the effort to defeat this proposed legislation.

Sincerely,

C. M. Butler,
General Manager.

Mr. President, I have another letter here from a smaller company, the Graniteville Co. in Graniteville, S.C. It reads:

Dear Senator Thurmond: I am writing you about my deep concern over the Toxic Substances Control Bill that is presently in the final draft stage of the Senate and House Subcommittees. It is quite evident that if the Tunney Bill is passed in its present form, many chemical companies, both large and small, could possibly be out of business in short order. The textile industry has had to wrestle with many new government regulations in the last few years, many of which have been most beneficial, while others have taxed the sanity of most corporate management.

As I am sure you are aware, Graniteville Company has had a small wholly-owned subsidiary which manufactures dyes and chemicals. This Bill would require a ninety-day notice for manufacture or import of new chemicals, a ninety-day notice on change in formulations or on new uses of existing chemicals, and has broad powers to stop the manufacture of any chemical or finished product. In addition, the cost of testing each new chemical would approximate $100,000 to $300,000 and would increase the operating costs of our subsidiary by millions of dollars if this law were strictly enforced. I strongly believe that almost every business has worked closely with and survived OSHA, EPA and other government agencies, but we cannot survive if this Bill is passed and enforced in its present form.

Mr. President, those letters are typical of others I have received, and I ask unanimous consent that a number of additional letters be printed in the Record following these.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Monsanto Textiles Co.,
Greenwood, S.C., January 19, 1976.

Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: As manager of Monsanto's plant in Greenwood, I want to express my strong opposition to the all-encompassing nature of toxic substances legislation currently being considered by committees in the Congress. The bills could seriously impact 2100 people, engaged in the manufacture of nylon at our Greenwood location, plus another 278 Monsanto employes working elsewhere in South Carolina.

I do support appropriate legislation on toxic substances for the public's welfare, but the pending bills (S. 3149 and H.R. 10318) are overly burdensome to industry and detrimental to the public interest. It seems to me that this is another example of the overregulation which concerns us all today.

Specifically, the bills could impose costly and unnecessary testing requirements, on new and existing chemical substances without regard to the risk which may be involved. They also require regulations on the manufacture and use of substances, based on the mere possibility of an unreasonable risk, without requiring an economic impact statement, even though the rules could ban production, shut down plants, and terminate jobs. Uncertainty in enforcement would occur since duplicative actions by different Federal agencies are encouraged.

These defects can be corrected. A bill which meets many of these concerns has been introduced by Rep. John McCollister (H.R. 7664). I urge you to actively support legislation like the McCollister bill, and work against bills which threaten entire industries and payrolls with needless over-regulation. I hope you will also voice your concern to committee members now considering toxic substances bills.

Congratulations on again becoming a proud father. I know Nancy got first class treatment at the hospital here and your son was very photogenic!

Sincerely,

R. T. Phelps, Jr.,
Plant Manager.

Exxon Chemical Co., U.S.A.,
Summerville, S.C., January 22, 1976.

Hon. Strom Thurmond,
U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator Thurmond: As a follow-up to my telephone call of today to Mr. John Steer, I would like to set forth in somewhat more detail my company's concerns regarding the Toxic Substances Control Legislation (S. 3149) (H.R. 10318) now before the Senate (House).

We support appropriate legislation in this area but are convinced that this bill, if enacted, would be overly burdensome (particularly to the small companies which comprise the bulk of the chemical industry), would unnecessarily increase costs, would stifle innovation and, ultimately, would make the U.S. chemical industry much less competitive than its strong counterparts in Europe and Japan.

This legislation could impose costly and unnecessary testing requirements with respect to new and existing chemical substances, in many cases without regard to the relative level of risk which may be involved. It requires the promulgation of rules governing the production and use of chemical substances on the mere possibility that these substances may present an unreasonable risk. It doesn't even require the preparation of an economic impact statement although the regulations could ban the production of a chemical, shut down the plants making it or using it, and terminate the jobs involved. The bill would also create uncertainty in the enforcement of Federal laws by encouraging duplicative action by different Federal agencies and would permit the EPA to pick and choose among potentially applicable laws.

My company believes that a law as broadly drawn as this would be, giving vast powers to the Administrator of the EPA without his being required to consider and weigh the economic consequences of his actions, is neither necessary nor appropriate to control toxic substances. In our view, appropriate legislation is exemplified by H.R. 7664, which has been introduced in the current Congress by Rep. John McCollister. It is similar to a bill passed by the House in the last Congress and provides adequate means of controlling toxic substances without needless and costly overregulation I hope you will support this kind of legislation rather than S. 3149 (H.R. 10318) which could result in such adverse consequences to industry without offering added assurance of public safety.

I am attaching a summary of some of the major concerns of the chemical industry regarding the bills now before Congressional committees, as compiled by the Manufacturing Chemists Association. If you wish additional information, I'll be happy to provide it.

Sincerely yours,

J. J. Jamison.

FIRESTONE STEEL PRODUCTS CO.,
Spartanburg, S.C., January 19, 1976.
Hon. J. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Despite the firm commitment of The Firestone Tire & Rubber Company to the prevention of undue risk to human health and the environment at its manufacturing plants, I am deeply concerned about certain provisions of the toxic substances control bills currently before the Committees of the Congress.

Our company supports appropriate legislation in this area, but the pending bills (S. 3149 and H.R. 10318) are unduly burdensome to industry and could be detrimental to the public interest for the following reasons:

1. By imposition of costly and unnecessary testing requirements with respect to new and existing chemical substances, in many cases without regard to the relative level of risks which may be involved;

2. By requiring the promulgation of rules governing the production and use of chemical substances on the mere possibility that these substances may present an unreasonable risk, without recourse to an economic impact statement;

3. By creating uncertainty and duplication of Federal law enforcement under a plan which permits the EPA to pick and choose among potentially applicable statutes.

These are all correctible defects. In fact, legislation which met many of these concerns passed the House of Representatives in the last Congress. A similar bill, H.R. 7664, has been introduced in the current Congress by Rep. John McCollister. I urge Members of Congress to actively support legislation like the McCollister bill, H.R. 7664, and to work against the enactment of legislation which would threaten entire industries with needless regulation without offering added assurance of public safety.

I hope you will also voice your concern to members of the committee now considering toxic substances control bills.

Sincerely,
D. E. OLDHAM,
Plant Manager.

W. R. GRACE & CO.,
ZONOLITE,
Enoree, S.C., January 19, 1976.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SIR: As Manager of W. R. Grace & Co.'s Kearney Plant at Enoree, South Carolina, I wish to express to you my views concerning some bills now before the Congress.

Our plant produces vermiculite, and at present employs approximately 115 men and women.

Despite the firm commitment of the chemical industry to the prevention of undue risk to human health and the environment from exposure to toxic chemicals, we are deeply disturbed and concerned about the provisions of the toxic substances control bills currently under consideration by the Committees of the Congress.

We support appropriate legislation in this area, but the pending bills (S. 3149 and H.R. 10318) are overly burdensome to industry and detrimental to the public interest. They could impose costly and unnecessary testing requirements with respect to new and existing chemical substances, in many cases without regard to the relative level of risk which may be involved. They require the promulgation of rules governing the production and use of chemical substances on the mere possibility that these substances may present an unreasonable risk, and do not even require the preparation of an economic impact statement, although the regulations could ban the production of a chemical, shut down the plants making it or using it, and terminate the jobs involved. The bills would also create uncertainty in the enforcement of Federal laws by encouraging duplicative action by different Federal agencies and would permit the EPA to pick and choose among potentially applicable laws.

These are correctible defects. In fact, legislation which met many of these concerns passed the House of Representatives in the last Congress. A similar bill, H.R. 7664, has been introduced in the current Congress by Rep. John McCollister. We urge Members of Congress to actively support legislation like the McCollister bill, H.R. 7664, and to work against the enactment of legislation which would threaten entire industries with needless regulation without offering added assurance of public safety.

I hope you will also voice your concern to Members of the Committee now considering toxic substances control bills.

May I count on your help?

Yours very truly,
O. F. STEWART,
Manager.

FIBER INDUSTRIES, INC.,
January 19, 1976.
Hon. J. STROM THURMOND,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: As the Plant Manager of the Greenville Plant of Fiber Industries, Inc., situated in Greenville, S.C., I wish to follow up the conversation between Hugh Rollinson, Technical Manager and Mr. John Steer, in expressing our opposition to S. 3149, the Toxic Substances Control Bill, in its present form. This measure is now before the Senate Commerce Committee.

S. 3149 requires premarket testing and screening. I'm not opposed to this broad concept. As one well versed in the chemical industry I have consistently supported legislation that would require reasonable testing and premarket screening of chemical substances which are likely to pose a "substantial" danger to health and the environment. By "substantial" danger, I mean unreasonable risk of death or severe personal injury or illness as well as widespread or severe harm to the environment.

I am opposed to S. 3149 because I believe it would retard basic research, the development of new products and the development of new uses for existing products by requiring excessive and routine long term testing and premarket screening requirements for individual chemical substances or classes of such substances.

S. 3149 requires all new substances which *"may present"* an unreasonable risk to public health be tested and screened in accordance with E.P.A. procedures. I have learned over the years that testing for chronic effects to determine the carcinogenic potential of materials is long term taking two to four years to complete with costs from $300–$750,000.

I'm not in favor of trade-off testing at the expense of safety but I do believe that unnecessary testing and screening is not only wasteful of the valuable time of a limited number of highly qualified technicians we have in our company but wasteful of financial resources, for these activities neither contribute to protecting health or the environment and impede research and development.

The term "unreasonable risk" used throughout the bill and in my judgment is too broad and needs to be strictly defined in a meaningful way as I suggested earlier. With such a guide or standard, testing and screening would be limited to those products presenting significant risks and the likelihood of excessive and unreasonable testing would be minimized. In the same vein, it seems to me that the language *"may present"* should be changed to "present" to require action based upon fact rather than a mere possibility of fact.

I believe that toxic substances legislation should be limited to gap areas not covered by other laws. It seems to me that S. 3149 goes far beyond the gap areas and overlap laws such as the Clean Air Act and the Water Act. I feel this legislation should be operative only when a risk to health and the environment cannot be sufficiently presented or reduced by other Federal laws.

An Amendment has been offered to S. 3149. The Amendment No. 21 would permit the granting of equitable relief where there is a risk to human health without requiring proof by the plaintiff rather the burden of proof would be shifted to the defendant to demonstrate that no harm to human health exists. This seems to me to be an impossible legal and scientific burden and should be eliminated.

Any added costs from unnecessary and impractical testing requirements will be felt throughout the host of vital consumer related industries dependent upon the chemical industry for their essential raw materials. Therefore, I believe that Section 6 of S. 3149, the section which provides authority to restrict or limit manufacture and sales, should have language added to it to the effect that when regulations and other major actions are initiated under the proposed act that they be evaluated for their impact upon jobs and upon the economy.

I would welcome the opportunity to speak with you or Mr. John Steer further on this matter at your convenience. Please do not hesitate to call me if I can be of any help in this matter.

Yours sincerely,
BURTON E. CASH,
Plant Manager.

E. I. DU PONT DE
NEMOURS & COMPANY,
Florence, S.C., January 19, 1976.
Re Toxic Substances Control Legislation.
Hon. J. STROM THURMOND,
U.S. Senate,
Dirksen Office Building,
Washington, D.C.

DEAR STROM: You will recall from your visits to our plant that we employ 650 people at this location. Our product is "MYLAR"*, a tough plastic film used by the following industries: magnetic tape, electrical insulation, packaging, microfilm, engineering drawings, and laminating. Our new Plant Manager is Dr. R. D. Pruett and I am writing you at his request.

Despite the firm commitment of the chemical industry to the prevention of undue risk to human health and the environment from exposure to toxic chemicals, we are deeply disturbed and concerned about the provisions of the toxic substances control bills currently under consideration by the Committees of the Congress.

We support appropriate legislation in this area, but the pending bills (S. 3149 and H.R. 10318) are overly burdensome to industry and detrimental to the public interest. They would impose costly and unnecessary testing requirements with respect to new and existing chemical substances, in many cases without regard to the relative level of risk which may be involved. They require the promulgation of rules governing the production and use of chemical substances on the mere possibility that these substances may present an unreasonable risk, and do not even require the preparation of an economic impact statement although the regulations could ban the production of a chemical, shut down the plants making it or using it, and terminate the jobs involved. The bills would also create uncertainty in the enforcement of Federal laws by encouraging duplicative action by different Federal agencies and would permit the EPA to pick and choose among potentially applicable laws.

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*Reg. U.S. Patent Office for Du Pont's polyester film.

These are correctible defects. In fact, legislation which met many of these concerns passed the House of Representatives in the last Congress. A similar bill, H.R. 7664, has been introduced in the current Congress by Rep. John McCollister. We urge Members of Congress to actively support legislation like the McCollister bill, H.R. 7664, and to work against the enactment of legislation which would threaten entire industries with needless regulation without offering added assurance of public safety.

I hope you will also voice your concern to Members of the Committee now considering toxic substances control bills. Should you want more details on our concerns, I will supply it.

We know that we can always depend on you to take a realistic position on such issues.

Sincerely,

R. D. Pruett,
Plant Manager.
Per: M. B. Wallace, Jr.,
Employee Relations Superintendent.

Fiber Industries, Inc.,
January 19, 1976.

Hon. J. Strom Thurmond,
U.S. Senate Office Building,
Washington, D.C.

Dear Senator Thurmond: I am writing to you as Plant Manager of Fiber Industries Palmetto Plant located in Darlington County concerning certain opposition to S. 3149 (Toxic Substances Control Bill) which is now before the Senate Commerce Committee.

I am certainly in favor of sound legislation for control of toxic substances to the greatest extent possible *through existing regulatory agencies*. S. 3149 in its present form would, however, encourage duplication and uncertainty with respect to laws administered by the administrator.

The term "unreasonable risk" is used throughout the bill and seems to me to be too broad which, along with the term "may present," will very probably result in unnecessary, costly and progress-stifling requirements for testing and screening.

Any added costs from unnecessary testing requirements will be felt throughout the vital consumer-related industries such as ourselves which depend on the chemical industry for their raw materials. I believe, therefore, that Section 6 should have language to the effect that when regulations and other major actions are initiated they be evaluated for their impact on jobs and upon the economy as well as health risk.

In summary, I hope that correctable general and vague language will be changed so that unreasonable burdens are not placed where unreasonable risks do not in fact pose substantial danger.

Yours truly,

E. J. Scott,
Plant Manager.

Anderson, S.C., *March 15, 1976.*

U.S. Senator Strom Thurmond,
Senate Office Building,
Washington, D.C.

Dear Senator Thurmond: I am greatly concerned over the phenomenal growth of regulations and regulatory agencies. It appears that Congress and the President have only one approach to solving our problems as a nation and that is to create more regulations and agencies to administer these. What we need today is less rather than more governmental regulation of our business and individual lives.

As a typical citizen, it is obvious to me that Congress has put little thought into the total ramifications and consequences of a given regulation or set of regulations. In most cases an expensive, inefficient, bungling federal agency is created. Further the citizen and business in the U.S. must bear the brunt of more red tape. And in terms of business, many regulations will be indirectly responsible for the slow death of capitalism.

Specifically I am opposed to the proposed toxic substances legislation presently before Congress. There are already in excess of 25 health and environmental laws presently in effect. These laws give the federal government adequate authority to control dangerous substances.

The Environmental Protection Agency would be given near absolute control of the chemical industry. In effect making the administrator of this group a dictator over the chemical industry.

This legislation would have an inflationary impact through increased cost of goods to the consumer. It would also reduce the discovery of new chemical products. And finally, it would reduce the number of jobs available.

As one of your constituents, I would appreciate knowing your position on this proposed legislation and if you believe it will become law. Thank you for your kind indulgence.

Respectfully,

Dr. Herbert L. Whitaker, Jr.

Whitestone Chemical, a Department of BASF Wyandotte Corp.,
Spartanburg, S.C., January 19, 1976.

Hon. Strom Thurmond,
U.S. Senator, Aiken, S.C.

Dear Senator Thurmond: Whitestone Chemical, a Department of BASF-Wyandotte Corporation, is a manufacturer of specialty chemicals for the textile, paper, leather and other industries here in Spartanburg. Current employment is forty-one with an annual payroll of approximately $500,000. Whitestone is a significant contributor to the economic well-being of the Spartanburg area.

My company is firmly committed to the prevention of undue risk to human health and the environment from exposure to toxic chemicals. We are, however, deeply disturbed and concerned about the provisions of certain toxic substances control legislation, S. 3149 and H.R. 10318, currently under consideration by the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee.

Review of the controls now in existence on toxic substances does convince us that some additional legislation is appropriate. However, S. 3149 and H.R. 10318 represent, in our opinion, legislative overkill. We believe they go far beyond what is required to provide reasonable protection to chemical workers, consumers and the general public and would burden all of these groups with costly and unnecessary testing requirements with respect to existing and new chemical substances. These bills lack standards for exercising good judgment as to the relative level of risk that may be involved; rather, they would condemn all chemicals without regard to historic data, the relative level of risk that may be involved or the economic impact that would result. Appropriate legislation must provide for taking the economic impact into account because the cost of complying with the legislation will fall on consumers and the general public and our country in total.

As stated previously, we do believe that some further legislation is required and H.R. 7664 introduced into the current Congress by Representative John McCollister would accomplish what we believe is needed. H.R. 7664 would provide necessary protection at reasonable cost. We urge you to support actively the McCollister bill and to oppose S. 3149 and H.R. 10318.

Even though Whitestone is a department of BASF-Wyandotte Corporation, we operate as a separate company and therefore must pay our own way. The economic impact associated with the toxic substances control bills could be extremely detrimental to the continued operation of Whitestone, and many other small chemical companies in South Carolina.

If you share our concerns, we hope that you will voice them to the members of the Senate Committee now considering toxic substances control bills. We would appreciate learning your position on this legislation.

Sincerely,

T. W. Beal,
Plant Manager.

Ashland Chemical Co.,
Division of Ashland Oil, Inc.,
Charlotte, N.C., February 2, 1976.

Hon. Strom Thurmond,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Thurmond: As regional manager of the Industrial Chemicals & Solvents Division of Ashland Chemical Company stationed in Charlotte, N.C., I am very much concerned about the so-called Toxic Substance Control measures, which are currently under consideration by the Committees of the Congress. Included under my jurisdiction are the two Carolinas; and the havoc that would be raised, not only in this area but industry-wide if the bills in question should be enacted into law, would be monumental. Once again, therefore, I am seeking your assistance.

Despite the firm commitment of the chemical industry to the prevention of undue risk to human health and the environment from exposure to toxic chemicals—and we support legislation in this area—the provisions of the pending measures, Senate bill 3149, introduced by Senator John Tunney, and House Bill 10318, introduced by Representative Bob Eckhardt, are objectionable as being both overly burdensome to industry and detrimental to the public interest.

These bills could impose costly and unnecessary testing requirements with respect to the new and existing chemical substances, in many cases without regard to the relative level of risk which may be involved. They require the promulgation of rules governing the production and use of chemical substances on the mere possibility that these substances may present an unreasonable risk, and do not even require the preparation of an economic impact statement although the regulations could ban the production of a chemical, shut down the plants making it or using it, and terminate the jobs involved. The bills also would create uncertainty in the enforcement of Federal laws by encouraging duplicative action by different Federal agencies and would permit the EPA to pick and choose among potentially applicable laws.

These are correctible defects. In fact, legislation which met many of these concerns passed the House of Representatives in the last Congress. A similar bill, H.R. 7664, has been introduced in the current Congress by Rep. John McCollister. We urge Members of

Congress to support actively legislation like the McCollister bill, H.R. 7664, and to work against the enactment of legislation which would threaten entire industries with needless regulation without offering added assurance of public safety.

I hope that you also will voice your concern to Members of the Committee now considering toxic substances control bills.

I am enclosing a summary of industry's concerns over the aforementioned bills which provides more detailed information with respect to such concerns. In addition, I shall be most happy to discuss them with you at any time you are in this area.

Thank you for your assistance.

Sincerely yours,

A. T. MORPHY.

SUMMARY OF SOME OF THE MAJOR CONCERNS WITH TOXIC SUBSTANCES CONTROL LEGISLATION

(H.R. 10318 (Eckhardt)—S. 3149 (Tunney)

1. *Testing.* The Administrator of EPA should be permitted to require testing of chemical substances where necessary to protect against an unreasonable risk to health or the environment. However, both H.R. 10318 and S. 3149 require the Administrator to order testing if a chemical substance "may present" an unreasonable risk, and they thus threaten unnecessary testing which is both costly and time-consuming. Both bills contain undesirable provisions for establishment of extensive public priority lists of suspect chemicals, without appropriate procedural safeguards, which arbitrarily restrict the EPA Administrator's authority and could unfairly damage or destroy a product's trade acceptance and reputation before recommended testing could be completed.

2. *Premarket Screening.* Premarket screening, which for all practical purposes results in an EPA premarket approval, should be limited to those chemicals that are likely to pose a substantial danger—an unreasonable risk of death or severe or widespread harm. S. 3149 requires premarket screening—and threatens indefinite delay of new product development and marketing—with respect to all new chemical substances and significant new uses of established substances, regardless of the risks involved. Under H.R. 10318 screening may be required on the mere possibility of an unreasonable risk.

3. *Regulation.* A sound, balanced approach to controlling toxic substances should require that regulatory actions be aimed at the distribution and use of those substances only when necessary to prevent an unreasonable risk to health or the environment. Both pending bills require the promulgation of such rules on the mere possibility that a chemical substance presents or contributes to an unreasonable risk. Under certain circumstances they can be put into effect immediately. They do not require the Administrator to use the least burdensome regulation required to prevent the risk. They do not require the Administrator to include an economic impact statement in any such rule, even if the rule bans the production of a substance, shuts down the plant making and using it, and ends the jobs involved in manufacture and use.

4. *Unreasonable Risk.* S. 3149 attempts a legislative definition of "unreasonable risk to human health and the environment." The definition proposed by S. 3149 is both vague and unworkable. H.R. 10318 also unwisely and unnecessarily broadens the concept of unreasonable risk by making the concept applicable even if the substances make a minute contribution to any risk, even a naturally occurring one.

5. *Imminent Hazard.* Of serious concern is that the total impact of Sections 4, 5, 6, and 7 of H.R. 10318 and S. 3149 is in the direction of a zero risk concept, that is, protection of society from *all possible* health hazards. Yet all social progress is predicated on some level of risk assumption. Our good quality and style of life today would never have been achieved by a no-risk approach to progress. What is essential is that we avoid unreasonable risks and we support legislation to this effect—not legislation reflecting a zero risk, no-hazard approach.

6. *Reporting.* Toxic substances control legislation should empower the regulatory agency to obtain information from manufacturers as necessary to facilitate its administration of the law, but avoid overburdensome paperwork requirements. S. 3149 unreasonably requires both the immediate transmittal to EPA and the retention of all health and safety data, including any letters from anyone concerning an alleged adverse effect of a chemical substance and any report of illness allegedly related to chemical exposure. H.R. 10318 imposes criminal penalties for violation of the impossibly vague requirement that a manufacturer immediately inform the Administrator about any information which "reasonably supports" the conclusion that a chemical substance presents an unreasonable risk. In addition, both bills require manufacturers to prepare a list of all chemical studies conducted by or for them, regardless of their need, significance, or validity.

7. *Citizen Petitions.* H.R. 10318 and S. 3149 give any person the right to petition the Administrator to commence a proceeding for the issuance of a rule under various sections of the legislation, and, more remarkably, give any such person the right to a *de novo* trial in Federal district court if the Administrator does not accede to the request. This means that every Federal court could be turned into a mini-EPA, forced to hear complex, scientific testimony presented by any person with whom EPA disagreed. This is not judicial review of agency action; there is no weight given to the Administrator's discretion or expertise. Moreover, the very existence of this type review threat further erodes the likelihood that the Administrator will be in a position to make reasonable and prudent judgements in discretionary areas—judgments which are essential in administering any of the proposed bills because of the severe economic and social consequences that could result from any significant action.

8. *Overlapping Laws.* Sound legislation should provide for the control of toxic substances, to the greatest extent possible, through existing regulatory authorities. H.R. 10318 and S. 3149 would create uncertainty in the enforcement of Federal laws by encouraging duplicative action by Federal agencies and, with respect to laws administered by the Administrator, would permit the Administrator to "pick and choose" among potentially applicable laws.

9. *Scope and Coverage.* Both S. 3149 and H.R. 10318 are, at least potentially, applicable to every chemical substance and every mixture of chemical substances. Since *every* substance, product or commodity is covered by the bill's definitions of chemical substance and mixture, great care must be taken in drafting the legislation to prevent its unfair and unnecessary application to chemicals that do not present significant risks. Neither bill reflects this care. It is unnecessary for the legislation to cover mixtures of chemical substances, research and test chemicals, reagents, or catalysts, unless they pose an unreasonable risk.

10. *Confidential Industry Data.* To prevent unfair competitive damage, the legislation must provide careful protection against public disclosure for confidential company data with respect to production, chemical composition, marketing plans and other business secrets.

11. All of the above concerns are correctable defects. In fact, legislation which met many of these concerns passed the House of Representatives in the last Congress. A similar bill, H.R. 7664, has been introduced in the current Congress by Rep. John McCollister. We urge Members of Congress to actively support legislation like the McCollister bill, H.R. 7664, and to work against the enactment of legislation which would threaten entire industries with needless regulation without offering added assurance of public safety.

Mr. THURMOND. I wish to say too that I think the administration's position on this bill is a sound position. This is the administration's position:

> While the Administration has taken the lead since 1971 in urging legislation to control toxic substances, it strongly opposes enactment of this bill.
>
> S. 3149 unnecessarily overburdens both the regulatory agency and the regulated industry by:
>
> Requiring premarket notification on all new substances regardless of whether or not they are even potentially toxic.
>
> Requiring the regulatory agency to make detailed findings even on those substances which it feels need no regulation or further testing.
>
> The bill does not adequately protect against the unauthorized release of trade secrets and proprietary information. Such protection is critical to the effective work of the toxic controlled program. Also provides for citizen petition, citizen civil action against nondiscretionary acts, and compensation for attorney's fees.
>
> These provisions unnecessarily invite further litigation without any major benefit over the normal judicial review procedures in the legislation.

Mr. President, I think the administration is on sound ground here. As it says, the administration has taken the lead since 1971 in urging legislation to control toxic substances, but it cannot support this bill, and, in fact, strongly opposes the enactment of the bill for the reasons I have just stated.

For those reasons, Mr. President, and others I shall not take time now to mention, I shall vote against this measure. All of us have a sincere desire to protect the public from toxic chemical substances, but this legislation goes much further than prudence and the public interest require.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I make it clear that the legislation that I hope we pass in a few minutes is designed to assure that chemicals that are used in high volume are going to be tested for safety.

As a matter of fact, even low volume chemicals will be tested if there is concern as to their effect on the environment or on human health.

Section 4 states that if a chemical substance or mixture may present a significant human or environmental exposure because of production in substantial quantities or for other reasons, and the substance or mixture may perhaps present an adverse effect on health and the environment, the Administrator must require testing if there are insufficient data or experience to reasonably determine or predict the effects and testing is necessary to develop the data.

So there should be no question in anyone's mind that, where we have substantial amounts of a chemical being produced and being disbursed throughout the environment, the Administrator is required to order testing where he does not have adequate data to be able to make up his mind on the evidence and where the testing is needed to develop the data.

I think it is very clear.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield to the Senator from Indiana on this point.

Mr. HARTKE. Mr. President, I quite agree with the Senator from California. There is no question that one of the problems we have in American society today is that we are increasingly using a volume of chemicals which is absolutely going to astonish most individuals and as far as the people are concerned provide for them an exposure which might not otherwise be dangerous but simply by the sheer volume of the chemical exposure present a hazard to the health or to the environment of this Nation.

The Administrator is required to go ahead and deal with this type of situation. In other words, he will, in fact, address himself to this potential hazard and will make the necessary testing, necessary reports, and necessary findings.

I point out that generally speaking we will have in here, as I understand it only one reference to specific items. Generally speaking, I think it is better legislative procedure to keep legislation general and not deal with specific items. For that reason, I think we are justified in not putting an amendment in this bill which really specifically deals with high volume chemicals. On the other hand, I think that if it is omission as a specific amendment could be interpreted as an indication by Congress that we did not intend to cover such items, then I would feel compelled to make sure that we had an amendment of that nature in the bill. But as has been indicated by the Senator from California, under section 4, the testing of chemical substances and mixtures, it is fully anticipated that the Environmental Protection Administrator will require that testing and will act accordingly.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, a question has been raised concerning the possibility that a State law, a State effluent standard, for example, established pursuant to the Federal Water Pollution Act would be preempted if there were in existence a toxic substance rule pertaining to the manufacture, distribution, or disposal of a chemical substance that was subject to the effluent standard. That emphatically is not the case. The State is only preempted under the bill from establishing a standard relating to the manufacture, distribution, or disposal inconsistent with the standards authorized under section 6. State effluent or air pollution standards pursuant to Federal law would not be preempted by section 18.

Mr. President, I know of no other remarks that Senators wish to make on this bill.

I state, finally, before the vote, that I personally am deeply appreciative of the help that I received during the course of this past year and past several years from Mike Brownlee, Lynn Sutcliffe, Dan Jaffe, Mike Pertschuk, and more recently John Young, Mal Sterrett, and Gerry Kovach on this legislation.

I think it is fair to say that if it had not been for the diligence and intelligence of these staff members this bill would not be here in the form that it is. It is terribly complicated legislation, and they approached it with persistence and diligence. I am very appreciative, and I think that all of us in the Senate and in the country ought to be appreciative that they lent their energies to this task.

Mr. PEARSON. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Connecticut (Mr. Weicker).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Weicker

I believe the Toxic Substance Control Act is the most important piece of environmental legislation to come before the Congress this year. It places the responsibility of proving the safety of new chemicals right where it belongs—on the government. With 500 to 1,000 new chemical substances being introduced into commercial use every year, the government must have the power to act. The illness and death attributed to kepone, vinyl chloride, asbestos, and other chemicals is tragic evidence that that power does not now exist.

I have long supported and I am a cosponsor of this measure which places as one of our greatest environmental priorities the protection of the public against the health hazards associated with dangerous chemicals.

LEGISLATIVE HISTORY TO ACCOMPANY MODEL ATTORNEYS' FEES PROVISION

Mr. TUNNEY. Mr. President, attorneys' fees provisions appear in a number of places throughout this legislation. These provisions allow a court to award costs of suit and reasonable fees where "appropriate." These provisions are very important to the proper vindication of rights under this legislation. I would like to offer some explanation which in my opinion will clarify the operation of those provisions.

Until recently, the courts often provided for effective actions by private citizens through the award of costs and fees, even in the absence of specific statutory authorization, under the "private attorney general" rationale. However, in a recent decision, Alyeska Pipeline Service Co. against Wilderness Society, the Supreme Court held that—

> tion in the court for making those awards attorneys' fees to petitioners who sought to vindicate "important statutory rights for all citizens" . . . unless there was specific statutory authorization for such awards . . . The circumstances under which attorneys' fees are to be awarded and the range of discretion in the court for making those awards are matters for Congress to determine.

In light of that decision, the fees and costs provisions of this legislation follow the precedent of over 50 Federal statutes in permitting fee shifting by the courts.

This provision would allow an award of fees and costs to any party when "appropriate," a word which should be liberally construed to effectuate the purposes of this act. Thus, in typical circumstances, the court should follow prevailing case law which holds that a successful plaintiff "should ordinarily recover an attorneys' fee unless special circumstances would render such an award unjust." *Newman* v. *Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402 (1968) (per curiam). "Plaintiff" in this sense is used to mean the parties seeking to enforce the rights granted by this section and can include an intervenor, or a defendant in some cases. See e.g., *Shelley* v. *Kramer*, 334 U.S. 1 (1948).

In exceptional circumstances, fees and costs might also be awarded to defendants where they must "defend against unreasonable, frivolous, meritless or vexations actions * * *" *United States Steel Corp.* v. *United States*, 385 F. Supp. 346, 348 (W.D. Pa. 1974). Where plaintiff's procedeing is brought in good faith or on the advice of component counsel, fees and costs would ordinarily be denied to a prevailing defendant. *Richardson* v. *Hotel Corporation of America*, 332 F. Supp. 519 (E.D. La. 1971), aff'd 468 F. 2d 951 (5th Cir. 1972). The standard for awarding fees and costs to a prevailing defendant is not the same as for a plaintiff because, if it were, the risk, to the average citizen of bringing suit under this section would be so great it would discourage such suits.

Fees and costs would be awarded to a "successful plaintiff" under this provision where there was a final court order granting the relief requested by plaintiffs, or as a matter of interim relief pending the outcome of the case. The provision does not require the entry of a final order before fees or costs may be recovered. See *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 606 (1974); *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375 (1970). Such awards are especially important where a party has prevailed on an important matter in the course of the litigation even where he does not ultimately prevail on all the issues. See *Bradley*, supra, and *Mills*, supra. For purposes of the award of fees and costs, it is "appropriate" to make awards where the parties have vindicated rights through a consent judgment, or without formally obtaining relief, or where such award is in the public interest without regard to the outcome of the litigation. *Kopet* v. *Esquire Realty Co.*, 523 F. 2d 1005 (2d Cir. 1975); *Parham* v. *Southwestern Bell Telephone Co.*, 433 F. 2d 421 (8th Cir. 1970); *Richards* v. *Griffith Rubber Mills*, 300 F. Supp. 338 (D. Ore. 1969); *Thomas* v. *Honeybrook Mints, Inc.*, 428 F. 2d 981 (3d Cir. 1970).

By specifying a general rule for the amount of fees to be awarded, this provision requires the method of calculating fees be no different than that now being utilized in other fields of law as, for example, antitrust and securities regulation litigation. The "actual time" spent is that reasonably calculated to advance the client's interest, *The Stanford Daily* v. *Zurcher*, 64 F.R.D. 680 (N.D. Cal. 1974), and the amount can be adjusted for factors including, inter alia, the contingent nature of the success or the quality of the work performed, *Lindy Bros. Builders* v. *American Radiator & Standard Sanitary Corp.*, 487 F. 2d 161 (3d Cir. 1973), on remand, 382 F. Supp. 999 (E.D. Pa. 1974), or benefits to the public from the suit. *Davis* v. *County of Los Angeles*, 8 E.P.D. 9444 (C.D. Cal. 1974). Fees should not be reduced merely because the attorneys are salaried employees of public interest and/or foundation-funded law firms.

Fees and costs awarded under this provision may be assessed against the United States, including any of its agencies and officers acting in an official capacity, the same as against a private party.

Finally, since expert witnesses are often needed to make an adequate presentation to a court, such fees are also provided for in this statute. They would be in addition to those now provided in 28 U.S.C. 1920 and 28 U.S.C. 1821.

The policy outlined above should apply to the procedures under section 23 to the extent applicable.

Mr. NELSON. Mr. President, I would like to take this opportunity to elaborate and clarify an important point contained in the committee's report. On page 26, in reference to amendment No. 21 sponsored by the Senator from Michigan (Mr. GARY HART), the Senator from Illinois (Mr. PERCY), and myself, regarding the burden of proof a plaintiff must sustain in order to gain relief under the laws administered by the Environmental Protection Agency, the report states:

> The amendment attempted to rectify a three judge panel decision of the Eighth Circuit concerning relief set against the Reserve Mining Company. As decisions reached by the Courts in subsequent appeals is consistent with the requirements of Amendment No. 21 the amendment is unnecessary.

I believe it has for many years been the law that courts have full authority to protect human life and health when either is seriously threatened. However, some courts have expressed doubts about what the law is, and how it should be interpreted. I believe that any court of law or any governmental administrator when faced with a real risk of serious injury to human beings would have to make sure that the danger is removed.

Amendment No. 21 is aimed at those situations where some evidence of a serious potential hazard exists but the evidence is inconclusive. Amendment No. 21 would prohibit a court from denying equitable relief under any act administered by the EPA where a risk to public health is alleged and established.

Amendment No. 21 attempts to clarify existing law. This legislation does not change the law. If enacted, this legislation would only clarify and reinforce existing tenets of congressional policy and existing law, that precautionary action shall be taken to prevent perceived harm where evidence of a serious potential hazard exists but the conclusive scientific evidence is not yet available.

On the merits of the issue, I agree with the committee that the law is clear and that the Eighth Circuit Court of Appeals sitting en banc, in reviewing the Reserve Mining Co. decision, has indeed rectified many of the mistakes contained in the original eighth circuit decision. However, subsequent court decisions reveal that the courts are still not clear as to Congress intent as well as what the law requires in these most serious environmental health cases.

On March 19, 1976, the U.S. Court of Appeals for the District of Columbia sitting en banc affirmed an Environmental Protection Agency regulation regarding the reduction of lead levels in gasoline. The 5 to 4 decision deals specifically with the question addressed by amendment No. 21.

The Administrator determined that leaded gasoline automotive emissions present "a significant risk of harm" to the public health * * *. Based on this finding, the Administrator issued the regulations requiring annual reductions in the lead content of leaded gasoline.

The Court held that—

> In applying the "will endanger" standard the Administrator is authorized to assess risks of harm and, where the risk is found significant, to act to prevent the harm from happening. Thus the regulatory action under this precautionary statute should precede, and hopefully prevent, the perceived harm.

The petitioners in this case argued that the "will endanger" standard requires a high quantum of factual proof, proof of actual harm rather than a "significant risk of harm." The Court stated:

> It is our view that the Administrator's interpretation of the standard is the correct one.

The court held—

> The meaning of "endanger" is not disputed. Case law and dictionary definition agree that endanger means something less than actual harm. When one is endangered, harm is threatened; no actual injury need ever occur . . . a statute allowing for regulation of the force in danger is, necessarily, a precautionary statute. Regulatory action may be taken before the threatened harm occurs; indeed, the very existence of such precautionary legislation would seem to demand that regulatory action precede, and, optimally, prevent, the perceived threat.

The Court specifically refers to the en banc decision of *Reserve Mining Company* v. *EPA*, 514 F. 2d 492 (8th Cir. 1975) (en banc), in interpreting the meaning of "endanger." The eighth circuit's unanimous conclusion fully supports the District of Columbia Appeals Court standard of "will endanger." The eighth circuit held:

> In the context of this environmental legislation, we believe that Congress used the term "endangering" in a precautionary or preventative sense, and, therefore, evidence of potential harm as well as actual harm comes within the preview of that term.
>
> (See *Reserve Mining Company vs. EPA*, supra, 514 F. 2d at 528)

The District of Columbia Appeals Circuit Court held:

> . . . based on the meaning of the statute . . . and the Reserve Mining precedent, we conclude that the "will endanger" standard is precautionary in nature and does not require proof of actual harm before regulation is appropriate.

In the Reserve Mining case, the eighth circuit allowed regulation of the daily discharge of 67,000 tons of taconite tailings into Lake Superior on only a "reasonable" or "potential" showing of danger, hardly the probable finding urged by the petitioners in the EPA lead case as a proper reading of the "endanger" language. The appeals court states:

> Reserve Mining convincingly demonstrates that the magnitude of risks sufficient to justify regulation is inversely proportional to the harm to be avoided.

Judge Wright, in commenting for the majority of the D.C. circuit regarding lead levels in gasoline, correctly has viewed the congressional policy and has correctly interpreted the law in determining what standard of evidence is required before appropriate relief can be granted. However, Judge Wilkey, who joined with Judges Tamm and Robb in dissent, raised questions regarding what standard of proof is required before relief is granted. His dissent states, in part:

> For the Court's opinion to hold that the Administrator can dispense with proof of actual harm, i.e., what has occurred in the past, and can nevertheless somehow determine potential harm, is to grant the plaintiffs license for the wildest speculation we have always under scientific conclusions, above all, demand that proof by events recorded and observed.

Apparently, the law is not sufficiently clear if our judges on the District of Columbia Circuit Court of Appeals specifically disagreed with what burden of proof must be sustained by a plaintiff before appropriate relief may be granted. However clear the Eighth Circuit Court of Appeals and the majority of the District Court of Appeals and Members of Congress believe the law is, as currently drafted, clarification would be helpful. Amendment No. 21 is not as unnecessary as the committee report would indicate. There is question in the judiciary as to what the law is. I believe the law is clear, and I hope this legislative history will help the courts in understanidng Congress intent to protect the public's health before significant harm can occur. At the very least, the dissent by Judge Wright and others reemphasize the merit in enacting legislation to make Congress intent unmistakably clear.

Mr. President, I ask unanimous consent that a Library of Congress American Law Division opinion on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 25, 1976.

To: Hon. GAYLORD NELSON, Attention: Jeff Nedelman.
From: American Law Division.
Subject: Reserve Mining and Ethyl Corporation Interpretation of Findings Necessary to Show That a Pollutant is "Endangering" the Public Health.

This responds to your request for an analysis of the above-noted subject as interpreted by the decision of the United States Court of Appeals for the Eighth Circuit in *Reserve Mining Co.* v. *United States,* 417 F.2d 492 (8th Cir. 1975) (*en banc*), and by the decision of the United States Court of Appeals for the District of Columbia in *Ethyl Corp.* v. *Environmental Protection Agency,* No. 73–2205, March 19, 1976 (en banc). The 5-judge panel of the Eighth Circuit was unanimous in its decision; the 9-judge panel of the District of Columbia Circuit was split 5 to 4.

Both the 8th Circuit and the majority of the D.C. Circuit agreed that the concept of endangerment includes a precautionary or preventive element, so that proof of *potential* harm can establish endangerment, and it is not necessary to establish that *actual* harm has already occurred. In this context the language at issue in *Reserve Mining* was former section 1160(g) (1) of Title 33, U.S.C. Code, predicating an abatement action on a finding that "pollution of water . . . is endangering the health or welfare . . ." At issue in *Ethyl Corp.* was section 211 of the Clean Air Act, 42 U.S.C. § 1857f–6c, permitting the Administrator of EPA to regulate a fuel additive "if any emission products of such fuel or fuel additive will endanger the public health or welfare."

The following analysis appears in the 8th Circuit's opinion in *Reserve Mining,* 514 F.2d at 528–529;

[20] An action under the FWPCA requires proof of an additional element. The United States must establish that the water pollution which is violative of state water quality standards is also "endangering the health or welfare of persons." § 1160(g) (1).

In this review, we must determine whether "endangering" within the meaning of the FWPCA encompasses the potential of harm to public health in the degree shown here.

[21.22] Provisions of the FWPCA are aimed at the prevention as well as the cure of water pollution. The initial sentence of the FWPCA reads:

The purpose of this chapter is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution. [33 U.S.C. § 1151(a).]

The term "endangering," as used by Congress in § 1160(g) (1), connotes a lesser risk of harm than the phrase "imminent and substantial endangerment to the health of persons" as used by Congress in the 1972 amendments to the FWPCA. 33 U.S.C. § 1364 (Supp. 1974).

[23] In the context of this environmental legislation, we believe that Congress used the term "endangering" in a precautionary or preventive sense, and therefore, evidences of potential harm as well as actual harm comes within the purview of that term. We are fortified in this view by the flexible provisions for injunctive relief which permit a court "to enter such judgment and orders enforcing such judgment as the public interest and the equities of the case may require." 33 U.S.C. § 1160(c) (5).

We deem pertinent the interpretation given to the term "endanger" by Judge Wright of the District of Columbia Circuit in his analysis of the congressional use of the word "endanger" in the context of a provision of the Clean Air Act. 42 U.S.C. § 1857f–6c(c) (1) (A) (1970).

Judge Wright observed:

The meaning of "endanger" is, I hope, beyond dispute. Case law and dictionary definition agree that endanger means something less than actual harm. When one is endangered, harm is *threatened;* no actual injury need ever occur.

* * * * *

"Endanger," * * * is not a standard prone to factual proof alone. Danger is a risk, and so can only be decided by assessment of risks.

* * * * *

[A] risk may be assessed from suspected, but not completely substantiated, relationships between facts, from trends among facts, from theoretical projections from imperfect data, or from probative preliminary data not yet certifiable as "fact." [Ethyl Corporation v. Environmental Protection Agency, —— F. 2d ——, (D.C. Cir., Jan. 28, 1975) (dissenting op. at ——, ————) (emphasis in original) (footnote omitted).]

Although the Supreme Court has not interpreted the concept of "endangering" in the context of an environmental lawsuit, it has emphasized the importance of giving environmental legislation a "common-sense" interpretation. Mr. Justice Douglas, writing for the Court, said:

"This case comes to us at a time in the Nation's history when there is greater concern than ever over pollution—one of the main threats to our free-flowing rivers and to our lakes as well * * * [W]hatever may be said of the rule of strict construction, it cannot provide a substitute for common sense, precedent, and legislative history." [United States v. Standard Oil Co., 384 U.S. 224, 225, 86 S.Ct. 1427, 1428, 16 L.Ed.2d 492 (1966).]

See United States v. Republic Steel Corp., 362 U.S. 482, 491, 80 S.Ct. 884, 4 L.Ed.2d 903 (1960).

[24, 25] The record shows that Reserve is discharging a substance into Lake Superior waters which under an acceptable but unproved medical theory may be considered as carcinogenic. As previously discussed, this discharge gives rise to a reasonable medical concern over the public health. We sustain the district court's determination that Reserve's discharge into Lake Superior constitutes pollution of waters "endangering the health or welfare of persons" within the terms of §§ 1160(c) (5) and (g) (1) of the Federal Water Pollution Control Act and is subject to abatement.

The *Ethyl Corp.* decision cited in *Reserve Mining, supra,* was vacated. Judge Wright, whose dissent in the vacated decision is quoted above in *Reserve Mining,* wrote the majority opinion in the March 19, 1976 *en banc* decision in *Ethyl Corp.* Judge Wright reiterated his previous analysis, and provided the following summary (slip opinion, pp. 53–56):

These cases, recognizing as they do the developing nature of environmental medicine, fortify our analysis of the "will endanger" language of Section 211. Where a statute is precautionary in nature, the evidence difficult to come by, uncertain, or conflicting because it is on the frontiers of scientific knowledge, the regulations designed to protect the public health, and the decision that of an expert administrator, we will not demand rigorous step-by-step proof of cause and effect. Such proof may be impossible to obtain if the precautionary purpose of the statute is to be served. Of course, we are not suggesting that the Administrator has the power to act on hunches or wild guesses. *Amoco* makes it quite clear that his conclusions must be rationally justified. *Amoco Oil Co.* v. *EPA, supra,* 163 U.S. App. D.C. at 180–181, 501 F.2d at 740–741. However, we do hold that in such cases the Administrator may assess risks. He must take account of available facts, of course, but his inquiry does not end there. The Administrator may apply his expertise to draw conclusions from suspected, but not completely substantiated, relationships between facts, from trends among facts, from theoretical projections from imperfect data, from probative preliminary data not yet certifiable as "fact," and the like. We believe that a conclusion so drawn—a risk assessment—may, if rational, form the basis for health-related regulations under the "will endanger" language of Section 211.[1]

All of this is not to say that Congress left the Administrator free to set policy of his own terms. To the contrary, the policy guidelines are largely set, both in the statutory term "will endanger" and in the relationship of that term to other sections of the Clean Air Act. These prescriptions direct the Administrator's actions. Operating within the prescribed guidelines, he must consider all the information available to him. Some of the information will be factual, but much of it will be more speculative—scientific estimates and "guesstimates" of probable harm, hypotheses based on still-developing data, etc. Ultimately he must act, in part on "factual issues," but largely "on choices of policy, on an assessment of risks, [and] on predictions dealing with matters on the frontiers of scientific knowledge * * *." *Amoco Oil Co.* v. *EPA, supra,* 163 U.S. App. D.C. at 181, 501 F.2d at 741. A standard of danger—fear of uncertain or unknown harm—contemplates no more.

That other interpretations of the "will endanger" or "endangering" standard are possible is apparent from a reading of Judge Wilkey's dissent in Ethyl Corp., joined by Judges Tamm and Robb. Judge Wilkey rejected the distinction "between actual and potential between past and future harm," and continued:

The Administrator is dealing with a *continuing situation.* If there can be found potential harm from lead in exhaust emissions, the best (and only convincing) proof of such potential harm is what has occurred in the past (either in 50 years of practical usage or in laboratory experimentation), from which the Administrator can logically deduce that the same factors will produce the same harm in the future. For the court's opinion to hold that the Administrator can dispense with proof of actual harm, *i.e.,* what has occurred in the past, and can nevertheless somehow determine *potential* harm, is to grant the plainest license for the wildest speculation. We have always thought scientific conclusions, above all, demanded proof by events recorded and observed.

The court's second asserted dichotomy, risks versus facts, is equally indefensible in logic. All true risk assessment is based on fact and nothing else. Those professional risk-assessors, the professional sports gambling fraternity, would smile at any other theory. To the extent that hunch and intui-

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Footnotes at end of article.

tion enter into any final decision, these are separate factors outside of any scientific risk calculation.

Our colleagues apparently find it necessary to legitimatize the Administrator playing hunches. They assert, "Danger is a risk, and so must be decided by assessment of risk *as well as* by proof of facts." Of course the Administrator assesses risk—from the facts as he knows them. The question here is how much he knows. To the extent the agency found it necessary to make an "assessment of risk as well as [rely on] proof of facts," the agency was frankly just speculating. No reviewing court can countenance this. If such agency decision is not "arbitrary and capricious," what decision could be? It is precisely a devotion of *facts*, not hunches, that distinguishes the professionals from the amateurs in assessing risks; we deem the Administrator to have been intended by Congress to be a "professional."

GEORGE COSTELLO,
Legislative Attorney.

FOOTNOTE

[1] It bears emphasis that what is herein described as "assessment of risk" is neither unprecedented nor unique to this area of law. To the contrary, assessment of risk is a normal part of judicial and administrative fact-finding. Thus EPA is not attempting to expand its powers; rather, petitioners seek to constrict the usual flexibility of the fact-finding process. Petitioners argue that the Administrator must decide that lead emissions "will endanger" the public health solely on "facts," or, in the words of the division majority, by a "chain of scientific facts or reasoning leading (the Administrator) ineluctably to this conclusion * * *." Division op. at 59. Petitioners demand sole reliance on *scientific* facts on evidence that reputable scientific techniques certify as certain. Typically, a scientist will not so certify evidence unless the probability of error, by standard statistical measurement, is less than 5%. That is, scientific fact is at least 95% certain.

Such certainty has never characterized the judicial or the administrative process. It may be that the "beyond a reasonable doubt" standard of criminal law demands 95% certainty. *Cf. McGill* v. *United States*, 121 U.S. App.D.C. 179, 185 n.6, 348 F.2d 791, 797 n.6 (1965). But the standard of ordinary civil litigation, a preponderance of the evidence, demands only 51% certainty. A jury may weight conflicting evidence and certify as adjudicative (although not scientific) fact that which it believes is more likely than not. Since *Reserve Mining* was adjudicated in court, this standard applied to the court's fact-finding. Inherently, such a standard is flexible; inherently, it allows the fact-finder to assess risks, to measure probalities, to make subjective judgments. Nonetheless, the ultimate finding will be treated, at law, as fact and will be affirmed if based on substantial evidence, or, if made by a judge, not clearly erroneous.

The standard before administrative agencies is no less flexible. Agencies are not limited to scientific fact, to 95% certainties. Rather, they have at least the same fact-finding powers as a jury, particularly when, as here, they are engaged in rule-making.

Looking to the future, and commanded by Congress to make policy, a rule-making agency necessarily deals less with "evidentiary" disputes than with normative conflicts, projections from imperfect data, experiments and simulations, educated predictions, differing assessments of possible risks, and the like.

Amoco Oil Co. v. *EPA, supra* note 2, 163 U.S. App.D.C. at 175, 501 F.2d at 735. An agency's finding of fact differs from that of a jury or trial judge primarily in that it is accorded more deference by a reviewing court. *See* note 74 *infra*. Thus, as a matter of administrative law, the Administrator found *as fact* that lead emissions "will endanger" the public health. That in so doing he did not have to rely solely on proved scientific fact is inherent in the requirements of legal fact-finding. Petitioners' assertions of the need to rely on "fact" confuse the two terminologies. We must deal with the terminology of law, not science. At law, unless the administrative or judicial task is peculiarly factual in nature, or Congress expressly commands a more rigorous finding, *see* 21 U.S.C. § 355(d); *cf.* pages 43–45 *supra*, assessment of risks as herein described typifies both the administrative and the judicial fact-finding function, and is not the novel or unprecedented theory that petitioners contend.

Mr. BAKER. Mr. President, American society has just recently realized the pervasiveness of the toxic chemical problem. The public is being exposed to substances that are potentially toxic during normal daily activities.

Our present pollution laws do not guard effectively against this threat until these substances are already present in the environment. Government regulatory agencies in general have no authority to prevent exposure until after the substances have been manufactured and are in use.

The measure before us today is an innovative legislative effort to evaluate and control these substances before they have a chance to become a problem.

The bill provides a mechanism to evaluate these elements prior to production, thus halting the chain of events before it is started. It is hoped that this preventive action will yield an opportunity to the consumer, who has no resources to judge the long-range consequences of these chemicals. This creates a mechanism to sort out the risks and benefits of these substances before harmful exposure.

But while this regulatory approach is generally sound, it carries with it the potential for excessive administrative regulation and delay. It is imperative that this legislation not become a tool for causing unnecessary redtape for industry or government.

The premarket screening process, which is the key to this bill, should not be used to cause unnecessary extensive testing in advance of commercial production, preventing production of many needed products. This creates a heavy responsibility on those who administer this act. Care must be taken to assure that the responsibility is carried out with fairness, not an overzealous use of administrative powers.

Mr. PASTORE. Vote.

The PRESIDING OFFICER (Mr. GARY HART). Is all time yielded back?

Mr. TUNNEY. I yield back the remainder of my time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), and the Senator from Iowa (Mr. CULVER) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY), and the Senator from Louisiana (Mr. LONG) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Vermont (Mr. LEAHY), the Senator from New Mexico (Mr. MONTOYA) and the Senator from Iowa (Mr. CULVER) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas **60**, nays 13, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—60

Abourezk
Allen
Baker
Beall
Biden
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Griffin
Hart, Gary
Hartke
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Magnuson
Mansfield
McClellan
McGovern
Metcalf
Mondale
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Tunney
Williams

NAYS—13

Bartlett
Bellmon
Curtis
Domenici
Garn
Goldwater
Hansen
Helms
McClure
Symington
Thurmond
Tower
Young

NOT VOTING—27

Bayh
Bentsen
Brock
Brooke
Buckley
Culver
Eastland
Fannin
Gravel
Hart, Philip A.
Haskell
Hatfield
Hruska
Inouye
Jackson
Laxalt
Leahy
Long
Mathias
McGee
McIntyre
Montoya
Moss
Scott, Hugh
Scott, William L.
Stennis
Weicker

So the bill (S. 3149) was passed, as follows:

S. 3149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Toxic Substances Control Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings, policy, and intent.
Sec. 3. Definitions and exclusions.
Sec. 4. Testing of chemical substances and mixtures.
Sec. 5. Premarket notification of chemical substances.
Sec. 6. Regulation of chemical substances and mixtures.
Sec. 7. Imminent hazards.
Sec. 8. Reporting and retention of information.
Sec. 9. Relationship to other Federal laws.
Sec. 10. Research, collection, dissemination, and utilization data.
Sec. 11. Inspections and subpoenas.
Sec. 12. Export.
Sec. 13. Entry into customs territory of the United States.
Sec. 14. Disclosure of data.
Sec. 15. Prohibited acts.
Sec. 16. Penalties.
Sec. 17. Specific enforcement and seizure.
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Sec. 19. Judicial review.
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Sec. 21. Citizen's petitions.
Sec. 22. National defense waiver.
Sec. 23. Employee protection.
Sec. 24. Studies.
Sec. 25. State demonstration programs.
Sec. 26. Administration of Act.
Sec. 27. Authorization for appropriations.
Sec. 28. Annual report.

FINDINGS, POLICY, AND INTEREST

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) humans and the environment are being exposed to a large number of chemical substances and mixtures each year;

(2) among the many chemical substances and mixtures constantly being developed and produced are some whose manufacture, processing, distribution in commerce, use, or disposal may cause or contribute to an unreasonable risk of injury to health or the environment; and

(3) the effective regulation of such chemical substances and mixtures in interstate commerce necessitates the regulation of such chemical substances and mixtures in intrastate commerce as well.

(b) POLICY.—It is the policy of the United States that—

(1) adequate data should be developed with respect to chemical substances and mixtures concerning their effect on human health and the environment and that such data development should be the responsibility of those who manufacture and those who process such chemical substances and mixtures;

(2) adequate authority should exist to regulate chemical substances and mixtures which cause or contribute to an unreasonable risk of injury to health or the environment, and to take action with respect to chemical substances and mixtures which are imminent hazards; and

(3) authority over chemical substances and mixtures should be exercised in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances and mixtures do not cause or contribute to an unreasonable risk of injury to health or the environment.

(c) INTENT OF CONGRESS.—It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that the Administrator shall consider the environmental, economic, and social impact of any action the Administrator takes or proposes to take under this Act.

DEFINITIONS AND EXCLUSIONS

SEC. 3. (a) DEFINITIONS.—As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) (A) Except as provided in subparagraph (B), the term "chemical substance" means—

(i) any organic or inorganic substance of a particular molecular identity including a combination of such substance occurring as a result of a chemical reaction, or

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) any mixture,

(ii) any pesticide (as defined in the Federal Insecticide, Fungicide and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide,

(iii) tobacco or any tobacco product,

(iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act).

(v) any article which, if sold by the manufacturer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

(vi) (A) any substance found in or on any food, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured or distributed in commerce for use in or on any such food, drug, cosmetic, or device, or (B) any substance produced for research and development purposes and intended only for use in or on any such food, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(3) The term "commerce" means trade, traffic, or transportation (A) between a place in a State and any place outside of such State, or (B) which affects such trade, traffic or transportation.

(4) The term "distribute in commerce" or "distribution in commerce" which used to describe an action taken with respect to a chemical substance, or the introduction or delivery for introduction into commerce of, the substance or mixture; or to hold, or the holding of, the substance or mixture after its introduction into commerce.

(5) The term "environment" includes humans and their environment, water, atmosphere, and land and the interrelationships which exist among and between these.

(6) The term "health and safety study" means any study of any effects of a chemical substance or mixture on health or the environment, including epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

(7) The term "manufacture" means to import, produce, or manufacture for commercial purposes.

(8) The term "mixture" means any combination of two or more chemical substances if such substances (A) do not react chemically with each other and if the combination is not the result of a chemical reaction, or (B) occur in nature.

(9) The term "new chemical substance" means any chemical substance not included in the chemical substance list compiled and published under section 8(b).

(10) The term "process" means the preparation of a chemical substance or mixture for distribution in commerce—

(A) in the same form or physical state, or in a different form or physical state from that in which it was received by the person making such preparation, or

(B) as part of an article containing the chemical substance or mixture.

(11) The term "processor" means any person who processes a chemical substance or mixture.

(12) The term "standards for the development of test data" means a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) type of information relating to toxicity, persistence, and other characteristics which relate to effects on health and the environment

for which test data for a chemical substance or mixture are to be developed and any analysis that is to be performed on such data, and

(B) to the extent necessary to assure that such data are reliable and adequate, the manner in which such data are to be developed, the specification of any test protocol or methodology to be employed in the development of data respecting such effects and characteristics, and such other requirements as are necessary to provide such assurance.

(13) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(14) The term "United States", when used in the geographic sense, means all the States.

(15) The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or to the environment taking into account the economic, social, and environmental costs and benefits of the use of any chemical substance.

(b) EXCLUSIONS.—The Administrator may exclude from coverage of this Act or any provision of this Act any chemical substance or mixture if the Administrator determines, by rule, that such substance or mixture does not present an unreasonable risk of injury to health or the environment, except that any such exclusion shall not apply to section 7 or 8(e). Any such rule shall (A) be promulgated pursuant to the procedures specified in section 6(c) (2), (3), (4), and (5) and (B) may be modified, amended, or revoked in accordance with the requirements of this subsection and pursuant to the procedures specified in such section 6(c) (2), (3), (4), and (5).

TESTING OF CHEMICAL SUBSTANCES AND MIXTURES

SEC. 4. (a) TESTING REQUIREMENTS.—If the Administrator finds that—

(1) (A) (i) the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture may present an unreasonable risk of injury to health or the environment, or (ii) (I) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture may present significant human or environmental exposure because it

is or will be produced in substantial quantities or for other reasons, and (II) that such substance or mixture may perhaps present an adverse effect on health or the environment.

(B) there are insufficient data or experience upon which the effects of such manufacture, processing, distribution in commerce, use, or disposal on health or the environment can reasonably be determined or predicted, and

(C) testing of such substance or mixture with respect to such effects is necessary to develop such data; and

(2) in the case of a mixture, the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing chemical substances which compromise the mixture;

the Administrator shall by rule require that testing be conducted on such substance or mixture to develop data with respect to the health and environmental effects for which there is an insufficiency of data or experience and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture does or does not cause or contribute to an unreasonable risk of injury to health or the environment. In requiring tests under this subsection, the Administrator shall consider the reasonably ascertainable costs and other burdens associated with conducting such tests in light of the possible risks of injury to health or the environment and shall publish the same in the Federal Register. The finding in paragraph (1)(A)(ii)(II) shall be presumed if the Administrator has no reliable data or experience available to him concerning the chemical substance or mixture. The finding in paragraph (1)(A)(ii)(II) shall not be subject to judicial review on any ground other than the fact that such finding was not made.

(b)(1) TESTING REQUIREMENT RULE.—A rule under subsection (a) requiring the testing of a chemical substance or mixture shall include—

(A) identification of the substance or mixture for which testing is required,

(B) standards for the development of test data for such substance or mixture, and

(C) with respect to chemical substances which are not new chemical substances a specification of the period (which period may not be of unreasonable duration) within which the persons required to conduct the testing shall submit to the Administrator data developed in accordance with the standards referred to in subparagraph (B). Such a rule may require the submission of preliminary data during the period prescribed under subparagraph (C).

(2)(A) The health and environmental effects for which standards for the development of test data may be prescribed include carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects, and any other effect which may cause or contribute to an unreasonable risk of injury to health or the environment, and the characteristics of chemical substances and mixtures for which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may cause or contribute to such a risk of injury. The methodologies that may be prescribed in such standards include epidemiology, serial, or hierarchical tests; in vitro tests; and whole animal tests.

(B) From time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the standards for development of data prescribed in rules under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such standards.

(3)(A) A rule under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B) to conduct tests and submit data on such substance or mixture, except that the Administrator may permit two or more of such persons to designate one such person or a qualified third party to conduct such tests and submit such data on behalf of the persons making the designation.

(B) The following persons shall be required to conduct tests and submit data on a chemical substance or mixture subject to a rule under subsection (a):

(i) Each person who manufacturers or intends to manufacture such substance or mixture if the Administrator made a finding described in subsection (a)(1)(B) with respect to the manufacture of the substance or mixture which such person is engaged in or intends to engage in.

(ii) Each person who processes or intends to process such substance or mixture if the Administrator made a finding described in subsection (a)(1)(B) with respect to the processing of the substance which such person is engaged in or intends to engage in.

(iii) Each person who manufactures or processes or intends to manufacture or process such substance or mixture if, with respect to the distribution in commerce, disposal or use of such substance or mixture manufactured or processed or to be manufactured or processed by such person, the Administrator made a finding described in subsection (a)(1)(B).

(4) Rules issued under subsection (a) (and any amendment thereto or repeal thereof) shall be promulgated pursuant to section 553 of title 5, United States Code, except that in promulgating, amending, or repealing any such rule (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; and (B) a transcript shall be made of any oral presentation.

(c) EXEMPTION.—(1) Any person required by a rule under subsection (a) to conduct tests and submit data on a chemical substance or mixture may apply to the Administrator (in such form and manner as the Administrator shall prescribe) for an exemption from such requirement.

(2) If, upon receipt of an application under paragraph (1), the Administrator determines that—

(A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator in accordance with a rule under subsection (a) or for which data is being developed pursuant to such a rule, and

(B) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with such rule or which is being developed pursuant to such rule,

the Administrator shall exempt, in accordance with paragraph (3) or (4), the applicant from conducting tests and submitting data on such substance or mixture.

(3)(A) If the exemption of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the existence of previously submitted test data and if such exemption is granted during the reimbursement period for such test data (as prescribed by subparagraph (B)), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted such test data, for a portion of the costs incurred by such person in complying with the requirement to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on competition within the chemical industry and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph for purposes of judicial review shall be considered final agency action.

(B) For purposes of subparagraph (A), the reimbursement period for any test data for a chemical substance or mixture is a period—

(i) beginning on the date such data was submitted in accordance with a rule promulgated under subsection (a), and

(ii) ending—

(I) two years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(4)(A) If the exemption of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the fact that test data is being developed by one or more persons pursuant to a rule promulgated under subsection (a), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall issue an order to the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to each such person who is developing such test data, for a portion of the costs incurred by each such person in complying with such rule, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to the costs of complying with such rule, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on competition within the chemical industry and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph for purposes of judicial review shall be considered final agency action.

(B) If an exemption is granted on the basis of the fact that one or more persons are developing test data pursuant to a rule promulgated under subsection (a) and if after such exemption is granted the Administrator determines that no such person has complied with such rule, the Administrator shall (i) after providing written notice to the person who holds such exemption and an opportunity for a hearing, by order terminate such exemption, and (ii) notify in writing such person of the requirements of the rule with respect to which such exemption was granted.

(5) If a person provides reimbursement pursuant to an order issued under paragraph (3)(A) or (4)(A) in connection with an exemption from a rule promulgated under subsection (a), such person may, subject to section 14, have access to test data the submission or development of which was the basis for such exemption.

(d) Notice.—Upon the receipt of any test data pursuant to a rule under subsection (a), the Administrator shall (subject to section 14) publish a notice of the receipt of such data in the Federal Register and make the data available to the public within 15 days of receipt. Each such notice shall (1) identify the chemical substance or mixture for which data have been received; (2) list the uses or intended uses of such substance or mixture and the information required by the applicable standards for the development of test data; and (3) describe the nature of the test data developed.

(e) Priority List.—(1)(A) There is established a committee to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule under subsection (a). In making such a determination with respect to any chemical substance or mixture, the committee shall consider all relevant factors, including—

(i) the quantities in which the substance or mixture is or will be manufactured,

(ii) the quantities in which the substance or mixture enters or will enter the environment,

(iii) the number of persons who are or will be exposed to the substance or mixture in their places of employment and the duration of such exposure,

(iv) the extent to which humans are or will be exposed to the substance or mixture,

(v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to cause or contribute to an unreasonable risk to health or the environment,

(vi) the existence of data concerning the effects of the substance or mixture on health or the environment, and

(vii) the extent to which testing of the substance or mixture may result in the development of data upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted.

The recommendations of the committee shall be in the form of a list of chemical substances and mixtures which shall be listed, either by individual substance or mixture or by groups of substances or mixtures, in the order in which the committee determines the Administrator should take action under subsection (a) with respect to the substances and mixtures. The committee shall give priority attention in establishing such list to those chemical substances and mixtures which are known or are suspected of causing or contributing to (i) cancer, (ii) gene mutations, or (iii) birth defects.

(B) As soon as practicable but not later than nine months after the date of the enactment of this Act, the committee shall publish in the Federal Register the list required by subparagraph (A) together with the reasons for the committee's inclusion of each chemical substance or mixture on the list. At least every 6 months after the publication of the list pursuant to the preceding sentence, the committee shall make such revisions in the list as it determines to be necessary and shall publish the list in the Federal Register with the committee's revisions (if any) and the reasons for the revisions. Within the 12-month period beginning on the date of the inclusion of a chemical substance or mixture on such a list the Administrator shall with respect to such chemical substance or mixture either (i) initiate a rulemaking proceeding under section 4(a) or (ii) if such a proceeding is not initiated within such period, publish in the Federal Register the Administrator's reasons for not initiating such a proceeding.

(C) The Administrator may promulgate a rule under subsection (a) with respect to a chemical substance or mixture (i) which is not contained on a list published under this subsection or (ii) whether or the Administrator has published in the Federal Register reasons for not initiating a proceeding under subparagraph (B).

(2) (A) The committee established by paragraph (1) (A) shall consist of seven members as follows:

(i) One member (or designee of the member) appointed from the Department of Commerce by the Secretary.

(ii) One member (or designee of the member) appointed from the Environmental Protection Agency by the Administrator.

(iii) One member (or designee of the member) appointed by the Secretary of Labor from officers of the Department of Labor engaged in the Secretary's activities under the Occupational Safety and Health Act of 1970.

(iv) One member (or designee of the member) appointed from the Council on Environmental Quality by the Chairman of the Council.

(v) One member (or designee of the member) appointed from the National Institute for Occupational Safety and Health by the Director of the Institute.

(vi) One member (or the designee of the member) appointed from the National Institute of Environmental Health Sciences by the Director of the Institute.

(vii) One member (or designee of the member) appointed from the National Cancer Institute by the Director of the Institute.

(viii) One member (or designee of the member) appointed from the National Science Foundation by the Director of the Foundation.

A member may designate an individual to serve on the member's behalf only with the approval of the applicable appointing authority and only if the individual is from the entity from which the member was appointed. A vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(B) (i) The term of office of a member of the committee is 4 years, except that of the members first appointed, four members shall have initial terms of 2 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. If any member of the committee leaves the office or entity from which the member was appointed, such member's term of office shall be terminated and the member's position shall be considered as being vacant. A member may serve after the expiration of the member's term of office until a successor has taken office. Members may be reappointed.

(ii) Initial appointments to the committee shall be made not later than the 60th day after the date of the enactment of this Act. Not later than the 90th day after such date of enactment the members of the committee shall hold a meeting for the selection of a chairman from among their number and to determine, by lot, the four members who shall have initial terms of 2 years.

(C) (i) No member of the committee, or designee of such member, shall accept employment or compensation from any person subject to any requirement of this Act, or rules issued thereunder, for a period of at least 24 months after termination of employment with such agency.

(ii) No person, while serving as a member of such committee, or designee of such member, may own any stocks or bonds, or have any pecuniary interest in any firm, association, or corporation engaged in the manufacture, processing, or distribution of any chemical substance or mixture subject to the provisions of this Act.

(iii) The Administrator or the Attorney General bring an action in the appropriate district court of the United States to restrain any violations of this subparagraph.

(D) The Administrator shall provide the committee such administrative and staff support services as may be necessary for the committee to carry out its functions under this subsection.

(f) Required Actions.—(1) Upon the re-receipt of (A) any test data required to be submitted under this section or under section 5, or (B) any other information available to the Administrator which indicates that a chemical substance or mixture has the potential, at levels for which human exposure exists or may exist and with appropriate safety margins, to induce in human beings (1) cancer, (2) gene mutations, or (3) birth defects, the Administrator shall take appropriate action under section 5(e), 6(a), or 7, within 180 days after the receipt of such data or information to limit exposure of human beings with respect to such substance or mixture, or he shall publish in the Federal Register his findings that no unreasonable risk of injury is presented and reasons therefor. Any such finding under this subsection that no unreasonable risk is presented shall be reviewable in accordance with chapter 7 of title 5, United States Code.

(2) Nothing contained in this subsection shall require the Administrator to take action under section 5(e), 6(a), or 7, or publish his reasons for failing to take such action, until 2 years after the date of enactment of this Act.

PREMARKET NOTIFICATION OF CHEMICAL SUBSTANCES

Sec. 5. (a) General.—(1) Commencing 1 year and 30 days after the date of enactment of this Act, a manufacturer shall notify the Administrator, who shall notify the public as required in subsection (c), of any planned manufacture of a new chemical substance, at least 90 days prior to the commencement of such manufacture. Such notice to the Administrator shall be accompanied by all pertinent information referred to in section 8 (a)(2), whether or not the Administrator has required the submission thereof under section 8(a)(2), except that with respect to the information referred to under section 8 (a)(2)(E), such manufacturer may submit a description of such information, as defined by the Administrator, by rule.

(2) The Administrator shall give priority attention to a chemical substance with respect to which information is received indicating that serious economic or other hardships are likely to result if there is any delay in manufacture. If the Administrator finds that such a substance does not present an unreasonable risk to human health and the environment, he may reduce the number of days, after submission of such information, during which manufacture may not occur. The Administrator shall promptly publish (subject to section 14) his findings and the basis therefor in the Federal Register.

(b) Submission of Data.—Any manufacturer of a new chemical substance that is covered by section 4(a) shall submit to the Administrator (in addition to the information required in subsection (a)) the data developed in accordance with such requirement at least 90 days prior to such manufacture, and the Administrator shall make it publicly available in accordance with subsection (c).

(c) Data Availability.—Within 15 days after receipt, the Administrator shall promptly publish in the Federal Register (subject to section 14) the identity of each chemical substance for which a notice has been received under subsection (a) or (b), the intended use or distribution of such substance, and a statement that the data and other information is available. The 90 days referred to in subsections (a) and (b) shall begin upon publication under this subsection in the Federal Register.

(d) EXTENSION.—The Administrator may extend, for an additional period beyond the 90-day period referred to in subsection (a) or (b), the date after which a new chemical substance may be manufactured. Such additional period may not exceed 90 days and shall not be imposed except for good cause shown. Notice of any such extension, and the reasons therefor, shall be published (subject to section 14) in the Federal Register. Such an extension shall constitute a final action for purposes of judicial review.

(e) ORDERS.—(1)(A) If the Administrator finds, during the 90-day period referred to in subsection (a) or (b) or during any extension thereof, with respect to any new chemical substance for which notification is required under this section—

(i) that such new chemical substance is covered by a test requirement under section 4(a), but that such requirement requires additions or revisions with respect to such substance; or

(ii) that such new chemical substance is not covered by such a requirement under section 4(a), but that such requirement should be established;

he shall issue an order in accordance with this subsection. Such an order shall appropriately prohibit or restrict the manufacture, processing, distribution in commerce, use, or disposal of such new chemical substance pending the completion of a rulemaking proceeding under section 4(a) and the submission of any data required thereunder, as described under subparagraph (B); shall contain a proposed rule under section 4(a); and shall be immediately effective.

(B) Upon the issuance of any order under subparagraph (A), the Administrator shall proceed with a rulemaking procedure as expeditiously as practicable under section 4 (a) and in accordance with subparagraph (C). During the course of, or upon the completion of, such rulemaking, the Administrator shall, if necessary, appropriately modify or rescind any order issued under subparagraph (A). If any testing requirements are established as a result of such rulemaking, any provision of such order restricting the manufacture, processing, distribution in commerce, use, or disposal of such substance shall remain in effect, unless modified or rescinded, pending the submission of such data to the Administrator and the completion of procedures described in subsection (b) or any extension imposed under subsection (d).

(C) If the Administrator issues an order under subparagraph (A), the Administrator shall provide interested persons reasonable opportunity, in accordance with section 4(b) (4) to make presentations and submissions with respect to such order. If such presentation or submission is requested, the Administrator shall comply within 30 days from the date such request is made unless the Administrator and the person making the request agree upon a later date. Within 10 days after such presentations and submission are concluded, the Administrator shall consider such presentations and submissions and affirm, modify, or revoke such order.

(2)(A) If the Administrator finds, during the 90-day period referred to in subsection (a) or (b) or during any extension thereof, with respect to any new chemical substance for which notification is required under this section, that a rule is appropriate under section 6(a), he shall issue an order in accordance with this subsection. Such an order shall appropriately prescribe such requirements as are authorized under section 6(a); shall contain a proposed rule under section 6(a); and shall be immediately effective.

(B) Upon the issuance of any order under subparagraph (A), the Administrator shall proceed with a rulemaking procedure as expeditiously as practicable under section 6(a) and in accordance with subparagraph (C). During the course of, or upon the completion of such rulemaking, the Administrator shall, if necessary, appropriately modify or rescind any order issued under subparagraph (A).

(C) If the Administrator issues an order under subparagraph (A), the Administrator shall provide interested persons reasonable opportunity, in accordance with section 6(c) (2) and (3) for an informal hearing with respect to such order. If such hearing is requested, the Administrator shall comply within 30 days from the date such request is made unless the Administrator and the person making the request agree upon a later date. Within 10 days after such hearing is concluded, the Administrator shall consider the information presented at such hearing and affirm, modify, or revoke such order.

(f) STATEMENT OF REASONS FOR NOT TAKING ACTION.—Prior to the expiration of 90 days after the date of publication under subsection (c), of data and information with respect to a new chemical substance, or prior to the expiration of such period as extended under subsection (d), the Administrator shall publish a statement of his reasons in the Federal Register, if he decides not to take action under subsection (e) or section 7 with respect to such chemical substance during such period. Manufacture may commence following publication of the Administrator's statement. The Administrator's failure to issue such an order under subsection (e) or take action under section 7 is an action subject to judicial review in accordance with section 19. Nothing in this subsection prohibits the Administrator from—

(1) promulgating a rule pursuant to section 6 or 4, with respect to such a substance, after such manufacture has commenced;

(2) taking action against any chemical substance which is found to be an imminent hazard pursuant to section 7; or

(3) taking any other action authorized by this Act.

(g) EXEMPTION.—(1) The Administrator may upon application (made in such form and manner as the Administrator may prescribe) exempt any person from the requirement of subsection (b) or (h) to submit data for a chemical substance or mixture. If, upon receipt of an application under the preceding sentence, the Administrator determines that—

(A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator in accordance with subsection (b) or (h), and

(B) submission of data by the applicant with respect to such substance would be duplicative of data which has been submitted to the Administrator in accordance with such subsection,

the Administrator shall exempt the applicant from submitting such data with respect to such substance. No exemption granted under this subparagraph with respect to the submission of data for a chemical substance or mixture may take effect before the beginning of the reimbursement period applicable to such data.

(2) If the Administrator, under paragraph (1), exempts any person from submitting under subsection (b) or (h) data for a chemical substance or mixture because of the existence of previously submitted data and if such exemption is granted during the reimbursement period for such data, then (unless such person and the persons referred to in subparagraphs (A) and (B) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under the rules of the Administrator)—

(A) to the person who previously submitted the data on which the exemption was based, for a portion of the costs incurred by such person in complying with the requirement under subsection (b) or (h) to submit such data, and

(B) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in subparagraphs (A) and (B) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consulting with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on competition within the chemical industry and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of this paragraph, the reimbursement period for any previously submitted data for a chemical substance or mixture is a period—

(A) beginning on the date of the termination of the prohibition, imposed under this section, on the manufacture or processing of such substance by the person who submitted such data to the Administrator, and

(B) ending—

(i) two years after the date referred to in subparagraph (A), or

(ii) at the expiration of a period which begins on the date referred to in subparagraph (A) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(h) SIGNIFICANT NEW USE.—(1) Within 6 months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, establish criteria defining a significant new distribution in commerce, use, or disposal of a chemical substance. In establishing such criteria, the Administrator shall take into account—

(A) projected volume of production;

(B) projected category or categories of uses;

(C) projected increase in magnitude and duration of human and environmental exposure;

(D) route or routes of exposure of human beings or of the environment that are attributable to such significant new use; and

(E) the human health and environmental effects thereof.

(2) A chemical substance may not be manufactured or processed for a distribution in commerce, use, or disposal that is identified by the Administrator, in a rule, as a significant new distribution in commerce, use, or disposal, unless, at least 90 days prior to such manufacture or processing, the person intending to manufacture or process such substance for such distribution in commerce, use, or disposal submits a notice of his intention to do so and any data required to be developed under section 4(a) to the Administrator. Any such use of such substance shall be subject to all of the provisions of this section.

(i) SPECIAL EXEMPTION.—The Administrator may, upon application and by rule, exempt any person from the foregoing requirements of this section—

(1) for the purpose of permitting such person to manufacture, process, distribute in commerce, use, or dispose of a new chemical substance to which a rule under section (a) is applicable for test marketing purposes or specially limited purposes (A) upon a showing by such person that such activity will not cause or contribute to an unreasonable risk of injury to human health or the environment, and (B) under such restrictions as the Administrator considers appropriate; or

(2) to the extent that such person manufactures chemical substances which are intermediate reaction products formed during the manufacture of other chemical substances and for which there is no exposure to human beings or the environment.

(j) MIXTURES.—The Administrator is authorized to specify any mixture which shall be subject to the provisions of this section.

(k) EXPERIMENTATION.—The requirements of subsections (a), (b), and (h) do not apply to any chemical substance which is manufactured or intended to be manufactured only in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis, including such research or analysis for the development of a product, except that the Administrator may, by rule, include such chemical substances upon a finding that the manufacture, processing, distribution in commerce, use, or disposal of such chemical substances may cause or contribute to an unreasonable risk of injury to human health or the environment.

REGULATION OF CHEMICAL SUBSTANCES AND MIXTURES

SEC. 6. (a) SCOPE OF REGULATION.—(1) If the Administrator finds that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture presents or is likely to present an unreasonable risk of injury to health or the environment, the Administrator shall by rule apply to such substance or mixture one or more of the following requirements as is necessary to adequately protect against such risk using the least burdensome of effective controls:

(A) A requirement prohibiting processing or distribution in commerce of such substance or mixture or limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

(B) A requirement—

(I) prohibiting the manufacture, processing or distribution in commerce of such substance or mixture for (i) a particular use or particular uses or (ii) a particular use or particular uses in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or

(II) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or particular uses or (ii) a particular use or particular uses in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.

(C) A requirement regulating the manner or method of use or disposal of such substance or mixture.

(D) A requirement that such substance or mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its distribution in commerce, use, or disposal. The form and content of such warnings and instructions shall be prescribed by the Administrator.

(E) A requirement directing manufacturers or processors of such substance or mixture (i) to give notice of such unreasonable risk of injury to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance or mixture whichever the person to which the requirement is directed elects.

(F) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of this subsection.

A requirement imposed under this subsection may be limited in application to specified geographic areas.

(2) Rules limiting the amount of a chemical substance or mixture which may be manufactured, processed, or distributed in commerce, or limiting the amount of such substance which may be manufactured, processed, or distributed for a particular use, shall, upon the petition of any manufacturer, processor, or distributor in commerce thereof, provide for assigning production, processing, and distribution quotas, to the extent necessary, with respect to the chemical substance involved. The permissible quota for each person who applies to manufacture, process, or import such substance or to engage in its distribution in commerce shall be determined in accordance with fair and equitable criteria which the Secretary of Commerce, in consultation with the Administrator and the Attorney General, shall prescribe by rule. Such criteria shall take into account all relevant factors, including (A) effects on competition; (B) the market shares, productive capacity, and product and raw material inventories of the precursors of the chemical substance or mixture of persons applying for quotas; (C) emergency conditions; and (D) effects on technological innovation.

(3) (A) Prior to the issuance of a quota under paragraph (2), the persons who apply under such paragraph shall attempt to develop a voluntary agreement limiting the quantities which each such person shall manufacture, process, import, or distribute. The availability of immunity from the antitrust laws with respect to the development of such voluntary agreement shall be limited to the provisions of this subsection.

(B) The Secretary of Commerce, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission, shall prescribe, by rule, standards and procedures by which persons seeking to manufacture, process, import, or otherwise distribute a chemical substance or mixture for which limitations on quantity have been prescribed pursuant to paragraph (B) (II) of subsection (a) of this section may develop and carry out such voluntary argeements as are permissible pursuant to this subsection.

(C) The standards and procedures prescribed under subparagraph (A) shall include the following requirements:

(i) Meetings held to develop or carry out a voluntary agreement under this subsection shall permit attendance by representatives of Committees of Congress and interested persons, including all persons interested in the chemical substance or mixture involved, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Secretary of Commerce, the Attorney General, the Federal Trade Commission, the Administrator and the public; and shall be chaired by a regular full-time Federal employee.

(ii) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement under this subsection. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Secretary of Commerce and the Administrator and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code.

(D) (i) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would void or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this subsection. A voluntary agreement under this subsection may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the 20-day period prescribed under clause (ii), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, and the Secretary, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subparagraphs (F) or (I).

(ii) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented. Any such agreement shall be available for public inspection and copying, to the extent to which records or transcripts are so available as provided in the last sentence of subparagraph (C) (ii). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under clauses (iii) and (iv) of subparagraph (E).

(E) (i) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements authorized under this paragraph in order to promote competition and to prevent anticompetitive practices and effects.

(ii) In addition to any requirement specified under subparagraphs (B) and (C) of this paragraph and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements authorized pursuant to this section.

(iii) Persons developing or carrying out voluntary agreements authorized pursuant to this section shall maintain such records as are required by rules promulgated under subparagraph (B). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(iv) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal

Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this subsection.

(F) (i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement by persons engaged in the business of manufacturing, processing, or distributing such chemical substance or mixture (provided that such actions were not taken for the purpose of injuring competition) that—

(I) such actions were taken in the course of developing a voluntary agreement pursuant to this paragraph to carry out a voluntary agreement authorized and approved in accordance with this section, and

(II) such persons complied with the requirements of this paragraph and the rules promulgated hereunder.

(ii) Persons interposing the defense provided by this paragraph shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(G) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(H) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once each year a report on the impact on competition and on small business of actions authorized by this section.

(I) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken to carry out a voluntary agreement authorized and approved in accordance with this paragraph.

(J) As used in this paragraph, the term "antitrust laws" includes—

(i) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890;

(ii) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914;

(iii) the Federal Trade Commission Act;

(iv) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894; and

(v) the Act of June 19, 1936, chapter 592.

(b) QUALITY CONTROL.—(1) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance or mixture in a manner which causes the adulteration of a chemical substance or mixture—

(A) the Administrator may by order require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or mixture; and

(B) if the Administrator thereafter determines on the record, after opportunity for hearing in accordance with section 554 of title 5, United States Code, that such quality control procedures are inadequate to prevent the chemical substance or mixture from causing or contributing to such risk, the Administrator may order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy.

(2) As used in this section, a chemical substance or mixture is adulterated if the manner in which it is manufactured or processed causes it to contain a particular molecular identity, an uncombined radical, an element, or any combination thereof, which is found by the Administrator to cause or contribute to an unreasonable risk of injury to human health or the environment.

(c) PROMULGATION OF SUBSECTION (a) RULES.—(1) In promulgating any rule under subsection (a) with respect to a chemical substance or mixture, the Administrator shall consider relevant factors and make findings with respect thereto, including—

(A) the risks presented by such substance or mixture to health and the magnitude of human exposure to such substance or mixture.

(B) the risks presented by such substance or mixture to the environment and the magnitude of environmental exposure to such substance or mixture,

(C) the benefits of such substance or mixture for such use or uses and the availability of other substances or mixtures for such use or uses, and

(D) the reasonably ascertainable economic consequences of the rule, including consideration of the effect on the national economy, innovation, the environment, and public health.

Findings made under this paragraph shall be published in the Federal Register.

(2) When prescribing a rule under subsection (a) the Administrator shall proceed in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), and shall also (A) publish a notice of proposed rulemaking stating with particularity the reason for the proposed rule; (B) allow interested persons to submit written data, views, and arguments, and make all such submissions publicly available; (C) provide an opporunity for an informal hearing in accordance with paragraph (3); and (D) promulgate, if appropriate, a final rule based on the matter in the rulemaking record.

(3) The Administrator shall conduct informal hearings required by paragraph (2) (C) of this subsection in accordance with the following procedure:

(A) Subject to subparagraph (B) of this paragraph, an interested person is entitled—

(i) to present his position orally or by documentary submissions (or both), and

(ii) if the Administrator determines that there are disputed issues of material fact it is necessary to resolve, to present such rebuttal submissions and to conduct (or have conducted under subparagraph (B) (ii)) such cross-examination of persons as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to such issues.

(B) The Administrator may prescribe such rules and make such rulings concerning proceedings in such hearings to avoid unnecessary costs or delay. Such rules or rulings may include (i) imposition of reasonable time limits on each interested person's oral presentations, and (ii) requirements that any cross-examination to which a person may be entitled under subparagraph (A) be conducted by the Administrator on behalf of that person in such manner as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to disputed issues of material fact.

(C) (i) Except as provided in clause (ii), if a group of persons each of whom under subparagraphs (A) and (B) would be entitled to conduct (or have conducted) cross-examination and who are determined by the Administrator to have the same or similar interests in the proceeding cannot agree upon a single representative of such interests for purposes of cross-examination, the Administrator may make rules and rulings (I) limiting the representation of such interest for such purposes, and (II) governing the manner in which such cross-examination shall be limited.

(ii) When any person who is a member of a group with respect to which the Administrator has made a determination under clause (i) is unable to agree upon group representation with the other members of the group, then such person shall not be denied under the authority of clause (i) the opportunity to conduct (or have conducted) cross-examination as to issues affecting his particular interests if (I) he satisfies the Administrator that he has made a reasonable and good faith effort to reach agreement upon group representation with the other members of the group and (II) the Administrator determines that there are substantial and relevant issues which are not adequately presented by the group representative.

(D) A verbatim transcript shall be taken of any oral presentation, and cross-examination, in informal hearings under this subsection. Such transcript shall be available to the public.

(E) A substantive amendment to, or repeal of, a rule promulgated under subsection (a) shall be prescribed, and subject to judicial review, in the same manner as a rule prescribed under such subsection.

(4) Any rule promulgated under this section shall be judicially reviewable in accordance with section 19, except that in addition to any basis for holding unlawful or setting aside the rule under subparagraphs (A), (B), (C), or (D) of section 706(2) of title 5, United States Code, the court shall hold unlawful and shall set aside the rule if the court finds that—

(A) the Administrator's determination under paragraph (3) that the petitioner is not entitled to conduct cross-examination or make rebuttal submissions, or

(B) the Administrator's rule or ruling under paragraph (3) limiting the petitioner's cross-examination or rebuttal submissions, has precluded disclosure of disputed material facts which was necessary for fair determination by the Administrator of the rulemaking proceeding taken as a whole.

(5) (A) The Administrator may, pursuant to rules prescribed by him, provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating in a rulemaking proceeding under this section to any person (i) who has, or represents an interest (I) which would not otherwise be adequately represented in such proceeding, and (II) representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole, or (ii) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submission in such proceeding.

(B) The aggregate amount of compensation paid to all persons in any fiscal year under this subsection may not exceed $1,000,000.

(d) EFFECTIVE DATE.—(1) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which date shall be as soon as feasible.

(2) Section 553(b)(B) of title 5, United States Code, shall be applicable to rules issued under subsection (a) notwithstanding any requirement of subsection (c) (2) or (3) in those situations where compliance with the requirements of subsection (c) (2) or (3) would present an unreasonable risk of death, serious or substantial personal injury (including illness) or serious or substantial environmental harm.

(e) POLYCHLORINATED BIPHENYLS.—(1) Effective 1 year after the date of enactment of this Act, it shall be unlawful to manufacture, process, distribute in commerce, or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner, except that the Administrator may, by rule promulgated in accordance with subsection (c)(2), authorize the manufacture, processing, distribution in commerce, or use of any polychlorinated biphenyl in other than a totally enclosed manner if the Administrator finds that no unreasonable risk of injury to health or the environment is presented.

(2) Effective 2 years after the date of enactment of this Act, it shall be unlawful to manufacture any polychlorinated biphenyl, and effective 2½ years after such date, it shall be unlawful to process or distribute in commerce any polychlorinated biphenyl, except that the Administrator may authorize, by rule promulgated in accordance with subsection (c)(2), such manufacture, processing, or distribution in commerce after such time period if the Administrator finds that no unreasonable risk of injury to health or the environment is presented.

(3) Within 6 months after the date of enactment of this Act, the Administrator shall promulgate rules under subsection (a) which shall (A) prescribe methods for the disposal of polychlorinated biphenyls in accordance with the requirements of that subsection and (B) specify the manner in which polychlorinated biphenyls shall be marked with clear and adequate warnings and instructions with respect to their processing, distribution in commerce, use, or disposal. Any such rules shall be consistent with the requirements of paragraphs (1) and (2) of this subsection or rules issued thereunder.

(4) For the purposes of this subsection, the term "totally enclosed manner" means any manner which will ensure that any leakage of a polychlorinated biphenyl from its enclosure will be insignificant, as defined in rules of the Administrator.

IMMINENT HAZARDS

SEC. 7. (a) DEFINITION.—An imminent hazard shall be considered to exist when the evidence is sufficient to show that a situation exists in which the continued use of a chemical substance would be likely to result in unreasonable adverse effects on the environment or will involve an unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Public Law 91–135.

(b) ACTIONS AUTHORIZED.—The Administrator may file an action in a United States district court—

(1) against an imminently hazardous chemical substance or mixture for seizure of such substance or mixture,

(2) against any person who manufactures, processes, distributes in commerce, uses, or disposes of such substance or mixture, or

(3) against both (A) such substance or mixture and (B) such person.

An action under this subsection may be filed notwithstanding the existence of a rule under section 4(a) or 6(a) or an order under section 5(e) and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act.

(c) JURISDICTION OF COURT.—(1) The United States district court in which an action under subsection (b) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect against such unreasonable risk of death, serious illness or serious personal injury, or serious environmental harm presented by the chemical substance or mixture involved in such action.

(2) In the case of an action under subsection (b) brought against a person who manufactures, processes, distributes in commerce, uses, or disposes of a chemical substance or mixture, the relief authorized by paragraph (1) may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance or mixture known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; and (D) the replacement or repurchase of such substance or mixture.

(3) In the case of an action under subsection (b) against a chemical substance or mixture, such substance or mixture may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(d) VENUE AND CONSOLIDATION.—(1)(A) An action under subsection (b) against a person who manufactures, processes, distributes in commerce, uses, or disposes of a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, or transacts business; and process in such an action may be served on a defendant in any district in which such defendant resides or may be found. An action under subsection (b) against a chemical substance or mixture may be brought in any United States district court within the jurisdiction of which the substance or mixture is found.

(B) In determining the judicial district in which an action may be brought under subsection (b) in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpoenas requiring attendance of witnesses in an action brought under subsection (b) may run into any judicial district.

(2) Whenever proceedings under subsection (b) involving the same type of chemical substances or mixtures are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) ACTION UNDER SECTION 6.—Where appropriate, concurrently with the filing of an action under subsection (b) or as soon thereafter as may be practicable, the Administrator shall initiate a proceeding for the promulgation of a rule under section 6(a).

(f) REPRESENTATION.—*Notwithstanding* any other provision of law, in any action under subsection (b), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

REPORTING AND RETENTION OF INFORMATION

SEC. 8. (a) REPORTS.—(1) The Administrator shall promulgate rules under which—

(A) each person who manufactures or processes or proposes to manufacture or process a chemical substance shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

(ii) a chemical substance in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis, including such research or analysis for the development of a product, shall maintain records and submit to the Administrator reports but only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of the Act. For purposes of the compilation of the list of chemical substances required under subsection (b), the Administrator shall promulgate rules pursuant to this subsection not later than 180 days after the date of the enactment of this Act.

(2) The Administrator may require under paragraph (1) reporting with respect to the following:

(A) The common name, trade name, the chemical identity, and the molecular structure and identity of each chemical substance or mixture for which such a report is required, insofar as known to the person making the report or insofar as reasonably ascertainable.

(B) The categories or proposed categories of use of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainble.

(C) Reasonable estimates of the amount of each substance and mixture to be manufactured or processed and, insofar as known to the person making the report or insofar as reasonably ascertainable, a reasonable estimate of the amount of each such substance and mixture to be manufactured or processed for each of its categories or proposed categories of use.

(D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainable.

(E) All existing data concerning the environmental and health effects of such substance or mixture, insofar as known to the person making the report or are reasonably ascertainable.

(F) Estimates of the number of persons who will be exposed to such substance or mixture in their places of employment and the duration of such exposure, insofar as known to the person making the report or are reasonably ascertainable.

(b) INVENTORY.—The Administrator shall compile, keep current, and publish a list of each chemical substance or mixture which any person reports under subsection (a) or under section 5(a) is manufactured or processed in the United States. The Administrator shall first publish such a list not later than 270 days after the date of enactment of this Act. The Administrator shall not include in such list any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis, including such research or analysis for the development of a product.

(c) RECORDS.—Any person who manufactures, processes, or distributes in commerce or intends to manufacture, process, or distribute in commerce any chemical substance or mixture shall maintain records of adverse reactions to health or the environment alleged to have been caused by the substance or mixture. Records of such adverse reactions to the health of employees shall be retained for 30 years from the date such reactions were first reported to or known by the person maintaining such records; and any other record of such adverse reactions shall be retained for 5 years from the date the information contained in the records was first reported to or known by the person maintaining the records. Records under this subsection shall include records of consumer allegations of personal injury or harm to health, reports of occupational disease or injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce from any source. Upon request of an officer or employee duly designated by the Administrator, each person who is required to maintain records under this subsection shall permit the inspection of such records and shall submit copies of such records.

(d) HEALTH AND SAFETY STUDIES.—The Administrator shall promulgate rules under which the Administrator requires any person who manufactures, processes, or distributes in commerce or who proposes to manufacture, process, or distribute in commerce any chemical substance or mixture to submit to the Administrator—

(1) lists of health and safety studies conducted or initiated by or for such person with respect to such substance or mixture at any time or known to such person or are reasonably ascertainable, except that the Administrator may exclude certain types or categories of studies from the requirements of this subsection if he finds that submission of lists of such studies are unnecessary to carry out the purposes of this Act; and

(2) the Administrator may require the submission of any study contained on a list otherwise known by such person.

(e) Notice to Administrator of Unreasonable Risks.—Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture, and any liability insurer of such person, who obtains information which supports the conclusion that such substance or mixture causes or contributes to an unreasonable risk of injury to health or the environment shall immediately inform the Administrator of such risk unless such person has reason to believe that the Administrator has been adequately informed of such risk.

RELATIONSHIP TO OTHER FEDERAL LAWS

Sec. 9. (a) Laws Not Administered by the Administrator.—(1) If the Administrator has reason to believe that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture causes or contributes to, or is likely to cause or contribute to an unreasonable risk of injury to health or the environment, and determines, in his discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall request the agency which administers such law (A) to issue an order declaring whether or not the manufacture, processing, distribution in commerce, use, or disposal of such substance or mixture causes or contributes to or is likely to cause or contribute to such a risk, and (B) if the agency issues an order declaring that such manufacture, processing, distribution in commerce, use, or disposal respecting such substance or mixture causes or contributes to or is likely to cause or contribute to such a risk, to determine if such risk may be prevented or reduced to a sufficient extent by action taken under such law. Any such request shall be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. The agency receiving the request shall consider carefully all data submitted by the Administrator and other information available to it and shall issue an appropriate order upon request, and shall make any resulting determination within such reasonable time as the Administrator specifies in the request, but such time specified may not be less than 90 days from the date the request was made. The report of an agency in response to a request made under this paragraph shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the order and determination requested to be made.

(2) If the Administrator makes a request under paragraph (1) with respect to a chemical substance or mixture and the agency to which such request was made either—

(A) issues an order declaring that there is no unreasonable risk of injury to health or the environment associated with such substance or mixture, or

(B) initiates, within 90 days of the publication in the Federal Register of the report of the agency under paragraph (1) in response to such request, action under the law (or laws) administered by such agency to protect against such a risk,

the Administrator may not take any action under section 6 or 7 with respect to the risk associated with such substance or mixture. Nothing contained herein shall prevent the Administrator from (A) making any subsequent request under paragraph (1) with respect to such risks or (B) to take subsequent action under this Act with respect to such risks if the requirements of this subsection are satisfied.

(3) If the Administrator has initiated action under section 6 or 7 with respect to a risk of injury associated with a chemical substance or mixture which was the subject of a request made to an agency under paragraph (1), such agency shall before taking action under the law (or laws) administered by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

(b) Laws Administered by the Administrator.—The Administrator shall coordinate actions taken under this Act with actions taken under other Federal laws administered in whole or in part by the Administrator. The Administrator shall use the authorities contained in such other Federal laws to protect against any risk to health or the environment associated with a chemical substance or mixture unless the Administrator, in his discretion, determines that such risk may be more appropriately protected against under this Act. This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by such other Federal laws. Nothing contained in this subsection shall (1) affect any final action taken under such other Federal law, or (2) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.

(c) Occupational Safety and Health.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(d) Coordination.—In administering this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this Act while imposing the least burdens of duplicative requirements on those subject to the Act and for other purposes. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal departments, agencies, or instrumentalities, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b).

(e) Exception.—Nothing contained in this section shall limit any requirement of section 4, 5 (other than section 5(e)(2)), or 8, or rules promulgated thereunder.

RESEARCH, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA

Sec. 10. (a) Authority.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and with other heads of appropriate agencies, conduct such research and monitoring as is necessary to carry out the purposes of this Act. In accordance with such responsibilities, the Administrator shall undertake and support programs of research and monitoring of polychlorinated biphenyls to the extent necessary to develop safe methods of disposal of polychlorinated biphenyls and for the control of risks of injury to health or the environment associated with polychlorinated biphenyls.

(b) Data Systems.—(1) The Administrator shall establish, administer, and be responsible for the continuing activities of an interagency committee which will (A) design, establish, and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal agencies, and use of data submitted to the Administrator under this Act and (B) coordinate the regulation of chemical substances among Federal agencies.

(2)(A) The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate agencies, design, establish, and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other agencies with responsibilities in the area of regulation or study of chemical substances and mixtures and their effect on health or the environment.

(c) Grants and Contracts.—The Administrator, in consultation with the Secretary of Health, Education, and Welfare, is authorized to make grants and enter into contracts in order to carry out his responsibilities under this section. Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

INSPECTIONS AND SUBPOENAS

Sec. 11. (a) Inspections.—(1) For purposes of administering this Act (including any rule or order promulgated under this Act) the Administrator, or any representative of the Administrator duly designated by the Administrator, may inspect any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after distribution in commerce and any conveyance being used to transport chemical substances or mixtures in connection with distribution in commerce. Such an inspection may only be made upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(2) An inspection under paragraph (1) shall extend to all things within the premises or conveyance inspected (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of this Act applicable to the chemical substances or mixtures within such premises or conveyance have been complied with.

(b) Subpoenas.—In carrying out his or her duties under the provisions of this Act, the Administrator may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, or other information that the Administrator deems advisable. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure, or refusal of any person to obey any such order, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply therewith. The failure to obey such order of the Court is punishable by the Court as a contempt thereof.

EXPORT

Sec. 12. (a) General.—(1) Except as provided in paragraph (2) and subsection (b), this Act (other than section 8) shall not apply to any chemical substance or mixture, if—

(A) it can be shown that such substance or mixture is being manufactured, processed, sold, or held for sale, for export from the United States, unless such substance or mixture is, in fact, manufactured, processed, or distributed in commerce, for use in the United States, and

(B) such substance or mixture, when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such substance or mixture, is intended for export.

(2) Paragraph (1) shall not apply to any chemical substance or mixture if the Administrator finds that the substance or mixture will cause or contribute to an unreasonable risk of injury to the health of persons within the United States or to the environment of the United States or may cause or contribute to such risk. The Administrator may require, under section 4, testing of a chemical substance or mixture exempted from this Act by paragraph (1) to determine whether or not such substance or mixture causes or contributes to an unreasonable risk to health within the United States or to the environment of the United States.

(b) Notice.—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data (subject to section 14) submitted to the Administrator under section 4 or 5 for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted, under section 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, action, or relief.

ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES

Sec. 13. (a) General.—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) of any chemical substance or mixture offered for entry if—

(A) it fails to conform with any requirement of this Act or any rule in effect thereunder, or

(B) it is otherwise prohibited pursuant to this Act from being distributed in commerce.

(2) If a chemical substance or mixture is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such regulations as the Secretary of the Treasury may prescribe) if it has not been exported by the consignee within 90 days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance or mixture on execution of bond for the amount of the full invoice of such substance or mixture (as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance or mixture for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on such substances or mixtures which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee. Nothing contained herein shall limit any other remedy to which the United States is entitled.

(b) Rules.—The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the enforcement of subsection (a) of this section.

DISCLOSURE OF DATA

Sec. 14. Any information reported to, or otherwise obtained by, the Administrator or his repersentatives, under this Act, shall be subject to section 552 of title 5, United States Code; except that such information shall be disclosed—

(1) upon request, to officers or employees of the United States, in connection with their official duties (A) under laws protecting human health or the environment or (B) for specific law enforcement purposes;

(2) to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after the date of enactment of this Act for the performance of work in connection with this Act and under such conditions as the Administrator may specify;

(3) whenever the Administrator determines it necessary to protect human health or the environment; or

(4) to any duly authorized committee of the Congress upon written request of such committee or any chairman thereof.

PROHIBITED ACTS

Sec. 15. It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule or order promulgated under section 4, (B) any requirement prescribed by section 5 or 6, or (C) any rule or order promulgated under section 5 or 6;

(2) use or dispose of a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5 or a rule or order under section 6;

(3) fail or refuse to (A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder; or

(4) fail or refuse to permit entry or inspection as required by section 11.

PENALTIES

Sec. 16. (a) Civil.—(1) Any person who violates a provision of section 15 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall for purposes of this subsection constitute a separate violation of section 15.

(2)(A) A civil penalty for a violation of section 15 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and providing such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after a court in an action brought under paragraph (3) has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from such date) in any appropriate United States district court. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) Criminal.—(1) Any person who knowingly or willfully violates any provision of section 15 shall, in addition to or in lieu of a civil penalty which may be imposed under subsection (a) of this section for such violation, be subject upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than 1 year, or both.

(2) For purposes of paragraph (1), the term "knowingly" means having actual knowledge.

SPECIFIC ENFORCEMENT AND SEIZURE

Sec. 17. (a) Specific Enforcement.—(1) Upon application of the Administrator or the Attorney General the United States district courts shall have jurisdiction over civil actions to—

(A) restrain any violation of section 15,

(B) restrain any person from manufacturing or processing a chemical substance before the expiration of the period during which such manufacturing or processing is prohibited under section 5,

(C) restrain any person from taking any action prohibited by a requirement prescribed under section 5 or 6 or rules or orders issued thereunder or,

(D) direct any manufacturer of a chemical substance or mixture not in compliance with any order issued under section 5(e) or any rule issued under section 4 or 6, (i) to give notice of such fact to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance or mixture whichever the person to which the requirement is directed elects.

(E) compel the taking of any action required by or under this Act.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 15 occurred or wherein the defendant is found or transacts business, or

(B) in the case of any other civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpoenas requiring attendance of witnesses in any such action may run into any judicial district.

(b) SEIZURE.—Any chemical substance or mixture which was manufactured, processed, or distributed in commerce in violation of this Act or any rule or order promulgated under this Act shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or mixture in any United States district court within the jurisdiction of which such substance or mixture is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

PRE-EMPTION

SEC. 18. (a) EFFECT ON STATE LAW.—(1) Except as provided in paragraph (2), nothing in this Act shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance or mixture containing a chemical substance or mixture.

(2) Except as provided in subsection (b)—

(A) if the Administrator requires by rule promulgated under section 4 the testing of a chemical substance or mixture, no State or political subdivision may, after the effective date of such rule, require the testing of such substance or mixture for purposes similar to those for which testing is required under such rule; and

(B) if the Administrator prescribes a requirement under section 5 or 6 of this Act which is applicable to a chemical substance or mixture and which is designed to protect against a risk to health or the environment associated with such substance or mixture no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect a requirement applicable to such substance or mixture and designed to protect against such risk unless such requirement is identical to the requirement prescribed by the Administrator or unless such State or political subdivision requirement prohibits the use or distribution of such substance or mixture within the territorial jurisdiction of the State or political subdivision.

(b) EXEMPTION.—Upon application of a State or political subdivision of a State, the Administrator may by rule exempt such State or subdivision from subsection (a) (2), under such conditions as may be prescribed in such rule, if—

(1) compliance with the requirement would not cause the substance or mixture to be in violation of the applicable under this Act described in subsection (a)(2), and

(2) the State or political subdivision requirement (A) provides a significantly higher degree of protection from such risk than the requirement under this Act described in subsection (a)(2), and (B) does not, through difficulties in marketing, distribution, or other factors, unduly burden interstate commerce.

JUDICIAL REVIEW

SEC. 19. (a) GENERAL.—Not later than 60 days following the promulgation of any rule under this Act or an order under section 5(e), any interested person may file a petition for judicial review of such rule or order with the United States Court of Appeals for the District of Columbia Circuit, or for the circuit in which such person resides or in which such person's principal place of business is located. Copies of the petition shall be forthwith transmitted by the clerk of such court to the Administrator and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based such rule or order as provided in section 2112 of title 28, United States Code. For purposes of this section, the term "record" means such rule or order, any transcript required of any oral presentation; any written submission of interested parties; and any other information which the Administrator considers to be relevant to such rule or order and with respect to which the Administrator, on or before the date of the promulgation of such rule or order, published a notice in the Federal Register identifying such information.

(b) ADDITIONAL DATA.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments, and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify findings or determinations upon which the rule or order, subject to review by such court was based, or make new findings or determinations by reason of the additional data, views, or arguments so taken and shall file such modified or new findings or determinations, and the Administrator's recommendation, if any, for the modification or setting aside of such rule or order, with the return of such additional data, views, or arguments.

(c) AUTHORITY AND REVIEW STANDARD.—(1) Upon the filing of a petition under subsection (a), the court shall have jurisdiction (A) to review the rule or order involved in accordance with chapter 7 of title 5, United States Code, and (B) to grant appropriate relief, including interim relief, as provided in such chapter, except that any rule promulgated by the Administrator under section 3(b), 5, or 6 of this Act and reviewed under this section shall be affirmed, unless the rule is not supported by substantial evidence on the record taken as a whole.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule or order reviewed in accordance with this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, the United States Code.

(3) The judgment of the court in an action brought pursuant to subsection (a) may include an award of costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. The Supreme Court of the United States in its decision on a review of a judgment in such an action may provide for the award of costs in suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(d) OTHER REMEDIES.—The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZEN'S CIVIL ACTION

SEC. 20. (a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of this Act or any rule or order prescribed under section 4, 5, or 6(a) to restrain such violation, or

(2) against the Administrator to compel the Administrator to perform any act or duty under this Act which is not discretionary.

Any civil action under paragraph (1) shall be brought in the district court of the United States for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the district court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may run into any judicial district.

(b) LIMITATION.—No civil action may be commenced—

(1) under subsection (a)(1) to restrain a violation of this Act or rule or order under this Act—

(A) before the expiration of sixty days after the plaintiff has given notice of such violation (i) to the Administrator, and (ii) to the person who is alleged to have committed such violation, or

(B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or such rule, but if such action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) before the expiration of 60 days after the plantiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action or, in the case of an action under such subsection for the failure of the Administrator to file an action under section 7, before the expiration of 10 days after such notification.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(3) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or any rule under this Act or to seek any other relief.

(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant or plaintiffs and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendant or plantiff to such actions which is made to a court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant or plaintiff and in which one of such actions is pending.

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

CITIZENS' PETITIONS

SEC. 21. (a) IN GENERAL.—Any person may petition the Administrator to issue a rule or order, or to take other action under this Act, the purpose of which is to protect against an unreasonable risk of injury to health or the environment.

(b) PROCEDURES.—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that such rule, order, or other action is necessary.

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

(3) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding to comply with such petition. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial.

(4) (A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the 90-day period), the petitioner may commence a civil action in a United States district court to compel the Administrator to initiate the action requested. Any such action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after filing the petition, within 60 days after the expiration of the 90-day period.

(B) If the petitioner can demonstrate to the satisfaction of the court, by a preponderance of the evidence in a de novo proceeding before such court, that the action requested in the petition conforms to the applicable requirements of this Act, the court shall order the Administrator to initiate the action requested by the petitioner.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(5) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.

NATIONAL DEFENSE WAIVER

SEC. 22. The Administrator shall waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

EMPLOYEE PROTECTION

SEC. 23. (a) GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) REMEDY.—(1) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) ENFORCEMENT.—(1) Whenever a person has failed to comply with an order issued under subsection (b) (2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(2) Any nondiscretionary duty imposed by this section is enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

(f) EMPLOYMENT EFFECTS.—(1) The Administrator shall conduct continuing evaluations of the potential loss or shifts of employment which may result from the issuance of any rule or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such rule or order.

(2) Any employee who is discharged or whose employment is otherwise interrupted, or is threatened with discharge or such interruption, or otherwise discriminated against by any person because of the results of any rule or order issued under this Act, or a representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any interested party, shall hold a public hearing on not less than 5 days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such rule or order on employment and on any alleged discharge, interruption of employment, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be conducted in accordance with section 554 of title 5, United States Code.

(3) Upon receiving the report of any such investigation, the Administrator shall make findings of fact as to the effect of such rule or order on employment and the alleged discharge, interruption of employment, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

(4) Nothing in this subsection shall be construed to require the Administrator to modify or withdraw any rule or order issued under this Act.

STUDIES

SEC. 24. (a) INDEMNIFICATION.—The General Accounting Office shall conduct a study of all Federal laws administered by the Administrator for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any such law. The study shall—

(1) include an estimate of the probable cost of any indemnification programs which may be recommended;

(2) include an examination of all viable means of financing the cost of any recommended indemnification; and

(3) be completed and submitted to Congress not less than 2 years from the date of enactment of this Act.

(b) Classification, Storage, and Retrieval.—The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal departments or agencies, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical substances and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such substances. A report on such study shall be completed and submitted to Congress not later than 18 months after the date of the enactment of this Act.

STATE DEMONSTRATION PROGRAMS

Sec. 25. (a) Establishment of Program.—The Administrator is authorized to assist no more than three states in establishing demonstration programs by such States to protect against unreasonable risks to health or the environment associated with chemical substances and mixtures. Such programs shall—

(A) identify and inventory chemical substances and mixtures within such State, including their manufacture, processing, distribution, use, and disposal;

(B) monitor the extent to which such chemical substances or mixtures are present in the environment of such such State and the human exposure to such substances or mixtures within such State;

(C) establish a program to (i) prevent or eliminate unreasonable risks to health or the environment presented by chemical substances or mixtures, (ii) integrate the control of chemical substances and mixtures under this section with other programs of environmental and public health protection within such State so as to appropriately minimize the overall pollution of the environment within such State; and (iii) identify the appropriate governmental institutions and processes necessary to implement a program for the prevention of unreasonable risks to health or the environment presented by chemical substances and mixtures;

(D) analyze and evaluate the results of such programs through annual reports to the Administrator; and

(E) complement and in no way reduce Federal efforts under this Act in such State.

(b) Reports.—The Administrator shall submit a report to the appropriate committees of Congress not later than July 1 of each calendar year. Such report shall include (1) a description of progress with respect to programs assisted under this section and any suggestions for improvement in such program, (2) recommendations as to the manner by which programs within the States for the prevention of unreasonable risk to health or the environment presented by chemical substances may feasibly be implemented, and (3) the extent to which the Administrator has disseminated information regarding programs authorized under this section to other interested States and other persons.

(c) Authorization for Appropriations.—For the purposes of providing assistance under this section, there are hereby authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending September 30, 1977; $2,000,000 for the fiscal year ending September 30, 1978, and $2,000,000 for the fiscal year ending on September 30, 1979. Any funds appropriated under the authority of this subsection shall remain available until expended. Funds available under this section shall not be available for programs which would duplicate any authority or requirements of the Administrator under this Act, including sections 4, 5, 6, and 9(c). Funds available under the authority of this section shall support not more than 75 percent of the costs of any such program described under subsection (a) engaged in by the State.

(d) Priorities.—Assistance afforded under this section shall be available (subject to the requirements of subsection (a)) to those States which can establish a priority need for such assistance, as determined by the rules of the Administrator. In establishing such rules, the Administrator shall consider the existence of serious health effects associated with chemical substances within such State including cancer, birth defects, and gene mutations; the extent to which chemical substances and mixtures are manufactured, processed, distributed in commerce, used and disposed of within such State; and the extent of exposure of human beings and the environment to chemical substances and mixtures within such State. The Administrator shall approve all such programs and establish a mechanism for monitoring such programs.

(e) Disclaimer.—Nothing contained in this section shall affect any provision of section 18 of this Act.

ADMINISTRATION OF ACT

Sec. 26. (a) Cooperation of Federal Agencies.—Upon request by the Administrator, each Federal department and agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist the Administrator in the administration of this Act; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the administration of this Act.

(b) Fees.—The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit data under section 4 or 5 of this Act to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of $2,500. In setting such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of testing are shared under section 4 or 5 of this Act.

(c) Action With Respect to Categories.—(1) Any action which may be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures. Whenever the Administrator takes action under a provision of this Act with respect to a category of chemical substances or mixtures, any reference in this Act to a chemical substance or mixture (insofar as it relates to such action) shall be deemed to be a reference to all chemical substances or mixtures in such category.

(2) For purposes of paragraph (1):

(A) The term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act, except that such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

(B) The term "category of mixtures" means a group of mixtures the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act.

(d) Statement of Purpose and Justification.—Any proposed or final rule or order issued under this Act shall be accompanied by a statement of purpose and justification. Such a statement shall be considered part of the "record of the proceedings" for purposes of judicial review under section 19(a).

(e) Assistant Administrator.—The President, by and with the advice and consent of the Senate, shall appoint an Assistant Administrator for Toxic Substances of the Environmental Protection Agency. Such Assistant Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct a program concerning the effects of chemicals on human health and the environment. Such Assistant Administrator shall be responsible for the collection of data, the preparation of studies, and the making of recommendations to the Administrator for regulatory and other actions to carry out the purposes, and to facilitate the administration of this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 27. (a) In General.—There is authorized to be appropriated to the Administrator, for purposes of carrying out this Act, $11,000,000 for the fiscal year ending June 30, 1976, $2,600,000 for the period beginning July 1, 1976 and ending September 30, 1976, and $10,100,000 for the fiscal year ending September 30, 1977. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) Budget Requests.—Whenever the Administrator directly or indirectly submits, in connection with this Act, any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, or persons acting on their behalf, the Administrator shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Administrator to submit budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation relating to this Act to any officer or agency of the United States for approval, comments, or review, prior to the submission of such requests, estimates, recommendations, testimony, or comments to the Congress.

ANNUAL REPORT

Sec. 28. The Administrator shall prepare and submit to the President and the Congress on or before January 1 of each year a comprehensive report on the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of the testing required under section 4 during the year for which the report is made and an estimate of the costs incurred during such year by the persons required to perform such tests;

(2) the number of notices received during such year under section 5, the number of such notices received during such year under such section for chemical substances and mixtures subject to a section 4 rule, and a summary of any action taken during such year under section 5(e);

(3) a list of rules issued during such year under section 6;

(4) a list, with a brief statement of the issues, of completed or pending judicial or enforcement actions under this Act during such year;

(5) a summary of major problems encountered in the administration of this Act; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this Act.

Mr. HARTKE subsequently said: Mr. President, in view of the large vote by which the toxic substances bill was passed, I would like to point out this matter has now been pending as a matter of request from the administration since February of 1970, and we have worked very closely with some Members of the House of Representatives, and I would hope that the House would give urgent consideration to coming forward now with legislation which will not be stalemated as it has been in the past.

There is no need for us to delay any longer the protection which could be afforded to millions of Americans simply by the utilization of the scientific method of telling the people what they need to know. I think it is high time that we eliminate the scare tactics which frequently are put forward about some item which may be dangerous to the health or environment and, at the same time, prove at a later date that it is not.

On the other hand, there are thousands and thousands of items which, at this moment, still are going undetected and unknown by millions of Americans and it is high time we recognized that they are entitled not alone to the right to know but the right to have the Administrator of the Environmental Protection Agency to move effectively and immediately to do what he can to provide better health and a cleaner environment for Americans.

Mr. TALMADGE. Mr. President, if the distinguished Senator from California and the distinguished Senator from Kansas will give me their attention, there are two questions I desire to propound on this bill.

I ask the distinguished floor manager of the bill: What effect would this legislation have upon the small bulk blend fertilizer operator who, in response to a farmer's request, changes the fertilizer mix ratio and perhaps add a pesticide?

Mr. TUNNEY. It would have no effect if this mixture is classified as a pesticide under the pesticide law.

Mr. TALMADGE. Does the Senator from Kansas share that view?

Mr. PEARSON. I share that view.

Mr. TALMADGE. One further inquiry: What sort of individual recordkeeping and notification requirements would be made of this small fertilizer operator?

Mr. TUNNEY. None, if the mixture is classified as a pesticide under the pesticide law.

Mr. PEARSON. The answer is in the negative, no.

Mr. TALMADGE. Does the Senator from Kansas share that view?

Mr. PEARSON. Yes.

Mr. TALMADGE. I thank the Senators.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3149.

The PRESIDING OFFICER. (Mr. GARY HART). Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the bill, S. 3149, as passed by the Senate be printed for use by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield so that I can make a statement to the Senate while there are a number of Senators here?

Mr. NELSON. I yield.

INTER-AMERICAN DEVELOPMENT BANK AND AFRICAN DEVELOPMENT FUND ACT OF 1976

Mr. MANSFIELD. Mr. President, this is to inform the Senate that because of conditions over which the leadership had no control it has been decided on my initiative that we will not take up H.R. 9721, the Inter-American Development Bank Act, this afternoon. We could get to it later, but it would call for a 2- or 3-hour recess, and I do not think that is good procedure. So we will take that up at the hour of 1 o'clock on Tuesday next, to be followed at that time by the no-fault legislation.

I make this explanation to the Senate to indicate how affairs have turned out, and that there will be no further votes today, and that the Senate, of course, will be considering this other legislation next week, much of which will call for votes.

I thank the Senator from Wisconsin for yielding.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the resumption of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 3130

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3130 is called up and made the pending business before the Senate there be a time limitation thereon of 1 hour to be equally divided between Mr. MAGNUSON and Mr. STEVENS; that there be a time limitation on any amendment, debatable motion or appeal or point of order, if such is submitted to the Senate for debate, of 30 minutes to be equally divided in accordance with the usual form, and the agreement be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 3130 (Order No. 678), a bill to amend the Marine Mammals Protection Act of 1972 in order to prohibit the taking of the killer whale and for other purposes, debate on any amendment, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. MAGNUSON) and the Senator from Alaska (Mr. STEVENS): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER TO TAKE UP CONFERENCE REPORT ON H.R. 200 AT 1 P.M. MONDAY, MARCH 29, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 1 p.m. on Monday the Senate proceed to take up the conference report on H.R. 200.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3130

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report the Senate proceed to the consideration of S. 3130, a bill to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 3168

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3130 the Senate proceed to the consideration of S. 3168, the State Department authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALL VOTES PRIOR TO 3:30 P.M. MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur before the hour of 3:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 12 o'clock noon on Monday the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, OR ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 12 o'clock noon on Monday the Vice President, the President Pro Tempore, and the Acting President Pro Tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMPLOYMENT OF THE HANDICAPPED

Mr. DOLE. Mr. President, the Senator from Kansas wishes to call attention to misleading reports which have been made on the cost of hiring the handicapped. These reports present a distorted view on the aspects of hiring the handicapped, and may be closing doors to the disabled as fast as the law can open them.

LEGISLATIVE GUIDELINES

Three years ago, Congress passed the Rehabilitation Act of 1973—sweeping legislation designed to get the handicapped into the mainstream of American life. Among the important provisions of that bill were section 503 and section 504. Section 503 mandated the development of affirmative action programs for hiring the handicapped by every Federal contractor or subcontractor doing at least $2,500 in business with the Federal Government annually. Section 504 stated that any organization, any educational institution, any hospital or medical facility—any entity at all receiving Federal funds cannot discriminate against the handicapped.

In the 3 years since the passage of this landmark law, we have seen many sincere efforts toward compliance. New guidelines to be issued in the next few weeks by the Department of Labor on section 503 should encourage even more compliance from the corporate community. And I hope that guidelines on section 504 will soon be forthcoming from the Department of Health, Education, and Welfare.

FEAR OF EXCESSIVE COST

But there is increasing evidence according to the Department of Labor that affirmative action in being slowed and discouraged by reports in the media about the "high cost of hiring the handicapped."

On January 27, 1976, a Wall Street Journal headline hailed, $35,000 Wheelchair Door." The story cited a bank installation of a $35,000 door as an example of the kind of alterations necessary for the employment of the handicapped.

This example is far from typical. In fact, William Cochran, an architect who specializes in the removal of environmental barriers has stated that:

> You could spend as much as $35,000 if you need a special vestibule with two sets of bronze doors with electric eyes, automatic openers, and $10,000 worth of miscellaneous items.

The cost of barrier removal is an area of great confusion because most architects and building contractors are not really trained in this field. Therefore, estimates on building modifications to make facilities accessible to the handicapped rise and fall like roller coasters.

Because of these fluctuations, there is a specific need to help businesses in their efforts to meet barrier-free regulations. With this purpose in mind, a special organization, Mainstream, Inc., was created to recognize the need for a go-between agent to help businessmen and the disabled learn of their common problems and discover solutions.

I am pleased and proud to now serve on the board of directors of Mainstream, Inc. This group has a unique purpose, serving as a bridge connecting two bodies of people.

CONFUSION ABOUT COST

A recent example of Mainstream's function occurred in California in a corporate setting. Mainstream, Inc., assists in and encourages compliance with the Rehabilitation Act of 1973, and was asked to do a model compliance project with a major California corporation. The project included architectural barrier removal. The company building engineers estimated that it would cost $160,000 to make their headquarters building barrier-free. Mainstream, Inc., estimated the building could be made accessible to handicapped persons for under $8,000.

Mainstream, Inc., believes that to make a building accessible, one does not have to rip it apart and build again. By making parking, entries, and certain areas of the building barrier-free, handicapped employees can have access to their jobs, to rest rooms, eating facilities, and to transportation. That is all the law—and the handicapped—require.

Innovation is more important than money in the making of barrier-free buildings. For example, water fountains need not be lowered if drinking cups are provided so that wheelchair employees can have access to the water. After all, it is the water that counts, and not the fountain. The Federal Government has managed quite well for years by taking doors off bathroom stalls and replacing them with curtains so that they are accessible to the disabled.

COST INCENTIVE

While access is important, the cost factor is of equal concern. I am working on a bill which will provide income tax incentives to those businesses which remove architectural barriers from their buildings. It seems that tax incentives for the removal of architectural barriers would provide the necessary impetus toward granting the handicapped the access to employment they want and need.

Tax incentives also make sound economic sense. The tax incentive bill would mean some loss of revenue initially, about $10 million annually according to the Joint Committee on Internal Revenue Taxation. However, handicapped Americans who are unemployed by employable currently constitute a tax burden to the taxpayers. This burden should decrease once more handicapped have access to jobs, and become taxpayers themselves. Over the long run the benefits would offset cost.

Another aspect of barrier-free design that has been largely ignored is the money it saves organizations which employ it. According to the American Mutual Insurance Alliance, barrier-free buildings can be offered lower insurance rates, and organizations in accessible buildings pay less money in workmen's compensation benefits because there are fewer slip-and-fall accidents among all users of these buildings.

This is not the only savings which employing the handicapped offers. A 1973 study by the Dupont Co. on more than 1,400 disabled workers showed that 79 percent of the handicapped workers have average or above average attendance records; 96 percent had average or above average safety records; 37 percent were rated above average in job performance, and 54 percent were rated average on job performance.

Dupont concluded that "some of the best performers have been the most severe handicaps—amputation, blindness, deafness, and paraplegia."

BARRIERS VERSUS BENEFITS

Although this study has been widely publicized by the National Alliance of Businessmen, its benefit is being counteracted by the current publicity on expensive modifications which the handicapped allegedly require. Reports constantly confuse architectural barrier removal with job accommodations—two very different processes. When barriers are removed from a building, it is not done solely for the benefit of one employee.

Making a building accessible by removing architectural barriers enables all handicapped people to use it, be they potential employees, customers, government officials, or members of the general public.

A job accommodation is a specific action taken to assist one employee in the performance of his or her job. It can be something as simple as raising a desk on blocks to make it more accessible to a worker in a wheelchair or providing a braille typewriter to a blind employee.

Many of the 15 million Americans clearly covered by section 503 of the Rehabilitation Act of 1973 suffer from physical and mental disabilities which will require no drastic job accommodations for employment. It is not the jobs that need extensive modification, it is the attitudes of the employers who hire the people to fill the jobs. As one loan officer at the Export-Import Bank of the United States, who is disabled herself, remarked, "We are all working around other people's limitations."

NEW OUTLOOKS

Job accommodations were not invented for the handicapped. Few employers calculate the cost of the job accommodations they provide routinely for their nonhandicapped personnel. If job accommodations include all of the modifications provided to enable employees to do their work in comfort, then special secretarial posture chairs, piped-in music, flexible working hours, air conditioning, lounges, lunch rooms—all kinds of facilities which fit into no official job description must be included under this heading.

In the light of the misinformation now prevalent in this area, it is no wonder that so many corporations and other American institutions are approaching affirmative action with trepidation. Before we can expect compliance with the law, we must have more expertise available about what is required, and how to make compliance successful for both handicapped and the organizations which employ them.

The need now is for more information and more on-the-site assistance for those who must comply with the Rehabilitation Act of 1973. We cannot open doors to the handicapped until we open the minds of the people around them.

I conclude by saying that Mainstream, Inc., is a new organization. They have, as I have indicated, two main goals in mind, and I certainly wish them success in their efforts to assist the handicapped of the Nation.

ORDER FOR ADJOURNMENT ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, it stand in adjournment until the hour of 12 o'clock noon on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 9721, THE INTER-AMERICAN DEVELOPMENT BANK BILL, ON TUESDAY, MARCH 30, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Tuesday, the Senate proceed to the consideration of H.R. 9721, the Inter-American Development Bank bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the Inter-American Bank bill——

Mr. HUMPHREY. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. HUMPHREY. I want to have from the majority whip the understanding as to the time allocated for the consideration of the Inter-American Development Bank bill.

Mr. ROBERT C. BYRD. I believe there is an agreement on that which would allow for 2 hours of debate to be equally divided betwen the distinguished Senator from Minnesota (Mr. HUMPHREY) and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HUMPHREY. And is there a time set for voting?

Mr. ROBERT C. BYRD. A time set for proceeding to the bill which would be, I would guess, at around 1 o'clock p.m. on Tuesday next.

Mr. HUMPHREY. What about any proposed amendments, motions or referrals on the bill?

Mr. ROBERT C. BYRD. I do not recall what the agreement provided in that regard. I will ask the Chair.

The PRESIDING OFFICER. The agreement is for 2 hours on the bill, 30 minutes on any amendments.

Mr. HUMPHREY. Equally divided?

The PRESIDING OFFICER. Equally divided. Twenty minutes on any debatable motions or appeals, and so forth.

Mr. HUMPHREY. I thank the Chair. And the rule of germaneness applies?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. I thank the Chair.

The PRESIDING OFFICER. The agreement is in the usual form.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The second assistant legislative clerk proceeded to read nominations on the Executive Calendar after New Reports.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all nominations on the Executive Calendar after New Reports be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, all nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Gerard L. Goettel, of New York, to be U.S. district judge for the southern district of New York.

Charles S. Haight, Jr., of New York, to be U.S. district judge for the southern district of New York.

John M. Manos, of Ohio, to be U.S. district judge for the northern district of Ohio.

DEPARTMENT OF JUSTICE

Michael P. Carnes, of Texas, to be U.S. attorney for the northern district of Texas.

Alvin W. Bumann, of North Dakota, to be U.S. marshal for the district of North Dakota.

Henry F. McQuade, of Idaho, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration.

Paul K. Wormeli, of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Robert E. Lee, of Colorado, to be a member of the Foreign Claims Settlement Commission of the United States.

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grade indicated:

Brig. Gen. William E. Eicher, to be Major General.

Brig. Gen. Harry A. Griffith, to be Major General.

Brig. Gen. John N. Brandenburg, to be Major General.

Brig. Gen. Arthur J. Gregg, to be Major General.

Brig. Gen. Richard E. Cavazos, to be Major General.

Brig. Gen. Raphael D. Tice, to be Major General.

Brig. Gen. Hugh F. T. Hoffman, Jr., to be Major General.

Brig. Gen. Oscar C. Decker, Jr., to be Major General.

Brig. Gen. Ennis C. Whitehead, Jr., to be Major General.

Brig. Gen. Roscoe Robinson, Jr., to be Major General.

Brig. Gen. Ernest D. Peixotto, to be Major General.

Brig. Gen. William B. Steele, to be Major General.

Brig. Gen. John L. Osteen, to be Major General.

Brig. Gen. Charles I. McGinnis, to be Major General.

Brig. Gen. William R. Todd, to be Major General.

Brig. Gen. David E. Grange, Jr., to be Major General.

Brig. Gen. Richard L. Prillaman, to be Major General.

Brig. Gen. Robert J. Lunn, to be Major General.

Brig. Gen. Jack L. Hancock, to be Major General.

Brig. Gen. Fred C. Sheffey, Jr., to be Major General.

Brig. Gen. John K. Stoner, Jr., to be Major General.

Brig. Gen. Alexander M. Weyand, to be Major General.

Brig. Gen. Glenn K. Otis, to be Major General.

Brig. Gen. Richard G. Fazakerley, to be Major General.

Brig. Gen. George L. McFadden, Jr., to be Major General.

The following-named officer to be placed on the retired list in grade indicated:

Lt. Gen. Harold Arthur Kissinger, to be Lieutenant General.

IN THE MARINE CORPS

Lt. Gen. Samuel Jaskilla, U.S. Marine Corps. to be General.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

Air Force nominations beginning William T. Watkins, to be lieutenant colonel, and ending Dan J. Craig, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

IN THE ARMY

Army nominations beginning Patrick V. Adamcik, to be second lieutenant, and ending Russell D. Zamora, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Army nominations beginning Edwin K. Adam, to be colonel, and ending William F. Rhoads, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Army nominations beginning Michael R. Antopol, to be lieutenant colonel, and ending Richard J. Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 1976.

Army nominations beginning Robert L. LaFrenz, to be colonel, and ending William C. McMurphy, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 16, 1976.

IN THE NAVY

Navy nominations beginning Edwin Charles Adamson, Jr., to be captain, and ending Katherine Wilson, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Navy nominations beginning Thomas J. Fowler, to be a permanent lieutenant (jg.) and a temporary lieutenant, and ending James M. McGarrah, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Navy nominations beginning Latimer T. Albert, to be commander, and ending Patricia E. Willhelm, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 1976.

Navy nominations beginning Philip T. Briska, to be captain, and ending Roy T. Williamson, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 16, 1976.

IN THE MARINE CORPS

Marine Corps nominations beginning Mark E. Alfers, to be second lieutenant, and ending James M. Yeager, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Marine Corps nominations beginning Gregory D. Mathis, to be second lieutenant, and ending Lew D. Hodge, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

The nomination of 1st Lt. John R. Bourgeois, U.S. Marine Corps, for appointment to the grade of captain, which nomination was received by the Senate and appeared in the Congressional Record on March 11, 1976.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President of the United States be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 200

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the conference report on H.R. 200, the Magnuson Fisheries Act (200-mile limit), there be a time limitation of 1 hour to be equally divided between Mr. MAGNUSON and Mr. STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAIL SERVICE TO DELMARVA

Mr. BEALL. Mr. President, for some time now we have been concerned about the acquisition by the Chessie and Southern Railroad systems of certain rail lines on the Delmarva Peninsula of Maryland and in the Northern United States owned by the bankrupt Penn Central Railroad.

On February 11, the deadline for the acquisition by the Southern and Chessie systems expired. This means that the Nation is faced with the prospect of taking the second-best plan rather than the one that emerged from a very extensive planning process.

For instance, in the case of the Southern acquisition of the Delmarva lines of the Penn Central, which run through Delaware, Maryland, and Virginia, if this acquisition is not consummated $25 to $30 million in private capital will not be invested and there will be a serious loss of jobs. In the case of the Chessie acquisition, that railroad has committed itself to private investment of between $500 and $800 million.

On March 1, I chaired hearings by the Commerce Subcommittee on Surface Transportation so that the public spotlight could be focused on the involved parties, the issues in the dispute, and the overriding public interest that was involved in all of this.

On March 4, the Senate, Mr. President, passed Senate Concurrent Resolution No. 97, which was authored by me and cosponsored by some 21 other Senators, expressing it to be the sense of the Congress that the "clear and overwhelming public interest requires that the parties should resume negotiations forthwith with the assistance of the Secretaries of Labor and Transportation, and exercise unusual diligence to resolve their differences to assure that such acquisitions are consummated."

On March 9 the House of Representatives passed that concurrent resolution. So it was passed by both Houses of the Congress and the sense of the Congress was clearly on the record. The Congress reaffirmed in Senate Concurrent Resolution 97 what we intended; namely, that the Final System Plan should be implemented.

Since that time, on March 10, on March 11, on March 12, on March 15, and on March 18, the parties have held further negotiations. On March 19, Secretary of Transportation Coleman held a press conference and announced that the parties had been unable to resolve their difficulties and the Secretary, in order to break the deadlock, proposed a compromise plan. He gave the parties until 10 a.m. on Monday, March 22, Monday of this past week, to reach an agreement.

After the 24 hours had expired, Mr. President, the Southern Railroad signed the agreement but some of the unions indicated a need for additional time and the Secretary agreed to an additional 12 hours, until 10 p.m. on March 22, to work out an agreement.

Efforts seemed to continue beyond the 10 p.m. deadline that the Secretary had set, and finally the parties, exhausted and frustrated, concluded these talks at 1:30 a.m. on March 23.

Since that time, Mr. President, no further progress has been made. It is almost unbelievable to me that, in spite of the fact that the Southern Railroad has indicated their willingness and has signed the agreement that was proposed by the Secretary of Transportation, in spite of the fact that 12 of the 20 unions involved in this dispute have signed the proposed agreement put forth by the Secretary of Transportation, and in spite of the fact that seven of the other eight unions involved have indicated unofficially that there is a real possibility that an acquisition in the best interest of all parties, industry, labor, and the public, is threatened with failure. All because one union has failed to sign. More railroad jobs will result if the acquisition is completed. Approximately 1,800 nonrailroad jobs will be lost if the acquisition fails. In fact, the economic health of three-quarters of a million people is threatened.

Mr. President, as I said, this seems to be incredible, that this kind of action could take place, particularly when the Congress in enacting the Rail Revitalization Act protected the jobs, rights, and salaries of every individual for his working years who has worked at least 5 years for the Penn Central. If someone would lose his job as a result of this transfer of property, he would have as liberal, if not the most liberal protection, that has ever been offered to any employee of any company in the history of the United States of America.

In spite of those kinds of guarantees we have not been able to resolve the differences. It makes no sense.

The union which refuses to sign is the Brotherhood of Airline, Railway, and Steamship Clerks. They are the only ones who appear to be holding up this deal from being consummated. Their inaction if allowed to stand, will sentence three-quarters of a million citizens to a bleak future. If the Southern acquisition is completed, the outlook for the peninsula is bright.

Mr. President, under the terms of law, the Regional Railroad Reorganization, the conveyance of the bankrupt property to ConRail will take place on April 1. Now what happens if ConRail takes over the Delmarva lines?

ConRail will only continue the main line part way. ConRail has no intention of continuing this entire north-south artery. ConRail will not carry the rail line down across the Chesapeake Bay into the Eastern Shore of Virginia but will stop the line just south of Salisbury, Md. If ConRail takes over, there will be no access by this route into the southern part of our country.

Two to five thousand people, Mr. President, will be adversely affected. Their jobs will be adversely affected if this arrangement takes place. More directly affected, of course, are the people who work for the railroad.

ConRail wrote a letter yesterday indicating that on April 1, when they will take over the operation of the Delmarva line, 152 railroad jobs will be eliminated. Mr. President, 152 people, who currently work on the Penn Central line on the eastern shore of Delaware, Maryland, and Virginia will lose their jobs on April 1 if the arrangement whereby Southern will take over this line is not consummated; that is, more workers than are holding up the agreement. This points out the absurdity of the situation.

Also, as indicated, the $25 to $30 million which Southern is committed to invest will not be invested. ConRail will essentially continue the status quo—which is not much—of sorry service, over a sorry line. Southern, on the other hand, will provide the peninsula with a first-class track, railroad, and service.

Now, what happens to those 152 railroad employees who will lose their jobs? Well, if there are not jobs available to them on other parts of the ConRail system, the taxpayers of the country are going to provide wages for them whether they work or not, under the provisions of the bill previously enacted by Congress. The taxpayers of America are going to have to foot the bill for the unwillingness of one union to reach an agreement that is clearly in the best interests of the public to be served by the railroad. If ConRail can find jobs for the employees elsewhere in the Northeastern part of the United States, then, of course, the employees would be required to pick up and move their families and find new homes in the area where ConRail might have the jobs. The other alternative, of course, is not to accept the jobs that might be offered, and take a severance pay; but even with that alternative they could get as high as $20,000 in severance pay under the Railroad Reorganization Act, and that bill also will be paid by the taxpayers of the United States. I know many unemployed individuals on the Eastern Shore and elsewhere who would like to have as generous benefits.

The point is, Mr. President, if the Southern Railroad is allowed to take over the business, no one will lose his job; as a matter of fact, more railroad jobs will be created, more nonrailroad jobs will be established. But here is a situation where a union that has only 55 members in the affected area will cause 152 people to lose their jobs and place in jeopardy the economic development of a very important section of the United States of America.

Mr. President, I would like to read two paragraphs from an article published in the New York Times this morning. It is entitled "Peninsula Lives Under Perils of Pauline," and datelined New York, March 26, 1976. The article is written by Mr. Ralph Blumenthal, and reads as follows:

> Here comes the railroad train. There is a time bomb on the track. Will the train be blown up or will a hero come along at the last minute?
>
> Here comes a hero! Uh-oh, he tripped. But here he comes again! Oh no, he fell down again. But he's back on his feet. Is there time? Can the railroad be saved?
>
> For weeks now, many of the 460,000 residents of the Delmarva Peninsula—the tri-state appendage between Chesapeake Bay and the Atlantic Ocean—have been living the perils of Pauline over the fate of their freight railroad. Passenger service disappeared years ago.
>
> At stake is not only the railroad but also the economic future of the chicken and dirt farmers, feed mills, construction companies, factories, suburbs and cities scattered over the flat and scrubby, 200-mile peninsula.
>
> "If you had high blood pressure or a weak heart, you'd be dead by now," said Paul L. Phillips, a staff member of the Delmarva Advisory Council, which has followed the drama with stricken fascination.

Mr. President, that is just the opening of an article that appeared in this morning's New York Times. I ask unanimous consent that the entire article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Now, Mr. President, I would like to read a section from an editorial in the New York Times of March 25, which reads as follows:

> If the clerks and their fellow-holdouts persist in their intransigence, service in the affected areas of Delaware, Maryland and Virginia will have to be provided by Conrail, the new Government-sponsored amalgam. But it intends to abandon more than half the track. The result: economic dislocation for the region and a high cost to the Government for track acquisition and upgrading—all to do less than the Southern is ready to do with its own funds.
>
> Even greater disruption of normal transportation patterns will occur if failure also attends a joint effort by Mr. Coleman and Labor Secretary Usery to persuade the union to allow takeover of parts of the bankrupt Erie Lackawanna and Reading lines by the Chessie System. Talks are under way in Baltimore, but no progress has yet been made. The public interest in an accord is too great to allow that to be the final answer.

Mr. President, I ask unanimous consent that the entire editorial from yesterday's New York Times be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BEALL. Obviously, Mr. President, something has to be done about this situation. The best thing that could happen would be that the union involved would recognize its responsibility to act in the public interest, and would recognize the fact that the railroad has signed the agreement put forth by the Secretary of Transportation as a compromise. Twelve of the twenty unions, as I said, have signed the agreement; the other 7 unofficially have appeared to agree that they would sign it if the final union agreed. Certainly, they should recognize that the livelihoods of the people in a very important section of this country are affected. Certainly they should recognize that it is very much in the national interest that there be this through line from the southern part of the United States up through the peninsula, on to Wilmington. Certainly they should recognize that Congress, in passing the Reorganization Act, has legislated the most liberal benefits ever created by this legislative body or approved by any legislative body in the history of this country. Certainly they should, then, recognize that they have a very important responsibility to act in the public interest, to make sure that the highest quality of rail service is available to the affected area.

So I would hope, Mr. President, that the union, over the weekend, would agree to sign the proposal put forth by Secretary Coleman, so that Congress does not have to act. But in any event, Mr. President, if the parties do not agree to sign, someone has to take some action, because we cannot allow the taxpayers of America to have to shoulder this unnecessary financial burden, and we cannot stand idly by while an important part of this country is economically decimated, because of action on the part of people who have some ability to take action, and take it immediately.

Therefore, Mr. President, I think there will have to be some legislative action before next Wednesday, if the parties do not agree, and I would suggest further that if the parties do not agree voluntarily, probably there will be very undesirable fallout on railroad management and labor in the years to come.

Mr. President, I reiterate my hope that the parties will come to an agreement over the weekend. But in the meantime, Mr. President, I ask unanimous consent that additional editorials from the Baltimore Sun, the Washington Post, the Washington Star, and numerous articles be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BEALL. Mr. President, I ask unanimous consent that a summary statement on the joint resolution be printed at this point in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY OF SENATOR BEALL'S JOINT RESOLUTION

The proposed joint resolution accomplishes two tasks: (1) it establishes an interim holding device for the rail properties that would have been conveyed to the Chessie and the Southern under the Final System Plan, providing that the properties will be held in place and operated by ConRail while efforts continue to make possible the Southern and Chessie purchase, and (2) it establishes a mechanism for breaking the impasse in the labor negotiations, which has prevented the Southern and Chessie acquisitions. The joint resolution provides a Congressional initiative forceful action by Congress to reestablish the basic industry structure on which the approval of the Final System Plan was premised.

The interim holding mechanism takes two forms. Those properties that would have gone to Chessie or the Southern but that now are designated outright to ConRail will be transferred to ConRail in trust for either the Chessie or the Southern. Properties that, with the lapse of the Chessie and Southern offers, were not designated for transfer to anybody (e.g. large portions of line in the Delmarva peninsula and portions of the Erie Lackawanna) will be ordered to be held by the estates or leased lines in place for 60 days.

The RRRA already provides that these lines cannot be abandoned, but the joint resolution provides that they cannot be encumbered in any way that would prevent a later conveyance. ConRail will then operate all these properties for the account of the profitable railroad to which the properties were designated. If the profitable railroad accepts the offer, it will reimburse ConRail. If the offers are not accepted within 30 days, within another 30 days ConRail can stop operating on the lines not designated to it and will cease to hold the other rail properties in trust but will instead take outright title to them. ConRail will be reimbursed for the cost of operations in such a case through the mechanism already in section 601(e) of the RRRA for appointing a railroad as a "directed carrier" on another railroad's lines.

The labor impasse is broken in this joint resolution by permitting the Secretary of Transportation to prescribe the terms of the labor contracts between the acquiring railroads and the unions. The Transportation Secretary's provisions must first be reviewed by the Secretary of Labor and he must certify that they are fair and just to all parties before they can be prescribed and implemented. This mechanism is a feasible way to break the deadlock, and next week will be the Nation's last chance to prevent the isolation of three-quarters of a million people on the Delmarva Peninsula and to reestablish a healthy, competitive rail system in the Northeast and Midwest. To do so we must enact into law by March 31 this or an acceptable resolution. I am not wedded to a specific mechanism, but I am wedded to the achievement of a solution.

Exhibit 1

[From the New York Times, Mar. 26, 1976]

Peninsula Lives Through Perils of Pauline Over Railroad's Future

(By Ralph Blumenthal)

Salisbury, Md., March 24.—Here comes the railroad train. There is a time bomb on the track. Will the train be blown up or will a hero come along at the last minute?

Here comes a hero! Uh-oh, he tripped. But here he comes again. But he's back on his feet. Is there time? Can the railroad be saved?

For weeks now, many of the 460,000 residents of the Delmarva Peninsula—the tri-state appendage between Chesapeake Bay and the Atlantic Ocean—have been living the perils of Pauline over the fate of their freight railroad. Passenger service disappeared years ago.

At stake is not only the railroad but also the economic future of the chicken and dirt farmers, feed mills, construction companies, factories, suburbs and cities scattered over the flat and scrubby, 200-mile peninsula.

"If you had high blood pressure or a weak heart, you'd be dead by now," said Paul L. Phillips, a staff member of the Delmarva Advisory Council, which has followed the drama with stricken fascination.

ACQUISITION IN QUESTION

The suspenseful question is whether all 460 miles of the bankrupt Penn Central Railroad veining the 6,000 square miles of the Delaware-Maryland-Virginia peninsula will be acquired by the solvent Southern Railway.

The purchase is contingent upon labor agreements between the Southern and 20 rail unions, one of which, the Brotherhood of Railway and Airline Clerks, has raised strong objections.

If the Southern and the unions remain at loggerheads until April 1, the Penn Central lines in Delmarva will be absorbed instead into Conrail, the new Northeast and Middle-Western rail corporation subsidized by the Federal Government.

But, Conrail unlike the Southern, would not operate all 460 miles of Delmarva's railroad, but only the most profitable 185 miles. The rest would be left for the states to subsidize if they choose. Among the segments to be abandoned would be the railcar float across Chesapeake Bay from Cape Charles, Va., to Norfolk, the crucial rail link between Delmarva and the rest of the South.

OFFICIALS TO THE RESCUE

Rushing to the rescue of the imperiled lines have been Federal officials, particularly the Secretary of Transportation, William T. Coleman Jr. At times they have seemed close to compelling an agreement between Southern and the unions. Then they have fallen tantalizingly short.

"The status is still quo," a Southern spokesman reported late yesterday.

Meanwhile, the farmers, businessmen and officials of the peninsula have been trying to predict what the loss of a large part of the railroad would mean to them.

"From my point of view, it would be a total disaster," said Leonard W. Dayton, president of the Dorchester County Commission, which is based in Cambridge, Md.

"We need the Southern deal as bad as we've ever needed anything," he said.

Cambridge, he added, had made great proggress in curing the high unemployment, poverty and tensions that erupted into race rioting a decade ago.

"Now," he said, "this is a real kick in the pants."

Mr. Dayton, a ruddy-faced man wearing a black-and-white houndstooth sports jacket, said that some of the largest plants in Cambridge's prospering industrial park had indicated that they would consider moving if rail access were withdrawn, as it would be under Conrail.

Under the Conrail plan, rail service would be maintained from Wilmington, Del. to Pocomoke, Md., with an eastern spur serving the beach resort of Ocean City, Md., and some other communities.

Service to Salisbury, the peninsula's fastest growing urban region, would be maintained, but all services to Delmarva's Virginia section would be cut, as would be spurs to Cambridge and Easton, Md., among other bayside communities.

One who would be directly affected by a cutback in rail service is Frank Purdue, who was born outside Salisbury, joined his father's egg business and today presides over the $180 million-a-year chicken processing business that bears his name. He now produces about 75 million chickens a year here and is hoping to hit 100 million by fall.

"Certainly it would affect shipments," he said, cradling newborn chicks from an automatic hatcher. Specifically, he said, the scaled-down Conrail system would cut off rail access to his Accomac, Va., processing plant. Shifting to truck transport, he said, would raise costs by "well up in six figures."

The Delmarva peninsula produces about 11 percent of the nation's chickens, ranking behind Arkansas, Georgia and Alabama in poultry production. Hand-lettered signs along Route 13, the main road through the peninsula, advertise the region's other specialties: "CIGS $2.84, No Limit," "Fireworks," "Guns and Ammo," "Hams," "White Potatoes and Yams."

Besides carrying the feed, fertilizer and products of the farmers, the railroad carries the raw materials and finished goods of industry. In Cape Charles—the end of the line—Charles Murrin, assistant secretary treasurer of Bayshore Concrete Products, was wondering how the company could ship its 130-foot transmission poles without a railroad. "We couldn't" he concluded, "We'd have to give up that part of our business."

Not that the bankrupt Penn Central is providing what might be called exemplary service these days. The track, long neglected, is in such poor condition that trains lumber along at an average speed of 8 miles an hour.

Since the beginning of the year, says Sam Tate, the trainmaster at Delmar, on the Delaware-Maryland border, there have been 55 derailments, "six of them bad ones."

Not long ago, said Mr. Phillips, a train tumbled onto a road in the Virginia section of the peninsula. Consequently, he said, local drivers now stick nervously to the left lane.

Exhibit 2

Rail Crackup

Congress set a poor precedent when it let the railway unions dictate featherbedding clauses in the law reorganizing the bankrupt Northeast railroads. The result is that one key element in the reorganization plan is already being destroyed.

The Brotherhood of Railway Clerks and a half-dozen smaller unions are exercising the veto power the law puts in their hands to stop acquisition by the Southern Railway of 460 miles of Penn Central track in the Delmarva Peninsula—a takeover contemplated in the new system map.

Secretary of Transportation Coleman, who sought to revive the Southern deal by putting forward a sensible proposal for compromise on manpower arrangements, is justified in terming the unions' refusal to go along "an exercise in unreasonableness and irresponsibility." The fairness of his compromise was attested by the fact that a dozen other rail unions—including the nation's biggest, the United Transportation Union—did join the Southern in willingness to sign.

If the clerks and their fellow holdouts persist in their intransigence, service in the affected areas of Delaware, Maryland and Virginia will have to be provided by Conrail, the new Government-sponsored amalgam. But it intends to abandon more than half the track. The result: economic dislocation for the region and a high cost to the Government for track acquisition and upgrading—all to do less than the Southern is ready to do with its own funds.

Even greater disruption of normal transportation patterns will occur if failure also attends a joint effort by Mr. Coleman and Labor Secretary Usery to persuade the union to allow takeover of parts of the bankrupt Erie Lackawanna and Reading lines by the Chessie System. Talks are under way in Baltimore, but no progress has yet been made. The public interest in an accord is too great to allow that to be the final answer.

Exhibit 3

[From the Baltimore Sun, Mar. 24, 1976]

Southern Deal Still Stymied

The continued inability to fashion a deal by which the Southern Railway System would take over Penn Central rail lines on the Delmarva Peninsula is extremely frustrating. Despite the best efforts of the U.S. secretaries of labor and transportation, Senator Beall and many others, a union-management dispute over employee benefits to be offered by Southern has not been resolved—even though the railroad and thirteen of twenty rail unions involved have accepted a compromise proposed by Transportation Secretary Coleman. Holding up the deal is the Brotherhood of Railway and Airline Clerks, whose president, C. L. Dennis, simply did not come to a showdown meeting Monday night.

The Coleman compromise would have given workers on the Delmarva system the same benefits they got under Penn Central, with the government footing the bill for the difference between these benefits and those the Southern offers its other employees. New employees on the system, however, would receive the same benefits as other Southern employees. Mr. Coleman revealed the compromise so that the public could see how minor the dispute is in comparison to the large benefits of the Southern takeover. Talks were still going on Tuesday, and observers believe that all the holdout unions would come around if the Clerks would.

Whether the Southern deal can be resurrected through legislative action being considered by Senator Beall, it is difficult to say. April 1 is the date on which ConRail, the new quasi-public rail corporation, is supposed to take over the lines if Southern does not. A ConRail takeover would severely harm the Eastern Shore's economy, relative to a Southern takeover, because Southern had planned far more extensive use, and refurbishing of 'Shore rail lines than ConRail. The best thing that could happen now would be for Mr. Dennis to come forward and accept the Coleman compromise. That he did not even come to Monday night's meeting created a fair amount of outrage. Given the immense importance of the Southern deal to the Eastern Shore, that is not hard to understand.

[From the Washington Star, Mar. 24, 1976]

The Stubborn Rail Unions

The seven obdurate railroad labor unions that are obstructing the survival of the Delmarva Peninsula's essential rail network deserved to be castigated by Transportation Secretary William Coleman.

The seven, with the Brotherhood of Railway and Airline Clerks taking the brunt of Mr. Coleman's anger, have refused any compromise that would permit the Southern Railway to take over and upgrade nearly 500 miles of Penn Central track on the Eastern Shore—critical to the area's economic health.

Mr. Coleman has been leaning heavily on both rail management and labor to bring about the merger under which Southern and Chessie System, Inc., would acquire huge portions of the bankrupt Northeastern rail lines. Southern acquiesced in an agreement along with 13 unions, but the resisting seven other unions could scuttle the Delmarva acquistion, since by law this cannot be completed unless satisfactory railroad-union agreements are reached.

If the impasse is not resolved, the new Consolidated Rail Corporation will begin operations on the Delmarva Peninsula on April 1—but the government-financed Conrail will operate only about 185 miles of track on the peninsula if it, rather than Southern, takes it over. This would eliminate all freight service south of Berlin and Salisbury, Maryland, a rupture that could profoundly harm the Eastern Shore. Maryland Senator J. Glenn Beall estimated that 2,000 to 3,000 non-rail jobs would be lost on Maryland's Eastern Shore if the Southern acquisition falls through.

Secretary Coleman was understandably perturbed. At a press conference yesterday, he said, "This exercise in unreasonableness and irresponsibility will leave a lasting imprint on the economy of the Eastern Shore and ought not be forgotten by the American people. A high price, indeed, will be paid if the recalcitrance continues."

The secretary said he will continue to try to persuade the seven unions to accept a compromise—a markedly fair one, in our view. The most dismal aspect of this union stubbornness is how minor, how "nitpicking," in Mr. Coleman's characterization, the areas of disagreement now are. One difficulty with the Brotherhood of Railway and Airline Clerks, for example, involves the question of whose work rules 55 employes—55—would work under—Southern's or the less restrictive Penn Central's.

If the unions persist in their Maginot Line mentality, they will severely harm the cause of trade unionism. And time is running out.

[From the Washington Post, Mar. 24, 1976]

Public-Be-Damned Attitude

(By William H. Jones)

Interviewed by reporters in his private New York Central railway car on Oct. 8, 1882, business tycoon William Henry Vanderbilt blurted out the quotation for which he is remembered in the history books—and by which the rail industry itself long was characterized.

"The railroads are not run for the benefit of the dear public," he told the newsmen. "That cry is all non-sense. They are built for men who invest their money and expect to get a fair percentage in return."

Asked if trains weren't also supposed to be run for the good of the general population, he said: "The public be damned."

Yesterday, that quotation surfaced again. But this time it was said to characterize the attitude of organized labor and not management.

"In my role as Secretary of Transportation," said William T. Coleman Jr. at a news conference, "and as a public servant it is an extremely bitter pill to swallow."

Eight unions representing several hundred workers, he said, "would not yield to reason." As a consequence, rail service throughout the Delaware-Maryland-Virginia Peninsula on the Eastern Shore will be downgraded April 1 to that of a branch line for Consolidated Rail Corp., the government-designed railroad set up to assume most of the bankrupt Penn Central's routes.

"This exercise in unreasonableness and irresponsibility will leave a lasting imprint on the economy of the Eastern Shore and ought not to be forgotten by the American people," said the angered transportation secretary.

And to back up his assertions that labor now has adopted the "public-be-damned" attitude, Coleman made public the agreement with Southern Railway Co., which 12 of 20 unions signed.

The railroad company also signed the accord, as demanded last Friday by Coleman, but the key organization which refused to sign was the Brotherhood of Railway, Airline and Steamship Clerks. Coleman said yesterday that in his opinion, seven other unions holding out would have gone along with the BRAC.

Another familiar term, "featherbedding," wasn't mentioned by Coleman yesterday but a close reading of his proposed draft agreement—drawn up by the secretary himself when both parties could not reach agreement and offered to them along with Coleman's demand for signatures—indicates that the unions primarily were interested in preserving positions and prerogatives under the old Penn Central contract.

In essence, the Delmarva accord was aborted because BRAC leaders representing 55 workers wanted work conditions of the bankrupt Penn Central forever applied to those 55. Informed sources said a majority of the workers involved wanted the agreement signed and were willing to work under conditions of their union's existing and future contracts with Southern.

Southern had planned for nearly two years to take over 485 miles of Penn Central routes in Delmarva and spend $30 million of its own funds to rehabilitate most of the lines as well as the barge connection across the lower Chesapeake Bay to Virginia—establishing a major North-South rail link from Washington to the South.

Now, ConRail will operate less than 200 miles and North-South service will halt abruptly on April 1 south of Salisbury, Md. The barge connection across the Chesapeake Bay will be halted permanently. Not only will 2,000–5,000 Delmarva workers in plants along rail lines see their jobs threatened but also federal and state taxpayers will be required to pay money to rail workers without jobs on the new ConRail.

The State of Maryland will propose, in addition, a combined federal-state subsidy for some of the branch lines that ConRail does not plan to operate. More money will be needed to upgrade highways for heavy trucks that, in some instances, will replace railroads.

Perhaps most important for Delmarva, its future economic development has been dealt a shock. It would make little sense for a company seeking wide markets to locate near Salisbury, for example, if its products have to be shipped over a second-class rail system up to Wilmington, and then back through Baltimore and Washington before going south.

The national implications of organized labor's refusal to go to work for Southern Railway (where the same unions represent workers in exactly the same jobs, but with different union leaders) should be measured in the billions of dollars, Coleman said yesterday.

For one thing, the fact that BRAC and other unions could not reach an agreement with Southern indicates that Chessie System probably will fail to get an accord from the same unions for a proposed takeover of 2,000 miles of track from Ohio to metropolitan New York.

Whereas the Southern was bargaining only with union workers for the bankrupt Pennsy, Chessie must deal with unions on the Pennsy, Reading and Erie Lackawanna. Since Coleman said one key element in the failure of labor to reach agreement is jealousy among various local union leaders over who will be in charge after a merger, the breakdown in talks over the Delmarva lines cast a cloud over Chessie's talks in Baltimore—which must be concluded successfully by Saturday.

In addition, the Delmarva breakdown appears to indicate that all future railroad mergers will face the same sort of "nitpicking" (Coleman's words) which prevents agreement short of giving in to all requests by the unions.

Many rail industry leaders and Coleman believe that the survival of free enterprise railroading in America can be assured only by a significant consolidation of today's railroads into relatively few transcontinental lines. But studies of the fiasco that resulted when the Pennsylvania and New York Central merged in the 1960s pinpointed labor agreements as one cause—since the merger pact guaranteed all pre-merger jobs, effectively prohibiting cutbacks in employment on a significant scale.

Moreover, by refusing to budge on issues that Coleman found to lack "any substance," the unions have effectively created the new ConRail as a regional railroad monopoly—something Congress and the Ford administration did not want. Starting April 1, if a shipper in New York wants to send goods west to Chicago, he has one rail choice, ConRail.

It is a "great tragedy," Coleman said. Other government officials fear a ConRail monopoly, being subsidized by billions of dollars in taxpayers' money, will be only the first step toward nationalization across the country.

The attitude of men like Vanderbilt led ultimately to federal government intervention in the rail business, through the establishment of the Interstate Commerce Commission to protect the public interest.

Ironically, the new attitude of rail labor could lead to action by Congress to require union acceptance of future employment terms in the period of rail consolidation bound to come during the remainder of this century.

[From the Washington Post, Mar. 25, 1976]

Delmarva: On Edge of Fear Without Railroad

(By Karen DeYoung and William H. Jones)

Salisbury, Md., March 24.—The possibility that Southern Railway might not come here was something the people of Salisbury never wanted to consider. They even planned a welcoming ceremony for the first Southern train, complete with the high school band and speeches by the town leaders.

But the inability of Southern, the rail unions and Transportation Secretary William T. Coleman, Jr. to come up with a mutually acceptable agreement for the Southern takeover of the railroad system that services the southern and eastern portions of the Delmarva Peninsula has made them feel a little foolish about their optimism.

Now they are beginning to feel downright scared.

If the Southern takeover from bankrupt Penn Central, which currently operates the line, does not go through, about 260 miles of rail will shut down April 1, virtually isolating businesses on this peninsula that includes portions of Maryland, Delaware and Virginia.

"Without the railroad," said Dick Young, who employs 12 people at his Salisbury Brick Co., "we will be completely out of business and our employees will be out of work."

The Delmarva rail line is a spidery network of short spur lines leading off a main trunk running from Wilmington down to Cape Charles, Va., and connecting by ferry to Norfolk. A virtual lifeline for Salisbury, Cambridge and scores of smaller towns, it is the main avenue for goods going in and out of Delmarva.

Young, whose business gets much of its supplies from the Carolinas, is one of hundreds of Delmarva businessmen, citizens and government officials who have spent the past month pleading with Coleman, the railroads and the union to reach agreement on a way to keep the trains running. Up until this week, it looked as though they had succeeded.

The 1973 Railway Reorganization Act to buy out the bankrupt northeastern railroads included only the main peninsula trunk, ending just south of the Delaware-Maryland line, and those lines scheduled for takeover by the government organized ConRail corporation. Southern offered to buy the rural spurs and the Cape Charles connection. In addition, Southern said it would spend $30 million upgrading the dilapidated rail line.

"The Southern offer was manna from heaven," Rollie H. White, Jr. director of the Salisbury area Chamber of Commerce, said. "It was like the second coming here."

The 1973 act also includes a clause prohibiting takeover of one railroad by another without the consent of the rail unions involved. Several of the unions, not liking Southern's terms refused that consent after marathon talks with Coleman on Monday.

To James Jenkins, a supervisor at the Marvil Package Co. distribution center in nearby Hebron, the union intransigence over pay for the relatively few jobs in question is sheer pigheadedness. "If they don't get something decided," he said "there won't be anybody with a job around here. This is my home and I want to stay here."

The Marvil Co. manufactures bushel baskets, boxes, and the little containers in which grocery stores pack tomatoes and strawberries. It is the end of the Hebron line a short spur of several miles due west from the main trunk at Salisbury.

Marvil manager Dick Watson employs 25 men to unload the bushel basekts and boxes from the train. He said 20 of those men will have to be laid off if the trains stop coming.

"Ninety per cent of our inbound freight comes by rail," Watson said. "If we have to truck it, it would mean nearly doubling our current yearly transportation costs of $500,000."

Once that happens, Watson said, the Marvil Co. may well decide to close its operation in the tiny town of Hebron, population 1,100. It would be cheaper for them to truck the baskets and boxes straight to northern customers from plants in the south without going through Maryland.

William B. Tilghman, whose fertilizer plants in Salisbury and Pocomoke City are the "oldest business in the county and oldest railroad customers on the Eastern Shore," said that because of the high amount of tonnage involved in fertilizer shipments, it is not financially feasible to haul in the phosphate manufactured into fertilizer by truck.

It is not just small companies that say they would be hurt by the end of the rail system here. A few years ago, Robert L. Kiley, director of the Salisbury and Wicomico economic development council spent a full year persuading Burroughs Corp. to open a plant in Salisbury's new industrial park. Burroughs now employs 200 people here.

In a letter to the Senate subcommittee on surface transportation, Burroughs' plant manager William H. Miracle said that the cost situation resulting from a loss of rail service "would make it ecoonmically not feasible to continue manufacturing on the Eastern Shore.

Among those who have written their approval of the Southern takeover to Coleman and the subcommittee are many of the non-rail labor union locals in Delmarva, including the Teamsters, the Bakery and Confectionery Workers and the United Brotherhood of Carpenters and Joiners.

Harry W. Rogers, business manager of Local 313 of the International Brotherhood of Electrical Workers, wrote that "many industries will have to close" if the rail service is discontinued. "Among them is the largest poultry-producing area in the world, the DuPont Nylon plant, two coal-burning houses of the Delmarva Power Company, many textile plants, feed mills, food processing factories, etc."

"The 'land of pleasant living' will become an economic wasteland. The Southern Railroad is our only hope at present, and time is running out," Rogers said.

It is the railway employees themselves, those who work in the Southern train yard at Delmar, Del., who are most apprehensive. "The majority want to go with Southern," one worker said, "but are afraid that after three or four years, Southern will not be able to make the railroad go, and they'll drop it. Then where would they all be? They will have lost their seniority with Penn Central."

Included among the several unions that have not signed is the Brotherhood of Railway and Airline Clerks. It objects to a Southern provision that while preserving the higher Penn Central wages for those workers already employed, would impose the lower Southern wage scale on new employees.

Yesterday three congressmen from Maryland, Delaware and Virginia introduced legislation that would require rail labor unions on the Delmarva peninsula to accept existing contract terms with the Southern Railway and thereby enable Southern to takeover the bankrupt Penn Central's Delmarva operations.

The state of Maryland meanwhile is hoping to obtain $5.4 million in U.S. subsidies that would enable it over the next 2½ years to continue train service on a number of Delmarva branch lines.

Earlier the state had planned to concentrate such federal funds on rail lines not on the Eastern Shore. Now, the state will have to try to stretch the money further, officials said.

While William N. Wright, the Railway Clerks local president argues that the reduced service with ConRail can "provide the entire peninsula with statisfactory rail service," there are few here who agree with him.

"This place was just bursting with growth," Rollie White said, "and then this thing comes along. It is just a few greedy bastards and they're castrating us. I'm sorry; I get so emotional, I can't even talk about it."

[From the New York Times, Mar. 26, 1976]

Hopes of Hornell Upstate Ride on Chessie Buying Erie, But Outlook Is Bleak

(By Reginald Stuart)

Hornell, N.Y., March 25.—Railroad tracks cutting through the center of town, and the long trains that frequently use them, may annoy people in some places. But in this remote southwestern New York community, the sight and sound of trains creeping through at all hours of the day and night have been comforting for decades.

With its population of about 12,000, Hornell has been a railroad town since 1850, when the New York & Erie Railroad Company now the Erie Lackawanna Railway, rolled a locomotive into town. Since then, Hornell has been a key operations center for the Erie and has derived much of its growth from the railroad men and women who have lived there.

Although the Erie has cut back substantially and the city has sought to diversify, the railroad is still the city's largest single employer, with nearly 1,000 workers.

BANKRUPT LINE ADDED TO CONRAIL

But the Erie has gone bankrupt and the Federal Government, at the request of trustees for the bankrupt carrier, has included the line in its Conrail system, a Government corporation established to reorganize the bankrupt railroads in the Northeast and Midwest. When Conrail comes into existence April 1, it plans to reduce Erie operations here from 26 train runs a day to six or seven requiring most of the workers here to relocate.

"Losing the railroad would be devastating for a town our size," said James W. Griffin, executive vice president of the Hornell Chamber of Commerce. "It would certainly be a slap and a rap in the teeth for this town."

The only hope for averting this drastic move is a possible purchase of the Erie by the Chessie System, one of the nation's most profitable railroad companies. The Government has given union leaders and Chessie officials until Sunday to agree on work rules should the workers become part of the Chessie system. But positions on both sides are rigid, and prospects for agreement appear bleak.

FINANCIAL LOSS IS FORECAST

A Conrail takeover would pull out of this community most of the $12 million to $15 million the Erie pumps in annually in wages. People like Adam Davidson, owner of Davidson's Furniture are already worried.

"The impact of not knowing what is going to happen has certainly been felt by anybody selling big-ticket items," said Mr. Davidson. His customer said she would wait until April 1, the date Conrail is scheduled to take over the Erie, before deciding to buy the living room furniture that interested her.

Davidson's Furniture is one of a number of businesses that have shifted locations or undertaken a major face-lifting in recent years as part of an effort by the city's Mayor, Andrew R. Mazzella, to improve the quality of life in the city.

Heavy infusions of Federal money for urban renewal have been obtained, a diversity of jobs has been emphasized and completion of the Southern Tier Expressway, the first major highway linking the remote communities in this northern Appalachian region with other areas of the state, is expected soon.

Industrial parks are being built and new industries sought. The assumption was that frequent railroad service would still be available, allowing Hornell to offer several new industries seeking to relocate.

VARIOUS FEARS ARE CITED

Among railroad workers, loyal to their union but also anguished by its apparent lack of consideration for their special circumstances there are various fears.

Most of the railroad workers are married and in their late 30's or 40's. They have settled down, begun to raise children and invested in homes and land. Moving them elsewhere, argued a group of railroad veterans gathered at the Coffee Cup across the street from an abandoned Erie depot, would not only cause emotional trauma for many but economic trauma.

"The advantage of being able to stay in Hornell is to be able to continue our grassroots attachment to it," said Samuel J. Nasca, a freight conductor for the Erie who joined the company in 1952 at the age of 19.

Although the average income in the area for non-railroad employees is just above $6,000 annually, for railroad workers it is just above 13,000 annually, making these workers the city's middle class and affording them the opportunity to purchase comfortable quarters on a good-sized tract of land for about $20,000 to $30,000. Mr. Nasca, with his wife and four children, does not feel comfortable when he thinks about living elsewhere.

The same is true for William A. Crosby, 29, also a native of Hornell who has been an electrician at the Erie repair shop here for nine years.

"Hornell has always been my home and I don't know any different," said Mr. Crosby. When I got out of high school it was move out of town or go to work for the railroad. "I guess I was lucky then, but I don't know now."

Most railroad workers here with some years before retirement reportedly feel like Anthony J. Patti, a 31-year-old machinist who is chairman of his shop here. It really doesn't matter what happens," he said, because they've got us between a rock and a hard place. You're going to have to do whatever they tell you."

Mr. BEALL. Mr. President, in behalf of Senator ROTH and myself, I introduce a joint resolution, and ask unanimous consent that this joint resolution be printed and numbered, and further, that unanimous consent be granted for the joint resolution to be held at the desk until Monday.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I am not sure that I should agree to the joint resolution's being printed and held at the desk. I would agree that the joint resolution be introduced; that the Senator have until 5 p.m. today to introduce the joint resolution, that it be allowed to remain at the desk until further action is taken on Monday, and that the joint resolution be printed in the RECORD. Would that be satisfactory?

Mr. BEALL. Mr. President, could we have a brief quorum call?

Mr. ROBERT C. BYRD. Yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene on Monday at 12 noon. After the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE and Mr. HATFIELD will each be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business to extend to the hour of 1 o'clock p.m., with statements limited therein to 5 minutes each.

At the hour of 1 o'clock p.m., the Senate will proceed to the consideration of the conference report on H.R. 200, the 200-mile limit bill, and upon the disposition of that measure the Senate will take up S. 3130, the killer whale bill, under a time limitation, and S. 3168, the State Department authorization, under a time limitation. Rollcall votes are expected.

ADJOURNMENT TO MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon on Monday.

The motion was agreed to; and at 12:29 p.m. the Senate adjourned until Monday, March 29, 1976, at 12 meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 26, 1976:

DEPARTMENT OF JUSTICE

Michael P. Carnes, of Texas, to be U.S. attorney for the Northern District of Texas for the term of 4 years.

Alvin W. Bumann, of North Dakota, to be U.S. marshal for the district of North Dakota for the term of 4 years.

Henry F. McQuade, of Idaho, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration.

Paul K. Wormeli, of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Robert E. Lee, of Colorado, to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1975.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE JUDICIARY

Gerard L. Goettel, of New York, to be U.S. district judge for the southern district of New York.

Charles S. Haight, Jr., of New York, to be U.S. district judge for the southern district of New York.

John M. Manos, of Ohio, to be U.S. district judge for the northern district of Ohio.

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. William E. Eicher, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Harry A. Griffith, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John N. Brandenburg, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Arthur J. Gregg [redacted] Army of the United States, (colonel, U.S. Army).

Brig. Gen. Richard E. Cavazos, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Raphael D. Tice [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Hugh F. T. Hoffman, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Oscar C. Decker, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Ennis C. Whitehead, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Roscoe Robinson, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Ernest D. Peixotto, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William B. Steele, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John L. Osteen, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles I. McGinnis, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William R. Todd, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. David E. Grange, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. Prillaman, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Lunn [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Jack L. Hancock [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Fred C. Sheffey, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John K. Stoner, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Alexander M. Weyand, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Glenn K. Otis [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Richard G. Fazakerley, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George L. McFadden, Jr., [redacted] Army of the United States (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Harold Arthur Kissinger, [redacted] Army of the United States (major general, U.S. Army).

IN THE MARINE CORPS

Lt. Gen. Samuel Jaskilka, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps in accordance with the provisions of title 10, United States Code, section 5202.

IN THE AIR FORCE

Air Force nominations beginning William T. Watkins, to be lieutenant colonel, and ending Dan J. Craig, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

IN THE ARMY

Army nominations beginning Patrick V. Adamcik, to be second lieutenant, and ending Russell D. Zamora, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Army nominations beginning Edwin K. Adam, to be colonel, and ending William F. Rhoads, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Army nominations begining Michael R. Antopol, to be lieutenant colonel, and ending Richard J. Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 1976.

Army nominations beginning Robert L. LaFrenz, to be colonel, and ending William C. McMurphy, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 16, 1976.

IN THE NAVY

Navy nominations beginning Edwin Charles Adamson, Jr., to be captain, and ending Katherine Wilson, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Navy nominations beginning Thomas J. Fowler, to be a permanent lieutenant (jg.) and a temporary lieutenant, and ending James M. McGarrah, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Navy nominations beginning Latimer T. Albert, to be commander, and ending Patricia E. Willhelm, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 1976.

Navy nominations beginning Philip T. Briska, to be captain, and ending Roy T. Williamson, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 16, 1976.

IN THE MARINE CORPS

Marine Corps nominations beginning Mark E. Alfers, to be second lieutenant, and ending James M. Yeager, to be second-lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

Marine Corps nominations beginning Gregory D. Mathis, to be second lieutenant, and ending Lew D. Hodge, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 1976.

The nomination of 1st Lt. John R. Bourgeois, U.S. Marine Corps, for appointment to the grade of captain, which nomination was received by the Senate and appeared in the Congressional Record on March 11, 1976.

EXTENSIONS OF REMARKS

THE HOUSE THAT GRANDMA DOROTHY SIMAO BUILT: A DREAM COME TRUE

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. MATSUNAGA. Mr. Speaker, a home of her own was for many years the dream of Mrs. Dorothy Simao, a youthful grandmother of six who is employed as a fieldworker by the Gay and Robinson Sugar Plantation on the island of Kauai.

Last month, her dream came true. She moved into a comfortable, four-bedroom home which she literally built with her own hands in her spare time in the little town of Hanapepe Heights.

The house was built with Mrs. Simao's two sons and her grandchildren in mind. There will be plenty of room for them when they visit.

Over 200 of Mrs. Simao's neighbors turned out for the housewarming last month. They did not think she could build the house—they knew she worked hard all day, that she had only a sixth grade education, and that her husband, John, was crippled by rheumatism and unable to help with the heavy work. But they underestimated Mrs. Simao's resourcefulness and determination to make her dream come true.

I know that my colleagues will find the story of Mrs. Simao's new home as inspiring as I did. I am submitting for inclusion in the Congressional Record an article from the February 27, 1976, edition of the Honolulu Star-Bulletin which describes her 6-year project in more detail:

GRANDMA BUILDS HER OWN HOME

(By Paul Stoffel)

HANAPEPE, KAUAI.—It took her 5½ years, but Dorothy Simao of Hanapepe Heights has done what few other women can lay claim to.

In her spare time, after long hours of work on the plantation, she has built her own two-story home. And she did it almost single-handedly.

"Six years ago something told me to build a house," said the 58-year-old grandmother. "And I did."

It was a proud day for the entire family when she completed the family home, and the housewarming last weekend was almost a community event.

Some 200 friends came by to see the product of her 5½ years of rugged toil.

Simao is a friendly, hard-working woman, six times a grandmother and her neighbors like her.

They knew she built the new home outside her regular shifts as a canefield worker for Gay & Robinson plantation. And they knew that job—repairing irrigation flumes and hoeing weeds—pays her only about $400 a month.

They knew also that she was not an architect and had never before built a house. But none of those seemingly insurmountable odds deterred the determined Hawaiian-Portuguese woman.

Her husband John is a former plantation truck driver who is crippled by rheumatism and who was unable to help in the hard work of building a four-bedroom house.

His Kauai-born wife had only a sixth grade education at the old Makaweli school to help her in such technical areas as design and the intricate measuring necessary to build a house.

And she was 53 when she started the project in 1970.

Her son Edgard, 41, who is a plantation "mule skinner," says, "We are proud to have a mother like that."

He said she does not care for the usual feminine chores such as knitting or crochet work.

But she planned and built and financed a home that is far superior to the plantation cottages in which most of her fellow workers live.

She was always one for tools and the hard handwork of carpentry, he said.

Her husband also takes immense pride in his wife's house building. Cost of materials and of installing plumbing and electrical wiring was about $14,000 or $15,000, he said.

Although Simao could not do the plumbing and wiring herself, she built the foundations and mortared into place the concrete blocks which form the lower half of the house.

She did all the carpentry work on the upper structure, which is of wood, and did much of the painting. She made the numerous interior cabinets, shower stalls, shelves and closets.

Most of the rooms have wall to wall carpeting and the furnishings include an ornate combination TV set and stereo music player.

The Simao house has several unique features. For one thing the stairways from the first floor to the upstairs living and sleeping rooms are built exterior of the house and are protected by wide overhanging eaves. This arrangement makes possible maximum use of the 26-by-33 foot floor space on each level.

A walkway outside the second floor serves the practical purpose of providing a place to wash the large windows which give an ocean view.

In planning the house Simao had in mind the varied needs of her family of two sons and six grandchildren.

For example, her eldest grandson Zachary, who is a senior in Waimea High School, now makes his home with his parents, Edgard and Rosalie, in a rented plantation house.

However, when he is 18, the plantation rules require that he pay $40 a month to live there.

Grandma Simao built an "extra" bedroom with access to shower and toilet so Zachary can have his own place to live.

The Simaos also have another son, Alvin Barnard, who lives in Pennsylvania. There will also be rooms for him and his wife and two children when they visit at the Hanapepe home of his parents.

SENATE—*Monday, March 29, 1976*

The Senate met at 12 meridian and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, in whom we live and move and have our being, when we pray, help us to look inward and outward, upward and forward. May the inward look search the soul and assess the conscience. May the outward look view the sin and suffering of humanity and move us to acts of compassion. May the upward look bring us a vision of Thy glory and power. And may the forward look lead us to actions which advance Thy kingdom of love and justice.

O Lord, be with this Nation now and always.

Renew in us the grace and wisdom needful for servants of the common good. May we live in the spirit of prayer, making our daily work an offering to Thee.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 29, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, March 26, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today, but not beyond 1 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPETITIVE MOVEMENT OF HOUSEHOLD GOODS SHIPMENTS MOVING IN FOREIGN COMMERCE OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 680, S. 2023.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2023) to provide for the competitive movement at fair and equitable rates and charges of household goods shipments moving in the foreign commerce of the United States, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, with an amendment, to strike out all after the enacting clause and insert the following:

That section 18 of the Shipping Act, 1916 (46 U.S.C. 817), is amended by—

(a) inserting at the end of subsection (b) (6) a new subsection (c), as follows:

"(c) (1) No common carrier by water subject to this Act shall submit to the Department of Defense rates or charges covering shipments of household goods, moving in whole or part by water, in the foreign commerce of the United States, unless those rates or charges shall have been filed with the Commission at least 30 days prior to the date of such submission. Paragraph (2) of subsection (c) shall not be applicable, however, to the movement of such household goods if the applicable shipping agency has certified to the Commission prior to the time of such filing that such common carriers by water found qualified by such agency to transport shipments of household goods which offer to move such goods at rates equal to or below those being paid other carriers participating in such traffic are not prohibited by such an agency from participating in such traffic for reasons other than service deficiencies for a period exceeding 30 days.

"(2) Upon filing of such rates or charges with the Commission, interested persons shall have 15 days within which to file a protest, otherwise such rates or charges shall become effective without further leave to petition. If upon receipt of a protest filed within 15 days of the filing of such rates or charges, it should appear to the Commission that such rates or charges may be higher or lower than the rates or charges of any common carrier by water subject to this section applicable to substantially the same transportation services performed for the Department of Defense pursuant to tariffs otherwise required to be filed and on file with the Commission, the Commission shall, by appropriate notice and order, institute a hearing, whereupon the protested rates or charges shall be of no force and effect and their use shall be unlawful unless and until the Commission, after such hearing, determines (a) that such rates or charges are no higher or lower than the rates or charges applicable to substantially the same transportation services performed for the Department of Defense or (b) that such rates or charges are compensatory on a fully distributed cost basis. At any hearing under this subsection, the burden of proof to show that the protested rates or charges are no lower than the lowest or no higher than the highest rates or charges applicable to substantially the same transportation services performed for the Department of Defense or that such rates or charges are compensatory on a fully distributed cost basis, shall be upon the publishing carrier.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONGRESS VERSUS THE "ENERGY ANT" CAPER

Mr. MANSFIELD. Mr. President, a UPI report appearing in today's Washington Star details a set of events by the Federal Energy Administration and its top officials that demonstrates not only a failure to abide by the prohibition of law against domestic propaganda, but also a total lack of appreciation of the constitutional distribution of powers between the executive and legislative branches.

Pamphleteering by the FEA to the youth of this country is not part of its charter. I hope the Senate committees with oversight responsibilities will give this activity by FEA vigorous and critical attention.

I ask unanimous consent that the article referred to, "Congress vs. the 'Energy Ant' Caper," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS VS. "ENERGY ANT" CAPER

Information pamphlets in the form of fables whose hero is a wise "First Citizen" and whose villain is a dithering "Assembly" strike at least one member of Congress as less than objective.

But the man in charge of their distribution calls them a device to increase public understanding of energy issues.

"Quite frankly, they are going to get some doggoned healthy cuts in the public relations budget," says Rep. John Dingell, D-Mich., chairman of the House Commerce Committee's energy subcommittee, referring to the Federal Energy Administration, which prints the fables.

"It has become a monstrous, incompetent and oftentimes illegal effort," Dingell said in an interview.

Rep. Richard Ottinger, D-N.Y., said even the material FEA prints especially for children—such as the "Energy Ant" coloring book—is biased in favor of administration policy.

At a recent hearing, Dingell read from a pamphlet entitled, "The Land of Us," and asked Robert Nipp, FEA's chief of public affairs, if he didn't agree the references to the "Assembly" and the "First Citizen" were political.

Nipp said they were just a story-telling device to increase public understanding of energy issues, and that the materials merely fulfil FEA's "special duty to contribute to public understanding" about the energy shortage, what the nation must do about it and what it has failed to do .

The "Land of Us" pamphlet is an "energy fable" told by FEA chief Frank Zarb, telling of a powerful mythical nation whose people complacently used up much of its natural resources while the "First Citizen" struggled vainly against a procrastinating "Assembly" to stop the drift.

Dingell called the storytelling effort "a great convention of flackery."

He said one-sided energy fables on policies being debated in Congress come close to illegal lobbying.

Nipp said in a statement yesterday the pamphlet is "a speech in allegory form which attempts to point out that this nation, once completely self-sufficient in energy, has now become more than 40 percent dependent on foreign oil. . . ."

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the time normally allotted to me be transferred to the Senator from Michigan (Mr. GRIFFIN).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Michigan is recognized.

ORGANIZED CRIME AND THE TEAMSTERS UNION

Mr. GRIFFIN. Mr. President, for many months now, and particularly since the disappearance of James R. Hoffa, I have been deeply concerned about alleged ties between organized crime and some segments of organized labor, particularly the Teamsters Union.

Last week, NBC Nightly News broadcast a five-part series on this subject, which was well researched and well done. Later in this week, when a transcript of the complete series is available, I shall insert it in the RECORD.

In the meantime, I wish to indicate that I was pleased by news reported in the final segment of the series, which included the following:

NBC NIGHTLY NEWS

[Friday, March 26, 1976]

JOHN CHANCELLOR. Good Evening. The Senate Subcommittee on Investigations has voted to begin a preliminary investigation into the relationship between organized crime and the Teamsters Union . . . a subject dealt with in detail this week on Nightly News. Senate sources say this could be the first step toward a wide-ranging investigation similar to the one conducted by the McClellan Senate Labor Rackets Committee in the 1950's. Senator Sam Nunn of Georgia is the acting chairman of the subcommittee.

Senator NUNN. There would be a considerable amount of manpower required on a full-scale investigation. The subcommittee will allocate whatever manpower is necessary at each step of the way. But the McClellan Committee in the late 1950's that went into this area had several hundred people involved.

JOHN CHANCELLOR. Senator Nunn said our Nightly News Special Report on the Teamsters this week stimulated "both public opinion and congressional interest." Committee investigators have already begun to look into the substance of our special last night which described a meeting between Teamster President Frank Fitzsimmons and members of organized crime. That meeting was reportedly held to discuss several kickback schemes. . . .

Following that news report by NBC, I issued the following statement:

I am very pleased to learn that the Senate Permanent Investigations Subcommittee intends to undertake an investigation of the Teamsters Union, including allegations of associations with organized crime. I trust it will be a comprehensive investigation with sufficient staff and adequate funds to delve deeply into many troubling and unanswered questions.

My long concern with alleged corruption by some union officials prompted me last November to introduce a resolution calling for an in-depth investigation.

I commend Senator Nunn for recognizing the seriousness of the problem and for taking the initiative to get this long-needed probe underway. I pledge my full support.

Mr. President, this is exactly the kind of a situation that the Senate Permanent Investigations Subcommittee was set up to investigate. If the subcommittee is to do the thorough job that is necessary and expected, of course, it must have adequate funding and staff. I trust that the Senate will respond quickly and favorably to any reasonable request for this purpose, and I wish to pledge to Senator NUNN and the members of the subcommittee my support.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

THE DECLINING FORCE LEVELS-RISING DEFENSE BUDGET PARADOX

I. STATEMENT OF PURPOSE

Mr. PROXMIRE. Mr. President, the following analysis outlines a general philosophy toward defense spending with selected examples to highlight points of interest. It is not designed to be a congressional posture statement or an alternate defense budget which realistically would require resources similar to that of the Department of Defense.

Instead this is a framework for looking at the defense budget from a force level-budgetary perspective. Only in the synthesis of the two can rational choices be made as to the ultimate size of defense expenditures or the relative priorities within that budget.

This analysis has been motivated by the conviction that a number of improvements in U.S. military posture are necessary at this time. However, the traditional answer to fulfilling military requirements—increasing defense spending—is only one alternative to accomplishing the goal of increasing our preparedness. A second option has long been overlooked. It consists of reordering priorities within the Defense budget.

A striking paradox runs through American political life. Criticism of social programs has rested on the charge that they are inefficient or wasteful. Social ills cannot be cured, it is argued, by throwing more Federal funds into these programs. Rather they can be improved by tough management, consolidation, and a careful pruning.

These arguments often have merit. Unfortunately, the same rationale is not applied, by the same critics, to the military budget. Instead the demand is for throwing more money into the program to correct perceived inadequacies. This is the paradox that separates domestic and military programs.

This paper is based on the premise that productivity and efficiency should be the measuring rod of all Federal programs—social and military.

A constant standard should be applied. This will require tough management, consolidation and careful pruning of the military budget just as the social programs must meet the same requirements. The following analysis will point out those areas of the defense budget which are susceptible to this technique with the goal in every case to increase rather than decrease military preparedness.

II. DECLINING FORCE LEVELS

The most serious military problem facing the Nation is the decline in the U.S. force levels. Dwindling numbers of military vehicles, aircraft, and vessels can be directly attributed to unit price increases which result in less than one for one replacements of older obsolete equipment. Continuation of this policy will culminate in a U.S. force structure containing very small numbers of highly sophisticated weapons. Although on paper this smaller force may show an improved effectiveness, the capital intensive nature of general purpose warfare makes this policy extremely dangerous.

The declining force level dilemma is best demonstrated in tactical aircraft. Air Force fighter and attack squadrons have declined by 13 percent from 85 to 74 since 1964. Navy and Marine fighter attack squadrons have undergone a 20-percent decline from 113 to 90 over the same time period.

In terms of numbers of aircraft, the total Navy active operating inventory is down 2,856 aircraft from 8,090 to 5,234 since 1964. Navy tactical fighters and attack planes fell from 1,770 to 1,243 or 30 percent.

Marine fighter and attack aircraft dropped from 344 in 1964 to 240 in 1975. All fixed-wing Marine aircraft and helicopters declined from 950 to 881 over that span. The drop would be larger were it not for the increase of 96 helicopters. Active Air Force fighter and attack aircraft fell from 1,760 unit equipped planes in 1964 to 1,608 in 1975.

Tactical aircraft declines can be traced to increases in unit costs. With aircraft costs doubling every 4 years since World War II, replacement due to attrition or obsolescence invariably results in lower force levels. The F–111, for example, at $15 million each is 168 times more expensive than the $89,000 P–47 of World War II.

Think what that means, Mr. President. It costs 168 times as much to buy a fighter plane today as it did 30 short years ago in World War II. The difference cannot be accounted for by inflation. While the industrial commodity index rose by almost 235 percent since World War II, the price of the tactical aircraft cited has risen 16,753 percent. Although this may show a rather extreme case, other comparisons of fighter aircraft over the past 30 years will indicate that similar unit price increases have taken place. The House Armed Services Committee has stated that the funds required to purchase 100,000 fighters in 1945, would, adjusting for inflation, only purchase 1,000 F–14 or F–15 fighters today. The climb is dramatic, and no end is in sight.

Tactical aircraft present only one example. The total active fixed inventory of all U.S. aircraft has declined from 25,105 in 1964 to 17,591 in mid-1975.

The situation with respect to the U.S. fleet is not much different. Since 1964, the total active fleet has declined by over 400 vessels, from 917 to 496, or 45 percent. This is the smallest number of ships in the fleet since 1939. This decline can be attributed to bloc obsolescence from World War II ships, increasing unit prices, and an obsession with large carrier task forces. Although new shipbuilding programs are designed to reverse this trend beginning this year, there is a strong possibility that unit price increases will consume some of the planned acquisitions before they are off the drawing board. The LHA program, for example, was scheduled for a production of nine ships at a cost of $1.38 billion until production difficulties and cost overruns forced the cancellation of four ships. The remaining five ships will cost $1.29 billion or almost as much as the original nine.

In other words, just in the past couple of years, we have gone from having nine ships to having only five ships, and the cost is about the same.

U.S. shipbuilding is in danger of being torn by two internal policies pulling in opposite directions. The first is the overreliance on the super carrier task force. Clearly, the aircraft carrier has been the dominant surface ship since World War II. Now, however, effective antiship weapons developed by the U.S.S.R. threaten carriers when operating in constrained waterways such as the Mediterranean. Furthermore, the carrier has been the rationale for acquiring supporting warships. The result is a concentration of naval resources in the carrier task force concept that dries up funding for other surface ships.

Second, the Navy is stretching its capabilities to reach for the 100-kt Navy of the future. Conceptually, this is an attractive philosophy, employing, as it does, an enhanced awareness of maneuverability and high speed. Progress has not been promising, unfortunately. The high-speed patrol hydrofoil missile ship has experienced severe problems which have interrupted surface effect ships development. The difficulties seem to be primarily of a management and oversight nature with responsibility resting both with the Navy and the contractor. This responsibility should weigh heavily, for any delays in promising technologies such as this further contribute to declining force levels.

In sum, the Navy should emphasize construction of medium to small ships with high speed, antiship and escort capabilities, while concentrating on keeping unit costs at a low level, thus allowing purchase of sufficient numbers of vessels.

The Navy's submarine programs generally are progressing well.

Declining force levels also typify some aspects of Army programs. The most serious situation exists with regard to the number of tanks in the inventory. Inventory stocks have assumed increasing importance in the aftermath of the 1973 Yom Kippur war. In a 19-day span, some 810 Israel, 900 Egyptian and 1,050 Syrian tanks and armored vehicles were destroyed. Soviet antitank weapons costing less than $4,000 each were responsible for 20 to 25 percent of the Israel tank losses. There is every reason to believe that a general-purpose war in Europe would be at least as intensive.

In 1971, there were 10,182 tanks in the U.S. Army inventory. At the present time, there are 5,198 prime tanks and 3,120 other tanks in U.S. Army arsenal, for a total of 8,318. This is 1,864 fewer than 1971, although the quality of individual tanks has been improved. Marine Corps tank levels declined from 754 in 1964 to 477 in 1975. Some of this drop can be attributed to military aid requirements and Vietnam losses. Production rates are on the upswing from 640 a year now to a scheduled 1,200 a year by February 1977. The future problem lies with the increasing unit costs of the new generation tank, the XM–1.

The highly effective M–60 series tanks currently cost about $500,000 each. The new XM–1, a goldplated tank, will have a program unit cost in then year dollars of $1.34 million each—$4.45 billion for 3,312 units and 11 R.D.T. & E. prototypes. This does not include the $234.8 million invested in the MBT–70 predecessor cancelled by Congress when it approached a unit cost of $1 million.

Even a high-lo mix of M–60's and XM–1's is not likely to present a curb to the long term decline in the U.S. tank inventory if replacement tanks cost $1.3 million each.

In each of the cases cited above, the United States appears to be engaging in its own unique form of unilateral disarmament. Insistence on ever more sophisticated weapons irreversibly leads to lower force levels. The case of increased effectiveness of these smaller force levels cannot meet the test of battle conditions under those experienced in recent years. The only conclusions that can be drawn are that the Defense Department is engaged in a replacement policy detrimental to our national good.

The hi-lo mix policy was instituted to offset this adverse trend in weapons acquisition. There are serious signs, however, that the high-lo mix concept is not the answer. In theory, the introduction of the "lo" component should occur at the expense of the "hi" product. In practice, however, the "lo" factor has been introduced in conjunction with a continued full purchase in the "hi" range. The "lo" component should be used in competition with the "hi" rather than as a fallback position after technical difficulties or Congressional resistance has become clear. In addition, the hi-lo concept has been used in retrospect as a justification for continuing programs rather than as a long range planning tool. If mini-carriers end up costing the same as full size carriers, then the hi-lo concept has served no useful purpose.

If the hi-lo philosophy is carried to its logical end, there will be two types of every major acquisition in this country—a virtual Noah's Ark solution.

III. CURRENT ORGANIZATIONAL DEFICIENCIES

The American Defense Establishment has shown a number of severe weaknesses within the past several years. It is impossible to tell if they are symptomatic of permanent underlying deficiencies or occasional ineptitude. Nonetheless, they point to the need for serious reexamination and reorganization of several defense functions.

A. COMMAND CONTROL AND COMMUNICATIONS

Paramount among these items is a laxity in the field of command, control, and communications. Notwithstanding the exotic technologies currently deployed worldwide, which promise instantaneous secure communications, there are serious questions about the flow of communications—particularly during crises. The *Pueblo* incident indicated that even the most important intelligence data can become embroiled in communications delays of hours duration. Similar delays occurred during the sinking of the *Eilat* and most recently the *Mayaguez* incident.

Overlapping layers of bureaucracy characterize the command and control system. Only recently has DOD moved to consolidate control over this farflung empire under the aegis of the World-Wide Military Command and Control—System—WWMCCS. One of the first projects authorized by WWMCCS was a study of how the system works and what remedial actions may be necessary. This in itself gives rise to questions about the effectiveness of the new organization. There are significant differences of opinion on the WWMCCS, particularly with regard to the advanced airborne national command post aircraft, with the Director of Defense Research and Engineering at one point being overruled in a WWMCCS council meeting by the Deputy Secretary of Defense. Thus the new centralized organization appears to be exerting an influence over procurement decisions as well as coordinating communications policies.

B. INTELLIGENCE

Although the human and financial resources consumed by Defense Department intelligence agencies have declined in the last 5 years, the basic problems identified in the Fitzhugh Blue Ribbon Panel Report remain. The Defense Intelligence Agency continues to overlap with the three service intelligence organizations. Parochial intelligence estimates continue to be made by the service organizations, since to do otherwise would jeopardize current budget allocations.

The intelligence process is a pivotal ingredient in the defense budget. Threat projections justify current expenditures. As long as this linkage is perceived by defense intelligence officials, there will be pressure to make intelligence estimates conform to bureaucratic or service-oriented goals. Reforms are necessary to isolate defense intelligence from service parochialism. A new chain of command to a single authority is necessary, along with consolidations which would result in a smaller, more independent organization.

C. TACTICS AND STRATEGY

The last decade has seen the annual defense debates center on procurement related issues. The ABM, MIRV, Cheyenne, and B–70 have been the catalyst for congressional action.

This concentration on highly visible projects has been at the expense of a thorough discussion of U.S. strategy and tactics. The often heard criticism that the Pentagon is always preparing to fight the last war may have some relevance in terms of strategic and tactical thinking. The noticeable lack of new military tactics, even after the Vietnam debacle and the post mortem of the Yom Kippur war, indicates that new weapons have been introduced into the U.S. inventory without consideration for new operating techniques.

Is the quick tank thrust no longer an economical tactic, considering cheap antitank weapons? Do tactical nuclear weapons preclude the operations of massed ground units? Will helicopters survive in an intensive antiaircraft environment? Is the standard three-to-one offense versus defense ratio a modern-day fallacy? These and many other issues are not thoroughly discussed in defense budget presentations. American military thought has been inhibited by an all-consuming attraction toward sophisticated weaponry. Much more attention must be directed toward innovative organization and tactical planning.

IV. FAULTY EQUIPMENT

Central to any analysis of U.S. preparedness is the condition of equipment received from defense industry. While there as always will be some unanticipated failures in defense goods, a consistent pattern of discrepancies of magnitude signal more serious flaws in the procurement process.

No single aircraft system has been plagued with more structural failures than the C5–A. By 1969, there was clear evidence that the giant cargo plane's wings were defective. Nonetheless, the Air Force accepted delivery of the 81 aircraft, knowing they were defective, and thereby passed the financial burden for future corrective action on to the Defense Department.

The C5–A ran up a total program cost of $4.4 billion including a $2 billion cost overrun. The new total, including a wing fix, will result in close to a $6 billion commitment to a 78 aircraft fleet. In 1970, the Air Force estimate for fixing the C5–A wings was $185,000 each. After acceptance in the Air Force inventory and several years of limited use, the C5–A service life goal of 30,000 hours was degraded to 9,500–13,000 hours. Re-estimates of fixing the C5–A were raised in 1975 to $11.5 million each, or nearly $900 million for the remaining 78 aircraft. A second revision in late 1975 indicated a price tag of $1.34 billion.

Several conclusions stand out. The Air Force knowingly accepted defective equipment and released the contractor from future financial obligation to make good the structural deficiencies. The Air Force consistently underestimated the costs of repair. And the Air Force relied exclusively on the prime contractor for repair work even in the aftermath of the original faulty construction.

Army ground equipment has not been immune from the grip of shoddy engineering. The most celebrated recent case involves the Army's replacement for the work horse three-quarter ton truck—the Gamma Goat.

The Gamma Goat presents the classic case of over-specification and under performance, the two phenomena often being interrelated. The 1¼ ton Gamma Goat was designed to operate worldwide over difficult terrain, including a capability to cross streams, lakes and other bodies of water. It can be airlifted and is constructed of lightweight materials for this purpose.

By 1971, there was evidence that the Gamma Goat could not meet is specifications. Test vehicles failed on numerous counts. The General Accounting Office recommended against fullscale production. The Army proceeded and authorized world-wide distribution of the Gamma Goat. The House Armed Services Committee expressed misgivings about the technical deficiencies in the program in 1972, but acquiesced to the Army demand to complete production. Fourteen thousand units were purchased at a cost of over $200 million.

Recent field evaluation of the Gamma Goat indicates that Army claims that the vehicle could meet its requirements were in error. The vehicle's swimming characteristics are limited at best and are contingent on limitations such as:

Water entry and exit speeds not greater than 2 miles per hour;

Vehicle must be stopped before water entry to test for watertightness;

Water entry points must have gently banked angles and tight soil conditions;

Water current may not exceed 4 miles per hour.

Wind conditions for water use may not exceed 20 miles per hour;

Vehicle must have a payload during water exercises to maintain proper buoyancy.

In addition, the vehicle has a contentious noise problem, requiring operators to wear ear plugs. It is difficult to operate and has a tendency to pop out of gear. It is dangerous to operate on wet or muddy roads because the center wheels throw mud and water on the inside of the windshield. It is subject to frequent breakdowns for numerous reasons, some related to the light materials used in construction.

The Army is requesting $5.6 million to correct some of these difficulties.

Equipment failures also have occurred in strategic weapons. The most serious recent example was the Poseidon reentry vehicle test failures revealed in the summer of 1973. Senate Armed Services Committee testimony indicated that there had been 5 missile failures in 28 demonstration tests and 14 additional reentry vehicle failures in 24 operational tests. This alarming discovery came well after full-scale production of the missile system and at a time when 14 Poseidon-equipped submarines were on station.

Although downplayed at the time by the Secretary of Defense, this failure rate in fact severely degraded the retaliatory capability of the submarine force for a period of months. This incident was reminiscent of the startling teathered launch failures that occurred in the Minuteman program and reentry vehicle difficulties in the A–3 Polaris systems.

Equipment difficulties in ground vehicles or tactical aircraft are cause enough for concern, but similar failures in strategic weaponry raise questions about U.S. second-strike capability. This is an intolerable situation. The Poseidon test failures have been corrected. But the conditions which gave rise to this problem may be endemic to the procurement process and, as a consequence, could appear again—perhaps at a more critical time.

The examples above might be dismissed as the normal risk involved in any highly sophisticated development program were it not for a long history of other major projects being canceled after encountering schedule, cost or performance problems.

In the period 1954–74, 85 major weapon programs were canceled by Congress or the Department of Defense with a value in expended funds totaling $11.4 billion. This included 24 Army projects costing $1.3 billion, 29 Navy programs at $2.3 billion and 29 Air Force systems at $7.8 billion. A highly efficient research and development system should not have produced so many failures. Occasional dead ends or technological blunders are to be expected. But $11 billion in canceled programs is an indication of permanent material deficiencies.

V. MISPLACED PRIORITIES

The Defense debate often is centered on the issue of whether or not the budget is too high or too low. Exclusive focus on that relative viewpoint has clouded another variable of equal importance—internal priorities.

The shift of allocations within the defense budget could have just as much impact on increasing effectiveness as adding new funds. Congress has been extremely reluctant to address this question except in a piecemeal way. Since the early 1950's, the defense budget has changed from emphasizing strategic forces to general purpose forces to the most recent emphasis on Navy programs. These shifts have not been the subject of congressional attention in the broad sense.

Similarly, individual weapon systems, though subject to much more intense congressional scrutiny, have not been viewed from an internal priorities perspective. If, for example, the three systems discussed below were to be reoriented or terminated, additional funding would be "freed" for distribution to the problem areas highlighted in other sections of this white paper.

A. B–1 BOMBER

The B–1 bomber is the emotional and financial heart of the Air Force procurement budget for fiscal year 1977. The merits of this system will be examined amidst controversy at other times. For the present, however, it is instructive to note that the $1.5 billion requested for the B–1 this year would build a secure Trident submarine with 24 missiles capable of launching almost 200 warheads. It would purchase 108 F–15's—enough for a deployment of 4 squadrons of 24-unit equipped aircraft each—spares, pipeline, attrition extra. It would fund 10 destroyers of the DD–963 class or 6 attack submarines of the SSN–688 class.

For the price of the B–1, this year alone, the United States could pay the annual recurring costs of five Army Armored divisions, including procurement, military pay and operation and maintenance.

These illustrations depict the trade-offs that are possible from an internal reorientation of programs where it will strengthen the military system. Congress should not hesitate to make such priority changes.

B. STRATEGIC CRUISE MISSILE

Of all the new weapon systems under research and development in the United States, the strategic cruise missile program is the most ambiguous and potentially destabilizing. Unless constrained in SALT agreements, cruise missiles could be deployed in enormous numbers relatively quickly and at modest expense. A torpedo tube cruise missile could double the number of strategic delivery weapons available to the U.S.S.R. U.S. B–52's alone could carry over 5,000 cruise missiles.

The cruise missile is a fourth deterrent system. Its rationale is precisely the same as the third or second deterrent system—complicating defenses and hedging against degradation of the other deterrent systems. Due to its low cost and capability for rapid deployment—even before the 1977 termination date of the 1972 SALT agreement—the seabased strategic cruise missile could very easily lead to the following changes in the strategic environment:

Make the strategic launcher vehicle limitations immaterial since the SLCM does not come under these levels;

Greatly complicate verification of naval vessels carrying strategic as opposed to tactical cruise missiles;

Create pressures for increased air defense measures in the U.S.S.R. and the United States;

Degrade the range and cruising radius of U.S. submarines carrying SLCM which are not comparable to sea-launched ballistic missiles;

May encourage third parties to purchase or develop similar technology due to its relatively low expense.

The sea launched cruise missile may be the subject of the current round of SALT negotiations. Insofar as it is used to obtain concessions from the U.S.S.R. in other systems, the threat of a SLCM deployment may have some purpose. Due to the nature of the technology, however, the threat need not rely on continued funding to be credible. Funding for the SLCM can be held in abeyance without any impact on negotiating strategy. The worst kind of bargaining is that which requires the full exercise of every option before an agreement can be met. Building every conceivable new strategic weapon system simply for negotiating leverage is a subterfuge for expanding the arms race into a new dimension.

C. ADVANCED ATTACK HELICOPTER

After an expenditure of $400 million, the Congress and DOD canceled the Cheyenne helicopter program in early 1972. The project was technologically overambitious and suffered from a rising program unit cost—estimated at $5.1 million at the time of cancellation.

The advanced attack helicopter is the follow-on to the Cheyenne. In July of 1971 the original planning estimate for the AAH was $2 million fly-away; $2.9 million procurement; and $3.7 million program unit cost.

At the present time, the AAH program unit cost is $5.9 million with procurement at $4.9 million, the number of units holding constant at 481. Thus the AAH is considerably higher than the ill-fated Cheyenne.

The rise in the program unit costs are of such magnitude as to warrant a reanalysis of the AAH program compared to fixed-wing aircraft. The AAH is more costly than the $4.6 million A–10 close support aircraft. It is considerably more expensive than the older A–1, A–4 or Enforcer type aircraft.

The future effectiveness of the advanced attack helicopter rests to a considerable degree on its weapon systems. Laser terminal homing missiles and fire and forget missile systems could give helicopters a tactical advantage against tanks, but these weapons are not yet deployed. Alternatively, they could be used by fixed-wing aircraft.

The sum of $112.1 million is requested for the AAH in the fiscal year 1977 budget. This is for research and development only, with the total program cost expected to be $2.8 billion in then year dollars.. At the same time, the Army is requesting $213 million for the utility tactical transport aircraft system, $128.9 million for 82 Cobra/Tow attack helicopter systems, $26 million for the advanced scout helicopter, and $18.8 million for R. & D. in the HH–53C medium lift helicopter. It would seem that, even given the widely varying missions of these helicopters, a modular system could be developed which would make use of the common elements at a greatly reduced price.

The Cobra/Tow combination is being purchased at a procurement unit cost of $1.48 million. The primary mission of the Cobra/Tow is antitank, the same mission as the AAH. Considering the price differential between the Cobra and the AAH, there is a strong possibility that the extra performance may not be warranted by the cost, particularly if the planned buy declines. In a tank dominated battlefield in Europe, numbers of vehicles, including helicopters, will be as important as sophistication.

Therefore, it is recommended that two studies be conducted; the first to explore the financial trade offs between current and projected close support fixed aircraft, and the second to determine the practicality of more commonality in Army helicopter procurement. The AAH procurement decision should be dependent on the conclusion of such studies.

VI. DEFENSE MANPOWER DECISIONS

The quality-quantity dilemma in procurement has a mirror image in manpower. But while procurement trends indicate an adverse trade-off sacrificing quantity for questionable quality, the manpower trends suggest a dilution of combat preparedness due to overstaffing. Redundant layers of decisionmaking, excess headquarters personnel, and a top-heavy civilian support organization can contribute to battle losses in the same degree as ineffective equipment. A delayed critical decision, an analysis staffed to death, a compromising between conflicting bureaucratic forces—all degrade military capability.

The 924,000 civilian employees in the Department of Defense could completely staff every major civilian department or agency of the U.S. Government, which include Agriculture, Commerce, HEW, HUD, Interior, Justice, Labor, State, Transportation, Treasury, ERDA, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Veterans Administration, Agency for International Development, Civil Service Commission, Federal Energy Administration, Nuclear Regulatory Commission, Panama Canal, Selective Service System, Small Business Administration, Tennessee Valley Authority, and the U.S. Information Agency.

The payroll for these civilians has increased 119 percent from $7.3 billion in fiscal year 1964 to $16 billion for fiscal year 1977. These civilians now consume 16 percent of the total defense budget outlays. While the total percentage of personnel costs in the DOD budget has declined since 1964, percentage devoted to the civilian payroll has increased.

From 1964 to the fiscal year 1977 request, the number of civilians has been reduced by 11.8 percent—1,175,000 to 1,036,000. At the same time, the total military population has been reduced 21.7 percent from 2,685,000 to 2,101,000. Thus the civilians have been reduced 139,000 while the fighting forces have been cut by 584,000—four times as hard. Even factoring in the civilianization that has taken place over the same time period, the military positions have been reduced by a ratio of more than 2 to 1 compared to civilian. Civilianization may help the military teeth to tail ratio but it contributes substantially to the civilian payroll burden.

The fiscal year 1977 request for a reduction of 26,000 civilians is far too modest. This 2.4 percent reduction should be increased to 5 percent and sustained for 5 years. The often pointed to Soviet military force structure has a far lower civilian to military ratio than that of the United States.

VII. CONCLUSIONS

The first step toward remedial action is to recognize existing problems, make sound judgments about the nature of the threat, and implement new programs to offset both circumstances. As with domestic programs, a reaction to defense inefficiencies need not rest on a policy of increasing budgetary commitments. In fact, just the opposite approach has often proved successful in correcting domestic programs with productivity and managerial problems.

Mr. President, it has been my experience that the most effective agency that comes before the Appropriations Subcommittee of which I am chairman, and we have a number of offices come before us as the Appropriations Subcommittee on independent offices, is NASA, the space agency. Why? Because their budget has been held down and they are constrained, disciplined to improve their productivity. They have done that. NASA has one of the best productivity records in the Government. In addition, they have introduced competition into procurement by the Government, and they have been able to hold down their procurement costs. I recommend this policy for the Defense Department. As long as we give them all they ask for, or almost all, we are going to get from them far less discipline and less cost-consciousness than we should get.

Less funding, rather than more, forces sharper procurement decisions, more rational commitments to research and development, heightened concern for the application of competition.

The fiscal year 1977 budget request suffers from a form of short-term myopia. First it comes during the middle of an intensely political year. It is ironic to note that Defense spokesmen air charges of a dollar gap in military spending between the United States and the U.S.S.R. 1 week only to offer claims of U.S. supremacy in military hardware the next when under political pressure from another direction.

Second, the defense budget contains at least two categories of funding which are distinctly related to bureaucratic initiative rather than force requirements. The $2.7 billion Rumsfeld add-on and the $3.1 billion cushion represent bureaucratic legerdemain long suspected in all budget processes but for which until now there had been little proof. A careful pruning of the fiscal year 1977 defense budget should begin with these two sums. Although it still is unclear if these two figures are mutually exclusive, it is clear that the defense budget contains at least $4 to $5 billion in funding not directly related to critical programs or force levels.

On top of this is a several billion dollar sum representing many of the programs analyzed earlier, the B-1, SLCM, civilians, AAH, plus certain shipbuilding charges, the nuclear cruiser—CSGN—and the AABNCP.

The major portion of the latter, rather than constituting savings, should be reinvested in programs which would invariably lead to increasing force levels—more naval units of moderate size compared to new carrier task forces; more tanks and armored vehicles, more tank killing equipment; better command, control and communications equipment and procedures; improved close air support for ground forces; new next generation lightweight fighters involving a high degree of commonality; new hand and crew operated weapons; body protective devices; instant, reliable, secure, field communications; fire and forget missile systems; advanced surface effects ships at reasonable costs; and so on.

It is not unreasonable that a savings in the nieghborhood of $6 billion could be made in this budget while at the same time, reordering internal priorities and improving efficiency and force levels.

That is the real challenge in the budget process.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

U.S. MILITARY ACTION AGAINST CUBA

Mr. HATFIELD. Mr. President, following the end of the Vietnam war nearly 1 year ago, many Americans had the right to hope that we would enter a new era of U.S. foreign policy. I believe we had the right to expect that the much-vaunted "lessons" of the tragic Vietnam experience had been learned. We had the right to believe that our relations with the developing world would finally begin to reflect a heightening awareness of their struggle for independence and that we, in celebration of our own struggle against outside oppression, would adopt a more reasoned and rational policy toward these indigenous movements.

We anticipated a new era which would emphasize the virtue of reason over reactive violence, and understanding in the place of blind fear. The new foreign policy was to finally put to rest the naive notions regarding the monolithic nature of struggle in the developing regions; we were to abandon the costly delusions of the past and confront the reality of a new and vastly more complex world.

Hope for a truly new foreign policy, however, was shadowed by Secretary Kissinger's speech in Houston on March 22 reiterating his warning to the Soviet Union and Cuba about military intervention in situations like that of Angola. That message has been followed in the last few days by further reports indicating direct military action is being charted at this moment by the Joint Chiefs of Staff. To quote the Secretary's statement: "The United States will not accept further Cuban military interventions abroad." He criticized Congress for placing restrictions on U.S. action in Angola, and said that although the United States does not want to police the world we cannot, by our default, allow the Soviet Union to do so.

Clearly, the Secretary of State has something in mind in making these statements, and the President in letting him make them. Such comments are obviously too serious and too sensitive to be any way related to the forthcoming Presidential election. And the Secretary, as astute as he is, surely knows that empty threats are worse than no threats at all.

We should assume, therefore, that the speech was the product of careful consideration within the executive branch, and that it represents a calculated, deliberate attempt to intensify the issue until it approaches the proportions of crisis. Indeed, only when we take the speech seriously can we appreciate the seriousness of the Secretary's remarks.

What Dr. Kissinger appears to be saying, on behalf of the United States, is that the balance between the United States and the Soviet Union is not only a global, strategic balance—it is also a regional balance which, if disturbed, can fundamentally alter the structure of world power. Successful intervention by the Soviet Union or one of its allies in a situation like Angola cannot be tolerated because it can encourage similar "adventurism" elsewhere, and such a trend would endanger the security of the United States. "It does no good," Kissinger stated, "to preach strategic superiority while practicing regional retreat."

The seriousness of this logic can be seen by examining the implications of the Secretary's comments. Although he spoke in Dallas, as he has elsewhere, of the right of countries to evolve politically without armed intervention by outside powers, he does not make any distinction with respect to U.S. interests in various countries and regions, or the effective use of U.S. power in different situations.

Yet we know from our experience, including that of Vietnam, that there are limits to the effective use of our power and our ability to control events. We also have had enough experience to know that there are limits to the effective use of the power of the Soviet Union and its allies, and their ability to control events. Egypt, which only a few years ago was considered by many to be firmly in the Russian camp, has now terminated its treaty with the U.S.S.R. and reasserted its independence. Ironically, it was Secretary Kissinger, who now asserts that every situation involving direct Communist intervention is a threat to our security, who played a major and successful role in encouraging the Egyptians to disengage from their relationship with the Soviet Union.

In the case of Egypt, direct military intervention was not a factor. But where it is a factor, as in Angola, does the use of such military forces insure Communist control of a country? I doubt that anyone would suggest this as a tenet. It would also be a colossal mistake, in my opinion, to assume that armed intervention by the Communists in revolutionary situations like Angola automatically established a trend which is inimical to our interests. This amounts to a global domino theory, and that, in turn, leads to the ultimate absurdity: the use of U.S. power to effectively maintain the balance in every region of the world is essential, regardless of the interest we have in that region, and regardless of how effectively we may exercise our power in the situation in question.

Let me now mention briefly some of the specific problems I have with the position enunciated by the Secretary.

The immediate cause for the Secretary's remarks stems from his fear that if negotiations and the current guerrilla warfare prove too slow, the Rhodesian liberation forces may ask the Cubans for help. Unfortunately, his threats to Cuba are likely to improve that prospect, since they are likely to be interpreted in Salisbury despite all comments to the contrary, as proposing in some way to prevent Cuban participation. Immediately after his warning to Cuba on March 4, against intervention in the dispute between Rhodesia and Mozambique, the Government of Rhodesia expressed its appreciation to Secretary Kissinger, while representatives of the African National Council—ACC—who were negotiating with Smith stated that Dr. Kissinger's remarks had helped create intransigence in the political negotiations.

Secretary Kissinger's warnings to Cuba may keep alive Mr. Smith's belief that in a crunch he will get some form of aid from the West. Whether that aid will come in the form of military action on the African continent, or in direct action against Cuba itself, we do not know. But to the extent that Dr. Kissinger's statement encourages Mr. Smith to expect the United States to prevent Cuban intervention on behalf of Rhodesian liberation groups, the warning itself may have significantly reduced the chances for a negotiated settlement and made the chances of open warfare—with the possibility of Cuban intervention—more likely.

Has the Secretary of State forgotten what is at issue in the Rhodesian dispute for the Africans?

It is a serious misinterpretation of the situation in Rhodesia to consider it, as the Secretary evidently does, as primarily an attempt by the Russians and Cubans to carry forward their thrust into southern Africa. That might well be their intention, but as of now, they are clearly playing only a secondary role in the current developing situation. The real challenge against white Rhodesia comes from the country's black nationalist states and, more importantly, in the growing African struggle for self-government and against a history of ideological oppression.

How will African nations interpret Secretary Kissinger's warnings to Cuba?

The Secretary of State has chosen the worst possible place to draw the line against Cuba. Even those African nations such as Zambia, which share a legitimate concern about the intervention of non-African powers in southern Africa, would not oppose the use of Cuban forces as a last resort to bring an end to white rule in Rhodesia. Because of Washington's benevolence in recent years toward white minority governments in southern Africa, many African leaders remain more suspicious of American motives than of Cuba's presence in Angola. The one issue which unites all Africans in their commitment to end white racism in southern Africa. The United Nations, with American support, long ago invoked mandatory sanctions against Rhodesia's white government, branding it illegal and a threat to international peace.

In addition, the United States has long lectured the Africans against the use of force in seeking redress for injustice in southern Africa, and of the limits on U.S. power to influence change in their area of the world. It will not be lost on African leaders how quickly the United States appears willing to take decisive action against Cuba over a southern African issue, knowing as they do, that the United States was totally unwilling to take such decisive action in the interest of justice in Rhodesia.

With respect to our relations with Cuba, an embargo on Cuba, although technically an act of war, would presumably be the least serious of the alternatives that are envisioned for U.S. action against Cuba. What possibly could be gained by a new embargo when the old embargo, still in force, has failed so miserably?

The present embargo has isolated the United States rather than its intended target, Cuba. U.S. allies disregarded the embargo at its inception and today all major trading nations of the world carry on commerce with Cuba.

Far more serious are discussions about the resurrection of a naval blockade against Cuba, the use of remote-controlled lasar guided weaponry, or, more serious still, direct U.S. troop intervention against the island, or in Africa itself.

These options would have the most dangerous consequences, and their effect on deployment could—in quantum leaps—intensify the crisis and provoke a confrontation between the United States and the Soviet Union. It is clear that, in the intervening years since the Cuban missile crisis, the Soviet Union and Cuba have become more closely wedded to each other in military, economic, and political terms. This is in no small way due to the past refusal of the United States to open dialog and develop economic and diplomatic ties with Cuba.

The result is that any military options now being discussed are immensely serious, holding implications that far transcend the ongoing struggle on the African continent. In the white-hot atmosphere which will follow any military or naval action against Cuba, the possibility of a direct Soviet-American confrontation in the Caribbean must now be considered a viable possibility. The belief, spawned by the historic confrontation of 1962, that the Soviet Union will watch passively as its ally is attacked or otherwise endangered is a dangerous delusion under the reality of present day Russian-Cuban entente.

Furthermore, would not hasty action directly against Cuba resurrect the image of the self-serving "Colossus of the North," using heavy handed policies on its weak southern neighbors? While it is recognized that some nations in Latin America are upset over Cuban policies in Africa, there is by no means a consensus among the Latin Americans against Cuban actions. Therefore, United States action is unlikely to be undertaken under the aegis of the OAS and would indeed be a serious unilateral move. U.S. action would be in violation of the OAS charter and other tenets and principles of the inter-American system. It is highly unlikely that the OAS nations will undo what amounted to the lifting of the economic and diplomatic ban on Cuba for what seems to be a specific foreign policy interest of the United States.

With respect to America's allies and the third world, what will be the effect of Secretary Kissinger's threats on our NATO allies and those people in the world who still cling to pro-American views?

During the Vietnam war the U.S. intervention had few friends in the governments of Western Europe. Governments which supported us did so most reluctantly; indeed many European statesmen wondered why we put such enormous amounts of blood and treasure into an area that they saw as peripheral to American and Western interests. Would not confidence in our judgment be shaken once again by extreme American measures against Cuba? Did not the Vietnam venture go far to validate the image in the popular mind abroad that U.S. foreign policy was imperalistic, and would not any direct intervention against Cuba revive all the fears and criticism that have died down since Vietnam came to an end? If Secretary is thinking of "linkage," here is a linkage I suspect he would not want to encourage.

Direct action against Cuba would once again be interpreted as U.S. contempt for the machinery and processes of the United Nations? If the United States feels that potential Cuban troop movements in Africa pose a threat to the peace, a breach of the peace, or an act of aggression, there are United Nations procedures that can be invoked. If we pay no attention to them, but simply react with force against Cuba, how are we acting any differently than the Russians did when they sent troops into Czechoslovakia in the summer of 1968? World opinion justly condemned the Soviets for that move, and world opinion would be overwhelmingly against us now.

Most of all, how could the United States justify such action in the sight of the third world? Rightly or wrongly the United States is now seen as an antagonist by most developing countries. If the United States were to intervene against Cuba to block Cuban assistance to Rhodesian rebels, or if it were to move militarily against Cuba itself, the United States could well be condemned as the open ally of a racially oppressive minority regime, a regime which the United States itself believes must be changed. What few friends the United States can now muster in black Africa or in the developing world in general would simply wither away. We would be left with a few military allies such as South Korea, but no real standing among those governments or peoples whose good will is becoming ever more essential to our world position. Indeed, the Soviet Union, China, and all radical regimes in the third world could argue with renewed strength that the United States is simply the principal prop of world reactionary trends.

What about domestic repercussions in the United States?

In taking a hardline position toward any new Cuban intervention in Africa, we must weigh the possibility of serious repercussions in this country. Such a policy runs the risk of reopening old wounds, of reviving the bitter debate over America's role in trying to police the globe. Can this country afford another round of recrimination similar to the one from which we have just emerged?

It may be that Secretary of State Kissinger believes the country will unite behind his drive to put a stop to Cuba's military adventurism. But is such a consensus likely to emerge? Many people would say "no," and would argue that widespread support among Americans could only be secured if the Administration clearly demonstrated that vital U.S. national interests were at stake.

Yet how many Americans view the actions of Cuban mercenaries in Africa as a major threat to our national interests? Also, what will be the reaction of blacks and many other citizens when the Administration first puts its policy into effective support of white minority-ruled Rhodesia?

A hardline position toward Cuba is not likely to receive the widespread backing of the American people but, rather, may very well plunge the country again into a period of political disagreement and turmoil.

Finally, I am intrigued with Dr. Kissinger's perceptions of the mood and role of Congress in this situation.

The war powers resolution, passed over the veto of the President on November 7, 1973, contained consultative provisions requiring the President "in every possible instance" to consult with Congress both before introducing troops into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances. In addition, such use of troops was to be terminated automatically within 60 calendar days unless Congress had declared war, enacted a specific authorization for such use, extended the 60-day period, or was physically unable to meet because of an attack upon the United States.

I then would ask the obvious: is the use of U.S. military force against Cubans at home or in Africa contemplated? Is consultation with Congress as required templated prior to the introduction of U.S. Armed Forces? Was Mr. Kissinger's speech—and the policy it ennunciated—preceded by consultation with Congress on this subject? If Congress does not specifically approve military action, would the administration feel free to conduct such operations for 60 days without congressional consent? Will Congress be asked to appropriate additional funds for contemplated military actions against Cuba? If additional funds are not appropriated for such a purpose, does the administration feel that currently appropriated funds can be used for such purposes?

The United States, by its adherence to the United Nations Charter, has committed itself to seek peaceful solutions to international problems and to encourage others to do the same. If aggression does occur, the United States is similarly committed, through bilateral and multilateral treaties and through the United Nations, to meet such aggression through collective action.

What diplomatic initiatives have been pursued to resolve this problem without the use of military force? Has this issue been raised by the United States, or by any other nation, in the Security Council of the United Nations or in any other international forum, such as the OAS or the OAU? Has the United States received indications of support in this effort from any of its allies? Will all diplomatic initiatives be exhausted before a resort to force is accepted? What are the obligations of the United States in this regard? Would military action against Cubans under existing circumstances be justified under international law? If we are again to bring the American people, and the rest of the world, toward the brink of a crisis, I suggest that, at a minimum, these questions be answered.

As we approach our third century of existence, it is perhaps a necessary exercise to remind ourselves that the world has grown immensely more dangerous in the course of our 200-year ascendance to power. And while the temptations of our power are great, the potential results from a miscalculated use of that power might well prove beyond human calculation.

Dr. Kissinger's remarks are provocative and they heighten world concern over the motives of this Nation and its sense of reason and restraint. But what is perhaps even worse is that our dependence on military options reflects the limited vision of a leadership wedded to a superannuated foreign policy—the foundations of which are teetering perilously close to collapse. As at no other time in our history, a revolution in our own perceptions of world struggle and the awakening of developing nations is necessary if we are to sustain our leadership in the affairs of the world. If we fail in this effort, we face a future of grave and constant peril.

It is true that our greatness is being severely tested. But now, as never before, greatness may be found in restraint, in refraining from becoming involved in situations where power cannot be used effectively and with justice to ourselves and our traditions. More importantly, greatness can be found in the capacity to change and in a willingness to respond effectively to the challenges of an awakening world.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 1 p.m., with statements limited therein to 5 minutes.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. BUMPERS) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL AND JOINT RESOLUTION

A message from the President of the United States stated that on March 25, 1976, he approved and signed the following bill and joint resolution:

S. 1545. An act to amend the Agricultural Adjustment Act of 1938 with respect to peanuts.

S.J. Res. 184. A joint resolution to amend the Regional Rail Reorganization Act of 1973, as amended.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of March 26, 1976, the Secretary of the Senate received a message from the House of Representatives which announced that the House has passed H.R. 12556, an act authorizing appropriations to the National Science Foundation for fiscal year 1977, in which it requests the concurrence of the Senate.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 10624. An act to amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities.

H.R. 12490. An act to provide tax treatment for exchanges under the final system plan for ConRail.

H.J. Res. 857. Joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. Eastland).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Bumpers) laid before the Senate the following letters, which were referred as indicated:

Proposed Legislation by the General Services Administration

Four letters from the Administrator of General Services each transmitting a draft of proposed legislation authorizing the disposal of antimony, industrial diamond stones, tin, and silver from the national stockpile (with accompanying papers); to the Committee on Armed Services.

Construction Projects of the Air National Guard

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notification of eight construction projects to be undertaken by the Air National Guard (with accompanying papers); to the Committee on Armed Services.

Proposed Legislation by the Department of Defense

A letter from the General Counsel of the Department of Defense transmitting a draft of proposed legislation relating to adjustments of retired pay to reflect changes in the Consumer Price Index (with accompanying papers); to the Committee on Armed Services.

Reports of the Secretary of Transportation

Two letters from the Secretary of Transportation each transmitting, pursuant to law, a report (1) on the utilization of the authority granted to designate and rent inadequate quarters, lease housing, and hire quarters; and (2) an interim report on the West Coast Corridor Study (with accompanying reports); to the Committee on Commerce.

Report of the Federal Trade Commission

A letter from the Chairman of the Federal Trade Commission transmitting, pursuant to law, the annual report of the Commission for the fiscal year ended June 30, 1975 (with an accompanying report); to the Committee on Commerce.

Report of the District of Columbia Auditor

A letter from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "Time and Public Performance" (with an accompanying report); to the Committee on the District of Columbia.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser of the Department of State transmitting copies of international agreements other than treaties entered into during the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

Report of the Overseas Private Investment Corporation

A letter from the President of the Overseas Private Investment Corporation transmitting, pursuant to law, a report on the possibilities of transferring OPIC activities to the private sector (with an accompanying report); to the Committee on Foreign Relations.

Report of the Department of State

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report on excess defense articles delivered to foreign governments in the second quarter of fiscal year 1976 (with an accompanying report); to the Committee on Foreign Relations.

Report of the Agency for International Development

A letter from the Administrator of the Agency for International Development transmitting, pursuant to law, a report on plans for U.S. participation in and operation of the International Fund for Agricultural Development (with an accompanying report); to the Committee on Foreign Relations.

Proposed Legislation by the Nuclear Regulatory Commission

A letter from the Chairman of the Nuclear Regulatory Commission transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954 (with accompanying papers); to the Joint Committee on Atomic Energy.

Report of the Privacy Protection Study Commission

A letter from the Executive Director of the Privacy Protection Study Commission transmitting, pursuant to law, a report entitled "Annual Freedom of Information Report" (with accompanying report); to the Committee on the Judiciary.

Publisher Regulation of the Department of Health, Education, and Welfare

A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a published regulation under the General Education Provisions Act (with accompanying papers); to the Committee on Labor and Public Welfare.

Reports of the Department of Health, Education, and Welfare

A letter from the Assistant Secretary of Health, Education, and Welfare transmitting four reports of new systems of records proposed by the Department (with accompanying reports); to the Committee on the Judiciary.

Report of the Veterans' Administration

A letter from the Administrator of Veterans' Affairs transmitting, pursuant to law, a report of the activities of the Administration for the fiscal year ending June 30, 1975 (with an accompanying report); to the Committee on Veterans' Affairs.

Report of the Assistant Comptroller General

A letter from the Assistant Comptroller General of the United States transmitting, pursuant to law, a report on the release of $127.1 million in impounded budget authority (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, Budget, Labor and Public Welfare, Judiciary, Agriculture and Forestry, and Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Bumpers):

Resolution No. 4, adopted by the Junior Order United American Mechanics, relating to an accounting for Americans still missing in Southeast Asia; to the Committee on Foreign Relations.

Resolution No. 5, adopted by the Junior Order United American Mechanics, relating to American security; to the Committee on Armed Service.

Resolution adopted by the Town Council of Glenarden, Maryland, relating to investigation into the assassination of Dr. Martin Luther King, Jr.; to the Committee on the Judiciary.

Resolution 1-181, adopted by the Council of the District of Columbia; to the Committee on the Judiciary:

Resolution 1-181

"To request that both houses of Congress of the United States initiate full investigations into the assassination of Dr. Martin Luther King, Jr.

"Resolved, by the Council of the District of Columbia, That this Resolution may be cited as the 'King Assassination Investigation Resolution'.

"Sec. 2. The Council of the District of Columbia finds that:

"(a) The life and death of the Reverend Dr. Martin Luther King, Jr. are of great importance and significance to the people of the District of Columbia and the Nation because of Dr. King's leadership in the struggles for social justice, equality, civil rights and world peace and for the right of self-determination for the District of Columbia.

"(b) There are many and significant unanswered questions surrounding Dr. King's assassination.

"(c) Some governmental department and Federal Bureau of Investigation files on the assassination remain away from public scrutiny or the scrutiny of private investigators.

"(d) A setting aside of the guilty plea of James Earl Ray, the alleged assassin of Dr. King, and a subsequent new trial would not be in and of themselves sufficient to permit full airing of unresolved issues in that the prosecution would be seeking to prove Ray guilty and the defense to prove Ray not guilty.

"(e) With all of this Nation's legitimate fact-finding resources, it should not have to depend upon eliciting the truth from Ray, whose lawyer has been reported by the New York Times to have said that Ray "has no interest in solving the crime".

"(f) Recent revelations of the willingness of the Central Intelligence Agency to assist in political assassinations and of the efforts of the Federal Bureau of Investigation to personally discredit and harass Dr. King have led to growing speculation of official involvement in his assassination which, if true, should be exposed to the end that such an injustice never be repeated and which, if false, should be so proven to increase the confidence of the people in their government.

"Sec. 2. (a) The Council of the District of Columbia hereby calls upon both houses of the Congress of the United States to initiate full investigations into the assassination of Dr. Martin Luther King, Jr. and all relevant facts associated therewith.

"(b) The Council of the District of Columbia hereby calls upon the President of the United States to commission a full investigation into the assassination of Dr. Martin Luther King, Jr. and all relevant facts associated therewith.

"(c) Such investigations should be as open as practically possible to ensure public confidence in the result and, upon the completion of the investigations and all judicial proceedings relating to alleged involvement in the assassination, all of the evidence should be made public

"Sec. 3. This Resolution shall take effect upon adoption.

"Sec. 4. Upon adoption, the Secretary of the Council shall transmit a true and accurate copy of this Resolution, under seal, to the President of the United States, to the Speaker of the House of Representatives of the United States, and to the President of the Senate of the United States."

Senate Resolution No. 177, adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"SENATE RESOLUTION 177

"Relating to Federal legislation and policies for the reimbursement to the States for services provided to immigrants and refugees

"Whereas, the flow of immigrants and refugees from overseas nations has markedly increased since the amendment of the Immigration and Nationality Act in 1965; and

"Whereas, official statistics compiled by the Hawaii State Department of Planning and Economic Development reveal that since 1966 more than 59,000 persons have arrived in Hawaii from foreign destinations declaring Hawaii as their State of intended permanent residence; and

"Whereas, the Hawaii State Department of Health in a departmental report released during February 1976 indicates that Hawaii has taken in more immigrants in proportion to its population than any other state since 1961; and

"Whereas, Hawaii's overseas immigrants and refugees emanate from all of Europe, Latin America, and virtually every country in the Orient; and

"Whereas, to enhance the assimilation of immigrants and refugees into Hawaii's economic and social mainstream, special programs at substantial cost to the State of Hawaii and its political subdivisions have been implemented; and

"Whereas, the State of Hawaii is firmly committed to a policy objective of providing all necessary services to immigrants and refugees; and

"Whereas, however, the continued availability of federal funds is vital toward insuring the provision of all necessary services to the State's immigrants and refugees; now, therefore,

"Be it resolved by the Senate of the Eighth Legislature of the State of Hawaii, Regular Session of 1976, that it respectfully urges the Congress of the United States and the President of the United State to systematically monitor the requirements of the various States and to authorize all necessary federal funding support to such states as Hawaii which have responded so generously to the needs of its underprivileged residents; and

"Be it further resolved that each member of Hawaii's delegation to the Congress of the United States continue his active support of federal legislation and policies designed to reimburse the states for programs and services provided to immigrants and refugees; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's delegation to the Congress of the United States."

Senate Joint Resolution No. 73 adopted by the General Assembly of Virginia; to the Committee on Commerce:

"SENATE JOINT RESOLUTION NO. 73

"Expressing the sense of the General Assembly that Congress consider siting the National Academy for Fire Prevention and Control in Virginia

"Whereas, the Congress of the United States has enacted Public Law 93–498, the Fire Prevention and Control Act of 1974; and

"Whereas, said Act establishes the National Fire Prevention and Control Administration, and within it the National Academy for Fire Prevention and Control; and

"Whereas, the President of the United States has appointed the Administrator of the National Fire Prevention and Control Administration, who is now proceeding to staff and located said Academy; and

"Whereas, the apparent intent of the Congress and witnesses from the Executive Branch during legislative hearings was to locate the Academy on federally-owned property near Washington, D.C.; and

"Whereas, a study of available sites has been made by a Virginia citizens committee, and the Virginia Division of Industrial Development whose findings prove that the Commonwealth of Virginia offers ideal locations; and

"Whereas, siting the Academy in Virginia would offer many advantages to the Fire Service, both nationally and to those in the Commonwealth; now, therefore, be it

"Resolved by the Senate, the House of Delegates concurring, That

"(1) It is the sense of the General Assembly that Congress strongly consider siting the National Academy for Fire Prevention and Control on existing federally-owned property which will provide a suitable location within the Commonwealth of Virginia; and

"(2) The Virginia Citizens Committee and the Virginia Division of Industrial Development be commended for their efforts in providing possible sites for the academy; and be it

"Resolved further, That the Clerk of the Senate is hereby instructed to send properly prepared copies of this Resolution to the President of the United States, the President of the Senate, the Speaker of the United States House of Representatives and the members of the delegation to the Congress of the United States of this Commonwealth, the Secretary of Commerce, and the Administrator of the National Fire Prevention and Control Administration, in order that they may be apprised of the sense of the Virginia General Assembly."

A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Finance:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact an income tax exemption for citizens sixty-five years of age or over

"Whereas, Taxpayers sixty-five years of ago or over maintain themselves generally on fixed incomes and further relief is deemed necessary; and

"Whereas, Such citizens are beset with increased taxes at local, state and federal levels; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully urges the Congress of the United States to enact income tax relief in the amount of five thousand dollars for citizens sixty-five years of age or older; and be it further

"Resolved, That copies of these resolutions be forwarded forthwith by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress, and to the members thereof from this Commonwealth."

Senate Joint Resolution No. 6–85 adopted by the Congress of Micronesia; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION NO. 6–85

"A Senate joint resolution respectfully requesting the Congress of the United States to amend the Micronesian Claims Act of 1971, to extend the deadline for filing claims and to extend the life of the Micronesian Claims Commission, permitting the Commission to process claims which have not been submitted or which were constructively filed with the Trust Territory Government or the U.S. Department of the Navy prior to the formation of the Commission

"Whereas, inhabitants of the Trust Territory who suffered damages arising out of the hostilities of the Second World War and the period following the securing of the islands by the United States armed forces and July 1, 1951, have not all filed their claims under the Micronesian Claims Act of 1971; and

"Whereas, the one-year claims filing period established by the United States Congress under Public Law No. 92–39, as amended, is arbitrary and fails to consider Micronesia's unique problems with respect to transportation and communication in an area where the population is geographically dispersed and there is a lack of competent legal counsel to assist the inhabitants file claims; and

"Whereas, since the people of Micronesia have waited patiently for approximately thirty years for the just and equitable settlement of these war and postwar claims, the arbitrary one-year filing period does not allow sufficient time for all persons to file meritorious claims under the Micronesian Claims Act of 1971; and

"Whereas, some inhabitants of Micronesia failed to file claims within the deadline established under U.S. Public Law No. 92–39, as amended, because insufficient notice was given to the population as to the time for filing and the type of claims which could be adjudicated under the act; and

"Whereas, other inhabitants of the Trust Territory had been told, prior to the passage of the Micronesian Claims Act of 1971, to file war claims with the Trust Territory Government or with the U.S. Department of the Navy during the period of its administration and thought that it was unnecessary to file again with the Micronesian Claims Commission; and

"Whereas, the filing of claims with the Trust Territory Government or the U.S. Department of the Navy prior to the establishment of the Micronesian Claims Commission should be deemed to be constructive filing of claims under the Micronesian Claims Act of 1971; now, therefore.

"Be it resolved by the Senate of the Sixth Congress of Micronesia, Second Regular Session, 1976, the House of Representatives concurring, that the Congress of the United States is respectfully requested to amend the Micronesian Claim Act of 1971 to extend the deadline for filing claims and to extend the life of the Micronesian Claims Commission, permitting the Commission to process claims which have not been submitted or which were constructively filed with the Trust Territory Government or the U.S. Department of the Navy prior to the formation of the Commission; and

"Be it further resolved that certified copies of this Senate Joint Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Department of the Interior, and the High Commissioner of the Trust Territory of the Pacific Islands."

Senate Joint Resolution No. 36 adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 36

"Applying to Congress to initiate proceedings for the purpose of amending the Constitution of the United States to provide restrictions on Congressional appropriations

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

"Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments; and

"Whereas, we believe such action vital; now, therefore, be it

"*Resolved* by the Senate of Virginia, the House of Delegates concurring, That the General Assembly of Virginia proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that this Body hereby requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and, be it

"*Resolved further*, That, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and, be it

"*Resolved further*, That this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and, be it

"*Finally resolved*," That copies of this resolution be presented forthwith to the President of the Senate and the Speaker of the House of Representatives of the United States, to each of the Senators and Representatives from Virginia and to the legislatures of each of the several states, attesting the adoption of this resolution."

House Concurrent Resolution No. 26 adopted by the General Assembly of the State of Iowa; to the Committee on Public Works:

"House Concurrent Resolution 26

"Whereas, the Congress has declared the inspection and replacement of bridges over waterways or other topographical barriers are 'in the vital interest of the nation', and

"Whereas, the total appropriation of federal funds to assist in replacement of bridges for the years 1972 and 1973 for all national assistance represents less than twenty-five percent of the 1.028 billion dollars estimated by the Iowa county engineers association to be the cost to inspect and replace defective bridges in Iowa, and

"Whereas, the detailed inspection of all bridges will require a substantial investment of engineering time and cost: now Therefore,

Be it resolved by the House of Representatives, the Senate concurring, That the Iowa general assembly urges that the Congress of the United States appropriate funds consistent with this priority of national interest in the undertaking of the inspection and replacement of bridges.

"Be it further resolved, That the chief clerk of the house forward copies of this Resolution to the President of the United States, the Vice-President of the United States, the members of the Iowa congressional delegation and to the United States secretary of transportation."

House Concurrent Resolution No. 44 adopted by the Legislature of the State of West Virginia; to the Committee on Public Works:

"House Concurrent Resolution No. 44

"A resolution memorializing the Congress of the United States to recognize the extreme hazardous and unsafe conditions of the West Virginia Turnpike and urging it to appropriate or authorize the release of Federal highway construction funds sufficient to meet the Federal Government's share of the cost of upgrading the turnpike to interstate standards

"Whereas, The West Virginia Turnpike is becoming the most important section of the interstate highway system of this nation because it is an integral part of two of its major trade routes. Agricultural products, oil products and raw materials from the west and the midwest traverse interstate route sixty-four to the eastern manufacturing and population centers while machinery and products of commerce are transported back to the west and midwest, and produce and citrus products are transported northward along interstate highway seventy-seven and seventy-nine to the highly populated northern midwest and northeast and many families travel these these highways southward to vacations in West Virginia and other areas of the south; and

"Whereas, These important trade and travel routes are almost complete, but are connected by the most atrocious highway in the country—the West Virginia Turnpike which stretches for 88 miles and which was the scene last year of 199 traffic accidents, 23 fatalities and 76 injuries; and

"Whereas, The West Virginia Turnpike is a two lane highway with poor warning signals and signs, deteriorating bridges, poor pavement conditions and treacherous curves; and

"Whereas, The people of the State of West Virginia are willing and waiting to contribute their share of the cost of upgrading this roadway to interstate standards; therefore, be it

"*Resolved* by the Legislature of West Virginia:

"That the Congress of the United States is hereby memorialized to recognize the extreme hazardous and unsafe conditions of the West Virginia Turnpike and urge it to appropriate or authorize the release of federal highway construction funds sufficient to meet the federal government's share of the cost of upgrading this turnpike to interstate standards; and, be it

"*Further resolved*, That the Clerk forward a copy of this resolution to the Clerk of the United States Senate and the Clerk of the House of Representatives and West Virginia's representatives in the Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture and Forestry, with an amendment:

S. 2853. A bill to amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors (Rept. No. 94–714).

By Mr. NUNN, from the Committee on Armed Services, with an amendment:

H.R. 8089. An act to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business (Rept. No. 94–715).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. 532. A bill to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers (Rept. No. 94–716).

By Mr. MUSKIE, from the Committee on Public Works:

S. 3219. An original bill to amend the Clean Air Act, as amended (Together with individual and minority views) (Rept. No. 94–717).

HOUSE BILL REFERRED

The bill (H.R. 12566) authorizing appropriations to the National Science Foundation for fiscal year 1977 was read twice by its title and referred to the Committee on Labor and Public Welfare.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GARY HART (for himself and Mr. Chiles):

S. 3217. A bill to require the Federal Government to use the total life cycle cost of an article, rather than the purchase price, for procurement of certain energy-intensive consumer products. Referred to the Committee on Government Operations.

By Mr. DOMENICI:

S. 3218. A bill for the relief of Luisa C. Luang. Referred to the Committee on the Judiciary.

By Mr. MUSKIE, from the Committee on Public Works:

S. 3219. A bill to amend the Clean Air Act, as amended. Placed on the Calendar.

By Mr. HARTKE (for himself, Mr. Magnuson, Mr. Weicker, and Mr. Beall):

S. 3220. A bill to amend the Department of Transportation Act to provide for authorization of appropriations for acquiring and utilizing space in suitable buildings of historic or architectural significance, and for other purposes. Referred to the Committee on Commerce.

By Mr. DOMENICI:

S. 3221. A bill directing the Secretary of the Interior to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Incorporated, New Mexico. Referred to the Committee on Interior and Insular Affairs.

By Mr. DURKIN (for himself and Mr. McIntyre):

S. 3222. A bill to amend the Veterans Readjustment Benefits Act. Referred to the Committee on Veterans' Affairs.

By Mr. DOMENICI:

S. 3223. A bill to amend the Natural Gas Act to authorize certain intrastate transportation of natural gas in interstate pipelines. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARY HART (for himself and Mr. CHILES):

S. 3217. A bill to require the Federal Government to use the total life cycle cost of an article, rather than the purchase price, for procurement of certain energy-intensive consumer products. Referred to the Committee on Government Operations.

Mr. GARY HART. Mr. President, today I am introducing legislation together with my distinguished colleague from Florida (Mr. CHILES) that is a significant step toward reforming Federal buying practices. The bill will require the Federal Government to award contracts for articles that consume large amounts of energy on the basis of the lowest total lifetime cost of ownership to the Government, instead of merely on the basis of cheapest initial price. This procurement technique is called life cycle costing, and its adoption for energy intensive goods will save money, will reduce energy consumption, and will encourage the commercial development of more energy efficient consumer goods.

The Federal Government will spend over $60 billion for goods and services this year. Almost all of this procurement will be done on the old basis of lowest initial purchase price. Life cycle costing has a wide potential for saving throughout this entire process, but it will initially be mandated for only 15 specific classes of energy-intensive consumer goods: Articles that both use large amounts of energy, and are bought in sufficient quantity, so that the greatest initial savings can be realized. Instead of evaluating competing items on the basis of merely the lowest initial price, as is currently the rule, this bill will require the Government to consider other costs of ownership such as energy costs and costs of maintenance and support, before it awards a contract.

For instance, in a recent experimental procurement run by the Federal Supply Service for the purchase of air-conditioners, one model was offered to the Government for the price of $300. Another model was slightly more expensive and cost $301.19. Under the old method the supposedly cheaper model would have been bought, but it would not have been the best buy. When an evaluation of operating costs was conducted, the cheaper air-conditioner had an operating cost of $436, whereas the slightly more expensive model cost only $304 to run. In this rather dramatic case, the Government, by buying the slightly more expensive model, actually saved over $100 for each air-conditioner—not a small saving when we consider that the Federal Supply Service buys over $1 million worth of air-conditioners every year. The few experimental purchases that have been tried have already resulted in a net savings of over $3 million.

Despite these impressive results and despite the numerous recommendations that more consideration be given to this approach, by the Commission on Government Procurement, and by numerous GAO studies, Government awards are still generally based on the lowest initial price rather than the lowest overall cost to the Government.

One obstacle has been the lack of procurement personnel trained to use the new approach. However, the General Services Administration has created a training program, and developed the curriculum for a basic 40 hour course on life cycle costing that is already available to the various Federal departments on a voluntary basis. The GSA estimates that its incremental costs for retraining each officer would be only $100. The Office of Federal Procurement Policy estimates that only 16 officers would initially need to be retrained under the terms of the bill, although additional training would be required because of turnover. Clearly retraining costs necessitated by the bill will be very low, and will be recovered many times over by the cost savings that are inherent in the new approach.

A second, and more serious problem, has been a lack of uniform statistics on operating costs. Without comparable figures the Government has had a difficult time making meaningful comparisons of total ownership costs. However, Public Law 94–163, the Energy Policy and Conservation Act, passed by this body in December, requires the National Bureau of Standards to develop tests that will show the annual operating costs of 14 different categories of energy-intensive goods.

It is these very 14 classes of goods that are covered by this bill. Since the Government is already paying for the research in order to help consumers make more informed buying judgments, the Government should also take advantage of this information, to make the best buys possible.

The Office of Federal Procurement Policy estimates that about $226 million worth of Federal procurement will be directly affected by this legislation. Since the cost savings on the experiments that have been undertaken so far average between 10 and 15 percent, the potential savings to the Government conservatively amount to more than $20 million. Although this is a substantial sum, this may represent the least important impact of the bill. Federal procurement practices are the models on which many State governments pattern their own spending. A new approach, that is demonstrated as successful on the Federal level, should become adopted at all levels of government. In addition, the more people that are trained to look at procurement from a total longrun cost perspective, the more areas will turn up where this approach can be usefully applied. Life cycle costing has enormous potential for savings throughout the entire procurement process. Indeed, no one yet knows just how widely applicable this approach is; but the potential savings may well run into the billions of dollars.

But beyond even these considerations, by mandating lowest total cost as the method of award, we will stimulate commercial research and development into energy conservation. The more efficient consumer goods that this research will produce will benefit every citizen, and will decrease our reliance on foreign sources of energy. The days of almost unlimited cheap energy are behind us. We all must develop a new consciousness; a new energy awareness. At a time when this Nation is increasingly dependent upon foreign oil, it is vital that we inject this awareness into the Federal procurement process.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Life Cycle Costing Procurement Act".

SEC. 2. The Congress finds that—

(1) Current procurement tends to overemphasize the initial purchase price, rather than the total long-run cost of an article to the Government.

(2) In areas where operating expenses are a significant part of the total expense of an item, this overemphasis ignores the substantial savings that could be realized if the Government bought on a lowest total long-run cost basis.

(3) Operating costs for energy-intensive commercial products are substantial and vary significantly.

(4) The Government already requires, or soon will require, the publication of uniform statistics on energy efficiency which will provide a reasonable basis for estimating the operating costs of certain classes of energy-intensive consumer products.

(5) Therefore, it is the purpose of this bill to require the adoption of life cycle costing for the procurement of such products in order to realize the potential savings, to reduce energy consumption, and to encourage the commercial development of more energy-efficient consumer goods.

SEC. 3. As used in this Act, the term—

(1) "life cycle cost" means the total cost of an item to the Government during the time of ownership, taking into account the costs of acquisition, operating, maintenance, support, and disposal or replacement, as far as these costs can reasonably be determined.

(2) "Executive agency" has the same meaning as provided in section 105 of title 5, United States Code, and includes the United States Postal Service, Postal Rate Commission, and the General Accounting Office;

(3) "consumer product" means any product which is a covered product under paragraph (1) throuh (14) of section 322(a) of the Energy Policy and Conservation Act; and

(4) "motor vehicle" means any vehicle, self-propelled or drawn by mechanical power designed and operated principally for highway transportation of passengers, except a vehicle primarily designed for military field training, combat, or tactical purposes.

SEC. 4. The Administrator for Federal Procurement Policy, pursuant to section 6 of the Office of Federal Procurement Policy Act, shall prescribe such policies, regulations, procedures, and forms as may be necessary to require procurement of consumer products and motor vehicles by Executive agencies to be done on the basis of lowest life cycle cost for contracts for the procurement of consumer products or motor vehicles the total purchase price of which under any one contract exceeds $10,000, and which are awarded after January 1, 1978.

Sec. 5. Nothing in this Act shall be construed to impair any small business set-aside, any labor surplus area set-aside program, or the operation of the provisions of section 2 of title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Department for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a (the so-called Buy America Act)).

Sec. 6. (a) There are authorized to be appropriated such sums as may be necessary to provide for the training of government officers or employees in the use of life cycle cost as a basis for government procurement.

(b) Such sums as may be appropriated pursuant to this section shall be allocated among Executive agencies in accordance with such determinations of need for such training by the officers and employees of such Executive agencies as the Administrator for Federal Procurement Policy may make.

By Mr. HARTKE (for himself, Mr. MAGNUSON, Mr. WEICKER, and Mr. BEALL):

S. 3220. A bill to amend the Department of Transportation Act to provide for authorization of appropriations for acquiring and utilizing space in suitable buildings of historic or architectural significance, and for other purposes. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, I am introducing, on behalf of myself and my distinguished colleagues, Senators MAGNUSON, WEICKER, and BEALL, a bill that will redesignate an existing authorization in order to more fully carry out the intent of the program to preserve and reuse railway stations of historical and architectural merit that was originally created by Congress in 1974. In the Railroad Revitalization and Regulatory Reform Act of 1976 that the President signed into law on February 5, a redesignation of authority with respect to nontransportation reuse projects for railway stations of architectural or historical merit was made, substituting the National Endowment for the Arts for the Department of Transportation.

This redesignation was not technically effective, however, in that the funds authorized to the Endowment under this redesignation still had to be first requested by, and apportioned to, the Department of Transportation. In view of the fact that the DOT has informed the Commerce Committee that they do not intend to ask for any funds for this program for this coming fiscal year, the intent of the amendment would be inadvertently thwarted. It was not the intent of the parties—including the DOT—to deny the Endowment the relatively modest sums that would flow to them from this redesignation. This amendment will correct this technical deficiency, and I am hopeful that it can be enacted by the Congress in the near future in order to allow the Endowment to pursue an appropriation for this coming fiscal year.

Mr. President, I ask unanimous consent that the text of the bill be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out "$5,000,000" in clause (ii) and (iii) of subparagraph (A) and inserting in lieu thereof "$2,500,000";

(2) repealing subparagraph (B); and

(3) redesignating subparagraph (C) as (B).

Sec. 2. Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended by adding after paragraph (1) the following new subparagraph:

"(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977—

"(i) $2,500,000 for planning pursuant to paragraph (1)(D), and

"(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B), of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653). Sums appropriated for the purposes of this subparagraph shall remain available until expended.".

By Mr. DURKIN (for himself and Mr. MCINTYRE):

S. 3222. A bill to amend the Veterans Readjustment Benefits Act. Referred to the Committee on Veterans' Affairs.

Mr. DURKIN. Mr. President, I am introducing today a bill that will take one of the best pieces of social legislation ever enacted by the Congress, and make it even better. I refer to the GI Bill of Rights, or as it has come to be known, Veterans' Readjustment Benefits, through which more than 15 million veterans have received training and preparation for new careers in return for their service in defense of the Nation.

The bottom line of that GI program is that it has turned out to be an investment with interest. The Veterans' Administration figures that it has spent more than $34 billion during the past 30 years on veterans' educational benefits—money to pay for tuition, books and living expenses. That investment has yielded better jobs and higher wages for the veterans, and added tax dollars for the Treasury to provide for educational benefits for future generations of veterans. In fact, it is estimated that for every dollar spent to provide these highly-motivated students with education-related grants, the Government is repaid between $4 and $6 in added tax revenues, at an interest of about 500 percent. That is quite a return by any standard.

What I propose today is so simple and so obvious that I am surprised it has not been offered before, Mr. President. My bill would vest each veteran with his educational benefits for life, thus eliminating any arbitrary time period during which the benefits must be used before they expire. I refer to the so-called delimiting date.

On June 1, about 3.5 million veterans of the Korean and early Vietnam era will pass the expiration date for their educational benefits. Many will pass that date without even knowing it. Many veterans who are in the middle of their post-secondary education will find previous support cut off for really no good reason. And many more still will probably regret that they let the opportunity pass to better their careers and provide better lives for their families.

But the bottom line I mentioned before, Mr. President, tells us that by allowing this date to pass without action, we are being penny-wise and pound-foolish. We recognized this fact 2 years ago when we extended the deadline for 2 years, May 31, 1976, and by so doing tacitly admitted the arbitrary nature of the delimiting date concept. Proposals in the House of Representatives call for still more extensions—for 2 years, for 5 years. But these simply beg the question. Why any limit at all?

My proposal is to write new language into the GI bill law to read, "Benefits earned are available until used." I hope that the Veterans Committee will take prompt action, as the hour is already late. Many veterans must make their decisions now on whether to continue or begin their education in the summer and fall semesters, and they are looking to us for guidance, and for help.

The approach I have suggested today is consistent in every way with the prevailing educational philosophy. We are beginning to discard the notion that education is a progression of steps to occupy minds from ages 5 to 21, Mr. President. Instead, people are now putting education in its proper perspective—as a lifelong process in which schools, colleges, vocational, and technical institutes are always a possibility, regardless of age and sex. We have a better attitude about leaving school at age 17 and we have a better attitude about returning to school in mid-career if that is where personal motivation and desire will lead. There is no reason why we should exclude American veterans from this more enlightened attitude by persisting with the time-destruct benefits under the GI bill.

I asked to be assigned to the Committee on Veterans' Affairs when I came to the Senate last fall so that I could work to make veterans' programs more human and more flexible. The legislation I propose today would be a significant step toward making veterans' benefits more equitable and more responsive to the needs of our 20 million veterans. We can expect opposition from the Office of Management and Budget, which is determined to produce a rosy budget picture in this election year. And we probably can expect some opposition from the VA itself.

My only request is that Congress consider this quickly, and consider it with an open mind. I urge that this measure be handled as quickly as the congressional pay raise.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2871

At the request of Mr. BUCKLEY, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2871, to provide for equal access to courts in lawsuits involving the Federal Government, and for other purposes.

S. 3076

At his own request, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 3076, the Paperwork Review and Limitation Act of 1976.

S. 3098

At the request of Mr. Weicker, the Senator from Michigan (Mr. Philip A. Hart) was added as a cosponsor of S. 3098, a bill to amend the Community Services Administration Act of 1974.

S. 3130

At the request of Mr. Magnuson, the Senator from California (Mr. Tunney), the Senator from Alaska (Mr. Stevens), the Senator from Oregon (Mr. Packwood), and the Senator from California (Mr. Cranston) were added as cosponsors of S. 3130, a bill to amend the Marine Mammal Protection Act of 1972.

At his own request, the Senator from Georgia (Mr. Nunn) was added as a cosponsor of S. 3130, supra.

S. 3134

At the request of Mr. Buckley, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 3134, to eliminate the 1 percent add-on from cost-of-living increases in Federal pensions.

S. 3182

At the request of Mr. Taft, the Senator from Arizona (Mr. Fannin) and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

SENATE RESOLUTION 399

At the request of Mr. Kennedy, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of Senate Resolution 399, relating to the Strategic Arms Limitation Talks and cruise missiles.

SENATE RESOLUTION 406

At the request of Mr. Cranston, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. Res. 406, supporting the importance of sound relations with the Soviet Union.

AMENDMENTS SUBMITTED FOR PRINTING

FOOD STAMP ACT AMENDMENTS OF 1976—S. 3136

AMENDMENTS NOS. 1525 THROUGH 1543

(Ordered to be printed and to lie on the table.)

Mr. CURTIS (for himself, Mr. Helms, and Mr. Buckley) submitted 19 amendments intended to be proposed by them jointly to the bill (S. 3136) to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes.

NATURAL GAS ACT AMENDMENTS OF 1976—H.R. 9464

AMENDMENTS NOS. 1544 AND 1545

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS. Mr. President, I am submitting two amendments today to H.R. 9464, the "Natural Gas Act Amendments of 1976," which have passed the House and are now before the Senate. My first amendment would substitute the text of S. 2310, exactly as it passed the Senate. My second amendment would substitute the text of title II of S. 2310, as it passed the Senate. My reason for filing this amendment is that the provisions of title I of S. 2310 apply only to the winter emergency period that ends on April 4, 1976. Since the emergency period has almost passed, there would be little point in the Senate reenacting a title that has already expired. I ask unanimous consent that the text of both of these amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1544

Strike all after the enacting clause and insert in lieu thereof the following:

Section 1. This Act may be cited as the "Natural Gas Act Amendments of 1975".

Sec. 2. The Natural Gas Act 15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This Act may be cited as the 'Natural Gas Act'.".

Sec. 3. Section 1(c) of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after midnight April 4, 1976, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce.".

Sec. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

"(8) 'New natural gas' means natural gas sold or delivered in interstate commerce (A) which is dedicated to interstate commerce for the first time on or after January 1, 1975: *Provided,* That natural gas so sold or delivered from offshore Federal lands shall be committed for a contract term of not less than fifteen years or for the life of the reservoir if less than fifteen years: *Provided further,* That any natural gas sold by a producer in interstate commerce prior to the date of enactment hereof pursuant to limited term certificates (five years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a reservoir discovered on or after January 1, 1975, or produced from wells initiated and completed in an extension of a previously discovered reservoir on or after January 1, 1975, regardless of whether or not the leases covering such newly discovered or extended reservoir were theretofore committed by contract or otherwise to the interstate markets

"(9) 'Old natural gas' means natural gas other than new natural gas.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

"(11) 'Offshore Federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2 (a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).".

Sec. 5. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore Federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural-gas company: *Provided, however,* That rates and charges in excess of such national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the national ceiling was established or modified.".

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

Sec. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ": *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges herefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

Sec. 7. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following new subsection:

"(h) Reserve Information.—(1) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to the Congress and may publish and make available the results to the Congress and may publish and make available the results of studies made under the authority of this subsection.

"(2) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the servcies, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural-gas industry, but such studies, investigations, and reports shall be based on information developed, or completely reviewed for accuracy, after the date of enactment of this subsection. Nothing in this section shall be construed as modifying, reassignment, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government.

"(3) In order to assist in determining necessary actions to eliminate the national emergency which exists with respect to natural gas supplies the Commission shall carry out and complete, not later than ninty days after the date of enactment of this subsection, an initial such study with respect to the total estimated natural gas reserves of fields and reserviors and the current utilization of natural gas and the relationship between the two. Such study shall include specific estimates for individual fields and reservoirs but shall not include reserves controlled by small producers. On January 1, 1977, and at the beginning of each calendar year thereafter, the Commission shall, within the following ninety-day period, complete a review of the previous study and revise the results thereof to the extent necessary. A report of such initial study and each such review shall be made, within the time provided for the completion thereof, to the President and the Congress.".

Sec. 8. The Natural Gas Act, as amended by this title, is further amended by adding at the end therof the following eight new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"Sec. 24. (a) The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer in insterstate commerce by any person of new natural gas produced from offshore Federal lands on or after January 1, 1975, through December 31, 1980, in establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas, and during the period such ceiling is in effect, commencing on July 1, 1976, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling in meeting the factors set forth in subsection (a) of this section.

"(c) The Commission may authorize a person to charge an amount in excess of such national ceiling for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth as designated by the Commission pursuant to its rulemaking authority. In establishing such amount in excess of such national ceiling, the Commission shall consider the factors set forth in subsection (a) of this section and only those factors.

"(d) Any contract entered into after the date of enactment of the Natural Gas Act Amendments of 1975 for the sale of new natural gas for resale which involves the receipt by the seller of funds in advance of production of the natural gas covered by such contract shall be filed with the Commission at least 60 days in advance of deliveries thereunder. The Commission may thereafter require, after notice and opportunity for hearing, that the sales rate specified in such contract be reduced or modified as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"(c) Pending the establishment of a national ceiling pursuant to section 24(a) of this Act by a final Commission order which is no longer subject to judicial review and within 30 days after the enactment of the Natural Gas Act amendments of 1975 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for the sale or transfer in interstate commerce by a producer of new natural gas produced from offshore Federal lands which shall be effective November 1, 1975, and which shall be equivalent to the average dollar valuation per barrel of domestic crude oil used by the United States Geological Survey or its successor Federal agency or office in computing the royalties due the United States on account of crude oil produced from all Federal lands during the calendar month ending 30 days prior to such determination. Such interim ceiling price shall be expressed in one million British thermal units and shall be determined by dividing such average dollar valuation per barrel of crude oil by 5.8. After the establishment of a national ceiling pursuant to section 24(a) of this Act by final Commission order which is no longer subject to judicial review, any producer who has sold new natural gas produced from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"(f) From and after January 1, 1981, there shall be no ceiling price applicable to the sale of new natural gas produced from offshore Federal lands.

"(g) No price established by or pursuant to the Natural Gas Act Amendments of 1975 for new natural gas shall be retroactive so as to affect any price for any gas sold prior to November 1, 1975.

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

"Sec. 25. (a) Except to the extent that natural gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar services vital to public health and safety, and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential, including but not limited to irrigation pumping, crop drying, use as a raw material feedstock, or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, or food packaging purpose for which natural gas is essential. The Secretary of Agriculture shall also certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) Essential Industrial Purposes.—Except to the extent that natural gas supplies are required to maintain natural gas service to users specified under subsection (a), the Commission shall exercise its authority under this title to assure, to the maximum extent feasible, the continuance of natural gas service to users using natural gas as a raw material and uses other than boiler fuel for which there is no substitute regardless of whether such users purchase natural gas under firm or interruptible contracts.

"(c) Prompt Curtailment Decisions.—The Commission shall decide applications for relief under subsections (a) and (b) as soon as practicable, but in no event later than 120 days of the time such applications are filed.

"COMMISSION JURISDICTION OVER SYNTHETIC GAS

"Sec. 26. With respect to liquefied, regasified, or synthetic natural gas, any plant for the production or regasification of synthetic natural gas, any sales or transportation of such synthetic natural gas, and any person owning and/or operating such plant shall be subject to the jurisdiction and authority of the Commission under the Natural Gas Act of 1938 to the same extent as if it were a natural gas company: *Provided*, That such jurisdiction shall not include the feedstock of such plant or facilities for the production of such feedstock, unless the feedstock is natural or manufactured gas: *And provided further*, That such jurisdiction shall not preempt State laws, rules, and regulations regarding natural resource development, conservation, and environmental protection, or any other proper exercise of State police powers.

"NATURAL GAS CONSERVATION

"Sec. 27. (a) Except as provided in subsection (d) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce not contracted for prior to January 1, 1975, unless, upon petition by the user, the Commission determines that—

"(1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user; or

"(2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsection (d) of this section, boiler fuel use of natural gas contracted for prior to January 1, 1975, shall be terminated by the user of such natural gas at the expiration of such contract or 12 years after the date of enactment of the Natural Gas Act Amendments of 1975, whichever is earlier, unless, upon petition of such user, the Commission determines that (1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user, or (2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) Except as expressly provided in subsection (b) of this section, the Commission shall not (1) modify, amend, or abrogate contracts entered into prior to January 1, 1975, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the performance of any such contract or certificate: *Provided, however*, That the provisions of this subsection shall not otherwise modify or affect the authority of the Commission under this Act.

"(d) The Commission shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(e) The Administrator shall, by rule promulgated no longer than 30 days after enactment of this Act, prohibit all uses of natural gas that he determines are solely for ornamental or decorative purposes. Such gas prohibition shall be limited to uses which are outside of a residence or dwelling which has the installed capacity to use electricity. The prohibition shall take effect not later than 60 days after enactment of this title.

"(f) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term air quality emergencies or any other danger to the public health, safety, or welfare.

"(g) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act.

"(h) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining feasibility or practicability where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law.

"RESIDENTIAL AND OTHER SMALL USERS

"Sec. 28. General.—The Commission shall—

"(a) Require all pipelines to file separate tariffs with respect to (1) old natural gas and (2) new natural gas (including synthetic or liquefied natural gas) in such form and manner as to reflect the price and average annual volumes of each which enter each such pipeline.

"(b) Require all pipelines to give first priority for sales of transfers under the applicable tariff for old natural gas to natural-gas distributing companies, to the extent such old natural gas is available, to meet the requirements of each such company's residential users and small users.

"(c) Promulgate rules to govern sales, exchanges, or transfers among pipelines and sales, exchanges, or transfers to natural-gas distributing companies served by multiple pipelines, to the extent necessary to achieve the purpose of this section.

"(d) For purposes of this section, persons using natural gas for essential agricultural purposes not to exceed 50 Mcf on an average day, shall be deemed small users.

"RATES AND CHARGES CEILING

"Sec. 29. The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and shall every two years, modify, a national ceiling for rates and charges for the sale in interstate commerce for resale of old natural gas, the sale of which gas is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"(1) the costs attributable to the exploration, development, production, gathering, and sale of old natural gas;

"(2) the prospective costs of operation, reworking, installation of additional compression, and similar expenses, which costs are necessary to prevent abandonment in place of old natural gas reserves otherwise recoverable;

"(3) the reimbursement to the seller of (a) any severance, production, or other tax payable by the seller and levied on the value or volume of production at the wellhead; and (b) any royalty or royalties on natural gas which a producer is required to pay to a royalty owner under applicable State law;

"(4) the rate of return on seller's original capital investment which is sufficient to encourage the optimum level of investment in natural gas exploration and production; and

"(5) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraph (4) of this subsection.

"NATIONAL GAS PRODUCTION ON FEDERAL LANDS

"Sec. 30. (a) All leases or other agreements entered into by the Secretary of the Interior for the exploration or production of oil or natural gas on Federal lands shall contain a provision that the Secretary shall have the right to require increased production up to but not to exceed the maximum efficient rate of production under such lease for the purposes of dealing with emergency shortages of oil or natural gas or other national emergencies.

"(b) Within ninety days after enactment of this section, the Secretary shall issue regulations setting forth the maximum efficient rate of production for each field on Federal lands which the Secretary determines produces, or has the capacity to produce, significant quantities of natural gas.

"(c) For purposes of this section the term 'maximum efficient rate of production' means the maximum rate of production of natural gas which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering principles.

"(d) Nothing in this section shall be construed to authorize the production from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

"DISPOSITION OF FEDERAL ROYALTY NATURAL GAS

"Sec. 31. (a) Upon commencement of production of natural gas from any lease on Federal lands issued under the authority of the Natural Gas Act (15 U.S.C. 717) or the Outer Continental Shelf Lands Act (43 U.S.C. 1309) enactment of this Act, the Secretary shall, except as provided in this section, offer to the public and sell by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines, that proportion of the gas produced from said lease which is due the United States as royalty natural gas. Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration, and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty natural gas of the Federal Government, the Secretary shall limit participation of competitors for the sale of any such royalty natural gas to those servicing such region, but he shall not make any sale for less than the fair market price.

"(b) Within sixty days after the date of enactment of this section, the Secretary shall submit to the Congress a systematic plan together with any necessary Federal policies, regulations, and procedures and any amendments he deems necessary to the Natural Gas Act, the Mineral Leasing Act, 1920, or the Outer Continental Shelf Lands Act or any other applicable Federal legislation, to facilitate and maximize the efficient and effective use of royalty natural gas ordered by the Secretary pursuant to (a) above. In preparing such recommendations for use of such royalty natural gas the Secretary shall consult with the Administrator of the Federal Energy Administration, the Federal Power Commission, and any other appropriate Federal department or agency.".

SEC. 9. Section 2 of the Natural Gas Act, is designated by this Act (15 U.S.C. 717), is amended by inserting at the end thereof a new subsection as follows:

"(d) Nothing in this Act shall prevent the intrastate transportation of natural gas first sold in commerce after the date of enactment of this subsection in an interstate pipeline as long as such intrastate transportation does not prevent service necessary to meet the requirements of interstate consumers and the rates for such transportation reflect the fully distributive costs of the interstate facilities used therein, and the provisions of this Act shall not apply to any such intrastate transportation or the facilities utilized in such service.".

CONFORMING AMENDMENT

SEC. 10. Section 2 of the Natural Gas Act (15 U.S.C. 717) is amended (1) by inserting after "natural" and before "and" the following: "synthetic" and (2) by inserting the following new paragraph:

"(15) 'synthetic natural gas' means gas manufactured from coal or hydrocarbon containing materials which is sold or transported in interstate commerce.".

AMENDMENT NO. 1545

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—EMERGENCY NATURAL GAS AUTHORITY

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Emergency Standby Act of 1975".

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from November 1975 through March 1976. The Congress further finds and declares that such imminent shortages in our Nation's natural gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas and for the prohibition of the use of natural gas as boiler fuel.

(b) The purpose of this title is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act; to grant the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel; and to provide the President with standby authority to allocate propane during periods of actual or threatened severe shortages of natural gas.

DEFINITIONS

SEC. 103. For the purposes of this title—

(1) "Natural-gas distributing company" means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial, or any other use, but such term does not include a natural-gas company as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6)).

(2) "High priority consumer of natural gas" means an essential user whose supply requirements cannot be served by an interstate pipeline which is a priority interstate purchaser as determined by the Commission.

(3) "Independent producer" means a person, as determined by the Commission, (A) who is not affiliated with a person engaged in the transportation of natural gas in interstate commerce, and (B) who is not a producing division of such a person engaged in the transportation of natural gas in interstate commerce.

(4) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

(5) "Propane" means (A) the chemical C_3H_8 in its commercial form whether recovered from natural-gas streams or crude oil refining, (B) the C_3H_8 component of raw domestic mixtures containing more than 10 percent of such component by weight, and (C) commercial propane-butane mixes containing by weight more than 10 percent of propane and not more than 5 percent of constituents other than propane or butane.

(6) "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7) "Administrator" means the Administrator of the Federal Energy Administration.

(8) "Commission" means the Federal Power Commission.

(9) "Essential user" means a user, or a class of users, who satisfies criteria to be established by the Commission, by rule, as indicative of a user for which no alternative fuel is reasonably available and whose supply requirements must be met in order to avoid substantial unemployment or impairment of food production or the public health, safety, or welfare.

EMERGENCY EXEMPTIONS

SEC. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: ": *Provided further*, That within 15 days after the enactment of the Natural Gas Emergency Standby Act of 1975, the Commission shall by regulation exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities, or services relating to the transportation, sale and delivery, transfer, or exchange of natural gas from any source, other than any offshore Federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce, a person who transports natural gas in other than interstate commerce, or a natural-gas distributing company to or with a natural-gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have, a sufficient supply of natural gas to meet the requirements of its high priority consumers of natural gas and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 180 consecutive days. Persons who are exempt under section 1 (b) or (c) of this Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Standby Act of 1975 shall not be or become subject to the jurisdiction of the Commission because of such sale and delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce: *Provided further*, That any contractual provision prohibiting sales or transportation entitled to any such exemption or terminating any other obligations of any gas supply or sales contracts as a result of such sales or transportation shall be unenforceable in respect to any such sale or transportation: *Provided further*, That it shall be a violation of the Natural Gas Act (as amended) for any natural-gas distributing company to charge residential users and small users (as defined by the Commission) rates which reflect any costs incurred by an interstate transporter as a result of purchases of natural gas made pursuant to an exemption granted under this section: *And provided further*, That no first sale of natural gas after enactment and prior to expiration of the Natural Gas Emergency Standby Act of 1975 shall be made at a price which exceeds the highest wellhead price (as determined by the Commission) at which natural gas was sold during the period of June 1, 1975, through August 1, 1975, in the State in which such first sale is made.".

PROHIBITION OF USE OF NATURAL GAS AS BOILER FUEL

SEC. 105. (a) The purpose of this section is to continue the conservation of natural gas and petroleum products by fostering the use of coal by powerplants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

(b) Section 2 of the Energy Supply and Environmental Coordination Act of 1974 is amended by—

(1) redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(2) amending redesignated subsection (g) (1) to read as follows:

"(g)(1) Authority to issue orders or rules under subsections (a), (b), (d), and (e) of this section shall expire at midnight June 30, 1976. Authority to issue orders under subsection (c) shall expire at midnight June 30, 1976. Any rule or order issued under subsections (a) through (e) may take effect at any time before January 1, 1979.".

(c) Inserting after subsection (d) the following new subsection (e):

"(e)(1) The Administrator may, by order, prohibit any powerplant or major fuel burning installation from burning natural gas if—

"(A) the Administrator determines that:

"(i) such powerplant or installation had on June 30, 1975 (or at any time thereafter), the capability and necessary plant equipment to burn petroleum products,

"(ii) an order under subsection (a) may not be issued, with respect to such powerplant or installation,

"(iii) the burning of petroleum products by such powerplant or installation in lieu of natural gas is practicable,

"(iv) petroleum products will be available during the period the order is in effect,

"(v) with respect to powerplants, the prohibition under this subsection will not impair the reliability of service in the area served by the plant,

"(vi) the prohibition under this subsection will result in making natural gas available for sale to a natural-gas company which transports natural gas in interstate commerce and which does not have adequate quantities of natural gas to meet the requirements of its high priority consumers and which is curtailing pursuant to a curtailment plan on file with the Commission, and

"(B) the Administrator of the Environmental Protection Agency has certified that such powerplant or installation will be able to burn the petroleum products which the Administrator has determined under subparagraph (A)(iv) will be available to it and will be able to comply with the Clean Air Act (including applicable implementation plans).

"(2) An order under this subsection shall not take effect until the earliest date the Administrator of the Environmental Protection Agency has certified that the powerplant or installation can burn petroleum products and can comply with the Clean Air Act (including applicable implementation plans).

"(3) The Administrator may specify in any order issued under this subsection the periods of time during which the order will be in effect and the quantity (or rate of use) of natural gas that may be burned by a powerplant or major fuel burning installation during such periods, including the burning of natural gas by a powerplant to meet peaking load requirements.

"(4) Conversion to petroleum products pursuant to an order issued under this subsection shall not be deemed to be a modification for the purposes of paragraphs (2) and (4) of subsection 111(a) of the Clean Air Act, as amended.

"(5) The Administrator shall exempt from any order issued pursuant to this subsection the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility.

"(6) The Administrator shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(7) The Administrator shall modify or suspend any order issued pursuant to this subsection to the extent necessary to alleviate short-term air quality emergencies or other danger to the public health, safety, or welfare.".

(d)(1) Any order issued pursuant to this subsection shall provide for just compensation of the facility and transporter affected by such order. Such compensation is (A) to be measured by the increased costs, if any, incurred by a facility and the loss of revenue, if any, incurred by a transporter as a result of such order, and (B) to be paid ultimately through increased rates and charges by those users, in proportion to the volumes of natural gas consumed by such users, who are determined by the Commission to benefit as a result of such order: *Provided, however*, That nothing contained in this subsection shall be construed to extend the jurisdiction of the Commission to any rates and charges not otherwise subject to the jurisdiction of the Commission under section 4 of the Natural Gas Act (15 U.S.C. 717).

(2) For the purposes of this subsection, the term "users" means high priority consumers of natural gas who consume natural gas transported by that natural-gas company which obtains the natural gas supplies made available for nonboiler fuel use by an order issued pursuant to this subsection.

(e) Section 11(g)(2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975", wherever it appears and inserting in lieu thereof "June 30, 1976".

(f) Notwithstanding any other provision of this section the Administrator shall not issue any order under this section which applies to any powerplant, which was in existence on June 30, 1975, which during the 12-month period preceding such date did not burn petroleum products and which the Administrator determines will be operated on natural gas only for the purpose of providing electric power which would otherwise be provided by one or more of the base-load powerplants of the same electric power system, but cannot be operated because of an air pollution emergency, an unanticipated equipment outage, or act of God.

PROPANE ALLOCATION PROGRAM

SEC. 106. Notwithstanding the provisions of section 4(g) or any other provision of the Emergency Petroleum Allocation Act of 1973, as amended, the regulations promulgated by the President under section 4 of such Act and the authority of the President under such Act shall, with respect to propane and butane, remain in effect until midnight, April 4, 1976.

EMERGENCY PURCHASES BY CURTAILED CONSUMERS

SEC. 107. (a) The purpose of this section is to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

(b) The provisions of the Natural Gas Act shall not apply to the use of the facilities of a natural gas distributing company for the transportation of natural gas produced by an independent producer from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such a producer directly to a high-priority consumer of natural gas: *Provided*, That the rates applicable to the use of such facilities for the transportation of natural gas described in this subsection are subject to regulation by a State commission. The transportation of natural gas exempted from the provisions of the Natural Gas Act by this subsection is hereby declared to be a matter primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction.

(c) Pursuant to the substantive and procedural provisions of this section the Commission may in its discretion issue a certificate of public convenience and necessity upon filing of an application by a natural-gas company to transport natural gas produced by independent producers from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such producers directly to existing high priority consumers of natural gas whose current supply of natural gas is curtailed due to natural-gas company curtailment plans on file with the Commission: *Provided, however*, That in issuing a certificate pursuant to this subsection, the Commission need not review or approve the price paid by a high priority consumer of natural gas directly to an independent producer.

EXPIRATION DATE

SEC. 108. (a) This title shall expire on midnight April 4, 1976.

(b) The expiration of this title and the authority granted under this title shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

TITLE II—NATURAL GAS ACT AMENDMENTS

SEC. 201. This title may be cited as the "Natural Gas Act Amendments of 1975".

SEC. 202. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This Act may be cited as the 'Natural Gas Act'.".

SEC. 203. Section 1(c) of the Natural Gas Act, as redesignated by this title (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after midnight April 4, 1976, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however*, That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce.".

SEC. 204. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

"(8) 'New natural gas' means natural gas sold or delivered in interstate commerce (A) which dedicated to interstate commerce for the first time on or after January 1, 1975: *Provided*, That natural gas so sold or delivered from offshore Federal lands shall be comitted for a contract term of not less than fifteen years or for the life of the reservoir if less than fifteen years: *Provided further*, That any natural gas sold by a producer in interstate commerce prior to the date of enactment hereof pursuant to limited term certificates (five years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a reservoir discovered on or after January 1, 1975, or produced from wells initiated and completed in an extension of a previously discovered reservoir on or after January 1, 1975, regardless of whether or not the leases covering such newly discovered or extended reservoir were theretofore committed by contract or otherwise to the interstate market.

"(9) 'Old natural gas' means natural gas other than new natural gas.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

"(11) 'Offshore Federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)).".

SEC. 205. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore Federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural gas company: *Provided, however,* That rates and charges in excess of such national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the national ceiling was established or modified.".

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

SEC. 206. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ": *Provided further,* That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act.".

SEC. 207. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following new subsection:

"(h) RESERVE INFORMATION.—(1) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to the Congress and may publish and make available the results to the Congress and may publish and make available the results of studies made under the authority of this subsection.

"(2) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural-gas industry, but such studies, investigations, and reports shall be based on information developed, or completely reviewed for accuracy, after the date of enactment of this subsection. Nothing in this section shall be construed as modifying, reassignment, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government.

"(3) In order to assist in determining necessary actions to eliminate the national emergency which exists with respect to natural gas supplies the Commission shall carry out and complete, not later than ninety days after the date of enactment of this subsection, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two. Such study shall include specific estimates for individual fields and reservoirs but shall not include reserves controlled by small producers. On January 1, 1977, and at the beginning of each calendar year thereafter, the Commission shall, within the following ninety-day period, complete a review of the previous study and revise the results thereof to the extent necessary. A report of such initial study and each such review shall be made, within the time provided for the completion thereof, to the President and the Congress.".

SEC. 208. The Natural Gas Act, as amended by this title, is further amended by adding at the end thereof the following eight new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"SEC. 24. (a) The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands on or after January 1, 1975, through December 31, 1980. In establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas, and during the period such ceiling is in effect, commencing on July 1, 1976, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling in meeting the factors set forth in subsection (a) of this section.

"(c) The Commission may authorize a person to charge an amount in excess of such national ceiling for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth as designated by the Commission pursuant to its rulemaking authority. In establishing such amount in excess of such national ceiling, the Commission shall consider the factors set forth in subsection (a) of this section and only those factors.

"(d) Any contract entered into after the date of enactment of the Natural Gas Act Amendments of 1975 for the sale of new natural gas for resale which involves the receipt by the seller of funds in advance of production of the natural gas covered by such contract shall be filed with the Commission at least 60 days in advance of deliveries thereunder. The Commission may thereafter require, after notice and opportunity for hearing, that the sales rate specified in such contract be reduced or modified as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"(e) Pending the establishment of a national ceiling pursuant to section 24(a) of this Act by a final Commission order which is no longer subject to judicial review and within 30 days after the enactment of the Natural Gas Act amendments of 1975 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for the sale or transfer in interstate commerce by a producer of new natural gas produced from offshore Federal lands which shall be effective November 1, 1975, and which shall be equivalent to the average dollar valuation per barrel of domestic crude oil used by the United States Geological Survey or its successor Federal agency or office in computing the royalties due the United States on account of crude oil produced from all Federal lands during the calendar month ending 30 days prior to such determination. Such interim ceiling price shall be expressed in one million British thermal units and shall be determined by dividing such average dollar valuation per barrel of crude oil by 5.8. After the establishment of a national ceiling pursuant to section 24(a) of this Act by final Commission order which is no longer subject to judicial review, any producer who has sold new natural gas produced from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for such sale below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"(f) From and after January 1, 1981, there shall be no ceiling price applicable to the sale of new natural gas produced from offshore Federal lands.

"(g) No price established by or pursuant to the Natural Gas Act Amendments of 1975 for new natural gas shall be retroactive so as to affect any price for any gas sold prior to November 1, 1975.

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

"SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar services vital to public health and safety, and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential, including but not limited to irrigation pumping, crop drying, use as a raw material feedstock, or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, or food packaging purposes for which natural gas is essential. The Secretary of Agriculture shall also certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) ESSENTIAL INDUSTRIAL PURPOSES.—Except to the extent that natural gas supplies are required to maintain natural gas service to users specified under subsection (a), the Commission shall exercise its authority under this title to assure, to the maximum extent feasible, the continuance of natural gas service to users using natural gas as a raw material and uses other than boiler fuel for which there is no substitute regardless of whether such users purchase natural gas under firm or interruptible contracts.

"(c) PROMPT CURTAILMENT DECISIONS.—The Commission shall decide applications for relief under subsections (a) and (b) as soon as practicable, but in no event later than 120 days of the time such applications are filed.

"COMMISSION JURISDICTION OVER SYNTHETIC GAS

"SEC. 26. With respect to liquefied, regasified, or synthetic natural gas, any plant for the production or regasification of synthetic natural gas, any sales or transportation of such synthetic natural gas, and any person owning and/or operating such plant shall be subject to the jurisdiction and authority of the Commission under the Natural Gas Act of 1938 to the same extent as if it were a natural gas company: *Provided,* That such jurisdiction shall not include the feedstock of such plant or facilities for the production of such feedstock, unless the feedstock is natural or manufactured gas: *And provided further,* That such jurisdiction shall not preempt State laws, rules, and regulations regarding natural resource development, conservation, and environmental protection, or any other proper exercise of State police powers.

"NATURAL GAS CONSERVATION

"SEC. 27. (a) Except as provided in subsection (d) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce not contracted for prior to January 1, 1975, unless, upon petition by the user, the Commission determines that—

"(1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user; or

"(2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsection (d) of this section, boiler fuel use of natural gas contracted for prior to January 1, 1975, shall be terminated by the user of such natural gas at the expiration of such contract or 12 years after the date of enactment of the Natural Gas Act Amendments of 1975, whichever is earlier, unless, upon petition of such user, the Commission determines that (1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user, or (2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) Except as expressly provided in subsection (b) of this section, the Commission shall not (1) modify, amend, or abrogate contracts entered into prior to January 1, 1975, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit either directly or indirectly, the performance of any such contract or certificate: *Provided, however,* That the provisions of this subsection shall not otherwise modify or affect the authority of the Commission under this Act.

"(d) The Commission shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(e) The Administrator shall, by rule promulgated no longer than 30 days after enactment of this Act, prohibit all uses of natural gas that he determines are solely for ornamental or decorative purposes. Such gas prohibition shall be limited to uses which are outside of a residence or dwelling which has the installed capacity to use electricity. The prohibition shall take effect not later than 60 days after enactment of this title.

"(f) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary preserves of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term air quality emergencies or any other danger to the public health, safety, or welfare.

"(g) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act.

"(h) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining feasibility or practicability where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law.

"RESIDENTIAL AND OTHER SMALL USERS

"SEC. 28. GENERAL.—The Commission shall—

"(a) Require all pipelines to file separate tariffs with respect to (1) old natural gas and (2) new natural gas (including synthetic or liquefied natural gas) in such form and manner as to reflect the price and average annual volumes of each which enter each such pipeline.

"(b) Require all pipelines to give first priority for sales of transfers under the applicable tariff for old natural gas to natural-gas distributing companies, to the extent such old natural gas is available, to meet the requirements of each such company's residential users and small users.

"(c) Promulgate rules to govern sales, exchanges, or transfers among pipelines and sales, exchanges, or transfers to natural-gas distributing companies served by multiple pipelines, to the extent necessary to achieve the purpose of this section.

"(d) For purposes of this section, persons using natural gas for essential agricultural purposes not to exceed 50 Mcf on an average day, shall be deemed small users.

"RATES AND CHARGES CEILING

"SEC. 29. The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and shall every two years modify, a national ceiling for rates and charges for the sale in interstate commerce for resale of old natural gas, the sale of which gas is continued in interstate commerce after the expiration of a contract by its own terms (and net through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"(1) the costs attributable to the exploration, development, production, gathering, and sale of old natural gas;

"(2) the prospective costs of operation, reworking, installation of additional compression, and similar expenses, which costs are necessary to prevent abandonment in place of old natural gas reserves otherwise recoverable;

"(3) the reimbursement to the seller of (a) any severance, production, or other tax payable by the seller and levied on the value or volume of production at the wellhead; and (b) any royalty or royalties on natural gas which a producer is required to pay to a royalty owner under applicable State law;

"(4) the rate of return on seller's original capital investment which is sufficient to encourage the optimum level of investment in natural gas exploration and production; and

"(5) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraph (4) of this subsection.

"NATIONAL GAS PRODUCTION ON FEDERAL LANDS

"SEC. 30. (a) All leases or other agreements entered into by the Secretary of the Interior for the exploration or production of oil or natural gas on Federal lands shall contain a provision that the Secretary shall have the right to require increased production up to but not to exceed the maximum efficient rate of production under such lease for the purposes of dealing with emergency shortages of oil or natural gas or other national emergencies.

"(b) Within ninety days after enactment of this section, the Secretary shall issue regulations setting forth the maximum efficient rate of production for each field on Federal lands which the Secretary determines produces, or has the capacity to produce, significant quantities of natural gas.

"(c) For purposes of this section the term 'maximum efficient rate of production' means the maximum rate of production of natural gas which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering principles.

"(d) Nothing in this section shall be construed to authorize the production from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

"DISPOSITION OF FEDERAL ROYALTY NATURAL GAS

"SEC. 31. (a) Upon commencement of production of natural gas from any lease on Federal lands issued under the authority of the Natural Gas Act (15 U.S.C. 717) or the Outer Continental Shelf Lands Act (43 U.S.C. 1309) enactment of this Act, the Secretary shall, except as provided in this section, offer to the public and sell by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines, that proportion of the gas produced from said lease which is due the United States as royalty natural gas. Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration, and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty natural gas of the Federal Government, the Secretary shall limit participation of competitors for the sale of any such royalty natural gas to those servicing such region, but he shall not make any sale for less than the fair market price.

"(b) Within sixty days after the date of enactment of this section, the Secretary shall submit to the Congress a systematic plan together with any necessary Federal policies, regulations, and procedures and any amendments he deems necessary to the Natural Gas Act, the Mineral Leasing Act, 1920, or the Outer Continental Shelf Lands Act or any other applicable Federal legislation, to facilitate and maximize the efficient and effective use of royalty nautral gas ordered by the Secretary pursuant to (a) above. In preparing such recommendations for use of such royalty natural gas the Secretary shall consult with the Administrator of the Federal Energy Administration, the Federal Power Commission, and any other appropriate Federal department or agency.".

SEC. 209. Section 2 of the Natural Gas Act, as designated by this Act (15 U.S.C. 717), is amended by inserting at the end thereof a new subsection as follows:

"(d) Nothing in this Act shall prevent the intrastate transportation of natural gas first sold in commerce after the date of enactment of his subsection in an interstate pipeline as long as such intrastate transportation does not prevent service necessary to meet the requirements of interstate consumers and the rates for such transportation reflect the fully distributive costs of the interstate facilities used therein, and the provisions of this Act shall not apply to any such intrastate transportation or the facilities utilized in such service.".

CONFORMING AMENDMENT

SEC. 210. Section 2 of the Natural Gas Act (15 U.S.C. 717) is amended (1) by inserting after "natural" and before "and" the following: "synthetic" and (2) by inserting the following new paragraph:

"(15) 'synthetic natural gas' means gas manufactured from coal or hydrocarbon containing materials which is sold or transported in interstate commerce.".

NOTICE OF NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled a hearing on Friday, April 2, 1976, at 2 p.m., in room 4232, Dirksen Senate Office Building, on the nominations of James F. Scearce, of Virginia, to be Federal Mediation and Conciliation Director, and Samuel R. Martinez of Colorado, to be Director of the Community Services Administration.

Persons wishing to testify or submit statements for the RECORD, please contact Donald Elisburg, General Counsel, Committee on Labor and Public Welfare, 4233 Dirksen Senate Office Building, Telephone 224–7663.

NOTICE OF HEARINGS BY THE SUBCOMMITTEE ON PARKS AND RECREATION

Mr. JOHNSTON. Mr. President, I wish to announce for the benefit of my colleagues and the public that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs has scheduled a hearing for April 1, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited on the following measures:

S. 828—to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes.

S. 3031—to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia.

S. 2996—to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes.

ANNOUNCEMENT OF HEARINGS

Mr. WILLIAMS. Mr. President, I wish to announce that the Labor Subcommittee of the Committee on Labor and Public Welfare will begin a series of hearings on the implementation of the Occupational Safety and Health Act of 1970 and various legislative proposals to amend that act. These hearings will be in Washington and in several areas of the country. Senator JOHN DURKIN will chair the hearings on April 12 and 13 in Washington. In part, the focus of the hearings will be enforcement of the Occupational Safety and Health Act, particularly as it pertains to the need for employee protection in small establishments and the experience of small businesses with OSHA. The pending bills are S. 454, S. 712, S. 928, S. 1150, S. 1495, S. 2254, S. 3073, S. 3132, and S. 3182.

The hearings will commence each day at 10 a.m. and will be held in room 4232 of the Dirksen Senate Office Building. Any person wishing to testify or submit a statement for the record should contact Peggy Taylor of the Labor Subcommittee staff, at room G–237, Dirksen Senate Office Building, telephone number (202) 224–3674.

ANNOUNCEMENT OF HEARINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

MARCH 30 AND 31

Indian Affairs Subcommittee, 9:30 a.m., room 3110, hearing S. 2801, Siletz restoration bill.

APRIL 1

Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, S. 3031, to authorize the erection of a statue of Bernardo de Galvez on public grounds in the District of Columbia; S. 828, to provide for addition to the Fort Clatsop National Memorial, and S. 2996, to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue.

APRIL 2

Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing, continued, S. 1864, Energy Information Act.

APRIL 5

Energy Research and Water Resources Subcommittee 10 a.m., room 3110, business meeting. To mark up S. 3105, the ERDA authorization bill.

Full committee, 2 p.m., room 3110, hearing, oversight of FEA implementation of Energy Policy and Conservation Act.

APRIL 6

Energy Research and Water Resources Subcommittee, 10 a.m., and 2 p.m., room 3110, business meeting. To mark up S. 3105, the ERDA authorization bill.

APRIL 7, 8 AND 9

Environment and Land Resources Subcommittee, 10 a.m., room 3110, hearing, oversight hearing on Crested Butte matter.

NOTICE OF HEARING

Mr. METCALF. Mr. President, I wish to announce for the information of my colleagues and the public that the Subcommittee on Energy Research and Water Resources will hold hearing on Tuesday, April 13, 1976, at 10 a.m. in room 3110, Dirksen Senate Office Building, to consider S. 3145, the Energy Conservation Research and Development Institutes bill.

Select witnesses will be heard at the hearing and others may submit statements for the record at that time.

Any questions should be directed to Dr. Benjamin Cooper, professional staff member, on telephone number 224–0611

and Mr. Benjamin Yamagata, professional staff member, on telephone number 224-9894.

NOTICE OF HEARING

Mr. METCALF. Mr. President, I wish to announce for the information of my colleagues and the public that a hearing has been scheduled by the Parks and Recreation Subcommittee on Thursday, April 1 at 10 a.m. in room 3110, Dirksen Senate Office Building, to consider S. 2996, a bill to authorize the Secretary of the Interior to permit the relocation of the John Witherspoon statue, and for other purposes.

Anyone who wishes to testify should contact Mr. James Beirne, professional staff member, room 3102, Dirksen Senate Office Building, telephone 224-7145.

ANNOUNCEMENT OF HEARING

Mr. FORD. Mr. President, the Subcommittee on Aerospace Technology and National Needs of the Committee on Aeronautical and Space Sciences will hold a hearing on Friday, April 2, on "Future Medical and Biological Research in Space." The hearing will be held at the University of Kentucky in Lexington.

The morning session will begin at 9:30 a.m. on the 18th floor of the Patterson Office Tower, and the afternoon session will commence at 1:30 p.m.

Mr. President, I ask unanimous consent that the witness list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WITNESS LIST

9:30 A.M.

Dr. Peter McAfee Fuller and Dr. J. Richard Keefe, Department of Anatomy, University of Louisville, Health Sciences Center, Louisville, Kentucky.

Dr. Jim Lafferty, Director and Dr. Charles F. Knapp, Associate Professor of Mechanical Engineering, Wenner-Gren Research Laboratory, University of Kentucky, Lexington, Kentucky.

Dr. F. Storey Musgrave, Life Sciences Directorate, Johnson Space Center, Houston, Texas.

Mr. Grant H. Barlow, Molecular Biology Research, Scientific Division, Abbott Laboratories, North Chicago, Illinois. (Statement for record only.)

Dr. Mary Helen Johnston, Marshall Space Flight Center, Huntsville, Alabama.

1:30 P.M.

Dr. G. Donald Whedon, Director, National Institute of Arthritis, Metabolic and Digestive Diseases, National Institutes of Health, Bethesda, Maryland.

Dr. Allan Brown, Professor, Biology Department, University of Pennsylvania, Philadelphia, Pennsylvania.

Dr. William N. Sullivan, Agricultural Research Service, U.S. Department of Agriculture.

Dr. David Winter, Director for Life Sciences, National Aeronautics and Space Administration, Washington, D.C.

ADDITIONAL STATEMENTS

THE MAYOR OF MADISON, WIS., CRITICIZES REVENUE SHARING

Mr. PROXMIRE. Mr. President, I am one of a small group in the Senate who has voted against and criticized Federal revenue sharing. I believe that those who spend money should have to raise it. That is a fiscal principle which is important for fiscal discipline.

In addition, we all know that in many areas the funds for revenue sharing have been used for very low priority projects and have been used to build city halls when other needs were more pressing. I have also felt that the formula should stress both need and effort to a much greater degree than it has.

Finally, revenue sharing was advocated in the beginning because of the anticipated Government surpluses which, it was said, would have a great fiscal drag on the economy. The surpluses never came about and the fiscal drag we have is from other sources. Revenue sharing should be called deficit sharing. We have never paid it out of any Federal surplus and it has routinely added to the Federal deficit.

Obviously most State and local officials, who are the beneficiaries of revenue sharing, oppose these views. One can understand their position. Senators and Representatives must vote the taxes while the State and local officials can spend the funds almost without let or hindrance. That is the best of all worlds for them. One can appreciate why they like it but they should not become moralistic about it.

But there is one mayor from the second largest city in my own State of Wisconsin who has a different view. His name is Paul Soglin and he has been one of the most constructive, innovative, and intelligent city officials in the country. While his views on revenue sharing do not exactly parallel mine he has some very interesting and constructive critical views about it.

He states that—

> Revenue sharing is designed to avoid dealing with two problems—one, making the federal bureaucracy work and secondly, developing a national program strategy for this country in the area of community development, housing, and social services.

He criticizes the formula, saying that it should give more credit for both need and effort.

He calls for Federal insistence on civil rights and affirmative action enforcement in the use of Federal funds.

He calls for a national program in the area of housing and community development, and area for which there is now neither and for which HUD and the OMB are inept and without a cohesive policy or program.

In addition, Mayor Soglin knocks down one other generalization. It is his experience that the Federal bureaucracy, namely the Urban Mass Transit Administration, brought skills and talents and expertise to his local problems that the city could not duplicate at the local level.

Mr. President I ask unanimous consent that this excellent statement by the mayor of Madison, Wis., the Honorable Paul R. Soglin, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MADISON MAYOR PAUL R. SOGLIN

I have carefully followed the present discussions concerning the future of federal revenue sharing. Lest my comments and observations be misinterpreted, let me state at the outset that revenue sharing must be reenacted in some form for at least another two years. I join other mayors and governors in their concern that, come January 1, 1977, we will find ourselves without a general revenue sharing bill. Should that occur, the collective damage to our nation's cities would far surpass the present crisis in New York.

This past week the National League of Cities/U.S. Conference of Mayors meeting was exclusively devoted to gaining support for the re-enactment of general revenue sharing. Those attending had the opportunity to hear President Gerald Ford and congressional leaders address the organization on the subject.

Ironically, while the meeting was supposed to further instill support for revenue sharing, it actually increased my skepticism about the program. My previous doubts about the program, coupled with this past week's review of revenue sharing, has led me to the conclusion that revenue sharing is absolutely essential in the immediate future, but is of long-range detriment to our country.

At the heart of President Ford's remarks was a statement that local officials were in a better position than anyone else to evaluate local conditions and determine how federal dollars should be spent. That statement was accompanied by the now familiar and hackneyed, but ever popular, attack on the Washington bureaucracy. The local leaders applauded profusely.

As a mayor and chief administrative official for a bureaucracy of 2,000, I am quite familiar with the difficulty encountered in making the system work. Our city is administered and managed in a more responsive fashion than most, so I feel free in noting that there are just as many unresponsive bureaucrats and red tape professionals working in the city halls and state houses represented by those who applauded the President's remarks as there are found in Washington.

I belabor this point because I have come to the conclusion that federal revenue sharing is a cop-out when it comes to managing and administering the federal bureaucracy. Revenue sharing is as much a program designed to avoid responsibility at the federal level as it is a program to place decision-making powers in the hands of the people at the local level. Simply and succinctly, the responsibility of elected officials in Washington, particularly the administrative head of government, namely the President, is to correct the bureaucracy and make it work, rather than bypass it. I strongly suggest that we keep this point in mind, because whether we like it or not, there will always be a bureaucratic system within government, and the talents of many highly professional and skilled individuals are being wasted.

Our own city's experience with the Urban Mass Transit Administration is a case in point. In that particular instance, our local transportation officials and the UMTA staff have worked together closely these last several years. Not only has the City of Madison received federal dollars for its public transportation system, but we also have an effective program. While we may have some criticisms of the bureaucracy, any negative reaction is overshadowed by the success we have encountered. Our city transportation department includes many skilled and talented people. The UMTA officials with whom we have worked include a number of skilled and talented individuals. As a result, the city has a viable transportation system that is continually being improved. Our people learn from the federal officials, the UMTA staff learns from us. As good as our staff is, we would not have developed as coherent a program if the federal government was giving us the money to spend as we wish.

Perhaps I shouldn't have said "giving us money to spend as we wish", but rather use the old phrase "throwing money at the problem". When federal revenue sharing was enacted, the pundits said they were sick and tired of throwing dollars at the problem.

I would suggest a new problem arose, namely, mayors and other officials found that they did not have the resources to effectively deal with the massive urban crisis. Consequently, our attention was shifted and the problem was no longer the crisis of the cities but local officials clamoring for attenion. So now, instead of throwing money at specific topical problems, the dollars are tossed to the clamoring local officials themselves in the hope that they will be silenced.

My view in this matter may be a bit cynical, but I have come to the conclusion that the general revenue sharing program is insufficient in dealing with the problems of this country.

Throwing dollars at local communities is no substitute for a coherent national policy in the areas of health, housing, education and economic and job development.

The old categorical programs were dismissed out of hand because they didn't work. Many people never bothered to ask why they didn't work. There were many others who preferred to avoid any federal responsibility in decision-making, because it would be far easier to enact revenue sharing than to adopt a coherent federal program for this country. Perhaps we ought to choose the more difficult route of finding out what was wrong with the categorical programs and return to the days of attempting to have a national policy in these critical areas. (I suppose I may have gone a bit too far. There is one area for which we have a national policy, namely, that we will not build new housing.)

In conclusion, let me state that I believe that revenue sharing is designed to avoid dealing with two problems—one, making the federal bureaucracy work and secondly, developing a national program strategy for this country in the area of community development, housing and social services.

What is needed at this time is the following:

1. For as long as we have federal revenue sharing a new formula which would be based on poverty rather than income levels.

2. Civil rights and affirmative action enforcement in the use of federal funds.

3. Insistence upon citizen participation in the use of federal dollars.

4. Incentives for progressive state tax reform (a question which is receiving very serious consideration here in Wisconsin under the leadership of Governor Lucey), as well as incentives for communities who are willing to tax themselves to a higher degree because of their appreciation for the quality of local services.

5. A national program in the areas of housing and community development.

Consequently, I would strongly recommend the adoption of a revenue sharing proposal along the lines of the bill submitted by Congressman Fascell, which would run for two or three fiscal years. In that interim period of time we would work to reform the bureaucracy and develop workable programs in the areas of housing, community development and social services.

MILITARY SERVICES UNIONIZATION

Mr. HRUSKA. Mr. President, recently it was my privilege to join with 23 of my fellow Senators in cosponsoring S. 3079, a bill introduced by the senior Senator from South Carolina to prohibit the union organization of our Armed Forces.

In introducing S. 3079 Senator Thurmond observed that the leaders of the American Federation of Government Employees intend to present the question of military unionization to the union membership at their summer meeting. Presumably, a positive vote would result in efforts to achieve that goal.

Mr. President, the possibility of the formation of service unions is a very serious proposition. It should not go unheeded by Members of this body.

Grave questions are raised when one ponders the effect of military unions. The whole character of our military could change. Its capacity to respond in times of national emergency could be threatened.

The Arizona Republic examined this matter in an editorial that is noteworthy because it depicts some of the situations that could occur with military unions. The editorial raises some interesting questions:

Would infantrymen file complaints that "working conditions" in a war are hazardous, and call on the Occupational Safety and Health Administration to enjoin the Army from sending troops into battlefield zones where the noise level is too high?

Would Air Force ordnance crews refuse to load machinegun bullets on fighter planes if the ammunition was made in a nonunion Belgian factory?

If war started after 5 p.m., does time-and-a-half pay become effective?

What would happen to the rules of military courtesy and discipline when an enlisted man shop steward sat across from a general and accused him of management abuses?

These possibilities, suggests the editorial, are mind boggling. Indeed, they are. I certainly share Senator THURMOND's belief that the unionization of our armed services would herald the end of our effective American defense force. As we all know, discipline and obedience to lawful command are the very backbone of any military establishment. It is not the proper place for collective bargaining, arbitration, work slowdowns, or strikes.

The experience of the past few years with public employee unions should serve as a warning to what might occur if unions became a part of the military. Strikes by teachers, policemen, hospital workers, firemen, and others have threatened the health, safety, and welfare of residents in many cities. The national defense of this country is too important to let such activity cripple the effectiveness of our military.

Since becoming a cosponsor to S. 3079, I have received letters from the National Guard Association of the United States, the Veterans of Foreign Wars, the Association of the U.S. Army, and the Fleet Reserve Association, all expressing strong support for the measure. Each organization indicated its belief that service unions would jeopardize our defense posture. The opinion of these organizations should not be taken lightly.

Mr. President, I urge my colleagues to familiarize themselves with the provisions of S. 3079, and to support its timely consideration. This is a matter that should not be delayed.

I ask unanimous consent that the editorial from the Arizona Republic, and resolutions adopted by the Veterans of Foreign Wars, Association of the U.S. Army, and the Fleet Reserve Association be printed in the RECORD.

There being no objection, the editorial and resolutions were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, June 30, 1975]

OVERTIME IN WAR?

One of the spurious myths coming out of World War II was that every Marine Corps squad was composed of 12 riflemen and one press agent.

The time may come, if we can believe the American Federation of Government Employees, when every rifle squad also will include a union shop steward.

The AFGE's president, Clyde Webber, has announced his 300,000-member union is trying to find ways of unionizing the armed forces. It is an inevitable progression, what with all the other wrinkles in military life today. KP duty has all but been eliminated, Gay Lib is trying to get its rights in uniform, and Jane Fonda legitimized GI protest groups against the Vietnam War.

If the unions do organize GIs, consider some of the novel possibilities which might develop:

Infantrymen might file complaints that "working conditions" in a war are hazardous, and call on the Occupational Safety and Health Administration to enjoin the Army from sending troops into battlefield zones where the noise level is too high.

Work jurisdictions might be formed, whereby riflemen would be restricted to using only rifles (no grenades, pistols or mortars); grenadiers could not use rifles; machinegunners could not throw grenades, ad infinitum.

Would Air Force ordnance crews refuse to load machine gun bullets on fighter planes if the ammunition was made in a non-union Belgian factory?

If war started after 5 p.m., does time-and-a-half pay become effective?

Could a unit commander file court martial charges against GIs who might invoke a no-contract-no-fight strike?

What would happen to the Rules of Military Courtesy and Discipline when an enlisted man shop steward sat across from a general and accused him of management abuses?

It's mind-boggling.

RESOLUTION NO. 469

NO "UNIONIZATION" OF MILITARY SERVICES

Whereas, the American Federation of Government Employees (AFGE), AFL–CIO, has announced plans to unionize U.S. military forces during 1976; and

Whereas, the U.S. military is a tax-supported, disciplined force to provide for our common defense, as set forth in the Constitution and

Whereas, without a clear chain of command and the unquestioning obedience to lawful orders which arise from a clear, unencumbered chain of command, our military forces would at once become both ineffective and, conceivably, a threat to our civil liberties; and

Whereas, one purpose of the Veterans of Foreign Wars of the United States is to assure that lawful complaints of U.S. servicemen will be pursued with the Congress and the Executive Branch, eligible servicemen who desire to air complaints legitimately need only join our 76-year old society of patriots to assure their views will be aired without damage to the chain of command; now, therefore

Be it resolved, by the 76th National Convention of the Veterans of Foreign Wars of the United States, that the V.F.W. takes the lead in pressing home both to the Congress and to the Executive Branch our total and uncompromising opposition to any proposal from any quarter which would have the practical or potential effect of unionizing our armed forces.

THE ASSOCIATION OF THE U.S. ARMY 1975 RESOLUTION

UNIONIZATION OF THE MILITARY

The American Federation of Government Employees, a union affiliated with the AFL-CIO, has announced that it is considering plans to organize and unionize the men and women of the Armed Forces.

Since there exists now legal prohibitions against a union engaging in traditional contract bargaining and grievance processing for servicemen, the union envisions initially a limtied role on behalf of servicemen—beginning with representation in disciplinary proceedings and other military hearings where outside counsel is currently authorized. Once established, it seems clear that the union would commence lobbying to remove the bars to complete collective bargaining.

The training and discipline of Armed Forces is predicated on the essential requirement for immediate response to orders in combat. There can be no room for bargaining or negotiation in the critical moments of battle.

Even more basic is the further effort to equate service in the Armed Forces as just another job or means of employment. Military service is a career service that, to function effectively, requires highly motivated, dedicated people. There can be no adequate remuneration for the hardships and dangers to which the military may be subjected. Nor can hourly wage scale be meaningfully applied.

We therefore resolve to place AUSA in unalterable opposition to any effort to unionize the military personnel of the Armed Forces.

NAVAL FLEET RESERVE RESOLUTION TO OPPOSE MILITARY UNIONISM

Whereas, the Shipmates of the Fleet Reserve Association fully recognize and sincerely appreciate the substantial contributions which organized labor has made to the welfare and station of the American worker in lifting him and his family from "economic slavery" to a position of respect, pride and independent prosperity in our society; and

Whereas, the Shipmates of the Fleet Reserve Association acknowledge the special relationship between the civilian employee and his employer which requires organized labor to represent the employee in issues between labor and management thereby protecting the rights of the American worker and assuring the continuance of our free enterprise system; and

Whereas, the Shipmates of the Fleet Reserve Association also recognize that without a strong national defense based on a well-trained, highly motivated, dedicated and disciplined Armed Force, neither the rights of the American worker or our free enterprise system will survive to enjoy the privileges of individual liberty; and

Whereas, the perilous international issues which confront our nation and the interdependence of our allies demand that the United States maintains the ability to instantly respond to any challenge decisively by the application of military force in whatever degree is necessary; and

Whereas, the uninformed may view military discipline and the command structure as the surrender of individual rights, military personnel recognize that the primary purpose of our armed forces is to protect our nation with the least sacrifice in human life, therefore military discipline and command serve to protect the individual in the performance of his military duties in conflict; and

Whereas, a segment of the American organized labor community is currently studying the feasibility of organizing Armed Forces personnel as a military union and thereby jeopardizing the backbone of our nation's future military security through the erosion of military discipline and the chain of command; and

Whereas, the unique relationship between the military "employee" and his employer the American public, is not akin to that of a civilian employee to his employer. Therefore, the American public and military career personnel have always eschewed the concept of a unionized military force in favor of the accepted practice of civilian control of our nation's Armed Forces; and

Whereas, military personnel exercising mature judgment and recognizing the unique demands of military life have sought the protection of their rights and benefits by membership in and representation by professional military associations which by their very nature pose no threat to military discipline, the command structure or our nation's national security; Therefore be it

Resolved, that the delegates to the 48th National Convention, Fleet Reserve Association, representing more than 126,000 career enlisted personnel of the United States Navy, Marine Corps and Coast Guard, assembled in the City of St. Louis, Missouri for the period of September 7-13, 1975 earnestly solicits the individual Military Services, the Department of Defense, the incumbent Administration, the Congress of the United States and the American public to join the Fleet Reserve Association in actively opposing, by all responsible means, the unionization of U.S. Armed Forces personnel.

MIDWEST CAUCUS FIGHTS FOR RURAL PEOPLE

Mr. CLARK. Mr. President, the Midwest Conference of Democratic Senators—Midwest Caucus—has a reputation for fighting for the interests of the small farmer and rancher and for the rural communities in the Midwest.

My distinguished colleague from South Dakota, JIM ABOUREZK, is chairman of the Midwest Caucus, and I want to commend him for the leadership he provides so well.

On March 24, Senator ABOUREZK testified on behalf of the caucus before the Agricultural Appropriations Subcommittee. His statement makes a strong case for the proven programs that are important to all rural Americans, and I believe it should be made a part of the record.

Mr. President, I ask unanimous consent that the testimony of Senator ABOUREZK, as chairman of the Midwest Caucus, be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

A FAIR SHAKE FOR RURAL AMERICANS

Mr. Chairman, the Midwest Conference of Democratic Senators (Midwest Caucus) appreciates this opportunity to submit our recommendations on program funding for Rural America.

The Midwest Caucus stands as a coalition effort to get a fair shake for farmers and ranchers, for small towns, and for Rural America in general. We are coordinating our work in this way in hopes that we can provide a stronger voice for the great food-producing belt of our nation.

What follows are our general comments and our specific recommendations, presented by funding category.

RURAL ELECTRIFICATION ADMINISTRATION

The Caucus notes that the Administration's FY 77 budget for REA salaries and wages is $21,409,000, which is $1,145,000 less than REA had requested of the USDA. The justification for the additional amount was on the grounds that REA should be in a position to hire highly trained financial experts to keep watch over the ever expanding financial commitments especially in the field of huge generating loans. Though REA financial positions have been extremely strong over the last thirty years, we are entering an era where generating loans will become much larger and require supervision of sophisticated financial experts.

The Administration further requested a ceiling of one billion, five hundred million dollars on loan guarantees. This is a guarantee program and carried as a non-budget item. Conceivably this figure could be reached in supplying the needs of three huge guarantees for generating construction. The caucus position is that this ceiling be eliminated and be replaced with a zero recommendation. This does no violence to the budget and does not involve any federal expenditures.

FARMERS HOME ADMINISTRATION

The Administration budget for Farm Ownership Loans is $350 million, down from last year's figure by $100 million. In years of substantial escalation of land values and in view of the historical inadequacy of sufficient money to satisfy demand the Caucus recommends a funding level of $600 million or a plus of $250 million over the President's recommendations.

On the operating level the Administration's request is the same as FY 76—$625 million. Again, rapidly rising operating costs would seem to indicate that at least an additional $125 million should be made available.

Presidential request for Emergency Disaster Loans was only $100 million, down $300 million from last year's budget. Early drought conditions in major producing areas indicate that this level should be increased to at least $400 million—the FY 76 level.

It should be pointed out that all these loans have insured status and though they are budget items for the Administration, there is virtually no loss exposure to the government.

CONSERVATION PROGRAMS

Newspapers and the electronic media tell consumers about drought and dust storms in the Midwest and that this will increase future food costs.

What they usually don't hear is that at this same time, the Ford Administration plans a drastic reduction in spending for conservation practices.

The President has proposed the elimination of all conservation programs within ASCS and replacing them with a single conservation measure, but with only 40 percent as much in matching funds.

He has not, however, sent any draft legislation to the Congress on this proposal.

Because of the world food and population situation, we need a greater conservation effort for the future, not less.

We, therefore, make the following recommendations with respect to conservation programs:

1. Assistance to Soil Conservation Districts—Increase to $240 million.

2. PL 566 Watersheds—

(a) Operations (construction):
Increase to $155 million.
Increase new starts to 40.

(b) Watershed Planning:
Increase to $14 million.

Increase new starts to 20.

3. Great Plains Conservation Program—

Increase to $30 million,

Maintain authority to prepare GPCP contracts.

4. Agricultural Conservation Program (ACP)—A minimum of the present funding level of $175 million.

5. We favor restoration of any loss in funds for on-going, proven conservation programs.

FARMERS HOME ADMINISTRATION STAFFING

The 1972 Rural Development Act established new and expanded authorities for a broad range of loan activities designed to deal with housing needs, sewer and water facilities, multi-unit housing, business and industrial loans, grants, etc. In other words, the agency is called upon to handle many loans of a community development nature, and loans in smaller towns and cities quite aside from the traditional farm ownership and operational loans with which they are more experienced.

We agree that a real need exists for these various housing and development loans. But we may have placed too much of a burden on the local FmHA personnel in asking them to cope with the whole range of problems. Generally, they have made commendable efforts utilizing temporary employees or personnel loaned from another agency.

However, experience indicates that it is impractical to handle the wide range of programs with personnel at the local level who have not been adequately trained and who do not have a proper background in their regulations.

Of those full time staff employees, we hear stories of local FmHA Administrators working overtime and on weekends—sometimes as many as 80 hours a week—without compensation in order to take care of all the applications on these various loan programs, and of secretaries who buy their own typewriters to process applications because some FmHA offices do not have them.

Last year, Congress attempted to rectify some of the problems in FmHA personnel, by increasing the appropriation by $12.2 million, in anticipation that this money would pay for 1,100 additional staff members for the agency. The agency received a personnel ceiling of 400 additional permanent personnel and 300 part time and temporary people. The remainder of the appropriation was used to pay salary and other benefit increases. We believe the failure to hire 1,100 new personnel, if not a violation of the letter of the law, is certainly a violation of its intent.

If the Farmers Home Administration is to serve the large and variable number of people interested in planning and community development plus those involved in ownership and operation of farms it was set up to serve, increased appropriations by Congress of $7.5 million should be used to hire 700 new people and not to pay higher salaries.

We feel this action could help prevent future problems caused by "bad loans" issued in haste by an over-worked and under-staffed agency. Poorly negotiated loans, even though small in number, could seriously damage the FmHA's effectiveness and certainly its reputation.

RURAL COMMUNITY FIRE PROTECTION GRANTS

The Fiscal Year 1977 Budget requests zero funding for rural fire protection grants authorized under Title IV of the Rural Development Act of 1972. In the past, Congress has demonstrated its support of this valuable and needed program by consistently funding it in the face of administration efforts to abolish it through non-funding.

Residents of sparsely-settled rural areas and remote rural towns have special problems in finding the resources to purchase expensive fire-fighting equipment and organize fire departments. They are therefore often without fire protection of any kind. With the assistance of matching funds from the Rural Community Fire Protection Program, many rural communities for the first time have been able to raise the money to purchase fire fighting equipment and establish their own volunteer fire departments. The program's value and success is demonstrated by the fact that grant applications far outpace the available funds each year. This is truly a self-help program of the best kind which meets a crucial need of rural residents. The Midwest Caucus recommends that it be funded at least at the FY 1976 level of $3.5 million, and preferably at the full authorization level of $7 million.

RESOURCE CONSERVATION AND DEVELOPMENT

The Midwest Caucus is concerned about the Fiscal Year 1977 Budget allocation for the Resource Conservation and Development Program administered by the Soil Conservation Service. The budget this year proposes a sizable reduction in this valuable program from FY 1976 appropriation level. The fiscal 1977 RC&D budget request of $21.488 million represents a cutback of $8.5 million from FY 1976 and will allow no new project planning starts whatsoever, and very little assistance to newly authorized RC&D projects which are now in the planning stage but will need federal assistance in fiscal 1977 to launch their planned projects.

The members of the Midwest Caucus recommend an appropriation equal at least to FY 1976 appropriation of $29.972 million and we request that the Subcommittee direct the Department to authorize at least 20 new RC&D planning starts and 20 new project construction starts with the appropriated funds, to insure that this program continues on at least a minimal level as Congress intended.

In a year when so many of our states have been hit with the most severe drought and high winds since the mid 1930's, the federal government should be redoubling its conservation efforts and support through every available program, rather than retrenching. We believe this program to be especially valuable in attacking large-scale conservation problems on a regional basis, as well as providing vital economic development and community improvement projects to the nation's rural areas.

Moreover, we request that the Subcommittee direct the Department of Agriculture to institute the full number of new Resource Conservation and Development Program planning starts intended by the Senate in fiscal year 1976. The Senate directed at least 25 new RC&D planning starts in fiscal year 1976 and the Department has only authorized ten new projects for federal planning assistance so far this year. This means that many worthy projects which have been awaiting funding for years will be delayed unnecessarily for additional years, if not indefinitely.

RURAL HOUSING AND RURAL DEVELOPMENT

The Midwest Caucus continues to be concerned with the problem of adequate funding for rural housing and development programs of the Farmers Home Administration. Turning first to housing issues, there is no need to repeat for the Committee the statistics on the disproportionate share of housing needs which exist in rural and small town America.

It is worth noting that the rural housing programs of the Farmers Home Administration are currently the most active and effective of Federal housing programs for low and moderate-income people. And they are programs that are focused on those who need better housing and who lack alternative sources of securing it. Those two "targeting" requirements are written into the programs.

The need for the programs is also clearly apparent in the demand for loan funds which threatened last fall and since to continually outrun the money available, and which Congress responded to by adding $500 million in loan authority to this year's program level available in 1976 to $3.2 billion.

The Midwest Caucus recommends an insured loan authority for rural housing of $3.8 billion in FY '77—a level which would allow for a continued orderly expansion of the program both to meet inflation and to do a more adequate job of meeting the great need which exist. Of those loans, we would urge that 60%, or about $2.3 billion, be at subsidized interest rates for lower income borrowers. We would emphasize that these are all loans and that the only long-run cost is in the interest subsidies and such loans as the program experiences. Historically, FmHA has had very low losses under its rural housing program. However, losses are increasing due, in large part, to inadequate staffing.

The Caucus also urges continued funding for related housing grant programs and loans proposed by the Administration for termination or for continued non-implementation. We have in mind here such items as Farm Labor Housing grants, self-help housing technical assistance grants, other technical assistance grants, home repair grants, and—of course—funds for implementation of the rural rent supplement program which FmHA continues to ignore in the face of clear Congressional instructions to implement it.

With regard to rural development grants, we know the Committee shares the desires of the Midwest Caucus to see a clearer willingness on the part of the Administration to put into effect the goals of the Rural Development Act. A critical need obviously continues to be funding for water and sewer systems in rural areas and small towns. This Farmers Home program has, like its rural housing programs, demonstrated that it is responding to an extensive need. Implementation in the years ahead of the Pure Drinking Water Act is going to further increase that need. Data currently being reported by the National Demonstration Water Project emphasize the crucial need for grants. In an analysis of more than 200 water systems funded by FmHA over a six month period, they found that monthly user costs averaged nearly $12 or about three times what the average urban family would pay, and they found that these user costs were more than 2% of median income. In the communities with the lowest incomes the user costs were averaging 3% and 4% of median income.

The only way in which those heavy burdens can be eased are through the use of grant funds and that is what Congress provided the grant funds for. The Midwest Caucus urges the Committee to continue funding rural water and sewer grants at a level at least equal to the current year—$250 million.

Similarly, we urge that rural development grants be funded as a minimum at the FY '75 level of $13,750,000. The grants are authorized to allow public bodies to provide some of the infrastructure which is essential to economic development and growth in small towns. The Congress has repeatedly declared a national objective of balanced growth. It seems to us that the adequate funding of the provisions of the Rural Development Act are essential to that objective.

Senator Jim Abourezk, Chairman, Midwest Conference of Democratic Senators.

South Dakota: Senator George McGovern, Senator Jim Abourezk.

Iowa: Senator Dick Clark, Senator John Culver.

Missouri: Senator Stuart Symington.

Minnesota: Senator Walter Mondale, Senator Hubert Humphrey.

Indiana: Senator Vance Hartke.

Michigan: Senator Philip A. Hart.

Colorado: Senator Floyd Haskell, Senator Gary Hart.

North Dakota: Senator Quentin Burdick.

DECLINE IN OIL AND GAS WELL DRILLING

Mr. BELLMON. Mr. President, on Sunday, March 21, a chart was published in the Daily Oklahoman pointing out the sharp decline in the rate of drilling which has occurred in the last 12 months. The figures show that in this 12-month period, there has been a decline of 152 active drilling rigs. During the week of March 17, 1975, 1,672 rigs were running, while during the corresponding week of 1976 only 1,520 were operating. These figures, more than any others, point out the negative effect which recent legislation has had on the motivation and the financial ability of our domestic energy industry to continue to search for oil and gas.

During this same 12-month period, domestic crude oil production declined by more than 300,000 barrels per day, according to data from the American Petroleum Institute. For the week of March 14, 1975, production was 8,368,000 barrels, while production for the week of March 12, 1976, was 8,049,000 barrels. This is a decline of about 4 percent. During the same time period, domestic daily demand increased slightly more than 3 percent. The Independent Petroleum Association of America statistics show demand of 17,058,000 barrels per day during March 1975; during March 1976 demand was 17,600,000 barrels per day. And, of course, the peak demand for heating oil occurs well before March.

The long-run prospects for discovery of enough new oil reserves are not encouraging; although there are reserves waiting to be discovered, the necessary seismographic activity which must preceed drilling is now declining. The Society of Exploration Geophysicists reports a steady decline in the number of seismographic crews active in the United States and U.S. waters and in Canada. In February 1975 there were 302 active seismographic crews, but by February 1976 there were only 249.

The effect of this reduction in search for new sources of oil and gas will show up in future months and years. Already, it is evident that the failure to develop our existing energy sources is causing us to deplete our proved reserves of liquid hydrocarbons and to increase our imports as a percent of supply. Ten years ago, in 1966, 21.2 percent of our oil supply came from imports. In 1975 we imported 37.6 percent of our supply. In testimony before the energy task force of the Senate Budget Committee, Mr. Eric Zausner, Deputy Administrator of the Federal Energy Administration, pointed out that, if our situation is not improved shortly, we face the likelihood that we will get 70 percent of our crude oil from foreign sources by 1985. Mr. President, think of that—70 percent oil dependency within 10 years. Can anyone doubt that both the price and the total cost of imported oil will soon soar? Also, can there be any doubt that the threat of another and far more devastating oil embargo will become more menacing with every passing month?

Mr. President, plainly the Nation is headed in the direction of disaster. Virtually every action Congress has taken has accelerated our down-hill plunge into dependency on insecure, costly foreign sources of oil. Surely, the figures quoted above demonstrate to anyone concerned about the survival of the United States as we know it today, the seriousness of our situation. They give proof that the congressional policy of punishing the oil industry is instead punishing the country. We are undermining our future by delaying action which will insure the country dependability, economy, and continuity of energy supply.

Following the removal of the OPEC embargo and the establishment of the Energy Research and Development Administration and the Federal Energy Administration, many of our citizens must have thought that the crisis was past and the problem of energy supply was now being well handled. But we can see that it is not so. The current ERDA budget request is primarily for research and development aimed at improved energy production by 1985 and later. Dr. Robert C. Seamans, Jr., Administrator of the Energy Research and Development Administration, told the Budget Committee energy task force that up until 1985—

> We have to make do with what we now have . . . and I mean use our coal and light water reactors and our oil and gas.

We cannot count on having enough nuclear power to take up the slack. It takes a 10-year leadtime for construction of nuclear plants, so those nuclear plants we will have in operation by 1985 are already now operable or are being built. In 1985, these nuclear plants will produce only about 26 percent of our electric power consumption. Unfortunately, the new energy technologies, including solar and geothermal energy, will make a minor contribution in the next 10 years, even if we work hard on developing them. If we want coal utilization increased between now and 1985, we must be able to give compliance extension with the Clean Air Act for individual powerplants, so that new coal-fired plants can be built. Even with a slower growth rate in the demand for energy, down from 4 percent per year to 2½ or 2 percent, we will need 40 to 50 percent more energy by 1985 than we use now.

Mr. President, as the economic recovery which is well underway continues, the Nation's energy consumption is certain to rise rapidly. The present controlled unrealistically low prices for crude oil will further accelerate consumption. The Nation's energy conservation program which seems to have worked well in the past is, therefore, now doomed to fail. Consumption will rise sharply in the months ahead and with this rise will come even further dependence on costly, insecure foreign oil sources.

The one positive development in the Nation's energy situation is the scheduled completion of the Alaska pipeline late next year. When in full operation, this will mean the delivery of up to 2 million barrels of oil from the North Slope to west coast ports. Alaskan oil will only temporarily slow down—not halt—our growing dependency upon imported oil.

Mr. President, there are several simple, logical steps which need to be taken to reverse our energy production slump and our growing oil import dependency. All of these actions can and should be promptly taken by Congress:

First, decontrol of oil prices.

Second, decontrol of natural gas prices.

Third, passage of compromise strip mining legislation.

Fourth, modification of the Clean Air Standards Act to allow use of more coal as boiler fuel, and freezing auto emission standards for 5 years to allow optimizing gasoline fuel economy.

Fifth, more adequate funding for fossil fuel research and development including tertiary recovery.

There can be little doubt that the immediate years ahead require us to utilize traditional sources of energy, while the new sources are being developed for our use after 1985. Put another way, petroleum will be king of energy for at least another 10 years. It is my judgment—and the judgment of many others—that basic market forces are a superior way to encourage domestic production while promoting conservation. To discover and develop this country's energy resources, we must do everything we can to let the free market operate so that investors will take the necessary risks with the hope that they can recover their costs and attract investors. We need more energy conservation, but our present policies are encouraging wasteful uses of energy. The pricing mechanism of the market can do an effective job of insuring conservation.

Political manipulation of the market will only delay the adjustments it must make and place us in an even more untenable position by 1985. Congress must understand that its actions setting artificially low prices of oil and gas discourage production and encourage wasteful consumption. It must understand that actions to reduce incentives for domestic production mean not cheaper oil but oil that ultimately costs more and is less dependable. It must realize that debate about divestiture serves to make energy companies more cautious and less able to take the necessary market risks to find and produce energy.

We are facing an excessive drain on our foreign exchange due to increased oil imports. Our energy situation poses both a national security threat and a danger to our domestic economic and social stability. This is no way to handle the Nation's future. Our present energy policy is a downhill toboggan ride to disaster. It must be changed. Time is fast running out.

FEDERAL DRUG LAW ENFORCEMENT

Mr. NUNN. Mr. President, the Senate Subcommittee on Permanent Investigations is examining Federal drug law enforcement, with particular emphasis on the operations and policies of the Drug Enforcement Administration.

Three articles from the Washington Post this week are informative as to the size and scope of the drug problem this Nation faces and the difficulties encountered in solving the problem.

In a March 17, 1976, article headlined "'Epidemic' of Heroin Continuing," Post reporter Stuart Auerbach reports that Dr. Robert L. DuPont, the Nation's top drug abuse expert, believes that heroin addiction is increasing in the United States.

Another March 17, 1976, article, this one written by George C. Wilson, and carrying the headline "Marines' Growing Drug Problem Seen," surveys drug abuse problems that confront the U.S. Marine Corps.

"Mexico Rejects 'Scapegoat' Role on Drugs" is the headline on a Washington Post article of March 18, 1976, in which reporter Marlise Simons quotes Mexican officials who feel they have been unfairly criticized for their own efforts to control the flow of illicit drugs from their country into ours.

As acting chairman of the subcommittee, I intend to continue the inquiry into Federal drug enforcement efforts. For, as these articles show, the expanding drug problem is one which vitally affects the health, security, and welfare of the American people.

Mr. President, I ask unanimous consent that these three articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, March 17, 1976]

"EPIDEMIC" OF HEROIN CONTINUING

(By Stuart Auerbach)

The nation's top drug-abuse expert reported yesterday that heroin addiction is increasing steadily in the country after a temporary 18-month downturn that started in mid-1972.

Admitting he was wrong when he predicted in 1973 that the epidemic of heroin addiction had ended, Dr. Robert L. DuPont said it has now spread into small cities and towns across the country from the major metropolitan areas of the East Coast, where it had been centered.

"The trend is now for a worsening situation in heroin abuse," said DuPont, director of the National Institute on Drug Abuse. He previously headed the now-dismantled White House Special Action Office on Drug Abuse.

"The epidemic is continuing. It had never ended. What we had was an interruption—a temporary downturn—during an 18-month period in 1972 and 1973," DuPont continued.

He estimated there are 300,000 to 400,000 daily heroin users in the country compared with 200,000 to 300,000 during the period of the downturn. But current heroin use still hasn't reached the peak of the pre-downturn epidemic—500,000 to 600,000 in 1971.

The 18-month decline, he said, came as a result of Turkey's ban on the growing of opium poppies; the "French Connection" arrests that ended the shipment of heroin through Marseilles, which had supplied most of the heroin to the East Coast, and the fast growth of treatment centers in the United States.

Now, Du Pont continued, Mexico supplies 90 per cent of the heroin used in the United States, and the growth of treatment programs has leveled off.

Along with the continued growth in the number of heroin addicts, DuPont said the government's new Heroin Indicators Trend Report—released for the first time yesterday—shows that the pattern of its use has changed.

"Heroin has become a national phenomenon," he said. Blacks and whites now use it equally, and the number of female addicts is rapidly approaching the number of male addicts, he said, adding that its use is spreading from the East Coast to the West Coast.

Los Angeles, for example, last year had more heroin overdose deaths—one of the key measures of heroin use—than New York City. New York once was the center of heroin addiction, accounting in 1960 for about half the addicts in the country.

Moreover, DuPont said that the most recent statistics show 118 heroin overdose deaths in San Diego and 30 in the District of Columbia. During the peak of the heroin epidemic, in 1971, the District had 60 heroin overdose deaths.

"I see growing problems for the nation with heroin abuse," he said.

"If the current trends continue, I think we can expect to see more overdose deaths, more health-related consequences of heroin use, more crime associated with heroin use—all the other negative consequences."

DuPont said, "I was wrong" in 1973 because he said he had reached general conclusions on the basis of data from three cities.

"I have learned my lesson that these trends can change very quickly. They are much more volatile than I thought in 1973," DuPont said.

He said he feels "much more secure talking about national trends" now because current data are based on overdose death reports from 24 cities scattered in all parts of the country, 15,000 reports from hospital emergency rooms detailing heroin-related incidents, reports on retail price and purity levels, arrests and treatment program records.

The price of heroin, the Heroin Indicators Trend Report said, has increased from 95 cents a milligram in mid-1972 to $2.71 a milligram in late 1974. The price dropped last year to $2.34 a milligram. Starting in 1973, the purity of heroin sold on the street increased until last year it was 12.3 per cent pure compared with 6 per cent in mid-1973.

While heroin addiction is rising, DuPont said it is still the least-used illegal drug. An estimated 15 million Americans use marijuana—far more than the number of heroin addicts or even the 2 million to 4 million "weekend chippers" who have used heroin sometime during the past year.

[From the Washington Post, Mar. 18, 1976]

MARINES' GROWING DRUG PROBLEM SEEN

(By George C. Wilson)

CAMP LEJEUNE, N.C., March 17.—A Marine lieutenant has been court-martialed here for leading his men on a marijuana-picking expedition and smoking the pot with them afterward.

A group of military policemen dealing in "dangerous drugs and marijuana" at the Marine Corps' big Cherry Point air base 40 miles east of here has been uncovered and broken up.

A 19-year-old Marine private at Cherry Point has pleaded guilty to robbing a store at gunpoint to help pay his drug debts.

These incidents, which took place within the last 10 months, are among those that have persuaded civilian authorities, if not Marine leaders, that the corps has a big drug problem that is getting bigger all the time. The problem did not end with the Vietnam war.

Police Sgt. Charles R. King—a former Marine gunnery sergeant who spent 17 years in the corps—said he is swimming against a tide that gets stronger by the month as hard drugs follow marijuana into the little town of Havelock, home of the Marines' Cherry Point air base.

"That $8 millon-a-month payroll out at the base is too big to pass up," said King in explaining why Cherry Point and other military bases in North Carolina have become prime targets for drug dealers.

Another reason, King said in an interview in Havelock, is that the state's 3,800-mile coastline is easy for drug dealers to penetrate by boat. The drugs are then trucked to distribution cities inland, the sergeant in charge of Havelock's drug control effort said.

Compounding these problems, the sergeant added, is the wide acceptance by both young officers and enlisted men of marijuana as a way to pass the time in the peacetime Marine Corps.

"It's getting worse here," said King "because the hard stuff is coming in. We're starting to get increasing amounts of cocaine and heroin" on top of the old standbys, marijuana, amphetamines, LSD and tranquilizers.

The way the Marine lieutenant justified his marijuana-picking mission buttressed arguments by King and others that marijuana knows no rank and is seen as a softener to military life.

"I feel sorry for enlisted people," Lt. Kem W. Vickery, 28, of Newcastle, Ind., told the military judge at his general court-martial at Camp Lejeune last month.

"I spent three years as an enlisted man," continued Vickery, who joined the corps in 1971, "I can relate to their experiences and discomfort."

So, last summer the lieutenant "conspired"—to quote the Marine charge later made against him—with five corporals from the 8th Motor Transport Battalion at Lejeune to drive to Pulaski County, Ind., where marijuana grows wild.

With the help of two combat radios checked out of the base for the secret operation, Vickery deployed his men for the harvest. They smoked the marijuana after drying it.

Marine authorities, aided by evidence supplied by enlisted men who had participated in the harvest convicted Vickery of conduct unbecoming an officer and trying to intimidate Marines from testifying against him.

Despite Vickery's pleas to the military judge, Col. Paul F. Henderson, to let him serve a prison sentence in the corps rather than be kicked out of it as a felon, Vickery was sentenced to dismissal and had a penalty of three years at hard labor suspended.

Brig. Gen. John H. Miller, Vickery's senior commander, is reviewing that sentence. Miller stressed in an interview that the Vickery case was a "gross exception," asserting that he and other commanders are now getting on top of discipline problems.

At Cherry Point, Marine Lt. Col. Stanley Wawrzyniak—the provost marshal and thus top cop for the air base—agreed in an interview that drug problems are getting worse but said this is not peculiar to Cherry Point, but reflects a general increase of drug abuse on all military bases and among civilians.

The discovery at Cherry Point last spring that 15 military policemen were using drugs they were supposed to help control is one measure of the problem.

Marine Maj. Charles H. Mitchell, staff judge advocate at Cherry Point, said in an interview that the 15 MPs were not an organized ring of pushers but used and sold drugs among themselves. Base authorities compiled enough evidence against 11 of the 15 MPs to kick them out of the corps last fall.

The case of Marine Pvt. Ray Leon Petrovskey, 19, is cited by civilian authorities here as an example of how drugs in the military can lead to crime against the civilian community.

Petrovskey pleaded guilty to robbing the Kwik Pick Market in Havelock of $173 on

Jan. 18. He said the pusher he was indebted to for drugs supplied him with a coat and .22-cal. pistol for the robbery and then disappeared after promising to stay to help him escape.

"This guy deals in big drugs and that's why I owed him money," the 19-year-old Marine wrote authorities after his arrest for armed robbery.

In a glimpse of what may be the bigger drug traffic to North Carolina and its military bases, Petrovskey added:

"I also know of a boat that brings big drug amounts into this area. This guy has some contact in Morehead [City] and he can get just about any kind and any amount of drugs he wants. He's got to be stopped. He's wrecking a lot of people's lives . . ."

For example, Petrovskey continued in his letter, a boat loaded with drugs landed on the beach one night last November in the resort town of Atlantic Beach, N.C. He claimed that various drugs in tightly-packed boxes were quickly distributed to dealers at the night rendezvous which he witnessed.

"I'm sorrier than anybody will ever know," Petrovskey wrote in begging the court to give him a second chance rather than a long prison sentence. "I think everything I ever worked for would go down the drain if I wasn't given this chance . . . Without the chance I'd have nothing—all my 19 years down the drain."

Superior Court Judge James H. Pou Bailey in New Bern, N.C., apparently was unmoved. He sentenced the former Marine last week to 18 to 20 years in the state prison in Raleigh.

[From the Washington Post, Mar. 18, 1976]

Mexico Rejects "Scapegoat" Role on Drugs

(By Marlise Simons)

Mexico City, March 17.—In unusually sharp language, Mexico has said it is tired of being the scapegoat for U.S. inability to solve its drug problems at home and has criticized the U.S. Drug Enforcement Agency for inefficiency and lack of cooperation.

"The drug rings are in the United States, the money is there and the market is there. Yet the United States accuses us daily of their own inability to break their market," Alejandro Gertz, the head of Mexico's new anti-drug campaign told a press conference yesterday.

"But in terms of the importance and the number of people arrested here and the quantity of drugs seized, our police have been many times more efficient," Gertz said.

According to a U.S. official here, the new campaign indeed should "show its effect on the availability of Mexican heroin on the U.S. market," although the timing depends in part on the quantities already stored by farmers and traffickers awaiting higher prices.

The campaigns "thus far have been extremely impressive," the official said.

But Mexican high officials have been stung by criticisms from across the border and by what Gertz described angrily as "lectures from the American DEA, who with thousands of men and large financial and technological resources can't do the job at home."

"Here in Mexico there are 25 DEA liaison officers and five American helicopter pilots," Gertz said. "When things are going well here, they take the credit. If things go wrong, Mexico is to blame. If they are that good, why can't they get the drugs and the Mafia in the United States?"

A highly placed Mexican government official has said privately that it was "high time those DEA types were thrown out of the country. They have never presented us with an intelligent plan. All they do is drink daiquiris in hotel bars."

At yesterday's news conference Gertz accused the DEA contingent assigned to the U.S. embassy here of withholding information from the attorney general's office. "Fundamentally they only come and ask us for information. Except for a few tipoffs they have never been useful to us" he said.

Since Mexico replaced Europe and the Middle East as a major supplier for U.S.-consumed heroin after 1972, it has received much criticism from American drug enforcement officers and congressmen for not making the all-out effort required to curb the flow.

Four months ago, Mexico launched a vast offensive against growers of opium poppies and marijuana when it became clear that intercepting the intense air, land and sea lanes to the United States was nearly impossible.

Employing 27 helicopters—mostly U.S.-donated—a highly trained Mexican narcotics squad began to spray herbicide on clandestine fields in all 10 of its drug-producing states.

Gertz, who heads the 250-man federal police narcotics squad, said 19,729 poppy and marijuana fields (about 15,000 acres) have been destroyed, representing an equivalent of 4.5 tons of pure heroin (which is made from the gum-like opium of the poppy plant).

In those four months, Gertz said, 1,197 persons were arrested (200 of them Americans) and 125 tons of marijuana, more than a ton each of heroin, and cocaine and more than 25 million pills were confiscated.

This year's harvest, due between January and March "has largely been destroyed, although we know that farmers are replanting," Gertz said. "But we will keep up the campaign so that Mexico will no longer be the scapegoat . . . for the American drug program."

U.S. officials here have admitted that the destruction of the clandestine fields is a challenging task. Often the crops are on high slopes of the Sierra Madre mountains, in an area twice the size of Texas.

Sometimes, when the fields are in narrow canyons where helicopters or fixed-wing aircraft cannot reach, soldiers march for days to destroy the plantations by hand. Twelve soldiers have been killed.

Yesterday's sharp attack on the DEA and U.S. politicians "who believe themselves to be drug experts" appeared to be triggered by a statement earlier this week of Rep. Lester L. Wolff (D-N.Y.), chairman of the Foreign Affairs subcommittee on international narcotics control. After a visit to Mexico, he charged in New York that it was not assigning sufficient resources and personnel and that its effectiveness was hampered by the corruption of highly placed Mexican officials.

Last year, the Mexican government spent close to $40 million, according to Gertz. On the charges of corruption, Gertz angrily retorted, "Let him give names. We need proof, not just words. It is deplorable that Mexico is being used for political games in the U.S."

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there has been a great deal said about the Genocide Convention and much of it unfortunately has been false and misleading. Today I want to try and correct some of the misconceptions about this treaty.

The matter of preventing and punishing genocide is clearly within the necessary objectives of a sound foreign policy. First, it is a powerful medium in the quest to insure the respect of basic human rights worldwide. Second, it is an effort toward preventing aggression and preserving peace. Third, it deals with the vital question of responsibility for genocide; the convention warns that even heads of governments can be punished by successors if they undertake a program of mass murder.

The Genocide Convention is in keeping with our already highly developed system for the protection of human rights. The American experience with its own Bill of Rights weighs heavily in favor of the belief that such instruments as these are effective in the advancement of human rights.

Nor is there any obligation to undertake military intervention under the Genocide Convention, although this has been intimated by some opponents. Article I of the convention does state that the contracting parties undertake to prevent and punish genocide, but the form of this undertaking is clearly restricted by the specific obligations stipulated in the convention itself.

The heart of the Genocide Convention is in its provisions for international cooperation to combat the abhorrent crime of genocide. Our ratification will be an important contribution to the success of this international effort.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale maye be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record the notification I have just received.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Office of the Director Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance), OASD/ISA

Washington, D.C., March 25, 1976.

In reply refer to: I–3134/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–47, concerning the Department of the Air Force's proposed Letter of Offer to Egypt for C–130 aircraft and support equipment estimated to cost $65.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 76–47—Notice of Proposed Issuance of Letter of Offer

pursuant to section 36(b) of the foreign military sales act, as amended

a. Prospective Purchaser: Egypt.

b. Total Estimated Value: $65.0M.

c. Description of Articles or Services Offered: Six (6) C–130 Aircraft including spare parts, ground support equipment, training and ancillary support.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: 25 March 1976.

PANAMA CANAL NEGOTIATIONS

Mr. CLARK. Mr. President, from time to time we hear from the administration that Congress is to blame for this or that failing in foreign policy. It is true that at times our system of checks and balances—of shared responsibility for foreign policy—makes the conduct of foreign relations more complicated for the United States than for most governments.

But it is difficult to avoid the impression that blaming problems on the Congress can sometimes be a convenient excuse for failures which are largely of the administration's own making. The negotiations for a new Panama Canal treaty would seem to be at least partially a case in point.

Last June the House of Representatives passed an amendment to the State Department appropriations bill, introduced by Representative GENE SNYDER, to deny funds for continuing the negotiations. When Panamanian chief of State Torrijos heard of the House action he said, half in jest, that he could not much blame the House for balking at paying for the negotiations, since they had been going on for 11 years—and still without results.

Congress deserves no praise for its actions so far. The Synder amendment was later dropped by a very narrow vote in the House; but there is still no guarantee that the House will approve the legislation necessary to implement any new treaty. A prior question, of course, arises in the Senate. Until we received a treaty, the Senate cannot decide how it will vote. There can be no doubt, however, that Senate Resolution 97, introduced by Senator THURMOND in March 1975, and signed by 37 Senators was a blow to a reasonable settlement of the problem. If the administration had made an honest, straightforward statement of the issues to each Senator at the time the Thurmond amendment was introduced, there might well have been fewer signers. Unfortunately, the field was left to the treaty's opponents. In any event, negotiations between Panama and our negotiators have continued on the assumption that, once a fair and workable treaty has been concluded, many of the signers of Senate Resolution 97 will be able to give their advice and consent to the treaty. I personally am confident that when the time comes, the Members of this body will vote in favor of what they think is most protective of U.S. interests, regardless of their position on Senate Resolution 97.

U.S. engineering genius built the canal in 10 years. It now looks as though we will be lucky to have a treaty after 13 years of on-again-off-again negotiations—if then.

Because of election-year politics, there seems to be little hope for action before 1977. But the whole matter could have been resolved before election year if President Ford had been willing to override certain intransigent elements within his administration—primarily in the Pentagon—which insist on maintaining U.S. control and military forces in the Canal Zone. Furthermore, the administration failed to go to the people and to the Congress in support of the negotiations until it had to last fall. The President has left the field to those who oppose any change in the status quo. I welcome Ambassador Bunker's speeches in recent months explaining our need for a new treaty; I regret that he did not begin publicizing his case earlier.

When we built the canal, it was a monument to American ingenuity and determination. It still is. Furthermore, it continues to be economically and militarily important to us, though that importance is considerably diminished by several factors. In recent years many ships have been built which are too large to use the canal. And the extreme vulnerability of the canal to attack has led us to adopt a military strategy which does not count on the availability of the canal.

In the meantime, in the absence of all-out war, the greatest threat to the canal is not that the Panamanians are unable to run it. They can be trained. It is not that only the U.S. military forces can defend it from attack. The greatest threat to the security of the canal is our own capacity for wrong-headedness. Notwithstanding the confident assertions of some Pentagon officials, the canal cannot be defended from the types of attack to which it is most likely to be subjected, namely, terrorist or guerrilla attack. We should be thankful for the Panamanians' patience and their intrinsic interest in the canal's continued operation. But I wonder how long Panama's leaders can be counted on to hold back the storm.

There are a number of compelling arguments for an early and equitable settlement in a new treaty. First, our relations with all of the countries of Latin America suffer because of our continuing failure to resolve this issue. Latin solidarity on this question has grown in recent years and has been demonstrated time and again in the Organization of American States and in the United Nations. The joint statement of principles for a new treaty signed by Foreign Minister Tack and Secretary Kissinger in February 1974 temporarily defused the issue.

But with no apparent progress since that time, Dr. Kissinger found the Panama question on many lips during his recent trip to Latin America. The United States may come under heavy attack on the canal issue at this year's OAS general assemly. Latin America has again chosen Panama to be its representative on the U.N. Security Council, and unless we show steady progress toward a mutually acceptable treaty, we can confidently except more trouble on the model of the 1973 Security Council meeting, where we vetoed a resolution on the canal problem.

A second valid argument in favor of an early conclusion of a treaty is the probable need for expanding the canals capacity at some future time. Neither expansion nor a new canal is a real possibility, as long as the treaty issue is unresolved.

Third, purely from a tactical standpoint, early action is to our advantage. With the Panamanians' patience wearing ever thinner, we are more likely to get a better deal now than later. The Panama negotiators are not trying to run us pell mell out of Panama. They are talking of a gradual transfer of responsibilities which would leave them in control at the end of the century

Ambassador Bunker in a speech in Los Angles last December pointed out the dangers of failure of the current negotiations:

> Unless we succeed, I believe that Panama's consent to our presence will continue to decline—at an ever more rapid rate. Some form of conflict in Panama would seem virtually certain, and it would be the kind of conflict which would be costly for all concerned."

I will not dwell on the potential for disaster if the United States should be faced with an extended and bloody conflict with Panama.

Another serious question which arises in the context of the canal is the role of the U.S. military in Latin America. The United States, in apparent violation of the treaty, has a number of installations in the zone which are not related to the defense of the canal. In addition to training bases, there is the U.S. Southern Command—SOUTHCOM—which is in charge of U.S. military operations in Latin America. The existence of these installations on Latin American soil offers a potential for trouble which could be avoided if they were simply abolished or moved to the United States. One wonders what kind of military operations SOUTHCOM may be contemplating.

Finally and perhaps most importantly, our political and moral position in Panama is simply untenable. The treaty by which we obtained control of the zone was signed under conditions which, to say the least, smacks of a bygone colonial era. We colluded militarily in the secession of Panama from Colombia and thereupon signed the treaty with the "Panamanian" negotiator, a Frenchman who owned stock in the bankrupt company which had the canal rights. Notwithstanding the rhetoric in this country. Panama never relinquished its sovereignty over the zone, which splits the country in half. The desire of the Panamanians to gain effective control of their territory during a reasonable transition period has an impeccable moral basis, in my view.

It is up to the administration to take the next step—that is, complete the negotiations with Panama and submit the treaty to the Senate.

In closing, Mr. President, I would like to call the attention of the Senate to an excellent report recently released by Congressmen LEE H. HAMILTON and DAVID R. OBEY, entitled "A New Panama Canal Treaty: a Latin America Imperative." There is no rhetoric in this sober, succinct study—but rather a thoughtful cool-headed statement on how we can best promote not just our foreign policy interests, but also our economic and military interests in the fact of this increasingly serious problem.

MORE ON UNION POWER

Mr. GOLDWATER. Mr. President, having just completed action in the Senate on two major bills which are related to the subject of growing union influence of elections, the proposed Hatch Act repeal and the Federal Election Campaign Amendments, I am particularly struck by the relevance of a timely article on this subject by Mr. Robert G. Kaiser, a staff writer of the Washington Post. At a time when we in Congress are acting on legislation to enable Federal employees to engage in extensive partisan activities and are working on changes to the campaign finance law that will strengthen the role of labor organizations in elections, it would be instructive for my colleagues to think about the development revealed by Mr. Kaiser, which typifies the aggressive efforts of labor unions of all kinds across the country to win elections for candidates alined to them. Mr. Kaiser's article is aptly entitled, "NEA 'awakening Politically for '76."

The article points out that the "once-staid National Education Association" is increasingly taking on the attributes of "a militant labor union." The article states that this is significant because the NEA "has 1.8 million members spread through most communities in the country—a potentially powerful political army which is beginning to come on to active duty."

Continuing, the article notes that—

> In 1976, for the first time in its history, the NEA can endorse a candidate for President.

Addressing the impact of the change in the political activity of this large, public union, Mr. Kaiser's article offers the following analysis:

> The mathematics of the NEA's potential influence are impressive. It has 1.8 million educated, articulate, generally well-respected members, all of them with unusually intimate access to their own communities. It has money: $731,000 from the national treasury to contribute to this year's campaign; plus about $2.5 million more than state and local affiliates will donate.

As evidence of the extensive possibilities which the NEA will have to show its political muscle, Mr. Kaiser cites Jerry Wurf, who is president of the American Federation of State, County, and Municipal Employees, and who counseled in a recent interview that the NEA should be taken "very seriously."

It is "an incredibly immense organization," Wurf is quoted as saying, and one that has already proved its political effectiveness in many States. Wurf also said that—

> The process of endorsing a candidate for President could prompt the NEA to coalesce into a more united political force.

The article also brings forward Richard Scammon in proof of the NEA's political significance:

> Richard Scammon, a veteran voter analyst working in the 1976 presidential campaign for NBC news, said teachers "can talk, they can get money, and they can get people"—a potentially powerful combination.

Mr. President, with this background on the tremendous potential for political influence by the NEA, it is worth noticing where this prowess will be directed. Mr. Kaiser's answer is that the Democratic Party will be the focus of the NEA's attention and support. He writes:

> This year, NEA set out to cooperate with the coalition of liberal unions to try to elect a maximum number of delegates to the Democratic convention.

Mr. Kaiser then interjects his observation that the "NEA's national leadership reveals an instinctive inclination to support the Democrats."

Mr. President, it will also be instructive for us to note what minimum amounts of money the various teachers' unions have raised and spent for political purposes in 1975 and how much cash they had on hand for teacher political action as of December 31, 1975. According to information reported to the Federal Election Commission, teacher unions raised $1,645,237.73 in the year 1975, have spent toward the 1976 elections $1,151,041.77, and had $761,091.65 cash on hand at the beginning of this year.

Mr. President, this information about the new "awakening" of the public teachers' unions, the knowledge of the huge political contributions chests available for its political activities, and the analysis of its liberal political bent substantiate what I have been saying in this Chamber on repeated occasions; which is that the big unions of this country are taking enormous steps to elect candidates of their choice in the 1976 elections and that generally the millions of dollars which these unions have available for political purposes will be spent in an effort to defeat Republican candidates.

Mr. President, I ask unanimous consent that the entire text of the article by Mr. Kaiser, "NEA 'Awakening' Politically for '76," be printed in the RECORD and that immediately following this article there be printed a list of political funds operated by teacher unions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEA "AWAKENING" POLITICALLY FOR '76

(By Robert G. Kaiser)

FT. LAUDERDALE, FLA.—"We're sort of like a sleeping giant that is awakening. We're learning that teachers are people, too."

Jean Ireland, a kindergarten teacher here, seems a little surprised to hear herself talking that way. "All my life I've been very politically naive," she acknowledged. "Politics was for somebody else." But no more.

A reporter found Ireland at the offices of the Broward County County Classroom Teachers Association (CTA) here. She had come in to make telephone calls after school to several dozen of the county's 7,000 school teachers to urge them to vote in the Florida presidential primary.

"It's like a flu bug, politics," Ireland said. "And I've got the bug!"

So does the organization to which she belongs—the once-staid National Education Association, which is increasingly taking on the attributes of a militant labor union. The NEA has 1.8 million members spread through most communities in the country—a potentially powerful political army which is beginning to come on to active duty.

In 1976, for the first time in its history the NEA can endorse a candidate for President. The 1974 convention voted to create an endorsement procedure. NEA leaders in Washington hope to turn out enough people like Jean Ireland during the coming campaign to make a measurable impact on its outcome. They want to elect a President who is a friend of education.

Around the country, politicians are watching to see if the NEA giant does indeed awaken and become a political force, particularly in electoral politics. In a few states—Michigan and New Jersey, for example—teachers have already proven their strength, though on primarily local and parochial issues.

The effort to become a factor in a presidential campaign represents a substantial escalation of the NEA's political ambition—one that, the organization's leaders acknowledge, may prove unrealistic. "The real test will be to see how the organization can rally around a single candidate," according to John Ryor, the NEA's politically determined new president.

The experience of the CTA here in the recent Florida primary confirms Ryor's assessment without really suggesting how successful the NEA can be this year. The teachers here made a modest contribution to the campaign of Jimmy Carter, the candidate endorsed by a coalition of liberal unions, which the NEA has joined. And Carter was roundly beaten in this county of Florida by Sen. Henry M. Jackson.

Nevertheless, Jean Ireland, a woman who wouldn't have dreamed of working in a campaign a few years ago, contributed many hours to the CTA's telephone canvass of its members here. That may be as significant as the outcome of the primary, provided other teachers' associations around the country are also finding new political enthusiasts like Ireland.

The mathematics of the NEA's potential influence are impressive. It has 1.8 million educated, articulate, generally well respected members, all of them with unusually intimate access to their own communities. It has money: $731,000 from the national treasury to contribute this year's campaign; plus about $2.5 million more that state and local affiliates will donate.

"Take the NEA very seriously," Jerry Wurf, president of the American Federation of State, County and Municipal Employees, counseled in a recent interview. It is "an incredibly immense organization," Wurf noted, and one that has already proved its political effectiveness in many states. He said the process of endorsing a candidate for President could prompt the NEA to coalesce into a more united political force.

Wurf has allied his big union of public employees with the NEA, and may have an interest in advertising its strength. But others agree with his description of NEA's potential.

Richard Scammon, a veteran voter analyst working in the 1976 presidential campaign for NBC news, said teachers "can talk, they can get money, and they can get people"—a potentially powerful combination. He also noted that too much "teacher power," as the NEA likes to call its members' political influence can provoke a backlash from other groups.

This year, NEA set out to cooperate with the coalition of liberal unions to try to elect a maximum number of delegates to the Democratic convention. (The NEA's national leadership reveals an instinctive inclination to support the Democrats. Many cite the educational records of Presidents Nixon and Mr. Ford to explain why this is so.)

Ryor says he assumes "that this will be a brokered (Democratic) convention." He hopes at least 200 of its 3,008 delegates will be teachers.

Ryor admits that "many of our people are uneasy about the options"—the remaining

Democratic candidates. Several months ago. NEA leaders were talking sympathetically about Sen. Birch Bayh's candidacy, but now he is gone.

Jackson has endorsed the NEA's goal of 33 per cent federal funding for education throughout the country (the figure is now about 7.5 per cent), but his anti-busing stand troubles some NEA leaders, Carter's indifferent—by NEA standards—education record as governor of Georgia also worries some.

The teachers in Ft. Lauderdale overcame those reservations to work for Carter—primarily as an effort to hinder George C. Wallace and elect delegates to the New York convention. With luck they may have done well enough to get one teacher delegate elected at the delegate caucus here later this month.

But they did not score a great triumph here last Tuesday—nor, to be fair, did they try. "We are still operating with a great deal of naivete," according to Marjorie Head, the CTA president here. "Our major effort has to be to make our teachers recognize the usefulness of political action."

So far, this has meant an organized effort to test the waters. The CTA office in the vast suburban sprawl west of the Ft. Lauderdale beach sent out questionnaires to all 4,300 members, asking their status as voters (registered, in what party, etc.?) and asking if they would do political volunteer work. Five per cent refused to return questionnaires—the element that apparently disapproves of teacher political action on principle. Fully a fourth volunteered for political work.

Many of the activists who helped work for Carter were people like Jean Ireland, newcomers to political work who found it fun and exciting.

Donna Parker, a remedial reading teacher who organized the CTA contribution to Carter's campaign, said she was "politicized" by a brief strike the Broward County teachers staged last fall.

Younger teachers seem more inclined to enter actively into politics. Several said they were encouraged by the women's liberation movement. Elaine Conn. a second-grade teacher who is not yet 30, said Watergate convinced her political action was necessary.

"I'm afraid there's nothing you can do about a lot of the older teachers," Conn said.

Many of the teachers here who agreed to help Carter did so by telephoning fellow teachers and urging them to vote. Others went further. Ruby Johnson, a black teacher of junior high school social studies, went into the black community to work for Carter. When the Rev. Martin Luther King Sr. endorsed him, Johnson said, "that was enough for us."

"People respect me. I taught their children—they vote the way I tell them to," Johnson said.

The election returns lent some credence to her assurances. At least Carter did better in the black precincts of Broward County than in other areas. Jackson's victory was due largely to a big turnout of voters from "the condominiums"—the predominantly Jewish precincts along the beach. Carter finished second, Wallace a poor third.

Not a thumping endorsement of "teacher power." But this was just a beginning, a modest test case. Debra DeLee, the CTA staff assistant in charge of political action, noted that Wallace was stopped here. "I feel good about that," she said.

And the teachers of Broward County have participated for the first time in presidential politics. Now they are looking ahead to the general election in November.

TEACHER UNION POLITICAL ACTION FUNDS

Teacher groups	Raised 1975	Spend for 1976	Cash on hand Dec. 31, 1975
American Federation of Teachers—COPE	$70, 123. 66	$6, 763. 25	$64, 566. 09
Association for Better Citizenship (California Education Association)	587, 276. 69	518, 145. 55	136, 943. 80
Educators Political Action Commission (Oklahoma)	10, 418. 87	2, 139. 99	11, 744. 39
Iowa PAC for Education	1, 453. 58	297. 59	1, 477. 63
Kansas Political Action Commission	16, 338. 00	7, 262. 21	9, 406. 69
Minnesota Federation of Teachers	8, 466. 91	900. 00	8, 797. 93
National Education Association PAC*	247, 732. 52	107, 698. 95	176, 384. 72
People for Improvement of Education (Oregon teachers)	36, 838. 00	25, 285. 00	10, 952. 40
PAC for Educators (Colorado)	14, 856. 17	13, 166. 38	7, 437. 39
PAC of Educators (North Carolina)	72, 587. 15	49, 014. 25	25, 691. 24
PAC of Educators (Los Angeles teachers)	2, 704. 23	8, 150. 32	715. 58
United Federation of Teachers (New York teachers)	145, 546. 58	179, 070. 24	32, 251. 10
VOTE-COPE (New York teachers)	277, 389. 19	145, 818. 92	177, 324. 62
Minnesota PAC for Education	126, 895. 18	63, 232. 63	90, 261. 70
New Jersey Education Association (as of June 30, 1975)	26, 611. 00	24, 096. 49	7, 136. 37
Total	1, 645, 237. 73	1, 151, 041. 77	761, 091. 65

FOCUS ON EVENTS IN LATIN AMERICA

Mr. KENNEDY. Mr. President, I call attention to the continuing focus of the Times of the Americas on events in Latin America. Entering its 20th year, Times of the Americas continues to be an important source of news on events in the hemisphere, a source made all the more important by the general lack of attention paid to the hemisphere by most news media in this country.

A recent editorial by the Times of the Americas called attention to the plight of the victims of the earthquake in Guatemala and reprinted a list of voluntary agencies which are assisting in the relief and reconstruction effort.

Another organization not on the list is the Pan American Development Foundation, at 1725 I Street NW., Suite 909, Washington, D.C. 20006, which through its Penny Foundation and the Association for Housing, both affiliates of PADF in Guatemala, is focusing on the crucial need for additional housing for the earthquake victims. PADF is channeling funds on behalf of the Guatemalan Embassy, the Council of the Americas, the Center for Inter-American Relations, and others in this effort.

I ask unanimous consent that the editorial in the Times of the Americas on Guatemala of March 3 and the editorial of February 18, 1976, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Times of the Americas, Feb. 18, 1976]

MILESTONE XIX

The Times of the Americas is now XIX and going on XX. They have been interesting years, and the shelves of bound volumes get heavier. After most of four years as The Times of Havana, in Cuba, this paper continued (1961–1966) as The Times of Havana (in exile). It celebrated its 5th anniversary in 1962. One of the most distinguished of all Latin Americanists, Josh Powers wrote us to say then that "to have continued publication of The Times of Havana during the past five years is a feat of high order." UPI's President Frank Bartholomew wrote that it "had been kept alive under monumental adversities," and that "a spark of freedom extinguished by the Castro dictatorship has been rekindled in an atmosphere of democracy and liberty." Time's President Andrew Heiskel stated his "deepest respect and admiration for the determination and courage you have displayed in the face of overwhelming obstacles." And the late Jim Copley noted that "we have watched and applauded the valiant stand The Times adopted in the face of the high-handed tactics of the Batista regime."

Five years later, when The Times was ten, and just about to become The Times of the Americas, there were more accolades. Then Vice President Hubert H. Humphrey wrote: "I know that in its early years in Havana, your paper demonstrated a rare and courageous determination under the most difficult circumstances. It is a tribute that your paper has not only survived confiscation by a regime that fears the free world, but has increased its scope as the first decade comes to a close."

Now the second decade moves toward its close. The Times of the Americas will soon be twenty, and still growing.

[From the Times of the Americas, Mar. 3, 1976]

HELP STILL NEEDED

A friend of ours, with long experience in Guatemala, gave us his overview of how things are in that country in the aftermath of the fearful earthquake that devastated that country: "The rich are richer, and the poor are poorer." The solid residences of the wealthy took the shake rather decently, while the patched shacks of the poor fell in heaps of dust. The buildings of big business came through well enough, but the informal structures that house many small independent shops are not likely to rise again. Once more, it is the meek who are struck to earth.

It is necessary to point this out in order to emphasize the need for continued help for Guatemala. The story may be off the front pages, but the country must come back from the wrenching it took from nature. All of us must help. One way to respond is to read the page four announcement of the Pan American Development Foundation and answer their call. There are other ways, too. Senator Edward M. Kennedy recently singled out the volunteer agencies for special praise for their work in behalf of the stricken in Guatemala. Mr. Kennedy listed many of these agencies. Surely one of them is near you; one of them fits your beliefs. Why not write a check, offer your help:

1. American Friends Service Committee. Miss Judith Glass, 1501 Cherry Street, Philadelphia, PA 19102.

2. Assemblies of God, Foreign Service Committee. Rev. Robert T. McGlasson, 1445 Boonville Ave., Springfield, Missouri 65802.

3. Baptist World Alliance. Dr. Carl Tiller, 1628 16th St. N.W., Washington, DC 20009.

4. CARE. Mr. Bertram Smucker, 660 First Avenue, New York, NY 10016 (or 1028 Connecticut Avenue N.W. Wash DC. 20036)

5. Catholic Relief Services—United States

Catholic Conference. Mr. James Noel, 1011 First Avenue, New York NY 10022.

6. Christian Reformed World Relief Committee. Mr. Louis Van Ess, 2850 Kalamazoo Avenue, Grand Rapids MI 49508.

7. Church World Service. Mr. H. D. Swartzendruber. 475 Riverside Avenue, New York NY 10027.

8. Interchurch Medical Assistance. Mrs. Esther Jacoby. 475 Riverside Avenue, New York NY 10027.

9. Lutheran World Relief. Pastor Ove Nielsen. 315 Park Avenue, New York NY 10010.

10. Medical Assistance Programs. Mrs. Beth Kinghtson. 327 Gunderson Drive, Box 50. Wheaton Illinois 60137.

11. Mennonite Central Committee. Mr. Doug Snyder, 21 South 12th Street. Akron, PA 17501.

12. The Salvation Army. Col. George Nelting, 120 West 14th Street, New York NY 10011.

13. Save the Children Federation. Mr. David Guyer. 58 Wilton Street. Westport Connecticut 06880.

14. Seventh-Day Adventist World Service. Mr. Howard Burbank, 6840 Eastern Avenue N.W. Washington DC 20012.

15. Southern Baptist Convention. Foreign Mission Board. Dr. Eugene Grubbs, 3806 Monument Ave., Richmond VA 23230.

16. World Relief Commission. Mr. Frank Edinger, PO Box 44, Valley Forge, PA 19481.

17. World University Services. Dr. K. B. Bao, 20 West 40th Street, New York NY 10018.

18. World Vision International. Dr. Donald Warner, 919 West Huntington Drive, Monrovia CA 91016.

PAPERWORK REVIEW AND LIMITATION ACT OF 1976

Mr. DOMENICI. Mr. President, I have asked to be added as a cosponsor of S. 3076, the Paperwork Review and Limitation Act of 1976. This bill is designed to limit the paper blizzard now burying our Nation. It starts, appropriately, in our own bailiwick, the Congress.

We all decry the mountains of forms our Nation's businessmen are required to fill out each year. We have even established the Federal Paperwork Commission in this Congress. However, to date, we have failed to address the ever increasing burden of paper that is a direct result of actions by the Congress.

As I understand it, this legislation would require a paperwork impact statement to be included in the committee report on each bill and joint resolution of a public nature, the paperwork impact statement would assess the amount and type of information and forms to be required, the cost and time required of private business in supplying the information and whether the information is already available within Federal departments.

This requirement seems reasonable. Many times when we become aware of the costs and benefits of requiring a new form to be filled out by an American citizen we may decide that the information is not absolutely necessary or the information is available elsewhere. It is estimated that every man, woman, and child in America completes an average of 10 Federal forms each year. This burden is not evenly distributed, however, and many small businesses share a load three times this amount.

S. 3076 would also require each House and Senate committee to conduct a review of the reporting requirements of the departments and agencies within its jurisdictions and report its findings at least once during every calendar year.

This requirement would force each of us through our committee assignments to review every form now required by the Federal Government. I am confident that this requirement will have the effect of reducing the quantity of the forms we are required to fill out and probably improve the quality of the forms that remain.

Finally, this bill would limit approval of forms by the Office of Management and Budget under the Federal Reports Act to a single calendar year and provide that no form whose approval has expired need be submitted by a private individual or business. Each form would be required to carry a notice to this effect.

This would take care of the situation where a form is required for one specific purpose and is continued to be required year after year even though no one can remember what the original purpose was. This legislation, if enacted, along with the Federal Paperwork Commission could begin to reverse the trend of total Federal Government forms that now total 5,695. In 1972 alone 7 million cubic feet of records were produced by the Federal Government.

This is legislation whose time has come and I hope this body will act expeditiously on this matter.

THE EQUAL ACCESS TO COURTS ACT—ONE WAY TO CONTROL GOVERNMENTAL HIGH-HANDEDNESS

Mr. GOLDWATER. Mr. President, it is not usual that I would make a special statement when asking that I be included as a cosponsor of a bill that has already been introduced, but today is an exception. To explain, I recently came across one of the most severe cases of heavy-handedness on the part of the Federal bureaucracy that I have ever encountered in my 20 years of service in the Senate and began exploring what kind of legislation I might introduce to prevent further abuses of this type. Lo and behold, I picked up one of the cosponsorship requests which seem to be constantly streaming into our offices, in this case regarding a piece of legislation introduced by my good friend from New York (Mr. BUCKLEY), and I discovered that here was a bill already pending that would fit the situation that concerned me like a glove.

Mr. President, the legislation I am referring to is S. 2871, and it has the self-descriptive title of the Equal Access to Courts Act. What it would do, in a nutshell, is to allow private parties and businesses who prevail in civil litigation with the United States to recover their full legal costs, including reasonable attorney's fees.

Now, you might ask why such a bill would be needed since one would think that the law would already provide that the successful party in civil suits against or by the Government could collect for all reasonable expenses of the case. This is no more than elementary justice.

But the law is otherwise, and it turns out that Congress has enacted a statute, section 2412 of title 28, United States Code, which specifically denies private parties, in suits involving the Federal Government, from recovering their actual legal fees from the Government, even if the private party wins the case. A judge may award to the prevailing party a judgment for costs which includes court fees, the reporter's fees, printing and witness fees, copying, and docket fees, but Federal law expressly prohibits a court from awarding a judgment for the most expensive costs of all, the fees and expenses of attorneys.

As high as these attorney fees may be at the trial level, a private citizen who wins his case there against the Government and then is forced to defend his judgment in an appellate court once the Government appeals, cannot be ordered to be reimbursed by the Government, even when that person succeeds a second time upon appeal. We can take this a step further and notice that should the Government, with all its resources, choose to appeal a second negative decision up to the Supreme Court, then the private party must once again bear the entire burden out of his own pocket in order to pay the costs of counsel at this highest level. In fact, a private individual or business could prevail at least three times in a case against the Government, and yet, never once could he recover the actual legal fees he has borne to uphold his rights.

Mr. President, the oppression of this restriction became sharply visible to me when I reviewed the case of an Arizona financial institution which is combating in court a totally arbitrary interpretation of Federal law by the Department of Labor. In this case, it is the First National Bank of Arizona, but it could be any one of thousands of banks around the country.

What happened is that the Department of Labor, which enforces the garnishment chapter of the Consumer Credit Protection Act, attempted to draft an Arizona bank into Federal service as an arm of the Department. What the Department attempted to do was to force the bank to determine for it the amount of wages which can be garnished from a particular wage earner, who had happened to have been served with a writ of garnishment in a divorce action against his property. The wage earner had a time deposit with the bank and the Labor Department wanted the bank to compute how much of it came from wages subject to the Federal garnishment statute. The Department went to Federal court demanding that the bank obtain the information it wanted through mail, telephone, and personal contact with the depositor, through contact with the depositor's employers and other sources of income, through examination of deposit slips and other bank and depositor records, and through any other investigations that might be required to determine the extent to which the account contains earnings subject to the law and earnings not subject to the law.

It was this Arizona bank's position that a financial institution is not an investigative body for the Federal Government and should not be required to investigate in minute detail the funds of its depositors. Banks do not often have channels of information that identify the nature and source of funds that are dropped off by depositors for credit to their accounts, and considering the number of garnishments received by banks every month, tracing the funds before complying with every writ of garnishment would be a completely impossible task.

As I mentioned, the Department of Labor took this case to the courts. The Department argued that the bank has an "affirmative duty" to identify the funds on deposit which are not covered by the consumer credit law. The Federal judge, who decided the case, tossed the Government's case aside by granting the bank's motion for summary judgment. On September 8, 1975, the U.S. District Court for the District of Arizona held that the Federal garnishment law does not even apply to banks. The court pointed out that the consumer credit statute, of which the garnishment chapter is a part, does contain two chapters which specifically refer to financial institutions. However, the chapter devoted to garnishment makes no reference to banks, or financial institutions in general, in any of its sections.

The court carefully canvassed all congressional reports and debate on the garnishment law and concluded that there is not "the slightest hint" that the chapter should be applied to banks.

The court reasoned that—

> Where Congress has specifically used a term [in this case "financial institutions"] in certain places within the statute . . . and excluded it in another . . . the court should not read that term into the excluded section.

The court observed that Congress did, in the other chapters, mention "financial institutions" and go into great detail as to what agencies should regulate them. In the garnishment part, however, Congress did not even employ the general term "financial institutions."

Applying common sense, as well as established Federal law, the court stated that it could not read into the law something that Congress had not put there. In fact, the court stated that the Labor Department's position is not supported by anything save its own opinion. "Those opinions," wrote the court, "are not supported by any reasoning within them * * *"

Not only was the Labor Department arbitrary in interpreting Federal law to its own ends, contrary to the intent of Congress, but the court further decided that even if the garnishment law did apply to banks, it does not set forth any statutory duty for a bank to do what the Labor Department had demanded that it do. The court agreed with the Arizona bank that:

> The administrative red tape involved in a number of the department's proposals as to how the bank could comply with the subchapter is staggering.

The court also wrote in its decision:

> The complexity of determining for the debtor what funds are exempt and which are not, and then asserting that defense against the State court's writs of garnishment would involve the bank in a Pandora's box of possible litigation by both parties.

In other words, Mr. President, this was a ridiculous case for the Government to bring in the first place. It was an outrageous distortion of congressional intent and a heavyhanded effort to pressure a private company into doing the Department's administrative work for it.

Mr. President, to add to what the Federal judge had to say about the total lack of any reasoning for the Government's position, I would like to mention that the chapter on garnishment which Congress placed in the consumer credit law is intended as a protection for individuals against excessive garnishments. The chapter itself is entitled, "Restrictions on Garnishment." It was introduced by a congressional finding that unrestricted garnishment "encourages the making of predatory extensions of credit." The Congress also included in its findings the consideration that garnishment "frequently results in loss of employment by the debtor. * * *"

This chapter provides specific maximum amounts of earnings which may be subjected to garnishment and includes a specific restriction on the discharge of any employee from his employment by reason of garnishment. This short chapter of law also contains a section which expressly preserves any State law which makes an outright prohibition on garnishments or which provides for more limited garnishments than are allowed under the Federal law.

In other words, the whole thrust of the Federal garnishment law is to narrow garnishment considerably. It is to protect the right to make a livelihood of individual citizens. And here the Department of Labor comes along and attempts to stretch the use of the Federal law.

The position taken by the Labor Department in trying to have banks carry out this staggering number of affirmative duties would make the garnishment law more all encompassing. If banks could be forced to handle all this investigatory work for the Department of Labor, then there would be many more garnishments carried out than if banks were not responsible for discovering the information sought by the Labor Department. This would fly in the face of the purpose of the statute to restrict, not expand, garnishments.

Mr. President, I would also point out that the bank was not simply vindicating its own legal rights, but was upholding the very important personal right of privacy of individual citizens. Here the Labor Department wanted the bank to invade the privacy of its depositors by asking depositors about their gross income, the name of their employers, and so on and so forth. If we ever wonder why the ordinary citizen in America thinks that the Government is working against him and meddling into the tiniest detail of his daily life, here is a clear example of what people are complaining about.

Now, to get back to the original point I was making at the outset of these remarks, I would point out that even though the Arizona bank won a clear-cut victory in defending itself against the abusive conduct of a branch of the Federal Government, it had to suffer the entire expense of its legal costs by itself. Because of Federal law, the court could not award lawyer's fees to the bank. And it will have to pay the full costs if the Government appeals the case.

To really add to the irony of this situation, it should be noted that the consumer credit law which was invoked by the Labor Department includes two provisions allowing consumers to recover attorney's fees from banks in any case brought against a bank, as a user of information, under the consumer statute. In other words, the same law, which puts a bank in the position of possibly being required to pay the attorney's fees of parties who sue it for a violation of the law, does not give a bank the right to recover legal fees if it should win a case brought under that same law by a Government department who has abused the law.

Mr. President, I have used the example of the Labor Department and an Arizona bank to describe the injustice of the existing restriction in the law which prevents private parties to be awarded legal fees in cases involving the Federal Government, but I would not propose remedying this situation by merely changing the law in this area alone. I think that private parties should have a right generally to recover attorney's fees against all arms of the Federal Government, and in any kind of civil cases, not just in one involving the consumer credit law. Since my colleague from New York (Mr. BUCKLEY) has introduced a comprehensive bill that will grant private individuals and companies exactly this right, I am privileged to join with him today in sponsoring his proposal, known as the Equal Access to Courts Act.

IS DÉTENTE WORTH SAVING?

Mr. CRANSTON. Mr. President, recently one of the most distinguished and knowledgable students of U.S. relations with the Soviet Union, George F. Kennan, wrote an essay on détente that should be read by each one of us as we continue our consideration of the Senate resolution on the importance of sound relations with the Soviet Union. In the Saturday Review article, Mr. Kennan argues that, while détente has been oversold in this country and in the Soviet Union, nevertheless it still must be our joint goal to keep alive the process of negotiating solutions to the paramount problems between us.

Professor Kennan, as Members of the Senate know, was the author of the famous containment article published 3 decades ago. It was this article, more than any other document, that articulated what American foreign policy was to be in the third quarter of the 20th century. It is of more than passing interest that this same individual is insisting on the pursuit of détente with the Soviet Union in the last quarter of this century. To quote from his essay:

> We have burdens enough in Soviet-American relations without adding to them by the neglect of those areas where possibilities for improvement do actually exist. In a

world so troubled as ours of today, the favorable opportunities have to be cherished and nurtured, not sacrificed to prejudice, vanity, or political ambition.

After writing the containment piece, George Kennan went on to become U.S. Ambassador to Moscow in the early 1950's, and later a distinguished professor at the Institute for Advanced Study at Princeton University. Recently he helped found the Kennan Institute for Advanced Russian Studies, associated with the Smithsonian Institution.

Mr. President, I ask unanimous consent that the article from the March 6, 1976, Saturday Review be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS DÉTENTE WORTH SAVING?

(By George F. Kennan)

Some years ago, for reasons I have never entirely understood, an impression got about that there was beginning, in our relationship with the Soviet Union, a new period of normalization and relaxation of tensions, to be sharply distinguished from all that had gone before and to be known by the term "détente."

This image of détente, in which, for all I know, there may have been at one time some slender basis of reality, came to be rather seriously oversold. It was oversold—for different reasons in each case—by our government, by the Soviet government, and by the American press; and as a result of this overselling, many people came to address to the behavior of both countries expectations that were unreal and could not be met fully.

Today an almost predictable reaction has set in—a reaction against what people understand to be "détente." It has set in partly as a consequence of the earlier overselling of this idea; partly because real mistakes have been made here and there, on both sides; partly because an improvement in political relations appeared to threaten the formidable interests vested in a continuing state of high military tension. In addition, there seem to be a number of people in our political and journalistic world for whom a certain Cold War rhetoric has long been the staff of life, who have been alarmed by an apparent favorable trend in our relationship to Russia that has threatened to undermine the basis for this rhetoric, and who now welcome the chance to attack that trend. The result has been the emergence of a school of thought which appears to believe that something useful could now be achieved in our relations with Russia by a policy of strident hostility on our part, by reversion to the Cold War slogans of the Fifties, by calling names and making faces, by piling up still greater quantities of superfluous armaments, and by putting public pressure on Moscow to change its internal practices, and indeed the very nature of Soviet power.

Granted this tangle of motivations and outlooks, just where should the United States stand regarding détente? Is it a mere governmental public-relations ploy, without grounding in the realities? Or is it a major fact of international life, which will lead on to everwidening vistas of mutual Soviet-American support?

The best way of getting at these questions is, it seems to me, to step back from them so that the riddle of détente can be brought into historical perspective.

There is no need to dwell at any great length on the curious sort of symmetry—sometimes one of similarity, sometimes of diametrical opposition—that has marked the development of the Russian and American peoples, particularly in the modern age—by which term I am thinking of the past 200 to 250 years.

Many thoughtful observers—including even Tocqueville, who had never been to Russia—have noted it and commented on it. At the start of that period, the two peoples were marked by their respective inhabitation of vast, underpopulated, and relatively underdeveloped but potentially enormously fruitful territories in the north temperate zone of the planet. In the 18th century both were just emerging out of a former obscurity onto the great stage of the international life of the civilized world. The Russians were emerging into this limelight after several centuries of relative isolation—which one might call a historically compelled isolation—from the main cultural and religious and political centers of Western civilization. They were emerging in the manner with which we are all familiar. By that time a limited westward territorial expansion had brought them to Poland and to the Baltic Sea. The construction of a new and partially Europeanized capital on the banks of the Neva was creating a governmental center reasonably open to contact with Western Europe, in contrast to the former remote and self-immolating Grand Duchy of Moscow, with its religious intolerance, its dark suspicion of the heretical outside world, its pious abhorrence of contact with the individual Western foreigner.

In that same century we Americans were emerging onto the world scene for the first time as a discrete entity, but emerging in quite a different way: not as an old people, isolated from Europe by the workings of a long and unhappy history, but as a young people newly born, so to speak, out of the wombs of old England and Scotland and certain parts of the Continent. We bore with us, to be sure, the traditions, the customs, the inherited outlooks of the European societies that had mothered us. But we were now in the process of being changed to some degree by the very discipline of our physical encounter with the great American wilderness and were, in any case, appearing now for the first time as something in our own right, something visible and active on the landscape of world politics, preparing to take an independent part in the affairs of the world.

To this concept we must add, now, the reflection that around the same time both of these two peoples, starting from a position of what we might call proximity to the main centers of Western European power and culture, began in earnest their respective processes of developmental expansion away from those centers: the Russians eastward across the Volga and the Urals into the immense expanses of central Asia and Siberia; the Americans westward across their own empty, magnificent, and underdeveloped continent. Both were destined, in the late 19th and early 20th centuries, to close the circle and to meet, in a sense, on the shores of the Pacific—to meet as peoples by this time of immense demographic, physical, and potential military power, each towering already in these respects over any of the individual entities, if not the totality, of the old Europe from which they had taken, in so high degree, their origins and their inspirations.

So far I have dealt mostly with similarities. But these similarities in physical and geographic experience were accompanied by profound, almost antithetically related differences in political and social outlook. With these differences, too, most of us are familiar. The Russians inherited the outlook of a great continental land power, almost totally cut off from the world oceans, surrounded over great periods of their history by fierce and dangerous land neighbors; and they became accustomed to that intense concentration of political authority that marks all societies and communities that find themselves virtually in a state of siege. The Russians learned to regard as natural the subordination of the individual to this concentration of authority. They were grateful, no doubt, for whatever liberties and immunities might be conceded to the individual at any given moment, but they tended to accept these as the product of an act of grace on the part of constituted authority rather than as absolute rights, inherent in the condition of individual man. We Americans, on the other hand, were heirs to the mercantile and commercial traditions of latter-day England and Scotland. Shielded in effect on the oceanic side—whether we recognized the fact or not—by English sea power, and facing on our mainland only insignificant military challenges, we were able to proceed in relative peace to the development of our continent, enjoying, indeed taking increasingly for granted, these rights and procedures of self-government that were actually in high degree the achievements of the European civilizations out of which we had emerged.

The differences between these two outlooks were, as you see, profound. But the two peoples had one thing in common: a tendency to attribute to their own political ideology a potential universal validity—to perceive in it virtues that ought, as one thought, to command not only imitation on the part of other peoples everywhere but also recognition of the moral authority and ascendancy of the respective national center from which these virtues were proceeding. The Russians had inherited this messianic view of their own place in the world from old Byzantium, with its strong sense of religious orthodoxy and its universalistic political pretensions. We Americans had it because, failing to recognize the relationship between our freedoms and achievements on the one hand, and the uniquely favorable conditions in which it was given to us to lead our national life on the other, we mistook those achievements and freedoms as the products of some peculiar wisdom and virtue on our own part and came to see in the system of government we were now enjoying the ultimate salvation of most of the rest of the world. So each of these great peoples went along into the 20th century nurturing vague dreams, if not of world power, at least of a species of exemplary and moral world leadership, which entitled it to some special form of admiration, deference, imitation, or authortiy—call it what you will—at the hands of other less favorably endowed peoples.

It was, then, against this background that the relations between the two peoples and their governments developed up to the end of the 19th century. In the geopolitical sense there were no serious conflicts between them; on the contrary, there was much, particularly in their respective relationships to England, that gave to each of them a certain limited positive value in the other's eyes. But ideologically the two official establishments remained poles apart. They viewed each other with uneasiness and distaste. The image of Tsarist autocracy remained no less repulsive in American eyes than did American republicanism in the eyes of the court and bureaucracy of Petersburg. And over the whole period of Tsarist power these differences continued to constitute a complicating factor in Russian-American relations, not wholly inhibiting the development of those relations but limiting in some degree the dimensions and intensity they could assume.

Toward the end of the 19th century, another complication began to make itself felt in the form of the growing restlessness of the non-Russian nationalities within the framework of the Russian Empire and the growing power of their appeals to congressional and, to some extent, popular sympathies within this country. This was a factor that has to be distinguished from the general in-compatibility of the two political systems to which I have just referred, because this restlessness arose not mainly from discontent with the general political system prevailing in Russia (although there was this, too), but rather from the treatment by the Tsarist regime of the particular non-Russian nationality in question, which was a different thing. The phenomenon became a complicating factor in Russian-American relations only when individuals from among these minority nationalities began to appear in significant numbers among the immigrants to this country. Particularly was this true, of course, of the Jews—Russian, Polish, and Lithuanian—whose migration to this country in considerable numbers began in earnest in the 1880s, and whose powerful resentment of the treatment of their co-religionists in Russia soon begain to become a factor of importance in American political life. The legislative branch of the American government has always had, it would seem, a peculiar sensitivity to the feeling of compact blocks of recent immigrants residing in our great urban communities. So, at any rate, it was in this case, with the result that the tales of the sufferings of these non-Russian nationalities soon came to exercise upon political and congressional opinion in this country an influence stronger than anything ever evoked by the tales of the sufferings of the Russian people themselves at the hands of their autocratic government. It is curious, in a certain melancholy way, to recall that in December 1911 the House of Representatives adopted almost unanimously a resolution calling on the President to terminate the old trade treaty with Russia that had been in force ever since 1832; and the purpose of this resolution was to compel the Russian government to liberalize its treatment of the Jews within Russia.

The one vote cast against the resolution in the House of Representatives was cast by a man who complained that this sort of pressure by a foreign government would not help the Jews in Russia but would appreciably damage American business; President Taft, pursuant to this resolution, did so terminate the treaty, with the result that Russian-American relations, down to the Revolution of 1917, remained very cool and unhappy indeed.

This, then, was the general shape of Russian-American relations as they existed in the final years of the Tsarist Empire, and it was against this background that the whole question was overtaken by the Russian Revolution, in 1917.

The initial impact of this revolution on the relationship consisted primarily of sheer confusion. The reaction of the American public was confused by the fact that it was not one revolution but two: a moderate-democratic one in February 1917, with which all Americans tended to sympathize; and an extreme, left-wing-Marxist one dictatorially oriented, in November, the seriousness and durability of which was at first widely questioned. This reaction was even more confused by the fact that there was at that time a war in progress—a great European war which the United States was then just in the process of entering. The emotional reaction to the experience of being at war soon came to dominate American opinion and to distort all other issues. Thus the Russian Provisional Government, resulting from the first revolution, was idealized because it attempted to carry on in the war against Germany, whereas the Bolshevik regime, taking over in November 1917, was scorned, resented, and opposed in large measure because its first official act was to take Russia out of the war entirely.

Similar confusions prevailed, of course, on the Bolshevik side. Lenin and his associates attached enormous significance to their own seizure of power. They saw it as the first step in a political transformation of the world far more important than any of the issues over which the world war was being fought. And for this reason they insisted on seeing America's relutcant and trivial participation in the Allied military intervention in Russia, in 1918–1920, as the expression of an ideological hostility to themselves, rather than as an event in the prosecution of the war against Germany, which it really was.

These early confusions and misunderstandings yielded only slowly and partially to the passage of time, and they helped to engender a deep mutual antagonism between the two parties concerned. But they were not the most important cause of the antagonism.

The most important cause was another situation produced by the revolution—a situation that was not at all a misunderstanding: the fact, namely, that the Bolshevik leaders looked upon the political and social system of this country as a misconceived, regressive, iniquitous one, disreputable in its origins and purposes and deserving of violent overthrow; and they conceived it as their duty, however poor the prospects for success, to encourage such an overthrow and to contribute to its realization wherever they could. This, too, of course, bred a reciprocal reaction here. It was a reaction flowing in part from resentment of the Soviet attitude—resentment, that is, of the hostility addressed by the Bolshevik leaders to cherished American ideals and institutions. But it also flowed from a very genuine distaste on the part of most Americans for what they could learn of the ideology of the new Communist leaders and of the manner in which their dictatorial authority was being exercised.

So the Russian-American relationship came to be burdened in the Twenties and Thirties not only by the great differences in historical experience and political tradition of which I have spoken but also by those special elements of ideological and political antagonism introduced by the establishment of Communist power in Russia.

All of this was sufficient to render relations in the period between the two wars—not just in the early years of nonrecognition but even after diplomatic relations were established in 1933—distant, meager, and unpleasant. Now these sources of contention were in their entirety a serious burden on an international relationship (and no one could have been more aware of their seriousness, I think, than those of us who served in the American Embassy in Moscow at the time). But they were not, I would point out, the source of any particular military tension between the two countries; and there was no great urgency about the resolution of the conflicts they produced. They represented serious long-term problems, but these were not problems wholly immune to those immutable laws of change that eventually affect all societies, transform all customs, and erode all militant ideologies; and for this reason there was no need to despair of their ultimate peaceful resolution. Above all, the preservation of world peace, not to mention the inviolability of civilized life on the planet, did not depend on their early solution.

It was in this last respect, above all, that the outcome of World War II worked its most significant and most fateful changes. There were two of these changes that stand out in my mind. Both were of a quasi-military nature.

The first was the elimination of Germany and Japan as major military powers standing between the United States and the Soviet Union, the attendant creation of great political and military vacuums, and the advance of Soviet military power, by way of filling one of these vacuums, into the heart of Europe. This produced a direct confrontation between American and Soviet military power that had never existed before.

As far as conventional forces were concerned, even this was not necessarily a fatal complication. The presence of both Soviet and American forces in the heart of Europe is an anomaly of history, awkward in some ways to both parties and to the peoples whose territory is affected. For this very reason, given continuing restraint and patience on both sides, it may be expected to yield eventually to a more normal and less dangerous state of affairs.

The same, unfortunately, cannot be said of the second of the two great military-political consequences of World War II, for this was the acquisition and cultivation by both American and Soviet governments of the nuclear capability—of the capability, that is, of putting an end to civilized life not only on the territory of the other party but on great portions of the remainder of the surface of the planet as well.

The fears and other reactions engendered by this nuclear rivalry have now become a factor in our relations with Russia of far greater actual importance than the underlying ideological and political differences. The real conflicts of interest and outlook, for all their seriousness, are limited ones. There is nothing in them that could not yield to patience, change, and a readiness for accommodation. There is nothing in them, above all, that could really be solved by—and, therefore, nothing that could justify—a major war, let alone the sort of global cataclysm that seems to preempt so many of our plans and discussions. Yet this fact is constantly being crowded out of our consciousness by the prominence, and the misleading implications, of the military competition. An image arises, if only initially for purposes of military planning, of an utterly inhuman adversary, committed to our total destruction and committed to it not for any coherent political reason but only because he has the capacity to inflict it. This unreal image presents itself to both parties; and in the name of a response to it whole great economies are distorted, whole populations are to some extent impoverished, vast amounts of productive capacity needed for constructive purposes in a troubled world are devoted to sterile and destructive ones; a proliferation of nuclear weaponry is encouraged and pursued that only increases with every day the dimensions and dangers of the problem to which it is supposed to be responsive; and the true nature of our relations with the Soviet Union and its peoples becomes obscured and distorted by the cloud of anxieties and panicky assumptions that falls across its face. The nuclear rivalry, in other words, begins to ride along of its own momentum, like an object in space, divorced from any cause or rationale other than the fears it engenders, corrupting and distorting a relationship that, while not devoid of serious problems, never needed to be one of mortal antagonism.

Our first task, then, is to master, and to bring under rational control, this fearful capacity for suicidal destruction that has been let loose among us; and of this I would say only that so terrible are the dangers of a continued failure to master it that we would be fully warranted in accepting very considerable risks to avoid this failure. The risks, for example, of a total ban on the testing of nuclear weapons seem to me to be trivial in comparison with the risks involved in the continued proliferation of these weapons on a world scale. Yet we shrink from it. Is this timidity really justified? Is the tail of military fear not wagging the dog of constructive and hopeful political opportunity at this point?

I find myself disturbed by these reactions not only because of their obvious negativeness and sterility, and not only because they stimulate exaggerations and distortions of the real situation in world affairs, but also because they tend to obscure both the real limitations and the real possibilities to which our relations with the Soviet Union are subject. Let us remember that for the reasons I have just outlined there has always been an area where collaboration with Russia, as we would like to see it, has not been possible. This was true before the revolution. It is true today. It will continue to be true long into the future. But there is another area in which collaboration—and mutually profitable collaboration—*is* possible. The relative size and nature of these two areas is not immutable; it has not failed to change with the years; and only someone unfamiliar with the history of Soviet-American relations could fail to recognize that since Stalin's death the direction of this change has been in general a favorable one—the one we would like to see.

This has been, if you will, a small gain, but it has been a real one and the only kind we can hope to make. And it should be recognized that none of the complicating factors—neither the asperities of our military rivalry, nor the apparent conflict of our aims with those of the Soviet Union in specific geographic areas and countries, nor the somewhat dated but now traditional Communist rhetoric to which the Soviet leadership is committed—none of these things constitutes any adequate reason, nor do all of them together, why we should not exploit to the full those areas in which our relations with Russia are or might be capable of constructive development and where exchanges might be pursued, cultural as well as commercial, which would be mutually profitable and would give greater depth and stability to the relationship as a whole.

We have burdens enough in Soviet-American relations without adding to them by the neglect of those areas where possibilities for improvement do actually exist. In a world so troubled as ours of today, the favorable opportunities have to be cherished and nurtured, not sacrificed to prejudice, vanity, or political ambition.

PIECEMEAL REJECTION OF ENERGY OPTIONS

Mr. DOMENICI. Mr. President, over the weekend an excellent and provocative editorial appeared in the Washington Post entitled "Voting on Nuclear Power."

In my opinion, this is an editorial that ought to be considered by all persons across this land in any position to influence the course we follow to produce more energy domestically. Accordingly, I commend its reading and earnest consideration by my colleagues in this body, and by all those for whom the RECORD is a source of information and ideas.

The Post is, in my opinion, absolutely on target, in voicing a deep concern that in piecemeal fashion this Nation may be rejecting most of the options available for meeting our energy needs without an ever-increasing reliance on foreign petroleum, the duration of which is limited in any case. I share that concern and agree with the Post that a major part of the cause is that our energy debate is entirely too narrowly focused.

Does it make any sense that as a nation we reject the generation of power close to its point of use because of local concerns while we force parts of the country far removed from those energy demands to send its energy at fixed prices regardless of energy needs and concerns in the producing area?

That, Mr. President, is what we all know has happened with natural gas because the focus has been too narrow—guaranteeing the consumers of interstate natural gas a supply at comfortable prices. Now Californians have come to rely on that source at those comfortable prices, a factor contributing to the notion that they do not have to take any chances, accept any disagreeable prospects or endanger their own environments, to somehow continue to have all the energy they need.

State and local rights are principles I embrace and advocate, but the exercise of those principles ought to have the broader national interest as a major concern, otherwise the scope of consideration is far too narrow. Yet, how can we fault local processes of this kind when for so long the national scope has also been narrowly focused on some special concern or other? I despair that this is still the case and as far as I can detect, it is not likely to change until we are brought face to face again with utter disaster.

Mr. President, I request unanimous consent that the editorial I mentioned be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

VOTING ON NUCLEAR POWER

The California primary early in June will have more of national interest to it this year than presidential politics. On the ballot is another of those proposals—this one known as Proposition 15—with very broad implications. If it is adopted and subsequently held constitutional, Proposition 15 may be the death knell for nuclear power plants in California. And, if this turns out to be the case, opponents of nuclear power are likely to regard it as a signal that voters and politicians everywhere can be persuaded that such plant are too dangerous to be allowed.

The campaign for Proposition 15 is not being cast in such sweeping terms. The proposal on the ballot is called a Nuclear Safeguards Act and is being promoted as a safety measure or, at most, a moratorium on nuclear plants until they meet certain safety standards. The trouble is that the standards are such that almost by definition they could not be met. One, for instance, requires that the state legislature, after a complicated hearing process, determine by a two-thirds vote of each house that nuclear wastes can be stored so that there is no reasonable chance of any of its radiation ever escaping and hurting anyone or anything in California. Among the kinds of radiation escapes to be considered are those that result from improper storage, earthquakes, theft, sabotage, acts of war or government or social instabilities. We don't see how conscientious legislators could vote that there was "no reasonable chance" nuclear radiation from such wastes could not escape during, say, a war or revolution.

The real issue, then, on the California ballot is a yes or no to nuclear power plants. That, in our view, is not only too simple and stark a question to pose, it is also the wrong question being addressed to the wrong audience. The basic question that needs answering now is whether this country wants to have available over the next 25 or 30 years more electricity than it now has or whether it wants to go with what there is. If the answer is more electricity, as we believe it is, the choice is whether such additional electricity will come from nuclear fission, the burning of more coal, the importing of more oil or some combination of all three. If the answer is that there is to be no substantial increase in generating capacity—decisions must be made on how to allocate what is available (rationing or higher prices?) and how to change the nation's lifestyle to reduce substantially the present per person usage of energy. These are questions that have to be answered nationally and not on a state by state basis.

Too much of the debate on energy issues these days is too narrowly focused. Nuclear plants, we are told, are too dangerous to be permitted; coal mining is too destructive to people and countryside to be expanded; offshore oil presents too serious a threat to the coastal environments to be allowed; imported oil makes the nation too dependent on the whims of others. None of these matters can be considered adequately in such splendid isolation. The risks of nuclear power plants for instance, need to be judged against the risks of the alternative power sources and, in the case of coal, these involve everything from black lung disease to air pollution.

The easy answers, of course, are the claims that solar, thermal and fusion power will provide the new energy we really need and that the nation can cut its energy usage substantially if it wants to. But no one we have encountered in the energy field believes that sources other than oil, coal, gas or fission will provide much of our energy needs in this century. And the evidence of the last two years is that conservation and even enormous price increases do not reduce energy consumption; they merely lower the rate at which its use increases.

Underlying much of the effort being made in California against nuclear power is a belief that the nation would be better off—physically and morally—if it adopted a lifestyle in which energy was less important. That is a belief that deserves to be argued, tested and explored on its own merits. But it is not one that we should back into blindly because of public rejection—one after another—of individual energy sources until no alternative to a change in lifestyle and living standards is available.

We do not think all the answers are in yet to legitimate questions that have been raised about the safety of nuclear power plants—particularly about the planned next generation of breeder reactors. But we would not like to see this option for American's future energy needs ruled out, until it is much clearer that the comparative risks of other energy alternatives are substantially lower or that the nation is ready for a drastic change in the way its people live and work.

SPRINGFIELD'S VISTA PROGRAM: SERVICE TO THE ELDERLY

Mr. KENNEDY. Mr. President, VISTA and PLS Volunteers has initiated a communitywide volunteer program in Springfield, Mass., to aid and inform the elderly of local, State, and Federal services available to them, and to give them an opportunity to use those services.

It is a challenge to locate and reach out to elderly who do not enjoy the benefit of any community program for older citizens, but VISTA has been successful in this effort. In addition to other services, it has initiated the area's only senior citizens transportation program. This service helps transport Springfield's elderly to banks, medical centers, shopping centers, and to other locations throughout the city of Springfield.

The VISTA program in Springfield and in other communities in Massachusetts warrants our commendation and support. I will continue to do all I can to encourage such programs, and I ask unanimous consent that a letter expressing the gratitude of the Springfield Golden Age Club for VISTA's service be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SPRINGFIELD GOLDEN AGE CLUB,
Springfield, Mass., January 29, 1976.

Mr. JAMES MURPHY,
Supervisor,
Vista & P.L.S. Volunteers,
Holyoke, Mass.

DEAR MR. MURPHY: In our everyday bustle of activities, we sometimes forget to pause and say "Thank You" for the good things that happened to our elderly in Western Massachusetts. People in your position who have the courage of their convictions and act in the capacity as a true advocate of the Elderly make sure they get a fair share of the community dollar and benefits.

In Springfield we have 22,000 residents over 65 years of age—only 4,000 belong to any organized group—2% are in Nursing Homes, Where all the others?

Well this is the great service your Vista Workers have accomplished. They went into our South End area, a nested neighborhood of apartments, where they have uncovered 852 older citizens. Isolates? Forgotten? You name it. They knew very, very little about services available to them. They worked with great difficulty in a world where we trained the oldsters not to open doors to strangers. It was "knock on every door and hope to be accepted". This they did and the end result was the opening of a new world with Human Services for them.

The next area will be the North End of our city filled with more isolates, people who will never join a Golden Age or any other structural program. It is a great challenge but to the older community, Vistas relate to their own peers so well.

Secondly your Vistas pointed up the great need for transportation on a door-step pickup basis for security reasons and physical problems. Through the efforts of Mr. John McCarthy, a Vista Volunteer, there was developed and executed the only Senior Citizen Transportation Program Springfield has to offer for banking service, food shopping, doctor's and dentist's visits, etc. Two new busses are to be added on February 2nd. No one realizes the time spent to clear types of busses, licenses, training of drivers and volunteer aides, clear drivers, communication with doctors. All for the good of our oldsters. To sum up, Jim, it cannot be measured in dollars but in love, service, compassion, gratitude and the change your program has brought to hundreds of Springfield's finest—our Senior Citizens.

Also I want to go on record as saying that the Older Americans, under the direction of Mr. Frank Manning is one of the greatest services the elderly can have.

May I commend you for your follow-up and the co-ordination of your workers? You care and that's just great. I'm very grateful.

Yours sincerely,
Mrs. MADLYN M. MCNIFF,
Executive Director.

A RESOLUTION FROM THE FIRST GUAM YOUTH CONGRESS

Mr. JOHNSTON. Mr. President, recently the members of the First Guam Youth Congress adopted a resolution "Relative to requesting the Senate of the United States to support and approve H.R. 9491, and to commend Congressman ANTONIO WON PAT for his industry and foresight in sponsoring such a measure in the Congress of the United States."

The measure now pending before the Senate Interior Committee, H.R. 9491, was introduced in the House of Representatives by Congressman ANTONIO B. WON PAT, the Delegate from Guam. It will come as no surprise to TONY's many friends that his measure enjoys wide support not only on Guam, but in the Congress as well.

Of specific interest to my colleagues in the Congress is language in the resolution which states:

> H.R. 9491 is designed to allow the people of Guam to establish a government of their own and write a constitution of their own choosing and . . . the proposed bill would not alter in any way the political status of Guam and not change the relationship between the Federal Government and the territory of Guam.

Guam has been a part of this country for over 76 years. They have dedicated their lives to preserving the American principles of democracy. Through unstinting hard work and dedication, the residents of Guam have overcome tremendous hurdles to transform Guam into an economically stable community which is unprecedented in the Western Pacific. We in the 50 States can truly be proud of their accomplishments and that their efforts have served to brighten America's image in Asia.

I ask that my colleagues take note of the resolution endorsed by the Guam Youth Congress for it speaks eloquently about their desires to rectify the problems associated with a newly developing society within the constitutional framework of their American heritage.

At this time, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Relative to requesting the Senate of the United States to support and approve H.R. 9491, the Guam Constitution Bill, and to commend Congressman Antonio B. Won Pat for his industry and foresight in sponsoring such a measure in the Congress of the United States

Be it resolved by the Youth Congress of the Territory of Guam:

Whereas, Congressman Antonio B. Won Pat on September 9, 1975, introduced in the United States House of Representatives an historic measure, H.R. 9491, popularly known as the Guam Constitution Bill; and,

Whereas, H.R. 9491 is designed to allow the people of Guam to establish a government of their own and write a constitution of their own choosing; and,

Whereas, the proposed bill would not alter in any way the political status of Guam and would not change the relationship between the Federal Government and the territory of Guam; and,

Whereas, Congressman Won Pat as the principal sponsor of H.R. 9491 in his statement before the House Subcommittee on Territories on September 17, 1975 said that the matter of a new political order for Guam is a "separate and distinct issue" which the Congress must address itself in the near future; and,

Whereas, H.R. 9491 was passed by the House of Representatives with an overwhelming majority on October 6, 1975, which in itself is a tribute to Congressman Won Pat for his knowledge of the ways of the Congress and the respect and admiration he commands from his colleagues; and,

Whereas, this piece of legislation represents a major leap forward in Guam's quest for more home rule; now, therefore, be it

Resolved, that the Guam Youth Congress on behalf of all the young adults of the Territory of Guam, respectfully request and memorialize the Senate of the United States, and in particular, the Senate Committee on Interior and Insular Affairs to support and approve the said Guam Constitution bill as soon as possible; and be it further

Resolved, that the Guam Youth Congress, does hereby commend the Honorable Antonio B. Won Pat for his industry and foresight in urging the passage of H.R. 9491 through the House of Representatives; and be it further

Resolved, that the Speaker of the Guam Youth Congress certify to and the Secretary attest the adoption hereof and that copies thereafter be transmitted to the Honorable Carl Albert, Speaker of the U.S. House of Representatives; the Honorable Mike Mansfield, Majority Leader of the U.S. Senate; the Honorable Henry Jackson, Chairman, Senate Interior and Insular Affairs Committee; the Honorable Philip Burton, Chairman, House Subcommittee on Territories; the Honorable Antonio B. Won Pat, Delegate to the U.S. House of Representatives; to the Members of the Political Status Commission; to the Speaker of the 13th Guam Legislature; and to the Governor of Guam.

THE STATE OF LOCAL GOVERNMENT IN MASSACHUSETTS

Mr. KENNEDY. Mr. President, last month, at the annual legislative conference of the Massachusetts Selectmen's Association, Mr. Richard T. Moore, president of the association, delivered an important address on the state of local government in the Commonwealth of Massachusetts.

Under President Moore's able leadership, the association has been an effective voice for the rights and needs of local government. Many of the issues he raises deal with questions of importance to local governments everywhere. In this Bicentennial Year, many of us working together at every level to insure that each branch of our Federal system—Federal, State, and local—carries out its role properly and effectively.

I believe that President Moore's address will be of interest to all of us in Congress concerned about improving the quality of local government in our respective States. I ask unanimous consent that the address, entitled "The State of Local Government in Massachusetts," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS ON THE STATE OF LOCAL GOVERNMENT IN MASSACHUSETTS

(By Selectman Richard T. Moore, President, Massachusetts Selectmen's Association)

Delivered at the Joint Legislative Conference of Massachusetts Municipal Associations at the House Chamber, State House, Boston, Massachusetts, February 28, 1976

As we enter the nation's bicentennial year, we face independence and survival problems which are as critical to those of us in municipal government today as they were to our forefathers two hundred years ago. However, the independence and survival problems to which I refer are those of local government itself.

Independence from state government decision making which ignores or overrules local authority on essentially local matters and which thwarts municipal home rule.

Survival both in the fiscal area and in our ability to exist as viable political and economic units as the town meeting form of government—the most basic form of direct democracy—faces the challenges of a complex society far different from the America which create it three hundred and fifty years ago.

The challenge to our independence comes primarily from those who see local government as incapable of meeting the needs of its residents and who, therefore, seek to impose programs and regulations from the state level.

Every day, in this building—even in this very chamber—public employee unions, citizen advocacy groups, administrative agencies and others call upon the state to enact new laws and establish new programs to require cities and towns to offer new or expanded services and to pay for such services in whole or in part from the local property tax. With all of these pressure groups advocating programs of interest to them, we may well ask who speaks for the people? Who speaks for the taxpayers who must ultimately pay the bill?

All too often the state government has looked upon local aid as a gift from the state to its "wards"—the cities and towns. Local aid is an essential and necessary corollary to state mandated programs and an inducement for state-encouraged expenditures. If state aid to cities and towns were to cease or be reduced then such programs should also be terminated or reduced. Advocacy groups should turn their attention from forcing individual communities to comply with such programs as Chapter 766 and appeal to the state—who made the commitment to them in the first place—for full funding, rather than attack the financially strapped communities.

Furthermore, we cannot accept the Governors' proposed reduction in local aid unless it is accompanied with reduction or deferral of charges against the municipalities such as county budgets, Chapter 766 and other assessments and a deferral in the implementation of certain new state mandated programs.

Despite this attitude at the State level, several encouraging developments have occurred during the past year. The Governor's local government advisory committee has completed its initial trial year establishing a vital communications link between the executive branch of state government and municipal organizations representing local officials. The committee has recently been reorganized by executive order, and is now providing effective well-organized local input in the state decision-making process. That is not to suggest that all our suggestions are accepted, but I believe we are making progress toward a new attitude at the state level toward state-local relations.

In addition, a special committee on home rule implementation has developed guidelines against which legislation can be measured, and ultimately by which existing statutes can be amended to insure compliance with the 89th or home rule amendment of the state constitution. In the year ahead, your support will be needed to enact these amendments into law and finally implement the intent of the 1966 vote in favor of municipal home rule.

A third hopeful development could well be the proposal to establish a publication known as the "Massachusetts Register" to provide local officials with advance warning and opportunity for input as state administrative regulations are being developed. We must work for the enactment of this proposal in the current session.

However, with regard to our financial survival, there are fewer encouraging signs and more serious and immediate threats to the very existence of local government. We are, of course, all familiar with the New York City situation and its devastating effect on the municipal bond market. We are likewise familiar with the Massachusetts fiscal problem.

In the year ahead we must deal with serious problems facing the renewal of general revenue sharing, the crisis in the municipal bond market and pension system, a proposed net reduction in local aid reimbursements from Massachusetts, growing militancy from public employees unions buoyed by the compulsory and binding arbitration statute, and an economy which has left many of our taxpayers out of work or handicapped by the combined effects of inflation and recession.

If Congress fails to pass a new revenue sharing bill by June every city and town in Massachusetts is either going to have to raise taxes or cut services. Earlier this week the President announced his complete support for re-enactment of general revenue sharing and its continuation for five more years stating that without this program our economic recovery would be endangered. There are those in Congress, however, who are opposed and are in a position to thwart and terminate a program essential to every municipality.

If there is to be any amendment to general revenue sharing, I strongly endorse the proposal of Congressman Joseph D. Early of Massachusetts that all revenue sharing which now goes to the state government, as well as the municipalities, be redirected to go only to the cities and towns to afford meaningful property tax relief. With the limited sources of revenue at the local level such a change would provide major financial assistance to our cities and towns without increased federal appropriations. If revenue sharing is renewed in in its present form, however, the state will have available some $35 million not currently allocated in the state budget which should properly be applied to local aid in order to restore the net loss, which is proposed for this fiscal year. If revenue sharing is not renewed or, if renewed, is not allocated by the state to local aid, the responsibility for local tax increases or service reduction must fall squarely on the Congress or the Governor respectively.

In our present economy, and in view of serious problems in the bond market and a looming crisis in the public pension system with its estimated short-fall of $10 billion, it is critical that we continue to strengthen local management capacity if we are to implement home rule and deal with the fiscal crisis. We cannot expect the state to share greater power with local government if we do not have the capability to properly discharge these added responsibilities and we cannot cope with major fiscal problems if we have not improved our local management skills.

DeToqueville wrote in his great classic, Democracy in America, "The New Englander is attached to his township, not so much because he was born in it, but because it is a free and strong community, of which he is a member, and which deserves the care spent in managing it." Today, our Town Meetings are charged with being unwieldy, unrepresentative, inefficient, uninformed, and generally unable to properly function to govern the modern day municipal corporation. Our challenge is to strengthen the Town Meeting, and local government in general, through increasing citizen participation in government and raising the level of information of the residents of our respective communities. The new Open Meeting Law and various federal programs require affirmative action for citizen involvement and the Town Meeting, which still remains the most basic form of direct democracy, is fully consistent with the current sentiment for openness and citizen participation. By applying modern management and group process concepts to improve the effectiveness and productivity of the Town Meeting, it may well be possible to restore the Town Meeting to its place of leadership among forms of local government.

However, the long term solution to our independence and survival problems at the local level can only be found through major tax reform to relieve the burden on the local property tax or to find other sources of local revenues. During the past year the coalition of municipal associations sought increased local aid through a municipal revenue sharing program and revision of the education aid formulas. These programs have again been presented to the legislature and do not require new taxes but are designed to use funds raised through existing taxes as the economy improves and grows. The concept of local aid tied to the growth of the economy and not dependent on legislative or executive whim through annual appropriation would offer a major breakthrough in implementing home rule and help with the solution of our fiscal dilemma. The principle deserves our enthusiastic support.

We, in local government, face a challenging new year in 1976 filled with unprecedented perils and tremendous uncertainty as we face an imposing array of forces opposed to our basic principles who seek to diminish our independence and weaken our chances for survival. We must work together to insure that we have successes which are more current to celebrate than those which occurred two hundred years ago.

PASSAGE OF THE TOXIC SUBSTANCES CONTROL ACT, S. 3149

Mr. DURKIN. Mr. President, I want to take this opportunity to commend the outstanding efforts of the chairman of the Commerce Committee (Mr. MAGNUSON), Mr. HARTKE and Mr. TUNNEY that have culminated in the passage of the Toxic Substances Control Act. This act has the potential of being one of the most essential tools in the fight against the thousands of chemical contaminants in our environment that have become significant detriments to human health and life expectancy.

The legislative efforts of Senators MAGNUSON, HARTKE, and TUNNEY have spanned the past 3 years. It was, I believe, because these distinguished gentlemen recognized the urgency and importance of this legislation, that they have been able to persevere through the success achieved today in the passage of S. 3149.

I recognize that the battle is not over yet. The House is still struggling with similar legislation in committee. It is my hope that the efforts of these gentlemen and the overwhelming success achieved today will act as an impetus to final House passage of a Toxic Substance Act.

Mr. President, let me admit that I have a particular concern about this bill. S. 3149 vests tremendous amounts of discretion in the Administrator of the Environmental Protection Agency in administering the provisions of the act. The success of the Toxic Substances Control Act will in large part depend upon how aggressive the Administrator of the EPA is in the exercise of this discretion.

It was with a great deal of concern that I read in the press, shortly after the Senate Commerce Committee reported out S. 3149, that three high-level attorneys resigned from the EPA because they claimed the agency "intends to refrain from vigorous enforcement of available toxic substances controls and to retrench from the few legal precedents which it has set for evaluating the cancer hazards posed by chemicals."

It is not my purpose to pass judgment on the issues raised by the resignation of these attorneys, or on EPA itself. I am very concerned. It is my hope that when the Toxic Substances Control Act becomes law, the Administrator of EPA take heed of what I believe is a clear legislative intent demanding aggressive implementation and enforcement of this act.

One way in which the Administrator can take such action will be to implement regulations requiring chemical companies to conduct certain simple, inexpensive, carcinogenesis and mutagenesis tests, and to submit the test results to EPA as part of the information required to be submitted with the premarket notifications under section 5 of the act. These tests, which cost no more than a few hundred dollars and which take less than 48 hours to perform, were developed in large part by Dr. Barry Commoner at his Center for the Biology of Natural Systems at Washington University.

Although these tests will not provide conclusive evidence of whether a proposed new chemical will pose an unreasonable risk to health or the environment, they can provide information that, in my opinion, will be essential to a proper determination of whether extensive premarket testing should be required.

Mr. President, I do not want my concerns about the adequate administration of this act to be misconstrued. The Toxic Substances Control Act is landmark legislation. I want to again recognize Chairman Magnuson and Senators Hartke and Tunney for their efforts in securing passage of this act. I am hopeful that the dividends of their efforts will be a much cleaner and healthier environment for generations to come.

FOOD STAMPS: NUTRITION OR WELFARE

Mr. TALMADGE. Mr. President, soon the Senate will take up the National Food Stamp Reform Act of 1976.

From the standpoint of our responsibility to the less fortunate Americans among us; from the standpoint of our responsibility to our constituents as taxpayers; and from the standpoint of our responsibility to our own integrity, our decisions will be among the most important we will make this year.

S. 3136, reported by the Committee on Agriculture and Forestry, would restore to this important program the integrity and credibility which nearly everyone agrees has been lost over the past year or so.

It would eliminate from participation those relatively higher-income households who have been able to slip in through loopholes in itemized deductions.

It would increase benefits to many lower-income families who, even today, have difficulty putting food on the table.

It is clear that a number of amendments will be offered—some of which would make the program even more restrictive, and some of which would expand its benefits beyond those of the current program.

During our committee's consideration of food stamp reform, and since we reported S. 3136 on March 13, it has become increasingly clear that the major substantive amendment which will be proposed is the amendment to eliminate the requirement that participants pay a portion of the cost of food stamps.

I will oppose this amendment.

My distinguished colleague from Kansas, the ranking minority member of our committee, Mr. Dole, has told me that he will offer such an amendment.

The Senator from Kansas is an able and hard-working member of our committee, and he and I agree on far more issues and bills before our committee than those on which we do not agree.

But I am compelled to oppose his amendment to eliminate the purchase requirement, because it would eliminate the nutritional foundation of the food stamp program as well. In addition, it could increase the cost of the program well beyond even its current levels without reform.

Mr. President, I have asked the Congressional Budget Office to compute the cost of elimination of the purchase requirement, based on a certain set of assumptions which I believe to be likely to occur. Senator Dole likewise asked the CBO to compute the cost of his amendment, based on his assumptions.

Inasmuch as our colleagues should have all the facts related to the proposed no-purchase amendment, I ask unanimous consent to have printed at this point in the Record three documents: first, Senator Dole's letter to me; second, the CBO letter stating its estimates of the cost of no-purchase, based on Senator Dole's assumptions; and, third, a copy of my letter to Senator Dole which points out why I cannot accept his assumptions or his amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., March 22, 1976.

Hon. Herman Talmadge,
Chairman, Senate Agriculture Committee, Russell Senate Office Building, U.S. Senate, Washington, D.C.

Dear Herman: In connection with my proposed floor amendment to eliminate the food stamp purchase requirement, I have received new cost figures from the Congressional Budget Office which are lower than previous estimates from various sources.

As you know, CBO estimated that an amendment to the Committee bill which would eliminate the food coupon purchase requirement would cost approximately $625 million—if the 27½% benefit reduction rate of the Committee bill was retained. This official cost estimate is contained in the Committee Report (No. 94-697) accompanying S. 3136.

However, the amendment I am proposing would employ a 30% benefit reduction rate, thus actually reducing the net benefit to every recipient by $2.50 for every $100 of net income. CBO estimates that this amendment would cost around $300 million in FY 1977. Using this estimate (which should be finalized later today or tomorrow), the bill would still save over $300 million in the next fiscal year.

CBO has assured my staff that there is no way that the cost of the amendment could even approach $2 billion. Such a huge cost would mean that 95% of the eligible population was participating in the program—a participation rate which I am assured could not possibly be reached in the food stamp program. While a participation rate in excess of 90% may have been reached in the AFDC program, it must be remembered that the total yearly government benefit involved in AFDC can be as high as $4000 to $5000 for relatively small families. In contrast, the participation rate in the S.S.I. program, which pays benefits nearer in amount to the food stamp bonus levels, runs below 50%.

I believe that the poverty level maximum net income should be retained, and, if my amendment is accepted, I will fight any attempt to raise net income ceilings. For the poverty level net income ceiling lowers the eligible pool of food stamp participants to a point where only the very needy qualify—thus bringing down the cost of the elimination of the purchase price to acceptable levels.

I hope these new cost estimates clear up any misunderstanding as to the nature and scope of my proposed floor amendment.

Sincerely yours,

Bob Dole,
U.S. Senator.

Congressional Budget Office,
Washington, D.C., March 25, 1976.

Hon. Robert Dole,
U.S. Senate,
Washington, D.C.

Dear Senator Dole: In response to your letter of March 16, 1976, the Congressional Budget Office has developed cost estimates for S. 3136, the National Food Stamp Reform Act of 1976, based on the amendment you described. Specifically, this amendment would eliminate the current bill's requirement that food stamp recipients purchase their food stamps, and further that the bill's present benefit reduction rate be raised from 27.5 percent to 30 percent. Estimates have been developed, as you have specified, under two alternative participation assumptions. One cost estimate was developed assuming that participation would reach 60 percent by the conclusion of fiscal year 1977; a second estimate was developed assuming that participation would reach 55 percent by the conclusion of fiscal year 1977.

CBO presently estimates that S. 3136, if enacted, would result in reduced outlays of approximately $630 million in fiscal year 1977, from a current policy base estimate of about $6.3 billion. Table 1 summarizes fiscal year 1977 outlay estimates under CBO's current policy base, under S. 3136 as it presently stands, and under S. 3136 as you have proposed to amend it. Current estimates of fiscal year 1976 outlays are about $5.8 billion. It should be noted that the CBO analysis assumes that the cost impact of the elimination of the purchase price requirement will be relatively insensitive to marginal changes in participation rates or to policy changes in other program areas.

TABLE 1.—COMPARISON OF FISCAL YEAR 1977 OUTLAYS IN THE FOOD STAMP PROGRAM: CURRENT POLICY, S. 3136 AND S. 3136 AS AMENDED

	Benefit reduction rate (percent)	Purchase requirement	Part. rate annual average (percent)	1977 outlays (billions)
Current policy	([1])	Yes	50.0	$6.325
S. 3136	27.5	Yes	50.0	5.694
S. 3136 amended:				
Alternative 1	30.0	No	52.5	5.945
Alternative 2	30.0	No	55.0	5.958

[1] Currently the benefit reduction rate varies by income class and household size.

As indicated by Alternative 1, amending S. 3136 by eliminating the purchase requirement and by increasing the benefit reduction rate to 30 percent and assuming a 55 percent participation rate by the end of fiscal year 1977 (averaging 52.5 percent for the year), total federal outlays would be approximately $5.945 billion. This would represent a reduction of $380 million from the fiscal year 1977 current policy base, but an increase of approximately $180 million over fiscal year 1976 estimated outlays.

Under Alternative 2, assuming a 60 percent participation rate by the end of fiscal year 1977 (averaging 55 percent for the year), total federal outlays would be approximately $5.958 billion. This would represent a reduction of $367 million from the fiscal year 1977 current policy base, but an increase of approximately $207 million over fiscal year 1976 estimated outlays.

In developing both of these estimates, CBO has assumed that increasing the benefit reduction rate to 30 percent, a 2.5 percentage point increase, results in reduced outlays of $300 million under Alternative 1, and $314 million under Alternative 2. These estimates have been generated by the USDA TRIM food stamp model. CBO presently does not have the capability to generate cost estimates based upon modifications of the benefit reduction rates. Therefore, we have used the TRIM estimates. As a result, then, while eliminating the purchase requirement increases program outlays, increasing the benefit reduction rate reduces programs outlays. The net effect of these two provisions is estimated to yield a reduction below the current policy estimates of approximately $370–380 million given the assumed levels of average participation of 52.5 percent and 55 percent in fiscal year 1977.

We must emphasize that the validity of any cost estimate is, of course, dependent upon the assumptions used and the availability of supporting data.

I hope this information will be of some assistance to you. If you should have any further questions on this review, please let us know.

Sincerely,

Alice M. Rivlin,
Director.

U.S. Senate,
Washington, D.C., March 26, 1976.

Hon. Robert Dole,
U.S. Senate,
Washington, D.C.

Dear Bob: Thank you for the letter in which you set forth your estimates of the cost of eliminating the purchase requirement in the food stamp program.

Frankly, as I indicated to you earlier, I am convinced that elimination of the purchase requirement would add $2.1 billion to the cost of the food stamp program. I still believe that.

In fact, the estimate of $2.1 billion is a conservative one—made by the Congressional Budget Office, based on my assumptions.

We have no solid information about the income levels of those who are eligible but do not participate—and even less solid information about why they do not participate.

It is my assumption that most of the nonparticipants are near the upper limits of eligibility—the "relatively well-off" poor, as opposed to the very poor.

Therefore, although the average benefit under the current food stamp program is $26 per month per person, for these cost calculations I asked the CBO to assume a more conservative benefit of $21 per month per persons—inasmuch as the "new" participants would be those with smaller benefits than the present participants.

However, if one assumes—as do many advocates of repealing the purchase requirement—that the largest number of non-participants are the very poor who cannot scrape together the cash to buy the stamps, the cost of your amendment becomes even higher than my estimate.

Had I asked the CBO to use present average benefits of $26 per month per person—rather than the $21 which I did use—the cost of the no-purchase amendment in fiscal 1977 would be $4.4 billion, rather than $2.1 billion.

As you know, the Legislative Reorganization Act of 1970, as amended, requires Committees to develop a cost estimate of Committee bills for the next five fiscal years.

Because of the many variables which affect the cost of an entitlement program such as this, the Committee did not project five years ahead. However, I believe it can be fairly said that a non-purchase amendment would have an additional cost impact of more than $12 billion over five years.

Another assumption which is critical to estimating the cost of this amendment is the rate of participation which would result from elimination of the purchase requirement. This is important because there would be approximately 35 million people eligible in 1977 under the Committee bill.

I chose to use the only valid standard we have—the rate of participation in the one program in which benefits are completely free—Aid to Families with Dependent Children (AFDC). The participation rate here is over 90 percent.

You suggest that the Supplemental Security Income (SSI) program is a more valid standard by which to judge participation rates. You asserted that the participation rate in the SSI program runs below 50 percent.

I believe you are in error on the participation rate for the SSI program. The best data available to the Social Security Administration and the latest studies done by HEW indicate that the SSI participation rate is between 60 and 70 percent.

Your comparison between food stamps and SSI is invalid for the following reasons:

(1) Commissioner Cardwell of the Social Security Administration testified before the Ways and Means Committee on June 7, 1975, that he had no reliable data on which to determine how many people are eligible.

(2) SSI reaches an entirely different—and much more narrow—segment of the population than food stamps, only the aged, blind and disabled. AFDC and food stamps are comparable inasmuch as they are almost universally applicable to lower-income Americans.

(3) The SSI program is a relatively new program (in operation only since 1974) and its participation rates (whatever they may be) should not be taken as good indicators for a long-established program such as food stamps.

Moreover, I believe that the assumptions you asked the CBO to make in calculating the cost of your amendment simply are not reasonable. As the CBO letter of March 25 points out, you assume an average annual participation rate of only 52.5 percent for the year under one hypothesis and an average rate of 55 percent under another hypothesis.

If those assumptions were plausible, it would mean that you propose to change completely the nature of the food stamp program—eliminating the concept of providing a nutritionally adequate diet—merely to make food stamps available to another 2.5 percent to 5 percent of those eligible.

The no-purchase lobby cannot have it both ways; either your amendment has little cost impact and adds relatively few participants, as you suggest, or it adds a substantial number of participants at an extremely high cost.

Most advocates of the no-purchase amendment, I believe, say that one of their principal purposes is to get a substantially larger number of eligible households into the program.

The CBO estimate based on my assumptions indicates that your amendment would be 90 percent successful in meeting that goal; the CBO estimate based on your assumptions shows that you would be just a little over half way successful.

As for the assumptions used by the Congressional Budget Office in arriving at its own estimate of $625 million—experience with small incremental increases in food stamp bonuses in the past—I must point out that such small increases are not comparable to making food stamps completely free.

Moreover, I have been unable to locate any spokesman of CBO who states that your amendment could not possibly cost $2 billion, as you assert.

I should point out also that my estimate of $2.1 billion is well within the range of the initial, unofficial CBO estimate of the cost of the Dole-McGovern bill—an estimate with an upper range of $2.5 billion above the current program—although this bill included some people that would not be eligible under the Committee bill.

Of course, no cost estimate is worth any more than the assumptions one makes. Certainly, I do not fault the Congressional Budget Office staff for refusing to stick its neck out and project a participation rate comparable to that in the AFDC program, especially since the advocates of the no-purchase reacted so sharply against the preliminary CBO estimate. However, I sincerely feel that AFDC is the best benchmark that we have for estimating the rate of participation which would occur under a food stamp program with no purchase requirement.

I can appreciate your good intentions, Bob, in cutting the cost of your amendment by increasing the benefit reduction rate to 30 percent. However, whatever your intentions, I feel that someone else certainly would offer an amendment to lower the benefit reduction to 27½ percent, as in the Committee bill, or even to 25 percent. Already in this Congress, the House and the Senate overwhelmingly rejected the Administration's attempt to increase the benefit reduction rate to 30 percent. The bill overturning the President's administrative action passed by votes of 76–8 in the Senate and 374–38 in the House.

Beyond that, I personally oppose a 30 percent benefit reduction rate that would reduce food benefits even more and get even further away from the concept of a nutritionally adequate diet—the keystone of the food stamp program as it was conceived and as it has developed over the years.

I hope, Bob, that you will seriously consider withdrawing your $12 billion amendment and offering some other amendment which would not destroy the fundamental nutritional nature of the food stamp program. The Committee bill already reduces substantially the purchase price that lower income food stamp recipients must pay for their food stamps and increases the number of people who would receive food stamps free. I believe that it would be possible to work out an amendment which would lower still further the purchase price to the poorest recipients without making the stamps completely free to all recipients.

If the no-purchase amendment and other budget-busting amendments are agreed to on the Senate floor, the President most certainly will veto such a bill, killing all chances of Congressional reform of the food stamp program. I would support the President strongly on a veto of such a bill.

The Committee bill cuts 10 percent of the cost of the food stamp program—$630 million out of $6.3 billion. If every Committee would reduce every program by 10 percent we could cut the $400 billion Federal budget by $40 billion and balance our budget now.

However, if we adopt the no-purchase approach, we will once again put the food stamp program completely out of budgetary and fiscal control.

We owe our constituents something better than that.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

THE QUICK AND THE DEAD

Mr. GLENN. Mr. President, on Friday, March 26, the New York Times published opposite its editorial page an article by the distinguished chairman of the Committee on Government Operations, Mr. RIBICOFF, on a problem of utmost concern to Congress, the American people, and to all governments and people of the world.

It is the problem of placing meaningful controls on civilian nuclear exports to insure that a precious energy source is not misused for building nuclear weapons. Senator RIBICOFF notes that controlling the atom for peaceful purposes has been the world's unfinished business since the birth of the nuclear age 30 years ago when Bernard Baruch admonished the United Nations to make "a choice between the quick and the dead."

In the article, entitled "Trading in Doom," Senator RIBICOFF states that a nuclear showdown between the superpowers is still the most immediate danger to the world, "but the greater danger may lie in the spread of nuclear weapons to many nations, even to terrorists, through the export of civilian nuclear technology."

I have been privileged, Mr. President, to serve as the Government Operations Committee's ad hoc chairman for nuclear affairs, at Chairman RIBICOFF's designation. Having presided over 8 days of hearings on U.S. nuclear export policymaking, in connection with the nuclear provisions of S. 1439, the Export Reorganization Act of 1976, I agree with Senator RIBICOFF that, for the short term—

> The refusal of France and West Germany to restrict their civilian nuclear exports poses the greatest obstacle to curbing dangerous nuclear trade.

In the long term, I believe that the worldwide spread of nuclear science and, along with it, the capability to build nuclear weapons, is inevitable, and that all of the world's nations must eventually join in a system of strict sanctions to isolate and punish any nation that would set off a nuclear explosion or develop a weapons program in violation of specified international safeguards and controls. But to achieve a strong world order for the long term, effective controls over nuclear spread must be put in place as soon as possible.

It is the short-term problem of controlling dangerous nuclear trade that Senator RIBICOFF tackles in this article. Specifically, he calls for an end to the export by France and Germany of nuclear fuel facilities, capable of producing atom bomb material, to countries that do not now have nuclear weapons. The United States already refuses to export such facilities. Generally, Senator RIBICOFF calls for an end to the sale of reactors by all nuclear suppliers, including the United States, to nations that refuse to ratify the Treaty for the Non-Proliferation of Nuclear Weapons.

To achieve these basic nonproliferation goals, Senator RIBICOFF proposes a series of bold diplomatic steps by the United States to promote cooperative arrangements and eliminate dangerous competition among the nuclear suppliers. These steps include close coordination in the spirit of détente between the United States and the Soviet Union to win cooperation from the French and the Germans and the establishment of a system to guarantee each of the suppliers a minimum number of reactor sales a year.

On the latter point, Senator RIBICOFF states:

> A "market share" arrangement among the suppliers may be our best hope for eliminating cutthroat competition in the sale of reactors and for promoting fuel arrangements that will discourage production and stockpiling of weapons-grade materials outside the supplier nations.

Mr. President, this is an important and provocative proposal that is well worth the close scrutiny of Members of Congress and of diplomats the world over. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 26, 1976]

TRADING IN DOOM

(By Abraham A. Ribicoff)

WASHINGTON.—Thirty years ago when Hiroshima and Nagasaki were freshly imprinted on the mind of a war-weary world, Bernard Baruch presented the United Nations with our nation's plan for peacefully harnessing the atom. "We are here to make a choice between the quick and the dead," he admonished. "That is our business."

That is still our business today. The potential for a holocaust-producing showdown between the superpowers is the most immediate nuclear danger, but the greater danger may lie in the spread of nuclear weapons to many nations, even to terrorists, through the export of civilian nuclear technology.

In 1946, the Soviet Union's refusal to restrict its own development of atomic weapons prevented the United States from placing all dangerous nuclear activities and stockpiles under international ownership and control. Today, the refusal of France and West Germany to restrict their civilian nuclear exports poses the greatest obstacle to curbing dangerous nuclear trade.

The French and Germans, seeking to pull multimillion-dollar reactor sales away from the United States, offer an option that we do not—the facilities needed by a nation to produce and process its own reactor fuel. The problem is that these facilities—uranium-enrichment and plutonium-reprocessing plants—produce material suitable for making atomic bombs as well as reactor fuel. Therefore, they constitute the essential component of any nuclear-weapons-development program. Furthermore, these facilities are much harder to safeguard against theft than reactors, and they cannot be operated economically except in industrial nations with very large reactor programs.

For all of these reasons, the United States exports reactors and fuel that is unsuitable for weapons-making—but not fuel facilities capable of producing weapons-grade material.

The French and Germans have rejected our proposals for banning the export of nuclear-fuel reactors.

They also have blocked diplomatic efforts to bar nuclear sales to nations that refuse to ratify the treaty for the nonproliferation of nuclear weapons or that refuse to agree to place all their nuclear activities under the safeguards of the International Atomic Energy Agency.

The French and Germans suspect that our warnings about weapon's proliferation are a smokescreen for protecting our pre-eminent nuclear industry. The Germans approved the export of enrichment and reprocessing plants to Brazil as part of a major reactor deal over strong United States objections. But this action came shortly after the West German Government learned that an American company was trying to sell Brazil an enrichment plant—and this at the very time our diplomats in Bonn were saying that policy prohibits such sales.

Similarly, the French are not prepared to forfeit their technological lead in plutonium reprocessing because the United States objects to the export of these plants. France is going ahead with the shipment of such a plant to Pakistan despite our objections.

These exports are particularly dangerous because Brazil and Pakistan, which refuse to ratify the nonproliferation treaty, are free to have unsafeguarded nuclear activities and set off nuclear explosions.

Unfortunately, the United States, as exporter of 70 percent of the free-world civilian nuclear technology is also the biggest supplier of nations that are not treaty signatories. Thirteen of the 29 countries to which we make nuclear sales refused to ratify the treaty—not a good example for the French and Germans to follow. Moreover, our current and planned nuclear exports extend to most countries suspected of having atomic-weapon intentions, among them India, South Korea, Taiwan, South Africa, Brazil, Argentina, Iran, Israel and Egypt.

Our explanation for exporting to non-treaty nations and to otherwise suspect nuclear customers is the same as that of France and Germany: "If we don't they will." The difference is that we will not export fuel facilities—only reactors.

The United States must persuade France and West Germany not to engage in dangerous nuclear trade. We should set a nonproliferation example they can follow, and we should remind them that they still depend heavily on us for the technology, components, and particularly the fuel used in their own ambitious nuclear programs.

Our greatest, and perhaps last, opportunity for persuasion is immediately at hand. For at least the next four years, the United States and the Soviet Union will be the sole sources of enriched-uranium fuel for France and West Germany. Furthermore, the Russians seem to be as concerned as we are about the spread of nuclear weapons—the one issue on which the two superpowers have a strong identity of interest. It provides an excellent opportunity, therefore, to breathe new life into détente.

However, Secretary of State Henry S. Kissinger refuses to approach the Russians on jointly applying pressure on France and West Germany through the denial of nuclear fuel. I agree with Mr. Kissinger that this would be drastic action—even blackmail—but I also believe that drastic action will not be necessary once it is clear that the United States is prepared to act to stop the spread of nuclear weapons.

Therefore, I propose the following steps for the United States.

1. We should immediately explore with the Russians whether a common position can be reached in support of a ban on the export of nuclear fuel facilities to nonnuclear-weapons countries, and on all nuclear exports to non-treaty nations.

2. If a common position can be reached, it should be announced at the next meeting of the nuclear supplier nations, in June, and France and West Germany should be asked to announce their positions.

3. At the same meeting, we should demonstrate our good faith by offering to enter

into a cooperative arrangement with the other suppliers, including France and West Germany, that will guarantee each supplier a minimum number of reactor sales a year. A "market share" arrangement among the suppliers may be our best hope for eliminating cut-throat competition in the sale of reactors and for promoting fuel arrangements that will discourage production and stockpiling of weapons-grade materials outside the supplier nations.

4. If agreement on strict export controls and market-share arrangements cannot be reached, the United States should announce that future supply of enriched-uranium fuel and of all other nuclear assistance will be made only to nations that join in meeting these nonproliferation objectives.

If all else fails, the United States should stop supplying reactor fuel to the Germans and French. This would make them wholly dependent on the Soviet Union. I do not believe that France and Germany are prepared to rely solely on the Russians.

DIRECT EUROPEAN FLIGHT SERVICE FOR ATLANTA, GA.

Mr. TALMADGE. Mr. President, a resolution pertaining to direct European flight service for Atlanta, Ga., has been adopted by the Georgia General Assembly, and transmitted to me.

On behalf of my colleague, Mr. NUNN, and myself, I bring this resolution to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION

Urging the Georgia delegation to the United States Congress to assist in the efforts to obtain direct European flight service for Atlanta; and for other purposes

Whereas, it is a sad commentary that the history of the Federal government shows a clear pattern of discrimination against the South in areas of business and commerce; and

Whereas, although no longer in effect, the discriminatory rail rates which were borne by the South for decades provide a classic example of this discrimination; and

Whereas, such discrimination continues through the Civil Aeronautics Board by the failure of that Federal agency to grant direct European flight service for Atlanta; and

Whereas, several airlines serving Atlanta are willing and eager to provide these flights and have applied to the Civil Aeronautics Board therefor without success; and

Whereas, a person wishing to fly from Atlanta or other deep South locations to Europe must first fly to New York, and the same situation exists for return flights; and

Whereas, Atlanta has one of the busiest airports in the world, and it is patently unfair and discriminatory for Southerners and visitors to the South to be denied direct European flight service for Atlanta, which is the business and commercial center of the Southeast; and

Whereas, the lack of direct European flight service for Atlanta not only penalizes the traveling public but all citizens of Georgia, because it unfairly and unnecessarily impedes economic development in the State; and

Whereas, the South in general, and Georgia in particular, is an industrious, progressive and essential part of the Union, and it is time for Federal bureaucracies like the Civil Aeronautics Board to recognize that fact and eliminate discriminatory policies against the South.

Now, therefore, be it resolved by the General Assembly of Georgia that the members of the Georgia delegation to the United States Congress are hereby urged to use their influence and persuasive powers to encourage the Civil Aeronautics Board to grant direct European flight service for Atlanta to one or more airlines serving Atlanta which have applied for such service.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this resolution to each member of the Georgia delegation to the United States Congress.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to the consideration of the conference report on H.R. 200, which the clerk will state by title.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

The conference report reads as follows:

CONFERENCE REPORT (S. REPT. No. 94–711)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

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SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary

to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) Purposes.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and

(6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.

(c) Policy.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources

Sec. 3. Definitions.

As used in this Act, unless the context otherwise requires—

(1) The term "anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

Colenterata

Bamboo Coral—*Acanella spp.;*
Black Coral—*Antipathes spp.;*
Gold Coral—*Callogorgia spp.;*
Precious Red Coral—*Corallium spp.;*
Bamboo Coral—*Keratoisis spp.;* and
Gold Coral—*Parazoanthus spp.*

Crustacea

Tanner Crab—*Chionoecetes tanneri;*
Tanner Crab—*Chionoecetes opilio;*
Tanner Crab—*Chionoecetes angulatus;*
Tanner Crab—*Chionoecetes bairdi;*
King Crab—*Paralithodes camtschatica;*
King Crab—*Paralithodes platypus;*
King Crab—*Paralithodes brevipes;*
Lobster—*Homarus americanus;*
Dungeness Crab—*Cancer magister;*
California King Crab—*Paralithodes californiensis;*
California King Crab—*Paralithodes rathbuni;*
Golden King Crab—*Lithodes aequispinus;*
Northern Stone Crab—*Lithodes maja;*
Stone Crab—*Menippe mercenaria;* and
Deep-sea Red Crab—*Geryon quinquedens.*

Mollusks

Red Abalone—*Haliotis rufescens;*
Pink Abalone—*Haliotis corrugata;*
Japanese Abalone—*Haliotis kamtschatkana;*
Queen Conch—*Strombus gigas;*
Surf Clam—*Spisula solidissima;* and
Ocean Quahog—*Artica islandica.*

Sponges

Glove Sponge—*Hippiospongia canaliculata;*
Sheepswool Sponge—*Hippiospongia lachne;*
Grass Sponge—*Spongia graminea;* and
Yellow sponge—*Spongia barbera.*

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management Council established under section 302.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Sec. 101. Fishery Conservation Zone.

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Sec. 102. Exclusive Fishery Management Authority.

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

(1) All fish within the fishery conservation zone.

(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

(3) All Continental Shelf fishery resources beyond the fishery conservation zone.

Sec. 103. Highly Migratory Species.

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish.

Sec. 104. Effective Date.

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec. 201. Foreign Fishing.

(a) In General.—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

(1) is authorized under subsection (b) or (c);

(2) is not prohibited by subsection (f); and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) Existing International Fishery Agreements.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202 (b) or (c)), if such agreement—

(1) was in effect on the date of enactment of this Act; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) Governing International Fishery Agreements.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a "governing international fishery agreement". Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b) (10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b) (7).

(d) Total Allowable Level of Foreign Fishing.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) Allocation of Allowable Level.—The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the exclusive fishery management authority of the United States. In making any such determination, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) Reciprocity.—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) Preliminary Fishery Management Plans.—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303 (a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b) (2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

Sec. 202. International Fishery Agreements.

(a) Negotiations.—The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201 (c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into any other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) TREATY RENEGOTIATION.—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) INTERNATIONAL FISHERY AGREEMENTS.—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976; by the United States unless it is in accordance with the provisions of section 201(c).

(d) BOUNDARY NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

SEC. 203. CONGRESSIONAL OVERSIGHT OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

(a) IN GENERAL.—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) REFERRAL TO COMMITTEES.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) COMPUTATION OF 60-DAY PERIOD.—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term "fishery agreement resolution" refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

SEC. 204. PERMITS FOR FOREIGN FISHING.

(a) IN GENERAL.—After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) ELIGIBILITY.—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) FORMS.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) CONTENTS.—Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted;

and shall include any other pertinent information and material which the Secretary may require.

(4) TRANSMITTAL FOR ACTION.—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

(5) Action by council.—After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) Approval.—After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve the application, if he determines that the fishing described in the application will meet the requirements of this Act.

(7) Establishment of conditions and restrictions.—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c) (1), (2), and (3).

(D) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) Notice of approval.—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(9) Disapproval of applications.—If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefor. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) Fees.—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

(11) Issuance of permits.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) Sanctions.—If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) Registration Permits.—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms for such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits

Sec. 205. Import Prohibitions.

(a) Determinations by Secretary of State.—If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204(b) (7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) Prohibitions.—Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) Removal of Prohibition.—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) Definition.—As used in this section—

(1) The term "fish" includes any highly migratory species.

(2) The term "fish products" means any article which is produced from or composed of (in whole or in part) any fish.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Sec. 301. National Standards for Fishery Conservation and Management.

(a) In General.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all

such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) GUIDELINES.—The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans.

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) ESTABLISHMENT.—There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(1) NEW ENGLAND COUNCIL.—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(2) MID-ATLANTIC COUNCIL.—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19 voting members, including 12 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(3) SOUTH ATLANTIC COUNCIL.—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(4) CARIBBEAN COUNCIL.—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(5) GULF COUNCIL.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(6) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(7) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(b) VOTING MEMBERS.—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable constituent State. With respect to the initial such appointments, such Governors shall submit such lists to the Secretary as soon as practicable, not later than 45 days after the date of the enactment of this Act. As used in this subparagraph, (i) the term "list of qualified individuals" shall include the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and (ii) the term "qualified individual" means an individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

(2) Each voting member appointed to a Council pursuant to paragraph (1) (C) shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(3) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) NONVOTING MEMBERS.—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geological area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate of GS–18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c) (1) (C), and the nonvoting member appointed pursuant to subsection (c) (2) shall be reimbursed for actual expenses incurred in the performance of such duties.

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.

(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND PANELS.—

(1) Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each Council shall establish such other advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(h) Functions.—Each Council shall, in accordance with the provisions of this Act—

(1) prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(B), and any fishery management plan or amendment transmitted to it under section 304(c)(2);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

(4) submit to the Secretary—

(A) a report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year,

(B) such periodic reports as the Council deems appropriate, and

(C) any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

Sec. 303. Contents of Fishery Management Plans.

(a) Required Provisions.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls.

(b) Discretionary Provisions.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations; and

(7) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) Proposed Regulations.—Any Council may prepare any proposed regulations which it deems necessary and appropriate to carry out any fishery management plan, or any amendment to any fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 304 and 305.

(d) Confidentiality of Statistics.—Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

Sec. 304. Action by the Secretary

(a) Action by the Secretary After Receipt of Plan.—Within 60 days after the Secretary receives any fishery management plan, or any amendment to any such plan, which is prepared by any Council, the Secretary shall—

(1) review such plan or amendment pursuant to subsection (b); and

(2) notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment.

In the case of disapproval or partial disapproval, the Secretary shall include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council receives such notification.

(b) Review by the Secretary.—The Secretary shall review any fishery management plan, and any amendment to any such plan, prepared by any Council and submitted to him to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law. In carrying out such review, the Secretary shall consult with—

(1) the Secretary of State with respect to foreign fishing; and

(2) the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(c) Preparation by the Secretary.—(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management; or

(B) the Secretary disapproves or partially disapproves any such plan or amendment and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a)(2).

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(2) Whenever, pursuant to paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall promptly transmit such plan or amendment to the appropriate Council for consideration and comment. Within 45 days after the date of receipt of such plan or amendment, the appropriate Council may recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provisions of this Act, and any other applicable law. After the expiration of such 45-day period, the Secretary may implement such plan or amendment pursuant to section 305.

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) Establishment of Fees.—The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits.

(e) Fisheries Research.—The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) Miscellaneous Duties.—(1) If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

Sec. 305. Implementation of Fishery Management Plans.

(a) In General.—As soon as practicable after the Secretary—

(1) approves, pursuant to section 304 (a) and (b), any fishery management plan or amendment; or

(2) prepares, pursuant to section 304(c), any fishery management plan or amendment;

the Secretary shall publish in the Federal Register (A) such plan or amendment, and (B) any regulations which he proposes to promulgate to implement such plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

(b) Hearing.—The Secretary may schedule a hearing, in accordance with section 553 of title 5, United States Code, on any fishery management plan, any amendment to any such plan, and any regulations to implement any such plan or amendment. If any such hearing is scheduled, the Secretary may, pending its outcome—

(A) postpone the effective date of the regulations proposed to implement such plan or amendment; or

(B) take such other action as he deems appropriate to preserve the rights or status of any person.

(c) Implementation.—The Secretary shall promulgate regulations to implement any fishery management plan or any amendment to any such plan—

(1) after consideration of all relevant matters—

(A) presented to him during the 45-day period referred to in subsection (a), and

(B) produced in any hearing held under subsection (b); and

(2) if he finds that the plan or amendment is consistent with the national standards, the other provisions of this Act, and any other applicable law.

To the extent practicable, such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

(d) Judicial Review.—Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

(d) Emergency Actions.—If the Secretary finds that an emergency involving any fishery resources exists, he may—

(1) promulgate emergency regulations, without regard to subsections (a) and (c), to implement any fishery management plan, if such emergency so requires; or

(2) promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency.

Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection (A) shall be published in the Federal Register together with the reasons therefor; (B) shall remain in effect for not more than 45 days after the date of such publication, except that any such regulation may be repromulgated for one additional period of not more than 45 days; and (C) may be terminated by the Secretary at any earlier date by publication in the Federal Register of a notice of termination.

(e) Annual Report.—The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources that were undertaken under this Act during the preceding calendar year.

(f) Responsibility of the Secretary.—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

Sec. 306. State Jurisdiction.

(a) In General.—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

(b) Exception.—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

Sec. 307. Prohibited Acts.

It is unlawful—

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204 (b) or (c).

Sec. 308. Civil Penalties.

(a) Assessment of Penalty.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) Review of Civil Penalty.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) Action Upon Failure To Pay Assessment.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) Compromise or Other Action by Secretary.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 309. Criminal Offenses.

(a) Offenses.—A person is guilty of an offense if he commits any act prohibited by—

(1) section 307(1) (D), (E), (F), or (H); or

(2) section 307(2).

(b) Punishment.—Any offense described in subsection (a)(1) is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than $100,000, or imprisonment for not more than 1 year, or both.

(c) Jurisdiction.—There is Federal jurisdiction over any offense described in this section.

Sec. 310. Civil Forfeitures.

(a) In General.—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(e) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of Courts.—Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) Judgment.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

(1) the disposition of forfeited property,

(2) the proceeds from the sale of forfeited property,

(3) the remission or mitigation of forfeitures, and

(4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designed for such purpose by the Secretary.

(d) Procedure.—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311(d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (A) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (B) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable Presumption.—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

Sec. 311. Enforcement.

(a) Responsibility.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to each committee of the Congress listed in section 203(b) and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) Powers of Authorized Officers.—Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of the Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Issuance of Citations.—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard its operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) Jurisdiction of Courts.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Definition.—For purposes of this section—

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term "violation of any provision of this Act" includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

Sec. 312. Effective Date of Certain Provisions.

Sections 307, 308, 309, 310, and 311 shall take effect March 1, 1977.

TITLE IV—MISCELLANEOUS PROVISION

Sec. 401. Effect On Law of the Sea Treaty.

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

Sec. 402. Repeals.

(a) The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081–1086), is repealed as of March 1, 1977.

Sec. 403. Fishermen's Protective Act Amendments.

(a) Amendments.—The Act of August 27, 1954 (22 U.S.C. 1972), is amended—

(1) by amending section 2 thereof to read as follows:

"Sec. 2. If—

"(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

"(A) are unrelated to fishery conservation and management,

"(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

"(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

"(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary—

"(i) for the protection of such vessel and for the health and welfare of its crew;

"(ii) to secure the release of such vessel and its crew; and

"(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act."; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee."

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect March 1, 1977. The amendment made by subsection (a)(2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) AMENDMENT.—Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)(B)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966." and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect March 1, 1977.

SEC. 405. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) AMENDMENT.—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect March 1, 1977.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

(1) $5,000,000 for the fiscal year ending June 30, 1976.

(2) $5,000,000 for the transitional fiscal quarter ending September 30, 1976.

(3) $25,000,000 for the fiscal year ending September 30, 1977.

(4) $30,000,000 for the fiscal year ending September 30, 1978.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
FRITZ HOLLINGS,
EDMUND S. MUSKIE,
THOMAS J. MCINTYRE,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES L. BUCKLEY,
TED STEVENS,
J. GLENN BEALL,
L. P. WEICKER, Jr.,
BOB PACKWOOD,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
THOMAS N. DOWNING,
ROBERT L. LEGGETT,
GERRY E. STUDDS,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200), to provide for the conservation and management of the fisheries, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text and provided a new title for the House bill, and the House disagreed to the Senate amendments.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate to the text of the House bill, with an amendment which is a substitute for both the text of the House bill and the Senate amendment to the text of the House bill. The committee of conference also recommends that the Senate recede from its amendment to the title of the House bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to provide for the protection, conservation, and enhancement of the fishery resources of the United States. To achieve this objective, the conference substitute follows both the House bill and the Senate amendment in—

(1) Establishing a zone contiguous to the territorial sea of the United States and extending 200 nautical miles from the baseline from which that sea is measured, to be known as the fishery conservation zone; and by providing that the United States shall exercise exclusive fishery management authority within this zone over all fish (except highly migratory species), and beyond this zone, over all anadromous species of fish that spawn in U.S. rivers and streams and migrate to ocean waters, to the extent of their range, and over all fishery resources of the Continental Shelf which appertains to the United States; and

(2) Providing for the development, implementation, administration, and enforcement of fishery management plans and regulations, in accordance with national standards for fishery conservation and management, with respect to any fish over which the United States exercises exclusive fishery management authority; and by providing for foreign fishing consonant with such conservation and management measures pursuant to U.S.-issued permits, and in accordance with new governing international fishery agreements with the United States acknowledging this exclusive U.S. fishery management authority.

The legislation is not intended to interfere with or to preempt pending negotiations at the third session of the Third United Nations Law of the Sea Conference. First, the provisions establishing the fishery conservation zone, exclusive U.S. authority (title I), and enforcement (sections 307–311) shall not take effect until March 1, 1977. Second, it is a declared policy of Congress in this legislation "to support and encourage continued active United States efforts to obtain an internationally acceptable treaty which provides for effective fishery conservation and management" (sec. 2(c)(5)). Third, the conference substitute follows the House bill in granting the Secretary of Commerce authority to conform regulations issued pursuant to this Act to the fishery management jurisdiction provisions of an international fishery agreement that may result from any United Nations Conference on the Law of the Sea once that agreement has been ratified by the United States and in anticipation of that agreement coming into force and effect or otherwise being applicable to the United States (sec. 401). The provisions are not only provisional, pending international agreement, but they are also substantially consistent with the developing consensus within the Third United Nations Law of the Sea Conference.

The conference substitute maintains the existing ocean jurisdiction of the United States without change for all purposes other than the conservation and mangement of fishery resources (sec. 2(c)(1)), and it follows both the House bill and the Senate amendment in specifically excluding highly migratory species of fish from exclusive coastal nation management authority (sec. 103). Highly migratory species are to be managed pursuant to international fishery agreements established for such purpose.

Title II of the conference substitute authorizes foreign fishing for species and resources under the exclusive fishery management authority of the United States pursuant to (1) an international fishery agreement which is in effect as of the date of enactment of this legislation pending renegotiation (in the case of a treaty) or expiration (in any other case), and (2) pursuant to a "governing international fishery agreement". It is the sense of Congress that a governing international fishery agreement between the U.S. and a foreign fishing nation shall contain specified provisions essential to the conservation and management of fishery resources (sec. 201(c)). The conference substitute follows the House bill in providing that such an agreement shall not become effective until it has been submitted to and reviewed by the Congress (sec. 203). The total allowable level of foreign fishing with respect to any fishery under exclusive United States authority shall be that portion of the optimum yield from such fishery which will not be harvested by vessels of the United States. No foreign fishing vessel shall engage in fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the United States beyond this zone (except as to highly migratory species), after February 28, 1977, unless the vessel has on board a valid permit issued by the Secretary of Commerce, through the Secretary of State, pursuant to section 204 of this legislation. United States imports of certain foreign-produced fish and fish products shall be prohibited by the Secretary of the Treasury if the Secretary of State determines and certifies, among other things, that the foreign nation involved bars United States fishing vessels from its waters, subjects them to conditions and restrictions unrelated to fishery conservation and management, or seizes U.S. fishing vessels in violation of or without authorization under agreement (sec. 205).

Title III of the conference substitute establishes a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. fishery management authority. The provisions of this title follow the analogous provisions of the House bill and the Senate amendment and are premised upon the conclusion of the committee of conference that fishery resources must be conserved and managed in such a way as to assure that an optimum supply of food and other fish products, and that recreational opportunities involving fishing, are available on a continuing basis and that irreversible or long-term adverse effects on fishery resources are minimized.

Title III follows the House bill and the Senate amendment in setting forth certain national standards with respect to fishery conservation and management, which are to be applied by new Regional Fishery Management Councils and by the Secretary of Commerce in the preparation of fishery management plans and regulations. The conference substitute follows the Senate amendment in directing the Secretary of Commerce to establish guidelines based on these standards to assist in the development of a management plan for each fishery.

Eight Regional Fishery Management Councils are established, as follows, with the States listed in parenthesis as the constituent States thereof and with authority over the fisheries in the waters seaward of the States in the respective such regions:

New England Council (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut).

Mid-Atlantic Council (New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia).

South Atlantic Council (North Carolina, South Carolina, Georgia, Florida).

Caribbean Council (Virgin Islands, Puerto Rico).

Gulf Council (Texas, Louisiana, Mississippi, Alabama, Florida).

Pacific Council (California, Oregon, Washington, Idaho).

North Pacific Council (Alaska, Washington, Idaho).

North Pacific Council (Alaska, Washington, Oregon) (with authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska).

Western Pacific Council (Hawaii, American Samoa, Guam).

Each Council shall have voting and nonvoting members. The voting members shall be the principal State official with marine fishery management responsibility and expertise in each constituent State; the regional director of the National Marine Fisheries Service for the geographical area concerned; and a specified number of members required to be appointed by the Secretary of Commerce from lists of qualified individuals submitted by the Governors of the constituent States. The nonvoting members shall be representatives of the United States Fish and Wildlife Service, of the Coast Guard, of the Marine Fisheries Commissions, and of the Department of State.

Each Council is directed to prepare a fishery management plan for each fishery within its geographical area of authority, with respect to any fish over which the United States exercises exclusive fishery management authority. The required (sec. 303(a)) and discretionary (sec. 303(b)) provisions of each such plan are described in detail. A Council-prepared plan may include such proposed regulations as the Council deems appropriate to carry out such plan (sec. 303(c)). It is mandatory, *inter alia*, that each fishery management plan require the submission of catch statistics and other pertinent data to the Secretary of Commerce, but the conference substitute follows the House amendment in providing that such statistics shall be confidential and only released in an aggregate or summary form which does not disclose the identity or business of the persons making such submissions (sec. 303(d)). Each fishery management plan shall, *inter alia*, (1) specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery involved, and (2) assess and specify the capacity and extent to which U.S. fishing vessels will harvest such optimum yield and the portion of such optimum yield which will not be so harvested and which can be made available for foreign fishing (sec. 303(a)(3) and (4)). Amendments to such fishery management plans may include any matters with respect to the fishery involved which may be included in such a plan, including revised assessments and specifications as to optimum yield and the portion thereof which can be made available for foreign fishing.

The Secretary of Commerce is directed to review and either approve, partially disapprove, or disapprove each fishery management plan submitted to him (and any amendment to an existing such plan). In the case of partial disapproval or disapproval, the Secretary shall return the plan to the originating Council with a request for corrective amendments. The Secretary's review shall be designed to determine whether the fishery management plan is consistent with the national standards for fishery conservation and management, the other provisions and requirements of this legislation and any other applicable law. In carrying out such review, the Secretary shall consult with the Secretary of State (as to foreign fishing) and with the Secretary of the department in which the Coast Guard is operating (as to enforcement at sea). If no fishery management plan is submitted by the appropriate Council within a reasonable period of time, or if corrective amendments to a partially-disapproved or disapproved plan are not submitted within 45 days after notification, the Secretary of Commerce is authorized to prepare the appropriate plan or amendment.

As soon as practicable after the Secretary (1) approves a Council-prepared fishery management plan or (2) prepares such a plan, he shall publish such plan or amendment in the Federal Register together with any regulations which he proposes to promulgate in order to implement it. After a 45-day period for the submission of written data, views, or comments thereon, the Secretary shall implement the plan or amendment and promulgate such regulations, unless the Secretary schedules a hearing in accordance with 5 U.S.C. 553, on such plan, amendment, and regulations, in which case implementation and promulgation shall take place as soon as practicable after the hearing.

The general responsibility for the carrying out of fishery management plans rests with the Secretary of Commerce (sec. 305(g)), although, with respect to enforcement of the provisions of this Act and of any regulation or permit issued under this Act, that responsibility is shared with the Secretary of the department in which the Coast Guard is operating (sec. 311(a)).

The conference substitute follows the Senate amendment in directing the Secretary of Commerce to initiate and maintain a comprehensive program of fishery research to carry out and further the protection, conservation, and enhancement of United States fishery resources (sec. 304(d)).

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State. The exception in section 306(b) would authorize the Federal government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reasons for which Federal regulation was assumed no longer prevail.

The conference substitute contains provisions on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement, which follow the comparable provisions of the House bill or the Senate amendment, or both.

Title IV of the conference substitute follows the House bill in amending the Fishermen's Protective Act, the Marine Mammal Protection Act of 1972, and the Atlantic Tunas Convention Act of 1975; follows the Senate amendment in repealing the Act of May 20, 1964 (better known as the Bartlett Act) (its substantive provisions are incorporated in the conference substitute), and follows the House bill and the Senate amendment in repealing the Act of October 14, 1966.

Appropriations are authorized to the Secretary to carry out the provisions of this legislation, in the following amounts: $5 million for the balance of the current fiscal year; $5 million for the transitional fiscal quarter ending September 30, 1976; $25 million for the fiscal year ending September 30, 1977; and $30 million for the fiscal year ending September 30, 1978.

ACKNOWLEDGMENTS

The conferees wish to acknowledge the extraordinary efforts invested in the development of this legislation by its original sponsors—Senator Warren G. Magnuson and Representative Gerry E. Studds—and by Senator Ted Stevens and Representatives Leonor K. Sullivan, Robert L. Leggett, and Edwin B. Forsythe, the other cosponsors of the legislation, and the members of the committees involved.

SECTION-BY-SECTION DISCUSSION

Section 2. Findings, purposes, and policy

This section follows the analogous provisions of both the House bill and the Senate amendment, with modifications to reflect more precisely the provisions of the conference substitute.

Section 3. Definitions

This section defines the various terms used throughout the conference substitute. The definitions follow, except for minor technical and clarifying changes made necessary by reason of the conference agreement, the pertinent definitions in the House bill and the Senate amendment. Where appropriate to this statement, particular definitions are discussed in relation to the major substantive provisions to which they relate.

The conference substitute follows the House provision and omits the Trust Territory of the Pacific Islands from the coverage of the legislation since it is operated by the United States pursuant to the terms of a trusteeship agreement with the United Nations and is not considered to be a possession of the United States.

The conference committee would like to make it clear that inclusion of American Samoa and Guam within the definition of State would not, and is not intended to, affect the Treasury Department's interpretation of the Nicholson Act (46 U.S.C. 251–252) with regard to American Samoa and Guam.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Section 101. Fishery Conservation Zone

This section establishes, and defines the boundaries of the "fishery conservation zone" of the United States. Its inner boundary is a line coterminous with the seaward boundary of each of the coastal States of the United States (the term "State" is defined to include, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other U.S. Commonwealth, territory, or possession) and its outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured. The term "seaward boundary" when used in reference to a coastal state has the same meaning as is given to such term in the Submerged Lands Act of 1953 (43 U.S.C. 1301(b)). This provision of the conference substitute is similar to provisions in both the House bill and the Senate amendment.

Section 102. Exclusive Fishery Management Authority

This section follows the substance of the House bill and the Senate amendment in directing the United States to exercise exclusive fishery management authority in the manner provided in this Act over—

(1) All fish within the fishery conservation zone (the definition of "fish" in section 3(6) does not include highly migratory species);

(2) All anadromous species of fish spawned in the fresh or estuarine waters of the United States throughout their migratory range beyond the fishery conservation zone (except when they are found in a foreign nation's territorial sea, fishery conservation zone, or the equivalent to the extent that either is recognized by the United States); and

(3) All Continental Shelf fishery resources of the United States beyond the fishery conservation zone.

It should be noted that the definition of "fishing" in section 3(10) does not include scientific research conducted by a scientific research vessel. The conference committee does not consider the conducting of tests of fishing gear to be scientific research within the meaning of the bill.

Section 103. Highly migratory species

This section follows the House bill and the Senate amendment in providing that the exclusive management authority of the United States shall not include, or be construed to extend to, highly migratory species of fish. Highly migratory species are defined in section 3(15) to mean species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean. Since there is no justification for coastal nation jurisdiction over such species, this section declares them subject to management pursuant to international fishery agreements established for that purpose. The conferees believe that current international fishery agreements which regulate tuna are not functioning as adequately as they should and should be supplemented by stronger international tuna fishery agreements.

Section 104. Effective date

The effective date of this title is March 1, 1977. The effective date of the comparable provision of the House bill was July 1, 1976, and the effective date of the comparable provision of the Senate amendment was July 1, 1977 for enforcement as to violations. By adopting the effective date of March 1, 1977, for this title, the conferees have provided for a period of transition between passage of the Act and full operation of the provisions of title I. The conferees expect this transition to the new regime established in the Act to occur through negotiations between the United States and affected nations, as described in title II of the Act.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Section 201. Foreign fishing

This section follows the House bill and the Senate amendment in allowing and setting prerequisites for and conditions on, foreign fishing for fish subject to the exclusive fishery management authority of the United States.

Section 201(a) prohibits foreign fishing within the fishery conservation zone established by section 101 or for anadromous species or Continental Shelf fishery resources beyond this zone, unless it is authorized by an existing international fishery agreement (including a treaty), as provided in section 201(b), or by a governing international fishery agreement, as provided in section 201(c). In addition, the reciprocity requirement of section 201(f) must be satisfied, and each fishing vessel of the foreign nation so authorized must have a valid and applicable permit issued for that vessel under section 204, and fish in accordance with the conditions and restrictions of such permit.

Section 201(b) authorizes such foreign fishing to be conducted pursuant to an existing international fishery agreement (other than a treaty) until such time as that agreement expires or pursuant to an existing international fishery agreement treaty until such time as that treaty is renegotiated (to conform it to the purposes, policy, and provisions of this legislation) or ceases to be of force and effect as to the United States.

Section 201(c) authorizes such foreign fishing to be conducted pursuant to a governing international fishery agreement (which is not a treaty) if such agreement is entered into pursuant to this subsection and if it becomes effective following application of section 203 (congressional oversight). The committee on conference intends that governing international fishery agreements will be the primary mechanism through which foreign fishing is authorized. One of the purposes of this agreement is to acknowledge the exclusive fishery management authority of the United States as set forth in this legislation.

It is stated to be the sense of Congress that any such agreement shall set forth certain terms and conditions; *inter alia* (1) that each foreign nation and its vessels will abide by all regulations promulgated by the Secretary of Commerce implementing this Act and any applicable fishery management plan; (2) that each foreign nation and its vessels will abide by all applicable enforcement procedures; (3) that each foreign nation and its vessels will adhere to all requirements for observers to enforce the Act and will pay the cost for such observers; (4) that each foreign nation and its vessels prepay any license fee to the United States; (5) that each foreign nation and its vessels have appointed agents on whom legal process can be served; (6) that each foreign nation will assume responsibility for reimbursement of United States citizens for any loss or damage of their fishing gear or catch caused by any fishing vessel of such nation.

Subsection (a) provides that fishing by foreign nations is limited to that portion of the optimum yield of any fishery subject to the fishery management authority of the United States which will not be harvested by vessels of the United States. The conference committee intends that, in determining whether U.S. fishermen "will not" harvest an optimum yield, the Councils are to give consideration to both the desire and capacity of U.S. fishermen to harvest such yield. Both the optimum yield and the "surplus" to be made available for foreign fishing are to be determined by the appropriate Regional Fishery Management Council or by the Secretary in fishery management plans and amendments to such plans.

Within the total allowable level, of foreign fishing in any fishery, allocations must be made among the various foreign nations interested in such fishing. Section 201(c) provides that the Secretary of State, in cooperation with the Secretary of Commerce, shall allocate, among foreign nations, the total allowable catch for foreign nations on the basis of traditional fishing and other specified factors.

Traditional foreign fishing means long standing, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation. Traditional or historic foreign fishing was recognized in the Act of October 16, 1966 (80 Stat. 908), which created the existing nine-mile contiguous fishery zone. Whether any nation has traditionally fished must be determined on a case-by-case basis. Nations which only recently began to fish clearly have not traditionally fished. However, nations whose fishermen have continually fished on a particular stock for a substantial number of years in compliance with any applicable fishery treaties or domestic law would have a strong case for a preference for an allocation of the total allowable level of foreign fishing.

Section 201(f) provides that any nation which seeks fishing authority from the United States must satisfy the Secretary of Commerce and the Secretary of State that it extends substantially the same fishing privileges to fishing vessels of the United States; if any, as the foreign nation is seeking from the United States.

The Secretary is required, by section 201 (g), to prepare a preliminary fishery management plan for any fishery if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented before March 1, 1977, in accordance with 5 U.S.C. 553, interim regulations. They would be applicable, after March 1, 1977 to foreign fishing in fisheries subject to U.S. authority and would remain in effect until a fishery management plan, prepared by the appropriate Regional Fishery Management Council, is reviewed, approved, and implemented pursuant to the provisions of this Act. The conferees do not intend that this power be used to interfere with, or to preempt, the functions of the Councils in any way. Interim regulations promulgated by the Secretary to implement a preliminary fishery management plan would remain in effect until regulations implementing any fishery management plan are promulgated under section 305.

Section 202. International Fishery Agreements

Neither the House bill nor the Senate amendment calls for the abrogation of existing international fishery agreements. The conference substitute preserves this intent and requires the Secretary of State, in cooperation with the Secretary of Commerce, to enter into negotiations with any nation to conform any agreements to the provisions of the Act. In addition the conference substitute follows the House bill and Senate amendment in directing the Secretary of State, at the request of and in cooperation with the Secretary of Commerce, to enter into negotiations on behalf of United States fishermen who wish to fish within the fishery conservation zone (or for anadromous species or Continental Shelf fishery resources) of any other nation and to seek agreements for the management and conservation of anadromous species and highly migratory species.

At present, the United States is a party to 23 bilateral or multilateral treaties and executive agreements. Many are short-lived executive agreements, negotiated for only one or two years, although in many cases they have been renewed or extended continuously over much longer periods of time. Others are treaties within the meaning of section 2 of Article II of the Constitution.

Section 202(b) directs the Secretary of State, in cooperation with the Secretary, to initiate (promptly after the date of enactment of this legislation), the renegotiation of any treaty which pertains to foreign fishing in waters which will fall within the fishery conservation zone, or to fishing for anadromous species or Continental Shelf fishery resources, in order to conform the provisions of any such treaty to the purposes, policy, and provisions of this Act. Such renegotiation, in the opinion of the committee of conference, would include the filing of notices of intent to withdraw from the International Convention for the Northwest Atlantic Fisheries (ICNAF) and similar such treaties, in accordance with the provisions of such treaties, so that the withdrawal of the United States from such treaties will become effective by March 1, 1977 if such treaties have not been renegotiated to conform with this Act by that date.

Section 202(c) provides that no international fishery agreement (other than a treaty) which is in effect on June 1, 1976 and which pertains to foreign fishing for U.S. fishery resources shall be renewed, amended, or extended, except in accordance with section 201(c) of the Act (which provides for governing international fishery agreements). Application of this particular provision in the Act is delayed until June 1, 1976, in order to permit the continuation of existing arrangements with Canada.

Section 202(d) authorizes the Secretary of State, in cooperation with the Secretary, to initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation. The immediate and primary concern should be the boundaries with Mexico, Canada, the Soviet Union, and certain Caribbean nations.

Section 202(e) states that it is the sense of Congress that the United States shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent), if (1) such nation fails to consider and take into account the traditional fishing activities of the United States with respect to any fish over which such nation asserts exclusive management authority, (2) fails to recognize and accept that highly migratory species are to be managed by the applicable international fishery agreement, whether or not such nation is party to such agreement, or (3) such nation imposes on fishing vessels of the United States conditions which are unrelated to fishery conservation and management. This provision follows the Senate language in requiring that the U.S. will not recognize jurisdictional claims by any other nation which go beyond that reasonably necessary for management of fishing and which unreasonably exclude fishing by vessels of the United States.

Section 203. Congressional Oversight of Governing International Fishery Agreements

This section follows the House bill in providing for Congressional oversight of, and authority to disapprove, certain international fishery agreements. All international fishery agreements provided for in section 201(c) must be referred by the President to Congress for a period not to exceed 60 calendar days of continuous session of the Congress after the date of transmittal. No such agreement shall become effective until after the 60-day period. During this 60-day period, the Congress may review such an agreement and, if desired, proceed to consider a joint resolution of either House, the effect of which would be to prohibit the entering into force and effect of such an agreement as transmitted to the Congress.

This section spells out in some detail (1) the process involved in transmitting the documents to Congress; (2) referral to the House Committee on Merchant Marine and Fisheries and the Senate Committees on Commerce and Foreign Relations; (3) the method by which the 60 calendar day period will be computed; (4) the nature of the joint resolution which the Congress can consider with regard to agreements; (5) the time for reporting a "fishery agreement resolution"; and (6) the Congressional procedures involving the rules of the House and Senate for consideration of a joint resolution to disapprove a governing international fisheries agreement.

Section 204. Permits For Foreign Fishing

Section 204 follows the House bill and the Senate amendment in setting forth the procedure to be followed to allow for fishing by foreign vessels in the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone. Under section 204(a), no foreign vessel will be permitted to engage in fishing within the fishery conservation zone established by section 101, after March 1, 1977, for any species, except highly migratory species, unless that vessel has on board a valid permit issued by the Secretary under this section. Such a permit will also be required in order for a foreign vessel to fish for anadromous and Continental Shelf fishery resources beyond the fishery conservation zone of the United States.

Section 204(b) sets forth the requirements, procedures, and applicable provisions for the application for and issuance of foreign fishing permits under governing international fishery agreements. Each foreign nation which has entered into such an agreement with the United States shall apply each year for permits for all fishing vessels operating under its flag that wish to engage in any fishing within the U.S. fishery conservation zone or, beyond such zone, for U.S. anadromous species or Continental Shelf fishery resources (para. (1)). The application and permit forms are to be prescribed by the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating (para. (2)). The permit forms will have to be designed in such a way that the issued permit can be "prominently displayed" in the wheelhouse of the vessel for which it is issued: that it contains, in a form suitable for examination by enforcement officers, a statement of all of the conditions and restrictions that are attached to it and which govern fishing by that vessel for fish subject to exclusive U.S. fishery management authority; and that it contains appropriate space for a record of any citations issued under section 311(c) (and a statement of any such citations issued under any previous permits issued for that vessel).

Paragraph (3) specifies the minimum subject-matter content for an application for such permits. Paragraph (4) provides that the Secretary of State shall, when satisfied that a permit application complies with these content requirements, publish the application in the Federal Register and transmit it to the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, the appropriate Regional Fishery Management Councils, and designated committees of Congress. Within 45 days after it receives such an application, the applicable Regional Fishery Management Council may comment, as it deems appropriate regarding the application (para. (5)). Such comments may include recommendations regarding approval and suggested conditions and restrictions on the fishing contemplated by the application.

"The Secretary of Commerce is required to consult with the Secretary of State and the Secretary of the department in which the Coast Guard is operating about each such application. After taking into consideration the views and recommendations of these officers and those submitted by any of the Councils, the Secretary may approve the application if he determines that the fishing described in the application will meet the requirements of this legislation (para. (6)). After such approval the Secretary of Commerce shall establish specific conditions and restrictions which shall be included in permits issued pursuant to that application (para. (7)). Paragraph (8) directs the Secretary to transmit a copy of each approved application together with all conditions and restrictions imposed on the application to the Secretary of State, to the Coast Guard, to any Regional Fishery Management Council which has authority over any fishery specified in that application, and to designated committees of Congress. Paragraph (9) provides that the Secretary shall promptly inform the Secretary of State in the event that he does not approve such an application; the Secretary of State shall notify that nation of the disapproval and the reasons for the disapproval and shall inform that nation that it may submit a revised application at any time. "Reasonable" fees are to be paid to the Secretary of Commerce by any foreign fishing vessel for which such a permit is issued. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees. These fees must apply without discrimination with respect to any foreign nation and, in determining the amount of the fees, the Secretary may take into account the cost of management, research, administration, enforcement, etc. (para. (10)). As soon as a foreign nation notifies the Secretary of State that it accepts the conditions and restrictions established with respect to its approved application, and upon payment of the applicable fees, the Secretary shall (through the Secretary of State) issue permits for the appropriate fishing vessels of that nation (para. (11)).

Paragraph (12) deals with sanctions relating to permits issued under this subsection (i.e. under a governing international fishery agreement). If a fishing vessel of a foreign nation holding such a permit is used in the commission of any act prohibited by section 307, or if overdue criminal penalties under section 309 or overdue civil penalties under section 310 (pertaining to that vessel) have not been paid, the Secretary may revoke the permit (and may bar future permits for a specified number of years); may suspend the permit for an appropriate period of time; or may impose additional conditions and restrictions on all of the permits issued to the nation under whose flag that vessel operates. The Secretary is not required to give notice or hold any kind of hearing prior to such permit revocation, suspension, or modification since a hearing will already have been held to determine whether the vessel was in fact used in the commission of a prohibited act (or in the assessment of a civil penalty under section 308(a) or the imposition of a criminal penalty under section 309). If a permit is suspended for nonpayment of a civil penalty, the permit must be reinstated upon payment of that penalty plus interest.

Section 204((c) is the comparable subsection with respect to fishing subject to exclusive U.S. fishery management authority pursuant to an existing international fishery agreement or treaty, to cover the period until that agreement expires or that treaty is renegotiated and is replaced by a governing international fishery agreement under section 201(c). Each fishing vessel of a foreign nation fishing under such an existing agreement or treaty will be issued a "registration permit," upon application, if it wishes to engage in any fishing within the fishery conservation zone of the United States or for anadromous species or Continental Shelf fishery resources of the U.S. beyond that zone. Each registration permit shall set forth the terms and conditions of the international fishery agreement or treaty involved. A registration permit is also subject to the requirement that it be prominently displayed in the wheelhouse of the fishing vessel for which it is issued. The Secretary of State, after consulting with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications may be made for registration permits, and the form thereof. Fees may be charged for registration permits, but the cost may not exceed the administrative cost of issuing them.

Section 205. Import Prohibitions

This section directs the Secretary of State and the Secretary of the Treasury, respectively, to take certain actions if the Secretary of State finds that any foreign nation (1) refuses to negotiate or fails to negotiate in good faith to achieve an agreement with the United States, pursuant to which United States fishing vessels could continue to fish for fish subject to such foreign nation's fishery management jurisdiction in accordance with their fishing practices and under conditions and restrictions equivalent to the conditions and restrictions prescribed by the United States for foreign fishing vessels; (2) refuses to allow U.S. fishing vessels to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement; (3) fails to comply with its obligations under any existing agreement concerning fishing by United States fishing vessels for fish subject to such foreign nation's fishery management jurisdiction; or (4) seizes any vessel of the United States while it is fishing in waters beyond that foreign nation's territorial sea under circumstances not recognized by the United States or authorized under international law or an agreement with the United States. In any such case, the Secretary of State shall certify such determination to the Secretary of the Treasury. Upon receipt of such a certification, the Secretary of the Treasury shall immediately impose import restrictions on fish and fish products from the foreign fishery involved or, upon the Secretary of State's recommendation, on other fish or fish products of such foreign nation. Such a prohibition on imports shall be removed when the Secretary of State finds and notifies the Secretary of the Treasury that the reasons for the imposition of such prohibition no longer prevails. This section follows a provision in the House bill.

It is the intent of the committee of conference that, for purposes of an import prohibition under this section, all fish which are caught by fishing vessels of the United States are fish or fish products of the United States (regardless of where such fish are caught or off-loaded) and not fish or fish products of the foreign nation involved. Naturally, the owner or operator of such United States flag vessels would be expected to assist the Secretary of the Treasury in identifying fish or fish products as fish caught by United States flag vessels.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

Section 301. National Standards for Fishery Conservation and Management

This section requires that fishery management plans prepared under this Act and regulations promulgated to carry out such plans be consistent with seven specified national standards for fishery conservation and management. These standards, or basic objectives for a viable conservation and management program for the Nation's fishery resources, are designed to assure that management plans and regulations take into account the variability of fish resources, the individuality of fishermen, the needs of consumers, and the obligations to the general public, now and in generations to come. The first of these national standards is regarded by the conferees as being of particular importance. It declares that conservation and management measures shall be designed, implemented, and enforced to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. The term "optimum" is defined in this context (in section 3(18)) to mean the amount of fish from a fishery which, if produced, will provide the greatest overall benefit to the Nation (especially in terms of food production and recreational opportunities) and which is prescribed for that fishery on the basis of the maximum yield sustainable therefrom (a biological measure) as modified by any relevant economic, social, or ecological factor. Except for technical drafting and clarifying changes, this requirement and these standards are the same as those set forth in both the House bill and the Senate amendment.

Subsection (b) of this section follows the Senate amendment in directing the Secretary of Commerce to establish guidelines, based on these national standards, to assist in the development of fishery management plans. In establishing these guidelines, the Secretary shall coordinate the work of the Department of Commerce with formal and informal participation by industry representatives and other knowledgeable and interested individuals.

Section 302. Regional Fishery Management Councils

This section directs the establishment, within 120 days after the date of enactment of this legislation, of eight Regional Fishery Management Councils, as previously described in the "Summary and Description" part of this statement. The House bill and the Senate amendment each provided for the establishment of only seven such councils—the House bill did not provide for a separate Caribbean Council and the Senate amendment did not provide for a separate New England Council. The conference substitute includes both as separate entities, for a total of eight such councils.

Although similar in structure, purpose, and functions, the eight Fishery Management Councils vary in size in terms of the total number of voting members and the number appointed by the Secretary from lists of qualified individuals recommended by the Governors of the constituent States, as follows: New England Council (17; 11); Mid-Atlantic Council (19; 12); South Atlantic Council (13; 8); Caribbean Council (7; 4); Gulf Council (17; 11); Pacific Council (13; 8); North Pacific Council (11; 7, 5 of whom shall be appointed from Alaska and 2 from Washington); Western Pacific Council (11; 7). The voting members appointed by the Secretary from lists of qualified individuals shall serve for 3-year terms, except that the terms of the initial such members shall be staggered. The voting members of the Councils who are not government employees shall be compensated on a daily basis at the GS-18 rate and all voting and certain nonvoting members shall be reimbursed for actual expenses incurred in the performance of duties for the Councils.

Each council shall conduct all meetings and hearings within the geographical area of concern. In the case of the North Pacific Council "in geographical area of concern" means within the State of Alaska.

Council decisions shall be by majority vote of the members present and voting, with a majority of the voting members constituting a quorum. The voting members of each Council shall select one of their number to serve as Chairman, and each Council shall meet at the call of its Chairman or by request of a majority of its voting members. In case of disagreement, a disagreeing Council member may submit a statement thereof, with reasons, to the Secretary. Each Council is authorized to appoint and obtain staff and administrative support and other services, and it is charged to determine, prescribe, and publish its organization, practices, and procedures. Each Council is directed to establish a scientific and statistical committee and such other advisory panels as are necessary or appropriate.

Each Regional Fishery Management Council is authorized and directed, inter alia, to develop fishery management plans and amendments to such plans; to submit periodic and other reports to the Secretary of Commerce; to continually review and revise assessments as to optimum yield and allowable foreign fishing; and to conduct other necessary and appropriate activities, with respect to the management and conservation of the fisheries over which it has authority.

Each Council shall conduct public hearings with respect to the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of this legislation. Each Council is directed to establish scientific and statistical committee and necessary advisory panels to assist in the development or amendment of any fishery management plan. Each advisory panel shall be composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of, the applicable fishery group of fisheries. The regional Councils and their committees and panels should receive maximum public input. The provisions of the Federal Advisory Committee Act apply, and therefore meetings must be open to the public, with few exceptions. Each Council shall conduct all meetings and hearings within its geographical area of concern. In the case of the North Pacific Council, "in the geographical area of concern" means within the State of Alaska.

The foregoing provisions follow the House bill or the Senate amendment, or both.

Section 303. Contents of Fishery Management Plans

This section specifies the contents of a fishery management plan.

Each fishery management plan is required to include, with respect to the fishery involved—

(1) necessary management measures governing foreign and domestic fishing, which must be consistent with the national standars and other applicable law;

(2) a complete description of the fishery, including gear, species, location, management costs, revenue, recreational interests, and existing foreign and Indian harvesting rights;

(3) an assessment and specification of the fishery's present condition, probable future condition, maximum sustainable yield, and optimum yield, and an assessment and specification of the capacity and desire of the U.S. fishing fleet to harvest this optimum yield and the portion of this optimum yield which will not be so harvested and can be made available to foreign fleets;

(4) specification of pertinent statistics which must be submitted to the Secretary on fishing effort, gear, species taken, and locations of activity; and

In addition, Councils may, at their discretion, include—

(1) a permit requirement for each vessel engaged in the fishery;

(2) designations of the manner in which fishing shall be limited by zones, vessels, or gear;

(3) catch limitations based on area, species, size, number, weight, sex, or other criteria;

(4) prohibitions on types of gear, vessels, or equipment, and requirements for utilization of devices facilitating enforcement;

(5) to the extent practicable, measures for conservation and management presently employed by the nearest States;

(6) creation of a limited entry system, based on past participation, economic dependence, existing investments, and other factors; provided that a majority of the Council members present and voting (of the Council concerned) agree; and

(7) any other provisions which are determined to be necessary for the conservation and management of the fishery.

Councils may also propose regulations necessary to implement fishery management plans.

This section also requires that statistics submitted by the Secretary pursuant to a management plan must not be released to the public in the form of individual records unless pursuant to court order.

The House and Senate provisions for this section were not mutually exclusive and the foregoing provisions utilize parts of both versions.

The required provisions of section 303(a) were taken from the Senate amendment while the discretionary provisions were from the House bill. The proposed regulations in section 303(c) follow the House bill. The provision regarding confidentiality of statistics in section 303(d) is also largely from the House bill, although both the House bill and the Senate amendment were similar on the subject of statistical requirements.

In any case in which a fishery extends beyond the geographic area of authority of any one Council, the Secretary (1) may designate which Council shall prepare the fishery management plan for such fishery, or (2) may require that such plan be prepared jointly by the Councils concerned (sec. 304 (f)). The House bill provided for the Secretary to designate which Council would prepare the management plan, and the Senate amendment directed the Councils concerned to coordinate or combine their efforts.

Section 304. Action by the Secretary

Section 304 represents an amalgam of the House and Senate versions.

Section 304(a) provides that within 60 days after receiving a fishery management plan submitted by a Council, the Secretary must review the plan and notify the Council as to whether he approves, partially disapproves, or disapproves of the plan. A Council has 45 days to amend a plan wholly or partially disapproved.

Section 304(b) provides that, in reviewing a plan, the Secretary must examine it for consistency with the national standards, the provisions of the Act, and other applicable law. Consultation with the Secretary of State and with the Coast Guard is provided for where their areas of responsibility are affected.

Section 304(c) authorizes the Secretary of Commerce to prepare a fishery management plan or amendment if (1) a Council fails to prepare a plan for a fishery in need of conservation, or (2) if the Secretary partially or wholly disapproves of a plan submitted by a Council and the Council fails to make necessary changes. If the Secretary prepares his own plan, the Council has 45 days to recommend changes; thereafter, the plan is implemented by the Secretary. However, the Secretary is prohibited from preparing a plan which includes a limited entry system unless such system has been first approved by a majority of the voting members of each appropriate Council.

Section 304(d) directs the Secretary to set, by regulation, the level of any fees which may be charged under fishery management plans for U.S. fishing vessels. This level cannot exceed the Secretary's administrative costs in issuing these permits.

Section 304(e) directs the Secretary of Commerce to initiate and maintain a program of fisheries research. This new research effort is required to include, but need not be limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

Section 305. Implementation of Fishery Management Plans

This section sets forth the process for implementation of fishery management plans, including a period for written comment, authorization for hearings, judicial review, and emergency action and includes certain general provisions on the responsibility of the Secretary of Commerce to carry out such plans and to report thereon annually to the Congress and the President.

As soon as practicable after the Secretary approves a fishery management plan or amendment prepared by a Council, or prepares such a plan or amendment (in accordance with section 304), the Secretary is directed to publish that plan or amendment in the Federal Register along with any regulations he proposes to promulgate to implement that plan or amendment. The Secretary shall afford interested persons at least 45 days within which to submit, in writing, data, views, or comments with respect to the plan or amendment and the proposed regulations (sec. 305(a)).

The terms "fishery management plan" and "regulations" are not used interchangeably in this Act. In this Act, the fishery management plan is the comprehensive statement of how the fishery is to be managed, including time and area closures, gear restrictions, and the like. "Regulations", as used in this Act, means the regulations promulgated to implement what is contained in the fishery management plan.

Section 305(b) authorizes the Secretary to schedule and conduct a public hearing under 5 U.S.C. 553 and any plan, amendment, or proposed implementing regulations and to postpone the effective date of the regulations pending such hearings. The conferees anticipate that the Secretary will not normally hold hearings on fishery management plans prepared by the Regional Fishery Management Councils inasmuch as the plans (and amendments thereto) are themselves the product of mandatory public hearings by the Councils. However, hearings may be appropriate in cases (1) in which written submissions are received asserting that the proposed regulations are inconsistent with the plan to be implemented thereby, (2) in which the plan was prepared by the Secretary himself under section 304(c), or (3) in which there are controverted issues of material fact.

Section 305(c) directs the Secretary to promulgate regulations to implement a fishery management plan, or an amendment to such a plan, after review and consideration of all matters raised in the written submissions and any oral presentations, if he finds that the plan or amendment is consistent with the national standards, the other provisions of this legislation, and any other applicable law.

Regulations to implement a fishery management plan are subject to judicial review under the Administrative Procedure Act (5 U.S.C. ch. 7), if a petition for judicial review of such regulations is filed within 30 days after the date of promulgation except that the reviewing court is without authority to enjoin the implementation of those regulations pending the judicial review and such regulations may only be set aside if found to be arbitrary and capricious (sec. 305(c)).

Section 305(d) authorizes certain emergency actions to save fishery resources if the Secretary finds that any emergency involving any fishery resources exist. Emergency regulations, or emergency amendments to a fishery management plan, are only effective for a maximum of 45 days with authority to repromulgate for one additional 45-day period. Emergency regulations are subject to judicial review on the same basis as implementing regulations.

The Secretary is directed to prepare, not later than March 1 of each year, an annual report of fishery conservation and management (sec. 305(e)), and he is given "general responsibility to carry out a fishery management plan or amendment" (sec. 305(f)), including the authority to promulgate regulations to discharge that responsibility or to carry out any other provision of this Act.

The implementation process provisions follow comparable provisions in the House bill and the Senate amendment, except that (1) the mandatory-hearing provision in the House bill (whenever objections are filed by a citizen who may be adversely affected or whenever requested by a State) is not included in the conference substitute in favor of an optional-hearing provision; and (2) the provisions in the Senate amendment establishing a 5-member, President-appointed "Fishery Management Review Board" to determine appeals from regulations promulgated by the Secretary is not included in the conference substitute in favor of judicial review.

Section 306. State jurisdiction

The conference substitute follows the House bill in providing for a limited exception to the principle (contained in both the House bill and the Senate amendment) that nothing in this legislation shall extend or diminish the jurisdiction of any State. The conference substitute also specifies that no State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State. The exception in section 306(b) would authorize the Federal government to regulate a fishery (which is predominantly located in waters outside a State's boundaries but in which some fishing occurs within such boundaries) within a State's boundaries if (1) a hearing is held; and (2) the Secretary finds on the basis of the hearing record that any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a fishery management plan covering such fishery. State regulation would be reinstated as soon as the Secretary finds that the reasons for which Federal regulation was assumed no longer prevail.

Section 307. Prohibited acts

This subsection sets forth the prohibited acts.

Under paragraph (1), it is unlawful for any person to violate any provision of this legislation or any regulation promulgated under this legislation; to violate any condition or restriction of a permit issued pursuant to this legislation or to fish upon revocation or during the suspension of such a permit; to violate any provision of a governing international fishery agreement entered into pursuant to this legislation; to refuse to permit any authorized officer to board a fishing vessel under such person's control for purposes of carrying out any search or inspection relating to the enforcement of this Act or of any regulation or permit issued under this Act; to use force to assault or otherwise interfere with such an officer who is engaged in such a search or inspection or to resist a lawful arrest for any act prohibited by this subsection; or to ship, purchase, sell, etc., any fish taken or retained in violation of this Act or any regulation or permit issued under this Act. Under paragraph (2), it is unlawful for any foreign fishing vessel, or for its owner or operator to engage in fishing within the territorial waters of the United States or (unless such fishing is authorized by a permit issued pursuant to section 204) to engage in fishing within the fishery conservation zone or for anadromous species or for Continental Shelf fishery resources. This subsection follows the House bill and the Senate amendment, and the Bartlett Act provisions are incorporated as part of this Act in view of the repeal of that statute.

Section 308. Civil penalties

This section empowers the Secretary of Commerce to levy a civil penalty against any person who is found, after notice and an opportunity for a hearing in accordance with 5 U.S.C. 554, to have committed an act prohibited by section 307. The amount of the civil penalty could not exceed $25,000 for each violation, but each day of a continuing violation constitutes a separate offense for this purpose. The actual amount of the civil penalty would be at the discretion of the Secretary, after he has taken into consideration the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

If a civil penalty is assessed against any person under subsection (a) of this section, that person may seek review of the penalty in the appropriate Federal court by filing a notice of appeal within 30 days of such an order. If the Secretary's decision is not found to be supported by substantial evidence, as provided in 5 U.S.C. 706(2), the penalty shall be set aside by the court.

Subsection (c) requires the Attorney General of the United States to recover, in an action in an appropriate U.S. District Court, the amount of any assessed civil penalty after it has become a final and unappealable order or after judgment in favor of the Secretary in a review filed under subsection (b). In such an action by the Attorney General, the validity and appropriateness of the final order imposing the civil penalty would not be reviewable by the district court.

Subsection (d) authorizes the Secretary to compromise, modify, or remit any civil penalty which may be or has been imposed.

This section follows the House bill.

Section 309. Criminal offenses

Criminal offenses are provided for certain prohibited acts, as follows:

A person who refuses to permit an authorized enforcement officer to board, for purposes of inspection, a fishing vessel under his control; who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any such officer who is engaged in such an inspection; or who resists a lawful arrest for any act prohibited under section 307, shall be fined not more than $50,000, or imprisoned for not more than 6 months, or both. If, however, such a person uses a deadly or dangerous weapon in the course of such conduct, he shall be fined not more than $100,000 or imprisoned for not more than 10 years, or both.

A person who commits any act prohibited by section 307(2) shall be fined not more than $100,000 or imprisoned for not more than 1 year, or both. This provision follows the Senate amendment and the criminal penalty provision currently in the Bartlett Act, which the conferees agreed to repeal (as proposed by the Senate amendment) following the incorporation of its pertinent substantive provisions, including this one, in the conference substitute.

Section 310. Civil forfeitures

Section 310(a) provides that any vessel (including its fishing gear, furniture, appurtenances, cargo, and stores) may be forfeited to the United States if it is used in any manner in connection with or a result of the commission of any act prohibited by section 307, and that all fish taken or retained in connection with or as a result of any such prohibited act shall be forfeited to the United States, under this section. Forfeiture, does not lie, however, if the relevant prohibited act was one for which the issuance of a citation under section 311(c) is sufficient sanction.

Any district court of the United States shall have jurisdiction, upon application by the Attorney General, to order any forfeiture authorized under subsection (a) and any seizure-related action authorized under subsection (a). (Sec. 310(b)).

Subsection (c) incorporates by reference, with respect to forfeiture under this section, the relevant provisions of the customs laws, except that the duties and powers involved shall be performed by officers or other persons designated by the Secretary of Commerce.

Subsection (d) prescribes the procedure to be followed when process in rem is issued under this Act. The execution of such process shall be stayed, and any fish seized in case of levy shall be released, upon the posting of a bond with security satisfactory to the court involved, conditioned upon delivery of the fish seized or the payment of the monetary value of such fish.

Subsection (e) follows the Senate amendment in specifying that it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

This section is an amalgam of pertinent provisions of the House bill and the Senate amendment.

Section 311. Enforcement

Section 311(a) provides that the responsibility for enforcing this legislation and any management regulations and fishing permits issued under this legislation rests with the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating (i.e., the Secretary of Transportation, in peacetime). The two Secretaries are authorized to employ for this purpose not only the resources of their respective departments but also, by agreement on a reimbursable or other basis, the personnel, services, equipment, and facilities of any other Federal agency and of any State agency. The conference substitute specifically provides that the utilizable equipment of other agencies includes aircraft and vessels and that the Federal agencies required to cooperate in such enforcement include all elements of the Department of Defense. With respect to State agencies, however, it is the understanding of the conferees that State officers will be employed widely in assisting in the enforcement of this Act, however, in general it is expected that such State officers will be employed primarily in areas proximate to their own States and where Federal personnel are unavailable. The two Secretaries are required to report semiannually to the duly authorized committees of the Congress and to the Regional Fishery Management Councils on the degree and extent of compliance. Where indicated, these reports may include recommendations (i.e. for amendments to applicable fishery management plans) which may increase compliance, facilitate the detection of violators, or reduce delay.

Section 311(b) specifies the powers of any officer who is authorized to enforce the provisions of this Act, by the Secretary of Commerce, by the Secretary of the department in which the Coast Guard is operating, or by any agency which has entered into an enforcement agreement with the two Secretaries. Any such officer may, with or without a warrant, arrest any person upon reasonable cause to believe that such person has committed an act prohibited by section 307; board and search or inspect any fishing vessel subject to the fishery management authority of the United States; seize any fishing vessel used or employed in the violation of any provision of this Act; seize any fish taken or retained in violation of any such provision; and seize any other evidence related to any such violation. Any such officer may also execute any warrant or other process issued by any officer of court of competent jurisdiction and exercise any other lawful authority.

Subsection (c) provides for a less drastic sanction in cases of technical or minor violations. Instead of citing the master of fishing vessel for a violation of section 308(a), an authorized enforcement officer may issue a warning to the master of such vessel. Any such warning shall be noted by the officer on the permit issued to such vessel and a record of all such citations shall be maintained by the Secretary of Commerce. The two Secretaries shall, by jointly-issued regulations, provide guidelines for the use of this "citation" power as an alternative to arrest, seizure, forfeiture, etc.

Section 311(d) grants exclusive jurisdiction, and appropriate powers, over all cases arising under this legislation to the district courts of the United States.

Section 311(e) defines "provisions of this Act" and "violation" broadly for purposes of this section only. The remedies provided by this Act, however, are all tied to the commission of an act prohibited by section 307.

The conference substitute is a composite of the enforcement provisions of the House bill and the Senate amendment.

Section 312. Effective date of certain provisions

This section provides that the effective date of the enforcement-related provisions of title III (sections on prohibited acts, civil penalties, criminal offenses, civil forfeiture, and enforcement) shall be March 1, 1977. See above under section 104.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. Effect of Law of the Sea Treaty

This section follows a provision in the House bill authorizing the Secretary of Commerce to promulgate such changes in regulations under this Act as may be necessary or desirable to conform such regulations to the fishery management jurisdiction provisions of a comprehensive treaty, if any, resulting from the Third United Nations Conference on the Law of the Sea, if such treaty is ratified by the United States and in anticipation of its taking effect.

Section 402. Repeals

This section repeals, effective March 1, 1977, (1) the Act of October 14, 1966, which established the 9-mile contiguous zone, and (2) the Act of May 20, 1964, as amended, commonly known as the Bartlett Act, which prohibited certain foreign fishing. The conference substitute follows the House bill and the Senate amendment with respect to (1) and the Senate amendment with respect to (2).

Section 403. Fishermen's Protective Act amendments

The conference substitute follows the House bill with respect to amending the Fishermen's Protective Act (Act of August 27, 1954).

The House bill provided for reimbursement resulting from the seizure of an American fishing vessel, if the vessel had fished in such nation's waters in the past, for the particular stock of fish involved. Concern was expressed by the committee of conference that such a provision might actually encourage seizures of American fishing vessels and that it would endorse fishing by American vessels in a foreign nation's waters under circumstances which would not be allowed with respect to fishing subject to the exclusive fishery management authority of the United States. The conference substitute authorizes such reimbursement only if the conditions and restrictions applied to U.S. vessels are more stringent than the conditions and restrictions applied to foreign fishing vessels by the United States.

Section 404. Marine Mammal Protection Act amendment

This section follows the House bill in amending the term "waters under the jurisdiction of the United States" in the Marine Mammal Protection Act of 1972 to encompass the waters within the fishery conservation zone of the United States, as declared in title I of this legislation.

The provision amending the Marine Mammal Protection Act is not intended to alter U.S. obligations under any existing international agreement which applies to the taking of marine mammals, for example, those applying to whales or fur seals. The conferees desire also that the Secretary of State vigorously pursue the international program for marine mammal protection provided for in the Marine Mammal Protection Act. The amendment made by this section takes effect March 1, 1977.

Section 405. Atlantic Tunas Convention Act amendment

This section follows the House bill in amending the term "fisheries zone" in the Atlantic Tunas Convention Act of 1975 to mean the fishery conservation zone of the United States, as declared and defined in title I of this legislation. The amendment takes effect March 1, 1977.

Section 406. Authorization of appropriations

The House bill authorized the appropriation of "such sums as may be necessary" to carry out the purposes of this legislation. The Senate amendment authorized the appropriation of a total of $49.5 million (through September 30, 1977) to the Secretary of Commerce and a total of $29.25 million (through September 30, 1977) to the Secretary of the department in which the Coast Guard is operating. The conference substitute authorizes the appropriation to the Secretary of Commerce of not to exceed (1) $5 million for the fiscal year ending June 30, 1976, (2) $5 million for the transitional fiscal quarter ending September 30, 1976, (3) $25 million for the fiscal year ending September 30, 1977, and (4) $30 million for the fiscal year ending September 30, 1978.

The committee of conference intends that this authorization of appropriations shall be in addition to, and not in substitution for, any other appropriations authorized for fisheries management, research, and development etc. While large, the sums involved are minute by comparison with the benefits attainable.

Authorizations for Coast Guard enforcement expenditures under this Act will be included in the annual Coast Guard authorization Acts.

Warren G. Magnuson,
John O. Pastore,
Fritz Hollings,
Edmund S. Muskie,
Thomas J. McIntyre,
Edward M. Kennedy,
Claiborne Pell,
James L. Buckley,
Ted Stevens,
J. Glenn Beall,
L. P. Weicker, Jr.
Bob Packwood,
Managers on the Part of the Senate.
Leonor K. Sullivan,
John D. Dingell,
Thomas N. Downing,
Robert L. Leggett,
Gerry E. Studds,
Philip E. Ruppe,
Edwin B. Forsythe,
Managers on the Part of the House.

The ACTING PRESIDENT pro tempore. Time for debate on this conference report is limited to 1 hour, to be equally divided and controlled by the Senator from Washington (Mr. Magnuson) and the Senator from Alaska (Mr. Stevens).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I yield myself such time as I may need to discuss very briefly the conference report.

Mr. President, I take great pleasure today in requesting our colleagues to give swift and unanimous approval to the conference report on H.R. 200, the Fishery Conservation and Management Act of 1976. This is the so-called 200-mile limit bill which extends the exclusive fishery management jurisdiction of the United States to 200 nautical miles.

The Senate voted 77 to 19 in favor of this bill in January. The House had approved a similar measure last fall, by a 2–1 margin. The conferees have now concluded their efforts to resolve the differences between the two bills.

Our colleague from Alaska (Mr. Stevens) is present in the Chamber.

The discussions in the conference were mainly taken up over that portion of the bill which deals with the management part of the act. There was very little discussion on the question of whether or not we should have a 200-mile limit. That was unanimous among the conferees.

The conferees spent a great deal of time and had many meetings on this bill. At the outset, I compliment our staff, Bud Walsh and Bob Joost particularly, and the House staff for their long and arduous work in resolving the drafting of the bill, which was very difficult and complex.

The conference substitute, I believe, is an excellent piece of legislation which successfully blends the two bills while preserving the intent of both Houses of Congress. This being so, the statement of managers on H.R. 200 is short and concise and the basic legislative history on the bill is left to the House and Senate committee reports—Senate Report No. 94–416 on S. 961; House Report No. 94–445 on H.R. 200.

I know my colleagues recognize the significance of this legislation. For the first time this Nation will have fishery management control over the valuable fishery resources found off our shores. More important, this legislation establishes a national fishery management program to conserve our fishery resources. H.R. 200, essentially, is a conservation bill. Both right and responsibility are contained in this measure; we must recognize both and conduct our fishery program accordingly.

While I favor an earlier date of implementation, the conferees agreed to a provision putting the bill into effect—as to enforcement—on March 1, 1977. The 200-mile zone, the requirement for permits for foreign fishing, and the enforcement provisions are all delayed until that date. The Senator from Alaska has pointed out many, many times that it will take us almost that long to get this very complex procedure underway and to the regional councils—as they are called in the bill—created.

However, the creation of the Regional Fishery Management Councils is effected immediately and the process of preparing fishery management plans will get underway shortly thereafter. On March 1 of next year, we should be ready to manage all U.S. fisheries of importance.

I wish to make it clear, once again, that this legislation will not result in confrontation with the nations now fishing off our shores. By all indications, these nations seem prepared to accept this change in jurisdictional status, mainly because it represents the developing world consensus on fishery management jurisdiction.

Furthermore, H.R. 200 abrogates no existing international fishery agreement to which the United States is party. However, it is expected that the Department of State will renegotiate such existing agreements to conform them to the purposes, policy, and provisions of H.R. 200, if necessary.

In conclusion, Mr. President, this bill is a carefully drafted, reasonable measure which provides this country with the right and responsibility to conserve and manage the fishery resources off our shore. And it will keep foreign fish pirates out of our waters.

I urge the adoption of the conference report on H.R. 200.

Upon reading the printed conference report, staff has discovered three technical mistakes. Consequently, I will offer a concurrent resolution to make the necessary corrections in the enrollment of the bill. A vote on the resolution will take place after the vote on the conference report.

Mr. President, a great deal has been said about this bill, off and on, for many years. For myself, it has been in the making for almost 11 years. The Senator from Alaska has done yeoman work in getting all the technicalities and all the complexities involved worked out in the conference report, and I compliment him on his efforts at this time.

I have nothing further to say, Mr. President, and I yield the floor to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Washington.

Mr. President, I certainly join the Senator from Washington in welcoming the day that this matter is before the Senate for final action.

I come from a State that has more than half the coastline of the United States and more than 70 percent of the Outer Continental Shelf, an area of vast protein potential for the United States and for the world. I believe that this bill will allow Alaskans to make a more significant contribution to the Nation than all the oil or gas or minerals that we discover and produce in our State. This is an action which is absolutely essential to assure that sound conservation and management principles apply to the renewable resources of our seas.

Mr. President, the record should show very clearly that it is because of the great leadership of the chairman of the Committee on Commerce that we finally are here today. This has not been an easy task. We have in the past faced many years of opposition. Only recently, a great organization, the National Fisheries Institute, determined that it would support the bill; and the great environmental and conservation organizations of the country, in the last year or two, have decided to support this bill. There is no question that it is because of the absolute willpower of Senator MAGNUSON that we are in the position where we can take action that is necessary to protect our fishery resources.

We are dealing with a conservation concept today. As to those people who believe that the passage of this bill automatically will restore our fisheries, I am afraid we have some sad news for them. This bill is going to take the understanding and cooperation of every State of our Union in order for it to be a workable plan, to restore these fisheries, and to permit us to have a management system which gives first priority to our own domestic fishing effort. That fishing effort is just now recovering from the great losses of the World War II era. We never have really rebuilt our fisheries the way we should have.

Mr. President, I urge my colleagues in the Senate to unanimously accept the conference report for H.R. 200, a bill to establish exclusive U.S. fishery management jurisdiction within a 200-nautical-mile contiguous zone around the United States. This legislation, which is vitally needed to protect U.S. fisheries stocks, is an amalgam of S. 961 and H.R. 200, the two bills considered respectively by the Senate and the House.

While all the Members of the Senate are aware of much of the data concerning foreign fishing activities off our coast, I think it is informative to briefly review this information to appreciate the enormity of the problems facing the U.S. fishing industry. While world fishing landings have tripled since 1938 from approximately 50 billion pounds to over 150 billion pounds, U.S. landings in the same period rose only slightly, from 4.3 billion pounds in 1938 to 4.7 billion pounds in 1973. The volume of fish harvested off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.6 billion pounds in 1973. Here again, landings by U.S. vessels remained virtually constant throughout the 25-year time span while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure that represents nearly 70 percent of the commercial U.S. coastal fish harvest.

In the same 20-year period consumption of fish products in the United States has more than doubled from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports that are often harvested in U.S. coastal waters by foreign fishing fleets, processed in the home port of the foreign fishing vessel, and exported for sale to the United States.

Today, the United States imports over 60 percent of its fish products needs. In 1974 alone, the U.S. balance-of-trade deficit in fishery products alone amounted to nearly $1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach $3 billion and result in an increase of 200,000 man-years in employment.

As a result of virtually unrestrained harvesting of U.S. coastal fishery reresources, particularly by large-scale foreign fishing fleet operations, at least 14 fish species of interest to U.S. fishermen have been overfinished and their continued economic viability has been threatened.

It is the hope of the Senators and Congressmen who have developed this legislation that we will end the unconstrained foreign fishing off U.S. coasts and set up a management regime which will promulgate sound conservation regulations.

Not only do we wish to adequately control foreign fishing activities, but would also want U.S. fishermen to harvest an increasingly larger portion of the fish stocks off our coasts. Of particular concern to me is the Alaska bottom fish industry. Last year foreign fishermen off Alaska took 1 million metric tons of bottom fish while Alaskan fishermen or fishermen from other of the United States did not harvest any of that valuable resource. It is my sincere hope that in the future Alaskan fishermen will be able to break into the bottom fish industry and ultimately fully utilize all of the bottom fish off the shores of Alaska.

Mr. President, customary international law of the sea has a rich and long tradition and has been the production of mutual accommodation, reasonableness, cooperation, and a process of claims and counterclaims. Under generally recognized principles of customary international law, the former laissez faire treatment of living resources of the sea has been replaced by a recognition of the need and duty for states to take positive action to conserve these resources. A fair statement of fact is that customary international law with respect to the question of the limits of coastal state jurisdiction over the living resources of the sea is in a state of flux. As the International Court of Justice recently stated in the 1974 fisheries jurisdiction case, no rule on the maximum limit of coastal State fisheries jurisdiction appears to have yet emerged to be finally established in international law. The fact that nearly 40 coastal States of the world have already unilaterally extended their exclusive fishery jurisidiction zones beyond 12 nautical miles provides additional substance to this statement by ICJ. Given this uncertainty in international law concerning the limits of coastal State jurisdiction over fishery resources, the positions taken at the Third U.N. Law of the Sea Conference concerning this very issue take on added significance. While I would agree that the proposals and statements made at the conference concerning this issue do not in and of themselves constitute customary international law, they are strongly indicative of a new consensus on the question of fisheries jurisdiction, particularly, as I indicated above, when combined with the fact that customary international law is currently in the process of being remolded. The action taken under the provisions of H.R. 200 can best be seen as being in concert with this rapidly emerging principle of customary international law.

In addition, it must be noted that H.R. 200 is an interim piece of legislation that would terminate upon the implementation of a comprehensive Law of the Sea Treaty which the United States has signed or is a party to. It is thus clearly not intended to preempt any international agreement concerning fishery resources pending an international settlement on the question. H.R. 200 protects United States and international interests in the living resources of the sea. U.S. coastal waters contain upward of 20 percent of the world's living resources and positive U.S. action to protect and conserve these resources, as exemplified by H.R. 200, pending international settlement on the question of coastal state control over fishery resources, not only protects the resource for the United States but also for the world community at large.

In closing, I wish to indicate that H.R. 200, in my opinion, provides the United States with an effective means to conserve and protect U.S. fishery resources. Passage of such legislation would not detrimentally affect U.S. interests, either at the U.N. Law of the Sea Conference or in the international community at large. In addition, H.R. 200 does not violate any existing provisions of international law and is clearly reflective of the propositions put forth at the Law of the Sea Conference and developing customary international law.

It is my hope that the Senate will unanimously endorse this legislation.

Mr. President, I urge everyone, as they review this record, to realize that we have tried to the maximum extent possible not to interfere with the Law of the Sea Conference. The Senator from Washington and all the others of us who served on the conference committee repeatedly have stated that we really look forward to the day when an international consensus will be reached on the Law of the Sea, one that will be ratified by at least all the fishing nations of the world and, hopefully, by all the nations of the world, so that we can have a complete understanding as to the future protection that is necessary for the oceans.

Pending that time, this interim measure will give the United States, as the Senator from Washington has said, for the first time, the opportunity to develop sound management principles to protect this fisheries resource for the future.

This legislation will enable us to take care of those foreign fish pirates as Senator Magnuson referred to them, who have come from nations that did not bother to enter into treaties with this country. Even some of those who did come from nations that have treaties, at times, have exceeded their prerogatives in fishing off our shores.

I, for one, am most pleased that we have worked out a bill which is unanimously supported in the conference. It is acceptable to the administration, I am informed, and should become a law within a very short period of time.

I am hopeful that this legislation will be a signal to people who are involved in negotiating for our country in the Law of the Seas Conference that is currently meeting in New York, for them to pass on to the rest of the nations involved in that great negotiation, that we have taken an interim step and that we stand ready to do whatever is necessary to go the full mile with all of the nations of the world who want to provide the protection the oceans should have.

Again, I join with the Senator from Washington in congratulating both the majority and minority staff, Bud Walsh in particular.

Mr. MAGNUSON. If the Senator will yield, I did mention Steven Perles, but he has done a yeoman job, too.

Mr. STEVENS. I thank my good friend. Both Steve Perles and Gerald Kovach—in fact, our whole staff, have been involved in this ongoing task of making certain that the agreements reached in conference were adequately reported here and adequately set forth in the text of this final draft of the bill before us.

I think we should say, also, that the lovely lady from Missouri, who was the chairman of the House conferees, certainly conducted the conferences, along with my friend from Washington, in a manner that permitted everyone to have his say. The result is a bill that, so far as I know, has no objection now from any source. I can say that, since we have finished the conference, I have not received any objection to any term or any provision in this bill. It is a symbolic thing, I think, that we have been able to work together in such close harmony and for a purpose which is a historic one as far as this country is concerned.

I say to the Senator from Washington that I have had no request for time on our side.

Mr. MAGNUSON. The Senator from Oregon, I believe, wants some time.

Mr. STEVENS. I yield such time to the Senator from Oregon as he wishes.

Mr. PACKWOOD. Mr. President, I congratulate the Senator from Washington and the Senator from Alaska on the conference. It was a privilege to serve with them, although I was not on any of the committees that directly concerned this bill. In my estimation, it is one of the best examples I have seen, since I have been in the Senate, of perfect political compromise. I mean that in the best sense—compromise between different views in the Senate, compromise between different views in the House of Representatives, and the administration—all the way from the effective date to the councils, to the 3-mile jurisdiction of the States. I think this bill comes as close to a perfect workable and workmanlike piece of legislation as we are liable to pass in Congress.

Let me congratulate both the Senators. They have done yeoman work. I think we are on our way at last to a genuine conservation measure to protect the fisheries of this country.

Mr. MAGNUSON. Will the Senator yield for a minute?

Mr. PACKWOOD. Yes.

Mr. MAGNUSON. I think it should be said that the whole thrust of this bill is not only to keep what I call the "foreign fish pirates" out of our waters, but to put the conservation responsibility at the local level, rather than having the Federal Government dictate all the regulations or decisions on the conservation of fish within the 200-mile limit. I think that appeals to nearly everybody.

The Senator from Oregon was helpful, too, in this matter.

Mr. PACKWOOD. I thank the Chair very much.

Mr. PELL. Mr. President, I wish to make a clarifying statement, subject to the agreement of the distinguished Senator from Washington, concerning section 201(c) dealing with international fishery agreements. In that section it is stated that—

> Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203.

In order that there is no misunderstanding as to the meaning of this section, would the distinguished Senator from Washington agree that the intent of this section is to stipulate the commitments to be undertaken by foreign nations in those cases where fisheries agreements are not in the form of treaties?

Mr. MAGNUSON. Yes.

Mr. PELL. In other words, is it correct to say that this section in no way restricts the administration concerning the form which international fishery agreements shall take?

Mr. MAGNUSON. Yes.

Mr. President, I ask unanimous consent that any other Senators who have a statement to put into the Record on this report be allowed to do so, even after the passage of the conference report.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

Mr. STEVENS. Will my friend yield for a moment?

Mr. MAGNUSON. Yes.

Mr. STEVENS. The Record should show that we concur in Senator Pell's interpretation of that one section.

Mr. MAGNUSON. Oh, yes, it shows our intent.

Mr. STEVENS. It shows our intent, and we do agree with his interpretation.

Mr. MAGNUSON. I am sure, Mr. President, that many of the members of the Senate from New England—the Senators from New Hampshire has been very active with us, the senators from Massachusetts, Maine, and Rhode Island—and those who know of the particular, unusual problem in New England. They may want to add something to the Record in this particular case.

I am sure that they will not object to our passing the conference report right now. They will have the right to place their statements in the Record. If there are any who do object, I think the Senator from Alaska and I would ask unanimous consent later on, if they want to—because we are not going to vote on some of these other matters until 3:30—that they have 5 minutes or such times as they may need to say something about it. I think we ought to go ahead. Time is running out on our fisheries. The Law of the Sea Conference is meeting in New York. We ought to pursue the matter as expeditiously as possible.

Mr. HATHAWAY. Mr. President, I would like to comment on the progress that has been made in enacting the 200-mile limit and a viable National Fishery Management and Conservation Policy.

The development of an overall Fishery Management Program has been long overdue and is necessary in assisting our efforts to reverse the decline of the fishing industry in this country.

Over the last 15 years the majority of the fishermen have seen the source of their livelihood, the fisheries resources, increasingly decimated by forces that they cannot effectively combat alone. Increased involvement by the Federal Government is essential to improve the competitive edge of our fishing fleets. Approximately 65 percent of the domestic fish market is provided by foreign imports, some that have been caught in our own coastal waters. Implementation of H.R. 200 will ease this situation, and improve the chances for increased participation by the fishing industry in supplying the domestic needs of our country.

It is well-known that the increased presence of foreign fishing fleets off our coasts, many subsidized by their respective governments, are periodically depleting the resources of our coastal States fishing grounds. In a report issued by the Government Accounting Office on February 18, 1976, entitled, "Action Is Needed Now to Protect Our Fishery Resources," a definitive conclusion is reached:

> Many fish species of importance to the U.S. fishing industry are being depleted or threatened with depletion through overfishing by domestic and foreign fishermen.

For the first time, we now have a management program that will consider regional and State interests in conjunction with overall national policy objectives, through the regional fishery management councils. I am extremely pleased that the conference report arranges the six New England States into a separate region rather than including additional coastal States extending as far south as Virginia. These other States have regional problems that do not affect the New England area and would have resulted in serious barriers to regional management determinations.

In providing for the future, the burden of enforcing the provisions of this act is a heavy one. Certain sections of H.R. 200 provide safeguards against depletion of the Nation's resources and against infringement of U.S. coastal waters by foreign fishing fleets, unless such fleets are expressly granted fishing privileges. It is the intent of Congress that the regulations be enforced and that this be done in an effective manner. Such intent should be reflected in the necessary appropriations to the selected agencies, in this case the Department of Commerce and the U.S. Coast Guard. It is of paramount importance that the provisions of this act be adhered to and enforced in order to fully realize the proper intent of the act.

This legislation is not intended to interfere with or to preempt pending negotiations at the third session of the Third United National Law of the Sea Conference. The effective date of the provisions establishing the fishing conservation zone, giving exclusive U.S. authority and enforcement, shall not be until March 1, 1977. This provision would allow the Law of the Sea Conference to follow its course, but would provide unilateral action in the event of unreconciled international debate.

Provision is also made for the Secretary to conform any regulations issued under this act to the provisions of an LOS treaty which may be ratified in the future.

In this manner, we as a nation can provide the needed management and conservation assistance to our fishing industry in the absence of international agreement, but express our willingness to abide by the international agreements that the Congress may ratify at a later date.

Once again I would like to emphasize the longstanding need for this type of legislation and hope that the Congress will act immediately to pass H.R. 200 and send it to the President for his signature.

Mr. THURMOND. Mr. President, today the Senate has under consideration the conference report on H.R. 200, the Marine Fisheries Conservation Act.

As the bill managers may recall, my amendment delaying the enforcement date until July 1, 1977 was accepted by a 93 to 2 vote. However, the conferees have agreed on a new enforcement date of March 1, 1977. This means that in less than 1 year a treaty must be reached at the Law of the Sea Conference, now underway in New York.

Mr. President, it is my feeling these 4 extra months my amendment would have allowed our negotiators might be crucial. Certainly each of us favors a treaty over unilateral U.S. extension of a 200-mile fishing zone as provided for in this bill.

Our negotiators have made substantial progress in the past few years in working out these legitimate fish conservation problems. Hopefully, it will be possible for a treaty to be agreed upon prior to the time enforcement will begin under this conference bill.

Enforcement of this legislation, and that is the only way it will be effective, will be costly and could lead to international problems as illustrated by the cod war. It is my hope such enforcement will not be necessary. With that optimistic view in mind, I shall join with the managers of this bill in voting in favor of the conference report.

Mr. MUSKIE. Mr. President, as we vote today to approve the conference report on the Fishery Conservation and Management Act of 1975, the final version of legislation establishing a 200-mile fisheries conservation zone, we reach the conclusion of a long struggle in Congress to create for our fishermen a climate in which their industry can grow and prosper.

I commend my colleagues, particularly Senator MAGNUSON and Senator STEVENS, for their diligent pursuit of this legislation. For years we have struggled in Congress to provide a means through which the valuable protein resources of our coastal fisheries could be protected against exploitive and destructive practices of foreign fleets. It has been a difficult fight but we persevered and have won the concurrence of the House and it now seems the endorsement of President Ford.

The need is obvious and the difficulty of international agreement increasingly apparent. But, the conclusion of the struggle to enact a 200-mile limit is only the beginning of the larger effort to restore our coastal fisheries and to assure our fishermen of their fair and proper share of the catch.

I had the privilege earlier this month of addressing the Maine Fishermen's Forum in Rockport, Maine regarding the implications for them of the 200-mile limit and was encouraged by the positive attitude evident at that gathering. Maine fishermen recognize that the 200-mile limit offers not a final solution but a challenge, and an opportunity for a new beginning. They are prepared to accept that challenge and pursue this new opportunity.

The challenge extends not only to our fishermen in Maine and around the country, but also to those of us in Congress who will be called on to provide continued support through implementing legislation and an expanded Coast Guard enforcement effort. And it extends to the State and Federal administrators who will develop and operate the management program mandated under H.R. 200 and to our State Department negotiators, working to achieve international agreement on the Law of the Sea and renegotiating the fisheries agreement required by this legislation. We must look to international cooperation for a long-range ocean's policy and the State Department has a major role to play in that effort.

The Eastland resolution approved in the last Congress provides the mechanism through which fishermen may propose a program of Federal support and submit that program to the Congress as a comprehensive package. The assembly which I addressed in Rockport was gathered to launch a month-long series of hearings and forums along the Maine coast. I look forward to the results of these sessions with high expectations. And, I look forward with high expectation to our experience under this bill and to a new and continuing awareness of the problems of our fishermen which this legislation represents.

Mr. KENNEDY. Mr. President, I am confident that the Senate will again today overwhelmingly approve the extension of our fishing zone to 200 miles by approving the conference report on H.R. 200.

I am delighted that two amendments which I offered in the conference were unanimously accepted and are included in the perfected version of the legislation we act on today. Both of these amendments assure that the American fishermen play a major role in the development of management programs and regulations which will affect our fish stocks and our fishing industry.

My amendment to require advisory committees to the Regional Councils assures that fishermen and those most expert in the conservation and management of our fish stocks will have the opportunity to share their knowledge and experience with the Councils before management programs are completed and sent to the Secretary for approval. These committees will assist in the preservation of regulations which will affect the revitalization of the American fishing industry and the protection of our dwindling fish stocks.

The conference committee also adopted my amendment prohibiting the adoption of regulations for American fishermen during the interim period, prior to the development of the regional management plan. Many fishermen from Massachusetts had expressed their concern to me that regulations adopted on a temporary basis, without the benefit of fishing industry input, would be difficult to amend. Our fishermen should have the opportunity to formulate and suggest their own innovative and responsible management plans and regulations rather than responding to regulations adopted hastily and with inadequate and narrow input. The most threatened of our fish stocks are those exploited by foreign fishermen. My amendment assures that all the available resources of the Department of Commerce can be employed during this interim period to assure that regulations affecting foreign fishing practices will be implemented to protect our stocks until final management plans are approved.

The issues involved in extending our fishing zone to 200 miles have been fully debated in the Senate, but I would like to add two final comments.

We are all aware that Law of the Sea negotiations are currently underway in New York on the issue of extended jurisdiction, as well as issues affecting all our ocean resources and international relationships on the seas. Our action in the Senate today complements those negotiations and encourages a successful conclusion. The interim extension of our fishing zone is just that—interim—until international agreement is reached. The extension of our fishing zone is completely in accordance with the single negotiating text under discussion for the protection of coastal fish resources. We demonstrate today the solidarity of our commitment with most of the other fishing nations of the world that effective management of our fish resources is crucial to the survival of our fish and the world's fishing industry.

We again call on all of those nations fishing off our coasts to join with us in protecting our fish resources, to work with us in managing these stocks sensibly and responsibly, to cooperate in the enforcement of regulations which will benefit all nations which depend heavily on fish protein for food. History will record that our generation ended the reckless and senseless depletion of our valuable fish resources; that we took the first steps to manage and renew our fish stocks; that we recognized that if we did not act now, it would be too late for the fish and the fishing industry.

I want to also say a few words about our fishermen. In my career in the Senate, I have never found a more dedicated or harder working group of spokesmen than the men and women in the Massachusetts fishing industry. They have taken their time from the sea they love, from the work they do to feed their families, to study lengthy and detailed legislative proposals, make valuable recommendations, meet with me to discuss their problems and suggest solutions. They did not give up 4 years ago when they faced the suggestion that extension of the fishing zone to 200 miles was an impossible solution. They did not give up when the 200-mile fishing zone legislation failed to pass the House of Representatives in the last Congress. They did not give up when they faced efforts by the Department of State and the Department of Defense to stop passage of this legislation.

It is not possible to list today the names of all the fishermen and fishing industry representatives in Massachusetts who have helped me in perfecting this legislation and gathering support for its success; but I want the CONGRESSIONAL RECORD today to show my deepest gratitude to the following people who gave me their time endlessly and unselfishly to the development of the 200-mile fishing zone legislation: Sam Favazza of Gloucester and Hugh O'Rourke and Tom Norris of Boston; Octavio Modesto and Howard Nickerson of New Bedford; Lucy Sloan of the National Federation of Fishermen; Leonard Roche and Austin Skinner of New Bedford; Jake Dykstra of the Point Judith Fishermen's Cooperative; Harry and Lucille Swain and Joseph Veiga of New Bedford. All of these people and many other fishermen from Massachusetts and from all over New England are responsible for the reasoned and sensible approach we approve today for the conservation and management of our coastal fish resources.

Time is on our side now and on the side of the fish resources and the fishing industry. We decided today to shape the limits of our fishing practices and to protect the future of our fish resources.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back my time.

Mr. MAGNUSON. I yield back all of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the conference report was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 106—A CONCURRENT RESOLUTION AUTHORIZING CORRECTIONS IN THE ENROLLMENT OF H.R. 200

Mr. MAGNUSON. Mr. President, I send to the desk a concurrent resolution which takes care of the three technical errors that were found in the conference report. They are not of any major importance. They are, literally, technical amendments. I ask that they be considered.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

Resolved by the Senate (*the House of Representatives concurring*), That the Clerk of the House of Representatives is directed to make corrections in the enrollment of H.R. 200, a bill to provide for the conservation and management of the fisheries, and for other purposes, as follows:

SEC. 2. In section 202(a)(5) of the bill strike "any" and insert in lieu thereof "such".

SEC. 3. In section 310(d)(1) of the bill, strike "(A)" and "(B)", the second time they appear therein, and insert in lieu thereof "(i)" and "(ii)".

SEC. 4. In section 311(b)(1)(B) of the bill strike "the Act" and insert in lieu thereof "this Act".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The question is on agreeing to the concurrent resolution. The concurrent resolution was agreed to.

PROTECTION OF THE KILLER WHALE

Mr. MANSFIELD. Mr. President, what is the next order of business?

The PRESIDING OFFICER. Under the previous order, the Senate will not proceed to the consideration of S. 3130, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 3130), to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments as follows:

On page 1, line 7, strike "permit" and insert "permit,";

On page 1, line 8, strike "moratorium" and insert "moratorium,";

On page 1, line 9, strike "orincus" and insert "orcinus";

On page 1, line 9, strike "species" and insert "species,";

On page 1, line 10, strike "purposes" and insert "purposes,";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding the following new subsection at the end thereof:

"(d) Notwithstanding the preceding provisions of this section, the Secretary shall issue no *permit,* during the *moratorium,* for the taking of any marine mammal of the *orcinus* orca *species,* except for scientific research *purposes,* as provided for in subsection (a)(1) of this section.".

The PRESIDING OFFICER. The time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Washington (Mr. MAGNUSON) and the Senator from Alaska (Mr. STEVENS), with 30 minutes on any amendment, debatable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time taken out of neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to add as additional cosponsors of the bill S. 3130, the killer whale bill, Senators TUNNEY, CRANSTON, PACKWOOD, and STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. CLARK assumed the Chair at this point.)

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, my remarks will not be lengthy but I think it is important that I inform the Senate of the purposes of S. 3130.

Mr. President, one of the most marvelous animals in existence is the killer whale. This marine mammal is, however, neither a killer nor a whale. There have been no recorded attacks on man by killer whales; the killer whale—orcinus orca—is actually a member of the dolphin family. This creature is at the very top of the ocean ecosystem and its only enemy is man.

Little is known about the killer whale or its habits. In the past, the killer whale was much abused and blamed for declined fish runs. But because of their small number, which may be declining, it is unlikely that they could do harm to major fish stocks. They are part of the rhythm of nature in the seas. They do have to eat, but it would break the chain of nature, the environmental chain in the seas, if they decline or if they become extinct. Today, the creature is viewed as a higher order mammal of great intelligence and of some importance to the marine ecology.

And little is definitely known about

the status of these animals or about the condition of the killer whale population. We do know, however, that these animals occasionally abound in Puget Sound in my home State of Washington. In the shallower waters of the sound, one of the great mammals can be viewed in its natural habitat. Frequently, a Sunday driver can observe killer whale families swimming in and around the inlets of Puget Sound, easily identified by the tall dorsal fin and black and white body.

The residents of Puget Sound have developed a great attachment and concern for killer whales. Consequently, there was public outrage recently when a well-known aquarium and display corporation herded five killer whales into nets in a shallow inlet near Olympia, Wash.

They even used what some people claimed to be dynamite in the straits to herd them, thus, disturbing their natural habitat and the so-called family pods. The outrage over that event has continued unabated ever since, and would continue anywhere else.

However, these captures occurred pursuant to federally issued permits. These permits were issued almost 2 years ago after considerable controversy. At that time, my colleague (Mr. JACKSON) and I objected strenuously to the issuance of those permits and still believe that they should not have been issued. When these permits were issued, the scientific status of the killer whale population was not well known, but evidence suggests that it may be declining. Consequently, we are faced not with a scientific question, but with a philosophical one which I believe the public is proper in addressing: Should the killer whale be protected until adequate scientific knowledge is available about its status? My response to this question is simple—wait until we are absolutely convinced that the removal of these creatures from the wild will not harm the future of the killer whale population. I think it will and others who have studied the problem think it will also. What little it known about the killer whale is summarized in the June 1975 Report of the Department of Commerce on the administration of the Marine Mammal Protection Act, which was passed in 1972. The act involved the protection of marine species in the oceans.

Mr. President, I ask unanimous consent a portion of that report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD. as follows:

KILLER WHALE

(*Orcinus orca*)

Distribution and Migration.—The killer whale is worldwide and ranges north and south to polar ice. It is more common in cooler waters, and in more productive coastal areas. The Strait of Georgia in British Columbia, Prince William Sound in Alaska, and Puget Sound in Washington State are areas of concentration. Migratory habits are probably dependent on food supply, and killer whales are most numerous in Puget Sound in November and late summer. In Japan, most of these mammals are taken from April to November, with the greatest number from August to November. In the Norway fishery, killer whales seem dependent on distribution and migration of herring, capelin, and cod.

Abundance and Trends.—Authoritative estimates of the world population are not available. A limited cooperative effort of the Fisheries Research Board of Canada and the Washington State Department of Game primarily in the inside waters of Washington and British Columbia gave counts of 459 killer whales in 1971, 255 in 1972, and 249 in 1973. About 65 individuals have been removed from inside waters of British Columbia and northern Washington State during the past 8 years for display by marine aquariums in 25 capture operations. Eleven of these whales were killed during U.S. capture operations, mostly during the early years. Two killer whales were killed in Canadian capture operations. The Japanese fishery took 567 killer whales from the Okhotsk Sea to south of Japan from 1948 to 1957. Norwegians harvested 1,417 in the northeastern North Atlantic between 1938 and 1967.

GENERAL BIOLOGY

Species Statistics.—Females grow to 7.0 m and males to 8.2 m. Males weigh up to about 8,000 kg, with about 4,000 kg the apparent limit for females. An adult male dorsal fin may be 1.8 m high, considerably higher than that of the female. The body has conspicuous white markings on a black background.

Reproductive data.—Breeding appears to occur year-round although it may peak in May to July; gestation lasts 13 to 16 months. In the northern hemisphere births occur mostly in autumn.

Age-growth data.—Newborn calves are about 2.4 m long and weigh about 180 kg.

Feeding habits.—Killer whales usually are found in groups of 10 to 100 or even more. The males are probably polygamous. Killer whales hunt successfully in pack, but there are no records of attacks on people.

The stomach content of 364 killer whales taken off Japan from 1948 to 1957 included (in order of occurrence): fish (mostly cod, flatfish, and sardines), squid, octopus, dolphins, whales, and seals. Salmon constituted 1.6% of all stomach contents. Soviets in the Kurils recorded "fish and squid" but no marine mammal remains in 10 animals. Of 10 killer whales examined by the National Marine Fisheries Service, Seattle, 6 adult males had only marine mammal remains except for 1 squid; 1 adult female and 1 immature male had only fish remains.

Parasites and Diseases.—The most common diseases are those caused by wearing of tooth crowns and denudation of the pulp cavity, which results in abscesses. Other diseases include bony outgrowths and bone tumors. Parasites include nematodes, cestodes, and trematodes. One Puget Sound killer whale stomach contained 5,000 nematodes.

Ecological Problems.—This species has no natural enemies except man. Stranding probably is the greatest nonhuman hazard.

Allocation Problem.—Public interest in killer whales was stimulated by the first live capture in 1964 in British Columbia. Growing public interest is increasing in killer whales as a recreational resource, especially in Puget Sound. The animals are commercially valuable in the United States for display in oceanariums. U.S., Japanese, and Canadian fishermen contend that the whales cause gear damage and interfere with salmon and tuna long-line fisheries. Many consider killer whales an important predator of salmon and herring; others defend them as the natural enemy of other fish eaters, including harbor seals and sea lions. Some sports salmon fishermen claim their presence spoils fishing.

Current Research.—The National Marine Fisheries Service and the Fisheries Research Board of Canada are studying killer whale distribution in western U.S. and Canadian waters.

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Mr. MAGNUSON. Mr. President, based on this view, I requested the creation of a whale sanctuary in Puget Sound, so that the animal could be studied and examined, and that no permits for public display be issued until such time as we have better information about the killer whale population. Existing law allows for the creation of a killer whale sanctuary. However, the State of Washington's Department of Game, which was given authority by the Governor to decide on this proposal, did not approve a killer whale sanctuary at that time. Just prior to the capture of these five killer whales, I renewed my request to the National Oceanic and Atmospheric Administration to create a killer whale sanctuary in Puget Sound. I also wrote to Governor Evans to request him to review his decision on the proposed sanctuary. He has answered in the affirmative. I am now confident that a sanctuary can and will be created in Puget Sound so that one of Puget Sound's most unique living natural resources is protected. I must also state that the bill would, in effect, create a sanctuary in other U.S. waters as well.

However, existing law still allows considerable discretion to the Federal Government to issue permits and to create a sanctuary. The National Oceanic and Atmospheric Administration advises me that they may try and do so. I believe that this is a matter which should be taken out of their discretion, in view of what they did on the permits 2 years ago. Consequently, this bill would create a statutory prohibition on the capture of killer whales. The bill provides that the Secretary shall issue no permits for the taking of any marine mammal of the orcinus orca species. The basic thrust of the Marine Mammal Protection Act is to create a moratorium on the capture of marine mammals, but certain exceptions were provided. I believe that, in the case of the killer whale, we should return to the complete moratorium, with an exception for scientific research purposes.

Mr. President, I send to the desk an amendment to this bill which would clarify the provisions of the Marine Mammal Protection Act regarding scientific research. I offer this amendment so that scientific research could only be done while the captured animal is in the water. Furthermore, no research which would endanger the killer whale's health or well-being is to be allowed.

This amendment is a result of the concern over the methods of research being used on these whales. I do not really like to call them killer whales because that is a misnomer.

The same thing will happen in other areas where they might come into shallow waters, which they frequently do, in their migration through the Pacific Ocean. There are even a few in the Atlantic.

The PRESIDING OFFICER. Floor amendments are not in order until the committee amendments are disposed of, the Chair would advise the Senator from Washington.

Mr. MAGNUSON. Mr. President, we do have some technical committee amendments.

The PRESIDING OFFICER. There is a series of committee amendments.

Mr. MAGNUSON. Mr. President, there has been all kinds of publicity about this matter. I would not put the whole amount into the Record, as it would cover the entire Congressional Record. I do ask unanimous consent to have printed in the Record recent articles from the Seattle Post Intelligencer and an editorial from the Seattle Times. There are other newspapers in the Pacific Northwest which have editorialized against touching these whales.

There being no objection, the articles and the editorial were ordered to be printed in the Record, as follows:

[From the Seattle Times, Mar. 8, 1976]

Let Whales Frolic in Sound

Two years ago, environmentalists pleaded at a federal hearing that no more permits be issued for the capture of killer whales in Puget Sound until much more is learned about their existing populations, migratory habits, and general life history.

The Times wholeheartedly agreed with the environmentalists, who sought to block the efforts of a California firm to obtain a permit for the capture of four killer whales for exhibition in private marine parks.

The point could be made, we noted, that a loss of four whales would not exactly decimate the North Pacific whale population.

"But how much harassment of the spectacular creatures would be involved in capturing those four whales?" we asked. "How many animals would be pursued from cove to cove and bay to bay, to the possible permanent disruption of their life patterns?"

The National Oceanographic and Atmospheric Administration turned a deaf ear to that plea, however. The permit was granted. And yesterday a large number of Olympia residents, ashore and afloat, witnessed the exercise of that permit in Budd Inlet.

Harassed by a trawler and several smaller boats and terrorized by a low-flying seaplane, five whales were driven into nets as the first stages of a potential lifetime captivity.

The Budd Inlet spectacle can only serve to heighten the determination of conservationists who have worked for years to have Puget Sound declared a sanctuary for killer whales.

That effort gained considerable ground when the Legislature in 1971 empowered the State Game Department to oversee marine mammals in state waters.

In 1972 the Game Commission followed through by banning the further trapping of killer whales south of a line from Point Wilson to Admiralty Head and the Deception Pass Bridge.

Then came the "feds."

Under federal legislation, the state agency was superseded by federal officials, who granted the permit exercised yesterday.

While we do not question that there is some scientific and recreational value in the properly regulated capture of a limited number of whales, we do question the pursuit of that activity to Puget Sound.

The striking black-and-white creatures are the largest and most spectacular in Puget Sound waters. To permit their continued pursuit for commercial purposes—no matter how carefully regulated—might well cause their disappearance from the area.

Surely the magnificent mammals make a much better attraction in Puget Sound's sheltered bays and inlets than in the close confinement of commercial exhibits.

[From the Seattle Post-Intelligencer, Feb. 29, 1976]

The Killer Whales of Puget Sound

(By Eric Nalder)

The killer whales of Puget Sound are going to be hunted this year.

Some people will be capturing them and others will be counting them. It is sort of a race.

Don Goldsberry, who captures killer whales for Sea World Inc. aquariums across the country, says he'll try his best to catch four of the big mammals this summer.

The U.S. Department of Commerce permit authorizes him to take four killer whales from the Sound. He hasn't caught one yet. The permit, issued in 1972, expires Dec. 31.

The National Marine Fisheries Service will be counting the whales. Ecologists hope the counting will put the lid on the capturing.

By preliminary indications, the census will show far fewer killer whales living in the Sound than previously believed.

Dr. George Harry, director of federal marine mammal studies here predicted a surge of scientific effort. "Near the end of this year," he said, "we will know as much about killer whales as we are going to know for several years."

The census will be conducted from April to October, using a method recently perfected by Canadian Marine biologist Dr. Michael Bigg.

A University of Washington fisheries professor, working with Goldsberry, hopes to learn more about killer whale migratory and reproductive habits in the wild. He'll use radio equipment attached to the whales' dorsal fins.

Ecologists, aquarium operators and researchers have been invited March 12 and 13 to Evergreen State College for a killer whale conference—the First International Orca Symposium—organized by Mark Overland, a psychology student interested in whale behavior.

Another naturalist, Rues Mohney, with Pacific Search magazine, will renew efforts to get the state to declare a killer whale sanctuary in Puget Sound, pointing to a ban on killer whale captures ordered by the British Columbia provincial government last September.

Dr. Bigg and his U.S. counterpart in Seattle, Dr. Michael Tillman, will report to their respective governments on whether to permit killer whale capturing and, if so, under what new conditions.

Killer whales swim in all oceans of the world, but they are important in Puget Sound because they are captured here and they are well known to the local public. Ironically, it was Goldsberry and his former partner Don Griffin who made them so popular—and who slowed the old practice of using the "black fish" for rifle target practice.

Goldsberry and Griffin captured the famous whale, Namu, kept him alive in captivity for a year, trained him, and enamored the public with him.

But a whale-conscious public has turned its wrath on Goldsberry, a man who says, "I love those animals."

In British Columbia and Washington, 263 killer whales were caught between 1962 and 1973. Of those, 50 were kept for aquariums and 12 died during capture operations, government surveys show.

This summer's research by relative newcomers to killer whale work could wave a warning flag about further Puget Sound operations.

Dr. Bigg has counted killer whales in Puget Sound, the Straits of Juan de Fuca and the Georgia Straits, and he puts the number at 210, he said at a meeting of the U.S. Marine Mammal Commission in Burien last week.

Bigg believes only 60–65 killer whales roam Puget Sound waters. This is substantially lower than previous estimates.

Goldsberry and others say there have been as many as 300 killer whales in Puget Sound at one time.

"I have a record book that goes back to 1955 and I guarantee you, I haven't seen all the whales here," Goldsberry said, "What is Bigg accomplishing?"

Bigg also counted killer whale families, or "pods," in the Sound and straits and he says there are 19 pods, but only one, consisting of 15 whales, that makes its year-round home in the Puget Sound area.

Bigg said pods are "permanent family groups which appear to stick to community territories." Tillman added, "If there is a pod resident to Puget Sound, you wouldn't want to harvest it because by harassing it you might drive it out."

Thus Robert Eisenbud, Washington, D.C., attorney for the U.S. Marine Mammal Commission, said Bigg's pod research could lead to regulations on capture of killer whales by pod, rather than by general population.

Goldsberry criticized that idea, saying, "I would have to round up more pods if I were limited to taking one whale per pod."

Previous counts of killer whales in Puget Sound have involved numbering them as they pop their heads out of the water, but Bigg's technique involves photographing them and counting them in the pictures. He has taken 7,000 photographs and he identifies each individual by injuries and distinctive white "saddle" marking behind the dorsal fin.

Tillman said Bigg's technique is "unique, very clever" but he wants to repeat it in Puget Sound to check the results. If his count is the same as Bigg's, he wonders if this won't mean tougher capturing regulations.

"To be told there are less animals when we thought there were 300 . . . could change the feeling about how many could be safely harvested," he said.

Goldsberry wants scientists to do much more before any conclusions are drawn. He wants definitive studies on the unknown whale migratory patterns in the open sea and on whale reproduction. He says the pods Bigg has identified have replenished healthily since his capture operations.

Working with Dr. Albert Erickson, professor of fisheries at the University of Washington, Goldsberry has put two dolphins from Sea World's San Diego aquarium into an isolated cove in Washington State to study use of radio packs for whales. He said the study started two weeks ago.

"We will use this technique on whales to keep track of them for great distances and long periods of time," he said.

Goldsberry hopes to couple his capture operations with attachment of radio packs to the whales he releases, but adversaries like Mohney are resisting that too.

Mohney and some scientists say the radio packs can injure the whales, and Mohney said, "I think what Goldsberry is doing is morally wrong."

Dr. Tag Gornall, a veterinarian who works with Goldsberry, retorted, "Suddenly we are seeing all kinds of whale experts coming out of the woodwork. It makes you wonder."

[From the Seattle Post-Intelligencer, Feb. 29, 1976]

The Killer Whale—Ocean's Toughest

(By Eric Nalder)

Who is the toughest beast in the ocean? The killer whale, he has earned his name.

Dr. Tag Gornall, a veterinarian who has studied the killer for 11 years, says in a fight between the Great White Shark of the movie "Jaws" and the killer whale, "The shark wouldn't stand a chance."

And several whale experts fully expect an incident someday where a killer whale kills a man.

Gornall said curious people are getting closer and closer to wild killer whales these days—believing them to be kind, sensitive beasts.

Divers have been among these close-range sightseers and Gornall said, "there is no reason why someday a killer whale wouldn't peel the wrapper off of one of these divers and eat him."

The killer has 64 conical teeth and jaws powerful enough to tear apart other whales. The male grows to about 28 feet long and weighs up to six tons.

Its stomach has three compartments and an appetite that includes whole sea lions, minko whales and tons of fish.

Strange diet for an animal that is closely related to the cow—evolving from a land animal who found a better food supply in the ocean and replaced its nostrils with a blowhole.

But now the killer whale sits on top of the oceanic food chain, nothing preys upon it.

Its body is protected by four to five inches of blubber which keeps it warm, stores its required fresh water, keeps its reserve food and makes it streamlined in the water, said Dr. Mark Keyes, a veterinarian with the National Marine Fisheries Service.

Sonar is the nearsighted killer whale's navigating equipment. Emitting clicks and receiving echoes, the killer sounds its way through the ocean, with a range estimated at 30 miles.

The sensitive sonar also compensates for the killer's poor sense of smell. Experiments show the killer whale can determine texture, thickness and all details of an object with its sonar.

The animal's intelligence is the most controversial of its traits. Some believe it is as smart as a dog and some say it is more intelligent than man.

Northwest Indians believed killer whales had villages under the sea and that anyone who hunted them, would in turn be hunted by killer whales themselves. Three anthropologists at different Pacific Northwest universities said they doubt the Indians hunted the killer.

The Quilloutes thought killer whales and wolves were the same—with magical powers to be either animal at will.

And people who view them in aquariums today think they are lovable giants who sometimes wear sunglasses and funny hats.

"They should not be looked on as people," said K. Gilby Hewlett, curator of the Vancouver Aquarium, who said his two killer whales are taught to demonstrate nothing but natural behavior.

Gornall and others lament the nasty-nice seesaw of public opinion about killer whales. Gornall thinks we should lay off the subject.

"We've got to get out of this mystique of this big, tuxedoed individual," said Gornall, referring to the black and white killer whale markings.

"What about the poor, ill dressed harbor seal? Does anyone care about him?" he said.

The killer whale does. It likes to eat harbor seals.

[From the Seattle Post-Intelligencer, Mar. 1, 1976]

A New Namu for the Area?

(By Eric Nalder)

Aquarium operators are considering a new Namu for this area—but not necessarily in Seattle.

Seattle has not had a killer whale in captivity since 1973 when "Sandy," the killer whale rescued from a beaching near Ocean Shores, was moved from Seattle to the Sea World Aquarium in San Diego.

The most famous was Namu, a bull kept in an Elliott Bay pen for a year in 1955 until he died from an infection.

Don Goldsberry, president of the Sea World's Northwest Marineland and operator of the Seattle Marine Aquarium, has indicated his firm would like to display another killer whale in this area.

Another source has reported the Seattle Marine Aquarium may move from its Pier 55 location to some nearby city after the city's Seattle Aquarium opens on the waterfront Nov. 25. The source said Goldsberry's firm wants to avoid direct competition with the city aquarium, which will be two piers away.

And at the new aquarium, Sea World might build a killer-whale tank.

The city's $5.4 million aquarium will not have space for anything as large as a killer whale, according to H. Doug Kemper Jr., director of the city aquarium.

"But I'm looking now at the cost of adding—at some future date—a marine-mammal facility to house cetaceans (whales and dolphins) up to killer-whale size," he said.

Kemper estimated the cost of a whale house at $1.5 to $2.5 million.

There are killer whales in captivity in such cities at Vancouver, B.C.; Victoria, B.C.; San Diego, Calif.; Miami, Fla.; Niagara Falls, N.Y., and in Japan, England and Holland.

Goldsberry is the only man in the world with a U.S. Department of Commerce permit to catch killer whales, but he has not taken one since 1972, following a flurry of captures in the late '60s.

George E. Steele Jr., lobbyist for aquarium operators, said Goldsberry has been hampered by the regulations of the Marine Mammal Protection Act of 1972, which prohibits capture of whales between the Tacoma Narrows Bridge and the middle of Whidbey Island in Puget Sound Inlet.

Ecologists say the rules are not strict enough and there should be no captures. They believe the people should see killer whales in their natural Puget Sound environment.

Goldsberry has been trying to capture the whales. On Labor Day last year, he netted 20 killer whales near Bellingham. He said he let them go because the tide threatened to collapse the net on the whales and drown them.

Goldsberry said tides are one of the biggest problems in his capture operation, which involve spotter airplanes, boats, nets and big slings to lift the whales out of the water.

But Goldsberry must follow the rules of his contract as well as the tide charts, and in the Bellingham incident he got in a tangle with U.S. "game agents."

Goldsberry did not have a representative of the National Marine Fisheries Service aboard his boat when he netted the whales, although he said he did try to notify them. He is required to notify them and give them time to get aboard. He told game agents his radio malfunctioned and he also complained that no agents were available.

"The Labor Day incident upset us. We did not like the situation," said Steve Powell, regional counsel for the National Oceanic and Atmospheric Administration.

NOAA's marine fisheries agents have set up a new communications system with Goldsberry, and they report they have had no problem since Goldsberry's contract with the government stipulates everything from capture procedures to care of the animals. Penalties for violation range up to a $20,000 fine and one year in jail.

Killer whales are valuable. Namu was purchased for $8,000, the average killer in 1970 was worth $20,000 and the estimated total worth of the 48 whales captured in British Columbia and Washington is now about $1 million.

At least 12 of the whales have died during capture attempts and about half of the captured whales died in captivity by mid-1974. Goldsberry said the whales are very susceptible to infection.

Care of killer whales in captivity is meticulous and expensive. K. Gilbey Hewlett, curator of the Vancouver Aquarium, has kept two killer whales for almost nine years. They consume 45 tons of herring, ling cod, flat fish and mackerel each year, plus vitamins, for a total annual cost of $20,000.

Consulting veterinarians cost $500 each month, water filtration costs $1,400 per month and the marine-mammal staff is paid about $6,000 per month, he said.

Of course, noted one ecologist who agreed that the care is excellent, the private aquariums (Vancouver is nonprofit) are making money.

Mr. MAGNUSON. Next, Mr. President, I ask unanimous consent to have printed in the Record a certified copy of a resolution passed by the Washington State Senate strongly protesting the taking of killer whales in Puget Sound.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Resolution

Whereas, Certain species of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities and such species should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part; and

Whereas, There presently exists within Puget Sound and the salt waters contiguous thereto a species of mammal commonly known as the "killer whale"; and

Whereas, There is inadequate knowledge of the ecological and population dynamics of such mammals and of the factors which bear upon their ability to reproduce and survive in an atmosphere of continuing encroachment by man; and

Whereas, It is the sense of the Washington Legislature that the killer whales should be protected and encouraged to develop in a natural state and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem; and

Whereas, Present methods and techniques of pursuing and capturing the killer whales present substantial and serious questions as to their efficiency, humaneness and effect on marine life in this delicate ecosystem;

Now, therefore, be it resolved, By the Senate of the State of Washington, that the United States Congress be requested to declare an immediate moratorium on the intimidation, harassment, hunting and capturing of killer whales in Puget Sound and adjacent salt waters;

Be it further resolved, That the United States Congress be requested to direct the appropriate federal agencies to cease issuing permits to hunt and/or capture this mammal and revoke all such existent permits;

And be it further resolved, That copies of this resolution be sent to the United States Department of Commerce, the National Marine Fisheries Service, members of the Congressional delegation from this state, the Marine Mammal Commission, and the Scientific Advisors on Marine Mammals.

Mr. MAGNUSON. Mr. President, I call up the committee amendments.

The PRESIDING OFFICER. The committee amendments will be stated.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that they be considered en bloc.

The committee amendments were agreed to en bloc.

Mr. BAKER. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, what is the parliamentary situation with respect to time and the control of time?

The PRESIDING OFFICER. The time is controlled by the Senator from Washington and the Senator from Alaska, 30 minutes to a side.

Mr. MAGNUSON. I am sure the Senator from Alaska would yield such time as the Senator from Tennessee wishes.

Mr. BAKER. The Senator from Alaska is temporarily not in the Chamber. Would it be in order for me to ask unanimous consent to proceed for 3 minutes to be charged against the Senator from Alaska?

Mr. MAGNUSON. Mr. President, I yield 3 minutes from my time.

Mr. President, I ask unanimous consent to add the name of the Senator from Georgia (Mr. Nunn) as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I yield the Senator from South Carolina 7 minutes.

Mr. BAKER. Mr. President, I rise to say that I have some question about this measure. I understand and I am sympathetic with the concern expressed by the distinguished chairman, as are other members. I have long been interested in the preservation of the natural balance of aquatic life, and particularly the preservation of our more exotic and rare species.

What I am about to say in no way is meant to signify a lack of concern for the future of the giant dolphin, the killer whale. It is to say, Mr. President, that this is the first information I have about this matter. I believe I am correct in saying that the bill was reported from the full Commerce Committee without hearings of any sort, without any request for, or any statement of, positions by any agency or department of the Executive Department of Government. It very well may be that there ought to be a total prohibition on the taking of killer whales, but I am totally at a loss to be able to agree or disagree with the assertions of some that the method of taking is inappropriate, that the population is endangered, that the method of keeping the mammals is inappropriate, or that they do not have a general scientific value beyond that of a specialized scientific purpose.

I have no aquarium in my native State that is directly affected, but I have had expressed to me the concern of zoo keepers, aquarium operators generally, and others who suffer the same disability I do. That is, we do not fully understand, we fear, the consequences of this legislation.

I might say, Mr. President, I do not intend to ask for a rollcall vote on this measure, and I do not intend to vote against it. I simply want to express my concern. I have no amendment to offer. I do hope that when the House takes up this measure and our colleagues of the other body turn their attention to it, they may see fit to have some hearings or at least solicit the comments of the Federal agencies involved.

It may be, for instance, that the designation of Puget Sound as a sanctuary would be a solution to the particular problem that the distinguished Senator from Washington identified. I heard with interest his statement that a suggestion to that effect was made but not concurred in by the State of Washington. I have no idea why the State of Washington did not concur and, therefore, cannot and should not comment on the appropriateness of that action. But if there is abuse there, maybe that is the answer, to declare Puget Sound as a sanctuary.

If there are problems in the technique for catching the whale, for instance the use of dynamite to alter the native habitat, maybe the statute ought to direct itself to the measures and techniques for capture. It seems fairly potent medicine to make an absolute prohibition against the taking of these mammals altogether, particularly when substantial interests are involved, both scientific and economic, in a number of locations.

I do not claim that the Senator from Washington implies this, but it would be easy to say that Sea World, which operates three of these, in which I have no earthly interest, financial, constituent-wise, or otherwise, does not handle the safekeeping of these mammals properly. I simply do not know that. I have been advised that the revenue derived from the showing of these mammals is in fact used to support a substantial educational program and scientific research. I cannot attest to that personally, because I simply do not know.

This is but one of the several things I do not know about this measure, Mr. President. Since I come to the controversy late, as I indicated previously, I will not oppose the passage of the bill, nor will I offer an amendment, but I do hope——

The PRESIDING OFFICER (Mr. Stafford). The Senator's time has expired.

Mr. BAKER. I hope the matter will be considered further at a later time.

Mr. THURMOND. Mr. President, I am sympathetic to the concerns which brought about this legislation; however, I question whether or not this bill is wise or has been properly considered.

Moreover, I think the Senate should be aware of some concerns on the other side of the question, as expressed to me in a letter from the executive director of the Columbia Zoological Park, Columbia, S.C. My constituent feels that this legislation goes further than necessary to provide desired protection for the killer whale and sets a dangerous precedent. He is greatly concerned that Congress could easily slip into an unwise pattern of passing special legislation to prohibit the taking of any animal which a particular interest group wants protected.

Should this happen, he feels it would not only put commercial zoological parks and aquariums out of business, but also would deny the vast majority of the American people the opportunity to ever see and appreciate rare animal species. My constituent further feels that present laws are adequate to protect threatened animal species and that this legislation is based more on emotional reaction to a few unfortunate events than on valid, scientific factual evidence.

Mr. President, I do think zoological parks have made great progress in developing habitats for rare animals that often equal or exceed the quality and protective nature of the environment enjoyed by the same animals in the wild. The Columbia, S.C., Zoological Park is one of the leaders in this respect, and I have high regard for the work they are doing for the educational and recreational benefit of the public.

Since 1970 I have followed with interest the design and establishment of the Riverbanks Zoological Park located in Columbia, S.C., and on several occasions I have become involved in its operations. Last spring, it was my pleasure to present the Riverbanks Park with two northern bald eagles, which are on loan from the U.S. Fish and Wildlife Service and are still on display. I have also cooperated and assisted Riverbanks personnel with USDA officials, clarifying complications with the importation of exotic birds destined for Columbia, and I have enjoyed a rewarding experience at the handicapped citizens day sponsored by the Park last May. On all occasions, the operation of the zoo has impressed me as being efficient and well organized.

This park, with its 140 acres, 200 mammals, and 700 birds, offers a tremendous cultural and educational experience to those citizens in our State and others who may wish to visit. Since 1974 one-half million people have enjoyed the facility. The zoo's design has received national recognition on several occasions and is recognized by the American Association of Zoological Parks and Aquariums and the USDA as one of America's major zoological parks. South Carolina has no other similar project, and this most worthy facility is a credit to the people of South Carolina.

Mr. President, I ask unanimous consent that a letter from Mr. John M. Mehrtens, executive director of the Columbia Zoological Park, which outlines his concerns about this bill, be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I hope my colleagues in the Senate, and especially the members of the Commerce Committee which has jurisdiction over this legislation, will carefully consider his views and keep them in mind should similar problems be brought before the Senate in the future.

In order to clarify several points regarding this bill, I would now like to propound the following questions to the distinguished chairman of the Senate Commerce Committee and the author of this bill, Senator Magnuson:

First, is the killer whale classified by the U.S. Department of Commerce as an endangered or threatened species?

Mr. MAGNUSON. It has not been yet, because they do not have the research on the killer whale that they would like to have. That is the purpose of my amendment to the bill. But we have every indication that in the Pacific Northwest, where they are found—and they come into several areas, like San Francisco

Bay—they have been declining. British Columbia scientists feel that they have declined considerably for some years, and that is why I have the scientific research provision here, so we can find out.

They run in families called pods of perhaps 5 to 10 in size—little ones, males, and females. It is hard to get them all together and track them down because when they are constantly on the move they cannot be counted very well. But there is information of some who has looked at it that indicates that they have declined. They may even have reached the point where they are an endangered species.

Mr. THURMOND. Second, what unique set of circumstances justified this special legislative action to prohibit the taking of the killer whale?

Mr. MAGNUSON. I did not hear that.

Mr. THURMOND What unique set of circumstances justifies this special legislative action to prohibit the taking of the killer whale?

Mr. MAGNUSON. Well, No. 1, because they are depleting the species when they do it. No. 2, the way they do it may be inhumane. Most of these whales die in captivity after they have been captured. Some scientists say they suffer like a human being. They are intelligent, these dolphins, and some believe they suffer almost a nervous breakdown, and will not eat. A lot of them try to get out——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. I yield myself from my own time to answer the Senator's question.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. When you figure that the nets they are kept in are no bigger than one-fourth of this Chamber, you can see that they try to get out and harm themselves, which may even kill them. If they catch a mother killer whale, and she has a young one, the young one will hang around outside the pen and whine and cry; it makes you sick to your stomach to listen to them cry. They cry like babies, or vice versa.

Some said Sea World used dynamite up along the straits of Juan de Fuca, to herd the killer whales for capture. That would disturb all the orca coming in. As near as we could figure, there were only about 300 coming in along the coast of British Columbia this year. There have been a great deal more.

Most fishermen feel they are not disruptive of fishing operations. Sure, they eat some salmon. But their removal disrupts the chain of nature, the ecology of the sea.

They have never been known to bother anybody. As I say, they are very highly intelligent mammals. Some people say they are more intelligent than any other porpoise. They are larger, of course.

And many people are concerned about the method that has been used in order to capture them and put them in a pen. Much of this, I would like to say, is for greed. They are worth, someone tells me, about a half million dollars apiece if you can catch one and get it in a commercial zoo or marine aquarium. Then they charge people an entrance fee.

We are trying worldwide to stop the killing of all whales. That has been debated internationally for some time now. I hope someday we do stop the killing of all whales. We have nearly every country in the world with us, with the exception of Russia and Japan. Norway has ceased hunting whales. They used to be big whale hunters.

Mexico has a ban on the capture of the California gray whales, which come into a little bay in lower California where they breed. They will not let anyone get near them.

We are just trying to preserve the ecology of nature as it should be in the seas.

What some people want to do is to tag the killer whales in order to try to find out more about them, and some people object to that. Under the bill, we allow taking for scientific research purposes, if there is a hearing, and the Department of Commerce issues a permit. NOAA supports this bill. But there can be a problem with the way they treat these whales. It is absolutely inhuman treatment, in my view, when they are put in a pen. There is only one whale of which I know that seems to be happy in a pen. How long it has been there, I do not know, but it is in a marine aquarium in Vancouver, British Columbia. But most of these mammals die in captivity.

The Senator from Tennessee was talking about the concern of an old friend of ours. There are two of these whales down in Miami, where the Sea World aquarium is located. There were two of them. One of them just died. They cannot last long. We ought to have a moratorium and find out more about them. When we do, then I would be the last to protest if some zoo or aquarium wanted a killer whale. But it is so costly that I do not know of any zoo or aquarium any more that can afford one.

Mr. THURMOND. Third, is the distinguished Senator in agreement with me that it is not the intent of Congress, through passage of this bill, to establish a precedent for special legislation to single out and protect other species of rare animals, on an individual basis?

Mr. MAGNUSON. No, it is not, and all other animals or birds, or whatever they may be, are covered by the Endangered Species Act or by the Marine Mammal Protection Act. The Senator voted for it, as did I. I think that was passed in 1972.

I think there ought to be a moratorium on the taking of killer whales, at least until we can find out more about them. This is my opinion.

Mr. THURMOND. Fourth, will the distinguished chairman give his assurance that any future legislation of this nature will receive a full and fair hearing, with an opportunity for input from the zoological community, the administration, and other concerned public citizens?

Mr. MAGNUSON. Why, of course. But this has been a kind of emergency. Two of these mammals escaped the nets of Sea World. They cut themselves up pretty bad getting through the nets. One of the captured whales is now up at the University of Washington.

They will be releasing them and letting them go out to sea after they put some kind of radio in their fins. This is the way they treat them, but they cannot live that way.

Mr. THURMOND. Mr. President, I thank the distinguished chairman of the Committee on Commerce. I appreciate his frank answers to the questions I have propounded to him. Based on these assurances, I shall not object to the passage of this bill. However, I emphasize that I do not think it is a wise policy to react to specific, isolated problems in this manner, and I have serious reservations about the wisdom and necessity of this bill.

EXHIBIT 1

COLUMBIA ZOOLOGICAL PARK,
Columbia, S.C., March 19, 1976.

Hon. STROM THURMOND,
Dirksen Building,
Washington, D.C.

DEAR SENATOR THURMOND: I am *greatly concerned* over the recently introduced bill, S-3130 amending the Marine Mammal Protection Act to prohibit all display permits for Killer Whales regardless of where taken in the world. S-3130 was introduced by Senator Magnuson on 11 March. On Tuesday, 16 March, Senator Magnuson, who is also Chairman of the Senate Commerce Committee, secured unanimous approval of this bill in executive session. This approval, to the best of my knowledge, received no input from the zoological community or the public.

It is my understanding that Senator Magnuson will attempt Senate passage by unanimous consent early next week. Passage of such emotional legislation without any valid basis of fact or demonstrated need can set a precedent that could be expanded to include anyone's personal wildlife fancies such as primates, porpoises, large cats and/or exotic birds. Further, passage of such a bill would deny most Americans the opportunity to ever see, appreciate, or experience a living killer Whale. In addition, the scientific and technical knowledge gleaned from the mere handful of captive Killer Whales throughout the world contributes materially to a better understanding of the animal as a wild entity and would be, in effect, terminated by passage of such an act.

Emotional legislation of this type based on anthropomorphic misinterpretations of real and/or imagined situations is, in my opinion, as a professional zoologist, not in the best interests of the American public, the American scientific community, and the animals themselves.

I most respectfully request that you familiarize yourself with S-3130 and submit an objection to its passage without proper input from the public and the professional zoological community.

I appreciate your consideration and support. I believe that Senator Magnuson will seek unanimous Senator consent on the 22nd or 23rd of March, thus my great concern for immediate action.

Respectfully yours,
JOHN M. MEHRTENS,
Executive Director.

Mr. PEARSON. Mr. President, I yield 5 minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the distinguished Senator yielding. I rise only for the purpose of obtaining further information about the measure before us to provide protection of the killer whale.

I notice the report refers to a moratorium, and I wonder if the distinguished Senator from Washington, the principal sponsor of the bill and chairman of the committee, could tell me how long is this moratorium.

Mr. MAGNUSON. We could not have any special date or specify how long it would be. That is why I have this floor amendment so that someone can take a good long look and find out more about these mammals. Under the Mammal Protection Act, we have what we call oversight and review authority over what they are doing on the whole question of endangered species in the oceans. We would gladly take a look at it in a hearing on the scientific research relating to these mammals. But in the meantime the population of the killer whale is going down, down, down.

Mr. WILLIAM L. SCOTT. Mr. President, as I understood the distinguished chairman a few minutes ago, he indicated that killer whales were not on the endangered species list. Did I correctly understand?

Mr. MAGNUSON. It is not now, no.

Mr. WILLIAM L. SCOTT. Not now?

Mr. MAGNUSON. No, but I say to the Senator from Virginia that I would like to put it on the endangered species list.

Mr. WILLIAM L. SCOTT. If the distinguished Senator will comment further, I have this brief report before me, and on page 2 it says:

> Since the population dynamics of the killer whale in Puget Sound is not well known . . .

I wonder what is the population? Is the Senator saying he does not know how many of these killer whales there are and yet he wants to put them on the endangered species list without knowing how many?

Mr. MAGNUSON. There is pretty good evidence that in the waters around British Columbia and in our area, there are only approximately 300. This is my best evidence. And as I say they run in pods, or family groups, and they are pretty difficult to count. Maybe more research will give a better count. But they are not a very big population to begin with.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished chairman further: Are they located elsewhere in the world, or is this the only known place where the killer whale is located?

Mr. MAGNUSON. No. They are located in the oceans of the world.

Mr. WILLIAM L. SCOTT. Throughout the world?

Mr. MAGNUSON. Throughout the world, yes, but I most am so familiar with the ones that come into the Puget Sound area.

The reason why they can be captured easily and netted is because of the shallow water in the inlets of Puget Sound. The same could happen in Chesapeake Bay, in the Atlantic.

So far as I know, they are located all over the world, but they are sparse all over. The population of this mammal, which is a species of porpoise, is not as large as that of other so-called whales. The term "whale" is a misnomer. It is a porpoise. It is intelligent, friendly, and has a family life.

I believe we should leave them alone. Otherwise, I am sure that if we keep up these captures, none will remain. I think it is an endangered species. What is an endangered species, under the Marine Mammal Protection Act, which we passed, is constantly reviewed. The same thing might occur with respect to certain types of seals, or other mammals.

I have the figures. The population estimates in our area are that they go from 300 to as low as 65. If that is not an endangered species, I do not know what is.

Mr. WILLIAM L. SCOTT. Mr. President, I have no particular objection to this bill. I was merely trying to get some information from the distinguished chairman of the committee. I realize that he has been chairman of the committee for a long time and is knowledgeable in this field.

To me, as a lay person, without any special expertise, it seems that nature has a way of balancing and protecting the various fish, the various mammals. I wonder whether we might be adversely affecting the balance of the life in the sea when we pick out first one species and then another to put on the endangered specie list. Of course, there are times when we have to protect some of our birds, our fish, and some of our animals. But I wanted to inquire and obtain more information regarding the need for the protection of the killer whale.

I also wanted to know the length of the moratorium. I gather from the chairman that there is no particular period of time. It sets a time until the law is changed.

Is that correct?

Mr. MAGNUSON. It continues until the Secretary makes a finding that they are not endangered.

Mr. WILLIAM L. SCOTT. Then, if the Secretary makes a finding that they were not endangered, the effect of this bill, the mortarium on granting permits, would be terminated?

Mr. MAGNUSON. He then could suggest a permit. But one of the things we are complaining about is the inhumane treatment. The Senator says we should leave nature alone.

Mr. WILLIAM L. SCOTT. I say that ordinarily I feel that we should, unless there is a reason not to do so.

Mr. MAGNUSON. That is exactly what we are doing. The only enemy this porpoise has, this intelligent creature, is man, not the ocean.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's response.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Washington (Mr. MAGNUSON) proposes an amendment:
>
> Page 1, strike lines 6 through 11 and insert in lieu thereof the following:
>
> "(d) Notwithstanding the preceding provisions of this section, the Secretary shall issue no permit, during the moratorium, for the taking of any marine mammal of the orcinus orca species, except for scientific research purposes as provided for in subsection (a)(1) of this section. Such scientific research shall be conducted without removing any such marine mammal from the water and without endangering the health or well-being of such marine mammal."

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. MAGNUSON. I yield back my time.

Mr. PEARSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I rise in support of S. 3130, a bill to prohibit the taking of the killer whale.

I introduced the Marine Mammal Protection Act in 1971, because of my deep concern about the destruction of marine mammals both by U.S. citizens and by citizens of foreign nations. Some of the Earth's most intelligent species were being depleted at an alarming rate. Porpoises were being decimated by commercial tuna fishing operations. Baby seals were being slaughtered for their skins. Whales were threatened with extinction by commercial whaling fleets. Although progress has been made in the 4 years since the marine mammal law was enacted, these practices still continue at an unacceptable level.

The act allowed the Secretary of Commerce considerable discretion in issuing permits or exemptions from the general moratorium on the taking and importation of sea mammals. I believe this discretion has been abused, and the intent of Congress has not been carried out. Therefore, it is necessary and appropriate for Congress to act.

The legislation before us today deals with one marine mammal species, orcinus orca, commonly called the killer whale. Very little is known about this creature, and misconceptions about it abound. It is in fact neither a killer nor a whale, but a seemingly docile dolphin.

One of the main purposes of the moratorium prescribed by the Marine Mammal Protection Act was to allow more extensive scientific study of mysterious creatures such as the killer whale—their ecology and their role in the balance of nature. However, the Department of Commerce issued permits for the taking of killer whales for public display before determining the effect such a taking could have on the species' population and environment. Armed with one such permit, a large display corporation recently captured five killer whales in Puget Sound, causing considerable and understandable public outrage.

S. 3130 would forbid the issuance of any permits for the taking of orcinus orca for public display. Further captures of the killer whale would be limited to scientific purposes. The Senate Commerce Committee, in its report, also recommends that the Secretary of Commerce promulgate regulations for controlling scientific research so that it will not endanger the animal.

I commend the distinguished chairman of the Commerce Committee, Senator MAGNUSON, for his prompt and decisive action to save the killer whale. I wish to lend my full support to this legislation, and I urge my colleagues to vote in favor of it.

Mr. KENNEDY. Mr. President, I am confident that the Senate will overwhelmingly approve today S. 3130, a bill designed to prevent the further taking of the killer whale for any purpose other than a scientific one.

The Marine Mammal Protection Act of 1972 created a general moratorium on the taking or importation of marine mammals in danger of extinction or depletion; but an exception was allowed for the issuance of permits for the taking of such animals for scientific research or display purposes. The legislation we act on today limits that exception to permits for scientific purposes only.

As the Commerce Committee report points out, so little information is known about the killer whale, that we cannot know with any degree of certainty at this time that further unnecessary taking of killer whales will not irreparably harm the killer whale population. Continued scientific research on killer whales is permitted, but taking of killer whales for display is prohibited.

The Congress has committed itself to the protection of threatened and endangered animals and mammals in passing the Endangered Species Act and the Marine Mammal Protection Act. Representatives of the United States have prevailed at the International Whaling Commission in bringing about progressive reductions in whale catch limits and the adoption of new management procedures for the protection of some species of whales threatened by the continued whaling practices of foreign nations. And community groups across this Nation have brought attention to the potential disaster for so many species of animal and marine life if Government and citizen cooperation is not focused on protecting these resources.

By passing this legislation today for the protection of the killer whale, the Senate reaffirms the commitment to halt needless taking of species which are the subject of scientific research. As a nation, we have decided to act with caution and with care in the protection of animals and marine mammals in danger of depletion. Our action today will give us the time we need to learn the valuable lessons that research on this member of the dolphin family will teach us.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Washington (Mr. JACKSON), together with attachments.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. JACKSON

I join Senator Warren G. Magnuson in his efforts to prohibit the taking of the Orca, or killer whale as it is commonly called. The recent whale hunt in Puget Sound has demonstrated that further legislation is needed to assure their survival.

Although adequate research is lacking, a recent report has revealed there are fewer than one-third (80–100) of these mammals in the Puget Sound than earlier thought (250–300). We simply cannot afford to let happen to the killer whale what has already occurred to our world whale population through indiscriminate harvesting. It would be a tragedy to unknowingly harm these magnificent creatures by refusing to give them further protection.

I ask unanimous consent that the following articles which express the feelings of many people in Washington State be printed in the RECORD.

ATTACHMENTS

[From the Seattle Times, Mar. 6, 1976]

LET WHALES FROLIC IN SOUND

Two years ago, environmentalists pleaded at a federal hearing that no more permits be issued for the capture of killer whales in Puget Sound until much more is learned about their existing populations, migratory habits, and general life history.

The Times wholeheartedly agreed with the environmentalists, who sought to block the efforts of a California firm to obtain a permit for the capture of four killer whales for exhibition in private marine parks.

The point could be made, we noted, that a loss of four whales would not exactly decimate the North Pacific whale population.

"But how much harassment of the specular creatures would be involved in capturing those four whales?" we asked. "How many animals would be pursued from cove to cove and bay to bay, to the possible permanent disruption of their life patterns?"

The National Oceanographic and Atmospheric Administration turned a deaf ear to that plea, however. The permit was granted. And yesterday a large number of Olympic residents, ashore and afloat, witnessed the exercise of that permit in Budd Inlet.

Harassed by a trawler and several smaller boats and terrorized by a low-flying seaplane, five whales were driven into nets as the first stage of a potential lifetime captivity.

The Budd Inlet spectacle can only serve to heighten the determination of conservationists who have worked for years to have Puget Sound declared a sanctuary for killer whales.

That effort gained considerable ground when the Legislature in 1971 empowered the State Game Department to oversee marine mammals in state waters.

In 1972 the Game Commission followed through by banning the further trapping of killer whales south of line from Point Wilson to Admiralty Bend and the Deception Pass Bridge.

Then came the "feds."

Under federal legislation, the state agency was superseded by federal officials, who granted the permit exercised yesterday.

While we do not question that there is some scientific and recreational value in the properly required capture of a limited number of whales, we do question the pursuit of that activity in Puget Sound.

The striking black-and-white creatures are the largest and most spectacular in Puget Sound waters. To permit their continued pursuit for commercial purposes—no matter how carefully regulated—might well cause their disappearance from the area.

Surely the magnificent mammals make a much better attraction in Puget Sound's sheltered bays and inlets than in the close confinement of commercial exhibits.

[From the Seattle Post-Intelligencer, Mar. 11, 1976]

TRANSFER OF FIVE WHALES HALTED BY U.S. JUDGE

(By Eric Nalder and Jack Hopkins)

Five killer whales trapped in Budd Inlet near Olympia, some facing life in an aquarium, won a temporary reprieve yesterday in U.S. District Court.

Judge Morell E. Sharp, holding an unusual early evening hearing in Seattle's federal courthouse, handed down a restraining order which prevents the whales' captor, Sea World Inc., from going ahead with plans to move some of the whales to Seattle—and later to aquariums in California, Ohio and Florida.

Gov. Dan Evans, Atty. Gen. Slade Gorton and Darrel Peeples, a Thurston County resident, had filed a lawsuit seeking the injunction. The judge put a condition on the restraining order, requiring a $3,000 bond from the plaintiffs.

The bond was posted last night, and the restraining order went into effect. It was to be served on Sea World's representatives at Budd Inlet.

In other developments yesterday:

Sen. Warren G. Magnuson said he will introduce a bill in the U.S. Senate today "to ban the killing or capture of killer whales in Puget Sound" for an indefinite time. He hailed the lawsuit and said, "I will be glad to join this court action, personally."

Stormy weather on Budd Inlet hampered Sea World's efforts to lift the whales and measure them, a procedure that will help determine which whales will be kept.

A Bellingham man dropped flowers on the whales from an airplane as a form of protest to their capture.

The whale that escaped Sea World's net on Monday was still swimming near the pen.

Sen. Henry M. Jackson said he is joining Magnuson in effort to get the National Oceanic and Atmospheric Administration to create a sanctuary in Puget Sound. Jackson wrote a letter to Gov. Evans asking Evans to reverse the state's earlier opposition to the sanctuary.

In district court, Judge Sharp said the restraining order would remain in effect until "further order of the court." He set 1:30 p.m. tomorrow for a more detailed hearing on the matter.

Part of the lawsuit, which Evans directed Gorton to file, contends that Don Goldsberry and his capturing crew used explosives dropped from airplanes to herd the whales.

An Olympia man had said he saw "tomato-can sized" cannisters being dropped from an airplane, but the pilot angrily denies this. The state Game Department agent who monitored the capture said he saw no such activity, and Sea World officials said the only explosives used were "firecracker-sized seal chasing devices" thrown from boats. Those devices are not illegal in such capture operations, one official said.

The plaintiffs asked that the whales be released, but the judge said that would cause "irreparable loss" to the defendants prior to a final decision.

The court action followed public demonstrations against the captures at Budd Inlet and at Sea World's Seattle Marine Aquarium. Last night there was a rally for the whales at the University of Washington.

The whale chase started Friday when a fisherman tipped off Goldsberry to the whales' location and it ended when they were rounded up Sunday. Sea World has a federal permit to take four whales and the plaintiffs say in the suit that the firm violated the permit by its capture techniques.

Meanwhile, the delay could hurt the capture. Goldsberry has said a very low tide or a bad storm could force him to open the nets.

Also, the whales are not being fed in the pen. Sea World officials said they do not want the wild whales to learn to eat from boats, in case they are released, and they must have empty stomachs for transport.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time on the bill.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3130) was passed, as follows:

S. 3130

An act to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding the following new subsection at the end thereof:

"(d) Notwithstanding the preceding provisions of this section, the Secretary shall issue no permit, during the moratorium, for the taking of any marine mammal of the orcinus ocra species, except for scientific research purposes as provided for in subsection (a)(1) of this section. Such scientific research shall be conducted without removing any such marine mammal from the water and without endangering the health or well-being of such marine mammal.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STAFFORD). The Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. GRAVEL) and the Senator from New York (Mr. JAVITS) to the U.N. Conference on Trade and Development—UNCTAD—to be held in Nairobi, May 3–28, 1976.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 85–474, appoints the following Senators to the Interparliamentary Union Conference, to be held in Mexico City, April 15–25, 1976: the Senator from Alabama (Mr. SPARKMAN), the Senator from Montana (Mr. METCALF), the Senator from New Hampshire (Mr. DURKIN), the Senator from Montana (Mr. MANSFIELD), the Senator from Kansas (Mr. DOLE), and the Senator from Vermont (Mr. STAFFORD).

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, out of order, I ask unanimous consent, with the full approval of the Republican side, that the Senate turn to the consideration of Calendar No. 675, S. 3184.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3184) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1976, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATHAWAY. Mr. President, the Senate is today considering S. 3184, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Amendments of 1976. This bill, which was unanimously reported by the Committee on Labor and Public Welfare, would extend and expand the authorization of appropriations for federally funded alcoholism programs administered through the National Institute on Alcohol Abuse and Alcoholism. In increasing the authorizations over current levels, the bill gives particular emphasis to increased Federal assistance for States adopting the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act. In addition, it is a major purpose of the bill to expand and improve research into the causes and consequences of alcoholism. The bill would also underscore the need to improve and expand services for currently underserved populations, such as minorities, youth, women, native Americans, and persons in rural areas.

The Subcommittee on Alcoholism and Narcotics, of which I am chairman, held 3 days of oversight hearings on February 3, 4, and 5, 1976, into the administration of the current alcoholism laws. Subsequently, the subcommittee drafted an original bill extending and revising those laws, which it approved on February 25, 1976. The full committee met and considered the subcommittee draft bill on March 9, and after considering and accepting certain minor and technical amendments, unanimously ordered the bill reported.

Prior to 1967, Federal efforts in the field of alcoholism were minimal, although alcoholism had been recognized as a disease by the World Health Organization, the American Medical Association, American Hospital Association, the American Psychiatric Association, and two U.S. Courts of Appeals.

In 1968 the Supreme Court in Powell against Texas affirmed the status of alcoholism as a disease to be treated in the health, not the criminal justice, system.

In hearings before the subcommittee in 1969 and 1970, the Department of Health, Education, and Welfare termed alcoholism the Nation's No. 1 health problem, and representatives of the American Psychiatric Association cited for the first time a study indicating there were over 9 million alcoholics and problem drinkers in the United States.

Following hearings in 1970, the Senate Committee on Labor and Public Welfare reported S. 3835, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. That act created the National Institute of Alcohol Abuse and Alcoholism, authorizing a 3-year program of formula grants to the States and contracts and project grants for the prevention and treatment of alcohol abuse and alcoholism.

This law was amended in 1974 to give NIAAA more autonomy, to mandate Federal coordination, and to require a triennial report on alcohol and health. The 1974 amendments also developed incentives for adoption of the Uniform Alcoholism Intoxication and Treatment Act by States, which this bill expands and provided more representative involvement by consumers and providers of services for alcoholism planning.

Since that time, the Institute has operated as an autonomous unit under the Alcohol, Drug Abuse, and Mental Health Administration, under the almost perpetual strain of administration attempts to defund its programs and dismantle its administrative apparatus. Yet, despite the impoundment of appropriated moneys and the refusal of the Office of Management and Budget to permit authorized expansion of its small staff, the committee believes the Institute has done a credible, and at times, an outstanding job living up to its congressional mandate.

S. 3184 takes into consideration changes in the epidemiology of alcoholism, changes in related health law, and action needed to improve the effectiveness of programs currently in place.

One major proposal considered and rejected by the committee was put forward by administration witnesses and involved the incorporation of funding for alcoholism activities into a $10 billion block grant to States. The purpose of this proposal is to consolidate many health programs currently administered by the Federal Government into one lump sum block grant to the States.

Alcoholism programs would be funded from the 5 percent of the grant required to be set aside for a number of community and environmental health programs, including mental health, maternal and child care, rat control, lead-based paint programs, venereal disease programs, and others.

The administration testified that their block grant proposal "will include the present alcoholism program with a number of other categorical authorities as part of a single administration initiative in the health care area. It would seem reasonable that—the States and localities are ready and able to deal with the problem at their levels—in the context of the regular community care system, through the financial assistance for health care program."

The administration pointed to the success of the NIAAA as a reason for shifting responsibility to State and local governments. Stated Deputy Assistant Secretary for Health, James F. Dickson III:

> The accomplishments listed above reinforce our belief that States and localities are ready to assume responsibility for addressing the problem, especially since the stigma associated with alcoholism has decreased. States have enacted the Uniform Act and treatment and rehabilitation programs have greatly expanded.

There is an element of irony in the administration's glowing assessment of NIAAA accomplishments, since for the past 3 years this same administration has sought vigorously to destroy the Institute through impoundments, understaffing, and starvation level budget requests. As the committee report states, we are relieved to hear that the long congressional struggle to keep the Federal alcoholism effort alive has finally convinced the administration that there have been Federal successes in this area. The committee hopes that future administration support for the Institute and its programs will reflect this new found enthusiasm.

After carefully considering all the testimony on this subject, I believe the inclusion of alcoholism programs in the block grant proposal to be ill-advised at this time.

For one thing, the proposal contemplates significant cuts in aggregate spending for health programs included in the block grants, which would promote a serious weakening of many of the smaller programs such as alcoholism.

Of the $10 billion in the block grant, for example, 90 percent is allotted to medicaid. Historically, this program has increased by over 10 percent a year, or faster than the 7-percent increase for the costs of other health programs. Of the 10 percent left in the grant after medicaid, half would be theoretically shared by alcoholism, mental health, and 16 other categorical programs, many of which are community oriented and all of which are worthy of continuation. But the aggregate current appropriation for those categorical programs is considerably more than the amount they would have to divide under this proposal.

In general, therefore, it is felt that the overall reduction in health expenditure contemplated by the proposal would irrevocably damage many alcoholism treatment and prevention programs, which are still politically weaker than other health programs in many parts of this country.

Mr. President, I urge my colleagues to join me in supporting this measure. I ask unanimous consent that an analysis of its major issues be inserted in the RECORD at this point, followed by a section-by-section analysis. I will be pleased to answer any questions any of you might have regarding this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE FORMULA GRANTS AND THE UNIFORM ACT

Notwithstanding its opposition to incorporating alcoholism funds into the general health block grants to states, the committee believes that the program of formula grants to states specifically earmarked for alcoholism has been a good one, and should be improved and expanded. The Committee also believes that a relatively greater proportion of that increase should be earmarked for states which have demonstrated a commitment to the treatment of alcoholism as a health, rather than a criminal, problem, through the adoption of the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (The "Uniform Act").

Consequently, when state grant appropriations reach or exceed $70 million, those states which have adopted the basic provisions of the Uniform Act, will be eligible for 20% more than non-Uniform Act states, plus $100,000. In addition, the minimum state grant is increased from $200,000 to $300,000 for Uniform Act states, although all states are first held harmless at their fiscal year 1976 level.

Until a $70 million appropriation level is reached or exceeded, Uniform Act grants will continue to be funded under section 304 of the Act as they are now. $70 million was determined to be the level of appropriations for formula grants beyond which the Committee could be relatively certain that the full Uniform Act incentive could be paid out of the formula grant without reducing the level of grant for non-Uniform Act States below their fiscal year 1976 level. However, the level of grant under section 304 is also increased, from 10 percent of the State's formula grant to 20 percent, to reflect the new policy of increased support for Uniform Act states.

The Committee is also concerned about coordination between treatment personnel and criminal justice personnel in the implementation of the basic provisions of the Uniform Act. Testimony received from the International Association of Chiefs of Police, which conducted a study for the Institute on this subject, indicates that there is often an inability to translate the legislative provisions of the Uniform Act into actual gains for the alcoholic.

Through Executive Director Glen D. King, the Association testified that:

"Largely because of misunderstanding of the function of the detoxification center, many county officers were openly hostile to the program.

"In one county jail operation, custodial officers found it easier to bring drunks in for booking at the jail than to wait at the detox center while a drunk was screened for admission." and—

"City police officers, because of the nature of their job, are the law enforcement personnel most directly involved in the operation of the Uniform Act.

"The IACP report, however, found a general lack of information available to field officers about the program.

"Most of the documentation was in the nature of a "one-time effort" and was not generally supported by review, follow-up and retraining.

"Little background information is available on the ramifications of alcoholism as a disease and social problem."

Yet despite these disturbing reports, the subcommittee staff did observe several areas where the program seemed to work effectively, as in New York City, where specially trained officers were assigned full time to work with the staff of the Manhattan Bowery Project.

Clearly, education, training and coordination are required with criminal justice personnel, including judiciary personnel, if states are to be successful in their efforts to decriminalize alcoholism, and the Committee urges the Institute to use whatever means it deems advisable to assist and encourage states to achieve this goal.

Finally, the Committee is concerned about the formula used in dispersing formula grant funds. The Committee wishes to stress that the provision of these funds *must* be based on demonstrated need, as provided in the original legislation, and is adamant that this requirement be met. The Committee was distressed to learn that the "need" provision in existing law to implement the State alcohol abuse formula grants has been totally disregarded.

To this end language has been inserted which mandates the Secretary to promulgate regulations establishing a methodology to determine the incidence and prevalence as a measure of such need. In determining the need for more effective conduct of the drug abuse prevention functions, the Committee believes it reasonable that the Secretary should consider as evidence of such need, the scope and funding support provided by or through the single state agency within the respective states. It is understood that a uniform methodology with this be provided for use in all states. In this regard, the Committee believes that the Secretary should have wide latitude in devising the specific methodology and should consult widely with the field, particularly with Single State Agencies, during this process.

AMENDMENTS TO STATE PLANS

The Committee believes that the current state plans are insufficiently informative in several areas important to the future growth and coordination of alcoholism treatment, research and prevention. For example, the General Accounting Office reported that some states surveyed in its ongoing study of the administration of the federal alcoholism laws seemed to be unaware of all the resources actually or potentially available in the States. In addition, concern was expressed by several witnesses in the subcommittee hearings that inadequate attention was being paid by states to local alcoholism planning and coordination, and to other State and local health planning mechanisms, including planning by local elected officials.

Consequently, several changes have been made in the requirements for state plans filed under section 303 of the Act.

One such change requires state plans to contain an up-to-date inventory of all public and private resources available in the State for alcoholism treatment, prevention and rehabilitation, including nongovernmental resources. The committee believes such an inventory to be an essential tool in both the State and federal alcoholism planning, and the committee intends that such inventories be compiled and analyzed by the Institute and that a national inventory be made available as a result.

A second change requires that a member of the State Health Coordinating Council established pursuant to the Health Planning and Resource Development Act of 1974 (P.L. 93–641) be added to the State alcoholism council required under section 303(a)(3) of the Act. This reflects the committee's concern that the new health planning process envisioned in Public Law 93–641 take account of the particular nature of substance abuse treatment in general, and alcoholism treatment in particular.

The committee notes with interest and concern that, with the addition of programs funded under the Drug Abuse Office and Treatment Act, substance abuse will now account for a large percentage of the health expenditures required to be reviewed by Health Systems Agencies under Public Law 93–641. Thus, if the small changes made in the health planning process by this bill and the newly enacted Drug Abuse Office and Treatment Act amendments prove to be inadequate in focussing the attention of health planners on the unique requirements of substance abuse treatment programs, further amendments may be necessary.

Another change in the State Plan requires state alcoholism planners to take a closer cognizance of the need to coordinate with local alcoholism planners, and with State and local health planners. The Committee is particularly concerned that States establish a means for obtaining the views of, and coordinating with, elected officials of general purpose local government.

Changes are also made to require State plan assurances that any State certification, accreditation or license requirements, for alcoholism treatment personnel and facilities take into account the special nature of alcoholism treatment. The committee believes that licensure and certification should remain essentially a state or local function. In the field of alcoholism, however, there are several unique aspects which may set it apart from other health service delivery systems, and States should indicate an awareness of those aspects. The committee believes the federal government can and should play a leadership role in providing technical advice and technical assistance to states in this area, and particularly with regard to issues such as the important role of the recovered alcoholic in counseling persons undergoing alcoholism treatment.

In addition, the Committee is concerned about a general lack of effort in documenting the efficacy of alcohol abuse treatment and rehabilitation efforts. It does not feel that these efforts can automatically be assumed to be effective, especially in the absence of any supporting empirical data. As a beginning approach to this general problem, the Committee has elected to require individual programs to specify through the State plan the manner in which they intend to assess the efficacy of their own program. The Committee does not intend that funds be made available without any criteria being set forth, which seek to measure efficacy. Such standards, to measure treatment or rehabilitation effectiveness, should include pertinent epidemiologic factors to ensure broad considerations of such variables as typology of patients, length and type of alcohol addiction; previous criminal history, educational and employment history and due consideration of these factors post treatment.

Finally, the Committee believes the State should regularly assess its own progress in implementing its state plan, with a major self-assessment occurring at least once every three years. It it important that states, as well as the Institute, begin to determine more precise parameters of success in the delivery of alcoholism treatment, prevention and rehabilitation services, and that such parameter be available for the better planning of social, behavioral and biomedical research into the causes and consequences of alcoholism and alcohol abuse.

PROJECT GRANTS AND CONTRACTS

The committee has rewritten the Institute's project grant and contract authority in several areas. These changes are not necessarily designed to have an immediate major effect on programs currently funded under this authority. Nevertheless, with the expansion in appropriations envisioned under this section, and in the State formula grants, it is intended that the program be more sharply focused on several specific needs and purposes.

The States and communities have only recently begun to recognize that alcohol abuse is one of their most serious health problems and many of the grants initiated by the Institute have not been able to attract financial support from state and local government budgets which would enable them to achieve a state of self sufficiency without continued support by the federal government. The Committee believes that, like the formula grant program, the individual project grants and contracts should continue to be entitled to direct support by the Institute until such time each program's future self sufficiency is assured by adequate coverage of alcoholism programs by the States and communities themselves or by greater coverage by private or government health insurance carriers, or by a sufficient combination of both. This is not necessarily a process which can or should be limited to three years or any particular duration of funding. Rather, need for continued support must be determined on a case by case basis.

In funding treatment and prevention services, the Committee intends that this section should become a vehicle for focusing more clearly on the needs of underserved populations for such services. To a certain extent, it will be necessary to take careful cognizance of the state alcoholism planning process in order specifically to determine where such a need will exist. In addition, it is contemplated that this section will permit the Institute to respond more quickly to perceived changes in the epidemiology of alcohol abuse and alcoholism, to be a funding tool, in effect, for filling in gaps while other, slower moving, health delivery processes adjust to new information.

Of Special concern to the Committee is the new information being developed on the incidence of heavy drinking and problem drinking among our nation's youth. Recent surveys show that 81% of junior and senior high school youngsters drink alcoholic beverages, many becoming drunk at least once a week. Teenage alcoholism is reported to be increasing at alarming rates. The Institute estimates there are 450,000 teen-age alcoholics in this country. Reports have appeared of children entering Alcoholics Anonymous at the age of 11.

The Committee intends that the Director of the Institute set a high priority on the development of research, prevention, and education programs surrounding this critically important issue.

The Committee is also concerned about the apparent increase of alcoholism among women.

The Second Special Report to the U.S. Congress on Alcohol and Health by the Secretary of Health, Education, and Welfare (1974) indicated that women comprise the largest increase in the problem drinking population in recent years. Whereas it had long been stated that the ratio of alcoholic males to females was about five to one, more current estimates suggest that fully one-third of the Nation's nine million alcoholics are women. A recent report to the North American Congress on Alcohol and Drug Problems indicated that in the last three years 31 percent of Alcoholics Anonymous' new members are women. Since many women alcoholics remain at home, protected by their families, they often escape the attention of society. It is therefore possible that the rate of alcoholism among women may be much higher than any current estimates.

Because men have been considered to have a much higher incidence of alcoholism than women, treatment facilities for women are virtually non-existent in many communities. Further, women who seek help do not always have equal access to many of the treatment facilities which do exist.

The Committee expects the Institute to give greater attention to the problems associated with alcoholism among women and to close the gap in equal access to treatment.

With regard to particular ethnic or racial populations, it is not necessarily intended by the Committee that special programs be established solely to meet the needs of all such populations. While the Committee realizes that certain situations do call for such special programs, the Institute's attention should also be directed to the capacity of more generalized treatment programs to meet the needs of all populations.

Native American programs present a special case for the Institute because of the magnitude of the alcoholism problem among native Americans and the special relationship between the Federal government and Indian people. In addition, Indian communities are sometimes geographically isolated from access to health care.

The problem of alcohol abuse and alcoholism among native Americans is far greater than among the American population as a whole. NIMH has reported that the alcoholism death rate for native Americans has ranged from 4.3 to 5.5 times the U.S. rate during the past few years. NIAAA estimates that the prevalence of alcoholism among native Americans is twice the overall national rate, or 10% of the native American population.

The special relationship between the Federal government and the native Americans which is unlike that enjoyed by any other group of Americans is based on Constitutionally derived treaties and laws, together with court decisions. In the recent (June 1974) Supreme Court Decision of Mancari vs. Mortin, relative to Indian preference, the Court stated that:

"Resolution of the instant issue turns on the unique legal status of Indian tribes under Federal law, and upon the plenary power of Congress, based on a history of treaties and the assumption of a "guardian-ward" status to legislate on behalf of federally recognized Indian tribes. The plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself. Article I, Sec. 8, cl. 3, provides Congress with the power to "regulate Commerce . . . with the Indian Tribes" and, thus, to this extent, singles Indians out as a proper subject for separate legislation."

Therefore, the unique Federal-Indian relationship has been recognized to carry with it certain Federal responsibilities to the tribes, including special services to Indians because of their status as Indians. Such services are predicted on treaties, laws and court decisions, rather than on race.

The Committee is also concerned with the unmet needs of those Native Americans who do not meet the criteria for a recognized Federal relationship. This includes Indians not living on or near reservations and those whose relationship is with a state rather than the Federal government. Such Indians do not qualify for the benefits of the Indian Health Service, and therefore require a direct ongoing relationship with the Institute if they are to continue to receive alcoholism services.

Public Law 91–616, as amended by Public Law 93–282, makes no specific reference to native Americans. However, since 1970 the Institute has recognized the great need for alcoholism services among native Americans and has etablished a large native American alcoholism program supported through project grants. In fiscal year 1976 the Institute is supporting 151 projects providing services to native Americans at an annual operating level of $15.6 million. While these projects have had a great impact on the problem, a need persists to maintain and extend their efforts. Moreover, while the Institute is to be commended for its native American initiative, its designation of native American alcoholism as a priority and its subsequent allocation of funds have been totally discretionary, and thus subject to reconsideration and change.

Consistent with the ample precedent outlined above for a special relationship between native Americans and the Federal government, the current legislation recognizes a Federal government involvement in the provision of alcoholism services to native Americans. It formally assigns to the Institute a continuing role to initiate and support native American alcoholism programs.

While establishing an ongoing role for the Institute in native American alcoholism programs, the Committee recognizes that permanent, long-term support of mature native American alcoholism programs, i.e., those projects having received six years of Institute support, may be accomplished by the transfer of such projects to the legislative and appropriations authorities of the Indian Health Services. Any such transfer must guarantee that no distinction for eligibility for continued support will be made between urban and reservation native American alcoholism programs. In addition, the transfer of mature projects should not interfere with the Institute's policy of funding both new native American alcoholism projects and new operations within mature projects.

With regard to demonstration and evaluation projects, the Committee intends that the new authority in section 311(a)(1) be used to explore ways to better coordinate all alcoholism services available in discrete health service delivery areas. While these areas need not necessarily correspond with the health service areas created under the Health Planning Act (Public Law 93–641), it is intended that the Institute seek, through demonstration grants and projects, to originate and foster new and innovative methods of coordination and planning, rather than wait for such methods to be developed for alcoholism by non-alcoholism planners.

In particular, the Committee intends that demonstration projects be funded in two or more discrete health service areas exploring innovative coordination techniques such as those currently being pursued by the government of the Province of Ontario, as described in testimony before the Subcommittee by Dr. Frederick B. Glaser, Chief of Psychiatry of the Addiction Research Foundation of Toronto.

The Committee strongly recommends that NIAAA continue to gather information from programs and projects funded under Section 311 and to collect data from individuals receiving services from such programs and projects, for purposes of monitoring the effectiveness and efficiency of these programs and projects. The Committee was favorably impressed by the scope and effectiveness of NIAAA's treatment, evaluation and monitoring system.

NIAAA's efforts to collect information from organizations and individuals through surveys, interviews, and observation in support of research, epidemiological studies, evaluation studies, and national trend analyses should be expanded if we are to be able to fully comprehend the alcoholism problem in the nation and be able to develop effective strategies to combat this health problem.

The Committee is concerned by the special problems in securing treatment and rehabilitation by minority population groups whose members have limited English-speaking ability. These problems are many times intensified by a different cultural heritage which clouds the individual's perception of the benefits to be derived from a treatment program. The Committee received testimony from the National Spanish-Speaking Commission on Alcoholism that—

"Every testimony that has even been given clearly points out that the traditional institutions planning for or offering alcoholic services to Latinos lack the cultural insight to effectuate a service that meets cultural, familial, social, religious, and psychological frame of references of the Latino. Prejudice and indifference trigger statements that further tend to alienate the Latino from traditional institutions and programs that they already distrust."

This kind of insensitivity to cultural differences is not in any way restricted to insensitivity toward the Latino, but exists, in varying degrees, with respect to all major population groups in the United States which have limited English-speaking ability. For any measurable success to be achieved by alcohol treatment programs with respect to persons of limited English-speaking ability, this kind of insensitivity must be overcome so that these programs can provide treatment that is responsive and comprehensible to the needs of the community served.

In order for programs supported by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act to have the capability of providing these services in an appropriate way, the Committee has specified that projects and programs for which grants and contracts are made shall, where a substantial number of the individuals in the population served are of limited English-speaking ability, utilize outreach workers who are bilingual to make members of the community aware of the availability of the services offered by the project. In addition, the programs are required to develop a plan and make arrangements for providing services, to the extent practicable in the language and cultural context of the population group. The programs also are required to identify an individual who is bilingual either on the staff of the program or on the staff of an entity affiliated with the program who would be available full-time to provide guidance to the staff and clients with respect to cultural sensitivities and assist them in overcoming linguistic and cultural differences.

ANTIDISCRIMINATION PROVISIONS

Several witnesses at the Subcommittee hearings indicated that the anti-discrimination provisions of the 1974 amendments are not working well, at a time when hospitals are seeing increasing numbers of patients—including alcoholic patients—in emergency rooms and outpatient departments.

In addition, the Committee notes that increasing numbers of people are served in organized free standing medical ambulatory facilities, such as group practices, community health centers, and health maintenance organizations. It was felt to be important that these facilities be included under the antidiscrimination provisions of the Act.

The Committee was particularly disturbed by what it considers the lack of effective implementation by the Secretary of Health, Education and Welfare of the anti-discrimination provisions found in section 21 of the Act. Testimony of witnesses indicated that discrimination against persons suffering from alcoholism and alcohol abuse remains a serious problem in well over half of our nation's federally funded hospitals.

But despite the fact that the responsibility for enforcing these provisions was specifically delegated to the Office of Civil Rights in HEW, no regulations have been forthcoming on this vital issue in nearly two years since these provisions were enacted. For that reason, the Committee has established a deadline of December 31, 1976 for the issuance of such regulations.

RESEARCH

The Committee believes research into the causes, consequences and treatment of alcoholism to be one of the Institute's most important functions. Consequently the Committee is proposing a major increase in the current research program, in terms of both funding levels and scope of the research activity itself.

This physical relocation is urgently needed in order to facilitate the intramural research program's need for close collaboration with research being conducted on such diseases as cancer, heart disease, metabolic diseases, and other related research areas. It is the Committee's opinion that the success enjoyed by the mental health intramural research program and other research Institutes is in large part a result of their being located on the NIH campus or such other facilities as enable them to interact freely with related health research programs. The Committee believes that the location of the intramural research program on the NIH campus or in similar facilities will greatly accelerate and facilitate the development and acceptance of alcoholism research as a full-fledged part of the health research community and national health research effort. The language in the new section 501(b) (6) is in part drafted with the intention of effectuating this transfer.

The location of the alcoholism intramural research effort on the NIH campus, for example, would undoubtedly enable the Institute to recruit the type and caliber of research scientist needed to rapidly advance this emerging field of health research. The Committee is convinced that the positive and beneficial effects of locating the growing alcoholism intramural research program on the NIH campus will do more than almost any other possible action to ensure the ultimate success of the alcoholism intramural research effort.

The Committee, therefore, requests the Secretary to direct that the alcoholism intramural research program be moved to the NIH campus by the end of fiscal 1976 and that the NIAAA intramural research program have full access to all NIH services. The Committee will expect a full report on the status made toward accomplishing this action by the end of calendar 1976.

The Committee also strongly urges that the Secretary take the necessary action to appoint the Director of the National Institute of Alcohol Abuse and Alcoholism to the Board of Scientific Directors at the National Institutes of Health. This would greatly assist in establishing viable research linkages between the National Institute on Alcohol Abuse and Alcoholism and the National Institutes of Health's research institutes.

NATIONAL ALCOHOL RESEARCH CENTERS

The Committee intends that the competitive grant system of alcohol research be complemented by the creation of up to six National Alcohol Research Centers. The purpose of these Centers would be to conduct concentrated efforts to integrate and coordinate research in various academic disciplines which contribute to the pursuit of better means of diagnosis, treatment and control of alcoholism, and to the eventual prevention of alcoholism.

In the past five years, a number of significant advances have occurred which bear on the problems of alcoholism. Like all fundamental advances, they raise further questions which need to be investigated.

The Committee acknowledges that effective research requires a sustained effort and continuity of ideas. An environment must be created in which scientists can carry on long-term, interdisciplinary investigations into the many unanswered questions concerning alcoholism. Only such an environment will attract the best scientific minds to this field. The Committee intends that each of the proposed National Alcohol Research Centers would provide such an environment.

The Committee further intends that such National Alcohol Research Centers be selected on the basis of past and current research performance and commitment and on an evaluation of their potential for bringing together a team of professionals with the experience or capacity to conduct biomedical, behavioral and social research on alcohol problems.

The Committee recognizes that institutional stability is essential to the solution of alcoholism problems. Several years of experience in the field is required before a professional, regardless of his past success, may be expected to make major contributions. Stable institutions and funding are necessary to prevent the constant loss of experienced researchers to other more secure areas of scientific activity.

The Committee therefore intends that each National Alcohol Research Center be funded at a level of no less than $500,000 or more than $1 million for each of five years, based on a five-year plan submitted by the Center. It is further intended that the Institute work closely with the Centers to assure ongoing review and development of such Centers to enable them to qualify for continuing support past the initial five-year period. For this purpose, as well as to strengthen the Institute's research capabilities, the Committee has authorized five additional special research and development positions for assignment to the Institute.

It is not the expectation of the Committee that federal funds for such Centers be limited to funds granted under this section. Rather, it is envisioned that the personnel attracted to such Centers would actively compete for other available research funds, and should, in fact, because of their potentially unique interdisciplinary nature, be encouraged to do so.

COORDINATION OF PREVENTION EFFORTS

Out of a concern that the most effective prevention programs established, without regard to the substance abused—whether it is alcohol or any other drug—and in response to the testimony of Dr. Morris E. Chafetz, former Director of the NIAAA, the Committee assigned authority to the Secretary—acting through the parent organization of NIAAA, the Alcohol, Drug Abuse and Mental Health Administration "to evaluate and make recommendations regarding improved coordinated activities, where appropriate, for public education and other prevention programs with respect to alcohol and other substance abuse, including multiple substance abuse and cross addiction program."

The Committee is impressed and concerned by Dr. Chafetz's testimony, where he states: "You must look at other things. I suggest that the Congress lend new emphasis on examining where alcohol and other drug efforts can be brought together. I am not suggesting that the NIAAA and NIDA be merged nor that we suffer through another reorganization of ADAMHA. I merely think that, territorial prerogatives aside, there is often needless duplication of effort in research, training, treatment, and prevention, some of which can be remedied."

In proposing this new section, the Committee is not suggesting NIAAA and NIDA should be merged, but the Committee does believe coordination respecting prevention programs should be carefully evaluated to determine what efforts and criteria can most effectively be implemented to prevent abuse of alcohol or any other drug.

SECTION-BY-SECTION ANALYSIS

Section 1.—Short title of bill.

Section 2.—This section amends the statement of Congressional findings in subsection 2(b) of the Act to emphasize the importance of planning for, as well as use of, federal alcoholism treatment assistance, and also to underscore an increased federal commitment to research into the causes and consequences of alcoholism.

Section 3.—Part (a) of this section increases the authorizations for State formula grants from the current level of $80 million to a level of $90 million in fiscal year 1977, $100 million in fiscal year 1978, and $110 million in fiscal year 1979.

Part (b) of this section revises both the minimum formula grant and Uniform Act incentive grant by combining the two in the following way:

"The minimum State grant would be increased from $200,000 to $300,000 for Uniform Act states (there are currently 26 such states), provided no other state receives less than it received in fiscal 1976 as a result. In addition, when State formula grant appropriations exceed $70 million, the formula will provide 20% more for Uniform Act states, plus $100,000. Until appropriations reach $70 million, Uniform Act grants will continue to be funded under the current Section 304, with the amount increased from 10% to 20%.

"In addition, the NIAAA will be required to develop a methodology to assess the incidence and prevalance of alcohol abuse for purposes of allotting formula funds to States."

Section 4.—This section amends section 304 of the Act to provide incentive grants of 20 percent rather than 10 percent of the State formula grant for States adopting the basic provisions of the Uniform Act, and provides for authorizations of $15 million in fiscal year 1978 and $17 million in fiscal year 1979.

Section 5.—This section amends the Section 303 State plan requirements in the following ways:

(a) State councils established pursuant to Sec. 303(a)(3) are required to add a representative of the State Health Coordinating Council created by the new Health Planning Act (Public Law (3-641)).

(b) States are required to include in their plans a complete inventory of all public and private resources available in the State for the treatment, prevention and rehabilitation of alcoholics and alcohol abusers.

(c) States are required to include assurances of coordination of alcoholism planning with other state and local health planning agencies.

(d) States must provide assurances that State accreditation or licensure requirements, if any, take into account some of the special needs of alcoholism treatment, such as encouraging the development of non-medical modes and taking into account the previous experience of alcoholism counselors.

(e) States will also be required to assess their own programs and proposals, commencing the 1977 and once every three years thereafter.

(f) Finally, States will be required to provide assurances that projects or programs funded with federal dollars have developed (or will develop) standards to assess their own effectiveness.

Section 6.—The project grant authorization language is amended by this subsection to include special emphasis on underserved populations, demonstration projects for effective coordination and alcoholism treatment, prevention and research resources within discreet health service areas, and to note Congressional intentions that training programs focus on retraining to meet requirements imposed by accreditation and licensure, including requirements imposed by third party payers.

This section also provides for bilingual services where necessary.

The authorization level for project grants is increased to $100 million for FY 1977, $105 million for FY 1978, and $110 million for FY 1979.

Section 7.—The anti-discrimination provisions of the Act are broadened to include outpatient facilities as well as hospitals.

In addition, the requirement that the Secretary issue antidiscrimination regulations is made mandatory, with December 31, 1976 set as the deadline for their issuance.

Section 8.—A specific title authorizing research is added to the Act by this section, with $22 million set aside in FY 1977, $26 million in FY '78, $30 million in FY '79 and such sums as may be necessary thereafter. In addition, the creation of a comprehensive intramural program is mandated, with access to complete human care facilities, with the intention of forcing the removal of the current research program from its inadequate facilities at St. Elizabeth's. Finally, a scientific peer review mechanism is mandated for alcoholism research, training, treatment and prevention.

In addition, this section adds a separate authorization of $6 million for the creation of up to six multidisciplinary regional alcoholism research centers around the country.

Section 9.—This section requires the Secretary, acting through the Alcohol, Drug Abuse and Mental Health Administration, to evaluate and make recommendations for the coordination of alcoholism and other substance abuse prevention and education functions carried out by NIAAA and NIDA, where appropriate.

Section 10. This section gives the National Advisory Council on Alcohol Abuse and Alcoholism authority to review policies and priorities with respect to grants and contracts, similar to the authority given to the National Advisory Council on Drug Abuse.

Section 11.—This section adds five special research and development positions to section 208(g) of the Public Health Service Act, which authorizes 150 such positions, outside normal civil service requirements, for the National Institutes of Health. These five positions would be expressly reserved for the National Institute of Alcohol Abuse and Alcoholism.

Mr. WILLIAMS. Mr. President, on December 31, 1970, the landmark legislation in the field of alcoholism—the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, which I was privileged to sponsor together with former Senator Harold Hughes, was signed into law. This act was passed unanimously by both Houses of Congress and marked the start of a large-scale effort by the Federal Government to bring help to the more than 10 million Americans and their families who suffer from this disease. The legislation we are considering today would extend and improve that act.

In the more than 5 years since the passage of this act, much progress has been made. The National Institute on Alcohol Abuse and Alcoholism, created by the act, has been established as the focal point for continuing Federal leadership and commitment to this long neglected area. There has been growing public recognition of alcohol as the major drug abuse and of alcoholism as a treatable illness. The Institute has made a great effort to communicate the unvarnished truth about alcoholism—that it is a major national public health problem with sad and sometimes tragic implications for millions of Americans. The Institute has stimulated widespread awareness which has led to the development of many prevention and treatment programs as the grassroots level.

Above all, it has shown that alcoholism is treatable, that the total destruction of the individual need not be the inevitable resort of alcoholism. Client outcome data reported by treatment programs supported by the Institute show significant improvement rates of 70 percent for patients who have received treatment in alcohol treatment centers. By significant improvement I mean that they have reduced their alcohol consumption to a point where they can function normally in society. Fifty-four percent of those treated were reported as abstaining from alcohol altogether.

Despite the fine beginning there is still much work to be done. It is important that we recognize the impact of alcoholism in this country, for the statistics associated with this problem are truly alarming. Fifty percent of the felonies committed in this country, including homicides, directly involve the abuse of alcohol. The dollar losses to society amount to over $25 billion per year. The toll of human suffering cannot be quantified, but alcoholism leads to the deterioration of literally millions of families through job losses, broken marriages and death. Studies have shown that individuals are susceptible to alcoholism in every age group, and on every economic, cultural, and educational rung of the social ladder. Research findings suggest that alcohol abuse among pregnant women can cause physical deformities in their offspring, including heart defects, overall growth deficiency, facial and limb defects and lower intelligence levels. Surveys show that 81 percent of junior and senior high school youngsters drink alcoholic beverages, many becoming drunk at least once a week. Teenage alcoholism is increasing at alarming rates. Alcoholism among women is a special problem, and since many alcoholic women remain at home, protected by their families, they elude the attention of society and thus do not benefit from the referral sources that men do. Let us also realize that if any of us is on the wrong road at the wrong time, we can, in one split second, be deprived of the rest of our natural life at the hands of a drunk driver.

In my own State of New Jersey, it is estimated that there are 514,000 alcoholic citizens. The American Medical Association has released a study indicating that 25 to 30 percent of all admissions to medical/surgical units of general hospitals in New Jersey are for alcoholic-related problems. This means between 147,292 and 176,751 of New Jersey's 1971 general hospital admissions were related to alcohol abuse. Of 11,849 persons admitted to psychiatric units in New Jersey in 1973, nearly 26 percent, or 3,080, had alcohol-related problems. Cirrhosis of the liver was the eighth leading cause of death in New Jersey in 1970. By 1973 cirrhosis had risen to seventh place in leading causes of death, with 1,400 fatalities. An estimated 1.4 million children in New Jersey live in homes where the parent is an alcohol abuser. Of the three million persons employed in the State, an estimated 180,000 suffer from alcoholism. In 1973, out of 298,429 arrests in New Jersey for all offenses, 74,701 were for alcohol related offenses such as offenses against family and children—3,783, driving under the influence of alcohol—21,145, liquor law violations—4,940, public drunkenness—10,685, and disorderly conduct—34,139.

Against this background, we have a budget request from the administration for 1977 which no longer acknowledges the need for a positive Federal role toward conquering this disease. The President's 1977 budget request for health programs has drawn criticism from many quarters since it was made public early in January. The Federal alcoholism program administered by the institute would suffer severely under the administration's block grant proposals.

Yet, I suppose that we should not be surprised at this action on the part of the administration in view of the shocking comments in the Report to the President from the Domestic Council Drug Abuse Task Force entitled "White Paper on Drug Abuse" released last September.

The Report stated that:

> Development of a discreet drug abuse health care delivery system was necessary because existing systems did not respond to the need of the hard-core narcotic addict and other chronic drug abusers.

A statement with which I certainly agree. But the report went on to state:

> Consequently, unlike alcohol, which has a greater historical basis of support and integration with community health care delivery systems, and which receives the vast majority of its financial support from non-Federal sources, other drugs of abuse required Federal intervention.

Mr. President, this statement is blatantly untrue. Prior to Federal support begun in a small way in 1969 and enhanced by the passage of the Comprehensive Alcoholism Act of 1970, virtually the only help for alcoholics in this country came from the volunteer sector. Some charitable institutions such as the Salvation Army provided limited help for alcoholics. But even this help reached only that small segment of the alcoholic population—estimated at between 3 and 5 percent—living on the skid rows of our cities. For most alcoholics, volunteer organizations such as the National Council on Alcoholism or self-help organizations such as Alcoholics Anonymous were the only help available. Only a handful of States or local governments supported alcoholism programs.

Most hospitals discriminated against alcoholics in their admission policies. Cases of discrimination against alcoholics by general hospitals, including some of the hospitals operated by the Veterans' Administration and the Public Health Service, continued to come to the attention of the Subcommittee on Alcoholism and Narcotics, resulting in the inclusion of language in the 1974 extension of the act which threatened hospitals with loss of all Federal funding if they continued to discriminate against alcoholics. This provision of the 1974 act still has not been properly implemented and alcoholics still find themselves discriminated against in seeking hospitalization. Further, most medical insurance coverage does not provide for the treatment of alcoholism.

This prevailing and callous indifference to the alcoholic and his needs was the main reason leading to the promulgation of the Uniform Alcoholism Intoxication and Treatment Act and its provisions which remove public intoxication as a crime and require its treatment in the public health system.

Mr. President, I strongly disagree with the task force's statement that there is no reluctance to treat alcohol abusers in community health care delivery systems and that the vast majority of financial support is from non-Federal sources. These statements are not only untrue but potentially damaging to our efforts to bring alcoholism under control in this country.

My concern extends even further to the application of resources through appropriations by this Congress in a manner which reflects the true needs of our country in these two critical social health areas of alcohol and drug abuse. It could be hoped that the General Accounting Office could attempt to summarize total impact of alcohol and other drugs in terms of incidence/prevalence combined with social and economic costs. With this information in hand, the Congress could more responsibly determine the appropriateness of resource allocations, since the administration's position is obviously and hopelessly biased.

It is recognized that the total need in both of these areas would undoubtedly exceed what, in terms of currently available resources, could be applied. But at least the ratio of a resource allocation would more directly reflect the extent of the need between the areas of alcohol and other drugs of abuse.

Mr. President, we are now in a position to allow the momentum begun by passage of the act in 1970 to continue, or to allow it to be curtailed as it surely will be if the administration's 1977 budget request is sustained.

The bill currently before this body for consideration reaffirms the congressional intent that these programs be continued and expanded. The bill would:

Authorize small increases for both State formula grants and project grants for the next 3 fiscal years;

Provide for greater support for those States which adopt the Uniform Act decriminalizing alcoholism and public drunkenness;

Provide for greater emphasis on underserved populations, such as minorities, youth and women;

Require amendments to State plans to include additional information regarding alcoholism resources available in the States, assure cooperation with and coordination among all alcoholism and health planners within the States, assure that States continue to assess their own programs and proposals and assure the development of standards of evaluation of such programs; and

Provide for increased emphasis on Federal research into the causes and consequences of alcoholism, including a new program to create National Alcohol Research Centers.

In my view one of the most important improvements in the current legislation is the increased emphasis on support for States which have adopted the Uniform Alcoholism and Intoxication Treatment Act, or substantially similar legislation, to remove public intoxication from the criminal justice system and provide for the treatment of alcoholism by the public health and community service agencies. This model legislation was approved by the National Conference of Commissioners on Uniform State Laws in 1971 and recommended for adoption by every State. I was happy to support this legislation and made copies available to interested parties through the Labor and Public Welfare Committee.

I pointed out at that time that medical authorities were nearly unanimous in their recognition of alcoholism as a disease. The World Health Organization recognized alcoholism as a disease in 1951, the American Medical Association in 1956, the American Hospital Association in 1957, the American Psychiatric Association in 1965, the Department of Health, Education, and Welfare in 1966, and the President's Commission on Law Enforcement and Administration of Justice in 1967. Despite this widespread recognition that alcoholism is a disease, in many jurisdictions persons are still thrown in jail for the sole crime of being sick in public. Some States have delayed decriminalizing public drunkenness because of the cost.

In order to encourage the remaining States to take this action, a provision was included in the Comprehensive Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1974 for a special grant to States which adopt this Uniform Act. More than half the States have now done so, including New Jersey, and the legislation currently before us would substantially increase the financial assistance to such States.

The legislation would place more emphasis on underserved populations, including women. I have found that alcoholic women of all races and all economic backgrounds have been generally ignored and discriminated against in terms of treatment and rehabilitation for their disease. Yet women comprise the largest increase in the problem drinking population in recent years. It is now estimated that fully one-third of the Nation's 10 million alcoholics are women. It is my own belief that there are probably as many women alcoholics as male alcoholics. Yet, because of the stigma attached to the disease, only one in nine receives treatment. Many try to hide their symptoms, causing anguish and suffering to themselves and their families. Even those women who admit their disease and seek help, often have trouble finding assistance. In New Jersey, for example, there is no halfway house for alcoholics which will accept women.

To generate interest and concern for the woman alcoholic, an ad hoc committee was formed in New Jersey to plan a state-wide seminar on women and alcohol. The "Discovery Conference on Women and Alcohol" was held in Cherry Hill in January of this year. Workshops were held on teenage drinking, career women and alcohol, the housewife alcoholic, the older female alcoholic and the relationship of the woman alcoholic and the criminal and civil justice system. The conference attracted a capacity crowd including doctors, nurses, hospital administrators, mass media leaders, clergymen and legislators.

In accepting an invitation to participate in the conference, Richard H. Hughes, chief justice of the Supreme Court of New Jersey, wrote:

> My recent work has given me more than usual acquaintance with alcoholism and its relationship to crime and delinquency. We are, among other things, trying to point at least nonviolent criminals whose offenses have an alcohol factor toward rehabilitation programs.

A permanent Task Force on Women and Alcohol has now been created in New Jersey to continue to work to improve the treatment and rehabilitation opportunities for women alcoholics. Similar task forces have been created in approximately 20 States and it is my hope that the Institute will enecourage and support such efforts.

Another significant provision of this legislation would provide for increased emphasis on Federal research into the causes and consequences of alcohol abuse, including a new program to fund alcoholism research centers with commitment to and ability to perform interdisciplinary, long-range research.

A team of committee staff members visited the current National Laboratory of Alcohol Research housed at St. Elizabeth's Hospital, and reported on the extreme inadequacy of the laboratory facilities and the need for a more adequate level of personnel and financial resources. This bill would direct the Secretary of Health, Education, and Welfare to provide more adequate resources and personnel for this important research area and the removal of the laboratory from its current location to more adequate facilities, preferably to the campus of the National Institutes of Health in Bethesda, Md.

The Second Special Report to the U.S. Congress on Alcohol and Health indicated that the risk of developing cancer of the mouth, throat and other sites is increased by prolonged heavy drinking and that cardiomyopathy and a variety of other diseases are linked to alcoholism. Transfer of the Laboratory of Alcohol Research to the Bethesda location would enable researchers to collaborate with researchers working on these other health areas, to the benefit not only of alcoholism research but to the benefit of the research being done by the other Institute's as well.

I am particularly pleased that the committee agreed to the creation of National Alcohol Research Centers. In the past 5 years, a number of significant advances have occurred which bear on the problems of alcoholism. Like all fundamental advances, they raise further questions which need investigation. The competitive grant system needs to be complemented by several concentrated efforts to integrate the various academic disciplines having a likely contribution to research into better means of treatment and prevention of alcoholism. Effective research requires a sustained effort in a stable environment with stable funding. Only such an environment would be capable of attracting the best professional minds to this field. In such an environment the long-term, interdisciplinary investigations into the many unanswered questions concerning alcoholism could best be conducted. National Alcohol Research Centers authorized in this bill would provide such an environment.

Mr. President, I would like to commend my distinguished colleagues, the junior Senator from Maine (Mr. HATHAWAY) and the senior Senator from New York (Mr. JAVITS) and the other members of the Subcommittee on Alcoholism and Narcotics for their fine work and the expeditious way they moved this bill through committee and to the floor for consideration.

I recommend that the Senate approve this legislation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976".

SEC. 2. Section 2(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4541; hereinafter referred to as the Act) is amended to read as follows:

"(b) It is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and meet the problems of alcohol abuse and alcoholism through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs; and

"(3) increased Federal commitment to research into the behavioral and biomedical etiology of, treatment of, and mental and physical health, and social and economic, consequences of, alcohol abuse and alcoholism.".

SEC. 3. (a) Section 301 of the Act is amended by—

(1) striking out "and" after "1975," and

(2) inserting after "1976," the following; "and, $90,000,000 for the fiscal year ending September 30, 1977, $100,000,000 for the fiscal year ending September 30, 1978, and $110,000,000 for the fiscal year ending September 30, 1979.".

(b) Section 302(a) of the Act is amended to read as follows:

"STATE ALLOTMENT

"SEC. 302. (a) (1) Except as otherwise provided in this section, for each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 301 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than—

"(A) $200,000, or,

"(B) in the case of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) which has adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (as described in paragraph (3), and hereinafter referred to as the Uniform Act), $300,000.

"(2) Whenever a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) has adopted the basic provisions of the Uniform Act the amount allotted to such State for any fiscal year under paragraph (1) shall be increased by the sum of $100,000 and an amount equal to 20 per centum of such allotment.

"(3) No State shall be eligible to receive its additional allotment for adopting the basic provisions of the Uniform Act under this section unless the Secretary determines the following:

"(A) That such State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies, and, in accordance with the purposes of sections 1 and 19 of the Uniform Act, have repealed those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

"(B) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Act):

"(i) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

"(ii) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

"(iii) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

"(iv) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

"(v) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or form of treatment will have available and utilize other appropriate treatment.

"(C) The laws of the State respecting involuntary commitment of alcoholics are consistent with the provisions of section 14 of the Uniform Act which protect individual rights.

"(D) The State makes such assurances as the Secretary may require to carry out the purposes of this section.

Determinations made under section 304 of this Act shall serve as determinations for the purposes of this paragraph.

"(4)(A) The provisions of paragraphs (2) and (3) shall not operate in any fiscal year unless appropriations made available under this section reach or exceed $70,000,000 for that fiscal year.

"(B) The provisions of subparagraph (B) of paragraph (1) shall not operate to reduce the amount that any State shall receive in any fiscal year to an amount less than such State received in the fiscal year ending June 30, 1976.

"(5) In determining, for the purposes of paragraph (1), the extent of need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse to be applied in determining such need.".

SEC. 4. (a) Section 304(b) of the Act is amended by striking out the last sentence thereof.

(b) Section 304(c) of the Act is amended by striking out "10 per centum" and inserting in lieu thereof "20 percent".

(c) Section 304(d) of the Act is amended by inserting before the period at the end thereof "and $15,000,000 for the fiscal year ending September 30, 1978, and $17,000,000 for the fiscal year ending September 30, 1979.".

SEC. 5. (a) Section 303(a)(3) of the Act is amended by inserting "and at least one representative of the State Health Coordinating Council established pursuant to section 1524 of the Public Health Service Act," after "alcoholism,".

(b) Section 303(a) of the Act is further amended by striking out "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (15) and by inserting after paragraph (10) the following:

"(11) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation, including but not limited to programs funded under State and local authorization, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

"(12) provide assurance that the State agency will coordinate its planning with local alcoholism and alcohol abuse planning agencies, and with other State and local health planning agencies;

"(13) provide assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need in assessing the adequacy of treatment personnel to acknowledge previous experience;

"(14) provide reasonable assurance that treatment or rehabilitation projects or programs supported by funds made available under this Act have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and".

(c) Section 303 of the Act is further amended by inserting at the end thereof the following new subsection:

"(c) The Secretary shall by regulation require the submission of a report by each State containing an assessement of the progress of each such State in implementing its State plan. Such report shall be submitted to the Secretary commencing October 1, 1977, and every third succeeding year thereafter.".

SEC. 6. (a) Section 311(a) of the Act is amended to read as follows:

"SEC. 311. (a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

"(1) to conduct demonstration and evaluation projects, including projects designed to develop methods for the effective coordination of all alcoholism treatment, training, prevention, and research resources available within a health service area,

"(2) to provide treatment and prevention services, with special emphasis on currently undeserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available,

"(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors, and

"(4) to provide programs and services, including education and counseling activities, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies.

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.".

(b) Section 311(b) of the Act is amended by redesignating clause (2) as clause (3) and inserting a new clause (2) after "individuals;" as follows: "(2) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual on its staff, or who is available to the staff on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;".

(c) Section 311(d) of the Act is amended by—

(1) striking "and" after "1975," and

(2) inserting before the period at the end thereof "$100,000,000 for the fiscal year ending September 30, 1977, $105,000,000 for the fiscal year ending September 30, 1978, and $110,000,000 for the fiscal year ending September 30, 1979".

SEC. 7. (a) Section 321(a) of the Act is amended by inserting ", or outpatient facility (as defined in section 645(f) of the Public Health Service Act)," after "hospital".

(b) Section 321(b)(1) of the Act is amended by—

(1) inserting "and outpatient facilities" after "hospitals";

(2) inserting "or outpatient facility" after "hospital" each time it appears; and

(3) striking out "is authorized to make regulations" in the first sentence and inserting in lieu thereof "shall issue regulations not later than December 31, 1976".

SEC. 8. The Act is further amended by redesignating title V and references thereto as title VI and by inserting the following:

"TITLE V—RESEARCH

"ENCOURAGEMENT OF RESEARCH

"SEC. 501. (a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

(1) the behavioral and biomedical etiology of,

(2) treatment of,

(3) mental and physical health consequences of, and

(4) social and economic consequences of, alcohol abuse and alcoholism.

"(b) In carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized to—

"(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

"(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

"(3) make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism;

"(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

"(5) promote the coordination of research programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse;

"(6) conduct an intramural program of biomedical and behavioral research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

(A) located in an institution capable of providing all necessary medical care for such human subjects, including but not limited to complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

(B) associated with an accredited medical or research training institution;

"(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

"(8) make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

"(9) enter into contracts under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5); and

"(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

"SCIENTIFIC PEER REVIEW

"Sec. 502. The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of alcoholism.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 503. For carrying out the purposes of section 501, there are authorized to be appropriated $22,000,000 for the fiscal year ending September 30, 1977, $26,000,000 for the fiscal year ending September 30, 1978, and $30,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary thereafter.".

"NATIONAL ALCOHOL RESEARCH CENTERS

"Sec. 504. (a) The Secretary acting through the Institute, is authorized to designate any public or private nonprofit entity as a National Alcohol Research Center for the purpose of providing coordination among biomedical, behavioral, social, therapeutic and other related disciplines for conducting interdisciplinary research into basic questions relating to alcoholism and other alcohol problems.

"(b) From the sums appropriated pursuant to subsection (e), the Secretary, acting through the Institute, is authorized to make grants in accordance with this section to any public or private nonprofit entity which has been designated as a National Alcohol Research Center. No grant shall be made under this section unless an application has been submitted to and recommended for approval by the National Council on Alcohol Abuse and Alcoholism. Such application shall be submitted in such manner and contain such information as the Secretary may reasonably require.

"(c) (1) The Secretary may not approve an application for a grant under this section unless—

"(A) the Secretary is satisfied that the applicant has the experience, or capability, to conduct biomedical behavioral, and social research on alcohol problems;

"(B) the applicant provides the Secretary with reasonable assurances of an institutional commitment to research on problems of alcohol;

"(C) the application contains satisfactory evidence of the availability of laboratory facilities and reference services;

"(D) the Secretary is satisfied that the applicant has facilities and personnel to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students, and for medical and osteopathic students and physicians;

"(E) the Secretary determines that the applicant has the capacity to train predoctoral and postdoctoral researchers for careers in alcohol problems;

"(F) the applicant contains a detailed five-year research plan; and

"(G) the applicant assures a special emphasis on alcohol problems which can be pursued through sustained commitment by research teams.

"(2) The Secretary in reviewing an application for a grant under this section shall consider the—

"(A) proven experience in interdisciplinary research on alcohol problems,

"(B) commitment to and experience in longitudinal research on alcohol problems, and

"(C) reference services that will give access to scientific alcohol literature,

of the applicant.

"(d) (1) No funds under this section may be used for the purchase or rental of any land or the rental, purchase, construction, preservation or repair of any building. For the purposes of this section the term 'construction' has the same meaning as in section 702(2) of the Public Health Service Act (42 U.S.C. 292a).

"(2) Grants to a National Alcohol Research Center under this section shall not exceed $1,000,000 in any fiscal year.

"(e) There are authorized to be appropriated to carry out the purposes of this section $6,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years.".

Sec. 9. Section 201 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Health, Education, and Welfare, acting through the Alcohol, Drug Abuse, and Mental Health Administration, shall evaluate and make recommendations regarding improved coordinated activities, where appropriate, for public education and other prevention programs with respect to alcohol and other substance abuse, including multiple substance abuse and cross addiction programs.".

Sec. 10. The first sentence of section 217(d) of the Public Health Service Act (42 U.S.C. 218) is amended by adding before the period at the end thereof the following: ", including policies and priorities with respect to grants and contracts".

Sec. 11. Section 208(g) of the Public Health Service Act (42 U.S.C. 210) is amended by (1) striking "one hundred and fifty" and inserting in lieu thereof "one hundred and fifty-five" and (2) by inserting "and not less than five shall be for the National Institute on Alcohol Abuse and Alcoholism," after "National Institutes of Health,".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–705), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

I. PURPOSE

It is the purpose of this bill to extend for three years the authorization of appropriations for programs administered by the Secretary of Health, Education and Welfare (hereafter referred to in this report as the Secretary) through the National Institute of Alcohol Abuse and Alcoholism (hereinafter referred to as the Institute), and to increase those authorizations with particular emphasis on increased federal assistance for States adopting the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act, on the expansion and improvement of alcoholism research programs, and on the provision of services to currently underserved populations.

II. ACTION BY THE COMMITTEE

The subcommittee on Alcoholism and Narcotics held three days of hearings, on February 3, 4 and 5, 1976, into the administration of the current alcoholism laws. Subsequently, the subcommittee drafted an original bill extending and revising those laws, which it approved on February 25, 1976. The full committee met and considered the subcommittee draft bill on March 9, and after considering and accepting certain minor and technical amendments, unanimously ordered the bill reported.

III. HISTORY OF THE FEDERAL ALCOHOLISM EFFORT

Prior to 1967, with a few notable exceptions, alcoholism had been generally ignored by federal, state and local government. The major source of assistance for alcoholics was the private voluntary sector, including such groups as Alcoholics Anonymous, the National Council on Alcoholism, the Salvation Army, and their local affiliates. In addition, a small number of private treatment clinics provided treatment and rehabilitation services.

By 1967 alcoholism had been recognized as a disease by the World Health Association, the American Medical Association, the American Hospital Association and the American Psychiatric Association. Two United States Courts of Appeals, in *Easter* v. *District of Columbia*, 361 F 2nd 50 (D.C. Cir. 1966) and *Driver* v. *Hinant*, 356 F. 2d 761 (4th Cir. 1966), had held that alcoholism is an illness or disease, and that therefore a homeless alcoholic could not be punished for his public intoxication.

The alarmingly high incident of the disease had also begun to be recognized by health officials during the late 1960's. The Cooperative Commission on the Study of Alcoholism in 1967 completed a five year study and in a Report to the Nation on Alcohol Problems that Commission stated that problem drinking was involved in between 10% and 25% of the families of welfare recipients. More than 20% of the males admitted to state mental hospitals and males discharged from the wards of general hospitals were diagnosed as alcoholics. The Commission called the handling of public drunkeness by criminal justice systems "inhuman as well as ineffective" and "an immense economic drain—in terms of men, time and space"—on the police, the court and the jail systems.

In *Powell* v. *Texas*, 392 U.S. 514 (1968), the Supreme Court affirmed the status of alcoholism as a disease, even though Powell's conviction was upheld since the record failed to show that he was unable to avoid being intoxicated in public. The Court deplored the inadequacy of the governmental response to the national problem of alcoholism and the severe shortage throughout the country of facilities for the treatment of indigent alcoholics.

In 1968, reports prepared for the Department of Health, Education, and Welfare and the Department of Transportation stated that over 30% of the Nation's traffic fatalities were related to alcohol. One of these reports concluded:

"The problem requires a massive Federal program concentrating on the disease of alcoholism."

In hearings before the Subcommittee on Alcoholism and Narcotics of the Senate Labor and Public Welfare Committee in 1969 and 1970, the Assistant Secretary for Health of the Department of Health, Education, and Welfare termed alcoholism the Nation's number one health problem, and representatives of the American Psychiatric Association cited for the first time a study indicating that there were over nine million problem drinkers and alcoholics in the United States. Since each alcoholic adversely affects the lives of at least four other individuals, the total number of persons who suffer directly or indirectly from alcoholism can be estimated at close to 50 million.

The initial response of the Congress was passage of the District of Columbia Alcoholic Rehabilitation Act of 1967, Public Law 90–452, (1969), which directed the establishment of a system for treating the illness of the alcoholic rather than condemning him to the "revolving door" of arrest, incarceration, release and rearrest. This principle was then applied nationally through the Alcoholic Rehabilitation Act of 1968, Public Law 90–574, and the Community Mental Health Centers Amendments of 1970, Public Law 91–211.

Following hearings in 1970, the Senate Committee on Labor and Public Welfare, reported S. 3835, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91–616, creating the National Institute on Alcohol Abuse and Alcoholism and authorizing a three year program of formula grants to the states and contracts and project grants for the prevention and treatment of alcohol abuse and alcoholism.

In its report on S. 3835, the Committee expressed its view of the long-term Federal commitment required to overcome the national problem of alcoholism:

"An adequate response of this magnitude requires a massive Federal approach. Alcoholism is a problem of the entire society. It will take a total effort of the entire Nation, at all levels of government, to make significant progress in controlling it. S. 3835 represents, in the opinion of the committee, an adequate first step and appropriate beginning to a solution to the problem. It establishes a framework within which for the first time, Federal, State and local governments can effectively utilize their health and rehabilitation resources to bring the problem under control. Prevention and treatment facilities will be fostered throughout the Nation. The remedy mandated by this bill is long overdue and urgently needed."

On March 13, 14, and 16, 1973, hearings were held by the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare on S. 1125, to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act and other related acts. The bill became law on May, 1974, as the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1974, Public Law 93–282. This Act removed the National Institute on Alcohol Abuse and Alcoholism from the National Institute of Mental Health and directed the Secretary of the Department of Health, Education and Welfare, through the Institute, to coordinate the efforts of other Federal agencies and Federally supported programs. The Act required a report on alcohol and health every three years, extended the state formula grant program for three years, and authorized an appropriation level of $80 million for each year, and authorized the Department of Health, Education and Welfare, on the request of a state, to assign Departmental employees or equipment to a state, assist in the administration of the state's plan. The Act also required the state alcoholism advisory councils to include representation from minority and poverty groups, and a new Section authorized special grants to encourage states to adopt the Uniform Alcoholism and Intoxication Treatment Act recommended by the National Conference on Uniform State Laws (or substantially similar legislation). Those states which qualified, received a grant of $100,000 plus 10 percent of their formula allotments. Those grants were funded for the first time in fiscal 1976. The Act also extended the authorization for project grants and contracts, and prohibited any public or private hospital receiving funds from federal agency sources from discriminating in its admission or treatment policies on account of the individuals' alcohol abuse or alcoholism.

Since that time the Institute has operated as an autonomous unit under the Alcohol, Drug Abuse and Mental Health Administration, under the almost perpertual strain of threatened Administration defunding of its programs and dismantling of its administrative apparatus. Yet despite the impoundment of appropriated monies and the refusal of the Office of Management and Budget to permit authorized expansion of its small staff, the Committee believes the Institute has done a credible, and at times, outstanding job living up to its Congressional mandate.

BUDGET OF NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

[Fiscal years funds (millions)]

Appropriations	1971	1972	1973	1974	1975	1976[1]	1976
Appropriations	14	85	156	138	145	141	150
Impounded funds	0	0	[2] (81)	[2] 60	[2] 21	0	0
Actual operating budget	14	85	75	198	166	141	150

[1] Continuous resolution.

[2] $81,000,000 impounded in fiscal year 1973 was available for spending in fiscal year 1974 and 1975.

FOREIGN RELATIONS AUTHORIZATION ACT, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3168, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 3168) to authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE), with 1 hour on any amendment, except an amendment by the Senator from Oklahoma (Mr. BARTLETT), on which there shall be 2 hours, with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides, under the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I ask unanimous consent that during the consideration of the Department of State authorization bill, my assistant, Michael Kraft, be permitted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SPARKMAN. Mr. President, I understand we are under a time limitation of 2 hours on the bill?

The PRESIDING OFFICER. The Senator is correct. The Chair will repeat: The time limitation on this bill is 2 hours, to be equally divided and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE), with 1 hour on any amendment, except an amendment by the Senator from Oklahoma (Mr. BARTLETT), on which there will be 2 hours, and 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. SPARKMAN. I yield myself such time as I may require.

Mr. President, the principal purpose of the bill now before the Senate—the Foreign Relations Authorization Act, fiscal year 1977—is to authorize fiscal year 1977 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. The bill also contains other provisions which I shall discuss briefly.

Because continuing inflation inevitably means rising costs for the foreign affairs agencies as well as other agencies of government, the Committee on Foreign Relations has generally found it useful to analyze annual authorization requests in terms of personnel levels as well as budget dollars. This year, I am pleased to say, all three agencies covered in this bill are in the position of either holding steady in their number of personnel or actually contracting. Whereas, in the past the committee has frequently sought to limit bureaucratic growth by making reductions in budget requests, this year the process took place within the administration. The committee was therefore favorably disposed to approve the requests which were finally presented to Congress.

In the case of the Department of State, the planned number of personnel during fiscal year 1977—approximately 17,800—is virtually identical to the number in fiscal year 1976. In the case of the USIA, there will be a slight reduction in personnel—from 8,900 down to 8,830. In the case of the Radio Free Europe/Radio Liberty organization, which is funded by grants from the Board for International Broadcasting, there will be a significant personnel reduction—made possible by administrative consolidation—from over 2,000 to fewer than 1,800.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a table which details the administration's budget requests for all three agencies, comparing those requests with the appropriations actually made in fiscal year 1976, and showing the committee's recommendations as contained in the bill now before the Senate.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Fiscal year 1976 appropriation	Fiscal year 1977 request	Committee recommendation
1. State Departments:[1]			
A. Administration of foreign affairs	$500, 652, 000	$551, 955, 000	$552, 240, 500
1. Salaries and expenses	(488, 797, 000)	(539, 800, 000)	(540, 080, 500)
2. Representation allowances	(1, 700, 000)	(2, 000, 000)	(2, 005, 000)
3. Emergencies in the diplomatic and consular service	(2, 100, 000)	(2, 100, 000)	(2, 100, 000)
4. Payment to the Foreign Service retirement and disability fund	(8, 055, 000)	(8, 055, 000)	(8, 055, 000)
B. International organizations and conferences	271, 016, 000	338, 875, 000	342, 460, 453
1. Contributions to international organizations	(217, 853, 000)	(274, 000, 000)	(277, 545, 453)
2. Contributions for international peacekeeping activities	(35, 000, 000)	(45, 000, 000)	(45, 000, 000)
3. Missions to international organizations	(9, 528, 000)	(9, 300, 000)	(9, 340, 000)
4. International conferences and contingencies	(5, 740, 000)	(7, 035, 000)	(7, 035, 000)
5. International trade negotiations	(2, 895, 000)	(3, 540, 000)	(3, 540, 000)
C. International commissions	20, 259, 000	17, 069, 000	17, 069, 000
1. International Boundary and Water Commission	(13, 890, 000)	(9, 729, 000)	(9, 729, 000)
2. American sections, international commissions	(1, 609, 000)	(1, 840, 000)	(1, 840, 000)
3. International fisheries	(4, 760, 000)	(5, 500, 000)	(5, 500, 000)
D. Educational exchange	63, 429, 000	68, 500, 000	68, 500, 000
1. Mutual educational and cultural exchange activities	(54, 429, 000)	(58, 500, 000)	(58, 500, 000)
2. Center for cultural and technical interchange between East and West	(9, 000, 000)	(10, 000, 000)	(10, 000, 000)
E. Migration and refugee assistance	9, 957, 000	10, 000, 000	10, 000, 000
F. Aid to Soviet/East European refugees	20, 000, 000		20, 000, 000
G. Foreign Service buildings supplemental[2]		31, 458, 000	31, 458, 000
II. United States Information Agency:[3]			
A. Salaries and expenses	260, 008, 000	256, 925, 000	256, 925, 000
B. Special international exhibitions	6, 187, 000	4, 841, 000	4, 841, 000
C. Acquisition and construction of radio facilities	10, 135, 000	2, 142, 000	2, 142, 000
III. Board for International Broadcasting	64, 500, 000	53, 385, 000	[4] 58, 385, 000
Total	[5] 1, 226, 143, 000	1, 335, 150, 000	1, 364, 020, 953

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[1] For purposes of meaningful comparison, State Department figures for fiscal year 1976 are revised on the basis of the new foreign affairs administrative support system, which actually takes effect in fiscal year 1977 and which involves a significant reduction in the amount of reimbursement received by the State Department from other agencies for shared expenses.

[2] This is in additon to a 2-yr (fiscal year 1976–77) authorization of $94,685,000 already enacted.

[3] Because the fiscal year 1976 USIA authorization has not yet been enacted, the amounts shown for fiscal year 1976 are estimates.

[4] This figure includes $5,000,000 which will be drawn upon only in the event of changes in international exchange rates adverse to the dollar.

[5] See footnotes 2 and 3.

Mr. SPARKMAN. As the table shows, Mr. President, the committee made three principal budget changes: a $3.5 million increase in the State Department item "international organizations and conferences"; the addition of an authorization of $20 million to be appropriated to the State Department for aid to Soviet refugees; and an increase of $5 million in the authorization for the Board for International Broadcasting. I will describe the reason for each.

The purpose of the $3.5 million increase in the State Department's "international organizations and conferences" item, Mr. President, is to provide for completion of the $18.5 million fiscal year 1975 U.S. contribution to UNESCO. As my colleagues are aware, there is currently in law a prohibition against U.S. payments to UNESCO, legislated because of UNESCO policy toward Israel. According to the prohibition, further U.S. payments to UNESCO will be prohibited until the President is able to certify to Congress that UNESCO "First, has adopted policies which are fully consistent with its educational, scientific, and cultural objectives, and second has taken concrete steps to correct its recent actions of a primarily political character." Mr. President, it was for two reasons that the Committee chose to approve the necessary exceptions and funds for completion of the fiscal year 1975 U.S. payment. The first is that the payment would cover an arrearage which arose prior to, and for reasons unrelated to, the total cutoff. The second reason is that, in the committee's view, this is the year in which it is imperative that UNESCO take affirmative action to reverse its anti-Israel policies; and the committee believes that it is important for the United States to be a fully active member at this critical juncture. By the terms of the UNESCO assessment system, completion of the relatively small fiscal year 1975 U.S. arrearage will allow full U.S. participation in UNESCO until January 1, 1977, and by then, the committee hopes that the strong U.S. stand on this issue will have prompted UNESCO to take the necessary steps to allow for the resumption of normal U.S. payments and participation.

The second significant committee change, Mr. President—the authorization of $20 million to be used for aid to Soviet refugees—represents the continuation of a program which Congress initiated in fiscal year 1973 and which has, by annual congressional action, been continued ever since. These funds are actually used to assist refugees both from the Soviet Union and Eastern Europe, and are appropriated under the stipulation that at least 80 percent of the funds shall be used to assist refugees relocating in Israel. The $20 million approved by the committee for fiscal year 1977 would simply continue the program at the fiscal year 1976 program level.

The third major committee change, Mr. President, is the addition of $5 million to the administration's request for the Board for International Broadcasting. The purpose of this addition, I should emphasize, is not to provide for operations beyond those envisioned in the budget preparation, but rather to insure that operations at that level are able to continue notwithstanding swings in international currency exchange rates. More than 80 percent of the BIB appropriation is converted into foreign currency, Mr. President, and there is thus a great potential for disruption in planning and operations when exchange rates are shifting. Under the provisions the committee has placed in the bill, the extra $5 million will be available only to the extent the Director of the Office of Management and Budget determines it to be necessary to compensate for a change in the exchange rate from the rate used in budget preparation. Conversely, if the dollar becomes stronger than anticipated, the OMB Director will place in reserve whatever portion of the appropriation is not needed to sustain the budgeted level of RFE/RL operations. I should point out, Mr. President, that the establishment of such a contingency fund was recommended to the committee by the General Accounting Office after a study of the RFE/RL budget system; and that the committee approved this approach after being persuaded that the contingency fund would, by fostering more efficient planning, actually facilitate a budget savings over the long run.

Mr. President, in addition to these budget measures, I should make brief reference to the nonbudgetary aspects of S. 3168.

One significant nonbudgetary provision of this bill is a section which extends to State Department medical personnel protection against civil suits arising from acts of alleged medical malpractice performed while those employees are acting within the scope of their employment. Requested by the executive branch, this provision would create protection for State Department employees similar to that already available to employees of the Public Health Service and the Veterans' Administration and also now being considered in Congress for civilian and uniformed personnel providing medical services for the Armed Forces.

Another nonbudgetary provision of the bill, Mr. President, is a section requiring the Secretary of State to transmit to the Congress, within 180 days of enactment, a comprehensive plan for improvement of the State Department/USIA personnel system.

For some time, the committee has been concerned about the proliferation of personnel categories within State and USIA—the several categories being characterized by various standards for hiring, tenure, and pay—and this section is intended to establish a congressional mandate for a thorough review and appropriate revision of the present system.

Still another provision of the bill which should be noted, Mr. President, is a requirement that the President submit to Congress a report on projected U.S. needs for international broadcast facilities and ways in which existing facilities can be put to more efficient use. The committee's purpose in approving this provision is to insure that the administration is taking a long-term view in its planning for the construction and use of the facilities both of the Voice of America and of Radio Free Europe/Radio Liberty.

The committee intends that the administration's analysis consider all reasonable possibilities for the sharing of facilities by VOA and RFE/RL, both with each other and with other governments engaged in international broadcasting.

Mr. President, that completes my summary statement. As I indicated earlier, fiscal year 1977 will be a year of consolidation and contraction for all three of the agencies funded through this bill; and I therefore urge my colleagues to support the bill as reported by the committee.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. CASE. Mr. President, I yield myself such time as I may require. My requirements will be very slight. I think the chairman has presented the bill in his usual comprehensive and fair manner.

The only thing that I am a little troubled by in the bill is the provision in regard to UNESCO, but the chairman has stated the reason the committee took this action in respect to the 1975 contribution and I am not disposed to disturb that action, or attempt to, on the floor at this time.

But I would like to emphasize that this is not to be a precedent for an extension again next year as far as the Senator from New Jersey is concerned. I hope the matter will be moot because UNESCO will have taken the action Congress indicated last year it should take. Obviously, that is absolutely essential.

I have no desire to expand further on the bill. The report and the excellent statement by the chairman speak for themselves and cover the matter, I think, very comprehensively.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The bill is open to amendment. Who yields time?

Mr. ROTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On p. 13, after line 5, add a new section as follows:

SEC.—. Notwithstanding the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461), the director of the United States Information Agency shall make available, for public viewing within the United States, the film "George Washington Country" depicting the beauty and culture of the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia and the District of Columbia.

Mr. ROTH. Mr. President, the senior Senator from Pennsylvania and the junior Senator from Maryland join me in sponsoring this amendment to permit public showing in the United States of a USIA film, "George Washington Country." This film was prepared by USIA in cooperation with the ongoing multi-State tourist program, also called George Washington Country, in which the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia as well as the District of Columbia participate.

The film, which I have seen, is a documentary showing the culture, beauty, and traditions of these five mid-Atlantic States and the District, all of which played such an important role in our Nation's history and are so closely associated with its first President.

As Senators know, there is a general ban on USIA film being shown within the United States. This ban was established to prevent the USIA ever being misused as a domestic Government propaganda organ. It is, however, perfectly appropriate for Congress to lift the ban, on an individual basis, for films of merit which have no significant political content. For example, in the recent few years, Congress has permitted the public showing within the United States of "Summer Fever," a film dealing with Little League baseball, and "Wilma Rudolph, Olympic Athlete."

The organization, George Washington Country, is the only regional tourist program of its kind in the Nation. It operates through a nonprofit, Delaware-based corporation, and its director is the travel directors of the participating States. Since there is no paid staff, nearly all of the dues paid by the States go directly into regional tourism promotion.

Public release of "George Washington Country" is particularly appropriate in this Bicentennial Year. This film will help increase public knowledge and interest in the beauty and traditions of the historical-rich mid-Atlantic and capital region.

Mr. CASE. Mr. President, I am intrigued by the amendment of the Senator from Delaware. I am intrigued by it for many reasons.

I cannot imagine why anybody would take the Marlboro ad and use it for part of the title in a serious exercise by the U.S. Information Agency—"George Washington Country," indeed.

This would be a little easier to take if I saw in the title any reference to the State of New Jersey.

What is the trouble?

Mr. ROTH. I will be glad to add the State of New Jersey.

Mr. CASE. I do not mean the Senator at all. I am talking about the Agency.

Does it depict the beauty and culture of the State of New Jersey as well as those?

Mr. ROTH. It does not include it, to answer the Senator seriously.

Mr. CASE. I do not think anything of that sort ought to be circulated then.

Is there any explanation for this?

Mr. ROTH. New Jersey does not, as I understand it, participate in the multi-State regional tourist project entitled "George Washington Country."

Mr. CASE. This is a commercial then?

Mr. ROTH. No, it is not. It is really the travel and visitor bureau agents of the States involved that participated in creating this film and want to make use of it.

Mr. CASE. I see. This is purely for educational and cultural purposes?

Mr. ROTH. That is exactly right.

Mr. CASE. The Senator is a wonderful companion of mine, a highly honored colleague.

I gather there is nothing sinister about this, that the line was drawn almost at the Mason-Dixon line. Is that about right?

Mr. ROTH. No, it does include Pennsylvania.

Mr. CASE. I know.

It is hard to understand.

Mr. President, I have no objection to this.

Mr. ROTH. I thank the Senator for agreeing to the amendment.

Mr. President, I ask unanimous consent to have the name of my junior colleague (Mr. BIDEN) added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

Mr. PRESIDENT, let me say that I am quite sympathetic to what the Senator is driving for. But it seems to me it would be much better if this were taken up as a separate bill so that the committee can discuss it. I therefore suggest bringing it up as a separate bill, rather than as a part of this authorization bill.

Mr. ROTH. Actually, we originally planned to introduce it as a separate bill, and I am happy to do it.

I would greatly appreciate it if the chairman would have whatever hearings are needed on the bill soon, because time is of the essence.

Mr. SPARKMAN. I assure the Senator that we will, just as soon as we can get to it. I will delegate the clerk to put this on the calendar at the earliest time we can take it up.

I appreciate the action of the Senator.

Mr. ROTH. With that understanding, I am happy to withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER (Mr. HELMS). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BARTLETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9 between lines 11 and 12, insert the following new section:

GRADUAL REDUCTION OF THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS

SEC. 108. Public Law 92-544 (86 Stat. 1109, 1110) is amended, in the paragraph headed "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" under "INTERNATIONAL ORGANIZATIONS AND CONFERENCES" by striking out the sentence after the word "*Provided*," and inserting in lieu thereof the following: "That no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of—

"(1) 25 per centum of the total assessment of such organization in the fiscal year 1976;

"(2) 23 per centum of such assessment for the 1976 transition quarter;

"(3) 23 per centum of such assessment in the fiscal year 1977;

"(4) 21 per centum of such assessment in the fiscal year 1978;

"(5) 19 per centum of such assessment in the fiscal year 1979;

"(6) 17 per centum of such assessment in the fiscal year 1980; and

"(7) 15 per centum of such assessment in the fiscal year 1981;

except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.".

The PRESIDING OFFICER. The Chair will inquire of the Senator, is this the Senators' amendment on which there is a 2-hour time limitation?

Mr. BARTLETT. The Chair is correct.

Mr. President, I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Fred Ruth, of my staff, be accorded the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, this amendment proposes to reduce the U.S. share of U.N. assessments by 10 percent over a period of 5 years, from 25 percent, by increments of 2 percent, to 15 percent.

The Senate, by approving the legislation to mandate a review of the relationship between the United States and the United Nations, quite correctly reflects the concern of many Americans that something has gone wrong.

I have introduced legislation, S. 2038 and S. 3225, and this amendment is identical to that legislation, to phase down the proportion of the total U.N. budget to be paid by the United States. My bills would cut our limit from 25 percent of the total to 15 percent of the total through a 5-year phase-down period. The two bills are identical except that the newer bill begins the phase down in fiscal year 197T for a 15-month period and provides for 2 percent per annum reductions thereafter.

The purpose of my legislation is to bring the size of the U.S. monetary contributions to the U.N. into line with reality—the reality that the world of 1976 is vastly different from the world of 1945.

My bill does not suggest that we should "get the United States out of the U.N. and the U.N. out of the United States." It does not suggest that we withdraw from the world community. But neither does it preclude the option of the United States from withdrawing from the U.N., should we decide that this body no longer represents responsibly, fairly, and decently the world community.

I have for years been a supporter of the purpose of the United Nations as a forum for world discussion, and as a potential avenue to peace, as were the high hopes immediately after World War II. The fact that the U.N. has not prevented war does not mean that the United States should turn its back on the one forum where representatives from all over the world may sit down to discuss responsibly the issues that divide them.

My objections are not only that the votes in the U.N. today are irresponsible—and far too many of them are—but also that these decisions are in part the result of the changing rules of the game and the changing economic status of the players.

I cannot accept the argument at the other extreme—the argument that the United States has a commitment to continue to pour taxpayers money into the United Nations without any regard for the changed atmosphere there.

Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina (Mr. HELMS) be made a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Presently, by statute, the United States cannot contribute more than 25 percent of the total U.N. budget. A few years ago, before that statutory limit, the U.S. contribution was approximately 39.89 percent annually for a 4-year or 5-year period, 1946 to 1950. And then it has gradually reduced downward until recently it became 25 percent. The President's budget for fiscal year 1977 provides $91,124,000 for the United Nations per se, and an additional $100,935,000 for the various affiliated organizations—UNESCO, which, by barring Israel has developed a "primary political character," and therefore has been unable to meet the congressional requirements for funding. My legislation would apply to the entire bulk of this funding with the exception of the $5,790,000 for the International Civil Aviation Organization, the $11,343,000 for the International Atomic Energy Agency, and funding for special Sinai agreements.

My amendment approaches the problem of reducing the assessment for the United States in the same manner as it was reduced before, and makes the same exceptions with, of course, the addition of the Sinai agreement which was passed subsequent to the reduction 25 percent.

I believe that our Federal budget deficit is too large and that Congress should reduce some programs. I have tried to identify those programs in which the expenditures exceed our obligations or benefits. The $192 million for the United Nations is one such program.

The United States has been generous to the U.N. In addition to the Federal contributions an American citizen donated the land on which the U.N. headquarters is located, and the Federal Government advanced a $65 million loan, interest free, which is still being repaid. Americans yearly "trick or treat" for UNICEF and buy UNICEF Christmas cards in a free atmosphere of generosity that is an outstanding example of our concern for those in other lands.

However, for better or for worse, times have changed in the U.N. One of the most important changes has been the shift in the internal power alinements of the United Nations.

The distinction between the Security Council and the General Assembly is most significant—even more than the structural fact that the United States is one of five nations which possess veto powers in the Security Council, but only one of 144 votes in the General Assembly. The founders of the United Nations wanted to avoid the mistakes which had doomed the League of Nations and other international bodies. Too often, well intended peacekeeping assemblies turned into either a powerless debating society dominated by small nations or an impotent organization paralyzed by a requirement of unanimity among all parties. The solution was a realistic compromise creating the Security Council as the source of authority. The General Assembly was established as a forum for discussion. That no real power was vested in the General Assembly is evidenced by the willingness of other charter nations to accept the Soviet Union having three votes—its own, plus that of Byelorussia and the Ukraine. The Soviet Union had originally demanded 15 votes, one for each of its republic constituencies.

The qualitative difference between the Security Council and the General Assembly is recognized by the world's legal profession. Actions and interpretations of the U.N. charter by the Security Council are considered part of international law, whereas actions by the General Assembly are not.

Since 1945, the General Assembly has rapidly increased in size from 50 members to 144. It is not the increase in size, as such, which has motivated me to introduce this legislation, it is the rules of the game which are now being played by the new majority.

The new majority in the U.N., by circumventing the Security Council, has shifted some political power to the General Assembly. Through procedural credentials challenges, they have, in Orwellian style, made the 15 million citizens of Taiwan "nonpeople" even though Taiwan is larger in population and more "legitimate" in the sense of governmental legitimacy, than are many other members of the U.N.; likewise, through the credentials process, the General Assembly has, because of its apartheid policies, disenfranchised a member in good standing—South Africa.

The racial policies of South Africa are intolerable, but are no more reprehensible than are the inhumanity, racial and religious persecution, mass killings, and in general, repression at home and aggression abroad of some of the Communist and third world countries. Disenfranchising South Africa sets the stage for a probable similar attempt against Israel. The first move in this direction was the General Assembly resolution equating Zionism and racism, a preposterous proposition.

The United Nations was born from the ashes of World War II, in the atmosphere of big power confrontation with the new threat of nuclear power. Since World War II, many colonial territories have gained independence, thus reshaping the political map of the General Assembly. The United States cannot change the makeup of the General Assembly or the fact that it is assuming important political responsibilities formerly the prerogatives of the Security Council. But as we play under the new rules we must change the old fiscal responsibilities.

The distortions in voting power resulting from the shift of responsibility to the General Assembly are striking.

The General Assembly has the "important question" provision requiring 60 percent voting approval on matters of certain importance. However, a simple majority vote can decide a question of importance, as in the parliamentary maneuvering over the Red China and South African questions. Therefore, the General Assembly magic number is 73 votes. A working 73 vote majority in the General Assembly can be fashioned from countries whose combined population is about 176,000,000 people, or about 5 percent of the world's population.

We must then ask ourselves: What action can we take to help prevent the degeneration of the U.N. to a "barbarous parliament," as described by British writer Paul Johnson in a recent essay in the New Republic. I favor constructive, assertive participation. But the United States should no longer blindly accept the argument that our country must assume a special responsibility to finance the United Nations because we are the wealthiest country in the world. The United States percentage of world product has dropped from 36 percent in 1955 to 27 percent in 1974. This is a natural result of the improvement of free world economies. However, our share of the world product has also been reduced by the transfer of our wealth to the OPEC nations. I believe my legislation which reduces our contribution to the U.N., by 2 percent per year for 5 years, provides an orderly realistic shift of monetary responsibility to other nations. I believe further that this shift of monetary responsibility is necessary to foster a more mature political atmosphere.

The success or failure of the United Nations rests with all member nations. The third world countries are using the United Nations as a forum and the United States as a whipping boy to demand a new world economic order. If the monetary stake of the third world countries is increased, the goal of my legislation is that they will be more prudent and responsible in pursuing their own interests.

In December, the National Observer conducted what it calls an "observer plebiscite," on the subject of responses to the United Nations. The three choices offered Observer readers were: First, get out of the U.N.; second, stay in but reduce financial support; third, continue full support.

The results of that poll or plebiscite were: 5,001 in favor of continued membership but reduced financial support; 3,028 in favor of withdrawing from the United Nations; 1,850 full support at the present level.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

I appreciate the objective of the Senator who has just presented his amendment. It seems to me, though, that it is not the best approach. Even if we accept the idea that there ought to be a readjustment of payments, I do not believe that is the way it ought to be done.

I shall therefore propose a substitute to the Senator's amendment, which reads as follows:

SEC. 108. It is the sense of the Congress that the President should direct the United States Ambassador to the United Nations to act immediately to seek such changes in the United Nations system for apportioning rates of assessment as are necessary to insure that the annual rates of assessment of member nations are closely correlated to the relative ability of such nations to pay, as determined by the most recent reliable statistical measures.

Mr. BARTLETT. Mr. President, will the Senator yield for a response?

Mr. SPARKMAN. Yes.

Mr. BARTLETT. I would say to the distinguished Senator from Alabama, first, that the Congress found before, as he knows, when the desire was to reduce the assessment from the 30 percent area—it started at 39.89 percent, I believe, and declined to a little bit above 30 percent—to reduce that down to 25 percent, that the only realistic way of approaching that was to proceed exactly as I am proposing here today.

The language and the proposal that I have makes the same exemptions as were made in the other proposal to bring it down 25 percent, but instead of in one fell swoop, it does it in five gradual steps of 2 percent per year.

I recently talked with a highly placed person in the State Department, asking him about the manner in which it would be best to proceed to get the job done. I asked him about a resolution similar to the one that the Senator has here as an amendment to title I, the new section, United Nation's assessment scale, and he said: "To be blunt with you this will not accomplish the purpose."

The only way that the negotiation will take place by our negotiators—and they negotiate every year, as the Senator knows—and the only way they will negotiate a reduction is for Congress to act as it did before. So if we want to reduce we must take the action. We are the ones responsible for expending the money, we are the ones responsible for coming up with the assessment.

There is no violation of the treaty that exists at all. There is nothing in the treaty that in any way precludes us from taking this action.

But I say, as far as a justification for the figures that I have given, the current and latest figure for 1975 on world product is only 23.7 percent for the U.S. share, less than 25 percent. That is for the year 1975. This proposed action would take place in fiscal 1977–T plus fiscal 1977 for the first 2 percent increment. With the transfer of capital that is taking place today and has been taking place in the last couple of years, it is obvious that our share in 1977 will be considerably less than 23.7 percent.

So I think we are in a position with this 2 percent incremental change over a 5-year period to have a very responsible transfer of this assessment and to have the other nations assume a greater responsibility in their participation with the United Nations. This amendment is made with that full intent and that full hope that the other nations will be more responsible in the way they participate for their best interests.

The PRESIDING OFFICER. The Chair will observe that the 5 minutes of the Senator from Alabama has expired.

Mr. BARTLETT. I thank the distinguished Senator.

The PRESIDING OFFICER. Who yields time?

Mr. STONE. Mr. President, will the Senator yield?

Mr. SPARKMAN. Mr. President, I yield to the Senator from Florida 10 minutes, if I have that much time remaining.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. STONE. Mr. President, the United Nations General Assembly has dictated to the United States a level of our assessed contributions which no longer reflects the proportionate wealth of the United States to the remainder of the world. In short, the U.S. assessments are arbitrarily too high while the rapidly developing wealthy nations of the world pay little or nothing in the way of assessed contributions. Our assessed contributions for fiscal year 1975 were $59,550,000, for fiscal year 1976 were $77,335,000 and for fiscal year 1977 the request is for $87,185,000.

Article 17 of the Charter of the United Nations provides that "expenses of the Organization shall be borne by the Members as apportioned by the General Assembly." This provision means that members of the United Nations, including the United States, are subject to the rates of assessment apportioned to them by a two-thirds majority of the United Nations General Assembly. Rule 160 of the Rules of Procedures of the General Assembly provides that a Committee on Contributions shall advise the General Assembly "concerning the apportionment . . . of the expenses of the Organization among Members, broadly according to capacity to pay." This committee is currently composed of 13 representatives, the United States being represented by only one State Department official. Now we have seen in the past few months what a two-thirds majority of the United Nations has been up to lately. The Senator from Florida doubts whether the people of the United States know that this is how we are assessed, but it is time that they do know. The Senator from Florida strongly suggests that if they were aware, they would not be pleased.

Let me give some examples of what this committee and the General Assembly have determined is the "capacity to pay" for several important nations of the world. The United States has received the highest assessment of any nation. We pay 25 percent of the United Nations annual assessments. We would be paying more were it not for the 92d Congress which wisely enacted a ceiling limiting our contribution to any international organization to 25 percent of that organization's total assessments. In 1976 our gross assessment contribution was $92,250,761. At the other end of the totem pole we find the following:

Iran has been assessed at a rate of 0.20 percent. Its gross contribution for 1976 was $738,006.

The Libyan Arab Republic has been assessed at a rate of 0.11 percent and its gross contribution for 1976 was $405,938.

Nigeria—0.10 percent—$369,003.

Kuwait—0.09 percent—$332,102.

Algeria—0.08 percent—$295,202.

Saudi Arabia—0.06 percent—and its gross contribution for 1976 was merely $221,401.

Iraq—0.05 percent—contributed $184,501.

Oman, Bahrain, United Arab Emirates, Qtar, and Syria were assessed the lowest amount possible—only 0.02 percent. Each of these nations contributed only $73,801.

This means that for 1976, U.S. assessments were 125 times that of Iran, 275 times that of Kuwait, and approximately 460 times that of Saudi Arabia. Incredibly enough, Israel was assessed and paid 0.21 percent, or $774,906, more than any of the oil-rich Arab States. Let me give one further example. The pledged contributions by the United States to the United Nations Fund for Population Activities in 1974 was $20,000,000. Kuwait pledged $25,000; Saudi Arabia pledged $15,000; and Iran somehow managed to scrape up $3,000. Only last Thursday, our former Ambassador to the United Nations, Dr. Patrick Moynihan, testifying before the Committee on Foreign Relations reiterated his strong feeling of concern in quoting from Britain's "New Statesmen Magazine," as follows:

> The United Nations is rapidly becoming one of the most corrupt and corrupting organizations in the history of institutions.

He stated that the majority of the nations are under totalitarian governments and will oppose any actions taken by the democratic nations at the United Nations. The resolution on Zionism speaks clearly to that point. He further commented that the United Nations Human Rights Commission covers up human rights violations by totalitarian states rather than discloses them. He concluded that it is necessary for the United States to reevaluate whom we are giving money to and for what causes when we appropriate funds annually to the United Nations.

Some well-meaning people have reported that the assessments will be changed this spring by this United Nations Committee. They imply that there is nothing to worry about because the OPEC states are being asked to greatly raise their assessments. Unfortunately, this argument is misleading. Under Secretary General George F. Davidson, the Financial Director of the U.N., has told my office that the Saudis have been asked to triple their assessment to a level which would still be less than that of Israel's, only 0.18 percent, and they are complaining bitterly. Furthermore, the State Department has told me that the new assessment formula which is planned to be in effect for the next 3 years relies on the base years 1971 through 1973. This is before the huge revenues realized by the OPEC states from their exorbitant high prices of oil which started flowing into those states in 1974. Thus, I suggest that all assessments for the next 3 years are being manipulated at the present time and it is time for us to send a clear signal to those people in the General Assembly that the American taxpayers will no longer stand for it.

The United Nations Association reported in March of last year the following:

> Total staff salaries, slightly over $212,000,000 for 1975, account for about 70% of the regular U.N. budget. Included in this figure is a 6% salary raise for the professional staff of the U.N. Secretariat approved by the 29th General Assembly. In an effort to attract the best personnel from all countries, it has been accepted U.N. policy to peg professional salaries to a level 15% above the equivalent positions in the U.S. Civil Service. This would theoretically compensate for expatriate status and the possible loss of social benefits at home.

This type of spending is where our assessment money goes.

I do not seek to reduce funding to any of the specialized and associated agencies of the United Nations. Perhaps I should but I do not. I only address myself to our assessed contributions to the General Assembly and the United Nations Secretariat. Some of my well-meaning colleagues have suggested that 25 percent is a reasonable assessment for us to pay since in the past we have paid upward of 40 percent. But there is a new economic order in the world and there are new wealthy states which have billions of dollars to spend on investments in our country, tanks, jet planes, and missiles from our country—and they can certainly afford to contribute more to the United Nations. In fact, I believe that the United States could do nothing better than to encourage the OPEC states and other wealthy states to contribute funds for peace rather than for weapons and war. I believe strongly that language should be inserted into our 1977 authorization bill to direct the administration to seek new assesments from the wealthy nations of the world at the United Nations.

Mr. President, the proposal of the Senator from Oklahoma is eminently fair and reasonable. If for some reason our colleagues fail to see the fairness to our own taxpayers in this sensible approach—and I intend to support the proposal of the Senator from Oklahoma if he maintains it—and that proposal does not carry, then the draft amendment, described by the distinguished chairman of the Foreign Relations Committee, the distinguished Senator from Alabama (Mr. SPARKMAN), to the effect that our Ambassador to the United Nations from the United States be mandated to start representing the taxpayers of America vigorously in attempting vigorously to obtain a more fair break in terms of the capacity to pay of some of these cash rich nations, compared to the United States of America, should be done expeditiously this year.

The Senator from Florida assisted in drafting this compromise proposal. The Senator from Florida prefers a cap which worked once before at 25 percent. Were it not for this, we would be paying far in excess of that and would be hearing arguments about how we should cap it. But if for any reason that proposal is not agreed to, the Senator from Florida would urge the adoption of the proposed amendment of the distinguished chairman of the Committee on Foreign Relations, the Senator from Alabama (Mr. SPARKMAN).

The Senator from Florida thanks the chairman, the able manager of the bill, for the time allotted.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr. CASE. I am happy to yield 3 or 4 minutes to the Senator.

Mr. CLARK. Mr. President, I oppose the amendment, because it seems to me that the amendment which the Senator from Florida spoke of last—namely, the substitute amendment that has been drawn by the distinguished chairman of the Committee on Foreign Relations—achieves the purpose that we want without causing the United States to be in this position of breaking commitments made earlier.

Let us face the fact that the United Nations uses the capacity to pay, as measured by national income statistics, for its cost-sharing criteria. This is not applied differently to different countries. It applies to the United States as it applies to every other country in the world.

Obviously, one can cite the fact, as the distinguished Senator from Florida has done, that certain Middle Eastern countries suddenly have become very wealthy because of the quadrupling of oil prices as being unfair to us, and it is.

That is precisely what the substitute has in mind in saying that we should negotiate to bring some of those up. But we are not going to take an organization of 140 nations in the world and say three or four of them are underpaying, which they are, and say that therefore we can underpay as they are. The problem is to get them to pay their share, not for us to renege on the agreements we have made in the past to meet these commitments. Based on the criteria that apply to every country in the world, we are to pay more than the 25 percent we are now paying. But because of the special ceiling provision in the U.N. assessment system, which limits any one country to 25 percent, we pay only that percentage. If we were paying according to the pure criteria of our ability to pay, it would be in excess of that. Therefore, it seems to me that for us to demand a reduction all the way from 25 percent to 15 percent over a period of 5 years would not be the right course to take.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. BARTLETT. I thank the Senator for yielding, and I ask that he yield on my time.

I wonder whether the Senator is aware of the fact that our share of world product, as of the last year, in 1975, decreased from 27 percent in 1974 to 23.7 percent in

1975,which is a very real measure of our ability to pay, by our ability to produce. This is just one measure. This is one of the higher measures.

Mr. CLARK. World product?

Mr. BARTLETT. World product.

Mr. CLARK. How is that defined?

Mr. BARTLETT. That is the same as gross national product, but it is world product, and it is a very real measurement of the ability to produce. We are at 23.7 percent, down from 27 percent.

Mr. CLARK. I say to the distinguished Senator that I think it is a very valid measurement; and if we could use only one measurement, I think that would be as good as any.

The fact is that the other criteria, although not very different criteria, have been agreed upon by the United Nations. And it does not seem to me that any nation in the world, including the United States, should simply announce that they have found some other measurement and intend to apply it independently.

Furthermore, and this is the main point, we are not expecting that we are going to go down to 15 percent of the world product over the next 5 years. At least, I do not think the Senator would maintain that position.

So it seems to me that a proposal to lower the share of the United States would have practically no chance of success in the United Nations. After all, we have negotiated these rates, and we have done it in good faith. For us just to say unilaterally now that we are not going to maintain that commitment, that we are going to go all the way from 25 percent to 15 percent, is hardly geared to a diplomatic approach to international relations.

Mr. STONE. Mr. President, will the Senator yield?

Mr. CLARK. I will yield in a moment.

If, indeed, we want to make a frontal attack on the United Nations, that is a different matter. If we want to say that it does not work, that it is unsuccessful, that we should not be in it, fine—that is a different debate. But we are talking about keeping commitments we have made.

I yield for a question.

Mr. STONE. Does the Senator, on the other hand, feel that the proposed amendment suggested by the distinguished chairman of the Committee on Foreign Relations, the floor manager of the bill, is also fair? That amendment, which is cosponsored by the Senator from Florida, urges that our Ambassador negotiate for an assessment as closely correlated to the relative ability of the nations to pay as recent reliable statistical measures can afford.

Mr. CLARK. I think it is an excellent proposal, and I support it, because I believe it will bring some of those OPEC countries that are not paying their share up to what they should be paying.

Mr. STONE. Does the Senator feel that if a small nation, in terms of population, nevertheless has a huge gross national product and even richer cash reserves than other gross national product rich countries can afford, that is also one of the measures that could be looked at and should be looked at?

Mr. CLARK. Absolutely.

Mr. President, I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I point out to my colleagues that this is not a frontal attack on the United Nations. This is designed very carefully to strengthen the United Nations.

I believe that the Senator from Iowa is disregarding the tremendaus changes that have taken place in the transfer of capital from the countries that import crude oil to the exporting nations, the OPEC nations. These figures were cited very convincingly by the Senator from Florida. This has been a rather significant transfer of ability to produce.

In addition, as the Senator knows, the European community countries have increased their gross national product, so that their percentage of the world product has increased. Consequently, ours has dropped.

In addition to the figure on world product, there is another very intersting figure which shows that our participation in the International Monetary Fund, which of course is not involved in this 25 percent, is down to 21 percent. This is a participation based on all kinds of parameters of having the ability to provide capital in the noncommunist world, and our share is only 21 percent of that. So if that were related to our share in the whole world, it would be even less.

Recently, in the report on the Inter-American Development Bank and African Development Fund Act, on page 9, there was a discussion of the reduction in the Inter-American Development Bank participation by this country in relation to other countries, primarily in South America. It was reduced from an American participation of 48 percent to 37 percent, and that of the Latin American countries increased from 44 percent to 58 percent. So I think that in these areas, where the economic wealth or the gross national product of nations is utilized in a reevaluated percentage figure of support by this country, we are making changes.

I think that we should realize that there have been changes in the United Nations in wealth transfer, and also in the assumption of power, with powers being assumed in the General Assembly that were not originally contemplated. There has been pretty much of a bypass of the 60 percent special question provision. This has enabled a bare majority under 60 percent to disenfranchise some nations.

Mr. CLARK. Will the Senator yield for a brief question?

Mr. BARTLETT. Yes.

Mr. CLARK. I appreciate what the Senator is saying, namely that there has been shown some shift of wealth, whether measured by world product or any other similar criterion. But does the Senator believe that the small recent reduction in the U.S. share of world product indicate that a reduction from 25 percent to 15 percent is in order?

Mr. BARTLETT. I think if the Senator would just realize that the figures I gave for world product were for the years 1974 to 1975, with the year 1975 being 23.7 percent, this proposal would apply the first reduction of 2 percent to the fiscal year 1977. So it would not be active until that time, which would be two years plus beyond the calendar year 1975, which has the figure of 23.7 percent.

I think the Senator is well aware that this transfer still continues from the producing nations, the developed nations, to the OPEC oil producing nations.

Mr. CLARK. So it would be the Senator's assumption that by 5 years from now, on the last line of his amendment, that the United States would not have more than 15 percent of the world's product? Is that what the amendment is based upon, the assumption that we are going to continue to decline on that basis, or is it some other assumption?

Mr. BARTLETT. No, it is not based on a definite relationship, but it is showing that, at the present time, as far as the world product is concerned, we are under the 25 percent. But it is based on other considerations in addition to that, just as the basis for the International Monetary Fund is 21 percent participation, with only noncommunist countries. So I think that it is obvious that they are including other factors than just production, world production. I believe that it is most important that this body take the action, rather than pass the amendment that has been proposed by the distinguished Senator from Alabama.

I say this to the Senator from Iowa: I was advised by a very highly placed official in the Department of State that the only way we will get action is to pass a bill similar to the bill rdeucing the participation to 25 percent. This will force negotiations. There is no reneging, as the Senator from Iowa claimed, on the part of the United States contemplated in this bill, nor was there at the time the 25 percent cap was placed on our share.

The agreement with the United States is one that is in this charter, that the nations decide on their own participation, and they negotiate this. Our represenatives negotiate every single year what our exact participation will be. It has a 25 percent cap. They could have a lesser percentage if they would. This would reduce the cap so they would have to reduce the percentage assessment that our taxpayers will pay. We have every right to do that.

In fact, we are the only body, we and the other body, that can assure that this will be done, because it is very obvious that for a long time, Congress was unable to have the amount reduced substantially from year to year other than following the legislative route. This proposal is identical with the one reducing it to 25 percent, but it just carries it on down gradually, 2 percent a year, which gives ample time for the negotiations to take place for the many nations that were read in detail by the distinguished Senator from Florida to assume a small, incremental increase, collectively enough to make up the 2 percent. It would not only be the nations in the Middle East, but it would also be a number of the nations in Europe whose assessment could also increase because of their increased wealth and their increased gross national product.

Mr. President, I do believe that this amendment, which was considered by the distinguished Senator's Subcommittee on the United Nations recently, deserves the favorable consideration of those in this body. It will do the job, it is responsive to the requirements of a responsive, responsible United Nations, and also to the people of this Nation who desire a reduced participation in the United Nations and also desire a more responsible performance by other nations, who have not been performing responsibly in recent years.

Mr. President, I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Oklahoma. I think the Senator from Oklahoma has made an excellent presentation of the amendment he has offered. It seems to me that it is a reasonable one, one which should command the support of Congress.

I ask the Senator from Alabama if he will yield for several questions.

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The opponents have 41 minutes.

Mr. HARRY F. BYRD, JR. I just wanted to ask a few questions. It will probably take 10 minutes.

Mr. SPARKMAN. I yield the Senator 10 minutes.

Mr. HARRY F. BYRD, JR. I ask the Senator from Alabama how much the total assessment budget of the United Nations has been increased for the year 1976–77?

Mr. SPARKMAN. It increased from $77 million.

Mr. HARRY F. BYRD, JR. The Senator misunderstood my question. My question was with regard to the total United Nations assessment budget: How much has that been increased? Is it being increased for 1977 over 1976? I am not speaking of the U.S. contribution to it. What I should like to get, if the able chairman has it, is the total assessment budget of the United Nations for 1976 and the total assessment budget of the United Nations for 1977. I did not want it nation by nation. I just wanted the total budget of the United Nations.

Is it not correct, I ask the Senator from Alabama, that the total that the United States is being asked to contribute, according to the authorization legislation before the Senate today, is $188 million, plus roughly $4 million for UNESCO? If we leave out the authorization for UNESCO, the U.S. contribution to the U.N. and its specialized agencies is $188 million?

Mr. SPARKMAN. The budgeted contribution by the United States to the United Nations for fiscal year 1977 is $87,185,000.

Mr. HARRY F. BYRD, JR. That is not the total budget, is it?

Mr. SPARKMAN. For the United Nations proper. There are, of course, in addition, contributions to the various specialized agencies.

Mr. HARRY F. BYRD, JR. You have United Nations and then you have the special agencies under the United Nations. In the aggregate, I think the figure answer is $188 million, unless the Senator from Virginia is in error.

Mr. SPARKMAN. That is correct for the United Nations and all of its specialized agencies.

Mr. HARRY F. BYRD, JR. That is right.

Mr. SPARKMAN. Yes, that is correct.

Mr. HARRY F. BYRD, JR. In other words, $188 million is what the American taxpayer is being asked to put up for the United Nations?

Mr. SPARKMAN. That is right.

For 1976 the figure, as I understand it, was $144 million.

Mr. SPARKMAN. That is correct.

Mr. HARRY F. BYRD, JR. So that means this represents an increase of $44 million or 30 percent, a 30-percent increase which is being sought for the United Nations and its subsidiaries.

Mr. SPARKMAN. Yes, the increase is $44 million, from $144 million to $188 million.

Mr. HARRY F. BYRD, JR. Which represents a 30-percent increase.

Mr. SPARKMAN. Yes.

Mr. HARRY F. BYRD, JR. Has the the total U.N. budget increased by 30 percent? I think it would be helpful if we could put into the RECORD, and make it a part of this debate, what is the total United Nations budget.

Mr. SPARKMAN. I suppose we can work that out.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Alabama he gave me the figures for the U.S. contribution toward it, but I am wondering if we have the figures for the total United Nations.

Mr. SPARKMAN. I do not have that before me at the moment.

Mr. HARRY F. BYRD, JR. It seems to me rather important to have just what is the total budget for the United Nations.

Mr. SPARKMAN. We can get that information, but I do not have it available at the present time. I might point out that one significant part of the U.S. contribution to the United Nations is the $45 million for peacekeeping in the Middle East.

Mr. HARRY F. BYRD, JR. Is that the purpose, is that the reason, for the increase? I do not believe that figure is included in the U.S. contribution to the U.N. and its specialized agencies. The U.S. contribution for peacekeeping is in addition to the figures that the Senator and I have been discussing; is it not?

Mr. SPARKMAN. That is correct; it is an individual, separate item. May I say that now I have the United Nations figures that the Senator was asking about a few minutes ago, on the U.N. expenditure budget for fiscal year 1976. The figure is $335,796,500.

Mr. HARRY F. BYRD, JR. What about 1977?

Mr. SPARKMAN. I can only give the Senator the estimate for 1977, and that will be $372,906,900.

Mr. HARRY F. BYRD, JR. That shows an increase of roughly less than 15 percent. The point I am suggesting to the Senator is his figures will show an increase of $37 million in the total budget for the United Nations, which comes out to about an 11 to 12 percent increase. Yet the amount being sought from the United States represents an increase of 30 percent. The point I am suggesting is that it is not clear to the Senator from Virginia that the United States is not being called upon to put up a much larger share than the 25 percent.

Mr. SPARKMAN. So far as the U.N. proper is concerned, we pay 25 percent, no more, no less. In regard to specialized agencies, there are some differences.

Mr. HARRY F. BYRD, JR. That is a big item.

If the Senator would refer to the table in the report of the Committee on Foreign Relations, the specialized agencies add up to considerably more than to the figure listed under the United Nations itself.

So it is a very major item. It adds up to over $100 million whereas the amount to the United Nations itself is $87,185,000.

But they are all tied in together.

As I visualize it, we must take the total, not just the one figure.

May I ask the Senator this, also?

Just what did we establish with regard to the $45 million for peacekeeping; the amount for this program is not included in the United Nations or the agencies of the United Nations. It is additional?

Mr. SPARKMAN. Yes, it is a separate, additional item in the authorization process.

Mr. HARRY F. BYRD, JR. So that is in addition to the $188 million?

Mr. SPARKMAN. Yes. It is discussed on page 7 of the report as being the second category within the overall item, "Contributions to International Organizations and Conferences."

Mr. HARRY F. BYRD, JR. So that is in addition to the $188 million?

Mr. SPARKMAN. That is correct.

Mr. HARRY F. BYRD, JR. The Senator gave the figure of $336 million which would be increased to $373 million.

Mr. SPARKMAN. Yes, that is the increase in the figure for the total assessment for the U.N., but that does not include the specialized agencies. The figure for the combined budgets of the U.N. and the specialized agencies would be considerably higher, about double that.

Mr. HARRY F. BYRD, JR. That is what I am trying to get at. What are the figures for all of the United Nations, the total United Nations budget?

Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. Will the Senator withhold that?

Mr. HARRY F. BYRD, JR. I withhold that request.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, earlier in this debate, I brought out the fact that the world product percentage produced by this Nation in 1955 was 36 percent; in 1974 it dropped to 27 percent, and then it had the very large, significant drop in just 1 year, in 1975, to 23.7 percent or a drop in 1 year of 3.3 percent, showing that our share of the world output has been decreasing at a more rapid rate in recent years.

This, of course, is for two reasons: First, the increase in output in Europe, and the great transfer of capital from nations such as ours, large energy consuming nations, to the OPEC or oil-producing countries.

The Senator from Iowa asked me if I thought that this percentage would decrease on down to the level of 15 percent which is the 5-year goal of participation in the U.N. assessment by this Nation called for by my amendment.

I said that I did not have that in mind. But there are a lot of contributions that this Nation is making in addition to the U.N. assessment for peace in the world. There is no nation participating as much as we are in having a strong military for the purpose of peace, in having various other programs of an economic nature for the purpose of peace, or of a military nature in supporting other nations in their efforts to resist aggression by other nations.

So it is certainly a fair percentage of participation by this country within 5 years to pay 15 percent of the total assessment of the Unted Nations. This gradual transfer of responsibility to other nations is called for from an economic point of view of responsibility on behalf of the other nations to the United Nations. I sincerely hope that my colleagues will support me in this amendment which I believe fairly and squarely represents the thinking of the people in this country.

Mr. HARRY F. BYRD, JR. Will the Senator from Oklahoma yield?

Mr. BARTLETT. I yield.

Mr. HARRY F. BYRD, JR. I hope the Senator from Alabama will listen to these figures and, if I am in error, he will correct me.

As I understand it from the figures given to me by the chairman of the Committee on Foreign Relations, while the Senator from Oklahoma was speaking, the total amount to be spent by the United Nations for its own expenses plus that of its specialized agencies will be $750 million for 1977 and was $580 million for 1976. That represents an increase of 30 percent. That corresponds with the 30-percent increase that the U.S. Government is being called upon to put up.

Mr. SPARKMAN. The figures I have given to the Senator are my rough estimates. I do not have the precise figures on the floor at this time.

Mr. HARRY F. BYRD, JR. What appeals to me as to the need for the amendment offered by the Senator from Oklahoma is without that amendment there is too great an incentive for the other 140 nations of the world to increase substantially the budget when they know that the United States is paying 25 percent of the total cost. How can we justify, how can the United Nations justify, how can this country justify, increasing the expenses of the United Nations by 30 percent in 1 year? Yet, that is the figure that the able Senator from Alabama, the chairman of the committee, has made available to the Senate.

I believe there is a need on the part of the Congress to put some control over the amount of increase that can be put on the American taxpayer each year. I submit it is not reasonable to go blindly along with a budget submitted to us by the United Nations which says, "Here, your share is 25 percent" when they have increased the budget in this 1 year by 30 percent.

Of the departments of Government that we have here in Washington, maybe one or two smaller ones might have been increased by 30 percent, some have been increased by 20 percent, but none of them, so far as I know, no major ones, have shown a 30-percent increase in expenses in 1 year. Yet, that is what the United Nations is doing, and billing the United States for 25 percent of the total cost.

In my mind, that is an added justification for the amendment offered by the able Senator from Oklahoma.

Mr. SPARKMAN. May I say to the Senator from Virginia I am sure he recognizes the effect that inflation has had on this.

Mr. HARRY F. BYRD, JR. Thirty percent inflation in 1 year?

Mr. SPARKMAN. No, I did not say that was all of it. I said that was one factor. In addition, as I know the Senator recognizes, there has been a significant shift in currency exchange rates in the world. And finally there has been an expansion in certain U.N. programs.

Mr. HARRY F. BYRD, JR. I appreciate that. I am not in any sense critical of the able Senator from Alabama.

Mr. SPARKMAN. But I do want to stress the fact that whereas the expenditures of the U.N. went up by 30 percent, our participation at the same time went up by 30 percent. In other words, we simply kept pace.

Mr. HARRY F. BYRD, JR. We kept pace with an increasing U.N. budget. I submit that 30 percent is too much of an increase, both for the United Nations and for the United States.

Mr. SPARKMAN. I want the Senator from Virginia to recall that I suggested a little while ago an amendment, which I will introduce as a substitute, that would provide for the U.S. Ambassador to the United Nations to act immediately to seek such changes in the United Nations system for apportioning rates of assessment as are necessary to insure that the annual rates of assessment for member nations are closely correlated to the relative ability of such nations to pay, as determined by the most recent reliable statistical measures.

Mr. HARRY F. BYRD, JR. I do not think the Ambassador to the United Nations would need any such resolution as that. He should be doing it anyway.

Mr. SPARKMAN. Well, it may be. But this would certainly direct him to do it.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. SPARKMAN. Fine. Mr. President, if the Senator from Oklahoma will yield to me, I would like at this time to offer an amendment in the nature of a substitute for the amendment of the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. SPARKMAN. Will the Senator wait until I finish this? Then I will.

Mr. BARTLETT. If the Senator will yield, I would like to discuss that position, which I know he has a perfect right to take, but I thought I might discuss his withholding that until we have a vote on this amendment.

Mr. SPARKMAN. Well, I want it to be known that it is my proposal to offer a substitute for the amendment of the Senator from Oklahoma. My substitute is cosponsored by the Senator from Florida (Mr. STONE) and the Senator from New Jersey (Mr. CASE).

It would be to add, at the end of title 1, the following new section, entitled "U.N. Assessment Scale":

> SEC. 108. It is the sense of the Congress that the President should direct the United States Ambassador to the United Nations to act immediately to seek such changes in the United Nations system for apportioning rates of assessment as are necessary to insure that the annual rates of assessment for member nations are closely correlated to the relative ability of such nations to pay, as determined by the most recent reliable statistical measures.

I would like at this time to offer this amendment as a substitute.

The PRESIDING OFFICER. The Chair would advise the Senator that such an amendment is not in order until the time expires on the pending amendment.

Mr. SPARKMAN. I thank the Chair.

Mr. BARTLETT. Mr. President, I wanted to suggest to the distinguished Senator from Alabama that he withhold the consideration of introducing his amendment as a substitute, and that we could proceed rather quickly to have a vote, with the yeas and nays, straight up or down, on the amendment that I have introduced.

I would suggest that this would have the advantage that if it did receive a fair affirmative vote, even though it might be defeated, it would then strengthen the possibility of action by the sense of the Senate amendment that the Senator plans to offer as a substitute.

I would hope that he would agree to that procedure. If we did move in that way, we could have a vote right away.

I would also suggest to the distinguished Senator from Alabama that if or as he does introduce this as a substitute, he consider changing the wording; and, if the opportunity presents itself, I would suggest this as an amendment to his substitute, if we get to that point.

His amendment says:

> It is the sense of the Congress that the President should direct

That, of course, gives the President the prerogative of deciding whether he is going to direct or not direct. If this has any force and effect as a sense of the Senate amendment, it should say "shall"; otherwise it is not really reflecting any sense of the Senate, I do not believe.

Then I think there should be language at the end of the Senator's amendment, something to the effect that the President shall report to the Congress the result of this action within 6 months of the enactment of this section. If that is not added, I would doubt that there would be much consideration of the action desired by the Senator as the sense of the Senate.

I would advise the Senator from Alabama what I was advised when I talked with a highly placed official of the State Department concerning this same kind of resolution, a sense of the Senate resolution.

He said:

> If you really want to get something done, you have to do it the same way it was done before, when it was reduced to 25 percent.

I outlined the approach I had in mind, and he said:

> That is the way to get the job done, because otherwise they will not negotiate that result.

They will negotiate. They negotiate every year what precisely our assessment will be. As the Senator knows, in a number of areas the assessment is more than 25 percent, in the voluntary assessment areas. We have negotiated at the 25 level, but not under it. Our negotiators could, if they desired, reduce that amount, because it is just a cap, not a precise level of participation.

So, I would hope that the Senator would withhold his substitute and give me the opportunity of turning back the remainder of my time and his time, and as soon as we could obtain a sufficient second to a request for the yeas and nays, we could proceed to have a vote, and if that should fail, and I know it might, then we could proceed with his amendment.

Will the Senator respond to that proposition?

Mr. SPARKMAN. Yes. Let me say this: If the Senator would, at this time, insert the two amendments to my amendment that he is suggesting, I shall be glad to accept them.

Mr. BARTLETT. The proposal that I made to the Senator was that he consider withholding his amendment in the nature of a substitute so we could proceed ahead right now——

Mr. SPARKMAN. I understand the proposal the Senator made.

Mr. BARTLETT. I did not hear the distinguished Senator's answer to that proposal.

Mr. SPARKMAN. The Senator makes me a proposition; I will make him a proposition. That is that if he just amends in the two respects that he mentioned, I shall be glad to accept the amendment.

Mr. BARTLETT. I appreciate the Senator's willingness——

Mr. SPARKMAN. One of them is, as I understand, that we use the word "shall" instead of "should." As I remember my grammar, it would have the same effect. The other is that we would require the President to report back with a full report in 6 months time. I see nothing wrong with those proposals.

Mr. BARTLETT. I am very pleased that the Senator sees the merit of those suggestions. I am not eager to waste the Senator's time or that of other Senators; I know there are Senators who would like to have the voting proceed. I would hope that the Senator from Alabama would withhold his amendment. He has apparently said no to that proposition; is my understanding correct?

Mr. SPARKMAN. I just cannot feel that it is quite right for a proposal to be made that we withhold our amendment until the opposition has had a vote on their amendment, and then, if they win, we are out; if they lose, why, then we have a chance to come in and get a vote on an amendment amended according to their specification. That just does not quite seem the right way to do things.

But I am perfectly willing to take the proposal that the Senator has made, amend this amendment accordingly, and accept it.

Mr. BARTLETT. I will say to the distinguished Senator that I have a reason for making the proposal that he withhold his motion to offer his amendment as a substitute, for the reason that it will strengthen the sense of the Senate resolution, which I have been advised will not receive much favorable action or response by our negotiators. If we did have a reasonable vote, even though my amendments were defeated, there would be an indication of support for some real action and perhaps the sense of the Senate amendment would bear fruit and result in a reduction.

I take it from this that the distinguished and fair-minded Senator from Alamaba does not accept my proposition. Rather than delay this unnecessarily, I will take the proper steps to yield back the remainder of my time, as I am sure the Senator will do. Then I advise the Senator that I will offer these amendments or have him make the change in his amendment as he offers it. In that event, I will make a motion to table and require the yeas and nays on that motion to table.

Mr. SPARKMAN. Does the Senator mean for me to offer that amendment now and then have the vote and make the motion to table?

Mr. BARTLETT. I inquire of the Chair. I desire to yield back the remainder of my time at the proper time and offer the amendment to the distinguished Senator's amendment. But I do wish to have the protection of having the yeas and nays. There is not a quorum, I do not believe, in the Chamber now. I wish to proceed on that basis.

The PRESIDING OFFICER. The Chair is in doubt, he might say, after listening to the debate. Does the Senator from Alabama wish to modify his amendment before it is offered in the manner suggested by the Senator from Oklahoma, or does the Senator wish to offer his amendment and then have the amendment so that the Senator from Oklahoma can proceed? I am in doubt.

Mr. SPARKMAN. Does the Chair mean that I should offer the amendment that has been suggested by the Senator and have that put to a vote immediately?

The PRESIDING OFFICER. No. The Chair does not wish to suggest anything to the Senator. I wish to make certain: Does the Senator from Oklahoma yield back the remainder of his time?

Mr. BARTLETT. The Senator inquired of the Chair. I think I know. I inquire of the Chair how to proceed. I assume, if I yield back my time and the distinguished Senator introduces his amendment as a substitute, then we have 30 minutes on that and I would have 30 minutes time within which to obtain the yeas and nays for a motion to table. Is that correct?

The PRESIDING OFFICER. The Senator is correct. If the amendment of the Senator from Alabama is offered, there would be equal time, 15 minutes to a side, on that amendment.

But that amendment is not in order until either time expires on the amendment of the Senator from Oklahoma or time has been yielded back.

Mr. BARTLETT. If the Senator from Alabama is willing, I will yield back my time so he can introduce his amendment, which either will reflect the changes I suggested or he is acceptable to those changes. Either way is fine with me. Then I will advise the Senator, when he is finished talking, that I would like to make a motion to table with the yeas and nays on the motion to table.

Mr. SPARKMAN and Mr. MANSFIELD addressed the Chair.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I ask that it be in order at this time to request the yeas and nays on the motion of the Senator from Oklahoma to table the substitute by the Senator from Alabama.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I am perfectly willing to yield back my time provided the Senator from Oklahoma does, and he has said he will do the same thing.

Mr. BARTLETT. I yield back my time, also.

Mr. SPARKMAN. But that is provided he agrees to have the amendment voted on immediately without our consuming additional time.

Mr. MANSFIELD. As modified.

Mr. SPARKMAN. As modified, yes.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

The Chair understands all time is yielded back on the amendment of the Senator from Oklahoma.

Mr. BARTLETT. All time is yielded back.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk read as follows:

> At the end of Title I, add the following new section:

U.N. ASSESSMENT SCALE

Sec. 108. It is the sense of the Congress that the President shall direct the United States Ambassador to the United Nations to act immediately to seek such changes in the United Nations system for apportioning rates of assessment as are necessary to insure that the annual rates of assessment for member nations are closely correlated to the relative ability of such nations to pay, as determined by the most recent reliable statistical measures. The President shall report to the Congress on such action within six months of the enactment of this Act.

The PRESIDING OFFICER. There are 15 minutes on each side.

Who yields time?

Mr. SPARKMAN. Mr. President, I thought we agreed to yield time back.

Mr. BARTLETT. Mr. President, I am prepared to yield back. Do I need to make the motion to table, or is that in the unanimous-consent request by the distinguished majority leader?

The PRESIDING OFFICER. The Senator makes the motion to table. If he does, the yeas and nays are ordered.

Mr. SPARKMAN. I yield back my time.

Mr. BARTLETT. I make the motion to table the substitute amendment by the distinguished Senator from Alabama.

The PRESIDING OFFICER. The question is on the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Clark), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel, the Senator from Michigan (Mr. Hart), the Senator from Colorado (Mr. Haskell), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Long), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. Abourezk) is absent attending a funeral.

On this vote, the Senator from Iowa (Mr. Clark) is paired with the Senator from West Virginia (Mr. Randolph). If present and voting, the Senator from Iowa would vote "nay" and the Senator from West Virginia would vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Rhode Island (Mr. Pastore), and the Senator from Washington (Mr. Jackson) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from Arizona (Mr. Fannin), the Senator from Utah (Mr. Garn), the Senator from Oregon (Mr. Packwood), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The result was announced—yeas 34, nays 43, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—34

Allen
Bartlett
Beall
Bellmon
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Johnston
Laxalt
McClure
Montoya
Nunn
Proxmire
Ribicoff
Roth
Scott, William L.
Stevens
Stone
Talmadge
Tower
Weicker
Young

NAYS—43

Baker
Bayh
Biden
Bumpers
Burdick
Case
Cranston
Durkin
Eagleton
Fong
Ford
Glenn
Hart, Gary
Hartke
Hatfield
Hathaway
Huddleston
Inouye
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Muskie
Nelson
Pearson
Pell
Percy
Schweiker
Scott, Hugh
Sparkman
Stafford
Symington
Taft
Williams

NOT VOTING—23

Abourezk
Bentsen
Brock
Brooke
Church
Clark
Culver
Fannin
Garn
Gravel
Hart, Philip A.
Haskell
Humphrey
Jackson
Long
Moss
Packwood
Pastore
Randolph
Stennis
Stevenson
Thurmond
Tunney

So the motion to table was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama.

The amendment of the Senator from Alabama was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Oklahoma, as amended by the amendment of the Senator from Alabama.

The amendment, as amended, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.), proposes an amendment for himself and Mr. Buckley.

On page 16, immediately after line 15, add the following new section.

No funds authorized to be appropriated under this or any other Act may be used for the benefit of any country which is found by the President to:

(a) aid or abet international terrorism;

(b) permit use of its territory as a haven for international terrorists; or

(c) cooperate with, or serve as host to, military or para military forces from other nations seeking to carry out aggression against any other nation.

The PRESIDING OFFICER. There is a time limitation agreement of 15 minutes to a side on the amendment of the Senator from Virginia. Who yields time?

Mr. SPARKMAN. Mr. President, I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that Jane Mathias and James Fleming of my staff may be granted privileges of the floor during discussion and vote on S. 3168.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I ask unanimous consent that David Rust of my staff be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 1 minute.

I think the reading of the amendment makes clear what it does. I do not see any use in repeating the language of the amendment unless anyone wants it repeated.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I am willing to accept the amendment. I do want to say that there are some things in there that we had not discussed before. I am sure the Senator recognizes the fact that the conference will be wide open and that the amendment may well be subject to extensive revision.

Mr. CASE. With that same understanding, I shall interpose no objection, either.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. CASE. I am glad to yield.

Mr. JAVITS. Mr. President, this amendment deserves to be read in close detail. It is composed of two parts. One part deals with terrorism. The last part—that is, the third subsection—deals with a very, very difficult question for our country. That is, it deals, for example, with the present struggle in Mozambique to deal with the problems and policy of Rhodesia, because it speaks of foreign forces in a given country for the purpose of "aggression" against another country. I question whether people in Mozambique seeking liberty for the great majority in Rhodesia are engaged in a possible aggression or not. It is a question.

While I am perfectly willing to accord with the chairman of the committee and the ranking member that we should take this amendment to conference, I would not wish, by sitting here silently, as I will undoubtedly be a conferee, to have my colleagues (Mr. Harry F. Byrd, Jr.), whom I respect enormously, understand that I will not critically examine the amendment from the point of view we have just discussed. We shall try to find a way to do what he wants done, but with consideration for the problems which I have just laid out.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 1524

Mr. BEALL. Mr. President, I call up my amendment No. 1524 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) for himself and Mr. GARN proposes amendment No. 1524.

The amendment is as follows:

COMMISSION ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS

SEC. 402. (a) There is established a Commission on United States Participation in the United Nations.

(b) (1) The Commission shall be composed of fifteen members as follows:

(A) Five members appointed by the President of the United States, of whom two shall be employees of the United States holding a position not above grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, or equivalent grade.

(B) Five members appointed by the President of the Senate, of whom two shall be Members of the Senate; and

(C) Five members appointed by the Speaker of the House of Representatives, of whom two shall be Members of the House.

(2) Of the Members of the Senate appointed under paragraph (1) (b) and the Members of the House appointed under paragraph (1) (c), not more than three such Members in each instance shall be from the same political party. Except as provided in paragraph (1), all members of the Commission shall be appointed from private life.

(3) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(4) The Commisison shall elect a chairman and a vice chairman from among its members.

(5) A quorum of the Commission shall consist of seven members, except that the Commission may establish a lower number as a quorum for the purpose of taking sworn testimony.

(c) (1) It shall be the duty of the Commission to conduct a full and complete study and investigation of the United Nations, and the nature and extent of United States participation therein.

(2) The Commission shall, from time to time, and in a final report, report the results of its study and investigation and submit its recommendation to the President and the Congress. The Commission shall submit a final report not later than one year after the appointment of all members of the Commission.

(d) (1) The Commission may, in carrying out its duties under this Act, sit and act at such times and places, hold such hearings, take such testimony, require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the chairman or any member of the Commission designated by him and shall be served by any person designated by the chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(3) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3019 of title 5, United States Code, but at rates not to exceed $125 a day for individuals.

(e) (1) (A) The members of the Commission who are Members of the Congress shall serve without additional compensation. The members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall continue to receive the salary of their regular position when engaged in the performance of the duties vested in the Commission.

(B) A member of the Commission other than one to whom paragraph (1) applies shall receive $125 per diem when engaged in the actual performance of the duties vested in the Commission.

(2) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(f) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(g) The Commission shall cease to exist thirty days after the submission of its final report.

The PRESIDING OFFICER. The time is equally divided 30 minutes to the side. Who yields time?

Mr. BEALL. Mr. President, I yield myself as much time as I may consume.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. BEALL. Mr. President, I withdraw the request.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. BEALL. This amendment is identical to S. 2262, which I introduced on August 1, 1975. To date, Senators BARTLETT, FANNIN, GARN, and Moss have joined in cosponsoring S. 2262.

Mr. President my amendment would establish a 15-member Commission on U.S. Participation in the United Nations. Five members of the Commission would be appointed by the President, five by the President of the Senate—including two Senators—and the remaining members by the Speaker of the House of Representatives—including two Representatives. The Commission would be charged with responsibility for conducting a complete review of all aspects of U.S. participation in the United Nations, with a mandate to report in 1 year.

It has been 30 years since the United Nations Charter was signed and the world has changed a great deal during that period. When the United Nations was first founded it contained 51 members, a number which has now grown to 144. It is interesting to note that the U.S. population—approximately 215 million—is greater than the combined populations of the 77 smallest countries represented in the United Nations. Each of these nations, including the tiny pacific island of Naru—population 6,700—has one vote in the General Assembly. The U.S. economy exceeds the total output of goods and service for the combined economies of 124 countries in the United Nations. From 1945 to 1970, the United States provided approximately 40 percent of all United Nations funds. Due to congressional action, this figure has been reduced to approximately 25 percent.

The need for a complete review of the U.S. role in the United Nations stems not from the nature or dynamics of its growth, or even the financial consequences of our approximately $440 million annual contribution. It arises instead from my profound concern about recent actions, possible future actions, and long-range trends which have developed in the United Nations during the last several years. These actions include:

First. The expulsion of the Republic of China—Taiwan—from membership in the United Nations. I was not opposed to the admission of the People's Republic of China, but expelling Nationalist China, a charter member and nation of 15.5 million people, is clearly not consistent with efforts to make the United Nations an all inclusive organization.

Second. The tendency for the United Nations to apply a double standard to issues involving the internal affairs of member states is an area of continuing concern.

Third. The sixth special session of the General Assembly, adopted the "new international economic order" over the vigorous objections of the developed nations.

This charter, in effect, sanctioned the expropriation of foreign-owned property without regard for existing international law, approved OPEC style cartels for those nations producing raw materials, and numerous other provisions equally unacceptable to the United States, Western Europe, Japan and so forth.

Fourth. In 1974, the General Assembly came within two votes of expelling the then de jure Government of Cambodia and seating in, its place, the then exiled rebel movement.

Fifth. In November of 1974 the General Assembly voted to expel South Africa, a charter member, from participating in that body. While I strongly disapprove of many of the policies pursued by the Government of South Africa I cannot support the exclusionary attitude reflected in this vote, which was carried out in clear violation of the United Nations charter.

Sixth. The United Nations decision to allow the Palestine Liberation Organization to participate in a general assembly debate as though it were a sovereign nation was a deplorable precedent that I believe the world body will come to regret.

Seventh. I deplore the UNESCO decision to exclude Israeli participation in its programs. The process of excluding nations from the specialized agencies is totally unacceptable to me and it is a trend which I think we must resist with all of our resources. This trend could spread to the other specialized agencies.

Eighth. Last November, the United Nations General Assembly approved a resolution equating Zionism with racism. The Senate responded by approving Senate Concurrent Resolution 73 which condemned the U.N.'s action. This trend toward politicizing the U.N., especially as it relates to the Middle East, is accelerating at a dangerous pace. Just last week the United States had to employ its veto power in order to block an anti-Israel resolution relating to its administration of the occupied West Bank. The March 28, 1976, New York Times addressed itself editorially to this "necessary veto" and I ask unanimous consent, Mr. President, that its editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Mr. President, two fundamental areas of concern center around the one country one vote system in the General Assembly and the distribution of the cost of supporting the organization. Both factors have contributed to the decline in public support for the U.N. in this country, and I would expect the commission report to address itself to both issues.

Mr. President, since coming to the Congress in January of 1969, I have consistently supported the United Nations. Just last week I voted against an amendment offered by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, Jr.) which would have reduced our voluntary contribution to the U.N. Most of the proposed cut would have come out of the U.N. development program and I did not want to lessen our efforts to improve the quality of life in less developed countries. In spite of my prior position, my confidence has clearly been shaken in recent years, and I believe that the time has come for a fair, thorough, and in-depth review of all aspects of U.S. participation in the United Nations.

I do not wish to prejudge or preordain the outcome of this policy review, but I would hope that the Commission members would reflect varying points of view so that their final report will serve to help the President and the Congress develop a new policy and a new American relationship with this world body.

EXHIBIT 1

NECESSARY VETO

Of all the regions in the world where a spark could ignite a general conflagration and even a Soviet-American nuclear war, none is more dangerous than the Middle East. The search for a provisional settlement between the Arabs and Israel has been given higher priority by the United States than all but one or two international issues and the same should be true of the United Nations, whose vocation is peace.

Unfortunately, confrontation has had the edge over negotiation in most recent United Nations discussions of the issue. The Security Council resolution deploring Israel's policies in Jerusalem and the West Bank, which the United States properly vetoed, continued this misguided trend.

It is a lie—not just incorrect and unbalanced, as Ambassador Scranton diplomatically put it—that the Israeli authorities have been taking measures "aimed at changing the physical, cultural, demographic and religious character of the occupied territories" of the West Bank. Endless repetition of this lie will not make it truth. Nor is there any basis for intimating that the Israeli Government has failed to "respect and uphold the inviolability of the Holy Places," as the Arabs notoriously failed to do when they were in control.

That is not to say that Israel's performance as an occupying power has been perfect. The United States has rightly voiced its disagreement with the establishment of Israeli settlements on the West Bank, and it has rightly insisted that the future of Jerusalem must be settled by negotiation, as must all the issues in dispute. But the central objective at this time must be to regain momentum in Arab-Israeli peace negotiations, as Mr. Scranton emphasized in explaining the American veto.

Mr. BEALL. Mr. President, I have not discussed with the manager of the bill the possibility of his accepting this amendment but since I have taken the floor I have been advised that he might be inclined to do so. If that is the case, I would not want to carry the discussion to great lengths and impose on the time of the Senate. I would be willing to hear the reaction from the distinguished chairman of the Committee on Foreign Relations as to the merits of this amendment.

Mr. SPARKMAN. Mr. President, I appreciate the interest of the Senator from Maryland in seeking a review of the whole subject of U.S. participation in the United Nations system. The Senator is probably aware that several years ago, on the occasion of the 25th anniversary of the United Nations, such a study was conducted by a Presidential Commission directed by Ambassador Henry Cabot Lodge.

I do have some doubts, however, about the need to repeat such a study at this time. In the committee's view, there is a tendency in Congress to create commissions in response to problems, when good committee work would be a better solution. Moreover, as the Senator knows, we are now on the verge of a new administration—either a new Ford administration or a brand new Democratic administration—and I would judge therefore that the timing is poor for the creation of a Commission whose composition would be largely determined by the administration now in power. I might point out to the Senator that the Foreign Relations Committee has currently undertaken an extended study of the U.N. and American participation in it. In the last 2 weeks, 3 days of hearings have been held on this very subject, and additional hearings will be taking place in the weeks ahead. I can tell the Senator further that the Foreign Relations Committee has assigned some of its very best staff to this project and that I anticipate the results of this effort to be every bit as comprehensive and legislatively useful as would be the product of a Commission especially created for the purpose.

I will not, however, oppose the Senator's amendment.

Mr. BEALL. Does the Senator's statement indicate a commitment to work in the conference to see that its provisions are kept a part of the bill?

Mr. SPARKMAN. I said I do not oppose it. I meant that I am willing to accept it.

Mr. BEALL. I appreciate the Senator's willingness to accept the amendment. However, I know from past experience that sometimes, when an amendment is accepted, there is not a true commitment not to yield on it when it comes to conference.

I yield to the Senator from Alabama.

Mr. ALLEN. Inasmuch as I offer a similar resolution calling for a select committee to be set up in the Senate to investigate this very same question, and it was part of and it is part of the resolution the Senator from Alabama proposed, that the committee make an investigation of the role of the United States in the United Nations and to consider and make recommendations as to the further participation by the United States in the United Nations and, specifically, whether in the opinion of the committee it would be in the best interests of the United States to withdraw from the United Nations, I would like to ask the distinguished Senator from Maryland a question: Would it be within the purview of this special Commission that is set up to make a recommendation to Congress that the United States withdraw from the United Nations?

Mr. BEALL. In answer to the question of the distinguished Senator from Alabama, I would read section (5)(c)(1):

> It shall be the duty of the Commission to conduct a full and complete study and investigation of the United Nations, and the nature and extent of United States participation therein.

I think that ultimately, it should be the responsibility of the President and the Congress to take the results and recommendations of the Commission and make the policy decisions as to the extent of U.S. participation in the United Nations.

I would think, however, that the commission, in doing a complete job of studying the nature and extent of U.S. participation in the United Nations would be compelled to make recommendations.

Mr. ALLEN. Yes. I notice that is contemplated in the very next subsection where it says:

> The Commission shall, from time to time, and in a final report, report the results of its study and investigation and submit its recommendation to the President and the Congress.

Mr. BEALL. The Senator is correct.

Mr. ALLEN. I assume that such a recommendation would be in order if it felt that it was in the best interests of the United States.

Mr. BEALL. The commission can do whatever it thinks is best in carrying out its responsibilities.

Mr. ALLEN. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. I yield out of my time to the Senator from New York.

Mr. JAVITS. Mr. President, I think the answer of the Senator from Maryland has satisfied the concerns which I would have. I do not want to see a loaded commission which would be authorized to determine whether we should or should not withdraw from the United Nations because I think that would be invidious and represent one step in that direction which would be highly unwise and not in the interests of our country. But an open commission which is here specified is the basis I would gather for the acceptance by the chairman and our ranking member and also the way in which Senator BEALL has put the matter forward.

I would like to point out to my colleague and friend, the proponent, that the method of putting the commission together which results in public members being appointed by the President of the Senate as well as by the Speaker of the House of Representatives presents some problems to me. That has not always worked very well. Generally speaking, we leave them to appoint the House and Senate Members not public members. But I am willing to take it and consider that and, as we always do, as the Senator well knows what we have in mind in the negotiation.

Mr. BEALL. I appreciate the remarks of the distinguished Senator from New York.

As I point out in my statement I have consistently supported the United Nations. I have voted against most amendments that would reduce our commitment, while supporting those which would sustain our commitment to the United Nations.

In spite of that, a number of recent happenings have shaken my confidence and the confidence of people across the country in the United Nations. I believe the time has come for a fair, thorough and in-depth review of all aspects of the U.S. participation in the U.N. and I would hope this would be done with complete objectivity by the members of the Commission. I would not ask them to show any bias whatsoever. That is why I think we ought to have a commission so we can get the kind of neutral, unemotional study that this matter deserves.

Mr. ALLEN. Mr. President, will the Senator yield 1 minute?

Mr. BEALL. I would be happy to yield.

Mr. ALLEN. I ask unanimous consent that my name be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that the Senator from Oklahoma (Mr. BARTLETT) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. I would be happy to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. I am happy to yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

AMENDMENT NO. 1521

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1521 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 17 and 18, insert the following new section:

"FOREIGN GIFTS

"SEC. 103. (a) The Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, as amended, is amended by adding at the end thereof the following new section:

" 'SEC. 20. (a) No property purchased with appropriated funds in excess of $50 and no appropriated funds in excess of $50 may be given to any person of any foreign country.

" '(b) Not later than thirty days following the end of each fiscal year, the President shall transmit a report to the Speaker of the House of Representatives and Committee on Foreign Relations of the Senate describing fully and completely—

" '(1) any gift given on behalf of any person by, or with the assistance of, any officer or employee of the United States to any person of any foreign country; and

" '(2) the activities of such officer or employee with respect to the giving of such gift.

" '(c) Any financial transaction involving any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such financial transaction and necessary to facilitate the audit.'

"(b) (1) Section 7342 of title 5, United States Code, is amended—

"(A) by striking out the section caption and inserting in lieu thereof the following: " '§ 7342. Foreign gifts and decorations'; and

"(B) by striking out subsection (c) and inserting in lieu thereof the following:

" '(c) Congress does not consent to the accepting or retaining by an employee of any gift. No gift may be accepted by an emplyee.'

"(2) Item 7342 in the analysis of subchapter IV of chapter 73 of such title 5 is amended to read as follows:

"7342. Foreign gifts and decorations.'

"(c) The amendments made by this section shall apply only with respect to gifts tendered on or after the date of enactment of this Act.".

On page 3, line 20, strike out "SEC. 103." and insert in lieu thereof "SEC. 104.".

On page 4, line 2, strike out "SEC. 104." and insert in lieu thereof "SEC. 105.".

On page 4, line 17, strike out "SEC. 105." and insert in lieu thereof "SEC. 106.".

On pages 8, line 14, strike out "SEC. 106." and insert in lieu thereof "SEC. 107.".

Mr. PROXMIRE. Mr. President, I have discussed this amendment with the manager of the bill, the ranking minority member, and as far as I know, they are willing to accept the amendment.

This amendment, incidentally, has been passed by the Senate before; it did not survive conference, but I hope it will this time.

Mr. President, as the deadline for filing of Federal income taxes draws closer, taxpayers across the country will be writing checks to pay for $375 billion worth of Federal programs and projects. Yet there certainly must be millions of Americans gnashing their teeth in disgust over what I consider to be one of the most wasteful, unnecessary, and inappropriate traditions ever perpetuated with tax dollars. I am referring to the giving and receiving of gifts by officials of both the United States and foreign countries.

Today, I am reintroducing an amendment to the State Department authorization bill—S. 3168—that, if enacted, would virtually eliminate the wasteful practice of giving and receiving gifts valued at over $50, by U.S. and foreign government officials. Second, the amendment would call for the President to report annually to the Speaker of the House and the Committee on Foreign Relations of the Senate on all gifts provided with nonappropriated funds or from private sources passing through the Government to any person of a foreign country. Finally, my amendment would grant authority to the General Accounting Office to audit annually the Diplomatic and Consular Service Fund at the State Department—a catch-all slush fund that has been used for everything from jewelry to disaster relief emergencies.

Mr. President, on October 2, 1974, I introduced amendment No. 1873 to the Foreign Assistance Act of 1961, requiring the President merely to report all properties of $50 or more purchased with appropriated funds which were given by him or any officer in the Federal Government to any person of any foreign country. This amendment was modified to prohibit the giving and receiving of gifts by U.S. and foreign officials and was passed by voice vote on that day.

Unfortunately, the entire Foreign Assistance Act was recommitted to the Senate Appropriations Committee for further consideration and the amendment died.

Then on December 4, 1974, I introduced another amendment to S. 3394, the Foreign Assistance Act, that would have prohibited the expenditure of taxpayer funds for the giving of gifts costing more than $50 to foreign heads of state of other foreign dignitaries. Also, contained in that amendment was language prohibiting the receipt of gifts from these foreign officials. Both Senator McGovern and Senator Brooke cosponsored this amendment with me and I was delighted to have this bipartisan support.

However, with assurances from my distinguished colleague Senator McGee of the Foreign Relations Committee, that subsequent comprehensive, corrective legislation on gift-giving would receive careful committee consideration, I withdrew my amendment.

In May of 1975 I introduced S. 1762, a bill to prohibit the giving of gifts and the acceptance of gifts by Federal employees. It was referred to the Foreign Relations Committee without action.

Finally, on September 11, 1975, I reintroduced my gift-giving and receiving amendment to the Foreign Relations Authorization Act of 1976–1977—the same type of amendment that was accepted back in October of 1974 on the foreign aid bill, but subsequently died with that recommitted bill.

Once again, in an attempt not to bog down the passage of that important appropriation bill, I withdrew my amendment after receiving assurance from the chairman of the Foreign Relations Committee that hearings would be held on this question of gift-giving's role in the Federal Government and foreign policy.

Mr. President, gift giving has nearly quadrupled over the past 25 years, and it is costing the taxpayer $1 million per year to run this Federal "giveaway" program and to monitor the receipt of gifts from abroad. The American taxpayer is fed up and hopefully my colleagues in the Senate will see fit to give the beleaguered American taxpayer a "legislative refund" by passing this amendment prior to April 15.

Mr. President, just a few more words about what I mean when referring to gift giving and receiving. The State Department has informed my office and the General Accounting Office that at least $1 million annually is spent in the purchase and giving of gifts to various foreign dignitaries. We all remember the $3 million VH3A Sikorsky helicopter this country gave to Egyptian President Anwar Sadat—a helicopter that is now rusting in the Egyptian desert. The GAO concluded that this gift was contrary to the "intent of Congress."

During former President Nixon's trip to the Near East, 76 other personal gifts were provided to local authorities. These ranged from Steuben crystal to more expensive American works of art. The funds for this gift giving came out of the $2.1 million slush fund called the Emergencies in the Diplomatic and Consular Services Account of the Department of State.

And then there was the $10 million Egyptian Pound gift to the favorite charity of Mrs. Anwar Sadat.

Mr. President, the State Department has refused to disclose the purpose of these gifts and the recipients of each. They continue to operate in secrecy—handing out tens of thousands of American tax dollars without any accountability or review.

Now Mr. President, the foreign policy of this country will not rise or fall on gift giving. We will not conclude a new arms control agreement or a Middle East peace agreement because of gift giving or receiving. This amendment recognizes that fact and establishes a Federal policy that is consistent with the regulations that apply to many other Federal employees here at home. Small gifts for diplomatic purposes would still be permissible—those that cost under $50 each. But extravagant gifts clearly would be prohibited and that makes good sense for the taxpayers of this country.

Mr. President, I am hopeful that the manager of the bill can accept the amendment.

Mr. SPARKMAN. Mr. President, I may say that we discussed this rather fully last year.

Mr. PROXMIRE. That is right.

Mr. SPARKMAN. I am ready to accept it.

Mr. CASE. This has been accepted by the Senate previously and I join my chairman and accept the amendment now.

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. PELL. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE V—AMENDMENTS TO THE FOREIGN SERVICE ACT

FOREIGN SERVICE STAFF PARTICIPATION

Sec. 501. (a) Section 803 of the Foreign Service Act of 1946 (22 U.S.C. 801–1159) is amended by adding the following subparagraph at the end of paragraph (a) thereof:

"(4) All Foreign Service staff officers and employees appointed by the Secretary of State or the Director of the United States Information Agency with unlimited appointments.".

(b) Section 803 of such Act is further amended by changing the reference at the end of subparagraph (b)(2) from "852(b)" to "811".

(c) Section 803 of such Act is further amended by deleting paragraph (c) thereof.

DEFINITIONS

Sec. 502. (a) The heading of section 804 of such Act is amended to read "DEFINITIONS".

(b) Section 804 of such Act is amended by deleting paragraph (a), the preface in paragraph (b), and subparagraphs (b) (1), (2), and (3) and substituting the following in lieu thereof immediately following the section number:

"When used in this title unless otherwise specified, the term—

"(a) 'Annuitant' means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of this or any other Act and who has filed claim therefor.

"(b) 'Surviving spouse' means the surviving wife or husband of a participant or annuitant who, in the case of a death in Service or marriage after retirement, was married to the participant or annuitant for at least two years immediately preceding his or her death or is the parent of a child born of the marriage.

"(c) 'Child' except in section 841 means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support. In addition to the offspring of the participant, the term includes (i) an adopted child, (ii) a stepchild or recognized natural child who received more than one-half support from the participant, and (iii) a child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death. 'Child' also means an unmarried student below the age of twenty-two years. For this purpose a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student is deemed to have become twenty-two years of age on the first day of July after that birthday.

"(d) 'Student' means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, university, or comparable recognized educational institution. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years, semesters, or terms if the interim or other period of nonattendance does not exceed five calendar months and if the child shows to the satisfaction of the Secretary that he or she has a bona fide intention of continuing to pursue such course during the school year, semester, or term immediately following the interim.

"(e) 'Military and naval service' means honorable active service—

"(A) in the Armed Forces of the United States;

"(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

"(C) as a commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States.".

(c) Section 804 of such Act is further amended (A) by renumbering present subparagraphs "(b)(4)", "(5)" and "(6)" as "(f)", "(g)" and "(i)", respectively, and (B) by adding the following as a new paragraph immediately following renumbered paragraph (g):

"(h) 'Foreign Service normal cost' means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military service.".

CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

Sec. 503. Immediately below section 804 of such Act, add the following new section:

"AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS

Sec. 805. (a) In order to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System, whenever (subsequent to January 1, 1974) a law is enacted which affects a provision of general applicability in the Civil Service Retirement and Disability System (subchapter III, chapter 83, title 5, United States Code) or otherwise affects current or former participants, annuitants, or survivors under that System which, immediately prior to the enactment of such law, had been substantially identical to a corresponding provision of law affecting participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System, such new provision of law shall be deemed to extend to the latter System so that it applies in like manner with respect to such Foreign Service Retirement and Disability System participants, former participants, annuitants, or survivors. The President is authorized by Executive order to prescribe regulations to implement this section and to make such extension retroactive to a date no earlier than the effective date of such provision for the Civil Service Retirement and Disability System.

CONTRIBUTIONS

SEC. 504. (a) The heading of part B of title VIII of such Act is amended to read "CONTRIBUTIONS TO THE FUND".

(b) Section 811 of such Act is amended by adding the following paragraphs at the end thereof:

"(c)(1) If an officer or employee under another retirement system for Government employees becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits that would otherwise be refundable on separation including interest accrued thereon, except voluntary contributions, shall be transferred to the Fund effective as of the date such officer or employee becomes a participant in the System. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

"(2) No officer or employee, whose contributions are transferred to the Fund in accordance with the provisions of paragraph (c)(1) of this section, shall be required to make contributions in addition to those transferred, for periods of service for which required contributions were made to the other Government retirement fund, nor shall any refund be made to any such officer or employee on account of contributions made during any period to the other Government retirement fund, at a higher rate than that fixed by paragraph (d) of this section.

"(d) Any participant credited with civilian service after July 1, 1924 (1) for which no retirement contributions, deductions, or deposits have been made, or (2) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited, may make a special contribution to the Fund equal to the following percentages of basic salary received for such services:

Service:	Percent of basic salary
From July 1, 1921, to October 15, 1960, inclusive	5
From October 16, 1960, to December 31, 1969, inclusive	6½
On and after January 1, 1970	7

Notwithstanding the foregoing, a special contribution for prior nondeposit service as a National Guard technician which would be creditable under subchapter III, chapter 83, title 5, of the United States Code toward civil service retirement and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the above schedule multiplied by the percentage of such service that is creditable under section 851. Special contributions shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the rate of 4 per centum per annum to December 31, 1976, and at 3 per centum per annum thereafter. No interest shall be charged on special contributions made after the effective date of the Foreign Service Retirement Amendments of 1976 for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments when authorized by the Secretary.

"(e) No contributions shall be required for any periods of military or naval service.

"(f) A participant or survivor may make a special contribution any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.".

COMPUTATION OF ANNUITIES

SEC. 505. (a) The heading of part C of title VIII of such Act is amended to read "COMPUTATION AND PAYMENT OF ANNUITIES".

(b) Paragraph (a) of section 821 of such Act is amended (A) by striking the phrase "for which full contributions have been made to the Fund" each time it appears and by striking the commas immediately preceding and following such phrase the first time it appears, (B) by striking ", 852", and (C) by adding the following sentence at the end: "The annuity shall be reduced by 10 per centum of any special contribution described in section 811(d) due for service for which no contributions were made and remaining unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.".

(c) Paragraph (b) of section 821 of such Act is amended to read as follows:

"(b)(1) Unless elected in writing to the contrary at the time of retirement, any married participant shall receive a reduced annuity and provide a maximum survivor annuity for his or her spouse. Such a participant's annuity or any portion thereof designated in writing by the participant as the base for the survivor benefit shall be reduced by 2½ per centum of the first $3,600 plus 10 per centum of any amount over $3,600. If an annuitant entitled to receive a reduced annuity under this paragraph dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 per centum of the full amount of the participant's annuity computed under paragraph (a) of this section, or by 55 per centum of any lesser amount the annuitant designated at the time of retirement as the base for the survivor benefit.

"(2) An annuity payable from the Fund to a surviving spouse shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the survivor's (A) remarriage prior to attaining age sixty or (b) death. If a survivor annuity is terminated because of remarriage under (A) above, it shall be restored at the same rate commencing on the date such remarriage is terminated provided any lump sum paid upon termination of the annuity is returned to the Fund.".

(d) Paragraph (d) of section 821 of such Act is amended by adding the following sentence at the end: "If the annuity to a surviving child is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.".

(e) Paragraph (e) of section 821 of such Act is amended to read as follows:

"(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the day after the participant dies or if the child is not then qualified, on the first day of the month in which the child becomes eligible. A child's annuity shall terminate on the last day of the month which precedes the month in which eligibility ceases.".

(f) Paragraph (f) of section 821 of such Act is amended by (A) changing "50" to "55" in the first sentence and (B) by striking out the last two sentences and inserting in lieu thereof the following: "The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the survivor's death.".

(g) Section 821 of such Act is further amended by adding the following new paragraphs at the end:

"(g) An annuitant who was married at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing a reduced annuity with benefit to any surviving spouse who qualifies under section 804(b). Receipt by the Secretary of notice of an election under this paragraph voids prospectively any election previously made under paragraph (f). The reduction in annuity required by an election under this paragraph shall be computed and the amount of the survivor annuity shall be determined as if the election were made under paragraph (b)(1). The annuity reduction or recomputation shall be effective the first day of the month after notice of the election is received by the Secretary.

"(h) A surviving spouse shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees.

"(i) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 871 shall, unless the annuitant elects in writing to the contrary at that time, have the supplemental annuity reduced by 10 per centum to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 per centum of the annuitant's supplemental annuity and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or to whom the annuitant had been married for at least two years at the time of death or who is the parent of a child born of the marriage.".

PAYMENT OF ANNUITIES

SEC. 506. Part C of title VIII of such Act is further amended by adding the following new section at the end:

"SEC. 822. (a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under section 834 or under any other section of this Act shall begin on the day he or she reaches age sixty.

"(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application therefor supported by such proof of eligibility as the Secretary may require. If such application or proof of eligibility is not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

"(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

"(d) Recovery of overpayments under this title may not be made from an individual when, in the judgment of the Secretary, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.".

DISABILITY ANNUITIES—TECHNICAL CHANGE

SEC. 507. Section 831 of such Act is amended (A) by striking the phrase "that is credited in accordance with provisions of section 851 or 852(a)(2)" from paragraph (a) thereof; (B) by striking (a)" following "section 841" in paragraph (c) thereof; (C) by amending paragraph (d) thereof to read as follows: "(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81, title 5, United States Code, covering the same period of time except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This provision shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this provision nor any provision of such subchapter shall be so construed as to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other person.'; and (D) by striking the phrase "section 14 of the Act of September 16, 1916, as amended" from paragraph (e) thereof and substituting "5 U.S.C. 8135" in lieu thereof.

DEATH IN SERVICE

SEC. 508. (a) Section 832 of such Act is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:

"(a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, the lump-sum credit shall be paid in accordance with section 841.

"(b) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is survived by a spouse, such surviving spouse shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and of section 821(a) and if the participant had less than three years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

"(c) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with paragraphs (c)(1) and (d) of section 821.

"(d) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with paragraphs (c)(2) and (d) of section 821.".

(b) Section 832 of this Act is further amended by adding the following new paragraphs at the end:

"(f) If an annuitant who elected a reduced annuity dies in service after being recalled under section 520(b) and is survived by a spouse entitled to a survivor annuity based on such an election, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the deceased's annuity had been resumed in accordance with section 871. If such a death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse, in addition to any other benefits, shall be entitled to elect, in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 821(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse may elect, in lieu of any other benefit under this title, to have the annuitant's rights redetermined and to receive a survivor annuity computed under paragraph (b) of this section on the basis of the annuitant's total service.

"(g) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with paragraph (b)(2), (e), or (h) of section 821, as appropriate.".

DISCONTINUED SERVICE—TECHNICAL CHANGE

SEC. 509. Section 834 of such Act is amended (A) by striking "(a)" immediately following "SEC. 834."; (B) by striking the phrase "that is credited in accordance with the provisions of section 851 or 852(a)(2)" from the first paragraph thereof; and (C) by deleting paragraph (b) thereof.

LUMP-SUM PAYMENTS

SEC. 510. Part E of title VIII of such Act is amended to read as follows:

"PART E—LUMP-SUM PAYMENTS

"SEC. 841. (a) 'Lump-sum credit' as used in this title means the compulsory and special contributions to a participant's or former participant's credit in the Fund plus interest thereon compounded at 4 per centum per annum to the date of separation or December 31, 1976, whichever is earlier, and after such date for a participant who separates from the Service after completing at least one year of civilian service and before completing five years of such service, at the rate of 3 per centum per annum to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity.

"(b) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the lump-sum credit shall be paid to the participant.

"(c) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 871, the annuitant's compulsory contributions to the Fund for such service together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned.

"(d) If all rights under this title based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in the order of precedence shown in paragraph (g) of this section.

"(e) If a participant or former participant dies and is not survived by a person eligible for an annuity under this title or by such a person or persons all of whose annuity rights terminate before a claim for survivor annuity is filed the lump-sum credit shall be paid in accordance with paragraph (g) of this section.

"(f) If an annuitant who was a former participant dies, annuity accrued and unpaid, shall be paid in accordance with paragraph (g) of this section.

"(g) Payments authorized in paragraphs (d) through (f) of this section shall be paid in the following order of precedence to such person or persons surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

"(1) to the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing received by the Secretary prior to the participant's death. For this purpose a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

"(2) if there be no such beneficiary, to the surviving wife or husband of such participant;

"(3) if none of the above, to the child or children of such participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation;

"(4) if none of the above, to the parents of such participant or the survivor of them;

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such participant; and

"(6) if none of the above, to other next of kin of such participant as may be determined in the judgment of the Secretary to be legally entitled thereto except that no payment shall be made pursuant to this subparagraph until after the expiration of thirty days from the death of the participant or annuitant.

"(h) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person: First, to the duly appointed executor or administrator of the estate of the survivor annuitant; second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of such survivor annuitant, to such person as may be determined by the Secretary to be entitled under the laws of the survivor annuitant's domicile at the time of death.

"(i) Amounts deducted and withheld from basic salary of a participant under section 811 from the beginning of the first pay period after the participant has completed thirty-five years of service computed under sections 851 and 853, but excluding service credit for unused sick leave under paragraph (b) of section 851, together with interest on the amounts at the rate of 3 per centum a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under paragraph (d) of section 811, and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in paragraph (g) of this section.".

CREDITABLE SERVICE

SEC. 511. (a) The heading of section 851 of such Act is amended to read as follows: "CREDITABLE SERVICE".

(b) Paragraph (a) of section 851 of such Act is amended to read as follows:

"(a) Except as otherwise specified by law, all periods of civilian and military and naval service and periods of absence and separation therefrom completed by a participant through the date of final separation from the Service that would be creditable, as determined by the Secretary, under section 8332 of title 5, United States Code, toward retirement under the Civil Service Retirement and Disability System, if performed by an employee under that system, shall be creditable for purposes of this title. Conversely, any such service performed after December 31, 1976, that is not creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this title under the same conditions.".

(c) Section 851 of such Act is further amended by adding the following new paragraphs at the end thereof:

"(c) (1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within sixty days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this paragraph are not made for the periods of such leave without pay occurring after the effective date of this paragraph, the participant may not receive any credit for such periods of leave without pay occurring after such date.

"(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving, before the effective date of this paragraph, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate, and shall be computed in accordance with section 811. A participant who makes such a contribution shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to six months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

"(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service pursuant to section 811. Credit may not be allowed for service covered by the refund unless the special contribution is made.

"(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless (1) the right to any annuity under the other system which is based on such service is waived and (2) a special contribution is made covering such service pursuant to section 811.

"(f) A participant who during the period of a war, or of a national emergency as proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this title, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 841. However, the participant is deemed to be separated from the Service after the expiration of five years of such military service.".

FUNDING NORMAL COST

SEC. 512. Section 865 of such Act is amended (A) by inserting "(a)" immediately after "SEC. 865." and (B) by adding the following new paragraph at the end thereof:

"(b) At the end of each fiscal year, the Secretary shall notify the Secretary of the Treasury of the amount of the Foreign Service normal cost for that year which was not met by contributions under section 811(a). Before closing the accounts for that year, the Secretary of the Treasury shall credit such amount to the Fund as a Government contribution out of any money in the Treasury of the United States not otherwise appropriated. The Secretary shall report to the President and to the Congress the sums credited to the Fund under this section.".

ANNUITY ADJUSTMENT FOR RECALL SERVICE

SEC. 513. Section 871 of such Act is amended to read as follows:

"SEC. 871. Any annuitant recalled to duty in the Service in accordance with the provisions of section 520(b) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service, the recalled annuitant shall make contributions to the Fund in accordance with the provisions of section 811. On the day following termination of the recall service, the former annuity shall be resumed adjusted by any cost-of-living increases under section 882 that became effective during the recall period. If the recall service lasts less than one year, the annuitant's contributions to the Fund during recall service shall be refunded in accordance with section 841. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 821 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least five years, the annuitant may elect to have his or her annuity determined anew under section 821 in lieu of any other benefits under this section. Any annuitant who is recalled under section 520(b) may, upon written application, count as recall service any prior service that is creditable under section 851 that was performed after the separation upon which his or her annuity is based.".

REEMPLOYED ANNUITANTS

SEC. 514. Section 872(a) of such Act is amended by deleting the phrase "the basic salary such officer or employee was entitled to receive under section 412 or 415 of the Act, as amended, on date of his retirement from the Service." and substituting the following therefor: "the current basic salary authorized by section 412 or 415 of this Act for the class and step such officer occupied or was entitled to occupy on the date of his retirement."

VOLUNTARY CONTRIBUTIONS

SEC. 515. (a) Amend paragraph (a) of section 881 of such Act by deleting the portion of such paragraph that precedes subparagraph (1) thereof and substitute the following in lieu thereof:

"(a) The Voluntary contribution account shall be the sum of unrefunded amounts heretofore voluntarily contributed by any participant or former participant under this section or under a prior corresponding provision of law, plus interest compounded at the rate of 3 per centum per annum to date of separation from the Service or in case of a participant or former participant separated with entitlement to a deferred annuity to the date the voluntary contribution account is claimed, or to the commencing date fixed for the deferred annuity or to the date of death, whichever is earlier. A participant's or former participant's account shall, effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the participant's election, be—".

(b) Section 881 of such Act is further amended by deleting paragraphs (c) and (d) thereof and by adding the following new paragraph in lieu thereof:

"(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant provided application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity, or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 841(g)."

COST-OF-LIVING ADJUSTMENTS

SEC. 516. (a) Paragraphs (a), (b), and (c) of section 882 of such Act are amended to read as follows:

"(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code, as amended. Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

"(b) The first annuity increase under this section after the effective date of this paragraph shall equal the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, between the month last used to establish an increase under this section and the base month used to establish the concurrent increase under section 8340(b) of title 5, United States Code, as amended. Each subsequent annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code, as amended.

"(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

"(1) An annuity, except a deferred annuity under section 834 or any other section of this Act, payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse of a deceased participant who dies in service or who dies after being separated under the provisions of section 634(b)(2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this subparagraph, the number of days of unused sick leave to an employee's or deceased employee's credit on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

"(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor, except a child entitled under section 821(c) or 832 (c) or (d), shall be increased by the total per centum increase the annuitant was receiving under this section at death.

"(3) For purposes of computing or recomputing an annuity to a child under section 821 (c) or (d) or 832 (c) or (d), the items $900, $1,080, $2,700 and $3,240 appearing in section 821(c) shall be increased by the total per centum increases by which corresponding amounts are being increased under section 8340 of title 5, United States Code, on the date the child's annuity becomes effective.".

(b) Section 882 of such Act is further amended by adding the following new paragraph at the end thereof:

"(f) Effective with the first day of the second month which begins after the effective date of this title or on the commencing date of an annuity whichever is later, the annuity of each surviving spouse whose entitlement to annuity resulted from the death—

"(1) before the effective date of this title, of (A) a participant or (B) a former participant entitled to benefits under section 634(b); or

"(2) of an annuitant who, prior to the effective date of this title, elected a reduced annuity under this or any other Act in order to provide a spouse's survivor annuity—

is increased by 10 per centum.".

REPEALS

SEC. 517. Such Act is further amended by deleting sections 833, 852, and 854 and the headings thereto.

RECALL

SEC. 528. (a) The heading of section 520 of such Act is amended to read "REAPPOINTMENT AND RECALL".

(b) Paragraph (b) of section 520 of such Act is amended to read as follows:

"(b) Whenever the Secretary determines it to be in the public interest, any retired officer or employee of the Service may be recalled for active duty on a temporary or limited basis to any appropriate class in his or her former category, except that a retired Foreign Service officer may not be recalled to a class higher than he or she held at the time of retirement unless appointed to the higher class by the President by and with the advice and consent of the Senate.".

RETIREMENT OF CAREER AMBASSADORS

SEC. 519. Section 631 and the heading thereto of such Act are amended to read as follows:

"FOREIGN SERVICE OFFICERS WHO ARE CAREER AMBASSADORS

"SEC. 631. Any Foreign Service officer who is a career ambassador, other than one occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, shall be retired from the Service at the end of the month in which the officer reaches age sixty-five and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such an officer may be retained on active service for a period not to exceed five years. Any such officer who completes a period of authorized service after reaching age sixty-five shall be retired at the end of the month in which such service is completed.".

RETIREMENT OF PARTICIPANTS WHO ARE NOT CAREER AMBASSADORS

SEC. 520. Section 632 and the heading thereto of such Act are amended to read as follows:

"PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS

"SEC. 632. Any participant in the Foreign Service Retirement and Disability System, other than one occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador shall be retired from the Service at the end of the month in which the participant reaches age sixty and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such a participant may be retained on active service for a period not to exceed five years. Any such participant who completes a period of authorized service after reaching age sixty shall be retired at the end of the month in which such service is completed.".

SELECTION-OUT BENEFITS—TECHNICAL CHANGE

SEC. 521. Paragraph (b) of section 634 of such Act is amended by striking from subparagraph (2) thereof:

(A) ", with interest" after the words "Disability Fund" the first time the latter appears;

(B) "(a)" after "section 841" the first time the latter appears;

(C) "that is credited in accordance with the provisions of section 851 or 852(a)" after "naval service";

(D) ", with interest as provided in section 841(a)", after "Disability Fund" the last time the latter appears; and

(E) "(b)" after "section 841" the last time the latter appears.

SEPARATION FOR CAUSE—TECHNICAL CHANGE

SEC. 522. Section 637 of such Act is amended by striking from the first sentence of paragraph (b) thereof—

(A) ", with interest" after "Disability Fund";

(B) "(a)" after "section 841"; and

(C) "that is credited in accordance with the provisions of section 851 or 852(a)" after "naval service".

Such paragraph (b) is further amended by striking the last sentence thereof in its entirety.

SEC. 523. Section 943 of such Act is amended by (A) inserting "(a)" immediately after 943 and (B) by adding the following subsection at the end thereof:

"(b) Until such time as retired Federal employees become eligible for physical examinations under a universal medical program applicable to United States citizens generally, officers and employees of the Service who are citizens of the United States and their spouses who were eligible for medical services under part E, title IX of the Foreign Service Act of 1946, as amended, at the time of the officer or employee's separation from Service, shall be entitled in accordance with such regulations as the Secretary may provide and commencing at age 50, to an annual routine physical examination at a United States Government facility on a space available basis: *Provided,* That the officer or employee was separated with entitlement to an immediate annuity under the Foreign Service or Civil Service retirement system or was separated by selection out under section 633 of the Foreign Service Act of 1946, as amended, or section 625(e) of the Foreign Assistance Act of 1961, as amended. A surviving spouse shall also be entitled to the benefits of this subsection if the officer or employee died in Service. No authorization is provided for additional positions to carry out the purposes of this section.

CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

SEC. 524. (a) In accordance with such regulations as the President may prescribe, all Foreign Service staff officers and employees with unlimited appointments who (a) have been appointed by the Secretary of State or the Director, United States Information Agency, and (b) are participants in the Civil Service Retirement and Disability System on the effective date of this section, shall be transferred to the Foreign Service Retirement and Disability System effective on such date. Their retirement contributions shall be transferred in accordance with section 811 of the Foreign Service Act of 1946, as amended, by this title.

(b) Mandatory retirement at age sixty as prescribed in section 632 of the Foreign Service Act of 1946, as amended, shall not apply to any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to paragraph (a) of this section until such officer or employee completes ten years of continuous service in the Foreign Service exclusive of military service, in the Department of State or ten years of such continuous service in the United States Information Agency.

(c) Any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to paragraph (a) of this section who is age fifty-seven or over on the effective date of this section may retire voluntarily at any time prior to mandatory retirement and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

(d) Section 9(b) of the Act of August 20, 1968 (82 Stat. 812), is repealed on the effective date of this title.

GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS

SEC. 525. (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of $300 per annum and provide a survivor benefit of $2,400 per annum payable to the annuitant's surviving spouse provided the marriage had been in effect for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as if it had been elected under section 821(b) of the Foreign Service Act of 1946, as amended by this title.

(b) An annuitant who makes an election under paragraph (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to $25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into said Fund by deduction from annuity in multiples of $25 per month. The annuity reduction under paragraph (a) of this section and the deduction under this paragraph shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this paragraph shall continue until the required amount has been paid into said Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946, as amended by this title the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of $2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this paragraph in accordance with the provisions of paragraphs (b) and (h) of section 821 of the Foreign Service Act of 1946, as amended, if such remarriage has terminated or terminates in the future.

EFFECTIVE DATES

SEC. 526. (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

(b) Section 524 of this title and sections 803 and 881 of the Foreign Service Act of 1946 as amended by this title shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day of a month in accordance with the provisions of paragraphs (b) (2) (B), (e), and (f) of section 821 of the Foreign Service Act of 1946 as amended by this title.

(d) The amendment of section 804 of the Foreign Service Act of 1946 made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

(e) Paragraph (g) of section 821 of the Foreign Service Act of 1946 as added by this title shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under said paragraph (g) provided notice of the election is received by the Secretary of State within one year after such effective date.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(b) of the Foreign Service Act of 1946, as amended by this title, such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the said Foreign Service Act, as amended by this title. For the purposes of section 882(c) (2) of the said Foreign Service Act, as amended by this title, the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

(g) The restrictions on payment of survivor annuities in subparagraph (b) (2) (A) and paragraph (h) of section 821 of such Act shall not apply to a supplemental survivor annuity provided under paragraph (i) of section 821 or paragraph (f) of section 832 of such Act if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

(h) Paragraph (a) of section 822 of the Foreign Service Act of 1946 as added by this title shall be effective on the first day of the first month which begins on or after the effective date of this title.

(i) Paragraph (a) of section 841 of the Foreign Service Act of 1946 as amended by this title shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service retirement Fund that become due on and after such effective date; shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Paragraph (c) of section 851 of the Foreign Service Act of 1946 as added by this title shall be effective on the first day of the first pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees, on the effective date of this title shall have sixty days from such date to file an election under paragraph (c) of said section 851.

(k) Paragraph (f) of section 851 of the Foreign Service Act of 1946 as added by this title shall apply, in addition to present participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date.

(l) The annuity of a survivor who becomes immediately eligible for an annuity under paragraph (c) of section 525 of this title or paragraph (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annuity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(m) The amendment of paragraphs (a) and (b) of section 882 of the Foreign Service Act of 1946 made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title.

(n) Annuities which commenced between—

(A) the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946, as amended, prior to the effective date of this title, and

(B) such effective date,

shall be recomputed and, if necessary, adjusted retroactively to their commencing dates to apply the provisions of new subparagraph (c) (1) added to section 882 of the Foreign Service Act by section 515 of this title.

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946, as amended, unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years:

Retirement Schedule

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over shall be retired, and thereafter the amendments made by sections 519 and 520 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirment age as provided in the above schedule shall be retired at the end of the month in which the officer completes such service.

Mr. PELL. Mr. President, the text of the amendment (No. 1523) which I introduced on March 25 inadvertently omitted one paragraph and contained a few minor technical errors which the Department of State has brought to my attention. I ask unanimous consent that the omission and several technical corrections be included in my amendment as forming part of the original text.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be modified in that fashion.

The modifications are as follows:

On page 1, insert the following between lines 2 and 3:

"SHORT TITLE

SEC. 500. This title may be cited as the Foreign Service Retirement Amendments of 1976."

On page 6, between lines 7 and 8, insert the following paragraph:

"'(b) Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"'(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

"'(2) any prior provision of an Executive order issued under authority of this section.'"

On page 30, line 4, delete "this title" and substitute "the Foreign Service Retirement Amendments of 1976".

On page 30, line 8, delete "this title" and substitute "the said amendments".

On page 30, line 12, delete "this title" and substitute "the said amendments".

On page 34, line 10, insert between "a" and "space" the phrase "staff and".

On page 36, line 2, delete "title" and substitute "section".

On page 40, line 24, delete "this title" and substitute "such section".

Mr. PELL. Mr. President, briefly, my amendment, which is virtually identical to a bill passed in 1974 by the Senate, would accomplish the following:

It would equate benefits for Foreign Service retirees with those which have in the past or may in the future be provided to civil service retirees, but would give them far less benefits, than military retirees would get.

It would authorize appropriations to the Foreign Service retirement fund to cover requirements not met by employee and State Department contributions under the current 7 percent matching contributions formula. The shortfall in the Foreign Service retirement fund is due largely to the career nature of the Foreign Service which has a lower turnover of personnel, steeper salary progression in the later career years, and earlier mandatory retirement. Other career services, such as the CIA and FBI, have similar characteristics; and the Government is already paying the additional retirement costs associated with these employees.

It would provide for the financing of the "unfunded liability" created by the extension to the Foreign Service of retirement benefits provided in past years to civil service employees.

It would reduce the mandatory retirement age of career ministers from age 65 to the regular Foreign Service retirement age of 60.

It would eliminate the 10-year waiting period which Foreign Service staff personnel must serve before becoming participants in the Foreign Service retirement system.

It would provide Foreign Service retirees and their spouses free routine annual physical examinations at Government installations on a staff and space available basis, the same basis on which such examinations are provided to military retirees.

Finally, it would enable Foreign Service retirees reemployed in other Government agencies to receive a salary and annuity which together do not exceed the salary currently paid to active Foreign Service employees of the same class and step which the retiree held upon retirement. Under current legislation, the combined total of a retiree's annuity and his reemployment salary cannot exceed the salary which the retiree was receiving at the time of retirement. This change is justified because Foreign Service employees are subject to selection out, mandatory early retirement because of time in grade, and are subject to an earlier mandatory retirement age than are civil service employees.

In view of the fact that, actually, a more complicated amendment with more provisions that were controversial from the administrations standpoint passed the Senate 2 years ago, four of the six controversial provisions having been dropped, I hope the manager of the bill and the ranking minority Member will be willing to accept this amendment.

Mr. SPARKMAN. Mr. President, I believe no one in Congress knows more about the problem than the Senator from Rhode Island. He knows from experience, and he has been most active in trying to help people in the State Department, the Foreign Service, and so forth.

I am very glad to accept his amendment, for my part.

Mr. CASE. It is always a pleasure, Mr. President, to adopt a suggestion made by the Senator from Rhode Island. One has always, I think, got to presume he is doing the sound and right thing when he does so, and I do.

Mr. PELL. I thank my colleagues very much.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I have several questions I would like to ask on this legislation.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Does the Senator from Alabama yield to the Senator?

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Are there any other amendments to this legislation?

The PRESIDING OFFICER. The amendment of the Senator from Rhode Island is now pending.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

All time has been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. FORD. Mr. President, are there other amendments pending at the desk to be offered? I have an amendment I would like to offer.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment:

On page 9, between lines 11 and 12, insert the following new section:

UNITED STATES CONTRIBUTION TO THE UNITED NATIONS UNIVERSITY ENDOWMENT FUND

SEC. 108. Section 205 of the Foreign Relations Authorization Act of Fiscal Year 1976 is amended by striking out "upon request of the President,".

Mr. FORD. Mr. President, no language for the university appears in the foreign relations bill which we are discussing on the floor this afternoon. Because the $10 million was previously authorized, therefore, I ask that the $10 million in funds for the university be included in the appropriations process for fiscal year 1977 by striking the restrictive statutory language of section 205 of the Foreign Relations Authorization Act of fiscal year 1976.

Because this amendment involves no change in the authorization levels in S. 3168, I hope my colleagues will be amenable to the inclusion of my amendment in the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Will someone yield to the Senator from Virginia?

Mr. SPARKMAN. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, this proposal, if I understand it correctly, would undo what the Senate did a few months ago. The Foreign Relations Committee brought in a proposal for $25 million to establish a United Nations University in Tokyo. The Senate knocked that out by an overwhelming vote. Then it went to conference and it was compromised with the House for a $10 million appropriation.

The amendment offered by the Senator from Kentucky would authorize the $10 million, if I understand his proposal accurately.

I hope the Senate will not reverse itself. If we get into the process of subsidizing a United Nation University in Tokyo, Japan, there will not be any end to the amount of money this country will be called upon.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, I am sure that the distinguished Senator from Virginia will bear heavily on the language of a U.N. University in Tokyo, Japan.

Let me just make this point. I would like to see our Nation aggressively enter into shared programs with other countries on subjects of medical research, pollution abatement, conservation, and other humanitarian proposals, to achieve lasting respect and friendship through personal consideration rather than through pocketbook diplomacy.

I think we have an opportunity here to see that priorities are set on eliminating world hunger, to bring minds together that will imporve the development of countries through the internal process, through the ability to eliminate the problems they are having with natural resources, with human and social development.

We have an opportunity to do this here now. If we save $10 million, $10 million is just a part, because endowments are being solicited, organizations are being solicited. It is not just taxpayers' money we are talking about.

I think this contribution is more important than looking at the military equipment that is being sold and sent to other countries. We can send the technical knowledge, the ability of the minds of people to overcome the hardships that we have and develop our country.

I realize I am going up against a strong opposition, but I would remind my colleagues in the Senate that the conference reinstated the $10 million, and this body approved that $10 million. I believe it is a small amount to pay to bring people together in lasting respect and friendship through personal considerations rather than through pocketbook diplomacy. I would remind my colleagues that this does not increase the authorization one penny.

Mr. NELSON. I wonder if the Senator will yield for a question?

Mr. FORD. I will be delighted to yield on my time.

Mr. NELSON. I did not have the amendment at hand to read into the bill. I am not sure I understand precisely what the amendment does in striking out the words that are stricken.

Mr. FORD. It authorizes the expenditure in fiscal year 1977 of $10 million to the U.N. University.

Mr. NELSON. That was the issue that was before us here in the Senate some months back.

Mr. FORD. That was the $25 million that the committee recommended. It was reduced in conference and approved.

Mr. NELSON. Did the majority in this Chamber approve of a $25 million sum?

Mr. FORD. No, they did not approve the $25 million. The $10 million was placed in the authorization in conference.

Mr. NELSON. In conference?

Mr. FORD. That is correct.

Mr. NELSON. The Senate turned that $10 million proposal down?

Mr. FORD. No, they turned down the $25 million. We have accepted the $10 million, as I understand. It is an authorization. It does not increase the budget one iota.

Mr. NELSON. Is this to be a United Nations University?

Mr. FORD. Yes.

Mr. NELSON. What contributions are being made by other countries?

Mr. FORD. I understand they have already received somewhere in the neighborhood of $60 million.

Mr. NELSON. Is this from individuals?

Mr. FORD. It is other countries, other organizations, and other contributions they were soliciting. They are trying to do their best to stay out of the political arena.

Mr. NELSON. But are other countries, as such, making appropriations, other member countries to the United Nations?

Mr. FORD. Japan has committed, I believe, $100 million.

Mr. NELSON. They have appropriated $100 million?

Mr. FORD. Pledged.

Mr. NELSON. And what other countries?

Mr. FORD. I do not have the other countries. The only thing I know is I believe it is a good thing. I am fighting for that point. I cannot answer all the Senator's questions. I should be better prepared.

Mr. NELSON. I understand. On the last occasion, it was my understanding that the only contributing country was the United States.

Mr. FORD. They have already received almost $60 million, as I understand, and Japan has pledged $100 million.

Mr. RIBICOFF. Mr. President, will someone yield me time in opposition to this amendment?

Mr. SPARKMAN. I yield. How much times does the Senator wish?

Mr. RIBICOFF. Mr. President, I rise in opposition to this amendment.

The PRESIDING OFFICER. The Senator is inquiring how much time the Senator wishes.

Mr. RIBICOFF. Five minutes.

Mr. SPARKMAN. Mr. President, I yield 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. RIBICOFF. It becomes very obvious that the United Nations, as we perceived it and helped conceive it, is a very different institution today than it has been during previous years.

It becomes very obvious to me, too, that the time has come for this country to take a very hard look at all international organizations, and especially the organizations under the aegis of the United Nations. We are being outvoted and outcontrolled in every international organization.

Some 4 or 5 years ago I visited UNESCO and had conversations in Paris with some of the Americans who were in charge of UNESCO. To my dismay and chagrin, I learned that UNESCO had been turned around to be almost under the complete domination and control of the Soviet Union.

The United States no longer had a determining voice in what was happening in many educational scientific programs. Many programs were being used as a training ground for those people under Soviet and Communist domination. There are even some institutes on Soviet soil in which scholarships were being paid to men from Africa and Asia for training under Soviet and Communist professors.

I do believe the time has come for us to take a look at all these international organizations.

I talked to the majority leader some time ago and it was his suggestion that I talk to the chairman of the Foreign Relations Committee so there would be an understanding between the Government Operations Committee, which has jurisdiction over international organizations, and the Foreign Relations Committee, since there is a dovetailing and overlapping in the jurisdiction of the two committees.

I had asked the staff of the Government Operations Committee to start putting together a survey of the hundreds of millions of dollars that we pay to international organizations without knowing what they achieve and what they accomplish for the entire world, and for the United States in particular.

Since 1945 the United States has contributed $5.5 billion to the U.N. alone. In fiscal year 1973 the United States spent a total of $449.3 million in over 65 international organizations. The U.S. contribution in 1973 amounted to about one-third of the total budget of all international organizations and their programs. In fiscal year 1975, the State Department records list 92 international agencies, programs, and conferences to which the United States contributed $530.7 million. The effectiveness and rationale of U.S. participation in these international activities should be studied in a comprehensive way.

I would hope that one of these days I would be able to confer with the chairman of the Foreign Relations Committee and the majority leader so we would have an understanding with one another about taking a full look at U.S. participation in international organizations.

In the interim, with the United Nations organizations under the domination of the Soviet Union and the Third World, and with the United States paying a major portion of the cost, it would be foolhardy for the United States to invest $10 million for any university under United Nations domination in which the United States would not only have a secondary role but would have no role, for all practical purposes.

Before we invest another $10 million in another United Nations university which will be advocating policies and philosophies completely contrary to the philosophy of the United States of America, I think we should be very, very cautious, before we make another investment in this type of international university. I hope that the amendment of the Senator from Kentucky will be defeated.

Mr. FORD. Will the Senator from Connecticut yield for a question on my time?

Mr. RIBICOFF. I would be pleased to.

Mr. FORD. The Senator said he would have the staff work on a report. Will there be a hearing on the foreign organizations?

Mr. RIBICOFF. Once I clear with the distinguished chairman of the Foreign Relations Committee and the majority leader so there will not be an overlap, we will then investigate and have a study made of all international organizations.

What has disturbed me, and disturbed me greatly, for example, are reports that the United States does not send its best people to the international organizations. It has become a dumping ground of the bureaucrats from all other departments that the Secretary or the bureaucracy wants to get rid of.

The Soviet Union is much more sophisticated. The Soviet Union sends their top men to represent them in all these international organizations.

Mr. FORD. The Senator is on my time. The Senator is making another speech against my amendment. I would like an answer.

Mr. RIBICOFF. I am just telling the Senator what we will do. As a consequence, we will have a survey as to the entire amount being invested and spent by the United States in all international organizations and what our role is in these international organizations.

The projected survey will study the role of the over 30 agencies and departments of the U.S. Government with significant involvement with one or more of the 60 or so international organizations to which we belong. It will develop comprehensive information on the purpose and effectiveness of these organizations, the size of their budgets, the nature of the people who work for the organizations, and how U.S. policy toward these organizations is shaped and implemented.

Mr. FORD. Will the U.N. University be included? How soon does the Senator think we can get a report after he works it out with the distinguished chairman?

Mr. RIBICOFF. I would never impinge upon the jurisdiction of another committee. I have had some talks with the chairman of the Foreign Relations Committee who indicates a willingness that the Government Operations Committee do this, excepting the United Nations itself. The Foreign Relations Committee has always sort of had the United Nations under its wing. My thought was to go into these collateral organizations.

I have had some preliminary talks with the people in the State Department. They feel that the time has come for the United States to really look at international organizations.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Will the Senator yield 2 more minutes on the bill?

Mr. SPARKMAN. Yes.

Mr. FORD. If I can get an answer, I am going to withdraw my amendment because I believe I am getting what I want.

Mr. MANSFIELD. May I say, the distinguished Senator from Connecticut has discussed this with the chairman and the ranking member of the Foreign Relations Committee. He has discussed it with me and I referred him to the ranking member of the Foreign Relations Committee. As I understand what he had in mind, he does want to hold hearings. He does want to consider all of these corollary organizations, of which the proposed university is one. I am certain he would like to have the distinguished Senator from Kentucky, who has shown so much interest in this particular facet of the corollary organizations, appear before him to present his views, to give this the kind of a detailed inquiry which it deserves.

Mr. RIBICOFF. That is correct. It would be my hope that the staff study begin, once I work it out with the distinguished chairman of the Committee on Foreign Relations. We have made some preliminary studies indicating that well over $400 million is spent each year by the United States in international organizations without any clear idea what the organizations have been achieving for the world or the United States. I believe we are subsidizing many international organizations that are strongly anti-American in every sense of the word, with respect to our philosophy and our concepts. We are really supporting them, and I am reluctant, before we finish this study, to get us involved in another international university supported by the United States.

That is why hope that before we know where we are going, we will not get involved in another international university supported by the United States.

Mr. FORD. I appreciate this very much and I hope I can be involved in it, because I believe the concept of the 24 individuals from academia to be selected by 24 separate countries to be on the board of this university, where we can bring medical research together and talk about food, and the elimination of starvation, and the approaches we should take, is better than the military approach we have taken in some respects.

The Senator mentioned UNESCO. I think the Foreign Relations Committee report shows we are already $18 or $19 million in arrears in paying our portion of that. So I think there is a real need to get involved in this area. With the Senator's guarantee, I will be glad to withdraw my amendment.

Does the Senator have a timetable on which he thinks he will be able to move?

Mr. RIBICOFF. No, I have no timetable, but——

Mr. FORD. Would it be this year?

Mr. RIBICOFF. I would say we will start working on it, probably, after we adjourn. It is a field in which I am personally interested. I have already discussed this with Senator JAVITS and Senator PERCY, and it is subject to our getting together with the chairman of the Committee on Foreign Relations, because it just so happens that Senator JAVITS and Senator PERCY are both on the Committee on Foreign Relations, and they wanted to make sure that there would be no conflict between the Government Operations and Foreign Relations Committees.

Mr. FORD. Is the Senator saying to me, then, that there will be no discussion and no consideration of the point he has made this afternoon until after we adjourn? Is that after October 2d?

Mr. RIBICOFF. Oh, yes. I do not see anything definitive coming out until next year, may I say to the distinguished Senator from Kentucky, because we have so many ongoing organizations. There are plenty of problems we should look at before we get involved with a new university.

Mr. FORD. With the Senator's experience, could he give me whatever idea he might have as to when he will be in a position to start holding hearings and something could be expected to come from it?

Mr. RIBICOFF. I would doubt that we could begin to hold hearings until, I would say, 4 or 5 months after we come back in the next session.

Mr. FORD. So we are talking about the middle part of next year?

Mr. RIBICOFF. I would say the Senator would probably have to wait until the middle part of 1977, yes.

Mr. FORD. I thank the Senator.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, if the Senator from Kentucky is withdrawing his amendment, I ask unanimous consent to withdraw the yeas and nays.

The PRESIDING OFFICER. Is there objection to the withdrawal of the amendment? Without objection, the amendment is withdrawn, and the order for the yeas and nays automatically falls.

The bill is open to further amendment.

Mr. MATHIAS. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) offers an amendment as follows:

On page 8, between lines 11 and 12, insert the following new section:

APPOINTMENT OF AMBASSADORS

SEC. 106. Section 501 of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new subsection:

"(d) At any time, not less than 85 per centum of the total number of positions of ambassadors which are occupied shall be career personnel in the Foreign Service."

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS' amendment is as follows:

On page 8, between lines 11 and 12, insert the following new section:

APPOINTMENT OF AMBASSADORS

SEC. 106. Section 501 of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new subsection:

"(d) At any time, not less than 85 per centum of the total number of positions of ambassador which are occupied shall be career personnel in the Foreign Service."

On page 8, line 14, strike out "Sec. 106." and insert in lieu thereof "Sec. 107.".

On page 9, line 2, strike out "Sec. 107." and insert in lieu thereof "Sec. 108.".

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present.

Mr. SPARKMAN. Mr. President, will the Senator withhold that? Would the Senator consider withholding it until we see if we can accept his amendment?

Mr. MATHIAS. I would be happy to.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. Yes, indeed.

Mr. JAVITS. Mr. President, this is an amendment we have discussed in the Foreign Relations Committee. I appreciate that people want to go home, et cetera; but we discussed this specifically, and decided this would embed in the Foreign Service a real bureaucracy element, denying the President the flexibility to appoint good people who are not Foreign Service officers, by establishing this quota system. I oppose it, and I think it is absolutely wrong, and I do not think we ought to take it, with all respect to my colleagues, just because it is offered at a late hour and we do not want to be troubled. I think this is a very serious thing.

Mr. PELL. Mr. President, will the Senator yield to me?

Mr. JAVITS. I am happy to yield to the distinguished Senator from Rhode Island.

Mr. PELL. I usually do not disagree with my colleague from New York, but in this case I do. I asked to be made a cosponsor of the amendment, because it is very similar to my amendment which I have offered time and again in the Foreign Relations Committee. The Senator from New York correctly says I have always been turned down on it, but it still has merit, the idea that we should have career people running our diplomatic establishments.

We do not name political appointees as generals or admirals; they come up through the service. The same ought to be true when we are dealing with diplomats, who, by their actions, do much to affect decisions to avoid or go to war, which is even more important than those who fight them.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. SYMINGTON. I want the Senator from Maryland to know that I could not support his amendment more. I think it is just and right.

Mr. MATHIAS. I thank the distinguished Senator from Missouri.

Mr. SPARKMAN. Mr. President, I am glad to yield back my time.

Mr. JAVITS. Mr. President, if I have to take this on alone I will.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, when this amendment passed the Senate on October 2, 1974, as reported in the RECORD at page S18058, at that time I accepted an amendment which reduced the percentage to 80 percent. The amendment did not survive conference at that level; and, since the yeas and nays have been ordered, I will have to ask unanimous consent in order to modify the amendment, but in the hope that it could survive conference, I am willing to reduce the percentage to 75 percent, giving the Executive a wide degree—25 percent—of flexibility, which I think is more than adequate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maryland? Without objection, the amendment is so modified.

Mr. MATHIAS' amendment, as modified, is as follows:

On page 8, between lines 11 and 12, insert the following new section:

APPOINTMENT OF AMBASSADORS

SEC. 106. Section 501 of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new subsection:

"(d) At any time, not less than 75 per centum of the total number of positions of ambassador which are occupied shall be career personnel in the Foreign Service."

On page 8, line 14 strike out "Sec. 106." and insert in lieu thereof "Sec. 107.".

On page 9, line 2, strike out "Sec. 107." and insert in lieu thereof "Sec. 108.".

Mr. JAVITS. Mr. President, on that basis, I am willing to see it go to conference.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, the order for the yeas and nays is vacated.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Maryland.

The amendment, as modified, was agreed to.

Mr. PERCY. Mr. President, the Foreign Relations Authorization Act, as reported by the Senate Committee on Foreign Relations, is a good bill. It provides the authorization for fiscal year 1977 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting which makes grants to Radio Free Europe and Radio Liberty.

As we consider the bill today, I would like to make a few observations. First, I would like to express my appreciation—as a Senator and as a citizen—of the public service of the personnel of these organizations which formulate and conduct activities of the U.S. Government in the foreign affairs field. They bear a heavy responsibility for the U.S. role in the world, they work under great pressure both at home and overseas, and they do not receive the credit to which they are entitled. I have never met a more intelligent or dedicated group of men and women.

I make this comment today because, in an election year, it is inevitable that our foreign policy will come under close scrutiny and heavy attack from candidates who say they could handle it better. The criticism of policy often carries with it the implication that those who formulate and conduct the policy are not doing as well as they could or should. Therefore, I want to assure the men and women of the Department of State, the USIA and the radios that I do value their efforts highly and that I have confidence in them.

Next, I would like to comment on the authorization in this bill for migration and refugee assistance which is epecially needed as emergencies continue to arise in many areas of the world, putting the lives of additional numbers of people in jeopardy. Just now an air lift has begun from Beirut to safe haven in Athens to the United States for nearly 2,000 Assyrians and Armenians. These people, caught in the crossfire in Lebanon, are coming to this country to make new lives, and they are being greeted by the Assyrian and Armenian communities here.

Much credit for bringing the problem of the Assyrians and Armenians in Beirut to the attention of national and international authorities must go to John Yonan and Arthur Khano of Chicago, who saw the need, and obtained the cooperation of the State Department, the U.N. High Commissioner for Refugees, the World Council of Churches and its Church World Service, and the Migration and Refugee Service of the U.S. Catholic Conference.

The first 63 Assyrian refugees arrived last Friday in Chicago where preparations for their arrival had been made by the Refugee Committee of the Assyrian American National Federation, under the leadership of John Yonan. All the refugees have been placed with individual families through the joint efforts of the Carter Memorial Presbyterian Church, St. John's Apostolic Church, the First Assyrian Baptist Church, the United Church of Christ, the St. Ephrem Caldean Church, the Holy Apostolic Church of the East, the Assyrian American Association, the Assyrian Christian Welfare, Inc., the Assyrian Star Magazine, the Assyrian Universal Alliance, the Assyrian Welfare Council, and the Assyrian Heritage Organization. Food pantries and a welfare center are being established, and clothing and furniture are being acquired.

Most impressive has been the support extended to the Assyrian community by other religious and nationality groups. For example, the Jewish United Fund, the Jewish Family Service, and the Jewish Vocational Service have all provided advice and offered their social and vocational training services.

In San Francisco, George Mardikian and Suren Saroyan have been organizing similar preparations for the arrival of the Armenian refugees. Their organization, the American National Committee to Aid Homeless Armenians, has had a long tradition of service.

This apparently successful experience illustrates the need for the authorization of appropriations for migration and refugee assistance to meet human emergencies throughout the world.

Similarly, the special authorization in the bill for aid to Soviet and East European refugees reflects our continuing sympathetic concern for those who seek to make a new life in Israel or in other countries. Those of us who served on the Senatorial delegation to Moscow last summer, and who met with Jewish dissidents there, know personally of the hardships endured by Soviet citizens who wish to emigrate.

Not only Soviet Jews, but Soviet citizens of many nationalities and religions seek to emigrate. In our discussions with Soviet officials and diplomats in Moscow, we emphasized our concern for the Ukrainians, Lithuanians, Latvians, Estonians, and Evangelical Baptists and others who wish to emigrate.

In this connection I would like to mention the work of a number of Americans who devote themselves to seeking a freer Soviet emigration policy. In Washington, I think of John Rotenberg, Meg Donovan, Irene Manekofsky, Eugene Iwaniciw, and, Andrew Michniak; in Chicago, Joel Sprayregen, Saul Silverstein, Lorel Pollack, Kazys Bobelis, and Julian Kulas; in New York, Regina Zymantas and Walter Dushnyck, among many others.

Just this morning Miss Zymantas brought the noted Lithuanian musician Aloyzas Jurgutis to my office. He is seeking help in obtaining exit visas for his wife and 12-year-old daughter to join him in Chicago where he works at the Chicago Conservatory of Music.

This bill also includes our authorization for full funding of the requests for the U.S. Information Agency and the Board for International Broadcasting demonstrates our determination that the United States should continue to make a contribution to international understanding by wide dissemination of objective news and of a clear portrayal of American life and culture. By placing into law the charter of the Voice of America, we seek to strengthen the VOA's reputation for credible news reporting. By requiring a Presidential report on the projected needs for U.S. international broadcasting operations and on steps which can be taken to use transmission facilities more effectively, we hope to strengthen the whole U.S. effort in this field.

Our deep concern about the future of Radio Liberty's transmission facilities in Spain is specifically mentioned in the committee report. Although built by Radio Liberty, these facilities are owned by the Government of Spain and are operated by Radio Liberty under a lease arrangement. This lease, having just expired, is now being renegotiated. The committee strongly concurs in the administration view, as stated in hearings on the pending United States-Spanish treaty, that the continued availability of Radio Liberty facilities is a significant aspect of the broadening relationship between Spain and the United States.

In this regard, we hear unsubstantiated reports that some in the Spanish Government would like to expel Radio Liberty within a year as a sign of good will toward the Soviet Union. I refuse to believe such reports, knowing of the sincere desire of Spanish officials to reciprocate the U.S. intention to have an increasingly close and cooperative relationship. While I am sympathetic to Spain's wish to normalize relations with all countries, including the Soviet Union, I cannot believe that Spain would take any action which might suggest that Spain puts higher priority on its future relations with the Soviet Union than on its future relations with the United States, the North Atlantic Treaty Organization and the Common Market.

The authorization for funding of the U.S. Information Agency and the Voice of America indicates our further recognition of the important role played by these organizations in projecting an accurate image of this country throughout the world. We have included in the bill the text of the VOA Charter which specifies that the VOA will serve as a consistently reliable and authoritative source of accurate, objective and comprehensive news.

This is an important bill, authorizing the continuation of services vital to the Nation. I am pleased to speak for the bill.

Mr. PELL. Mr. President, I wish to express my strong support for S. 3168, the Foreign Relations Authorization Act for fiscal year 1977. One of the provisions of this bill, section 106, is an amendment of mine and relates to improvements in the personnel system of the Department of State and the U.S. Information Agency.

This section requires the Secretary of State to transmit to Congress within 180 days of enactment of this act a comprehensive plan for the improvement and simplification of the personnel system. I would like the legislative record of this bill to show that as a result of a meeting which I had on March 17 with the Director General of the Foreign Service, Ambassador Carol C. Laise, it became clear that the Department of State has already made much progress in developing the kind of plan requested in my amendment.

The Department of State and Ambassador Laise are to be commended for the effort they are making to establish a sound personnel system based on a long-range view of the needs and objectives of the Foreign Service. It was in order to assist the Department of State, by establishing a firm deadline for the completion of the necessary management decisions and consultations with employee groups, that I proposed the report required in section 106. The objective, which I and the Department of State share, is to rationalize the Department of State's personnel system so that it best responds to the foreign policy requirements of the Nation, strengthens the integrity of the Foreign Service, and is equitable in effecting change.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment for a third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read a third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas, (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Clark), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from Colorado (Mr. Haskell), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Long), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. Abourezk) is absent attending a funeral.

On this vote, the Senator from Washington (Mr. Jackson) is paired with the Senator from West Virginia (Mr. Randolph).

If present and voting, the Senator from Washington would vote "yea" and the Senator from West Virginia would vote "nay."

I further announce that, if present and voting, the Senator from Iowa (Mr. Clark), the Senator from Minnesota (Mr. Humphrey), and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from Arizona (Mr. Fannin), the Senator from Utah (Mr. Garn), the Senator from Delaware (Mr. Roth), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 66, nays 10, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—66

Baker
Bartlett
Bayh
Beall
Bellmon
Biden
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Case
Chiles
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Griffin
Hansen
Hart, Gary
Hartke
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Inouye
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Symington
Taft
Weicker
Williams
Young

NAYS—10

Allen
Byrd, Robert C.
Cannon
Eastland
Goldwater
Helms
Laxalt
McClellan
Scott, William L.
Talmadge

NOT VOTING—24

Abourezk
Bentsen
Brock
Brooke
Church
Clark
Culver
Fannin
Garn
Gravel
Hart, Philip A.
Haskell
Humphrey
Jackson
Long
Moss
Pastore
Randolph
Roth
Stennis
Stevenson
Thurmond
Tower
Tunney

So the bill (S. 3168), as amended, was passed, as follows:

S. 3168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

TITLE I—STATE DEPARTMENT

AUTHORIZATION

Sec. 101. (a) (1) Section 101(a) of the Foreign Relations Authorization Act, Fiscal Year 1976 (89 Stat. 756) is amended by striking out "for fiscal year 1976".

(2) Section 101(a) (1) of such Act (89 Stat. 756), providing authorization of appropriations for the Administration of Foreign Affairs, is amended by striking out "$439,055,000" and inserting in lieu thereof "for fiscal year 1977, $552,240,500".

(b) Section 102 of such Act (89 Stat. 756) is repealed.

(c) (1) Section 201(a) of such Act (89 Stat. 761) is amended by striking out "for the fiscal year 1976,".

(2) Section 201(a) (1) of such Act (89 Stat. 761) is amended by striking out "$250,228,000" and inserting in lieu thereof "for fiscal year 1977, $342,460,453".

(3) Of the amount authorized by paragraph (2) of this subsection, $3,545,453 shall be available for contribution to the United Nations Educational, Scientific and Cultural Organization notwithstanding the provisions of section 9 of Public Law 93–559 (88 Stat. 1798; 22 U.S.C. 222) and Public Law 92–544 (86 Stat. 1109, 1110).

(d) Section 201(a) (2) of such Act (89 Stat. 761) is amended by striking out "$19,993,000" and inserting in lieu thereof "for fiscal year 1977, $17,069,000".

(e) (1) Section 301(a) of such Act (89 Stat. 763) is amended by striking out "for fiscal year 1976,".

(2) Section 301(a) (1) of such Act (89 Stat. 763) is amended by striking out "$78,800,000" and inserting in lieu thereof "for fiscal year 1977, $68,500,000".

(f) (1) Section 501(b) (1) of such Act (89 Stat. 771) is amended by striking out "for fiscal year 1976,".

(2) Section 501(b) (1) (A) of such Act (89 Stat. 771) is amended by striking out "$10,100,000" and inserting in lieu thereof "for fiscal year 1977, $10,000,000".

(g) Section 501(c) of such Act (89 Stat. 771) is amended by striking out "fiscal year 1976" and inserting in lieu thereof "fiscal year 1977".

NEW AUTHORITY FOR REPRESENTATION EXPENSES

Sec. 102. The Act of August 1, 1956 (Public Law 84–885; 70 Stat. 390), is amended by adding at the end thereof the following new section:

"Sec. 19. The Secretary of State is authorized, to the extent provided for in appropriation Acts, to use funds for representation expenses and official entertainment within the United States for the American Sections, International Joint Commission, United States and Canada.".

FOREIGN GIFTS

Sec. 103. (a) The Act entitled "An Act to provide certain basic authority for the

Department of State", approved August 1, 1956, as amended, is amended by adding at the end thereof the following new section:

"Sec. 20. (a) No property purchased with appropriated funds in excess of $50 and no appropriated funds in excess of $50 may be given to any person of any foreign country.

"(b) Not later than thirty days following the end of each fiscal year, the President shall transmit a report to the Speaker of the House of Representatives and Committee on Foreign Relations of the Senate describing fully and completely—

"(1) any gift given on behalf of any person by, or with the assistance of, any officer or employee of the United States to any person of any foreign country; and

"(2) the activities of such officer or employee with respect to the giving of such gift.

"(c) Any financial transaction involving any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such financial transaction and necessary to facilitate the audit.".

(b)(1) Section 7342 of title 5, United States Code, is amended—

(A) by striking out the section caption and inserting in lieu thereof the following:

"§ 7342. Foreign gifts and decorations";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Congress does not consent to the accepting or retaining by an employee of any gift. No gift may be accepted by an employee.".

(2) Item 7342 in the analysis of subchapter IV of chapter 73 of such title 5 is amended to read as follows:

"7342. Foreign gifts and decorations.".

(c) The amendments made by this section shall apply only with respect to gifts tendered on or after the date of enactment of this Act.

MEMBERSHIP AUTHORITY FOR INTERNATIONAL ORGANIZATIONS

Sec. 104. The President is authorized to maintain United States membership in the International Cotton Advisory Committee, the International Lead and Zinc Study Group, the International Rubber Study Group, and the International Seed Testing Association.

FOREIGN SERVICE BUILDINGS

Sec. 105. Section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended—

(1) at subsection (h), paragraph (2), as amended by Public Law 94–141, by striking out "$71,600,000" and inserting in lieu thereof the figure "$73,058,000"; and

(2) by adding a new subsection (j) to read as follows:

"(j) For the purpose of carrying into effect the provisions of this Act in the Union of Soviet Socialist Republics, there is hereby authorized to be appropriated, in addition to amounts previously authorized prior to the enactment of this amendment, $30,000,000, to remain available until expended.".

MEDICAL MALPRACTICE PROTECTION

Sec. 106. Title X of the Foreign Service Act, 1946 (22 U.S.C. 803 et seq.), is amended by adding at the end thereof the following new part:

"Part J—Malpractice Protection

"Sec. 1091. (a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346 (b) or 2672 of title 28—

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (for example, medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State (including the Agency for International Development) in furnishing medical care or related services while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or institution shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to recieve such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or institution at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court, except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any tort enumerated therein arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

"(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346 (b) and 2672 of title 28, for such damage or injury.

"(g) For purposes of this section, any medical or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States Ambassador or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.".

APPOINTMENT OF AMBASSADORS

Sec. 107. Section 501 of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new subsection:

"(d) At any time, not less than 75 per centum of the total number of positions of ambassador which are occupied shall be career personnel in the Foreign Service.".

STATE DEPARTMENT/UNITED STATES INFORMATION AGENCY PERSONNEL SYSTEM

Sec. 108. It is the sense of Congress that the proliferation of personnel categories within the State Department and the United States Information Agency (the several categories being characterized by various standards for hiring, tenure, and pay) has resulted in a personnel system susceptible to inefficiency, inequity, and abuse. Therefore, within one hundred and eighty days of the enactment of this Act, the Secretary of State shall transmit to Congress a comprehensive plan for the improvement and simplification of this system, such plan to include a reduction in the number of personnel categories, and proposed legislation if necessary.

PARLIAMENTARY CONFERENCES

Sec. 109. (a) Section 2 of the Act of June 11, 1959 (Public Law 86–42; 73 Stat. 72), is amended by striking out "$30,000" and inserting in lieu thereof "$50,000", and by striking out "$15,000" each time it appears and inserting in lieu thereof "$25,000".

(b) Section 2 of the Act of April 9, 1960 (Public Law 86–420; 74 Stat. 40), is amended by striking out "$30,000" and inserting in lieu thereof "$50,000", and by striking out "$15,000" each time it appears and inserting in lieu thereof "$25,000".

UNITED NATIONS ASSESSMENT SCALE

Sec. 110. It is the sense of the Congress that the President shall direct the United States Ambassador to the United Nations to act immediately to seek such changes in the United Nations system for apportioning rates of assessment as are necessary to insure that the annual rates of assessment for member nations are closely correlated to the relative ability of such nations to pay, as determined by the most recent reliable statistical measures. The President shall report to the Congress on such action within six months of the enactment of this Act.

TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATIONS

Sec. 201. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1977, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)", $256,925,000;

(2) for "Special international exhibitions", $4,841,000;

(3) for "Acquisition and construction of radio facilities", $2,142,000; and

(4) such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated pursuant to this section are authorized to remain available until expended.

(c) Any unappropriated portion of the amount authorized under any clause of subsection (a) of this section is authorized for appropriation under any other clause or clauses of said subsection, except that the amount authorized under any such other clause is not increased by more than 10 per centum.

PURCHASE OF UNIFORMS

Sec. 202. Section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1474), is amended by deleting the word "and" at the end of subsection (12); changing the punctuation at the end of subsection (13) from a period to a semicolon; inserting the word "and" following the semicolon at the end of subsection (13); and adding the following:

"(14) purchase of uniforms, when funds are appropriated therefor."

EXCHANGE ALLOWANCES OR PROCEEDS FROM THE EXCHANGE OR SALE OF PASSENGER MOTOR VEHICLES

Sec. 203. Title VIII of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1471–75), is amended by adding the following new section:

"Sec. 806. The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act and the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et seq.), in accordance with section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), shall be available without fiscal year limitation for replacement of an equal number of such vehicles.".

VOICE OF AMERICA BROADCASTS

Sec. 204. Title V of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1461–62), is amended by adding the following new section:

"Sec. 503. The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America (the Broadcasting Service of the United States Information Agency) must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

"(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

"(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

"(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.".

EFFICIENT USE OF BROADCAST FACILITIES

Sec. 205. Not later than December 31, 1976, the President shall submit to the Congress a report—

(1) recommending steps to be taken to utilize more effectively the transmission facilities for international broadcasting, both existing and planned, of the United States Government;

(2) examining the feasibility of greater cooperation with foreign countries to insure mutually efficient use of nationally owned and nationally funded transmission facilities for international broadcasting; and

(3) containing a comprehensive outline of projected needs for United States international broadcasting operations based on anticipated language requirements and anticipated sharing of facilities with other governments and United States Government-funded organizations involved in international broadcasting.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

AUTHORIZATION

Sec. 301. Section 8 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)), as amended, is amended to read as follows:

"Sec. 8. (a) There are authorized to be appropriated to carry out the purposes of this Act for fiscal year 1977—

"(1) $58,385,000 of which $5,000,000 shall be available only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of downward fluctuations in foreign currency exchange rates, in order to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.

Amounts appropriated under this section are authorized to remain available until expended.

"(b) The Director of the Office of Management and Budget shall place in reserve and inform the Congress of any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty.".

TECHNICAL AMENDMENTS

Sec. 302. (a) Section 3(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)), as amended, is amended—

(1) by striking out "shall consist of seven members, two of whom shall be ex-officio members" in the first sentence of paragraph (1), and inserting in lieu thereof "shall consist of six members, one of whom shall be an ex-officio member";

(2) by striking out "The chief operating executive of Radio Free Europe and the chief operating executive of Radio Liberty shall be ex-officio members of the Board" in the fourth sentence of paragraph (1), and inserting in lieu thereof "The chief operating executive of Radio Free Europe and Radio Liberty shall be an ex-officio member of the Board";

(3) by striking out "Ex-officio members of the Board shall serve on the Board during their terms of services as chief operating executives of Radio Free Europe and Radio Liberty" in paragraph (4), and inserting in lieu thereof "The ex-officio member of the Board shall serve on the Board during his term of service as chief operating executive of Radio Free Europe and Radio Liberty"; and

(4) by striking out "Ex-officio members of the Board" in the third sentence of paragraph (5), and inserting in lieu thereof "The ex-officio member of the Board".

(b) Section 4(a) of such Act is amended by striking out "on or before the 30th day of October, summarizing the activities of the Board during the year ending the preceding June 30," in paragraph (8) and inserting in lieu thereof "on or before the 31st day of January, summarizing the activities of the Board during the year ending the preceding September 30,".

(c) Section 4(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(10) to procure supplies, services, and other personal property, including specialized electronic equipment, to the extent the Board deems necessary to carry out its functions under this Act.".

TITLE IV—GENERAL

JAPAN-UNITED STATES FRIENDSHIP ACT

Sec. 401. The Japan-United States Friendship Act (Public Law 94–118) is amended as follows:

(1) In section 6, clause (10), after the word "obtain", strike out the words "from the Secretary of State, on a reimbursable basis,".

(2) At the end of subsection (d), section 3, strike out the period and insert in lieu thereof the words ", including interest and proceeds accruing to the Fund from such funds in accordance with section 6(4) and 7 of this Act.".

(3) At the end of section 3(e)(1), strike out the period and insert in lieu thereof the words "and interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.".

INTERNATIONAL TERRORISTS

Sec. 402. No funds authorized to be appropriated under this or any other Act may be used for the benefit of any country which is found by the President to:

(1) aid or abet international terrorism;

(2) permit use of its territory as a haven for international terrorists; or

(3) cooperate with, or serve as host to, military or paramilitary forces from other nations seeking to carry out aggression against any other nation.

COMMISSION ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS

Sec. 403. (a) There is established a Commission on Unted States Participation in the United Nations.

(b)(1) The Commission shall be composed of fifteen members as follows:

(A) Five members appointed by the President of the United States, of whom two shall be employees of the United States holding a position not above grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, or equivalent grade.

(B) Five members appointed by the President of the Senate, of whom two shall be Members of the Senate; and

(C) Five members appointed by the Speaker of the House of Representatives, of whom two shall be Members of the House.

(2) Of the Members of the Senate appointed under paragraph (1)(b) and the Members of the House appointed under paragraph (1)(c), not more than three such Members in each instance shall be from the same political party. Except as provided in paragraph (1), all members of the Commission shall be appointed from private life.

(3) Any vacancy in the Commission shall not affect its answers but shall be filled in the same manner in which the original appointment was made.

(4) The Commission shall elect a chairman and a vice chairman from among its members.

(5) A quorum of the Commission shall consist of seven members, except that the Commission may establish a lower number as a quorum for the purpose of taking sworn testimony.

(c)(1) It shall be the duty of the Commission to conduct a full and complete study and investigation of the United Nations, and the nature and extent of United States participation therein.

(2) The Commission shall, from time to

time, and in a final report, report the results of its study and investigation and submit its recommendation to the President and the Congress. The Commission shall submit a final report not later than one year after the appointment of all members of the Commission.

(d)(1) The Commission may, in carrying out its duties under this Act, sit and act at such times and places, hold such hearings, take such testimony, require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the chairman or any member of the Commission designated by him and shall be served by any person designated by the chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(3) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals.

(e)(1)(A) The members of the Commission who are Members of the Congress shall serve without additional compensation. The members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall continue to receive the salary of their regular position when engaged in the performance of the duties vested in the Commission.

(B) A member of the Commission other than one to whom paragraph (1) applies shall receive $125 per diem when engaged in the actual performance of the duties vested in the Commission.

(2) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(f) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(g) The Commission shall cease to exist thirty days after the submission of its final report.

TITLE V—AMENDMENTS TO THE FOREIGN SERVICE ACT

SHORT TITLE

SEC. 500. This title may be cited as the Foreign Service Retirement Amendments of 1976.

FOREIGN SERVICE STAFF PARTICIPATION

SEC. 501. (a) Section 803 of the Foreign Service Act of 1946 (22 U.S.C. 801-1159) is amended by adding the following subparagraph at the end of paragraph (a) thereof:

"(4) All Foreign Service staff officers and employees appointed by the Secretary of State or the Director of the United States Information Agency with unlimited appointments.".

(b) Section 803 of such Act is further amended by changing the reference at the end of subparagraph (b)(2) from "852(b)" to "811".

(c) Section 803 of such Act is further amended by deleting paragraph (c) thereof.

DEFINITIONS

SEC. 502. (a) The heading of section 804 of such Act is amended to read "DEFINITIONS".

(b) Section 804 of such Act is amended by deleting paragraph (a), the preface in paragraph (b), and subparagraphs (b) (1), (2), and (3) and substituting the following in lieu thereof immediately following the section number:

"When used in this title unless otherwise specified, the term—

"(a) 'Annuitant' means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of this or any other Act and who has filed claim therefor.

"(b) 'Surviving spouse' means the surviving wife or husband of a participant or annuitant who, in the case of a death in Service or marriage after retirement, was married to the participant or annuitant for at least two years immediately preceding his or her death or is the parent of a child born of the marriage.

"(c) 'Child' except in section 841 means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support. In addition to the offspring of the participant, the terms includes (i) an adopted child, (ii) a stepchild or recognized natural child who received more than one-half support from the participant, and (iii) a child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death. 'Child' also means an unmarried student below the age of twenty-two years. For this purpose a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student is deemed to have become twenty-two years of age on the first day of July after that birthday.

"(d) 'Student' means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years, semesters, or terms if the interim or other period of nonattendance does not exceed five calendar months and if the child shows to the satisfaction of the Secretary that he or she has a bona fide intention of continuing to pursue such course during the school year, semester, or term immediately following the interim.

"(e) 'Military and naval service' means honorable active service—

"(A) in the Armed Forces of the United States;

"(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

"(C) as a commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States.".

(c) Section 804 of such Act is further amended (A) by renumbering present subparagraphs "(b)(4)", "(5)" and "(6)" as "(f)", "(g)", and "(i)", respectively, and (B) by adding the following as a new paragraph immediately following renumbered paragraph (g):

"(h) 'Foreign Service normal cost' means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military service.".

CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

SEC. 503. Immediately below section 804 of such Act, add the following new section:

"AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS

"SEC. 805. (a) In order to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System, whenever (subsequent to January 1, 1974) a law is enacted which affects a provision of general applicability in the Civil Service Retirement and Disability System (subchapter III, chapter 83, title 5, United States Code) or otherwise affects current or former participants, annuitants, or survivors under that System which, immediately prior to the enactment of such law, had been substantially identical to a corresponding provision of law affecting participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System, such new provision of law shall be deemed to extend to the latter System so that it applies in like manner with respect to such Foreign Service Retirement and Disability System participants, former participants, annuitants, or survivors. The President is authorized by Executive order to prescribe regulations to implement this section and to make such extension retroactive to a date no earlier than the effective date of such provision for the Civil Service Retirement and Disability System.

"(b) Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

"(2) any prior provision of an Executive order issued under authority of this section."

CONTRIBUTIONS

SEC. 504. (a) The heading of part B of title VIII of such Act is amended to read "CONTRIBUTIONS TO THE FUND".

(b) Section 811 of such Act is amended by adding the following paragraphs at the end thereof:

"(c)(1) If an officer or employee under another retirement system for Government employees becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits that would otherwise be refundable on separation including interest accrued thereon, except voluntary contributions, shall be transferred to the Fund effective as of the date such officer or employee becomes a participant in the System. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

"(2) No officer or employee, whose contributions are transferred to the Fund in accordance with the provisions of paragraph (c)(1) of this section, shall be required to make contributions in addition to those transferred, for periods of service for which required contributions were made to the other Government retirement fund, nor shall any refund be made to any such officer or employee on account of contributions made during any period to the other Government retirement fund, at a higher rate than that fixed by paragraph (d) of this section.

"(d) Any participant credited with civilian service after July 1, 1924 (1) for which no retirement contributions, deductions, or deposits have been made, or (2) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited, may make a special contribution to the Fund equal to the following percentages of basic salary received for such services:

Service:	*Percent of basic salary*
From July 1, 1921, to October 15, 1960, inclusive	5
From October 16, 1960, to December 31, 1961, inclusive	6½
On and after January 1, 1970	7

Notwithstanding the foregoing, a special contribution for prior nondeposit service as a National Guard technician which would be creditable under subchapter III, chapter 83, title 5, of the United States Code toward civil service retirement and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the above schedule multiplied by the percentage of such service that is creditable under section 851. Special contributions shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the rate of 4 per centum per annum to December 31, 1976, and at 3 per centum per annum thereafter. No interest shall be charged on special contributions made after the effective date of the Foreign Service Retirement Amendments of 1976 for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments when authorized by the Secretary.

"(e) No contributions shall be required for any periods of military or naval service.

"(f) A participant or survivor may make a special contribution any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.".

COMPUTATION OF ANNUITIES

SEC. 505. (a) The heading of part C of title VIII of such Act is amended to read "COMPUTATION AND PAYMENT OF ANNUITIES".

(b) Paragraph (a) of section 821 of such Act is amended (A) by striking the phrase "for which full contributions have been made to the Fund" each time it appears and by striking the commas immediately preceding and following such phrase the first time it appears, (B) by striking ", 852", and (C) by adding the following sentence at the end: "The annuity shall be reduced by 10 per centum of any special contribution described in section 811(d) due for service for which no contributions were made and remaining unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.".

(c) Paragraph (b) of section 821 of such Act is amended to read as follows:

"(b) (1) Unless elected in writing to the contrary at the time of retirement, any married participant shall receive a reduced annuity and provide a maximum survivor annuity for his or her spouse. Such a participant's annuity or any portion thereof designated in writing by the participant as the base for the survivor benefit shall be reduced by 2½ per centum of the first $3,600 plus 10 per centum of any amount over $3,600. If an annuitant entitled to receive a reduced annuity under this paragraph dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 per centum of the full amount of the participant's annuity computed under paragraph (a) of this section, or by 55 per centum of any lesser amount the annuitant designated at the time of retirement as the base for the survivor benefit.

"(2) An annuity payable from the Fund to a surviving spouse shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the survivor's (A) remarriage prior to attaining age sixty or (B) death. If a survivor annuity is terminated because of remarriage under (A) above, it shall be restored at the same rate commencing on the date such marriage is terminated provided any lump sum paid upon termination of the annuity is returned to the Fund.".

(d) Paragraph (d) of section 821 of such Act is amended by adding the following sentence at the end: "If the annuity to a surviving child in initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.".

(e) Paragraph (e) of section 821 of such Act is amended to read as follows:

"(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the day after the participant dies or if the child is not then qualified, on the first day of the month in which the child becomes eligible. A child's annuity shall terminate on the last day of the month which precedes the month in which eligibility ceases.".

(f) Paragraph (f) of section 821 of such Act is amended by (A) changing "50" to "55" in the first sentence and (B) by striking out the last two sentences and inserting in lieu thereof the following: "The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the survivor's death.".

(g) Section 821 of such Act is further amended by adding the following new paragraphs at the end:

"(g) An annuitant who was married at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing a reduced annuity with benefit to any surviving spouse who qualifies under section 804(b). Receipt by the Secretary of notice of an election under this paragraph voids prospectively any election previously made under paragraph (f). The reduction in annuity required by an election under this paragraph shall be computed and the amount of the survivor annuity shall be determined as if the election were made under paragraph (b) (1). The annuity reduction or recomputation shall be effective the first day of the month after notice of the election is received by the Secretary.

"(h) A surviving spouse shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees.

"(i) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 871 shall, unless the annuitant elects in writing to the contrary at that time, have the supplemental annuity reduced by 10 per centum to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 per centum of the annuitant's supplemental annuity and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or to whom the annuitant had been married for at least two years at the time of death or who is the parent of a child born of the marriage.".

PAYMENT OF ANNUITIES

SEC. 506. Part C of title VIII of such Act is further amended by adding the following new section at the end:

"SEC. 822. (a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under section 834 or under any other section of this Act shall begin on the day he or she reaches age sixty.

"(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application therefor supported by such proof of eligibility as the Secretary may require. If such application or proof of eligibility is not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

"(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

"(d) Recovery of overpayments under this title may not be made from an individual when, in the judgment of the Secretary, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.".

DISABILITY ANNUITIES—TECHNICAL CHANGE

SEC. 507. Section 831 of such Act is amended (A) by striking the phrase "that is credited in accordance with provisions of section 851 or 852(a) (2)" from paragraph (a) thereof; (B) by striking "(a)" following "section 841" in paragraph (c) thereof; (C) by amending paragraph (d) thereof to read as follows: "(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81, title 5, United States Code, covering the same period of time except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This provision shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this provision nor any provision of such subchapter shall be so construed as to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other person."; and (D) by striking the phrase "section 14 of the Act of September 16, 1916, as amended from paragraph (e) thereof and substituting "5 U.S.C. 8135 in lieu thereof.

DEATH IN SERVICE

SEC. 508. (a) Section 832 of such Act is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:

"(a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, the lump-sum credit shall be paid in accordance with section 841.

"(b) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is survived by a spouse, such surviving spouse shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and of section 821 (a) and if the participant had less than three years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

"(c) If a participant who has at least eighteen months of civilian credit toward retirement under the system dies before separation or retirement from the Service and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with paragraphs (c)(1) and (d) of section 821.

"(d) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with paragraphs (c)(2) and (d) of section 821.".

(b) Section 832 of this Act is further amended by adding the following new paragraphs at the end:

"(f) If an annuitant who elected a reduced annuity dies in service after being recalled under section 520(b) and is survived by a spouse entitled to a survivor annuity based on such an election, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the deceased's annuity had been resumed in accordance with section 871. If such a death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse, in addition to any other benefits, shall be entitled to elect, in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 821(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse may elect, in lieu of any other benefit under this title, to have the annuitant's rights redetermined and to receive a survivor annuity computed under paragraph (b) of this section on the basis of the annuitant's total service.

"(g) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with paragraph (b)(2), (e), or (h) of section 821, as appropriate.".

DISCONTINUED SERVICE—TECHNICAL CHANGE

SEC. 509. Section 834 of such Act is amended (A) by striking "(a)" immediately following "SEC. 834."; (B) by striking the phrase "that is credited in accordance with the provisions of section 851 or 852(a)(2)" from the first paragraph thereof; and (C) by deleting paragraph (b) thereof.

LUMP-SUM PAYMENTS

SEC. 510. Part E of title VIII of such Act is amended to read as follows:

"PART E—LUMP-SUM PAYMENTS

"SEC. 841. (a) 'Lump-sum credit' as used in this title means the compulsory and special contributions to a participant's or former participant's credit in the Fund plus interest thereon compounded at 4 per centum per annum to the date of separation or December 31, 1976, whichever is earlier, and after such date for a participant who separates from the Service after completing at least one year of civilian service and before completing five years of such service, at the rate of 3 per centum per annum to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity.

"(b) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the lump-sum credit shall be paid to the participant.

"(c) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 871, the annuitant's compulsory contributions to the Fund for such service together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned.

"(d) If all annuity rights under this title based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in the order of precedence shown in paragraph (g) of this section.

"(e) If a participant or former participant dies and is not survived by a person eligible for an annuity under this title or by such a person or persons all of whose annuity rights terminate before a claim for survivor annuity is filed the lump-sum credit shall be paid in accordance with paragraph (g) of this section.

"(f) If an annuitant who was a former participant dies, annuity accrued and unpaid, shall be paid in accordance with paragraph (g) of this section.

"(g) Payments authorized in paragraphs (d) through (f) of this section shall be paid in the following order of precedence to such person or persons surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

"(1) to the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing received by the Secretary prior to the participant's death. For this purpose a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

"(2) if there be no such beneficiary, to the surviving wife or husband of such participant;

"(3) if none of the above, to the child or children of such participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation;

"(4) if none of the above, to the parents of such participant or the survivor of them;

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such participant; and

"(6) if none of the above, to other next of kin of such participant as may be determined in the judgment of the Secretary to be legally entitled thereto except that no payment shall be made pursuant to this subparagraph until after the expiration of thirty days from the death of the participant or annuitant.

"(h) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person: First, to the duly appointed executor or administrator of the estate of the survivor annuitant; second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of such survivor annuitant, to such person as may be determined by the Secretary to be entitled under the laws of the survivor annuitant's domicile at the time of death.

"(i) Amounts deducted and withheld from basic salary of a participant under section 811 from the beginning of the first pay period after the participant has completed thirty-five years of service computed under sections 851 and 853, but excluding service credit for unused sick leave under paragraph (b) of section 851, together with interest on the amounts at the rate of 3 per centem a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under paragraph (d) of section 811, and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in paragraph (g) of this section.".

CREDITABLE SERVICE

SEC. 511. (a) The heading of section 851 of such Act is amended to read as follows: "CREDITABLE SERVICE."

(b) Paragraph (a) of section 851 of such Act is amended to read as follows:

"(a) Except as otherwise specified by law, all periods of civilian and military and naval service and periods of absence and separation therefrom completed by a participant through the date of final separation from the Service that would be creditable, as determined by the Secretary, under section 8332 of title 5, United States Code, toward retirement under the Civil Service Retirement and Disability System, if performed by an employee under that system, shall be creditable for purposes of this title. Conversely, any such service performed after December 31, 1976, that is not creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this title under the same conditions.".

(c) Section 851 of such Act is further amended by adding the following new paragraphs at the end thereof:

"(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within sixty days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this paragraph are not made for the periods of such leave without pay occurring after the effective date of this paragraph, the participant may not receive any credit for such periods of leave without pay occurring after such date.

"(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving, before the effective date of this paragraph, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate, and shall be computed in accordance with section 811. A participant who makes such a contribution shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to six months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

"(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service pursuant to section 811. Credit may not be allowed for service covered by the refund unless the special contribution is made.

"(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless (1) the right to any annuity under the other system which is based on such service is waived and (2) a special contribution is made covering such service pursuant to section 811.

"(f) A participant who during the period of a war, or of a national emergency as proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this title, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 841. However, the participant is deemed to be separated from the Service after the expiration of five years of such military service.".

FUNDING NORMAL COST

SEC. 512. Section 865 of such Act is amended (A) by inserting "(a)" immediately after "SEC. 865." and (B) by adding the following new paragraph at the end thereof:

"(b) At the end of each fiscal year, the Secretary shall notify the Secretary of the Treasury of the amount of the Foreign Service normal cost for that year which was not met by contributions under section 811(a). Before closing the accounts for that year, the Secretary of the Treasury shall credit such amount to the Fund as a Government contribution out of any money in the Treasury of the United States not otherwise appropriated. The Secretary shall report to the President and to the Congress the sums credited to the Fund under this section.".

ANNUITY ADJUSTMENT FOR RECALL SERVICE

SEC. 513. Section 871 of such Act is amended to read as follows:

"SEC. 871. Any annuitant recalled to duty in the Service in accordance with the provisions of section 520(b) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service, the recalled annuitant shall make contributions to the Fund in accordance with the provisions of section 811. On the day following termination of the recall service, the former annuity shall be resumed adjusted by any cost-of-living increases under section 882 that became effective during the recall period. If the recall service lasts less than one year, the annuitant's contributions to the Fund during recall service shall be refunded in accordance with section 841. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 821 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least five years, the annuitant may elect to have his or her annuity determined anew under section 821 in lieu of any other benefits under this section. Any annuitant who is recalled under section 520(b) may, upon written application, count as recall service any prior service that is creditable under section 851 that was performed after the separation upon which his or her annuity is based.".

REEMPLOYED ANNUITANTS

SEC. 514. Section 872(a) of such Act is amended by deleting the phrase "the basic salary such officer or employee was entitled to receive under section 412 or 415 of the Act, as amended, on date of his retirement from the Service." and substituting the following therefor: "the current basic salary authorized by section 412 or 415 of this Act for the class and step such officer occupied or was entitled to occupy on the date of his retirement.".

VOLUNTARY CONTRIBUTIONS

SEC. 515. (a) Amend paragraph (a) of section 881 of such Act by deleting the portion of such paragraph that precedes subparagraph (1) thereof and substitute the following in lieu thereof:

"(a) The Voluntary contribution account shall be the sum of unrefunded amounts heretofore voluntarily contributed by any participant or former participant under this section or under a prior corresponding provision of law, plus interest compounded at the rate of 3 per centum per annum to date of separation from the Service or in case of a participant or former participant separated with entitlement to a deferred annuity to the date the voluntary contribution account is claimed, or to the commencing date fixed for the deferred annuity or to the date of death, whichever is earlier. A participant's or former participant's account shall, effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the participant's election, be—".

(b) Section 881 of such Act is further amended by deleting paragraphs (c) and (d) thereof and by adding the following new paragraph in lieu thereof:

"(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant provided application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement of an annuity, or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 841(g).".

COST-OF-LIVING ADJUSTMENTS

SEC. 516. (a) Paragraphs (a), (b), and (c) of section 882 of such Act are amended to read as follows:

"(a) A cost-of-licing annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code, as amended. Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

"(b) The first annuity increase under this section after the effective date of this paragraph shall equal the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, between the month last used to establish an increase under this section and the base month used to establish the concurrent increase under section 8340 (b) of title 5, United States Code, as amended. Each subsequent annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code, as amended.

"(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

"(1) An annuity, except a deferred annuity under section 834 or any other section of this Act, payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse of a deceased participant who dies in service or who dies after being separated under the provisions of section 634(b)(2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this subparagraph, the number of days of unused sick leave to an employee's or deceased employee's credit on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

"(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor, except a child entitled under section 821(c) or 832 (c) or (d), shall be increased by the total per centum increase the annuitant was receiving under this section at death.

"(3) For purposes of computing or recomputing an annuity to a child under section 821 (c) or (d) or 832 (c) or (d), the items $900, $1,080, $2,700 and $3,240 appearing in section 821(c) shall be increased by the total per centum increases by which corresponding amounts are being increased under section 8340 of title 5, United States Code, on the date the child's annuity becomes effective.".

(b) Section 882 of such Act is further amended by adding the following new paragraph at the end thereof:

"(f) Effective with the first day of the second month which begins after the effective date of the Foreign Service Retirement Amendments of 1976 or on the commencing date of an annuity whichever is later, the annuity of each surviving spouse whose entitlement to annuity resulted from the death—

"(1) before the effective date of (A) a participant or (B) a former participant entitled to benefits under section 634(b); or

"(2) of an annuitant who, prior to the effective date of the said amendments, elected a reduced annuity under this or any other Act in order to provide a spouse's survivor annuity—

is increased by 10 per centum.".

REPEALS

SEC. 517. Such Act is further amended by deleting sections 833, 852, and 854 and the headings thereto.

RECALL

SEC. 518. (a) The heading of section 520 of such Act is amended to read "REAPPOINTMENT AND RECALL".

(b) Paragraph (b) of section 520 of such Act is amended to read as follows:

"(b) Whenever the Secretary determines it to be in the public interest, any retired officer or employee of the Service may be recalled for active duty on a temporary or limited basis to any appropriate class in his or her former category, except that a retired Foreign Service officer may not be recalled to a class higher than he or she held at the time of retirement unless appointed to the higher class by the President by and with the advice and consent of the Senate.".

RETIREMENT OF CAREER AMBASSADORS

SEC. 519. Section 631 and the heading thereto of such Act are amended to read as follows:

"FOREIGN SERVICE OFFICERS WHO ARE CAREER AMBASSADORS

"SEC. 631. Any Foreign Service officer who is a career ambassador, other than one occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, shall be retired from the Service at the end of the month in which the officer reaches age sixty-five and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such an officer may be retained on active service for a period not to exceed five years. Any such officer who completes a period of authorized service after reaching age sixty-five shall be retired at the end of the month in which such service is completed.".

RETIREMENT OF PARTICIPANTS WHO ARE NOT CAREER AMBASSADORS

SEC. 520. Section 632 and the heading thereto of such Act are amended to read as follows:

"PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS

"SEC. 632. Any participant in the Foreign Service Retirement and Disability System, other than once occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador shall be retired from the Service at the end of the month in which the participant reaches age sixty and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such a participant may be retained on active service for a period not to exceed five years. Any such participant who completes a period of authorized service after reaching age sixty shall be retired at the end of the month in which such service is completed.".

SELECTION-OUT BENEFITS—TECHNICAL CHANGE

SEC. 521. Paragraph (b) of section 634 of such Act is amended by striking from subparagraph (2) thereof:

(A) ", with interest" after the words ""Disability Fund" the first time the latter appears;

(B) "(a)" after "section 841" the first time the latter appears;

(C) "that is credited in accordance with the provisions of section 851 or 852(a)" after "naval service";

(D) ", with interest as provided in section 841(a)", after "Disability Fund" the last time the latter appears; and

(E) "(b)" after "section 841" the last time the latter appears.

SEPARATION FOR CAUSE—TECHNICAL CHANGE

SEC 522. Section 637 of such Act is amended by striking from the first sentence of paragraph (b) thereof—

(A) ", with interest" after "Disability Fund";

(B) "(a)" after "section 841"; and

(C) "that is credited in accordance with the provisions of section 851 or 852(a)" after "naval service". Such paragraph (b) is further amended by striking the last sentence thereof in its entirety.

PHYSICAL EXAMINATIONS UNDER UNIVERSAL MEDICAL PROGRAM

SEC. 523. Section 943 of such Act is amended by (A) inserting "(a)" immediately after 943 and (B) by adding the following subsection at the end thereof:

"(b) Until such time as retired Federal employees become eligible for physical examinations under a universal medical program applicable to United States citizens generally, officers and employees of the Service who are citizens of the United States and their spouses who were eligible for medical services under part E, title IX of the Foreign Service Act of 1946, as amended, at the time of the officer or employee's separation from Service, shall be entitled in accordance with such regulations as the Secretary may provide and commencing at age 50, to an annual routine physcial examination at a United States Government facility on a staff and space available basis: *Provided*, That the officer or employee was separated with entitlement to an immediate annuity under the Foreign Service or Civil Service retirement system or was separated by selection out under section 633 of the Foreign Service Act of 1946, as amended, or section 625(e) of the Foreign Assistance Act of 1961, as amended. A surviving spouse shall also be entitled to the benefits of this subsection if the officer or employee died in Service. No authorization is provided for additional positions to carry out the purposes of this section.".

CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

SEC. 524 (a) In accordance with such regulations as the President may prescribe, all Foreign Service staff officers and employees with unlimited appointments who (1) have been appointed by the Secretary of State or the Director, United States Infomation Agency, and (2) are participants in the Civil Service Retirement and Disability System on the effective date of this section, shall be transferred to the Foreign Service Retirement and Disability System effective on such date. Their retirement contributions shall be transferred in accordance with section 811 of the Foreign Service Act of 1946, as amended, by this title.

(b) Mandatory retirement at age sixty as prescribed in section 632 of the Foreign Service Act of 1946, as amended, shall not apply to any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to paragraph (a) of this section until such officer or employee completes ten years of continuous service in the Foreign Service exclusive of military service, in the Department of State or ten years of such continuous service in the United States Information Agency.

(c) Any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to paragraph (a) of this section may retire voluntarily at any time prior to mandatory retirement and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

(d) Section 9(b) of the Act of August 20, 1968 (82 Stat. 812), is repealed on the effective date of this section.

GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS

SEC. 525. (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of $300 per annum and provide a survivor benefit of $2,400 per annum payable to the annuitant's surviving spouse provided the marriage had been in effect for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as if it had been elected under section 821(b) of the Foreign Service Act of 1946, as amended by this title.

(b) An annuitant who makes an election under paragraph (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to $25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into said Fund by deduction from annuity in multiples of $25 per month. The annuity reduction under paragraph (a) of this section and the deduction under this paragraph shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this paragraph shall continue until the required amount has been paid into said Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946, as amended by this title the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of $2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this paragraph in accordance with the provisions of paragraphs (b) and (h) of section 821 of the Foreign Service Act of 1946, as amended, if such remarriage has terminated or terminates in the future.

EFFECTIVE DATES

SEC. 526. (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

(b) Section 524 of this title and sections 803 and 881 of the Foreign Service Act of 1946 as amended by this title shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day of a month in accordance with the provisions of paragraphs (b)(2)(B), (e), and (f) of section 821 of the Foreign Service Act of 1946 as amended by this title.

(d) The amendment of section 804 of the Foreign Service Act of 1946 made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

(e) Paragraph (g) of section 821 of the Foreign Service Act of 1946 as added by this title shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under said paragraph (g) provided notice of the election is received by the Secretary of State within one year after such effective date.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(b) of the Foreign Service Act of 1946, as amended by this title, such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the said Foreign Service Act, as amended by this title. For purposes of section 882(c)(2) of the said Foreign Service Act, as amended by this title, the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

(g) The restrictions on payment of survivor annuities in subparagraph (b)(2)(A) and paragraph (h) of section 821 of such Act shall not apply to a supplemental survivor annuity provided under paragraph (i) of section 821 or paragraph (f) of section 832 of such Act if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

(h) Paragraph (a) of section 822 of the Foreign Service Act of 1946 as added by this title shall be effective on the first day of the first month which begins on or after the effective date of this title.

(i) Paragraph (a) of section 841 of the Foreign Service Act of 1946 as amended by this title shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service retirement Fund that become due on and after such effective date; shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Paragraph (c) of section 851 of the Foreign Service Act of 1946 as added by this title shall be effective on the first day of the pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees on the effective date of such section shall have sixty days from such date to file an election under paraparagraph (c) of said section 851.

(k) Paragraph (f) of section 851 of the Foreign Service Act of 1946 as added by this title shall apply, in addition to present participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date.

(1) The annuity of a survivor who becomes immediately eligible for an annuity under paragraph (c) of section 525 of this title or paragraph (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annunity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(m) The amendment of paragraphs (a) and (b) of section 882 of the Foreign Service Act of 1946 made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title.

(n) Annuities which commenced between—

(A) the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946, as amended, prior to the effective date of this title, and

(B) such effective date,

shall be recomputed and, if necessary adjusted retroactively to their commencing dates to apply the provisions of new subparagraph (c)(1) added to section 882 of the Foreign Service Act by section 515 of this title.

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946, as amended, unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years:

RETIREMENT SCHEDULE

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over shall be retired, and thereafter the amendments made by sections 519 and 520 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized services after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which the officer completes such service.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3168.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, in accordance with provisions of paragraph 1 of rule V of the Standing Rules of the U.S. Senate, I ask unanimous consent that Mr. ABOUREZK may be granted a leave of absence from the Senate on today and tomorrow to attend the funeral of his wife's father.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 354 IMMEDIATELY FOLLOWING DISPOSITION OF H.R. 9721 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of H.R. 9721, the Inter-American Development Bank bill, tomorrow, the Senate proceed to the consideration of S. 354, the no-fault insurance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate pro tempore, pursuant to Public Law 93–618, and upon the recommendation of the chairman of the Committee on Finance, appoints the following Senators as official advisers to the U.S. delegations to negotiations relating to trade agreements: Senators LONG, TALMADGE, RIBICOFF, FANNIN, and ROTH; and as alternates to the above negotiations: Senators HARTKE, HARRY F. BYRD, JR., NELSON, MONDALE, GRAVEL, BENTSEN, HATHAWAY, HASKELL, BROCK, CURTIS, HANSEN, DOLE, and PACKWOOD.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine business, by unanimous consent, of not to extend beyond 30 minutes, with statements therein limited to 5 minutes each; at the conclusion of which, the Senate will proceed to the consideration of H.R. 9721, the Inter-American Development Bank bill, under a time limitation, and one or more rollcall votes are expected in relation to that measure.

Upon the disposition of the Inter-American Development Bank bill, the Senate will take up S. 354, a bill to regulate commerce by establishiing a nationwide system to restore motor vehicle accident victims. Rollcall votes are expected on amendments and motions in relation thereto. Other measures cleared for action may be called up during the day. Conference reports, being privileged matters, may be called up at any time, and rollcall votes may occur thereon.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:01 p.m., the Senate adjourned until tomorrow, Tuesday, March 30, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 29, 1976:

U.S. ADVISORY COMMISSION INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

The following-named persons to be members of the U.S. Advisory Commission on International Educational and Cultural Affairs for terms expiring May 11, 1978:

Dortch Oldham, of Tennessee, vice Lawrence Y. Goldberg, term expired.

Beryl B. Milburn, of Texas, vice David R. Derge, term expired.

DIPLOMATIC AND FOREIGN SERVICE

For promotion from Foreign Service Information Officers of class 2 to class one:

Charles R. Beecham, of Sarasota, Fla.
Raymond E. Benson, of Panama City Beach, Fla.
James D. Conley, of Glenview, Ill.
Horace G. Dawson, Jr., of Jonesboro, La.
Wilson P. Dizard, of Staten Island, N.Y.
John R. Higgins, of New Castle, Pa.
David I. Hitchcock, of Chevy Chase, Md.
Jack Masey, of the District of Columbia.
Stanley D. Moss, of Hollywood, Fla.
Ted M. G. Tanen, of Beverly Hills, Calif.

For promotion from Foreign Service Information Officers of class 3 to class 2:

Kenneth Bache, of Westport, Conn.
Frazier Draper, of Tampa, Fla.
Robert W. Garrity, of Watertown, Mass.
Robert F. Jordan, of El Paso, Tex.
William H. Keogh, of Bethesda, Md.
Ivan T. Klecka, of Riverside, Ill.
James L. Morad, of Montebello, Calif.
Gordon W. Murchie, of San Mateo, Calif.
Yale Newman, of the District of Columbia.
Victor B. Olason, of Seattle, Wash.
Alvin Perlman, of Brooklyn, N.Y.
Robert A. Rockweiler, of Newport, R.I.
Bart N. Stephens, of Lynchburg, Va.
Marshall W. S. Swan, of Arlington, Va.

For promotion from Foreign Service Information Officers of class 4 to class 3:

Juliet C. Antunes, of Troy, N.Y.
Patricia Connor Ayers, of Seattle, Wash.
Joseph A. Bertot, of Farmington, Ill.
Richard Birn, of New York, N.Y.

Sigmund M. Cohen, Jr., of Rockville, Md.
Leland W. Cross, of Bowie, Md.
Ralph John Crawford, of Hillsdale, Mich.
Thomas Proctor Crawford, of San Diego, Calif.
Terry C. Eakin, of Denver, Colo.
Lawrence D. Estes, of Los Angeles, Calif.
Henry W. Grady, of Vista, Calif.
Edward C. McBride, of Savannah, Ga.
Merrill S. Miller, of Los Angeles, Calif.
Kent D. Obee, of Boise, Idaho.
William Pfender, of Harbor Springs, Mich.
Robert A. Powers, of Annandale, Va.
William H. Riddell, Jr., of the District of Columbia.
Henry B. Ryan, of Chicago, Ill.
Joseph C. Sadlik, of McLean, Va.
V. Jordan Tanner, of Provo, Utah.
Marie Louise Telich, of Laguna Hills, Calif.
Gerald A. Waters, of Chicago, Ill.
Michael M. Yaki, of La Puente, Calif.

For promotion from Foreign Service Information Officers of class 5 to class 4:

William J. A. Barnes, of Southbridge, Mass.
Peter T. Becskehazy, of Cleveland, O.
Linda A. Buggein, of Miami, Fla.
Margaret M. Converse, of Rochester, N.Y.
Betsy A. Fitzgerald, of West Hartford, Conn.
Edward J. Hinker, of Minneapolis, Minn.
J. Michael Houlahan of Mason City, Ia.
Victor L. Jackovich, of Des Moines, Ia.
Judith R. Jamison, of the District of Columbia.
John E. Katzka, of Woodland Hills, Calif.
G. Alfred Kennedy, of Woodbury, N.J.
George C. Kinzer, of San Francisco, Calif.
Robert F. Le Blanc, of Missoula, Mont.
Carol E. Ludwig, of Des Moines, Iowa.
Jean Elizabeth Mammen, of Great Neck, N.Y.
Joseph Daniel O'Connell, of Silver Spring, Md.
Donna Marie Oglesby, of St. Petersburg, Fla.
Paul D. Panaccione, of Hampton, N.H.
Pierre Charles Pingitore, of Silver Spring, Md.
Robert W. Proctor, of Santa Fe, N.M.
Roger S. Russell, Jr., of Swarthmore, Pa.
Michael R. Saks, of Griffith, Ind.
Jerry W. Scott, of Beaverton, Ore.
James H. Sease, of Albany, Ore.
Stanley S. Shepard, of Denver, Colo.
Michael G. Stevens, of Stamford, Conn.
John Scott Williams, of Alexandria, Va.

For promotion from Foreign Service Information Officers of class 6 to class 5:

George P. Bonjoc, of Sacramento, Calif.
Theodore A. Boyd, of Cincinnati, O.
Csaba T. Chikes, of Chevy Chase, Md.
Stephen Mark Dubrow, of Miami, Fla.
Robert B. Hall, of Joseph, Ore.
Gerald C. Mattran, of Oak Park, Ill.
Gary P. McElhiney, of Waltham, Mass.
Carmen Suro-Bredie, of the District of Columbia.
Cornelius C. Walsh, of Winsted, Conn.

For promotion from Foreign Service Information Officers of class 7 to class 6:

Charles Miller Crouch, of Bridgeport, Conn.
E. Ashley Wills, of Arlington, Va.

IN THE MARINE CORPS

The following-named (chief warrant officers warrant/officers) for temporary appointment to the grade of first lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Amoroso, Daniel L.
Ashe, Paul T.
Ashton, Joseph E.
Bates, Ralph T.
Beard, Joseph F.
Benjamin, Howard W.
Benrud, Jon C.
Bishop, Robert W.
Bridgeman, Kenneth L.
Bromley, Marlin A.
Brown, George L.
Brown, Lemuel F.
Croucher, Francis E.
Cumbie, William T.
Czosnyka, Ronald J.
Dearman, Daniel R.
Dobogat, Jerry L.
Dolman, Thomas W.
Donohoo, Robert P.
Dudley, Ronald T.
Edwards, Kelly R.
Farley, William C.
Franklin, Woodrow G.
Franz, Fritz G.
Fugate, Robert E.
Giglia, Alfonso N.
Graddy, Michael B.
Green, William F.
Grummer, Hubert A.
Hickman, Ralph W.
Hunter, Martin L.
Irvine, Robert R.
Jones, Ronald L.
Jozaitis, Carl M.
Jungwirth, Kenneth J.
Kalman, Helmut J.
Klepper, Paul J., II
Leiston, Robert J.
Livensparger, Stuart A.
Logsdon, Larry D.
Lundy, Charles A.
Macsay, Daniel J.
Maroney, William T., III
Masse, Joseph A. R.
Mattheus, Alex R.
McDonald, Joseph A.
Meeker, Richard L.
Miller, Edwin D.
Miller, Roy C., Jr.
Moore, Gerald B.
Moorehead, Robert E.
Morrone, Frederick M.
Pineda, Ralph A.
Richardson, Arthur H., Jr.
Ricker, Ralph J.
Riddle, William C., Jr.
Roebuck, Kenneth D.
Romero, Charles R.
Rook, Ronald P.
Rowe, David T.
Scanlon, Donald L., Jr.
Schaffer, Frederick W.
Schwartz, Donald, Jr.
Shafer, Jimmie R.
Sheats, Stanley D.
Sherry, Charles K., Jr.
Sherwood, Fredrick L.
Simpson, Charles C.
Sloan, Gary A.
Smith, Charlie F.
Smith, Lyle W.
Stafford, Ryan E.
Strickland, Joseph E.
Teeter, Richard A.
Tenorio, Teodoro R.
Tessman, Robert A.
Tippy, Paul R.
Urquhart, Richard A.
Uselding, Thomas
Vickers, William D.
Wheeler, James C. Jr.
White, Gerald L.
Wiggins, Donald E.
Williams, Clarence F.
Wilson, Leonard D.
Young, Billie
Ziobro, Bernard W. Jr.

The following-named (staff noncommissioned officers) for temporary appointment to the grade of second lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Brameyer, Jan D.
Clements, Charles F.
Connacher, James T.
Countryman, Robert L.
Croswell, Clyde V. Jr.
Cuvelier, Dean L.
Dear, Frederick H.
Diaz, Ralph J.
Eastman, James D.
Faile, Claude T.
Felan, Guadalupe
Frank, Roylance J. Jr.
Goodall, Joe D.
Groover, Kenneth R.
Haugland, Robert L.
Hopkins, Edward
Hurt, Paul M.
Janssen, Richard C.
Jennings, David W.
Johnson, Ross A. Jr.
Jones, William I.
Keller, William F. Jr.
Kinney, Joseph D.
Lane, Robert A. Jr.
Larson, Richard L.
Leguillou, Galo I.
Linville, William R. Jr.
Londo, Bert Jr.
McKinnie, Edgar L.
Mertz, Curtis D.
Moors, Gerald H.
Norman, Edward A.
Person, Charles A.
Plumlee, Frank B.
Roberts, John A.
Schmucker, Charles
Smith, Robert W.
Smith, Stephen K.
St. Clair, Michael J.
Steinmann, Mark A.
Stowers, Dempsey
Swift, Cecil E.
Todd, Harry J.
Vera, Noe
Waage, Kenneth A.
Warren, James H.
Whiteside, Daniel E.
Wisniewski, Darryl D.

HOUSE OF REPRESENTATIVES—*Monday, March 29, 1976*

The House met at 12 o'clock noon.

Rev. Floyd H. Gayles, St. James Baptist Church, Washington, D.C., offered the following prayer:

The Lord is good to all: And His tender mercies are over all His works.

—Psalms 145: 9.

God of our fathers whose almighty hand has led us in the past and whose spirit is seeking to lead us in this present age, we thank Thee for great men and women who have helped to make our Nation strong.

Kindle our spirits that we may do justly, love mercy, and walk humbly with our God.

May Thy blessing rest upon our President, the Speaker of the House, and Members of this Congress. Give them confidence to seek the truth and faith to apply it in these troublesome times.

May the spirit of wisdom flow through them that they may stand against wiles of evil.

Lord help us not be frightened by the problems that confront us, but let us give thanks that Thou art with us making us equal to the task and ready for this responsibility that we may be a part of the solution and not a part of the problem.

In spite of all difference may we be of one mind possessed by one spirit, motivated by one purpose, and to serve one Nation with liberty and justice for us all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9771. An act to amend the Airport and Airway Development Act of 1970.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3056) entitled "An act to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquakes in Guatemala," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. MCGEE, Mr. HUMPHREY, Mr. CASE, and Mr. JAVITS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3149. An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 26, 1976.*
Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on March 25, 1976, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate agreed to the amendments of the House of Representatives to the amendments of the Senate to the bill H.R. 10624;

That the Senate passed the bill H.R. 12490, an Act to provide tax treatment for exchanges under the final system plan for ConRail.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, March 25, 1976, he did on Friday, March 26, 1976, sign the following enrolled joint resolution of the House:

H.J. Res. 801. Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

ORPHANS OF THE EXODUS FROM THE SOVIET UNION

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, this afternoon I will be meeting with Mr. Aloyzas Jurgutis, a Lithuanian musician who is presently an instructor of music at the Chicago Conservatory of Music.

Mr. Jurgutis is one of many Soviet citizens who has determined that life under the Communist system is unbearable. In 1974, Aloyzas Jurgutis and his wife Marija decided that they could no longer live in the Soviet Union and that they could not bring up their daughter in an atheistic society where basic human freedoms are suppressed.

While on a tour in Yugoslavia in May 1974, Mr. Jurgutis escaped to Italy where he was granted political asylum. In September he traveled to the United States and renounced his Soviet citizenship. His wife filed necessary papers for emigration with President Podgorny while Mr. Jurgutis filed similar emigration papers with the Soviet consulate in Washington, D.C.

Mrs. Jurgutis has made four appeals for emigration in the past 2 years, in an attempt to join her composer husband in America. The emigration papers have been rejected and Mrs. Jurgutis has been warned that any contact with the American Embassy would result in her immediate imprisonment. She has lost her job and is barred from further employment. Authorities have threatened to take her daughter away to a special school to "Sovietize her spirit." Finally, Mrs. Jurgutis has suffered from searches of her home and seizure of property, including mail from her husband.

Mr. Speaker, these infractions of basic human freedoms are unthinkable in the United States where they are taken for granted. It is difficult for us to imagine the barriers that are erected between families by Soviet authorities. I feel that it is most important for the Congress to know of these violations of the Helsinki accord so that the United States will be able to speak forcefully for human rights behind the Iron Curtain when the signatories of the accord meet in Belgrade in 1977. If the United States does not exercise the leadership to monitor this international agreement closely, the Soviet Union will be able to claim compliance—perhaps falsely—with all sections of the accord and we will have lost an opportunity to bring about a glimmer of freedom in Eastern Europe and the Soviet Union.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives.

WASHINGTON, D.C., *March 25, 1976.*
Hon. CARL ALBERT,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:45 P.M. on Thursday, March 25, 1976, and said to contain a message from the President concerning the Swine Influenza Immunization Program.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

POTENTIAL PUBLIC HEALTH THREAT POSED BY SWINE INFLUENZA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-426)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

The nation faces a serious potential public health threat this winter from a strain of virus known as swine influenza.

One month ago this strain of influenza was discovered and isolated among Army recruits at Fort Dix, New Jersey. The appearance of this strain has caused concern within the medical community because this virus is very similar to the one that caused a widespread and very deadly flu epidemic late in 1918–19. Some Americans will recall that 548,000 people died in this country during that tragic period—and 20 million people worldwide.

I have consulted with members of my Administration, leading members of the health community and public officials about the implications of this new appearance of swine flu. I have been advised that there is a very real possibility that unless we take effective counteraction, there could be an epidemic of this dangerous disease next fall and winter here in the United States.

The facts that have been presented to me in the last few days have come from many of the best medical authorities in this country. These facts do not suggest there is any cause for alarm. The scientific community understands what we are dealing with and they have developed a vaccine that will be effective in combatting it. The facts do suggest, however, that there is a need for action now—action by the Government, action by industry and the medical community, and most importantly, action by all of our citizens.

Although no one knows at this time exactly how serious this threat could be, we cannot afford to take chances with the health of our people. Accordingly, I am taking the following action.

I am asking the Congress for a special supplemental appropriation of $135 million—prior to their April recess—to insure the production of sufficient vaccine to inoculate every man, woman and child in the United States.

I have directed HEW Secretary David Mathews, and the Assistant Secretary for Health, Dr. Theodore Cooper, to develop and implement plans that will make this vaccine available to all Americans.

Finally, I am asking each and every American to make certain he or she receives the vaccine this fall. Inoculations are to be available at schools, hospitals, physicians' offices, and public health facilities.

Extraordinary measures are necessary because of the short time period available to assure adequate vaccine production and to mobilize the nation's health care delivery system. An extensive immunization program must be in full-scale operation by the beginning of September and should be completed by the end of November, 1976.

I urge the Congress to act immediately to pass this special supplemental appropriation separately. This $135 million appropriation, if acted on promptly, will be a key factor in putting this threat behind us before next winter.

GERALD R. FORD.
THE WHITE HOUSE, *March 25, 1976.*

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. THOMPSON. Mr. Speaker, by direction by the Committee on House Administration, I call up House Resolution 1016 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1016

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $353,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House

Administration. Not to exceed $100,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, this resolution would fund the Committee on Merchant Marine and Fisheries in the amount of $353,000.

I might point out that this committee—the distinguished chairman of which is retiring at the end of this term—last year had an unexpended balance of $275,273.94.

It has been unanimously agreed upon.

CALL OF THE HOUSE

Mrs. COLLINS of Illinois. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 138]

Adams
Addabbo
Alexander
Ambro
Andrews, N.C.
AuCoin
Badillo
Barrett
Bell
Biester
Boggs
Boland
Bowen
Brademas
Breaux
Byron
Chisholm
Clausen, Don H.
Cleveland
Conyers
Daniels, N.J.
Dellums
Dingell
Eckhardt
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fish
Ford, Mich.
Ford, Tenn.
Fuqua
Gibbons
Gonzalez
Green
Guyer
Hammerschmidt
Harsha
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Hinshaw
Holland
Hughes
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Lafalce
Lehman
Litton
McCloskey
McCollister
McFall
Macdonald
Matsunaga
Melcher
Metcalfe
Mezvinsky
Mills
Moffett
Mollohan
Moorhead, Pa.
Nix
Nolan
Pattison, N.Y.
Pepper
Peyser
Rees
Regula
Riegle
Roberts
Rodino
Rosenthal
Rostenkowski
Sarasin
Sarbanes
Scheuer
Shuster
Staggers
Stanton, James V.
Steelman
Stokes
Teague
Traxler
Udall
Ullman
White
Wilson, C. H.
Wilson, Tex.
Wolff
Wright

The SPEAKER. On this rollcall 338 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, House Resolution 1016 from the Committee on Merchant Marine and Fisheries is in the amount of $353,000. It has been agreed upon by both the majority and the minority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON SCIENCE AND TECHNOLOGY

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1038 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1038

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on Science and Technology, acting as a whole or by subcommittee, not to exceed $742,738, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202 (j) of such Act, as amended (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $86,500 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and not to exceed $20,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended 2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Science and Technology shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection .

Mr. THOMPSON. Mr. Speaker, again this resolution has been unanimously agreed upon by both the majority and the minority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON THE JUDICIARY

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1097 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1097

Resolved, That for the further expenses of the investigations, studies, and oversight responsibilities and functions to be conducted pursuant to rule X, clause 2(b)(1) (relating to general oversight responsibilities), and rule IX, clause 1(b) (relating to the authorization of investigations and studies), by the Committee on the Judiciary, acting as a whole or by subcommittee, not to exceed $1,276,767.32 including expenditures for the employment of experts, special counsel, clerical, stenographic, and other assistants and consultants, and all expenses necessary for travel and subsistence incurred by members and employees while engaged in the activities of the committee or any subcommittee thereof, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $90,000 of the total amount provided by this resoltuion may be used to procure the temporary or intermittent services of individual consulants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on the Judiciary shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, if I am not mistaken, this resolution, House Resolution 1097, deals with the Committee on the Judiciary.

Mr. THOMPSON. It does, I will say to the gentleman from Maryland.

Mr. BAUMAN. This was originally listed toward the end of the program. I believe the gentleman from Ohio (Mr. Ashbrook) whom I do not see on the floor at this point, had an amendment that he wished to offer in the form of a motion to recommit.

Mr. THOMPSON. I might say to the gentleman from Maryland that this is a privileged resolution in the amount of $1,276,767.32, following an unexpended balance in the 1st session of the 94th Congress of $936,047.80. It is privileged, and the gentleman from New Jersey does not intend to yield for an amendment. I will, of course, yield for debate by my distinguished friend, the gentleman from Ohio.

Mr. BAUMAN. Further reserving the right to object, the only thing I would call to the gentleman's attention is that the gentleman from Ohio (Mr. Ashbrook) who was here a few moments ago, probably thought it was going to be called up in later order toward the end of the list. He did indicate to me that he had a motion to recommit. I do not see him on the floor, and out of deference to him, I wonder if the gentleman would withdraw it.

Mr. THOMPSON. Mr. Speaker, I withdraw House Resolution 1097 for the moment, reserving the right to bring it up later.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1018 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1018

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $698,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $70,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2 No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1018, introduced by the gentleman from North Carolina (Mr. Henderson) and the gentleman from Illinois (Mr. Derwinski) was unanimously agreed upon by the subcommittee and the committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON TUESDAY, APRIL 13, 1976, TO PERMIT THE HOUSE TO COMMEMORATE THOMAS JEFFERSON

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Tuesday, April 13, 1976, for the Speaker to declare a recess permitting the House to hold a short ceremony to commemorate Thomas Jefferson, third President of the United States.

This request is made after consultation with the leadership on both sides of the aisle and at the request of the Joint Committee on the Bicentennial, which is arranging the program for this occasion.

It is anticipated that the House will convene early on the day in question so that the program will not interfere with the regular legislative program.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. PICKLE. Mr. Speaker, as a member of and as Representative of the Joint Congressional Bicentennial Committee, Mrs. Boggs and I are very pleased to be able to tell you today about the plans the Joint Committee on Arrangements for Commemoration of the Bicentennial is making to commemorate Thomas Jefferson's birthday. We feel that this year in particular, it is important that all of us make a special effort to take the time to pay tribute to the man who was responsible for the Declaration of Independence, and whose influence has been so great in so many aspects of our country's development.

It is for this reason that our plans are both of a ceremonial and a substantive nature; and that the substantive part of the program is aimed at giving a small indication of the various aspects of American life on which he had such great and lasting influence.

The program, as we are planning it, will start with a presentation of the colors by the Continental Color Guard. This will be followed by the Honorable Secretary of the Navy, J. William Middendorf, conducting the Navy Band in a performance of the Bicentennial March he has composed.

The three speakers who have graciously accepted our invitation to address the Congress are all distinguished scholars. They are Dr. Julian Boyd, one of the outstanding experts on Thomas Jefferson, who is senior research historian at Princeton University, and is editor of the Jefferson Papers. Dr. Cecelia Kenyon, the Charles N. Clark professor of government at Smith College, whom we had the privilege of hearing speak at the 200th anniversary celebration of the First Continental Congress held here in the House in 1974; and Frederick Nichols, the outstanding architectural historian who is chairman of the Division of Architectural History at the University of Virginia.

Dr. Boyd will speak to us on Thomas Jefferson: philosopher/statesman. Dr. Kenyon will talk about Thomas Jefferson and his thoughts on liberty and consensus in the American Republic, and Mr. Nichols will address the subject of Thomas Jefferson as an architect and his influence in that field.

We are also asking the Members of the Senate to join us on this important occasion, and I urge you, as we shall urge them, to make a special effort to be here for what will be a most significant ceremony on a most significant day.

Mr. McCLORY. Mr. Speaker, I rise today to inform the Members of the House of the progress of the Thomas Jefferson Day resolution, and of plans for the commemoration of the birthday of this great Founding Father on April 13.

House Joint Resolution 670, which was cosponsored by more than 230 Members of the House of Representatives, was recommended by the full Post Office and Civil Service Committee last week, and will be taken up under the suspension of the rules very soon. The resolution has also been formally endorsed by the Joint Committee on Bicentennial Arrangements, which is currently planning appropriate activities in observance of the day. Naturally, I am gratified by the overwhelming support this proposal has received.

Thomas Jefferson Day is a Bicentennial project of Elgin Community College, which is located in my 13th Illinois Congressional District at Elgin, Ill. The members of the College Bicentennial Commission, including Mrs. Virginia

Kammerer, Carole Ackemann, Dennis Sienko, and college president Dr. Mark Hopkins, are busily preparing for the observance of the day in Illinois, and also plan to send a delegation from the college to Washington on April 13.

Arrangements are proceeding for the celebration of Thomas Jefferson Day in the Washington area, and events are being planned at the Jefferson Memorial, at Monticello, and here in the Congress. Also, April 13 will mark the reintroduction by the Treasury Department of the $2 bill, which features Mr. Jefferson's portrait, and has not been in circulation since 1966.

Mr. Speaker, I am sure that all these activities will help make Thomas Jefferson Day, 1976, a memorable and significant Bicentennial tribute to our third President, the author of the Declaration of Independence.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES TO BE CONDUCTED BY COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1059 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1059

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on the District of Columbia, acting as a whole or by subcommittee, not to exceed $407,800, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on the District of Columbia shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resoultion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, again this resolution was unanimously reported by both the subcommittee and the committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR EXPENSES OF COMMITTEE ON INTERNATIONAL RELATIONS FOR INVESTIGATIONS AND STUDIES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1062 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1062

Resolved, That (a) effective January 3, 1976, the expenses of the investigations and studies to be conducted pursuant to rule XI of the Rules of the House of Representatives, by the Committee on International Relations, acting as a whole or by subcommittee, not to exceed $1,051,169.24, including expenditures—

(1) for the employment of experts, investigators, clerical, stenographic, and other assistants; and

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i));

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Not to exceed $75,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purposes.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on International Relations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1062 is the funding resolution for the second session for the Committee on International Relations. It again has been unanimously reported by the committee and subcommittee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1079 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1079

Resolved, That for the further expenses of investigations and studies to be conducted by the Committee on Interior and Insular Affairs, acting as a whole or by subcommittee, not to exceed $946,297 including expenditures for the employment of investigators, attorneys, and clerical and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Interior and Insular Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1079 provides funds for the Committee on Interior and Insular Affairs. It has been unanimously agreed upon by the committee and the subcommittee.

Mr. SKUBITZ. Mr. Speaker, I support this resolution, and I want to use this time to compliment the chairman of the Interior Committee, JIM HALEY, for his time to compliment the chairman of the minority. Chairman HALEY's willingness to cooperate and provide the necessary staff and materials to operate the minority side has made my first year as ranking minority member free of administrative hassles.

In turn, I have respected and I might add that I completely agree with—the philosophy of the chairman to use fiscal restraint in the operation of the committee. The minority has not been to the well too often. We are considerably below the ratio of one-third of the total staff for minority provided in the committee rules. Although we budgeted for $115,000 last year, we spent only $50,000. I do not believe in "loading up" the minority staff, but if the need should arise—I want the additional funds available for staff hire.

Out of the total committee budget of $946,297 for 1976, the minority has requested only $115,000. We are operating at the same level of spending we did last year. The chairman saved nearly $400,000 of last year's committee budget. I congratulate him for it.

It is a pleasure, Mr. Speaker, to participate in the administration of a committee staff when the chairman is as fairminded and gracious as Chairman HALEY. I look forward to working with him in the year ahead.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1081 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1081

Resolved, That for the further expenses of investigations, studies, and oversight responsibilities and functions to be conducted pursuant to rule X, clause 2, paragraphs (b) (1), (b) (2), and (c) (relating to general oversight responsibilities), clause 4(c) (relating to additional functions of the Committee on Government Operations, and rule XI, clause 1(b) (relating to the authorization of investigations and studies), by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $1,589,000, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $16,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and not to exceed $2,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a (j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. The Chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1081 is to provide funds for the Committee on Government Operations. The resolution has been unanimously agreed upon by the subcommittee and the committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR COMPUTER SERVICES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration I call up H. Res. 1087 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1087

Resolved, That (a) the Committee on House Administration is authorized to incur such further expenses (not in excess of $6,626,000) as the committee considers advisable to enable House Information Systems to provide for maintenance and improvement of ongoing computer services for the House of Representatives for the investigation of additional computer services for the House of Representatives, and to provide computer support to the committees of the House of Representatives, including expenditures—

(1) for the employment of professional, technical, clerical, and other assistants,

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), and for the procurement of equipment by contract or otherwise, and

(3) for specialized training, pursuant to section 202 (j) of such Act (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions.

Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

(b) Not to exceed $75,000 of the total amount provided by the resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), and not to exceed $29,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a (j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. Of such funds authorized by this resolution, $2,928,000 is designated to provide computer support to other standing committees of the House of Representatives and to joint committees and offices of the Congress, at the following projected levels:

(a) Committee on the Budget and Committee on Appropriations, $1,068,000.

(b) Joint Committee on Internal Revenue Taxation, $199,000.

(c) Commitee on Science and Technology, $239,000.

(d) Committee on Agriculture, $102,000.

(e) Committee on Interstate and Foreign Commerce, $19,000.

(f) General support to all committees (including calendar preparation, text processing, and data retrieval), $723,000.

(g) Specalized support to all committees (including economic forecasting, graphics, and data analysis), $237,000.

(h) Congressional Budget Office, $341,000.

SEC. 3 No part of the funds authorized by this resolution shall be available for expenditures in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I do not believe I will object, but will the gentleman from New Jersey help me better understand why this resolution provides for this large increase. Last year the committee spent $3,357,000. Last year the committee only asked for $3,780,000 in its request. Yet today the committee is asking us to jump to $6.6 million. Can the gentleman tell me why we should need such a large increase for computer work this year?

Mr. THOMPSON. If the gentleman will yield I will be glad to explain.

Mr. ROUSSELOT. I yield to the gentleman from New Jersey, Mr. THOMPSON.

Mr. THOMPSON. If the gentleman will grant me the unanimous-consent request I will be glad to explain.

Mr. ROUSSELOT. I would prefer to have my colleague explain the increase now under my reservation.

Mr. THOMPSON. I will be pleased to explain, if the gentleman will yield.

Mr. ROUSSELOT. I am happy to yield to my colleague.

Mr. THOMPSON of New Jersey. For the first session House Resolution 383 appropriated $3,787,000 for the ongoing computer services of the House of Representatives. The subcommittee chaired by the distinguished gentleman from North Carolina (Mr. ROSE) returned $323,000. There are several reasons for the seemingly dramatic increase.

First the computerization and computer activities of the House Information

Service has been an ongoing thing for several years and over a period of time the number of new facilities and/or activities and plans have gone forth. The reason for the increase this year is as follows.

Mr. ROUSSELOT. This is a substantial increase, and I am sure my colleagues would appreciate a complete explanation.

Mr. THOMPSON. The reason for the substantial increase this year, I will say to my friend, the gentleman from California, is among other things the installation of two more consoles, one on each side of the aisle, at the rear, so that many Members will have the opportunity to observe there rather than crowding around the two present tables.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further at that point; is this part of the new print-out procedure we now have available to Members on the floor of the House?

Mr. THOMPSON. Yes, it is; but the print-out procedure is being up-dated, made more sophisticated, so that the leadership on both sides will have available more sophisticated information.

Further an arrangement has been made with the Library of Congress to integrate the operation of our House computer, with information available from the Library of Congress.

Mr. ROUSSELOT. Let me be sure I understand the gentleman's last point. The increase in cost is partially caused by integrating our computer operation with the Library of Congress computer operation; is that correct?

Mr. THOMPSON. Yes, and further with the Senate's computer operation.

Mr. ROUSSELOT. We are going to be integrated with the Senate computer?

Mr. THOMPSON. I hope that we are not going to be integrated with the Senate; but we will be able to retrieve the status of all Senate bills and the status of all bills virtually on an instanteous basis.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, let me say here that another $2,600,000, to be exact, is work being done by other committees of the House, for which they do not reimburse the committee; but next year we hope to have a program where they ask for the money in their committee funds and then reimburse the computer section for the work done. That accounts for $2,600,000.

We are also accessing the Department of Agriculture in some of the computers downtown so that that information is retrievable up here.

Mr. ROUSSELOT. So what the gentleman from Ohio is telling the House is that part of the increased costs in this bill for now are being carried by the House Administration Committee and in the future these same computer costs will be carried by individual committees of the House for their pro-rata share. But for now this obligation for computer costs is being carried by the House Administration Committee.

Mr. HAYS of Ohio. That is correct.

Mr. ROUSSELOT. Another item which the gentleman from Ohio has brought to our attention is the increased cost to the House of Representatives as the result of hooking up with various executive agency computers. I think the gentleman said, the Department of Agriculture and the Department of the Interior were soon to be connected to our computers.

Mr. HAYS of Ohio. That is one Department that has given the House complete access to its computer technology, its computer information, I might say, to help the House to know more about their programs.

Mr. ROUSSELOT. Like the food stamp program?

Mr. HAYS of Ohio. Exactly.

Mr. ROUSSELOT. I appreciate very much the explanation of my colleague, the gentleman from Ohio, and my colleague, the gentleman from New Jersey.

Are there other items that we could make part of the record at this time to explain these increases in computer costs?

Mr. THOMPSON. Mr. Speaker, if the gentleman would be kind enough to withdraw his objection to further reading, the gentleman from New Jersey will yield to the chairman of the subcommittee, the gentleman from North Carolina (Mr. ROSE).

Mr. ROUSSELOT. Mr. Speaker, I will be happy to yield to the gentleman from North Carolina.

Mr. THOMPSON. Mr. Speaker, I renew my request that further reading of the joint resolution be dispensed with.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, let me now yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I would point out that $341,000 of the request for this second session of the 94th Congress will be directly reimbursed by the Congressional Budget Office. In other words, this is work the Congressional Budget Office has asked the House computer system to do. They will pay for it out of their appropriations.

Mr. ROUSSELOT. Then the Congressional Budget Office will be reimbursed $341,000 of this increased cost and that fact accounts for a portion of the escalation.

Mr. ROSE. Yes, that is correct.

Mr. Speaker, I would also point out, as the chairman of the Full Committee on House Administration itself, some $2.6 million of this appropriation is specific work for committees of the House, such as the Committee on Science and Technology. They are going to use this money to computerize research and development grants by the National Science Foundation, which might prove very useful to Members of this House who want to keep up with those research and development trends.

Mr. ROUSSELOT. I am sure my colleague, the gentleman from Maryland (Mr. BAUMAN) would be very interested in that.

Mr. ROSE. I thought that the gentleman might be.

Mr. ROUSSELOT. The gentleman from Maryland is listening carefully.

Mr. ROSE. Mr. Speaker, I would also point out that the Federal Government Executive Branch will spend this year $3.099 million for computer services. I have no dream of us ever getting much further with our budget than we are today.

Of course, we must have in the House the capacity to tap the computer systems within the executive branch of Government so that we will have their information.

What Dr. Ryan and his staff at HIS are proposing to do in the resolution we are bringing before the House today is to set up in the House of Representatives an information system so that we can track what the Federal executive branch is doing with the tax dollars we are sending out.

Mr. ROUSSELOT. I am especially appreciative of that explanation. That point relates to what the gentleman from Ohio said about access to computers in the executive branch already in being. A part of this cost increase could be our capability as the House of Representatives to have access to such executive branch computers.

Mr. ROSE. Yes. One other point the gentleman might be interested in is that some $600,000 of this appropriation would be used to put the final touches on a computer schedule that will schedule committee meetings, so that a chairman or a subcommittee chairman could be able to ask the computer, "If I schedule a meeting of my subcommittee at this place and at this time, who has conflicts and where are they?"

With that, we might begin to make a more orderly procedure for scheduling full committee and subcommittee meetings. As the gentleman well knows, this is oftentimes impossible now.

Mr. ROUSSELOT. Many times subcommittee scheduling is chaotic.

Mr. ROSE. Yes.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague from North Carolina giving us this additional explanation of this increased cost. I too am supportive of the effort to give this House of Representatives better computer capability. I am appreciate of my several colleagues' explanations.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON THE JUDICIARY

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1097 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1097

Resolved, That for the further expenses of the investigations, studies, and oversight responsibilities and functions to be conducted pursuant to rule X, clause 2(b)(1) (relating to general oversight responsibilities), and rule IX, clause 1(b) (relating to the authorization of investigations and studies), by the Committee on the Judiciary, acting as a whole or by subcommittee, not to exceed $1,276,767.32 including expenditures for the employment of experts, special counsel, clerical, stenographic, and other assistants and consultants, and all expenses necessary for travel and subsistence incurred by members and employees while engaged in the activities of the committee or any subcommittee thereof, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $90,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on the Judiciary shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1097 is for the Committee on the Judiciary in the amount of $1,276,767.32.

Mr. ASHBROOK. Mr. Speaker, the motion which I will offer merely recommits the Judiciary Committee's appropriation with instructions to allocate $300,000 of its funding to the internal security jurisdiction which Judiciary acquired on January 14, 1975.

On March 21 of last year, about 2 months after the House Committee on Internal Security was abolished, I made a motion to recommit the Judiciary Committee's appropriation with instructions to commit $300,000 to the internal security jurisdiction which the committee had acquired in January. That motion was defeated 206 to 169.

I am sure the rationale of some of the Members at that time was that Judiciary had not been given time to orient itself to the new mandate.

Over a year has gone by since that recommittal vote and I can say that, as far as I can ascertain, the internal security responsibilities have not been carried out by Judiciary.

While it would be my judgment that the Judiciary Committee has done absolutely nothing in carrying out its functions which were mandated by the transfer of the House Committee on Internal Security in January 1975, I do not find fault with my chairman, Mr. RODINO. His position was clear at all times and he misled no one. He indicated his committee did not want nor could it handle the functions of the old Internal Security Committee. What we were confronted with was a ploy on the part of the leadership of this body to kill the Internal Security Committee while letting many majority members off the hook by saying the functions of investigating communism and subversion would be adequately carried out—some thought even improved—by the Judiciary Committee. That ploy was deceptive and destructive to the best interests of a strong America.

Mr. Speaker, here is what Chairman RODINO said last year during debate on a similar amendment I offered:

> Mr. RODINO. I think that the Members of the House know that whatever responsibility we assumed in the past, we discharged and we discharged in the best interests of the House and the best interests of the public.
>
> I kept up a running dialog with my friend, the gentleman from Missouri. I communicated with him on March 13 after some previous discussions regarding the matter of staff and regarding the questions that are arising concerning the staffing of the committee, in keeping with the provision in the resolution that the gentleman might designate members of the staff, after consultation and agreement with me as to what members of the staff should be retained or what members of the staff should be replaced. These are matters that have not been in the dark.
>
> The Committee on the Judiciary initially in its organizational meeting, and I cannot say whether the gentleman from Ohio (Mr. ASHBROOK) was present, did at the time state that there would be a review of the operation of the then Internal Security Commitee and that this operation would be then not only reviewed, but presented to the full Committee on the Judiciary for its determination.
>
> We have dispatched members of the staff, from both the majority and the minority, to review the files, to review the operations, and we are presently carrying this on in order to best dispose of the matter and to assure Judiciary, that it will undertake its responsibility that is now in the Committee on the Judiciary, that it will undertake its responsibility with respect to Communists and other subversive activities affecting the security of the United States.

I would like to point out that 1 full year, repeat 1 full year, has gone by and absolutely nothing has been done in carrying out the important investigatory functions of the Judiciary Committee in the area of subversion and subversive activities.

Since the Internal Security Committee was abolished two American citizens were sent to jail for life for attempted assaults on the President of the United States.

In January of this year FBI Director Kelley noted that there were 89 bombings attributable to terrorist activity in our Nation last year, as compared to 45 in 1974 and 24 in 1973. He stated that during the past 5 years there have been 255 such bombings, 122 firebombings, 45 sniping incidents, 120 shootings, 24 ambushes and 21 arsons. Also, since 1971, the deaths of at least 43 officers and the wounding of 152 more have been linked to terrorists.

Time does not permit a review of activities in the internal security area on a comprehensive scale, but I am sure we can agree that some unit in the House of Representatives should be involved in this area. The American people clearly expect us to act in this urgent area of legislative inaction.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves that House Resolution 1097 be recommitted to the Committee On House Administration with instructions that said committee forthwith report back to the House said resolution with the following amendment, to wit: on page 2, line 11 of the resolution add the following new sentence: "Not to exceed $300,000 of the total amount provided by this resolution shall be used to carry out activities within the jurisdiction of the Committee on the Judiciary under the provisions of rule X, clause (M) (19) of the Rules of the House of Representatives.

Mr. ASHBROOK. Mr. Speaker, may I be recognized for 5 minutes?

The SPEAKER. The rule regarding debate does not apply to a motion to recommit a resolution.

The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a guorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

PARLIAMENTARY INQUIRY

Mr. THOMPSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. THOMPSON. Mr. Speaker, does a vote yea on the motion offered by the gentleman from Ohio (Mr. ASHBROOK) mean a vote for recommittal, and does a vote nay mean a vote against recommittal?

The SPEAKER. The gentleman is correct.

Mr. THOMPSON. I thank the Speaker.

The vote was taken by electronic device, and there were—yeas 158, nays 193, not voting 81, as follows:

[Roll No. 139]

YEAS—158

Abdnor
Andrews,
  N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biaggi
Boggs
Brinkley
Broomfield

Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Fithian
Flynt
Fountain
Frey
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hansen
Harsha
Hefner
Henderson

Hightower
Hillis
Holt
Hubbard
Hutchinson
Jarman
Jeffords
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McDade
McDonald
McEwen
Madigan
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Passman
Pettis
Pickle
Poage

Pressler
Preyer
Quie
Quillen
Rhodes
Rinaldo
Risenhoover
Robinson
Rogers
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Stratton
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wilson, Bob
Winn
Wright
Wydler
Young, Alaska
Young, Fla.
Zeferetti

NAYS—193

Abzug
Adams
Allen
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bingham
Blanchard
Blouin
Boland
Bolling
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
Dent
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.

Fary
Fascell
Fenwick
Findley
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gonzalez
Gude
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hays, Ohio
Hechler, W. Va.
Helstoski
Hicks
Holtzman
Horton
Howard
Hungate
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
Landrum
Leggett
Levitas
Long, Md.
Lundine
McClory
McCormack

McHugh
McKay
McKinney
Madden
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Meyner
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Natcher
Nedzi
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pike
Price
Pritchard
Railsback
Randall
Rangel
Reuss
Richmond
Roe
Roncalio
Rooney
Rose
Roush
Roybal
Russo
Ryan
St Germain

Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Staggers
Stark

Steed
Stephens
Stuckey
Studds
Sullivan
Talcott
Thompson
Thornton
Tsongas
Ullman
Van Deerlin
Vander Veen

Vanik
Vigorito
Waxman
Weaver
Whalen
Wiggins
Wilson, C. H.
Wirth
Yates
Yatron
Young, Ga.
Zablocki

NOT VOTING—81

Addabbo
Alexander
Ambro
Andrews, N.C.
AuCoin
Badillo
Barrett
Bell
Biester
Bonker
Bowen
Breaux
Breckinridge
Chisholm
Clausen, Don H.
Cleveland
Conyers
Daniels, N.J.
Dellums
Dingell
Eckhardt
Erlenborn
Esch
Eshleman
Fish
Fisher
Ford, Mich.

Ford, Tenn.
Fuqua
Green
Guyer
Hammerschmidt
Hayes, Ind.
Hébert
Heckler, Mass.
Heinz
Hinshaw
Holland
Howe
Hughes
Hyde
Ichord
Johnson, Pa.
LaFalce
Lehman
Litton
McCloskey
McCollister
McFall
Macdonald
Melcher
Metcalfe
Mezvinsky
Moffett

Mollohan
Moorhead, Pa.
Nix
Nolan
Pepper
Peyser
Rees
Regula
Riegle
Roberts
Rodino
Rosenthal
Rostenkowski
Santini
Sarasin
Sarbanes
Spellman
Stanton, James V.
Steelman
Stokes
Traxler
Udall
White
Wilson, Tex.
Wolff
Wylie
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Don H. Clausen for, with Mr. Rodino against.

Mr. Cleveland for, with Mr. Addabbo against.

Mr. Eshleman for, with Mr. Badillo against.

Mr. Guyer for, with Mr. Barrett against.

Mr. Hammerschmidt for, with Mr. Riegle against.

Mrs. Heckler of Massachusetts for, with Mr. Rosenthal against.

Mr. Hyde for, with Mr. Rostenkowski against.

Mr. Johnson of Pennsylvania for, with Mrs. Spellman against.

Mr. McCloskey for, with Mr. Conyers against.

Mr. McCollister for, with Mr. Dominick V. Daniels against.

Mr. Regula for, with Mr. Dellums against.

Mr. Sarasin for, with Mr. Macdonald of Massachusetts against.

Mr. Steelman for, with Mr. McFall against.

Mr. Wylie for, with Mr. Dingell against.

Mr. Hébert for, with Mr. Ford of Michigan against.

Mr. Young of Texas for, with Mr. Fuqua against.

Mr. Bowen for, with Mr. Hughes against.

Mr. Ichord for, with Mr. LaFalce against.

Mr. Roberts for, with Mr. Ambro against.

Mr. Fish for, with Mr. Stokes against.

Mr. Breaux for, with Mr. Wolff against.

Mr. Santini for, with Mrs. Chisholm against.

Until further notice:

Mr. Alexander with Mr. Esch.

Mr. Bell with Mr. Sarbanes.

Mr. AuCoin with Mr. Moffett.

Mr. Andrews of North Carolina with Mr. Mezvinsky.

Mr. Udall with Mr. James V. Stanton.

Mr. Biester with Mr. Breckinridge.

Mr. Holland with Mr. Bonker.

Mr. Eckhardt with Mr. Pepper.

Mr. Erlenborn with Mr. Nix.

Mr. Nolan with Mr. Fisher.

Mr. Peyser with Mr. Mollohan.

Mr. Rees with Mr. Howe.

Mr. Lehman with Mr. Traxler.

Mr. White with Mr. Moorhead of Pennsylvania.

Mr. Charles Wilson of Texas with Mr. Hayes of Indiana.

Mr. Litton with Mr. Metcalfe.

Mr. Ford of Tennessee with Mr. Melcher.

Mr. LLOYD of California changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT FOR INVESTIGATION AUTHORIZED BY HOUSE RESOLUTION 1042

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1060 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1060

Resolved, That expenses of the investigation to be conducted pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed $350,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $300,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Ms. ABZUG. Mr. Speaker, reserving the right to object, I would just like to ask the gentleman from New Jersey whether before we vote on this resolution we are going to have some debate which will discuss the question of what we will be investigating and how we will be going about it?

Mr. THOMPSON. Mr. Speaker, if the gentlewoman will yield, I would assume that we will have debate on the resolution which, of necessity, I would think would include the purposes for which the money in the resolution is to be used.

Ms. ABZUG. Is it the intention of the gentleman from New Jersey to yield for debate on this resolution?

Mr. THOMPSON. It is the gentleman's intention.

Ms. ABZUG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:
That expenses of the investigation to be concluded pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $130,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 1060 calls for an amount of not to exceed $150,000 including expenditures for the employment of investigators, attorneys, clerical, stenographers, and other assistants, and for the procurement of the services of individual consultants or organizations thereof, pursuant to section 202(i) of the Legislative Reorganization Act of 1946, to be paid out of the contingent fund of the House for the purposes set forth in the resolution.

Mr. Speaker, by a considerable vote the House referred the matter, commonly referred to as the Daniel Schorr investigation, to the Committee on Standards of Official Conduct for an investigation into the circumstances leading to the publication of information from the so-called Pike committee report to a periodical called the Village Voice.

There was considerable debate in the Subcommittee on Accounts and in the full committee on this resolution, which originally called for $350,000. By motion of the gentleman from Ohio (Mr. Devine) that amount was amended to $150,000.

In the subcommittee I introduced a resolution calling for $25,000 of the amount to be used for the employment of counsel for those subpenaed from a panel to be selected by the Executive Committee of the District of Columbia Bar. I did this, Mr. Speaker, because, although it would set an entirely new precedent in that the House would vote moneys to retain counsel for those subpenaed, it is well established in the law, a memo of which will follow my remarks, that persons subpenaed or investigated in circumstances which might lead to a criminal indictment or to a contempt of Congress citation, which would carry with it a period of up to 12 months of incarceration, should be entitled—and indeed whether or not we appropriated that money—are entitled to be represented by counsel.

The full committee by a vote of 10 to 8 rejected that amendment which had been accepted by the subcommittee by a vote of, I believe, 7 to 4. It was my feeling that these circumstances are extremely unique in that the House in its judgment referred the matter to what is essentially an internal committee of the House commonly called the Ethics Committee, chaired by the distinguished gentleman from Georgia (Mr. Flynt). Never before, to my knowledge, has the House referred such a matter to essentially an internal committee.

It has nevertheless done so and given that committee a virtually unlimited right of subpena.

In testifying before the Subcommittee on Accounts, the distinguished gentleman from Georgia (Mr. Flynt), said that up to 400 persons may be investigated, many of whom may be or will be subpenaed. This would include potentially all of the members of the Pike committee, all of the staff employees of that committee and of the members of that committee, and anyone who in any way had access to or knowledge of the contents of the Pike committee report, including executive agencies, Foreign Service personnel, possibly FBI personnel, and the chairman, the gentleman from Georgia (Mr. Flynt), was unable to say what others.

I might say that in appearing before the subcommittee my friend, the gentleman from Georgia (Mr. Flynt), was very candid. He is, I am sure, as of this moment not entirely aware of the roads down which this investigation will lead.

I voted against the reference to the Committee on Standards of Official Conduct on the ground that I thought it was an inappropriate committee to which to refer such a matter. However the judgment of the House was that the matter should be referred, and it has been.

Under the statutory authority of the committees, the Committee on Standards of Official Conduct, being a bipartisan committee, has the statutory authority to employ up to 30 persons, clerical and investigative, each of whom may be paid $37,800 for such purposes as the chairman of that committee and its majority deem necessary. At the time the reference to the Ethics Committee was made, that committee had need for only five persons. By the time the resolution reached the Subcommittee on Accounts the committee had employed nine persons. Not all of those statutory entitlements, according to the chairman of the committee, the gentleman from Georgia (Mr. Flynt), could be used precisely for the purposes which he explained he has in mind. He intends to employ former FBI agents and experienced investigators, some of whom are retired, and those who are retired, if they were Government employees, could be paid no more than the difference between their last highest salary and $37,800, and then under a rather complicated procedure which has been checked out with the Disbursing Office it would be on a pro rata or one-twelfth per month of that allowable amount. So it does appear that there is a need for a certain amount of money for this purpose.

The subcommittee and the committee did not feel, Mr. Speaker, that the distinguished gentleman from Georgia had demonstrated the need for $350,000. Indeed, the gentleman from Georgia was simply anticipating what could be characterized as a maximum figure. The gentleman was made aware by the subcommittee and is made aware again that if the House accepts and passes this committee resolution in the amount of $150,000 and that amount proves not to be sufficient, that the gentleman at any time can introduce a supplemental resolution or a new resolution calling for more money.

Notwithstanding the committee action, I think it worthy of note to put in the Record what really amounts to a brief on the subject of the right to counsel of those called. It is entirely possible that the staff, the former staff members of the Pike committee and/or of anyone else who had contact with the committee report could be either investigated or subpenaed.

It is not anticipated that Mr. Schorr would be among the first witnesses. As our distinguished chairman of the full committee, the gentleman from Ohio (Mr. Hays) said the other day, were Mr. Schorr to inform the committee immediately of the source from which he received the document which he turned over to the Village Voice, the whole matter would end.

My research has indicated no criminal act. My research has indicated that neither Mr. Schorr nor the person who provided him with the information which he had would be guilty of a criminal act.

I would foresee that if any penalties are involved, it would be for persons either interrogated under oath and not telling the truth to be indicted for perjury or for a refusal on the part of a person under oath to give information, in which case the committee could ask the House to cite that person or persons for contempt.

Many of the employees and those possibly involved, the staffs of members of the Pike committee or others, are low-paid or were low-paid employees, who when subpenaed or interrogated by a committee of the Congress can, quite naturally, I think, be expected to be frightened and being interrogated they would have a right, of course, to refuse to answer questions. They would have a right to refuse to be interrogated without counsel. They can hardly afford counsel. However, the circumstances now, absent that provision for counsel to be paid by the Congress, such that that does not exist, the right to counsel does not exist in this resolution, notwithstanding the fact I think they should if they clearly want counsel, they will have to find some means other than retaining them themselves.

So what we come down to is the funding of the Committee on the Standards of Official Conduct for the conduct of the investigation which this body voted in the amount not to exceed $150,000.

RIGHT TO CONGRESS-APPOINTED COUNSEL

The Daniel Schorr "leak" to the Village Voice of the Pike committee report on the CIA resulted in a House Resolution 1042 directing the Committee on Standards of Official Conduct—the Flynt committee—to investigate all the circumstances of the leak and to recommend remedial action. The House took the unusual action of giving the Flynt committee "subpena power."

Chairman Flynt has requested $350,000 to conduct this investigation. On the assumption that Daniel Schorr will not disclose his "source," the committee contemplates the employment of investigators drawn from the ranks of retired agents of the Federal Bureau of Investigation to interrogate as many as 400 persons; that is, present and former employees of the Pike committee, present and former employees of the Members who served on the Pike committee, additional present and former employees of Congress or the administrative agencies who otherwise might have had access to the "leaked" report. After this winnowing-out interrogation process, the Flynt committee contemplates the employment of attorneys to assist the committee in exercising its subpena power to interrogate suspected persons under oath.

Many of the former employees of the Pike committee, and others within the list of 400 possible suspects, are young persons recently graduated from college, some are now unemployed, most are unacquainted with their legal rights and obligations.

When interrogated by the "investigators," about their possible role in the Daniel Schorr leak, the answers of some of the 400 possible suspects may tend "to defame, degrade, or incriminate." When questioned under oath by the committee, a refusal to answer a question pertinent to the subject matter under inquiry can result in a citation for contempt of Congress and imprisonment for a term up to 12 months in jail.

In this aura of criminality, "suspects" interrogated by the former FBI agents, or questioned by the Flynt committee under oath, should have the same rights as all other suspects when interrogated by FBI agents, or questioned before other Federal bodies entrusted by Congress with the "subpena power." A Federal court of appeals sitting in Washington and close to the scene of congressional investigations significantly commented that:

> If there is anything to suggest a congressional committee hearing is less awesome than a police station or a district attorney's office, and should therefore be viewed differently, it has escaped our notice. *Nelson v. United States*, 208 F. 2d 505, 513 (D.C. Cir. 1953).

CONGRESS HAS ALWAYS RECOGNIZED THE RIGHT OF SUBPENAED WITNESSES TO APPEAR WITH COUNSEL

It is unusual for the House to proceed in its investigations with subpena power and compelled testimony. For many years the House Committee on Un-American Activities, HUAC, was the only standing committee that operated in this fashion. But on the rare occasions when such procedure was thought necessary—under its impeachment power, for example—the House always has recognized the right of witnesses to appear with counsel. This tradition goes back to the 18th-century investigation of General St. Clair's defeat by the Indians, through the Teapot Dome investigation during the Harding administration, and on up through the investigations by the House Committee on Un-American Activities in the 1950's and 1960's. See Rauh and Pollitt, *Right To Counsel Before Congressional Committees*, 45 Minn. L. Rev. 853, 854 (1961). Indeed, continuances were routinely granted by HUAC so the witness could obtain counsel; and on occasion HUAC requested local bar associations to provide counsel for the witness who could not afford retained counsel.

This recognition of the right to counsel is now embodied in the Rules of the House of Representatives. Rule XI(2)(k)(1) provides that witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights; and further provides that each witness be informed of this right. When the evidence or testimony "may tend to defame, degrade, or incriminate any person" the House rules provide even additional rights.

CONGRESS INSISTS THAT THE AGENCIES IT CREATES RECOGNIZE THE RIGHT TO COUNSEL

Congress requires that the Federal agencies it creates recognize the right to counsel. Prior to 1946 there was some judicial authority for the proposition that the Federal agencies might deny counsel to persons interviewed during preliminary investigations. *Bowles* v. *Baer*, 142 F. 2d 787 (7th Cir. 1944). But the 1946 Administrative Procedure Act ended that practice. It requires that any person compelled to appear before any Federal agency "shall be accorded the right to be accompanied, represented, and advised by counsel" 60 Stat. 240, 5 U.S.C. 1005(a). The accompanying report by Chairman Walter and the House Judiciary Committee recited that the bill "is an outline of minimum essential rights and procedures." (H. Rept. 1980, 79th Cong.), 2d sess. 16 (1946).)

The "minimum essential right" to counsel before the external Federal agencies created by Congress seems to be equally compelling when asserted in identical circumstances before the internal Committees created by Congress.

THE CONSTITUTION REQUIRES THAT CONGRESSIONAL WITNESSES BE AFFORDED THE RIGHT TO COUNSEL

As indicated above, Congress always has recognized the right to counsel, and has sought the assistance of local bar associations when a subpoened witness could not afford one. The constitutional right to counsel has therefore never been litigated. But there are at least three provisions in the Constitution which mandate that all those compelled to give testimony are entitled to counsel.

The sixth amendment, in express terms, requires that—

> In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.

Daniel Schorr, if he refuses when put under oath to name his "source," will surely be part of a criminal prosecution. The same can be said for all other "suspects."

The fifth amendment's protection against self-incrimination, that is, its provision that no person "shall be compelled in any Criminal Case to be a witness against himself" has been held by the Supreme Court to apply to congressional investigations. See *Quinn* v. *United States*, 349 U.S. 155 (1955). And to protect the values of the self-incrimination clause, the Supreme Court has further held that suspect witnesses must be informed of their right to counsel at the outset of any criminal investigation, and that interrogation must be suspended while counsel is obtained. See *Miranda* v. *Arizona*, 384 U.S. 436 (1966).

Finally, the due process clause of the fifth amendment necessitates the appointment of counsel even in noncriminal action when the results of the Federal noncriminal action may have severe economic or social consequences; when, in the words of the House Rules, the consequences may "defame, degrade or incriminate."

Some 20 years ago the Supreme Court held that—

> The Bill of Rights is applicable to congressional investigations as to all forms of governmental action". *Watkins* v. *United States*, 354 U.S. 178 (1956).

Surely the Supreme Court did not intend to excise or exclude the treasured and hard-won right to counsel.

THE CONSTITUTION REQUIRES THAT CONGRESS APPOINT COUNSEL FOR INDIGENT WITNESSES

Daniel Schorr, with the resources of the Columbia Broadcasting System behind him, has retained the renowned and highly respected Joseph Califano to represent him. No one questions his right to do so; no one will deny him the right to consult with Mr. Califano at any and all times. The real problem centers on the

400 or so suspects who cannot afford the services of Mr. Califano, or any other lawyer.

Are they entitled to the assistance of counsel, paid by the Congress? An affirmative answer is compelled by the recent Supreme Court decisions.

The problem of providing equal justice for the rich and for the poor is an age-old problem going back to Leviticus, if not beyond. But in the United States, for the past 50 years, the Supreme Court has construed the due process and the equal protection clauses to require that indigents be afforded counsel in situations where the rich man can hire one.

This doctrine was first announced in *Powell* v. *Alabama*, 287 U.S. 45 (1932) where indigent defendants were on trial for their lives, charged with rape. It was extended to all persons charged with felonies in *Gideon* v. *Wainwright*, 372 U.S. 335 (1963); and then to all persons charged with misdemeanors. *Argersinger* v. *Hamlin*, 407 U.S. 25 (1972).

It is not only lawyers, but all the essential requirements for fair trial and appeal that are required. Thus, when a transcript was the sine qua non for an appeal from a criminal conviction, the Supreme Court held that free transcripts must be made available to the indigent, when they were sold upon request to the rich. Mr. Justice Black explained that—

> There can be no equal justice where the kind of trial a man gets depends on the amount of money he has. Destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts. *Griffin* v. *Illinois*, 351 U.S. 12 (1956).

More recently, in another transcript case, the Supreme Court summed up as follows:

> Our decisions for more than a decade now have made clear that differences in access to the instruments needed to vindicate legal rights, when based upon the financial situation of the defendant, are repugnant to the Constitution. *Roberts* v. *LaVallee*, 389 U.S. 40, 42 (1967).

The short of the matter is that the Bill of Rights is not to be measured by the size of the purse of the person asserting its protection. There is not to be one standard for the rich, a different and lesser standard for the poor.

It is not unusual for Congress to pay for the counsel of those charged or suspected of crimes against the United States.

At first blush it may seem odd for Congress to provide counsel for those charged with crimes against the United States. But upon reflection of transcendental obligations to protect and defend the Constitution in and out of season, it is not odd at all. And Congress has taken its collective oath seriously.

Money is appropriated from the Federal funds on a routine basis to provide counsel for indigents charged with crime against the United States; be the crime a felony, a misdemeanor, a case of juvenile delinquency, a violation of probation, or simply collateral relief by way of habeas corpus from a criminal conviction. Free counsel is provided for those "suspected of crime," who refuse to respond to FBI interrogation without a court-appoint attorney at their side.

Money is appropriated from the Federal funds on a routine basis to those in the Armed Forces who are charged or accused with a crime against the military authorities; even in time of hostilities, even in combat zones.

More relevant, when a Nixon, a Kissinger, a Colby, a Helmes, a Kleindienst, or any other high ranking public official is called to carpet before a congressional committee investigating alleged dereliction of official duty, he is accompanied as a matter of routine by an attorney paid for out of Government funds.

Why then, should not the 400 or so suspects in the Flynt committee investigation be accorded the same rights. Our concept of fair play, due process and equal protection requires no less.

We have just authorized a delegation to go to London and return with one of the four originial copies of the Magna Carta. It is to rest in the Rotunda of the Congress throughout the Bicentennial Year. It provides, in Chapter 40, as follows:

> To no one will we sell, to no one will we deny, or delay right or justice.

That is the spirit of this resolution, and I urge its adoption.

Mr. THOMPSON. I thank the gentleman.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the distinguished gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I was going to make a parliamentary inquiry.

Mr. Speaker, does the gentleman from New Jersey intend, this being a privileged resolution, to offer his amendment, as he did in committee?

Mr. THOMPSON. The gentleman from New Jersey does not intend to offer his amendment, which was defeated by the full committee, or to entertain any other motion to amend.

Mr. DEVINE. Since the gentleman does not intend to offer the amendment, I suppose the debate on this is moot because the matter is not before the House.

Mr. THOMPSON. In that sense the gentleman is correct.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield 2 minutes to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman very much.

Mr. THOMPSON. The gentlewoman is welcome.

Ms. ABZUG. Mr. Speaker, I want to discuss this matter, and ask the gentleman originally if I could have 5 minutes.

Mr. THOMPSON. Let us see how we do with 2 minutes.

Ms. ABZUG. Mr. Speaker, I want to point out that although a majority of the House originally voted not to make the Pike report public, Mr. Schorr is not a Member of the House and was not bound by its vote. To insist that Mr. Schorr or any other correspondent should consider himself bound by such a vote or by a White House repression of a Government document would be to say that even a President alone or the House by a majority vote can decide what a free press may or may not publish.

I oppose this whole resolution. I would urge my colleagues in the House that there is yet time for us not to commit this very serious invasion of the freedom of the press. We are put in a very interesting position. Many Members who voted against the release of the Pike report have now read this report and have stated that they do not believe that there is anything in this report that should not have been published by this House. I believe there have been resolutions to that effect. If I am not mistaken, the gentleman from Texas (Mr. MILFORD), who was one who originally opposed the report of the Select Committee on Intelligence, has now introduced a resolution providing for the printing of this report as a House document.

Why are we continuing this witch hunt to determine how this report was leaked? This is a serious responsibility that we undertake. Four hundred witnesses have been subpenaed. We do not know where that will stop. Mr. Schorr will obviously not be the only writer who will be investigated. The New York Times, the Washington Post, NBC, ABC, CBS and several other major media outlets had full and complete reports on the contents of the Pike report.

The SPEAKER pro tempore (Mr. O'NEILL). The time of the gentlewoman from New York has expired.

Mr. THOMPSON. Mr. Speaker, I yield 2 additional minutes to the gentlewoman from New York.

Ms. ABZUG. They had full and complete reports on the contents of the Pike report before the House voted to prohibit its release. Are all of these organizations to be investigated to determine their sources? If so, Mr. Speaker, I would like to suggest that we have a potentially serious invasion of the constitutional right of free press.

I cannot believe that this House will continue to make the mistake that it did, perhaps because information was not clear, in originally refusing to release the Pike report and suggesting and supporting broad powers of investigation here. To authorize this committee, which is essentially, as the chairman said, a committee concerned with the internal affairs of this Congress—to authorize this committee to have broad subpena power, as we did, to conduct what can clearly become a fishing expedition which could possibly turn into a repressive investigation aimed at creating fear not only in the members of the press but in employees of the legislative and executive branches, I think, is wrong for this House of Representatives.

Many branches of the executive branch of our Government had copies of this report.

I, as chairwoman of the Subcommittee on Government Information and Individual Rights, wrote for copies of this report to the Department of Defense, to the FBI, to the CIA, to the State Department and to others, all of whom had these reports. They answered that this was a document that belonged to the Congress of the United States and that only the Congress of the United States could determine to release this report.

Mr. Speaker, I would suggest that we

rethink our position, and the only way we could rethink our position, it seems to me, is not to compound the violations of our own responsibilities and our own obligations in this House by authorizing these funds. This would only result in a fishing expedition and an invasion of freedom of the press in an effort to reveal sources on the part of the press, which could only result in holding these members of the press in contempt. We should not do this.

We should pause and decide whether any of this is necessary. It would be far preferable if the House were to begin thinking about how it is going to bring the CIA, FBI, and other agencies under control. The Pike report reveals that these agencies have engaged in violating the constitutional rights of many Americans, squandering millions of dollars, and covering up their own incompetence and mistakes. That is what we should be concentrating on, not the leak of the report.

I suggest that when this House voted to suppress the report, it was voting on incomplete or erroneous information. It was thought that the report was full of secrets and that national defense would be impaired if these secrets were revealed. We were assured at the time that this was not the case, but we now know that this was not the case. The report itself has been available to Members of Congress and the Village Voice version has been widely read. Why, then, continue this pretense of a "leak" and refer to "secrets"? The only possible result of such an investigation, in my opinion, is to punish the reporters who did their job and reported on a matter of grave concern to the American people. Mr. Schorr and other reporters who had the report will probably not supply the names of their sources, and the committee will then have the alternative of doing nothing or citing them for contempt. Such a process will have the effect of stilling dissent, inspiring fear, and interfering with the constitutionally protected rights of speech and the press. Instead of waiting until the committee cites reporters for contempt for refusal to disclose their sources, we should terminate this investigation now by refusing to fund it.

Mr. THOMPSON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the distinguished chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I think the record should be straightened up just slightly, after the impassioned plea of the gentlewoman from New York about freedom of the press.

That is kind of a loose use of the term, because, as I understand it—and if I am wrong, perhaps investigation will bring it out—it is not freedom of the press, but that Mr. Schorr tried to peddle this information for money. And if he was selling it, that is hardly freedom of the press.

One can exhort and go on about freedom of the press and freedom of speech, but when a pricetag is put on it, that sort of changes the complexion of it.

Mr. THOMPSON. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Standards of Official Conduct, the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. I thank the gentleman from New Jersey for yielding to me.

Mr. Speaker, I was a little bit concerned about the statement made by the gentlewoman from New York that we had already subpenaed 400 witnesses and she did not know how much further we would go.

Mr. Speaker, let me say that we have not subpenaed the first witness. But the statement of the gentlewoman from New York that we have subpenaed 400 witnesses may be about as accurate as the rest of what she said about this resolution.

Ms. ABZUG. Mr. Speaker, will the gentleman yield for a correction?

Mr. THOMPSON. I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. I thank the gentleman for yielding.

Mr. Speaker, I merely stated that I understood that it was intended to subpena 400 persons who may be investigated and that there may be 400 persons who may be investigated. I understood this from the chairman of the House Administration Council who on the floor spoke of 400 possible witnesses, citing the testimony of the chairman of the House ethics committee before the House Administration Committee. I certainly have no personal information that the gentleman has subpenaed 400 persons, merely that it is projected that it is possible that 400 persons may be investigated during the course of this hearing—maybe more, maybe less.

Mr. FLYNT. Mr. Speaker, I would say that I understood the gentlewoman from New York to say that we had subpenaed 400 witnesses and she did not know how much further we would go.

But let me set the record straight that we have not subpenaed the first witness. As a matter of fact, we have been very careful in every move we have made so far. We wanted to have not only the mandate of the direction of the House of Representatives, which is contained in the original resolution offered by the gentleman from New York (Mr. STRATTON), but, in addition to that, we want to make absolutely certain that the House approves all of the funds we expend in this investigation.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. I thank the gentleman for yielding.

Mr. Speaker, I would like to set another record straight. It is true that I have introduced a resolution to have the House Select Committee on Intelligence report published. But I think it is also important to know why I introduced that resolution. It is because the report has already been published. I was concerned because the report contained technical details of security matter that were vital to our own national security. I wanted those details denied to our adversaries. They have now been published. Therefore, my original reason for trying to keep the committee report restricted is moot.

So, Mr. Speaker, now I find out who the Members or staff members or administration members were, that were responsible for allowing this matter to be released. I have supported this resolution that is now on the floor. Furthermore, if the gentleman from New Jersey (Mr. THOMPSON) would allow, I would introduce an amendment to his resolution that would return the entire $350,000 requested by the Committee on Official Standards and Conduct. I want to be sure that we find those who are responsible for this despicable act of "leaking" a report that damages our national security.

Mr. THOMPSON. Mr. Speaker, I will say to the gentleman from Texas (Mr. MILFORD) that I do not intend to yield for an amendment. I will reassure the gentleman that, notwithstanding my attitude toward this, absent the amendment giving right to counsel, I would without any hesitation upon the expenditure of the moneys called for in this resolution ask the chairman of my committee, the gentleman from Ohio (Mr. HAYS) to refer any such resolution to the Subcommittee on Accounts for an immediate hearing in the event that further moneys are necessary.

I will remind the gentleman that a great portion of the $1,134,000 under the statutory entitlement, plus an already authorized $35,000 and plus, I would assume, no matter how I vote, this amount of $150,000, should go a long way, and that we should wait until those moneys are expended before considering a larger amount.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this funding resolution for the Committee on Standards of Official Conduct. I feel compelled to make a few remarks because in the subcommittee I was the author of the amendment, which, incidentally, was adopted unanimously, reducing the funding amount from $350,000 to $150,000; not because we lack confidence in the chairman of the Committee on Standards of Official Conduct or not because it was necessarily an exorbitant amount, but because we did not know whether that amount of money would be necessary.

I know of no Member of Congress who is more frugal, who is more honorable, and who is more respected than the gentleman from Georgia (Mr. FLYNT), and I have total and complete confidence that he will operate his committee and conduct this investigation in a fine manner. I have said to him personally and I have said to the ranking minority member of the committee, the gentleman from South Carolina (Mr. SPENCE), that in the event they found that the $150,000 was insufficient to conduct the investigation as they saw fit, they simply had to come before the subcommittee or the Committee on House Administration, and that I am totally confident we would give them whatever money they felt was reasonably necessary to conduct the investigation.

All of the Members should know before voting on this funding resolution that, as the chairman of the subcommittee has pointed out, under the statutory allowance for a standing committee there are 30 employees authorized, and I believe the provision is for 20 for the majority and 10 for the minority.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the chairman of the subcommittee.

Mr. THOMPSON. Mr. Speaker, this being a bipartisan committee, the statutory entitlement is 30, and the apportionment is to be decided by a majority vote of the committee. It is not 20 and 10 as it is for what we might term partisan committees.

Mr. DEVINE. Mr. Speaker, all the Members should not overlook the fact that the provisions for those persons and those funds are available, in addition to the $150,000 authorized here. I will say parenthetically that at the time the amendment reducing the funding amount was offered there was no intention whatsoever to restrict the investigation.

This is not an investigation of Daniel Schorr as such; it is an investigation authorized by this House by a substantial vote to find out just exactly where the leak occurred, and it is not directed at Daniel Schorr himself. If he is tripped up as a result of the investigation, so be it.

Mr. Speaker, I rise in support of this funding resolution and would again point out that the gentleman from Georgia (Mr. FLYNT), should he see fit to ask for additional funds, has only to ask. Perhaps we can do it even by our own motion. Perhaps we could provide the funds in that manner if the gentleman is not inclined to ask. We are perfectly willing to provide the funds, if warranted and insufficient.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I have some serious reservations about this investigation, and I will just state them briefly, because I have another purpose in rising at this time.

First, it seems to me highly dubious that we should authorize a substantial amount of money to go forward with an investigation when, on the basis of the number of Members who have read the Pike committee report and said that it contained no national security information, the House may well vote to publish the report on the ground that its publication would not be adverse to the security of our country.

Secondly, Mr. Speaker, I do think that there is a serious question to be raised for freedom of the press.

Regardless of commercial motives—and we all well know that the media makes a good deal of money from the reporting of the news and perhaps that is part and parcel of a free press—regardless of the motives Mr. Schorr may have had, the chilling effect that this investigation may have on future reporting of governmental activities is of very serious concern.

Mr. Speaker, I rise at this time not only to voice my own opposition to this investigation, but to provide an opportunity to set forth for the Members of the House what this investigation is going to consist of.

In that connection, Mr. Speaker, I will ask in a moment that the gentleman from New Jersey (Mr. THOMPSON) yield to the chairman of the Committee on Standards of Official Conduct. The reason I will make this request is that at the time the subpena power was voted for this committee, there was no floor debate about what the scope of the investigation was going to be. I think it is highly important that Members of the House have some idea of what the limits of this investigation are, who is going to be subpenaed, what limits there are in the use of the subpena power and the like.

Mr. THOMPSON. Mr. Speaker, if the gentlewoman from New York (Ms. HOLTZMAN) will yield for purposes of debate only, I will yield 2 additional minutes to the gentlewoman from New York so that the chairman of the Committee on Standards of Official Conduct may answer her.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for so doing.

I wonder whether the distinguished chairman of the Committee on Standards of Official Conduct would respond to me and state what the scope of this investigation is going to be, including who are the persons expected to be subpenaed and so forth.

Mr. FLYNT. Mr. Speaker, if the gentlewoman from New York (Ms. HOLTZMAN) will yield, I will be glad to respond.

First of all, before I get to that, I would like to state that I have verified with the Official Reporter of Debates the comment which was made earlier by the gentlewoman from New York (Ms. ABZUG) about the number of witnesses subpenaed. I am informed by the Official Reporter who took down the remarks of the gentlewoman from New York that the sentence appears that 400 witnesses have already been subpenaed.

Ms. HOLTZMAN. Mr. Speaker, the gentleman from Georgia (Mr. FLYNT) is not referring to this gentlewoman.

Mr. FLYNT. Mr. Speaker, in response to the gentlewoman from New York (Ms. HOLTZMAN) I must say that it is not an enviable position to be in, to be double-tended by the two gentlewomen from New York now.

Ms. HOLTZMAN. Mr. Speaker, I know the gentleman from Georgia (Mr. FLYNT) will, however, want to advise the House as to the scope of the investigation which his committee plans to undertake, including whom he expects to be subpenaed.

Mr. FLYNT. If the gentlewoman will yield further, all right; I am satisfied that the gentlewoman from New York is a good enough lawyer to know that at the beginning of any investigation, whether it involves litigation or whether it involves a different type of investigation, until we have interrogated or questioned the first witnesses, we have no idea as to what the duration of the investigation is going to be or who and how many will be interrogated or subpenaed.

We would certainly hope that it will not be necessary to execute the power of subpena which the House of Representatives voted to this committee by an overwhelming vote.

It would be hoped that every present and former Member, officer, or employee of the House would cooperate fully, and we have every reason to believe that that would be the case. We have had no indications that there will be any effort on the part of any Member, any officer, or any employee of the House to obstruct this investigation.

That being the case, and if my information is correct, it is highly possible that in the initial stages of the investigation, we would issue no subpenas, but we ask for the authority to do so because we do not want to find ourselves in the position of needing the subpena power and not having it. It is just like an insurance policy: It is a lot better to have it and not need it than to need it and not to have it.

Mr. THOMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, as the original author of the resolution which set up this Schorr investigation, I want to put myself on record in support of the pending resolution; but I do want to express a couple of concerns that I have.

First of all, the original investigation resolution was voted on on the 19th of February. It is now the 29th of March, and I am concerned that we have waited this long to get the investigation underway. I hope that there will not be any further delay.

Mr. Speaker, I support the $150,000. I think we have to remember that the House has now voted on three successive occasions by increasingly larger majorities in support of the Schorr investigation, which is designed to try to find the facts surrounding the leak to the Village Voice, in an effort to put an end to the leaks of classified information in this House.

Unless we can put an end to such leaks we in Congress can never exercise our authority over the intelligence functions of the executive department.

Second, I have another concern over a remark that was made here earlier that perhaps Mr. Schorr would not be the first witness called, and a hint that perhaps he might not be called at all. This investigation, as authorized by my original resolution, does go into the question of the leaking of information to the Village Voice. But it is also predicated on the fact that Daniel Schorr admitted publicly that he had been responsible for providing this classified material to the Village Voice. It would seem to me that the first job of the new investigation, therefore, would be to verify those facts which have heretofore appeared only in the papers. We ought to get Daniel Schorr on record as to the circumstances under which he made this information available to the Village Voice and to verify or deny the other remarks attributed to him in the papers.

It may well be that he might even answer the question as to where he got the Pike report in the first place. According to the gentleman from Texas (Mr. Eckhardt), that particular question is not privileged and it is not protected by the Constitution. Let's start with the most obvious witness, and we may find the inquiry will not take too long to conclude. Finally, Mr. Speaker, I would also hope that the Flynt committee, after it has completed its investigation, will make some recommendations to the House as to how we can best protect our classified information. The House has never settled that question. It is obviously one well within the regular purview of the Committee on Standards of Official Conduct.

The SPEAKER pro tempore (Mr. O'Neill). The time of the gentleman has expired.

Mr. THOMPSON. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would suggest to the gentleman from New York (Mr. Stratton) that it is not the business of the Committee on House Administration, or this individual, to make suggestions as to who is to be called and when. I simply suggested earlier that based on information that I have Mr. Schorr would not be the first witness called.

If the gentleman from New York wishes to orchestrate the order in which witnesses are called, I would suggest that he talk to the distinguished gentleman from Georgia (Mr. Flynt).

Mr. STRATTON. Mr. Speaker, will the gentleman yield further?

Mr. THOMPSON. Mr. Speaker, I would say to the gentleman from New York that I am sorry, but I am running out of time. If I do have time later, I shall yield to the gentleman.

Mr. STRATTON. I thank the gentleman.

Mr. THOMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Koch).

Mr. KOCH. Mr. Speaker, I think that we all have to assume that everyone in the Congress wishes to act in the best interests of the House and whether they vote for or against the resolution, they are doing it because they have made a determination that it is in the best interests of the country and this Chamber to do so.

I am voting against the resolution. Let me tell the Members why I think it is in the best interests of the country and the best interests of this Chamber not to vote for the resolution. This case is analogous to that of the Pentagon Papers. As the Members will recall, at that time it was the executive branch which prosecuted the New York Times. I think most Members would agree that ultimately the country was better off having had those papers printed, and that as a consequence of their suit, the executive branch appeared to be seeking to chill dissent, and was ultimately defeated by the courts.

We have something comparable to that here, and while it would be appropriate for the House of Representatives to look into the question of whether Members or staff members are violating their obligations, I believe it is inappropriate for the House to seek to determine whether the press is or is not doing its job the way this House deems proper. In my judgment, to investigate a newsman for carrying out his or her assignment in covering the activities of the executive branch or the Congress, will bring this House into disrepute. If the Members of the House are interested in the reputation of this Chamber, as I know each and every one of us is, I think they will conclude that this is not this House's finest hour.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes additionally to the gentleman from New York (Mr. Pike).

PARLIAMENTARY INQUIRY

Mr. PIKE. Mr. Speaker, first I would like to say that I do not think anybody was more hurt and offended by the leak of this document than I was. I at the same time felt very strongly and made it very clear that I believed that the document ought to be published. So I would like to propound a parliamentary inquiry at this time as follows: In view of the fact that the House has voted that the document be published, are those of us who have read the document and are familiar with it free to talk about it?

The SPEAKER pro tempore. With regard to the parliamentary inquiry, the House has voted that the document should not be printed. The Chair feels in view of that that the Members should follow the dictate of the vote of the House.

Mr. PIKE. So that although the House has voted that the document be published, we are still not free to discuss it?

The SPEAKER pro tempore. The Chair does not interpret it exactly the same way as the gentleman does, but if the Chair understands the gentleman, it appears to the Chair that the House has expressed its will that it not be released. Members may of course discuss the matter among themselves.

Mr. PIKE. Not to print it, but this investigation is based on the fact that we also voted that it be published.

The SPEAKER pro tempore. With regard to his interpretation, the Member would have to rely on his own conscience, but the Chair would rely on the Speaker's announcement of February 16, 1976, on this matter.

Mr. PIKE. If I may continue, I would simply like to say that I did vote for the investigation by the Ethics Committee. I approved of the action in the Subcommittee on Accounts of the Committee on House Administration, and I simply cannot vote for this resolution in view of the fact that from it has been removed the provision of counsel for the employees of the House. I think the executive branch does not have any trouble providing its own counsel. CBS has already announced it will provide magnificent and expensive counsel to Daniel Schorr. But I, frankly, am concerned not about the big people who are Members or the heads of the staff, but I am a little bit concerned about the $12,000- or $14,000-a-year clerks who are now told that they have got to either provide their own counsel or have money.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Connecticut for debate only.

Mr. GIAIMO. I thank the gentleman for yielding.

Can the gentleman from New Jersey inform me, in the course of his discussion with the members of the Ethics Committee, as to what the nature of their hearings and investigations—particularly their hearings—would be? Will they be public hearings, or will they be secret and in executive session? Does the gentleman know?

Mr. THOMPSON. The gentleman from New Jersey does not know but presumes that under the rules of the House they would be open hearings unless on motion and in open session and by a majority vote they were voted to be closed.

Mr. GIAIMO. I may be wrong on this, but my recollection is that I read recently where the Ethics Committee indicated that most if not all of the hearings would be in closed session, thus the reason for my question. I would hope that is not the case. I wonder if anybody here can enlighten us on that?

Mr. THOMPSON. I would yield, if he cares to answer, to the chairman of the Ethics Committee for an answer to that question.

Mr. FLYNT. Mr. Speaker, I would like to know where the gentleman from Connecticut got his information.

Mr. GIAIMO. I said I may be wrong on this, but my recollection is that I read it in the paper. I would like to have reassurances from the gentleman if he can tell us it is not so.

Mr. FLYNT. I am glad the gentleman said he may be wrong because in this instance he is just as wrong as he can be. We have no idea whether the hearings will be in public or in executive session. I am sure the gentleman understands that if testimony is to be given to the committee of the House by a witness which might tend to degrade or defame someone, that such testimony should be taken in executive session. I hope it will not be necessary, but I am not prepared at this time to tell which witnesses will be asked to testify in public or which witnesses will be asked to testify in executive session, but the gentleman from Georgia has never told anyone it will be all in executive session.

Mr. GIAIMO. Good. I thank the gentleman for his assurances.

Mr. THOMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Drinan) for purposes of debate only.

Mr. DRINAN. Mr. Speaker, I rise in opposition to House Resolution 1060, which provides funding for the investigation by the Committee on Standards of Official Conduct into the publication of the report of the Select Committee on Intelligence. This resolution will enable the committee to conduct a fishing expedition in waters where it does not belong, and where it is more likely to do far more harm than good.

The scope of the proposed investigation is disturbing in several respects. The Committee on Standards of Official Conduct, whose authority has heretofore extended only to the actions of House Members and employees, has in this instance been granted the power to investigate all "circumstances surrounding the publication" of the Intelligence Committee report—circumstances which may have had absolutely nothing to do with Members or employees of the House. In order to fulfill this mandate, the committee has been granted virtually unlimited subpena power within the very broad area of its inquiry.

This far-ranging investigation was authorized without any reference to the Rules Committee for careful study and with virtually no debate on the floor of the House. Such an extraordinary delegation of investigative authority would seem to call for more careful analysis, lest we establish a precedent which could exert a chilling effect on the freedom of the press and the right of the American people to know about the activities of their Government.

This investigation is clearly aimed at CBS news correspondent Daniel Schorr and at whomever furnished him with a copy of the report of the Select Committee on Intelligence. But Mr. Schorr is not a Member or employee of Congress, and so is not bound by the House vote not to make the report public. Whoever furnished him with the report may not have had any connection whatsoever with the House of Representatives; many copies of the report were in the possession of the Executive branch. Beyond this issue of highly questionable committee jurisdiction, however, lies the larger issue of freedom of the press. It is not within the constitutional purview of the House of Representatives to decide what reporters may or may not publish, or what individuals with access to nonclassified information may or may not, in good conscience, release to the public.

The fishing expedition which this resolution would fund could threaten the civil liberties not only of all those even tangentially involved in this matter—for they all would be subject to subpena power and contempt citation—but also the first amendment rights of all Americans. The investigation would establish the dangerous precedent of congressional inquiry into any publication objectionable to the majority of the House, regardless of this body's possible lack of jurisdition or the apparent absence of any illegal action on the part of those involved. Such a precedent would abet the forces of government secrecy which have been responsible for the outrageous actions revealed in the intelligence report. The House would be better advised to spend its time and its money on the prevention of any recurrence of these illegal intelligence activities, rather than in questionable efforts to track down the sources of newspaper articles.

This resolution would set in motion congressional actions with the gravest constitutional implications. We must not permit momentary anger over the premature publication of this document to obscure our responsibility to examine the serious questions concerning the legitimacy and consequences of establishing this extraordinary investigative effort. The dangers created by the funding of this investigation clearly exceed the maximum benefits which might be derived from it. I urge my colleagues to avoid these dangers by opposing House Resolution 1060.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. HARRINGTON) for purposes of debate only.

Mr. HARRINGTON. Mr. Speaker, let me try to get this into some perspective. Let me say by way of preface, so that my biases are well known, that I have suffered, and I use that word deliberately, at the hand of the same committee that this resolution would fund.

Let me remind people in looking at the pieces, there was a widely held belief a year ago that there was a substantial need for investigation of the way the House Armed Services Committee had conducted its oversight of the intelligence community. We entrusted that to a select committee. We now find ourselves investigating our own alleged irresponsibility and entrusting our investigation to a committee which has an interlocking directorate with the same committee; namely, the Armed Services Committee, which was basically found to be flawed in conducting intelligence oversight well over a year ago.

We see that the Executive today, as shown by a recent article in the quarterly Foreign Policy, leaks at random and at will and this is a part of how they conduct their business.

Yet we find ourselves obsessed with the need to distract attention from what has gone wrong in the intelligence field in the last 30 years and finding out whether we can be trusted with secrets most of which should not have been made secret to begin with.

But to compound it by offering this $150,000 to a committee, that has 5 of its 12 members also serving on the Armed Services Committee which was itself heavily involved in the activities which predicated this investigation, is folly.

Mr. THOMPSON. Mr. Speaker, in this connection I would like to make my position clear. As chairman of the Subcommittee on Accounts I have tried to give my distinguished friend, the gentleman from Georgia, and his ranking minority member, the gentleman from South Carolina (Mr. SPENCE), fair treatment. I have had many discussions with my friend from Georgia. It is my opinion, picking up what my friend, the gentleman from Ohio (Mr. DEVINE), said, that the amount arrived at in this resolution of $150,000 was voted unanimously. If indeed the Members feel that this investigation should continue, I think that that amount would be adequate, accompanied by the assurance that further amounts would be available, and that were such resolutions referred to the Subcommittee on Accounts, the committee would receive fair treatment.

The fact that provision is not made in this resolution, the full committee having rejected it, for counsel for those to be subpenaed will leave me as an individual to vote against it, but without prejudice to my distinguished colleague, the gentleman from Georgia.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the committee amendment and on the resolution.

The SPEAKER pro tempore (Mr. O'NEILL). Without objection, the previous question is ordered.

There was no objection.

The committee amendment was agreed to.

The SPEAKER. The question is on the resolution.

Ms. ABZUG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 278, nays 87, answered "present" 1, not voting 66, as follows:

[Roll No. 140]

YEAS—278

Abdnor
Adams
Ambro
Anderson, Ill.
Andrews,
  N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Blanchard
Boggs
Boland
Bonker
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Devine
Dickinson
Diggs
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edgar
Edwards, Ala.
Emery
English
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish

Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hanley
Hansen
Harris
Harsha
Hays, Ohio
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney

Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead,
  Calif.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nowak
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson,
  Calif.
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Roush
Rousselot
Runnels
Ruppe
St Germain
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman

Spence
Staggers
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Ullman
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—87

Abzug
Allen
Anderson, Calif.
Bedell
Bingham
Blouin
Bolling
Brademas
Brodhead
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Carney
Carr
Clay
Collins, Ill.
Corman
Cornell
Derrick
Derwinski
Dodd
Downey, N.Y.
Drinan
Early
Edwards, Calif.
Eilberg
Fascell
Fraser
Giaimo
Gibbons
Hannaford
Harkin
Harrington
Hawkins
Hechler, W. Va.
Holtzman
Jacobs
Jordan
Kastenmeier
Keys
Koch
Krebs
Lloyd, Calif.
Lundine
Meyner
Mikva
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Moffett
Mosher
Mottl
Nedzi
Oberstar
Obey
Ottinger
Pattison, N.Y.
Pike
Rangel
Rees
Reuss
Richmond
Roncalio
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Shipley
Simon
Smith, Iowa
Solarz
Stark
Steiger, Wis.
Studds
Thompson
Tsongas
Van Deerlin
Vanik
Waxman
Weaver
Wirth
Yates
Young, Ga.

ANSWERED "PRESENT"—1

Johnson, Colo.

NOT VOTING—66

Addabbo
Alexander
Andrews, N.C.
AuCoin
Badillo
Barrett
Bell
Biester
Bowen
Breaux
Chisholm
Clausen, Don H.
Cleveland
Conyers
Daniels, N.J.
Dellums
Dingell
Eckhardt
Erlenborn
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Ford, Tenn.
Fuqua
Green
Guyer
Hammerschmidt
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holland
Howe
Hyde
Ichord
Johnson, Pa.
Lehman
Litton
McCloskey
McCollister
Macdonald
Melcher
Metcalfe
Mezvinsky
Mollohan
Moorhead, Pa.
Nix
Nolan
Pepper
Peyser
Riegle
Roberts
Rodino
Rosenthal
Rostenkowski
Sarasin
Sarbanes
Stanton, James V.
Steelman
Stokes
Udall
White
Wilson, Tex.
Wolff
Wright

The clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Macdonald of Massachusetts against.

Mr. Dominick V. Daniels for, with Mr. Badillo against.

Mr. Hébert for, with Mr. Riegle against.

Mr. Pepper for, with Mr. Rosenthal against.

Mr. Rodino for, with Mr. Dellums against.

Mr. Barrett for, with Mrs. Chisholm against.

Mr. Rostenkowski for, with Mr. Stokes against.

Mr. Nix for, with Mr. Conyers against.

Until further notice:

Mr. James V. Stanton with Mr. Wolff.

Mr. Sarbanes with Mr. Metcalfe.

Mr. Fuqua with Mr. Bell.

Mr. Alexander with Mr. Guyer.

Mr. Bowen with Mr. Cleveland.

Mr. Breaux with Mr. Don H. Clausen.

Mr. Melcher with Mr. Holland.

Mr. White with Mr. Lehman.

Mr. Wright with Mr. McCloskey.

Mr. Roberts with Mr. Sarasin.

Mr. Mezvinsky with Mr. Peyser.

Mr. Ford of Michigan with Mr. Udall.

Mr. AuCoin with Mr. Erlenborn.

Mr. Dingell with Mr. Esch.

Mr. Eckhardt with Mr. Andrews of North Carolina.

Mr. Ichord with Mr. Biester.

Mr. Howe with Mr. Eshleman.

Mr. Green with Mr. McCollister.

Mr. Ford of Tennessee with Mr. Johnson of Pennsylvania.

Mr. Mollohan with Mr. Hyde.

Mr. Evins of Tennessee with Mr. Steelman.

Mr. Litton with Mr. Charles Wilson of Texas.

Mr. Moorhead of Pennsylvania with Mr. Heinz.

Mr. Nolan with Mr. Hayes of Indiana.

Mr. MINETA, Mrs. COLLINS of Illinois, and Mr. CORMAN changed their vote from "yea" to "nay."

So the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on each of the resolutions just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE CONFERENCE REPORT ON S. 1941

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a conference report on S. 1941, Animal Welfare Improvement Act amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 94–976)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1941) to amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the text and title of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendments insert the following:

That this Act may be cited as the "Animal Welfare Act Amendments of 1976".

SEC. 2. Section 1 of the Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131–2155) is amended to read as follows:

"SEC. 1. (a) This Act may be cited as the 'Animal Welfare Act'.

"(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

"(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

"(2) to assure the humane treatment of animals during transportation in commerce; and

"(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.".

SEC. 3. Section 2 of such Act is amended—

(1) by striking out subsection (c) and (d) thereof and inserting in lieu thereof the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;".

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce";

(3) by revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

"(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

"(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than $500 gross income from the sale of other animals during any calendar year;",

(4) by deleting "; and" at the end of paragraph (g) and inserting in lieu thereof the following ". With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;", and

(5) by deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

SEC. 4. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

"(i) The term 'intermediate handler' means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

"(j) the term 'carrier' means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire."

SEC. 5. Sections 4, 11, and 12 of such Act are amended by striking out "affecting commerce" and inserting in lieu thereof "in commerce".

SEC. 6. Section 6 of such Act is amended by inserting after the term "research facility", a comma and the term "every intermediate handler, every carrier,".

SEC. 7. Section 9 of such Act is amended by inserting after the term "section 12 of this Act,", the term "or an intermediate handler, or a carrier,", and by deleting the term "or an operator of an auction sale as well as of such person." at the end of section 9 and substituting therefor the following term: "operator of an auction sale, intermediate handler, or carrier, as well as of such person.".

SEC. 8. Section 10 of such Act is amended by deleting the phrase ", upon forms supplied by the Secretary" from the first sentence and by inserting between the second and third sentences thereof the following: "At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe.".

SEC. 9. Section 13 of such Act is amended by designating the provisions thereof as subsection (a) and by adding, after the second sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.".

SEC. 10. Section 13 of such Act, as amended, is further amended by adding at the end thereof new subsections (b), (c), and (d) to read:

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however*, That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

"(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

"(d) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.".

SEC. 11. Section 15 of such Act is amended by inserting after the term "exhibition" in the first sentence, a comma and the term "or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals", and by adding the following at the end of the sentence: "Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.".

SEC. 12. Subsection (a) of section 16 of such Act is amended by inserting the term "intermediate handler, carrier," in the first sentence after the term "exhibitor," each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term "or (5) such animal is held by an intermediate handler if the fight is to take place in a State where it would be in violation of the laws thereof.

"(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

"(g) For purposes of this section—

"(1) the term 'animal fighting venture' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term 'animal fighting venture' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such waterfowl, bird, racoon, or fox hunting;

"(2) the term 'interstate or foreign commerce' means—

"(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

"(B) any movement from a foreign country into any State;

"(3) the term 'interstate instrumentality' means telegraph, telephone, radio, or television operating in interstate or foreign commerce:

"(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; or a carrier"; and by deleting the term "or" before the term "(4)" in the second sentence.

(b) Subsection (c) of section 16 of such Act is amended by striking the words "section 19(b) and 20(b)" in the last sentence and inserting in lieu thereof the words "section 19(c)".

SEC. 13. Section 19 of such Act is amended to read as follows:

"(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

"(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with repect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

"(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

"(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than $1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.".

SEC. 14. Section 20 of such Act is hereby repealed.

SEC. 15. Section 24 of such Act is amended by inserting the following at the end of the section: "Notwithstandnig the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after enactment of the Animal Welfare Act Amendments of 1976: *Provided, however,* That compliance by all persons with paragraphs (b), (c), and (d) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment.".

SEC. 16. Section 25 of such Act is amended by deleting from subsection (2) the word "and" where it last appears, deleting the period at the end of subsection (3) and inserting ": and" in lieu thereof, and by inserting after subsection (3) the following new subsection:

"(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.".

SEC. 17. Such Act is amended by adding at the end thereof the following new section:

"SEC. 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

"(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

"(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

"(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

"(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

"(g) For purposes of this section—

"(1) the term 'animal fighting venture' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term 'animal fighting venture' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

"(2) the term 'interstate or foreign commerce' means—

"(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

"(B) any movement from a foreign country into any State;

"(3) the term 'interstate instrumentality' means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

"(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(5) the term 'animal' means any live bird, or any live dog or other mammal, except man: and

"(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

"(h)(1) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

"(2) Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words 'title 18' a comma and the words 'or section 26 of the Animal Welfare Act'.".

SEC. 18. Section 23 of such Act is amended by inserting immediately before the period at the end of the third sentence ": *Provided,* That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed $100,000 for the transition quarter ending September 30, 1976, and not to exceed $400,000 for each fiscal year thereafter".

SEC. 19. Section 14 of such Act is amended by inserting in the first sentence after the term "standards" the phrase "and other requirements".

In lieu of the amendment of the House to the title of the bill insert the following: "An Act to amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes.".

And the House agree to the same.

Thomas S. Foley,
W. R. Poage,
Bob Bergland,
Jerry Litton,
James Weaver,
Tom Harkin,
Managers on the Part of the House.

Warren G. Magnuson,
Wendell H. Ford,
Lowell P. Weicker, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1941) to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in Conference are noted in the following outline, except for conforming, clarifying, and technical changes:

1. TITLE OF BILL

Senate bill

The title of the Senate bill declares its purpose to be "to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

House amendment

The title of the House amendment states its purpose to be "to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

Conference substitute

The Conference substitute adopts the title of the House amendment but incorporates the phrase "to increase the protection afforded animals in transit" from the title of the Senate bill.

2. CITATION OF AMENDMENTS

Senate bill

The Senate bill provides that this act may be cited as the Animal Welfare Amendments of 1975.

House amendment

The House amendment provides that this Act may be cited as the Animal Welfare Act Amendments of 1976.

Conference substitute

The Conference substitute adopts the House provision.

3. SHORT TITLE OF ACT

Senate bill

The Senate bill provides that the Act of August 24, 1966, as amended, may be cited is the "Animal Welfare Act."

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the Senate provision.

4. CONGRESSIONAL DECLARATION OF POLICY (SECTION 1 OF EXISTING LAW)

Senate bill

The Senate bill revises the congressional declaration of policy contained in section 1 of the present law and makes a congressional finding that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the Senate provision.

5. DEFINITION OF COMMERCE (SUBSECTIONS 2(C) AND 2(D) OF EXISTING LAW)

Senate bill

The Senate bill strikes from the present law the definition of the terms "commerce" and "affecting commerce" and inserts in lieu thereof a new definition of the term "commerce" and a definition of the term "State" as used in the new definition of "commerce". These provisions would narrow the coverage of the existing law by excluding commerce between points within the same State, territory, or possession, etc., which passes through a point outside thereof and commerce within any territory, possession, or the District of Columbia, but would otherwise not limit the coverage of the statute.

House amendment

The House amendment contains no comparable provisions.

Conference substitute

The Conference substitute adopts the Senate provision with an amendment to carry forward from existing law into the new definition of the term "commerce" commerce between two points in the same State but through any place outside thereof, and commerce within any territory, possession, or the District of Columbia.

6. DEFINITION OF DEALER (SUBSECTION 2(F) OF EXISTING LAW)

Senate bill

The Senate bill amends the definition of the term "dealer" in the present law to add to those already covered by the definition persons who offer animals for sale, and also to include all retail pet stores. Retail pet stores are not included in the definition of "dealer" under existing law unless they sell animals to research facilities, exhibitors, or dealers.)

House amendment

The House amendment does not disturb the coverage of retail pet stores under existing law. However, in addition to persons already covered, it would add to the definition of the term "dealer" any person who negotiates the purchase or sale of animals. The House amendment would further amend the definition of the term "dealer" to include specifically any person who sells any wild animal, dog, or cat or who delivers for transportation, transports, buys, sells, or negotiates the purchase or sale of any dog for hunting, security, or breeding purposes. However, any person who grosses no more than $500 in any calendar year from the sale of animals other than wild animals, dogs, or cats would be specifically excluded from the definition of the term "dealer".

Conference substitute

The Conference substitute adopts the House provision. However, the term "dealer" includes only those persons who deal in animals for compensation or profit. The term does not include a person who, on a casual basis purchases a dog or cat for his own use or enjoyment; nor does it include a person who upon occasion in isolated transactions sells a dog or cat.

7. DEFINITION OF ANIMAL (SUBSECTION 2(g) OF EXISTING LAW)

Senate bill

The Senate bill adds to the definition of the term "animal" in the present law cold-blooded animals, birds, and horses used for exhibition or as pets (horses used for research are included in the definition under existing law); and clarifies that the term "dog" as used in the definition of "animal" includes dogs used for hunting, security, or breeding purposes. The Senate bill also removes from the definition of "animal" all dead animals and any non-human primate mammal not embraced within the term "monkey".

House amendment

The House amendment makes no change in the definition of the term "animal" in the present law other than to clarify the fact that the term "dog" as contained in that definition means all dogs including those used for hunting, security, or breeding purposes.

Conference substitute

The Conference substitute adopts the House provision.

8. DEFINITION OF EXHIBITOR (SUBSECTION 2(h) OF EXISTING LAW)

Senate bill

The Senate bill amends the definition of the term "exhibitor" in the present law to limit its application to a person who exhibits animals in commerce to the public for compensation. The effect of this change would be to exclude from coverage under this definition persons exhibiting animals which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House amendment.

9. NEW DEFINITIONS OF CARRIER AND INTERMEDIATE HANDLER (ADDED TO SECTION 2 OF EXISTING LAW)

Senate bill

The Senate bill adds to the definitions contained in section 2 of the present law a new term, "carrier", which would be defined as any person designated by the Secretary of Transportation who is subject to regulation by the ICC, CAB, or FMC or is engaged in the business of transporting animals for hire or providing services incidental to such transportation.

House amendment

The House amendment would add to the definitions contained in section 2 of the present law two new terms *viz:* "carrier" and "intermediate handler", neither of which would be subject to designation by the Secretary of Transportation. The term "carrier" would be defined to mean the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire and includes all terminal facilities controlled by such carriers. The term "intermediate handler" means persons other than dealers, research facilities, exhibitors, operators of auction sales, or carriers and includes express companies, forwarders, and other persons or facilities (including terminal facilities not controlled by carriers) which handle animal shipments.

Conference substitute

The Conference substitute adopts the House provision.

10. TERMINAL FACILITIES USED BY LICENSEES (SECTION 3 OF EXISTING LAW)

Senate bill

The Senate bill amends section 3 of the present law to deny a license to any dealer or exhibitor who uses terminal facilities which do not comply with the standards promulgated by the Secretary pursuant to section 13 of the Act.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House amendment.

11. DELETION OF TERM "AFFECTING COMMERCE" (SECTIONS 4, 11 AND 12 OF EXISTING LAW)

Senate bill

The Senate bill strikes out the term "affecting commerce" and inserts in lieu thereof the term "in commerce" in sections 4 (requiring a valid license for dealers and exhibitors), 11 (requiring marking and identification of animals), and 12 (licensing of certain auction sales, etc.) of the Act. These changes do not limit the coverage of the statute and are intended to bring these sections into line with the revised declaration of policy and new definition of the term "commerce" contained in the Senate bill.

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the Senate provision.

12. REGISTRATION (SECTION 6 OF EXISTING LAW)

Senate bill

The Senate bill amends section 6 of the present law to require registration of every carrier not licensed under section 3 of the Act.

House amendment

The House amendment amends section 6 to require registration of every intermediate handler and every carrier not so licensed.

Conference substitute

The Conference substitute adopts the House provision.

13. RESPONSIBILITY FOR ACTS OF AGENTS (SECTION 9 OF EXISTING LAW)

Senate bill

The Senate bill amends section 9 of the present law to make carriers responsible for the acts of their agents or employees.

House amendment

The House amendment would amend section 9 to make intermediate handlers or carriers responsible for the acts of their agents or employees.

Conference substitute

The Conference substitute adopts the House provision.

14. RECORDKEEPING BY CARRIERS AND INTERMEDIATE HANDLERS (SECTION 10 OF EXISTING LAW)

Both the Senate bill and the House amendment amend section 10 of the present law to delete the requirement that the Secretary of Agriculture supply the forms upon which records required under the Act are kept.

Senate bill

In addition, the Senate bill would amend section 10 to empower the Secretary of Agriculture, subject to the approval of every other Federal agency which requires carriers to keep records, to require carriers to keep records with respect to the transportation, receiving, handling, and delivering of animals. The Senate bill would also require any such records to be made available at all reasonable times for inspection and copying by the Secretary. (A comparable provision already appears in section 10).

House amendment

The House amendment would require any Federal regulatory agency which requires intermediate handlers and carriers to keep records with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, to require inclusion in such forms, and intermediate handlers and carriers would be required to include, information which the Secretary requests be required for effective administration of the Act. Such information shall be retained by such agencies and intermediate handlers and carriers for such reasonable period of time as the Secretary may prescribe. The Secretary would be empowered to prescribe recordkeeping requirements and reasonable periods of record retention for intermediate handlers and carriers not required by other Federal regulatory agencies to keep records with respect to the transportation, receiving, handling, and delivery of animals.

Conference substitute

The Conference substitute adopts the House provision.

15. HUMANE STANDARDS FOR CARRIERS AND INTERMEDIATE HANDLERS (SECTION 13 OF EXISTING LAW)

Both the Senate bill and the House amendment designate section 13 of the present law as subsection "(a)".

Senate bill

The Senate bill amends the section to extend application of the humane standards promulgated by the Secretary to any terminal facilities used by a carrier subject to the Act and also to the facilities of auction sales licensed under section 12 of the Act and to the facilities of persons not qualifying as dealers or exhibitors who may be licensed under section 3 of the Act.

House amendment

The House amendment would amend the section by inserting two new sentences which would require the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States, for transportation in commerce. (As noted below in No. 16, the Senate bill would add as subsection (b) of section 13 a comparable provision which is slightly broader in that it would apply also to animals consigned by State or local government agencies.) The Secretary would be empowered to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

Conference substitute

The Conference substitute adopts the House provision with an amendment to make clear that the humane standards promulgated by the Secretary apply in the case of animals consigned by any department, agency, or instrumentality of any State or local government.

16. HUMANE STANDARDS AND VETERINARY CERTIFICATES (NEW SUBSECTION 13(b))

Senate bill

The Senate bill adds to section 13 of the Act a new subsection "(b)" which empowers the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government or other person. (As noted above in No. 15, the House amendment contains a comparable but slightly less comprehensive provision.) Such standards must be designed to assure the safe transportation in commerce of all animals received in healthy condition, and may include a requirement that no animal of a designated kind shall be delivered to or received by a carrier for transportation in commerce unless it is accompanied by the certificate of an accredited veterinarian attesting that he inspected the animal within the time interval he specifies and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. The Secretary may by regulation establish the time interval at which the certificate shall be issued and require that it be retained by the receiving carrier for a reasonable period of time.

House amendment

The House amendment would add to section 13 of the Act a new subsection (b) which would provide that no dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce (or be received by such intermediate handler or carrier for such transportation) unless the animal is accompanied by the certificate of a licensed veterinarian certifying that he inspected the animal on a specific date not more than 10 days before such delivery at which time the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health. The House amendment differs from the provision in the Senate bill in that, in the House amendment, the veterinary certificate requirement is made mandatory, except for certain animals shipped to research facilities. The Senate bill leaves veterinary certificate requirements to the discretion of the Secretary of Agriculture. The House amendment also requires that the veterinary certificate include a statement that public health is not endangered, a provision not found in the Senate bill. The Secretary could by regulation provide conditional exceptions to the certification requirement for animals ineligible for such certificates when such animals are shipped to research facilities for purposes of research, etc., requiring such animals. The Secretary would be empowered to prescribe the period of retention of veterinary certificates in regulations promulgated in accordance with section 10 of the Act.

Conference substitute

The Conference substitute adopts the House provision.

17. AGE LIMITATIONS (NEW SUBSECTION 31(c))

Senate bill

The Senate bill contains no provision respecting the age at which animals may be transported.

House amendment

The House amendment would add to section 13 of the Act a new subsection (c) which would prohibit delivery of any dogs, cats, or additional kinds or classes of animals designated by regulation of the Secretary, by any person to any intermediate handler or carrier for transportation in commerce, except to registered research facilities, if they are less than 8 weeks of age, or such other age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than 8 weeks for particular kinds or classes of dogs, cats, or designated animals when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

Conference substitute

The Conference substitute adopts the House provision with an amendment which requires the Secretary of Agriculture to determine the minimum age at which dogs, cats, or other animals designated by the Secretary may be delivered for transportation in commerce. The Secretary would, thus, also have discretion, subject to such standards and regulations as he might prescribe, to permit transportation of animals with their litters.

18. C.O.D. TRANSPORTATION OF ANIMALS (NEW SUBSECTION 13(C) OR 13(d))

Senate bill

The Senate bill adds to section 13 of the Act a new subsection "(c)" which prohibits any carrier from transporting any animal where the fare or other charges (including the cost of the animal) are to be collected upon delivery unless the consignor guarantees in writing the payment of transportation charges, including return transportation and the out-of-pocket expenses incurred by the carrier in handling any animal not claimed upon delivery. Return transportation shall be permitted by the carriers after 24 hours.

House amendment

The House amendment would add to section 13 of the Act a new subsection "(d)" containing similar provisions. It would prohibit any intermediate handler or carrier from receiving for transportation or transporting in commerce any animal where the cost of either the animal or its transportation is to be collected upon delivery unless the consignor guarantees in writing the payment of round-trip transportation charges and the carriers out-of-pocket expenses for care of any animal not claimed within 48 hours after notice to the consignee of arrival of the animal.

Conference substitute

The Conference substitute adopts the House provision.

19. FEDERAL RESEARCH FACILITIES TO DEMONSTRATE COMPLIANCE (SECTION 14 OF EXISTING LAW)

Senate bill

The Senate bill makes no change in section 14 of the Act which requires Federal agencies with animal laboratory facilities to comply with the standards promulgated by the Secretary for research facilities under section 13 of the Act.

House amendment

The House amendment would amend section 14 of the Act to extend to such Federal agencies the requirement presently imposed by the Act upon other research facilities to show the Secretary of Agriculture at least annually that professionally acceptable standards governing the care, treatment, and use of animals are being followed.

Conference substitute

The Conference substitute adopts the House provision.

20. CONSULTATION ON HUMANE STANDARDS WITH FEDERAL REGULATORY AGENCIES (SECTION 15 OF EXISTING LAW)

Senate bill

The Senate bill adds to section 15 of the Act a new subsection "(c)" which requires the Secretary of Agriculture to consult and cooperate with the Secretary of Transportation, the Administrator of the FAA, and the Chairman of the CAB, ICC, and FMC with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. In the case of air transportation and related handling of animals, the Secretary of Agriculture is required, before promulgating any standard, to consult with the Secretary of Transportation and the Administrator of the FAA who in the interest of flight safety may disapprove any such standard within 30 days after consultation. The ICC, CAB, and FMC are required to take such action as is appropriate to implement the standards established by the Secretary. (This last provision has no counterpart in the House amendment.)

House amendment

The House amendment would add to subsection (a) of section 15 of the Act a similar requirement. It provides that the Secretary consult with other Federal departments, agencies, or instrumentalities concerned with administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals. Before promulgating any standard governing the air transportation and handling in connection therewith of animals, the Secretary of Agriculture would be required to consult with the Secretary of Transportation (but not also with the Administrator of the FAA as in the Senate bill) who could within 30 days thereafter disapprove any such standard for reasons of flight safety.

Conference substitute

The Conference substitute adopts the House provision with an amendment which provides that the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

21. INVESTIGATION OF AND SEIZURE OF ANIMALS FROM CARRIERS AND INTERMEDIATE HANDLERS (SUBSECTION 16 (a) OF EXISTING LAW)

Senate bill

The Senate bill amends subsection (a) of section 16 of the Act to empower the Secretary to investigate and inspect the records of carriers, and to confiscate or destroy in a humane manner any animal held by a carrier which is found to be suffering as a result of a failure to comply with any provision of the Act or any regulation or standard issued thereunder. In addition, a new sentence would be added to paragraph (a) authorizing United States Attorneys to prosecute all criminal violations of the Act reported by the Secretary and to invite civil actions to enforce orders of, and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means. (This requirement is contained in 28 U.S.C. 547.)

House amendment

The House amendment would amend subsection (a) of section 16 of the Act to empower the Secretary to investigate and inspect the records of intermediate handlers and carriers and also to confiscate or destroy in a humane manner any animal held by an intermediate handler or carrier which is found to be suffering as a result of a failure to comply with any provision of the Act or of the regulations or standards issued thereunder.

Conference substitute

The Conference substitute adopts the House provision.

22. GRANT OF IMMUNITY TO OBTAIN TESTIMONY (SUBSECTION 16(C) OF EXISTING LAW)

Senate bill

The Senate bill strikes from subsection (c) of section 16 of the Act the power of the Secretary of Agriculture to obtain testimony by granting immunity under title II of the Organized Control Act of 1970.

House amendment

The House amendment contains no comparable provision. However, the House amendment would make a technical amendment in subsection (c) of section 16 to accommodate another amendment made by the House to section 19 of the Act.

Conference substitute

The Conference substitute adopts the House provision.

23. CEASE AND DESIST ORDERS—CIVIL PENALTIES (SECTION 19 OF EXISTING LAW)

Senate bill

The Senate bill amends section 19 of the Act to include carriers among the categories of persons against whom the Secretary may issue a cease and desist order and to make carriers subject to suit by the United States for a civil penalty of $500 for each violation of a cease and desist order. The district courts of the United States would be specifically authorized to enforce cease and desist orders against dealers, exhibitors, carriers, or operators of auction sales. (A comparable provision is already contained in section 16(c) of the Act.) Carriers would be able to secure judicial review of cease and desist orders in the Courts of Appeals. Carriers would be subject to criminal penalties for violation of any provision of the Act. However, the criminal penalty paragraph would be amended to authorize prosecution only for "knowing" violations by any dealer, exhibitor, carrier or operator of an auction sale, and the maximum term of imprisonment would be reduced from 1 year to 6 months.

The Senate bill also adds to section 19 of the Act two new subsections. Subsection "(d)" would, in addition to the civil penalty provided for violation of a cease and desist order, empower the Secretary to impose an administrative civil penalty of not more than $2,000 for each violation of the Act or regulations. No specific provision is made for appeal from the assessment by the Secretary of a civil penalty. Subsection "(e)" would permit any action including actions for criminal or civil penalties under section 19 of the Act to be brought before a United States magistrate in any judicial district in which such person is found.

House amendment

The House amendment would revise section 19 of the Act to delete the provisions which limit the Secretary to issuing cease and desist orders against violators and require him to wait for subsequent violation of the cease and desist order before requesting the Attorney General to bring suit for a civil penalty of $500. Instead, the Secretary would be authorized, after notice and opportunity for a hearing to assess administratively a civil penalty of not more than $1,000 for each violation against any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale who violates any provision of the Act or regulations. Orders assessing civil penalties would be appealable to the United States Courts of Appeals. In the event of failure to pay a civil penalty, the Secretary would be authorized to request the Attorney General to bring suit to collect the penalty in U.S. district court in any judicial district in which the defaulting violator is found, or resides, or transacts business. Such courts would be given jurisdiction to hear such actions.

The House amendment would not subject intermediate handlers or carriers to criminal penalties but would limit prosecution against dealers, exhibitors, and operators of auction sales to violations committed "knowingly" and provides that prosecution of criminal violations be brought before United States magistrates to the maximum extent practicable. With the consent of the Attorney General, such prosecution could be handled both before the magistrate and, upon appeal to district court, by attorneys of the United States Department of Agriculture.

Conference substitute

The Conference substitute adopts the House provision with an amendment which empowers the Secretary, when assessing an administrative civil penalty, to issue a cease and desist order and provides for judicial assessment of a civil penalty of $500 for knowing violation of such a cease and desist order, and each day such violation continues is a separate offense.

24. CIVIL PENALTIES FOR RESEARCH FACILITIES (SECTION 20 OF EXISTING LAW)

Senate bill

The Senate bill makes no change in section 20 of the Act, which provides for cease and desist orders and civil penalties against research facilities.

House amendment

The House amendment repeals section 20. As noted above, the House amendment deletes those provisions of the existing law which limit the Secretary to issuing cease and desist orders. Section 20 differs from section 19 of the existing law only insofar as it affords research facilities notice and opportunity for hearing prior to issuance of a cease and desist order and gives research facilities 15 days to comply with such an order. These privileges are not accorded to dealers, exhibitors, or operators of auction sales under section 19. The House amendment includes research facilities under section 19 and extends the opportunity for notice and hearing to all persons subject to the section.

Conference substitute

The Conference substitute adopts the House provision.

25. ORAL HEARING REQUIRED FOR RULEMAKING (SECTION 21 OF EXISTING LAW)

Senate bill

The Senate bill would amend section 21 of the Act, which confers rulemaking authority on the Secretary, to require transcribed oral hearings prior to issuance by the Secretary of regulations relating to recordkeeping requirements under section 8 of the Act or standards under subsections (a) and (b) of section 10. (The reference should be to sections 10 and 15 of the Act which are amended by sections 8 and 10 of the Senate bill.)

House amendment

The House amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House amendment.

26. APPROPRIATIONS (SECTION 23 OF EXISTING LAW)

Senate bill

The Senate bill strikes from section 23 of the Act the general authorization of appropriations and substitutes therefor a new section 26 at the end of the Act which would authorize appropriations of not to exceed $4 million for the fiscal year ending June 30, 1976; not to exceed $1 million for the transition quarter ending September 30, 1976; and not to exceed $4 million for the fiscal years ending September 30, 1977, and September 30, 1978. New authorizations would be required for succeeding fiscal years.

House amendment

The House amendment would add to the general authorization of appropriations in section 23 of the Act a proviso which would limit, to $100,000 for the transition quarter and $400,000 for each fiscal year thereafter, appropriations for enforcement of section 26 (animal fighting ventures) added to the Act by the House amendment. In addition, the House amendment contains a separate section limiting to $100,000 for the transition quarter and to $600,000 for each fiscal year thereafter, appropriations to implement and administer the provisions of the Animal Welfare Act Amendments of 1976, other than section 26.

Conference substitute

The Conference substitute adopts the House provision with an amendment which deletes the $600,000 authorization ceiling on appropriations to implement those sections of these amendments which relate to humane treatment of animals in commerce, but retains the $400,000 authorization ceiling imposed by the House on appropriations to enforce the animal fighting section.

27. EFFECTIVE DATE (SECTION 24 OF EXISTING LAW)

Senate bill

The Senate bill amends section 24 of the Act to require the Secretary to prescribe regulations affecting carriers not later than 9 months after enactment and to require carriers to comply with the provisions of the Act and regulations 90 days thereafter.

House amendment

The House amendment amends section 24 of the Act (1) to require compliance by intermediate handlers and carriers with the provisions of the Act, as amended, which relate to them to commence 90 days after promulgation of regulations under section 13 of the Act, as amended, which shall be not later than 9 months after enactment; (2) to require compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of the Act, as amended, and the implementing regulations 90 days after enactment; and to require compliance by all persons with the veterinary certificate, young animal, and C.O.D. amendments to section 13 of the Act 90 days after enactment. All other amendments, principally section 26 (animal fighting ventures), would become effective upon the date of enactment.

Conference substitute

The Conference substitute adopts the House provision with an amendment which makes new section 26 of the Act (animal fighting ventures) effective 90 days after enactment of these amendments.

28. ANNUAL REPORT TO CONGRESS (SECTION 25 OF EXISTING LAW)

Senate bill

The Senate bill amends section 25 of the Act to require the Secretary of Agriculture to include in his annual report to the Congress recommendations and conclusions concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation, but only those recommendations and conclusions which have been approved by the Secretary of Transportation, the Administrator of the FAA, and the Chairman of the CAB.

House amendment

The House amendment would amend section 25 of the Act to require the Secretary to include in his annual report to the Congress recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.

Conference substitute

The Conference substitute adopts the House provision.

29. ANIMAL FIGHTING (NEW SECTIONS 26)

Senate bill

The Senate bill contains no provisions relating to animal fighting ventures.

House amendment

The House amendment adds to the Act a new section 26 which would subject to a fine of not more than $5,000 or imprisonment for not more than 1 year, or both, any person who knowingly (a) sponsors or exhibits an animal in any fighting venture to which any animal was moved in interstate or foreign commerce, (b) sells, buys, transports, or delivers to another person or receives from another person for purposes of transportation in interstate or foreign commerce any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture, or (c) uses the U.S. mails or any interstate instrumentality for purposes of promoting or furthering an animal fighting venture held within the United States. The Secretary of Agriculture would be authorized to make such investigations as he deems necessary and to enlist the assistance of the FBI, Treasury, or other Federal, State or local law enforcement agencies. The provisions of this new section would not supersede or otherwise invalidate any State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict. For purposes of this new section of the Act, the term "animal" would be defined to mean any live bird, or any live dog or other mammal, except man.

Conference substitute

The Conference substitute adopts the House provision with an amendment which provides that the activities prohibited by subsections (a), (b), or (c) of new section 26 of the Act shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof. The section does not apply to export of live birds to foreign countries nor to interstate shipment of live birds for breeding purposes. Game fowl publications would be unaffected except that advertising of fights involving live birds would be prohibited except in those instances where such fights are to be held in a State or territory where they are not unlawful.

THOMAS S. FOLEY,
W. R. POAGE,
BOB BERGLAND,
JERRY LITTON,
JAMES WEAVER,
TOM HARKIN,
Managers on the Part of the House.
WARREN G. MAGNUSON,
WENDELL H. FORD,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

BOARD FOR INTERNATIONAL BROADCASTING ACT FOR FISCAL YEAR 1977

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1108 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1108

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12262) to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas broadcasting facilities. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. O'NEILL). The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, there is a clerical error on page 1, line 12, of House Resolution 1108. The resolution should provide that the time for general debate be equally divided and controlled by the chairman and the ranking minority member of the Committee on International Relations, not the Committee on Science and Technology.

Therefore, Mr. Speaker, I ask unanimous consent that the words "Committee on International Relations" be substituted for the words "Committee on Science and Technology" on page 1, line 12, to correct this clerical error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. MADDEN. Mr. Speaker, House Resolution 1108 is an open rule providing 1 hour of general debate on H.R. 12262, a bill to amend the board for international broadcasting act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to Congress a report on more effective utilization of overseas broadcasting facilities.

Mr. Speaker, H.R. 12262 would authorize an appropriation of $58,385,000 for fiscal year 1977 to support the operations of Radio Free Europe, Radio Liberty, and the policy board which oversees their operations, the Board for International Broadcasting. Of the total amount, $52,985,000 is for the operation of the radio stations, $400,000 is for the activities of the Board, and $5 million is to be set aside in a contingency fund to assure the smooth functioning of the radio stations in the event of unanticipated currency fluctuations.

Radio Free Europe, which concentrates its broadcasting efforts on Eastern Europe, and Radio Liberty, which focuses on the Soviet Union, had their origins in the years following World War II when the Soviet Union establish control over Eastern Europe and was perceived as threatening the independence of the nations of Western Europe. Both stations provide the kinds of information to the peoples of these areas that they would receive if there were a free flow of information in their homelands.

The Board for International Broadcasting was created in 1973 and was authorized to receive congressionally appropriated funds and to allocate them to the two stations. The Board has specific review and oversight responsibilities over the two stations. The Board is specifically charged with assessing the quality, effectiveness, and professional integrity of the broadcasts of the two stations within the framework of broad U.S. foreign policy objectives. The Board has already taken significant steps toward improved programing, and the elimination of costly duplication of staffs, administrative and technical facilities and various support services. Partly for that reason, the authorization for fiscal year 1977 is $12,255,000 below the amount authorized for fiscal year 1976.

In addition to the authorizations, the bill requires a Presidential report to Congress by January 31, 1977 on steps to more effectively utilize Government owned broadcasting transmission facilities, projected U.S. needs for future U.S. international broadcasting facilities, and the advisability of expanding this type of broadcasting to other nations whose governments limit access to information.

Mr. Speaker, I urge the adoption of House Resolution 1108 so that we may proceed to the consideration of this important legislation.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I want to take this opportunity to thank my colleague, chairman of the House Rules Committee, RAY MADDEN, for his interest and support of legislation for Radio Free Europe and Radio Liberty. His interest in its principles dates back to its inception. He has always felt that the American people's right to free communication is a basic right and, since the Iron Curtail fell, Congressman MADDEN has been in the forefront of efforts to assure that the more than 100 million people behind the Iron Curtain are kept informed of happenings in our own country and worldwide.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained, this rule provides for 1 hour of general debate on H.R. 12262, Board for International Broadcasting Act for fiscal year 1977, and that the bill will be open to all germane amendments.

The purpose of this legislation is to authorize $58,385,000 to support the operations of Radio Free Europe, Radio Liberty and the Board for International Broadcasting. This amount includes $52,985,000 for operating the radio stations, $400,000 for the activities of the Board and $5,000,000 in contingency funds to assure the smooth functioning of the radio stations in the event of unanticipated currency fluctuations.

While the administration supports this bill in general, it objects to several provisions. First, authorizing the Board to procure major electronic equipment could significantly change the Board's role from one of financing and oversight to one of ownership and administration. Second, the $5 million authorization to cover exchange rate fluctuation would be complex to administer and is unnecessary since current law authorizes appropriations for nondiscretionary cost such as those resulting from currency fluctuations.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to congratulate the distinguished chairman of the full committee and the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. FASCELL), and the committee members as well, on this excellent resolution.

I would like to call the attention of the Members of the House to page 11 of the committee report in which it says that the committee came up with the conclusion that they are amazed by the violations and shocked that the Soviets are so willing to blatantly violate both human rights and the broadcasting arrangements that were declared part of the final act of the Helsinki Conference. It seems to me incredible that they are so blatantly violating these rights. I think we need this legislation very much.

I hope in connection with this, that the bill which I prepared and introduced in September will soon see the light of day. I hope that compliance with the provisions on human rights—the reunion of families, freedom of information and the right to travel—will be monitored by a commission established by this House so that we will know which of the 35 signatories to the Helsinki compact is living up to the obligations that were assumed in solemn agreement under that final act, and which ones are not.

Again I thank the gentleman for yielding.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for yielding me this time. I have noticed with great interest that the Committee on Rules, in exercising the wisdom that its membership has in such great abundance, has seen fit to delay certain rules and deny others outright. I commend the chairman and the ranking minority member and all of the members of the Committee on Rules for bringing this matter to the floor so expeditiously.

Mr. LATTA. Does the gentleman from Illinois have any particular bills in mind up there in the committee that the gentleman thinks we ought to keep there?

Mr. DERWINSKI. We should never have let the Hatch Act out on the floor, and we could take off quite a few others.

Mr. LATTA. I quite agree with the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MADDEN. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12262) to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas broadcasting facilities.

The SPEAKER pro tempore (Mr. O'NEILL). The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12262, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 12262 to amend the Board for International Broadcasting Act of 1973, to authorize appropriations for fiscal year 1977, and to require the President to submit to Congress a report on more effective utilization of overseas broadcasting facilities.

This bill contains the annual authorization to carry on the important broadcasting activities of Radio Free Europe/Radio Liberty. Operating from a now consolidated headquarters in Munich, Germany, these radios strive to provide the peoples of the Soviet Union and Eastern Europe with the kinds of information about what is happening in their own societies which would be provided by a free press if one were allowed to exist. This contrasts with the role of the Voice of America which seeks to foster an understanding of the United States and our policies.

Radio Free Europe/Radio Liberty remains a private organization but receives virtually all of its funds by grant from the Board for International Broadcasting, an independent U.S. Government Agency. The Board was established by Congress in 1973 to provide funds and policy guidance to Radio Free Europe/Radio Liberty following exhaustive executive and congressional studies of the future of these broadcast activities when Congress terminated CIA funding in 1971.

Mr. Chairman, in recent months the Soviet Union has increased the virulence of its attacks on Radio Free Europe/Radio Liberty. While this criticism is perhaps the greatest form of compliment to the fact that the radios are heard and are effective, it does raise the important question of whether these broadcasts are consistent with the objectives the United States seeks through the policy of détente. The International Relations Committee has investigated this and determined that the activities of Radio Free Europe/Radio Liberty are fully consistent with the foreign policy objectives of the United States. Moreover, as the committee notes in its report:

> The Radios additionally continue to receive strong support indicated both by an impressive array of academic experts, and journalists, and by strong editorial comments both in the United States and Western Europe.

The committee report also notes that the final act of the Conference on Security and Cooperation in Europe—the Helsinki Conference—amplified on article 19 of the Universal Declaration of Human Rights pertaining to the "right to receive and impart ideas through any media" by declaring that—

> The participating states note the expansion in the dissemination of information broadcast by radio, and express the hope for the continuation of this process, so as to meet the interest of mutual understanding among peoples and the aims set forth by this Conference.

The Soviet Union signed that document only last summer. If anyone is violating the spirit of détente with respect to the radios, it would seem to be the Soviet Union through its efforts to jam the radios.

Mr. Chairman, the bill as reported by the International Relations Committee contains the full amount of funds requested by the executive for the Board for International Broadcasting: $52,985,000 for the activities of Radio Free Europe/Radio Liberty and $400,000 for the activities of the Board itself. In addition to the amount requested, the committee provided another $5 million solely for the purpose of protecting the level of broadcast activities against unexpected changes in foreign currency exchange rates. This contingency funding is necessary because 84 percent of the expenditures of Radio Free Europe/Radio Liberty are made in foreign currencies. The bill specifies that the $5 million can only be made available for this purpose with the approval of the Office of Management and Budget. This provision is similar to one adopted last year at the suggestion of the General Accounting Office by both the committee and the House.

The total amount which would be authorized for fiscal year 1977 is $58,385,000, which, while $5 million above the executive request, is still $7,255,000 below the amount authorized by Congress for fiscal year 1976. This reduction results from the elimination of once-only expenditures in last year's budget and from savings resulting from continuing efforts by the Board to consolidate various components of the operations of the radios.

In addition to authorizing funds, the bill makes certain changes in the Board for International Broadcasting Act of 1973. Two such changes, requested by the executive, are technical in nature:

First, the size of the Board is reduced from seven to six and other references changed to reflect the consolidation of Radio Free Europe and Radio Liberty into one entity with only one chief operating executive; and

Second, the date when the Board's annual report to Congress is due is changed to January 31 to conform to the new fiscal year.

During the course of hearings, it became clear that significant savings might be attainable through clarifying the Board's ability to procure such items as transmitters and other electronic equipment. Such authority is included in the bill so that the Board can obtain the benefits of Government purchase prices as well as treatment of such equipment as U.S. Government property by foreign governments.

Over the years, in deliberations on the USIA, the Board for International Broadcasting, and related programs, the committee has raised with representatives of the executive a number of possible actions to increase the efficiency and effectiveness of all U.S. overseas broadcasting activities. Thus far, it would seem that little attention has been paid to some of these overall issues. This may be the result of the lack of clear responsibility for overall policy. As a result of these concerns, the committee has incorporated in this bill section two which requires the President to report to Congress by January 31, 1977, on the various aspects of U.S. overseas broadcasting activities. The report is to:

Recommend steps to increase the efficient use of transmission facilities;

Examine possible international sharing of such facilities;

Contain an outline of future broadcasting needs based on language requirements and greater cooperation among U.S. agencies; and

Recommend whether broadcasting to closed societies should be expanded to additional countries.

Mr. Chairman, H.R. 12262 would enable the Board for International Broadcasting to carry on broadcasting activities which are an important part of our over all foreign policy and I urge its approval.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. SOLARZ. I want to thank the distinguished chairman of the committee for yielding and to take this opportunity to commend him for the great work which I think he has done in steering this legislation through committee and bringing it here to the floor.

I particularly want to take this opportunity to call the attention of our colleagues who are here today to this great debate and an amendment which was included in the bill as it came out of committee which was suggested by the distinguished chairman calling upon the President to take a look at the prospects and possibilities for conducting broadcasts similar to the kind which they now beam into the closed societies of Eastern Europe and the Soviet Union, to other closed societies, and perhaps non-Communist societies and countries elsewhere in the world.

The historic justification for both Radio Free Europe and Radio Liberty was that in the Communist countries of Eastern Europe and in the Soviet Union millions of people living in those societies were unable to obtain relevant information about developments within the countries in which they lived, and that we had a kind of moral obligation as it were, as presumably the greatest free society in the world, to let the citizens of those closed societies know about what was happening in their own countries. It seems to me that if that justification makes sense for our efforts to broadcast into Eastern Europe and the Soviet Union, it also would make sense for us to take a look at establishing similar programs with respect to other closed societies elsewhere around the world.

As a result of that amendment, the President has been mandated to take a look at that, and I am hopeful that when they come back with their report within the course of the coming year, it will then have a factual basis for expanding the mandate of the Board to include other parts of the world as well.

I just think if we are going to take seriously our commitment to democracy that we have got to take it out of the cold war context in which it has been perceived for so long, and I think that obligates us to talk about democracy not only in those areas of the world that are under the control of our enemies but also those areas of the world as well, which are under the control of some of those countries we occasionally choose to call our friends.

Mr. FASCELL. I thank the gentleman from New York for his observations.

I simply would add that certainly is a matter in which the administration is very interested and it is an overall question which the Congress ought to address itself to, and we are awaiting respectfully the administration report.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 12262 and agree with the comments of our subcommittee chairman, my distinguished colleague from Florida, Mr. FASCELL. Mr. Chairman, apart from $400,000 for the Board for International Broadcasting, this authorization is primarily to provide funds for the continued efforts of Radio Liberty, which broadcasts to the Soviet Union, and Radio Free Europe, which broadcasts to Eastern Europe. The total cost of the authorization is just over $58 million. It exceeds the administration's request by about $5 million, because we added a contingency fund to protect againt fluctuations in the currency exchange rate, since most of this money is spent in Germany. Nonetheless, the authorization is for about 11 million less than the 1975 appropriation.

In addition to the money provisions of the bill, it does make some changes in the original legislation governing the Board for International Broadcasting. These are to improve the general operations of the Board, and to reflect some administrative changes which the Board has made. There is also a requirement that the President report on potentials for improving our use of our international broadcasting facilities and for possible expanded broadcasting of the home service type to other societies whose governments restrict freedom of information.

Mr. Chairman, the Board for International Broadcasting was created by legislation in 1973 to oversee the two Radios, which exist as private corporations. While it would be misleading to say that the Board has solved all its oversight problems already, it has considerably streamlined the operations. This authorization's reduction from last year is a reflection of the effort the Board has made to reduce costs.

Mr. Chairman, as I said just now, most of this authorization is for the two Radios, which I would like to talk about for just a moment or two. These Radios support the national interest of the United States in a special kind of way. They are a home service for the peoples of the communist countries, and provide a more accurate and balanced source of information about events in those countries than their own media. What Pravda and its eastern European counterparts do not tell their readers, or only partly or inaccurately tell them about events and issues in their own countries, RL and RFE do tell them.

By straightforward dissemination of the truth, carefully collected and honestly reported, the radios help to keep the Soviet and Eastern European media much more honest. And, Mr. Chairman, listeners to RL and RFE are significantly more likely to have more liberal views on important issues than their countrymen who do not listen to the radios. Audience research shows further that Radio Liberty reaches about 35–40 million Soviet listeners in a month—despite heavy jamming in major urban areas. In general the same is true of Radio Free Europe.

There are those who criticize these radios as remnants of the cold war—leftovers from the bad old days when the CIA was reportedly able to do whatever it liked whenever it liked. Well, the CIA certainly has no current connection with funding Radio Liberty or Radio Free Europe. That function is accomplished by the Board under congressional authorization procedures. And as for the question of whether we should broadcast at or to Communist countries in this way, I believe it is a simple and effective way to use the truth. The radios are the very least compliment we can pay a nation which insists on having its détente and eating it too—as the Soviets have done in mouthing platitudes about improving relations while intervening massively in Africa, and dangerously extending their influence farther away than the Russian Czars would ever have dreamed of doing. There is no doubt, Mr. Chairman, that we cannot afford to let up in our efforts to uphold the ideal of freedom of information just as vigorously as the Soviets uphold the ideal of supporting wars of "national liberation."

In this context, Mr. Chairman, I should mention that the radios are under a prolonged and vicious attack from the Communist media. One thing that the Soviets have been doing is apparently to pressure the Spanish Government to terminate Radio Liberty's lease on a crucial transmitter site in Catalonia, in Spain. It appears that the Spanish have been told that the transmitter site is an issue in the reestablishment of relations between Spain and the U.S.S.R. I hope that the Spanish Government weighs carefully the possible consequences of agreeing too readily to the Soviet position. Not only would this government be more disturbed than the Spanish might imagine, Spain's new government is in effect on trial before the rest of Western Europe. It would certainly appear as if the Government of Spain, which until recently has been most repressive of a free press, were cooperating with another such government to restrict further the freedom of information. I sincerely hope that the Spanish Government considers this possibility very carefully.

In conclusion, Mr. Chairman, I urge my colleagues to vote for H.R. 12262, and the broadcasting program it supports.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I also wish to note that the gentleman from Florida (Mr. FASCELL) who is handling this measure is one of our more modest Members of this body but he is recognized as one of our outstanding experts on Latin America. His skilled handling of this bill demonstrates as well his great knowledge in handling matters involving the U.S.S.R. as well as for Eastern Europe. I commend the gentleman for handling this bill so effectively.

I also commend the gentleman from New York (Mr. SOLARZ). He is a very young man but he has a profound approach to foreign affairs. With this kind of leadership from the Committee on International Relations our country in this world has only the brightest future.

Mr. Chairman, I rise on behalf of H.R. 12262. I applaud my colleagues for their effort on behalf of this very important authorizataion bill.

Mr. Chairman, I have a great concern about the fate of captive peoples throughout Eastern Europe, and especially in the Soviet Union. For this reason, I am most heartily in favor of continuing support for Radio Liberty and Radio Free Europe. Aside from supporting the ideal of freedom of information, which we believe in and the communists do not, we are affirming through the radios our support for the national identities of dozens of peoples in the communist world.

Since there have been recent reports that our latterday Metternich, Mr. Kissinger, has been toying with a grand design whereby the Soviet Union would incorporate Eastern Europe more extensively than the Czars ever dreamed of doing, this is a good and proper place to say that the Congress still upholds the rights of these peoples to be separate and distinct from the Soviet Union. Radio Free Europe and Radio Liberty will continue to broadcast to these peoples as long as I can persuade my colleagues to support them.

In this respect, Mr. Chairman, I should point out that Radio Liberty already has increased its programing to the Baltic State for broadcasting at least 6 hours daily in each of the three Baltic languages. This programing is the direct result of my efforts to that end last year, and I only hope that we can continue to reach each country of Eastern Europe as effectively.

Mr. Chairman, it is hard to convey the importance to the peoples of Eastern Europe of the broadcasts they hear over Radio Free Europe which provide them with information about their own societies then they get any other way. Recent attacks on Radio Free Europe by official media in Eastern Europe have become increasingly vitriolic. The exclusion of RFE correspondents from covering the Innsbruck Olympic games was another deplorable example of Communist pressure to stop RFE.

Mr. Chairman, it must hurt to hear the truth, or the Communists of Eastern Europe would not be afraid of straightforward reporting of sporting events. If these governments cannot stand for their peoples to know the full story of sports, how warped must they be about the daily, significant matters that control the lives of their peoples? In this immediate regard I should mention that there are already pressures at work to block RFE from covering the summer olympics in Montreal. If the Communists keep RFE out of the Montreal games, they will likely be able to keep the radios out of Moscow in 1980, which would be a loss. I sincerely hope, Mr. Chairman, that the International Olympic Committee regains some of the backbone it apparently lost at Innsbruck.

Mr. Chairman, I strongly urge my colleagues to vote for this authorization. I doubt there is anything else they could do which would have the same strengthening effect for the peoples of Eastern Europe, the Baltic States, and all the non-Russians in the Soviet Union. I also share the concern of my colleagues about the transmitter site in Spain, and I hope our Spanish friends will think twice about letting that lease expire. The Soviet Union is pressing the Spanish Government on this point. Another practical demonstration of their fear is Radio Liberty and Radio Free Europe, which clearly justifies the support we provide in this bill.

Ms. ABZUG. Mr. Chairman. Last week the House approved an authorization for the U.S. Information Agency and its Voice of America. Today we are asked to approve an authorization of $58 million for Radio Free Europe and Radio Liberty, and its Oversight Board.

In addition, the bill would ask the President to examine—and encourages—the prospects of expanding Radio Free Europe and Radio Liberty type broadcasting to additional countries.

The report accompanying the bill itself acknowledges that even on matters as straight-forward as the sharing of broadcasting facilities, "there remains very little cooperation among such U.S. Government broadcasters as—Radio Free Europe and Radio Liberty—the Armed Forces Network, and Radio in the American Sector of Berlin."

With funding being provided two additional radio services—Voice of America and the Armed Forces Radio and Television Service—reaching the same audiences as Radio Free Europe and Radio Liberty, there is a duplication of cost and programing.

There is also the matter of accountability. The content of Radio Free Europe and Radio Liberty broadcasts is loosely monitored, and the likelihood of programing which is deliberately provocative is high. I believe some of these broadcasts have been effective in some places—this has been particularly so for the efforts to get information to Jews in the Soviet Union. However, there is great need for remedying the problems raised before expending this money or expanding this program.

Mr. BROOMFIELD. Mr. Chairman, I rise on behalf of H.R. 12262. I think this program is an essential part of our policy toward the Soviet Union and its Eastern European allies. We have no alternative, in my estimation, to the continuance of every effort to bring the truth to these peoples about their own countries. Mr. Chairman, article 19 of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly, reads:

> Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference, to seek, receive, and impart information and ideas through any media and regardless of frontiers.

Few would disagree with this statement except leaders of societies which deal in program information for the general population. The Soviet Union is probably the leading example of such a society, and it is precisely for that reason that we continue to help the Soviet people know what actually transpires in their own country. The best proof we have that this is an effective program—this "home service"—is the great deal of money and time the Soviets spend to jam these broadcasts.

To the extent that we broadcast successfully to these closed societies, Mr. Chairman, and help their peoples know what is going on both in daily events and in the minds of their countrymen, we accomplish two things: we force the Communist media to discuss matters which they would otherwise ignore; and, we thereby make these societies that much more open.

Mr. Chairman, the importance of all this should not be underestimated. Soviet doctrine requires the U.S.S.R. to control carefully what its citizens know—this is a cornerstone of their Socialist society. And it is therefore a key point in their foreign policy as well. The Soviets point to the Helsinki accords and claim that we are contravening the accords by interfering in Soviet domestic affairs through Radio Liberty. Of course the same Helsinki accords include guarantees of freedom of exchange of ideas and people which they have ignored thus far. In any event, we have no obligation but to the truth. Not "socialist" truth; or "capitalist" truth, but the plain, unvarnished, honest truth, and it is my understanding that this is the message of Radio Liberty and Radio Free Europe.

In this connection, I might add that I am concerned about reports that the Spanish Government is reluctant to renew the lease on Radio Liberty's transmitter site in Catalonia. In my opinion, it would be an unfortunate step for the Spanish to take, especially since they are seeking vigorously to join the Western European community as a respected member.

Certainly giving in on this issue to pressure from a country which has no freedom of the press could only reveal a certain lack of commitment to that ideal. I hope, Mr. Chairman, that the new Government of Spain does not underestimate the significance of this issue to its relations both with us and with the rest of Western Europe. And, I hope that a solid vote here today will indicate our concern over this question.

Mr. Chairman, for these reasons, I heartily applaud my colleagues from the Political and Military Affairs Subcommittee, in bringing this bill to the full Committee on International Relations and to the floor of the House. I intend to vote for H.R. 12262 and urge the rest of my colleagues to vote for it also.

Mr. WINN. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(b) of the Board for International Broadcasting Act of 1973 is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking out "seven members, two of whom shall be ex officio members" and inserting in lieu thereof "six members, one of whom shall be an ex officio member", and

(B) in the fourth sentence, by striking out "the chief operating executive of Radio Liberty shall be ex official members" and inserting in lieu thereof "Radio Liberty shall be an ex officio member";

(2) by amending paragraph (4) to read as follows:

"(4) TERM OF OFFICE OF THE EX OFFICIO MEMBER.—The ex officio member of the Board shall serve on the Board during his term of service as chief operating executive of Radio Free Europe and Radio Liberty."; and

(3) in the third sentence of paragraph (5), by striking out "Ex officio members" and inserting in lieu thereof "The ex officio member".

(b) Section 3 of such Act is further amended by adding at the end thereof the following new subsection:

(c) The Board may, to the extent it deems necessary to carry out its functions under this Act, procure supplies, services, and other personal property, including specialized electronic equipment.".

(c) Paragraph (8) of section 4(a) of such Act is amended—

(1) by striking out "30th day of October" and inserting in lieu thereof "31st day of January"; and

(2) by striking out "June" and inserting in lieu thereof "September".

(d) Section 8 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 8. (a) There are authorized to be appropriated to carry out the purposes of this Act for fiscal year 1977—

"(1) $58,385,000, of which $5,000,000 shall be available only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of downward fluctuations in foreign currency exchange rates, in order to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

Amounts appropriated under this section are authorized to remain available until expended.

"(b) The Director of the Office of Management and Budget shall place in reserve any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty.".

SEC. 2. Not later than January 31, 1977, the President shall submit to the Congress a report—

(1) recommending steps to be taken to utilize more effectively the transmission facilities for international broadcasting, both existing and planned, of the United States Government;

(2) examining the feasibility of greater cooperation with foreign countries to insure mutually efficient use of nationally owned transmission facilities for international broadcasting;

(3) containing a comprehensive outline of projected needs for United States international broadcasting operations based on anticipated language requirements and anticipated cooperation among the various agencies of the United States Government involved in international broadcasting; and

(4) recommending steps which should be taken to extend broadcasting operations similar to those carried out under the Board for International Broadcasting Act of 1973 to additional countries where access to information is restricted by the policies of the governments of such countries.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to the bill? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12262) to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas, broadcasting facilities, pursuant to House Resolution 1108, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLANCY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 70, not voting 75, as follows:

[Roll No. 141]

YEAS—287

Abdnor
Adams
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bergland
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burton, Phillip
Butler
Byron
Carney
Carter
Cederberg
Chappell
Clancy
Clay
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
D'Amours
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derwinski
Devine
Dickinson
Diggs
Dodd
Downing, Va.
Duncan, Oreg.
du Pont
Edwards, Ala.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gude
Hagedorn
Hall
Hamilton
Hanley
Harris
Harsha
Heckler, Mass.
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Jarman
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krueger
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Roncalio
Rooney
Rose
Roush
Roybal
Ruppe
Ryan
St Germain
Scheuer
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Whalen
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—70

Abzug
Archer
Bafalis
Bedell
Bennett
Blouin
Brinkley
Brodhead
Brown, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Carr
Clawson, Del
Collins, Tex.
Conyers
Cornell
Crane
Daniel, Dan
Derrick
Downey, N.Y.
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Evans, Ind.
Goodling
Gradison
Grassley
Haley
Hannaford
Hansen
Harkin
Hays, Ohio
Hechler, W. Va.
Hefner
Hutchinson
Jacobs
Jenrette
Johnson, Colo.
Kastenmeier
Krebs
McDonald
Miller, Calif.
Mitchell, Md.
Moffett
Myers, Pa.
O'Brien
Pattison, N.Y.
Poage
Quillen
Rangel
Rogers
Rousselot
Runnels
Russo
Satterfield
Schroeder
Seiberling
Shuster
Stark
Steiger, Ariz.
Studds
Symms
Weaver
Whitten
Young, Alaska
Young, Fla.

NOT VOTING—75

Addabbo
Alexander
Andrews, N.C.
AuCoin
Badillo
Barrett
Bell
Biester
Bowen
Breaux
Buchanan
Chisholm
Clausen, Don H.
Cleveland
Daniels, N.J.
Dellums
Dingell
Eckhardt
Erlenborn
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Ford, Tenn.
Green
Guyer
Hammerschmidt
Harrington
Hawkins
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holland
Howe
Hyde
Ichord
Johnson, Pa.
Jones, Ala.
LaFalce
Landrum
Lehman
Litton
McClory
McCloskey
McCollister
Macdonald
Martin
Melcher
Metcalfe
Mezvinsky
Mollohan
Moorhead, Pa.
Neal
Nix
Nolan
Pepper
Peyser
Riegle
Roberts
Rodino
Rosenthal
Rostenkowski
Santini
Sarasin
Sarbanes
Stanton, James V.
Steelman
Stokes
Udall
White
Wiggins
Wilson, Tex.
Wolff
Wright

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Melcher.

Mr. Dominick V. Daniels with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. Hammerschmidt.

Mr. Pepper with Mr. White.

Mr. Rodino with Mr. Bell.

Mr. Barrett with Mr. Ichord.

Mr. Badillo with Mr. Heinz.

Mr. Rostenkowski with Mr. Buchanan.

Mr. Nix with Mr. Hyde.

Mr. Macdonald of Massachusetts with Mr. Landrum.

Mr. Rosenthal with Mr. Roberts.

Mrs. Chisholm with Mr. Sarasin.

Mr. James V. Stanton with Mr. Don H. Clausen.

Mr. Sarbanes with Mr. Eckhardt.

Mr. LaFalce with Mr. Johnson of Pennsylvania.

Mr. Breaux with Mr. Erlenborn.

Mr. Mezvinsky with Mr. Dellums.

Mr. Green with Mr. Wiggins.

Mr. Moorhead of Pennsylvania with Mr. Esch.
Mr. Nolan with Mr. Martin.
Mr. AuCoin with Mr. McClory.
Mr. Alexander with Mr. Jones of Alabama.
Mr. Bowen with Mr. Eshleman.
Mr. Mollohan with Mr. Evins of Tennessee.
Mr. Litton with Mr. Wright.
Mr. Howe with Mr. Udall.
Mr. Ford of Michigan with Mr. McCloskey.
Mr. Dingell with Mr. Lehman.
Mr. Ford of Tennessee with Mr. Metcalfe.
Mr. Hayes of Indiana with Mr. Neal.
Mr. Hawkins with Mr. Peyser.
Mr. Riegle with Mr. Santini.
Mr. Stokes with Mr. Charles Wilson of Texas.
Mr. Wolff with Mr. Biester.
Mr. Harrington with Mr. Guyer.
Mr. Holland with Mr. McCollister.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FUTURE OF U.S. POSTAL SERVICE CAUSES CONCERN

(Mr. HANLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, deep concern prevails about the future of the U.S. Postal Service. Incumbent upon all of us in the Congress is the necessity that each of us develop a broad background on the service and its problems in the hope that the Congress will constructively contribute to the solution of the problems of this institution.

This morning, in my hometown newspaper, the Syracuse Post Standard, I read a rather interesting letter to the editor, authored by Edward S. Banick. I commend its reading to my colleagues.

The letter follows:

POSTAL SERVICE NEEDS SUBSIDY

To the Editor:

Your editorial of March 22, supporting Senator Buckley's proposal and the accompanying editorial cartoon, show just how far off base a newspaper can be when it prints news that is second-rate at best.

The Post Office Department was conceived by its original Postmaster General, Benjamin Franklin, to be a great communications network among America's citizens.

Contrary to what you read and hear, it still is and will remain so, just as long as the profit lobbyist pushing for its extinction can be kept at bay.

It is popular as of late to knock down, drag out and otherwise chastise the Postal Service for reasons of waste and inefficiency. The Postal Corporation was making good strides until the bust of 1973–1975 and its inflationary partner moved in. Any company losing money during a bad period such as this would just continually raise prices and wait for better days. But when the Post Office has to do the same, outcries burst out from every corner of the nation.

If you compare the cost of doing business with the Postal Service with other types of services, you will find that the postage stamp at 13 cents has risen only four times since the depression, whereas everything else in general is much, much higher.

If anybody should believe that private mailers taking over first class mail will do a better job at lower cost, he is sadly mistaken. Sure, he will take the cream, such as one parcel delivery firm has done, and leave the rest for the Post Office.

Where in the world would you find profit-motivated people desiring to serve all people in the United States six days a week, every week of the year? This couldn't be done successfully by anybody, without the aid of money from the U.S. Treasury.

Uncle Sam owes something to his nephews and nieces, especially since they pay their fair share of taxes. If we are to eliminate the Postal Service, the only government agency to come in contact with the people every day, then why not eliminate the Army, the Navy, the thousands of government services paid by your tax dollars? How many of them show a profit?

The Post Office is needed. It is vital. It cannot and should not be replaced. The people must rely on their government for protection. They must have a guarantee that communications among its citizens shall not be left in the hands of those who might choose to turn it off and on at their own discretion. The sanctity of the mails would be no more. We cannot allow strangers to tamper with our mail. It must be preserved.

Postal employes work with diligence and integrity. They go all out to assure that your mail is delivered, and in all but a few instances, overwelmingly delivered on time. Get behind them, support them, give them assurance. Raise your voices loud and clear.

Your hometown street without a mailman? Never!

EDWARD S. BANICK,
President, Gen. Dwight H. Bruce Branch 134, National Association of Letter Carriers.

SYRACUSE.

CONSIDERATION OF FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

(Mr. THOMPSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. THOMPSON. Mr. Speaker, this week the House will consider H.R. 12406, the Federal Election Campaign Act Amendments of 1976. In preparing for debate of the matter, the Members of the House will undoubtedly wish to consider the following letter by Mr. BRADEMAS and myself:

When the House considers the Federal Election Campaign Act Amendments of 1976, a principal issue will be amendments governing the nature of political fundraising activities permitted to corporations and labor unions.

The 1972 Federal Election Campaign Act permitted corporations and labor unions to organize political action funds (PACs) for the purpose of supporting candidates for Federal office.

The purpose of this provision of the 1972 law was to allow corporations and labor unions to join with their stockholders or members in the expression of views involving a commonality of interest. As Congressman Orval Hansen, sponsor of the pertinent amendment said on the floor of the House:

"The amendment . . . (was) designed to recognize the fact that a stockholder or a union member exists in two capacities: in his individual capacity with his own individual views and his capacity as a member of an organization that has interests as an organization."

The legislative history of the 1972 Act made clear Congress' intent that corporations might solicit only their stockholders, and labor unions only their members, for contributions to such funds.

Moreover, when Congress in 1974 imposed a $5,000 limit on contributions from any one PAC to any one candidate, Congress again sought to make clear that a corporation or labor union may establish only one PAC. Otherwise, of course, the $5,000 limit could easily be evaded by a corporation or union merely by setting up multiple PACs.

Notwithstanding the clearly articulated intent of Congress, the Federal Election Commission late last year announced in an "advisory opinion" issued at the request of the Sun Oil Company that corporations will be permitted to solicit political contributions from all of its employees as well as its stockholders.

In another "advisory opinion," issued for a milk producers PAC, the FEC also indicated that it would not prevent either corporations or labor unions from establishing as many PACs as they wish and that under certain circumstances each PAC would be treated as an entirely separate entity for purposes of the $5,000 contribution limitation.

Thus the carefully crafted system through which Congress intended to allow reasonable expression of political views by corporations and labor unions was completely overturned.

Reaction to the FEC's decisions has not been slow. Dozens of major and middle sized corporations throughout the nation quickly established PACs and began soliciting contributions from all of their employees, including wage and hourly workers, the employees most vulnerable to pressure.

Just since January 1, 1976, no less than 275 corporations have organized political action committees, a number unprecedented in the history of American elections. A list of some of these corporations is attached.

The bill to be considered by the House next week restates the original intent of Congress that corporations may solicit contributions *only* from their stockholders and managerial employees, and labor unions *only* from their members.

Moreover, the bill firmly states that both labor unions and corporations may each establish *only one* PAC, and that each PAC may contribute no more than $5,000 to a candidate it wishes to support.

These are reasonable restrictions which comport with the rationale Congress originally approved as justifying limited political spending by corporations and labor unions in Federal elections.

We believe that these provisions of the bill are absolutely essential if the integrity of the electoral process is to be maintained. We do not argue with the suggestion that both corporations and labor unions may properly be accorded the right to participate to a limited degree in political fundraising. We think it imperative, however, that such participation be reasonable and carefully circumscribed to prevent abuse.

We urge your support for these most important provisions of the bill.

Best wishes.

Sincerely,

FRANK THOMPSON, Jr.,
Member of Congress.
JOHN BRADEMAS,
Member of Congress.

NEW POLITICAL ACTION COMMITTEES FILED WITH THE FEDERAL ELECTION COMMISSION SINCE JANUARY 1, 1976 (PARTIAL LIST)

General Telephone Company of the Southwest.
NN Corporation.
Idaho Bank & Trust Company.
Heublein, Inc.
Northwest Bancorporation.
Amway Corporation.
Magazine Publishers Association.
Land Improvement Contractors of America.
PPG Industries, Inc.
Bendix Corporation.
Valley Line Company.
Amsted Industries, Inc.
Getty Oil Company.
Westinghouse Electric Corporation.
Carter Hawley Hale Stores, Inc.
National Oil Jobbers Council
Colonial Stores, Incorporated.
Oklahoma Bankers Association.
Stauffer Chemical Company.
Winn-Dixie Stores, Inc.
Kansas City Life Insurance Company.
Dow Chemical USA, Western Division.
Dominion Bankshares Corporation.
Household Finance Corp. & Subsidiaries.
The Budd Company.
National Steel Corporation.
Pittsburgh National Bank.
Square D Company.
MAPCO, Inc.
Container Corporation of America.
Watkins-Johnson Company.
McDonnell Douglas Corporation.
Litton Industries, Inc.
Potlach Corporation.
Halliburton, Inc.
Enserch Corporation & Subsidiaries.
First International Bancshares, Inc. & Subsidiaries.
Peoples Natural Gas Company.
Alton Box Board Company.
AMERCO & Subsidiaries.
Wheeling-Pittsburgh Steel Corporation.
R. R. Donnelly & Sons Company.
American Feed Manufacturers Assoc., Inc.
True Oil Company.
Fluor Corporation & Subsidiaries.
Bessemer and Lake Erie Railroad Company.
Commercial Security Bancorporation.
Lone Star Steel Company.
Zale Corporation.
The Mead Corporation.
National Can Corporation.
Mead Corporation.
Anheuser-Busch Corporation.
Koppers Company, Inc.
Ansarco, Inc.
Safeco Corporation.
Gulf Resources & Chemical Corporation.
Indiana Motor Truck Association, Inc.
Tysons Food, Inc.
Union Carbide Corporation.
Glendale Federal Savings & Loan Association.
Oregon Bankers Association.
Nuclear Fuel Services, Inc.
Carolinas Branch-The Associated General Contractors of America, Inc.
National Pac Management Group, Inc.
Rockwell International Corporation.
National Consumer Finance Association.
Omaha National Bank.
First Wisconsin Corporation.
Martin Tractor Company of Topeka, Kansas.
Flowers Industries, Inc.
Leolock, Inc.
Skelly Oil Company.
American Family Corporation & Subsidiaries.
City Service Company.
Dowell Division of Dow Chemical Company.
Sears, Roebuck & Co. & Subsidiaries.
The Quaker Oats Corporation.
AMAX, Inc.
Grumman Corporation.
Bristol-Meyers Company.
Franklin Electric Company, Inc.
Owens Illinois Inc.
Paccar, Inc.
Piggly Wiggly Southern, Inc.
Armco Steel Corporation.
Associated Builders & Contractors Inc. of Michigan.
L. M. Beery and Company.
National Machine Builders Tool Association.
Kerr-McGee Corporation.
Ciba-Geigy Corporation.
Rexford, Inc.
Marathon Oil Company.
Continental Oil Company.
Cabot Corporation.
Republic Steel Corporation.
Eaton Corporation.
Employes Reinsurance Corporation.
United Technologies Corporation.

LAUDS RULES COMMITTEE

(Mr. WAMPLER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, on March 23, the House Rules Committee met to consider whether or not to grant a rule to the bill H.R. 9725 to regulate surface coal mining operations.

In my view, the Rules Committee's decision to table H.R. 9725 and not grant this rule was a judicious action for several very important reasons.

First, this bill, if enacted into law, would have seriously reduced surface coal mining in Appalachia, wherein lie some of the world's richest veins of high Btu steam coal used to power electricity generating plants. Additionally, the Appalachian area contains approximately 80 percent of the world's reserves of high-grade metallurgical coal, used in the production of high-alloy steel.

Mr. Speaker, we do not need to reduce production of steam coal, we need to more than double it to provide an alternative to the use of high-cost imported oil, which is keeping the cost of electricity to consumers unconscionably high. Consider the fact, Mr. Speaker, that imported Arab oil cost twice as much as comparable Btu amounts of Appalachian coal on the present U.S. market. Further, Mr. Speaker, according to the U.S. Bureau of Mines, coal production in the United States in 1975 barely exceeded that produced in the previous year, and this year's figures show no significant change in increased production.

I would like for my colleagues to also consider the fact that, during the week of March 8, just passed, our country, for the first time in our history, imported more expensive foreign oil than we produced domestically. At this point, I would like to insert the following news item from page A–6 of the Washington Star of March 18, 1976, in the RECORD.

MORE OIL IMPORTED THAN PRODUCED

The United States last week imported more oil than it produced for the first time in history even though Americans are demanding less oil now than they did before the Arab oil embargo.

The figures, released yesterday by the American Petroleum Institute and confirmed by the Federal Energy Administration, show domestic production continuing a six-year decline and U.S. imports rising to record levels to meet demands that nevertheless are 2 million barrels per day below their peak level before the 1973 embargo.

The industry institute said total imports last week rose to 8,196,000 barrels a day. Domestic production, meanwhile, came to 8,013,500 last week, the API said. Imports now comprise 45 percent of the oil used in the United States. Last year they accounted for 30 percent, the API said.

No wonder consumers have high electric bills, no wonder energy costs are up, and we have unemployed Americans.

Obviously, Mr. Speaker, H.R. 9725, as I have stated before, would reduce coal production, increase the importation of Arab oil, and increase the costs of electricity to consumers.

In the second instance, the House should thank the Rules Committee for its stand against reporting this twice-rejected bill. By tabling the bill, adverse action is precluded by the same groups that lobbied the Congress and filed suits in the courts several years ago during the Alaskan oil pipeline debate. As many of my colleagues will remember, progress to meet our country's energy needs was effectively tied in a knot for over 5 years over granting one, single permit to begin construction of the Alaskan oil pipeline by the same lobbyist. As many of my colleagues will also remember the Congress had to take drastic legislative action to break that logjam and permit construction of this much-needed energy project for the benefit of all of our people. On the other hand, had the Rules Committee acquiesced to the demands of the proponents of H.R. 9725, we could have authorized these same groups to tieup, not one permit, but, thousands of coal-production permits in the courts or in lengthy administrative procedures throughout the coal-producing areas of our country.

In this regard it does not require a very large crystal ball to visualize the impact of this bill on our economy, especially in Appalachia. The result could have been bankruptcy for many of our coal operators, loss of jobs to thousands of surface coal miners, higher coal costs, more foreign oil imports, and the working man—or woman—and the consumers would have again had to bear the brunt for higher cost electricity and other consumer goods for the folly of a few.

Lastly, Mr. Speaker, the Rules Committee's action to table further consideration of this bill in this Congress was a responsible and a reasonable decision. It makes good sense not to burden the House again with a matter it has already rejected. While the basis for the motion for the tabling action was not explicitly grounded on the rule in Jefferson's Manual that—a matter once rejected cannot again be brought before the same Congress, however, that rule was discussed as a basis for the motion to table, and the motion to table did carry.

Now, Mr. Speaker, I understand there is talk that a motion to discharge the Rules Committee on this matter will soon be offered by the proponents of H.R. 9725.

I trust, Mr. Speaker, such a motion will not be offered. Such an action can only waste the time of the House. It can only result in a futile march up the hill and down the hill for all of us. The opponents of this legislation, conscious of our energy predicament, have grown since the House sustained the President's veto on the same legislation last session.

Instead, I propose the proponents of legislation to impose stiff regulations on surface coal mining reassess their position and truly seek to effect a compromise that will not only adequately protect our environment, but, which will also meet the energy and employment needs of all of our people.

A COMMENTARY BY WALTER CRONKITE ON KISSINGER, CONGRESS, AND U.S. FOREIGN POLICY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of a most thoughtful commentary by Walter Cronkite on the CBS radio network on February 11, 1976 on the subject of the relationship between Congress and the executive branch in American foreign policy.

The statement follows:

> Testifying last month before a Senate Foreign Relations subcommittee, Secretary of State Henry Kissinger argued the necessity of the United States having a unified, overall foreign policy concept, and he suggested that the Administration is better able to originate and implement such a concept than an often factionally fractured Congress. In his remarks, Kissinger put his finger on the heart of the current debate over foreign policy. What kind of role do we want to play in the world, and who is to make that decision? Those questions clearly and appropriately are going to be major issues in Campaign '76.
>
> Since his recent Senate testimony, Henry Kissinger has been taking his message to the public. From Washington to San Francisco, he's been hammering home his principal themes, that Congress must not tie the Administration's hands in dealing with foreign policy matters, and that an effective foreign policy requires a strong, national government which can act with assurance and speak with confidence on behalf of all Americans. (End quote.) But there's the rub. Since the traumatic experience of Vietnam, it's unlikely that any person or any conceivable government can make major foreign policy decisions in secret and speak with confidence on behalf of all Americans. Only if we're able to arrive at some kind of national consensus on what Kissinger calls an overall concept of our foreign policy goals can a government acquire such confidence. And clearly, a national consensus cannot be obtained on a policy drawn up in the White House and the State Department and stamped Top Secret.
>
> Kissinger's current frustrations, such as in the Angolan affair, would seem to stem from the fact that successive Administrations, on their own, have been pursuing foreign policy goals which many Americans do not agree with, and have been trying to implement an overall concept that many either do not understand or, worse, reject.
>
> That's been the case from our early involvement in Indochina to our efforts to overthrow the Chilean government of the late Salvador Allende, to CIA plots to assassinate foreign leaders. And many Americans who are deeply opposed to Communist dictatorships also are opposed to this country's habit of propping up dictatorships of the Right. The Secretary of State undoubtedly is correct when he insists that the Legislative Branch by its very nature is not competent to conduct the nation's foreign policy, certainly not on the operational level. But it also is apparent that the Administration is not going to be able to conduct this nation's foreign affairs competently until it gets the agreement of Congress and the people to its basic goals. Kissinger, for instance, has been arguing for American involvement in Angola's civil war, because the Russians and the Cubans are meddling there.
>
> Congress so far isn't buying that, however—Senator Dick Clark saying he detects a revulsion against a United States role as the world's policeman.
>
> Now, of course, as an absolute, that position could be dangerous. Is there no conceivable situation in which in its own interests or in the interests of international morality the world's most powerful nation should adopt the role of policeman?
>
> Kissinger concedes that his present frustrations stem at least in part from previous foreign policy excesses of the Executive Branch. But he argues that now the pendulum has swung too far the other way. He may be right there, too, but before the pendulum returns to a center position, we're going to have to reach a consensus on who we are and what we want to be about in this world. That's why the debate over foreign policy should be a top priority in the on-going Presidential campaign.

HOUSE JOINT RESOLUTION 606, TO CALL FOR A CONVENTION OF THE ATLANTIC STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, tomorrow the House will be considering House Joint Resolution 606, to call for a convention of the Atlantic States. I will be offering an amendment to the preamble to protect the sovereignty and autonomy of the United States.

I support the resolution as a vehicle to strengthen our faltering NATO alliance. However, there has been a great deal of apprehension over this resolution, many have felt that it would cause the United States to lose its political and economic autonomy. I can appreciate these concerns and am offering this amendment to insure that our sovereignty is preserved and to allay any fears or misconceptions that it might be abrogated.

This has been accepted by both Mr. FRASER and Mr. FINDLEY. It is my hope that in meeting this major criticism of the convention we can allow it to go forward with the work of strengthening the Atlantic Alliance.

This need has never been more apparent. Our economic and monetary systems require greater harmonization to foster increased employment among our trading partners in the Atlantic community. The major problem of inflation, for example, requires the coordinated reflection and cooperation of many nations.

The problems of world energy supply and control of the spread of nuclear materials and technology, not to mention the defense of the West's democracies, require a greater integration of equipment to reduce costs and likewise a better integration of strategies than existing institutions have been able to produce.

Mr. Speaker, in an increasingly interdependent world greater cooperation among the industrialized nations of the West is vital. My amendment will allow the United States to explore avenues of cooperation and exchange while insuring that we maintain our own sovereignty and autonomy in the process.

DEBT COLLECTION HEARINGS BEGIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, Tuesday the Consumer Affairs Subcommittee which I chair, will begin hearings on a bill which would put an end to unethical collection practices among professional debt collection agencies—the Debt Collection Practices Act (H.R. 11969).

A former debt collector, who agreed to testify only if his identity would be protected, will be the lead-off witness for this first 10 a.m. session in room 2128 of the Rayburn House Office Building.

"Mr. Clark," as we will call him, will tell of the harassing and often brutal formula which he and those he worked with found most successful in getting money from people: Badgering, name calling, pressuring relatives, using invalid legal documents, and terrorizing consumers with death threats. At one time or another, Clark and his coworkers used them all with the active participation of some of the supposedly most ethical professional citizens in the community.

Clark was not even concerned that the debts were legitimately owed. All he needed was a name and an amount in order to set out on the trail of a consumer.

Mr. Clark's testimony will be followed Tuesday by two Chicago Tribune reporters who obtained jobs as debt collectors and then wrote a series on the collection business in Chicago. Theirs is also a story of the relentlessness with which many collectors go after their victims, rarely deadbeats, but well-intentioned people who mean to pay and, therefore, are more susceptible to threats or false subpenas.

Wednesday, five consumers will explain their personal experiences with debt collectors. They have been unfairly treated by collectors who used harassment and false representations to get them to pay. Particularly unfortunate are the stories of three of these witnesses who never even owed any money. Somewhere a computer error or a similarity in names caused the individual to be the subject of a completely unwarranted attempt to collect.

With an estimated $3 billion worth of debts turned over to debt collection agencies each year, there is a dire need for the enforceable guidelines provided by the Debt Collection Practices Act. Thirteen States have no debt collection statutes at all, leaving over 40 million people totally unprotected. Of the States which do have laws, too many are weak and State officials do not do an effective job of enforcing them. Federal legislation is also needed because interstate collection is totally unregulated and there are no uniform penalties.

The Debt Collection Practices Act would protect consumers from intimidation by prohibiting such practices as using phony credentials, making telephone calls without disclosing the caller's true identity, threatening the consumer with imprisonment for failure to pay, using documents that simulate the form and appearance of judicial process, obtaining information from any source about a consumer through false representation, contacting a consumer's employer or neighbors other than as permitted, and using threats of violence.

H.R. 11969 does not seek to put an end to the debt collection business. Legitimate debts must be paid, but with the consumer protection provided under this act, the business of collecting these debts will be done only in a reasonable and ethical manner.

The Debt Collection Practices Act will continue on April 13, 14, and 15 when Federal and State public officials, consumer representatives and spokesmen from the debt collection industry will be heard.

All sessions will begin at 10 a.m. in room 2128 of the Rayburn House Office Building.

WE MUST SEPARATE THE NUCLEAR WEAPONS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, during the 93d Congress, the House was presented with authorization and appropriation bills for the Energy Research and Development Administration for the current fiscal year. This bill contained funds for both peaceful and military uses of nuclear energy. During the debate on these bills, many Members voiced objections to the fact that over $1 billion for nuclear weapons was included in the budget of an agency whose primary responsibility was the development of new, and supervision of, existing sources of energy. More than 100 Members of the House supported an amendment which I offered to delete the weapons funds from the ERDA authorization. Many of those who did not vote for the amendment, as well as those who did, indicated that separate legislation, apart from the ERDA authorization for energy, would be more appropriate for the $1 billion of nuclear weapons testing and development requested by the administration.

Many of those opposing the amendment last year contended that a time factor prevented a separation of the weapons and energy programs at that point, but that it would be appropriate for the 1977 fiscal year. Separate legislation covering the nuclear weapons program alone would allow for a reasoned debate on the extent of the need for these weapons, rather than subordinating that debate to the consideration of the overall ERDA authorization—an authorization which focuses essentially on peaceful energy development.

Once again the ERDA authorization has submitted its request in a package form, combining these diverse peaceful and military issues. If the Joint Atomic Energy Committee again reports out one conglomerate bill, the opinions expressed by many Members during last year's debate will be ignored. We will again have to deal with these issues in concert, without an adequate debate of the nuclear weapons question. This would prevent us from giving the close scrutiny and evaluation each of these programs requires.

I have prepared a letter to the chairman and cochairmen of the Joint Atomic Energy Committee urging that these issues be placed in separate legislation. An explanation has been circulated to Members asking them to cosign this letter. I call upon all those seeking to have the nuclear weapons issue dealt with appropriately to cosign this letter.

CONGRESSMAN DRINAN SHARPLY CRITICIZES THE ADMINISTRATION: ALLEGES CURB ON WIRETAPPING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, on Tuesday, March 23, 1976, Chairman RODINO and seven other Members of the House introduced H.R. 12750, a bill to authorize the use of electronic surveillance to obtain "foreign intelligence information." Senator KENNEDY has also introduced it—with some reservations. The Department of Justice prepared this bill and it has the approval of President Ford, as Mr. Levi's March 17 letter to Congressman KASTENMEIER states.

At first glance I was happy to see that the administration had finally accepted the idea that court orders must be obtained to secure foreign intelligence information through electronic surveillance. For the past several years, the Department of Justice and the White House have steadfastly opposed any legislation which would require that court approval first be secured before engaging in electronic surveillance in so-called national security cases.

Upon further examination, however, I discovered that the scope of the bill is indeed very narrow and in fact does very little to restrict the use of wiretapping and other electronic devices to secure foreign intelligence information. Unlike the basic wiretap statute—18 U.S.C. 2510–2520—this new proposal does not prohibit anything: it merely sets forth some rules to govern the obtaining of court orders in a limited area of foreign intelligence. And even in that limited area of regulation, it does not even require that the Government must follow the procedures described in the bill in every case to which they apply. Thus, in my judgment, this bill is totally ineffective and will do little, if anything, to prevent continued Government surveillance of citizens in the name of national security.

Mr. Speaker, let me describe in detail the reasons for my conclusion. I begin with the last section of the bill. It states:

> Nothing contained in this chapter shall limit the constitutional power of the President to order electronic surveillance for the reasons stated in section 2511(3) of Title 18, United States Code, if the facts and circumstances giving rise to such order are beyond the scope of this chapter.

Section 2511(3) is the broad, open-ended reservoir of presidential authority which allows the Chief Executive to do pretty much what he pleases by way of electronic surveillance and other activities in the area of national security.

Section 2511(3) of the wiretap statute is the provision which was much debated during the Senate hearings on the Watergate matter. We should recall particularly the exchanges between Senator Ervin and John Wilson, the attorney for John Erlichman, regarding the scope of this section. Mr. Wilson argued that this provision authorized the illegal breaking and entry into the office of Daniel Ellsberg's psychiatrist, an offense for which Mr. Erlichman has been convicted. There is very little electronic surveillance that could not be justified by a President who wished to exercise the powers recognized under this section.

That in part, Mr. Speaker, is why several bills have been introduced which would repeal section 2511(3). Indeed the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of which I am a member, has held hearings on several of these bills. Congressman KASTENMEIER's bill (H.R. 141), Congressman MOSHER's proposal (H.R. 214), and my bill (H.R. 1603) all would repeal section 2511(3). Thus it is rather dismaying to note that both Congressman KASTENMEIER and MOSHER are cosponsors of this new administration bill, H.R. 12750, which would continue the unbridled power of the President under section 2511(3). The continued recognition of that authority alone is sufficient for me to oppose this bill.

But there are other grounds for opposition. I mentioned earlier that the bill does not prohibit any of the forms of surveillance which have been revealed over the past few years. Under this bill and in the name of national security, the executive agencies could continue the interception of international communications, of conversations of citizens traveling or residing abroad, and of exchanges between citizens and agents of foreign governments—even if the conversation is merely a call to a local embassy for tourist information—not to mention break-ins of the kind for which Mr. Helms has escaped liability.

In the absence of any section which prohibits these activities, we have no assurance that this bill would effectively protect the privacy of citizens who happen to engage in activities which the Government deems must be monitored in the interest of national security. I invite the drafters and sponsors of this bill to show me where, in any of its sections, the bill forbids the nefarious practices with which we are all too familiar. And we must keep in the mind the catch-22 section at the end of the bill which continues the presidential authority to conduct any electronic or other surveillance he deems necessary to protect the national security.

In the absence of a prohibitory section and with the presence of the open-ended last section of the bill, I am at a loss to know what, if anything, the bill restricts. Although it purports to regulate electronic surveillance to gather foreign intelligence information, no where does the bill require executive officials to apply for a court order pursuant to the bill every time they desire to engage in such surveillance. And the bill says nothing about the gathering of national security intelligence which does not fall within the definition of "foreign intelligence information" contained in the bill.

In view of these major deficiencies, it seems somewhat futile to analyze the specific parts of H.R. 12750. However, in the event the bill gains more support than I would hope, I wish to comment on other inadequacies in the proposal. First, the definitions of "foreign intelligence information" and "foreign power" are much too broad. For example, the definition of "foreign intelligence information" includes any information considered essential "to the conduct of the foreign affairs of the United States." Section 2521(b) (3) (ii). That definition has virtually no limits. There are many topics of conversation which Secretary Kissinger would find essential to the conduct of foreign affairs.

The definition of foreign power is also very expansive. It includes, among others, "foreign governments, factions, parties, and military forces." This means that a conversation between an American citizen and an officer or employee of a foreign political party is potentially a subject for surveillance. The reach of that definition is far too extensive.

Furthermore, the application for a court order does not require that the Government specify the name of the person who is the subject of the surveillance. It requires only a "characterization of the person." Section 2524(a) (3). Thus the Government may withhold from the judge the name or names of the persons sought to be covered. Additionally, the bill allows the judge to continue that concealment in the court order, which only requires the judge to specify "a characterization of the persons targeted by the electronic surveillance." Section 2525(b) (1) (i).

In addition, the bill contains only vague and inadequate provisions relating to "minimization," the overhearing of conversations unrelated to "foreign intelligence information." The proposal merely requires the Government to advise the judge of what steps it will take to minimize such intrusions. Experience under present law demonstrates the inadequacy of such provisions. The statute should specify the necessary measures to be imposed to minimize unnecessary invasions of privacy. At a minimum, the Attorney General should be authorized to promulgate minimization regulations, applicable in all cases.

But the most serious deficiency in the minimization area is that the bill does not limit the use of conversations overheard unrelated to the purpose of the surveillance. Section 2526(b) of the bill states:

> The minimization procedures required under this chapter shall not preclude the retention and disclosure of non-foreign intelligence information acquired incidentally which is evidence of a crime.

When Government agents obtain evidence of crime through electronic surveillance not intended for that purpose and totally unrelated to the nature of the alleged criminal activity, they should not be allowed to use it for prosecutorial purposes. Such "fruit of the forbidden tree" should not be available for use at trial or for other purposes.

In this same vein, the bill makes no provision for notifying innocent persons whose conversations have been recorded merely because, for example, they called the embassy of a foreign country for travel information. Any time these "foreign intelligence" taps result in the interception of conversation unrelated to the subject of the surveillance, the innocent victim should be notified, or the records destroyed, or both. In fact the bill does not mandate any destruction of data or recordings which are worthless or unrelated to the purpose of the surveillance.

In this context, the bill should provide for a public advocate to protect the rights of innocent parties. Since the proposal allows ex parte applications and allows ex parte extensions of existing taps, some mechanism is necessary to protect the rights of third parties who are unwittingly caught in the Government's dragnet surveillance. If such an office were established, I would have greater confidence that the privacy of citizens would be secured more fully.

A provision for a public advocate takes on added importance when the "renewal" features of this bill are examined. The Government may seek an unlimited number of 90 day extensions for any surveillance authorized under the bill. Thus the intrusion could go on for years. The bill also authorizes the Attorney General to approve emergency taps when a court order cannot be obtained in the period of time necessary. He must then submit the normal application to the judge within 24 hours.

If the judge denies the application, the bill gives the court the discretion to notify the innocent victims of the initial 24-hour surveillance. But the Government, at an ex parte proceeding, may request that such notice be postponed for 30 days. Thereafter, again after an ex parte proceeding, the court is prohibited from serving such notice if the Government has made a further showing of "good cause." This exception makes a mockery of the limited notice rule in emergency surveillance situations.

Under the current wiretap statute, the Government is required, 10 days before trial, to give a copy of the court order and the application for the wiretap to the defendant. If the Government fails to do so, it is precluded from using any evidence gathered from that tap at the trial. That procedural safeguard is intentionally omitted from the administration's foreign intelligence surveillance bill. Section 2526(c) states that this notice requirement is not applicable to evidence obtained from surveillance under this new proposal.

Finally, the bill requires employees of communications companies, landlords, custodians, and others to provide whatever assistance is necessary for the Government agents to effectuate the surveillance. I vigorously oppose any such provision that requires innocent workers to participate in this "dirty business" of surveillance. If such employees want to provide assistance on a voluntary basis, that is up to them. But this proposal would require their involuntary participation. See section 2525(b) (2) (ii).

In short, Mr. Speaker, this bill is an attempt to give the American people the impression that adequate steps are being taken to protect their privacy in communications that may involve alleged foreign intelligence information. But upon close scrutiny, the proposal is merely cosmetic; it does nothing to prevent unwarranted Government intrusion into such communications. I will oppose this bill as vigorously as I can, and I hope my colleagues in the House, after they have examined this measure, will pursue a similar course.

NO JEWS NEED APPLY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 60 minutes.

Ms. **HOLTZMAN**. Mr. Speaker, this country has long struggled to end job discrimination on the basis of race, sex, religion, and national origin. Now Arab nations are pressuring American businesses to discriminate against their Jewish and female employees. Arab petrodollars threaten to blackmail companies into a reversal of the progress we have made in ending employment bias.

The following recent article from the Village Voice shows the effect the Arab boycott is having on employment practices in architectural firms:

NO JEWS NEED APPLY

(By Ellen Perry Berkeley)

The architectural profession in America today is Arab-happy. Any major office, to be in really good health, must have "the major part of its work" in the Arab world. Many do. But the resulting "personnel practices," real and rumored, are making a lot of people nervous.

As one Jewish architect said, "It's not especially easy being a Jew, even in America, and in this crazy economy it's tough being an architect, but it's getting particularly tough being a Jewish architect." Another architect (not Jewish) says, "This is the profession's Watergate. . . . If the economic situation weren't so desperate, you'd hear howls of outrage."

But the economic situation for architects is desperate. According to a survey by the American Institute of Architects (AIA), the number of employees in New York City is off 66 and ⅔ per cent since 1972, and architects in most parts of the country are in bad shape. (There are 60,000 registered architects in the United States today and many others in the profession who are not yet registered or never will be. A significant number are now unemployed or seriously underemployed.)

The Middle East, of course, is in the biggest construction boom since Imperial Rome. Saudi Arabia is planning $90 billion in construction over the next five years, and the U.S. Corps of Engineers currently has 16 projects under contract there, from the master plan for a $2 billion military city, to military medical complexes, army bases, port expansions, a military academy, and an airborne school. Total construction cost is estimated at $10 billion.

Egypt is planning a $7 billion reconstruction of the Canal zone over the next seven years. American design firms are involved in $1 billion worth of construction in Cairo alone, and are designing universities, airports, hospitals, housing, new towns, and industrial and military complexes throughout the Middle East.

The figures are staggering, but so are the implications: One of the uglier little problems connected with Arab work is what to do with your Jews. We are talking here about a package of two different things. One involves a firm's stance toward Israel, and the necessity of saying that the firm has no dealings with Israel. The other involves a firm's actions toward American Jews—current and potential employees.

Some argue that these two bundles are wholly separate, but this is naive. Even in the way that one principal of a design firm spelled out the "disclaimer clauses" to me, as he understands them to exist, any clear distinction between the two packages is blurred. He outlined a series of seven statements which are being presented to American firms for inclusion in contracts, each statement containing all those above. Paraphrased, by him:

1. "We have not, in the past, done any work for the state of Israel that increased its military strength or Gross National Product . . .

2. "[and] We are not now working for Israel . . .

3. "[and] We have no prospects for working with Israel in the future . . .

4. "[and] We will not assign any Israelis to the project . . .

5. "[and] We will not assign any Jews to the project in any position of authority . . .

6. "[and] We will not assign any Jews at all to the project . . .

7. "[and] We will not have any Jews at all in the office."

Is this level of disclaimer widely signed? Many say so. "You just can't work unless you *do* sign." (This from a man whose experience is primarily with Syria and Iraq.) An architect whose firm is involved in most of the Arab countries says, "We've probably made the moral compromises everyone else has—that their internal policies, whether we agree with them or not, are their business." Still another view, from a firm with work in Kuwait and Bahrain: "It has seemed a requirement even to be *considered* for a job. We've never felt in a sufficient position of strength to say, 'If you really want us, you've got to take us without our signing that." (This from one of the most respected "name-architects" in America.)

Even *submitting* a proposal to certain countries requires the signing of a statement. Three such statements can be quoted exactly. They are considered representative of those signed by American consultants seeking and doing work throughout the Arab countries.

Kuwait Planning Board: "In order that your offer may be considered, it is necessary that you furnish us with a certificate declaring that you have no dealings whatsoever with Israel . . . ."

Egypt's Ministry of Housing and Reconstruction: "In submitting a proposal, the consultant declares that he does not possess any plant, firm, or branch in Israel, and that he does not participate in any firm or company established in Israel, and he has not any supply, manufacturing, assembling, license, or technical assistance agreement with any firm, company, or person established or resident in Israel. The consultant further undertakes not to have, either by himself or through an intermediary, any such activity in Israel and not to contribute in any way to consolidate the economy or military effects of Israel."

A ministry of the Saudi Arabian government: "Enclose a copy of the letter issued by the Royal Saudi Arabian Embassy/Consulate in your country stating that your firm is not on the Arab boycott list." (A companion request asks whether "your firm, principals, and associates" have been on the Arab boycott list "at any time.")

Is it possible not to sign? "It's hard to tell," is the typical response; "We'd probably never hear from the client, or we'd get a letter saying 'your bid is unsuccessful.' " (I was told that a prominent architectural firm, in its submission for a job in Egypt, took the initiative to say it would also work for Israel if the opportunity arose. But I was unable to substantiate the rumor, in conversations with key members of the firm. It could be true, but impossible to reveal while the firm is working with stricter countries, having signed their stricter clauses.)

Do the disclaimer clauses four through seven exist? Those who say, may not know; those who know, may not say. One member of an international firm with a third of its work in the Middle East says, "The only clauses we've seen are about not doing any work in Israel. About the other clauses, keeping Zionists from working on contracts altogether (they don't say Jews), to us that would be going over the line. I'm sure as hell hearing about them, but I can't swear they exist. I think the issue, however, is not in the overt requirements of the contracts. I don't believe any of the firms I know would sign these. If it ever came out, over here, it would finish them. But I've heard that in order to position themselves for work, they've eased their more visible Jews out of top spots in the firm."

A recent article in Contract ("The Business Magazine of Commercial Furnishings and Interior Architecture") stated, "In the realm of disadvantages antisemitism does present itself. There is a ban by Arab bloc countries against anyone deemed partisan to Israel, including American designers and architects who are Jewish." With prose like this, clauses four through seven don't *have* to be in writing. They may be supplied by the American firms and not by the Arab clients. Are American Jews, then, being fired or not hired by architectural firms? What cases have surfaced?

One Jewish architect has brought charges of discrimination in a public agency. Amiel Vassilovski, born in Israel and now a U.S. citizen, was dismissed in December 1974 from his position as an associate with Hugh Stubbins & Associates. He has filed a complaint with the Massachusetts Commission Against Discrimination. Although both sides have agreed not to discuss the matter publicly, it is possible from other sources to see the general outline of the case: Stubbins claiming that this was a general layoff, and Vassilovski claiming that the office simultaneously recalled former employees who were not Jewish. It will soon be decided whether the case goes on to a full-scale hearing (the equivalent of a trial).

It's hard for a professional to go out on this limb, perhaps jeopardizing future jobs, and it is hard to get the proof needed by a government agency. The fact that only one person has filed a complaint is no indication that discrimination does not exist. In fact, the Boston office of the Anti-Defamation League has allegations of discrimination in at least three architectural firms in New England; "But we wouldn't reveal the names unless we had filed a complaint." The Newark office of the ADL described to me an agreement the ADL negotiated quietly with a planning firm in Pennsylvania after a clear-cut case of discrimination in hiring: "It saves everyone a lot of time and expense if it's not brought to court—also, they don't have to admit guilt publicly." The New York office of the ADL suggests that, "In a non boom time it's difficult to tell when people are being laid off." But in a series of allegations checked out some months ago, "We were all frustrated, we felt there *was* discrimination."

In another part of the country, two Jewish architects have left an office extensively involved in Saudi Arabia. Both are unwilling to give their names, or the name of the firm. "It can't help me professionally," says the senior of the two. For the final nine months of his job, no work was permitted to cross his desk. Then he got an offer to join another firm in the same city, and he grabbed it. During his final months, he heard the phrase—and saw evidence of the policy—that "being a Jew is a negative." And although he says that "most of the work in the Middle East was handled by others, I once found a couple of pages I'd never seen before, that no Jews would work on the Hope Hospital in Egypt." (The firm didn't get the job anyway.) "Maybe there was an attitude of negativism about me, or maybe the gain in Saudi was bigger." He can never know, he says, and he can never prove what he so strongly suspects. "I can't even prove financial hurt: I'm not hurting, except my pride." (The other Jew who left this firm was clearly fired, and because of his religion, it seems. Again, though, with no proof and with the desire to protect career and family, he made no official complaint and could not even be persuaded to go to the ADL.)

The firm of Rogers, Butler & Burgun, in New York, also wanted the Hope Hospital job in Cairo—as did 20-odd other U.S. firms. I was told, "at the time this firm went after work in Egypt, and subsequently acquired some (a large hospital in Suez), they fired the only two Jews in the firm." I sought clarification: You mean the only two Jews in the firm. It shook up a lot of people in New York architectural circles."

I checked with one of the top partners of Rogers, Butler & Burgun, who said that the allegation was "terribly untrue" and "very false." He spoke earnestly: "We *have* let some people go, but I couldn't even tell you who is Jewish in this office and who isn't, and our employment fellows don't even put anything down in that regard. . . . We *are* trying to pursue some Mideast work, particularly in Egypt. But even there it doesn't matter a damn, even in Egypt. And in Saudi, it doesn't matter as long as the partners aren't Jewish."

I also spoke with the man who had been the only Jewish associate at RBB until he was fired in September 1974. He had been with the firm for six years. "I don't know it for a fact, but I heard that one of the reasons I was let go was that they wanted Egyptian work. . . . I remain on very good terms with them. . . . I never got a satisfactory answer as to why I was fired, but for some time before, I wasn't given any work to do."

An Arab architect at RBB was fired in September 1975. "It was to look more kosher," he believes; "to shape up for the next project." An Arab? Yes, but an *Israeli* Arab, now an American citizen: He is a registered architect, had his own firm in Israel, served in the Israeli Parliament. I asked: Did they ever tell you that your connection with Israel was the reason you were fired? No. Did they ever tell you it was anything else? No.

Elsewhere in New York, a partner in a "major" architectural firm was asked to join a "hidden subsidiary," because his Jewishness was "embarrassing" in the firm's quest for Arab work. The New York Post reported this item last fall in covering the effects of the Arab boycott without identifying the firm or the man.

Removing names instead of bodies is only a slightly less drastic form of "purification." Someone close to a leading architectural firm tells me that "a separate corporation was at one time being set up to deal with Saudi Arabia." The point of the new entity was to exclude the Jew who is the only other partner in the firm, and is also the president and head of its New York office. This hidden corporation may not actually have been achieved, and the partnership was suddenly dissolved last week; the Jewishness of the president was "a contributing factor," but not a primary cause. The office once tried very hard to get Arab work, once making a proposal on a university from its *Washington* office, despite the fact that "all planning and education capability is in the New York office." The Washington office has carefully relied on the Arab blacklist in making proposals (avoiding the mention of clients or references who are on the list).

Jewish names, especially those considered "obviously Jewish," are a liability. In New York, an "obviously Jewish" firm, which was in the process of being absorbed by a midwestern firm already involved in Arab work, answered the phone with its number only, until the merger was complete and the Jewish names were no longer legally required. "It's just while the Saudis are in town," was the explanation given to members of the New York firm who questioned the procedure. The merger process, in fact, may well have been speeded up because of the "embarrassment" of these Jewish names.

Not mentioning your Jews and not allowing prominent Jews to represent a firm—is "just good business," I was told repeatedly. The firm that got a large hospital job, in fact, sent a man from its main office, although the person who is really the hospital man is the Jewish architect in another of its offices.

Are American firms asked by Arab clients to restrict the people who work on their jobs? I asked the most important firms doing architectural work in Arab countries. The answer, consistently and earnestly: No. The president of the firm that *did* get the Hope Hospital—Perkins & Will—said to me, "I'm happy to say the problem has never approached us. The only thing asked of us was 'Have you done any business with the state of Israel?' and as a plain statement of fact we were able to say no." Did they ever ask if you *would* do business with Israel? No. Did they ever discuss your employees? No.

"We've *never* been told who can work on our jobs," says a high-level member of a prestigious design firm in Massachusetts, "and we wouldn't honor it anyway." In fact, he says, "We state in our contracts that nothing in any way in the conduct of the work will obligate us to do anything contrary to the laws of the U.S. government, and this is *not* being done by a lot of companies. . . . If they don't like that, they don't have to do the work for us." Yet the firm's name comes up continually on this subject—I am told that people who would normally be assigned to a particular job are not, and that Jewish employees were offered alternate work "and some quit." One observer, thinking to allay my suspicions, only heightened them: "I know for a fact that ———————— was working on a Kuwait job. Whether the client knows, I don't know. I believe the client *did* find out—and this is gossip—was upset, but it was explained that this is the U.S. . . ."

I had a troubling conversation with a partner of Skidmore Owings & Merrill. I said I'd been told that SOM was asked by Saudi Arabia not to hire Israelis or women, but that SOM had refused to agree. "It's a lie," was his answer, and I was unsucessful in my repeated attempts to find out *which* was the lie, the request or the refusal. Then: "To the best of my knowledge, this has not occurred. Maybe something's happened that I don't know about, but I would doubt it." (He had earlier said, "I have never been approached by an Arab telling me who could work on a job and who couldn't." But in the rest of our conversation, he seemed cautious to the point of evasiveness.)

Perhaps the most disturbing comment came from a knowledgeable person in the Austin Company, a world-wide architectural, engineering, contracting firm. When I asked if "Gentlemen's Agreements" seem to be in effect, among firms, in lieu of more explicit contractual agreements, he said it was something he would never discuss with me over the phone, although "Austin has absolutely nothing to hide whatsoever. We haven't done that much work in the Middle East, incidentally." Then: "I think it's a dumb question. Why would a Middle Eastern country come to an American company and ask them to do a job and ask them to sign an agreement not to hire Jews? Why would they hire that firm in the first place? Why wouldn't they go to another company that does *not* hire Jews?"

And yet . . . from the American Jewish Committee: "The worst has not materialized. The fears we had about a year ago, when the problem surfaced, have not fully materialized. There has not been a wholesale dismissal of Jewish executives."

Architectural firms doing Arab work certainly have Jewish partners and associates. But one such firm said, "If you report what I've told you, who knows what the Saudis might do. We haven't hidden him, but we haven't put a sign on him." Some firms have added new Jewish partners since getting Arab work. One such consultant told me, "We wouldn't go *near* this work if it was going to feed back against any of our employees or our freedom of choice. There are absolutely no constraints on our organization." A top person in another firm says that of its 10 new partners, "about three, I think" are Jewish. "Even dealing with the Saudi Arabian government, I don't think it's a problem. If your name is Shapiro, it *is* a problem." (On the letterhead of the firm of John Carl Warnecke, a draftsman has been excising the names of both partners—one Jewish and one not—with an Exacto blade; the "clean" letterhead is then reproduced for proposals to the Arab world.)

The situation within the architectural profession varies. "Some people, in their stupid analysis of what it takes to get work in the Middle East, think they have to look very pure and WASP, and they overreact," said an architect whose firm is involved in many Arab countries.

Information is sometimes contradictory. From a respected engineer: "These Saudis are sophisticated. They deal with professionals from all over the world. They don't pay any attention to these prejudices, they really don't." He may be right. But he is apparently wrong in saying that a Jewish architect is project manager for a Saudi Arabian job in the Los Angeles firm of Daniel, Mann, Johnson & Mendenhall. DMJM says that this information is "erroneous"; the project manager is "Episcopalian or Presbyterian or something like that; he comes from South Dakota."

And misinformation is prevalent: "These restrictions are crumbling daily, because of the need for western help," says the president of an AIA chapter. He may be right. But he is definitely wrong in thinking that Emery Roth & Sons has an ongoing relationship with Saudi Arabia.

I am reporting all comments without specific attribution. Some people asked immediately for anonymity. Others soon realized they had spoken too freely: "If I were quoted verbatim, it could cost us some very major work." I have no wish to cause these people embarrassment or worse, with their own firms or with firms they know well.

It is precisely because individuals and firms are vulnerable that the AIA must speak up, to protect Jewish employees and to protect the firms themselves from Arab pressures. "How can the AIA stay silent while the profession prostitutes itself?" (This from a professional who is not Jewish.) But the AIA moves like a sedated dinosaur in the speed and grace with which it attacks most social issues.

One of the AIA's most "liberal" chapters, for instance, was asked by a prospective member for a policy statement: Should firms accept clients who want no Jews working on the job? No statement. It would be redundant, I was told by the chapter's executive director, since discrimination is already forbidden by law. Elsewhere in this large and active chapter, the head of the Committee on Employer/Employee Relationships (which includes the former Committee on Equal Opportunity) told me, "I don't know how well you'll succeed in getting people to talk [about what may be happening]; people don't want to lose their jobs."

At the national level the AIA is moving toward amending its Standards of Ethical Practice. The current working draft begins nicely, prohibiting discrimination against any employee or applicant. Then: "Nothing herein shall prohibit an architect from making assignments involve "less money, less status, it would be regarded as such assignments of employees as can reasonably be deemed to be necessary in the best interests of the client." (Not to mention the best interests of the architect.)

Checking with the federal Equal Employment Opportunity Commission, I was told that if the alternate assignment is simply less interesting? "Considering their professional status, and considering that this has to do with their professional growth, yes, they would certainly have a basis for filing a charge with us." And being given no work to do? "Yes, they would have a sound basis for filing."

Legislative concern over the treatment of American Jews is growing. The legal situation on the boycott of Israel is also evolving. Strictly speaking, the boycott isn't against U.S. law; the only illegality has been failure to report *requests* to comply with the boycott. But the U.S. Justice Department has brought suit recently against California's Bechtel Corporation for boycott activity—under antitrust law. (Bechtel is doing the master plan for a $5 billion industrial complex in Saudi Arabia.)

The problem is obviously bigger than the design and construction firms. Arab money will increasingly affect American life. In Boston, for instance, Kuwait is now the owner of extensive slum housing and is the *largest holder of downtown older office space.*

With the increased dealings between Americans and Arabs, many American firms may find economic salvation—but ethical survival is another matter. The "importation of bigotry," as it has been called, would be a tragic sellout for a country that has spent long years struggling toward opportunity and fairness for all, regardless of race, creed, sex, or national origin.

But even in the one sector of American business I have looked at, I can appreciate the economic pressures. One architect says of the dilemma: "The bitter truth is that the Arabs are keeping a lot of firms alive, and the Jews go along with it, glad to have *any* job when the economy is so rotten."

Many Jews do go along, reluctant to make an issue of the situation in general or their experience in particular. American Jews have often found it easier to fight for the civil rights of others than for their own rights. Three comments made to me by Jewish architects are disturbingly clear on this point.

One said: "Don't subvert the wonderful pragmatic situation we have in New York." Another said: "*I'm* not a Zionist." Is he asking for a distinction between "good" Jews and "bad"? Has this distinction ever been made by people who hate all Jews alike? And from a man who decided not to make an official complaint: "It's not *my* problem, it's *theirs*. *They* have to live with it."

If we could depend on that Great Day of Judgment, we could afford to let them live and it, but they probably are living with it—and living off it—very comfortably.

THE STRANGE CASE OF THE RED CROSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, I have sponsored a bill ever since I came to Congress which would allow a tax deduction for blood donations. It has been my belief that were we to offer this tax incentive to middle-income wage earners, we could increase the quality and quantity of our blood supply—thus diminishing the dangers of posttransfusion hepatitis and the possibility of critical shortages of blood. Indeed, it seems ironic that one can sell one's own blood, donate the money received to the Red Cross, and be allowed a deduction. But the IRS denies a deduction for an actual blood donation, because it defines it as a donation of "services," rather than of "property." My bill, H.R. 582, would rectify this stuiation, and increase the supply of safe blood.

Many Members of Congress have responded favorably to this legislation, from both parties and from all parts of the political spectrum. Hearings have been held on this legislation, but every time the Red Cross has been asked to comment, it has refused to support the legislation. Until 1973 the Red Cross opposed the legislation in the general belief that there should be no financial remuneration for blood donations. In 1973 it took the position that it would take no position. The letter detailing the position of the Red Cross from the President of the Red Cross follows:

THE AMERICAN NATIONAL RED CROSS,
Washington, D.C., April 3, 1973.

Hon. Edward I. Koch,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Koch: Thank you for your letter of March 20, 1973, forwarding a copy of your bill, H.R. 700, proposing a $25.00 tax deduction for each pint of donated blood. The position of the Red Cross remains as set forth in a statement adopted by our Board of Governors on February 14, 1972, which I am sure, you have seen but a copy of which I am enclosing for convenient reference. We of the staff are guided by the provisions of this policy statement. You will note that no objection has been expressed by the Board of Governors to the granting of a tax credit, inasmuch as it is felt that tax policy is not a matter on which the Red Cross has special competence. We therefore do not oppose legislation on this point but when queried we have responded that we are aware of no data to substantiate the hope that a tax credit would significantly increase blood donations.

The data available to us is not sufficient to allow of any conclusion as regards the impact of a tax credit on voluntary blood donations. Currently, 32 of the 59 Red Cross regional blood centers provide the total blood supply in communities served by nearly 1,300 of our chapters. In the remaining 27 Red Cross regional blood centers, we provide varying proportions of the blood utilized in the communities served by our chapters, since there are other blood collecting facilities there, some of which are operated on a commercial basis, paying donors and charging for the blood itself. As you, of course, know, the Red Cross pays no donors and levies no charge for the blood itself under any circumstances.

Currently, we are making strenuous efforts to improve the coordination of all voluntary blood collecting groups in the United States and we welcome Congressional interest devoted to the objective of establishing a nation-wide voluntary blood service.

Sincerely,

George M. Elsey.

First, let me say that I believe that the refusal of the Red Cross to support this legislation is the single largest obstacle to the enactment of H.R. 582.

While the Red Cross certainly has every right to decline to endorse my legislation, I am disappointed with the Red Cross' attitude in this matter. Whenever I have approached this organization, I have been met with suspicion and obfuscation. This year has been especially frustrating. I began by wanting to establish a dialogue with the members of the Board of Governors of the Red Cross. My intention was to outline the need for and advantages of my bill, and to elicit comments, positive or negative, from the Board. I requested that a memo on the bill be distributed to the Board at its meeting in February. Mr. Currin, secretary and counsel for the Red Cross, asked to see the memo before distributing it, and warned that it would not be distributed if the memo contained "inflammatory political rhetoric." A copy of the memo follows:

Congress of the United States,
House of Representatives,
Washington, D.C., February 11, 1976.

Memo on H.R. 582

From: Congressman Edward I. Koch.
To: The Board of Governors, The American National Red Cross.

I understand that the Board of Governors is meeting at the end of this month. I would like to submit for your consideration H.R. 582, which would allow a tax deduction for blood donations, and which is described in greater detail in the attached *Congressional Record* statement. The bill is now supported by 25 Members of the House.

I believe this legislation could be enacted this year if the Red Cross endorsed the concept in the bill. If you have any questions, please do not hesitate to contact Charles Flynn of my office, 202-225-2436.

[From the Congressional Record, Feb. 9, 1976]

Finding a Solution to the Nation's Blood Collection Problems

(Mr. Koch asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. Koch. Mr. Speaker, I am concerned that the Nation has yet to develop a blood collection policy which will secure an adequate amount of blood for our medical needs. The administration appears to be stalemated on this issue. The FDA supports an all-volunteer approach to blood collection because it believes that blood-for-pay programs collect an inferior quality and even a dangerous type of blood. Rates of posttransfusion hepatitis from commercial donations are 3 to 10 times higher than from voluntary donations. However, the Council on Wage and Price Stability recently opposed FDA's position as leading to highly priced transfusions and even critical shortages. The Council concluded that—

"Surely, there must be instances where marginally inferior blood is preferable to no blood at all."

I do not accept the proposition that we must choose between shortages of blood and a supply of inferior quality blood. The Nation should not settle for anything less than a safe and plentiful supply of blood. My bill, H R. 582, would encourage middle-income wage earners to regularly and voluntarily donate blood by offering the tax incentive of a deduction of $25 per pint, with a limit of $125 per annum. Present IRS law regards a blood donation as one of "services," rather than of "property," thus denying the deduction. Is it not ironic that a $25 donation to the Red Cross is tax deductible, but a money deduction for having given of one's own blood is not allowed?

The House Ways and Means Committee will shortly consider an agenda for phase II of its tax reform hearings. I also want to respond to the concern that has been expressed by some tax reformers about adding another deduction to the tax code.

There are some who are opposed to many of the deductions as loopholes and are wary of putting more in. I agree. I think we should get rid of the loopholes which solely benefit the rich and which give us no broader social benefit. But with a deduction for blood donations, we are getting something—good red blood out of the veins of all people, whatever their income. That is equality. Furthermore, a safe, plentiful blood supply will decrease the danger and the price of blood transfusions for all.

H.R. 582 is the kind of incentive we should have to encourage middle-income wage-earners to regularly donate blood. A small increase in regular blood donors would assure more than enough blood. Is it not shameful that we now have to rely on skid-row derelicts and drug addicts to sell their often diseased blood?

Twenty-five Members of the House have joined me in cosponsoring this legislation: Ms. Abzug, Mr. Badillo, Mr. Brown of California, Mr. Buchanan, Mr. Conte, Mr. Coughlin, Mr. Eilberg, Mr. Fish, Mr. Forsythe, Mr. Frenzel, Mr. Gude, Mr. Harrington, Mr. Jenrette, Mr. Kasten, Mr. Lagomarsino, Mr. Mitchell of Maryland, Mrs. Mink, Mr. Moorhead of California, Mr. O'Hara, Mr. Pattison, Mr. Rodino, Mr. Scheuer, Mr. Symington, and Mr. Waxman.

I am appending the New York Times article concerning the present dilemma which is causing controversy within the administration, between the FDA and the Council on Wage and Price Stability, for the information and consideration of my colleagues:

[From the New York Times, Jan. 16, 1976]

Blood-for-Pay Programs Called Essential by Wage-Price Agency

Washington.—A Government agency says that outlawing blood-for-pay programs may lead to very high priced transfusions, or worse, none at all.

"Surely there must be instances where marginally inferior blood is preferable to no blood at all," the Council on Wage and Price Stability said yesterday.

The council responded to a proposal by the Food and Drug Administration, which had grown concerned about the disease and death that follow transfusions.

Currently, 10 to 15 percent of all blood donated comes from "paid donors," who generally receive from $5 to $30 for a pint.

MORE ALTRUISM FORESEEN

The rate of post-transfusion hepatitis associated with commercial blood donation is from three times to 10 times higher than for volunteer donations. Last year alone, 850 deaths were linked to post-transfusion hepatitis.

The FDA proposed regulations to eliminate blood-giving programs that pay donors on grounds that blood-for-pay schemes lure drug addicts and derelicts who are apt to lie about their health for money. The agency suggested that an all-volunteer blood program would provide donors who gave for more "altruistic" reasons.

The council said the FDA had overlooked the impact its regulations would have on the cost of blood.

" The council fails to see how the elimination of any class of blood would be beneficial to consumers," it said in a report. It also asserted that the paid donor blood, associated with a higher risk of hepatitis, could be used safely with many hemophiliacs, who are immune to the disease.

The council suggested that instead of abolishing all commercial blood donations, the FDA should impose stricter labeling requirements, informing consumers of the quality of the blood they are buying.

"In fact, the council's preliminary judgment is that encouraging more 'commercialism' in blood delivery—under appropriate safeguards—may be the most appropriate way of assuring adequate supplies of quality blood at low prices," the report concluded.

Mr. Currin agreed to distribute the memo. I then asked for the names and addresses of the Board of Governors so that I might follow up the memo with a personal letter. Mr. Currin refused, making some vague reference to possible violations of the Privacy Act were he to make the names available to me. I thought to myself, I do not recall any mention of keeping the names of policymakers of a national public service organization secret when I helped draft the Privacy Act of 1974. I asked the Library of Congress to collect the names and addresses of the Board of Governors for my use. That very day I received from the Library of Congress an official Red Cross publication, entitled "The Board of Governors of the American National Red Cross," which included complete biographies, addresses, and telephone numbers, both office and home, of the members of the Board.

I did write the Board of Governors a follow-up letter stressing the need for this legislation, a sample copy of which follows:

House of Representatives,
Washington, D.C., March 11, 1976.

Mr. Sol M. Linowitz,
2325 Wyoming Avenue, NW.,
Washington, D.C.

Dear Mr. Linowitz: At last month's meeting of the Board of Governors of the Red Cross, you received a memo concerning my legislation, H.R. 582, which would allow a tax deduction for blood donations. I firmly believe that this tax incentive approach could allow us to go forward with an all-volunteer collection program without fear of shortages and highly-priced transfusions.

The question often arises whether a tax deduction would really spur blood donations. I believe that the Report of the Commission on Private Philanthropy and Public Needs, *Giving in America*, answers this question definitively:

"The (charitable) deduction has been shown to be a highly 'efficient' inducement. Computerized econometric analysis based on available tax and income data were made for the Commission and they indicate that for every dollar of taxes uncollected because of the charitable deduction more than one dollar in giving is stimulated. . . . The study also indicates that approximately one quarter of all giving is induced by the charitable deduction."

I believe that the single largest obstacle to passage of H.R. 582 is the failure of the Red Cross, on each occasion that the Ways and Means Committee has held hearings on the bill, to endorse legislation allowing a tax deduction for blood donations. Therefore, if you think this legislation is worthwhile, I urge you to seek its endorsement by formal resolution of the Board of Governors.

In case you did not receive my statement on the legislation, I am enclosing it for your consideration. All of the best.

Sincerely,

Edward I. Koch.

Roughly 3 weeks have elapsed and I have received one response out of over 50 members of the Board. That response follows:

Farris, Evans & Warfield,
Nashville, Tenn., March 17, 1976.

Mr. Edward I. Koch,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: I acknowledge your letter of March 11, 1976 and although I did receive a copy of H.R. 582 at the last Board of Governor's meeting, I nevertheless appreciate your letter and the additional copy of H.R. 582. The Red Cross continues to carefully study all matters relating to blood. I am confident that the members of the Board of Governors and the management of the Red Cross will continue to study all matters pertaining to blood and will try to come up with the best decisions as they relate to meeting the blood needs of the American people.

Sincerely,

Charles H. Warfield.

In all of this, I do not presume to know why the Red Cross has acted so strangely in this matter. I can not answer why it fears distribution of a memo about legislation which would affect its operations. I can not answer why it refused to make available information to a Member of Congress, though it had printed a booklet comprised of that information for general distribution purposes.

What I do want to find out is whether the real practitioners in the field—the thousands of hospitals around the country which confront the blood shortage problem every year—support this legislation. I am in the process of writing the directors of the hospitals around the country asking for their comments on the legislation. From the letters I have already received, I am encouraged that H.R. 582 has their strong and widespread support. I am going to ask the directors of those hospitals to let the Red Cross know how they feel.

Perhaps the Red Cross will listen to those voices in support of H.R. 582.

After all, what is it that we are trying to do: Increase the supply of safe blood. The imponderable question for me is this: why are those whose mission it is to provide that blood so reluctant to support this legislation?

However much I admire the work of the Red Cross, generally, on this issue I think that organization is wrong.

REMARKS OF HON. JOHN J. McFALL UPON THE INTRODUCTION OF THE FEDERAL POWER COMMISSION REFORM ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFall) is recognized for 15 minutes.

Mr. McFALL. Mr. Speaker, enactment of parts II and III of the Federal Power Act in 1935 was designed to prevent abuses by monopolistic public utilities and promote the efficient use of facilities for the production and distribution of electricity. However, these goals are not being met under the act as it now stands and as it is now being interpreted by the Federal Power Commission. For this reason I have introduced, along with Congressman Don Edwards, H.R. 12608, the Federal Power Commission Reform Act of 1976.

Today, I am reintroducing this legislation and am glad to have the additional support of my colleagues, Representatives Harold T. "Bizz" Johnson, Robert Leggett, and Don Clausen.

Jurisdiction under the Federal Power Act is limited to private power company wholesale sales in interstate commerce, while regulation of retail rates is left to the States. Retail rate regulation by the States recognizes the fact that electric utilities usually hold a protected position in the areas they serve, either by franchise or some other form of territorial protection. At the wholesale level, however, there is no such protection—competition in the sale of electricity for resale is a necessary and valuable purpose of the Federal Power Act, as noted by the U.S. Supreme Court recently when it stated:

> There is nothing in the legislative history which reveals the purpose to insulate electric power companies from the operation of the antitrust laws. To the contrary, the history of Part II of the Federal Power Act indicates an overriding policy of maintaining competition to the maximum extent possible consistent with the public interest. *Otter Tail Power Co. vs. U.S.*, 410 U.S. 366, 374 (1973).

While I believe that the Federal Power Act, as enacted in 1935, has served a good purpose, changes in that statute are now necessary if the Nation is to keep competition alive within the electric industry, and be assured that bulk power supply facilities, such as generating plants and transmission lines, are to be used in the most efficient manner. At the present time, it appears that the Commission has lost sight of the fact that its function is twofold: to protect wholesale purchasers of power in interstate commerce from anticompetitive practices of private electric utilities, and to give such customers effective protection from excessive rate charges. The purchasers meant to be protected under the act are small electric utilities, such as municipal electric systems or rural electric cooperatives, which purchase all or part of their power from large private companies. These customers are frequently in a position to deal only with their large supplier for purchase of power, transmission service, access to generation, or cooperation in the planning, building, and operation of bulk power supply facilities. Yet, at the same time, these small systems offer viable competition within the electric industry. This relationship was described in 1965 by Lee C. White, then Chairman of the Federal Power Commission, in testimony before the Senate Commerce Committee, when he stated:

> To the large privately-owned electric utility a retail customer, even a large industry, is simply a customer. However, a wholesale customer is frequently also a competitor, actual or potential. The customer at wholesale may not only be a competitor in the fringe area where the two systems are contiguous, but may also be a direct or potential competitor for the commercial and industrial businesses that are able to take costs and conditions of electric service into account in deciding where to locate and which power supply to patronize.
>
> The electric power wholesaler may in fact be seeking to put the retailer out of business. This is not merely theoretical. Every year many municipal systems succumb to purchase offers by investor-owned wholesale suppliers. In this respect wholesale rate regulation in the electric power industry is unique and faces far greater resistance by the privately-owned utilities than retail ratemaking. . . . The Nation values its pluralistic power economy and the role therein of the independent small-systems, public, cooperative, and investor owned. The necessity for Federal regulation to assure the survival of these small and medium-sized power systems is unmistakable.

The Federal Power Commission Reform Act of 1976 would update the mandate of the Federal Power Act of 1935, in light of the fact that the present Commission is not administering the act fairly, and because there is a neeed for reform to reconcile the act with the changing nature of the building and use of bulk power supply facilities.

For example, the bill would not allow wholesale rate increases to become effective until they have been the subject of hearings and the Commission has determined that they are lawful. Under the present provisions of the act wholesale customers must pay a rate increase as filed before it is determined to be lawful. In addition, there may be several such rate filings in operation at the same time, because of severe delay by the Commission in deciding rate cases. This can place the wholesale customer in a precarious position—the wholesale rate being charged to him is higher than the retail rate being charged by his power company supplier, without any final determination as to whether the rate is lawful. While I believe that the present act gives sufficient authority to the Commission to remedy this anticompetitive situation, this bill would insure that wholesale customers will not be threatened with extinction merely because of the rate filing provisions of the present act.

For example, municipal electric utilities in the State of California have absorbed wholesale rate increases totaling 44 and 97 percent without any final determination by the Commission as to their lawfulness. Some of these filings have been before the Commission for over 3 years without any action. The result for these municipal electric systems is that their consumers are forced to pay increased rates for electricity whether they are lawful or not. In addition, the municipal electric utilities purchasing at wholesale may not be able to hold their competitive position when their supplying company is charging less for retail service. This is not the result intended by the Federal Power Act.

This bill would create opportunities for joint use of transmission facilities by all electric utilities. The need for this has never been greater. Pressures on the use of land along with the need to coordinate and maximize the use of generating facilities make it imperative that transmission facilities be used effectively to distribute electric power at wholesale. If access to transmission lines is not available, the alternative is to build duplicate facilities, forcing the consumer to pay for such duplication, and using valuable land. At the present time the Federal Power Act does not have a firm mandate to insure that transmission facilities are being used in the most efficient manner. In addition, there are situations in virtually every part of the Nation where large power companies are refusing to offer transmission services to small electric utilities, forcing such systems to remain as captive customers. Transmission access would allow transfers of electricity, whereby utilities with surplus energy can sell to those systems who are in need of power. Such an ability to move power over transmission lines also eases the pressure for building new generation. Coordination, pooling, and joint planning would be facilitated by access to transmission facilities. All of these benefits can help the Nation's electric industry increase reliability of service to all consumers, and would help conserve fuel resources by enabling electric utilities to reach beyond their borders to plan and utilize efficient generating facilities, instead of being trapped into building less efficient generation within their particular area.

Recognized in the bill is the fact that there are a variety of transmission arrangements which must be available to all electric utilities if the Nation is to receive the benefits of full transmission utilization. In 1935, the industry had not progressed very far in the areas of pooling, wheeling, or coordination of power supply between utilities. The bill would insure that these power supply opportunities are available to all electric utilities, and provide the Commission with a positive mandate to see that such opportunities come to fruition in a manner that will promote competition within the electric industry.

Recently, some large private power companies have indicated that they were going to put wholesale customers on a day-to-day basis, instead of providing a continuous source of power. This legislation would authorize the Commission to evaluate situations where a deficiency of power may exist, and insure the continuity of service to wholesale customers. Without such assurance the wholesale customer—a competing utility—has two choices: either remain a customer with no firm power supply, or build new generation which may not be the most desirable alternative. In either case, the purchasing utility is placed in a noncompetitive position, contrary to the goals of the Federal Power Act.

The bill also would strengthen the ability of the Commission to deal with anticompetitive situations by prohibiting any "unfair method of competition" under the Federal Power Act. This flexible standard would stop anticompetitive activities in their incipiency. For example, at the present time there are contracts on file with the Commission containing language which is in clear violation of the antitrust laws—such as restrictions on wholesale customer use of purchased power, territorial allocation, and limits on the ability of wholesale customers to enter into pooling, planning, or bulk power supply on a coordinated basis with other utilities. Under the bill contracts containing such provisions, or other anticompetitive language, must be rejected for filing by the Commission.

Inclusion of construction-work-in-progress in the rate base by the Commission would be prohibited under the bill, as would the use of a future test year based on hypothetical cost data.

Finally, the bill would give a positive mandate to the Commission to insure that electric utilities are purchasing fuel at the lowest possible price. The legitimate concern of electric consumers over increased fuel costs as reflected in fuel clauses points to the need for close surveillance of utility fuel purchases. Fuel costs have been rising rapidly, but the consumer should be paying no more than a price derived as a result of hard bargaining by the electric utility which passes such costs along to the customer.

Mr. Speaker, at this point I would like to place in the Record the text of this legislation:

H.R. 12848

A bill to amend the Federal Power Act to provide for the reform of electric utility regulation by the Federal Power Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Power Commission Reform Act of 1976".

Sec. 2. (a) Section 202(a) of the Federal Power Act (16 U.S.C. 824a(a)) is amended:

(1) by inserting "maximum competitive opportunities for the purchase and sale of electric energy at wholesale" immediately after "United States with the" in the first sentence; and

(2) by striking the word "voluntary" from the first sentence.

(b) The portion of the first sentence of section 202(b) of the Federal Power Act (16 U.S.C. 824a(b)) prior to the colon preceding the proviso is amended to read as follows: "Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to, transmit energy for, provide transmission services or wheeling for, exchange energy with, provide pooling services for, or coordinate with such persons."

Sec. 3. Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended to read as follows:

"During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, a shortage of electric energy or of facilities for the generation or transmission of electric energy, or fuel or water for generating facilities, or whenever any public utility may be unable, due to anticipated deficiencies of power, to meet the demands of wholesale customers, or other causes, the Commission shall require, in order to insure continuity of service to wholesale purchasers, public utilities to report promptly any anticipated deficiencies of power which could affect wholesale purchasers of power, and require public utilities projecting deficiencies of power to file plans which would provide for curtailment of retail customers by both the public utility and each wholesale customer of that utility on a proportionate, nondiscriminatory basis. The Commission shall have authority either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary or permanent connections of facilities and such generation, delivery, interchange, transmission of electric energy, pooling, wheeling or other transmission service as in its judgment will best meet the emergency or anticipated deficiencies of power and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such an order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including compensation or reimbursement which should be paid to or by any such party.

Sec. 4. Section 205(e) of the Federal Power Act (16 U.S.C. 824a(e)) is amended to read as follows:

"Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service. No rate or charge, or any portion thereof, sought to be increased by a public utility under this section shall become effective until hearings have been completed and a final order issued by the Commission upholding the lawfulness of all or a portion of any such increase. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible."

Sec. 5. A new section 205(f) is added to the Federal Power Act to read as follows:

"Whenever the Commission determines upon its own motion or upon complaint, after notice and opportunity for hearing, that a public utility is engaging in any unfair method of competition, or that a public utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, it shall issue an order prohibiting any such unfair method of competition, or reject such a filing."

Sec. 6. A new section 205(g) is added to the Federal Power Act to read as follows:

"Rates or charges made, demanded, or received by any public utility under this Part shall be approved by the Commission only if they are based on actual costs which are known and measurable with reasonable accuracy at the time of the filing, and such costs shall be limited to properties and facilities which are used and useful in rendering service under any contract, schedule, tariff, or agreement subject to the jurisdiction of the Commission."

Sec. 7. A new section 205(h) is added to the Federal Power Act to read as follows:

"The Commission is directed to review and audit, on at least an annual basis, the fuel purchasing or fuel acquisition practices of all public utilities subject to its jurisdiction under this part. Public utilities shall provide reports on fuel purchasing and acquisition practices as required by the Commission, which shall be made available to the public, and shall contain such information as the Commission may require to implement the purposes of this section. On its own motion, or upon complaint, the Commission shall, after opportunity for hearing, by order direct a public utility to cease any fuel purchasing or fuel aquisition practice which is unreasonably discriminatory or anticompetitive in nature, leads to the use of fuel at more than the lowest possible cost, or in any way inhibits or precludes the use or acquisition of the least expensive fuel by a public utility."

Sec. 8. Nothing contained in this Act shall relieve any person or public utility from the operation or enforcement of the antitrust laws of the United States, including the Sherman Act (15 U.S.C. 1 *et seq*), Clayton Act (15 U.S.C. 12 *et seq*), and the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*).

NEW DISTRICT OF COLUMBIA SCHOOL SUPERINTENDENT FACES SAME OLD UNRESOLVED PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Diggs) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, during the late afternoon on Tuesday, March 16, 1976, I heard for the very first time that the appointment of a permanent superintendent of the District of Columbia public schools was going to be made within the next 24 hours. In all candor, I was shocked and amazed that the District of Columbia Board of Education was contemplating such action, because to my knowledge there had been no prior public announcement that such action would be taken. There certainly had been no published reports in the news media that the appointment of a permanent superintendent was an agenda item for the board's regularly scheduled meeting on Wednesday, March 17, 1976. I was distressed because it was nearly impossible for me to believe that the District of Columbia Board of Education would undertake action as important as appointing a permanent superintendent in such an imprudent manner, further straining the public trust of a school system where the raging controversies over responsibility and accountability have led to the dismissal, firing, and otherwise removal of the past three District of Columbia school superintendents. The last-minute and little-publicized notice of the School Board's intention to appoint a new superintendent undermines the professional and community trust in the board's actions.

Immediately upon learning about the action contemplated by the board, I sent the following telegram to all 11 members of the District of Columbia Board of Education:

> House D.C. Committee staff research indicates an imminent possibility that your Board will appoint a permanent Superintendent of the Public Schools. While it is certainly within the legal prerogatives of the Board to take such action, this is to advise you of our deep concern.
>
> To consummate the appointment of a permanent Superintendent without:
>
> (a) Clearly delineating roles, responsibilities, and expectations of both the Board and the Superintendent;
>
> (b) Defining the operating procedures as well as lines of authority of both the Board and the Superintendent;
>
> (c) Reviewing the findings of a Board established advisory commission on Board-Superintendent relationships; and
>
> (d) Adopting a selection process with provisions for community participation.
>
> Would certainly represent a step backwards in eliminating the root causes leading to the removal by the Board of the last three Superintendents.
>
> As you know, I have a long history of concern about and involvement in education in the District, from elementary and secondary to the establishment of the City University. Therefore, in line with this interest and in the spirit of the partnership arrangement envisioned by the Home Rule Act, I am hereby requesting a meeting with members of the Board prior to your taking action to appoint a permanent Superintendent. Let me emphasize that my concern is with the process, or absence thereof, and not with any potential candidate for the position. Members of my staff will be in touch with your Executive Secretary in an effort to arrange an early meeting.

Pursuant to this request, board president, Dr. Therman Evans, arranged for a meeting between myself and the school board which took place the evening of March 17, 1976, at the Board Pennsylvania Avenue Headquarters. Eight board members attended. At that time, I made an effort to explain further my concerns and the concerns of a large number of my colleagues in the Congress that the basic problems resulting in the disruptive and volatile dismissal, firing, or otherwise removal of three superintendents in the last 7 years, while widely characterized as personality conflicts, in fact appear to be more directly attributable to a lack of clearly defined roles, policies, procedures, guidelines, and definition of authority and responsibilities governing the relationship between the office of the superintendent and the institution of the Board of Education.

It is my belief that the concerns of Congress in this matter clearly fall within the boundaries of the Federal-local partnership which we in this body and the Senate, and the local government, have attempted to establish. The fact that the members of the local school board are currently subject to change every 2 years necessitates a clearly defined system of orderly transfer and efficient allocation of responsibility within the system. Policies and procedures must be institutionalized to prevent the type of chaos which has characterized the recent history of the local school administration.

During the course of that meeting, one newly elected member to the board stated flatly that none of the problems outlined in my telegram existed with respect to the District of Columbia schools, and that my telegram was obviously a result of misinformation. I must assume that this new board member is unaware of the action by the District of Columbia Board itself on September 24, 1975, when the board voted unanimously to establish a Citizens Advisory Committee to undertake a study of most of the things outlined in my telegram because, in the Board's own words:

> In recognition of the need to strengthen and improve the quality and the scope of publicly supported educational opportunities for the children and youth of this City

through the means of reviewing and, where appropriate, emendating and revitalizing the authority, powers, roles of, and inter-relationships between, the Board of Education, D.C., and the Superintendent of Schools . . .

This seems to me, on its face, a rather clear recognition on the part of the Board on September 24, 1975, at least, that there were some problems. But, September 24, 1975, was during the height of the controversy surrounding the former superintendent, Ms. Barbara Sizemore, and perhaps there is a feeling on the part of the Board that since Ms. Sizemore is gone, the problems are also gone.

A few hours after my meeting with the eight members, the Board by nearly unanimous vote, 10 to 1, agreed to offer the position of superintendent to Mr. Vincent Reed, who has been acting in that capacity since the firing of Ms. Sizemore, in October 1975. The vote was taken, the offer was made and accepted without any effort to clarify the issues raised by the Board itself on September 24, 1975, and by my telegram of the night before.

However, as chairman of the House Committee with oversight and legislative authority over the District of Columbia, I feel it essential to make some observations for the record.

Let me say first, that my telegram raised the same issues that I have been raising with the Board for well over a year and more recently in a February 19, 1976, letter to the president of the board, the text of which is as follows:

DEAR DR. EVANS: The operating relationships between the Board of Education and the Superintendent of Schools have never been very clear. Unfortunately, a mutually supportive governance system has been severely impacted by this shortcoming and the system has suffered.

The Board's recognition of the oversight led to the establishment of an advisory commission to the Board charged with the responsibility of ". . . reviewing and, where appropriate, emendating and revitalizing the authority, powers, roles of and interrelationships between the Board of Education, D.C., and the Superintendent of Schools . . ." This is an excellent beginning towards resolving the problem so manifest in the relationship between the Board of Education and the Superintendent. The outcome of the commission's deliberations should be invaluable to the Board when it embarks on identifying an confirming a permanent appointment to the Superintendency.

I would hope, therefore, that the benefits to be derived from your efforts are not compromised by any premature actions.

If I can be of any assistance, don't hesitate to call on me.

Let me emphasize again that my concerns have nothing to do with the personalities involved—they have nothing to do with Mr. Reed and the individual members of the Board. The fact is that while there have been three superintendents in 7 years, the makeup of the Board also has changed drastically with every biennial School Board election. My concern is the stability and future of public education in this community. Past experiences have made it patently clear that the District's educational system cannot adequately serve the pressing needs of the community and students as long as the Board changes every 2 years, superintendents are fired regularly, and there is no clear delineation of roles, responsibilities, and expectations on the public record.

All that I have heard about Superintendent Reed leads me to believe that he is a capable administrator with an understanding of and a deep commitment to this school system. I wish that was enough to overcome the problems, but I doubt it. Perhaps his 20 years in the system has given him special knowledge and techniques to function in a situation where the lines of authority, respective roles, responsibilities, and expectations are muddy at best, and nonexistent at the worst. Pehaps the noisy controversies involving the last three superintendents have served as a force to lower the profile of the Board of Education as an institution. However, I wonder whether the community understands any better where it has a right to turn for help, assistance, and accountability for the education of the young people in this city.

I have expressed my concerns privately and on the record, and wish the new superintendent and the Board well and certainly hope that early on they will deal with the issues which both they and I have raised. Likewise, I hope that they will work together to avoid the kind of conflicts that have plagued this city's school system to the detriment of the children and the image of this city as the Nation's Capital.

It is my view that the citizens of this community do not deserve a repetition or anything approaching the disastrous and chaotic former Superintendent Sizemore fiasco. Likewise, I am confident that Congress will not tolerate such a repetition.

CONGRESS: REPORTS ON ITS DEMISE HAVE BEEN GREATLY EXAGGERATED

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, as Members of Congress we often are told how ineffective and incompetent we are. We are criticized for being dilatory. We are told we are obstructionists. We are blamed for blocking what the President wants, often by the same people who will at some other time accuse us of being rubber stamps for the Executive.

In recent months, however, the glimmerings of a new appreciation of Congress and its role as a coequal branch of Government are becoming apparent, both in the press and in the academic world.

I would like to share with my colleagues the results of a study of Congress that is part of this new, more realistic, more accurate assessment of Congress. The study, prepared by Dr. Alan P. Balutis of the Department of Political Science at the State University of New York at Buffalo, was initially given before the annual meeting of the Northeastern Political Science Association in November 1975 in New Brunswick, N.J., Professor Balutis also will be presenting his study to the annual meeting of the Southwestern Political Science Association in April at Dallas, Tex.

In his study, which is copyrighted by the Southwestern Political Science Association, Dr. Balutis concludes that the supposed decline of Congress is considerably more myth than reality and may be a reflection of the inordinate concentration of the news media on the activities of the executive branch of the government.

The text of the study by Professor Balutis follows:

THE DECLINE OF CONGRESS: MYTH OR REALITY

With but few exceptions, there appears to be general agreement today that Congress has declined in power vis-a-vis the President. Our national legislature, according to an increasing number of journalists, academicians, and responsible Senators and Representatives, has grown unresponsive to national needs and abdicated or otherwise lost critically important powers to the Presidency. As Warren Weaver, veteran New York Times reporter, puts it:

"(If) Washington is the hub of government, Congress is no longer the hub of Washington. History has left it at the center of the great original plan for citizen self-rule, but power and prestige have moved elsewhere. The Capitol is a hall of illusions, peopled by the myths that the legislative branch remains proudly coequal, that Congress continues to serve the nation well, that the old ways are sufficient to the tasks of the new day."[1]

And Neil MacNeil, chief Congressional correspondent for Time, has questioned whether Congress can continue to survive as a truly viable, independent institution and noted "signs that the President and his branch of the government may become so all-powerful in the immediate decade ahead that Congress consequently may become merely superfluous."[2] Russell Baker (of The New York Times) has argued that Congress:

". . . has soaked so long in the juices of its own mediocrity that its confidence has withered. It is fearful of Presidents and therefore, deferential to a fault. It knows how to vote its powers away to Presidents, and how to complain when they use them, but it has been a long time since it seriously considered itself in the imperial weight class with Presidents."[3]

The fear that Congress may be incapable of coping with the nation's problems and needs has even penetrated the mind of Congress itself. Senator Charles Mathias, Republican of Maryland, has termed Congress impotent and antiquated. Senator Abraham Ribicoff, Democrat of Connecticut, contends that Congress has surrendered its rightful leadership role in the legislative process and thus "Pennsylvania Avenue has become a one-way street."

Frustration reached a high point in 1974 when a record 46 Senators and Representatives simply opted not to seek re-election. Even the initial optimism that greeted the opening of the 94th Congress has waned appreciably. It is hard to remember now that ten months ago the phrases were "landslide election," "veto-proof Congress," "a new day in Congress," and "congressional government."

Today we find anger and disillusionment among Members of Congress and the press. Mary McGrory (of the Washington Star) charged that the 94th Congress was well on the way to compiling a record of "impotence, incompetence, and avarice."

"When I first came down here," said freshman Congressman Toby Moffett of Connecticut, "I thought we could change a lot. But then when Congress came into session, I had to administrate a large staff and attend four subcommittees. Now I feel that I don't even have time to think."[4] And Representative Barber Conable (of New York)

Footnotes at end of article.

wrote about the anomaly of finding that "an unelected President, alleged by his congressional critics to be disorganized and not very bright, his initiatives and motives rejected out of hand by the scornful victors of last autumn's elections, seems to have won almost every confrontation with Congress." [5]

ACADEMIC VIEW

Many academic observers also seem to feel that Congress has become subordinated to the executive branch, and that it is incapable of functioning as an equal partner to the President. Professor Samuel Huntington has written that, "Since 1933 . . . the initiative in formulating legislation, in assigning legislative priorities, in arousing support for legislation, and in determining the final content of legislation has clearly shifted to the executive branch." [6]

Americans living in the twentieth century have, according to Dennis Palumbo, "seen wars and internal crises give new dimensions to the President's power—under circumstances that have narrowed the legislative scope of Congress in ways undreamed of by the men who wrote the Constitution." [7]

Several years ago Thomas Cronin noted the manner in which recent textbook versions of the presidency had presented inflated and unrealistic interpretations of presidential competence and beneficence and exaggerated past presidential performance.[8] If we have been misled by the image of an omnipotent, omnicompetent, benevolent "textbook presidency," then it seems equally obvious that we have presented a "textbook Congress" characterized by paralysis, impotence, incompetence, and obtuseness. The following are illustrative:

"Congress legislates less than it ratifies, formulates less than it adopts, and leads less than it responds. Legitimate community policies require that congressional majorities be mobilized behind them, but the policies usually are initiated elsewhere." [9]

"For a variety of reasons Congress during the twentieth century has lost or surrendered much of its power and influence to the President." [10]

"Congress . . . has not been a match for the power of the President. It is the first pressure point of the big interest groups—and their efforts are well rewarded. It has systemic troubles which seem to defy rapid reform. It refuses to establish an ethical code of conduct for its members and conflicts of interest are legion among its members. It is guilty of the practice of 'boodle,' or pork barrel . . . Congress is slow to meet the needs of minorities, but rushes with the majorities—at times unwisely." [11]

"Congress looks increasingly to the President for policy leadership, for fiscal guidance, for party direction and cohesion, and for seeing to it that his programs win Congressional and popular support. Congress also increasingly limits itself to defining policy in broad terms, with the expectation that the President will supply the many, and often critical, details." [12]

Thus Congress is criticized from the left:

"Looking specifically at the United States Congress, one is struck by how effectively the diffusion of power has operated for undemocratic purposes." [13]

And from the right:

". . . the decline of Congress has been among the most dolorous of political developments in the twentieth century. Although denied on occasion by such as Lippman and Fulbright, this enfeeblement is generally acknowledged by our political scientists. Some think it is a bad thing, others think it rather good, but nearly all are agreed that it has happened . . ." [14]

The image of Congress is that of "the broken branch," "the sapless branch," or "a broken twig." Probably a majority of political scientists concede that the scales of power have tipped drastically and probably permanently toward the White House and away from Capitol Hill.

Such assessments have been repeated so often that their tentative nature is in danger of being forgotten. As Gary Orfield has noted, "The assumptions about the sorry state of Congress have often been so pervasive that observers don't even bother to look at the evidence." [15]

The problem remains then of providing empirical verification of this thesis on the "decline" of Congress. A number of years ago, K. C. Wheare suggested that any meaningful evaluation of the "decline" of legislatures ought to first establish what form the alleged decline has taken, and the standard against which it is measured. Is it a decline in power? Or is it a decline in efficiency? Is it a decline in public esteem that is alleged? Or is it a decline in public interest? Or, finally, is it a decline in manners, in standards of behavior which is being asserted?

Once the form of the "decline" has been established, it is necessary to clarify the standard by which the alleged decline is being measured. Is it being alleged that legislatures have declined in relation to their own former position (i.e., from some previously unspecified "golden age") or in relation to other political or social institutions? [16] It is to a discussion of several of these issues that we now turn.

INFLUENCE AND POWER

The term "influence" and its close ally "power" are among the classic concepts of political science. Although used frequently by political scientists, they rarely are specifically defined. In the absence of specific definitions one might assume that standard dictionary usage is being followed. Dictionary definitions, however, often raise more questions than they answer. Rather than open the Pandora's box of definitional debate, then, I will move from a discussion of the "power" of Congress (a discussion which, in all likelihood, is beyond the scope of this paper in any case) to an examination of the role of Congress in initiating legislation.[17]

As was implied above, there appears to be general agreement that the "decline" in the "power" of Congress is most visible in that body's "decline" as an initiator of legislation and an innovator of public policy. In his discussion of the declining role of Congress, for example, Huntington has gone so far as to say that "the President now determines the legislative agenda of Congress almost as thoroughly as the British Cabinet sets the legislative agenda of Parliament." [18] To my knowledge, however, this viewpoint has been put to only two empirical tests, both of which indicate not that Congress has declined, but that it is underrated as an innovator in our political system.

50 YEAR STUDY

In his extensive study of 90 major pieces of legislation enacted during a 50 year period preceding World War II, Lawrence Henry Chamberlain sought to identify the persons who exercised greatest influence upon their form and substance. On the basis of the detailed study of the 90 laws selected they were allocated to four categories: laws in which the influence of the President was dominant; laws in which the influence of Congress was dominant; laws in which the influence of both the President and the Congress was sufficiently great that they must be given joint credit; and laws in which the influence of outside groups transcended that of either the President or the Congress.

Chamberlain found that the President could be given credit for approximately 20 percent of the laws; roughly 40 percent were chiefly the product of Congress; about 30 percent fell into the joint presidential-congressional category; and slightly less than 10 percent were identified as primarily the handiwork of external pressure groups.

The legislative imprint was especially marked in tariff and immigration measures. The President proved consistently strong in the field of national defense legislation. Chamberlain noted the difficulty in identifying the real "initiator" of a policy alternative in a complex society interwoven with communications of all kinds. In fact, one of the points brought out most clearly by the case studies was the depth of the roots of most important statutes. Yet it is interesting to note that 77 of the 90 laws originated, in one fashion or another, in the legislature.

In addition, while presidential influence had been dominant in the case of 19 laws, 12 of these had been originally initiated by Congress and had been the subject of extensive hearings. Chamberlain notes the joint character of the American legislative process, but concludes:

"These figures do not support the thesis that Congress is unimportant in the formulation of major legislation. Rather, they indicate, not that the President is less important than generally supposed, but that Congress is more important.[19]

Unfortunately, Chamberlain's findings usually have been ignored or cited as evidence of the state from which Congress has fallen. Huntington, for example, utilizes the study to conclude that "Congress has conceded not only the initiative in originating legislation" but also has "lost the dominant influence it once had in shaping the final content of legislation." [20]

James A. Robinson finds from his review of Chamberlain's study a decline of Congress, an increase of the Presidency in the initiation of legislation, and an increase in joint participation of Congress and the Presidency. And he goes on to assert that, "An extension of Chamberlain's study from 1945 to 1960 would be expected to show that joint collabaration has given way to virtually exclusive initiation by the executive." [21] Roger Davidson concurs: "Unquestionably a similar examination of postwar lawmaking would yield rather different conclusions." [22]

UPDATED STUDY

Recently, Ronald C. Moe and Steven C. Teel replicated (to some degree) Chamberlain's study for the period 1940 to 1967 to provide another, updated, test of the "decline of Congress" theme. Using a large number of case studies of legislation that had appeared since the publication of Chamberlain's study, Moe and Teel attempted to test whether his results held true:

"We would like to ask, therefore, whether in the years since Chamberlain's work appeared, Congress has maintained its influence over the substance of the legislation it handles, or whether the 'legislative roots of most important statutes' have indeed, been entirely displaced by the resources of executive innovation." [23]

In spite of the admitted shortcomings of the approach, the authors concluded that the existing literature was "sufficiently complete to allow us to draw some conclusions about the state of Congress as a policymaker and the relative strength of Congress and the President in policy formulation." [24]

PRESIDENTIAL ROLE

Their major conclusion is that there is a sound empirical basis for challenging the conventional wisdom that the President has come to play an increasingly predominant role in national policymaking. "The evidence," they say, "does not lend support to Huntington and his thesis that Congress ought to recognize its declining state and forego what remains of its legislative function. Quite the contrary, the evidence suggests that Congress continues to be an active innovator and very much in the legislative business." [25]

Footnotes at end of article.

The findings presented, then, tend to confirm those of the Chamberlain study 25 years earlier.

While these studies do not "prove" anything, they do suggest a questioning of our standard assumptions about the legislative-executive relationship, particularly because they stand alone as attempts to question empirically the conventional wisdom of American political scientists.

QUESTIONING GENERALIZATIONS

In a number of other recent works, various political scientists have called into question the sweeping generalizations about Congressional weakness and Presidential-executive strength. David E. Price, for example, in his study of three committees and 13 bills in the 89th Congress (1965–66) demonstrates "the past and continuing potential of the United States Congress as an arena for political action, a center for the examination and publicizing of pressing national needs and for the development of creative legislative responses." [26] Orfield has argued that Congress possesses a substantial capacity to initiate new national policies and that those policies may well be more "progressive" or "responsive" than positions taken by a President.[27] And John R. Johannes has written extensively on legislative initiation, arguing that Congress does indeed initiate—probably more often and on more important matters than is commonly realized.[28]

Despite these works and a large number of case studies that delineate the role of Congress as an initiator of legislation and innovator of public policy,[29] many political scientists (especially those who author introductory American government texts) seem content with the "President proposes and Congress disposes" model of legislative-executive relations. The frustration one can experience with this simple model of legislative-executive relations is detailed by one young Senate staff man seeking to complete an undergraduate thesis:

"The thesis concerned certain aspects of the Senate and how it functions, and I based my argument primarily on my own observations. To pass academic inspection, however, the thesis needed to demonstrate what scholars call 'a familiarity with the literature' on the Senate, and as my deadline drew near, I spent many nights in the Congressional Reading Room of the Library of Congress. The disconcerting result of this last-minute research was that the books I read seemed to describe a wholly different institution from the one I worked in and had come to know, if "only imperfectly, a block away."[30]

Redman found two major misconceptions in the literature: a view of power as a "zero-sum game" [31] in which the President had been continually gaining and Congress had been continually losing; and a failure to take into consideration the extensive staff system of Congress. The notion that the President had eclipsed the Congress in the performance of the legislative function proved particularly confusing:

"One professor I had respected in college expressed this view most starkly when he wrote that Congress had become merely a place to 'amend and delay.' The Executive Branch, he went on, had become the "aggressive spirit" in the American legislative process, and Congress was now little more than a vestigial legislative body, capable of 'asserting its powers or passing laws—but not both.' Such pronouncements were surprising to say the least, when I read them in early 1970. Congress was then bursting with legislative initiative; if anything, the President and his subalterns lived by the creed of 'amend and delay.' It seemed the scholars had been a bit hasty in driving the last nails into Congress' coffin: Congress was not yet dead as a legislative force, and seemed in fact to be enjoying a hearty rejuvenation, despite the post-New Deal growth of Presidential power that evidently dazzled the scholars so.

CONGRESSIONAL EFFICIENCY

According to a familiar set of charges, Congress is slow, inefficient, archaic, and "out of touch with the twentieth century." The cumbersome legislative process is one of the reasons given for the contemporary decline of the powers of Congress.[32] James MacGregor Burns has contended that the system is "designed for deadlock and inaction." [33] Congress is "ill-organized to meet many of the most insistent challenges of today" [34]—an institution "overwhelmed by its great responsibilities, operating under its ancient ritual." [35]

Many of the critics are disingenuous in their pleas for reform. The reforms they propose are designed to enable Congress to more "efficiently" further the reformers' short-range political values and objectives.

Yet the accuracy of the description of Congress as "inefficient" seems obvious.[36] The Founding Fathers never listed speed and efficiency among the virtues of a legislative assembly. And what could be more inefficient than entrusting the business of passing laws to two separate houses, engaging in the long hours of committee referrals, hearings, studies, floor debates, amendments, joint conference committees, and so on. James Burnham, however, has warned that when anything seems all that obvious we ought to suspect that some factor may have been dropped:

"A whale would look slow on the Santa Anita racetrack, but in his ocean he can beat any horse in the stable. An octopus would be clumsy at a computer console, but he does well enough on his rocks. It is necessary to check both the meaning and relevance of the terms we use. Congress is 'slow' and 'inefficient.' Compared to what? And if so, why not?" [37]

While the results of its activities, what it does, is the final arbiter of worth, the sheer business of Congress is at least statistically impressive.[38] Four hundred and thirty-five men and women sit in the House of Representatives and 100 in the Senate. The Senate of the 93rd Congress was in session for 2,152 hours and 22 minutes on 352 days between January of 1973 and December 1974. It passed 1,564 measures, an average of one every 1.4 session-hours. The House met on 334 days for 1,603 hours and 22 minutes and passed 1,524 measures. In all, 649 public laws and 123 private laws were passed.

The measures passed by the Senate included 526 that were Senate bills and 469 that had originated in the House. There were 73 joint resolutions of the Senate, and 47 of the House. Fifty-six Senate and 78 House concurrent resolutions were passed. The Senate governed itself and expressed itself alone in 257 simple resolutions. A similar record would describe the House's work. Thirty-nine bills were vetoed by the President. The Senate confirmed 131,254 appointments to federal government posts.

MAJOR LEGISLATION

In spite of the Watergate scandals, major legislation occurred in a number of areas. Congress signaled its determination to recapture its constitutional power when it overrode then-President Nixon's veto to enact a bill restricting the President's power to make war. In 1974 it went on to pass a budget reform bill that gave it a mechanism to regain its historic control over the public's pursestrings. It took the initiative in passing a campaign finance reform bill, setting limits on political contributions and spending and mandating the first use of public money to finance presidential election campaign costs.

New laws included the first major housing bill since 1968, the first minimum wage increase since 1967, federal standards for private pension plans, and an independent government corporation to provide legal services for the poor. Congress also approved a six-year, $11.9 billion program of aid to mass transit systems and a major trade reform act. Before it adjourned, Congress also had overridden four of Ford's 12 vetoes of public bills; not since 1948 had any President suffered as many defeats in a single year.[39]

Behind this record of legislative achievement stood the 26,222 measures that were introduced—each representing at least some minor effort and some of them resulting from weeks or months of work and energy. A Congressman's work is not confined solely to the introduction and passage of legislation. There are millions of calls, letters, and visits from constituents; hundreds of thousands of contacts with the executive branch on behalf of constituents. In 1970, members of Congress mailed more than 190 million letters and packages.

During the second session alone the Congressmen added 42,937 pages of proceedings, speeches, and extensions of remarks to the *Congressional Record*. Hundreds of committee and subcommittee meetings were held, resulting in reports and recommendations which (added to those emanating from executive agencies, interest groups, and the White House) had to be read or reviewed. In both 1968 and 1969, slightly more than 52 percent of the members made at least one trip abroad learning about international conditions, and all traveled widely and frequently in the United States—campaigning for reelection, inspecting government facilities, attending conferences and so on. The point should be clear.

MODEST BUDGET

Efficiency, as the term is used in administration, is an internal measure of the relationship of output to input (e.g., miles per gallon). Cost per unit of work done is one measure of efficiency. The congressional budget is a relatively modest one; the appropriation for operations of the legislative branch for fiscal 1975 was $708,275,650—as Burnham notes, a fraction of one percent of the executive budget, and much less than the expenses of hundreds of private corporations. Members of Congress are paid $44,625 per year, less than Cabinet members, Supreme Court Justices, or the executives of a large corporation.

Is Congress slower and less efficient than the bureaucracy? Comparison is difficult. Yet Alfred de Grazia presents ten criteria of coordination, integration, and efficiency in the form of questions comparing Congress and the Executive Office.

1. Which body's members know more about what their co-members are doing?

2. Whose members know more about what the other body is doing?

3. Whose members know more about what the bureaucracy is doing?

4. Whose members know more about what is going on in the country?

5. In what body does an idea have the greatest chance of being born, and once born, of achieving some consideration?

6. In which body does an idea that is to be ultimately adopted pursue a path that a group of outside scientists and experts on logic, intelligence operations, and administrative procedure would say bring to bear the more powerful interests and instruments of intelligence?

7. In which group does an order by the top leadership obtain the quickest response throughout the group?

8. Which group's ordinances obtain the quickest response in the country and in the executive establishment at large?

9. In which group is a policy originated and processed into final form most quickly?

10. Which group can give the most ready and thorough response to problems arising

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Footnotes at end of article.

out of the operations of the executive establishment? [40]

To every one of these ten questions, de Grazia argues, the general answer might very well be: "Congress." And if a case can be made for this answer, then a serious indictment can be read to the numerous analysts who over the years have condemned Congress as slow, inefficient, and archaic. Moreover, one could make the argument that the fact that Congress makes up its mind in public has much to do with the appearance of inefficiency.[41] Or one could contend that the public interest may be served by a Congress that does not move hastily and instantly.[42] In any case, indictments of Congress as having declined in "efficiency" require additional specification, qualification, and verification.

PUBLIC ESTEEM

Wheare argued that public esteem and public interest do not necessarily go together:

"The activities of a legislature may provide a great deal of news: legislators may often be in the public eye; their proceedings may be notorious. But they may stand low in public esteem." [43]

Adopting this view, let us examine *opinions of Congress* before turning to a discussion of the amount of *news about Congress*. Public confidence in and information about Congress (and government institutions in general) is currently quite low. In a recent survey by Louis Harris for Senator Edmund Muskie's Subcommittee on Intergovernmental Relations, six percent of the total public expressed the view that Congress was made up only of the House of Representatives; four percent thought that Congress was just the Senate; and a rather high 20 percent thought Congress consisted of the House, the Senate, and the U.S. Supreme Court.

Only 59 percent of the American people could correctly state the name of at least one U.S. Senator from their state; only 39 percent could name the second Senator from their own state correctly.

Congressmen did not fare much better. No more than 46 percent could accurately identify the Congressman from their district. The amount of confidence Americans place in the U.S. Senate declined from 42 percent in 1966 to 21 percent in 1972, although rising slightly to 30 percent in 1973. The House of Representatives went from 42 percent in 1966 to 21 percent in 1972, before rising to 29 percent in 1973.[44]

It is extremely difficult to analyze cyclical changes in the American public view of Congress. Survey data is available only from 1943 and is sporadic and difficult to compare.[45]

Certain correlates of Congressional popularity have been suggested, however. First, public approval is usually highest when domestic political controversy is muted. When partisan controversy grows or when Congress appears slow in resolving legislation, public disaffection increases. Second, the public expects Congress to pass rather than hold up legislation. Randall Ripley, for example, has noted that popular estimates of Congress tend to vary as the productivity of Congress varies.[46] Specialized sub-publics tend to evaluate Congress in terms of their own policy concerns. Finally, a distinct parallel exists in the public's assessment of Congress and their evaluations of the President. It seems that the public's views of Congress are vague and contradictory. As Davidson, Kavenock, and O'Leary say:

"Congress apparently presents an ambiguous image to most of the general public. As a primary institution in the governmental system, it benefits from the general esteem which Americans hold for their public institutions. Beyond this, the patterns of public attitudes are complex and contradictory.

"The public's ignorance of Congress results in assessments of congressional performance that vary considerably over time and are probably a function of party identification, interest-group identification, or identification with the Presidency." [47]

Thus, it seems that it would be extremely difficult, utilizing public opinion data, to determine any change in public esteem for Congress. It may be possible to do so, however, by examining the views of a group that has a generalized, long-term interest in congressional performance—media representatives. As a profession, this group is uncommonly close to the legislative process. By nature as well as by profession, they are very willing to state their assessments of these processes. And they have regular access to rather wide and often important audiences.[48]

MEDIA EXAMINATION

An examination of past newspaper stories, magazine articles, and so on indicates the verity of Lord Bryce's nineteenth century observation that "Americans are especially fond of running down their Congressmen." Belittling Congress is part of the American political folklore. It would be easy to print citations from the press in every decade of our history bewailing the decay of the legislative branch of our government. A few examples should suffice:

"The United States is facing a constitutional crisis. That branch of Government that most closely represents the people is not yet broken, but it is bent and in danger of snapping." [49]

"About the only people who like the way Congress is run are the people who run Congress—and even some of these are unhappy. There is a growing belief, said a Washington observer last summer, that Congress just won't do." [50]

"What the American people have to deal with now is a situation that admits of no national complacency; the legislative machinery, which is the heart of democracy, is breaking down. The American Congress is foundering." [51]

"They are saying, in this year of war and elections, that the Congress of the United States is a worn-out institution that is logrolling itself into its grave. They are saying it is losing the war or doing nothing to win it; that it talks too much or not enough; that it should be composed of statesmen and, instead, is made up of political hacks." [52]

"The President is right in saying that what we need is democracy—and more democracy. But when we look about for the agencies of government through which the majority will is to express itself, we find—Congress. And if the past session of Congress were the test of democratic government, the democracy might well tremble for its future." [53]

"It is perhaps true . . . that Congress has long been the most incompetent, the most shiftless, and the most irresponsible branch of the Federal Government." [54]

"Another cause, and not the least of the causes of the popular contempt for Congress, is its inability to perform one of the primary duties of a modern government, namely to regulate the finances and protect the credit of the country." [55]

POPULAR PASTIME

One could go on and on, but the basic point is simply that year in and year out for over 180 years, American journalists (and citizens) have criticized and abused their Congress. Moreover, it has long been a popular pastime to poke fun at Congress. Political wit in the United States, from Petroleum V. Nasby to Herblock, has always singled out Congress for special attention. As Davidson and his colleagues have noted:

"The other two branches of our government have nothing quite comparable to the public image of Senator Snort, the florid and incompetent windbag. Mark Twain, Will Rogers, Finley Peter Dunne, H. L. Mencken, Al Capp, and George Lichty all have contributed to the colorful literature of congressional denigration, presumably to the great amusement of their readers." [56]

Members of Congress themselves seem to enjoy criticizing and joking about their organization. A standard way for a Congressman to begin a speech is to recount how the Chaplain of the House invariably opens the session by looking out at the members and then praying for the safety of the country. Moreover, as Richard Fenno has noted, many Congressmen portray themselves as the gallant fighters against the manifest evils of Congress; they "run *for* Congress by running *against* Congress." [57]

That Congress is unpopular, that it always has been unpopular, and that it always will be unpopular seems assured. If Congress passes a large number of laws, it is denounced as being a "busy-body" and "meddlesome." If it fails to pass legislation, it is denounced as being "incompetent" or a "do-nothing Congress." [58]

If Congress follows the President, passes his legislation, and heeds his vetoes, then it is called a "rubber stamp" or a "machine," composed of a "flock of sheep." If Congress defies the President and overrides his vetoes, it is called "obstructionist" or "disloyal," a group of "demagogues." It is criticized for being unorganized and unrepresentative and for being a "steamroller" catering to "special interests." The Congress is thus "damned if it does and damned if it don't." An examination of the nature and causes for this tradition of criticism is beyond the scope of this paper. What seems clear though is that the first Congress that met was subject to all the external criticisms that haunt the 94th Congress. David B. Truman summarized the situation well: "Criticism of the Congress is a hardy perennial of American life." [59]

PUBLIC INTEREST

A variety of powers, formal and informal, are available to the legislative and executive branches in their struggles for political hegemony—Senate confirmation of presidential appointments, Congressional investigation, Presidential veto, formulation of the budget, and so on. One of the most potent weapons, however, may be the standing of the President with the American people and his position as a focal point of the mass media.

According to Dorothy Buckton James, "No individual in public or private life receives the media coverage that is given to the President." Through it, he is greatly advantaged "in being able to define the issues and initiate consideration of appropriate alternatives from his point of view." [60]. The President, according to another observer, has "achieved an omnipresence in the general flow of news and in the awareness of the average citizen which in itself has vast implications for the shaping both of national opinion and of public policy." [61]

In *The Fourth Branch of Government*, Douglass Cater argued, "Nothing affects more the balance of power between Congress and the President than whether the one or the other is the principal source of news and explanation and opinion." The argument was put most starkly by the Congressional Research Service:

"A significant parallel exists between the growth of the executive power and the greater use of the techniques of mass communication by the Executive. If, as many persons now believe, a dangerous imbalance exists between the effective governing power of the Executive and Legislative branches, the Executive's greater and more effective use of mass communications media and techniques must be considered as a factor in causing this imbalance." [62]

The problem remains, however, of provid-

Footnotes at end of article.

ing empirical verification of this thesis on the "decline" of Congress and the expanding Presidential image. Unfortunately, once again, there is very little research on this matter. One of the few attempts to examine the matter empirically was made by Elmer Cornwell, who analyzed the news content of the mass media from 1885 to 1957 to determine whether the expansion of the Presidential image had really gone on to the extent suggested.[63] Cornwell contended that if the process of the expansion of the Presidential image had gone on to the extent suggested—as focus of the public's attention and expected source of initiative—an analysis of the news content of the mass media relating to the President should reveal the fact. One could infer that a content analysis of this kind, showing a rising curve of prominent Presidential news, "reflected a rising tendency for the public to focus primary attention on the President at the expense of the other parts of the national government." [64]

NEWSPAPER EXAMINATION

The ideal research strategy would have entailed a review of a representative sample of all the important media. Practical considerations, however, dictated the use of only one—the newspaper. Availability and usefulness for sampling purposes led to the choice of two newspapers for Cornwell's research, *The New York Times*—the nearest thing the United States has to a "national" newspaper in news orientation — and the *Providence Journal*—a medium-sized daily with a normal preoccupation with state and local news.

Cornwell examined every eighth year, that is the year following every second Presidential election year, for *The New York Times* sample, beginning with 1885 and ending with 1957, or a total of ten years. Within each year, the first full week (starting with Sunday) in the months of January, March, May, July, September, and November was used. For the *Journal* sample, one year was selected from the term in office of each of the 12 individuals who occupied the White House from 1889 to 1957. In each of the years chosen the same months were sampled as for the *Times* but a different week in each—the *last* full week in the month.

Examination of the papers was limited to the front pages of each newspaper on the assumption that "front pages tend to attract more reader attention than the average inside page and that the front page was reserved in the two newspapers for the most important news during the period under examination." [65] Headlines were examined for the word "President," "Presidency," "White House," or the name of the incumbent President; and for the words "Congress," "Senate," "House," and the names of specific Congressional committees. Headlines containing "Congressman" or "Senator" were not tabulated if none of the other words appeared since usually the articles involved related only to one individual and not to Congress as an organizational entity. If one or more of the above words appeared in any of the levels of headlines before the dateline of the article the story was included and its column inches on the front page recorded.[66]

When headlines contained both a Presidential word and a Congressional one, the article was put into a separate "both" category. When the headline did not contain one of the words being tabulated—even when the article obviously contained some news of Congress or the President—the article was not included in the sample. This was done because the purpose of the study was to attempt to measure the impact of the Presidency (and Congress) on the consciousness of the reader. Thus, the sample was limited to those articles that would *immediately* suggest either of the institutions even if little more than the headlines were read. Finally, column inches occupied by pictures of the President also were included on the theory that "such pictures had at least as much impact as a comparable number of inches of headlines and text." [67]

The data obtained from the two samples are found in Table 1.

TABLE 1

	Times sample			Journal sample		
	Pres.	Both	Cong.	Pres.	Both	Cong.
1885	169.0	149.0	129.5			
1890				90.0	0	947.5
1893	191.5	197.5	75.5			
1894				136.0	36.0	80.5
1899				160.0	0	51.5
1901	320.5	16.0	30.5			
1906				300.0	0	129.5
1909	223.5	192.0	92.5			
1910				462.5	69.0	187.5
1914				210.0	9.0	82.0
1917	804.5	413.0	428.5			
1922				513.0	58.5	233.0
1925	588.0	257.5	290.0			
1926				285.0	53.0	264.0
1930				253.0	70.5	309.0
1933	1,369.0	332.0	213.0			
1934				571.5	185.5	202.0
1941	762.0	255.0	444.5			
1949	437.0	278.0	536.5	378.0	175.5	368.0
1954				313.5	111.5	304.0
1957	889.0	270.0	317.0			

Source: Elmer E. Cornwell, Jr., "Presidential News: The Expanding Public Image" Journalism Quarterly, vol. 36 (Summer 1959), p. 278.

The *Times* portion of the table shows the very marked upward trend of Presidential news in contrast with the limited increase of Congressional news and less consistent upward trend of the latter. The study shows clearly that Presidential news increased more rapidly than either national government news as a whole or Congressional news. The pattern is one of short term fluctuations but a long term upward trend in overall Presidential news, both in absolute terms and relative to Congress. Cornwell concludes that:

"The data presented indicate that Presidential news, and by inference the public's image of the Presidency and its relative governmental importance, has increased markedly and more or less steadily in this century, particularly since World War II.[68]

Much has happened since Cornwell's research was conducted. During the period 1958–1975, there have been five Presidents, three Republicans and two Democrats. There have been several recessions, a war, a strong third party movement, "landslide" and very narrow Presidential elections, "active" and "passive" Presidents, and divided and unified governments. A President has been assassinated, another chose not to seek reelection, and a third was driven from office under threat of impeachment. The current Chief Executive bears only the most indirect mandate from the people.

Congress, meanwhile, has moved to reform its internal organization, reassert its independence, and regain its power over fiscal affairs and foreign policy. How has this been reflected in media coverage? What difference, if any, has it made in the relative attention given to Congress and the President?

An update of Cornwell's research, using the *Buffalo Evening News* instead of the Providence paper and sampling every year from 1958 to 1974, is revealing.[69] These data are found in Table 2.

TABLE 2

	Times sample			News sample		
	Pres.	Both	Cong.	Pres.	Both	Cong.
1958	864	54	524	278	18	102
1959	710	120	610	224	30	70
1960	653	45	313	478	42	68
1961	1,014	29	319	860	107	106
1962	787	59	348	384	71	286
1963	642	74	377	602	64	380
1964	1,028	0	185	493	13	163
1965	490	121	217	336	49	91
1966	421	109	250	572	29	112
1967	311	19	193	403	26	72
1968	440	43	121	316	18	64
1969	752	89	222	714	0	141
1970	744	153	253	428	0	108
1971	576	148	275	249	13	51
1972	1,047	7	51	621	0	98
1973	789	107	132	687	18	126
1974	748	72	241	700	126	212

The pattern discerned by Cornwell in 1959 remains—as is seen most clearly in the *New York Times* data. There continues a marked dominance of Presidential news in contrast to a noticeable decline of Congressional news. In all but one of the years sampled, straight Presidential news represented more column inches than the other two categories combined.

The decline in news about Congress is even more striking when compared with the lengthening of the legislative session. During the period surveyed by Cornwell, Congress was in session an average of about six and a half months each year. During 1958–1974, Congress moved toward remaining in session (and presumably making news) almost the entire year—yet the amount of news about our national legislature declined.

As was noted above in the brief review of opinions about Congress, criticism of that body is a hardy perennial of American life. It may be, however, that the *content* of the media messages is not so important as the mere *extent* of media coverage. Paul Lazarsfeld and Robert Merton, for example, have noted the "status conferral function" [70] of the media.

Carl Hovland has also remarked upon this "halo" effect of media prestige and called for further research on its processes and components. [71] Miller and Stokes' conclusion concerning voters' awareness of congressional candidates may also hold true for Congress as an institution: "In the main, recognition carries a positive valence; to be perceived at all is to be perceived favorably." [72] If this is true, then the media face a major challenge in achieving some balance in coverage between Congress and the Presidency.

STANDARDS OF BEHAVIOR

It seems clear that Congress has been tarnished by scandal, and by the questionable activities and ethics of some of its members. In 1967, Senator Thomas Dodd of Connecticut was censured because he had retained for his personal use $116,000 of the $450,000 received from political fund-raising dinners. Congressmen are criticized for "junkets" abroad, for having relatives on their office payroll, for accepting speaking fees from lobbyists.[73] Michael Parenti states the case against Congress:

"From 1968 to 1972 eight Congressmen or their aides were convicted of bribery, influence-peddling or perjury. In this century, 24 Senators and Representatives have been indicted for crimes; 16 were convicted and one case is pending. And these are only the few clumsy enough to get caught." [74]

Perhaps it is a decline in manners, in standards of behavior, in the quality of the individual members of Congress that is being asserted. As George Galloway has argued:

"To the frequent query: 'What's wrong with Congress?' a favorite retort is: 'Congress

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Footnotes at end of article.

itself,' meaning the members themselves. Some critics of representative government allege that its basic fault is to be found not in its antiquated machinery or archaic methods or excessive work-load, but in the personnel of the legislature."[75]

Thus critics of Congress often refer to the great men of the past—to men like Daniel Webster, John C. Calhoun, Henry Clay, and others—and assert that, in comparison, members of Congress today are of small caliber. Is that proof of a decline of Congress? Several points may be raised in this regard.

First, it is worth remembering that the nineteenth century "legislative giants"—Henry Clay, John C. Calhoun, Daniel Webster, Stephen A. Douglas, and others—were "giants" with respect to only a handful of issues. As Charles A. Beard, a close student of American history noted, "It is pertinent to note that, in spite of their oratory, these mighty men of old could not resolve the sectional issue of their time and let the nation drift into a civil war."[76] In contrast, today's Congressmen must consider a wide variety of domestic issues as well as world-encompassing issues.

Moreover, in addition to a change in the scope of the legislative agenda, there has been a tremendous increase in the volume and complexity of legislative business.[77] The following comparison of the 1st and the 93rd Congress is instructive:

	1st Congress	*93d Congress*
Number of bills introduced	268	21,950
House of Representatives	142	17,690
Senate	126	4,260
Number of laws enacted	118	772
Public bills	108	649
Private bills	10	123
Number of Members	91	535
Representatives	65	435
Senators	26	100
Number of days in session	519	352
Nominations confirmed	211	131,254

The sheer bulk of bills introduced has increased over eighty-fold, while the number of members available to meet the added work load multiplied only about six times. The early Congresses usually met for only nine or ten months out of the biennium, taking long summer recesses[78] (See Table 3).

Table 3.—Selected sessions of Congress

Congress:	Length in days
1st	519
2d	316
3d	311
4th	266
5th	394
6th	271
88th	626
89th	579
90th	614
91st	704
92d	606
93d	688

Third, one could certainly argue that man for man, the recent Congresses have been no worse than dozens of their predecessors, and better than many. Critics often overlook or ignore the many able and distinguished legislators who now serve. There occasionally are crackpots, crooks, and misfits. These are a veritable godsend to the cynics and critics of Congress.

Yet, in comparing congressmen of today and those who loom large in our history we often select a few great names and forget the abundant mediocrity. One thing is certain. That is that any observer can find in the personnel who are serving and have served in the Congress of the United States the very thing that he is looking for.

Finally, there is a tendency, when dealing with public men of the past, to cast a halo over their heads and, by either perverting or ignoring the facts, to regard them as demi-gods. Previous warnings prove interesting to those who would argue that Congress has declined in manners, standards of behavior, or quality:

". . . but let them beware of the luster which departing years shed upon the alleged giants of other days, and let them not turn to contemporary letters like that of John Hay to Joseph H. Choate in which, after denouncing the 'howling lunatics' of the Senate, he bemoaned the fact the Senator 'W' has been divorcing his wife . . . last week, 'X' had delirium tremens, Bacon broke his ribs, Pettigrew had the grippe, and Hale ran off to New York on 'private business,' and the whole Senate stopped work until they got around again."[79]

"Talk of the degeneracy of the Senate to men who remember the time when a Vice President was inaugurated in a state of maudlin intoxication; or the earlier days when Foote uttered in debate his threat to Hale, that he should be hung on the highest tree in the forest if he should come to Mississippi; when the same man drew his pistol on Benton in the Senate chamber; when Butler poured out his loose expectoration, and Mason gave exhibitions of his arrogant plantation manners; . . ."[80]

Those who complain that the Congress no longer contains such giants as Clay, Calhoun and Webster are referred to the similar complaint of Alexis de Tocqueville. When these great men still spoke in the land, the astute French observer sadly lamented that "the race of American statesman has evidently dwindled most remarkably in the course of the last 50 years."[81] That would seem to imply that if we have been going downhill, the decline began in 1789. For surely we could "expect to find unalloyed patriotism, the recognition of merit, the victory of virtue, among the demingods who created the nation."[82]

Fisher Ames may speak for the House of Representatives. In a letter to a friend on March 23, 1790, he wrote of

". . . the violence, personality, low wit, violation of order, and rambling from the point, which have lowered the House extremely in the debate on the Quaker memorial. The Quakers have been abused, the eastern States inveighed against, the chairman rudely charged with partiality. Language low, indecent, and profane has been used; wit equally stale and wretched has been attempted; in short, we have sunk below the General Court in the disorderly moment of the bawling nomination of a committee, or even of country (rather Boston) town-meeting."[83]

These were the words of a patrician—a Massachusetts aristocrat. Perhaps Ame's opinion was overly critical of those less privileged than himself. For a different perspective, let us examine the journal of an individual more democratic in his views, William MacClay of Pennsylvania. Writing of the first American Senate on August 29, 1789, MacClay said:

"With the Senate I certainly am disgusted. I came here expecting every man to act the part of a god; that the most delicate honor, the most exaulted wisdom, the most refined generosity, was to govern every act and be seen in every deed. What must my feeling be on finding rough and rude manners, glaring folly, and the basest selfishness in almost every public transaction! They are not always successful, it is true; but is it not dreadful to find them in such a place?"[84]

In conclusion, it appears clear that the golden age—which is always at least a generation behind—was not so golden as we often seem to think. And the dross that characterizes our current state is not so unrelieved by better qualities as we are tempted to imagine.

THE STANDARDS OF DECLINE

As Wheare noted a number of years ago, and has been intimated above, much of the discussion of the so-called "decline" of Congress is based on the assumption that decline was possible. It is based, in part, on the idea that there once existed a "golden age" of legislatures—a time when "wisdom and oratory and gentlemanly behavior and public spirit all seemed somehow to flourish and to flourish together."[85] Normally, however, evidence for the existence of this golden age is not presented. Moreover, it often seems, on more careful inspection, that it is merely time which has thrown a romantic aura around the past and made contemporary institutions seem drab by comparison.

Again, it is often contended that Congress has declined in certain important respects and particularly in power in relation to the Presidency. It may be, however, that the question of who is more powerful, Congress or the President, is an improper one. The actual pattern of power in Washington, as we have sought to indicate, is both complicated and kaleidoscopic. Viewing the situation as a zero-sum game in which the President has steadily been gaining power and Congress steadily losing it is simplistic, as Chamberlain noted years ago:

"The legislative process is not like a seesaw where as one end goes down the other must automatically go up. It is, rather like a gasoline engine which operates most efficiently when all of its cylinders are functioning. When the President becomes unusually active, there is a tendency to assume that the congressional cylinder has ceased to function. Such is not necessarily the case."[86]

CONCLUDING OBSERVATIONS

No one any longer questions the fact, but only the degree and the merits of the decline of Congress and the aggrandizement of the Presidency. So the textbooks of American government would have us believe. It has been suggested here that while the "decline" of Congress may be an interesting question to discuss in very general terms, it becomes exceedingly complicated when one tries to establish what form the alleged decline has taken, and the standard against which that decline is being measured.

We have sought to examine the "decline" of Congress in terms of a decline in power (initiation), efficiency, public esteem, public interest, and manners or standards of behavior. We have found that only in terms of public interest (as indicated by a decline in newspaper coverage) can we discern any evidence for a congressional decline.

The fact of the decline of Congress needs to be demonstrated, not assumed, and this paper suggests that statements about this so-called decline should be examined with care. It may, of course, be the case that Congress has declined in influence, efficiency, or whatever, but this remains a thesis in need of empirical verification. And I would suggest that, like reports about the death of Mark Twain, reports about the imminent demise of Congress are greatly exaggerated.

FOOTNOTES

[1] Warren Weaver, Jr., *Both Your Houses: The Truth About Congress* (New York: Praeger, 1972), p. 3.

[2] Neil MacNeil, "To Redress the Balance," unpublished paper presented at Time Inc. editors' planning session, The Role of Congress Study, September 15, 1972.

[3] Russell Baker, "Moods of Washington,"

Footnotes at end of article.

New York Times Magazine, March 24, 1974, p. 71.

[4] See "The First Six Months of the 94th," National Committee for an Effective Congress, *Congressional Report,* June, 1975, pp. 1–3.

[5] As quoted in David S. Broder, "Congress Conceding the Leadership Issue?" *Buffalo Evening News,* June 17, 1975.

[6] Samuel P. Huntington, "Congressional Responses to the Twentieth Century," in David B. Truman, ed., *The Congress and America's Future* (Englewood Cliffs, N.J.: Prentice-Hall, 1973), p. 28.

[7] Dennis B. Palumbo, *American Politics* (New York: Appleton-Century-Crofts, 1973), p. 187.

[8] Thomas Cronin, "The Textbook Presidency and Political Science," in Stanley Bach and George T. Sulzner, eds., *Perspectives on the Presidency* (Lexington, Mass.: D.C. Heath Co., 1974), pp. 54–74.

[9] Dan Nimmo and Thomas D. Ungs, *American Political Patterns* (Boston: Little, Brown, and Co., 1973), p. 453.

[10] Max J. Skidmore and Marshall Carter Wanke, *American Government* (New York: St. Martin's Press, 1974), p. 56.

[11] J. Keith Melville, *The American Democratic System* (New York: Dodd, Mead & Co., 1974), pp. 219–20.

[12] John J. Ferguson and Dean E. McHenry, *The American System of Government* (New York: McGraw-Hill, 1971), p. 313.

[13] Michael Parenti, *Democracy for the Few* (New York: St. Martin's Press, 1974), p. 193.

[14] M. Stanton Evans, *Clear and Present Dangers* (New York: Harcourt Brace Jovanovich, 1975), p. 73.

[15] Gary Orfield, *Congressional Power: Congress and Social Change* (New York: Harcourt Brace Jovanovich, 1975), p. 3.

[16] K. C. Wheare, *Legislatures* (London: Oxford University Press, 1963), p. 219–21.

[17] Even this discussion is fraught with definitional and methodological problems. See, for example, David A. Baldwin, "Congressional Initiative in Foreign Policy," *Journal of Politics,* Vol. 28 (November, 1966), p. 754–73.

[18] Huntington, "Congressional Responses," p. 28.

[19] Lawrence Henry Chamberlain, *The President, Congress and Legislation* (New York: Columbia University Press, 1946), esp. ch. 12. The passage quoted is from p. 454.

[20] Huntington, "Congressional Responses," p. 29.

[21] James A. Robinson, *Congress and Foreign Policy-Making* (Homewood, Illinois: Dorsey Press, 1967), p. 9.

[22] Roger Davidson, "Congress in the American Political Tradition" in Allan Kornberg and Lloyd D. Musolf, eds., *Legislatures in Developmental Perspective* (Durham, North Carolina: Duke University Press, 1970). pp. 139–40.

[23] Ronald C. Moe and Steven C. Teel, "Congress as Policy-Maker: A Necessary Reappraisal," *Political Science Quarterly,* Vol. 85 (September, 1970), p. 447.

[24] *Ibid.*, p. 467.

[25] *Ibid.*, pp. 467–8.

[26] David Price, *Who Makes the Laws?* (Cambridge, Mass.: Schenkman Publishing Co., 1972), p. 331.

[27] Orfield, *Congressional Power.*

[28] See John R. Johannes, "Congress and the Initiation of Legislation," *Public Policy,* Vol. 20 (Spring, 1972), pp. 281–309; *Policy Innovation in Congress* (Morristown, N.J.: General Learning Press, 1972); "Where Does the Buck Stop?—Congress, President, and the Responsibility for Legistalive Initiation," *Western Political Quarterly,* Vol. 25 (September, 1972), pp. 396–415; and "The President Proposes and Congress Disposes—But Not Always: Legislative Initiation on Capitol Hill," *The Review of Politics,* Vol. 36 (July, 1974), pp. 356–70.

[29] For a partial list see Johannes, "Congress and the Initiation of Legislation," p. 282, note 7 and "The President Proposes and Congress Disposes," p. 358, note 14.

[30] Eric Redman, *The Dance of Legislation* (New York: Simon and Schuster, 1973), pp. 15–6.

[31] *Ibid.*, pp. 16–7.

[32] Palumbo, *American Politics,* p. 188.

[33] James MacGregor Burns, *The Deadlock of Democracy* (Englewood Cliffs, N.J.: Prentice-Hall, 1963), p. 6.

[34] Ferguson and McHenry, *The American System of Government,* p. 349.

[35] George B. Galloway, *The Legislative Process in Congress* (New York; Thomas Y. Growell, 1953), p. 8.

[36] See James A. Burnham, *Congress and the American Tradition* (Chicago: Henry Regnery Co., 1959), esp. pp. 262–78. It is from this work that much of this section is drawn.

[37] *Ibid.*

[38] See Alfred de Grazia, *Republic in Crisis* (New York: Federal Legal Publications, 1965), esp. ch. 1. It is from this work that the outline of this section is drawn.

[39] For a more complete review of the record of the 93rd Congress, see Congressional Quarterly *Almanac,* Vol. 30 (Washington, D.C.: Congressional Quarterly, 1975), esp. pp. 3–29.

[40] de Grazia, *Republic in Crisis,* pp. 86–7.

[41] See, for example, Burnham, *Congress and the American Tradition* and Ernest S. Griffith, *Congress, Its Contemporary Role* (New York: New York University Press, 1956), pp. 190–1.

[42] See, for example, Burnham, *Congress and the American Tradition* and David Broder, "Why Congress' Slowness May Really be a Positive Attribute," as reprinted in the *Congressional Record,* July 17, 1975, p. E. 3906.

[43] Wheare, *Legislatures,* p. 220.

[44] See U.S. Senate Committee on Government Operations, Subcommittee on Intergovernmental Relations, *Confidence and Concern: Citizens View American Government* (Washington, D.C.: U.S. Government Printing Office, 1973), esp. chs. 1 & 2.

[45] See Roger Davidson, David Kovenock, and Michael O'Leary, *Congress in Crisis: Politics and Congressional Reform* (Belmont, California: Wadsworth Publishing Co., 1966), pp. 47–63 and Randall B. Ripley, *Congress* (New York: W. W. Norton & Co., 1975), pp. 288–90.

[46] *Ibid.*, p. 288.

[47] Davidson, Kovenock, and O'Leary, *Congress in Crisis,* p. 63.

[48] For an interesting discussion of the views of another important group, scholars of politics, see Roger Davidson and David Kovenock, "The Catfish and the Fisherman: Congress and Prescriptive Political Science "*American Behavioral Scientist,* Vol. (June, 1967), pp. 23–7.

[49] "The Crack in the Constitution," *Time,* Vol. 101 (January 15, 1973), p. 12.

[50] "Is Congress doing its Job? *Business Week,* January 5, 1963, p. 48.

[51] "Has Congress Broken Down?," *Fortune,* Vol. 45 (February, 1952), p. 80.

[52] Roger Butterfield, "Is It True What they Say About Congress?," *Life,* August 17, 1942, p. 76.

[53] "Congress: An Inquest," *Nation,* August 28, 1937, p. 213.

[54] "Our Outworn Congress in Session," *Nation,* December 15, 1920, p. 680.

[55] "The Decline of Congress," *Nation,* January 28, 1897, p. 63.

[56] Davidson, Kovenock, and O'Leary, *Congress in Crisis,* p. 38.

[57] Richard F. Fenno, Jr., "If, as Ralph Nader Says, Congress is 'The Broken Branch,' How Come We Love Our Congressmen So Much," in Norman J. Ornestein, ed., *Congress in Change* (New York: Praeger, 1975), p. 280.

[58] It is interesting to note that this phrase, borrowed by President Ford from President Truman in his recent attacks on the 94th Congress, was borrowed by Truman from his fellow Missourian Champ Clark, who applied it to the 54th Congress in the 1890's.

[59] Truman, *The Congress and America's Future,* p. 1.

[60] Dorothy Buckton James, *The Contemporary Presidency* (New York: Pegasus, 1973), p. 64.

[61] Elmer E. Cornwell, Jr., *Presidential Leadership of Public Opinion* (Bloomington, Indiana: Indiana University Press, 1965), p. 4.

[62] Congressional Research Service, Library of Congress, "Congress and Mass Communications: An Institutional Perspective" (Washington, D.C.: U.S. Government Printing Office, 1974), p. 13.

[63] Elmer E. Cornwell, Jr., "Presidential News: The Expanding Public Image," *Journalism Quarterly,* Vol. 36 (Summer, 1959), pp. 275–83.

[64] Ibid., pp. 275–6. For a general discussion of this kind of inference drawn from the results of content analyses, see Bernard Berelson, *Content Analysis in Communications Research* (Glencoe: Illinois: The Free Press, 1952), pp. 90–108.

[65] *Ibid.*, p. 277.

[66] The use of measured column inches can be justified as a means of assessing the relative impact of the story and its subject matter on the consciousness of the reader. *Ibid.*, p. 278.

[67] *Ibid.*, p. 278.

[68] *Ibid.*, p. 283.

[69] We adopted the basic premise and essential methodology utilized by Cornwell.

[70] Paul F. Lazarsfeld and Robert K. Merton, "Mass Communication, Popular Taste and Organized Social Action," in Lyman Bryson, ed., *The Communication of Ideas* (New York: Harper and Brothers, 1948), pp. 101–2.

[71] Carl I. Hovland, "Effects of the Mass Media of Communication," in Gardner Lindzey, ed., *Handbook of Social Psychology* (Cambridge, Mass.: Addison-Wesley Publishing Co., 1948), Vol. II, pp. 1062–103.

[72] As quoted in Roger H. Davidson and Glenn R. Parker, "Positive Support for Political Institutions: The Case of Congress," *Western Political Quarterly,* Vol. 25 (December, 1972), p. 610.

[73] Parenti, *Democracy for the Few,* pp. 199–200.

[74] *Ibid,* p. 200.

[75] George B. Galloway, *Congress at the Crossroads* (New York: Thomas B. Crowell, 1946), p. 22.

[76] Charles A. Beard, "In Defense of Congress," *American Mercury,* Vol. 55 (November, 1942), p. 530.

[77] See Galloway, *Congress at the Crossroads,* pp. 50–3. It is from this work that the outline of this section is drawn.

[78] The 17-month session of the First Congress was atypical, for it had to cope with the problems attendant upon the launching of the new government.

[79] Oswald Garrison Villard, "In Defense of the Senate," *Nation,* Vol. 120. (March 25, 1925), p. 314–15.

[80] George F. Hoar, "Has the Senate Degenerated?," *Forum,* Vol. 23 (April 1897), p. 36.

[81] For an interesting counter-argument, see Beard, "In Defense of Congress," pp. 530–1.

[82] Robert Luce. *Legislative Assemblies* (Boston: Hougton Mifflin, 1924), p. 303. It is from this work that the following section is drawn.

[83] *Ibid.*, p. 303.

[84] *Ibid.*, p. 303.

[85] Wheare, *Legislatures,* p. 232.

[86] Chamberlain, *President, Congress and Legislation,* p. 14.

THREATS AGAINST CUBA, A STATEMENT BY THE HOUSE MAJORITY LEADER

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, recent bellicose statements about Cuba by the Secretary of State and others in the executive branch have seemed to be preparing us for another charge up San Juan Hill. The distinguished majority leader, the Honorable THOMAS P. O'NEILL, JR., of Massachusetts, made some comments about this question over the weekend. For those who may have missed them, the text of the majority leader's remarks follow:

STATEMENT BY HON. THOMAS P. O'NEILL, JR.

President Ford should publicly repudiate or explain his Administration's threats of new military ventures against Cuba.

What exactly is meant by Secretary of State Henry A. Kissinger's repeated statement that "the United States will not accept further Cuban military interventions broad?"

What is the "forthright and decisive action" Mr. Kissinger has in mind?

What are the "number of matters under study in this area" that the White House reports?

What are the "possible actions which might be taken with regard to Cuba" that the Pentagon says are being reviewed?

What is President Ford suggesting when he responds to a question about the warnings by Mr. Kissinger by saying, "We mean it"?

Is Mr. Ford considering a naval blocade of Cuba as journalists, who seem to have more access to Mr. Kissinger than do Members of Congress, are speculating?

Or is all this saber rattling simply another of candidate Ford's tactics designed to win him support in his effort to receive his party's nomination for President?

It is truly unfortunate that the suspicion of partisan political motivation for such serious statements from presidential spokesmen exists, but never before has a Secretary of State become so involved in an election campaign that his every utterance must be scanned for partisan connotations.

The failure of the President to address the problem publicly, however, and the failure of both the President and his foreign policy advisers to discuss the situation with Congress, inescapably leads to conclusions that Mr. Ford either is threatening Cuba for partisan purposes or is leading this nation into a military showdown that he has neither explained nor justified.

While there is no desire on the part of Congress to intervene in the constitutional prerogative of the President to conduct the foreign policy of this nation, Congress will not sit back and permit drastic shifts in policy that could involve this country in military action without Congressional approval.

This Congress refused to allow the President and his Secretary of State to continue the war in Indochina or to get involved in a new secret adventure in Angola. It does not intend to allow Mr. Ford to push the American people into an adventure against Cuba.

Nothing that either Mr. Ford or Mr. Kissinger has told the American people or their representatives in Congress gives any support for the view that military action, or the threat of action, is required against Cuba.

If such action is necessary—if the intervention by Cuban troops in Africa is as serious as Mr. Ford and Mr. Kissinger are trying to make it appear—then it is time for the President of the United States to step before the American people and tell them about it.

COURT CHALLENGES OSHA INSPECTIONS

(Mr. SYMMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SYMMS. Mr. Speaker, I would like to enter into the RECORD today, the legal brief of Brennan against Gibson's Products Inc. of Plano. In Gibson Products, Robert Rader, Jr., and Charles Alan Wright successfully argued before a three-judge panel in the Sherman Division of the Eastern District of Texas, that, under certain circumstances, warrantless searches of commercial premises by OSHA inspectors are contrary to the provisions of the fourth amendment to the Constitution.

I strongly recommend the brief that follows to my colleagues:

[In the U.S. District Court for the Eastern District of Texas, Sherman Division, No. S-75-5-CA]

BRIEF OF RESPONDENT

(Peter J. Brennan, Secretary of Labor, U.S. Department of Labor, petitioner, vs. Gibson's Products Inc. of Plano, a corporation, and Gibson's Discount Centers, Inc., a corporation, respondents.)

Before the Three-Judge Court

Charles Alan Wright, 2500 Red River Street, Austin, Texas 78705. *Of Counsel.*

Robert E. Rader, Jr., Attorney at Law, 1266 E. Ledbetter, Dallas, Texas 75216.

Bardwell D. Odum, Attorney at Law, A Professional Service Corporation, P.O. Box 38529, Dallas, Texas 75238.

THE FACTS

On October 23, 1974, two Compliance Officers of the Occupational Safety and Health Administration, United States Department of Labor, attempted to inspect the non-public portion of the commercial premises of Gibson Products Company, Inc. of Plano. Their purpose: to determine whether Gibson has "violated" the Occupational Safety and Health Act (OSHA) and to enforce said law against Gibson. The inspection was a routine or general schedule inspection and was not predicated on an emergency, a complaint, or probable cause of any kind. In the absence of a search warrant the Gibson store manager declined to voluntarily submit to an inspection without prior approval from his superior, H. R. Gibson, Jr. When later contacted by OSHA officials, H. R. Gibson, Jr. insisted on a search warrant rather than waive any rights under the Fourth Amendment.

STATEMENT OF THE CASE

Petitioner claims § 8(a) of the Occupational Safety and Health Act authorizes him to compel an administrative inspection of Respondent's premises without a search warrant.[1] The United States Constitution requires otherwise.

Petitioner is required by the Fourth Amendment to obtain a search warrant in order to enter and inspect Respondent's premises.

ISSUE

May Petitioner compel a warrantless inspection of the nonpublic portion of Gibson's commercial premises under § 8(a) of the Occupational Safety and Health Act, or do the Fourth and Fifth Amendments to the United States Constitution require Petitioner to secure a search warrant based on probable cause or hearing.

INTRODUCTION: HISTORY OF THE FOURTH AMENDMENT

The right against searches of home and property dates back to Old Testament times. Freedom from warrantless and unreasonable searches was recognized by the Romans. English Law precedents against warrantless searches predate Magna Carta.[2]

In the Seventeenth Century writings of such authorities as Sir Edward Coke and Chief Justice Hale, the chief limitations upon the exercise of search and seizure now embodied in such Constitutional provisions as the Fourth Amendment are already found presented either as law or as recommendations of the better practice, which later hardened into law.[3]

The great debate in Seventeenth Century England concerned the legality of "general warrants"—which allowed officials of the Crown to enter any premises at any time to search for violations of the law or stolen property. (The searches under general warrants were similar to OSHA inspections, except OSHA substitutes "credentials" for the warrant).

The general warrant was held by Chief Justice Hale to be void.

"And, therefore . . . these general warrants . . . are not justifiable, for it makes the [officer] to be in effect the judge; therefore, searches made by pretense of such general warrants give no more power to the officer than what they may do by law without them."[4]

Hale went on to say that only specific warrants, limited in time and place and issued on probable cause were valid.

In the case of *Huckle* v. *Money*, 95 Eng. Rep. 768 (1763), Chief Justice Pratt stated that:

"To enter a man's house by virtue of a nameless warrant is worse than the Spanish Inquisition; a law under which no Englishman would wish to live an hour."

It was at this point in history, during the House of Commons debate on whether to outlaw general warrants, that William Pitt made his now classic statement that:

"The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England may not enter; all his force dares not cross the threshold of the ruined tenement.[5]

In America the validity of searches and search warrants first arose in a dispute over the Writs of Assistance—which empowered officers of the Crown to search at will, and authorized the apprehension of undescribed persons and the indiscriminate seizure of property.

The inherent rights of the individual versus the power of the government to issue warrants collided in a case argued by James Otis in 1761 and recorded by John Adams.[6] Otis eloquently argued against the Writs of Assistance:

"I was desired by one of the Court to look into the books and consider the question now before the Court concerning Writs of Assistance. It appears to me (may it please your Honours) the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of the Constitution, that ever was found in an English law-book. And as it is in opposition to a kind of power, the exercise of which in former periods of English history cost one King of England his head and another his thrown, I have taken more pains in this cause, than I ever will take again.

". . . Writs of one kind may be legal, that is, special writs directed to special officers, and to search certain houses, especially set forth in the writ, may be granted . . . upon oath made . . . by the person . . . that he suspects such goods to be concealed in those very places he desires to search.

"Special warrants only are legal. The writ prayed for in this petition being general is illegal. It is a power that places the liberty of every man in the hands of every petty officer.

"No acts of Parliament can establish such

Footnotes at end of article.

writs; though it should be made in the very words of the petition it would be void. An act against the Constitution is void."[7]

On July 3, 1776 John Adams wrote his wife from the Second Continental Congress that the resolution of independence had been passed and recollected "the argument concerning writs of assistance, *which I have hitherto considered as the commencement of the controversy* between Great Britain and America . . ."[8] (emphasis added)

In 1886 the United States Supreme Court recognized that the debate over warrantless searches "was perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the mother country." *Boyd* vs. *United States,* 1160 U.S. 616, 625.

As reflected by Adams, the Founders of this Country considered the people's right to be secure in their persons and property, and to be free from unreasonable searches to be basic. They believed all power is vested in the people—and were willing to relinquish this right only to the extent any search was conducted pursuant to a warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[9]

The first American precedent of a constitutional character for the Fourth Amendment was the Virginia Bill of Rights of 1776—which was later the pattern for the first ten amendments (Bill of Rights) to the Constitution.[10]

Although every other state followed Virginia's lead in adopting a Bill of Rights, many of the delegates to the Constitutional Convention opposed the inclusion of a Bill of Rights in the new constitution because they felt that "by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow by implication that those rights which were not singled out, were intended to be assigned into the hands of the general government, and were consequently insecure."[11]

Others, however, such as Thomas Jefferson, James Madison and Patrick Henry wanted to specifically enumerate certain rights—since in their experience these were rights government eventually most encroached upon.[12]

In the end, the latter view prevailed and a Bill of Rights in the form of ten amendments was attached to the Constitution. The prohibition against warrantless searches and seizures was included as the Fourth Amendment.

And today, in the words of James Otis, "No acts of [Congress] can establish such a [warrantless inspection]. An act against the Constitution is void."

This principle was reiterated by the Supreme Court in 1973 when it stated "it is clear of course that no act of Congress can authorize a violation of the Constitution." *Almeida-Sanchez v. United States,* 413 U.S. 266, 272.

DEVELOPMENT BY THE SUPREME COURT

During the century following the adoption of the Federal Constitution and its first Ten Amendments only a few cases involving interpretation of the Fourth Amendment reached the Supreme Court. The first case of significance was *Boyd v. United States,* 116 U.S. 616 (1886), which did much to chart the subsequent course of the Federal law.

Boyd was an action under Customs Revenue Laws which provided civil and criminal penalties. The government prosecutor sought the production of defendant's documents to prove the value of 35 cases of plate glass. When the defendant argued the Fourth and Fifth Amendments prohibited what amounted to a seizure of his papers, the government argued the Fourth Amendment was not applicable because this was a civil proceeding. After examining the history of the Fourth and Fifth Amendments, the Supreme Court stated that basically any search without a warrant was unreasonable. Then looking to the particular law in question, the Court concluded that although the "peculiar phraseology of this Act . . . expressly excludes criminal proceedings from its operation . . . [but rather] embraces civil suits for penalties and forfeitures . . ." the protections of the Fourth and Fifth Amendments were applicable.

"If the government prosecutor elects to waive an indictment and to file a civil information against the claimants—that is, civil in form—can he by this device take from the proceeding its criminal aspect and deprive the claimants of their immunities as citizens. This cannot be."[13]

The Court closed with an eloquent appeal for a liberal, and not merely a literal, construction of the Fourth Amendment.

". . . it may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely; by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed."[14]

Boyd was followed by many cases further defining the Fourth Amendment limitation on searches.[15] However, it was not until 1949 that the question of administrative inspections under health and safety laws was decided.

FOURTH AMENDMENT APPLICABLE TO ADMINISTRATIVE INSPECTIONS

The first reported case dealing squarely with administrative inspections under health laws is *District of Columbia v. Little,* 178 F2d 13, 13 ALR 2d 954 (DC Cir, 1949) affd. 339 US 1 (1950).

In *Little* the defendant was convicted for obstructing an inspector of the Health Department because she refused to unlock the front door and allow an inspection without a warrant. Like Petitioner in the instant case, the District of Columbia argued that the Health Officer was empowered by valid statutes (passed by the U.S. Congress) to enforce the public health laws requiring owners and occupants of premises to keep them clean; that the law authorized warrantless inspections for that purpose; that the attempted inspection was at a reasonable time by a uniformed officer who stated his purpose; and that the right of inspection to prevent and correct dangers, deficiencies and nuisances is a valid and reasonable exercise of the police power.[16] The Court's opinion is quoted at length:

"The simple question is: Can a health officer of the District of Columbia inspect a private home without a warrant if the owner or occupant objects?

"The Fourth Amendment to the Constitution applies.

"When the Constitution prohibits unreasonable searches, it, of course, by implication, permits reasonable searches. But reasonableness without a warrant is adjudged solely by the extremity of the circumstances of the moment and not by any general characteristic of the officer or his mission. Moreover, except for the most urgent of necessities, the question of reasonableness is for a magistrate and not for the enforcement officer.

"It is said to us that the regulations sought to be enforced by this search only incidentally involved criminal charges, that their purpose is to protect the public health. It is argued that the Fourth Amendment provision regarding searches is premised upon and limited by the Fifth Amendment provision regarding self-incrimination. There is no doctrine that search for garbage is reasonable while search for arms, stolen goods or gambling equipment is not. The argument is wholly without merit, preposterous, in fact.

"We need not go beyond the record in this case for an example of the extremity to which the doctrine of the appellant District would take us. One of the two complaints made by the unidentified informant was that some of the occupants of the house 'failed to avail themselves of the toilet facilities.' Reducing appellant's doctrine to practicalities, the result would be that if the owner of a house be reliably charged with concealing a cache of arms and munitions for purposes of revolution, police officers could not search without either permission or warrant, but if the information be that an occupant fails to avail himself of the toilet facilities, government officials cound enter and examine the house over protest and without a warrant.[17]

"The Fourth Amendment did not confer a right upon the people. It was a precautionary statement of a lack of federal governmental power, coupled with a rigidly restricted permission to invade the existing right. The right to guarantee was a right already belonging to the people. To view the Amendment as a limitation upon an otherwise unlimited right of search is to invert completely the true posture of rights and the limitations thereon.

"Much of the argument of the District is devoted to establishing the public importance of the health laws. Assertions are also made of the beneficence and forbearance of health officers. We may assume both propositions. But the constitutional guarantee is not restricted to unimportant statutes and regulations or to malevolent and arrogant agents. Even for the most important laws and even for the wisest and most benign officials, a search warrant must be had.

". . . When such regulations or laws purport to give officers authority to enter private homes against the occupant's protest, and without a warrant, when no compelling emergency involving public health is involved, a serious question of constitutional validity is raised. Health laws can be enforced in the same manner as are other laws.

". . . Absent such emergency, health laws are enforced by the police power and are subject to the same constitutional limitations as are other police powers. It is wholly fallacious to say that any particular police power is immune from constitutional restrictions."

District of Columbia v. *Little* was specifically mentioned and approved in *Camara* v. *Municipal Court,* 387 US 523, 530 (1967). And the companion cases of *Camara* and *See* v. *City of Seattle,* 387 US 541 (1967), are today definitive of the law dealing with warrant requirements for administrative searches and are controlling in the present case.

In *Camara* v. *Municipal Court* the Supreme Court heard the case "to reexamine whether administrative inspection programs, as presently authorized and conducted, violate Fourth Amendment rights . . ." 387 US at 525.

In *Camara* Appellant was charged with violating the San Francisco Housing Code by refusing to permit a warrantless inspection of his residence. Section 503 of the San Francisco Housing Code provided:

> "Authorized employees of the City department or City agencies, so far as may be necessary for the performance of their duties, shall, upon presentation of their proper credentials, have the right to enter, at reasonable times, any building, structure or premises in the City to perform any duty imposed upon them by the Municipal Code."[18]

Nevertheless, when a City Inspector sought to inspect his residence, Appellant refused the Inspector access to his apartment without a search warrant. Appellant argued that § 503 was contrary to the Fourth and Fourteenth Amendments in that it authorized

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Municipal officials to enter a private dwelling without a search warrant and without probable cause to believe that a violation of the Housing Code exists therein.

The District Court of Appeal held that § 503 did not violate Fourth Amendment rights because it "is part of a regulatory scheme which is essentially civil rather than criminal in nature, inasmuch as that section creates a right of inspection which is limited in scope and may not be exercised under unreasonable conditions.

The U.S. Supreme Court reversed, saying

". . . one governing principle, justified by history and by current experience, has consistently been followed: except in certain carefully defined classes of cases, a search of private property without proper consent is *'unreasonable' unless it has been authorized by valid search warrant.*" 387 U.S. at 528–529 (emphasis added).

In *Camara*, Appellee took the position that since the inspector does not ask that the property owner open his doors to a search for "evidence of criminal action" which may be used to secure the owner's criminal conviction, historic interests of "self protection" jointly protected by the Fourth and Fifth Amendments were not involved.

The Supreme Court answered Appellee's argument by stating

"It is surely anomalous to say that the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior.

". . . Inspections of the kind we are here considering do in fact jeopardize 'self protection' interests of the property owner. Like most regulatory laws, fire, health and housing codes are enforced by criminal processes. In some cities, discovery of a violation by the inspector leads to criminal complaint. Even in cities where discovery of a violation produces only an administrative compliance order, refusal to comply is a criminal offense." [19] 387 U.S. at 530–531

The Supreme Court also rejected the arguments (also made by Petitioner in the instant case) that "the warrant process could not function effectively in this field" and "that the public interest demands warrantless administrative searches."

"In summary, we hold that administrative searches of the kind at issue here are significant intrusions upon the interests protected by the Fourth Amendment, that such searches when authorized and conducted without a warrant procedure lack the traditional safeguards which the Fourth Amendment guarantees to the individual, and that the reasons put forth in *Frank v. Maryland* and in other cases for upholding these warrantless searches are insufficient to justify so substantial a weakening of the Fourth Amendment's protections." 387 U.S. at 534

In the companion case of *See v. City of Seattle*, 387 U.S. 541 (1967), the Supreme Court held that *Camara* applied to similar inspections of commercial structures which are not used as private residences. The issue in *See* was whether a Fire Code inspector could enter and inspect Appellant's locked commercial warehouse without a warrant and without probable cause to believe that a violation existed therein. The Court found the principles enunciated in the *Camara* opinion applicable, stating

" . . . we see no justification for so relaxing Fourth Amendment safeguards where the official inspection is intended to aid enforcement of laws prescribing minimum physical standards for commercial premises. As we explained in Camara, a search of private houses is presumptively unreasonable if conducted without a warrant. The businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property. *The businessman, too, has that right placed in jeopardy if the decision to enter and inspect for violation of regulatory laws can be made and enforced by the inspector in the field without official authority evidenced by a warrant.*" 387 U.S. at 543 (emphasis added).

The Court likened the Fourth Amendment issues to those raised by the administrative subpoena of corporate books and records, and stated

"We find strong support in these subpoena cases for our conclusion that warrants are a necessary and a powerful limitation on the right to enter upon and inspection commercial premises." 387 U.S. at 544.

"It is these rather minimal limitations on administrative action which we think are constitutionally required in the case of investigative entry upon commercial establishments. 387 U.S. at 545

"Given the analogous investigative functions performed by the administrative subpoena and the demand for entry, we find untenable the proposition that the subpoena, which has been termed a "constructive" search, *Oklahoma Press Publishing Company v. Walling*, 327 U.S. 186, is subject to Fourth Amendment limitations which do not apply to actual searches and inspections of commercial premises." 387 U.S. at 545

The Court concluded that "*administrative entry, without consent*, upon the portions of commercial premises which are not open to the public *may only be compelled* through prosecution or physical force *within the framework of a warrant procedure.*" 387 U.S. at 545 (emphasis added).

The Secretary of Labor, Petitioner herein, and the Occupational Safety and Health Review Commission have expressly recognized and followed *Camara* and *See*.

In *Southern Indiana Gas & Electric Company*, OSHRC Docket No. 456 (CCH Occupational Safety and Health decisions ¶15,238, 1972) [20] the Secretary of Labor's request for inspection was based on a complaint that required a prompt response. Nevertheless, the judge, recognizing the rule in *Camara* and *See*, held that "the respondent *had the right* under the provisions of the Fourth Amendment to the Constitution of the United States *to demand a warrant* before admitting the Compliance Officers." After pointing out that "the Secretary's Compliance Operations Manual even explains how a warrant may be secured" the judge further held that by failing to demand a warrant, *Respondent waived its Fourth Amendment rights!*

Respondent in the instant case has no desire to waive its Fourth Amendment rights.

In its May 30, 1974 decision in *Accu-namics Inc.*,[21] OSHRC Docket No. 477, (CCH ¶17, 936) the Occupational Safety and Health Review Commission reiterated the rule:

"The Supreme Court in the companion cases of *Camara v. Municipal Court* and *See v. Seattle* firmly established that Fourth Amendment protections are applicable to administrative inspections of both non-commercial and commercial premises. As expressed in these cases, administrative inspection warrants are required under ordinary circumstances." [22]

In *Accu-namics* the Review Commission quoted Congressman Steiger, co-sponsor of the [Occupational Safety and Health] Act as saying:

"I would add that in carrying out inspection duties under this Act, the Secretary, of course, would have to act in accordance with applicable constitutional protections."

The OSHA Compliance Manual, complied and issued by the Secretary of Labor, is relied on and followed by OSHA Compliance Officers in carrying out their duties. Chapter 5 of the Manual defines a warrant as "a legal process issued by a U. S. Magistrate or a U. S. District Judge" and explains how to obtain a warrant where an employer does not voluntarily permit an inspection.[23] Likewise, the OSHA regulations promulgated by the Secretary of Labor at 29 CFR recognize that at times a warrant may be necessary.

It cannot, therefore, be disputed that Fourth Amendment protections are applicable to an administrative inspection as is sought here. *Camara v. Municipal Court*, supra. These protections apply to commercial as well as non-commercial premises. *See v. Seattle*, supra. In the instant case, Respondent has the right to demand a search warrant based on probable cause before allowing an inspection of its premises. If Respondent fails to demand a warrant, it waives its Fourth Amendment rights. *Southern Indiana Gas & Electric Company*, supra. In light of his established rules and regulations, and the precedent of prior OSHA cases, Petitioner is precluded from arguing otherwise.[24]

The only pertinent cases holding a warrant not necessary for an administrative search are *Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970) and *United States v. Biswell*, 406 U.S. 311 (1972). These two cases carve out an exception from the rule stated in *Camara v. Municipal Court* and *See v. Seattle* by holding that certain state or federally *licensed* activities may be inspected without a warrant.

In *Colonnade* the Court dealt with the statutory authorization for warrantless inspections of *federally* licensed dealers in alcoholic beverages. The Court held the *See* test inapplicable because of the long history of government licensing and regulation of liquor. The Court also pointed out that in the *See* case it had "reserved decision on the problems of 'licensing programs' requiring inspection . . ." 397 U.S. at 77.

In *United States* v. *Biswell*, Respondent was a federally licensed firearms dealer. Again the Court [25] held See inapplicable, stating that "when a dealer chooses to engage in this pervasively regulated business and to *accept a federal license* he does so with the knowledge that his business records, firearms, and ammunition will be subject to effective inspection." 406 U.S. at 316 (emphasis added).

In these two cases (*Colonnade* and *Biswell*) the Supreme Court holds that the only exception to the warrant requirements of *See* v. *Seattle* and *Camara* v. *Municipal Court* is found where regulatory statutes authorize warrantless inspections of governmentally licensed enterprises.

In 1973, the Supreme Court in *Almeida-Sanchez* v. *United States*, 413 U.S. 266, expressly confirmed that the only exception to the rule in *See* and *Camara* is in the case of governmentally licensed enterprises.

In *Almeida* the issue was whether the Border Patrol could search Petitioner's car without a warrant. The government argued that the search was in effect an administrative inspection, hence a warrantless inspection/search was authorized by *Colonnade Catering Corp.* v. *United States* and *United States* v. *Biswell*.

The Supreme Court said that *Colonnade* and *Biswell* were not applicable.

"A central difference between those cases and this one is that businessmen engaged in such federally licensed and regulated enterprises accept the burdens as well as the benefits of their trade, whereas the petitioner here was not engaged in any regulated or licensed business." 413 U.S. at 271.

Respondent in the instant case is not engaged in a governmentally licensed and regulated industry. Petitioner is therefore required to obtain a search warrant.

The law as stated in *District of Columbia* v. *Little* has been restated and reaffirmed many times. It was followed in *Camara* v. *Municipal Court*. *See* v. *City of Seattle* held the same Fourth Amendment protections applicable to business and commercial establishments. Accordingly, inspection under the Occupational Safety and Health Act may

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be compelled only by means of a search warrant, based on probable cause.

PETITIONER'S CASE

Petitioner, however, argues that the Supreme Court has been overruled by *Brennan* v. *Buckeye Industries Inc.*, 374 F Supp 1350 (SD Ga, 1974).

Buckeye held that OSHA officials could compel an inspection without a search warrant. A careful reading of the case reveals that it does not adhere to the guidelines of *Camara, See, Colonnade,* and *Biswell,* supra.

The Court in *Buckeye* took pains to show that the Act and the Regulations require OSHA inspections to be conducted at reasonable times, in a reasonable manner, and confined to the objects of legislation. When the same point was raised in *Camara* v. *Municipal Court,* the Supreme Court had this to say:

". . . Broad statutory safeguards are no substitute for individualized review," 387 U.S. at 533

In *Buckeye,* the Court found the "compelling need" for unannounced inspections obviated the requirements of the Fourth Amendment. When the "compelling need" for health, building and fire inspections was alleged in *Little, Camara,* and *See,* the Supreme Court held the exercise of these police powers subject to constitutional limitations and required a search warrant in each case.

Basically, however, the decision in *Buckeye* is predicated on *Terraciano* v. *Montanye,* 493 F 2d 682 (2d Cir, 1974) and *Youghiogheny and Ohio Coal Company* v. *Morton,* 364 F Supp 45 (SD Ohio, 1973).

Terraciano upheld as constitutional a warrantless inspection and seizure of the narcotics records of a licensed pharmacist *Terraciano* quoted and followed Biswell in recognizing an exception to the warrant requirement for regulatory inspections of *licensed activities.*[26]

In urging the right to conduct a warrantless inspection, the State argued in *Terraciano* that *in accepting his license* the pharmacist had impliedly consented to state inspection. Compare this to the Supreme Court's language in *Biswell,* 406 U.S. at 316.

"When a dealer chooses to . . . accept a federal license, he does so with the knowledge that his business records, firearms and ammunition will be subject to effective inspection."

The warrantless inspection in *Buckeye* was not justified by the holding in *Terraciano,* since *Buckeye Industries, Inc.* was not a governmentally licensed business.

The second case relied on by the court in *Buckeye* is *Youghiogheny and Ohio Coal Company* v. *Morton,* which upheld a warrantless inspection under the Federal Coal Mine Health and Safety Act. The *Youghiogheny* opinion stated that—

"An exception to the warrant requirement is now established where statutory regulation of businesses, pursuant to the police power, mandates warrantless entry." 364 F Supp at 49.

The Court based this statement on the following language from *Almeida-Sanchez.*

"Businessmen . . . engaged in such federally licensed and regulated enterprises accept the burdens as well as the benefits of their trade . . ." 413 U.S. at 271.

For the first time, in *Youghiogheny,* "licensed and regulated" is reduced to simply "regulated."

It is important to note that the Supreme Court in *See* v. *Seattle* excepted from the warrant requirement *only* inspections of licensed businesses. The same Court upheld the warrantless inspection of a federally *licensed* firearms dealer in *United States* v. *Biswell.* But based on the Supreme Court's language of "licensed and regulated business" the *Youghiogheny* Court *extended* the warrantless search exception to a non-licensed but "regulated" coal mine.

Even assuming, arguendo, that the Court in *Youghiogheny* was correct in allowing a warrantless inspection under the Federal Coal Mine Health and Safety Act, such a holding would not justify the warrantless inspection of Gibson's retail sales establishment under OSHA. The *Youghiogheny* Court noted

"Our view might be entirely otherwise were we not dealing with a business context of a *nearly inherently dangerous type.*" 366 F Supp at 52n 7.

The business of Gibson Products Company, Inc. of Plano is definitely not of an "inherently dangerous type."

Unfortunately, *Buckeye* relied on *Youghiogheny* to enlarge and extend the right to conduct a warrantless search to all *governmentally regulated enterprises,* although the Supreme Court has consistently confined this right to governmentally *licensed* and regulated industries. Since today *all* industry is "regulated," *Buckeye* would allow government inspectors to enter without a warrant every business in the country. Practically speaking, *Buckeye* removes the protections of the Fourth Amendment from commercial enterprises and overrules *See* v. *City of Seattle.*[27]

Brennar v. *Buckeye Industries Inc.* is not in accord with either the Supreme Court or the Constitution and is not controlling in the instant case.[28]

THE PROBABLE CAUSE REQUIREMENT

As in *Buckeye,* Petitioner states that the search warrant requirement cannot be applicable to an administrative inspection under the Occupational Safety and Health Act because a warrant may be issued only upon probable cause that a crime has been committed. Therefore, Petitioner argues, to require a search warrant for an OSHA inspection would be to frustrate the intent of Congress in passing the Occupational Safety and Health Act.

"It is clear, of course, that no Act of Congress can authorize a violation of the Constitution." *Almeida-Sanchez* v. *United States,* 413 U.S. 266, 272 (1973).[29]

However, a careful reading of the *See* and *Camara* cases reveals that the Supreme Court considered this very question and held there *must* be a search warrant for an administrative inspection—based on "probable cause." *But the Court stated the test for "probable cause" for an administrative search warrant is different than in a criminal case.* Consider the opinion in *Camara:*

". . . it is vigorously argued that the public interest demands [administrative inspections]. The question is not, at this stage at least, whether these inspections may be made, but whether they may be made without a warrant. 378 U.S. at 533.

". . . We hold that administrative searches of the kind at issue here are significant intrusions upon the interest protected by the Fourth Amendment, that such searches when authorized and conducted without a warrant procedure lack the traditional safeguards which the Fourth Amendment guarantees to the individual, and that the reasons put forth in *Frank v. Maryland* and in other cases for upholding these warrantless searches are insufficient to justify so substantial a weakening of the Fourth Amendment's protections. 387 U.S. at 534

". . . This is not to suggest that a health official need show the same kind of proof to a magistrate to obtain a warrant as one must who would search for the fruits or instrumentalities of crime. Where considerations of health and safety are involved, the facts that would justify an inference of 'probable cause' to make an inspection are clearly different from those that would justify such an inference where a criminal investigation has been undertaken. 387 U.S. at 538."

". . . It is obvious that 'probable cause' to issue a warrant to inspect must exist if reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to a particular dwelling . . . but they will not necessarily depend upon specific knowledge of the condition of the particular dwelling. 387 U.S. at 538

The Court stated that the factors to be considered in determining probable cause will vary with the program being enforced, and may be based on passage of time, nature of the building, or the condition of the entire area. But these are questions to be reviewed by a neutral magistrate to guarantee that a decision to search private property is justified by a reasonable governmental interest. "Broad statutory safeguards are no substitute for individualized review" 387 U.S. at 533.

The Supreme Court summed up the probable cause requirement in *See v. Seattle.*

"The agencies" particular demand for access will, of course, be measured, in terms of probable cause to issue a warrant, against a flexible standard of reasonableness that takes into account the public need for effective enforcement of the particular regulation involved." 387 U.S. at 545

See and *Camara* are directly in point with the instant case. In those cases the Supreme Court held that a warrant based on probable cause was necessary to compel an administrative inspection. Petitioner's argument ignores the fact that in *See* and *Camara* the Supreme Court *also defines the test for "probable cause" as it applies to search warrants to conduct administrative inspections!*

The issues Petitioner raises here were fully considered in *Camara* and *See* and the Supreme Court ruled an administrative inspection can *only* be compelled through the warrant process, and there *can* be "probable cause" in such cases.

Under the tests of *Camara* and *See* Petitioner does have a remedy—but it is not to deprive Respondents of their constitutional rights.

CONCLUSION

The constitutional safeguards of the Fourth and Fifth Amendments apply to administrative inspections under the Occupational Safety and Health Act. The United States Supreme Court has consistently held that such an inspection may only be compelled "within the framework of a warrant procedure." Only governmentally licensed and regulated businesses may be inspected without a warrant—and Gibson does not come within this exception.

A warrant for an administrative inspection can and must be based on probable cause. And such warrant should be issued only after notice and the opportunity for hearing provided under the due process cause of the Fifth Amendment.

In the absence of a search warrant, Respondent may properly refuse to allow an inspection under the Occupational Safety and Health Act. Otherwise Respondent would waive its constitutional rights.

Even Petitioner's rules, regulations and prior cases under the Occupational Safety and Health Act recognize the constitutional warrant requirement.

Should this Court find that § 8(a) of the Occupational Safety and Health Act authorizes Petitioner to compel a warrantless search of Respondent's premises, then the Court must, ipso facto, conclude that § 8(a) violates the Fourth and Fifth Amendments, and is unconstitutional.

Charles Alan Wright, 2500 Red River Street, Austin, Texas 78705. *Of Counsel*

Robert E. Rader, Jr., Attorney at Law, 1266 E. Ledbetter, Dallas, Texas 75216.

Bardwell D. Odum, Attorney at Law, A Professional Service Corporation, P.O. Box 38529, Dallas, Texas 75238.

Footnotes at end of article.

FOOTNOTES

[1] 29 USC § 657.

[2] See generally "The History and Development of The Fourth Amendment to the United States Constitution" Johns Hopkins University Studies in Historical and Political Science, Series 55, No. 2, 1937.

[3] Sir Matthew Hale, *History of the Pleas of the Crown,* (Philadelphia 1847) Vol. I, p. 580; Vol. II, p. 112.

[4] Hale, Vol. II, p. 150.

[5] Quoted in Thomas M. Cooley, a Treatise on Constitutional Limitations, (8th Ed. Boston, 1927), Vol. I, p. 611.

[6] 44. Petition of Lechmere, *Legal Papers of John Adams,* Vol. II, pp. 106–144.

[7] Ibid.

[8] *Works of John Adams,* Vol. X, p. 276. See also Mabel Hill, *Liberty Documents* (New York, 1901) pp. 188–189. It was Adams' view that the issue of (what amounted to warrantless) searches under the Writs of Assistance was the spark that touched off the fight for independence. "Then and there the child Independence was born."

[9] Fourth Amendment, United States Constitution.

[10] See *Works of John Adams,* Vol. 3, p. 220; The History and Development of the Fourth Amendment to the United States Constitution, Johns Hopkins, p. 79; *The Papers of George Mason,* Vol. I, pp. 274–291.

[11] *Writings of James Madison,* Vol. V, p. 384; *Alexander Hamilton, The Federalist,* No. LXXXIV; *The Works of Alexander Hamilton,* Vol. 12, pp. 324–326.

[12] *Writings of James Madison,* Vol. V, pp. 376–478.

[13] 116 U.S. at 634.

[14] 116 U.S. at 635.

[15] Many of these cases considered the rights of corporations under the Fourth Amendment and held that corporations are also protected from unreasonable searches and seizures. *United States* v. *Habig* 474 F2d 57 (7th Cir, 1973) Cert denied; *Silverthorne Lumber Co.* v. *United States* 251 US 385 (1920), 24 ALR 1426; *United States* v. *Morton Salt* 338 US 632 (1949); *Hale* v. *Henkel* 201 US 43 (1906); *United States* v. *Crespo* 281 F Supp 928 (DC Maryland, 1968). "The protections of the Fourth Amendment extended to insulate a corporation from unreasonable searches and seizures". *In re Lukich* 335 F Supp 557 (ND Ohio, 1971).

[16] These are the identical arguments raised in *Brennan* v. *Buckeye Industries Inc.,* 374 F Supp 1350 (SD Ga., 1974), upon which Petitioner relies.

[17] Applying this to the instant case, if Gibson Products Company, Inc. of Plano was charged with concealing arms and munitions for purposes of revolution, police officers could not search without either permission or warrant, but if OSHA believes that Gibson's of Plano does not use open-end toilet seats, government officials may enter and inspect over protest and without a warrant.

[18] Note the similarity to § 8(a) of OSHA.

[19] This last statement of the Court is directly applicable to whether penalties under the Occupational Safety and Health Act are criminal or civil in nature. Under OSHA, a violation, in most cases, produces a "civil" fine and "an administrative compliance order" *but refusal to comply is a criminal offense.* There is also some question whether OSHA penalties are in fact civil or criminal in nature. A number of recent commentators have analyzed the Act and concluded that it is essentially penal in nature. See comments, "The Occupational Safety and Health Act of 1970", 25 Baylor L. Rev. 104 (1973): Comment, "OSHA: Employer Beware," 10 Houston L. Rev. 426 (1973): Comment, "The Occupational Safety and Health Act of 1970: Its Role in Civil Litigation" 28 Sw L.J. 999 (1974). Comment, "OSHA Penalties, Some Constitutional Considerations", 10 Idaho Law Review 223 (1974). Of particular note is *Frank Irey, Jr. Inc. v. Occupational Safety and Health Review Commission,* a case wherein the U.S. Court of Appeals for the Third Circuit on December 20, 1974 vacated a prior decision holding that penalties under OSHA are civil in nature and constitutional. (The original decision is found in CCH Employment Safety and Health Guide at § 18,927). The recent case of *United States v. LeBeouf Bros. Towing Co. Inc.* 377 F. Supp 558 (EDLa. 1974) is closely in point and lends support to the view that OSHA is a criminal statute. Yet the accused in an OSHA case is not afforded the full panoply of rights afforded one accused of a crime.

[20] Copy attached as Exhibit A.

[21] Copy attached as Exhibit B.

[22] On July 11, 1975 the Fifth Circuit Court of Appeals affirmed the Review Commission's decision that Accu-namic's Fourth Amendment rights had not been violated *because the site was on a public street!* CCH Occupational Safety and Health Decisions ¶ 19,802. A copy of the Appellate Decision is attached as Exhibit C.

[23] A copy of the pertinent portions of Chapter 5 of the Manual is attached hereto as Exhibit D.

[24] It is interesting to note Petitioner's inconsistency. His Manual, regulations, cases and administrative decisions all recognize that employers *do* have the right to refuse a warrantless inspection. The Manual gives specific instructions on how to secure a warrant. In the instant suit, however, Petitioner maintains his right to compel a warrantless inspection under § 8(a) of the Act because, according to testimony introduced by Petitioner, an "instant" inspection is necessary to assure a safe workplace. But the same OSHA Compliance Officers and Area Director testified they do not consider themselves authorized to compel an inspection without first going through a number of procedural steps. In other words, *their own procedure* defeats the argument that their inspection cannot be delayed.

Attached as Exhibit E is a copy of a letter to Congressman Robert Eckhardt from the Secretary of Labor emphasizing that it is OSHA's procedure to secure a search warrant where the employer does not consent to an inspection. This letter was forwarded to counsel for Respondent in response to a previous letter to Congressman Eckhardt. In that letter the Secretary says flatly that "in the relatively few cases where the employer refuses to permit the OSHA inspector to enter, * * * an appropriate warrant is obtained before proceeding further."

[25] Justice White wrote the opinions in *Camara v. Municipal Court, See v. Seattle,* and *United States v. Biswell.* He obviously had no difficulty in reconciling the latter case, since in *See* he had expressly excepted regulatory inspections under licensing programs.

[26] The *Terraciano* court was familiar with this question since *Colannade Catering Corp. v. United States* also came out of the Second Circuit.

[27] The *See* case was written with full realization that "as governmental regulation of business enterprise has mushroomed in recent years, the need for effective investigative techniques to achieve the aims of such regulation has been the subject of substantial comment and legislation. * * * This Court has not had occasion to consider the Fourth Amendment's relation to this broad range of investigations." 387 U.S. at 543–544. The rule laid down there called for "a flexible standard of reasonableness that takes into account the public need for effective enforcement of the particular regulation involved." 387 U.S. at 545. It simply cannot be said that the *See* requirement of a warrant is avoided merely because a business is regulated.

[28] The judge in *Buckeye* observed that insistence on a search warrant based on probable cause is "constitutionally speaking, marching to the beat of an antique drum." At least one commentator has concluded that it was the court, not the corporation, that was out of step. See *"Brennan v. Buckeye Industries Inc.:* The Constitutonality of an OSHA Warrantless Search" 1975 Duke L.J. 406. See also "The Occupational Safety and Health Act of 1970" It's Role in Civil Litigation, 28 SW L.J. 999

[29] See also *District of Columbia v. Little* 178 F2d 13 (DC Cir, 1949) affd. 339 US 1 (1950) at page 19 regarding Congress' intent to authorize searches and/or inspections without a warrant.

POTOMAC ESTUARY MONITORING PROGRAM DEVELOPED BY ICPRB

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to call the attention of the Congress to the fine contribution made by the Interstate Commission on the Potomac River Basin—ICPRB—in helping to clean up the Potomac River. ICPRB is serving a very useful function as a catalyst for problem definition and provides needed data for decisionmaking by the multitude of Federal, State, and local authorities involved in basin resource and environmental quality management.

A recent example of the commission's contributions is the development of a research proposal to monitor the water quality and biology of the Potomac estuary. The objective of this monitoring program is to determine the effectiveness of the Blue Plains wastewater treatment plant in maintaining a sufficiently high level of instream water quality so as to protect aquatic life and prevent biological problems such as algae blooms and fish kills.

The monitoring proposal has been submitted to the Environmental Protection Agency. If funded, it will enable EPA to adequately determine the future need for $100 million denitrification facility at Blue Plains. The monitoring program will also help determine what the incremental biological benefits will be should denitrification be required.

In addition, the data base of the program will be available for determining the estuarine impact of other river-use activities, such as upstream withdrawals for water supply.

A more comprehensive description of ICPRB's monitoring proposal is found in the January 1976, issue of the Potomac Basin Reporter:

ICPRB TO COORDINATE ESTUARY STUDY

The Interstate Commission is developing a comprehensive modeling and monitoring program for the lower third of the Potomac, from the mouth of the Monocacy River to the end of the Potomac at Point Lookout, where the river meets the Chesapeake Bay.

The monitoring program arose out of a decision last year by the Environmental Protection Agency to delay for at least two years, an expensive denitrification facility at the Blue Plains wastewater treatment plant in the District of Columbia. At that time, Daniel Snyder, regional administrator of the EPA, along with the heads of water pollution control agencies in D.C., Maryland, and Virginia, expressed the need for a way of determining the impact of improvements in pollution control, along with increased demands for water supply, power plants, recreation, and other important impacts on the Potomac.

ICPRB is now developing the "Potomac Estuary Monitoring Program," dubbed PEP, and it will include:

Definition of the impact of Blue Plains and other sewage treatment plants.

Refining the existing mathematical model of the estuary related to nutrients.

Analysis of major problems in each of four segments of the river.

Determination of the best water quality parameters to study to find out what is really happening in the estuary.

The PEP program, being coordinated by William Mason, of the ICPRB staff, involves many distinguished scientific administrators with extensive experience in the Potomac, including three from the Environmental Protection Agency's Annapolis Field Office: Ort Villa, director; Donald Lear, a research biologist, and Leo Clark, an engineer with the AFO.

Other PEP leaders include Dr. Rita Colwell, Professor of Microbiology at the University of Maryland; Dr. Nick Matalas, Research Hydrologist at the U.S. Geological Survey in Reston, Va., Dr. Charles Rohde of the Department of Biostatistics in the School of Health, Johns Hopkins University, and William McCaw, ICPRB environmental engineer.

At an initial series of meetings, public representatives of water and shoreline interest groups are being asked to describe the water quality concerns they feel should be emphasized by the PEP program. In addition, a Potomac "River Watch" will report on such problems as algae, debris, odor, sediment and spills to the PEP study through an informal observation network.

The Public Input and River Watch program is being coordinated by Anne Blackburn, ICPRB, and A. C. Carpenter, of the Potomac River Fisheries Commission in Colonial Beach, Virginia.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. Esch (at the request of Mr. Rhodes), for today, on account of official committee business.

Mr. Lehman (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Sarasin (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Kindness) to revise and extend his remarks and include extraneous material:)

Mr. Regula, for 5 minutes, today.

(The following Members (at the request of Mr. Oberstar) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Ms. Abzug, for 10 minutes, today.
Mr. Drinan, for 10 minutes, today.
Ms. Holtzman, for 60 minutes, today.
Mr. Koch, for 10 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. McFall, for 15 minutes, today.
Mr. Diggs, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brademas and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $859.

Mr. Symms, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,358.50.

Mr. Pickle and to include extraneous matter following remarks of Mr. O'Neill on Thomas Jefferson birthday ceremony.

Mr. Ashbrook to revise and extend his remarks immediately previous to the vote on the motion to recommit on House Resolution 1097 today.

(The following Members (at the request of Mr. Kindness) and to include extraneous material:)

Mr. Sarasin.
Mr. Bell.
Mr. Symms in two instances.
Mr. Myers of Pennsylvania.
Mr. Hansen.
Mr. Michel.
Mr. Crane.
Mr. Steiger of Arizona.
Mr. Bob Wilson in two instances.
Mr. Abdnor in two instances.
Mr. O'Brien.
Mr. Skubitz.
Mr. Talcott.
Mr. Buchanan in two instances.
Mr. Findley.
Mr. Coughlin in two instances.

(The following Members (at the request of Mr. Oberstar), and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Annunzio in six instances.
Mr. Allen.
Mr. Drinan in two instances.
Mr. Murtha.
Mr. Russo.
Mr. Fauntroy in four instances.
Mr. Symington in two instances.
Ms. Abzug in three instances.
Mr. Rostenkowski in 10 instances.
Mr. Alexander.
Mr. Baucus in two instances.
Mr. Rangel in 10 instances.
Mr. Edgar in three instances.
Mr. Reuss.
Mr. Rose in two instances.
Mr. Wirth in two instances.
Mr. Green.
Mr. Hungate.
Mr. Charles H. Wilson of California.
Mr. D'Amours.
Mr. Zablocki in two instances.
Mr. Matsunaga.
Mr. Van Deerlin.
Mr. Hayes of Indiana.
Mr. Harrington.
Mr. Wolff.
Mr. Edwards of California.
Mr. Downey of New York.
Mr. McFall.
Mr. Diggs.
Mr. Hamilton.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3149. An act to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 10624. An act to amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities;

H.R. 12490. An act to provide tax treatment for exchanges under the final system plan for ConRail;

H.J. Res. 801. Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 857. Joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles;

ON MARCH 25, 1976:

H.R. 6346. An act to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972, and for other purposes; and

H.R. 9803. An act to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

On MARCH 26, 1976:

H.J. Res. 801. Joint resolution making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 30, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2906. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1976 for the Department of Health, Education, and Welfare (H. Doc. No. 94–427); to the Committee on Appropriations and ordered to be printed.

2907. A letter from the Assistant Comptroller General of the United States, transmitting a report on the release of certain impounded budget authority required to be made available for obligation under sections 1012(b) and 1013(b) of the Impoundment Control Act of 1974; to the Committee on Appropriations.

2908. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

2909. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of antimony from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

2910. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of industrial diamond stones from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

2911. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

2912. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of tin from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

2913. A letter from the Assistant Secretary of Health, Education, and Welfare for Administration and Management, transmitting notice of four proposed new systems of records and amendments to two existing systems for divisions of the Department of Health, Education, and Welfare, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2914. A letter from the Administrator of General Services, transmitting a notice of a proposed new system of records within the Federal Preparedness Agency, GSA, consisting of inter-agency directories to be used to provide locator service and to distribute publications and communications, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2915. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on excess defense articles delivered to foreign governments in the second quarter of fiscal year 1976, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on International Relations.

2916. A letter from the Assistant Secretary of State for Congressional Relations, transmiting Presidential Determination No. 76–11, finding that the sale to Egypt of C–130 aircraft and training of Egyptian personnel, will strengthen the security of the United States and promote world peace, pursuant to section 3(a)(1) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2917. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles and services to Egypt (transmittal No. 76–47), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2918. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to increase the scope of an earlier sale of defense services to Iran (transmittal No. 76–48), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2919. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to increase the scope of an earlier sale of defense services to Iran (transmittal No. 76–49), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2920. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report on plans for U.S. participation in and operation of the International Fund for Agricultural Development (IFAD), pursuant to section 103(g) of the Foreign Assistance Act of 1961, as amended (89 Stat. 857); to the Committee on International Relations.

2921. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

2922. A letter from the Administrator, Federal Energy Administration, transmitting a proposed amendment exempting residual fuel oil from the Federal Energy Administration's mandatory petroleum allocation and price regulations, pursuant to section 12 of the Emergency Petroleum Allocation Act of 1973, as amended (89 Stat. 951) (H. Doc. No. 94–428); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

2923. A letter from the Secretary of Transportation, transmitting a report covering calendar year 1975 on utilization of authority to designate and rent inadequate quarters, lease family housing and hire quarters at or near Coast Guard installations, pursuant to 14 U.S.C. 475(f); to the Committee on Merchant Marine and Fisheries.

2924. A letter from the Administrator of Veterans' Affairs, transmitting the annual report of the Veterans' Administration for fiscal year 1975, pursuant to 38 U.S. 214; to the Committee on Veterans' Affairs.

2925. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Mar. 25, 1976, the following report was filed on Mar. 26, 1976.*]

Mr. PRICE: Committee on Armed Services. H.R. 12438. A bill to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes; with amendment (Rept. No. 94–967). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Mar. 29, 1976*]

Mr. BROOKS: Committee on Government Operations. Report on HUD's responsiveness to previous recommendations for corrective action (Rept. No. 94–968). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on reducing losses through improved mortgage servicing (Rept. No. 94–969). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 10686. A bill to amend title 13, United States Code, to require that population census records be transferred to the National Archives within 50 years after a census, and that such records be made available after 75 years to persons conducting research for genealogical or other proper purposes; with amendment (Rept. No. 94–971). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. House Joint Resolution 491. Joint resolution to extend support under the joint resolution providing for Allen J. Ellender fellowships to disadvantaged secondary school students, and for other purposes; with amendment (Rept. No. 94–972). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 5446. A bill to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972; with amendment (Rept. No. 94–973). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS of Ohio: Committee on House Administration. H.R. 11286. A bill to amend title 44, United States Code, to provide a 1-year extension for the preparation of the report of the National Study Commission on Records and Documents of Federal Officials; with amendment (Rept. No. 94–974). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on transportation of hazardous materials by air (Rept. No. 94–975). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of Conference. Conference report on S. 1941 (Rept. No. 94–976). Ordered to be printed.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1114. Resolution providing for the consideration of H.R. 12388. A bill to amend Public Law 94–187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes (Rept. No. 94–977). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1115. Resolution providing for the consideration of H.R. 12406. A bill to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes (Rept. No. 94–978). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 1402. A bill for the relief of John W. Hollis; with amendment (Rept. No. 94–970). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PERKINS (for himself, Mr. Quie, Mr. Ford of Michigan, Mr. Bell, Mrs. Mink, Mr. Eshelman, Mr. Meeds, Mr. Buchanan, Mrs. Chisholm, Mr. Pressler, Mr. Andrews of North Carolina, Mr. Goodling, Mr. Lehman, Mr. Jeffords, Mr. Simon, Mr. Mottl, Mr. Hall, Mr. Blouin, Mr. O'Hara, Mr. Zeferetti, Mr. Miller of California, and Mr. Cornell):

H.R. 12835. A bill to amend the Vocational Education Act of 1963, and for other purposes; to the Committee on Education and Labor.

By Mrs. ABZUG:

H.R. 12836. A bill to amend title XVI of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining his or her eligibility for supplemental security income benefits; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mrs. Chisholm, Mr. Edwards of California, Mr. Harrington, Mr. Mitchell of Maryland, Mr. Mottl, Mr. Nix, Mr. Nolan, Mr. Ottinger, Mr. Richmond, Mr. Scheuer, Mr. Solarz, and Mr. Waxman):

H.R. 12837. A bill to amend title II of the Social Security Act to provide coverage for homemakers under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. Quie, Mr. Perkins, Mr. Thompson, Mr. Bell, Ms. Mink, Mr. Meeds, Mr. Peyser, Mrs. Chisholm, Mr. Lehman, Mr. Jeffords, Mr. Cornell, Mr. Beard of Rhode Island, Mr. Pressler, Mr. Zeferetti, Mr. Miller of California, Mr. Hall, Mr. O'Hara, Mr. Phillip Burton, Mr. Esch, Mr. Biaggi, Mr. Benitez, Mr. Hawkins, Mr. Risenhoover, and Mr. Simon):

H.R. 12838. A bill to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. Dent, Mr. Ford of Michigan, Mr. Clay, Mr. Sarasin, and Mr. Blouin):

H.R. 12839. A bill to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of California (by request):

H.R. 12840. A bill to require that automobile manufacturers make repair parts for their automobiles readily available for not less than 7 years after such automobiles are manufactured; to the Committee on Interstate and Foreign Commerce.

By Mr. DERRICK (for himself and Mr. Holland):

H.R. 12841. A bill appropriating funds for the Broadway Lake Project, Anderson County, S.C.; to the Committee on Appropriations.

H.R. 12842. A bill appropriating funds for the flood control project at Scotts Creek, Newberry, S.C.; to the Committee on Appropriations.

By Mr. DERWINSKI (by request):

H.R. 12843. A bill to amend subchapter IV of chapter 53 of title 5, United States Code, to improve the operation of the Federal wage system and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DEVINE:

H.R. 12844. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of Carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EVANS of Indiana:

H.R. 12845. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Ms. KEYS:

H.R. 12846. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. McFALL:

H.R. 12847. A bill to repeal the act of June 23, 1936, to authorize the Secretary of Interior to exchange lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McFALL (for himself, Mr. Edwards of California, Mr. Johnson of California, Mr. Leggett, and Mr. Don H. Clausen):

H.R. 12848. A bill to amend the Federal Power Act to provide for the reform of electric utility regulation by the Federal Power Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH:

H.R. 12849. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to benefits thereunder shall continue through the month of his or her death (or of the insured individual's death in the case of a dependent), instead of terminating with the preceding month, unless the resulting delay in survivor eligibility would reduce total family benefits; to the Committee on Ways and Means.

By Mr. NEAL (for himself, Mr. Fisher, Mr. Harris, Mr. Hechler of West Virginia, and Mr. Whitehurst):

H.R. 12850. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the New River in North Carolina as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. O'HARA (for himself, Mr. Eshleman, Mr. Perkins, Mr. Quie, Mr. Brademas, Mr. Erlenborn, Mr. Biaggi, Mr. Esch, Mr. Andrews of North Carolina, Mr. Buchanan, Mrs. Smith of Nebraska, Mr. Thompson, Mr. Mottl, Mr. Hawkins, Mrs. Chisholm, Mr. Benitez, Mr. Simon, and Mr. Hall):

H.R. 12851. A bill to extend and amend the Higher Education Act of 1965, as amended, and for other purposes; to the Committee on Education and Labor.

By Mr. PICKLE (for himself, and Mr. D'Amours):

H.R. 12852. A bill to remove Members of Congress from the purview of section 225 of the Federal Salary Act of 1967, relating to the Commission on Executive, Legislative, and Judicial Salaries, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. QUIE (for himself, Mr. Frenzel and Mr. Pattison of New York):

H.R. 12853. A bill to consolidate the administration of certain programs of financial assistance to States for educational purposes; to the Committee on Education and Labor.

By Mr. RINALDO:

H.R. 12854. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. ROBINSON:

H.R. 12855. A bill to amend the Small Business Emergency Relief Act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts for the lease of real property; to the Committee on Small Business.

By Mr. ROYBAL:

H.R. 12856. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. SISK (for himself, Mr. Andrews of North Dakota, Mr. Conlan, Mr. Holland, Mr. Jenrette, Mr. Jones of Tennessee, Mr. Krebs, and Mr. Steiger of Arizona):

H.R. 12857. A bill to amend section 520 of the Housing Act of 1949 for the purpose of mandating that the Secretary of Housing and Urban Development consider only the availability of credit to lower- and moderate-income families in determining whether an area with between 10,000 and 20,000 people is a rural area as defined in such section; to the Committee on Banking, Currency and Housing.

By Mr. STARK:

H.R. 12858. A bill to require a taxpayer to disclose on his income tax return the amount of tax-exempt bonds held by him and the amount of tax-exempt interest received during the taxable year; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 12859. A bill to provide additional assistance to the Energy Research and Development Administration for the advancement of nonnuclear energy research, development, and demonstration; to the Committee on Science and Technology.

By Mr. WAMPLER:

H.R. 12860. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. PHILLIP BURTON (for himself, Mr. Rosenthal, Mr. Solarz, and Mr. Bingham):

H. Con. Res. 595. Concurrent resolution disapproving the proposed letter of offer to sell six C–130 aircraft to Egypt (transmittal No. 76–47); to the Committee on International Relations.

By Mr. LONG of Maryland (for himself, Mr. Richmond, Mr. Oberstar, Mr. Mottl, Mr. Bedell, Mr. Mitchell of Maryland, Mr. Conyers, Mr. Howard, Mr. Rees, Ms. Keys, Mr. McCloskey, Mr. Sarbanes, Mr. Badillo, Mr. Edgar, Ms. Chisholm, Mr. Neal, Mr. Dodd, Mr. Bonker, Mr. Bingham, Mr.

LEHMAN, Mr. HARKIN, Mr. MURTHA, Mr. HELSTOSKI, Mr. GUDE and Mr. PHILLIP BURTON):

H. Res. 1113. Resolution creating the Select Committee on Nuclear Proliferation and Nuclear Export Policy; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

332. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to water and flood control and development within certain water basin areas in the State of Nebraska; to the Committee on Appropriations.

333. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to Federal revenue sharing; to the Committee on Government Operations.

334. Also, memorial of the Senate of the State of Pennsylvania, relative to the United Nations resolution equating Zionism with racism; to the Committee on International Relations.

336. Also, memorial of the Legislature State of Washington, relative to the Panama Canal; to the Committee on International Relations.

336. Also, memorial of the Legislation of the State of South Carolina, relative to the Federal Clean Air Act; to the Committee on Interstate and Foreign Commerce.

337. Also, memorial of the Legislature of the State of South Carolina, relative to the Federal Trade Commission; to the Committee on Interstate and Foreign Commerce.

338. Also, memorial of the House of Representatives of the State of Washington, relative to the killer whale; to the Committee on Merchant Marine and Fisheries.

339. Also, memorial of the Legislature of the State of California, relative to aircraft noise abatement; to the Committee on Public Works and Transportation.

340. Also, memorial of the Legislature of the State of West Virginia, relative to the West Virginia Turnpike; to the Committee on Public Works and Transportation.

341. Also, memorial of the Legislature of the State of Idaho, relative to the Independent Retirement Act; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 12861. A bill for the relief of Caroline M. Babcock; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 12862. A bill for the relief of Maria Anna Santoro; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin:

H.R. 12863. A bill for the relief of Fred L. Timm and Leona M. Timm; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

430. By the SPEAKER: Petition of the board of selectmen, Brookline, Mass., relative to the rehabilitation loan program; to the Committee on Appropriations.

431. Also, petition of Mr. Fred L. Jones, Oklahoma City, Okla., and others, relative to administrative support to States for all child nutrition programs; to the Committee on Education and Labor.

432. Also, petition of the council of the city and county of Denver, Colo., relative to the Criminal Justice Reform Act of 1976; to the Committee on the Judiciary.

433. Also, petition of Chautauqua County Legislature, Mayville, N.Y., relative to income exemption for eligibility determination under ADC; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12406

By Mr. EMERY:

Page 45, line 23, strike out the quotation mark and the period immediately after the quotation mark.

Page 45, immediately after line 23, insert the following:

"SEC. 329. (a) The Congress finds and declares that—

"(1) it is inappropriate for artificial legal entities, whether in corporate or other form, which are not permitted to vote for Federal candidates, to make political contributions in campaigns for Federal office, and

"(2) that it would be appropriate as a means of guarding against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions from such entities to limit the privilege of contributing to Federal political campaigns to individuals generally.

"(b) Notwithstanding any other provision of law, no person other than an individual may make a contribution to or for the use of any candidate for Federal office. This subsection does not apply to a political committee established and maintained by a political party.

"(c) Nothing in this section shall be construed to prevent or inhibit the right of individuals to associate with each other for the purpose of making political expenditures or for expressing their views on political matters."

Page 46, line 21, strike out "329." and insert in lieu thereof "330."

By Mr. SOLARZ:

(Substitute amendment.)

Page 57, immediately after line 19, insert the following new section:

CONGRESSIONAL ELECTION CAMPAIGN FUND

SEC. 308. (a) Subtitle H of the Internal Revenue Code of 1954, relating to financing of Presidential election campaigns, is amended by adding at the end thereof the following new chapter:

"CHAPTER 97—CONGRESSIONAL ELECTION CAMPAIGN FUND

"Sec. 9051. Short title.
"Sec. 9052. Definitions.
"Sec. 9053. Eligibility for payments.
"Sec. 9054. Entitlement to payments.
"Sec. 9055. General limitations.
"Sec. 9056. Certification by Commission.
"Sec. 9057. Payments to eligible candidates.
"Sec. 9058. Examination and audits; repayments.
"Sec. 9059. Reports to Congress; regulations.
"Sec. 9060. Participation by Commission in judicial proceedings.
"Sec. 9061. Judicial review.
"Sec. 9062. Criminal penalties.

"SEC. 9051. SHORT TITLE.

"This chapter may be cited as the 'Congressional Election Campaign Fund Act'.

"SEC. 9052. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'authorized committee' means, with respect to a candidate for Federal office, any political committee which is authorized in writing by such candidate to incur expenses to further the nomination for election or election of such candidate. The authorization shall be addressed to the treasurer of such political committee, and a copy of the authorization shall be filed by such candidate with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"(2) The term 'candidate' means an individual who seeks nomination for election, or election, to Federal office. For purposes of this paragraph, an individual is considered to seek election of he (A) takes the action necessary under the law of a State to qualify for election; and (B) receives contributions or incurs qualified campaign expenses, or gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf.

"(3) The term 'Commission' means the Federal Election Commission established by section 309(a)(1) of the Federal Election Campaign Act of 1971.

"(4) The term 'contribution' means a gift of money made (A) by a written instrument which identifies the person making the contribution by full name; or (B) in cash up to $100, except that the candidate and his authorized committees shall maintain and file reports in the form prescribed by the Commission, which show the date and amount of each such contribution and the full name and mailing address of the person making such contribution. Such term does not include a subscription, loan, advance, or deposit of money, or a contribution of products or services or anything else of value (other than money).

"(5) The term 'eligible candidate' means a candidate for election to Federal office who is eligible under section 9053 to receive payments under this chapter.

"(6) The term 'Federal office' means the office of Senator or Representative;

"(7) The term 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to Federal office.

"(8) The term 'matching payment period' means the period beginning on January 1 of each election year for Federal offices and ending on the date on which the general election for any such office is held, except that, for purposes of a special election held to elect a candidate to Federal office, such term means the period beginning on the day after the date the vacancy occurred in the Federal office involved and ending on the day in which the special election is held.

"(9) The term 'primary election' includes any convention or caucus of a political party which has authority to nominate a candidate for election to Federal office.

"(10) The term 'qualified campaign expenses' means only those expenses incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, or for election, to Federal office which are for the use of—

"(A) broadcasting stations to the extent that they represent direct charges for air time;

"(B) newspapers, magazines, and outdoor advertising facilities to the extent that they represent direct charges for advertising space;

"(C) direct mailings;

"(D) telephones to the extent that they represent lease and use charges for equipment, and telegrams;

"(E) rental of campaign headquarters, except that such term does not include funds used to pay rent to the candidate, a member of the immediate family of the candidate, or a business entity 10 percent or more of the assets of which is owned or controlled by the candidate or members of the immediate family of the candidate; and

"(F) brochures, buttons, signs. and other printed campaign material;

except that such term shall not include any payment which constitutes a violation of any law of the United States. For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or committee.

"(11) The term 'Representative' means a Member of the House of Representatives, the Delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico.

"(12) The term 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"(13) The term 'voting age population' means the voting age population certified under section 320(e) of the Federal Election Campaign Act of 1971.

"(14) The term 'Secretary' means the Secretary of the Treasury.

"(15) The term 'Account' means the Congressional Election Payment Account.

"Sec. 9053. Eligibility for Payments.

"(a) Primary Elections.—Any candidate in a primary election for Federal office shall be eligible for payments under section 9057 upon certifying to the Commission that—

"(1) such candidate has received contributions in an amount equal to 12 percent of the applicable expenditure limitation for the primary election involved under section 320(b) of the Federal Election Campaign Act of 1971; and

"(2) the aggregate of contributions certified to any person under paragraph (1) does not exceed $100.

"(b) General Elections.—Any candidate in a general election for Federal office shall be eligible for payments under section 9057 upon certifying to the Commission that—

"(1) such candidate has been nominated by a political party for election to the Federal office involved;

"(2) such candidate has received contributions in an amount equal to 12 percent of the applicable expenditure limitation for the general election involved under section 320 (b) of the Federal Election Campaign Act of 1971;

"(3) the aggregate of contributions certified with respect to any person under paragraph (2) does not exceed $100; and

"(4) expenditures made by such candidate with respect to his campaign for nomination for election to the Federal office involved are not in excess of the applicable expenditure limitations established by section 9055(e) or by section 320(b) of the Federal Election Campaign Act of 1971.

"(b) Limitation.—No contribution from any person to a candidate or his authorized committees shall be taken into account unless it is dated and received during the matching payment period.

"(c) Separate Contribution Accounts.—For purposes of determining the amount of contributions received by a candidate and his authorized committees under subsection (a) and section 9054(a), each candidate shall establish a separate account for all such contributions to be used in connection with a primary election and a separate account for all such contributions to be used in connection with a general election. Contributions deposited in any such separate account shall not be contributions for purposes of subsection (a) and section 9054(a) if such contributions are used for any purpose other than as expenditures in connection with the campaign for nomination for election, or for election, of the candidate.

"Sec. 9054. Entitlement to Payments.

"(a) In General.—Every candidate who is eligible to receive payments under section 9053 in connection with his campaign for nomination for election, or for election, to Federal office, is entitled to payments under section 9057 in an amount equal to the aggregate contributions received by such candidate in connection with any such campaign, except that the total amounts of payments to which a candidate is entitled under this subsection may not exceed 50 percent of the sum of the expenditure limitation applicable to such candidate for the specific campaign under section 320(b) of the Federal Election Campaign Act of 1971.

"(b) Limitation.—A candidate may receive payments under subsection (a) in connection with a contribution to such candidate from any person only to the extent that the aggregate contributions from such person during the matching payment period do not exceed $100.

"Sec. 9055. General Limitations.

"(a) Qualified Campaign Expenses.—Funds received by a candidate or his authorized committees under this chapter shall be used only for qualified campaign expenses incurred during the matching payment period.

"(b) Payments in Primary Election or General Election.—No candidate or his authorized committees shall be entitled to receive any funds under section 9054 in connection with a primary election or general election until the candidate and at least one opponent are participating in the primary election involved or have qualified for the ballot under State law as candidates for the general election involved.

"(c) Deposit of Payments.—All payments received under this chapter shall be deposited at a national or State bank in a separate checking account which contains only those funds received under this chapter. No expenditures of any payments received under this chapter shall be made except by checks drawn on such separate checking account at a national or State bank. The Commission may require such reports on the expenditures of such funds as it deems appropriate.

"(d) Distributions.—The Secretary or his delegate shall make distribution of the funds provided under section 9054(a) in the same sequence in which the initial and subsequent certifications are received pursuant to section 9056.

"(e) Expenditures From Personal Funds.—In order to be eligible to receive any payment under section 9057, a candidate shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connecton with his campaign for nomination for election to Federal office, or in connection with his campaign for election to Federal office, in excess of, in the aggregate (1) $35,000, in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or (2) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner, in any other State.

"(f) Definition of Immediate Family.—For purposes of subsection (e), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"Sec. 9056. Certification by Commission.

"(a) Initial Certification.—Not later than 10 days after a candidate establishes his eligibility under section 9053 to receive payments under section 9057, the Commission shall certify to the Secretary for payment to such candidate under section 9057 payment in full of amounts to which such candidate is entitled under section 9054. The Commission shall make such additional certifications as may be necessary to permit candidates to receive payments for contributions under section 9057.

"(b) Finality of Determinations.—Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, are final and conclusive, except to the extent they are subject to examination and audit by the Commission under section 9058 and judicial review under section 9060.

"(c) Limitation.—The Commission shall, not later than February 1 of each election year, determine whether the amount of moneys in the Account will be sufficient to make all payments to which candidates will be entitled under this chapter during such election year. If the Commission determines the amount of moneys in the Account will not be sufficient, the Commission shall ratably reduce the maximum amounts to which candidates are entitled under this chapter by a fraction, the numerator of which shall be the sum of moneys then on deposit in the Account and moneys estimated to be deposited in the Account before the first primary election with respect to which a candidate will be eligible for payments under section 9057, and the denominator of which shall be the sum of the estimated amounts to which all candidates would be entitled under this chapter if the moneys in the Account were sufficient. If the Commission subsequently determines that additional moneys are available for payments under this chapter during such election year, such payments as may have been reduced in accordance with the preceding sentence shall be increased on the same basis as they were reduced.

"Sec. 9057. Payments to Eligible Candidates.

"(a) Establishment of Account.—The Secretary shall maintain in the Presidential Election Campaign Fund established under section 9006(a), in addition to any account which he maintains under such section and section 9037, a separate account to be known as the Congressional Election Payment Account. The Secretary shall deposit into the Account, for use by candidates who are eligible to receive payments under section 9053, the amount available after the Secretary determines that adequate amounts are available for payments under sections 9006 (c), 9008(b)(3), and 9037(b).

"(b) Deposits.—Notwithstanding subsection (a), the Secretary shall deposit into the Account that portion of the annual amounts designated by taxpayers under section 6096 which is equal to the excess over 30 percent of the total amount made available in the last election for the office of President in allocating funds under section 9006. The money in the Account shall remain available without fiscal year limitation.

"(c) Payments From the Account.—Upon receipt of a certification from the Commission under section 9056, the Secretary or his delegate shall, within 10 days after receiving such certification, transfer the amount certified by the Commission from the Account to the candidate. The Secretary shall make distribution of the funds available under subsection (a) in the same sequence in which the initial and subsequent certifications are received under section 9056.

"Sec. 9058. Examination and Audits; Repayments.

"(a) Examination and Audits.—After each general election, the Commission is authorized to conduct an examination and audit of the campaign contributions raised for purposes of obtaining matching funds with respect to primary elections and with respect to general elections and the qualified campaign expenditures made by all candidates for Federal office who received payments under this chapter.

"(b) Repayments.—

"(1) If the Commission determines that any portion of the payments made to an eligible candidate with respect to a primary election or with respect to a general election under section 9057 was in excess of the aggregate amount of the payments to which the candidate was entitled, it shall so notify that candidate, and the candidate shall pay to the Secretary an amount equal to the excess amount.

"(2) If the Commission determines that any portion of the payments made to a candidate under section 9057 for use in a primary election campaign or a general election campaign was used for any purpose other than for qualified campaign expenses in connection with any such campaign, the Commission shall so notify the candidate and the candidate shall pay an amount equal to 300 percent of that amount to the Secretary.

"(3) Amounts received by a candidate under this chapter may be retained for 60 days after the primary election or the general election involved for the purpose of liquidating all obligations to pay qualified campaign expenses which were incurred during the matching payment period. After the 60-day period following the election, all remaining Federal funds not yet expended on qualified campaign expenses shall be promptly repaid by the candidate to the Account.

"(4) If any candidate who has received funds under this chapter is convicted of violating any provision of this chapter, the candidate shall pay to the Secretary the full amount received under this chapter.

"(c) Period of Notification.—No notification shall be made by the Commission under subsection (b) with respect to a campaign more than 2 years after the day of the election to which the campaign related.

"(d) Deposit of Payments.—All payments received by the Secretary under subsection (b) shall be deposited by him in the Account.

"Sec. 9059. Reports to Congress; Regulations.

"(a) Report.—The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in the detail the Commission deems necessary) incurred by a candidate who received payments under section 9057, and by his authorized committees;

"(2) the amounts certified by it under section 9056 for payment to each candidate and his authorized committees; and

"(3) the amounts of payments, if any, required from such candidate under section 9058, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a House or Senate document and made available in sufficient numbers for the general public.

"(b) Regulations.—

"(1) The Commission may prescribe regulations to carry out the provisions of this chapter. The Commission, before prescribing any such regulation, shall transmit a statement with respect to such regulation to the Senate and to the House of Representatives in accordance with the provisions of this subsection. Such statement shall set forth the proposed regulation and shall contain an explanation and justification of such regulation.

"(2) If either such House does not, through appropriate action, disapprove the proposed regulation set forth in such statement no later than 30 legislative days after the receipt of such statement, then the Commission may prescribe such regulation. The Commission may not prescribe any such regulation which is disapproved by either such House under this paragraph.

"(3) For purposes of this subsection, the term 'legislative days' does not include any calendar day on which both Houses of the Congress are not in session.

"Sec. 9060. Participation by Commission in Judicial Proceedings.

"(a) Appearance by Counsel.—The Commission may appear in and defend against any action instituted under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title.

"(b) Recovery of Certain Payments.—The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary or his delegate as a result of an examination and audit made under section 9058.

"(c) Injunctive Relief.—The Commission may through attorneys and counsel described in subsection (a), petition the courts of the United States for such injunctive relief as is appropriate to implement any provision of this chapter.

"(d) Appeal.—The Commission may on behalf of the United States appeal from, and petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"Sec. 9061. Judicial Review.

"(a) Review of Agency Action by the Commission.—Any agency action by the Commission made under the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

"(b) Review Procedures.—The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"Sec. 9062. Criminal Penalties.

"(a) Unlawful Use of Payments.—It shall be unlawful for any person who receives payment under this chapter or to whom any portion of such payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than for the specific purposes authorized by this chapter.

"(b) False Statements.—It shall be unlawful for any person knowingly and willfully with intent to deceive to (1) furnish any false, fictitious, or fraudulent evidence, books, or sworn material testimony to the Commission under his chapter; or (2) include in any evidence, books, or information so furnished by misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under section 9058.

"(c) Kickbacks and Illegal Payments.—It shall be unlawful for any person knowingly and willfully to give or accept any kickback or make any illegal payment in connection with any payments received under this chapter or in connection with any expenditures of payments received under this chapter.

"(d) Penalties.—Any knowing and willful violation of any provision of this chapter is punishable by a fine of not more than $25,000, or imprisonment for not more than one year, or both.".

(b)(1) The analysis of subtitles at the beginning of the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle H and inserting in lieu thereof the following new item:

"Subtitle H. Financing of Federal election campaigns.".

(2) The heading for subtitle H of the Internal Revenue Code of 1954 is amended to read as follows:

"Subtitle H—Financing of Federal Election Campaigns"

(3) The analysis of chapters at the beginning of subtitle H of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Chapter 97. Congressional election campaign fund.".

(c)(1) The amendments made by the foregoing provisions of this section shall apply to any election for Federal office held after the close of December 31, 1976.

(2) For purposes of this subsection, the terms "election" and "Federal office" have the meanings given them by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

And redesignate the following section accordingly.

By Mr. WIRTH:

(Amendments to the amendment offered by Mr. Phillip Burton (H.R. 9100))

Page — (immediately after subsection —, add the following new subsection:

( ) The amendments made by the foregoing provisions of this section shall apply to any election for Federal office held after the close of December 31, 1976.

Page 1, in section 9052(8) of the Internal Revenue Code of 1954, strike out "June 1" and insert in lieu thereof "January 1".

Page —, immediately after subsection —, add the following new subsection:

( ) Notwithstanding the provisions of section 9052(8) of the Internal Revenue Code of 1954, as added by the amendments made by the foregoing provisions of this section, the matching payment period shall begin on June 1 with respect to each general election for Federal office which is held before the close of December 31, 1976.

Page 6, in section 9053(a)(1) of the Internal Revenue Code of 1954, strike out "which, in the aggregate, exceed $5,000" and insert in lieu thereof "in an amount equal to 10 percent of the applicable expenditure limitation under section 320(b) of the Federal Election Campaign Act of 1971".

Page 4, in section 9052 of the Internal Revenue Code of 1954, strike out paragraph (9).

And redesignate the following paragraphs of section 9052 of the Internal Revenue Code of 1954 accordingly.

Page 8, in section 9054(a) of the Internal Revenue Code of 1954, strike out "(a)" immediately before "Every candidate".

Page 9, in section 9054 of the Internal Revenue Code of 1954, strike out subsection (b) and subsection (c).

(To be offered to the text of H.R. 9100 or H.R. 12780, whichever is made in order in the rule for consideration of H.R. 12406.)

Page —, immediately after section 9057(c) of the Internal Revenue Code of 1954, as added by the amendment offered by Mr. Phillip Burton, insert the following:

"(d) Limitation.—The Commission shall, not later than April 1 of each election year, determine whether the amount of moneys in the Congressional Election Payment Account will be sufficient to make all payments to which candidates will be entitled under this chapter during such election year. If the Commission determines the amount of moneys in the Payment Account will not be sufficient, the Commission shall ratably reduce the maximum amounts to which candidates are entitled under this chapter by a fraction, the numerator of which shall be the sum of moneys then in the Payment Account and moneys estimated to be deposited in the Payment Account before the general election, and the denominator of which shall be the sum of the estimated amounts to which all candidates whom the Commission determines are likely to seek payments under subsection (c) would be entitled under this chapter if the moneys in the Payment Accounts were sufficient. The Commission, no later than 15 days after June 1, August 1, and October 1 of each year in which a general election for Federal office is held, shall complete a review of (1) the amount of moneys in the Payment Account and the estimated amount of moneys which will be deposited in the Payment Account before the general election involved; and (2) the number of candidates whom the Commission determines are likely to seek payments under subsection (c). Such review shall apply to the 60-day period ending June 1, August 1, or October 1, as the case may be. If the Commission determines, upon conducting such review, that additional moneys are available for payments under this chapter during such election year, such payments as may have been reduced in accordance with the second sentence of this subsection shall be increased on the basis as they were reduced.

H.J. RES. 606

By Mr. REGULA:

Strike the preamble and insert in lieu thereof:

Whereas a more perfect union of the Atlantic Community constituent with the United States Constitution and the Charter of the United Nations gives promise of strengthening common defense, assuring more adequate energy resources, providing a stable currency to improve commerce of all kinds, and enhancing the economic prosperity, while preserving the general welfare, liberty and sovereignty of the people of the member nations: Now, therefore, be it

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of March 25, 1976, on page 8027.

HOUSE BILLS

H.R. 12200. March 1, 1976. Ways and Means. Amends the Internal Revenue Code to allow employees who receive the balance of their entitlement under a discontinued pension or annuity plan within the taxable year from the date of such discontinuance to reinvest the proceeds therefrom in a new pension plan without incurring income tax liability.

H.R. 12201. March 1, 1976. Small Business. Amends the Small Business Act to revise the eligibility requirements for small business home-building firms for assistance under the Act. Stipulates that determinations by the Small Business Administration of the reasonable assurance of repayment of prospective loans shall be made on a case-by-case basis.

H.R. 12202. March 1, 1976. Judiciary. Declares certain individuals to have satisfied the requirement of a knowledge of English for purposes of naturalization, under the Immigration and Nationality Act.

H.R. 12203. March 1, 1976. Makes appropriations for foreign assistance and related programs for fiscal year 1976 and the period ending September 30, 1976, under (1) the Foreign Assistance Act of 1961, (2) the Foreign Military Sales Act, (3) the Peace Corps Act, (4) the Migration and Refugee Assistance Act of 1962, (5) the Foreign Service Act of 1946, (6) the Foreign Relations Authorization Act of 1972, (7) the Foreign Relations Authorization Act, Fiscal Year, 1976, (8) the Asian Development Bank Act, (9) the Foreign Assistance and Related Appropriations Act, 1975, and (10) the International Development Association Act.

Sets forth limitations on such appropriations.

H.R. 12204. March 2, 1976. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capturing of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capturing mammals and birds.

Prohibits the use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hides, skins, feathers, or resulting products of the use of unacceptable traps.

H.R. 12205. March 1, 1976. Banking, Currency and Housing. Amends the United States Housing Act of 1937 for the purpose of providing for the construction and rehabilitation of units to be leased in connection with the low-rent housing program.

H.R. 12206. March 2, 1976. Agriculture. Amends the Rural Electrification Act of 1936 to revise criteria used in the determination of interest rates for borrowers from the Rural Electrification Administration.

H.R. 12207. March 2, 1976. Agriculture. Amends the Rural Electrification Act of 1936 to revise criteria used in the determination of interest rates for borrowers from the Rural Electrification Administration.

H.R. 12208. March 2, 1976. Rules. Requires review of Federal programs to determine if they warrant continuation. Directs the President to conduct such review of the programs covered by the annual budget. Requires Congress to make such review every four years.

H.R. 12209. March 2, 1976. Rules. Requires review of Federal programs to determine if they warrant continuation. Directs the President to conduct such review of the programs covered by the annual budget. Requires Congress to make such review every four years.

H.R. 12210. March 2, 1976. Ways and Means. Excludes the pay received by members of the National Guard or a reserve component of the Armed Forces from gross income under the Internal Revenue Code to the extent that such pay does not exceed $5,000.

H.R. 12211. March 2, 1976. Veterans' Affairs. Allows an eligible veteran who is pursuing a program of education at the close of the ten-year delimiting period to continue to receive educational assistance in specified circumstances.

H.R. 12212. March 2, 1976. Ways and Means. Amends the program of Aid to Families with Dependent Children under Title IV of the Social Security Act to provide that the term "dependent child" includes a needy child living with the father, mother, or any other relative of such child.

H.R. 12213. March 2, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to the city of Hobart, Oklahoma, all remaining interest of the United States in specified lands and to issue a new patent without restriction for such lands of at least comparable value for school purposes.

H.R. 12214. March 2, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption to $200,000.

H.R. 12215. March 2, 1976. Public Works and Transportation. Grants the consent of Congress to the Washington Suburban Sanitary Commission for the construction of a water diversion structure on the Potomac River in Maryland.

H.R. 12216. March 2, 1976. Education and Labor. Amends the Domestic Volunteer Service Act of 1973 to extend the operation of specified ACTION agency programs through fiscal year 1977.

H.R. 12217. March 2, 1976. Ways and Means. Authorizes regulated investment companies, under the Internal Revenue Code, to pay exempt-interest dividends in an amount up to 90 percent of the excess of its tax-exempt interest without affecting its tax-exempt status.

Allows shareholders to treat such exempt-interest dividends as excludable from gross income.

H.R. 12218. March 2, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 12219. March 2, 1976. Post Office and Civil Service. Includes as military service for civil service retirement purposes honorable active service in the United States Merchant Marine between May 26, 1940 and January 1, 1948.

H.R. 12220. March 2, 1976. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act to extend the period provided for specified designations made in the final system plan.

H.R. 12221. March 2, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to the city of Provo, Utah, without consideration, all interest of the United States in specified lands.

H.R. 12222. March 2, 1976. Banking, Currency and Housing. Amends the State Taxation Depositories Act to exempt Guam from the provision prohibiting States from imposing income, receipts, or other "doing business" tax on any federally-insured depository not having its principal office in such State.

H.R. 12223. March 2, 1976. Post Office and Civil Service. Directs the United States Postal Service to transmit a statement to each House of Congress explaining the reasons for any proposed closing of a post office which services a rural area or small community. Requires approval by either House of Congress before any such closing may become effective.

H.R. 12224. March 2, 1976. Ways and Means. Amends the Internal Revenue Code to treat gain or loss from any closing transaction as a gain or loss from the sale or exchange of a capital asset held for not more than six months.

Defines the term "closing transaction" to mean the purchase of a put or call in stock or securities, or commodities, to terminate the taxpayer's obligation under an existing put or call in substantially identical stock or securities.

H.R. 12225. March 2, 1976. Ways and Means. Amends the Social Security Act to require the referral of disabled children under the age of 16 who are receiving supplemental security income benefits to State rehabilitation services agencies.

Directs the Secretary of Health, Education, and Welfare to prescribe criteria for State plans the offering of such services to such children.

H.R. 12226. March 2, 1976. International Relations. Amends the Peace Corps Act to authorize appropriations for fiscal years 1977 and 1978 to carry out the purposes of such Act.

Authorizes, under such Act, in addition to amounts authorized for fiscal year 1976, appropriations for increases in salary, pay, retirement, or other employee benefits for fiscal year 1976. Authorizes the appropriation of such sums as may be necessary for such purposes for fiscal years 1977 and 1978.

Amends such Act to increase the readjustment allowance for volunteers.

H.R. 12227. March 2, 1976. Judiciary. Requires establishment of a system for the redress of law enforcement officers' grievances and acceptance of a law enforcement officers' bill of rights by the States and local government units as a condition to receiving grants under the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 12228. March 2, 1976. Government Operations. Authorizes the Administrator of General Services to assign surplus Federal real property to the Secretary of Commerce for disposal of such property to States and local areas threatened by unemployment as a result of the closing of Federal facilities. Requires that such property be used by the transferees for economic development purposes.

H.R. 12229. March 2, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to establish a catastrophic health insurance benefits program under which residents of the United States shall receive benefits in case of catastrophic illness. Replaces the medicaid program with a medical assistance plan for low-income people. Establishes a system of Federal certification of basic health insurance provided by private insurance carriers which meets certain specifications. Requires the Secretary to offer basic Federal health insurance to individuals residing in States in which no private health insurance program has received Federal certification.

H.R. 12230. March 2, 1976. Judiciary. Authorizes the Attorney General, whenever there is reasonable cause to believe that a State or its agents are as a matter of practice subjecting persons involuntarily confined in an institution to conditions which deprive them of Constitutional or other federally protected rights, privileges, or immunities, to institute a civil action against such parties.

H.R. 12231. March 2, 1976. Judiciary. Amends the Immigration and Nationality Act to increase the number of aliens from Western Hemisphere nations who may become permanent residents of the United States each year.

Provides that persons from Western Hemisphere nations with nonimmigrant status in the United States may have such status changed to permanent resident alien by applying to the Attorney General.

H.R. 12232. March 2, 1976. Rules. Establishes a Joint Congressional Committee on Forest Management Policy composed of six members of each House to study the appropriations of existing forest management policy.

H.R. 12233. March 2, 1976. Interstate and Foreign Commerce. Revises the nature and manner of providing Federal financial assistance to the States for health care purposes. Requires States to formulate State health care plans focusing on health care planning, the needs of individuals living in rural or medically underserved areas, the supply and distribution of health facilities, manpower, and services, and the health needs of children, the elderly, migrants, the mentally ill, the handicapped, alcoholics, drug abusers, and those suffering from developmental disabilities.

H.R. 12234. March 2, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize additional appropriations for preservation of outdoor recreation resources. Revises procedures for providing financial assistance to States.

Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from mining leases and leases on the Outer Continental Shelf.

H.R. 12235. March 2, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize additional appropriations for preservation of outdoor recreation resources. Revises procedures for providing financial assistance to States.

Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from mining leases and leases on the Outer Continental Shelf.

H.R. 12236. March 2, 1976. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.

Establishes a moratorium on all large-scale killing of wolves pending the results of such study.

H.R. 12237. March 2, 1976. Education and Labor. Directs the Secretary of the Interior to enter into contracts to provide money to meet the general operating of public elementary and secondary schools which are located on or near Indian reservations and which are educating Indian children.

H.R. 12238. March 2, 1976. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operations from the tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft by an aerial applicator who was the ultimate purchaser thereof.

H.R. 12239. March 2, 1976. Ways and Means. Amends the Internal Revenue Code to allow certain otherwise tax exempt organizations to operate a public entertainment activity in conjunction with a National, State, local, regional, or international fair or exposition without losing their tax exempt status, by excluding such public entertainment activity from the definition of the term "unrelated trade or business".

H.R. 12240. March 2, 1976. International Relations. Authorizes the President to make available assistance for relief and rehabilitation of the victims of the recent earthquakes in the Republic of Guatemala. Authorizes appropriations to carry out the purposes of this Act, under the general policies for furnishing international disaster assistance of the Foreign Assistance Act of 1961.

H.R. 12241. March 2, 1976. Post Office and Civil Service. Prohibits the compensation of any officer or employee of the United States Postal Service, with specified exceptions, at a rate in excess of the maximum rate of basic pay for GS–18 of the General Schedule.

H.R. 12242. March 2, 1976. Interstate and Foreign Commerce. Amends the Natural Gas Pipeline Safety Act of 1968 to require that State regulations for intrastate pipeline transportation be compatible with certain Federal standards.

Authorizes additional appropriations for the purposes of the Act through fiscal year 1978.

H.R. 12243. March 2, 1976. Interstate and Foreign Commerce. Amends the Federal Energy Administration Act to extend the expiration date of such Act to September 30, 1979. Revises requirements for conflicts-of-interest, disclosure of information, and recordkeeping under such Act.

Requires that the Federal Energy Administrator be provided an opportunity to comment upon proposed Environmental protection Agency regulations affecting energy exploration and development.

H.R. 12244. March 2, 1976. Ways and Means. Amends the Tariff Schedules of the United States to revise the duty on ball or roller bearing related machine parts.

H.R. 12245. March 2, 1976. Ways and Means. Amends the Tariff Act of 1930 to authorize appropriations for the International Trade Commission for fiscal year 1977.

H.R. 12246. March 2, 1976. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of man's activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this Act, to (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 12247. March 2, 1976. Interior and Insular Affairs. Increases the amount of land which the Secretary of the Interior is authorized to accept on behalf of the United States for the Pecos National Monument, New Mexico.

H.R. 12248. March 2, 1976. Banking, Currency and Housing. Increases the amount authorized to be appropriated under the Housing Act of 1959 for the loans for housing for the elderly program.

H.R. 12249. March 2, 1976. Education and Labor. Directs the Secretary of Agriculture and the Secretary of the Interior to establish a Civilian Conservation Corps to provide employment for unemployed persons in projects connected with the conservation of the Nation's land and water conservation projects which meet eligibility requirements under this Act.

H.R. 12250. March 2, 1976. Public Works and Transportation. Authorizes the Secretary of Commerce to make grants for local public works projects, provided that such projects are designed to alleviate unemployment and do not involve the damming or other diversion of water.

Amends the Public Works and Economic Development Act of 1965 to revise criteria for Federal funding of job opportunities programs. Authorizes, subject to certain limitations, the payment of interest subsidies under such Act.

Authorizes the appropriation of additional sums, under a specified allotment formula, as grants for the construction of waste treatment works as provided in the Federal Water Pollution Control Act.

H.R. 12251. March 2, 1976. Ways and Means. Amends the Internal Revenue Code to change the excise tax on large cigars to an ad valorem tax based on wholesale price per thousand.

Requires every manufacturer of tobacco products, every importer, and every export warehouse proprietor to maintain records which shall be available for inspection by Internal Revenue officers.

H.R. 12252. March 2, 1976. Judiciary. Prohibits the posting of campaign signs on private property without the express approval of the owner or tenant.

H.R. 12253. March 2, 1976. Judiciary. Includes the Commodity Futures Trading Commission within the definition of "agency", as such term applies to Federal laws pertaining to witness immunity.

H.R. 12254. March 2, 1976. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duties on certain bicycle parts and accessories.

H.R. 12255. March 2, 1976. International Relations. Declares any person employed by, under contract to, or under the direction of, any United States department or agency who is (1) engaged in hostilities abroad, or (2) advising military forces engaged in hostilities abroad, to be a member of the Armed Forces for purposes of the War Powers Resolution.

H.R. 12256. March 2, 1976. Veterans' Affairs. Extends the period in which veterans may use their veterans' educational assistance.

H.R. 12257. March 2, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12258. March 2, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12259. March 3, 1976. Judiciary. Requires that all rules proposed by a Federal agency having a significant impact on public costs must be analyzed to compare the costs to the public of such rules with the benefits of such rules.

H.R. 12260. March 3, 1976. Ways and Means Amends the Internal Revenue Code to increase the estate tax exemption, and to increase the estate tax marital deduction.

Permits the executor of an estate to elect an alternate valuation of certain lands used for farming, woodland or scenic open space.

H.R. 12261. March 3, 1976. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the period during which the Council of the District of Columbia lacks authority to enact legislation with respect to any provision relating to criminal offenses, criminal procedure, or prisoners and their treatment from 24 to 48 months immediately following the taking of office by the Council members first elected pursuant to such Act.

H.R. 12262. March 3, 1976. International Relations. Authorizes the appropriation of funds to carry out the purposes of the Board for International Broadcasting Act through fiscal year 1977. Requires the President to submit a report to the Congress outlining his recommendations for improving international broadcasting.

H.R. 12263. March 3, 1976. Interstate and Foreign Commerce. Establishes the Office of Mental Health and Disability Advocacy Services, under the Community Mental Centers Act. Directs the Office to enter into contracts with States to assist them in meeting the cost of setting up and maintaining a program of mental health advocacy services for patients in mental health facilities.

H.R. 12264. March 3, 1976. Ways and Means. Allows a tax credit, under the Internal Revenue Code, in an amount equal to 50 percent of the amount allowable to the taxpayer as a charitable contribution deduction.

H.R. 12265. March 3, 1976. International Relations. Establishes a Commission on Security and Cooperation in Europe.

Authorizes and directs the Commission to monitor the acts of the signatories to the Final Act of the Conference on Security and Cooperation in Europe Helsinki Agreement with respect to their compliance with the articles of such Act, particularly with regard to the provisions relating to Cooperation in Humanitarian Fields.

H.R. 12266. March 3, 1976. Veterans' Affairs. Allows an eligible veteran who is pursuing a program of education at the close of the ten-year delimiting period to continue to receive educational assistance in specified circumstances.

H.R. 12267. March 3, 1976. Ways and Means. Amends the Internal Revenue Code to allow as a tax deduction the amount of any adoption expenses paid by the taxpayer during the taxable year.

H.R. 12268. March 3, 1976. Education and Labor. Directs the Secretary of State to make funds available to institutions of higher learning to be used for stipends for students participating in interntional internships.

H.R. 12269. March 3, 1976. Ways and Means. Amends the Social Security Act to include hearing aids and dentures under the Medicare supplementary medical insurance program.

H.R. 12270. March 3, 1976. Ways and Means. Amends the Social Security Act to include hearing aids and dentures under the Medicare supplementary medical insurance program.

H.R. 12271. March 3, 1976. Judiciary. Requires the Federal Trade Commission, the Department of Justice, and the Department of Agriculture to compile information and annually report to Congress with respect to antitrust enforcement, market structure, and competition in the food industry.

H.R. 12272. March 3, 1976. Education and Labor. Directs various boards, commissions and councils to develop and execute programs designed to provide private and public service employment to those who seek it. Directs the President to transmit each year to full employment and production plan to Congress.

H.R. 12273. March 3, 1976. Agriculture. Amends the Agricultural Adjustment Act of 1938 to direct the Secretary of Agriculture to establish national acreage allotments for the 1976 through 1980 crops of peanuts. Establishes the minimum peanut allotments for such years. Amends the Agricultural Act of 1949 to establish a price support for peanuts at 15 cents per pound for the 1976 and 1977 crops. Allows for adjustment of such prices for the 1977 through 1980 crops.

H.R. 12274. March 3, 1976. House Administration; Judiciary. Amends the Federal Election Campaign Act to provide for the constitutional reinstitution of the Federal Election Commission. Enumerates the powers of such Commission. Changes the limitation on contribution to any candidate, party, or political committee. Sets disclosure thresholds for such contributions.

Establishes an Election Law Section in the Department of Justice to enforce Federal election laws under advisory opinions, and prescribe guidelines for investigation relating to enforcement.

H.R. 12275. March 3, 1976. Post Office and Civil Service. Reduces the Federal contribution for Federal employee health benefits coverage, stipulating that such contributions shall be determined on the basis of the average of the two health benefits plans having the highest subscription charges.

H.R. 12276. March 3, 1976. Judiciary. Prohibits (1) common carriers from refusing to accept as passengers, (2) owners or operators of public accommodations, public buildings or facilities from refusing to admit or serve, and (3) owners or operators of certain housing accommodations from refusing to admit, as tenants or otherwise, any person because of blindness or the use of guidance dogs or instrumentalities. Prohibits charging such blind person additional fees for the admission of such guidance dog or instrumentality.

Prohibits subterfuge, device, or covert strategy which achieves indirectly the discrimination prohibited under this act. Imposes civil penalties for damages caused by such discrimination, and $10,000 punitive damages, plus attorney's fees and litigation costs.

H.R. 12277. March 3, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption to $200,000.

H.R. 12278. March 3, 1976. Interior and Insular Affairs. Directs the Secretary of Health, Education, and Welfare to make grants and provide scholarships to encourage Indians to enroll in health-related training programs. Authorizes the Secretary to expend funds to meet Indian health care needs, to provide hospitals and other health facilities, and to supply unmet needs for safe water and sanitary waste disposal facilities. Requires the Secretary to contract with urban Indian organizations to assist them in establishing and administering health programs to benefit urban Indians.

H.R. 12279. March 3, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-ray and physical examinations, and related routine laboratory tests.

H.R. 12280. March 3, 1976. Ways and Means. Amend the Social Security Act to extend the coverage for dental services under the Medicare program to include any services performed by a properly licensed dentist and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

H.R. 12281. March 3, 1976. Ways and Means. Amends the Medicare program of the Social Security Act to authorize payment for the services of clinical psychologists under the supplementary medical insurance benefits program of the Medicare program.

H.R. 12282. March 3, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 12283. March 3, 1976. Public Works and Transportation. Terminates the authorization for the Tocks Island Reservoir project in New Jersey, New York, and Pennsylvania. Requires that property acquired by the Secretary of the Army pursuant to such authorization be transferred to the Secretary of the Interior for management by the National Park Service.

H.R. 12284. March 3, 1976. Post Office and Civil Service. Repeals the provisions of Public Law 94–82 authorizing increases in the salaries of Members of Congress.

H.R. 12285. March 3, 1976. Science and Technology. Directs the Administor of the Energy Research and Development Administration to establish a three-year motor vehicle synthetic fuels research and demonstration project, in accordance with specified criteria.

Directs the Administrator to establish a program of Federal assistance to electric utilities for approved projects utilizing synthetic fuels in place of conventional fuels of the generation of electricity.

H.R. 12286. March 3, 1976. Post Office and Civil Service. Requires the Secretary of Commerce, in making agricultural censuses, to use the statistical method known as sampling.

H.R. 12287. March 3, 1976. Interstate and Foreign Commerce. Amends the Controlled Substances Act to establish penalties for persons who obtain or attempt to obtain narcotics or other controlled substances from a retail pharmacy by force and violence.

H.R. 12288. March 3, 1976. Judiciary. Excludes Saturday, Sunday, and legal public holidays for Federal employees from the computation of time limits within which Federal criminal trials must commence.

H.R. 12289. March 3, 1976. Judiciary; Education and Labor. Prohibits the requirement of quotas, goals designed to establish quotas, or programs to expand applicant pools in affirmative action programs required of Federal grantees or contractors.

Prohibits findings of discrimination (1) based solely on composition of work force or membership, and (2) unless based upon an act of discrimination.

Prohibits court or agency ordered relief for discrimination to enforce quotas or goals which establish quotas.

Prohibits Federal instrumentalities from requiring the collection of data relating to race, color, religion, national origin, or sex, by employers, labor organizations, or Federal grantees or contractors.

H.R. 12290. March 3, 1976. Ways and Means. Amends the program of grants to States for social services of the Social Security Act to permit any individual who is 60 years of age or older to establish his financial eligibility for services by filing with the appropriate State official a statement that his income does not exceed the limits established by the State.

H.R. 12291. March 3, 1976. Judiciary. Removes the limitation on annual dues for United States membership in the International Criminal Police Organization and authorizes the Secretary of the Treasury to pay the unpaid balance of the dues for calendar year 1975.

H.R. 12292. March 3, 1976. Government Operations. Creates an independent agency in the executive branch to enforce and administer immigration and naturalization laws.

Transfers various powers, functions, and duties from the Departments of State, Justice, and Labor, to the Administrator of the Visa and Naturalization Administration created by this Act.

H.R. 12293. March 3, 1976. Ways and Means. Amends the Internal Revenue Code to allow the exclusion from gross income of interest on industrial development bonds the proceeds of which are for the tax exempt activity of providing hospital facilities.

H.R. 12294. March 3, 1976. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire lands and interests in lands in specified areas of Nebraska and to establish the Trails West National Historical Park in Nebraska and Wyoming once sufficient lands have been acquired.

H.R. 12295. March 3, 1976. Ways and Means. Authorizes every individual whose income tax liability, under the Internal Revenue Code, is $1 or more to designate $1 of that liability to provide financial assistance to the United States Olympic Committee.

H.R. 12296. March 4, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey without consideration to the city of Yakutat, Alaska all interest of the United States in a specified tract of land.

H.R. 12297. March 4, 1976. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to include death or disease incurred in open pit diatomaceous earth mines along with underground mines within the scope of coverage of black lung benefits to miners and their dependents.

H.R. 12298. March 4, 1976. Ways and Means. Exempts asphalt distributors, under the Internal Revenue Code, from the excise tax on motor vehicles, parts, and accessories.

H.R. 12299. March 4, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including X-ray and physical examinations, and related routine laboratory tests.

H.R. 12300. March 4, 1976. Judiciary. Requires specified minimum prison sentences for felons using or carrying a firearm during the commission of a felony which may be prosecuted in a Federal court. Subjects such felons to possible increased sentences as dangerous special offenders.

HOUSE JOINT RESOLUTIONS

H.J. Res. 837. March 2, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week".

H.J. Res. 838. March 2, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week".

H.J. Res. 839. March 2, 1976. Post Office and Civil Service. Designates the period March 1, 1976 through March 7, 1976, as "National Weights and Measures Week".

H.J. Res. 840. March 2, 1976. International Relations. Directs the President to seek an arrangement with Canada calling for an immediate moratorium on the killing of the eastern timber wolves.

H.J. Res. 841. March 2, 1976. Judiciary. Proposes an amendment to the Constitution which includes unborn offspring within the definition of "person" for purposes of the fifth and fourteenth Articles of Amendment to the Constitution.

H.J. Res. 842. March 3, 1976. Judiciary. Proposes an amendment to the Constitution which includes unborn offspring within the definition of "person" for purposes of the fifth and fourteenth Articles of Amendment to the Constitution.

H.J. Res. 843. March 3, 1976. Agriculture. Provides for payments by the Secretary of Agriculture to farmowners or operators storing grain commodities whenever the export sales of such grains are suspended.

H.J. Res. 844. March 3, 1976. Post Office and Civil Service. Requests the President to proclaim the second week of May as "Municipal Clerks' Week".

H.J. Res. 845. March 3, 1976. Post Office and Civil Service. Designates April 29, 1976, as the "National Day of Prayer".

HOUSE RESOLUTIONS

H. Res. 1061. March 2, 1976. Banking, Currency and Housing. Directs the Secretary of the Treasury and other Federal officials to initiate negotiations within the framework of the Organization for Economic Cooperation and Development and the International Monetary Fund with the intent of developing an appropriate code of conduct and specific trading obligations among governments, together with suitable procedures for the settlement of disputes.

H. Res. 1062. March 2, 1976. House Administration. Authorizes expenditures by the House Committee on International Relations for inquiries and investigations.

H. Res. 1063. March 2, 1976. Interstate and Foreign Commerce. Calls for measures by Federal agencies to insure that the quality and quantity of free broadcasting service is not impaired by the development of pay television.

H. Res. 1064. March 2, 1976. Sets forth, in response to a certain subpena duces tecum, the Rules of the House of Representatives with respect to judicial process regarding personnel, Members, and documents of the House.

H. Res. 1065. March 2, 1976. Sets forth, in response to a certain subpena duces tecum, the Rules of the House of Representatives with respect to judicial process regarding personnel, Members, and documents of the House.

H. Res. 1066. March 2, 1976. Judiciary. Directs that specified Federal judges be impeached for usurping the authority of the U.S. Congress to determine whether and when pay raises for Federal judges should be granted.

H. Res. 1067. March 2, 1976. Sets forth the rule for consideration of H.R. 11124.

H. Res. 1068. March 2, 1976. Sets forth the rule for consideration of H.R. 11963.

H. Res. 1069. March 2, 1976. Waives points of order against specified provisions of the bill (H.R. 12203) making appropriations for foreign assistance and related programs.

H. Res. 1070. March 3, 1976. Designates a certain individual a minority employee of the House of Representatives, to receive a specified annual compensation.

EXTENSIONS OF REMARKS

THE FDA AND RED DYE NO. 2: ADVISORY COMMITTEE THRASHES IT OUT IN PUBLIC

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Monday, March 29, 1976

Mr. METCALF. Mr. President, the Toxicology Advisory Committee of the Food and Drug Administration held a meeting on March 8 and 9 in Rockville, Md., that was inconclusive and revealing.

It was inconclusive because the advisory committee members failed to reach a consensus on key issues involving the controversial color additive, Red Dye No. 2.

It was revealing to those in attendance and is now to us, too, thanks to a splendid account, "Scientists and Bureaucrats: A Clash of Cultures on FDA Advisory Panel," by Philip M. Boffey in the March 26 issue of the journal, Science.

Boffey's report of the carping and interplay, of the scientists' discomfiture at having to debate complicated issues in public, of the FDA's insistence that the meeting be open, of the protest by an attorney for Ralph Nader's Health Research Group when the FDA chairman tried to close the meeting for gripes about organizational matters, gives us a close look at the advisory committee process.

Ironically, on March 9 a witness at the hearing of the Subcommittee on Reports, Accounting and Management on two bills to amend the Federal Advisory Committee Act was suggesting that we do not really know very much about the advisory committee process. Prof. Henry J. Steck, of the State University of New York, College at Cortland, testified in part that day:

> We know relatively little about the relationship between agency personnel and committees: in some cases committees appear to be little more than a nuisance or a kind of symbolic gesture to organized interests; in other cases, advisory groups appear to have substantial formal or informal influence. The years of hearings are filled with differing and often conflicting conclusions, hypotheses, and case studies. Yet in some ways we are no farther ahead now than we were three years ago.

Mr. President, I think Professor Steck is right, and that we do not know nearly as much as we should about the advisory process after more than 3 years of experience with the Federal Advisory Committee Act. I also think Philip Boffey's article sheds a lot of light on the subject.

I ask unanimous consent that Boffey's article be printed in the Record, together with another article of his, entitled "Color Additives: Botched Experiment Leads to Banning of Red Dye No. 2," from the February 6 issue of Science.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Scientists and Bureaucrats: A Clash of Cultures on FDA Advisory Panel

(By Philip M. Boffey)

When scientist meets bureaucrat, the experience can be frustrating to both.

Consider, for example, the recent 2-day meeting of the Toxicology Advisory Committee of the Food and Drug Administration (FDA). This group of distinguished scientists—drawn primarily from the universities and government health agencies—has been grappling with the problem of determining the safety of the controversial color additive, Red Dye No. 2. It operates amid a swirl of conflicting interests and in full view of the public, thanks to recent laws that require much advisory committee business to be conducted in open session, where petty irritations and clashing egos lie exposed to all.

The committee was appointed late last year to give the harassed FDA greater expertise on issues involving the safety of chemicals in foods, drugs, cosmetics, and medical devices. It is considered one of the agency's most important advisory bodies—one of only two such committees chaired by a high FDA official.*

On 8 and 9 March the committee members assembled at FDA offices in Rockville, Maryland, to consider the safety of both Red No. 2 and its successive, Red No. 40. They heard presentations by FDA officials, debated the significance of experimental findings, and tried to reach a consensus on key issues. But they were plainly irritated at the conditions under which they were forced to operate. They complained repeatedly about having to debate complicated scientific issues at a public meeting—one that was jammed to the point of overheating by a crowd of bureaucrats, industry representatives, reporters, and a lone consumer advocate. Their chief fear was that offhand remarks might be taken "out of context." Nor did they appear mollified when an FDA official assured them, "The audience may be out there, but that doesn't stop the monkeys in the zoo from playing."

But mostly they railed against what they perceived as heavy-handed manipulation of the discussion by FDA officials who had certain questions they wanted answered—questions that did not always strike the committee members as sensible or appropriate. At one point the committee refused to take a yes-or-no vote on an issue it considered too complicated for such treatment. At another point it flatly refused to answer a question posed by an FDA attorney, and later gave an industry lawyer the same cold shoulder. By the end of the second day the exasperated scientists staged a mini-revolt—winning the right to appoint one of their own kind as cochairman alongside the FDA representative to ensure that henceforth matters the scientists consider significant will get as much attention as questions deemed important by the FDA bureaucracy.

It was clearly a clash of two cultures and styles. On one side were the scientist advisers—fond of extended debate, resentful of efforts to force answers from questionable data, and prone to argue strenuously over the meaning of words before even agreeing on the appropriateness of a question to be posed. On the other side were the regulatory officials (many of them scientists as well)—beset by a new crisis every week, unable to wait for "all the facts" before acting, and obliged to operate in accord with a bewildering array of laws and regulations that often dictate the questions that must be asked and the decisions that must be made. Such collisions of representatives from different worlds are by no means uncommon. They occur with increasing regularity, as dozens of federal agencies reach into the research community to obtain the help of outside advisers. The tribulations of the Toxicology Advisory Committee provide a revealing glimpse of the strains and frustrations—some justified, some not—experienced by scientists who come to Washington to counsel the titans of government.

The committee was formed last October and was given two broad assignments—to develop standards for toxicity testing and to assess the safety of specific substances. In an ideal world, one would first establish the testing standards, then evaluate specific substances by those standards. That is what many members of the committee expected to do. But even before the group held its first meeting, the FDA, which was caught in the middle of sharp controversy over Red Dye No. 2, tossed the hot potato to the new committee for an advisory opinion. Thus the group's first 2-day meeting—held last November—was devoted to an extensive review of the scores of studies that had been performed over the decades to test the safety of Red No. 2. Many of those present felt that Red No. 2 appeared innocuous on the basis of available evidence, and they proclaimed as much in the public session. But, just to be sure, they asked a few of their members to perform additional analyses. Then they adjourned, expecting to resume their measured deliberations at a future meeting.

Two months later the FDA commissioner announced a ban on Red No. 2 without even consulting the committee. In the interim, one of those additional analyses the committee had ordered up—a statisical analysis of a recent FDA study performed by David W. Gaylor, principal biological statistician at the FDA's National Center for Toxicological Research in Jefferson, Arkansas—found a significant increase in the number of malignant tumors in female rats fed high doses of Red No. 2. Recognizing a potentially explosive new element in public debate over the safety of Red No. 2, the commissioner wanted an advisory opinion on the significance of Gaylor's analysis, and he wanted it fast. The Toxicology Advisory Committee was deemed too cumbersome for rapid convening, so a "working group" of government scientists (three of whom were members of the advisory committee) was hastily assembled. It concluded that Gaylor's statistical approach was valid but that someone should recheck the pathological data on which his analysis had been performed. The working group also stressed that the FDA study had been so badly "botched" in execution that it could never be used to demonstrate the safety of Red No. 2 (*Science*, 6 February). That bit of advice led the commissioner to ban Red No. 2, a decision that is now being contested in the courts by the manufacturers of color additives. But in the meantime, Red No. 2, which had almost won a clean bill of health from the Toxicology Advisory Committee in November, has been abruptly and dramatically sentenced to extinction.

IRRITATION ON THE COMMITTEE

Not surprisingly, when the committee was finally reconvened early this month, some members were miffed at the way they had been bypassed; one grumped that the committee itself should have been used as the "working group." They were also upset that the analysis that initiated the downfall of Red No. 2—the one done by Gaylor, a member of the committee, at the request of the committee—was leaked to reporters and then officially released by the FDA before most members of the committee had ever seen it. "Red 2 was tried in the press," said Edward A. Smuckler, professor of pathology at the Universiy of Washington's medical school, who complained that the committee's own contribution—notably Gaylor's analysis—was "compromised" by failure to treat the issue in a proper scientific forum. "It's wrong that this should hit the media before it hits the table," agreed Thomas R. Tephly, director of the Toxicology Center at the University of Iowa's College of Medicine. Several committee members suggested that all communications involved in their work should be kept confidential lest they be distorted or taken out of context. But they received no assurances from the FDA that this would always be done. John Jennings, the FDA's associate commissioner for medical affairs, who chaired the meeting, apologized for not being able to get Gaylor's analysis to the members "before it hit the fan," and he pledged to "do our damnedest to stop leaks." But he noted that leaks seem inevitable in some cases, and that other documents must be made public under "the infamous Freedom of Information Act." That act—and a companion measure, the Federal Advisory Committee Act—are designed to open previously secret government processes to public scrutiny, but many bureaucrats and scientists balk at the idea of performing in public, where their advice can be second-guessed or, as some would put it, "misconstrued."

Nor did the committee members get much satisfaction when they raised the possibility of holding closed meetings. The FDA had decided to open the meetings on Red No. 2 rather than face a possible legal challenge to closed proceedings, and FDA officials told the committee it would just have to learn to "live with" the new spirit of openness. At one point Jennings tried to close the meeting so the committee could air its gripes about organizational matters in private, but he backed down when Anita Johnson, an attorney for Ralph Nader's Health Research Group, quietly protested violation of the Federal Advisory Committee Act, then stoically sat through the discussion of housekeeping trivia to establish her point.

The entire first day and part of the second was spent trying to reach a consensus on certain questions about Red No. 2. The committee voted unanimously that the FDA's crucial "botched" experiment was not of a quality that could be used to demonstrate the safety of Red No. 2. That verdict essentially endorsed the conclusion previously reached by the "working group," and it upheld the most important basis for the FDA commissioner's decision to ban Red No. 2, namely that there is no experiment in sight that could exonerate the dye. Then the committee was asked to vote on whether the results of the botched study provide "evidence" of the carcinogenicity of Red No. 2. But what did that mean? *Any* evidence? *Significantly* evidence? *Substantial* evidence? No agreement was reached, so the committee member who framed the question, W. Gary Flamm, of the National Cancer Institute, solved the problem by declining to add any modifier. The committee itself refused to take a yes-or-no vote; each member gave a brief personal answer using whatever definition he felt comfortable with. Observers from the FDA, the industry, and the journalistic pool kept their own informal counts, reaching a consensus that six committee members felt the experiment was so bungled it provided no evidence of carcinogenicity (or much of anything else for that matter), while only four committee members detected some evidence of carcinogenicity, however tainted it might be. The majority seemed to repudiate the significance of Gaylor's analysis that had triggered the banning of Red No. 2, and it undercut the FDA commissioner's assertion that the botched experiment had raised again "certain safety questions."

The committee members clearly felt uncomfortable about squabbling in public. Two even alleged that Gaylor's failure to attend the second day's proceedings was due to "embarrassment" over the way things were handled. But Gaylor told *Science* such allegations were absurd—he had to leave for a previous speaking commitment in Texas. As far as Gaylor is concerned, those who voted in the majority didn't fully realize that the errors in the botched experiment would tend to mask the harmful effects of Red No. 2—thus if there is a hint of carcinogenicity, Gaylor said, it should be considered even stronger evidence than if the experiment weren't botched. Gaylor also speculates that some members were antagonistic toward the analysis partly because "they were ticked off at being bypassed by the commissioner" in the decision to ban the dye, and partly because, like all scientists, they are enthusiasts for good experimental work and don't want to rely on a flawed experiment.

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*The committee is currently chaired by Mark Novitch, the FDA's acting associate commisisoner for science, and includes Thomas B. Clarkson, Wake Forest University; Thomas W. Clarkson, University of Rochester; W. Gary Flamm, National Cancer Institute; David W. Gaylor, FDA's National Center for Toxicological Research; Eloise R. Giblett, King County Central Blood Bank, Seattle; Bert N. LaDu, University of Michigan; H. George Mandell, George Washington University; Sheldon D. Murphy, Harvard University; Edward A. Smuckler, University of Washington; Robert A. Squire, National Cancer Institute; Thomas R. Tephly, University of Iowa; and James G. Wilson, Children's Hospital Research Foundation, Cincinnati. Not all members attended the recent meeting, which was chaired by John Jennings, the FDA's associate commisisoner for medical affairs.

The practical effect of the majority's vote against Gaylor is expected to be negligible. An FDA attorney said that if even four of ten experts see a hint of cancer, it supports the commissioner's case, and an industry attorney agreed that the FDA came out ahead as a result of the various votes at the meeting.

In addition to the cancer issue, some committee members expressed concern that Red No. 2 might be having adverse effect on the general health and mortality of test animals, and many were disturbed by hints that one of the metabolites of the dye might conceivably be mutagenic. But consensus was reached that the dye has no adverse effect on reproduction.

On the second day, yet another vote was taken. The committee agreed unanimously that, based on all the evidence from all the tests it had reviewed, it could not *approve* the safety of Red No. 2. All very well and good, but could the committee *disapprove* the safety of Red No. 2? asked an industry attorney, hoping to receive a negative answer that might strengthen his case that the FDA had no good reason to ban the dye. He got nowhere. The committee concluded it had talked long enough and taken enough votes. "My time is valuable," Smuckler said.

In the intermittent gripe sessions, various members complained that the chairman had been too rigid in pushing them toward votes, that they did not have time to fully debate the issues and argue among themselves, and that they were forced to respond to the perceived needs of the FDA—particularly its legal counsel—with little opportunity to frame issues in terms they thought desirable. "I don't feel we were allowed yesterday to discuss the issue of Red 2 in full open scientific debate," Tephly said. "I felt we were being pressured to say, Is Red 2 a carcinogen, possibly a carcinogen, not a carcinogen, or whatever," agreed Sheldon D. Murphy, associate professor of toxicology at Harvard School of Public Health. ". . . There seemed to be an implication that we had to define black and white questions and yes or no answers." Chairman Jennings pleaded guilty to "clumpsy chairing," but he noted that there are occasions when the FDA simply has to put particular questions to its advisory groups whether they like it or not.

The clash of scientists and bureaucrats did not seem disabling. Despite all its grumbling, the committee managed to perform its tasks in a way that the FDA found useful, and that, after all, is the only point in having such a committee. Some of the complaints seemed to verge on the prima-donnaish, while others reflected a misconception that overtakes many advisory groups—the unconscious assumption that the advisory group should, in fact, be the decision-making group. The airing of gripes seemed to leave both sides in good humor. As a final gesture, after complaining bitterly about "poor communications" and "lack of information," the committee members heaped lavish praise on their FDA staff support for keeping them well informed.

COLOR ADDITIVES: BOTCHED EXPERIMENT LEADS TO BANNING OF RED DYE NO. 2

(By Philip M. Boffey)

A deft legal maneuver by Food and Drug Commissioner Alexander M. Schmidt has enabled his embattled agency to climb free of the wreckage of a ludicrously botched experiment on the safety of the controversial color additive known as FD & C Red No. 2. After a frantic 10 days of searching for a way out of the Red 2 imbroglio, Schmidt announced on 19 January that he would ban further use of the dye in foods, drugs, and cosmetics.

Just 2 months earlier his own Bureau of Foods and several members of an expert advisory committee had seemingly given the dye a clean bill of health. But in the interim a new statistical analysis of previously considered data suggested that Red 2 might well cause cancer. The results of the new analysis, which surprised most of the experts who were reviewing the status of Red 2, raised questions in some minds as to the adequacy of the testing and analytical procedures traditionally used by the Food and Drug Administration (FDA) to determine the safety of food chemicals.

Red 2 has been the most widely used food color in this country, and it has always been touted as the "most thoroughly tested" of all the food colors. Yet questions were raised in the early 1970's, largely on the basis of tests conducted in the Soviet Union, as to whether the dye might cause cancer or reproductive damage.

In an effort to answer these questions, two major tests were conducted by FDA. One, a collaborative effort involving two FDA laboratories and a commercial laboratory, concluded that Red 2 does not cause reproductive damage. The other, also originally launched as a reproduction study but then adapted to examine the question of carcinogenicity, soon became such a muddle that it is routinely referred to by FDA scientists as the "botched" or "bungled" study. Yet it is this study which formed the basis for the recent regulatory decision on Red 2.

The study involved feeding Red 2 to four different groups of rats, each at a different dosage level, and then comparing the health of these treated groups with the health of a control group. There were 500 rats in all—seemingly enough for a solid evaluation. But the study was left unsupervised for a long period of time after a scientist was transferred, and it developed two serious flaws. To begin with, the animal handlers managed to put some of the rats back in the wrong cages part way through the experiment, so that an undetermined number of rats were shifted among the control group and the four treated groups. Second, the animal handlers were lackadaisical about retrieving dead rats from their cages and rushing them off to the pathologists for examination. As a result, virtually all of the rats that died during the course of the experiment were so badly decomposed as to be of little use for evaluation. Only those rats that survived to the end of the experiment and were killed—some 96 in all—were available for detailed histopathological examination. "It was the lousiest experiment I've seen in my life," commented one scientist who reviewed the data.

Yet the study was not considered a total loss by the FDA, which reasoned that it would be possible to treat the intact animals which had been fed the largest dose of Red 2—3 percent of their diet—as a "high dose" group and all the other intact animals as a "low dose" group. By comparing the two groups, the reasoning went, it might be possible to learn *something* about whether Red 2 is carcinogenic.

A key role in making this determination was to be played by the FDA's Toxicology Advisory Committee, a group of government and outside scientists which was formed last year to deal with just such perplexing and controversial issues as the safety of Red 2. The Committee held its first meeting in late November and, to judge from the proceedings, it appeared that Red 2 would be exonerated from suspicion as a carcinogen. The pathology division of the Bureau of Foods submitted a report on the "botched" experiment which concluded that Red 2 had "no apparent adverse effect" on the rats. And many members of the advisory committee seemed to agree, offering such comments as, "I have a feeling that this is an innocuous color" and, "There has been no evidence that this compound is a significant or major carcinogen."

Still, just to be certain, the committee ordered up three further analyses by experts within its membership. One of those studies—a statistical analysis of the results of the "botched" study performed by David W. Gaylor, principal biological statistician at the FDA's National Center for Toxicological Research in Arkansas—revealed that the Bureau of Foods may have been a bit too hasty in drawing its rosy conclusions. Gaylor found that, while it was indeed true that there was no significant difference in the *total* number of tumors, both benign and malignant, in the high-dose and low-dose groups, there was in fact a significant increase in the number of *malignant* tumors found in the female rats fed the high dose. Gaylor's analysis, dated 31 December, became known to the press, a circumstance which led FDA Commissioner Schmidt to announce on 8 January that he would proceed with whatever action was warranted within 10 days. That launched a rushed reappraisal.

A working group of scientists from the Toxicology Advisory Committee, the FDA, and the National Cancer Institute met on 14 January to review Gaylor's analysis. They concluded, in essence, that Gaylor's statistical approach was valid, but that the strength of his conclusions would depend upon confirming the original pathology data "using a slight redefinition of tumor types." The significance of this is that some of the tumors counted as "benign" might conceivably be reclassified as "important" (benign now, but possibly heading for malignancy) or perhaps even "malignant." If a substantial number of the "benign" tumors in the low-dose group were reclassified, that might wipe out the difference between the low- and high-dose groups, perhaps indicating that Red 2 had no pronounced effect after all. Such, at least, is the speculation among those scientists at the Bureau of Foods who still are dubious that Red 2 is harmful.

The working group noted that the "botched" study was of such poor quality that it could never be used to demonstrate the safety of Red 2, but it suggested further evaluations of the data in an effort to determine whether Red 2 is carcinogenic. However, the FDA commissioner, who had recently been given a rough time on Red 2 by various senators and congressmen, the General Accounting Office, and reporters on a nationwide television interview show, was not about to wait for more evaluations. On 19 January, he announced that he would act immediately to terminate the approval for use of Red 2 in foods, drugs, and cosmetics. He did not claim that Red 2 is carcinogenic. Rather, he noted that Red 2 had only a "provisional" approval, a category that is meant to indicate that studies are under way that are expected to demonstrate safety and thus lead to "permanent" approval. Since the latest FDA study could not establish safety, he said, and since no other studies are known to be under way that could resolve the safety questions, the provisional approval had to be rescinded. The burden of proof, he added, lies with those who manufacture or use Red 2 to prove that it is safe and useful. Then, since he had not exactly ruled that Red 2 is unsafe, he explained that there would be no recall of existing products containing Red 2 since there is "no evidence of a public health hazard."

Industry spokesmen were predictably outraged. The top color scientist at one company that makes Red 2 told *Science:* "I think it's a disgrace. It's a case where media pressure and consumer group pressure really took precedence over scientific judgment. The commissioner acted upon emotion and without a final opinion from the full Toxicology Advisory Committee. As far as I'm concerned, Red 2 is still safe." But consumer activists who believe that Red 2 should have been banned long ago out the basis of earlier suspicious test results were enthusiastic.

One potentially significant revelation to emerge from the confused proceedings is that the FDA's Bureau of Foods does not always perform a sophisticated statistical analysis of the resutls of its studies. The Bureau's report to the advisory committee last November—the one which found "no adverse effects"—was based on an examination by pathologists but not on a detailed statistical analysis of the pathological findings. Bureau officials have since offered two explanations for this. One is that they were so rushed to get a report together for the November meeting of the advisory committee that they didn't have time to do the statistics—an excuse that some participants find preposterous, since the Bureau was able to perform an analysis lickety-split after Gaylor's memorandum challenged their original conclusions. The other is that no analysis seemed necessary in this case. Thus Herbert Blumenthal, director of the division of toxicology in the Bureau of Foods, told the working group that the tumors observed in the study were typical of the particular colony of rats, and that the pathologists were not concerned about them. According to the minutes of the meeting, he said he "would not have requested a statistical analysis of this study." Blumenthal, whose division was in charge of the "botched" study, and who was obviously dispirited after a hectic week, declined to elaborate in an interview with *Science* on why he felt no statistical analysis was needed.

But one participant in the review process believes the Red 2 flap has uncovered a serious flaw in the FDA's system of evaluating tests. "In the past, they've just had people eyeballing the stuff," he said. "They look at the data and look for things that jump out at them. But in so doing, they could quite easily make a mistake. In this case they did. If this study had not been botched, there would have been no statistical analysis. How many things have they done in the past where they just eyeballed the data and said, 'It looks OK'?"

CONGRESSMAN DRINAN SUBMITS TESTIMONY ON PROBLEMS OF OLDER AMERICANS IN MASSACHUSETTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. DRINAN. Mr. Speaker, in December of last year, I had the pleasure of presenting testimony to the Senate Special Committee on Aging regarding the problems of older Americans in Massachusetts. Since Massachusetts has one of the highest concentrations of older Americans in the Nation, I was deeply pleased that the committee went to Boston to hear from the Commonwealth's older citizens. The Bureau of Labor Statistics reports that for the categories of low and intermediate budgets for the elderly, Boston has the highest level of living costs in the Nation. I would like to share my statement which follows, with my colleagues:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN FOR SENATE SPECIAL COMMITTEE ON AGING HEARING IN BOSTON ON THE COST OF LIVING, DECEMBER 19, 1975

Mr. Chairman, the first and most acute problem facing older Americans today is how to maintain an adequate income. On this point there is virtually unanimous agreement. In 1971 the White House Conference on Aging concluded that obtaining a minimally adequate income is the "immediate goal" of our nation's older citizens.

To all members of Congress and particularly to this Committee, the severe financial pressures on older Americans are very well known. Yet today, as in the past, millions of older people do not have income adequate to meet a decent standard of living. There are nearly 640,000 individuals age 65 and older residing in the Commonwealth of Massachusetts; Massachusetts ranks tenth nationally in population over 65. I am deeply pleased that the Senate Special Committee on Aging has come to Boston to hear from the Commonwealth's older citizens.

The older population in Massachusetts and throughout the nation has been steadily rising: in addition the life expectancy of this group has been lengthening. We must ask: What will those years be like? Will they be years in which older Americans can reap the benefits of their years of labor? Or will the majority be plagued with economic deprivation, isolation, loneliness and humiliation?

It must be a basic right of every American to receive an adequate income in retirement. What could be more fitting in this Bicentennial year than to acknowledge the contribution of older Americans to this nation through a national commitment to genuine economic security? Let us keep in mind that many of those now on the retirement rolls were never afforded an opportunity for full employment and that many were forced to place their personal aspirations aside in response to national needs through periods of great depression and world war.

With the goal of providing genuine economic security, we must look first to the social security system. Since this system has nearly universal application covering almost 95 percent of the nation's workers it should be a foundation for an effective income maintenance program.

The current average benefit to a retired couple amounts to $341.00 per month or a little more that $4,000 a year. A retired single worker receives an average benefit of $200.00 a month or $2400 a year. This means that for the estimated fifty percent of Old Age Insurance beneficiaries whose cash benefits are the principal and, in many cases, the sole source of income, social security, which was designed to replace earnings in retirement, cannot provide the economic security relied upon in old age; it must be supplemented by other resources to provide even a minimum standard of living.

Supplemental Security Income—the SSI program which was enacted in 1972—provides the major portion of the needed additional support. Yet in Massachusetts, which has one of the nation's highest cash payment levels, the maximum amount that an elderly couple receives, including social security benefits, is $428.00 a month, resulting in an annual income of $5,136. For a single older person, the maximum payment with social security is $288.00 a month, or $3456 a year.

Because Massachusetts is a 'cash out' state, SSI recipients are not eligible for Food Stamps. We are all aware of the fact that food costs have escalated tremendously in the past few years. This situation has put a particularly severe drain on the budget of older Americans. Food costs can conservatively be expected to consume one-third of an elderly couple's budget; Seniors must pay more to eat less.

The Department of Labor, Bureau of Labor Statistics reports that for the categories of low and intermediate budgets for the elderly, Boston has the highest level of living costs in the nation. The November, 1975 low budget for an elderly couple residing in the Boston area was $5226 annually. Thus, those older couples in Massachusetts who rely upon social security and SSI as their sole income are forced to live meagerly even at the lowest standard of living budget.

SSI payments should be increased to insure that they provide an adequate income above poverty levels for the elderly. Because of the lack of stability in food costs, SSI beneficiaries should be allowed to receive food stamps instead of 'cash out' payments.

The automatic cost-of-living escalator which was included in the Social Security law in 1973 should be adjusted to provide increases twice, instead of once, a year. The escalator was intended to make the system inflation-proof but that result is not accomplished with a twelve month lag between increases in this era of high inflation. Since it is necessary for most of the elderly to spend their entire incomes to meet basic needs, price rises result immediately in a reduction in the goods and services they can purchase—in other words a harsh reduction in their standard of living.

Spending patterns of the elderly have been shown to be substantially different from those of their younger counterparts. Yet the Consumer Price Index, which is used to compute their cost-of-living increases, is based upon a standard family's purchasing pattern. The intent of the automatic cost-of-living adjustor of the social secuirty law could be better accomplished and more fairly accomplished if it were based upon a CPI geared to the elderly.

The Congress must direct its attention to a solution to the problem of reduction in other benefit programs when social security is increased. These cost-of-living increases are meant to keep pace with inflation and should not be considered as additional income. The harsh result has been that many elderly persons, particularly widows, have had their veterans pension reduced or terminated because of social security increases.

Another area of the social security system which merits immediate attention is the outside earnings restriction. The limit on outside earnings should continue to be increased with a goal of removal of this restriction. This provision unfairly penalizes older citizens who are without a source of unearned income such as stocks, bonds, legacies etc., whereas older citizens who enjoy income from such assets can continue to receive their full benefits. The plain fact is that older persons cannot live on social security alone and must not have their retirement incomes jeopardized further than they already are by inflation, because of the loss of benefits due to outside earnings.

Moreover, encouragement, instead of discouragement, should be given to older persons who wish to remain in the work force.

The earnings restriction poses a virtually insurmountable barrier to continued employment by low income workers—the very group which would benefit most from continuing to work past age 62 or 65.

Along with this is a need for extending the Age Discrimination in Employment Act to cover workers age 65 and older. There can be no logical reason for arbitrarily ending protection of the law as soon as a worker has reached his or her 65th birthday. Coupled with this must be an effort to discourage mandatory retirement policies. Chronological age is a poor test as to the time when a person should retire. To say that retirement of older workers will provide more jobs for younger workers is to admit that our society cannot effectively utilize the talents and skills of an increasingly larger segment of our population. Such a tragic and needless waste must be considered by all as intolerable.

Particular attention must be given to the critical problems of women in establishing and maintaining retirement incomes. As of July, 1974, there were an estimated 12.8 million women age 65 and older comprising 59% of the older population. Women have longer life expectancy than men and are becoming an increasing majority among the elderly. In 1974 50% or 6.3 million women aged 65 and older were widows while only 39% were married. In the same year, five million older women were living alone with a median income of $2,869. As of November, 1975, the average widows' benefit paid by social security was $194 a month.

Women are more likely to be alone in their later years, more often widowed, less likely to remarry, and more likely to be unemployed. This group has one of the highest incidences of poverty.

Because of increases in the divorce rates after 15 years of marriage, there is a growing category of women who, in their middle years, lose their one source of retirement income dependent-wives benefits based upon their husband's social security earnings record. Many of these women, even when they have some record of earnings, have sporadic work patterns because of the time spent in rearing children. Often their earnings are not sufficient to provide a retirement benefit beyond the minimum. Moreover, many of them have no disability coverage because they lack the required quarters in the specified periods.

The requirement that a marriage must have lasted 20 years in order for a wife to be eligible for benefits must be modified. A woman who has served as homemaker and in rearing children as well as in auxiliary services to her husband's career and who may have contributed to the family's income by working outside the home should be recognized for a wife's benefit after ten years of marriage at most.

The problems are not merely within the confines of the social security system. Sex discrimination in employment begets sex discrimination in retirement benefits. Women remain concentrated in low-paying positions and, as they get older, are subject to age discrimination as well as sex discrimination in employment. Because they cannot establish the earnings records of their male-counterparts, they cannot establish retirement income security.

A serious shortcoming in Federal aid to the elderly is found in the Medicare program. Starting in January 1976 there was a 13% increase in the Medicare deductible. This jump in out-of-pocket costs for medical care will affect all of the 24.1 million Medicare beneficiaries hospitalized in 1976 or confined to a skilled nursing home longer than 21 days.

With the high costs of medical care, the elderly who, as a group, face the highest incidence of illness and disability and are least able to pay for adequate health care, are experiencing shrinking Medicare coverage.

Although they comprise 10% of the population, the elderly account for 28% of the national expenditure for health care. Until a national health security program is established, the benefits of Medicare should be extended to fill two major gaps: long-term-care coverage and out-of-hospital prescription drugs.

For many of the elderly, their health is dependent upon expensive medication for a number of chronic conditions. Five out of six older Americans have one or more chronic conditions. Because of the lack of Medicare coverage, many older citizens must pay medication costs out of budgets already squeezed to the last point of squeezing. The lack of coverage has also caused a serious problem of elderly persons attempting to do without necessary health care.

The elderly of America have an overwhelmingly powerful case. They have been locked out of the labor market; they are required to maintain themselves on retirement benefits which continually diminish in real value; they are denied benefits which should be theirs in medical care, housing, and even food. The most incredible and cruel thing which happens to them in their later years is that, for the first time in their lives, they enter the ranks of the poor.

A national commitment to the elderly of this nation will not be credible and cannot really exist until it is accompanied by an extraordinarily generous act which symbolizes and signifies that America at long last has committed itself to treat senior citizens as its first citizens.

LAND OF MY FATHER'S PRIDE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

LAND OF MY FATHER'S PRIDE

(By Denis L. Fox)

Am I an American?

Assuredly so, but not based upon automatic absorption into citizenship dating from time and country of birth. I had been born three years too early for that.

My native home was a farm on the coast of Sussex, in the southeast of England.

It had been my father's earlier experience abroad, his foresight and wisdom, as well as my mother's devotion and willingness, that brought the family to California in the very early years of this century.

John James Fox traveled from England to the United States twice before deciding to return for the third and final time, to settle here and to become a U.S. citizen.

Father decided that California, after all, was the place for his family to live, where we could grow up. He sailed for California in 1904, to acquire a farm in Napa County. We joined him early in March 1905, when I was but a few months beyond three years of age.

Father, while remaining unmistakably English, became a staunch and loyal American citizen. He used to tell us that, while England was his beloved mother, America was still dearer—his chosen bride. I was later to understand full well what he meant.

I have visited England many times. I love her people, scenes and ways. But America is my home. I share with my late father the spirit which often prompted him to sign his name with a qualifier, "an American."

Many are the times when I have silently offered profound thanks to my late parents for having adopted this country as home for themselves and their children.

I am not given to display of patriotism. Yet I am deeply gratified for having had the opportunity, years ago to formally finalize my citizenship.

The United States assuredly is one of great contrasts—in colors, beauty, grandeur and general richness. Her forests, mountains, plains, deserts and waterways have inspired poets, artists, naturalists, historians, and others to dwell upon her greatness.

As one who has won a chronological race through threescore and fourteen winters, I cannot but wonder how any of our younger citizens, whom fortune has served kindly, can entertain prejudices regarding not only this country and its people, but the basically good, sound and constructive virtues upon which this nation was founded.

While, indeed, no country or government is perfect and needs continuous constructive repairs and changes, I am weary of hearing from self-styled protestors.

I choose to reflect upon the positive features which have molded my own identification with the country my parents adopted and which became my own.

COLD WIND HITS CAPITOL HILL

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. O'BRIEN. Mr. Speaker, I would like to share with my colleagues an excellent editorial published March 28 in the Chicago Tribune. The editorial commends the House Armed Services Committee, of which I am a member, for recognizing the danger presented by the growing Soviet military buildup. I hope my friends and colleagues will read this and consider it seriously before voting on the military authorization bill.

I believe that substantial support from Congress for this bill and our defense budget will tell the world that we have the strength and the will to remain No. 1:

A COLD WIND HITS CAPITOL HILL

There is a hint, just a hint, that Congress has felt the increasing chilliness of the wind blowing in from the Soviet Union.

The House Armed Services Committee has voted $698.6 million more than the Ford administration requested in a fiscal 1977 military procurement authorization. Committee Chairman Melvin Price, an Illinois Democrat, said it was the first time in years anything like that had happened. The committee approved $33.4 billion for military weapons procurement and research and development, compared with the administration's request for $32.8 billion. And the vote was 34 to 1, with Rep. Les Aspin [D., Wis.] the lone dissenter.

It's high time that Congress awakened to the signals which have been disturbing the public. The Soviets blatantly helped a minority faction to take over Angola. Their foreign minister, Andrei Gromyko, has boasted that Soviet military strength is increasing and that the Kremlin is able "to lay down the direction of international politics." Britain's Conservative Party leader, Mrs. Margaret Thatcher, says the Soviet strategic threat to Britain and its allies is the greatest since World War II.

These actions and statements fit into a thoroughly plausible pattern and one which Washington seemed oblivious to.

Now things may be changing. Donald Rumsfeld, viewed as something of a dove when he replaced James Schlesinger as secretary of defense, is proving as concerned about our military strength as his predecessor. He proved further to have far greater access to President Ford than Secretary Schelsinger ever did. And, instead of running into a stone wall on Capitol Hill, Mr. Rumsfeld actually has found support for military spending.

It is reassuring to find evidences in Congress of greater realism and of a more sensitive response to the public's fears. If the butter-instead-of-guns liberals join in realizing that defense cannot wait, we shall have renewed confidence in the ability of this representative government to function—and survive.

SSI: EXTENDING COVERAGE TO MENTALLY RETARDED ADULTS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Ms. ABZUG. Mr. Speaker, there is probably not a Member of this House who has not been aware of the failings of the supplemental security income program, be they program shortcomings or the horrifying administrative errors. However, the New York State Association for Retarded Children has brought a partcular inequity to my attention, which I am seeking to remedy with a bill I am introducing today.

Under the law, both earned and unearned income of an applicant for SSI is taken into consideration in determining financial eligibility. This differs materially from social security where only earned income is taken into consideration. Under the law and regulations, a mentally retarded adult otherwise eligible for SSI is denied eligibility when he is in a private school for the retarded and the tuition is paid by his parent. The tuition paid by the parent is considered unearned income to the SSI applicant, and makes the individual ineligible for SSI.

Today I am introducing legislation to remove this inequity. I will be circulating this bill for cosponsors in the coming week and I urge my colleagues to join me in supporting this legislation. A copy of the legislation follows:

A bill to amend title XVI of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining his or her eligibility for supplemental security income benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1612(b)(7) of the Social Security Act is amended by inserting "(A)" after "(7)", and by adding at the end thereof the following new subparagraph:

"(B) in the case of a mentally retarded individual (or spouse) 18 years of age or over who is attending a special school for the mentally retarded, any amount paid by any person, to or for such individual or spouse, to cover any or all of the tuition, fees, or training costs of such individual at such school;".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to payments of tuition, fees, and training costs made on or after the date of the enactment of this Act.

ADAM GRZEGORZEWSKI CELEBRATES 40TH ANNIVERSARY OF RADIO BROADCASTING AND PRODUCTION WORK

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ANNUNZIO. Mr. Speaker, on April 2, 1976, Adam J. Grzegorzewski, president, Polish-American Broadcasting System, will celebrate his 40th year anniversary in Polish-American broadcasting and production work, and his friends and co-workers are having a banquet in his honor. "Poland in Music and Song" is heard daily, Monday through Friday, from 12 to 12:30 p.m., over radio station WOPA, and serves the 1 million Americans of Polish extraction in the Chicago area. I am proud to join with Adam's many, many friends in extending my sincerest congratulations to him on this splendid achievement.

Adam Jerzy Grzegorzewski was born in Warsaw, Poland, on May 26, 1911, and came to the United States in 1923. He attended the Preparatory School of the Alliance College in Cambridge Springs, Pa., which is owned and operated by the Polish National Alliance of America, and is a graduate of Lane Technical High School in Chicago. He also attended Chicago's Medill College of Journalism and Loyola University.

Adam began his broadcasting career in 1936 with radio station WSBC, and later with WGES, and for the last 25 years has been broadcasting daily over radio station WOPA. While in the broadcasting profession, he has also been an associate editor of publications by the Polish Roman Catholic Union of America and the Polish National Alliance of America.

During the years of struggle with the Nazis during World War II, Adam Grzegorzewski was rejected from active service in the U.S. Army because of a heart condition, so he dedicated his services to the Douglas Aircraft Co., as a flight inspector. During that time, however, he continued his radio broadcasts and also joined a special staff of writers and performers participating in radio programs entitled, "You Can't Do Business With Hitler," sponsored by the Office of War Information.

Mr. Speaker, Mr. Adam Grzegorzewski has a long and outstanding record of achievement, both in service to his adopted country and in service to his community. Again, I congratulate him on his dedication to the highest standards of excellence and send him my warmest best wishes for many more years of good health and service to our Chicago community.

TO ERADICATE BLACK LUNG DISEASE

HON. PHILIP H. HAYES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. HAYES of Indiana. Mr. Speaker, the Black Lung Benefits Reform Act, which was approved by the House on March 2, 1976, has received unjust criticism by parties that have distorted and confused the facts on this important legislation. I have included here a letter by Arnold Miller, president of the United Mine Workers of America, which answers criticism leveled against this bill by the New York Times on March 5, 1976:

Copy of the letter follows:

[From the New York Times, Mar. 18, 1976]

TO ERADICATE BLACK LUNG DISEASE

To the Editor:

The March 5 Times editorial opposing the Black Lung Reform Bill is based on an unfortunate misunderstanding of its purpose and content.

The Times ignores the fact that this legislation may eradicate black lung disease by transferring the costs of future black lung claims from the taxpayer to the coal industry. If the coal industry is forced to pay for black lung compensation, the industry will do something to prevent the disease.

The mines today are no less dusty than several years ago. According to the supervisor of the Pittsburgh dust-control program, coal miners "are being permitted to be exposed to grossly excessive amounts of respirable dust." A recent G.A.O. report confirmed this. The Times also failed to note that unless the Black Lung Reform Bill of 1976 becomes law, the entire Federal black lung program will expire in 1981.

Unless this bill passes, this generation of coal miners, like their fathers before them, can expect to die a cruel and painful death from black lung disease.

Moreover, you mistakenly claim the bill would provide automatic benefits to "every miner who has thirty years in the bituminous or 25 years in the anthracite." In fact, only years worked prior to 1971 count under this provision. At most, it will provide benefits for some 4,800 aged miners.

The Times also accepts the most inflated estimate of this legislation's cost. According to the House Labor Subcommittee, the bill will cost the coal industry 14 cents a ton, not $2.50—the industry figure cited by The Times. Moreover, the Black Lung Bill will provide a net savings to the taxpayer of $15 million by 1984 by shifting claims to the coal industry, according to the subcommittee.

Coal miners suffer from black lung because ours was the last industrial nation to establish dust standards in its coal mines. This nation waited thirty years after Britain began effective dust control to place limits on the amount of coal dust American miners breathed. Thousands of coal miners are today paying the price for that monstrous neglect every time they try to gasp for some breath through coal-ravaged lungs.

The terrible tragedy at the Scotia mine in Kentucky is a reminder of the price coal miners pay in the nation's most vital energy industry. This legislation offers miners some chance of emerging from the mines with their lungs intact. It deserves your wholehearted support.

ARNOLD MILLER,
President, United Mine Workers of America.
WASHINGTON, *March 12, 1976.*

GREEK INDEPENDENCE DAY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. COUGHLIN. Mr. Speaker, I am honored to salute the Greek-American community which commemorated the 155th anniversary of Greek Independence Day on March 25, 1976.

As our Nation reflects during this Bicentennial year on our own heritage, our debt to the Greek people is monumental. For Greece represents not only the cradle of democracy, but also the spawning place of much of our art, architecture, aesthetics, ethics, literature, drama, mathematics, philosophy, and science.

While recognizing the magnitude of the Greek contribution to our intellectual and cultural character, however, it is the Greek love of liberty and democratic principles of government which is her greatest legacy.

This love was reaffirmed during Greece's bitter struggle for freedom from the yoke of the Ottoman Empire. It was again demonstrated in the reply of "Ochi" to the demands of Mussolini. And the precious sacrifice through resistance to Hitler underscored the Greek dedication to self-determination.

Just as the Greeks of antiquity inspired the founders of our own Republic, our colonial patriots heartened the Greek freedom-fighters in their struggle for independence. Our kindred dedication to liberty has helped to forge strong and important bonds of friendship and the preservation of our mutual security relationship. We must see that these bonds remain intact.

Many voices have been raised through the ages in honor of Greece's love for freedom. In this 155th celebration of Greek Independence Day, however, no words are more fitting than those of Simonides, a citizen of ancient Greece:

> If the greatest part of excellence is nobly to die, this to us of all men has fortune given: for struggling to clothe Greece in freedom, we lie in unaging glory.

I am proud to represent the thousands of Greek-Americans who reside in Pennsylvania's 13th Congressional District and am gratified by their innumerable contributions to the cultural and economic greatness of the Commonwealth of Pennsylvania. Their heritage, patriotism, diligence, and industry are invaluable assets to Pennsylvania and our Nation. I am pleased to join in the 155th anniversary celebration of Greek Independence Day and to pay tribute to the valiant Greeks who made this joyous occasion possible.

USDA OFFICIAL RESPONDS TO BROKEN PROMISES

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ROSE. Mr. Speaker, I recently received a letter from James E. Bostic, Jr., Deputy Assistant Secretary of the U.S. Department of Agriculture, in which he explains the USDA fiscal year 1977 budget proposals for rural America.

Arguing that a balanced budget and fiscal responsibility were the cause of rural development budget cuts, Mr. Bostic defends this administration's apparent disregard for those in our society who suffer most from economic fluctuations.

I pointed out to Mr. Bostic that farmers and rural residents have a difficult time understanding why the foreign affairs budget is increased 20.5 percent while the budget for agriculture is cut by 40 percent. I am simply not willing, Mr. Speaker, to sacrifice rural Americans to a budget that ignores them and supports people we do not even know.

I am submitting my correspondence with Mr. Bostic for the RECORD. I hope that my colleagues in the House who represent rural people will read carefully the defense offered by Mr. Bostic. Then I hope you will join me in insisting that such fragile excuses do not continue to be acceptable.

The production of food and fiber is one of the most essential industries in America. To short-change those responsible for this ever increasing task, is to cut the heart from the body. I will not stand idly by and listen to officials who claim they are doing their best under the circumstances when they are simply padding one area at the expense of another.

It is time for our Federal agencies to be responsible for Americans, rather than a time for them to defend policies and programs that subvert and suppress healthy growth.

Mr. Bostic knows and I know that the attitude at USDA does not favor rural development. The facts speak for themselves. Mr. Bostic's letter to me and my response follow:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 4, 1976.

Mr. CHARLES ROSE,
House of Representatives,
Washington, D.C.

DEAR MR. ROSE: I read with regret your recent remarks in the Congressional Record on "Rural Development: Broken Promises, III." I should like to share with you some of the factors we considered in formulating our budget in the hope that it might balance your preception of the Department's rural development programs.

Your remarks on the President's 1977 Budget made no mention of the fact that the President recommended $4.8 billion for the Farmers Home Administration in 1977, nor of the fact that almost half of all rural development assistance provided by the Farmers Home Administration (FmHA) and the Rural Electrification Administration (REA) over the last forty years has been provided in the last eight years.

I think it is important to realize that between 1969 and the current fiscal year FmHA housing programs have increased by over 400 percent, community programs have increased by over 300 percent and farmer programs have more than doubled. REA loan programs this year are almost 600 percent of their 1969 level. I hope you will agree that these figures demonstrate a reversal of the predominantly urban orientation of the Federal government in previous years.

In your remarks you mentioned several programs where the budget request for 1977 was the same as for 1976 and yet the estimated number of loans to be made in 1977 was down from the number to be made in 1976. There is a simple reason for this—inflation.

The decision not to request new rural development funds in the fiscal year 1977 was made only after careful consideration and is based on one primary factor—overall government spending must be reduced in order to curb and control inflation.

No single factor in our economy fuels inflation faster than government spending, and no single economic group in the nation feels the evil effects of inflation so quickly as the people in rural America.

Your remarks did not mention that our rural development programs will cost the taxpayers of this nation almost $1 billion in interest subsidies this year. Next year the interest subsidy cost will be $1.2 billion for these rural development programs.

We cannot and will not promise the people of rural America program levels that add to an ever-increasing federal budget deficit.

It took the federal budget 186 years to reach $100 billion. This happened in 1962. In nine years, 1971, the federal budget doubled and reached $200 billion. Unless we control this growth, this budget in 1977 will double again to $400 billion with a $70 billion deficit. Simply stated, Federal government programs will be $70 billion more than the American people want and are willing to pay for. A recent poll taken in a rural section of our country revealed that rural residents were 3 to 1 for decreasing government services if maintaining those services meant raising taxes.

We must take serious steps to put federal expenditures in line with federal tax revenues or this nation will go the way of New York City. I would point out the federal debt per capita is already four times greater than the debt which New York found so burdensome. Continued large federal deficits only add to inflation because we monetize the large debt by printing money.

In the past, the federal government has over-promised and raised the expectations of local people that the federal government can solve any problem if enough money is appropriated. Local leaders, with their abundant initiative, know-how, and resourcefulness are greater assets than a shopping basket full of federal rural development programs.

We must introduce a new balance in the relationship between the individual and the government—a balance that favors greater individual freedom and self-reliance; one that favors greater responsibility and freedom for leaders of state and local governments. This Administration has promised no more than we could deliver and have delivered all that we promised.

Federal responsibilities are to the taxpayers and all Americans, as well as the rural communities that benefit directly from Federal rural development programs.

This Administration has moved with all prudent speed to develop flexible programs and adjust its delivery system to help not only farm families on the land, but also local governments, civic groups, organizations, and others in the private sector achieve the development they want—and let them plan it.

Unless we restore fiscal responsibility to all levels of government, the nation's tricentennial may be a review of how the greatest nation in the world's history spent itself into bankruptcy.

The promise of national bankruptcy must be broken.

Sincerely,

JAMES E. BOSTIC, Jr.,
Deputy Assistant Secretary.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 8, 1976.

JAMES E. BOSTIC, JR.,
Deputy Assistant Secretary, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: It was most thoughtful of you to advise me of your reaction to my recent remarks in the CONGRESSIONAL RECORD on "Rural Development: Broken Promises III."

A careful reading of your remarks suggests that the overall economic condition of our nation justifies the shortfall in many agricultural programs that are vital to rural development. You also cite statistics to justify present inadequacies in the Department's rural development programs.

Yet the nation requires, and it is my responsibility to assure, a comprehensive rural development program that will make it possible for our farmers to fulfill their increasingly heavy commitment to produce food and fiber for those at home and abroad.

You mention a recent poll taken in a rural section of our country in which rural residents were 3 to 1 in favor of decreased government services if taxes had to be raised to maintain the services. I cannot quarrel with these figures, but I can suggest that these same citizens may find it hard to understand why the budget proposal for FY 1977 in the area of international foreign affairs rose 20.5% and the budget for agriculture fell by 40%. I realize that you may not control the budget for the Department of Agriculture. However, I do not believe it is incumbent upon you to defend the inadequacies of the Department's programs for rural development.

The facts speak for themselves. Severe cuts in grant and loan programs are recommended for FY 1977. And the overall budget for the entire Rural Development Service is down from the 1976 budget. I am certainly in favor of a balanced budget, but I am not in favor of sacrificing rural Americans for foreign aid increases.

Deficiencies in the nation's agriculture programs will cause an ever deepening crisis in world agricultural production. And every day that our agricultural areas remain underdeveloped, we lose vital resources in farm potential that can never be regained.

For these reasons, we cannot afford half-hearted attempts to assist those responsible for the food and fiber production of our nation. Everything that can be done must be done to maintain a vigorous and prosperous agriculture program. To fail is to forfeit our future. To succeed is to insure that food, a basic need of all people, will be provided.

I am dedicated to the latter course. I ask you to join me.

Sincerely,

CHARLIE ROSE.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mrs. KEYS. Mr. Speaker, on Thursday, March 25, I was unavoidably absent from the House.

Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on rollcall No. 134, the conference report to accompany House Joint Resolution 801, making supplemental railroad appropriations for 1976.

"No" on rollcall No. 135, an amendment offered by Mr. BAUMAN to H.R. 12566, authorizing appropriation to the National Science Foundation for fiscal year 1977;

"No" on rollcall No. 136, an amendment offered by Mr. CONLAN to H.R. 12566, authorizing appropriations to the National Science Foundation for fiscal year 1977;

"Yea" on rollcall No. 137, final passage of H.R. 12566, authorizing appropriations to the National Science Foundation for fiscal year 1977.

REVENUE SHARING EXTENSION NEEDED NOW

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. D'AMOURS. Mr. Speaker, I wish to call to the attention of the House a serious problem with the timing of revenue sharing legislation now before the Subcommittee on Intergovernmental Relations of the Government Operations Committee. Cities and towns in my own State of New Hampshire and across the Nation are hanging in limbo waiting for news from Washington so that they may plan their budgets for next year and are being prevented from making long range plans for sound municipal financing because Congress has not yet enacted an extension of revenue sharing legislation.

When this Congress convened more than 1 year ago, it knew that the State and Local Assistance Act of 1972 would expire on December 31, 1976. It also knew that this legislation is vitally important to more than 39,000 units of local government throughout the United States, many of which run on a fiscal year budget and needed to have this information to plan their budgets by early 1976.

The subcommittee has done an admirable job in gathering evidence and investigating the revenue sharing program, and certainly any program costing over $6 billion a year deserves the closest scrutiny by the Congress, but the time for deliberations has long since passed. Already many New Hampshire towns have had their annual town meetings to plan their budgets for the coming year and have had to proceed without this vital information from Washington.

I strongly believe that the revenue sharing program returns money, power, and decisionmaking to the State, county, and local governmental units whose officials are most familiar with their own particular needs and problems and who can make the wisest use of those funds.

I have received mail from almost every community in my district urging the extension of the revenue sharing program, and specifically supporting the proposal extending the present program for 5¾ years. Tying revenue sharing to the annual appropriations process would be detrimental to long term planning and the establishment of sound fiscal policies needed by our municipal governments.

Last week I met with a delegation of mayors and selectmen from New Hampshire and with the officers of the New Hampshire Municipal Association. They are frustrated by the fact that this legislation has not been acted upon, and that because of this delay, the Budget Control Act may hold back enactment even longer. The message of these elected representatives was direct and simple. They favor immediate enactment of an extension of revenue sharing for 5¾ years without an alteration in the distribution formula.

I believe that this Congress has an obligation to our cities and towns to take action on this legislation, and that this obligation is of significant importance to justify enactment prior to the Spring budget resolution. I believe that the will of the Congress is being thwarted by the committee's failure to report this legislation in a timely manner. I urge congressional action as soon as possible.

EDGAR TESTIFIES TO SUPPORT CARPOOLS AND VANPOOLS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. EDGAR. Mr. Speaker, I testified before the Appropriations Committee's Subcommittee on Transportation last Friday to urge the appropriation of $7.5 million for carpool and vanpool demonstration projects. I believe that the potential of carpooling and vanpooling is virtually untapped. Such programs can save significant amounts of energy, reduce pollution, and save hundreds of dollars each year for those that participate.

I wish to share with my colleagues, Mr. Speaker, my statement before the subcommittee. I hope that they will support my efforts to expand Federal support of these projects:

STATEMENT BY ROBERT W. EDGAR

Mr. Chairman, it is a pleasure for me to appear before the Committee today to request funding for a worthy and innovative program authorized by the 93rd Congress. The program, established by the Federal-Aid Highway Act Amendments of 1974, authorizes $7.5 million for urban area carpool demonstration projects. These funds were never appropriated by this Committee, and I feel this may be an oversight which should be corrected for fiscal year 1977.

Federal support of carpool and vanpool programs is relatively new, despite the proven benefits of these programs. Carpool and vanpools conserve significant amounts of energy. According to the Federal Highway Administration, 50 million commuter vehicles transport only the driver. But if the average passenger load, including the driver, was raised from 1.4 to 2, a half million barrels of oil would be saved each day. Existing carpool and vanpool programs are already saving hundreds of thousands of gallons of gasoline each day, and the potential has hardly been tapped. Saving energy is only one of a number of benefits which would result from aggressive and creative programs to encourage and facilitate carpool and vanpool programs.

Pollution from internal combustion engines is minimized when there are fewer vehicles on the road. Traffic flow is improved. The same increase in passenger load of 1.4 to 2 would remove 15 million vehicles from the road during rush hour. There is less need for expensive and environmentally disruptive parking facilities. Each participant in a carpool can save hundreds of dollars each year.

In passing the "Emergency Highway Energy Conservation Act," Public Law 93-239, Congress authorized states to transfer highway urban systems, and urban extension funds for use in demonstration carpool projects. Projects authorized to be approved by the Secretary of Transportation included the following:

1. Systems for locating potential riders.
2. Publicizing carpool opportunities.
3. Designating existing highway lanes as preferential carpool lanes.
4. Designating existing publicly owned facilities as preferential parking for carpools.
5. Providing carpool-related traffic control devices.

This program has proved very popular with state highway departments, Mr. Chairman. In the two years since these projects were authorized, $10,875,000 has been spent by states from funds transferred from urban extension and urban systems federal-aid highway funds. More than half the states and Puerto Rico have allocated funds for these programs. But there is little incentive for a state to transfer its apportioned funds for such programs.

The Congress recognized the problems involved in transferring funds apportioned for other highway programs to be used for carpooling demonstration programs. Section 120 of Public Law 93-643, the Federal-Aid Highway Act Amendments of 1974, authorized $7.5 million for the same types of carpool programs authorized in the "Emergency Highway Energy Conservation Act." The language denoting which types of projects would be eligible for funding is virtually identical to the language of the original authorization for carpool demonstration projects, Section 3 of P.L. 93-239. The difference in funding is significant. Instead of requiring that a state use its existing apportionment from a highway category to set up its carpool programs, the new initiative authorized up to $7.5 million for these projects.

Unfortunately, not a single dollar of this sum was appropriated.

There have been a number of significant developments on this issue in the last few months which deserve the attention of this Committee. Both the House and the Senate addressed the importance of carpools and vanpools in their respective highway funding authorization bills in 1975-1976. In the House bill, H.R. 8235, Section 132 authorized a total of $75 million for three years, out of the Highway Trust Fund, for ride-sharing projects directed at improving transportation for workers, senior citizens, and the handicapped. This section set up a grant program and apportioned the funds among the states in a manner similar to the apportionment of highway safety funds. I introduced Section 132 as an amendment in the House Committee on Public Works and Transportation. Although I support efforts to reduce the number of categories in funding for federal transportation programs, I believed that Section 132 was a solution to providing large benefits in a very cost-effective way.

The Senate bill did not authorize any funding for new or existing carpool or vanpool programs. The Senate language expanded upon the authorizations in law regarding carpools, and allowed the programs for carpools to have expanded eligibility to include vanpools. In addition, the Senate allowed funding in existing authorizations to be used for acquisition of vehicles.

Mr. Chairman, this last change was a significant departure from existing programs. Currently, vanpooling is one of the hottest new ideas in transporting workers. The 3M Company in Minnesota was the pioneer in the concept of having the company finance the initial capital cost, with the weekly contribution of the ridership paying for this cost.

The 3M Company's "Commute-A-Van" program began in April, 1973, as a six van pilot project. The program has expanded to include over sixty-five vehicles, and there is a waiting list for employee participants. The drivers of the vans are all full time employees of the company. The fares, averaging about 2.5 cents per passenger mile, are calculated to pay for the operating and maintenance costs, and the amortization costs for the van. In return for delivering passengers to work, coordinating the pool, and arranging maintenance, the driver rides for free, uses the van on weekends, and profits on the fares of passengers above the eight he is committed to driving.

Similar programs based upon the 3M experience, including the program of Scott Paper Company in my Congressional District, have sprung up all over America. Virtually all of them are flourishing. The programs are self-sustaining, and there is little risk of loss which a company would be liable for. They are saving millions of gallons of gasoline each year, diminishing our reliance upon foreign energy imports. The benefits to companies are also more than modest, and go far beyond the public relations value. GEICO, nearby, estimates that it has saved over $2 million from its program just in saving the costs of building a new parking garage.

The problem is, Mr. Chairman, that companies are hesitant to make the initial capital outlay for vans, even though the prospect of breaking even is almost certain in the long term. The $7.5 million which has not been appropriated would do much to alleviate the psychological fears that some company managers have about this investment.

I have been in contact with staff of both the Department of Transportation and the Federal Highway Administration, the agency which would have the administrative duties should this money be appropriated. They inform me that this money would be used to set up a revolving fund to finance carpool and vanpool programs. The money would be lent to companies, for example, and would be replenished from the fees charged to participants. The liability for failure would rest not on the company but on the Department of Transportation, and there would be no need for an initial capital outlay by the company. I have been informed that DOT already has taken on the financial liability for the failure of a company ride-sharing program by setting up a program with an "abort clause." The abort clause allows companies to receive a refund for the costs they incur should a ride-sharing program lose money for them.

Mr. Chairman, the federal government has lacked the legislative mandate to set up this revolving fund, which offers the potential of giving a shot in the arm to vanpooling and carpooling programs of private corporations. However, I understand that the Conference on H.R. 8235, the Federal-Aid Highway Act of 1976, has agreed to retain the Senate language. Approval of this conference report would mean that the Executive Branch would now have the authority to establish this revolving fund. Such a fund would be worthless if the funds authorized could be used only for carpool demonstration projects and not for vanpools. Now that the progressive language of the Senate has been accepted, the revolving fund concept could be a reality.

The only missing ingredient, Mr. Chairman, is adequate funding for these programs. I offered a compromise proposal to the Conference Committee which would have retained the Senate language, but would have authorized the $75 million from the Highway Trust Fund over a three year period in lieu of the $7.5 million authorization which is currently in Section 120 of PL 94-643. Without funding, the lofty ideals expressed in existing law can never become a reality.

Unfortunately, the Senate objected to this compromise. I find it ironic that this $7.5 million authorization was a compromise itself. Two years ago, it was the Senate that saw the need for $15 million out of the Highway Trust Fund for carpooling demonstration projects, and it was the House which balked, and finally agreed to a $7.5 million out of the general fund. This year, the roles were reversed.

Mr. Chairman, this Committee has the opportunity to approve the appropriation of this $7.5 million for fiscal year 1977. I hope that I have sensitized the Members to the need for this money, and that it would most probably be used as self-replenishing seed money, as loans, which would be repaid with interest.

As a Member of the Committee of Public Works and Transportation's Surface Transportation Subcommittee, I assure the Members of this Committee that I will continue to work to improve existing carpool and vanpool legislation. I will also continue to monitor the various programs of EPA, FEA, DOT and other agencies with regard to ridesharing.

Although I recognize the importance of fiscal responsibility at a time when tax revenues are being eroded by inflation and recession, I urge the Members of this Committee to look kindly upon this program. The cost-benefit, I anticipate, will be one of the largest this Committee will find.

Thank you, Mr. Chairman, and I am willing to respond to any questions you and the other Members have.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION CALLS FOR ACTION ON NAZIS

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Ms. HOLTZMAN. Mr. Speaker, at its midwinter meeting, the board of directors of the National District Attorneys Association passed a resolution calling for stepped up Federal action against alleged Nazi war criminals living in the United States.

I am pleased to bring this resolution to the attention of my colleagues:

RESOLUTION

The Board of Directors of the National District Attorneys Association at its midwinter meeting in New Orleans, Louisiana adopts the following resolution:

Whereas as prosecuting attorneys we have a commitment to the effective administration of justice anywhere in the world;

Whereas it has been reported that fifty or more Nazi war criminals are living in the United States;

Whereas the United States Immigration and Naturalization Service, under the jurisdiction of the United States Department of Justice, is undertaking an investigation of these cases;

Whereas the United States Immigration and Naturalization Service has sought the assistance of the United States Department of State in obtaining eyewitness accounts, documentation, and other evidence in these matters from foreign sources;

Whereas the crimes committed by the Nazis are among the most heinous in human history; and

Whereas the American people are entitled to the assurance, more than thirty years after the end of the Second World War, that this nation has not become a haven for persons who participated in those crimes;

Now, therefore, be it resolved that:

1. The United States Department of Justice and the United States Immigration and Naturalization Service should act diligently and expeditiously to resolve these cases;

2. The United States Immigration and Naturalization Service should accelerate the pace of its investigation to enable an expeditious resolution of these cases;

3. The United States Department of State should cooperate fully with the Immigration and Naturalization Service in seeking evidence from foreign sources;

4. The United States Congress should act on legislation to give the Immigration and Naturalization Service clear authority to seek the deportation of aliens who engaged in the persecution of others for the Nazis.

CHRISTIAN LEADERS MARK SOVIET JEWRY MEETING WITH SOLEMN STATEMENT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. COUGHLIN. Mr. Speaker, I was privileged yesterday to take part in a program for Solidarity Day Mini-Brussels Conference for Soviet Jewry at Reform Congregation Keneseth Israel, Elkins Park, in my congressional district.

Some 400 persons—Jews and Christians alike—attended this remarkable testament to the American tradition of concern for individual and religious rights of people throughout the world. In this conference, the thrust was directed at the Soviet Union where Jews, along with others unwilling to submit to police-state tyranny, are systematically deprived of basic freedoms including the right to emigrate.

As a Congressman who has exercised a role in trying to convince Moscow to change its oppressive policies, I was honored to share the platform with distinguished and dedicated citizens active in the field of human rights.

Among those participating in the plenary session were Senior Rabbi Bertrum W. Korn, Keneseth Israel; Joseph Smukler, cochairman, Soviet Jewry Council of Jewish Community Relations Council; Albert D. Chernin, executive vice chairman, National Jewish Community Relations Advisory Council; Monsignor Charles V. Devlin, executive director, Cardinal's Commission on Human Relations; Reverend Rufus Cornelson, executive director, Metropolitan Christian Council; Hedrick Smith, author of "The Russians," and Rabbi Morris V. Dembowitz, president, Board of Rabbis of Philadelphia.

Reports from the conference workshops were presented by Stuart Wurtzman, cochairman, Soviet Jewry, Council of the Jewish Community Relations Council.

To me, one of the most moving moments was the presentation and reading of the Call to Christian Conscience by Monsignor Devlin and Reverend Cornelson. This statement on Soviet Jewry is a profound statement of relevance for all. I commend it to my colleagues:

As the Jewish Community of Philadelphia observes Solidarity Day for Soviet Jewry we the undersigned leaders of the Protestant, Orthodox, and Catholic community of Philadelphia wish to affirm our support for the religious, social, cultural, and economic rights of men everywhere. We affirm that we cannot rest nor be silent until human rights and justice prevail for each and every individual and for all without exception in the Soviet Union and every place where humanity, the sacred image of God is defied.

On this occasion, particularly we wish to add our voices to those in the Jewish community who today especially deplore the continuing presecution by the Soviet Union of many of its citizens because of their religious affiliation, cultural identity, or persuasion of conscience. Most especially we call for an end of the brutal imprisonment of all prisoners of conscience, both Jewish and Christian, and we urge that all such prisoners be immediately released.

Furthermore, we call upon the leaders of the Soviet Union to respect the human rights provisions of the United Nations Charter, the United Nations Declaration of Human Rights and the Helsinki Agreement.

We appeal to the Soviet authorities to end all harassment and intimidation against all persons seeking exit visas.

We appeal for an end of the drafting of young Jewish people and others into the Soviet Armed Forces as a punitive measure.

We appeal for an end to the sentencing of innocent men and women to prison terms on false charges.

We appeal for an end to the transfer of persons to psychiatric institutions for alleged mental illness.

We appeal for an end to the denial of professional status and educational opportunities for Soviet Jews.

We appeal for an end to the denial of exit visas to scientists and soldiers for excessively long periods.

We appeal for an end to the harassment of persons by depriving them of employment when they apply for exit visas.

We appeal for an end to the exorbitant taxation of gift moneys sent for relief to Soviet Jews from abroad.

As Christians dedicated to the principle of religious freedom for all, we appeal to Soviet authorities to permit religious, cultural, and educational institutions for the perpetuation of Judaism and Jewish culture including the publishing of Hebrew Bibles and prayer books, the production of religious articles, the training of rabbis and Jewish teachers and the creation of a representative body of Soviet Jewry with freedom to communicate and associate with their co-religionists in other lands, as indeed we plead this for all Christians and Jews alike.

We pledge our solidarity to all persons denied religious liberty in the Soviet Union and to all who courageously defend human rights within the U.S.S.R.

In the Spirit of the prophet Isaiah we call upon our fellow Christians and all Americans to join us as we reaffirm our commitment to serve as God's instruments in the redemption of all who are oppressed:

"I the Lord have called you for the victory of justice,
I have grasped you by the hand; I formed you and set you as a covenant of the people, a light for the nations.
To open the eyes of the blind, to bring prisoners out from confinement,
And from the dungeon, those who live in darkness."

Signing this document were:

OFFICERS OF THE METROPOLITAN CHRISTIAN COUNCIL OF PHILADELPHIA AND CHIEF EXECUTIVE HEADS OF PROTESTANT AND ORTHODOX DENOMINATIONS IN THE PHILADELPHIA METROPOLITAN AREA

Rt. Rev. James M. Ault, Bishop, Eastern Pennsylvania Conference—United Methodist Church.

Francis G. Brown, General Secretary, Philadelphia Yearly Meeting of the Religious Society of Friends.

Rev. William J. Brown, Executive Presbyter, Donegal Presbytery—United Presbyterian Church in the U.S.A.

Rev. Dr. Rufus Cornelsen, Executive Director, Metropolitan Christian Council of Philadelphia.

Rt. Rev. E. L. Hickman, Bishop, First Episcopal District—African Methodist Episcopal Church.

Rev. William L. Johnston, Executive Ministers, Philadelphia Baptist Association—American Baptist Churches, President, Metropolitan Christian Council of Philadelphia.

Rev. Carl M. Kleis, Moderator, Philadelphia Classis—Reformed Church in America, Secretary, Metropolitan Christian Council of Philadelphia.

Rev. John A. Limberakis, Archpriest, Greek Orthodox Community of Philadelphia.

Rt. Rev. J. Brooke Mosley, Assistant Bishop, Diocese of Pennsylvania—Episcopal Church.

Rt. Rev. Lyman C. Ogilby, Bishop, Diocese of Pennsylvania—Episcopal Church.

Rev. Dr. John C. Shelter, Conference Minister, Pennsylvania Southeast Conference—United Church of Christ, Chairman, Metropolitan Christian Council of Philadelphia.

Rev. Dr. Frank H. Stroup, Executive Secretary, Philadelphia Presbytery—United Presbyterian Church in the U.S.A.

Rev. Harrison J. Trapp, Moderator, Pennsylvania Baptist Association.

OFFICIALS OF ROMAN CATHOLIC ARCHDIOCESE OF PHILADELPHIA AND BYZENTINE UKRAINIAN ARCHEPARCHY OF PHILADELPHIA

John Cardinal Krol, Archbishop of Philadelphia.

Most. Rev. John J. Graham, Auxiliary Bishop of Philadelphia.

Most Rev. Martin N. Lohmuller, Auxiliary Bishop of Philadelphia.

Most Rev. Gerald V. McDevitt, Auxiliary Bishop of Philadelphia.

Rev. Monsignor Devlin.

Most Rev. Basil H. Losten, Auxiliary Bishop of Philadelphia. Byzentine, Ukrainian Archeparchy of Philadelphia.

EXECUTIVE PARDON FOR MS. JANE KENNEDY

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Ms. ABZUG. Mr. Speaker, there is a woman named Jane Kennedy who is serving a second prison term for her actions in protest of the war in Vietnam. Ms. Kennedy, who holds a doctorate in nursing education from the University of Chicago, was sentenced to 3 years in prison for her part in an antiwar action during which draft records were destroyed. Her actions in protest against the war were motivated by her respect for human life and her concern for our Nation. Defense committees have been formed on behalf of Ms. Kennedy, whose case has attracted national attention. I would like to have reprinted in part the following letter by Bob Greene of the Chicago Sun Times on October 1, 1975, asking President Ford to grant Jane Kennedy an executive pardon:

> Dear Mr. Ford,
>
> I am taking this opportunity to intrude upon your time and ask you to learn who (Ms. Jane Kennedy) is. She is a person you might like, and even admire; and it so happens that you have it within your power to change the course of her life, and in so doing to right a wrong that is being carried out in the false name of justice.
>
> Ms. Kennedy is a 49-year-old professional nurse currently serving a prison term at the Federal Reformatory for Women in Alderson, W. Va. Most readers of this newspaper are familiar with her story, and some of them are probably bored with it by now. But this column is not being written for them; it is for you.
>
> Ms. Kennedy was a protestor against the war in Vietnam. Now, of course, virtually all of our politicians are admitting the wrongness of that war, but Miss Kennedy was premature in figuring this out. She committed actions intended to stop the war before being against that war was widely accepted. Once she took part in an anti-war protest at a Dow Chemical factory in your home state, during which magnetic tapes containing the formulation for napalm were scrambled. She served 16 months of a four-year sentence in the Detroit House of Corrections for that.
>
> Before the Detroit protest, Ms. Kennedy had also been involved in an anti-war action in Indianapolis, during which draft records were destroyed. When the government let her out of prison for the Detroit activity, she was sentenced to an additional three-year sentence for the Indianapolis affair.
>
> That is the sentence she is presently serving. The government made it clear to Ms. Kennedy that, if she would only admit that she was wrong in what she did, she would stand a good chance of being let out of prison. She will not do that, she believed then and believes now, that men and women such as herself were instrumental in drawing the public's attention to the horrors of a war that was deceitful from the start.
>
> If anything, Miss Kennedy should be honored for the stand she took, and has continued to take. Instead she is being imprisoned—for the second consecutive time, having already served one term for her anti-war activities.
>
> There are many of us who have trouble believing that the American government is willing to be this vindictive toward a person such as Ms. Kennedy. To many of your fellow citizens, the actions she took in her effort to end the war were in the highest interests of her nation. In any event, one prison term would seem to be sufficient punishment for a woman such as this, who has so much to offer any community she lives in. Ask your children what they think.
>
> If Ms. Kennedy is going to be allowed to leave prison before the end of her term, it appears that a pardon from you is the only hope. I realize that it is highly unusual for you, as President, to grant a pardon to one individual; the nation has thousands of prison inmates, and you cannot think of them all. But all of us recall another pardon that you were willing to grant, and it seems that—for those of us who were puzzled by that first pardon—you would be showing a large measure of humanity, decency and understanding of your country's mood by ending Ms. Kennedy's ordeal before too many more days have passed.
>
> You will probably never be asked about Jane Kennedy at a White House press conference; her story is one that really is known about only out here. She is a woman of principle from the same American heartland where you were born, though, and while you are back here with us today perhaps you might spare a moment to give her a thought Thank you.

NO-FAULT AUTOMOBILE INSURANCE

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. VAN DEERLIN. Mr. Speaker, I am delighted to introduce into the RECORD statements from Nationwide Mutual Insurance Co., the Prudential Property & Casualty Insurance Co., and the Kemper Insurance Companies in favor of Federal standards no-fault automobile insurance legislation.

The comments of these companies are particularly instructive with respect to the recent spate of newspaper articles criticizing State no-fault experience.

These articles focused on costs while neglecting to point out the major differences between a "fault" system and a "no-fault" system of insurance. A fault system pays benefits to less than half of all auto accident victims, grossly overpaying people with the least serious injuries and meanly underpaying victims with the most serious injuries—and it does not pay off until long after the accident.

A no-fault system, on the other hand, promptly reimburses all victims for their medical and wage losses. Despite the great variance among the State laws as to benefit levels, they have all been an unqualified success in providing a better system of compensation for accident victims. As the Kemper Companies release put it—

> Cost savings are not the key . . . the main purpose is to bring customers a system which is more equitable and efficient than the present system.

The newspaper articles are also incorrect in suggesting that no-fault States are experiencing greater premium increases than fault States. To the contrary, State Farm, the Nation's largest auto insurer, reports that their rates in the 16 no-fault States rose only 3.2 percent from 1971 through 1975, while in all States combined they were an average of 10.2 percent higher.

If no-fault is providing a better compensation system and rates are rising slower than they are in fault States, then why did these three major insurance companies abandon State no-fault for Federal standards no-fault? The answers provide strong support for H.R. 9650, the national standards for no-fault benefits bill, which was reported from the Subcommittee on Consumer Protection and Finance on October 29, 1975, and is now pending before the full Interstate and Foreign Commerce Committee.

First, the companies are concerned about the fact that the States are no longer actively considering no-fault laws. As the Kemper Co. points out, "last year, only one State, North Dakota, enacted a modified no-fault law," and, "for the foreseeable future, it is unrealistic to expect further enactment of any no-fault legislation at the State level."

The three companies are also concerned that the State laws do not reflect differing State conditions and are flawed in ways that undercut their effectiveness. Prudential's letter indicated that:

> Where no-fault laws have been passed, they have benefits, tort exemptions and administrative requirements differing in ways that seem arbitrary rather than reflecting the various conditions.
>
> * * * * *
>
> In some states the so-called 'no-fault' laws have included no tort exemption at all. In many others the threshold for liability suit has been very easy to cross, especially with the continuing inflation in medical costs.

What the companies are too polite to say is that the trial lawyers—who stand to lose a large portion of the $1,700,000,000 they earn each year from automobile personal injury litigations—have stymied no-fault in 34 States and have undercut their effectiveness in the 16 States that have adopted no-fault. The major device for undercutting no-fault has been to get State legislatures to adopt provisions which permit lawsuits for pain and suffering after a victim suffers some small amount of medical loss—"threshold" provisions. Thus, eight States have thresholds of $500 or less of medical expenses, while 13 of the 16 have thresholds of $1,000 or less.

These low thresholds have become targets for the unscrupulous. A 1974 Miami grand jury report, for example, details—

> The practice of a small group of lawyers, physicians . . . and hospitals who work together to inflate or outright falsify personal injury claims.

What these companies are saying is quite correct. State no-fault will never succeed, but no-fault is a better system of compensation and the only way to assure the extension of its benefits is through Federal standards no-fault.

The line is now drawn. It is impossible any longer to believe people who say they favor no-fault but on a State level. If one is for no-fault, Federal standards legislation is the only place to be. The Kemper Companies put it most graphically:

> With prospects at the state level dim, particularly in states like California, Illinois, Ohio, Missouri, and North Carolina one must ask how we who support no-fault can continue to oppose federal legislation. The answer is quite simply and directly that we can no longer oppose the principle of federal standards legislation.

Mr. Speaker, I am delighted to report that Prudential and Nationwide went even further and endorsed H.R. 9650. I am hopeful that the full Interstate and Foreign Commerce Committee will take up the bill soon so that the House can have a chance to bring the benefits of no-fault automobile insurance to all auto accident victims throughout the 50 States.

The statements of the three insurance companies follow:

NATIONWIDE INSURANCE,
Columbus, Ohio, March 18, 1976.
Hon. LIONEL VAN DEERLIN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN VAN DEERLING: I am writing to inform you that we at Nationwide Mutual Insurance Company believe that, with certain amendments, House Bill 9650 would be a major step forward in providing benefits for the nation's consumers.

The amendments we believe are essential would:

1. Increase the present 90-day disability threshold for lawsuits to 180 days. This is needed to discourage efforts to circumvent the restriction on lawsuits by fradulent or underhanded means.

2. Establish a state government mechanism that would monitor prospective guidelines for appropriate care of accident victims and to review disputes.

3. Create rehabilitation incentives so that maximum benefit to accident victims will be realized.

In giving our support to amended HR 9650, we remain committed to the belief that insurance is best regulated by the states. We look upon this legislation as a framework within which states can tailor no-fault plans that are best suited for the particular needs of their citizens.

As one of the earliest supporters for auto insurance reform, we are convinced that the promise of no-fault can be realized if the benefits to be gained are balanced by proper safeguards. The lack of a proper balance is the cause of problems in earlier no-fault auto insurance laws.

If House Bill 9650 is amended as we have proposed, we believe it will become a well-balanced vehicle to deliver no-fault auto insurance benefits to the American people.

The belief springs from the experience and insights Nationwide Mutual gained during the past 20 years in which it has worked for reform of the auto insurance system.

Among our efforts, we marketed a unique no-fault coverage for nearly 10 years. This effort was followed in the mid-1960's by our development of a complete no-fault reform plan for which we were unable to win legislative support. More recently we sought state acceptance of a modified no-fault plan. For various reasons, this effort also has been disappointing.

Our 20-year odyssey has now brought us to another crossroads: HR 9650. Against this background, we earnestly urge your full support for this legislation if it is appropriately amended.

Very truly yours,

RICHARD G. CHILCOTT,
Senior Vice President.

PRUDENTIAL PROPERTY AND
CASUALTY INSURANCE CO.,
Woodbridge, N.J., March 5, 1976
Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The management of both the Prudential Insurance Company and its subsidiary, the Prudential Property and Casualty Insurance Company, have long been in favor of thorough going no-fault reform of automobile insurance. The aim of such a reform should be to reimburse all those injured by highway accidents rapidly and fairly, without having to establish negligence or liability on the part of others. The cost of these broadened benefits should be offset by restricting the right to sue under tort to the most serious injuries.

Up to now we have favored a state by state approach to no-fault just because of the need to get experience on how the requirement for this very new kind of coverage might vary locally. However, too many of the largest states have not passed such laws. Where no-fault laws have been passed, they have benefits, tort exemptions, and administrative requirements differing in ways that seem arbitrary rather than reflecting various state conditions. In some states the so-called "no-fault" laws have included no tort exemption at all. In many others the threshold for liability suit has been very easy to cross, especially with the continuing inflation in medical costs. The result has been confusion among the public, high administrative expenses for insurers, and not as much improvement in the efficiency of automobile insurance as promised by the no-fault concept. We have come to the conclusion that the country needs the kind of federal guidelines embodied in H.R. 9650 if the no-fault idea is to realize its promise.

Writing on behalf of both the Prudential Insurance Company and the Prudential Property and Casualty Insurance Company, I want you to know that we strongly favor the passage of HR 9650.

There are some aspects of HR 9650 that we believe should be strengthened; the major changes that we would favor are the following:

1. In the coordination of benefits, automobile insurance should uniformly be the first source of compensation for injury in highway accidents.

2. The remaining grounds for liability suit should be defined more strictly, especially lengthening the period of total disability from 90 continuous days to, possibly, 180.

3. Allowable expense under no-fault coverage should be defined to permit more effective control of the cost of medical care.

4. Loss shifting among classes of vehicles of greatly different weights (i.e., from cars to trucks and buses) should be permitted.

5. No-fault coverage should follow the car rather than the person.

6. All motor vehicles allowed on roads should be subject to mandatory no-fault coverage.

7. Some provisions should be eliminated because they have no necessary connection with the no-fault concept and impinge on existing state regulation. These include restrictions of the grounds for cancelling, non-renewing or determining the premium of compulsory coverage, requiring comparative negligence, and making bodily injury liability insurance mandatory.

If you would like any amplification of our position or any other information that might help bring about the passage of the bill or the changes listed above, please do not hestitate to call on us.

Sincerely,

DAVID J. SHERWOOD,
President.

STATEMENT

To Our Employees and Independent Agents: In testifying before the Senate Commerce Committee in 1971, the Kemper Insurance Companies said: ". . . preserving state regulation of our business and permitting experimentation in no-fault plans for a reasonable period of time at the state level should be supported on a bi-partisan basis by the Congress. If future events demonstrate that federal action to improve the auto reparations system be needed, such action can be taken and the Kemper companies will be among the first to support it."

Clearly we have not been among the first to support federal action. The reason was the initial success in achieving no-fault at the state level, where we believe insurance should continue to be regulated. Nevertheless, after an exhaustive and agonizing reappraisal of the situation, we've now concluded that events have demonstrated that federal action is needed.

However, in good conscience, we can only support federal legislation which meets certain criteria and is, therefore, affordable and equitable to all consumers. Neither S. 354 nor H.B. 9650 presently meets these criteria. Our industry, given our low standing in opinion polls, cannot afford to administer a system imposed by Congress which will disappoint consumers who expect no-fault to make auto insurance of more direct benefit and simpler.

For the foreseeable future, it is unrealistic to expect further enactment of any no-fault legislation at the state level. The regrettable alternative is to open the door to federal government involvement in achieving desirable reform of a social and economic system which touches the life, at one time or another, of almost every American.

In 1975, only one state, North Dakota, enacted a modified no-fault law. Legislation enacted in 1974 resulted in no-fault laws actually taking effect in 1975 in only four states. Thus, although some form of no-fault limiting lawsuits has been enacted in 15 states, covering about 40% of the driving population of the nation, the prospects for further reform by the states are not encouraging.

Such diverse groups as consumer organizations, unions, most insurance companies, insurance regulators and scholars, have traditionally supported no-fault at the state level. A well financed faction of negligence lawyers comprise the opposition. They have wielded an increasingly effective hand, with the recently engineered publicity blitz carping at no-fault a good example. And when one considers that a multi-billion dollar a year contingent fee system is at stake, it's not surprising that the lawyer opposition has been so unyielding.

With prospects at the state level dim, particularly in states like California, Illinois, Ohio, Missouri and North Carolina one must ask how we who support no-fault can continue to oppose federal legislation. The answer is quite simply and directly that we can no longer oppose the principle of federal standards legislation.

However, we have concluded that the specific legislation presently before Congress does not merit support. A number of key provisions must be changed if this legislation is to improve the current auto insurance system, rather than create new, additional problems to plague consumers and companies alike for years. For instance, the Bill currently before the Senate has, among others, these crucial defects:

S. 354 mandates unlimited medical and rehabilitation coverage, an approach that will further aggravate the increasingly burdensome cost to consumers of automobile insurance.

S. 354 virtually eliminates the procedure for charging the cost of an accident against the record of the negligent driver, preventing an insurance rating system that penalizes the careless driver. S. 354 would basically not permit any transfer of loss on the basis of driver negligence.

S. 354 allows sources other than auto insurance to be declared primary in compensating auto accident victims. Automobile insurance must be the primary source of benefits if fast, complete payment of automobile losses and equitable allocation of automobile accident costs are to be achieved.

The Bill currently before the House Interstate and Foreign Commerce Committee, is newer and rawer. Since it has not undergone intense scrutiny by a succession of Congresses like its Senate companion, it has not been honed to the extent the Senate Magnuson-Hart bill has been. It still contains some impractical, expensive and bureaucratic provisions, rejected long ago in the legislative process on the Senate side. For instance, H.R. 9650 would prohibit the setting of insurance rates based on age, place of residence, and marital status. This would prevent auto insurers from allocating the cost of accidents and injuries equitably among motorists as they now do. Such procedures as charging varying rates depending on where a person lives would be outlawed even though accident frequency rates differ significantly for urban and rural areas—just demonstrated again in a report released by the Highway Loss Data Institute. What responsible party could write insurance in congested areas under such a scheme? Driving experience could no longer be a factor in rates although everyone knows that young drivers comprise something like twenty percent of the driving population yet are involved in over one-third of all accidents.

We advocate and urge adoption of a federal minimum standards no-fault law that meets these basic criteria:

Provides prompt payment for economic losses of automobile accident victims regardless of fault.

Keeps the cost of automobile insurance at a reasonable level by keeping the package of personal injury benefits at a limited, affordable level.

Preserves driver accountability and a reasonable degree of loss transfer to assure fair, equitable rating.

Mandates auto insurance as the primary source of benefits for automobile accident victims, which assures complete service; full coverage at the time of an accident; and equitable allocation of cost of the accidents to automobile users.

Provides for a strong tort exemption in order to control cost yet preserve the right of recovery for general damages for those who are seriously injured or killed.

Minimizes federal regulation by carefully circumscribing the role of the federal government.

Avoids duplicating federal and state government responsibilities while accepting the principle of some dual supervision.

Retains the present insurance approach for handling automobile vehicle damage rather than switching to no-fault vehicle damage which has proven so unpopular and disastrous in Massachusetts and Florida.

With respect to these criteria, the Bills presently before Congress are particularly deficient in such areas as establishing priorities between various insurance systems, creating irrelevant marketing restrictions, and striking the delicate balance among benefits, tort exemption and cost.

Kemper's most recent review of where no-fault reform stands was exhaustive. It had four parts. The first was to collect and review available claims data from no-fault states. Second, one of the company's no-fault experts held analytic meetings with operating managers from various states who had "lived with" no-fault. The findings were compiled and compared. Third, Kemper surveyed its entire senior management team to tap their knowledge and thinking regarding several broad policy issues attendant to the no-fault issue. And finally, company officers analyzed legislation currently before the U.S. Congress and assessed the legislative prospects of no-fault at both the federal and state levels.

We found the major danger to insurance companies has been the enactment of programs which mandate rich benefits packages yet decree entirely unsupportable rate decreases. This causes underwriting losses, and makes any kind of auto insurance unavailable to consumers, since no prudent business can willingly provide its product at a loss. Those that have tried, like Gateway and a number of others in 1975, inevitably wind up in bankruptcy.

Otherwise we found that no-fault can be made to work. Every state insurance department report released to date confirms this.

Kemper has been urging adoption, since the early Seventies, of modified no-fault laws in all states. The reasons we strongly support no-fault have been and are:

(1) No-fault seems to be a more efficient reparations system, freer of the red tape which often offends and confounds consumers.

(2) According to a variety of studies, no-fault is a more economical system because it transfers to consumers many dollars now going to lawyers, and lowers some types of administrative costs (although transition costs should be expected).

(3) No-fault is a fairer system because it reallocates excessive general damage payouts in smaller cases to compensate (1) larger cases and (2) actual out-of-pocket losses.

(4) Fault, particularly in smaller cases, is not always understood or agreed to by all drivers involved even though it can be established fairly easily according to judicial precedent, accepted traffic enforcement practices and various statutes.

(5) It's easier and more comfortable to deal on a first party basis with an insurance company.

(6) It appears modified no-fault achieves virtually all the expressed consumer goals of simplifying the system and reallocating loss payments without freeing drivers totally from accountability for accident causation, leaving underwriting precedents intact.

(7) The liability system deprives or delays benefits to significant numbers of needy accident victims.

Since the Mid-Sixties when we first announced support of no-fault reform, our thinking and public statements have evolved as a result of continuously acquiring new knowledge about the no-fault concept and its application in the real world. In the late Sixties, we moved from a position of encouraging academic and administrative exploration, such as the Department of Transportation's landmark study, to one of experimentation of modest no-fault programs in various states. We were an early and active supporter of the Massachusetts no-fault law, the nation's first. We did oppose the property damage provisions, which were added later and which have now proven so unpalatable to consumers in the Bay State.

Every couple of years we have accorded this issue, with all its complex social, economic, and legal ramifications, full dress review. During every interval substantial new evidence, knowledge and data were uncovered, mainly through experimentation by the states. Even today, legislators, regulators, insurers, consumers and lawyers are learning. The recent revelations regarding the impact of unlimited medical benefits under the no-fault laws in such states as Michigan and New Jersey have raised new questions regarding this feature of no-fault.

The whole question of the practicality in modern society of unlimited liability—of doctors, dentists and manufacturers, to name a few—requires attention. But it's clear to us now that no-fault auto insurance—limiting people's liability for auto accidents—is beneficial to all motorists. Moreover, people like the way it works. Surveys in Massachusetts, Florida and New York validate this. To us, that is why adoption of no-fault is important.

Cost savings are not the key. In our judgment, the issue of possible cost savings has been blown out of proportion. No-fault will achieve limited cost savings in most states if the benefits package is not unrealistically rich. But, as demonstrated by the New York Insurance Department's latest report, these modest savings are eroded by inflation in the time between enactment and implementation of a no-fault law. Therefore, the impact felt by consumers is nil. Raising expectations about big or little no-fault cost savings can only result later in disappointment and disaffection. To us, that defeats the purpose of enacting no-fault in the first place.

Again, the purpose is simply to bring our customers a system which is more palatable to them because it is more equitable and more efficient than the present system. This can only result, in the long run, in better relations with our customers and a higher level of satisfaction with the private insurance system. And for a private industry so heavily invested with social imperatives, this is our best defense against potential usurpation by the government.

THE "SONNENFELDT DOCTRINE": FACT OR FICTION

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ZABLOCKI. Mr. Speaker, over the past several days we have heard and read a great deal about what has come to be known as the "Sonnenfeldt Doctrine." As reported in certain columns and news stories, the issue centers on remarks made last December at a meeting of U.S. Ambassadors in London by Helmut Sonnenfeldt, State Department counselor. The comments attributed to Mr. Sonnenfeldt essentially embodied the suggestion that the United States should accept and support the "organic" relationship by which the Soviet Union maintains control over the countries of Eastern Europe.

Given the potential significance of such a "Doctrine," especially to the countries involved, the issue has become a source of considerable concern and apprehension in various quarters, including many here in Congress. In an attempt to establish the facts and clear the air I posed several questions to Secretary Kissinger this morning during his appearance before the House International Relations Committee.

For the RECORD, I hope to insert the complete text of Secretary Kissinger's reply as soon as it is available. At this point, however, I am pleased to convey the gist of the Secretary's assurances on the matter.

First, he pointed out that Mr. Sonnenfeldt's reported views were acquired by the Evans and Novak column through second-hand means which placed them out of context. Accordingly, those comments were misinterpreted and, therefore, resulted in confusion, according to Dr. Kissinger.

More importantly, however, was Secretary Kissinger's assurance that the so-called Sonnenfeldt Doctrine was not in any way the policy of the United States. Although Dr. Kissinger subsequently indicated that a denial to that effect had been issued, the media supposedly did not see fit to report it.

As an example of the interest this issue has generated and because it helps to set the matter into some perspective, I am placing in the RECORD at this point an editorial from the Washington Star of Sunday, March 28, 1976:

THE "SONNENFELDT DOCTRINE"

We confess to mixed feelings about what some East Europeans are already calling "the Sonnenfeldt doctrine." Back in December Helmut Sonnenfeldt, who is counselor at the State Department, briefed American diplomats serving in Europe on the historical assumptions underlying our policy toward the Soviet Union. It was a confidential, hair-down session, obviously not intended for public consumption.

But early last week, the Evans-Novak column reported the substance of Counselor Sonnenfeldt's remarks. Some disconcerting quotations hint that it is U.S. policy to encourage East European nations to be docile client-states of the Soviet Union—slow to assert national pride and independence—all to the end that an "organic" relationship with their masters in Moscow may be cultivated and everyone's blood pressure kept down. Indeed, Mr. Sonnenfeldt suggested that more than blood pressure is at stake. He fears that the seeds of another world war may lie (as they have, twice before in this century) in an overexcited and "romantic" Eastern European nationalism. He was especially concerned that the "obnoxious" Yugoslavs be led to understand that while the U.S. cherishes their national independence they should not overstrain the invisible leash leading to Moscow.

There is, to be sure, some hard sense in Counselor Sonnenfeldt's sober assessment. If one had to choose between the unpleasantly realistic "Sonnenfeldt doctrine" and the high rhetoric of the Dulles era—"rolling back the iron curtain" and freeing "captive peoples" (a handsome check which the U.S. issued but failed to honor both in 1956 in Hungary and in 1968 in Czechoslovakia)—most Americans would prefer the Sonnenfeldt doctrine.

That is all the more true when one considers that Mr. Sonnenfeldt was not expressing a heartless and timid cynicism, so much as lamenting the undoubted fact that Soviet influence in Eastern Europe is almost exclusively military in nature. Unlike the classical imperialisms of Britain, France and other Western Europeans, the Soviet brand has built no undergirding ties of friendship, culttural influence or economic advantage to accompany the threat of force.

But need the choice for us be so stark? One wonders whether it is either wise or necessary to analyze these home truths, if such they are, in a tone of lament—to view the Soviet "failure to acquire loyalty in Eastern Europe" as an "unfortunate historical failure."

This is a gratuitous concession to Soviet coin is that the urgent aspiration of the East Europeans to national independence is a tribute to their spunk and spirit in the face of long odds. Surely it is possible to say that without intimating that the U.S. Marines are ready to go to Warsaw.

We are at a loss to understand why it must be assumed that a Soviet imperium is any more "natural" for the diverse peoples of Eastern Europe than an American imperium over Canada, Mexico or the countries of Latin America.

The public exposure of Counselor Sonnenfeldt's "doctrine" can only reinforce suspicions that present American policy lacks a vital spark—not of armed provocation, so much as of confidence in the still-potent appeal of political freedom and national independence.

One hears rumors of gloomy private ruminations by Secretary Kissinger on very much the same theme—musings that the East-West rivalry rematches an effete Athens (the forces of freedom) and a vigorous and disciplined Sparta (the Soviet Union), with which the faltering Athenians must make the best deal they can. If there is substance to those rumors, perhaps the rot apperehended by Dr. Kissinger mirrors a cynicism at top levels of policymaking which neither the American people nor the East Europeans share.

Realpolitik and idealism, as Richard Ullmann has recently observed, are both enduring strands in the American view of the world. No American policy true to our history and heritage can be without healthy admixture of both. If there was excessive zeal and idealism in the Dulles policy, there is a touch too much *realpolitik*, at least for our taste, in the so-called Sonnenfeldt doctrine. The expression which Mr. Sonnenfeldt gave to it in London last winter must be needlessly disheartening to East Europeans not yet reconciled to a role as ciphers in the Soviet imperial system. There is, to our mind, neither "naturalness" nor inevitability in Soviet domination; and its exclusively military character is a fact more to be celebrated than lamented. Mr. Sonnenfeldt's may be the voice of a prudent realism; but there are echoes of funk in it as well.

THE 100TH ANNIVERSARY OF LAND TITLE INSURANCE

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. GREEN. Mr. Speaker, it is fitting to take public note of the fact that the land title insurance industry is celebrating, in 1976, the 100th anniversary of its founding. Land title insurance was begun in Philadelphia, Pa., on March 28, 1876.

This industry enhances the right to privately own and use real property in this country, and it is a vital and unique form of consumer protection for all who purchase or invest in real estate.

It is an interesting historical coincidence that this protection of our rights to property was born in Philadelphia just 100 years after our Founding Fathers set forth, in the same great city, their ringing declaration of broad human rights. The records show that the very first land title insurance company was incorporated in Philadelphia on March 28, 1876.

In the Commonwealth of Pennsylvania, which is ever proud of its historic contributions as well as its continued leadership in commerce and industry and in the protection of consumer interests, this centennial anniversary of land title insurance is being brought to public attention by the leading land title insurance companies and real estate professionals comprising the membership of the Pennsylvania Land Title Association.

Land title insurance adds the essential ingredient of security to the purchase of or investment in real estate. This security of investment is a major stimulant to the broad distribution of mortgage funds so necessary to the healthy growth and vigor of our real estate economy.

The legal system in the United States provides a strong body of law to safeguard the interests of home buyers and others who invest in real estate. But the same laws that protect the home buyer make it possible for others to claim an interest in property he may think is his. Land title insurance enters the scene to safeguard the insured against financial loss resulting from such claims.

Over the past century, home buyers, lenders and others have placed their trust in land title insurance companies for protection when it comes to real estate investments. This trust has been justified by the ongoing dedication of title insurance company employees and the excellence of their work in safeguarding those who acquire and use real property.

Let us pause and recognize the steadfast reliability of the land title insurance industry, which for the past 100 years has served to protect an important foundation of every American's personal liberty and freedom—the quiet and peaceful enjoyment of one's real estate in this country where home ownership is such a sacred privilege.

VALUED GSA EMPLOYEE RETIRES

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. FAUNTROY. Mr. Speaker, my constituent, Mr. Thomas M. Thompson, who retired on March 26, 1976, from the U.S. General Services Administration, is one of those American citizens who has served his Nation with pride in war and peace.

His contributions to this country, this region, the District of Columbia, and other nations earn him the admiration of this assembly.

While he retired from the position of Deputy Director, Repair and Alteration Division, region 3, GSA, his lifetime of service has included such varied experiences as:

First. First lieutenant, U.S. Coast Guard, serving aboard the U.S.S. *Beaufort* during World War II.

Second. Executive officer for project to locate aids to navigation along the heavily used inland waterway.

Third. Service as a professional engineer and subsequently city engineer for five communities after graduation from Indiana Tech.

Fourth. Service as "controlled materials officer," civil engineer, and navigator upon recall to service in the Korean war.

Fifth. Receiving an admiral's commendation for rescue work in a gold mine explosion in Michigan.

Sixth. Designer and supervisor of bridge and dam construction.

Seventh. Inventor of water supply dam gate and widely used oil transmission equipment tools and designer of high-productivity maintenance systems.

Eighth. Air Force project engineer and base chief engineer earning three commendations for exemplary work in connection with development projects in Europe and Turkey.

Ninth. Officer in charge of construction for the Navy's Potomac River Command.

Tenth. Mining consultant for a major coal company.

Eleventh. Earning an outstanding performance award in December 1974, for his work with GSA.

In this full life of service, Mr. Thompson has also designed a commercially used sea trap for *Sea Bass*, fought oil well fires, served as vice commodore of the Capital Yacht Club in Washington, and, because he never has learned to stop working to the last ounce of his energy, helped build that club's new building which gradually is becoming a center of importance in this city.

As inventor, engineer, war hero, miner, sailor, trouble shooter, and leader, Mr. Thompson has compiled a record of accomplishments and personal relationships that makes him the kind of man I am proud to consider a constituent—an outstanding servant of his country and a much loved husband to his patient and fine wife, Peggy.

Whether in this Nation or overseas, Mr. Thompson has not only performed his expected tasks with dispatch and skill, but he is also a good neighbor, a supporter of needed community programs, and the kind of person who will roll up his sleeves and pitch in to get the job done.

As he leaves now to become a rancher in Wyoming, I know that—without much delay—Tom Thompson will be returning once more to serve this country and hopefully, again, the people of this region and the District of Columbia.

SOYBEANS AND YOUR STATE'S FARM ECONOMY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. FINDLEY. Mr. Speaker, the European Community has promulgated regulations effective April 1 and lasting 7 months that will severely damage markets of American oilseed producers, especially soybean and cottonseed. The regulations require that all animal feed mixed in the Community contain 5 percent nonfat dry milk of which the Community has an oversupply. This dry milk will displace an equal amount of oilseed products which currently are imported chiefly from the United States.

The Community's action clearly violates the General Agreement on Tariffs and Trade. By requiring importers to post a surety deposit on imported oilseed products, the Community has effectively imposed a tariff on these products in direct contravention of its written obligation under GATT not to do so.

Soybeans and other oilseeds are important sources of cash income to the farmers of many States. They produced $5 billion worth of foreign trade income in 1975. The attached chart indicates the cash receipts value of soybeans in 1975 for several of the States. It also indicates the rank within the State of the value of soybean cash receipts as compared to all other agricultural products, including livestock.

I urge the Congress and the executive branch to join in protesting the European Community's action.

The chart follows:

1975 SOYBEAN CASH RECEIPTS

State	Soybean cash receipts ($1,000) according to preliminary USDA statistics for 1975 (Mar. 25, 1976)	Rank in relation to total cash agricultural receipts including livestock within State
New York	$1, 494	(1)
New Jersey	10, 227	7
Pennsylvania	6, 292	(1)
Ohio	584, 803	1
Indiana	546, 663	3
Illinois	1, 296, 911	2
Michigan	68, 802	7
Wisconsin	22, 788	(1)
Minnesota	462, 949	5
Iowa	1, 075, 922	4
Missouri	559 195	2
North Dakota	15, 092	(1)
South Dakota	36, 409	7
Nebraska	160, 106	5
Kansas	113, 039	7
Delaware	27, 128	3
Maryland	46, 045	4
Virginia	55, 618	7
North Carolina	176, 590	5
South Carolina	132, 336	2
Georgia	172, 340	6
Florida	37, 682	(1)
Kentucky	160, 818	4
Tennessee	177, 198	1
Alabama	151, 081	2
Mississippi	274, 785	2
Arkansas	503, 548	1
Louisiana	238, 362	2
Oklahoma	26, 322	(1)
Texas	46, 465	(1)
New Mexico	300	(1)
Arizona	84	(1)
Total. United States	7, 187, 394	

[1] Less than 10th in total cash agricultural receipts including livestock.

THE FEDERAL REGULATORY BURDEN

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. BELL. Mr. Speaker, I recommend for the attention of my colleagues in the Congress an editorial by James W. Wesley, Jr., vice president and general manager of KFI Radio in Los Angeles, which was broadcast recently by that station.

As my colleagues know, I certainly share the concerns expressed by Mr. Wesley over the growing burden of Federal regulations.

It has become very apparent to me that citizens throughout the country are fed-up with Washington's interference in the conduct of their private affairs.

I wholeheartedly agree with Mr. Wesley that we must begin to eliminate agencies and regulations that are wasteful and unnecessary, and which lead to ever-increasing redtape and other incentive-stifling burdens for the private sector.

The complete text of his broadcast follows:

KFI RADIO EDITORIAL

There is a small army of bureaucrats in Washington that is churning out regulations that affect every American in one way or another. That army is made up of members of the federal regulatory agencies and their staffs . . . totalling about 100 thousand persons in all. A survey found that in 1974 the agencies produced nearly 75-hundred new or amended regulations. In contrast, Congress passed only 404 laws during the same year. Some of the agencies, such as the Environmental Protection Agency, have had a mostly beneficial impact. But others have done poorly. We think it's long past time for the President and the Congress to take a close look at all these groups with an eye toward eliminating those that are mostly window dressing. There's also a need to do away with any wasteful and unnecessary regulations they enforce. The alternative is strangulation in an ever growing maze of red tape.

FRED DUMKE, MAYOR OF OAK LAWN

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. RUSSO. Mr. Speaker, on March 26 the Southwest Suburban Builders Association, Inc. will hold a testimonial dinner in Oak Lawn, Ill., to honor a most special person and distinguished public servant. Fred M. Dumke, the mayor of the village of Oak Lawn and newly elected president of the Illinois Municipal League, is one deserving of such an honor.

This fine gentleman is serving his fourth term as mayor of Oak Lawn. He is a persuasive and far sighted leader who is responsible for instituting the highly-effective council-manager form of government in Oak Lawn and he has been in the forefront of efforts to better municipal procedures. I, along with the experts, consider him one of the most knowledgeable people in the county in the area of municipal government. During the 8 years he served as an Oak Lawn village trustee, he instituted many public improvements, such as water, storm sewers, sanitary sewers, and paving.

Mayor Dumke's unremitting commitment to the public good means involvement in countless projects and community activities. You can find him working for the Park Lawn School and the Garden School for the Retarded or as a fund-raiser for the YMCA; serving as district vice chairman for the cleanup efforts after a devastating tornado. He is also a member of the Medinah, Oak Lawn Lions, and an honorary member of the Sertoma and Oak Lawn Elks.

His competence and dedication have brought him two terms as president of the Northern Illinois Planning Commission, the second vice presidency of the Palos-Orland-Worth Area Council as well as one of the 25 directorships of the council.

What such a listing of activities does not reveal is this man's genuine warmth and generosity. I am proud to count him as a friend and I commend him for his past accomplishments and wish him continued success.

THE SILENT PARTNER OF HOWARD HUGHES—PART XIII

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. HARRINGTON. Mr. Speaker, I am inserting today the 13th installment of the Philadelphia Inquirer's exposé regarding Howard Hughes' privileged relationship with sectors of the U.S. Government. In this segment, reporters Donald L. Bartlett and James B. Steele conclude their account of Hughes' acquisition of Air West and, in a separate article, examine a subsidiary of Hughes Aircraft in Mexico. The latter piece features some of Hughes' attitudes on hiring blacks and women.

The material follows:

THE SILENT PARTNER OF HOWARD HUGHES—PART XIII

Since the CAB gave glowing approval to the Hughes acquisition in 1969, lawsuits have been filed by irate stockholders from New York to San Francisco charging fraud and deception by Hughes and his aides in the Air West sale.

In addition, the Securities and Exchange Commission (SEC) has charged Hughes and seven other men with violating securities laws and manipulating the price of Air West stock to their own advantage.

At the heart of the complaints is the fact that Hughes promoted and gained approval for his offer to purchase Air West on the basis that shareholders would receive roughly $22 per share if they sold the airline to him.

The $22 figure appeared in the original purchase contract, in the proxy statement mailed to stockholders and finally in Hughes' application to acquire Air West that was approved by the CAB.

FAIR, REASONABLE

The CAB hearing examiner ruled that the acquisition was "fair and reasonable." Presumably, the CAB examiner was referring to the promised $22 per share Hughes had offered shareholders. It was the only figure cited in the CAB hearings.

As Toolco's own application to acquire Air West stressed: "HTCo (Toolco) . . . will pay to Air West a sum in cash which, in essence, is equivalent to the payment to Air West of $22 a share on its common stock."

But in the end, stockholders received only $8.75 per share—a little more than a third of what Hughes said he would pay.

The disparity between the Hughes promise and final Hughes payout is what led in part to lawsuits from coast to coast including a complaint against Hughes by the SEC.

The questions raised by the legal actions are many and varied, and probably will not be settled for years. There is no general agreement among them on such fundamental points as what Hughes should have paid or even what he actually did pay for Air West.

In a civil action filed in San Francisco by Patricia Scott Anderson, a former Air West stockholder, Hughes, his aides and Air West's former directors are among 42 defendants charged with making "false, misleading and untrue statements" to win stockholders approval of the Air West sale.

According to the lawsuit, when Hughes formally acquired Air West on March 31, 1970, a check for $89 million was delivered to Air West for its assets.

But Air West then placed $48 million of the $89 million in a special bank account to make up for the decline in the airline's net worth since July 31, 1968. In turn, the $48 million was among the assets Air West conveyed to Hughes at the time of the sale.

In other words Hughes conveyed $48 million to Air West in one moment and then Air West promptly conveyed $48 million back to Hughes.

That left a total of $41 million for distribution to stockholders, the Anderson lawsuit contends. But in the end, stockholders did not even receive that much.

An additional $8 million was set aside by Air West at the time of the sale for various contingency funds. To date, only $33 million has been distributed to stockholders.

Hughes Air Corp., the parent company of Hughes Airwest, contends that stockholders approved the terms of closing at a final meeting on March 23, 1970.

The SEC action, also filed in San Francisco, concurs with many charges made in the Anderson lawsuit and contends that Hughes and others promoted the Air West sale even though they knew shareholders would receive "if anything, far less than $22 per share."

That court action also contended that Hughes, during the campaign to gain control of Air West, arranged for certain political leaders who are not named in the lawsuit to make statements criticizing Air West's management and praising the Hughes offer.

The SEC complaint says Hughes and his agents made contributions to the same political leaders about the time the politicians made public statements regarding Air West.

Finally, the SEC charged that Hughes entered into agreements with three men "for the purpose of depressing the price of Air West common stock and for the purpose of inducing other persons to sell Air West common stock . . ."

The three—Herman Greenspun, publisher of the Las Vegas Sun; David Charney, a Hollywood film producer, and George Crockett, a Las Vegas real estate developer—sold 46,700 shares on the American Stock Exchange in a three-day period late in 1968, the SEC complain charged.

MANIPULATION

The reason for the "manipulation," as the SEC called it, was to "pressure and influence" Air West directors who were then opposed to Hughes' offer into changing their votes in favor of it. In two days, the price of Air West stock dropped three points, the SEC said.

In addition to naming Hughes, Greenspun, Charnay and Crockett, the SEC also named Summa Corp., Hughes Airwest, Chester Davis, Robert Maheu, Jimmy (The Greek) Snyder and Patrick J. Hillings as defendants.

Hillings, a former Republican congressman from California, was an Air West director in 1969 when the SEC alleges he received $50,000 in payments from Hughes and Summa as their employee without disclosing his relationship with Hughes to other Air West shareholders during the Hughes control bid.

Snyder has since been enjoined from further violations of federal securities law by a federal judge who is hearing the pending SEC case in San Francisco.

The CAB's contention that Air West stockholders would receive "fair and reasonable" consideration for their holdings—an assessment based on Hughes' pledge to acquire Air West for $22 a share rather than the $8.75 he evenutally paid to stockholders—was not the regulatory agency's only faulty prediction in the Air West case.

The agency's 1968 order approving the merger of the three smaller airlines to form Air West stated that the merger could result in a "substantial reduction in subsidy."

Air West and its predecessors received $10.8 million in federal subsidies that year. Since Hughes acquired the airline, Hughes Airwest has received an average of $9 million in federal subsidies a year, hardly the substantial reduction forecast by the CAB.

In fact, by receiving $55 million from the CAB since Air West was acquired, Hughes Airwest has received more money in federal subsidies the last six years than Hughes paid to the 13,000 shareholders of Air West for their stock in the airline.

While the airline received $10.5 million in federal subsidies for the 1974 fiscal year, Hughes Airwest recorded a $7.9 million profit on total revenues of $165 million in 1974, according to CAB statistics.

But at the same time the subsidy payments—payments made in part to maintain air service to small towns—have remained high, Howard Hughes' airline has cut back the number of points it serves.

The CAB reports that these cities have been deleted from Hughes Airwest routes: Marysville, Yuba City, Long Beach, Apple Valley, Inyokern, San Luis Obispo-Paso Robles and Lake Tahoe in California; Baker, Roseburg, Obatrio Payette in Oregon; Olympia and Aberdeen-Hoquiam in Washington, and Burley-Rupert in Idaho.

At the same time Hughes Airwest service to those cities has been eliminated, the CAB reports, not one additional community has been added to Hughes' routes.

DOWN MEXICO WAY HE DOES DEFENSE WORK

Only one short block from the U.S. border, in a mostly residential section of the Mexican border city of Mexicali, stands a squat, mostly one-story building with the words "Ensambladores Electronicos de Mexico" emblazoned across its dark green front.

Inside, dozens of young women, some no more than 18 years old, are bent over long work tables carefully piecing together tiny electronic components.

"Our largest item is the digital watch," says Marvin J. Kilburg, the plant manager, proudly flashing his own watch for a visiting reporter to see. "We assembled 1.5 million of these here last year."

Ensambladores Electronicos de Mexico, which means essentially Electronic Assemblers of Mexico, assembles a variety of products, from watches to sophisticated hybrid circuits.

The parts are shipped to the Mexicali plant from the United States. They are assembled at Ensambladores by a work force that is 95 percent female and then shipped back to the United States for sale and distribution by the plant's parent American company.

There is nothing new about an American company operating a Mexican subsidiary to assemble products for export back to the States.

American companies have been doing just that for years to take advantage of low wages and of an official Mexican policy which encourages the assembly of products south of the border.

HUGHES SUBSIDIARY

What is of interest about this particular Mexicali plant is that it is a subsidiary of Hughes Aircraft Co., the leading defense and aerospace company of billionaire Howard Robard Hughes.

And what is of interest about that is that Hughes' Mexicali plant assembles, among other things, according to documents on file with a federal agency, "military electronic systems."

But Kilburg, the Mexicali plant manager, is not eager to talk about that phase of Ensambladores' operations.

"We assemble stereo systems, computer systems, fire-control systems, but I hesitate to get into that area," he told an Inquirer reporter. "It might be considered classified. Whatever you do, don't use the word military."

"Why is that?" he was asked.

"I just don't think it would be wise to mention it," he answered.

Neither, apparently, does Hughes Aircraft think it would be wise to mention the Mexican subsidiary.

There is no reference to the Mexicali plant in the booklet that Hughes Aircraft mailed to The Inquirer listing the company's domestic and foreign plants and offices.

Thus, it is not generally known that Hughes, which received $1 billion in defense contracts in the 1975 fiscal year, is exporting part of its taxpayer-supported work to a low-wage haven in Mexico.

The Inquirer, during an eight-month investigation of Hughes and his relationship to the federal government, came across the name of the Mexicali plant in documents filed with the Civil Aeronautics Board (CAB) in 1969 by another Hughes company.

When The Inquirer asked Hughes Aircraft what percentage of the Mexicali plant was devoted to assembling military products, a company spokesman declined to provide the figure, but did acknowledge that "complex modules for the Phoenix missile and other military" systems are assembled there.

As for the Defense Department, a spokesman said the Department had no specific information regarding any of Hughes defense contract work outside the United States, and added:

"The Defense Department does not maintain any data on subcontracts placed with foreign sources by defense contractors. That information would be available from the contractor."

Asked why Hughes began the Mexican operation, which was founded in 1966, Kilburg, the Ensambladores manager, answered:

"Basically it was the labor, the availability of labor at a low cost. This is a strong suit for any company—any American company—doing business in this country."

Today, he said, the wage rate at the plant is 84.95 pesos a day, which translates into $34 a week. That is an increase from 46 pesos a day or $18.40 a week as recent as 1972, he said.

He said the plant now employs 655 persons, mostly women between the ages of 18 and 22. It operates on two shifts daily, from 6 a.m. until 10 p.m.

Kilburg said another advantage of operating a plant in Mexico is low employee turnover and an ample surplus of labor.

"Most of these people have never had a job before," he said. "We get dozens of people in here every day looking for a job."

Kilburg said the Mexicali plant has been highly successful and a 30 percent expansion is planned. The work force alone has nearly doubled in the last three years, he said.

As a private company, Hughes Aircraft does not make public any detailed statistics on its financial status or the performance of its various subsidiaries.

However, in reports submitted to the CAB in 1969 listing Ensambladores and other subsidiaries, Hughes said sales of Ensambladores were $282,698 in 1968. Considering the plant's expansion since then, sales presumably are several times that figure today.

The CAB documents list Hughes Aircraft as the 100 percent owner of Ensambladores. Kilburg, the Mexicali plant manager, said Ensambladores is actually a subsidiary of a company called International Circuit Technology Corp., located in Fountain Valley, Calif. ICT, in turn is a wholly owned Hughes subsidiary.

"The Hughes people are very interested in this facility," said Kilburg. "They send many visitors down here. We think we'll be here a long time."

If Ensambladores has a problem area, it is the inability to hire more young men.

"We have been trying to hire young men for this work," Kilburg said "but for the tedious type of work we have, a young man is not equipped to do the job day after day.

"A young woman is so lucky to get a job. Their minds are not cluttered like they are in the United States. They want to accomplish something, much more so than in the States.

"In the U.S., they have predetermined ideas. Here they accept what you have to teach them. They are not clock watchers.

"If there is one weakness here, it is that in Mexico a young man has much more freedom in growing up; a young woman is disciplined from birth."

By contrast, Hughes Aircraft faces the reverse situation at its huge Culver City operation, where it is fighting to keep secret the company's minority hiring and promotion plans.

In 1972, the Los Angeles chapter of the National Organization for Women (NOW) filed a complaint with the Equal Employment Opportunity Commission (EEOC) charging Hughes with discrimination in hiring and promoting women at Culver City.

NOW charged—that Hughes hired too few women, and that female employees were often overlooked for promotion. The complaint was filed after a group of female employees brought their complaints to NOW.

In February 1974, NOW asked the Defense Department for a copy of Hughes 1974 Affirmative Action Plan. The request was made under the federal Freedom of Information Act.

Affirmative action plans usually discuss the minority hiring, firing and promotion policies of a company. They also usually include statistical data on previous practices as well as future projections for minority employment policies.

LAWSUIT FILED

When the Defense Department informed Hughes Aircraft that it planned to release the plan to NOW on May 1, 1974, Hughes promptly filed a lawsuit in U. S. District Court in Alexandria, Va., against the Defense Department to block the release.

Hughes contended that if the plan were released:

"(The company) would be subjected to vexacious and unwarranted litigation and there would be a substantial risk of serious injury to (company's) goodwill and the public and its own employees. . .

"Those documents when taken out of context, are subject to misinterpretation and would subject (company) to adverse, unjustified publicity. . ."

Hughes legal response stunned the Los Angeles NOW chapter.

"It's not unusual for many of these problems to exist in a company," said Ms. Carol Henden of the chapter. "This is typical of many companies. What is unusual here is that Hughes filed suit when we asked for the plan.

"Most companies are very proud of their plans and will give them out as a snow job, as a public relations kind of thing. This was unusual. Most companies don't go to this extent."

The lawsuit is still pending. NOW has never received the Hughes affirmative action plan.

As for Hughes' personal feelings on minority groups, he spelled them out in a confidential memorandum to his one-time Nevada chief, Robert Maheu.

Hughes drafted the memo, which is contained in court records, after he watched television coverage of rioting in black ghettoes in Washington, Chicago and other cities after the assassination of Dr. Martin Luther King Jr. in 1968.

Wrote Hughes:

"I . . . know there is tremendous pressure upon (hotel and casino) owners to adopt a more liberal attitude toward integration, open housing, and employment of more Negroes. Now, Bob, I have never made my views public on this subject. And I certainly would not say these things in public.

"However, I can summarize my attitude about employing more Negroes very simply—I think it is a wonderful idea for somebody else. I know this is not a very praiseworthy point of view, but I feel the Negroes have already made enough progress to last the next 100 years, and there is such a thing as overdoing it."

FORD FLIMFLAM ON THE STRIP MINE BILL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. WIRTH. Mr. Speaker, the majority of this House is still determined to enact into law the strip mine bill which the Interior Committee has worked so long and hard to perfect. That majority will not be deterred by the dallying of the Rules Committee nor by the Ford administration's propaganda blitz.

This morning's Washington Post carried an article by Colman McCarthy detailing previous administration use of scare tactics, distortion, and high powered industry lobbyists to defeat earlier efforts to write sound strip mine legislation. The Ford flimflam team of Zarb and Morton used half truths, innuendoes, and veiled threats of economic disaster to lure Congress into voting against this legislation.

I believe that we should make every effort to expose the administration's approach. The American people understand and respect honest disagreements; they will not tolerate distortion of the facts, misrepresentation of the truth, and blatant obfuscation of the issues. Nor should we.

Following is Mr. McCarthy's piece; further detailed exposure of the administration tactics can be found in the report of the Interior Committee:

THE STRIP MINE BILL THAT WON'T DIE

(By Colman McCarthy)

The House Rules Committee, regressing into its role as a legislative junta, voted last week against passing a strip mine bill on to the full House. The legislation had come to the committee from a House Interior Committee that had voted 28 to 11 for revisions in last year's vetoed bill. After the Rules Committee tabled the bill—with only a few minutes discussion, and little of that on the bill's substance—one of the sponsors, Rep. John Melcher (D-Mont.), was anything but dejected. The defeat was temporary, he explained. "The votes are in Congress for a bill and it is only a matter of time before the will of the majority is allowed to express itself."

In normal times, a bill that is a two-time loser would be allowed a merciful death, its sponsors pulling the plugs if only to avoid further association with the comatose. But normality has not prevailed in the strip mine debate, and that is why the legislation's supporters have not abandoned it. Melcher re-introduced the bill by means of a discharge petition that will need signature of a majority of House members to bring it to the floor. The story of the bill's persistence—after a veto and the Rules Committee snub—is important. It tells us something about the methods and tactics the Ford administration used to defeat the bill last June. And it also tells us something about many members of Congress who refuse to be influenced by coal industry charges that the bill is "extremist."

Last June, when the bill died after a veto override failed by three votes, the administration defended its position with three arguments: The bill would have produced heavy job losses, drops in coal production and a rise in coal prices. Suddenly, a bill that offered modest controls against the destruction of the land and its people became a jobs, energy crisis and state-of-the-economy bill. Because only a few in the House knew the details of the legislation, many members had little way of judging the merits of the administration's arguments. When Frank Zarb, Rogers Morton and their backup men appeared before a House committee last May—referring to charts, citing figures and issuing pronouncements—only a few environmentalists were able to offer refutations. But the latters' claims were dismissable by many in Congress, on the ground that environmentalists are merely habitual naysayers who may understand apple blossoms and blue birds but nothing at all about jobs, coal production, the energy crisis and national security.

A report two weeks ago from the House Interior Committee offers belated confirmation that what such groups as the Environmental Policy Center said last year—that the administration was manipulating Congress by distorting the issue—was highly reliable and accurate. "The record is now clear," the report said, "that the production losses (projected by the administration) were mostly fabrication and could not be justified." In another instance, an FEA official cited a Pennsylvania strip mine law to bolster the administration's case. After the veto, the report says, the state's administrator of the law wrote to the committee that the FEA man was "totally incorrect."

The House committee now believes that many in the Congress and the public were mislead by the administration. The committee report says a followup investigation "produces a clear pattern. A systematic economic impact analysis was not attempted (by the administration) but, instead, the figures were based on nonscientific interviews, many by long-distance phone calls, to various operators and industry groups who had lobbied against the bill . . . In some cases . . . completely erroneous assumptions (were made) about key provisions of the bill (e.g. Department of Interior officials were assuming the bill banned mining on steep slopes, when in fact, it did no such thing)."

Much of the investigation the committee report relies on came from stories appearing on June 30 in the Louisville Courier-Journal and The Baltimore Sun. Ward Sinclair wrote in the Currier-Journal: "Although most federal officials were cooperative after repeated requests for information, a pattern emerged; background data were 'destroyed,' other material was 'scattered' around the country, lists of names and mines became 'unavailable' and officials complained openly about their figures not being taken on faith. In other instances, statistics were drawn up from flatly erroneous starting points."

Shortly after the articles appeared, Sens. Jackson and Metcalf wrote to the White House asking for a response. A substantive reply has never been made. Nor did the the administration ever write to the newspapers, either to challenge specific facts or deny the overall message of the articles: that the administration won its victory by fooling Congress with flawed and fuzzy information. By its lack of response, either to the Senators or the newspapers, the administration appears to have believed either that the issue was dead—or that if a strip mine bill was revived, double talk would continue to persuade a gullible Congress.

Going back over last year's battleground is crucial to an understanding of the strip-mining debate. First, the record has been correct. Second, it seems clear that the President was badly served by Zarb and Morton, who in turn were publicly embarrassed by their underlings. Many of those within EPA and the Council on Environmental Quality who favored the bill but maintained the silence of good soldiers were dismayed that Zarb did little more than repeat the tired argument of the coal industry.

That this legislation has come back in revised form suggests that the strip mine industry—through such lobbies as the National Coal Association—long ago squandered any chances for wide support it might have had within Congress. The current bill is a modest, fair and justified attempt finally to get federal controls that are many years overdue. The absence of a bill, Rep. Melcher is arguing, is also a threat to future coal production because companies are finding it costly to deal with guessing about the restrictions the law will eventually impose. But instead of accepting the inevitable—because State laws have been generally exposed as failures—the industry plays the game of overreacting, with shrill forecasts of dire consequences if the Government lays a regulative finger on it.

Those who do know something about dire consequences—the citizens in the coalfields from West Virginia to Montana whose lands, homes and mental health are threatened by strip mining—have little way of making their voices heard. In the final debate last year, only the administration's "experts" were heard. But their expertise is now seen to have been more than a little flawed. That this has come to light will mean nothing to the citizens unless Congress does now what it should have done a year ago: create a law and get ready to meet the immense problems of enforcing it.

ISRAEL'S ACTION ON U.N. DEBATE ENCOURAGING

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. OBEY. Mr. Speaker, I do not want to make too much of it, since the Israelis themselves have made a point of saying that it is in no way indicative of a change in policy, but I was nevertheless pleased with the decision by the Government of Israel to participate in the current United Nations debate over recent developments in Jerusalem and the West Bank.

While both parties have participated in United Nations General Assembly debates in the past and in the deliberations of some specialized agencies, this is the first time Israel has sat at the same Security Council table with the PLO. What this means, therefore, is that Israel is recognizing reality at the United Nations and that is a hopeful sign. I believe that over time, as Israel and the Palestinians both participate in international meetings, Israel will be put less on the defensive and other parties in the forum will be forced to take a more rational view. Regardless of disclaimers to the contrary, I hope that it will be noted in the future that this decision was the first step in a process which will eventually see the Palestinians and the Israelis facing each other across a negotiating table together with other interested parties as they work out a just and lasting peace in the Middle East with secure and recognized borders which, in the end, is the only real protection for any of the parties in the Middle East.

ANOTHER F-14 NAVY FIGHTER LOST

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, last Wednesday another F-14 Navy jet fighter perished in the Pacific Ocean off the California coast on an air combat training flight. Preliminary reports indicate the reason was an engine fire, possibly caused by a fuel leak. Navy brass have grounded the entire Pacific F-14 contingent until further notice.

This is certainly not a unique occurrence; in fact, this is the second F-14 Tomcat to go down this month. Twenty-four days ago, on Friday, March 5, another of these Grumman-built aircraft flying at 35,000 feet went out of control, spinning wildly for 37 revolutions, and crashed to a watery grave in the Chesapeake Bay. In December 1970, the F-14 prototype crashed and was destroyed on its second flight, delaying the program 6 months and increasing costs by $40 million. June 1972 saw the downing of a test plane into the Chesapeake, destroying the aircraft and killing the pilot. Another of these swing-wing planes collided with a Sparrow missile a year later and was totally ravaged. In the last 2 years, four planes have sustained substantial damage and three have been demolished due to faulty engines. In all, 10 F-14 aircraft have been lost. For a plane which the Navy terms an unqualified success. I find the brief history of this $23 million aircraft most notable for its frequent failures.

Though the program has been scandalized by questionable corporate dealings, disgraced by ballooning costs, and racked by a myriad of technical deficiencies, perhaps the most threatening problem to the crews who trust their lives to this shell of metal is the TF-30 engine, made by the Pratt & Whitney aircraft division of United Technologies. Three F-14's have been substantially damaged as a result of blade failures in the first stage fan section, where normal foreign object damage—FOD—aggravated by the sea air, has caused the blades to break off completely. The permanent fix for this malfunction will not be available for a year and one-half, and in the meantime, daily visual inspection is required, supplemented by eddy current inspection of FOD damage.

Two F-14 Tomcats, both deployed on the U.S.S. *Enterprise*, crashed into the sea within 12 days of each other, and one more perished last October off the west coast—all the result of a third stage fan disc/blade failure, due to violent vibrations induced by excessive wear of the air seal between the second and third engine stages. After each accident the Navy had to ground and inspect its entire F–14 fleet. Navy personnel had to remove engines with over 100 hours of flight time, unstack fan sections, open compressor cases, and inspect bleed ducts and fuel lines. An interim fix was finally decided upon and orders prevent engines from flying until it is incorporated.

In addition, upon the return from their Mediterranean debut, 75 percent of the F–14's aboard the *John F. Kennedy* were decked by problems with the retaining rivets between the second stage turbine air seal and shroud, and needed to be lifted off the carrier. Had these planes taken to the sky, excessive friction could well have caused more fatal crashes. Directives now require all engines with 250 hours of flight time be removed and new engine rotors, rivets, blades, and shrouds installed, an overhaul requiring an excess of 150 man-hours.

The galling problem is that the TF–30 engine has been around since 1959 and is far from a new machine. Pratt & Whitney slightly modified it, but the engine was to be one of several proven, off-the-shelf items to reduce the risk involved in developing the F–14. Instead, this powerplant has just cost the Navy another of its most expensive fighters and nearly the lives of two of its men. It is the No. 1 readiness degrading item; associated fix and inspection procedures are costly in labor hours, flying time, and maintenance funds. Is the Navy going to allow the incompetence of its present F–14 program to endure, and then bill the American public in increased costs and human lives? Mr. Speaker, I hope not.

CONGRATULATIONS TO 1976 NROTC SCHOLARSHIP WINNERS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. PATTERSON of California. Mr. Speaker, it is indeed a privilege to be able to honor a number of young men from my district who have qualified and been selected for the 1976 Navy ROTC scholarship program.

These young men have already gone through a rigorous selection process, and still face a tough road ahead. Out of more than 32,500 applicants nationwide, only 2,156 were finally selected for the scholarships. Eleven of those chosen reside in my district, and congratulations are in order for each of them. Their names are: Richard J. Araiza, Greg C. Busche, Patrick J. Hughes, Brian J. Keepers, David J. Mikelson, Brian E. Riehm, Richard J. Schank, Mark G. Shopner, Mike R. Hornick, Jerry S. Mitchell and David B. Jackson. The large number of our highly qualified applicants must also be a tribute to our healthy Orange County climate and sunshine.

The young men will enter the program during the 1976 fall school term, and they will receive their education and training at leading colleges and universities across the country. After graduation, when they have completed the program, they will be commissioned as Regular officers in the Navy and Marine Corps.

These young people should be highly commended solely for being selected, and they are due further honors for the great responsibility they will be taking upon themselves. They will be getting an education, which again is admirable in itself, but they will also be learning to defend and lead the United States in times of trouble and crisis.

It is exactly this type of decision-maker, both intelligent and with real-world experience, who will be able to guide us, and insure that the United States remains strong in the face of adversity. With this in mind, we should not only congratulate and commend these young men for their qualifications and selection to the NROTC scholarship program, but we should also thank them for the service they will be performing in the years ahead.

EQUAL EMPLOYMENT OPPORTUNITY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to share with you a letter which the Northern California Chapter of the National Society of Real Estate Appraisers recently sent to Mr. Robert F. Welch, Director of the Veterans' Administration regional office in San Francisco commending him for his many fine accomplishments in his first year as head of the San Francisco Office. I join my friends in the National Society of Real Estate Appraisers in lauding Director Welch for taking an active role in promoting equal employment opportunity in his VA Office. The letter follows:

NATIONAL SOCIETY OF REAL
ESTATE APPRAISERS, INC.,
NORTHERN CALIFORNIA CHAPTER,
San Leandro, Calif., March 8, 1976.

Mr. ROBERT WELCH,
Director, Veterans' Administration Regional Office, San Francisco, Calif.

DEAR MR. WELCH: We are an organization of Black Businessmen who wish to take this opportunity to thank you for the increasing opportunities made available to minorities in your office. We are happy about these long overdue changes that have occurred since you became Director of the Veterans' Administration Regional Office in San Francisco. Such changes as: assignment of Black appraisers to non-Black areas; recognition and qualification of female fee appraisers, and your continuing efforts made to increase promotional and employment opportunities.

After much discussion with top supervisors in your office, we have concluded that these promotional opportunities could not have occurred without your active leadership. We appreciate a man of your caliber in the capacity of Director.

Again we say, "Thank You", and you can expect our help in any of your future endeavors.

Sincerely yours,
LORENZO CRENSHAW,
President.

NEWSLETTER EXCERPTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. WOLFF. Mr. Speaker, periodically, I distribute a newsletter to my constituents in a continuing effort to keep them informed of my activities as their representative in Washington.

I would like to share with my colleagues some sections of my latest newsletter:

NEWSLETTER EXCERPTS

Dear Friend and Constituent. This special issue of my Newsletter summarizes the record of the first session of the 94th Congress and discusses some of the legislative actions I have taken as your Representative in the 6th Congressional District. I would appreciate your comments.

These remain difficult times for Americans. The pressures of inflationary costs for every commodity and service essential to a family's needs have resulted in sever strains on our social and economic stability as a nation.

This past year the efforts of Congress to deal effectively with the many problems, far too often, were blocked by the reckless use of 46 vetos with the result that favored interests continue to reap enormous profits while the average American is caught up in a financial squeeze so gripping he can barely handle his day-to-day expenses, much less invest in his future.

The 94th Congress has been criticized for doing legislative "business as usual" when the times demand decisive and responsive action. The fact is that this past session has produced a body of public law responsive to the most crucial concerns of the American people. This legislative record includes the Tax Reduction Act and Tax Reform Act, Homeowners Relief Act, emergency job funds, anti-recession assistance to local governments, grants and matching funds for public works, highway and mass transit projects to accelerate construction and increase employment, extended major health services programs and increased benefits for disabled veterans and Social Security recipients.

These laws and virtually every other piece of progressive legislation were enacted over initial Administration opposition, intent on serving special interests instead of your best interests.

In the months ahead, I will continue to pursue every avenue available to me, as your Representative, to achieve economic recovery and to rally support for enlightened legislation that will renew our nation and its people in our bicentennial year.

JOB PROGRAMS, TAX INCENTIVES ESSENTIAL TO SAVE ECONOMY

A sound plan of action that ultimately will lead to a balanced budget and a sharp decline in the number of Americans who are unemployed is the objective of Rep. Wolff to achieve economic recovery for this nation in the foreseeable future.

"The federal budget must be brought back into line; we must provide jobs to stimulate productivity and get people back to work and off the burgeoning welfare roles as we seek out new ways to meet the pressing needs of the wage earning, middle income family that, more than any other group, is being stifled by inflation and high costs," said Wolff.

"It took this country 166 years to create a federal debt of $600 billion. This year alone the federal deficit will approach $76 billion. This year alone it will cost us almost $40 billion in interest on the federal debt. Unemployment compensation will run $20 billion."

Each time the unemployment rate rises by one percent, another $17 billion is added to the federal debt through loss of tax revenues and additional outlay for welfare. "It follows," Wolff pointed out, "that if we cut 4 percent off the unemployment rate (now 7.6%), we can reduce the federal deficit by $68 billion—or only $8 billion short of what may be needed to balance the budget. To bring the budget back into balance, we also must curtail non-essential federal spending and make other cuts in the federal budget to trim away the fat in bureaucratic areas where a 5 percent waste efficiency program could be effected without impairing their operations."

Rep. Wolff has always maintained that "the government should be the employer of last resort. "However, he believes that what is needed now to reverse this nation's economic decline is a full scale program "to put people to work, giving them dignity, instead of permitting them to waste away on hand outs.

"Unemployment in itself is inflationary," Rep. Wolff says, "let's invest in production, not welafre checks."

"We can turn around our economy with job programs to counteract shifts in the economy together with tax incentives for industry and the small businessman to prevent layoffs and attendant drops in production in the private sector. With jobs, a family has available money to meet its needs while at the same time building up the economy through productivity. Far too many people, today, just do not have the money to buy even the bare essentials, much less invest in their future through savings."

Congress, early this past year, legislated a $5.3 billion job bill—The Emergency Employment Appropriations Act—which was vetoed by the President.

Congress rebounded and enacted a far less adequate jobs package to extend the existing public service program and fund summer youth employment as the best obtainable in the face of continuing Administration opposition.

Congress further enacted a comprehensive public works program to put people to work and revitalize the construction industry, a keystone of our economy, but it was vetoed as "inflationary." This legislation is now back in Committee for revisions that Rep. Wolff hopes will withstand the Presidential veto.

Congress also passed legislation (to be subsequently vetoed) to help the unemployed threatened with loss of their homes and with being shut out from receiving necessary health services.

"We in Congress," Wolff said, "will continue to work to ease the strain of inflation. We will work to ease the pain of those who are unemployed, those who are underemployed and those who are exhausting their savings" "instead of listening to the Labor Department's persistent and misleading play on figures. Our economy will not be saved by running a lottery with statistics. We cannot play games with this nation's economic viability."

RED TAPE HINDERS DRUG CRACKDOWN

(By Jack Anderson and Les Whitten)

The State Department is so entangled in red tape that it has hampered the efforts to stop drug smuggling.

For years, prodigious amounts of heroin, cocaine and marijuana have poured into the United States from Asia, Latin America and the Middle East. Each year, more than a billion dollars worth of "brown" heroin is smuggled across the border from Mexico alone.

To stem the tide, the United States has spent millions of dollars and assigned thousands of people. Yet project after project has been caught in the bureaucratic tangle at Foggy Bottom. Here are just a few examples:

—At one time, a United Nations team persuaded reluctant Thailand officials to allow an aerial survey of their poppy fields. The State Department, incredibly, turned the idea down. Rep. Lester Wolff (D-N.Y.), one of the leading narcotics experts in Congress, pressured the bureaucrats to change their minds. But by this time, the Thais had changed theirs. The matter is still being negotiated.

—Under the code name Operation Cocina, Colombia last June began cracking down on cocaine traffickers. The Colombians asked the United States for some special communications equipment. Two U.S. narcotics officials, whose sole responsibility was to audit such requests, decided they wanted a feasibility study." Special personnel from Washington were flown down to conduct the study, which dragged on for more than a month. Two months later, the bureaucrats solemnly reached a decision: the Colombians needed equipment but not the kind they had requested. Operation Cocina will end shortly, but the right equipment only recently arrived.

—After much haggling, the government of Mexico agreed to eradicate 20,000 poppy fields. At the time, the Mexicans used sticks to beat the heads off poppy plants. But they agreed that herbicides would be more effective. Thereupon, the State Department delivered a primitive system employing buckets to pour herbicides out of helicopters. Of course, the Mexicans really needed more sophisticated spray equipment, which was finally provided after Rep. Wolff intervened.

—The Mexican government has also agreed to conduct an aerial survey of their country to locate poppy fields. Using prop-driven aircraft provided by the United States, the Mexicans can survey only 60 square miles a day. With a small jet, they could survey 600 square miles daily. Yet the State Department refused to provide a jet, and suggested instead the Mexicans lease one.

Nevertheless, there are signs that officials on both sides of the Rio Grande are finally getting together to stop the illict drug traffic.

Last month, Wolff and a colleague, Rep. Benjamin Gilman (R-N.Y.), met privately with the leaders of four countries and hammered out some "breakthrough" agreements.

In Mexico City, for example, they called upon President Luis Echeverria. They worked out an accord which has been summarized in a private letter from Echeverria to President Ford, transmitted by classified State Department wire.

"I put forward to the U.S. legislators the idea of creating twin national commission," wrote Echeverria, "one in each of our countries, which would undertake a study of all aspects of this (narcotics) question and propose solutions . . . For my part, I am proceeding to establish the Mexican commission."

WOLFF ACTS TO HALT CONCORDE: REVERSE COLEMAN DECISION

The Port Authority, in an historic decision, finally responded to the demands of New Yorkers led by Congressman Wolff and imposed a 6-month ban on the landing of the Concorde SST at JFK Airport.

The battle against intrusion by the British-French noise machine is joined in the federal lawsuit filed in February by the Environmental Defense Fund and Rep. Wolff who has been supported in the action by 30 of his colleagues in the House and Senate.

The suit, before the Federal Court of Appeals in Washington, makes the point that Secretary of Transportation Coleman exceeded his authority and violated U.S. laws when he approved Concorde flights to the U.S. and seeks to overturn the ill-advised and unacceptable decision.

Coleman's decision, Wolff said, is based upon foreign policy consideration—and, I've heard enough about our foreign relations. What about our domestic relations and the people who have to live with this kind of threat to their health and safety.

Rep. Wolff has been fighting the threat of dangerous side effects from supersonic aircraft for nearly 10 years—ever since he first viewed a prototype of the Concorde as displayed by the British-French manufacturers. As Chairman of the House Subcommittee on Future Foreign Policy, Wolff is calling Secretary Coleman before his Subcommittee to explain to the Congress why the American people should be subjected to the possible hazards of foreign aircraft that, even he (Coleman) admits, is at least twice as loud as the already excessively noisy Boeing 707. Coleman also will be requested to produce documents from government files that indicate a pattern has existed since 1971 of possible illegal U.S. commitments abroad that back up the Concorde flights.

SECRET LETTERS

Rep. Wolff earlier this year discovered that a secret exchange had been made in 1973 by then President Nixon who wrote to French President Pompideau and British Prime Minister Heath informing them that any new FAA fleet noise rules would be "inapplicable to Concorde."

In the secret letters, dated Jan. 9, 1973, Nixon wrote ". . . in keeping with this policy, the Federal Aviation Administration will issue its proposed fleet noise rule in a form which will make it inapplicable to the Concorde. I have also directed officials of my administration to continue to work with representatives of the French and British governments in order to determine whether a United States supersonic aircraft noise standard can be developed which will meet our domestic requirements without inhibiting the prospects of the Concorde."

Additionally, Wolff has disclosed that he has unearthed a letter documenting that Secretary Kissinger, as late as Oct. 6, 1975, wrote to Secretary Coleman urging a favorable decision.

". . . It is apparent "the Kissinger letter says," that any administration decision that would amount to an outright rejection of the applications of the two airlines for limited service to begin next year would be viewed as a serious blow by two of our closest friends and alies. . . . The impact would be particularly severe in the case of France in light of the immense disappointment the French felt earlier this year in losing the international competition to the United States in providing a new military aircraft as the replacement for the F–104 fighter aircraft in the hands of certain other NATO countries . . ."

Rep. Wolff has labeled this questionable Administration posture as "a form of diplomatic blackmail that places self interest above the best interests of Americans."

Wolff, who led the successful Congressional effort 5 years ago to halt the development of an American SST, said: "I believe, as I did then, that this type of supersonic aircraft should not be placed into commercial service until the most strict environmental and health standards have been established to protect our citizens and have been accepted by the Congress.

"My concern with aircraft noise abatement has not been confined to the SST. I have been, and am, seeking through the legislative process to gain enactment of my bills to mandate retrofitting of existing commercial jet aircraft to cut back on the noise and to amend the Noise Control Act of 1972 to give the Environmental Protection Agency the power to control aircraft noise, instead of the Federal Aviation Administration which too frequently ignores the plight of people living in the wake of jet noise. This legislation is before the House Subcommittee on Aviation and I am hopeful of favorable consideration.

Specifically on the Concorde, Wolff during the past year has revealed to the Congress scientific data he obtained through research and investigation that disputes the Administration and manufacturers' claims of Concorde safety. Wolff's legislation to ban the Concorde SST became the basis for widespread Congressional opposition.

The principal objection to Concorde is noise. British government tests last year proved so devestating that the British tried to cover them up, but the British press, in a dramatic turnaround from its previously pro-Concorde stand, has now run repeated articles showing the Concorde is the noisiest commercial aircraft ever developed.

Concorde's takeoff noise ranges up to 134 Effective Perceived Noise Decibel's (EPNdB's) according to the British tests. The maximum which has been allowed at John F. Kennedy for years is 112 EPNdB. By way of comparison, a jackhammer makes 107 EPNdB.

Since 1969, U.S. law has set an average of 107 EPNdB as the maximum allowable in commercial aircraft, and Secretary Coleman has pledged to take steps to ensure that the U.S. fleet will meet these standards.

Although the British and French say forcing them to meet U.S. noise laws set in 1969 is discriminatory, those governments pledged in 1962 to meet any noise laws in force at the time the SST went into regular service.

The only noise reducing technique Concorde apologists offer has been called by the U.S. government a "beat the box" low altitude turn which will not actually reduce the noise of Concorde, but which will allow the aircraft to dodge J.F.K.'s noise measuring devices with a turn U.S. and British pilots have branded "test pilot flying with a planeload of passengers."

The Queen-Nassau Congressman notes that the U.S. Government has known of the "beat the box" turn since 1973, and tried to hide the actual noise facts discussed in a memo which remained secret until released last year by Wolff and the Environmental Defense Fund.

OZONE QUESTION

While proof of possible damage to the ozone layer by Concorde is hard to pin down, Wolff said "We should certainly heed the warnings of the U.S. National Academy of Sciences which last year published a study saying that all high-flying aircraft, and particularly SST's, may pose a severe threat to the ozone layer, and thus may alter the earth's temperature, with disastrous results for food production, and may strip the shield guarding us from excessive sunlight, thus causing skin cancer."

Commuter Groups Back Wolff Bill

Long Island commuter groups have launched a petition drive in support of Rep. Wolff's legislation to permit a federal income tax deduction for those who use mass transit to and from work.

Teachers Hail Wolff Record

The "report card" issued by the National Education Association at the close of each Congressional session ranks Wolff 100 percent in its book on federal legislators for his voting record in support of NEA issues and policies. The NEA, with a membership of 1.8 million teachers, hailed Wolff for his dedication to education.

Specifically, the Wolff bill (HR 3070), would amend the Internal Revenue Code to provide for an itemized deduction by commuters for the expenses incurred in traveling to and from work on mass transportation facilities.

"Enactment of this measure would bring meaningful tax relief to the average working man and woman who must now bear the full impact of rising transportation costs," said Rep. Wolff.

Volunteer Corps, Around the Clock

Community sponsored volunteer ambulance corps provide invaluable around-the-clock, seven day a week service to tens of thousands of residents in need of emergency help or assistance to speed them to medical care facilities.

The volunteer ambulance corps in the communities of the 6th Congressional District and their phone numbers are:

In Queens—Little Neck, Douglaston, 229-0400; Glen Oaks, 347-1600; Bay Community, 225-1133; Bayside, 225-2828; Flushing Community, 353-4900; Queens Village, Hollis, Bellerose, 464-2424; Jamaica Estates, Hollis-wood, South Bayside, 464-0300.

In Nassau—Ambulance service is provided by the following volunteer fire departments, Manhasset-Lakeville, Port Washington, Great Neck Vigilants, Mineola, New Hyde Park, Williston Park, Garden City Park, and Westbury-Carle Place. Contact is made through local police precincts or Nassau County Police Department, 911.

A BILL TO REPEAL THE ACT OF JUNE 23, 1936, TO EXCHANGE LANDS IN MONO COUNTY, CALIF., AND FOR OTHER PURPOSES

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. McFALL. Mr. Speaker, just 2 years ago I introduced proposed legislation to correct a unique situation in my congressional district in which the city of Los Angeles has authority to acquire Federal lands in Mono County, Calif., for municipal purposes at the rate of $1.25 per acre, as provided under the act of June 23, 1936.

By way of background, the city of Los Angeles has numerous facilities relating to its water and power operations located on Federal land in Mono County. The city of Los Angeles, under the act of June 23, 1936, also has the right—subsequent to approval by appropriate Federal agencies—to purchase additional Federal lands in Mono County for the sum of $1.25 per acre. This situation is of concern to Mono County and frustrates its efforts to plan soundly for the future.

Understandably, this situation for many years has been a source of conflict between Mono County and the city of Los Angeles. The expressed purposes of my proposed legislation 2 years ago were to:

First, repeal the act of June 23, 1936;

Second, provide for an exchange of lands between the city of Los Angeles and the Federal Government; and

Third, provide for continuance by the city of Los Angeles Department of Water and Power of its existing water gathering, usage, and electrical power generation and transmission practices in Mono County.

After nearly 2 years of sustained work involving my office, Mono County, the city of Los Angeles Department of Water and Power, the National Forest Service, and the Department of the Interior, I am introducing today a revised version of that legislation.

I believe it is encouraging that the two agencies have been working together in recent years to develop a proposed legislative remedy of this conflict.

This new bill—the complete text which follows—has the unanimous endorsement of the Mono County Board of Supervisors, which on February 24, requested my introduction of it, as well as support of the city of Los Angeles Department of Water and Power. As yet, under legislative procedures, the National Forest Service and the Department of the Interior have not had the opportunity to provide their official views and comments on this proposed legislation.

This bill has the same goals as my previous bill.

Central to the proposed solution is language in the bill clearly intended and designed to halt any further or future expansion of the existing water gathering, usage, and electrical power generation and transmission rights and practices on Federal land in Mono County as conducted by the city of Los Angeles.

I hope the introduction of this bill will bring about early and full review by the Congress of the problems which have brought about the need for corrective legislation and that the bill will serve as a carefully considered proposal for such remedial legislation that I hope can be enacted this year.

The text of the bill follows:

H.R. 12847

A bill to repeal the Act of June 23, 1936, to authorize the Secretary of Interior to exchange lands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the City of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the City of Los Angeles in Mono County in the State of California," approved June 23, 1936, (59 Stat. 1892) is hereby repealed.

Sec. 2(a). In recognition that the Act of June 23, 1936, granted lands belonging to the United States situated in Mono County, California, to the City of Los Angeles for certain purposes, including rights-of-way, structures, diverting and storage dams, power plants and transmission lines, tunnels and conduits for conveying water and lands for any other necessary purpose, and in recognition that, under the Act of June 23, 1936, and other Acts, the City of Los Angeles lawfully constructed, maintain, and operates water, power, and other facilities within rights-of-way over public lands and National Forest lands in Mono County, California, the following grant is hereby made for the purpose of preserving to the City of Los Angeles all of its existing rights to affect Federal land in the operation, maintenance, and reconstruction of its existing facilities:

The City of Los Angeles is hereby granted easements and rights-of-way on, over, under, through and across public lands and National Forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions filed by the City of Los Angeles with the Secretary of the Interior on October 24, 1944, and which maps and descriptions were accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945. The easements and rights-of-way are granted to Los Angeles together with the right for Los Angeles to continue its present operations and to maintain and reconstruct all existing water and power facilities located within the bounds of the descriptions filed with the Secretary. Said existing water and power facilities of Los Angeles and the manner in which they are operated are set forth in these certain water rights licenses to the City of Los Angeles to divert and appropriate waters of Mono Basin and water tributary to the Owens River in Mono County numbers 10190, 10191, 10192 as issued by the California State Water Resources Control Board on January 25, 1974. The existing manner and amount of the exercise of the rights to divert and appropriate said waters in license numbers 10190, 10191, 10192 and the effect of the exercise of such rights on federal lands is hereby confirmed. The right to use and permit the use by others of the lands within the bounds of the descriptions is reserved to the United States; *Provided*, That such use will not interfere with the rights granted herein to the City of Los Angeles.

(b) The grant in subsection (a) of this section shall become effective upon relinquishment in writing by Los Angeles of all rights-of-way granted pursuant to the Act of February 15, 1901 (31 Stat. 790) or the Act of February 1, 1905 (33 Stat. 628) described and set forth in the maps and accompanying descriptions referred to in subsection (a) of this section.

SEC. 3(a) Subject to the provisions of subsection (b) of this section, the Secretary of Agriculture shall convey, by appropriate instrument, all right, title and interest of the United States in and to such lands to the City of Los Angeles:

(1) Camp High Sierra (five acres): northwest quarter southwest quarter southwest quarter southwest quarter; southwest quarter northwest quarter southwest quarter southwest quarter section 34, township 3 south, range 27 east, Mount Diablo base and meridian.

(2) Grant Lake Dam (eighty acres): West half northwest quarter section 15, township 1 south, range 26 east, Mount Diablo base and meridian.

(3) East Portal (eighty acres): East half northeast quarter southwest quarter; northwest quarter southeast quarter; and west half northeast quarter southeast quarter section 21, township 2 south, range 28 east, Mount Diablo base and meridian.

(b) The conveyances authorized by subsection (a) of this section shall be made subject to the condition that the City of Los Angeles, California, convey, by appropriate instrument, to the United States, all right, title, and interest of the City of Los Angeles in and to the following described lands excepting and reserving to the City of Los Angeles all water and water rights in accordance with section 219 of the Charter of the City of Los Angeles:

(1) Sherwin Creek (forty acres): Northwest quarter southeast quarter section 6, township 4 south, range 28 east, Mount Diablo base and meridian.

(2) Lee Vining Ranger Station (fifty acres): Southeast quarter southwest quarter; west half west half southwest quarter southeast quarter section 17, township 1 north, range 26 east, Mount Diablo base and meridian.

(3) Upper and Lower Horse Meadow:

(a) Upper (one hundred and sixty acres): Northeast quarter section 30, township 1 north, range 26 east, Mount Diablo base and meridian.

(b) Lower (one hundred and sixty acres): West half southeast quarter; northeast quarter southeast quarter section 20 and northwest quarter southwest quarter section 21, township 1 north, range 26 east, Mount Diablo base and meridian.

(4) Grant Lake Shore (thirty acres): Portion northwest quarter northeast quarter section 28, township 1 south, range 26 east, Mount Diablo base and meridian above maximum high water level and portions of southeast quarter northwest quarter; northeast quarter southwest quarter; and lot 4 of section 21, township 1 south, range 26 east, Mount Diablo base and meridian which are above maximum high water level.

SEC. 4. Nothing in this Act shall be construed as modifying, interfering with, or otherwise affecting the laws of the State of California relating to the ownership of, or rights to the use of water or land or the control thereof, or with any power, right, or privilege of the State of California.

SEC. 5. Whenever the City of Los Angeles ceases to use the land or a part of the land granted under section 2 of this Act for the purposes for which it was granted, all interests in such land or part of the land granted under section 2 shall revert to the United States.

CONGRESSMAN YOUNG DISCUSSES DR. KING AND THE FBI

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. DRINAN. Mr. Speaker, in a recent issue of Christianity and Crisis, Congressman ANDREW YOUNG discusses the extensive surveillance and harassment directed against Dr. Martin Luther King by the Federal Bureau of Investigation. It represents a sordid and shameful part of the history of the FBI under J. Edgar Hoover.

The efforts by the FBI to discredit Dr. King were, to be sure, wholly inappropriate, clearly antidemocratic, and grossly paranoic. The FBI should have been utilizing that energy, time, and money to investigate violations of the Federal criminal code, rather than intruding into the constitutional rights of an American citizen.

Congressman YOUNG stated the point well:

> The tragedy of this whole thing, leaving aside Martin's death, is that none of the groups that ultimately caused violence in this society were really under FBI surveillance at all, none of the organized crime push which has created a high level of violence in our cities through narcotics.

I highly recommend Congressman YOUNG's observations to my colleagues:

AN INTERVIEW WITH ANDREW YOUNG

(By Leon Howell)

It was worse, much worse, than all but a few of those involved in the civil rights and antiwar movements claimed. The Federal Bureau of Investigation (FBI) not only watched us. It not only engaged in attempts to tarnish reputations that led Arthur Moore Jr. to ask in 1969 in these pages (June 9 issue) if its name ought not to be changed to the Federal Bureau of Innuendo. But it had a counterintelligence program called Cointelpro which actively disrupted and distorted our organizations—in many instances illegally.

Parts, but by no means all, of that activity have been emerging from the hearings conducted during the past year by the Senate Select Committee to Study Governmental Operations with respect to Intelligence Operations, chaired by Senator Frank Church. After reading the staff files, much of which is not yet public, Senator Philip Hart told an FBI witness: "It is the sort of thing that my children have been telling me for years you were busy doing, and I simply didn't believe them. They were right, and I was wrong."

When the committee's full work is published, it will scare the hell out of us. It will complete the destruction of the most carefully wrought reputation in Washington, that of J. Edgar Hoover, whom conservative columnist George Will recently called the most dangerous man ever in American public life. (Useful interim reading is contained in Ovid Demaris' *The Director*, an oral biography of reflections on Hoover by the people who knew him.) The committee has also documented that every President since Franklin D. Roosevelt used Hoover for political purposes, albeit often volunteered by him. Who used whom is not always clear.

The most despicable use of Hoover's power was in his unrelenting campaign to "destroy" (taken from an FBI memo) Martin Luther King Jr. Always suspicious of King, Hoover went to work in earnest after the assassination of President John F. Kennedy. According to an FBI memo, in early 1964 a secret meeting of top FBI officials considered 21 methods of obtaining derogatory information on King. More than 20 wiretaps and bugs, most of them illegal, were used to monitor his activities Every major event in King's life—the March on Washington, the Nobel Peace Prize, *Time's* Man of the Year selection, his attack on the Viet Nam War—brought about more frenzied FBI activity to discredit him, orchestrated by Hoover. One memorandum—found in the file of one-time heir apparent William Sullivan (who denies the he knew about it)—caller for "knocking King off his pedestal" and creating a new national Negro leader. The memo even proposed a candidate who may still not know he was so used.

The Rev. Andrew Young, now a second-term Congressman from Georgia and the first Black sent to Congress from a Deep South state since 1898, joined the staff of the Southern Christian Leadership Conference (SCLC) in 1961 after serving for four years in the Youth Department of the National Council of Churches. Earlier he had served as minister of a United Church of Christ congregation in south Georgia. Andy, as he is nationally known, was by Dr. King's side, both through the tremendous events of the 1960's and on the balcony of the Lorraine Motel in Memphis when King was assassinated in April 1968. This interview, which took place shortly before Christmas, is his first extended public reaction to the new information about the FBI campaign of intimidation against Dr. King, the SCLC and himself.—LEON HOWELL.

HOWELL. At what point did you begin to realize that the FBI not only was a problem because of ineffective law enforcement but also had turned to direct harassment?

YOUNG. They were a problem almost from the beginning as they sat around taking note while people were getting beat up. But we always felt that their presence was welcome and that they did serve as restraint on Southern law enforcement—it's almost a shame to call [that] law enforcement—which would have been far more violent without the FBI. So in spite of the fact that we knew they were somewhat antagonistic to our goals, we always cooperated with them—all the way through, even after the harassment started.

I think he first knowledge we had of open hostility was in 1964, when Dr. King won the Nobel Prize and Hoover blasted him as the world's most notorious liar. We knew they were taping [*sic*] us before that time and bugging our phones; but that was never really a problem for us. It's hard to remember back then, but when you were anxious about your life, civil liberties seemed a tertiary consideration.

In our conduct of a nonviolent movement there was nothing that we did not want them to know anyway. We instructed our staff to keep local law enforcement people informed. I can remember over in Jackson, Miss., when we were having a strategy meeting and there was a group of plainclothes detectives hanging around outside. We invited them in because our whole style was one of complete openness. You can be that way in a nonviolent movement. That is one of its tremendous advantages. Southerners thought—I mean, they were really afraid of us in the early days, and part of our success was in disarming them of their fears.

In Albany we brought a Southerner down who was working on a Ph. D. at Harvard, Jim Lowry, and we had him go around to talk with businessmen to tell them what we were going to do because they would not talk to any of us. We always thought it was important to have a free flow of information between us and the people who thought of themselves as our adversaries. In the Gandhi-Martin Luther King mode of social change it was not one against another; you were trying to bring everyone in the situation to a higher moral and spiritual level.

HOWELL. Why do you think that J. Edgar Hoover hated Dr. King so deeply?

YOUNG. I didn't know Hoover and only met him once. It's hard to do an analysis of someone's personality in an hour meeting. The only particular thing I can think of is that he had this built-in resentment of Martin over the Nobel Peace Prize. I understand he was quite covetous over the Nobel prize. Reports we heard from Jack Anderson and others were that he reacted terribly emotionally and was really upset when he got the announcement that Martin had received the award. We didn't find out if he himself had been nominated, but it's not hard to be nominated. Hoover certainly had a lot of friends in Congress who would gladly have nominated him.

HOWELL. Most people date it to the criticism of the FBI made by King during the 1963 Albany, Ga. campaign.

YOUNG. I'm not certain of that, but I believe it was about the time of the Nobel announcement that there was also criticism of Hoover over the three civil rights workers who were then missing. And you will remember that some of the press were saying that this was a plot on the part of the students to get attention. They didn't want to believe the students had really been killed. We knew this was not the case and wondered why the FBI wasn't doing more. And Martin certainly spoke out on that.

I don't remember any harassment between 1961 and 1964—it was 1964 when I first became aware of the campaign of going to newspapers, going to church leaders, and spreading rumors and gossip.

We tried to track them down. We'd always [be told] that this was coming from FBI agents, but we could never get anybody to name the agent. That includes *The Washington Post* and *The NewYork Times*, who were not at all helpful. [Benjamin Bradlee, editor of *The Washington Post*, told Ovid Demaris that Cartha (Deke) DeLoach of the FBI tried to get him to listen to the tapes and hinted at some of the substance.]

HOWELL. Recent testimony before the Senate Select Committee on Intelligence suggests that Deke DeLoach was doing most of that. Did he and others come to SCLC with information as they did with many other organizations?

YOUNG. DeLoach was one of the contacts. But we had almost no contact initiated by them. After the attack on King by Hoover we sat around and discussed what we should do. In the context of a nonviolent campaign, you always confront your adversary and discuss the situation, if possible. The only person we knew who knew Hoover fairly well was the Rev. Archibald Carey, a Chicago judge. He was a good friend of Martin's father, and through him a meeting was set up. After that meeting DeLoach asked if I would keep them informed of our movements and things like that. We always informed the Justice Department, with whom we had very good relationships. We basically looked upon them as friends; we never looked upon the FBI agents as enemies.

HOWELL. Many versions have been published on the meeting in late 1964 between Dr. King and Hoover. DeLoach testified recently that it was, surprisingly, "more of a love feast than a confrontation, a very amicable meeting between two great symbols of leadership." Hoover told *Time* (Dec. 14, 1970) that he told Mr. King, whom he said he never called Reverend, "If you ever say anything that's a lie again, I'll brand you a liar again. Strange to say, he never attacked the bureau again for as long as he lived." What happened at that meeting?

YOUNG. DeLoach's account is essentially accurate. The Rev. Ralph Abernathy opened the meeting and did say some nice things about Hoover, actually placing the FBI in the context of other, Southern, law enforcement. That took maybe four minutes. Hoover then took about 50 minutes to give us a slow rundown on what the FBI was doing in the South, apologizing for not having more Black agents, trying to justify it by saying he had hired Aubrey Lewis, a star football player from Notre Dame. [Robert Kennedy, as Attorney General, asked Hoover how many Black agents the FBI had. Hoover replied that the bureau did not discriminate on the basis of race, creed or color. Kennedy pressed, and Hoover replied that the FBI had five, actually chauffeurs he promoted at that point to agent status. Currently 103 out of 8000 agents are Black.] Hoover assured us that a break would be forthcoming soon in the Mississippi civil rights murders. After that Dr. King closed the meeting, thanking him for seeing us. It really was an amicable session.

HOWELL. Hoover never confronted him in the meeting, mentioning the tapes or calling him a liar?

YOUNG. No, he never did. It really was—well, I don't like to use the words "love feast," but you would have thought you were watching a mutual admiration society. None of the criticism that either had for the other came forth. In fact, we were so disappointed [at not getting] the real problems out in the open that when we came back and found the same rumors were being spread, some of us decided we would like to have another meeting with Hoover without Dr. King where we could bring it up and get it out in the open. Hoover would not meet with us, but DeLoach did.

We then confronted DeLoach with the whole mess—the rumors about Martin's communist connections, his sexual activity; why, they were even saying he had Swiss bank accounts where money from SCLC was going to make him rich. The most malicious kinds of lies, none of them ever documented, but only to us but even to the people bringing the rumors back to us. We would always ask, "Did you see any evidence of any of these things?" They'd say, "No, but the FBI says it has the evidence." But I have never yet met anyone who has seen anything that would prove these rumors true.

HOWELL. One other meeting is very important to this history, that which took place between President Kennedy and Dr. King in the White House rose garden. Do you know what transpired there?

YOUNG. Well, the way Martin told it after the meeting—I'm not sure of the date of this, but it was probably between the March on Washington and President Kennedy's death in 1963—President Kennedy said good-by to the Civil Rights Leadership Council and asked Martin to wait, left the office and walked out into the garden with him. He told Martin that he was getting a lot of flak from Senator [James] Eastland to the effect that the whole Birmingham project and the March on Washington were communist-planned and-inspired. The attack on the pending Civil Rights Bill was going to be based on [the issue of] communist influence. Kennedy asked Martin if there was any truth to that and whether he was sure of the involvements of the people around him. Senator Eastland and others the FBI would be keeping very close watch and that his [King's] activities would be monitored.

HOWELL. By "monitored" you mean his phone would be tapped and he could expect bugging?

YOUNG: That was Martin's understanding; I don't recall which words he actually used.

HOWELL.: Chuck Morgan [Charles Morgan, Jr., a civil rights lawyer who is now national director of the American Civil Liberties Union] told Ovid Demaris that Kennedy warned King that Hoover was tapping his phone and not to use it for anything he wanted to talk about privately.

YOUNG. Martin's reaction was—well, he laughed and said, "The President is afraid of Hoover himself because he wouldn't even talk to me in his own office; he walked me out in the garden." None of the Justice Department people would talk to me about this in their own office. I'll never forget when Burke Marshall [then a Justice Department staff member with primary civil rights responsibilities], from whom I was trying to get more details because the President simply said there were rumors about communist influence, wouldn't talk about this in Washington. I had to fly down to New Orleans and meet him in the Federal Court building. We walked around in the halls. And Burke never said anything about any evidence he had; he always quoted what the bureau said it had. I didn't feel this was conclusive. They were all scared to death of the bureau; they really were.

HOWELL. You were involved when the infamous letter we now know was written by the FBI arrived which said, "King, there is only one thing left for you to do. You know what it is. You are done. There is but one way out for you."

YOUNG. The letter came with a tape wrapped in a plain brown wrapper addressed from somewhere down in Florida. Coretta King always insisted that people tape Martin's speeches; he spoke from notes and very seldom had a manuscript—sometimes not even notes. She'd call ahead and have people tape his speeches. At the time he was making maybe half a dozen a week; so we'd get two or three tapes a week, at least, of his speeches. The FBI tape got put into that stack, and I don't think we even noticed it for 90 days. Coretta catalogued the tapes at home, and when she found this one, she gave it to Dr. King; only then did we find the note in the bottom.

We began to realize then that this was the most serious kind of intimidation we had so far experienced. It was not so frightening itself, however, because it implied that the deadline was only 34 days away from the time of mailing, meant to coincide with his receiving the Nobel Peace Prize, and that had long since passed.

HOWELL. And you discussed the letter openly, feeling that it indicated suicide by Dr. King?

YOUNG. Yeah, and Martin said, "What does he think I am?" It seems there's a story, about which I don't know very much, that Martin, upset over his grandmother's death, jumped out a window as a little boy. I don't know how important it was, how high the window was, and he didn't bring it up then. But it was clearly evident that the pressure and harassment would intensify. I think it was not the letter and the tape that upset him so much as the fact that all this was after we had talked with Hoover and after a series of gestures on our part to try to open lines of communication with the FBI.

HOWELL. You assumed that it was from the FBI?

YOUNG. The reason we thought it was from the FBI was that it was mailed from Florida, and the tape was made at the Willard Hotel in Washington. Most of the local right-wing groups did not have that capacity. Another thing: While it was very bad quality, it seemed to be a compilation from several spots but the splicing was not obvious. It was about three hours, much of which was room noise.

Howell. Did you find the tape mailed to Dr. King conclusively embarrassing?

Young. It's [a] tape [of] a bunch of guys sitting around together who are very good friends and who are kidding each other very intimately. It would probably be embarrassing if you played it to complete strangers. But it would not be embarrassing if you played it, say, for their wives or for close friends.

Howell. The FBI continues to this day to justify its inquiries into Dr. King's work because of communist influence on SCLC. It has been revealed recently that the primary person fingered by the FBI is Stanley Levison, a friend and fund-raiser for Dr. King since Montgomery days. Levison has said he never was a communist. Do you think he was?

Young. Courtney Evans, who was the head of the New York office of the FBI and the one most responsible for monitoring Stan Levison, said before the Senate hearings that they never found anything to indicate that he was a communist. [An FBI memo released during the Senate hearings addressed the finding by the New York office that there was no evidence at all that a Mr. X, probably Levison, was a communist. FBI headquarters replied: "While there may not be any direct evidence that Mr. X is a communist, neither is there any evidence that he is anticommunist." Orders were to continue the investigation.] There was certainly never anything in his actions toward Dr. King or in his friendship with me that would have indicated that he was somebody who was in any way interested in the overthrow of the American Government. He's what I would call a very brilliant, dedicated, New York lawyer who got involved with Martin in a fund-raising capacity at the time of one of the benefits for the Montgomery Improvement Association back in 1956.

I always found Stan—and still do—a conservative force in the movement. Our tendency was to want to push too hard too fast. He was part of a group of people in New York—Bayard Rustin, Harry Wachtel, Clarence Jones, Cleveland Robinson and others—that we would meet with every so often to kind of let them know what was going on in the South and what we had planned. We were operating in a completely Southern context, but to bring about change we would need national reactions. We'd meet three or four times a year to kick around ideas and get their reactions.

Sometimes they wanted to protect Martin more than we thought necessary. It was mostly SCLC people, particularly James Bevel, who wanted him to come out against the war. And almost all the New York people wanted him to speak out on Viet Nam but not become a leader.

Once we got involved in the New York movement, we found out what they were talking about. We didn't have the ways to protect ourselves that we did in the South. In the context of the giant Fifth Avenue peace parade we knew he could not make his position clear. So after that we got John Bennett and Clergy and Laymen Concerned About the War in Viet Nam to set up an opportunity for a formal presentation at Riverside Church to give him the kind of platform he needed to explain in detail his position on the war. They formed a very helpful kind of reaction groups.

But of course it is ridiculous to suggest anyone outside controlled policy in SCLC. SCLC policy was controlled by nobody. We made plans, we discussed and wrote out a program, but once we got into action, the action was dictated by the movements of the people themselves.

Nobody could have told you three days before Martin went to Birmingham jail that he was going to jail; it never occurred to anyone but him to write the letter from jail, and he wouldn't have done it then if the Birmingham clergy had not criticized him. It was such a spontaneous movement, and decisions were made at the moment largely by Southern Black ministers who believed in [a] nonviolent social change [that was] very strictly an outgrowth of the New Testament and Mahatma Gandhi.

Howell. Carl Rowan, who has been right for years about the FBI harassment of King, wrote recently that he is "utterly convinced that the FBI knows a lot more about the assassination of Dr. King than has ever been revealed." Coretta King and others have called for a broad reopening of the case. Former Attorney General Ramsey Clark has called for a blue ribbon national commission to investigate. What do you think ought to be done?

Young. I think [we need] a committee that has the power to get into the FBI records—and really it's got to be an outside committee with internal subpoena powers, and still it's going to be very hard. It would depend mostly on some of the good guys in the FBI who were part of this but didn't realize where it was going to lead. The things we are learning about the CIA and the FBI now are largely from people who were involved but didn't realize the full implications of their involvement. It would take a kind of John Dean out of the FBI to get anywhere, otherwise. . . .

Howell. Do you agree with Rowan that the FBI knows more than it's yet released?

Young. Oh, I'm sure they do.

Howell. They wanted to discredit King, to take him "off his pedestal." Is it conceivable that the FBI could have been involved literally in his destruction?

Young. I have been short of saying that. What I have been saying is that they created the climate [in which] his assassination was acceptable, and [in which], among the kind of paralegal groups they did business with on a kind of contract basis, it is quite possible that one of those groups took it upon themselves to plan and execute Martin's assassination—knowing that the FBI would be pleased with it and wouldn't give them too much trouble about it. [Young has said elsewhere that he was not especially disturbed by the information that the FBI might have initiated criticism of the SCLC group staying in a white-owned Holiday Inn in Memphis before moving to the black-owned Lorraine Motel where King was shot. The staff made those arrangements routinely, he said.

Howell. A question I meant to get in earlier. What was the impact of the continued pressure by the FBI on Dr. King, on the SCLC, on the civil rights movement generally? Paul Good [long-time civil rights journalist] said recently that he was with Dr. King on the night he got the word about the Nobel prize and that he was in the hospital suffering from nervous exhaustion which, Good implied, came partly from the harassment.

Young. Martin was the strongest person physically I ever met. He only went to the hospital when his family and doctors insisted on putting him there for a checkup so he could rest; they'd never find a thing wrong with him. He could go 20 hours a day indefinitely. The effect I think [the harassment] had on him was to make him compulsive about freedom. Just before the assassination I had a talk with him, saying, "Look, when we started out, none of us thought we'd live to be 40. So we didn't concern ourselves about our health, about the long haul. We thought we had a job to do and a few years to do it in. It now looks like we are going to be around for awhile and we've got to slow the pace down. We can't take on every fight," I said. "We've got to select more carefully."

He would accuse me of being conservative and kid around about it, saying, "If it was left up to you, we'd never start anything. Don't worry about it," he said. "Bevel and Hosea Williams and people like that are going to start things, and your job is to follow up." But from the time of the Nobel Prize and the beginning of open harassment, there was almost not a free moment in his life. Selma, Watts riots' follow-up, the split between the Chicago and the Meredith marches, Viet Nam, the Poor People's Campaign, Memphis—I was not against any of it, but I felt it was disastrous pace. Martin felt Hoover was intimidating President Kennedy and, after him, President Johnson and Robert Kennedy, and he seemed to want to show that he wasn't intimidated. He had this compulsion about freedom—his own and the movement's. I see no evidence that the pressure curtailed him.

Howell. Arthur Murtaugh, a retired FBI agent, told the House Intelligence Committee that he had been asked to obtain samplings of your handwriting, which he said he "knew damn well was going to be used in an unrecorded counterintelligence operation to destroy your chances of getting elected . . ." When did you learn of this?

Young. I first heard about that when he said it. The irony of that is that at the time I was signing the fund appeal letters for SCLC; so my handwriting was going out on at least a 100,000 pieces of mail a month. When I ran unsuccessfully for Congress in 1970 (against Fletcher Thompson), a movie was distributed by his organization accusing me of a multitude of sins, trying especially to link me to the most militant "Burn, baby, burn" kind of stuff. I thought perhaps the Republican National Committee helped them with that. It was a very professional job. Now I wonder if maybe the FBI didn't have a hand in it.

Howell. We know now that the FBI did not stop trying to discredit Dr. King even after his death: The Senate hearings revealed that Hoover lobbied his Congressional friends to prevent King's birthday from being a national holiday. James Adams, now number three man at the FBI, told the Senate committee that maybe the letter didn't invite suicide but confession repentance. Mark Felt, a former top official and possible good guy because some people think he's Deep Throat [the source of information for the *Washington Post's* Watergate investigation], said recently that the FBI activities were wrong but that he agreed with Hoover's feelings about King. We've heard that a Norfolk City Councilman is trying to block a proposed memorial to King there based on FBI reports that he was communist-connected. They labeled SCLC a "Black hate group." Do you think that the basic FBI mentality remains the same?

Young. I do! I think there is a kind of deep-seated sickness in the FBI. It came from the top, and it's going to be a long time purging the organization of that. In many respects the FBI was more right-wing and neofascist than the CIA. The FBI seemed caught up more in emotional fanaticism. The tragedy of this whole thing, leaving aside Martin's death, is that none of the groups that ultimately cause violence in this society were really under FBI surveillance at all, none of the organized crime push which has created a high level of violence in our cities through narcotics—the number of people being murdered in any given city in any week is greater than the number of people being hurt in 10 years of civil rights activity. We know now that organized crime was not only allowed to develop, but [was] even colluded with and assisted in certain cases by the FBI and the CIA. Their priorities and understanding of what America's about are so distorted that I think the country's in serious trouble now. The only reason there's any hope is because there was the civil rights movement which awakened America from the McCarthy era, and not only created a kind of consciousness in Black America but is responsible for an environmental movement, a women's movement, a consumer movement, a new fervor among the Spanish-speaking groups and consciousness of others' rights in 1960's students.

Howell. One final question: Do you think they should take Hoover's name off the FBI building?

Young. Well, I'm not—I don't have anything against Hoover. Maybe in his younger years he was a good guy who did a good job. One of the lessons we perhaps ought to learn out of this is that it would be important to have an FBI director with a five-or seven-year term. I'm more interested in changing the organization than I am the name on the building. It might be good to keep his name on the building to remind us how close he came to leading us into a police state. The Nixon-Hoover combination came close to destroying what we know of democratic society.

HAWAII OBSERVES KUHIO DAY IN HONOR OF THE PRINCE OF THE PEOPLE

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. MATSUNAGA. Mr. Speaker, Friday, March 26, marked the 104th anniversary of the birth of Hawaiian Prince Jonah Kuhio Kalanianaole. A champion of democracy and one of the principal proponents of Hawaiian statehood, Prince Kuhio is affectionately recalled as the "Prince of the People" in Hawaii.

Born on Kauai, not far from my own birthplace, Kuhio was a direct descendent of the last independent ruler of that island. He was created a prince of the realm by his uncle, King Kalakaua. Educated in the United States and at the Royal Agricultural College in Great Britain, Kuhio's early career was undistinguished. Forced to cut short his studies because of ill health, he returned to Hawaii and became a minor official in the monarchy. In 1893, when a nonnative element brought revolution to the islands, Kuhio sided with his cousin, Queen Lilioukalani. He was subsequently arrested and imprisoned for 3 years.

It is the story of Kuhio's "comeback" which so inspires the people of Hawaii today. Returning from a lengthy tour of the world after his release from prison, he entered politics and, in 1902, became a member of the Republican Party. He won the party's nomination for territorial delegate to the U.S. Congress. Victorious in his first election, he was reelected 10 times, serving until his death in 1922.

A popular, hardworking delegate, Kuhio won the respect and admiration of his colleagues, indeed, of all with whom he came in contact. He was noted particularly for his efforts in behalf of the Hawaiian people. In 1919, he introduced the first of a series of bills providing for Hawaii's admission to the Union. In addition, he was the sponsor of the Hawaiian Homes Commission Act, a law designed to help save Hawaiians from becoming second-class citizens in their own land. By his example, Kuhio showed the Hawaiian people that the democratic system could work for them. Perhaps more than any of his contemporaries, he is responsible for converting the people of Hawaii to passionate Americanism.

Sadly, Kuhio did not live to see his dream of statehood for Hawaii come true. Upon his death in 1922, against his expressed wishes, he was accorded a royal funeral. He was honored not only because he was the last titular prince of his line, but also because he was truly "Ke Alii Makaainana"—"A Prince of the People."

SITUATION IN CHILE

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. STEIGER of Arizona. Mr. Speaker, we are all concerned about the current situation in Chile. I feel that the following letter written by Jerry Greene, a native of Arizona who has lived in Chile for 9 years, presents a strong argument in favor of U.S. aid to that country.

The letter follows:

March 17, 1976.

Hon. Sam Steiger,
House of Representatives,
Washington, D.C.

Dear Sir: Allow me the pomposity of introducing myself: I'm Jerry Greene; a native of Scottsdale; 1965 Graduate of Arizona State University; 1966 Graduate of Thunderbird Graduate School of International Management; and a 9-year resident in Latin America. I presently manage the Chilean subsidiary of a U.S.-based company.

My energy is normally dedicated to managerial tasks . . . not easy in an economy that was destroyed by three years of Marxist government. My daily responsibilities have been set aside for a few moments and my present desire is to state some facts and thoughts regarding U.S.-Chile relations.

Senator Kennedy has done his best to deny U.S. Military aid to Chile. I understand that his efforts were successful in the Senate but that similar legislation was recently defeated in the House. Regardless of the legislative results, Kennedy has confused and alienated the Chileans. It is difficult to understand why a U.S. "leader" openly opposes aid to a country that wishes to be a friend . . . a country that has recently experimented with and then, by popular demand, overthrown a Marxist government. This causes one to wonder whether Kennedy is a victim or part of the international communist conspiracy against Chile.

Congressmen Moffet of Conn., Miller of Cal., and Harkin of Iowa recently made a very short visit (two days, I believe) to Santiago. These gentlemen must be extremely intelligent individuals. A few hours in Chile and they are prepared to offer press conferences in the United States regarding the "Chilean situation" and reportedly are planning to sponsor new anti-Chile legislation. The congressmen spent their time with common criminals; with recognized Marxists; with ex-President Frei (commonly known as the Chilean Kerensky); and with certain idealistic local leaders of the Roman Catholic Church (of which I'm a member . . . Catholic, not idealistic!). This is similar to going to the Kremlin to study the "Soviet situation."

Moffet, Miller, and Harkin refused to examine the warehouse containing thousands of weapons and explosives (illegally imported to Chile by the Allende government) which government authorities have recovered from ultra-leftwing groups To top off their short-sighted, undiplomatic adventures, our three distinguished congressmen failed to appear for pre-arranged visits with very high-level Chilean government officials. Again, the U.S. slaps Chile in the face. Whereas I can fully understand the lack of culture, education, and diplomacy which these congressmen demonstrated, it perplexes the Chilean . . . "those are your lawmakers?"

Please build support for Chile. Kennedy, Moffet, Miller, Harkin, et. al may be experts in accumulating votes through deceit but they are not experts on Chile. Chile must be projected as it is: A developing country that is characterized by liberty and justice . . . a country that is unified in attempting to recuperate from a disastrous experiment in Marxist economics . . . a country that begged the armed forces to act against Allende . . . a nation of people that respect and recognize the need for the current government . . . and a nation that wants the United States of America as its friend.

Sincerely,

Jerry Greene.

LOCKHEED'S SUGAR

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. HUNGATE. Mr. Speaker, once again, Punch has touched a nerve in the problems that affect our mutual efforts to sell aircraft and the costs experienced in doing business. Perhaps my colleagues will be interested in the following article:

[From Punch (magazine) Feb. 18, 1976]

LOCKHEED'S SUGAR

(By William Davis)

So now we know where the Concorde salesmen went wrong. Instead of spending £1,000 million on developing the plane the French and British should have made do with £97 million and left £30 million over for bribes.

Imagine the disappointment among some of Concorde's potential customers, at the end of the demonstration flight. "Yes, yes, very nice. Most impressive. Great British/French technological breakthrough and all that. But where's the *money?*"

I don't suppose for one moment that the question was even asked. We and the French have a reputation for being rather old-fashioned about these things: we still cling to the view that, if cheques are to be handed over, they should be signed by the buyer and not the seller. Lockheed's executives, by their own admission, take a more modern view. And they seem to have been remarkably successful in selling planes.

Not, of course, that American companies use ugly words like "bribe". They prefer to talk about gifts, commissions and agents' fees. (Lockheed executives used an even more cosy label: "sugar".) Help them sell their product and you get a commission or fee. Nothing wrong with that—as long as it is done openly and doesn't involve public officials.

As it happens, I had lunch with the chairman of Lockheed in Washington just a few weeks ago. If he had offered me money to use my influence that would have been perfectly all right. And I should certainly have agreed to help out. But somehow, he neglected to do so, and I forgot to ask him if he'd brought his cheque-book. Life is full of missed opportunities like that. He did pay for the lunch, though. I doubt if even the most scandal-hungry gossip columnist will be able to make something out of that, but you never know.

The Lockheed chairman spent most of the lunch talking about *his* financial problems. Or, rather, his company's problems. "The airplane business," he said, "is a great business and an exciting business. If only it were a business we could make some money in, it would be perfect."

Well, I suppose one could say that if he keeps handing out gifts, fees and commissions—as alleged at the Washington hearings—he has only himself to blame if there's no profit left at the end of it. But that would be unfair. Developing planes has always been an expensive business and, inevitably, involves a great deal of risk. Ask the people who built Concorde with the taxpayers' cash. Lockheed took the view that the end justified the means: if payola could secure the sales needed to get a return on their investment then it was cheap at the price.

The Washington disclosures rule out any further activities of this kind and the world-wide publicity has already affected sales. Congress has been told that Lockheed may be unable to repay vital federally-guaranteed bank loans. That should make the critics happy.

"In certain parts of the world," *The Times* noted the other day, "the businessman is faced with a simple choice. Either he allows a bribe to be paid, or he does not get the business. . . . There is some evidence that the excessive fastidiousness on the part of British businessmen and governments, in the face of other European competitors, is having the effect of losing contracts."

Oh, how marvelous it is to be British. We may be broke, but at least we know how to behave. Or perhaps it's just that we are more discreet about it: parliament isn't nearly as inquisitive as Congress.

Our scandals tend to be more concerned with sex than money. There are occasional lapses, to be sure, but they involve paltry sums. The biggest fuss in recent years has been over a couple of hundred pounds. And, oh, a Silver Coffee Pot.

Of *course* you remember the coffee pot. The newspapers got very excited about it three years ago. John Poulson had given Tony Crosland a silver coffee pot back in 1966 and the Minister had written him a very nice thank you note. Sinister? The press certainly thought so. Mr. Crosland behaved as if he'd been caught with a kilo of heroin. "All I want to do," he told reporters, "is to get rid of the bloody thing."

The episode mystified our friends abroad: how could anyone believe that Ministers could be bought with such a trivial gift? In Italy, it is the kind of present which parents give teachers to make sure their children pass the Italian equivalent of our "O" level exams. In France you spend that sort of money on town councillors and policemen. In America . . . but we have already covered that. The "excessive fastidiousness" has been known to irritate other Ministers. Foreign Governments like to present visitors with some kind of gift and in most countries they would be allowed to keep it. British Ministers, however, are liable to find that some civil service aide has spirited it away. "Oh, by the way," the Minister will casually ask the following morning, "what happened to those gold fish knives the Sheik of Kuwait gave me yesterday?" The guardian of public morals looks surprised. "Minister," he says, "you couldn't possibly keep them." In short, the decision has been made and you'd better keep quiet about it.

Under British Law, almost *anything* worth having is illegal. The 1906 Prevention of Corruption Act makes it an offence to give or receive "any gift or consideration as an inducement or reward" in industry or commerce; the 1889 Public Bodies Corrupt Practices Act makes it an offense corruptly to receive or give "any gift, loan, fee, reward or advantage whatsoever as an inducement or reward" in local Government; ancient Common Law makes it an offence to bribe a policeman, magistrate, judge or any other public official.

Strictly speaking, then, you are in trouble if you accept a bottle of Scotch from a business contact at Christmas time—or, presumably, if as a local authority official you accept an MBE from Harold Wilson. (An honour, after all, is reckoned to be just as much a "reward or advantage" as a cheque.)

If John Stonehouse is to be believed, though, the Government itself is not above breaking the corruption laws. It has, he claimed last week, given "CIA-style secret donations" to foreign political parties. I have no means of knowing whether that is true or not, but I can guess at Whitehall's reply: it's all right to bribe people as long as you are doing it for your *country*. (The police would give you a similar answer if you asked about secret bribes to informers.) I shall leave you to decide whether bribing people to boost exports as Lockheed is alleged to have done, comes into the same category.

It is easy to condemn the whole international arms trade, which is at the heart of this affair, and even easier to attack the generals and public officials who are alleged to have been fed with Lockheed's "sugar". Nothing could excuse the conduct of corrupt military officers in Columbia who deliberately falsified their government's national defence estimates to favour an otherwise unjustified purchase of Lockheed equipment—a deception perpetrated with the full knowledge of company executives. But there is no point in anticipating the findings of the investigative committees now set up by Government in Italy, Holland, Japan, Sweden, Turkey and Colombia. That Lockheed paid out money is admitted; that people like Prince Bernhard took it, for their personal use, and were instrumental in getting their Governments to buy aircraft in return has yet to be proved.

Let me tell you another true story. A week or two after that lunch in Washington I was sitting in Prince Bernhard's study at the Soestdijk Palace in Amsterdam. (Oh yes, the lad gets around.) We talked about money—not the Prince's money but the very considerable amounts he has raised over the years, for the World Wildlife Fund, of which he is the President. (A fact which, for some reason, most stories on the Lockheed allegations have omitted to mention.) He has collected countless cheques from Governments, corporations and individuals and there is no evidence that any of that cash ever went into his own pocket. Indeed, a few years ago Prince Bernhard was instrumental in preventing a scandal which, had it become public, would have made every front page. As President of the Fund he presented a large cheque to Kenyatta who promptly put in his own bank account. The Prince threatened him with public exposure and the Old Man agreed to hand the money back.

No, I didn't offer Prince Bernhard any "sugar". And yes, I think he should be given the benefit of the doubt.

THE TAINO INDIANS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr RANGEL. Mr. Speaker, in this Bicentennial Year it is important to draw attention to those parts of America's history that through misrepresentation or purposeful oversight have not yet received their proper recognition.

One people we know little about is the Taino Indians, who lived in the time of Christopher Columbus on the Island of Boriquen, which we now know as Puerto Rico.

I would like to bring to my colleagues attention a book in the workings by Messrs. Prempeh and Taracido on the Taino Indians, a people whose history thus far has been written by the Spanish Conquistadores, who destroyed this free and noble people.

Mr. Speaker, I would like to share with my colleagues a description of the books purpose by its authors:

TAINO INDIANS

Many of the finest ancient artifacts left by the Taino Indians lie under The Vieques Airport in Puerto Rico. Most of the Taino Indian remains of their every day lives, have been utterly destroyed by bulldozers preparing sites for housing and industrial projects in Puerto Rico.

Petroglyphs, the rock carvings painstakingly etched into boulders centuries before any Europeans put foot in New York have been ruthlessly ripped from the earth and sold by unscrupulous vendors to private collectors.

It is only a question of time before these Puerto Ricon National Treasures are lost to the public forever.

The Taino Indians were in control of the Island called Boriquen, when Christopher Columbus happened to come across them. They were people of color, and lived in a very well organized society; after the conquest they suffered from discrimination, disease, poverty, malnutrition and eventual outright extermination.

However, the Taino Indian still lives in the children that the Taino Indian women were forced to bear from the Spanish Conquistadores. History thus far has been written by the victors, who saw fit to completely destroy a noble race of men and enslave *their* women; they have given us a Biased view of the Taino Indian as a lazy, yet savage, primitive people.

The Taino Indians were a free and noble people, proud and peaceful. They understood agriculture, and many of the techniques they utilized are presently being used in Puerto Rico. The names of major towns, and objects used everyday in households, not to mention daily foods are indian. It is important for the children of Puerto Rico, the young men and women to rediscover their ancient heritage and it is equally important for Puerto Ricans living in New York, New Jersey, Connecticut and elsewhere, as well as non-Puerto Ricans, to understand and appreciate what the Tainos were like so that we can all take pride in the dignity of their ancient way of life and the art objects which they created.

History cannot be taught through words alone, pictures are essential to make the Taino world come alive; merely collecting objects for museums is not enough, it is not practical to remove all the rock carvings to museums because space is generally always limited.

Our intention is to create a book that will capture these traces of their civilization for posterity and allow us to see the images of the Taino in the world in which they lived. The photographs will be a record of the artifacts and petroglyphs which still exist and what remains of the landscape that existed then—while many of the artifacts are simple, the concept that lies behind them was monumental.

To discover the Taino world is to uncover hidden treasures both material and spiritual which have great merit.

We intend to do our book soon because these traces will eventually be lost in the rapidly expanding urbanization of Puerto Rico. The images which we intend to preserve in this book will represent an important legacy too valuable to be ignored, much too urgent to be denied by anyone, because they are the remaining signs, the traces, that remain on the ancient and honorable Island of Boriquen.

The Tainos were a people too vital to be forgotten and hidden from the world; their world still lives, it lives and breaths; it reaches out from the obscurity of centuries—it screams out in the face of history not to be forgotten.

A REVENUE SHARING SUCCESS STORY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ABDNOR. Mr. Speaker, I would like to share with you a success story: a success story made possible by this body; a success story made possible through Federal revenue sharing.

The plot for the story is neither new nor different. Aberdeen, S. Dak., is a community of 29,000, third largest city in the State. Like many medium-sized towns in this country, Aberdeen needs exceeded resources. Revenue sharing at first seemed to be but another Government program for distant cities. Pleasantly, those dismal expectations were never realized, and revenue sharing became a reality for the city.

In the first year Aberdeen was able to locate firefighting services at the municipal airport. The Senior Citizens Center got a new furnace. Long-overdue repairs were made to the municipal building, and nearly half a million dollars worth of street repairs and improvements in the sanitation system were made.

These past years, revenue sharing has been used, not for the luxuries of city life but for necessities; street and bridgework repair, new water system and extension, subsidies for the health department, and improved sanitation facilities. The proposed budget for 1976 includes day care center subsidies and aid for the Boys Club, senior citizens programs and parking improvements. The list goes on and on.

This is a success story. But more important it is also a true story.

Federal revenue sharing has meant critical assistance to citizens of Aberdeen to take care of essential needs.

This story actually ends only with the first act. Many scenes are yet to follow. I urge my colleagues to join with me in making this possible through extension of this program.

Mr. Speaker, I would like to include in the RECORD a listing of Federal revenue sharing expenditures made in Aberdeen, S. Dak., which indicate how the program is working. Also included are budgets for the city, county, and school district:

FEDERAL REVENUE SHARING

First funds received December 29, 1972. First expenditures made in 1973. (Note the Breakdown showing Public Works projects completed were from Sales Tax and Federal Revenue receipts. Amount budgeted for each item indicated in parentheses for that item.

1973 EXPENDITURES

Administrative additional help and other ($10,000)	$5.295.65
Firemen at airport ($70,000)	60,207.35
Municipal building repairs ($40,000)	39,679.28
Senior Citizens Center repairs-entrance and heating ($5,000)	2,544.86
Wylie Park remodeling or repairs ($5,000)	----
Parking lots ($25,000)	7,493.64
Street repair and improvements, storm and sanitary sewer, water system improvements ($545,031.00):	
Water	135,844.90
Street	204,754.21
Railroad Crossing	20,324.75
Storm	113,561.47
	474,485.33
Total 1973 expenditures	589,706.11

1974 EXPENDITURES

Tenth Avenue Bridge ($50,000)	55,790.58
Municipal Hall remodel-phase 5 and 6 ($63,000)	66,696.26
Street ($135,000)	156,421.43
Water supply line and tank ($280,000)	248,065.20
Total	526,973.47

1975 EXPENDITURE

Dakota Street Lift & Sewer ($415,000):	
Expended	142,648.99
Encumbered	272,351.01
	415,000.00
Streets ($5,500)	5,463.00
Health Department ($5,000)	5,000.00
Adjustment Training Center ($2,500)	5,000.00
Total 1975 Expenditures	427,963.00

1976 BUDGET

Northwest relief sewer	346,336
Fourth Street force main	101,000
Streets—Dakota Street, parking, et cetera	150,000
Building at disposal plant	15,000
Three warning sirens	10,000
Health department	5,000
Adjust. Training Center	2,500
Area Bicentennial	1,000
YWCA-Day Care Center	4,000
Intervention Center	6,500
Nypum program	5,000
Senior Center	5,000
Boy's Club	4,000
Total 1976 budget	655,446

ABERDEEN CITY 1976 BUDGET ALLOCATION

FUND	*Appropriation*
General fund	$3,458,545.00
Airport [1]	459,153.00
Alcohol and drug abuse control	26,000.00
City employees pension	9,206.00
Fireman's pension	55,000.00
Fire department building and equipment	290,000.00
Forestry	90,207.00
Library	189,550.00
Municipal band	7,500.00
Parks and recreation	606,385.00
Snow removal	181,630.00
Sinking and Interest:	
1958 water bond "C"	33,768.00
1958 water bond "D"	84,100.00
1965 sanitary sewer	29,150.00
Total	5,520,194.00

[1] Includes $5,693 State aid, $30,460 Federal aid.

1975–76 ABERDEEN SCHOOL DISTRICT BUDGET

Administration	$121,947.00
Instruction	4,404,986.00
Health services	28,024.00
Operation of plant	558,000.00
Maintenance of plant	275,500.00
Fixed charges	591,523.00
Food services	14,350.00
Net current	5,994,330.00
Transportation	246,017.00
Total general and special education fund expenditures	6,240,347.00
Student body transfer	13,600.00
Tuition	15,000.00
Total	6,268,947.00

CAPITAL OUTLAY

Sites	35,000.00
Buildings	515,000.00
Equipment	100,000.00
Bond redemption	286,387.00
Total	7,205,334.00

1975–1976 FUTURE PROJECTS

(a) Vocational remodeling	150,000.00
(b) Lincoln elementary	365,000.00
(c) Vocational school	50,000.00
(d) Operation and maintenance	15,000.00
(e) Instructional	35,000.00

Total valuation, $91,425,288.

BROWN COUNTY 1975 BURGET ALLOCATIONS

FUND	
General (salaries)	$1,308,737.00
Road and bridge	875,000.00
Snow removal	60,000.00
Highway and bridge restoration	150,000.00
Care of poor	225,000.00
Mentally handicapped	105,000.00
Mental Health Center	68,150.00
Weed control	12,000.00
Fire protection	9,000.00
County fair and recreation	32,000.00
Senior citizens	12,500.00
County library	31,950.00
Historical society	44,100.00
Recreational and Industrial development	21,750.00
Civil defense	11,397.00
Oahe conservancy	18,500.00
S. Brown conservation district	2,000.00
Courthouse and jail implements	110,000.00
Brown marshall	3,000.00

N.Y.P.U.M	12, 180. 00
Machinery	75, 000. 00
Solid waste	390, 000. 00
Referal center	30, 000. 00
YWCA Day Care Center	17, 000. 00
Total	3, 624, 264. 00

Total Sources of Revenue

County, City, School

Total tax levy	$10, 744, 153. 00
Federal revenue sharing	962, 516. 00
Unexpended balances	1, 911, 816. 00
Sales tax and miscellaneous revenue	1, 507, 062. 00
Federal aid	250, 000. 00
State aid	689, 570. 00
Other revenue	467, 000. 00
Total	16, 532, 117. 00

CONTROVERSY OVER TOCKS ISLAND DAM PROJECT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. EDGAR. Mr. Speaker, as debate over the controversial Tocks Island Dam Project continues, I believe that it is important that differing viewpoints on the issue receive a wide audience. The Delaware Valley Council has prepared a detailed research memorandum on the water resource potential of the Delaware River Basin. I would like to submit the report for the Record:

Research Memorandum on the Delaware River Basin

I. THE SUPREME COURT DELAWARE RIVER DECREE PROVIDES NEW JERSEY SHALL SUPPORT CONSTRUCTION OF A DELAWARE MAINSTREAM STORAGE IMPOUNDMENT, AS THE "SPECIFIED CONDITION" OF NEW JERSEY TRANS-BASIN WITHDRAWAL OF UP TO 100 MGD FROM THE DELAWARE WITHOUT COMPENSATING RELEASES BACK TO THE RIVER

Section V.A. of the Supreme Court Decree of 1954 authorizes New Jersey to divert from the Delaware River, without compensating releases back to the River, for use "outside the Delaware River watershed", not more than "100 m.g.d., *if*" New Jersey: does not repeal N.J. Act 1953–443 before July 1955 (authorizing Pennsylvania to occupy New Jersey land for a large mainstem water storage dam and reservoir across the Delaware at Wallpack Bend, shortly upstream of Tocks Island), and after Pennsylvania accepts this N.J. Act conditions, New Jersey joins Pennsylvania in seeking congressional consent for such interstate impoundment.[1]

New Jersey did not repeal Act 1953–443. At Sec. 1 it reads: "Subject to the provisions of this act, authority [by New Jersey] is given to the Commonwealth of Pennsylvania or, through it, to any commission or other public body or municipality singly or collectively designated by the Legislature of said Commonwealth to construct and maintain a storage dam across the Delaware river at or near the area known as Wallpack Bend, but above the confluence with Flatbrook, and including the works and appurtenances of said dam and to maintain the reservoir above said dam for the purpose of impounding the waters of said river . . .".

And at Section 19 that: "This act shall become effective when the Commonwealth of Pennsylvania shall, prior to July first, one thousand nine hundred and fifty-five, by statute, accept the terms and conditions of this act . . .".

On June 30, 1955, in reliance on N.J. Act 1953–343, and Supreme Court Decree Section V.A., Pennsylvania approved Act. No. 69, adopting all N.J. Act 1953–443 conditions, and authorizing Pennsylvania to build Wallpack Bend Dam and Reservoir.

As designed for construction, Wallpack Bend Dam, seven miles above Tocks Island, is 1,850 feet long from shore to shore. Its Reservoir Lake, elevation 420, is 26 miles long, extending up to Port Jervis, with 372,000 acre-feet storage, 93–200 inactive, 270,000 active. It serves water supply, flood control, hydroelectric power, and lake recreation. Including fish passage facilities and power penstocks, but not specific power facilities operated by private industry, its cost at August 1955 price levels is $70.5 million. The Reservoir's "scenic beauty" provides "ideal recreation."[2]

Following further hearings, in April 1956 Pennsylvania with its own funds commenced land acquisition in Pennsylvania for Wallpack Bend Dam and Reservoir.

The New Jersey and Pennsylvania final briefs in this Supreme Court litigation, and the Report of the Special Master, explain why the Decree expressly makes N.J.'s 100 mgd trans-basin withdrawal subject to construction of a Delaware mainstem storage dam and reservoir for in-basin protection.

At the outset of this litigation, Pennsylvania and New Jersey both objected to N.Y.'s proposed formula in its original 1952 petition, under which N.Y. would make certain additional releases for the mainstem to compensate for N.Y.'s proposed additional trans-basin withdrawals from the Delaware. After months of negotiations in 1952 between N.Y. and N.J., only, early 1953 they reported the so-called Montaque formula, plus their special, separate New Jersey-New York: "agreement [that] eliminates the possibility of either New York City or New York State offering any objections to diversion of water from the Delaware below Montaque by the State of New Jersey" (N.J. Exhibit No. 1, *N.J. v. N.Y., supra.*)

After studying it, Pennsylvania opposed it. Later Pennsylvania consented to N.J. also diverting this 100 mgd out of the Basin, without compensating releases to the River, if—to enable the River to meet Pennsylvania's growing in-basin needs—N.J. enacts legislation to enable Pennsylvania to build a storage dam and reservoir across this interstate boundary stream at Wallpack Bend, occupying New Jersey (as well as Pennsylvania) land to be condemned by New Jersey.

N.J. agreed, and in May 1953 undertook to have such legislation enacted. As Pennsylvania's position on this N.J. diversion depended on enactment or non-enactment of this N.J. legislation, the proceedings were then postponed. The N.J. legislation was enacted December 30, 1953 (N.J. Exhibit No. 15) and the proceedings resumed February 19, 1954.

Concluding, shortly thereafter: New Jersey Final Brief, April 1954 (at 14–15): "By the passage of Laws of 1953, chapter 443, by its legislature in November and December of 1953, the State of New Jersey has removed all legal barriers to enable the construction and maintenance by the Commonwealth of Pennsylvania, of a dam and reservoir across the Delaware River at Wallpack Bend for the storage of river waters." And,

"In consideration of the enactment of this legislation by the State of New Jersey, the Commonwealth of Pennsylvania has recognized the claim of New Jersey to withdraw one hundred million gallons of water daily on an annual average from the Delaware River or its tributaries, for use outside of the Delaware River watershed, without any requirement of compensating releases on the part of the State of New Jersey."

Pennsylvania's Final Brief, May 1954 (at 44–45): "New Jersey's Act was passed as a result of Pennsylvania's agreement not to oppose New Jersey's application for the diversion of 100 m.g.d. as above set forth. The New Jersey Act was passed and was approved by Governor Driscoll on December 30, 1953." And,

"Pennsylvania also wishes to make it clear that it does not concede that New Jersey has any historical or prescriptive right to divert any water from the Delaware River watershed into another watershed.[3]

New York, New York City Final "Supplemental Memorandum", April 1954 (at 14): "To that [100 mgd uncompensated mainstem] diversion by New Jersey, Delaware and Pennsylvania have not objected. The New Jersey statute opened the way for the lower basin to obtain a substantial amount of water for the water supply purposes of the greater Philadelphia area."

Special Master, Final Decree Recommendation, May 27, 1954 (at 108): "The amended decree also . . . permits the diversion by New Jersey of 100 m.g.d. without compensating releases upon the conditions which were negotiated between New Jersey and Pennsylvania." And

U.S. Supreme Court Decree of 1954 (347 U.S. at 1001): The "Specified Condition" "Decree Section V.A. at page 1 herein), is that as condition of New Jersey diverting from the mainstem or its tributaries for trans-basin use up to 100 mgd without compensation, New Jersey shall permit and support construction of a mainstem conservation impoundment as Wallpack Bend, above Tocks Island, to serve Pennsylvania in-basin needs.

This Final Decree, entered June 7, 1954, is a unanimous consent Decree, consented to by New Jersey particularly, and New York as well. Each accepted this "special condition"—to protect Pennsylvania's in-basin needs downstream from those States' withdrawals upstream—as a reciprocal condition of their depletive diversions of the Delaware mainstem. All required congressional consent was granted.

In 1961 the States by contract further unanimously agreed these Decree conditions shall endure unaltered for 100 years (PL 87–328, Delaware River Compact).

New Jersey now is withdrawing one half of this 100 mgd and, noted later, is making construction plans to withdraw the remainder.

II. WITH NEW JERSEY CONSENT, AND PENNSYLVANIA CHANGE OF UNRECOVERABLE POSITION BASED THEREON, CONGRESS DIRECTED CONSTRUCTION OF MAINSTEM STORAGE IMPOUNDMENT AT TOCKS ISLAND IN LIEU OF WALLPACK BEND

Shortly after Pennsylvania's enactment June 30, 1955 of Act No. 69, the Delaware River flooded disastrously (Presidential Disaster Declarations, August 20, 22, 1955).

At the Delaware Basin States' request, Congress promptly ordered a comprehensive survey of the Basin for flood control, water supply, and other purposes. In addition, at these States' request Congress on February 26, 1956 ordered a determination made of "the feasibility of construction and operation of a reservoir on the Main Stem of the Delaware River above Delaware Water Gap near Wallpack Bend or Tocks Island."

On February 6, 1957 the Corps reported to Pennsylvania's Governor that "Tocks Island dam site has a number of advantages over the Wallpack Bend" Project, including:

Tocks Island has greater effective storage for Basin floor control, water supply and other known water resource requirements. This greater storage is "an asset of great value in this highly developed valley".

Footnotes at end of article.

Its cost per acre foot is only half as much as Wallpack.

Tocks provides "enhanced recreational opportunities" over Wallpack.

Subsequently, following completion of the comprehensive survey, hearings on it around the Basin States, and in Washington, and on the unanimous consent and approval of the State of New Jersey and other Basin States, Congress in October 1962 directed construction of the mainstem impoundment at Tocks Island, L 87–874. Senator Case (NJ) urged Tocks Island's "immediate authorization" for its needed: "flood control, water reserves, hydroelectric power, recreational facilities, navigation and a variety of other benefits of incalculable long range importance to the development of the Delaware River Valley and the welfare of its people." (Senate Hearings on Rivers and Harbors—Flood Control, Part I, page 379 (August 1962)).

Thus, on N.J. (and other States') consent, and PA. reliance thereon, this unanimously agreed replacement of Wallpack technically and in actual fact precludes Wallpack. And now the land in New Jersey (and Pennsylvania) required for Wallpack is owned by the U.S.A.

This unanimously agreed replacement of Wallpack fulfills the mainstem impoundment condition, required by Decree Section V.A. for New Jersey's trans-basin withdrawal of up to 100 mgd from the mainstem. This unanimously agreed replacement of Wallpack (i.e., the allocable part of Tocks conservation storage repayable by New Jersey consumers in the future, at only 3¼% interest,) also provides mainstem storage for those "compensating releases" New Jersey, by Decree Section V.B. footnoted at page 1 here, must finance to make its needed future additional trans-basin withdrawals from the Delaware River system.

To date, Congress and the Executive Branch have already spent well over $100 million of public funds for this mainstem conservation impoundment, and its surrounding land recreation area. Nearly $60 million is for its dam and lake.

III. NEW JERSEY OBSTRUCTION OF MAINSTEM IMPOUNDMENT REQUIRES SUSPENSION OF NEW JERSEY TRANS-BASIN WITHDRAWALS FROM THE MAINSTEM

On July 31, 1975 New Jersey's Governor announced his personal opposition to construction of mainstem impoundment now. He said: (a) for the next 25 years or so trans-basin New Jersey will not need any mainstem water conserved by this impoundment; (b) in trans-basin New Jersey there are numerous potential "low cost" water supply sites capable of meeting its increasing needs there; (c) New Jersey is going to finance and build them. (d) He opposed any construction now under special agreement that Pennsylvania repay all this impoundment's cost allocated to water supply. (e) To insure its availability to meet New Jersey water needs after 25 years, he opposed any deauthorization of this impoundment.

As noted later, that Governor's obstruction—strongly opposed by Pennsylvania—was not action or obstruction by the Delaware River Basin Commission.

Assuming New Jersey could finance and construct its claimed trans-basin alternatives, that is irrelevant to its Decree duty to support mainstem impoundment, *if* it would continue diverting up to 100 mgd from the mainstem to trans-basin New Jersey. If it wants to do so, it has to support mainstem impoundment. That Governor apparently was not aware of this.[4]

This mainstem impoundment that Governor is obstructing is the New Jersey-agreed substitute for Wallpack, not Wallpack, of course. For purposes of determining whether New Jersey may divert that 100 mgd, and reject the Supreme Court precondition of doing so, that impoundment distinction is not meaningful. Tocks impoundment and recreation area, advanced on New Jersey consent and knowledge, and Pennsylvania reliance thereon, to the present (1) replaced Wallpack legally and otherwise, (2) makes Wallpack impossible now. Having thus acted intentionally to preclude mainstem impoundment, whose support the Decree makes the precondition of New Jersey trans-basin diversion, New Jersey cannot make that trans-basin diversion.

To attempt to do so is (ignoring ethics,) to attempt to repudiate New Jersey's own enacted sovereign undertaking not to do so, and the express language—and the evident legal equities—of the U.S. Supreme Court Decree prohibiting it from doing so. It is also to attempt to subordinate Pennsylvania in-basin needs, to New Jersey trans-basin convenience.

As for Pennsylvania's growing in-basin needs for the mainstem:

(A). Pennsylvania's final brief to the Supreme Court, May 1954: "The keynote of Pennsylvania's position . . . [in this Decree litigation] was sounded, and the fundamental purpose and nature of the Pennsylvania proofs were revealed, in the testimony of Consulting Engineer Greeley * * *

"Greeley testified that probably [by 1968,] eight to ten years before the critical year of 1978, when the net available quantity of river water would be insufficient to supply the water needs of the Pennsylvania and lower New Jersey inhabitants of the basin, it would be necessary to reconsider the river problem, including the proposed total diversion by New York and New Jersey," at 64–65. (As noted, page 4 here, this Pennsylvania forecast assumed the Decree condition prescribing mainstem impoundment for Pennsylvania in-basin protection against those New York, New Jersey trans-basin diversions upstream.)

(B). *Delaware Basin drought disaster, Presidential declaration, August 1965*, including New York's suspension of its upper Delaware Basin reservoir releases to the mainstem, needed in-basin downstream, required by the Decree as the condition of New York's trans-basin diversion upstream. U.S. Interior Department Secretary:

This impoundment, "Tocks Island Dam on the mainstem of the Delaware [just below its New York border,] . . . is an opportunity for this very region that is suffering most now to permanently solve its problems . . . [of water supply deficiency]. If we had Tocks Island Dam in today, just this one dam on the mainstem . . . you would have no problem because you would have the storage" this impoundment provides. (Senate Interior And Insular Affairs Committee Hearings on Northeast Water Crisis (September 1965)).

Basin State Senators similarly stressed this impoundment stance in authorizing its surrounding land recreation area, PL 89–158, in August 1965 (Cong. Rec. 20423).[5]

(C). Pennsylvania in-basin requirements, 1975 and forward. For example:

(1) City of Philadelphia's $360 million mainstem water pollution control works require assured firm mainstem flow, assured by the mainstem impoundment. Absent this, City of Philadelphia now must finance additional pollution control works, or endure increased mainstem pollution during mainstem seasonal and other low flow periods.

(2) Pennsylvania in basin needed new and replacement economic plant requires over its long amortization, employment, output period assured firm water supply at reasonable cost, assured by the mainstem impoundment. Absent this, the economics of such needed in-basin investment now are discouraged or impaired.

(3) Pennsylvania in-basin needed new and replacement baseload thermal electric power plants require cooling water supplied by assured firm mainstem flow, assured by the mainstem impoundment. Absent this, their construction now is prohibited, unless they commit to reduce output, or are able to finance and construct separate reservoirs to supply cooling water for operation during mainstem seasonal and other low flow periods.

(4) Pennsylvania in-basin increased domestic, municipal and other demands require additional firm supplies of water of acceptable quality at reasonable cost, assured by the mainstem impoundment. Absent this, Pennsylvania in-basin supplies now are faced with increased mainstem water processing costs, including desalination, for its seasonal and other low flow periods.

Pennsylvania in-basin's increased water needs are legally fundamental to its citizens' welfare. They can be met:

From the mainstem impoundment, that New Jersey must support as the condition of continuing to divert up to 100 mpd of mainstem flow trans-basin, *Or*, for a while,

From the 65 mpd increase in mainstem flow on suspension of New Jersey's existing trans-basin withdrawal thereof, on obstruction of the mainstem impoundment.

The existing lack of assured firm mainstem flow *now* increases consumer and other costs of Pennsylvania in-basin citizens.[6]

CONCLUSION

Accordingly, to protect its in-basin citizens' welfare, in these premises Pennsylvania:

May request New Jersey officially to support construction of the mainstem impoundment now, or to suspend trans-basin withdrawals from the mainstem.

If New Jersey declines to support such construction now and to suspend trans-basin withdrawals, may exercise its right (specifically preserved by PA-NJ contract, Decree Secs. V.A. and X, and Compact Sec. 3.4,) to obtain from the US Supreme Court relief against continued New Jersey trans-basin withdrawals from the mainstem.

This existing Pennsylvania in-basin right, to New Jersey support of the impoundment or to non-diversion of mainstem flow trans-basin (preserved by enactment, contract, Decree, and Compact), cannot be obstructed or otherwise impaired by another State or States, acting separately, together, or jointly as the Delaware River Basin Commission.

FOOTNOTES

[1] Decree Section V, "Diversions by New Jersey Authorized Under Specified Conditions." (Section V.B., not pertinent here, authorizes New Jersey to make additional trans-basin diversions from the Delaware (usually called 300 mgd) if New Jersey finances additional storage and makes compensating releases from it back to the River. And, Section V.B. repeats, the total trans-basin amount New Jersey may divert under Section V.A. "without compensating releases" if it supports this mainstem impoundment above Tocks, "shall not exceed an average of 100 m.g.d.") *State of New Jersey, Complainant*, v. *State of New York and City of New York, Defendants, Pennsylvania and Delaware, Intervenors*, 347, U.S. 995 at 1001, 98L ed 1130 (June 7, 1954).

[2] Report to the Commonwealth of Pennsylvania Department of Forests and Waters on Wallpack Bend Dam and Reservoir on the Delaware River at Bushkill, Pennsylvania, Albright & Friel (September 1, 1955).

[3] The Decree affirmed, thus, only existing uses "not involving a diversion outside the Delaware River watershed" (Sec. VI, 347 U.S. at 1002, emphasis added).

[4] For example, one of his claimed "trans-basin alternatives" to the mainstem impoundment is New Jersey's full withdrawal of the 100 mgd (whose trans-basin diversion

requires New Jersey to support construction of the mainstem impoundment) ! New Jersey now uses over sixty of this 100 mgd, daily. It plans: (a) to reconstruct its Delaware diversion canal to take the rest, and (b) to construct a new balancing reservoir, "Six Mile Run", to store it in. (New Jersey's bond referendum to finance this canal reconstruction, $10 million, was publicly defeated in November 1975.)

(The "additional" New Jersey trans-basin water supply needs that Governor speaks of, are "additional" to those New Jersey trans-basin needs now being met by its mainstem withdrawal of up to this 100 mgd.)

[5] Senator CASE (N.J.): "Part of the acreage would be used to create a 37-mile-long reservoir to be used for water supply, flood control, hydroelectric power and, of course, recreation. In view of the drought which has parched our part of the country for more than 4 years, it is clearly necessary that additional water resources be developed as quickly as possible."

Senator SCOTT (Pa.): "Mr. President, it is well known that the States comprising the Delaware River Basin—Pennsylvania, New Jersey, and Delaware—are suffering from a serious water shortage resulting from 4 successive years of drought conditions. The day before yesterday at the White House, the Governors and Senators from these States met with the President . . . to consider this grave problem."

Senator KENNEDY (N.Y.): "Tocks Island Reservoir will provide highly needed additional water storage capacity for Philadelphia and other cities along the Delaware. If the Tocks Island Reservoir were in existence today, Philadelphia and Camden would not be facing as critical a water problem as they now do. The action taken yesterday . . . means that Tocks Island Reservoir will be ready."

Senator JAVITS (N.Y.): That White House meeting was important to "the Delaware River Basin on which New York depends for about 50 percent of its water. Indeed, it is said that if the [Tocks] project were completed we might have no water problem. So it is critically important."

[6] As noted, page 6, New Jersey's Governor avers trans-basin New Jersey has numerous "low cost" alternatives to meet its own needs.

THE GROWING POSTAL DILEMMA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ABDNOR. Mr. Speaker, the crisis afflicting the U.S. Postal Service shows no sign of abating. Indeed, every day there are new reports of mangled mail, lost deliveries, cuts in service, to say nothing of mounting costs and deficits. Rural America is particularly concerned, because of the threatened closure of third- and fourth-class offices in a cosmetic attempt to reduce the deficit. These cutbacks in rural America are totally unjustified because, first, savings by closing third- and fourth-class offices could save only $100 million of the over $2.4 billion—in 1974—annual deficit; and second, they do not begin to touch what is causing the bulk of the deficit.

In their March 17 edition, the Aberdeen, S. Dak. American-News had a very thoughtful editorial on this dilemma. I would like to share it with my colleagues:

POSTAL SERVICE HAS BECOME LESS THAN SATISFACTORY

The Postal Service was once the pride of the United States and the subject of mottos proclaiming the dedication of the letter carriers. Today the employees continue to be dedicated but the service, under the direction of a quasipublic corporation, has become less satisfactory and postal rates have skyrocketed.

The public, during a year when patriotism is being emphasized, is ironically increasing the intensity of its criticism of delayed deliveries and the management of the Postal Service has now announced three-day operation as a possible remedy in dealing with financial problems.

The three-day service suggestion has not been approved. It is described as one of the options. But persons suspicious of government maneuvering fear it is being mentioned to make five-day service more palatable. The reduction of service to five days a week is a serious threat. Such reduction should not be tolerated any more readily than three-day proposal.

The theory that service of the Post Office would improve under its new independent status was worth exploring but in practice it has not worked.

The goal must be for better service, not curtailed service. Action must be taken that will regain confidence of the people who should be encouraged to use the mail. Discouraging use of the mail system further diminishes it and adds to financial problems.

The Congress and proper government agencies should see to it that understanding guidance and financial support be given the Postal Service until it is on the right track.

If after this guidance the system still appears to be losing efficiency it may be necessary for the Congress to terminate the special status of the Postal Service and revert to the former system.

The independent management of the Postal Service seems to have forgotten that the Founding Fathers approved federal subsidies because it was their intention that the postal system should engourage free flow of information. They were of the opinion that the postal system was a necessary service of government and not a business.

NUCLEAR POWER IS VITAL TO THE NEEDS OF IDAHO AND U.S. ECONOMY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. HANSEN. Mr. Speaker, the United States now imports over 50 percent of our oil consumption. Rapid development of nuclear power is a must without which the Nation's economy will falter while the United States becomes more and more dependent on foreign sources of energy. America cannot stand idly by, leaving its well-being in the hands of undependable foreign sources. While all domestic fuel sources must be developed, the Nation's greatest reliance in the immediate future must be placed on coal and nuclear energy. Idaho has a big stake in the Nation's nuclear program and nuclear energy is the target of a well-organized drive to ban its use. The basis of that campaign is that nuclear energy is not safe. This is a very erroneous assessment. The occupational safety record of the nuclear industry is outstanding when compared with competing energy industries.

In the more than 20 years that nuclear energy has been in use for power production there has been not one death due to radiation effects. But the safety record of the nuclear industry is no guarantee for the future. That is why we insist that safety standards must be the most stringent, the most uncompromising for any industry. And Idaho is showing the way in this regard.

Mr. Speaker, I stress that the risks to workers and the public from potential accidents in nuclear powerplants are very small. A recent study for the now renamed Atomic Energy Commission—ERDA—found that the likelihood of being killed in any 1 year in a reactor accident is one chance in 300 million, while the likelihood of being injured is one in 150 million. The study judged the likelihood of a core melt accident as one in 17,000 per reactor per year. With 100 reactors operating, as is anticipated for the United States by 1980, this means that one such accident would occur, on the average, every one and three-quarter centuries.

If the United States can get 200 nuclear-generating stations on line by 1985 it will reduce the Nation's oil requirements by 6 million barrels per day. That is just about the quantity of oil we have been importing, which demonstrates the importance of expanding our use of nuclear energy as rapidly as possible.

Mr. Speaker, energy plays a fundamental role in the country's economic life. An ample supply of energy is essential to production. Production is essential for jobs, and without jobs our country would be in chaos and ruin.

I am committed to a policy and program to serve that objective. If we are going to have full employment, we need 3 percent annual growth in energy. Unless we have nuclear energy, we are not going to have 3 percent growth in energy.

Mr. Speaker, antinuclear advocates are essentially anti-growth or slow-growth proponents. That means jobs will not increase, and in some industries there would be layoffs if these critics of nuclear power got their way. Moreover, prices would rise, and some sharply.

While conservation represents one small answer to the Nation's energy scarcity problem, it will not alone solve the crisis. There still will be the need for increased energy in the next 15 to 25 years because of greater consumption.

Mr. Speaker, recent Bureau of Mines estimates show that the use of coal will rise from its present 18 percent of total energy supplies to 21 percent by the turn of the century, and coal in itself is not the answer to the problem. Nuclear power will have to supply a large part of the rest of the country's total energy needs. According to the Bureau of Mines, nuclear power is expected to rise from less than 2 percent at present to about 28 percent by the year 2000, a spectacular increase. This could generate about 1.5 million jobs in construction, manufacturing, transportation, warehousing, and distribution.

If you pull the plug on nuclear energy, you are just pulling the plug on the whole economy. Unless the Nation moves ahead rapidly to develop nuclear power we will all be in trouble regarding employment, buying power, living standards, and our whole way of life.

Mr. Speaker, a series of initiative petitions in 16 States seeks to impose onerous restraints on both existing and proposed nuclear facilities. If California's Proposition 15 to impose a moratorium on nuclear-energy development is approved by voters on June 8, State after State, caught in emotionalism, could follow suit.

It is a reaction to what I believe is a hysteria. It is almost a popular fashion to be for the elimination of nuclear energy. The effect of the various State-proposed restrictions on nuclear power would be to raise the cost of electricity. This would hurt consumers and workers and produce a ripple effect throughout the economy that would raise the price of all goods and services.

Mr. Speaker, Representative MIKE McCORMACK, Democrat of Washington, has said there is neither moral nor intellectual justification for the current obsession with hypothetical hazards of nuclear energy.

He said:

> The campaign to undermine nuclear energy is, in effect, a campaign to cause additional unemployment.

Representative McCORMACK heads a House subcommittee on energy research as well as two subcommittees of the congressional Joint Committee on Atomic Energy.

He said:

> Cutting back on nuclear-energy production will mean increased unemployment among American workers, not only those involved in the construction of the nuclear plants themselves, but, far more important, those involved in permanent industries which require the energy produced.

Mr. McCORMACK said:

> The chance that a person will be killed from a nuclear accident in a nuclear-power plant in 1980 when the U.S. is expected to have 100 plants on line is about one in five billion, or the chance of being struck by a meteor.

Mr. Speaker, I hope the Nation wakes up to its energy needs and responsibilities before we are all taking cold showers in the dark.

UNIQUE COMPANY GIVES DEAF EMPLOYEES A CHANCE

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1976

Mr. MYERS of Pennsylvania. Mr. Speaker, recently, I came across a magazine article in a publication entitled "The Smaller Manufacturer," which dealt with the success in small business by a determined resident of Mars, Pa., a community in my district.

The W. W. Lord Manufacturing Co., a welding business, is run by Winston W. Lord, who is deaf and who employs the deaf in his business.

Winston Lord started his welding business in 1971. He is now 34 years of age and has been deaf since the age of 2 years.

I am proud, Mr. Speaker, of this young man's success and I want to share it with other Members of Congress and those across the Nation who might take hope from the story of Winston Lord:

W. W. LORD MANUFACTURING: MARS COMPANY IS TRAINING GROUND FOR DEAF

(By Patricia Vido)

A unique on-the-job training program is helping deaf employes at W. W. Lord Manufacturing, Mars, perfect their welding skills.

The program is a joint venture of the company founded four years ago by a deaf young man and the Bureau of Vocational Rehabilitation of the Pennsylvania Department of Labor and Industry.

The Bureau supplies and pays a certified welding instructor who teaches the full-time workers three nights a week for three hours at the plant, located on Brickyard Hill Road.

LORD UNSUCCESSFUL AT FINDING WORK

Concern for the handicapped came naturally to Winston W. "Herk" Lord, owner of the company, who has been deaf himself since he was stricken with spinal meningitis at the age of two. Now 34, Lord started his own steel fabricating business in 1971 after 10 years' experience with an employer. His firm does carbon steel, stainless steel and aluminum welding.

Lord's own attempts to get his first job after graduation from the Western Pennsylvania School for the Deaf were discouraging, according to his mother, Christine Lord, who gave up her job as a beautician after 35 years to manage her son's business.

Although he had had three years of training in typesetting and printing, Lord couldn't find a job, largely, his mother believed, because prospective employers were afraid.

"They made excuses," she recalled, "like he might not see a fork lift and said it would be too dangerous."

Pointing to the company's low accident rate for the type of business it is, Mrs. Lord discounted those fears. She contended deaf employes compensate for their hearing loss by sharpening their senses of sight and touch to be alert to potential hazards on the job. The company has no problem with absenteeism, she added.

Lord worked for a year for Carl Strutz and Co., Mars, and then left with a company foreman who started his own fabricating business in Saxonburg.

He worked there until the company went out of business. Then with a hand brake, a welding machine, a shear and a loan of $3,000 his mother obtained, he opened his own shop.

EMPLOYES' SKILL AT FIRST VARIED

Word of the business traveled through closely-knit clubs and associations for the deaf in the Pittsburgh area, and men who'd had the same difficulties in getting a job that Lord initially faced, began visiting his shop and inquiring about work.

Lord now employs six deaf workers who take the class along with him and his wife, Georgetta, also deaf, who wants to learn her husband's business now that their three children, twins Winston Jr. and Sally Ann, 9, and Paul 8 are in school. The family lives at First Avenue and Second Street in Valencia.

The employees are Paul E. Baseler, Gibsonia; Kermit E. McNeish, Church Road, Penn Township; George T. Patterson, West Sunbury; Harry Young, Route 68, Evans City; Millard "Dean" McCulley, Myoma, and Richard Manol, Evans City.

The employes had varying degrees of skill when they arrived at Lord Manufacturing. Some had a little welding experience. Others, like Patterson, a former barber, were novices. Instructor Ken Delaney of New Castle marveled at his pupils' ability, according to C. Eugene Kingsley, placement counselor for the Bureau of Vocational Rehabilitation, since they couldn't depend on sound as do many welders to give an indication of their work.

Communication, which Delaney had expected to be a major problem, has been smooth. The instructor speaks to the group and those who can read lips use sign language to relay instructions to employes who don't lip read.

The evening classes were begun in October, 1975, when Mrs. Lord contacted Pennsylvania Technical Assistance Program Network (Penn-TAP), for some help in further training the employes. PennTap in turn contacted Kingsley's office and he undertook planning for the on-the-job training program.

The purpose is two-fold. It will provide employes with necessary skills to make them proficient welders and train key individuals to pass on those techniques to new employes.

Kingsley said, "There are, to our knowledge, no schools in welding that offer this to the deaf, or if they do, they have problems in communication due to the fact that it is an all hearing school."

The placement director said he foresees some of the workers or clients becoming experts at the welding trade under Lord, who is an exacting boss and demands quality work. Indicating one employe, Kingsley told how the man refuses to be idle. During the evening sessions, if a piece of work is left undone by a student who leaves, he'll finish it.

A big advantage of the program is that the deaf, who would be lost in a classroom with a majority of students who can hear, are getting individual attention. In addition, bringing an instructor to the job site is much less expensive than the cost of sending individual students away for schooling. The instruction aids the Lord company by giving them workers who can do a quality job.

Besides work and on-the-job training, one of the men and Mrs. Lord are taking blue print reading at Butler County Community College. Lord also took blue print reading and drafting as the college's first deaf student.

His firm, which started out fabricating refuse containers, has expanded to do subcontracting for various area firms that have international contracts. The company has supplied large tanks for hauling sludge, small cable reels for shipment to Thailand and small fabricating parts for a steel mill in Poland being built by Swindell-Dressler, of Pittsburgh.

CHURCHILL ON DEFENSE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. MURTHA. Mr. Speaker, 40 years ago Winston Churchill sounded a call against totalitarianism that was ignored by his own nation and its allies until war was forced upon them.

Recently, Churchill's grandson, named for the famous British statesman, commented in an interview that he found serious parallels between the 1930's experience and recent activities in Africa.

Speaking of the Soviet Union in today's world, Churchill found similarities with earlier world events:

> What worries me deeply is that according to all the indicators, once again today as in the 1930s, we have a single country with a totalitarian dictatorship at its head which is bent on a course not only of internal repression but more seriously bent on a path of world dominance, of imposing its rule on other parts of the globe.

Winston Churchill sees Africa as an important test of the free world. He fears the Soviets are more prepared for that test:

> Their whole economy is geared to a war footing and what are we doing about it?
>
> I feel that what is at risk with the challenge they are putting to us is Africa and that is a very difficult challenge to meet because if we don't meet it, the Soviets win, and if we meet it in a clumsy way, we will allow ourselves to be identified only with the white minority in Southern Africa.

Moreover, he sees the question going beyond Africa to the basic security of the Western Allies:

> If they are tempted by the total apathy and demonstrated feebleness of the West in the past few weeks, if we go down this slope for very many more months it won't be a question of the independence of a few African countries or European domination in Southern Africa, or our economic situation as far as the Cape route is concerned: it will be a question of peace, global peace for the first time in 30 years.

What course would follow major Soviet gains in Africa are, of course, unclear, but Churchill sees them as only the first of many steps that can shake the world if they are not halted:

> I think if there is no coordinated resistance to Soviet expansionism and imperialism in Africa we could see this thing moving nearer home with a Soviet takeover of Yugoslavia following Tito's death or incapacitation. And that, of course, would see the Soviets straddling the northern shores of the Mediterranean which they already dominate with a fleet four times greater than that of the U.S.
>
> In that context I think one could see the possibility not of nuclear war but of such a large-scale buildup of military power so close to the frontiers of Western democracies that they would just succumb from a combination of external pressures and large-scale fifth column activity supported from outside.
>
> And that in my view is the real threat.

Like all Americans who seek peace, I hope Winston Churchill is wrong. Let us not, however, ignore him as too many did his grandfather. Let us focus more closely on the defense of the West in the next year than at any time in our history. Let us focus that debate so we will avoid the mistakes of the past to secure the peace of the future.

ESTABLISHING ECONOMIC INDEPENDENCE FOR MARRIED WOMEN

HON. CLIFFORD ALLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ALLEN. Mr. Speaker, on March 11, 1976, I introduced a bill which has long-range beneficial implications for the future welfare of women in this country, and is not without benefits for men. The bill is H.R. 12407. It is a simple provision. It would put as a condition of the use of the lower joint tax rate for married couples a requirement that both marital partners—regardless of the income of each, and even if one devotes his or her efforts exclusively as a homemaker—concede and either swear or affirm on the 1040 that each, in fact, owns half of all the income, assets and liabilities of the marriage partnership, excluding premarital assets and liabilities.

This concept could also have the effect of cutting in half the inheritance tax that would have to be paid by the surviving spouse in the event of the death of either.

The joint income tax rate, being favorable, is a privilege which Congress, for good and substantial reason, can condition.

H.R. 12407 would condition it by effectively converting into a reality what has always before been no more than a fiction—the fiction of the joint income of a married couple. For all the millions of married women who are homemakers as well as for all the working married women whose salaries are less than those of their husbands, there has never been a legal right to half of all the family income and assets, and these women have been signing joint income tax returns merely in the capacity of figureheads.

This bill simply says that the word "joint", referring to income in the Internal Revenue Code, shall mean exactly that in reality.

I suggest to the esteemed Members of the House that this Nation would not condone legally classifying any other group of persons as economic dependents, while we have closed our eyes all these years and permitted married women, particularly those who are not employed outside the home, to be economic dependents. Such women do not have a legal fight, in most of our States, to any more than the "necessities," and they have to at least file for a legal separation to establish a fight to that.

This bill would be just one step toward rectifying this unjustifiable and ancient inequity.

If a nonemployed married woman and her husband signed such a special oath, conceding and attesting that she in fact owned one-half of all the family income, assets and liabilities, and her husband signed a similar oath in order to qualify for the joint rate, such a woman would then establish strong evidence which could rebut any assumption that when either dies, the partner owned all the property and should pay an inheritance tax based on the value of all of the property, instead of just half; thereby reducing the inheritance tax by at least 50 percent to be paid by the surviving spouse.

There are other implications. If a nonemployed married woman and her husband both swear that each owns one-half, there would be no reason why such a woman, for example, could not make social security contributions on her half; why she could not establish her own pension plan; why she could not establish credit in her own name based on her half ownership; and other benefits would ensue.

STATEMENT ON AMTRAK

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. BAUCUS. Mr. Speaker, I rise today to address Montana's needs for the continuation of Amtrak's services. Whether or not to retain existing Amtrak lines is an important issue in my district because Amtrak provides important transportation links for many smaller Montana communities.

Montana has the advantage—and I hasten to add a much needed advantage—of two Amtrak routes. Our northern route runs from Chicago through Grand Forks, N. Dak., across the top of Montana through Havre and Glacier Park and then onto Seattle. The southern route also starts in Chicago, runs through Bismarck, N. Dak., Billings, Butte, and Missoula in Montana and onto Everett, Washington via Wenatchee and Spokane.

The northern route is not in danger of being discontinued. It runs daily and is more heavily used than the southern route because the latter runs only three time per week. The northern route is used a great deal by businessmen for points between Chicago and Seattle. Montanans use the northern route extensively for visiting relatives, seeing business contacts or going to recreational sites. For example, in 1975, over 25,000 passengers boarded and left the train at Whitefish, a popular ski resort in northwestern Montana.

However, the southern route is in danger of being dropped. The President's decision to cut $62 million from his transportation budget prompted Amtrak's proposal to discontinue the southern route. I think this would be a grave mistake for at least three reasons. First, it is a major form of transportation for people in the rural areas. Many Montanans use the southern route of Amtrak extensively to conduct business. Second, we are in a period of an energy crisis and should encourage the use of mass transportation, not discourage it. Third, Amtrak is still in its infancy and should be given a chance to prove itself. It would not have this chance if we cut appropriations, Mr. Speaker.

The southern route may not be used as much as other routes, but it is used extensively. For example, nearly 100,000 people got on and off the trains in Montana last year. And, the committee must remember that snow often closes Montana roads and grounds its airlines. During such times, Amtrak trains are the only way people can travel. Closing the southern line would cause hardships for many Montanans, especially senior citizens who rely on Amtrak as a major source of transportation.

Another reason to retain the Amtrak route is its energy efficiency. Trains use far less energy than other modes of transportation. Comparatively speaking the train's ability to carry more passengers longer distances with less energy use justifies its existence. We must not forget that an energy shortage exists in this Nation, and we should support—not abandon—energy efficient transportation modes.

The 55 mile per hour speed limit that Congress imposed nationally has reduced automobile usage. In large States, like Montana, it is faster to take the train than to use a car and sometimes faster than plane service. The gas shortage will get worse, making the car a less reliable form of transportation and placing a greater burden on rail passenger service.

Also, the adverse economic impact of lost jobs and reduced tourism would be great in my State. Montanans just cannot afford these losses with our current economic slump. Though unemployment is decreasing nationally, Montana's is increasing beyond 10 percent—Montana can expect to lost 200 to 250 Amtrak jobs and many millions of dollars in revenue if the southern route is closed.

Many people traveling to Yellowstone Park in the summer and to ski resorts in the winter simply will not come without adequate train service. For example, one ski resort alone estimates that over 500 of its patrons use the southern Amtrak routes.

The need for Amtrak and its potentially expandable use in Montana is great. My proposal both to this subcommittee and to Amtrak is not discontinue the southern route but to retain and expand it as well by putting it on a daily schedule. A common complaint from people who would like to use the southern train more is that they must take at least a 3-day trip. They must plan 1 day for travelling, 1 for layover and 1 to return. Weekend visits are impossible. In my view, it is ludicrous not to have daily service to the most populous communities in Montana.

Mr. Speaker, I would like to include a transcript of a radio show that I had with Mr. Paul Reistrup, the president of Amtrak. Mr. Reistrup is aware of Montana's need for Amtrak and talks of several ways Amtrak's services could be improved.

The following is an edited transcript of a taped interview conducted by Montana's Western District Congressman, Max Baucus, of Mr. Paul Reistrup, President of AMTRAK, February 5, 1976.

Hi. This is Max Baucus. Today, I'm going to be talking with Mr. Paul Reistrup, who is President of AMTRAK. The reason is because we've learned that there are plans to eliminate the southern AMTRAK route in Montana. Mr. Reistrup and I are going to talk about what's involved here, and to see if we can do something, frankly, to prevent that measure.

Baucus. I wonder if you could tell us first, Mr. Reistrup, what's behind this; what's going on?

Reistrup. The situation began as we were asked what rail operations would have to be trimmed down from the AMTRAK system, should our budget limitation be $378 million. We submitted in writing to Secretary of Transportation Coleman the possible routes as a matter of conjecture that might be considered and still comply with the law—which requires a national inter-city network. One of the routes between Chicago and Seattle would be suspect in that case, because the two cities would still be tied together with one route rather than two.

Baucus. That is two lines in Montana, you mean.

Reistrup. Yes.

Baucus. I see. Well, why then was the southern route chosen rather than the northern in Montana? What went into that?

Reistrup. Specifically, we really were not that precise in our determination "in house." But the Southern route runs three days a week a large part of the year and loses relatively more money during that period. But actually, "in house" we have not decided on which routes. Very clearly, one would be suspect, however, in this situation.

Baucus. Why does the Southern route lose more? Is that because there are fewer trains per week? It is my understanding that there are more trains per week in the north and fewer in the south. If there are more trains, there should be more passengers.

Reistrup. My personal feeling, Congressman, is that if we run a train, we should run it seven days a week. It's hard to figure how to get the train when it runs only on Friday, for instance, and you want to go Thursday for Thanksgiving dinner. We, in this particular case, of course, for economic reasons run three days a week seasonally. We at AMTRAK would rather run all of our operations . . .

Baucus. But you have the physical capability, you have the equipment to run daily.

Reistrup. We do at this time.

Baucus. Okay. Then the reason that you haven't is what?

Reistrup. Economic. Not enough money to support the loss.

Baucus. I see. But then what would happen if you did run daily?

Reistrup. If we ran daily, I would say that it would be just about a draw between the two operations and I think that is a very pertinent question. We find that the trains are just about the same in loading. When I rode with my little boy and when we turned back at Sandpoint, that's Sandpoint, Idaho, and I rode out on the Southern route and back on the Northern route, we had more on the southern train than on the northern train.

Baucus. It's been crowded when I've been on the southern train, very crowded. How many passengers are there now in the northern route per week as compared with the southern route?

Reistrup. Well, our latest figures are for when the trains were daily, and that's a fair comparison. The southern trains carried over 30,000 in August and the northern trains, 36,000.

Baucus. So they're roughly comparable.

Reistrup. Roughly comparable.

Baucus. I see. Does this mean that the main criterion that the Southern route be dropped is passenger load?

Reistrup. Well, right now, we have before Congress a proposed route criteria for determining which train operations should remain. And that criteria is a mix of the economic evaluation, ridership, alternate means of transportation, environmental consideration, safety, and so forth. So under the criteria, if Congress does not turn them down, we will weigh all these factors. However, in my submission to Secretary Coleman, because it was budgetary in nature, it was strictly based on numbers.

Baucus. How did the two Montana routes compare with other marginal routes in the country. I think its unfair to cut off one in Montana if there are other routes in the country which are less profitable than even one of the two in Montana. So how does it compare with the other routes in the country?

Reistrup. Well, it would compare in such a way that there would not be discriminatory treatment. In fact, one of the strongest routes that would be eliminated is one that just started through Cleveland.

Baucus. One thing that seems particularly unfair to me is that the more marginal routes are going to be in rural areas. It's just going to happen. It just seems you should have a built-in compensation factor there.

Reistrup. I agree with you there. So does the Board of Directors. And this is why their route criteria, which I hope Congress approves and will let go into effect, weighs this. I know, for instance, when Northwest Airlines is not flying in Montana, we are really the only alternative.

Baucus. Both Northwest planes and AMTRAK trains are full from my experience, and I've been on both. What are you doing personally to help out the southern route in Montana?

Reistrup. Well, what we're trying to do is operate better and do better with what we have today. Our new equipment is on the horizon. The first new long distance equipment will arrive January 1977, and we plan to put them in the northern operations, which would mean the trains through Montana, the trains through Denver, the trains through Montreal . . .

Baucus. Both routes in Montana?

Reistrup. Yes. With electric heat so that we get rid of the steam. We have had trouble with old fashioned steam heat freezing up in intermittent weather up there. We're trying to provide a service, advertise it properly to attract more business. We are just beginning reduced fares off peak to generate ridership during the slack period.

Baucus. But are you personally going to be taking any action before the Congressional committees here to try to beef up the AMTRAK routes?

Reistrup. I am. I will appear in March—probably several times.

Baucus. So you, as President of AMTRAK, are "going to bat" for southern Montana.

Reistrup. I'm going to go to bat for the operation as it now exists because this is the intent of Congress and we, as long as I'm here, will try to live up to the law in the spirit and to the letter, and we expect to be funded to provide this service.

Baucus. Well, that'll be terrific. I hope we are both successful. I see we're about out of time here. Thank you very much. If you have any questions, please write us.

Amtrak should improve its service within its current budget or expand within an increased budget to meet the current and future passenger demands. I have other suggestions about Amtrak's service.

First, Amtrak should improve its customer relations and equipment upkeep. A service-oriented industry must have service-oriented people who are willing to help passengers reach their destinations in comfort. Also, passenger cars should be cleaned. When trains are clean, people are more willing to ride them.

Second, Amtrak's ability to meet a schedule must be improved. If businessmen could get on an evening train in Chicago and know that it will reach Missoula in a day, I am sure they would ride trains more often. Amtrak's service now is not adequate to do this, and people must play a guessing game on when the train is coming and when it's leaving.

Third, a vigorous advertising campaign should be initiated in Montana. Many people do not know Amtrak's schedule. Figuring the logistics of catching a train on the southern route takes an experienced traveler and I am sure some people in my district do not even know they can use Amtrak.

For example, southern Amtrak serves two university communities, Missoula and Bozeman. Students want to use a fast and cheap form of transportation to get home or visit friends. Amtrak should advertise to their needs and provide reduced rates for university students.

Fourth, package trips should be available for people who want to get to the ski resorts or visit Yellowstone Park and Glacier Park. The recreation industry is growing and people are looking for cheaper ways to enjoy the outdoors. If Amtrak had tourist packages available, I think ridership and revenues would increase tremendously.

Fifth, Amtrak should consider adding an additional route in Montana, a north-south route, starting in Butte and ending in Salt Lake. There are lines running westward from Chicago to San Francisco and Seattle. Nearly 500 miles separates the two lines at most points. Yet there is not a single North-South connection along this entire expanse of territory. If an Amtrak passenger wishes to travel from Butte, Mont., to Cheyenne, Wyo., 500 miles away, he must travel well over 2,000 miles to the East and back via Chicago or to the West and back via Seattle and San Francisco. The Butte-Salt Lake City connection would be extremely useful for travelers in the West.

Finally, I urge Amtrak to make available to Congress ridership statistics for its trains. Additionally, it should conduct studies on the economic and social benefits it bestows on the communities it serves. From my mail load I know that many people use and depend upon Amtrak year around. It would be helpful, however, if Amtrak had ridership statistics to show how many people use the train for specific purposes—such as visits to Yellowstone Park—or how many people use the train on a regular basis for business. If these facts were known, Amtrak's case would be better substantiated.

Mr. Speaker, this concludes my testimony on Amtrak. Admittedly, the southern route is not now as productive as the northern route. But if the quality of service can be upgraded through daily runs instead of tri-weekly stops, and if Amtrak can improve its equipment and hire a sufficient number of service-oriented personnel, then I think the economic standards of the southern route would be improved to such a degree that it might possibly make a profit. The social and environmental benefits to Montana from Amtrak makes it mandatory that the service continue. Without Amtrak rural Montana will suffer greatly.

CARGO SECURITY: BADLY NEGLECTED PROBLEM

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. PICKLE. Mr. Speaker, while serving on the Commerce Committee several sessions ago, I became familiar with one of this Nation's most overlooked and neglected problems in the area of crime prevention; namely, cargo security. I enclose two articles on this topic, hoping that my colleagues will take the time to read about the impact this well-organized crime has on consumers.

The first article is from the February 1976, issue of Handling and Shipping magazine and the second appeared in the March 16, 1976, edition of the Austin Citizen newspaper:

CRIMES AGAINST DISTRIBUTION—HOW TO TURN THE TIDE

(By Patrick Gallagher)

(In today's business world an investment in and a commitment to security is one of the wisest moves a company can make.)

In ancient Greece a man named Diogenes one day took his lamp and went in search of an honest man. He never found him. Businessmen today are reportedly still looking.

This is an exaggeration, but not by much. Employees annually pilfer from their companies some $16 billion worth of goods. Just in the area of inter- and intra-state shipping, the impact of crime-related losses on the nation's economy was estimated in 1972 to run as high as $7 billion a year. It is certainly much higher today. A consultant with American Multi-lert Corp., Albert Hartkorn, has looked into containerized minibridge and landbridge shipments for 1974 and come up with a dollar value for stolen merchandise of $4.5 million. This figure is for minibridge and landbridge containers alone, and just for one year.

These figures are staggering, so much so that their impact is lost. Our minds cannot grasp the concept of a billion anything. But break these numbers down and they strike closer to home. For example, the American Trucking Associations (ATA) estimates that it costs motor freight carriers from $2 to $5 in indirect costs (paperwork, manpower, etc.) for every $1 of direct loss. And shippers' losses are believed to be even greater—from $5 to $7 for each $1 in direct losses.

Even if your operation has a good security record your insurance costs are probably rising rapidly. While your own costs might not match this, an across-the-board increase of 30 percent nationally over the past three years is generally accepted as valid.

The most depressing note in this whole tragedy is the inability of law enforcement agencies to even begin to stem the onslaught of crime. Both Attorney General Edward Levi and former A-G William Saxbe admitted as much. And the latest FBI crime report is unrelentingly bleak.

INDUSTRY'S ROLE

Clearly, the only way out of this mess is through the complete and dedicated cooperation of the private business sector. Most security experts agree that as much as 50 percent of criminal losses in business could be avoided if common security rules were observed.

What does business stand to gain for its effort and expense? The Department of Transportation estimates that for every $100 claim prevented, as much as $50 is pure profit. Compare that with a return of about $2 for each $100 of new business. Or looking at it from the other side, there is this sobering observation from Charles Wessel, president of Interstate Service Corp., one of the nation's largest security firms: Among businesses suffering heavy losses from disaster or grand theft, more than 60 percent never survive even though they had adequate insurance coverage.

GOVERNMENT ACTION

When government and industry became aware of the magnitude of the business crime wave back in the late sixties, there were many demands for studies, reforms crackdowns and regulations. The *Senate Select Committee on Small Business* held hearings on the issue in 1969 and 1970, and reported out in June, 1972. The reports were comprehensive and included numerous recommendations, but no new laws were passed. The feeling was that the problem now defined, industry should have time to try and put its house in order.

The only direct result of the hearings was that the ICC and CAB began to collect data on crime losses in Class I motor carriage and air trunk lines. The Association of American Railroads has figures on Class I railroads. The availability of such information is an important first step.

Based on these data and on their own experience, the general impression of knowledgeable people within DOT and various industry groups is that "things aren't getting any worse." Which unfortunately implies that things aren't getting any better either.

REGULATION?

The Department of Transportation is now and has been opposed to cargo security regulation on the grounds that enforcement is unfeasible and the requirements too various. Its current programs are voluntary.

But there is pressure from the Executive Office to increase the effectiveness of the Transportation Security Program. *Executive Order* 11836, issued one year ago, delineated the responsibilities of the Secretary of Transportation, the Attorney General and the Secretary of the Treasury, relative to cargo security. The Secretary of Transportation was ordered to submit a report to the President on March 31, 1976 (and annually thereafter), evaluating the effectiveness of federal efforts.

According to DOT Director of Transportation Security Daniel A. Ward, that report probably will conclude that DOT is "going to have to consider every conceivable option" and apply "stronger medicine." Some regulation may be the only alternative, Ward implied.

Presently, DOT has no power to impose regulations. However, there is a bill now pending in the House—H.R. 10473, introduced by Cong. J. J. Pickle (D.-Tex.)—that would give DOT the power to issue and enforce rules for labeling, packaging, cargo loss reporting, and personnel identification. The bill provides for civil penalties in the form of fines ranging from $1,000 to $5,000. Similar bills have failed in the past, but the mood may be different today.

"A voluntary system doesn't have the punch," said an aide to Congressman Pickle. "Progress has been made but not enough to say were winning the battle against crime."

PERSONNEL SCREENING

Of those areas which this bill considers, personnel identification has drawn the strongest support from industry, which generally opposes regulation. This is an aspect of the problem that business can tackle on its own, given the proper tools.

Eighty-five percent of business crime is attributable to insiders. And it is a statistical fact that criminals tend to be repeaters. The FBI has shown that more than 50 percent of those convicted of crimes will be in trouble with the law again. Clearly, it would be the height of folly to let ex-criminals handle valuable cargo and not know about it.

Yet in spite of this fact, employers have no access to criminal history records of potential employees, outside of the local jurisdiction. Section 20.21(b)(2) of Title 28 of the *Code of Federal Regulations* has been rigidly interpreted to exclude cargo security programs from access to criminal record information.

Concerned groups are currently focusing their attention on the *Law Enforcement Assistance Administration* (LEAA), which has jurisdiction over the national criminal record file. Representatives of both the American Trucking Associations' *Trucking Industry Committee on Theft and Hijacking* (TICOTH) and the *National Cargo Security*

Council (under the Transportation Association of America) have been among those testifying in recent LEAA hearings.

These groups have urged that appropriate changes be made in the Federal Code to allow employers in transportation and distribution (particularly in the crime-plagued trucking industry) limited access to criminal records. The *National Cargo Security Council's* proposal provides controls and safeguards to protect the rights of individuals. Briefly, information would be available only to bona fide transportation cargo security programs. It would cover only records of convictions, forfeitures, and *nolo contendere* pleas within a period of seven years prior to the date of inquiry and could be obtained only on the written authorization of the individual whose records are sought.

Another scenario developing in Washington could have an impact on organized crime in transportation. Senator Robert Griffin (R-Mich.) has made it known that he intends to introduce legislation to establish a select committee to investigate possible criminal activity in unions. The prime focus of the committee would be links between organized crime and the Teamsters Union.

PREVENTION VERSUS CURE

No one should sit back and wait for government to solve all the problems. Because it won't happen. It is to your great advantage financially to act to prevent thefts from ever taking place. Once the goods are stolen you can begin counting time and money down the drain, whether you catch the culprit or not. Remember the adage, "An ounce of prevention is worth a pound of cure."

The one idea that security experts unanimously endorse above all else is that where there is a commitment to security at the top, the results will show on the bottom line. As was noted earlier, employees account for at least 85 percent of all theft. Such behavior flourishes in an atmosphere of lax security and easy bending of the rules at the top.

The majority of employee thieves are basically honest men and women. They steal because "everyone else does it," and because "it's so easy I just can't pass it up." Change the overall atmosphere, reverse the trend, and they will probably acquiesce.

You may find it helpful to spell out in black and white just what is permitted as prerequisites of the job. It may surprise you to know that some of your workers probably consider it perfectly acceptable for them to help themselves to "damaged goods."

Don't be completely negative in your approach, though. Motivate your workforce. Where employee morale is high and loyalty to the company esteemed, crime is not a problem.

The hard-core criminal in your ranks poses a different problem. If you catch him your reaction will be to dismiss him and wash your hands of the matter. This isn't always so easy. In many instances a criminal conviction will be necessary before you can fire an employee. And seeing that through is likely to involve considerable time, money and effort.

Nevertheless, a get tough policy is best in the long run. Many distribution managers are too quick to throw up their hands and live with larceny—even if it means bankruptcy. This is no solution. Make improvement of the judicial system and law enforcement agencies a company priority. Work for it through civic and trade organizations.

THE LOGISTICS OF CRIME

Looking at the crime in distribution picture, the critical points in the process are the points of transfer. Losses are most likely to occur when goods transfer from department to department, from company to company, from vehicle to vehicle.

Your first step should be to review your distribution process with an eye towards consolidation and control. Beef up documentation procedures so that you can always pinpoint the person responsible for goods at a given time. For example, the orderpicker's slip should be confirmed by the packer. The man on the dock should receive a written count of cases from the packing department. And the supervisor should verify that the driver has taken aboard his vehicle the number of cases signed for.

Documentation will discourage theft by fixing responsibility and pinpointing losses. Take an additional step in consultation with a packaging engineer. Loads that are utilized and strapped or shrouded are more difficult to pilfer from. The thief who is looking for a mere item or two will pass up a bound load. Look into inexpensive pilfer-proof containers or sealing tape that will show signs of tampering. If feasible, avoid printing brand and product information on packages. Give the thief as little help as possible.

ON THE DOCKS

If a theft is going to occur in your operation the overwhelming chances are that it will take place on the shipping or receiving dock. It is the obvious place to smuggle goods in or out, and workers can always blame an outsider. Let's take a tour of the shipping dock of a hypothetical company which has a long-standing theft problem, looking at what's wrong:

The first thing we notice as we walk into the shipping area is that no one notices us. Trespassing is apparently permitted. Nice to know they trust us. Watch where you're walking because there are pallets, trash and down equipment strewn everywhere. Do you wonder if anything might be concealed in this mess? You should, because here comes a trash removal vehicle into the dock to make a pickup. Could it be picking up something besides trash?

Confusion reigns here on the dock. There appears to be no demarcated staging area. Finished products are stored right on the dock. How does anyone keep an eye on all this? Who is keeping an eye on it anyway? The supervisor is talking with two truck drivers in the middle of the floor. Another driver is headed for the rest room. At least that's where he said he was going.

That sound you just heard was a pallet being dropped. Well, it doesn't seem to bother anyone, and the workers are busy collecting all the "damaged goods." Here comes a guard to have a little chat with the workers who are cleaning up the accident. It's nice to see the guards and workers are on such good terms. Some of the dock workers have left a job of loading a truck to help out, but it's okay, the driver can load his own truck.

Apparently the way we came in wasn't the only entrance. Here comes a man in a door marked "Emergency Exit Only." Funny thing, no alarm sounded. But then you can't expect equipment to function all the time. Now he's going back outside. He probably forget something—the employee parking lot is right next to the building.

That well-dressed gentleman fueling up his Cadillac at the company pump doesn't look very happy. He is the company president. Right now his insurance costs and claims are up and his orders are down. All this and now his controller just told him the company is operating in the red. He just can't figure it out.

THE WORST DISASTER

Theft and damage losses can slowly bleed a company white. These days, however, a growing number of companies are succumbing to a swifter death—the result of incendiary fire.

"Incendiarism has become one of industry's major causes of fire loss," observes Donald H. Moore, chairman and president of Philadelphia Manufacturers Mutual Insurance Co. "The fire setters range all the way from juveniles with matches to disgruntled employees, pyromaniacs, and professional arsonists."

Moore points to figures compiled by the Factory Mutual System, the world's largest insurer of industrial property, which show that in the last five years the number of incendiary fires at industrial facilities has grown 44 percent annually. Worse, losses in dollars have increased 235 percent. National Fire Protection Association figures show that the number of incendiary fires in 1974 was nearly double the 1970 level—115,400 compared with 65,300. Losses for 1974 were estimated at some $563 million.

Where are incendiary fires most likely to originate? According to Factory Mutual's analysis, 75 percent start in storage areas. The conclusion is that these are places where entrance may be easier and changes of detection less. The point is that those responsible for the security of such areas have their work cut out for them.

Sprinkler systems can reduce fire losses by 50 percent, but again the priority should be "prevention." The incendiarist must generally get inside the building to set a fire. The same protective system which can guard against thievery keeps the incendiarist out.

Moore's prime admonition echoes that of other security experts: top corporate management must recognize the magnitude of the problem and take a forceful hand in combating it.

SECURITY EQUIPMENT

Hopefully, the information presented thus far in this article has obviated any further need to persuade you to take a hard look at your own security and not let your purse rule your common sense. Be provident, but do not attempt to economize on security. Whatever you save will just as surely come out of your pocket somewhere else. Budget for security, not for losses.

If you can afford it, hire your own security specialist. Otherwise, contract with a security agency for equipment and consultation. You are far better off doing this than attempting to purchase a system and hire guards on your own. In fact, you may prefer to avoid any dependency on guards. They are the weakest link in any system.

The results of a Handling & Shipping survey looking into safety and security systems in distribution are reproduced here. These figures provide a picture of what equipment is in use today and to what extent. Consider this information when evaluating your own operation with the idea of investing in security.

Generally, security needs break down into four areas. Every good system should have equipment to meet these requirements—

Outside: 1. Lighting, including flood lights. Thieves flourish in the dark. 2. Fences, preferably chain link topped with barbed wire.

Interface: 1. Controlled access. Require badges, passes, photoelectric or human identification to gain entry. Set up several checkpoints. Some combination of human and electronic control is best. 2. Limited access. Seal off all non-essential entrances and exits. Bar windows, lock entrances, and equip both with alarms. Consider dock shelters to seal loading areas when in use.

Inside: 1. Observation. CCTV monitors and a portable communication system greatly extend the powers of a small guard force. Various sound wave and electronic eye devices can detect unauthorized movement. Install more than one type of system. 2. Deterrence. A trained dog is a valuable deterrent. Also effective is a prominently-displayed sign that says: "This Property Protected By—." 3. Fire protection. Sprinkler system. Proper type of fire extinguishers.

In-transit: 1. Railcars. Use seals and monitor closely. Also, consider audio or silent alarms for car doors. 2. Trucks. Again, monitor the use of door seals. There is a device now available called "Fuel-loc" which automatically closes off the fuel line when the ignition is shut off. The authorized driver can deactivate the device by flipping a hidden switch. Another expense that may be justified is having a second man ride "shotgun" when transporting valuable cargo. Looking towards the near future, DOT is experimenting with a small transponder that would be hidden in cargo and could be traced by the signal it emits. Officials see a great potential.

FAIL-SAFE

A good security system is one that is virtually fail-safe. If one guard is overcome, if one alarm is successfully bypassed, a good system will still be viable.

In looking at these operations that boast perfect records in crime prevention, one sees the advantages of installing a complete system. A potential intruder should have to bypass at least three discreet systems before he reaches the actual goods. Combine electronic alarms with sound wave detectors and photoelectric eyes to cover your operation like a blanket.

The initial cost may be high but such expenses can be amortized over three, five, even ten years. Invest wisely. Don't close your eyes to the hazards of doing business in the modern world. An investment in and a commitment to security is one of the wisest moves a company can make.

CONSUMER PAYS INCREASED COST OF CARGO THEFTS

(By Janie Paleschic)

Theft of freight from trucks, airplanes, trains and off docks cost the Texas economy millions of dollars. The loss affects the consumer, who ultimately pays for the duplication of cargo, the insurance costs and transportation.

U.S. Rep. J. J. "Jake" Pickle estimates that if these additional costs are considered along with the value of the stolen goods, the actual loss to the nation's economy through truck cargo theft alone was $4 billion last year.

President Ford was more cautious in his estimate in a 1975 executive order designed to increase the effectiveness of the transportation cargo security program.

"The total cost of theft-related cargo losses from the nation's transportation system is now estimated to be in excess of $1 billion dollars annually," the order states. "These losses seriously erode industry profits, result in higher prices for consumer goods and provide support for unlawful activities."

In 1973, the U.S. Department of Transportation reported that 85 per cent of the thefts of freight carried by trucks, air and ships were inside jobs, while rail thefts were usually committed by trespassers.

Jack C. Bryan, director of safety maintenance and security for the Texas Motor Transportation Association, said more than 90 per cent of thefts from trucks are carried out with the help of a company employe.

Bryan would not give an exact figure for loss from theft in Texas, saying current figures are inaccurate because mistaken shortages are counted with thefts. Bryant did say the loss was in the millions of dollars.

Television, radios, cigarettes, whiskey, clothing and electronic equipment are most often stolen and the "thieves know which trailer to go after," Bryan said.

Dispatchers, drivers and even security personnel have been found to be involved in stealing goods, usually working with someone on the outside.

"The thief is not going to go out and steal anything on the road," Bryan said. "Somebody's got to tell them what trailer to get and what's in it. That's where the motor company employe comes in."

Bryan told of one case in which goods were being stolen out of a sealed trailer. The company began watching the trailer and noticed a huge box being loaded on the truck each time it left the terminal.

Law enforcement officials were called in, and when the box was opened, not only were the stolen goods found, but the thief himself was inside the box.

Bryan said after the box was loaded into the truck, the man escaped through a trap door, filled the box with radios and other goodies and then concealed himself again.

Bryan also told of cases when a tractor would hook up to a trailer.

"We know what the problem is," Bryan said. "We're on top of it, but proving it is another thing."

A security method tried in New York, where Bryan said the theft problem is worst, uses identification markings on the tops of truck trailers than can be viewed from a helicopter.

The identification numbers helped cut down on theft in New York by allowing police helicopter patrols to quickly locate a hijacked or stolen vehicle, Bryan said.

Other security measures used by trucking companies include a cargo alert system, in which the dispatcher can alert law enforcement officials by radio, and requiring personnel to sign in and sign out cargo at terminals.

Fences and security guards can also help cut losses Bryan said, but he cautioned that just because a guard "has a badge and a gun, doesn't mean he's Mr. Clean."

Containerization of cargo has helped airlines and airports cut down on loss to theft, and companies also propose to control egress and ingress of trucks into the cargo areas with a computer identification system.

Since many rail thefts occur while the trains are in motion, they are difficult to control. Security personnel have been increased.

Goods are often stolen from a moving truck, also, Bryan said. The thieves ride on the hood of a car following the truck, especially one with roll-up type doors. After the door to the trailer is open, the goods are thrown out behind.

The U.S. attorney in Houston has conducted security workshops which have been helpful, Bryan said.

The transportation department is conducting studies to identify weaknesses in cargo security, and reports from 15 target or "campaign" cities, including Houston and Dallas-Fort Worth, are due to President Ford March 31.

The position of the department is that shippers and receivers should be given the opportunity to control the problem voluntarily before federal legislation and regulation should be considered, according to an order dated July 25, 1975.

However, Pickle has introduced legislation (HR 10473) that would require the department to promulgate regulations on proper packaging of cargo, loss reporting, documentation and labeling and personnel identification for the security and safety of property.

The bill would also establish civil fines for each violation of the regulation at $2,500 per occurrence, with a cumulative fine of no more than $10,000.

The Bureau of Motor Carrier Safety, as part of the President's National Cargo Security Program, plans to conduct a 500-cargo security survey in the 15 campaign cities, which will include tours of companies and questionnaires.

UNDERMINING SCHOOL AID

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. BRADEMAS. Mr. Speaker, I insert at this point in the RECORD an editorial, "Undermining School Aid," from the March 8, 1976, New York Times, in which President Ford's recent school aid proposal is, quite properly, sharply criticized.

The editorial follows:

UNDERMINING SCHOOL AID

In the now familiar jargon of the war against Washington, President Ford has told Congress that his new school aid bill would "allow people at the state and local level to stop worrying about entangling Federal red tap and turn full attention to educating our youth."

The way this is to be accomplished is by consolidating 24 existing Federal aid programs into a single block grant to be used at the state's discretion. It is an educational adaptation of revenue sharing.

The benefits of that liberation from Washington, Mr. Ford suggests, would make up for the fact that, considering inflation, he is proposing an actual reduction in aid dollars. Even the projected rise for each of the subsequent two years would barely bring the total back to last year's level in purchasing power.

The existing aid categories range from specific funds for the distadvantaged, which at present constitute almost two-thirds of the total aid package, to a variety of programs for the handicapped, adult education, library resources, work study projects, etc.

While it is true that the President's proposal requires 75 percent of all Federal funds to be directed to the needs of the educationally deprived and handicapped, this would not prevent states and localities from eliminating entire categories which were designed specifically to aid the disadvantaged. While the new legislation contains the threat of a "flexible penalty provision" to prevent states from shortchanging the needy, this looks like a merely pro forma warning as it is difficult to see how the new Federal monitoring apparatus would differ from the present inadequate one.

The existing aid program is not sacrosanct. Specific categories call for periodic review, modification or replacement by newly pertinent ones. Excessive red tape should obviously be eliminated.

But the fact remains that the categorical approach was rendered necessary in the first place by local and state insensitivity to the needs of the poor, the minorities and the urban centers as well as by an inherent reluctance to innovate. The prevailing mood of retreat from liberal social reforms suggests that this is the wrong time to diminish the Federal responsibility.

Ironically, the least defensible categorical subsidy—"impact aid" for school districts containing large numbers of children of Federal employees—would be retained as a sweetener for those in Congress who have always liked this largely obsolete pork barrel.

As Congress considers the probable consequences of Mr. Ford's new federalism applied to education, it would do well to review an analysis of how "block grant" funds have been used since 1972, based on study of some sixty communities throughout the South, and first published by the Carnegie Corporation of New York.

The study reveals that newly won freedom from Washington has frequently been turned into an opportunity to scuttle social programs. Contrary to the romantic picture painted by Mr. Ford, no-strings allocation of funds, instead of giving people greater options to run their local affairs, have (in the words of the report) "helped insulate government from citizens." It has enabled local politicians to decide how to spend money without regard for public opinion.

Such disregard of social needs and responsibilities is deplorable in any area of public financing; it is a matter of extreme concern in education, which remains indispensable to all efforts to erase injustice and alleviate poverty. The Nixon Administration initiated and President Ford is trying to perpetuate the line that pinpointed attack on the breeding places of discrimination and deprivation is a futile or improper Federal activity.

This is an ideological distortion contradicted by the evidence. It leaves the President's school aid proposal fiscally inadequate and strategically ill-conceived.

ILLINOIS' JUDGE MILLS CALLS FOR SPEEDIER JUSTICE AND HARDER WORK IN COURT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. MICHEL. Mr. Speaker, in a recent column in the Chicago Tribune, writer Bob Wiedrich delved into a very interesting topic in an interview with Judge Richard Mills of the Illinois Eighth Judicial Circuit.

Their concern is the intolerable level of delay in our judicial system, and Mills comments put the blame not on mere size or volume or legal complexities. He says at least part of the problem is people.

"Some judges start work at 10 a.m. and take a 2-hour lunch," he says. "Then they work until 4 p.m."

And Mills has just as little patience with lawyers, noting that many have atrocious ontime performance records.

Judge Mills' observations are worth paying attention to, for when procrastination and delay become the rule of the day, justice surely suffers.

To the extent that the problem results from failings in the system, then the system ought to be repaired. To the extent, however, that it results from a lack of diligence on the part of judges and lawyers, we need to serve notice that such dereliction will not be tolerated.

We hear much in our times about the decline of the work ethic. Can it be that this disease has infected the bench and the bar as well as the back alleys of our urban ghettoes?

The article follows:

Wheels of Justice Need Speeding Up

(By Bob Wiedrich)

Unless judges and lawyers start minding the store, procrastination could spell the doom of the American system of criminal justice.

Judge Richard Mills of central Illinois' 8th Judicial Circuit maintains promptness and dispatch should be legal virtues.

Instead, these disciplines have been subordinated in too many courtrooms by procrastination on both sides of the bench, a malaise Judge Mills views as the most disastrous and unfortunate occupational hazard in the legal profession.

"To defer, delay, postpone, put off, prolong, protract, and retard the day-to-day business of either the law office or the bench is to throw a well-aimed monkey wrench into the machinations of legal process, doing a disservice to those whom we serve, the clients and the taxpayers," Mills declared.

"Attorneys and judges need to spend a bit more time being more productive if the courts are ever to clear up the logjam of cases existing in some of the nation's major urban centers."

A jurist who has presided in both the more leisurely precincts of Downstate Illinois and the hectic courtrooms of Cook County during a 10-year judicial career. Mills has excellent credentials for his commentary.

"Some judges start work at 10 a.m. and take a two-hour lunch," he said. "Then they work until 4 p.m. For a five-day week, that amounts to a 20-hour week.

"There's a good deal of that. And that is not fair to the criminal justice system or the taxpayers."

Mills also had critical words for lawyers who delay the administration of criminal justice. Too many, he said, have an atrocious on-time performance that frustrates orderliness—the very essence of legal training.

He saw much of this during the 13 two- to three-week stints he served in the last nine years in the civil and criminal courts of Cook County.

"It is really a different ball game up there because of the volume," he said, "I stand in awe of the men who sit on the bench there. It is an unforgettable experience for a downstater to come there the first time.

"Obviously, I couldn't change it. But I saw constant delay and the difficulties of disposing of cases. It was like a gigantic hourglass with each case a grain of sand filtering through the system.

"It could take all day sometimes to locate both sides in a case on the day they were supposed to go to trial. Theoretically, they were supposed to be ready, but often they were occupied elsewhere.

"I often got the feeling some of them weren't even acquainted with the case they were handling. Some were not even familiar with a case until the night before the trial.

"Granted, there is a limited number of trial lawyers available in relation to the number of cases. However, the delays impeded the flow of speedy justice. Too often you practically shot the whole day just rounding up the participants."

Mills believes prompt and orderly implementation of the law would make things easier for those serving on the legal stage.

Permitting legal matters to simmer and stew over extended periods, he said, often causes them to boil into unmanaegable proportions, to become blown totally out of proportion.

Both lawyers and judges can more easily cope with problems if they handle them immediately, instead of permitting them to mildew with age, he said.

"Judges who in Solomonlike pomposity clutch a matter in advisement 'to the bosom of Abraham' simply postpone the inevitable to a future date when the memory of what transpired has faded into oblivion," Mills said.

"None of us down here are pushed," he said of the 11 circuit judges and four associate judges on the bench in the eight-county area he serves from the Cass County seat in Virginia, Ill. "None of us have the problems faced by our colleagues in Cook County with the tremendous volume of cases with which they must cope.

"However, if these problems are to be overcome, the rulemaking authority of the courts must be used to streamline the system, and the state legislature must assist, too."

As a start, Mills recommended taking all but the most serious traffic offenses out of the criminal justice system and assigning them to administrative hearing officers.

This, he said, would make more judges and more courtrooms available to ease the burden of already overcrowded court dockets.

But most of all, he continued, lawyers and judges must observe the rules of punctuality so procrastination does not become an enduring disease in the courts system.

"The average citizen, who after all is the very purpose of our existence and the direct recipient of our services, cannot understand why the law requires so many delays and an imposition on his time and, therefore, his money," Mills said.

"Procrastination and punctuality are inherent enemies. Neither can survive in the presence of the other."

AFFIRMATIVE ACTION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. CRANE. Mr. Speaker, what would happen if a top professional basketball team were ordered to take affirmative action to make sure its racial composition reflected that of all basketball players in the surrounding area?

The quality of the team's performance would decline, some outstanding players would never get a chance to make the squad, and fans would stay away in droves.

Fortunately, affirmative action has not yet reached pro basketball. We can still appreciate the skills of Chet Walker, Bob Love, Walt Frazier, Earl Monroe, Kareem Abdul Jabbar, and many others who have earned the right to play through their own abilities and not through some artificial mechanism.

In many different areas of American life our traditional idea of individualism—of each man going as far as his ability and hard work will take him—is under attack.

We are confronting a call for special privileges for those who are members of groups, such as blacks and women, which in the past suffered special discrimination. Those who urge such special treatment, usually called "affirmative action," are undoubtedly well-intentioned. They desire to provide equality of opportunity in the long run by giving special privileges to some in the short run. What they fail to understand is that the policies they are advancing may do so much damage in the short run that the long run may never be reached.

As a former college professor and headmaster of a private school, I am acutely aware of the damage caused by "affirmative action" in the academic community. Tom Wicker, writing in the New York Times of June 30, 1974, discussed a study compiled by Dr. Richard A. Lester of Princeton as a result of the Carnegie Commission's investigation of higher education. Wicker wrote:

> [This study] concludes that "affirmative action" by colleges and universities to hire blacks and women is lowering academic standards, elevating unqualified persons beyond their abilities and discriminating against white men of higher qualification.

The original intention of the 1964 Civil Rights Act, from which the primary authority for "affirmative action" is derived, was to abolish all preferential treatment in the hiring and firing of employees. Section 703(j) of the act indicates clearly that there is to be no preferential treatment afforded in employment practices. Yet the regulations and laws which have grown out of this initial legislation rely on just such preferential treatment practices to enforce the ultimate goal of "equal employment opportunity."

Consider several examples. A letter sent from Claremont Men's College in California declaring that it "has a vacancy in its—department as a result of retirement" states that, "We desire to appoint a black or Chicano, preferably female." Or another letter from the Department of Philosophy at the University of Washington stating that it "is seeking qualified women and minority candidates for faculty positions at all levels." Instead of ending discrimination based on race, sex, or ethnic background, "affirmative action" now began enforcement on the basis of race and sex and ethnic heritage.

In fact, the Department of Health, Education, and Welfare was asking universities to keep the very racial and sexual statistics which were, in many instances, forbidden by State and antidiscrimination laws. As a result, the office of Civil Rights has forced a number of schools into such odd circumstances as judging racial or ethnic origin by analyzing the name or physical appearance of a professor. For this reason, there has been great emphasis on candidates with "Spanish and Indian surnames," visual surveys of faculty and similarly unusual and unorthodox means of analyzing and evaluating a collegiate teaching staff.

Even if "affirmative action" were to have worthwhile goals, which is not a statement I accept, the minority group members who benefit from these policies should, and do, resent the implication that they do not have the competence to be successful and that, therefore, they must be handed what they are unqualified to earn competitively. The suspicion will always be present in their minds, and in other's minds that their successes may be due to special privileges and opportunities rather than talent, competence and hard work. Thomas Sowell, a black economist from the faculty at UCLA, wrote, in an essay entitled "'Affirmative Action' Reconsidered," that—

> If the "affirmative action" program were merely inane, futile, and costly, it might deserve no more attention than other government programs of the same description. But it has side effects which are negative in the short run and perhaps poisonous in the long run. While doing little or nothing to advance the position of minorities and females, it creates the impression that the hard-won *achievements* of these groups are *conferred* benefits. Especially in the case of blacks, this means *perpetuating* racism instead of allowing it to die a natural death.

The faculty employment situation is not the only aspect of the academic community to suffer the consequences of "affirmative action" programs. The admissions process for most colleges and universities are now employing some method of special consideration for the admission of minority students.

In 1973, the U.S. Supreme Court agreed to consider one of the challenges to the reverse racism being imposed by so many university admissions departments. The challenge came from a white graduate of the University of Washington, Marco DeFunis, Jr. In 1969, when he was a senior at the university with a near-A average and on his way to a bachelor's degree, magna cum laude, he applied to the law school. He was rejected. He discovered that 39 other applicants, all members of racial minorities with law school aptitude test scores lower than his, had been admitted under the school's program to expand minority enrollment.

DeFunis charged discrimination, contending that the law school had two sets of admission standards and that he thus was deprived of equal protection of the laws guaranteed by the 14th amendment.

The university conceded that it applied the quota system to achieve a "more balanced" student body. It claimed that the law school had the right to decide whether its overall quality would be improved by a larger percentage of minority students. It admitted that it had one admission standard for whites and another for minorities.

The Washington Superior Court ruled for DeFunis and he was admitted to the State law school. The university appealed to the supreme court, which reversed the decision, ruling that the law school had a right to consider race as a special factor in admitting minority students. Since DeFunis was permitted to remain in law school while his case was appealed to the supreme court, he had already graduated by 1973, when the supreme court agreed to hear his case. On the narrow legalistic ground that this particular case had been resolved, the court did not make any substantive decision. Thus, reverse racism in university admissions continues, and the constitutionality of this practice remains unresolved.

The academic community is not the only sector of our society affected by affirmative action" requirements. Despite memorandums issued by the Department of Health, Education, and Welfare which indicate that no one should be hired who is less qualified than another applicant, regardless of sex or race, the Equal Employment Opportunity Commission has issued a 158 page document, entitled "Affirmative Action and Equal Employment," which warns that—

> If a statistical survey shows minorities and females are not participating in your work force at all levels in reasonable relations to their presence in the population, the burden of proof is on you to show that this is not the result of discrimination, however inadvertent.

As a consequence of warnings such as these, business and corporations have incurred substantial expenses, merely to carry this "burden of proof." It is ironic that requirements of this nature contradict the time-tested legal precedent that one is "innocent until proven guilty."

The example of A.T. & T. is illustrative of this problem. In the last few years, A.T. & T. has had to pay out some $75 million as a result of disagreements with the EEOC and just recently nine steel companies, along with the United Steelworkers Union, agreed to a settlement with the Government that will cost them upwards of $60 million.

As a consequence of these settlements, A.T. & T. now gives its equal employment officer a budget of one-half million dollars a year and reportedly spends an additional $3 million per year to collect the data necessary to file the required progress reports with the EEOC.

A.T. & T. is not alone; Pfizer, Inc. spends over a million dollars a year just to fill out the required forms, a figure many other firms reportedly match.

Celanese Corp. had two suits filed against it by employees and its legal fees were estimated to be anywhere from $100,000 to $300,000. Moreover, if a company loses, the costs can be astronomical, with back pay awards running into the millions of dollars.

Ironically, those who collect from these suits are likely to be hurt by them in the long run, because fear of future suits is tying large amounts of capital that could otherwise be used for things such as plant expansion which, in turn, could produce badly-needed jobs in these difficult economic times. However, with the situation being what it is, company managers cannot afford to take any chances, so hiring and promotion programs are being altered to fit the existing circumstances.

Evidence that reverse discrimination is becomingly increasingly prevalent can be found as some of the victims begin to fight back. Just recently, the New York State Division of Human Rights overturned the appointment of a female high school principal from Puerto Rico and ordered her replaced by a white New Yorker on the grounds that the latter was far better qualified.

Likewise, the New York Supreme Court recently ruled in favor of seven white men who claimed they were better qualified than three Hispanics who had been hired previously by the Suffolk County, N.Y., Police Department.

Along the same lines, the Virginia State Legislature, in response to a controversial Fairfax County, Va., policy of hiring minority group members for their police force in order to reach a certain quota, nearly passed a bill outlawing the use of quota hiring systems.

The fear of reprisals is evident in a very recent example from the school system in New York City, where 79 school principals have refused to release ethnic data about their staffs and pupils. The State education department claims that the information is necessary for a "survey" of the ethnic backgrounds of school staffs and the city board of education's pupil census. The school principals' union opposes the survey and the release of the data, arguing that the data could, and probably will, be used to set up ethnic quotas for supervisory positions.

The 1964 Civil Rights Act made it clear that there should not be any discrimination on the basis of race, creed, color or national origin; yet, now we have an agency created by that same act, the Equal Employment Opportunity Commission, pressuring employers to hire and promote people on that very basis. The power and influence of this Commission is evidenced by the above examples.

Many in today's America argue that "society"—not the individual—is responsible for all actions. They also argue that the goal of the body politic is the achievement of "equality"—not the traditional idea of equal opportunity, but the opposite notion of equality of condition. The American heritage has traditionally been that of personal liberty—and the heavy burden of work which accompanies such liberty—that gave the ordinary American the freedom and incentive to excel. The American dream and ideal remains the creation of a society in which each man and woman, regardless of race, religion, or ethnic origin, can go as far as his or her ability will provide. The entire notion of quotas, whether the old-fashioned quotas which excluded minority group members, or the current variety which provides them with special privileges, is in opposition to that tradition and to that dream.

America, during this Bicentennial Year, must remember the principles of individuality and freedom which have brought it to its current greatness and must not turn its back upon these ideals in an effort to create a society in which groups, and not individuals, have rights. If America is to do so, the entire dream of a free and open society will have been defeated.

ELECTRIC UTILITY RATE REFORM AND REGULATORY IMPROVEMENT ACT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. DOWNEY of New York. Mr. Speaker, I am today joining with my distinguished colleague. Representative JOHN D. DINGELL, in the introduction of the Electric Utility Rate Reform and Regulatory Improvement Act.

This legislation would revise the manner in which electricity is priced to residential, commercial, and industrial customers. It has been introduced in an effort to assure that supplies of electric power in the future will be adequate, reliable and above all reasonably priced. Its purpose is to minimize energy consumption, to minimize the need for new generating capacity and to provide for reasonable rates to consumers. In addition, this bill seeks to increase efficiency in the electric industry by encouraging competition, prescribing reliability standards and establishing regional planning mechanisms.

There are few issues of more vital concern to my constituents than the continuing upward spiral of electricity prices. The Long Island Lighting Co. this year applied to the New York State Public Service Commission for a 15.6-percent rate hike in 1976. If approved, the hike will increase the typical customer's bill by nearly 10 percent in the winter, and by more than 25 percent in the summer. This action came shortly after the company had been granted a 21-percent increase.

The situation is typical. In 1974, more than 200 rate increases totaling more than $2.2 billion were granted nationally. This was double the 1973 totals. More than 100 additional rate increase requests are currently pending in State utility commissions, totaling more than $4 billion.

The burden of these increases, not surprisingly, has fallen hardest upon those least able to afford it. The rate increases have operated like a regressive tax, punishing those of low- and moderate-income most severely.

A. PEAKLOAD PRICING

One of the most significant problems addressed by this bill is the current system of peakload pricing. Utility rates typically decline with increasing usage and provide discounts for heavily consuming markets. The inevitable result of these promotional rates is to stimulate demand, especially peak demand. Projected increases in demand lead to plans for new plant construction, which require still more rate increases. Moreover, because powerplants must be built to meet peak demand, not average demand they have been forced to acquire a great deal of excess capacity. Last year about 51 percent of the Nation's electric generating capacity was idle.

By reducing peaks, rather than encouraging them, we can continue to meet consumption needs without bleeding the consumers dry. We must require those customers, and I mean all of those customers, who produce peak loads to pay the cost of meeting them. We must abolish promotional and discount rates. The Federal Energy Administration has estimated that by 1985 as much as $120 billion in new generating capacity construction could be avoided by such cost-of-service pricing.

Title II of this bill would require that electric rates reflect costs of service to each customer. Under the bill, methods of determining costs of service must be based on marginal costs during daily and seasonal time of use. Declining block rate under this legislation are prohibited, unless specifically justified by declining costs of service.

B. "LIFETIME" QUANTITIES OF ELECTRICITY

Residential customers of a utility are entitled to a rate for a "subsistence quantity" of electricity—that are determined to be necessary for lighting and refrigeration—equal to the lowest rate which the utility charges any other retail customer. This bill would provide this needed relief to residential customers.

Under the bill, States are permitted to enlarge the end uses to which their lowest rates apply, or adopt some alternative means—such as energy stamps—for alleviating the burden on low- and moderate-income consumers of high electricity costs.

C. THE FUEL ADJUSTMENT CLAUSE

During 1974, more than $4.6 billion in extra utility fuel charges were passed along to the Nation's electricity consumers through fuel adjustment clauses. These clauses have enabled utilities to gain automatic increases in circumvention of normal procedures and have encouraged wasteful spending by those utilities, who know that they can pass along all of these expenses to the consumer.

Under this bill, increased fuel expenses and other expenses may be passed on to consumers without formal ratemaking proceeding only to the extent that such expenses have increased by more than 5 percent, and then only 85 percent of the excess may be passed on. Moreover, the bill requires utilities to shop for the cheapest price and provides for an annual audit of such expenditures.

D. CONSTRUCTION WORK IN PROGRESS

Under this bill, construction work in progress will be excluded from the rate base until all of the requirements of title II have been met; at that time, inclusion of two-thirds of those costs is authorized. The bill will not affect facilities currently under construction.

E. OTHER PROVISIONS

Among the other provisions in the bill are sections which:

Assure consumer representation at State and Federal utility regulatory proceedings;

Require that utility stockholders, rather than consumers, pay for political, promotional, and institutional advertising;

Establishes a $40 million grant assistance program for State regulatory commissions to improve their staffs and enable them to demonstrate effective rate structures;

Requires State regulatory commissions to institute cost-effective techniques to reduce peak electricity loads, thereby reducing the need for costly new plants;

Requires that the Federal Power Commission develop powerplant reliability standards, and requires utilities to develop quality control plans to increase the reliability of existing powerplants;

Requires filing of advance plans for future powerplant sites.

Mr. Speaker, this legislation is designed to inject some logic into our system of electricity pricing. It will provide some desperately needed relief to low- and middle-income taxpayers. It offers us a means of carefully evaluating our need for construction of new powerplant facilities—construction which places an immense financial burden upon consumers and which contributes to the further deterioration of our environment. It will put an end to pricing schemes which unfairly discriminate against residential customers and obstruct our efforts to conserve energy.

I urge my colleagues to support this measure.

U.S. INTELLIGENCE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the San Diego Union, Mar. 21, 1976]

U.S. INTELLIGENCE AT THE CROSSROADS: SECRET CANNOT BE KEPT

(By Lt. Gen. Daniel O. Graham)

No intelligence officer, civilian or military, can view with equanimity the damage done in the past year to U.S. intelligence.

Congressional investigations, sensational media treatment and "insider" exposes have combined to paint U.S. intelligence agencies as generally evil and sinister, at best inept and often ridiculous.

The damage done is enormous, though hard to quantify publicly. Were intelligence agencies to try, they would only compound the damage. If they enumerate sources lost, they will lose more; if they spell out serious morale problems, morale will erode even further.

The morale problem is serious. Men and women, civilian and military, who have proudly devoted a large part of their lives to the intelligence profession, are faced with a barrage of accusations against themselves and their superiors which paint them as fools, if not the agents of utter wickedness.

The intelligence "heroes" on the current scene are those who break their oaths and for profit, ego, or even vengeance, vilify their embattled former colleagues.

Disillusionment, frustration and bitterness are common among intelligence professionals.

Senator Frank Church and Representative Otis Pike, meanwhile, have made pious speeches about the continuing need for intelligence, but they seem unable to resist the urge to defame intelligence people—and endanger their lives—if it seems politically acceptable to do so.

Senator Church insisted on publishing his committee's findings on alleged CIA assassination attempts despite the strong and cogent pleas of William Colby that the naming of large numbers of CIA men and their contacts would put their lives and well-being in jeopardy— a warning that came tragically true in Greece, where a CIA man was assassinated. Church could have published only the findings without all the masses of detail containing the names of the men involved. What purpose was served by this exposure?

Well, the basic findings were pretty dull reading. CIA, it turns out, never assassinated anyone. The closest they ever got was providing the means to anti-Castro Cubans.

But the suggestive details of the testimony given were much more likely to titillate the press than were the bare findings.

There is little doubt that such behavior on the part of the congressional committees has had a deleterious effect on intelligence, but to be fair about it, it must be said that we were having very serious trouble even before the congressional investigations. They were, after all, a trailer to the Watergate affair.

The previous association of members of the "plumbers" with CIA was an irresistible lure to congressional investigators. The fact that the Watergate investigation revealed remarkable resistance on the part of CIA to pressures from the White House staff and that General Vernon A. Walters, CIA Deputy Director, offered his head on a platter rather than involve the Agency, never seemed to sink in.

Another woe had begun to beset the intelligence community well before the Watergate circus. This was the breakdown of self-discipline in government and press on security matters. It had become exceedingly difficult for the U.S. government to keep a secret.

For decades the government had relied for security of state secrets on a sort of honor system in the legislative and executive branches of government. Bureaucrats entrusted with sensitive classified information guarded it out of a sense of duty.

All this changed in the late sixties and early seventies.

The rise of the anti-establishment syndrome stripped away the tacit restraints which had made the system work. Government and ex-government people lost all compunction to guard a secret if blabbing it to the press offered personal, bureaucratic or political advantage.

Some individuals actually reversed the old feelings of obligation to keep secrets and felt themselves duty bound to reveal them out of a sense of superior morality; Daniel Ellsberg and the famous Pentagon Papers was a case in point.

Of course, not all the blame for damage done to the intelligence community from the breakdown of security can be laid at the feet of the press.

Too many bureaucrats have slapped "Secret" and "Top Secret" labels on matters which do not deserve such protection. The labels go on simply because the office or bureaucrat concerned does not want the matter to be too well known. Some of it is sheer administrative sloppiness or laziness.

Documents remain classified long after the need to protect "sources and methods" has passed. Intelligence agencies are particularly reluctant to put out papers with no classification stamp on them.

One wag at CIA said that the only unclassified papers put out at Langley were the paychecks and they would be classified if a secret bank could be set up to cash them. It is hard to convince a newsman that he should respect a classification stamp if he has seen it too often on trivia.

Another complicating factor in the leak problem is the tendency of some key officials to try to manipulate the press by passing selected tidbits to favorite newsmen. Given the nature of the relationship of press to government in this country, it is doubtful that this practice will ever cease completely, and sometimes the deliberate disclosure of intelligence information (not sources) to the public is a positive good. The problem is that the practice can easily get out of control.

It happened recently with a series of leaks and counterleaks about Soviet compliance with arms control agreements. Further, while leaks of information by a top official are generally protective of intelligence sources, they cause some newsmen to look up their less discreet contacts to find out what the intelligence sources were. A news item mentioning "satellites," or "communications intercepts" always has a bit more credence and much more pizzazz. The code word of the intelligence operation involved really adds luster.

Both babbling bureaucracy and irresponsible press share the blame for the hemorrhage of leaks in the public media which have done grave damage to intelligence.

But the solution is not to determine who killed Cock Robin; the solution is to make the laws of the land protecting its intelligence sources enforceable, and then enforce them. Until this is done, the United States will remain a powerful giant, gradually going blind for lack of intelligence information.

After all the smoke of sensationalism and political posturing is cleared away, one or two matters still emerge which suggest a need for reorganization. For example, the lines of responsibility for one type of intelligence activity—covert action in support of foreign policy—are too hazy.

It is hard to trace responsibility upward from the CIA to national authority. However, it should be abundantly clear that the intelligence agencies did not undertake the operations criticized by the committees on their own initiative. The finger of responsibility points at those in ultimate power over national security affairs.

The Church Committee's report on alleged assassination attempts, despite carefully obscure treatment of presidential responsibility, cannot exonerate presidents and their key political advisers—even those who were the political allies if not heroes of the report's drafters.

If, as Senator Church has stated, assassination of a foreign leader such as Fidel Castro is "utterly alien" to the American way, was it President John F. Kennedy who was acting in an "utterly alien" fashion, or some lesser figure in CIA? The notion that the CIA would decide to assassinate the Cuban dictator and keep the White House in the dark about it is preposterous.

The danger which Congress uncovered, then, was not that of a "rogue elephant" CIA unilaterally perpetrating wickedness; it was of a fuzzy chain of responsibility for intelligence actions.

Much of the hurrah coming out of congressional inquiry and the public media has to do with the techniques of intelligence. There is much pious tongue clucking about the CIA's use of journalists and businessmen in intelligence work, affiliation with and financial support to oversea churchmen and missionaries, planting false stories in the foreign press, and so on, it seems ad infinitum.

Today there seems to be no better peg for a news item than exposition of some new allegation of wickedness on the part of CIA. Much of this neo-piety on the part of the press is sheer hypocrisy. U.S. intelligence agents cannot function effectively using the Guide Book for Girl Scouts as an operating manual.

One hears and reads a lot of inane arguments involving demands to continue or abolish certain intelligence techniques on the basis of similarity to KGB practices. It makes no more sense to demand the outlawing of an intelligence practice because the KGB uses it than it does to demand that all practices allowable to the KGB should be allowed to U.S. intelligence agencies.

The thing to bear in mind about the KGB (and its counterparts in other Communist countries) is that it represents the opposing team in a deadly serious game which the United States can forfeit only at great peril to free men everywhere in the world.

The KGB prides itself on operating under the frankest of amoral codes, the creed of the Chekist. Absolutely anything goes—sex, bribery, blackmail, terror, torture, and murder are to the KGB legitimate tools of the trade.

No responsible U.S. intelligence officer has ever advocated operating under the KGB rules. But it is insane to believe that U.S. intelligence can have the slightest success against such an adversary if bound by Marquis of Queensbury rules.

U.S. intelligence operatives have the enormously difficult problem of doing a job which is rarely possible within the normal American definition of "fair play." In clandestine activity "fair play" could quickly result in the death of agents.

Now, there are good reasons for organizational change in the U.S. intelligence apparatus quite independent of the congressional inquiries. These reasons were scarcely illuminated by the Committees, but are at least as important as the need to correct or forestall alleged "abuses."

The U.S. intelligence structure has needed some overhaul for several years, mainly because the shifting world situation has changed U.S. intelligence needs, technological advances have changed the way intelligence does it job, and certain aspects of the "centralization" of intelligence have proved unworkable.

The U.S. intelligence community today remains structured and postured basically to deal with the relatively simple bipolar world of the fifties and sixties when the prime intelligence question was: What are the military capabilities and intentions of the Soviet Union?

But today's world is not so simple and the answers to questions such as "What are the prospects for the Soviet harvest?", "Can Argentine technology support a nuclear weapons program?", "What are the Arabs doing with oil revenues?", "Will the French sell helicopters to Iran?" have become vital to U.S. interests.

In other words, political and economic intelligence on a wide variety of target countries has become critical to good national decision-making.

In the tactical field, the nature of the intelligence requirement has also changed over the past several years. Once the essential intelligence needs for a U.S. commander were "strength, capability, and disposition" of the enemy forces. With this intelligence he could prepare for tomorrow's, next week's, or next year's battle.

Today he must be prepared for a devastating and critical first battle at all times.

This means he needs much more timely and precisely detailed intelligence in potential enemy forces. He is now opposed by modern military technology, especially powerful long-range weaponry which must be monitored constantly.

In any war between forces employing such weapons, defeat or victory can be determined in a matter of hours, perhaps minutes. There is no time to crank up the commander's intelligence apparatus after the start of hostilities. What this means with regard to reorganization schemes is that the needs of the forces in the field and fleets at sea, including their needs for intelligence support from national systems, must not be ignored in the enthusiasm for centralization.

If we are not careful, we will diminish the war-fighting and deterrent capabilities of U.S. arms by concentrating too narrowly on the needs of Washington-level intelligence users.

The next month or so, as Congress and the White House wrestle with problems of U.S. intelligence organization and rules of conduct, will be crucial to the Nation, and to the future of the Free World as a whole.

Reformers must reform only that which must be reformed; reorganizers must reorganize only that which must be reorganized.

A combination of puritanical zeal, cynical political partisanship, and bureaucratic power plays can complete the already well-advanced destruction of America's eyes and ears—its intelligence service.

If restoration of U.S. intelligence effectiveness is indeed what motivates the reformers, they must face up to the hard problem of protecting U.S. state secrets, rather than the easy one of creating new congressional committees.

Legislation is required which recognizes the right of the United States government to have a secret and which provides practical means to apply criminal sanctions to those persons entrusted with secrets who abuse their trusts. This means that the public media must not remain immune from responsibility for publication of national secrets and from protecting the insider who has provided the information and violated his trust.

Within the executive branch, the emphasis in providing better intelligence organization and oversight of intelligence activities should be based in the realities of the changed world situation, the new technology of intelligence, and the long-standing problems of community coordination—not on the sensational stories arising from the recent congressional inquiries.

If we are careful, the viability of U.S. intelligence can be retained and much of the damage done repaired; if we are not careful, we can so weaken U.S. intelligence that our country will resemble a blind giant groping its way through the dangers of the next decade.

TRIBUTE PAID TO CORNELIUS HARNETT IN WILMINGTON, N.C.

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. ROSE. Mr. Speaker, I would like to recognize an effort made by my constituents, Leslie N. Boney, Jr., FAIA, Mrs. F. P. Fensel, and the Rev. Robert Cook, and by our distinguished majority leader, THOMAS P. O'NEILL, Jr., to replace the grave marker at St. James Episcopal Church in Wilmington, N.C., for Cornelius Harnett, member of the 1777 Continental Congress and early patriot leader.

Born in 1723, Mr. Harnett moved to Wilmington in 1727 and became involved in revolutionary activities in 1765. It is said of him that from 1765 to 1781 there was scarcely any movement in the cause in which he did not bear a conspicuous part. He was not a soldier; rather he channeled his efforts into public service.

On February 21, 1776, he appeared before Governor Tryon at Brunswick and demanded that the stamp officer and other clerks of the county courts take an oath to never issue any stamped paper in the province. It was done.

By 1775, Cornelius Harnett was chairman of the Provincial Council, and when the British forces occupied the Wilmington area, he was marked as a fugitive and an object of British punishment.

HARNETT CAPTURED

In 1781, British Lord Cornwallis marched to Wilmington. The arrest of Cornelius Harnett was a chief aim of the British and during an attempt to escape, Harnett was captured and returned to Wilmington where he was jailed in a roofless blockhouse. He died the day after Cornwallis left town in 1781.

He had requested a simple burial at St. James' Church and he had chosen his own epitaph, two lines from Alexander Pope:

> Slave to no sect, he took no private road,
> But looked through Nature up to Nature's
> God.

Several years ago, the St. James vestry decided to improve their old graveyard. One of their activities included repairing the Harnett gravestone which had been damaged over the years. However, a fire in the stone company's warehouse where the repairs were being made cracked and delaminated the markers. Searches for matching stones were made by Mrs. F. P. Fensel and Mrs. W. G. Broadfoot of the church's committee and Leslie N. Boney, Jr., a Wilmington architect.

After repeated failures to find a suitable stone, they discovered that a Massachusetts quarry had supplied the original material. Yet, the local Eastlong Meadow, Mass. marble contractor informed them that the material was not available from the defunct quarry, unless special provision was made by the local government.

MAJORITY LEADER AIDS PROJECT

At this point the majority leader and I were asked to assist in the acquisition of a suitable stone, and within a few days of our first discussion, the problem was solved. Some of the stone from the quarry had been saved and was immediately available in a stone contractor's shop in Newark, N.J. Rubbings were made of the cracked originals and new markers were cut and carved by Robert Young & Sons, Inc., in Newark.

The rededication ceremony was held on February 21, 1976, with the Rev. Robert Cook presiding. The gravemarker is 22½ inches wide and 66 inches high, and 3 inches thick. The top has a cusp-like shape above 2 arcs. The main surfaces have a fine sand finish and the edges are shot sawn cut.

Mr. Speaker, this effort of the citizens of North Carolina and of Massachusetts reaffirms the spirit of cooperation and collaboration evident during the early days of our country. Cornelius Harnett fought and died for the opportunities we have shared to replace his gravemarker. I salute his high standards and the perpetuation of those standards by those involved in this notable project.

BOSTON AFFIRMATIONS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. EDGAR. Mr. Speaker, as both a Congressman and a United Methodist minister, I am often called upon to reconcile the alleged inconsistencies of serving God while concurrently participating in the political process. I do not feel that there are any inconsistencies, Mr. Speaker. I believe that I have directed my votes in a manner consonant with the great ideals of the Judeo-Christian tradition.

Recently, a statement entitled "Boston Affirmations" came to my attention. The statement is the result of a collaboration of a group of theologians, pastors and laity organized by the Boston Industrial Mission. It places social action in a theological perspective, a frame of reference which is helpful to me in expressing my role in Congress.

Its poetic beauty is an inspiration to me, and I hope that it will be an inspiration for my colleagues. I welcome comments on this statement, and I insert it to be printed here:

THE BOSTON AFFIRMATIONS

The living God is active in current struggles to bring a Reign of Justice, Righteousness, Love and Peace. The Judeo-Christian traditions are pertinent to the dilemmas of our world. All believers are called to preach the good news to the poor, to proclaim release to the captives and recovery of sight to the blind, to set at liberty those who are oppressed and to proclaim the acceptable year of the Lord. Yet we are concerned about what we discern to be present trends in our churches, in religious thought, and in our society. We see struggles in every arena of human life, but in too many parts of the church and theology we find retreat from these struggles. Still, we are not without hope nor warrants for our hope. Hopeful participation in these struggles is at once action in faith, the primary occasion for personal spiritual growth, the development of viable structures for the common life, and the vocation of the people of God. To sustain such participation, we have searched the past and the present to find the signs of God's future and of ours. Thus, we make the following Affirmations:

Creation: God brings into being all resources, all life, all genuine meanings.

Humanity is of one source and is not ultimately governed by nature or history, by the fabric of societies or the depths of the self, by knowledge or belief. God's triune activity sustains creative order, evokes personal identity and is embodied in the dynamic movements of human history in an ever more inclusive community of persons responsibly engaged in all aspects of the ecosphere, history, and thought.

Fall: Humanity is estranged from the source of life.

We try to ignore or transcend the source and end of life. Or we try to place God in a transcendent realm divorced from life. Thereby we give license to domination, indulgence, pretence, triviality, and evasion. We endanger and we corrupt inspirited communities. We endanger creative order, we destroy personal identity, allow tyranny, anarchy, and death to dominate the gift of life.

Exodus and Covenant: God delivers from oppression and chaos. God chooses strangers, servants and outcasts to be witnesses and to become a community of righteousness and mercy.

Beyond domination and conflict God hears the cry of the oppressed and works vindication for all. God forms "nobodies" into a people of "somebodies" and makes known the laws of life. The liberation experience calls forth celebrative response, demands responsibility in community, and opens people and nations for a common global history.

Prophecy: In compassion God speaks to the human community through prophets.

Those who authentically represent God have interpreted—and will interpret—the activity of God in social history. They announce the presence of God in the midst of political and economic life; they foretell the judgment and hope that are implicit in the loyalties and practices of the common life; and they set forth the vision of covenantal renewal.

Wisdom: The cultural insights and memories of many peoples and ages illuminate the human condition.

The experience and lore of all cultures and groups bear within them values that are of wider meaning. Racism, genocide, imperialism, sexism are thus contrary to God's purposes and impoverish us all. Yet all wisdom must also be tested for its capacity to reveal the human dependence on the source of life, to grasp the depths of sin, to liberate, to evoke prophecy, and to form genuine covenant.

The New Covenant: God is known to us in Jesus Christ.

The source and end of life is disclosed in that suffering love which breaks the power of sin and death, which renders hope in the action of God to reconcile and transform the world, which shatters the barriers of ethnic, class, familial, national and caste restrictions. Meaning and divine activity are incarnate in history and human particularity.

Church Traditions: God calls those who trust the power of suffering love to form into communities of celebration, care, and involvement.

Those called together enact renewing forms of association and movement to the ends of the earth, responding by word and deed to the implications of faith for each age and for us today:

The early Eastern church celebrated the dependence of humanity upon the cosmos, and of the cosmos upon God, demanding a sacramental attitude toward the whole of creation.

The Formers of doctrine set forth the meanings of faith in the face of cultured despisers, exposed the frail foundations of various secularisms, and gave new directions to both the faithful and civilization.

The Monastics assumed vows to exemplify life-styles beyond preoccupation with gain, freedom from familial and sexual stereotyping, and disciplined lives of service.

The Scholastics engaged secular culture, demanding of each generation critical and synthetic reappropriation of tradition.

The Reformers preached the work of protest against religious pretence and demanded reliance upon the gifts of divine empowerment.

The Sectarians nurtured the spirit that cannot be contained by priesthood, dogma, hierarchy, authoritative word, or any established power, and demanded democracy, freedom, toleration, and the redistribution of authority, power, and wealth.

And today many reach out for wider fellowships, demanding ecumenical engagements and a witness which frees and unites.

Wherever the heirs of these movements are authentic, they confess their sins, worship the power that sustains them, form a company of the committed, and struggle for justice and love against the powers and principalities of evil.

Present Witnesses: The question today is whether the heritage of this past can be sustained, preserved and extended into the future. Society as presently structured, piety as presently practiced, and the churches as presently preoccupied evoke profound doubts about the prospects. Yet we are surrounded by a cloud of witnesses who prophetically exemplify or discern the activity of God. The transforming reality of God's reign is found today:

In the struggles of the poor to gain a share of the world's wealth, to become creative participants in the common economic life, and to move our world toward an economic democracy of equity and accountability.

In the transforming drive for ethnic dignity against the persistent racism of human hearts and social institutions.

In the endeavor by women to overcome sexist subordination in the church's ministry, in society at large, and in the images that bind our minds and bodies.

In the attempts within families to overcome prideful domination and debasing passivity and to establishing genuine covenants of mutuality and joyous fidelity.

In the efforts by many groups to develop for modern humanity a love for its cities as centers of civility, culture, and human interdependence.

In the demands of the sick and the elderly for inexpensive, accessible health care administered with concern, advised consent, and sensitivity.

In the voices of citizens and political leaders who demand honesty and openness, who challenge the misplaced trust of the nation in might, and who resist the temptations to make a nation and its institutions objects of religious loyalty.

In the research of science when it warns of dangers to humanity and quests for those forms of technology which can sustain human well-being and preserve ecological resources.

In the humanities and social sciences when the depths of human meanings are opened to inquiry and are allowed to open our horizons, especially whenever there is protest against the subordination of religion to scientific rationality or against the removal of religion from realms of rational discourse.

In the arts where beauty and meaning are explored, lifted up and represented in ways that call us to deeper sensibilities.

In the halls of justice when righteousness is touched with mercy, when the prisoner and the wrongdoer are treated with dignity and fairness.

And especially in those branches and divisions of the church where the truth is spoken in love, where transforming social commitments are nurtured and persons are brought to informed conviction, where piety is renewed and recast in concert with the heritage, and where such struggles as those here identified are seen as the action of the living God who alone is worshipped.

On these grounds, we can not stand with those secular cynics and religious spiritualizers who see in such witnesses no theology, no eschatological urgency, and no Godly promise or judgment. In such spiritual blindness, secular or religious, the world as God's creation is abandoned, sin rules, liberation is frustrated, covenant is broken, prophecy is stilled, wisdom is betrayed, suffering love is transformed into triviality, and self- or transcendental awareness. The struggle is now joined for the future of faith and the common life. We call all who believe in the living God to affirm, to sustain and to extend these witnesses.

MS. JAIME PATRICIA WELCH, STATE WINNER OF VFW CONTEST

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 1976

Mr. DRINAN. Mr. Speaker, I am pleased to inform my colleagues that Ms. Jaime Patricia Welch, a resident of Fitchburg, Mass., is the Massachusetts winner of the Veterans of Foreign Wars Voice of America contest.

Ms. Welch, a 17-year-old senior at Saint Bernard's High School in Fitchburg, has been a member of the National Honor Society for 3 years. She ranks second in her high school class, participates in many extracurricular activities including school dramatics, and holds a part-time job in a local department store. It is her goal to pursue a career in medicine.

Ms. Welch's winning essay was based on the theme "What Our Bicentennial Heritage Means to Me." I take pride in commending to my colleagues this unusually moving statement:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

Every one hundred years America pauses to take stock of its progress since 1776. Every one hundred years this celebration never fails to fall in a difficult decade.

As far as decades go, the 1870's and the 1970's didn't make the top ten. I can imagine my great great grandparents sitting around their kitchen table in the Philadelphia of 1876. When the Liberty Bell rang in the anniversary of our first one hundred years as a nation, I can imagine them looking at each other and thus commenting, "Whoopee, our first hundred years."

What did they believe their centennial heritage to be in 1876? Like millions of other dirt poor immigrants, they had come to the big cities of America in search of what bewigged men had promised them—a chance for a new life, the freedom to live that new life, and a chance to be a part of the government that made it possible. Idealistic, very. Their new life was rooted in racial ghettos, nurtured in the depths of Susquehanna coal mines, and their harvest—giving up their sons in war. Yet, these people had happily left the homes of their youth to embrace this harsh land—millions of them. The land took their hearts, lives, and children. For all their giving, they reaped a dream. America—a place where human life meant something. America—a vast interacting community. America—a home for the homeless, a dream for every person. They and their families stayed. Multiply one family by hundreds of millions from New York to East Oshkosh. We all share those grass roots.

One hundred years have passed since our great great grandfathers' day and now we must pause to ask ourselves, "What is our bicentennial heritage in 1976, and more importantly, can we live up to it?"

Our shared heritage is a way of life that bespeaks purpose and meaning. Our ancestors lived their lives for the precise purpose of benefitting their families, (especially their children) and the community in which they lived. Their existences were made meaningful by the purpose their lives were put to.

Most of us are removed from the mines and the mills, and as Walter Lippman wrote in 1960, "We are rich, but we are not having a very good time. For our life, though it is full of things, is empty of the kind of purpose and effort that gives to life its flavor and meaning."

Purpose, effort, and meaning. Hopefully, all humans seek meaning in their lives. America was founded on the proposition that every life mattered and every human had certain rights that had to be respected. So in 1976 we'll stand in the shadow of a noble heritage. Perhaps dirt poor immigrants no longer reach out to America for shelter, but the unborn children cry out and the comatosed living dead whisper to us for decisions. Can we live up to our American heritage—a heritage that has made life meaningful here for two hundred years?

HOUSE OF REPRESENTATIVES—*Tuesday, March 30, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The hand of our God is upon all them for good that seek Him.—Ezra 8: 22.

O God and Father of us all, who art the life of the living, the strength of the struggling, and the refuge of those who return to Thy ways, we lift our hearts unto Thee. Thou hast led us in the past and our yesteryears are bright with the evidences of Thy guiding spirit. Lead Thou us on in these days that the celebration of our 200th birthday may be worthy of our heritage and worthy of our efforts to make our country great in peace, in justice, and in good will. Give us a faith that will not waver nor whine, nor worry, nor wrangle—a faith that will wait and watch and work and wrestle and worthily win.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On March 24, 1976:

H.J. Res. 549. Joint resolution to approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes;

H.R. 1313. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Rolla, Missouri, for airport purposes;

H.R. 2575. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes;

H.R. 3440. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Grand Junction, Colo., for airport purposes; and

H.R. 9617. An act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Alva, Okla., for airport purposes.

On March 25, 1976:

H.R. 4034. An act to designate the Veterans' Administration hospital in Loma Linda, Calif., as the "Jerry L. Pettis Memorial Veterans' Hospital," and for other purposes; and

H.R. 11665. An act to rescind certain budget authority recommended in the message of the President of January 23, 1976 (H. Doc. 94–342), transmitted pursuant to the Impoundment Control Act of 1974.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200) entitled "An act to provide for the conservation and management of the fisheries, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2023. An act to provide for the competitive movement at fair and equitable rates and charges of household goods shipments moving in the foreign commerce of the United States, and for other purposes;

S. 3130. An act to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes.

S. 3184. An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes; and

S. Con. Res. 106. Concurrent resolution to correct the enrollment of H.R. 200.

The message also announced that the Vice President, pursuant to Public Law 85–474, appointed Mr. SPARKMAN, Mr. METCALF, Mr. DURKIN, Mr. MANSFIELD, Mr. DOLE, and Mr. STAFFORD to attend, on the part of the Senate, the Interparliamentary Union Conference to be held in Mexico City, Mexico, April 15 to 25, 1976.

The message also announced that the President pro tempore, pursuant to Public Law 93–618, and upon the recommendation of the chairman of the Committee on Finance, appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. FANNIN, and Mr. ROTH as official advisers to the United States delegations to negotiations relating to trade agreements; and appointed Mr. HARTKE, Mr. HARRY F. BYRD, JR., Mr. NELSON, Mr. MONDALE, Mr. GRAVEL, Mr. BENTSEN, Mr. HATHAWAY, Mr. HASKELL, Mr. BROCK, Mr. CURTIS, Mr. HANSEN, Mr. DOLE, and Mr. PACKWOOD as alternates to the above-mentioned negotiations.

APPOINTMENT OF CONFEREES ON S. 3056 TO AMEND FOREIGN ASSISTANCE ACT OF 1961 TO PROVIDE EMERGENCY RELIEF TO EARTHQUAKE VICTIMS IN GUATEMALA

Mr. MORGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3056) to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquakes in Guatemala, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. MORGAN, ZABLOCKI, DIGGS, NIX, SOLARZ, BROOMFIELD, and GILMAN.

A BILL TO DESIGNATE THE JAMES A. HALEY VA HOSPITAL

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, I am today introducing a bill to designate the Veterans' Administration Hospital in Tampa, Fla., as the James A. Haley Veterans' Administration Hospital. I am sure the Congress will agree with me that such an honor will be a proper and fitting tribute to a man who has championed the rights of veterans in all the years he has been in Congress and whose dedicated service in this important field is recognized nationwide.

I am happy to state that the entire Florida House delegation has joined me in cosponsoring this bill. We will, of course, be happy to have other friends of JIM HALEY join as cosponsors of this legislation for deserved recognition of a job well done.

I am providing details of Mr. HALEY'S service, with particular reference to his contributions to veterans' legislation, at another point in the body of the RECORD, and I will later request unanimous consent that those who desire to do so may join in revising and extending their remarks at that point in the body of the RECORD.

INDIANA, NO. 1

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ROUSH. Mr. Speaker, Indiana is indeed No. 1. The Indiana University basketball team under the direction of Coach Bobby Knight successfully completed two regular seasons without a defeat and climaxed it all last night with the NCAA championship. The final game in the NCAA tournament pitted two Big Ten teams against each other, which is indicative of how strong the league really is. A courageous Michigan team proved no match though for the strength of the No. 1 team in the country—Indiana. I would like to take the time to mention each and every one of the individuals that were involved or had a part in this championship team. There is Quinn Buckner, the quarterback of the team. A starter since his freshman year, the "Mighty Quinn" has provided the leadership needed to the other team members. Scotty May, the senior forward voted the player of the year by everyone. He is often called the complete player, yet he is not a selfish player. If another teammate is open he will pass to them rather than try for another 2 points for himself. Tom Abernethy from South Bend gained a starting berth for the first time this year. He has been the unsung hero. Yet it has been his steady and constant play that has kept Indiana in many a game. Kent Benson, a junior center, has intimidated many under the basket. Some say he is the key to Indiana's basketball team. As a reward for his hard work he was named as the most valuable player of the tournament. The fifth starter is Bobby Wilkerson. Being 6 feet 7 inches and a guard, he is called the "Spiderman" by opponents because of his ability to be all over a man. He has led the team this year in assists. Unfortunately, he was hurt in the opening minutes of the game last night, perhaps one of the most important in his career. Team members stated after their victory that the game was won for Bobby, a tribute to him.

Those mentioned were the starters. But everyone knows that the strength of the bench can either make or break a team. Jim Crews has come in off the bench many times providing that quick basket or steal that has turned the game around. A starter as a freshman, he has the coolness that is needed when entering the game under tense situations.

As for the rest of the bench they will all be back next year. Coach Knight has called on them throughout the year to help the team. These players include: Wayne Radford, Jim Wisman, Rich Valavicious, Mark Haymore, and Bob Bender. Their experience on the court may not have been excessive, but just think of the team they scrimmage against every day during practice. How can they help but gain experience after daily scrimmages with the No. 1 team in the Nation?

Coach Bobby Knight and his coaching staff must be complimented on the excellent job they have done since joining the Indiana University community.

We, in Indiana are proud of this team. We are proud not just because they are Indiana University basketball players, but because they are all fine outstanding young men. They are dedicated and care about each other, they share in each others' accomplishments. There exists a bond between them all. We have grown to admire, respect, and love this team, and it will be a long time before we forget these 11 individuals and their coaches.

FARMER-CONSUMER COALITION TO TAKE NOTE OF LARGE NUMBERS OF BEEF IMPORTS

(Mr. PRESSLER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. PRESSLER. Mr. Speaker, I should like to call the attention of the House of Representatives to the serious situation that exists in the cattle industry in my district in South Dakota and elsewhere throughout the Nation. Many of our urban consumers do not realize that presently cattlemen are losing from $100 to $200 per head on animals sold, and a lot of this cattle is breeding stock. Consumers have an interest in this situation because if the cattle industry is destroyed because of the large number of foreign imports, it will take from 5 to 7 years to rebuild it. This is because breeding stock is being sold. There will be beef shortages on the domestic front in 4 to 5 years if this occurs. We will then be at the mercy of foreign imports.

So I believe that farmers and consumers both have a common bond to form a farmer-consumer coalition to pay some attention to the large numbers of beef imports that are so depressing our domestic beef prices.

In addition, many of our cattle feeders have expressed concern over the recently revised system of beef grading. While the new standards were not put into effect until February 23, 1976, the timing for these unfortunately coincided with a period of increased fed cattle marketing and lower prices. The Agricultural Marketing Service has advised me that it now believes that the initial adjustments resulting from the putting into effect of the new grades have now been accomplished. Nonetheless, we can see that this new system will have long-term effects on the cattle industry and while it may be beneficial to consumers, I must note for the RECORD that these changes have had an unsettling effect on cattle prices.

INDIANA, A GREAT NATIONAL CHAMPION

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MYERS of Indiana. Mr. Speaker, last night in Philadelphia, the Indiana University basketball team proved they were the rightful possessor of the Nation's sports writers' No. 1 rating during every wekely poll this season by both UPI and AP. There were many skeptics during the year because the Hoosiers had a mid-season slump during which time several teams forced them to show their championship caliber. I must admit even as a loyal supporter that I am, I too, during that slump, had some question if they really were the best in our Nation. It seemed in every game including the championship game with a great University of Michigan team that they played just hard enough to win. They just never displayed any killer instinct to build up big scores.

During this season, Indiana has played the best teams in our country, several two or three times. They have compiled an enviable record of 32 wins without a loss this season. In addition, they devastated a strong touring Russian team comprised of that nation's finest basketball players in a preseason encounter. During the last two seasons, their record is 63 wins in 64 games, losing only to Kentucky by two points in last year's NCAA tournament quarter finals. Most loyal Hoosier followers feel that last year would have been different if it had not been for the loss of All-American Scott May because of a broken arm. Memories of that came back early in this year's championship game when Bobby Wilkerson was removed by a concussion. Although, his injury was serious, fortunately it is not permanent. He expects to be released from the hospital later today or tomorrow.

I am proud to represent Indiana University in the Congress. I am extremely proud of this great team and their accomplishment in the number of victories on the basketball court. However, the character of these young men under the most capable leadership of their coach, Bobby Knight, is really what most of us are most proud. Those who watched the games in Philadelphia, I am sure agree with me that they never saw an Indiana player question an official's decision or lose his temper in any way. This fine discipline, the individual talent of these young men, and the conscientious and dedicated coach gave them the ingredients to finish a great season undefeated and to win the NCAA championship.

Coach Bobby Knight, Scott May, Quinn Buckner, Tom Abernethy, Bobby Wilkerson, Kent Bentson, Jim Crews, Bob Bender, Rick Valavicius, Jim Wisman, Wayne Radford, Mark Haymore, Scott Eells, and Jim Roberson have worked hard and have earned this championship. I join the many basketball fans in our Nation to congratulate this deserving team, the "Hurryin' Hoosiers" from Indiana University, on a well-deserved national championship.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, I compliment the gentleman's team also and I would like to add they had a great deal of love when they played the Alabama team a great deal earlier. But the AP and UPI polls were wrong on that occasion because they were wrong about Alabama which ended up in second place.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my friend, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, does the gentleman have any idea how the President took last night's results?

Mr. MYERS of Indiana. I had to give him 2 points to get a bet out of him before the game. Maybe he is still in mourning, I have not heard from him.

In closing I want to say again I am proud to represent Indiana University but I am most proud of the way these young men have played throughout this year and the fact that they did not buckle under pressure.

Last night one of the finest ballplayers was taken out of the game by an injury but they still won. I talked to Coach Bobby Knight a few minutes ago. He said he had visited last night Bobby Wilkerson, the young man who was injured. He is still in the hospital. He does have a concussion but he will be all right. We are all glad he was not hurt more seriously.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I join my colleague, the gentleman from Indiana (Mr. MYERS), in congratulations to the Hoosier team. I would like to point out that Kent Benson hails from the 10th District which I represent.

Mr. MYERS of Indiana. I say again they are the finest basketball team in the country this year in every respect.

CONGRATULATIONS INDIANA BASKETBALL TEAM

(Mr. HILLIS asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. HILLIS. Mr. Speaker, I would like to join my colleagues in congratulating the Indiana University basketball team and Coach Bobby Knight for their win over Michigan last night. Coach Knight and the members of the team have much to be proud of and deserve the highest praise for the exceptionally fine playing exhibited throughout the basketball season. The Hoosier win last night places Indiana University in the enviable position of becoming the fourth school in NCAA basketball tournament history to win the championship after completing an undefeated season.

A special word of praise needs to be directed to Bob Wilkerson who was injured during last night's game and who happens to come from Indiana's Fifth Congressional District. I know I speak for my constituency when I say that we are all pleased and relieved to know that Bob's condition is now satisfactory and continues to improve.

Again, my congratulations to Coach Knight and each member of the Indiana team for their excellent basketball season. All Hoosiers have a great deal to be proud of today.

FOURTH ANNUAL REPORT ON STATUS OF ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Government Operations:

To the Congress of the United States:

In accordance with the provisions of Section 6(c) of the Federal Advisory Committee Act, the report on the status of advisory committees in 1975 is herewith forwarded.

This is the fourth annual report. It is organized to provide summary information about the activities of advisory committees, and public access to specific committees and the Federal agencies to whom they provide advice.

GERALD R. FORD.

THE WHITE HOUSE, *March 30, 1976.*

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McKAY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 142]

Andrews, N.C.
Barrett
Bell
Biester
Chisholm
Clausen, Don H.
Conyers
Coughlin
Dellums
Diggs
Dodd
Drinan
Esch
Eshleman
Fary
Foley
Ford, Mich.
Guyer
Harkin
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Hicks
Hinshaw
Holland
Jarman
Johnson, Pa.
Jones, Ala.
Landrum
Long, Md.
McCormack
McKinney
Macdonald
Nix
Pepper
Rees
Riegle
Rodino
Sarbanes
Stanton, James V.
Stratton
Teague
Udall
White

The SPEAKER. On this rollcall 386 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL EXPLANATION

Mr. SARASIN. Mr. Speaker, because of my participation in worker's compensation field hearings as a member of the Subcommittee on Manpower, Compensation, and Health and Safety of the Education and Labor Committee, I was not present for the March 29, 1975, session of the House. Had I been present, I would have voted in the following fashion:

Rollcall No. 139, House Resolution 1097, Committee on the Judiciary, "yea."

Rollcall No. 140, House Resolution 1060, supplemental investigative funding for Committee on Standards of Official Conduct, "yea."

Rollcall No. 141, H.R. 12262, international broadcasting authorization, "yea."

STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET

(Mr. DERRICK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERRICK. Mr. Speaker, I rise to inform the House on the status of the fiscal year 1976 congressional budget. This is the eighth notification to the House about where Congress stands in relation to the budget authority and outlays ceiling and the revenue floor adopted in House Concurrent Resolution 466.

As of the close of legislative business last week March 25, 1976, the current level of spending stood as follows:

STATUS OF FISCAL YEAR 1976 CONGRESSIONAL BUDGET REFLECTING COMPLETED ACTION AS OF MAR. 25, 1976

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	408, 000	374, 900	300, 800
Current level	398, 540	371, 411	301, 100
Amount remaining	9, 460	3, 489	300

A complete analysis of the various items included in the current level is included in today's Extensions of Remarks.

The current level of funding, and therefore the amount remaining has changed since last week's notification due to congressional action on two bills, which both the House and Senate ratified last week.

In addition, I have been authorized by the House Committee on the Budget to include the reestimates of the fiscal year 1976 budget submitted by the President in his fiscal year 1977 budget request. These reestimates have been agreed to by the House and Senate Budget Committees based upon an analysis made by the Congressional Budget Office. This analysis examined almost all of the 1,400 budget accounts and produced a change in the amount of budget authority and outlays remaining under this year's congressional budget ceilings.

The effect of these reestimates and congressional action on last week's spending bills follows:

EFFECT OF CHANGES TO THE AMOUNT REMAINING ON THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET—WEEK OF MAR. 22-26, 1976

[In millons of dollars]

	Budget authority	Outlays
Net effect of reestimates	−1,224	+165
Child care services (H.R. 9083)	−62	−62
Supplemental railroad appropriations (H.J. Res. 801)	−587	−545

I must remind my colleagues in the House that three major spending bills yet remain to be adopted by the Congress: 1976 appropriations for the District of Columbia and foreign aid, which is now pending in the Senate; and the spring supplemental.

In addition to these bills the pressures of changing economic trends continue to make the budget vulnerable to increases in spending.

In summary Mr. Speaker, I must warn my colleagues in the House that the current level of spending leaves little room for new legislation of either the President or Congress which was not contemplated in this year's budget resolution.

REQUEST FOR PERMISSION FOR AD HOC SELECT COMMITTEE ON OUTER CONTINENTAL SHELF TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Ad Hoc Select Committee on Outer Continental Shelf be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 8617, FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT

Mr. HENDERSON. Mr. Speaker, I call up the conference report on the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 23, 1976.)

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HENDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 8617 differs in several respects from the bill as it originally passed the House. These differences pertain to provisions which would modify existing law relating to political activity by Federal employees, commonly known as the Hatch Act, and in a moment I will yield to the distinguished gentleman from Missouri (Mr. Clay), who sponsored this legislation, to explain these differences. I would, however, like to take a moment to comment upon some provisions which are not in the conference report—those provisions being the Senate amendments which pertained to congressional pay.

During its deliberations on H.R. 8617 the Senate added a new title to the bill which consisted of three amendments pertaining to the manner in which congressional pay increases may be considered. The first amendment provided that pay increases for Members of Congress would not take effect before the next congressional election after Congress approves such an increase. The second amendment required the adoption of a separate resolution of disapproval with respect to congressional comparability pay increases in the event the President submitted an alternative pay plan. The amendment further required that the resolution must be in addition to a disapproval resolution relating to Federal employee pay. Finally, a third Senate amendment provided that the rate of pay of officers and employees in the legislative branch could not exceed that for Members of Congress.

The House bill contained no provisions relating to congressional pay. It was clear that under the House rules the Senate amendments were nongermane, and if these amendments were included in the conference report, the entire report would be subject to a point of order in the House. For this reason, the managers on the part of the House insisted that the Senate receed from these particular amendments and the managers on the part of the Senate agreed to that request.

I now yield such time as he may consume to the distinguished gentleman from Missouri (Mr. Clay), to explain the difference between the conference report and the House bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. Clay), the distinguished chairman of the subcommittee.

Mr. Speaker, in connection with yielding this time, I want to commend the gentleman from Missouri (Mr. Clay) and all the conferees for the outstanding job that they did in upholding the House position and bringing back to the House a conference report which I believe each and every Member of the House who voted for the bill when it was before the House earlier this year can now again vote for.

Mr. CLAY. Mr. Speaker, I rise in support of the conference report on H.R. 8617, the Federal Employee's Political Activities Act of 1975. This bill would amend the Hatch Act by permitting Federal employees to participate voluntarily in political activities so long as they do so on their own time, not in Government buildings, and out of uniform.

I was privileged to serve as a House manager of this bill, under the leadership of the distinguished gentleman from North Carolina (Mr. Henderson). The debate between the House and Senate managers was spirited and vigorous. The managers on both sides were, however, united in the conviction that this legislation was important and should be moved with dispatch. Accordingly, it was not difficult for us to reach agreement on the major differences between the House and the Senate in this legislation.

You will be pleased to know that the House receded only on those Senate amendments which tended to tighten existing controls against improper political activities. The House conferees stood firm in preserving those features of the bill which afforded greater political protection to Federal employees while protecting the public interest. We accepted those Senate provisions which added greater strength in preserving public confidence in the integrity of Government service.

The highlights of the House-Senate conference are as follows:

PERSONAL SERVICES

House managers accepted the Senate amendment which included personal services in the definition of political contribution. While the House bill did not include this language, the committee report did specify that personal services were included in the definition of political contribution.

DATE FOR INFORMATION

The House bill requires the Commission to annually notify each employee in writing of prohibited and permitted political activities at least 60 days prior to the earliest primary or general election. The House managers accepted the Senate amendment for changing this time requirement to 120 days.

OFFICIAL INFORMATION

The House managers accepted a Senate amendment which provides that employees are not authorized to use official information for any purpose otherwise prohibited by law.

WHITE HOUSE PERSONNEL

The House managers accepted a Senate amendment which clarified that the exemption of certain White House personnel from the prohibition against political activities was not authorization for such activity. The House bill exempted certain White House personnel from the prohibition against political activity while on official duty. Language similar to the Senate amendment was also included in the committee report of the House.

POLITICAL ACTIVITIES OF JUSTICE, IRS AND CIA EMPLOYEES

The House bill authorized all Federal employees to participate in voluntary political activities so long as they do so on their own time, off Government property, and out of uniform. The Senate amendments retained existing Hatch Act prohibitions against political contributions and other political activities for all employees of the Department of

Justice, Internal Revenue Service, and the Central Intelligence Agency. The House in accepting the Senate provisions narrowed its sweeping nature by exempting from the prohibitions of existing law: First, employees in nonsensitive positions; second, employees in sensitive positions when the agency head determines that their political activities would not adversely affect public confidence; and third, presidential appointees who determine national policies. The Congress would have 30 days in which to disapprove determinations of agency heads.

LEAVE TO SEEK ELECTIVE OFFICE

The House bill provided that employees who seek full time elective office shall be assured of returning to positions, if unsuccessful, by being granted leave without pay—LWOP—at least 90 days prior to elections. The House managers accepted the Senate amendment deleting this provision. H.R. 8617 now requires that such an employee may campaign for elective office during his spare time or by utilizing accrued annual leave. The Department may, upon its option, determine to grant the employee, upon application, leave without pay.

PENALTIES

The House accepted the Senate provision which mandated a suspension without pay for any employee convicted of violating the bill's prohibitions against use of official information or authority. At our insistence the period was reduced from 90 to 30 days. The Board may, at its discretion, impose even stronger sanctions.

EFFECTIVE DATE

The House bill provides for an effective date of enactment 90 days after approval. The House managers accepted the Senate amendment delaying the effective date of the bill to January 1, 1977. Thus, the conferees deferred the bill from directly impacting upon the national elections of 1976.

BOARD AND PAY FOR MEMBERS OF CONGRESS

The House prevailed in retaining the independent board to adjudicate alleged violations of the bill and the Senate receded on its proposal regarding pay for Members of Congress.

Mr. Speaker, H.R. 8617, as reported by the conferees, is a markedly improved piece of legislation in that it ensures greater political participation for Federal civilian and postal employees while protecting the public interest. As reported by the House-Senate conferees, H.R. 8617 now includes the following major provisions:

States that Federal employees are encouraged to exercise their right of voluntary political participation.

Prohibits the use of official authority, influence, or coercion with the right to vote, not to vote or to otherwise engage in political activity.

Prohibits use of funds to influence votes; solicitation of political contributions by superior officials; and making political contributions in Government rooms or buildings.

Prohibits political activity while on duty, in Federal buildings, or in uniform.

Prohibits the extortion of money for political purposes from Federal employees.

Retains existing prohibitions against political activities for employees in sensitive positions within the Department of Justice, Internal Revenue Service, and Central Intelligence Agency.

Requires that employees who seek elective office do so on their own time. Employees shall, upon request, be granted accrued annual leave to seek elective office.

Authorizes the Civil Service Commission to conduct educational, enforcement, and investigatory functions. Limits investigation of prohibited activities to 90 days.

Establishes an independent board whose function is to adjudicate alleged violations of law and provides for judicial review of adverse decisions.

Subjects violators of law to removal, suspension, or lesser penalties at the discretion of the board, requires 30-day suspension without pay for any employee found guilty of violating prohibition against use of official authority or influence.

Requires that the Civil Service Commission conduct a program for informing Federal employees of their rights of political participation and report annually to the Congress on its implementation.

I urge my colleagues to overwhelmingly support H.R. 8617 as reported by the House-Senate managers.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this horrendous conference committee report on H.R. 8617 with the sincere hope this body will not be a party to the perpetration of a major Bicentennial blunder which will have wide-ranging and long-lasting ramifications. What the managers of this palpably bad piece of legislation are asking us to do, under the guise of reform, is to gut the Hatch Act of 1939.

Undismayed by evidence that neither the public nor Federal employees generally want this legislation, House managers are asking us for a vote of approval. If this were to become law, "political freedom" becomes a euphemism for "partisan politics." But when you analyze the report, one inescapable conclusion remains. This legislation will, in effect, permit all of the current partisan political activities currently prohibited under the Hatch Act with certain limited exceptions.

Performing with a zeal which would make the cast of characters in Mission Impossible envious, House managers of this bill have succeeded in making a bad bill worse. For example, the House managers agreed with the Senate that H.R. 8617, as approved by the House, granted too much political freedom to some Federal employees. As a result, we now are being asked to go along with language whereby certain employees of the CIA, IRS, and Justice Department will be denied the political rights authorized in this bill, unless there is a determination by the head of the agency that such activity would not adversely affect the integrity of the Government or the public's confidence in the integrity of the Government. That, to me, is a clear admission the purported protections against coercion and intimidation in H.R. 8617 are a myth.

The acceptance by the House conferees of this Senate amendment also places them in the interesting position of favoring some employee unions while alienating others. The National Treasury Employees Union strongly opposed the amendment excluding IRS employees from the new political activities of H.R. 8617. In a letter to the conferees, NTEU President Vincent L. Connery said:

> The National Treasury Employees Union, representing more than 95 percent of all IRS employees across the country, strongly opposes this blatantly discriminatory amendment. There is no logical reason why IRS employees should be treated as second-class citizens.

It is an interesting spectacle to watch the proponents of H.R. 8617 jettison their allies in their all-out effort to make this political balloon fly.

The House managers also accepted a Senate amendment which delays the effective date of this legislation until after the 1976 elections. If, as they contend, Federal employees are being deprived of their constitutional rights under the Hatch Act, why the delay in implementation? If they were consistent, it would seem that backers of this legislation would want this new political freedom for Federal employees to coincide with the Nation's 200th anniversary.

One of the little publicized events of the conference was the ease with which the Senate receded from its amendments that would have provided for separate consideration of congressional cost-of-living pay raises, and for postponing any congressional pay increase until after the next election. While these amendments were obviously nongermane and subject to certain procedures under the Rules of the House, nevertheless there was barely a ripple of objection among the House conferees when these amendments were dropped. I can only wonder whether political expedience overcame principle. Here again, the theme of the conference dictated that there be a Hatch Act bill at any cost.

Ironically, in their upside-down bargaining, House managers prevailed in a situation where they should have receded. I refer to their action in retaining the establishment of a three-member independent Board on Political Activities with enforcement authority over the political activities of Federal employees. What this means is the creation of still another needless agency which will have the capability of becoming a new bureaucratic power base.

During the tug-of-war on this legislation, it was argued times have changed since the Hatch Act was enacted in 1939. It was said that the Federal workforce, today, was somehow different in character and sophistication. Even if those assertions were true, there is no valid reason to rip away protections which have helped insure an impartial Government civil service.

As a matter of fact, the potential for abuse of the civil service system today is far greater than it was in 1939. Then, there were 920,000 Federal employees compared with 2.8 million today; the total budget in 1939 was $9.5 billion as opposed to $324 billion in 1975; the average salary of a Federal empoyee in 1939 was $1,871—as opposed to $14,480, and in 1939 there were 77,300 Federal employees outside of Washington, D.C., compared with the 2,367,983 who now are assigned throughout the country outside of Washington.

As I mentioned earlier, widespread This is borne out by a number of public opinion polls.

For example, Representative ELIZABETH HOLTZMAN, of New York, said the results of her 1976 poll showed her constituents were against weakening the Hatch Act by a 2 to 1 margin. Senator J. GLENN BEALL of Maryland said 70 percent of the approximately 130,000 persons who responded to his poll were opposed to liberalizing the Hatch Act. The president of the Federal Executive Institute Alumni Association, Clayton Jones, said a survey of 3,000 civil service employees showed only two who supported H.R. 8617. A poll by Representative JOSEPH L. FISHER of Virginia showed that 59 percent of 20,000 respondents were against Hatch Act revisions.

Mr. Speaker, the respected National Academy of Public Administration also voiced strong warnings and objections to the Clay-McGee bill, which fell on deaf ears. The Standing Committee on Public Management and Machinery of Government, a committee of the NAPA, adopted a resolution stating that it is strongly opposed to several provisions of the Clay-McGee bill, "especially those provisions dealing with political candidacy and political management on the part of Federal employees." The resolution went on to say:

> It is the view of the Committee that such provisions would seriously undermine the concept and operations of a true federal merit system.

The chairman of this committee, Mr. Dwight Ink, zeroed in on the issue in a letter to the chairman of our Committee on Post Office and Civil Service, in which he said:

> I believe it would be most ironic if, at the very time the Congress is addressing the problem of how to avoid abuses of the merit system such as those discussed in your hearings and which triggered the introduction of H.R. 12080, the Congress were to open wide the doors to much more serious potential abuse through the passage of the Clay-McGee bill.

Mr. Speaker, that certainly is a valid assessment of what the House is contemplating doing today.

Despite the lack of public support, revision in the Hatch Act were embraced by the House and the other body because of the all-out campaign mounted by leaders of Federal employee unions affiliated with AFL–CIO. They know such legislation would substantially increase their influence over Congress. Dr. Nathan Wolkomir, president of the National Federation of Federal Employees, and an opponent of H.R. 8617, said organized labor's interest in the bill was "nothing more than the old AFL–CIO pitch for muscle and power. It is a move for money and organizing influence."

To pass this legislation is to invite a quick return to the spoils system. It certainly is an inauspicious way to start our third century as a nation.

Mr. Speaker, I urge my colleagues in the highest degree of nonpartisanship to reject this conference report.

Mr. Speaker, of course it pains me to step into the well of the House and disagree with my distinguished colleague, the gentleman from Missouri (Mr. CLAY), who has put in so much hard work on this measure, but sometimes hard work produces a monstrosity and that is the situation that we have before us.

In my statement, Mr. Speaker, I have outlined my basic views that this bill as it appears before us in the conference report is actually in worse shape than when it passed in the House. But, to refresh the memory of the Members, I would like to mention the key points that were emphasized in the original debate. I would remind the Members that the Hatch Act has withstood the test of time for some 37 years. Since we are entering into not just a Bicentennial Year, but also a political year, I would like to remind the Members that the Hatch Act was passed by an overwhelming Democratic Congress because of the political problems of abuse of Federal personnel practiced by a Democratic President, and that was the partisanship at that time.

So the Hatch Act, by banning certain partisan political activities, has successfully shielded Federal employees against coercion from their superviors. Inherent in the Hatch Act is the belief that Federal employees cannot serve both an impartial civil service and a partisan political party or a partisan activist group, the goals of the two are just incompatible.

Let me give the Members one example. Your local friendly census employee runs for political office in the geographical area in which he has responsibility. How does this legislation prevent such an employee from using the knowledge he has acquired during his tenure in the Census Office as political information? It does not.

Another example in this day and age of the wholesale dispersion of Federal grants, a nonpartisan city manager who also happens to control the purse strings on Federal grants which are distributed in his area is urged to support a candidate for office and selects the wrong candidate, and in that case the city may suffer.

Other examples, of course, could follow, but let me tell the Members the inconsistant situation inherent in this bill. The bill provides for the return of politics into the postal service. The 1970 Postal Reorganization Act specifically bans political activities in the Postal Service. I mention the postal service at this time because it has become everybody's whipping boy and even the August Committee on the Budget has decided there shall not be one more penny provided for the postal service in view of the kind of services it has been rendering. But here they are in this bill before us turning loose 700,000 postal officials for political activities. That is what they are doing under this bill.

Then let me quote to the Members one line from the most recent Supreme Court decision—and may I remind the Member that the Supreme Court on three different occasions has sustained challenges against the Hatch Act—and in the most recent Supreme Court decision in 1973 the Court stated:

> A repeal of the Hatch Act would run contrary to the judgment of history.

Mr. Speaker, in my original remarks made against the bill when it passed the House, I stated that this legislation is ill timed, ill conceived and is bad for the employees, the merit service as we know it to be, and the general public.

That was referred to as a somewhat partisan statement, so I have another statement I shall read to the Members which is as follows:

> The problem is that some Federal employees whose support is desired will be coerced by their supervisors into engaging in various political campaigns. The bill's supporters purport to refute this by saying that there will be serious penalties for coercion. This argument is not persuasive. A superior has many subtle ways of pressuring an employee that are difficult to detect. The superior is often responsible for an employee's promotion or the conditions under which the employee must work. He or she can make an employee's life pleasant or difficult. The protections in this bill are simply not adequate, . . .

One other quote, Mr. Speaker:

> Clearly, some persons see this bill as an effort to obtain additional campaign support in return for past actions on behalf of Federal employees.
>
> Federal civil servants ought to be properly reimbursed for the valuable work that they do for the public. Wage increases and fringe benefits ought to be decided on the basis of what is fair and what the Government can afford. They should not be decided just on the basis of how much political muscle civil servants can bring to bear at election time.

If the Members think that is a partisan political statement, let me remind them I am quoting our highly respected colleague, the gentlewoman from New York (Ms. HOLTZMAN). That is her objective, perspective view of this issue.

Mr. MOSHER. Mr. Speaker, the Senate wisely accepted Senator Taft's amendment to H.R. 8617, requiring that a general election fall in the time between when Congress votes itself a pay raise and the time when that pay raise goes into effect.

I regret to note that the conferees on H.R. 8617 have deleted the Taft amendment.

I am told that the conferees felt that congressional pay raise legislation was not germane to a bill dealing with Federal employee personnel policies. This puzzles me somewhat, because our conferees did not seem to suffer similar reservations last year when they rushed to accept a different Senate amendment to a Postal Service personnel policy bill, thus linking congressional salaries to the Federal cost-of-living salary scale.

As a result of that decision—which I vigorously protested at the time—we are now in the position of seeing congressional salaries go up automatically each time Federal employees get a pay raise. Regardless of where one stands on the question of linking congressional pay raises and civil service salaries, I think we can all agree that it is bad policy for us to forever be voting on immediate salary increases for ourselves.

I said this last July when we voted on the congressional pay raise mechanism and I said it again in September when I first introduced H.R. 9336. That legislation, which now has over 90 cosponsors, provides that a congressional pay increase could not go into effect during the same Congress in which it is voted upon. Over 20 States already have similar statutes or constitutional provisions for their legislatures.

My Ohio Senator, BOB TAFT, agreed to introduce this legislation in the Senate and he also attracted a bipartisan group of cosponsors over there. This was the basis for his amendment to H.R. 8617. the so-called Hatch Act Reform Act.

Mr. Speaker, eventually we must confront the fact that it is a blatant and inherent conflict of interest for Members of Congress annually to vote on legislation that grants us immediate pay increases. That is why I believe we must cause a deferral of congressional salary increases—so that we are not voting on benefits for ourselves—until we get the public's approval by reelection.

Although H.R. 9336 was first introduced on September 3, 1975, and despite its backing by an impressive bipartisan coalition, the House Committee on Post Office and Civil Service has not yet given the slightest indication of interest in this issue. This is most unfortunate.

This is an issue, Mr. Speaker, which we must address. Later this year, we will again be in the embarrassing, awkward and improper position of having to vote on our own salaries. I say this must end; we must correct this glaring defect in the decisionmaking process.

Thus, I regret the conferees' decision to delete the Taft amendment from H.R. 8617. Now, I pledge to continue pressing for separate legislation to clean up the process by which congressional pay raises are determined.

Mr. HENDERSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I rise in support of the conference report to H.R. 8617, the Federal Employees' Political Activities Act and I urge all of my colleagues to join me in supporting this vital legislation. In October of last year, when this bill was first before this body, I stated that I thought this bill represented a fair and equitable response to the needs of Federal employees. I still believe this legislation to be both fair and most equitable and once again I urge the support of my colleagues.

As a member of the Employee Political Rights Subcommittee which held extensive hearings on this bill and as a member of the conference committee, I have spent much of my first year in Congress involved in debate of the Hatch Act. A major reason for my high degree of involvement in this issue stems from the fact that I represent a district that is heavily impacted with Federal employees. In fact, subcommittee field hearings were held in my district, in the town of Riverdale, Md., as well as other similarly impacted areas. What we heard during those hearings was a strong plea to revise the restrictions of the Hatch Act so that these employees can more freely participate in our political process.

What I heard from my own constituents reflected that plea. I announced to them that I would vote the way they told me on this issue, and they told me in overwhelming margins that they wanted changes made. I received hundreds of replies asking for liberalization of the Hatch Act so that they could freely participate in our democratic process.

Some of this desire to change the Hatch Act stems from the confusion that the vagueness of present-day regulations causes. This very vagueness acts as a restraint against the employee who considers becoming involved in any political action, leaving our political system the poorer for the loss. We all know of the apathy that exists among the electorate. Why should we continue to maintain the barricades that have kept so many Federal employees who wish to participate from doing so? Particularly today, I should think that we in the Congress would gladly do everything we could to encourage, not discourage, participation in the political process.

One very important point which must be made is that H.R. 8617, as it is reflected in the conference report before us today, increases, rather than decreases Federal employee protection in this area. In keeping with our committee's feeling that any law or legislation restricting political activities of Federal employees should do so clearly and expressly. We worked to detail carefully protections for the rights of those employees in order to avoid the confusion and apathy of the past. So, we have provisions that prohibit the use of official authority or influence for political purposes. Under this provision supervisors cannot promise benefits for or threaten reprisals against a fellow employee for political actions. The provisions, further forbid coercion of Federal employees to vote or not to vote in any manner other than that which the employee desires, and they forbid coercion, through threat of loss of job or promotion, for example, for not taking part, or for taking part, in any political activities.

This list of provisions goes on and on—all of which were incorporated into the bill as safeguard measures to protect Federal employees from coercion and corruption.

Perhaps the most important provision of this bill is that provision which establishes a centralized organization to which Federal employees can go if any of the prohibitions have been violated. The Board of Political Activities of Federal Employees has the power to hear and decide cases involving violations of those protections. The concept of an independent board was deleted from the bill the Senate reported out. However, in the conference meeting it was decided by Members of both Houses that, because the the bill already provides the Civil Service Commission with broadened educational, enforcement, and investigatory authority, the creation of an independent board to handle adjudicative functions was absolutely essential. In the other instances where the House and Senate versions of the bill differed I feel that wise decisions were made which will strengthen the bill instead of weaken it.

The basic provisions of the bill are those which were initially worked out by the Employee Political Rights Subcommittee. In addition to retaining the House language on the creation of the board, the legislation before us today reflects much hard work and is most worthy of our consideration. In the final summation, while one may argue the philosophy of this measure, no one can argue that the intent and purpose of this bill is unclear. Chairman CLAY and his subcommittee staff are to be commended for the fine work they have done. I feel this is a good bill which is deserving of wide support and I urge my colleagues to join me in restoring political rights, with adequate protection, to more than 2.8 million Federal civilian and postal employees, by supporting the conference report to H.R. 8617.

Mr. HENDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased today to rise in support of this conference report. It does in fact represent a great deal of work not only on the part of the chairman who has stayed with it in subcommittee and committee and on the floor and in the conference committee, but of a number of Members of this House and the Senate to achieve some reform that is drastically necessary.

I thought I heard one of my colleagues say awhile ago that the Hatch Act had effectively protected Federal employees from undue political coercion. I cannot believe that that statement could be made with the evidence that we have with respect to the improper pressures in recent years that have in fact occurred.

The fact is that we need increased protection. The fact is that 80 percent of this bill deals with increased protection of Federal workers against the type of coercion that they have been subjected to under the Hatch Act.

I think the bill does a number of important things. It creates an independent Board of Political Activity composed of Federal employees where Federal employees can go and get redress with respect to political influence that is improperly visited upon them. I think this bill means that the day of the political fundraiser going to a Federal employee and forcing him to buy that fundraising ticket is over. Maybe this may seem bad to the current administration, but it does not seem bad to the Federal employee.

I think it is important that this bill provide information programs so that the Federal employees know what their rights are and what restrictions are placed upon them. For the first time we have an information program specified in the law.

Mr. Speaker, I think it is important that this House in fact does pass this conference report. I think it is important that it gets enacted into law. The Federal employees deserve this protection;

they deserve a restoration of their rights. I think that is what this bill does.

I am pleased today to support the conference report on H.R. 8617, the Federal Employees Political Activities Act of 1976. The bill we are considering today, agreed to by the House-Senate conference, is essentially the same as the bill approved on a 288–119 vote by the House on October 21. The major provisions of the House bill remain. The few changes are strengthening additions. Basically, House Members are being asked to reaffirm their previous overwhelming support for Hatch Act reform.

As we all know, Federal employees have had to cope with a myriad of vague do's and don't's under the current Hatch Act and the 3,000 administrative rulings that have flowed from it. H.R. 8716 clarifies in clear terms what one can and cannot do. It does not leave one's rights up to administrative discretion or whim.

More important, this bill contains strong, new protections not found in current law. It preserves a nonpartisan merit system and the impartial administration of our laws; it maintains the integrity of Government by keeping politics out of Government. Twenty of the bill's 24 pages lay out explicit new protections, for the employee and the Government. Specifically, the bill prohibits the following: The use of one's official authority to influence, coerce, threaten or intimidate another to engage or not engage in political activity; political activity on the job, in Federal buildings or in uniform; solicitation of funds or the making of contributions—including personal services—in Government buildings; the extortion of money for political purposes from Federal employees; the use of Government supplies and facilities for political purposes.

The conference version retains the independent Board on Political Activities of Federal Employees to hear and decide violations of this law. Penalties for violations of the law are spelled out, including removal from employment and suspension. The bill includes a mandatory minimum suspension of 30 days for employees found guilty of violating the restrictions on misuse of official authority or influence.

An important Senate addition to the bill which I raised in the House relates to the White House staff. The House-passed bill exempted White House staffers from certain political activity restrictions, such as engaging in politics on the job. In additional views to the House Committee report, I expressed my concern that this exemption might be construed to mean Congressional approval of campaigning on the public's time in the White House. I am pleased that the Senate has clarified the bill to insure that the exemption of White House personnel does not mean Congress is giving the green light to such activities.

A final and significant feature of this bill is the educational requirement. Most Federal workers complain that they are never sure about what they can and cannot do under the Hatch Act. They are afraid to become involved because their rights are subject to so much discretionary interpretation. This bill requires the Civil Service Commission to conduct a continuing program to inform Federal employees of their rights to political participation and the restrictions on them. Each employee would be informed once a year of his or her rights and the restrictions on political activities—a great improvement over the present situation which can be described as "limbo," at best.

Thus, what we have today is a bill that in clear, understandable terms enunciates the political rights of and restrictions on our 2.8 million Federal and postal employees. The heart of the bill, indeed 80 percent of the bill, is protection—prohibition against abuse, prohibition against politicizing the Federal establishment. These new provisions, now absent from current law, protect the public interest. If this bill fails to become law, we will fall back into that vague mismash that has followed nothing but confusion to reign supreme. Under the current Hatch Act "proscriptions," we saw the worst political abuse of our Government, during the Watergate era. Surely there is a better way. This bill is a fitting step forward.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. Gude).

Mr. GUDE. Mr. Speaker, I vigorously oppose this conference report on H.R. 8617 and will urge the President to veto the measure should the report be passed by the House today.

Congressman Joe Fisher, Democrat, of Virginia, and I who represent the two congressional districts with the highest percentage of Federal employees fought hard to defeat this measure when it passed the House last October. Significantly, all four Senators from Maryland and Virginia, the States with the highest percentage of Federal workers, also opposed the measure when it passed the Senate several weeks ago.

It is difficult for me to understand why this legislation, coming so soon after monumentous political abuses at the highest level of office, passed the House in the first place.

For years, the Hatch Act has allowed Government workers to say "No" to partisan politics, partisan fund solicitations, and partisan attempts to sway the day-to-day decisions that affect all our lives.

A "hatched" employee is not disenfranchised. Government employees can and do register in the party of their choice or as independents and vote.

Government workers can express their opinions on all subjects and candidates both privately and publicly, may wear political buttons and put bumper stickers on their cars, and may make campaign contributions if they choose to.

They can be candidates in nonpartisan elections.

I have been representing my district in Montgomery County, Md., a suburb of Washington, D.C. which houses thousands of civil servants, since 1953 when I entered the Maryland House of Delegates. In the 20 years I have held elective public office in this coutry, I never felt that its civil servants wanted to exchange their protections under the Hatch Act for certain freedoms to participate in partisan political activities.

As I have repeatedly stated, these changes may "free" the civil servant to be coerced, may "free" him to face enormous partisan pressures and may "free" him to have to put his job on the line in a complaint against a supervisor seeking political funds.

That the public and civil servants themselves do not want these changes has been substantiated in public opinion polls by Representatives Fisher and Holtzman and also in my own State with a recent poll taken by Senator J. Glenn Beall.

The American Society of Public Administration, the Civil Service League, and the National Federation of Federal Employees, as well as other professional organizations also oppose liberalizing the Hatch Act restrictions.

This legislation is both unwise and unfair to the bulk of rank and file civil servants who have not asked for and in fact do not want such repeal of existing Hatch Act prohibitions.

I strenuously urge you to vote against this conference report.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

I would like to say to the gentleman I quite agree with his position. The last time when we had this bill on the floor I was a little bit at a loss as to whether I wanted to vote for or against the bill because it was one of those issues that did not seem quite clear to me. Since the time the bill was passed, I have gone back to my district where the largest employer is the U.S. Forest Service and the second largest employer is the Bureau of Land Management. I have talked to many of the individuals who work in those agencies and I have been at dinners with many of them. I have asked the question: "How do you feel about the Hatch Act?" I have never found one of those people who wanted the Hatch Act repealed. They want to keep their jobs separated from political activities particularly those in the research areas do not want this act changed. They want to leave it as it is.

Mr. GUDE. I commend the gentleman on finding out the feeling of his constituents, the rank and file civil servants.

Mr. SYMMS. I thank the gentleman.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Collins).

Mr. COLLINS of Texas. Mr. Speaker, no matter what version of H.R. 8617, Hatch Act amendments, House or Senate, you consider, it remains unacceptable.

The legislation effectively repeals the Hatch Act, which has helped to protect Federal employees from coercive partisan political activity.

Therefore, for all practical purposes, the objections you raised in the minority views against this legislation still exist.

Passage of this legislation will permit Federal employees to freely engage in partisan political activity, that is, fund raising, political campaigning, soliciting votes, involvement in political party functions, et cetera.

The overriding point to remember is that while the prohibitions in H.R. 8617 are the minimum necessary protections for Federal employees from widespread political pressure, it should be carefully borne in mind that all of the other activities currently prohibited under the Hatch Act would be permitted if this bill were to become law.

Apart from the concern to protect all Federal employees from improper, coercive political pressures, the other casualty in this process would be the public. Partisan political activity will, no doubt, greatly erode public confidence in the impartial administration of the Federal Government.

Justice Reed may have stated it best in the Mitchell case:

> The influence of political activity by government employees, if evil in its effects on the service, the employees, or people dealing with them, is hardly less so because the activity takes place after hours.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to that dedicated Member, the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I am disappointed that this conference legislation (H.R. 8617) does not retain the House-passed 90-day provision that a Hatch Act employee would be required to take a leave of absence from work for 90 days prior to a primary election and 90 days prior to a general election. That normally is the procedure in the private sector for most employees who run for Federal political office.

I must admit because we were having votes on the House floor during the afternoon that we held the conference, I was not able to shuttle back from the conference quick enough to protect the 90-day provision for both the primary and the general election from being deleted by the Senate conferees. I am extremely disappointed that we did not retain that provision which was included in the House bill.

Mr. Speaker, additionally, I am somewhat disturbed by the letter dated, March 29, that we received from our colleagues, the gentleman from Maryland (Mr. Gude) and the gentleman from Virginia (Mr. Fisher), who do represent together the largest number of Federal employees of any of us here in the House of Representatives. Mr. Fisher, I understand, has over 60,000 Federal civil servants and Mr. Gude about 50,000.

Therefore, Mr. Speaker, I was very disturbed in reading this correspondance to learn that the Federal employees in their districts have substantial doubts about this legislation. Evidently both of our colleagues have received significant numbers of objections from civil servants in their two districts. Let me quote from that letter by Mr. Fisher and Mr. Gude:

> We believe that this legislation would expose Federal employees to subtle pressures to campaign for or otherwise support political candidates. Furthermore, the changes would undermine the public's confidence in the neutrality and impartiality of civil servants. In this post-Watergate period, we think that this is the last thing the country needs.
>
> The Conference Report exempts from the legislation employees in the CIA, IRS, and the Justice Department in sensitive positions except as the agency head determines by regulation that active political participation by people in those positions would not adversely affect the integrity of the government. Any protection provided by exempting sensitive employees from political activity can be reversed by the action of the agency head. In effect, there is no guarantee that these agencies will not be politicized.
>
> It is important to note also that the conferees have removed a provision requiring civil servants who run for political office to take a 90 day leave of absence, before an election.
>
> Polls by Representative Fisher, Representative Holtzman, and Senator J. Glenn Beall all substantiate the public's opposition to these changes. The American Society for Public Administration, the Civil Service League and the National Federation of Federal Employees as well as other professional organizations are also opposed to H.R. 8617. We hope that you will respect the concerns of the employees directly involved and vote against this conference report.

Mr. Speaker, I would like to address some questions to my colleague, the gentleman from Virginia (Mr. Fisher), who I see is on the floor. The gentleman from Maryland (Mr. Gude) has just spoken and raised the objections he has received. Mr. Fisher, what are the main reservations that the Federal employees who are presently under the Hatch Act in your district have about this legislation?

Mr. Speaker, I yield to my colleague, the gentleman from Virginia (Mr. Fisher).

Mr. FISHER. Mr. Speaker, their main reservation, and it comes through very clearly from polls I have taken and many conversations I have had, the main reservation is that in exchange for some additional political participation, they give up the protection of the Civil Service that they had for the most part over the years against undue pressure and influence on them by supervisory and more politically inclined people in the Government.

Mr. ROUSSELOT. Well, on that point, I, too, was very concerned about potential political pressure that could either be brought by supervisors and or Federal union leaders.

Could the gentleman define more clearly what the gentleman thinks that problem is? I thought we had partially solved that problem in the legislation before us but I would like to have the gentleman's comments.

Mr. FISHER. Perhaps an example will help. Say there is a vacancy in the Civil Service position and there are three employees more or less equally well-qualified to take that spot.

One of them is in the other party, the party, let us say, of the supervisor. The other two are in the other party, and they are all more or less well qualified. It is pretty clear which one is likely to be chosen to fill the job and have the advancement in his career and the higher pay.

This illustrates, I think quite vividly, why so many experienced civil servants look upon this as a poor bargain for them to get a little more participation privilege in exchange for the risks and uncertainties in terms of their salaries and their career advancement, their general working conditions.

Mr. ROUSSELOT. I am sorry to hear that, because I felt in the legislation that we had tried to establish adequate protections for the problem you have outlined in your illustration.

The SPEAKER. The time of the gentleman from California has expired.

Mr. DERWINSKI. Mr. Speaker, I yield 3 additional minutes to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. I am concerned that both my colleague from Maryland (Mr. Gude) and my colleague from Virginia (Mr. Fisher) are not totally satisfied that this legislation does in fact provide adequate protection to the civil servant who does not wish to be coerced or pushed into political action. I find that most disturbing.

Mr. FISHER. If the gentleman will yield further, I find what the gentleman in the well is saying to be persuasive, and it conforms very accurately with what I find when I consult with the very large number of civil servants living in my district. They make up about one-third of the empolyment in my district.

Mr. ROUSSELOT. One-third of the gentleman's constituency is Federal civil servants? I understand you have over 60,000 Federal civil servants.

Mr. FISHER. Roughly, or that work for the Federal Government.

Mr. ROUSSELOT. That is a substantial number, and I am sure that this will force us to make sure the record is clear just how much protection is provided. I am very disturbed that my colleague from Maryland (Mr. Gude) and my colleague from Virginia (Mr. Fisher) who represent the largest number of Federal employees, do not find that protection to be present in the bill. I voted for this bill when it left the House, feeling that we had adequate protection.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to my other colleague from Virginia.

Mr. HARRIS. I was wondering if my good friend and esteemed colleague, who did vote for the bill——

Mr. ROUSSELOT. I certainly did.

Mr. HARRIS (continuing). Was equally disturbed when the two colleagues he now refers to voted against the bill when it came up?

Mr. ROUSSELOT. I must be direct with my good colleague from Virginia (Mr. Harris) and say that I did not track the final vote of the gentleman from Virginia (Mr. Fisher) and the gentleman from Maryland (Mr. Gude) on the House bill. I know the gentleman from Virginia (Mr. Fisher) had a very specific substitute amendment, when the bill was on the House floor, but at the time I did not track their two votes on final passage. I of course now know they did not vote for final passage. But their letter of March 29 emphasizes a reasonably based concern, and I think we should at least listen to them. Because they both together represent so many Federal employees.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my great colleague from Kern County, Calif., which has Edwards Air Force Base and many other Federal installations.

Mr. KETCHUM. I thank the gentleman for yielding to me. Does the gentleman recall not too long ago, in line with his concern, not too long ago a group of us were studying the regional office of HUD, in San Francisco?

Mr. ROUSSELOT. I remember that very well.

Mr. KETCHUM. And our studies indicated that of all of the upper level people in HUD, only three were Republicans and the rest were Democrats, and the Hatch Act would not have much to do with those, apparently.

Mr. ROUSSELOT. I understand the point my colleague is making. I have been concerned for some time about what I consider to be the political imbalance in some agencies, but I must be honest in saying that I am concerned about the points that have been made by the gentleman from Maryland (Mr. GUDE) and the gentleman from Virginia (Mr. FISHER). I thought we had provided appropriate protection against political pressures.

The SPEAKER. The time of the gentleman has expired.

Mr. HENDERSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, I yield to my colleague, the gentleman from Missouri (Mr. CLAY), the chairman of the subcommittee which introduced this legislation.

Mr. CLAY. I thank the gentleman for yielding.

Mr. Speaker, I certainly want to commend the gentleman in the well for the number of hours he devoted to developing H.R. 8617, and I am quite certain that he is familiar with and well aware of the study that was made by the University of Michigan Social Service Research Center, which is the most exhaustive, most professional survey ever done on Federal Government employees.

The question I would like to pose to the gentleman is that, in light of his knowledge of the results of that survey, he ought to pose a question to the gentleman from Maryland (Mr. GUDE) and the gentleman from Virginia (Mr. HARRIS) and the gentleman from Virginia (Mr. FISHER), who talks about the fact that they have surveyed these employees who constitute such a great number of their constituents.

Mr. ROUSSELOT. I think the gentleman from Virginia (Mr. FISHER) said that one-third of all of his constituents are Federal civil servants, so I would have to assume that he has some contact with his constituents.

Mr. CLAY. Right. The question I am posing to the gentleman is that they have surveyed so many Federal employees, and they find that their constituents are not in favor of changing the Hatch Act. I think the question the gentleman ought to pose to them should be based on the results of the University of Michigan survey, which points out specifically—and it is documented—that almost 90 percent of all of the Federal employees do not even know what the Hatch Act is.

Mr. ROUSSELOT. That is why my amendment, to require that prior to every election each Federal civil servant receive a clear list of political do's and don'ts so that they will have a better understanding of what they can and cannot do as Federal civil servants. I am glad the gentleman, my subcommittee chairman, accepted my amendment on that subject.

The SPEAKER. The time of the gentleman from California has again expired.

Mr. DERWINSKI. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, let me, in response to my colleague from Missouri (Mr. CLAY) ask the gentleman from Virginia (Mr. FISHER) what kind of polls he took among his constituency and, let him respond, to the results of the Michigan study.

Mr. FISHER. If the gentleman will yield, I took a poll some months ago, and I received about 24,000 responses. Let us say that one-third of the responses were from Federal people, and it comes out about 59 percent not wanting any change in the Hatch Act at all. I did not go that far and offer an amendment which was in the nature of a compromise, which would have permitted political participation in running for State and local offices, which is way over 90 percent of all of the offices available in the country, and would have preferred something along that line.

Mr. ROUSSELOT. Maybe the gentleman from Virginia and the gentleman from Missouri will have a chance later in this debate to discuss the differences between what the gentleman, Mr. FISHER, found in his poll and the results of the Michigan study of which Mr. CLAY spoke.

I think there was also an additional study by some civil service employees the National Federation of Federal Employees where they surveyed 30,000 Federal employees across the country. We in this House nearly need more information from Federal civil servants as to how strongly as a group they genuinely support this bill.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES.)

Mr. RHODES. Mr. Speaker, I would like to remind my friends in the Congress that this is a bill which was passed by a Democratic Congress. It is not a partisan matter. It is a bill which I think has served the country well and should be retained.

Mr. Speaker, this is not an attempt to keep anybody from participating in public life. As a matter of fact, Federal employees can participate in certain political activities.

All this does is to keep the Federal employee from being victimized by those who would like to make him, as a prerequisite for keeping his job or present assignment, participate in political activities, even to the extent of having to contribute to one party or the other.

I think that would be wrong. I think it would be deleterious toward the independence of the civil service, and I certainly oppose it with everything I have and with all the power in my command.

I would like to say also, Mr. Speaker, that I have just received word that there is a very definite veto signal on this bill. The President has said that he will veto it if it is passed by both the Houses of Congress, so we can expect that if this conference is agreed to and this is sent to the President in the form of a bill, it will be vetoed.

It seems to me it would be vain, therefore, to try to send this to the White House. I feel certain that if it is vetoed, a sufficient number of the Members of this House will have the good sense to sustain the veto. So let us stop it right now. This is a bad bill. Let us vote "no" on the conference report.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in support of the conference report on H.R. 8617. This legislation modifies the Hatch Act by permitting Federal, civilian, and postal employees to participate voluntarily, and as private citizens in political activities.

I wish to commend Chairman CLAY and the members of the Subcommittee on Employee Political Rights and Intergovernmental Programs for their hard work on this legislation. During the course of extensive hearings held both here in Washington and around the Nation, it was apparent that the Hatch Act needs to be reformed. These findings underscored the recommendations of the Commission on Political Activity of Governmental Personnel which was created in 1966 to review the Hatch Act and make suggestions for change. The Commission found that the present Federal Hatch Act is confusing, ambiguous, restrictive, negative in character, and possibly unconstitutional. The commissioners believed that changes should be made which clarify prohibitions, increase participation, and reflect a positive tone so that employees would be encouraged to participate in permissible activities.

I believe the legislation before us today addresses these concerns and recommendations of the Commission on Political Activity, while guarding against abuses, such as the coercion of public servants to participate involuntarily in political activity.

Mr. Speaker, the historical record is replete with evidence that many of the regulations developed under the Hatch Act are violative of the first amendment. This situation has come about because the Hatch Act incorporates all of the pre-1940 rulings of the Civil Service Commission. When Congress passed the act in 1940 it did not know that it was passing into law some 3,000 decisions of the Civil Service Commission which would be used as the broad base for defining allowable activity under the act. Of these 3,000 rulings there are some which are classic examples of unconstitutionality. In one case of which I know, a mail carrier was dismissed from Federal service because he attended meetings of the Jehovah's Witnesses' Society and distributed certain religious literature of that organization. Because the society was critical of certain polital leaders and certain governmental policies at that time, this particular mail carrier's participation was judged to be in conflict with the law, and he was dismissed from the postal service, even though he promised to withdraw from religious activities. This ruling could hardly withstand a first amendment analysis, and yet it is still a part of the definition of proscribed political activity. I doubt that my congressional colleagues would be willing to allow the rights of over 2 million Government workers to depend upon administration nullification of this ruling when the first amendment is at stake.

Mr. Speaker, I will not launch into a detailed analysis of all the constitutional flaws of the Hatch Act. I simply wish to put on record my support for this conference report, and ask my colleagues to join with me in voting for its passage. However, I do ask permission of the chairman to revise and extend my remarks so that I may include some of the historical documentation to which I have made brief reference in this statement.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. HENDERSON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 164, not voting 27, as follows:

[Roll No. 143]

YEAS—241

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chappell
Clay
Cochran
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Fascell
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Green
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hays, Ohio
Hechler, W. Va.
Hefner
Helstoski
Hillis
Horton
Howard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lundine
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pike
Preyer
Price
Railsback
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stuckey
Studds
Symington
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yates
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—164

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Boggs
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Clancy
Clawson, Del
Cleveland
Cohen
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fenwick
Findley
Fish
Fisher
Flynt
Forsythe
Fountain
Frenzel
Frey
Fuqua
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Henderson
Hicks
Hightower
Holt
Holtzman
Howe
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Landrum
Latta
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKay
Mahon
Mann
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Neal
O'Brien
Passman
Pettis
Pickle
Poage
Pressler
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Robinson
Rogers
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Seiberling
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Wiggins
Wilson, Bob
Wydler
Wylie
Yatron
Young, Fla.

NOT VOTING—27

Andrews, N.C.
Barrett
Bell
Biester
Chisholm
Clausen, Don H.
Fary
Guyer
Hayes, Ind.
Hébert
Heinz
Hinshaw
Holland
Johnson, Pa.
Jones, Ala.
Karth
McCormack
Macdonald
Madden
Nix
Pepper
Riegle
Rodino
Stratton
Udall
White
Whitten

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Johnson of Pennsylvania against.

Mr. Pepper for, with Mr. Hébert against.

Mr. Nix for, with Mr. Whitten against.

Mr. Fary for, with Mr. Guyer against.

Until further notice:

Mr. Jones of Alabama with Mr. Andrews of North Carolina.

Mr. Barrett with Mr. Heinz.

Mr. McCormack with Mr. Udall.

Mr. Macdonald of Massachusetts with Mr. White.

Mr. Karth with Mr. Bell.

Mr. Stratton with Mr. Biester.

Mr. Hayes of Indiana with Mr. Madden.

Mr. Holland with Mr. Riegle.

Mrs. Chisholm with Mr. Don H. Clausen.

Mr. McKAY changed his vote from "yea" to "nay."

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 8617 just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CORRECTING THE ENROLLMENT OF H.R. 8617

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 596) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 8617.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 596

Concurrent resolution relating to the enrollment of the bill H.R. 8617

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8617), to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens in the political processes of the Nation, to protect such employees from improper political solicitation, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) on page 1, line 4, of the House engrossed bill, strike out "1975" and insert in lieu thereof "1976",

(2) in section 7324(b) of title 5, United States Code, as amended by the conference substitute to Senate amendment numbered 12 by striking out "this subsection" in paragraph (1) and inserting in lieu thereof "this section", and by striking out "subparagraph (A)" in paragraph (3) and inserting in lieu thereof "subparagraph (B)",

(3) on page 7 of the House engrossed bill, strike out line 11 and insert in lieu thereof the following:

"§ 7326. Candidates for elective office; leave, notification by employees

(4) on page 10, line 4, of the House engrossed bill, strike out "employe" and insert in lieu thereof "employee,",

(5) on page 15, line 12, of the House engrossed bill, strike out "subpenas" and insert in lieu thereof "subpenas,",

(6) on page 21 of the House engrossed bill, strike out lines 18 through 22,

(7) on page 21, line 23, of the House engrossed bill, strike out "(2)" and insert in lieu thereof "(b) (1)",

(8) on page 22, line 1, of the House engrossed bill, strike out "(3)" and insert in lieu thereof "(2)",

(9) on page 22, line 8, of the House engrossed bill, strike out "(4)" and insert in lieu thereof "(3)",

(10) on page 22, line 11, of the House engrossed bill, strike out "(5)" and insert in lieu thereof "(4)",

(11) on page 22 of the House engrossed bill, in the matter below line 13, strike out the item relating to section 7326 and insert in lieu thereof the following:

"7326. Candidates for elective office; leave, notification by employees.

(12) on page 23, line 7, of the House engrossed bill, strike out "§ 614" and insert in lieu thereof "§ 618",

(13) on page 23, in the matter below line 19, strike out "614" and insert in lieu thereof "618", and

(14) on page 24, strike out lines 13 through 20.

Mr. HENDERSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina for the immediate consideration of House Concurrent Resolution 596?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 200, FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Mrs. SULLIVAN. Mr. Speaker, I call up the conference report on the bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of March 24, 1976.)

Mrs. SULLIVAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the support of my colleagues in the adoption of the conference report on H.R. 200, which has as its main thrust the conservation and management of the fishery resources of the United States.

Mr. Speaker, the members of my committee and I have long been concerned about the serious plight of American fishermen and the progressive deterioration of our fishery resources. It has become increasingly clear to us that the regulatory power of our Government over these fisheries is insufficient. H.R. 200 would provide the Federal Government with that needed authority. Not only will the bill provide for regulations over these fisheries out to 200 miles from our shores—as it relates to both foreign and domestic fishermen—but it will also provide for regulations over anadromous species and Continental Shelf species beyond the zone to the extent of their range.

Mr. Speaker, this authority is something that we have been needing for a long time, and it is authority that we thought would have been provided to us by the Law of the Sea Conference long before now. But with the Law of the Sea Conference involving some 140 nations and some 4,000 delegates and dealing with such complex and nationalistic matters as fishery resources, deep seabed mining, rights of passage, dispute settlements, and the width of the territorial sea, of necessity, many years of negotiations will evolve before an agreement can be reached.

Both members and staff of my committee have been in attendance at past negotiations to resolve these issues, in Caracas, Venezuela, in 1974; and in Geneva in 1975. The conference has been meeting since March 15 of this year in New York, and I understand another session is planned later this year. Even so, it appears unlikely that an agreement will be reached this year and, even if it is, it would take several additional years for the conference agreement to come into effect. In the meanwhile, the fishery resources of the United States will continue to deteriorate, some to the point of extinction.

Mr. Speaker, H.R. 200 reflects an effort on the part of the conference committee to protect all segments of the U.S. fishing industry and what is proposed in H.R. 200 is, in essence, the equivalent of the U.S. position at the Law of the Sea Conference. We cannot afford to wait any longer; action must be taken now—by the adoption of this conference report—if we ever expect to conserve and properly manage the fishery resources of this Nation.

Now, Mr. Speaker, I would like to yield 5 minutes to the gentleman from California (Mr. LEGGETT), the chairman of the subcommittee that handled this legislation, who will explain the conference report in more detail.

Mr. LEGGETT. Mr. Speaker, I thank the chairman for yielding.

I would like to congratulate both the majority and the minority side and the chairman of our full committee and the ranking minority member for working synergistically together with the President of the United States because we are not going through an idle act here today but are in fact working a renaissance in the American fishing industry. I believe we can do it. We thought we could do it. We have done it in this conference report.

Mr. Speaker, H.R. 200 represents many hours, days, weeks, months, and even years of serious study by our Committee on Merchant Marine and Fisheries and many hours of work by the conference committee.

I think the Members will find that the conference report well reflects the hard work that has gone into making this legislation a reality.

Mr. Speaker, I submit that H.R. 200, as reported by the conference committee, is going to be the Bible for other nations to follow when seeking methods for the proper management and conservation of their fisheries resources.

Mr. Speaker, the highlights of this bill—which would regulate all species of fish, except highly migratory species—namely, tuna—are as follows:

First. The exclusive fisheries zone of the United States would be extended from 12 to 200 miles, effective March 1, 1977.

Second. Foreign fishing for all species of fish within the zone and for anadromous species and Continental Shelf species beyond the zone would be prohibited unless the vessels of such foreign nation have on board a permit issued pursuant to an international fisheries agreement.

Third. Existing fisheries treaties and existing bilateral fisheries agreements would not automatically be voided upon the coming into effect of this legislation, however, the Secretary of State would be directed to initiate negotiations to conform all such fisheries treaties to the policy, purposes, and provisions of this act. The Secretary would also be authorized to renew any bilateral agreements after they expire if they conform with the policy, purposes, and provisions of this act.

Fourth. Any new bilateral fisheries agreement authorizing foreign vessels to fish for fish over which the U.S. exercises management authority will not come into effect for a period of 60 days after a copy of such agreement is submitted to the Congress by the President for review. Passage of a joint resolution by both Houses of Congress would be required to prevent such an agreement from taking effect.

Fifth. The Secretary of State is charged with the responsibility of conducting negotiations for the purpose of entering into international fishery agreements with other countries in order to allow vessels of the United States equitable access to fish over which such foreign nations assert exclusive management authority.

Sixth. If the Secretary of State is unable, within a reasonable time, to obtain agreements for American vessels to fish for fish under the management authority of another nation under terms consistent with reasonable management and conservation practices, and makes an official determination to that effect, the

Secretary of the Treasury would then be required to prohibit from being imported into the United States fish or fish products of like kind from that country and, if recommended by the Secretary of State, other fish or fish products from that country as well.

Seventh. Eight Regional Fisheries Management Councils—four on the Atlantic, one on the gulf, and three on the Pacific coasts—would be required to be established within 120 days after the date of enactment of this act and such Councils would be charged with the responsibility of preparing fishery conservation and management plans for each fishery over which the United States exercises fisheries management authority.

Eighth. National standards for fishery conservation and management would be established and such standards would be required to be followed in any fishery conservation and management plan prepared either by the Councils or the Secretary for a particular fishery.

Ninth. The Councils would be composed of various individuals throughout the country who are knowledgeable or experienced with regard to the management, conservation, recreational or commercial harvest of the fisheries resources of the United States.

Tenth. The Councils would be charged with determining the optimum yield and the total allowable level of fishing for each fishery. U.S. fishermen would have preferential harvesting rights to such fisheries and excess stocks of such fish, if any, up to the optimum yield of each fishery, would be shared with foreign fishermen licensed by the Secretary of Commerce to fish for such stocks.

Eleventh. Reasonable permit fees are authorized to be charged to both domestic and foreign fishermen. The level of fees for domestic fishermen could not exceed the administrative cost in issuing such permits and in determining the level of foreign fees, consideration would be required to be given to the costs of the enforcement of this act.

Twelfth. Each Council would be required to establish scientific and statistical committees and such other advisory panels as are necessary to assist it in carrying out its functions under this act.

Thirteenth. The Secretary of Commerce is charged with the implementation of all fishery management plans developed under this act and he is also charged with the general administration of the act. The Coast Guard is charged with the enforcement of the act.

Fourteenth. The Secretary of Commerce is required to approve of any fishery management plan prepared by a Council before it can be implemented and in case a Council fails to act within a reasonable time after requested to do so, the Secretary could develop a plan for a certain fishery on his own initiative.

Fifteenth. The jurisdiction of a State over fisheries within its boundaries is neither extended nor diminished under this act, however, the Secretary of Commerce could assume management responsibility for a fishery within a State's coastal waters—not its internal waters—if the Secretary finds that the State has taken any action or failed to take any action thereby substantially and adversely affecting the carrying out of a fishery management plan beyond its waters.

Sixteenth. Violators of the act, of any regulations promulgated thereunder, and of any permits issued pursuant to any fishery management plan would be subject to civil and criminal penalties.

And finally, appropriate provisions of the Fishermen's Protective Act are amended under this act to provide for reimbursement to owners of American fishing vessels for any fines, fees, and other direct charges paid in order to secure the prompt release of such vessels and their crews whenever such vessels are illegally seized, that is, such vessels are denied equitable access to such foreign nation's fisheries under conditions and restrictions similar to those that would be imposed on foreign vessels fishing or wishing to fish for stocks of fish over which the United States exercises exclusive management authority.

Mr. Speaker, this legislation has the strong support, in general, of all of our coastal fishermen, sportsmen, and conservation groups, and it was cosponsored by 148 Members of the House.

Mr. Speaker, I urge the adoption of the conference report.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I would like to say that I very strongly support this concept of conservation of fisheries which this legislation would provide. I voted against this bill when it was considered in the House because of certain objections that had been made in connection with the movement of naval units and other related defense considerations.

The gentleman from California and I serve on the Committee on Armed Services. I would like to ask him if he is satisfied that there will not be an undesirable impediment raised to the movement of naval units or necessary military actions by passage of this legislation.

Mr. LEGGETT. Mr. Speaker, the gentleman makes a very good point. I want to make sure that everybody understands that the high seas limit is today 3 miles. After we pass this bill and it is signed by the President, hopefully by the end of this week, the high seas boundary will still be 3 miles. We do not, by passing the bill, intend to restrict any foreign passage in any respect, or any domestic passage.

Mr. ROBERT W. DANIEL, JR. I thank the gentleman.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. LEGGETT) has very adequately described what is in this legislation. I rise in full support of it. I believe we have marched a long road and have had excellent cooperation between the majority and minority staff and the administration to produce a product which will be signed into law once we finally have passage here in this House.

It has also been commented upon that a Member not on our committee actually originally introduced H.R. 200 some 11 years ago. Unfortunately, he cannot be here today because of official business, but I must comment on his support in working with us all through this process. That Member, of course, is the gentleman from California (Mr. DON H. CLAUSEN). He was a very active worker for H.R. 200 during all that period of time.

Mr. Speaker, I truly believe that the time has come for this legislation. We have an excellent product here before us, and I hope we have full support of this House on its passage.

Mr. Speaker, when the early colonists came to America fishing was one of the first industries that was established. The sea and its resources provided a bountiful food supply for our early settlers. Seventeen generations of America's fishermen have since gone to the sea and found an abundance of fish. Today's fishermen are not so fortunate. Modern foreign fishing fleets equipped with sonar, fine-mesh nets and other sophisticated equipment have plundered the resources of our oceans. Mr. Speaker, we owe it to ourselves and to our heirs to prevent overfishing of America's natural resources.

It is axiomatic to state that the fish found within 200 miles of our shores constitute a renewable resource which will supply a vast quantity of food to feed not only our people but the nations of the world. Fully 20 percent of the world's fishery resources lie within 200 miles of the U.S. coast. But this apparent blessing will be hollow indeed if this Congress fails to insure that this resource is protected.

H.R. 200 seeks to protect these resources by establishing a mechanism whereby we can prevent overfishing and through which we can restore those fisheries that have been the victims of international overfishing. H.R. 200 accomplishes these important objectives by creating eight regional fishery management councils whose functions is to prepare fishery conservation and management plans for every fishery within 200 miles of the U.S. coast and for anadromous species and Continental Shelf fishery resources beyond 200 miles.

Each plan developed by the Councils must establish, on the basis of the best scientific evidence available, the optimum yield which can be taken from the resource. Fishing for that resource cannot exceed the optimum yield. Domestic fishermen will clearly have preferential rights to these resources and any surplus not taken by domestic fishermen will be available for foreign harvest. The fishery management plans developed by the Councils will also contain the conservation and management practices necessary to conserve our fisheries resources. The management programs established by the Councils may designate zones and periods during which fishing will not be permitted, may restrict the number of vessels and types of gear used in the fishery and may provide for limitations on the catch of fish based on species, size, weight, et cetera. To insure that foreign vessels fishing for stocks subject to the jurisdiction of the

United States comply with the conservation and management provisions of the fishing and management plans, H.R. 200 creates an elaborate and essential permit and enforcement procedure.

Mr. Speaker, to provide for the adequate conservation of this Nation's fisheries and the protection and development of the United States fishing industry, it is essential that we enact this landmark legislation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I rise in strong support of the pending conference report on H.R. 200. As one of the cosponsors of companion legislation which would extend the territorial limits of the United States to 200 miles I am very pleased to see the passage of this law. Many of us in Congress have worked for months and years to bring about this enactment in the face of constant and often successful opposition from the State Department and those enamored of the long-running Conference on the International Law of the Sea.

This legislation serves notice on foreign nations and their fishing interests that America will no longer tolerate the continued depletion of our fishery resources and that we intend to act forcefully in the best interests of our citizens.

I want to pay special tribute to the conferees and the gentleman from Massachusetts (Mr. Studds) for their diligent work in this matter. I am pleased that the President has indicated that he will sign this legislation into law and I urge him to do so quickly.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. Emery).

Mr. EMERY. Mr. Speaker, the passage of H.R. 200 represents a milestone in fisheries conservation and management legislation. For the first time, the Congress has adopted a law that will prevent overfishing, encourage sound management practices, and likewise encourage other nations to adopt similar practices of their own.

This bill has taken 10 years to perfect and to finally pass, yet it is still only a beginning. There is much more left to do. We must now insure that our 200-mile limit is adequately and fairly enforced by the State Department and the Coast Guard. We must carefully examine our conservation and management plans to insure that the species that we seek to protect can thrive and provide a source of food—and income—for all people who must depend on them. Without proper enforcement, conservation, and management, and cooperation between both industry and Government, however, this effort will not succeed. The Congress, and especially the Committee on Merchant Marine and Fisheries, must diligently work to meet its obligation to our fishing industry. I am now confident that it will.

As well, the Congress must now consider other needed fisheries measures, including tariff protection for domestic seafood products, a financial assistance program for improving vessels and equipment for domestic fishermen, creation of a fund to reimburse domestic fishermen for gear destroyed by foreign ships, and an international marketing program to provide outlets for our domestic catch.

Mr. Speaker, it is with much pride and satisfaction that I lend my support to H.R. 200, for myself and for thousands of Maine fishermen and their families, and urge its passage this afternoon.

Mr. FORSYTHE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. Heckler).

Mrs. HECKLER of Massachusetts. Mr. Speaker, I congratulate the conference committee. This day is long in coming, and as one who has always supported this legislation I urge its adoption by the House.

Mr. Speaker, by international law all nations have the right to fish the high seas. There is no international provision however to assure the conservation and management of these ocean resources—there is no incentive for responsible fishing methods. On the contrary, international law encourages depletion of ocean resources by offering them on a "first come, first served" basis. Scientists report that 25 stocks are already dangerously depleted, including several vital to U.S. fishermen, and this depletion can be traced to the large and sophisticated foreign fleets—fleets which have modern equipment and are usually subsidized by their respective governments. The American commercial fishing industry has no such subsidy and is composed of many privately owned, small operations. It is therefore at a severe competitive disadvantage. Couple this with the foreign fleets irresponsible "hit and run" tactics, and there is no competition at all.

The conference report to H.R. 200 extends the United States exclusive fisheries zone from 12 to 200 miles, although fishing by approved foreign states will be permitted. It also provides for the development of regional management plans and regulations to control zone fishing and migratory fish over their range. These provisions recognize our fishing stock as a vital national resource, and passage of the conference report will show our determination to halt its continued depletion. The advent of more efficient fishing techniques and a growing demand for fisheries products have demonstrated that there is a pressing need for rational conservation and an allocation system for the living resources of the oceans.

For years, foreign fleets have displayed a blatant disregard for the American fisherman and his equipment. Foreign ships have been causing untold thousands of dollars in lost and damaged U.S. fishing equipment by steaming through clearly marked fishing areas. In some cases lives of U.S. citizens have been imperiled by these large trawlers cutting dangerously close to U.S. ships. In all cases, the livelihood of our fishermen has been endangered. One of my constituents, a lobsterman from Westport, Mass., has lost everything—all his 300 traps and all of his 9,600 fathoms of line. Our fishermen have been fighting for survival, and it is time that we answer their call for assistance. We can do this by supporting this conference report.

Mrs. SULLIVAN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. Downing).

Mr. DOWNING of Virginia. Mr. Speaker, I might say that this is a great day for the American fisherman, and an even greater day for those of us who wish to conserve the resources of the sea. I had the privilege of sponsoring an amendment back in 1966 which gave the American fisherman an additional 120,000 square miles in his own backyard. But, it was not enough. We did not anticipate the huge foreign-flag fleets of ships which have invaded our shores and devastated the resource.

Mr. Speaker, I urge adoption of this conference report.

Mr. FORSYTHE. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. McCloskey).

Mr. McCLOSKEY. Mr. Speaker, it is with deep regret that I see the House about to take the action it undoubtedly will in a few minutes. It is appropriate for the United States to seek to protect its fishing resources out to a distance of 200 miles, but the timing of this vote today, on March 30, coming after 2 weeks of perhaps the second most crucial negotiating session that is occurring in the world today, is both unwise and potentially harmful. At the Law of the Sea negotiations in New York, we presently have 156 nations participating in a sincere and dedicated attempt to resolve not just the 200-mile economic and fisheries protection zone, but to guarantee permanent free passage of straits for all of the nations of the world and to establish a very complicated deep seabed regime, recognizing that the resources of the deep seabed, particularly the magnesium nodules with their supplies of cobalt, nickel, manganese, and copper, should be distributed under a new principle called the common heritage of mankind, a principle which the United States has espoused for some 5 years. The proposed treaty attempts to provide for an equitable sharing of these resources with those developing nations of the world whose voices are being heard with such increasing frequency and strength in the various forums of the United Nations.

Mr. Speaker, in New York we are 2 weeks along the way of an 8-week course. Negotiations are proceeding with reasoned restraint on all sides. None of us are completely sure what the impact of this vote today will be upon those negotiations, but our unilateral action cannot help but be seen as an arrogant and unlawful action.

Mr. Speaker, I would concede to my colleagues that, having voted against the bill some months ago with the concern that it might have a deleterious effect on the negotiations, I would concede today that the action of the Congress, both in fishing and in deep seabed mining legislation, may have had a salutory effect thus far in persuading the nations of the third world and other participants in the Law of the Sea negotiations that they should move with increased speed and increased dedication in the negotiations that are taking place today.

But I fear that, having achieved this new speed of negotiation and new sense of dedication which has thus far been evident in New York, this vote today and the Senate's vote yesterday may sorely strain the willingness of those nations to continue with the same spirit of cooperation which has gone before.

We are going to achieve this 200-mile fishery protection, and we are going to achieve it, hopefully, by January or March 1977. But in passing this legislation we seek to achieve this result by unilateral action rather than by treaty negotiation. I think it is highly unfortunate that we stop at this critical point in such delicate negotiations and take the very unilateral action which our negotiators over the past several years have urged that other nations refrain from exercising.

I think it is clear, as the gentleman from Virginia pointed out, that when we urged a 12-mile fishing zone protection some 10 years ago, it was responded to by other nations claiming a 12-mile territorial zone. And when we look at the causes of war that have occurred, the incidents of the *Mayaguez* and the *Pueblo*, for example, where one nation claimed a 12-mile limit at a time we were urging a 3-mile limit, there appears to be a clear benefit in an international treaty that would protect the praiseworthy goals that this legislation seeks to achieve.

Mr. Speaker, I speak not against the legislation but against the timing. I think it would be the wiser course for the House to reject this conference report.

Mrs. SULLIVAN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Speaker, I will not take the time of the House, except very briefly, to make some acknowledgements and one statement. I would not feel it necessary to speak were it not that I feel very strongly that the record should reflect some response to the statements just made by the gentleman from California (Mr. McCloskey).

Any Members of this House who have taken the opportunity to participate in or to listen to the years and years of hearings on this matter will recognize the words of the gentleman from California (Mr. McCloskey) because they have been spoken for a decade now by the Department of State. This is and has been from time immemorial the position of the Department of State.

I think the record should show just as clearly as it possibly can that no supporter of this legislation and no member of this committee wishes ill to the Law of the Sea deliberations in New York. Every single one of us, without exception, hopes and prays that those deliberations will succeed.

I point out to the Members of the House that on the agenda of the Law of the Sea Conference there are dozens and dozens of items, of which only one has to do with the fisheries jurisdictions of the nations of the world. We do not touch in any way whatsoever, as the gentleman from California (Mr. Leggett) observed earlier, on freedom of navigation on the high seas; we do not speak to the question of freedom of passage in narrow straits; and we do not in any way touch upon the question of the territorial waters of nations. We speak in this legislation solely to the question of fisheries jurisdiction.

The gentleman from California (Mr. McCloskey) raised the question of the minerals in the deep seabed. That is one of the most controversial and perplexing issues on the agenda of the Law of the Sea Conference in New York. I agree with the gentleman and I agree, of all things, with the Department of State that it would be irresponsible for this Congress, as has been proposed in our committee, by the Subcommittee on Oceanography, to proceed unilaterally to take the minerals from the deep sea ocean bed. I hope that the negotiating position of the United States, namely, that there must be some international machinery devised for the production of those minerals, will succeed, and I think it would be irresponsible for us to move in any other respect.

The critical distinction here is that we are not talking in H.R. 200 about manganese nodules. They will wait for a year or 2; they will wait for 5 or 10 or 20 years, or whatever time it may take to develop and to implement and to ratify an international agreement.

We are speaking in this legislation about life, specifically about fish, and they have not waited and they will not wait.

It is a miserably sad fact of life that the foreign factory vessels, whose total disregard for conservation has necessitated this legislation, have acted far more rapidly that the diplomats who have been talking on this issue for the last 3 or 4 or 5 years. If we were to wait for an international agreement, as the gentleman from California (Mr. McCloskey) would have us do and as the Department of State would have us do, the finest agreement in the history of human negotiations would also, 5 years from now, be the most irrelevant agreement in the history of the world. It would be irrelevant because there would no longer be any fish left.

Mr. Speaker, the gentleman from California used the word, "hopefully." I have suggested in the past that the word, "hopefully," should be a part of the logo and the seal of the Department of State, because the Department of State has for many years been saying that "hopefully" something will transpire and "hopefully" something will happen. We all hope, of course, but it is up to this Congress to do something a little more than hope. We are going to act.

Mr. Speaker, I will say, in case there is any doubt, that the chairman of the committee, the distinguished gentlewoman from Missouri (Mrs. Sullivan), who was also the chairman of the conferees, has unequivocally the commitment of the President of the United States that, given the concession the conferees made with respect to the effective date of this legislation, namely, March 1, 1977, for the coming into effect of the 200-mile zone, the President will sign this bill into law.

Finally, if I may, I should like to make a few observations of appreciation and thanks to the distinguished chairman of the committee, the gentlewoman from Missouri (Mrs. Sullivan), to the chairman of the subcommittee, the gentleman from California (Mr. Leggett), to the ranking minority member of the committee, the gentleman from New Jersey (Mr. Forsythe), and to the ranking minority member of the full comcommittee, the gentleman from Michigan (Mr. Ruppe), as well as to all the members who supported us on both sides.

I think this is one of the most overdue pieces of legislation we have to consider. I believe this has been one of the most carefully and thoroughly deliberated measures this body has considered in a long time, and perhaps it is the least partisan measure we have ever seen.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I wish to make just one point.

The gentleman from California (Mr. McCloskey) has stated that the State Department has never supported a unilateral action by any other nation. The fact is that the State Department came before the Committee on Merchant Marine and Fisheries and requested that we support the appropriation of some $200,000, as I recall, for the Government of Brazil to enforce its 200-mile fishing limit.

I think what we are seeking here is to eliminate the double standard, the standard we are setting for other nations and the separate standard we reserve for ourselves.

Mr. STUDDS. Mr. Speaker, the gentleman is correct. As the distinguished gentleman from Virginia (Mr. Downing) has reminded us, our current 12-mile jurisdiction was obtained by the unilateral action of this Congress.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Ruppe), the ranking member of our committee.

Mr. RUPPE. Mr. Speaker, the legislation before us today is a comprehensive measure designed to insure that fisheries resources found off the coast of the United States are managed in a manner consistent with accepted conservation principles. To date, international conservation efforts have been characterized largely by the failure to achieve their stated objectives. Nearly all stocks of fish, which are today depleted or threatened with depletion, are covered by international treaties providing for fishery conservation and management. In addition to the difficulties inherent in reaching international conservation accords, these treaties generally call for each signatory nation to enforce the treaty against its nationals. Too often this results in ineffective, if not nonexistent, enforcement. The result is that international conservation agreements are in reality a far cry from what they are purported to be.

Our fisheries cannot withstand continued foreign pressure. The Soviet Union has already destroyed our haddock and yellowtail flounder stocks—the most valuable fisheries off the coast of the

United States. The Japanese are taking a huge quantity of pollock off the coast of Alaska and are resisting our efforts to achieve even minimal enforcement provisions.

The much touted success of the U.S. negotiating team at the most recent ICNAF meeting fails to impress me. The fact of the matter is that while the Soviet Union agreed to a substantial reduction in its tonnage, the Soviet Union is now beginning to feel the impact of its own ill-conceived policies of the past decade. There simply are not enough fish left in the ICNAF areas to support the kind of fishing the Russians were conducting in years past. Now that they have decimated these resources it is a relatively easy matter for them and for other nations to agree to reduce their fishing pressure in the future.

Clearly what is needed is an effective conservation program to restore those fisheries which have been depleted and to prevent the overfishing of stocks which are presently healthy. I cannot accept the argument that this Congress must await the final conclusion of the Third Law of the Sea Conference. In the first place, it is unlikely that we will see an agreement in the near future. However, even if an agreement is reached, many months will pass before a sufficient number of nations officially sign the treaty and final ratifications will take even longer. In fact, if previous Law of the Sea treaties are any benchmark, an effective treaty may be several years off. Three of the four conventions signed in 1958 entered into force between 4 and 6 years after signature in Geneva. The fourth entered into force fully 8 years after it was signed.

Mr. Speaker, the U.S. fisheries cannot wait. To delay longer would be to deny future generations of Americans access to the renewable resources of our oceans. H.R. 200 provides a comprehensive and effective mechanism for protecting our fisheries. Furthermore, it is only an interim measure that will be superseded if and when an appropriate Law of the Sea Agreement enters into force.

Mrs. SULLIVAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker and Members of the House, I appreciate very much all the work that has been done on this legislation under the leadership of the gentlewoman from Missouri (Mrs. SULLIVAN) and the members of the subcommittee.

Regretfully, I represent one of the areas that this legislation could do potential harm to. I am speaking of the gulf coast shrimp industry. Anything that we do in this Congress throughout the world is either emulated or we receive retaliation, and I am not entirely satisfied that this would not be the case in this instance.

Mr. Speaker, I know that much work has gone into this legislation. I know that the conference has agreed at least that it is the sense of the Congress to protect as best as possible traditional fishing activities. I commend and appreciate the work that has been done. Nonetheless, there still remains the specter that the fishing or shrimping industry of the gulf coast might suffer potential harm from the foreign countries near which they go to do their shrimping.

Mr. Speaker, I cannot argue with my colleagues who want to protect our fishing interests off the coasts of the United States. That is what has made this very difficult for me: that I agree with them; I agree with the interests which they represent; nonetheless, we have a different situation where our people venture beyond the continental limits of the United States. Hence, with respect to any similar legislation in other countries, unilaterally or otherwise, even at the Law of the Sea Conference, there is potential danger that our interests will not be protected. Also, there are, as the gentleman from California said, many other things that will be involved in the Law of the Sea Conference if they reach agreement.

Therefore, Mr. Speaker, I reluctantly will vote against this legislation.

The SPEAKER. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

Mrs. SULLIVAN. Mr. Speaker, I yield an additional one-half minute to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I repeat that I will vote against this legislation, not because I do not appreciate the great work that has been done by the committee, but because of the potential danger that it might pose to the area that I represent.

Mr. Speaker, I thank the gentlewoman from Missouri for yielding.

Mrs. SULLIVAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of the legislation.

I am delighted at the evidence of support that we have witnessed today during debate.

There is only one issue at stake, an issue that has been properly and incisively framed. That is the issue with respect to the interests of the fishing limitations. No defense posture is in issue. No mineral resource is in issue. Nothing whatsoever is in issue except the fishing limitations.

Mr. Speaker, I would like to deal precisely with that issue.

My good friend, a most respected member of the Committee on Merchant Marine and Fisheries, the gentleman from California (Mr. MCCLOSKEY), talks about that particular issue.

Mr. Speaker, I have attended the Law of the Sea Conference as a representative of the United States, and I was hopeful, when I first attended, that sufficient progress would be made. However, my observations were such that my hope diminished with the passage of time as I listened to the tedious and ponderous deliberations over the most minute of considerations.

Mr. Speaker, my observation is this: Rather than serve as an impediment, this legislation would serve as a stimulant to the Law of the Sea Conference. Absent this legislation, I am afraid that our conference will go on ad infinitum dealing with this one issue, an issue which has almost universal acceptance in conference. There is simply a question of its application; and if we do enact this law and apply it unilaterally, we should not feel singular, because other countries have done it.

I am sure this will precipitate the legislatures throughout the world to enact similar legislation. As far as I am concerned, the issue is precise. We have responded to it. Rather than serving as a negative influence, it will serve as a positive influence. It will produce what I believe will be the kind of relief that we need as a people, as a nation, as well as the fishing industry and the sporting fisherman and the fish supply that is being so viciously assaulted by the foreign fishing fleets.

Mr. Speaker, this body is one step away from completing action of one of the most important bills of the 94th Congress, H.R. 200. I am proud to have been an original cosponsor of this legislation, as well as one of the earliest advocates of an extension of our fishing limit. This bill will extend the exclusive U.S. fishing zone from 12 to 200 miles, and with the expectation of a Presidential signature it will mean that on March 1, 1977, the years of pilfering of important fishing stocks and reserves by foreign nations will effectively be over.

I wish to complement the members of the House/Senate conference committee for their expeditious consideration of this legislation. The final version we are considering today is an effective and equitable compromise which will clearly demonstrate to foreign nations that we will no longer sit idly by and allow our fishing industry to adversely suffer by the greediness of certain foreign nations.

In addition to extending the fishing limit to 200 miles, H.R. 200 will require foreign fishing vessels to acquire a permit if they wish to fish within the 200-mile limit. The bill also sets up eight regional fishery councils to assist the Secretary of Commerce in developing regional management plans and regulations.

U.S. fishermen will be given preferential rights to the existing fishing stock and resources within the 200-mile zone. Congressional approval would be required to permit nations to catch fish within the 200-mile limit.

Finally the bill will provide for closer regulations of all species of fish to prevent unnecessary depletion in existing stocks. Strict enforcement of all provisions of the bill would be vested jointly in the Secretaries of Commerce and Transportation, the latter because of the latter's supervision of the Coast Guard which will play an important role in the enforcement of this act.

Our action today will conclude more than 30 years of congressional and executive efforts to extend our fishing limits. The last extension, to 12 miles, was made in 1945 by President Truman in response to repeated violations of our fishing laws by Japan.

Yet in recent years, it has become increasingly apparent that a further extension is needed. The prevailing international sentiment was to have a 200-mile limit only if adopted multilaterally. Despite the inordinate burden which the existing fishing limit was causing this Nation—we still chose to participate in the Law of the Sea Conferences with the hope that the issue would be resolved there. As a member of the House Merchant Marine and Fisheries Committee I attended the Conference in Geneva in April 1975 but left convinced that no action on this critical issue was forthcoming in the Conference. It was my conclusion then that legislation was needed. Time and events have proven this to the case—for we are about to complete legislative action, the Law of the Sea Conference remains deadlocked on the issue.

There are still those who will object to the United States taking this action on a unilateral basis. But, stated simply, we are the ones who are suffering extraordinarily under the existing limit and have responsibility to protect our own fishing industry—a responsibility we are bold enough to deal with through positive action. I vividly recall an inspection I made in my capacity as chairman of the Coast Guard and Navigation Subcommittee of the immediate coastline of New York. I found no less than 12 foreign vessels in blatant violation of our fishing zone laws.

This legislation is imperative if we are to turn the tide on the drastic reductions in the percentages of fish being caught off our coast by American fishermen. Our share has declined from 93 percent in 1960 to 50 percent in 1974.

Meanwhile our consumption of fish has doubled in the last 20 years causing a drastic increase in imports. This bill enjoys great support among the American people. They view the issue from an economic and conusmer standpoint. They see the direct relationship between increased illegal foreign fish catches and a shortage of and higher prices for fish in supermarkets. The American fishing industry sees this bill as survival, for without the drastic changes as contained in this bill the fishing industry may be destroyed in the next 10 years.

Another aspect to be considered although not central to the issue is the need for the United States to regain some of its lost international prestige. We have been used as an international doormat long enough by nations who have given themselves carte blanche privileges to steal our fish. The outcries by our fishing industry have fallen largely on deaf ears. This bill will spell part of the solution, but we must insure that those vested with enforcement powers will take all necessary and legal steps to prevent future fishing violations.

We have traveled on stormy seas to reach this point today. We are now at the end of the venture and our passage of this bill will insure better times for the American fisherman and the American consumer. What more compelling reason do we need to pass H.R. 200?

Mrs. SULLIVAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, there is no issue of more importance to the people of my district and to the people of this country than the proper management of our ocean resources. The passage of a 200-mile limit is a great step in that direction.

I have just returned from Oregon, and the message I received from the fishermen I spoke with was loud and clear—we must act now to save our fish from extinction. Let me stress, this is no idle fear.

Many of the fishermen I talked with have described to me in detail how once plentiful runs of fish have almost disappeared. They talk of days and weeks of small catches. I know for a fact that the experience of the men who make their living from the sea off the coast of Oregon is similar to that of other fishermen from Maine to California.

We in Congress have a responsibility to act now to preserve the ocean's bounty. Let me briefly outline the problems involved in this issue. First, as I have mentioned above, the plain and simple truth is that there are fewer and fewer fish in the waters off our coast. Second, while more fish are being removed from the sea, an increasingly smaller percentage are being caught by American fishermen.

The trend we have witnessed toward the depletion of the fish off our coast can only lead to one inevitable conclusion. If we do not correct the problems we will not be able to produce the food and protein needed for the future. It is vital that we pass this law to put an end to the indiscriminate devastation of our fishing resources.

This bill is vital because it addresses the major problem in the overall management of our ocean resources. Overfishing by foreign nations has wreaked havoc in our coastal waters. While it is true that traditionally every nation's free fishing rights were practically inviolate, it is imperative that we rethink this concept in terms of current needs.

In many ways the nature of the American fishing industry is at the heart of the matter. The American fisherman is still the bastion of small entrepreneurship. He is an independent small operator, in most cases, and dependent on his run of luck as well as the run of fish. In recent times, he has been faced with overwhelming competition from state-supported factory fishing methods of other countries. The competition is not just for a market for his catch but for the access to the fish. The latest reports we considered when this bill was proposed showed that some species had already become extinct because of improper fishing methods and others were in imminent danger of extinction if massive overfishing was not curtailed.

This vital bill proposes a set of regulations that would reverse this trend. First, the bill would establish a zone of coastal jurisdiction for the United States. It would not seek to totally prohibit foreign fishing within our 200-mile limit, but would firmly control it. And regulation is the key. Foreign fishermen could obtain licenses for a fee but they would be limited to certain species and maximum catches based on optimum sustainable yields which would be determined by the United States. This would go a long way to insure that no species would be endangered by ruthless overfishing. This bill is not just a limited attempt to count the fish other nations are pulling out of our waters. It is a comprehensive plan that allows regional councils to examine the total needs of the area. Research and conservation are stressed and I feel the key to the wise management of our ocean resources is the integration of conservation, research, and regulation programs under local control. This bill seeks to provide this to the maximum extent possible.

The larger issue here is not just the protection of a domestic industry, although I feel that need cannot be stressed too highly. The true issue is the need to protect the ocean from unrestrained exploitation. Our world will someday depend on how we have used or misused the sea. If we have depleted its resources and left it barren, we will have doomed much of the world to starvation. The emerging nations of the world must turn to the sea for a future source of food. We in the United States have a responsibility and, in fact, an opportunity to act now. By providing leadership, and by instituting an effective plan as outlined in this bill, we can insure that the ocean will continue to yield its irreplaceable wealth.

Mr. FORSYTHE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maine (Mr. Cohen).

Mr. COHEN. Mr. Speaker, this bill is long overdue. From 1952 to 1960, New England fishermen caught 99 percent of the fish caught off the Northeast coast, average amount per year: 700 million pounds.

By 1969, New England fishermen were responsible for only 25 percent of the total Northeast coast, 418 million pounds. The Soviets, in 1969, were responsible for 50 percent of the total catch, 836 million pounds.

In 1957, 67 percent of the fish consumed in this country were caught by U.S. fishermen. By 1967, only 29 percent were caught domestically.

At the same time, the United States has refused to extend its fisheries jurisdiction, other countries have done so, and are fining U.S. citizens and companies. Over the last 20 years, over 4 million U.S. dollars have been paid in fines to South American countries which have declared 200-mile limits.

What we need now is action—action to save our fish and our fishermen. I urge the House to approve this legislation. Our fishing industry deserves nothing less.

Mr. FORSYTHE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Speaker, I would like to say at this time that this is indeed a great day for the people of our country and especially the people of Alaska who are indeed proud of this legislation. As we look at this legislation it does affect the State of Alaska because of the great area of Alaska touching on the Bering Sea.

This legislation has been long overdue. It is time that we wake up to reality. We must see to it that this Nation of ours is protected in this vital area and that is what this bill does.

Mr. Speaker, at this time I would like

to compliment the chairman of the full committee, the gentlewoman from Missouri (Mrs. SULLIVAN) the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT) the driving force behind this legislation, the gentleman from Massachusetts (Mr. STUDDS) the majority members and the minority members the gentleman from New Jersey (Mr. FORSYTHE) and the gentleman from Michigan (Mr. RUPPE) as well as the staff who have worked so long and so hard on this legislation which I believe will be a landmark of good, sound legislation by this Congress in recognizing this long overdue problem. It is a problem that we have not faced before and on which we have not had the support of the Department of State.

I am proud to say that the President of the United States has said that he will sign this legislation because he too recognizes that this is a valuable resource and one that must be protected and properly managed, something that has not been done in the past.

Again, Mr. Speaker, I say that this is a proud day for the American people and for the people of the State I represent, the great State of Alaska.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, once again I rise to voice my alarm at the prospects of the United States unilaterally claiming a 200-mile limit, or "Economic Zone," for itself.

Mr. Speaker, we are on the brink of obtaining such a 200-mile limit without having to resort to such legislation. The Law of the Sea Conference now meeting in New York has in the past and is at present looking with favor upon setting just such economic zones, but these zones would be set under international agreement, not with single nations acting unilaterally and arbitrarily.

In the past, we have been resolute in our resistance to the claims of other nations who have unilaterally imposed their own 200-mile limits, waiting instead for a rule of law to be set forth. If we take the step of adopting our own 200-mile limit, we would be repudiating our former stance and legitimizing the claims of others who have taken matters into their own hands. We would be saying that they were right and we were wrong.

I must repeat myself by saying that such an action by the United States would be, in my view, catastrophic for our country. We are supposed to be a leader of nations in our world. If we take the lead in this matter, and are followed as we surely will be by other nations, the freedom and use of the high seas as we know it will be eliminated.

Our military leaders have warned that if our action triggers other claims of a 200-mile limit, this might result in U.S. warships and aircraft being barred from up to 40 percent of the world's ocean surface—including the Mediterranean and other waters. Strategic straits, such as the passage from the Atlantic into the Mediterranean, and the Straits of Malacca, which provide access from the Pacific into the Indian Ocean, could be closed at the whim of the sovereign nations involved.

Consider the effect on the part of our fishing industry that takes but a small fraction of its catch within 200 miles of our coasts, but the great preponderance of it from within 200 miles of other shores. A 200-mile limit would cripple this industry and cause a striking rise in the cost of the product on the grocers' shelves, as the costs of licenses and/or fines will ultimately be borne by the consumer.

In recent years, through the U.S. nonrecognition of the 200-mile limit claims of other countries, our fishermen have been subjected to fines, imprisonment, beatings, confiscations, diplomatic wrangling, and other hardships. Such confrontations will undoubtedly occur when we try and enforce our own 200-mile limit, only this time we will be the villains, hailing the small, unfortunate fishermen into our ports, fining them, or taking other punitive action for their disobeying our rules. We have enough problems with our international image now as it is. We do not have to add to those problems by replacing Uncle Sam's top hat with a black, 10-gallon one.

How would we enforce such a limit? The cost of strengthening our Coast Guard would be staggering and would require long leadtimes to properly equip and man the agents of enforcement. Or would we give the enforcement task to our Navy, which is already badly understrength, and add another burden to fleets stretched about as thin as they can get?

And what do we do about the countries that ignore our claim? Would we be letting ourselves in for shootouts on the high seas? I shudder to think about all the possible problem situations.

Up to now, the United States has been in the forefront of responsible leadership committed to seeking a negotiated solution to the broad range of ocean problems. We in the Congress have endorsed both the concepts and the objectives of this commitment on several occasions. We are currently in the midst of what has been described as the most complex international negotiations ever held. We could hardly pick a more inopportune moment to opt for unilateral action—a time when, after several years, agreement is in sight.

I, too, am impatient with the delay we have observed so far in the negotiation process. I, too, would support a measure with genuine prospects for stimulating real progress. The 200-mile limit bill is not such a measure. The nations most directly affected by this measure are, by and large, the very nations which have supported us most consistently in reaching a multilateral treaty, both on the substance of our national security requirements and on the need for a swift resolution of the issues.

The passage of this legislation will definitely impinge upon the negotiating climate, and an important point is that this type of action could be used as an excuse for delaying or diverting negotiations. We should not provide either our own delegation or any other with an excuse for a failure of these essential negotiations. If they fail, we should hopefully have a record that will show that we carefully exhausted every reasonable negotiating opportunity. At that time, careful national action will be appropriate. The game is in overtime—it should be played out.

Given this broad spectrum of vital and interrelated interests, we must take great care to insure that action which seeks to advance one of those interests does not jeopardize others. We must commit ourselves to the successful pursuit of that course of action most likely to safeguard all our interests. I am persuaded that this bill is not such a course of action. We cannot allow a narrow interest to dictate our national policy in a way that is contrary to our broader interests.

Mrs. SULLIVAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I am truly pleased to be able to join in supporting H.R. 200 as it has been revised by the House-Senate conference committee. This measure, the Marine Fisheries Conservation Act, if enacted, will go a long way toward correcting the situation confronting the American fishing industry today, one caused, among other things, by the serious depletion of our own fish stock off our own coast by foreign fleets.

We have all been made aware of this situation. We have all been made aware that, for years, the heavily subsidized foreign fishing fleets have successfully competed against American fleets, causing not only near extinction of our stocks, but near extinction of the American fishing industry itself. And, due to the lack of concern on the part of our Government in the past, American fishermen have had to sit back and watch this occur, remaining hard pressed against the stiff competition.

Our ports have been idle with the reduction of American activity and jobs have been lost. And, the American consumer has been severely affected, forced to purchase fish stocks from foreign importers at higher prices instead of being able to purchase from our own fisherman, thereby contributing to a stable and viable fishing industry rather than contributing to its demise.

I believe our Government has an obligation not only to its consumers, but to our fishermen who have been unable to compete with foreign fleets. Therefore, I am only pleased that the House and Senate have been able to come to an agreement, to iron out the difficulties between the House and Senate versions of the bill.

The bill presented to us today, one which will not only extend our country's fishery zone from 12 to 200 miles, but establish a comprehensive conservation and management program governing fishing within the zone, will receive my firm support. I only hope that my colleagues will also extend their support to this necessary and vital piece of legislation, one that will surely insure the start of a conservation program and insure the viability and existence of our American fishing industry.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in support of the conference report on H.R. 200, and commend the members of the Merchant Marine and Fisheries Committee for the hard work they have put into this legislation.

I am proud to have been a cosponsor of this legislation, which is designed to protect the fisheries resources of the United States pending the final outcome of the Law of the Sea Conference.

As much as I recognize the international implications of this unilateral action of extending the U.S. economic zone from 12 to 200 miles, I believe we cannot afford further delay. Foreign fishing fleets are rapidly depleting our fisheries resources, and by the time the Law of the Sea Conference finally comes to some agreement on the extension of territorial limits, we may have nothing left to conserve.

If any of my colleagues has ever had an opportunity to inspect a Japanese or Russian fishing trawler, they would recognize that these vessels are nothing short of a floating fish processing factory. Under existing law, these vessels are free to prowl the seas of the world with their highly sophisticated electronic sounding equipment, searching out schools of fish. Once discovered, the fish are scooped up and processed, and then the vessel moves on to fresher territory. But what about the fishermen who do not range over the globe in their endless quest for the bounty of the sea? These fishermen have to take what is left, and for U.S. commercial fishermen on the east coast, the leavings of the Japanese and Russians and others are getting pretty skimpy.

Hopefully, the Law of the Sea Conference will eventually resolve this complex issue, including the resolution of rights of passage through territorial zones.

However, our fishermen need relief now—not years from today. At the rate things are going, they will all be out of business by the time the Law of the Sea Conference produces any results.

Mr. Speaker, it is important to note that the Conference did produce a concensus on the concept of the 200-mile economic zone—a position which the United States supported in July 1974 as part of an acceptable overall treaty package. However, 40 nations have already unilaterally declared exclusive fisheries zones beyond the 12-mile limit—and I believe it is high time that the United States do the same.

H.R. 200 would allow the fisheries resources of the United States to be protected while diplomats continue their maneuvering to produce a meaningful agreement. I have great respect for diplomacy—and I hope it will produce results that settle this complex and sometimes explosive issue for once and for all. However, diplomacy has not made a significant dent in the problems of east coast fishermen to date, and unless we do something to address their very real and very current economic problems, we will probably witness the demise of this U.S. industry.

Congress must be the instrument of action to protect jobs and investments in domestic industry. While others may prefer to deal in the heady atmosphere of international diplomacy, I prefer to work on problems right here at home—and the protection of our fisheries resources and the U.S. fishing industry should be of paramount concern to all of us.

Mr. Speaker, I urge my colleagues to join me in supporting the conference report on H.R. 200.

This legislation is not intended to retract from ongoing efforts to secure an international agreement—in fact, it may provide a little extra stimulation for the participants in the Law of the Sea Conference to reach an early accord. I support and commend the international effort, but I am also extraordinarily concerned about the present-day plight of east coast fishermen and American consumers.

For this reason, I urge the adoption of the conference report on H.R. 200 by this body.

Mr. ANDERSON of California. Mr. Speaker, I have long been opposed to any unilateral move by the United States to establish a 200-mile limit of any kind off our coasts. However, I feel that for this House to take such an action at this time would be especially inappropriate.

At this time, the Fourth International Law of the Sea Conference is being held in New York under the auspices of the United Nations. Our delegation will be dealing with 153 other nations to reach an agreement concerning the very issue the House plans to vote on today. If we write our policy into law without giving this Conference a chance to work out policies of mutual agreement, we will be in effect limiting the options so necessary for a negotiating team to be effective.

I realize that the law contains provisions which delay its effective date until next year. And I know that, on paper at least, any agreement reached by the convention will have priority over the law created by H.R. 200.

But the fact remains that if this conference report is passed today—and if it is signed into law by the President—the United States will in effect have taken the first step in declaring its own law of the high seas, as some other nations have already done.

I cannot help but feel that the United States should take the lead in working out an internationally agreed upon policy for cooperation and order on the high seas. But I feel that the arena for that effort is at the present time in the Law of the Sea Conference, presently being held in New York City—and in all due respect, not in the Halls of Congress.

The pressure to create a 200-mile limit around our shores has come primarily from those who have seen foreign fleets depleting the resources found off our coasts through overfishing. In my district in southern California, the fishing industry is primarily based on distant water fishing for the tuna—a highly migratory species of fish that shows very little respect for international boundaries in its transoceanic travels.

For these fishermen, H.R. 200 does not create the possibility of protection and enhancement of the resource they depend on for their livelihood. Quite the contrary. International agreements for the management of the tuna have existed for many years. They have often been abused, and they are not always followed by some of the countries which have signed treaties. But overall, they have been effective in maintaining the fishery and keeping the resource from depletion.

I am in total sympathy with those who have seen the waters they depend on for a livelihood swept clean by foreign fleets using the most advanced of modern techniques. And I agree that the situation warrants action. Unfortunately, I also feel that H.R. 200 is not the solution to their problems.

The only appropriate setting for a solution to these problems lies in an international conference. We can vote here today and decide what our policy will be: We most certainly cannot set that same policy in respect to other nations. Recently, Iceland established a 200-mile limit to protect the cod that abound and breed in its waters. Like many of us today, the Icelandic people were primarily concerned with protecting the livelihood of their fishing fleets, and at the same time retaining control over a basic staple of their diet.

Iceland's aims were totally rational. The result of that action, as we all know, was a conflict with Great Britain which has led to the first major rift between member states in the North Atlantic Treaty Organization.

A similar problem has existed in the waters off South America for many years. Two-hundred-mile claims by Ecuador and Peru have led to harrassment, seizure, and fines imposed by those governments on members of our tuna fleet.

The United States has not acted with the speed shown by Great Britain, which sent warships out to protect her fishermen in what they believe to be international waters. We have not recognized their claims, but instead have ordered our fishermen to meekly pay the fines and then reimburse them from the Federal Treasury.

H.R. 200 would, in effect, give an air of legitimacy to the claims made by these nations. True, the law contains a clause exempting "highly migratory" species of fish, primarily tuna, from national control. But since there is no major tuna fishery to be found anywhere within 200 miles of our coast; this is hardly going to be considered a major concession to nations like Ecuador and Peru.

Therefore, Mr. Speaker, I strongly urge my colleagues to vote against the conference report on H.R. 200. I realize that our Nation's oceanic resources need protection, and I would strongly support a bill which addressed that problem effectively without adverse effect in other areas.

The fact is, H.R. 200 will do more harm than good. That is something the United States can do without.

Mr. MINISH. Mr. Speaker, I rise in strong support of the conference report on H.R. 200, a bill which I have cosponsored, to extend the U.S. exclusive fishing zone to 200 miles.

The continuing failure of the United Nations Law of the Sea Conference, which has been meeting on this issue since 1973, makes it clear that our country must move forward unilaterally to protect our fishing resources from decimation by foreign fleets.

While the international delegates argue and debate, the activities of foreign fishing fleets off our coastline continue to seriously deplete our fishing stocks.

These fleets have put many American fishermen out of business, both by depleting traditional stocks and by ripping through gear with their large ships. Both statistics and empty nets indicate that the massive foreign operations—particularly those of factory ships—have made several once abundant species scarce to the point of extinction. Among these, according to an October report of the Commerce Department, are haddock, halibut, yellowfin sole, yellowtail flounder, Alaska pollack, Pacific sardine, Atlantic herring, menhaden, salmon, and sea scallop. Others, like Pacific perch and hake and Atlantic red hake, have, through Soviet overfishing, disappeared as a U.S. commercial resource.

Mr. Speaker, this measure would merely serve as an interim law that would be superseded by an agreement or treaty subsequently entered into with other nations.

H.R. 200 is not a threat to international order and stability; rather, it represents a real benefit for a world populace whose protein and other nutrition needs may be increasingly dependent on the bounty of the oceans—a bounty of enormous potential if conserved and managed.

Ms. HOLTZMAN. Mr. Speaker, I intend to vote for establishment of a 200-mile excusive fishing zone off the coast of the United States under the provisions of the conference report of H.R. 200.

I am deeply concerned about the depletion of fishing stocks by the foreign fleets which overfish in the waters beyond our present 12-mile limit. This conference report will permit the United States to prevent the destruction of various species of fish and protect our fishing industry at the same time.

I have previously been concerned about unilaterally extending our territorial limits and for that reason I voted against the bill in its original form. If all countries followed our lead and unilaterally extended their jurisdiction to 200 miles beyond their coasts , the result could severely limit not only world trade but also our ability to defend ourselves militarily.

The conference report has three important provisions which deal with this problem. First, the 200-mile limit will not go into effect until March 1977. This ought to give the nations now participating in the Third United Nations Law of the Sea Conference sufficient time to reach an international treaty on the subject. Second, the conference report gives the Secretary of Commerce authority to conform fishery management regulations to any international fishing agreement reached by the Law of the Sea Conference. Third, the legislation clearly states that it is the policy of this country to negotiate an internationally acceptable treaty.

We are caught in a troublesome dilemma at this time. If we do not take action to extend the 12-mile limit to 200 miles with respect to fishing rights, it is plain that certain species of fish will be destroyed. On the other hand, if we act unilaterally, we invite retaliatory action from all countries bordering on international waters.

This conference report points to a way out of our difficult position although the answer it provides is not without risk.

On balance, I support the conference report because, if nothing else, it will give impetus to the nations participating in the Law of the Sea Conference to reach an international agreement. An international agreement is really the best answer, and I believe this bill offers the best means of reaching this result.

Mrs. SULLIVAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LEGGETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 346, nays 52, answered "present" 2, not voting 32, as follows:

[Roll No. 144]

YEAS—346

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bergland
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fenwick
Fish
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Green
Hagedorn
Haley
Hall
Hammerschmidt
Hanley
Hansen
Harrington
Harris
Harsha
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Price
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zeferetti

NAYS—52

Anderson, Calif.
Anderson, Ill.
Badillo
Bennett
Bingham
Blouin
Breckinridge
Burgener
Conable
Corman
de la Garza
Dellums
Diggs
Eckhardt
Edwards, Calif.
Fascell
Findley
Fisher
Fraser
Frenzel
Gibbons
Gude
Hamilton
Hannaford
Harkin
Hawkins
Jacobs
Kastenmeier
Ketchum
Lloyd, Calif.
McCloskey
Mikva
Milford
Mink
Mitchell, Md.
Myers, Pa.
Preyer
Railsback
Reuss
Roybal
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Steelman
Van Deerlin
Whalen
Wilson, Bob
Wright
Young, Tex.
Zablocki

ANSWERED "PRESENT"—2

Bedell
Gonzalez

NOT VOTING—32

Barrett
Bell
Biester
Chisholm
Clausen, Don H.
Evins, Tenn.
Fary
Fountain
Guyer
Hayes, Ind.
Hébert
Hinshaw
Holland
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
McCormack
Macdonald
Mollohan
Myers, Ind.
Nix
Patterson, Calif.
Pepper
Riegle
Rodino
Sarbanes
Shipley
Stratton
Teague
Udall
White
Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mrs. Chisholm against.

Mr. McCormack for, with Mr. Stratton against.

Mr. Rodino for, with Mr. Pepper against.

Until further notice:

Mr. Teague with Mr. Mollohan.

Mr. Shipley with Mr. Hayes of Indiana.

Mr. Fountain with Mr. Guyer.

Mr. Fary with Mr. Patterson of California.

Mr. Riegle with Mr. Myers of Indiana.

Mr. Sarbanes with Mr. Jones of Alabama.

Mr. Wolff with Mr. Johnson of Pennsylvania.

Mr. White with Mr. Don H. Clausen.

Mr. Nix with Mr. Biester.

Mr. Evins of Tennessee with Mr. Barrett.

Mr. Udall with Mr. Johnson of Colorado.

Mr. Macdonald of Massachusetts with Mr. Holland.

Mr. HAWKINS changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTING THE ENROLLMENT OF H.R. 200

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 106) to correct the enrollment of H.R. 200.

The Clerk read the Senate concurrent resolution as follows:

S. Con. Res. 106

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is directed to make corrections in the enrollment of H.R. 200, a bill to provide for the conservation and management of the fisheries, and for other purposes, as follows:

Sec. 2. In section 202(a)(5) of the bill strike "any" and insert in lieu thereof "such".

Sec. 3. In section 310(d)(1) of the bill, strike "(A)" and "(B)", the second time they appear therein, and insert in lieu thereof "(i)" and "(ii)".

Sec. 4. In section 311(b)(1)(B) of the bill strike "the Act" and insert in lieu there "this Act".

Mrs. SULLIVAN (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the Senate concurrent resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri for the immediate consideration of Senate Concurrent Resolution 106?

There was no objection.

AMENDMENTS OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Speaker, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. Sullivan: Page 1, between lines 7 and 8, insert the following:

Sec. 3. In section 205(d) of the bill strike out "Definition.—" and insert "Definitions.—".

Sec. 4. In section 305 of the bill—

(1) strike out "(d) Emergency Actions.—" and insert "(e) Emergency Actions.—";

(2) strike out "(e) Annual Report.—" and insert "(f) Annual Report.—"; and

(3) strike out "(f) Responsibility of the Secretary.—" and insert "(g) Responsibility of the Secretary.—".

Page 1, line 8, strike out "Sec. 3." and insert "Sec. 5.".

Page 1, line 11, strike out "Sec. 4." and insert "Sec. 6.".

The amendments were agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12406, FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1115 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1115

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes. After general debate which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered as having been read for amendment. No amendment, including any amendment in the nature of a substitute for said bill, shall be in order to the bill in the Committee of the Whole or in the House except the following:

(1) amendments recommended by the Committee on House Administration;

(2) the amendments printed on page H2053 of the Congressional Record of March 17, 1976, by Representative Hays of Ohio;

(3) amendments striking out any section of the bill other than the sections recodifying and redrafting provisions formerly contained in title 18, United States Code;

(4) the text of the bill H.R. 11736 if offered as an amendment in the nature of a substitute for H.R. 12406;

(5) an amendment striking out the provisions on page 18 of the bill after the word "Commission." on line 17 through line 25;

(6) amendments en bloc striking out the provisions on page 27, lines 7 through 21, and striking out section 304 of the bill;

(7) an amendment striking out the period on page 45, line 2, and inserting in lieu thereof ", imprisonment for not more than one year, or both.".

(8) an amendment striking out the figure "$250" on page 44, line 21, and inserting in lieu thereof "$100";

(9) an amendment striking out the figure "$5,000" on page 45, line 19, and inserting in lieu thereof "$2,500" which amendment shall be subject to a substitute to insert the figure "$1,000";

(10) an amendment striking out everything after the comma on page 39, line 6 through line 15, and inserting the following provisions: "but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act; (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: except that",

(11) the text of the bill H.R. 12780, if offered as an amendment inserting additional sections in title III of said bill, which amendment shall be in order, any rule of the House to the contrary notwithstanding, which amendment shall be subject to a perfecting amendment printed in the Congressional Record of March 29, 1976, by Representative Wirth adding subsection (d) to section 9057 of the Internal Revenue Code as proposed to be added to said Code by the amendment consisting of the text of the bill H.R. 12780, and it shall also be in order to consider without the intervention of any point of order the amendment inserted in the Congressional Record of March 22, 1976, on pages H2229–31 by Representative Solarz if offered as a substitute for said amendment containing the text of H.R. 12780, and no amendments may be offered to the said amendment, the perfecting amendment thereto or the substitute therefor;

(12) an amendment striking out the word "by" on line 7, page 29, and all of line 8, and

(13) an amendment on page 17, line 4, after the word "opinion" inserting "of general applicability" and on page 17, line 9, striking all after the word "Commission." through line 14;

and none of the amendments hereby made in order shall be subject to amendment, except as so specifically provided in the preceding clauses:

Provided, That it shall be in order to debate pending amendments or the bill under the five-minute rule by offering pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson), and pending that I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that we be allowed to correct a printing error in House Resolution 1115 by striking all after the word, "Election," in line 6 on page 1, and by striking all of line 7.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman will explain just what the import of that correction is?

Mr. BOLLING. Mr. Speaker, if the gentleman will yield, the copy sent to the Printing Office resulted in an error, and there is a surplusage of words. We wish to take out the 2 words, "Campaign Act," and all of the words appearing on line 7 of that page.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, those Members who listened to the reading of the resolution know that this is an unusual rule and a complicated rule. The Committee on Rules spent a great deal of time considering this problem.

On two different occasions we postponed acting on this matter, and we finally acted on it yesterday after about 2½ hours of discussion.

The rule which was agreed to is a rule that I offered, and it is an attempt to compromise between practicality and fairness. In further explanation, we were arranging a situation whereby this very important matter might reach in a reasonably short time a conclusion that suited the House. That was the practical goal that we sought. At the same time we wanted to provide the greatest degree of fairness that we could to consider all the different causes that various Members have on this particular issue.

I am going to assume that the Members listened to the reading of the resolution and understand the meaning of it. I will be glad to answer questions as to the particular effect of a particular amendment made in order.

What we tried to do was to set up a situation where we would have a chance to reach a result. If the House chose to extend the Federal Election Commission to comply with the Supreme Court decision and make certain modifications about which Members felt strongly that would be possible. But at the same time alternatives which were strongly supported by other Members would have a reasonable opportunity to be heard.

Mr. Speaker, this is a modified closed rule. I believe it is the best product that we could have produced in terms of making it possible for the House to work its will in a reasonably orderly fashion and in a reasonable time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would just like to ask the distinguished gentleman a brief question.

Quite obviously the optimum condition from the viewpoint of many on this legislation would be a straight extension of the Federal Election Commission as the Supreme Court suggested.

However, by this rule, which the gentleman describes rightly as a very unusual rule, the Rules Committee has made in order at least 13 specific amendments or categories of amendments, which would indicate that the legislation, in the view of the Committee on Rules, needs considerable changes in order to be perfected.

Why would it not have been proper to open the rule completely and allow amendments by any Member? Why does the Committee on Rules arrogate unto itself a decision that limits the rights of all Members?

Mr. BOLLING. Perfectly frankly, that would have been the easy way out for the Committee on Rules, but this member of the Committee on Rules—and I attempt to speak for no others—felt that if we had a completely open rule, there would be a variety of roads that would probably lead to no result. We could have had one road that would have been a short road. We could have had one road that would have been a very long road, and we would have had no result.

It was for that reason that we came up with this quite complicated rule.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

Is the gentleman from Missouri (Mr. BOLLING) assuming, then, that if there was an open rule, the House would not act responsibly in dealing with this bill, and therefore, the Committee on Rules felt constrained to restrict the amendment process on the floor?

Mr. BOLLING. I am not assuming that at all. What I am assuming is that it would be very, very difficult for the House to deal with this extraordinarily complicated, most controversial subject in a reasonable time and in a reasonable way.

Mr. ROUSSELOT. Why? Why? This House has handled much more complicated legislation with an open rule on many occasions.

Mr. BOLLING. Just for the reason I stated. It is very controversial, and it is very complicated.

Mr. ROUSSELOT. If the gentleman will yield further, we dealt with the energy bill, which had a substantial number of complicated amendments. We dealt with a complicated House reform act. I cannot understand why this House is somehow now incapable of dealing with a piece of legislation that directly impacts on our own elections as well as those of the U.S. Senate and the President. I reject the assumption that this House is incapable of dealing with "that complicated subject" under an open rule.

Mr. BOLLING. My answer to the gentleman perhaps is influenced by the fact that I had the privilege of chairing both the energy bills in recent years that came out of the Committee on Interstate and Foreign Commerce.

The gentleman's statement is that we dealt with the energy bills. I have not run into a great many Members who are satisfied with the way we dealt with them. This is an attempt in a very difficult and even more complicated manner to see to it that the House has an opportunity to work its will by either accepting or rejecting this rule. That is the first step. If it does either, it then will have another opportunity to work its will in whatever manner the House chooses.

The Committee on Rules does nothing. The Committee on Rules, as the gentleman well knows, recommends to that House a course of action. If the majority of the House do not like the proposal, they can easily turn it down.

Mr. ROUSSELOT. If the gentleman will yield further, it is not always easy to defeat a rule the "partially open." I still cannot understand the gentleman supporting a half-baked rule because I know that my colleague, the gentleman from Missouri (Mr. BOLLING) normally supports the concept of an open rule. Mr. BOLLING is normally for sunshine. He has addressed himself to that subject many times in his own books or in his own papers. He has vigorously supported open rules on this floor. I know that he reserves the right sometimes to make judgments that there need to be so-called modified rules. However, in an election procedure that so much affects every Member of this House, the Senate, and candidates under the Federal Election Law itself, I cannot understand why the Members of this House are not capable of dealing with the whole legislation under an open rule.

Mr. BOLLING. That is a matter of opinion, possibly; we will just have to disagree.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, I would just like to say to the gentleman from California (Mr. ROUSSELOT) that there are some reasons for this, one of which is that in the committee composed of 25 members there were 63 amendments. That comes out to about 2½ amendments per member. If that ratio were to be followed in the House, that would mean 1,000 amendments.

I believe the gentleman from California (Mr. ROUSSELOT) is supporting for President—if I am wrong, correct me—somebody from California.

Mr. ROUSSELOT. If the gentleman will yield, the gentleman from Ohio (Mr. HAYS) is wrong. I have endorsed no candidate in the Presidential race.

Mr. HAYS of Ohio. There are Members who are supporting him and who have talked to me. He is already screaming that this is a plot to shut off his money, and he cannot even conduct his campaign.

Mr. ROUSSELOT. Is the gentleman talking about former Governor Reagan?

Mr. HAYS of Ohio. That is the gentleman about whom I am talking. There is only one gentleman from California running.

Mr. ROUSSELOT. Governor Brown, a member of the democratic party, is also running.

Mr. HAYS of Ohio. I am talking about the Republican side.

Mr. ROUSSELOT. I wanted the gentleman to know that Governor Brown is also running.

Mr. HAYS of Ohio. I am aware of that but I didn't think Mr. Rousselot would support Governor Brown.

Mr. BOLLING. Mr. Speaker, I have the floor.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield further?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, may I say that when I appeared before the Committee on Rules, I asked for 11 amendments. I do not support all 11 amendments, but I asked for them because we made an agreement with the minority that they would have a chance to offer amendments that they thought were important to them so that the House could vote them up or down.

In asking for these 11 amendments, there was an attempt to have a unanimous agreement on the committee about what kind of bill we would debate. I kept my word. I asked for all the amendments that they wanted plus another amendment which, again, I do not support. However, we made an agreement in committee that if we did not take the time of the committee, in 3 or 4 days in committee, it must be brought up on the floor. That amendment is the one concerning public financing for Members. That is included. I asked for it to be included, although I oppose it, in an effort to be fair and in order to let the amendments that there was some controversy about be put before the House.

In addition we also went a long ways in asking that it may be made in order to strike any section of the bill. So I think it is a rule that the House can work its will on if the rule is adopted, and which will probably enable us to act on this bill this week. That is the reason I appreciate the Committee on Rules bringing out this kind of a rule.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding to me.

Mr. Speaker, I was not suggesting by advocating an open rule that we necessarily would have to consider all 63 amendments that were considered in the House administration committee. That is why we have a committee process so that we can ferret out all amendments in a more specific way in the committee itself. The assumption that because we have an open rule that that would automatically mean that all 63 amendments would be brought up on the floor I do not think is a justifiable argument.

I am very disappointed for many reasons that this House will be denied the chance to debate several amendments to this bill under the normal process, and I have some real reservations about this rule.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members of the House, I think the debate and particularly the colloquy that has just occurred between the gentleman from California, my friend, Mr. Rousselot, and the gentleman from Missouri (Mr. Bolling) indicates that we are confronted this afternoon with a rule that is certainly not simple in connection with this legislation for the reason that it would make in order a bill that is not a simple bill.

Let me begin by telling the gentleman from California (Mr. Rousselot) that I share much of his disappointment and I share some of the concerns that he has even though with some reluctance I finally voted to report this measure to the floor. I took the position then and I take it now, that if the Committee on House Administration had reported a bill simply requiring that all of the Federal Election Commissioners be appointed by the President and confirmed by the Senate, we could have granted a very simple rule and then we could have probably passed such a bill in very short order. And actually that was all that was required of us by the now celebrated decision on the 30th of January, Buckley against Valeo, the Supreme Court decision. Let me say before I go into some other details that thereafter on the 5th of February the gentleman from Minnesota (Mr. Frenzel) and the gentleman from Illinois (Mr. Mikva) did introduce H.R. 11736, a 3-page bill which would have met that simple requirement contained in the mandate of the Supreme Court. The Committee on House Administration chose instead to make a simple matter complex and seize the opportunity to rewrite our Federal election laws. That product is H.R. 12406 which is before us today, or is under consideration, if this rule is adopted.

It is a 58-page bill. It was not reported from the committee until the 17th of March. Very frankly, I think if it were to be passed in the present version it probably would end up with its predecessor on the front steps of the Supreme Court.

When the House Committee on Administration appeared before the Committee on Rules, the majority and minority asked the Committee on Rules to grant a modified closed rulemaking in order a limited package of amendments, but a package which would address the major concerns and points of controversy that are involved with the this bill and including many of the amendments that were offered by the minority in the House Committee on Administration.

One of the amendments that is in order under this rule is the text of the Frenzel-Mikva bill which calls for a straight reconstitution of the FEC. Very frankly, it is the major reason why I am willing to support this rule today because at the proper time and when that substitute is offered, I shall support it as the proper solution to the difficulty with which we are presently confronted. But the Committee on Rules heard from a number of other witnesses as well, witnesses who asked that certain other amendments be made in order under the rule. The rule that we finally granted is essentially the rule that was requested, but with some additional amendments that the Committee on Rules decided to make in order. The key vote in the Committee on Rules came on the motion made by the gentleman from Missouri (Mr. Bolling) to make in order this package of amendments that is recited in the resolution. If that motion had failed, the vote would have recurred on a motion made by the gentleman from New York (Mr. Delaney) to report it under an open rule closing only the portions of the bill that deal with the Internal Revenue Code.

I voted with the prevailing side on the motion offered by the gentleman from Missouri because I, frankly, questioned whether we would ever get the bill out of the Committee on Rules if the question were to recur on an open rule. I could have been wrong in that judgment. There was no really clear way in a moment's time to make the decision, but that was my decision, and the reason why I elected to support the gentleman's motion.

Also it seemed to me that had we adopted the open rule, we would have shut out a very sizable portion of the Members of this body who are interested in the public financing amendment which would not have been germane under that situation. Then we somehow had to manage to clear those two hurdles that I have described. Frankly, I had some doubt that the chairman of the House Committee on Administration would want to call this bill up under an open rule, and listening to his colloquy with the gentleman from Missouri, I am reinforced in that doubt.

Finally, I vote for the open rule alternative, I will say to my friend, the gentleman from California, because as somebody said when he testified before our committees, each one of the 435 Members of this House is an expert or considers himself so on Federal election laws. Under ordinary circumstances I would be content to take my chances and to take the time that would be involved in disposing of the amendments that could be offered under that open procedure, but the fact of the matter is that we are already more than a week past the second deadline given the Congress by the Supreme Court of the United States for taking action to reconstitute the Commission, because it was at midnight on Monday, the 22d of March, that the FEC lost its executive powers, lost its authority to distribute Presidential matching payments, to act on violations of the election laws, to issue regulations and advisory opinions, and to do all of those things for which they were originally created.

The point that I seek to make is that we, therefore, whether we like it or not, simply do not have the luxury of taking our time in that kind of extended debate on this bill. The other body has already acted on its version of the bill. As I recall it, it took some 5 days of debate there, and it was only after a bipartisan compromise bill was fashioned away from the Senate floor—it was not written on the floor but away from the floor—only after that event occured was the deadlock broken in the other Chamber on this measure.

I should also mention, I think, at this point that I frankly had hoped that we might have an opportunity under this rule to simply make in order the Senate-passed bill as a substitute for the bill of the committee, so that we could avoid some of the duplicating effort that we are going to be forced to endure in going over the same ground and I did, in fact, in the committee make such motion, an amendment to the rule, that would have made in order the Senate bill as a substitute; but unfortunately, at least in my view, that amendment was not accepted by the Committee on Rules.

Mr. Speaker, let me say in conclusion, and then I will be glad to yield, I support this rule, therefore, because I think the time has come for us to act on this very, very important matter. I believe the surgical instruments may be available under the rule as it was finally drawn to excise some of those cancerous portions of the bill that I think would be fatal to the continuation of the strong independent Federal Election Commission.

Failing that, through the various amendments that will be offered by the gentleman from Minnesota and others on the minority side of the aisle, failing that, we do have the ultimate recourse, as I said a moment ago, of adopting a substitute bill which would simply recontitute the Commission along the lines suggested by the Supreme Court.

I think, therefore, the rule does succeed in protecting the interests, not only of the minority and the House Administration Committee, but the majority, if they are willing when the proper time comes to preserve the kind of strong antidote to future Watergates which we had in mind when we passed this legislation orginally and when we created an independent Federal Election Commission in 1974.

It is for these reasons, therefore, that I will vote in support of this rule.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Speaker, I am pleased to yield to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, I have three questions I would like to propound to the gentleman from Illinois. He has referred to Watergate, which was a national disgrace about which we are all concerned. I am intrigued by the gentleman's suggestion that this legislation, or its predecessor, addresses itself to the concerns arising out of Watergate. The specific offenses, which we associate with Watergate, were political espionage, spying, dirty tricks, and so on. But when the gentleman from California (Mr. DEL CLAWSON) and I and others tried to offer amendments to this act to outlaw such offenses we were not permitted to do so. We were ruled out of order at that time. I understand this rule once again makes such amendments out of order. Am I mistaken?

Mr. ANDERSON of Illinois. I think the gentleman is correct, save for the 14 amendments, plus some technical and perfecting amendments that might be offered by the committee, save for those motions to strike, I think we should have referred to the fact that motions to strike are available with respect to any sections of the bill other than the sections that recodify and reclassify the provisions of former title XVIII. I think the gentleman is correct. The amendments the gentleman refers to would not be in order.

Mr. ARMSTRONG. I very much regret that. I would now like to turn to provision of the bill which give this body the right to veto actions of the Federal Election Commission. Is the gentleman aware that members of the Commission have testified such a veto power is intolerable and a veto of this kind is inconsistent with the very concept of an independent Federal Election Commission? I am sure the gentleman is aware of that problem.

Mr. ANDERSON of Illinois. I am well aware of the problem and I agree thoroughly with the gentleman that the bill as presented by the committee would permit a one-House veto in whole or in part of any regulation issued by the committee and this now under the bill would include advisory opinions, because they, too, must be submitted in the form of regulations. I think this is a totally indefensible and unwarranted interference with the free exercise of the powers of an independent commission in the executive branch of the Government.

To some extent however a remedy is available under this rule in that I believe it is the gentleman from Minnesota (Mr. FRENZEL) who intends to offer an amendment to strike certain of those provisions.

Mr. ARMSTRONG. I was going to ask about that point. Some of us oppose particular points of the bill for reasons of policy and constitutionality. I am particularly opposed to the congressional veto of a supposedly independent commission's action. But under the rule I am precluded from offering an amendment.

Mr. ANDERSON of Illinois. Under the rule which the committee granted—and if the gentleman will give me a moment I will try to find the section of the rule which deals with that problem—the rule says:

> (6) amendments en bloc striking out the provisions on page 27, lines 7 through 21, and striking out section 304 of the bill;

It would eliminate the congressional item veto. It would permit a striking of that part of the bill which says that the Congress can pick and choose among various parts of the regulation and veto some and retain others.

However I believe that it would not be possible under the rule to strike entirely the provision calling for a one-House veto of a regulation. I stand to be corrected by a member of the committee if I am wrong in that impression.

Mr. ARMSTRONG. The gentleman has explained the situation exactly as I had previously understood it. So other than to adopt the amendment of the gentleman from Minnesota there would be no way that this body could remove this very offensive provision from the bill.

Mr. ANDERSON of Illinois. I think the gentleman is correct.

Mr. ARMSTRONG. If the gentleman will yield to me for just a moment longer, let me say I am very much disappointed in the rule that has been brought before the House. First, for the reason my good friend, the gentleman from California, has explained, that it is contradictory to the spirit and traditions of this House to have a rule of this kind. It is true we all have different ideas on this issue. But prior action on this subject shows new ideas are needed.

Laws have been enacted which have not withstood constitutional challenge. We have been stampeded into enacting legislation which is not only unconstitutional but also unwise, and I fear we are in danger of doing so again.

Personally I hope the rule will be defeated and then we can consider this legislation under an open rule with the opportunity for all Members to take part in considering and amending the bill.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. WIGGINS. I may have misunderstood the colloquy which has occurred, but it is my understanding the gentleman expressed the opinion it would be impossible to delete the one-House veto provisions under the rule.

Mr. ANDERSON of Illinois. That was the information I sought to convey to the gentleman from Colorado, that we could eliminate that part of the veto which says it could be selective, in that we could veto a portion of a regulation. But as I understand the bill we would not be able and the rule does not provide the opportunity to eliminate totally the one-House veto.

Mr. WIGGINS. Mr. Speaker, as the gentleman knows, it is possible under the rule for an amendment to be offered to strike the in-whole-or-in-part language. That is authorized under item 6, page 2 of the rule, and any understanding to the contrary which may be held by the gentleman from Colorado would be incorrect.

There will be, as the gentleman in the well knows, an amendment offered to strike that portion of the bill.

There is another one-House veto issue, and that is the one-House veto of the entire Election Commission, which is under section 115 of the bill, and it is in order under the rule to strike that entire section, and I hope that such a motion to strike will be made.

Mr. ANDERSON of Illinois. I thank the gentleman for his contribution.

Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I rise in opposition to this rule. My opposition stems from two fundamental concerns. First, I do not believe in drafting substantive legislation through the intricacies of the procedural process; and, second, the provisions of the rule would disenfranchise the overwhelming majority of the House Members from offering amendments they may consider necessary to perfect the legislation at hand.

Yesterday, the Committee on Rules passed and reported the most complex rule resolution that I have ever witnessed or, as I have been told, that has ever been reported from the committee. It includes provision for 13 carefully chosen amendments, but none of these amendments are subject to amendment. In other words, the bill can be altered here on the floor only by certain Members. The great majority of the House may not participate at all, other than by voting, in the amending process on a piece of legislation affecting all of us directly. Those of us falling in this category have been effectively discriminated against, and because we have, so have our constituents.

Now I realize that many parts of the Federal Elections Campaign Act propose to amend the Internal Revenue Code, and to open the bill to all germane amendments also would open the code to revision. I think this argument has been advanced long enough. It is time we took the responsibility of running that risk, which is a very slight one in this instance, so that we will be able to legislate with some degree of flexibility and accountability.

What the Committee on Rules is telling this House is that a few selected Members may offer a few selected amendments to the bill. If this is not legislating purely by procedural technicalities, I have never seen it. This is clearly an irresponsible approach to an issue as complex and as important as Federal campaign financing.

Mr. Speaker, in conclusion I would remind the Members that the House Administration Committee reported H.R. 12406 on March 11 by a 15-to-9 vote. Yesterday, the Committee on Rules passed the rule for consideration of the bill by an 8-to-7 vote. This should be a red flag indicating that the legislation is not ready for the House floor. This rule should not be adopted, and the bill should not come before us again until at least some of the controversy surrounding it has been removed.

Accordingly, I strongly urge the defeat of House Resolution 1115.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to join in the expression of opposition to the rule just made by the distinguished gentleman from Mississippi. This particular rule does make in order 16 amendments, as I count them. Six of these amendments will be offered by individual Members, and 10 of them will be offered on behalf of the Committee on House Administration. No amendments are in order to these amendments except the very few specified in the rule.

I suggest that the Members examine, for instance, the amendment allowing public financing made in order by the rule that will be offered by the gentleman from California (Mr. PHILLIP BURTON), my good friend. It consists of H.R. 12780, a 21-page bill, to be offered as an amendment. The rule also makes in order another amendment which covered a full page in the CONGRESSIONAL RECORD of yesterday. We are expected, in the confines of this limited amendment procedure, to discuss these and many other complex amendments; one offered by the gentleman from New York (Mr. SOLARZ), covers three pages of the CONGRESSIONAL RECORD in fine print.

I assume these amendments have not been the subject of extensive hearings in this Congress. They are certainly not explained in full in any reports that are before us.

Quite frankly, I think this entire procedure shows a lack of confidence in the House of Representatives itself. We are to debate the Federal election procedures that produced this Congress. Yet this Congress, elected under current laws, is denied its constitutional rights by action of the Committee on Rules.

The majority party controls this House by a margin of 2 to 1. Committees are controlled by a majority of 2 to 1 plus 1. The majority can do as it wishes. I see no reason to resort to these extraordinary and, as the gentleman from Missouri (Mr. BOLLING) said, these highly unusual procedures. There are other ways we can clean our house without repealing our rules and surrendering our parliamentary rights.

Two Members of this House have pleaded guilty to election law violations and have been sentenced. Others are reportedly under investigation. The Ethics Committee should investigate these matters. In both bodies there are proper forums to address these cases.

Here we are, with our hands tied and, to some extent, our eyes blinded, trying to rewrite extensively Federal election law, when all we may need to do is to extend the existence of the Federal Election Commission. This procedure displays a lack of confidence in the House of Representatives to deal effectively with the issues before us. It is a sad indictment of this body.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I support the rule, and I do so without any great affection for the legislation which we will consider under the rule. But it is apparent to any Member who has been involved in this subject for any period of time that it is absolutely essential that the House act in some way promptly. The decision of the Supreme Court in Buckley against Valeo required that this Congress proceed to reconstitute the Commission and to do so promptly.

Before the sun sets tomorrow, I am sure that a very large number in this House will see the wisdom of a simple bill reconstituting the Commission.

The legislation of 1971 is complex beyond belief. The House bill, 58 pages, amends that massive 1971 bill, and the House bill itself is complicated. I invite the Members' attention to the rule. It is complicated. By the time we travel these various complications, I hope that all of the Members will come to the conclusion, as I have, that, given the season and given the press of time and the need to do something quickly, an amendment in the nature of a substitute, which will be offered during the 5-minute rule, reconstituting the Commission only, will find the Members' support. But we cannot get to that point unless the rule is adopted, and for that reason I support the adoption of the rule.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I have been very much interested in the comments made here in this debate on the rule. Several Members have said, "I really do not like this rule." "I do not have any affection for it," I think one of my colleagues said, "but I am going to vote for it anyway." Then another Member says that there is going to be a great number of complicated amendments to this bill. Somebody else says it is a "terribly complicated" bill. Somebody else says it is a very complicated rule. But then we are told basically we are not capable as a House of having an open rule because somehow we are stupid, I guess. I do not think we are. I have more confidence in this House than to believe that, if it is as important as we have been told, we are not capable of debating this bill with a totally open rule. I am very disappointed in my good colleague, the gentleman from Missouri, who I think normally and generally supports the concept of an open rule.

But I also realize that much pressure has been applied by various groups that want it written a certain way so that will not really effect them. These same lobbies built in certain protections in the House administration drafted bill and were afraid to allow a totally open rule on the floor because they did not want those issues debated or those built-in "protections" eliminated by amendment. You can bet they do not want them debated, because they are afraid of what might happen on this floor. We might just exhibit commonsense and good judgment, and eliminate these special protections to "big" labor.

I cannot vote for this rule because it does not give us total access or total sunshine in the amendment process. Referring to "sunshine," we talk about that an awful lot around here about "openness," but we do not really mean it when we pass a rule like this.

Mr. Speaker, I am forced to vote against this rule. It is antisunshine, it is anti-full-debate, and it prevents us from having a full opportunity to amend the entire bill.

Mr. BOLLING. Mr. Speaker, I have one speaker remaining, and I take it that the gentleman from Illinois (Mr. ANDERSON) has used his time.

I yield 5 minutes to the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Speaker, I was interested in what the gentleman from California (Mr. ROUSSELOT) said about "total sunshine." The only place I know of in the United States where they have total sunshine is Death Valley, Calif. You know, in every life a little rain must fall, and that is what makes the flowers bloom and this is what makes the trees and the grass grow.

There are just two things I really want to say. I am not going to reiterate the fact that this is a complicated rule or speculate on how many amendments we had and how many we might have had. All of those things are true. But there are a couple of things that the gentleman from Illinois (Mr. ANDERSON) sort of left hanging in midair, and I would like to clarify those. If the gentleman thinks I am doing it badly, I will invite him to ask me to yield.

One point is that the House did report the bill on March 11, not March 17, but I will say as chairman of the committee that under the rule we agreed to maybe an extra day for the minority, which was just and right, to file its minority report and to prepare its amendments. So it did finally get to the Committee on Rules on the date the gentleman mentioned. There were procedural matters which intervened and, therefore, we just did not get it there the day it was reported.

The other point is this: Perhaps the gentleman said this inadvertently, but it is one of the things that bothers me, and it ought to bother the minority because they may not always have the White House. The gentleman said that what we can do by this simple reconstitution is to have a strong Federal Election Commission under the executive branch.

Mr. Speaker, I have taken a lot of horsewhipping in the press because they said that I was the one who architected the idea of having the Federal Election Commission appointed by the House and the Senate and the Executive. I did have something to do with that, because I believe in the separation of powers.

Let me tell the Members that Watergate brought this on. That is what the gentleman from Colorado (Mr. ARMSTRONG) was referring to, I think, when he said we were trying to cure the effects of Watergate.

Well, that did not occur in the legislative branch, and if we had had a Federal election law in those days allowing the President to appoint all the Commissioners, my judgment is that the Commission would have been composed of Haldeman, Ehrlichman, Mitchell, and Stans. I would not want to live under that Commission, and I do not think any of the Members would. And if the situation is reversed and there is a Democratic President in the White House, I do not think the Members on the other side will want a Commission that is totally subjected to the executive branch.

That is why I think this is a dangerous thing. I do not believe this Commission will ever look at any transgressions in the executive branch, and I believe it would be a head-hunting expedition on the Congress. That is what I foresee, and that is why we tried to write a bill that would, if you will, put up some precautionary fences around the Commission.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for yielding.

Concerning the first of the two points the gentleman mentioned, I had reference to the date of March 17 simply because the copy of the bill I had indicated it was introduced by the gentleman from Ohio (Mr. HAYS) and others on March 11, and then on March 17 it was referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

I accept his explanation.

On the second point, when I spoke in favor of an independent elections commission under the executive branch, really all I had in mind, I think, was the basic doctrine of separation of powers, that we in the Congress make the laws and the executive branch is charged with the responsibility of executing the laws. That is the only thing that I had in mind.

Mr. HAYS of Ohio. I am sure that that is what the gentleman meant, and I have no objection to that except that somebody brought up the prosecution or the pleading guilty of two Members of this body to violation of the election laws.

I think it is fair to point out at this time that there were two Members indicted by the executive branch, by the Department of Justice; but the man who took the most money from Gulf Oil Co. in this branch has not been indicted. The statute of limitations was allowed to run on him.

He was not on the Democratic side. That is the kind of thing I am talking about. I am saying that if the situation were reversed, it could happen to you. I am just trying to protect the Congress and make the thing equitable; that is all.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Speaker, I say to the gentleman, perhaps to his surprise, that I share his concern about a commission which is appointed solely by the executive branch. The gentleman's point is a very good one.

Mr. Speaker, we have a constitutional issue to resolve in some way. In my judgment, the proper way to do this would be to back away from the whole Commission concept and rewrite the basic law to make it far less complex.

The SPEAKER. The time of the gentleman from Ohio (Mr. HAYS) has expired.

Mr. BOLLING. Mr. Speaker, I yield 5 additional minutes to the gentleman from Ohio.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield further?

Mr. HAYS of Ohio. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Speaker, as I was saying, I think it would be best to rewrite the existing law, make it far less complex, and then leave it to the regular law enforcement authorities to enforce, which would be a less-complicated procedure.

According to testimony before the Congress, as I understand it, there were 15,000 technical violations by incumbent Members of the House.

We have created a situation in which selective enforcement, whether by the executive branch or by a commission appointed by the legislative branch, creates an atmosphere of guilt. It is a most unfortunate situation.

Mr. Speaker, I think the point of the gentleman from Ohio (Mr. HAYS) is well taken. Since I have disagreed with him on other aspects, I want to register my agreement on this one.

Mr. HAYS of Ohio. Mr. Speaker, I thank the gentleman from Colorado (Mr. ARMSTRONG). I agree with him. I would like to do what he says, but I am also aware that I could not sell that package to the committee and probably not to the House.

Mr. Speaker, I am not going to prolong this. There will be a chance to debate this full, and I do not want to foreclose debate under the 5-minute rule, however long it may take; but there is a provision in the bill of the other body that really, in my view, would be very restrictive if we passed it.

There are many things we are going to debate, but as far as this Commission is concerned, I just think that we have too many commissions in town now. I think that instead of adding another one, probably what we ought to do is to abolish some of them.

Mr. Speaker, let me tell the Members what they say. They say in their bill that everybody who makes more than $25,000 in the Government shall file a statement with the Commission, I believe, of his annual net worth, his income, from what sources it came, and so on. I do not know how many people there are. Somebody estimated that there are 150,000. That may be high or low, but I will take that figure. That is 150,000 more pieces of paper for this Commission to audit and look over; and if that provision stays in, in conference, instead of having 200 employees down there, they are going to need another 1,000 or so. Therefore, we have to draw the line somewhere with respect to this. We did the best we could in committee with the votes that we had.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield further

Mr. HAYS of Ohio. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Speaker, I just want to make the point that the regulatory framework is so complicated as we now have it as to discourage participation.

In my State and in other areas of the country good people who want to participate and to be active in campaigns, either as fund raisers, treasurers, or contributors, are saying that it is too complicated and the risks are too great.

Based on my own experience, I know of this happening, not among people who are naive, but among lawyers, CPA's, and other professional people who feel that the law is impossible to comply with.

As for the point of whether or not it would be feasible to pass the kind of legislation which the gentleman has mentioned, and which I myself favor; that is, abolishing the Commission and making it simple for the law enforcement authorities to enforce the law through the regular process, the issue before us in this instance is the adoption of the rule. My complaint is that the rule which is now before us, if adopted, precludes even the attempt to do what the gentleman from Ohio and I both favor.

Mr. HAYS of Ohio. Mr. Speaker, I think the rule is a rule which will enable the House to work its will in large measure. The majority and the minority on the committee are agreed to that, I believe altogether. I agreed to ask for this kind of a rule in consultation with the minority and put into the request every single amendment on which there was substantial disagreement or that they wanted to put in.

As I say, I think the House can substantially work its will if this rule is adopted.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object

to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 73, not voting 26, as follows:

[Roll No. 145]

YEAS—333

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—73

Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Brown, Ohio
Burleson, Tex.
Carter
Clawson, Del
Collins, Tex.
Conlan
Crane
Derwinski
Dickinson
Duncan, Tenn.
Eckhardt
Emery
Forsythe
Frey
Goodling
Gradison
Hammerschmidt
Hansen
Hechler, W. Va.
Hutchinson
Jarman
Jeffords
Kelly
Ketchum
Kindness
Krueger
Landrum
Latta
Lott
Lujan
McClory
McDonald
Madigan
Mazzoli
Michel
Mills
Montgomery
Moore
Myers, Ind.
Obey
Passman
Quillen
Roberts
Rousselot
Ruppe
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Treen
Vander Jagt
Waggonner
Whitehurst
Whitten
Winn
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—26

Barrett
Bell
Biester
Chisholm
Clausen, Don H.
Fary
Flynt
Guyer
Hayes, Ind.
Hébert
Hinshaw
Holland
Jenrette
Johnson, Pa.
Jones, Ala.
McCormack
Macdonald
Nix
Pepper
Riegle
Rodino
Sarbanes
Stratton
Udall
White
Wolff

The Clerk announced the following pairs:

Mr. Hébert with Mr. Barrett.

Mr. Rodino with Mr. White.

Mr. McCormack with Mr. Johnson of Pennsylvania.

Mr. Fary with Mr. Biester.

Mr. Stratton with Mr. Don H. Clausen.

Mr. Wolff with Mr. Hayes of Indiana.

Mr. Macdonald of Massachusetts with Mr. Jones, of Alabama.

Mrs. Chisholm with Mr. Jenrette.

Mr. Flynt with Mr. Udall.

Mr. Pepper with Mr. Holland.

Mr. Riegle with Mr. Guyer.

Mr. Nix with Mr. Sarbanes.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12406) with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. HAYS) will be recognized for 1 hour, and the gentleman from California (Mr. WIGGINS) will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I am going to try as briefly as I can and as quickly as I can and as lucidly as I can to outline the provisions of this bill and not to get into any arguments pro or con about it.

It was reported out on March 11 by a vote of 15 ayes and 9 noes. A clean bill was later introduced. The Members have all heard the debate on the rule—or those who were here. The rule has been adopted, which is a limited, open rule.

Among other things, the bill provides that the six FEC commissioners shall be named by the President with the advice and consent of the Senate. The commissioners shall serve staggered 6-year terms, with no more than three Members and no two consecutive appointments from the same party. The present commissioners will serve until the new commissioners are appointed. Upon appointment, the commissioners must terminate any outside employment within 1 year of confirmation.

It really is immaterial to me, but as one chairman said at one time when presenting a budget, "It would be boring." This may be boring to the Members, and it has been a subject I have been dealing with for a long time. All I am trying to do is tell the Members what is in the bill because it affects everyone who is in the House who will be running in the future.

Major actions by the Commission, including initiation of civil suits, referral of criminal violations to the Justice Department, establishment of guidelines or forms and the issuance of advisory opinions require affirmative vote of four of the six Commissioners.

I had a talk last night—the first I have ever talked to him on the telephone—with the staff director of the Commission. As the Members know, their books have to close tomorrow on this quarter and the report has to be in on the 10th of April. Some people, anticipating that there will be no bills to pay or no expenditures to make, already filled out the forms and are checking them over, including the treasurer of my campaign.

She called me yesterday and said, "I got all these forms filled out this morning and finished. We audited them here and they are ready to go, and before I got to the post office they brought in the mail and there is a whole, brand-new set of forms radically changed from what we have been using."

I called the staff director and I said, "I don't know if this is poor judgment or poor timing or just general laxity." He said, well, he thought it was poor timing, and that he hoped that today the Commission could rule that we could use the forms currently in effect or the new ones if we have them in time, either one. A Member has to give the same information on what he spent, what he took in and how much he had left on hand, but these are some of the complications we get into with the Commission.

I think it was an innocent act. I think they just did not think or maybe the Post Office Department did not get the forms out in timely fashion after they mailed them.

In item 6, the Committee on Rules and Administration of the Senate and this committee are to review this, the FEC 1976 election operations, and report to their separate Houses by March 1, 1977, recommending whether or not the FEC authority should expire on March 31.

This was something that I understood the White House wanted, only in a more radical form. They wanted a self-destruct provision, just saying it does terminate on, I think it was, January 31.

The Commission may continue to issue advisory opinions in response to written requests, and anyone acting in accord with an advisory opinion is not subject to prosecution.

Here comes the one that is controversial:

Within 30 days after issuing an advisory opinion, the FEC must transmit to Congress a proposed regulation relating to the transaction in such opinion if it is not subject to an existing regulation.

Why? I will tell the Members why. Because if the gentleman from Maryland (Mr. LONG) writes in for an advisory opinion and he gets one, under the present system that is only applicable to the gentleman from Maryland. And if the gentleman from California (Mr. SISK) talks to the gentleman from Maryland and the gentleman from Maryland tells him he has an advisory opinion so-and-so, and the gentleman from California acts upon it without it being made in the form of a regulation, some capricious person over in the Justice Department could possibly prosecute the gentleman from California (Mr. SISK).

So we are not trying, as somebody said, to make this Commission a subcommittee of the Committee on House Administration; we are trying to make it do a consistent job. I was not too strong for the advisory opinion in the beginning. I think it has been a good thing. But I think it ought to be applied across the board.

Each advisory opinion issued before enactment must be proposed as a regulation within 30 days of enactment or lose its status.

Any person may file a written, signed, and notarized complaint with the Commission. Details of the investigation are not to be made public without the written consent of the person being investigated.

If the Commission determines that a person has committed or is about to commit a noncriminal violation of Federal election law, it must for a period of 30 days try to correct such violation by informal methods of conciliation, conference, and persuasion.

What are we saying here? We are saying that if one of your reports comes in with line 14-C blank, and there should be something in there, that instead of referring it over to the Justice Department for a civil violation, the Commission shall call your treasurer, or whoever files the report, and say, "Look, you forgot to fill in line 14-C on page 7. Give us the information or file an amended report." If you do that, that wipes out the violation.

If the Commission is unable to settle an apparent violation of this act through conciliation, it may bring a civil action.

The Commission would have exclusive primary jurisdiction over civil actions to enforce the law.

If the Commission believes a criminal violation of election law has been committed, it may refer the apparent violation to the Attorney General. A criminal violation is defined as any "knowing and willful" violation involving a contribution or expenditure in excess of $5,000.

The Committee on Rules made in order an amendment offered by the gentleman from Minnesota (Mr. FRENZEL) to reduce that to $1,000, and if he offers such an amendment I do not intend to vigorously oppose it.

The bill establishes an appeals procedure whereby any person aggrieved by an order of the Commission dismissing or failing to act on his or her complaint may petition no later than 60 days following the dismissal of the complaint by the Commission, or no later than 60 days following the 90-day period in the event the Commission fails to act on the complaint.

The bill prohibits any FEC member or staff employee from disclosing the fact that an individual is being investigated or is about to be investigated by the Commission, without the written consent of the person to be investigated.

Why? Let me tell the Members about the Rose investigation or about the Gradison investigation. But in the Rose case, it was more flagrant. Someone wrote an anonymous letter in, saying that Mr. ROSE of North Carolina had given an Indian a Cadillac to round up the Indian vote. It was not signed, being anonymous, and it was not notarized. It was not anything but a piece of paper with some writing on it. The Commission, or somebody—we have not found out who yet, because we have three or four different stories—sent nine investigators into Mr. ROSE's district, with eight-column headlines saying that he had been charged with a flagrant violation of the election law, they spent a week down in sunny North Carolina on the beach, and they said there was not any violation, after he had gotten all of that bad publicity which is attendant to a thing like that.

So that is why we tried to say this with respect to these complaints which are generally made against an incumbent for the purposes of getting the opponent some free publicity. This one was not that way; this was made a year after the election. God knows why it was made. Anyway, they cannot get those eight-column headlines until after they have gone in and investigated.

After prescribing rules and regulations, the Commission would be required to transmit such rules or regulations—this is in the law now—to each House of Congress. Either House could disapprove all or part of any Commission rule or regulation within 30 legislative days after submission.

Number 17: The Commission would not be permitted to investigate the activities of a staff member of a Federal officeholder without first notifying such person holding Federal office.

This pertains to what the staff member may be doing in your office or elsewhere.

If a Federal officeholder signs an affidavit stating that a staff employee is performing his regularly assigned duties, further inquiry or investigation of the matter would be prohibited.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HAYS) has expired.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, the reason for that provision is that if we lose control of our staff, we might as well not be here. We cannot have seven or eight people in there sitting with them every day and asking what they are doing. I presume they would even want to look in your files.

No person would be permitted to contribute more than $1,000, and no political committee could contribute more than $5,000 to any multicandidate political committee or party committee during a calendar year.

Contrary to what the Washington Post says, that eliminates the Democratic Campaign Committee of which I am chairman.

Number 19: The bill increases the ceiling on cash contributions of individuals and groups to candidates running for Federal office from $100 to $250.

Mr. Chairman, I will be candid with the Members. I do not know where the $50 came from. There was a motion to change it from $100 to $200, and then much to my amazement I heard in the committee that 35 percent of the people in this country do not have checking accounts, and that for many candidates running $100-a-plate dinners this would preclude a man from buying a ticket for his wife and himself. That is the reason it was raised. Somebody offered an amendment to change it from $100 to $200, and somebody offered an amendment to amend that amendment to make it $250. That amendment carried. I do not know why the $50 is there, but I am completely in support of a $200 minimum.

Number 20: The bill eliminates the requirement that candidates and committees must file reports with the Secretary of State in the State where they are candidates.

The reason for that is that many Secretaries have said they do not know what to do with the reports when they get them. There is no provision made as to what they should do with them, so they simply file them, and a good many Secretaries, I am told, simply throw them away. All of this information will be available in the Clerk's office and down in the Commission, and every Commission would provide access to UPI and AP, and let us not think they will not have that report on the date it is filed. This will eliminate many more thousands of papers during the year.

Item 21: The bill eases reporting requirements in nonelection years.

That is done by saying that if you do not spend more than a certain amount of money in a quarter, you do not file a report for that quarter. We have had that provision in there, and then, as we know, the Election Commission rule said that in a quarter where you did not have to file a report there was a rule that said you had to file a report to that effect. I do not know whether these rules are worth anything.

Item 22: Locals of a union, subsidiaries of a corporation, and other similarly structured groups—and this is important; there has been a lot of flack about this, but it is pretty clear if you understand it—would be treated as part of the parent with respect to the $5,000 limitation on contributions to any one candidate or political committee.

In other words, if an international union contributed $5,000 to a candidate, no local union could contribute anything. If the international contributed $1,000, its local unions could contribute up to an additional $4,000, but the maximum applies to the whole bag. Of course, this applies to corporation taxes as well. If what we will call the national PAC or the medi PAC contributes $2,000 to your campaign, your local State PAC can contribute another $3,000, but the $5,000 is the overall limit on them.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Would this have any effect whatsoever on the personal contribution of a doctor who might be a member of the AMA or of the State organization?

Mr. HAYS of Ohio. No, no. Corporations are prohibited from soliciting contributions from anyone other than their stockholders, executive officers, and their families. Trade associations may not solicit funds from anyone other than the stockholders and executive members of corporations and their families. Labor unions are prohibited from soliciting contributions from non-members.

Mr. Chairman, I now go to paragraph 24: Anyone making independent expenditures for the benefit of candidates for Federal office must file contribution and spending reports on the same basis as political committees.

Twenty-five: Whenever an individual makes an expenditure financing any communication advocating the election or defeat of a candidate for public office, such communication must be clearly identified as authorized by a political candidate or committee, or if not authorized by a candidate or committee, that fact must be clearly identifiable.

Mr. Chairman, I think that is for the protection of every candidate, whether an incumbent or not.

Twenty-six: No person seeking the Presidency would be eligible for Federal funds if he or she spent more than $50,000 of his or her own funds of those of his or her immediate family.

Twenty-seven: If the Secretary of the Treasury determines there are insufficient moneys in the dollar checkoff fund to make payments to candidates, no moneys would be available to make such payments from other sources.

Twenty-eight: Candidates ceasing to actively campaign for the Presidency would no longer be eligible to receive Federal funds. Following such a withdrawal, a former candidate must return to the Treasury Department all funds received and not being used to defray qualified campaign expenses.

Twenty-nine: Candidates receiving voluntary legal or accounting services would not have to include such services against their expenditure limitations even if payment was made by a third party to the volunteer.

Thirty: The Federal Elections Commission would be prohibited from acting on any election law violation occurring within 5 days of an election.

Mr. Chairman, that does not mean that anyone would be barred from ever acting, but in that 5-day period when all the charges and countercharges are flying around, they will not take any public action until after the election. Then they can proceed to investigate the elections to their heart's content, but this is to try to minimize what our committee, which has policed elections, has gone through, a flurry of charges in the last 3 or 4 days before an election.

Mr. Chairman, that, in broad, general outline, is what the bill contains.

Mr. WIGGINS. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the bill before us, H.R. 12406, is a maze of complicated revisions and recodification of our existing law. In it we reconstituted the Federal Election Commission at the expense of eliminating its independence.

We are also making massive revisions in other areas of the election law. This bill is only going to serve to confuse the electoral process in the middle of an election year. And, we have done all of this without the benefit of public hearings. The only experts who count are ourselves.

Briefly, here is how the bill changes the rules in the middle of the ballgame.

First, we are reconstituting the Federal Election Commission but at the same time removing its last shred of independence. We are effectively repealing all existing advisory opinions. We are eliminating all opinions other than advisory opinions. We're claiming a one-House veto on future opinions. The bill allows a veto of any part of any regulation and provides a preferential nondebatable rule on veto resolutions. We are extending veto powers over forms as well as regulations and we are allowing either House to kill the FEC by resolution. That is a pretty thorough job of nailing the lid on the coffin.

Second, the bill is self-serving. The League of Women Voters have labeled it as an "Incumbent Protection Commission." We are extending "executive privilege" to all congressional employees. Everybody knows Watergate only applies to "the other guys."

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I do not think the gentleman from Minnesota (Mr. FRENZEL) believes, and I certainly do not believe, that that was the intent of the committee.

I want to make legislative history to the effect that if he commits any criminal act, this does not quash it.

All we were attempting to do was to prohibit the commission from coming in and saying, "You have not worked enough this week. You have been out campaigning too much."

I would also point out that if the man makes that affidavit that the person has worked full time, he is subject to perjury action; and I would not take that lightly, I do not think.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his legislative history. However, I have an easier way to cure the problem and that is simply to delete the section. The language itself is self-evident and I urge each Member to take a look at the language in the committee bill.

We are allowing one candidate's committe to transfer funds to another. Why not fool the contributor, and pass money to less popular friends. We are directing the FEC to audit Presidential candidates first. There is no sense in letting them get to us. We are adding restrictions and burdensome reporting for an independent expenditure. Those expenditures might be spent against us. However, of course, we remained silent on disclosure of congressional office accounts—slush funds. It is no fun to give away our own advantages.

Third, the bill is revising the criminal code and penalty sections. We are creating a new civil process and giving the FEC power to assess fines. We have removed most jail penalties, except those involving a knowing and willful violation of more than $5,000. Any person can commit a willful, knowing, premeditated offense like, for instance, accepting $4,900 in corporate money, or taking $4,900 in cash, or violating the contribution limit by $4,900, and be assured of no criminal penalty. We are reducing the authority of the Justice Department, and are also reducing the FEC's ability to ask that illegal practices be enjoined. We are removing most jail sentences for violators but we thoughtfully provided them for false swearing of complaints.

Fourth, the bill weakens the disclosure provisions of existing law. We are eliminating filings with the local secretaries of state. We surely do not want the local press to print that stuff, do we? We have also raised the reporting threshold to $10,000 in an off-election year. We have also increased the allowable cash contribution level by 250 percent. We are keeping our own slush funds secret, and allowing unions and corporations to continue to make covert political contributions.

Fifth, we are giving union political action committees unfair advantage over their corporate counterparts. We are repealing the SUNPAC decision which was approved by the Justice Department, and by reference, by the Supreme Court. We give unions exclusive rights to solicit union members for political contributions. We have denied corporate political action committees the right to solicit their own employees. And we have preserved the exemption from disclosure for political action committee expenditures. No wonder big labor wants this bill. I wonder if there will be a bundle available for those who vote for it.

A sweeping revision of our election law may not have been a bad idea if it had been done in the regular manner, after hearings, and some time other than in the middle of an election year. However, here we are using a popular and needed feature—the reconstitution of the Federal Election Commission—as a vehicle to carry many complicated, objectionable changes in all facets of our election law.

The committee worked hard to produce H.R. 12406. The chairman and members deserve credit for their diligence, but, not for their work product. There are nearly 100 House sponsors of simple reconstitution bills. That was the President's recommendation and Common Cause's recommendation. A simple bill to reestablish the Federal Election Commission is still the best solution and, at the appropriate time, I will offer the short 3-page reconstitution bill as a substitute for this 58-page monster. I will also offer other important amendments.

I will try to restore some of the independence of the FEC, by striking the section on advisory opinions, the section containing the "item veto," and the section permitting one House to kill the Commission.

I will seek to improve disclosure by restoring filings with secretaries of state and by asking corporations and unions to disclose political expenses from corporate funds, or from union—involuntary—treasury money.

I will also try to remove some of the self-serving aspects of the bill like the "executive privilege" for congressional employees, some of the new criminal and conciliation features, and the contributions from one candidate's committee to another.

Finally, Mr. Chairman, I urge this committee to reject the Burton amendment to extend public financing to congressional elections. That idea is, in my judgment, ill-timed and ill-conceived. Public financing is a poor idea which generates most of the need for personnel in the FEC and carries an unusually high overhead cost.

We are in the middle of a public financing experiment for Presidential elections now. I wish we did not have it at all, because it apparently lures unattractive candidates, props them up when they should fall down, and, in general, wastes taxpayer dollars. However, we ought to have sense enough to let the test be completed before we compound our miseries. I hope the Burton amendment is defeated.

Mr. Chairman, if my substitute amendment, which provides for simple reconstitution of the Election Commission, is not adopted, I hope that this committee will vote down the bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 30 seconds.

I just want to say that the whole gist of the gentleman's complaint seems to be about the House changing the rules in the middle of the game. Well, the Federal Election Commission is writing opinions and decisions every day and will continue to right up to election day, changing the rules week by week.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I am sorry that the House is not full because I believe that this is one subject that they ought to listen to. There appears to be only a small portion of the experts on this subject matter on the floor right now. We all recognize that every one of us elected to this body is a real expert in this field, and that is why it is difficult for the House to pass this kind of legislation and get any unanimity of opinion.

However, when I hear the Member who just preceded me talk about study and hearings, I think he has been around here long enough to know that after about 5 years of study and hearings, we have not changed the viewpoint of a single person who has appeared before us or those of us who have held the hearings, so I do not think there is going to be any change if we hold hearings on this bill for the next 100 years.

What we have to do is take the consensus of the members of the committee, properly named and duly qualified by the Rules of the House to study this proposition, and to bring before the Members the best bill that they can conceive and put into that bill before this House for a vote. To do other than that would not only be to kid ourselves but to do what some have accused us of trying to do, and that is kid the public. We are not kidding the public. This is a very serious matter in not only what it means to the individual Members now in Congress, or those who are out in the field at the moment campaigning, but what we do for the long-range welfare of the country itself and the makeup of this body.

What the Supreme Court did, of course, was in their judgment what they thought to be right in interpreting that act before them. But commonsense must tell every one of us that once we lift the ceiling on spending, all of the other restrictions and criteria that we set up on the election regarding the funding, or the spending of funds for an election, become minor in importance, because under the particular view of the Supreme Court there is a difference between a person who has personal wealth seeking office and a person who has little or no personal wealth and must depend upon his fellow citizens to contribute to his campaign.

We had to rewrite the act. Everyone of us knows that most of the problems that we have seen in the elections in the past have been somehow connected with the spending of funds or the collecting of funds.

We thought we had written a rather tight-ship piece of legislation. It did not please everybody, nor will any bill that is ever passed please everybody. But somehow or other the American people have been fed by the single-purpose organizations the idea that somehow in this Nation of ours, after almost 200 years, we have come full swing and have picked 435 dunderheads in this Congress. We are in this Congress no better and no worse than those who have preceded us in all the Congresses since the Constitution was put into effect. We are representative of the citizens of this country. Some are smart and some are dumb and some have a great deal of education and some have little education, and some are liberal and some are conservative. But we are the representatives of the American people in an American type of Government.

There are those who would try to pattern this Government differently and put it in the hands of those who they think are better qualified by birth or by nature of their standing in society or by the money they have either earned themselves or have inherited.

It is said the incumbent has a great advantage. The greatest disadvantage to any elected public official is his record if he does not have a good one. More people are defeated by their records than those who fail to raise enough money or fail to spend enough money.

I do not want to read the litany but I have seen a candidate who has spent $138,000 against an opponent who spent $735. Does that mean the person who had spent $735 was not qualified to be a Member of this body or does it mean he was overwhelmed by the inherited wealth of the individual?

I could lay before the Members a record of one contest in which more than $470,000 was spent between the two individuals. Time will not allow me to give the Members the details as I see them.

I want to say now this legislation is far from being perfect but it will be less perfect when this House is through with it if the Members continue to do what I hear they will try to do. How could we accept the recommendation by my colleague from Minnesota when he said these are the reasons he wants us to vote for a simple substitute, that takes everything we have had in the past which has been proven by experience already to be bad and just gives the President the sole right, which the Supreme Court said was his, to name the Commissioners?

How does that take care of all the things that have been proven bad? Why does the gentleman recommend that? Here is what he says he recommends and he recommends it because it is recommended by the President of the United States, who is no longer a Member of this body. I can stand here and believe in my heart that the President would be the first to stand up to defeat that simple proposal which is being offered today. Who else does he name as the great authority to tell the 435 Members of this Congress, the freely elected Members, what to do?

Common Cause is named. It is a single-issue organization, determined, as the Fabians in Great Britain were, to destroy the kind of government in existence. It was a government in Great Britain which had brought that country to its highest peak, and it was brought to its lowest depth in less than 35 years. That is what we will have here because the first plank in the platform of the Fabians was public financing of campaigns.

I want to say to the Members that this public financing is a fraud. Why is it a fraud? It is a fraud because it is not public financing and it is not identified as being a contribution to candidates as such, as individuals. What it is is a raid on the Treasury of $70 million or less.

These funds would normally be tax receipts for the proper expenses of the Government.

If the contributions were after tax then they would be properly labeled public funding by taxpayers willing to help their candidate.

Mr. HAYS of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. Mr. Chairman, I rise in support of the principal purpose of this legislation, which is to reconstitute the Federal Election Commission—FEC. If we are serious about the many reforms adopted in recent years to cleanse Federal election campaigns, we must have an independent agency to monitor those reforms. The FEC is that agency and this legislation must insure its continuation.

In my view the Supreme Court was correct in holding that the FEC, as originally established by Congress, was structured in violation of the Constitution. The FEC is an enforcement agency and such agencies are within the executive branch of Government. The fact that its members were appointed by Congress breached the separation of powers mandated by our Constitution.

The original agency was not only flawed legally, however. It was flawed in a very practical sense. It was not a truly independent agency. Its prime purpose was to see that candidates for Federal office abided by the rules in the conduct of their campaigns; to assure, for example, that contributions did not exceed the legal limits. The fact that Congress alone could control that agency rendered it less than independent or, at the very least, appeared to render it less than independent, which is almost as bad.

We now have an opportunity to rectify the initial error. By reconstituting the FEC we cannot only conform that agency to the Supreme Court's ruling, but make it a truly independent body.

Unfortunately, the legislation before use today accomplishes only part of the job. It would bring the FEC within the Supreme Court's legal standard, but it would not assure substantial independence for the agency. For example, the bill provides that either House of Congress can abolish the FEC in 1977. This puts the FEC on a short leash vis-a-vis Congress, and the implication is fairly clear that if this enforcement agency is too rough on the Members of Congress during their 1976 campaigns, the agency will be abolished in 1977. This is not the kind of provision which promotes real independence.

There are other glaring weaknesses in the bill, such as the provision precluding the FEC from investigating alleged abuse of staff employees by an officeholder if the officeholder simply signs an affidavit stating that the employee is performing his regularly assigned duties. This is tantamount to enabling the accused in a criminal case to have his indictment dismissed by signing an affidavit that he is not guilty. It hamstrings the FEC and surely will breed greater skepticism on the part of the public.

In addition to strengthening the FEC and assuring its independence, Mr. Chairman, I believe we should adopt Mr. Burton's amendment to provide partial public financing for congressional campaigns. This is a reform which has been extended to Presidential campaigns. There is no good reason why we should deprive the public of similar reform in congressional races.

Last year I sponsored a bill with Mr. Maguire of New Jersey which in my view addresses this issue more comprehensively than Mr. Burton's amendment. Among other things, our bill would provide for partial public financing of primary campaigns which, as we all know, are the only races that count in certain districts. To withhold matching public funds from primary campaigns is to grant only half a loaf. Although the Burton amendment is too limited in this and certain other respects, it nonetheless offers the best hope this year of additional progress.

The reasons for public financing have been oft stated. The people of this Nation have come to understand that the present system is neither fair nor democratic. Unless a candidate is personally wealthy, he must look to private sources to finance the expensive costs of running for office. As statistics and commonsense both indicate, these sources are not representative of the electorate as a whole. In the recent past, 90 percent of campaign donations have come from less than 1 percent of the population. This 1 percent represents people who often have substantial and particular interests in the decisions to be made and the choices formulated by elected officials.

The effect is a distortion of the political process in which those with the wherewithal to help a candidate underwrite his campaign develop an influence among the electorate. Legislation enacted in 1974 went far toward redressing this imbalance in Presidential elections. However, the lack of any provisions covering congressional races was a major shortcoming. To be comprehensive, reforms directed toward limiting the outsized impact of private contributions in our political system must also cover races for Congress.

The Burton amendment is not perfect. But it would be a significant reform. It would encourage candidates for Congress to rely upon small contributions; it would impose limits on the money candidates who accept public funds could spend in their campaigns; and it would provide for the matching public funds out of the dollar check-off account, which is an account voluntarily contributed to by the taxpayers. In short, the amendment would go far to return congressional campaigns, and the financing of them in particular, to average Americans. It would establish a system of funding which would serve the public interest rather than the special interests.

Mr. WIGGINS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. Vander Jagt).

Mr. VANDER JAGT. Mr. Chairman, I rise to commend and to criticize the House Administration Committee for the bill which it has presented to us. I commend the distinguished chairman of that committee for some improvements in this legislation over the prior law. Of course, that bill that we passed in 1974 left a lot of room for improvement, so that really was not very difficult to achieve.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. That was not my bill. That was a product of the House, if the gentleman will remember.

Mr. VANDER JAGT. If the gentleman will note, I did not tar with the brush of claiming that was the gentleman's bill; but I do sincerely commend the chairman for the courage and the conviction with which the gentleman has tried in some respects to bring reasonableness and commonsense and due process to the rules by which we conduct ourselves in congressional campaigns.

Unfortunately, I believe that the committee succumbed to the temptation of overkill. I believe that the temptation when they had so many votes was just irresistible to try to jimmy the legislation, so that it really was blatantly favorable to the interests of the other side and in some respects makes a mockery of clean independent campaign enforcement.

The right of either House to veto a regulation coming from the FEC, I believe, strips the FEC of independent regulatory authority. We are the ones who are being regulated and yet we are the ones who can override any regulation of that Commission. It is like giving the utilities the right to veto any rule promulgated by the Federal Power Commission. It is like putting the rabbits in charge of guarding the cabbage patch.

I think that Common Cause and all the others who worked so hard for campaign reform should be leading the charge against this bill, which strips the FEC of independent regulatory authority.

I also believe that this bill, taken together with other legislation that is already on the books, in the way in which this dovetails in with that legislation, blatantly favors one special interest group. If this bill passes, with one glaring exception, the impact that any interest group can have on the outcome of any congressional election is limited to $5,000. That one glaring exception is one very special interest group, big labor, upon which there is no limit whatsoever. If this bill passes, with one glaring exception, every single special interest group will have to report in minute detail exactly what it spent on a congressional election. That one glaring exception is a very special interest group, big labor. They will not have to report one cent of what they spent to influence the outcome of a congressional election under section 301.

If this bill passes, we will have limited by law all interest groups, including our own congressional committees, including our two great national political parties, to pigmy size, while giant labor is free to lope across the political landscape—unregulated, unchecked, and unreported.

In a way, I have to hand it to the majority leadership for focusing the attention of the press on the dispute of how many people can be solicited in a plant. The outcome of that dispute will not make more difference than a glass of water to the level of a flood. As long as we are arguing about how many peas we can solicit with the pea shooter that we are confined to by law and labor continues to be able to fire its cannons without any regulations or any reporting whatsoever, we are accomplishing nothing. This is not conjecture. It is not theory of what might happen. It already took place in New Hampshire in the special election. There were not two campaigns for Senator in New Hampshire. There were three. There was Wyman for Senate, DURKIN for Senate, and labor for DURKIN for Senate. In fact, labor probably spent more for DURKIN for Senate than the Durkin committee spent to send DURKIN to the U.S. Senate and not a penny of that had to be reported. Not all the doorbell ringing nor the telephone banks nor the hundreds of thousands of dollars spent to send out campaign literature were in any way limited or regulated let alone reported.

It is like sending a prizefighter into the ring and he has to fight two men. Only in this instance we say that in addition to the boxing match pitting one man against two, he has to fight with one arm behind his back if this law passes. By focusing the attention of the Members of this body and the press and public on petty cash, I think the majority leadership is walking off with bank robbery in very, very sizable amounts. I believe that so long as this bill remains as it is, the President would be derelict in his duty to the American people, to clean elections, to independent enforcement of honest elections and the traditional notion of American fair play if he did not veto this legislation.

Mr. HAYS of Ohio. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Chairman, I rise in support of H.R. 12406, the Federal Election Campaign Amendments of 1976.

First, however, Mr. Chairman, I want to take this opportunity to commend the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS), for the diligence and the fairness with which he conducted the committee's lengthy deliberations on this very important matter.

I should also add, Mr. Chairman, that all of the members of the House Administration Committee expended much time and effort on this bill.

We considered over 60 amendments offered by both majority and minority members of the committee and although I did not, any more than did any other member of the committee, prevail in my views in every detail of the bill, I believe that the bill our committee has brought to the House today is on the whole a very sound measure.

Mr. Chairman, let me take a moment to remind members of the committee of the background of this legislation. In 1971, Congress passed the Federal Election Campaign Act for the purpose of requiring that campaign expenditures and contributions in both Federal primary and general elections be disclosed.

Then, in order to prevent the excessive influence of large sums of money in campaigns for Federal office, Congress in 1974 passed the Federal Election Campaign Act amendments. This legislation provided for limitations on campaign expenditures and on contributions to campaigns as well as calling for extensive reporting and recordkeeping and the establishment of an independent Federal Election Commission to administer and enforce the provisions of the act.

It was, Members will recall, in early 1975, on January 2, that the constitutionality of the Federal Election Campaign Act amendments was challenged in the U.S. District Court for the District of Columbia.

Just a year later, on January 30, 1976, the Supreme Court of the United States upheld the contribution limitations provided by the act as well as the recordkeeping and disclosure provisions and the public financing of Presidential elections and conventions authorized in the law.

On the other hand, Mr. Chairman, Members will also recall that the Supreme Court held several provisions of the 1974 act unconstitutional, specifically, the ceiling on independent expenditures, the limitation on a candidate's expenditures from his own personal funds, and the ceiling on overall campaign expenditures.

All three of these provisions were held by the Supreme Court to be in violation of the first amendment.

In addition, the Supreme Court ruled that, in view of the manner in which the Federal Election Commission members were appointed, the exercise of the administrative and enforcement powers delegated to the Commission was unconstitutional. The court held that the method of appointment violated article II, section 2, clause 2 of the Constitution.

Mr. Chairman, H.R. 12406 complies with the constitutional standards indicated by the Supreme Court, it closes some of the loopholes created by the decision of the Court, extends the reforms enacted in 1974 and clarifies certain ambiguities that appeared when the law was put into effect.

Let me at this time, Mr. Chairman, focus my own remarks on the key provisions of the bill dealing with the reconstitution of the Commission, independent expenditures, limitations on contributions, and the political activities permitted to corporations and labor unions.

Mr. Chairman, H.R. 12406 continues the Federal Election Commission and reconstitutes its voting membership to conform with the requirement of the Supreme Court that the Commissioners be duly constituted officers of the United States appointed by the President with the advice and consent of the Senate. The Secretary of the Senate and the Clerk of the House will continue to serve as nonvoting ex officio members. The bill also stipulates that no more than three members of the Commission can be of the same political party and that no member of the Commission may engage in any other business, vocation, or employment.

Mr. Chairman, it needs hardly to be emphasized that the election process is the keystone of the American democracy. It is, therefore, imperative that the laws governing our elections be administered and enforced with unquestionable fairness and in strict compliance with the intent of Congress.

Based on these principles, H.R. 12406 provides that only upon the affirmative vote of four of its six voting members can the Commission promulgate rules and regulations, initiate investigations, or bring judicial action.

Another problem to which the House Administration Committee addressed itself in this bill was that of unnecessary and frivolous litigation, which can be both burdensome and extremely costly. H.R. 12406 requires that upon receipt of a complaint, and before instituting any judicial action, the Commission attempt for at least 30 days, through conciliation and persuasion, to correct an alleged violation of the act. The bill also provides, however, that when a complaint has been filed less than 45 days but no more than 10 days before the election. the conciliation period shall be only one half the number of days between the date of the complaint and the election.

Mr. Chairman, not only does the bill under consideration grant authority to the Commission to enter into conciliation agreements with alleged violators but also allows the Commission, as part of such agreements, to levy severe monetary fines of up to $5,000 or, if there is evidence that the violation was knowingly and willfully made, of up to $10,000.

Moreover, all conciliation agreements or any determination by the Commission that no violation has occurred must be made public.

Mr. Chairman, I would also remind the members of the committee that the January 1976 decision of the Supreme Court nullified the $1,000 ceiling on independent expenditures made by any individual or group. Independent expenditures are expenditures which are made on behalf of a candidate without his authorization or against a candidate's opponent without the authorization of the candidate.

The effect, Mr. Chairman, of this ruling by the Supreme Court can be to put political "fat cats" and special interest groups back into business because they are now permitted to spend unlimited amounts on behalf of a specific candidate or against a specific candidate's opponent.

Mr. Chairman, these political "fat cats" have already begun to return to the election arena. The Miami, Fla., Herald reported on March 17, 1976 that Joseph Coors:

> The millionaire beer magnate from Colorado, became the first "fat cat" to pour thousands of dollars into the cause of an active, Presidential candidate. . . . Coors spent more than $18,000 for full page advertisements promoting Ronald Reagan in eight Florida newspapers on that day before the primary last Tuesday.

Mr. Chairman, in order to assure that any independent expenditure is in fact independent, H.R. 12406, in complete accord with the guidelines of the Supreme Court, specifies that in order to qualify as an "independent expenditure," the expenditure must be made without the cooperation or the suggestion of any candidate. Otherwise, the contribution limits elsewhere in the bill of $1,000 by an individual or $5,000 by a group will apply.

Moreover, Mr. Chairman, the bill under consideration requires that any individual or any committee making independent expenditures in behalf of a candidate or against a candidate must report all such expenditures to the Federal Election Commission on the same basis as political committees are required to report, that is to say, on a regular and cumulative basis.

Still more important, independent expenditures—like the expenditures of Joseph Coors in Florida which I have cited—of $1,000 or more made during the 15 days prior to an election must be reported within 24 hours.

Finally, the bill requires that billboards, television advertisements and other similar public advertisements—financed by independent expenditures—must include a conspicuous statement identifying the person making the expenditure and whether or not it is authorized by any candidate.

Mr. Chairman, it was only after extensive and thorough debate in the Committee on House Administration that these disclosure requirements for independent expenditures were adopted, and I believe that if we are to prevent the corrupting influence of large sums of money in elections to Federal office, the requirements are essential.

Finally, Mr. Chairman, I wish to discuss briefly one of the most important sections of the bill, the one covering political activities permitted to corporations and labor organizations.

Members will recall that the Federal Election Campaign Act of 1971 set forth rules for political activity by corporations and labor unions.

Prior to enactment of the 1971 act the Corrupt Practices Act had for 50 years prohibited corporations and labor unions from making direct expenditures in connection with a Federal election campaign.

The 1971 act, however, included an amendment sponsored by our distinguished former colleague in the House, the gentleman from Idaho, Mr. Orval Hansen.

Mr. Hansen's remarks during floor consideration of his amendment summed up accurately what he had in mind:

> There is, of course, no need to belabor the point that Government policies profoundly effect both business and labor . . . if an organization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its members or stockholders, it should be able to get its views to those members or stockholders (93 CONGRESSIONAL RECORD 43380)."

In other words, Mr. Chairman, the entire thrust of the Hansen amendment in the 1971 act was to allow corporations to play a catalytic role in involving their stockholders in political activities deemed important by the management of the corporation and to allow labor unions the same latitude of action with respect to their members. The underlying principle was clearly that just as labor unions and their members might have a legitimate interest in the outcome of an election, so might a corporation and its stockholders.

Let me, Mr. Chairman, again quote Mr. Hansen in the 1971 debate:

> The amendment . . . (was) designed to recognize the fact that a stockholder or a union member exists in two capacities: in his individual capacity with his own individual views and his capacity as a member of an organization that has interests as an organization (93 CONGRESSIONAL RECORD 43382).

It is of very great importance, Mr. Chairman, to note that throughout consideration in the House of the Hansen amendment, Mr. Hansen's remarks and those of other Members of the House who took part in the debate without exception linked the valid political interests of corporations to those of their stockholders, and the valid political interests of labor unions to those of their members.

At no point was it then suggested that the valid political interests involved were such that, for example, a corporation should be allowed to solicit contributions from any individuals other than its stockholders nor was it suggested at any point that a labor union should be allowed to solicit any individuals other than its members.

The purpose of the Hansen amendment was to allow labor unions and corporations to join with their members and stockholders, respectively, in the expression of commonly held views.

There was no intention to enact into law the notion that either corporations or labor unions should be given free rein to solicit contributions from every individual conceivably within their reach. That, Mr. Chairman, would have made a mockery of the law and invited the worst kind of abuse. Such an interpretation would have meant that the rationale advanced in support of the amendment—the joint expression of views by persons sharing a commonality of interest—was dishonest and misleading.

However, Mr. Chairman, as with too many other acts of Congress, despite a definitely articulated legislative intent, a regulatory agency intervened to reverse the intent of Congress.

In an advisory opinion issued on December 3, 1975, by the Federal Election Commission, the Commission—at the request of the Sun Oil Co.—interpreted the law to permit a corporation not only to solicit political contributions from its stockholders but also from all other employees, including its wage and hourly employees.

Thus, at a single stroke, and in defiance of the intent of Congress, the Federal Election Commission destroyed the balance which Congress had created between the sometimes competing interests of business and labor.

While paying lip service to the legislative history of the relevant section of the law, the Commission announced that the statute was vague and determined that—

> It would be illogical to conclude that corporations could solicit only their stockholders and not their employees."

The result of the action of the Federal Election Commission was aptly described in a statement, which according to the New York Times of December 14, 1975, was made by one of the Commissioners of the FEC in a speech before an audience of businessmen:

> We did a great deal of work on the Sun Oil request—

Said Commissioner Joan D. Aiken. She said:

> At this point, it's smooth sailing for political action committee plans.

Mr. Chairman, aside from the propriety—or lack thereof—of the remarks of Commissioner Aiken, it is clear that the "Sun Oil" opinion represents a kind of regulatory agency coup, the substitution of the judgment of a regulatory agency for the intent of Congress expressed in legislation.

Mr. Chairman, now is the time and place to set right what can only be described as an outrageous abuse of power by a regulatory agency.

Indeed, Mr. Chairman, listening to the words of the gentleman from Michigan, Mr. VANDER JAGT, a few moments ago, I hardly recognized the bill he said he was describing and which we are today debating. I cite, only by way of indicating the effect of the "Sun Oil" advisory opinion, the report in the financial section of the New York Times of last Sunday, March 28, 1976, to the following effect:

> What began as a slow but steady stream of corporate "political action committees"—formed last year following a landmark ruling by the Federal Election Commission—is turning into a torrent.
>
> American business and professional groups, already sitting on top of a $9 million political war chest, are rushing to form new committees which aim to raise additional millions of dollars for this year's Presidential and Congressional candidates.

Mr. Chairman, now is the time to set right a situation which, if not corrected, can substantially distort the entire balance of the American political system.

It is my understanding that it is President Ford's view that we in Congress should not concern ourselves with this matter, that we should at present simply vote to allow him to appoint all of the Commissioners of the Federal Election Commission, to continue the flow of Presidential matching funds and wait another year to consider the Federal election law, including the Sun Oil question, after, Mr. Chairman, the current Presidential and congressional campaigns are over.

That point of view, Mr. Chairman, is to suggest that we repair the leaky roof of the barn but leave open the door so that the horse can escape. And President Ford intends to ride that horse, with moneybags on both sides of the saddle, and everyone knows it.

Mr. Chairman, I cannot accede to the proposition that it is right to leave a gaping hole in the Federal election laws, even if for 1 year, even if for one election.

This Congress has a responsibility to insure the integrity of the election laws. We cannot avoid that responsibility simply by exhorting the next Congress to do what we should do now.

Mr. HAYS of Ohio. Mr. Chairman, may I inquire as to what the status of the time is?

The CHAIRMAN. The majority has 23½ minutes remaining, and the minority has 46 minutes remaining.

Mr. WIGGINS. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman for yielding this time to me because the gentleman who immediately preceded me in the well referred to me and referred to a statement that I had made.

My statement was that this bill before us, taken together with other legislation already on the books, creates a giant loophole for a very special interest group, which is labor. I went on to say that the political action committees of management and labor are relatively inconsequential as to their impact on the outcome of a campaign compared to the so-called communication or education loophole enjoyed by labor.

I then cited the situation in New Hampshire where literally hundreds of thousands of pieces of literature went into that campaign proclaiming "Send a Fighter to the U.S. Senate. Send John Durkin to the Senate If You Want Jobs. Send John Durkin If You Want to Stop Inflation."

Under the law that is not political. That is not campaigning; that is educational. It is, therefore, unregulated, unlimited, and unreported. The literature said:

> Vote for John Durkin for the U.S. Senate on September 16.

That under the law is not political, it is educational, and it is that loophole to which I was referring.

Since the gentleman from Indiana quoted from the New York Times, I will cite another issue of the New York Times. This appeared as the lead paragraph of the story on the front page on Saturday. This is not GUY VANDER JAGT speaking; this is the reporter analyzing this issue, and he has stated it well:

> Organized labor is fighting a stubborn and sometimes camouflaged battle to retain a major political weapon—the right to spend unlimited, unreported amounts of money from the union treasury to support candidates.

Mr. Chairman, I include at this point the entire article, as follows:

LABOR FIGHTING TO RETAIN EDGE IN ELECTION OUTLAYS

(by Warren Weaver, Jr.)

WASHINGTON, March 27.—Organized labor is fighting stubborn and sometimes camouflaged battle to retain major political weapon—the right to spend unlimited, unreported amounts of money from the union treasury to support candidates.

Unions, like corporations, are prohibited from using their dues money to make direct campaign contributions. Generally, they are allowed to set up political committees to collect voluntary contributions from members and then distribute the proceeds among pro-labor candidates.

In 1971, however, Congress approved a relatively obscure amendment to the campaign law that expanded radically the political potential of unions. It permitted them to spend any amount of their resources to communicate with their members "on any subject."

As a result, labor can devote unmeasured thousands of dollars to set up a telephone bank for a political candidate, carry on mass mailings in his behalf and conduct door-to-door canvasses, as long as the voters reached are all members of the union that is paying the bills.

CORPORATIONS APPEAR WARY

In the current Congressional debate over revising the campaign law, Republicans are trying to compel unions to report this kind of spending, how much and for whom, just as all other political spending is reported under the current disclosure law. Labor is resisting fiercely.

The issue has been partly clouded by the fact that the law of 1971 gave corporations the same right to use corporate funds to communicate with their stockholders. But this did not apply until 1974 to corporations with Government contracts, most of the major ones—and little if any subsequent political activity appears to have resulted.

Corporations, generally, have had little experience with legal participation in campaigns and their illegal participation revealed in the Watergate scandals has tended to discourage them from taking advantage of this new power.

But the unions, old hands at organizing support for candidates they favor, have made profitable use of this communicating power.

In the New Hampshire special senate election last September, the product of a virtual tie the year before, thousands of dollars of union money financed telephone banks and canvassing for John A. Durkin, the Democratic victor, all unreported and all outside the spending ceiling then in effect.

Similarly in a special New York house election this month, the New York State A.F.L.–C.I.O. and New York State United Teachers both sent computerized mailings and illustrated flyers to all their members in the 39th Congressional District.

Although the upstate district had not sent a Democrat to Washington since 1874, the Republican nominee, John T. Calkins, was defeated by Stanley N. Lundine, the Democratic Mayor of Jamestown, by 20,000 votes. The unions boasted they had spent $20,000, made 60,000 phone calls and distributed 50,000 pieces of literature.

PACKWOOD PROPOSES CHANGE

When the bill reconstituting the Federal Election Commission came up on the Senate floor this week, Republicans proposed an amendment that would require unions and corporations to report this "communications" spending to the commission, just as candidates, parties and private individuals all do.

In the ensuing debate, some Democratic liberal stalwarts found themselves arguing disclosure of campaign spending, the keystone of electoral refrom by almost any standard, was an invasion of privacy when certain groups were affected.

Senator Alan Cranston, Democrat of California, called the requiring of such spending reports "a dangerous Federal intrusion into the internal affairs" of unions and corporations. "I see no reason why the costs of such internal communications are any business of the Federal government," he said.

But the amendment, sponsored by Senator Robert W. Packwood, Republican of Oregon, was approved, 59 to 42. Later, some Democrats attempted an intricate parliamentary maneuver to kill the Packwood amendment but retain all other changes made by the Senate. This aroused a mini-filibuster and failed.

AMENDMENT CHANGED

When party leaders reached a compromise agreement on the campaign bill, it included a provision modifying the Packwood amendment so that no union or corporation would have to report an expenditure of less than $1,000 "in a calendar year with respect to a particular candidate."

But when Senator Cranston proposed this amendment with perhaps a half-dozen senators on the floor, it merely exempted from reporting communications "expenditures less than $1,000," with no reference to candidates or time periods.

As a result, under the Cranston proposal, labor could have made 10 or 20 daliy mailings in behalf of the same candidate without reporting any of these as long as each cost less than $1,000. A motion by Senator Packwood to table this amendment as creating a giant loophole failed, 49 to 36.

Then Senator Dale Bumpers, Democrat of Arkansas, proposed that the $1,000 floor on reporting apply "per candidate, per election," restoring the compromise agreement Senator Cranston opposed the amendment, but it passed.

The House version of the campaign bill does not include a requirement for reporting the political spending, and attempt to do so having been defeated in the House Administration Committee. The A.F.L.–C.I.O. is already on record as opposing a scheduled floor amendment similar to the Senate language.

Andrew J. Biemiller, legislative director of the labor federation, said it would oppose any amendment that requires reports of "a variety of communications limited to members and stockholders."

"This amendment," the labor lobbyist said, "is aimed squarely at preventing local unions from exercising their rights under the 1971 act by burdening them with excessive filing requirements relating to minor costs."

Mr. WIGGINS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, in view of the remarks by the gentleman from Indiana, I think in the interest of keeping the facts straight in the RECORD, certain facts should be made known. It is interesting to note on page S3313 of the CONGRESSIONAL RECORD dated March 11, 1976, information purporting to come to the Federal Elections Commission showed that as of December 31, 1975, the total amount of funds available by labor's political action committees was $6,235,841.17, whereas in the corporate political action committees there was $1,052,944.16. The labor PAC's have almost six times the funds available as corporate PAC's. These and other facts must be kept in mind when discussing the relative political power of labor PAC's.

Mr. WIGGINS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman and Members of the

House, I am taking the well at this time to discuss certain provisions of the bill in order to clarify the legislative history with respect to ambiguous language.

Mr. Chairman, I request that the gentleman from Ohio (Mr. HAYS) take the microphone to engage in colloquy with me concerning certain sections. On page 5 of the bill, it is provided that beginning on March 1, 1976, the Commission may exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo. As the chairman knows, after March 1, 1976, the Commission has certified funds to Presidential candidates, contrary to the mandate of Buckley against Valeo. They did so, it is my understanding, pursuant to an extension which the Court granted.

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

That is really a typographical error, perhaps a clerical error, I do not know which. It should read "March 22, 1976."

Mr. WIGGINS. In any event, Mr. Chairman, if a technical amendment is not offered for that purpose, I trust that we can clarify that problem in conference.

Mr. HAYS of Ohio. Yes. I think there will be no problem on that.

Mr. WIGGINS. Yes.

On page 10 of the bill, Mr. Chairman, we have a definition of "independent expenditure." It indicates that an independent expenditure is one that is not made in consultation or cooperation with any candidate or at the request or suggestion of any candidate.

During the committee consideration of this language, I expressed some concern that an independent expenditure should not lose its character simply because the contributor was motivated by a general appeal or exhortation by a candidate.

Mr. Chairman, I am thinking particularly of the news report, which I have read, that Governor Reagan is going to take to television on Wednesday and say something about his candidacy and make an appeal for funds at that time.

If an individual should be motivated by reason of that general suggestion and appeal, I trust that an expenditure not otherwise made at the suggestion of a candidate would not lose its independent character simply because it is in response to that general appeal; is that correct?

Mr. HAYS of Ohio. If the gentleman will yield further, I think that is a fair assumption.

Governor Reagan buys the time on national television and requests money. I do not think that that can be interpreted as meaning that he is suggesting to somebody to spend money on his behalf.

I do not know whether I speak for our whole committee, but if somebody were motivated to spend some money in that fashion, I do not think anyone could in any way indicate that there was collusion or corruption between a candidate and the person spending the money.

Mr. WIGGINS. Right. I agree with the chairman's interpretation.

Mr. Chairman, beginning on page 29 of the bill is a long, complicated, and controversial section, section 320.

During the deliberations of the full committee we had a colloquy concerning the meaning of section 320(a)(2). As I remember, the chairman read into the record his understanding of what the language which is contained on page 30 of the bill really means.

Mr. Chairman, I have before me a photocopy of what I believe to be the statement of the chairman on the meaning of section 320(a)(2). In order to get it into the RECORD at this point—it will take only a moment—I am going to read it, and if the chairman continues to maintain that position, I wish he would indicate his agreement.

Mr. Chairman, the statement reads as follows:

THE EFFECT OF THE PROPOSED SECTION 320(a)(2)

The above-noted Section would enact the following rules:

First, all of the political committees set up by a single corporation and its subsidiaries would be treated as a single political committee for the purposes of the limitations stated in Section 320. According to the Supreme Court there appear to be approximately 1,000,000 separate corporations. Buckley v. Valeo slip opinion page 23 note 31.

Second, all of the political committees set up by a single international union and its local unions would be treated as a single political committee for the purposes of the limitations stated in Section 320. There are at the maximum 120 international unions.

Third, all the political committees set up by the AFL–CIO and all its state and local central bodies would be treated as a single political committee for the purposes of the limitations stated in Section 320.

Fourth, all the political committees established by the Chamber of Commerce and its state and local Chambers would be treated as a single political committee for the purposes of the limitations stated in Section 320.

Fifth, the anti-proliferation rule just stated would also apply in the case of multiple committees established by a group of persons.

Sixth, there is an exception to the foregoing rule which permits the national political parties and each of their State political parties to set up a political committee and provides that the contributions of such political committees (a total of 51 for each such party) would be treated separately for the purposes of the limitations stated in Section 320.

Does that remain the gentleman's interpretation of the language?

Mr. HAYS of Ohio. That remains exactly my interpretation and my understanding.

Would the gentleman yield further?

Mr. WIGGINS. Of course.

Mr. HAYS of Ohio. I would like to point out that I think it is clear in the language that international unions may be members of the AFL–CIO, but that does not say that international unions and the AFL–CIO are to be treated as one. Just as corporations may have a PAC and also be a member of the Chamber of Commerce, or its subsidiaries, any international union in the States are also treated as a corporation with its subsidiaries, the AFL–CIO is a separate one and the National Chamber of Commerce is a separate one. Does the gentleman agree with that?

Mr. WIGGINS. Yes; I do. It is consistent, as I understand, with the written statement the gentleman read into the record during the committee consideration.

Mr. Chairman, I ask unanimous consent at this point to insert in the RECORD some views on issues which are troublesome to me and which are the result of provisions in the bill which limit solicitation by union PAC to union members and by management PACs to executives and stockholders.

The CHAIRMAN. The Chair would ask whether these are the gentleman's own remarks?

Mr. WIGGINS. They are my own remarks, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

(The material referred to is as follows:)

REMARKS OF MR. WIGGINS

As a point of beginning, I believe it to be incontestable that the First Amendment to our Constitution stands as a bar against governmental restraint of political expression. The bar is not absolute, but to condense the meaning of Constitutional history into a terse conclusion: There must be a real and demonstrated reason of overriding importance to countenance a limitation on this precious right.

Protected expression may take many forms. Without attempting to stake out its boundaries, it is now beyond question that the right to support a candidacy or a cause by verbal expression or monetary contribution is well within the ambit of First Amendment freedoms.

To be sure, both unions and corporations are within the protective shield of the First Amendment. They, as much as any citizen, are guaranteed a right to speak their mind on political issues. To deny to organizations the same freedoms as individuals is to deny effectiveness and force to speech The united voice of our citizenry, transmitted through organizations effective for that purpose, becomes daily more significant as our population passes through 200 million. If a single voice may be lost in the wilderness, surely common sense and public policy supports the right of citizens to magnify their voices through organizations of their choosing.

But organizational political expression by contributions to candidates and expenditures on their behalf is not without its own set of problems. United efforts can and have resulted in the amassing of vast resources. Given the frailties of man, big money can assert a dominance over the political process which may threaten the very values which political speech was intended to insure. The Congress, as a branch especially knowledgeable of the potential for abuses in the electoral process, recognized the dangers of opening up union and corporation treasuries in Federal elections many years ago. Although political speech was clearly inhibited by laws limiting corporation and union expenditures, the Supreme Court has found such limitations not offensive to the First Amendment. It is not necessary here to elaborate the reasons why such limitations are tolerable. Suffice it to say, the Court has found the Congressional findings to be justified and the Congressional response to be reasonable.

The bill before us presents a new limitation on political expression. PACs, whether organized by unions or corporations, are restricted in their ability to solicit funds. The bill establishes union members as the private domain of union organized PACs and executives and stockholders as the private domain of corporation PACs.

If all limitations on political speech are to be viewed with caution and to be tolerated only upon a showing of the most compelling reasons founded in the protection of First Amendment values themselves, what then can be said in justification of this novel limitation?

It is impossible to find support in hearings which develop a catalog of abuses upon which we may justify this restrictive proposal. No hearings were held.

And I am at a loss to construct any rationale, independent of hearings, which is bottomed upon the protection of First Amendment interests, or any other detectable public policy. The new limitations are an exercise in politics, pure and simple.

The union PACs are fearful that corporation PACs will raid their members and will solicit political funds which might otherwise go into the union PACs. It is of course understandable why either group would wish to perpetuate a monopoly on soliciting political funds, but it is impossible to reconcile that wish with the public interest, or especially with the First Amendment.

As I have indicated, restrictions on otherwise protected First Amendment rights have been tolerated only as necessary to protect the right itself. Thus, limitations on the dollar amount of contributions, and the proscription against corporate and union contributions are seen as permissible restraints on political expression because large givers can effectively drown out the voices of others, thereby stifling the speech of the less affluent.

But the present proposal cannot be justified on similar grounds. If both the unions and corporations were free to solicit all within the corporate family, presumably the freedom of the donor to choose and to express his political views would be enhanced. The domination of the political process by large donors is effectively curtailed by limiting the size of PAC contributions, but a limitation on those who may participate in the PAC curtails expression without furthering any First Amendment value.

If the principle which this bill espouses meets Constitutional standards, it would presumably be proper to restrict solicitation by partisan political committees to registered Democrats. Surely such a classification is repugnant to our Constitution.

The bill mistakenly focuses upon the special interests of the PACs. The rights of the soliciting PAC are not to be neglected, of course, but the rights of the donors to the PAC are of at least equal importance. It is the right of the donor which is seriously and unjustifiably diminished by this bill.

Mr. WIGGINS. Mr. Chairman, let me conclude on a subject that I perhaps feel more deeply about than others in this Chamber. I had a role to play some time ago in an issue known as Watergate. I realize that over the years Watergate has come to be synonymous with all manner of abuse and misconduct. It is, in fact, over used and is a label easily applied to misdeeds uninvolved in the actual Watergate controversy.

The word Watergate was used by the gentleman from Indiana (Mr. BRADEMAS) who was here a moment ago, to characterize abuse of power by politicians. After some months of feeling the sting of such a characterization applied to my party, I have personally adopted another adjective, more pleasing to my ear, which I shall use henceforth to characterize abuses of Executive power. The adjective which I choose is Camelot.

Camelot, you see, means to me—and this is a private definition—it means to me the grosest kind of abuse of Executive power. Camelot means assassinations concocted in the White House. Assassinations, mind you, not burglaries. Camelot means to me institutionalized burglary conducted by the FBI, at a time when the FBI was supervised by an individual who had the closest ties of consanguinity to the man who occupied the Oval Office.

Camelot means to me misconduct in the White House far greater than occasional profanity in the Oval Office.

I apologize to the Members for making this little speech, but I have become fed up by the general use of the word "Watergate" as a sweeping indictment of a Republican administration. I hope in the future we will abandon the use of such labels and be critical if necessary with greater precision than we have in the past. We should not indict an entire administration and all within it under the umbrella of "Camelot" or "Watergate," nor should we indict the political process under the sweeping characterization of "Watergate." Nothing is served by this kind of excessive rhetoric, Mr. Chairman. I hope that we will abandon such code words, along with "liberal," and "détente" in the political lexicon.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WIGGINS. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I rise in opposition to H.R. 12406 as I am strongly opposed to this bill for reasons expressed in the minority report and one additional one. Section 321(b) provides among other things that a corporate political action committee cannot solicit to be members of that committee any person other than its stockholders, executive officers, or their families. Executive officers are defined as salaried employees with policymaking or supervisory authority. This changes the existing law which allows a corporate political action committee to solicit not only those persons, but any employee of the corporation. The existing law has been approved by the Federal Elections Commission, the Justice Department, and the U.S. Supreme Court in the recent decision of McCarthy and Buckley against Valeo.

I believe this new language to be unconstitutional; unwise, and unfair. It makes an illogical distinction between types of employees of a corporation and treats them discriminatorily. Under the new language, a corporate political action committee could not solicit the large majority of its employees for no apparent rational reason. Whether an employee is paid by the hour, piece, or salary, and whether an employee supervises others or is supervised, he or she is no less an employee and has the same economic interests as all others working for the employer.

What then is the reason the current law is so radically altered in this bill? Since no hearings were held to develop evidence for the need for such, one can only conclude the obvious—"politics." The strongest and most effective coalition of political action committees in the Nation, those of labor unions, oppose any challenge to their current collective political dominance as the most powerful special interest group in American politics today. Certainly members of unions should be encouraged to participate in union political action committees, but this is not a valid reason to deny this right to other American workers.

Although of no legal significance, there is no evidence that labor unions are justified in fearing a loss of the political power of the "working man." The activities of a political action committee are determined by its membership. Employee—"working man"—members of such a committee should have the same interests and rights in any political action committee they choose to join, whether labor or place of employment related. Thus, it cannot be the concern for the political activities of the working man in general that causes labor union opposition, but the fear of increased competition or diminution of power of their own political action committees.

As a matter of fact, many members of unions might well choose to also join the political action committee of the corporation for which they work as well as that of their union. It should be pointed out that approximately 75 percent of America's total labor force does not belong to unions, and if they work for corporations and are not shareholders or executive officers, they cannot be solicited. This practically all but eliminates their right to participate in this type of political activity. This bill also prevents non-union employees of a corporation or employees of a corporation which has no union at all from being solicited if they are not shareholders or executive officers. Therefore, in an unconstitutional, unwise and unfair manner, only labor union political action committees can under this bill solicit employees who are not shareholders or executive officers. This is a severe political limitation.

The whole purpose in political action committees is to allow persons with like philosophical and/or economic interests to band together and to promote those interests through a political action committee. This is participation in our political system and certainly any participation in politics should be encouraged and not hindered. Our democracy needs greater, not less, participation by our citizenry. Political action committees can be justified only on this basis. They currently meet this need by encouraging citizens by the thousands to become more politically active. There should be no "political" hindrances on who can join and participate in such committees.

For these reasons and the ones expressed in other minority views, this bill should be defeated and the Federal Election Commission simply reconstituted.

Mr. WIGGINS. Mr. Chairman, I have no immediate requests for time by any Member who is presently prepared to use it, so I will reserve the balance of my time momentarily.

Mr. HAYS of Ohio. That is all right for this side momentarily, but we would like to have the last speaker, so I will go ahead and yield time to other speakers. I have only one more request for time.

At this time, Mr. Chairman, I yield 5

minutes to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 12406. I want to congratulate and commend the members of the Committee on House Administration, and especially its chairman for the patience he exercised during the entire deliberations on the bill.

As I look around the Chamber this afternoon, I would like to point out that we had more Members present in the entire hearings which went on for 2 weeks, and more people present in that small room on the third floor of the Capitol dome where the Committee on House Administration held its sessions, so that we can put this thing into perspective as to where it belongs.

We are here this afternoon because the U.S. Supreme Court in its wisdom decided that certain sections of this act were not constitutional, and, consequently, we had to take up the ball that the Supreme Court threw at the committee once again.

The reason I am on my feet is because I am totally opposed to the public financing section of the bill, that is, the Burton amendment that will be offered this afternoon when we go into the 5-minute rule. It is unfortunate that more Members are not here on the floor, because I want to give them a little bit of the background of this particular amendment.

When we discussed the legislation originally in 1974, we discussed public financing only from the point of view of the checkoff system. That means that our constituents voluntarily checked off a dollar or $2 on the income tax form, which said, "Mr. Congressman, we want you to spend our money in order to publicly finance Presidential elections."

So, the committee decided that $20 million would be spent for the Democratic candidate and $20 million for the Republican candidate. In addition to that we allocated $2 million to each party for their party conventions. We got more information from the Internal Revenue Service and it was estimated that there would be approximately $60 million checked off for public financing. We added, and at that point we had $44 million spent under the checkoff. There was no money under general revenue. So we decided we could play around with $10 million more for the Presidential primaries. We set up a formula. The formula was very simple. There were $250 contributions or less with a total of $5,000 in each State, in 20 States, so a candidate would have to collect $100,000 in order to qualify for matching funds in the Presidential primaries.

The way it is going it looks as if we are going to spend that $10 million. The point is, we have no way of knowing. We are paying our taxes now in 1976 for 1975. We have no way of knowing how much money is going to be checked off in 1975.

I for one am not going to vote and I urge the few of the Members who are present this afternoon not to vote to raid the Treasury of the United States to finance the Socialist Party, the Communist Party, the Pro-abortion Party, the Anti-abortion Party, or any other party. We cannot use moneys that are paid in taxes to the Treasury of the United States to finance elections. We have not been elected to do that. But, we were authorized to spend the checkoff money. There is a big, big difference.

I was the original sponsor, as the people on the minority side know, of the amendment to self-destruct the Commission. That passed one day by a vote of 10 to 9. But the next day I reintroduced another amendment because I felt that we should give the Commission a chance. For that reason my amendment, which is section 409, simply states that at the close of business on March 31, 1977, if either House of the Congress by appropriate action determines that, such determination shall take effect pursuant to subsection (b), and the appropriate committee of each House of the Congress commencing on January 3, 1977—and in our case it will be the Election Commission—will begin to hold hearings and make a determination as to whether or not this Federal Election Commission should be continued, should not be continued, or whatever the recommendation is, and that recommendation will be brought to the full committee and to the floor of the House.

I want to say that as a member of that committee I will watch, as I have in the past, closely this checkoff system in public dollars, and in the event that there is not sufficient money for public financing, just as hard as I fought vigorously in that committee for public financing of the Presidential elections and Presidential primaries, I am going to fight against it.

So I want to urge under the 5-minute rule that every Member that is present this afternoon, so few of us, would go out and talk to the other Members as they walk into the Chamber and urge them to vote down special financing of congressional elections.

Mr. WIGGINS. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I wonder if I might engage the gentleman from Minnesota (Mr. FRENZEL) in a colloquy concerning H.R. 11736. It has been brought to my attention that many feel that this bill, the so-called Frenzel-Mikva bill, includes provisions that would validate the actions of SUNPAC and other organizations. Is that the case?

Mr. FRENZEL. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Indeed.

Mr. FRENZEL. Mr. Chairman, H.R. 11736, which I hope to introduce at the proper time as an amendment in the nature of a substitute, provides for the reconstitution of the Federal Election Commission by Presidential appointment with the advice and consent of the Senate much as it is today, with the exception of that particular form and style of appointment. The terms will be the same kind of staggered terms and the bill deals with no more or no less, it is silent on the matter of SUNPAC or any other substantive matters that are before us in H.R. 12406.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Chairman, the issue before us today is one which should be of the utmost concern to members of both political parties.

It is an attempt by the Democratic majority to turn what could be a simple, needed election reform bill into a mockery of muddled legislation. In the process, the entire two-party system is in jeopardy.

The bill before us, H.R. 12406, banishes all election reforms accomplished in the past.

Rather than reorganize the Federal Election Campaign Act, this bill seeks to make wholesale revisions of almost all existing election laws. Only two of the 58-page bill before us calls for election reform.

The FEC would be stripped of its independence if this bill is allowed to go through. Election laws will be changed in the middle of an election year. And the fundraising ability of party committees will be choked.

Mr. Chairman, I am concerned about the direction that all election reform is taking.

The action generated by various citizens' groups and even by various political organizations is, in my judgment, an effort to end the two-party system in this country.

Under the present restrictions of the FEC, the local political organization at the city or county level is almost totally precluded from playing any important role in the election of a Member of Congress. In order to subscribe financially to a candidate, local political parties must devise methods and establish committees, other than the existing city or county committee in order to make contributions.

This raises the question whether Congressmen should even run under a party label. If it was to be carried to its ultimate, critics would like to see the words "Democrats" and "Republicans" eliminated.

If this trend continues, we will see the proliferation of political parties similar to that which has occurred in Europe. This would mean an effective end to the two-party system in this country. Despite some problems in the past with that system, it has worked and it does work and it will work if we give it the opportunity.

It is that same system that has made this country so great.

To abandon it now would be a tragic mistake.

Congressmen will now have to go out and beg funds from constituents who agree with their views. They will become dependent on their contributors. Formerly when the contributors gave to the party, Congressmen enjoyed a certain amount of independence because they seldom knew who the individual contributors were since there were thousands.

Mr. Chairman, on March 24, 1976, the Syracuse, N.Y., Post-Standard published an editorial concerning these very problems of election reform. I think that editorial is extremely helpful in understanding the necessity to block passage of H.R. 12406 and I would like to share it with you:

> Is the Federal Election Law part of a plot to break up the two-party system in this country?
>
> Intentional or not, that is the effect it may have unless the public becomes aware of the damage it may cause in this year's Congressional elections.
>
> Many members of Congress are already smarting under its restrictions but apparently are reluctant to speak out.
>
> Elections are won or lost in the United States according to the support given individual nominees by party organizations, both with money and in well directed volunteer work during the campaign period and at the polls.
>
> Yet local party committees are now forbidden to assist a Congressional candidate, duly endorsed and nominated, with more than $1,000 toward his campaign fund.
>
> This puts on the incumbent Congressman or on an opponent trying to unseat him the very onerous burden of having to beg funds to pay the huge expenses of campaigning.
>
> A Congressman who accepted nominations several terms back with the assurance that "the party" would finance his campaigns now finds himself being virtually forced to go out, hat in hand, to seek money from persons and organizations he may have "served" by his votes on important legislation.
>
> If he has voted pro-labor much of the time, this is not too difficult for some Congressman. Unions do have legal means of showing their appreciation directly and indirectly.
>
> But corporations are presently sharply restricted on the nominal amount they may contribute to any political cause or to a candidate, and business associations rarely hand funds over even to a favorite candidate.
>
> So the law-maker finds himself driven toward a position of soliciting campaign contributions for possible future support.
>
> Cocktail parties and benefit dinners may help an energetic candidate, but the number of such affairs is limited.
>
> Party organizations as such have always collected campaign contributions to be allocated to nominees, but if there is a legal limit on the amount to be "invested" in a candidate, the party is placed in a futile position.
>
> It is wrong for any candidate for public office at any level to be made to beg for money. The best type of nominees, even though they file lists of contributors in accordance with law, prefer not to be intimately concerned with the donors and the amounts they give. They believe this preserves their personal independence in office.
>
> The doubtful "post-Watergate morality" of the Washington scene seems to be having exactly the opposite effect from the best intentions of reformers.

The Washington Star, in a March 22, 1976, editorial, referred to the Federal Election Commission legislation as a "bad piece of work." The newspaper said it agreed with Senator WILLIAM BROCK of Tennessee that the legislation was a "lousy, stinking, fraudulent bill."

It continues, in part:

> The Democrats, particularly House Administration Committee Chairman Wayne Hays, haven't been able to resist loading the legislation with self-serving amendments. One would give organized labor an advantage in raising money for candidates—which means an advantage for Democrats since most of labor's campaign money goes to Democrats. Several amendments would curtail the independence of the Election Commission so that Congress could tell the commission how and where to enforce the election laws and when to lay off.

The editorial notes that—

> Members of the House and Senate seized the opportunity to do major surgery on the 1974 Act and to insert amendments having nothing to do with the issue at hand.

The editorial continues:

> If Congress persists in this foolishness, President Ford will have no alternative but to veto the bill. If that happens, the Congress will have no one to blame but itself for the chaos that will follow.

I favor election reform. But I feel such reform can only be accomplished through passage of a simple bill, instead of one which rips apart the very progress we have made in election reform.

I trust my fellow colleagues will vehemently rally against this bill.

Its effects could be disasterous to our political systems and to our country.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I rise in support of H.R. 12406. There are admittedly some sections of it with which I am not happy, and I do not suppose that anyone who served on this committee and worked as hard as each of us did, is perfectly satisfied; neither am I.

I would, however, like to say that the chairman of the full committee, the gentleman from Ohio, not only exhibited great patience and skill, but gave each and every Member a fair opportunity to express himself or herself.

I would like also to pay tribute to the Members on the minority side who spent much time and effort on this measure, although we ultimately disagreed on a number of points.

Mr. Chairman, there has been much talk about the so-called SUNPAC decision. The fact is that on November 30, 1971, Mr. Orval Hansen and I and others explained on the floor the reasons for amending title 18, section 610, United States Code. In explaining that amendment, I said the following:

> What the gentleman's amendment will do is simple. It, in effect, incorporates the case law—meaning by that the United States against the United Auto Workers, 352 U.S. 567—into existing statutory law and would allow within a very limited area, already existing in the law, the expenditure of certain Treasury moneys, or corporate moneys, for the sole purpose of reaching either union members, or stockholders in the corporations . . .

That is on page 43385 of the CONGRESSIONAL RECORD of November 30, 1971.

Consequently, as has been explained, the Commission, in Advisory Opinion No. 23, in what I considered to be a complete and absolutely erroneous interpretation of congressional intent, handed down the SUNPAC advisory opinion. This has been terribly distorted. The U.S. Chamber of Commerce, in a document which I shall make a part of the RECORD at the appropriate time, refers to the mention of SUNPAC in Buckley against Valeo, and states that the court said that the SUNPAC decision is now the law, or in other words, that that advisory opinion, A.O. 23, is a part of the decision.

No so. It is a footnote; it is simply dicta, and does not have the force of law.

The gentleman from Louisiana mentioned the proliferation of moneys and said that he would like the record straight with regard to moneys. I refer the gentleman to yesterday's RECORD, which shall be expanded upon. As of March 10, 1976, special interest groups had accumulated $16,400,000 for the 1976 political campaigns—$16,400,000 not the much smaller sum which he mentioned.

The New York Times story previously referred to was not the one to which the gentleman from Indiana (Mr. BRADEMAS) and I refer.

We are referring to the New York Times article of Sunday, March 28, entitled, "Business Builds Its Political War Chest." That is in the Sunday New York Times, which I shall also put in the RECORD.

Yesterday 16 million shares of stock were traded on the New York Stock Exchange. Now, the intent of the gentleman from Idaho (Mr. HANSEN) and of myself, in November 1971, clearly to expand the law to give corporations a reasonable opportunity to raise political funds, using corporate moneys for the sole purposes of soliciting their stockholders and managerial employees. By no stretch of the imagination did we intend to allow corporations to solicit hourly wage, union employees for corporate political action committees. Quite to the contrary.

May I suggest that in the RECORD of tomorrow, where it is appropriate to include such materials, I shall put a complete documentation of the history of the Sun Oil decision and the results which have thus far arisen from it. I think that it is only reasonable that we understand the danger inherent in this advisory opinion, as it was handed down erroneously, in my judgment, by the Federal Election Commission.

Mr. HAYS of Ohio. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I approach this subject with a qualified endorsement only because of the fact that in the years past I think we have all suffered some embarrassment with respect to reporting.

Mr. Chairman, in considering this legislation today, the House not only has an opportunity to correct the constitutional flaws in the 1974 election reform amendments, but also has the opportunity to correct other flaws in the legislation.

When the House considered the 1974 amendments to the Federal Election Campaign Act of 1971, I was somewhat concerned that we were establishing an administrative mechanism that would not only inundate candidates, committees, and civic organizations with burdensome accounting and recordkeeping requirements, but more importantly were developing a system with a myriad of intricacies that may result in citizens innocently violating the law. Operation of the law during the 1974 election has demonstrated that my original concerns were justified.

The cumbersome recordkeeping and accounting procedures required by the existing legislation accomplish the necessary function of organizing, for the purpose of public disclosure, information on political contributions. My experience during the past year leads me to the conclusion that simplification procedures should be developed to keep this burden to a minimum particularly for candidates and committees with a minimal amount of income and expenses in a given quarter. The provisions in this bill that would ease the quarterly reporting requirements in nonelection years will serve to markedly reduce the volume of paperwork.

I am more concerned, however, about the provisions in the existing law that provide harsh penalties for what may be innocent and often unknowing violations of its more technical requirements. In my opinion we have arrived at a very sorry state when a taxpayer becomes a criminal because he did not know that he must disclose certain information on the political materials he produced himself in his own garage; or that a local civic organization can with all good intentions endorse a candidate for Congress in its literature and in doing so find itself in violation of the law.

For this reason I applaud the provisions in the committee bill to decriminalize certain minor violations of existing law and substitute more appropriate civil penalties. More importantly, I applaud the conciliation process developed by the committee. The 30-day conciliation procedure will provide the necessary buffer to permit the Commission to initially enforce the act by informal methods before instituting court proceedings. This will help those who unknowingly violated the law to achieve voluntary compliance.

Another point that deserves commendation is the provision requiring that complaints of election law violations be signed, notorized and that the individual be notified before the FEC can initiate any investigation.

This provision will protect innocent people from being subjected to anonymous and unfounded charges of election law violations. Requiring that a complaint be filed in this manner, subject to the criminal code, will make the reporting of false accusations less likely. In the past, the FEC has wasted considerable amounts of time any money tracking down alleged violations on the strength of an unidentified complainant's accusations which in many cases have proved fallacious. Running for public office is replete with enough hazards of misrepresentation of views and issues without subjecting candidates to attacks that often prove groundless but only after the damage has been done.

Although I earlier noted my opposition to provisions which result in the creation of additional layers of bureaucratic regulation, I support the provision in the committee bill which would require the promulgation of additional regulations. The provision requiring the conversion of advisory opinions into regulations will help to standardize the advisory opinion process. Under present law inequities exist of which I am personally only too familiar.

Very soon after the enactment of the 1974 amendments I asked for an advisory opinion to clarify aspects of the new provisions relating to the acceptance of honorariums. In particular I wished to insure that it would be proper under certain circumstances to donate honorariums to charity. While somewhat dismayed by the rather narrow legal reasoning involved in the opinion, which essentially equated a donation by the sponsoring organization to a charity as an honorarium accepted by me even though such was not a prerequisite for my speech, I accepted it as the proper interpretation of the law.

What troubled me more than the ruling on my request, however, was the fact that on a subsequent request by another individual, the Commission chose to rule differently upon a virtually identical set of facts. Since individual advisory opinions under existing law are only operative with respect to the precise request received, a situation has developed where it is improper for me to suggest to a group that it make a charitable donation but it is acceptable for someone else to do so. Asking for a clarification bound me to a position that was later changed for everyone else. The new procedure in the committee bill will insure that such situations do not arise in the future and that advisory opinions will be handed down in a more uniform manner.

While these positive modifications incline me to support this legislation, I am deeply troubled by the public financing provisions that are being discussed for congressional campaigns.

It is clear that public financing favors incumbents. In any fundraising contest the incumbent has important advantages that virtually assure him of outsoliciting his challengers. A well-entrenched incumbent with a well-established contribution base will find it easier to qualify for matching funds. After reelection any surplus funds he might raise could then be put in the bank to give him a headstart in the next election. Public funding in this respect is just another advantage for the incumbent.

I am also concerned about the costs of public financing. Estimates range from $20 million to $40 million depending upon with whom you speak. My own computations indicate that the actual costs in the next Presidential election year are likely to be in excess of $40 million. I believe we must examine the implications of public financing more closely.

As the record shows, when the Election Reform Act was first considered by the House, I voted in favor of the public financing of Presidential campaigns. At that time I believed that it was necessary to experiment with that concept. I have watched with great interest the development of the program since the establishment of the Federal Election Commission. I am generally dissatisfied with the program thus far.

We are not yet in a position to objectively evaluate the Presidential campaign financing program. The establishment of public financing of congressional elections at this time is unwarranted and ill-advised. Based on what I have seen I am convinced that the public financing of congressional elections is not a good idea.

While I generally support the reforms which the House Administration Committee has reported, if the amendment to provide for the public financing of congressional elections is adopted, I will not be able to support the final passage of this otherwise essential legislation.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in closing the debate, I want to express my appreciation to all the members of the committee for providing a quorum in the long and arduous hours we spent in marking up the bill. I wish to express my appreciation to the minority for its conduct during the markup. We tried to give the members of the minority every opportunity to offer their amendments and to debate them.

I am especially indebted to the gentleman from California (Mr. WIGGINS), who has a flair for legal technicalities and whose precise explanations of what some of the amendments would do was convincing to many members of the committee, including myself. Although we are in opposite political parties, I have learned to rely on the gentleman's legal advice.

I believe that although there were sharp disagreements between the majority and the minority, in the end we came out with a bill which, although it still contains disagreements, will, under the rule we agreed upon to ask for and which the House overwhelmingly voted for, give the gentleman from California (Mr. WIGGINS) and his associates the opportunity to offer the basic amendments about which there was sharp disagreement.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, if I can only get the chairman of the committee to rely on my political instinct rather than my legal ability, I will trade all that legal advice in exchange for his support.

Mr. Chairman, I intended during my remarks earlier to recognize the contribution of the chairman of our committee. I have told the gentleman from Ohio privately—and I take this occasion to mention it publicly—that at all times he conducted himself as chairman of the full committee with an evenhandedness and with courtesy to all the members, notwithstanding the emotional nature of the subject matter before our committee. The gentleman's conduct as chairman of the committee was in the highest traditions of the House, and I want to commend the gentleman for it.

Mr. HAYS of Ohio. Mr. Chairman, I want to thank the gentleman from California (Mr. WIGGINS). I will say that I appreciate his remarks, and I am only sorry there are not more people in the Press Gallery to take note of them

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I have

no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The bill is considered as having been read for amendment. No amendments to the bill shall be in order except the 13 categories of amendments, as specifically provided for under House Resolution 1115, but said amendments shall not be subject to amendment except those specifically provided for under said resolution.

The text of the bill is as follows:

H.R. 12406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a) (1) The second sentence of section 309 (a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 473c(a) (1)), as so redesignated by section 105, hereinafter in this Act referred to as the "Act", is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a) (1) of the Act (2 U.S.C. 437c(a) (1)), as so redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a) (2) of the Act (2 U.S.C. 437c(a) (2)), as so redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

"(ii) one shall be appointed for a term of 2 years;

"(iii) one shall be appointed for a term of 3 years;

"(iv) one shall be appointed for a term of 4 years;

"(v) one shall be appointed for a term of 5 years; and

"(vi) one shall be appointed for a term of 6 years;

as designated by the President at the time of appointment, except that of the members first appointed under this subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) (1) Section 309(a) (3) of the Act (2 U.S.C. 437c(a) (3)), as so redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as so redesignated by section 105, is amended to read as follows:

"(b) (1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437(c)), as so redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) (1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)) as so redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act (2) U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 1, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) (January 30, 1976).

(e) The provisions of section 309(a) (3) of the Act (2 U.S.C. 437c(a) (3)), as so redesignated by section 105, which prohibit any member of the Federal Election Commission from being an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a) (2) of the Act (2 U.S.C. 431(a) (2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e) (2) of the Act (2 U.S.C. 431(e) (2)) is amended by inserting "written" immediately before "contract", and by striking out "expressed or implied,".

(c) (1) Section 301(e) (4) of the Act (2 U.S.C. 431(e) (4)) is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(2) Section 301(e) (5) of the Act (2 U.S.C. 431(e) (5)) is amended—

(A) in clause (E) thereof, by striking out "or" at the end thereof;

(B) in clause (F) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(C) by inserting immediately after clause (F) the following new clause:

"(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b);".

(d) (1) Section 301(f) (4) of the Act (2 U.S.C. 431(f) (4)) is amended—

(A) by striking out "or" at the end of clause (F) and at the end of clause (G);

(B) by inserting "or" immediately after the semicolon at the end of clause (H); and

(C) by inserting immediately after clause (H) the following new clause:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that all such costs shall be reported in accordance with section 304(b).".

(2) Section 301(f) (4) of the Act (2 U.S.C. 431(f) (4)), as amended by paragraph (1), is further amended—

(A) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(B) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) in paragraph (m) thereof, by striking out "and" at the end thereof;

(2) in paragraph (n) thereof, by striking out the period at the end thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1)(C) of the Act (2 U.S.C. 434(a)(1)(C)) is amended by inserting immediately before the period at the end thereof the following: "except that, in any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures totaling in excess of $10,000, and such reports shall be complete as of the close of such calendar quarter (except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph)".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or consent with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than **24** hours, before any election shall be reported within 24 hours of such independent expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as so redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof "one or more checking accounts, at the discretion of any such committee,".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as so redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as so redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory or other appropriate relief) defend (in the case of any civil action brought under section 313(a)(9)) or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act (2 U.S.C. 437f(a)), as so redesignated by section 105, is amended to read as follows:

"SEC. 312. (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.".

(b) Section 312(b) of the Act (2 U.S.C. 437(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2)(A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2)(A) Any advisory opinion rendered by the Commision under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

"(B) (i) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as so redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by this section shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as so redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission. Notwithstanding any other provisions of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

"(2) The Commission, if it has reasonable cause to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action shall be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304 (a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3) (B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315(a) (8) of the Act (2 U.S.C. 438(a) (8)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(b) Section 315(c) (2) of the Act (2 U.S.C. 438(c) (2)), as so redesignated by section 105, is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(c) Section 315 of the Act (2 U.S.C. 438), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 111. Section 407(a) of the Act (2 U.S.C. 456(a)) is amended by inserting immediately after "such title III," the following: "the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then".

CONTRIBUTION AND EXPENDITURE LIMITATIONS; PENALTIES

SEC. 112. (a) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105, is further amended by striking out section 316, as so redesignated by section 105, by striking out section 320, as so redesignated by section 105, and by inserting immediately after section 319 the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000, or to any political committee in any calendar year which exceed, in the aggregate, $1,000.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations prescribed by paragraph (1) and this paragraph.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who has established his eligibility under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive from the Secretary of the Treasury or his delegate may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $100,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a candidate for the office of Vice President, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for nomination for election to the office of President for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

"(b)(1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or contributions of work.

"(2) For purposes of this section, the term 'contribution or expenditure' shall include any direct or indirect payment, distribution loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the officers referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families; or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a conditition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stockholders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations; and (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

"(3) For purposes of this section the term 'executive officer' means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policymaking or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person who enters—

"(1) into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicously, in accordance with regulations prescribed by the Commission, state that such communication has been so authorized; or

"(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication is not authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization as stated in section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election with any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from any such foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. (a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds $250, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

"PENALTY FOR VIOLATIONS

"SEC. 328. Any person who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.".

(b) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and subsection (a), is further amended by inserting immediately after section 315 the following new section:

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SAVINGS PROVISION RELATING TO REPEALED SECTIONS

SEC. 113. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and section 112, is further amended by adding at the end thereof the following new section:

"SAVING PROVISION RELATING TO REPEALED SECTIONS

"SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty, and such provision or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.".

PRINCIPAL CAMPAIGN COMMUNITIES

SEC. 114. Section 302(f) of the Act (2 U.S.C. 432(f)) is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

TERMINATION OF AUTHORITY OF COMMISSION

SEC. 115. Title IV of the Act (2 U.S.C. 451 et seq.) is amended by adding at the end thereof the following new section:

"TERMINATION OF AUTHORITY OF COMMISSION

"SEC. 409. (a) Notwithstanding any other provision of this Act or any other provision of law, the authority of the Commission to carry out the provisions of this Act, and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, shall terminate at the close of March 31, 1977, if either House of the Congress by appropriate action determines that such termination shall take effect pursuant to subsection (b).

"(b) The appropriate committee of each House of the Congress shall, commencing January 3, 1977, conduct a review of the elections of candidates for Federal office conducted in 1976, the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections, and the activities conducted by the Commission, and report to their respective Houses not later than March 1, 1977. Such report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977, as set forth in subsection (a).

"(c) Nothing in this section shall affect any proceeding in any court of the United States on the date of the enactment of this section. The Attorney General of the United States shall have the authority to act on behalf of the United States in any such proceeding.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 116. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437(a)(7)), as so redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and insert in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly further the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as so redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party, of compensation to any person for any legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such national committee with respect to the presidential nominating convention of the political party involved.".

REVIEW OF REGULATIONS

SEC. 304. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 305. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSES LIMITATION

SEC. 306. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 307. (a)(1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election of the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

(2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9006; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

(b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

(2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9037; and

"(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

Mr. HAYS of Ohio. Mr. Chairman, in view of the fact that with the Speaker's approval I made a commitment to a great number of Members, including one total State delegation which has its State dinner scheduled tonight, it was agreed that we would not get into subsequent voting on amendments today.

We have finished general debate, and we will be ready to go into the amendment stage tomorrow as soon as the 1-minute speeches are out of the way. Under the rule, the bill will be ready for amendment at that time, and I will first offer a group of technical amendments upon which I believe there is no controversy.

Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

Accordingly the Committee rose, and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, had come to no resolution thereon.

HOWARD GREENBERG LEAVES SMALL BUSINESS COMMITTEE, SEEKS RETIREMENT AFTER 40 YEARS OF GOVERNMENT SERVICE

(Mr. EVINS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVINS of Tennessee. Mr. Speaker, it is with a sense of deep regret that I announce that Mr. Howard Greenberg, contract consultant with the House Small Business Committee, is leaving the committee and Government service at the end of this month after 40 years of outstanding and dedicated public service.

Mr. Greenberg has had a long and distinguished career in Government, having served in the executive branch and the legislative branch—for the past 7 years he served as executive director and consultant to the Small Business Committee.

Mr. Greenberg is generally recognized as one of the most informed and knowledgeable men in the Nation on matters affecting small business. Indeed, he was the first chief financial officer when the Small Business Administration was established in 1953, and Deputy Administrator of the Agency from 1966 to 1969.

Howard Greenberg is effective, efficient, and an able Administrator. He gets the job done—he knows how to make government work. He is an outstanding example of a Federal career manager who made government perform more efficiently and effectively wherever he served.

I hold Mr. Greenberg in the highest personal regard and esteem. From the lowest civil service grade in the executive branch he worked his way to a top supergrade position and consultant.

He has received many awards, including an award for distinguished service in the civil service and citations for outstanding service from small business associations and the Congress.

Howard Greenberg has dedicated a great part of his life to serving the Nation's small businessmen—and he has served them well, at SBA and with the House Small Business Committee. He has made substantial contributions to the improvement of the small business segment of our society and to the solution of many problems affecting independent business and the free enterprise system.

Certainly he leaves the committee and Government with my best wishes and my congratulations and commendation for a job well done—and I am sure the members of the Small Business Committee share my best wishes for Howard in his retirement. Good luck, Howard, we wish you the best in any future endeavors.

DUNCAN'S RESOLUTION OF DISAPPROVAL OF PROPOSED DEFERRAL OF BUDGET AUTHORITY FOR FOREST SERVICE

(Mr. DUNCAN of Oregon asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN of Oregon. Mr. Speaker, today I introduced a resolution in disapproval of the proposed deferral of budget authority in the amount of $278,657,000 for the Forest Service under the Impoundment Control Act. This money is authorized under the Federal Aid to Highways Act and is used for the construction of roads and trails in our national forests.

Along with my colleagues from the Pacific Northwest and northern California who cosponsored this resolution, I believe that efforts must be made to build and maintain access into our national forests. Construction of these roads is vital: First, to reach thousands of acres of insect infested areas to control the loss and salvage the bug-killed trees; second, to make available much needed recreation areas; third, to control forest fires, and fourth, to reach our timber supplies and in turn lower costs to the homebuilding industry throughout the country.

Although this deferral is in terms of the entire authorization of $278-million-plus, in effect it is a disapproval of only $20 million out of that amount. This is because the year is so far gone that the Forest Service, speaking by and through its Chief, has testified that they can usefully use only $10 million of this authority in the balance of fiscal 1976 and $10 million in the transition quarter. Although the total of $278 million would be available for commitment, in fact only $20 million can and would be committed.

I commend to the attention of my colleagues the report of the Chief submitted pursuant to the provisions of the Humphrey-Rarick bill, indicating the returns to the country at various levels of management and including the administration's backing of one such alternative. It requires increasing amounts of capital investment, much of which must go into roads. At comparatively small costs, this resolution of disapproval will enable the Nation to take the first small steps to fulfilling the commitment we made to the renewing of our ranges and forests.

I include the following tables:

FOREST ROADS AND TRAILS—FISCAL YEAR 1976

[Program level—$10,000,000]

State/National Forest	Project	Units	Type of work	Amount (thousands)
Alabama:				
Bankhead	Road 305	6	R	$248
Bankhead	Road 637	5	R	132
Alaska:				
South Tongass	Bridges 5000	3	R	530
South Tongass	Bridges 5500	2	R	130
South Tongass	Bridges 5600	1	C	300
Arizona: Apache	Wallace Rd. 34	11	R	750
Arkansas:				
Ouchita	Road 114	3	C	53
Ouchita	Road 33	1	C	48
Ozark	Bridges 1900	2	R	257
California:				
Klamath	Road 45N05	12	R	1,240
Plumas	Road 24N76	3	R	200
Plumas	Road 29N43	11	R	1,500
Sequoia	Campground roads	2	S	15
Sierra	Road 4S81	25	R	1,050
Six Rivers	Bridge 10N020240	1	C	500
Stanislaus	Bridge 1N040210	1	C	420
Colorado:				
Roosevelt	Bridge 169	1	C	20
Roosevelt	Road 156	13	S	300
San Isabel	Bridge 406–04	1	R	60
Routt	Bridge 11792	1	R	10
Georgia: Chattahoochee-Oconee	Road 665	3	S	41
Idaho:				
Boise	Bridge 10524C–0.1	1	C	85
Boise	Bridge 10447–0.1	1	C	85
Clearwater	Mussellshell Bridge	1	C	60
Teton	Bridge 70227–49	2	C	149
Targhee	Bridge 80082–41	1	C	65
Louisiana: Kisatchie	Bridge 535	3	C	151
Michigan: Superior	Road 343	2	R	102
Minnesota:				
Ottawa	Road 172	13	R	500
Superior	Bridge 175	1	R	62
Mississippi:				
Bienville	Roads 965 and 968	3	S	18
Bienville	Road 971	4	R	45
Montana:				
Beaverhead	Bridge—Little Lake-Miner.	5	C/R	$250
Beaverhead	Wise River Rd	5	R	400
Flathead	Firefighter Rd	7	C	125
Flathead	Bridge, Logan Creek	2	R	400
Galatin	Evergreen Rd	15	C	650
Lolo	Cedar Creek Bridge 7803–0.0.	1	R	55
Oregon:				
Deschutes	Sand Flats Rd. 2226–2221.	14	S	410
Fremont	Seven Springs Rd. 3753	14	S	200
Ochoco	Road 142	6	S	198
Umpqua	Toketee Lake Bridge	1	C	140
Willamette	Falls Creek Bridge	1	C	66
Willamette	North Fork Rd. 196	14	R	250
Tennessee: Cherokee	Road 103	1	R	60
Texas: Angelina	Road 117	2	R	74
Utah: Dixie	Bridge 30109–0.1	1	C	72
Virginia:				
George Washington	Road 364	1	C	47
George Washington	Road 536	4	C	163
Jefferson	Road 972	1	R	41
Washington:				
Mount Baker	Bridge-Green River	1	C	43
Mount Baker-Snoqualmie	East Bank Road 3720	2	S	130
Wenatchee	Manashtash Drive Road 1935.	11	S	150
Wenatchee	Butcher Creek Bridge	1	C	880
Wenatchee	Icicle Creek Road	9	S	60
West Virginia: Monongahela	Bridge 76–31	1	C	375
Wisconsin: Chequamegon	Bridge 180–0.2	1	C	150
Wyoming:				
Bighorn	Road	10	S	200
Black Hills	Road 682	10	R	120
Medicine Bow	Bridge 505	1	R	20
Medicine Bow	Bridge 500	1	R	20
Medicine Bow	Road 329	8	R	427

Key: Units for roads equal miles, bridges equal number. Type: C equals construction, R equals reconstruction, S equals surfacing.

Approval of my resolution would not mean a budget expenditure of $278,657,000 or even $20,000,000 in fiscal year 1976. The liquidating cash required in fiscal 1976—none; in the transition quarter, $11 million. and in fiscal year 1977, $9.

Estimates have it that for every dollar invested in our national forests, the U.S. Treasury realizes a $3 to $8 return. We have a chance here to make an investment in our natural resources, a capital investment that will result not only in a high financial yield to our Treasury, but increased recreation facilities, increased timber supply, and in turn decreased costs to homebuyers.

I hope this resolution of disapproval will find support throughout the Congress as its benefits are nationwide.

NATIONAL FOREST MANAGEMENT

(Mr. RUPPE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RUPPE. Mr. Speaker, today I am introducing legislation which will assure both wise use of our national forest resources and provide adequate management flexibility for continued development of the Nation's timber supply. The proposal is identical to the measure introduced by Senator HUMPHREY in the other body and recently sponsored by several of my colleagues in the House.

Effective forest management using sound environmental and professional techniques is in the best interests of the people of northern Michigan. In recent years, the timber industry has become more and more important in our area of Michigan, and I want to do all I can in a responsible way to assist in fostering the growth and continued development of this important industry.

The fact that over 55,000 people in Michigan are currently directly employed in the forest industry and the industry contributes more than $1.4 billion to the State's economy is adequate testimony to the value of sound timber management practices. In an area of high unemployment like northern Michigan, such figures take on particular significance and even further demonstrate the necessity for careful management of our precious timber resources.

The 93d Congress did respond to this need by passing the Forest and Rangeland Renewable Resources Planning Act of 1974. Among other things, this legislation mandated that the U.S. Forest Service collect and assess data regarding the Nation's forests, range, and related lands and develop a comprehensive set of goals, priorities, and plans to administer these resources well into the next century. The Congress believed that such an effort was absolutely essential if the United States is to properly maintain our timber resources and meet the needs of our citizens in the decades to come.

The Forest Service has recently completed its initial responsibilities under the 1974 act, and the President has submitted the first renewable resource assessment and a recommended renewable resource program to the Congress. In my view, the assessment represents a much-needed, long-awaited, and comprehensive analysis of the Nation's renewable resources. The recommended program represents a reasonable and prudent effort by the Forest Service to develop a program to meet the Nation's increasing demand for products and services derived from renewable resources.

The entire process, however, has been complicated by recent court cases regarding the sale of timber in national forests. In what has now come to be known as the Monongahela case, the U.S. Fourth Circuit Court of Appeals has severely restricted the Secretary of Agriculture's authority to sell timber under the 1897 Organic Act.

The court, in affirming an earlier decision of the Federal District Court for West Virginia pertaining to three planned timber sales in the Monongahela National Forest, ruled that only dead, physiologically mature, and individually marked trees could be removed through timber sales conducted by the U.S. Forest Service. In effect, the court ruling struck down the use of clearcutting as a legitimate technique to be used in the harvesting of timber sold within the national forest system.

Furthermore, late last year, the Federal District Court for Alaska, in Zieske against Butz, adopted the conclusion of the fourth circuit court and enjoined and restrained a similar timber sale in that State.

The problem is that the recent court interpretations completely disrupt the plans and programs developed under the 1974 Resources Planning Act. Both the renewable resources assessment and the recommended renewable resource program were developed on the basis of existing legislative authority, and the court decisions relative to the 1897 Organic Act seriously undermine these efforts.

Beyond this, the court interpretations will have a serious practical impact in terms of timber sales throughout the country. For example, in the predominantly immature eastern national forests, the court ruling will restrict timber sales in the next few years to roughly 10 percent of current harvest levels. In the more mature national forests of the West, harvest levels could be reduced by 50 percent.

The impact of such a reduction in timber sales and harvest could be economically devastating in certain areas of the country. For example, in some Western States, estimates have already been made that the possible reduction in harvest could result in the loss of over 20,000 jobs per State. Furthermore, the unemployment rates in industries such as housing could be expected to skyrocket even beyond their current 20 to 30 percent. Evidence also exists that the reduction in sales would result in an immediate rise of 30 to 50 percent in the cost of timber harvested from our national forests.

I am advised that in northern Michigan, the impact of reduced timber sales could be terribly significant. If the court decisions were applied to our area of Michigan, virtually all of the timber sales now in progress or slated to begin in the immediate future would have to be completely revised according to the court interpretations. The impact upon the economy of northern Michigan in terms of total timber production and employment would indeed be very serious.

In my view, we simply cannot allow this to happen. The growing timber industry is simply too valuable to the people of northern Michigan to allow such a reduction in total timber harvested in our national forests to take place. In addition, the need for increased supplies of timber and other forest products to meet the Nation's needs in the future is too important to be sidetracked by an outdated and antiquated legislative act.

Mr. Speaker, the bill I am introducing today will deal effectively with the problems created by the recent court decisions and will provide the framework within which responsible management programs for all of our national forests can be developed.

In addition to repealing the section of the 1897 Organic Act dealing with the sale of timber, the measure requires that a number of positive actions be taken to resolve this entire matter. First, the legislation recognizes the need for a national program planned for the long term and based on a comprehensive assessment of present and future uses. More important, it provides a specific mechanism for the implementation of the goals established by the Resources Planning Act of 1974, the Multiple-Use Sustained Yield Act of 1960, and the National Environmental Policy Act of 1969 as it applies to forests.

The bill also recognizes the important role continued research is to play in the development of our forest resources. Studies now in progress in the areas of soil chemistry, artificial soil nutrients, new strains of trees, and more environmentally sound methods of combating insect pests and diseases will all be given added impetus by the legislation.

I am particularly pleased that the proposal recognizes the need for Federal leadership in the development of our timber resources on private lands. While our national forests are vital in this area, it is a fact 78 percent of our commercial forests are in private hands. The bill calls for more Federal leadership to both encourage more productive use of private timberlands and, at the same time, ease the demand for timber supply from our national forests.

Finally, the proposal requires that detailed management plans, consistent with an overall Federal program, be established for every national forest. The plans will be developed with an emphasis on an interdisciplinary approach, and public participation will be required in both the development and review of the comprehensive plans.

The standards incorporated in the management plans will deal with such areas as timber harvesting, conversion of tree types, logging contracts, protection of fish and wildlife habitat, preservation of soil and water quality, and protection of the forest ecosystem. The standards developed and implemented for each national forest will be based upon local climatic conditions, terrain, soil and water conditions, and types of trees within the particular national forest in question.

Mr. Speaker, this legislation deals effectively with the shortcomings of the 1897 Organic Act and establishes a program that will be supportive of past legislative efforts. The bill has broad support from such organizations as the Society of American Foresters, the National Forest Products Association, and the National Association of Conservation Districts.

In my view, this legislation is extremely important to the continued development of our economy, particularly in areas like northern Michigan. I intend to do all I can to insure that the bill is enacted, and I urge my colleagues to give the matter swift consideration.

METRO IS HERE

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, at long last, after years and years of effort and support by many people, including the Members of this body, the Washington area Metro transit system officially opened to the public on Saturday, March 27. Yesterday, March 29, marked its first full day of revenue service. Mr. Speaker, Metro works. Numerous officials from local, State, and the Federal governments participated in the opening ceremonies on Saturday. These included Members of this House. As those of us who were there can attest, the trains work, and work well. The years of promises, during which time we have been asked to believe that the Nation's Capital will have a truely modern and efficient transit system, have finally come true. The trains are fast and efficient and comfortable, and they will serve generation after generation of Washington area visitors and residents well.

During yesterday's service—the first regular paying service on the system—ridership far exceeded even Metro's most optimistic estimates. Indeed, according to press accounts, the system carried more than twice the number of paying riders anticipated.

The leadoff speaker at Saturday's opening ceremony was Mr. Robert E. Patricelli, Administrator of the Urban Mass Transportation Administration. Mr. Patricelli spoke of the tremendous need for this kind of public transportation, and of the importance of Metro's completion. His remarks were quite excellent, and his commitment to Metro's completion, reaffirmed on Saturday, was indeed heartening. I would like to share with you Mr. Patricelli's remarks and will make them part of the body of today's RECORD.

PRIVACY AND SEXUALITY: "THE STATE HAS NO BUSINESS IN THE BEDROOMS OF THE NATION"

The SPEAKER pro tempore (Mr. MILFORD). Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, yesterday, the U.S. Supreme Court ruled by a vote of 6 to 3 that States may prosecute and imprison consenting adults for participating in homosexual acts. The decision of the Court affirmed without comment the 2 to 1 decision last fall of a Federal district court in Virginia which upheld a State law prohibiting consensual sodomy.

Every person without regard to his or her sexuality, heterosexual or homosexual, should be outraged by this decision. Outraged, first because the Court summarily ruled on this matter, without hearing arguments or issuing an opinion. This was an insensitive handling of an issue affecting the lives of millions. The fact that the Court closed its doors to arguments of law may suggest to some that the Court could not adequately justify its decision by law or reason.

And second, all citizens should be concerned with the failure of the Court to protect the privacy of citizens. In the future, other citizens will be affected by other questions of privacy in matters such as birth control, other sexual practices between husband and wife, or abortion. The failure of the Court to recognize the privacy issue surely undermines the groundwork of privacy protections handed down by the Court since 1965, beginning with Griswold against Connecticut, the decision forbidding a State to interfere in the decision of a couple to employ birth control devices.

Yesterday's decision affects a significant portion of the population. It is estimated that at least 10 percent of the population engages in homosexual acts, and Kinsey in his famous study found that an even larger percentage of the population has had at least one homosexual experience. Does the Court seriously intend to allow all such persons to be considered criminals?

The Court's decision will not convince homosexuals to become heterosexuals. But, it will make it more difficult for those who believe in individual freedom to change State laws to provide equal protection for homosexuals in housing, employment, and public accommodations, as well as to repeal the State sodomy laws. Some 13 States have already repealed sodomy prohibitions, and while these States will continue to be free of criminal sanctions for acts between consenting adults, the Court's decision will make it much more difficult to obtain repeal of existing criminal statutes in the other 37 States.

Civil libertarians had hoped that—in view of the Supreme Court's right-to-privacy rulings since 1965 striking down restrictions on the sale of contraceptives, allowing citizens to have pornographic literature in their own homes, and protecting a woman's right to an abortion—the Court would in appropriate cases protect consenting adult sexual conduct in private as part of a person's right to privacy.

But now, not only must civil libertarians pursue changes in the criminal laws to overcome this horrendous failure to act by the U.S. Supreme Court, they must redouble their efforts to enact legislation on a Federal and State level to bar discrimination against homosexuals in the areas of employment, housing, public accommodations, and Federal programs. There is legislation now pending in the House, H.R. 166, of which I am a cosponsor, which would do exactly that. That legislation is cosponsored by Ms. ABZUG, Mr. BADILLO, Mr. BINGHAM, Mr. BROWN, Mr. JOHN L. BURTON, Mrs. CHISHOLM, Mr. DELLUMS, Mr. FAUNTROY, Mr. FRASER, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. KOCH, Mr. MCCLOSKEY, Mr. MINETA, Mr. MITCHELL, Mr. NIX, Mr. RANGEL, Mr. RICHMOND, Mr. ROSENTHAL, Ms. SCHROEDER, Mr. SOLARZ, Mr. STARK, Mr. STUDDS, and Mr. WAXMAN.

Sponsorship of controversial legislation is generally avoided by those running for election. But indeed, Mr. Speaker, that is the time when the public can ascertain which of their legislators have the courage to stand up and be counted in support of the rights of persecuted minorities. No one has ever improved upon the statement of Prime Minister of Canada Pierre Trudeau, who years ago stated:

> The state has no business in the bedrooms of the Nation.

Regrettably, the Supreme Court has allowed the Government to intrude into the bedrooms of our Nation, and that decision must be reversed judicially or by legislation.

THE CHAIN THAT CAN NEVER BE BROKEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 45 minutes.

Mr. HANLEY. Mr. Speaker, it is ironic that in a Bicentennial Year, an essential Government service which reaches back to 1776 and beyond is on the verge of collapse. The "chain that can never be broken" may well be.

It is equally ironic that, in this day of instant communication and exponential growth of both the quality and quantity of information, the public is only vaguely aware of the complicated nature of the postal crisis.

To put it bluntly, there is a very real danger that in the near future the nature and concept of the delivery of mail will change so radically that virtually every citizen in America will be affected adversely. Important services we have taken for granted such as the single price first-class stamp, inexpensive rural delivery, mail delivery of magazines and newspapers, use of the mails to assist worthy causes, and others will become history.

Tragically, they could fade away without any substantive discussion of the role of the mail in American economic, cultural and social life.

The complex nature of the many facets of the Postal Service are the result of a long history. The story of the growth of the mail is really the story of this country, for we could never have grown the way we did without the vast communications network which was created and fostered by the U.S. Government.

George Washington reflected the importance which the creators of the new nation placed on a government-sponsored communications system when he wrote:

> These settlers are on a pivot and the touch of a feather would drive them away . . . let us bind these people to us with a chain that can never be broken.

The Articles of Confederation established trailblazing postal policy by including the powers of "establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of said office." (Article IX.) The Articles granted very little power to the central Government, and the inclusion of this power was a dramatic reminder of the importance attached to the function.

The power to establish post roads to carry the mail was incorporated into the new Constitution when the Articles of

Confederation proved inadequate to govern the new Nation. The power even received a two-line mention in the Federalist papers. In a great understatement, Madison wrote in Federalist Paper No. 43:

> The power of establishing post roads must, in every view, be a harmless power and may, perhaps, by judicious management become productive of great public conveniency. Nothing which tends to facilitate the intercourse between the States can be deemed unworthy of the public care.

Early, if somewhat materialistic proof of the value and importance of the mail in the dissemination of ideas and information is evidenced by the fact that postmasterships in colonial times were often sought avidly by publishers who wanted to use the mail to distribute their publications. Benjamin Franklin certainly was not beneath such tactics, and used his appointment in 1737 as deputy Postmaster General in Philadelphia to enhance his own newspaper. Later, he established relatively reasonable rates for all newspapers when he became Postmaster General.

One of the principle reasons for the growing importance placed on the mail by our early political leaders was the role which this communications network could play in the dissemination of ideas. The importance of freedom and diversity of belief and opinion to the creators of the Republic need hardly be restated here. However, as Arthur Schlesinger recently said in testimony before the Postal Rate Commission:

> The founding fathers understood that piety is not self executing and that freedom of information cannot exist in a vacuum. If a nation wants to make freedom of information more than a piety, it must pay some attention to the construction of a context in which men and women will be protected and encouraged in the pursuit and communication of knowledge.

This realization, according to Schlesinger led to early postal laws in the late 18th century which laid the foundation for preferential rates for magazines and newspapers. During the next 170 years, Congress several times reenunciated this policy by providing for lower rates for magazines and newspapers—not to provide an unwarranted subsidy to publishers and editors, but to stimulate the dissemination of varying points of view and the wealth of information so important to the growth of any nation.

Gen. Rufus Putnam of Revolutionary War fame, wrote to the Postmaster General in 1794 supporting the establishing of post roads: He wrote:

> If it is considered in a political light only, the information by this means obtained of the measures of government on the one hand and state of the people on the other, the knowledge diffused among the people by newspapers, by correspondence between friends and other communications with these remote parts of the American Empire may be of infinite consequence to the government. Nothing can be more fatal to a republic government than ignorance among its citizens, as they will be made easy dupes of Designing men.

Putnam's highly idealistic view of the potential importance of the mail was echoed 50 years later in a report of the congressionally formed U.S. Postal Commission in 1844. The Commission, created to recommend postal reforms, concluded that:

> The United States postal service was created to render the citizen worthy, by proper knowledge and enlightenment, of his important privileges as a sovereign constituent of his government; to diffuse enlightenment and social improvement; elevating our people in the scale of civilization and bringing them together in patriotic affection.

In 1931, Representative Clyde Kelly, in his book "United States Postal Policy," expressed the opinion shared by many postal leaders throughout our history. He wrote:

> Those who see this institution as a great service enterprise may be sure that it has been one of the mightiest factors in American progress, paying dividends in enlightenment and mutual understanding beyond the power of money to express. It has been the nation's most profitable institution, inspiring fraternity of feeling and community of interest, and furnishing the surest guarantee of the stability and security of the Republic . . .

And to come full circle from George Washington's comments, even the Postal Reorganization Act of 1970—which laid the groundwork for a "self sufficient" postal service—restated in unequivocal terms the goal and ideal of service to the nation.

Section 101 of that act, which is now embodied in title 39, United States Code, says that—

> The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities.

The historical treatment of newspapers and magazines in the mail during the past 200 years has been used as one example of the use of the mail and postal rate policy by the Government as an important tool in building and maintaining the Nation—not to imply that this is the only material carried by the mail which is of cultural significance. As the preceding quotes indicate different men at different times in the history of the Republic have emphasized the importance of the mail for all manner of communications.

The history of this service has been punctuated by laws which created new services which often now are taken for granted and varying rates of postage used to encourage the dissemination of various kinds of materials throughout the United States.

Door-to-door city delivery was not always here—and it may cease to exist if we are not very careful. The first letter carriers hit the streets on July 1, 1863, a classic example of the old truth that even during war life must go on—for this was also the day the bloody Battle of Gettysburg was begun.

Syracuse, N.Y., was one of the 49 cities which began city delivery that day. Prior to this time, mail was picked up at the local post office; a considerably more difficult chore than it would be now. Some post offices authorized the delivery of mail by private individuals who charged 2 cents for every letter delivered. Even the use of strategically located mail boxes for outgoing mail did not begin until 1858 in New York—and this collection service which has been taken for granted is also declining under the new postal regime.

Free rural delivery did not come until several years later. Again, except under unusual circumstances, farmers, ranchers, and others who lived in rural areas had to make the trek to the nearest town to pick up their mail—often a considerable distance. Then, Postmaster General John Wanamaker began to float the idea that the citizens of rural America deserved much better service than they were getting. After many years of political wrangling and maneuvering, Congress approved this revolutionary idea in 1896, and made it permanent in 1902. The adoption of this service ended for the time being attempts to make the mail service pay its own way. These attempts have been made sporadically throughout our history and have always seemed to be accompanied by a decline in service, a phenomenon which is occuring with a vengeance now.

These are only two important services which we have come to accept not only as normal, but as essential. But they were not always considered either normal or essential and may not be again. Other services such as money orders, special delivery, the new express mail program, parcel delivery—which was not begun as we know it today until 1913—and postal savings banks served or still serve important functions though some are declining in importance—special delivery and parcel post—and others have outlived their usefulness—postal savings.

Just as the expansion of postal services have proved of great importance to the development of various segments of our population, postal rates and the entry of various types of material have been used since the beginning of the Republic to pursue social and economic goals which have had vast influence on our way of life. As John C. Calhoun said in 1817:

> The mail and the press . . . are the nerves of the body politic. By them the slightest impression made on the most remote parts is communicated to the whole system.

Calhoun was describing a communications system which went far beyond the cheap delivery of periodicals. The symbiotic relationship between the mail and the press has been discussed briefly. Low postal rates were a crucially significant factor in the growth of a free and universally available press and remain important today. But all classes of mail carry their own significance and have made their own contributions to our way of life. Some pay their own way, some do not. But American life would be poorer without them.

Books, for example, form the nucleus of a whole host of educational materials which have enjoyed relatively low rates in the past for the specific purpose of encouraging the dissemination of educational materials. Preferential rates for books and other educational material have long been an important staple of postal policy, although the history of various rate changes and the alteration of definitions is bewildering to say the least.

And again, it has not always been so. In our early history, books were not always admitted to the mail. This pushed publishers into printing books in the guise of newspapers. Using a newspaper format, but containing whole novels, publishers sent millions of books inexpensively through the mail during the 1830's and 1840's. Books were admitted as such to the mails in 1851 and were soon given special postal rates. In 1942, a special rate for books was established, a flat rate regardless of distance sent. This development encouraged the growth of inexpensive paperback books and contributed substantially to making the average American the best read of the citizens of most of the countries in the world.

Generally, other educational materials were recognized and admitted to the mail at special rates. Libraries and other educational institutions were singled out even further. The importance of the developing national policy to use the mail to disseminate knowledge cannot be overstated. As Wayne Fuller in his recent book "The American Mail: Enlarger of the Common Life," said of this policy:

> It contributed immeasurably to the democratic process and made Americans as a whole perhaps the best informed people in the world in the nineteenth century . . . and perhaps it is still true that most of the useful knowledge that enters American homes comes not through the airwaves but through the mails.

Even the much, and often unfairly, maligned category of third-class regular rate mail has been of significance to the economy. And under current cost accounting procedures endorsed by the Postal Rate Commission, it is even a moneymaker. Even so, its signficance goes beyond its ability to turn a profit for the Postal Service. While the use of the mail for advertising through catalogs and other publications was common, the third-class bulk rate was created in the 1920's to encourage the use of mail facilities at off peak hours—sort of on "off season" rate for nonpriority mail. However, the consequences of this new class of mail went far beyond the value of the incremental income to the Government. During the 1930's, third-class mail was used to help build a shredded economy. Even today, direct mail advertising contributes a conservative estimate of $60 billion a year in sales to the gross national product.

Of even greater intrinsic values is the service performed through the utilization of various rates available to nonprofit organizations. With the nonprofit second-class category, churches, charitable institutions, labor unions, veteran's organizations, educational institutions, and many others can spread their message and inform the public of their good works. By using the nonprofit third-class rate, thousands of organizations from those such as the American Red Cross, United Way organizations, the March of Dimes, Easter Seal Society, to local churches, have raised literally billions of dollars which could not have been raised if a convenient, inexpensive system of communications were not available.

First-class mail, of course, is our single most important category and generates both the largest volume and the largest revenue in the Postal Service. Through it the bulk of America's commercial transactions are carried, much of America's business activities are conducted, our social life is pursued and romances are kept alive—or buried. It is delivered with relative speed—though there needs to be much improvement—and with the guarantee of privacy—a more rigid guarantee than any other communications network can or does offer.

This is the class of mail we take most for granted. For 13 cents we can send a letter, a bill, or a check as far as 6,000 miles or as near as our neighbor. No other postal system in the world provides as broad a geographical coverage for as low a rate as this. This is in no way to be construed as defending this first-class rate, but merely to help put it in perspective.

The single rate for a letter regardless of distance travel was one of the prime factors in the molding of postal policy toward the use of the mails as a nation builder.

Up to the 1840's, postage on letters was an expensive proposition, and it generally had to be paid by the recipient rather than the sender. The use of postage stamps—necessary to prepayment—was not even authorized until 1847. The rate was based on the number of sheets and the distance traveled. In 1792, a single sheet cost 6 cents to go up to 30 miles. The maximum was 25 cents for any distance over 450 miles. And this was for a single sheet—additional sheets added an equal amount to the price, and a separate envelope counted as a separate sheet. As Gerald Cullinan pointed out in his book "The United States Postal Service":

> In the late eighteenth century, twenty-five cents would buy five dozen eggs, four pounds of butter, or two bushels of potatoes.

This state of affairs continued, with some variations, until 1845 when legislation all but wiped out the zone system and brought the price of one-half ounce letters going less than 300 miles down to 5 cents and those going farther to 10 cents. In 1851, the principle of a single price stamp was essentially established when the rate for prepaid letters traveling less than 3,000 miles was dropped to 3 cents.

These reforms caused a massive spurt in first-class mail volume, and the principle of reasonably priced first-class postage which could take a letter over the continent was, and is, of incalculable benefit to the commerce of the country.

The preceding discussion is not intended to endorse the continuation of any particular class of mail, postal rate, or type and level of service. If postal history teaches us anything, it teaches us that nothing in the postal realm remains constant; that change is the rule rather than the exception; that postal policy has been flexible enough to meet the changing needs of a great nation.

Rather, the discussion is to show the immense richness of the postal experience and to give a flavor of the importance of the mail in our national life. It is to give some substance to the point that though the debate over whether or not postal service should pay its own way has seesawed over two centuries, the overwhelming effect has, until 1970, been to expand service even if it meant a deficit. Since 1851 to date, the Post Office has shown a surplus only 13 times, principally in times of war.

However, with the Postal Reorganization Act of 1970 disturbing and even sinister trends have become evident which could very well destroy this venerable and essential institution.

As Wayne Fuller succinctly wrote about that act:

> No longer was the Post Office to be the people's homespun Post Office, to be used as an instrument of government policy for whatever purposes Americans desired. Rather, it was to be a business like any other great American business. And no longer was the basic postal policy to be service first and a balanced postal budget afterward. The corporation was a victory for all those who through the Post Office's 178 year old history had always believed that the Post Office should be self supporting even if it meant less service.

Many who supported the Postal Reorganization Act did so reluctantly, as did I, because we hoped that the good aspects would outweigh the bad and that we could correct deficiencies by subsequent legislation. Much of the act was and is good. It established the framework for a more efficient operation, removed much of the politics from the day to day operation of the Postal Service, established a modern system of labor management relations, and gave the Postal Service broad borrowing authority to finance capital expenditures—a notable problem prior to 1970.

However, the parts of the act which substantially insulate top level postal management from both the executive and legislative branches and, above all, which require the Postal Service to move toward self-sufficiency have been disastrous. And those in Congress, the administration and the Postal Service who cling to these already discredited ideas will either purposefully or inadvertently lead the Postal Service to ruin.

That the Postal Service's goal of self-sufficiency lies in a shambles at our feet should be self evident. The Postal Service faces a projected debt of $1.4 billion at the end of the current fiscal year. It is probable that a similar debt will be incurred in fiscal year 1977. The net loss for fiscal year 1975 was $989 million; in 1974, $438 million; in 1973, $14 million and so on. By the end of this fiscal year, the Postal Service will have accumulated more than $3 billion in debts, used up all of its equity, and borrowed to its capacity—$500 million a year—for operating expenses. And, this is on top of appropriations for various purposes which have ranged from $1.4 to $2 billion a year since 1971. The gap between revenues generated by the sale of stamps and services is graphically demonstrated by the following chart covering the years just before and just after the Postal Reorganization Act:

[In billions]

	1968	1969	1970	1971	1972	1973	1974	1975
Revenue	5.5	6.1	6.3	6.7	7.9	8.3	9.0	10.0
Operating Exp.	6.5	7.1	7.9	9.0	9.5	9.8	11.3	12.6
Difference	1.0	1.0	1.6	2.3	1.6	1.5	2.3	2.6

It would be so simple to say that such a bleak financial picture is due solely to poor, wasteful management. There has been poor, wasteful management. There have been costly mistakes and errors in judgment. There have been management generated morale problems which have had an incalculable effect on efficiency. We in Congress are making every effort to uncover these inefficiencies, and press postal management to do a better job.

But, it is my contention that if a miracle befell us and tomorrow we had the most perfect management available, we would still be faced with a similar problem. The services which should be performed by the Postal Service, many of which have been described earlier, are important to us all. If they are to be maintained, and I think many of them should be, we must increase Government financial support of the Postal Service.

More than 2 years ago, I began to preach this message to my colleagues, the Postal Service, and the administration—and this was before the giant deficits became a reality. I introduced H.R. 15511 which, among other things, substantially increased authorizations for public service appropriations to the Postal Service. Hearings were held in 1974; the bill was reintroduced in 1975 as H.R. 2445 and further hearings were held. After many revisions, but with the concept of periodic authorizations for increased appropriations still intact, the new version, H.R. 8603, came to the floor of the House in September and passed in October. A significant amendment eliminated the section concerning increased authorization; but by requiring that all postal expenditures be annually appropriated, left the door open for greater financial support. More important, a vast majority of Members on both sides of the issue which led to the adoption of the Alexander amendment were behind the idea that the Postal Service's emphasis should be on service not self-sufficiency.

Thus, even though imperfectly, Congress is making an attempt to solve the problem. Sometimes, I feel that we are the only ones who even care.

Where have the Postal Service and the administration been all of this time? What has their attitude been? In a nutshell, it has been virtually incomprehensible. Indeed, it is difficult to get the administration to even admit it knows or cares about anything dealing with the delivery of the mail.

The Postal Service has now seen the light, however dim the perception is. It was not always so. In 1974, the Postal Service let it be known that it was adamently opposed to any measures which were designed to help it financially. With the red ink dripping from the back pages of the annual report of the Postmaster General, the middle pages contained a virulent attack on any and all who had the temerity to suggest that the Postal Service needed money from Congress. Postmaster General Klassen said in that report:

> Recourse to the public treasury is a narcotic solution back down the road to fiscal irresponsibility.

That was the official attitude of the Postal Service until September of 1975—after both the House Postal Service Subcommittee and the Post Office and Civil Service Committee had finished their deliberations. At the annual postal forum, Postmaster General Benjamin F. Bailar admitted that the Postal Service needed money and suggested a temporary increase in appropriations for a couple of years during which a study as to the proper level of public service funding could be conducted. This approach, with some variation, was already pending for action on the floor of the House.

But even after the Postmaster General's momentous about face, little help was forthcoming. The Postal Service did not make a great effort to convince Members to vote for H.R. 8603 nor did it show a great desire to work with committee members to work out compromises on the features of H.R. 8603 which were undesirable to it.

It was almost as if the Postmaster General felt that one speech was enough. After the speech Congress did not receive a formal request or any officially presented draft legislation. Incredibly, it appears that the Postal Service had not even presented a formal request to the Office of Management and Budget to include increased funding in the President's budget. The fact that neither OMB nor the President are sympathetic at this time does not absolve the Postal Service from at least making a formal attempt. Not until February of this year, when the Postmaster General appeared before the Senate Post Office and Civil Service Committee, was Congress actually told formally that the Postal Service supported increased funding, albeit on a temporary basis.

This vacillation and, in the beginning, contempt for Congress has seriously damaged the credibility of the Postal Service in Congress and will continue to hamper us in finding a way out of the fiscal mess of the Postal Service.

If the Postal Service has been shy, the administration has been absolutely inaccessible. The administration at almost every turn has totally refused to face reality or even admit a real problem exists. And when administration spokesmen comment on the Postal Service, their lack of perception and understanding leave one breathless. Obviously, the President and his advisers are not listening even to their own postal experts.

The refusal of the administration to accept anything but total self-sufficiency combined with growing signs that top administration officials favor the repeal of postal monopoly laws make one wonder if the administration really wants the Postal Service to survive. The failure to press for increased funding indicates to me that the administration is prepared to accept large cuts in service and breathtaking rate hikes to achieve self-sufficiency. This policy is already endangering the dissemination of publications, severely damaging charitable and religious organizations and fostering increasing first-class rates among other things. It will lead to drastic service cuts which are already being implemented or seriously discussed at the Postal Service such as closing of small post offices, reduction in the number of delivery days, and elimination of special delivery. These steps will seem mild in comparison to what could happen if the administration has its way.

The growing support in administration circles for the repeal of the Private Express Statutes just adds insult to injury. First, the administration starves the Postal Service of the funds necessary to do its job, then it disingenuously suggests that private enterprise be allowed to step in. I admire private enterprise, have worked in it or with it all my life, and realize that it can do a good job of delivering the mail for some of the people. But not for all of the people, and that is what the Postal Service is about. All of these "uneconomic" services would become a thing of the past—or would cost us much more than they do now. All the things we take for granted which I have discussed could no longer be taken for granted. Mail service would cease to exist as we know it.

Is this what the administration wants? If it is, it should make clear its intentions and the implications of its actions so the people can make a rational choice.

No discussion of the gigantic problems of the Postal Service would be complete without a reference to the growing threat to the Postal Service from revolutionary trends in the communications industry.

For the first time since the depression, mail volume is beginning to drop. Part of this may be due to price, but part of it is due to the beginning of yet another revolution in the methods used to transmit information. The Postal Service has been woefully behind in its programs to harness new technology for the transmission of information to its own use and benefit. In most cases, the Private Express Statutes do not cover this new technology, and certainly at this late stage we cannot expect major expansions of those statutes to cover new situations.

One of the most significant trends in

this direction is being pushed by the Government itself. The Social Security Administration has begun experiments in linking its computers directly with bank computers around the country to automatically deposit checks in social security recipient's accounts. If successful, this could have the effect of taking some 30 million pieces out of the mail stream a month—a substantial loss of income to the Postal Service. But more importantly, if social security can do it so can anyone with access to a computer and a telephone. This has not been lost on the banking industry, and the technology and feasibility of electronic funds transfer are such that it is estimated that in the next few years, most funds will be transferred electronically. It is the next revolution in banking and financial circles.

This ability to transfer funds without using the mail is also becoming available to the average consumer. Experiments are being prepared around the country to enable a customer with the proper card to communicate with his bank directly at the point of purchase. The bank will automatically—by computer—verify that he has funds to cover the purchase and instantly transfer the exact amount to the store's account. All without a single piece of paper entering the mail stream.

My own bank in Syracuse is one of seven around the country experimenting with a variation of the above. A person can now list all of his bills on a sheet of paper, call the bank, and list them. The bank will then automatically transfer the proper amounts to the various stores which bills you are paying. All of this for only 10 cents a transaction. All reports indicate that the experiment is going well and will spread like wildfire.

The Postal Service estimates that about 60 percent of its total volume involves financial transactions. In one study, the Postal Service estimated that electronic funds transfer could precipitate as much as a 42-percent decline in volume. The possibilities are mind boggling.

But the threat does not end there. Farfetched as it may seem, American technology is now capable of placing devices in every home which can receive and print letters, newspapers, magazines, and other printed materials. Such transmitters and receivers are already in many offices, including my own, and it is only a matter of time before it will be economically feasible to place them in most homes. Thus we have the possibility of having a substantial portion of letter mail, publications, and advertising materials being taken out of the mail stream. When you consider that the Postal Service has already lost a great deal of its parcel business because of its failure to keep up with modern technology, the loss of the rest of its business because of the same fault does not seem too farfetched at all.

Our immediate problem, however, is both conceptual and financial. Conceptually, I strongly believe that we need a return to a service first philosophy in the Postal Service. Postal Service officials say that "of course" they are for service first. When it comes to an analysis of their actions, however, we find the emphasis on cutting service to move closer to self-sufficiency.

If we accept a service first philosophy, then we must accept the financial consequences. It is wishful thinking to believe that we can continue the kind of service we have enjoyed and which has been remarkably beneficial to the country without providing substantial funds from the general treasury. To be sure, we must ferret out waste and we cannot tolerate shipshod management. But money will still be needed over and above that generated by postal rates.

If we do not accept this challenge, then we must accept that the "chain that never can be broken" will be.

DÉTENTE AS A THREAT TO WORLD STABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, there are ominous signs that the "balance of power," that oft-used phrase describing the relative stability of the international state system, may be tipping in favor of the Soviet Union and its East European allies. The growing military might of the Soviet Union has served notice to the world that the security offered in the past by U.S. military power may now be on the wane. And perhaps what is even more significant, these developments are taking place under the auspices of "international détente."

In light of these developments it becomes very important to fully understand détente, not only as it is interpreted in the United States, but more importantly as it is understood and applied by the Soviet Union. It is also equally important to understand the full impact of détente on the international balance of power, especially as it applies to the military potentialities of the United States and the Soviet Union.

Détente, as alluded to by the Soviet Union, differs substantially from Western interpretations. The "relaxation of tension" constantly referred to by Soviet leaders and official government spokesman is clearly not meant to create a static state of world affairs. In fact the Soviet Union has not hesitated to point out that détente is by no means meant to cement the international "status quo." Instead, détente, at least from the Soviet standpoint, is meant to neutralize militarily and politically the United States on the international scene. It is meant to paralyze the United States, to reduce it to a state of inaction at times of confrontation. For détente has become a "cover" for the buildup of Soviet military power. The Soviet goal is to use that preponderance in military strength to impose its will on the United States as a means of expanding Soviet power throughout the world. This is the meaning behind the current warnings by our Nation's defense specialists. Thus, unless we correct this imbalance of power we may have to accept the Soviet "diktat" in any future showdowns as have occurred in the past in Berlin and Cuba.

Another aspect of the potential danger to our security emanating from the growing proponderance of Soviet power is its application on behalf of the so-called national liberation movements in the Third World. Angola is an excellent example of the application of this formula. The unabashed interference of the Soviet Union and its Cuban client in the Angolan civil war has taken place under détente and has at the same time been rationalized by the Soviet Union as an integral part of the détente process.

What then are the immediate implications of this apparently new state of affairs in Soviet-American relations? What will the reaction of the United States be to these new and disturbing developments? These questions are of obvious and immediate concern to both U.S. Government officials and the American public for their answers will surely determine the course of international affairs in the future.

Since the cessation of hostilities following World War II, the United States has been relied upon by most of the Western world to provide the military power indispensable to the maintenance of international peace and security. The ability of the United States to accept and maintain this responsibility has resulted in an era of relative peace and prosperity. However, this ability to insure peace was built upon U.S. military superiority and the willingness of Americans to maintain it. Today the security earned in earlier days is merely a legacy of the past. The United States has reached a crossroads where important decisions must be made. In the past peace was maintained largely by the wise use of U.S. military power. Now it appears that this power is being overtaken from without by the surging growth of Soviet military capabilities, and eroded from within by a growing hesitancy of the part of the U.S. Government to continue to accept its important role in international affairs.

For many years the people of the United States, and for that matter those of the Western World, have taken security for granted, security which was predicated upon U.S. military superiority. Now, in an era when the U.S. position as the leading military power in the world is being challenged, it is imperative that new decisions and commitments be made to maintain international peace and security, decisions which will at the same time require a concomitant willingness to increase U.S. military power. The need to accept this challenge has once again thrust upon the United States the heavy responsibility of assuming the military leadership of the Western world. This responsibility may be unwelcome, and even unwanted by some, but it is nevertheless unavoidable. As former Secretary of Defense James Schlesinger pointed out recently:

> The United States today still represents the only potential counterweight to the military power of the Soviet Union.

If we are not cognizant of this fact and if we are not willing to accept this responsibility the repercussions may well influence all aspects of future international relations; and our own position in the world as well as that of our allies who have in the past been the prime beneficiaries of the protective American military umbrella could be undermined.

In the past, maintaining international peace and security has in many instances been a thankless task. Foreign policy errors such as American involvement in Vietnam have further complicated American foreign policy and severely scarred our national will. However, today a sense of national purpose is desperately needed; unity and farsightedness must once again become firmly established if international peace is to be assured. Self-flagellation, self-criticism beyond reason—they are not the answer. Rather the answer lies in a renewed commitment to American political and military leadership in world affairs. This commitment must be accompanied by a revitalization of all aspects of the U.S. defense program. Americans must also recognize that the current trends in the United States toward defense budget cuts and the continuous reduction of the American Armed Forces has not been paralleled by the Soviet Union. Instead, intelligence estimates tell us that the reverse appears to be true. As the U.S. military budget continues to shrink as a percentage of GNP, the Soviet Union's seems to grow inversely. Such a situation, if allowed to continue unchecked, will seriously jeopardize future world stability.

The United States and the American people must acknowledge their historic responsibilities. They must realize that ours is the only country capable of insuring international peace and consequently of counterbalancing the growth of Soviet influence and power throughout the world.

In this era of easing tensions in Soviet-American relations, détente is, therefore, a valid, indeed valued, policy. But the validity and value of this policy must rest upon the principle of "essential equivalence" in military power, not upon Soviet strategic superiority. For respect for national interests of great powers arises from an acceptable balance of power; and it is in this principle where lies the hope for stability and peace in the world.

AGREEMENT ON 200-MILE FISHERY CONSERVATION ZONE IS AN HISTORIC EVENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, the final agreement yesterday by the Senate and today by the House to the conference report accompanying our bill to establish a 200-mile fishery conservation zone is an historic event and a matter of great personal pride and accomplishment.

Having introduced the first bill to extend the U.S. fisheries jurisdiction to 200 miles, I am proud to see our efforts after more than 10 years finally coming to fruition.

Final passage of our bill by both Houses of the Congress indicates the awareness by all Americans, both those living on the coast and those living inland, of the pressing need to protect and preserve our valuable fishery resources.

The purpose of our bill is to establish the authority presently lacking by either the Federal Government or our States to initiate action to control the growth of foreign fishing efforts off our coasts and provide for a comprehensive plan for the conservation and management of these resources. This authority will become a reality when the legislation is signed into law.

Of course, a great deal of hard work remains ahead of us. Within 120 days of enactment the eight Regional Fishery Management Councils must be formed and they, in turn, must draft fishery management plans which will carry out our decision. The plan must contain the conservation and management measures applicable to domestic and foreign fishing which are determined to be necessary and appropriate. The Councils must assess and specify the optimum yield of each of the fisheries and the allowable level, if any, of foreign fishing. This arduous task will require a great deal of information and data gathering which will be submitted to the Secretary of Commerce.

The plan may require each fishing vessel to obtain a permit from the Secretary, may designate zones and periods within which fishing will be restricted, may establish a limited access system, may establish limitations on the catch of fish based on species, size, weight, sex, et cetera, and may establish limitations on the type and quantity of fishing gear and vessels.

Lastly, the councils will be attempting to incorporate existing state fishery conservation and management measures into their plans. American fishermen have long recognized the need to follow strict conservation practices and have long held a commitment to the task of maintaining our fishery stocks. California fishermen, in particular, have followed stringent practices, such as the voluntary limiting of mesh size since the 1930's.

I am fully confident that this work will be accomplished expeditiously and that we will begin a comprehensive program for fishery conservation—one which will provide for an orderly means of regulating both foreign and domestic fishing to insure that the resources are available for generations to come.

I have, throughout our debate on this issue, appealed to my colleagues to support this legislation and for a united effort behind the executive branch and the Congress on the conservation question. This united effort is becoming a reality. I am hopeful that it will not end here but will be expanded to include a united effort to resolve the tuna controversy and related security questions.

We will continue to work within the framework of the Law of the Sea Conference. I remain confident that this legislation will not disrupt the Conference and that they will continue to work toward the solution of long-range economic and security questions.

GEORGI VINS, SOVIET CHRISTIAN

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 60 minutes.

Mr. BUCHANAN. Mr. Speaker, appeals have been pouring into the West in recent months from Soviet evangelical Christians, seeking relief from oppression by authorities in their country. Some of the appeals have been sent directly to the United Nations General Secretary, the World Council of Churches, the Baptist World Alliance, and Christian leaders in the West. Some are copies of appeals sent to Soviet authorities. In many cases, accompanying documents cite names, places, dates, and details of grievances.[1]

A significant case is that of Soviet church leader Georgi Vins, 48, of Kiev in the Ukraine. Before his imprisonment early in 1975, he was secretary of the Council of Churches of Evangelical Christians and Baptists—CCECB—the dissident Baptist movement that the government says is illegal.

Georgi Vins, a founder of the CCECB, was arrested first in 1966 after a Baptist demonstration outside the Communist Party headquarters in Moscow and sentenced to 3 years at hard labor in a prison. He came out of prison in 1969 broken in health. A new case against him was started in 1970, but he went into hiding and carried on the direction of the CCECB underground. Late in March of 1973, the authorities found him and jailed him in Kiev pending trial.[2]

News reached the Western World in February 1975 that Mr. Vins was convicted by a court in Kiev of "harming the interests of Soviet citizens under a pretext of carrying out religious activity." The sentence of 5 years in prison to be followed by 5 years in exile was believed to be the maximum possible under the charge.[3]

The date of the trial in Kiev was kept secret, but family members and other believers showed up nevertheless and maintained a watch outside. The trial was held almost a year after Vins' arrest. Only persons with special passes, apparently those hostile to evangelical Christianity, were to be admitted to the courtroom. Several family members managed to get inside, however, among them Lydia Vins, Georgi's mother, who like her son and her husband had spent time previously in Soviet jails for her faith. She tape recorded her comments on the 5-day trial, and the correspondent of a religious publication in touch with key Soviet believers sent the magazine a translated transcript.[4]

Mrs. Vins said a Norwegian Christian lawyer, Alf Haerem, was obtained to be Georgi Vins' defense lawyer. Authorities tried to persuade the family and his friends to take an atheist as a defender, she said, but they refused. They, in turn, refused to give Mr. Haerem an entry visa, and Mrs. Vins informed the court of that fact. At this, according to his mother's account, Georgi announced he was rejecting the composition of the court.

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[1] "Carrying the Cross in the U.S.S.R.," *Christianity Today*, December 20, 1974, p. 26.

[2] *Ibid.*

[3] "Soviet Imprisons a Baptist Leader," *The New York Times*, February 3, 1975.

[4] "The Trial of Georgi Vins," *Christianity Today*, April 25, 1975, p. 43.

> The first reason—

He said, according to his mother's account published in Christianity Today:

> is that the court is one-sided, consisting of atheists, and they are not judging me, but they are judging the confession of faith of the Evangelical Christian Baptists, they are judging the Bible and the Gospel, and they are judging the whole movement of our Christianity.
>
> The second reason is that the entire investigation was conducted with much violence, with psychological and physical terrorism, and that the investigation was not conducted by the proper authority but by the Committee of Government Security (KGB). For two months an agent of the KGB threatened and menaced me, and now he is sitting here in this courtroom. . . ."[5]

Soviet authorities also rejected the offer of the World Council of Churches in Geneva to send a foreign lawyer to represent him at the trial. They also rejected applications by other Western observers to attend the trial.

Mr. Vins' confrontation with the Soviet authorities resulted from his prominence in the Initsiativniki, or Initiators, a group of reform Baptists who broke, in September 1965, with the officially tolerated All-Union Council of Evangelical Christians and Baptists over the issue of submitting to the authority of the atheist Soviet state.[6]

The Initsiativniki, which Mr. Vins served as secretary, have rejected Moscow's right to oversee their religious affairs, thereby prompting official repression.

The Initsiativniki or Initiators, the "reformers," formed their own separate fellowship, the CCECB, now considered an outlaw organization in the eyes of Soviet officials.

In 1966, according to a report in Christianity Today, the AUCECB—the officially sanctioned religious organization composed of Baptists, Pentecostals, Mennonite and others—revised its constitution, apologized for the stringent 1960 regulations which prompted the start of the reform group, and asked the reformers to return. There was no effective response; at the time Vins and other leaders were in prison.[7]

One of those appealing on Vins' behalf through open letters is Soviet physicist Andrei Sakharov, who himself is in trouble with the government for his outspoken championship of human rights. In an interview published in a Stockholm daily before Vins' trial, Dr. Sakharov said Vins was charged with vagrancy—not holding a job and hiding from the police—using religion for crime against the rights of citizens—living on the means of others—and violating church-state separation laws.[8]

In theory, Soviet citizens enjoy religious freedom under article 124 of the Constitution:

> No one is forced to be a believer or an atheist, to observe religious rites or not to do so—

Said Vladimir Kuroyedov, chairman of the State Council of Religious Affairs, in a recent Izvestia interview.[9]

In fact, religious worship in the Soviet Union is circumscribed with restrictions. The State Council of Religious Affairs is the watchdog successor to two organizations set up by Stalin to control "religious cults." Communist Party membership, the key to advancement in Soviet society, is barred to religious believers. Scientific atheism is taught as a part of social studies in Soviet schools and as a special required course at higher university level. But any religious instruction for youth is banned.[10]

The New York Times this month reported:

> The Russian Orthodox Church and the All-Union Council of Baptists function obediently under state scrutiny. But unapproved sects . . . have been harassed for refusing to submit on issues like conscientious objection to military service. Last month, the official press in Byelorussia reported prison sentences for several Jehovah's Witnesses found guilty of copying articles from the Western publication Watchtower and maintaining secret chapels.[11]

The case of Georgi Vins is by no means unique. Writings by Christian authors smuggled into the West tell of dozens of cases of repression of religious people. But Vins' case is notable and it is dramatic. His father and mother were imprisoned for their faith, and it appears now that his children may be because they have decided that they are never going to give up their beliefs.

Pvotr Yekovlevich Vins, Georgi's father, of German origin, came from Samara—now Kuibyshev. As a young man, he went to America for theological education not available in Russia, and spent his time there first at Weston Memorial Baptist Church, Philadelphia, then at Colgate Divinity School, Rochester, N.Y., and from 1912–22 at the Southern Baptist Seminary at Louisville, Ky. On his return to the Soviet Union in the spring of 1922, he went to Siberia as a missionary. From that time on he was an active and wholehearted member of the Baptist Church in the Soviet Union.

He was first arrested in Moscow in 1930 after refusing the NKVD's suggestion that he support their candidates in the elections to the Assembly of the Union of Christians-Baptists. He was sentenced to 3 years in a labor camp, the first of several prison terms. His third arrest was in 1937, and there was no further news of him for many years. Then his wife learned he had been convicted by a closed court—the infamous troika—to 10 years in a labor camp without right of correspondence. He died on December 27, 1943, at the age of 45, in one of the Far East labor camps.[12]

Like his father, Georgi Vins, born in 1928, was an active member of the Baptist Church, and he also became a pastor. He received a higher education and holds two degrees, one in economics and one in engineering. He was actively involved from 1960–64 in the series of meetings and writing of documents to the State authorities, to the AUCECB and to believers throughout the Soviet Union.

Vins and other demonstrators were arrested when they openly walked into the offices of the Central Committee building in 1966. In November he and a codefendant, Gennadii Kryuchkov, were tried and sentenced to 3 years in prison.

Vins and two other Baptists carried on an active Christian life of prayer and evangelism in the prison camp and aroused a great deal of interest among their fellow prisoners. He was transferred to another camp in an effort to stop this evangelism.

Vins' physical condition deteriorated in prison. He developed heart disease and had running sores on his arms and body. Despite his training as an electrical engineer, he was forced to drag logs at work.

Meanwhile, his family suffered because of his prisoner status. His wife, with a degree in foreign languages, was forced to take a job selling ice cream. His daughter was mistreated at school.

He was released in May 1969, and by the end of the year was once more taking an active part in the life of the CCECB.

Not long after Vins' activity as a pastor was curtailed once more. He was again arrested, sentenced to a year of forced labor—to be served at home—and 10 percent of his wages was deducted as a fine.

By June or July 1970, a new criminal case was being prepared. For more than 3 years, Vins lived in hiding, unable to return home and attempting to carry on his work as a pastor clandestinely. He appears not to have been arrested during this time, but in a list of prisoners put out in October 1970, he appears as "under investigation" presumably as a "parasite."

Vins wrote a letter in December 1970 to Russian officials to protest his mother's arrest on December 1, 1970. The letter contains information about prison sentences endured by other members of his family, including his father. His mother's cousin was arrested in 1938 and died in the camps. His uncle's wife was arrested in 1939 and spent 17 years in a prison camp. Her father was given a 5-year sentence in 1939.

The police came to Vins' mother's home on December 1, 1970, where her sudden arrest caused great distress to her grandchildren, who were in her care during the absence of her daughter-in-law.

The Council of Prisoners' Relatives—CPR—reported that her arrest was a direct result of her activity as president of the CPR in compiling and distributing information about Christian prisoners.

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[5] *Ibid.*

[6] *The New York Times, op. cit.*

[7] "Carrying the Cross in the U.S.S.R.," *Christianity Today, op. cit.*

[8] *Ibid.*

[9] "Soviet Subdues Religion, but Zeal for Atheism Lags," *The New York Times*, March 1, 1976.

[10] *Ibid.*

[11] *Ibid.*

[12] "The Vins Family," *Radio Liberty Dispatch*, November 8, 1974.

Vins' mother, Lidiya Vins, was tried in Kiev on February 8–9, 1971, and appealed without success on February 18. She was sentenced to 3 years' imprisonment. A CPR bulletin gave details about her poor health: she was diabetic, had a stomach illness, and had to be taken to work on people's arms.

Another CPR bulletin said there was no hope of her surviving her 3-year sentence because of her illness, and still another bulletin added that she had been moved to a civil hospital for a month, after which she was taken back to camp. Her friends in the Kiev congregation once more appealed for her release and she was released in November 1973. At the time, Georgi apparently was still hiding.

At the end of March 1974, Georgi Vins was arrested again and was held virtually incommunicado. The Kiev congregation appealed for his release to Soviet officials and his family pleaded to be granted the opportunity to see and talk with him, to learn about his condition.[13]

Only a little information about Vins' present condition has reached the West. Earlier this year, it was reported that after the January 1975 trial Vins was sent to the Yakutsk district in Siberia to serve the first part of his sentence—5 years of strict labor camp. The climatic conditions are very hard in that area, with the average temperature in January being 50 degrees Celsius below zero. Vins is in the category of "dangerous prisoner," which implies among other things that he has to report every third hour and that he may be shot without warning in case of desertion. Despite his poor health, he is sent to hard labor 10 hours a day.

Left at home in Kiev were Vins' mother, his wife, Nadezda, and five children. On September 18, 1975, the police confiscated most of the furniture in their apartment. The family was left with a table, a chair for each, and a bed for each. It is strictly forbidden for their church to organize relief work to help them.[14]

Mr. Speaker, a statement signed by Vins' four children asserts that Vins' wife was fired from her work in 1962 for her religious beliefs and it was years before someone would hire her. Daughter Natasha was fired in January 1973, from a hospital job allegedly because "religion and medicine are incompatible." Vins' son, Peter, has completed his education, but as of December 1974, had not been hired anywhere.

The statement from the Vins children, addressed to Soviet authorities, ends with a vow:

> If our father is not released and if measures are taken in prison which threaten his life, then know you that our entire family is filled with resolve to die alongside him. This we make known to you and believers around the world.[15]

Mr. Speaker, unless some action is taken on his behalf, Pastor Vins will surely die in a hard labor camp in Siberia.

"DIRTY DOZEN" LIST: THE ANATOMY OF AN AMBUSH—ANOTHER CHAPTER IN THE RATING RACKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, fellow Members of this body familiar with my environmental record must have shared my sense of disbelief—and that of my constituents—when I was named last week to the "antienvironmental Dirty Dozen."

From the outset, for reasons I will enumerate shortly, there was the distinctive odor of a dirty tricks operation. But now, as a result of first-rate reporting by Chris Black of the Lowell, Mass., Sun, Washington bureau, Environmental Action, Inc., is exposed as a second-rate political hatchet operation.

It develops that I wound up on the list as a result of a little cozy collusion between a staff member of Environmental Action, Inc., and one Joseph Grandmaison of Nashua, N.H., who is reportedly considering running for Congress in my Second District of New Hampshire. That same staff member, Martha Foley, had worked for Grandmaison in the 1972 McGovern campaign.

According to the Sun, Environmental Action considered his intentions "a decisive factor in determining whether or not Cleveland would go on the list." The article continues:

> Foley discussed Cleveland's possible inclusion on the list with Grandmaison a full month before the decision was made to include him. At that time, whether or not Cleveland would make the list hinged on whether or not he had a viable opponent. Grandmaison says he told her he would like to run but still harbored deep reservations.

Before this exposé appeared, I thought Environmental Action's selection process curiously contrived. Items:

First. The fact that my voting record was no less to the liking of Environmental Action than 107 other Members.

Second. The group's resorting to the tactic of failing to disclose to the public the true issues at stake in the votes on which ratings were based.

Third. Grotesque distortion of my record of environmental initiatives in committee, on the floor, or at home in New Hampshire. Omitted, for example, was any mention of my service on the National Commission on Water Quality.

Fourth. The gratuitous plug for a "likely opponent," in the press release announcing my selection, in the event I choose to seek reelection.

Mr. Speaker, the tactics of Environmental Action are merely the most blatant recent extreme example of so-called interest-group rating racket. What distinguishes them from the whole shabby pack is the fact that they have been nailed by the press.

That they were nailed, decisively and definitively, will be evident from the Sunday Sun article dated March 28 which follows:

WHY IS CLEVELAND IN DIRTY DOZEN?

(By Chris Black)

WASHINGTON.—The do-gooders, the self-righteous advocates of the people, pretend to be above politics and totally pristine but the release of the environmentalists' dirty dozen list last week showed them to be something less than pure.

New Hampshire's dour fiscally conservative congressman from the second district, James C. Cleveland, won the dubious distinction, with House Minority Leader John Rhodes and 10 other representatives, of being named to the annual list of congressional foes of clean air and water.

But how the Environmental Action Inc. political campaign committee called Cleveland from a list of 155 of his colleagues with environmental records they considered as bad as his, puts the lobbyists in a less than favorable light.

Cleveland apparently voted the "wrong" (that is, anti-environmental) way on 12 of the 14 votes called "key environmental issues" by the Washington based environmental organization. In addition to his voting record, the dirty dozen campaign considered his influential high-ranking position on the House Public Works Committee, the group of local environmentalists including New Hampshire's branch of the Clean Air Alliance, and his "strong ecologically aware opponent."

Furthermore, the group said it believed he might be vulnerable this year because of the victory of Democrat John Durkin in last year's Senate contest.

The "strong ecologically aware opponent," who the group sees as J. Joseph Grandmaison of Nashua, was a decisive factor in determining whether or not Cleveland would go on the list. But Grandmaison, an astute political organizer presently teaching seminars at the Kennedy Institute of Politics at Harvard, insists he is still undecided about whether or not he will oppose the incumbent congressman this year.

The dirty dozen campaign has batted a 77 per cent success rate in ousting incumbent representatives it deems dirty in the ecological sense by sending a professional political factician into each district to build a coalition of opposition among environmentalists.

Coincidentally their political operative is Marthy Foley, a young woman who learned the ropes of political organizing from Grandmaison in 1972 when he worked as a national political coordinator for presidential candidate George McGovern.

Foley discussed Cleveland's possible inclusion on the list with Grandmaison a full month before the decision was made to include him. At that time, whether or not Cleveland would make the list hinged on whether or not he had a viable opponent. Grandmaison says he told her he would like to run but still harbored deep reservations.

But aside from political influence, the dirty dozen's campaign choice of issues raises questions of motivation. Anyone familiar with Cleveland's philosophy could question whether or not antienvironmentalism or some other reason motivated his decision on the so-called "key environmental issues" considered.

When Cleveland opposed an increase in solar energy development money, did he vote against solar energy, an environmentally attractive energy alternative, or spending federal tax dollars? Since he is a dyed-in-the-wool fiscal conservative and consistently opposes spending bills, one could wonder.

When he supported the locks and canal expansion project in Illinois and the Clinch River breeder-reactor, was he voting against the environment or in support of his committee's positions and in favor of a colleague's pork barrel project? Although perhaps not so ideal, it is customary for House members to support committee and local public works bills for colleagues in return for support on their pet projects.

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[13] *Radio Liberty Dispatch, Ibid.*

[14] Information made available by *Friends in the West,* a Blaine, Washington-based organization whose chairman is Ray Barnett.

[15] "Carrying the Cross in the U.S.S.R.," *op. cit.*

When he backed nuclear energy development which generates 25 per cent of New England's electricity, and opposed the strip mining bills, was he being anti-ecology so much as pro-President Ford on tactically critical issues for the beleaguered nonelected executive?

And when he was being "one of the principal backers of the highway steam roller" in Congress, was he really opposing his constituents' desires regardless of the merits of the Franconia Notch Highway he favors? If Environmental Action Inc. thinks New Hampshire is anti-highway, it should take another look.

One can only wonder if Cleveland won the dubious distinction of being a member of the dirty dozen for having "ridden roughshod over the nation's environmental interests" or for having been a partisan Republican, a fiscal conservative and a typical congressman.

FREEDOM FOR SOVIET JEWRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Speaker, all of the nations which signed the Helsinki Agreement, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Contrary to the spirit and letter of that international agreement, the Soviet Union has continued to violate the most basic human rights by denying exit visas to citizens wishing to emigrate. Because of these restrictive policies, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families, entitled "Orphans of the Exodus," dramatically details this tragic problem. At this time I would like to bring to my colleagues' attention the situation of the family of Iosif Aronovich Ass.

In February 1974 Iosif, a 31-year-old physician, married and the father of two small children, applied for exit visas to Israel for himself and his family. He hoped to reunite with his parents, brother, and in-laws. However, that hope was crushed by Soviet authorities when several months later they refused permission for emigration.

Iosif, who had served in the army from 1968–70 as chief of a medical department, was told that he could not emigrate on the grounds of "military secrets." The authorities promised, however, that he would be granted permission to emigrate by the end of the fifth year from his date of discharge, or in 1975. However, that date has passed and Iosif Ass is still being denied an exit visa.

His mother, 67, constantly worries over the welfare of her son and his family, and skeptically wonders whether she will ever see them again. In a desperate plea for American help Mrs. Ass wrote:

> I beg you, dear friends, help us! Help my son obtain a visa for Israel. While I am still alive I want to see my son and his family. . . .

Congress and the American people appeal to the Soviet Union to abide by its international commitments by relaxing restrictions on its repressive emigration policies. At the very least, we appeal to them to respect the universal principles of justice, humaneness, and freedom.

CASTRO AND AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

Mr. FASCELL. Mr. Speaker, last week the Miami Herald carried a most thoughtful editorial on Cuba's new military adventurism in Africa and the escalating rhetorical response of the administration. Because of the deep concern in Congress over the situation in southern Africa and Cuba's expeditionary force, I bring the March 24 editorial to the attention of the House:

[From the Miami Herald, Mar. 24, 1976]

KISSINGER'S RHODESIA WARNING BETTER NOT BE BLUFFMANSHIP

Fidel Castro has been warned, but the American people must give serious thought to the possible implications of that warning.

The Cuban dictator has led his nation down a risky road of military adventurism in Africa. Emboldened by the taste of victory in Angola, the Havana regime has lately been making noises which could signal an intention to meddle in Rhodesia.

In that context, Secretary of State Henry Kissinger's warning to Castro in Dallas Monday night was timely and appropriate. Said Dr. Kissinger: "The United States cannot acquiesce indefinitely in the presence of Cuban expeditionary forces in distant lands for the purpose of pressure and to determine the political evolution by force of arms."

The seriousness of the Secretary of State's warning was reinforced by open discussion in Washington concerning a possible reimposition of the American naval blockade of Cuba. Significantly, the State Department—given the opportunity to refute such talk—let the chance pass by, confining itself merely to calling press reports of U.S. military contingency planning "speculative."

There are, of course, grave risks for all sides in a confrontation over Cuban intervention in Africa. In Rhodesia, for example, the United States could risk finding itself in the uncomfortable position of appearing to support a white-minority government it previously opposed, merely because the Cubans were intervening on the other side.

And the risks would escalate substantially if a naval blockade were actually undertaken. Americans can only speculate as to what might happen the first time a Soviet ship—or a Norwegian or Canadian ship, for that matter—is confronted by an American destroyer and ordered to turn back.

If an international incident ensued, the United States government rather than the Castro regime could well find itself condemned by most other nations and by those American citizens and congressmen who feel that the United States—with its long record of intervening in other nations' affairs—has scant cause to condemn Cuba on that count.

Unfortunately there are also grave risks in U.S. silence and inaction. One school of thought blames the outbreak of the Korean War on North Korea's miscalculation of American intentions. Supporters of this line of reasoning maintain that there are fewer risks inherent in America's warning to Castro than in letting him get the impression that the United States will forever stand idly by while Cuban intervention spreads from Angola to Rhodesia and ultimately to the Western Hemisphere again.

We think the point is well taken, but implicit in it is possibly the greatest risk of all in this sticky situation: that the United States' warnings will be perceived as a bluff, mere hollow words spoken for domestic political consumption in an election year and enunciated by a Secretary of State whose credibility has been slipping at home and abroad.

If that happens, the United States government would then be faced with a most unpalatable choice—reluctantly embarking on yet another military escapade of its own or losing all credibility because it did nothing when its bluff was called.

THOUGHTS ON GREECE BEFORE AND AFTER THE MILITARY JUNTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, as we note the 155th anniversary of Greek independence this month, I thought my colleagues would be interested in this report written by a professor at Georgia State University upon his return from Greece on a recent trip. Prof. C. G. Alexandrides informs me that there is little if any anti-American feeling now directed against the American people, and that there is a great appreciation of the position of the U.S. Congress. What anti-American feeling that exists appears to be directed at the administration, perhaps because the people of Greece have not forgotten Secretary Kissinger's emphatic assertion last year that the lifting of the arms embargo to Turkey would result in fruitful negotiations over Cyprus. Thus far, the "progress reports" the Congress required the administration to submit on Cyprus are wafer thin; there has been no progress to report.

The following article is an evaluation of the present state of politics and internal affairs in Greece after the military junta. As we prepare to celebrate our Bicentennial, it is heartening to read of the rejuvenation of the democratic spirit in other nations as well:

THOUGHTS ON GREECE BEFORE AND AFTER THE MILITARY JUNTA

(By C. G. Alexandrides, Ph. D.)

The increased pollution in the air is noticeable when one lands at the Athens airport. Nevertheless, a certain freshness permeates this same air—the freshness of the Athenian spirit restored. The junta's "law and order" rule had smothered the free spirit of the Greeks and had transformed the birthplace of democracy into its graveyard. The citizens of Athens are now hard at work in making changes and reforms for the restoration of the political and economic freedoms denied them by the autocratic rule of the military junta.

The government of Prime Minister Karamanlis, which enjoys a strong majority in Parliament and the support of the Greek people, has made substantial progress in carrying out these reforms in its first 500 days in office. The political opposition from the Center and Leftist parties to government policies has been responsible, especially in their bipartisan position on Cyprus. This is a far cry from the old political scene, when opposition parties would resort to extreme measures in an attempt to bring down the government. A similar spirit permeates the Greek people who have come to understand that democracy entails not only privileges but also responsibilities. A common attitude among the Greeks is to change the "katestimeno," which shows a great change from the traditional conservative attitude of the people toward the establishment.

The judiciary has succeeded in regaining its reputation through impartial court proceedings and fair sentences in the trials of the military dictators and their accomplices.

The press as the fourth estate of government has demonstrated a responsible attitude through its analytical and investigative journalism, in spite of long censorship by the junta. Hence the cooperative efforts of the three branches of government, the people, and the press have contributed greatly to the normalization of conditions in Greece.

Anything thought by some to be a benefit of the dictatorship has now been discredited by the disclosure of crimes and abuses of the junta. Moreover the bankrupt economic policies of the junta, which resulted in an inflationary spiral of seven per cent monthly, had speeded the downfall of the junta. However, in order to stay in power, the military junta in view of increasing domestic unrest, as exemplified by the heroic stand of the university students, resorted to desperate acts of treason, including the betrayal of Cyprus.

The betrayal of Cyprus will one day be fully exposed. At the present time the government maintains a restrained attitude on the subject in view of the imminent Turkish threat.

Greece under the junta was diplomatically isolated from the free world with the notable exception of the Nixon administration. Even the socially responsible multinational corporations refused to invest in Greece in spite of the advantageous terms offered by the military dictatorship.

The Karamanlis government has succeeded in returning Greece to the fold of the democratic nations. Moreover, with the cooperation of the Makarios government, Turkey has been isolated from the rest of the world because of its aggressive invasion of Cyprus. The most recent United Nations vote on Cyprus of 117 in favor to 1 is a demonstration of this international quarantine of Turkey.

The favorable consideration of Greece's application to full membership in the Common Market is another example of the successful restoration of Greece's position in international affairs.

The anti-American feeling of Greek people in view of U.S. policy on Cyprus is now clearly defined against Secretary of State Kissinger and President Ford rather than against American people as a whole. On the contrary, there is considerable appreciation of the position of the U.S. Congress, which in nine major votes castigated the Turkish aggression in Cyprus and demanded the withdrawal of Turkish troops and the restoration of the political independence and territorial integrity of Cyprus consistent with U.N. resolutions. Moreover, the U.S. Congress has voted over $50 million for the relief of the refugees and has demanded their return to their homelands. Hence, it is not amazing that the U.S. Secretary of State, under heavy pressure from Congress, now may be able to bring pressure against Turkey to comply with the U.N. resolutions. The Greek people should never forget that in spite of unpopular decisions of some Western governments in defense of their national interests, in all the Western countries there is a great affection for the Greek people, a fact which greatly annoys the Turks.

An interesting byproduct of the Cyprus tragedy has been the emergence of the Greek-Americans as a political force to be reckoned with in the United States and to be appreciated by the motherland. The Karamanlis government, in recognition of the contributions which have been made by Greeks in diaspora, is establishing a Department for Overseas Greeks under the Ministry of Foreign Affairs. It is now hoped that the newly established Department will find ways to bring benefits of overseas Greeks to the motherland in the areas of social sciences, management and technology. For it is in these areas that Greece needs assistance. For instance, there are more than 1,500 Greek-American professors in U.S. universities. In the field of management alone, some of the outstanding contributions in the areas of behavioral organization and management science have been made by Greek-American professors teaching in leading American universities. Similar contributions have been made by Greeks teaching in Canada, Australia, and other areas.

A major challenge in the modernization process of Greece is the better utilization of its most valuable resource—the Greek people. An effective and efficient management is badly needed in the public and private sectors of Greece. As Peter Drucker poignantly stated, "There are no underdeveloped countries, only undermanaged countries."

It is hoped that the Greek government will consider convening a conference with Greek professionals abroad to discuss and prepare plans for the modernization of higher education, the management of public and private enterprises, and the economy. Modernization is even more urgent in view of the imminent entry of Greece into the Common Market and the continuing Turkish threat.

AUDITING REVENUE SHARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 15 minutes.

Mr. MEZVINSKY. Mr. Speaker, today I am joining my friend and colleague, Representative EDWARD KOCH, in introducing legislation to strengthen the accountability of local officials for their revenue sharing funds.

The bill requires an independent audit of State, county, and municipal budgets in exchange for participation in the general revenue sharing program. This must be done annually, though it places the primary responsibility on the Secretary of the Treasury for establishing realistic and meaningful guidelines. It would permit the Secretary to take into account localities where the revenue sharing allocation is low and the relative cost of a full-scale audit is very high. This bill combines this flexibility with the very strict requirement that every recipient's budget be scrutinized.

I think this is essential for two very good reasons. First, the fiscal track record of some of revenue sharing's recipients has been terrible. We in the Congress must be particularly mindful of the situation that befell New York City last fall, and the absolute chaos that was revealed in the city's finance. Congressman KOCH's comments will particularly underscore the need for Congress to demand an end to the shoddy accounting practices that have become all too commonplace.

The second factor in support of acceptance of this audit requirement has been revealed on a daily basis in the hearings and markup sessions of the House Intergovernmental Relations and Human Resources Subcommittee, of which I am a member. As a program, revenue sharing will be with us for many years to come, but it is positively screaming for reform. Despite a coalition that has rallied around the administration's bill that would stampede Congress into rubber-stamping the program into renewal, weaknesses abound and the subcommittee has been responsibly tightening the program. We have voted to continue the program at its present level of funding and we have removed the strings that we are told have hampered its flexibility. With this, the need for accountability was never so vital. Congress responsibility to insure that the money is used wisely becomes all the more crucial. We must make sure that every dollar is accounted for—so that our citizens can have confidence that their revenue sharing dollars are being spent properly and wisely.

An annual audit of a government's finances is an important cornerstone to efforts at reforming GRS. I am delighted that my colleagues on the Revenue Sharing Subcommittee have substantially agreed with this concept in our morning's deliberations. It was an important step toward strengthening the accountability features of the program.

Mr. KOCH. Mr. Speaker, today my friend and colleague, Representative EDWARD MEZVINSKY, and I introduced legislation which we call the Truth in Municipal Accounting Act of 1976. Our proposal would amend the Revenue Sharing Act, which is now being considered for renewal by the Subcommittee on Intergovernmental Relations of the Government Operations Committee. Our proposal would require all States and municipalities receiving Federal revenue sharing to provide a complete, independent annual audit of their financial records, including their current and proposed budgets and revenue estimates. Procedures for conducting the audits would be established by the Secretary of the Treasury. Thus, local citizens and taxpayers would be provided with reliable information upon which to evaluate the past performance of their local government and to estimate which projected municipal programs Federal revenue sharing money should be used for.

This morning, when the Subcommittee on Intergovernmental Relations continued its markup of the Revenue Sharing Act, Representative MEZVINSKY offered this amendment, and the subcommittee agreed to adopt the requirement that every State and local government receiving revenue sharing money conduct an independent audit of the previous year's budget. This is a great step forward, but I believe that the full committee and the House should adopt the further requirement that the projected budget of the city or State in question also be evaluated by an auditor to point out any fallacies that it may contain. I intend to urge that the full committee and the House adopt such a requirement in addition to the audit that will be required for the previous year's budget.

The need for this legislation should be evident to all of us who have read the horrendous revelations about some of our cities' financial sloppiness now being reported regularly in the press. I would like to point out a few striking, recent examples of financial misstatement and nonstatement that have obscured fiscal reality in just two of our cities—New York, N.Y., and Washington, D.C. In each of these instances, severe financial problems could have been forecast and perhaps avoided, if the audit procedures we are recommending today had been in effect.

Only yesterday an article in the New York Times reported that Mr. Sidney Schwartz, the special State deputy comptroller who is monitoring New York City's 3-year budget balancing plan, has stated his belief that New York City's latest revenue forecast may be overstated by as much as $129 million. Mr. Schwartz' staff projected that State and Federal aid to New York City could be $100 million below the city's current estimates, while income from real estate taxes may turn out to be $29 million below the city's predictions, as stated in its 3-year financial plan. In his 3-year plan revealed last Thursday, Mayor Beame projected a $1.02 billion deficit over 3 years, before the city's budget can be brought into balance. But even with the scrutiny to which New York City's financial matters have been subjected, numerous accounting questions continue to be revealed.

New York State's comptroller Arthur Levitt has been highly critical of what he describes as questionable accounting methods which have been or are being used by the city of New York. In January of this year, an article in the New York Times reported that a recent State comptroller's task force described nine specific budget accounts "that distort New York City's financial reporting," including the following:

First. In the 1974–75 New York City budget, an account was set up for a $98.7 million "advance to make up revenue shortfall" in the city's general fund, even though no money was available for the advance;

Second. In accounting for the $800 million by the State to the city last spring to prevent the city's default, the city failed to show the $800 million amount as a liability of the general fund at the end of the last fiscal year;

Third. A total of $191.2 million collected from property owners prepaying their real estate taxes before last June 30 was credited to the "special account," commingling it with hundreds of other accounts. Furthermore, this money should have been listed as a liability when received, since the tax money will not be forthcoming in the 1975–76 fiscal year for which it was intended; and

Fourth. Cumulative deficits have been allowed to pile up over the years for programs intended to be self-sustaining with State and Federal aid. For example, a $4.2 million deficit has accumulated in the program for junior high schools, and the city has not allocated money of its own to make up the shortage.

In August of last year, State Comptroller Arthur Levitt charged that the city of New York had duped investors by reporting that it would collect $500 million in real estate taxes by the June 30 end of the fiscal year. Only $94 million of those assessed real estate taxes were actually collectable, although the city had pledged $380 million of them to pay tax anticipation notes due June 11, 1975.

Included as projected revenues for the 1974–75 budget was $282 million in uncollectable real estate taxes on publicly owned property and other tax exempt real estate in the city. Levitt contended that the city had been presenting an "unrealistic" picture of the city's tax-collecting potential for many years. I think Levitt's comments on the need for new auditing procedures are particularly noteworthy:

> It is critical that the city overhaul its real estate tax accounting, budgeting and reporting systems to preclude further distortion of the city's financial status and to make available accurate fiscal information on which to base future decisions.

The sloppy practices I have detailed, which verge on deception in my opinion, could not have escaped the eye of an independent auditor, and probably surfaced only because of the glare of publicity and attention which has focused on New York City recently. I am sure that there are many cities with equally shoddy accounting practices that could also be ended, if we pass a requirement that there be a complete audit.

New York City is not alone in needing truth-in-accounting, as the problems of Washington, D.C., highlight. For example, the District of Columbia government underestimated by almost half a billion dollars the amount of money it would need to set aside for pension benefits to its police, firefighters, teachers, and judges. A recent Washington Post article described the situation:

> Unlike many other cities, which accumulate greater reserves to finance such pension obligations, the District has money set aside to pay less than 4 percent—only $63 million—of the $1.6 billion in pension liabilities projected in the long-range financial plan released with Mayor Walter E. Washington's proposed fiscal 1977 budget this week.
>
> The District, therefore, must largely provide pensions for its police, firefighters, teachers and judges on a pay-as-you-go basis that costs $53.1 million this year and is expected to cost $64.7 million next fiscal year, and $84.9 million in fiscal 1980.
>
> The new, substantially higher projection of pension obligations means that city officials now expect the District will have to pay out much more over future decades than had previously been estimated, and that this will require correspondingly higher revenues.

It is specifically these problems—hidden and deceptive accounting as well as a failure to properly assess the future budget estimates—that the Truth in Municipal Accounting Act seeks to remedy. Independent audits are already done as a matter of law in many States, and where they are not done, they should be, and will be, if the Congress adopts this auditing requirement.

I used the cities of Washington, D.C., and New York as examples only because these are the ones I know best and because of the recent public scrutiny to which they have been subjected. I am sure that other cities have similar accounting deficiencies and unrealistic revenue projects. On the other hand, many cities undoubtedly will pass any audit with flying colors, and they have nothing to fear from such a requirement.

It is for the good of those citizens whose municipalities have not provided for proper auditing in the past, that an auditing requirement is desirable and necessary.

Under the legislation we propose, the Secretary of the Treasury in consultation with the Comptroller General of the United States would prescribe guidelines to ensure a "complete and accurate" audit of the financial records of the State or municipality for the preceding fiscal year and an audit of the proposed budget of the city for the current and next fiscal year—when proposed. Where existing audits are being done, whether by State authorities or by private certified public accountants, this legislation would not affect them, except to require that the accountants also look at the current and proposed budgets as well as past financial records to assess their "completeness and accuracy."

There is today a limited audit required by the 1972 Revenue Sharing Act, which audits the local use of revenue-sharing money.

Our audit would cover all municipal expenses and revenues, and this will be particularly appropriate, because Federal revenue sharing money in the future will be intermingled with all other revenues of a city; there will be no specific categories in which a city must spend its revenue sharing money, if legislation is reported and passed in the form now contemplated by the responsible subcommittee. This means that any audit must cover the entire city budget in order to be a meaningful assessment of the revenue and expense situation in a given city and the impact of Federal revenue sharing on the city.

The results of all audits under our proposal would become a public document, allowing citizens to evaluate for themselves the performance of their city's government and the logical uses to which revenue sharing money should be placed. Because this year's Revenue Sharing Act is likely to provide for citizen participation in the local decisions on how to spend Federal revenue sharing money, we believe that a publicly available audit will allow for informed citizen participation. A complete, public audit of all projected budgets will prevent the public from being beguiled by those who would cite misleading or inaccurate balance sheets in order to advance their own objectives. Such public accounting and disclosure will help prevent a city from spending more money than prudent is or wise or in categories that are unnecessary.

If the facts are stated properly to the public, the Federal Government need not be as concerned about local misuse of revenue sharing dollars. This . year's Revenue Sharing Act, as now being considered in subcommittee, is unlikely to retain the categorical spending requirements of the 1972 act. There will be few "strings attached" to the use of the Federal moneys. In this light, the least the Federal Government should ask is that reasonable assurances be given that the budgeting procedures of the recipient bodies conform to good accounting standards and are such that one can assume Federal funds are being properly managed.

I commend this legislation to your attention, and I hope that in addition to the provision calling for an audit of last year's municipal budget adopted by the subcommittee today, that the requirement of audit for a city's prospective budget will also be adopted.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks and include therein extraneous matter on the subject of the special order today by the gentleman from Iowa (Mr. MEZVINSKY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DEPENDENCE ON OIL, COAL AND GAS MAY CONTINUE PAST THE YEAR 2000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I would like to direct the attention to my colleagues to a thoughtful analysis by James C. Tanner, which appeared March 29 in the Wall Street Journal.

Mr. Tanner suggests that the United States will still be dependent on oil, coal, and natural gas by the year 2000, in spite of efforts to develop alternative sources of energy.

At this point, I would like to insert the article in the RECORD:

The Future Revised—No Crippling Shortage Of Energy Expected, But Cost Will Be High—Oil Could Start to Vanish By 1990s—Coal Supplies Will Help Fill the Gap—Solar Power's Small Role

(By James C. Tanner)

The primary sources of energy today are coal, oil and natural gas. In the year 2000, energy experts generally agree, the chief sources of energy will be coal, oil, and natural gas.

This may suggest that little has changed since 1966, when this newspaper reported that the earth still held enough fossil fuels to keep homes warm and factories humming for centuries. But a lot has changed. In 1966, nuclear power was expected to hold a commanding position among energy sources in 2000. The combination of near-limitless supplies of nuclear power and vast resources of fossil fuels was expected to produce abundant and cheap energy even though consumption would triple by 2000.

Nuclear power today faces an uncertain future. Much else has changed since the rosy forecasts of a decade ago. The environmental movement and a few Arab sheikhs have rewritten the world's energy textbooks. Thanks to the oil cartel and the 1973–74 Arab oil embargo, petroleum prices have quadrupled. U.S. oil output has peaked, and it is now declining.

Energy, then, may not be so abundant in 2000. It certainly will not be cheap. And so it will be used in lesser amounts than prophets in 1966 predicted. But the cost, rather than the availability, will constrain the use of energy. "There won't be a world-wide energy shortage this century," says John H. Lichtblau, executive director of the Petroleum Industry Research Foundation.

In short, although right now the world is floating on a glut of oil, the decades-long era of cheap energy has ended.

The economic repercussions have had a sharp impact on the lifestyles and living standards of people around the world, and for years to come the repercussions will continue. By choking off their oil, as they did during the winter of 1973–74. Mideast producers demonstrated their ability to cripple the world's mightiest nations. And oil as a political weapon creates the prospect that some future wars may be fought over it.

Ten years ago, it was inconceivable that American motorists would wait in gasoline lines because of an oil embargo. At that time, the U.S. was self-sufficient in energy. It was the world's leading oil producer, and it had enough coal to last 300 to 400 years or more. In a pinch—like the Suez crisis in 1957 it could rescue European nations by sending them oil they lacked.

NEEDED: ANOTHER NORTH SLOPE

The U.S. still has lots of coal, which may be its energy salvation. But it is no longer self-sufficient in energy. The Soviet Union has overtaken it in oil output, and the U.S. is becoming increasingly dependent on foreign oil. Thus the implications of a future embargo are growing more serious.

Today, nearly 40% of the oil consumed in the U.S. is imported as crude oil or as refined products. "At anticipated production and consumption rates, we probably will be importing half the oil we consume by the end of the decade," says Howard W. Blauvelt, chairman of Continental Oil Co.

U.S. petroleum production, currently 8.1 million barrels a day, has fallen since 1970, when it peaked at 9.6 million barrels a day. By 1978, domestic oil output probably will level as new supplies flow from Alaska's North Slope. The leveling, however, is expected to be only temporary. Unless new fields of the magnitude of the North Slope are found, in Alaska, offshore or the lower 48 states, output will fall again. Even if big new fields are found, energy analysts say, the rise in consumption from the U.S.'s modest population growth alone will keep widening the gap between domestic oil supplies and demand.

Most of the oil needed to fill that gap will have to come from Mideast fields, the analysts agree. Yet, political and economic obstacles aside, will there be enough of this oil to meet U.S. needs as well as those of other oil-importing nations?

LIVING OFF RESERVES

Big new oil producers are emerging, notably Mexico and China. It's possible that some giant new reservoirs, like the North Sea fields, will produce a lot of oil before 2000. This new flow could be large enough to break the price of oil, if not the structure of the cartel. Even so, oil economists expect that world consumption will exceed the rate at which new reserves of oil are added. They doubt, too, that anything like the vast reservoirs in the Mideast will be found anywhere else. "We have thus entered an era during which we will be continually drawing down reserves of oil and gas," says Clifton G. Garvin Jr., chairman of Exxon Corp.

Many oil analysts agree with studies by Texaco Inc. that suggest the world's output and reserves of oil will start their final long decline about 1990. "Unlike the present situation," says Maurice F. Granville, Texaco's chairman, "we will then be competing for world oil in a market where supplies are becoming increasingly scarce."

The petroleum era appears likely to last until 2020 or beyond. Until then, the Petroleum Industry Research Foundation's Mr. Lichtblau says, "oil will still be widely used for transportation with other energy needs met by other sources."

In 1966, it seemed easy to predict that those "other sources" mainly meant nuclear energy. This newspaper reported forecasts that there would be "almost limitless supplies of power from nuclear plants, expected eventually to be the cheapest source of energy almost everywhere on the globe." It already has become clear, however, that nuclear power is no panacea. In fact, some observers consider it a sick industry. Its costs are escalating. Environmentalists are attacking it on a broad front. Uranium shortages threaten it, and some people think the world will run out of uranium before it runs out of oil.

Once highly touted, "breeder" reactors that would create plutonium for use from their own spent fuel are highly expensive and may never prove economic. There is vociferous and growing opposition to the widespread use of plutonium fuel because of numerous health and safety hazards. Without breeder reactors, some energy researchers say, nuclear power's future is limited.

It will, nevertheless, be important. "The atom is here to stay," says David E. Lilienthal, who formerly headed the Tennessee Valley Authority and the first Atomic Energy Commission. The U.S. now has 58 conventional uranium reactors in operation. The nuclear power industry expects the number to exceed 200 by 1985. By the end of the century, 800 are likely to be needed. But whether they will be running is conjectural.

One of the more optimistic projections for nuclear power comes from the U.S. Bureau of Mines. In a new series of energy forecasts, the bureau predicts that nuclear power will supply a little more than 28% of the nation's energy by 2000, up from less than 2% today. The forecast assumes, however, that breeder reactors will operate commercially between 1985 and 2000.

Nuclear power offers "the cleanest and most environmentally satisfying solution" to the nation's energy problem, according to William W. Havens, Jr., a professor of physics at Columbia University. He concedes that "the uncertainties" today are "larger than the projections" of its possible use in 2000. The future of nuclear fusion is even more speculative, he says.

Fusion merges, rather than splits, atoms to produce energy, and a decade ago it was hailed as the ultimate energy source, largely because the hydrogen it would use as fuel is so abundant. But no one yet knows how to build a fusion reactor, though it theoretically is possible, or whether it would work.

An alternative is the burning of hydrogen as a fuel. It already is being extracted from oil and natural gas for certain manufacturing and refining processes. Every molecule of water contains hydrogen, and it can be liberated by an electrical process. It is nonpolluting, releasing only water when burned as a fuel. But processing it is so costly that using it as fuel would require, in effect, retooling the nation's energy system. And energy students think it will have no important role as a fuel until well after 2000.

One renewable source of energy is available: The sun. Nuclear physicists like Prof. Havens and environmentalists like Barry Commoner agree on its promise for supplementing and eventually supplanting fossil fuels. By restoring the backyard clothesline, any homeowner even now can substitute solar energy for some fossile-fuel energy at very little capital cost. And on the premise that any building under the sun is "essentially a solar collector," Walter S. White, a Colorado Springs, Colo., architect, has long designed homes to benefit from sunlight.

Mr. White has patented a "solar heat exchanger window-wall" assembly that he says will heat and cool a building. He proposes the construction of central solar power plants to provide the energy needed for new, energy-sufficient communities limited to 7,000 or 7,500 residents.

The sun, however, bestows its blessings unevenly. To supply much power, solar collectors would have to cover vast acreages in the Southwest. And equipping homes with solar devices is extremely costly; the fabrication of solar devices itself requires a great deal of expensive energy. Futurists generally agree that nobody now living will ever live in a solar-powered, cheap-energy utopia.

Shell Oil Co. goes as far as anyone else in projecting the role of solar power. A study by Shell, which owns an investment in a Delaware-based solar energy concern, suggests that by 2000 "all forms of solar energy could reasonably be expected to supply as much as 15% of total U.S. demand."

A variety of other seemingly farfetched sources may provide an even smaller proportion of the nation's energy. Burning trash, for example, may fuel some generators. The University of Rochester in New York has launched an ambitious industry-financed undertaking to use the laser in the controlled fusion of hydrogen nuclei, an idea that boasts some theoretical superiorities to other fusion proposals. But this program is more than three decades away from producing "clean, virtually limitless power," if it ever does so, laser-fusion experts concede.

Schemes to harness the power of ocean tides and of heat in the ocean and deep within the earth have been designed. Geothermal, or steam, energy already is being produced from relatively shallow wells drilled much like oil wells. Processes are available, though they are costly, to produce oil and gas from the nation's abundant oil-shale and coal reserves.

TRW Inc., the electronics conglomerate, has done special studies and development work for government agencies in solar energy, geothermal sources, oil-shale potential, coal gasification and large-scale energy storage batteries. Yet John S. Foster, Jr., general manager of TRW's energy systems group, says that "in 2000, we are still going to be using oil, gas and coal and still running nuclear plants."

This is so partly because even any dramatic energy discoveries or breakthroughs will require years to become commercially important. The U.S. Energy Research and Development Administration (ERDA) notes that historically it has taken some 60 years from the point at which a transition to a new energy source was first discernible until that source reached its peak use and began to decline. Domestic supplies of oil and gas appear to have reached their peak, the ERDA concludes, "It is essential, therefore, to plan now for the transition from oil and gas to new sources to supply the next energy cycle."

If the decline of oil and gas creates most of the gap between the supply of energy and demand, the gap is most likely to be filled by an old fuel—coal. The U.S. is richly endowed with it, holding at least one-fourth of the world's reserves, more than enough to offset any decline in oil and gas output. But coal will not be cheap. Environmental restraints, a shortage of skilled manpower to exploit all the mines that will be needed and enormous capital requirements will make it dear. Even so, output by 2000 is expected at least to double and possibly triple last year's record 640 million tons, and coal may supply more than 25% of total energy demand—as much as, or more than, nuclear power will supply.

Projections of growth in total energy demand have been sharply curtailed by rising petroleum prices. Most estimates now put the annual rate of growth in total energy demand in the U.S. at less than 3% a year for the rest of the century, compared with 4% to 5% a year in the period before the 1973–74 oil embargo. Such figures lead Mr. Foster of TRW to conclude that "the biggest revolution in energy will be in the business of energy consumption."

"EDUCATION: TRUTH IN LABELING"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 15 minutes.

Mr. CHAPPELL. Mr. Speaker, I take this opportunity to bring to the attention of my colleagues a timely and most dramatic development that promises immediate and long-range benefits and economies for the entire field of higher education. This development provides for a common course designation and numbering system. I recommend the further inquiry and consideration of the legislative and educational leaders of the several States and the Federal Government—and pay special tribute to the perceptive and courageous individual most responsible for this contribution.

Legislators at all levels are painfully aware of growing crises throughout education. At the same time, they are plagued with inadequate, conflicting, and sometimes distorted information concerning program status, direction, and needs. Many have come to consider education an enigma, a largely impenetrable and unmanageable morass.

The problem is heightened by the exponential growth and fragmentation of knowledge, as well as the rapid emergence of new disciplines. Subject matter in some areas literally doubles each decade, with an attendant proliferation of curriculums. Faculty, responsible for overseeing and modernizing curriculums, have been hard pressed to cope with this acceleration within the constraints of time and financial resources. One reason for this has been lack of an adequate conceptual framework, plus necessary course and curriculums analyses, from which to assess the status of education at any given time.

Students, too, have been frustrated by inadequate and erroneous information.

Preservation of our precious academic freedom obviously dictates that curricula and course composition will continue to vary markedly not only from State to State, but frequently from school to school within the same State. Since time immemorial, however, there has been no means by which courses and curricula could be equitably related. What the college catalog seems to say is not always what is taught. Educational counselors also find themselves handicapped by lack of adequate information with which to help students plan academic programs. The net result has been a plethora of poorly advised students, innocent victims of inconsistent and sometimes arbitary decisions concerning program requisites, course comparability, and what can and cannot be transferred.

Consider, Mr. Speaker, the typical highly mobile student of today, who, when transferring to another institution, learns that he must remain in school an extra semester or even extra years because courses he completed at his previous school are not accepted, or because the content of basic courses failed to provide sufficient foundation for advanced work. The loss to the student in time, money, and foregone income is direct and measurable. The indirect dollar loss to the taxpayer is even greater, because the majority of student educational costs in public institutions are met through legislative appropriation. Added funds must be made available for the prolonged period required for such a student to graduate.

Many attempts have been made by state and national organizations to provide a basic classification system for better course information and management. However, none of these have provided the kinds of comprehensive data required for such a system to be of real use.

We have made great progress in providing consumer protection for a myriad of products and services, but, in the field of education, we have accomplished little or nothing in this respect. Institutions and faculty groups can concoct any courses or curricula they choose—and this is fine, but there is no "truth in labeling". Neither the taxpayer nor the direct consumer—the student or the parent—can know what it is they are paying for—or how it compares with what is offered elsewhere. And we, as legislators, are trying to meet what appears to be increasing needs for education within decreasing budgets. But how can we fathom where education is headed, if we don't know where it is?

Some 15 years ago a group of Florida college registrars, increasingly concerned over the problems faced by students, conceived the idea of a common course-numbering system. The system they envisioned would identify comparable and noncomparable courses throughout Florida's postsecondary schools. In 1971, this germinal idea was endorsed by the Florida Association of Collegiate Registrars and Admissions Officers. That group strongly urged development of a common numbering system throughout all Florida postsecondary institutions. In 1972, the Florida State committee that screens Title V grants, recognizing the potential value of such a system, unanimously approved funding for an initial effort—the first year's work of a "Statewide Common Course Designation and Numbering Project." Dr. Michael A. DeCarlo, of Tallahassee, Fla., was selected to manage the effort. The Florida Legislature later endorsed the project and appropriated funds for its continuation. In so doing, the lawmakers praised the public colleges and universities as well as the State educational agencies for their initiative in seeking more effective means for curricula management.

When Dr. DeCarlo began this project, he had little more than the kernel of an idea. No guidelines or methodology had been developed for relating the concept to the real world of postsecondary courses and curricula or to the diverse ways of communicating them through college catalogs. No other State had undertaken a project of such complexity and magnitude. To be analyzed, classified and cataloged was an inventory of more than 55,000 courses offered by some 70 Florida institutions. Undaunted, and with only one part-time assistant, he began his mammoth task.

Dr. DeCarlo first conceived and developed a classification structure, a framework that might be applied to all existing and emerging disciplines at all levels of postsecondary education. His aim was to provide a comprehensive means for ordering and increasing the visibility of all course offerings.

To test his concepts, Dr. DeCarlo voluntarily presented them to the National Center for Higher Education Management Systems. The leaders of this organization were most impressed with the doctor's work and agreed with its broad implications toward planning, articulating, organizing, managing, and evaluating educational programs at institutional and State levels. The organization concluded not only that the logic and methodology were basically sound, but also that the system clearly was more comprehensive and potentially valuable than any known previous effort.

Subjecting his work to further scrutiny and to test his methodology, Dr. DeCarlo established a task force on library science and related technologies. The basis of his rationale was that this profession, perhaps more than any other, deals continuously with problems of classifying knowledge. The end result was a strong endorsement of his approach. The Florida Department of Education Management Information Committee reported to the State Commissioner of Education:

> The Management Information Systems Committee wishes to underscore the importance of a common course numbering system. Without such a system, possibilities for state-level management of postsecondary education will be limited. It is essential that the course numbering system be implemented for the Commissioner, the Division Directors, and institutional officials to carry out their management responsibilities. We encourage you to exercise continuing support for the timely completion of this project.

Dr. DeCarlo then established 80 major-discipline task forces, comprised of 600 faculty members from Florida's 9 public universities, 28 public community colleges, 6 private colleges and universities, and 26 area vocational centers. All postsecondary programs in Florida were represented—ranging from vocational to professional, and undergraduate to graduate levels. Each task force was charged with developing a classification system for its particular discipline and for identifying all related course offerings—both those that were comparable and those apparently unique. The objective was a standard coding system.

During the course of this project, the National Center for Educational Statistics employed a management consulting firm, the Educational Management Services Corp. of Minneapolis, Minn., to develop a classification system covering subject matter at all educational levels. The consulting firm, under the direction of its principal investigator, Dr. James R. Sherman, began by reviewing Dr. DeCarlo's work. Recently, Educational Management Services wrote the Honorable Reubin Askew, Governor of Florida:

> We would like to take this opportunity to give an unsolicited commendation on the efforts that you and the educators in Florida are making with the Course Numbering Project. We have been able to extract heavily from the materials and find them extremely helpful in our project which has national implications at all levels of education. . . . As we introduce your material to those who are working with us, we sense a feeling that your efforts are serving as a benchmark for significant change in educational terminology.

The chairman of the Florida State Senate Education Committee, Senator Philip Lewis of West Palm Beach, and his predecessor, former Senator Robert Graham of Miami, have been staunch supporters of this project since its inception. So last week I asked Senator Lewis to send me current information so I could update myself on the status of the project. Mr. Speaker, I am pleased to report that the many Florida faculty members and State and Federal educational leaders whom I know and respect strongly support Dr. DeCarlo's efforts. They are excited over the prospects for a common course communicative device by which students, faculty, and administrators can better identify and resolve curriculum problems in education.

One of the most impressive examples comes from the nursing discipline. Nurses training is particularly difficult to deal with for at least two reasons. First, its complexities extend all the way from the most rudimentary skills of practical nursing, up to graduate and professional education. Furthermore, the widely diverse approaches to the qualification of nurses produce a general inability to equate one nurse's training package with the next. A change of schools, therefore, almost invariably results in a substantial, or even a total, loss of credits for completed work. As a consequence, most nursing schools caution their students against starting unless they are prepared to complete their training at one institution.

Dr. Carol Bradshaw, coordinator of the Florida Course Numbering Task Force on Nursing, made the following comments in a letter to Representative Richard S. Hodes, chairman of the Florida House Education Committee:

> For the very first time, I saw representatives from the major universities in the nursing discipline sit down with members from the community colleges and private colleges and actually spend two days discussing frankly and honestly how the various programs are alike and how they differ; what content was held in common; what strengths and weakness were paramount in each program; and what kinds of problems nursing students encountered when trying to transfer between programs. There was a rare feeling of communion and cooperation among the groups which brought us closer together and fostered further cooperation.
>
> I believe that no educator can continue to exercise the luxury of territorial possessiveness and that we must begin to drop some individual biases and prejudices in order to strengthen and streamline nursing education. I believe that this project is one of the best ways to begin to make visible the state of education, and to provide a plan for logical and meaningful growth.
>
> I do believe that this Common Course Designation and Numbering Project is worthwhile and actually inevitable for the future of education in this state and country. I urge you to continue your support of this effort.

From an entirely different perspective, the financial affairs manager for Florida's community colleges recently reported to the Commissioner of Education:

> I can think of no other subsystem of a management information system for postsecondary education in Florida that is more important than this one—more revolutionary. Its implications are far-reaching. It will have such great bearing on improving articulation, student movement, financing, program planning and development, not to mention visibility; and for the first time . . . the ability exists to analyze the curriculum, look at what is going on, look at proliferation, determine priorities, and many other things.

As might be expected, however, the Florida project has not been without detractors—some of them quite vociferous. These critics appear to be, for the most part, those who perceive any communicative system a threat to territorial imperatives and/or their own personal interests. They fear that course visibility might publicly reveal shortcomings, overlaps, and parochialism perpetrated at the expense of the students and taxpayers. The rallying cry for this dissident group has been "infringement of academic freedom and professionalism." To assess the validity of faculty concerns, which ranged from the chimerical, the specious, to those with some actual substance, a statewide task force was appointed to evaluate the project and make recommendations to the commissioner of education and legislature. This task force, which included faculty members from a number of disciplines and institutions, stated in its final report:

> Change must be, and is, part and parcel of educational institutions. Within these institutions, however, many "sacred cows" have been preserved and protected. Duplication and self-serving considerations have frequently led to abuses that have been obvious to faculty (and to students) but now because of the democratization of higher education with attendant escalating costs due to enrollment growth and inflation, these abuses are emerging to the point that the taxpayer and the legislator are becoming aware of them and are calling for corrective action.
>
> The pursuit of truth is the process by which educational institutions fulfill their role as societal change agents. Curriculum revision is a necessary and continuous process. The Common Course Numbering System is designed to establish a data base through an inventory of "what is," "what is alike," and "what is different." Codification through implementation and maintenance of such a system should provide for effective change in a more orderly and effective fashion. It should stimulate creative curriculum development and discourage stultification, curriculum rigidity and retention of obsolete concepts, courses, and even programs.

Based on this report, the Florida Legislature directed that development and implementation of this classification and course-numbering system be continued. The following language was included in the statute:

> The Commissioner of Education shall establish and coordinate a common course designation and numbering system for the community college and state university systems. The purpose of the common course designation and numbering system shall be to improve program planning, to increase communication among community colleges and universities, and to facilitate the transfer of students; provided, however, that the system shall not encourage or require course content prescription or standardization or uniform course testing, and provide further that the continuing maintenance of taxonomies shall be accomplished by appropriate faculty committees.

From the very beginning, Dr. DeCarlo was advised by some individuals that he should not be too open concerning the nature, scope, and purposes of his work. Specifically, he was cautioned to be selective in revealing information—thereby, he was told, opposition might be minimized. Shunning secrecy in favor of openness, however, he chose to meet head-on the challenge of resistance to change. To date, he has made nearly 300 presentations to explain his work—often to groups emotionally and openly hostile. It is also notable that at the very time some of these "guardians of the status quo" were assailing the project. Dr. DeCarlo was communicating with Florida's academic legislative leaders so they could write into law added safeguards for academic freedom. It was also Dr. DeCarlo who promoted creation of the task force that reviewed faculty concerns, and whose findings and recommendations buttressed subsequent legislative action.

Because of the inspired and unflagging efforts of Dr. DeCarlo, the State of Florida will be the first in the Nation with a sound, comprehensive, and easily understood course-numbering system that can provide:

A master inventory of all course offerings in Florida's post-secondary schools;

A common-course-numbering system to reduce time and money losses by students;

A display, by discipline, of comparable and unique courses among schools;

A standard alpha numeric system for designating courses that are common to all Florida public institutions;

An accurate data base for educational planners;

A framework for State administrators and legislators from which they can assess the status of educational programs and their relationship to current and projected needs; and

A means of equitably funding educational programs.

The outstanding quality and quantity of enlightened work produced by Dr. DeCarlo cannot be overstated. His breadth of knowledge and conceptual grasp are clearly exceptional. He has, moreover, distinguished himself through scrupulous objectivity, organizational and managerial brilliance, great physical and intellectual stamina, and an extraordinary capacity for hard work. It is safe to say that no other individual so thoroughly understands the practical and philosophical implications of such an undertaking. Dr. DeCarlo's open, sincere, and forthright approach, plus his ready willingness to consider and explore any and all views and issues of concern to those who might be affected, have secured widespread understanding and trust. In many instances, he has gained support where none existed and successfully assuaged aggressive opposition.

I am not alone, Mr. Speaker, in my observations concerning the performance of this remarkable man. As awareness and understanding of his accomplishments have grown, so too has the number of accolades; many of Dr. DeCarlo's supporters have provided me with their comments on his recent work. To cite a few:

The Florida Association of Collegiate Registrars and Admissions Officers recently and formally commended Dr. DeCarlo, stating in its resolution:

> Through professional coordination with faculty administrators, state and national-level agencies, (he) earned their respect by carefully prepared presentations, logical responses to adversaries, and a display of humility with decisiveness.

Dr. Robert Mautz, former chancellor of the State University System of Florida said in a recent letter:

> I think we must all be aware of the fact that the rest of the nation is watching the progress of the development of our common course numbering system—viewing it as a potential national model. I feel that significant progress has been made among the Florida institutions in gaining their confidence and support for the project. Dr. DeCarlo's leadership has done much to bring us to this favorable juncture.

Dr. Theodore Koschler, vice president for administration and occupational education at Miami-Dade Community College and a member of the Southern Association of College and Schools Commission on Occupational Education, stated:

> You, Dr. DeCarlo, have made a major contribution affecting both the community colleges and the universities dealing with a very difficult area of common concern. I have had opportunities to discuss our progress in this area with state and local administrators from other states, and they are amazed at the progress we have made in the short time that Florida has been dealing with this task. It is a real pleasure to work with a person of your professional integrity and expertise.

Harold Conrad, an official of the Gulf Coast Community College, recently wrote:

> I say this project is the single best project that higher education in Florida has undertaken in the 26 years of my association with education in Florida. It is a seemingly impossible task to develop a common course numbering system. But, you have made progress beyond my imagination. Keep up the good work. Get it done! We need it! You have the support of those who really know the value of the project.

Mr. Speaker, I am greatly pleased today to recognize my distinguished fellow Floridian, Dr. Michael A. DeCarlo, and the profound and lasting contribution he has made. For more than 10 years, I have followed with great personal interest the professional accomplishments and growth in national stature of this singularly talented man. He possesses that rare blend of leadership, dedication, and devotion to educational excellence that makes him an inspiration to all but the most diehard reactionaries.

I commend the pioneering achievements of Dr. DeCarlo to the attention of my colleagues, the U.S. Office of Education, other Federal and State educational leaders, and private foundations. I also urge full support for him during the crucial final stages of project development and implementation. It is far too important—and of too much ultimate benefit to education throughout the United States—to possibly founder now on the rocks of narrowness or self-interest.

PANAMA CANAL: THE SIGNIFICANCE OF ANGOLA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the growing number of articles now being published on the Panama Canal question, already a major Presidential election issue, I have noted that the people of our country are far ahead of their Government in evaluating the challenge on the isthmus in a realistic manner.

An example of such writings is a recent guest editorial in the San Diego Examiner by Vice Adm. L. S. Sabin, a distinguished naval officer who has long been a student of geopolitical matters, including the Panama Canal.

In this article, he includes a discussion of the possible future use of Cuban troops in the Caribbean, describes the recent action of our Joint Chiefs of Staff in acquiescing with the State Department's drive for surrender of U.S. sovereignty over the Canal Zone as "unbelievable," stresses the dangers in Soviet control over South Atlantic and Caribbean sea lanes and calls for a revival of the Monroe Doctrine to counter the Brezhnev doctrine.

In order that the Congress and executive branch of our Government may have the benefit of his views derived from experience as well as study, I quote the indicated article as part of my remarks:

MILITARY—THE SIGNIFICANCE OF ANGOLA

(By Vice Adm. L. S. Sabin, U.S. Navy, retired)

"He who fails to remember history", wrote George Santayana; "will be compelled to repeat it."

For more than half a century our people have failed to heed the lessons of history as they watched the relentless advance of world Communism. They are now being compelled to repeat that history as the Hammer of Communism continues to pound people of other nations into submission and the Red sickle slashes away their liberty. Angola is the most recent example of Communist expansion, except in this case the Soviet Union used an expeditionary force of 10,000 Cuban troops to bear the brunt of the fighting.

President Ford requested from the Congress authority to counter the Soviet Union's take-over of Angola. He was rebuffed. With a vision no farther than their long noses, a majority of Congress turned down the President in their smug satisfaction that they had averted another Vietnam. Angola has been hauled inside the ever growing sphere of Communist domination. The United States of America, along with the Free World, is now paying the price of appeasement in another of a long series of political retreats in the face of the Communist menace.

Why is a little country ten degrees below the equator, on the west coast of Africa, with a population of only a few million people and an area of less than a half million square miles so important to Soviet designs that they not only would bring it under Communist control but that they would underwrite the overseas transit of an expeditionary military force of between ten thousand and twelve thousand Cuban satellite troops? The answer to the Soviet involvement lies in the strategic position of Angola. The answer to the use of Cuban satellite troops lies probably in the opportunity to combat-train a military force for possible use in another area.

Angola is touched on the north by the Belgian Congo. To the east is northern Rhodesia; on the south is Southwest Africa and to the west rolls the South Atlantic Ocean. The establishment of military bases in Angola will enable the Russians to project its armed mobility into any part of southern Africa it chooses and at any time it chooses. Of far greater importance, however, is control of the shipping lanes along the west coast of Africa, between the Indian and South Atlantic oceans and between Southern Africa and the western hemisphere. Not one shipload of strategic cargo, not one oiler filled with petroleum or its by-products will traverse those shipping lanes without the acquiescence of the Soviet Navy:—and their Navy is now adequate to meet the challenge. By the subjugation of Angola, the Soviet Union has accomplished a major step in its quest for a dominant global strategic advantage.

Columnist Isaac Don Levine believes that Soviet use of Cuban troops is linked to their possible use later within the western hemisphere. In an article in the San Diego Union on February 4, 1976, Mr. Levine stated that Angola is being used as a testing ground for Cuba's 10,000 man expeditionary force. Citing the Brezhnev Doctrine which proclaims the right of the Soviet Union to wage war in any part of this planet where anti-Communist activities appear, he said that it hangs like a cloud over the Caribbean as Cuban troops are being trained for further use inside the perimeter of the United States.

If Mr. Levine is correct in his assessment—and this observer believes he is—the focal point of trouble will probably be in Panama now under the dictatorship of the Leftist Torrijos. Negotiations for a new Panama Canal treaty are now being held by which the United States would surrender its sovereignty over the Canal Zone and its operational control of the canal. An all-out drive has been launched by our State Department, with Administration approval and with, of all things, the unbelievable acquiescence of the Chairman of the Joint Chiefs, General George Brown! Such a surrender of U.S. legal rights would ultimately bring that vital strategic seaway across the Isthmus of Panama which connects the Atlantic and Pacific oceans under Communist control; and history has shown that no amount of safeguards written into the treaty will prevent this. With Red Cuba already flanking the Windward passage through which travels eighty percent of the Caribbean shipping, vital cargoes of strategic materials destined to or from the United States will or will not arrive at their destinations as the Communists choose. This situation along with Communist control of the sea lanes in the South Atlantic and Indian oceans will deal the United States a catastrophic strategic blow.

In keeping with recent examples of government perfidy has been the use of political blackmail by the proponents of the treaty for surrender of our Canal Zone sovereignty in order to pressurize support for the new treaty. We are being told that if we don't knuckle under, the Canal Zone will become a scene of violence. In short the United States is being asked to give away one of our most important strategic areas or suffer the consequences of violence. Instead of pursuing that course, our government should be making a determined effort to revive our Monroe Doctrine as a counter to the Brezhnev Doctrine within our own hemisphere.

Now, after refusing to lift a finger in support of the President's request to counter the Soviet action in Angola, the Congress is being pressured to adopt a similar pusillanimous attitude towards a Communist take-over of the Panama Canal. Where is it all going to end? With a Communist dominated world?

In 1938 the great Churchill grimly warned his countrymen of the imminent danger facing England with only a precarious chance of survival. Then he added: "There may even be a worse case. You may have to fight when there is no hope of victory because it is better to perish than to live as slaves." This is precisely the situation which the United States and the free world face today. We are negotiating from a position of military weakness. The Soviets hold the blue chips. Unable to insist, we can only ask. The Soviets not only can insist, they can demand—and they do. They tested us in Angola and found us wanting. We were compelled to repeat history.

Only by a resurgence of our national courage with a determined will to preserve our precious liberty at all costs can we hope to survive as a free nation.

(NOTE.—Adm. Sabin has contributed numerous articles and lectures on global problems. Prior to retiring to LaJolla, he was the Chief of Staff to the Supreme Allied Commander, Atlantic NATO. His many sea commands included Commander, Amphibious Forces, Atlantic Fleet.)

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE ANNOUNCES HEARING ON SUPPLEMENTAL SECURITY INCOME PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the Ways and Means Oversight Subcommittee is currently scheduling a hearing on the Social Security Administration's supplemental security income program for the aged, blind, and disabled. The hearing is planned for Thursday, April 8, in the main Ways and Means Committee room, from 1 to 3 p.m. The scheduling may be changed if required by the agenda of the full committee.

The hearing will concentrate on the reaction of the Social Security Administration management to the administrative recommendations contained in the SSI study group report, released January 26, 1976. The subcommittee is primarily concerned about the recommendations involving such matters as staffing, training, computer systems management, et cetera. The subcommittee will not discuss those recommendations involving legislative change, since these recommendations are under consideration by the Ways and Means Public Assistance Subcommittee.

This hearing is the fourth in a series being held at the request of Chairman ULLMAN and Acting Chairman CORMAN of the Public Assistance Subcommittee. The hearing will be designed to help measure the progress of the Social Security Administration in improving the operation of the SSI program.

DESTRUCTION OF FILES OF ILLEGAL SURVEILLANCE AND OTHER ILLEGAL ACTIVITIES: ANNOUNCEMENT OF HEARING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, the Government Information and Individual Rights Subcommittee, which I chair, has been studying the maintenance, dissemination and ultimate disposition of files created as a result of such programs as CHAOS, COINTELPRO, IRS Special Service Staff, FBI and CIA mail openings, and NSA interception of wire communications. In addition, we have legislative and oversight jurisdiction over the Privacy Act of 1974.

In that connection, I have introduced H.R. 12039, which would require that individuals who were the subjects of such programs be informed of the existence of files on them and afforded the opportunity to require that such files be turned over to them or destroyed. H.R. 12039 is an expanded version of H.R. 169, which I introduced in January 1975.

By letter dated February 24, 1976, I also requested that the CIA, the FBI, the IRS, the NSA and other agencies having such material not destroy it on their own. To begin with, it is the subjects of the programs, not the agencies which unlawfully conducted them, who should have the right to determine the disposition of files collected unlawfully. In addition, it is important that the material, which undoubtedly includes considerable evidence of illegal activities by the agencies, not be destroyed before committees such as mine conclude their inquiries into these programs.

Today I received two letters from Attorney General Levi, one striking a positive note, the other quite disappointing. In the first, Mr. Levi informed me that, on the request of syndicated columnist Joseph Kraft, he has asked the National Archives to destroy the content of the electronic surveillance conducted against Mr. Kraft in 1969 on the ground that the continued maintenance of the informatin violates the Privacy Act of 1974. Specifically, Mr. Levi ruled that the keeping of the information violates the requirements that Federal agencies may only maintain records on individuals that are relevant, timely, accurate, and complete, and which do not describe how an individual expresses rights guaranteed by the first amendment.

The existence of the Kraft wiretap was made known by Watergate investigators, but there are many thousands of Americans who are not even aware that their Government opened their mail, tapped their phones, or otherwise had them under surveillance for doing nothing more than exercising their constitutional rights. These people have a right to be informed of the existence of the files on them so that they may exercise their rights to have the files amended or destroyed, and H.R. 12039 would go beyond Mr. Levi's position by requiring that they be so notified and informed of their rights.

Mr. Levi's second letter relates to the destruction of files generally. Now that the Pike committee has completed its work, albeit without its report having been made public, and the Senate committee chaired by Senator CHURCH is about to conclude its investigation, the Congress is presented with the question of whether the moratorium which has been in effect on destruction of documents by the intelligence agencies should be extended.

In January 1975, Senators MANSFIELD and SCOTT requested that various agencies and departments not destroy or otherwise dispose of documents which might have a bearing on the work of the Senate and House Intelligence Committees.

The agreement reached by the Senate leadership with the various agencies will expire shortly, and I believe that Congress should address the question of the ultimate disposition of some of the sensitive files and records held by these agencies. I recently sent a letter to the Departments of State, Justice, Treasury, and Defense, and to the Central Intelligence Agency, requesting that the moratorium on destruction of files and records be extended until Congress has had an opportunity to act on legislation dealing with this matter. The text of a sample of the letter I sent and the responses of the agencies are appended following my remarks.

The replies I received to my letters to the agencies generally state that they have complied with their agreement, that they will "discuss the matter further" with the congressional leadership, and that any destruction will be done in accordance with Presidential order or as otherwise provided by law. The Treasury Department assures me that it has preserved the files and records relating to its Special Service staff and the secret Service has preserved its files and records relating to the assassination of John K. Kennedy. I assume, in the absence of evidence to the contrary, that every other agency has kept the files which comprise the subject of H.R. 12039.

Mr. Levi's second letter states that he will "shortly authorize the resumption" of the FBI's "routine destruction program." Mr. Levi also says that no "intelligence files" are to be destroyed. I do not question his good faith, but I suspect that we may have some differences as to what constitute "intelligence files," and that we may also differ on the extent to which the files which he does propose to destroy contain evidence vital to the investigatory efforts of the Government Information and Individual Rights Subcommittee and other committees of the Congress.

In light of these developments, the Government Information and Individual Rights Subcommittee will hold hearings on H.R. 12039, H.R. 169, and other matters relating to the disposition of the records of the agency activities in question, beginning on April 13, 1976. The hearing will be in room 2247 of the Rayburn Building and will begin at 10 a.m.

My letter and the agency response are appended:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1976.
Hon. BELLA S. ABZUG,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRWOMAN ABZUG: In light of your interest in the preservation of certain records of this Department, I thought it advisable to notify you of my request to the Archivist to dispose of certain materials relating to an electronic surveillance of Joseph Kraft in 1969.

Mr. Kraft has requested destruction of these records pursuant to subsection (d) of the Privacy Act of 1974, 5 U.S.C. 552a(d). I have determined that the records in question may not properly be maintained by this Department pursuant to that Act and must therefore be destroyed or, if of historical interest, transferred to the Archivist. As the attached form 115, submitted to the Archives, notes, I am proposing that we destroy only the documents containing or summarizing the actual content of the surveillance, not the documents which relate to the initiation or termination of it. Much of the material has already been furnished to the Senate Select Committee and information concerning the incident is contained in the files. Thus, the historic fact of the occurrence of the surveillance will be preserved, not only in the files of this Department but also in the files of the Senate Select Committee.

In my view destruction of the files at this time fulfills my obligations under the Privacy Act and yet remains consistent with your earlier request.

Sincerely,

EDWARD H. LEVI,
Attorney General.

REQUEST FOR RECORDS DISPOSITION AUTHORITY

(See Instructions on reverse)

(Leave blank.)
Job No.: NC 1–65–76–2.
Date received: March 8, 1976.

Notification to agency: In accordance with the provisions of 44 U.S.C. 3303a the disposal request, including amendments, is approved except for items that may be stamped "disposal not approved" or "withdrawn" in column 10.

Date: Archivist of the United States.

To: General Services Administration, National Archives and Records Service, Washington, D.C. 20408.

1. From (agency or establishment): Department of Justice.

2. Major subdivision: Federal Bureau of Investigation.

3. Minor subdivision: Files and Communications Division.

4. Name of person with whom to confer: Mary C. Lawton.

5. Tel. ext.: 2059.

6. Certificate of agency representative: I hereby certify that I am authorized to act for this agency in matters pertaining to the disposal of the agency's records; that the records proposed for disposal in this Request of ——— page(s) are not now needed for the business of this agency or will not be needed after the retention periods specified.

[X] A. Request for immediate disposal.

[ ] B. Request for disposal after a specified period of time or request for permanent retention.

C. Date: 3/8/76.

D Signature of agency representative:

E. Title: Attorney General.

7. Item no.: 1.

8. Description of item (with inclusive dates or retention periods): Contents of sealed file which include 115 documents, 48 of which are original (some are classified Top Secret) and 67 duplicates. The contents were ordered removed from the general files of the Federal Bureau of Investigation by the Attorney General and sealed. The material relates to conversations overheard during a 1969 electronic surveillance.

The sealed file consists of transcripts of conversations and memoranda describing, summarizing and transmitting product of electronic surveillance. Documentation of the initiation, implementation and termination of electronic surveillance project is included in files that will be retained in the FBI in its approved Records Control Schedule. Continued maintenance of the records covered by this disposal request conflicts with the provisions of the Privacy Act of 1974, 5 U.S.C. 552a(e) (1), (5) and (7).

9. Sample or job no.

10. Action taken.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1976.
Hon. BELLA S. ABZUG,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRWOMAN ABZUG: You have asked me to have the Federal Bureau of Investigation refrain from destroying any material that might be useful to a future Congressional oversight committee. As you know, the Bureau has, since the Senate leadership requested a moratorium on destruction of files January 27, 1975, refrained from destroying any materials. It has done so in abundance of good faith, but the logistical burden of this policy has been very great. The Bureau, with the concurrence (enclosed) of Senators Hugh Scott and Mike Mansfield who made the 1975 request, intends to renew its routine destruction programs described in the attached memorandum.

You will notice that no intelligence files are sought to be destroyed. I believe the resumption of the routine destruction program—which is also consistent with Archival requirements—will in no way impede the responsibilities of Congressional oversight committees and will result in a considerable savings of money. I intend shortly to authorize the resumption of the destruction program.

Sincerely,

EDWARD H. LEVI,
Attorney General.

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., March 30, 1976.
Hon. EDWARD H. LEVI,
Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Thank you for your letter of March 29, 1976 in which you inform me of your request that the Archivist dispose of the content of the electronic surveillance conducted in 1969 on the columnist, Joseph Kraft.

I am gratified that you have taken this action, and want you to know that I agree with your interpretation of Sections (e) (1), (5) and (7) of the Privacy Act. This decision, as far as I know, is the first interpreting of these vital provisions of the Act.

On February 24, 1976, I introduced a bill, H.R. 12039, to provide that the subjects of several programs, including COINTELPRO, be informed of the fact that they were subjected to surveillance and giving them the opportunity of having the file on them destroyed. The programs or operations covered by my bill include mail openings, illegal entries, warrantless wiretaps, monitoring of international communications, and the programs known as CHAOS and the Special Service Staff of Internal Revenue, as well as COINTELPRO. I had previously, on January 14, 1975, introduced H.R. 169 to amend the Privacy Act to provide for expunging of certain files.

I intend to hold hearings on H.R. 169, H.R. 12039 and related matters involving records of these activiies on April 13, 1976. If possible, we would appreciate having your testimony at that time. I would, of course, also appreciate having your support for the bills.

Sincerely,

BELLA S. ABZUG,
Chairwoman.

OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 24, 1976.
Hon. CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation, Washington, D.C.

DEAR MR. DIRECTOR: You will recall that we wrote to you on January 27, 1975, requesting "that you not destroy, remove from your possession or control or otherwise dispose of documents . . ." which might be pertinent to the investigation which was provided for by S. Res. 21. We are now advised by Senator Church, as Chairman, that this moratorium is broader than necessary at this time.

Accordingly, we rescind our request of January 27, 1975, to the end that you may resume the Bureau's routine records disposal program. Our understanding is that the files involved in that program do not relate to security and intelligence matters.

With appreciation for your cooperation, we are

Sincerely yours,

Mike Mansfield,
Majority Leader.
Hugh Scott,
Republican Leader.

March 4, 1976.

The Attorney General,
Director, FBI,
U.S. Senate Select Committee on Intelligence Activities:

Enclosed for your approval and forwarding to the committee is a letterhead memorandum outlining the FBI's recommendation for the reinstitution of the Bureau's normal file destruction program. A copy of this letterhead memorandum is enclosed for your records. This letterhead memorandum is in response to Chairman Frank Church's request that the FBI obtain the concurrence of you in the reinstitution of this program. The request of Chairman Church was contained in his letter to me dated February 20, 1976. A copy of this letter is enclosed as well as a copy of my letter to Chairman Church dated January 27, 1975.

All of the FBI's file destruction programs are approved by the National Archives and Records Service as well as furnished to the Assistant Attorney General for Administration. The problems presented by the continuing retention of the materials are such that I ask that this matter be handled as expeditiously as possible.

March 4, 1976.

U.S. Senate Select Committee on Intelligence Activities

Reference is made to the letter of Chairman Frank Church to Honorable Clarence M. Kelley, Director, Federal Bureau of Investigation, dated February 20, 1976, which requested the Attorney General's concurrence in the FBI's reinstitution of the destruction of certain FBI documents and files.

By letter to the Director of the FBI dated January 27, 1975, from Senate Majority Leader Mike Mansfield and Minority Leader Hugh Scott, the FBI was advised of the U.S. Senate's intended investigation and study of intelligence activities by the FBI and other Government agencies. The scope of this investigation and study was described in Senate Resolution 21 of the 94th Congress.

The aforementioned letter specifically requested the FBI not to destroy or otherwise dispose of any records or documents which might have a bearing on the subjects under investigation or relating to the matters specified in Section 2 of Senate Resolution 21. That Section of the Resolution described the Senate's extensive interest in the domestic intelligence as well as foreign counterintelligence activities of Executive Branch agencies including the FBI.

In accommodation of that request, Director Kelley immediately issued instructions to all offices and divisions of the FBI establishing a moratorium on the destruction of all records of whatever description. In retrospect, the FBI now feels that the moratorium need not have been as all-encompassing as that, but this was done to assure that there could be no question of its intention to comply fully with the request with regard to the preservation of relevant records in which the Senate might develop an interest.

It is now more than one year since the inception of the moratorium on the FBI's regular records destruction program. For your information, the FBI's regular destruction program, as approved by the National Archives and Records Service and the Department of Justice, is designed to prevent retention of masses of records well beyond the period during which they may serve a useful purpose. Further, our records destruction program, as approved by the National Archivist, permits the destruction of those records which are deemed to no longer possess evidentiary, intelligence, or historical value. The moratorium, which was not expected to last as long as it has, has created substantial administrative burdens not only at FBI Headquarters but throughout the 59 field offices. The suspension of sound records management and file destruction practices in many areas is causing very substantial space and storage problems.

The FBI now proposes that that portion of its records destruction programs which do not pertain to or concern classifications of files which would fall within the general description of "security files" be reinstituted. Those files which would not be affected by the reinstitution of the file destruction program would include all files on domestic intelligence matters, extremist matters, racial matters as well as foreign counterintelligence matters. The files which the FBI proposes to resume routine destruction of in accordance with its established records retention plan include the following: files relating to criminal investigations, suitability or applicant-type investigations, correspondence files, and files of an administrative nature generally.

Select Committee To Study Governmental Operations With Respect to Intelligence Activities,
Washington, D.C., February 20, 1976.
Hon. Clarence M. Kelley,
Director, Federal Bureau of Investigation, Washington, D.C.

Dear Director Kelley: I have considered your letter of January 12, 1976, regarding the request of the Majority Leader and the Minority Leader on January 27, 1975, that the FBI not destroy any records which might have a bearing on matters specified in Senate Resolution 21.

The Select Committee deeply appreciates your instructions issued immediately after the request establishing a moratorium on destruction of all FBI files of whatever description. We understand that this moratorium has been costly and has produced substantial administrative burdens.

Therefore, the Select Committee would raise no objection to the resumption of destruction of certain records which would have no relationship whatsoever to the matters specified in S. Res. 21. We are concerned, however, that resumption of routine destruction in accordance with your established Records Retention Plan may result in destroying materials which might be of use in connection with the work of a future Senate committee engaged in oversight of the FBI.

Consequently, we suggest that you confer with the Attorney General so as to ensure that he is satisfied that reinstitution of destruction under the Records Retention Plan is consistent with his policies regarding the availability of materials for future Congressional oversight, as well as for effective supervision of the FBI by the Attorney General.

I will be happy to recommend to the Majority Leader and Minority Leader that they endorse resumption of records destruction, upon receipt of notification that the Attorney General has approved such destruction after considering the concerns stated above.

Thank you again for your continued cooperation with the Select Committee.

Sincerely,

Frank Church.

Office of the Attorney General,
Washington, D.C., March 1, 1976.
Hon. Bella S. Abzug,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

Dear Madam Chairwoman: I have your letter of February 24 which requests that the moratorium on destruction of files and records be extended "until such time as Congress has had an opportunity to act on legislation dealing with this matter."

I have referred your letter to various officials in the Department of Justice for a further analysis of the effects of such a general postponement. I realize that the postponement is related to investigations of the Pike and Senate Select Committees, but this constitutes a broad area. As soon as I have their analysis and recommendations, I will write to you again.

I do want to point out, however, that one matter of special interest to the Edwards Subcommittee of the House Judiciary Committee was the adoption of procedures for the destruction of some material, and I thought it was considerable progress when our guidelines committee adopted as a matter of principle that there should be some weeding out of files.

In addition, there are some instances where retention of material might be opposed by those who were the subject of the material.

As you know, the request that the Department refrain from destroying documents came from the Senate leadership, and no similar request was made by the House leadership.

Sincerely,

Edward H. Levi,
Attorney General.

House of Representatives, Government Information and Individual Rights Subcommittee of the Committee on Government Operations,
Washington, D.C., February 24, 1976.
Mr. George Bush,
Director, Central Intelligence Agency, Washington, D.C.

Dear Mr. Bush: This Subcommittee has jurisdiction of government information policy, including the Privacy Act of 1974 and the Freedom of Information Act.

As you know, during the inquiries conducted by the House and Senate Select Committees on Intelligence, your agency agreed to refrain from destroying files and records relating to their investigations. The Pike Committee's tenure has expired and the Church Committee will report shortly.

We write now to request that the moratorium on destruction of files and records be extended until such time as Congress has had an opportunity to act on legislation dealing with this matter.

Please affirm to this Subcommittee, within 10 days, that it is your intention to honor the ban on destruction of data in accordance with our request.

Sincerely,

Bella S. Abzug,
Chairwoman.

The General Counsel of the Treasury,
Washington, D.C., March 4, 1976.
Hon. Bella S. Abzug,
Chairwoman, Government Information and Individual Rights Subcommittee, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Madam Chairwoman: This responds to your letter of February 24, to the Secretary requesting that the Treasury Department continue to refrain from destroying files and records of interest to the House and Senate Select Committees on Intelligence until such time as Congress has had an opportunity to act on legislation in this area.

In January, 1975, the leadership of the Senate requested that we not destroy records or documents which might have a bearing on the subjects under investigation. The Treasury Department complied with that request with certain necessary exceptions of which the Select Committee was made aware.

Those materials which have been excluded from operation of the destruction embargo include general tax related information of the Internal Revenue Service, investigative and protective intelligence files of the Secret Service, and criminal investigative files of other law enforcement units of the Treasury Department. The common bases for exempting these materials from the destruction embargo are that they are normally destroyed routinely in accordance with records disposal schedules and that continued maintenance of unnecessary files in these systems will interfere with the effective use of relevant law enforcement and tax information and will impose substantial records storage burdens.

In no case have we destroyed files or records which we believed might be of interest to the inquiries of the Select Committees. Thus, for example, the Internal Revenue Service has preserved the files and records relating to its Special Services Staff and the Secret Service has preserved its files and records relating to the investigation by the Warren Commission of the assassination of President John F. Kennedy.

The Treasury Department will continue to preserve this type of files and records for the duration of the Senate Select Committee's tenure. Arrangements for the proper disposition of Treasury Department files and records held by either of the Select Committees will be discussed with the Senate and House leadership as appropriate, and the destruction of any information will be made in accordance with Presidential directives and as otherwise provided by law.

Should the Subcommittee have any questions, they may be directed to Mr. J. Robert McBrien, Office of the Secretary, our liaison with the Select Committees.

Sincerely,

Richard R. Albrecht,
General Counsel.

Department of State,
Washington, D.C., March 19, 1976.
Hon. Bella S. Abzug,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Madam Chairwoman: Secretary Kissinger has asked me to respond to your letter of February 24, 1976 in which you requested that Department of State files relating to the House and Senate Select Committee on Intelligence not be destroyed.

In a letter to the Secretary dated January 27, 1975 Senators Scott and Mansfield requested that the Department not destroy or otherwise dispose of records or documents which might have a bearing on the investigation conducted by the Senate Select Committee. We have complied with their request and, at the appropriate time, intend to discuss the matter further with them.

It is our position that the maintenance of files and records, and their destruction shall be governed by the appropriate laws and regulations.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Central Intelligence Agency,
Washington, D.C., March 8, 1976.
Hon. Bella S. Abzug,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Madam Chairwoman: This is in response to your letter of 24 February 1976 regarding the disposition of CIA records which are the subject of inquiry by the Senate and House Select Committees on Intelligence.

The moratorium on the destruction of Agency documents as requested by Majority Leader, Mike Mansfield, and Minority Leader, Hugh Scott, by letter dated 27 January 1975 is still in effect and will be the subject of discussion by the Agency with them.

Destruction of Agency material will be in accordance with Presidential directives and as permitted by law.

Sincerely,

George Bush,
Director.

The Deputy Secretary of Defense,
Washington, D.C., March 5, 1976.
Hon. Bella S. Abzug,
Chairwoman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Ms. Chairwoman: Secretary Rumsfeld has asked me to reply to your letters to the Secretary and the Director, National Security Agency regarding the moratorium on destruction of files and records relating to the investigations of the Senate and House Select Committees on Intelligence.

The moratorium requested by Senators Mansfield and Scott remains in effect and the Department of Defense continues to accede to that request. Moreover, arrangements have been made with Representative Pike to ensure that the material that was made available to the House Select Committee on Intelligence will be preserved intact. We also anticipate arrangements to that effect will be worked out with the Senate Select Committee on Intelligence.

Sincerely,

Robert Ellsworth.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Dodd) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I rise in support of H.R. 12406, the Federal Election Campaign Act Amendments of 1976. In recent years the American public has become justifiably disheartened and disillusioned with the political process and in dealing with this legislation they are looking to the Congress to pass a bill which will guarantee fair and just administration of Federal campaign laws and insure an open election process.

For this reason I support the efforts of the House to reconstitute the FEC and plan to vote in favor of final passage.

However, the rule under which we are considering this bill today will not permit me to offer an amendment I had planned to submit and I, therefore, would like to take this opportunity to explain my amendment which would add two independent commissioners to the six partisan FEC commissioners already provided for in this bill.

Let us remember that the purpose of this bill is to insure the integrity of the electoral system. By adding two independent members, unaffiliated with any organized political party, we would insure that all elements of the American electorate will be represented on this Commission. As the Commission is presently constituted, only representatives of organized political parties can be members of the Commission. According to recent studies this means that the 41 percent of the American electorate who identify themselves first as Independents and are unaffiliated with any organized party have no representation at all.

There has been a significant trend in the last 20 years with the number of voters identifying themselves as Independent increasing from 22 percent in October 1952 to 41 percent in November 1973.

We in Connecticut are particularly aware of this trend because the registration figures in our State show that nearly as many voters are registered as Independent or unaffiliated with any party—36.3 percent—as are registered as Democrats—36.8 percent—and more than are registered as Republicans—26.9 percent.

In the four counties of eastern Connecticut which comprise my district, two are even higher than the statewide figure with New London Independent registration at 43.4 percent and Tolland County at 40 percent. The remaining two counties each have an Independent registration of 34 percent.

It has been argued that any effort to add people to the Commission from outside the two major parties will serve to further weaken the two-party structure. I certainly do not accept this argument because I ardently support our two-party system. Furthermore, I think that this argument belies the facts and statistics because figures demonstrate that people are increasingly refusing to identify themselves with any organized party. The trend over the last 20 years shows that this is more than a passing phenomenon, and I believe we must face the reality of the situation by recognizing the existence of this large segment of the American electorate.

I also believe that the Independent and unaffiliated voters make a healthy contribution to our election process, and I think it is only just that we recognize their participation by giving them representation within the system. It is for this reason that I offer my amendment to provide them representation on the Federal Election Commission.

VOTING ON NUCLEAR POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Talcott) is recognized for 5 minutes.

Mr. TALCOTT. Mr. Speaker, it is not often that I can applaud a Washington Post editorial for commonsense, understanding of faraway California issues, or special appreciation for future generations. When I can, I must; and I therefore applaud and recommend for your consideration the editorial of March 27, 1976, entitled "Voting on Nuclear Power." Proposition 15 is designed to impose a moratorium on nuclear powerplants until they are determined to be risk-free by two-thirds of the State legislature.

This issue, of course, is complicated and emotional and many advocates are using the debate to obscure, rather than clarify, the issue.

I thank the Washington Post for expanding the debate by thoughtful analysis which avoids the emotional rhetoric and the scare tactics which were mounting daily in California.

It is useful to step back, look ahead, and think through. It is too easy to miss the forest for the trees and become engaged in very narrow arguments which serve mostly to reinforce our long held positions which may have little objectivity and perspective.

The Post has made a valuable contribution to the debate on the Proposition 15 by giving perspective to the underlying issues.

How do we assess risk—present and future?

How do we satisfy needs—now and in the future?

What lifestyle do we want—for ourselves and the next generations?

Do we wait and see, stop and stand still?

Do we narrow our choices and alternatives or do we expand and pursue them?

We can improve the safety, we can develop the technology, we can continue the research, we can expand our future, we can maintain our standard of living—but not if we vote for the moratorium.

If the Post can vote "no," I guess I should. I urge you to read the Post editorial before you vote.

I insert the editorial at this place in the Record:

Voting on Nuclear Power

The California primary early in June will have more of national interest to it this year than presidential politics. On the ballot is another of those proposals—this one known as Proposition 15—with very broad implications. If it is adopted and subsequently held constitutional, Proposition 15 may be the death knell for nuclear power plants in California. And, if this turns out to be the case, opponents of nuclear power are likely to regard it as a signal that voters and politicians everywhere can be persuaded that such plants are too dangerous to be allowed.

The campaign for Proposition 15 is not being cast in such sweeping terms. The proposal on the ballot is called a Nuclear Safeguards Act and is being promoted as a safety measure or, at most, a moratorium on nuclear plants until they meet certain safety standards. The trouble is that the standards are such that almost by definition they could not be met. One, for instance, requires that the state legislature, after a complicated hearing process, determine by a two-thirds vote to each house that nuclear wastes can be stored so that there is no reasonable chance of any of its radiation ever escaping and hurting anyone or anything in California. Among the kinds of radiation escapes to be considered are those that result from improper storage, earthquakes, theft, sabotage, acts of war or government or social instabilities. We don't see how conscientious legislators could vote that there was "no reasonable chance" nuclear radiation from such wastes could not escape during, say, a war or revolution.

The real issue, then, on the California ballot is a yes or no to nuclear power plants. That, in our view, is not only too simple and stark a question to pose, it is also the wrong question being addressed to the wrong audience. The basic question that needs answering now is whether this country wants to have available over the next 25 or 30 years more electricity than it now has or whether it wants to go with what there is. If the answer is more electricity, as we believe it is, the choice is whether such additional electricity will come from nuclear fission, the burning of more coal, the importing of more oil or some combination of all three. If the answer is that there is to be no substantial increase in generating capacity—decisions must be made on how to allocate what is available (rationing or higher prices?) and how to change the nation's lifestyle to reduce substantially the present per person usage of energy. These are questions that have to be answered nationally and not on a state by state basis.

Too much of the debate on energy issues these days is too narrowly focused. Nuclear plants, we are told, are too dangerous to be permitted; coal mining is too destructive to people and countryside to be expanded; offshore oil presents too serious a threat to the coastal environments to be allowed; imported oil makes the nation too dependent on the whims of others. None of these matters can be considered adequately in such splendid isolation. The risks of nuclear power plants, for instance, need to be judged against the risks of the alternative power sources and, in the case of coal, these involve everything from black lung disease to air pollution.

The easy answers, of course, are the claims that solar, thermal and fusion power will provide the new energy we really need and that the nation can cut its energy usage substantially if it wants to. But no one we have encountered in the energy field believes that sources other than oil, coal, gas or fission will provide much of our energy needs in this century. And the evidence of the last two years is that conservation and even enormous price increases do not reduce energy consumption: they merely lower the rate at which its use increases.

Underlying much of the effort being made in California against nuclear power is a belief that the nation would be better off—physically and morally—if it adopted a lifestyle in which energy was less important. That is a belief that deserves to be argued, tested and explored on its own merits. But it is not one that we should back into blindly because of public rejection—one after another—of individual energy sources until no alternative to a change in lifestyle and living standards is available.

We do not think all the answers are in yet to legitimate questions that have been raised about the safety of nuclear power plants—particularly about the planned next generation of breeder reactors. But we would not like to see this option for American's future energy needs ruled out, until it is much clearer that the comparative risks of other energy alternatives are substantially lower or that the nation is ready for a drastic change in the way its people live and work.

UNEMPLOYMENT IS STILL WITH US

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ruppe) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, H.R. 5247, the vetoed $6.1 billion Public Works Employment Act, may be dead, but our unemployment problem is still very much with us. The national unemployment rate was 7.6 percent in February, and preliminary figures indicate that 29 States had jobless rates of more than 8 percent during the month of January.

Like many of my congressional colleagues, I feel that concrete action to combat this problem is long overdue; but I am reluctant to imperil the economic recovery which has already occurred by applying too much stimulus to the economy. On February 26 I therefore introduced a $3 billion compromise public works employment bill, H.R. 12166, which resurrects two portions of the vetoed bill—title I and section 303 of the title III—while allowing its costliest and most controversial portions to rest in peace.

Like the vetoed measure, this bill authorizes $2.5 billion through September of 1977 for 100 percent grants to State and local governments to speed the construction of local public works project. This grant program would only be in effect when the national unemployment rate exceeded 6.5 percent for 3 consecutive months, and 70 percent of all grant moneys would be earmarked for areas in which unemployment surpassed the national average. In addition, this bill would authorize $500 million to extend title X of the Public Works and Economic Development Act for another 9 months to fund small job-creating projects through various Federal agencies and departments. H.R. 12166 does not include authorizations for countercyclical aid or wastewater treatment plant construction—authorizations which the House did not approve in the first place—for a savings of nearly $3 billion.

The AFL–CIO Building Trades Council has estimated that title I of this bill will generate approximately 250,000 jobs in construction and related industries, and the Commerce Department has estimated that $500 million in title X grants will provide immediate work for an additional 100,000 people. As a result, this bill should provide jobs for more than half of the individuals who would have been employed under the vetoed bill at less than half the cost.

Moreover, this bill was specifically designed to avoid the long leadtimes sometimes associated with public works jobs. It compels the Secretary of Commerce to approve or disapprove grant applications within 60 days of their submission and specifies that grants can only be awarded to projects which can get underway within 90 days.

The jobs created by this bill would be in the private sector, in industries which have been particularly hard hit by the recession. We would therefore be adding real strength to the economy at the same time that we would be providing the unemployed with meaningful and productive public works jobs. The schools, hospitals, libraries, courthouses, and other public buildings which would be constructed or repaired as a result of this legislation will benefit American communities for decades to come.

In my view, this bill would give us a sensible, effective, and efficient way to alleviate unemployment. Moreover, I believe this is the sort of bill which can be enacted into law. In fact, the Senate Public Works Committee recently approved a similar measure, and the President previously expressed his willingness to consider each portion of the vetoed bill on its own merits.

I am reintroducing this bill today with a number of cosponsors from both political parties and plan to introduce it again in the future with additional cosponsors. I would therefore urge any Member who is interested in adding his or her name to this compromise public works employment bill to contact my office.

A BILL TO DESIGNATE A HOSPITAL AS THE JAMES A. HALEY VETERANS' ADMINISTRATION HOSPITAL

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SIKES. Mr. Speaker, on behalf of the entire Florida congressional delegation in the House, I am introducing a bill today to name the Veterans' Administration hospital located in Tampa, Fla., the "James A. Haley Veterans' Administration Hospital."

Such an honor will be a proper and fitting tribute to JIM HALEY who has championed the rights of veterans all the years he has been in the Congress. Through his tireless efforts and years of dedicated service on the Veterans' Affairs Committee, the veteran population throughout the Nation now has access to greatly improved medical programs and significantly expanded hospital facilities.

Prior to Mr. HALEY's service in Washington, he was an outstanding member of the Florida Legislature and his leadership talents were directed in considerable measure to legislation benefiting veterans and their families.

When Mr. HALEY came to Congress in 1953, he was assigned to the House Committee on Interior and Insular Affairs and the Committee on House Administration. In 1955, he accepted an assignment to the House Committee on Veterans' Affairs. As a veteran, he had a deep and sincere interest in all veterans and their dependents. As a Floridian, he felt that Florida's rapidly growing veteran population should have representation on a committee which is so very important to his State. He served on the Hospitals Subcommittee for 18 years and was chairman of the subcommittee the last 8 years. This subcommittee has oversight over the 166 VA hospitals and the entire VA medical program throughout the United States.

After becoming chairman of the Interior and Insular Affairs Committee in 1973, Mr. HALEY relinquished his seat on the Veterans' Affairs Committee. His new responsibilities would leave him but little time for any other committee assignment and, in his characteristic unselfish way, he wanted to provide an opportunity for another Member with fewer responsibilities to devote more time to the needs of the Nation's veterans.

During his service on the Hospitals Subcommittee, Mr. HALEY helped bring about the construction of three new Florida Veterans' Administration hospitals—Gainesville, Miami, and Tampa—and the modernization of the VA hospital facilities at Lake City and Bay Pines. During this same period, Florida's VA hospital beds were increased from 1,353 to 3,501. Congressman HALEY's work nationwide was equally important. He helped to build needed hospitals and to improve veteran facilities in other areas, and he was instrumental in preventing the closing of VA hospitals and regional offices in areas where he considered their contributions essential.

In short, Mr. Speaker, JIM HALEY fully deserves the recognition I now propose. His many years of hard work and concentrated efforts on behalf of all veterans has earned their respect and admiration. I am very hopeful that the Veterans' Affairs Committee will expedite a favorable report on this proposal to bestow the name of a very distinguished Floridian on a needed veterans' hospital as proper recognition for his long years of service to America's veterans and their families. This bill should have the unanimous approval of the Congress during the current session. I know that all of you join me in wanting JIM HALEY to be able to smell the flowers he so richly deserves.

Mr. FREY. Mr. Speaker, I am pleased and proud to join with the other Members of the Florida delegation in introducing legislation to name the new veterans' hospital in Tampa, the "James A. Haley Veterans' Administration Hospital."

I cannot think of a more fitting tribute to our distinguished colleague from the Eighth District of Florida. For 18 years JIM HALEY served on the Veterans' Affairs Committee, and was chairman of the hospital subcommittee for a number of years. Throughout his career in the House, Congressman HALEY has demonstrated a particular understanding of the problems and potential of America's veterans.

I join with my colleagues from the Sunshine State in honoring Congressman HALEY for his exceptional and dedicated service to America's veterans and to our State and Nation. He has earned our respect and deserves this honor.

Mr. GIBBONS. Mr. Speaker, I am pleased to join the other Members of the Florida delegation in introducing legislation to name the VA hospital in Tampa, Fla., which is within my congressional district, the "James A. Haley Veterans' Administration Hospital."

Early in my congressional career, in 1963, I introduced a bill calling for the construction of a veterans' hospital in Hillsborough County. JIM HALEY, as a member of the Veterans' Affairs Committee, gave his assistance all along the way toward the goal of this new VA hospital. When it was dedicated October 7, 1972, I paid special tribute to JIM HALEY and stated:

> As we dedicate this fine VA facility, designed to serve countless numbers of veterans, it is well to think back over the years to those who had a part in its beginnings—who were foresighted enough to lay the plans that have culminated in this dedication today. Our own Florida Congressman Jim Haley, as a member of the Veterans' Affairs Committee, has had an active interest in the VA Hospital.

We owe a great deal to JIM's efforts. I hope the VA hospital will bear his name.

Mr. FUQUA. Mr. Speaker, few men who have served in the halls of the Congress have served with more distinction, courage, and selflessness than Florida Congressman JAMES A. HALEY.

Elected to the 83d Congress in 1952, Congressman HALEY now serves as chairman of the House Committee on Interior and Insular Affairs. As such, he is the first Floridian ever to attain the chairmanship of a major congressional committee.

During his long and faithful service, veterans' affairs have been of prime concern and interest to Congressman HALEY, who served in the Army during the First World War. He has been compassionate for the needs of the individual veteran while at the same time bringing his vast knowledge of accounting and business in helping direct this massive program.

The entire Florida delegation has joined together to urge the naming of the new hospital at Tampa in honor of JAMES A. HALEY. I can think of no more fitting tribute to a gentleman I consider a friend and a statesman I am proud to follow.

By so doing we would honor not only a great gentleman, I think we would add to the dignity of this fine institution which will serve this Nation's veterans long into the future. I sincerely hope that this measure which we have presented will meet with favorable and immediate action on the part of the Congress.

Mr. ROGERS. Mr. Speaker, it is with great pleasure that I join the members of the Florida delegation in cosponsoring legislation to name the new hopsital at Tampa, Fla., the "James A. Haley Veterans' Administration Hospital."

Regardless of what we may do or say here, this new hospital will be a physical embodiment of the 18 years JIM HALEY served on the Veterans' Affairs Hospitals Subcommittee.

But we can and should see to it that it bears JIM's name.

This is only fitting, when it has been so much through JIM HALEY's hard work that Florida has seen the progress it has, in providing facilities for our State's many veterans.

As it was hard work and persistent effort which brought these results—hard work which JIM voluntarily took by accepting a second committee assignment so that Florida would be represented on this committee.

All of us are grateful, and I urge the support of all the Members for this bill.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that those Members who desire to do so may join in revising and extending their remarks in the body of the RECORD following my remarks on designating the Veterans' Administration Hospital in Tampa, Fla., as the "James A. Haley Veterans' Administration Hospital."

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

INVOCATION OFFERED BY REV. HENRY BAUMANN AT THE 41ST NORTH AMERICAN WILDLIFE AND NATURAL RESOURCES CONFERENCE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record.)

Mr. SIKES. Mr. Speaker, I am pleased to present for reprinting in the Record a copy of the invocation offered by the Reverend Henry M. Baumann, pastor of the Fairfax, Va., Presbyterian Church, on the occasion of the annual banquet of the 41st North American Wildlife and Natural Resources Conference. It is such an impressive prayer, particularly for those who appreciate the blessings of nature and the love of the outdoors, that I feel it should be shared with all of the Members of Congress. I am happy to be privileged to include it as a part of the Congressional Record.

It is well known, of course, that the program of the North American Wildlife and Natural Resources Conference is one in which many organizations participate in the search for the improvement and conservation of wildlife and natural resources. It is conducted under the leadership of the Wildlife Management Institute. This distinguished and widely appreciated national organization now has as its President Mr. Daniel A. Poole, who is one of the most highly respected among the Nation's conservationists. His contributions to the field of wildlife management and to conservation generally are outstanding.

The invocation follows:

Blessed art thou, O Lord our God, King of the Universe, who brings forth bread out of the earth. Blessed art thou, O Lord our God, King of the Universe, who creates the fruit of the vine. O Lord God, you made the world and called it beautiful and gave it to our management. For beauty, O Lord, wherever our eyes have seen it, in the heavens or on the earth, in the great seas or tall trees or wide plains, in the flight of the birds or the strength of the beasts; for all things humbly fashioned in time and space but bearing marks of the eternal, we bow our hearts gratefully and in reverence. In the breaking of our bread tonight be in our hunger and in our seeking for that bread that shall give us life, and in the sharing of it that we may know a peace that passes understanding, to the end that when our days on earth are over, the world and all therein will be fairer and better for our having been here for the while. Amen.

A FEW WELL-CHOSEN WORDS ON AMERICA

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, in this year of our Nation's Bicentennial, young persons throughout the country were encouraged to take a good look at 200 years of American heritage by participating in the VFW's 29th Annual Voice of Democracy scholarship program.

I am very happy to share with my colleagues what the Bicentennial heritage means to George E. Peck of Riverton, Wyo., who wrote the winning speech in Wyoming this year.

George is the young son of Robert Peck, copublisher of the Riverton Ranger, and an owner of several other Wyoming publishing enterprises.

I am pleased to recognize in George the ability that has marked his father, and his uncle, Roy Peck, as outstanding citizens of Wyoming, and as publishers second to none in articulating the issues of the day.

His article follows:

"Four score, and seven years ago, our fathers brought forth upon this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." Five score and 13 later, Abraham Lincoln's Gettysburg address is a symbol of the 200 years America has been a nation. Freedom, liberty, and justice mark the upcoming 200th anniversary of the proud United States of America.

The United States of America offers more opportunities to more individuals, groups, and organizations than anywhere else in the world, and has for almost 200 years. As we celebrate the bicentennial, we must remember all of the things the United States has to offer.

There are those who would like to use the United States' freedom as a way of receiving things that they do not deserve. But the fine criminal-justice system makes this very difficult. Even those in high places and positions, including the President and his associates, find it a worthless attempt. The check and balance system of the governments on all levels prevents any one branch from becoming too strong. Recent examples include cases involving the Central Intelligence Agency and the Federal Bureau of Investigation.

There are those who criticize the doings of government in the United States. If the criticism is legitimate, changes are gladly made. If not, the critic is not reprimanded or punished for his beliefs.

There are those who would like to see suppression of the news media. However, the first amendment to the law of the land, the Constitution, guarantees freedom of the press to provide all the news, good and bad, as well as expressing editorial opinions.

There are those who would require all Americans to attend a particular church or belong to a particular religious organization and follow its beliefs. The United States, unlike some countries, does not allow this. We are free to choose our religion, or to choose not to follow a religion. Either way, America gives its people a choice.

There are countries in this world that require people to work at the government's convenience and choice. The United States allows personal choices of places and kinds of employment as well as providing thousands of jobs. Americans unable to work are provided with funds to live on by the American government.

I have just mentioned a few of the many things that make this country, the United States of America, the best place to live in all the world. The bicentennial should mark 200 years of freedom, liberty, prosperity and happiness for its 200 million citizens. Yes, America, we've been through depressions, Watergate, an Energy Crisis, and we still are the strongest nation in the world for freedom and prosperity. I believe we will continue to be a strong free nation. That's what my bicentennial heritage means to me.

REFLECTIONS BY OUR COLLEAGUE FROM PUERTO RICO, DON JAIME BENITEZ

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am happy to insert into the Congressional Record this interview from the March 28 Sunday San Juan Star of our colleague, Jaime Benitez, written by Star Editor Andrew Viglucci.

This reveals a warm side of the Resident Commissioner for the Commonwealth of Puerto Rico. His service as President of the University system of Puerto Rico; his dedication to the Commonwealth, and a career of "being where the action is," have made him a highly respected man at home and here in the Halls of Congress.

I recently was privileged to accompany him and five other members of the Interior Committee at hearings in Puerto Rico. Despite heated differences of opinion among citizens of good will regarding "status," there was clearly evident from all citizens of San Juan a deep respect and profound appreciation for this great citizen and for the service he has rendered his beloved Puerto Rico over the years.

The interview follows:

Benitez Reflects on Politics and Politicians

(By Andrew Viglucci)

Jaime Benitez had just been asked to reflect upon politics in the United States and here in Puerto Rico.

He leaned back in the corner of the leather sofa in his "regional" resident commissioner's office located in the Old San Juan's Federal Building, gave a long, smooth stroke to his greying hair and then plunged into the question.

"One cannot dogmatize on such a thing," he said. "But allow me to think out loud with you. What is of concern is the apparent ceiling on first-rate leadership in the United States.

"It is a dismal situation that this opportunity of the Bicentennial Year has not been utilized to assess the political inadequacies, to formulate the indispensable reforms in governmental processes that are so defective, to provide what one would wish in all governments. That is, first-rate qualities of dedication, vision, leadership.

"And yet one reflects also that in the absence of a clear vision of the future it may be well if leadership is not audacious and world viewing—that blend of philosophic vision and administrative skill which often times characterizes great statesmen.

"This lack of leadership might not be so bad because it seems that the United States can afford to wait until it is more clear with itself about what its paths and roles in the political arena have to be."

There is shifting on the sofa; Benitez puts one leg under him and leans forward gesticulating in the rolling, musical-conductor-like motions that are peculiar to him.

"In that sense, it seems to me that our problem in Puerto Rico is more urgent. Because of our hard-pressed communities and because we are more fraught with problems, a society like ours needs the highest quality of leadership at its controls.

"But it seems that the whole political status struggle is one factor in weakening the selecting and attracting process which political leadership requires in Puerto Rico."

Benitez was not out to make a hard sell of the Compact of Permanent Union. In fact, the interview had been requested of him; not vice versa. But he was not about to pass up an opportunity to assess the political inadequacies of present-day Puerto Rico and to formulate an indispensable reform or two for defective processes.

"I believe that commonwealth is here to stay; no one expects it to be substituted either by statehood or independence for the next 20 years.

"It is in everyone's interest to improve it, that we may raise the overall tonality of life in Puerto Rico for the present and for the immediate future. The inability to join hands in a common effort to improve commonwealth or to support its basic outlines has been a great misfortune."

Commonwealth, Benitez said, "is nonnationalistic, yet patriotic, with self-identity preserved.

"The opposition claims that they must fight commonwealth improvement to forestall an electoral plus for the Populares. They could have avoided any such electoral advantage by supporting the fundamental changes and, if they wanted, they could have conditioned their support in Washington to a post electoral referendum in Puerto Rico.

"The argument that the new compact is an electoral ploy and, therefore, should be rejected does not make much sense in Washington where they see nothing wrong with the advancement of good things as the responsibility of those in power.

"I am deeply interested in congressional approval now, and would be perfectly happy if the referendum were to be held next year.

"Action in Washington now has nothing to do with the United Nations issue next September. It has everything to do with the fact that a new Congress is always an unknown quantity. The work already done in the clarification and endorsement of an improved commonwealth should not be lost.

"I dislike wastage; we have had too much of it."

Returning to the U.S. political condition and the coming elections, Benitez said that he "obviously" favors Sen. Henry Jackson, D-Wash., for the presidential nomination of the Democratic Party.

"Several weeks ago, I told Morris Udall (the Arizona liberal who is also seeking the Democratic nomination) that for myself as for many others the combination of Jackson-Udall as president and vice president would make a well-balanced ticket.

"If I had my rathers, I would like to see the best possible slate which the Democratic Party can offer, Hubert Humphrey for president and Ted Kennedy for vice president.

"Both are men of vision, experience, and dedication. They can regain for the American government a sense of public initiative and project a quality of leadership both at home and abroad calculated to regain for the United States government the dynamics and the thrust which our times call for."

Benitez would also like to see such a combination for reasons closer to home. He acknowledged that Hubert Humphrey as president of the United States would be a powerful instrument for the further development of commonwealth status since Humphrey has shown himself sympathetic to the concept and is knowledgeable about it and about Puerto Rico.

But is Jaime Benitez a walking or lounging political machine? Does he have no other interests?

"Movies," he said. "I like movies very much," and he smiles, "but only those that go as far as 1940."

A prodigious reader, he confines himself these days to politics, philosophy, the humanists, poetry, history and biography.

"I don't have time for fiction," said the man who once relished arguing with the likes of Saul Bellow about Flaubert's conception of "Madame Bovary."

That was back in the old days, the university days, when as chancellor of the Rio Piedras Campus of the University of Puerto Rico, Jaime Benitez reigned and ranged supremely over the academic universe of this island.

Later, as president of the reformed university system, Benitez found himself fenced in and hemmed by a vague law that splits power so diversely that it was and is difficult to find pockets of it, no less exercise it.

Five years ago this coming October, an opposition controlled Council on Higher Education ousted the man who had seemed synonymous with UPR for several generations.

Today, approaching 68 and in a somewhat foreign environment of give-and-take, Benitez professes to be enjoying himself as much as ever.

"People have told me that lately I look younger than I have in several years," he said, smiling that pixyish-imperial smile. "I tell them that I don't have to carry the Capitol on my back as I did the tower."

The "tower" is the symbol of UPR at Rio Piedras.

"This even though I probably put more time in at work in Washington than I did in Rio Piedras.

"What has pleasantly surprised me about working in Congress, what has been very gratifying about the work has been the opportunity for intellectual stimulation in committees, in debates and in otherwise discussing things with a great many people of great clarity of thought, deep concern for the future and dedication.

"Congress reminds me of faculty meetings in that the individual member comes through as an individual much more significantly than as a member of a group.

"The Romans had a saying: 'Senators are good men; the Senate is a bad beast'."

Roman Senate or no, for Jaime Benitez, his forum has always been wherever he happened to be.

DR. SAMUEL SHERRID HONORED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. KOCH. Mr. Speaker, on February 26, 1976, the National Conference of Christians and Jews bestowed its "Certificate of Recognition for Meritorious Service in the Betterment of Police and Community Relations" upon Dr. Samuel Sherrid, the director of the college accelerated program for police at the New York Institute of Technology. He was honored "for conceiving of community and police as an inseparable unit with joint and equal responsibilities for maintaining internal peace, advancing civic cooperation, and respecting the laws as a means of establishing social order; for insisting on exacting and unassailable standards of professionalism for police and all agencies constituting our system of criminal justice; and for having stressed and emphasized the idea and ideals of police work as a community service."

More than 300 people attended the dinner in honor of Dr. Sherrid, with State Comptroller Arthur Levitt serving as honorary dinner chairman. Dr. Sherrid's career has been one of dedication to the community and the ideal of brotherhood. He has served 25 years with the New York City Police force, rising from patrolman to lieutenant and platoon commander. Throughout those years he has sought to constantly sharpen his intellectual abilities: in 1937 he received his B.S. in sociology; in 1964 his M.A. in mathematics education; and in 1973 he earned his Ph. D. in human development and social relations from NYU. His great and ongoing contribution is as director of the CAPP prograr at the New York Institute of Technolog which under his guidance rose to an enrollment of more than 11,000 students.

I am proud that Dr. Samuel Sherrid is a resident of my district.

ENCOURAGING NEWS FROM SOL LINOWITZ

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday I commented on the Red Cross and its attitude toward my bill, H.R. 582, which would allow a tax deduction for blood donations. I want to make sure that the record is complete on this situation. Today I received an encouraging letter from one of the board of governors, which I am appending for the information of my colleagues:

COUDERT BROTHERS,
Washington, D.C., March 29, 1976.

Hon. EDWARD KOCH,
U.S. House of Representatives,
Washington, D.C.

DEAR ED: I appreciated your letter of March 15th sent to me as a member of the Board of Governors of the American National Red Cross with reference to your proposed tax deduction for blood donations.

I had a chance to discuss this with the Chairman of the Red Cross, Frank Stanton, and with other Board members. My own recommendation has been that the Board reexamine its position on this issue at an early meeting and I hope this will come to pass.

Thanks for getting in touch with me about it.

With best regards,
Sincerely,
SOL M. LINOWITZ.

COMMENTS ON THE PROPOSED COMMISSION ON THE HUMANE TREATMENT OF ANIMALS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to inform my colleagues about developments in the status of H.R. 11112 which would establish a Commission on the Humane Treatment of Animals. Areas the Commission could study if it determined a need for investigation include:

First, whether current farming practices cause needless infliction of pain on animals:

Second, whether laboratory research experimentation (including biomedical and military research) causes needless infliction of pain or unnecessary suffering of animals:

Third, whether there exists any adequate substitute for the use of animals with respect to laboratory research experimentation;

Fourth, the treatment of animals in the domestic pet industry;

Fifth, domestic pet growth rates, especially in urban areas, and whether such growth results in dangers to public health;

Sixth, the treatment of animals while being transported in interstate commerce;

Seventh, the treatment of animals in zoos, wildlife preserves, and other similar establishment;

Eighth, the need for wildlife preservation programs;

Ninth, whether methods which cause unnecessary pain are being used in the trapping and slaughter of animals; and

Tenth, the effectiveness of existing law with respect to the treatment of animals.

The Koch-Pattison bill is cosponsored by 37 Members of the House and is endorsed by a number of animal welfare groups ranging from the International Society for the Protection of Animals—and its 158 member societies to the Cape Cod Humane Society.

I would also like to inform my colleagues about some of the groups which are opposing this legislation. The March 1976 bulletin of the National Society for Medical Research attacks H.R. 11112. The society believes that "the Commission, if it were to be established, might accomplish some good if the membership truly represents knowledgeable, concerned segments of society"—as though it did not. The legislation in fact clearly calls for members of the Commission to be representative of: first, animal welfare and humane societies; second, medical schools; third, persons engaged in the profession of zoology; fourth, persons engaged in the practice of veterinary medicine; fifth, persons engaged in the practice of animal husbandry; and sixth, persons engaged in the profession of wildlife biology. Evidently the society is not satisfied with the Commission's proposed composition. It would be interesting to know exactly what qualified groups the society would recommend for Commission representation.

The society's bulletin also states that—

> [B]y including farming practices, domestic pets, zoos and wildlife preservation programs within the scope of the Commissions's [sic] charter the authors have attempted to divert attention from that which continues to be the main thrust of today's animal welfarist—an end to laboratory experimentation.

It is interesting to me that each group potentially affected by the proposed Commission believes that the only serious provisions of the bill are those directed at the concerned group. This is quite untrue, Mr. Speaker, because this legislation is directed at all the sectors needing scrutiny in the field of humane treatment of animals.

Those who are zealots—and equally polarized—and are vehemently opposed to all animal experimentation do not favor this bill. For example, Eleanor Seiling, president of United Action for Animals, Inc. stated the bill's "proposals have all the earmarks of still another whitewash of laboratory animal suffering. I hope you are [not] (sic) so naive as to believe that the commission you propose will change anything in the animal laboratories, any more than the infamous Animal Welfare Act did." She apparently believes the members of the Commission will be "those who earn their bread by the exploitation of animals." As I have stated before, I do not advocate an abolition of all animal experimentation regardless of how important that research may be for the legitimate benefit of mankind. I do, however, believe the merits of basic research must be examined vis-a-vis the treatment of animals used in that research and consideration given as to whether the experimentation is conducted under the most humane procedures possible.

The supporters of this legislation are not extremists. They are not necessarily vegetarians advocating an end to carnivorous eating styles nor are they automatically opposed to laboratory experimentation with animals.

Supporters of H.R. 11112 are, however, seriously concerned about humane treatment of animals. They want to make sure that animals that are trapped and slaughtered are treated in the most humane way possible. The attacks on this legislation by the polarized zealots demonstrate that we are pursuing a rational approach on this issue. I hope that Congressman W. R. Poage—chairman of the House Agriculture Subcommittee on Livestock and Grains—will soon schedule hearings on this important legislation. Congressman Pattison and I will be circulating among our colleagues a letter asking for additional cosponsors of H.R. 11112.

THE KOREAN PENINSULA AND U.S. POLICY—PART II

Mr. FRASER. Mr. Speaker, the recent wave of repression in South Korea, along with serious allegations of illegal or improper covert operations by the Korean Central Intelligence Agency, KCIA, in the United States, have brought United States-Korean relations to a critical juncture. The U.S. Government—including the Congress—must decide how far we will go to support a government that is repressive, consistently violates internationally recognized human rights, and is apparently undertaking clandestine operations in this country.

The situation in Korea demands the careful attention of every Member of Congress. Some 40,000 American troops are stationed in South Korea.

I commend to my colleagues an address by Donald L. Ranard, the new Director of the Institute for International Policy, on the Korean Peninsula and U.S. policy. Mr. Ranard was formerly the Director of Korean Affairs for the State Department and is one of the most knowledgeable observers of the Korean scene. Part II of Mr. Ranard's article follows. Part I appears in the March 24, 1976, Record at page E1521:

The Korean Peninsula and U.S. Policy—Part II

(By Donald L. Ranard)

VI—MAIN ISSUES IN U.S. POLICY TOWARD KOREA

The commitment

Any sensible discussion of alternatives to U.S. policy in Korea should begin with consideration of the commitment of the U.S. to the defense of Korea, as embodied in the treaty between the U.S. and Korea which entered into force in November 1954. Two sections of the Treaty are important:

Article III, wherein each party recognizes that an armed attack in the Pacific area on either of the parties in territories now under their respective administrative control would be dangerous to its own peace and safety, and declares that it would act to meet the common danger in accordance with its constitutional processes.

Article IV, wherein the ROK granted to the U.S. the right to dispose land, air, and sea forces in and about the territory of Korea as determined by mutual agreement.

To begin with, it is important to understand that the commitment by the United States is as concerns an external attack against Korea, and that moreover the obligation of the U.S. extends only to that territory which the U.S. recognizes as lawfully brought under the administrative control of Korea. Both understandings were emphasized in the Senate resolution endorsing the Treaty for obvious reasons—i.e. to preclude the U.S. becoming involved in a war precipitated by the South or on territory not under the control of the South. As of the date of the treaty, territories north of the 38th parallel were considered not under the control of the South and this continues to be true.

But perhaps the most important requirement in the entire treaty, and certainly the one which causes the Korean side the greatest anxiety is contained in the phrase "in accordance with the constitutional processes". For in these words the Senate made explicitly clear that any military action by the U.S. on behalf of the Republic of Korea requires Congressional approval, as specified in the U.S. Constitution.

Article IV simply grants to the U.S. the right to station forces in Korea; it does not require the U.S. to do so. Moreover, it does not grant a vote to the Koreans, or even a consenting role to the removal of these forces from Korea as has been claimed by the Koreans in the past.

So far as the commitment is concerned, the major issue is simply whether the U.S. should be tied to a line of defense drawn on the Asian mainland, as against a defensive posture in the Pacific area less hazardous. Voices are raised by scholars as well as statesmen that the more sensible line of defense should be drawn through the Tsushima Straits separating Korea and Japan (thus excluding Korea) but including Japan, the Philippines and the Aleutian chain of islands extending from Alaska. In support of such outer limits of defense are the memories of the Korean War ("the wrong war in the wrong place etc.") and the involvement of China, and the more recent experience of Vietnam.

Those who support the present treaty commitment are quick to point out, however, that it was such a defensive line between Korea and Japan that led North Korea to launch aggression against the South in 1950. Secretary Dean Acheson in a major address in January 1950 had made clear that Korea was not regarded as being within the perimeter of nations the U.S. would defend against aggression. But, probably lending as much support for the present contention is the experience of the past 25 years,—there has been peace, if not tranquility on the peninsula. Thus while it may well be that it is no longer logical to maintain the treaty, to do away with it could invite miscalculation by the North. In this sense the U.S. is faced with the dilemma of riding a tiger: difficult to stay on and impossible to get off.

U.S. Forces in Korea

Integrally associated with the commitment is the issue of stationing of forces in Korea, both as concerns the actual disposition of forces on the Asian mainland as well as force levels. From almost the end of the Korean War until mid-1971, the U.S. maintained some 62,000 forces in Korea, largely comprised of two infantry divisions: the Second Infantry Division positioned on the DMZ, and the Seventh Infantry Division well below the front in reserve.

In early 1971, as the result of an extensive national security study, one division (Seventh) was withdrawn, and the other repositioned in reserve so that it no longer was ensconced astride the historical invasion route from the north; all told some 20,000 troops were withdrawn from Korea in this shuffle. Today some 42,000 troops, composed of about 32,000 ground forces, about 8–10,000 air force and no more than a handful of Navy and U.S. Marine personnel serve in Korea.

Should U.S. forces be stationed in Korea, and if so what size and composition? The answer is dependent on an analysis of the North Korean threat, our judgment regarding the reliability of the South Korean military, and our view of the implication for Asian stability including, in particular, Japan.

Although North Korea maintains a sizeable military machine and is provocative in nature, practically all U.S. and Japanese intelligence estimates are that she is not capable of sustained military aggression against the South without either Soviet or Chinese support, and probably both. Such support is highly unlikely because neither the Soviets nor the Chinese see war on the Korean peninsula as in their own national interests, either as concerns its impact on their already existing bilateral problems or their own relations with the U.S. These same U.S. intelligence estimates accredit the South Korean military forces as fully capable of containing without U.S. manpower any North Korean thrust not participated in by Chinese or Soviet troops. Should Soviet or Chinese forces become engaged in war on the peninsula, then obviously one ground division of U.S. troops could hardly stem the tide.

Before departing the issue of the North Korean threat, it is well to attempt to put it into perspective. The North is a fanatical revolutionary power which in the past has exported revolution and terrorism. But the world has changed and it no longer is in the interests of her patrons to support the North's aggressive adventures. The evidence, for example, is that whenever Kim Il-sung has turned to China within the last decade for help in any aggressive scheme he has been told to "cool" it. Notwithstanding, for reasons that relate as much to his determination to maintain a tight reign on the internal affairs of South Korea, President Park has at least semi-annually since 1970 raised the spectre of another Korean War. He manipulated this issue in the fall of 1971 after Kissinger had been to Peking, in 1972 when he abandoned the Constitution, in 1973 and '74 when he clamped down on human rights, and early in 1975 when the U.S. left Vietnam. And recently he was reported as saying in his annual New York's press conference that a North Korean attack might come during the U.S. presidential elections.

In essence then, U.S. ground forces in Korea have a political rather than a military mission—i.e. a warrant of the U.S. intention to defend Korea. This much the Pentagon accepts. And inasmuch as this is clearly the case, the question of size of ground forces is secondary, a conclusion certainly implied in reference to our forces in Korea as simply constituting a "trip-wire". Apparently the U.S. Joint Chiefs of Staff thought so at the time they approved the 1971 reduction. It was their plan then to reduce further to a so-called all-purpose brigade in Korea by the mid-seventies. Would not such a smaller ground force detachment serve the intended poltical purposes? Or for that matter would not the same resolve to the defense of Korea be demonstrated by maintaining only those units with a military as well as political mission, i.e. air. For where no argument can be made that the comparative North-South Korea ground force disposition requires the presence of U.S. ground troops, a case can be made that the U.S. air wing of F-4s is useful and desirable until such time as the South is able to redress the imbalance in the air.

Military assistance

The other element always associated with the defense commitment is military assistance, i.e. the supply of arms and weapons either through grant, or credit arrangements which the U.S. government underwrites. Through 1975 the U.S. has provided Korea with approximately $6.3 million of such assistance, of which all but a very small portion has been extended as grants. In 1971, as steps were taken to reduce our force levels in Korea, the U.S. agreed to assist in the modernization of the Korean military so that Korea could be better able to provide for her own defense without American manpower. It was understood that this modernization program would cost the U.S. roughly $1.5 billion over a five-year period although no formal commitment to that amount was made and the Korean government was clearly given to understand that this plan was dependent on Congressional appropriation. As of the end of 1975 the U.S. contribution to this program was well over $1 billion.

Over the years, military assistance to Korea has been justified in varying terms as the nature of security in the Pacific Area changed. But whether put forward as a requirement of a defense concept emphasizing forward basing, or in terms of the Nixon doctrine, or the more recently enunciated Pacific Doctrine of President Ford, essentially what is being claimed is that the independence of Korea is important to stability in Asia, to the balance of power in the Pacific, and to American security. And that this being the case, the U.S. has a major role to play in providing Korea with the weapons required to defend herself. Were this simply the issue, however, military assistance to Korea would have greater credibility and it is doubtful that it would have generated as much concern as is today the case.

Those who oppose military assistance to Korea do so for equally convincing reasons. Essentially, they quarrel with the basic premise of the U.S. role in Asian security and stability, i.e. they believe the U.S. should revoke the commitment to Korea under which umbrella military aid is justified. They are concerned that the U.S. is contributing to an arms race in an especially sensitive area, the inevitable result of which will be a clash between power-mad despots and nuclear war. But these critics never large in number, have been joined today by another group composed of many of South Korea's loyal friends and supporters, including increasing church representation, with perhaps an even more persuasive argument: military assistance is being provided to an undemocratic government and is utilized to maintain in power an authoritarian ruler who denies to the populace the most basic of human rights. To this, the official response from the Department of State has been that it does not approve of Korea's repressive measures but that security considerations are overriding.

It is reasonable to conclude that military assistance to Korea has served to maintain the peace, and to preserve the independence of South Korea. Yet continued grant military assistance can no longer be justified, neither in terms of Korea's economic development, nor does it appear warranted in consideration of the huge sums Korea expends in maintaining a gigantic KCIA operation at the expense of civil rights. If, as Congressman Fraser said recently, Korea is embarked upon an experiment in authoritarianism, let it not be with American underwriting.

Korea does require military assistance, however, and it would seem more logical that these be procured under credit arrangements (which even as such are not without considerable U.S. expense). Such purchases should be carefully monitored so that they meet the criterion of defense, and not fall into the category of offensive capability. This admittedly is a hard line to follow given the demands of the ROK military and the persuasion of the U.S. armaments manufacturers, but the stakes are high and all possible caution is required.

Human rights

Easily the most vulnerable element in U.S. foreign policy toward Korea is the role accredited to human rights. For where in other elements of policy the criticism is frequently of degree, on this issue it is one of substance, and the difference with policymakers substantial. Basically, the question is what role should the U.S. adopt with respect to the denial of human rights in Korea? And here it is important to emphasize that the issue is not whether there has been a denial of human rights in Korea, a view that our government is prepared to concede, but rather is the U.S. involved and what should it do.

At the outset it is well to recognize that since Korea regained her independence in 1948, there has been probably only one limited period—roughly from April 1960 to May 1961—when Korea could claim without fear of some contradiction to have a democratic government. From 1948 to 1960 Korea was under the leadership of Syngman Rhee whose rule was characterized by heavy-handed authoritarianism, repression, and corruption of the entire political and social order. In April 1960 Rhee's government fell, the victim of a people's revolt against the abuse of power; the immediate issue was the massively corrupt national election of that year. Installed next was a democratically-elected government, headed by men who were unable to maintain the reigns of leadership while at the same time meet the rising expectations which emerged after twelve years of Rhee's oppression. Thus, after nine months in office the Chang Myun government was overthrown in May 1961 by a military coup in which the present President of Korea, the then Major-General Park Chong-hui, played a leading role.

From its inception, Park's government undertook extra-legal means to subordinate the nation to his control. In fact, the years since 1961 have been marked by the gross abuse of power, the culmination of which came in the winter of 1972 with the abandonment of the previous Constitutional guarantees and the promulgation while the country was under martial law of a new Constitution which attempted to give legal sanction to one-man rule.

The sordid record in Korea since then has included just about every example of subjugation of man by government: the arrest and conviction of the country's leading Catholic spokesman (Bishop Daniel Chi) and the sentencing to death of the country's most prominent poet (Kim Chi-ha, also Catholic), both of whom had been active in defense of human rights; the arrest of nationally prominent Protestant churchmen (e.g. Rev. Kim Kwan-Suk, Secretary General at the KCCC); the execution of eight alleged members whose guilt as members of a so-called anti-state People's Revolutionary Party was never proved; the trial and conviction of Korea's only living ex-President (Yun Po-sun) on charges of having contributed funds (about $2,000) to student protest; the kidnapping from Japan in August 1973 and continued virtual house arrest ever since of Kim Dae-jung, Park's most outspoken political rival who ran against him in 1971. On December 13, Kim was sentenced to one year in prison for having likened Park to a generalissime during the election campaign. These actions, but a handful in the larger record of despotic rule, were justified under emergency measure themselves wholly inconsistent with democratic concepts. And while it may be said that certain of the sentences were subsequently lessened, it should be noted that government did so only after it had made clear the extent to which it was prepared to go to enforce its will.

In summary, Korea is under a government about as undemocratic as any to be found outside the Communist world. Those essential elements long identified with representative government are conspicuous today in Korea by their absence; no rule of law, no free press, no freedom of speech, worship, or assembly—indeed, no human rights.

In response to these deplorable developments, our Secretary of State has formulated a sophisticated but disingenuous policy on human rights seemingly aimed at homage to American values so as to appease moralists yet at the same time serving to undermine these traditions by greater emphasis on unrelated or exaggerated security considerations. For while our government does not publicly condone what is transpiring in Korea, neither does it publicly condemn or speak out forcefully against the loss of human rights in a country whose independence we are pledged to maintain even at the cost of life and treasure. What Secretary Kissinger has put together as preferred guidelines for an American policy on human rights regarding Korea is this:

Dedication to human rights is innately a part of the American tradition;

The U.S. does not condone repressive practices;

Human rights are a legitimate international concern; and accordingly the U.S. will use its influence against repressive practice and speak up in appropriate forums and in exchanges with other governments;

But we must be mindful that we promote human rights more effectively by counsel and friendly relation than by confrontation;

And finally that although we do not approve of many of the actions taken by the government of Korea, security considerations are overriding.

These guidelines having been developed at the highest level in the Department of State, for there is no gainsaying that they bear the mark of the Secretary's inventiveness, it is not surprising then that others in the bureaucracy develop their own adaptations. It is in this vein that we are also apt to hear that what is transpiring in Korea is "an internal affair" (not quite compatible, however, with the Secretary's assertion that human rights are a legitimate international concern), and in any case that the U.S. is "neither involved nor associated" with the South Korean government's internal actions.

It is hard to fault the most basic of the Secretary's premises; concern for human rights is as deep in our history as the American Revolution, our Constitution, and our national consciousness. But it is not hard to fault the manner in which this principle has been applied nor indeed various claims made in its behalf.

Beginning first with reference to the security issue, the lack of action by the Secretary of State on behalf of human rights is actually undermining the American attachment to the security of Korea, strangely enough the very element of our policy towards Korea our government seeks most to preserve. Public opinion polls, editorials, and legislative actions increasingly indicate that a growing number of Americans see little in common with a repressive government, and less reason to conclude they should contribute either money or troops to its defense. Two legislative bills are currently before Congress which would restrict military assistance because of gross violations of human rights, or begin the process of U.S. force reduction because of Korean repression.

The claim that our government is not "involved nor associated" with what is taking place in Korea is both callous and illogical. To be sure, the U.S. is not the hand on the switch that transmits shock treatment to political prisoners. But the United States has provided more than $1 billion in military assistance over the past five years and has stationed at huge cost (probably one half billion dollars annually) troops in a country which denies its citizens the simplest right of redress of grievances; and the United States does spend countless hours in diplomatic representation in the UN and in world capitals on behalf of a so-called democratic government that arrests, convicts, and even executes citizens without the most rudimentary concern for due process of law. Given the Korean War, and a quarter of century of American economic assistance in rehabilitating Korea, indeed a century of U.S. missionary involvement, this rationalization is as flawed in its reason as it is irresponsible in its intention.

And finally there is the very question of how seriously we are to accept the Secretary's claim that "we have and will continue to use our influence against repressive acts in Korea." When, one is led to ask, did Secretary Kissinger throw his weight and considerable influence, either as President Nixon's top advisor on foreign policy or as Secretary of State against the outrageous events that took place in Korea from 1971 on? The clear evidence is that not only did he not do so, but that he obstructed others from trying to counsel moderation by Korea's leaders. In fact, it was Secretary Kissinger, as well as President Nixon, who in their explicit remarks and actions gave President Park reason to believe that the U.S. would not stand in his way, no matter how nefarious his actions.

Whenever the issue of human rights in South Korea is raised, the assertion is made that the situation is worse in North Korea. By the very nature of the Communist society in the North, this must of course, be true. But beyond expression of concern, the U.S. is powerless to act and obviously has no leverage. For unlike the situation in the South, there the U.S. is truly neither involved nor responsible.

VII—FOREIGN POLICY RECOMMENDATIONS

Maintain the treaty commitment

For more than two decades now the commitment of the United States to the defense of Korea has helped maintain stability and peace in a dangerous corner of Asia where the national interests of superpowers converge. South Korea has a right to independence, and the U.S. commitment has made this possible. The independence of South Korea is important, moreover, to the balance of powers in the Pacific area, and to the continued security of Japan whose industrial strength and capacity contributes to stability of the entire Pacific region. The United States has a legitimate national interest in peace in Asia and accordingly, there is every reason to continue the treaty commitment.

Emphasize human rights

Just as the Administration has recognized that social justice and popular will are prerequisites of resistance against subversion or aggression, it must recognize that the denial of human rights leads directly to internal instability and insecurity. And as Secretary Kissinger has proclaimed that human rights are a legitimate international concern, we should make clear to the Korean government that there is a direct relationship between the commitment and the status of human rights. For not only does repression destroy the popular will in Korea, it also erodes our determination to defend a country whose government has little in common with the determination to defend a country whose government has little in common with the declared values of democratic rule as perceived by the average American.

In passing on to the Korean government this American reaction to authoritarianism, the Department of State should not serve as an uninterested party. It should not lead Korean officials to believe, nor even allow them to assume, that the issue is not so much the actions of the Korean government per se, but merely that repressive actions make for State Department problems with Congress over appropriations for military or economic assistance. As the spokesmen for the American people in their intercourse with other nations, the Department should on its own initiative speak forcefully its sense of outrage at the blatantly undemocratic conduct of a government that seeks our support and aid. We should make clear that continued repression and violation of human rights will make impossible the maintenance of the commitment, and as a minimum, American cooperation with Korea, both bilateral and international. And so that the Republic of Korea will not underestimate the American attitude in this regard, Congress should pass both the Humphrey-Case bill which would make possible the end of military assistance to countries grossly violating human rights, as well as the Solarz-Fraser Amendment which would bring about by FY 1978 a significant reduction of U.S. forces from Korea.

Reduce force level

Even without regard for the issue of human rights, the time has come for a reduction in U.S. ground force levels in Korea. As has been noted, U.S. ground forces are stationed in Korea primarily for political reasons. Since they were taken off the DMZ these forces have no military justification; thus no case can be made that a specific number of American troops is required. Why, then has the figure of 42,000 U.S. troops become sacrosanct?

Before the fall of Vietnam and the removal of U.S. forces from Indochina, the Pentagon looked toward a reduction of U.S. ground forces in Korea by the mid-seventies. Now, however, apparently because of concern that our Asian allies might question our resolve, we are being given to understand that the size of our force levels is related to the commitment. In 1971 when we reduced our forces in Korea by 20,000 we regularly viewed this in the negative. Indeed, in our discussions at that time with the Koreans, as well as the Japanese, we claimed that just one company of American troops could serve the purpose of a "tripwire". Now, however, five years after beginning a dialogue with China, two Presidential visits to Peking, and improved relations with the Soviet Union, the Administration seeks to establish 42,000 troops as the level below which we hazard danger.

Yet for the time being, while the gap in air strength between North and South is being closed, the U.S. air component of our forces in Korea should remain. The three squadrons of F–4s not only fulfills a military mission by compensating for the current air imbalance, but it also makes quite clear the will behind the commitment.

Terminate grant military assistance

Finally, the time is at hand for the end of grant military assistance to Korea. There are no valid reasons for the continuation of grant assistance to a country of Korea's economic development. Future military assistance should be in the form of commercial credits underwritten as necessary by the U.S. government. Moreover there should be close scrutiny of all defense procurement to determine that it is defensive in purpose, and does not contribute to an arms race in the Korean peninsula. It goes without saying that all procurement in any way lending itself to nuclear adaptation or development must be very cautiously reviewed. As it is there are too many suspicious signs that Korea is moving toward a nuclear option.

Support two Koreas

In the broader sense, the U.S. should continue to support a concept of two Koreas and both Koreas in the UN. This is to recognize the current economic systems, and (on the surface at least) differing political values. The unification of Korea, regardless of how logical this may be technically and culturally, is only a distant hope and possibility. Korea's long-range solution is unfortunately a part of the broader quest for Asian stability and is also tied into tensions between the Soviet Union and China. A peace treaty between North and South, possibly with U.S., Soviet and Chinese guarantees or UN Security Council endorsement, remains the best solution for the immediate period.

Evenhandedness toward North and South

So far as North Korea is concerned there are no major demarches in policy to be launched by the U.S. There are no compelling reasons—economic, political, or military for such initiatives. The North remains largely a closed society by her own desires. Until such time as her supporters are prepared to recognize the South, there are no reasons why the U.S. should recognize the North. But the U.S. should continue to make clear, in the UN and through diplomatic channels, that she is prepared to recognize the North on the basis of reciprocal treatment for the South.

In the meanwhile, the U.S. can afford minor initiatives with the North that hazard little danger to the South. These would include selectively granting visas to bona fide North Korean scholars to attend a few international conferences held in the U.S. or to attend limited meetings or seminars with American scholars. In providing such opportunities on a trial basis, it should be made clear to both sponsors as well as participants that the purpose of such attendance is academic exchange, and that attempts by North Korea visitors to exploit Koreans living in the U.S. will not be countenanced. Within similar guidelines, the U.S. can also tolerate more relaxed travel regulations for North Koreans at the UN. Finally, the U.S. should inform friends of the North with whom it has relations that the U.S. is taking these steps in the hopes that they will result in similar relaxation by them towards the South.

COLLAPSE OF HOMEOWNER'S BACKYARD—ANOTHER EXAMPLE OF NEED FOR A STRIP MINING LAW

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, in last Tuesday's Akron Beacon Journal, there is an article about a couple, John and Katherine Spade, residents of my district, who bought a small frame house in a moderate-income suburb of Akron. Last year, they awoke one morning to find a hole in the middle of their garden. Filling the hole cost $300.

This February a new hole appeared next to the place where last year's hole was filled, about 20 yards from the rear of the house. It is now about 8 feet wide and 6 feet deep and gets larger every time it rains.

An inspector for the Ohio Division of Mines who looked at the Spades' property is quoted as saying that the counties in my district and the neighboring districts were honeycombed with coal mines in the early 1900's and they are just starting to subside now. Unfortunately, the persons who originally mined the coal underneath the Spades' property are long gone, and there is no effective legal remedy the Spades can pursue. Unfortunately also, there is no Federal or State program to compensate them, though one certainly should be and eventually probably will be considered.

The strip mining bill which the President twice vetoed, and the revised bill which the House Rules Committee—mistakenly, in my opinion—has refused to allow to come to the floor, would prevent this type of tragic and costly event from occurring in the future. The bill contains a section establishing performance standards to control the surface effects of underground mining. These include requirements that deep mining be conducted so as to prevent surface subsidence of the land. What the administration and other opponents of strip mining controls fail to recognize is that the primary purpose of such controls is to protect people, for in the end it is the people who pay for the destruction of the land.

The sad little story involving my constituents, John and Katherine Spade, should remind us that we are allowing the coal industry to create the basis for thousands of future human tragedies until we enact this long overdue legislation. The full text of the Akron Beacon Journal article follows these remarks:

Their Yard Is Falling Into Old Coal Mine

(By Bruce Larrick)

Portage Lakes.—John and Katherine Spade have an ever-widening and deepening hole in their back yard, the result of an abandoned underground coal mine.

Their homeowners' insurance will not pay for filling the hole and ensuring that the mine does not continue to subside. The hole is considered an "act of God."

The state government has no program to help the Spades. Neither does the federal government.

There isn't even anybody they can sue.

The Spades' troubles began last spring, 13 years after they bought the small frame house and two acres of land at 1533 Vanderhoff Rd., Franklin Township.

Spade awoke one morning to find a hole right in the middle of the garden. Filling the hole cost $300.

This February, a new hole appeared next to where last year's hole was filled, about 20 yards from the rear of the house. It is now about eight feet wide and about six feet deep. It gets larger every time it rains, Spade said.

"We left Akron to get out in the countryside and it's very nice out here," Mrs. Spade said. "But now I'm really mad. We just can't keep throwing $300 down a hole every spring."

Spade has contacted the Ohio Division of Mines, the U.S. Bureau of Mines, Rep. John F. Seiberling's (D-Akron) office and real estate attorney Cathleen Meade—all to no avail.

"It's ridiculous. The feds are putting out money for this sort of thing in Pennsylvania. Individual landowners shouldn't have to take care of it," said Spade, a truck driver for Mason & Dixon Lines, Inc.

The only government program for sealing and shoring up abandoned mines is a special one in Appalachia, including areas of Pennsylvania and two counties in southeast Ohio, Belmont and Harrison.

Government officials and Mrs. Meade commiserated with the Spades but said their hands are tied.

"Unfortunately, the state right now can do nothing for landowners who have subsiding mines under their land," said Norman Gatti, chief of the Ohio Division of Mines. "We're going to have to have some legislation on this sooner or later."

Gatti said that when the Appalachian Regional Commission started its mine sealing program in the mid-1960's, only Belmont and Harrision county officials had the foresight to join the program and contribute money to it.

John Douglas, an inspector for the Division of Mines who looked at the Spades' property, said, "Stark and Summit counties in the early 1900s were honeycombed with coal mines and they're just starting to subside now.

"There should be federal or state financing for this problem. Somebody should be looking into it, because it'll get worse before it gets better.

Charles Lanman, a spokesman for the U.S. Bureau of Mines in Washington, D.C., said, "The most we can do in Summit County is send an engineer out to look at it and give advice and what should be done. But we cannot take any action to correct the problem."

What about the persons who originally mined the coal from beneath the Spades' property? After more than 50 years, their trail is cold.

When the Spades bought the land, a title search revealed only that a coal contract had been signed on Aug. 2, 1905, by the landowner then, Elliott Snyder.

The contract gave six persons—Edward Dickerhoof, John Thomas, Thomas Davis and Richard, Thomas and Archie Rennie — the right to mine coal on Snyder's 38 acres. The land was later subdivided into smaller lots, including the Spade property.

The contract is on file at the county recorder's office. There is nothing else—no notices of transfer, cancellation or abandonment of the coal contract.

Douglas said state mining records indicate the Vanderhoof Road area was mined for coal in the early 1900s by Brewster Coal Co. of Akron, which no longer exists. The mining stopped in 1907, Douglas said.

Real estate attorney Mrs. Meade said, "I don't think there's a legal remedy. The people who did the mining are long gone and there are no records of the contract being passed on to anybody.

"If this were a working mine, then something could be done. But there's no way of tracing it now."

Mrs. Meade said she occasionally handles complaints similar to that of the Spades, usually in Franklin and Green townships, Tallmadge and Akron's North Hill area.

Neighbors to the east and west of the Spades have had similar problems, Mrs. Spade said.

They, along with the Spades, apparently are out of luck.

"I don't know what you can do about this," Spade said. "At the least, you can tell people who buy land in the country to beware that this can happen to them."

ADDRESS BY ROBERT E. PATRICELLI AT OPENING OF METRO

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, at the opening ceremony of Metro this last Saturday, Mr. Robert E. Patricelli was the lead-off speaker. He spoke of the tremendous need for this kind of public transportation, and of the importance of Metro's completion. I insert his remarks in the Record at this point:

Remarks by Robert E. Patricelli, Administrator, Urban Mass Transportation Administration, at the Opening Ceremony of the Metrorail System, Washington, D.C., March 27, 1976

Chairman Tucker, Governor Mandel, Mayor Washington, Secretary Whitham, Under Secretary Lutz, Mr. Quenstedt, Reverend Members of the Clergy, Honored Guests, Ladies and Gentlemen:

I convey to you the congratulations of President Ford and Secretary Coleman. It is altogether fitting that we are assembled here today in our Nation's Capital to participate in the start of service on what is the newest and most advanced urban transit system in the world.

What better tribute to America's growth and progress over the past 200 years than this great public transportation achievement in our Capital today.

The vitality of Washington, D.C., bears witness to the spirit and condition of this Nation itself. For our Nation to endure, its urban area must thrive and prosper, and our Capital city is rightly a test of our National commitment to the quality of urban life. Without the essential public transportation facilities that provide all our citizens with mobility, the fabric of our cities and surrounding suburban communities is threatened.

Even more than being a test of our commitment to the future viability of our urban areas, this system is also a responsible reaction to our National concerns over energy consumption and the preservation and improvement of our environment. And it is part of a regional transportation system that will benefit both the city and suburbs, and use a balance of technologies—from rail and bus to private auto.

Washington has long been the Capitol of a great Nation. Now it is also becoming one of the great cities of the world in its own right. And make no mistake, virtually all the great cities and capitol cities of the world—Paris, London, Moscow, Berlin, Madrid, Peking, and many more—all have rapid transit systems. That is not a matter of coincidence. It is a matter of design and clear perception of urban necessity.

Many people are not aware of this city's long involvement with public transit—from horsedrawn omnibuses that traveled unpaved streets, to horsecars on tracks by the late 1800's.

In 1888, the demonstration in Richmond, Virginia, of the first practical electric street railway led quickly to the end of the horsecar and the cable car and adoption of electric propulsion in Washington and most other American cities. Then Congress in its wisdom prohibited unsightly overhead wires in the Nation's Capitol, and that led to the construction of a transit system powered by underground electric cables—a system which was to be developed in only one other American city, New York. By the turn of the century, electric railway lines were radiating out from Washington's center, leading to the suburbs and growth of what became known as "streetcar suburbs."

The impact of World War II and gas rationing put tremendous burdens on public transit but the Washington system was expanded and equipped with one of the Nation's largest fleets of streamlined rail streetcars. The motor bus replaced the last of the electric streetcars in Washington in the early 1960's and the planning began for the system that opens today.

Even as this system opens today, there will be those who will want to judge its success tomorrow. We will not know with certainty if the Metrorail system is successful, and a sound investment, for ten years. But whether it is successful depends largely on whether public officials take the steps necessary to make it so—through feeder bus supports, traffic management techniques, parking policies, and development and land use decisions. Judgment will have to be suspended, as hard as that is in this society.

This great public project has many to whom it owes its gratitude:

To those who had the vision and courage to initiate, plan and design the regional transit system;

To those who are building it, by hand and by machine;

To the State and local political leaders, community groups and citizens of the District of Columbia, Virginia and Maryland who have provided their continuing support and financial backing; and

To the several Congresses and to the five Administrations, from President Eisenhower to President Ford, which have given their support to the Metro program.

Projects such as this require a unique quality of commitment—a 15- to 20-year public commitment which is rarely still found in a society where the half-life of a good idea or of a popular public official is constantly shrinking. These are undertakings that require more than sunshine soldiers and fair weather friends. They require the kind of public leadership that is not afraid to reexamine assumptions, but which at the same time understands the importance of sustaining sound commitments through natural cycles of optimism and pessimism. These are the kind of men and courageous political leaders who are on this platform today.

We in this Administration welcome the beginning of operation of this system. And now, we want to see it completed. We have indicated that it can and should be completed, with prudent management of the resources that are available. With the continued support of the people, and with commitment of our vision of what is necessary to a better quality of life in a great metropolitan community, what begins today will be completed.

TOWARD IMPROVEMENT IN STUDENT LOAN PROGRAM

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GUDE. Mr. Speaker, the Federal Government is destroying its guaranteed student loan program through redtape delays in paying banks the interest due on the loans.

This is why I am introducing a measure to require the Office of Education to pay the interest claims to lenders of student loans in no more than 30 days. No such statutory time limit is presently imposed on OE. As a result, Federal payments are often not made until 3 to 6 months past the due date.

The guaranteed student loan program has to have voluntary participation of the banks in order to work, so what does the Federal Government do but delay its interest payments and thus penalize the voluntary participants on which the program depends.

Each year, participating banks decide to allocate a certain amount of money to be used for the GSL program. The size of this allocation—particularly as to whether or not the size increases or decreases from year to year—depends to a large degree on the lenders' relationship with OE. Indeed, banks in my district and around the country are decreasing allocations for the GSL program. Loan officers are fed up with continuous delays by OE.

Unfortunately, the Government is acting just like too many people think it always does: To prevent the solving of the problem it ostensibly set out to solve. This is almost a case-book example of redtape thwarting a good program.

I regret that it takes legislation to cut through Federal redtape but it seems to in this case. At least, this bill costs nothing, and will help save a valuable educational program.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CHISHOLM (at the request of Mr. O'NEILL), for today, on account of illness.

Mr. MCCORMACK (at the request of Mr. O'NEILL), for today, on account of a necessary absence.

Mr. PEPPER (at the request of Mr. O'NEILL), from March 29, 1976, through April 9, 1976, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. KOCH, for 10 minutes, today.

Mr. HANLEY, for 45 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. KINDNESS) to revise and extend their remarks and include extraneous material:)

Mr. STEIGER of Arizona, for 10 minutes, today.

Mr. DON H. CLAUSEN, for 15 minutes, today.

Mr. ASHBROOK, for 15 minutes, today.

Mr. BUCHANAN, for 60 minutes, today.

Mr. CLEVELAND, for 10 minutes, today.

Mr. TALCOTT, for 5 minutes, today.

Mr. RUPPE, for 5 minutes, today.

(The following Members (at the request of Mr. HUGHES) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSENTHAL, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. LEVITAS, for 5 minutes, today.

Mr. MEZVINSKY, for 15 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. CHAPPELL, for 15 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Ms. ABZUG, for 20 minutes, today.

Mr. DODD, for 5 minutes, today.

Ms. HOLTZMAN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FRASER, to revise and extend his remarks, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $858.

Mr. VANDER JAGT to include extraneous matter in his remarks today on H.R. 12406.

Mr. EVINS of Tennessee to revise and extend and include extraneous material.

(The following Members (at the request of Mr. KINDNESS) and to include extraneous matter:)

Mr. SARASIN in two instances.

Mr. LAGOMARSINO in three instances.

Mr. ABDNOR.

Mr. FORSYTHE.

Mr. Crane.

Mr. Anderson of Illinois.

Mr. Gilman.

Mr. Rousselot.

Mr. Collins of Texas in three instances.

Mr. Don H. Clausen.

Mr. Bafalis.

Mr. Hyde.

Mr. Ashbrook in two instances.

Mr. Hillis.

Mr. Wampler.

Mr. Cohen.

Mr. Talcott.

(The following Members (at the request of Mr. Hughes) and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rostenkowski.

Mr. Eilberg in two instances.

Mr. Nowak.

Mr. English.

Mr. Vanik in three instances.

Mr. Derrick.

Mr. Bingham in five instances.

Mr. Minish in three instances.

Mr. Mazzoli in two instances.

Mr. Addabbo in two instances.

Mr. Mineta.

Mr. Stratton.

Mr. Conyers in two instances.

Mr. McDonald of Georgia.

Mr. Waxman.

Mr. Rangel.

Mr. Long of Louisiana.

Mr. Downey of New York in three instances.

Mr. Dominick V. Daniels in two instances.

Mr. Solarz in three instances.

Mr. Wolff in 10 instances.

Mr. Russo in two instances.

Ms. Abzug in two instances.

Mr. Carr in two instances.

Mr. Baldus.

Mr. Brademas in six instances.

Mr. Drinan.

Mr. Harkin.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2023. An act to provide for the competitive movement at fair and equitable rates and charges of household goods shipments moving in the foreign commerce of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

S. 3130. An act to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes; to the Committee on Merchant Marine and Fisheries.

S. 3184. An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes; to the Committee on Interstate and Foreign Commerce.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on March 30, 1976 present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 10624. An act to amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities;

H.R. 12490. An act to provide treatment for exchanges under the final system plan for ConRail; and

H.J. Res. 857. Joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

ADJOURNMENT

Mr. HUGHES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 31, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2926. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2927. A letter from the Administrator of General Services, transmitting the statistical supplement to the stockpile report for the period July–December 1975, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c); to the Committee on Armed Services.

2928. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–95, "To implement the District of Columbia flood insurance program," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2929. A letter from the Records Officer, Finance Group, U.S. Postal Service, transmitting notice of a proposed new system of records for the U.S. Postal Service, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2930. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of January 31, 1976, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

2931. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial reports of the Corporation for the months of November and December 1975, together with route profitability analysis and procedure reports for the months of October through December 1974, and January through March 1975, pursuant to section 308 (a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2932. A letter from the Chairman, East-West Foreign Trade Board, transmitting the Board's fourth quarterly report on trade between the United States and non-market-economy countries, pursuant to section 411 (c) of the Trade Act of 1974 (H. Doc. No. 94–430); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office and Civil Service. House Joint Resolution 670. Joint resolution to designate April 13, 1976, as "Thomas Jefferson Day"; (Rept. No. 94–979). Referred to the House Calendar.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. House Joint Resolution 726. Joint resolution to authorize and request the President to issue a proclamation designating 1976 as "National Bicentennial Highway Safety Year"; with amendments (Rept. No. 94–980). Referred to the House Calendar.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. Senate Joint Resolution 35. Joint Resolution to provide for the designation of the second full calendar week in March 1976 as "National Employ the Older Worker Week"; with amendments (Rept. No. 94–981). Referred to the House Calendar.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. Senate Joint Resolution 101. Joint resolution to authorize the President to issue a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week"; with an amendment (Rept. No. 94–982). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11876. A bill to amend the Water Resources Planning Act (79 Stat. 244) as amended; with amendments (Rept. No. 94–983). Referred to the Committee on the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior Affairs. S. 2308. An act to provide for the modification of the boundaries of the Bristol Cliffs Wilderness Area (Rept. No. 94–984). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11559. A bill to authorize appropriations for the saline water conversion program for fiscal year 1977; with an amendment (Rept. No. 94–985). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNGATE: Committee on the Judiciary. H.R. 11722. A bill to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes; with amendments (Rept. No. 94–986). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1120. A resolution providing for the consideration of H.R. 12572. A bill to amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes (Rept. No. 94–987). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 12864. A bill to amend title 39, United States Code, to provide that the nature of services provided by any post office facility may not be changed without the approval of a majority of the patrons of the facility, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ALLEN:

H.R. 12865. A bill to amend the Federal Reserve Act to require the payment of interest on reserve deposits and to require availability of same amount of reserves for low-cost and medium-priced construction and mortgage loans; to the Committee on Banking, Currency and Housing.

By Mr. ANDERSON of California (for himself, Mr. Krueger, Mr. Mineta, Mr. Lagomarsino, Mr. Duncan of Tennessee, Mr. McHugh, Mr. Ichord, Mr. Pepper, Mr. Jenrette, Mr. Hannaford, Mr. Moakley, Mr. Patterson of California, Mr. Mathis, and Mr. Jacobs):

H.R. 12866. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. AuCOIN:

H.R. 12867. A bill to amend the Public Health Service Act to require a study to assess the effect of treatment of juvenile-onset diabetes on the development of microvascular and macrovascular complications; to the Committee on Interstate and Foreign Commerce.

By Mr. BALDUS:

H.R. 12868. A bill to amend the Internal Revenue Code of 1954 to provide rules for Federal estate taxation more equitable than those presently in effect; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 12869. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 12870. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 12871. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as a part of home health services or otherwise; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. DODD:

H.R. 12872. A bill to amend the Federal Power Act to provide for the reform of electric utility rate regulation by the Federal Power Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNING of Virginia (by request):

H.R. 12873. A bill for the promotion of the progress of the useful arts by the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes; to the Committee on the Judiciary.

H.R. 12874. A bill to impose a 1-year statute of limitations for certain civil rights actions; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 12875. A bill to provide for the monthly publication of a Consumer Price Index for the Elderly and to provide for studies to be made with regard to utilizing such index in determining cost-of-living adjustments authorized in certain Federal programs for individuals who are at least 62 years of age; to the Committee on Education and Labor.

H.R. 12876. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 12877. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Ms. Abzug, Ms. Chisholm, Ms. Holtzman, Mr. Koch, Mr. Richmond, Mr. Rosenthal, and Mr. Zeferetti):

H.R. 12878. A bill to amend the State and Local Fiscal Assistance Act of 1972; to the Committee on Government Operations .

By Mrs. FENWICK (for herself, Mr. Maguire, Mr. Scheuer, Mr. Hungate, Mr. Mitchell of Maryland, and Mr. Downey of New York):

H.R. 12879. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 12880. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 12881. A bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property, and for other purposes; to the Committee on Ways and Means.

By Mr. HENDERSON (for himself, Mr. Mineta, Mr. Derwinski, and Mr. Taylor of Missouri):

H.R. 12882. A bill to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. JONES of Oklahoma:

H.R. 12883. A bill to suspend for a 2-year period the duty on slabs of zinc; to the Committee on Ways and Means.

By Mr. KARTH:

H.R. 12884. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the act of June 4, 1897 (30 Stat. 35); to the Committee on Agriculture.

By Mr. KOCH (for himself and Mr. Mezvinsky):

H.R. 12885. A bill to improve the fiscal responsibility of city and State governments by requiring independent audits from major revenue sharing recipients as a condition of eligibility, and for other purposes; to the Committee on Government Operations.

By Mr. KOCH (for himself, Mr. Evans of Colorado, Mr. Fraser, Mr. Miller of California, and Mr. Stokes):

H.R. 12886. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. LLOYD of California:

H.R. 12887. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. NOWAK:

H.R. 12888. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself and Mr. D'Amours):

H.R. 12889. A bill to authorize temporary assistance to help defray rental payments by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions; to the Committee on Banking, Currency and Housing.

By Mr. PEYSER (for himself, Mr. Conte, Mr. Drinan, Mr. Gradison, Mr. Long of Maryland, Mr. Mikva, Mr. Patterson of California, Mr. Roybal, Mr. Stark, Mr. Vanik, and Mr. Wydler):

H.R. 12890. A bill to establish improved programs for the benefit of producers and consumers of peanuts; to the Committee on Agriculture.

By. Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 12891. A bill to amend the Central Intelligence Agency Retirement Act of 1964 to eliminate the extra 1 percent added to each cost-of-living adjustment; to the Committee on Armed Services.

H.R. 12892. A bill to amend section 1401a title 10, United States Code, relating to adjustments of retired pay to reflect changes in the Consumer Price Index; to the Committee on Armed Services.

By Mr. QUILLEN:

H.R. 12893. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. Stark, Mr. Gonzalez, Mr. Rangel, Mr. Rees, Mr. Yatron, Mr. Rosenthal, Ms. Abzug, Mr. Scheuer, Mr. Harrington, Mr. Burke of Massachusetts, Mr. Ottinger, Mr. Eilberg, Mr. Badillo, Mr. Downey of New York, Mr. Dodd, and Ms. Heckler of Massachusetts):

H.R. 12894. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 12895. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the act of June 4, 1897 (30 Stat. 35); to the Committee on Agriculture.

By Mr. SIKES (for himself, Mr. Bennett, Mr. Fascell, Mr. Rogers, Mr. Pepper, Mr. Fuqua, Mr. Gibbons, Mr. Chappell, Mr. Lehman, Mr. Burke of Florida, Mr. Frey, Mr. Young of Florida, Mr. Bafalis, and Mr. Kelly):

H.R. 12896. A bill to name the Veterans' Administration hospital located at 13,000 North 30th Street, Tampa, Fla., the "James A. Haley Veterans' Administration Hospital"; to the Committee on Veterans' Affairs.

By Mr. WHITEHURST:

H.R. 12897. A bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property, and for other purposes; to the Committee on Ways and Means.

By Mr. AMBRO:

H.R. 12898. A bill to amend section 351 of title 38, United States Code, to provide specially adapted housing and equipment for veterans disabled by treatment or vocational rehabilitation; to the Committee on Veterans' Affairs.

By Mr. BRINKLEY:

H.R. 12899. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. OTTINGER (for himself and Mr. D'Amours):

H.R. 12900. A bill to amend the project for flood control and other purposes in the Merrimack River Basin; jointly, to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. CORMAN (for himself, Mr. Andrews of North Dakota, Mr. Carr, Mr. Downey of New York, Mr. LaFalce, Mr. Lujan, Mr. Mikva, and Mr. Scheuer):

H.R. 12901. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. CORNELL (for himself and Mr. Udall):

H.R. 12902. A bill to amend the Internal Revenue Code of 1954 to provide rules for Federal estate taxation more equitable than those presently in effect; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 12903. A bill to amend the Higher Education Act of 1965 to require the Commissioner of Education to make payments of interest for eligible students within 30 days of receipt of a proper voucher, and for other purposes; to the Committee on Education and Labor.

By Mr. HARKIN:

H.R. 12904. A bill to amend the Solid Waste Disposal Act to encourage research, development, and implementation of energy and resource recovery from solid waste (including the establishment of regional resource recovery institutes), and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. LITTON (for himself and Mr. D'Amours):

H.R. 12905. A bill to provide that local governments may be reimbursed for the cost of protective and security services provided by such governments in connection with visits by the President or Vice President of the United States; to the Committee on the Judiciary.

By Mr. LLOYD of California:

H.R. 12906. A bill to reform the appointment process by which commissioners of Federal regulatory agencies are selected, to establish a bipartisan nominating board composed of distinguished individuals which will recommend to the President persons well qualified to be appointed as regulatory agency commissioners, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Currency and Housing; Merchant Marine and Fisheries; and the Joint Committee on Atomic Energy.

By Mr. O'BRIEN:

H.R. 12907. A bill to assure the continued dedication of the United States to quality education and the neighborhood concept; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 12908. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. RICHMOND:

H.R. 12909. A bill making appropriations for the Secretary of Agriculture for development of urban agricultural programs; to the Committee on Appropriations.

By Mr. RUPPE (for himself, Mr. MacDonald of Massachusetts, Mr. Baucus, Mr. Gude, Mrs. Pettis, Mr. Emery, Mr. Vander Veen, Mr. Regula, Mr. du Pont, and Mr. Patterson of California):

H.R. 12910. A bill to authorize a local public works capital development and investment program; to the Committee on Public Works and Transportation.

By Mr. TRAXLER:

H.R. 12911. A bill to amend title 39, United States Code, to provide that the Postal Service may not close any post office serving a rural area or a small community or town unless such closing is approved by the Congress; to the Committee on Post Office and Civil Service.

By Mr. DINGELL (for himself, Mr. Yatron, Mr. Traxler, Mr. Eilberg, Mr. Dominick V. Daniels, Mr. Badillo, Mr. Thompson, Mr. Seiberling, Mr. Edwards of California, Mr. Patterson of California, Mr. St Germain, Mr. Roybal, Mr. Waxman, Mr. Mottl, Mr. Rosenthal, Mr. Downey of New York, Mr. Scheuer, and Mr. Stark):

H.R. 12912. A bill to reform electric utility rate regulation, to strengthen State electric utility regulatory agencies, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.J. Res. 888. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

By Mr. WEAVER:

H.J. Res. 889. Joint resolution to provide financial assistance for the establishment of the Wayne Morse Chair of Law and Politics at the University of Oregon; to the Committee on Education and Labor.

By Mr. COTTER:

H. Con. Res. 597. Concurrent resolution disapproving the proposed sale to Egypt of C–130 aircraft and related support equipment; to the Committee on International Relations.

By Mr. HYDE:

H. Con. Res. 598. Concurrent resolution expressing the sense of Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. LEMAN:

H. Con. Res. 599. Concurrent resolution disapproving the proposed sale of C–130 aircraft to Egypt; to the Commitee on International Relations.

By Mr. DOWNING of Virginia (for himself, Mr. Litton, and Mr. Fithian):

H. Res. 1116. Resolution creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy; to the Committee on Rules.

By Mr. DUNCAN of Oregon (for himself, Mr. Ullman, Mr. AuCoin, Mr. Johnson of California, Mr. Meeds, Mr. McCormack, Mr. Pritchard, Mr. Bonker, and Mr. Weaver):

H. Res. 1117. Resolution disapproving the deferral of budget authority relating to the Forest Service (deferral No. D 76–036) which was transmitted to the Congress under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. PERKINS (for himself, Mr. Thompson, Mr. Dent, Mr. Dominick V. Daniels, Mr. Brademas, Mr. O'Hara, Mr. Hawkins, Mr. Ford of Michigan, Mrs. Mink, Mr. Meeds, Mr. Phillip Burton, Mr. Gaydos, Mrs. Chisholm, and Mr. Biaggi):

H. Res. 1118. Resolution disapproving the deferral of budget authority relating to special supplemental food program (WIC) (deferral No. D 76–105) which is proposed by the President in his special message of March 18, 1976, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. PERKINS (for himself, Mr. Lehman, Mr. Benitez, Mr. Blouin, Mr. Cornell, Mr. Simon, Mr. Beard of Rhode Island, Mr. Zeferetti, Mr. Miller of California, Mr. Hall, Mr. Peyser, Mr. Sarasin, and Mr. Jeffords):

H. Res. 1119. Resolution disapproving the deferral of budget authority relating to Special Supplemental Food Program (WIC) (deferral No. D 76–105) which is proposed by the President in his special message of March 18, 1976, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

342. By the SPEAKER: Memorial of the Legislature of the State of California, relative to inspection of meat by the U.S. Department of Agriculture; to the Committee on Agriculture.

343. Also, memorial of the Legislature of the Commonwealth of Kentucky, relative to the rights of the States to govern their inhabitants; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AMBRO:

H.R. 12913. A bill for the relief of Louis DeLucia; to the Committee on the Judiciary.

By Mr. DOWNING of Virginia:

H.R. 12914. A bill for the relief of Stephen Carpenter Carrier; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

434. The SPEAKER presented a petition of Charlie Hall, Waynesboro, Va., and others, relative to unemployment benefits; which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12406

By Mr. CLEVELAND:

On page 44, line 21 strike "$250" and insert in lieu thereof "$100".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of March 29, 1976, page H2500:

HOUSE BILLS

H.R. 12301. March 4, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 12302. March 4, 1976. Ways and Means. Amends the Internal Revenue Code to allow the exclusion from gross income of interest on industrial development bonds the proceeds of which are for the tax exempt activity of providing hospital facilities.

H.R. 12303. March 4, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption, and to increase the estate tax marital deduction.

Permits the executor of an estate to elect an alternate valuation of certain lands used for farming, woodland or scenic open space.

H.R. 12304. March 4, 1976. Education and Labor. Includes children of parents employed on Federal property, who attend school in a

State contiguous to the State in which such property is located, in the determination of Federal aid entitlement of the local educational agency having jurisdiction over such school.

H.R. 12305. March 4, 1976. Veterans' Affairs. Increases the period of entitlement for educational assistance for eligible veterans.

Eliminates the ten-year time limitation within which such assistance must be used.

H.R. 12306. March 4, 1976. Veterans' Affairs. Extends the delimiting period for completing veterans' education programs in the case of certain eligible veterans.

Reduces the monthly educational assistance allowance payable to eligible veterans who pursue a program of education during the extension period provided for in this Act.

H.R. 12307. March 4, 1976. Veterans' Affairs. Increases the period of entitlement for education assistance for eligible veterans.

Eliminates the ten-year time limitation within which assistance must be used.

H.R. 12308. March 4, 1976. Veterans' Affairs. Extends the delimiting period for completing veterans' education programs.

H.R. 12309. March 4, 1976. Post Office and Civil Service. Require the United States Postal Service to consider specified factors in determining the need for an existing third- or fourth-class post office. Sets guidelines relating to such determinations.

H.R. 12310. March 4, 1976. Interior and Insular Affairs; Merchant Marine and Fisheries. Directs the Secretary of the Interior to establish the Minnesota Valley National Wildlife Recreation Area and the Minnesota Valley National Wildlife Refuge in Minnesota.

H.R. 12311. March 4, 1976. Interstate and Foreign Commerce; Interior and Insular Affairs; Public Works and Transportation. Directs the Secretary of the Interior and the Federal Power Commission to issue appropriate permits and authorizations for United States participation in the construction of the Alaska natural gas pipeline system through Canada.

Suspends administrative procedure requirements with respect to obtaining rights-of-way for such pipeline. Specifically exempts requirements of the Mineral Leasing Act of 1920 concerning environmental protection, technical and financial capacity, public hearings, and licensing of applicants.

Imposes limitations on judicial review of administrative actions taken pursuant to this Act, including challenges under the National Environmental Policy Act of 1969.

H.R. 12312. March 4, 1976. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90 days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a limited business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by a franchisor.

H.R. 12313. March 4, 1976. Ways and Means. Establishes a tax credit of $50,000 under the estate tax provisions of the Internal Revenue Code with respect to the tax imposed on any estate.

Repeals the estate tax exemption.

Allows an executor to value farmland, woodland, and scenic open land at its current use value rather than at its fair market value.

H.R. 12314. March 4, 1976. Education and Labor. Provides, under the Labor-Management Reporting and Disclosure Act of 1959, that national and international labor organizations, and intermediate labor organization bodies, shall elect their officers by secret ballot.

H.R. 12315. March 4, 1976. Post Office and Civil Service. Authorizes the Secretary of Agriculture to appoint specified State, territory, and local meat and poultry inspection personnel to enforce and perform Federal inspection requirements with respect to slaughterhouses and processing establishments whose products are distributed solely intrastate, where such regulation is required because the State or territory in which such slaughterhouses or processing establishments are located has failed to develop or enforce sufficient inspection standards.

H.R. 12316. Ways and Means. Amends the Social Security Act to authorize States to provide day treatment and in-home services to any child or family experiencing problems which such services would assist in solving, and to any other child or family where parental difficulties may jeopardize the physical, emotional, or psychological condition of the child.

H.R. 12317. March 4, 1976. Government Operations; Rules. Abolishes specified Federal regulatory agencies on July 4, 1976 unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 12318. March 4, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-ray and physical examinations, and related routine laboratory tests.

H.R. 12319. March 4, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including X-ray and physical examinations, and related routine laboratory tests.

H.R. 12320. March 4, 1976. Ways and Means. Amends the Tariff Schedules of the United States to suspend for one year the import duty on racing shells and oars, if imported by and for the use of individuals or nonprofit organizations.

H.R. 12321. March 4, 1976. Veterans' Affairs. Allows an eligible veteran who is pursuing a program of education at the close of the ten-year delimiting period to continue to receive educational assistance in specified circumstances.

H.R. 12322. March 4, 1976. Merchant Marine and Fisheries. Authorizes appropriations for the National Sea Grant College and Program Act of 1966, through fiscal year 1979. Authorizes the Secretary of Commerce to encourage the advancement of other nations relating to the exploration, conservation, and management of marine resources.

H.R. 12323. March 4, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 12324. March 4, 1976. Armed Services. Directs the Administrator of General Services to acquire from eligible corporations any copper extracted and refined at assisted facilities as defined under this Act, upon request by such corporation. Requires that such acquisitions be stockpiled pursuant to the Critical Materials Stock Piling Act.

H.R. 12325. March 4, 1976. Government Operations. Authorizes the appropriation of funds under the State and Local Fiscal Assistance Act of 1972 for fiscal years 1976–1982. Provides for additional revenue sharing funds to be distributed to State and local governments in amounts in proportion to the amount such jurisdiction's unemployment rate exceeds six percent.

Requires the solicitation of public comment on the proposed use of revenue sharing funds.

H.R. 12326. March 4, 1976. Science and Technology; Atomic Energy. Authorizes appropriations to the Energy Research and Development Administration for nonnuclear, nuclear, and environmental research programs through fiscal year 1978.

H.R. 12327. March 4, 1976. Interstate and Foreign Commerce. Prohibits the Department of Health, Education, and Welfare from furnishing funds to pay for or encourage abortions, except when such abortions are necessary to save the life of a mother.

H.R. 12328. March 4, 1976. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the Medicare program at the level which was applicable during calendar year 1975.

H.R. 12329. March 4, 1976. Ways and Means. Increases the estate tax exemption and the marital deduction for taxable estates under the Internal Revenue Code.

Allows an executor to value farmland, woodland, and scenic open land at its current use value rather than at its fair market value.

H.R. 12330. March 4, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish a multiservice program for displaced homemakers designed to assist them in obtaining employment and educational opportunities.

Authorizes a study of existing Federal programs to determine the feasibility of participation by displaced homemakers.

H.R. 12331. March 4, 1976. Interior and Insular Affairs. Directs the Secretary of Health, Education, and Welfare to make grants and provide scholarships to encourage Indians to enroll in health-related training programs. Authorizes the Secretary to expend funds to meet Indian health care needs, to provide hospitals and other health facilities, and to supply unmet needs for safe water and sanitary waste disposal facilities. Requires the Secretary to contract with urban Indian organizations to assist them in establishing and administering health programs to benefit urban Indians.

H.R. 12332. March 4, 1976. Government Operations. Requires that all funds distributed to States under the State and Local Fiscal Assistance Act of 1972 be distributed to local governments. Extends the revenue sharing program until October 1, 1982.

Authorizes the Secretary of the Treasury to withhold revenue sharing funds from recipient governments which discriminate on the basis of race or sex.

H.R. 12333. March 4, 1976. International Relations. Establishes a Commission on Security and Cooperation in Europe.

Authorizes and directs the Commission to monitor the acts of the signatories to the Final Act of the Conference on Security and Cooperation in Europe Helsinki Agreement with respect to their compliance with the articles of such Act; particularly with regard to the provisions relating to Cooperation in Humanitarian Fields.

H.R. 12334. March 4, 1976. Ways and Means. Amends the Social Security Act to establish a new method of determining the initial primary insurance amount of an individual under the old-age, survivors, and disability insurance program. Requires the economic indexing of a worker's earnings in determining the base amount from which an individual's payments will be computed.

Revises the method of calculating the monthly earnings limitation.

Authorizes the appropriation of funds to two Social Security trust funds in an amount to be determined by the Comptroller General.

H.R. 12335. March 4, 1976. Agriculture. Amends the Food Stamp Act of 1964 (1) with respect to eligibility standards for households; (2) to establish a program of food coupon grants and eliminate the requirement that food coupons be purchased; (3) to establish a program of nutrition education for recipients of food coupons; and (4) to authorize the use of food coupons to purchase "meals on wheels". Guarantees restoration of wrongfully denied food stamp assistance.

H.R. 12336. March 4, 1976. Interstate and Foreign Commerce. Grants authority to the Administrator of the Environmental Protection Agency to establish a test protocol for any drug that may present an unreasonable risk to health or the environment, to require 90 days notice when any manufacturer is planning to manufacture or import a new drug, to prescribe rules for the distribution or use of a chemical substance deemed an unreasonable risk to human health or the environment, and to require the revision of inadequate quality control procedures. Exempts pesticides and certain other chemical substances from this Act.

H.R. 12337. March 4, 1976. Ways and Means. Allows a tax credit, under the Internal Revenue Code, for a specified amount of the tax on employers paid during the taxable year by the corporation.

H.R. 12338. March 4, 1976. Judiciary. Amends the Immigration and Nationality Act by increasing the number of aliens who may be admitted to the United States annually. Redefines "excludable aliens" and "nonimmigrant alien" for purposes of such Act. Authorizes special provisions for those persons who have certification for employment in the Virgin Islands to have their status adjusted or to be issued an immigrant visa. Authorizes the Seecretary of State to parole into the United States those persons who are unable or unwilling to return to their country because of race, religion or political opinion.

H.R. 123339. March 4, 1976. Government Operations. Directs the Administrator of General Services to convey a certain tract of land to the Commonwealth of Massachusetts.

H.R. 12340. March 4, 1976. Education and Labor. Exempts from the Farm Labor Contractor Registration Act of 1963 contractors of workers engaged in custom cutting or combine operations in connection with the harvesting of grains and contractors of workers engaged in the shearing of sheep.

H.R. 12341. March 4, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including X-ray and physical examinations, and related routine laboratory tests.

H.R. 12342. March 4, 1976. Post Office and Civil Service. Establishes the American Constitution Bicentennial Foundation to administer grants to groups and individuals who assist or develop projects to improve the understanding of our American heritage, to strengthen democratic institutions, and to develop fresh approaches to resolving the social and economic problems which confront us.

H.R. 12343. March 4, 1976. Banking, Currency and Housing. Repeals the provisions of the Flood Disaster Protection Act of 1973 which make flood insurance coverage and community participation in the national flood insurance program prerequisites for approval of any financial assistance in a flood hazard area.

H.R. 12344. March 4, 1976. Judiciary. Permits the Secretary of Housing and Urban Development to initiate a civil action to enforce Federal prohibitions against discriminatory housing practices. Allows Federal courts to award private plaintiffs bringing suit to enforce such prohibitions reasonable attorney fees whether or not such individuals are financially able to bear the cost.

H.R. 12345. March 4, 1976. Education and Labor. Amends the National School Lunch Act to require the compliance with the Buy American Act for the purchases of food by States and schools for use in the school lunch program.

H.R. 12346. March 4, 1976. Interstate and Foreign Commerce. Amends the Rail Passenger Service Act to authorize the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. Authorizes appropriations through fiscal year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to meet specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

H.R. 12347. March 4, 1976. Public Works and Transportation; Merchant Marine and Fisheries. Establishes strict liability for damages caused by oil spills. Creates within the Department in which the Coast Guard is operating an agency to settle claims arising from oil spills and to assist in providing compensation for oil spill damage.

H.R. 12348. March 4, 1976. Government Operations. Requires the head of any Federal agency to improve agency responsiveness to citizen complaints and inquiries. Requires that such agency heads report to Congress with respect to procedures followed, resources used, and the responsiveness of answers with respect to such inquiries.

H.R. 12349. March 4, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Civil Aeronautics Board, in determining the compensation for any local service air carrier for mail for the year 1966, to apply a specified subsidy rate. Exempts from such determination any decrease in the Federal income tax liability of such carrier in such year resulting from any capital loss carryback.

H.R. 12350. March 4, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States for personal injuries arising from a fire bombing.

H.R. 12351. March 4, 1976. Judiciary. Specifies the tax treatment of a certain corporation and certain individuals, under the Internal Revenue Code.

H.R. 12352. March 8, 1976. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90 days notice, with limited executions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by a francisor.

H.R. 12353. March 9, 1976. Armed Services. Directs that all National Guard technical positions be within the competitive service.

H.R. 12354. March 9, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-ray and physical examination, and related routine laboratory tests.

H.R. 12355. March 9, 1976. Agriculture. Directs the Secretary of Agriculture to establish standards governing timber sales in national forests consistent with multiple use-sustained yield principles. Requires consideration of environmental, biological, engineering, and economic factors prior to large timber sales. Requires the imposition of limits on clearcutting, cutting of unmarked trees, and cutting of immature trees in national forests. Requires the preparation of management plans for the national forests.

H.R. 12356. March 9, 1976. Ways and Means. Amends the Internal Revenue Code to revise the amount of a contribution of ordinary income property which may be deducted from gross income, where the contribution is used by the tax-exempt donee in a function which is related to its basis at a tax-exempt organization.

H.R. 12357. March 9, 1976. Government Operations. Requires that all funds distributed to States under the State and Local Fiscal Assistance Act of 1972 be distributed to local governments. Extends the revenue sharing program until October 1, 1982.

Authorizes the Secretary of the Treasury to withhold revenue sharing funds from recipient governments which discriminate on the basis of race or sex.

H.R. 12358. March 9, 1976. Banking, Currency and Housing. Amends the Housing Act of 1949 to expand the definition of "rural" and "rural areas" to include places not part of or associated with an urban area which have a population of between 10,000 and 20,000 people and which have a serious lack of mortgage credit for lower- and moderate-income families.

H.R. 12359. March 9, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-ray and physical examinations, and related routine laboratory tests.

H.R. 12360. March 9, 1976. Public Works and Transportation. Provides that all sections of the officially designated National System of Interstate and Defense Highways shall become toll free.

H.R. 12361. March 9, 1976. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 12362. March 9, 1976. Judiciary. Amends the Omnibus Crime Control and State Streets Act of 1968 to entitle States to Federal grants for law enforcement purposes only if the required comprehensive State plans include provisions for improving the availability and quality of justice, developing programs designed to prevent crime against the elderly, and evaluating all law enforcement programs funded under such Act.

Directs the Law Enforcement Assistance Administration to make grants to local government units having a population of 250,000 or more which demonstrate a high incidence of violent crime.

H.R. 12363. March 9, 1976. House Administration. Repeals the Presidential Primary Matching Payment Accounts Act. Prohibits the Secretary of the Treasury from transferring any amount of money to any candidate seeking nomination for election to the office of President after the enactment of this Act.

H.R. 12364. March 9, 1976. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to prohibit any individual's exclusion, on the basis of race, color, national origin, or sex, from programs funded under such Act.

Allows the United States Attorney General, State or local government officials, and individuals aggrieved by violations of this Act to institute a civil action for preventive relief in a U.S. District Court.

H.R. 12365. March 9, 1976. Judiciary. Eliminates the jurisdiction of United States courts, pursuant to article III of the U.S. Constitution, over decisions affecting assignment of pupils to particular schools.

H.R. 12366. March 9, 1976. Judiciary. Amends the Omnibus Crime Control and and Safe Streets Act of 1968 to require that comprehensive State plans under such Act include provisions for the prevention of crimes against the elderly.

H.R. 12367. March 9, 1976. Post Office and Civil Service. Entitles any individual paid by a nonappropriated fund instrumentality under the jurisdiction of the armed forces which is conducted for the comfort of military personnel, to specified leave and retirement benefits when such individual transfers without a break in service to a position to which civil service leave and retirement provisions apply.

H.R. 12368. March 9, 1976. Ways and Means. Increases the exemption for taxable estates under the Internal Revenue Code from $60,000 to $200,000 of the value of the gross estate.

H.R. 12369. March 9, 1976. Education and Labor. Stipulates that the term "migrant worker" under the Farm Labor Contractor Act of 1963 shall not include any individual whose primary employment is in custom cutting or combine operations in connection with the harvesting of grains, sugar beets, dry beans, hay, potatoes, or the shearing of sheep.

H.R. 12370. March 9, 1976. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Agriculture.

H.R. 12371. March 9, 1976. Education and Labor. Authorizes the National Labor Relations Board, under the National Labor Relations Act, to direct an election by secret ballot to resolve issues relating to appropriate collective bargaining units. Provides remedies for the loss of economic benefits or business opportunities resulting from unfair labor practice violations.

H.R. 12372. March 9, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the exemption from industrial development bond treatment for qualified small issues.

H.R. 12373. March 9, 1976. House Administration. Amends the Presidential Primary Matching Payment Account Act to provide that contributions received by any individual after such individual ceases to be a candidate for nomination for election to the office of President shall not be eligible for matching payments.

H.R. 12374. March 9, 1976. House Administration. Amends the Federal Election Campaign Act of 1971 to require candidates for Federal office to return excess contribution funds not put to specified uses to the persons making such contributions or to deposit such contributions in the Presidential Election Campaign Fund.

H.R. 12375. March 9, 1976. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs, and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 12376. March 9, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a program of information and assistance to States and localities in order to control mosquitoes. Authorizes studies, investigations, and grants to qualified State plans to effectuate the purposes of this Act.

H.R. 12377. March 9, 1976. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90 days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by a franchisor.

H.R. 12378. March 9, 1976. Veterans' Affairs. Strikes certain time limitations relating to veterans' education assistance programs administered by the Administrator of Veterans' Affairs.

H.R. 12379. March 9, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-ray and physical examination, and related routine laboratory tests.

H.R. 12380. March 9, 1976. Interstate and Foreign Commerce; Science and Technology. Amends the Solid Waste Disposal Act to expand research and development programs and to authorize the Administrator of the Environmental Protection Agency to make grants and guarantee loans for energy and resource recovery pilot plan and demonstration programs. Includes provisions for grants and assistance to State, local, and interstate solid waste management and resource recovery programs.

H.R. 12381. March 9, 1976. Education and Labor. Requires that occupational disease claims by Federal employees be reviewed by an impartial medical review board. Authorizes the Secretary of Labor to appoint such a board.

Specifies guidelines and procedures to be followed by the board in the determination and settlement of cases. Sets forth standards to be applied in determining whether a disease or illness is work related.

Permits judicial review of board decisions by district courts of the United States.

H.R. 12382. March 9, 1976. Education and Labor. Amends the Education Amendments of 1972 to exempt Boy's State, Boy's Nation, Girl's State, and Girl's Nation conferences from the sex discrimination provisions of such Act.

H.R. 12383. March 9, 1976. Judiciary. Prohibits economic coercion by business enterprises or their representatives based upon religion, race, national origin, sex, or lawful support or dealings with foreign countries.

H.R. 12384. March 9, 1976. Armed Services. Authorizes the Secretaries of the Army, Navy, Air Force, and Defense to establish or develop specified military installations and facilities. Authorizes the Secretary of Defense to acquire or construct family housing.

H.R. 12385. March 9, 1976. Education and Labor. Amends the Higher Education Act of 1965. Broadens the eligibility for Federal interest subsidy payment loans to students under such Act. Declares that the purpose of the work-study programs under such Act is to assist students in financial need (previously in great financial need). Increases the authorization for appropriations for such work study programs. Decreases the Federal share of the compensation of students employed in such programs.

H.R. 12386. March 9, 1976. Public Works and Transportation. Amends the Interstate Commerce Act to include independent owner-operator truckers as an exempt class to the motor carrier provisions of such Act. Directs that no such driver shall charge or collect a rate, fare, or charge lower than the lowest rate, fare, or charge specified in tariffs or schedules on file pursuant to such Act.

H.R. 12387. March 9, 1976. Atomic Energy. Authorizes appropriations to the Nuclear Regulatory Commission for salaries and expenses.

H.R. 12388. March 9, 1976. Science and Technology; Atomic Energy. Authorizes additional appropriations to the Energy Research and Development Administration for fiscal year 1976 for nuclear energy research and development programs.

HOUSE JOINT RESOLUTIONS

H.J. Res. 846. March 4, 1976. Post Office and Civil Service. Designates the fourth week in June as "National Tennis week".

H.J. Res. 847. March 4, 1976. Agriculture. Prohibits, during a specified period, the Secretary of Agriculture or any other Federal official from reducing services provided by offices of the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, or the Soil Conservation Service in any county in any State until a proposed plan for reducing such services in that State has been published, hearings have been held on it, and a final plan has been adopted and published.

H.J. Res. 848. March 4, 1976. Post Office and Civil Services. Authorizes the President to designate the period from March 7, 1976, through March 14, 1976, as "National Nutrition Week".

H.J. Res. 849. March 4, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week".

H.J. Res. 850. March 4, 1976. Post Office and Civil Service. Authorizes the President to designate the second full calendar week in March of 1976 as "National Employ the Older Worker Week".

H.J. Res. 851. March 4, 1976. Judiciary. Limits judges of the Supreme Court and Federal Courts to terms of eight years, with additional terms contingent upon the advice and consent of the Senate.

H.J. Res. 852. March 4, 1976. Post Office and Civil Service. Designates February 22, May 30, and October 12 as Washington's Birthday, Memorial Day, and Columbus Day respectively. Makes such days legal public holidays.

H.J. Res. 853. March 4, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day".

H.J. Res. 854. March 4, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the second full calendar week in March of 1976 as "National Employ the Older Worker Week".

H.J. Res. 855. March 8, 1976. International Relations. Establishes a delegation and authorizes it to organize and participate in a convention made up of similar delegations from North Atlantic Treaty parliamentary democracies. States that the purpose of the convention shall be to explore the possibility of agreement on a declaration that it is the goal of their peoples to achieve a more effective unity based on Federal or other democratic principles.

H.J. Res. 856. March 8, 1976. Post Office and Civil Service. Designates April 15 of each year as "Holocaust Remembrance Day".

H.J. Res. 857. March 9, 1976. Appropriations. Extends continuing appropriations for the departments, agencies and other organizational units of the U.S. Government for the fiscal year 1976 from March 31, 1976, to September 30, 1976.

H.J. Res. 858. March 11, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the 7-day period beginning June 21, 1976, and ending June 27, 1976, as National Amateur Radio Week.

H.J. Res. 859. March 11, 1976. Post Office and Civil Service. Designates the week beginning April 4, 1976, as "National Drafting Week".

H.J. Res. 860. March 11, 1976. Judiciary. Proposes a constitutional amendment to provide that no public school student shall be assigned to or required to attend a particular school because of his race, creed, or color.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 582. March 9, 1976. International Relations. Expresses the sense of the Congress that the United States should take all necessary actions to effect a regional conservation treaty for the protection of Northern Hemisphere pinnipeds.

H. Con. Res. 583. March 9, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any office during the 6-month period beginning on the date of adoption of this resolution.

H. Con. Res. 584. March 16, 1976. Agriculture; International Relations. Declares it the sense of Congress that every person has the right to a nutritionally adequate diet and that the United States increase its assistance for self-help development among the world's poorest people until such assistance reaches one percent of our total national production.

H. Con. Res. 585. March 16, 1976. Ways and Means. Disapproves the action taken by the President under the Trade Act of 1974 transmitted to the Congress on March 16, 1976, relating to import relief for stainless steel and alloy tool steel.

H. Con. Res. 586. March 16, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any post office during the six-month period beginning on the date of adoption of this resolution.

H. Con. Res. 587. March 17, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any post office during the six-month period beginning on the date of adoption of this resolution.

H. Con. Res. 588. March 18, 1976. International Relations. Directs the President to express the request of the United States Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University to join the Harvard Ukrainian Research Institute for the 1976–77 academic year.

H. Con. Res. 589 March 18, 1976. International Relations. Directs the President to express the request of the United States Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University to join the Harvard Ukrainian Research Institute for the 1976–77 academic year.

HOUSE RESOLUTIONS

H. Res. 1071. March 3, 1976. Post Office and Civil Service. Honors Rossell G. O'Brien for originating the custom of rising and standing with head uncovered during a rendition of the Star-Spangled Banner.

H. Res. 1072. March 3, 1976. Government Operations. Declares that the Federal budget must be balanced no later than 1980. Requires specified economic objectives to be met. Specifies that all Federal legislation and requests for funds must include a deficit impact statement to aid in identifying areas of law which require change in support of these objectives.

H. Res. 1073. March 4, 1976. House Administration. Requires that the report of the Select Committee on Intelligence filed on January 19, 1976, be printed as a House document.

H. Res. 1074. March 4, 1976. Rules. Requires the report of the Select Committee on Intelligence, filed on January 29, 1976, be referred to the Committee on House Administration, and such Committee shall follow the procedures agreed to between the Select Committee and the President with respect to the disclosure of classified information transmitted to such select committee. States that after such procedures have been complied with, such report, as it may be altered in accordance with such procedures, shall be printed as a House document.

H. Res. 1075. March 4, 1976. Rules. Establishes a select committee in the House of Representatives to conduct a full and complete study of the constitutional basis of the January 22, 1973, United States Supreme Court decisions on abortion, the ramifications of such decisions on the power of the States to enact abortion legislation, and the need for remedial action by Congress on the subject of abortions.

H. Res. 1076. March 4, 1976. Rules. Establishes in the House of Representatives the Select Committee on Nuclear Proliferation and Nuclear Export Policy.

H. Res. 1077. March 4, 1976. Rules. Establishes in the House of Representatives the Select Committee on Nuclear Proliferation and Nuclear Export Policy.

H. Res. 1078. March 4, 1976. Rules. Creates a House Select Committee on the Fiscal Problems of Cities which shall identify the nature and causes of problems afflicting large cities which face severe fiscal imbalance.

H. Res. 1079. March 4, 1976. House Administration. Authorizes the expenditure of specified funds for the expenses of investigation and studies to be conducted by the House Committee on Interior and Insular Affairs.

H. Res. 1080. March 8, 1976. Expresses the condolences of the House of Representatives on the death of the Honorable Wright Patman, Representative from the State of Texas.

H. Res. 1081. March 8, 1976. House Administration. Authorizes the appropriation of funds to carry out general oversight and investigation responsibilities by the House Committee on Government Operations.

SENATE—*Tuesday, March 30, 1976*

The Senate met at 12 meridian and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, we acknowledge Thy rulership and Thy judgment above all men and all nations. Before Thy holiness we know our sinfulness and our humanity, our weakness and our need of Thee. We seek no special favor nor claim no messianic mission. But since Thy work on Earth must be done by human beings and since Thou hast put us in this place, we beseech Thee to instruct us by Thy Word, govern us by Thy Law, and guide us by Thy Spirit. Light up our days by an awareness of Thy presence everywhere and at all times. May goodness and mercy follow us through all toil and trouble and at the end may we abide in the house of the Lord forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 30, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 29, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet until 1 p.m. or the end of the morning business, whichever occurs latest.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC DOCUMENTS ACT AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 681, S. 3060.

The bill (S. 3060) to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 33 of title 44, United States Code, is amended as follows:

(a) Section 3318 of chapter 33 is amended—

(1) by deleting subsection (a)(1)(E) in its entirety and substituting in lieu thereof the following:

"(E) one member of the Federal judiciary appointed by the Chief Justice of the United States."; and

(2) by deleting "section 5703(b) of title 5, United States Code" from subsection (e)(2), and substituting in lieu thereof "section 5703 of title 5, United States Code".

(b) Section 3322 of chapter 33 is amended by deleting "March 31, 1976" and substituting in lieu thereof "March 31, 1977".

SOME REFLECTIONS ON PUERTO RICO IN A BICENTENNIAL YEAR

Mr. MANSFIELD. Mr. President, last month a distinguished scholar, the president of the University of Puerto Rico, delivered a lecture at the University of Massachusetts. His statement "Reflections on Puerto Rico in a Bicentennial

Year" as is all of the writing of Dr. Arturo Morales-Carrion, is a very thoughtful composition. The theme is Puerto Rico and its relationship with the United States. It is a subject on which he is immensely competent to speak, a subject which has absorbed him throughout his life.

I have known Dr. Morales for many years during which he has performed outstanding public services in the governments of Puerto Rico and the United States and in the Organization of the American States. While his heart remains in Puerto Rico, where it has always been, Arturo Morales-Carrion is in my judgment, the personification of the concept of dual citizenship, which is written into the Puerto Rican-United States compact. Indeed, in his case, one might say he ought to be regarded, in addition, as a citizen of the Western Hemisphere and especially of the Caribbean. Few people in our times have better comprehended the forces at work in the Americas or have made greater contributions to building bridges of understanding between this Nation and the various other peoples of the new world.

The statement by Dr. Morales on Puerto Rico and the United States at the University of Massachusetts reflects his great knowledge of a relationship which is often too little understood in both places and too superficially treated in writings on the subject. I commend Dr. Morales' discourse to the Senate and ask unanimous consent that it be printed in the Record at this point.

There being no objection, the lecture was ordered to be printed in the Record, as follows:

Some Reflections on Puerto Rico in a Bicentennial Year

I am delighted to have the opportunity of participating in the lecture series at the University of Massachusetts on "Spanish Speaking People in Urban America" and I wish to thank President Woods, Chancellor Golino and Professor Marshall for inviting me here.

It is my pleasure to bring all of you a most cordial and fraternal greeting from the University of Puerto Rico. We feel honored that you have dedicated the opening lecture in your series to Puerto Rico. Let me express the hope that this occasion will prove to be the first in a fruitful series of inter-changes between our Universities in the years to come.

At the outset, I should like to dwell briefly on one theme: this is the year when the American Republic celebrates its Bicentennial. For over 75 years—more than one third of the Bicentennial—Puerto Rico has been linked politically with the United States. Puerto Ricans have been United States citizen for 59 years. And yet, a question is in order: Do we know each other well? Is American public opinion aware of what Puerto Rico is all about, as an island, as a people, as a cultural fact?

If we turn to the history books which tell us about the growth of the American republic, we find very scant reference to Puerto Rico. If we take, for instance, the excellent textbook put out by the late Richard Hofstadter, William Miller, and Daniel Aaron, "The United States: The History of a Republic" (N.Y., Second ed., 1967), Puerto Rico suddenly appears in connection with the Spanish-American War. It is ceded, of course, by Spain in the Treaty of Paris. It is mentioned in connection with the Insular Cases brought before the U.S. Supreme Court, and then it vanishes into thin historical air.

An outstanding diplomatic textbook, Thomas A. Bailey's "A Diplomatic History of the American People" (N.Y., Seventh Ed., 1964), tells us that President McKinley decided to take Puerto Rico in order to banish Spanish power completely from the Americas. Linking Puerto Rico to the Philippines, the author recalls how "Senator Pettigrew of South Dakota declared, with no little truth, that bananas and self government could not grow on the same section of land." Having disposed of Puerto Rico as a banana split, he leaves it to disappear in its thick tropical foliage.

The great scholar, Samuel Eliot Morison, in his "Oxford History of the American People" (N.Y., 1965), does much better. He duly points out that the island was ceded by Spain, and in describing the organic acts of Congress correctly infers that "the parallel with the Old British empire is suggestive." As early as 1965, he takes note of the Puerto Rican migration to the United States, a feat of historical insight when compared with the performance of his eminent colleagues concerning the island.

There are, of course, special studies on Puerto Rico, but the vast majority of Americans seldom hear about them. Absent from U.S. history books, which are more concerned with Cuba, Hawaii or the Philippines, Puerto Rico remains an unknown world, a baffling land, coveted by the tourist agencies, defined by traveling journalists, so near, in many ways, and yet so far apart. It is now the subject of a radical literature, tinged with antiyankismo, which has become good business for capitalistic publishing enterprises. There are fat profits to be made in telling how radical and anti-U.S. Puerto Ricans should be. Puerto Rico is debated at the U.N. as another Vietnam or Angola, or Mozambique, by people who do not have the faintest idea of what or where the island is. A few days ago in Paris it was even stated that life in Puerto Rico today is worse than in France under the Nazi occupation! For many of us who live and toil in Puerto Rico, the stories now being told about the island and its people seem often to be like Alice's adventures after she went through the looking-glass. They could have been written by Tweedledee if not Tweedledum.

The facts of history, though, are even stranger than this contemporary fiction. Puerto Rico's ties with the U.S. mainland do not date back for only three quarters of a century. It was not General Nelson Miles who first debarked from an American ship in Puerto Rico. It was the crew of the sloop Dragon, one of the first Massachusetts privateers, which sailed to the island in the XVII Century and engaged there in illegal trade. Long before the affair at Lexington, a host of seamen from what became the Middle Atlantic and New England states began trading with Puerto Rico. We sent our sugar and molasses to help you produce your "rumbooze" or "Killdevil". Rum has always been a close bond between us! You sent us flour from the Eastern seaboard. We were part of the extended triangular trade that flourished in colonial times between America, Africa and the West Indies. Throughout the Nineteenth Century, it was the sugar we sold and the flour we bought in the United States that paid enough duties to support the Spanish budget and enabled Spain to keep its military and bureaucratic hold over the island.

At one stage in the 1830's we received Ralph Waldo Emerson's brothers, Charles and Edward. They went to the West Indies and Puerto Rico to escape from Bostonian winter weather and from the scourge of TB. Their letters are found in the collection of the Ralph Waldo Emerson Memorial Association at Harvard. It was Charles Emerson who first lectured on Puerto Rico to New England audiences.

While I was preparing this lecture I was shown the reports in the New York Times about the zero temperatures, the ice and snow, and the bitter winds that were assailing New York and New England last week, and I could not resist the temptation to include here an extract from a lecture that Charles Emerson delivered before the Concord Lyceum in January, 1833.

Both Emersons, I should note, were firm believers in such traditional New England virtues as thrift, self-reliance and hard work, and both were staunchly anti-Catholic, so that they had some serious criticisms of the way of life they found in sunny, Catholic Puerto Rico. They, of course, did not know of the Irish Boston that was to come!

But they came to recognize some virtues as well. As Charles said in his remarks at Concord:

"If they are not energetic enough in efforts to improve their condition, they are exceedingly good humored in tolerating all its disadvantages. They are a people of beautiful manners. Their courtesy seems to be a constituent part of their language. . . We know, however, that the character of a language is only a reflection of the character of the people which speak it. There was something very agreeable in the greetings of acquaintances in the streets. They never passed one another with hasty step and slight recognition as in our busy towns, but always found time for a hearty and affectionate salutation. . . This looked, to be sure, as if they had nothing to do, but it also looked as if doing nothing had had a very good effect on their tempers. Our streets are colder than those of St. Johns & a man may be excused for brushing quickly by his friend when the thermometer stands at 20 or 30 degrees below freezing—but it must also be confessed that the manners of New Englanders are by no means their best part, & we might well learn of the West Indians to recommend ourselves to one another's regard by a more frank and cordial address".

In the 1840's we began receiving your abolitionist literature, to the great dismay of the Spanish authorities. Plans were afoot to extend the Underground System to fugitive slaves from the island. From some documents I have found, I suspect strongly that more than a few American sea captains were willing to introduce—or allow the introduction—into Puerto Rico of inflammatory literature against Spanish power.

There is no doubt that the pull and attraction of the U.S. market greatly encouraged the commercial production of sugar in Puerto Rico. The ups and downs of U.S. prices, the fluctuations in the tariff and import duties, greatly affected Puerto Rico's economy long before the Spanish-American War. Economic gravitation in sugar was a fact before 1898. Not so direct investment, which lagged well behind that in Cuba.

There was another link which took time to develop: the strategic link. Preoccupation with Cuba dwindled Puerto Rico's importance in the overall struggle for Caribbean supremacy. Faced with active Southern privateering during the Civil War, however, the victorious North felt the need for coaling stations in the Caribbean after 1865.

Samana Bay in Santo Domingo became the initial objective. But the Spanish-American War revealed the importance of Puerto Rico. It was Admiral Mahan who pointed out, in no uncertain terms, that Puerto Rico was for the United States in the Caribbean, what Malta was for England in the Mediterranean—the key, indeed, to naval and imperial hegemony.

From the building up of the naval base in Culebra to the relinquishing of the naval interest in the island last year, we have a history of three quarters of a century in which Puerto Rico's strategic significance was a dominant factor in American policy. The U.S. would "muddle through" in devising what type of colonial system would prevail: economic investments would flow to the sugar economy to develop a full plantation model after 1900 and later, after 1950, to help the process of industrialization. U.S. rule from Washington would swing from aggressive to tolerant paternalism, but the crucial, though less obvious, fact—made clear in two World Wars—was the strategic location of the island as the gateway to control of the Middle Caribbean.

Another salient fact of Puerto Rico's history is that throughout the 19th Century we imported people of many origins but they become largely homogeneous. We go from 150,000 inhabitants in 1800, to 600,000 in 1860, and to one million by the turn of the century, making Puerto Rico one of the most densely populated areas in the Western Hemisphere.

Today with 3.1 million inhabitants, Puerto Rico's population density is close to 1,000 per square mile, a figure that has great socioeconomic implications for a small island.

From 1800 to 1900, to repeat, we imported people. They came from all regions of Spain, from Corsica, from the Canary Islands, from Africa, from Louisiana, Haiti, Venezuela and the Lesser Antilles. At the end of the Century, we had a British group in the South; we had Germans conducting a flourishing trade with Hamburg; we had Dutch and Danes. That all these migrants were forged into a Puerto Rican type, with common languages and an emerging cultural ethos, is amazing. Even more than Manhattan has Puerto Rico been a melting pot, one that is specially noteworthy because in Puerto Rico the whole idea of minorities never took root. You may have had class and economic prejudice, including racial prejudice. But the general thrust was towards homogeneity despite great differences in ethnic origin.

How this melting pot came to be could well constitute the subject of a social history. On this occasion we can mention just two decisive factors.

The first was a Spanish decree of 1815, known in Puerto Rico as the Cédula de Gracias. This decree marked the formal abandonment by Spain of its long cherished exclusivist doctrine, for it opened Puerto Rico to trade with the United States and to settlement by foreigners. Many are the records in the archives of Puerto Rico which show that so-and-so, native of Ireland, or Curacao, or France, or Austria, obtained naturalization by virtue of the Cédula de Gracias.

The second is that slavery ended peacefully in Puerto Rico in 1873, thanks in no small measure to the efforts of the Puerto Rican abolitionists, and to the gradual decline of the institution itself. A report from the British Consul in Puerto Rico to the Foreign Office in London in 1866, which came to light only a few years ago, noted that, "Puerto Rico contains 600,000 inhabitants, of whom 308,430 are whites and 292,750 are colored. Of these, 41,600 only, or 7 per cent, are slaves, and this condition of things must be borne in mind when the Spanish colonies are spoken of, for nothing can be more dissimilar than those of Cuba and Puerto Rico".

Thus, a Puerto Rican may be blonde or black; may show some traces of Indian heritage; or may look Corsican or Sicilian. Or he may have a French, Danish, British or German surname. And, of course, he may look Andalusian, or may be taken for a Catalan. But let no one be fooled; he is a Puerto Rican.

Census classifications based on Spanish surnames will not tell the whole ethnic story about Puerto Ricans. He or she may be an Antonini or an Oppenheimer, a Gautier, a Todd, a Bothwell, a Girod, a Chardón, a Mattei, or Colberg, a Riefkohl, a Petrovich and be 100 per cent Puerto Rican.

For the Puerto Rican in Puerto Rico the Spanish language has been the great catalyst, the obvious cultural link. The American educators who at the turn of the century thought that Puerto Rico spoke a "patois" that could be easily swept away were greatly disappointed. These naive souls found themselves besieging a Gibraltar—a citadel that was never taken. In pressing to downgrade or eliminate Spanish, they touched a raw nerve.

Their failure was everybody's gain, but their attempt left deep psychological scars and a sense of estrangement which can still be felt even today, a generation after the language issue was resolved. Indeed, probably the greatest single barrier separating many Puerto Ricans from their American counterparts has been the so-called language question. From a rational standpoint, it is a senseless controversy. No educated Puerto Rican should reject English, the universal language of our times. By the same token, no educated American should resent Puerto Rico's attachment to Spanish as a core of its culture and its character. Spanish, after all, is not a picturesque dialect lost in a linguistic sea. It is one of the greatest, most dynamic and powerful languages of our times—a macro-language we may call it—ranking with Chinese, English and Russian as one of the main world languages. If some projections are right, Spanish will be the language of the largest number of people in the Western World in the XXI century.

It is a big mistake for educators anywhere to force any language down a people's throat. All they do is to create resentment and cultural trauma. Learning a language should be an attractive experience, a gateway to new revelations, never an instrument for psychic disruption or cultural denigration.

Puerto Ricans in Puerto Rico have taken and will take many things from the towering technological civilization that the U.S. has been exporting around the world: consumerism, supermarkets, speedways, Coca-Colas and Burger Kings. They may enjoy air conditioning, minis and midis, blue jeans and long hair. They may even use American slang. They will, however, retain their Spanish; will blend its accent with West Indian sounds; will add all kinds of words with a plastic, dynamic, linguisticélan. Knowledge of English may be good for the professions or the chores of trade; but in Puerto Rico when it comes to loving, swearing, singing and enjoying human company, you naturally turn to Spanish.

Puerto Ricans here of the second or third generation may well find the same high fulfillment using English. They are fighting their way in a tough world, starting sometimes at the very bottom of the social ladder. Some feel highly rejected by the surrounding social milieu, and then also find, on visting Puerto Rico, that they do not feel entirely at home.

The great migratory wave that gained momentum after the Second World War—a two-way phenomenon—has, indeed, divided Puerto Ricans into two segments, two communities, two social groups: the inner community, closer to the Island's mores; the outer community, now struggling for its place in a competitive and often hostile world. In some ways we have become different. Human beings are always defined or explained or shaped by interactions with their environment. Even within our tight, huddled Island, we see differences emerging between our vast San Juan metropolitan area, suffering from so many urban ills, protecting itself behind its grilled ironworks, and the more open, friendlier and natural society of the countryside. We are developing in the face of contrasting environments, different life-styles and behavior patterns—the anthropologists may speak of subcultures—and yet we have a yearning for a core identity as Puerto Ricans. As Puerto Ricans we should work for cultural understanding, not for aggressive tribal isolation. This feeling could be a powerful centripetal force among all Puerto Ricans—the inner, the outer, the urban, the rural, as well as those from other places who feel the pull of the land and eventually become part of us—provided we don't turn it into an ideological shibboleth. It is better to extend a friendly hand than to raise a clenched fist.

We want a Puerto Rico where man has reached a more fruitful ecological balance and has created a society less acquisitive and more geared to service and understanding. We are stressing not a return to old ways but a reaffirmation of enduring human values, especially those which are related to sensitivity, compassion, and respect for human life and for the individual.

Buffeted by conflicting political winds, in the face of an economic recession that has thrown a monkey wrench into the high-pressured growth we experienced in the 1960's, we are turning inward in search for a wiser and more humane way of life. We are discovering new delights in our cultural self-expression, in our natural surroundings, in our flora and fauna. Never have I seen so many young people in Puerto Rico interested in our old dance forms or in learning to play the guitar or the cuatro and singing the rich medleys of our folklore.

Traditions which seemed to be dead are suddenly reviving. People are reading more Puerto Rican literature and history than ever before. Gardening, along with a renewed love for our plants and trees, is growing in popularity. Amidst our social disorganization, in greater or lesser degree the product of negative social imports, I see signs here and there of a new generation with a stronger, deeper, attachment to the land, the songs, the tradition, the language.

There are many things in our contemporary Puerto Rico about which one may despair, some of which we share with urban communities on the mainland, and some of which are basically our own: the high incidence of crime; the unemployment among young people; the bleak economic picture brought by the energy crisis and the recession; the lack of adequate educational facilities and the heart-rending shortcomings in basic learning skills; the excessive politicization of life; the deterioration or sectors of the natural environment; and the development of a Puerto Rican-type of rat-race.

But there are also other things behind the looking glass: a passion for knowledge among so many students; the smiles on so many young faces; a rebirth of spiritual interest in art, religion and human communications. And in spite of the drug addicts, or the would-be terrorists, a desire for understanding and conviviality.

There are surely many emerging traits among Puerto Ricans here which may also point the way to a new rebirth. It is not for us in Puerto Rico to tell the Puerto Ricans here what to do or how to behave. We should come here not to give prescriptions, but to extend a friendly hand. We should come to explain to U.S. communities what the real Puerto Rico is like. We should help people pierce through all the grotesque distortions and diatribes and see the struggles of a society that, no matter how torn by conflicting political views, holds firmly to democratic ideals and is deeply concerned with shared human values. Contrary to Senator Pettigrew and Professor Bailey, we surely do have bananas, and plenty of them, growing along with democracy on the same section of land and we are anxious to defend and nurture both, simultaneously, on the same ground.

Here I must emphasize one fact. We are not of a piece with Kalamazoo or Topeka, nor are we like Orono or Salem. But neither are we going the way of Angola, Mozambique or Cuba. We are not meddling with any people's life, but to put it bluntly, many of us are getting sick and tired of U.N. ambassadors meddling in our affairs, or of people who can't locate Puerto Rico on the map telling us what we should do or what we shall be.

We hold to the tenet of self-determination but we need no support on that from U.N. delegations because we are exercising it in the best way to exercise it—in free election every four years. Anyone who really gets an insight into our values and commitments will readily see that, like most people everywhere, we may enjoy the standard patterns of a technological civilization, but we also want to be ourselves.

Like everybody else, we are fighting a stiff battle against recession and our urban problems. The statistics on our unemployment may be distressing. One out of every five members of the labor force is looking for work, Governor Hernández Colón reported to the Legislature a few days ago. Our average income level may be low by U.S. standards. Inflation has hit us badly. But we are not despairing; we are reacting. We have an industrial development unmatched in the Caribbean. Our social infrastructure is way ahead of most countries in the world. The proportion of our school age population going to school at all levels, including 115,000 in post-secondary education, is larger than that of most countries of the world including some of the wealthiest nations. We are dissatisfied with our productivity. We have to have more discipline and more know-how as well as more learn-how. But we are all alive and moving and by no means ready to fall prey to the dark forebodings of Casandras from the right or the left. It is my fervent hope that in this area of quiet resolve and dedication we shall have a meeting of minds with the Puerto Ricans of the outer community and with all peoples of good will and empathetic understanding.

I began this lecture with a reference to the American Bicentennial and a question about how well Puerto Ricans and Americans of whatever origin know each other after three quarters of a century of political association. I have tried to show that there are some serious deficiencies to be corrected. A Bicentennial year is an ideal time to start that process.

For most of its two hundred years, the United States has been strongly nationalistic, thinking of itself as the chosen land, as God's country, and to be sure it has been favored by Divine Providence in many ways. But it is now beginning to understand an observation that Ralph Waldo Emerson made in his Journal: "Nationality is often silly; every nation believes that the Divine Providence has a sneaking kindness for it". The nation has begun to look upon the world with a broader vision, and, I may add, with greater insight and understanding. It has been chastened by recent events and is learning the pitfalls and perils of what Senator William Fulbright called "the arrogance of power".

That empathetic insight has to turn inward as well as outward, to take fuller account of the essential character of "this nation of immigrants", as John F. Kennedy called it.

One of the deep, powerful strains in the United States is the Hispanic or Latin-American strain. Largely submerged over two centuries, it is now coming to the surface in many sections of the land: the West, the South, the Middle West, the Northeast. Whether culturally or politically or ethnically, it is here to stay. It, too, claims a share of the right to "Life, Liberty and the Pursuit of Happiness". National recognition of that claim is in order. For the "Latin" strain can no longer be boxed in; it has learned to speak through the ballot box, that exemplary boxer of many a political ear.

As part of this empathetic understanding of which I speak there should be keener awareness of what Puerto Rico and Puerto Ricans are all about; of their perplexities and doubts; their struggles and their hopes; and their own search for identity. I congratulate you, therefore, for leading the way with this series of lectures. It is for universities to break new ground and, in extending the frontiers of knowledge, to probe—always deeper—into the human condition.

NOMINATION OF THOMAS SOVEREIGN GATES

Mr. HUGH SCOTT. Mr. President, today the Committee on Foreign Relations had a hearing on the nomination of Mr. Thomas Sovereign Gates, of Pennsylvania, former Secretary of Defense, former Secretary of the Navy, for appointment to the post of Chief of the Liaison Office of the United States to the People's Republic of China with the rank of ambassador.

I have known Mr. Gates for more than 30 years. He has demonstrated extraordinary administrative ability. He has tact, patience, and a great willingness to serve his country.

As he told me, he had long since concluded that he felt he had given a good part of his life to that service and could retire with some satisfaction to private life. Nevertheless, he has been recalled to handle a most important and, in many ways, quite a sensitive post. I am sure that he will do very well indeed in that challenging assignment.

I think a number of people know I have always had a very considerable interest in the affairs of China and in the visit there, and the distinguished majority leader and I had the opportunity to visit there, and the distinguished majority leader has returned for a second visit. I hope to go for a second visit in due time. I welcome improvement in relationships with the People's Republic of China, as I do with the improvement of relationships with all other countries, because the more we are talking the better the chance we will come to understand each other better and better as time goes on.

So I do feel that the nomination of Mr. Gates is an excellent choice, and I wish him well.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield.

Mr. MANSFIELD. Mr. President, I wish to concur with the statement just made by the distinguished Republican leader and to say that I think this is a most excellent choice, following in the footsteps of Ambassadors Bruce and Bush, and I am very happy that he is going to Peking to represent this country with the personal rank of ambassador.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR SENATE, TO CONVENE AT 12 MERIDIAN ON WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, and Thursday, it stand in adjournment until the hour of 12 noon on tomorrow, Thursday, and Friday, respectively.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON WEDNESDAY AND FRIDAY AND DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on tomorrow and on Friday, after the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 30 minutes with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. STONE) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON STATUS OF ADVISORY COMMITTEES — MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Government Operations:

To the Congress of the United States:

In accordance with the provisions of Section 6(c) of the Federal Advisory Committee Act, the report on the status of advisory committees in 1975 is herewith forwarded.

This is the fourth annual report. It is organized to provide summary information about the activities of advisory committees, and public access to specific committees and the Federal agencies to whom they provide advice.

GERALD R. FORD.

THE WHITE HOUSE, *March 30, 1976.*

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed H.R. 12262, an act to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas broadcasting facilities, in which it requests the concurrence of the Senate.

At 3:14 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes.

The message also announced that the House insists upon its amendments to the bill (S. 3056) to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquake in Guatemala, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MORGAN, Mr. ZABLOCKI, Mr. DIGGS, Mr. NIX, Mr. SOLARZ, Mr. BROOMFIELD, and Mr. GILMAN were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 12262) to amend the Board for International Broadcasting Act of 1973 to authorize appropriations for fiscal year 1977 and to require the President to submit to the Congress a report on more effective utilization of overseas broadcasting facilities, was read twice by its title and referred to the Committee on Foreign Relations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. STONE):

A resolution adopted by the Patriotic American Youth Legislature, Jackson, Miss., commending Mississippi U.S. Senator James O. Eastland; laid on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS, from the Committee on Aeronautical and Space Sciences, with an amendment:

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 94–718).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. 2920. A bill to name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building (Rept. No. 94–719).

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a Citizen Regent of the Board of Regents of the Smithsonian Institution (Rept. No. 94–720).

S. Res. 414. A resolution authorizing supplemental expenditures by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities (Rept. No. 94–721).

S. Res. 416. A resolution to pay a gratuity to Leora S. Williams.

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 109. A resolution to establish a temporary select committee to study the Senate committee system (Rept. No. 94–722).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S. Res. 381. A resolution relating to the 15th anniversary of American commercial aviation (Rept. No. 94–723).

S.J. Res. 151. A joint resolution to authorize and request the President to issue a proclamation designating July 2, 1976, as an official holiday (Rept. No. 94–725).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment to the title:

S.J. Res. 76. A joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as "National Beta Sigma Phi Week" (Rept. No. 94–724).

S.J. Res. 172. A joint resolution to designate the fourth week in June as "National Tennis Week" (Rept. No. 94–726).

ANIMAL WELFARE ACT AMENDMENTS OF 1976—CONFERENCE REPORT (REPT. NO. 94–727)

Mr. WEICKER, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1941) to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BARTLETT:

S. 3224. A bill to amend the Federal Water Pollution Control Act, as amended, to define the term "navigable waters" as it applies to Corps of Engineers authority. Referred to the Committee on Public Works.

By Mr. HANSEN (by request):

S. 3225. A bill to amend title 38, United States Code, to extend the period of time during which seriously disabed veterans may be afforded vocational rehabilitation training; to make improvements in the educational assistance programs; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. BURDICK:

S. 3226. A bill to amend title 38 of the United States Code to remove the time limitations within which programs of education for veterans must be completed. Referred to the Committee on Veterans' Affairs.

By Mr. HUMPHREY (for himself, Mr. FANNIN, Mr. ROBERT C. BYRD, Mr. ABOUREZK, Mr. JOHNSTON, Mr. HUGH SCOTT, Mr. PELL, Mr. MONTOYA, Mr. MONDALE, Mr. MCGOVERN, Mr. PEARSON, Mr. MCCLURE, Mr. BENTSEN, Mr. MCGEE, Mr. WILLIAMS, Mr. JAVITS, Mr. METCALF, Mr. STONE, and Mr. NELSON):

S. 3227. A bill to accelerate solar energy research and development within the Energy Research and Development Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences, the Committee on Agriculture and Forestry, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Interior and Insular Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARTLETT:

S. 3224. A bill to amend the Federal Water Pollution Control Act, as amended, to define the term "navigable waters" as it applies to Corps of Engineers authority. Referred to the Committee on Public Works.

DEFINITION OF "NAVIGABLE WATERS"

Mr. BARTLETT. Mr. President, today I am introducing legislation which in essence restates the traditional definition of "navigable waters" as used by the Corps of Engineers. This is the definition which has been applied over a long period of time and has proved to be a workable and equitable means by which the corps exercises its responsibility over water which is used for interstate commerce, yet reserves to the States and local units of government those bodies of water which are under this jurisdiction.

Also, the definition traditionally used does not include bodies of water which are on private property. The continuance of this definition and the separation of privately owned waters from federally controlled waters is also included in my amendment. The farmer has historically built and maintained ponds or small lakes, which in many cases, were designed and located with the assistance of the Department of Agriculture. This amendment would insure that those bodies of water which are wholly contained upon privately owned property will not be under the jurisdiction of the Corps of Engineers.

The final section of the bill which I am introducing restates the definition of what waters are actually navigable.

Traditionally, the corps has exercised jurisdiction over only those waters which were susceptible to use in their natural condition or that, by reasonable importation of goods in interstate commerce. This jurisdiction has served adequately for a number of years, and there has been no demand by the public for change.

What my bill does is to provide the parameters within which the courts will render decisions as to the responsibility of the corps over the waterways of the United States.

This problem of navigable waters arose out of a court interpretation of the congressional intent in the Federal Water Pollution Control Act. The court, in its wisdom, found that Congress intended the corps to regulate all bodies of water, even if there was no evidence that they would ever be navigable. Only Congress can say what it intended in this legislation, but I do not find that it was the intent of Congress to extend the Corps of Engineers responsibility to all bodies of water throughout the United States.

The charge to the corps by the U.S. District Court for the District of Columbia leads to a staggering extension of Federal authority and a major advance of Federal interference into private lives, private business, and local control.

Not only will Federal interference continue to expand under this court decision, but also the cost will continue to escalate. There is no realistic determination of the cost, but the policing action required under this decision will take away from the more urgent needs of urban flooding and the continued improvement of our Nation's interstate waterways.

I propose that this amendment not return the country to an antiquated system of uncontrolled water resources, but rather to insure the continued, orderly development of those resources at the Federal, State, and local levels. It is important that we have a system that enables each level of government to operate in those areas where they have the most knowledge.

I, therefore, urge my colleagues to expedite the passage of this legislation.

By Mr. BURDICK:

S. 3226. A bill to amend title 38 of the United States Code to remove the time limitations within which programs of education for veterans must be completed. Referred to the Committee on Veterans' Affairs.

Mr. BURDICK. Mr. President, the time period within which veterans must use their educational assistance benefits will end on June 1 of this year. Unless the 94th Congress acts before this deadline, close to 500,000 veterans will lose their benefits.

With this in mind, I am today introducing a bill which would remove the time limitations within which programs of education for veterans must be completed. Essentially, this proposal would be instrumental in allowing the veteran to complete his college training, thus providing for the eventual economic well-being of his family. There is no question in my mind that the veteran should be entitled to educational assistance until he has used all the benefits entitled him. He has earned as much.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1662 of title 38, United States Code, is amended to read as follows:

§ 1662. Educational assistance available until used.

"Educational assistance afforded to eligible veterans under this chapter shall remain available until used.".

(b) The analysis of subchapter II of chapter 34 of such title 38 is amended by striking out

"1662. Time limitations for completing a program of education."

and inserting in lieu thereof

"1662. Educational assistance available until used.".

By Mr. HUMPHREY (for himself, Mr. FANNIN, Mr. ROBERT C. BYRD, Mr. ABOUREZK, Mr. JOHNSTON, Mr. HUGH SCOTT, Mr. PELL, Mr. MONTOYA, Mr. MONDALE, Mr. MCGOVERN, Mr. PEARSON, Mr. MCCLURE, Mr. BENTSEN, Mr. MCGEE, Mr. WILLIAMS, Mr. JAVITS, Mr. METCALF, Mr. STONE, and Mr. NELSON):

S. 3227. A bill to accelerate solar energy research and development within the Energy Research and Development Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences, the Committee on Agriculture and Forestry, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Interior and Insular Affairs, jointly, by unanimous consent.

SOLAR ENERGY ACT OF 1976

Mr. HUMPHREY. Mr. President, I am not satisfied with our progress in developing solar energy. We have made some notable strides: for example, solar water heating is economically competitive in most regions now of the United States.

Yet, we have also seen great reluctance on the part of the administration to aggressively pursue solar energy development. Instead, a variety of nuclear and nonnuclear energy alternatives are emphasized in the media and in funding requests—alternatives which are in some cases more remote technically and economically than solar energy.

In one word, we have failed to achieve a balance in promoting advance energy research and development. And we have failed to achieve a balance at the expense of solar energy for two reasons, I believe.

First, solar energy does not have a well-developed, vocal, and aggressive body of private industrial firms supporting increased Federal funding and demonstration projects.

Second, solar energy is still a cottage industry; as a result, it cannot yet compete economically with fossil fuels. Despite being essentially fully developed technically, solar energy has not been able to achieve the economies of scale so necessary to price reductions and wide-scale public adoption. In fact, solar energy is a classic chicken-and-egg situation: it will not be widely utilized until costs decline, but costs will not fall without expanded demand and associated economies of scale production.

EXPANDING SOLAR ENERGY USE

Extensive solar energy use will occur. By following the administration's proposals, we delay such use past 1985 or 1990. That means continued reliance on alternative energy sources which impose relatively severe environmental costs on society.

There is no reason, however, to delay solar energy development for another decade or two. The Congress clearly made that point last year in appropriating 30 percent more for solar energy than requested by the Energy Research and Development Administration. Increased utilization of solar energy requires a three-pronged program: demonstration, temporary market creation, and technical support.

In view of the advanced state of solar technology, Federal solar efforts should focus on demonstrations and market creation. Unfortunately, these are the areas most ignored thus far in the solar effort. To date, only a literal handful of heating, cooling, or hot water demonstration awards have been made. And even fewer demonstration awards have been made in the remaining solar areas of wind, solar thermal, photovoltaics, OTEC, agricultural applications, or biomass. Finally, there is not one explicit program underway or envisioned to stimulate development of a market for solar energy devices using Federal buildings or complexes.

It is clear, then, what must be done at the Federal level to stimulate solar energy: an aggressive demonstration and market creation effort must be established to complement the existing technically oriented solar programs. And the objectives of this new dual effort should be equally clear: to promote widespread acceptance of solar energy, and to generate sufficient demand to enable economies of scale in production to be realized.

This cannot be entirely done in the next fiscal year, 1977. But the effort must be initiated then. For that reason, I have authored the Solar Energy Act of 1976. I am gratified that 18 Senators have joined in sponsoring this legislation.

It specifies the establishment of a number of demonstration projects, particularly of solar thermal electric facilities, to evaluate existing technology. It will fund continuation of up to 600 residential/commercial heating and cooling demonstrations. And it continues a variety of wind, biomass, and agricultural solar demonstration projects imperiled by cuts in budget requests mandated by the Office of Management and Budget.

Perhaps most importantly, the legislation restores funding for photovoltaic electric systems to the level requested by the photovoltaic branch within ERDA. This original request of $59.2 million for fiscal year 1977 was subsequently reduced to only $22 million for submission to Congress. That is an inadequate level of funding. And it is inadequate because photovoltaics is the fastest developing of all solar technologies.

The per-watt cost of these cells has fallen from $300 to $10 in less than 2 years. It is apparent that further cost reductions are likely—and that electricity from photovoltaic cells may be cost competitive within 5 or 6 years. The solar program, or any research and development program, must exploit breakthroughs—and that is what the Solar Act is designed to do in the case of photovoltaics.

Let me close by noting several pertinent facts regarding this solar bill.

It provides for a fiscal year 1977 solar authorization of $238 million—about equal to the request by ERDA's Solar Division of $230 million for fiscal year 1977. This figure is 43 percent above the outlay level suggested recently for solar energy by the House Science and Technology Committee.

The act is generally patterned on the House committee's legislation—in fact, it calls for identical spending on solar heating and cooling, OTEC, and solar technology utilization and information dissemination. It does not reduce any solar authorization level proposed by the House committee. The act provides for an increase in four areas:

It mandates at least 20 so-called anaerobic digester demonstrations for fiscal year 1977. The biomass fuel devices produce methane from animal and farm wastes. They are widely used internationally and will markedly reduce farm dependency on propane;

It raises the solar photovoltaic authorization to the level requested by ERDA's solar branch. This adjustment is designed to utilize the striking progress in cost reductions being achieved by private contractors in the solar technology with the widest application, and the only solar technology—other than OTEC—capable of functioning well in cloudy conditions.

It mandates two solar electric demonstration powerplants to be established: First, in cooperation with a small community, electric co-op, or municipal utility; and second, for agricultural use. It also mandates a distributed collector demonstration facility, a hybrid—solar plus coal combination—demonstration powerplant, and a solar powered crop irrigation demonstration program; and

It mandates initial construction of a multiunit 10-megawatt wind energy pilot plant.

The act also revises ERDA's authority to encourage cost-sharing and small business participation in demonstration projects; also required is an evaluation of the interface problem between utility grids and onsite solar electric systems.

Mr. President, I ask unanimous consent that a factsheet and table on the Solar Energy Act of 1976, and the text of the act itself, be printed in the Record.

There being no objection, the bill and factsheet were ordered to be printed in the Record, as follows:

S. 3227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Energy Act of 1976."

TITLE I—FINDINGS, POLICY, PURPOSE, AND DEFINITIONS

Sec. 101. (a) The Congress hereby finds that—

(1) the current imbalance between domestic supply and demand for energy is likely to continue;

(2) it is in the Nation's interest to initiate a national commitment toward achieving energy independence within fifteen years;

(3) energy independence can be promoted through the use of solar and geothermal energy as a source for at least 10 per centum of the Nation's energy needs by 1991;

(4) the national effort in testing, evaluating, and utilizing solar and geothermal energy continues to be limited and ineffective;

(5) small business concerns and individual inventors make unique and valuable contributions to technological innovation in the fields of energy resource development and utilization and, through such innovation, to the security, prosperity, and welfare of the Nation;

(6) increased competition within the energy industries of the Nation will maximize innovation, invigorate economic development, and expedite the Nation's drive for energy self-sufficiency;

(7) the utilization of solar energy can be most rapidly promoted by the selective creation of markets through Federal purchases of solar technologies ready for commercial demonstration: Therefore,

(8) it is declared to be the policy of the United States and the purpose of this Act to reduce the national reliance on crude oil imports as an energy source by demonstrating the reliability of solar energy generation facilities.

(b) For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) the term "anaerobic digester" means any machine, device or structure whose primary function is the conversion or change of waste products, animal or vegetable into usable flammable gas (methane or other) or usable fertilizer;

(3) the term "total solar energy system," with respect to any building or complex of buildings, means the use of solar energy (including devices for the storage thereof) to meet all the total energy needs of such building or complex, including electricity generation, space heating and cooling and hot water generation, or to meet such portion of the total energy needs as may be required under performance criteria prescribed by the Administrator utilizing the services of the Secretary of Housing and Urban Development and the Director of the National Bureau of Standards.

TITLE II—SOLAR ENERGY FISCAL YEAR 1977 SUGGESTED BUDGET OUTLAYS FOR OPERATING EXPENSES, PLANT AND EQUIPMENT, AND CONSTRUCTION

Sec. 201. It is the sense of the Congress that budget outlays should be made during fiscal year 1977 for the purposes hereinafter enumerated in the following amounts:

(1) Solar Heating and Cooling—to enable the Administrator and the Secretary of Housing and Urban Development to implement 2,000 residential units and 4,000 residential unit demonstration programs proposed through 1979; to implement the 60 commercial demonstration projects proposed for fiscal year 1977; and to support continued research and development of solar heating and cooling technology, the sum of $59,700,000 for the fiscal year 1977;

(2) Agricultural and Industrial Process Heat—to restore proposed demonstration programs in solar-generated farm and manufacturing process heat, the sum of $4,600,000 for the fiscal year 1977;

(3) Solar-Thermal Electric—to maintain the procurement and development schedules for previously authorized test facilities and a central receiver powerplant and to restore the National Science Foundation's solar thermal programs, the sum of $39,800,000 for the fiscal year 1977;

(4) Photovoltaic—to restore proposed development and demonstration programs, and to accelerate cost-reduction in photovoltaic production, the sum of $59,200,000 for the fiscal year 1977;

(5) Ocean Thermal—to facilitate rapid development of this technology and experiments to resolve biofouling questions, the sum of $13,000,000 for the fiscal year 1977;

(6) Wind—to maintain the development of wind demonstration projects, the sum of $15,000,000 for the fiscal year 1977;

(7) Solar Crop Irrigation Systems—to enable the Administrator to promptly initiate and carry out a program to develop and demonstrate solar-powered crop irrigation systems, the sum of $2,000,000 for the fiscal year 1977;

(8) to enable the Administrator to promptly initiate and carry out a program to develop and evaluate agricultural biomass systems suitable for use on farms and feed lots, including the evaluation of at least twenty anaerobic digesters demonstrations of vary-

ing scales during the fiscal year 1977, the sum of $1,500,000 for the fiscal year 1977;

(9) Biomass—to accelerate the commercial utilization and demonstration of biomass fuels, the sum of $4,200,000 for the fiscal year 1977;

(10) Resource Assessment Technology Utilization and Information Dissemination—to restore an adequate level of data collection and analysis capability and to accelerate the dissemination of information on solar energy, the sum of $6,800,000 for the fiscal year 1977;

(11) Solar Energy Research Institute—to enable planning for this cornerstone of the national solar program to proceed, the sum of $2,500,000 for the fiscal year 1977;

(12) to provide for additional capital equipment not specified herein, the sum of $4,300,000 for the fiscal year 1977;

(13) for construction of Project 76–2–C total energy demonstration facility, 1 megawatt electric, 10 megawatts thermal, the sum of $2,500,000 for the fiscal year 1977;

(14) for construction of Project 77–2–A solar thermal electric demonstration powerplant for a small community, electric cooperative or municipal utility, 5 megawatts (baseline design studies), the sum of $1,500,000 for the fiscal year 1977;

(15) for construction of Project 77–2–B solar electric-hybrid (photovoltaic-coal) demonstration powerplant, 10 megawatts (baseline design studies and utility interconnect studies), the sum of $3,000,000 for the fiscal year 1977;

(16) for construction of Project 77–2–C solar thermal electric demonstration powerplant for agricultural use, 5 megawatts (baseline design studies), the sum of $1,500,000 for the fiscal year 1977;

(17) for construction of Project 76–2–A, 5 megawatts solar thermal test facility, Sandia, the sum of $10,000,000 for the fiscal year 1977;

(18) for construction of Project 76–2–B, 10 megawatts central receiver solar thermal powerplant, the sum of $1,000,000 for the fiscal year 1977;

(19) for construction of Project 77–2–D, 5 megawatts distributed collector receiver solar thermal test facility, the sum of $2,000,000 for the fiscal year 1977;

(20) for construction of Project 77–2–E, 10 megawatts Wind Electric Test facility (baseline design studies) the sum of $900,000 for the fiscal year 1977; and

(21) for additional construction not specified herein, the sum of $2,600,000 for the fiscal year 1977.

TITLE III—RESPONSIBILITIES OF THE ADMINISTRATOR—AMENDMENT TO THE ENERGY REORGANIZATION ACT OF 1974

SEC. 301. Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813) is amended (1) by redesignating the existing text thereof as subsection (a), and (2) by adding new subsections thereto as follows:

"(b) (1) COST-SHARING. It shall be the duty of the Administrator to insure to the maximum extent possible that a portion of the procurement conducted under authority granted by this Act shall be on the basis of cost-sharing with private business when such procurement is to be utilized by or in commercial buildings and complexes, including utilities.

"(2) SMALL BUSINESS. The Administrator shall consult with the Administrator of the Small Business Administration before granting or contracting for any demonstration projects authorized pursuant to this Act. The Administrator of the Small Business Administration shall determine the set-aside for each area of demonstration, in each case, the set-aside to be the maximum feasible.

"(c) REPORT—Electric utility interface with on-site solar electric systems. By September 30, 1977, the Administrator shall report to the President and the Congress on the integration of existing electric utility systems with decentralized solar-electric generation systems. Such report shall include:

"(1) the extent to which reserve utility electric generation capacity is necessary or appropriate to support such systems and their related energy storage devices;

"(2) the possible funding arrangements for reserve utility electric generation capacity necessary to support such systems and their related energy storage devices; and

"(3) the extent to which a greater integration of existing electric grids, and extensive use of energy storage devices for decentralized solar-electric generation systems will minimize the need for reserve utility electric generation capacity to support such systems."

THE SOLAR ENERGY ACT OF 1976

FACT SHEET

Solar heating and cooling

The Office of Management and Budget (OMB) reduced by one-half to about 500 the number of demonstration awards requested by the Energy Research Development Administration (ERDA) Solar Division for fiscal year (FY) 77. The House Science and Technology Committee suggested a level of funding sufficient to restore most of these awards—the Solar Act calls for an identical funding level of $59.7 million.

Agriculture and industrial process heat

OMB reduced the Division's request to 28 projects for FY 77 in 19 states from 54 projects in 40 states. Again, Science and Technology suggested funding to restore most of these projects, and the Solar Act calls for an identical level of outlays of $4.6 million.

Technical support and SERI

OMB sharply reduced outlays sugegsted for these solar support activities. Science and Technology restored most of the requested funds and, again, the Solar Act calls for an identical outlay restoration, to a suggested $6.8 million for technical support. The Solar Act does, however, call for a greater acceleration in SERI's budget, than did Science and Technology, to a total of $2.5 million for FY 77.

Biomass

OMB reduced the Solar Division request by over one-half. Science and Technology restored only one-third of this cut. The Solar Act restores another 40 percent for a suggested total outlay of $5.7 million, including $1.5 million earmarked for devices to produce methane from feed lot residue.

Ocean thermal

OMB reduced outlays suggested by the Solar Division by 60 percent; Science and Technology restored a portion—but not enough to initiate construction of an OTEC test facility. The Solar Act calls for an identical level of outlays for FY 77.

Solar thermal

OMB reduced the Solar Division's request by one-third and delayed construction of two major test and evaluation facilities for up to one year. Science and Technology partially restored these requested funds; the Solar Act restores the remainder for a suggested outlay of almost $40 million. In addition to the three test and demonstration solar thermal facilities previously mandated, four new facilities are mandated by the Solar Act:

5 MWe demonstration solar thermal powerplant for agricultural use;

5 MWe demonstration solar thermal powerplant for rural electric co-op or small municipal utility;

10 MWe hybrid (solar-coal) demonstration solar thermal powerplant; and

5 MWe distributed collector test facility.

These additions raise the suggested total solar thermal FY 77 outlays for construction to $21 million for seven facilities.

Photovoltaic

Technological evaluation and research support for cell development was reduced almost by one-half, including a promising pilot line operation of the cadmium sulfide thin film process. Only 10 percent of these OMB reductions were restored by Science and Technology. The Solar Act goes further. To take advantage of the most rapidly advancing of all solar technologies, the Act suggests restoration of the full Solar Photovoltaic Branch request of $59.2 million. This level will enable the striking cost reductions in this technology to continue.

Wind

OMB reduced the Solar Division's request by one-half. Science and Technology restored none of this cut; the Solar Act does restore 25 percent of the cut (to $15 million) and also adds almost another $1 million to keep the previously mandated 10 MWe wind test facility on schedule.

Small business and cost-sharing

The Solar Act calls upon ERDA and the SBA to encourage small business participation in solar development. It also requires ERDA to pursue cost-sharing arrangements with private firms where feasible for demonstration facilities.

The attached table provides a detailed breakdown of FY 77 solar funding requests.

ERDA—SOLAR ENERGY FUNDING REQUESTS, FISCAL YEAR 1977 OUTLAYS[1]

[Millions]

	Solar division	OMB (congressional submission)	House committee	Solar Act
Operating funds:				
Heating and cooling	$81.4 (92.8)	$34.5 (45.3)	$59.7 (78.9)	$59.7
Agriculture and process heat	5.9 (6.7)	2.5 (3.9)	4.6 (6.7)	4.6
Solar thermal	39.8 (45.0)	26.5 (30.9)	[3] 31.8 (38.0)	[3] 41.8
OTEC	17.4 (21.2)	7.0 (9.2)	13.0 (17.0)	13.0
Photovoltaics	[4] 59.2 (81.0)	22.0 (28.2)	25.1 (32.1)	59.2
Wind	24.4 (28.8)	12.0 (16.0)	12.0 (16.0	15.0
Biomass	6.6 (8.1)	3.0 (4.3)	4.2 (6.0)	5.7
Technical support	8.3 (12.2)	1.5 (2.5)	6.8 (8.5)	6.8
SERI	2.0 (2.2)	1.5 (1.5)	1 7 (2.5)	2.5
Subtotal, operating funds	245.0 (298.0)	110.5 (142.0)	159.0 (206.0)	208.3
Capital equipment	9.5 (17.2)	2.8 (5.7)	4.3 (8.5)	4.3
Construction	4.4 (2.55)	2.6 (12.5)	2.6 (12.5)	25.0
Total	275.0 (358.0)	116.0 (160.0)	166.0 (227.0)	237.6

[1] Budget authority in parenthesis.

[2] Includes $2,500,000 in outlays and $4,000,000 in budget authority for 1 total energy demonstration facility.

[3] Includes $2,000,000 for solar crop irrigation demonstrations.

[4] Request by ERDA's photovoltaic branch.

Mr. FANNIN. Mr. President, my distinguished friend from Minnesota and I have long contended that solar energy could be and should be a major source in meeting this country's present and future energy demands.

For that reason, it was particularly gratifying to see the Congress mandate a strong Federal role for solar research and development in the 93d Congress. The Solar Heating and Cooling Act of 1974 envisioned thousands of residences across the country equipped with available solar collectors for heating and cooling. The Solar Energy Research, Development, and Demonstration Act of 1974 pledged $1 billion for the development of solar high technology and requested the administration to establish a National Solar Energy Research Institute.

Yet, here we are 2 years later with a budget request that is barely over $100 million and no sign of the Institute—with the exception of a request for proposal which indicates that somewhere along the line our concept of a national solar focal point has shrunk to the size of an extension to the local public library.

As a supporter of nuclear energy development, I find it harder and harder to answer the cries of the antinuclear movement about the ever-widening gap in Federal research moneys between nuclear funding and other energy alternatives. It was never our intention to pit energy sources against one another. We understand now the folly of relying too heavily on any one energy resource—such as oil or gas.

Instead, we determined, with the act that established the Energy Research and Development Administration, to fund all types of promising energy research programs more adequately. In this way, we can bring technologies, such as solar heating and cooling, to the marketplace at a much earlier date than if the private sector was left to take the risk alone.

It is because we feel solar energy development could be progressing more rapidly that the distinguished Senator from Minnesota and I—and 20 of our colleagues—offer the Solar Energy Act of 1976 today.

This bill would simply restore the solar budget to the approximate level of the Solar Division request before the Office of Management and Budget arbitrarily slashed this particular program in the 1977 administration request.

The act also places a new urgency on the development of solar electric technology. Utilities and their customers simply cannot afford, in this period of high electricity rates, to pay higher fuel rates and also fund research on technologies which should be replacing fossil fuels as soon as possible in many areas. Several of the solar electric technologies are available at present, such as photovoltaic conversion and ocean thermal. But these ventures are entirely too costly to compete with the artificial fossil fuel prices of today. It will take economics of scale and possibly further materials research to lower some of these costs. Without Federal help, the realization of these hopes may be unfulfilled for years.

Consequently, in the areas of research and development on ocean thermal, photovoltaics, solar thermal, and wind technology, the act calls for a total of $128 million in outlays for fiscal year 1977, a figure still below the request by the Solar Division but certainly more aggressive than the budget request.

The Solar Act also mandates a strong program for the agricultural use of solar energy for such purposes as crop-drying and the production of methane from feedlot residue through bioconversion.

Mr. President, I could offer any number of articles on the private sector's activities and indication of interest in this resource, but the expressions of interest in solar energy development are so numerous that I am sure my colleagues read and hear of them everyday.

Instead, I will emphasize the other major aspect of this legislation we are proposing—that of demonstration. Other than the heating and cooling activity—which is reduced greatly from the original congressional scope—we have only two solar projects in progress—a 5-megawatt test facility and a 10-megawatt powerplant. This legislation would boost the demonstration activity up to seven facilities.

By passage of our plan, the Congress would be mandating in addition to present work, a total energy demonstration facility—1 megawatt electric and 10-megawatt thermal; two solar thermal powerplants—each 5 megawatts, one for agricultural use and one for use as a small municipal utility; a 5-megawatt distributed collector test facility and a hybrid powerplant to demonstrate the coupling of solar energy and coal.

Mr. President, I would certainly hope we could add this legislation to the list of accomplishments of the 94th Congress. The development of the solar resource is vital and I feel a strong Federal role is desirable. Americans are anxious to change this country's habits of resource depletion and environmental pollution. Solar energy is abundant and clean—let us take the challenge and assist this country in utilizing this resource as early as possible.

Mr. MOSS subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Minnesota (Mr. HUMPHREY) for himself and others relative to the Solar Energy Act of 1976 be referred jointly to the Committee on Agriculture and Forestry, Aeronautical and Space Sciences, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2020

At the request of Mr. RIBICOFF, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2020, a bill to provide optometric coverage under part B medicare payments.

S. 2936

At the request of Mr. HANSEN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2936, a bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities authorized under such part.

S. 3045

At the request of Mr. MCGOVERN, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. BROOKE) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 3045, a bill to establish a National Commission on Food Production, Processing, Marketing, and Pricing to study the food industry from the producer to the consumer.

S. 3071

At the request of Mr. HANSEN, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3071, a bill to provide for determination of grazing fees.

SENATE RESOLUTION 381

At the request of Mr. CANNON, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Resolution 381, a resolution which provides recognition for the 50th anniversary of commercial aviation.

SENATE RESOLUTION 416—AN ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 416

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Leora S. Williams, widow of John L. Williams, an employee of the Senate at the time of his death, a sum equal to seven and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 417—SUBMISSION OF A RESOLUTION TO PROVIDE FOR A LIMITATION ON THE NUMBER OF SUBCOMMITTEE CHAIRMANSHIPS THAT ANY SENATOR CAN HOLD

(Referred to the Committee on Rules and Administration.)

Mr. BUMPERS (for himself, Mr. GARY HART, Mr. DURKIN, Mr. HATHAWAY, Mr. GLENN, Mr. HASKELL, and Mr. CHILES) submitted the following resolution:

S. Res. 417

Resolved, That paragraph 6 of Rule XXV of the Standing Rules of the United States Senate is amended by adding at the end thereof the following new subparagraph (1):

"No Senator who is serving at any time as chairman of a committee named in paragraph 2 may at the same time serve also as chairman of more than one subcommittee of any of the committees named in the said paragraph 2. No other Senator shall serve at any time as chairman of more than two subcommittees of any of the committees named in paragraph 2. This subparagraph shall take effect on that date occurring during the first session of the Ninety-fifth Congress, upon which the appointment of the majority and minority party members of the standing committees of the Senate is initially completed."

Mr. BUMPERS. Mr. President, I send to the desk a resolution to amend rule XXV of the Standing Rules of the Senate and ask that it be appropriately referred.

Mr. President, I submit this resolution for myself and Senators Gary Hart, Durkin, Hathaway, Glenn, Haskell, and Chiles. The resolution would provide for a more even distribution of positions of leadership in the Senate. First of all, Senators who serve as chairmen of a major standing committee—a committee listed in paragraph 2 of rule XXV—would be permitted to serve concurrently as chairmen only of one subcommittee within the category of major standing committees. In addition, Senators who are not chairmen of major standing committees could serve as chairmen of only two subcommittees within the same category. In other words, a Senator could head either two subcommittees, or one subcommittee and one major standing committee, but no more.

My advocacy of this change is not intended in any way to denigrate the faithful service of many Senators who have carried responsibilities in excess of those that would be permitted under my proposal. I do believe, however, that the proposal would have several useful results. It would give those Senators who chair a major standing committee more time to devote to this, their primary responsibility. It would also insure that subcommittees, in which much of the important legislative work of the Senate is done, would be headed by Senators who have an adequate amount of time to devote to their business.

Those Senators who are not now chairman either of a standing committee or of a subcommittee would in all likelihood receive a chairmanship under this proposal, with the added influence on legislation and access to staff time that a chairmanship would bring. In short, the work of the Senate would be more equitably shared, and the expertise that senior Members have built up would be more efficiently channeled.

Examination of the records of subcommittee meetings during the first session of the 94th Congress reveals that there were a total of 1,130 subcommittee meetings during that session. Mr. President, I ask unanimous consent that a study by the Library of Congress listing each subcommittee and the number of meetings held by it during the first session of this Congress be printed in full in the Record at this point in my remarks.

There being no objection, the study was ordered to be printed in the Record, as follows:

The Library of Congress,
Congressional Research Service,
Washington, D.C.

Senate Committee and Subcommittee Activity Statistics, 94th Congress, 1st Session[1]

Committee on Aeronautical and Space Sciences	15
Subcommittee on Upper Atmosphere	7
Subcommittee on Space Technology and National Needs	3
Subcommittee Meetings	10
Committee on Agriculture and Forestry	37
Subcommittee on Environment, Soil Conservation, and Forestry	2
Subcommittee Agricutural Credit and Rural Electrification	3
Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices	11
Subcommittee on Agricultural Research and General Legislation	11
Subcommittee on Rural Development	9
Subcommittee on Foreign Agricultural Policy	9
Subcommittee Meetings	39
Committee on Appropriations	22
Subcommittee on Agriculture and Related Agencies	17
Subcommittee on Defense	33
Subcommittee on the District of Columbia	6
Subcommittee on Foreign Operations	13
Subcommittee on HUD—Independent Agencies	28
Subcommittee on Interior	24
Subcommittee on Labor—HEW Appropriations	47
Subcommittee on Legislative Branch Appropriations	12
Subcommittee on Military Construction	6
Subcommittee on Public Works	30
Subcommittee on State, Justice, Commerce, and the Judiciary	5
Subcommittee on Transportation	22
Subcommittee on Treasury, Postal Service, and General Government	16
Subcommittee on Intelligence Operations	5
Subcommittee Meetings	264
Committee on Armed Services	40
Subcommittee on Intelligence	4
Subcommittee on Preparedness Investigating	0
Subcommittee on National Stockpile and Naval Petroleum Reserves	1
Subcommittee on Military Construction Authorization	4
Subcommittee on Arms Control	2
Subcommittee on Tactical Air Power	11
Subcommittee on Research and Development	24
Subcommittee on General Legislation	3
Subcommittee on Manpower and Personnel	17
Subcommittee Meetings	66
Committee on Banking, Housing and Urban Affairs	83
Subcommittee on Oversight	0
Subcommittee on Housing and Urban Affairs	16
Subcommittee on Financial Institutions	6
Subcommittee on Securities	8
Subcommittee on International Finance	7
Subcommittee on Production and Stabilization	1
Subcommittee on Consumer Affairs	9
Subcommittee on Small Business	7
Subcommittee Meetings	54
Committee on the Budget	50
Task Force on Defense	4
Task Force on Energy	1
Task Force on Capital Needs and Monetary Policy	6
Task Force on Tax Policy[2]	3
Task Force Meetings	14
Committee on Commerce	88
Subcommittee on Aviation	12
Subcommittee on Communication	9
Consumer Subcommittee	17
Environment Subcommittee	9
Subcommittee on Foreign Commerce and Tourism	4
Subcommittee on the Merchant Marine	3
Subcommittee on Oceans and Atmosphere	3
Subcommittee on Surface Transportation	27
Special Subcommittee on Science, Technology, and Commerce	6
Special Subcommittee on Oil and Gas Production and Distribution	4
Special Subcommittee to Study Textile Industry	0
Special Subcommittee to Study Transportation on Great Lakes and St. Lawrence Seaway	0
Special Subcommittee on Freight Car Shortage	0
Subcommittee Meetings	94
Committee on the District of Columbia (no subcommittees)	10
Committee on Finance	47
Subcommittee on Health	0
Subcommittee on Foundations	0
Subcommittee on International Trade	2
Subcommittee on International Finance and Resources	1
Subcommittee on Private Pension Plans	0
Subcommittee on Social Security Financing	0
Subcommittee on Energy	4
Subcommittee on Financial Markets	7
Subcommittee on Revenue Sharing	4

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[1] Compiled from survey of *Congressional Record's* Daily Digest summary of Senate, committee meetings. Activities include closed and open hearings, markup sessions, business meetings, and joint sessions. The Senate Daily Digest summary is prefaced with the notice "Committee not listed did not meet." Several committees use their subcommittees as study bodies. Additionally, some committees use their oversight subcommittees to conduct staff studies preferring to have oversight hearings conducted by legislative subcommittees. These factors may account for the small number of meetings recorded for several subcommittees.

[2] The Budget Committee task forces were constituted as ad hoc consultative bodies within the full committee. The task forces were not mandated to assist in setting the aggregate budget amounts required of the committee, but were designed to inquire into the long-term economic effects of various budgetary policies.

Subcommittee on Administration of the Internal Revenue Code	5
Subcommittee on Supplemental Security Income	0
Subcommittee Meetings	23
Committee on Foreign Relations	81
Subcommittee on European Affairs	1
Subcommittee on Far Eastern Affairs	0
Subcommittee on Multinational Corporations	28
Subcommittee on Arms Control and Security Agreements	9
Subcommittee on Oceans and International Environment	4
Subcommittee on Western Hemisphere Affairs	4
Subcommittee on Near Eastern and South Asian Affairs	2
Subcommittee on Foreign Assistance and Economic Policy	22
Subcommittee on African Affairs	10
Subcommittee Meetings	80
Committee on Government Operations	46
Permanent Subcommittee on Investigations	24
Subcommittee on Intergovernmental Relations	15
Subcommittee on Reports, Accounting, and Management	8
Subcommittee on Oversight Procedures	1
Subcommittee on Federal Spending Practices, Efficiency, and Open Government	16
Subcommittee Meetings	64
Committee on Interior and Insular Affairs	81
Subcommittee on Energy Research and Water Resources	24
Subcommittee on Environment and Land Resources	14
Subcommittee on Indian Affairs	12
Subcommittee on Minerals, Materials and Fuels	10
Subcommittee on Parks and Recreation	7
Special Subcommittee on Legislative Oversight	0
Ad Hoc Subcommittee on Integrated Oil Operations	0
Subcommittee Meetings	67
Committee on the Judiciary	43
Subcommittee on Administrative Practices on Procedures	20
Subcommittee on Antitrust and Monopoly	42
Subcommittee on Constitutional Amendments	11
Subcommittee on Constitutional Rights	13
Subcommittee on Criminal Laws and Procedures	9
Subcommittee on FBI Oversight	0
Subcommittee on Federal Charters, Holidays, and Celebrations	0
Subcommittee on Immigration and Naturalization	0
Subcommittee on Improvements in the Judicial Machinery	32
Subcommittee on Internal Security	4
Subcommittee on Juvenile Delinquency	14
Subcommittee on Patents, Trademarks, and Copyrights	3
Subcommittee on Penitentiaries	4
Subcommittee on Refugees and Escapes	6
Subcommittee on Revision and Codification	0
Subcommittee on Separation of Powers	7
Subcommittee Meetings	165
Committee on Labor and Public Welfare	30
Subcommittee on Labor	6
Subcommittee on the Handicapped	8
Subcommittee on Education	21
Subcommittee on Health	38
Subcommittee on Employment, Poverty, and Migratory Labor	6
Subcommittee on Children and Youth	9
Subcommittee on Aging	5
Subcommittee on Alcoholism and Narcotics	4
Special Subcommittee on the Arts and Humanities	1
Special Subcommittee on the National Science Foundation	4
Special Subcommittee on Human Resources	0
Subcommittee Meetings	102
Committee on Post Office and Civil Service	14
Subcommittee on Civil Service Policies and Practices	0
Subcommittee on Compensation and Employment Benefits	9
Subcommittee on Postal Operations	0
Subcommittee Meetings	2
Committee on Public Works	40
Subcommittee on Environmental Pollution	33
Subcommittee on Economic Development	9
Subcommittee on Transportation	15
Subcommittee on Water Resources	6
Subcommittee on Disaster Relief	0
Subcommittee on Buildings and Grounds	13
Panel on Materials Policy	0
Panel on Environmental Science and Technology	1
Subcommittee Meetings	77
Committee on Rules and Administration	60
Subcommittee on the Standing Rules of the Senate	1
Subcommittee on Privileges and Elections	0
Subcommittee on Printing	0
Subcommittee on the Library	0
Subcommittee on the Smithsonian Institution	0
Subcommittee on the Restaurant	0
Subcommittee on Computer Services	0
Subcommittee Meetings	1
Committee on Veterans' Affairs	12
Subcommittee on Compensation and Pensions	2
Subcommittee on Health and Hospitals	2
Subcommittee on Housing and Insurance	1
Subcommittee on Readjustment, Education, and Insurance	3
Subcommittee Meetings	8
Subcommittee Meeting Total	1130
Committee Meeting Total	[8] 799
Total Meetings	1929

[8] Includes meetings of Budget Committee Task Forces.

Mr. BUMPERS. Mr. President, of the total of 1,130 subcommittee meetings, 1,119, or all but 11 of the meetings, were of subcommittees of the 14 major standing committees. There are 135 subcommittees in this category, if we include special subcommittees, ad hoc subcommittees, panels, and task forces of the Committee on the Budget. If we exclude these special bodies, there are 119 subcommittees of major standing committees.

Of the subcommittees, panels, and task forces listed above, 98 met 10 or fewer times during the year 1975, of which 28 met not at all. Thirty-one of this group of 98 are chaired by Senators who head both a standing committee and two or more subcommittees. Forty-five of the group of 98 are chaired by Senators who do not head a standing committee, but are chairmen of two or more subcommittees. Furthermore, of the 40 subcommittees that are headed by chairmen of standing committees or by Senators who chair two or more subcommittees, 31, or 77.5 percent, met 10 times or less. In other words, there is a high correlation between subcommittees which meet seldom and subcommittees which are chaired by Senators who have two or more subcommittees under their leadership or who are chairmen of standing committees.

Although this analysis is not conclusive, it does suggest, as one would expect, that some of the Members of this body are spread very thin, and that those Senators who chair standing committees or two or more subcommittees may be unable to devote sufficient time to some of their responsibilities. On the other hand, the fact that a subcommittee did not meet often may simply indicate that there was not a great deal of business to attend to. In that event, abolition of the subcommittee, or consolidation of its function with another subcommittee, should be considered. The number of subcommittees has increased almost fourfold since 1946, the date of the last thoroughgoing reform in legislative organization, when there were only 34 subcommittees.

It is also noteworthy that many of the committee staff members of the Senate are formally assigned to a subcommittee. This circumstance, of course, enhances the effect that a subcommittee chairman can practically have on legislation, and is an additional reason for a greater diffusion of chairmanships among a larger number of Members. Committee Print No. 2 of the Committee on Rules and Administration, dated July 25, 1975, details the numbers of staff members assigned to each committee and to those subcommittees which have separately assigned staff. I ask unanimous consent, Mr. President, that a copy of this committee print, including footnotes, be set out at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Committee Print No. 2]

U.S. SENATE COMMITTEE ON RULES AND ADMINISTRATION—SENATE INQUIRIES AND INVESTIGATIONS, 94TH CONG., 1ST SESS.

			93d Cong., 2d sess.[1]		94th Cong., 1st sess.[2]					Number of committee employees					
											Investigative[7]				
Calendar No.	Res. and sec. No.	Committee and purpose	Unobligated balance (estimated)[3] Feb. 28, 1975	Amount authorized by Senate, 12 months[4]	Amount requested, 12 months	Difference between 1974 authorization and 1975 request	Amount of Rules Committee amendment	Amount reported by Rules Committee	Amount authorized by Senate[5]	Permanent[6]	1974 budget	Jan. 31, 1975, payroll	1975 budget	Total, 1975 (projected)	Number of rooms utilized by committee[8]
		All committees								309	777	729	874	1,183	382
		Appropriations Committee[9]		$538,205						43	10	19	19	62	36
		All other committees	$1,182,804	16,591,400	$23,589,001	+$6,997,601	−$3,393,401	$19,445,600		226(130–136)	767(421–346)	710(354–356)	855(476–379)	1,121(606–515)	346
(295)	S. Res. 37	Aeronautical and Space Sciences.	8,842	52,000	57,000	+5,000	0	57,000		14(7–7)	3(2–1)	2(1–1)	3(2–1)	17(9–8)	7
(296)	S. Res. 15	Agriculture and Forestry	5,000	220,000	*364,000	+144,000	−29,000	335,000		12(6–6)	8(3–5)	8(5–3)	9(4–5)	21(10–11)	11
(297)	S. Res. 87	Armed Services	150,000	520,000	645,000	+125,000	−111,700	533,300		13(6–7)	18(11–7)	14(8–6)	22(13–9)	35(19–16)	18
	Sec. 2	Consultants for full committee.	5,000	25,000	40,000	+15,000	0	40,000							
	Sec. 4	General	33,000	346,000	487,000	+141,000	−58,700	428,000			13(8–5)	13(8–5)	18(11–7)		
	Sec. 5	Preparedness	112,000	149,000	118,000	−31,000	−53,000	65,000			5(3–2)	1(0–1)	4(2–2)		
(298)	S. Res, 57	Banking, Housing and Urban Affairs.	50,313	686,500	890,000	+203,500	−127,800	762,200		12(6–6)	*30(16–14)	28(21–7)	33(20–13)	45(26–19)	17
	Sec. 3	General	0	336,000	415,000	+79,000	−26,500	338,500			*15(8–7)	15(12–3)	16(10–6)		
	Sec. 4	Housing and urban affairs	23,488	220,500	240,000	+19,500	−6,500	233,500			*9(5–4)	8(6–2)	8(5–3)		
	Sec. 5	Securities industry	26,825	130,000	145,000	+15,000	−4,800	140,200			6(3–3)	5(3–2)	6(3–3)		
		Oversight			90,000	+90,000	−90,000	0					3(2–1)		
(299)	S. Res. 50	Budget	200,000	[4a] 421,000	1,892,000	+1,471,000	−210,600	1,681,400		12(6–6)	48(26–22)	44(21–23)	64(31–33)	76(37–39)	35
(300)	S. Res. 63	Commerce	50,000	1,643,800	2,347,639	+703,839	−350,639	1,997,000		12(6–6)	*81(46–35)	71(38–33)	90(44–46)	102(50–52)	25(4)
(301)	S. Res. 71	Commerce-Government Operations (study of regulatory agencies).[10]			750,000	+750,000	−283,300	466,700					7(2–5)		
	Sec. 6(a)	Commerce			375,000	+375,000	−158,300	216,700							
	Sec. 5(a)	Government Operations			375,000	+375,000	−125,000	250,000					7(2–5)		
(302)	S. Res. 30	District of Columbia	20,000	175,000	175,000	0	−44,700	130,300		13(6–7)	14(5–9)	12(1–11)	12(5–7)	25(11–14)	6
(303)	S. Res. 51	Finance	12,000	[4b] 30,000	990,000	+960,000	−809,000	181,000		24(12–12)	[11] 4(2–2)		[11] 40(20–20)	64(32–32)	11
(304)	S. Res. 84	Foreign Relations	110,000	851,800	1,522,000	+670,200	−438,700	1,083,300		18(9–9)	*48(22–26)	41(17–24)	57(31–26)	75(40–35)	21
(305)	S. Res. 49	Government Operations	88,794	1,296,000	2,441,362	+245,362	−133,362	2,308,000		14(7–7)	*95(55–40)	88(51–37)	100(58–42)	114(65–49)	29
		Consultants for full committee.	3,000	20,000	0	−20,000	0	0							
	Sec. 3	General			239,200	+239,200	−2,000	237,200					11(5–6)		6
	Sec. 4	Permanent investigations	25,687	1,113,000	1,113,000	0	0	1,113,000			*43(25–18)	39(24–15)	43(25–18)		10
	Sec. 5	Intergovernmental relations.	12,000	360,000	388,544	+28,544	−5,400	383,144			*18(10–8)	20(11–9)	18(11–7)		8
		Reorganization, research, and international organizations.	39,000	344,000	0	−344,000	0	0			*15(9–6)	11(6–5)	0		1
	Sec. 6	Reports, accounting, and management.	1,107	209,000	258,618	+49,618	−20,150	238,468			*11(7–4)	11(5–6)	11(8–3)		2
	Sec. 7	Federal spending practices, efficiency, and open Government.	8,000	150,000	292,000	+142,000	−69,150	222,850			*8(4–4)	7(5–2)	12(6–6)		1
	Sec. 8	Oversight procedures			†150,000	+150,000	−36,662	113,338					5(3–2)		0
(306)	S. Res. 66	Interior and Insular Affairs	3,000	580,000	817,000	+237,000	−192,100	624,900		12(6–6)	26(7–19)	31(14–17)	35(20–15)	47(26–21)	16
(307)	S. Res. 72	Judiciary	224,157	4,116,600	4,391,400	+274,800	−333,700	4,057,700		17(8–9)	*210(120–90)	180(87–93)	184(109–75)	201(117–84)	62
	Sec. 3	Admin. practice and procedure.	650	408,900	429,500	+20,600	−6,900	422,600			*18(11–7)	21(11–10)	18(12–6)		2(4)
	Sec. 4	Antitrust and monopoly	7,000	767,000	815,100	+48,100	−16,000	799,100			*30(18–12)	27(13–14)	29(14–15)		13(4)
	Sec. 5	Constitutional amendments	1,950	252,000	310,000	+58,000	−19,300	290,700			*11(8–3)	13(5–8)	11(8–3)		2(2)
	Sec. 6	Constitutional rights	16,000	299,000	381,000	+81,900	−27,300	354,500			*16(9–7)	12(5–7)	18(11–7)		6
	Sec. 7	Criminal laws and procedures.	50,000	221,000	258,000	+37,000	−12,300	245,700			*10(6–4)	7(3–4)	10(6–4)		2(1)
	Sec. 8	Federal charters, etc	3,800	16,500	17,500	+1,000	0	17,500			1(0–1)	1(0–1)	1(0–1)		0(1)
	Sec. 9	Immigration, naturalization	66,000	205,000	223,500	+18,500	−6,200	217,300			8(6–2)	7(4–3)	8(6–2)		3(2)
	Sec. 10	Improv. in judicial machinery.	16,000	235,000	272,000	+37,000	−12,300	259,700			*13(8–5)	11(7–4)	13(8–5)		2
	Sec. 11	Internal security	15,000	400,000	400,000	0	−116,700	283,300			*29(17–12)	13(7–6)	17(11–6)		9
	Sec. 12	Juvenile delinquency	8,000	353,000	428,000	+75,000	−25,000	403,000			*20(12–8)	28(14–14)	20(13–7)		6(2)
	Sec. 13	Patents, trademarks, etc.	8,000	178,000	168,000	−10,000	0	168,000			*7(3–4)	6(3–3)	6(3–3)		3
	Sec. 14	Penitentiaries	4,250	88,000	98,000	+10,000	−3,300	94,700			5(3–2)	3(2–1)	5(3–2)		1
	Sec. 15	Refugees and escapees	0	182,000	220,000	+38,000	−12,700	207,300			*13(7–6)	10(3–7)	11(5–6)		1(2)
		Revision and codification	11,800	64,800	70,000	+5,200	−70,000	0			3(1–2)	1(1–0)	3(1–2)		0
	Sec. 16	Separation of powers	6,500	263,000	280,000	+17,000	−5,700	274,300			*17(6–11)	9(4–5)	13(5–8)		4
		Citizens' interests	707	162,500		−162,500	0	0			*8(5–3)	10(5–3)	0		1
	Sec. 17	FBI oversight	8,500	20,000	20,000	0	0	20,000			1(0–1)	1(0–1)	1(0–1)		0
(308)	S. Res. 40	Labor and Public Welfare	90,000	1,700,000	1,850,000	+150,000	−50,000	1,800,000		30(14–16)	57(35–22)	75(28–47)	65(39–26)	95(53–42)	27
(309)	S. Res. 52	Post Office and Civil Service	20,000	235,000	235,000	0	0	235,000		13(6–7)	12(7–5)	9(5–4)	9(7–2)	22(13–9)	9(4)

See footnotes at end of table.

(310)	S. Res. 44	Public Works	15,000	795,900	875,000	+79,100	−26,400	848,600		12(6–6)	*43(28–15)	42(22–20)	41(24–17)	53(30–23)	15(5)
	S. Res. 29	Rules and Administration	64,000	374,000	432,600	+58,600	0	432,600	[5a] 432,600	14(7–7)	11(7–4)	12(7–5)	14(8–6)	28(15–13)	12
	Sec. 3	Privileges and elections	20,000	180,000	180,000	0	0	180,000	180,000		6(3–3)	4(2–2)	6(3–3)		
	Sec. 4	Computer services	44,000	194,000	252,600	+58,600	0	252,600	252,600		5(4–1)	8(5–3)	8(5–3)		
(311)	S. Res. 53	Veterans' Affairs	10,000	275,000	304,000	+29,000	−9,700	294,300		12(6–6)	11(5–6)	10(6–4)	11(5–6)	23(11–12)	6
(312)	S. Res. 47	Small Business (Select)	11,198	168,000	263,000	+95,000	−50,300	212,700		12(6–6)	*8(3–5)	8(3–5)	11(5–6)	23(11–12)	7
(313)	S. Res. 54	Nutrition, Human Needs	0	353,800	485,000	+131,200	−85,500	399,500			14(7–7)	14(7–7)	17(12–5)	17(12–5)	6
(314)	S. Res. 62	Aging (Special)	1,000	431,000	561,000	+130,000	−75,900	485,100			20(10–10)	17(10–7)	26(15–11)	26(15–11)	4
(315)	S. Res. 10	National Emergencies and Delegated Emergency Powers (Special).	49,500	166,000	151,000	−15,000	−31,000	120,000			6(4–2)	4(2–2)	5(2–3)	5(2–3)	1
		Intelligence (Select)			1,150,000 (8 mos.)	+1,150,000	0	400,000	1,150,000						Room G308
	S. Res. 21				750,000	+750,000			[5b] 750,000						
	S. Res. 165				400,000	+400,000	0	400,000	[5c] 400,000						
		Presidential Campaign Activities (Select).		[4c] 500,000	0	−500,000									
		Economic (Joint)		[4d] 100,000	0	−100,000									

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[1] Senate investigative year 1974—Mar. 1, 1974–Feb. 28, 1975.

[2] Senate investigative year 1975—Mar. 1, 1975–Feb. 29, 1976.

[3] Figures supplied by the respective committees.

[4] Except as follows:
- [4a] Oct. 10, 1974–Feb. 28, 1975.
- [4b] July 15, 1974–Feb. 28, 1975.
- [4c] Mar. 1–Sept. 27, 1974.
- [4d] July 1–Dec. 31, 1974.

[5] Date authorized:
- [5a] S. Res. 29, Jan. 27, 1975.
- [5b] S. Res. 21, Jan. 27, 1975.
- [5c] S. Res. 165, June 6, 1975.

[6] Information on permanent staffs of Senate committees is as follows:

REGULAR PERMANENT STAFF

Standing Committees.—Except for the Committee on Appropriations, all standing committees of the Senate are authorized by sec. 202(a) and (c) of the Legislative Reorganization Act of 1946, as amended, to employ a regular staff of six professional staff members and six clerical assistants. The total maximum annual compensation authorized thereby, at current salary rates, is $355,866 per committee.

Appropriations Committee.—The Appropriations Committee is authorized by sec. 202(b) of the Legislative Reorganization Act of 1946, as amended, "to appoint such staff, in addition to the clerk thereof and assistants for the minority as * * * by a majority vote [it] shall determine to be necessary."

Select Committee on Small Business.—The staff privileges of standing committees (six professional and six clerical) were extended to the Select Committee on Small Business by Public Law 759 of the 81st Cong.

ADDITIONAL PERMANENT STAFF

Additional permanent staff members authorized by the Senate for its standing committees are shown in the following table:

Committee	Additional permanent staff members authorized	Authority			Total maximum compensation [1]
		Resolution No.	Congress	Date	
Aeronautical and Space Sciences.	1 professional 1 clerical	Pub. L. 92–136	92d	Oct. 11, 1971	$51,793
Armed Services	1 clerical	Pub. L. 92–136	92d	Oct. 11, 1971	17,818
District of Columbia	1 clerical	Pub. L. 92–136	92d	Oct. 11, 1971	17,818
Finance	6 professional	S. Res. 224	89th	Apr. 20, 1966	310,758
	6 clerical	S. Res. 66	91st	Feb. 17, 1969	
Foreign Relations	2 professional 3 clerical	S. Res. 30	86th	Feb. 2, 1959	155,379
	1 professional	S. Res. 247	87th	Feb. 7, 1962	
Government Operations	1 professional	S. Res. 355	85th	Aug. 18, 1958	51,793
	1 clerical	Pub. L. 92–136	92d	Oct. 11, 1971	
Judiciary	2 professional 3 clerical	S. Res. 66	81st	Feb. 17, 1949	121,404
Labor	1 professional	S. Res. 253	88th	Feb. 10, 1964	466,137
	1 assistant chief clerk 7 professional 9 clerical	S. Res. 74	90th	Feb. 20, 1967	
Post Office	1 clerical	S. Res. 14	89th	Feb. 8, 1965	17,818
Rules	1 professional	S. Res. 342	85th	July 28, 1958	67,950
	1 assistant chief clerk	Pub. L. 93–145	93d	Nov. 1, 1973	
Total	500 staff members				1,278,668

[1] At current rates.

[7] The figures on investigative staff are from budget estimates supplied by the committees themselves, to accompany annual and supplemental authorization requests. Figures with asterisk indicate that the committee's 1974 request was reduced. Figures in parentheses show division of the preceding figure into professionals and clericals, respectively.

[8] The bold face figure, opposite the committee name, in the last column on the right indicates the total number of rooms assigned to that committee and its subcommittees. When subcommittee staffs are identifiable as separate physical entities the rooms they utilize are also shown. Any disparity between the total of subcommittee rooms and the total shown for the full committee is accounted for by rooms being used by the permanent staff, sometimes with investigative or subcommittee staff commingled therein. Most committees use their hearing room (herein counted as one room) to house certain of their personnel. The figures in parentheses which follow indicate the number of non-committee rooms in which certain committee or subcommittee personnel are housed.

[9] The Appropriations Committee has a permanent authorization for funds for inquiries and investigations (S. Res. 193, 78th Cong., Oct. 14, 1943), which funds are provided by the annual legislative appropriation acts. Since such funds are authorized on a fiscal year basis, there is no appropriate way to include them or compare them with funds authorized for other Senate committees. The figures shown here, only to complete the information, are on the following basis: The authorization is for the 12-month period July 1, 1974–June 30, 1975, and the expenditures are for the 8-month period July 1, 1974–Feb. 28, 1975.

[10] As reported, S. Res. 71 would authorize from Mar. 1, 1975, through Sept. 1, 1976, a joint study of Federal regulatory agencies by the Senate Committees on Commerce and Government Operations, each of which would receive $375,000, for a total of $750,000 for the purpose.

[11] S. Res. 40 agreed to Feb. 22, 1973, authorized the Committee on Finance to employ 2 additional professional staff members and 2 additional clerical assistants from Mar. 1, 1973, through Feb. 28, 1974. This same authority was continued from Mar. 1 1974, through Feb. 28, 1975, by S. Res. 238, agreed to Jan. 30, 1974. S. Res. 41 of this Congress would continue the same authority through Feb. 29, 1976. The four additional employees thus requested are included within the 40 shown above.

*Includes supplemental request of $114,000.

†Includes supplemental request of $35,000.

INCREMENTS TO $10,000 PER CONGRESS (FOR ROUTINE PURPOSES)

Section 134(a) of the Legislative Reorganization Act of 1946 authorizes each standing committee of the Senate to expend not to exceed $10,000 during each Congress for the routine purposes expressed in that section. Senate committees which during the 93d Congress requested and were authorized to expend additional funds for routine purposes are as follows:

Committee	Resolution No.	Date	Amount
Aeronautical and Space Sciences			
Agriculture and Forestry			
Appropriations	S. Res. 116	May 21, 1973	$75,000
	S. Res. 321	May 28, 1974	75,000
Armed Services	S. Res. 54	Feb. 22, 1973	60,000
	S. Res. 382	Sept. 23, 1974	15,000
Banking, Housing and Urban Affairs			
Budget			
Commerce			
District of Columbia			
Finance	S. Res. 148	Aug. 2, 1973	20,000
	S. Res. 239	Jan. 30, 1974	20,000
Foreign Relations			
Government Operations	S. Res. 268	Mar. 1, 1974	10,000
Interior and Insular Affairs	S. Res. 96	May 10, 1973	20,000
	S. Res. 137	July 20, 1973	25,000
	S. Res. 178	Oct. 23, 1973	25,000
	S. Res. 312	May 7, 1974	25,000
Judiciary	S. Res. 103	May 10, 1973	25,000
	S. Res. 311	May 7, 1974	10,000
Labor and Public Welfare			
Post Office and Civil Service			
Public Works			
Rules and Administration	S. Res. 317	May 7, 1974	10,000
	S. Res. 435	Nov. 21, 1974	30,000
Veterans' Affairs			
Total			445,000

Mr. BUMPERS. Mr. President, the proposal I make, it will be noted, relates only to paragraph 2 standing committees, those 14 major legislative standing committees that have traditionally been considered most important in the workings of the Senate. My proposal would place no limit upon chairmanships of paragraph 3 committees or subcommittees, select or special committees or subcommittees, or joint committees. Many of these bodies, in any case, are nonlegislative, and it would not be fair to group them for rulemaking purposes with standing committee carrying major legislative responsibility.

The change I propose, although a modest one, would, I believe, aid the Senate in becoming the kind of body that 20th-century problems demand. Simplification of the legislative process and sharing of responsibility for it among more Members of the Senate will, in my judgment, contribute not only to the operation of this body, but also to the public interest in responsible and expeditious legislation.

Mr. President, I urge the Subcommittee on Standing Rules of the Senate of the Committee on Rules and Administration, to which this resolution will doubtless be referred, to hold hearings at its earliest convenience, and I hold myself ready to cooperate with members of that subcommittee in every appropriate way.

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT—S. 354

AMENDMENT NO. 1546

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

ADDITIONAL STATEMENTS

B-1 BOMBERS

Mr. FANNIN. Mr. President, the Congressional Record of March 25 contained a most interesting statement by Senator Hruska on the importance of the Strategic Air Command as a deterrent to the aggressiveness of America's enemies. The SAC, headquartered in Omaha, has been an outstanding force in evaluating the capacity of our national defenses.

In celebration of SAC's 30th birthday, the Omaha World-Herald carried several articles on the necessity of strategic land-based bombers in the event of an armed conflict involving the United States. The capabilities of the B-1 bomber were specifically noted. I ask unanimous consent that these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Queries Fly on Weapons

(By Howard Silber)

The nuclear weapons questions were inevitable, and Defense Secretary Donald H. Rumsfeld was barraged by them when he faced the press Friday in Omaha.

It had been disclosed a day earlier that one Air Force general, the head of the North American Air Defense Command, is empowered to use nuclear weapons without a specific go-ahead from the President.

The questions flew. Rumsfeld weathered them calmly and, in an elaborate manner, firmly refused to give any definitive replies.

The weapon in reference is the purely defensive Nike-Hercules antiaircraft missile.

The aging Nike-Hercules, deployed in eastern Nebraska and western Iowa for about four years until the mid-1960s and now close to total retirement, has no offensive potential and has a short range.

When retired Vice Adm. Gerald Miller discussed the authority held by the NORAD commander, Gen. Daniel James, he specified to a House subcommittee that it applied to the Nike-Hercules only.

Rumsfeld did not confirm the defensive aspect of the weapons or anything else about the employment of nuclear weapons.

The matter of nuclear weapons, he said, "is a subject of considerable sensitivity. Our policy is not to discuss the details of the deployment of nuclear weapons for obvious reasons."

Over the years, he said, nuclear weapons policies have been reviewed and confirmed by successive presidents.

He pointed out that he was serving as White House chief of staff during two assassination attempts against President Ford.

The question of protecting the President came up repeatedly.

"Most people appreciated the fact when I advised them that we have a policy of not discussing security arrangements for the President of the United States," he said.

Rumsfeld flew to Omaha Friday for a series of briefings at Strategic Air Command Headquarters and to help celebrate SAC's 30th birthday.

He pronounced the U.S. strategic deterrent, mostly in the hands of SAC, acceptable and healthy.

The defense chief said, however, that the United States has "moved from a position of strategic superiority to a position of rough equivalency."

While at Offutt Air Force Base, Rumsfeld helped dedicate a permanent display of seven historic flags in front of the SAC Headquarters building.

Hoisted atop flag poles, provided by the SAC Consultation Committee, a group of 25 Omaha business leaders, were replicas of the Bedford flag, the Bunker Hill flag and the Gadsden flag, all of 1775, the Moultrie flag, 1776; Grand Union flag, 1775-77, Betsy Ross flag, 1777-95, and the Star-Spangled Banner.

Representing the Consultation Committee were A. F. Jacobson, retired Northwestern Bell Telephone Co. president; Robert Daugherty, president of Valmont Industries, Inc., and Harold W. Andersen, president of The World-Herald.

There was one barely noticed misoccurrence during the ceremony. Members of the SAC elite guard serving as the color guard raised the Moultrie flag upside down.

After nearly six hours in Omaha, Rumsfeld climbed aboard a B52H bomber for the short flight to Whiteman Air Force Base in west-central Missouri.

SAC deploys 150 Minuteman intercontinental ballistic missiles at Whiteman.

Rumsfeld Sure He Will Get B1

(By Howard Silber)

Donald H. Rumsfeld will make the 20-minute trip from the Pentagon to Capitol Hill next fall to ask for the money and the authority to build a fleet of B1 bombers.

The defense secretary told The World-Herald in an Omaha interview he is highly confident he will return to his office with the B1 in hand.

Today's Strategic Air Command B52s, he said, "are fine airplanes. They are fulfilling an important mission. But they are not going to live forever.

"It is important that the United States invest in the research and development and, at the appropriate point, the production of the B1."

The B1 and Navy's Trident submarine-launched ballistic missile system "are big questions," Rumsfeld said, "and our country seldom makes mistakes on big questions.

"We can make mistakes on some smaller things, but the B1 is of such importance that we aren't going to make a mistake."

Rumsfeld said there is "an increasing number of people who recognize that the strategic balance is of critical and fundamental importance.

"The United States should not and, in my opinion, will not arrive at a position where we have put that balance in jeopardy.

"The health of the strategic deterrence is, in my judgment and, I think, in the judgment of the vast majority of the American people, of sufficient importance that we would not want to arrange ourselves so that one or two technological developments, which are not out of the realm of possibility, could weaken the deterrent to the point where we lack the balance we need."

Rumsfeld said he does not believe the antimilitary bloc in Congress will succeed in its announced effort to defeat the B1 and other strategic programs.

"I've always found that the Congress tends to be very responsive to the American people. The fundamental importance of the strategic balance is such that the American people will make their representatives in both houses aware of the fact that the B1 is an area where they do not want to be wrong.

"My estimate is that a majority of members of Congress will recognize that and support the B1."

Rumsfeld pointed out that, unlike their actions in recent years, the House and Senate Appropriations and Armed Services Committees have made few cuts in the defense budget and in some instances have added items to President Ford's proposals.

"That's a reflection of the fact that people recognize that we can't have national security for nothing," the defense secretary said.

He suggested that it also represents a recognition by Congress of Defense Department moves to "cut the frills" from the armed services, "to improve and become more efficient."

VIGILANCE

Said Rumsfeld: "I think the country realizes that it's not a perfectly pleasant world, that it's not a very tidy world, that there are considerably more people who live in a circumstance of not having freedom than there are who live with what we would describe as freedom and that we value that freedom very highly and intend to be vigilant about protecting it."

Asked what he would do if, despite his optimism, Congress does not approve B1 production, Rumsfeld quoted a remark made by Adlai Stevenson when he was asked what he would do if defeated in his race for the presidency:

"I'll jump off that bridge when I come to it."

Rumsfeld said the all-volunteer military program is a success and will continue to work as long as armed services men and women are paid a wage "that is roughly equivalent to what they would be making in the civilian sector.'

He said he does not favor a return to the draft except in an emergency.

AVOID CRUTCH

"I think that to the extent that we can continue to attract good people by paying them an acceptable amount of money and with proper personnel policies that we ought not to go back to the crutch of compulsion."

Draft-free armed forces can be satisfactorily maintained even in the face of personnel costs which take more than 50 cents of every Pentagon dollar, he said.

"I don't think we ought to throw up our hands and say people cost too much money and we're going to use compulsion to tell one of every three persons that they're going to have to serve for three or four years where the other two do not.

"I don't think we're going to have to tell those who do serve, 'By the way, we're going to pay you 50 or 60 per cent of what you'd be making if we hadn't drafted you.'

"That technique of imposing a sort of tax on those people is not a desirable way of doing business to the extent that we can get the manpower we need without using compulsion.

"Certainly, in any crisis or war, if we are unable to get the manpower we need, we ought to use compulsion.

"If people will look at the situation in the way I describe it, I think they'll recognize that this country can afford and ought to be willing to pay people what is needed to provide for our national security."

PENSION REVIEW

Asked about recent criticism in Congress of liberal retirement programs in the armed services, Rumsfeld said the question of noncontributory pensions is being examined as part of a gradrennial review of military personnel programs.

Despite the proposed military budget of more than $100 billion, the United States "is spending a smaller percentage of our federal budget, a smaller percentage of net public spending, a smaller percentage of our gross national product than at any time since either the Korean War or before Pearl Harbor, depending on which statistic you take," Rumsfeld said.

"Therefore, the suggestion that we can't afford to provide the funds we need to maintain our defense, our deterrence, is just plain wrong.

"We can do it and I believe the country will demand that we do it.

"I just don't believe that this country wants to arrive at a point some years in the future when a president or secretary of defense has to stand up and say, 'We're in an inferior position because we were unwilling to invest in our future.'"

ELECTION MAY HAVE BEARING ON FATE OF B1

By the time the Strategic Air Command is 31 years old its leaders expect to know whether the B1 will be produced as the long-awaited U.S. long-range bomber.

If President Ford and Defense Secretary Donald Rumsfeld prevail, SAC will get the B1, but the final decision is up to Congress.

Military leaders are optimistic for a favorable response on Capitol Hill.

But there is no certainty of a production go-ahead. Indeed, the outcome of the November election is expected to have considerable bearing on the decision.

The B1 may be the most heavily debated item of military equipment since ancient man picked up a stone and hurled it at an enemy.

The issue goes back at least 15 years when the Air Force mounted a massive campaign for the B70 and lost.

Opponents argued at the time that the B70 was too expensive and that the B52, then a fairly new airplane, would do the job for SAC. They also maintained that, in the age of the ballistic missile, the bomber is obsolete.

That is essentially what opponents of the B1 are saying today. But now the B52 is an old airplane.

Proponents see the need for a manned strategic system capable of penetrating enemy defenses and returning to friendly territory.

Missiles alone, they believe, are not sufficient to maintain a flexible deterrent force.

The B52 is obsolescent and the supersonic FB111 has only limited capabilities, they say.

The prototype B1, the Air Force reports, is meeting its test criteria. It is said to be everything it has been designed to be—an airplane with a long range, the ability to carry a heavy payload and to mount the equipment necessary to assure its penetration of defenses.

The SAC force modernization program calls for more than the B1.

The command also wants a bigger tanker aircraft which would double as a cargo hauler. Two wide-body airliners, the Boeing 747 and the McDonnell-Douglas DC10, are being studied.

And work is proceeding slowly on the development of a new intercontinental ballistic missile, presently designated as the MX.

A primary consideration is better protection in the face of the increasing accuracy of Soviet missiles.

This could be accomplished by increased "hardening" of underground silos or by using a mobile missile in a sort of thermonuclear shell game. Missiles would be moved from place to place in a random pattern to complicate targeting by an enemy.

There is no present plan for a new missile to go into production before 1980 or later.

GENERAL DOUGHERTY: HOPES KEYED TO B–1

The price-tag approach to determining the extent of the nation's defenses is disquieting to Gen. Russell E. Dougherty, commander-in-chief of the Strategic Air Command.

"It's not a unilateral test," he said. "It's not whether we've got what we like or whether we've got what we're willing to pay for or whether we've got enough to satisfy us," he said.

"It's got to be relevant to what we face.

"This, I think, is the thing that most people who don't focus on these issues will miss. They will miss the fact that, if we aren't relevant to capability . . . if we can't, by adding our strengths and weaknesses and our capability, give the American people confidence that we are not second in quality or not second in quantity or not second in effectiveness—if we can't give them that confidence, we can expect a very serious erosion of will in any test of strength.

"And, rather than being able to negotiate (arms) reduction, we're going to be petitioning.

"I certainly hate to see the prospect of our country as supplicants and petitioners, rather than negotiating from a strength that's not unequal."

That comment was made by Dougherty as part of his reply, in an interview, to a question on what SAC might be when it observes its 35th birthday in 1981.

"I hope in this five years that we're going to see the modernization of our bomber force through the acquisition of the B–1," the general said.

"I think it would be a national tragedy if, through some of the well-intentioned, but nevertheless inadequately thought-out arguments, the people are attracted by slogans and by less than complete logic to abandon the modernization of our bomber force, and, specifically, our penetrating bomber force."

In an apparent reference to a Brookings Institution report suggesting the development of a manned aircraft system in which missiles would be launched from wide-body airliner-type planes great distances from prospective targets, Dougherty said, "the word 'penetrating' is important.

"With a penetrating bomber you can do all of the things you can do with a so-called standoff bomber. But you can't penetrate with a standoff bomber, and this makes a big difference.

"The reusability of this weapon (penetrating bomber) gives us a flexibility in strategic forces that you just can't have with anything else. And it's highly compatible and complementary to our missile force which is, of course, of bedrock importance.

"People, I know, during this next five years will become enamored with the arguments of the vulnerability of the land-based missile force.

"It isn't going to be that vulnerable, but it's going to be sufficiently aging so that it may not be relevant to what we're going to face.

"And I hope that in this five years there comes an awareness that our force must be relevant."

Dougherty said he hopes to see the "emergence of an operational force" of B1s by 1981. But there would be just a few in SAC by then.

"Our program, even if it stays on track, would have operational B1s coming in ones and twos and threes in five years. But we can't have an operational force until a little later. I think that's just in time," he said.

A new SAC land-based missile may also be in the picture by then. This missile probably would be ready for production in 1981.

SAC today doesn't have "big problems," Dougherty said, "But, on the other hand, we don't have anything really new in the way of weapon systems. We're dealing with equipment that, by and large, we've had for some time.

"We've completed the Minuteman III (with multiple warheads) installation in the last 18 months. I think that's very important.

"We've done some things by way of command-wide capability testing, both in our missiles and our aircraft. These have given me great confidence in our ability to do what we say we can do within the limitations of the equipment."

FREEDOM'S WAY—USA

Mr. RIBICOFF. Mr. President, it was with pride that I learned that Mrs. Ellen Harness of Litchfield, Conn., has won Jack Anderson's Bicentennial Slogan Contest.

Yesterday I went to the White House, where President Ford greeted Mrs. Harness and declared her phrase, "Freedom's Way—USA" the official theme of our Bicentennial celebration.

Since Jack Anderson first had the imaginative idea of conducting a search for one phrase to sum up what the Bicentennial is all about, over 1 million Americans have suggested different themes. I believe the extent of the participation in this search is a good measure of the involvement of the American people with the Bicentennial.

"Freedom's Way—USA" captures the essence of the American experience. After all, freedom remains as basic to our Nation and our ideals today as it did 200 years ago.

It is fitting that the theme of our Bicentennial should come from the town of Litchfield, for there is no town in the

United States that better reflects the spirit of the American experience.

Litchfield was first settled in 1657, and it was incorporated in 1719. During the American Revolution, Litchfield was represented at the Continental Congress while almost all of its townsmen went to fight. It has been said of the town that "All through the struggle with the mother country, Litchfield was a hotbed of patriotism." A statue of George III on horseback was taken by the sons of liberty to General Oliver Wolcott's woodshed in Litchfield, where it was melted down and recast into 42,088 cartridges for the men of Litchfield to fight for independence with.

Litchfield was the birthplace of Ethan Allen, who led the attack on Fort Ticonderoga demanding its surrender "in the name of Jehovah and the Continental Congress"; and Henry Ward Beecher, whose antislavery orations during the Civil War were said to be "unparalleled in the world's history of oratory." The town also fathered Horace Bushnell and Fisher Gay, whose sword at Lexington was engraved with the words "Freedom or Death." Harriet Beecher Stowe, the author of Uncle Tom's Cabin, was born in Litchfield, as was Oliver Wolcott, one of the most illustrious of our early statesmen and the Secretary of the Treasury from 1795 to 1800.

The Litchfield Law School was the first law school in the United States. It was founded by Judge Tapping Reeve in 1784. Some of the names of those who graduated from the Litchfield Law School are Aaron Burr and John Calhoun, Noah Webster and Horace Mann.

I am sure the people of Connecticut are extremely proud of the latest in a long line of devoted patriots, Ellen Harness, and of her inspirational phrase, "Freedom's Way—USA." And I am equally sure that they join with me in feeling a deep sense of honor that our National Bicentennial theme comes from a town like Litchfield, which for so long has been helping to shape the American experience.

Mr. President, I ask unanimous consent that Jack Anderson's column announcing the selection of "Freedom's Way—USA" as our Bicentennial slogan be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WINNING '76 SLOGAN

(By Jack Anderson and Les Whitten)

"Freedom's Way—U.S.A." has been chosen by the American people as their official Bicentennial slogan.

President Ford will congratulate the author, Ellen Harness of Litchfield, Conn., today in a White House ceremony.

The choice culminates an 18-month search for a phrase that reflects the American experience of the past 200 years and sets a goal for the next 200.

We kicked off the slogans contest in September, 1974. "In times past," we wrote, "Americans have been able to distill the cause of the hour into a phrase, a rallying cry, a stirring slogan."

The American people responded immediately with thousands of slogans. The outpouring was so great that we were encouraged to create a program that would reach millions. So "Slogans, U.S.A." was incorporated as an official Bicentennial program.

The Copernicus Society of America's president, Edward J. Piszek, offered financial help and a cash prize for the winner. American Motors donated a car, and Holiday Inns offered 30 days of free lodging to allow the winner to tour the nation.

Indeed, "Freedom's Way—U.S.A." is a particularly appropriate slogan to describe the varied organizations that aided the slogan search. The American Legion, the Jaycee's and the General Federation of Women's Clubs winnowed over a million entries down to 100. Then the final six were chosen by the 55 state and territorial Bicentennial chairmen.

These six slogans were announced at the Super Bowl game in January, and the Advertising Council helped launch a national campaign to get out the vote. An incredible 300,000 ballots were received in one month, and were tabulated by the Boy Scouts, Girl Scouts, and Campfire Girls.

"Freedom's Way—U.S.A." turned out to be the winner. The author, 29-year-old Ellen Harness, is a claims supervisor for an insurance firm. Her husband, Burt serves with the local volunteer fire department.

Mrs. Harness told us that her slogan idea came to her as she was driving to work. "I began to think about the number and extent of the freedoms that we enjoy," she said, "the most striking being the number of things that I can do or say without fear. The pursuit of those same freedoms was the driving force behind the Revolution and continues as a driving force today."

Mrs. Harness' entry edged out "Take pride in America's past, take part in her future," submitted by Nola Pearson of Akron, Ohio.

The four other runners-up were Bitsy Jennings, of Auburn, Ala., with "Honor the past, Challenge the future," Mrs. C. Corkran of Flint, Mich., "America, the Possible Dream." Ms. Olive Cutting of Cape Cod, Mass., "Stand Fast! Stand Tall! Stand American!" and Leigh Waterman of Forestville, N.Y., "America is your past, you are her future."

Now that the official slogan has been picked, we have a new task: we have to bring it into the lives of all Americans. Again, we're asking for your suggestions. Mail them to Slogans, U.S.A., Box 1976, Washington, D.C. 20013.

Wasting Wildlife—We reported over a year ago that endangered animals were dying by the thousands because the Federal Fish and Wildlife Service had failed to put them on the protected list.

The helpless animals, sadly, are still falling victim to bureaucratic footdragging. Thousands of species are threatened with extinction, but only six, incredibly, were added to the endangered list during the past year.

Plants, too, can be protected by law. Although many species are in danger of being wiped out, not a single plant is on the endangered list.

Keith Schriner, chief of the Endangered Species Office, has blamed the delays on a lack of resources and personnel. Nevertheless, he is planning to transfer five of his biologists who specialize in preserving endangered species.

WHY DEFENSE SPENDING SHOULD NOT BE CUT IN FISCAL YEAR 1977

Mr. McCLELLAN. Mr. President, the Senate will soon be faced with a most important and far-reaching decision.

We will be setting the level of national defense spending for the 1977 fiscal year—and the decision we make this year will establish the trend for military spending in the immediate years ahead.

In a time fraught with international tensions and dangers, I am firmly convinced that we must maintain a defense posture that will not only be a shield for our own security but which also will serve as a deterrent to those powers who seek expansion and conquest by use of force.

It is for this reason that the Subcommittee on Defense of the Senate Committee on Appropriations—of which I am chairman—has recommended a target ceiling for the defense appropriations bill of $106.7 billion in budget authority and $95.3 billion in outlays for fiscal year 1977. These are the amounts requested in the President's budget for fiscal year 1977.

I urge every Member of the Senate to support this level of spending because of the trend of international events, the compelling necessity for military preparedness, and the demands of national security.

In testimony before the Subcommittee on Defense, the civilian and military leadership of the Department of Defense has warned that the United States is in danger of losing its current military equivalence with that of the Soviet Union. Their view and concern are shared by many other competent and experienced observers.

While we have a general parity with the Russians at the present time, they emphasize that recent and present trends are most surely working to our disadvantage.

They clearly demonstrate that our spending, force levels, equipment, construction rates, and relative capabilities have been, and are, steadily declining when compared to the Soviet Union in similar areas.

We cannot—we must not—allow this relative decline in our military forces to continue. We cannot permit it to continue and maintain even a "rough equivalence" with the Russians.

The fiscal year 1977 budget proposed by the President—and recommended as a target by the Subcommittee on Defense—contains real increases which are designed to:

Undertake needed investment programs;

Increase U.S. combat force levels and capabilities; and

Provide an improved readiness posture for our forces.

Of course, adverse trends which have been building over a long period of time and the advantages that have accrued, therefore, cannot be reversed in 1 year or with a single budget. Nevertheless, if the fiscal year 1977 defense budget is approved as recommended, it will start the process necessary for the prevention of further deterioration in our comparable military strength with Russia.

One of the first steps which we must take is to put an end to the congressional practice of reducing proposed budgets by making defense spending bear the full brunt of these reductions.

Between 1973 and 1976, Congress reduced total regular appropriation requests by $23 billion. The four defense appropriation bills passed during this period were reduced by a total of $20.9 billion—or 91 percent of the total reductions. Military construction appropriation bills were cut by $1.5 billion during this period and military assistance by $1.2 billion.

Therefore, Mr. President, over the past 4-year period, the three key components of the national defense function were reduced by a total $23.6 billion, or by $600 million more than the net total by which Congress reduced all budget requests.

We cannot continue to make the national defense sector of the budget the sole source of congressional reductions in Federal expenditures. If reductions are to be made in Federal spending, they should be made in other programs and areas less vital to our national security.

One of the great fallacies of our time is that defense spending is gobbling up an ever-increasing and inordinate share of our national wealth, while human resource programs are being shortchanged.

The facts, however, sternly refute that charge.

Although actual dollar amounts provided for defense have increased since 1964, in real terms—that is, corrected for inflation—the proposed defense budget is now 14 percent below the pre-Vietnam war levels of the early 1960's.

Defense spending today now accounts for about 25 percent of the total Federal budget—the lowest share since fiscal year 1940. In fiscal year 1964, before the Vietnam buildup, it was 43 percent of the budget.

While the share of the budget allocated to defense spending has been declining, benefit payments to individuals and grants have increased over the same period from 30 percent of the budget to 55 percent.

So, Mr. President, it is quite evident that we do not yet have to reverse our priorities away from defense spending to human resource programs. We have already done so, and we must now reverse this trend.

In fact, the pendulum has swung too far already. During the period in which the United States has reduced the portion of its budget earmarked for defense, the Soviet Union has been steadily increasing its military strength.

Over the past dozen years, the Soviet Union has developed an industrial base which has quantitatively outproduced the United States in most categories of military hardware. The weight of the Soviet effort and the momentum which they have achieved should be of serious concern to all of us.

The ever-widening gap between Soviet and Amercian defense expenditures has produced a situation where the Soviets now have: 1,600 intercontinental ballistic missiles, compared to 1,054 for the United States; 730 submarine-launched ballistic missiles, compared to our 656; 42,000 tanks, compared to a U.S. inventory of 9,000; 20,000 artillery pieces, compared to 6,000 for the United States; 229 major surface combatant ships, compared to our 172—the U.S. Navy had 950 active ships in mid-1968, there were less than 500 active ships in mid-1975; 255 general purpose submarines, compared to a U.S. fleet of 76; and 4.4 million military personnel, compared to U.S. strength of 2.1 million.

Even more significant is the fact that Soviet investment, in real terms, in the development and procurement of new systems and facilities for production has clearly exceeded that of the United States.

I find this a particularly disturbing phenomenon, because this year's investment in research and development is a clear indication of next year's capabilities.

The defense appropriations bill which will soon be before us is not at all aimed at achieving absolute superiority over the Soviet Union. It is aimed, instead, at maintaining the rough equivalence in military capability that we still have after our decline in recent years.

If current trends continue—if they are not reversed—there will be a time at some point in the future—and rather soon, I think—when Soviet military capability will surely exceed that of the United States.

The margin of superiority which we have in some fields and the equality which we have in others will have vanished—probably never to be regained.

The basic thrust behind the defense appropriations bill for fiscal year 1977 is to check these dangerous trends. When carefully analyzed, the increases sought over fiscal year 1976 are comparatively modest.

The spending proposed in the 1977 budget is an increase of almost 9 percent—all but about 2 percent of this is to cover inflation. While budget authority would increase by 13 percent, less than half—or about 6 percent—remains as an increase when inflation is taken into account.

I do not believe that this is too high a price to pay to maintain our national security.

We hear much talk today of reductions in the defense budget—of cuts of $3 billion, $4 billion, $6.5 billion, or even $10 billion or more.

During the current round of hearings before the Subcommittee on Defense, I asked our military leaders—the men in the best position to know—what the effect of reductions of such magnitude would be on our military capability.

Without exception, they agreed that such cuts would be a clear signal, not only to the Russians but to our allies as well, that we are making a conscious decision to become No. 2.

The Chief of Naval Operations, Adm. James Holloway, succinctly summed up their views. Speaking of the Navy, he said:

> If the allocation of resources to the Defense Department remains about the same as it was in last year's budget . . . I see the Soviets overtaking us in 5 to 7 to 10 years, depending on how they project their programs. At that point, the Chief of Naval Operations will not be able to say with any degree of assurance that he can maintain control of the sea lines of communication across the Atlantic.

Mr. President, this must not happen. I do not lightly support increased military spending at a time when our domestic economy is just beginning to recover from the most severe economic dislocation since the Great Depression.

But, unless we undertake the long-range investment programs that will modernize our Armed Forces to the degree necessary to maintain both sufficiency and stability, our freedom and the freedom of those peoples and allies who have cast their lot with us will be endangered.

Periodically in the life of all nations, there are turning points in their history—what Winston Churchill called hinges of fate.

Mr. President, we are at such a point today. The decisions which we make regarding the future course of our national security will resound down the corridors of time. Let us make certain that they resound to our honor and security.

I, therefore, urge my colleagues to join me in supporting adequate defense appropriations for fiscal year 1977—the amount recommended by your Senate Appropriations Committee.

RESOLUTION EXPRESSING OPPOSITION TO UNIONIZED ARMED FORCES

Mr. THURMOND. Mr. President, on March 24, 1976, the South Carolina General Assembly passed a concurrent resolution to express the sentiment of the general assembly that members of the Armed Forces of the United States should not be unionized.

On behalf of the junior Senator from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION

To express the sentiment of the General Assembly that members of the Armed Forces of the United States should not be unionized

Whereas, the Aiken County Retired Officers' Association has recently brought to the attention of the General Assembly that several national unions may be attempting to organize members of the Armed Forces of the United States; and

Whereas, the long-term implications of members of the armed forces of this country belonging to a union could have adverse affects on the efficiency and fighting ability of our military personnel; and

Whereas, the possibility of strikes by members of our armed forces could leave the United States undefended in a time of military conflict; and

Whereas, the members of the General Assembly are desirous of taking a public stand against unionization of the armed forces of this country. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the General Assembly hereby express their sentiment that members of the Armed Forces of the United States should not belong to a union but should remain nonunionized in order to assure this country of a ready and effective fighting force.

Be it further resolved that a copy of this resolution be forwarded to each United States Senator from South Carolina and to each Congressman from South Carolina.

KISSINGER'S WARNINGS

Mr. BAYH. Mr. President, last week Secretary of State Kissinger strengthened his warnings to Cuba regarding intervention in the potential conflict in Rhodesia. He said:

> The United States will not accept further Cuban military interventions abroad.

This statement was followed by reports of preparation of contingency plans for a variety of military ventures to be directed against the Castro government, including a naval blockade.

It is difficult to judge, Mr. President, whether Secretary Kissinger is engaging in a campaign ploy to mollify the Ford administration's critics of the right or issuing an actual ultimatum. In either case, his remarks are most serious in nature and demand the widest possible discussion and debate.

If Mr. Kissinger is simply playing politics he has insured that American credibility, which he speaks of so often, will suffer a severe blow in the event Castro takes him up on his dare. If he intends to follow through, he is leading us toward an armed confrontation with Cuba and perhaps nuclear confrontation with the U.S.S.R., due to Cuban action against a white racist government in black Africa.

I certainly do not condone Cuban adventurism in Angola, Rhodesia or anywhere else, Mr. President, but I strongly believe this country needs a realistic foreign policy which is intelligently tailored to meet American interests in Africa, Latin America, and the world community. Secretary Kissinger's recent statements have not been so tailored, and I think Congress and the American public deserve an explanation.

This whole episode reminds me of a discussion I had with the Secretary of State while he was testifying before the Senate Appropriations Committees last year. At that time, I asked him, in the context of Vietnam, just when idle threats make good foreign policy. That question is even more pressing in the context of Cuba and Rhodesia.

Mr. President, last week the distinguished columnists, James Reston and Tom Wicker, wrote excellent pieces on Secretary Kissinger's Cuban policy. They raise some of the points I have discussed as well as others, and I would like to call them to the attention of my colleagues.

I ask unanimous consent that the columns be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

KISSINGER'S VAGUE WARNINGS

(By James Reston)

WASHINGTON, March 23.—Secretary of State Kissinger's warnings to the Soviet Union and Cuba against further military intervention in Africa make good political headlines, but it would be helpful if he would tell the country how he proposes to carry them out.

In his speech before the World Affairs Council of Dallas, he said "the United States will not accept further Cuban military interventions abroad." The issue in Angola, he added, "was and remains the unacceptable precedent of massive Soviet and Cuban intervention in a conflict thousands of miles from their shores. . . . The danger was and is that our inaction . . . will lead to further Soviet and Cuban pressures on the mistaken assumption that America has lost the will to counter adventurism or even to help others do so."

It is easy to understand his reaction, especially since he is being attacked in the Presidential campaign for being soft on the Communists, but what do these stern statements mean?

If the United States will "not accept" further Cuban military interventions abroad, how does he propose to stop them or punish them? Would he go back to a policy of economic or naval blockade of Cuba, or exert military pressure to force the Cuban expeditionary army back home?

His general principle seems sensible enough. "We are not the world's policeman," he says, "but we cannot permit the Soviet Union or its surrogates to become the world's policeman either, if we care anything about our security and the fate and freedom of the world. It does no good to preach strategic superiority while practicing regional retreat."

But it does no good either to issue warnings unless you are ready, willing and able to carry them out, as Mr. Kissinger himself discovered in Vietnam and again in Angola. He stated another principle in Dallas:

"The issue," he said, "is not an open-ended commitment or a policy of indiscriminate American intervention. Decisions on whether and how to take action must always result from careful analysis and open discussion. It cannot be rammed down the throats of an unwilling Congress or public."

This is precisely the problem now. For the Secretary of State has issued his warnings and indicated the United States would act in some unspecified way if Moscow and Havana don't stop their "unacceptable" military adventures; but there has been no "careful analysis" in the Congress or any serious "open discussion" of these highly complex and dangerous situations.

In Africa, as in Southeast Asia, the Soviet Government has openly insisted on its right to support what it calls "wars of national liberation." The United States has protested repeatedly about this policy and has warned that Moscow cannot violate the principle of coexistence "selectively" without endangering U.S.-Soviet cooperation.

There is no evidence here, however, that Secretary Kissinger is recommending a policy of economic retaliation against the U.S.S.R. Both nations agreed in the Helsinki declaration that they would "refrain in their mutual relations, as well as in their international relations in general, from the threat of use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations and with the present declaration."

This declaration also forbade not only the threat of direct force but of the "indirect use of force." Nevertheless, the Communist policy of intervening in these "wars of liberation" continues, along with the assertion by Moscow and Havana that it is not inconsistent with the policy of détente.

"We are certain," Secretary Kissinger said, without indicating who "we" are, "that the American people understand and support these two equal principles of our policy—our support for majority rule in Africa and our firm opposition to military intervention."

This may be so, though the issues have scarcely been debated here, but if the Government of Rhodesia insists on minority rule and the U.S. rules out military intervention, it is hard to see how Mr. Kissinger's warnings and principles can avert more guerrilla war in that part of the world.

Either they mean nothing more than a bold stand that would please the Reagan supporters in the Presidential campaign, or they mean that the United States has finally decided to draw the line against Soviet and Cuban military intervention.

And if the latter is true, then the American people, who would have to carry out the warnings, have a right to know what the Secretary has in mind. He is obviously frustrated by the hard task of defending his Soviet policy when it is violated openly by the U.S.S.R. and also when his efforts to stop the slide in Africa are opposed by a majority of the Congress.

But speeches are not likely to restore the balance, and threats that are not understood or supported at home could make the situation both in Africa and in this hemisphere even worse than they now are.

KISSINGER OUT ON A LIMB

(By Tom Wicker)

Secretary of State Henry Kissinger is getting himself further and further out on a limb over those 13,000 Cuban troops in Africa. First, he warned Havana and its sponsors in Moscow not to use the Cubans to intervene on behalf of the black guerrillas fighting against Rhodesia's all-white Government. Then he reiterated the United States' intention to "do nothing" to support that minority Government. Now he says those two stands are not contradictory—but that may be the saw you hear in the background.

"We are certain that the American people understand and support those two equal principles of our policy—our support for majority rule in Africa and our firm opposition to military intervention," Mr. Kissinger said in a news conference in Texas (two-gun country where Ronald Reagan will pose a strong challenge on grounds that the Kissinger-Ford policy abdicates military superiority to the Communists).

But the real question is not whether the American people understand Mr. Kissinger's policy, but whether it is understood by Prime Minister Ian Smith of Rhodesia, the black guerrillas opposing his Government and the black governments of Africa. The danger is that they will deduce—quite logically—that if Mr. Kissinger can say so forcefully that "the United States will not accept further Cuban military interventions abroad," he is prepared to take some action somewhere, in Africa or in this hemisphere.

Mr. Kissinger's warnings to the Cubans, therefore, no matter how hedged with statements of opposition to Mr. Smith, may well be interpreted as, in effect, tacit support for the Smith Government against one major threat to it—Cuban intervention in the guerrilla war. And since Mr. Smith already is adamantly opposed to negotiating toward majority rule in Rhodesia, the Kissinger statements must tend to reinforce his view that he really need not negotiate, since in the final analysis, the white powers cannot afford to let white Rhodesia be wiped out in race warfare.

Thus, Mr. Kissinger may be making Cuban intervention in Rhodesia more likely. Aside from whether Fidel Castro might be tempted to challenge the Kissinger edicts, anything that strengthens Ian Smith's obduracy and increases his black opponents' fears of a long, slow, costly guerrilla war is likely to lead the more quickly to a black call for Cuban help.

In that event, Mr. Kissinger's swaying limb would be near the breaking point. Not only is Congressional support of an American military response to Cuba in Rhodesia highly doubtful but actual American military support—arms or men—for the Smith Government against majority rule (even if supported by the Cubans) violates Mr. Kissinger's stated policy as well as common decency. The reaction among black Americans, particularly those large numbers of them in the armed forces, should be another sobering consideration.

Action in this hemisphere is not much more promising. There is no evidence that Americans are willing to back military action against Cuba; and Mr. Castro long since showed that he is willing and able to defy economic and political sanctions.

So if the Cubans are invited into the Rhodesian struggle and the United States proves unable to prevent it, Mr. Kissinger's limb will have been sawed through, dropping him right into his own nightmare: "If leaders around the world [as he put it in Texas] come to assume that the United States lacks either the forces or the will to resist while others intervene to impose solutions, they will accommodate themselves to what they will regard as the dominant trend."

Maybe so, and no one will be more responsible than Henry Kissinger, maker of empty threats, who could not have found Africa on a four-color map before he perceived it as an arena of big-power rivalry, and who persists in looking at it as a chessboard of global politics rather than as a continent with its own problems, political and economic necessities and human rights and aspirations.

Among those last are the hopes of more than six million blacks in Rhodesia, now dominated and exploited by about a quarter-million whites. Mr. Kissinger cannot seem to understand that they and the black governments that back them put first things first—they care more about support for majority rule than about the politics of Cuba or anyone else willing to help.

So a better and less risky way to guard against Cuban intervention in Rhodesia would be to take a vigorous and forthright stance against the Smith Government and for majority rule, using every reasonable form of pressure to speed a peaceful solution; because the longer Mr. Smith can hold out the more likely is the Cuban intervention Mr. Kissinger fears.

As for his Texas declaration that "the United States cannot acquiesce indefinitely in the presence of Cuban expeditionary forces in distant lands for the purpose of pressure and to determine the political evolution by force of arms," what does Henry Kissinger think American troops were doing in Vietnam? Or the C.I.A. in Laos? Or the Air Force in Cambodia? Is there one law for the United States and another for Cuba?

THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

Mr. METCALF. Mr. President, the third substantive session of the Third United Nation's Conference on the Law of the Sea convened on March 15 in New York City, hopefully to write a constitution, a set of basic laws, for two-thirds of the earth. I understand there are representatives from some 150 nations, which would make this the largest international conference in history. I need not remind my colleagues that the United States, as the world's leading maritime power, has a vital interest in every issue under consideration.

One of these issues is our right to use the advanced technology which American industry has developed at enormous expense to recover minerals from the floor of the deep ocean—minerals which will surely be as essential to our economic welfare in the future as energy sources are right now.

The very fair position on this issue that the United States is presenting at the Conference, as well as our position on other important areas of sea law, are set forth with clarity in an article entitled, "Constitution or Chaos for the World's Oceans," in the March issue of the Navy League's Sea Power magazine.

Because of the clear explanation given of the very high stakes involved for us at this United Nations Conference, I would like to call this Sea Power article to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOS '76: CONSTITUTION OR CHAOS FOR THE WORLD'S OCEANS?

(By Merle Macbain)

While the United States is celebrating its 200th year as a constitutional democracy, delegations from virtually every nation on earth are gathering this month in New York for another try at writing a constitution for the two thirds of the earth still outside the realm of law.

Times have changed since the days when all of the oceans beyond cannon shot range could happily belong to everybody in the special sense that they could not belong to anyone exclusively. Opinions on what the consequences will be if the third session of The Third United Nations Conference on the Law of the Sea (LOSC) accomplishes no more than the first two range from "nothing" to "chaos" to "war." If the latter predictions seem extreme, reflect that a bloody war and nearly a decade of turmoil followed the closing by Egypt in 1967 of a single strait, the Strait of Tiran, to Israeli shipping.

Admiral James L. Holloway III, who as Chief of Naval Operations has thought more about such matters than most of his fellow Americans, assessed the consequences as follows in a recent statement before the Senate Armed Services Committee: "Our studies by the Joint Chiefs of Staff in recent years have pointed to the potential for ever increasing confrontations, chaos, challenges, and conflict in the oceans, unless a new, comprehensive Law of the Sea Treaty is concluled."

THE GENEVA FOUR

In the simpler days before World War II the law of the sea consisted of old usage fairly well understood and observed by all. Piracy was punishable by death, international straits were open to all comers, and a three-mile "territorial sea" was legally a part of the adjoining coastal state—but open to "innocent passage."

But those old rules of "customary law" took no account of new modes of passage, such as those made by submerged submarines, and aircraft on "overflights." The changing situation still was not too serious until some states made claims, largely to protect fishing rights, to territorial seas of 12 miles or greater, and other states refused to recognize such claims.

The evolving course of events led to the First Law of the Sea Conference in Geneva in 1958, from which emerged four Geneva Conventions: the Convention on the Territorial Sea and the Contiguous Zone; the Convention on the High Seas; the Convention on the Continental Shelf; and the Convention on Fishing and Conservation of Living Resources of the High Seas.

Neither at the First Geneva Conference nor at a second one in 1960 were the nations represented able to agree on the breadth of the territorial sea, the extent of fisheries jurisdiction, or the outer limits of a coastal state's exclusive rights to continental shelf resources. The Contiguous Zone Convention provided an extra nine-mile strip in which the coastal state controlled fish and mineral rights and could police smuggling, immigration, and health regulations—but beyond that still narrow strip there lay the high seas, where all could sail, fly, fish, and pollute without restriction.

"Creeping jurisdiction" soon turned many contiguous zones into territorial seas. In some South American countries, where the tuna run far offshore, 200-mile contiguous or economic zones were decreed which in turn and by unilateral edict became "territorial seas."

BLUE-EYED POWERS AND A DETENTE ALLY

The tangle of conflicting claims, uncertainty over the outer limits of the oil-bearing continental shelf, and the demonstrated ability of the United States and other technologically developed nations to mine the deep oceans for metal-rich manganese nodules made another LOS conference a matter of some urgency. Phase One of that conference was held in Caracas in 1974 and demonstrated principally that such conferences are no longer a "gentleman's" gathering of blue-eyed big powers. The one agreement reached was to reconvene in Geneva from March to May of last year.

Some two thousand delegates from 141 countries were represented at Geneva, making it the largest international conference ever held. From the first the sessions were dominated by two contending viewpoints.

The great industrial and maritime nations, powered by the United States and its sometimes detente ally, the Soviet Union, favored the traditional freedom of the seas with strictly limited jurisdiction for coastal states in the economic zone, now thought of by one and all in terms of 200 miles.

The underdeveloped (or, rather, developing) countries were led by a monolithic bloc dubbed the "Group of 77." Among other advantages, such as an automatic majority vote, the bloc had the best slogans. To the cry that sounded in the corridors of Caracas, "The seas are the common heritage of mankind" (which Secretary of State Henry Kissinger has aptly described as merely a statement of the problem) were added "One Nation, one vote" and a more revolutionary concept sloganeered as "A new international economic order." The latter lofty utterance translates roughly into "share the wealth."

For efficiency the awesome agenda was divided among separate working committees. The First Committee was concerned with setting up an international regime to deal with exploitation of seabed resources beyond the limits of national jurisdiction. The Second Committee had responsibility for establishing the tacitly agreed on 12-mile territorial sea and 200-mile economic zone and the many related problems, particularly passage through straits. The Third Committee was given the deceptively simple task of assessing responsibility for protection for the marine environment and making rules for the conduct of scientific research within restricted economic zones. None of the committees reached any formal agreements.

INFORMAL ADVANCE

What did come out of the conference was an Informal Single Negotiating Text for a treaty designed primarily to serve as an agenda for the New York meeting. Although in its entirety it pleases no one, that text represents the only solid advance since the Conventions of 1958. Agreement, if any, to be reached in New York will be based on the issues in the text.

Ambassador John R. Stevenson, Chief of the U.S. Delegation at Geneva, and Bernard H. Oxman, U.S. representative in Committee II, summarized in the October 1975 issue of *The American Journal of International Law* what they personally regard as the ten elements of the negotiating text which offer the best basis for agreements in New York.

Those issues, paraphrased for brevity, are:

(1.) A 12-mile territorial sea, subject to the right of innocent passage.

(2.) Unimpeded passage through international straits for all vessels and aircraft.

(3.) A 200-mile economic zone in which the coastal state exercises sovereign rights over both living and non-living resources and over exploitation of the seabed of the continental margin where it extends beyond 200 miles, but is subject to a contribution of international payments for mineral production on the margin beyond 200 miles, with all states retaining their traditional freedoms of navigation, overflight, and communications in the area.

(4.) Coastal state control of all drilling and economic installations in the economic zone.

(5.) Modernization of the regime of the high seas to allow for far-traveling tuna and shrimp fleets and for state-of-origin interest in anadromous species of fish such as salmon; also: new rules for control of unauthorized offshore broadcasting and suppression of illicit traffic in narcotics.

(6.) A new regime for unimpeded passage through sea lanes and on air routes that traverse archipelagoes.

(7.) International rules for marine pollution control, with limited coastal state enforcement rights against vessel-source pollution.

(8.) Provisions for international cooperation in marine scientific research and transfer of marine technology.

(9.) Machinery to deal with the exploitation of seabed resources beyond the outer limits of national jurisdiction.

(10.) A system for binding third-party settlement of disputes which cannot be resolved by negotiation.

NO DETAILS, NO DEFINITION

Although U.S. delegates are reluctant to discuss specific details, there is reason to believe that substantial agreement was reached in Committee II on the first six items. If so, it would represent significant progress, since the articles pertaining to the economic zone, where most of the known offshore oil and gas fields and commercial fisheries are found, affect more interests of more states than any of the other articles.

One important matter not agreed on was a definition of the high seas. If the various national economic zones and continental shelves are not included in the "new" high seas area, as the Group of 77 would have it, the area in which the traditional freedom of the seas could survive would be reduced by 40 percent, a matter not taken lightly by the maritime powers.

The real crunch, however, came in Committee I, where the only thing agreed on was the need for a legal regime for the deep seabed. At stake is the rich treasure trove of manganese nodules (nuggets of copper, nickel, and cobalt) carpeting great areas of the seabed at depths of 12,000 feet or more. The big problem, not yet solved, is to reconcile the views of those favoring a system of direct exploitation (by a new international authority—that "new international economic order") with the views of those desiring guaranteed access to specified mining areas, with security of tenure, for their nationals.

The view of the developing nations, as reflected in the text, is that the one-nation, one-vote Assembly should be the supreme policy-making organ for a new seabed authority—an economic czar for the oceans. American miners, who have hundreds of millions of dollars invested in preliminary development work, and investment bankers, who would have to furnish the much larger sums required for mining the deep sea on a commercial scale, are unanimous in their conviction that risk capital could not be raised on such terms.

SCIENCE SI, POLLUTION NO

The fairly recent pot-of-gold aura over deep sea mining has dimmed with a realization of the problems involved. However, expectations are still a factor and emotional ideology plays a strong role in the Committee I divisions and has doubtless been encouraged by land-based miners of the metals present in the nodules. The Group of 77 countries want an Authority with real power over the developed nations in what they see as the world's last unexploited area of natural resources. Since it is not an immediate pocketbook issue for them, moreover, they can afford to be adamant. Such authorities as Leigh S. Ratiner, ocean mining administrator for the Departmnet of the Interior, doubts that they will retreat from their one-country, one-vote position.

The division in Committee II seems more surprising since, by definition, pollution is bad and science is good.

Although some developing countries take the interesting view that the rich got rich by polluting the environment and it's now their turn, the principal point at issue is whether coastal states can have control over vessel-source pollution in the economic zone. By extension, however, such control would enable them to dictate design features of ships entering a zone and could therefore impinge on rights of innocent passage; e.g., they could deny passage to oil tankers per se.

The more serious Committee III differences arose out of the opposition of developing nations to foreign-flag scientific research near their shores. Progress here appears to run up against paranoia. The developing nations charge that, where such research is not a cover for espionage, it will be used to uncover and exploit new sources of wealth for the benefit of others. The U.S. position is that permission for research is a high seas right that may not be denied in an economic zone. A U.S. counter-proposal, rejected outright, stipulated that adjoining coastal states would be invited to participate and to share in the findings. There may be some chance for agreement in a USSR-led socialist-bloc proposal that coastal state consent be required for research related to resources, with other scientific research subject only to "reasonable" treaty obligations.

ARBITRATION A MUST

The last major item in contention, an arrangement for binding third-party settlement of disputes, would apply to all parties and to all substantive elements of an LOS treaty. The United States will insist on such an arbitration provision as part of any overall treaty package. The essential issue involved in compulsory settlement of disputes is the need for a guarantee of both coastal state and international rights in the economic zone. It would not be difficult to surmise that those who already favor excluding the economic zone from the high seas foresee that without compulsory dispute settlement the zone could easily evolve into a territorial sea.

Such are some of the more difficult problems which face the New York negotiators—plus the fact that the Group of 77 is now the Group of 105, so designated by outgoing U.S. Ambassador to the United Nations Daniel Patrick Moynihan, who has had occasion to count them. Their leaders are tough and smart; a number of them were educated at Harvard and Oxford. The United Nations is their true forum and the oceans their chosen battleground. They want international indexing, technology transfer, and "a place in the world," and their stance, so far, on matters of substance is "Don't give an inch."

The most important factor favoring success in New York is the consciousness even among the underdeveloped nations that: (1) 1976 may well be the last chance for an LOS treaty; and (2) they are the ones with the most to lose.

CONGRESS ACTS, PRESIDENT WAITS

The alternative to failure, for the United States and other developed nations, is a combination of unilateral and cooperative actions. A significant step toward establishing a broader U.S. economic zone was made with Senate passage of the Magnuson Fisheries Management and Conservation Act (S. 961); a similar bill (H.R. 200) was passed earlier in the House. Both bills establish a 200-mile U.S. fisheries zone. President Ford has indicated he will sign a conference bill into law, providing it incorporates a Senate provision delaying its effective date until 1 July 1977. The intentional delay would allow time to see what happens at the eight-week LOS session starting this month as well as another short session scheduled, if needed, to begin sometimes in August.

Senator Lee Metcalf (D-Mont.), whose Subcommittee on Minerals, Materials, and Fuels has held exhaustive hearings on deep sea mining, is sponsoring legislation designed to set up a licensing system for deep sea miners and provide them indemnification against any loss of tenure in their claims due to later establishment of an international authority.

Representative John Murphy (D-N.Y.), Chairman of the House Subcommittee on Oceanography, is sponsoring similar legislation. Sponsors of both bills favor a cooperative arrangement with other nations possessing deep sea technological capabilities (Japan, West Germany and France, so far) which would provide mutual protection for each other's claims.

The prestigious National Advisory Committee on Oceans and Atmosphere (NACOA) shifted position in its 1975 report to the President and Congress and now strongly favors unilateral U.S. action establishing a wider economic zone—both to encourage deep sea mining (to reduce dependence on foreign mineral sources) and to provide preferential rights to U.S. fishermen in a 200-mile resources conservation zone.

Coastal mineral resources, principally oil and natural gas, are already protected under the earlier Continental Shelf Convention.

There seems to be relatively little to argue about concerning "the navigation issue"; merchant ships would undoubtedly continue to sail unimpeded through international straits since the economies of all nations are dependent upon such traffic.

As for navigational rights for naval/military ships and aircraft, it can be assumed that NATO and Warsaw Pact countries have too much at stake in the free mobility of their defense fleets and aircraft to tolerate interference will transit through international straits or impediments to navigation on the high seas.

NOTHING GOOD PREFERRED TO SOMETHING BAD

There are numerous other factors to bolster the argument, frequently heard of late, that no treaty at all is better than any treaty that can conceivably come out of the New York conference.

On the other hand, most knowledgeable U.S. leaders—diplomatic, political, and military—appear to believe that prospects both for peaceful settlement of disputes and for orderly exploitation of the earth's last frontier are worth the investment of time, patience, and reasonable concessions that a treaty worthy of world consensus would require—always provided that essential U.S. rights on the high seas are preserved.

Even if more good will is shown this time around than was evident in Geneva and Caracas, however, the eight-week session in New York still seems too short to permit resolution of all still existing differences. And there will not be time enough for final action in the short session contemplated for August, which must end with the opening of the fall meeting of the United Nations in September.

Two more LOS failures will, however, probably result in strong unilateral legislation being passed by the U.S. Congress regulating the field of deep sea mining as well as strengthening U.S. claims to a broader economic zone. Such legislation, if signed into law (or passed over the President's veto), would undoubtedly be followed by both cooperative and retaliatory action by other nations. The resulting chaos of claims and counter-claims, accompanied by threats, and possibly by force, could, however, result in a new and probably final U.N. effort at LOS agreement early in 1977.

If that effort is also unsuccessful, the dream of a world constitution for the seas will, in the view of one senior State Department official, either go away for good or just drag on to no avail.

In any case, there are few, if any, on either side of the dispute who believe that a bad treaty would be better than none at all.

Mr. FANNIN. Will the Senator yield?

Mr. METCALF. I will be pleased to yield.

Mr. FANNIN. I want to thank my colleague from Montana for calling our attention to this article, which I have read. It indeed sets forth very clearly the issues under consideration in New York where decisions may be reached that will profoundly affect our traditional rights on the high seas. These issues bear directly on both our national defense and our economic welfare, particularly in the matter of deep sea mining, an area in which we have waited patiently for a long time for the internationally acceptable rules that have been promised us by the United Nations Conference. While the diplomats in New York continue their endless discussion, showing very little sign of progress, the distinguished Senator from Montana, who chairs the Minerals, Materials and Fuels Subcommittee, has acted quietly and effectively. On March 18, the Full Interior Committee took decisive action in the area of ocean mining. The chairman, who was kind enough to yield to me, deserves much credit for his leadership and extraordinary patience in the face of such protracted delays as have become commonplace in the International Law of the Sea negotiations taking place under United Nations auspices.

Mr. JOHNSTON. Will the Senator yield?

Mr. FANNIN. I will be pleased to yield.

Mr. JOHNSTON. I wish, also, to associate myself with the request made by my colleague from Montana. I am not insensitive to the importance of establishing international rules which will provide a fair climate for the huge investment involved in the deep sea mining of manganese nodules to reclaim minerals that will surely be in short supply. I would like to remind my colleagues, as this excellent article points out, that there are many other matters on the agenda in New York that affect our welfare and even survival as a maritime power. Such matters as our rights of passage through what are now international straits if new lines are drawn for territorial seas and for economic zones, our continued right to conduct scientific research on the high seas, our right to protect our fishermen off our own coasts and to control pollution of our coastal zones are all being considered and even challenged at this Law of the Sea Conference. I am desirous also of associating myself with the suggestion that the summary of the issues at the Conference be made available through the Record. I too am pleased to join my colleague from Arizona in commending the quiet and effective leadership of the Senator from Montana for initiating legislative action designed to protect the interest of Americans first rather than to sit quietly back and be handed a fait accompli by foreign diplomats asking the United States to surrender its existing and long-standing rights which have derived from the Freedom of the Seas Doctrine.

SOLAR ENERGY RESEARCH INSTITUTE

Mr. GRIFFIN. Mr. President, on March 15, the Energy Research and Development Administration—ERDA—issued its request for proposals for the establishment of a Solar Energy Research Institute—SERI. The ERDA requirements have been carefully examined by the Michigan Energy and Resource Research Association—MERRA—a nonprofit research and development corporation presently concentrating its efforts on preparing a proposal for establishing SERI in Michigan. MERRA is confident that Michigan has ideal qualifications to provide both a temporary and a permanent site for SERI which fully meet all the major requirements for locating such an Institute.

The importance of the Solar Energy Research Institute has been underscored by ERDA Administrator, Dr. Robert C. Seamans:

> If the full potential of solar energy for meeting our national energy needs is to be realized, a major, concerted technological effort is required over the next few decades. I expect the Solar Energy Research Institute to make an increasingly significant contribution to this effort as it responds to the solar program's growing need for analysis, information, and research related to all promising solar applications.

It is likely that a number of the proposals to be submitted for the SERI site will be able to meet the basic criteria of adequate acreage, title to the land, a location close to a major airport and institutions of higher education, and a suitable environment. Therefore, the final site selected for the Institute will undoubtedly be one which additionally offers some unique overall advantages, such as the caliber of educational institutions, the distinctive quality of the living conditions and environment, the degree of industrial development, and the support of the State, labor organizations, and environmental groups.

There is no doubt that the competition will be keen. However, I believe that Michigan's proposal will offer distinct advantages which will make my State an excellent location for the Institute.

As a State which is itself 95 percent dependent upon out-of-State energy supplies, Michigan fully understands the significance of the national goals of energy conservation and energy independence. Thus, the effort to establish SERI for research and development of new energy potential enjoys the support of the entire Michigan congressional delegation, Governor Milliken, labor, industry, the environmental community, the academic institutions, and the people of Michigan.

In fact, Michigan industry is already actively engaged in a number of research and development projects which will eventually lead to the commercial utilization of solar energy. These projects include the development of solar heating and cooling components, as well as the design, installation, and testing of solar heating and cooling systems.

The United Auto Workers—UAW—has constructed a solar heating system at its Walter and May Reuther Family Center at Black Lake, Mich. Research related to solar technology is being engaged in at the State's highly respected universities, such as the University of Michigan, Michigan State University, Wayne State University, and Michigan Technological University.

In addition to its commitment to solar energy research, Michigan's central geographical location in a highly concentrated population center, its developed industrial sector providing a sound technological case, its outstanding educational institutions, its excellent transportation facilities, and its distinctive cultural and recreational opportunities are just a few of the unique advantages offered by establishing the Institute in Michigan.

For these reasons, I believe Michigan is a particularly well-suited site for the establishment of SERI.

ENERGY CONSERVATION IN THE BUILT ENVIRONMENT

Mr. HUMPHREY. Mr. President, recently I had the honor of addressing the Architects-Engineers Public Affairs Conference here in Washington.

During the conference, the architects-engineers attended workshops where Members of Congress discussed the key issues related to their work.

The distinguished Senator from Colorado (Mr. Gary Hart), who has played an active role in developing energy legislation, spoke on energy conservation as it relates to architects and engineers.

In his address, Mr. Hart noted that according to Federal Energy Agency estimates, the built-environment consumes over one-third of all energy used in the United States and that savings of at least 30 percent can be achieved by using energy-conserving methods and materials in new construction. He reviewed congressional efforts to address these problems by establishing thermal efficiency standards and creating incentives for better insulation in homes and buildings. Mr. Hart also pointed out the importance of solar energy as a part of the conservation picture, an approach I also support.

Mr. President, I would like to share with my colleagues Mr. Hart's excellent remarks on this vital issue. I ask unanimous consent that they be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Energy Conservation in the Built Environment—Legislation That Affects Architects and Engineers

(Remarks by Senator Gary Hart)

I'd like to extend a warm welcome to Washington and my support of this conference dealing with the wise management of our natural resources. I am honored by the invitation to speak here today for it was my acquaintance with a member of the AIA that prompted me to take an active interest in energy conservation in the built environment.

During my campaign for the Senate I met a remarkable man, Dick Crowther, of the Crowther-Kruse-McWilliams architectural firm in Denver. Since the late 1940's, Dick has been incorporating energy-conservation design techniques in his buildings. He recently completed a unique residential compound in which he retrofitted an existing building and constructed a new building on the same lot with energy-saving architectural features and solar heating equipment.

Dick was able to reduce the energy requirements for heating and ventilating the retrofitted building by 40 percent. In the new unit he reduced the energy requirements for a conventional building of comparable size by 90 percent.

Dick Crowther's efforts are impressive on two counts:

First, he has shown through architectural design and innovative technology that conventional modes of construction and design were wasteful and gluttonous of energy and resources.

Second, Dick put his own resources into concepts which he knew would work and were worth trying to sell to the public. It didn't take a multimillion dollar government grant or an expensive corporate laboratory—it took the courage and vision traditionally exhibited by individual inventors and designers across our country.

In fact, his designs incorporate some very basic energy-saving features which are obvious once they are pointed out, but, because of the waste and inefficiency of conventional construction, have become a lost art.

Devices such as:

Taking advantage of site orientation and integrating baffles into the design so that the sun can enter the house in the cold months of winter but is blocked in the summer;

Using glass sparingly and, where used, double-glazed;

Placing windows up to the adjoining wall to maximize reflection and cut lighting needs.

None of the features were particularly startling or futuristic. But compared to the lack of energy efficiency of conventional buildings, they were a revelation to a layman like myself.

Our complacency with the inefficient use of energy was perfectly illustrated in a cartoon that appeared three years ago in the New Yorker Magazine. The sketch shows an architect discussing a model of a high-rise office building with his client. The caption below reads: "To meet the energy shortage as it applies to air conditioning, the panes of glass are so designed that they may be moved up or down at the occupants will, thus allowing fresh cool air to enter the building when desired."

The truth is that our buildings have been constructed on the mistaken assumption that cheap energy could make up for losses incurred through the desire for style or symmetry. Hopefully, our collective consciences have been raised by the energy crisis which exposed our profligate practices of the past. The studies and reports published by your organizations have contributed greatly to the dialogue that has ensued over the need to educate the public and fellow professionals about energy conservation and the means of accomplishing significant energy savings in buildings.

Recent estimates have significantly lowered the predicted amount of undiscovered petroleum—both domestic and worldwide. U.S. production is predicted to drop drastically toward the end of the eighties. Known deposits will approach depletion in the early part of the next century. Petroleum, which supplies so much of our energy base should be conserved for vital uses such as fertilizers, pesticides, synthetics and other petrochemicals.

All means of energy and natural resource conservation must be pursued aggressively. And you here today can have a significant impact on energy savings just by developing and applying conservation measures in residential and commercial buildings.

The Federal Energy Agency estimates that the built environment consumes over one-third of all energy consumed in the U.S. and that savings of at least 30% can be achieved by using energy-conserving methods and materials in new construction.

An excellent report published by the AIA is more optimistic in the potential impact of a high priority national program emphasizing energy efficiency in buildings. This study projects a savings of more than 12.5 million barrels of oil per day by 1990.

We know that at least 18 million of this nation's homes are inadequately insulated, and the actual number is more like 30 million. Yet only 7 states have adopted building code legislation dealing with energy use in new buildings. Four other states have passed energy standard statutes but are awaiting regulations, and four states have adopted voluntary codes. Even in those states that have adopted mandatory standards, they have not been set at a level that will have much impact.

However, a week ago the Senate passed legislation which will help change this situation. This controversial measure, the Energy Conservation and Insulation in Buildings Act, was designed to perform two functions:

One—it authorized Federal funds for insulating the homes of low-income people through a program that is essentially an expansion of the existing Emergency Energy Conservation Service Program. Such insulation should reduce fuel bills of low-income persons almost $200 million annually by 1980 and save over 12 million barrels of oil each year.

The second and most significant section of the bill directs the Dept. of Housing and Urban Development in conjunction with FEA, the Bureau of Standards, and GSA, to establish minimum energy conservation standards for new residential and commercial buildings within three years. One year after the federal standards are promulgated, the government could cut off the flow of financial assistance for construction of new buildings to states or localities which fail to adopt at least the minimum standards. These strict sanctions against non-compliance distinguish this legislation from the House passed bill which provides for voluntary standards. This Senate bill was strongly supported by the Administration and was also endorsed by the National Governor's Conference, consumer and conservation groups, and the AIA.

If thermal efficiency standards were applied to every new building in the country, end-use energy consumption could be slashed by at least 27% without increasing building costs or compromising individual comfort.

Controversy over national standards has arisen because of their mandatory nature. People are fed up with government intervention in local affairs, and in many instances rightly so. But in dealing with an issue as important as conserving vast amounts of energy, it is vital that a uniform course be set and, to all extents possible, be followed by the nation.

In the case of building standards, over three thousand different building code jurisdictions makes it impossible to achieve voluntary compliance with uniform energy efficiency standards. Because of the specialized information that needs to reach each of these jurisditions, it is imperative that the Federal Government assist in getting these codes adopted before we plunge to the bottom of our energy well.

A major conservation measure which has already passed the House and is pending in the Senate, is the Energy Conservation and Conversion Act, H.R. 6860. This legislation addresses many methods of conservation and includes important tax incentives for the installation of insulation in residential and commercial buildings.

This bill, as amended by the Senate Finance Committee, would provide for an income tax credit of up to $225 for expenses incurred in insulating a principal residence. The House version would have limited the credit to a maximum of $150. The Senate Finance Committee also voted to extend the 10% investment tax credit currently in effect for commercial buildings for another five years. Both measures will be in the bill that reaches the Senate floor. FEA estimates that savings of over 130,000 barrels of oil per day could result by 1985 by maintaining these tax credits.

Another interesting feature of this bill is a provision to provide similar tax credits for solar energy equipment installation. The House bill would give an income tax credit of up to $2,000 for a principal residence. The Senate Finance bill modifies this to include all residencies, not only principal ones. The Committee expanded the existing investment tax credit for solar to a 20% investment tax credit through 1980 and a 10% credit from then until 1984.

The solar equipment which qualifies for the credit must use solar energy to heat and cool the building or provide hot water within the building and must meet standards prescribed by HUD.

I have included solar energy incentives as part of the conservation picture because solar energy can and must play an increased role in saving conventional fuels that provide energy to buildings. An aggressive solar heating and cooling program could result in savings of one million barrels of oil per day by 1985.

This fact brings me to a bill I introduced in the Senate and Representative Ottinger introduced in the House—the Conservation and Solar Energy—Federal Buildings Act, S. 2095. This legislation would require that buildings financed with Federal Funds utilize the best practicable measures for energy conservation and the use of solar energy systems. The Act would require GSA and the Department of Defense to jointly develop guidelines which would achieve high energy efficiency in federal buildings and, where economically and technically feasible, would require the installation of solar energy equipment.

Use of energy-saving building techniques and solar equipment would have an enormous impact. The federal government currently owns and operates over 400,000 buildings which total almost 2.5 billion square feet or space to be heated, cooled and lighted.

Energy agency estimates show that by installing solar equipment on new federal buildings and retrofitting these systems where possible, almost 20,000 barrels of oil equivalency per day could be saved by 1980.

In this legislation, great emphasis is placed on developing costing techniques which analyze the energy requirements of a building over its entire economic life—life-cycle costs as they are called. Even though the complexity of life-cycle costing should not be understated, it is imperative that future construction methods consider the costs of providing energy to a structure over its lifetime. This will put initial costs in perspective and highlight the long-term cost effectiveness of energy conservation.

These life-cycle considerations must also include a fully integrated approach to construction. Traditionally, heating, cooling and lighting have all been regarded as separate systems developed as single units and installed in a building for separate functions. This piecemeal, fragmented approach must be replaced by comprehensive integrated planning or major energy components, with appropriate analysis of future energy demands and costs.

To avoid the pitfalls of focusing on only the initial costs of government buildings, my bill would change procurement procedures so that increased costs from non-conventional energy-saving equipment or design can be used. Interestingly, many experts have stated that buildings designed for energy efficiency are shown to be cheaper than conventionally constructed edifices. When solar equipment is brought into the picture, initial costs dramatically increase and life-cycle costing becomes crucial to justifying the cost effectiveness of these systems.

The role of the government in promoting the rapid commercialization of solar energy equipment through this program should not be ignored.

The solar industry, now in its infancy, needs the kind of expanded market the government can provide by its procurement policies. Through extensive government installation of such systems, valuable information would be obtained for both producers as well as potential consumers. My bill was designed to get a strong federal buildings plan for solar energy utilization and its partner conservation adopted as quickly as possible.

The additional federal expenditure over the long run would be minimal especially in light of rising energy costs and the comparable Federal commitments to more expensive and in many ways less tested energy sources—such as nuclear. It is a sorry state of affairs when this nation will be required to spend twice as much in 1977 to protect us from nuclear reactor wastes and possible malfunctions as will be spent on the entire solar budget.

Another bill which has gained a good deal of momentum and interest in recent weeks is S. 2932, the Energy Conservation Act of 1976 introduced by Senator Kennedy. This measure provides $10 billion in federal loans and subsidized interest rates to provide front-end capital for conservation improvements in existing buildings. The incentives detailed in this bill are to be allocated in conjunction with state energy conservation programs and would dovetail with the state Energy Conservation Programs established under the Energy Policy and Conservation Act signed into law last December.

The primary intent of this legislation is to provide easy access to capital necessary to make energy conservation improvements in existing buildings and manufacturing plants. Our modern economy evolved during the era of cheap and abundant energy. This evolution has brought with it tax laws, rate structures and lending practices which placed undue emphasis on low initial costs. Both institutional and attitudinal constraints have made people unable or unwilling to borrow front-end capital to make conservation related improvements to their homes, office buildings, or industrial plants. These incentives together with state energy plans, will combine to focus on the cost effectiveness of greater energy efficiency.

There is no doubt that the economical payoff of conservation is one of its fundamental advantages. For example, FEA has calculated that installing ceiling insulation in a home saves energy equal in value to fuel oil selling at about $5 per barrel. Since home heating oil now retails for about $16 per barrel, the economic benefit of installing ceiling insulation is obvious. When one looks at the costs of other fuels, the savings are equally dramatic since the equivalent prices in terms of oil are $11 per barrel for regulated natural gas; $22 per barrel for shale oil; $23 per barrel for gas from coal; and electricity from nuclear power is $27 to $35 per barrel.

The legislation I have outlined today includes only a few of hundreds of energy-related bills directly or indirectly affecting energy conservation. I have focused on them because of their importance in the framework of energy conservation and the good chance each has of becoming law by the year's end.

Now is a good time for the affirmative pursuit of energy efficiency in construction, transportation and industry. You, here today are sitting on a gold mine which can help contribute to managing the world's crisis of resource scarcity. Your contribution by designing and constructing buildings which maximize our precious resources will not only have a direct effect on our economy and society, but it guarantees a sound standard of living for the generations to come.

A SALUTE TO WILLIAM GORDON

Mr. TALMADGE. Mr. President, it was recently my pleasure to read an interesting and inspiring tribute to an outstanding Southerner and a distinguished American, William Gordon, Senior Foreign Service Officer for the U.S. Information Agency.

The article, in the winter issue of "Mississippi Magic," published by the Mississippi Agricultural and Industrial Board, particularly saluted Bill Gordon for receiving the "Outstanding Mississippian Award," the highest honor the Governor can confer upon a native son. But more than that, the article is the reflection of an American success story that is a credit to Bill Gordon himself and to the American way of life.

A black man of extremely humble beginnings as the son of a sharecropper in Mississippi, Bill Gordon worked hard, studied hard, and rose to preeminence in his field. We take pride in the fact that for several years in his distinguished career, Mr. Gordon worked in Atlanta as associate editor of the Atlanta Daily World, during which time he formed a close friendship with the late Ralph McGill.

I congratulate Bill for his many splendid accomplishments, his lasting contributions to human relations, here and abroad, and for this well-deserved recognition by the State of Mississippi.

I bring the article to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILLIAM GORDON, USIA

In March, 1975, before a distinguished gathering of foreign journalists and Mississippi's capitol press corps, Governor William Waller presented to William Gordon the Outstanding Mississippian Award, the highest honor that the state's chief executive can confer upon a native son.

Bill Gordon had come home.

The occasion of his return visit and well deserved recognition as an outstanding Mississippian was vastly different from the circumstances of his leaving his native state many years before.

Bill Gordon, Senior Foreign Service Officer for the United States Information Agency, is the epitome of the all-American success story, the great American dream. His life story follows the formula faithfully—from poverty and obscurity to distinction.

There was no fanfare, no special observance to mark the occasion of his birth in a sharecropper's cabin in Bentonia, Mississippi. His father was a black sharecropper who never got beyond the one-room school houses in the cotton fields of pre-Depression Mississippi. His grandfather could neither read nor write, his great-grandfather had been a slave.

When he was still young, the family moved to Marked Tree, Arkansas. There he encountered Mrs. Ola Walker, his teacher in an all-black school who saw something special in this quiet child.

She was the catalyst, but he made the decision.

At 13, in the middle of the Depression, he left. With his brother and a friend, Bill Gordon literally walked away from his environment.

It was a long walk from Marked Tree to Memphis, and for the young black boy, an immensely symbolic move.

In Memphis, with fortitude and determination, he set the pace and formed the pattern for a lifetime of achievement.

Very much alone and on his own, he went to school while he worked as a waiter in a little drive-in restaurant owned by a Greek named Steve Dendrinos. He worked for Dendrinos through four years of high school and four years of college, sometimes putting in 18 hours a day in his determination to get an education.

At Booker T. Washington High School Gordon persuaded school officials to let him start a school newspaper which is still going after 37 years. At the same time, he wrote a column for a local black newspaper.

Last year, after a 30-year absence, Gordon returned to Memphis and Booker T. Washington as principal speaker for his class reunion.

His list of academic credits is impressive. He was graduated in 1947 from LeMoyne College in Memphis with a B.A. in Economics. He attended Columbia University in New York for two years and received his M.A. in Economics from New York University, his major field of study in political science, social history and creative writing.

He didn't even break his stride for a two-and-a-half year stint in the Army in the mid-40's. Stationed in New York he worked on the copy desk for PM, the avant garde experimental newspaper started by Ralph Ingersol and Marshall Field. In graduate study at Columbia and New York University, he continued working at PM where he came in contact with a number of now-famous personalities, whose writings and philosophies strongly influenced the young journalist.

In the late 1940's Gordon's journalistic abilities were honed as a special assignments reporter for the New York Star, as city editor for the New Jersey Hearld News in Newark, and in 1949 as associate editor of the Atlanta Daily World, a large and well respected black newspaper.

His editorial achievements at the Daily World, where he remained for more than eight years, began to bring him widespread notice. Gordon came into national prominence in the mid-50's when his front page stories and editorials on a rash of fatalities from poisonous moonshine were picked up by the wire services and television networks.

It was at that time that he formed a close and lasting friendship with the late Ralph McGill, Pulitzer Prize winning editor of the Atlanta Journal.

Shortly after, through McGill's intervention, Gordon was awarded two of the most prestigious Fellowships in the field of journalism and letters. He received a Neiman Fellowship in Journalism at Harvard and in 1958 an Ogden Reid International Journalism Fellowship.

Gordon was one of the first black Southerners ever to receive a Neiman Fellowship, and McGill ran into strong opposition when he recommended Gordon.

The Ogden Reid Fellowship took him, with his wife and three small sons, to 25 African nations for special study. He was the first Negro journalist to visit South Africa in 1959 and he chose Ghana, which had just received its independence, and the Union of South Africa. "I went to learn what kind of leadership they were developing," he explained, "whether toward democracy or which way they were going."

Gordon was impressed with the South Africans' deep desire for independence of leadership. "They had an insatiable thirst for education. They revered education, knowing it was the vehicle for pulling their countries into the 20th century." He found also the African leaders had "an unusual ability to communicate; in the marketplace of a small village they could make themselves understood, then go before leaders of European countries and articulate as effectively as the Europeans."

His studies at Harvard brought him in contact with such persons as Arthur Schlesinger, Sr., Professor Theodore Morrison and Ernest Hemingway. At Harvard, Gordon also became acquainted with Henry Kissinger, on the university faculty at the time, who asked Gordon to join an international seminar group. Gordon was the first black American ever invited to join the group which numbered among its members writers, artists, economists and political scientists from every country of the world. Many of those associations have sustained until today.

His studies under the Reid Fellowship led to his post with the United States Information Service which took him all over the world talking about America, "creating an accurate image of the nation." With the USIS he was Public Affairs Officer in Eastern Nigeria, Chief Information Officer in Nigeria and Public Affairs Officer in Stockholm, Sweden.

Well educated, authoritative and diplomatic, Gordon was a well chosen emissary of the USIS to foreign nations.

"America's image has often been distorted by our adversaries," he said. "In many places, sheer ignorance and the lack of accurate information causes people to completely misunderstand the U.S. government and the American people and particularly their objectives.

"Such misunderstanding," he said, "can result in costly friction and tragic conflicts. It has been said that if ideas and food do not cross borders, then soldiers will."

When foreigners ask him how he can praise a country that has repressed black people, he tells them about his family's "upward mobility."

In 1966 he attended the course for senior diplomats at the Army War College in Carlisle and then was assigned to the United States Information Agency in Washington, D.C. He was named Deputy Director of Public Information in 1973 and a year later was elevated to the position he now holds.

Although his academic background is noteworthy, it is perhaps in the translation and application of the knowledge he acquired that lies the key to Gordon's potential, and his own "upward mobility."

Soft spoken and immensely articulate, Bill Gordon speaks of his modest beginning with absolutely no bitterness nor rancor and describes his accomplishments and professional life with modesty and almost detachment.

He speaks more willingly of his three sons, whose environmental influences as well as international education are reflected in their personal development. His eldest son, William, Jr., at 29 holds, a Ph. D. in physics from the University of Rochester, was a university professor and is currently working on a medical degree. His wife has a Masters in physical therapy, and they have a small daughter, of whom Bill Gordon speaks with great tenderness.

David, 24, was graduated a Phi Beta Kappa from Amherst and is in his third year of medical school at Harvard. The youngest son, Anthony, has always shown a good bit of business acumen, according to his father, and appropriately is majoring in Business Administration at Frostberg State College in Maryland. Although only 19, he is in his junior year.

That, as Gordon once put it, is a long way from the cotton fields.

Gordon apparently sees himself and his sons as the embodiment of the opportunities for blacks in America today; an example of the progress that is being made in race relations. The rest of the world looks to America, he has discovered, to provide the answers for effective racial equality.

The problem of racism is "almost universal in one form or another," he has written. "The spectre of race haunts almost every part of the world, consuming energies and attention needed to solve major human problems, such as peace and survival."

Gordon has captured the attention and high regard of colleagues and many notables with whom he has come in contact throughout his career. His success in his personal and professional life can best be measured by the tributes paid to him.

A USIA official in a communication to the Director of Foreign Service personnel wrote" . . . his finesse and top qualities in public relations work . . . represent the kind of positive institutional publicity which reflects credit on the agency."

McGill described him as "able, sincere and dedicated" and wrote that "by his personal integrity, balance and consistent policy of going by the facts, has made himself widely known and respected."

In a profile on Gordon in the Atlanta Constitution he was referred to as a bridge builder, "trying to bridge the gaps between people . . . and across racial lines."

In 1969, on his return from three weeks in West Africa where he had visited with Gordon, Ed Murrow wrote to McGill: "He (Gordon) is without exception one of the outstanding officers in this Agency. He practically 'owns' Eastern Nigeria . . . the Information Center is the yeastiest institution I saw anywhere in Africa. I wish we had a few hundred officers like him."

In 1973, when Gordon was under consideration for an ambassadorial position, Ernest Spaights, assistant chancellor of the University of Wisconsin-Milwaukee, wrote a recommendation to the White House outline his knowledge and impressions of Gordon, formed when Gordon joined the faculty as a Visiting and Distinguished Professor of mass communications in 1969–70 and in 1971–72.

In his letter, Spaights said, "Mr. Gordon has distinguished himself in each of his position (as a newspaper editor and with the USIA), and particularly here at the university.

"His command of the diplomatic history of the United States and his insightful approach to . . . the problems confronting this country generated many positive statements from his students as well as faculty colleagues."

Spaights described Gordon as "a superb scholar" and stated that Gordon was considered by the students, faculty and administration "to be one of our top professors."

Perhaps one of the most meaningful tributes to Bill Gordon came from his native state, long and unfairly regarded as the last bastion of racial inequality.

Last March in the state capitol building, the Governor said, in presenting the Outstanding Mississippian Award to Gordon, "Though his road to success was deep with ruts and hard to travel, William Gordon went on to excel in many areas, and for having so excelled in his personal endeavor, it is my honor and privilege as Governor to present him with an Outstanding Mississippian Award."

Bill Gordon had come home.

NATIONAL SECURITY WIRETAP LEGISLATION—COMMENDATION OF PRESIDENT FORD AND ATTORNEY GENERAL LEVI

Mr. PERCY. Mr. President, those of us in the Senate who have for years endeavored to achieve reforms in the field of wiretapping and electronic surveillance now at last have a reason to be fully satisfied. After years of battling with the executive branch to place national security wiretaps under the court-ordered warrant system, President Ford and Attorney General Levi have, at their own initiative, presented Congress with legislation to fulfill this very purpose.

Originally announced as part of the President's general reorganization of the intelligence community, the new legislation will, for the first time, place the independent judgment of a court as a check upon the President's ability to order wire taps in the national security. Probable cause warrants will be required, and time limitations will be placed on authorizations of such wiretaps. This legislation has been worked out at the very highest levels of the Ford administration in consultation with Members of Congress, and represents a long awaited policy shift in the direction of individual rights and Government responsibility.

While today it is a well-settled postulate of constitutional law that wiretaps and electronic surveillance fall under the fourth amendment's prohibition against unreasonable searches and seizure, great controversy has always surrounded the application of this doctrine to the right of the Executive to take emergency actions to protect the national security. A specific exception was written into the 1968 Federal wiretap statutes for the very purpose of avoiding a constitutional showdown on this issue. As a result, the Federal courts have been forced to rule time and again on the specific scope of this exception. Most inotable in this line of cases are *United States* v. *U.S. District Court*, 407 U.S. 297 (1972), and *Zweibon* v. *Mitchell*, 514 F.2d 1350 (1975).

The many well-publicized abuses of the administration's national security wiretap powers have made reform imperative. The findings of investigations into both the Watergate-related events and now the intelligence field have documented without question the danger of allowing such power to exist without some kind of independent check. It is basic to our constitutional system of checks and balances that the courts act as a shield for the individual citizen against the prosecutorial and investigative functions of the executive branch. While today we are fortunate to have a President and an Attorney General with unquestioned integrity, our experience in the past has amply demonstrated that without legal curbs on Executive power, such power becomes absolute, and as such is most prone to corruption.

Until now congressional initiatives to interpose the independent influence of the courts into the process for national security wiretaps have met with frustration because of the often voiced fear of tying the President's hands in emergency situations. Now we have confirmation from the President himself and the Attorney General that this fear need not be a roadblock, and that a workable accommodation can be reached.

I hope that with the combined support of both the administration and concerned quarters in the Congress, we might be able to pass a wiretap reform bill this year, so that the many years of unchecked Executive power can finally be brought within judicial control, and that this longstanding controversy over national security wiretaps may reach a satisfactory resolution.

The time has finally arrived for action on this issue. I congratulate President Ford and Attorney General Levi for their initiative in clearing the logjam and allowing constructive deliberations to move forward.

HEALTH CARE IN RURAL AMERICA

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate an article and an editorial from the March 1976 issue of Rural America.

"The State of Rural Health" and an editorial "Rural Medical Care" are two of the main articles devoted to health care in rural America.

The figures provided on the number of physicians in rural America dramatically demonstrate the less than adequate health care provided in rural areas. The national average of 768 people per doctor is less than one-third the ratio of residents per physician in nonmetropolitan areas with populations of less than 10,000 people.

The editorial suggests:

> That we need a system of national health insurance is an overwhelming concensus, barred only by the social primitives, the vested interests (particularly doctors) and a mixed chorus of perfectionists, nostrum peddlers and "wait until we take care of everything elsers," plus those people who are always afraid that the "poor are going to eat up the seed corn."

That we have neglected rural America is hard to deny. Some of us have spent a great deal of effort in attempting to develop legislation which is helpful to the rural areas. In spite of sound rural development legislation, this administration has seen fit to give less than adequate attention to this urgent need.

The shift in population to the urban areas has reversed itself, but the Government has not yet seen fit to establish a new policy to deal with this reality. Our rural citizens are entitled to a decent life, and our programs and priorities should be altered to provide a better balanced treatment of our rural areas.

Mr. President, I ask unanimous consent that the referenced article and editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RURAL MEDICAL CARE

We devote most of the space in this month's edition of *ruralamerica* to rural medical care. We are reliably informed that there is a difference between medical care and health and that the former is only a part of the latter. That is not difficult to understand. We are urged from time to time to be clear that our main concern is health and not just medical care. We don't disagree with our urgers and in agreeing we think that most of the stuff we cover in this paper each month probably has more to do with the state of health in rural areas than do the articles in this month's edition that deal with the likes of health insurance, docs, and nurses.

For example, we ran a story last month about the lack of adequate water and waste disposal systems in rural areas and would conclude without one bit of scientific proof that that condition has more to do with an inordinate amount of gastro-intestinal disfunction in rural areas than does the fact that there is a shortage of doctors. And we could go on, like poor nutrition and infant mortality or bad housing and increased respiratory problems. So, for the purists, put it down that the future editions will deal with health care and this edition touches on some of those issues dealing with rural medical care.

First of all there is a problem when the only functioning medical system in the society requires that in order to get service you have to pay a fee. When fees get so high that even the middle class can't save for them a system of prepaying develops—like insurance. There is always someone around that spoils a good thing though, like the poor who can't afford insurance. Pretty soon insurance rates get pretty high and it gets rough for everyone. Senator Kennedy spoke from personal experience at the First National Conference on Rural America when he said, "We have the best health care in the world in the United States—but the problem is that it is reserved for the rich and the powerful people of this country."

That we need a system of national health insurance is an overwhelming consensus, barred only by the social primitives, the vested interests (particularly doctors) and a mixed chorus of perfectionists, nostrum peddlers and "wait until we take care of everything elsers," plus those people who are always afraid that the poor are going to eat up the seed corn. The so-called "health providers" may try to rip off more seed corn than the poor can hold, but that's another problem. Still, national health insurance has got to come and soon. And that it will, in one form or another, good or bad, there is little doubt. A good national health insurance program would do an enormous amount of good for many millions of people, including many of those who live in small towns and rural areas, but that program alone won't solve the problem caused by a shortage of doctors and other medical care providers.

There are some who glibly say that there is not a shortage of doctors, only a problem of maldistribution which will likely right itself if you let the forces of the market place run their course. Others don't go so far and call for some "incentives" to encourage doctors to move to rural areas and suffer quietly and richly. Still others advocate a sort of modest shakeup of the whole delivery system and call for physician assistants, paramedics, and nurse practitioners, backed up by a few doctors, to carry the burden of primary medical care in rural areas. The more we learn about the last the more we are convinced that it is not only the right and proper direction to go in medically underserved areas of the country, but nation-wide as well.

There are those who, having solved or abandoned how many angels can dance on the head of a pin, will now debate whether this is second class medical care for country people. They and others bemoan the demise of the good old country doctor who would make a house call, hold your hand, wipe your nose, and pronounce you well after a few days rest, a shot, and three pills two times a day. After seeing some nurse practitioners in action, it seems to us that they can do that and more, only better, and not expect to own three cars, a yacht, membership in the country club and a tax loss farming operation for the effort.

One certain thing is that when national health insurance becomes reality and when the government starts to deal with the provision of primary health care in underserved areas, unless rural people have done their homework and state their point of view in a loud and effective manner, they are going to be left out. Indeed, if you look at existing Federal medical programs, it is obvious that small town and rural people get left out in nearly every program or get far less than their numbers and their needs would require for fairness and equity.

There is only one way to reckon with these problems, and that is for rural people to have some watch dogs and some spokesmen in policing present programs and guiding future ones. Much of the discrimination against them is not deliberate. It just happens because nobody is watching programs and proposals with rural people and their needs in mind.

Rural America is hoping to assist in filling that void by forming an Advisory Council on Rural Health to provide continuing oversight, and perhaps, in September, to convene a small working conference to spell out in more detail what is required to give rural people access to decent medical care. If it interests you, look elsewhere in this edition for clues on how to become involved.

THE STATE OF RURAL HEALTH

Clearly, certain segments of our population find themselves in dire need of better health care. For a variety of reasons the general level of health in rural America is not good. There was a time when a few days in the bucolic countryside was considered to be the best tonic a person could take. The cities, on the other hand were viewed as unhealthy centers for disease, plagues, and every imaginable form of pestilence. That certainly may have been true of Medieval times, but no longer seems to be the case.

Infant mortality is an admittedly inadequate measure, but it is higher in small towns and rural areas than in the cities, and is alarmingly high among some rural blacks. According to a study done by Karen Davis for the Task Force on Southern Rural Development, black infants born in rural Mississippi have chances of survival comparable to those found among the newborn in developing "Third World" countries such as Uruguay.

SELF-ASSESSMENT OF HEALTH

How do rural people themselves assess their health? In a survey conducted by the National Center for Health Statistics (NCHS) in 1973, people were asked whether they considered themselves to be in excellent, good, fair or poor health. Rural residents were more likely than their city brothers to consider their health to be either poor or only fair. The disparity in the health assessment scores of nonmetropolitan and metropolitan people increases with the age of the person questioned. For example, about 37 percent of rural residents over age 65 have a negative view of the state of their health, whereas only 28 percent of the urban dwellers over 65 have a similar point of view.

These perceptions and attitudes seem to be substantiated by reality as measured by a higher incidence of a variety of chronic conditions among the rural population. They are more likely to fall victim to arthritis and rheumatism, asthma and emphysema, hypertension and heart disease, hearing and visual impairment, and the list could go on.

PREVENTIVE CARE

It's possible that the level of some of these chronic conditions could be reduced with preventive health care. Results from the NCHS health survey mentioned earlier reveal that persons living in nonmetropolitan residents to have recently received any form of preventive care examination. Fewer routine physicals, fewer chest x-rays, glaucoma exams, electrocardiograms, fewer pap tests, or breast exams for women, eye exams, and so on.

DOCTOR DEATH

Although the relationship between preventive care and good health, and the numbers and accessibility of doctors is a bit cloudy; it cannot be denied that there are dramatically fewer doctors available in rural areas. The ones who are there are often difficult to get to.

In nonmetropolitan areas with the fewest people, there is one doctor for every 2,500 people. In the larger cities we find that there is one doctor available to serve every 500 people (see table).

RURAL HEALTH FINANCING

In sum, rural areas have higher levels of infant mortality, a higher incidence of chronic disease, less likelihood of preventive care, and fewer doctors. As if this were not a sufficiently gloomy prognosis, we find that our system of health care also fails to provide mechanisms to finance the care of rural people.

The Davis study referred to previously points out that rural residents are less likely to be covered by private insurance plans like Blue Cross-Blue Shield. Even those who are covered, have less comprehensive coverage than urban residents.

To make matters worse the government's public programs fail to fill the gap in private coverage. Davis says that although Medicaid is covering only half of all poor children nationwide, in southern states like Alabama, Mississippi, South Carolina and Texas no more than one poor child in 10 is receiving Medicaid services. Of the $11.3 billion Medicaid expenditures in 1974, over 40 percent of all the money went to three heavily urbanized states—California, New York and Illinois and an additional 30 percent went to 8 other, for the most part, urban states.

Furthermore, the other major public funding source, Medicare, also discriminates against rural areas. Although a disproportionate number of the program's target constituency, the elderly, live in nonmetropolitan areas, the reimbursement levels for services performed are set higher in the cities. Consequently, urban doctors can expect to make money for doing the same amount of work if he is practicing in the city.

1910 REVISITED

The furor surrounding the "urban crisis" in recent years may have tended to obscure the fact that rural people have health needs. They have been easy enough to ignore or forget. This is nothing new. It is true of housing, transportation, and in other areas where the media has chosen to focus our attention solely on the problems of the city.

It has been pointed out that this tendency dates back at least as far as 1910. This was the year that Theodore Roosevelt's Commission on Country Life issued its report which contained the following comment regarding rural health. "Theoretically, the farm should be the most healthful place in which to live"—but alas, "it is a fact that . . . health conditions in many parts of the open country . . . are in urgent need of betterment."

Population-physician ratios, 1973

	Population per Physician
Total	768
County population, Nonmetropolitan:	
Less than 10,000	2,512
10,000–24,999	2,040
25,000–49,999	1,432
50,000 or more	1,100
Metropolitan:	
Potential metropolitan	1,095
50,000–499,999	835
500,000–999,999	747
1,000,000–4,999,999	623
5,000,000 or more	511

NATIONAL HEALTH POLICY AND OLDER AMERICANS

Mr. BAYH. Mr. President, the problems facing older Americans are complicated and of concern to us all. Many elderly people are in ill health; many are poor; many are isolated from friends, family, or the opportunity to live constructive, happy lives.

Recently, Mr. Joseph L. Falkson, a senior research associate at the University of Michigan School of Public Health, and Prof. Solomon G. Jacobson, a specialist in gerontology at the University of Michigan School of Public Health, forwarded to me an excellent paper which they coauthored entitled "National Health Policy and Older Americans." They were assisted in the preparation of the paper by two students, David Ward and Albert White.

Their analysis of the health problems confronting elderly Americans is perceptive and thought provoking. The paper is particularly worthwhile because it calls to our attention the fact that good health is but one of the components necessary to guarantee a meaningful life to every elderly person. I believe that Messrs. Falkson and Jacobson's observations and recommendations merit serious consideration, and I ask unanimous consent that their paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

NATIONAL HEALTH POLICY AND OLDER AMERICANS

Health is not just the absence of illness. It is also the reduction of stress and pressures which interfere with normal living. For the older American, this means reducing the fears associated with disabling illness, inadequate health care, unsafe neighborhoods, and lack of good food, housing, and transportation. The well-being of the retired person is closely connected to the provision and maintenance of a healthy and secure environment.

HEALTH PROBLEMS FACING OLDER AMERICANS

Old age and ill health do not always go together. In fact, only a small minority of all older Americans require the constant care and attention of long-term institutionalization or home care. The overwhelming majority lead productive, and above all, independent lives. Chronic ailments, such as arthritis or high blood pressure, which affect many older persons, are discomforting; but they do not necessarily limit the ability of older persons to lead full, productive lives. While the Federal government cannot guarantee that all our older citizens will be free from ailments, it can and should do its best to prevent disease and assure, when necessary, both good medical care and effective rehabilitation.

There are certain biological changes which reduce an individual's physical reserve capacities as he gets older. For example, functional loss in the kidneys and muscle mass loss are gradual physical changes that accompany aging. These changes are normal conditions, but they may decrease the older person's capacity to quickly recover from illness. Infections, injuries, and chronic disease can have a much greater debilitating effect as people grow older.

If adequate supportive health and medical services are made available, the impact of illness upon the aging body is greatly lessened. Older Americans can stay healthier and lead more active lives. In short, our society must provide a full range of health-related services for all aging individuals so that they can keep their independence and health.

The vitality and resourcefulness of older Americans is obvious. In spite of decline in biological reserves, the vast majority of older individuals manage to maintain physical independence. Approximately 80 percent of persons over 65 suffer from one or more chronic diseases and conditions, whereas 40 percent of all persons under 65 are similarly affected. For example, 33 percent of the aged have arthritis or rheumatism, 22 percent have hearing difficulties, 17 percent have heart diseases, and 15 percent have visual difficulties. With age, the balance between physical independence and submission to illness becomes more delicate. Older age often becomes a struggle for survival. A well-coordinated system of health maintenance services can shift this balance in favor of health.

Certain characteristics of the present medical care system threaten the health of older persons. Historically, medicine has been oriented toward the more acute diseases of childhood and earlier adult years. Developments in the field of medicine during the past 50 years have dramatically increased the proportions of the population living to older age. The medical care system has inadequately adapted to the growing needs of this group of the population. Insurance coverage emphasizes hospital care which is often inappropriate for paying the costs of chronic disease care. Alternatives to nursing home care are few and poorly funded. Even many medical care providers are not aware of the differences between illness and normal aging.

In a recent survey commissioned by the National Council on Aging, between one half and three-quarters of interviewed physicians incorrectly classified several preventable ailments as normal conditions of aging. Furthermore, medical professionals often have been short-sighted in their assessment of the most effective measures to improve the population's health.

Medical care is only one of several kinds of health services which, together, protect independent living during older age. Inadequate resources have been committed to the broad range of health problems which confront the aged. In a study covering different areas of the country, nutritional problems were ranked the most outstanding of 18 threats to older-age health. Housing and other environmental conditions result in more fatalities than pneumonia and diabetes. In addition, accidents produce many days of restricted activities and hospital care. Difficulties associated with public transportation prevent access to medical care, food supplies, and other people. The importance to mental health of social relationships, religious participation, and recreational activities has been underestimated. Finally, protection of personal property and rights can also make positive contribution to older persons' physical, mental, and social health.

From this survey of the health needs of older Americans, two things are apparent. First, most of the health problems of persons over 65 are not due to the aging process itself. Rather, they suffer from the physical and social insults which their environment casts upon them. Second, Federal policymakers must address the entire range of health problems presently faced by older Americans.

In general, our society is doing a reasonably good job in seeing to it that the vast majority of Americans reach retirement and old age with every prospect of continuing health and productive lives. However, the quality of life for older Americans living in retirement depends on a number of important considerations:

Older Americans must be provided opportunities to maintain their health through healthful living. This means sufficient income to maintain adequate nutrition levels and decent, safe housing which is free from accident-producing hazards. It also means the maintenance and improvement of neighborhoods which have a high proportion of retired residents.

Older Americans would benefit especially from broader implementation of the community improvement and environmental protection programs which enhance the quality of life for all Americans.

Older Americans must be provided appropriate diagnosis and treatment for both chronic and acute ailments.

Older Americans must be given the opportunity to maintain active and productive lives that will contribute to their social and mental well being.

We must examine our current policies and programs and take positive action. The stakes are high—the health, happiness, and independence of older Americans.

LIMITATIONS OF CURRENT POLICIES AND PROGRAMS

Current policies and programs for older Americans fall far short of realizing the goals of maintenance of the health of the well elderly and provision of appropriate care for those older persons with treatable, chronic conditions.

1. Health care for older Americans is too expensive.—Since its inception in 1966, the out-of-pocket costs of Medicare have increased dramatically. Presently, an older American must pay the first $104 of hospital stays plus $26 of the daily cost from the 61st to the 90th day. Under Part B, the voluntary physicians' payment plan, the out-of-pocket cost is $6.70 per month, or $80.40 annually.

Bearing these costs are particularly difficult for older Americans who live on fixed incomes. President Ford recently proposed to force our older citizens to bear an even larger out-of-pocket share of Medicare expenses. If the President has his way, he will increase the $104 deductible for hospital stays by 10 percent and the $80 premium for participation in the physicians' services plan by 10 percent, with maximum out-of-pocket costs of $500 and $250 respectively. A new catastrophic illness feature would be added so that no older American would pay any expenses that exceeds $750 annually.

President Ford's plan is deceptive in that the number of people it would help is far smaller than the number it would burden with higher medical bills. Only one half of 1 percent of the people who use Medicare would benefit from the President's innovation because few of them stay in the hospital long enough to run up huge bills. This is nothing more than a thinly disguised plan to force the elderly who face short-term hospital stays to pay an even larger share of their own medical bills.

2. The allocation of health care resources for older Americans is weighted heavily towards institutional and physician care without enough emphasis on prevention and rehabilitation. The prevention of illness and disease is difficult to measure and frequently neglected in discussions of the health of the older American. While the meals provided under Title VII of the Older Americans Act and the Food Stamp program both provide a basis for the prevention of illness through proper nutrition, they are only a starting point and serve but a fraction of the elderly faced with malnutrition.

Since older Americans remember when going to the doctor meant serious trouble and high cost, they are sometimes reluctant to seek periodic medical examinations and diagnosis of specific symptoms. We must provide an expanded range of educational programs to equip each older American with proper information needed to take preventive measures. In many areas, health screening would provide a useful method of identifying those persons requiring medical care. However, diagnosis of an ailment may not lead to treatment of that ailment unless a coordinated treatment system is established to serve all older Americans, regardless of their income.

After an illness, the older person may take longer to recover. Special attention should be given to rehabilitative services. These services become especially important for the person with a chronic ailment who may need special training or devices to make the best use of his remaining faculties. While the human body has the ability to adapt to many stresses, the services of rehabilitation specialists ease the adjustment process.

3. Reliance on hospitalization and nursing home care is costly and inappropriate for large numbers of older Americans.—While not more than 10 percent of the elderly require long-term confinement in hospitals, institutions, or at home, most Federal dollars go toward the purchase of hospitalization and institutionalization in extended-care facilities. In Fiscal Year 1974, 77 percent of Medicare expenditures went to hospitals and another 2 percent went to nursing homes. A significantly larger percentage of Medicaid expenditures, 20 percent, went for nursing home services. But only about 1 percent of Medicare and Medicaid expenditures went toward the purchase of home health care and preventive services.

The emphasis on hospital-based and nursing home services reflects our society's general preoccupation with illness and disease and lack of interest in health maintenance. The nursing home emerges as a particularly limited option. Recent studies have shown that about 35 percent of those older Americans placed in extended-care facilities could have been appropriately maintained in outpatient settings. The excessive and unnecessary placement of large numbers of our senior citizens in nursing homes is the most tragic consequence of our failure to provide meaningful alternative health care options for older Americans.

We have a great resource, our older Americans, most of whom are alert and active citizens. Their main desire is to maintain their vitality and independence, not to be placed in nursing homes only because community supportive services, such as home care, are unavailable. Much more effort must be made within our local communities and neighborhoods to create those support services which will enable the elderly to maintain themselves at home while overcoming temporary difficulties.

4. Federal policies that do promote alternative health service options to institutionalization—notably Title XX of the Social Security Act—possess eligibility requirements that arbitrarily limit the access of all older Americans to these services.—Title XX of the Social Security Act has such a complicated eligibility formula that it is quite possible for many older citizens to receive only piecemeal and fragmented services expressly designed to keep them out of long-term care institutions. An older American whose income exceeds the upper eligibility limit (i.e., 115 percent of the state's average income) by merely one dollar may be totally excluded from all available Title XX services. Furthermore, persons entitled to receive homemaker services under Title XX may be ineligible to receive pharmaceutical services under Title XIX, Medicaid, because they make too much money. Other examples of this kind of arbitrary exclusion are in abundant supply.

In short, Federal programs for the elderly are a patchwork of contradictory and conflicting eligibility requirements built around the irreconcilable principles of welfare, social insurance, and ability-to-pay. Many older citizens are wrongly excluded from vital services because a particular benefit falls within the jurisdiction of an eligibility principle that arbitrarily excludes them.

Federal policy should stimulate comprehensiveness and continuity of service, not fragmentation of care and exclusion of needy older citizens through confusing eligibility requirements. While those older citizens earning low or no income should continue to be entitled to the full range of services currently mandated, the right to participate should be extended to all income levels on a fee-for-service basis, scaled to ability-to-pay. This would enable all older Americans to benefit from a broad range of health care services and create new patterns of alternative services which would reduce unnecessary and costly institutionalization.

5. The quality of nursing home care is threatened by the lack of effective enforcement of existing state licensure laws.—While state nursing home licensure laws have become progressively more comprehensive, these laws are very loosely enforced. The nursing home industry should not be permitted to circumvent quality controls for long-term care. Rather, the industry should be encouraged strongly, if not mandated, to work cooperatively with governmental agencies to establish high quality standards for nursing home residents.

GOALS FOR A NATIONAL HEALTH POLICY FOR OLDER AMERICANS

Our national goals for the health of older Americans should emphasize the following:

1. Maintain the continuous health and well-being of the well elderly through appropriate health maintenance, prevention, early diagnosis, treatment, and rehabilitation.

2. Provide treatment opportunities for the chronic ailments of the elderly which maximize their independence, avoid unnecessary institutionalization, and minimize costs.

3. Those older Americans requiring long-term care should have access to the most appropriate levels of care. Each individual's need for further institutional care should be strictly monitored. We should provide opportunities for short-stay institutionalization and other more appropriate alternatives, such as outpatient and home health care.

4. Utilize Federal purchasing power—primarily through Medicare, Medicaid, and Title XX of the Social Security Act—to promote a broad array of health care options for older Americans. The Federal Government should focus greater attention on the development of and payment for alternative services to long-term care. The medical profession must be persuaded, through incentives and regulations, to attempt to place patients in settings which are the least restrictive, such as home health care, before placing persons in nursing homes.

5. Federal standards for institutional providers must be vigorously enforced to eliminate nursing home abuses. The encouragement of citizen advocacy groups and ombudsmen programs could help assure that standards for better care are maintained.

6. Harsh, even punitive, aspects of the Federal entitlement programs must be eliminated. Income and savings should not be dissipated paying for extended long-term care. Yet, under present Federal law, the only way older Americans can receive aid in meeting their extended long-term care needs is to use up their savings, sell their homes, and accept the indignity of permanent poverty in order to gain eligibility for Medicaid assistance.

7. Similarly, the better off, middle- and even upper-income elderly should not be denied access to Federally-sponsored programs under the Social Security Act because

of arbitrary income restrictions. Older Americans who can afford to pay out-of-pocket fees for these services would be only too happy to contribute something toward these programs. Surely, they should not be denied access to vital community services because they have money. Older Americans require these services whether or not they are poor. It is wrong to tie such vital programs as community centers, transportation, or nutrition programs to arbitrary income levels that inequitably distribute these services across needy populations. Those who cannot pay something for services should be fully covered. Those who can pay should contribute according to their means. No older American should be denied access to these supportive health services.

8. Reduce the fragmentation of health services by providing positive incentives—through grant and reimbursement programs—for the creation of unified delivery systems.

In the last analysis, however, the Federal government cannot solve all of the health problems facing older Americans, even if it were doing everything right, which, of course, it is not. There are a number of steps which citizens working at the local level should take to ease the health burdens of older citizens:

1. We can join with our relatives, friends, and neighbors to make sure that services are available which support the frail older person, such as friendly visits, escort services, and telephone reassurance. These services are inexpensive and can be run by community-based non-professionals.

2. We can work with our unions and employers to assure that retired workers receive adequate pensions and well-rounded programs of medical benefits.

3. We can participate in area-wide planning efforts to gather data about our area and help plan for improved service delivery for older residents.

4. We can encourage our local units of government to use revenue sharing funds to help maintain and improve the neighborhoods which contain older residents so that they can live their retirement years in a healthful environment.

Our goal must be to work together for independence and good health in later life. We will all eventually benefit from the creation now of the type of society which makes living to be old a gratifying experience.

REMOTE IMAGERY SUPPORT FOR INTERNATIONAL ORGANIZATIONS

Mr. HUMPHREY. Mr. President, I recently chaired hearings for OTA's Technology Assessment Board. A significant part of these hearings dealt with the role of advanced technology, especially remote sensing, in food and agriculture information systems.

A paper presented at the 1975 annual convention of the American Society of Photogrammetry provides useful background to a balanced appreciation of the role of this technology. The paper, prepared by Dr. William Harris, notes that the remote sensing support for international organizations must consider: First, superiority of multilateral exploitation; second, fair price; third, declassification consistent with protection of intelligence sources and methods; and fourth, nondiscriminatory access by affected States. Some experts are optimistic that this technology is capable of being used on a continuous operational basis. Others feel that more experimentation and cost-effective studies need to be undertaken.

As Dr. Harris notes, the experimentation phase of using this technology may very well have passed. He quotes from an old recipe book that says, "Let it stew over a slow fire till half is wasted." Mr. President, today we do not have the luxury of letting technology stew over a slow fire by continuing in the limbo of experimentation. It seems to me that now is the time to try to move this experiment to an operational mode. Let us fully explore the potential of this technology and take the steps to overcome existing obstacles.

I ask unanimous consent that Dr. Harris' paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

REMOTE IMAGERY SUPPORT FOR INTERNATIONAL ORGANIZATIONS

(By William R. Harris*)

California

Mr. Chairman, Ladies and Gentlemen: My brief remarks this morning address the topic of remote imagery support for international organizations, which necessarily raises the related issues of program integration, program financing, data declassification, and protection of "national means of verification" required under international arms control agreements. What I say reflects my personal views, not those of The Rand Corporation or any research sponsor.

A fitting definition of "remote"—found in Webster's Third International Dictionary—to be "located out of the way,"[1] helps explain in Herman Melville's phrase, "a mob of unnecessary duplicates . . ."[2]

Starting with the presumption that there are no embarrassing questions, only embarrassing answers, one may ask what progress has been made since the public report in July 1973 of the Federal Mapping Task Force[3] to end [quote] "disturbing proliferation and duplication of activity . . ." and to provide [quote] "advanced technological capability to the mapping community . . . ?"[4]

If there is still a [quote] "disturbing proliferation and duplication of activity," and [quote] "development of expensive systems for civilian use that cannot compete in any meaningful way with DOD-developed techniques," as stated by the Federal Mapping Task Force in 1973,[5] then the provision of appropriate remote sensing support for international organizations requires both development of international organizational capabilities to exploit imagery and reform of the institutional structure by which remote sensing capabilities of the U.S. Government can be made available to international organizations.

Among the criteria to be applied in considering remote sensing support for international organizations I would include the following:

First, to the extent compatible with other criteria, national remote sensing capabilities should be made available to international organizations where either the product of multilateral analysis or the process of multilateral exploitation is superior to solely national means of exploitation. For example, multilateral participation in global population or commodity forecasts may stimulate corrective policies more than access to unilateral national forecasts.

Second, national remote sensing capabilities should be made available at a fair price in money or offset services, generally not less than the marginal cost of providing access to remote sensing facilities or products. There may be situations—for example, provision of imagery for mitigation of natural disasters—where a donation of remote sensing services would be appropriate, just as there may be situations where research and development and other nonrecurring costs should be included in the calculation of prices for access to remote sensing readout channels—for example, where capabilities developed at considerable expense to U.S. taxpayers are extensively utilized by foreign customers without substantial nonmonetary benefits accruing to the United States. Pricing alternatives for commercially useful technology of the National Aeronautics and Space Administration were studied at Rand in 1974.[6] Optimal pricing practices may depend upon the price-elasticity of demand and the distribution of benefits, but in general charging at least the marginal cost of a service minimizes the risk of wasteful utilization—as with national intelligence which has been provided as a "free good," with consequential overtasking of national intelligence producers.

Third, national remote sensing imagery should be made available on an unclassified basis to the fullest extent practical, consistent however with the protection of "intelligence sources and methods"—in the United States a responsibility of the Director of Central Intelligence under the National Security Act of 1947.[7] To the extent that imagery, and other remote sensing data cannot be made public, to protect as an incremental margin of intelligence capabilities the "national technical means of verification" recognized in the SALT agreements,[8] the products of such remote sensing should be made available on an unclassified basis to the fullest extent practical, and where not practical, such compartmented products should be made available to a sufficiently large set of relevant domestic agency officials, who in turn may find opportunities to exchange information with international organizations.

Fourth, national remote sensing of foreign states provided international organizations should be made available to the states which are the subject of coverage at nondiscriminatory prices, or in return for offset services. A foreign state—for example, Brazil, which has objected to third state distribution of natural resources data from remote sensing—should receive timely notice and opportunity to purchase such remotely obtained imagery as is made publicly available to an international organization. Alternatively, as has occurred with the Inter-American Geodetic Survey, a state should be able to provide services-in-kind, as by assisting with place-names in joint mapping programs.

Some would argue that application of

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* This paper was presented before the 1975 Annual Convention of the American Society of Photogrammetry—American Congress on Surveying and Mapping, Washington, D.C., March 14, 1975.

[1] 1961 edition, p. 1921.

[2] *Moby Dick*, Chap. 41, p. 107.

[3] Executive Office of the President, Office of Management and Budget, *Report of the Federal Mapping Task Force on Mapping, Charting, Geodesy and Surveying* (July 1973).

[4] Ibid., pp. 1, iv.

[5] Ibid., p. 7.

[6] C. Wolf, Jr., W. R. Harris, R. E. Klitgaard, J. R. Nelson, and J. P. Stein, with assistance of M. Baeza, *Pricing and Recoupment Policies for Commercially Useful Technology Resulting from NASA Programs*, R–1671–NASA, The Rand Corporation, Santa Monica, California, January 1975.

[7] 50 U.S.C.A. § 403(d)(3) (1970 ed.) See *U.S.* v *Marchetti*, 466 F.2d 1309 (CA. 4, 1972); *Knopf* v. *Colby*, — F.2d — (C.A 4, 1975).

[8] See the Interim Agreement . . . With Respect to the Limitation of Strategic Offensive Arms, Ar V(2); ABM Treaty, Art. XII(2).

these four criteria—superiority of multilateral exploitation, fair price, declassification consistent with protection of "intelligence sources and methods," and nondiscriminatory access of affected states to remotely obtained imagery describe a null set—that national exploitation, with or without bilateral intelligence exchanges, is better; that the fair price of most imagery would inhibit access by financially weak international organizations, bearing in mind Werhner von Braun's observation that "we can lick gravity, but sometimes the paperwork is overwhelming"; that declassification is *per se* inconsistent with protection of "intelligence sources and methods," or that access by affected states would exacerbate problems in the operation of remote imagery systems.

Substantial opportunities for economic savings and substantial fears of jeopardy to verification systems for arms control are raised by the issue of declassification. The subject is, paradoxically, one which cannot be fully discussed *a priori*, but in testimony before the Commission on the Organization of the Government for the Conduct of Foreign Policy known as the Murphy Commission, the Director of Central Intelligence, Mr. Colby, noted:

"In the past some systems, such as the U–2 aircraft, have been used to support snowpack studies in the American west and to photograph hurricane, earthquake, and flood damage for national emergency relief and economic planning purposes."[9]

On the basis of the past proceedings of the Murphy Commission's Intelligence Panel, it is my personal opinion that some considerable declassification measures are both possible and desirable, so as to assure that imagery products are publicly available, consistent with appropriate protection of "intelligence sources and methods." The Environmental Photointerpretation Center of the Environmental Protection Agency serves as one example of an organization which is exploiting imagery for planning purposes. But without appropriate declassification, imagery support of international organizations will be impeded.

When remotely derived imagery is obtainable from unclassified or declassifiable sources, the National Aeronautics and Space Administration or other imagery exploiting agencies may enter into cooperative arrangements with international organizations.

If, however, imagery available to a member-agency of the United States Intelligence Board may not be fully declassified without jeopardizing "intelligence sources and methods," there remains the possibility that a report derived from the exploitation of that imagery may appropriately be declassified.

But in the course of the Murphy Commission's review of governmental organization for the conduct of foreign policy, it became apparent that no member-agency of the United States Intelligence Board interpreted its organic charter as imposing a duty to support the informational needs of the Secretariat of the United Nations, U.N. specialized agencies, or regional organizations such as the Organization of American States. Without designation of specific responsibility within a member-agency of the United States Intelligence Board, the flow of U.S. imagery exploitation to international organizations may be *both* whimsical—perhaps a quick decision of the Secretary of State—and infrequent. Both to assure systematic review of imagery for sharing with international organizations and to protect "intelligence sources and methods," it would appear prudent to designate the Bureau of Intelligence and Research in the Department of State as the liaison agency of the U.S. Intelligence Board for sharing of intelligence-related imagery with international organizations.

The Secretary-General of the United Nations has a duty, under Article 99 of the U.N. Charter, to bring to the attention of the Security Council threats to international peace and security. But he does not have the informational resources at hand. Would not the debate in the United Nations be enhanced in its relevance and timeliness by some modicum of imagery support by member states to the Office of the Secretary-General, perhaps as a service-in-kind allowable as a portion of the financial dues of contributing member states?

A recipe for remote sensing which is seasoned judiciously with declassification ought to improve upon Mrs. Glasse's recipe for gravy soup in her treatise on *Cookery* in the year 1747: "Let it stew over a slow fire, 'til half is wasted."

Even with broader public availability of imagery products, one should not assume that either nation states or international organizations would be immediately prepared for substantial exchanges of remotely derived imagery. But the objective of broadened imagery support for international organizations should be kept in mind, alongside Victor Hugo's observation:

"Knowing exactly how much of the future can be introduced into the present is the secret of great government."

THE SOLAR ENERGY ACT OF 1976

Mr. McGOVERN. Mr. President, for the past 3 years we have heard a great deal of talk about our urgent need to break away from our dependence on unreliable supplies of expensive and nonrenewable energy sources.

Time and again, the Ford administration has informed us that if we are to sustain our economy, we must permit the oil industry to extort OPEC-level prices from the public for domestic oil and gas, much of it produced on public lands. We are told that we must permit wholesale strip mining in the West and that we must do so without adequate environmental controls.

There is no question that we shall require fossil fuels in substantial quantities for a long time to come, but there is growing doubt that nuclear power can provide an acceptable substitute. Although breakthroughs in harnessing fusion may someday erase these doubts about nuclear technology, I believe that our most prudent course should be to proceed on the assumption that the national interest requires serious investigation of the whole range of energy alternatives.

For this reason, I am pleased to be a cosponsor of the Solar Energy Act of 1976. The Senator from Minnesota (Mr. HUMPHREY) deserves our congratulations for this imaginative but pragmatic legislative initiative.

Mr. President, the demonstration projects authorized by this bill will permit us to evaluate methods of deriving energy from the Sun, the ocean, the wind, and from organic wastes. Instead of waiting for alternative energy technology to somehow appear, this legislation will permit us to move ahead now. It will cut the lead time for introducing new techniques and it will help us to avoid enormously expensive crash programs in response to future energy emergencies.

Another very attractive aspect of the bill is that it includes provisions for substantial small business participation in developing these alternative energy technologies. This, I believe, is most important because it assures that Federal funds will not be used solely to strengthen the big corporations in the energy marketplace. It makes little sense, for example, to rely on companies which have major investments in nuclear energy to develop competing sources. There is every reason to believe that such companies will take steps to protect their prior interests.

The small businessman, on the other hand, will have every incentive to produce a working device at a reasonable price. Unlike a manager in a large corporate enterprise, the small businessman has no institutional inertia to combat. He must innovate to survive and he must be sure that he has a good product before he can afford to go ahead.

Mr. President, the small businessman, like the independent farmer, is fast becoming an endangered species in this country. I welcome this opportunity to give the smaller concerns a chance to show that American ingenuity is very much alive.

JOINT ECONOMIC COMMITTEE HOLDS HEARING ON EMPLOYMENT OUTLOOK

Mr. HUMPHREY. Mr. President, as part of the Joint Economic Committee's annual hearings on the Economic Report of the President, the committee held a hearing on March 4 to review the employment outlook.

The prospect of a continued high rate of unemployment is intolerable. Today, the economy suffers from a strange combination of unused labor, unused capital, and unused plant capacity.

The committee heard testimony from two leaders of organized labor, Mr. Murray H. Finley, general president of the Amalgamated Clothing Workers of America, and Mr. Robert Georgine of the AFL–CIO Building Trades Department. We also heard testimony from two distinguished labor market economists, Dr. Barbara Bergmann of the University of Maryland and Dr. Charles Killingsworth of Michigan State University.

Mr. Finley pointed out that although the official unemployment rate is 7.6 percent, the true unemployment rate, when one considers those people who have become discouraged and left the labor force and those workers who are working part time but want to work full time, is really closer to 10.6 percent. He emphasized that there "is no possibility of real improvement in living standards for employed people unless there is work enough for all."

Mr. Georgine stressed that the construction industry unemployment rate is a "staggering 15.4 percent, double the national average." He emphasized that this figure is only an average and that many areas of the country have an unemployment rate among building trades workers closer to 30 percent. Both Mr. Georgine and Mr. Finley presented the economic recommendations of the AFL–CIO executive council.

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[9] Statement of the Director of Central Intelligence, Willim E. Colby, November 7, 1973, Commission Document 200982.

Mr. Georgine also dismissed the common idea that the increase in housing costs is primarily a result of an increase in labor costs. He emphasized that "in 1949, the on-site labor costs were 33 percent of the total cost. In 1975, the on-site labor cost was 15 percent." He stressed that this is a decrease in on-site labor costs of over 50 percent.

Dr. Bergmann emphasized a series of remedies which would help reduce the intolerably high rate of unemployment. She suggested a broad spectrum of policies to reduce unemployment which include countercyclical aid to the cities, public works jobs, and a cut in the payroll tax. She stressed that the major answer to the cry for welfare reform is "to get the labor market reformed" so that those who can work will work and get paid for it.

Dr. Killingsworth, who has done considerable analysis of the labor market, has found that three-fourths of the workers who exhausted their unemployment benefits in late 1974, were still unemployed 4 months later or had become discouraged that they had left the labor force. As a result of his analysis he stressed that there are many unemployed Americans who have had their unemployment compensation, the first line of defense against unemployment, run out but these people are not destitute enough to receive welfare. He emphasized that "if the second line of defense against unemployment is welfare, then there is a big no-man's land between the first line employment and the second line."

Mr. President, I ask unanimous consent that the formal statements of Mr. Finley, Mr. Georgine, and Dr. Killingsworth be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT A. GEORGINE

It is an honor to have this opportunity today to appear before the Joint Economic Committee.

I feel privileged to be in such distinguished company with my colleagues here on this panel. I would like to submit for the record today an all-encompassing statement on the Profile of the Construction Industry in America in 1976. I have confined my remarks to a few observations and highlights from this more extensive report that I am submitting.

Last year, on March 19, before this very Committee I started my statement by saying, "America is in a depression. When the unemployment rate is 8.2 percent, representing nearly 7.5 million people without jobs, it is time that the Administration stopped fooling itself and trying to fool the people. It is time that appropriate policies be adopted to reverse the decline; time for measures more immediate and far-reaching than any the Administration is contemplating."

The Building Trades Department proposed an affirmative action program, including tax cuts, allocating credit, expanding the money supply, lowering the interest rates, releasing impounded funds, and launching public works programs. Every word of my statement applies with equal force today.

Never before in our history has our economy been so poorly managed. Economists have even been prompted to come up with a new word to describe our economic plight. The word they hit upon was "stagflation." It simply means that we are in a period of high inflation at the same time we are mired in a crippling recession. This kind of economic mess is unprecedented in the history of our Nation.

During the Nixon Administration, we witnessed an inflation that ravaged the economy and brought hardship to every working man and woman. Prices for food, clothing, housing, gasoline and virtually every other product needed by the American consumer skyrocketed.

Housewives have been forced to buy cheaper cuts of meat, less expensive produce, and cut back on all other parts of the family budget in order to survive economically. Little did the working people of this country know, as they were making these sacrifices, that this Administration's apparent solution to inflation was to create a recession which, we know by now, did not halt inflation. The cure turned out not only to be worse than the disease, but the disease didn't go away either. Today we have both high prices and high unemployment. The Administration keeps assuring us that the economy is beginning to turn the corner, that it's about to improve, but it is abundantly clear that the economy is not turning around, but appears to be worsening. Because of this, millions of American families find themselves struggling with inflation at the same time they are out of work, or cut back in hours. It is a devastating situation.

In the face of this huge loss of revenue for the government and, in the face of the untold human suffering because of the recession, the Administration's policies seem all the more misguided and thoughtless. For instance, recently the President vetoed a public works bill. This bill, which would have created some 600,000 jobs, was passed by substantial majorities in both Houses of Congress. Yet the President vetoed it on the grounds that it was an example of excessive spending. It is clear that his veto was dreadfully shortsighted.

First, there is no evidence whatsoever that deficits in a recession are inflationary.

Second, with nearly 8 million American people out of work, this program was vitally needed to involve people in summer youth work, public works and other similar jobs.

Third, this bill would have removed people from the unemployment rolls and placed them in jobs. It would have been good for their morale, good for the morale of the country, and good for the economy. These people would have been wage earners again, active participants in the economic recovery of this nation. Now that chance is lost. The President's veto of the jobs bill was a clear example, if any more are needed, that his economic policies are not geared to the needs of the working families of this country.

The same can be said of other Administration decisions, such as the proposal to raise the cost of food stamps. This would have brought undue hardship to the elderly and the poor.

The Administration, either by its actions or by its inaction, seems not to care deeply about what happens to the elderly, the poor and the working people. If that is not the reason, then the Administration is so poorly managed that it cannot devise a policy which will control inflation and restore full employment.

Look at the Consumer Price Index over the past few years. This is our best indicator of prices. Between January 1961 and January 1969, the index increased an average of 2.4 percent a year. The price of food during this period increased only 2.3 percent a year.

Now compare those figures, which were recorded for the Kennedy/Johnson years, to the increases during the Nixon/Ford Administrations. From January 1969 through January 1975, the index rose 7.7 percent a year. The price of food alone rose an astonishing 10.2 percent. Every major item in the index rose, on the average about twice as fast as it did under the Kennedy/Johnson Administrations.

It isn't that our economic situation is beyond control. Rather, it appears that the Nixon/Ford Administrations actually devised policies which encouraged this inflation. Remember the Russian wheat deal, which some now call the "great grain robbery." Because we shipped so much grain to the Soviets—at too low a price—serious grain shortages in this country resulted. This caused sharp increases in the price of many grain products, poultry and meat. Under the Nixon/Ford Administrations, the price of one pound of bread has increased by 300 percent.

Of all industries who have suffered under the Nixon/Ford years none have suffered as much as the construction industry.

Beyond doubt, the construction industry has borne an unfair and disproportionate burden in the Administration's discredited policies.

In short, the construction industry—the Nation's largest industry—its bellwether of prosperity—has been the victim of a reckless course of governmental action, designed to halt inflation, which has not only failed to bring inflation under control, but has brought the entire economy to the brink of a depression.

Unemployment is rampant. While the overall unemployment figure is nearly 8 percent, the construction industry unemployment rate is a staggering 15.4 percent, double the national average.

The construction industry has been laboring under double-digit unemployment for 22 consecutive months.

These figures, however, are only an average. They do not fully portray the enormity of the problem.

In Detroit, for example, unemployment is 27 percent, the bricklayers are 30 percent, laborers 35 percent and painters 55 percent unemployed. In Rochester, New York, unemployment is 49 percent. The engineers 60 percent, painters 70 percent and lathers 55 percent unemployed. I could go on—Cleveland 27 percent, Chicago 27 percent, Boston 28 percent, San Diego 27 percent, Philadelphia 34 percent and Bridgeport, Connecticut 37 percent.

I have attached a chart which lists unemployment by crafts in a random sample of cities.

Unemployment is also a lengthening problem. The number of construction workers idled for twenty weeks or more is over 200,000.

Underemployment is an equally grave problem. The results of a recent survey conducted by the building trades Department indicate that an additional 15 percent of those fortunate enough to still be working are working shortened hours.

High construction unemployment is a tremendous cost to the entire economy. Because of high unemployment, the deficit of the Federal Government and Federal agencies will be well over $50 billion in 1977. The large deficits we have been experiencing are attributable to the depressed economy and not to irresponsible and wasteful spending. When people are out of work, federal spending on unemployment compensation, food stamps, welfare and other income support programs spirals quickly. Such increases are recession-related. At the same time, and in even larger measure, tax measures fall. Thus, recessions are a cause of big deficits. If the unemployment rate were at the 3.6 percent level of 1968 we would have a budget surplus of over $9 billion in fiscal 1977, rather than the $54 billion deficit of the Ford budget (including Federal agencies). The President's budget projects that if we had a 4 percent rate of unemployment we would have a $3 billion "full employment" surplus in 1977.

The human cost of unemployment is incalculable and cries out for attention.

For all, unemployment is a constant, demeaning, ego-eroding worry.

We believe that, as in the past, the construction industry, if only given the chance, can lead this nation out of the recession.

This country will not come out of a recession until the construction industry does.

We call upon the Administration and the Congress now to respond to our program.

First, congress must act to prevent a rise of withholding tax rates on paychecks—now scheduled for July 1, 1976.

Second, the government's housing programs need to be fully implemented, with sufficient funds, to boost residential construction and prevent the further spread of today's housing shortage.

Third, congress must direct the Federal Reserve system to provide sufficient growth of the supply of money and credit at reasonable interest rates to promote rapid expansion of the economy and job opportunities. Lower interest rates are absolutely essential to revival of the depressed housing industry in particular and construction in general. Congress should also direct the Federal Reserve to allocate available credit for such high-priority purposes as housing, state and local government needs and business investment in essential plant and equipment while curbing the flow of credit for land speculation, inventory-housing and foreign subsidiaries.

Fourth, we call upon the Congress to launch immediately a vigorous public works program. This goal could be attained by increasing appropriations for existing programs and by passage of a new accelerated public works program.

Fifth, we call upon the Congress to develop a rational environmental procedure instead of the present crazy quilt pattern. The Building Trades Department supports fully the notion of a safe and healthy environment both on the job and in our society in general. For example, we vigorously supported the strip mining legislation containing environmental safeguards, which was vetoed last year. But currently tens of billions of dollars of potential construction—public and private—are either stymied or halted by environmental litigation, administrative proceedings, etc. with no possibility for early resolution. Such haphazard activity prohibits rational and systematic planning, makes for unnecessary delays, and vastly increased costs. We call for a rational, stabilized system for environmental and other planning, under which full consideration is given from the outset, while at the same time due regard would be accorded to the necessity for reaching a final decision without endless delays.

Sixth, America needs a comprehensive energy policy and program to rapidly reduce the nation's dependence on imported oil and to establish U.S. energy independence.

Seventh, a new government agency, along the lines of the Reconstruction Finance Corporation, should be established to provide long-term, low-interest loans in the private sector, as well as to assist State and local governments.

Eighth, Federal funds must be provided for the restoration of railroad track and roadbeds.

Ninth. Major loopholes in the Federal tax structure must be closed—to raise as much as $20 billion of additional Federal revenue and to take a giant step towards achieving tax justice.

And lastly, we call upon the administration to set up a cabinet post to coordinate all construction activities within the Government so that a repetition of the present intolerable situation can be avoided.

We are in troubled times. Inflation, recession, high interest rates, high energy costs and dependence on foreign energy imports are all urgent and pressing demands that must be squarely faced, and solved. As we approach our 200th birthday as a nation we are in need of thoughtful and strong national leadership to develop and follow through with sound policies that will see us through these troubles. We can no longer indulge in policies that favor the few at the expense of the man, or policies which attempt to correct one problem only to create a more serious one.

When we fight inflation, we cannot create a recession and call it a solution. When we seek new energy sources, we cannot make the environment the scapegoat. I am especially mindful of this because of the many scenic wonders of our country. Only those policies which seek to benefit all of us will succeed in restoring our country's vitality and strength.

UNEMPLOYMENT IN 1976

(By Charles C. Killingsworth)

I wish to thank the Joint Economic Committee for the invitation to present my views on some aspects of the Economic Report of 1976.

What is left unsaid in this Report is in some respects more significant than what is said. I see one major gap, in the form of a question which is not even asked: What is going to happen this year to the millions of unemployed workers who will exhaust their eligibility for unemployment benefits and will still be unable to find jobs?

The Report recognizes—as everyone must—that the chief means of alleviating some of the financial hardships of unemployment in this recession has been unemployment compensation. During most of calendar 1975, between six and seven million unemployed workers were drawing benefits. As of the first week in February (1976), 6.2 million workers were still receiving benefits under seven major programs, the Department of Labor reported.

The Economic Report emphasizes that recovery from the recession will be gradual, and it recites many reasons why the Council of Economic Advisors regards such gradualism as desirable, perhaps the most important one being the perceived need to avoid any revival of inflationary expectations. The immediate consequence of slow recovery is prolonged high unemployment, and the CEA forecast is that the national unemployment rate will still be approximately 7.5 percent at the end of 1976. The large reported drop in the national unemployment rate from December to January (from 8.3 percent to 7.8 percent) and the large reported increase in employment (800,000) have not prompted Chairman Greenspan to revise that estimate. Mr. Greenspan's comments imply that he may share the view of many informed persons that the seasonal adjustment process may have caused a substantial overstatement of the real improvement in the labor market from December to January. The report on the February survey is likely to suffer from the same seasonal adjustment problems. My own conclusion is that, in the absence of major new jobs programs, the reported unemployment rate is likely to be closer to 8 percent than to 7 percent by the end of calendar 1976.

The Report gives some emphasis to the supplements to and extensions of unemployment compensation that were passed in late 1974 and 1975. But the Report fails to recognize and deal with the other side of this coin. I refer to the virtual certainty that millions of the unemployed will exhaust their eligibility for even the extended and supplemental unemployment compensation during 1976. It is difficult to find solid information concerning exhaustions in the recent past, because a claimant who is dropped from one program may be picked up by one of the other extensions or supplemental programs. Perhaps the best available indicator of what might be called "final" exhaustions is the number dropped from the Federal Supplemental Benefits program, which is the program of last resort for those who have used up their eligibility under Regular and Extended benefits programs. The number of FSB exhaustion in 1975 is 1.1 million. The estimate for 1976 is 1.8 million workers. These figures are probably an understatement, but they give some approximation of the magnitude of the problem.

The policies recommended by the Administration which are expected to result in very slow reduction in the national unemployment rate during 1976 will virtually guarantee that large numbers of these exhaustees will have neither benefits nor jobs in 1976. The hardships and deprivations of unemployment have been eased for many workers, probably a majority of the jobless, by the various unemployment benefit programs. These programs more than anything else brought about the development to which President Ford pointed with satisfaction in his portion of the Economic Report: "We did not experience corrosive social unrest as a consequence of our economic difficulties." Simple inaction may change this outcome during 1976. As unemployment seems to be declining, its bite may become sharper.

The Economic Report addresses the subject of UC exhaustions only indirectly and by implication. On page 81, we find the following passage:

"There is now considerable research suggesting that a longer maximum duration of unemployment benefits tends to lengthen the duration of actual unemployment by discouraging some from withdrawing from the labor force and some from accepting reemployment in a less attractive job. While the exact magnitude of any increase in measured unemployment is unclear, these studies suggest that interpretation of unemployment statistics has become more complex."

This passage appears to imply that many workers simply postpone taking another job, or only pretend still to be looking for a job, in order to continue to draw UC benefits. A further implication appears to be that, as UC eligibility is exhausted, a large number of those affected will be induced to take a job—perhaps not as good a job as they might like, but certainly enough of a job to remove such persons from the unemployment count. (The employment survey, broadly speaking, counts as "employed" anyone who has one hour or more of paid employment during the survey week.) The quoted passage also seems to imply that an additional large number of exhaustees will simply drop any pretense of looking for a job when their benefits run out, and will thereby become labor force dropouts. If matters developed in line with these implications, one might expect the reported unemployment rate to drop by considerably more than a fraction of one percent in 1976. The basic implication of the quotation seems to be that a substantial portion of current unemployment is voluntary.

To the extent that the "considerable research" referred to in the *Report* rests upon actual observation rather than assumption and inference, the data are from periods quite different from the current situation, which involves recovery from a recession unprecedented in the post-war period for severity and duration. One might reasonably expect to find some differences between earlier and current behavior of the unemployed.

Studies are now being made of the experience of UC exhaustees in the current recession. The Employment and Training Administration of the Department of Labor is sponsoring two major studies, and others may be under way under different sponsorship. Findings from one of the DOL studies will not be available until sometime in 1977. Preliminary findings from the other study are now becoming available, and a complete report will be available in the near future.[1]

The study rests upon data from a random sample of 2,000 individuals, in four widely-separated cities across the country, who had exhausted benefits in October and November, 1974. These persons were interviewed at the time of exhaustion, again four months later, and a final time one year after exhaustion. (In the intervening time, some had become eligible for extended or supplemental benefits, which has somewhat complicated the analysis of some facets of the study.)

I believe that some of the key findings of this study, analyzing current experience, deserve the attention of the Joint Economic Committee. The exhaustees covered by the study are somewhat older than the average unemployed person, and there is a larger proportion of females among the exhaustees. Regular work histories, with firm attachment to the labor force, appear to characterize the exhaustees; 90 percent of them had not received any unemployment benefits in the three years immediately prior to losing their last job. When benefits ran out, 46 percent of the families of the exhaustees dropped below the poverty line; with the benefits, only 15 percent had been below the poverty line.

Four months after exhaustion, 25 percent of the exhaustees had become reemployed; 14 percent had dropped out of the labor force; and 61 percent were still unemployed. There may be some ambiguity in these findings, because (as noted) some of the exhaustees had apparently begun to receive benefits under new programs. However, the report states that the most important factor affecting the individual's chances for reemployment was the condition of the labor market in which he was looking for a job. Those who did find new jobs generally had substantially lower earnings than before becoming unemployed—but generally because of shorter working hours rather than lower wage rates.

A full year after exhaustion of regular benefits, most of these claimants would have exhausted their rights under the new programs as well. In view of the large number who fall below the poverty line without benefits—nearly half—it is significant that very small percentages had qualified for welfare payments of some kind by October or November, 1975. Only 7 percent of the whites and 24 percent of the blacks were receiving food stamps. Two percent of the whites and 9 percent of the blacks were on the AFDC–U rolls. Two percent of the whites and 8 percent of the blacks were receiving general assistance payments. Only negligible numbers were receiving SSI benefits.

Last year at about this time, there was considerable discussion of the problems faced by unemployed workers who had had some form of health insurance on their former jobs, but who had lost their coverage when laid off. This study throws some light on this matter. In this sample, 59 percent of the workers had had such health insurance coverage on the job. Less than half of this group had had the option to continue coverage when laid off, and more than half of the sample had had no coverage of any kind at some time during their period of unemployment; about 40 percent had lacked coverage for more than 40 weeks. And 24 percent of those who had lacked health insurance coverage for some portion of the time reported that someone in the family had postponed medical care that would otherwise have been obtained.

We commonly speak of unemployment insurance as a first line of defense against recession-caused joblessness. The time has come to ask, what is the second line, and the third? The studies just summarized suggest that if welfare is the second line, there is a big no-man's land in between the two lines. More specifically, the data suggest that, despite the majority of exhaustees who fall below the poverty line without unemployment benefits, most of them are still not poor enough to qualify for most kinds of welfare. They must wait to sink to a lower level of destitution to qualify for that kind of assistance. Many of the exhaustees have small savings, or cars, or they have as equity in a house; in many states, these small assets must be sacrificed before the applicant is considered for welfare. Many of those who are pushed down to this lower level of destitution will probably never make it back up above the poverty line, if past experience is any guide. Please recall that we are talking about a minimum of 1.1 million exhaustees in 1975, another 1.8 million in 1976, and another unknown number in the remaining years of abnormally high unemployment projected by the Economic Report. When we take families into consideration, we multiply these figures by approximately three. There seems to be a reasonable basis to conclude that, in the name of inflation control and balanced economic expansion, we are condemning millions of Americans to lives of destitution.

What policy conclusions emerge from this analysis? I find it impossible to accept a set of national policies which seems to contemplate increasing destitution for millions of our citizens so that the rest of us can enjoy stable prices and "reasonable" economic growth. Surely we can do better than that. What we are offered by the policies outlined in the Economic Report, it seems to me, is a conscious withholding of job opportunities from persons who have demonstrated by their firm attachment to the labor force their readiness to work for a living for themselves and their families. Other witnesses before this Committee have exposed the fallacies which underlie the policies advocated in the Economic Report. I will not undertake to duplicate their analysis. Neither will I try to review the relative merits of various approaches to the solution, or amelioration of the unemployment problem. The National Council on Employment Policy, which I have the honor to serve as its chairman, has recently published such an analysis entitled, "How Much Unemployment Do We Need?" I wish to submit a copy of that analysis for the consideration of the Joint Economic Committee.

That document was written to achieve a consensus among a substantial number of manpower experts. I have a final word to add, speaking solely for myself. I look forward to the unveiling of the revised version of the Humphrey-Hawkins Full Employment Bill. I must confess that initially I had reservations about any attempt to guarantee "full employment." The events of the past 18 months have gradually convinced me that the Humphrey-Hawkins Bill represents the straight line between two points. I believe that the approach set forth in this bill would activate a multiplicity of efforts in government and in the private sector which would give us a fairer society, a more compassionate society, a sounder society, and even a more prosperous society.

TESTIMONY BY MURRAY H. FINLEY

Chairman Humphrey and members of the Committee:

I am pleased to have this opportunity to appear before you to comment on the crucial economic problems and policies we are currently facing.

We have just passed the 30th anniversary date (on February 20th) of the signing into law of the Employment Act of 1946. That act contained a mandate that our economic policies "promote maximum employment, production, and purchasing power." This has been the labor movement's goal almost from its inception. But the Economic Report of the President, his proposed budget, and the policies prescribed by his Council of Economic Advisors seem determined to frustrate these objectives.

We are now seeing some modest improvements in the economic indicators from the dismal figures of last year. But the American economy remains in a weakened condition, with a vast amount of slack, after the longest and deepest recessionary decline in 40 years.

The central situation facing the nation—and what should be the focus of this Committee's report and actions—is the blithe acceptance by this administration of high levels of human and capital waste. This is not a problem that will be resolved by the modest economic recovery now underway, but is a long-term problem that will remain with us for as many years as we delay implementing a policy of genuine full employment and reordered economic priorities.

The officially reported unemployment rate is 7.8 percent, representing 7.3 million jobless people. The Administration cites this decline from the 9.2 percent level of last May with great fanfare. A truer measure of unemployment would place the figure for January at about 10.6 percent. This is because the official number ignores the million discouraged people who no longer are seeking employment, the statistical fluke that exaggerated the decline that resulted from revising the standard for seasonal adjustment, and ignoring a rise of 240,000 in the number of workers compelled to work part-time because full-time work was not available.

To attain perspective on what these numbers represent we should note that even the officially reported unemployment count for January was higher than in any earlier period since 1941, when the economy was coming out of the great depression. Moreover, the Labor Department also reported that 131 of the 150 major labor markets still suffer substantial unemployment, as do 1,046 of the smaller job market areas. This means that nearly four-fifths of the nation's labor market areas are still in bad shape. While statistics don't portray the human hardships, a truer statement of the fact is that some 60 to 70 million people, workers and their families, were directly hit by unemployment in 1975.

The labor movement knows all too well that unemployment is a burden on everyone, not just on those who suffer its effects directly. No employed person can be secure in his or her work knowing unemployed people are walking the streets looking to take their job. No possibility of real improvements in living standards for employed people is attainable unless there is work enough for all.

At the same time the Federal Reserve Board reports that in the fourth quarter of 1975 29 percent of industrial capacity was unused. This idleness of plants and machinery represents a loss of $221 billion on an annual basis—or $1,000 for every man, woman and child in America. To continue this great cost of billions of lost Gross National Product and shattered personal lives is a tragic commentary on our nation.

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[1] The study is being made by Mathematica, Inc., and the W. E. Upjohn Institute for Employment Research. It is entitled *A Longitudinal Study of Unemployment Insurance Exhaustees.* A summary of key findings was published in processed form under date of October 1, 1975. Additional findings, from interviews conducted in October and November 1975, have just been submitted to the Department of Labor. I have been authorized to quote some of these findings by officials of the Employment and Training Administration, for which I am most grateful.

To gain further insight into the economic situation and trends we see, let me discuss for a moment the sector I know best. The apparel, textile and fibers industry is the nation's largest manufacturing employment complex. It provides jobs for over 2 million people. For this sector the "recession" has been of depression level dimensions.

For example, employment in the men's & boys suit and coat industry declined from a pre-recession high in April 1973 of 101,700 production to a low in July 1975 to 71,800, a decline of 29.4 percent. In the separate trousers industry, employment fell from 83,400 in April 1973 to a low of 65,900 in April 1975, a decline of 21 percent. In the shirt and nightwear industry, employment went from 111,300 in June 1973 to 92,900 in March 1975, a decline of 16.5 percent. In work clothes 84,500 were employed in March 1973, while only 63,900 were employed in March 1975, a drop of 24.4 percent. In addition, for those who did retain their jobs, the average weekly hours of work declined from 36.9 hours in December 1973 to 31.9 hours in April 1975, which is a 13.6 percent decrease in less than 18 months.

The domestic recession has been primarily responsible for these depressing figures. But an additional force has contributed to them—that of clothing imports. The President has rightly pointed out the dangers to our economy of being dependent upon foreign supply sources, especially in energy. But he contradictorily pushes for a so-called freer, unrestrained trade policy that does similar economic and employment damage.

While clothing manufacturers in the United States struggled through the difficulties of 1975, clothing imports enjoyed a boom year. The persistent growth of imports stands in sharp contrast to the declining domestic production as can be seen from the following tables:

	Imports			U.S. production			Imports as a percent of U.S. production [1]	
	1974	1975	Percent change 1975 versus 1974	1974	Projected for 1975 [1]	Percent change 1974 versus 1975 [1]	1974	1975
Men's and boys' suits	1,933,914	3,164,073	+63.6	19,684,000	16,141,000	−18	9.6	19.8
Men's and boys' sport coats	4,989,370	5,509,834	+10.4	21,764,000	12,841,000	−41.7	22.5	42.9
Men's and boys' separate trousers	40,009,471	55,008,148	+37.5	199,374,000	149,531,000	−24.5	20	36.8

[1] Projection for 1975 U.S. production is based on a compilation of January–November 1975 monthly cuttings reports for men's tailored clothing, obtained from the U.S. Department of Commerce.

These figures show how imports have eroded employment in the clothing sector, and the pace is accelerating. The U.S. has tried to control this trend somewhat by negotiating a number of bilateral agreements under the terms of the Agreement Regarding International Trade in Textiles. Unless imports are restrained quickly and in a more effective manner, jobs in our sector and in many other manufacturing industries won't exist, irrespective of the prosperity of our domestic economy.

While the import problem is becoming greater, there has been some improvement in employment and hours of work within the apparel industry. From the low point of Spring and Summer 1975, employment in men's and boy's suits and coats has increased 4.7 percent, shirt and nightwear employment 9.5 percent, work clothes employment 18.3 percent and trouser employment 13.6 percent. But these percentages are deceiving because they are figured from a lower base than pre-recession employment. Thus, for example, for the suit and coat industry, the percentage increase in employment has to be an additional 18 percent added to the moderate increase stated above to reach the employment level of April 1973. Still more is needed to cover the lost hours of work—of about 13%—so that the total increase needed is 30%.

Retailers are now placing their orders for the Fall selling season. Reports thus far show a continuing reluctance to show confidence in improving sales and, in fact, inventories are being kept to a bare minimum. Yesterday's New York Times confirms most retailers are operating on smaller inventories and are limiting their array of merchandise to minimize risks. The psychology of caution and pessimism pervades very strongly.

Thus it is imperative that the Congress recognize how fragile and unstable the so-called "recovery" is. The President's proposal and budgetary framework ducks responsibility for the nation's continuing economic problems, offers no proposal for solving them, and would worsen the economic situation in fiscal 1977.

The President proposes a very definite shift to economic restraint, including a $29 billion cut in federal programs below this year's level of services, for the fiscal year beginning October 1, 1976 with spreading adverse impact after the November elections. If the President's program were adopted, there would be cuts in federal programs, concentrated in employment, education, health care, income security and grants-in-aid to state and local governments. It will result in rising unemployment during the latter part of 1977 and the possibility of a deeper recession.

For seven years, the Nixon and Ford Administrations have given the nation the exact economic medicine once again being proposed by the President. The record is one of failure, recession, unemployment, inflation and high budget deficits.

My differences with the Administration's economic policies can be enumerated at length. More constructive would be to outline the direction this Committee should report to the Congress and help seek its ultimate implementation.

The AFL–CIO Executive Council just recently concluded its Mid-Winter meeting. At that meeting the Economic Policy Committee, of which I am a member, offered a series of recommendations to create jobs and generate greater income. The labor movement strongly urges the following actions:

1. The Congress should override the President's veto of the accelerated public works bill which would create jobs and provide aid for those states and local governments, hard-pressed by unemployment. Perhaps it is not too late to introduce another such bill.

2. The Senate should join with the majority of the House to support an expanded public service employment program for the unemployed.

3. Congress must act to prevent a rise of withholding tax rates on paychecks—now scheduled for July 1, 1976.

4. The government's housing programs need to be fully implemented, with sufficient funds, to boost residential construction and prevent the further spread of today's housing shortage.

5. Congress must direct the Federal Reserve system to provide sufficient growth of the supply of money and credit at reasonable interest rates to promote rapid expansion of the economy and job opportunities. Lower interest rates are absolutely essential to revival of the depressed housing industry in particular and construction in general. Congress should also direct the Federal Reserve to allocate available credit for such high-priority purposes as housing, state and local government needs and business investment in essential plant and equipment, while curbing the flow of credit for land speculation, inventory-housing and foreign subsidiaries.

6. Congress should increase the federal minimum wage to $3.00 an hour and provide an automatic escalator for the future. A minimum wage increase, along with a higher penalty for overtime work, would provide a needed boost in the purchasing power of the lowest-paid workers and generate new job opportunities.

7. Job programs especially designed for unemployed youth, minorities and women are essential.

8. America needs a comprehensive energy policy and program to rapidly reduce the nation's dependence on imported oil and to establish U.S. energy independence.

9. A new government agency, along the lines of the Reconstruction Finance Corporation, should be established to provide long-term, low-interest loans in the private sector, as well as to assist state and local governments.

10. Federal funds must be provided for the restoration of railroad track and roadbeds.

11. The outmoded unemployment insurance system badly needs basic improvements.

12. Major loopholes in the federal tax structure must be closed—to raise as much as $20 billion annually of additional federal revenue and to take a giant step towards achieving tax justice.

Many of these actions will serve the immediate need. But in the long run a more comprehensive and permanent system must be established to prevent our continuing to operate from crisis to crisis. As the President noted, "Inflation and unemployment are not opposites but are related symptoms of an unhealthy economy." We need a program to achieve a stable, full employment economy with balanced growth, clearly set forth goals, and responsibilities to implement them.

Such a measure is the soon-to-be introduced Full Employment and Balanced Growth Act of 1976. Senator Humphrey, Senator Javits, Representative Hawkins and Representative Reuss are to be commended for their initiative and creativity in sponsoring this legislation. This proposed legislation would be the approach I advocate in solving our major economic problems.

At long last, we must attain universal recognition that a person is entitled to a job at a decent wage as a matter of right, and the total community must assume this responsibility and must guarantee its fulfillment.

A statement issued by the Catholic bishops of the United States 45 years ago said it best:

"This unemployment returning again to plague us after so many repetitions during the century past is a sign of deep failure in our country. Unemployment is the great peacetime tragedy of the nineteenth and twentieth centuries and both in its cause and in the imprint it leaves on those who inflict it, those who permit it, and those who are its victims, it is one of the great moral tragedies of our time." (The Bishops of the United States, *Unemployment* 1930, as quoted in Statement of the Catholic Bishops of the United States, United States Catholic Conference, Washington, D.C., November 20, 1975)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 12:55 p.m. today.

The motion was agreed to; and at 12:30 p.m. the Senate took a recess until 12:55 p.m.

The Senate reassembled at 12:55 p.m., when called to order by the Acting President pro tempore (Mr. STONE).

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the Senator from Maryland (Mr. MATHIAS) to the Board of Visitors to the Military Academy, in lieu of the Senator from Oklahoma (Mr. BELLMON), resigned.

ORDER OF BUSINESS

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTER-AMERICAN DEVELOPMENT BANK AND AFRICAN DEVELOPMENT FUND ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consideration of H.R. 9721, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill shall be limited to 2 hours, to be equally divided and controlled by the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), with 30 minutes on any amendment, and 20 minutes on any debatable motion, appeal or point of order.

Mr. CLARK. Mr. President. I want to address myself to title II of the pending bill.

Africa has more often than not been the stepchild of American foreign policy. There has been an occasional outburst of official rhetoric about Africa's importance to us and some cultural interest generated by black groups in the United States. But at least at the governmental level, out interest has tended to wander and we have seldom had anything approaching an African policy.

The mindlessness of this approach—or lack of approach—to Africa has been brought home to us most painfully in Angola. I fear that the pain is far from over. Rhodesia, Namibia, and South Africa itself are going to loom large on American television screens and front pages in the years immediately ahead. Africa will be heard, regardless of whether we are willing listeners.

This bill authorizes our participation in Africa's multinational development institution. It authorizes very modest contributions—$25 million over a 3-year period. The United States is currently one of only three members of the OECD which are not members of the African Development Fund; the others are France and Australia. If the full $25 million is approved, the U.S. proportion of non-African contributions would be around 15 percent—and would be dropping, since other countries are expected to increase their contributions in the months ahead.

Saudi Arabia has a $10 million subscription, and I understand that other oil-producing countries are expected to join in as contributors, as well.

Mr. President, this fund is a fairly young institution, but it already is involved in extremely useful work. It restricts its lending to the poorest African countries. The 13 countries it lent to in 1974 had an average per capita income of $123. In my view its priorities are right. In 1974, its first year of full operation, over half of its lending was for agricultural projects. We are all very much aware of the dire need for food in these countries where very high percentages of their people suffer from malnutrition.

It is extremely important that we lend our support to the African Development Fund in the full amount recommended by the Committee on Foreign Relations. We should, both for political and humanitarian reasons, give an unequivocal "yes" to the question of African development. We must show that we are concerned, not only when political developments go against our best interests, but also when the Africans themselves are striving to build for themselves a more decent standard of living. If we do not affirm our concern now we will have little basis for complaint if the Africans increasingly move in directions which we perceive as being against our interests.

Mr. President, I strongly support this bill. Because of my position as chairman of the Africa Subcommittee of the Committee on Foreign Relations, I am especially sensitive to the need for us to support full authorization for the African Development Fund. I, therefore, urge that the bill be passed as it now stands.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against either side.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent for floor privileges during the consideration of H.R. 9721 of Constance Freeman, Richard Moose, Dan Spiegel, and Rudolph Rousseau.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, may I have a statement as to what the unanimous-consent agreement provided.

The ACTING PRESIDENT pro tempore. The time for debate is limited to 2 hours equally divided and controlled by the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.); 30 minutes on any amendment; 20 minutes on any debatable motion, appeal or point of order. The time commences to run at 1 o'clock.

Mr. HUMPHREY. May I ask my friend, the Senator from Virginia, is there an amendment he wishes to offer?

Mr. HARRY F. BYRD, JR. Not at the moment.

Mr. HUMPHREY. Does the Senator have a statement he wishes to make?

Mr. HARRY F. BYRD, JR. I have a brief statement, and then I would like to ask several questions.

Mr. HUMPHREY. I thank the Senator.

Mr. HARRY F. BYRD, JR. I have several questions I wish to ask the able Senator from Minnesota.

Mr. HUMPHREY. That will be fine.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. HUMPHREY. We are recognized on our own time; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HARRY F. BYRD, JR. I yield myself 3 minutes.

Mr. President, this legislation authorizes $2.25 billion as the U.S. share of a replenishment of the funds of the Inter-American Development Bank. The legislation also authorizes U.S. participation in the African Development Fund with a subscription of $25 million for that purpose.

In the most recent U.S. replenishment of the Inter-American Bank in 1970 the United States subscribed $824 million in ordinary capital and $1 billion to the Fund for Special Operations. Total U.S. participation amounts to 40 percent of the capital and over two-thirds, namely, 68 percent, of the resources in the special operations. That is the soft loan window of the bank.

The increase from $1,824 million to

$2,250 million represents an increase of $426 million. That is a 25 percent increase.

The recently passed foreign aid appropriations bill had this to say about international financial institutions, and I am quoting now from the Foreign Appropriations Committee report:

> The United States has been a most generous contributor to those international financial institutions providing assistance to the less developed nations of the world. In fact we have been the leading contributor and supporter of these institutions since their inception.
>
> We have done so in the belief that many of the problems in the developing world required a multilateral solution. We also supported the ideal of a multilateral corps of trained professionals and administrators who would direct this assistance without thought of national or personal gain.
>
> In the harsh light of reality, however, many of our conceptions prove to be but empty shadows. We find that there are favored nations when development assistance is parcelled out. We also find that many who are said to be dedicated servants of the poor receive unseemly compensation for their service.

Mr. President, those are not the words of the Senator from Virginia; they are from the report of the foreign aid appropriations bill.

At this point I would like to yield myself an additional 10 minutes and ask several questions of the Senator from Minnesota, the manager of the bill.

The ACTING PRESIDENT pro tempore. Does the Senator yield?

Mr. HUMPHREY. Oh, yes.

Mr. HARRY F. BYRD, JR. May I ask the Senator from Minnesota——

Mr. HUMPHREY. This is on the Senator's time.

The ACTING PRESIDENT pro tempore. It is on the time of the Senator from Virginia.

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. The present proposal increases the U.S. share or replenishment of the Inter-American Development Bank fund from the last replenishment level of $1.8 billion to $2.25 billion, an increase of 25 percent.

Would the Senator indicate why such a substantial increase is being sought at this point?

Mr. HUMPHREY. Primarily for the reason of the inroads of inflation of the past 5 or 6 years when we have had rates of inflation of between 8 and 10 percent, some years less, some years higher, so that the actual value, money value, of the purchasing power is not really over what it was in the last authorization.

Mr. HARRY F. BYRD, JR. In regard to the committee report dealing with the foreign aid appropriations which goes into the matter of salaries for the various international financial institutions, the committee report states that the salary schedules are unseemingly high.

I wonder if the Senator could comment on that phase of the report.

Mr. HUMPHREY. Those are the salary schedules of the officers of the Bank. Is that what the Senator is referring to?

Mr. HARRY F. BYRD, JR. Yes.

Mr. HUMPHREY. Well, the Senator and I know that bankers seem to pay themselves a little bit better than public servants. Also remember that the Inter-American Development Bank is a multinational concern. It does a substantial amount of business and, I think, the Senate will have to understand that since it is a multinational organization where we do not set all of the standards that we are apt to find salaries to be rather high.

The upper level staff of the U.S. Foreign Service and military, for example, is sometimes paid more than comparable staff at the United Nations. U.S. contributions to the Inter-American Development Bank do not pay for administrative expenses, including salaries. These costs are paid out of the net income from the interest and repayment on loans and most of that is generated from capital loans.

I underscore that U.S. contributions do not provide the funds for these loans. They simply provide the collateral so that money can be borrowed in the capital markets.

Therefore, even decreasing a U.S. contribution to the Bank would not have a direct impact on moneys available for salaries and employee benefits.

We have to keep in mind that this Bank has to compete with the private sector when it recruits competent money managers, and the salaries of the Inter-American Development Bank are not above those in the private sector. In fact, some of them are below those of the private sector.

Let me just quickly add, because I know of the Senator's genuine concern over this bill, that it is my understanding, and I believe the record will show, that U.S. commitments will be 37 percent of the total.

Back in 1971 when the Congress approved our particiption in that replenishment, our share was 52 percent of the total.

So we have actually reduced our percentage participation in the replenishment in relation to the last one by 15 percent.

Mr. HARRY F. BYRD, JR. Will the Senator yield at that point?

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. The U.S. share of the soft loan window is 68 percent, is it not?

Mr. HUMPHREY. Yes.

This is an inheritance from the earliest days of the Bank. We have been the big contributor to the soft loan window, the Senator is correct.

Mr. HARRY F. BYRD, JR. At the present time, in the present bill, it would be 53 percent, would it not?

Mr. HUMPHREY. Yes. It is down some.

Mr. HARRY F. BYRD, JR. But still well over half?

Mr. HUMPHREY. Yes; that is a fact because the soft loan window is looked upon as a part of the generous aid to our neighbors in Latin America.

In the Inter-American Development Bank, its regular loans are pretty much on a commercial basis and represent a rather sound investment.

By the way, this Bank goes to the private money markets. It sells its securities just as the Government of the United States does.

This bill provides for the entrance of, I believe, 10 new countries from Europe, plus Japan and Israel. So, 12 new countries will join the IDB.

It is looked upon in the international monetary community as one of the soundest investments and one of the better banking structures for the international financing of important economic activities in the Latin America area.

Mr. HARRY F. BYRD, JR. This is the Inter-American Bank, but now it is expanding beyond the Western Hemisphere?

Mr. HUMPHREY. It is expanding in terms of its source of funds and collateral. It is expanding in terms of donors, but probably not in terms of recipients.

Mr. HARRY F. BYRD, JR. I might say that the comments read by the Senator from Virginia in regard to the salaries were not the comments of the Senator from Virginia.

Mr. HUMPHREY. I understand that.

Mr. HARRY F. BYRD, JR. They were the comments of the Senate Appropriations Committee.

Mr. HUMPHREY. I know the Senator was quoting from the report of that Senate Appropriations Committee.

Mr. HARRY F. BYRD, JR. I quote from another part of the report. It states:

> The United States share of contributions to the Inter-American Development Bank continues to be inordinately high. This is especially the case regarding the Fund for Special Operations where the United States contribution has been 67.9 percent.

Mr. HUMPHREY. And now reduced to 53 percent.

Mr. HARRY F. BYRD, JR. I continue reading from this report:

> If projected on a straight line basis the United States share of the Fund would rise to 72.5 percent by fiscal year 1979.

Mr. HUMPHREY. But we should not project it on a straight-line basis because our percentage contribution is decreasing. Ultimately there will be the percentage of total Bank resources going to the soft loan window fund.

Mr. HARRY F. BYRD, JR. There again, I am merely quoting from the report of the Senate Appropriations Committee dealing with this subject.

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. I continue on with another sentence from the committee report:

> One of the central objectives of Committee oversight of United States involvement in the Inter-American Development Bank has been to stimulate efforts to increase the contribution of others to the Bank and thus reduce the United States share to more equitable amounts.

What steps are being taken, may I ask the Senator, to have other countries increase their contributions?

The ACTING PRESIDENT pro tempore. The Senator's additional 10 minutes have expired.

Mr. HARRY F. BYRD, JR. I yield myself 3 minutes.

Mr HUMPHREY. The opening of Bank membership, to 10 European countries and to Japan and Israel, 12 new countries, is resulting in a reduction in the percentage of American commitments in this bank. Also, the Latin American countries themselves are contributing more.

In 1971, our percentage of commitment was 52 percent of the total replenishment. This bill will make it 37 percent of the total.

Mr. HARRY F. BYRD, JR. But not the soft loan?

Mr. HUMPHREY. In the soft loan window, as I understand, if my recollection is correct, our total contribution has been 69 percent and is now down to 52 percent in this replenishment.

Mr. HARRY F. BYRD, JR. The committee report also has the following to say, and I quote again:

> The (major contributor) status places upon the United States a special responsibility to see that the Bank's resources are being effectively employed for fostering economic growth and improving the distribution of income, favoring the lower income sectors more than has been the case in the past.

What steps are being taken to see that the Bank's resources in the future will be used to improve on this situation?

Mr. HUMPHREY. One of the areas we have worked in, which the Senate insisted upon in the recent appropriations bill, was allocating a percentage of the total capital for the development of credit unions, agricultural cooperatives for the low-income peoples, and savings and loans for low-income housing.

I have to say that we had quite a tussle with our colleagues in the other body. They did not want any earmarking. But the Senator from Hawaii (Mr. INOUYE) and the Senator from Minnesota have insisted that the earmarkings remain until the purposes outlined in the Appropriations Committee report have been accomplished.

I am also happy to state that we have a good record on the projects which have been undertaken.

For example, under the work of the Bank, in its 15 years of existence they have lent over $15 billion. For each $1 of the Inter-American Development Bank resources, an additional $3 was provided by the member countries borrowing the money. So the ratio was 3 to 1.

In agriculture, which is so vital in the Latin American countries, there have been loans in the amount of $1,975 million, which have resulted in a total investment of over $5,384 million.

The ACTING PRESIDENT pro tempore. The Senator's additional 3 minutes have expired.

Mr. HARRY F. BYRD, JR. Will the Senator from Minnesota yield some of his time?

Mr. HUMPHREY. Yes, I am glad to take 10 minutes out of our time. We will just divide up the time.

For example, helping to improve rural water systems. This is out in the rural lands in the faraway countryside. There have been 4,800,000 rural drinking water systems and 400 sewer systems benefiting 57 million people authorized, funded and completed as a part of the activities of the Inter-American Development Bank.

I have a full list of a tremendous amount of activity which has been undertaken in a solid banking system program, in which loans are being repaid with interest. The record of this bank is exemplary, may I say. It is looked upon as one of the better—I will not say the best but one of the better—banking institutions which is helping the international community.

I ask unanimous consent, so that we may have the record more complete, to have printed in the RECORD the report that I have developed on some of the activities of the Inter-American Development Bank. This relates directly to the question asked by the Senator from Virginia about what this bank has done for people in the lower income brackets, the people who really populate much of Latin America.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

IDB BENEFICIARIES

The Inter-American Development Bank completed a decade and a half of operations in 1975. During its 15-year existence, the Bank has lent $8.685 billion to help finance social and economic development projects involving a total investment of approximately $33.4 billion in Latin America. For each $1 of IDB resources, an additional $3 is provided by member countries.

Agriculture: The creation of new agricultural production to increase employment in rural areas and feed growing populations.

Amount: 202 loans amounting to $1.975 billion for projects totalling $5.384 billion.

Impact: As of December 31, 1975: 11.3 million acres brought into production; 1.1 million farm credits to individual farmers; 110 cooperative associations have received credit for seed, fertilizer, tools and equipment; new integrated rural agricultural programs providing sanitation, health facilities, extension schools as well as farm credit, attempt to create large-scale employment and to reach farmers whose average annual income is approximately $100.

SANITATION

Amount: 112 projects amounting to $752 million for projects valued at $1,752 billion.

Impact: Helping to build or improve 4,800 rural drinking water systems and 400 sewer systems benefiting 57,000,000 people.

ELECTRIC POWER

Amount: 81 loans for $1.856 billion for projects costing $9.083 billion.

Impact: To assist in making possible additional 16 million kilowatts of power; 95,484 miles of power lines to 2,637 communities.

TRANSPORTATION AND COMMUNICATIONS

Amount: As of December 31, 1975: 19,286 miles of roads of which 14,432 miles were farm to market; 1,664 miles of gas lines; 14 ports, 7 grain elevator facilities, one ship canal improved, 9 major telecommunications systems financed.

EDUCATION

Amount: 74 loans amounting to $375 million for projects costing $816 million.

Impact: Helping to modernize and improve 694 learning centers of which 504 are vocational or technical schools, 70 are universities, 80 are special schools or facilities of universities, 18 primary of secondary schools, 19 research centers.

URBAN DEVELOPMENT

Amount: 52 loans amounting to $454 million for projects costing $1.019 billion.

Impact: Helping to build 361,123 housing units along with community facilities and 10 municipal markets.

INDUSTRY AND MINING

Amount: 155 loans amounting to $1.254 million are helping finance projects costing $10.728 billion.

Impact: 50 industrial plants in production; 26 under construction; 6,353 small and medium sized firms assisted to build or expand facilities.

PREINVESTMENT

Amount: 76 loans amounting to $138 million is helping to finance preinvestment programs amounting to $254 million.

Impact: 1,281 preinvestment studies completed.

TOURISM

Amount: 6 loans amounting to $71 million finance projects costing $185 million.

Impact: These loans mobilize energies and provide basic skills to large numbers of unemployed who formerly lived below subsistence levels.

EXPORT FINANCING

Amount: 18 loans amounting to $132 million helping to finance capital goods exports with an invoice value of $190 million among Latin American countries.

Impact: To foster Latin American integration and intra-regional export trade.

As estimated, 2 million individuals will benefit directly from approximately one-fifth of the money lent in 1975. Each of these is a member of a producer or consumer cooperative, a credit union or some other form of association of small farmers, fishermen or industrial workers. Of the additional $1.1 billion, no ready estimates are yet available, but several million more individuals will benefit directly and indirectly whether they be members of new rural water associations, new customers for expanding rural electrification networks, or workers in mines or factories, where new investments made possible by Inter-American Development Bank loans are about to take place.

Mr. SYMINGTON. Will the Senator yield so I may ask a question of the distinguished Senator from Minnesota?

Mr. HARRY F. BYRD, JR. I yield.

Mr. SYMINGTON. How much of this money is in soft loans?

Mr. HUMPHREY. The total amount of U.S. money going to soft loans is $600 million.

Mr. SYMINGTON. What percent of that is the total being requested?

Mr. HUMPHREY. The total amount that is being authorized in this legislation is $2,225,000,000. May I say, over a 4-year period it involves $745 million in expenditures on our part. That is over 4 years.

Mr. SYMINGTON. May I say to the able Senator what worries me is the fact that we continue to put out these guarantees. The other day we put out an oil guarantee where we participate to the tune of $6,900,000,000 in a total of $27 billion. This money in guarantee goes to the developed countries. It is an oil problem.

Mr. HUMPHREY. That is the safety net.

Mr. SYMINGTON. The able Senator knows what I am referring to. I have asked the Secretary of the Treasury, and he has agreed, to supply us with a list of the total amount of all the guarantees against the taxpayers of the United States.

I would like to respectfully ask my able friend, does he think the soft loans think sometime it will come to an end?

Mr. HUMPHREY. We are reducing our share, I am pleased to report. We have reduced our share from 51 or 52 percent down to 37 percent.

Mr. SYMINGTON. That is the soft loan window?

Mr. HUMPHREY. That is our overall contribution. We have reduced it by 14 percent this time as compared to 1971. So there is some reduction in it.

May I say, of course, that this is ultimately under the control of our Appropriations Committees.

I would hope that we would get away from the soft loan window. I personally feel that we ought to get to more constructive, long-term banking principles. The soft loan window came in at the time of the Alliance for Progress. It seems to me that soft loans are just not as good as the other. They are frequently loans that are very hard to repay, in all honesty, even though they are being repaid. They are on a very long schedule, at very low rates of interest. They are different than the regular development loans. As development efforts progress we ought to get more and more to the harder development loan.

Mr. SYMINGTON. I could not agree with the Senator more. I thank him for his time.

Mr. HARRY F. BYRD, JR. I might say those loans are at an interest rate ranging from 1 percent to 4 percent.

Mr. HUMPHREY. That is correct.

Mr. HARRY F. BYRD, JR. And payable over a 40-year period with a 10-year grace period before any repayment is made. The Federal Government, is paying, of course, far more interest than that to borrow the money.

Mr. HUMPHREY. I could not agree more that those loans are at almost no rate interest. That is almost what would be called an administrative charge.

Mr. HARRY F. BYRD, JR. There is almost no interest involved at all. Yet the wage earners of this country, when they go out to borrow money for an automobile, to buy a house, or what have you, pay an effective rate of somewhere between 9 and 12 percent; sometimes they must pay even more.

Mr. HUMPHREY. I am as bothered about that as the Senator is, and I have cited this many times. Therefore, it seems to me that the sooner we are able to move into more sound banking programs for loans, the better off we are going to be.

If the Senator would permit me, he might be interested in knowing the kind of support that this legislation has. For example, the United States Chamber of Commerce recently adopted a resolution which says that it:

> Supports participation in the replenishment of the Inter-American Development Bank with U.S. paid-in contributions of $720 million over a 3-year period and approves the proposals to admit nonregional donor countries into the bank.

Actually, the amount we are requesting here for payment over the next 4 years would be $745 million, because it includes the African Fund. The chamber of commerce is referring to the $270 million for the IDB over a 3-year period. The chamber then goes on to say:

> The Chamber regards support for the IDB as practical in both political and economical terms. Economically, it seems to be a sensible and practical approach to development assistance. It has direct benefits for American business. Our 48,000 firms have specific evidence of the positive impact of the Inter-American Development Bank activities on their operations and improving the climate of good will toward them in Latin America.

Then we have the statement of the Chase Manhattan Bank. It says the Chase Manhattan Bank certainly supports the increase in U.S. contributions to the Inter-American Development Bank. It has stated:

> We feel that it is a sound institution which plays a very substantial role in the development process of Latin America and indeed merits the support of the United States.

It is signed by the chairman of the Chase Manhattan board, Mr. Rockefeller.

We have a letter from the chairman of the Board of United Virginia Bank of Richmond, Va. Possibly the Senator from Virginia knows him. Mr. Randall says:

> I would like to endorse H.R. 9721, increasing U.S. participation in the Inter-American Development Bank, and hope and request favorable consideration of this bill. Having been involved with this institution for 12 years I have been greatly impressed with their program for the economic well-being of the citizens of Latin America. This is particularly true with regard to the financing of infrastructure which has led to improvements in the standard of living of these people. The Inter-American Development Bank is well run, in my view, from both the U.S. and Latin American side. My personal involvement in their programs includes lecturing at their sponsor school, INTAL, which has been used to forward Latin American integration. The United Virginia Bank Shares is particularly pleased to support this legislation.

I have a communication supporting the IDB from Robert N. Bee, the senior vice president of the Wells Fargo Bank; and from Mr. William J. McDonough, the executive vice president of the International Banking Department of the First National Bank of Chicago. The Council of the Americas, which represents a host of American business institutions has expressed its support for this legislation as has the Inter-Religious Task Force, which consists of many religious bodies of America, Finally, the AFL–CIO in its resolution says, "The AFL–CIO supports these contributions to the Inter-American Development Bank" and goes on to state why.

There is a whole series of these endorsements, but I think it is interesting to note that the endorsements come from large banks, from smaller banks, from a Chamber of Commerce, from the Council of the Americas, which represents many of the business and financial institutions of the United States; it comes from the American Federation of Labor and, it comes from religious organizations of our country. In all of these testimonials, the reasons given for support is that the bank is so well run, and that it has always brought dividends to the people.

There are other facts that I want to bring in later on with reference to what it does for American business, because whatever money we put into this Bank comes back. My goodness, it is like casting bread upon the waters; it comes back in a tremendous volume of benefits to private enterprise, of jobs, and of stimulus to the American economy. And, may I add, these loans are repaid.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 5 minutes.

The loans are repayable over a long period of time, many of them through the bank, but as the Senator from Minnesota pointed out, the loans are not repayable to the Federal Treasury. They do not come back to the Federal Treasury.

Mr. HUMPHREY. That is correct.

Mr. HARRY F. BYRD, JR. The money goes out and stays out, and none of it ever comes back to the American taxpayer. In the light of the severe problem——

Mr. HUMPHREY. Mr. President, will the Senator permit me at that point—and we will share the time; I am more than happy to yield the Senator any time he may require.

I think, because of the intricacies of this legislation, it is rather important for the American people to know and for Congress to know that the actual eventual outlay of U.S. funds over a 4-year period, for the Inter-American Development Bank, is $720 million.

Now, actually, for the first year, it will be less than several million. Much of the commitment that we make here is what we term callable capital, which simply provides security for the Inter-American Development Bank to borrow money from the commercial market. Only a part of this authorization request requires appropriations because the bond issues it backs in turn require this. The bond issues backed by the new kind of callable capital (inter-regional) do not include this stipulation. Therefore, appropriations will not be sought for this portion of the authorization. In the history of all the International Financial Institutions in which the United States participates, callable capital has never been called. It is a form of collateral so that the bank can go out into the private money market and do its financing.

So I point out that insofar as the Congress is concerned, for 1976, of the amount we will be asked to appropriate, only $10 million will actually be used, although eventually $65 million will be paid out. $240 million of 1977 moneys will eventually be paid out, $240 million of 1978 moneys, and $200 million of 1979 moneys. That is for the African Development Fund and the Inter-American Development Bank.

The rate at which these moneys actually leave the U.S. Treasury, disbursement, is much slower, since availability is indicated by letters of credit. These letters result in actual payment only as funds are required. Thus, in 1976, the actual disbursement from the Treasury will be less than $10 million. So the actual impact on the budget will be $10 million. The actual impact in 1977 will depend on the letters of credit. It cannot be more than $240 million, and will probably be substantially less.

So we are talking about two things. We are talking about callable capital in one sense, which is a kind of guarantee, and we are talking about actual appropriated money in another sense. The amount of money which will eventually entail outlays of 1976 money will actually be only $65 million, of which less than $10 million will be disbursed in 1976. The figure for 1977 is $240 million, of which I would expect not much more than half will actually be disbursed.

Mr. HARRY F. BYRD, JR. I thank the Senator. One of the most severe problems in the so-called Third World countries is the inability of those countries to develop adequate food supplies for their people. Again referring to the Senate Appropriations Committee report, that report—to paraphrase it—states that one of the most effective ways for the Inter-American Development Bank to do this is to assist in country cooperatives, credit unions, and similar organizations, which engage in increasing the productive capacity of the most economically disadvantaged

However, the report states further that the Inter-American Development Bank, despite repeated urgings, has made no more than a token response to meet this need.

In regard to the total contributions by the United States to the Inter-American Development Bank, the United States has contributed $2.5 billion of the $3.7 billion total funds contributed to date for the funds for special operations, namely, the soft loan window.

Mr. President, I feel that the increase which is being sought, namely, a 25 percent increase, is too high.

Before I yield back the remainder of my time, I want to make a brief comment about an amendment which is in this bill and a similar amendment which was placed in the bill which was approved yesterday.

Mr. HUMPHREY. Will the Senator at this point permit me to add—and I know he would be interested in it—that, as I said a little earlier, because of the concern, and a very legitimate concern, expressed by the Appropriations Committee in its report about how this money is being used in terms of loans for food production, the Senate insisted upon its amendment which the Senator from Hawaii developed, and which I as the manager would not delete in the legislation here. This amendment earmarked funds for farm cooperatives, for savings and loans, and for credit unions. This is getting right down to the area that the Senator is properly concerned about; $300 million in IDB funds has now been allocated to cooperative-type development, $15 million for credit unions, and the total amount in the 15-year period for agriculture amounts to $1.975 billion.

When you add in the recipient country's contribution, the contribution to agriculture is $5.304 billion. I felt, and I think the Senate expressed itself accordingly, that we need to put emphasis upon the agricultural development of these countries.

Mr. HARRY F. BYRD, JR. Mr. President, the pending legislation carries an amendment offered by the distinguished Senator from New Mexico (Mr. DOMENICI). It was offered on March 18, and was accepted by the floor manager. It pertains to international terrorism.

It is a good amendment and I share the Senator from New Mexico's concern. When the State Department authorization bill was before the Senate yesterday, the Senator from Virginia offered a similar amendment, although a little broader in scope. The amendment offered yesterday and approved by the Senate would bar the use of funds to any country aiding or abetting international terrorism, or cooperating with military forces from other nations seeking to carry out aggression against another nation.

I cite that only for this reason: When the amendment was offered yesterday, through an oversight, I neglected to make it a part of the RECORD that the amendment was being offered for myself and for the Senator from New Mexico (Mr. DOMENICI) and the Senator from New York (Mr. BUCKLEY). I wish to commend the Senator from New Mexico (Mr. DOMENICI) and his staff for their work, and for the amendment, which was made a part of the pending legislation on March 18.

I want the record to show that the Senator from New Mexico had done a lot of work on this amendment dealing with international terrorism.

Mr. HUMPHREY. Yes, the Senator from Virginia does know that the Domenici amendment, in which the Senator from Virginia had so much interest, was accepted.

Mr. HARRY F. BYRD, JR. Yes.

Mr. HUMPHREY. It is a part now of our Senate bill.

Mr. HARRY F. BYRD, JR. Yes. I thank the Senator.

Mr. HUMPHREY. And the Senator has offered a similar amendment to the State Department authorization, I understand.

Mr. HARRY F. BYRD, JR. That is correct.

Mr. HUMPHREY. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes, I yield to the Senator from New York and then I will yield to the Senator from Colorado.

Mr. JAVITS. Mr. President, the Senator from Minnesota, who has handled this matter so brilliantly, mentioned to us a minute ago that he would deal with the broader economic implications of our trade with Latin America. As he has done such yeoman service, perhaps I might deal with that particular question.

Mr. HUMPHREY. I should be very pleased if the Senator would.

Mr. JAVITS. I thank our colleague.

Mr. HUMPHREY. I may add the Senator from New York has recently visited the Latin American countries. From my long association with him here in the Senate, he has done more than any other man of whom I know in promoting business development in Latin America between American and Latin American firms.

Mr. JAVITS. Our colleague is very kind. But I think this is the main point that needs to be made here. Latin America is singularly that area of the world where what we call the private enterprise system has the best chance to demonstrate its ability to deal with the problems of developing countries. That is not the situation in Africa. It is not the situation in Asia. We hope it will be. We want very much to encourage it. It is a rather small thing we are doing for the African Development Bank which is an indication in that direction. But in Latin America this is a going concern. The fact is that Latin American business, in the main, with the exception of very few countries like Peru, is carried on in the private sector.

It is, by the way, the situs of the single most exciting and interesting development of private enterprise helping the development of private enterprise in developing countries through a company, of which I have the honor, along with Senator HUMPHREY, of Minnesota, to be the father as we joined together in doing this over 10 years ago. That company is called the Adela Investment Co., which has facilitated, through a consortium of capital drawn from the major corporations and banks of the whole industrial world, well over $2 billion in projects, which on the whole were successfully consummated in that area of the world.

The importance in dealing with the financing mechanisms of the Inter-American Development Bank is to recognize what it means to us as a nation overall. We enjoy a trade surplus with Latin America of about $1 billion a year. Exports and imports run to about almost $30 billion a year, which is roughly 15 percent of all our foreign trade. Latin America is a critical source of raw materials for iron ore, copper, bauxite, sugar, coffee, and even in the field of petroleum. The fact is that Venezuela and Equador continued the supply of petroleum, notwithstanding the embargo by the OPEC nations during the time when we had such a grave oil stringency less than 2 years ago in this country.

Mr. President, this whole enterprise, which I have described, also relates directly to the impact of the Inter-American Development Bank on our economy. An estimate of the procurement, resulting from the activities of the Bank insofar as the United States is concerned, comes to about $1 billion a year, involving, in a very important way, thousands of U.S. employees who are engaged in supplying what the IDB facilitates.

We have been with the Bank for 15 years. Our experience with it has been a very good one. The Bank, as I say, continues as successfully as it does because the whole of Latin America is essentially private enterprise territory. It enables us to demonstrate the ability of the private sector when it has financing, as this does, through the Inter-American Development Bank, to do the jobs that need to be done in terms of development infinitely better than they can be done or are being done by countries which depend primarily, in many cases exclusively, on public-sector activities.

Mr. President, not to detain the Senate too long, I ask unanimous consent that a list be printed in the RECORD of the types of projects into which Inter-American Development Bank loans have gone and the improvements which they have made in a wide variety of fields from farms to markets, roads to schools, new drinking water systems, housing units, as well as to industry, mining, transportation, communication, tourism, and all of the many activities which are financed in this way.

There being no objection, the material was ordered to be printed in the Record, as follows:

IDB BENEFICIARIES

The Inter-American Development Bank completed a decade and a half of operations in 1975. During its 15-year existence, the Bank has lent $8.685 billion to help finance social and economic development projects involving a total investment of approximately $33.4 billion in Latin America. For each $1 of IDB resources, an additional $3 is provided by member countries.

Agriculture: The creation of new agricultural production to increase employment in rural areas and feed growing populations.

Amount: 202 loans amounting to $1.975 billion for projects totalling $5.384 billion.

Impact: As of December 31, 1975: 11.3 million acres brought into production: 1.1 million farm credits to individual farmers; 110 cooperative associations have received credit for seed, fertilizer, tools and equipment; new integrated rural agricultural programs, providing sanitation, health facilities, extension schools as well as farm credit, attempt to create large-scale employment and to reach farmers whose average annual income is approximately $100.

Sanitation:

Amount: 112 projects amounting to $752 million for projects valued at $1,752 billion.

Impact: Helping to build or improve 4,800 rural drinking water systems and 400 sewer systems benefiting 57,000,000 people.

Electric Power:

Amount: 81 loans for $1.856 billion for projects costing $9.083 billion.

Impact: To assist in making possible additional 16 million kilowatts of power; 95,484 miles of power lines to 2,637 communities.

Transportation and communications:

Amount: 103 loans amounting to $1.592 billion for projects costing $3.716 billion.

Impact: As of December 31, 1975: 19,286 miles of roads of which 14,432 miles were farm to market; 1,664 miles of gas lines; 14 ports, 7 grain elevator facilities, one ship canal improved, 9 major telecommunications systems financed.

Education:

Amount: 74 loans amounting to $375 million for projects costing $816 million.

Impact: Helping to modernize and improve 694 learning centers of which 504 are vocational or technical schools, 70 are universities, 80 are special schools or facilities of universities, 18 primary of secondary schools, 19 research centers.

Urban Development:

Amount: 52 loans amounting to $454 million for projects costing $816 million.

Impact: Helping to build 361,123 housing units along with community facilities and 10 municipal markets.

Industry and Mining:

Amount: 155 loans amounting to $1.254 million are helping finance projects costing $10.728 billion.

Impact: 50 industrial plants in production; 26 under construction; 6,353 small and medium sized firms assisted to build or expand facilities.

Preinvestment:

Amount: 76 loans amounting to $138 million is helping to finance preinvestment programs amounting to $254 million.

Impact: 1,281 preinvestment studies completed.

Tourism:

Amount: 6 loans amounting to $71 million finance projects costing $185 million.

Impact: These loans mobilize energies and provide basic skills to large numbers of unemployed who formerly lived below subsistence levels.

Export Financing:

Amount: 18 loans amounting to $132 million helping to finance capital goods exports with an invoice value of $190 million among Latin American countries.

Impact: To foster Latin American integration and intra-regional export trade.

As estimated, 2 million individuals will benefit directly from approximately one fifth of the money lent in 1975. Each of these is a member of a producer or consumer cooperative, a credit union or some other form of association of small farmers, fishermen or industrial workers. Of the additional $1.1 billion, no ready estimates are yet available, but several million more individuals will benefit directly and indirectly whether they be members of new rural water associations, new customers for expanding rural electrification networks, or workers in mines or factories, where new investments made possible by Inter-American Development Bank loans are about to take place.

Mr. JAVITS. Mr. President, I shall sum up by saying this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I ask Senator Humphrey to yield me an additional minute.

Mr. HUMPHREY. I yield an additional minute.

Mr. JAVITS. We are learning that the nations which are closest to us are the nations which mean the most to us. This is a very creative partnership between the United States and Latin America incorporated in the Inter-American Development Bank which is distinguished also by the fact that it is very heavily Latin-American run, which involves a tremendous moral factor in demonstrating the capacity of those from Latin America to run large business affairs and a very great factor in the ongoing development of that whole part of the world.

Therefore, to back out or step away from a success story—and that is essentially what this is—with all of the vicissitudes which it implies would certainly not be wise at a time like this for the United States.

I hope very much that the Senate will again, as it has before, approve our continued participation.

I offer only one last fact, and that is to lessen the financial burden, I might say, we stretched these payments over 4 years instead of the original 3, and that was done expressly because of our situation at this time in order to give the Treasury the most relief possible.

Mr. HUMPHREY. That is correct.

Now I yield 5 minutes to the Senator from Colorado.

Mr. GARY HART. I thank the Senator from Minnesota for yielding.

I shall direct a couple of brief questions to the Senator from Minnesota in this regard.

As the Senator from Minnesota knows probably as well or better than any Member of this body, our country has suffered certain political setbacks in the developing parts of the world, including the great continents of Latin America and Africa. Many people in this country ask themselves why we have suffered these setbacks.

Would it not be the case that the amounts of money expended and the problems we have gotten ourselves into in terms of clandestine and covert operations might have been prevented if we had been more heavily engaged in development activities of this sort? Active aid forward looking U.S. participation in economic development institutions like the Inter-American Bank and the African Development Fund could have established some political goodwill and capital for us in parts of the world. Aside from the question of morality, there is the question of what is practical and pragmatic in the interests of our country not to mention what makes good financial sense.

It seems to me that helping countries to get on their feet and get going, is a much better way to create goodwill that we could draw on when we need some political help and support, than undermining governments or operating covertly or clandestinely.

So would the Senator from Minnesota agree there are some tremendous practical and political benefits that flow to us from this kind of development activity?

Mr. HUMPHREY. I do, and I say that the practical political benefits are common knowledge. IDB activities make people aware that we are constructively working to help them improve their lot and their well-being. This kind of a banking operation is also of great help to our own economy as well as to the others.

I point out further that for every dollar that the Bank loans, another $3 or more comes from the recipient country for the same projects. As I was pointing out earlier, in the agriculture figures, although the Bank has loaned about $1.979 billion in 15 years for agriculture, the total amount if investments in those years as a result of Bank loans was $5.384 billion, the difference was generated within the country that received the loan.

Furthermore, as the Senator from New York has just pointed out, from an economic point in our country, we do a tremendous business in Latin America. One-sixth of all the exports of this country go to Latin America. This provides jobs.

I had the Joint Economic Committee and our Senate committee take a look at what the job relationship was to this program. It is estimated that in 1 year an additional 36,500 jobs are established as a result of the exports and the trade that IDB activities help to generate. So we get a great beneficial impact back home as well as abroad.

Frankly, in 1 fiscal year, we will expend in military assistance and military credits more than $3 billion. Not a bit of that is productive. In 4 years, under the bill before the Senate, the total amount for Latin America will be $720 million in actual outlays—$745 million, including ing the African Development Bank, in a 4-year period.

The total amount of the commitment that we make for that entire period, even with the callable capital—which never has been called under any circumstances in any international development fund we have participated in—is $2.250 billion.

So even if the worst of conditions come about—let us assume that the very worst happens—in a 4-year period we will have spent $2.250 billion, compared to 1 year of military assistance and military credits of $3.2 billion. I believe participation in the IDB is wise public policy.

Mr. GARY HART. So, as to those who are concerned about the U.S. position in Latin America, and Cuban encroachment and about the future of South Africa and what is going to happen because of recent developments in Angola and about losing votes in the United Nations, the Senator from Minnesota agrees that investments of this sort are the best kinds of investments, in political terms, in terms of good will, in terms of potential support, in developing our policies in both those continents and in the United Nations, and are better than any other investments we could make.

Mr. HUMPHREY. I certainly feel so.

If we had even some peripheral troubles with Cuba in which we had to mobilize a certain part of our defense forces, the cost of that mobilization for any one year would be far more than the amount of American funds the Bank invests in Latin America. I think this replenishment is one of the best things we could do.

Mr. GARY HART. I thank the Senator for yielding.

Mr. HUMPHREY. I thank the Senator for his constructive contribution.

The PRESIDING OFFICER (Mr. PERCY). The time of the Senator has expired. Who yields time?

Mr. HUMPHREY. Mr. President, I believe the Senator from Virginia wished to make another comment, and I yield to him such time as he desires.

Mr. HARRY F. BYRD, JR. I thank the Senator from Minnesota.

Mr. President, I ask unanimous consent to have printed in the RECORD several pages from the fiscal year 1976 foreign aid assistance appropriations report of the Senate Committee on Appropriations. The pages of the report deal with the Inter-American Development Bank, and I believe they deserve to be made part of the record for this debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL FINANCIAL INSTITUTIONS: SALARY LEVELS AND OTHER BENEFITS

The United States has been a most generous contributor to those international financial institutions providing assistance to the less developed nations of the world. In fact, our country has been the leading contributor and supporter of these institutions since their inception.

Our support has been founded in the belief that many of the problems in the developing world require a multilateral solution. We have also supported the ideal of a multinational corps of trained professionals and administrators, established to direct this assistance without thought of national or personal gain.

In the harsh light of reality, however, many of our conceptions prove to be but empty shadows. We find that there are favored nations when development assistance is parceled out. We also find that many who are said to be dedicated servants of the poor receive unseemly compensation for their service.

These charges are not made lightly. This Committee has taken as a starting point the belief that those who seek employment with institutions having direction over contributions made to assist the poorest of the poor should be embarking on a career of public service. To be sure, executives and professionals in the employ of the international development banks are entitled to compensation commensurate to their services and adequate to the purpose of ensuring that the banks are able to attract highly qualified personnel. We do not deny this.

Nonetheless, our investigations have led us to the distressing conclusion that, rather than the rewards of a career of service, there is found in the banks a broad pattern of personal enrichment. The personnel management practices of the banks are suggestive of an institutionalized granting of lifetime sinecures where extraordinarily high salaries are commonplace and the pursuit of fringe benefits has been raised to a form of art.

On this and the following pages the Committee presents several tables indicating the salaries paid to certain administrators and professionals of the international development lending institutions.

ASIAN DEVELOPMENT BANK

Gross salaries of president, vice president, and alternate executive directors [1]

[In U.S. dollars]

Level	Gross salary [2]
President [3]	$51,500
Vice President	45,000
Executive Directors	[4] 38,500
Alternate Executive Directors	33,000

[1] These individuals may also receive a dependency allowance, for example $1,550 per annum for a family of four.

[2] As U.S. nationals are not reimbursed for U.S. federal tax payments, all ADB salaries are on a gross basis.

[3] Residence provided by ADB.

[4] Under the provisions of Section 3-B of the Asian Development Bank Act, the USED is entitled to compensation and allowances equal to those authorized for a Chief of Mission, Class E, within the meaning of the Foreign Service Act of 1946. The USED receives $1,500 per annum and a residence from the U.S. Treasury Department.

ASIAN DEVELOPMENT BANK

Professional salaries

[In U.S. dollars]

Level and responsibility	*Gross salary range* [1]
I. Other officer	$9,550–$21,715
II. Other officer	18,990– 25,530
III. Other senior officer	21,715– 29,220
IV. Senior officer	25,530– 32,725
V. Assistant director, manager or equivalent	29,220– 36,695
VI. Deputy director, or equivalent	32,725– 39,050
VII. Department director, or equivalent	36,695– 40,050

[1] Gross salary is defined as annual salary plus a dependency allowance for a family of 4 ($1,550). As U.S. nationals are not reimbursed for U.S. Federal tax payments, all ADB salaries are on a gross of tax basis. Salary ranges effective June 1, 1975.

THE WORLD BANK

Net and gross salaries of president, vice presidents, executive directors and alternative executive directors

[In U.S. dollars]

	Net salary	Gross salary [1]
President:		
Salary	60,000	114,060
Housing and representation allowance	16,000	-------
Senior vice president	52,900	98,280
Vice president (average)	41,735	73,870
Executive directors	43,500	77,400
Alternative executive director	34,200	56,730

[1] Gross equivalent salary is defined as net salary plus dependency allowance adjusted for Federal and State income taxes and for social security taxes. For purpose of these adjustments a family of 4 residing in the District of Columbia is assumed. Presidents expense allowance is in addition to gross salary. Standard deductions are assumed (dependency allowance: (1) for spouse, $500 plus 1½ percent of net salary over $10,000, (2) for child, $400.)

THE WORLD BANK

Professional net and gross equivalent salaries

[In U.S. dollars]

Level	Net salary ranges [1]	Gross equivalent salary ranges [2]
J	$13, 440–$20, 140	$18, 530–$29, 480
K	16, 940– 24, 400	23, 920– 37, 250
L	20, 850– 28, 890	30, 780– 46, 260
M	25, 080– 32, 880	38, 580– 54, 950
N	29, 650– 36, 960	47, 740– 64, 280
O	34, 180– 41, 490	57, 840– 74, 500
P	35, 540– 42, 700	60, 950– 77, 150
Q	38, 960– 45, 740	68, 730– 84, 050

[1] Ranges after last salary adjustment, Mar. 1, 1975 .

[2] Gross equivalent salary is defined as net salary, plus dependency allowances assuming spouse and 2 dependents, District of Columbia residence, and grossing up with standard deductions.

THE INTER-AMERICAN DEVELOPMENT BANK

Net and gross salaries of President, Vice President, Executive Directors, and Alternate Executive Directors

Level	Net salary	Gross salary [1]
President:		
Salary	[2] $56, 475	-------
Expense allowance	16, 000	-------
Executive vice prsident	46, 000	$90, 300
Executive directors	42, 000	74, 750
Alternate executive directors	33, 000	54, 850

[1] Gross equivalent salary is defined as net salary plus an average of $1,475 dependency allowance adjusted for Federal and State income taxes and for social security taxes. For purposes of these adjustments a family of four residing in the District of Columbia was assumed. Standard deductions are assumed. The President's expense allowance is in addition to net salary.

[2] The incumbent is not a U.S. citizen and thus the gross salary is not relevant; the incumbent is paid the net salary indicated. Dependency allowance assuming spouse and 2 dependents is included.

THE INTER-AMERICAN DEVELOPMENT BANK

Professional net and gross equivalent salaries

[In U.S. dollars]

Level	Net salary ranges [1]	Gross equivalent ranges [2]
IX	$10, 970–$16, 095	$14, 900–$22, 400
VIII	12, 316–18, 067	16, 700–25, 500
VII	13, 853–20, 433	19, 000–29, 600
VI	15, 584–22, 912	21, 600–34, 200
V	17, 792–26, 131	25, 100–40, 400
IV	20, 287–29, 710	29, 300–47, 600
III	23, 246–33, 607	34, 800–56, 100
II	26, 525–35, 273	41, 100–59, 800
I	30, 091–36, 719	48, 400–63, 000
Deputy managers	37, 517–39, 500	64, 800–69, 200
Managers [3]	38, 500–41, 500	67, 000–73, 600

[1] Range as of January 1976.

[2] Gross equivalent salary is defined as net salary, plus a dependency allowance of $1,475 both adjusted for Federal and Distrcit of Columbia income taxes (assuming 2 dependents and standard deductions) and for social security tax.

[3] Salary limited to $40,000 for Managers and $39,000 for Deputy Managers until June 1, 1976. Included in the Manager and Deputy Manager range are two individuals with the titles of Senior Manager and Senior Deputy Manager.

In reviewing these tables it is astounding to find that the President of the World Bank is paid an annual salary of some $114,060 (excluding certain additional benefits), an amount nearly twice the salary of the Secretary of the Treasury of the United States. Indeed, even a Division Chief in the World Bank may receive more for his services than our own Treasury Secretary.

It was even more astounding for the Committee to learn recently that a former assistant secretary of the Treasury (who left that position to assume his duties as an executive director of the World Bank) found that overnight his annual gross salaried income had increased from the $38,000 he earned as an official of the United States Government to the $74,060 paid to executive directors by the World Bank.

The Committee, in citing these instances, does not seek to embarrass individuals, nor do we wish to question their individual qualities. What we do question, and what must be an embarrassment to these institutions, is the perpetuation of a system providing unparalleled pay and allowances to those whose primary purpose is to assist the poor and needy peoples of the world. By its excesses, this system, in our opinion, denigrates the spirit of international cooperation and concern which underlies contributions to the banks.

The Committee is not alone in voicing its concern with these excesses. The following letter sent by Secretary Simon to World Bank governors records the Treasury Department's concern with unrestrained salary growth:

APRIL 13, 1975.

DEAR MR. GOVERNOR: I am writing to you in your capacity as governor for (host government) to express my government's serious concern about the proposals for large salary increases in the World Bank and the International Monetary Fund. I am fearful that the proposed compensation increases will undermine public and legislative support for these institutions in member countries and I urge your government, through its representatives on the respective boards of directors, to join the United States in seeking to exercise a greater degree of restraint in the upcoming compensation adjustments.

The salary issue has grave implications that transcend the immediate compensation question. At a time of worldwide economic difficulties it is especially important that publicly financed organizations reflect an appropriate sense of austerity. For the IMF and the World Bank now to give large salary increases, particularly at the higher levels, would be most untimely. During the next year member governments in all likelihood will be asking their legislatures to approve substantial quota increases and to concur in changes in the IMF articles. In addition, contributions to the IDA and other international development institutions require parliamentary approval. With many of our economies facing retrenchment we cannot afford the risk of unfavorable public reaction to salaries seen as excessively high. Therefore, the United States will propose that any overall increase in IBRD/IMF salaries be limited to no more than 5 percent. We will strongly urge a freeze on all salaries above US $30,000 net-of-taxes (approximately $47,000 gross) including salaries of executive directors and alternates. We will also urge a tapered increase on salaries below the freeze level. I hope you will be able to support either this proposal or one along these general lines, including at least a freeze at the higher levels with considerable tapering below that.

The United States believes that the salary levels of these institutions should bear a reasonable relationship to the governmental salary levels of member governments if these institutions are to avoid serious criticism. As the result of past adjustments, employees, in these organizations enjoy salaries which substantially exceed those of all member country governments. The low voluntary resignation rates and extraordinary high ratios of applicants to vacancies in these institutions confirm in our view that the large salary increases which have been proposed are not required to maintain the competitiveness or operational efficiency of these institutions.

I hope that, because of your concern for the future of these important organizations, you will seriously consider our proposal. The political consequences of substantial salary increases for staff of organizations intimately involved with the issues of poverty, income distribution, and monetary stability, could be most detrimental to these organizations and ultimately to their member governments.

I would appreciate any observations you may have on this matter and my executive directors will be in close contact with your representatives.

Sincerely yours,

WILLIAM E. SIMON,
U.S. Governor, IBRD/IMF.

In our investigations over the past year the Committee found that this lack of concern with the provident management of the banks' resources as reflected in their salary schedules, extends to the provision of a variety of special allowances. United States Government travel regulations specify that, with certain limited exceptions. In the banks we found quite a different regimen.

The Committee found, for example, that 22 officials of the Asian Development Bank and 23 officials of the Inter-American Development Bank are authorized to travel in first-class accommodations. The World Bank authorizes first-class travel for *all* of its employees traveling to Africa, Asia, or southern Latin America. In each of these institutions substantial cost savings could have been realized had ecoomy class instead of first-class been used for business travel. The most costly expenditure was that of the World Bank which could have saved $1.3 million to $1.5 million during the period July 1, 1974, through June 30, 1975.

In normal times, expenditures for most first-class travel are, at best, difficult to justify; in these times of financial constraint, they become, especially for organizations engaged in development, the hallmark of a bureaucracy insensitive to the growing disparity between rich and poor. The Committee suspects that the banks, when pressed, are at a loss to explain this lack of sensitivity and the continued imprudent use of monies they hold in trust. We suggest that the banks demonstrate a commitment to frugal and prudent management by barring such luxury expenditures in the future.

Perhaps the most flagrant misuse of contributions made to help the poor is found in the banks' use of these contributions to finance travel by spouses of their employees. While in the Asian Development Bank only the wife of the President is authorized to travel at Bank expense, the Inter-American Development Bank and the World Bank each have employee benefit systems which provide for Bank financing of travel by guests of all employees. Under these systems the Bank employee earns points for each working day spent outside the United States on Bank business. When sufficient points have been accumulated, the Bank will also pay subsistence expenses for the guests. During the period January 1, 1974 to September 30, 1975 these banks spent $740,241 on travel and subsistence costs of guests.

The Committee has, on several occasions, requested detailed reports on the expenditure of World Bank and Inter-American Development Bank resources to cover the cost of travel and subsistence for spouses of employees. The two Banks refused to honor the Committee's request, which was made through the U.S. Treasury Department. However, Treasury officials have made summary information available to the Committee. In abbreviated form, this information identified the following expenditures which we believe to be excessive:

WORLD BANK

During the period January 1, 1974 through September 30, 1975 the Bank funded 268 trips by spouses; 224 involved only the cost of transportation and 44 both transportation and subsistence. Of those trips involving only transportation, the average cost of the 22 most expensive was $3,497. Of those trips involving both transportation and subsistence, the average cost of the four most expensive was $4,749.

INTER-AMERICAN DEVELOPMENT BANK

During the calendar year 1974 the Bank funded 76 trips by spouses with the average cost of the 8 most expensive trips being $1,721. During the 9 month period January 1, 1975 through September 30, 1975 an additional 52 spouse trips were funded. The five most expensive of these averaged $1,768.

The Committee is unable to reconcile the expenditure of these funds with the mission of the banks. It may be argued that in relation to the total volume of the banks' business these costs are small. That may be true, but, in this case, small is not insignificant.

The international financial institutions are not self-sustaining institutions. Each requires periodic replenishments of capital resources to continue financial operations. And, herein lies the significance of the abuses we have identified in the banks' personnel management practices.

The ability of the banks to carry the promise of economic change to the developing world is largely dependent upon their prestige and authority. With regard to the banks, prestige and authority must be measured in terms of the trust recipient countries place in the advice of the banks and the assurance contributors have that the banks will use their resources in the most effective manner.

It is the opinion of the Committee that the interlocking systems of high salaries and extraordinary fringe benefits threaten to undermine the prestige and authority of the international financial institutions. There is the danger here of a breach of faith between contributors, recipients, and the banks' secretariats. It is a danger which the banks ignore at their own peril.

As a footnote to this section, the Committee presents the following tables. Management studies have often used personnel turnover rates as guides to the health of institutions. Analysts have found that excessively high turnover rates *or excessively low turnover rates* are indicators of management problems. The Committee has spoken of lifetime sinecures; the tables speak for themselves.

TURNOVER RATES AND APPLICATIONS/VACANCY RATIOS

	Turnover rate (professional staff)		Applications/vacancy ratio (professional staff)	
	1974	1975	1974	1975
World Bank	9.7	9.1	[1] 30.0 [2] 2.1	[1] 35.0 [2] 2.0
Inter American Development Bank	9.2	6.1	26.1	45.1
Asian Development Bank	12.7	8.5	35.0	44.0
International Monetary Fund	9.3	7.6	20.0	18.8

[1] This ratio reflects the gross applications per vacancy prior to prescreening.

[2] This ratio reflects the number of viable candidates per position who have passed the prescreening process of the Recruitment Division.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD some material in connection with my discussion of this bill.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

H.R. 9721—MONEY

The $2.25 billion authorization involves only a $745 million eventual expenditure over a four year period.

What is being considered in this bill is actually four categories of figures: authorization, appropriation, eventual outlays and actual disbursements. The requests are for a four year period. The overall figures are:

Authorization, $2.27 billion.

Appropriation, $1.3 billion.

Eventual Outlay [IDB $720m+Africa $25m] $745 million.

FOR FY 1976 THE FIGURES ARE

Appropriations request, $265 million.

Eventual outlay of FY 1976 funds, $65 million.

Actual disbursement of FY 1976, less than $10 million.

The chief reason for the differences in these figures is that a large portion, $1,530 million, is for callable capital which simply provides security for the IDB to borrow money on the commercial markets. Only part, $600 million, of this callable capital requires appropriations because legally the bond issues it backs require this. Bond issues backed by the other portion of callable capital (inter-regional) will not include this limitation. Therefore, appropriations are not being sought for this portion ($930 million) of the authorization.

In the history of all International Financial Institutions in which the United States participates, callable capital has never been called—has never resulted in an actual payment from the United States to the banks. It is highly unlikely that this would ever happen unless the world economy collapsed. If this should happen, then the callable capital which has not been appropriated would need to be appropriated before it could be paid out. There is no element of backdoor financing here.

For budget purposes the important figure is the $745 million which will eventually be available to be paid out to the banks. Availability of these funds will occur in yearly installments of:

(In millions)	
1976	$65
1977	240
1978	240
1979	200
Total	$745

In three of these years the appropriations request will also include funds for callable capital which will not be paid over. Thus appropriations requests are:

(In millions)	
1976	$265
1977	440
1978	440
1979	200
Total	$1.345

The rate at which these monies actually leave the U.S. Treasury (disbursement) is much slower since availability is indicated by letters of credit. These letters result in actual payments only as the funds are required. Thus in 1976 the actual disbursement will be less than $10 million. (This is an important point to stress because the budget committee is concerned about the actual rate of disbursements, i.e., actual cash outlay during 1976.)

BENEFITS TO U.S. TAXPAYERS

To those who claim that this bill does not benefit taxpayers, because it is essentially foreign assistance, it should be noted that the United States does benefit in economic terms both directly and indirectly.

1. Direct Benefits:

IDB purchases in the United States have equaled $1 billion by 1975.

It is expected that this bill will make possible another 1.5 billion in U.S. purchases.

Jobs: IDB activities in the U.S. have resulted in 800,000 person-years of employment. New money is expected to provide an additional 55,000 person-years.

IDB administrative activities in Washington have generated income for U.S. citizens of $875 million.

2. Indirect Benefits: Participation in the IDB helps our relations with Latin America which helps our trade and investment opportunities there.

Roughly 15% of U.S. trade which is currently registering a surplus is with Latin America. In 1974 alone this generated 700,000 person-years of employment.

Fifteen percent of U.S. direct investment abroad is in Latin America. This is 60% of total U.S. investment in developing countries.

Latin America is a key source of raw materials—including oil.

IMPORTANCE OF IDB IN LATIN AMERICA

The United States has a historic political and economic interest in and involvement with Latin America. In a time of political tension between the underdeveloped world and the industrialized nations the maintenance and improvement of relations with our Latin American neighbors has never been more important. At present, close to one-sixth of all U.S. trade is with Latin America. Moreover, the region serves as an important source of investment opportunities and raw materials.

U.S. ECONOMIC RELATIONSHIP WITH LATIN AMERICA IN GENERAL

1. Aggregate Trade Surplus: $1 billion.

a. Exports: $15 billion or 15% of total in 1974.

b. Imports: $14 billion or 14% of total in 1974.

2. Direct Investment Abroad: $15 billion or 14% of total. 60% of total in developing countries. Largest recipient outside Western Europe.

3. Source of Raw Materials: Important source for key commodities, among them: iron ore, copper, petroleum, bauxite, sugar, and coffee.

4. Employment Impact:

a. U.S. Exports to Latin America generated 700,000 person years of employment in U.S. in 1974.

Since its establishment in 1959, the Inter-American Development Bank (IDB) has been a major component of our Latin American policy. The Committee on Foreign Relations has consistently urged support for U.S. participation in the Bank because it represents the type of mutual cooperation which should be at the heart of our hemispheric system. U.S. membership in the Bank is a concrete expression of commitment to the economic and social development of Latin America. Furthermore, the Bank contributes directly to the United States economy in terms of both procurement and employment creation.

IMPACT OF THE IDB ON THE U.S. ECONOMY

1. Programs to Date: Cumulative procurement from the United States of $1 billion. Employment creation of 36,500 person-years.

2. Future Programs: The $6 billion replenishment should make possible: Procurement from the United States of $1.5 billion. Employment creation of 55,000 person-years.

3. Administrative Expenditures: Cumulative direct expenditures in the United States have accounted for: Employment creation of 43,000 person-years. Income generation of $875 million.

DEVELOPMENT NEEDS

Fortunately, economic development in Latin America appears to be succeeding and the IDB is playing an important role in that success. The past quarter century has seen a number of important development successes. GNP in Latin America as a whole had been growing at almost 7% per annum in real terms. Since 1960, value added in manufacturing in the region and installed electrical capacity have tripled, and primary school enrollments have quadrupled.

Nevertheless, in spite of the progress achieved, half the population of Latin America still has a daily calorie intake below minimum requirements; more than a third of the primary school-age population is without education facilities or unable to attend school; a quarter of all adults are illiterate; 40% of urban households lack potable water; and infant mortality in Latin America is 80 per 1000 live births as compared with 19 in the United States. Agricultural production, although still involving 40% of the labor force, is expanding only slightly faster than population.

Although the development task in Latin America is well begun, there is still much to be done. Latin America will require an expanded flow of external finance over the next several years to maintain its development momentum. The region still includes a sizeable group of poor countries needing access to a substantial flow of concessional resources. Moreover, several major sectors of regional economic and social development are lagging far behind in some countries and need preferential attention. I believe that the IDB has been, and will continue to be, an important instrument in the effort to alleviate these problems.

U.S. participation in the current IDB replenishment is essential, not only to maintain the U.S. commitment to and participation with Latin America in areas of mutual concern, but also to demonstrate our continuing support for Latin development efforts.

SUPPORT FOR IDB FROM THE PRIVATE SECTOR

A number of outside groups have also indicated their support for the IDB and this replenishment. For example:

AFL–CIO

"The AFL–CIO supports these contributions (to the IDB) . . . because the U.S. as the richest nation on earth has both an interest in successful development of the poorer nations and an obligation to assist them in their endeavors."

Interreligious Task Force

"The Inter-American Development Bank and particularly the African Development Fund are designed to assist the rural poor in developing countries, especially in agricultural projects and programs. In contributing to their work, the United States joins with other nations to impact the problem of world hunger and malnutrition in a direct and cooperative way. The proposed funding levels appear to us to be reasonable, given the magnitude of the needs and relative resources and responsibilities of the United States to assist."

U.S. Chamber of Commerce

The Board of the U.S. Chamber of Commerce officially "1) Supports participation in the replenishment of the Inter-American Development Bank with U.S. paid-in contributions of $720 million over a three year period and 2) approves the proposals to admit non-regional donor countries into the bank. The Chamber regards support for the IDB as practical in both economic and political terms. Economically it works and seems to be a sensible and practical approach to development assistance. It has direct benefits for American business. Our 48,000 firms have specific evidence of the positive impact of IDB activities on their operations and in improving the climate of good will toward them in Latin America."

Council of the Americas (composed of leading U.S. companies investing in Latin America)

"The Council of the Americas is in support of the appropriations for the Inter-American Development Bank. It recognizes the dynamic role the bank has played in the decade of the 1960s in providing Latin America with credits needed to help make the agricultural and industrial sectors viable. The IDB provides the assistance necessary for the many projects without which private industrial undertakings would not be economically feasible. The Council is acutely aware of this since its membership represents 90% of U.S. investment in Latin America.

STATEMENTS OF SUPPORT FOR THE IDB

(Mail Gram from Henry Fowler—Mar. 30, 1976.)

The following message relates to Senate consideration of HR 9721 to increase U.S. participation and support of the Inter-American Development Bank. I have observed at close range the operation of the IDB for the last decade as the U.S. Governor of the Bank, in my capacity as Secretary of the Treasury from 1965–1968, and for the last several years as a partner in an investment banking firm which acts as an underwriter and co-manager of the bond offerings of the IDB in the U.S. capital market. It is a well managed institution which has earned the respect and high regard of financial institutions in this country and throughout the world. It is effectively discharging its chartered responsibilities as a joint banking enterprise of the governments of the Western Hemisphere in providing credit for sound and useful projects in Latin America on reasonable terms. The increased support by the U.S. government together with the authorization of the U.S. government to vote for amendments to the charter to admit non-regional nations from Western Europe and the Far East to contribute to the provision of capital greatly needed for Latin American development will broaden the base of this public multinational bank which is playing the key role in the continuing struggle for progress in this important part of the world which is so vital to our national interest.

FROM DAVID ROCKEFELLER OF CHASE MANHATTAN BANK

(Telegram sent to Honorable Hubert Humphrey)

The Chase Manhattan Bank certainly supports the increase in the United States contributions to the Inter-American Development Bank. We feel that it is a sound institution which plays a very substantial role in the development process of Latin America and that it indeed merits the support of the United States.

Sincerely,

DAVID ROCKEFELLER,
Chairman, Chase Manhattan Bank.

INTER-AMERICAN DEVELOPMENT BANK,
Washington, D.C., March 26, 1976.

The following telex was sent today by Wells Fargo to Hubert Humphrey.

This telegram is to express our support of the HR 9721 the bill to authorize increased U.S. participation in the Inter-American Development Bank. (IDB). We consider the IDB to be a well managed, effective international organization which has *worked effectively with the U.S. banking community*. Thus, we *strongly urge Senate passage of the bill.*

ROBERT N. BEE,
Senior Vice President,
Wells Fargo Bank.

INTER-AMERICAN DEVELOPMENT BANK,
Washington, D.C.

From the First National Bank of Chicago, Chicago, Illinois, March 29, 1976.

Hon. HUBERT H. HUMPHREY,
Chairman, Foreign Assistance Subcommittee, Foreign Relations Committee, The Senate, Washington, D.C.:

I urge you most strongly to give your support and to seek passage of H.R. 9721 authorizing increased U.S. participation in the Interamerican Development Bank.

The First National Bank of Chicago has actively participated with the Interamerican Development Bank in a number of situations in developing countries in Latin America. We believe that the bank plays a very important role in the development of countries friendly to the United States in this hemisphere. In our opinion the bank effectively managed and controlled by an excellent staff. Their approach of development loans is one which shows a considerable degree of professional investigation of the benefit of the loan to the recipient country and to the creditworthiness of the specific project.

It is our belief that the economic development of Latin America is in the clear interest of the United States and that the Inter-American Development Bank in its activities is a major contributor to sound economic development in Latin America, especially because of the requirements for reasonable economic policy advocated by the bank.

Sincerely yours,

WILLIAM J. McDONOUGH,
Executive Vice President, International Banking Department.

NIGHT LETTER FROM KENNETH A. RANDALL, CHAIRMAN OF THE BOARD, UNITED VIRGINIA BANK, RICHMOND, VIRGINIA

MARCH 30, 1976.

I would like to endorse H.R. 9721 inncreasing U.S. participation in the Inter-American Development Bank and hope and request favorable consideration of this bill. Having been involved with this institution for 12 years, I have been greatly impressed with their program for improvement of the economic well-being of the citizens of Latin America. This is particularly true with regard to the financing of infrastructure which has led to improvements in the standard of living of these people.

The Inter-American Development Bank is well run in my view from both the U.S. and the Latin American side. My personal involvement in their programs includes lecturing at their sponsored school, Intal, which has been used to forward Latin American integration.

United Virginia Bank Shares is particularly pleased to support this legislation.

Mr. HUMPHREY. Mr. President, if the Senator from Virginia is prepared to yield back the remainder of his time, I am prepared to yield back the remainder of my time.

Mr. CASE. This is on the amendment?

Mr. HUMPHREY. This is on the bill.

Mr. CASE. I understand that the Senator from South Carolina wishes to offer some amendments. Therefore, I ask that the Senator withhold yielding back his time.

Mr. HUMPHREY. We did not have any such indication.

I yield first, then, to the Senator from Maine.

The PRESIDING OFFICER. Yielding back time on the bill will not preclude time on amendments.

Mr. HUMPHREY. I yield on my time to the Senator from Maine, and then I will yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I make this statement on the budget implications of the pending measure.

Mr. President, H.R. 9721 would accomplish two purposes: It would authorize continued U.S. participation in the Inter-American Development Bank and initial U.S. participation in the African Development Fund. Both of these organizations are part of a network of international financial institutions that provide the United States and other industrialized nations a means to participate in the economic development of the poor countries.

The Inter-American Bank supports a broad range of development throughout Latin America. Its conventional loans, largely obtained through borrowing in private financial markets, fund income-generating projects in the agricultural sectors. Concessional loans to the poorest countries finance social and economic infrastructure programs, such as rural development, education, housing, and technical assistance. The bank encourages integration projects which benefit more than one member country.

This bill would authorize a total U.S. participation of $2.25 billion in the fourth replenishment of the resources of the Inter-American Development Bank over the 4-year period fiscal year 1976 through fiscal year 1979. Of this amount, a total of $1.32 billion is expected to be appropriated. Some $720 million of appropriated funds would be paid in and would eventually result in outlays, while $600 million would be appropriated for ordinary callable capital which under normal operations should not result in outlays since these funds are designed to provide backing for the bank's borrowing in the private capital markets.

The remaining $930 million is for new callable capital that is separate from the bank's ordinary callable capital. This separate callable capital subscription, which includes European and Japanese contributions, would be backed, on the basis of this authorization, by the full faith and credit of the United States, but no appropriations request for this amount is anticipated unless an unprecedented default occurs.

The bill would also authorize an initial U.S. contribution of $25 million to the African development fund in fiscal years 1976, 1977, and 1978, which would be paid in and thus result in outlays.

In fiscal year 1976—the first year covered by this bill—budget authority of $240 million for the Inter-American Bank contribution and budget authority of $25 million for the African Development Fund contribution are expected to be appropriated. The Inter-American Bank funds spend slowly and outlays this year are estimated to be only $2 million. The African Development Fund appropriation would be spent over a 3-year period, with fiscal year 1976 outlays of $9 million.

Leaving aside the callable capital portions which are not likely to cause outlays, this bill involves a $745 million commitment of U.S. resources over the next several years, even though the fiscal 1976 outlay amounts are small. While the Appropriations Committees have stressed that the levels authorized do not bind future Congresses as to appropriation levels—and while the Appropriations Committees have in recent years cut or stretched out the appropriations under authorizations such as this—I would point out that tremendous pressure is put on the Congress to fund fully these commitments which have been negotiated unilaterally by the executive branch without congressional involvement.

We should therefore recognize that if Congress declines to appropriate fully the administration's requests for this bill this year, the unfunded remainders will likely appear again as budget requests in following years. And the outlays resulting from these appropriations—particularly in the case of the Inter-American Development Bank—normally extend for several years beyond the formal replenishment period. Thus passage of this bill represents a significant commitment of Federal funds over a considerable period of time.

I want to turn now to the condition of the overall fiscal year 1976 budget. During consideration of the recent foreign assistance appropriation bill, I said the second budget resolution ceilings adopted by Congress last December may be exceeded by $4.9 billion in budget authority and $300 million in outlays if all the additional legislation that may materialize during the remainder of the fiscal year were enacted and fully funded. Major pieces of legislation still to be considered are:

District of Columbia appropriations.

Supplemental requirements for programs already authorized.

Energy, health, and veterans' legislation.

Public service jobs, summer youth, and other legislation in the education, manpower, and social services area.

Public works and antirecession assistance requirements, all of these programs, as well as the one presently under consideration, were assumed in the second concurrent budget resolution.

There are, however, two factors which contribute to the pace at which we are approaching the ceiling of the second resolution. First, the assistance to New York City was not assumed in the second resolution because that matter was not settled at that time. Since then, spending legislation amounting to $2.3 billion in budget authority has been enacted by Congress to aid New York. Second, our problem is compounded by the fact that the administration had inadequately estimated the cost of existing programs, and therefore we are faced with increases in budget authority beyond our control.

I expect, within the next few days, Mr. President, to be able to give the Senate an up-to-date, current figure on the reestimates, which are always a part of the budget process at this point. There has not been excessive spending on the part of Congress.

The budget authority and outlays contemplated in the Inter-American Development Bank authorization bill are consistent with the second resolution. Nevertheless, we must keep in mind that if we vote in favor of the bill, some other priority item may be crowded out later unless we are willing to increase the ceiling on budget authority.

I plan to vote for this bill because it represents a continuation of a major 15-year-old U.S. commitment to the well-being of this hemisphere. This commitment cannot be taken lightly. I support the bill, however, with the knowledge that the multiyear appropriation requirements for these programs will have to be considered in light of total budget priorities and availabilities as determined by existing and future budget resolutions.

Mr. WILLIAM L. SCOTT. Will the Senator from Minnesota yield briefly to me?

Mr. HUMPHREY. How much time does the Senator want?

Mr. WILLIAM L. SCOTT. Just a minute or two.

Mr. HUMPHREY. I gladly yield.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's yielding.

Mr. President, I rise briefly to express my opposition to the bill. There is some indication that a request will not be made for a rollcall vote, but when we have a roughly $600 billion national debt and we are paying interest at the rate of roughly $40 billion a year, I cannot find myself voting in favor of a measure which, according to page 26 of the report, would authorize the appropriation of $1.345 billion. I want the RECORD to show my opposition. Should there be a rollcall vote, I, of course, will vote in opposition to the bill.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I wish the RECORD to show, that if a vote were taken on this measure, the Senator from Virginia would vote in the negative.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment, as follows:

On page 8, beginning with line 1, strike out through the rest of the bill.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask unanimous consent that Mr. Rom Parker of my staff be accorded privileges of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this amendment would strike all of title II of H.R. 9721, now before us for consideration. Title II, the so-called African Development Fund, is a new foreign aid program calling for an initial authorization of $25,000,000. The Development Fund would be administered by, and through, the United Nations.

Mr. President, I am, and always have been, totally opposed to sending around the world the hard-earned tax dollars of the American people. I have never been satisfied that foreign aid, relative to its enormous cost, has ever aided anyone, especially the people of the United States. Too often, foreign aid has benefited only the corrupt officials and politicians of nations lacking minimal standards of governmental integrity, never reaching the people it was designed to benefit. Too often, the aid merely helps to prop up incompetent regimes, which have brought about their own economic demise by being seduced by Socialist and Marxist economic systems.

Since 1946, the United States has disbursed $170,303,600,000 in foreign aid grants, paid $115,575,500,000 in interest on the money borrowed to make these grants, for a grand total cost to the American taxpayer of $285,879,100,000 of the taxpayers' money.

I would point out, Mr. President, that this total sum amounts to just about half of the existing Federal debt of nearly $600 billion.

But, Mr. President, whatever arguments might be made in favor of some foreign aid programs, whatever programs there might be to which one might point to even a partial success, the African Development Fund is certain not to fall into such a category.

African governments are notoriously corrupt; for the most part they have opted for Socialist economic systems; in many cases they have expended their energies on tribal warfare and other struggles for power and personal aggrandizement. There is no evidence indicating they will use the money wisely or efficiently.

I note with regret that the administration supports the African Development Fund. Similarly, we heard appeals not too many months ago seeking aid for Angola to fight the very government which presumably will be one of the recipients of this amorphous development fund. At present, the Secretary of State is issuing dire warnings to African and other governments concerning further aggression on the African continent.

Yet this same Secretary of State wants us to aid these same nations he is warning. Let us not be naive, Mr. President. These funds may be labeled "development funds," but the money that goes into economic development only frees other available moneys to procure military hardware. When an individual, Mr. President, attempts his own self-destruction, we put him in a mental hospital and call him a psychopathic masochist. What about a nation which does likewise? It is a sobering thought.

I voted against the Angolan aid. I stated at the time that if and when this Congress and this Government decide to really resist the spread of communism, I would wholeheartedly support the effort. Sooner or later we are going to have to face up to the challenge, and this Senator has long argued that the later it is, the harder it will be. But as long as we are engaging in half-hearted and contradictory responses, using our left hand to cut off our right hand to save the face of those who have staked their political reputations on "détente," "rapproachment," "peaceful coexistence," "peace through strength" or whatever is the current euphemism for appeasement, then this Senator can see no point in wasting the taxpayers' money on such obvious exercises in futility.

This bill, Mr. President, not only proposes to pour money into such areas and under such circumstances that it can do little good—it is administered, mind you, not by the elected representatives of the American taxpayers who are footing the bill, but by the United Nations—the same United Nations which has earned the disapprobation of all thinking people for its irresponsibility and its disregard for the elemental standards of morality and decency of the civilized world and our Judeo-Christian heritage.

When we give an account of our stewardship not only to our constituents, but to history, as we all must eventually do, de we want to have it recorded that we spent our Nation into bankruptcy supporting such things as Ugandan corruption or Angolan Marxist revolution? I think not, Mr. President, I would like to think that rather it will be recorded that the adoption of this amendment was a first step back to restoration of sanity in both our fiscal and foreign affairs.

I reserve the remainder of my time.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. HELMS. I would be delighted to yield.

Mr. WILLIAM L. SCOTT. Mr. President, I would like to commend the distinguished Senator from North Carolina on his amendment.

I spoke very briefly just a few minutes ago expressing the opinion that when we had a national debt approximating $600 billion, and when interest on that debt cost us roughly $40 billion annually, it did not seem that we should pass legislation that would cost in appropriations $1.345 billion as indicated on page 26 of the report.

The distinguished Senator would strike out the second title in which the United States, for the first time, would be participating in an African Development Fund.

I commend the distinguished Senator for his effort to at least reduce the amount of this bill.

I ask to be recorded as being opposed to the whole bill, but certainly it would become more palatable with the elimination of title II in which we would participating in an international development fund for Africa for the first time.

The distinguished Senator is doing something in the interests of the American people.

Now, this money we are talking about appropriating is borrowed money. We are going to borrow money and give it away.

I had a poll of the people in the State of Virginia, and 92 percent of the people of Virginia said they wanted a balanced budget. You cannot have a balanced budget by giving money away to people all over the world in the manner that is proposed in this bill.

The distinguished Senator deserves considerable credit for acting in the interests of the American people.

I ask the Senator to add me as a cosponsor of this amendment.

Mr. HELMS. I thank the distinguished Senator for his generous remarks.

I ask unanimous consent that the able Senator from Virginia (Mr. WILLIAM L. SCOTT) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, let me just say, in response to the able Senator from North Carolina, that there are a couple of features in title II which, I think, will be of some consolation to him. I know his sincere conviction about the Fund and about these investments or these appropriations, and I surely respect his point of view.

First of all, under the African Development Fund which, by the way, is $25 million spread over a 3-year period, the Governor of that Fund, representing the United States, shall be there on the instructions of the President and cast his vote according to those instructions. That is No. 1.

I mentioned to the Senator the amounts which, of course, the Senator knows, and it is spread over a 3-year period, $25 million—$9 million the first year, and $8 million the second and $8 million the third.

But I think the other part that must be at least somewhat reassuring to the Senator is that in evaluating some of the actions of the recipient countries—for example, the Senator mentions countries that have engaged in terrorism, gross violation of basic human rights, and so forth—Congress itself can require the Governor, the U.S. Governor, of the Bank to submit in writing information demonstrating that any loan or assistance will directly benefit those persons in such countries to which such loan or assistance is supposed to be directed, and that it is not being used directly by a government for its own enhancement.

Also Congress itself shall give—in permitting any action on these loans through its instructions to the Governor in the Bank—consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights.

Now that, along with the Domenici amendment on countries harboring terrorists, I think, gives us some basic protection.

I understand what the Senator's concern is about some countries. We have discussed this privately. But I would only hope my colleagues would see fit for us to participate in the African Development Fund.

People have strong views here about these measures. Not all of them are what we would like them to be. The Government of the United States has been exceedingly generous over the years, as has been noted by some of my colleagues here.

But I have to say to the Senator that much as I, on occasion, like to accommodate his wishes, and as much as I recognize the power of his argument in this instance I must oppose him on this particular amendment because it would strip from the bill a very important feature. Even though the amount is not much, it is a very important feature.

I feel very strong, after the hearings we have held, that this fund is meritorious. Particularly with the provisions we have placed in the bill, this is not an open end business. The funds will not just go out willy-nilly to anybody. We require the Governor who represents our country to make reports systematically to the Congress. We in the Congress reserve the right to prevent the issuance of those funds.

On that basis, I have to oppose the Senator.

Mr. HELMS. Mr. President, it may be that some accommodation can be achieved between the able Senator from Minnesota and the Senator from North Carolina. I wonder if the Senator would object to my asking unanimous consent that this particular amendment be set aside momentarily while I proceed to another?

Mr. HUMPHREY. I have no objection to that.

Mr. HELMS. I make such a request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I have a second amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment:

At the appropriate place, insert the following new section:

"SEC. ( ). None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda; and none of the funds authorized to be appropriated under Title II of this Act shall be contributed to the African Development Fund during any period that such Fund is making any grants to, loans to, or otherwise using the corpus of such Fund for the benefit of the nation of Uganda, or while any such grants, loans, or benefits are outstanding.".

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, this amendment is designed to prohibit the use of the $25 million contribution the United States will be making to the African Development Fund, directly or indirectly, to aid the nation of Uganda. This amendment is not aimed at the people of Uganda, who, I am sure, are like people everywhere, striving to lead fulfilling and peaceful lives. But as we are all well aware, Uganda is currently run and controlled by Idi Amin, whom the former United States Ambassador to the United Nations correctly described as a "racist murderer," a term, I might add, that was endorsed by the President of the United States.

Time will not permit me to list all the outrages committed by Mr. Amin. Suffice it to list but a few: First, it has been estimated that 25,000 to 250,000 Ugandans have been murdered since Amin seized power in 1971; second, he has called for the extinction of the State of Israel; third, he has stated that Zionists have infiltrated the CIA and turned it into a "murder squad"; fourth, he has expressed gratitude to the Soviet Union and Communist China for their involvement in the internal affairs of Africa; fifth, he has executed the Chief Justice of Uganda; murdered, beaten, and tortured many of his political opponents, and expelled some 60,000 Asians by racist decrees. These facts have been documented clearly, Mr. President, by unaffiliated organizations such as the International League for the Rights of Man and the International Committee of Jurists and Amnesty.

Here is the point, Mr. President. Does anyone in this body or anywhere else in this country believe that any so-called foreign aid money given to Uganda will end up doing little more than propping up the regime of Mr. Amin? Do we seriously consider that any money taken from the pocketbooks of the American taxpayer—and I dare say against his will—will do any more than finance Mr. Amin's high style of living?

Mr. President, I offer just one example. I note that last fall Mr. Amin personally dedicated a plot for a $45 million Ugandan mission building at the U.N.; $45 million is 2.8 percent of the Ugandan gross national product, equivalent to the United States spending $43.6 billion on such a mission. Surely, if Idi Amin must pamper himself with such extravagances, we do not need to subsidize it with the earnings of hard-pressed American taxpayers.

The African Development Fund is relatively new, and so far, Mr. President, I am gratified to learn that Uganda has not yet received any of the funds. In short, Mr. President, this amendment is designed to keep it that way, at least so far as the American taxpayers and their money are concerned.

I hope the distinguished manager of the bill will accept this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I know the strong feelings the Senator has in reference to Uganda and Mr. Amin, the leader of that country. It is very difficult to argue for this kind of action.

It is very difficult for anyone to say our Government wants to make any contribution to that kind of leadership and that kind of government.

I think if the Senator will bear with me, he will notice that the language in the bill itself really takes care of this.

It says that in determining whether or not a country falls within the provisions of subsection (a)—and we are talking here now about voting against loans—the subsection says that the U.S. Governor of the fund is authorized and directed to cause the executive director representing the United States to vote against any loan, or any extension of financial assistance, or any technical assistance, to any country which engages in a consistent pattern of gross violation of internationally recognized human rights.

Surely, the Government of Uganda is engaging in that. I think the Senator and I agree on this.

I also say to the Senator that the legislative history we can build here can be most helpful because there may be other countries which would fall into this category. I know the Senator feels this is an atrocious example, and I find myself in full agreement with that. But I believe that the language we have in section 211 covers it.

I would like to have the discussion about this amendment the Senator from North Carolina has offered to become specific legislative reference and legislative history to section 211, subsection (a). I believe what we have in section 211 is blanket coverage. A broader sweep of power relating to more than just one country.

I hope the Senator will see the importance of leaving in the bill what we have here and not being specific in the sense of naming a particular country. Rather, we could rely on our legislative history and watch what the future offers.

There may be another country that permits actions as gross, vile, and cruel as those that have taken place in Uganda.

Mr. HELMS. Mr. President, I understand the reasoning of my friend from Minnesota, even though I do not agree with it. I know he feels the same way I do about the outrageous conduct of Mr. Amin. The Senator from Minnesota is a gentleman, and he is a compassionate man. He knows a tyrant when he sees one—and that is precisely what Idi Amin is. Thus it seems to me that the able Senator should be willing to join me in locking the barn door before the horse gallops out, and millions of the American taxpayers' dollars are handed to Mr. Amin.

Why not nail the door shut and let us flatly say: no money to this corrupt regime? We can always give money but we cannot get it back once it has been handed out. To be honest about it, I do not trust our own people when they start giving away money.

Mr. HUMPHREY. In this instance, we are not trusting because this language in section 211 says:

> The United States Governor of the Fund is authorized and directed to cause the Executive Director representing the United States to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and that security of person, unless such assistance will directly benefit the needy people in such country.

Assistance to needy people relates to things that the Red Cross does, what the voluntary agencies might do, and what might be done in terms of famine relief for the peoples suffering beyond even the political oppression that they have to endure.

Then if one will go down and see that we also provide a role for the Congress to supervise this, it is not as if we were just leaving it to the flight of fancy of an administrator. We direct the Administrator on the one hand and we provide for the Congress to exercise oversight and to insist that these standards be applied.

Mr. HELMS. May I ask the Senator, would this one vote cast by the Governor cut off the funds?

Mr. HUMPHREY. U.S. approval of the funds.

Mr. HELMS. For the purpose of legislative history, let me read, beginning on line 18: ". . . cause the Executive Director representing the United States to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in," and so forth. Would that one vote by the Governor cut off U.S. funds? Is that clearly the intent?

Mr. HUMPHREY. It would cut off U.S. approval of the loan.

The amendment of the Senator, by the way, would not prevent the Fund itself from lending.

Mr. HELMS. I differ with the Senator a little bit about that. It would cut off U.S. funds, and that is my primary interest at the moment.

Mr. HUMPHREY. Once we are in an international institution such as that, your amendment provides:

> None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda; and one of the funds authorized to be appropriated under

What we are saying is the United States will not approve usage of its funds. Our funds are not all of the funds available. After all, there are other funds involved in that bank or in that Fund. We are just one of the many donors in that Fund.

Mr. HELMS. Mr. President, again I understand what the Senator is saying. I know that he does not share my deep concern about what could happen, and about what I feel probably will happen somewhere down the line if we are not exceedingly careful here today. For example, what is "a consistent pattern of gross violations?" Is that one violation, two? Three? How many would constitute a "consistent pattern?"

Mr. HUMPHREY. We have spelled that out in other legislation.

Mr. HELMS. Tell me about it, if the able Senator will.

Mr. HUMPHREY. There is a recognized pattern of gross violations of human rights which has been established by the International Red Cross and which has been established by other international organizations. It is a standard and this is language that is commonplace in this type of law.

Mr. HELMS. Just describe for me precisely what it is. The Senator is generalizing.

Mr. HUMPHREY. Genocide, mass murder, torture, killing of people, destruction of lives, or as in the instance of Amin throwing people out of the country without regard to what their conditions are; imprisonment without trial.

Mr. HELMS. How many years will it take to ascertain this "consistent" pattern?

Mr. HUMPHREY. I do not think it would take very long to ascertain it at all. Might I also add that there really is not any other way that we can do this except to direct our officer to vote against those loans, to vote against any financial assistance. The African Development Fund is there. It is there.

Mr. HELMS. There is one other way. My amendment would cut out the money. Period. Then there would be no question about it.

Mr. HUMPHREY. This amendment would cut out the money for this loan. That is what it is doing.

Mr. HELMS. This will cut out the money extracted from the U.S. taxpayers. That is my primary concern at the moment.

Mr. HUMPHREY. All the amendment says is none of the funds appropriated under this act shall be granted to, loaned to, or otherwise used for the benefit of the Nation of Uganda. That is, of the moneys we appropriate in this act. But we are only one member of that Fund. I have to call to the attention of the Senator that we do not control the total Fund. We will have influence in the Fund.

The answer, of course, if the Senator wants to stop the whole participation of U.S. funding, is to strike the title.

Mr. HELMS. That was the first amendment that I offered. The Senator knows I am certainly in favor of that.

Mr. President, so that I may confer with the distinguished Senator for just a second, I suggest the absence of a quorum with a unanimous consent request the time to be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Dick Bryan of my staff be accorded the privilege of the floor during the consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HUMPHREY. Mr. President, if I may discuss this matter for a moment with the Senator from North Carolina——

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. I would like to ask the Senator just a question or two about his amendment.

As I said to the Senator a little earlier, section 211 of this bill, including subsections (a), (b), and (c), I believe, gets at the situation that the amendment of the Senator from North Carolina refers to, and the major difference, as I see it, is that:

> none of the funds authorized to be appropriated under Title II of this Act shall be contributed to the African Development Fund during any period that such Fund is making any grants to, loans to, or otherwise using the corpus of such Fund for the benefit of the nation of Uganda, or while any such grants, loans, or benefits are outstanding.

I had hoped that the Senator might take the first section of his amendment, "None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda," put a period there. Then add a provision that where any such application is made to the Fund, there shall be prompt notification by the U.S. Governor of the Fund of such application for loan or other financial assistance, to the Senate Committee on Foreign Relations and the House Committee on International Relations.

Mr. HELMS. The Senator is making a proposition, I take it?

Mr. HUMPHREY. That is correct.

Mr. HELMS. I will accept. He has made a proposition, as the saying goes, that I cannot refuse—and I thank him. Such modification will accomplish what I seek.

Mr. HUMPHREY. The Senator, then, will modify his amendment accordingly?

Mr. HELMS. If the Chair will permit, yes, and I thank the Senator from Minnesota for so eloquently making the legislative history so clear in this matter.

Mr. HUMPHREY. So that the first section will read:

> SEC. ( ). None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda.

and then a period.

Mr. HELMS. Right.

Mr. HUMPHREY. Then language to the effect that the U.S. Governor of the Fund is directed to notify the Committee on Foreign Relations and the Committee on International Relations as to any application made by Uganda for a loan or other financial assistance, period?

Mr. HELMS. The Senator from North Carolina is entirely agreeable. That accomplishes what he had in mind.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. JAVITS. I think you would have to add at the end "to the fund".

Mr. HUMPHREY. Yes; that is correct. We will go over any language difficulties there, but I think we both understand what we are talking about.

Mr. HELMS. We do, and I thank the Senator.

Mr. JAVITS. Mr. President, I ask that the clerk report the amendment as revised.

The PRESIDING OFFICER. The clerk will state the amendment as modified.

The second assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS), for himself and Mr. THURMOND, proposes an amendment as follows:
>
> At the appropriate place, insert the following new section:
>
> "Sec. —. None of the funds authorized to be appropriated under this act shall be granted to, loaned to, or otherwise used for the benefit of the Nation of Uganda.
>
> "The United States Governor is directed to notify the Committee on Foreign Relations and the Committee on International Relations as to any application made by Uganda for a loan or other financial assistance from the Fund."

Mr. HELMS. Mr. President, I think we need to clean up this amendment just a bit. I suggest the absence of a quorum, the time to be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I wonder if I might ask the clerk to read the modified amendment.

The PRESIDING OFFICER (Mr. PEARSON). The amendment, as modified, will be stated.

The second assistant legislative clerk read as follows:

> At the appropriate place, insert the following new section:
>
> "SEC. ( ). None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda.
>
> The United States governor is directed to promptly notify the Senate Committee on Foreign Relations and the House Committee on International Affairs as to any application made by Uganda for loans or other financial assistance from the fund.

Mr. HELMS. Mr. President, I wish the clerk would put the word "promptly" before the preposition, to make it grammatically correct. Otherwise, I am entirely satisfied with the amendment as modified.

Mr. HUMPHREY. I have no objection.

Mr. HELMS' amendment, as modified, is as follows:

> At the appropriate place, insert the following new section:
>
> "SEC. ( ). None of the funds authorized to be appropriated under this Act shall be granted to, loaned to, or otherwise used for the benefit of the nation of Uganda.
>
> The United States governor is directed promptly to notify the Senate Committee on Foreign Relations and the House Committee on International Affairs as to any application made by Uganda for loans or other financial assistance from the fund.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment, as modified, was agreed to.

Mr. HUMPHREY. Mr. President, I thank the Senator from North Carolina. I think this is a helpful addition. It spells out more precisely one significant feature of the bill, section 211. I want the legislative history established here to relate to section 211.

Mr. HELMS. I thank the Senator for his kind remarks, and his patience.

The PRESIDING OFFICER. The question now recurs on agreeing to the earlier amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, the Chair is referring to my first amendment that was set aside at my request?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I withdraw that amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. HUMPHREY. Mr. President, on behalf of Senator Mathias and myself, I send to the desk an amendment and ask that it be stated and incorporated hopefully in this legislation.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Minnesota (Mr. HUMPHREY) on behalf of the Senator from Maryland (Mr. MATHIAS) proposes an amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill add the following new section:
>
> "SEC. 212. (a) The Congress finds and declares that—
>
> "(1) the problems posed by swine influenza transcend national and political boundaries;
>
> "(2) no one country, or even one portion of the world, can singularly undertake the search for a world-wide solution to the problems posed by swine influenza;
>
> "(3) the global nature of swine influenza demands international cooperation and coordination in the investigation and planning for effective control of swine influenza;
>
> "(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning the control of swine influenza.".

"(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

"(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

"(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

"(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza."

Mr. **HUMPHREY**. Mr. President, this amendment provides that the Government of the United States should work with international organizations to help in the dissemination of influenza vaccine along the lines of the President's recent declaration.

It is only a commitment for us to work with those countries in developing a system for it.

Mr. **MATHIAS**. Mr. President, on March 24, 1976, the President directed the Secretary of HEW, Dr. David Mathews and the Assistant Secretary for Health, Dr. Theodore Cooper, to develop and implement plans to make available to all Americans a vaccine against a new strain of influenza virus, the so-called swine influenza. The President publicly urged that all Americans receive the vaccine this fall and to facilitate this effort, he directed that inoculations be made available at schools, hospitals, physicians' offices and all public health facilities. The President called for "extraordinary measures" against an outbreak of this disease which could occur late this year or early in 1977. In his statement last Wednesday the President scheduled an extensive full-scale immunization program to begin operation in September and to be completed by the end of November 1976.

The Department of Health, Education, and Welfare, in its March 26, 1976, fact sheet on the proposed swine influenza immunization campaign disclosed the following:

The swine influenza virus recently identified in recruits at Fort Dix, N.J., represents a major change from viruses which are currently circulating in the human population. These major shifts occur approximately every 10 years. When they do, there are extensive outbreaks of flu. If history repeats itself, there could be a major outbreak, even a pandemic of flu, in the 1976–77 flu season from this swine virus.

An added concern is that this virus is similar to the virus which is suspected of having been the cause of the great pandemic of 1918–19 which is associated with 548,000 deaths in the United States and 20 million deaths worldwide. Prior to 1930, this strain was the predominant cause of human influenza in this country. Since 1930 the virus has not been transmitted from person to person, but person-to-person transmission in the New Jersey cases indicates that this country may experience widespread swine influenza in 1967–77.

Immunization of the population normally at high risk—elderly and chronically ill persons—would not forestall this possible epidemic and pandemic. This should not be cause for public alarm. We have enough lead time, thanks to improved disease surveillance methods, to launch a preventive immunization campaign. We have the technology necessary to produce sufficient quantities of high quality vaccine which will confer immunity in about 80 percent of the people who receive it. And we are far better able, through antibiotics, to care for those who do get complicated cases of the flu. We must, of course, continue to immunize high-risk persons against other forms of influenza.

To reach this goal of immunizing the total U.S. population it will be necessary to assure that sufficient vaccine is produced, that immunization services are available in this short period of time, and that the Nation is aware of the potential seriousness of the situation and the need to have preventive immunization. Allowing time for tooling up—vaccine production and program organization—during the spring and summer, the bulk of the immunizations would have to be administered during September through November 1976.

The President is asking the Congress to enact quickly a special appropriation bill providing $135 million to carry out this effort. About $100 million of this appropriation will be used to purchase the vaccine from the companies who will make it. The remainder will be used to put the vaccine into the hands of State and local health authorities and the private sector who will administer it to the public.

This supplemental request will support a comprehensive influenza immunization program that satisfies these requirements and best assures success by taking advantage of the public/private mix of health delivery services in the United States. The plan relies upon:

The Federal Government for technical leadership, coordination, and monitoring of the campaign and for the purchase of vaccines;

State health agencies for their experience in conducting immunization programs and as logical distribution centers for vaccine; and

The private sector for the medical and other resources which must be mobilized across the Nation.

The cost of this program must be considered in the human and economic costs of influenza. In an average year, influenza causes about 17,000 deaths—9 per 100,000 people—widespread illness, and costs the Nation approximately $500 million. Severe epidemics, or pandemics, of influenza occur at approximately 10-year intervals. In 1968–69, influenza struck 20 percent of our population, causing more than 33,000 deaths—14 per 100,000 people—and cost an estimated $3.2 billion.

Mr. President, the Government's response to this problem, namely to rely on the Federal Government for technical leadership and funds, while utilizing State health agencies—already experience in conducting immunization programs—as logistical centers for vaccine is laudable. I would note with satisfaction that medical and other resources in the private sector are to be mobilized for this effort. This full scale undertaking by our Government to prevent unnecessary death and illness is in my judgment, the only responsible course of action to pursue. Certainly, the health and safety of the American people must be a top priority of our Government. But as we begin to take these precautionary measures ourselves, we cannot forget the rest of the world.

Mr. President, should a swine influenza epidemic occur, we may be certain that the deaths and illness which will follow will not be confined within national or political boundaries. We need only to recall the virus pandemic of 1918–19 which caused 20 million deaths worldwide. While it is entirely proper that our Government take all of the necessary preventive steps necessary to reduce or eliminate the possibility of an epidemic occuring in the United States, we have a larger moral responsibility which we, as a member of the family of nations, have toward the rest of mankind.

This is the sole purpose of my amendment. This resolution, which I offer in the form of an amendment, simply recognizes the scope of the global nature of problem posed by swine influenza and calls upon our Government to provide assistance to other governments and international organizations which may also wish to address this problem.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. **HUMPHREY**. Mr. President, I believe that is all of the amendments we have.

Mr. **PERCY**. Mr. President, I trust that the Senate will approve H.R. 9721. Fostering economic strength and growth in Latin America through this kind of cooperative effort is a sound and constructive basis for United States-Latin American relations. The years during which the United States has participated in the Inter-American Development Bank has seen real economic progress in some Latin American countries, but much more needs to be done. New donor nations will now be joining in this cooperative venture, which is a true testimonial to the increasing importance of the IDB in Latin American development efforts. I look forward to the gains yet to be made through the support of the IDB.

Our participation in the African Development Fund is another step in the right direction. It is an excellent opportunity for us to pay proper recognition to the emerging nations of Africa and to make a positive and important contribution toward meeting their urgent development needs. This kind of assistance is welcome in Africa and is very much in our own interest as well.

I am particularly pleased that the Senate Foreign Relations Committee has seen fit to follow up on section 305 of the Foreign Assistance Act in its consideration of H.R. 9721. As sponsor of section

305, I am very anxious to assure the effective implementation of its provisions, which instruct U.S. representatives to international organizations of which the United States is a member to integrate women into the national economies of member and recipient countries and into professional and policymaking positions within those organizations.

The committee report on H.R. 9721 notes with concern the fact that the Inter-American Development Bank has made only limited progress in the integration of women into its national development efforts and into its own organization. The committee report language is a reminder to the IDB and to all other international organizations of which the United States is a member that Congress takes seriously its oversight authority and responsibility for section 305. It is further a reminder to the U.S. Executive Director to the IDB and all other U.S. representatives to international organizations that they need to take more vigorous action to encourage their institutions' expansion of the role for women in all development efforts.

The staff of the Senate Foreign Relations Committee's Subcommittee on Foreign Assistance deserves to be commended for their vigilance on this issue.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. I yield back the remainder of my time.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HUMPHREY. The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) did not want a rollcall vote.

Mr. HELMS. The Senator does not contemplate a rollcall vote?

Mr. HUMPHREY. No.

Mr. HELMS. Mr. President, in that case, I want the RECORD to clearly show emphatically the Senator from North Carolina is opposed to this bill.

The PRESIDING OFFICER. It is so noted.

The question is, Shall the bill pass? (Putting the question.)

The bill (H.R. 9721), as amended, was passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. I thank our colleagues.

ORDER AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO MEET THIS AFTERNOON

Mr. MANSFIELD. Mr. President, in view of the time factor involved and believing that the Democratic conference will allow me this degree of flexibility, I ask unanimous consent that the Committee on the Judiciary be permitted to meet this afternoon around 4 or 4:30 p.m. for the purpose of considering intelligence legislation which has to be reported back to the Committee on Rules and Administration within the next day or so.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 276, S. 354.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments as follows:

On page 1, in line 6, after "Standards" insert "for";

On page 1, in line 6, strike "Motor Vehicle";

On page 2, Table of Contents, in section 104, strike "Required motor vehicle" and insert "Requirement of";

On page 2, Table of Contents, in section 104, strike "(d) Obligations upon termination of security.";

On page 2, Table of Contents, in section 106, strike "Payment of claims for no-fault" and insert "No-fault";

On page 2, Table of Contents, in section 106, subsection (a), strike "In general." and insert "General.";

On page 8, Table of Contents, in section 108, strike "(c) Time for presenting claims under assigned claims plan.";

On page 2, Table of Contents, section 109, subsection (c), strike "program," and insert "and availability.";

On page 2, Table of Contents, strike "(d) Availability of services.";

On page 3, Table of Contents, TITLE II, strike "FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN";

On page 3, Table of Contents, strike out the following:

Sec. 201. State no fault plan in accordance with this title.
(a) Preemption.
(b) State plan.
(c) Determination by Secretary.
(d) Periodic review.
(e) Alternative State plan.
(f) Procedure.
(g) Exceptions.
(h) Reporting requirements.
(i) Financial assistance to States.
(j) Authorization for appropriations.
Sec. 202. National standards.
(a) General.
(b) Criteria.

And insert in lieu thereof:

Sec. 201. Criteria and review.
(a) General.
(b) Criteria.
(c) Review Board.
Sec. 202. State no-fault plan in accordance with national standards.
(a) Preemption.
(b) State no-fault plan.
(c) Certification of chief executive officer.
(d) Periodic report and recertification.
(e) Review Board review.
(f) Alternative Federal no-fault plan.
(g) State option.
(h) Judicial review.

On page 3, Table of Consents, section 205, subsection (a), strike "Applicable security." and insert "Priorities.";

One page 3, Table of Contents, section 207, strike "Work" and insert "Calculation of gross income";

On page 3, Table of Contents, at the bottom, add a new section as follows:

"SEC. 209. Coordination and cost savings.";

On page 4, Table of Contents, TITLE II, strike "FOR NO-FAULT MOTOR VEHICLE INSURANCE PLAN";

On page 4, Table of Contents, section 209, strike "209." and insert "210.";

On page 4, Table of Contents, section 210, strike "210." and insert "211.";

On page 4, Table of Contents, section 211, strike "211." and insert "212.";

On page 4, Table of Contents, section 212, strike "Other" and insert "Miscellaneous";

On page 4, Table of Contents, section 212, add a new subsection as follows:

"(c) Adjustments in benefits.";

On page 4, Table of Contents, TITLE III, strike "STATE" and insert "FEDERAL";

On page 4, Table of Contents, TITLE III, strike "MOTOR VEHICLE INSURANCE";

On page 4, beginning on line 1, strike the following:

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS. The Congress hereby finds and declares that—

(1) motor vehicles are the primary instrumentality for the interstate transportation of individuals;

(2) the intrastate transportation of individuals by motor vehicle over Federal aid highways and other highways significantly affects interstate commerce, particularly in metropolitan areas encompassing more than one State;

(3) the maximum feasible restoration of all individuals injured and compensation of the economic losses of the survivors of all individuals killed in motor vehicle accidents on Federal aid highways, in interstate commerce, and in activity affecting interstate commerce is essential to the humane and purposeful functioning of commerce;

(4) to avoid any undue burden on commerce during the interstate or intrastate transportation of individuals, it is necessary and proper to have a nationwide low cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims;

(5) exhaustive studies by the United States Department of Transportation, the Congress, and some States have determined that the present basic system of motor vehicle accident and insurance law, which makes compensation and restoration contingent upon—

(A) every victim first showing that someone else was at fault;

(B) every victim first showing that he was without fault; and

(C) the person at fault having sufficient liability insurance and other available financial resources to pay for all the losses, is not such a low cost, comprehensive, and fair system;

(6) careful studies, intensive hearings, and some State experiments have demonstrated that a basic system of motor vehicle accident and insurance law which—

(A) assures every victim payment of all his medical and rehabilitation costs, and recovery of almost all his work loss plus a reasonable amount of replacement services and survivor's loss; and

(B) eliminates the need to determine fault except when a victim is very seriously injured, is such a low cost, comprehensive, and fair system;

(7) nationwide adoption of the system described in paragraph (6) in place of the system described in paragraph (5) would remove an undue burden on commerce;

(8) pursuant to the power vested in it "to regulate Commerce . . . among the several States", the Government of the United States is authorized to require a nationwide low cost, comprehensive, and fair system and compensating and restoring motor vehicle accident victims and the survivors of the deceased victims;

(9) in all the States there should be uniformity as to the essential elements of the system of motor vehicle accident and insurance law to avoid confusion, complexity, uncertainty, and chaos which would be engendered by a multiplicity of noncomplementary State systems, but the need for a nationwide basic system does not require that the Federal Government itself directly administer, operate, or direct the administration or operation of such system; and

(10) a nationwide low cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims can—

(A) recognize, respect, and avoid interfering with the historical role of the States in regulating and exercising legislative authority, over the business of insurance; and

(B) save and restore the lives of countless victims by providing and paying the cost of services so that every victim has the opportunity to—

(i) receive prompt and comprehensive professional treatment, and

(ii) be rehabilitated to the point where he can return as a useful member of society and a self-respecting and self-supporting citizen.

(b) PURPOSES.—Therefore, it is hereby declared to be the policy of the Congress to establish—

(1) at reasonable cost to the purchaser of insurance, a nationwide system of prompt and adequate restoration benefits for motor vehicle accident victims and the survivors of deceased victims; and

(2) minimum standards which each State must meet or exceed so as to assure a nationwide low cost, comprehensive, and fair system of motor vehicle accident and insurance law and which enables each State to participate legislatively, to administer without interference, and to continue regulating the business of insurance.

And insert the following in lieu thereof:

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress finds that—

(1) Motor vehicles are the primary instrumentality for the transportation of individuals within the United States. The transportation of individuals by motor vehicle over Federal-aid highways and other highways and roadways occurs in, or affects, interstate commerce.

(2) The maximum feasible restoration of individuals injured, and compensation for the economic losses of the survivors of individuals killed, in the course of such transportation, are necessary and proper for the protection and advancement of commerce and a suitable and desirable concomitant to the establishment of post roads and the expenditure of moneys therefor.

(3) Documented studies and almost a century of experience demonstrate that the prevailing system of motor vehicle accident and insurance law in the United States is inefficient, overly costly, incomplete, slow, allocates benefits poorly, discourages rehabilitation, overburdens the courts, does little if anything to minimize crash losses, and, accordingly, constitutes an undue burden on commerce. The prevailing system makes compensation of a victim contingent upon—

(A) the victim first showing that someone else was at fault;

(B) the victim first showing that he was without fault or less at fault;

(C) a lawsuit, whenever these showings or others are in dispute; and

(D) the party at fault having sufficient liability insurance or other financial resources to pay for the victim's losses.

(4) A low-cost, comprehensive, and fair system for the restoration and compensation of victims would eliminate such undue burden on commerce.

(5) Research and the experience in a number of jurisdictions have demonstrated that a system of motor vehicle accident and insurance law that—

(A) assures victims prompt payment of all their medical and rehabilitation costs, recovery of most of their work loss, and compensation for a reasonable amount of replacement services and survivor's loss; and

(B) eliminates the need to determine fault, except in cases involving very serious injuries,

is such a low-cost, comprehensive, and fair system. The establishment of such a no-fault system nationwide, in place of the system described in paragraph (3), would remove an undue burden on commerce.

(6) The Federal Government is authorized to establish and maintain, directly or indirectly, such a nationwide no-fault system, pursuant to the constitutional powers vested in Congress "To regulate Commerce . . . among the several States" and "To establish . . . post Roads".

(7) Direct Federal Government action is neither necessary nor desirable for this purpose. The uniformity that is necessary among all the States as to the essential elements of such a system can be achieved by Congress by the establishment of national standards for State no-fault plans for motor vehicle insurance and a mechanism for assuring compliance with such standards.

(b) PURPOSES.—It is hereby declared to be the purpose of the Congress in this Act—

(1) to establish nationwide, at reasonable cost to consumers, a comprehensive and fair system that will provide the maximum feasible restoration for victims of motor vehicle accidents and compensation for the survivors of such victims;

(2) to establish national standards for State no-fault plans for motor vehicle insurance and a mechanism for assuring compliance with such standards; and

(3) to recognize, respect, and avoid interfering with the historical role of the States in exercising legislative authority over, and in determining the manner of regulation of, the business of insurance.

On page 11, line 12, insert the following:

(1) "Accident" means an untoward and unforeseen occurrence—

(A) arising out of the maintenance or use of a motor vehicle; or

(B) in the case of, and limited to, a pedestrian, arising out of the operation of any vehicle that is powered by an engine or a motor and that is manufactured for transportation on public roadways.

On page 11, line 20, strike "(1)" and insert "(2)";

On page 11, line 22, strike "209" and insert "210";

On page 11, line 22, after "304" insert a period and strike "of this Act.";

On page 11, line 23, strike "(2)" and insert "(3)";

On page 12, line 4, after the semicolon, add "and";

On page 12, beginning with line 6, strike out the following:

(D) expenses directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim, not to exceed $1,000.

On page 12, line 15, strike "more intensive care";

On page 12, line 19, insert the following: Nothing in this Act shall be construed as prohibiting a restoration obligor from providing for the term to include remedial religious treatment and care.

On page 12, line 22, strike "(3)" and insert "(4)";

On page 13, line 3, after the word "property" insert ", unless a State, in enacting a no-fault plan for motor vehicle insurance in accordance with national standards, so provided";

On page 13, line 6, insert the following:

(5) "Claimant" means a victim, a survivor, or a supplier or provider of an allowable expense product, service, or accommodation, who makes a claim for no-fault benefits.

On page 13, line 9, strike "(4)" and insert "(6)";

On page 13, line 13, after the period, insert the following:

The term means the Secretary whenever, pursuant to section 202(g), the Secretary implements, administers, operates, and maintains the alternative Federal no-fault plan for motor vehicle insurance in accordance with title III.

On page 13, line 18, strike ou the following:

(5) "Department" means the department of motor vehicles or the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding registration of motor vehicles.

On page 13, line 23, strike "(6)" and insert "(7)";

On page 13, line 25, strike "immediately and proximately";

On page 14, line 6, strike "(7)" and insert "(8)";

On page 14, line 11, strike "public" and insert "person";

On page 14, line 11, strike "nonprofit private entity" and insert "a government";

On page 14, line 13, strike "of" and insert "set forth in";

On page 14, line 16, strike "(8)" and insert "(9)";

On page 14, line 25, strike "(9)" and insert "(10)";

On page 14, line 25, strike "accidentally sustained";

On page 15, line 1, after "individual" insert "as a result of an accident";

On page 15, line 3, strike "(10)" and insert "(11)";

On page 15, line 6, strike "(11)" and insert "(12)";

On page 15, line 10, strike the following:

(B) a spouse or other relative of a named insured, a minor in the custody of a named insured, and a minor in the custody of a relative of a named insured if—

And insert in lieu thereof:

(B) a spouse or other relative of a named insured, or an individual below the age of 18 in the custody of a named insured or in the custody of a relative of a named insured if—

On page 15, line 25, strike "(12)" and insert "(13)";

On page 16, line 2, after the word "provide" insert "in such State";

On page 16, line 3, after the word "vehicle" insert a period and strike "in such State.";

On page 16, line 4, strike out the following:

(13) "Loss" means accrued economic detriment resulting from injury arising out of the maintenance or use of a motor vehicle consisting of, and limited to, allowable expense, work loss, replacement services loss, and survivor's loss.

And insert in lieu thereof:

(14) "Loss" means economic detriment, incurred as a result of an accident resulting in injury, consisting of and limited to allowable expense, work loss, replacement services loss, and survivor's loss.

On page 16, line 12, strike "(14)" and insert "(15)";

On page 16, line 14, after the word "plan," insert "as calculated pursuant to section 207,";

On page 16, line 16, strike "per centum" and insert "percent";

On page 16, beginning with line 24, strike out the following:

(15) "Maintenance or use of a motor vehicle" means maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, or alighting from it. Maintenance or use of a motor vehicle does not include—

And insert in lieu thereof:

(16) "Maintenance or use of a motor vehicle" means any activity involving or related to transportation by a motor vehicle, including, unless excluded in the following subparagraphs, occupying, entering into, alighting from, repairing, or servicing. The term does not include—

On page 17, line 1, strike "or";

On page 17, line 14, strike "it." and insert "it; or";

On page 17, line 15, insert the following:

(C) conduct arising out of or in the course of the employment of the individual who suffers injury as a consequence of such conduct, if such individual is entitled to receive any benefits on account of such injury pursuant to the applicable workmen's compensation law.

On page 17, line 20, strike the following:

(16) "Medical and vocational rehabilitation services" means services necessary to reduce disability and to restore the physical, psychological, social, and vocational functioning of a victim. Such services may include, but are not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other medically necessary therapies, speech pathology and audiology, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools, and transportation where necessary to secure medical and vocational rehabilitation services. A restoration obligor is not obligated to provide basic restoration benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which such services are provided has been accredited by the department of health, the equivalent government agency responsible for health programs, or the accrediting designee of such department or agency of the State in which such services are provided, as being in accordance with applicable requirements and regulations.

And insert in lieu thereof:

(17) "Medical and vocational rehabilitation services" means any services necessary to reduce disability; to restore, and to maintain as restored, the physical, psychological, social, and vocational functioning of a victim; or to enable a victim to earn income and to be or remain gainfully employed. Such services may include, but are not limited to, medical care; diagnostic and evaluation procedures; physical, occupational, and medically necessary therapies; speech pathology and audiology; nursing care and medical social services; vocational rehabilitation and training services; devices, equipment, and facilities necessary for independent functioning; and transportation, where necessary to secure medical and vocational rehabilitation services. A restoration obligor is not obligated to provide basic restoration benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which such services are provided has been accredited or approved, as being in accordance with applicable requirements and regulations, by the department of health, the State vocational rehabilitation agency, the equivalent government agency responsible for health programs, or the accrediting designee of such department or agency, whichever is applicable, of the State in which such services are provided.

On page 19, beginning with line 13, strike out:

(17) "Motor vehicle" means a vehicle of a kind required to be registered under the laws relating to motor vehicles of the State in which such vehicle is located except that a vehicle having less than four wheels may be specially treated, at the option of a State establishing a no fault plan for motor vehicle insurance in accordance with title II of this Act, with respect to the requirements and benefits of such plan.

On page 19, beginning with line 21, insert:

(18) "Motor vehicle" means a vehicle of a kind required to be registered under the laws relating to motor vehicles of the State in which such vehicle is located, except that a State no-fault plan in accordance with national standards may treat a vehicle having less than four wheels differently than it treats other vehicles, or it may partially or completely exclude such a vehicle from the requirements and benefits of such plan.

On page 20, at the beginning of line 4, strike out "(18)" and insert "(19)".

On page 20, at the beginning of line 7, strike out "(19)" and insert "(20)".

On page 20, at the beginning of line 13, strike out "(20)" and insert "(21)".

On page 20, at the beginning of line 15, strike out "(21)" and insert "(22)".

On page 20, at the beginning of line 17, strike out "(22)" and insert "(23)".

On page 21, beginning with line 1, insert:

(24) "Paragraph" means a paragraph of the subsection in which the term is used.

On page 21, at the beginning of line 3, strike out "(23)" and insert "(25)".

On page 21, in line 4, strike out "no fault benefits" and insert "security covering a motor vehicle".

On page 21, at the beginning of line 6, strike out "(24)" and insert "(26)".

On page 21, beginning with line 11, insert:

(27) "Review Board" means the No-Fault Insurance Plan Review Board established pursuant to section 201(c).

On page 21, at the beginning of line 13, strike out "(25)" and insert "(28)".

On page 21, beginning with line 15, insert:

(29) "Section" means a section of this Act.

On page 21, at the beginning of line 16, strike out "(26)" and insert "(30)".

On page 21, at the end of line 17, after "104" insert a period and strike out "of this Act."

On page 21, at the beginning of line 19, strike out "(27)" and insert "(31)".

On page 21, at the end of line 19, strike out: , "security covering the vehicle",.

On page 21, in line 21, strike out "provided" and insert "required".

On page 21, in line 22, after "(a)" insert a period and strike out "of this Act."

On page 21, at the beginning of line 23, strike out "(28)" and insert "(32)".

On page 21, in line 25, after "104" insert a period and strike out "of this Act."

On page 22, in line 1, strike out "(29)" and insert "(33)".

On page 22, in line 2, strike out "and" and insert "or".

On page 22, in line 3, strike out "(30)" and insert "(34)".

On page 22, in line 4, after "agency in", strike out "the" and insert "a".

On page 22, beginning with line 7, insert "(35) Subsection" means a subsection of the section in which the term is used."

On page 22, line 9, strike out "(31)" and insert "(36)".

On page 22, in line 10, strike out "of domicile of a" and insert "in which a".

On page 22, in line 11, after "victim", insert "had his principal place of residence,".

On page 22, in line 13, strike out "another individual" and insert "such victim".

On page 22, in line 14, strike out "(32)" and insert "(37)".

On page 22, in line 14, after "the" insert "economic detriment to a survivor, incurred as a result of the death of a victim. The term includes, and is limited to—".

On page 22, at the end of line 18, strike out "or survivors,".

On page 22, in line 20, strike out "and".

On page 22, beginning with line 21, strike out:

(B) expenses reasonably incurred by a survivor or survivors, after a victim's death resulting from injury, in obtaining ordinary and necessary services in lieu of those which the victim would have performed, not for income, but for their benefit, if he had not sustained the fatal injury, reduced by expenses which the survivor or survivors would probably have incurred but avoided by reason of the victim's death resulting from injury.

and insert:

(B) expenses directly related to the funeral and burial, cremation, or other form of disposition of the remains of a deceased victim; and

(C) expenses reasonably incurred by a survivor, after a victim's death resulting from injury, in obtaining ordinary and necessary services in lieu of those which the victim would have performed for such survivor's benefit (other than to provide income) had he not sustained such injury; reduced by expenses which such survivor would probably have incurred, but did not, by reason of such victim's death.

(38) "Title" means a title of this Act.

On page 23, beginning with line 6, strike out:

(33) "Victim" means an individual who suffers injury arising out of the maintenance or use of a motor vehicle; "deceased victim" means a victim suffering death resulting from injury.

On page 23, beginning with line 20, insert:

(39) "Victim" means an individual who suffers injury as a result of an accident.

On page 23, in line 22, strike out "(34)" and insert "(40)".

On page 23, in line 24, strike out "(35)" and insert "(41)".

On page 23, in line 25, before income, strike out "gross".

On page 23, in line 25, after the semicolon, strike out: "of a victim, as calculated pursuant to the provisions of section 207 of this Act:"

On page 24, in line 1, after "expenses", insert "of or on behalf".

On page 24, in line 3, strike out "thereby mitigating loss of income,".

On page 24, in line 4, strike out "special".

On page 24, in line 4, after "help," strike out "thereby enabling a" and insert "so as to enable such".

On page 24, in line 5, strike out "work and".

On page 24, beginning with line 6, strike out

REQUIRED MOTOR VEHICLE INSURANCE

SEC. 104. (a) SECURITY COVERING A MOTOR VEHICLE.—Every owner of a motor vehicle which is registered in a State in which a State no fault plan for motor vehicle insurance in accordance with title II or title III of this Act is in effect, or which is operated in such State by the owner or with his permission, shall continuously provide security covering such motor vehicle while such vehicle is either present or registered in such State. Security shall be provided for the payment of basic restoration benefits, and at the option of a State establishing a plan in accordance with title II of this Act, for the payment of other benefits or tort liability. The owner or any other person may provide security covering a motor vehicle by a contract of insurance with an insurer or by qualifying as a self-insurer or as an obligated government.

and insert:

SEC. 104. (a) SECURITY COVERING A MOTOR VEHICLE.—The owner of a motor vehicle that is registered in a State in which there is in effect a no-fault plan for motor vehicle insurance in accordance with national standards or title III, or that is operated in such a State by or with the express or implied consent of such an owner, shall continuously provide and maintain security with respect to such motor vehicle, in accordance with the applicable provisions of such plan. Such security shall be provided for the payment of basic restoration benefits and, at the option of a State establishing a no-fault plan for motor vehicle insurance in accordance with national standards, for the payment of other benefits or of tort liability damages up to specified limits. Such security may be provided by such an owner, or by any other person in lieu thereof, (1) by entering into a contract of insurance with an insurer, (2) by qualifying as a self-insurer in accordance with subsection (b), or (3) by being an obligated government pursuant to subsection (c).

On page 25, beginning with line 15, strike out:

(b) SELF-INSURANCE.—Self-insurance, subject, to approval of the commissioner or department, is effected by filing with the department in satisfactory form—

and insert:

(b) SELF-INSURANCE.—Self-insurance, subject to the approval of the agency designated for such purpose by State law, is effected if the owner or other appropriate person prepares and submits to such agency—

On page 25, in line 22, strike out "by the owner or other appropriate" and insert "which commits such".

On page 26, in line 2, strike out "to elect".

On page 23, in line 3, after "benefits," insert "if any,".

On page 26, in line 6, after "administration," insert "in accordance with this Act,".

On page 26, at the end of line 7, strike out "provided in accordance with this Act;".

On page 26, in line 13, strike out "benefits" and insert "benefits and".

On page 26, in line 14 strike out "liability," and insert "liability".

On page 26, in line 14, after "and" insert "for".

On page 26, beginning with line 21, strike out:

(d) OBLIGATION UPON TERMINATION OF SECURITY.—An owner of a motor vehicle who ceases to maintain the security required in accordance with this Act shall immediately surrender the registration certificate and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in any State until security has again been furnished as required in accordance with this Act. A person other than the owner who ceases to maintain such security shall immediately notify the owner and the department, who may not operate or permit operation of the vehicle until security has again been furnished. An insurer who has issued a contract of insurance and knows or has reason to believe the contract is for the purpose of providing security shall immediately give notice to the department of the termination of the insurance. If the commissioner or department withdraws approval of security provided by a self-insurer or knows that the conditions for self-insurance have ceased to exist, he shall immediately give notice thereof to the department. These requirements may be modified or waived by the department.

AVAILABILITY OF INSURANCE

SEC. 105. (a) PLAN.—(1) The Commissioner shall establish and implement or approve and supervise a plan assuring that any required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to each individual who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, any joint insuring or reinsuring arrangement, or any other method, including a State fund, that results in all applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available added restoration benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan must also assure that there is available through the private sector or otherwise to all applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms and conditions.

(3) All insurers writing no-fault benefits and tort liability coverages in a State shall participate in the plan in such State. The plan shall provide for equitable apportionment, among all participating insurers writing any insurance coverage required under the plan, of the financial burdens of insurance provided to applicants under the plan and the costs of operation of the plan.

(4) Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other and with other appropriate persons as to the organization, administration, and operation of the plan and as to rates and rate modifications for insurance coverages provided under the plan. Rates and rate modifications adopted or charged for insurance coverages provided under the plan shall—

(A) be first adopted or approved by the commissioner; and

(B) be reasonable and not unfairly discriminatory among similarly situated applicants for insurance pursuant to regulations established by the commissioner.

(5) Subject to the supervision and approval of the commissioner, the plan shall afford required coverages for motor vehicles to any economically disadvantaged individual, at rates as determined by the State, which shall not be so great as to deny such individual access to insurance which it is necessary for him to have in order to earn income and to be or remain gainfully employed.

(6) To carry out the objectives of this subsection, the commissioner may adopt rules, make orders, enter into agreements with other governmental and private entities and individuals, and form and operate or authorize the formation and operation of bureaus and other legal entities.

and insert:

AVAILABILITY OF INSURANCE

SEC. 105. (a) PLAN.—The commissioner shall, pursuant to any State law applicable in such commissioner's State, establish and implement, or approve and supervise, a plan to assure that security for the payment of basic restoration benefits and any other required benefits or specified tort liability damages (to the extent required by section 104) is conveniently and practicably obtainable, in accordance with this subsection, by each owner of a motor vehicle that is registered in such commissioner's State. Such a plan—

(1) shall provide security to an individual who is an owner of a motor vehicle, upon payment (or provision therefor) of the premium and upon proof of a valid license to operate a motor vehicle, at rates not in excess of those applicable to similarly situated individuals under such plan;

(2) may provide reasonable means for the transfer of individuals from such plan into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner;

(3) may be implemented by the assignment of applicants for such insurance among insurers, by pooling or any joint insuring or reinsuring arrangement, or by any other method, including a State fund (if established under State law);

(4) shall make available to such individuals, upon application, such added restoration insurance, optional tort liability insurance, and other provisions as the commissioner determines to be reasonably needed and which are commonly provided in voluntary markets;

(5) shall assure that there is available to all such individuals, through the private sector or otherwise, adequate premium financing or provision for the installment payment of premiums, subject to customary terms and conditions; and

(6) shall require all insurers writing no-fault insurance in the State involved to participate in the plan, and shall provide for equitable apportionment, among all participating insurers writing any insurance coverage required under the plan, of the financial burdens of insurance provided by the plan and of the costs of operating the plan.

Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other, and with other appropriate persons, as to the organization, administration, and operation of the plan, and as to the rates, terms, and rate modifications for insurance provided by the plan. Rates, terms, and rate modifications adopted or charged for insurance coverages under the plan shall—

(A) be first adopted or approved by the commissioner;

(B) be reasonable, and not unfairly discriminatory among similarly situated owners of motor vehicles applying for such insurance, pursuant to regulations established by the commissioner; and

(C) assure that security is practicably obtainable by owners of motor vehicles who need such vehicles to maintain employment. To carry out the objectives of this subsection, the commissioner may adopt rules, make orders, enter into agreements with any person or government, and form and operate, or authorize the formation and operation of, bureaus or any other legal entities.

On page 32, in line 20, strike out "of this subsection".

On page 33, in line 15, strike out "of this subsection".

On page 33, in line 18, strike out "of this subsection".

On page 34, in line 25, strike out "of this subsection".

On page 35, in line 1, strike out "PAYMENT OF CLAIMS FOR".

On page 35, in line 5, strike out "sustained" and insert "incurred".

On page 35, beginning with line 6, strike out:

(2) No-fault benefits are overdue if not paid within 30 days after the receipt by the restoration obligor of each submission of reasonable proof of the fact and amount of loss sustained, unless the restoration obligor designates upon receipt of an initial claim for no-fault benefits, periods not to exceed 31 days each for accumulating all such claims received within each such period, in which case such benefits are overdue if not paid within 15 days after the close of each such period. If reasonable proof is supplied as to only part of a claim, but the part amounts to $100 or more, benefits for such part are overdue if not paid within the time mandated by this paragraph. An obligation for basic restoration benefits for an item of allowable expense may be discharged by the restoration obligor by reimbursing the victim or by making direct payment to the supplier or provider of products, services, or accommodations within the time mandated by this paragraph. Overdue payments bear interest at the rate of 18 per centum per annum.

and insert:

(2) No-fault benefits are overdue if not paid within 30 days after the receipt by the restoration obligor of each submission of reasonable proof of the fact and amount of loss incurred, unless the restoration obligor designates, upon receipt of an initial claim for no-fault benefits, periods not to exceed 31 days each for accumulating all such claims received within each such period, in which case such benefits are overdue if not paid within 15 days after the close of each such period. If reasonable proof is supplied as to only part of a claim, but the part amounts to $100 or more, benefits for such part are overdue if not paid within the time mandated by this paragraph. Unless otherwise requested by the victim involved, an obligation to pay any basic restoration benefits for allowable expense shall be discharged by a restoration obligor by direct payment to the supplier or provider of the products, services, or accommodations involved within the time mandated by this paragraph, and no such supplier or provider may receive any additional amount therefor from any victim or survivor personally, unless a State no-fault plan in accordance with national standards provides otherwise. Overdue no-fault payments shall bear interest at the rate of 18 percent per year.

On page 36, in line 24, strike out "of this Act" and insert "unless".

On page 37, at the end of line 1, after "overdue" insert a period and strike out "or the no-fault benefits claim is paid."

On page 37, at the beginning of line 3, strike out "thereupon".

On page 37, at the end of line 3, insert "for such amounts".

On page 37, beginning with line 6, strike out:

(4) A restoration obligor may bring an action to recover reimbursement for no-fault benefits which are paid upon the basis of an intentional misrepresentation of a material fact by a claimant or a supplier or provider of an item of allowable expense, if such restoration obligor reasonably relied upon such misrepresentation. The action may be brought only against such supplier or provider, unless the claimant has intentionally misrepresented the facts or knew of the misrepresentation. A restoration obligor may offset amounts he is entitled to recover from the claimant under this paragraph against any no-fault benefits otherwise due.

and insert:

(4) A restoration obligor may maintain a civil action to recover any no-fault benefits that it has paid as a result of an intentional or knowing misrepresentation of a material fact by a claimant, if it reasonably relied upon such misrepresentation in paying such benefits. A restoration obligor may offset any amounts that it is entitled to recover under this paragraph against any additional no-fault benefits that it is required to pay to the same claimant.

On page 38, in line 10, after "of" strike out "the" and insert "such".

On page 38, in line 17, after "if" insert "(A)".

On page 38, in line 18, after "$2,500," insert "and (B) as a condition of such settlement, the restoration obligor agrees to pay the reasonable cost of any future allowable expense."

On page 39, in line 10, after "of" strike out "appropriate future medical and vocational rehabilitation services." and insert "any future allowable expense."

On page 39, in line 17, strike out "claimant's" and insert "victim's".

On page 39, line line 25, strike out "otherwise" and insert "other".

On page 39, in line 25, strike out "an" and insert "a civil".

On page 40, in line 6, strike out "otherwise" and insert "other".

On page 40, at the end of line 6, strike out "an" and insert "a civil".

On page 40, in line 12, strike out "an" and insert "a civil".

On page 40, in line 16, strike out "an" and insert "a civil".

On page 40, in line 20, strike out "an" and insert "a civil".

On page 40, in line 24, after "If" insert "a".

On page 40, in line 24, after "timely" insert "civil".

On page 41, at the end of line 1, strike out "obligor's coverage" and insert "obligor".

On page 41, in line 2, strike out "applicable" and insert "liable".

On page 41, at the end of line 2, strike out "the claimant under the provisions of" and insert "pay or provide such benefits in accordance with the priorities set forth in".

On page 41, at the end of line 4, strike out "of this Act,".

On page 41, in line 5, strike out "an" and insert "a civil".

On page 41, in line 12, strike out "an" and insert "a civil".

On page 41, in line 14, strike out "(c) of this Act".

On page 42, in line 3, strike out "that".

On page 42, in line 17, strike out "for" and insert "if the".

On page 42, line 17, strike out "are".

On page 42, beginning with line 25, strike out:

Sec. 107. (a) Fees of Claimant's Attorney.—(1) If any overdue no-fault benefits are paid by the restoration obligor after receipt of notice of representation of a claimant in connection with a claim or action for no-fault the court determines that the claim or any significant part thereof is fraudulent (or so excessive as to have no reasonable foundation), a reasonable attorney's fee (based upon actual time expended) shall be paid by the restoration obligor to such attorney. No part of the attorney's fee for representing the claimant in connection with a claim or action for no-fault benefits may be charged or deducted from benefits otherwise due to such claimant and no part of such benefits may be applied to such fee.

and insert:

Sec. 107. (a) Fees of Claimant's Attorney.—(1) If overdue no-fault benefits are recovered by a victim or a survivor in a civil action against a restoration obligor, or if such benefits are paid by a restoration obligor after it receives notice that a victim or a survivor has retained a specified attorney, such restoration obligor shall pay such attorney a reasonable fee, based upon the actual time expended by such attorney and his staff in advising and representing such claimant (at prevailing rates for such services, including any reasonable risk factor component), and any other reasonable costs connected therewith. The court may award such fees in any other case in its discretion in the interest of justice. No part of such an attorney's fee may be charged or deducted from benefits otherwise due to a victim or a survivor, and no part of the no-fault benefits recovered or paid may be applied to an attorney's fee.

On page 44, in line 3, strike out "the" and insert "a".

On page 44, in line 4, strike out "the" and insert "a".

On page 44, in line 15, strike out "State".

On page 44, in line 16, strike out "title II" and insert "national standards".

On page 44, in line 17, strike out "of this Act".

On page 44, in line 21, strike out "of this section,".

On page 45, in line 2, strike out "the provisions on ineligible claimants" and insert "section 211".

On page 45, beginning with line 8, strike out:

(D) applicable to the injury is inadequate to provide the contracted for benefits because of financial inability of a restoration obligor to fulfill its obligations; or

and insert:

(D) applicable to the injury is inadequate to provide the benefits contracted for because the restoration obligor is financially unable to fulfill its obligation, unless a State insolvency plan is in effect in such State; or

On page 45, in line 20, after "(C)" insert "(1)".

On page 45, in line 20, after "or" insert "(1)".

On page 45, in line 20, strike out "of this subsection,".

On page 46, in line 21, strike out "security," and insert "security. Such deduction is".

On page 46, in line 22, strike out "otherwise payable except" and insert "other than".

On page 47, in line 9, strike out "insurer".

On page 47, at the beginning of line 11, insert "the cost of".

On page 48, beginning with line 3, strike out:

(c) Time for Presenting Claims Under Assigned Claims Plan.—(1) Except as provided in paragraph (2) of this subsection, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the assigned claims bureau of his claim within the time that would have been allowed pursuant to section 106 (c) of this Act for commencing an action for basic restoration benefits against any restoration obligor, other than an assigned claims bureau, in any case in which identifiable no-fault insurance coverage was in effect and applicable to the claim.

(2) If timely action for basic restoration benefits is commenced against a restoration obligor who is unable to fulfill his obligations because of financial inability, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the bureau of his claim within six months after his discovery of such financial inability.

On page 48, beginning with line 19, insert:

(3) Except as otherwise provided, a claimant who is authorized to obtain basic restoration benefits through the assigned claims plan shall notify the assigned claims bureau of such claim and may maintain a civil action to recover benefits within the time limitations set forth in section 106(c). Unless a State insolvency plan is in effect, if a timely civil action for basic restoration benefits is commenced against a restoration obligor who is financially unable to fulfill its obligations, the claimant involved shall notify the assigned claims bureau of such claim within 6 months after learning of such financial inability.

On page 49, in line 6, strike out "The" and insert "Notwithstanding any provision of this Act, except section 202(g), the".

On page 49, beginning with line 19, strike out:

(c) ACCOUNTABILITY PROGRAM.—(1) The commissioner, through the State vocational rehabilitation agency, shall establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services for which reimbursement or payment is sought from a restoration obligor as an item of allowable expense to assure that—

(A) the services are medical and vocational rehabilitation services, as defined in section 103(16) of this Act;

(B) the recipient of the services is making progress toward a greater level of independent functioning and the services are necessary to such progress and continued progress; and

(C) the charges for the services for which reimbursement or payment is sought are fair and reasonable. Progress reports shall be made periodically in writing on each case for which reimbursement or payment is sought under security for the payment of basic restoration benefits. Such reports shall be prepared by the supervising physician or rehabilitation counselor and submitted to the State vocational rehabilitation agency. The State vocational rehabilitation agency shall file reports with applicable restoration obligor or obligors. Pursuant to this program, there shall be provision for determinations to be made in writing of the rehabilitation goals and needs of the victim and for the periodic assessment of progress at reasonable time intervals by the supervising physician or rehabilitation counselor.

(2) The commissioner is authorized to establish and maintain a program for the regular and periodic evaluation of his State's no-fault plan for motor vehicle insurance.

(d) AVAILABILITY OF SERVICES.—The commissioner is authorized to coordinate with appropriate government agencies in the creation and maintenance of an emergency medical services system or systems, and to take all steps necessary to assure that emergency medical services are available for each victim suffering injury in the State. The commissioner is authorized to take all steps necessary to assure that medical and vocational rehabilitation services are available for each victim resident in the State. Such steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of such services, and support for training programs for personnel in programs and facilities offering such services.

and insert:

(c) ACCOUNTABILITY AND AVAILABILITY.—A no-fault plan for motor vehicle insurance in accordance with national standards or title III shall include a program for—

(1) evaluating and supervising—

(A) emergency medical services; and

(B) medical and vocational rehabilitation services, that are supplied to or provided for victims in the State in which such plan is in effect and with respect to which reimbursement or payment is sought from or made by a restoration obligor;

(2) assuring the accountability of suppliers and providers of such services for the quality thereof, and for the costs thereof, in accordance with applicable standards; and

(3) assuring that such services are available.

On page 52, in line 7, strike out "the" and insert "any".

On page 52, in line 7, strike out "of registration of such vehicle".

On page 52, in line 9, after "any" insert "other".

In page 52, in line 9, strike out "in which such vehicle is operating".

On page 52, in line 17, after "State" insert a period and strike out:

In which any victim who is a claimant or whose survivors are claimants is domiciled or is injured.

(2) A restoration obligor providing security for the payment of basic restoration benefits shall be obligated to provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, coverage of $50,000 to protect the owner or operator of a motor vehicle from tort liability to which he is exposed through application of the law of the State of domicile of a victim (or in the State in which the accident resulting in injury or harm to property occurs if a victim is not domiciled in any State), but to which he would not have been exposed through application of the law of the State of registration of the motor vehicle.

On page 53, beginning with line 5, insert:

(2) A restoration obligor providing security covering a motor vehicle shall provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, security for the payment of tort liability damages of up to $50,000 to protect the owner or operator of a secured vehicle from any tort liability—

(A) to which he may be exposed, as a result of an accident resulting in injury, by the applicable law under subsection (c); and

(B) to which he would not have been exposed by the law of the State in which he has his principal place of residence.

On page 53, beginning with line 17, strike out:

(c) APPLICABLE LAW.—(1) The basic restoration benefits available to any victim or to any survivor of a deceased victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act which is in effect in the State in which the victim had his principal place of residence on the date when the motor vehicle accident resulting in injury occurs. If there is no such State no-fault plan in effect, or if the victim does not have his principal place of residence in any State, then basic restoration benefits available to any victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance, if any, in effect in the State in which the accident resulting in injury occurs.

(2) The right of a victim of a survivor of a deceased victim to sue in tort shall be determined by the law of the State in which such victim has his principal place of residence. If a victim is not domiciled in a State, such right to sue shall be determined by the law of the State in which the accident resulting in injury or damage to property occurs.

On page 54, beginning with line 12, insert:

(c) APPLICABLE LAW.—The basic restoration benefits available to any claimant, and the right of any victim or survivor to sue in tort, shall be determined pursuant to the no-fault plan for motor vehicle insurance which is in effect in the State in which the victim has his principal place of residence on the date of the accident resulting in injury, if such plan is in accordance with national standards or title III. If there is no such no-fault plan in effect; if such no-fault plan excludes the involved vehicle; or if the victim's principal place of residence is not in any State, the basic restoration benefits available to a claimant, and such right to sue, shall be determined pursuant to the no-fault plan for motor vehicle insurance which is in effect in the State in which the accident resulting in injury occurs.

On page 55, in line 4, strike out "of this subsection".

On page 56, beginning with line 3, strike out

(3) Notwithstanding provisions of paragraph (1)(B), of this subsection, a State may grant a right of reimbursement among and between restoration obligors based upon a determination of fault, where such restoration obligors have paid or are obligated to pay benefits for loss arising out of an accident resulting in injury in which one or more of the motor vehicles is of a type other than a private passenger motor vehicle and by designation the State has determined that the owner of such type would receive an unreasonable economic advantage or suffer an unreasonable economic disadvantage of reimbursement: *Provided*, That in such event such right of reimbursement may be granted only with respect to benefits paid for loss in excess of $5,000.

On page 56, bgeinning with line 17, insert:

(3) A State no-fault plan for motor vehicle insurance in accordance with national standards or title III may grant a restoration obligor a right of reimbursement from any other restoration obligor, based upon a determination of fault, for no-fault benefits which it has paid or is obligated to pay in any case in which—

(A) such restoration obligor has paid or is obligated to pay such benefits as a result of an accident resulting in injury;

(B) such accident involved two or more vehicles and at least one of them was of a type other than a passenger motor vehicle, as defined in section 2 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901);

(C) such other type of vehicle has been designated by the commissioner in such State as a vehicle whose owner is likely to receive unreasonable economic advantage or to suffer unreasonable economic disadvantage in the absence of reimbursement based upon fault; and

(D) the total no-fault benefits involved exceed $100.

On page 58, in line 12, strike out "2 months" and insert "90 days".

On page 58, beginning with line 15, strike out:

SEC. 112. No district court of the United States may entertain an action for no-fault benefits unless the United States is a party to the action.

and insert:

SEC. 112. No district court of the United States may entertain an action for no-fault benefits unless the United States (or a Federal agency which can be sued in its own name) is a party to the action.

On page 58, beginning with line 23, strike out:

SEC. 113. (a)(1) GENERAL.—Notwithstanding any other provision of law, a claim against the United States as a restoration obligor for injury arising out of the maintenance or use of a Federal motor vehicle which is a secured vehicle shall be governed by this Act. A Federal motor vehicle is a secured vehicle, for purposes of this Act, whenever it is located or operated in the territorial area of any State, Puerto Rico, Canada, or Mexico.

(2) The level of basic restoration benefits which the United States shall pay or provide shall be controlled by the no-fault plan for motor vehicle insurance in effect in the State of domicile of the victim, if any, or if none, in the State in which the accident resulting in injury occurs.

On page 59, beginning with line 11, insert:

SEC. 113. (a) (1) GENERAL.—Notwithstanding any other provision of law, a claim against the United States (or a Federal agency) as a restoration obligor for injury arising out of the maintenance or use of a Federal motor vehicle which is a secured vehicle, or out of the maintenance or use of any motor vehicle which is operated by an employee of the Federal Government during the course of official business, shall be governed by this Act. A Federal motor vehicle is a secured vehicle, for purposes of this Act, whenever it is located or operated in the territorial area of any State, Puerto Rico, Canada, or Mexico.

(2) The level of basic restoration benefits which the United States (or a Federal agency) shall pay or provide, and the liability of the United States (or a Federal agency) to suit in tort, as a result of an accident resulting in injury, shall be determined by the no-fault plan for motor vehicle insurance which is in effect (A) in the State in which the victim has his principal place of residence, or (B) in the State in which the accident resulting in injury occurs, if the victim's principal place of residence is not in any State.

On page 60, in line 13, strike out "branch, department, commission, administration, authority, board, or bureau of, or any corporation owned or controlled by, the" and insert "agency, corporation, independent establishment, or other entity of the legislative, executive, or judicial branch of the".

On page 61, in line 5, strike out "of this Act.".

On page 61, beginning with line 9, strike out

TITLE II—NATIONAL STANDARDS FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

STATE NO-FAULT PLAN IN ACCORDANCE WITH THIS TITLE

SEC. 201. (a) PREEMPTION.—Any provision of any State law which would prevent the establishment or administration in such a State of a no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act is preempted.

(b) STATE PLAN.—By the completion of the first general session of the State legislature which commences after the date of enactment of this Act, a State may establish a no-fault plan for motor vehicle insurance in accordance with this title. Upon the establishment of such a plan, the commissioner shall promptly submit to the Secretary a certified copy of such plan, together with all relevant information which is requested by the Secretary.

(c) DETERMINATION BY SECRETARY.—Within 90 days after the Secretary receives a copy of a State no-fault plan established under subsection (b) or (e) of this section, the Secretary shall make a determination whether such State has established a no-fault plan for motor vehicle insurance in accordance with this title. Unless the Secretary determines, pursuant to this section, that a State no-fault plan is not in accordance with this title, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than 9 months or more than 12 months after the date of its establishment.

(d) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every 3 years, review each State no-fault plan for motor vehicle insurance, which has been approved under subsection (c) of this section and for which there is experience, to determine whether such plan is still in accordance with this title and to evaluate the success of such plan in terms of the policy set forth and declared in section 102 of this Act. To facilitate such review, the commissioner in each such State shall submit to the Secretary periodically all relevant information which is requested by the Secretary. The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such reviews, including any recommendations for legislation.

(e) ALTERNATIVE STATE PLAN.—(1) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable following the completion of the first general session of the State legislature which commences after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title. The alternative State no-fault plan shall go into effect in a State on the first day of the ninth month after such plan becomes applicable or on a date designated by the Secretary, whichever is earlier.

(2) If, after the alternative State no-fault plan is applicable or in effect in a State, the Secretary, upon petition, makes a determination, pursuant to subsection (c) of this section, that such State has established a no-fault plan in accordance with this title, such State no-fault plan shall go into effect and the alternative State no-fault plan shall cease to be applicable or in effect on a date to be designated by the Secretary.

(3) If, after a State no-fault plan in accordance with this title is in effect in a State, the Secretary makes a determination, pursuant to subsection (d) of this section, that such State no-fault plan is no longer in accordance with this title, then the plan which is no longer in accordance with this title shall cease to be in effect on a date to be designated by the Secretary, and on that date the alternative State no-fault plan shall go into effect in such State.

(f) PROCEDURE.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within 60 days from the date on which the determination made by the Secretary is published in the Federal Register.

(g) EXCEPTIONS.—(1) The provisions of this section are inapplicable to the extent inconsistent with this subsection.

(2) Any State which is a no-fault State, as defined in paragraph (4) of this subsection, may establish a no-fault plan for motor vehicle insurance in accordance with this title by the fourth anniversary of the date of enactment of this Act.

(3) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable in any State which is a no-fault State, as defined in paragraph (4) of this subsection on the fourth anniversary of the date of enactment of this Act, unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title.

(4) As used in this subsection, a "no-fault State" means a State which has enacted into law and put into effect a motor vehicle insurance law not later than September 1, 1975, which provides, at a minimum, for compulsory motor vehicle insurance; payment of benefits without regard to fault on a first-party basis where the value of such available benefits is not less than $2,000; and restrictions on the bringing of lawsuits in tort, by victims for noneconomic detriment, in the form of a prohibition of such suits unless the victim suffers a certain quantum of loss or in the form of a relevant change in the evidentiary rules of practice and proof with respect to such lawsuits.

(h) REPORTING REQUIREMENTS.—The Secretary, in cooperation with the commissioners, shall annually review the operation of State no-fault plans for motor vehicle insurance established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such plan which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such plans;

(2) appropriate methods for refunding to members of the motoring public any cost-savings realized from the institution and operation of such no-fault insurance plans;

(3) the impact of no-fault insurance on senior citizens; those who live in farming and rural areas; those who are economically disadvantaged, and those who live in inner cities;

(4) the impact of no-fault insurance on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(5) the effect of no-fault insurance on court congestion and delay resulting from backlogs in State and Federal courts;

(6) the impact of no-fault insurance, reduced speed limits, and other factors on automobile insurance rates; and

(7) the impact of no-fault insurance on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such review and determination together with his recommendations thereon.

(i) FINANCIAL ASSISTANCE TO STATES.—The Secretary is authorized to provide grants to any State for the purpose of reimbursing such State for any governmental cost increases resulting from the implementation or administration of a no-fault plan for motor vehicle insurance in accordance with this Act. The Secretary shall, by regulation, establish procedures for awarding such grants on a fair and equitable basis among the States.

(j) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out his responsibilities under this Act such sums as are necessary, not to exceed $10,000,000, such sums to remain available until expended.

NATIONAL STANDARDS

SEC. 202. (a) GENERAL.—A State establishing a no-fault plan for motor vehicle insurance in accordance with this title shall enact a law which incorporates, at a minimum, title I of this Act, except sections 101, 102, 112, and 113, and this title except this section and section 201. The provisions of these sections, taken together, shall be known as the "national standards" for State no-fault motor vehicle insurance.

(b) CRITERIA.—A State no-fault plan for motor vehicle insurance is in accordance with this title if it meets or exceeds all of the national standards. A provision in a State plan "meets" a provision in the national standards if the substance of the State plan provision is the same as or the equivalent of the corresponding provision in the national standards. A provision in a State plan "exceeds" a provision in the national standards if the substance of the State plan provision is more favorable or beneficial to an insured or a claimant or more restrictive of tort liability than the corresponding provision in the national standards. Any provision in a State plan as to which there is no corresponding provision in the national standards shall not be evaluated in determining whether such plan meets or exceeds national standards provided such provision is not inconsistent with the national standards or the policy set forth and declared in section 102 of this Act.

On page 69, beginning with line 4, insert:

TITLE II—NATIONAL STANDARDS

CRITERIA AND REVIEW

SEC. 201. (a) GENERAL.—The provisions of title I, except sections 101, 102, 103, 110, 112, 113, and 114, and the provisions of this title, except this section and section 202, are provisions of this Act solely for the purpose of establishing national standards for a State no-fault plan for motor vehicle insurance and shall have force and effect only as part of such a plan, except to the extent that any such provision may apply to section 113 or be incorporated in title III. The provisions of title III are provisions of this Act solely for the purpose of setting forth the provisions of the alternative Federal no-fault plan for motor vehicle insurance and shall have force and effect only as part of such a plan and in accordance with this Act.

(b) CRITERIA.—(1) A State no-fault plan for motor vehicle insurance is in accordance with national standards only if such a plan includes provisions which meet or exceed each of the national standards, pursuant to paragraph (2), and if such plan does not include any provisions that are inconsistent, in whole or in part, with the national standards.

(2) As used in this Act, the term "national standards" means all of the provisions of title I, except sections 101, 102, 112, and 113, and all of the provisions of this title, except this section and section 202. A provision in a State no-fault plan for motor vehicle insurance "meets" a national standard if its substance is the same as, or the equivalent of, the national standard which corresponds to it. A provision in such a State plan "exceeds" a national standard if its substance is more favorable or beneficial, with respect to insureds, victims, or survivors, than the national standard which corresponds to it, or if it is more restrictive of tort liability than the national standard established by section 206(a).

(c) REVIEW BOARD.—(1) There is established, in accordance with the provisions of this subsection, an independent instrumentality within the Department of Transportation, to be known as the No-Fault Insurance Plan Review Board.

(2) The Review Board shall consist of five members, as follows:

(A) the Secretary, or his designee, who shall serve as Chairman of the Review Board; and

(B) four individuals, none of whom shall be employees or consultants of the Federal Government in any other capacity, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(i) two to be selected from a list of not less than six qualified individuals recommended by the National Governors Conference;

(ii) two to be selected from a list of not less than six qualified individuals recommended by the National Association of Insurance Commissioners.

A member, other than the Chairman, may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. The terms of office of such members first taking office shall expire as designated by the President at the time of nomination—two at the end of the second year and two at the end of the fourth year. Successors to such members shall be appointed in the same manner as the original members and shall have terms of office expiring 4 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(3) The Review Board may adopt, amend, and repeal such rules and regulations as are necessary to carry out the authority granted under this Act, and it may, for the purpose of carrying out such authority, hold such hearings as it deems advisable. The Chairman, subject to the approval of the Review Board and without regard to the civil service and classification laws, may select, appoint, assign the duties, and fix the compensation of such employees and consultants as are necessary to carry out the Review Board's powers and duties under this Act. Three members of the Review Board shall constitute a quorum, and decisions of such Board shall be by majority vote of the members present and voting.

(4) There are authorized to be appropriated to the Review Board for purposes of carrying out its functions under this Act such sums as are necessary, not to exceed $500,000, to remain available until expended, and moneys appropriated for the Review Board shall not be withheld or used by the Secretary for any purpose other than for the use of the Review Board.

STATE NO-FAULT PLAN IN ACCORDANCE WITH NATIONAL STANDARDS

SEC. 202. (a) PREEMPTION.—Any provision of any State law that would prevent the establishment in such a State of a no-fault plan for motor vehicle insurance in accordance with national standards is preempted.

(b) STATE NO-FAULT PLAN.—A State may, at any time, enact into law a no-fault plan for motor vehicle insurance in accordance with national standards.

(c) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—(1) If the chief executive officer of a State determines that such State has enacted a no-fault plan for motor vehicle insurance in accordance with national standards, such chief executive officer may, at any time following such enactment, submit to the Review Board a certification that such State has established a no-fault plan for motor vehicle insurance in accordance with national standards, together with a certified copy of such plan.

(2) Such a certification, and any recertification pursuant to subsection (d), shall be in the following form: "The State of ——— has enacted into law a no-fault plan for motor vehicle insurance. I hereby certify, pursuant to section 202(c) (recertify, pursuant to section 202(d)) of the National Standards for No-Fault Insurance Plans Act, that this plan, a certified copy of which is attached, is (remains) in accordance with national standards.".

(d) PERIODIC REPORT AND RECERTIFICATION.—The Review Board shall request, not more frequently than every 2 years nor less frequently than every 4 years, from the chief executive officer of a State for which a certification, pursuant to subsection (c), is on file with such Board—

(1) a report evaluating the success of such State's no-fault plan for motor vehicle insurance in terms of such State's contribution to the purposes of the Congress set forth in section 102(b) and in terms of—

(A) the cost to the purchasers of insurance resulting from the institution and continuing operation of such plan;

(B) the impact of such plan on various sectors of society;

(C) the effect of such plan on congestion and delay resulting from backlogs in the courts; and

(D) the impact of such plan on competition within the motor vehicle insurance industry, particularly with respect to the competitive position of small insurance companies in such State; and

(2) a recertification, in the form prescribed under subsection (c), that such State's plan remains in accordance with national standards.

The Review Board shall report to the President and to the Congress simultaneously on March 1 of each year on the results of all such reports that it received during the preceding calendar year, including any recommendations for legislation.

(e) REVIEW BOARD REVIEW.—The Review Board shall meet to review all certifications and recertifications within 90 days of their receipt by the Review Board. The Review Board shall treat a State's certification and recertification of its no-fault plan as prima facie evidence that such plan is in accordance with national standards, and having received such a certification or recertification the Review Board shall make a determination that such a State's no-fault plan is not in accordance with national standards only on the basis of substantial evidence. If the Review Board, under such circumstances, determines on the basis of substantial evidence that a State does not have a no-fault plan for motor vehicle insurance that is in accordance with national standards, it shall issue a declaration of such finding, including the reasons therefor. Except as otherwise provided in this subsection, such a declaration may only be made by the Review Board within 90 days following the receipt by the Review Board of a State's certification, pursuant to subsection (c), or recertification, pursuant to subsection (d). Such a declaration shall be made if a recertification has not been received by the Review Board within 180 days after a request therefor has been made under subsection (d).

(2) If the chief executive officer of a State has not certified, pursuant to subsection (c), that such State has enacted a no-fault plan for motor vehicle insurance in accordance with national standards, as of the second anniversary of the date of enactment of this Act, the Review Board shall meet within 90 days of such second anniversary and issue a declaration that such State does not have a no-fault plan for motor vehicle insurance that is in accordance with national standards. If a State does not have in effect a no-fault plan for motor vehicle insurance, which was certified pursuant to subsection (c), as of the third anniversary of the date of enactment of this Act, the Review Board shall meet within 90 days of such third anniversary and issue a declaration that such State does not have a no-fault plan for motor vehicle insurance that is in accordance with national standards.

(f) ALTERNATIVE FEDERAL NO-FAULT PLAN.—The alternative Federal no-fault plan for motor vehicle insurance in accordance with title III shall become applicable in a State 90 days following the issuance of a declaration by the Review Board, pursuant to subsection (e), that such State does not have a no-fault plan for motor vehicle insurance that is in accordance with national standards: *Provided*, That in no event shall such alternative Federal no-fault plan become applicable in any State prior to the second anniversary of the date of enactment of this Act. The alternative Federal no-fault plan for motor vehicle insurance in accordance with title III shall go into effect in a State in which it is applicable 270 days after it becomes applicable. If the chief executive officer of such a State, subsequent to a Review Board declaration that such State's no-fault plan is not in accordance with national standards, submits to the Review Board a certification pursuant to subsection (c), and if the Review Board does not determine, within 90 days after its receipt of such certification, that the plan involved is not in accordance with national standards, the alternative Federal no-fault plan for motor vehicle insurance shall cease to be applicable or in effect in such State and such State's no-fault plan in accordance with national standards shall go into effect on the same date, as designated by the chief executive officer of such State, except that such date shall not be earlier than 90 days following the Review Board's receipt of the applicable certification.

(g) State Option.—Whenever the alternative Federal no-fault plan for motor vehicle insurance in accordance with title III is in effect in a State, such plan shall be implemented, administered, operated, and maintained exclusively by the Secretary, unless the chief executive officer of such State certifies to the Secretary that such State has enacted legislation authorizing the assumption of these functions. Upon such certification, the State shall implement, administer, operate, and maintain the alternative Federal no-fault plan. However, if a State repeals the legislation assuming these functions, then the Secretary, upon notice in writing, shall perform these functions. The Secretary is authorized to promulgate any necessary regulations, including regulations providing for the orderly transfer from a State to the Secretary, or from the Secretary to a State, of the functions involved in implementing, administering, operating, and maintaining the alternative Federal no-fault plan when such a transfer is required under this section. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out any duties imposed on the Secretary under this subsection.

(h) Judicial Review.—(1) At the option of a State only, a declaration made by the Review Board that such State's no-fault plan for motor vehicle insurance is not in accordance with national standards shall be subject to judicial review in the United States court of appeals for the circuit in which is located such State or in the United States Court of Appeals for the District of Columbia Circuit: *Provided*, That (A) any such review shall be instituted within 60 days from the date on which such declaration by the Review Board was issued; and (B) pending final determination by the court, the alternative Federal no-fault plan shall become applicable and go into effect in such State, in accordance with the provisions of subsection (f).

(2) A determination by the Review Board that a State's no-fault plan for motor vehicle insurance is in accordance with national standards is subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, except that (A) section 705 thereof is not applicable; (B) the appropriate court shall only hold unlawful and set aside such a determination on a ground speciified in subparagraphs (A), (B), (C), or (D) of section 706(2) thereof; and (C) any such review shall be instituted within 30 days from the date on which such a determination was made public.

On page 79, in line 13, strike out "this title" and insert "national standards".

On page 79, in line 13, strike out "of this Act".

On page 79, in line 14, before "victim" strike out "any" and insert "a".

On page 79, in line 14, before "survivor" strike out "any".

On page 79, in line 14, strike out "of a deceased victim".

On page 79, in line 15, after "benefits", insert "in accordance with the applicable such plan."

On age 79, in line 17, strike out "Any".

On page 79, in line 19, after "plan" insert "for motor vehicle insurance in accordance with national standards or title III".

On page 79, in line 21, before "survivor" strike out "a".

On page 79, in line 22, strike out "of a deceased".

On page 79, in line 23, after "benefits" insert "in accordance with the applicable such plan".

On page 80, in line 5, strike out "this title" and insert "national standards".

On page 80, in line 8, after "allowable" strike out "expenses as defined in section 103(2) of this Act;" and insert "expenses;".

On page 80, in line 18, after "available" insert "statistics of the".

On page 80, at the end of line 18, strike out "United States".

On page 80, in line 19, after "Commerce" insert a semicolon and strike out "figures;".

On page 81, beginning in line 1, strike out: equal to—

(A) $25,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) such total amount

On page 81, at the end of line 16, insert "and".

On page 81, in line 22, strike out "insurance".

On page 81, in line 23, strike out "if he" and insert "who".

On page 81, in line 24, after "while" strike out "he is".

On page 81, in line 24, after "operating" insert "or riding as a passenger on".

On page 82, line 2, strike out "is a passenger on such a vehicle, or both;".

On page 82, line 5, after "claims of" strike out "named".

On page 82, line 6, after "survivors" insert a period and strike out : "; and".

(f) shall permit any legally constituted entity, which is providing benefits other than no-fault benefits on account of an injury, to coordinate such benefits with benefits payable by any restoration obligor on account of the same injury. In order for such coordination to occur, there must be an equitable reduction or savings in the direct or indirect cost to the purchasers of benefits other than no-fault benefits. If benefits other than no-fault benefits are provided to an individual through a program, group, contract, or other arrangement for which some other person pays in whole or in part, then reduction or savings in the direct or indirect cost to such person of such benefits resulting from coordination shall be returned to such individual or utilized for his benefit.

SOURCE OF BASIC RESTORATION BENEFITS

Sec. 205. (a) Applicable Security.—The security for the payment of basic restoration benefits applicable to an injury to—

(1) an employee, or to the spouse or other relative of an employee residing in the same household as the employee, if the accident resulting in injury occurs while the victim or deceased victim is driving or occupying a motor vehicle furnished by such employee's employer, is the security for the payment of basic restoration benefits covering such motor vehicle or, if none, any other security applicable to such victim;

(2) an insured is the security under which the victim or deceased victim is an insured;

(3) the driver or other occupant of a motor vehicle involved in an accident resulting in injury who is not an insured is the security covering such vehicle;

(4) an individual who is not an insured or the driver or other occupant of a motor vehicle involved in an accident resulting in injury is the security covering any motor vehicle involved in such accident. For purposes of this paragraph, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident, unless it was parked so as to cause unreasonable risk of injury; and

(5) any other individual is the applicable assigned claims plan.

On page 83, line 24, insert:

Sec. 205. (a) Priorities.—If two or more obligations to pay basic restoration benefits apply to an injury, the restoration obligor liable to pay or provide such benefits shall be determined in accordance with the priorities set forth in this subsection. The restoration obligor liable to pay or provide such benefits is the restoration obligor providing—

1st; insurance to an employer, if the victim is an employee, or an employee's spouse or other relative residing in the same household as the employee, if the accident resulting in injury occurs while such victim was driving or occupying a motor vehicle furnished by such employee's employer;

2d; the security under which the victim is or was an insured;

3d; the security covering a motor vehicle involved in the accident resulting in injury, if the victim is or was an uninsured occupant of such motor vehicle;

4th; the security covering any motor vehicle involved in the accident resulting in injury, if the victim is not an insured. For purposes of this section, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident, unless it was parked so as to cause unreasonable risk or injury; and

5th; coverage under the assigned claims plan in accordance with section 108.

On page 85, line 4, strike "of this section,".

On page 85, line 11, strike "of this section".

On page 85, line 17, strike "this title" and insert "national standards".

On page 85, line 17, strike "prior to" and insert "on the date of the accident resulting in".

On page 86, line 12, after "section 204(b)(2)" insert ", 204(c),".

On page 86, line 12, after "or" insert "204(d)".

On page 86, line 15, after "204" insert a period and strike "of this Act.".

On page 86, line 16, strike:

(5) A person remains liable for damages for non-economic detriment if the accident results in—

And insert:

(5) A person remains liable for damages for non-economic detriment to a victim who sustains injury which results in—

On page 87, line 4, strike:

(6) A person or government remains liable if such injury was caused or not corrected by an act or omission not connected with the maintenance or use of a motor vehicle.

And insert:

(6) A person or government remains liable if such injury is caused in whole or in part by an act or omisison not connected with the maintenance or use of a motor vehicle on the part of such person or government.

On page 87, line 10, strike "WORK" and insert "CALCULATION OF GROSS INCOME LOSS".

On page 87, line 20, strike "work" and insert "gross income".

On page 87, line 21, strike "the" and insert "an".

On page 88, line 2, after "thereof," insert "during which".

On page 88, line 3, strike "sustains loss of income" and insert "was unable to perform work".

On page 88, line 4, after "period" insert "because of the injury".

On page 88, line 5, strike "work" and insert "gross income".

On page 88, line 6, strike "is" and insert "prior to an injury".

On page 88, line 12, after "thereof," insert "during which".

On page 88, line 15, strike "work" and insert "gross income".

On page 88, line 21, after "any," insert "during which".

On page 88, line 23, strike "realize" and insert "perform work for".

On page 88, line 24, after "period" insert ", but for the injury".

On page 88, line 25, strike "(1) Sums for work" and insert "The gross income".

On page 88, line 26, after "loss" insert "of a victim".

On page 88, line 26, after "periodically" insert "recalculated and".

On page 89, line 1, strike "in a manner corresponding" and insert ".".

On page 89, line 1, after "to" insert "reflect any increases in such victim's".

On page 89, line 2, after "compensation" insert "increases".

On page 89, line 4, strike:

(2) Beginning in 1978, and at 5-year intervals thereafter, whenever a dollar figure limits benefits for work loss, that figure shall be multiplied by a number whose numerator is the average weekly earnings of production or nonsupervisory workers in the private nonfarm economy for that year and whose denominator is the average weekly earnings of this group of workers in the base year 1973, according to the latest available figures published by the Bureau of Labor Statistics of the United States Department of Labor.

On page 89, line 22, strike "three" and insert "3".

On page 90, line 3, strike "three" and insert "3".

On page 90, line 9, strike "is domiciled for" and insert "has his principal place of residence during".

On page 90, line 19, strike "of this Act".

On page 91, line 9, strike "of this section,".

On page 91, line 11, strike "is" and insert "shall be".

On page 91, line 14, strike "insurer" and insert "restoration obligor".

On page 91, line 17, strike:

(c) Allowable Expense Deduction Option.—A State no-fault plan for motor vehicle insurance established in accordance with title II of this Act shall include the substantive provisions of this subsection, unless such State finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State: Benefits or advantages that an individual receives or is entitled to receive for allowable expense from a source other than no-fault insurance shall be subtracted from loss in calculating net loss for allowable expense where—

(1) such source other than no-fault insurance provides or is obligated to provide such benefits or advantages for allowable expense, as defined in section 103(2) of this Act, without any limitation as to the total amount of such benefits or advantages obligated to be provided;

(2) such benefits or advantages are provided by such source other than no-fault insurance on terms and conditions which comply wholly with the provisions of sections 103 (6), (7), and (16), 109 (c) and (d), and 111(d) of this Act and subject to all authority set forth therein;

(3) such source other than no-fault insurance is required by the applicable State no-fault plan for motor vehicle insurance in accordance with this Act to share, on an equitable basis, in financial burdens and costs of operation of plans established pursuant to sections 105 and 108 of this Act;

(4) such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficiaries under such group insurance have received notice that there will be such subtraction; and

(5) the commissioner finds that such subtraction will result in economic benefits greater than those which would result from coordination pursuant to section 204(f) of this Act, on the basis of a hearing in which interested parties present competent evidence, and such finding is reviewed in a similar procedure by the commissioner not less than once every 3 years.

The commissioner shall promulgate rules to assure that the economic benefits found under paragraph (5) of this subsection are realized. As used in this subsection, (A) "group insurance" means any plan of insurance offered or provided to members of a group not organized solely for the purpose of obtaining insurance, under the terms of a master policy or operating agreement between an insurer and the group sponsor, and incorporating group average rating, guaranteed issue with or without minimum eligibility requirements, group experience rating, employer contributions, and any other benefit to the members as insureds that they may be unable to obtain in the ordinary channels of insurance marketing on an individual basis; and (B) "group sponsor" means the employer or other representative entity of an employment based group sections 103 (10), (11), and (12) of this Act are inapplicable with respect to such definitions.

On page 94, line 3, insert:

COORDINATION AND COST SAVINGS

Sec. 209. A no-fault plan for motor vehicle insurance in accordance with national standards or title III shall include a program for coordination between—

(1) security covering a motor vehicle; and

(2) sources other than such security that provide benefits to victims;

in order to minimize duplication of benefits and to produce cost savings.

On page 94, line 13, strike "209." and insert "210.".

On page 94, line 20, strike "allowable expense,".

On page 94 line 22, after the semicolon insert "and".

On page 94, line 23, after "vehicle" insert a period and strike:

(4) benefits for expense for remedial religious treatment and care.

On page 95, line 19, insert: Nothing in this subsection shall be construed to prohibit an insurer from offering any other added restoration insurance.

On page 96, line 4, strike "210." and insert "211.".

On page 96, line 15, strike "of this Act,".

On page 96 line 21 strike "acts," and insert "act or failure to act,".

On page 97, line 12, strike "of this Act,".

On page 97, line 17, strike "OTHER" and insert "MISCELLANEOUS."

On page 97, line 18, strike "211." and insert "212.".

On page 97, line 22, after "insurance" insert "in accordance with national standards or title III which is".

On page 98, line 2, strike "State".

On page 98, line 6, strike:

(b) Approval of Terms and Forms.—Terms and conditions (including forms used by insurers) of any contract, certificate, or other evidence of insurance sold or issued pursuant to a State no fault plan for motor vehicle insurance in accordance with this title or title III of this Act and providing no-fault benefits or any required tort liability are subject to approval and regulation by the commissioner in such State. The commissioner shall approve only terms and conditions which are consistent with the purposes of this Act and fair and equitable to all persons whose interests may be affected. The commissioner may limit by rule the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

And insert:

(b) Approval of Terms and Forms.—A no-fault plan for motor vehicle insurance in accordance with national standards or title III shall provide that the terms and conditions of, and rating plans for (including forms used by insurers), any contract, certificate, or other evidence of insurance sold or issued pursuant to such plan are subject to approval and regulation by such State's commissioner, pursuant to any applicable State law. The commissioner shall only approve terms and conditions that are consistent with the purposes of this Act and that are fair and equitable to all persons whose interests may be affected. The commissioner should only approve rating plans that accurately reflect an ineligibility for basic restoration benefits for work loss; the election of a deductible, a waiting period, and/or a low level of monthly basic restoration benefits for work loss, in accordance with section 204; and/or the applicability of a provision in section 208. Unless otherwise prohibited by State law, the commissioner may limit by rule the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

(c) Adjustments in Benefits.—Beginning in 1978, and at 3-year intervals thereafter, whenever a dollar figure limits no-fault benefits, that figure shall be multiplied by a number whose numerator is the average weekly earnings of production or nonsupervisory workers in the private nonfarm economy for that year and whose denominator is the average weekly earnings of such workers in the base year 1975, according to the latest available figures published by the Bureau of Labor Statistics of the United States Department of Labor.

On page 100, line 1, strike "STATE" and insert "FEDERAL".

On page 100, line 2, strike "MOTOR VEHICLE INSURANCE".

On page 100, line 4, strike "State" and insert "Federal".

On page 100, line 5, strike "State".

On page 100, line 7, strike "(e)" and insert "(f)".

On page 100, line 7, strike "201" and insert "202".

On page 100, at the beginning of line 8, strike "of this Act"

On page 100, line 8, after "title I" strike "of this Act".

On page 100, line 9, strike "and (f),".

On page 100, line 9, strike "210, and".

On page 100, at the beginning of line 11, insert "and 212".

On page 100, line 11, strike "of this Act;".

On page 100, line 14, strike "State" and insert "Federal".

On page 100, line 16, after "102" insert a period and strike "of this Act.".

On page 100, line 19, strike "the".

On page 100, line 19, strike "or survivors of a deceased victim".

On page 100, line 20, strike ", as defined in section 102(2) of this Act,".

On page 101, line 10, strike "State" and insert "Federal".

On page 101, line 11, after "effect" insert "on the date of the accident resulting in such injury".

On page 101, line 23, after "business" add a period and strike "; and".

On page 102, line 1, insert:

(4) A person or government remains liable if such injury is caused in whole or in part by an act or omission not connected with the maintenance or use of a motor vehicle, on the part of such person or government.

On page 102, line 20, strike "allowable expense,"

On page 102, line 23, after "vehicle" insert a period and strike:

; and

(4) benefits for expense for remedial religious treatment and care.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Lynn Sutcliffe, a member of the staff of the Committee on Commerce, have the privilege of the floor during the consideration of the bill now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, is S. 354 the pending business before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. Mr. President, I am disappointed to be here again advocating Senate passage of S. 354, the national standards for no-fault auto insurance bill. I am not disappointed because of the issue—it remains one of the most important consumer bills of the 1970's. I am not disappointed because of the bill—it is one of the most carefully prepared pieces of legislation which it has ever been my privilege to sponsor.

No, I am disappointed because it should not be necessary for me to be advocating Senate passage of S. 354 again this year. The Senate passed S. 354, in a form very similar to the current bill, on May 1, 1974, by 53 to 42. If the Senate's will had become law in 1974, all 50 of the States would by now have been well on the way to having good-for-consumers no-fault laws of their own. If the other body had acted, and if the administration had endorsed the Senate position, no-fault auto insurance and benefits would be a reality, rather than a mirage or mixed blessing for all American motorists and pedestrians.

We are here again, almost 2 years later, and those who have advocated State-by-State reform have been sorely disappointed. In the past 1½ years, only one additional State—North Dakota—has enacted a no-fault motor vehicle insurance law. The activity in the States, which opponents of S. 354 cited in previous Congresses as justification for their opposition, has come to a screeching halt. Opponents of no-fault, led by the trial lawyers, have proven themselves increasingly capable in the techniques of blocking no-fault progress at the State level.

The disappointing trend of no-fault progress at the State level can be seen from the following table listing, by year, the States which have enacted no-fault laws which provide benefits to victims without regard to fault and which place some restrictions on unnecessary tort lawsuits:

1970 (1) Massachusetts.
1971 (1) Florida.
1972 (3) Connecticut, Michigan, New Jersey.
1973 (6) Colorado, Hawaii, Kansas, Nevada, New York, Utah.
1974 (4) Georgia, Minnesota, Pennsylvania, Kentucky.
1975 (1) North Dakota.
1976 (0).

I am here to ask the Senate to repeat its action of May 1, 1974 and again pass S. 354. This is the year for successful action on no-fault. For the first time ever, the appropriate subcommittee of the House Committee on Interstate and Foreign Commerce has reported favorably a good national standards no-fault bill, H.R. 9650. Some will say: Why consider no-fault if the President will veto it?

I realize and regret that the administration does not yet support national standards for State no-fault insurance plans, but I am optimistic as to the treatment such a bill would receive from the President if a national standards bill is passed by both the Senate and the House of Representatives. This administration has displayed a perceptive and affirmative attitude toward the problems involved in no-fault auto insurance, but insisted upon State-by-State action, arguing it would proceed expeditiously. It has not. The administration has shown an undeviating concern for good no-fault laws. In his testimony before the Senate Committee on Commerce, the Secretary of Transportation, Mr. Coleman, analyzed the existing State no-fault laws and concluded that only six or seven of them could be characterized as "adequate." The Attorney General, Mr. Levi, in his testimony before the Senate Committee on Commerce, laid to rest a plethora of suggestions that S. 354 was unconstitutional and submitted language to the committee—which was incorporated in the bill as reported—to cure the one defect of constitutional dimension which he perceived in the bill. The administration has continued to insist that the State action will be forthcoming, but with the virtual cessation of non-fault progress at the State level, I am confident that the administration will soon reconsider that position.

In addition, the administration deference to State preeminence in the insurance area has come under attack from within the administration itself. The White House is reportedly considering a proposal by the Attorney General which would eliminate the States' insurance rate setting role, something which S. 354 specifically preserves.

Before I describe the contents of S. 354, as it is before the Senate, and compare the bill to the bill which the Senate passed under the same number in 1974, I should like to identify the material which is piled up here on my Senate desk. In the first pile, the red-covered volumes, are the 26 volumes of research and analysis prepared by a special $2,000,000 study of automobile accident compensation conducted under the direction of the U.S. Department of Transportation from 1967 to 1971. As is well known, the final report of that DOT study concluded that the existing fault system is:

> . . . inefficient, overcostly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and the legal system.

In the second pile are volumes of the hearings which have been conducted by Senate committees directly on the question of no-fault auto insurance. The pile does not include some 20 or more additional volumes of testimony which were taken by the Antitrust and Monopolies Subcommittee in the 1960's on the insurance industry generally, even though some of these materials were germane to the creation of the bill before us. First, there are five volumes of hearings on "Automobile Insurance Reform and Cost Savings," or a total of 2,434 pages, which were taken by the Senate Committee on Commerce during the 92d Congress. Second, there are two volumes of hearings on "National No-Fault Motor Vehicle Insurance Act," or a total of 940 pages, which were taken by the Senate Commerce Committee during the 93d Congress. Third, there is a massive volume of 1,566 pages of hearings on "No-Fault Insurance" which were taken by the Senate Committee on the Judiciary during the 93d Congress. Finally, there is a 646-page volume of hearings on "National Standards No-Fault Insurance" which were taken by the Senate Committee on Commerce during this Congress.

In the third pile are volumes of the hearings which have been conducted by a subcommittee of the House Interstate and Foreign Commerce Committee: 1,342 pages during the 92d Congress; 1,867 pages during the 93d Congress; and a large number of pages that I do not have the total of yet during the 94th Congress.

These piles of documents may seem an overly dramatic way of making a point, but I believe it is necessary to indicate the painstaking care and effort which has gone into the creation of the bill which is before the Senate today. There are very few pieces of legislation which have been as carefully studied and prepared as this bill, and I am proud to say that the quality of the legislation has improved markedly as a result of all these hearings and all the other documents which have been prepared.

I ask unanimous consent to have printed in the Record a synopsis and description of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

Synopsis

The bill provides:

(1) National standards.—A nationwide system of no-fault automobile insurance would be set up by establishing national standards and by requiring each state to enact a no-fault insurance plan that meets or exceeds these standards. Within 3 years after enactment, each state will enact, and, within 4 years after enactment, will put into effect, its own state no-fault plan for motor vehicle insurance in accordance with these national standards. The administration of the plans and the regulation of the insurance industry would remain the responsibility of the states.

If a state does not enact a no-fault plan in accordance with national standards, title III of the bill provides for an alternative federal no-fault plan that would go into effect in the state 4 years after the enactment of the bill and be administered by the Secretary of Transportation unless the state passes legislation authorizing the constituted authorities of the state to administer the title III plan.

(2) Benefits.—The national standards call for: (A) Paying all of the reasonable medical and rehabilitation expenses of all motor vehicle accident victims; (B) compensating each such victim for lost wages up to at least $15,000; and (C) paying a reasonable amount to compensate for the cost of hiring others to perform tasks that the victim is no longer capable of doing personally because of the accident. In death cases, the national standards call for paying a reasonable amount in survivor's losses, including funeral expenses, and for permitting tort lawsuits in all cases.

(3) Fault-based lawsuits.—The victim may sue the person at fault for economic losses for which he or she does not receive compensation under the applicable no-fault plan. In addition, fault-based lawsuits are permitted for noneconomic detriment (pain and suffering) in all wrongful death cases and in all cases in which the victim suffers a serious and permanent disfigurement or other serious and permanent injury or where the victim is prevented from engaging in his or her usual and customary daily activities for more than 90 days, as a result of the motor vehicle accident.

(4) Consumer and victim protections.—(A) The no-fault benefits must be paid within 30 days of submission of proof of loss, or else the restoration obligor (insurance company, self-insurer, or obligated government) must, in addition to the benefits, pay interest on the amount due at the rate of 18 percent a year;

(B) If no-fault benefits are overdue, the victim may retain an attorney and the restoration obligor must pay reasonable attorneys fees in addition to any benefits it subsequently pays or is required to pay:

(C) A state must maintain a plan to assure that the insurance is available to all who are required to be insured, that is, all owners of motor vehicles;

(D) Cancellation and nonrenewal of insurance policies is restricted;

(E) The state insurance commissioner is to provide comparative price information re auto insurance to consumers in his state; and

(F) Seriously injured victims must be referred to the appropriate vocational rehabilitation agency.

DETAILED DESCRIPTION

General

The bill established federal standards (termed national standards) for no-fault motor vehicle insurance, a mechanism for determining compliance with these standards, and an alternative federal no-fault plan for states that do not adopt the national standards. These standards will become law and govern the rights and liabilities of motor vehicle accident victims and motor vehicle owners only as part of a state no-fault plan in accordance with national standards.

The bill establishes a process that will result, within 3 to 4 years after the date of enactment, in a nationwide system for the restoration of motor vehicle accident victims and their survivors through complementary, but not necessarily identical, no-fault plans for motor vehicle insurance.

Once the system is in place, each individual (motorist, vehicle occupant, or pedestrian) who is injured in a traffic accident will be entitled to receive, at a minimum, compensation for all of the reasonable medical and rehabilitation treatment necessary to recover from the accident and its effects, reimbursement for lost wages up to $15,000, and a reasonable amount for survivor's loss. The motorist will be free from suit in tort unless his negligence caused death, serious and permanent injury or disfigurement, or an injury that results in the victim sustaining more than 90 continuous days of total disability.

The bill is a national-standards, rather than a total federal, bill. A federal bill would provide for the administration and implementation of its provisions by officers and agencies of the United States, whereas a national-standards bill leaves all questions of administration and implementation to the states so long as the minimum standards enunciated in its provisions are met.

The Committee believes that a national-standards bill is preferable to a federal bill, as the best means to satisfy the national interest in assuring proper medical treatment and rehabilitation and maximum feasible restoration of all persons injured on federal-aid highways and other public roadways in or affecting interstate commerce. First, a national-standards bill, by leaving all questions of administration and implementation to the states, prevents the federal bureaucracy from intruding upon the states in areas of traditional state responsibility. Insurance is such an area. Second, a national-standards bill relieves the Congress of the necessity to legislate or to delegate quasi-legislative powers to agencies with respect to all aspects of a problem or situation, thereby permitting it to screen out matters that are peripheral and matters where it is premature to legislate, while focusing on the basic or core requirements and criteria which are ripe for action.

The basic or core interests of the Federal Government in the area of motor vehicle accident reparations relate to: (1) the need for sufficient uniformity between, and compatability among, the 50 state automobile compensation systems to assure that a resident of any one state will receive acceptable levels of treatment and benefits in case he is injured in a traffic accident in any of the other 49 states; and (2) the need to define for all of the people of the United States the minimum benefit levels necessary for the minimization of human suffering and for the maximization of recovery by victims at the lowest cost possible (most victims are injured on highways built largely with funds appropriated by the Congress).

As used in this bill, a national standard is a provision established by Act of Congress. New standards cannot be established, nor can existing standards be modified or repealed, except by another Act of Congress. No officer or agency of the United States is granted any authority to issue regulations with respect to the national standards.

This bill would preempt any provision of any state law which would prevent the establishment in any state of a no-fault plan for motor vehicle insurance.

Procedure

Each state could enact at any time a state no-fault plan in accordance with national standards. A state no-fault plan for motor vehicle insurance is in accordance with national standards only if it includes provisions which meet or exceed each standard. The national standards are met or exceeded by a state plan's provisions if the state provisions are in substance the same as, equivalent to, more favorable or beneficial to insureds, victims, or survivors of deceased victims, or more restrictive of tort liability, than the national requirements. State plan provisions as to which there are no corresponding provisions in the national standards are not affected unless they are inconsistent with the national standards.

After the chief executive officer of a state certifies that his or her state's plan is in accordance wth national standards, an independent No-Fault Insurance Plan Review Board, a majority of whose members will be appointed in accordance with the recommendations of the National Governors Conference and of the National Association of Insurance Commissioners, will review that certification and plan.

The Review Board, upon substantial evidence, may make a determination that a plan is not in accordance with national standards, in which case it issues a declaration containing its reasons for that finding; such a declaration is subject to judicial review. The Review Board is directed to issue such a declaration (1) if a state that has a certified no-fault plan in effect does not submit a required recertification to the Board within 180 days after the Board requests it; (2) if a state does not enact and certify that it has a plan in accordance with national standards by the second anniversary of the date of enactment of this bill; or (3) if a state does not have a certified plan of its own in effect by the third anniversary of enactment.

If the Review Board issues a declaration that a state does not have a conforming plan, the alternative federal no-fault plan (the plan pursuant to title III of the bill) becomes applicable in that state 90 days later. Unless that state submits the necessary certification that it has a plan in accordance with national standards, the alternative federal no-fault plan for motor vehicle insurance will go into effect in that state 270 days after the date it first becomes applicable. The title III plan ceases to be applicable or in effect as soon as the state involved enacts and certifies its own plan in accordance with national standards. The alternative federal no-fault plan, once in effect, would be administered by the Secretary of Transportation unless the chief executive officer of such state certifies that such state has authority to assume such functions.

The determination of whether a state no-fault plan is initially and continually in accordance with the national standards is the only operational responsibility of the Federal Government (except as to title III), and that responsibility is to be discharged by an independent Review Board, a majority of whose members will be responsive to the states, rather than the Federal Government. All other activities—regulation of insurance, setting of rates, taxing, management of motor vehicle registration, investigation of claims, and litigation procedures—remain the responsibilities of the states in accordance with state law. Having set the national standards as a basic floor, the Federal Government goes no further. S. 354 leaves each state free to develop its no-fault plan beyond the minimum standards and, except for periodic reporting and recertification to the Review Board, each complying state is free from any involvement with any federal agency.

Scope of national standards

The national standards cover only the primary requirements for a system that will operate coast-to-coast to assure that every victim of a motor vehicle accident anywhere in the United States gets an acceptable degree of treatment and compensation at a reasonable cost. Non-essential requirements are not mandated for the nationwide system (i.e., there is no national standard as (a) to whether residual tort liability insurance should or should not be compulsory, (b) as to whether motor vehicle damage and other property damage loss should or should not be included within the no-fault system, (c) as to how motorcycles should be treated, and so forth).

At a minimum, a state establishing a no-fault plan for motor vehicle insurance in accordance with national standards would require each owner of a motor vehicle present or registered in the state to provide continuously security (via an insurance policy or approved self-insurance) for the payment of "basic restoration benefits." This security must pay basic restoration benefits (on a periodic basis as loss accrues) up to at least the following levels:

(1) all reasonable charges for medical

treatment and care, emergency health services, and medical and vocational rehabilitation services (grouped together under the heading "allowable expense");

(2) reimbursement for all of a victim's work loss—

(A) up to his monthly earned income prior to the accident if the amount was disclosed and agreed to in the insurance policy before the injury, or $1,000 times a formula which reflects differences in average per capita income in different states, whichever is less, and

(B) up to a total amount as determined by the state plan. The total work loss benefits shall be at least $15,000;

(3) reimbursement for replacement services loss (cost of obtaining services that the victim would have performed personally but for the accident—e.g., cooking or child care), subject to reasonable limitations set by the state; and

(4) compensation for survivor's loss subject to reasonable limitations set by the state; the term includes funeral and burial expenses.

With respect to claims by an insured (person named in a policy or residing in the same household as a named insured), the bill authorizes a state to allow deductibles not to exceed $100 per individual, and a no-benefits waiting period not to exceed 1 week. With respect to owners of vehicles having less than four wheels (e.g. motorcycles), a state may authorize a deductible in an amount deemed reasonable.

A state plan may require that basic restoration benefits include greater work loss benefits. A state plan may, in addition, require insurers to offer coverage for added restoration benefits as compensation for noneconomic detriment (pain and suffering). Coverage for property loss (i.e., physical damage to a motor vehicle) must be offered to each owner as added restoration insurance, but a state plan may either treat auto damage on a fault basis (as at present in all of the states except Massachusetts and Michigan) or place it under a no-fault system.

Lawsuits to recover economic losses (termed "loss" in the bill) would in general be permitted when loss exceeds basic restoration benefit limits. Lawsuits to recover in tort for noneconomic detriment would not be permitted unless a motor vehicle accident victim died, suffered serious and permanent disfigurement or other serious and permanent injury, or suffered more than 90 continuous days of total disability.

Under the national standards, motor vehicle insurance (security for the payment of basic restoration benefits) is the primary source for payment of the losses of victims and the survivors of deceased victims. To prevent duplication and to produce cost savings, each state is to establish a program for coordination between security covering a motor vehicle and sources other than such security that provide benefits to victims.

In order for a state no-fault plan to be in accordance with national standards, it must also (1) meet a standard designed to make motor vehicle insurance available to all; (2) provide for the payment of 18 percent annual interest penalties on overdue no-fault benefits; (3) provide for the payment of reasonable attorney's fees by insurers if a victim must go to court to obtain such benefits; (4) provide a system for payment of assigned claims; (5) provide the means to enable consumers to compare prices being charged by insurers; (6) establish a program to assure the accountability and availability in such state of necessary emergency medical services and medical and vocational rehabilitation services; (7) require that a no-fault system operate between insurance companies as well as between motorists, except where an accident involves different types of vehicles; (8) implement priorities for the payment of benefits in cases in which more than one no-fault benefits source is available; (9) require insurers to offer motorists certain added restoration benefits coverages; and (10) have a program for coordinating benefits which duplicate one another.

Alternative plan

The provisions of the alternative federal no-fault plan are all requirements which "meet or exceed" national standards. A title III plan is the same, in terms of content, benefits, restrictions, etc., as a state plan that conforms to national standards except that (1) it will be administered by the Secretary of Transportation unless the chief executive officer of the state certifies that the state officials can assume the functions and (2) it will provide greater benefits to victims and lawsuit restrictions than are required by national standards.

The alternative federal no-fault plan for motor vehicle insurance in accordance with title III places no limitations on the total benefits that a victim or the survivor of a deceased victim could receive. Work loss benefits would be paid up to $1,000 a month multiplied times a formula which reflects differences in average per capita income in different states, but there would be no limitation on the total amount of basic restoration benefits for work loss. Similarly, benefits for replacement services loss and survivor's loss would be paid as long as the loss resulting from an accident endures, subject to a $200 per week ceiling.

The right to sue, in the hope of recovering damages for economic or noneconomic detriment, would be eliminated, except in the cases of suits against owners of uninsured vehicles, persons in the business of making or repairing motor vehicles, persons who intentionally cause injuries by acts or omissions not connected with the maintenance or use of a motor vehicle.

Compensation for economic loss would be provided by the basic restoration insurance. Compensation for noneconomic detriment would be available to each person who chooses to purchase extra coverage. This "no-fault pain and suffering" coverage must be offered by each insurer writing basic restoration insurance in a title III state, and, pursuant to such coverage benefits for noneconomic detriment would be payable to a victim without regard to fault, in such amounts and upon such terms and conditions as the policyholder selected. The policyholder would not, however, be required to buy this pain and suffering insurance.

Exclusions

Under both a state no-fault plan in accordance with national standards and the alternative federal no-fault plan, no benefits would be paid to a victim for intentionally-inflicted injuries or to a victim over 15 who had stolen the motor vehicle involved in the accident resulting in injury. A motor vehicle owner driving without the necessary motor vehicle insurance who suffers injury would be entitled to receive basic restoration benefits from the assigned claims plans minus all the optional deductibles and exclusions required to be offered in the state and minus $500 in benefits for each year of the owner's failure to provide the necessary security (no such deduction would be made from allowable expense items).

Choice of laws rules

The bill provides easily applied and consistent rules for resolving questions arising when persons travel from state to state. If a motor vehicle owner satisfies the security requirements in the state in which that vehicle is registered, he or she is deemed to have satisfied the security requirements in every state through which that owner drives while the insurance is in effect. When an individual is injured in an auto accident, the benefit levels of the plan in effect in the state in which the victim has his or her principal place of residence determine that victim's maximum benefit levels regardless of the source of those benefits.

An insurer is obligated to pay benefits to a claimant based upon the provisions of the no-fault plan in effect in the state in which the claimant has his or her principal place of residence. An accident victim's lawsuit rights are also governed by the law of that state. If a person from a state which has not yet enacted no-fault is injured or if a person's principal place of residence is not in any state (e.g., a foreign tourist), then the no-fault plan in effect in the state in which the accident occurs controls questions as to the level of benefits and tort lawsuits. These provisions make the national standards system practical and workable by permitting state by state variation above the minimum standards without creating impossible burdens on interstate motorists and their insurers.

Mr. **MOSS.** The bill as reported—hereafter referred to as "the 1975 bill"—is basically the same no-fault motor vehicle insurance bill that passed the Senate in the 93d Congress, on May 1, 1974—hereafter referred to in this chapter as "the 1974 bill." However, the committee has made the following improvements in the 1974 bill:

First. More authority for the States. The 1974 bill authorized and directed the Secretary of Transportation: A. to evaluate each State no-fault plan to determine—subject to judicial review—whether it was in accordance with national standards; B. to periodically—not less than once every 3 years—review each approved State plan in operation and to evaluate it; C. to designate the date on which the alternative—title III—plan is to go into effect in a State in which it is applicable; D. to review the operation of State no-fault plans and to report annually on seven enumerated factors in relation to these plans; and E. to provide financial assistance to States for cost increases resulting from the implementation or administration of no-fault plans.

The committee concluded that this grant of authority might be more extensive than necessary; that it might lead to the Department of Transportation overseeing State insurance departments; and that this authority might at some point be exercised in ways that were inconsistent with the spirit of the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.), a statute in which Congress delegated the responsibility for the regulation of the business of insurance to the States.

Accordingly, the 1975 bill establishes an independent instrumentality to exercise the essential functions previously granted to the Secretary. The No-Fault Insurance Plan Review Board replaces the Secretary of Transportation as the arbiter of whether or not a State no-fault plan is and remains in accordance with national standards. All but one of the five members of the Review Board will always have an orientation toward State interests, by reason of the selection mechanism prescribed for these members: Four of the members of the Review Board are to be appointed by the President—by and with the advice and consent of the Senate—from lists of qualified individuals recommended by the National Governors Conference, and the National Association of Insurance Commissioners. The Chairman of the Review Board will be the Secretary of Transportation in order to take advantage of the expertise which the Department of Transportation has developed in this field. Decisions of the Board will be by majority vote.

As provided by the 1975 bill, the chief executive officer of a State that enacts a no-fault plan in accordance with national standards will certify that fact to the Review Board. The Review Board will review each certification within 90 days, but it is obligated to "treat a State's certification and recertification of its no-fault plan as prima facie evidence that such plan is in accordance with national standards, and . . . (it) shall make a determination that such a State's no-fault plan is not in accordance with national standards only on the basis of substantial evidence." [Section 202(e)].

The Review Board will require, and review, periodic reports and recertifications by the States in which no-fault plans are in effect; report to the President and Congress annually on reports received from the States; and perform responsibilities with respect to the alternative—title III—plan. The Board's decisions are subject to judicial review, and the Review Board is granted the powers necessary to the execution of these responsibilities (that is, authority to hire its own staff).

Second. Position of a title III State.—The 1974 bill arguably necessitated that the government of a State as to which title III was applicable—a State which fails, within the time specified, to enact its own no-fault plan in accordance with national standards—would be required—until it establishes its own plan—to administer, through its own officers and employees, the alternative no-fault plan in accordance with title III of the bill.

This potential imposition of affirmative duties on certain States has been criticized as unwise and/or unconstitutional.

Accordingly, the 1975 bill eliminates any possibility of imposing affirmative duties in State officials. The Secretary of Transportation will implement, administer, operate, and maintain the alternative Federal no-fault plan in any State in which it is in effect, unless the chief executive of such State certifies to the Secretary that such State has authority to assume these functions. Thus, no State could ever be compelled, under the 1975 bill, "to create agencies and to staff and fund them to administer a Federal law"—as alleged, with respect to the 1974 bill, in the minority views contained in the report of the Judiciary Committee. The new provision was drafted and submitted to the committee by the Attorney General.

Third. Coordination between motor vehicle insurance and other benefit sources.—The 1974 bill, first, required each State meeting national standards to permit coordination against other sources of benefits that would compensate for the same losses as no-fault insurance; and second, provided that, in a State under the "allowable expense deduction option," a person's allowable expense losses could be met by insurance other than no-fault insurance if the other insurance provided the same benefits, conformed to the same obligations, and was found by the State insurance commissioner to produce greater economic benefits—Mondale/Stevens amendment.

The 1975 bill removes these provisions and instead imposes a general national standard—each State shall provide a program for coordination between required no-fault motor vehicle insurance and other sources.

Fourth. Loss adjustment between different classes of motor vehicles.—Under the 1974 bill, a State no-fault plan in accordance with national standards could provide for loss adjustment based upon fault between restoration obligors who pay no-fault benefits for loss arising out of a multiple vehicle accident involving at least one vehicle of a type other than a passenger motor vehicle if the State designates that the owner of that type of motor vehicle "would receive an unreasonable economic advantage or suffer an unreasonable economic disadvantage" in the absence of such loss adjustment. The 1974 bill limited the availablility of this reimbursement to no-fault benefits paid in excess of $5,000. The 1975 bill authorizes such reimbursement "with respect to benefits paid for loss in excess of $100" in order to further reduce the possibility of any such unreasonable economic advantages or disadvantages and to assure premium savings for the private passenger vehicle owner.

Fifth. Additional time for compliance with national standards for existing "no-fault States."—The 1974 bill granted each State which already had a no-fault motor vehicle insurance law extra time in which to bring that law up to the requirements of the national standards. The provision granted each such State approximately 2 additional years in which to meet or exceed the national standards.

The 1975 bill does not contain this provision since, as a consequence of the failure of the Congress to enact S. 354 in the 93d Congress, each such State has received an additional 2 years to come into compliance. To include the same provision in this bill would, as a practical matter, grant each such State an additional 4 years.

Sixth. Financial assistance to States.—This provision in the 1974 bill was deleted since the Federal Government may now be obligated to pay the full cost of implementing a title III plan in any State.

Seventh. Insurance for the working poor.—The 1974 bill contained a separate provision requiring, as a national standard, that each State make required insurance coverages available "to any economically disadvantaged individual, at rates . . . which shall not be so great as to deny such individual access to insurance which it is necessary for him to have in order to earn income and to be or remain gainfully employed."

This provision is deleted in the 1975 bill not because of any lessening of concern for the problem of the poor person who may for the first time be subject to a compulsory insurance law, but because the provision mandated the use of one particular method of dealing with the problem. The determination of the manner—but not the determination of the need—of making required insurance available to the working poor who need the use of an automobile to remain employed would be left to the States in keeping with the national standards approach of the bill.

Eighth. Accountability of suppliers of rehabilitation services and availability of emergency medical and rehabilitation services.—The 1974 bill required, as a national standard, that each State insurance commissioner: First, maintain, through his State's locational rehabilitation agency, a program for the evaluation of medical and vocational rehabilitation services under no-fault to assure that the services are legitimate, that the victims are making "progress toward a greater level of independent functioning," and that the charges are fair and reasonable; second, be authorized to take all steps necessary to assure that emergency medical services are available for each victim suffering injury in the State; and third, be authorized to take all steps necessary to assure that medical and vocational rehabilitation services are available for each victim residing in the State.

It was argued that these provisions were unduly specific for national standards, and that they imposed on State insurance commissioners functions for which they were neither trained nor equipped. Under the new text, a State would decide upon the content of its own accountability and availability program for these life-saving and life-restoring services.

Ninth. Burial and related expenses.—The 1974 bill classified expenses "directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim" in the "allowable expense category of loss, even though this item of compensation is actually a benefit to the survivors of a deceased victim. The 1975 bill reclassified these expenses as items of "survivor's loss."

Tenth. Choice of laws rule: Domicile against principal place of residence.—The 1974 bill provided that in a multi-State injury and loss situation the controlling law would be the no-fault plan for motor vehicle insurance in effect in the victim's State of domicile—or, in the case of a deceased victim, in the State in which the latter was domiciled until his death. The concept of domicile turns on the subjective and largely unverifiable "intent" of the person involved to make a particular State his or her domicile. To forestall any uncertainty, and consequent delay in providing no-fault benefits to victims and survivors, the 1975 bill makes the controlling law the no-fault plan in effect in the State in which the victim has—or had, in the case of a deceased victim—his or her principal place of residence. The latter test turns on objectively verifiable incidents.

Eleventh. Fees for claimant's attorney.—The 1974 bill required restoration obligors to pay a reasonable attorneys fee whenever a claimant retains an attorney if the restoration obligor thereafter pays disputed no-fault benefits to the victim or if a lawsuit is commenced for such benefits, unless the court finds that the claim or any significant part of the claim is "fraudulent or so excessive as to have no reasonable foundation." The provision has been severely criticized because it would require insurance companies to pay claimants' attorneys' fees in cases in which the courts decide against the claimants on the merits of their claims.

The section has been modified in the 1975 bill to require the payment of attorneys' fees only when a claimant recovers, but the court is authorized to award such fees in other cases in its discretion in the interests of justice. The amount of the fee awarded is to include an amount for the "risk" to attorneys that courts will not award fees in some cases where claimants lose.

Twelfth. Implementing compulsory insurance.—There was never any intention to have S. 354 set any national standards with respect to the manner in which or the method by which a State may choose to implement and administer the requirement of compulsory motor vehicle insurance. Nevertheless, the 1974 bill did include a provision (section 104(d) (Obligations upon Termination of Security)) which could have been interpreted to restrict a State in this regard. This subsection was not included in the 1975 bill.

Thirteenth. Inflation adjustment.—The 1974 bill provided for benefit level adjustments for the effect of inflation with respect to limits on work loss benefits. Since inflation can affect other categories of loss as well as work loss, the provision has been expanded to cover all no-fault benefits and placed in the section on miscellaneous provisions.

Fourteenth. Overlap between no-fault motor vehicle insurance and workmen's compensation insurance.—The 1975 bill adds a new provision (section 103(16)(C)) to prevent overlap between: first, State no-fault plans for injuries arising out of the maintenance or use of a motor vehicle; and second, State workmen's compensation laws for injuries arising out of and in the course of employment. An employee injured in the course of his or her employment in a motor vehicle accident would continue to be compensated under the applicable State workmen's compensation law rather than under the applicable no-fault plan.

Fifteenth. Direct payment to suppliers.—The 1974 bill provided that restoration obligors could make direct payment to suppliers and providers of allowable expense products, services, or accommodations or they could reimburse the victims for these expenses. In order to expedite the receipt of payment by hospitals, emergency medical services providers, doctors, and rehabilitation clinics, and for the convenience of persons covered by no-fault insurance, the 1975 bill provides for direct payment to such suppliers and providers unless the victim requests otherwise or unless a State no-fault plan in accordance with national standards provides otherwise; the obligation of the restoration obligor and that of the victim/survivor are placed on the same basis.

Sixteenth. Technical, stylistic, and conforming changes have also been made.

As the debate on this measure progresses. I hope my colleagues will carefully review the arguments pro and con on this bill. If they do, I am confident that the Senate will pass this measure by an overwhelming margin.

LAWYERS AND NO-FAULT: NEW YORK AS A CASE STUDY

Mr. President, in the last few years, as Congress and the various States have debated the no-fault issue, the trial bar in this country has been extremely vocal in its opposition to any kind of automobile insurance reform which limits a person's right to sue but guarantees his right to recover. When the legislation was first being considered in Congress, the trial bar said that reform should proceed on a State-by-State basis. Then at the State level the trial bar did everything they could to prevent the passage of no-fault or weaken the lawsuit restrictions in State laws to such an extent that the plans were almost doomed to failure.

Now the trial bar is arguing against the passage of a national no-fault bill on the basis that no-fault has failed at the State level. The trial bar is pointing to several newspaper articles that appeared 3 or 4 months ago which said that no-fault in the State of New York and in the State of Florida was less than ideal.

Those of us who have been working on automobile insurance reform for a number of years are not surprised that States like New York and Florida are having problems with their no-fault insurance system. But until recently I had no idea of how responsible the legal profession in this country might be for the failure of no-fault in New York and in Florida.

The following letter illustrates how the trial bar has attempted to circumvent State no-fault plans and goes a long way toward explaining why no-fault at the State level, weak to begin with, has been made much weaker. To my mind the disregard for the intent of the law evidenced in the following correspondence borders on the unethical:

> DEAR DOCTOR: We are the attorneys for the above patient(s) who came under your care for injuries sustained in an auto accident after the new "No-Fault" Auto Insurance law became effective February 1, 1974.
>
> Under the "No-Fault" law, a patient is entitled to medical and dental care benefits up to a $50,000 limit for each accident. This is in effect a mandatory medical payments benefit to the patient now written into every auto insurance policy involving an auto accident. The medical bills would be paid promptly . . . so the insurance industry told the public!
>
> In exchange for this full medical benefit, the new No-Fault law took away a person's right to sue in substantially all auto accident cases unless the patient's total bill for hospital and medical care combined, exceeded $500.
>
> We have taken the case of the above patient(s) on a contingent basis, pending determination as to whether or not the cost of reasonable medical care of the patient will exceed the $500 minimum threshold limit.
>
> The $500 threshold minimum, arbitrarily put on the right to sue by the New York State Legislature, applies to a combined expense of hospital care, x-rays, reasonable charges for services of the general practitioner, orthopedic surgeon, neurologist, or any other specialists the general practitioner or other doctors treating the patient, deem reasonable and necessary under the circumstances for the cure of the injuries of the patient . . . it also includes dental bills related to the accident.
>
> Since the patient(s) would not be able to recover for pain and suffering beyond the actual out-of-pocket expenses of his medical care, unless the medical care exceeds $500, may we strongly ask you to constantly consider and remain aware of the fact that the medical care given will be promptly paid by the insurance carrier upon the presentation of your bills. Would you also send the patient(s) for x-rays, hospital care, diagnostic tests for treatment, orthopedic, neurological or other specialist consultations to aide in treating the patient(s). These other medical costs will also be promptly paid, should the severity and seriousness of the injuries warrant your utilization of all or some of the other medical care and consultants, etc.
>
> You will be aiding the patient(s) in not only giving them the best and complete available medical care the insurance policy can buy but you will also be aiding the patients in assuring them that they will have their day in court when they can sue for pain and suffering resulting from medical injuries.
>
> As a courtesy to you and your patient(s) we will process your claim for medical bills, as they become due, without charge, should we accept the patient(s) liability case if the total medical bills for the patient(s) exceed $500.00.
>
> We have prepared an Authorization for Payment, Under No-Fault Auto Insurance form and enclose a copy for your records. Please note that we have acknowledged your lien and will send for the amount due to you as your bills are submitted or preferably near the end of treatment. We will remit the balance owing to you as soon as received, all without charge to you.
>
> Again, please don't hesitate to refer the patient for further work-up or care on consultations, if necessary. We will collect the insurance monies for this additional care for the doctors and hospitals, etc., all without charge if the combined medical care exceeds $500 and we pursue the legal action further.
>
> We hope that the information contained in this letter is enlightening and will guide you in treating auto liability claims under the new "No-Fault" law. In effect, it is a guaranteed medical payment plan for the medical profession built into every auto liability policy. Other than payment of medical bills, the patient generally receives no benefit under the new law unless and until his combined cost of medical care exceeds $500.00.
>
> Of course, we, as attorneys, can only benefit the patient when and if his individual case exceeds $500.00 when we will accept the case. You can now readily see why we will collect your medical bills for you if we accept the case. Since we expect to make a fee from the patient's claim when successful in his auto liability claim, as a courtesy to him and to you, we will process his claim for medical bills as we have done in the past.
>
> Realizing that there may be confusion in the interpretation of the new law, please call us from time to time if you have any questions. We would be glad to explain it

to you over the phone, or in person, at your convenience.

Awaiting your preliminary report on the injuries sustained, we are,

Sincerely yours,
Pops & Estrin, P.C..,
by Paul R. Pop, Melvyn J. Estrin.

At my direction, the attorneys who appear on the letter were contacted by phone and asked whether the letter was authentic and whether it had been sent. Melvyn Estrin acknowledged that the letter had been sent, but stated that "certain corrections" were recently made at the direction of the judicial conference. He would not specify which corrections were made and would not supply any further information.

Under S. 354 this kind of conduct cannot take place. We recognize, again and again, how the letter said:

> We have to get over $500 or you don't get anything. Doctor, run the bill up to $500. Send him out for further examinations. Consult, do whatever you need, but get it over $500, because that is the threshold.

The threshold is where the lawyers begin to get their cut in the so-called no-fault law of the State of New York.

In contrast, under S. 354 it would be very difficult for a lawyer to convince his client to do nothing for 90 or 180 days in order to get half of the so-called pain and suffering reward that the trial lawyer might be able to squeeze out of the insurance company. I, for one, would not lay flat on my back for 90 or 180 days in order to get $500 or $1,000 for myself and give $500 or $1,000 to my attorney.

But apparently a number of people are willing to go to doctors for a day or two of expensive treatment in order to get that $500 or $1,000 for themselves and for their attorney under no-fault laws that exist in New York, Florida, and elsewhere. One State that is not having problems of this sort—a State that the trial bar conspicuously ignores as it talks about the efficacy of no-fault with my colleagues in the Senate—is the State of Michigan whose plan is almost identical to the minimum Federal standards contained in S. 354.

Similar chicanery has been practiced in Florida, according to a grand jury report fròm the Circuit Court of the 11th Judicial District, Dade County, Fla. I ask unanimous consent that a copy of that report be printed in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

[Circuit Court of 11th Judicial Circuit,
Dade County, Fla.]

Investigation Into False Claims of Lawyers and Doctors

The Grand Jury has heard testimony concerning the practice of a small group of lawyers, physicians, osteopaths, chiropractors and hospitals who work together to inflate or outright falsify personal injury claims.

In one case which could not be carried forward because of the death of the principal witness, the person involved in the accident had been contacted by a runner for an attorney. The injured party never saw the attorney and never went to his office. The attorney presented a bill to the insurance company for a rental automobile his client was supposed to have rented while his own car was being repaired. The client never rented the car and never saw the car. He knew nothing about the rental agreement.

In the same case, the attorney presented to the insurance company a $700 bill and one and a half page report of a physician who claimed to have treated and examined the client. The client did not know the doctor and had never met or spoken with the doctor. This is an extreme case. The more typical practice is described as follows:

The runner for a lawyer will contact a person involved in an auto accident. The person will have little or no injuries. He would not have otherwise contacted an attorney. The person contacted will usually be in a low income group and unsophisticated about legal or business matters. He will, of course, also have to have a little larceny in his heart.

The runner will advise the prospective client that he stands to make a few thousand dollars if he signed with lawyer "X" and does what the lawyer tells him to do.

The client signs. The runner sends him to a doctor who is usually the same doctor the lawyer uses for his other clients. The client will oftentimes not otherwise have even seen a doctor following the accident which is maybe just a minor fender bender. The lawyer and doctor then tell the client he will have to enter the hospital and take some time off from work. Hospitalization isn't necessary, but the lawyer needs to show expenses in excess of the $1000 threshold limit set by F.S. 637.737. Only if expenses exceed this limit may the client collect for pain and suffering under Florida's "no fault" insurance law.

Usually the same hospital is used again and again by the same doctor-lawyer combination. Traction or muscle relaxants may be prescribed to give some basis for hospitalization.

After discharge from the hospital, the client will be told to return to the doctor's office regularly. The client will rarely see the doctor, but a nurse will administer therapy. The therapy may consist simply of sitting in front of a machine which purportedly administers "deep heat" treatment. After two or three months of such therapy the patient will be discharged. The doctor will submit detailed reports to the lawyer. At least one doctor submits the same report for all such patients to the lawyer with whom he does business, with only the name of the patient changed.

The lawyer submits the bills and reports to the insurance company. The insurance company knows something isn't right but it would cost more in legal fees to litigate the case than to settle for the few thousand dollars usually paid out in these cases. If the insurance company pays $3000 in such a case, the lawyer will get a $1000 fee for about an hour's worth of work. The doctor will receive $700 or so, the hospital a similar sum and the client the balance.

It is difficult to prosecute the cases. The lawyer simply says that he doesn't know how the client came to his office and he was simply relying on what the doctor told him was necessary for treatment. The doctor will simply say that the client complained of neck pains and he was doing what he thought was medically necessary. The client's story is often contradictory and confused as to whether he suffered any pain or injury and the circumstances under which he decided to seek the lawyer's advice.

We are told the scheme described above is far more prevalent in Dade County than elsewhere around the state. However, of the 4500 lawyers in Dade County, only a few engage in such practices. We want to stress this point because these people involved in these schemes are not typical of the legal or medical profession. There are many fine lawyers and doctors and they are shocked by the practices we describe here. But the people who create these false claims are contributing by their practices to greatly increased insurance premiums in Dade County and to a further erosion in the public's confidence in the Bar. They are known in their professions, but neither the Bar and its ultimate governing body, the Supreme Court of Florida, nor the Medical Boards have taken effective action to oust these people from the practice of law or medicine.

To eliminate or at least make inroads on this practice, we recommend the following:

1. Local attorneys and the Judiciary should attempt to control this practice of their own members by establishment of Rules of Court similar to those adopted by the Appellate Division of the First Judicial Department of the Supreme Court of New York, copies of which are attached to this report. This Rule of Court requires every attorney who enters into a contingent fee arrangement with his client to file a written statement of the agreement with the main office of the Courts of the City of New York. The statement must contain the following information:

a. Date of agreement.
b. Terms of compensation.
c. Name and address of client.
d. Date and place of accident or other occurrence on which the case is based.
e. Name, address, occupation and relationship of person referring the client.

The attorney is then required to file a closing statement with the Courts when the case is closed without recovery or when he receives any part of the proceeds of the litigation or settlement as his contingent fee. The closing statement shall contain the following information:

a. Name of Plaintiff and defendant.
b. Information concerning manner in which litigation was concluded.
c. Date of payment by insurance carrier or defendant and date client received payment.
d. Gross amount of recovery.
e. Name and address of insurance carrier or person making payment.
f. Net amount paid to client and retained by attorney.
g. Manner in which compensation was fixed.
h. Itemized statement of all expenses such as doctors' and hospital bills paid for the client out of the amount recovered.
i. Itemized statement of costs incurred such as expert witness fees for which payment is made out of the recovery.

These closing statements are confidential and are not available for inspection except by written order of the Presiding Judge. The attorney must also deliver a copy of this closing statement to the client and at the same time pay to the client the amount due him from the recovery. Receipt by the client of this money does not foreclose his right to petition the court to have the court investigate and determine the question of the attorney's compensation.

The Court Rule also provides a schedule of what it considers to be reasonable fees in personal injury and wrongful death actions but if extraordinary circumstances are determined to exist, the Court may approve fees in excess of the schedule.

2. These Rules should be strengthened by requiring a representation under oath by the attorney that the expenses incurred were necessary and proper to the best of his knowledge based upon an investigation he personally made. Any doctor receiving payments from the lawyer or client should be required to file a statement under oath that the treatment he rendered was necessary and proper and that he knows of his own knowledge that the services for which he billed were performed and that the amount billed is reasonable compensation for those services. The client should be required to state under oath in the initial statement that he did in fact have symptoms from the accident and who

> referred him to the attorney. The making of a false statement should constitute perjury.
>
> 3. Procedures for disciplining an attorney or physician who violates this Rule by misrepresentation or failure to disclose should be clearly spelled out. The penalty for intentional misrepresentation or failure to disclose should be disbarment or removal from the medical profession.
>
> 4. The Rule should also provide for an automatic review process by the Judiciary to insure that fees paid on a contingent basis are reasonable.
>
> 5. The Florida Bar must give priority in its budget to the discipline of lawyers who violate ethical standards or any law. Discipline should be the principle function of the Bar.
>
> 6. The various Medical Boards must establish the same priorities to insure that unethical and dishonest doctors are not permitted to practice in this State.
>
> 7. The Judiciary must realize that the public expects prompt and effective discipline of lawyers who have abused the position of trust they hold as officers of the Court. Unless the Supreme Court begins to impose strict penalties on erring attorneys, the public's confidence in the Bar will never be restored.
>
> 8. The Legislature should review the No-Fault Insurance legislation and increase the threshold limit which determines when monies may be collected for pain and suffering.

Mr. MOSS. Mr. President, first, I want to point out that this Michigan legislation is a genuine no-fault law with a strong threshold, a strong restriction on tort lawsuits for pain and suffering. But there are exceptions to this restriction. There are cases of real pain and suffering.

If his pain and suffering causes his disability, total disability, for 90 days or 180 days, whichever the final figure, or if he is permanently disfigured, or if he has suffered permanent injury, then, of course, he has the right to sue for pain and suffering. His tort rights are preserved. In cases of death they are fully preserved.

In return for giving up the right to sue for pain and suffering where discomfort was minimal, the accident victim is paid immediately for all of his medical expenses, all of his rehabilitation expenses, all of his costs of maintaining his house, and supplement for his loss of wages. All that is paid to him in return for surrendering the right to sue in less severe cases.

The fault system has failed totally. Because of that failure we have been seeking another way to provide the medical care that automobile accident victims need.

This is the bill we talked about before. This is the bill about which former President Nixon said, "The time has come for no-fault." Many have spoken in favor of the concept of no-fault. Some have argued to leave the matter to the States. Yet the States have stalled their action on no-fault. The States have not done it nor are they likely to do it.

I stress again that S. 354 simply sets down the basic standards. The States will continue to operate and regulate their systems exactly as they are doing now if they adopt those standards in their own State laws.

It does not derogate from the powers of the State insurance commissioner or the State itself unless they refuse to enact a no-fault bill that meets certain minimum standards.

Mr. President, the report speaks for itself.

I urge my colleagues to step up and be counted on the no-fault issue and not hide behind some nonexistent question of Federal intrusion into State prerogative. There are no such intrusions. And without S. 354 the trial bar of this country will continue to engage in the kinds of abuses represented by the letter that I have quoted from above and the grand jury report submitted for the RECORD.

In the course of our discussion on this legislation, we will be able to talk about many of the features. I do not wish to prolong my remarks at this time. I am glad to yield to my colleague from Alaska who I hope has some things to say about the bill before us.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is time that we face the fact that the State-by-State approach to implementing no-fault auto insurance is a failure.

Too few States have acted, and there is evidence that the rate of enactment is tapering off.

Most States which have passed no-fault laws have enacted plans that are woefully deficient. Most State plans do not provide unlimited medical benefits on a first-party basis, and make extremely weak limitations on lawsuits. Many States also have mandated unfounded rate cuts, which have produced underwriting losses among the insurance companies, and which are partially responsible for recent rate increases.

Many who previously advocated a State-by-State approach now see the need for uniform Federal action. Prudential Insurance Co., a respected and solid member of the insurance community and a long-time opponent of the bill, has announced that it now supports S. 354 and hopes that the days of a State-by-State approach are over. In a letter to the Commerce Committee, the president of that company said:

> Up to now we have favored a state by state approach to no-fault just because of the need to get experience on how the requirement for this very new kind of coverage might vary locally. However, too many of the largest states have not passed such laws. Where no-fault laws have been passed, they have benefits, tort exemptions, and administrative requirements differing in ways that seem arbitrary rather than reflecting various state conditions. In some states the so-called "no-fault" laws have included no tort exemption at all. In many others the threshold for liability suit has been very easy to cross, especially with the continuing inflation in medical costs. The result has been confusion among the public, high administrative expenses for insurers, and not as much improvement in the efficiency of automobile insurance as promised by the no-fault concept. We have come to the conclusion that the country needs the kind of federal guidelines embodied in S. 354 if the no-fault idea is to realize its promise.

Again, I was quoting from a letter from the president of the Prudential Insurance Co.

It has been argued by some critics that the Federal Government is involved in too many things and that the enactment of Federal standards will defeat through preemption the initiative of the States to enact no-fault plans. There are of course, numerous precedents for Federal action in the area of insurance—flood insurance, crop insurance, and crime insurance come immediately to mind. S. 354 permits far less Federal participation than any of these programs.

S. 354 is not a Federal program for insurance. It proposes only minimum standards. The plans are administered on the State level, and the States would continue to operate their insurance departments and set rates and approve policies. The States are left substantial flexibility in fashioning their own plans. Unlike other Federal programs, S. 354 does not set up a large Federal bureaucracy to administer this program, but would leave control in the hands of State officials.

While the sponsors never envisaged a large Federal role, some critics argued that the earlier versions of S. 354 might have been applied by the Secretary of Transportation in such a way as to result in significant Federal Government regulation of automobile insurance.

In 1975, I proposed, and the Committee on Commerce accepted, an amendment to transfer the all-important authority to determine whether a State no-fault law is "in accordance with national standards" from the U.S. Department of Transportation to an independent review board. The review board will be permanently dominated by members responsive to State governments. It would be composed of five members, four of whom must be named from lists of qualified individuals recommended to the President by the National Association of Insurance Commissioners and the National Governors Conference. The fifth member is the Secretary of Transportation.

Neither the Department of Transportation nor any other department or agency of the Federal Government has any authority to expand upon the national standards set forth in the legislation itself. Only the review board is authorized to issue regulations and the review board can do so only as to the procedure by which it determines whether or not a State law meets or exceeds national standards.

On the question of providing room for States to establish plans responsive to local needs and conditions, it is important to note that there are many areas in which State flexibility is neither necessary nor appropriate. There are no unique conditions in the States regarding injuries suffered as a result of automobile accidents that justify having a fault system in one State and a no-fault system in another. Even most differences among State no-fault plans are not attributable to any real differences in the States. For example, the tort threshold in Colorado is $500; in more rural North Dakota it is $1,000. In the relatively rural State of Minnesota, the threshold is $2,000 while in more urban States such as New York and New Jersey, the thresholds are $500 and $200. These differences do not reflect anything different about driving conditions or accident seriousness or frequency.

With regard to the substantive content of State plans, S. 354 merely establishes a framework. It permits a large degree of flexibility in those areas in which differences among the States are real. The following is a summary of the decisions States may make in fashioning their no-fault plans.

First. Each State can decide for itself whether to include motor vehicle property damage within the no-fault system—in whole, in part, or not at all. The only relevant national standard is one that requires insurers to in fact offer to sell first-party property damage insurance.

Second. Each State can decide for itself the extent to which some categories of loss must be compensated on a no-fault basis. The States may limit no-fault benefits for work loss, subject to a $15,000 minimum. The State may determine what, if any "reasonable exclusions or monthly or total limitations" to place on basic restoration benefits for the expenses incurred in obtaining services in lieu of those he would have performed himself but for the injury. The States must decide what, if any, reasonable exclusions or limitations to place on death benefits under a no-fault policy. The only national standard in this regard is that the minimum amount paid on a no-fault basis must be "reasonable."

Third. Each State decides whether motorists should be required to purchase liability insurance, and if so in what amounts and upon what terms.

Fourth. Each State may include or exclude motorcycles from its no-fault plan.

Fifth. A State is free to decide whether or not to permit insurers to offer optional deductibles from basic restoration benefits.

Sixth. The State may restrict the right to sue for damages on the basis of fault beyond the national standard.

Seventh. A State determines whether insurers should be required to sell first-party benefits coverage for "non economic detriment to a victim" for those who desire it. A State must decide what, if any, other added restoration benefits coverages should be made available by insurers, for example, excess work loss coverage, benefits for the loss of the use of one's motor vehicle.

Eighth. A State may narrow or eliminate the ability of insurers to settle claims.

Ninth. States may set higher interest penalties companies must pay on overdue payment.

Tenth. States are free to devise their own plans to enforce the requirement that owner of a motor vehicle continuously provide security, such as insurance, for his motor vehicle.

Eleventh. Each State decides whether to establish its own State fund to provide coverage to individuals "who cannot conveniently obtain insurance through ordinary methods" at reasonable rates.

Twelfth. Each State decides whether to restrict, beyond the provisions of the national standards, an insurer's right to cancel, to fail to renew, or to otherwise terminate insurance providing security for the payment of basic restoration benefits.

Thirteenth. Under the national standards, only basic restoration benefits attributable to loss sustained within the first 60 days after a motor vehicle accident and benefits for allowable expense are exempt from garnishment, attachment, execution, or other claim by creditors. A State may decide to exempt personal injury benefits from the reach of creditors, completely or for more than 60 days.

Fourteenth. Each State determines how to meet the national standard with respect to the maintenance and operation of an assigned claims plan and assigned claims bureau.

Fifteenth. The State determines the means by which to "inform purchasers of insurance about insurance rates so that purchasers can compare prices." A State may also decide how to implement the requirement set by the bill as to how much beyond simple rate disclosure it wishes to go in assuring that purchasers of insurance in the State are sufficiently well informed to make the best decision for themselves in the automobile insurance marketplace—for example, information about claims practices of each company, percentage of premiums returned as benefits by each company.

Sixteenth. A State can decide how to assure the accountability of suppliers and the availability of emergency and rehabilitation services for victims.

Seventeenth. A State is free to decide whether or not to avail itself of the language specifically authorizing a State to maintain a fault system under which a person can be held liable to pay a fine for driving practices that do not meet the standard of driving care. The fine cannot be paid or reimbursed by an insurer or other restoration obligor.

Eighteenth. Each State determines the content of its program to coordinate no-fault insurance and other sources of benefits to victims.

Nineteenth. Each State may decide whether to grant a right of reimbursement between restoration obligors based upon fault in multiple-vehicle accidents involving at least one vehicle other than a passenger motor vehicle.

Those are just examples of some of the areas left open to the discretion of the States under a national standards system that would not be left open under a total Federal no-fault insurance concept.

It is high time that those who oppose this bill realize that the alternative to a national standards concept is in fact a no-fault Federal system. The willful failure of State legislatures to step in and act in this area can only lead to a renewed demand for a total Federal no-fault system. I hope my colleagues will recognize that. This may be one of the last opportunities the Senate will have to set national standards which will assure the viability of the State insurance systems as we have known them in the past, as we change from a fault concept to a no-fault concept. I do not think anyone disagrees that that is the direction this country must go if we are to assure that the fair portion of the premiums paid by those seeking to insure themselves against loss from accidents really goes to the victim rather than to those people who process the claims or adjudge fault. We are spending too much money trying to determine who is at fault. Every year less and less money is going to those who are actually injured by the total motor vehicle system as we know it.

I would also like to address the claim made by many opponents of this bill that no-fault would destroy the American legal profession. These claims are extraordinarily exaggerated.

First, it strains credulity to believe that all claimants will be promptly and completely paid the benefits to which they are entitled. In fact, in cases in which there is a dispute about payment of benefits, victims will be more likely to press their claims in court because their reasonable attorneys fees will be paid by the insurance company, and their judgment will be augmented by 18 percent interest per year from the time the payment is overdue.

Second, there are many, many categories in which the victims retain their right to sue. For example, a tort suit can be brought to recover damages that are not covered by basic restoration benefits on a no-fault basis. Victims can also sue for general damages if they suffer serious and permanent injury or disfigurement, or are disabled for more than 90 days, or in cases of death.

Finally, according to a recent article entitled "No-Fault Effect on Lawyers Seems Slight," in the New York Times, predictions by lawyers that no-fault would cause massive dislocations in the legal profession have not proved true.

This bill has survived years and years of exceeding close scrutiny and study. We on the Commerce Committee have revised and revised it to meet various objections that have been made to it.

The major changes that have been made, some of which I suggested and others which have come from other members of the committee, have been with regard to giving the States more authority to implement their plans but still have some uniformity brought about by national standards.

I am satisfied that by the time we finish with this legislation, this will be the best no-fault bill that the Members of the Senate will have an opportunity to vote for.

I am hopeful that the Senate will pass this bill and send it to the House for action to assure a new concept and, further, to reassure those who are involved in automobile accidents that the insurance premiums will be devoted primarily to healing their injuries and helping to rehabilitate them rather than squandering those benefits on a system that we inherited from the common law of England.

I am certain that that will be one of the subjects to be discussed by my good friend from Alaska.

I might state to my friend from Utah that I do have an amendment to offer that will provide assurances that the benefits for medical care and rehabilitation under this bill will not be abused. I would be happy to send that amendment to the desk and have it considered now or at any time. Since the Senator is managing the bill for the majority, I would like to have his comments as to when it would be in order.

Mr. MOSS. Well, if the Senator from Alaska will withhold it for now, I think we should have several of these introductory statements that are to be made first. I would welcome the amendment as soon as we have completed that process, whether it be later this afternoon or when we take up tomorrow. I would hope that by the time the Senator's amendment comes on, we will have better attendance on the floor. I have read it and understand it, and I think it is a good amendment, but I would like him to have the opportunity to present it to enough Senators so that we are sure we have objective action on it.

So, if the Senator will withhold his amendment for now, I will assure him we will get to it as early as possible.

Mr. STEVENS. If my friend from Utah has no objection, I would like to send this amendment to the desk and put the statement in the RECORD, so that those who are not present can review it, their staffs can reviews it and tomorrow we can discuss in detail what the concept is and why it is neecssary.

I ask unanimous consent that the amendment be printed in the RECORD following remarks that I make for the RECORD at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1546

Mr. STEVENS. Mr. President, I am pleased to submit an amendment to S. 354 which provides assurances that the benefits for medical care and rehabilitation will not be abused.

The purpose of S. 354, national standards for no-fault automobile insurance, is to compensate all victims of automobile accidents more efficiently than does the existing tort liability system. It is essential to S. 354 that all accident victims receive all necessary emergency medical care, medical services, and rehabilitation of high quality, and that those services be paid for promptly and completely.

I am concerned lest this purpose be compromised by abuse of the medical and rehabilitation provisions. National standards for no-fault must provide the States with the wherewithal to prevent the system from condoning abuse or permitting payment for services which are not necessary for recovery.

I offer these amendments to S. 354 because I am concerned that abuses present in medicare and medicaid could occur under national standards for no-fault without the addition of proper safeguards. We need look only as far as the newspapers to see such abuses in medicare and medicaid with fraud investigations and resulting indictments across the country. Experience in New Jersey, whose State no-fault law provides for unlimited medical benefits with no controls on abuse, demonstrates that the same may occur under national standards unless S. 354 provides a practicable accountability standard with realistic and adequate guidelines. Practices reported in New Jersey, which include use of one fee schedule for regular patients and a different, higher fee schedule for patients covered by no-fault insurance, cannot be tolerated.

Not all abuse takes the form of deliberate and outright fraud. Estimates show that Federal medicare and medicaid expenditures will increase from $21.7 billion in fiscal year 1975 to $30.4 billion in fiscal year 1977, an increase of almost 40 percent in 2 years due almost entirely to price and utilization increases rather than growth in the number of persons who participate in and benefit from the programs. The semiprivate room rate, which had been increasing at about 6 percent a year, 13 and 20 percent following the introduction of these two Federal programs. This phenomenon can be thought of as overutilization.

Overutilization is intensified by the current malpractice crisis. Fearing lawsuits, physicians repeat diagnostic and laboratory tests and keep patients hospitalized beyond the time when they could receive the medically necessary level of care from an ambulatory care facility at less expense. Overutilization, both as a money-generating device and as a byproduct of physician caution, must be faced.

If overutilization and its accompanying costs are not controlled, then premiums will have to rise, so that enough money will be available to compensate all injured victims. If a phenomenon similar to the explosion of inflation which affected the health care industry after the introduction of medicare and medicaid occurs with national standards for no-fault, then the insurance companies will be forced to respond by one or more of the following:

First. Restricting reimbursement to providers. This means penalizing injured persons. Physicians or hospitals will not accept certain cases because of low reimbursement rates. The elderly have had to face this eventuality where physicians will not open their practices to medicare patients.

Second. The insurance companies resisting payment of claims. Even though insurance companies will have to pay 18 percent on overdue benefits and will have to pay attorney's fees for the claimant, they may do so as a means of putting pressure on the health professions. This situation already exists under the tort system, and in fact was among the problems that no-fault was designed to correct. To support "adjusters" for health benefits would defeat the purpose of no-fault; it would also increase operating expenses to the point that premium rates would become unnecessarily high as they are under the existing system.

Third. Petitioning for rate increases. None of these options satisfy the basic requirement of S. 354 to guarantee benefits to victims without "blaming" them for the results of the accident. While preventing abuse and overutilization is important, this must be accomplished without destroying the assumption of good faith between the insurer and the victim or tampering with the doctor/patient relationship. The scandal and rancor which have flowed from attempted reforms after-the-fact in other areas dictates that preventative measures be taken at the onset for national standards for no-fault. Moreover, because S. 354 is a bill which mandates "standards" rather than "programs," the States must have flexibility and wide leeway to develop and control their own machinery to make the system fit their particular situations.

To meet that need, I am offering an amendment to modify the accountability provision of the bill—section 109(c). The current provision requires each no-fault State to have "a program" for evaluating and assuring the quality of services provided for victims and the accountability of suppliers and providers for the costs of those services. The amendment replaces the "program" with the requirement that each no-fault State establish "a governmental mechanism, which shall be empowered to set prospective guidelines" for matters covered in the existing provision. The provision is further amended to include all allowable expense and to empower the "mechanism" in each State to establish guidelines as to what constitutes, for example, a "reasonably needed" service for victims with particular injuries.

The amendment reinforces a structure which has already taken into account the possibility of "cost overruns" by defining three categories: First, medical treatment and care; second, emergency medical services; and third, medical and vocational rehabilitation services, and coupling those items with the definition of allowable expense. Within the context of S. 354, allowable expense means "reasonable charges incurred for, or the reasonable value of—when no charges are incurred—reasonably needed and used products, services, and accommodations"—section 103(3). The "reasonable value when no charges are incurred" is included to make sure that prepaid services, such as health maintenance organizations, are covered. The success or failure of the administration of S. 354 may hinge on who judges what constitutes "reasonable charges," "reasonable value," and "reasonably needed."

The intent of the amendment is to assure that by specifying the establishment of a governmental mechanism, the reasonableness of those costs will be determined by an impartial mechanism exterior to the individuals or institutional entities which directly benefit from providing the service—that is, the hospital, the doctor, the ambulance driver—and also the insurance company which must pay out benefits. Those interests may participate, but the public should be confident that special interests do not dominate the process of determining "reasonableness."

On one hand, the amendment intends to discourage unnecessary services or overutilization; on the other hand, the amendment intends to encourage the use of ambulatory services or home care where medically appropriate. The "governmental mechanism" should take both these negative and positive approaches and any others which serve the ultimate goal of providing just that level of care necessary to the recovery, administered by a person trained to that level of care. It has been generally recognized that when providers are reimbursed according to their costs on a retrospective basis according to "customary charges" for services performed, all incentives for keeping costs down are effectively removed. The amendment intends to discourage that situation where professional judgments about treatment are made without any notion of the economic consequences.

Recognition of the economic consequences should not be interpreted as an exclusionary device or encouragement of shoddy medical practice. Rather it should be taken to mean favoring use of less expensive practices, personnel—for example, paramedical, nursing physical therapist—or therapeutic settings where medically appropriate.

S. 354 specifically provides for payment for services rendered at ambulatory facilities. It also covers payment for "replacement services." The insurance company will pay for the victim's hiring someone to do chores, such as cooking, which the victim cannot do because of injuries received in an automobile accident. Greater use of outpatient facilities cuts costs. For example, a June 1974 report for the State of Maryland projected that proper utilization of outpatient services in that State could eliminate 5 percent of all hospital admissions and reduce the average length of stay by the same amount.

Although automobile accidents do sometimes result in such injuries as spinal cord, burns, or head/brain problems, the greatest numbers consist of broken bones, cuts and contusions, or bruises. While painful and not to be minimized, these latter types of injuries tend to be less complex with less likelihood of complication than the former. The former, more difficult to treat injuries make up only about 2 percent of all injuries received. Except for the possibility of infection, most of the less serious types are medically "straightforward," are particularly amenable to quick discharge from the costly inpatient setting, to nonacute care facilities, or to home care. Even in the case of infection, the victim might be better off outside the hospital setting because hospital-based infection is a serious health hazard.

What types of machinery would satisfy the "governmental mechanism" requirement?

PSRO's would certainly qualify under the amendment to S. 354 as a mechanism for evaluating and supervising services. Professional standards review organizations—section 249F of 1972 social security amendments, Public Law 92-603—are local, nonprofit, professional organizations open to membership of all doctors within a designated area. Their task is to establish standards of care—norms—for the treatment of different illnesses. After norms are agreed upon, a panel of PSRO members screen claims for medicare and medicaid payments; failure to comply with "professional obligations" can result in termination of reimbursement. The part of the statute particularly relevant to cost control states that each PSRO shall review health care services for which Federal payments are made for the purpose of determining whether: First, such services and items are or were medically necessary; second, the quality of such services meets professionally recognized standards of health care; and third, in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provisions of appropriate medical care, be effectively provided on an outpatient basis, or more economically in an inpatient facility of a different type.

In addition, each PSRO shall have the authority to determine in advance whether any elective admission to a hospital or other facility, or any other service consisting of extended or costly courses of treatment is medically necessary or could be effectively provided on an outpatient or less costly basis.

These provisions have obvious cost-reducing potential and could fall under the type of mechanism described under the amendment to S. 354. The Senate Finance Committee report—Senate Report 92-1230—said:

> Over the long run, the PSRO provision, properly implemented, should result in substantial reductions in program costs and improved quality of care.

However, the Commissioner of the Social Security Administration testified—in HEW appropriations hearings before the House Appropriations Committee, April 20, 1974:

> The cost question is very difficult. The theory is that PSRO's would have an influence on costs by insuring that the most proper and effective use of medical resources and facilities are used (sic), and if that theory holds up, there should be a beneficial effect on costs. The question is, will it hold up, and in my judgment that depends on the medical people who participate in the program. If people who can influence other doctors will participate fully, then the program will have the desired effect. On the other hand, if the people involved don't get the support of the medical profession as a whole and have little influence, the whole program could fail.

Under S. 354, the "mechanism" enjoys at least one advantage over the PSRO. It confines itself to a vastly more limited range of health problems than does PSRO, which must consider the whole spectrum. The governmental mechanism is directed to draw up "guidelines" just as PSRO is charged with drawing up "norms." However, in contrast to PSRO where the patient/victim may develop symptoms over a long period of time or initiate doctor visits for a wide variety of complaints, the scope of these guidelines limits itself to those injuries caused by the traumatic event of an automobile accident.

An important aspect to the amendment is that the guidelines and the mechanism shall be prospective to any actual situation. The machinery should be in place and the guidelines drawn up as soon as possible after the enactment of S. 354. Insurers, victims, and health care providers should know as soon as possible what constitutes "reasonableness of cost," et cetera. All persons involved must recognize that the uncertainty of payment is detrimental to patient recovery, provider judgments as to course of therapy, and insurer financial status. Furthermore, prospective guidelines have proven to be the only type which work.

Fourteen States have shown interest in regulating hospital costs during the past year with introduction of legislation in 12 States. Four States now have the authority to control charges—Connecticut, Maryland, Washington, and Massachusetts. Of those, Connecticut's cost control law has been in operation the longest, having been enacted in 1973. The law has combined in a single agency, the Connecticut Commission on Hospitals and Health Care, the function of health care planning, administration of certificate of need, and rate review. The commission has reduced the rate of cost escalation not only for private hospital patients, but also for overall hospital costs.

Before enactment of the legislation Connecticut's rate of escalation in hospital costs tracked closely with the countrywide experience. Subsequently, the Connecticut rates compared favorably as shown below:

Fiscal year, Connecticut, and Total U.S.:
1973–1974, 6.1% increase, 11.8%.
1974–1975, 8.3%, 13.9%.
1975–1976, 9.6%, 14% estimate.

Thus, price increases for the average patient were reduced more than 40 percent below the national average during the 3 years that the Commission has been in operation. The hospital industry cooperated closely with the commission, as did the rest of the health care community. Without that cooperation, such progress could not have been achieved. The success of the Connecticut commission shows that such a mechanism can operate successfully without compromising the hospitals' financial stability or costing the government large sums. This year the Connecticut legislature responded to the need to integrate the previously mentioned PSRO legislation and the activities of the commission. They enacted new legislation which provides that the commission "shall adopt regulations designed to require State professional standards review organizations to extend their review of certain inpatient services to services received by all patients."

What would constitute successful implementation of the emphasis on home care? Home care means setting up proper facilities at the patient's own residence and making sure that trained personnel such as visiting nurses or physical therapists are available at home when the patient's condition requires a level of care beyond the capabilities of the patient or the family. Successful programs in Rochester, N.Y., shows that 5 percent of all days in the hospital could have been eliminated, had the patient been discharged to home care promptly. The cost per day of home care in the Rochester program was $13.70, as compared to $76.40 for a hospital day.

What would constitute guidelines for reasonable costs for a product? A relatively simple example comes in the area of drug reimbursement, where HEW has issued a set of regulations—July 31, 1975. These regulations would limit prescription drug reimbursement under medicare and medicaid to the "maximum allowable cost." HEW sets a price for each drug, based on the lowest cost at which the drug is widely available. In May 1976 the "maximum allowable cost" will extend to 15 or 20 types of drugs, in 3 years to all 50 of the most commonly prescribed medications. According to former Secretary of HEW, Casper Weinberger, the program will save State and Federal Governments $75 million a year. Because, once again, the scope of S. 354 is narrower than that covered by Federal programs regulated by HEW, such guidelines would be easier to devise and implement for accident victims.

Should the "mechanism" and prospective guidelines not function properly in the isolated case, the amendment provides a final line of deterrence for abuse of the system. The amendment provides that the requirement of submission of reasonable proof, before no-fault benefits are due, may include a requirement that the accident victim submit to a physical examination is authorized by guidelines issued by the State mechanism. This provision should not be invoked unless reasonable evidence presents itself that the victim is malingering or that the medical situation is extraordinary or that the guidelines contain no applicable standards. The physical examination must be held at a time and place convenient to the victim. The results of such examination shall not be furnished, even in summary form, except to specified interested persons, including the victim personally. This provision should not be utilized as a method of harassment against a victim. It represents a reasonable and legitimate method of checking on legitimacy without undue infringement on individual integrity.

The other substantive provision of the amendment pertains to rehabilitation. Full recovery of all accident victims is the goal of S. 354. The full force of the bill is devoted to developing incentives which encourage the victim to pour his efforts into regaining his health. Often the course of rehabilitation is long and painful. The very nature of the trauma of an automobile accident and the resulting length of therapy may result in temporary discouragement or loss of faith. Yet, experience gleaned from the Veterans' Administration, whose results restoring casualties from the military to productive lives, shows that victims must enter rehabilitation right away or muscles will atrophy; irrevocable damage will be done. In order to furnish a final incentive to the victim to get over many of the psychological hurdles, the amendment provides that if a victim unreasonably refuses to accept appropriate medical and vocational rehabilitation services for other than religious reasons, then the applicable insurer may commence an appropriate proceeding to make the no-fault benefits payable to that victim commensurate with the benefits that would be due, had the victim accepted rehabilitation services. The emphasis on the "unreasonableness" on the part of the victim is intended. The provision should not be construed as applying to occasional setbacks or lapses in therapy, but rather to intransigent victims who refuse to participate in efforts to regain their health.

This provision derives from the treatment of the subject in the Uniform Motor Vehicle Accident Reparations Act—UMVARA, section 34(d)—the model State law which provides the basis for most of the national standards in S. 354.

The amendment broadens the rehabilitation referral function to include the State vocational rehabilitation agency as well as a facility which is accredited or approved pursuant to section 103(7). It also modifies the definition of medical and rehabilitation services to make sure that the term excludes educational services unrelated to the victim's vocational objectives.

All of the modifications in these amendments have been considered long and carefully. The changes reflect the results of the laboratory tests provided by many of the State no-fault laws. I believe that S. 354 will offer a more workable, more practicable set of standards to the States with the addition of these amendments, and I urge their adoption.

Mr. STEVENS' amendment is as follows:

AMENDMENT NO. 1546

On page 12, line 3, strike out "professional".

On page 19, line 2, after "services." insert the following: "The term does not include educational services which are not related to vocational objectives of a victim.".

On page 19, strike out lines 4 and 5 and insert in lieu thereof "for allowable expense unless (A) the facility in which or through which".

On page 19, line 12, strike out "." and insert in lieu thereof "; and (B) there is compliance with applicable guidelines established under section 109(c).".

On page 36, line 10, after "by this paragraph." insert the following: "The term 'submission of reasonable proof' may include a requirement that the victim submit to an examination by experts selected and compensated by the applicable restoration obligor if (A) such examination is authorized by, and conducted in accordance with, guidelines established under section 109(c), at a time and place convenient to such victim; and (B) the results of such examination are made available, upon request, to such victim, to any supplier or provider of allowable expense services for such victim, and, if such victim files a claim for loss or damages under section 206(a)(4) or (5), to the applicable liability insurer.".

On page 36, line 10, after "Unless" insert the following: "the applicable restoration obligor is".

On page 51, line 15, strike out "include a program" and insert in lieu thereof "provide for the establishment of a governmental mechanism, which shall be empowered to set prospective guidelines,"

On page 51, line 17, strike out ";" and insert in lieu thereof "and medical treatment and care".

On page 52, strike out lines 1 and 2 and insert in lieu thereof "the charges therefor; for determining what constitutes 'reasonably needed', 'reasonable charges', and 'reasonable value', as those terms are used in sections 103(3) and 204(a); and for determining what constitutes 'submission of reasonable proof', as that term is used and defined in section 106(a)(2)' and".

On page 52, between lines ? and 4, insert the following new sentence without paragraph indentation: "Such a no-fault plan shall also provide a means for the prompt and fair resolution of matters in dispute relating thereto.".

On page 58, strike out lines 9 through 13, and insert in lieu thereof the following:

"(d) REFERRAL FOR REHABILITATION SERVICES.—If a victim for whom medical and vocational rehabilitation services are or may be appropriate is not receiving such services in accordance with this Act and guidelines established under section 109(c), the applicable restoration obligor may refer such victim or, if basic restoration benefits are expected to be payable for more than 90 days, shall refer such victim (1) to the State vocational rehabilitation agency or (2) to a facility, which has been accredited or approved as provided in section 103(17), in which or through which medical and vocational rehabilitation services are provided. If a victim unreasonably refuses to accept appropriate medical and vocational rehabilitation services in accordance with such guidelines, the applicable restoration obligor may commence an appropriate proceeding under section 109(c) for a determination that future benefits for such victim will be reduced or terminated to limit recovery of no-fault benefits to an amount equal to benefits that in reasonable probability would be due if such victim had submitted to such service or services, and for other reasonable orders: *Provided,* That no determination may be made and no order may be entered which would abridge any indiviual's right to the free exercise of his religion.".

On page 80, strike out lines 7–9 and insert in lieu thereof the following:

"(a) may—

"(1) limit basic restoration benefits for allowable expense to reasonably needed (according to appropriate professional standards) and used products, services, and accommodations and to reasonable charges therefor (or the reasonable value thereof when no charges are incurred), subject to section 109(c); and

"(2) not limit the total amount of basic restoration benefits for allowable expense which are to be provided for any particular victim;".

Mr. MOSS. Mr. President, I ask unanimous consent that the following staff members have the privileges of the floor during the debate and votes on S. 354, the National Standards for No-Fault Insurance Act: Lynn Sutcliffe, Robert Joost, Mary Schuman, Sallie Adams, Mike Pertschuk, Chris O'Malley, Ed Merlis, Sam Simon, Mal Sterrett, John Kirtland, Phil Grill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold and Bob Brown of my staff have the privilege of the floor during the debate and voting on S. 354.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator.

Mr. President, I find it somewhat ironic that my first involvement on the Senate floor involves no-fault auto insurance. For many months in New Hampshire, I was introduced as the insurance commissioner who lost his job through "no fault" of his own. We had achieved passage of such a bill in the State of New Hampshire, but the Governor pocket-vetoed it. This was about 2 weeks after he had sent the State police in to escort me from office and sent in my replacement. So it is quite ironic that I rise in support of S. 354, taking into consideration that I had the opportunity to testify on S. 354 during the spring of 1973 before the Senate Commerce Committee.

I am quite pleased that many of the recommendations that I made and many of the reservations that I expressed to the

Senate bill then have been incorporated, resolved, or rectified, as appropriate, and I think S. 354 is a much better bill today. I would like to offer a few words in support of its passage.

I am convinced that Federal action is necessary not only because of what happened in my home State, but also because of the existence of pseudo no-fault in a number of States today.

In 1973, when I testified as insurance commissioner, I said, and let me state again for the RECORD:

> (L)et me state my unequivocal and unalterable opposition to Federal underwriting or regulating of automobile insurance. The last thing that this country needs or wants is another concrete palace in southwest Washington bulging with Federal bureaucrats, stumbling over themselves in an effort to implement, underwrite, or regulate a no-fault automobile insurance program in the 50 States.

That was true in 1973; it is more so today. But I am satisfied that S. 354 as it has been revised over the years by its sponsors meets my objections and establishes a program for national standards totally consistent with the interest in maintaining State control of insurance, and totally consistent with the main theme of both my election campaigns.

This bill has been attacked on the ground that it represents an unwarranted and unjustified intrusion by the Federal Government into a traditional area of State government responsibility. Some people have expressed concern that the bill would force States to give up much of their traditional role of regulating the business of insurance. Apparently, there is a fear that the positions, responsibilities, and importance of insurance commissioners in the States will be diminished if the national standards for the no-fault insurance bill is enacted.

Let me allay these fears once and for all, because they are simply unfounded.

And let me call upon my experience and background as a former State insurance commissioner to demonstrate that this bill does not interfere with the States' important role in regulating and administering insurance.

First, there is no intrusion into the States' traditional role in regulating the business of insurance. The bill expressly declares that it is the purpose of the Congress in this bill, "to recognize, respect, and avoid interfering with the historical role of the States in exercising legislative authority over, and in determining the manner of regulation of, the business of insurance". (Section 102(b)(3)).

Second, the role of the Federal Government in implementing the bill is extremely limited. The only operational responsibility of the Federal Government is to determine whether a State no-fault plan is initially and continually in accordance with the national standard—and even that determination is in the form of a review of the finding of the chief executive officer of the State that a State plan is in compliance.

The State establishes the plan, and State officials certify its compliance with national standards, subject only to the review by the No-Fault Insurance Plan Review Board.

The Review Board is required to treat the States certification of its no-fault plan as prima facie evidence that the States plan is in accordance with national standards; and the Board may determine that the plan is not in accordance with national standards only if it finds there is substantial evidence to the contrary.

The Review Board is an independent board permanently dominated by members responsive to State governments rather than to the Federal Government. The Board would be composed of five members, four of whom must be named from lists of qualified individuals recommended to the President by the National Association of Insurance Commissioners and the National Governors Conference. The fifth member is the U.S. Secretary of Transportation. The Review Board will operate independently of any Federal agency, and is authorized to employ its own staff.

Neither the Department of Transportation nor any other department or agency of the Federal Government has any authority to expand upon the national standards set forth in the legislation. Only the Review Board is authorized to issue regulations and the Review Board can only do so with respect to the procedure by which it determines whether or not a State law meets or exceeds the national standards.

The periodic report and recertification is also performed at the State level. The "Feds" will not be dispatched to the States to investigate and review State plans; the role of the Review Board is, again, one only of review of the States findings.

There is only one situation in which the Federal Government would have any operational responsibility over automobile insurance. If a State refuses to enact and put into effect its own no-fault auto insurance law within 3 years after enactment of S. 354, the alternative Federal no-fault plan would go into effect and remain in effect until the State enacted a law of its own meeting national standards. Even then, the State can implement, administer, operate, and maintain the alternative Federal no-fault plan using its own officers and agents if the Governor certifies to the Secretary of Transportation that the State has enacted legislation authorizing the assumption of these functions.

If the legislature fails to act within 4 years, and if the chief executive officer of the State fails to make the necessary certification, the Federal no-fault plan would go into effect and be administered by the U.S. Department of Transportation. The chances of this happening in any of the 50 States has to be considered extremely remote.

Not only is the implementation, administration, and certification of no fault to take place on the State level, but States are also the primary arbiters of significant determinations for the substantive content of its no-fault plan. States are given enormous latitude in meeting the national standards to tailor their plans to meet the needs, customs, experience, and desires of its own States.

Among the more significant determinations that each State must make for itself in the process of establishing a no-fault plan that meets or exceeds national standards, are the following:

First, whether to include property damage within the no-fault system;

Second, which limits to set on work loss benefits, replacement services loss benefits, and survivors' loss;

Third, whether to permit insurers to offer optional deductibles up to $100 and waiting periods of up to 1 week;

Fourth, whether motorists should be required to purchase liability insurance, and if so in what amounts and upon what terms;

Fifth, whether to include motorcycles in the State no-fault plan; and

Sixth, whether to restrict the right to sue for damages on the basis of a fault beyond the national standard.

In all, there are no less than 22 categories of determinations States are to make on the substantive content of their plans.

Clearly this is not a Federal program. Clearly it is a program for the States.

In summary, S. 354 finally undertakes an important Federal responsibility—to assure that every motorist injured on this Nation's roads and highways will receive prompt, adequate, and guaranteed compensation for losses caused by an automobile accident. I am convinced that this necessary Federal action is taken in a manner that is the most consistent possible with maintaining State control over the States interest in the business of insurance.

Today's hodgepodge of State laws cannot guarantee that an injured victim will receive prompt treatment, cannot guarantee he will receive adequate treatment, and cannot guarantee that even the innocent parties will recover.

I am not going to repeat all the statistics. The DOT study is here. It indicates that the tort liability system as it applies to automobile insurance is a gigantic lottery. The hodgepodge of State laws produce chaotic and unsatisfactory results.

Consider for a moment the situation in which persons from New Hampshire, Maine, Vermont drive south to Florida for their winter vacations. New Hampshire is a tort liability State. The chances of them getting to Florida without some sort of an accident are not as good as they should be and this is compounded by a second possible accident—the accident of geography. Suppose the travelers get to Massachusetts, a State that has a form of no-fault. There is one set of rules if an accident occurs in Massachusetts.

If they get to Connecticut, their travel is governed by a different no-fault system with a different set of benefits and different restrictions on the right to sue.

If they get to New York there is yet another standard of benefits and a different threshold on tort liability. If they get on through New Jersey there is yet a different no-fault program.

And so forth. In each State, the travelers come under completely different systems of compensation.

If they get to Florida and stay there for more than 90 days, they come under yet even a different no-fault system, and, according to that State's law, must purchase no-fault coverage.

This crazy quilt of different no-fault plans almost requires the prudent and reasonable driver to take the family attorney along on the trip South from New Hampshire to Florida.

I am convinced that to be effective, a no-fault plan must not have a dollar medical threshold which permits victims to sue after their medical expenses reach a certain amount. The thresholds in the State plans are so weak and ineffectual in curtailing tort litigation that, over time, they have become incapable of offsetting the cost of first party benefits.

In addition, such thresholds are an invitation to fraud. As Senator Moss has pointed out, recent reports from New York and Florida indicate that thresholds have become targets for some doctors and lawyers to reach in order to become eligible for the potential pot-of-gold lawsuit. In view of the poor record of such thresholds, I now believe that their exclusion from this bill is wise.

When I testified back in 1973 I proposed a $1,000 threshold. However, these thresholds have encouraged people to overutilize medical facilities in order to cross the threshold. Considering the problems that we face with inflation in the medical community, and the resourcefulness of my colleagues at the bar, I no longer believe that a $1,000 threshold serves the needs of the people with whom we are concerned in this program—the unfortunate accident victim.

Fraud does exist. I think the $1,000 or similar threshold provides an altogether too tempting target, as Senator Moss has pointed out. Any bill must take into consideration the posibility of fraud. Because of recent reports on the occurrences of fraud to cross dollar thresholds, I have changed the position I took in 1973 supporting a $1,000 threshold. I am now convinced that in order to be effective, a no-fault plan must not have a dollar medical threshold. I am pleased that there is no such threshold in S. 354.

Another problem with no-fault and the enactment of no-fault proposals is the question of cost. We must always consider the question of cost, but I should state at the outset that no-fault should not be sold solely on the basis of a reduction in insurance premiums.

No-fault affects only about one-third of the automobile premium. S. 354 does not require States to compensate property damage on a no-fault basis. Hence, S. 354 will not affect the property damage portion of the premium.

There is no way that a no-fault bodily injury program is going to affect the cost of automobile fenders, any more than no-fault bodily injury can control the price of peanuts or the price of shares on the New York stock market.

I now turn to the question of the projected impact of S. 354 on the cost of insurance premiums.

During the debate on no-fault automobile insurance at the Federal and State levels, a wide variety of cost estimates have been provided by both proponents and opponents. Much of the recent debate about no-fault has seemed to center around the cost controversy, even though the major purpose of no-fault is not to produce a premium decrease but rather to get more money to accident victims and to get it to them quicker—instead of to lawyers who are now cleaning up on legal proceedings involving auto accidents.

At the outset, it is important to put into perspective the nature of the cost controversy. As Philipp Stern, an actuary for the New Jersey Department of Insurance, has observed:

> Personally, I believe that it is wrong to advocate the No Fault System on the basis of cost savings. The saving in anguish of people who face medical bills and no income is worth a few dollars in premium reduction.

And as the Secretary of Transportation William Coleman has said:

> In the auto insurance context, the only meaningful comparison is the one that addresses both the costs and the benefits of different systems. For truly, the important advantages of no-fault over insured tort liability lie principally in the much greater benefits it delivers to victims rather than in whatever premium reductions it may permit. Thus, in comparing no-fault plans to the existing system, or in comparing different no-fault plans, our focus should be principally on the benefits which they provide, for only here do we see how much more valuable no-fault is to the consumer.

However, since no-fault is expected to produce premium savings, it is important to clarify the current cost controversy. In order to eliminate the guesswork in the costing of no-fault automobile insurance plans, the National Association of State Insurance Commissioners, in cooperation with the Department of Transportation, selected the actuarial firm of Milliman and Robertson to develop a standardized computer costing model which could be applied to various no-fault plans to produce reliable and comparable costing results.

Milliman and Robertson concluded that, if S. 354 were enacted, there would be a reduction in average insurance premium costs, both total premium costs and personal injury premium costs, in each and every State. For example, a 10-percent decrease in total premium costs was predicted in California, and an 8-percent decrease was predicted for Arkansas, Texas, and West Virginia.

The Milliman and Robertson costing model was immediately accepted as valid and accurate by the insurance industry, comprised of both proponents and opponents of S. 354. An industry-wide joint trade association actuarial commission, which evaluated the Milliman and Robertson model, concluded that "the Milliman and Robertson model provides useful if not always conclusive cost information."

Professional actuaries representing the three insurance trade associations, two of which are opposed to S. 354, evaluated the Milliman and Robertson computer costing model and concluded in a formal report—

> The model has been constructed in a professionally competent manner. The data sources used are probably the best available . . .
>
> Notwithstanding the limitations described in the technical criticism and comments offered in this review, Milliman and Robertson have made a valuable contribution to understanding the cost implications of no-fault automobile insurance. Not only does the model provide for systematic first approximation of costs, but it also provides explanations in a way that promotes specific criticisms rather than vague expressions of general dissatisfaction. In short, the Milliman and Robertson model provides useful, if not always conclusive, cost information.

In fact, the Milliman and Robertson actuarial cost study may actually understate the savings that would be realized under S. 354. In an excess of caution, Milliman and Robertson made certain assumptions that would tend to exert an upward pressure on premium cost. These assumptions are that: First, States would elect to include motorcycles in their plan; second, no purchaser of automobile insurance would select the permissible deductibles; and third, there would not be a substantial decrease in the number of uninsured motorists despite the compulsory insurance provisions.

It is highly probable that States will fashion their plans to produce the maximum premium savings, and hence that the premium savings will be even greater than projected by Milliman and Robertson.

Since the Milliman and Robertson study was made on S. 354 as introduced, not as reported, the current cost controversy centers around the updated cost projections made by Allstate and State Farm, the Nation's two largest insurance companies.

These companies have circulated what appears to be widely disparate cost projections, leading many to believe, no doubt, that none of the projections is reliable, and that opponents and proponents alike can make estimates that simply bear out their philosophical positions with respect to the bill. State Farm has projected a countrywide decrease of 10 percent in auto insurance premiums for private passenger cars. On the other hand, Allstate Insurance Co.'s figures have ranged from a 17-percent increase to a 15.8-percent decrease.

Why the differences?

Once certain things are understood about the State Farm and Allstate figures, it becomes clear that the projections made by these companies are nearly identical.

First, the process for making actuarial projections of the cost of S. 354 are well settled. Most actuaries rely on the basic costing methodology of Milliman and Robertson. The major differences with respect to actuarial projections relate not to the methodology but rather to different assumptions about where States would set their benefit levels for benefits paid on a no-fault basis.

As you know, the bill permits States to make many substantive determinations about the content of their plan. The bill is a national standards bill, not a national program whose content is directed solely by the Federal Government.

The main differences in assumptions that have been made about State plans relate to the level at which States will establish survivors benefit levels. States are free under S. 354 to establish a reasonable limit on survivors benefits that are payable on a no-fault basis. Any loss which exceeds the limit can be recovered by the survivor in a lawsuit.

State Farm and Milliman and Robertson have assumed that States will set their survivor benefit limits at $5,000 even though a lesser benefit level would be reasonable and hence would comply with Federal standards. Allstate's early projections assumed that a State, without regard to the impact upon insurance premiums, would select a benefit level of $15,000. This difference is the major reason that earlier cost estimates by those companies were so widely disparate.

State Farm, assuming a $5,000 survivor benefit, projected that S. 354 would produce a countrywide 10 percent decrease in premiums. In its early estimates Allstate assumed a $15,000 survivor benefit and predicted a 17 percent increase in the bill as introduced and a 4 percent increase in the bill as reported by the committee.

Again, these differences in cost estimates were produced purely and simply because different assumptions were made about State behavior in fashioning their plans. It is important that you realize that Allstate has made more recent estimates that assume $5,000, and then $1,000 survivors benefit levels. Note that when the same assumptions are made, the cost estimates by State Farm, a supporter of S. 354, and by Allstate, an opponent, are substantially identical.

Assuming $5,000 survivor benefits, State Farm predicts a countrywide 10 percent decrease in premium rates for private passenger automobiles and Allstate predicts a countrywide 9.3 percent decrease. Unfortunately, it is Allstate's early cost projections that are being most widely circulated by the opponents of the bill. It is very important that you are made aware of Allstate's more recent figures.

Thus, while it is true that Allstate Insurance Co. published an initial cost projection for S. 354 as introduced, which projected an overall 17 percent increase in personal injury premiums, after changes in the bill were made in committee, Allstate revised those projections downward.

Which assumption is more reasonable—a $5,000 or a $15,000 survivor benefit?

In insisting that States will set a benefit level of $15,000 for survivor's loss benefits, Allstate assumes that States will simply ignore the premium cost impact of the benefit levels which they establish. It is simply preposterous to believe that a State will set a benefit level that will require an increase in premium costs among its citizens, since there is no compelling reason to set the benefit at that level.

Remember, survivors can bring a lawsuit to recover expenses that exceed the maximum benefit level for survivor's losses. They are in the same position as they presently are for losses that exceed that level. Moreover, under S. 354, survivors are entitled to bring lawsuits for the pain and suffering of an automobile accident victim so that many survivors may be in court anyway.

Therefore, the $5,000 death benefits assumption made by State Farm and Milliman and Robertson would seem to present the most accurate picture for the policymaker who wants to know about the possible cost impact of S. 354 in a particular State. It should also be noted that States which have enacted no-fault plans have not established unexpectedly high survivor benefit levels.

In the light of the current nationwide increase in auto insurance premium rates, some may wonder how any credibility at all can be attached even to these recent, similar figures predicting rate decreases. Let me emphasize that the 10-percent or 9.3-percent decrease projected by these companies is a relative decrease to what the cost would have been if the present systems of recovery were retained.

No-fault cannot repeal inflation—it never promised to. No-fault cannot keep down the cost of auto repair crash parts; it cannot guarantee a healthy stock market that will keep insurance companies' coffers bulging. It would be nice if no-fault were the solution to all that ails our economy—but it is not.

What no-fault will do—and the projections of the largest insurance companies supporters and opponents of the bill alike bear this out—is cut out the current waste and costs associated with our expensive lawsuit system and dedicate those cost savings to the payment of higher benefits.

In closing, I offer just one personal incident. My support for no-fault was quite well recognized across the State of New Hampshire. One Sunday night I was driving home by myself, in a relatively new car. I had just gone to the market. A car came out of nowhere and almost totaled my new vehicle and nearly totaled me. The other driver was an uninsured, would-be hit-and-run driver.

The only calamity that did not befall me that day was that the other driver picked a dead end street to try to hit-and-run. We were able to ascertain that he was without insurance.

The Manchester Police Department called the wrecker. The wrecker backed up to my car which, as I say, was nearly totaled. It was a rainy night, dark, and the driver got out and said "DURKIN DURKIN," he said, "You are the guy who supports no-fault. Do you still think no-fault is good now?" He was backing up to tow the car away. I said, "Yes, I do."

With the improvements, the suggestions and the hard work that the committee has done, and that Senators Moss, MAGNUSON, and a lot of others on both sides of the aisle have done, S. 354 is a good program, and I think today it is a much better program.

I thank the Chair.

Mr. PEARSON. Mr. President, the private passenger automobile has had a profound impact for much of this century on the quality and style of life in America. The automobile has liberated virtually every family from the narrow confines of the workingplace and its immediate environs. Mobility has enhanced job flexibility and job opportunity. Those who live in rural areas, for example, are able to seek employment in nearby cities and towns. Recreational opportunities for most families depend directly upon the use of the family car on weekends and on vacation. All things considered, the widespread ownership of automobiles has promoted a more egalitarian society, a more open society, a more just and tolerant society.

Over the years, as the influence of the automobile has grown, critics have suggested that Americans have become excessively dependent upon their cars for access to the community at large. These critics have suggested that the quality of life suffers as a result of this dependency.

The Congress has recognized the validity of some of these arguments. Now the Nation is committed to major programs to promote urban mass transportation systems. Amtrak has been established at considerable initial cost to the public. The local air subsidy program maintains regularly scheduled air services in some 367 communities. All of these initiatives may be said to complement private transportation by car. All are necessary and proper.

Over the years Congress has made a determined effort to reduce the level of air pollution caused by automobiles. The success of emission controls under the Clean Air Act is unquestioned, but it has not been without substantial cost. In order to reduce excessive levels of emissions in congested areas, those living in rural areas have shared the cost of emission control equipment installed on all automobiles sold in the country. Together the American people have borne the social cost of this legislation because none of us lives in isolation. Every American has the right to travel by car into the great urban areas. And every American has the duty to do his part in protecting the environment of those areas from excessive auto emissions.

The high rate of injury and fatality associated with the use of automobiles has been a matter of continuing concern since at least the beginning of the postwar period. The major effort at the Federal, State, and local level to reduce the rate of injury and death on the highways has been one of the great success stories of government. Today the rate of automobile-associated injury has been reduced by one-third compared to the mid-1950's. Those who drive today are safer in their automobiles than has been the case in the past. But there are more than 100 million cars in America. More than 40,000 people will die as a result of motor vehicle accidents this year. Millions will be injured. The Congress has a responsibility to continue its efforts to reduce this carnage, but it also has a duty to promote adequate compensation for those who sustain injury. The legislation before the Senate today is addressed to this latter responsibility.

Mr. President, the Nationals Standards for No Fault Insurance Act is the culmination of a decade of effort by our committee. This legislation is based upon the premise that the automobile is the dominant mode of interstate travel, that government has a duty to establish laws relating to the regulation of this mode of transportation, and that insurance compensaion to victims of auto accidents should be adequate in order to reduce the burden of society in caring for those victims.

The Federal Government has a unique and compelling interest in the compensation of auto accident victims, because public assistance to the disabled is a Federal responsibility.

Mr. President, the committee has been assisted by the comprehensive U.S. Department of Transportation study of the auto accident reparations system in determining that far too many injuries and deaths resulting from automobile operations are uncompensated, or inadequately compensated, under the confusing and widely divergent State laws now in effect. There have been patchwork efforts to increase the scope of compensation and coverage.

A variety of financial responsibility statutes, compulsory liability insurance laws, and uninsured motorist's provisions have mitigated, in many States, the most glaring deficiencies of the tort liability system. But financial responsibility laws are under increasing constitutional attack, compulsory liability insurance laws encourage specious lawsuits and "claims consciousness," and uninsured motorist's coverage requires motorists to pay extra premiums for essentially duplicate coverage.

Those States that have enacted true no-fault laws, including Kansas and some 15 other States, have established limits on first party benefits which, in varying degree, leave more seriously injured victims without adequate first party benefits to compensate their losses.

The increased benefits to victims of auto accidents that will accrue upon enactment of the committee's national standards bill constitute, in my judgment, the basis for its favorable consideration by the Congress.

Mr. President, I ask unanimous consent that statistical materials prepared by the committee be inserted in the RECORD as exhibit 1 immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PEARSON. Mr. President, the committee's analysis of S. 354 has included a State-by-State evaluation of the existing auto reparations system now in force. I would invite the attention of Senators to the result of this analysis: In every State there will be an increase in the number of injuries compensated upon enactment of S. 354 and conforming legislation by the several States. In every State there will be an increase in the dollars available to victims of accidents in compensation of claims.

The information summarized in the first two columns of exhibit 1 was obtained through traditional actuarial evaluation, and is not seriously in dispute. The fact is that numerous accidents result in injuries that are not compensated by insurance coverage under the laws now in effect. It is the purpose of this legislation to expand coverage through minimum national standards in order to provide for the victims of such accidents. As it is drafted, the legislation will almost certainly achieve this primary objective.

Mr. President, S. 354 establishes minimum national standards for reimbursement of reasonable charges for medical treatment and care, reimbursement of a victim's work loss up to at least $15,000, reimbursement for replacement services subject to reasonable State limits, and compensation for a survivor's loss subject to reasonable limitations established by the State.

There is much that S. 354 does not do. This bill does not mandate residual tort liability coverage, no-fault property damage insurance, or no-fault motorcycle operator's insurance. The bill permits the States to retain fault-based lawsuits for any economic loss not covered by first party benefits. In addition, the bill permits fault-based lawsuits for noneconomic detriment—pain and suffering—in all wrongful death cases and in all cases in which the victim suffers a serious and permanent disfigurement or other serious and permanent injury or where the victim is prevented from engaging in his or her usual and customary daily activities for more than 90 days, as a result of a motor vehicle accident.

In plain language, Mr. President, the bill does not prevent the States from continuing their policy of tort liability in virtually all cases of serious injury or wrongful death. The truly aggrieved will have their day in court. They will seek and obtain redress for outrageous assaults on their persons by negligent drivers. Those whose negligent actions result in serious injury or death to others will continue to answer not only to society in the criminal courts, but also to their victims in the civil courts. The fundamental concept of responsibility for one's actions is not significantly diminished by this legislation. Indeed, the courts and the lawyers, as officers of the courts, will have the opportunity to concentrate on the cases of greatest urgency.

Mr. President, the most difficult and challenging task in preparing this legislation for debate in this Chamber has been the problem of estimating its impact on the premiums paid by motorists. Before discussing the specifics of S. 354, I wish to discuss generally the recent trends in insurance costs throughout the country.

The cost of private passenger automobile insurance is increasing dramatically—rates increased by a countrywide average of about 20 percent during 1975. The principal cause of this increase is inflation, particularly as it relates to the cost of automobile crash parts and medical care. No-fault insurance systems are no less subject to inflationary pressures than the fault system, but an inadequate no-fault system can result in additional costs.

Most insurance companies did not foresee that the rate of inflation would rise as fast as it has and accepted many risks at much too low a rate. As a result, both 1974 and 1975 were financial disasters for the insurance industry. Automobile insurance generates the largest amount of premium volume for the insurance industry and it has produced over half of the total industry loss from all lines of property and casualty coverage.

Auto insurance premium levels declined during 1971, 1972, and 1973, and remained stable through most of 1974. During that period, rate increases were not sought from, or granted by, State insurance commissions in part because the energy crisis and reduced speed limits kept insurance company losses down. Also, some States, upon enactment of no-fault laws, mandated rate reductions. As the impact of inflation became apparent, insurance companies sought rate increases beginning in the latter part of 1974 and 1975.

While the Consumer Price Index has risen 20 percent within the past 2 years, the major components of automobile insurance loss costs have risen at an even faster rate. Doctor's fees are up by 25 percent and will undoubtedly go higher unless the malpractice insurance dilemma is resolved. The average cost of a hospital room is up by 33 percent.

The soaring cost of automobile crash parts has also had a significant effect on automobile insurance premium rates. State Farm Mutual Insurance Co. maintains a crash parts price index. Using 1967 as a base figure—100—the index rose to 215.5 on July 1, 1975, and to 249.2 on January 1, 1976. Most of the increase has been in the last 2 years. Crash parts prices have increased 70 percent since mid-1973 and 113 percent since mid-1970, whereas consumer prices generally have risen 43 percent since 1970.

Inflation also affects automobile insurance rates in less obvious ways. Increased administrative expenses are reflected in higher premium costs. An increasing number of potential claims are over the amount of deductible limits. With a given deductible, the same damage produces more claims in 1975 than in 1973, because repair costs have increased in the interval. As a consequence, total claims payments and insurance company operating costs rise.

The inflationary pressures which are forcing rate levels upward are affecting rates in no-fault States to about the same extent as in tort liability States. For example, State Farm, the largest insurer of automobiles, received an average increase of 9.8 percent last year in the 16 no-fault States, compared with a 10.9 percent increase for all States combined and a 12.2 percent increase in States still under the fault system.

The reason for this lack of distinction between fault and no-fault States is that the bulk—60 to 70 percent—of the cost increases has occurred in those portions of the typical automobile insurance package not associated with no-fault—property damage liability, collision, and comprehensive—fire and theft. In the first half of 1975, bodily injury liability costs were up 9.1 percent, while property damage liability costs rose 15.8 percent, collision costs increased 28.3 percent, and comprehensive costs rose by 19.3 percent.

The recent increases in most no-fault States have resulted in rate levels approximately the same or somewhat lower than pre-no-fault rates. In those States, rate levels were generally sharply down in 1971 and 1972, stable in 1973 and 1974, and sharply upward in late 1974 and 1975. In tort liability States, rate levels were stable in 1971, 1972, 1973, and 1974, before rising sharply in late 1974. Thus, while rates in both fault and no-fault States reflect equal inflationary pressures, the base level in no-fault States is significantly lower.

While no-fault insurance is vulnerable to inflation in much the same manner as the fault system, an inadequate no-fault system can lead to greater costs. No-fault insurance enables the prompt payment of more benefits to more people than the tort liability system because it greatly reduces the amount of time and money spent on lawsuits. If, however, the particular no-fault system does not eliminate enough cases from the liability system, premium costs must increase to finance the additional benefits guaranteed under no-fault.

Mr. President, with this general background information in mind, I now wish to address myself to the specific analysis of the cost impact of S. 354 undertaken by the committee. In order to develop reliable data, the National Association of State Insurance Commissioners, in cooperation with the Department of Transportation, selected the actuarial firm of Milliman and Robertson to develop a standardized computer costing model which could be applied to various no-fault plans to produce reliable and comparable costing results. This costing model was applied to S. 354—93d Congress—and reductions in average insurance premium costs, both total premium cost and personal injury premium costs, were projected in every State. S. 354, as reported by the Commerce Committee in this Congress, is comparable to S. 354 as passed by the Senate in the 93d Congress and should have the same, or better, cost consequences.

In hearings during the 94th Congress, Allstate Insurance Co. and State Farm Mutual Insurance Co.—the largest insurer of automobiles—submitted costing figures to the committee. Allstate projected substantial cost increases in almost every State, while State Farm projected a nationwide average decrease of 12 percent in premiums for all types of vehicles. The principal factors leading to these different projections appear to be Allstate's assumptions that States will select a benefit level of $15,000 for survivor's loss benefits—which is probably unnecessarily high—unlimited medical and rehabilitation benefits will foster overutilization of medical services—which has not been the experience of no-fault States having such benefits—and that there would be a little subrogation between the insurers of commercial vehicles and private passenger vehicles. However, S. 354, as reported, provides for complete subrogation for loss in excess of $100.

In the case of Kansas, the Milliman and Robertson costing model projected that S. 354 would produce a premium savings of 11 percent over the rates in effect in 1973—prior to the effective date of the Kansas no-fault law. State Farm projects a premium savings of 3 percent in Kansas upon enactment of the minimum standards established in the Senate bill. In fact, premium rates for personal injury coverage in Kansas have declined since the effective date of the Kansas no-fault law. And it is reasonable to expect further reductions in the cost of insurance in Kansas if the costing models used by Milliman and Robertson and State Farm are reasonably reliable.

Under the most pessimistic hypothesis, the minimum standards contained in S. 354 will slow the rate of increase in insurance costs, assuming that inflationary pressures erase the cost savings, in absolute terms, that can reasonable be anticipated upon enactment.

Mr. President, column 3 of exhibit 1 summarizes the committee's State-by-State analysis of the cost impact of S. 354. In but three States, premium rates for personal injury protection are projected either to decline or remain the same.

In summary, the minimum standards of S. 354 will increase substantially the value to the consumer of automobile insurance. In most States, the consumer will pay less for coverage that provides more benefits for him and his family.

Mr. President, there have been some misconceptions about this legislation which, after all these months of debate, should finally be laid to rest. This legislation does not represent a "Federal takeover" of the regulation of insurance. In those States that comply with the necessary minimum standards, the regulation of insurance will remain exclusively a State prerogative. Premium rates will reflect the loss experience of motorists insured within the State. If the experience of drivers within a particular State has justified low premium rates, those same low rates should obtain under the terms of S. 354.

Mr. President, the strengths of a uniform national system of minimum standards for no-fault automobile insurance will be complemented, under S. 354, by the strengths of State regulation of insurance. There is no effort in this legislation to preempt the effective enforcement of the insurance laws, nor is there any opportunity to average premium costs at the expense of the rural States."

All of the values associated with State insurance regulation are maintained under this legislation. There will be no new Federal bureaucracy to undertake a job that is today being managed efficiently by the States. But throughout the country, in all the States, there will be a uniform system of minimum standards for first party benefits that insures adequate compensation for injuries and survivor's loss.

Mr. President, I urge the Senate to approve the National Standards for No-Fault Insurance Act.

EXHIBIT 1

The following chart demonstrates that (1) S. 354 compensates more injuries (economic and noneconomic combined) than the present automobile insurance system; (2) S. 354 pays more dollars to automobile accident victims than the present system; and (3) S. 354 provides these increased benefits at a lower premium cost than the present system.

[In percent]

State	Increase in injuries compensated[1]	Increase in dollars available to compensate injury[2]	Average savings in personal injury premium[3]
Alabama	42	37	−19.0
Alaska	12	24	−7.0
Arizona	24	22	−18.0
Arkansas	39	39	−9.0
California	17	5	−14.0
Colorado	5	9	−3.0
Connecticut	4	11	−10.6
Delaware	5	2	−13.0
District of Columbia	18	12	−21.0
Florida	6	22	8.0
Georgia	9	22	2.0
Hawaii	5	9	−8.9
Idaho	22	29	−9.0
Illinois	19	21	−11.0
Indiana	17	24	−12.0
Iowa	16	24	−7.0
Kansas	7	15	−3.0
Kentucky	4	10	+0
Louisiana	37	31	−18.0
Maine	16	32	−16.0
Maryland	4	1	−17.0
Massachusetts	4	23	−20.0
Michigan	5	6	−7.0
Minnesota	5	4	−3.0
Mississippi	38	36	−7.0
Missouri	23	21	−6.0
Montana	22	34	−11.0
Nebraska	16	30	−11.0
Nevada	8	14	−1.0
New Hampshire	13	18	−24.0
New Jersey	4	4	−8.6
New Mexico	27	29	−10
New York	5	5	−20.8
North Carolina	7	18	+0
North Dakota	6	11	−1 0
Ohio	21	19	−13.0
Oklahoma	26	29	−13.0
Oregon	16	13	−14.0
Pennsylvania	5	13	−4.0
Rhode Island	20	17	−23.4
South Carolina	5	13	−6.0
South Dakota	22	31	−1.0
Tennessee	23	24	−3.0
Texas	27	19	−26.0
Utah	6	12	−2.0
Vermont	15	32	11.5
Virginia	16	34	−3.0
Washington	21	24	−15.0
West Virginia	28	26	−8.0
Wisconsin	13	28	−5.0
Wyoming	20	32	−9.0

FOOTNOTES

[1] This column is based upon information derived from Appendix II of the Milliman & Robertson, Inc. actuarial study of November 7, 1973. The percent increase in injuries compensated was calculated in the following manner: First, the number of injuries in the "Medical Expenses" column under a tight threshold no-fault system was multiplied by a fraction whose numerator is the percent insured under the tort system and whose denominator is the percent insured under no-fault (Exhibit E-3 of the study). The resulting figure is the total number of injuries for which people could recover with the insured population of the tort system.

Second, the figure for the number of injuries for medical expense under the tort system is subtracted from the figure derived under "First," showing how many people would not be compensated under the tort system. Third, that figure is multiplied by 85% because 85% of the policyholders carry medical payments coverage, a first party coverage that pays without regard to fault. Fourth, add that figure (which represents the number of people who would recover from their medical payments) to the figure for how many people would recover from the tort system to get a total figure for the number of injuries which would be compensated under the tort system. Fifth, by dividing the number of injuries in the medical expenses column under the tight threshold no-fault system by the figure determined in the fourth calculation (for tort system injuries), you get the percent increase in the number of victims who would receive benefits under the no-fault system of H.R. 9650. Nationwide, about 19% more people would recover under no-fault.

[2] The figures in this column were calculated in the following manner: First, the figure for "Total Costs of Above" for the tort system in Appendix II of Milliman & Robertson was multiplied by 75% to eliminate the amount of money paid to attorneys. Second, that figure was added to the

figure for "Medical Payments by Option" to calculate how many dollars are retained by the consumer under the tort system. Third, 92% of the figure for "Total Costs of Above" of an interpolation between the tight and loose threshold no-fault systems (92% because the other 8% goes to attorneys in residual tort cases) was divided by the figure determined in "Second" to derive the figures for the percent increase in dollars available to compensate injury. (Appendix II of Milliman & Robertson provides figures for the total number of general damage injuries compensated under the "tight" 180 day $2,500 threshold and the "loose" 60 day threshold. To determine the number of injuries to be compensated under the 90 day threshold of H.R. 9650, the number of injuries under the 180 day $2,500 threshold were subtracted from the number of injuries under the 60 day threshold and then multiplied by .66. This figure was then multiplied by the average claims cost under the 60 day threshold provision in order to reflect the elimination of the deductible feature. The figure produced from this multiplication was then added to the total system cost of the tight threshold to produce the total system cost under a 90 day/no deductible threshold).

[3] The figures in this column are derived from the figures submitted to the Subcommitee on Consumer Protection and Finance of the House Committee on Interstate and Foreign Commerce by State Farm and Allstate insurance companies for the following benefit and tort restriction features: (1) Benefits paid without regard to fault for all medical and rehabilitation loss; up to $15,000 for work loss; up to $5,460 for replacement services loss; and up to $5,000 for death benefits; and (2) Lawsuits are limited to those for economic loss which exceeds no-fault benefit levels and those for noneconomic detriment if the injury results in death, serious and permanent injury, serious and permanent disfigurement, or 90 continuous days of total disability. The figure shown for any particular State represents the projection of the company, State Farm or Allstate, which has the larger share of the market in that State. The only exceptions to this rule are for the States of Georgia, Kentucky, Minnesota, North Dakota, and Pennsylvania, where new statutes went into effect on or after January 1, 1975. The projections for these states have been revised as of December 15, 1975 by State Farm, whereas the projections for the other states are as of December 31, 1974.

Mr. DURKIN. Mr. President, I would like to add a couple of other observations with respect to no-fault and federalism.

This bill does not jeopardize the status or the standing of the State insurance commissioners.

This bill does not take away the States' jurisdiction. It gives them standards and it sets policy in areas where only the Federal Government can.

Some newspaper stories have implied that Geico. Government Employees Insurance Co., is in financial trouble because of no-fault automobile insurance and their losses under no-fault.

I would like to offer for the record the fact that, while I was insurance commissioner in New Hampshire in 1970, we put Geico on much more frequent reporting because at that time, they were writing more insurance than they should be writing, given their assets-and-liabilities configuration. So to say that Geico is having problems because of no-fault is stretching the facts. Their financial problems began before the thrust toward no-fault.

Another myth that is prevalent in the press today is that States have no-fault. To call some of these programs no-fault programs is a disservice to the whole concept of no-fault and a disservice to S. 354. Many of those programs, some of which grew out of bar association meetings are not no-fault in any respect at all. They are trial lawyers' relief acts.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. MOSS. Is it not a fact that of the so-called no-fault plans we have in the States, only one comes close to, and in some provisions exceeds the standards that are laid down in this bill?

Mr. DURKIN. Yes, that is true. Michigan has an excellent no-fault program.

I might point out, some people say, "Leave it to the States." It is sort of an updated version of "Leave it to George." We left it to the States.

We passed a bill in the State of New Hampshire with a very high threshold.

Mr. MOSS. I thank the Senator from New Hampshire.

He is obviously well-qualified to discuss the bill, having been an insurance commissioner of his State before he came to the Senate. Being a lawyer himself and having participated in the presentation of cases on the fault system, he understands fully what he is speaking about and can be considered an expert. He has had first-hand opportunity and experience to know what he has been saying to us here today.

The opponents of S. 354 have argued that the bill should be defeated because no-fault has been a failure at the State level. This is what we have been discussing, whether or not the States really have no-fault bills. No-fault has not been a failure at the State level.

From the experience in no-fault States and from appraisals of insurance regulators in Massachusetts, Florida, Connecticut, New York, New Jersey, Colorado, Michigan, and Minnesota, no-fault is succeeding in its objectives.

More benefits are being paid to more people, faster than ever before. More of the premium dollar is being returned to victims for economic losses, and less is spent on intangible losses, attorneys' fees, and haggling. Fewer auto insurance cases are entering the judicial system and the number of liability claims of driver against driver are decreasing, in some cases dramatically.

The experience in no-fault States so far suggests the following conclusions:

First. As a compensation system, no-fault is doing a good job of meeting its intended objectives: It is distributing more of the insurance dollar to crash victims—more surely, more equitably, more swiftly and more efficiently than the lawsuit system.

Second. Inflation is chiefly to blame for current insurance rate increases.

Third. The bulk of the insurance cost increases has come in the property damage liability and physical damages coverages that are not associated with no-fault.

Fourth. Despite 2 years of raging inflation, rates in most no-fault States are still lower or no higher than they were before no-fault became effective.

Fifth. In several no-fault States, inadequate tort restrictions and unjustifiable mandated rate reductions, coupled with inflation, have led to the need for increases in rates from the levels originally established. In essence, there is too much fault left in most no-fault systems.

AUTOMOBILE ACCIDENT VICTIMS ARE BENEFITING ENORMOUSLY FROM STATE NO-FAULT PLAN

According to the commissioner of insurance in the State of Michigan, Daniel J. Demlow:

> Prior to no-fault in Michigan rehabilitation was almost nonexistent; benefits provided were invariably in lump sums. Now extensive rehabilitation is taking place. There is a very real incentive for an insurance company to restore and injured policyholder to health, for the sooner that occurs, the sooner the company is no longer obligated This incentive has been of inestimable value to Michigan citizens injured in auto accidents . . . [T]hose benefits have been of great value to the citizens of Michigan . . .

RECENT INCREASES IN PREMIUM RATES ARE UNRELATED TO NO-FAULT

No-fault is just as vulnerable to inflation as the fault system.

As large-scale consumers of other services, insurance companies are particularly susceptible to inflationary forces. The impact of inflation on automobile insurance premiums has been particularly acute during the past 2 years in both fault and no-fault States. Although the cost-of-living index jumped 20 percent during this period, major components of auto insurance loss costs climbed faster, including auto repairs, up 20 percent; doctor's fees, up 25 percent; hospital rooms, up 33 percent; and, most conspicuously, automobile crash repair costs, up nearly 40 percent.

Inflation has increased the number of claims over the amount of deductible limits. With a given deductible, the same damage would produce more claims in 1975 than it would have in 1973, simply because of repair cost increases. As a consequence, total claims payments and insurance company operating costs rise.

Similarly, inflation acts to push a greater number of bodily injury claims past the low "thresholds" in many State no-fault laws, creating suits for pain and suffering where none would have existed a year or two ago under the same law. Only one State, Hawaii, has planned any mechanism to adjust the lawsuit threshold to meet changing economic conditions.

The bulk of the cost increases have occurred in portions of the typical insurance package which have nothing whatever to do with no-fault—property damage liability, collision, and comprehensive—fire and theft.

Between 60 and 70 percent of the total premium paid by the owners of late model cars goes for vehicle repair or replacement coverages. A breakdown of auto insurance results from the first half of 1975 shows bodily injury liability—covered by no-fault—costs up only 9.1 percent, while property damage liability costs rose 15 percent, collision costs increased 28 percent, and comprehensive costs rose by 19 percent.

It is primarily soaring repair costs which have produced the premium increases. From 1967 through June 1975, the cost of parts typically damaged in auto crashes climbed 115 percent. Almost half of the total increase took place in the last 18 months of the period measured.

Premiums are increasing at higher rates in States using the traditional tort liability States than in no-fault States.

Auto insurance premiums are increasing nationwide. State Farm Insurance Co. estimates that nationwide the rates of all its auto insurance premiums, including collision property damage and bodily injury coverage, went up 10.9 percent in 1975 for all States. The increase in no-fault States was only 9.8 percent, however, while the increase in fault States was 12.2 percent.

Premium increases are also attributable in part to weak State plans—plans which Sylvia Porter has dubbed "Lawyers' No-Fault." All State no-fault laws except Michigan's allow auto crash victims to sue for general damages—that is, pain and suffering—if their medical costs go above a certain level, called a threshold. In at least 10 of the 16 no-fault States, the dollar threshold is so low that it offers claimants and their attorneys an inviting target at which to aim in order to become eligible to file a tort claim for "pain and suffering." Eight of the no-fault law thresholds are $500 or less of medical expense; 13 of the 16 laws have thresholds that are less than $1,000. These limitations are particularly vulnerable to the inflation taking place in medical costs.

A no-fault program that does not sharply restrict lawsuits simply will not work as effectively as a strong no-fault plan. Yet State legislatures have allowed themselves to be pressured by lobbyists for special interests, principally the lawyers, to water down restrictions on lawsuits, with the result that many of the 24 States with no-fault programs have them in name only; and the performance has been disappointing. The thresholds represent legislative compromises with the no-fault principle that threaten to undermine the ability of no-fault to stabilize or reduce auto insurance costs. The compromises were political, not actuarial decisions. Inflation has made them worse.

Other deficiencies in many State laws are unfounded rate cuts mandated by the laws—a gift from expedient politicians attuned to vote tallies, not actuarial tables. The severe effect of mandatory rate cuts in certain States have had on insurance company finances is demonstrated by the experience that State Farm reports for the last 4 years. At the end of 1975, State Farm's rates in the 16 no-fault States were only 3.2 percent higher than they were at the beginning of 1971. In all States combined, State Farm's rates averaged 10.2 percent higher.

These figures clearly indicate why some insurers are experiencing heavy financial losses in several no-fault States. The losses are not caused by no-fault itself. Rather, they result from the mandated rate cuts that were not justified by the weak restrictions on lawsuits in the no-fault laws.

MICHIGAN

The no-fault experience in Michigan has been an unqualified success. The experience in Michigan shows that unlimited medical, hospital, and rehabilitation benefits and generous wage loss protection can be provided to all accident victims without regard to fault, and without increasing bodily injury insurance premiums, so long as auto accident lawsuits are confined to the most serious cases.

The Michigan no-fault law contains provisions comparable to the national standards in S. 354, as far as the bodily injury coverage is concerned. In Michigan, no-fault insurance pays unlimited medical expenses, and up to $43,000 in wage loss. The law has an effective, strong limitation on lawsuits.

Michigan's law is the one no-fault plan that comes closes to meeting Federal standards: its success stands as a compelling argument for the enactment of S. 354.

Victims who would have received nothing under the fault system are receiving compensation for their injuries. The following are actual cases taken from the files of a large insurance company in Michigan.

In 1974, a 17-year-old girl, riding in the back of a pickup truck with six other girls, suffered complete dislocation of her spine when the driver lost control and smashed into a tree. Her father's insurance company has paid more than $44,000 for medical and rehabilitation expenses and to buy a specially equipped auto for the girl, who is paraplegic. The insurer expects to pay a total of $65,000 to the girl.

Since she was a guest in the vehicle, she would have received nothing under the fault system.

Also in 1974, a 41-year-old man either ran or was pushed from between two parked cars directly into the path of an oncoming car. Since he had no insurance on his own car, his expenses fell on the company insuring the driver of the car that struck him.

The victim's injuries rendered him paraplegic. The insurance company has paid out more than $41,000 for medical expenses and lost wages.

Under the fault system, this man would have received nothing.

The unlimited medical and rehabilitation benefits have been of enormous benefit to the people of Michigan. The insurance commissioner of the State of Michigan, has stated in a letter to the Commerce Committee that:

> The unlimited medical and rehabilitation benefits of Michigan's no-fault law have worked exceptionally well. Prior to no-fault in Michigan rehabilitation was almost nonexistent; benefits provided were invariably in lump sums. Now extensive rehabilitation is taking place. There is a very real incentive for an insurance company to restore an injured policyholder to health, for the sooner that occurs, the sooner the company is no longer obligated. This incentive has been of inestimable value to Michigan citizens injured in auto accidents.
>
> To summarize, in Michigan we have not been aware of any problems of either availability or cost for unlimited auto no-fault benefits during our experience with such benefits beginning October 1, 1973. At the same time those benefits have been of great value to the citizens of Michigan.

The Michigan plan has reduced significantly the number of auto accident claims that are settled under the fault system.

Figures from a major insurance company doing business in Michigan show that in the three territories for which statistics were compiled, 89 percent of all auto insurance claims were paid exclusively on the no-fault system in 1975. This means that the people of Michigan are receiving the benefits of no-fault without having to bring a costly and time-consuming lawsuit.

Recent rate increases in Michigan have taken place in the property damage portion of the premium. There have been recent rate increases in the total premium paid by Michigan motorists, but bodily injury premiums have actually decreased. The rise in rates has taken place only in the property damage portion of the premium, a portion not associated with no-fault under S. 354.

Figures from five major insurance companies in Michigan—Aetna, AAA, State Farm, Michigan Mutual, and League General—show that bodily injury rates decreased in Michigan despite inflation and despite the significant increase in coverage and benefits under the no-fault system. Figures from these companies show that rate increases have taken place only in the property damage portions of the premium.

For example, the rates of a 45-year-old married male principal owner with a Chevelle Malibu driving in the Detroit metropolitan area decreased 35 percent in the bodily injury portion of the premium while the property damage premium increased over 120 percent. Thus, there was an overall rate increase, but the bodily injury premium—the portion of the premium associated with no-fault under S. 354—actually decreased under no-fault.

These figures also show that old and retired people have benefited enormously from no-fault. Rates for a 70-year-old retired married male living in the Detroit metropolitan area have decreased 45 percent for bodily injury coverage, even though property damage rates have increased 125 percent. Again, the overall rate has increased, but this increase is attributable to increases in the property damage portion of the premium not affected by no-fault.

Bodily injury rates have also decreased in rural areas. In the town of Baldwin, Mich., policyholders have enjoyed bodily injury rate decreases of approximately 32 percent since the enactment of no-fault.

A review of the premium rates of 4 other companies, which together write 44 percent of he automobile insurance premiums in Michigan, also indicates that no-fault has had a significant impact in reducing or moderating premium rate increases.

For example, in Detroit, bodily injury premium rates for a married couple, age 35, owning a Chevrolet Impala have decreased 14 percent since no-fault went into effect with the AAA Insurance Co., and have decreased 27 percent with League General. In the Dearborn area, the same couple would be saving between 4 and 8 percent in its bodily injury premiums.

Rates for bodily injury coverage decreased even more dramatically for retirees. Rates in all four companies for territories including Detroit and Dearborn decreased. In six cases the decreases were 20 percent or more, and in the remaining two cases, the decreases were 13 and 17 percent.

The premium experience of these companies is somewhat bleak when the property damage portions of the premium are included in the package. Premium rates for collision and comprehensive—fire and theft—insurance have increased dramatically. Rates for a married couple, age 35, driving a Chevrolet Impala living in the Detroit and Dearborn areas have increased by amounts ranging from 42 to 99 percent in the period since no-fault was implemented. The average increase was about 50 percent. As a result, rates for total coverage that includes collision and comprehensive insurance have increased for most insurance companies in Michigan since the no-fault law went into effect. But these increases are attributable to the property damage portion of the premium—a portion that is not affected in one way or another by S. 354.

In sum, no-fault in Michigan is doing exactly what it was intended to accomplish: It is compensating more victims, including victims who would have received nothing under the fault system; it is compensating them more completely and more quickly. And it has produced a bonus—a decrease in bodily injury premiums.

BODILY INJURY NO-FAULT IS WORKING IN MASSACHUSETTS

Although Massachusetts cannot be considered a typical case, its no-fault law has been remarkably effective over the last 5 years in reducing nuisance claims and insurance premiums for bodily injury. Commonwealth motorists have saved over $108 million in the cost of compulsory bodily injury insurance in that time. At the end of 1975, they were paying less than half of what it cost for equivalent coverage under the fault sysback in 1970. A 2-percent increase for private passenger care and a 12-percent increase for commercial vehicles ordered for 1976 were the first increases in compulsory bodily injury rates since no-fault began.

In evaluating the Massachusetts plan, a critical distinction must be made between the bodily injury portion and the property damage portion of the bill. Although in Massachusetts, both bodily injury and property damage are compensated on a no-fault basis, under the Federal standards for no-fault insurance bill, only bodily injury is compensated on a no-fault basis.

As to the bodily injury portion of the Massachusetts law, Gov. Michael Dukakis reports that:

> Our no-fault bodily injury laws . . . have been an unqualified success in Massachusetts. Bodily injury insurance rates in Boston for over-25 drivers having no adverse rating characteristics have fallen from $117 in 1970 to $45 in 1975. Rates in suburban and rural areas have fallen less sharply but even in the most rural area, the drop was 32%.

The rate level today is about 36 percent of what could reasonably have been anticipated if the fault system were still in effect today. And it must be remembered that these premium savings have been produced even though Massachusetts has both the highest auto theft rate in the Nation as well as the highest accident rate.

A recent article published in the Iowa Law Review by Alan I. Wildiss, documents the favorable responses of consumers to their experience under no-fault. The results of the study show that more than three-quarters of the claimants indicated that they were satisfied with the way their claims were handled and with the amounts they received. That satisfaction, combined with Governor Dukakis' wholehearted endorsement of the bodily injury insurance system indicates that the situation in Massachusetts is favorable to no-fault.

If bodily injury premiums have been going down in Massachusetts, then why is the total premium higher today than in 1971? The answer is to be found in the other automobile coverages—comprehensive—fire and theft—property damage liability and collision. When the freeze on insurance rates was lifted in 1971, comprehensive rates rose 38 percent, in part because Massachusetts has the highest theft rate in the country. When the freeze came off property damage and collision rates, they too, rose dramatically.

Thus, despite the great success of the Massachusetts law on the personal injury side, the State has had a lack of similar success with its property damage system. As Governor Dukakis reports:

> Our property damage laws have been far less beneficial to our consumers. Rates have risen steadily since 1970 and increases from 40% to 70% were sought on property damage lines for the 1976 policy year.

Recent changes in its no-fault property damage law produced a 165-percent increase in property damage rates and an 11-percent increase in collision rates.

In summary, Massachusetts has had great success with its bodily injury no-fault plan; the problems with the Massachusetts law relate to the property damage side of the law, an area that is not covered on a no-fault basis by the Federal standards bill.

STATE ADD-ON PLANS, SUCH AS THOSE IN OREGON, DELAWARE, AND MARYLAND HAVE BEEN A FAILURE

A number of States have enacted legislation requiring insurers to sell and/or requiring motorists to buy first-party insurance against personal and family economic loss in addition to the prescribed liability insurance. Victims may obtain compensation from their own insurance companies, but they remain free to sue the other driver for damages.

These so-called add-on plans increase the number and percentage of motor vehicle accident victims who receive some compensation for their injuries, but the cost increases are enormous. This is because a "no-fault" system is merely added on to the existing liability system, and the consumers end up paying for both. Since no restrictions on lawsuits are made, there are no savings in the costs associated with litigation, and the overall costs of the insurance system must increase. Because these plans do not eliminate the waste and misallocation of benefits that are produced by the liability system, precious premium dollars must be allocated to unnecessary costs associated with lawsuits, claims investigation, haggling over claims, et cetera.

Take the example of Delaware. Under Delaware's law, effective January 1, 1972, motorists must buy first-party benefits coverage of $10,000 per person and $20,000 per accident. The law leaves the tort liability system undisturbed, however, except that an accident victim who sues for damages in tort may not plead or prove any loss for which he received compensation from first-party benefits.

The legal counsel for the American Insurance Association has reported that there is still a substantial amount of litigation in the automobile liability area in Delaware.

No rate increases were granted until 1975. At that time, insurance companies went to the State commissioner asking for extremely large increases, based on increased insurance costs during the add-on-plan. Increases were asked amounting to 119 percent in personal injury protection and 12.4 percent in bodily injury. The latest indications based on 1974 figures are that premiums have increased 60.5 percent for personal injury protection and 12.7 percent for bodily injury.

Other add-on States have also fared poorly. In Maryland, the rates of one insurance company for bodily injury increased from $64.12 to $83.38.

And in Oregon, as a result of adding the $12,000 mandatory first-party benefits with no compensating restriction on tort lawsuits for small claims, premiums for the bodily injury side of the auto insurance package have increased more than premiums for other categories. Since 1969 the cost of personal injury coverage increased, whereas the cost of other coverages has either remained stable, or increased a relatively slight amount. Enactment of the add-on law, coincided with an increase in the personal injury premium for one company from $26.40 to $32.30, which became effective January 1, 1972. In contrast, in most true no-fault States, enactment of no-fault laws produced rate decreases for personal injury coverages.

The Oregon no-fault plan has also failed to make a substantial decrease in the number of automobile accident claims that result in litigation. It was hoped by Oregon's legislators that the requirement of first party benefits would result in the payment of most claims on a no-fault basis. However, this objective has not been attained, because Oregon makes no restriction on the right to bring a lawsuit. According to the statistics of a major auto insurer in Oregon, at the present time only 40 percent of auto accident claims are being settled on a no-fault basis. Compare this figure with major cities in Michigan in which restrictions on lawsuits have resulted in the payment of 89 percent of auto accident claims on a no-fault basis.

FLORIDA

The experience in Florida indicates the deficiencies of State plans with weak thresholds. The Florida law was enacted with a $1,000 medical expense threshold. That is, victims whose medical expenses exceed $1,000 could bring lawsuits to recover damages for "pain and suffering." It was hoped that the $1,000 threshold would eliminate enough minor lawsuits to balance the cost of providing first-party benefits of $5,000 for medical expense, lost income, and replacement services to all Florida insurers. When no-fault became effective in January 1972, the legislature mandated an initial 15 percent rate reduction and the commissioner of insurance ordered a further decrease of 11 percent for 1973. Cumulative savings were estimated at $100 million.

However, by the end of 1972, it became apparent that instead of a $1,000 threshold, Florida had created a $1,000 "target" to which plaintiffs' lawyers aimed. Since 1973, bodily injury rates have risen above pre-no-fault levels, propelled by inflation and by an abnormal amount of fraudulent claims, as reported by a Dade County, Miami, grand jury report.

The grand jury report represents the conclusion of an investigation by the insurance commissioner into fraud and collusion on the part of lawyers, doctors and accident victims to inflate their claims to meet the threshold level, and thus sue for pain and suffering.

The grand jury report describes the working of the fraud. A runner for an attorney will refer an accident victim, usually uninjured, to the lawyer, who then refers the victim to a friendly physician. The physician then hospitalizes and treats the victim enough to "build" medical expenses in excess of the threshold amount. The doctor then files a standardized report and billing with the attorney, who uses them as the basis for a lawsuit claiming damages of several thousand dollars for "pain and suffering."

The weak threshold in Florida, and its abuse through collusion between doctors, lawyers and claimants, is frustrating no-fault's demonstrated ability to control the costs of the auto insurance system. An effective no-fault law depends on strong limitations on lawsuits in minor cases. S. 354 has those strong limitations.

Despite these problems, Philip Ashler, the State insurance commissioner for Florida, has stated to the House Subcommittee on Consumer Protection and Finance:

> It should be stressed here that actuarial indications developed from all insurance companies reporting to the Florida Insurance Department as required by Statutes show that as of December 1974 private passenger automobile rates for limits of 10/20/5 would have been 50 percent higher under the old pre-No-Fault system as compared to the actual rates in effect at that time.

NEW YORK

New York's no-fault law has enabled insurers to maintain New York auto personal injury rates at approximately the levels in effect on January 1, 1973. The only weakness in the New York law is a $500 medical expense threshold, which legislators are now considering increasing.

The New York no-fault plan requires motorists to buy first-party economic loss coverage with an aggregate limit of $50,000. Economic loss can be recovered only if it is not covered by the first-party benefits. An accident victim cannot recover for general damages unless his medical expenses exceed $500, or his injury is very serious or results in death. Property damage is left under the tort system.

New York's no-fault law went into effect on February 1, 1974, with a mandated reduction of 15 percent and actual rate decreases which averaged more than 19 percent. In a report issued in January of this year, the New York Insurance Department notes that—

> The loss experience of 1973 (the last year under "fault") would, in itself, have supported approximately a 20% rate increase in 1974 had the no-fault law not been enacted.

Thus, insurers actually were decreasing rates by 39 percent from 1973 experience levels.

In dollar terms, the insurance department credits savings to New Yorkers at $100 million annually based on actual no-fault rates. Because of the no-fault benefits, Blue Cross-Blue Shield health carriers were required to eliminate a duplication of benefits from their community-rated health insurance contracts, a further saving of 2.5 percent to their policyholders.

Until the last half of 1975, no rate increases were approved for bodily injury liability and no-fault insurance coverages. Then, over the last half of 1975, the New York Insurance Department approved rate increases for bodily injury coverages which, on a statewide basis, averaged about 20 percent. That is 20 percent above the reduced rate that accompanied the introduction of no-fault, not 20 percent above the old "fault" system.

The net result of the initial no-fault rate reductions and these recent rate increases, says the insurance department, is that—

> Despite three years of rampant inflation, the no-fault law has enabled insurers to maintain New York auto personal injury rates at approximately the levels in effect on January 1, 1973.

Legislators in New York are awakening to the fact that the tort threshold of $500 is too low. A modification of the New York no-fault insurance law is now being considered by some legislators which would raise the no-fault threshold from the current $500. Superintendent Harnett has indicated that he would favor such a change. New York State Assemblyman Leonard Silverman has stated that—

> Personal injury protection payouts under no-fault are wrecking the system . . . it's what the doctors are doing to reach that threshold level?

The New York plan is a good example of a no-fault plan that is working. Bodily injury premiums are at approximately the levels in effect on January 1, 1973, and more benefits are being paid to more people. Legislators are discovering that the $500 tort threshold is too low, and a move is now afoot to increase it.

Mr. President, the chairman of the Commerce Committee (Mr. MAGNUSON) is an original sponsor and author of this bill, as he has been for years past. He has been the leader in this field of no-fault insurance and he has addressed this body on previous occasions.

In fact, in the last session of our Congress, we passed almost this identical bill on a rollcall vote here in the Senate.

Mr. MAGNUSON. Mr. President, I have been talking about automobile insurance reform in this Chamber for more than a decade. I have been talking about no-fault automobile insurance in this Chamber every year since 1970. I have been sponsoring legislation to give the automobile accident victim and the automobile insurance consumer a better deal for three successive Congresses.

There was S. 945 in the 92d Congress. There was S. 354 in the 93d Congress. That one passed the Senate by a vote of 53 to 42. Now there is S. 354 in the 94th Congress, basically the same bill that the Senate passed in 1974 except that the committee modified the bill in several particulars to meet certain continuing criticisms. This year's S. 354 eliminates with greater specificity any possibility of involvement by the Federal Government in the regulation of the automobile insurance industry.

The determination whether a State is in compliance with the national standards for no-fault will be made by a five-member review board, of which two members will be appointed from a list recommended by the National Association of Insurance Commissions and two will be appointed from a list prepared by the National Governor's Conference. This year's S. 354 cannot be construed, as 1974's S. 354 was construed by some, as "compelling the States to create agencies and to staff and fund them to administer a Federal law . . . to become agents of the Federal Government." We accepted an amendment drafted by the Attorney General of the United States to put to rest that issue.

As the senior Senator from Utah (Mr. Moss) has declared, there are very few pieces of legislation which have ever come before the Senate of the United States after more exhaustive examination and field testing. This bill is based upon exhaustive investigation, analysis, and evaluation by both the executive branch and the legislative branch of the Federal Government; upon the technical drafting expertise and insight of the National Conference of Commissioners on Uniform States Laws; and upon solid experience in 16 States which have enacted varying no-fault laws and in 8 States which have enacted first-party benefits laws.

Despite all this, the hard-core opposition to no-fault auto insurance is as determined as it has ever been to block this reform from ever becoming law nationwide, in a form which is good for consumers. There was a flurry of articles around the beginning of the year suggesting that no-fault laws in the States have failed. Sylvia Porter suggested that those articles were "planted" by the trial lawyers. In any case, those articles were written about State laws which do not meet the national standards which we believe are necessary for good-for-consumers no-fault. The shortcomings, such as they are, prove emphatically the need for national standards, national guidelines, to assure that the consumer does not end up holding the bag.

Mr. President, much of the opposition to no-fault auto insurance over the years has been dressed up in lawyers' language. We have heard a great deal about the "right to sue," as if this Nation was based on litigation rather than humanity, and about the "deterrent function of tort liability," as if a tort judgment paid for by an insurance company served as an effective deterrent.

All of these phrases are, I am personally convinced, a smokescreen to protect the vested interest of a small and extremely well paid group of people—the automobile negligence lawyers. According to the latest estimates, the personal injury bar derives about $1,800,000,000 a year from the automobile insurance system each year.

The system itself is a mess, as learned studies have documented for more than 50 years. Out of every $1 paid by you and me in auto insurance premiums, only about 44 cents ends up in the form of benefits to a victim. You can get better odds than that in Las Vegas.

Having proclaimed the excellence of the bill, having derided the opposition for its self-interest, let me talk for a few minutes about what I regard as the real issues in this controversy.

The things that really matter, as we prepare to vote again on S. 354, are the human issues. The questions which each Senator must ask himself are human questions, like the following:

What happens today to the typical, seriously injured auto accident victim?

How long must the auto accident victim wait to be compensated for lost wages, medical bills, out-of-pocket expenses?

Who will encourage victims to try, and who will pay for, endless months of medical and vocational rehabilitation services which can teach them to use a prosthesis or new job skills?

How much of his loss will ultimately be paid, and what are the victim's chances of getting this compensation?

My colleagues and I have cataloged what we see as some of S. 354's virtues. We have amassed formidable ledgers filled with actuarial figures, cost-benefit analyses for insurance companies and commissioners of insurance, financial reasoning for buyers of insurance. But we have been doing this to respond to our opponents. It strikes me that the discussion has concerned itself with the effects of S. 354 on the compensators, rather than those S. 354 was designed to compensate, the victims of accidents.

Lest we forget, the purpose of S. 354 is to compensate victims more equitably and more efficiently than does the tort liability system. Lest we forget, some 56,000 people died, and some 300,000 others were maimed or seriously injured as a result of motor vehicle accidents in 1974. The system for monetary recovery alone under the tort system is akin to Russian roulette. Fewer than 48 percent of all accident victims receive a nickel for medical or rehabilitation costs, lost wages or disability. Seriously injured persons fare the worst. They recover about a third of their expenses—if they are lucky enough to recover at all.

The person with the best odds for recovery is the questionable whiplash victim or the victim with minor injury. He may recover three or four times his actual loss, though he suffered minimal discomfort. The odds that a seriously injured accident victim would receive the kind of rehabilitation—both physical and vocational—necessary to be able to rebuild his life were slim indeed under the liability system. Fewer than 12 percent of seriously injured victims were given information about rehabilitation programs that would have allowed them to recover enough to work and resume normal lives again.

We seem to have become so glib with numbers that we forget that each one of those statistics represents a person who has just experienced a traumatic event, who must find the personal resources to cope with that trauma, which may include medically treatable pain, economic disruption, long physical therapy, or a change of occupation.

National standards for no-fault can do neither the healing nor the therapy. It cannot face the victim's difficulties for him. But it can make sure that emergency medical care is available and paid for for all victims. S. 354 can make sure that a victim is not worrying about deductibles when he should be concentrating on exercises to regain use of his limbs. S. 354 assures that all reasonable emergency medical care and rehabilitation will be paid for promptly. Unless the victim asks to see the accounting, he need not even see the bills.

S. 354 assures that compensation for the victim's lost wages is forthcoming immediately when the wage earner is laid up, not for months or years beyond the time when the victim stops working because of his injury. Under S. 354 an accident victim can hire someone to cook or care for children if the victim's injuries prevent him or her from performing those tasks. S. 354 looks at the reality of what automobile accidents do to people's lives and tries to minimize their catastrophic effect by removing barriers to recovery of health and monetary compensation for actual loss.

We must face the fact that the present system does not have proper priorities. It does not have even humane priorities. Twenty-three percent of those who died after auto accidents might have recovered if our emergency medical care system was set up to encourage quick pick-ups at accident scenes: That is, if ambulance owners knew they would get paid within 30 days rather than having to wait for the results of litigation to see whose fault the crash was and perhaps never getting paid.

We must face the fact that the legal process for most accident victims, especially the seriously injured, is a bane rather than a boon. For every winner in court, there is a loser, someone whom the judge and jury adjudge to be "at fault." Consumers know what lawyers seem not to want to recognize: accidents do happen on the road, just as unforeseen and unpredictable events occur in other spheres. Many times neither party in an accident will have any idea what actually happened. To hold out the promise of a big court damages recovery as the "main chance" to victims of automobile accidents is wrong. The odds are wrong for any betting man.

Yet far worse than giving the victim bad odds on damages, is holding out the liability system as the main chance for recovery of his health and livelihood. S. 354 does offer the victim a chance to devote his full energies to recovery. Without the worry of financial pressures to pay for medical care, without the worry of making sure that there is someone to pick up children at school, without the worry of where the money is going to come from—or if it is going to come at all—without all those worries, the victim can address the main worry, which is getting back on his feet.

S. 354 faces facts and tries to deal with the ugly business of auto accidents in a humane and effective way. S. 354 is a sure thing in that all victims get compensated for their actual loss. S. 354 does not hold out a carrot to a person to develop an impressive medical record to show the judge or jury. It holds out a carrot to the person to recover completely while removing the interim worries and financial pressures as much as is possible. The accident victim has enough to worry about without adding court strategy.

I urge that we vote for S. 354. It is the main chance for accident victims. It represents a sure thing for recovery of financial costs and a sure opportunity to recover health. Under the liability system, the odds favor the lawyers, not the victims. Under national standards for no-fault, the odds are with the consumer as premium payer and victim.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MOSS. Mr. President, the Senate will convene tomorrow at 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the Senator from Oklahoma (Mr. BARTLETT) will be recognized for not to exceed 15 minutes, at the conclusion of which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with speeches therein limited to 5 minutes each.

At the conclusion of routine morning business, or no later than 1 p.m., the Senate will resume consideration of S. 354, the matter now pending before the Senate.

ADJOURNMENT

Mr. MOSS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and at 5:03 p.m., the Senate adjourned until tomorrow, Wednesday, March 31, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate March 30, 1976:

THE JUDICIARY

Morey L. Sear, of Louisiana, to be U.S. district judge for the eastern district of Louisiana vice James A. Comiskey, resigned.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1982:

M. R. Bradley, of Indiana, vice Kenneth N. Probasco, term expiring.

William Dale Nix, Sr., of Texas, vice E. G. Schuhart II, term expiring.

EXTENSIONS OF REMARKS

ENERGY GOALS FADING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following well-expressed editorial from the Oxnard Press Courier entitled: "Energy Goals Fading."

The American people and the Congress must not ignore the points raised by this excellent editorial:

ENERGY GOALS FADING

Two years ago the Arabs imposed an oil embargo that should have served as a warning of what an energy shortage could mean to the United States.

Since the scare, however, more time has been spent arguing over energy policy than in taking steps that would solve the problem. In fact, the nation is moving backward. For awhile car buyers were purchasing compact and subcompact vehicles to save gasoline. Now Detroit says sales are trending up for the bigger models again.

The only major achievement since the 1973–74 embargo is that work has finally started on the long-delayed Alaska pipeline.

Gasoline consumption, which had dropped in 1974, has now risen back to pre-embargo levels and is still rising. Higher utility bills are inducing some energy conservation but the government sees nothing to change its forecast that the national consumption of various forms of energy will rise by 2.5 per cent a year from now to the end of the century.

Congress apparently reflects the majority opinion that the energy crisis is not really critical. U.S. dependence on foreign oil increases daily. "Project Independence" has failed to win much support.

Congress has continued domestic oil price controls for at least three years; the House has shied away from full-scale natural gas deregulation and instead voted to tighten price controls on the nation's largest gas producers. The House last June killed a 20-cent-a-gallon additional tax levy on gasoline to be imposed whenever consumption increased above the 1973 levels.

Disputes over strip-mining rules and other federal policies are hampering the development of this nation's massive coal reserves. The price controls on oil and gas are stalling development of shale oil recovery and coal gasification processes. Lawsuits are threatening to block development of offshore oil and gas resources.

The transition to nuclear power has been slowed to a crawl by environmental and safety disputes and doubts about economic factors. Other countries are leaping at opportunities to use nuclear technology to relieve their dependency on imported petroleum while the country which first split the atom cannot seem to make up its mind.

All of this reflects a comfortable feeling that things will turn out all right if no one rocks the boat. No painful or involuntary sacrifice is necessary.

That is the official view of the Chinese government. In its latest issue, the Peking Review argues that the world's resources of energy are infinite.

The Chinese are new to the modern industrial world. They have an excuse for being naive.

But American people and the American Congress have no such excuse. Sooner or later they must confront the hard reality of placing a limit on the growth of energy consumption that has continued for 200 years in the industrialized nations. And it is more likely to be sooner than later.

UNEMPLOYMENT AND THE FEDERAL BUDGET

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. CONYERS. Mr. Speaker, as the Full Employment and Balanced Growth Act (H.R. 50) moves through the Congress, it is important for all of us to keep clear in our minds why this legislation is so vital to the American people.

H.R. 50 fulfills at last the promise of the Full Employment legislation that was considered 30 years ago in the 79th Congress, and which resulted in the Employment Act of 1946. This legislation originally had declared that it was a right of each and every American, who was able and willing to work, to be gainfully employed, and provided the machinery to enforce this right. But in the course of its passage through Congress this legislation was watered down so that the goal of full employment became one of "maximum employment" consistent with other economic values such as maintenance of free enterprise control over labor markets and price stability.

What has the mandate of "promoting maximum employment" accomplished since 1946? During these 30 years the annual official unemployment rate has averaged 4.9 percent. The highest rate of unemployment during this period occurred last year, with an official rate calculated at 8.6 percent but which was nearly double when discouraged workers and individuals forced to work part time are included. But even these unconscionable national rates of unemployment obscure the extent to which particular groups and particular areas of the country are ravaged by joblessness. The National Urban League estimates that at the end of last year approximately 3.1 million black Americans were unemployed, a rate of nearly 26 percent. Detroit's jobless rate at year's end was 12.7 percent, and has changed little in the past few months. Teenage joblessness has not fallen below 10 percent since 1953 and it has averaged more than 20 percent the past year.

The fact of the matter is that our economy over the past generation has created and perpetuated an appalling human wasteland for millions of Americans and we still find ourselves debating the merits of putting people back to work.

Last November the Institute for Policy Studies, upon the request of 47 Members of Congress, published an analysis of the Federal budget. I wish to bring to the attention of my colleagues one of the papers in the institute's budget study, entitled "Unemployment and the Federal Budget," written by Prof. Rick Hurd of the University of New Hampshire. It offers an excellent discussion of the causes of unemployment, of the defects in existing manpower policy, and outlines a new direction of economic policy toward the goal of full employment:

UNEMPLOYMENT AND THE FEDERAL BUDGET

(By Rick Hurd, economic policy fellow, Brookings Institution; assistant professor of economics, University of New Hampshire)

Policymakers typically identify individual deficiencies of the poor as the cause of their poverty. Their stated purpose of government manpower programs is to correct these deficiencies. The alternate view presented here is that, in the United States, poverty is a product of the economic system. If manpower programs are to be effective they will have to directly attack the unemployment and low-wage labor markets that accompany the capitalist economy.

This paper reviews the roles played by the various federal manpower programs and discusses the causes of poverty under capitalism. It concludes with some suggestions about the type of manpower policy necessary to combat the labor market problems faced by the poor and the unemployed.

FEDERAL MANPOWER PROGRAMS

The proposed manpower budget is divided into six categories: labor market services (25%), rehabilitation (15%), on-the-job training (10%), institutional training (16%), work experience (13%), and public service employment (21%). Although all of these provide useful services to the poor, they do so without challenging the institutions of capitalism and therefore their potential impact is limited.

Labor market services

Labor market services include job placement assistance, labor market information, and equal employment opportunity. The goal of the information and placement activities is to make labor markets work more efficiently by matching prospective employees with job vacancies. This service benefits the unemployed by helping them locate jobs and also benefits employers by reducing recruiting and hiring costs. Equal employment opportunity measures are designed to aid the disadvantaged by reducing employment discrimination.

Manpower training

Rehabilitation, on-the-job training, and institutional training can be grouped together since each is a type of manpower training. The current manpower training programs have their roots in the anti-poverty efforts of the 1960s, which were launched in response to increasing black militance and demands for equal economic opportunity. The philosophy behind the "war on poverty" was that the disadvantaged are unable to compete effectively in labor markets because of educational and skill deficiencies. The goal of manpower training programs is to erase these deficiencies—i.e., to adapt workers to labor markets. Manpower training helps many individuals improve their earning potential, but the programs reach only a small fraction of the poor. Although the official rationale for manpower training is the anti-poverty impact, these programs also help employers by reducing training costs. This is especially true of on-the-job training, which amounts to a direct government subsidy to those employers who agree to hire disadvantaged workers.

Work experience

There are a variety of work experience programs, all originating in the 1960s. They create special jobs for disadvantaged workers, particularly youth, older persons, and residents of rural areas where there are few job opportunities. Some of the work experience slots are designed to lead to permanent employment, some are geared to give useful experience that will help participants develop work habits necessary to maintain regular employment, and some simply supply work and income for persons with no other options. Probably most important are the youth work experience programs which provide part-time jobs during the school year so that young persons can afford to stay in school and full-time summer employment for youths from low-income areas. Summer youth employment was instituted in response to the potentially explosive situation of high concentrations of unemployment among ghetto youth in major cities.

Public service employment

Public service employment (PSE) became part of the federal manpower strategy with the enactment of the Emergency Employment Act in 1971. PSE continues under Titles II and VI of the Comprehensive Employment and Training Act and is thought of as a temporary response to labor market problems caused by the recession. PSE deserves special attention because it goes beyond other measures in one crucial respect—it recognizes that some manpower problems are systemic and not simply the result of individual deficiencies. The official rationale behind PSE is that during a recession many workers are jobless through no fault of their own because of weakness in the economy. The PSE program creates special jobs to give unemployed persons an opportunity to work. The job creation effort is small in comparison to unemployment, however, with only 310,000 PSE jobs being created in 1975 at a time when unemployment exceeds eight million. Although much of the support for government job creation has come from liberals in Congress who are no doubt concerned about the plight of the unemployed, the form and size of the PSE program assure that the needs of the unemployed will receive only token attention, while the primary function will be to stabilize the system.

The heavy unemployment that comes with a recession causes problems. For one thing, low-income areas are hit especially hard by unemployment increasing the danger of riots and other expressions of discontent from the poor. To handle this volatile situation the federal government needs to make some effort to assist the people who are suffering the most from the recession. But if the assistance is no-strings-attached handouts of money or food, this undermines the incentive to look for jobs. In a capitalist economy monetary work incentives are the basic motivation for workers to contribute to production. When jobs are hard to find there is a danger that unemployed persons might become discouraged and give up their search for work.

To soften the impact of the recession without undermining work incentives, the federal government has turned to PSE along with a special extension of unemployment benefits—Temporary Employment Assistance (TEA). TEA, which is included under PSE in the proposed budget and accounts for 10% of manpower expenditures, extends unemployment benefits for 13 extra weeks and broadens eligibility for unemployment insurance. In order to receive benefits from the combined PSE/TEA program the unemployed either have to work or at least actively look for a job. The highly publicized periodic hiring for PSE jobs helps keep the unemployed hopeful of finding work and active in the labor force.

Work incentive program

An important part of the manpower budget is the Work Incentive Program (WIN), a special program for welfare recipients which requires employable persons on Aid to Families with Dependent Children to register for training or employment. WIN accounts for 7% of the proposed budget, with the expenditures distributed among the various categories discussed above. WIN is a reaction to the welfare explosion of the 1960s. The steady increase in welfare expenditures throughout the decade made it possible for many poor persons to subsist without working. Policymakers perceived this as a challenge to the work ethic and responded with WIN to require that welfare recipients demonstrate a willingness to work. This program continues today in spite of evidence from income maintenance experiments conducted by the Department of Health, Education and Welfare which demonstrate a strong work attachment among the poor, and in spite of a Department of Labor study which concludes that WIN is not cost effective.

Summary

Today's federal manpower policy is a legacy of the 1960s. The civil rights movement and rising militancy among the nation's minorities forced the government to act. The response was an assortment of manpower programs which were supposed to assure equal economic opportunities for the poor and the disadvantaged. The programs, along with Medicaid, food stamps, and other welfare measures, have contributed to the defusing of unrest by furnishing high visibility activity demonstrating the government's concern for poverty. Thousands of low-income individuals have obtained useful skills and work experience, but little headway has been made toward the goal of eliminating poverty. Continuing non-success is assured because all of the manpower programs are aimed at helping the poor only while working within the capitalist system. Even PSE, which recognizes some failings of the economy, is designed not to change the system but to perform a stabilizing function beneficial to capitalism.

The only recent major modification in manpower policy has been a reorganization under the Comprehensive Employment and Training Act (CETA). CETA transfers administrative control of manpower programs from the federal to the state and local levels. Although this move will potentially result in manpower programs geared more effectively to the needs of the participants, it is more likely that the outcome will be programs more responsive to the requirements of local labor markets. This reform is not likely to make much difference for the poor. There are a number of minor changes in manpower programs that would be marginally useful, but if the needs of the poor and unemployed are to be effectively met a drastically different approach will be necessary.

CAUSES OF POVERTY

Mainstream economists typically cite fluctuations in the economy and low individual productivity as the primary causes of poverty in the United States. Radical economists contend that the capitalist economy is responsible for poverty.

Business cycle fluctuations

The amount of poverty expands during down-swings and contracts during up-swings, primarily because of cyclical variations in unemployment. During peak business periods unemployment is low, while during troughs of the business cycle unemployment is high. Those on the margin of poverty are hit hardest by increases in unemployment, and the resulting reduction in their income causes many families to fall into poverty.

The accepted remedy for the elimination of business cycle related poverty is continuous economic growth. During the economic euphoria of the late 1960s continuous growth seemed to many to be an attainable objective. To quote a leading manpower expert writing in 1969: "The quest for measures to expand the total supply of economic opportunity can probably be pronounced complete . . . . The prospects for the future are for general levels of unemployment fluctuating between 3.5 and 4.5%. Given the knowledge and tools available, political pressures will not accept higher levels of unemployment." The recent downturn has reaffirmed the inevitability of business cycles under capitalism, and has necessitated a resort to special policy tools such as PSE and TEA.

Low individual productivity

In discussions of poverty, attention generally focuses on individual characteristics of the poor. The human capital approach sees poverty as a result of low productivity. The low productivity of individuals may result from lack of information, lack of training, or lack of opportunity. The uniformed poor are those who are unemployed or work at low-wage jobs even though there are vacancies in relatively high-wage positions for which they are qualified. The policy solutions are the placement and information activities included in the manpower budget. Quantitatively more important is the low productivity resulting from inferior education and low skill levels. The adopted cures for this type of poverty, manifested in manpower training programs, are more accessible education (especially vocational education) and special training to improve skill levels.

Liberals recognize that institutions are a partial cause of poverty. Discriminatory employment practices exclude women and minority group members from high wage markets, flooding the markets where they are allowed to participate, thus forcing wages down. Further, discrimination results in underemployment for many women and minorities; they are hired for jobs where productivity is low even though they are capable of performing jobs with much higher productivity. The policy response to discrimination is the activity of the Department of Labor to insure equal employment opportunity.

If low productivity is accepted as the *cause* of poverty, then the implicit solutions are improved skill levels for the poor, the elimination of discrimination, and more smoothly functioning labor markets. Current manpower policy is based on this low individual productivity explanation of poverty.

Radical critique

Poverty is more appropriately viewed as a consequence of societal characteristics than as the result of individual attitudes. Specifically, the operation of labor markets profoundly affects the incidence of poverty. Those with low-labor income (the unemployed and those who work at low-wage jobs) are likely to be poor.

Because they have concentrated on the effects of individual characteristics on employability and productivity, policymakers have ignored the effects of labor markets on labor force status. Individuals who reside in areas where the unemployment rate is unusually high are more likely to suffer loss of labor income because of unemployment. In markets where the structure of labor demand is shifting, workers whose skills are no longer appropriate may become unemployed or be forced into low-skill, low-wage jobs. In areas where the economy is stagnating, or growing too slowly to accommodate labor force increases, workers may be unable to find jobs or be forced to compete for low-wage jobs. To a great extent, then, the worker is at the mercy of the local labor market. This situation persists throughout the business cycle, although during recessions even more workers suffer from the vagaries of the labor market.

Related to failures of local labor markets is the failure of some industries to pay a living wage. In 1973 approximately 20% of all families living in poverty were headed by persons who worked 50–52 weeks at full-time jobs. These "working poor" are typically employed in non-unionized industries characterized by low productivity, low profits, and fierce product market competition. The inadequate incomes of the working poor result not from personal deficiencies but from the economic system—competition is the free enterprise ideal, but highly competitive industries generally can afford to pay only very low wages.

In a capitalist system, whether an individual has a job and what kind of job he or she has is determined primarily by the labor market. Labor markets cause unemployment and low-wage jobs, and thus cause poverty. Individual characteristics, many of which cannot be controlled by the individual (such as age, race, and sex), only determine who it is that will suffer the poverty imposed by the economic system.

Current manpower policy attempts to counteract market imperfections. Through labor market services, manpower training programs, and anti-discriminatory measures the government will supposedly equalize opportunities and poverty will be erased. Appealing though this view may be, it is not a realistic one. As long as it remains devoted to capitalism there is little the government can do to eliminate poverty. Programs to assist the poor within the framework of the economic system can have only limited short-run impact. An effective manpower policy would attack unemployment and low-wage labor markets directly.

REDIRECTING MANPOWER POLICY

If the federal government were interested in adopting a manpower policy that would strike directly at the labor market problems of the poor and unemployed, it would shift the emphasis of its programs from the supply side of labor markets to the demand side. The central goals of manpower policy would become the elimination of unemployment and the upgrading of low-wage labor markets. In short, the government would commit itself to guarantee every person the right to a decent job at reasonable pay. Attainment of a true full employment economy could not be accomplished with traditional expansionary policies but would require a massive job creation effort.

The idea of a federally funded guaranteed job program (GJP) is not a new one. In 1966 the National Commission on Technology, Automation and Economic Progress, appointed to study the problems of structural unemployment, recommended that the Federal government become an "employer of last resort." In the wake of the Detroit and Newark riots in 1967, Congressman James O'Hara and 76 co-signers introduced a massive public employment bill in Congress. In 1972 the Department of Health, Education and Welfare Task Force on Work in America suggested that "sheltered workshops" be set up for persons unable to find or hold regular employment.

A guaranteed job program would be an appropriate response to the nation's manpower problems. Most jobless workers are unemployed through no fault of their own. Unemployment is caused by a shortage of jobs, not by individual deficiencies of workers. The most effective way to remedy the situation and make productive use of idle workers would be for the federal government to provide meaningful employment to any person willing to work. Ideally the jobs would pay decent wages and provide opportunities for training and upward mobility.

In addition to providing jobs and income for the unemployed, a guaranteed job program would set forces into motion that would help all of the working poor. As the reserve army of the unemployed was absorbed into newly created government employment, there would no longer be people left begging for jobs in the private sector. The reduction of labor supply in low-wage markets would set forces into motion driving wages up. Furthermore, the bargaining power of workers in the private sector, especially those in low-wage jobs, would be enhanced, and employers would have to provide wages and working conditions comparable to those in guaranteed jobs if they expected to keep their workers.

In order for a guaranteed job program to have a positive impact, it would have to avoid potential pitfalls. If wages were low, working conditions were substandard, and the jobs provided were merely make-work, the benefits to participants and to the working poor would be minimal. It is easy to conceive of a poorly funded, conservatively administered "guaranteed job program" that would in reality be nothing more than work relief. For example, a recent proposal prepared by the staff of the Joint Economic Committee's Subcommittee on Fiscal Policy would replace the welfare system with a work program paying effective wage rates varying from the minimum wage downward to 75% of the minimum.

Minimum-wage jobs would furnish below poverty-level incomes and thus would not give much help to the unemployed. Higher wages such as those paid under the current PSE program where the average is $3.50 per hour, would provide a living income and would make the jobs an attractive employment option for the working poor. The better the jobs, the greater the impact on low-wage labor markets.

In this regard it is crucial that the jobs to be performed be designed to provide useful services to society, such as free child care and improved public transportation. If the public did not benefit directly, the credibility of the program would be undermined and participants would be looked down upon by other workers. Because of the stigma that would be attached to the jobs, they would not be considered by workers as a viable alternative to employment in the private sector, and the secondary impact on low-wage labor markets would be minimal.

Congressman Augustus Hawkins' Equal Opportunity and Full Employment Act, currently before Congress, has the potential to guarantee every person the right to a decent job. The bill's declaration of policy affirms this commitment: ". . . All adult Americans able and willing to work have the right to equal opportunities for useful paid employment at fair rates of compensation. . . . It is the responsibility of the federal government to enforce this right." However, the parameters of the proposed GJP are not clearly spelled out by the bill, so the nature of the guarantee is unclear. Also, the bill faces stiff opposition if and when it reaches the floor of Congress, and compromises whittling away at its declared purpose are inevitable.

Adoption of a GJP would involve a dramatic break with past manpower policy because it would not serve the needs of capitalism. If there were a GJP, workers would be able to leave their jobs if they were dissatisfied because they would be assured of other work. Also, employers who pay wages lower than those paid for guaranteed jobs would have trouble keeping workers unless they raised their pay. In short, a guaranteed job program would help workers not even employed on the special work projects by forcing employers to increase wages and improve conditions. But, this would cut into profits and undoubtedly contribute to inflation, hurting businesses and causing problems for the economy. The business community will vigorously oppose a GJP; the agents of capital are willing to help the poor and unemployed, but not at the expense of profits.

In addition to political opposition because of the labor market impact, another serious problem which will be encountered is the cost of the GJP. The gross cost of the minimum-wage GJP drawn up by the Subcommittee on Fiscal Policy is estimated at $14 billion per year. A more generous GJP would be much more expensive. A GJP paying an average wage of $3.50 per hour would cost $40 to $50 billion in a non-recession year, and $65 to $85 billion in a recession year. Clearly the adoption of a GJP would involve a reordering of budgetary priorities unequaled in the history of the United States.

A progressive manpower policy would be aimed at serving the needs of workers rather than the needs of the economic system. Training opportunities would be available for all workers desiring to improve their skills or overcome work deficiencies. All unemployed workers would be aided in their search for employment. At a minimum, existing manpower programs would be funded at their current levels. In addition, and most important, the government would provide meaningful job opportunities at decent wages to all unemployed and underemployed workers.

BALANCED BUDGET FOR FISCAL YEAR 1977

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ROUSSELOT. Mr. Speaker, the House Budget Committee is now in the process of marking up the first concurrent resolution on the budget for fiscal year 1977. By law, the committee is to be finished with markup by April 15 in order for the full House to be able to consider and pass the budget resolution by the middle of May.

Two weeks ago I had the privilege of appearing before the Budget Committee to present my well known views on the importance of presenting a resolution to the full House that would have anticipated revenues balanced with anticipated outlays—in other words a resolution calling for a balanced budget.

On March 23, the committee released the "Chairman's Recommendations for the First Concurrent Resolution on the Fiscal Year 1977 Budget." Predictably, the recommendations missed the balanced budget mark by a healthy margin. This year the margin was a hefty $49.8 billion. While we can be glad for the fact that the projected fiscal year 1977 deficit is about $25 billion less than red-ink totals for the last fiscal year; it is still a far cry from the fiscal sanity that this country is going to need for long-term economic stability.

In the interest of sharing my views on the feasibility of a "no-deficit budget" for the coming fiscal year, I would like to submit my comments made before the House Budget Committee on March 17, 1976, to be included at this point in the RECORD:

STATEMENT OF THE HONORABLE JOHN H. ROUSSELOT BEFORE THE HOUSE COMMITTEE ON THE BUDGET ON THE FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1977, MARCH 17, 1976

Mr. Chairman and Members of the Committee: Thank you for the opportunity to appear before you today to discuss what I consider to be the most urgent and pressing economic problem facing our nation today—the level of federal deficit spending and its effect on the economy.

In my opinion, and in the opinion of many distinguished economists, federal deficit spending of the magnitude that we in Congress have permitted in recent years is the primary cause of the stagnation and general economic unrest that is burdening every citizen of our nation. The route of prolonged deficit spending is simple and tragic: deficit spending creates inflation; inflation leads to high interest rates, reduced housing and general economic disruption, which ultimately results in unemployment and recession. Mr. Chairman, the only permanent solution to avoiding a replay of this scenario and to restoring long-term economic stability, is to bring federal spending into balance with federal revenues.

The growth of federal spending over the history of the United States is a study in profligacy: in the first 111 years of our national existence, the federal government spent $16.5 billion. In the next 40 years (1901–1940) the government spent $149.5 billion. From 1941–1950, the federal government spent $535 billion. From 1951–60, $744 billion, and from 1961–70, $1.4 trillion. Since 1971, the federal government has spent over $2 trillion. Looked at in a different light, it took 181 years for the government to reach a $200 billion budget (1971), and for the coming fiscal year—only six short years later—we will likely double that amount by approving an unprecedented budget of over $400 billion.

These figures, however, only tell half of the story. They don't reflect, for example, how our nation's spending priorities have changed over the years. (As late as 1970 the federal government spent more for defense than it did for welfare, education and health programs. In 1977 it will spend over twice as much for these income transfer programs as it will for the defense of the United States.) More importantly, it says nothing about the amount of deficit financing that has been required to support the U.S. budget over the years.

Sixteen of the last seventeen budgets approved by Congress have been run in the red. The 1976 estimated budget deficit will be close to $76 billion. With the deficit for FY 77 expected to be as high as $60 billion, there is little relief in sight.

These deficits, of course, need to be financed and such financing tends to harm the economy in a number of ways. Over the past ten years, the federal government will have borrowed in the capital markets a total of nearly one-third of a *trillion* dollars on a net basis. The national debt is now growing at a rate of more than $1 billion a week. During the last ten years, the interest on the debt has more than tripled to almost $38 billion in the current fiscal year and will go to $45 billion in FY 1977, (interest is now the third largest federal budget item, after income maintenance and defense.)

Moreover, the deficits place the U.S. Treasury in a position of competing with private investors. The recent avalanche of Treasury securities has created distortions in the traditional patterns of funds being raised by various sectors in the capital markets as well as in the sheer magnitude of the total funds raised. (The attached addendum aptly illustrates the growing problem that has existed in this area.) In my view, this has contributed in large measure to making our financial markets less efficient in recent years in channeling the savings of society to genuine investment opportunities. Predictably, then, capital formation is impeded.

What further adds to the problem is that deficits accumulate over time. Total federal debt has increased from $329.5 billion at the end of FY 1966, to an estimated $633.9 billion at the end of fiscal year 1976—a rise of 92 percent in only ten years time. Over the last ten years the average maturity of the debt has declined from 5 years and 3 months to 2 years and 5 months. In simple terms, this means that the U.S. Treasury must be a more frequent visitor to the financial markets simply to finance outstanding securities let alone raising funds for current deficits. It is sad to note that in this fiscal year (1976) the U.S. Treasury will absorb over 70 percent of all moneys in the securities market, while government at all levels will take over 80 percent. Needless to say, this percent must be sharply reduced as the economic advance continues or else the private sector will simply have to go without.

The results of "crowding-out," which is produced by massive government borrowing, are visible in the lack of private investment in recent years. This lack of investment and capital formation is seen in many ways:

For over a decade, the United States has had the poorest record of investment as percentage of real national output and real growth of all the major industrialized countries of the world.

Productivity gains in the United States during the last seven years have been averaging only one-half of the gains in the preceding two decades.

The United States ranks last among the industrialized nations in terms of productivity growth.

Since 1950, when per capita income in the United States was nearly double that of Sweden and Switzerland, these countries have grown more rapidly than the United States, and have actually surpassed us in per capita income.

Again, this record is only part of the legacy that has been bequeathed to us by virtue of deficit spending.

Deficit spending, or fiscal stimulus, is needed, we are told, to boon the recovery, to insure that the recovery will not be temporary, and to create jobs for the unemployed. Those who would have us accept this Keynesian rhetoric, however, seem to be blind to the fact that it's their own liberal spending policies that have served to create the very ills they seek to cure. In speaking of the shift away from these traditional economic beliefs and cures to unemployment and recession, a recent Business Week article entitled "Why Recovering Economies Don't Create Enough New Jobs" points out:

"In the Western world, something has changed radically in political economies. Economists and politicians now agree that by themselves the traditional modes of stimulating economies by government spending or increasing the money supply will not end high unemployment. These conventional policies, used to excess, will only create additional inflation in economies that have suffered far too much inflation for years."

The Economics Group of the Chase Manhattan Bank have also pointed up the need for fiscal restraint if we are to hope for a sustained recovery and reduced unemployment. In their bi-monthly "Business in Brief" report they state:

"Because inflation is a continuing danger . . . fiscal policy must aim toward the progressive elimination of deficit spending as the economic recovery moves ahead."

In reference to the predictable results of excessive stimulus to the economy at this point in time, Chase goes on to say:

"There could be no more certain way to bring this promising recovery to a premature demise. The resulting revival of inflation would surely force a cutback in real consumer spending, which by itself could bring on another recession. And the need to finance a perpetual big government deficits would inevitably close the capital markets, cutting off the rising flow of private investment on which the future economic health of the nation depends."

Such a scenario must and can be avoided, but only if Congress follows the path of sound economic reason and fiscal restraint. If we choose to stray from that path, and continue our profligate, spendthrift ways, we will ultimately be faced with a day of reckoning where our certain fate will not be unlike that of New York City's.

As you will recall, I have sponsored concurrent resolutions which have been referred to your committee—H. Con. Res. 254, 257, 260, and 261—which if adopted, would have balanced the budget for FY 1976. I have also offered two Floor amendments, during consideration of the first and second budget resolutions, which would have balanced budget revenues with outlays for FY 1976. In addition, I have sponsored or cosponsored several alternative proposals that would bring meaningful economic reforms that are pending before other Committees in the House. Before the Ways and Means Committee are: HR 10015, a bill to accelerate the formation of the investment capital required to expand both job opportunities and productivity in the private sector of the economy; HR 6290, a bill to increase the corporate surtax exemption; and HR 5133, a bill to improve and make more realistic various provisions relating to eligibility for aid to families with dependent children and the administration of the AFDC program. Pending before the Agriculture Committee is HR 8146, to reform the Food Stamp Act of 1964 by improving and making more realistic various provisions relating to eligibility for food stamps and administrative responsibility for the food stamp program.

In addition, I have sponsored legislation, H.J. Res. 23, which is pending before the Judiciary Committee and it proposes an amendment to the Constitution of the United States relative to abolishing personal income, estate, and gift taxes and prohibiting the United States Government from engaging in business in competition with its citizens. Also pending before the Judiciary Committee are two Constitutional amendments—H.J. Res. 5 and H.J. Res. 357—which I have cosponsored to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency.

I strongly urge this Committee to join with me in this effort to restore meaningful, long-term stability to the Nation's economy by recommending target figures in the First Budget Resolution which will bring the budget into balance and not add any new deficits for Fiscal Year 1977. Additionally, I hope you will join me in encouraging the other Committees to act favorably on the measures described above. Such a commitment would be of substantial assistance in bringing about the long-lasting economic solutions that are necessary for stability.

Thank you for your attention.

TABLE 1.—NET FUNDS RAISED IN THE SECURITIES MARKETS BY MAJOR SECTOR

[Fiscal years; billions of dollars]

	U.S. Treasury [1]	Federal and sponsored agencies [2]	Total Federal sector	State and local [3]	Corporation and foreign bonds [4]	Total securities	Federal sector as a percent of total	Government sector as percent of total
1960..	0.8	1.6	2.4	5.7	4.9	13.0	18.6	62.4
1961..	2.0	−.2	1.8	4.9	6.3	13.0	14.0	51.8
1962..	8.8	2.2	10.9	6.0	5.7	22.6	48.4	74.7
1963..	6.4	1.0	7.4	5.5	6.2	19.2	38.7	67.5
1964..	2.7	1.5	4.2	5.2	6.4	15.8	26.5	59.6
1965..	3.1	2.2	5.3	6.9	7.9	20.1	26.3	60.6
1966..	−1.0	6.8	5.8	7.3	10.9	24.0	24.1	54.5
1967..	−.6	2.7	2.1	6.0	13.0	21.1	9.8	38.5
1968..	18.2	5.6	23.8	7.2	16.4	47.4	50.3	65.5
1969..	−1.9	5.8	3.9	12.0	15.9	31.8	12.2	50.0
1970..	6.8	8.2	15.0	9.7	16.8	41.5	36.2	59.4
1971..	20.5	2.8	23.3	15.0	27.5	65.8	35.3	58.2
1972..	19.6	8.7	28.3	15.6	21.7	65.6	43.1	66.9
1973..	18.5	14.4	32.9	12.6	15.4	60.9	53.9	74.7
1974..	2.1	21.3	23.4	17.0	17.4	57.7	40.5	69.9
1975..	51.9	15.8	67.7	16.8	33.5	117.9	57.4	71.6
1976..	[6] 87.5	14.3	101.8	14.0	25.1	140.9	72,2	82,2

[1] Net increase in marketable and nonmarketable bills, notes and bonds (Includes Federal Financing Bank.)

[2] Increase in bills, notes and bonds of budget and sponsored agencies. Includes GNMA pass-throughs.

[3] Increase in notes, bonds and Government loans.

[4] Increase in bonds and notes with original maturities of more than 1 yr.

[5] Includes State and local as part of government sector.

[6] Estimate.

Source: Fiscal years 1960–75 data based on Federal Reserve flow-of funds accounts (which show net changes in outstandings).

TABLE 2.—TOTAL GOVERNMENT EXPENDITURES

[Dollar amounts in billion]

Calendar year	Federal	State and local	Grants in aid	Total	GNP	Percent of GNP: Federal	Percent of GNP: State and local	Percent of GNP: Total
1948..	$34.9	$17.6	$2.0	$50.5	$259.1	12.7	6.8	19.5
1949..	41.3	20.2	2.2	59.3	258.0	15.2	7.8	23.0
1950..	40.8	22.5	2.3	61.0	286.2	13.4	7.9	21.3
1951..	57.8	23.9	2.5	79.2	330.2	16.7	7.2	24.0
1952..	71.1	25.5	2.6	93.9	347.2	19.7	7.3	27.0
1953..	77.1	27.3	2.8	101.6	366.1	20.3	7.5	27.7
1954..	69.8	30.2	2.9	97.0	366.3	18.2	8.2	26.5
1955..	68.1	32.9	3.1	98.0	399.3	16.3	8.2	24.5
1956..	71.9	35.9	3.3	104.5	420.7	16.3	8.5	24.8
1957..	79.6	39.8	4.2	115.3	442.8	17.0	9.0	26.0
1958..	88.9	44.3	5.6	127.6	448.9	18.6	9.9	28.4
1959..	91.0	46.9	6.8	131.0	486.5	17.3	9.6	26.9
1960..	93.1	49.8	6.5	136.4	506.0	17.1	9.8	27.0
1961..	101.9	54.4	7.2	149.1	523.3	18.1	10.4	28.5
1962..	110.4	58.0	8.0	160.5	563.8	18.2	10.3	28.5
1963..	114.2	62.8	9.1	167.8	594.7	17.7	10.6	28.2
1964..	118.2	68.5	10.4	176.3	635.7	16.9	10.8	27.7
1965..	123.8	75.1	11.1	187.8	688.1	16.4	10.9	27.3
1966..	143.6	84.3	14.4	213.6	753.0	17.2	11.2	28.4
1967..	163.7	94.7	15.9	242.4	796.3	18.6	11.9	30.4
1968..	180.6	106.9	18.6	268.9	868.5	18.7	12.3	31.0
1969..	188.4	117.6	20.3	285.6	935.5	18.0	12.6	30.5
1970..	204.2	132.2	24.4	311.9	982.4	18.3	13.5	31.8
1971..	220.6	148.9	29.0	340.5	1,063.4	18.0	14.0	32.0
1972..	244.7	163.7	37.5	370.9	1,171.1	17.7	14.0	31.7
1973..	264.8	180.9	40.6	405.1	1,306.3	17.2	13.8	31.0
1974..	300.1	201.3	43.9	457.5	1,406.9	18.2	14.3	32.5
1975..	356.9	222.4	54.2	525.1	1,499.0	20.2	14.8	35.0

Note: Federal grants-in-aid to State and local governments are reflected in Federal and State and local expenditures. Total government expenditures have been adjusted to eliminate this duplication. The ratio of Federal expenditures to GNP excludes grants-in-aid.

CANDLELIGHT BALL

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. RUSSO. Mr. Speaker, on April 3 an event of great importance will be held in Hickory Hills, Ill.—the Candlelight Ball, sponsored by the Holy Cross Hospital of Chicago and the Candlelight Ball Guild.

Though the ball promises to be an entertaining and festive evening, the true significance of the occasion is the fund-raising aspect of this widely popular event. Proceeds from the Candlelight Ball go to the home delivered meals program at Holy Cross Hospital. This program is a service for the aged and chronically ill. Adults of any age who are unable to shop or prepare meals for themselves and have no one to do it for them on a regular basis can apply to use the service.

Sadly, this fine program operates at a substantial loss, but with help, Holy Cross Hospital continues to carry on and hopefully expand its vital work. Clearly this program is vital, for participants are nourished not only physically by the meals, but spiritually as well. Someone is saying, "We care about you" in a most meaningful and effective fashion.

The program enables a person to live as independently as possible for the longest practicable period; patients can be discharged from the hospital directly to their homes earlier than would otherwise be possible. Combined with home care services, it can make an intermediate referral to a nursing home unnecessary.

An average of 40 clients are served each day and 60 volunteers give generously of their time and energy to sustain the program. Each day—rain or shine—they deliver to the homes of participants one hot meal and one cold meal, prepared and packaged by the food service department according to physicians' orders.

Holy Cross Hospital began their home delivered meals program in the fall of 1967, the first Chicago hospital to enter into this service program and now it is one of the keystones of the hospital's community service structure.

I commend Holy Cross for the successful operation of such a fine program and for their selfless efforts in behalf of the community.

THE BIRMINGHAM FESTIVAL OF ARTS

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. BUCHANAN. Mr. Speaker, the Birmingham Festival of Arts is an annual event in the city I am privileged to represent. Few festivals in the world can boast the civic participation and nonprofit motivation which have nurtured the Birmingham Festival of Arts during its 26-year history.

This communitywide involvement and unity of spirit have earned the festival recognition on an international scale. This year, the festival was listed on a number of "things to see and do" calendars across the country.

I would like to praise the efforts this year of Mrs. Gregory Despinakis, the 1976 chairman, and W. L. (Jack) Hurley, president of the executive committee. Mr. Hurley headed a group of volunteer citizens responsible for the success of the festival including Peter Smith, senior vice president; Mrs. Van Scott, vice president and cochairman; Mrs. Harold Apolinsky, executive secretary; Mack Lofton, treasurer, and Hubert Grissom, parliamentarian.

Mrs. Despinakis, in announcing the theme of this year's festival, which was a salute to the Bicentennial of the United States of America and the arts of Greece, defined the goal of the festival in a beautiful way. I quote her:

> As has been its goal since its beginning, the Festival of Arts, through appreciation, communication and association, seeks to further the arts among all people.
>
> The Festival holds this concept to be true: All men are endowed by their creator with certain gifts and talents, the sharing of which transcends all barriers of language, custom and national origin.

She noted, also, that it is entirely fitting and appropriate that we pay tribute to the Greek Nation, to "the glory that was Greece," to the people whose ancestors gave freedom and liberty to the human spirit and who led the ancient world in the championship of individualism and independence of mind as we proudly pay tribute to the birth of our own great American Nation whose founders pledged "their lives, their fortunes and their sacred honor" that men should be free, that they should govern themselves, and that they should determine their destiny by the "consensus of the governed."

The Ambassador of Greece to the United States, Menelas Alexandrakis, and Mrs. Alexandrakis, opened the festival on March 19 and it continued through yesterday, March 28, with services at a number of Birmingham churches, including the one at Highlands United Methodist Church in which I had the pleasure of participating.

The Ambassador, during Ambassador's Weekend, attended the International Fair; a concert in Birmingham's new Civic Center Concert Hall; a visual arts exhibit opening featuring ancient Greek sculpture, contemporary Greek-American artists and American folk art.

During his visit to Birmingham, the Ambassador attended services at the beautiful Holy Trinity-Holy Cross Greek Orthodox Church and he was present at the book and author luncheon, recognizing many of literature's greatest contributors.

Ambassador Alexandrakis was honored at a reception and dinner, at which the festival's unique Arts Hall of Fame presentations were made to men and women who have made significant contributions to arts, music and letters.

Events of the 10-day festival of arts included a symposium on the question of whether the United States should have a national theater.

The international fair, open daily, recreated an authentic miniature Greek village, offering entertainment, food, and wares from many countries.

Special concerts, sidewalk activities in Birmingham's rejuvenated downtown areas, studio tours, connoisseur concerts featuring local artists and special school pageants and studies were part of the festival salute to America and Greece.

The festival this year was a great success, attracting thousands from all walks of life to participate in one or more of its events. This success reminds me of its beginning in 1951 when the Women's Committee of the Birmingham Symphony Orchestra organized a modest "Festival of Music." Visual arts were added the following year, and in 1953 the Birmingham Festival Association was founded. In 2 years, the festival had become a major annual event with more than 60 organizations helping to raise funds, to present musical and theatrical performances and to create events ranging from church pilgrimages to artists' studio tours.

Through the 1960's, enthusiasm for the festival grew, promoting more and more community arts and crafts. The international fair was added.

The impact of Birmingham's appreciation for the arts was a major factor in the city's selection as an All-America City in 1971.

When the festival took as its theme the "salute to the arts of another country," it achieved international recognition. The true meaning of the festival is recognition of man's achievements throughout the world. As the world's oldest continuing arts event of its kind, the Birmingham festival continues to advance the culture of man.

SAN JOSE STUDIES

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. MINETA. Mr. Speaker, I am proud today to recommend to my colleagues here in the House of Representatives an outstanding journal that is published at San Jose State University: San Jose Studies.

The publication differs from other academic journals in several respects. Foremost is the desire of its distinguished founders to not limit the journal to the academic community, but rather to publish articles resulting from the pursuit of knowledge both within and without the academic community.

Secondly, San Jose Studies is not limited to any one discipline. The effort has been to take advantage of and communicate the broad range of interests and intellectual pursuits which abound in the surrounding community. Past issues have included articles in the broad areas of the arts, humanities, sciences and social sciences. Among the San Jose Studies articles of particular interest are the November 1975 "Steinbeck Special Issue," an article by Doctors Christensen and Boneparth in the May 1975 issue regarding revenue sharing in Santa Clara County, Dr. Sybil Weir's article on feminism in the 1890's in the February 1975 issue and an article regarding campaign financing by Dr. Roy Young in the February 1976 issue.

The idea of San Jose Studies was conceived by a group of distinguished scholars at San Jose State University. Their dedicated efforts led to the publication of the first issue of San Jose Studies in February 1975, and I feel are worthy of note by the House of Representatives.

While the efforts of many individuals have made San Jose Studies an outstanding journal, certainly special note must be given to its editor, Dr. Arlene Okerlund. Her dedicated contributions of time, effort and talent are indeed a cornerstone of the success of San Jose Studies.

Mr. Speaker, I am sure that you and my other colleagues on both sides of the aisle will join me today in commending all those whose hard work, dedication and true desire to enrich the intellectual community has made San Jose Studies the outstanding journal that it is.

HOUSE RESOLUTION 875, PROVIDING BROADCAST COVERAGE OF THE HOUSE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. COHEN. Mr. Speaker, those of us who would like to see the processes of Government fully opened up to the American public suffered a serious setback last week when the House Rules Committee killed a resolution that would have permitted radio and television coverage of House debates.

This legislation, of which I was a co sponsor, would have opened the House galleries to radio microphones and television cameras with the start of the next Congress in January 1977. The bill had been prepared by a nonpartisan Ad Hoc Subcommittee on Broadcasting. Its goal, simply stated, was to bring the House of Representatives into the 20th century.

Radio and television are a major part of American life, and, as such, they should be allowed into the House and Senate Chambers.

I believe that broadcasts of important debates and votes in the House would give the American people a much clearer understanding of how the House of Representatives works. True, such coverage could expose some of the undesirable things that occur, and this might prove an embarrassment to some Congressmen. But that is not a good enough reason to deny the public full coverage of activities of their elected representatives.

The House of Representatives has always prided itself on being "the People's House." It was in this spirit of openness and accountability that the House in 1970 voted to allow broadcast coverage of House committee hearings. I believe that television coverage of the Judiciary Committee's 1974 impeachment inquiry helped the Nation through an extremely sensitive and volatile episode. Broadcasts of the committee's deliberations helped the public clearly identify the issues involved, and permitted the people to become active participants in an important moment in the Nation's history.

I think it is significant that the public approval rating of the House increased substantially as a direct result of those televised hearings. While it cannot be inferred from that that the same will happen if we permit the televising of floor debates, I do think the experience to date has demonstrated the benefits of increased public understanding of congressional operations.

For this reason, I feel the Rules Committee action is extremely ill-advised. The House leadership, in encouraging defeat of the broadcast bill in committee, has only confirmed the worst suspicions of many Americans who have concluded that Congress is little more than a private club for self-seeking politicians.

Congress has lost an excellent opportunity to establish a better relationship with the American people. I only hope that this worthwhile legislation can be revived at a later date.

Mr. Speaker, my good friend and distinguished colleague from Illinois, Mr. Anderson, served as the ranking minority member on the Ad Hoc Subcommittee on Broadcasting and remains one of the strongest and most eloquent proponents of House Resolution 875. So that each of my colleagues might have the full benefit of Congressman Anderson's thinking on this critically important issue, I am inserting in the Record his recent statement before the Rules Committee. In addition, I am inserting an article on broadcast coverage that Mr. Anderson authored for the Washington Post as well as an accompanying editorial.

I strongly urge each of my colleagues to take a few minutes and review the case for broadcast coverage of House proceedings as forcefully and effectively made by Congressman Anderson:

STATEMENT OF CONGRESSMAN JOHN B. ANDERSON ON HOUSE RESOLUTION 875, PROVIDING BROADCAST COVERAGE OF THE HOUSE BEFORE THE HOUSE COMMITTEE ON RULES WEDNESDAY, MARCH 24, 1976

Mr. Chairman and Members of this Committee: As the ranking minority member on the Ad Hoc Subcommittee on Broadcasting, it has been my distinct privilege to serve under the outstanding leadership of our chairman, Bernie Sisk, and with the other four distinguished members of our subcommittee—Claude Pepper, Morgan Murphy, Andy Young and Del Clawson. I think it is fair to characterize our subcommittee's working relationship as being truly nonpartisan. Most of the decisions we made were unanimous. I think we all felt that we were dealing here with a subject which transcends party lines, for what is involved here is how we can further improve the institution of the House of Representatives and bring it even closer to the people we represent. And I think we all feel, regardless of party, this fierce sense of institutional pride and therefore the need to indeed make this the people's House. I can only hope that this nonpartisan spirit and institutional concern will envelope the full Committee as we consider this most important proposal to broadcast our floor proceedings.

Mr. Chairman, I think the bipartisan support for House broadcasting is further evidenced in the fact that over one-third of the House membership—146 Members—has sponsored broadcast resolutions in this Congress, including 83 Democrats and 63 Republicans. For your information, I have appended a full list of sponsors to my statement. The step we are being asked to take here today is a logical extension of what we did in the Legislative Reorganization Act of 1970 when we permitted the broadcast coverage of our House committee hearings. It should be noted here that on July 22, 1974, we further amended clause 3 of Rule XI to permit broadcast coverage of committee meetings as well as hearings. That was done, as you recall, to permit the televising of the Judiciary Committee's impeachment deliberations. I think it is significant that the public approval rating of the House shot up substantially as a direct result of those televised meetings. While it cannot be inferred from that that the same will happen if we permit the televising of our floor debates, I do think our limited experience with broadcasting in the House has proven its beneficial impact in increasing public understanding of our role and operations.

Before I completely leave the subject of our broadcast experience in the last Congress—what has been referred to by some as the Watergate Congress—I think I should also remind you that on August 6, 1974, this Committee took an historic step in adopting H. Res. 802 which would have permitted the live broadcasting of the House floor debate on impeachment. The following day, August 7, 1974, the House adopted that resolution by an overwhelming vote of 385 to 25. Mr. Chairman, I think it's most appropriate to quote here from the most persuasive argument which you made during debate on that resolution. I quote:

"Broadcasting of the House of Representatives impeachment proceedings will present to the American people the factual charges and arguments in a more complete and totally different perspective than from the printed media. Broadcasting and photography will complement the coverage by the printed media. The electronic media are part of today's life. It must be allowed to broadcast in its entirety the most important issue of our time. . . ."

Mr. Chairman, I think those words speak just as eloquently for the proposition before us today in H. Res. 875, and that is to permit the broadcast coverage of all House floor debates. The American people indeed deserve the more complete perspective on our proceedings which the electronic media can provide. The electronic media indeed are part of today's life: according to a Harris survey commissioned by a committee of the other body in 1973, more Americans rely on television as the principal source of information on government and politics than on any other medium. And yet the American people continue to get second-hand accounts of what we do in the Congress through TV correspondents posed in front of the Capitol. Is it any wonder that the same survey revealed that only 46% of the American people can identify their own congressman? And while 62% correctly stated that the Congress is made up of the House and Senate, 6% expressed the view that Congress was just the House, 4% just the Senate; and an amazingly high 20% thought it consisted of the House, Senate and Supreme Court. Another 8% simply had no idea about the makeup of Congress.

Mr. Chairman, if we were so willing to permit the broadcast coverage of the expected impeachment debates on the House floor—probably one of the most difficult challenges to ever confront this body as an institution and each of us as individual members—why would we now shrink from permitting the American people to view our more routine proceedings?

I am well familiar with the arguments which have been made that broadcast coverage of our debates will somehow be distorted when it is aired, and moreover, that the presence of cameras will even distort the legislative process by encouraging erratic behavior and grandstanding. With respect to the former, I guess we have to take our chances that the media will present balanced coverage, just as we now trust newspaper reporters assigned to our galleries to write balanced accounts of our debates. This is something we cannot and should not control given the free press protections of the First Amendment. I think it should be pointed out, however, that broadcasters are under a legal obligation, with the so-called "fairness doctrine," to offer a balanced presentation of viewpoints in their news, documentary and public affairs programming, a requirement not imposed on newspaper reporters. This section 315 requirement of the Communications Act of 1934 should help to insure that our debates will indeed be presented over the airwaves in the most balanced fashion possible.

With respect to the argument that the presence of cameras will encourage demagoguing and grandstanding, a survey by our Subcommittee of the 44 State legislatures and 84 chambers which now permit at least partial broadcast coverage of floor debates reveals that this does not occur after the initial novelty wears off. Members who do step out of line to "play to the cameras" soon retreat under peer and constituent pressure. Moreover, under our proposal for gavel-to-gavel coverage under normal lighting conditions by four inobtrusive cameras in the House galleries, Members would not be that aware of the presence of cameras, nor would they know which camera was in use at a particular time or which portion of the debate might actually be broadcast.

According to a report in 1974 by the Twentieth Century Fund's Task Force on "Broadcasting and the Legislature,"

. . . the experience of states and foreign countries tend to prove that, far from making actors or demagogues of members, the presence of television improves the conduct of debate and increases the efficiency of the legislative session.

If our own broadcast experience at all follows that of other countries and states by improving rather than distoring our debates, we should welcome this reform.

Mr. Chairman, I've probably already spoken long enough on the case for broadcasting, but I think it is important to make that case before this Committee because I know there is some understandable doubt and apprehension about taking this step.

My chairman has already explained the approach the Subcommittee thinks should be taken to provide broadcast coverage of our floor proceedings, and I don't want to take your further time by repeating the specifics of that approach. But I would want to emphasize that our chairman and Subcommittee have been more than patient and more than conciliatory in meeting the objections to the resolution as originally reported—objections raised by the majority leadership. We have rewritten this resolution to conform totally with the wishes of the majority leadership. This is thus more than a compromise—it is a complete capitulation, but one which our Subcommittee was willing to make for the sake of arriving at an acceptable resolution. We clearly recognized that if the majority leadership couldn't live with this proposal, then the chances were that the House might not even get a chance to vote on it. We are now firmly committed to the agreement reached with the leadership as reflected in the substitute before you and we intend to give it our strong support on the House floor. I do not think the changes made do violence to our original concept which is still preserved in this resolution. That concept is that our proceedings should be covered gavel-to-gavel for public use and not for our personal use as another propaganda or campaign tool. Broadcasters should be permitted to freely use whatever portions of debate they desire to present to the American people, and this should in no way be controlled, censored or limited by us. The American people should have access to the unedited recordings of our proceedings in public viewing rooms here on the Hill and through loans to libraries and educational institutions. The Congress should maintain close oversight of the operation of the system through periodically renewable contracts, the Broadcast Advisory Board, and periodic reviews by the Committee on Rules. If it should be concluded that broadcast coverage is adversely affecting this institution, we can terminate that coverage.

In conclusion, Mr. Chairman, I urge this Committee to proceed to markup the bill and report it to the House under an open rule so that the House can work its will on this important proposal. I understand that an attemp will be made to defeat or defer this resolution on the grounds that the timing is somehow wrong—that it is already too late in the session to begin broadcasting and that this matter should be left to the next Congress to decide. I am reminded of a similar situation which arose much later in the second session of the 93rd Congress when this Committee considered H. Res. 988, the Bolling-Martin Committee Reform Amendments of 1974. Those changes in our House rules and committee jurisdictions were not to take effect until the 94th Congress. The Chairman of the Select Committee on Committees, Mr. Bolling, made the following eloquent plea before this Committee on September 12, 1974:

"It is argued that this matter should be deferred until later. It is argued on a great many grounds .... I now think it is time for the House of Representatives to have an opportunity to make up its mind. You all know that I have served on this committee for a very long time and I have spent a good deal of my time on this committee breaking up the obstructionist tactics of my former chairman, Mr. Howard Smith, on all kinds of legislation. This, in my judgment, is not the time for obstructionist and delaying tactics to be allowed to prevail.

"The only issue before us, I believe, is the question of whether or not this committee and its members desire to allow the House of Representatives to deal with this matter in an orderly fashion. I think it is a major political issue. I think it will be a major issue in the campaign . . . and I think it would be a catastrophic mistake if a key leadership committee of the Democratic leadership in the Democratic Congress were to take the responsibility for bottling up this piece of legislation after all the delay that has taken place since the matter was first reported.

"This is a matter of the public's business. It should be decided in public by the public's representatives. The Congress does not belong to the members. The Congress belongs to the people, and I think the people have a right to see what we want to do about making our committee structure work more effectively."

Mr. Chairman, I think these same words and logic apply with equal force to H. Res. 875, the House broadcast resolution. This is not a time for obstructionist or delaying tactics; the only question is whether the House should be allowed to make up its own mind. This is a matter of the public's business to be decided in public by the public's representatives. The Congress does belong to the people and the people do have a right to see what their Congress is doing. I think this committee should very seriously consider the political consequences of denying the people and their representatives this historic opportunity. As the gentleman from Missouri said with respect to his own resolution in the last Congress, it would be a "catastrophic mistake if a key leadership committee of the Democratic leadership in the Democratic Congress were to take the responsibility for bottling up this piece of legislation."

PUTTING THE HOUSE ON TV

(By JOHN B. ANDERSON)

The House of Representatives will soon decide whether to open its chamber to the electronic media so that the American people can keep a closer eye on their House. This marriage of democracy and technology would seem to be a perfect bicentennial match. Yet the vows are not likely to be solemnized without objections from some. There is understandable apprehension that the marriage might not take and could lead to another broken House. Despite a Roper poll finding that 68 per cent of the American people favor broadcasting congressional floor debates, and despite the sponsorship of broadcast resolutions by over one-third of the House membership, the final vote on the pending broadcast resolution is by no means a foregone conclusion.

Exaggerated claims and counter claims will continue to be made about the impact of broadcasting on the House and on public opinion. I suspect the actual impact will fall somewhere between the claims of those who view it as a panacea for our sagging prestige and those who think it will destroy the legislative process.

The public's performance rating of the Congress did receive a temporary boost with the televising of the House Judiciary Committee's impeachment deliberations in 1974. Many members of Congress received letters from constituents who expressed both surprise and pride in the caliber of committee members and their performances. It is perhaps ironic that the House came closest in recent years to opening its chamber to the television cameras when it voted to permit broadcasting of the expected impeachment proceedings—the most difficult challenge any member would probably have to face in his entire career.

Stung by Vietnam and Watergate, the Congress has been struggling over the past few years to regain a more equal footing with the executive branch and recapture some of its lost powers and prestige. The growth of the "imperial presidency" has been attributed in part to the ability of Presidents to take their case directly to the American people via prime time network television. A recent survey by the Congressional Research Service reveals that between January 1966 and December 1975, all three networks granted 45 to 46 presidential requests for prime air time.

And yet the Congress continues to live in the nineteenth century, barring broadcasting of its sessions and preferring to let newspaper reporters and network correspondents tell the American people what they think the Congress is about and doing. It's little wonder that many Americans don't even know who their congressmen are, what the Congress does, or even that it's a bicameral legislature.

Since most Americans today rely on television as their principal source of news and information, this self-imposed under-exposure has bred ignorance and even contempt for Congress.

All that is not to say that media exposure will bring us instant popularity, acclaim and adoration. Ultimately, the public perception will be as good or as bad as our performance merits, and will not hinge solely on our visibility. Sunshine alone does not produce a beautiful flower garden; we'll still have to tend to careful cultivation and watering. But broadcasting may well force us to perform better legislatively—to "clear up our act" and go about the people's business in the way they expect of us.

The prospect of demagoguing and posturing for the cameras is one of the most frequently mentioned objections to House broadcasting. It is argued that the presence of cameras will encourage some members to "play to the folks back home" through the cameras, rather than to engage in serious debate over the legislation at hand. This in turn, it is argued, will greatly distort, if not destroy, the legislative process.

The Ad Hoc Broadcast Subcommittee, on which I serve, has found that this has not occurred in the 44 state legislatures that now permit at least partial broadcast coverage of their floor proceedings. While there was an initial tendency on the part of some members to grandstand for the cameras, peer and public pressures plus eventual acclimation to the presence of cameras soon eliminated these isolated incidents, and debates soon returned to normal. The public is quick to perceive which members are simply playing to the cameras and which are intent on the legislative business at hand.

According to a 1974 report of the Twentieth Century Fund Task Force on Broadcasting the Legislature, ". . . the experiences of states and foreign countries tend to prove that, far from making actors or demagogues of members, the presence of television improves the conduct of debate and increases the efficiency of the legislative session."

The broadcast proposal developed by our subcommittee should further allay concerns that such coverage will distort the process and encourage erratic behavior. Under this proposal, House floor proceedings would be covered gavel-to-gavel, under normal lighting conditions, by four inobtrusive cameras in the House galleries. Members would have no idea as to which camera was in use at a given time or which portions of the debate might actually be used for broadcast purposes.

Under the broadcast subcommittee's proposal, the coverage of House floor proceedings would be provided by a network pool which would make live feeds available to other broadcast stations desiring it. The House would receive a live feed from the pool for archival purposes, and also for public viewing and loan to libraries and educational institutions. The subcommittee concluded that this pool arrangement would insure the highest possible technical competence and quality, and also avoid any hint of the congressional control or censorship which might be involved with a House-owned and operated broadcast system. Moreover, the subcommittee found that the private pool arrangement will be less expensive for the taxpayers than would a House-operated broadcast system.

The Speaker of the House would continue to retain his traditional control over the Chamber of the House and, therefore, would be given the primary responsibility for implementing the new broadcast system and overseeing its operation. He would be assisted in this task by a bipartisan Broadcast Advisory Board consisting of the majority and minority leaders, and four other members appointed by the Speaker. But neither the Speaker nor the board could shut down the cameras at will, any more than they can now tell newspaper reporters what to write and not to write about the House. Broadcasting could be terminated only by a resolution of the House or if the House goes into secret session, in which case all the galleries are cleared. The pool arrangement thus insures that broadcast networks and stations can use whatever portions of House debates they wish, either live or recorded for news, documentary or public affairs programs. The subcommittee's proposal would bar the use of floor coverage for political campaign or commercial purposes.

Some have expressed fears that broadcasters may choose to only broadcast one side of a debate. It is doubtful that this would happen for two reasons. First, the pool contract would be up for renewal every year and failure to present a balanced view of the House could jeopardize the future of House broadcasting. Second, broadcasters are obligated by law, under the so-called "fairness doctrine," "to afford reasonable opportunity for the discussion of conflicting views on issues of public importance." This doctrine, unlike the so-called "equal time" requirement for political candidates, does apply to news and documentary programs. Thus broadcasters are already under a legal obligation to insure that their presentation of congressional debates would be balanced.

The poet Robert Burns once wrote: "O wad some Pow'r the giftie gie us, To see oursels as others see us! It wad frae mony a blunder free us, And foolish notion."

If broadcast coverage of our House proceedings can play even a small role in helping us to see ourselves as others see us, and save us from many a blunder and foolish notion, then it should be welcomed by the Congress and public alike.

Broadcasting in the House

Congress is often ill at ease with technological change. This has been all too evident in the gingerly way the House of Representatives has been approaching the question of broadcast coverage of floor debates. The impact of radio microphones and cameras on the House has been discussed repeatedly since television's early days. Until recently, many members feared that broadcasting would be an obtrusive and disruptive force, encouraging members to grandstand and furter demeaning Congress in the public's eyes.

With time and the turnover in the House, those apprehensions have been largely dispelled. As Rep. John B. Anderson (R-Ill.) summarizes in an article on the opposite page, experience with broadcasting in congressional committees and over 40 state legislatures has shown that television and radio coverage actually tends to improve the quality of debate, enables legislators to communicate better with their constituents and enhances public understanding of legislative issues and processes. Moreover, the technical problems that once seemed so formidable have largely been overcome, so that high-quality coverage can be obtained without obtrusive cameras and glaring lights.

Though many House members now recognize the desirability of broadcasting in principle, the Rules Committee has had some difficulty deciding how coverage should be organized and supervised. Building on studies by the Joint Committee on Congressional Operations and a special House information commission, a Rules subcommittee has finally put together a sensible plan. Essentially, the resolution would authorize the Speaker of the House to contract for gavel-to-gavel coverage of floor sessions, which would probably be provided by a network pool. A full record of the proceedings would be maintained for archival purposes. The nation's commercial and educational networks and stations would be free to broadcast important sessions in full, or to use excerpts of the coverage in news, public affairs and educational programs. The greatest benefit of such a system is that it would establish broadcasting as an institutional service of the House, without imposing political control over the content of the resulting television and radio reports.

Despite the many merits of the plan, some powerful resistance apparently remains. Efforts may be made to delay a Rules Committee vote and keep the question from reaching the House floor. Those efforts should be resisted. By keeping the cameras out, the House is doing a disservice to itself, and feeding the public suspicion that some of its ways of doing business cannot stand up under public scrutiny.

H.R. 9632

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. MINISH. Mr. Speaker, social security benefits never were intended to constitute the exclusive source of retirement income for American senior citizens. Nevertheless, under the present law senior citizens, for all practical purposes, are forbidden to work to supplement their admittedly inadequate benefits under penalty of reduced social security payments. This penalty is enforced by means of the $2,400 earnings limitation which effects a proportionate decrease in social security benefits for earnings above the $2,400 figure.

It should be noted that the original social security bill did not contain such a punitive provision. Rather, the earnings limitation was enacted into law subsequent to passage of the act.

Recent soaring inflation has jeopardized what little financial security our senior citizens have been able to provide for. Obviously we must continue to increase social security benefits. Just as obviously, the earnings limitation must rise.

Simply put, this section of the law unfairly and unduly penalizes those older Americans who choose, usually out of economic necessity, to continue to work for a living. Income from investments, like bonds, stocks, and real estate, is not penalized as such since this type income is not covered under the earnings limitation. Rather, only those who must or choose to continue active employment are forced to bear the brunt of this inadequate and arbitrary provision of the law.

I am hopeful that my colleagues in the Congress, particularly those who serve on the House Ways and Means Committee, will join me in recognition of the great contribution senior citizens have made to our national welfare by cosponsoring the legislation (H.R. 9632) I have introduced to increase the earnings limitation to $4,800.

NOT ALL THE ENGLISH LIKE THE CONCORDE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. WOLFF. Mr. Speaker, in the past year, I have received a surprising number of letters from individual British citizens who have heard or read of my activities in opposition to the Concorde SST. These writers have nearly all expressed a common theme: in the land of Magna Carta, they are powerless against their own government's determination to produce Concorde regardless of the cost to the British taxpayer, or to the British environment.

Just this week I received one of the most eloquent letters yet from England, this one written by Mr. David Tolley, of Warwick, near Coventry in north-central Britain.

In his very kind letter, Mr. Tolley provides affirmation of what I would suggest is the true meaning of the Bicentennial spirit when he says that American environmentalists—from Teddy Roosevelt to the present day—provide inspiration and support to their British brethren.

In addition to copies of two letters from Mr. Tolley, I include for the RECORD today's Washington Post story noting that the British and French Governments cannot even sell Concorde to each other any more, much less to the world's airlines.

I hope this intelligence penetrates the decisionmakers of our own country who still seem determined to force the people of New York and the Washington, D.C., area to serve as test subjects for an aircraft no one really wants.

[From the Washington Post, Mar. 30, 1976]

Concorde Gets Setback at Home

(By Jim Hoagland)

PARIS, March 29.—The Concorde supersonic jetliner failed today to get a new commercial vote of confidence from its makers, Britain and France, meaning that the controversial aircraft now faces the prospect of extinction after the initial run of 16 planes is completed.

A joint communique issued after talks here between France's secretary of state for transport, Marcel Cavaille, and British Minister of State for Industry Gerald Kaufman committed the two countries to continuing to study the future of supersonic air travel.

The tone of the communique and comments by the participants in the seven hours of talks suggested, however, that both countries have concluded that they cannot continue producing the $60 million aircraft unless there is a break-through in marketing within the next few months.

French officials had hoped that U.S. Secretary of Transportation William Coleman's decision to allow the Concorde to land in the United States would encourage other airlines to buy the plane.

But Coleman's decision remains wrapped in uncertainty because of local legal challenges, and the orders have failed to materialize. The French and British governments need to sell 50 of the 1,300-mile-an-hour planes to recover $3 billion they have put into research and development.

Despite British and French press predictions that France would try to overcome British opposition to new production, Kaufman told reporters after the meeting that the French had not even suggested a new commitment to produce more than the original 16 Concordes. The British have suggested for several years that the project be dropped, but until now the French have insisted on moving ahead.

British Airways has purchased five Concordes and Air France has bought four and is leasing a fifth. Kaufman said Cavaille had turned down a British suggestion that Air France buy the fifth Concorde outright.

There are no firm orders from other airlines for the remaining six Concordes, and the two airlines begin commercial flights to Dulles Airport on May 24 with a mixed record on their first two routes.

British Airways flights to Bahrain continue to run under the 65 per cent passenger load break-even point while seats on Air France's Paris-Rio de Janeiro route are about 75 per cent full. French officials said today they do not expect legal challenges to the Concorde flights in the United States to be settled before the end of the year.

The two ministers reached agreement on spare parts production that will extend the life of the Concorde factories in each country by several months, and said they would meet periodically to coordinate routing problems and a long-term study of cooperation in future supersonic and subsonic projects.

Cavaille told reporters that the two countries are studying the possibility of American participation in a second generation supersonic transport aircraft "when the right time comes."

WARWICKSHIRE, U.K.,
March 22, 1976.

Mr. LESTER WOLFF,
U.S. Congress.

DEAR MR. WOLFF: I very much appreciated the sentiments you lately expressed (BBC interview) following Secretary Coleman's decision on Concorde; of especial interest was the fact that you had been receiving correspondence from people in this country.

Alas, it is deplorable that people should have to go outside of their own country in order to get a hearing of their case, but that's the way our system works.

However, British environmental opinion should be deservedly grateful not only for your own personal efforts and those of your colleague of New York, but also for the institution of American democracy that has extended those facilities to our view that are here denied; a convincing proof of the American ideal in practice that appropriately justifies in Bicentennial year the fundamental principles upon which the Great Republic is founded.

Here, opposition to Concorde has been muted to the extent of virtual non-existence, through the ineffectiveness of British environmental groups—perhaps intimidated by the smears and abuse from the British Media which conceives its prime function to be to support the Business/Industry/Political party Establishment; as you are probably already aware America herself has been vilified in a shameful fashion for even permitting the hearings.

I have made my protests but they have been ignored.

Beyond all this I have been gratified by the demonstration of determined opposition—in fine American tradition—from the emergent American environment lobby that has already achieved notice over the Amchitka/Alaska pipeline issues.

Without commenting on the rights and wrongs of particular issues, it is good to see that many Americans (contrary to the hysterical tirades of such unlikely combinations as the Soviet Young Communist League and the Tory Daily Express) are practically concerned with ecology, conservation and environmental issues rather than the vulgar wasteful materialism inimical not only to our civilisation but to our species' future.

It is significant that the most important contributions to these new fields have come from distinguished Americans, that examples of this new awareness have been found occasionally even in public office since the outstanding Teddy Roosevelt; O, for such another!

So far as Secretary Coleman's decision is concerned, I am appalled not so much at the decision—in the present climate of thought it would be unreasonable to expect officials not to yield to business interests, but at the wholly unsatisfactory reasoning given in his statement:

Concorde is NOT a 'great technological achievement' as he claims; supersonic flight is not new and the production of an aircraft that uses more fuel, makes more noise and carries a lower payload than its contemporaries is a questionable 'achievement' of any order. It makes no sense whatever for a nation that has decided not to build its own SST to inflict someone else's upon the country.

As regards his claim not to have been influenced by the threats of 'commercial reprisals' which he dismissed as of no substance, you may care to ask him why then it was necessary for me to write to my MP the enclosed letter, (send him a Xerox).

And since even I know that Secretary Richardson thought Concorde should be allowed in to avoid trade repercussions in Europe, you might usefully inquire whether these two members of the Administration ever communicate with each other?

Even as a non-American I find it disagreeable that two public officials should show such lack of spirit in this of all years; had America been so served two hundred years ago you would today have damn-all to celebrate.

With Best Wishes,
Yours sincerely,
DAVID J. TOLLEY.

JANUARY 28, 1976.

Mr. DUDLEY SMITH,
House of Commons.

DEAR MR. SMITH: With regret I have to complain of the conduct of a bi-partisan group of your Parliamentary colleagues, whose names are at present unknown to me.

I regard the threat to invoke trade/transportation sanctions against the United States of America as completely objectionable and protest at a proposal of complete irresponsibility verging on the imbecile.

Would you pleace convey to those involved the fact that America is a sovereign state, and that however much British MPs may feel the need to justify the extravagant waste of taxpayers' money in developing this entirely unnecessary, noisy, polluting and resource consuming prestige symbol, Americans are not obliged to have it in their country if they do not so wish.

Whether Concorde is allowed into the USA is a matter for Americans to decide. In view of the fact that commercial pressure there, as elsewhere, is stronger than that which can be brought by environmental or conservationist groups, your colleagues are getting quite unnecessarily excited.

That is, of course, unless what they are really objecting to is not the mere possibility of exclusion, but that the American custom and institution allows its citizens to make legal and effective representations in matters of public policy, which is not the case here.

Members of the House would do well to recall that it was to establish such rights that the Declaration of Independence was made and the Revolutionary War fought.

The attempt to impose decisions upon them by the prior threat of sanctions, such as has been proposed here by certain Unions, Express newspapers and now this Parliamentary Group, is an unwarranted interference with the process of internal policy which every American is entitled to resent.

Should they desire to accept this challenge, I need hardly point out either the courses open to them or the probable consequences for this country. I cannot fail to comment that fatuous and irresponsible as it is, the timing of the proposal is hardly appropriate in the year that Americans are celebrating the outcome of the last attempt to coerce them.

As to the suggestion of calling on Trades Unions support, the invocation of such aid—after all that has been said and written about the uses of "industrial action" for social-political ends, especially from members of your party—would be flagrant hypocrisy.

I am continually surprised by the tolerance shown by America to persistent abuse of their nation, not least from those who have reason to be grateful.

Europe-obsessed Britishers would do well to recall that but for America the entry of this country into their dream of a "united Europe" would certainly have been achieved several decades earlier and on much less favourable terms.

Yours faithfully,
DAVID J. TOLLEY.

HOWARD GREENBERG RESIGNS AS STAFF DIRECTOR OF THE SMALL BUSINESS COMMITTEE

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ADDABBO. Mr. Speaker, it is with deep emotion and regret that I have been advised of the resignation of a most loyal, dedicated Government servant, Howard Greenberg, as staff director of the Small Business Committee of the House of Representatives.

Howard has had a long and dedicated service, both in the executive branch of our Government and on Capitol Hill.

I have had the honor to be a member of the committee under Howard's regime as staff director. He is one of the most knowledgeable and experienced individuals in Government.

He started his extraordinary service first in the General Services Administration, the Small Business Administration, and finally with the Small Business Committee in the House of Representatives.

I have found him to be most helpful, loyal, and knowledgeable. He was always of extreme aid and assistance to all the members of the committee and to the chairmen of the various subcommittees. His leaving the committee and Government service will be of extreme loss to the House and committee. I join the Honorable JOE EVINS, the chairman of the committee and its members in wishing him good health, and long life with his wife and family.

SOCIAL AND ECONOMIC ISSUES THAT AFFECT JEWISH GROUPS IN THE UNITED STATES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. SOLARZ. Mr. Speaker, Ben G. Frank, a leading writer and commentator on social and economic issues that affect Jewish groups in the United States has recently published two excellent articles that involve immigrant Jews residing in my district in Brooklyn, N.Y. The first entitled "Odessa by the Sea", deals with the Russian immigrant Jewish community and in my view is perhaps the most probing piece yet written on these new Americans.

The second article is, "Jews From Arab Lands: at Home in Brooklyn," deals with the Syrian Jewish community. I am privileged to represent the largest Sephardic Jewish community in the world, outside of the Middle East.

Mr. Frank pinpoints some of the problems confronting this close-knit subculture within Judaism as well as outlining the many important contributions they have made to the well-being of the United States.

I append his articles:

Jews From Arab Lands: At Home in Brooklyn

(By Ben G. Frank)

Ocean Parkway in Brooklyn is not Haroun El Rashid in Cairo. Neither is it Wadi Abu Jamil in Beirut. Nor Haret el Yahoud Street in Damascus.

But to 25,000 Syrian Jews, a thousand Egyptian Jews and several hundred Lebanese Jews, all of whom live within a several mile radius of Ocean Parkway, this grand boulevard in Flatbush is home, U.S.A.

Indeed, it is almost impossible to find, in the melting pot experience of the intermingling of various Jewish groups, three communities such as these which are as closely knit; which take their summer vacations together in the same resort town and which to put it bluntly, even prefer to limit their choice of marriage to a Sephardic Jewish mate from their own country over a Sephardic Jewish mate from another Middle East country.

At the apex of this community of Jews from the Arab world are the Syrians who have come a long way economically and politically in the more than half-century since their arrival here.

The main Syrian immigration arrived in the U.S. between 1911 and 1920 and settled—where else?—but at that portal to America; the Lower East Side. There, they took up residences and stores fronting on streets Hester and Essex and Rivington and Orchard. But they were Sephardim among the mass of Ashkenazi Jews and their prayer ritual was different. So they worked and waited for the day they could build their own house of worship.

The unity within the Syrian community is maintained by the synagogue. This is the focus and the center of these Jews from the Middle East, now American citizens and now affluent, but always Orthodox. Just as in Aleppo and Damascus where they lived around the Bet Knesset, here in New York they brought their synagogues with them as they moved from the East Side to Williamsburg, to Bensonhurst, and finally to Flatbush.

And up the economic ladder they went, these strong-willed businessmen. "Shrewd," is the word that keeps reappearing in interviews when describing Syrians in commerce, though some ascribe part of their success to just plain hard work. After all, you had to be a hard worker and a keen businessman to survive in Aleppo and most brought this commercial skill with them to capitalist America. In the Syrian Jewish community, they have even broken down the skill of doing business according to city of origin. For instance, the Jew from Aleppo is supposed to be a better businessman than the one from Damascus.

Syrian Jews put their affluence to good use. They have built modern marble-lined temples such as Shaare Zion which cost a million dollars to build more than a dozen years ago. And they are always raising money for some worthwhile cause. Abe Mansour, president of Young Shaare Zion's 250 youth members, told me that ever since he can remember there always was a drive in the synagogue for a yeshiva, or for the UJA, or for Israel Bonds.

Above all, the Syrian Jews "mind their own business" and stick together as a community. For example, even in the summer, thousands of Syrian Jews pack their beach towels and summer clothes and head for the same summer resorts: Bradley Beach, N.J., or Deal, N.J. where they have a synagogue. They do find security by living and praying together.

Among other reasons cited for going down to the Jersey shore in the summer "is to enable their children to meet boys and girls of their own community. In this way, they manage to limit the number of marriages that take place outside the community," writes Dr. Hayyim J. Cohen of the Hebrew University in the publication Dispersion and Unity.

While other Jews are concerned about assimilation, or intermarriage, Syrian Jews are not. Few Syrian Jews—one to two percent—marry Christians. Dr. Cohen found that strong opposition among Sephardic groups to intermarriage exists among Syrians, especially those who were born abroad.

Indeed, few Syrian Jews marry anyone else other than Syrian or other Sephardic Jews. Dr. Cohen's study of the attitude of Sephardim towards marriage to Ashkenazim points out the true feelings of the Syrians. He wrote: ". . . young Sephardim and members of the third generation express less reservation about intercommunal marriage than the old ones, or members of the first and second generations—with one exception: the Syrians. The latter, including those born in the U.S., express much greater reservations with regard to marriage to Ashkenazim than any other community. Next are the Egyptians who . . . are of Syrian origin and also live to a considerable extent among the Syrians in Brooklyn."

Yet, especially in Brooklyn, the Syrian Sephardic community maintains good relations with the larger Ashkenazic group. According to Syrian Jewish community leaders, the earlier distrust between the two groups is gone. One reason, certainly, is that the larger Ashkenazic Orthodox community in Brooklyn is quite pleased to have the financial support of the Syrian Jewish community, especially for yeshivas and for Jewish education in that borough.

The education of one's children has always been a prime aim of the Sephardic community. Syrian Jews believe they will survive because their Jewish education is thorough. The community notes with pride that 85 to 90 percent of Syrian Jewish youth attend yeshivas.

Rabbi Abraham B. Hecht, spiritual leader of Shaare Zion and a Lubavitch Hasid, praises the accomplishment and energy that marks this Syrian Jewish community in the day school program. He cites, as example, Magen David Yeshiva at Avenue P and Stillwell Avenue attended by about 700 Syrian Jewish youngsters. It is a high school replete with all the modern facilities.

Further down Ocean Parkway, not far from Shaare Zion, is Ahi Ezer Yeshiva, for Syrian Jewish boys and girls. This school is co-curriculum; that is, it is set up with separate classes for boys and girls, according to Orthodox Jewish law. It is revolutionary for Syrian girls to attend a school. For many years in the Syrian community, a girl's place was at home; it was unheard of for Syrian Jewish girls to study formally. In fact, until recently even the boys usually went only through high school. The tradition was that the father then handed down the business to the son. Now it is changing. Young Syrian boys are studying the professions.

Ahi Ezer is one of the fastest growing yeshivas in the country. Led by dynamic Rabbi Saul Wolf, it now has nearly a thousand students, a far cry from the 18 it had 11 years ago.

Rabbi Wolf observed to me that the Yeshiva has geared its program to Syrian needs. Students study from a Sephardic *siddur,* so they can pray and read in the same tradition as their fathers and grandfathers. They listen to special tapes so they can learn Sephardic chants. They study Sephardic customs so they can be familiar with Sephardic ritual.

Tradition abounds in the Syrian Jewish community. The chief rabbi of the community is the elderly Rabbi Joseph Kasin, a native of Jerusalem who is called Haham Bashi. He addresses his congregation at Shaare Zion in Arabic and there are about 1,000 persons who attend Shabbat services.

More tradition: Shaare Zion is basically for Jews from Aleppo, though it has integrated many Egyptian and Lebanese Jews within its ranks. Jews from Damascus attend Congregation Ahi Ezer. Congregation Beth Torah, a new temple, is composed of mainly young adults. A fourth congregation is Magen David.

Years ago, many Syrian Jews bought Middle East delicacies from Arabs on Atlantic Avenue in Brooklyn, and there always was very little said politically between the two groups. Now, more and more, these same Syrian Jews buy their delicacies and pastry from Isaac Mansoura, an Egyptian Jew who once had a bakery and restaurant on Haroun El Rashid Street in Cairo and who sold his pastry to King Farouk, General Naguib and Gamal Abdel Nasser. But that was years ago, and now at his shop on Kings Highway, he sells to Arabs and Jews from the Middle East and North Africa who come there.

There are more than 10,000 Egyptian Jews in the U.S.; about 1,000 live in Brooklyn. Like Isaac Mansoura, many Egyptian Jews have remained in the trades and professions they had in Cairo and Alexandria.

Egyptian Jews are engaged in banking and finance, in importing and textiles. And they are just as successful in New York as they were in Cairo 20 years ago. Before the Suez campaign of 1956, there were more than 100,000 Jews in Egypt. They were generally well off and educated in French and British schools. After the Suez crisis, more than half of the Egyptian Jewish community fled in the late 1950s and early 1960s.

Why have Egyptian Jews adjusted so well to the U.S.? First of all, they are extremely cosmopolitan. Many Jewish businessmen in Egypt spoke French, English, Arabic, Italian, Greek and Spanish and knew the customs and culture of each as well as their business practices. They were well educated. Having been exposed for years to the fast moving commercial life of an Alexandria, they learned how to be excellent tradesmen and financiers.

Secondly, they integrated rapidly into the existing Sephardic Jewish community. Most of those who came to Brooklyn, for instance, after 1956, joined Shaare Zion. Mr. Mansoura, himself, a member of that congregation, put it this way: "We speak the same language as the Syrians. We have the same customs. We eat the same foods."

Another reason for their ready adjustment is that they genuinely like the United States, especially polyglot Brooklyn where, as they say, "Everybody is a stranger, so we don't feel out of place."

There are differences, of course. Many of the Egyptian Jews are not as strong-willed as the Syrians and after talking to several Egyptian and Syrian Jewish community leaders one gets the impression the Egyptians are not as close-knit as the Syrians. But they get along together in the synagogue and the community and that is no mean accomplishment. Nevertheless, a number of Egyptians have set up their own temporary congregation.

When and if you try and pin down some generalizations about these Jews from Arab lands, you hear that the Egyptians are somewhat more intellectual than the Syrians. But more say and agree that the Lebanese Jews are the most intellectual and educated of all the three groups. Besides, the Lebanese, who had more opportunity to study and more freedom in Lebanon, have been described as having a broader outlook on trade and business. It is said they would rather set up a large export-import concern than a mere retail outlet selling transistors and tape recorders.

Several hundred Lebanese Jews live in Brooklyn today. They arrived here after the 1967 Six Day War.

Even though they are a smaller group, the Lebanese Jews also stick together. Sami Saayed, of Flatbush, said in an interview that he and his friends often visit each other. They hold parties. They have wonderful reunions at Bar Mitzvahs and weddings. They gather at Mansoura's pastry shop.

There is one area of concern—led by the Syrian Jews—that all three groups have become increasingly involved in: action to free 4,500 Jews trapped in Syria. Active in working with the Syrian Jewish community is the American Sephardi Federation and the Committee for Rescue of Syrian Jewry. Both groups have held several joint rallies, and Syrian Jews—along with Egyptian Jews and Lebanese Jews—come out in force to the rallies.

ODESSA BY THE SEA

(By Ben G. Frank)

All over the world there are street corners where immigrants gather to exchange ideas, to get leads on jobs and apartments, and to recall the "good and bad" of the old country.

In Marseilles, it was the Place de la Bourse where Algerian Jews gathered when they first came to France.

In the U.S., for Russian Jews, it is the corner of Brighton Beach Avenue and Brighton Six in the Brighton Beach section of Brooklyn, commonly called "Odessa by the Sea," because most of the one to two thousand Soviet Jews in this area come from Odessa.

These Russian Jews are part of the more than 10,000 Jews from the U.S.S.R. who have arrived in America since 1971.

Coming to the U.S. in 1975, were about 5,000 Soviet Jews. Many of them, of course, opted for the U.S. once they got out of the Soviet Union. These Jews are known as "noshrim," dropouts. There are also Russian Jews who are "yordim," those Jews who emigrated from Israel itself, after a short stay in the Jewish State.

The percentage of Soviet Jews who decide to settle in the U.S., Canada, Australia, New Zealand and other countries—rather than Israel—has risen since the Yom Kippur War. This "dropout rate," as the Israeli immigration officials call it, jumped to about 40 percent in 1975 compared with about four percent in July, 1973.

In Brighton Beach, the newcomers have made a good home for themselves. A pleasant pastime is bathing in the ocean at Brighton Beach—one of the reasons they came to this neighborhood which reminds them of Odessa on the Black Sea.

Already, Russian Jews have left their mark on this busy, middleclass neighborhood. One sees them walking down congested Brighton Beach Avenue under the El. One result of the Russians being in Brighton Beach is that because they like to walk outdoors, and look at store windows and shop, this is one of the few places in New York where people actually are out on the streets in the early evening and on weekends.

Thus, Russian Jews have brought much business to the storekeepers in the area. Other American Jews and non-Jews seeing the Russian Jews go out in the evening, also come out and visit shops.

All the corner newspaper stands carry "Novoye Russkoye Slovo," the Russian language newspaper. There is a Russian owned delicatessen selling fish and sausage from the Soviet Union and other delicacies, and business seems to be good. One Russian's store repairs shoes.

Most of the Russians settled in "Odessa by the Sea" because they heard other Russian Jews were there and they like hearing Russian in the streets; it is easier to adjust especially when your big problem is learning English.

In point of fact, learning the language and getting a job are the big obstacles facing the Soviet Jews. We discovered on a trip to Brighton Beach that for the young people it is not too difficult to obtain employment. Jewish leaders tell us that it is with the senior citizens and older people that the trouble comes in employment, especially in this economic recession where about 8 percent unemployment exists nationally and over 11 percent in New York City alone.

It must be recognized at the outset that the Russian Jewish immigrant is different than his predecessor.

First, and this is important, there is an immediate psychological challenge to overcome. All his energies, all his determination were spent on getting out of the Soviet Union, to such an extent that he never really thought in specifics of the future. Suddenly, he is free and he must immediately adjust to a new world, for which he is not often prepared.

In discussing the adjustment of Russian Jews to the U.S., one must always keep in mind that Soviet Jews are raised in a Communist state which "guides" and which "provides" them with education, medical care, a job, and even a crowded apartment at low rent.

Moreover, the spending priorities in the Soviet Union are different: there, he really only has to worry about spending for food and clothing. In the U.S., his money priorities soon become involved with an apartment, medical care, and taxes, items with which he never had to be concerned. Money—its use and distribution—suddenly becomes important to the Soviet Jew because of the many consumer goods which are easily obtainable in America. In Russia, explained a Russian girl, money does not mean anything because one becomes satisfied with very little. Here, if you don't have any money, you suffer because all around you people have money and therefore can buy goods. She pointed out that in Russia, she never dreamed of owning a car; she has one in America. In fact, she said, Americans "pay too much attention to money."

Economically, Russian Jews manage. In fact, according to Dr. Herbert Bernstein, executive director of New York Association for New Americans, 80 per cent of the Russian Jewish newcomers are economically self-sufficient within 6 to 7 months after their arrival here; 20 per cent a year or longer. He went on to say that virtually no one is on public welfare, adding that "the Jewish community has taken upon itself the moral obligation and responsibility for helping fellow immigrant Jews stay off public welfare."

The biggest problem facing Russian Jews is the job. The real difficulty is that of moving right into their old professions. Physicians, dentists, and other health care professionals have a problem in the U.S., where licensing requirements are often more stringent than in the U.S.S.R.

Many of the Russians—even though they have been warned of the hurdles facing them before they can begin to practice their former professions in the U.S.—often unrealistically expect that the Jewish community possesses the power and influence to help them overcome the obstacles they face.

Most professionals from the U.S.S.R. arrive with no knowledge or orientation as to the requirements for practice in the professions in the U.S. They consider themselves fully qualified to work here on the same level as previously, and are deeply disappointed to discover that they cannot practice without fulfilling American requirements.

One of the biggest problems is that the Russian Jews have no concept of beginning at the bottom, if they must, and working up the ladder, so to speak. Many in America, refugees or not, start in "bread and butter" jobs, as they are called. Many even start their careers with work not related to their fields until they can get a more suitable position in their profession.

One Russian Jew we met in Brighton Beach told us that he was working in a men's clothing warehouse, but his wife has been looking for a job as a dentist for a year and a half.

Part of the problem, too, in the case of Soviet immigrants is also explained by the differences in applying for, and getting jobs in the U.S. as compared with the Soviet Union. In the Soviet Union, they are accustomed to a planned economy and employment security. In fact, if you are out of work for four months, you can get a jail sentence for up to a year in Russia. The burden of finding a position for a person can be with the university, the government, and even one's friends. In the U.S., the burden is on the individual to obtain employment, and though friends can help, it is still the job seeker who must find the opening.

Soviet Jews are unprepared for the "comparatively freewheeling life" they find here after the structured existence in the Soviet Union where work often is provided automatically. They have a nearly total ignorance of life under a free enterprise system.

In one area the Russian Jews seem to be happy. They can live as Jews in freedom and relaxation, and not be afraid of being Jewish. A young Russian Jewish intellectual who kept repeating she was not religious said that here in America she is "proud" she is Jewish.

Jewish leaders in Brighton Beach believe the Russian Jews have adjusted. That is the opinion of Rabbi Solomon Simpson of the

Oceanview Jewish Center. But Rabbi Simpson fears Russian Jews may assimilate, for though many Russian Jews come into the synagogue and say hello, they "hesitate to come closer." They give the reason that they are busy getting economically settled. Unfortunately, he went on, many of them know nothing of the Jewish religion.

Some also may stay away from the synagogue because they do not read Hebrew. They feel embarrassed to come to the congregation because they believe Americans might look at them strangely. Still, there are some Russian Jews who send their children to the nearby yeshivoth in Brooklyn.

One great success at the Oceanview Jewish Center have been the Passover Seders for Russian Jews. "It was beautiful," said Rabbi Simpson, adding that both adults and children gained a great deal from the program.

Brooklyn, of course, is not the only place where Russian Jews settle in the U.S., though more than half of the 10,000 Russian Jews who came here the past few years have settled in the New York area.

Others are now located in Charlotte, Kansas City, Cleveland, Los Angeles, Seattle, Dallas. And so besides adapting to a new language and culture, and getting a job, the new Russian immigrant sometimes must also learn to live in a city either much larger than in the U.S.S.R., or else much smaller.

Because there is presumably less stress and pressure in the U.S.S.R., people there have more time on their hands and are busy with groups of friends. A real shock to Soviet Jews, therefore, is that here in large or small cities, Americans and their families go to their homes and apartments in the evenings and often keep to themselves. Especially is this so in big cities where apartment dwellers like the privacy of their own four walls. In large U.S. cities, Russian Jews have difficulty in learning the bus and subway system.

The life of a new immigrant to any country is never easy. They often feel like little fish in a big pond; their disagreements with relatives and welfare organizations are as common as those of many other immigrant groups.

But by and large, because they are bright, well-educated, and hard-working, Russian Jews will do well in this country, a nation of immigrants. What their Jewish identity will be like is a matter of conjecture.

THE BELOVED TAX COLLECTOR

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. SARASIN. Mr. Speaker, on this Friday evening in Weston, Conn., a dinner will be held to honor one of my constituents on his retirement after 39½ years of service as the elected tax collector of that town. In a truly remarkable career, John L. Breitwieser was reelected by his fellow townspeople every 2 years from 1937 to 1976, after having already served a 1-year term from 1934 to 1935. It is only because of ill health that John will not surpass 40 years of public service to his town.

John Breitwieser was born in New York City in 1906. He came to beautiful Weston, Conn. in 1921, and decided to make it his full-time place of residence in 1923. He established such an outstanding reputation with the voters that he was frequently endorsed by both his own Republican Party and the Weston Democratic Party for the biennial elections, and he served as moderator of all Weston town meetings from the early 1940's until 1967.

In 1948, John married the former Constance Burnham, and from then to the present time, Connie has served as his able assistant in his elective capacity. John Breitwieser has also served his community in other capacities. He is a charter and life member of the Weston Volunteer Fire Department, serving as treasurer of that organization for 30 years. He was a member of the purchasing committee which acquired the first firetruck for the Weston volunteers.

John is being honored by scores of his fellow Weston residents of all political persuasions as an outstanding citizen, a great public servant, and perhaps the greatest tribute, a tax collector beloved by those from whom he must collect the taxes.

HOUSE JOINT RESOLUTION 606, ATLANTIC CONVENTION (UNION), ONE WAY TO WEAKEN AMERICAN SOVEREIGNTY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. SYMMS. Mr. Speaker, for some strange reason the resolution on Atlantic Union, which gets older every Congress, but like old soldiers never dies, was taken off the House schedule last week and not considered. We can hope that some day it fades away, but once again it is showing up on the House Calendar for action this week. Therefore, I feel it is fitting at this point to call to the attention of my colleagues, a very astute article written by my friend and colleague, LARRY McDONALD. The article succinctly points out the very real dangers involved in this matter and why it is far from "harmless" as some proponents attempted to assure everyone. The article appeared in American Opinion for November 1975 and follows for the edification of my colleagues. It is especially timely since we are scheduled to consider House Joint Resolution 606, the Atlantic Convention/Union Resolution this week:

ATLANTIC UNION: THE SCHEME TO DESTROY AMERICAN SOVEREIGNTY

(NOTE.—LAWRENCE P. McDONALD is a Member of Congress from Georgia's Seventh District and serves on the House Armed Services Committee. He is a graduate of Davidson College and the Emory University School of Medicine, was a resident at the University of Michigan Hospital, and practiced medicine in Atlanta. Dr. McDonald is a Democrat and a member of the Council of the John Birch Society.)

It is Atlantic Union time again. This proposal for a political union, a federation merging our sovereignty with those of as many European nations as possible, is a hardy perennial among World Government proposals. Even the United World Federalists must defer to age in the form of the elderly Clarence Streit and his antediluvian Atlantic Union.

Once again, the Congress is being asked to support a Resolution supporting a plan to hold a conference to explore the possibility . . . all very tenuous. . . of eliminating the United States of America as a sovereign nation.

It looked like a long shot, back in 1938, but the Big Money boys like it, so this notion of repealing the American Revolution survives. In the last Congress it was passed in the Senate but was defeated in the House by a close vote of 197 to 210. Atlantic Union sounds absurd—but when Nelson Rockefeller expounds his ideas on "international federalism," you discover that absurdity depends upon who is talking. Rockefeller has financially supported this venture since 1939, and Clarence Streit has written to advocates of this scheme that Nelson Rockefeller's inauguration as Vice President came as a "gift just in time to make the Christmas of each of us merry indeed."

Pleading for support, proponents tell Congress that the Resolution is quite harmless, it commits us to nothing, it only costs two hundred thousand dollars to pay for a meeting of eighteen hand-picked "eminent citizens" with unspecified foreign counterparts. These eminences would be chosen from the full spectrum of Atlantic Union supporters, according to Representative Paul Findley, the committed and persistent sponsor of Atlantic federation.

The officially desired results of the conference are cited as: "a) a declaration that the goal of their peoples is to transform their present relationship into a more effective unity based on federal principles; b) a timetable for the transition by stages to this goal; and, c) a commission to facilitate movement toward such stages [*sic*]."

In other words, this legislation would permit eighteen American citizens to join with foreigners a) to declare that the goal of the American people is to surrender the sovereignty of the United States to a central authority; b) to set a timetable for various stages of that surrender; and, c) to agree on a formal written warrant granting the power to perform various acts in order to make it easier to hasten the process of each stage of surrender. Nelson Rockefeller, as President of the Senate, would choose six of those eighteen "eminent" Americans.

Frankly, I find the promise of another group of Rockefeller New World Order flunkies gathering to declare the goals of "their peoples," meaning us, to be something less than inspiring. Yet the Resolution has collected more than one hundred sponsors, and the chances of a majority voting "Da!" are great, given the uninformed radicalism of those supported and mobilized by the Left in Congress.

Would we be committed by the maunderings of eighteen citizens? We have something of this sort of problem now, in another area, because Mr. Ellsworth Bunker has *promised* to give away the Panama Canal, and we in Congress are being told we must back him up because he will become unhappy and lose face if we don't allow him to do so!

We would not be legally committed to anything, but even the Resolution is a show of strength for World Government—or, in any case, ignorance and apathy. It is impossible to believe that a majority of Congressmen regard the Resolution as anything more than a piece of froth which earns them points with the internationalists and costs them nothing with the voters. Yet it is important. We cannot survive too many more small steps toward the brink before going over and giving up our independence—and when that's gone, it's gone forever. As the distinguished commentator Dan Smoot has observed, the proposed Atlantic Union "would have the power (1) to impose a common citizenship; (2) to tax citizens directly; (3) to make and enforce all laws; (4) to coin and borrow money; (5) to have a monopoly on all armed forces; and (6) to admit new members."

Suppose that we formed such an Atlantic Union in a weak moment, and then decided that this had been a mistake, and we wanted to withdraw. As we Southerners know, secession is not allowed; it is prevented by force.

The European Economic Community with which we would be joined does not, as yet, have a "community of military forces" sufficient to the task of preventing any but the smallest members from opting out. But the will to do so already exists. According to an article by J.G. White in the American Bar Association Journal of June 1973, "the recently retired president of the European commission stated that if Harold Wilson became Prime Minister and tried to take Britain out (of the E.E.C.), he would be brought before the Court of Justice of the European Communities."

It takes muscle to "bring" the Prime Minister of a sovereign nation before an international court. The former top official sounding off on the subject of Harold Wilson either thought such muscle existed, or heartily wished it did. When full-time, high-level professionals work on making things happen, they do tend to happen eventually. We see it all around us. (But of course you wouldn't want to call it a conspiracy!)

We would do well to remember in the face of what is happening that in 1936 the Communist International presented a three-stage plan for achieving World Government. It went like this: (1) socialize the economies of all nations; (2) bring about federal unions of various groupings of these socialized nations; (3) amalgamate the regional unions into a world union of socialist states. Here is a passage from the official program of the 1936 Communist International: "dictatorship can be established only by a victory of socialism in different countries or groups of countries, after which the proletariat republics would unite on federal lines with those already in existence, and the system of federal unions would expand . . . at length forming the World Union of the Soviet Socialist Republics."

Five years later, Clarence Streit wrote a book entitled *Union Now With Britain*. He labored to make the above Communist strategy palatable to the West as follows:

> Democrats cannot . . . quarrel with Soviet Russia or any other nation because of its economic collectivism, for democracy itself introduced the idea of collective machinery into its politics. It is a profound mistake to identify democracy and Union necessarily or entirely with either capitalist or socialist society, with either the method of individual or collective enterprise. There is room for both of these methods in a democracy . . . Democracy not only allows mankind to choose freely between capitalism and collectivism, but it includes Marxist governments, parties and press, as well as laissezfaire governments, parties and press, and plenty of gradations in between.

So the idea is not union only with our Western allies but union with the Communists as well. It is here that the plans for World Government being made in Moscow, London, Brussels, and New York converge into what Henry Kissinger calls the New World Order. It involves, in fact, a Master Conspiracy which is very old indeed.

Clarence Streit has been at the old Atlantic Union stand for nearly forty years. Mr. Streit is now seventy-nine years old; he was born in Montana in 1896, went to college and became a cub reporter, then soared into the big time of this internationalist conspiracy via a Rhodes scolarship. Immediately, he became a "foreign correspondent" in Paris, Rome, Istanbul, and Geneva—where he was the *New York Times* man covering the old League of Nations from 1929 to 1938.

When testifying for Atlantic Union, Mr. Streit likes to come on as a humble newsman, earnestly well-meaning. Only occasionally does he slip, as when discussing how his friends can make money speculating in Eurodollars in hundred-thousand-dollar units. Mr. Streit's son-in-law, Felix Rohatyn, is said to be the heir-apparent to the Rothschilds' American operation under Lazard Frères. So Mr. Streit is not exactly of the beleaguered middle class; he is one who quite honestly thinks the proposal to spend two hundred thousand dollars to plan Atlantic Union calls for laying out a paltry sum, although it should be drawn from the taxpayers rather than his friends the Rockefellers or Rothschilds.

Professor Carroll Quigley of the Foreign Service Institute revealed some of the conspiratorial origins and implications of the Streit game in his book *Tragedy And Hope: A History Of The World In Our Time* (New York, Macmillan, 1966). There he describes some of the operations of the moneyed Round Table group in England, which had already set up an international network of Royal Institutes of International Affairs within the empire, and an American branch called the Council on Foreign Relations, now headed by David Rockefeller. Its personnel were, according to Quigley, recruited and trained (like Clarence Streit) through the "Rhodes Scholarship organization." If you wonder where the Communists get their ideas, try this on for size:

> One of the effusions of this group was the project called Union Now, and later Union Now with Great Britain, propagated in the United States by Clarence Streit on behalf of Lord Lothian and the Rhodes Trust. Ultimately, the inner circle of this group arrived at the idea of the "three-bloc world."

You've heard of the Third World? And do you really think it's something new? Actually, the concept expanded then, as now, into a five-bloc world and it can be an any-bloc world. The idea is to form a political world in which any one bloc can be squeezed by two others. While it would be remarkable if Mr. Streit did *not* deplore Hitler—and he assures my office that he does—the conspirators in the 1930s, according to Quigley, looked forward to having Hitler whip Europe into a bloc. As he explains, ". . . this plan would work only if Germany and the Soviet Union could be brought into contact with each other by abandoning to Germany, Austria, Czechoslovakia, and the Polish Corridor."

Greetings from the Conspiracy that brought you World War II! Naturally, standard history books do not speak of the tiny, informal cliques of financial leaders who decide what their politician puppets are to do next. That might make "conspiracy" credible, when it is a very important part of the game to train everyone to respond on cue, "Oh, the conspiracy theory, ho-ho-ho," instead of *thinking*.

With respect to Atlantic Union, Mr. Streit tells my staff that he certainly has not been an agent of the Rhodes Trust. Why, he didn't even finish his course. But it is also worth mentioning that the Rhodes Scholarships were quite simply intended to recruit people for such World Government tasks as Mr. Streit has carried out. Training men and then dropping them has *not* been the program.

It would certainly be difficult to run your own "movement" for nearly forty years if the bee were lodged merely in *one* bonnet. But it does help if the Rockefellers pick up your printing bills, as they reportedly did for Clarence Streit's magazine *Freedom And Union*. When Mr. Streit's "movement" sailed forth under the flag of the Atlantic Union Committee, between 1949 and 1962, over one hundred members of the Committee were also members of the aforementioned Council on Foreign Relations. Mr. Streit had nothing much to say about that, but said that he himself had never even been invited to join the C.F.R., had had but one article published in its magazine *Foreign Affairs*—and that was ages ago and not related to Atlantic Union. Well, perhaps the scheme was regarded as such a long shot that it did not warrant a place on the tout sheet. Certainly it has been a long shot until recently, when the C.F.R. began to push openly for its New World Order and *détente* with the Communists.

But now we are face to face with an Atlantic Union Resolution that has a good chance of passage. What will it mean?

As we have noted, the deceptively modest Resolution asks for a modest two hundred thousand dollars with which to enable eighteen "eminent citizens" to meet with foreign eminences to discuss a federal union between the United States and whatever other countries may be involved. Our N.A.T.O. allies are generally the ones mentioned. Indeed, since N.A.T.O. was created, Mr. Streit has tried to tie Atlantic Union to its coattails; Representative Findley does the same. It seems the surest pitch—after all, are we not already allies? After all, doesn't N.A.T.O. need to be strengthened?

Well, now, weakness is relative. The N.A.T.O. alliance is weak *vis-a-vis* the Soviet Union and its satellites, and the ever-greater efforts being made to strengthen the Soviet bloc, through aid and trade, are conducted by the same folk who then bemoan our own weakness. Having created the problem, they are ready with their own special solution—in this case, the abandonment of American sovereignty. Oh, it will save money, through such measures as "standardized insignia"!

According to Mr. Streit, unified Euro-American Armed Forces could save all sorts of money by eliminating "duplication," anything from fifteen percent to "half" of the Defense budget—the latter round figure, according to Mr. Streit, from General Eisenhower. Where is the difference supposed to come from? Why, from the European part of the federation. *Certainly* they will want to pick up the tab for us, when they refuse to do it even for themselves at present. In exchange for such an imagined contribution, all we would have to do would be to give up control of our own Armed Forces.

Mr. Streit didn't want to discuss it, but this means that, should the Red Army start to roll, and should the Socialists of Europe decide to surrender, *we* would be surrendered, too—into that "World Union" the 1936 Communist International talked about. If we did not choose to surrender, we would have an awful time trying to regain control of some part of the "federated" armed force!

Let's just look at the proposed federation in the best possible light—a strictly "American" legislative setup, with two "Senators" per country and "Representatives" allocated on the basis of population—say, one Representative per million people—and let's assume that the federation consists only of our N.A.T.O. allies.

Fifteen countries are involved; with two "Senators" apiece, the United States would have two (2) of the thirty "Senators," or seven percent of the voting strength. (With the Communist-dominated United Nations arranged on a similar principle, we have one vote out of about one hundred forty—but of course we pay the bulk of the bills!) In a N.A.T.O. "federation," the United States would be somewhat better represented on the basis of population. We would have some 208 delegates out of a total of about 547, or thirty-eight percent. A minority, also.

If anyone does not believe that Atlantic Union would involve a surrender of sovereignty, check those figures again. Whatever powers were turned over to the Atlantic Union would be placed in the hands of the majority, in Europe.

Now, who really wants that?

Yet this is the best arrangement imaginable, since the countries involved are already our allies (however lukewarm or shaky) and they are European. Of course, they are also largely Socialist—just as outlined by the 1936 Communist International.

This is a point which is apt to slide by the casual listener who hasn't thought beyond the idealistic vaporings which are usually presented as arguments. However, you can be sure that the proponents of Atlantic Union are well aware that, not only do the Socialists run most of the N.A.T.O. countries, but only the Communists and Socialists are tightly organized on an *international* basis, and hence able to profit at once from any such federation. Furthermore, any political party interested in *national* issues would be swamped. Already, the West German government has provided money to certain political parties so that they can organize in other countries; it is as if the Congress were to appropriate funds so that the Democratic and Republican Parties could organize in Portugal, Norway, and Turkey. To the extent that they did a really good job of it, they would cease to be American, since the majority of votes, as we have shown, are to be found on the other side of the Atlantic.

It all seems absurd, insane, impossible even to consider. And yet, it's a scheme which for years has had the support of people like the Rockefellers. Their interests are global, so why aren't yours?

Perhaps because their global interests *yield* billions, and *cost* the rest of us hundreds of billions.

The skirmish line of patter which goes forth initially, at least when Mr. Streit is testifying, promises that Atlantic Union will solve whatever ails us, be it war, inflation, unemployment, pollution, perhaps even the common cold. The main line follows along behind, and reveals the fact that, like all of these global and regional government schemes, they are really for the convenience of international *Insiders* who include not only the Communists but the operators of international finance—like the Rothschild backers of Cecil Rhodes, and David Rockefeller who heads not only the Council on Foreign Relations but the Chase Manhattan Bank as well.

One point upon which Mr. Streit seems to agree with the Conservative position is in his call for a return to gold as the basis for currency. Thus, in his 1973 testimony, he pointed to the apparent disaster looming for the unbacked dollar, and argued that our gold plus Europe's gold *could* cover the non-European dollar holdings. When we asked him just why Europe should yield its gold to cover our debts, Mr. Streit denounced "narrow national interests" and said it would be a great long-term investment. Of course, some of us look at the fantastic totals involved in foreign aid of all types, and conclude that we really don't owe anybody much of anything—quite the contrary!

The Atlantic Union people, along with the World Federalists and other exponents of the New World Order, are interested in making the world not merely safe but convenient for the international operators. The central bankers could form one big happy central bank which need take no lip whatsoever from the customers—half a billion citizens. We might propose the slogan for the New World Order—*Ein Bank, Ein Buck, Ein Rockeführer!*

Atlantic Union, along with all its World Government ancestors, cousins, and spawn, represents a sick joke on America. United Nations, World Federalism, the Rockefellers' Tricontinental plan to include Japan, and the Rockefeller-Kissinger five-polar world—all bear the stamp of sponsorship by the International Communist Conspiracy in league with international finance. With America in its present state, it cannot be said that we are gripped by a proper Bicentennial spirit. But let us not condemn ourselves to a sad New Colonialism by repealing the American Revolution!

QUINN BUCKNER OF PHOENIX, ILL.

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. RUSSO. Mr. Speaker, it is with great pride and satisfaction that I advise the House today of the notable achievements of a talented young man from my congressional district, Mr. Quinn Buckner. As I am sure all of my colleagues are aware, Quinn Buckner is the backcourt act of the newly-crowned NCAA champions, the Indiana Fighting Hoosiers.

Mr. Buckner is a resident of Phoenix, Ill. and his success at Indiana has paralleled his high school exploits at Thornridge High School, also in my district. Mr. Buckner led the Thornridge Falcons to two Illinois State basketball titles in 1971 and 1972.

The stellar backcourt play of Buckner was instrumental in the 86–68 Indiana victory of the University of Michigan in last night's finale of the NCAA tournament at the Spectrum in Philadelphia. The Indiana win capped a perfect 32–0 season for the Big Ten champions. This unprecedented all Big Ten final exhibited the great athletic prowess of our young people of the Midwest whose favorite winter pastime is roundball.

Quinn Buckner played a most significant role in the Hoosier victory. Besides scoring 16 points, handing out 4 assists, coming up with 5 steals, and snaring 8 rebounds, it was Buckner's stellar floor play that steadied the Hoosiers after the unfortunate injury to teammate Bob Wilkerson early in the first half.

Mr. Speaker, today is a happy day for Quinn Buckner, his family, his friends, and his neighbors of Phoenix, Ill. I am proud to salute my constituent as an NCAA basketball champion.

WHEN SHOULD AMERICANS CELEBRATE GEORGE WASHINGTON'S BIRTHDAY?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. HYDE. Mr. Speaker, one of the many beneficial aspects of celebrating our Bicentennial is the reawakening of interest in the life and accomplishments of our first President, and the father of our country, George Washington.

Mr. Sean O'Gara, editor of the Life newspapers in my district, wrote an editorial that appeared in the Life papers last February 22 that effectively discusses the important fact that we no longer observe George Washington's birthday on its proper date but that the date on which we celebrate this auspicious occasion has been moved to create a "long weekend."

The question of whether Congress should restore the celebration of Washington's birthday to its rightful date is an interesting one and I am pleased to share Mr. O'Gara's editorial with my colleagues:

TODAY, NOT TOMORROW

(By Sean O'Gara)

Although it was observed last Monday by some and will be tomorrow by others, today is the only real, authentic anniversary of the birth of the one person who, in the entire history of this continent, was indispensable to the creation and continuation of our country, Gen. George Washington.

The switch in days—observing the historic event on a convenient Monday rather than on the correct date—was accomplished by an act of Congress, no less, with the rather inane and pointless intention of giving the American worker a three-day holiday (as if he needed it).

In presenting our labor force with an extra day to snowmobile in the forest preserves, a basketball game or go for a gaseous drive on an overcrowded expressway, Congress not only undercut the memory of a revered patriot but put another dent in that fragile but vital armor of ours called Patriotism.

This subtle disparaging of Washington as the Father Figure supreme of our country is more than just a pointless, thoughtless act on the part of a Congress peopled by far too many egocentrics and far too few altruists; it is a blatant indication that the actions of our forefathers and the lessons of the past are insignificant in today's America.

In short, Washington has been dead for 177 years, so what he was, what he accomplished, what he stood for and what he bequeathed to us no longer is of value in materialistic 1976. We suspect, though, that he and Nathan Hale and Light Horse Harry Lee and Thomas Jefferson and all the others who forged our nation 200 years ago would still be revered if they had left us a chicken in every pot and two cars in every garage.

As we drift with increasing impetus toward a welfare state, like a kite gathering speed as it reaches newer, faster air currents, our innate love for our country (scars, warts and all) is being diminished and eroded by two of humanity's most destructive characteristics—greed and egoism.

We don't suppose many people realize it, but when the memory of George Washington is downgraded from that of Father of His

Country to the states of a rather inconsequential ancestor born on some day or other in February a long time ago, we are only casting aspersion on ourselves: we are not big enough of soul or strong enough of will to retain for ourselves and those who will come after us a pride in our heroes and the nation they forged for us.

Individual heroes have been vitally important to the well-being of all nations throughout history; they always have represented goals to be attained, excellence for which to strive, the talisman of national and individual pride. That is why we give our Audie Murphys medals, our astronauts ticker tape parades and our George Washingtons their birthday observances.

Gen. Washington was a bona fide hero, not to just our country, but to the entire world; so great was (and is) his stature in history that it is apparent now that he is a greater hero with our arch-enemies in the Communist camp than he is in the homeland that he helped create, and this is a sad reflection on the manners and morals of his national progeny.

In 1941, when our nation was endangered, we reached down into our well of national heroes and resurrected them selfishly and possessively, because we needed them, and we used them shamelessly to buoy our hopes in that time of travail; now, with danger apparently passed, we are discarding them by relegating them to secondary memory.

Time and events notwithstanding, George Washington was and is our greatest hero and, whether Congress approves or not, we're going to observe the anniversary of his birthday today, even if only to pull down an old history book and read a couple of chapters on the American Revolution.

That isn't much to do, we admit, but it is more than an unthinking, disrespectful Congress has done.

PHILADELPHIA INQUIRER OVERVIEW ON OCCUPATIONAL DISEASE

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, today I wish to bring to the attention of my colleagues the third in a series of articles prepared by the Philadelphia Inquirer on the issue of occupational disease. This particular article focuses on the role of the Occupational Safety and Health Administration in coming to grips with this national problem.

Mr. Speaker, I would like to make some qualifying remarks about this article. I would hope that my colleagues will particularly note the Inquirer's comments that the agency has been deliberately underfunded, and that it has been used as a political tool by some members of the administration. These charges are not new. They first appeared in a series of articles in the Wall Street Journal last summer. And, just recently, the Journal reported that similar political pressures are still being applied on OSHA. The New York Times even had a recent editorial on the attempts being made by the present administration to use OSHA as a tool to gain political support in the business sector.

Further, I would like my colleagues to be aware of the changes that have been instituted at OSHA by Dr. Morton Corn, the new Administrator. Dr. Corn has recognized that occupational disease has received inadequate attention by the agency, and he has developed new initiatives to build up the OSHA capability to both recognize those health hazards which pose a serious threat to the lives of American workers, and to take steps to correct these hazards.

As the chairman of the subcommittee which oversees OSHA activity, I am encouraged by these initiatives, and look forward to increased OSHA attention and activity in the occupational health area.

Mr. Speaker, I know my colleagues will be interested in the Philadelphia Inquirer article on OSHA, and I include it at this point in my remarks:

MAJOR HAZARDS GO IGNORED, MINOR ONES GET ACTION

(By Susan Q. Stranahan)

When the Occupational Safety and Health Administration (OSHA) was created by the federal government in 1970, it was charged with assuring "safe and healthful working conditions for working men and women."

Fanning out over the country, OSHA inspectors sought out dangers in the workplace. Their goal: In a country where 315 men and women die every day from disease or injury incurred on the job, protect workers from carnage in the workplace.

They found Ralph Harrison's Nehi machine and cited him for violating a federal law.

"I sure was surprised," recalls Harrison, executive vice president of the J. E. Chilton Co. Inc. of Nashville, a custom woodworking plant. "We thought we had a safe place to work here."

Apparently, the federal government didn't think so. It did concede that all of the company's manufacturing and woodworking facilities were safe. But in addition to citing the company for an improperly grounded Nehi soda machine, OSHA also uncovered an unsafe coffee pot on the premises, not to mention a hot plate and refrigerator.

Chilton was fined $198.

Ralph Harrison promptly fixed the soda machine and coffee pot and hot plate and refrigerator, and then appealed the citation because he did not want the company listed on the records as an unsafe place to work. OSHA responded by reducing the fine to $159.

The story of Ralph Harrison's Nehi machine is not unique. OSHA inspectors have also:

Fined a Bowling Green, Ky., lumber company $100 for failing to post a sign explaining the benefits of OSHA coverage to employes. (The fine was later reduced to $1.)

Fined a Los Angeles electrical contracting company $600 for not grounding a truck which touched a high voltage power line, killing a worker. (The fine was later reduced to $300.)

Fined an Atlanta, Ga., construction company $800 for failing to cover a hole in the roof of a new gymnasium, causing a worker to fall to his death. (The fine was later increased to $900.)

Meantime, workers at a western Pennsylvania steel plant become concerned over a major outbreak of cancer among their colleagues and asked for an OSHA inspector to check the level of fumes in the air they breathed for eight hours a day at the mill's melting operation.

(Although United Steelworkers of America officials at the plant believe cancer among their members is occupationally caused, they are afraid to be identified for fear that their preliminary efforts at collecting data on the deaths will be thwarted by the company.)

"Things in there (the melting operation) have gotten much worse since the company put $14 million worth of air-pollution equipment to meet the state's clean-air laws," says a union official who represents the 4,250 men at the plant.

"Ever since that pollution equipment went on, things inside the plant are four or five times worse."

The OSHA inspector arrived at the plant on a cold, dry day—the kind of day when the ventilation system works best, according to the union officer. The inspector judged the air quality safe, but the employes were unsatisfied.

"If he had come on a rainy day, or a humid day, he wouldn't have said it was safe. No way," says the union official.

FRUSTRATED WORKERS

Throughout the nation's five million workplaces, the stories about OSHA are the same: employers with good safety records disgruntled at petty fines, and workers who face deadly hazards daily frustrated by the agency created to help them.

A seven-month investigation by The Inquirer into the working conditions faced daily by 63 million American workers reveals that their well-being—guaranteed by the Occupational Safety and Health Act—has been traded off for politics and profits.

As a result, 100,000 workers die each year from occupational diseases and 15,000 others die from job-related accidents. And that is as counted by industry. No one—not even OSHA—knows the real numbers. There are indications that they could be double or triple that.

One of the deaths not included in OSHA's occupational disease statistics is that of a crane operator who worked for 29 years in that western Pennsylvania steel mill, where fumes often made seeing—as well as breathing—difficult.

Most of the time, he operated his crane high above furnaces where specialty steels—for golf clubs and rockets—were made.

FUMES SUSPECTED

The crane operator (both his wife and his union requested anonymity) died last year of stomach cancer. His coworkers are convinced that his death was due to the fumes he was exposed to daily at his job.

His employer does not think so. Therefore, his death—and many others like it—is not considered by OSHA as job-related.

In contrast to the death toll is OSHA's performance as an enforcement agency:

OSHA's budget request for fiscal year 1976 is $116 million. In contrast, the military has asked for $97 million just to advertise its recruiting programs.

OSHA admits it is unable to determine the extent of occupational diseases and injuries in this country, let alone what impact the agency has had in its five-year existence.

By OSHA's own figures, an average of eight days elapse between the time OSHA inspectors uncover a hazardous situation in the workplace and the employer is cited for the violation.

When an employe locates a safety hazard in the workplace, it takes an average of nine days for an OSHA inspector to respond. It takes an average of 10 days for the inspector to investigate a health-hazard complaint. OSHA considers this a "significant" reduction from the 1974 average of 13 days for a safety hazard and 17 days for a health hazard.

Employers are routinely given 30 days to correct the violation, although abatement periods of up to two years have often been granted. In the future, according to OSHA, any abatement periods over two years must be approved by national OSHA officials.

In September 1974, the General Accounting Office (GAO) at the request of the Senate subcommittee on labor issued a lengthy and critical survey of OSHA's performance, claiming among other things that the agency's enforcement was erratic and ineffectual.

The GAO also reported that almost 99 percent of all citations issued by OSHA inspectors in one year, fiscal 1973, were categorized "non-serious."

Even when OSHA inspectors investigated a fatal accident during the same year, only 17 percent of the resulting violations were categorized "serious."

A "serious" offense, meaning that the probability of death or serious physical harm exists, carries with it a maximum penalty of $10,000. A "non-serious" offense carries a maximum fine of $1,000.

SMALL PENALTIES

But OSHA inspectors have hardly been levying the maximum penalties.

The average OSHA fine is $25.87, according to a recent survey of the agency conducted by the Health Research Group, a Washington-based public-interest organization.

There are 1,211 OSHA inspectors responsible for overseeing the nation's five million workplaces. At that level of manpower, it would take OSHA 100 years to visit every business and industry in the United States.

When an OSHA inspector does arrive, he brings with him a book of regulations hundreds of pages thick and a lot of latitude in interpreting those regulations. Therein lies another problem.

Some OSHA inspectors act as policemen. Others act as counselors. It all depends on who they are, and just as important, on where they are.

According to the GAO survey, inspectors at the Atlanta regional OSHA office were told by their supervisor to emphasize correcting violations rather than fining employers. Inspectors at the Portland, Ore., office were told by contrast, that companies will not comply with OSHA rules unless the laws are strictly enforced and fines are levied.

The freedom to interpret the rules means that what is a "serious" offense in one part of the country is considered "non-serious" in another.

Some of that disparity is caused by OSHA inspectors who choose not to follow through with all the work that accompanies a "serious" violation, according to the GAO report.

INSPECTORS HESITANT

"Interviews with inspectors have revealed a tendency to classify citations as non-serious violations which could have been otherwise cited as serious. The inspectors indicate . . . this is done because of the extensive amount of time and effort it takes to document a serious citation.

"They (the inspectors) have exhibited such hesitation in the belief that a serious citation with a large penalty would most likely be litigated, and cause additional drain on their time."

OSHA responded to that GAO criticism by clarifying its position on the matter:

"Only the mere possibility of an accident occurring must be present if there is substantial possibility that the resulting injury would be serious if the accident were in fact to occur.

"There is evidence," the OSHA response continued seriously, "that some field staff have not fully understood this point."

The GAO survey showed that only 0.3 percent of more than 100,000 violations cited by OSHA in the region including Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin were "serious" in nature. Yet in the region including Alaska, Idaho, Oregon and Washington, "serious" violations equaled 3.5 percent of the citations.

Not surprisingly, the Pacific Northwest has been one of the most vocal regions of the country in its opposition to OSHA.

What then, has gone wrong with OSHA, the reform bill designed to guarantee the American worker that his job will not sicken, injure or kill him?

Although drafted with the health and safety of workers as its goal, OSHA was enacted as a political issue and has remained tangled in politics ever since.

The Nixon and Ford administration have purposely underfunded OSHA to make it a toothless tiger. Congress has failed to demand that the agency assume the authority it was provided.

OSHA has been used to woo the votes of the American worker while at the same time it has been used to buy the gratitude of industry.

When Richard Nixon signed OSHA into law on Dec. 29, 1970, he told the nation that the bill "attains the goal we all wanted to achieve."

The mood that prevailed that day in Washington quickly faded. It became apparent to proponents of a strong occupational safety and health program that the administration of OSHA was going to be anything but aggressive.

Nixon recognized the political attraction of an occupational safety and health bill as early as 1968, when he was forging his "Silent Majority" coalition. Taking the issue from an uninterested Congress, he parlayed it into a major platform plank that drew support from many American workers.

The election won and OSHA enacted, the White House was then faced with a law that had parts of industry frightened.

POLITICAL USES

But the Nixon administration quickly calmed their fears and even turned OSHA into a political asset.

On June 14, 1972—three days before five men were arrested inside the Democratic National Committee headquarters at Watergate—the assistant secretary of labor in charge of OSHA, George C. Guenther, drafted a memo about the role OSHA could play in the coming presidential election.

Guenther, a former Reading, Pa., hosiery executive, outlined a plan to win over industry votes and, presumably, campaign contributions. The memo recommended that OSHA:

Avoid implementing any controversial standards that would upset industry.

Accept applicants for OSHA jobs who were recommended by the Republican National Committee and the Committee to Re-elect the President.

Offer special assistance, including additional financial grants, to safety and health officials in the 11 states considered crucial to the reelection effort.

The so-called "Guenther responsiveness memo" concluded by noting: "While I have discussed . . . the great potential of OSHA as a sales point for fund raising and general support by employers, I do not believe the potential of this appeal is fully recognized.

"Your suggestions as to how to promote the advantages of four more years of properly managed OSHA for use in the campaign would be appreciated."

WATERGATE CONNECTION

The memo by Guenther, who served until recently as a senior vice president of the Insurance Co. of North America in Philadelphia after being fired as OSHA chief in January 1973, was made public during the Watergate investigation.

Although there is some question as to whether the "responsiveness memo" was ever put into effect, OSHA activity in the period between June, when the memo was written, and the November election includes the following:

July 7: The controversial standard setting limits on asbestos is issued by OSHA six months after it had been received from government researchers. Despite warnings from scientists that the standard in existence at the time posed an immediate death threat to thousands, OSHA gives industry four years to comply.

July 28: OSHA revises its ice water standard, permitting ice to be included in drinking water provided employes.

October 2: OSHA revises its standard pertaining to the height of toilet stall partitions, no longer requiring that they be at least six feet high.

October 13: OSHA revises its standard pertaining to the shape of toilet seats in the workplace. After requiring all employers to install horseshoe-shaped seats, OSHA changes its mind and drops the requirement that they have to be changed.

GUARANTEED TERROR

The encroachment of government into the area of occupational health and safety has always been an issue guaranteed to mobilize industry.

The first sweeping occupational safety and health bill was drafted in 1967 by the Johnson Administration, which had become concerned over increasing reports of disease and injury on the job.

The bill gave the federal government the right to enter the workplace—now considered the major strength of OSHA—and shut down operations deemed hazardous.

Although the bill would undergo major revisions before its passage in 1970, it was the first indication to industry that the federal government was moving in on its exclusive preserve.

Industry did not yield easily.

In April 1968, Nation's Business, the magazine of the 4.75-million-member U.S. Chamber of Commerce, published an article entitled "Life or Death for Your Business?"

The article opened with a vignette designed to strike terror into the heart of every businessman in the nation:

"Imagine yourself sitting in your office a few months from today. A young man barges in. You recognize him as a man you once refused to hire. He had no education and no potential talent you could use. His main experience consisted of cashing welfare checks.

SUDDEN POWER

"But he shows you he's now a representative of the federal government—an 'inspector' with the Department of Labor.

"And he threatens to padlock your gates and have you fined $1,000 a day if you don't do as he says."

If industry's voice got a little shrill, it was due to a fear that the few voluntary standards that industry had set for itself might be abolished in favor of stricter ones.

As it turned out, that was a foolish worry. With few exceptions, industry-set standards were adopted by OSHA and remain in effect today.

An administration policy already in effect when the Guenther responsiveness memo was written, and one with a much greater potential to weaken OSHA, is the requirement for an economic impact statement to accompany any new health and safety standard issued by OSHA.

The statements would apply to all regulations ". . . which could be expected to . . . impose significant costs on, or negative benefits to, non-federal sectors . . .," according to George P. Shultz, director of the Office of Management and Budget and former secretary of labor.

In other words, the costs to industry are taken into consideration before any new regulation is considered.

A legal challenge to the economic impact statements, filed by the AFL–CIO on the ground that the Occupational Safety and Health Act had no such provisions in it, was rejected by a federal appeals court in April 1974.

ESCAPE CLAUSE

Critics of economic impact statements claim that they are merely a means of letting industry off the hook.

A good example is the standard regulating noise in the workplace.

Currently, the maximum level of noise allowed in the workplace over an eight-hour period is 90 decibels—the amount of noise made by a jackhammer.

Approximately 16 million Americans work in jobs which are noisy enough to seriously impair their hearing, according to federal surveys.

But hearing loss is not the only hazard of noise. Scientific studies have also attributed heart disease, gastrointestinal disorders and allergies to noisy jobs.

There is a welder at the Philadelphia Navy Yard who has worked for ten years inside ship holds where the noise levels are far in excess of 90 decibels. As a result, he cannot hear as well as he used to.

He also complains of the effects on his nerves of a normal working day:

"When a man comes home from that job, his wife should have the greatest and beautifulest smile for her man because he just left hell."

Labor and environmental groups have been lobbying OSHA for several years to lower the noise standard to 85 decibels—the standard set by the Environmental Protection Agency for non-worksites.

Industry, in response, prepared a financial analysis of such a reduction, placing the cost at $30 billion.

FORD'S OPPOSITION

Although an OSHA-sponsored survey estimated the cost at 15 percent of that—$4.6 billion—President Ford, in a speech to the U.S. Chamber of Commerce last year, relied on industry's estimates when he asked: ". . . Is it worth as much as $30 billion a year of consumer's dollars to reduce the level of noise exposure by approximately five decibels?"

A reduction of five decibels would cut the noise level by more than half.

The noise standard remains at 90 decibels—a level that could result in hearing losses among 20 percent of the workers exposed to that amount of noise.

Dr. Samuel S. Epstein, an occupational health expert from Cleveland, recalls a luncheon conversation with a corporate executive concerning the demands for lower noise levels.

"I don't know why you are pushing this," Epstein recalls the executive saying. "The only thing it will mean is that 20 years from now the worker won't be able to enjoy Vialdi as much as you or I."

In addition to economic impact statements, OSHA standards now must also include inflationary impact statements. OSHA estimates that approximately half of the 24 standards currently under consideration will require such statements—thereby delaying even longer enactment of new regulations.

ECONOMIC PROBLEM

"The problem we face is that business can measure in dollars and cents what each standard will cost them," says Daniel H. Krivit, former counsel in the House Select Labor Committee, which wrote much of the OSHA legislation.

"But how the hell does the worker go in and match (that with) pain and suffering? How does he measure a loss of hearing? How does he put that in monetary figures? There's no way."

The administration is not the only branch of the federal government to devise systems to weaken OSHA. Congress also is trying.

Congress did not give the 1970 OSHA legislation much more than a once-over glance when it was first proposed. That is due in part to the fact that everybody thought being for health and safety—like being for motherhood—was a good idea.

So, nobody really bothered to examine the act that gave the federal government broad new powers.

"The Occupational Safety and Health bill was so far reaching and so sophisticated I wouldn't say there were six members of Congress who read that bill from cover to cover, says Krivit, currently counsel to the House committee on manpower, compensation, health and safety.

"That bill was a sleeper."

CHANGES EVIDENT

Things have changed considerably today.

There are a number of opponents of OSHA in Congress. Among the most outspoken are Idaho Rep. Stephen D. Syms, California Rep. John H. Rousselot, Tennessee Rep. Robin Beard and Illinois Rep. Paul Findley.

The opponents are so vocal that supporters of OSHA have been afraid to introduce even minor amendments to the bill for fear that opposition forces will unit and repeal the entire legislation.

A new recruit to the ranks of OSHA opponents is President Ford, who recently criticized OSHA, along with the Environmental Protection Agency and the Food and Drug Administration, as interfering with business while having an "insubstantial impact" in the areas they are expected to oversee.

"The first time around, the opponents of OSHA dropped the ball," says Krivit. "This time, they wouldn't. If that bill came back up for a vote now, it wouldn't pass."

LOU GEHRIG'S DISEASE: A NEW PRIORITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. SOLARZ. Mr. Speaker, today I had the honor of testifying before the Appropriations Labor-Health, Education and Welfare Subcommittee, chaired by our distinguished colleague Congressman DAN FLOOD.

The testimony I presented involves funding levels that the National Institute of Health provides to the basic and applied research of a little known but common and deadly disease called, amyotrophic lateral sclerosis.

I am appending my remarks along with the testimony of Dr. Daniel Drachman, a professor of neurology at Johns Hopkins and Benjamin Appelbaum, the husband of an ALS victim and a leading advocate and fundraiser for ALS research.

The articles follow:

TESTIMONY BY BEN APPELBAUM

Mr. Chairman and members of the Congressional Subcommittee on Labor, Health, Education and Welfare my name is Ben Appelbaum and I live at 9 Highview Court, Closter, New Jersey. I am here today to ask you to appropriate money for research into the cause and treatment of Amyotrophic Lateral Sclerosis which is hereafter referred to as ALS. This little known disease killed Lou Gehrig, the Iron Man of the New York Yankees within 2 years after he contracted it. In the more than 30 years since Lou Gehrig died little progress has been made in determining the cause and cure of ALS. The primary reason for this is that the amount of money spent on ALS research has been minimal. Last year our government and private foundations spent a great deal more on Multiple Sclerosis research and on Muscular Dystrophy research than on ALS research. The rationale for this vast difference is difficult to comprehend for as many people get ALS every year as get Multiple Sclerosis and many more people get ALS than get Muscular Dystrophy. Furthermore, while people with Multiple Sclerosis can live many years, ALS is a more devastating and fatal disease. Approximately 50% of all ALS victims die within 2 to 3 years and 90% die within 5 years.

My wife Barbara, who is presently 34 years of age became a victim of ALS approximately 5½ years ago when she was 29 years old. Barbara, who can no longer cut her own food, dress herself, write her own name, walk even a few steps on her own and who has difficulty making her speech understood is, believe it or not, one of the fortunate victims of ALS. She is one of the lucky 10% who is living more than 5 years after the onset of the disease.

Our experience with ALS is fairly typical, and may give you some insight as to why so little has been accomplished in this area. When Barbara began to drag her right foot, we visited a local neurologist who diagnosed Barbara's condition as Multiple Sclerosis. A second neurologist concurred. This sometimes happens because initial symptoms of ALS can be similar to Multiple Sclerosis, and because so few physicians know very much about ALS. When Barbara's condition began to deteriorate fairly rapidly many of the neurological tests were redone, and the diagnosis was changed to ALS. We were told Barbara had from 6 months to 2 years to live. Therefore, we went to Barbara's cousin a neurologist at Massachusetts General Hospital, who unfortunately confirmed the above. Not satisfied we went to New York Neurological Institute in Manhattan but the information we received there was most horrifying of all. Not only did they confirm the diagnosis but they knew of no research at all in the country that could be helpful. Needless to say we were crushed. I was told to take Barbara home, keep her comfortable and be very kind to her because although she would quickly loose her ability to walk, talk, write, swallow and breathe her mind would remain sharp and she would always be aware of every horrible thing that was happening to her.

A short time later and quite by accident I read a human interest story in our local paper about Dr. Forbes Norris of San Francisco, California who had a clinical research program for ALS patients. Although our neurologists had no suggested treatment for Barbara they were adamantly against our going to Dr. Norris. They told us that the disease was so devastating and so little was known about it, that it would be a waste of money to make the trip and would unrealistically raise our hopes. But we felt we had little choice and no other hope so we went to Dr. Norris and have been visiting him 4 times a year in San Francisco so that

Barbara could be part of his research program. We are fortunate that we have been able to afford the various aspects of Barbara's treatment which includes 4 trips per year to California, physical therapy, daily swimming as well as a full-time household employee. However, the cost have been staggering as has been the loss of income from Barbara's former teaching position as Assistant Professor of Education at Fairleigh Dickinson University.

OUR INVESTIGATION AND CONCLUSIONS

Because Barbara and I found it difficult to believe that a disease that affected so many people in such a devastating way received so little public attention and so little private and federal research funds, it became a cause of ours. I contacted families of other ALS patients, physicians, neurologists, plus the Multiple Sclerosis Society, the Muscular Dystrophy Association, the few fledgling ALS foundations and any one at the National Institute of Neurological and Communicative Disorders and Stroke who would answer my letters or telephone calls.

The conclusions that I have drawn from my personal investigation are as follows:

1. Most of the medical profession and scientific community believes that little or nothing can be done for victims of ALS. Few researchers are interested in ALS, and very little money is being spent on research.

2. The various private ALS foundations have been able to raise and spend very little thus far. The largest amount was approximately $40,000 this past year by the ALS Foundation located in California. I am afraid that in the future these foundations will not be able to do much better because they are lacking a critical ingredient that has been responsible for the success of foundations concerned with other diseases. ALS victims do not live long enough for the relatives and friends to have a continuing reason to perpetuate a foundation that will sponsor research. ALS acts so quickly and so massively that it not only destroys its victims but debilitates the relatives and friends as well.

3. The National Institute of Neurological Communicative Disorders and Strokes hereafter referred to as NINCDS claims that it spent a total of $293,718 in 1974 and $813,557 in 1975 for ALS research. My own investigations lead me to the conclusion that although these figures may be technically correct, their impact on ALS is greatly exaggerated. Several of the grants that come within these totals may be primarily concerned with Parkinson's Disease or Multiple Sclerosis. Furthermore, many of the research projects that are supposed to deal mainly with ALS deal with a form of the disease found on the pacific island of Guam. This research may or may not be relevant to the form of ALS found on the continental United States.

However, even if we ignore the objections as stated above and accept NINCDS figures as valid the amount of money being spent on ALS research is pathetically small when compared with other neurological diseases or when compared against actual need.

4. The present research grants funded by the federal government are not of any help to people currently stricken with ALS. I have confirmed this fact to my complete satisfaction through exchanges of many letters between myself and high ranking officials of NINCDS.

5. The final decision regarding ALS research within the NINCDS is made by the National Advisory Neurological and Communicative Disorders and Stroke Council. Since neurological diseases are only one aspect of the over all responsibility of this council only 3 of the 13 regular members are neurologists. In addition, since ALS has a low research priority even among neurological diseases it gets little funding. Therefore, despite the excellent intentions, fine background, and high intelligence of all of the members of the National Advisory Council, ALS is largely ignored.

RECOMMENDATIONS

After investigating this problem thoroughly for the past few years, I firmly believe that the only way any significant amount of research can be instituted is if Congress mandates a specific amount of money to be spent on ALS research alone. For all of the reasons stated above an increased appropriation for the NINCDS without a specific amount set aside for ALS will do no good. I respectfully suggest that any recommendation by your committee that falls short of a direct authorization for ALS research is a signal to ALS patients and their families that Congress will join all the other groups mentioned above in neglecting the truly helpless and tragic victims of this disease. I therefore urge, implore, and plead with you to allocate an additional $3,000,000 annually specifically for research into the cause, prevention and treatment of ALS.

How could a country like ours let more than 30 years go by without making a major attempt to study this disease? Isn't it sad that we are at the same place now that we were 30 years ago and that a person getting ALS has no better chance than Lou Gehrig did. Please allow me to tell Barbara and other ALS victims that Congress will take some positive action this year to change this deplorable and tragic situation.

CURRENT STATUS OF AMYOTROPHIC LATERAL SCLEROSIS

(By Daniel B. Drachman)

Amyotropic Lateral Sclerosis (ALS) is a progressive neuromuscular disease of adults that causes weakness and paralysis. It gradually destroys the motor nerve cells in the spinal cord and brain, resulting in loss of control of the muscles, and eventually muscle atrophy. The motor nerve cells in the spinal cord are the same cells that may be attacked by the virus of poliomyelitis.

WHO IS AFFECTED BY ALS?

Approximately 15,000 Americans are presently afflicted with ALS. Estimates of the incidence range from 3,000 to 5,000 new cases per year, only slightly below the incidence of multiple sclerosis. One death per thousand is due to ALS.

ALS affects adults above the age of 35, men more commonly than women (in a ratio of 3:2). Lou Gehrig died of ALS. So did Ezzard Charles, the boxer; Dmitri Shostakovich, the composer; and Bronson Crothers, Professor of Child Neurology at Harvard.

WHAT ARE THE SYMPTOMS OF ALS?

ALS begins with weakness of individual muscle groups, often accompanied by muscle wasting and twitching ("fasciculations"). Eventually, walking may become impossible, and the muscles of the limbs become useless, making the patient unable to dress or care for himself. The most serious problems are presented by weakness of the muscles of speech, swallowing and breathing.

DIAGNOSIS OF ALS

The symptoms of ALS resemble those of certain other neurological diseases, and the diagnosis should only be made by a trained Neurologist since many of the other conditions are treatable if properly identified. In addition to skilled examination, special tests such as myelography, electromyography, muscle biopsy and others may be needed.

WHAT IS THE COURSE OF ALS?

In typical cases, patients rarely live beyond 3 to 5 years. However, in some instances, the disease may reach a plateau lasting for many years. This possibility affords at least some hope for victims of the disease.

WHAT CAN BE DONE FOR PATIENTS WITH ALS?

At present, there is neither a cure nor any specific treatment for ALS. A great many therapeutic agents have been tried empirically, but none presently available give any real promise of success. Antiviral agents, vitamin and nutritional therapy, cortisone-like drugs, and many others have all been tried. In the Soviet Union, a combination of 17 different substances are given by mouth and by injection.

At present, medical therapy is limited to the judicious use of supportive measures including physiotherapy and certain drugs which may be of temporary benefit.

WHAT IS THE CAUSE OF ALS?

The cause of ALS is not yet known. Several possibilities are currently under study. For example, ALS may be due to a "slow virus", which may damage the motor nerve cells directly or indirectly. Genetic factors may be important in susceptibility to the disease. In Guam, for instance, 10% of the native population dies of ALS. Abnormalities of the immune system or nutritional disorders have also been studied in relation to ALS.

WHAT NEEDS TO BE DONE?

Research will inevitably provide the critical understanding of the problems of ALS and other neuromuscular diseases. The most rapid advances may come from basic or applied research: both kinds of research have recently yielded important dividends in our understanding and treatment of other neurological disorders. For example, only a few years ago little was known about the cause and treatment of myasthenia gravis, another nueromuscular disease (perhaps best known because Aristotle Onassis suffered from it). Research in our laboratory and others has provided us with a clear concept of the basic abnormality in myasthenia gravis and far more effective methods of treatment.

Similarly research has led to greater understanding of and better treatments for Parkinson's disease. I have no doubt that ALS will eventually be overcome by continued and increased research efforts.

TESTIMONY OF HONORABLE STEPHEN J. SOLARZ, BEFORE THE LABOR—HEALTH, EDUCATION AND WELFARE SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS COMMITTEE, MARCH 30, 1976

Mr. Chairman, I greatly appreciate this opportunity to testify today before this distinguished subcommittee. I am aware that the legislation pending before the committee concerns the continued funding of the National Institute of Health and I would like to share with my colleagues my concern in regard to the spending priorities NIH has previously established in regard to a common but little known disease known as Amyotrophic Lateral Sclerosis of ALS.

ALS, popularly known as Lou Gehrig's disease, is a neurological disorder affecting adults, generally in the prime of life. It is characterized by a degeneration of motor cells in the spinal chord and brain. This degeneration leads rapidly to paralysis and ultimately death. Over 10,000 adults are stricken with ALS each year for no apparent reason and with no real hope for recovery.

Like polio, ALS attacks the motor cells of the brain and spinal chird, initially many patients show problems in speech, swallowing and chewing, while others have loss of strength in an arm or leg. The onset of the disease is slow but after a few weeks the patient is struck with violent twitching and painful cramps. Then he quickly sinks into a near full paralysis.

Initial diagnosis is quite difficult and often confused with Multiple Sclerosis. The expected lifespan for the post-diagnosis patient is a disturbing 3 or 4 years. Over 60 percent of the ALS patients are men who after a comparatively illness-free life suddenly are left useless and unable to move a single muscle.

This severe paralysis is responsible for more than the loss of one man or woman. It is a human problem of staggering magnitude. A simple calculation will demonstrate this clearly. There are at least 10,000 new ALS cases in the U.S. every year. The patient is typically male, who is the head of a household and in most cases the large expenses associated with ALS depletes both the bank account and the spirit of the family. Based on an average income of only $7,000 per annum, an estimate of the loss of earning power to the economy is at least $200 million a year. In addition, a like amount in government transfer payments for welfare and aid for dependent children realizes a net loss to the economy of $400 million. Clearly a cure for ALS would be one of the great milestones in medical history.

In 1975, NIH appropriated $813,000 for the research of ALS through the National Institute of Neurological and Communicative Diseases and Stroke. This represents three hundredths of 1% of the total NIH appropriations and only ½ of a percent of the entire amount NIH has decided should go to the research of neurological disorders such as MS, MD and ALS.

Some statistics must be kept in mind—the incidence rate of ALS is equal to the MS rate and four times that of MD. Yet the amount spent on MS and MD research is over 26 times that spent on ALS. While I don't contend that the Congress single out ALS for a separate appropriation, and while I would not presume to set the priorities for the NIH, it seems to me that something is wrong when a disease such as ALS, which costs the economy so much and so terribly taxes the financial and emotional reserves of the patient and his family, receives so little financial support.

There are at present 3 national foundations that raise funds and enlist support for ALS. The largest is the National ALS Foundation, which in its short existence has performed admirably in the competitive field of private foundation fundraising. For even with all of the Foundation's hard work, it can only hope to raise a fraction of the money that is needed to effectively combat ALS. Therefore, the only real hope for a significant response to the ALS problem is increased federal spending.

Because of the devastating effect of ALS and because there have been encouraging results from the research thus far, it is paramount that ALS research efforts be given adequate support and encouragement. Progress toward a cure is being made each day and with a substantial increase in funding, we might find a remedy for ALS in our lifetime. I respectfully request that this Committee, in its report to the Congress, make clear that the NIH review its spending priorities in regard to neurological diseases and if at all possible substantially increase the budget for ALS research.

GO-AHEAD FOR KATYN MEMORIAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. McDONALD of Georgia. Mr. Speaker, one of the major war crimes committed during World War II for which no one was ever punished, was the massacre of a large part of the Polish Army Corps of some 14,471 men by the Soviet Union. Most of the Free Poles, who fought on the Allied side during World War II, under General Anders settled in England rather than return to a Communist Poland after World War II. So, it is very fitting that they have a memorial to these departed officers erected in England. Noteworthy is the fact that one-half of the funds for the memorial have come from Polish Americans. Free people should not forget what Stalin's NKVD did at Katyn.

It is also interesting to note that at the time this memorial activity is going on, Mr. Kissinger's aide and long-time friend, Mr. Helmut Sonnenfeldt is suggesting that the Polish people tie themselves more closely to their chief oppressor—the Soviet Union, which continues to maintain a military garrison in Poland as it did under the czars. Sonnenfeldt, in a secret briefing last December is reported to have told a meeting of U.S. ambassadors in London that the permanent "organic" union of the USSR and Eastern Europe was critical to the avoidance of world war III. He further pointed with pride to Poland as a nation that had discarded its "romantic political inclinations" and was now more subservient to the USSR. Two hundred years ago our forefathers took a firm stand for such a "romantic political inclination" against the, then, most powerful nation in the world. I do not think nor believe the Poles will falter in their hope for true freedom in spite of Mr. Sonnenfeldt. The article from the London Daily Telegraph of March 25, 1976, follows:

GO-AHEAD FOR KATYN MEMORIAL

(By Gerard Kemp)

Despite Russian objections, plans are going ahead for the erection of a 20-ft.-high memorial in London to the 14,471 Polish Army officers and men massacred by the Russian secret police at Katyn in 1940.

The obelisk is being built in Gunnersbury cemetery at a cost of £21,515, and the official unveiling is expected in late summer.

Mr. Louis FitzGibbon, secretary of the Katyn Memorial Fund, said last night: "On Monday morning I will be signing the agreement with the builder for him to go ahead with the memorial, and he will start work as soon as possible.

"I'm very pleased to hear that many Poles now living in the United States will attend the unveiling. We owe them a lot. The Katyn Memorial Fund Commission of the Polish American Congress raised half of the money, about $20,000 (£10,000).

SOLZHENITSYN REMARK

"The memorial is tremendously important, all the more so in view of Solzhenitsyn's latest remarks about apathy in Britain. At the Nuremburg trials Britain made no effort at all to intervene when the Russians tried to prove the Germans responsible for the massacre.

"Many people today just don't want to known about Katyn. All people in Britain appear to be interested in are football, pop groups and this new thing they've just discovered called sex. If the British don't wake up soon to what is really going on in the world they'll find themselves in the Gulag Archipelago."

Objections to the erection of the memorial were put forward by the Soviet Embassy last month. The embassy wrote to the Mayor of Kensington and Chelsea, Mrs. Brian Sundius-Smith, saying that the memorial's inscription was "wholly slanderous," the Russians always having claimed that the Germans were responsible for the Poles' deaths.

Sir Frederic Bennett, Conservative MP for Torbay and vice-chairman of the Katyn Memorial Committee, has tabled a motion in the Commons condemning the Russian intervention in the erection of the Katyn memorial as "totally unacceptable."

The motion expresses the hope that "the Royal Borough of Kensington and Chelsea will resist pressures from any source to vary their free and democratic decision to permit the erection of such a memorial."

STATUS OF FISCAL YEAR 1976 CONGRESSIONAL BUDGET

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DERRICK. Mr. Speaker, I am inserting in today's Extensions of Remarks, the detailed analysis of the eighth notification to my colleagues in the House, on the status of the fiscal year 1976 congressional budget adopted by Congress in House Concurrent Resolution 466:

MARCH 29, 1976.

Hon. CARL ALBERT,
Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: In my letter of January 30, 1976, I outlined the procedures which the Committee on the Budget has adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting a revised status report reflecting completed action as of March 25, 1976.

With warm regards,

BROCK ADAMS,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1976 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 466

REFLECTING COMPLETED ACTION AS OF MAR. 25, 1976

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	408, 000	374, 900	300, 800
Current level	398, 540	371, 411	301, 100
Amount remaining	9, 460	3, 489	300

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $9,460 million for fiscal year 1976, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 466 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $3,489 million for fiscal year 1976, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 466 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $300 million for fiscal year 1976, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 466.

COMMITTEE ON THE BUDGET—U.S. HOUSE OF REPRESENTATIVES

STATUS OF FISCAL YEAR 1976 CONGRESSIONAL BUDGET CEILINGS

[In millions of dollars]

Function	1976 2d budget resolution		1976 current level (Mar. 25, 1976)		Amount remaining	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
050 National defense	101, 000	91, 900	99, 866	92, 071	−1, 134	+171
150 International affairs	6, 000	4, 900	3, 979	4, 996	−2, 021	+96
250 General science, space, and technology	4, 700	4, 600	4, 645	4, 578	−55	−22
300 Natural resources, environment, and energy	18, 700	11, 400	18, 179	11, 349	−521	−51
350 Agriculture	4, 100	2, 600	4, 127	2, 966	+27	+366
400 Commerce and transportation	19, 000	18, 300	16, 208	17, 504	−2, 792	−796
450 Community and regional development	9, 500	7, 000	5, 559	5, 903	−3, 941	−1, 097
500 Education, training, employment, and social services	21, 300	20, 900	18, 548	18, 992	−2, 752	−1,
550 Health	33, 600	32, 900	33, 258	32, 661	−342	−239
600 Income security	137, 500	128, 200	138, 373	127, 661	+873	−539
700 Veterans benefits and services	19, 900	19, 100	19, 739	18, 916	−161	−184
750 Law enforcement and justice	3, 300	3, 400	3, 265	3, 404	−35	+4
800 General government	3, 300	3, 300	3, 537	3, 519	+237	+219
850 Revenue sharing and general purpose fiscal assistance	7, 300	7, 300	9, 510	7, 141	+2, 210	−159
900 Interest	35, 400	35, 400	34, 635	34, 635	−765	−765
Allowances	500	800			−500	−800
950 Undistributed offsetting receipts	−17, 100	−17, 100	−14, 885	−14, 885	+2, 215	+2, 215
Total	408, 000	374, 900	398, 540	371, 411	−9, 460	−3, 489

Note: Detail may not add to totals due to rounding.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 26, 1976.

Hon. BROCK ADAMS,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution of the 1976 budget. This tabulation is as of close of business March 25, 1976, and incorporates (1) actions taken by the Congress on March 25 and (2) the effects of comprehensive reestimates for fiscal 1976 budget authority and outlay levels based on our analysis of the President's 1977 budget and other recent information on spending levels. The tabulation does not include any reestimate of revenues. We are reviewing 1976 revenue estimates in light of the current economic outlook and any appropriate reestimates will be included in subsequent reports.

The principal changes from my report for close of business March 24 are as follows:

[In millions of dollars]

	Budget authority	*Outlays*
1. New congressional action: Supplemental railroad appropriation (H.J. Res. 801) conference agreement ratified by both Houses	587	545
2. Comprehensive budget reestimates	1, 224	—165
Total, change from report as of close of business March 24, 1976	1, 811	380

The complete tabulation of current 1976 budget levels for close of business March 25, 1976, is as follows:

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	386, 696	361, 061	301, 100
2. Entitlement authority and other mandatory items requiring further appropriation action	7, 119	7, 866	
3. Continuing resolution authority	4, 147	1, 882	
4. Conference agreements ratified by both Houses	578	602	
Current level	398, 540	371, 411	301, 100
2d concurrent resolution	408, 000	374, 900	300, 800
Amount remaining	9, 460	3, 489	300

The attached table provides supporting detail for this latest tabulation of current budget levels. I am also attaching a copy of our latest staff working paper on 1976 congressional budget scorekeeping which provides additional details on the comprehensive budget reestimates that are incorporated in the above tabulation.

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT, SUPPORTING DETAIL FISCAL 1976, AS OF CLOSE OF BUSINESS MAR. 25, 1976

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	196, 578	182, 992
Previously enacted appropriations and other spending authority	117, 425	136, 509
Offsetting receipts	−53, 881	−53, 881
Enacted this session:		
Appropriation legislation:		
Defense (Public Law 94–212)	90, 467	64, 704
Labor, Health, Education, and Welfare (Public Law 94–206)	36, 074	30, 721
Legislative Branch supplemental 1976 (Public Law 94–226)	33	
Rescission / deferral legislation: Deferral resolutions (H. Res. 1058, S. Res. 366, 385, and 388)		16
Subtotal, enacted	386, 696	361, 061
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Public assistance (AFDC)	843	843
Pay supplementals	2, 106	1, 927
Child nutrition programs	223	36
Military retired pay	440	438
Foreign service retirement	2	2
Coast Guard retired pay	8	8
Liquidating cash:		
Highways		1, 350
Urban mass transit		100
Maritime operating differential subsidies		12
Medicaid	607	607
Social services	752	752
Veterans compensation, pensions and readjustment benefits	1, 350	1, 240
Civil service retirement and health	483	246
Postal fund, federal payment	103	103
Claims and judgments	202	202
Subtotal, entitlement authority	7, 119	7, 866
III. Continuing resolution authority:		
Foreign assistance	3, 054	1, 361
District of Columbia	385	324
Labor-HEW items not considered	708	197
Subtotal, continuing resolution authority	4, 147	1, 882
IV. Conference agreements ratified by both Houses:		
3d Budget Rescission bill, 1976 (H.R 11665)	−71	−5
Social services—increase funding for child care services (H.R. 9083)	62	62
Supplemental Railroad Appropriation, 1976 (H.J. Res. 801)	587	545
Subtotal, conference agreements	578	602
Total, current level, as of Mar. 25, 1976	398, 540	371, 411
2d concurrent resolution	408, 000	374, 900
Amount remaining:		
Over ceiling		
Under ceiling	9, 460	3, 489

TO ESTABLISH A BUREAU OF AGRICULTURAL STATISTICS

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. MINISH. Mr. Speaker, I was proud last week to join my distinguished colleague from Massachusetts (Mr. MOAKLEY) in sponsoring legislation (H.R. 12652) to establish a Bureau of Agricultural Statistics.

The chief function of this new Bureau will be to investigate the food pricing issue and obtain information at each stage of the food marketing chain.

In recent months, wholesale and farm prices have begun to level off and even decrease in certain instances. However, this easing of inflation has not been reflected adequately in a family's grocery bill. The sponsors of this legislation, and the American people, want to know why.

Farm price increases are rapidly passed on to the consumer, but at best there is a definite time lapse before farm price decreases are reflected in the supermarket. At worst, the decreases seem not to be passed through at all.

Food prices have risen nearly 40 percent over the past 3 years and all consumers, especially the elderly and those on fixed incomes, have been hard hit by this unprecedented inflation.

Under H.R. 12652, mandatory reporting of price information would be required at each level of the food marketing chain to the new Bureau of Agricultural Statistics. The Bureau would report its findings to the Congress twice a year and be charged with formulating recommendations as to the most effective, speedy, and plausible method of lowering food prices.

An added benefit of this legislation will be the high probability that we will be able at last to identify precisely who is "ripping off" the American consumer. When we have that information, the glare of the public spotlight should work to compel lower food prices. If it does not, the Congress must step in decisively on the side of the public interest.

LEE BALATTI, EXTRAORDINARY COMMUNITY LEADER

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. TALCOTT. Mr. Speaker, when I learned that Lee Balatti, a friend, an extraordinary community leader and exceptional telephone company employee had decided to retire, I experienced ambivalent feelings. I rejoiced that he and Mrs. Balatti could now pursue some new and different personal goals. I regretted that we might lose his association and invaluable contributions to our community.

I have enjoyed my opportunities to work with Lee in a variety of community services.

My criteria for true public service has long been "selfless, sustained service to others." Lee Balatti epitomizes my criteria.

I have greatly appreciated his many volunteer contributions to his city, county and national affairs. Our hope is that Lee and Mrs. Balatti will enjoy their well deserved retirement in good health and with personal satisfaction in all their endeavors and that his example for exemplary community service will be continued by his many admirers.

Mr. George Brand, the editor of the Telegram-Tribune, a San Luis Obispo, Calif., newspaper, expressed the consensus of the community regarding the retirement of Lee Balatti.

I ask unanimous consent to insert the article at this place in the RECORD.

LET'S SAY "THANKS" TO LEE BALATTI

There's not a ticket left for Saturday night's dinner which will honor Lee Balatti who is retiring as Pacific Telephone Company's San Luis Obispo manager.

And that's how it should be.

Balatti deserves a full house at an event planned especially for him just as he deserves the gratitude of the entire community for devoting what could have been his private hours to the public service and good.

He came to San Luis Obispo from Frenso in 1963.

Since his arrival he's been president of the San Luis Obispo Chamber of Commerce, president of the San Luis Obispo Rotary Club, a member of the county grand jury (1966), a director of the community development association, chairman of the mayor's urban coalition, a member of the county juvenile justice commission and chairman of the San Luis Obispo Housing Authority.

In his public work, Balatti has done far more than attend meetings.

He has been a patient and determined leader in causes which, at times, were not popular initially but which proved worthwhile when completed.

Consider his work on the Housing Authority.

He was chairman from 1969 to 1973. As such it was Balatti who guided the work which resulted in 53 rundown housing units on South, Leff and High streets in San Luis Obispo being eliminated and replaced by 120 attractive units on eight sites throughout the city.

There was some community criticism when the Housing Authority launched the project. There were days of frustration when federal bureaucratic red tape snarled the program.

Quietly and firmly Balatti dealt with each problem as it arose.

The buildings today which provide decent housing for San Luis Obispo families are reminders of this man's willingness to continue to work for the public welfare after putting in a full day with the telephone company.

Not only should the San Luis Obispo community be grateful for the service Lee Balatti has given. Pacific Telephone is in his debt, too. He has been a splendid representative for the company.

Although Balatti is retiring from a business life, let's hope he's not withdrawing completely from public service.

The community needs men and women of his mold.

Balatti deserves rest and relaxation, of course.

From time to time, though, when his phone rings and someone tries to enlist his abilities in a community project, perhaps he'll say "yes."

If he does, the project will be the better for it.

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ENGLISH. Mr. Speaker, each year, the Veterans of Foreign Wars conducts its famous Voice of Democracy Contest, in which thousands of high school students join in competing for one of the VFW's five national scholarships. But this program is more than a scholarship contest—the VFW also makes it possible for the finalist from each State in the Union to visit the Nation's Capital as guests of the Veterans of Foreign Wars.

I was proud to learn that this year's winner from our State was Richard Wintory, from Enid, Okla., in the Sixth Congressional District. His speech offers an excellent perspective for all Americans as we enter our Bicentennial Year, and I commend it to my fellow Members:

WHAT OUR BICENTENNIAL HERITAGE MEANS TO ME

(By Richard Wintory)

Two hundred years. That's right—two hundred years. When someone asks, "What does the Bicentennial mean to you?", I answer two hundred years. And that sounds kind of funny when you think about it, but that's exactly what a Bicentennial is. Two hundred years. But what does the American Bicentennial mean to me? I think that's an important question for all Americans, because it still comes down to one thing—two hundred years. Those are two hundred years unrivaled in world history, unrivaled in hardships and blessings, sacrifices and courage and always a love of freedom, undaunted even by death. America has put a lot of living into two hundred years and we've got a lot to talk about, and we're sure talking about it—in the newspapers, on the television, on the radio, on every possible media from the streets into our homes—what's made up those two hundred years.

Now, is all this noise we're making over our Bicentennial really necessary? Ask the cynic. Maybe, but Americans have always been loud about things we're proud of. Whether it's the planting of the American flag on the moon or cheering our favorite football team, we're proud and loud. But there's another much more important reason for celebrating two hundred years of America. Perhaps the only problem with the Bicentennial is that we have a lot of people patting themselves on the back, saying that everything is fine and dandy; except when concerned Americans pick up a newspaper or listen to the six o'clock news and see that everything isn't fine and dandy. America's got some problems. And what does the Bicentennial have to do with that? Everything. Let's take a look.

Our country was founded on some mighty proud ideas. Some very important beliefs, men believed in, fought for, and died for, and have ever since. What is that standing for today? We have Congress—a once vital, dynamic organization which debated and decided crucial issues such as sovereignty of states over the federal government, the constitution, and the abolition of slavery. Congress today finds itself bogged down in discussing voting on pay increases, tied in red tape by the very bureaucracies it creates. There are a lot of federal watchdogs set up to protect the people, but what are they doing? This is what one senator claimed, "most of these federal regulatory agencies protect the industries they are supposed to regulate, rather than the people."

Now our Bicentennial heritage tells us Americans always jealously guarded and protected their rights but it was when we started depending on someone else to do our job for us that we got into trouble. It's just like draft dodgers who figured there was somebody else to fight for the idea of freedom and justice. Whoever said what you don't use you lose knew what he was talking about. People standing up for themselves is one of the things that made us great. It was the people standing together, forming the labor unions to make life a little easier. It was the people who made the free enterprise system the most productive and responsive economic order in the world. The people don't need the welfare and Social Security programs which threaten to bankrupt our government and encourage people to become dependent, moving us closer to socialism. No. America made herself great and only by people standing up for themselves will she remain great.

Now we see what our Bicentennial really means. It's a challenge. A flat challenge to examine what made us what we are, faith, a love of God and liberty, the Constitution, a lot of sweat and guts to look at them and put them into practice today. So we'll stand and not stoop, stride and not crawl into our next, our third Centennial.

ENERGY INDUSTRY DIVESTITURE IN PERSPECTIVE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. SARASIN. Mr. Speaker, in our continuing and thus-far nonproductive debate over the establishment of a productive national energy policy, there are those who have proposed breaking up the major oil companies or forcing them to divest various aspects of the petroleum business. The apparent rationale behind this is that more and smaller companies, or companies that do not engage in all aspects of production, refining and marketing energy would somehow benefit the consumer.

While I favor and have voted for measures to authorize a public audit of the oil companies, to enact an excess profits tax to prevent possible abuses, and to otherwise insure that the energy industry is responsive to the public interest, the facts simply do not support the arguments for divestiture.

I would like to submit for my colleagues edification the following editorial from the Hartford Times, a major Connecticut daily newspaper, which explains the true situation very well and puts the question into proper perspective:

THE OIL DIVESTITURE ISSUE JUST REEKS OF MCCARTHYISM

The effort by some liberal congressmen to force divestiture by the nation's major petroleum companies is so laughable that the initial inclination is to ignore the rantings as petty demagoguery. Unfortunately, history has proven that petty demagoguery, when ignored, all too often can succeed in achieving incredibly destructive ends.

There are two central charges made by those congressmen, including some from Connecticut, who claim the nation's largest petroleum companies should be broken up to heighten competition within the industry. The first charge is that the petroleum companies are monopolistic, and the second is that they have artificially increased prices in order to gain excessive profits.

Those charges reek of McCarthyism.

There is no factual foundation for either contention, and, in fact, the facts clearly dispute both contentions.

The nation's consumers today pay less for gasoline at the pump than the consumers of any other major nation, and this has been true for many years. Between 1958 and 1974, according to the Economic Report of the President, 1975, food prices increased 82.7 per cent, medical care costs increased by 105.6 per cent and the price of gasoline increased only 75 per cent—with virtually all of the increase in the price of gasoline directly attributable to the higher cost of imported oil resulting from the Arab oil boycott and subsequent price hikes beginning in late 1973.

A study published in The Public Interest, furthermore, shows that gasoline prices would have to reach 80 cents a gallon before they consume the same proportion of family income on a median basis as they did in 1955—more than two decades ago.

So much for the contention that gasoline and other petroleum prices have been artificially inflated by a monopolistic industry intent on earning excessive profits, an industry whose profits, during the past decade, have averaged 13.1 per cent of net worth, compared to an average for all American industry of 13.0 per cent.

The charge that the petroleum industry is monopolistic is even more ridiculous—and twice as easily refuted, providing one is willing to consider the facts.

Webster's Dictionary defines monopoly as "the exclusive control of the supply of any commodity or service in a given market . . . (to) . . . enable the one having control to raise the price . . . above the price fixed by free competition." The Arab oil cartel, upon which the United States is dependent for foreign oil since government policy in regulating petroleum and natural gas companies has hampered development of identifiable domestic petroleum and natural gas supplies, does in fact meet the definition of monopoly. The nation's petroleum companies, however, clearly do not.

No single American petroleum company is large enough to dominate or monopolize either the production, refining or retail distribution of petroleum and petroleum products.

There are more than 40,000 oil and gas companies in the United States; 10,000 are engaged in exploration for and production of crude oil or natural gas. But the largest producer accounts for less than eight per cent of domestic crude oil output.

A total of 131 companies operate 270 refineries in the United States. The largest refiner has less than nine per cent of the total United States refining capacity.

There are approximately 200,000 service stations in the United States and 95 per cent of those stations are operated by independent businessmen. The largest share of the gasoline market held by a single company is 8.2 per cent.

Official Government statistics show that the largest eight firms in petroleum refining have a concentration of only 57 per cent of the industry total. The largest eight primary aluminum firms control 100 per cent of their industry; the largest eight automobile companies control 98 per cent of their industry; the largest eight primary copper companies control 98 per cent of their market; the largest eight tire and inner tube producers control 88 per cent; the largest eight aircraft manufacturers control 89 per cent; the largest eight primary zinc producers control 90 per cent of the market. The list goes on.

In fact, if the federal government acts on the contention that 57 per cent control is monopolistic, in addition to the firms already mentioned, it will have to launch legislative attacks on producers of flat glass, industrial chemical bases, alkalines and chlorine, synthetic rubber, industrial trucks and tractors, semiconductors, weaving mills (synthetic), ship building and repairing, fertilizers, explosives, greeting cards, beet sugar, transformers, thread mills, X-ray apparatus and tubes, storage batteries, glass containers, knitting mills, distilled liquor, radio and television sets, printing ink, pulpmills and a score of other Amercan businesses and industries.

The effort would totally destroy the American economy.

Size is essential in the petroleum industry. Consider only two examples of the importance, the absolute need, for the size of petroleum companies: It can cost as much as $100 million for a single offshore drilling platform and it will cost in excess of $5 billion to complete construction of the trans-Alaska pipeline. Could a small company, or even a dozen small companies working together, generate that kind of capital?

The American petroleum industry is one of the most efficient industries in the world. It has held prices far below the increases that have marked every other sphere of American life. Freed from unrealistic and irresponsible government controls, it would insure exploration for and development of all the petroleum and natural gas the United States needs to meet current and future demands.

The arguments in favor of divestiture are critically dangerous to the future of the nation's economy. They must be exposed for what they are. The nation cannot afford a new version of McCarthyism capable of doing far greater damage to the nation's future than the original version.

THE RARE INDIVIDUAL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DRINAN. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent editorial from the Fitchburg-Leominster Sentinel and Enterprise, a newspaper published in my congressional district.

This editorial is entitled "This Rare Individual" and commemorates the life and work of Benton MacKaye, the "Father of the Appalachian Trail" and a cofounder of the Wilderness Society. Mr. MacKaye, a resident of my congressional district until his death last December, was, as this editorial so eloquently points out, a truly uncommon individual. Mr. MacKaye was a prophet of the need to protect our total environment and a pioneer in transforming his concepts of conservation into actual practice.

I commend to my colleagues in the House this excellent editorial and tribute to Benton MacKaye.

The complete text of the editorial follows:

[From the Fitchburg (Mass.) Sentinel-Enterprise, Mar. 12, 1976]

THIS RARE INDIVIDUAL

Benton MacKaye died last December 11 at the age of 96 in nearby Shirley and, in the words of author Lewis Mumford, the afterglow of his life shed blessing on all of us.

MacKaye was a rare and radiant individual who lived to see his daring and revolutionary concepts of conservation and regional planning become actual and accepted practices in his lifetime. He was a prophet of the environment—a conservation guideline he wrote and published in 1928 was reprinted in 1962, without any changes!

Here is a pioneer who foresaw the need to protect man's total environment through such programs as Urban Renewal and the Interstate Highway System long before the nation anticipated those needs, and those programs.

Although not active in his later years, he was not forgotten. His home in Shirley Center was visited by scholars, conservation ardents, students and administrators who paid tribute to his pioneering work of earlier days. It was McKaye who in 1921, laid out a 2050-mile footpath stretching from Maine to Georgia that earned him the sorbriquet of "Father Of The Appalachian Trail." He was a cofounder of The Wilderness Society.

That same society is one of the sponsors of a symposium to be held on Wednesday, March 24 in the Cosmos Club of Washington, D.C. to pay homage to him. The tribute will be informal because many of his old friends and associates and admirers wish to share with others their memories of MacKaye—

"this reticent, dryly humorous, purely individual and sometimes cryptic man."

When Benton MacKaye died, three months ago, Mumford said of him:

> "No man in his generation ever worked more devotedly to ensure that our country should meet what Thoreau before him called 'The Expectation Of The Land,' and no man could have done so with less concern about his personal advantage or public appreciation.
>
> "As an explorer of natural and human resources, he was in the great pioneer tradition of Bartram and Audubon, Thoreau and George Perkins Marsh. As a human being, he was a quintessential New Englander, though one by adoption like his contemporary Robert Frost.
>
> "MacKaye was truly one of Emerson's representative men, representative not only of the American past but of the better future that his ideas, if carried into action as effectively as the Appalachian Trail has already been, will lay the foundation of still greater achievements. . . .
>
> "Perhaps Benton's greatest good fortune was that he lived long enough to see some of the boldest of his ideas accepted, progressively realized and publicly acclaimed."

We in this area were privileged to have had him live among us as a neighbor and our regret is that there has been such delay in translating his conservation beliefs into actual practice.

RESEARCH FINDS INEFFICIENT INSULATION ENERGY DRAIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. EILBERG. Mr. Speaker, because of the energy crisis of the past few years, more and more Americans are aware of the rising costs produced by heating and air-conditioning their homes. Researchers have been looking for ways to help reduce high energy costs to the individual and also to business and industry.

One such group is Philadelphia's Mayor's Science and Technology Advisory Committee—M–STAC—which recently demonstrated that a serious energy and dollar drain is caused by air leaks in Philadelphia homes.

This was deduced from infrared photographs developed from thermograms taken in late February. These photographs were made while flying over northeast Philadelphia.

Lack of proper insulation seems to be at the root of heat loss from doors and windows of buildings. According to Dr. I. M. Levitt, executive director of M–STAC:

> Caulking and insulation should substantially reduce the annual energy bill. There could be an important saving of gas which is in very short supply for the entire Eastern seaboard, especially for industrial establishments. This is directly translatable in dollars and cents. Money invested in gas and electricity for heating and air-conditioning our homes and buildings is being lost unnecessarily.

Therefore, because of inefficient insulation, the Federal Energy Administration—FEA—has stated that 40 percent of the energy consumed in heating and cooling properties is wasted.

The February flight made by M–STAC was the first energy conservation flight over a major city in the United States, and was made with the cooperation of the FEA and other agencies.

A C–54 cargo plane borrowed from the National Aeronautics and Space Administration—NASA—was used for the flight over North Philadelphia Airport and City Hall on Tuesday, February 24 around 1:30 a.m. The heat-sensing camera equipment used was from the Naval Air Development Center—NADC.

The sensors recorded heat escaping from buildings directly below the 11-mile flight path made while flying at an altitude of 1,000 feet. When the infrared sensor readings were converted to photographs, those areas from which heat was escaping appeared white, while areas experiencing little heat loss showed up as gray or black. The lighter color is an indication of the amount of heat escaping and the energy being wasted.

Operating from the roof of the Mastbaum Vocational High School at Frankford Avenue and Clementine Street, three teams of thermography experts from NADC, NASA, and the FEA ground-proofed the results with portable infrared-scanning equipment as the plane passed overhead.

It has been determined from the photographs that there is little heat loss from roofs and a major loss from windows and doors.

CLOSING OF RURAL POST OFFICES

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, my distiguished colleague from New York (Mr. HANLEY) has raised a number of points relating to his concerns over current Postal Service policy and I would like to take this opportunity to express to the House the deep and genuine concern I have as a result of the rumors being circulated regarding the closing of rural post offices.

The controversy stems from a GAO report released last June recommending the elimination of 12,000 small, rural post offices. The GAO contends that these closings will save $100 million annually without reducing service.

My concern is that those conducting the evaluation and making these recommendations fail to understand what a post office means to the residents of these small communities. They are insensitive to the needs of these people and the true role of the post office in their town.

The economics of a post office closing may have one kind of impact to the Postal Service, but quite the opposite effect on the community. In addition, there are social and cultural impacts that are not, and cannot be, measured in dollars and cents. Our public policies cannot be limited to those actions which show a profit.

The leadership of the gentleman from New York on this issue is extremely helpful and constructive. I believe all of us in the Congress must seek a moratorium on any new closings in rural areas so that we have some time to formulate a policy to guide the Postal Service in these matters.

I have long felt that the weakness of our Government has been shown repeatedly in the way policies have been adopted to respond to conditions the way they are rather than the way they should be.

All too often programs focus on areas of great population concentration thereby creating additional population pressures, when we should be concentrating on those areas which have the potential to grow and absorb additional people and industry without undue dislocation. The Postal Service is suggesting a policy of good service to crowded areas and lesser service to areas without the pressures and problems of crowded urban centers. We should reexamine this approach.

DOWNEY RELEASES QUESTIONNAIRE RESULTS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DOWNEY of New York. Mr. Speaker, I am today releasing the completed results of a public opinion questionnaire in which I sought the views of my constituents on a variety of national issues.

The most striking results came in the question of asking for attitudes toward foreign military aid. The 3,976—86 percent—respondents want the United States to spend less money on foreign military aid, while only 68—1.5 percent—want our country to raise the level of these expenditures. The remainder of those answering want foreign military aid to remain at current levels. A similar, although not quite as dramatic a division shows up on the questions pertaining to foreign economic aid.

Strong support is shown for increased spending for senior citizens, energy research, and crime control, while broad opposition to "welfare" is also expressed.

On the question of offshore drilling, I am pleased that 62 percent of those participating support the approach I have taken in my proposed legislation that would allow the development of offshore oil and natural gas resources only when we can assure that the environment is protected against the attendant risks. Twenty-one percent approved development "as quickly as possible" while 17 percent oppose all drilling offer "because the environmental risks are too great."

The most popular among five choices for cutting oil and gas consumption is the imposition of higher taxes on larger automobiles—40 percent—while the least popular is a return to gas allocation—10 percent.

New York City receives strong support in my suburban district, with 66 percent favoring loan guarantees or unrestricted money grants to the ailing city, while 34 percent believe the city "should deal with the consequences of its actions without outside assistance."

Only 9 percent of my constituents answering the questionnaire feel that the right to own handguns should not be restricted, and an equal percentage—13 percent—believe all private handguns should be prohibited. More than half of the responses support registration of handguns.

A close division between those favoring comprehensive national health insurance—41 percent—and those favoring only catastrophic illness coverage—39 percent—far outweighed the 20 percent who want no new Government plans.

My constituents responding listed "Controlling inflation, Reforming Federal income tax, and Reducing Federal spending" as the top three priorities for the Congress, followed by crime control, national health insurance, and assistance to unemployed workers.

The 4,800 replies to this districtwide mailing late last year represented a good return for this type of questionnaire. I am pleased by the results of the poll, which shows a deep concern by the residents of my congressional district for the problems of our Nation, and a demonstrated willingness to face the hard choices that confront us as a people.

"There are many ways for a representative to find out what his constituents are thinking and I am convinced that this questionnaire has given a good cross-section of opinion in my district."

A complete tabulation of the questionnaire follows:

QUESTIONNAIRE RESULTS

1. Federal spending involves your tax dollars. Should we spend more, less or the same as presently on the following:

	More	*Less*	*Same*
Foreign military aid	1	86	13
Foreign economic aid	3	79	18
Military Spending	22	41	37
Welfare	6	70	24
Crime Control	62	7	31
Education	49	11	40
Senior Citizens	65	5	30
National Health Care	58	16	26
Employment Programs	58	15	17
Energy Research	77	6	17

2. Which proposal do you favor to cut our oil and gas consumption and reduce dependence on imported oil. Which means do you favor?

a. Impose higher tax on larger autos—40.

b. Return to gas allocation—10.

c. Allow prices to rise by decontrolling "old" oil—13.

d. Ration gasoline—18.

e. Increase the tariff on imported oil—19.

3. Which of these statements best describes your position?

a. I strongly favor developing offshore oil and natural gas resources as quickly as possible—21.

b. I favor developing offshore oil and natural gas resources, but we must assure that the environment is protected against the risk of offshore drilling—62.

c. I strongly oppose developing this Nation's offshore oil and natural gas resources because the environmental risks posed by offshore drilling are too great—17.

4. New York City is in severe financial difficulty. Which of the following is nearest your view?

a. New York City has been too careless with its money, and should deal with the consequences of its actions without outside assistance—34.

b. The city's economic problems are important nationally and the federal government should provide all possible assistance, including direct money grants—23.

c. The federal role should be limited to such actions as loan guarantees—43.

5. Which statement is closest to your view on handgun legislation?

a. The right to own handguns should not be restricted—9.

b. The sale of Saturday Night Specials should be stopped—24.

c. All handguns should be registered with strict penalties for possession of unregistered handguns—41.

d. Owners should not be allowed to carry handguns away from home or business without a permit—17.

e. All private ownership of guns should be prohibited—9.

6. National health insurance legislation. Would you favor:

a. A comprehensive program of medical care for all—41.

b. A plan covering major medical expenses only (such as major surgery or catastrophic illnesses)—39.

c. No new government plan—20.

7. What should the three highest priorities of Congress be?

Crime control—12.
Controlling inflation—15.
Aid to senior citizens—6.
Combating drug abuse—2.
Stimulating housing—3.
Assisting unemployed workers—8.
Improving mass transit—7.
Reforming the federal income tax—14.
Creating a national health insurance program—9.
Reducing federal spending—14.
Controlling pollution—5.
Increasing support for education—4.
Other—1.

SPEAKER SUPPORTS HOUSE BROADCASTING

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate your letter of March 25 in response to my letter of March 22 asking for a clarification of your position on broadcasting the proceedings of the House, "before the Rules Committee acts on the broadcast resolution this Wednesday, March 24, 1976." Unfortunately, your response was written a day late to influence the vote in the Rules Committee. As you may know, the committee voted 9 to 6 to send the resolution back to subcommittee.

I am sure you could write in all sincerity, after the vote had been taken, that, "so far as I know, no one in the majority leadership is actively working in opposition to House Resolution 875." Obviously, there was no further need for active opposition after March 24.

I am delighted, though, that you have reaffirmed in your most recent letter your previously stated support for broadcasting the House. This support will be most useful when the subcommittee reports any revised resolution back to the full committee, as our subcommittee chairman has stated he intends to do. I would hope we could take early action on this matter so that preparations can go forward for beginning the broadcast coverage of our proceedings at the beginning of next year.

At this point in the RECORD, Mr. Speaker, I include the text of your letter of March 25, a copy of which I am sending to all Rules Committee members:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., March 25, 1976.

Hon. JOHN B. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR JOHN: Thank you for your letter of March 22. So far as I know, no one in the Majority Leadership is actively working in opposition to H. Res. 875. Certainly I am not. I have given my approval to the matter of broadcasting the proceedings on the Floor of the House.

Sincerely,

CARL ALBERT,
The Speaker.

A VOICE FOR THE PUBLIC IN POSTAL CLOSURES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ABDNOR. Mr. Speaker, the strength of any nation rests upon its ability to interchange ideas and concepts, whether they be in government or in private enterprise. The right of the people to know and be informed is incumbent upon our Government if free expression and democracy are to be preserved.

Essential to this unencumbered interplay so vital to liberty, are the "messengers." Our media—the press, radio, television, periodicals—constitute a significant part of this "messenger" apparatus. Equally important to keeping the heart of freedom beating is the Postal Service and its role as a most important means of communication which crosses virtually all barriers in bringing people and ideas together.

Postal Service is indispensable. We cannot do without it, wherever we live, city or town, suburb or farm. Of particular importance is the often-overlooked feature of the personal impact that the Postal Service and its individual offices have on the citizenry in rural areas. It is oftentimes the only contact people in rural areas have with their Federal Government and it helps to strengthen a sense of national identity.

Now, however, the postal system is considering the closure of 12,000 post offices throughout this country. This action supposedly would save $100 million for the current fiscal year. However, the economic gains are very small indeed when compared to the Postal Service's overall budget. The savings will result in only eight-tenths of 1 percent or equivalent to only about two-thirds of the latest pay raise for postal employees.

While I strongly advocate any measure

which would result in a more efficient and effective postal system, I sincerely question the effectiveness of these closures. The closure of these post offices is not the solution to the fiscal woes of the postal system, nor is it even a partial answer.

This action, compounded with increasing rates and decreasing service, will only create a further disenchantment among rural postal patrons in this country as they view a deterioration of service.

It is imperative for a nation as well advanced as we are in so many areas of technological and human achievement to develop a more effective and efficient postal system. The task will be challenging and extremely difficult. However, this country has ably demonstrated its ability to confront any task successfully.

The criteria for closing these post offices have been very difficult to ascertain. We have seen revisions of what are supposed to be standard and permanent guidelines concerning the Postal Service and closures. We have been told that economic reasons will not be the sole reason for closure, and each post office will be handled separately regarding unique circumstances.

Unfortunately, there have been several indications that economic viability has, indeed, been a prime concern within the postal system, thus resulting in serious consequences for many rural postal patrons. It is very inequitable for a small portion of society to have to bear this reduction in service under the guise of savings, thus penalizing people merely because of where they reside.

The postal system policy regarding closure of an office is to provide equal or better service than is currently established. The alternative methods would be either the establishment of a community post office or rural box delivery. However, the mechanisms used to rectify those closures are still quite vague.

Therefore, there is a justifiable fear among local citizens that alternative service could be inferior to that which they now receive.

The postal system has also allowed for input from the citizens affected by these closures. However, the procedures for expressing their concerns are vague, and the impact these citizens will have on the closure policy must be more clearly enunciated.

I have introduced a bill to give the people the choice now denied them. Local patrons of each post office shall have the right to decide the status of their post office in question; they can vote to keep it, or they can accept the Postal Service alternative.

The citizens are told they have a choice of service, but, in effect, it is not a complete choice. The post office serving these patrons, under the present procedures, is closed and the people are given a vote on whether they want carrier service or a community service type of operation. That is not much of a choice when their preference may very well be the one option no longer available to them—keeping in operation the post office which serves them.

In any event, the people, under this proposal, have the opportunity to join with their appointed public officials in reaching a decision vital to all. This bill is in full keeping with the right of the people to act in their own behalf. It is time they had the opportunity to do so in a matter particularly vital to each citizen.

The legislation which I propose shall allow the local postmaster, on behalf of the U.S. Postal Service, to distribute a ballot to postal patrons who regularly use such a postal facility, in which that facility has been proposed for a change in postal service.

The ballot distributed shall give the person receiving such ballot an opportunity to approve or disapprove the change in postal service, which is proposed, and also designate any alternative means by which the post office facility involved may provide such postal services.

Any ballot which has been distributed shall be returned to the postal facility involved by the person receiving such ballot, no later than 10 days after receipt of such ballot. All ballots received after this time period shall not be tabulated. The postmaster of such facility shall certify the results of any balloting to the U.S. Postal Service.

The U.S. Postal Service may not make the proposed change in postal service unless such a change is approved by a majority of the persons receiving ballot.

The content of this bill follows:

H.R. 12864

A bill to amend title 39, United States Code, to provide that the nature of services provided by any post office facility may not be changed without the approval of a majority of the patrons of the facility, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter IV of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3663. Changes in services at post office facilities

"(a) The Postal Service may not change the nature of postal services provided by any post office facility unless such change is approved by persons using such facility in accordance with subsection (b).

"(b)(1) In any case in which the Postal Service proposes to change the nature of postal services provided by any post office facility, the postmaster of such facility shall distribute a ballot to persons who regularly use the postal services provided by such facility.

"(2) Any ballot which is distributed under paragraph (1) shall give the person receiving such ballot an opportunity to—

"(A) approve or disapprove the change in postal services which is proposed; and

"(B) designate any alternate means by which the post office facility involved may provide such postal services.

"(3) Any ballot which is distributed under paragraph (1) shall be returned to the post office facility involved by the person receiving such ballot no later than 10 days after receipt of such ballot. No ballot returned after such period may be tabulated. The postmaster of such facility shall certify the results of any balloting to the Postal Service.

"(4) The Postal Service may not make the proposed change in postal services unless such change is approved by a majority of the persons receiving a ballot with respect to such proposed change under paragraph (1).".

SEC. 2. The table of sections for subchapter IV of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3663. Changes in services at post office facilities.".

THE PANAMA CANAL PROBLEM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. WAXMAN. Mr. Speaker, the question of future control over the Panama Canal remains an unresolved and potentially explosive foreign policy problem for the United States. At stake are fundamental questions regarding the security of the United States, domestic and international commerce, and, by implication, our relations with developing nations. For a variety of reasons, our negotiations with Panama have unfortunately become enveloped in an emotional atmosphere which has had a chilling effect on a reasoned evaluation of what a new treaty should provide. The result has been a virtual halt in progress in concluding a new agreement, to the detriment of our relations with Panama and a satisfactory resolution of the issues involved.

Mr. Godfrey Harris, a noted international relations consultant who has been advising the Government of Panama during the treaty negotiations, has written a thoughtful article on the current status of the Panama Canal talks for the newsletter Vital Issues. I believe his perspective is a useful one, and commend the article to the attention of my colleagues:

THE PANAMA CANAL PROBLEM

(By Godfrey Harris)

The future of the Panama Canal has again become more a matter of domestic politics than international policy; more an item to be negotiated with members of Congress than with representatives of Panama; more mired in an era gone by than a beacon of an era yet to come. It is an issue, in short, of historical complexity and considerable danger.

About a year ago, US/Panamanian agreement on a new treaty—to govern jurisdiction of the 500 square mile Canal Zone and the operation of the interoceanic waterway which bisects it—seemed imminent. Both governments were at last well into grappling with the details of the key points of contention: How the United States would relinquish sole control of the facility and how Panama would share in its single most important economic asset. Now, however, a new treaty may not be initialed by the two governments until well after the United States has elected and inaugurated its next President.

What went wrong after three years of intensive bargaining? How could both sides apparently come so close to a new accommodation to resolve this dispute only to see the fruits of negotiation virtually collapse? Not surprisingly, the answer seems to be linked more to the long history of U.S. involvement with the Canal than to any specific disagreement.

While the desire to change the current jurisdiction of the Zone and operation of the Canal has long been clearly established in Panama, it has been virtually ignored in the United States. Put another way, what appear to nearly all Panamanians as eminently logical and important adjustments in the current relationship between the two countries remain somewhat mysterious and minor technalities to most Americans. As a result, a fundamental prerequisite for any type of change—popular understanding and general acceptance of the necessity for change—is not yet evident in the U.S. half of the Canal negotiations. It would seem that until the people of both countries come to see the matter from the same relative perspective, no mutually acceptable resolution of the jurisdictional dispute is possible and continuing confrontation is inevitable.

It is this threat of escalating confrontation which looms before both the United States and Panama:

The chance of some precipitous act of destruction in the Canal or some hostile event in the Zone increase as Panamanian frustration over further delays continues to build.

Any act of Panamanian militancy is likely to be met again—as it has been met in the past—with equal American militancy. A renewed testing of forces can at best produce severe political tension; at worst, another round of bloodshed.

If a testing comes, United States leadership within the hemisphere will very likely regress to the detriment of our other goals in the region and beyond. The gulf between the official U.S. position on Canal matters and its practical actions to date have bothered even the most tolerant of the area's governments.

To approach the possible options available to both sides to avoid a serious confrontation requires some understanding of how we have arrived at the current impasse. It is with this purpose in mind that a brief review of the history of the Canal seems in order.

As a natural link between the two great masses and two immense bodies of water, the Isthmus of Panama has played an important role in international commerce for hundreds of years before the Canal was constructed. The earliest inhabitants of the Isthmus, for example, are known to have been involved in trade and communications between the great Central and South American civilizations. Later, mule trains crossed and recrossed the narrow land to transport New World treasure to Europe and Spanish-controlled goods to the Americas. In 1855, the first transcontinental railroad provided a favorite route between America's Eastern cities and California's gold fields.

The decision to build an uninterrupted waterway through the Isthmus was not only a dream dating back to the final voyage of Columbus, but also a logical extension of this historic activity. The first to seriously attempt the task was a French private company operating in the 1880s. It failed—generally because the project was stubbornly seen by its manager, Ferdinand de Lesseps, as no more complicated than the construction of the sea level Suez Canal he had successfully accomplished.

When factors of the Colombian Government thought they could do better than accept what the U.S. was then offering for the rights to succeed to the French endeavors, a group of Panamanian leaders decided to act for their own account to insure that the Canal project would continue. These Panamanians, conscious that their country had previously been an independent state, determined to declare their nation's independence once aagin. With the help of the U.S. Navy and the private U.S. interests controlling the railroad, independence from Colombia was assured.

Within days of the 1903 declaration, de Lesseps' former chief engineer arrived in the U.S. capital empowered by Panama's new government to conclude a Canal treaty with the U.S. This Frenchman, Philippe Buneau-Varilla, believed that only the U.S. Government was capable of completing the project, and in so doing, would save France from the stigma of failure and French investors from the devastation of financial loss.

With these thoughts in mind, Buneau-Varilla set out to make an offer the U.S. couldn't refuse. The agreement—which Secretary of State Hay was later to characterize as ". . . a Treaty vastly advantageous to the United States, and we must confess, not so advantageous to Panama"—did indeed give the U.S. more than it could refuse.

It has also formed the basis for the ensuing years of disagreement. Most of the problems are found in Articles II and III of the Hay/Buneau-Varilla Treaty of 1903:

Article II: The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles . . .

Article III: The Republic of Panama grants to the United States all the rights, power and authority within the Zone . . . which the United States would possess and exercise if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

The precise words of the Treaty are important, because they have been the subject of considerable contention and the cause of much misunderstanding. Panama, it should be noted, only granted use of the land for a Canal; it did not sell, deed, or otherwise transfer ownership of that land and it limited the use of the grant to activities connected directly to the proposed waterway. The United States, however, was given its right of use forever ("in perpetuity"). Moreover, since the U.S. was awarded control of the land as "if it were the sovereign", it was left to the U.S. alone to determine whether its activities in the Zone were in conformity with this right.

The U.S., quite naturally, chose to interpret the provisions of the Treaty very broadly. Despite Panama's objections, it is still doing so. Such is the total control of the U.S. within the Zone, that today:

Some 10,000 U.S. troops are housed on 14 military bases in an area half the size of Rhode Island. Many Americans believe that the continuing presence of these troops and their equipment are sanctioned by the U.S. right to defend the Canal. To Panamanians, the world wide defense interests of the U.S. (the mission which concerns some 70% of the troops) go far beyond the immediate defense of the waterway sanctioned by the Treaty.

Some 30,000 other people, mostly American, live permanently in the Zone and are provided with a dazzling array of facilities and services by the U.S. Government through its Federal agencies, its wholly-owned Panama Canal Company, and its wholly-controlled Canal Zone Government. Among these facilities and services are: 26 schools, 8 swimming pools, 10 fire stations, 18 post offices, a 6 branch library system, 5 youth centers, 4 hospitals, 2 animal pounds, a crematorium, a plant nursery, a milk and ice cream plant, 6 gasoline stations, 2 bowling centers, 9 theaters, 2,500 public housing units, and 33 social clubs including 5 golf clubs, 6 yacht clubs, and 6 saddle clubs. All of this and a lot more is provided to insure that American personnel connected with the operation of the Canal and the Zone are sufficiently contented.

To insure that the Zonal community is sufficiently peaceful, the U.S. has also provided a 263-man police force, a two-tier court system, complete with U.S. marshals, U.S. attorneys, magistrates and judges. Panamanians passing through the Zone and suspected of an infraction of Zonian laws—laws enacted by the U.S. Congress on the basis of U.S. legal standards—are taken before American-style courts to be tried in English before juries on which only American citizens serve.

Despite the fact that the Zone looks and feels like many suburban American towns, the Zone itself is operated very much like a military base. As such, it lacks four attributes of nearly every other American community: it has no local taxation of any kind, it has no voting or community control over how it is governed, it has no private ownership of property, and it has no welfare rolls.

The Zone, in short, is a self-contained company town where traditional American democracy has never been practised. (The U.S. Army Corps of Engineers has selected the Zone's Governor from its ranks since 1912 and the Corps has run the Canal's operations, subject only of late to the guidance of a presidentially appointed Board of Directors, since it opened in 1914.) Most Zonians seem to have no objection to this arrangement; few, in fact have even noticed that they live under a classic form of dictatorship.

Some stateside Americans, however, have recently become conscious of the extraordinary life style of the Zonians. They have discovered, for example, that their fellow citizens in the Zone are entitled to a total of 9 weeks annual leave, free biennial trips to the U.S., and a bonus on annual salary and retirement benefits of 15%. One recent study submitted to the House Subcommittee on the Panama Canal suggested that American taxpayers are actually footing the bill for most of these extra costs. They are funded through the Canal tolls which are spent in the Zone before they have a chance to reach the U.S. Treasury, through direct Congressional appropriations for various capital expenses, and through military and other agency budgets which support the many special services to be found in the Zone.

Panamanian reaction to all of this luxury is mixed. They don't so much begrudge the Zonians what they have—as do some Americans; rather, Panamanians lament more their exclusion from the benefits of their own territory that the U.S. system in the Zone implies. Before the Canal, Panamanians played a crucial part in the numerous transshipment services and related activities on the Isthmus. With the opening of the Canal, the U.S. Government and their citizens began providing all of these services. Even since, Panamanians have felt deprived of the full role that geography and nature had provided their country. While the revenue Panama receives directly from the Zone is small (about $2.6 million per annum against total Canal income of $280 million), Panamanians say that additional payments could not adequately compensate them for something as intangible as their loss of pride. In short, it is a full sense of dignity which Panamanians feel they lack, which Americans appear not to understand, and which American jurisdiction of the Canal Zone prevents them from fully regaining.

But the U.S. Government's task of meeting Panamanian desires to reclaim control over their territory, to share in the operation of the waterway, and to limit its non-Canal defense interests, is far from simple. Any treaty agreed to by the negotiators must be submitted to a ratification process in both countries. American negotiators are searching for an agreement which will survive Senate review—where 67 Senators must approve. Moreover, since a new treaty will involve the transfer of U.S.-owned property, under Article IV of the U.S. Constitution a majority of the House of Representatives must also assent to the terms of the agreement.

The same treaty must also, of course, be submitted for ratification in Panama. Under Panama's Constitution, a plebescite among that country's entire citizenry is involved. What might thoroughly satisfy major elements of the U.S. Congress is almost certain to dissatisfy substantial numbers of voters in

Panama. On the other hand, if Panama were to get all that its various interests have suggested, the U.S. Congress would surely object.

The negotiations, then, have been targeted on reaching the best possible compromises to capture the broadest possible agreement in both countries. Unfortunately, most U.S. groups have yet to focus on the problem in the same way that Panamanian interests have. Those Americans that have involved themselves have been the ones most opposed to the official U.S. negotiating position. The bulk of Americans who might accept a number of compromises satisfactory to the majority of Panamanians haven't been involved, haven't cared, or have apparently accepted at face value the arguments of those who have been least inclined to give up anything.

The United States as a society is so far from grappling with the essence of the dispute that even the most basic issues have yet to be searchingly debated. Among these issues are:

To what extent is the overall security of the United States really dependent on the Panama Canal being totally controlled by the U.S. Government?

To what extent is current U.S. inter-coastal domestic commerce or its international trading relationships dependent on the continuing employment of Americans currently in the Zone and on the current toll rates of the Canal?

Does U.S. maintenance of a subsidized colonial enclave in Panama vitiate our moral standing in the world on other issues or invalidate our long professed abhorrence of colonies controlled by others elsewhere?

The fact that these basic issues have yet to be addressed by the American people in any kind of systematic way attests to the protency of the domestic political alliances which have grown up around the question of the future of the Panama Canal. These informal alliances—among leaders of generally opposite philosophical viewpoints—have seemed to limit the debate. Without it, an American consensus on the form or pace of change may never arise.

One of these unusual alliances has been formed among some philosophically liberal and conservative members of Congress. American liberals have long tended to support the aspirations of organized labor. In the Zone, the work force is heavily unionized by AFL–CIO affiliates and fearful that any alteration in U.S. control will mean substitution of Panamanian labor in jobs now held by American citizens. Most of these liberals, who otherwise have opposed colonialism as well as U.S. intervention in other countries, have not publicly analyzed this assumption; conservatives, on the other hand, seldom find issues on which to side with organized labor. In the matter of the Panama Canal, however, conservative interests, who are generally inclined to support the status quo anyway, can also back labor without fear of countervailing pressure from local business groups (there is no private, unionized business in the Zone).

Another unusual alliance arises from the politics of national defense. The Pentagon knows and values what it has in the Canal Zone. Many officials of the Defense Department oppose any reduction in its operations there because of the strategic unknowns, possible new costs, and the loss of some favored Army, Navy, and Air Force billets.

Those members of Congress who have traditionally favored a strong defense establishment also find themselves accepting the Pentagon's traditional position toward the Canal and the Zone. They are joined, however, by many liberal members of Congress who are generally among those who question redundancy in our defense capability. The reason seems to be rooted in the power of the Army Corps of Engineers. The Corps not only runs the Zone, but it must also approve every domestic dam, flood control, and water project to be built in the U.S. There aren't any votes as yet for liberal Congressmen on the Canal issue, but there are lots of potential votes in major Federal construction projects within a local district.

The result of the unusual alliances, reinforced by the activities of a strong Congressional lobbying effort supported by Americans working in the Zone, has made the question of the Panama Canal more a matter of domestic politics than foreign policy. Even President Ford's own quest for nomination and election in 1976 has caused him to be cautious on this issue. With seemingly little to be gained by a positive and bold stance on the Panama Canal—and with potentially much to be lost among those conservative voters who consider the Canal a proud American achievement, paid for with American dollars, operated efficiently for world commerce, and vital to U.S. defense needs—President Ford has apparently slowed the negotiations to a virtual halt until the campaign is finished.

WHERE DO WE GO FROM HERE?

Given this confluence of American interests which supports the status quo and yet conscious of the pressures on Panama, where do we go? How is this problem to be resolved? It would seem to some that changes in the Zone are almost inevitable—not only because they are in a direction the world has moved for the past 30 years, but because the Canal itself is essentially defenseless and may soon be economically obsolete without major structural changes.

If the United States is to be on the forward edge of inevitability, rather than dragged into it by circumstances, it would seem that it must avoid a serious confrontation with Panama. In this regard, also, we must be conscious of the fact that disputes between little nations and the superpowers have had a tendency to escalate beyond their original dimensions while endangering potentially more vital interests in the process. Nor can we forget that in the arsenals of the present day, conventional military activities may be the last means chosen by a smaller country to engage in a debilitating, costly, and unhappy struggle with the U.S.

To move this problem once again toward a mutually acceptable resolution, it would seem, requires that the future of the Panama Canal be put high on America's national agenda. The basic issues must be openly debated and the options for solution carefully considered. This means that each of us must begin to ask candidates to express themselves on the subject, that reporters must probe the basis for a candidate's position, and that the communications media must give thorough exposure to the essential facts of the dispute.

Once the hard questions are asked and once the answers begin to be analyzed, a new definition of America's real and continuing national interest in the Canal should arise. Only then are we likely to achieve the compromises necessary to satisfy the majorities of both countries that what is to happen in the Zone will be fair and in the mutual long term interest of both nations.

A MUCH DESERVED HONOR

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. BAFALIS. Mr. Speaker, it is with a great deal of pride that I join my colleagues in the Florida delegation in cosponsoring legislation to name the new Tampa Veterans' Administration Hospital the "James A. Haley VA Hospital."

I think it is an extremely fitting tribute to a man who has devoted many, many years of service to this Nation, both as a soldier during World War I and as a Member of Congress since January 1953.

Further, as a Member of Congress, Mr. HALEY spent many, many years as a member of the House Committee on Veterans' Affairs. As such he is, in great part, responsible for the very hospital we now seek to have named in his honor.

Mr. Speaker, I can honestly say I know of no man more deserving of the honor of having a Veterans' Administration hospital named for him than my good friend and Florida's most distinguished Congressman from Sarasota, the Honorable JAMES A. HALEY.

IT IS ONLY FAIR

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. WAMPLER. Mr. Speaker, at this time of year, as April 15 approaches, many of us are struggling with our income tax returns. It is with a genuine sigh of relief that we finally sign, seal and mail that annual return, with a check attached, or a request for a refund, as fate would decree.

Much to their chagrin, many taxpayers find, that in spite of their best efforts, they become involved in disputes with the Internal Revenue Service, and are hauled into court to defend their position, right or wrong. Even if they win in court, they must pay heavy legal fees.

My friend and colleague, the honorable JAMES H. QUILLEN, of Tennessee, has introduced legislation to compel the Government to pay the legal fees of taxpayers who win tax cases against the Internal Revenue Service.

The Bristol Herald Courier, a fine newspaper which services both my district in Virginia, and Congressman QUILLEN's district in Tennessee, has heartily endorsed the Quillen legislation in an editorial published Sunday, March 28, 1976. I agree with the editor that "It Is Only Fair," and commend the editorial to every Member of this body. Mr. Speaker, I include the article from the Bristol Herald Courier as part of my remarks:

IT IS ONLY FAIR

Rep. James H. Quillen of Tennessee's First District ought to get a medal for a bill he proposed last week, and if he succeeds in getting the bill passed, he ought to get another one.

He believes the government should pay the legal fees of taxpayers who win tax cases against the Internal Revenue Service. He's right, of course, and his bill would provide for such payments under such circumstances.

Rep. Quillen said the present system denies "equal justice" to taxpayers involved in disputes with the IRS. They don't enjoy the resources—human and financial—available to the IRS and, because they don't, they're at a disadvantage when they find the heavy hand of the tax collector on their shoulders.

As a result, more than one taxpayer has found himself in a quandry. Should he accept whatever finding (and bill) the IRS hands him—or spend more than that defending himself in court? Even if he wins, he loses.

Faced with this choice, a great many taxpayers choose the path of least resistance—and least cost. So, even though they may believe, correctly, they don't owe the IRS a dime, they pay through the nose anyway. It makes little sense, after all, to pay legal costs greater than the amount involved in the tax bill.

Thus, Rep. Quillen points out, the "citizen is effectively coerced into submitting to the IRS ruling and paying the tax collectors what they say is owed."

The congressman further noted that the government has at its disposal all "the enormous and sometimes intimidating resources of a bureaucratic juggernaut" and the private citizens is, "in effect, rendered virtually defenseless."

His bill won't prevent the Internal Revenue Service from going after whatever taxes it believes the government has coming. But it might very well make the IRS a bit more certain of its position before it descends on the taxpayers with both hands and both feet.

When it does decide to do that, however, a citizen who believes he's being unfairly taxed can go to court with the knowledge that, if he's right, it won't cost him anything—provided Mr. Quillen's bill becomes law. At least, he would have a fighting chance, which is something he doesn't have at the present time.

Moreover, if Mr. Quillen's measure is enacted, it could very well lead to more uniform procedures by the Internal Revenue Service. And that, if it ever happens, could in turn be the catalyst for a simplification of IRS laws—on which not even the "experts" in the Internal Revenue Service always agree.

But, more than anything else, Mr. Quillen's bill would, as he states it, "put the taxpayers on a more equal footing in disputes with the tax collectors."

That would, indeed, be something for the American people to cheer about as we celebrate the nation's Bicentennial. After all, this nation's roots were planted in a dispute with an all-powerful government over, among other things, taxation. When an individual can stand up and challenge the government on a "one to one" basis, undaunted by the power of economic imbalance, that is freedom at its finest.

HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON REAUTHORIZATION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary will hold a hearing on the reauthorization of the Law Enforcement Assistance Administration on Thursday, April 1, 1976 at 10 a.m. in room 2237 Rayburn House Office Building. The witnesses testifying will be: Mr. Gerald Caplan, director, National Institute of Law Enforcement and Criminal Justice; Judge Huey P. Shepard, chairman, Criminal Justice Coordinating Council for the Compton Judicial District, California, accompanied by Mr. Martin Mayer, Administrator, Criminal Justice Coordinating Council for the Compton Judicial District, California.

ADMINISTRATION'S AGRICULTURE BUDGET TO HURT WISCONSIN

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. BALDUS. Mr. Speaker, the Ford administration's proposals for an agricultural budget for fiscal year 1977 represents a decrease in needed programs and services which will have an intense negative impact on agricultural States like Wisconsin.

The President proposes to decrease spending—outlays—for the Department of Agriculture by over $3.4 billion in fiscal year 1977 from current estimates for fiscal year 1976—from $14.2 to $10.8 billion.

The following is a comparison of Ford cutbacks between fiscal years 1976 and 1977:

[In millions of dollars]

	1976	1977	Change
Agriculture	2,510	2,046	−464
Food programs	8,383	7,103	−1,280
Public Law 480	1,211	996	−215
Natural resources programs	1,031	824	−207
FmHA revolving loan accounts	501	−764	−1,265
All other	578	549	−29
Total	14,214	10,753	−3,461

Note: Numbers may not add due to rounding.

President Ford proposes decreases in the following programs:

The food programs account for about $7.1 billion of the Department's budget. The administration proposes to allow commodity donations to drop by about $1.3 billion in 1977; it proposes to cut back the food stamp program by about $900 million, and to cut food program outlays by $739.8 million. Of special significance for Wisconsin is the fact that the administration proposes ending the special milk program in the schools.

The Public Law 480 program level will drop $194 million.

The Ford budget calls for price support costs to drop by 645.8 million. This does create an incentive on the administration's part to hold the line on CCC purchases by keeping farm prices above support levels; hopefully it will pursue price policies accordingly.

President Ford requested no money for the following programs:

Rural development grants;

Domestic farm labor grants;

Rural waste and water disposal grants—$470 million in subsidized loans will continue to be made available;

Agriculture conservation program;

Sire summary program;

Mutual and self-help housing grants;

Water bank program;

Great Plains program;

Forestry incentives program; and

Rural community fire protection grants.

Major changes proposed in the 1977 budget include:

[In millions]

	Budget authority	Outlays
Agricultural Research Service:		
Research	+$12.7	+$15.3
Construction	−18.5	−2.4
Cooperative State Research Service	+8.0	+11.6
Extension Service	−10.1	−6.1
Soil Conservation Service:		
Emergency measures	−50.0	−14.7
Other	−30.3	−13.4
Food Nutrition Service and sec. 32:		
Food stamps	−453.1	−916.5
Other food programs	+649.4	+544.4
Proposed legislation (net)	−1,057.7	−739.8
Animal and Plant Health Inspection Service:		
Meat and poultry inspection	+4.2	+4.3
Animal and plant disease control	+18.2	−.9
Farmers Home Administration:		
Water and sewer grants	−125.0	+22.0
Revolving loan accounts	+64.7	−1,264.9
All other	+4.5	−2.0
Agricultural Stabilization and Conservation Service:		
Agricultural conservation program	−85.0	−38.5
All other	−37.8	−40.2
Commodity Credit Corporation	−1,833.6	−645.8
Public Law 480	+79.4	−215.2
Title I (program level)	(−119.5)	
Title II (program level)	(−73.8)	
Total (program level)	(−193.3)	
Forest Service:		
Forest protection and utilization	+18.9	−28.2
Fighting forest fires supplemental	−115.0	−100.0
Forest roads and trails	+200.0	+70.2
Program level	(+195.1)	
Youth Conservation Corps	−35.0	+.5
All other primarily permanent appropriations)	−80.8	−122.9
All other, U.S. Department of Agriculture	+13.1	+22.3
Total, U.S. Department of Agriculture proposed changes	−2,858.6	−3,460.9

Obviously, the administration assigned a low priority to the needs of American agriculture in proposing its 1977 budget. These cuts need to be evaluated and addressed by those of us who believe they are unwarranted. In a time of rising inflation and costs, more money is needed to simply maintain the status quo. When looked at in that light, the Department of Agriculture budget is 20 to 25 percent below program requirements.

I hope the Congress turns its mind to more reasonable budget alternatives for the farmers of the country, farmers who are tired of getting the short end.

HOUSE RESOLUTION 875

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. MAZZOLI. Mr. Speaker, the Rules Committee voted to shelve House Resolution 875, to provide for television and radio broadcast coverage of floor proceedings in the House, was a disservice to the American public, the intended beneficiaries of a Congress open to cameras and microphones.

The fears and concerns about House Resolution 875 expressed by some Members of the House—while held in good faith—are groundless, in my judgment.

Open decisions, openly arrived at, are in the best interest of the people of this country and their elected representatives.

Adoption of House Resolution 875 would have been a fitting memorial for this Bicentennial Year.

I hope the people have only to await the 95th Congress—not the Tricentennial Year—to be admitted into the great Hall of the House of Representatives.

WOLFF ATTACKS CRIME LINK TO DRUG TRAFFIC

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. WOLFF. Mr. Speaker, regularly, I send my constituents newsletters to keep them abreast of congressional activity and to ask their views on the issues facing the country. The following is taken from my most recent newsletter and includes the results of my latest questionnaire:

Mexican Connection Exposed—Wolff Attacks Crime Link to Drug Traffic

The costly impact on every American of the current rapid rise in crime is being overshadowed by this nation's depressed economic condition, high unemployment and attendant human despair.

Yet, crime today remains "big business" reaching into every corner of society to exploit the innocent, reap enormous profits for the unscrupulous lawbreaker, and rob Americans of more than $30,000,000,000 (billion) in resources annually.

"More than 70 percent of the crimes committed today stem from drug abuse and will continue at this rate until we take firm action to stop the illegal flow of narcotics, primarily heroin and cocaine, into this country," said Rep. Lester Wolff.

Narcotics agents throughout the world agree that the only way to stop the traffic is to cut off the supply at the source—for once the drug is cultivated, processed and refined into small lots, it is virtually impossible to control.

Rep. Wolff is working to check the dangerous and persistent proliferation of drug related crime by attacking the problem at its sources—the opium fields of Asia, Turkey and Latin America, for no opium is grown in the U.S.

"As you know, I have been deeply concerned for many years with securing top priority action in the battle against the drug menace and intend to continue my efforts to gain appropriate government emphasis on the problem of narcotics trafficking. While the Administration vacillates and remains virtually insensitive to the problem, I am seeking necessary controls through legislative channels."

This session, the House and Senate approved a Wolff amendment to the International Security Assistance Act to require Presidential certification that countries engaged in opium production are cooperating in anti-narcotics efforts before becoming eligible for American aid. "This action makes our commitment to stopping the illegal flow of narcotics into the U.S. a matter of law, not just lip service," said Wolff.

Statistics indicate that crime costs the American taxpayers more than $30 billion a year in property loss alone—not to mention the millions of dollars being wasted each day on heroin abuse. According to the Drug Enforcement Agency, the heroin user, the junkie, must spend an average of $65 a day, or almost $24,000 a year, to maintain his habit. Multiply this by the new estimate of 500,000 heroin users in the United States and it is easy to understand why drug abuse is such "big business" for the traffickers.

For example, a typical drug operator can make a buy in Mexico (now the principal source of heroin into the U.S.) of a kilo (2.2 pounds) of 80 percent pure heroin for about $10,000. This kilo, once it has changed hands from importer to wholesaler to distributor to street pusher, and has been diluted two and three times with milk sugar and quinine along the way, has reaped profits for the traffickers in excess of $300,000. In short, heroin is "big business" for the traffickers who are sending more than $1 billion of heroin into the United States each year—or more than the total spent on the entire Mexican tourism industry or one-third of all Mexican exports.

In Mexico, with President Echeverria, Rep. Wolff, Chairman of the Special House Subcommittee on International Narcotics Control, and Rep. Benjamin Gilman (R-N.Y.) succeeded in obtainting an unprecedented agreement to establish for the first time a binational organization to coordinate the entire spectrum of narcotics control, an accord being hailed by press reports in both Mexico and Washington.

"Working on the premise that drug abuse is a mutual problem, the solution will require a massive effort by all nations concerned to achieve ultimate success," said Wolff, "for in Mexico there are as many as 1,000 clandestine air strips, and glaring lack of customs control and highly favorable climate conditions for multiple harvests."

After negotiating in Mexico, Reps. Wolff and Gilman reached similar accords with the Presidents of Costa Rica, Panama and Colombia. President Ford and Secretary Kissinger have hailed these results as a "major breakthrough" in efforts to eradicate the illegal drug traffic from Latin America and have expressed their intention to Wolff of implementing the program.

These agreements call for the establishment of the counterpart organizations; supply of necessary reconnaissance equipment for overflight operations of the opium producing areas; manpower training technology and equipment to assist foreign enforcement officials; a coordinated intelligence sharing organization; and initiation of programs to increase public awareness of the scope of the problem and the severity of foreign laws dealing with traffickers and drug abusers.

Legislative Actions

(Following is a brief compilation of some of the key legislation introduced, sponsored or supported by Rep. Lester Wolff during the First Session of the 94th Congress:)

GENERAL WELFARE

Bill to provide federal aid to localities faced with financial hardship to rehire public safety and health personnel. Passed House.

Bill to require increased fuel efficiency and economy performance standards for new automobiles. Similar provision enacted.

Federal loan program to assist jobless workers faced with foreclosure to meet home mortgage payments. Now law.

Bill to strengthen penalties for commission of a felony with use of a firearm.

Bill to allow deductions for the cost of installing crime prevention equipment and to provide tax relief for victims of crime.

Bill to amend tax code to provide additional itemized deduction for individuals who rent their principal residence.

Bill to allow a tax credit for certain expenses incurred in providing for higher education.

Bill to permit the disabled and handicapped to exclude the annual costs for taxicab fares and other essential transportation.

Bill to exempt persons 65 years and over from federal income tax on the first 5,000 of retirement income.

Bill to exclude from gross income the interest on savings bank deposits to $400 an individual.

VETERANS AFFAIRS

Bill to provide 8 percent cost-of-living increase for needy veterans and 10–12 percent increase in compensation for service connected disabled veterans, their widows and children. Enacted.

Bill to provide special pay incentives for physicians working in VA facilities to assist in recruitment of qualified personnel. Enacted.

Bill to extend to 45 months entitlement for graduate and undergraduate students under GI Bill. Passed House.

FOREIGN AFFAIRS

Bill to establish Select Committee on Missing Persons in Southeast Asia. Now law.

Resolution condemning zionism vote in United Nations. Adopted by House.

Amendment to prohibit U.S. aid to any country not cooperating in effort to control narcotics trafficking. Incorporated Military Sales Act.

Bill to provide special emergency visas for individuals of Northern Ireland to emigrate to U.S. Leader in House to focus attention on problem of human rights in Northern Ireland.

Bill to establish 200-mile fishing limit to protect U.S. fishermen from encroachment by foreign fishing vessels. Passed House.

Wolff's Actions Represent His Constituents' Thinking

The outstanding number of returns, 8.8 percent, to the recent Districtwide opinion survey "dispels the widespread myth that Americans today are apathetic towards their government;" said Congressman Wolff.

"Instead, this exceptionally high number of responses proves our citizens do indeed want to participate in the decisionmaking processes of government.

"To effectively represent my District in Nassau and Queens, I firmly believe in maintaining a two-way line of open communication with my constituents. I rely on many sources of information to guide me on the courses of action I take in the House of Representatives. These sources include official reports, first-hand investigation in the field data gathered through intensive research, on study missions and in debate, and the input provided me by my constituents as expressed to me personally, in my mail, or in response to questionnaires such as this one.

"I take this opportunity to thank each one of the persons who took the time and effort to answer the questionnaire. The results confirm the actions I have taken in your behalf over the years. There is a direct correlation, as you can see from the tabulation below, between the thinking of the residents of the 6th District and the job performed."

THE RESULTS

1. A. Do you believe there should be government controls on domestic oil prices? District Says: 75.8%—Yes. 19.3%—No. 4.9%—No opinion.

B. Do you feel that gasoline rationing should be instituted to conserve energy sources? District Says: 37.2%—Yes. 51.3%—No. 11.5%—No opinion.

Wolff Position: I have continued to sound a warning against the United States submitting to oil blackmail. I believe in the free enterprise system and do not believe the federal government should intrude on the private sector. However, the oil industry is really not free enterprise, but a controlled monopoly. We who live on the East Coast are faced with the fact that most of our oil is imported and costs far more than domestic oil. But, adequate oil supplies are a national problem and that is why I have supported mandatory oil allocations to equalize the burden across the nation rather than impose the entire cost on the East coast family.

To insure this equalization and to deal with the monopoly of OPEC and the oil producing nations, there have to be domestic controls to keep down the price of oil. This is in line with the responses received from constituents who as I, do not want gasoline or oil rationing, but do want a lid placed on the prices they must pay.

I have long advocated a Comprehensive Energy program which involves voluntary conservation plus the research and development of alternate sources of energy to free us from the control of the oil producers. While putting a lid on oil prices, we must, at the same time, control natural gas prices so that no undue burden is placed on homeowners who rely on this source of energy. To those who fear that the imposition of controls will discourage oil and natural gas exploration, I refer them to the statements of the oil and gas companies which are making record breaking profits. I don't think they need any further incentives.

In addition, the continuing petitions by utility companies to increase consumer rates must no longer result in automatic increases. I have long urged consumer representation on all public service commissions.

2. Do you approve of the most recent foreign grain deal that the Administration has entered into with Russia? District Says: 20.1%—Yes. 27.6%—No. 7.3%—No opinion.

Wolff Position: If there is anything that has increased food prices, it is our various grain deals with the Soviet Union. These sales have resulted in higher prices for meat, dairy products, baked goods and, in fact, for nearly every related product-sold in your neighborhood supermarket.

Since 1972, I have warned against these grain deals. That this forecast was correct is indicated in the report by the General Accounting Office, the investigating arm of Congress, confirming the link between higher food costs and the Russian grain deals.

My legislation—the Export Priorities Act—would guarantee sufficient U.S. grain supplies to meet domestic needs at prices the American consumer can afford before any export commitments are made. This legislation further would see to it that the needs of the American family are met first.

3. Do you believe that the cost of living increase for the aging living on Social Security should be held to 5 percent as advocated by the Administration, or raised to a level more reflective of the actual rise in today's living cost? District Says: 19.2%—Hold to 5%. 77%—Increase. 3.8%—No opinion.

Wolff Position: I have long maintained that America's aging and disabled, living on fixed incomes, bear an unreasonable burden in these times of high inflation and runaway prices and that these Senior Citizens deserve far greater consideration.

I voted for the 8.6 cost-of-living benefits increase for Social Security recipients, as I have for other proposed benefits over the years. I have also called for an overhaul of the present procedures that determine Social Security appeals cases, eliminate the undue delays that, too often, occur in the processing of checks needed by many today just for bare living essentials.

As First Vice-Chairman of the NY State Congressional Delegation, I actively supported the effort that prevented HEW from imposing a means test on the elderly in order for them to take their rightful place in Senior Citizen centers and activities. Our elderly are not second class citizens to be ignored.

4. Do you believe the federal government should enact a comprehensive national health insurance program? District Says: 76.8%—Yes. 18.9%—No. 4.3%—No opinion.

Those responding "Yes" further indicated as follows:

A. Complete health care program administered by the federal government—53.3%

B. Program administered by the federal government but limited to major medical and disaster aid—24.2%

C. Federal subsidies for programs administered by private insurance companies—17.5%, No opinion 5%

Wolff Position: The aging and the disabled on fixed incomes simply are not able to assume higher health care costs the way the President expects them to. These Americans need better health coverage, not greater medical bills. As one of the original coauthors of Medicare, I oppose any plan in the House to raise medical costs for Senior Citizens.

However, the problem of health care cuts a wide swath across our society and the average family can no longer meet these costs. Therefore, I have co-sponsored the Kennedy-Corman bill (HR 21) to combine a multitude of overlapping medical programs into one comprehensive package to provide adequate medical care for all our citizens. I believe no one in this nation, especially the middle income person, should have to go into debt to keep his health.

To directly address the problem, I have set up a District Medical Advisory Committee to fully inform me of specific medical needs and related health concerns of the people living in this area, so I can best represent their interests in the Congress.

5. A. Do you feel that the federal government should require registration of all weapons? District Says: 82.8%—Yes. 14.7%—No. 2.5%—No opinion.

B. Do you feel there should be federal controls over the sale and distribution of all hand guns? District Says: 88.3%—Yes. 9.4%—No. 2.3%—No opinion.

Wolff Position: There is no doubt that we must curb the easy availability of weapons that have no legitimate use in our society—the spiraling crime rate in our urban and suburban communities is testimony enough.

I have long believed that Congress must hasten to mandate federal registration and licensing of firearms and initiate federal standards to control the sale and distribution of all handguns. However, we must not interefere with the legitimate interests of sportsmen who also seek to limit the availability of illicit weapons that are a source of much of our crime.

As a means of discouraging both first and repeat offenders, I have introduced legislation to strengthen criminal codes and tighten penalties for the commission of a felony with a firearm. Similarly, we must not permit the present economic crisis to jeopardize the effectiveness of domestic law enforcement efforts by reducing the number of law enforcement officers. I have sponsored legislation to provide emergency aid to localities faced with financial hardship to keep their police and firemen on the job to adequately protect our communities. The security of every American is at stake.

Wolff "Gets Tough" With Terrorists

Rep. Lester Wolff's amendment to cut off U.S. aid to any nation that harbors and protects international terrorists has passed Congress.

Wolff, whose amendment to the International Security Assistance Act of 1976 won House and Senate approval last month, stressed the importance of the action as a firm expression of Congressional determination to "get tough" with international hijackers and murderers and with nations that turn the other cheek to wanton acts of violence on hostages and other innocent victims.

NCSC Scores Wolff 100 Percent

The National Council of Senior Citizens has again rated Congressman Wolff 100 percent for his consistent voting record in support of legislation to benefit the older American. The votes used by the NCSC for its evaluation covering the first session of the 94th Congress dealt with issues of Social Security, Senior Citizen cost-of-living increases, tax relief, food stamp eligibility, housing and special assistance programs to aid the elderly and the poor.

DRUG PROGRAM CUTBACKS: SURGERY OR SUICIDE?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. RANGEL. Mr. Speaker, it is no secret that drug addiction and the trafficking of illicit narcotics are again on the rise, and nowhere in the Nation is this more evident than in New York City. The flow of drugs into the city, particularly that of heroin, has proven to have a direct effect on violent crime and other antisocial acts. Unfortunately, our efforts at the Federal level to get this poison out of our neighborhoods are being undermined in New York by the city's fiscal crisis. Because of the necessity for municipal austerity, the most promising programs to deal with the illicit drug situation are being drastically cut back.

Now, I do not fault the city officials for trimming expenditures for municipal services and programs; given the severity of the city's financial difficulties, they have had no other responsible alternative. But I do question the apparent priorities reflected by the drug program cutbacks. The misery and despair perpetuated by narcotics demands immediate, effective action and a continuing commitment at all levels of government to alleviate the problem.

Mr. Speaker, to those of my colleagues who may not fully realize the pervasive nature of the drug-addiction and drug-trafficking problem, I commend a column by Mr. Roger Wilkins in Tuesday's New York Times. It accurately describes the variety of social ills that result from the continued flow of illicit narcotics into our cities, and the consequences of any weakening of our resolve to deal with the situation. I would like to insert Mr. Wilkins' column into the RECORD at this point:

Surgery or Suicide

(By Roger Wilkins)

On a recent night on a quiet street in Greenwich Village a group of middle-class New Yorkers forms and grows rapidly around a man who has just been helped from the sidewalk and is standing befuddled, shaking his head. He is a doctor who had just been mugged at the doorway of his handsome brick town house.

There is clucking in the crowd. "Terrible," says an elderly man. "Just awful," answers a slender young woman in jeans. "You're not safe anywhere," the man says. "No wonder those companies are leaving town."

Just about a hundred blocks uptown at the corner of 116th Street and Eighth Avenue there is another kind of crowd. It is the constant mob of floaters, dreamers, purposefully lawless businessmen and corrupted children who constitute one of this city's most notorious open-air markets in drugs. There are languid men with magic hands holding glassine bags that pass from person to person and disappear before the brain is sure what the eyes have seen. There are women and children whose eyes are as blank as their drug-blotted minds. It is at once a teeming bazaar and the ultimate in urban desolation.

Those two street scenes in Manhattan, twelve local stops and light years apart, are rigidly connected. The shoppers in the bazaar uptown can require up to $400 per week to feed their cravings. They suffer from being junk-heap Americans: those citizens who are not needed by the economy just now or perhaps ever. The jagged edges and rancid smells of the places where America's affluence has never reached define their current and future lives, their sense of themselves and of their incredibly limited human connections. The drugs sop up the emptiness for a while and the quest for the money for them will be carried to any corner of the city where it is likely to be found.

New York's arteries are thus poisoned by joblessness, hopelessness and dope. The numbers are getting worse. Dr. Robert L. Dupont, director of the National Institute on Drug Abuse, says that, though there was a dip in heroin addiction during 1972 and 1973, the recent upsurge to as many as 300,000 to 400,000 people nationwide demonstrates that the nation is in the grip of a continuing heroin epidemic.

Mexican heroin is gushing into the country and there are indications that Turkish farmers are increasing their poppy crops. With unemployment holding steady at catastrophic levels in the city's minority communities—40 to 50 percent by some expert estimates—the market for the increasing imports is strong. Sterling Johnson Jr., New York's special narcotics prosecution, asserts that drug use in Manhattan is again reaching the record levels achieved in the early 1970's.

One of the people engaged in fighting the epidemic is an attractive, slender young black man who works as an undercover New York City policeman and who risks his life on the streets of Harlem most working nights. When asked why he persisted in that line of work, he said: "That's what I can do for my brothers and sisters. I can fight to get this poison off the streets. And there's a lot more brothers and sisters on the force who feel like I do, but they're cutting back because of the fiscal crisis."

Indeed, the fight against drugs is being cut back so sharply that a narcotics grand jury that sat in New York from November to January alleged in a special report that the decrease in enforcement personnel had put the drug traffic on "the semi-licit status of speakeasies during Prohibition and streetwalking in Times Square." There are figures which seem to support that contention. For example, the funds for the special prosecutor's office are projected to be down from $2.4 million last year to $1.1 million next year, necessitating a decrease in personnel from 122 to 50.

Rehabilitation programs are also being slashed to the bone. State residential treatment programs, which were demonstrably weak and outrageously expensive, have appropriately been cut in the state budget by 64 percent, but the money has not been shifted to more effective efforts. Instead state aid to local programs has also been cut—by a whopping 32 percent. And, there are reliable reports that City Hall is considering the total elimination of the $5.1 million in support it provides local community-based treatment programs such as Phoenix and Odyssey Houses and Daytop Village.

There is no question that austerity is required to restore the fiscal health of both the city and the state but the erosion of the quality of life here has been one of the major factors driving firms and people out of the city and undermining its fiscal stability. Drug-based street crime is central to that decline. Thus, while deep and painful fiscal surgery is clearly required, indiscriminate hacking at the entirety of the anti-drug universe may ultimately prove to be more suicidal than surgical.

IOWA COST-SHARE PROGRAM SHOWS GOOD PROGRESS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. HARKIN. Mr. Speaker, the administration has for the past 3 years attempted to either cut or totally eliminate funding for the agricultural conservation program. Again this year, the President has proposed that this program be eliminated.

This callous disregard for conservation works to thwart the intent of Congress and the activities of a number of States. Iowa for example has appropriated funds for a State program similar to the agricultural conservation program. The results of these activities have been spectacular. Yet, much needs to be done.

Conservation not only protects the soil from erosion, thus preserving one of our most valuable resources; but also, soil conservation practices have the immediate effect of reducing the runoff of agricultural chemicals into our waterways.

The following is the report on the Iowa cost-share program as reported in the Iowa Soil Conservationist, February 1976, volume 29, No. 2:

IOWA COST-SHARE PROGRAM SHOWS GOOD PROGRESS

(By Leon D. Foderberg)

The fall of 1975 turned out to be a record-breaking conservation construction season. Most all districts reported terrace and structure building well into December.

The summary of reports from the 100 districts in Iowa shows that the following practices were applied with assistance from the Iowa cost-share program in the six-month period of July 1 to December 31, 1975.

Parallel terraces, 565 miles.
All other types of terraces, 80 miles.
Erosion control structures, 276.
Waterway, 439,116 lineal feet.
Pasture and hayland planting, 519 acres.
Critical area seeding, 14 acres.
Field windbreak, 2,200 lineal feet.

In the two and one-half years the program has been in operation, the following amounts of practices were applied with Iowa cost-share assistance:

Parallel terraces, 1,537 miles.
All other types of terraces, 255 miles.
Erosion control structures, 904.
Waterway, 1,362,630 lineal feet.
Pasture and hayland planting, 3,547 acres.
Critical area seeding, 48 acres.
Field windbreak, 6,895 lineal feet.
Tree planting, 2.5 acres.

These figures by no means represent the total amounts of practices applied in soil conservation districts in Iowa, but only the amount applied with Iowa cost-share program assistance.

The ACP cost-share program through the U.S. Agriculture Stabilization and Conservation Service assisted with the application of large amounts of practices in the same periods so the total accomplishment is much larger than is reported here.

Since the Iowa cost-share program began, 10,909 Iowa landowners made application to their local soil conservation district for cost-share funds to assist with construction of soil and water conservation practices on their lands. A total of 6,115 of these applications were approved by commissioners; and districts obligated $5,574,999.60 for the construction of practices to be installed. Not all of the practices approved for cost-share assistance had been built as of December 31, 1975.

The total amount of practices approved include:

Parallel terraces, 2,278 miles.
All other types of terraces, 355 miles.
Erosion control structures, 1,026.
Waterways, 1,622,820 lineal feet.

Iowa soil conservation district commissioners and district staffs are to be congratulated for their all-out effort to get conservation on the land.

LEAGUE OF WOMEN VOTERS OF ILLINOIS RESOLUTION FOR HANDGUN CONTROL

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ROSTENKOWSKI. Mr. Speaker, as a result of nearly a solid year of study on the need for Federal legislation regarding handgun control, the League of Women Voters of Illinois has recently issued a detailed position paper urging the need for such legislation. The League's study was exhaustive. Members of the local Illinois chapters did the research, held discussion meetings, read and reviewed many publications and listened to debate on all sides of the issue. The conclusions are significant because they represent the opinions of a broad spectrum of Illinoisan.

In the last few years there have been many polls conducted in the Chicago area on the issue of handgun control all of which, including my own Eighth District questionnaire, have overwhelmingly demonstrated that metropolitan area residents are in favor of handgun control legislation. The study done by the League of Women Voters of Illinois is significant because its members come from upstate, downstate, metropolitan areas, small communities, and suburbs.

I have been an advocate of strong handgun control legislation for many years and I have sponsored legislation to ban the manufacture, sale, purchase, transportation, importation, and transfer of handguns in the 92d and 93d Congresses and in this the 94th. I hope that this body will soon realize that the people of this country are looking to the Congress to provide the leadership in this area.

I commend to each of my colleagues the position on handgun control drafted by the League of Women Voters of Illinois:

POSITION ON HANDGUN CONTROL

The League of Women Voters of Illinois believes that the proliferation of the private ownership of handguns and their irresponsible use must be controlled through legislation. Therefore, we support a ban on the further manufacture, sale, transportation and importation for private ownership of all handguns and their parts. We call for a clear statutory definition of Saturday Night Specials which would make their regulation enforceable. We support restrictive regulation of all handguns and ammunition, enforcement at all levels of government of existing regulations, strict penalties for handgun crimes and better regulation of handgun dealers.

We believe that handgun owners must assume complete responsibility for their handguns. To this end, we support registration of the handgun itself which will allow it to be traced to its owner. We support comprehensive licensing procedures, with gun safety education, fingerprinting, photographs, plus a verification of the applicant's qualifications, and a permit system which restricts handgun ownership. The costs of these programs should be borne by fees paid by the handgun owner sufficient to cover a careful system which ideally would be administered locally under federal guidelines. The sale of ammunition should also be regulated.

We support additional penalties and strict enforcement for all crimes committed with a handgun. All dealers selling handguns must be carefully regulated to assure that they are legitimate dealers and not merely persons wishing to have access to interstate shipments. We recommend higher fees, annual renewal of license and a thorough investigation of the dealer and his place of business. The League supports the need for further controls or elimination of mail order sales and interstate shipments.

We support handgun safety education only if it is required for owners as part of the licensing procedures; does not promote or glorify handgun usage or ownership; and is used to convey the dangers of handgun misuse and ownership.

The League favors federal legislation governing the use of handguns but will support State legislation meeting our criteria. We will not support state or federal legislation for specific areas only, such as metropolitan or high crime.

ESTATE AND GIFT TAXES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Lompoc Record "Estate and Gift Taxes."

I, also, hope the Ways and Means Committee will decide to report out responsible legislation concerning estate and gift taxes that would "conform with the time."

The editorial follows:

ESTATE AND GIFT TAXES

Over the years, possibly one of the most damaging special taxes has been the estate and gift taxes. The tax as it is currently enforced has required many families to sell small farms and busineses in order to raise the funds to pay the inheritance tax.

The Ways and Means Committee has begun hearings this week on major changes in such taxation.

Numerous proposals have been introduced to revamp the situation. Since the current $60,000 limit on the amount of an estate which may be transferred tax free was set way back in 1942, inflation has more than doubled the value of many farms and business assets.

Proposals range from one to double the estate tax exclusion to $120,000 and raise the current $30,000 lifetime limit on tax-free gifts to $60,000—to the Administration's plan. The President has asked for stretching out the federal estate taxes on small farms or businesses so they can be paid out of the income of the farm or business. No payment would be required for five years and 20 years would be allowed for full payment of estate taxes at a four per cent interest rate.

We are hopeful that the Ways and Means Committee will see the wisdom of revamping this archaic structure to conform with the times.

TESTIMONIAL WILL HONOR "MAESTRO"—PETER GORECKI

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. NOWAK. Mr. Speaker, when the Chopin Singing Society of Buffalo, N.Y., toured Washington, D.C., recently, its musical performances were conducted under the direction of Peter Gorecki. Members of this polished and versatile mixed chorus credit their success in very large measure to the dedication and talent of Mr. Gorecki, an accomplished musician and lover of good music.

Mr. Gorecki's commendable work with the Chopin Singing Society by itself is a noteworthy accomplishment. However, in the 25 years he has resided in Buffalo, he has also been active with various civic-sponsored community concerts and served as director of at least six other singing groups. This weekend, Mr. Gorecki's achievements will be marked at a testimonial dinner in his honor, sponsored by the Schwaebischer Men's and Ladies Chorus. Mr. Gorecki has been director of this group for 20 years.

The following article on this event was included in the March 25 edition of the Am Pol Eagle:

GERMAN CHORUS TO HONOR PETER GORECKI

"An Evening with the Maestro" will be the theme for a testimonial dinner dance honoring Peter Gorecki—organist, choir master, director, composer—to be held on Saturday, April 3, beginning at 7 p.m. at the Marygold Manor Hall, 770 Maryvale Dr. Cheektowaga.

The affair will be sponsored by the Schwaebischer Mens and Ladies Chorus which will celebrate its 96th anniversary this year. Mr. Gorecki has directed the chorus for the past 20 years.

Mr. Gorecki was born on June 29, 1924, in Pszcyna, Poland. He was taught music by his father, who was organist and choral director at the All Saints Church in Pszczyna. From 1940 until 1944 he attended the Music Conseravtory in Katowice and studied organ, piano, harmony, music theory, music history, Georgian choral and choral direction.

STUDIED IN GERMANY

From 1946 until 1948 he studied piano, contrapunct, compositon, instrumentation and orchestration at the Handel Conservatory in Munich. He studied the art of composing for two semesters (1965–66) at the University of Buffalo with Aaron Copland, leading U.S. composer, and Carlos Chavez, national composer of Mexico.

In 1967–68 Mr. Gorecki took two semesters of orchestral arrangements from the Radio City arranger, Robert Wright, at the Eastman School of Music, Rochester. In 1972 he went to Poland to participate in a special course for choral directors.

From 1941 to 1944 Mr. Gorecki was organist at the Garnison Church in Katowice. During studies in Munich he directed the Academic Chorus of Polish students and the Displaced Persons Mens Chorus in Wildflecken, Germany.

WAS IMMIGRANT

In 1949 Mr. Gorecki came to the United States as an immigrant with the whole 40-men DP chorus and had many choral appearances in the New York and Long Island areas. He also was organist at the St. Ladislaus Parish in Hempstead, L.I.

Since 1951 he has lived in Buffalo and has been active as organist and music teacher at St. Stanislaus Parish. He has officiated as director of Kalina Singing Society, Polish Singing Circle, Chopin Singing Society, Bavaria Maennerchor, Schwaebischer Frauen and Maennerchor, and the United German Singing Societies.

He served from 1961 until 1966 as a music supervisor in the Recreation Parks Dept. of Buffalo. For five consecutive years he has been a conductor of the Buffalo Community Orchestra for the City Parks Summer Concerts. With the Chopin group he has appeared on 30 TV shows. Last weekend Mr. Gorecki also directed the Chopin Singing Society at special performances in Washington, D.C.

Last year he accompanied the Chopin singers on a concert tour throughout Poland. In 1956 he won the first prize with the Schwaebischer Maennerchor in Utica, N.Y. In 1962 he received first prize with the Kalina group in Syracuse. In 1971 he brought the first prize to Buffalo with the Bavarian Maennerchor from the Saengerfest in Troy.

Mr. Speaker, Peter Gorecki has made an immense contribution to the cultural life of western New York. The honor he is to receive is most certainly richly deserved. I would like to join his many friends and admirers in wishing him continued success and good health.

TENNESSEE-TOMBIGBEE WATERWAY PROJECT SERVES THE NATIONAL INTEREST

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. EVINS of Tennessee. Mr. Speaker, the Tennessee-Tombigbee Waterway project—one of the major public works projects of the Nation—is an investment in the future of our Nation.

Appropriations for initiating and continuing construction of this 232-mile internal waterway project have been provided by the Subcommittee on Public Works Appropriations which I am honored to serve as chairman.

The project is funded through fiscal 1976 and to date our subcommittee has provided $173,352,000 for this vital and important waterway which will assure a new internal trade route between the gulf coast and the heartland of America—the midcontinent region.

When this project is completed, a new, navigable internal waterway system will extend from the midcontinent region of the United States to the Tennessee, Ohio and upper Mississippi River valleys.

Construction on this great project began 7 years ago after decades of planning and evaluation. As a matter of fact, the Tennessee-Tombigbee Waterway project dates back 150 years when citizens of east Tennessee first petitioned the Congress to build an inland waterway to improve commerce and trade in the area.

Today the project is 18 percent complete and leaders, officials and citizens in the area are looking forward to the day that this waterway becomes a reality.

The Corps of Engineers has estimated that the waterway will draw some $2.6 billion in new industry to the area it will serve directly—already more than $1 billion in industry has indicated an intent to locate in the area.

It has been estimated that the waterway and its benefits will result in creation of some 28,000 jobs with an annual payroll of almost $400,000 in the next 50 years.

Although this waterway has a very favorable benefit to costs ratio, there are those who criticize the project.

Recently Forbes magazine published a biased and misleading article highly critical of the project. My response to this article was the following letter to Forbes magazine which includes basic and comparative cost information between the various modes of transportation.

House of Representatives,
Washington, D.C., March 10, 1976.

Mr. James W. Michael,
Editor, Forbes Magazine,
New York City, N.Y.

Dear Mr. Michaels: The recent article in Forbes Magazine critical of the Tennessee-Tombigbee Waterway failed to present the merits of this project in an objective manner and I am taking this means of factually and objectively responding to your biased article.

It is indeed strange that projects such as the Tennessee-Tombigbee Waterway which will benefit millions of people for centuries and are an essential component of a balanced transportation system are described in reputable magazines as "pork barrel" projects, as you did in your article.

It is also strange that the term "pork barrel" is not applied to Federal funding for projects in urban areas for such purposes as mass transit, airport improvements or improved rail service and highways. I am surprised that a sound business magazine of your quality and caliber would publish a superficial and prejudiced article on any matter, but especially on a project of such importance to the Nation as the Tennessee-Tombigbee Waterway. The articles completely lacking in perspective and fairness.

The Tennessee Tombigbee Waterway is an investment in America that will yield rich dividends in future years for this Nation—not only in terms of bolstering the economy and providing a needed and necessary adjunct to land and air transportation but in providing a more economic means of transport.

The benefits from this project will provide low-cost transportation as indicated as well as efficient transportation of raw materials and finished products.

For instance, it is estimated that freight shipped by rail costs more than three times as much as freight shipped by water. These increased transportation costs are passed on to the consuming public, as you know. Waterborn transportation such as provided by the "Tenn-Tom" is thus a real hedge against inflation.

Certainly it is my position that the Federal Government should promote the development of all types of transportation in the public interest. In this regard, it is interesting to note that outlays by the Federal Government for waterway development when compared to expenditures for other forms of transportation are relatively small.

Over the past 140 years, total expenditures by the Army Corps of Engineers for construction and operation and maintenance for shallow-draft inland and intracoastal waterways total $4.5 billion. This is but a drop in the bucket when compared to the more than $125 billion spent for all forms of domestic transportation in just the past 25 years.

More than $22 billion has been spent on airway and airport development and for subsidies to domestic airlines since 1952.

Almost $100 billion has been spent by the Federal Government on highway development since the early 1920's.

Almost six billion dollars has been spent on mass transit in the past ten years.

In the past three years, an estimated $2 billion has been spent on the nation's railroads. Recently, the Railroad Revitalization and Regulatory Reform Act was approved which authorized more than $6 billion to provide a viable railroad system in the Nation. The railroads want another $16 billion to stay in business.

Beginning in the last century, American railroads received federal land grants totaling more than 200,000 square miles—more than four times the size of the average state. In addition, governments and other entities have given railroads additional grants of land which brings the total land given the railroads to almost 10% of all the land in the U.S.

So, the record is clear that the Federal Government has been generous in its support of railroads and domestic transportation. It is my belief that transportation development must be balanced and certainly, waterborne transportation is an integral part of a balanced transportation system.

Water transportation is a good investment in America and in the economy. It is almost 50% more efficient in terms of fuel utilization than are railroads. And it is practically pollution free.

The article refers disparagingly to the benefit-cost ratio of this project. For your information, any water resource project must provide more benefits than it costs before a project can receive a favorable recommendation by the Corps of Engineers or other agency of government, or be considered by the Congress.

The Tennessee-Tombigbee Waterway under this criteria has been found to be a sound and productive project that will return more in benefits than it costs. Waterways are the only government projects subjected to this test of performance—there are no economic feasibility tests for highways, airports or railroads, for example.

The paragraph in the article indicating that Congress learned of increased costs of this project "almost by accident" is ridiculous and reflects a lack of knowledge of the continuing review process in the Congress. Each year the Corps of Engineers must submit a revised justification for every project proposed or under construction to the Subcommittee on Public Works Appropriations which I am honored to serve as Chairman. Officials and officers of the Corps testify concerning each project before the Subcommittee each year. I can assure you that Congress is aware of the status and cost of every project under construction.

Water-borne transportation serves the public interest, and the Tennessee-Tombigbee Waterway should be completed as soon as possible so that the social and economic benefits may be realized and the greatest internal waterway in the Nation completed.

Completion of the Tennessee-Tombigbee Waterway will link mid-America's 10,000-mile inland waterway system—including the Missouri, Mississippi, Illinois and Ohio Rivers—with the Southeastern Gulf area—an historic step in water transportation.

The benefits from this project will flow through the Nation like waves from a rock tossed into a lake—the Tennessee-Tombigbee Waterway project is in the national interest.

With kindest regards and best wishes, I am

Very sincerely yours,

Joe L. Evins,
Member of Congress.

UKRAINIAN INDEPENDENCE DAY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. STRATTON. Mr. Speaker, on January 22 we observed the 58th anniversary of the independence of the Republic of the Ukraine. While I regret that I was unable to take advantage of an opportunity to join with my colleagues in saluting this historic occasion, I know that the people of the Ukraine and Americans of Ukrainian extraction will not object if I take this opportunity now to extend my hearty congratulations on this anniversary and to reassert here my strong support for the legitimate national aspirations of the 54 million Ukrainian people in their fight for independence and for freedom from the domination of the Soviet tyranny.

As you will remember, Mr. Speaker, the Ukrainian National Republic was established officially on January 22, 1918, but was shortly thereafter stamped out in the brutal military occupation undertaken by the Bolshevik forces. Nevertheless today 58 years later the people of the Ukraine, in spite of the fact that they are still denied by force the basic freedoms and liberty that are accorded to the citizens of any independent state, continue to cherish the hope of independence and the right to determine their own future.

Mr. Speaker, it is especially appropriate in this Bicentennial Year that we not lose sight of the fact that the same device for freedom and independence which inspired our American Revolution is something that other captive peoples around the world also share, and we cannot be true to our heritage unless we remember that as Americans we continue to have a responsibility for helping and promoting the growth of freedom, independence, self-determination, and the rights of men and women to live under a government which operates by the consent of the governed in other parts of the world and in other situations.

What is even more disturbing, Mr. Speaker, is that under the Charter of the United Nations, Ukrainia is represented as a separate state in that body with full voting privileges such as those that are bestowed only on sovereign and independent states. And yet as a practical matter both the foreign relations and the domestic policies of the Ukrainian Republic are not controlled by the Ukrainian people but dictated by the Soviet Government in Moscow.

Mr. Speaker, the pledge of the Helsinki agreement that peoples would be allowed to achieve freedom and that barriers to closer communication and freer travel would be removed, have already been proven as false and hollow. While Americans supported the idea that captive nations should not be liberated by force of arms we must continue to insist that the freedom and independence of Ukrainia is a just goal and we must continue to work in that direction.

That is the best birthday present that we can give to the people of Ukrainia and Americans of Ukrainian extraction in this Bicentennial Year. In that connection I have joined in support as a cosponsor of House Resolution 404, calling upon the President of the United States to issue a proclamation designating January 22 each year as Ukrainian Independence Day. In this way we will renew our pledge to continue to work for the freedom and independence of the Ukrainian Republic.

NATIONAL FOREST MANAGEMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. BROWN of California. Mr. Speaker, in the next month or two both the Senate and the House will be deeply involved in the issue of national forest management. Hearings have already taken place in the House Agriculture Subcommittee on Forests and in a joint hearing of the Senate Agriculture and Interior Subcommittees. Markup of legislation is expected before May 15.

These hearings provided an abundance of information on the various forest practices which can stimulate soil erosion, nutrient depletion, the spread of disease and pests, water pollution, watershed destruction, and harm to wildlife, including the salmon in our Alaskan and Washington rivers and streams. There are many ways to interpret these statements and, it would seem, there is much which needs careful scrutiny.

But, the main question that, in my opinion, Congress is going to have to address is whether we believe that the time has come to clarify the protection of the multiple uses of our national forests with more specific guidelines, and even a few definite parameters, so that future generations can experience the diversity and beauty of wilderness which has taken thousands of years to evolve.

In 1960, Congress passed the Multiple Use and Sustained Yield Act. This act stated that wildlife, wilderness, timber, range, and recreation were the five uses which the Forest Service was to provide for with proper discretion and the application of their forestry knowledge. Since that time, timber demand has escalated rapidly and the harvesting of wood fibre from our national forests has increased proportionately, especially as private logging industry forest lands were nearly exhausted from rapid clearcutting. The Forest Service speculates that demand for wood fiber will double in the next 25 years. If this is so, much needs to be done to ensure the avoidance of timber shortages through the increased utilization of felled wood, through the possible cut-back on timber exports, and through the improved regeneration of those acres which are used for timber production. Even now we have 5 million acres which need reseeding.

While directing our attention to such priorities, we must not let the demand for timber overshadow the strong importance of wildlife protection, the maintenance of range and wilderness areas, and the provision of good recreation areas for the millions of people expected to visit our national forests in the next decade—to hike the many trails and enjoy the clear streams and beautiful vistas. If this is to be accomplished we must exercise our authority as representatives of the public interest by clarifying to the Forest Service and to the logging industries who bid for timber in the national forests that only the best forest management practices will protect the multiple uses of our forests. In my opinion, the law we pass should emphasize the need for consultation with interdisciplinary teams knowledgeable in silvicultural, biological and wildlife practices, the sustained yield principles, the need for some boundaries on the size of our clearcuts, the clarification of such definitions as mature, immature, even-aged and mixed-aged management, and the like.

Such legislation will take much thought and careful deliberation. I hope my distinguished colleagues will devote some of their limited time to this subject, for our decisions at this point could have a very long-term effect.

I would like to insert into the CONGRESSIONAL RECORD an article that appeared in Science magazine, by Constance Holden, on April 2, 1976. This article summarizes the various bills which have been introduced, the reason for their introduction, and the hearings which followed. I hope my fellow Representatives will take the time to read it.

I will end this personal perspective on our national forest problems by quoting the last sentence in that article:

> Pressures from commercial interests are bound to mount, and it may well be that guidelines and policies, however well considered, will be no substitute for a little more inflexibility, in the form of a law.

The article follows:

NATIONAL FORESTS: COURT RULING SPURS CLEAR-CUTTING CONTROVERSY

(By Constance Holden)

Congressional hearings in March opened the way for another noisy chapter in the continuing national controversy over timber management in the national forests. Pressures for congressional action stem from a federal appeals court decision last August that brought clear-cutting in the Monongahela National Forest to a grinding halt.

The decision confirmed a lower court ruling in favor of the Izaak Walton League and several other conservation organizations, which had sued to stop some proposed timber sales by the Forest Service. The sales were found to be in violation of the Organic Act of 1897, a long-ignored law that forbids the sale and cutting of immature trees. The findings in the case were subsequently applied in another suit over clear-cutting in the Tongass National Forest in southeastern Alaska.

The timber industry has been horrified by the decisions—it has been claimed that if they applied to national forests across the country, logging would be reduced by 40 percent. Now that the Organic Act, which was passed at a time when forests were being rapidly and heedlessly decimated, has been brought back to life, Congress is busily seeking ways to resolve the dilemma. And environmental groups are using the crisis to push what they believe are long overdue reforms in timber management in national forests.

The court, in the Monongahela decision, acknowledged that the Organic Act might be "an anachronism which no longer serves the public interest," and there is little disagreement that its proscriptions are much too crude to be appropriate in these days of modern silviculture. It prohibits the cutting of any but dead, matured, or large growth trees, which essentially means a prohibition against clear-cutting—a respectable technique when applied in moderation—since most stands contain some young trees.

The debate is not simply one between timber interests and lovers of wilderness, but also reflects very real differences among foresters on how to raise productivity without doing violence to other forest uses, and over the degree to which management practices should be spelled out in legislation. The differences are reflected in three pieces of proposed legislation that have been the subject of joint hearings held in mid-March by the Senate agriculture and interior committees.

One bill, introduced by the two Alaska senators, Mike Gravel and Ted Stevens, seeks to buy time for a solution by putting a 2-year moratorium on enforcement of the court decisions. Another, introduced by Hubert H. Humphrey (D–Minn.), contains a great deal of language about getting the Forest Service to promulgate new standards and guidelines, and contains a provision that would amend the offending portion of the Organic Act. The most controversial bill is S. 2926, the National Forest Timber Reform Act of 1976, introduced in the Senate by Jennings Randolph (D–W. Va.) and in the House by George Brown (D–Calif.). This bill, if passed, would be the first major piece of legislation regulating timber management since the Multiple Use-Sustained Yield Act of 1960. That act seeks to ensure that timber growth keeps up with tree sales, and sets forth the principle that equal consideration be accorded to six forest uses: rangeland, wildlife, watershed, timber, recreation, and beauty.

The importance of the Randolph bill in the eyes of environmentalists may be indicated by the fact they have put together one of their single-purpose coalitions for the occasion, in this case the Coalition to Save Our National Forests, representing a number of environmental lobbying organizations.

According to Thomas Barlow—who is taking time off from the Natural Resources Defense Fund to run the coalition—the purpose of the bill is to put into law basic management guidelines, some of which are already Forest Service policy, others of which are needed to bolster the service against what is perceived by environmentalists as a steady and perhaps unwitting slide into the lap of the timber industry.

The most visible feature of the bill is its restrictions on clear-cutting. None would be allowed in the eastern hardwood forests except for purposes of benefitting wildlife or salvaging damaged timber. In the West, where softwoods prevail, clear-cuts would be limited to 25 acres (the Forest Service is now generally trying to keep them under 40 acres but they are far larger in some places, particularly Alaska). The bill would supersede the Organic Act by permitting the cutting of immature trees where they are included in a stand of predominantly mature ones or for other purposes such as thinning or improving habitat.

Also basic to restoring balanced management, in the minds of the Randolph bill's supporters, is making sure that both even-age and uneven-age practices are used. Even-age (which means cultivating a stand so that trees are all about the same age) predominates in the West and is closely associated with clear-cutting. The bill says no single system should predominate.

An implicit premise of the bill is that "multiple use-maximum sustainable yield" has become a frayed concept, stretched out of shape by pressures from industry. It seeks to ensure that maximum yield (and hence the amount of timber that should be cut) is calculated from the biological data and is not influenced by steadily rising timber demand. The Randolph bill, therefore, requires that multidisciplinary teams draw up a multiple use-maximum sustainable yield plan for each national forest. Sustainable yield would have to be calculated within areas of no more than 500,000 acres, rather than entire forests; this would result in "even flow," of timber, another cardinal principle of the bill, according to James Moorman of the Sierra Club Legal Defense Fund, who helped draft it. Instead of allowing an area to be cleared out and then leaving it for 50 years, he says, the bill would compel the Forest Service to arrange sales that produced smaller and more consistent cuts.

The timber industry has no use whatsoever for this bill. Representatives call it "forestry by prescription" that puts a "straitjacket" on the professionals. Many foresters and wildlife managers don't like it either, even though its intent, according to Moorman, is to put more power into the hands of Forest Service experts and insulate their judgments from pressures exerted by high-level bureaucrats and industry interests.

Supporters of the bill believe legislation is necessary to prevent large parts of the forests from being turned into short-rotation tree farms where huge stands of young even-age trees are harvested, like wheat, for pulp. The kind of forest the bill envisages is a "long rotation, high quality timber forest filled with large trees," where the concept of "multiple use" would be a reality and not degenerate into a meaningless euphemism (much as the call for a "balanced transportation system" became the rallying cry for highway builders).

To the industry and the Forest Service, however, the bill is a prescription for an inefficiently managed forest that is both unproductive and uncongenial to wildlife.

They say it would inhibit the removal of old, static growth to make way for new, fast-growing stands, and they reject the bills definition of physiological maturity, claiming it means a tree would actually have to be in a state of decline before it could be cut. They also predict the new restrictions would cause the annual amount of timber cut from National Forests to be reduced by up to 50 percent, and result in higher prices and increased unemployment. The National Forest Products Association went so far as to issue a press release warning residents of Los Angeles that they might have to lower their toilet paper consumption by 25 percent.

Tom Barlow says everyone has been overreacting to this bill. He says, disingenuously in the minds of some, that the studies mandated in the bill might well cause allowable cuts to be increased. And if they do not, he believes the law would have the beneficial effect of causing timber companies to turn to privately owned land, thereby putting money in the farmers' pockets. As for the wood shortage that is projected if harvests are reduced, he observes that elimination of waste and cutting back on exports of logs from the Northwest to Japan ought to be looked into before anyone talks about shortages.

The term clear-cutting is often used as a shorthand for a variety of practices environmentalists don't like, such as inflated allowable cuts, short rotations, excessive use of pesticides, failure to regenerate cut areas, failure to remove slash (leftovers), and practices that lead to erosion and stream pollution. It is not the strident national issue it was 5 years ago, when rampant clear-cutting, particularly in Montana's Bitterroot National Forest, came under intensive scrutiny by a committee headed by Senator Frank Church (D-Idaho). The hearings resulted in the formulation of congressional guidelines that have stemmed many of the worst practices. Many foresters feel the Church guidelines are quite sufficient to protect the national forests from further abuse. But sustaining "multiple use" is becoming ever more of a challenge as these uses increasingly conflict and overlap. By the year 2020 demands for rangeland are expected to increase by 80 percent, recreational demand is expected to double; the Forest Service wants to double wilderness areas, and the timber companies want to haul out twice as many board feet. Pressures from commercial interests are bound to mount, and it may well be that guidelines and policies, however well-considered, will be no substitute for a little more inflexibility in the form of a law.

AMERICAN COMPLIANCE WITH THE ARAB BOYCOTT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Ms. ABZUG. Mr. Speaker, Sol Stern has published an important article on the Arab boycott which offers several examples of compliance of American corporations with Arab-imposed restrictions on business alliances, the so-called special instructions.

Few American companies refuse to abide by the Arab restrictions and those that do, according to Mr. Stern, are then discriminated against as part of a process abetted by the U.S. Government itself.

A case in point of administration compliance with the boycott is Mr. Kissinger's argument, based on purely political ramifications, attempting to prevent Mr. Levi from filing suit against the Bechtel Corp.

Mr. Stern's article contains interesting examples of this problem, and I recommend it to my colleagues.

The article follows:

[From the New Republic, Mar. 27, 1976]

ON AND OFF THE ARAB'S LIST

(By Sol Stern) *

For years the General Tire and Rubber Co. of Akron, Ohio carried around an albatross known as the "Arab League Boycott of Israel." The company had originally been placed on the Arab blacklist because it held a one-third equity share in an Israeli tire company. Though General Tire and Rubber subsequently sold all its shares in 1963 it still couldn't get off the blacklist, ostensibly because it was honoring a technical services agreement with the Israeli company.

Then sometime in 1970 a man named Louis Lauler approached the top executives of General Tire and Rubber with a way out. Lauler said he represented Triad Financial Establishment, a Lebanese-based conglomerate headed by a Saudi Arabian businessman named Adnan Khashoggi. Triad had wide experience with the intricacies of getting off the blacklist, according to Lauler, and he showed a brochure with the names of other companies it had represented in such matters. Anxious to get into the Arab market, General Tire and Rubber agreed to accept Triad's services and a contract was signed. The fee was $150,000—one-third immediately and the rest to be paid when the company was finally removed from the list.

In 1973 the Arab boycott office in Damascus removed General Tire and Rubber and its subsidiaries from the list. By that time the company had already terminated its contract with the Israelis. Nevertheless company officials thought that Triad had done the trick and the final payment of $100,000 was made to a Triad subsidiary named Perco Est. located in Vaduz, Liechtenstein—a well-known tax haven.

When I asked them to comment about the payment, General Tire and Rubber officials insisted the company had done nothing improper. Vice President and General Counsel Tress Pittenger said: "We paid a fee for professional services to help us get off the list." Asked what services Triad performed, Pittenger said it helped his company in drawing up documents that had to be submitted to the boycott office in Damascus.

Khashoggi and Triad have been characterized in recent news reports in *The New York Times* and *The Washington Post* as major conduits for millions of dollars of questionable payments made in bribes paid by American companies to secure contracts in the Arab world. What is revealed here for the fist time is that American companies were also paying to get off a boycott list that the Arabs claim is a principled part of their war against Israel. Furthermore, according to General Tire officials, the company was able to write off the full $150,000 as a normal business expense and the IRS allowed the deduction.

In retrospect it is not altogether surprising that the US government considers such a payment to be a proper business expense in the Middle East. Since 1972, by its own diplomatic behavior, the government has demonstrated that in the scramble for Arab petrodollars anything goes.

That signal came as early as June 8, 1974 when Henry Kissinger signed for the United States a far-ranging economic cooperation agreement with Saudi Arabia. The agreement projected how the United States could "be helpful in the realization of Saudi aspirations," and it established a Joint Commission on Economic Cooperation. The government commission has been the major vehicle for channeling billions of dollars of new business into Saudi Arabia. All of it however has been on Saudi Arabia's terms—meaning exclusion of hundreds of blacklisted US companies plus discrimination against American Jews.

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* Sol Stern, a former editor of Ramparts, writes frequently on Middle East affairs.

Henry Kissinger knows how seriously the Saudis take their anti-Semitism. During Kissinger's very first meeting with the late King Faisal, in November 1973, the Saudi monarch got things started with a lecture on the Jews. As authoritatively described by Kissinger's biographers, Bernard and Marvin Kalb, Kissinger listened in silence as the King described how the Jews had led the 1917 Russian revolution and then set up the expansionist state of Israel. Looking straight at Kissinger, Faisal said that "all over the world [the Jews] were putting themselves into positions of authority." Faisal told Kissinger, according to the Kalbs, "that the Jews were trying to run the world, but that he would stop them with his oil weapon."

Faisal at least tried to be as good as his word. The agreements his ministers signed with the United States note that the joint programs will be "sensitive to the social, cultural, political and religious contexts of Saudi Arabia." Nothing in the agreements, however, indicates that the United States insisted on any relaxation of the boycott against US companies or of Saudi Arabia's discrimination against American Jews. When I raised the question of Saudi Arabia's exclusion of Jews with Jackson Hearn, a Commerce Department official who works on the Joint U.S.-Saudi Commission, he shrugged and said: "It's not just Jews. The Saudis do not permit Communists and atheists either."

As to the boycott, though a federal statute states that it is U.S. policy to oppose boycotts against friendly countries, the administration has made it abundantly clear that the *Arab* boycott is just one of those annoyances that must be put up with for the greater good of U.S. foreign and economic policy. In testimony before a congressional committee last December, Under Secretary of Commerce James A. Baker said that while the administration is concerned about the restrictive trade practices imposed on US companies by the boycott, that had to be balanced by the need to support "legitimate US interests in the Middle East."

The interests on the economic side, according to Baker, are these: US exports to the Arab countries are expected to reach $10 billion by 1980 and each billion of that total represents 40,000 to 70,000 jobs for American workers. Thus, said Baker, the administration opposes all attempts to legislate against compliance with the boycott because it ". . . could result in the loss of significant trade opportunities by US interests and business concerns."

American businessmen understand the priorities. Consider the following transaction recently concluded between a Connecticut manufacturer and two businessmen in Kuwait. Several months ago the Kuwaits ordered $4470 worth of household tools from The Stanley Works in New Britain. To finance the deal the customers opened a line of credit with The Commercial Bank of Kuwait—a correspondent of New York's Chemical Bank. The Chemical Bank in turn issued a standard letter of credit to The Stanley Works which included the following "special instructions":

"Documents must include your certification stating that the producing company or the company exporting the goods is not a company boycotted by the Ministry of Customs and Ports, Israel Boycott Office, State of Kuwait, and that it is not in any way affiliated to any such company."

A declaration in exactly the above language was made by The Stanley Works on its invoice. The export documents were delivered to the Chemical Bank's International Department, where a clerk checked them off against the requirements of the letter of credit. The Stanley Works then received payment, and the goods were shipped to Kuwait, concluding what a spokesman for the Chemical Bank called a "routine clerical transaction."

Now it is a matter of public record that Kuwait's blacklist consists of some 1500 American companies, individuals and organizations—including such household names as RCA, Ford, Xerox, and Coca-Cola. Thus when The Stanley Works as a condition of sale attested that it was not "in any way affiliated to any such company," it was surrendering to a most sweeping restraint of trade.

Why should a 100-year old firm, with 11,000 employees and annual sales of around $500 million succumb so easily? Representatives of The Stanley Works refuse to answer that question but it is no secret that what is at stake generally for American companies is an Arab export market that totaled $5 billion last year and is expanding. Encouraged by their government, almost all American firms are indeed "routinely" complying with any boycott declarations requested of them by their Arab customers—whether what is being sold is jet fighter planes or household tools. The boycott requirements are so pervasive that a businessman selling 100 crates of popcorn to a customer in Libya has to declare that he has "no direct or indirect contact with Israel and would act on the grounds and regulations of the Arab boycott of Israel."

Without even blinking the banks are now processing thousands of export documents with declarations such as these. Yet at a recent New York State Assembly subcommittee hearing on the boycott, representatives of all the major banks insisted they were doing nothing improper or unethical. All cited recent statements by Ford administration officials in support of their position.

The Arabs themselves make it all sound even more innocent. They tell Americans not to worry about a boycott that does not discriminate against anyone on ethnic or religious grounds. The boycott, according to official Arab statements, is nothing but a legitimate act of self-defense against Israel.

The issue, however, is not whether the Arabs have the right to boycott Israel but whether US institutions and companies are forced to abandon their own principles and laws. Conceivably a boycott against Israel might be carried out so scrupulously that American Jews and other innocent parties were not also hurt. The trouble with this particular boycott, though, is that it has never been very scrupulous about anything. And what is worst of all is that those few American firms that take American principles seriously and refuse to knuckle under are then discriminated against as part of a process abetted by the US government itself.

The Damascus boycott office is supposed to carry out the decisions of a boycott council consisting of one representative for each of the 20 Arab League states. The council meets twice a year to consider adding or removing firms from the blacklist and also to amend the boycott regulations. Included among the dozens of "violations" that could get a firm or individual blacklisted are the following: establishing plants in Israel; granting licenses to Israeli companies; holding shares in Israeli companies. Also in hot water are navigation companies that transport Jewish immigrants to Israeli and foreign banks that grant loans to Israeli companies. The criteria are so elastic that Mohammed Mahgoub, the boycott office's Commissioner General for more than a decade, once said: "The boycott includes companies when it is proven by definite evidence that they, their proprietors or controllers have Zionist inclinations."

It is questionable whether the boycott officials go about collecting any evidence at all. The council meetings are star chamber proceedings. Companies are never informed that they are being considered for the blacklist; they have no opportunity to be present, nor are they afforded due process. Blacklisted companies often find out only by word of mouth or through a self-serving press release issued by the Damascus office.

The boycott office has never officially released its boycott list but a Lebanese publisher named Victor Bendaly supplements his income by selling a version of the list. The Senate subcommittee on multinational corporations has released a 1972 Saudi Arabian copy. Those lists are striking illustrations of how arbitrary and venal the whole operation is. Phil Silvers, Shelley Winters and Isaac Stern are on one of the lists. The Shalom Aleichem Folk Institute, a network of Yiddish schools in New York, and Yeshiva University are on another, apparently for "material contributions" to Israel. But the General Electric Company, which sells Israel jet engines for its fighter planes, is not on any list—obviously because the Arabs want jet engines too. On the other hand the Arabs found the Topps Chewing Gum Company to be a menace because it licensed an Israeli factory to produce "Bazooka" bubble gum.

Apart from the vagaries of the Arab League blacklist, each Arab country has its own boycott office and is entitled to undo or add to what has been done in Damascus. Therefore there are 20 Arab boycotts, and the disparities are striking.

Saudi Arabia and the Persian Gulf sheikdoms have added their own historical anti-Jewish bias to the general boycott requirements. Companies working on contract in Saudi Arabia are told not to bring in either Jewish personnel or products made by Jewish firms. Algeria, on the other hand, despite its militant rhetoric on the Arab-Israeli conflict, is quite pragmatic when it comes to trade and has just quietly signed major contracts with two prominently blacklisted firms. Though on the blacklist, the Ford Motor Company sold trucks to the Jordanian army.

The one experience common to blacklisted firms is contact with those Arab "agents" offering their good services. An official of the Monsanto Company, blacklisted in 1966, says: "There have been no end of agents coming to us and offering to get us off the list for a fee. We decided we just weren't going to pay *baksheesh*." *Fortune* magazine tells the story of how the Bulova Watch Company hired a Syrian lawyer and paid him a retainer to get them off the blacklist, only to discover soon after that their agent had apparently emerged on the wrong side of the Syrian regime and was hanged in the Damascus square.

Often American companies are squeezed simply because of inter-Arab rivalries or the vested interests of the bureaucrats in Damascus. That seems to have been behind the attempt of the boycott office to muscle the Chase Manhattan Bank in the '60s.

Chase Manhattan had been Israel's chief fiscal agent in the United States since the founding of the state—meaning that it handled Israel's bond issues. The Arabs knew that and also knew it to be a direct violation of their boycott principles. Nevertheless, Chase was never bothered—probably because of its role in the Arab world, and its oil company connections.

Then in July 1964, the boycott office suddenly issued a press release in Damascus announcing that Chase had been blacklisted for violating the rules of the Arab boycott—the charge was that the bank was "chief fiscal agent for Israel." Commissioner General Mahgoub gave the Arab countries six months to settle their accounts with the bank. Shortly thereafter, as if to reinforce the seriousness of the action, the Syrian government issued instructions for all banks operating in the country to begin liquidating their transactions with Chase Manhattan.

Mahgoub kept the pot boiling with another announcement from Damascus that Kuwait was calling off plans to deposit $200 million with Chase. In New York, however, the representatives of Kuwait denied any knowledge of the proposed $200 million deposit. *The NY Times* quoted banking sources suggesting that Mahgoub was pressuring Chase to break with Israel with the proposed $200 million as "compensation."

Chase was not about to be bribed but it was concerned enough to undertake a diplomatic campaign at the highest levels to "persuade" the Arabs to take the bank off the list. John J. McCloy, the man Richard Rovere once called the "Chairman of the American Establishment" and who was then a Chase director personally took the issue up in Cairo with President Nasser. A Chase Vice President was dispatched to Jordan where U.S. Ambassador Robert Barnes introduced him to the Jordanian representative on the boycott council. The approach used, according to Barnes, was that "it was counterproductive for the Arabs to try to boycott banks since you can't follow money." A similar approach was used with the Lebanese representative to the boycott council. Chase also submitted documents to the boycott office denying it had violated the boycott rules.

The attempt to pressure Chase was led by Syria with Mahgoub's support. Chase, however, was using its own leverage with the more moderate Arab states, such as Egypt. The Egyptians had a $10 million outstanding loan from Chase and were looking for more—so they were willing to help. The strategy worked. After the next meeting of the boycott council, in January 1965, Mahgoub was forced to back off and announced that the action against Chase Manhattan had been suspended because of the "certified documents" submitted by the bank. If the Commissioner General was disappointed, however, there is always new business for blacklisters. A few weeks after the Chase affair Mahgoub called another press conference to announce that Sophia Loren was banned throughout the Arab world for appearing in a movie about Israel.

Whatever was said in the documents submitted by Chase (no one at the bank today seems to know), the fact is that the bank continues to handle Israel's bond issues, still a violation of section 18b of the boycott rules. On the other hand, the bank is even more massively involved in the Arab world today, handling $1 billion in overnight deposits for the Saudi Arabian Monetary Agency and a $200 million real estate portfolio for Kuwait. And the Arabs keep reminding Chase that they are watching its behavior.

Thus shortly after Chase Chairman David Rockefeller made a Middle East trip last year Kuwait officials announced that they were taking steps to put Chase on the blacklist again. What had apparently angered the Kuwaitis was some chance remarks Rockefeller made in Jerusalem praising Israel for the way it maintained the city. Chase was concerned enough to have a vice president stop off in Kuwait to explain things, and eventually the Kuwaitis cooled off. In fact, as David Rockefeller himself subsequently acknowledged, it is highly unlikely that the Arabs would do anything quite so drastic. The Arab interest in an institution as powerful as Chase is now much more along political lines. Ultimately it is the knowledge that they too "have a friend at the Chase" that accounts for the willingness of the Arabs to wink at the bank's continuing violation of their boycott rules.

For its part Chase Manhattan is forever saying it has no politics, that it only wants to do business. But the record is that Chase officials have intervened politically for the Arabs. In 1968 David Rockefeller and John J. McCloy, along with several prominent oilmen, met with President-elect Nixon to urge on him a Mideast policy more friendly to the Arabs. During the 1973 war McCloy urged the Nixon administration not to ship arms to Israel. Last year, shortly after the breakdown of the negotiations for an interim agreement between Israel and Egypt, David Rockefeller was part of a delegation of Establishment "wise men" who met with Henry Kissinger and offered support for Kissinger's criticism of Israeli "intransigence."

One American company that took a clear cut no-nonsense line with the boycott was RCA, which was blacklisted in 1966 for granting a license to an Israeli record company to use the RCA label. Until that time RCA had been doing about $10 million annually in sales to the Arab world. As a result of the blacklisting it lost over 90 percent of that business. Furthermore RCA has been routinely cut out of contracts by other companies trying to observe the boycott rules. And when the US government channels business into Saudi Arabia RCA is automatically excluded.

The licensing arrangement in Israel was not much of an offense—at least not compared to handling Israeli bonds—and it is clear that RCA could have maneuvered its way off the list, just as Chase Manhattan and General Tire and Rubber did. But RCA officials have consistently refused to deal, though they too have been contacted by "agents" offering to intercede with the boycott office—for a free. RCA's International Vice President Eugene P. Seculow says: "Our position has been very simple. We believe in free trade and we are attempting to do business everywhere in the world where it is not against US laws. But we won't comply in any way with the boycott or try to negotiate our way off the list." Seculow called the boycott "capricious and insidious" in its effects on the US business community.

A more sanguine view of the boycott is offered by Robert Barnes, the ex-US ambassador who helped Chase Manhattan get off the list: "There are quiet ways to handle these things"—one way being a "contribution" in the form of an investment of development capital in an Arab country. That is how the Ford Motor Company is now trying to do it. It has been negotiating with the Egyptian government for over a year to get off the list through a proposed joint venture to built a $150 million assembly plant in Egypt. Coca-Cola and Xerox are reported to be involved in similar negotiations—all with the blessings of the US government.

One direct way out of the whole morass would be to make compliance with the boycott illegal for all American companies. At least a half dozen anti-boycott bills are now under consideration, the most far-reaching of which was introduced in the House by Elizabeth Holtzman (D, NY) and Peter Rodino (D, NJ) along with 60 co-sponsors. It would prohibit participation in the secondary aspects of the Arab boycott by American firms and provide stiff civil and criminal penalties. On the face of it support for such legislation appears strong. Newspaper editorials have been almost unanimous in attacking an operation that by its very nature runs counter to American principles of freedom of trade. The boycott hardly has a political constituency willing to make a case for it openly.

Furthermore, the anti-boycott position is already mandated as official US policy. The Export Administration Act of 1969 states that "it is the policy of the United States (A) to oppose . . . boycotts fostered or imposed by foreign countries against other countries friendly to the United States, (B) to encourage and request domestic concerns . . . to refuse to take any action, including the furnishing of information or the signing of agreements . . . " that has the effect of furthering those boycotts. The proposed new legislation puts teeth into what all concede to be US policy.

What the anti-boycott forces have been up against however is an administration determined to pursue its Mideast policies without having to confront the Arabs in any way over the moral issues raised by the blacklist. Indeed, until very recently it was the policy of the Commerce Department to circulate to US firms commercial tenders containing boycott requirements. One such tender required American companies bidding on a contract to supply pre-fabricated buildings to certify that the materials were not manufactured "by any companies boycotted officially by the Iraqi Government." The US was thus facilitating not only the boycott of Israel but restraint of trade against other American companies.

The Anti-Defamation League went to court last year to get Commerce enjoined from further distribution of the tenders. The government backed off and agreed to end the practice, thus conceding one small victory to the anti-boycott forces. But an internal Commerce memo at the time throws some light on the administration's broader strategy in the fight. Dated August 11, 1975, the memorandum was written by Peter Hale, Director of the Commerce Action Group for the Middle East. Hale pointed out that the State Department was already disturbed by the Commerce Department's policy of disseminating the tenders "in view of the consideration being given by Congress to more restrictive legislation against the boycott." Hale went on to report that the State Department ". . . may press for some change in our practice . . . as a further effort to head off damaging legislation."

Aside from occasional gestures there have been only two moves by the federal government to deal with the boycott directly. One action came when, after an independent investigation, the Justice Department concluded that the secondary aspects of the boycott involved serious violations of US antitrust laws. Before the Justice Department went ahead with a planned landmark suit against the Bechtel Corporation, however, the State Department was allowed to present its views on the possible foreign policy implications of the case. Henry Kissinger was so concerned that he personally cabled Attorney General Levi from China, during the President's trip there last November. According to a highly placed State Department source, Kissinger's worry was that the antitrust action "could be seen by the Arabs as a deliberate US government decision to act against their policy. Thus it could have had an adverse effect on the peace-making process."

Levi held his ground, however, and the suit was filed on January 16. It charged that Bechtel, one of the biggest prime contractors doing business with the Arab world, was refusing to deal with Arab blacklisted U.S. subcontractors and for this purpose the company maintained a boycott list. Bechtel's initial response did not deny compliance with boycott requirements but said the suit was "unwarranted" in that the boycott was not illegal under U.S. law.

In one more attempt by an independent agency to go beyond previous administration policy, Federal Reserve Board Chairman Arthur Burns last December sent out a letter to all member banks warning them about the practice of issuing letters of credit containing boycott provisions. Such participation in the boycott, even "passively," was "in the board's view, a misuse of the privileges and benefits conferred upon the banking community."

Banking circles considered the warning practically a mandate from the agency they regard as their regulator. At least one major bank, the Chemical, put a moratorium on issuing letters of credit involving boycott conditions. It was clear that if the ruling stood the whole pattern of boycott conditioned trade with the Arab countries would be disrupted.

The banks were in a state of consternation and so was the State Department, the Commerce Department and the Treasury Department. All made strong representations to the Federal Reserve Board asking for what one bank official called a "liberalization" of Burns' ruling. Bowing to the pressure Chairman Burns issued a new clarifying letter in January. The key words were that the previous letter "was not intended to create a new legal obligation for banks." The new letter also said that primary responsibility for implementing and enforcing U.S. policy on the boycott rested with the Department of Commerce. The banks uttered a collective sigh of relief and went back to issuing their letters of credit. They already knew how the Commerce Department enforces U.S. policy.

In all fairness the responsiblity should not be borne by the Commerce Department alone. Peter Hale, the Commerce Department's boycott man, says: "Basically US policy on the boycott falls under the umbrella of Henry Kissinger. It is a question of US foreign policy." As presented by a high department official in a recent background briefing, here then is the State Department's view of why there should be no confrontations with the Arabs over the boycott: "The US has a major interest in preserving the peace in the Middle East," said the official. "It is our overriding political concern. But it takes two sides to make peace and the Arabs are at least 50 percent. To play a role we must be seen by the Arabs as at least aware of their problems—at least reasonably sympathetic. They want to be seen as people who have a just cause." The official went on to say that the Arabs have reason to believe that the boycott prevents Israel from getting stronger, that there is a consensus among them on this and they can't be talked out of it. The department is aware of the boycott, it is opposed to it and it urges companies not to abide by it. But, said the official, "the only effective way to reduce the boycott and ultimately eliminate it is to solve the Arab-Israeli conflict."

In other words, until US diplomacy succeeds in bringing the millennium to the Middle East, Americans will just have to put up with political and economic blackmail. It is clear that whether it is in the form of "agents' fees" or increased "capital development" or just plain political kowtowing, the major function of the Arab boycottt is to exact tribute. And as long as a blacklist of American companies is accepted as a routine part of doing business in the Middle East, there will be no end to the threats and intimidation. That prospect is morally compounded by the government's double-talk about opposing boycotts.

The Justice Department's suit against the Bechtel Corporation, if pursued to a successful conclusion, could do something to restore the balance—despite the State Department. But that is likely to involve years of litigation. In the meantime the ball is now with Congress, where support for anti-boycott legislation is on the rise. Making it illegal for American companies to comply with the boycott might force Henry Kissinger, despite himself, to say something about American principles the next time he sits down with a prince from Saudi Arabia.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. LEHMAN. Mr. Speaker, on Monday, March 29, the Subcommittee on Manpower, Compensation, and Health and Safety of the Education and Labor Committee held a hearing in North Miami on the National Workers' Compensation Act.

I was not present on the floor due to my attendance at these hearings. Had I been present, I would have voted "no" on roll No. 139, "no" on roll No. 140, and "no" on roll No. 141.

U.S. FOREIGN POLICY IN SOUTHERN AFRICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention a recent exchange of letters that I had with the Department of State. The topic was present and future U.S. policy in Southern Africa.

The letters follow:

House of Representatives,
Washington, D.C., February 26, 1976.

Hon. Henry Kissinger,
Secretary of State, Department of State, Washington, D.C.

Dear Mr. Secretary: I would like to share with you several concerns I have about present and future U.S. policy in southern Africa. I would also like to put forward a few personal thoughts for your consideration.

The likelihood of further polarization in southern Africa between black Africa and South Africa disturbs me. I hope that our policy would foster more dialogue and less confrontation in the area. I would suggest consideration of several interrelated initiatives in particular:

1. No U.S. support, either through money, arms or encouragement for a protracted guerrilla war in Angola. (Is the U.S. continuing—directly or indirectly, materially or otherwise—to encourage and supply either FNLA or UNITA? Is there still an active movement attempting to effect the secession of Cabinda from Angola? Are we either directly or indirectly involved in encouraging such a movement?)

2. Efforts to facilitate the reaching of an "African solution" in the area, including the reconciliation of Zambia and Zaire with the Popular Movement in Angola. (Have we communicated any desire on the part of our government for such a solution to either Zambia or Zaire? Have we asked either Zambia or Zaire how U.S. policy might facilitate—even if by not hindering—the reaching of such a solution?)

3. Immediate efforts to better our relationship with the Popular Movement which would lead to early recognition of the MPLA as the legitimate government of Angola. (Are other U.S. companies in addition to Gulf and Boeing being encouraged to renew or initiate business contacts and/or investments in Angola? What is the time-frame that you presently contemplate for our recognizing the Popular Movement? What do you feel are the considerations upon which eventual recognition turns? the timing of Zaire's or Zambia's recognition? the withdrawal of Cuban troops?)

4. Efforts to be more supportive of the nations of Tanzania, Zambia, Mozambique and now Angola in their nation-building efforts. (What aid are we presently giving these nations? What type of aid is presently being contemplated? military assistance? economic assistance? Have we or do we recognize the material and human sacrifices these nations have made and continue to make in their support of the liberation struggle in southern Africa? How wise is the policy of tying U.S. economic aid to individual foreign countries on the political stands taken by those countries at the United Nations?)

5. The giving of clear, unequivocal, signals to all concerned that U.S. policy and actions support a democratic sharing of power in Rhodesia and independence for Namibia, and condemn the system of apartheid in South Africa. (Have we explored the extent to which we can/should endorse the positions of the OAU and the United Nations in southern Africa? What is our present policy stand on Rhodesia, Namibia and apartheid in South Africa? To whom and how have we/do we communicate such policies?)

With the potential that presently exists for armed conflict between the Popular Movement and South Africa, I wonder what the U.S. response would be if a major confrontation were to erupt tomorrow between the two groups; or if, in the future, the Popular movement were to begin overtly aiding in a war to liberate Namibia.

In my view our rhetoric and policies during the Angolan conflict have increased the likelihood of the U.S. coming to the aid of South Africa in the event of such a confrontation. We have been driven by Soviet diplomacy much more into the open concerning our previously tacit, but strong, support of South Africa. My mention of the Soviet Union does not imply, however, that I see the conflict in southern Africa strictly, or even principally, in terms of a communist/non-communist struggle. To characterize the conflict in such terms overlooks and underestimates, in my opinion, the numerous local and regional factors and personalities involved in the conflict. And it tends to border on an ethnocentric view of the world.

My worry is that circumstances and our present policies in southern Africa may lead to the U.S. helping (even if helping only by not opposing) South Africa defend her possession of Namibia and her system of apartheid against black Africa and her allies.

I would appreciate your comments.

Sincerely,

Lee H. Hamilton, M.C.

Department of State,
Washington, D.C., March 19, 1976.

Hon. Lee H. Hamilton,
The House of Representatives, International Relations Committee, Washington, D.C.

Dear Congressman Hamilton: The Secretary has asked me to convey to you his appreciation for your letter of February 26, in which you asked timely questions about the role of the United States in southern Africa. He shares your concern about how to foster more dialogue and avoid violent confrontation in that troubled part of the world. We also want to give you our thoughts on the specific suggestions and comments you made.

1. We are not supporting a protracted guerrilla war in Angola. Since the Senate vote on December 19, no further funds have been obligated for the support of FNLA or UNITA. Military equipment is no longer being supplied by the U.S. to either group. However, funds necessary for the resettlement of FNLA and UNITA personnel, as well as for matters associated with ending our involvement, are still being spent. As for Cabinda, recent reports of fighting there indicate that the Front for the Liberation of the Enclave of Cabinda (FLEC) are still active there, although they do not seem to have made any major headway in challenging MPLA control of Cabinda. We are not now, nor have we ever been, involved in any way with supporting or encouraging FLEC or any Cabinda secessionist movement. Our position remains that the question of Cabinda is a matter to be decided by Africans alone.

2. Regarding Zaire and Zambia, we have been in continuous and close contact with both governments concerning the peaceful resolution of outstanding issues in the region. We are not attempting to dictate the course of action either country should follow. In fact, their actions, and the course of their relations with Angola, will be an

important factor in the determination of U.S. policy towards Angola.

3. In addition, the Soviet and Cuban role in Angola will continue to be a prime consideration in our policy. We remain concerned about the presence of massive numbers of Cuban forces and smaller numbers of Soviet technicians in Angola. As Secretary Kissinger has stated all along, however, we do not object to the MPLA as an African movement. Therefore, there is every prospect of our dealing with the MPLA once it is clear that they are indeed an African government and not totally beholden to foreign influence. Naturally, it is not possible at this point to give a precise time frame in which this might happen. We will be watching events in Angola closely and paying particular attention to the actions of friendly African countries that are most immediately concerned. We will make our decision in the light of the actions of the authorities in Angola and the views of other countries with which we have been closely associated.

As for U.S. business activities in Angola, we are currently taking no action either to encourage or to discourage American firms from doing business there.

4. Regarding aid to Angola, we are prepared to provide assistance through international agencies for relief and reconstruction. We have contributed $675,000 for disaster relief there, $600,000 of which has been given to the International Committee of the Red Cross (ICRC). The ICRC has informed us that it will require an additional $6.4 million for an expanded relief effort in Angola during the first six months of this year, and we are presently preparing a response to this appeal.

5. We believe that Zambia and Zaire are the best judges of what their respective relations should be with the MPLA. We have not proposed any specific approach or volunteered our services since this is a matter for the African states to sort out among themselves.

6. There has been considerable misunderstanding about American economic assistance. We do not tie the question of economic aid to a given country's stand in the UN. A decision to grant or not grant aid involves many factors—the country's needs, our own capabilities, and the overall state of relations between that country and the U.S. Voting patterns at the UN are part of the picture, but by no means the dominant element.

7. We are very concerned about Zambia's economic problems. We are presently studying how, in conjunction with other governments, the IMF and IBRD, and private lending institutions, we may be able to help Zambia deal with its pressing balance of payments deficit. No specific US aid figures have been determined. The question of possible military assistance to Zambia is also being studied but no decisions on this issue have been made. We have long recognized Zambia's commitment to majority rule in Rhodesia and its interest in other southern African issues.

8. We have given substantial economic assistance to Tanzania. From 1958–1974 we provided $58 million in development assistance and $35 million in PL–480 Title II assistance, as well as $34 million in loans for the TanZam Highway—a total of $127 million. AID commitments in FY 1975 totaled $38 million—$17 million in development assistance, $8 million in PL–480 Title I sales and $13 million in emergency drought relief. The planned program for FY 1976 is $14 million in development assistance, $5 million in Title I sales and $13.5 million in Title II grants. We have not provided military assistance to Tanzania in the past, nor is such assistance contemplated. We have always recognized Tanzania's support for the liberation struggle in southern Africa.

9. The United States has recognized the hardships which Mozambique must undergo in closing its borders with Rhodesia. We commend Mozambique for its response to resolutions of the United Nations Security Council which imposed economic sanctions on the illegal government in Rhodesia. The US voted for the recent Security Council resolution which calls for assistance to Mozambique so that it can bear the economic costs of closing those borders. We will give favorable consideration to assistance to Mozambique for this purpose.

In addition, we are waiting for a Mozambican response to our January 1975 offer to send an economic survey team to Mozambique to study economic cooperation. AID has included $5 million in loan funds in its budget request for possible development assistance to Mozambique in FY 1976. We contributed $850,000 to a UN program for refugee resettlement and $250,000 to purchase seed supplies distributed to victims of a 1975 flood of the Limpopo River.

10. The United States Government, through repeated public statements and related concrete actions, has made its position favoring majority rule in Rhodesia and Namibia and opposing apartheid in South Africa clear to all parties concerned with southern African questions. The most recent public comment on our policy concerning Rhodesia and Namibia appeared in Secretary Kissinger's statement before the Senate Foreign Relations Committee Bicentennial Hearing on March 16. The Secretary said: "We want to see self-determination, racial justice, and human rights spread throughout Africa. As President Ford has recently made clear again, majority rule in Rhodesia and Namibia is the unequivocal commitment of the United States." We have supported UN sanctions against Rhodesia and the determination by the International Court of Justice that South Africa's continued occupation of Namibia was illegal.

As we have frequently stated, our policy towards South Africa is based on our longstanding support for the principle of self-determination, on the inherent opposition of the American people to the South African Government's policies of institutionalized racial discrimination (apartheid), and on our determination to encourage peaceful change in South Africa by supporting constructive alternatives to the use of force. Our comprehensive arms embargo against South Africa, and our refusal to use South African ports for US Naval ship calls are specific actions we have taken to underline our objections to apartheid.

We cannot predict the US response to a hypothetical situation, such as a further Soviet or Cuban intervention in southern Africa. Secretary Kissinger reiterated on March 16 that the US wished to see the African continent free of great power rivalry. We have our own interests in seeing that local conflicts there not be exploited and exacerbated by outside forces intervening for their own purposes. In this context, we are very strongly opposed to direct Soviet or Cuban intervention in local conflicts in southern Africa. We would of course not intervene in a purely local conflict ourselves.

To sum up, we have not and will not support the minority regime in Rhodesia, South Africa's occupation of Namibia, nor the system of apartheid. We want to see a peaceful resolution of these problems. But we remain opposed to foreign military intervention in local conflicts, including those in southern Africa.

Sincerely,

ROBERT J. MCCLOSKEY,

Assistant Secretary for Congressional Relations.

POSTAL SERVICE TAKES A LICKING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. CRANE. Mr. Speaker, Jack Mabley, a popular columnist for the Chicago Tribune, has endorsed my legislation to permit private competition in the carriage of first-class mail. In a series of columns on the Postal Service, Mabley stated:

> Congress is going to have to decide whether it wants to run the mail system as a service subsidized by general taxation, or whether the delivery of mail should be handled by whoever can perform best for the lowest cost, whether it be the government or private enterprise.

Mabley concluded:

> Giving private enterprise a shot at mail delivery would seem to be a can't-lose gamble.

Mabley offers a cogent analysis of the shortcomings of the present system of mail delivery. His graphic examples and his concise arguments suggest that the only alternative to the present postal situation is to permit private competition in the delivery of first-class mail.

I would like to share Mr. Mabley's thoughts with my colleagues in the Congress, and I would also like to repeat my call for significant postal reform in the near future. Otherwise, we in the Congress will have to answer to our constituents for the ever-increasing cost and the ever-decreasing quality of service.

Mr. Speaker, the text of Mr. Mabley's articles follows:

POSTAL SERVICE TAKES A LICKING

(By Jack Mabley)

The cost of mailing a first class letter may go up to 17 cents as early as next November, according to some who know how financially sick the Postal Service is.

Other rises will follow unless there is a turnabout in the Postal Service management. Speculation has gone as high as 48 cents for a first class stamp.

Congress is getting uneasy about repeatedly being asked to pump money into the Postal Service to keep it running. Congress supposedly took politics out of the mail when it set up the Postal Service in 1970 with orders to conduct it as a business. That meant making a profit.

Looking at the Postal Service mess, I often wonder how the service would be if it were run by the Bell Telephone System. For a variation, I also fantasize how our telephone system would be working if it were run by the Postal Service. I'm sure we'd be paying at least 50 cents for a call from a phone booth.

This speculation has some pertinence today because there is growing support in Congress for a bill to allow private enterprise to go into the business of delivering first class mail. Present law prohibits any but the Postal Service delivering mail.

James Rademacher, president of the National Association of Letter Carriers, thinks the administration is ready to give private industry the job. Ronald Reagan suggested the idea in his controversial plan to cut the budget $90 billion.

Postmaster Gen. Benjamin Bailar and his hierarchy strongly oppose repeal of the 200-year-old monopoly—with good reason. The 13-cent stamp we buy to put on a letter helps subsidize the rest of the postal operation—processing and delivery of packages and periodicals, the second, third, and fourth class mail.

The law says that each class of mail must pay its own way. The law is circumscribed by foggy bookkeeping. Literally nobody knows for sure how much of that 13-cent stamp goes to subsidize other mail. Some experts insist if the law were followed we could mail a letter for 7 or 8 cents.

The Postal Service does have competition on package delivery. And if the Postal Service were an unsubsidized private business it would have sunk into bankruptcy long ago.

The Postal Service handles live chickens, and United Parcel Service won't handle live chickens. Otherwise, UPS has it all over the Postal Service in cost, speed, and efficiency.

The Postal Service is reducing Saturday deliveries in parts of New York and the East, and also is reducing business deliveries. Bailar is making threatening noises about cutting home delivery to three days a week.

This is the bargaining device to make us feel grateful when they decide to drop Saturday deliveries but retain Monday through Friday schedules.

Each cutback digs the Postal Service farther into the red. It needs more mail, not less, to survive. It's on a can't-win course.

Rep. Phil Crane, Republican from the northwest suburban area, is the principal sponsor of the bill to allow private mail delivery.

In a Jan. 16 report, the federal Council on Wage and Price Stability stated, ". . . permitting competition to the Postal Service's first-class mail service probably would result in significant benefits to the economy and the mail user."

The Council noted that since 1971 first class rates have risen 63 per cent while the consumer price index was going up 35 per cent. While federal civilian worker wages were rising 38 per cent from 1970 to '75, postal workers' pay rose 60 per cent.

The average postal employee, excluding management, will receive $16,100 this year including benefits. For 1978 the existing contract calls for an average pay of $18,700.

Users of the Postal Service for the most part don't begrudge decent wages for the workers. And the postal employes themselves want to work, want to deliver the mail, but are strangling in red tape and incompetence from above. A classic case will be described in Monday's column.

Bulk Mail Center Filled With Trouble

(By Jack Mabley)

The Postal Service Bulk Mail Center is a vast two-story building on Roosevelt Road in west suburban Forest Park where packages mailed in the Chicago area are sorted and sent on to their destinations.

Your 13-cent stamp helps subsidize this operation, which was supposed to revolutionize the handling of bulk mail. Two leaders of the employes at the BMC think the public should know how the place is run.

Ed Sloan Jr. is a gravel-voiced, 32-year-old ex-Marine who was drafted into the presidency of the BMC local of the American Postal Workers Union. With him in our talks was Robert Gordon, 49, president of the maintenance craft unit of the union.

These are highlights of several hours of conversation.

"We have two Lift-A-Loft fork lifts," Sloan explained. "They cost $35,000 each. They're beautiful. But the beams in most of the building are so low you can't drive under them.

"You can run them around an area about 150 square feet. They had to modify the building to get them in; now they can't get them out. They had to get two smaller fork lifts to do the work."

Sloan was hired in 1972 and sent to Oklahoma for eight weeks of training in maintenance. "They sent 103 of us there to train," Sloan said. "When we got back we couldn't do anything because the facility wasn't 'on line.' That means it wasn't operating. It was like in the Army: You do what you can to try to look busy. And we were getting $11,900 and up.

"Maybe 20 of us couldn't stand the boredom and asked to be transferred to other places until it opened up. I went to New York.

"You know, if anyone other than the Postal Service mismanaged spending the way they do, they might be in jail.

"They've got something that can work at BMC. We can help the public, and that includes me. I'm the public. I pay taxes. I mail letters. What we're saying is if we can't take this to the public, things are going to get worse."

He and Gordon cited instances of spending huge sums on equipment that didn't work or was out of spec when it came and now sits on skids in the building.

"The container unloaders at BMC unload incoming mail and dump it on conveyor lines," he said. "These machines are the same at all BMCs and the containers go from one center to the other.

"One of our machines didn't work, the other did. Instead of fixing the machine that didn't work, they modified 5,000 containers."

[Jacob Rabinow, chief of the office of invention and innovation at the federal Bureau of Standards, told the Postal Rate Commission:

["The post office has been plagued for years by this practice of doing things on a crash basis because Congress is after them. This is because their engineers are not only incompetent because of lack of on-hand experience, but because of their incompetence they also are afraid of criticism, afraid to stand up for their belief and argue with the people who control the money."]

Back to Sloan and Gordon:

"We've had to take 400 rollers out and rebuild them in a machine shop. They were built to post office specs that held concentricity to less than one-thirty-second of an inch. They had to be built to less than one two-thousandth of an inch to last.

"Any apprentice with a couple of years' experience would know this kind of crap. It goes on and on. The mounting plates on the air compressors in the balcony were too light.

"They bought two big boilers for the roof, but then found they hadn't made the roof heavy enough to hold the right size boiler.

"So they had to put up light boilers that constantly broke down because they weren't big enough to do the job.

"And supervisors! They're falling over each other. On my shift, for 35 mechanics there are five foremen and one superintendent. You have a foreman for every seven men. With Univac when I worked at Marshall Field's we had 100 people with one area supervisor. I was a staff sergeant in the Marine Corps and had more than 100 under me. Maybe I don't know. I'm just a country boy from Alabama, but I think there are too many supervisors.

"The guy who designed the BMC system is a genius. It can work. But it has to have common, ordinary business practices. If the president of Univac or IBM or Control Data were to come and have the authority to do what needs to be done, it would work."

The private United Parcel Service moves packages at lower cost, faster, and with less breakage than the Postal Service. Commented Dan Buckley of UPS: "You don't just put a computer in and solve your problems. We constantly assess sorting systems. We put in a lot of systems that are not highly automated."

Postal Service Needs Competition

(By Jack Mabley)

"If the public elects to continue the postal system in its present form, it will have to pay a steep price," says Benjamin Franklin Bailar, the postmaster general. "It may find the first-class stamp becoming a luxury item in the next decade, and the Postal Service a ponderous and costly leftover from simpler, more affluent times."

Mr. Bailar was born in Champaign 42 years ago and was an American Can Co. executive before joining the Postal Service. He is making frightening statements about the Postal Service for two main reasons. One is to prepare the public for cuts in service and higher rates. The other is to persuade Congress to increase taxpayer support of the service.

But Mr. Bailar's scare talks are having another and unwelcome [to him] effect. He is making a case for a law allowing private competition in the delivery of letters.

The U.S. Postal Service is in competition with United Parcel Service and other private carriers in the movement of packages and periodicals. UPS, the largest, is carrying more packages than the heavily subsidized Postal Service, is making a profit, paying taxes, and giving better service.

I've known my present mailman for 30 years and we're old friends. But he almost never delivers packages any more. The other day the driver of the big brown UPS truck waved at me as he drove past my yard. He's the package man now.

Congress is going to have to decide whether it wants to run the mail system as a service subsidized by general taxation, or whether the delivery of mail should be handled by whoever can perform best for the lowest cost, whether it be the government or private enterprise.

Secure in the fact that it couldn't go bankrupt, couldn't go out of business because Congress has always been there with a handout, the Postal Service has run hundreds of millions of dollars in the red. The General Accounting Office has examined the postal operation and reported a succession of business horrors that would quickly have sunk an unsubsidized company.

The postal unions have virtually written their own tickets, with the Postal Service knuckling under rather than risk a strike. The present contract will bring average postal pay to $18,700 a year, including the value of benefits, by fiscal 1978.

Despite a no-strike agreement in effect at the time, the postal employes' representatives threatened a walkout during negotiations for the current contract. The no-strike clause was given by the employes in return for an agreement by management not to lay off workers, even during slack mail periods. Few major businesses could survive such a clause.

Documentation of multimillion dollar investments in mail handling systems that don't work, or don't do the job any better than machines that cost one-tenth as much, abounds in the GAO reports.

While I was writing the previous sentence, a Lake Forest merchant phoned and told how it takes seven days to get a package to a client in Racine. The package goes from Lake Forest to Forest Park to Milwaukee to Racine.

He's lucky. If he wanted to sent a package 103 miles from Pensacola, Fla., to Panama City, Fla., the Postal Service's bulk mail routing system would send his package 1,546 miles to New Orleans to Memphis to Jacksonville to Panama City.

The routing for the 76 miles from Lafayette, La., to Lake Charles, La., is New Orleans to Memphis to Dallas to Houston to Lake Charles, a total of 1,400 miles. The GAO says routings like this abound.

The Postal Service recently bought 17 facer cancelers for $8.7 million. The machines were to replace the Mark II facer canceler, which cost $425,000 now. The GAO says both types of machines operate in the same speed range, but the labor costs to operate and maintain the expensive model are as great or greater than on the existing model.

A new optical character reader replaces two multiple-position sorting machines that cost $300,000. The new machine cost $32.6 million. The GAO reported that the new machine cuts down manpower "but these savings are offset by the optical reader's greater costs in computer support and maintenance."

So it goes in Benjamin Franklin Bailar's Postal Service. He sees little ahead but higher priced stamps and cuts in service. Giving private enterprise a shot at mail delivery would seem to be a can't-lose gamble.

LIBERALS AND TERRORISM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ASHBROOK. Mr. Speaker, our liberals have a peculiar outlook on terrorism and violence. We saw the identity that many of the SDS'ers and the protesters of the 1960's had with the American liberal establishment. Somehow or other, the Berrigans, the Jerry Rubins, the Black Panthers, the Eldridge Cleavers were chic. Oh yes, a little overexuberant, the liberal would say, but basically a part of the reform movement in this country which would put us on the right track.

The good people were rioting in the streets and the idiots were in Vietnam fighting, we would hear. Just like now they say that the brave are in Canada and Sweden. Liberals somehow come to grips with leftist subversion, terrorism, or violence. The campuses were full of those revolutionaries in the 1960's and we might well wonder what they are doing today. Alice Widener in one of her syndicated columns gives us some indication of what has happened to them. I include that article at this point in the Record:

[From the Columbus, Ohio Dispatch, Feb. 22, 1976]

Terrorism Lies Ahead If Revolutionists Teach

(By Alice Widener)

Are California and the U.S. going to have a hot spring this Bicentennial year? The answer is yes, if the student senate at Stanford University in California has its revolutionary way. By a vote of 12-to-3, it has invited Communist Angela Davis and Trotskyite Communist revolutionary Ernest Mandel of Belgium to be guest teachers at Stanford. The results of those teaching sessions are entirely predictable. The odds are about 100-to-1 that as a direct result there will be more radical revolutionary kidnapings, killings and terrorism in California and the nation at large.

Folks, this is where I came in way back in 1968. At that time, I warned of the forthcoming violent campus revolutions and terrorism after I had attended the Fourth Annual Conference of Socialist Scholars at Rutgers University, New Jersey, where Mandel was guest of honor.

Have the trustees and administration of Stanford gone insane, I should like to inquire? Don't they know about Mandel or else wish to? By now, it would seem the West has had just about enough of him. Several of the most democratic nations in the world will not permit him to enter their territory.

The standard camouflage used by groups seeking to promote terrorism through Mandel is the description of him as "a Marxist economist." That is the description of him used in the People in the News section of the New York Post, Feb. 12, in announcing his forthcoming appearance at Stanford as guest teacher.

Until I read the astonishing announcement, I had thought every responsible university administration in our nation knew all about Mandel. Can it be Stanford's doesn't?

In the event this is indeed the case and as an aid to parents of university students throughout the nation who don't want their sons and daughters to become intellectually entrapped into the kind of brainwashing that leads them to fanaticism and violence, here are the facts about Mandel:

He is editor in Brussels, Belgium, of the radical Trotskyite revolutionary magazine "La Gauche" (The Left) which describes itself as the combat arm of the People's Revolutionary Armies.

Mandel is the "economist" who told the Socialist Scholars at Rutgers University in 1968, "Students are the detonators in the formula for triggering off a social explosion creating a revolutionary situation".

Ever since students in France triggered off a social explosion in May, 1958, that nearly toppled the French government, Mandel has been banned in that country for his complicity in the explosion.

Brussels newspapers directly charged that Mandel's Trotskyite People's Revolutionary Army was responsible for the kidnapping and murder of Sallustro in Argentina, the Italian automobile executive.

Mandel's magazine La Gauche boasts that Mandel is general secretary of the Trotskyite Communist Revolutionary Fourth International with ties to People's Revolutionary Liberation Armies throughout the Third World.

After Mandel had appeared at the Socialist Scholars Conference in 1968, the U.S. refused to grant him re-entry to our country for having violated provisions of his visitor's visa.

In my judgment, no nation wishing to avoid terrorism can afford to permit him to indoctrinate young minds and carry on his nefarious People's Liberation Armies conspiracies and activities.

Everybody who read my columns and my articles in Barron's National Business and Financial Weekly in January and February, 1968, knows I warned Americans about the forthcoming "Ten Days in April" violent campus revolution. When it occurred, AP and UPI rang my phone day and night for accurate research information.

I now warn the American public that if Mandel of Belgium is permitted to become guest teacher at Stanford University this spring, the consequences will be further outbreaks of violence and terrorism in our nation, with further kidnapings and bombings. He is a soft-voiced, smoothly sinuous viper sliding in and out of academic circles to drip intellectual poison out of his fangs.

Liberals have more than one double standard on this score. Somehow the police, the FBI, and the CIA are the bad guys and those who leak secrets, attack our country's defense and downgrade us are the good guys. When it comes to free speech, the liberal suggests we must hear every radical or misfit on campus under academic freedom but they quickly close the gates if anyone wants to discuss matters which do not meet with their approval. A different view on racial matters, a different view on defense or even a different view on Vietnam can bring out the most Fascistic tendencies of these so-called liberals. Bill Buckley hit the nail right on the head in his column, entitled "Murdering Free Speech at Cornell," which I include at this point:

Murdering Free Speech at Cornell

(By William F. Buckley, Jr.)

New York.—On Dec. 9, Marshal Ky rose to speak at Bailey Hall in Cornell University. Not quite on schedule, because an unannounced speaker first harangued the crowded hall on the theme of Ky as a mass murderer, assassin and fascist, who jailed, tortured and killed tens of thousands of people.

The self-invited speaker was Michael Parenti, a visiting professor—of government. Perhaps he is holding down the chair left vacant five years ago when the distinguished professor Walter Berns left Cornell in protest against the university's failure to discipline students who occupied critical parts of the university using only rifles.

Most of the crowd—Jim Myers' account in the Ithaca Journal is exemplary in its detail—loved it. So that when Marshal Ky walked on stage he was greeted with derision, abuse and obscenities. He announced that in deference to the temper of the audience he would suspend his prepared speech and devote the evening to answering questions. But he asked, would the audience please give him just two minutes in which to make a statement? He proceeded, but two minutes proved too great a tax on the patience of the Ku Kluxers.

"Nothing Ky said could appease the protesters in the slightest," reported the Journal, "and, in the end, as missiles and, it appeared, eggs and rotten fruit began to fly towards the stage, Ky stepped back from the podium, waited as the disruption grew, and finally left the hall, escorted by Cornell Safety Division officers."

During the question period Ky was not so much asked as informed that he was a fervent admirer of Adolf Hitler (Ky said he wasn't—his legendary reference had been only to Hitler's skills as a leader in the early 30s. In the same breath he had named Nasser); b) a dope smuggler (Ky denied it), and c) a land-thief (Ky explained that the land he "took" was undeveloped land, available to any Vietnamese who undertook to develop it).

A typical question was "How do you sleep at night?"—no doubt asked by a young member of the revolutionary nobility whose scars date back to when he was sent to sleep by his mother without a popsicle. The presumed hero of the evening was not a student, but an assistant professor of philosophy, Richard Miller, who wanted to know what Ky was doing there. He added: "The object of any people's court I've heard about is to find out if someone is a murderer and, if he is, to shoot him."

Ky having finally withdrawn, a protester took the stage and announced elatedly, "We have set a precedent! We have sent him away! The place is now ours!"

That conclusion is, however, in abeyance. A few days after the incident, the president of the university, Dale Corson, convened a faculty meeting and set in motion a judicial investigation. The judiciary committee of the university did the same thing. The president was denounced by the Cornell Senate, composed of faculty, students and administrative personnel, for having prejudged the matter.

In fact the president didn't prejudge the question of any specified individual's guilt or innocence. He'd have had to be deaf, and blind not to know that, in fact, Marshal Ky, the guest of three student organizations, had been prevented from speaking to a student audience, in violation of the rules of Cornell.

What is remarkable about it is less the taste of the Nazi Youth Movement than the appalling unintelligence of it all—the notion that Ky could be taught about the alleged despotism of his own government by a demonstration of behavior as demagogic and unruly as anything the demonstrators were implicitly attributing to the regime in which Ky figured. Now the demonstrators are all hiding under the little eristic provisions of their constitution. Marshal Ky is entitled to feel for those particular cowards only contempt.

JOB HAZARDS AND BIRTH DEFECTS

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, slowly but surely, our national conscience is awakening to the peril faced by working men and women through their on-the-job exposure to toxic chemicals.

The occupational death tool exceeds 100,000 per year. That means that every day, 273 Americans died from diseases they contracted on the job—diseases caused by exposure to toxic substances.

This terrible human toll should shock the sensibilities of a civilized nation. That it has not yet done so reveals something very important. About our sensibilities and our so-called state of civilization.

Of all the industrialized nations in the world, only two lack laws governing the manufacture and distribution of toxic substances. I regret to inform my colleagues that the United States is one of the laggard pair. Germany is the other.

What is the price we are paying for our foot dragging? How does one begin to compute the worth of 100,000 productive lives snuffed out before their time? Remember, these are the workers actually exposed on the job to toxic substances. Still another 260,000 Americans die each year from cancer—60 to 90 percent of which is environmentally linked. This environmental link includes toxic substances.

What will it take to propel this Nation into action on toxic substances? It appears that 100,000 worker deaths is not enough. It appears that an additional 260,000 deaths from environmentally linked cancer is not enough. It is simply not enough that we are killing present generations of Americans.

But now comes evidence that we are also affecting future generations of unborn Americans through our not-so-benign neglect.

Recently published studies reveal alarming evidence that exposure to certain toxic substances in the workplace is damaging the reproductive processes of both men and women. In addition to the damage done to the unborn child when the pregnant woman goes to work and is exposed to toxic substances, there is also genetic damage caused to men—which in turn can lead to increased incidents of spontaneous abortions, still births, deformed children, and abnormalities in future generations.

Mr. Speaker, the Sunday New York Times of March 14 contained a front page article on this alarming discovery. I believe the article deserves the attention of all my colleagues, especially those who are so forcibly arguing against Government interference with the American chemical industry.

I would like to address one question to those colleagues. Does the American chemical industry have a right to interfere with integrity of the American gene pool? If the answer to that question is "yes," then what we are saying is that we are willing to accept the deformation of American babies as the price for technological innovation. I suggest that price is too high. I also suggest that the one innovation this country desperately needs is a safe and healthy environment—in the community at large, as well as the workplace. I would like to see the American chemical industry dedicate itself to achievement of that goal with the same zeal that it has attacked responsible legislation designed to protect the public health and the environment from the appalling effects of toxic chemical contamination.

Mr. Speaker, my colleagues can read and judge for themselves the necessity of this type of protection. The article from the New York Times is included at this point in my remarks:

[From the New York Times, Mar. 14, 1976]

RISE IN BIRTH DEFECTS LAID TO JOB HAZARDS

(By David Burnham)

WASHINGTON, March 13.—A growing awareness that hazards in work may damage the reproductive process of women and, apparently to a lesser degree, men, has confronted government, business, and labor with an array of new and difficult ethical, legal and constitutional questions.

The questions have been raised by studies indicating that chemicals and other hazards faced by women working in such places as hospitals, beauty parlors and factories may account for an increasing number of the tens of thousands of miscarriages and birth defects that occur each year in the United States.

Beyond the damage done to the fetus when the pregnant woman goes to work, studies have indicated that the conditions found in some workplaces may cause genetic damage to men, which may also lead to spontaneous abortions, still births, deformed children and abnormalities in future generations.

"The potential damage to the fetus and the possible genetic damage that may occur when pregnant women and men go to work appears to be an important medical problem that none of us had focused on," said Dr. David Wegman, an occupational health expert at the Harvard School of Public Health.

It is conceded that an enormous amount of research will be required before scientists can identify the causes of miscarriages and birth defects, but there is a growing awareness among scientists, university researchers, labor leaders and industry executives of the potential impact of the workplace on the reproductive process.

Among the questions that Federal regulators, scientists and representatives of industry and labor must answer are the following:

If a substance is more dangerous to women than men, would a Federal regulation that prohibited a woman of child bearing age from coming in contact with the substance violate the equal employment opportunities law?

Why have Government scientists and private researchers devoted virtually all of their studies on occupational health to the problems of males when 40 percent of the nation's workers are women?

When a substance or condition is found to be a special hazard to women, must the Government take specific steps to reduce the dangers or has the Government met its legal obligation by merely issuing a warning to women?

WE DON'T HAVE ANSWERS

"At this point we really don't have the answers from the regulatory viewpoint, the ethical viewpoint or the legal viewpoint," said Dr. John F. Finklea, the physician director of the National Institute of Occupational Safety and Health.

Because the responsibility for various aspects of the problem are divided among a maze of Federal and state agencies, health officials are not able to chart the precise boundaries of the problem they believe lies before them like an island in the fog.

The officials know that the total number of women working outside the home has been slowly increasing. In 1960, women represented 33 percent of the workers; in 1975 the Labor Department estimated the figure at 40 percent.

The officials also know that the number of women holding what they suspect are more hazardous jobs are increasing far more rapidly than the total number of employed women. In 1960, the Labor Department said, there were 2.6 million women holding such jobs as nurses, factory workers, hair dressers, and garment workers. By 1975, the department estimated that the women holding such jobs had almost doubled to 4.8 million.

NO EXACT INFORMATION

But the Government has no exact information on the number of fetuses that each day go to the workplace with their mothers, let alone how many are exposed to suspected hazards. After an examination of all available evidence, however, a recent Federal study estimated that a minimum of one million of the 3.7 million babies born in 1970 had been "exposed to a variety of work conditions—both safe and unsafe."

Another great uncertainty is just how many spontaneous abortions, still births and birth defects occur each year. Though the Government has initiated a program to try to collect more precise information, varying definitions of medical terms, the lack of followup examinations to discover late developing birth defects such as mental retardation, and widely scattered reporting jurisdictions mean the exact size of the problem is not known.

Dr. William H. Flynt, chief of the birth defects branch of the Public Health Service's Center for Disease Control, however, estimates that 6 to 7 percent of the babies who are born each year in the United States—250,000—probably have some birth defect. Dr. Flynt said in an interview that a number of studies had found that an additional 10 to 15 percent of all conceptions resulted in spontaneous abortions or still births.

"We do know that perhaps half the spontaneous abortions are associated with chromosomal abnormalities," Dr. Flynt said. "But whether these abnormalities were the result of harmful substances that the mother or father encountered or were inherited or came from some other cause is not known."

The growing concern about the potential impact of the workplace on the reproductive process comes at a time when the Government's effort to lessen such hazards is under strong attack.

Individual businessmen and business organizations have made the Occupational Safety and Health Administration a central target of their attack on what they contend is unnecessary Federal regulation, and President Ford has repeatedly cited the agency in campaign speeches calling for less government.

But among knowledgeable officials the question of birth defects may represent a powerful counterargument to those attacking the Government. "It would be false to say there now is a mass consciousness about this problem," said Anthony Mazzocchi, Washington representative of the 200,000-member Oil, Chemical and Atomic Workers Union.

The deep concern among health researchers about the impact of the workplace on human reproduction springs from a number of sources. On Jan. 28, a study by five Government scientists was made public that showed that the wives of a sampling of workers who came in contact with vinyl chloride had twice as many miscarriages and still births as the wives of workers who did not handle the material. The study was done in the Pottstown, Pa., plant of the Firestone Tire and Rubber Company.

Researchers note that the chemical structure of vinyl chloride resembles ethylene dibromide and trichloroethylene, two substances used for such purposes as reducing engine knock in leaded gas, industrial degreasing and fumigants.

A second reason for concern are the findings of an experimental test developed by Dr. Bruce Ames of the University of California that suggests that virtually all known substances that cause cancer also appear to be mutagens—substances that affect the genetic system.

REPORT PUBLISHED BY HEW

Another apparent source of concern is the logical linking in the minds of Government and industry officials of two laws that at first were viewed alone. These were the 1964 Equal Employment Opportunities Act, which guaranteed all Americans an equal chance to hold a job regardless of race, creed, place of origin or sex, and the 1970 Employment Safety and Health Act, which established a mandate that the health of no American would be damaged by the conditions met at work.

Another source, according to many researchers, has been Dr. Vilma Hunt, the Australian-born author of "Occupational Health Problems of Pregnant Women," a 121-page report published 11 months ago by the Department of Health, Education, and Welfare.

"I'm not much for quoting the Bible, but Vilma's report for me was a bit like when St. Paul was on the road to Damascus and the scales fell from his eyes," said Dr. Finklea.

Dr. Hunt, a small intense woman who is an associate professor of environment health of Pennsylvania State University in University Park, Pa., credits Clara Schiffer, a program analyst in H.E.W., for persevering in her attempt to identify the special problems of the working woman.

"We are all responsible for the health of future generations and we can no longer ignore a fact of life—reproduction and work are women's lot," Dr. Hunt concludes in the preface of her report.

ECONOMIC PRESSURES

But in an interview, she expressed great concern that the potential impact of the problem is so great that women workers "will see again the over-reaction, prevarication and misinterpretation of Government and industry officials that we always see when women claim they also are participants in the workplace."

Dr. Andrea M. Hricko, health coordinator at the Center for Labor Research and Education at the University of California in Berkeley, described some of the economic pressures during a speech late last year in Chicago.

"Recently we received a letter from a worker at a plant in New England who had just been recalled after a lay-off. Upon her return to her job in a plastic factory, she was informed that she could no longer work in the vinyl chloride operation because it might be hazardous if she became pregnant. The company informed her she could only return to her job if she had a note from her doctor that she was no longer able to bear children."

Dr. Hricko also recalled 37 women in Idaho who recently were ordered not to work at a lead smelter because of the potential effects on their future children. "They were transferred to jobs that the company said were safer," she said. "But some of the new jobs may pay less."

The response of the Government so far has been spotty and inconsistent. "There simply is no Government policy on how to confront this problem," said Dr. Sidney M. Wolfe, a physician with the Health Research Group, a Washington-based group established by Ralph Nader.

DIFFERENT PROPOSALS

Concerning the three substances or conditions where the Government has taken action since the potential reproductive problems have arisen, each proposal has been considerably different.

Some research, for example, suggests that lead may pose special health problems for the fetus and for blacks who might have a sickle cell disease. But instead of recommending special protective measures or exclusion of these groups, the occupational safety and health administration proposed an exposure level that theoretically would be safe for all, men and women, black and white.

Arguing that such a low standard would involve "enormous expenses," the lead industries association argued in a brief filed on Jan. 16 that it would be preferable to limit lead exposure of special workers on a case by case basis through special monitoring or special respirators or in "extreme situations exclusion of the employees from exposed areas altogether."

For a second substance, vinyl chloride, the Government noted in a footnote to a proposed standard that there was some evidence of special reproductive hazards but decided no special level of protection was required to meet this need.

RADIOLOGICAL EXPOSURE

Concerning a third problem, radiological exposure, the Atomic Energy Commission and its successor agency, the Nuclear Regulatory Commission, have proposed issuing special warnings to women of child-bearing age rather than adjusting exposure levels to meet their special requirements.

One of the particular drawbacks of the regulatory agency's plan to warn pregnant women to avoid radiation is that women frequently are not sure they are pregnant until the third month after conception, a period during which the fetus might be damaged.

Government and industry officials note another legal complexity concerning the apparent connection between some workplace conditions and miscarriages and birth defects.

"It is my understanding that workers compensation does not cover birth defects or mutagenic defects," said Dr. Finklea, noting that the compensation program acts as a no-fault insurance program for workers, compensating them for some injuries but strictly limiting their right to bring suits.

Because the fetus is not covered, Dr. Finklea continued, anyone who was deformed because of exposure to dangerous substances by his mother or father would be able to bring a suit up until he or she was 21.

"The only redress of the damaged child would be civil action, almost equivalent to medical malpractice—I guess we could call it industrial malpractice. The mother cannot sign a release for the fetus and the liability will accumulate as research is being done," he said.

This, it seems to me, will be a very powerful lever for everyone to get to work on this problem."

A labor lawyer for a major chemical company agreed. "Every company in the country would be terrified about the prospect of having a deformed child bring a suit against it," he said, requesting that neither he nor his company be identified.

One of the first official efforts to begin focusing on the problem of women in the work-place occurred last November when Dr. Finklea and the National Institute for Safety and Health held a day-long conference with representatives from the Dow Chemical Company, B. F. Goodrich Company, Stauffer Chemical, Union Carbide, the industrial union department of the American Federation of Labor and Congress of Industrial Organizations, the Oil, Chemical and Atomic Workers and a number of Federal agencies, including the Equal Employment Opportunities Commission.

A four-day conference on the same subject is scheduled for June 17–19 and is sponsored by the Society for Occupational Health and the National Institute.

"The first thing is to get all of us male chauvinist pigs thinking about this problem," Dr. Finklea said, "But it looks to me that this is a significant health question and a very powerful problem that is hard to discount."

TERM PAPER PROBLEMS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. ADDABBO. Mr. Speaker, I would like to call to the attention of my colleagues in the House a problem in the field of education which involves mail-order term papers and the use of the U.S. mails to avoid term papers. Phyllis Zagano, a teaching assistant at the State University of New York at Stony Brook, has written an interesting article on this subject, entitled "I Wonder Who's Writing Them Now" which appeared in the New York Times Magazine on May 18, 1975. I include the article in the RECORD at this point for the consideration of the Members of the House:

[From the New York Times Magazine, May 18, 1975]

I WONDER WHO'S WRITING THEM NOW

(By Phyllis Zagano)

It's that time of year again; term-paper time. Term papers cause sinusitis, temporary blindness, headache, heartache and severe insomnia. But that's just what they do to the professors. The students have it easier. They just don't write them anymore.

I've had it. During the past few years I've spent countless hours pouring over papers prepared and written by Mark Lane. Walter Kerr, Time magazine and those wonderful people who gave us the Encyclopaedia Britannica. I've haunted the library stacks looking for obscure sociological texts, and inevitably found there the authors of my students' papers. I've even enlisted the aid of David Merrick's private secretary in the fight against phony papers. A student of mine quoted extensively from an interview she had with Mr. Merrick. But Mr. Merrick was in London on the day of the "interview." The student wasn't.

Sure, it's been going on for years. The fraternity files, the roommates, the quickie paste-up of a few dozen different articles.

Well, not like this it hasn't. Cheating is so well entrenched in the college term-paper business that the students no longer feel they are doing anything wrong. They cannot see the difference between a borrowed paper and one they've worked on themselves.

My most recent brush with the plagiarizer came last semester. Her paper was an obvious A. A flurry of phone calls, notes in my mailbox, and hurried hallway conversations erupted after she saw the F on her paper. Now she was in my office to explain why her final paper was almost completely copied from a text.

"I mean, Miss Zagano, I'm asking you, as a friend, what to do. I mean, I didn't know the paper was plagiarized. The girl I borrowed it from didn't tell me she copied it."

A Renaissance scholar, no doubt, has a much wider vocabulary range with which to respond to such an inquiry. I could only suggest she repeat the course, a requirement for graduation.

But now my students' ghost writers are getting more and more difficult to find. Cheating has gotten a little too sophisticated these days, even for the most widely read of professors. The affluent society has created the affluent cheater: No more ready-to-wear; he looks for tailor-made.

So the research service has been born. For $2.75 per page, anyone can get a paper on anything by selecting from a large collection of titles, lengths and levels of sophistication. A graduate paper on, say, "The Societal Implications of Indiscriminate Computer Information Storage" can be had as easily as an undergraduate paper on "Imagery in 'The Scarlet Letter.'" For $5 per page, original work is available.

It is easy and it is widespread. The writers who work for these companies are often well-educated and multi-degreed. They are paid anywhere from $2 to $15 per page, and some companies claim to have college faculty members on their staffs.

But if I am not reading the work of my students, what, in the name of God, am I here for? Once upon a time, when teachers were teachers (and not policemen), and students were students (and not whatever they are now), students prepared work for the correction and comments of their professors. Not so now. The paper is part of the program, one more thing to be typed up, handed in, and shoveled into the backlog of requirements completed in search of the B.A. The game is to get from "go" to "finish" with the least possible effort. How it is done is not terribly important.

Am I a raving maniac to believe that the majority of students cheat at some point in their careers? I think not, and neither do the students—for they have admitted in student and other publications that nearly all cheat at least once in a while and, on any given assignment, that at least a few are likely to hand in bogus papers.

It is enough to make you sick, but, even though they admit it, nothing is enough to make them stop. Watergate really didn't do any more good than Teapot Dome. It's the "system," they say. The "system" requires good marks. So if I want to get into medical school, law school, Harvard Business. . . .

Well, I can think of several past students who'll never get near my appendix, or take care of my legal or financial endeavors.

For that's just the point, as a junior told me recently. Nothing is learned. The grade is there, the diploma arrives, and the American dream is fulfilled. Someone got something for nothing.

Oh, there are many solutions. At Stony Brook, a second major offense tosses the cheat outside the college gates—where, instead of the cold, cruel world, a pack of ravenous admissions officers from other universities awaits him. The name of the game is to keep the dues-paying-warm-body-erstwhile-scholar, not throw him (and his tuition money) out. You don't hear of that many students dismissed for academic dishonesty because not that many are.

And the warm-body principle (you save your department and I'll save mine) is one of the factors in the grade inflation which has made cheating almost necessary. In the complicated schedule of events, professors have purposely, or not purposely, made things easier. In some classes, papers are not required. When they are required, they sometimes are not read. The chicken or the egg comes in here, too, for we don't know whether easy marking leads to student uninterest, which leads to fake papers, or whether fake papers lead to lack of willingness to produce honest work, which leads to professors' nonmarking.

None of the suggested solutions ever work out. Laws? There are plenty on the books outlawing term-paper operations. But I can order any paper and have it within days from firms whose names range from International Termpapers, Inc. to The Paper Mill. And every solution rests on the fact of catching the plagiarizer in one way or the other, either by in-class checks or professorial research. Columbo does the same thing, for more money and with fewer headaches.

Nothing can nor will happen until all those students out marching for the Cause of the Month realize that the biggest scandal of all is right in their own ivy courtyard. When they're tired of competing with the cheats, when they see professional schools blocked for them by the ghosts of The Academic Research Group Inc., when they're so disgusted with having to turn in professionally written papers to get even a B, then maybe they will do something.

And that will happen when the atrocities are so widespread that the faculty join ranks to stop it,

. . . when administrators admit that it is a bit ridiculous to have 70 per cent of each graduating class graduated with honors.

. . . when parents stop force-feeding baccalaureate degrees to their children,

. . . and when every student will admit publicly what 25 admitted to me when I read them this essay: Cheating stinks.

BASKETBALL CHAMPIONSHIP

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. HILLIS. Mr. Speaker, I am proud to announce that on March 27, Marion High School in Indiana's Fifth Congressional District won the Indiana State High School Association Basketball Tournament. This marks the second consecutive year in which the Marion Giants have won the championship. I want to extend my personal congratulations to Coach Bill Green and the members of the Marion Giants basketball team for their outstanding accomplishment. The Fifth District is proud of the Marion High School Giants.

A special word of congratulations must be extended to team member David Colescott. David received the coveted Trester Award given annually to the outstanding scholar and basketball player participating in the Indiana State High School Association Basketball Tournament.

Again, my congratulations to the Marion Giants and Coach Bill Green.

SOVIET OMNIPRESENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by my constituent, Henry Huglin, entitled: "Soviet Omnipresence."

I feel that Mr. Huglin has made some very valid points and that many of my colleagues will agree with Mr. Huglin.

The article follows:

SOVIET OMNIPRESENCE

(By Henry Huglin)

The Soviets are, without question, the dominant focus of our foreign policy. They have been for 30 years; and they will likely be for the foreseeable future.

Much of our diplomacy, most of our military strength, and some of our economic policy revolve around the strength, ideology, policies, and actions of Soviet Russia.

And most of the foreign policy and defense issues in the presidential campaign concern the Soviets, their threat or lack thereof, and how best to deal with them.

Many Americans are buffeted between dire warnings, such as Solzhenitzen's: "only force can soften or make yield the Soviet system; the entire regime rests on brutal force and thus it recognizes only force . . . there has never been on this entire planet and in all of history a regime more cruel, more bloody and at the same time more diabolically crafty," and the rationalizations of "doves" who, regardless of what the Soviets do, try to explain it away, often wrongly blaming us.

Hence, it is timely to highlight some of the factors which make the Soviets omnipresent in the national security and international affairs of our country.

The over-riding factor is that only Soviet Russia can really threaten our security and well being directly and cause such trouble in the world as to threaten us indirectly.

And the Soviets are riding high many places in the world.

They have secured eastern Europe; expanded their influence in Indochina and India; retained much influence in the Mideast, despite their current split with Egypt; and now, with their Angolan success, insinuated themselves even more deeply in Africa.

Further, their long-used technique of propaganda, espionage, and subversive and guerrilla warfare training are persistently spread throughout the world.

Also, while incessantly labelling us imperialists, the Soviets have really become the modern imperialists. And their blatant charges and claims have impact many places in the world, including in this country—confirming the effect of the "big lie" technique, perfected by Nazi Germany's Goebbels 40 years ago.

The Soviets do have economic problems at home and ideological conformity problems abroad. But these troubles pale in the prospect of the effects of their growing military power and increasing global activism. If not adequately countered by us, their power and success will constitute a prestige-building tranquilizer for their regime in Russia and an increasingly compelling magnet abroad, drawing more and more nations into their orbit—to our ultimate peril.

And the Kremlin has made clear that detente—in reaching strategic arms agreements, stabilizing the status quo in Europe, and increasing trade—does not mean their giving up promoting the takeover of governments elsewhere by communist clients—so-called "liberation" movements—by any means possible. Their actions in Angola have chillingly showed such intentions and capabilities.

So, we are sadly learning that—contrary to many apologists' predictions that the Soviets would moderate their expansionist ambitions as they attained military parity with us—they have reenergized their decades-old drive to expand communism and Russian imperialism by any feasible means—with the backing of what is becoming the world's largest and most omnipresent military machine.

Now, the possibility is low that the Soviets will launch a war against us. But the possibility is high that they intend to use their burgeoning military strength to be able to operate with impunity wherever in the world they choose—coercing and blackmailing us, our allies, and other nations into not resisting their moves.

Yet, our reactions to the agony of Vietnam, along with the Soviets' dampening down their blustery threats in recent years, have led us to pull back from our previous activist world role and to allow our military strength to slip, relative to that of the Soviets', which—since their backdown in the Cuban missile crisis in 1962—they have greatly expanded in numbers, quality, and deployment.

So, how should we act in 1976 toward the Soviets? Well, much as we have for three decades—after restoring our military, economic, and technological preeminence—negotiating warily, with persistence and, when needed, with toughness.

And only the myopic could disagree with Henry Kissinger's recent statement:

"Our objective must be two fold: We must prevent the Soviet Union from translating its military strength into political advantage, and for that we have to be strong and determined. And, at the same time, we must move beyond a policy of constant confrontation toward the construction of a more stable relationship between the two superpowers. Our purpose is to avoid, if we can, a situation where a succession of crises slides us into a world conflagration . . .

"There is no question that, if the U.S. looks and acts weak, the Soviet Union is going to take advantage. And it is totally naive to believe that we can throw a word like 'detente' at them and say: 'For the sake of good relations with the U.S., you must not do what we are not prepared to oppose.' "

PHILADELPHIA'S HISTORIC CHURCHES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. EILBERG. Mr. Speaker, the city of Philadelphia is the birthplace of our Nation. It was here that all of the freedoms which comprise the foundation of our society were set down for all time.

One of the most important rights, the freedom to worship in the way we choose, was established by William Penn in his agreement with the British Crown which gave him the right to found the colony of Pennsylvania.

For this reason, Philadelphia's rich colonial heritage includes many historic places of worship which should be visited by all who come to the city during the Bicentennial.

At this time, I enter into the RECORD an article by James Smart entitled, "Philadelphia's Historic Churches," which was printed by the magazine Destination: Philadelphia:

PHILADELPHIA'S HISTORIC CHURCHES

(By James Smart)

William Penn founded Philadelphia and Pennsylvania as a haven of religious liberty. His 1683 charter provided that no person "shall be in any wise molested" because of his religious beliefs.

No wonder, then, that Philadelphia has more than 20 active religious congregations that were founded before 1800.

Many still worship in historic old buildings, some of which have become tourist attractions as well as functioning houses of God.

Although the Society of Friends founded Pennsylvania, Quakers are not sentimental about brick and stone, and most of the original meetinghouses are gone. The oldest Friends Meeting in Philadelphia, at 4th and Arch Sts., dates to 1804.

To see a 17th century meetinghouse, it's necessary to go to suburban Merion. The Merion Meeting was built in 1695; William Penn spoke there in 1699.

The oldest church in Philadelphia is Gloria Dei (Old Swedes), at Swanson and Christian Sts., along the Delaware waterfront south of center city. It was founded as a Swedish Lutheran congregation in 1642, four decades before Penn arrived.

Penn attended the cornerstone laying of the present building in 1698. First services were held in 1700. It became an Episcopal church in 1845. Gloria Dei welcomes visitors.

So does Christ Church, at 2nd and Market Sts., an Episcopal congregation founded in 1695. The present edifice was built between 1727 and 1744.

George Washington attended Christ Church while he was president. His pew and those used by Benjamin Franklin and Betsy Ross are marked with small plaques.

Seven signers of the Declaration of Independence are buried either in the churchyard or in the Christ Church Burial Ground at 5th and Arch Sts.

The oldest Roman Catholic church in Philadelphia is St. Joseph's at 4th and Walnut Sts. When it was founded in 1733, St. Joseph's was the only place in the English-speaking world where Mass could legally be celebrated because of Penn's agreement with the British crown regarding religious freedom. The present building dates to 1838.

St. Mary's founded in 1763 on 4th St. near Locust, was declared the first Roman Catholic cathedral in the United States in 1808.

Mikveh Israel, the city's oldest synagogue, founded in 1740, is now in a 1909 building at Broad and York Sts. A new home for the congregation is being built at 4th and Market Sts. in time for 1976.

Tourists often visit Mikveh Israel Cemetery, on Spruce St. near 8th, a tract donated in 1765 by Nathan Levy, whose ship brought the Liberty Bell to America. The most famous grave is that of Rebecca Gratz, the Philadelphia girl Sir Walter Scott used as the model for Rebecca in his noval, "Ivanhoe."

Literature and religion blend in another cemetery, the churchyard of Holy Trinity Roman Catholic Church, built in 1789 at 6th and Spruce Sts. This is "the little Catholic churchyard in the heart of the city" Henry Wadsworth Longfellow described as the burial place of the sad lovers in his poem, "Evangeline."

Methodists visiting Philadelphia are drawn to Old St. George's, on 4th St. at the Benjamin Franklin Bridge, founded in 1767 and the oldest Methodist church in the world in continuous service. A small museum and historical center adjoin the building.

Bethel A.M.E. Church, at 6th and Lombard Sts., was begun in 1787 when Richard Allen, a black preacher who had bought his own freedom from slavery, led the black members of St. George's to form their own church. Mother Bethel became the founding church of the African Methodist Episcopal denomination.

The list of Philadelphia's historic congregations seems almost endless. Old Pine Presbyterian Church, at 4th and Pine Sts., was founded in 1768. First Baptist Church, now in an 1898 edifice at 17th and Sansom Sts., was founded in 1698.

First Unitarian Church was founded in 1796, and is housed in an 1885 structure designed by Frank Furness at 21st and Chestnut Sts. Old First German Reformed Church, founded in 1727, is restoring its 1837 building at 4th and Race Sts., which had become a factory when the congregation moved elsewhere.

There are others. Religious diversity and its history inevitably fill the city of William Penn, a man who wished that faith in God would permeate the atmosphere of Pennsylvania.

"Here, every man's a temple," Penn wrote in 1696, "and every family a church, and every place a meetingplace."

SENATE—*Wednesday, March 31, 1976*

The Senate met at 12 o'clock meridian and was called to order by Hon. DEWEY F. BARTLETT, a Senator from the State of Oklahoma.

PRAYER

Rabbi Barnett Hasden, director of special projects, Mesivtha Tifereth Jerusalem of America Rabbinical Seminar of New York, offered the following prayer:

Sovereign of the Universe and Father of Mankind, earnestly we seek Thee and we invoke Thy blessing upon all assembled here in this Chamber.

Do Thou, O gracious Guardian, ever direct the deliberations of these, Thy faithful servants, that their vision and wisdom may make America a better nation in which to live, and thus strengthen the national foundations of our beloved Republic.

May we, the citizens of America, ever be reverent toward Thee, our loving God, loyal to our obligations as Americans, honorable in our dealings with our fellow men, compassionate to the unfortunate in our midst, and be as brothers to the oppressed, the persecuted, and the homeless everywhere.

Gracious Sovereign, who art Ruler of the Universe, whose kingdom is everlasting, and who grantest salvation and dominion to the men and women who rule the nations of the world, do Thou bless and guide and guard the President and Vice President of these United States, the Senators of this Chamber, the chief executives of our States and cities, and all associated with them, who labor zealously for the welfare of our Nation and for the advancement of the cause of democracy and peace throughout the world.

May the Biblical ideals of freedom and fraternity, of justice and equality, enshrined in the American Constitution, become the heritage of all the people of the Earth.

We ask it in Thy name, our Father in Heaven. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 31, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DEWEY F. BARTLETT, a Senator from the State of Oklahoma, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. BARTLETT thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 30, 1976, be dispensed with.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 1 p.m. or the end of morning business, whichever comes later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. This, of course, excludes the Budget Committee, the Finance Committee, and the Appropriations Committee for the rest of the year.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL AND CLERICAL CORRECTIONS—H.R. 9721

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 9721.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendars Nos. 683, 687, and the remainder of the Legislative Calendar with the exception of Calendar No. 691.

The PRESIDING OFFICER. Without objection, it is so ordered.

PER DIEM EXPENSES OF MEMBERS OF THE UNIFORMED SERVICES TRAVELING ON OFFICIAL BUSINESS

The Senate proceeded to consider the bill, (H.R. 8089) to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business, which had been reported from the Committee on Armed Services with an amendment, on page 1, line 5, to strike out:

(1) by amending clause (2) by striking out "$25" and inserting in place thereof "$35"; and

And insert the following in lieu thereof:

(1) by striking out "of not more than $25 a day" and inserting in lieu thereof "in an amount sufficient to meet actual and necessary expenses, but in no event more than $35 a day".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

LIBRARY OF CONGRESS THOMAS JEFFERSON BUILDING

The bill (S. 2920) to name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in the block bounded by East Capitol Street, Second Street Southeast, Third Street Southeast, and Pennsylvania Avenue Southeast, in the District of Columbia (commonly known as the Library of Congress Annex), shall hereafter be known and designated as the "Library of Congress Thomas Jefferson Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress Thomas Jefferson Building.

REAPPOINTMENT OF JAMES E. WEBB AS CITIZEN REGENT OF THE BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 168) to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

The resolution (S. Res. 414) authorizing supplemental expenditures by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 377, Ninety-fourth Congress, agreed to March 1, 1976, is amended by striking out the amounts "$300,000" and "$5,000" and inserting in lieu thereof "$450,000" and "$10,000," respectively.

LEORA S. WILLIAMS

The resolution (S. Res. 416) to pay a gratuity to Leora S. Williams was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Leora S. Williams, widow of John L. Williams, an employee of the Senate at the time of his death, a sum equal to seven and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

THE 50TH ANNIVERSARY OF AMERICAN COMMERCIAL AVIATION

The resolution (S. Res. 381) relating to the 50th anniversary of American commercial aviation, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas in 1925 the Congressional Air Mail Act was enacted into law to authorize the United States Post Office Department to speed the mails by increasing the use of commercial aircraft, under which Act in 1926 airmail contracts were awarded to twelve new airlines flying fifteen routes connecting with the Post Office Department's central transcontinental service, thus creating the foundation of our great national air transportation system, and

Whereas in 1926 a supporting Congressional Air Commerce Act created the Aeronautics Branch of the Department of Commerce (now the Federal Aviation Administration of the Department of Transportation), which agency immediately designated necessary airways, provided ground-to-plane radio communications, lighting, weather, and other aids to air navigation, encouraged local authorities to provide airports, and issued regulations for operation of commercial aircraft, which Acts were the legislative cornerstones of commercial aviation, and

Whereas in our Bicentennial year the Aviation Historical Foundation is commemorating this fiftieth anniversary of the birth of commercial aviation by collecting such information and exhibits as are available for public display and dissemination and by encouraging appropriate ceremonies to celebrate the occasion and recognize the many contributions by Government agencies and the aviation industry, and

Whereas the United States Postal Service having definitely proved that carriage of mail by airplane is speedy and reliable, has discontinued its special air mail service and now is carrying all first class mail to distant points by air, and thus is issuing a special commemorative stamp in March depicting the planes used in the first official air mail flights between Detroit and Cleveland and Detroit and Chicago on February 15, 1926, and between Elko, Nevada, and Pasco, Washington, on April 6, 1926, for which special collector's covers are being provided by the Aviation Historical Foundation: Now, therefore, be it

Resolved, That the fiftieth anniversary of the birth of American commercial aviation be officially recognized and that all concerned governmental agencies be requested to join in participating in appropriate national and local ceremonies celebrating the fiftieth anniversary of commercial aviation.

NATIONAL BETA SIGMA PHI WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 76) authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as "National Beta Sigma Phi Week," which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 3, strike "annually";

On page 2, line 5, strike "30 of each year" and insert "30, 1976,";

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the seven-day period commencing on April 30, 1976, as "National Beta Sigma Phi Week", and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities to recognize the National Beta Sigma Phi Sorority and its social, cultural, and service programs and the high ideals for which the sorority stands.

Mr. DOLE. Mr. President, before the Senate proceeds to act on this measure, I would like to express my appreciation to the distinguished chairman of the Subcommittee on Federal Charters, Holidays, and Celebrations, Mr. HRUSKA, for his efforts in bringing the "National Beta Sigma Phi Week" proposal before the full Judiciary Committee for consideration. I think we are all aware of the large volume of commemorative resolutions of this type to be introduced and I find it very gratifying that this particular one has been accorded special attention.

I would point out that this is no accident, however, Mr. President, in that since I first submitted Senate Joint Resolution 76 to the Senate on April 30 of last year, it has attracted some 58 cosponsors—including the distinguished Senators from Indiana and New Mexico (Mr. BAYH and Mr. MONTOYA), whose names were unfortunately not included in the printed version of the resolution as reported. This is some indication, I think, of the substantial interest in, and support for, the national recognition which this organization so richly deserves.

There are other factors, too, which have contributed to the national significance of this legislation—not the least of which being that 30 State Governors have previously signed proclamations designating Beta Sigma Phi Weeks within their own jurisdictions. Moreover, it is noteworthy that this is the first group of its kind to be mentioned in such publications as the Encyclopedia Americana.

Because of the tremendous enthusiasm displayed by Beta Sigma Phi's throughout our Nation in making their activities known to Congress, I think all of us understand why they are no ordinary women's group. Indeed, they are among the leaders in typifying the social, civic, cultural, and humanitarian ideals for which International Women's Year, just past, was celebrated.

I am sincerely hopeful that the House of Representatives will take all of these points into consideration and give this measure their immediate and favorable treatment once it is referred to them for concurrence. If so, then there is every reason to believe the President can yet issue the proper declaration making April 30 through May 7 of this Bicentennial Year an official "National Beta Sigma Phi Week.' '

Again, I am extremely pleased by the support which Senate Joint Resolution 76 has received from Members of the Senate, and am privileged to have had a part in honoring this fine organization of Kansas heritage. Mr. President, I urge that the Senate pass this joint resolution, as reported.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas 1975 has been designated International Women's Year, with the United Nations having asked all countries and all interested organizations to join in working to advance the status of women throughout the world;

Whereas Beta Sigma Phi Sorority, the world's largest international Greek-letter women's organization, with more than two hundred and fifty thousand members from eleven thousand active chapters in twenty-three countries, has been pursuing that goal since its founding on April 30, 1931;

Whereas the Beta Sigma Phi International Endowment Fund promotes the additional aim of "service free from self and selfishness" through the support of such projects as cancer and cystic fibrosis research, educational scholarships, homes for exceptional children, and rehabilitation centers for predelinquent boys and girls; and

Whereas Beta Sigma Phi's social, cultural, and service programs have a significant impact on the lives of its members as well as their communities and local, State, and National governmental officials around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the seven-day period commencing on April 30, 1976, as "National Beta Sigma Phi Week", and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities to recognize the National Beta Sigma Phi Sorority and its social, cultural, and service programs and the high ideals for which the sorority stands.

Amend the title so as to read: "Joint resolution authorizing and requesting the President to issue a proclamation designating the seven calendar days commencing on April 30, 1976, as 'National Beta Sigma Phi Week'.".

The title was amended so as to read:

Joint resolution authorizing and requesting the President to issue a proclamation designating the seven calendar days commencing on April 30, 1976, as "National Beta Sigma Phi Week".

DESIGNATING JULY 2, 1976, AS AN OFFICIAL HOLIDAY

The joint resolution (S.J. Res. 151) to authorize and request the President to issue a proclamation designating July 2, 1976, as an official holiday, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the year 1976 is the Bicentennial Year in which many States are organizing programs to celebrate the American Revolution; and

Whereas many States are encouraging individuals to return to their families to celebrate the Bicentennial during the weekend of July 4, 1976: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 2, 1976, as an official holiday, and calling upon all States to encourage individuals to participate in Bicentennial celebrations organized for the weekend of July 4, 1976.

NATIONAL TENNIS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 172) to designate the fourth week in June as "National Tennis Week," which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, after "June" to insert "1976".

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the sport of tennis has grown over the past decade to interest millions of Americans from all walks of life; and

Whereas the sport of tennis contributes significantly to the fitness and enjoyment of millions of Americans; and

Whereas the celebration of Tennis Week has received widespread support of tennis groups and State and local government officials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, To authorize and request the President to designate the fourth week in June 1976 as "National Tennis Week", and requests the people of the United States and interested organizations to recognize such week for the encouragement of participation in the sport of tennis.

The title was amended so as to read:

Joint resolution to designate the fourth week in June 1976 as "National Tennis Week".

DISGRACEFUL INCIDENTS IN THE WISCONSIN CAMPAIGN

Mr. MANSFIELD. Mr. President, I noted on picking up the newspaper this morning, that several incidents occurred yesterday in the State of Wisconsin which I find outrageous, crude, and cruel.

Governor Wallace was campaigning for the Democratic nomination to the Presidency in a wheelchair, and he was ridiculed and caricatured by a very small group of individuals who wore masks and made remarks which tended to denigrate the Governor of Alabama and to, in effect, favor what an assassin had attempted to do to Governor Wallace several years ago.

At the same time, another candidate for the Democratic nomination for the Presidency, our colleague Senator Henry Jackson of Washington, was spat upon and otherwise treated, to say the least, most discourteously.

The conduct of those who participated was outrageous and has no place in a democracy.

There is room for differences in politics, but there is also room for decency.

These men who have been campaigning have been expending a great deal of time and energy. They have been working hard in an attempt to be considered for the highest office in the land. They have tried to express their opinions to the people, and the place to disagree with them is not on the basis of the methods used against these two candidates but at the polls.

That is what democracy means, and I hope that these incidents, which do not by any means reflect the attitude of 99.9 percent, at least of the people of Wisconsin, are not repeated because I think all they tend to do is to demean the democratic process and at the same time it will serve as a warning to others who want to enter into politics not to become involved because of the difficulties involved.

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. I feel exactly as the distinguished majority leader feels. This atrocious behavior is untypical of America. It has no part in our normal procedures in the process leading up to the nomination of candidates and the election of a President. It is demeaning to the people who do it and not to people who are the victims.

At times I feel that they are incited. Most cartoonists, for example, are severe, humorous, or at least restrained. But I have seen one cartoon depicting Governor Wallace in his wheelchair with square wheels, which was an evil and malignant piece of work on the part of that man.

This kind of behavior deserves the severest kind of condemnation. It is no wonder that some of these people wore masks, to hide the ugly face of their hatred and misconduct.

We in public office have to endure enough without these added indignities, and I deplore them.

The PRESIDING OFFICER (Mr. Leahy). The Chair in his capacity as Senator from Vermont associates himself with the words of the distinguished majority and minority leaders.

Mr. HUGH SCOTT. Mr. President, I yield back the remainder of my own time.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. Bartlett) is recognized for not to exceed 15 minutes.

INTERNATIONAL OIL SUPPLY—CONGRESSIONAL ACTIONS HURT UNITED STATES AND WORLD CONSUMERS

Mr. BARTLETT. Mr. President, during the last decade, the properties of U.S.-based multinational oil companies operating in the Middle East and in South America have been systematically expropriated and nationalized, many times without fair and adequate compensation. This trend is culminating in the recent total takeover of private petroleum operations by countries like Kuwait, Venezuela, and probably in the near future, Saudi Arabia.

Within the last several years, Canada—our good neighbor to the north—has radically altered its oil and gas tax and price laws to an extent that had reduced exploration and development. Canada is curtailing oil exports to the United States.

In the North Sea, one of the most promising oil provinces in the industrialized world, Great Britain and Norway have dramatically increased tax rates and have been attempting to obtain majority control of the private companies' operations in the area.

Throughout the world, there have been instances in which agreements between our U.S. international firms and foreign governments have been broken or drastically changed by the foreign governments. The provisions of these agreements are changed substantially, seemingly, when some foreign countries feel it is to their advantage to do so.

Compensation for expropriated assets, if there is any at all, is normally calculated according to the changing laws or dictates of the host nations. International law does not apply with any real force. This frequently results in substantial losses for the affected U.S. companies. In reality, however, it is the confiscation of the property of millions of U.S. citizens, the stockholder-owners of these firms.

The expropriation of the property of American citizens and the unilateral actions of foreign countries against our multinational firms are alarming trends which are having negative repercussions for petroleum consumers, both in the United States and in the world.

What concerns me most, however, is that the U.S. Government, directly through bad legislation and indirectly because of a general lack of support for international oil operations, is encouraging such unilateral actions, often without just compensation, by foreign countries. By so doing, Congress strengthens the OPEC cartel, inhibits the expansion of a geographically diverse worldwide supply of petroleum, sets a dangerous precedent which could adversely affect the full participation of all U.S. corporations in foreign commerce, and worsens our Nation's balance of payments.

Our Nation's energy policy, or more appropriately the lack of a workable energy policy, will result in reduced supplies of oil and gas throughout the world. If the Congress, and the administration truly desire to exert maximum leverage against the OPEC cartel to provide for the future of our Nation, our current policy is exactly backward.

A diversified and expanded worldwide supply of energy in addition to domestic sufficiency is essential to not only the economy of the United States but also the economy of the free world. Any U.S. policy which adversely affects the production of oil from other industrialized and Third World countries will impact the United States whether we like it or not. This is an interdependent world. The Congress should recognize this fact. Instead of its current anti-petroleum-industry policy, Congress should vocally encourage and support the participation of U.S.-based firms in all phases of world oil exploration and production, including the supply of equipment and services. It should not stand idly by when valid contracts are violated or when the properties of U.S. citizens are taken without fair compensation. It is a shameful commentary on conventional wisdom and current political behavior that our leaders in the Congress say little or nothing to protect the interest of American citizens when those interests are involved with international oil companies.

There is little chance of ever having enough economic strength to obviate the actions of the OPEC cartel if the United States does not develop a consensus supporting a workable energy policy and if world supplies of petroleum from non-OPEC nations are not increased substantially. The potential for the United States to increase domestic production and to reduce demand is probably greater than any other non-OPEC nation though not sufficient to influence OPEC unilaterally. With economic recovery, world demand for petroleum will increase, in turn usurping much of OPEC's current excess productive capacity. Thus, within several years OPEC's control over world oil supplies could be even greater and the cartel a more ominous threat to world economic stability. A tremendous increase in world oil supplies, expansions of alternate sources of energy, and, most importantly, an American consensus dedicated to domestic energy sufficiency, are our only insurance policies against the possible actions of the producers' cartel.

Our multinational oil companies are indispensible to this effort. There are no other entities which are better equipped to find and supply oil at reasonable prices to petroleum consumers in the United States and throughout the world than the U.S.-based oil companies. Nonsupportive policies toward these companies by the U.S. Government jeopardize the world crude supply and hurt all petroleum consumers.

Why is it beneficial to the United States that our oil industry be fully involved in world oil exploration and production?

First, our companies have demonstrated an unsurpassed ability to find and to develop oil fields. Our companies have the geological and technical experience and expertise which are necessary to explore and to drill successfully for oil in remote and hostile environments. It is generally believed that 60 percent of free world reserves have been discovered by U.S.-based private firms. This testifies to their ability.

Furthermore, it has been demonstrated many times that testing a variety of exploratory ideas in a potential oil and gas province by drilling many wells has been necessary to find an oil field. For example, nine exploratory wells were drilled by various companies on the North Slope before the Prudhoe Bay field was found. The greater the number of firms involved in evaluating their own exploratory concepts in an area, the greater will be the chances of discovering significant quantities of hydrocarbons.

If our companies do not engage in a maximum world exploration effort because of an inability to compete with companies domiciled in foreign countries due to relative tax disadvantages, or a lack of support from our Congress or Government, or the high risk of nationalization, future discoveries of petroleum will be substantially reduced.

Second, the best interests of the United States are served by having U.S. firms with U.S. citizens as managers involved in the critical supply of imported oil to our Nation. It is naive to believe that the volume of petroleum imports into the United States can be materially reduced in the future, especially for the near term. With an expanding economy, total demand for petroleum will continue to increase, possibly at an alarming rate if coal production does not double by 1985 to take up some of the slack. Although some progress had been made, primarily because of past actions of the executive branch, congressional oil and gas policy, and recently the acceptance of that policy by the administration, has accelerated a further decline in domestic production of oil and natural gas.

Mr. President, the most recent figures show that, for the first time in our history, our imports of foreign oil have exceeded 50 percent of our consumption. It used to be that imports amounting to 10 percent of our consumption were permitted into this country. This was done for reasons of national security.

The main activity of Congress has been to investigate and to blame the oil and gas industry and the administration for our energy problems while doing nothing constructive about them.

During the next decade our country will have to import substantial quantities of crude oil. Our vulnerability to a supply cutoff during the past decade was reduced by the U.S.-based multinational companies and the record proves it. During the 1973 embargo, our companies provided an effective nonpolitical buffer between the consuming nations and the producing nations. When, because of political considerations, the United States and Western European supply of oil was curtailed, the American companies were able to mitigate partially the severity of that impact because of their diverse access to petroleum supplies and their flexibility with transportation and crude sources. This important role has been recognized in reports by the Federal Energy Administration and the European Economic Community.

Third, having international oil, manufacturing, and engineering companies headquartered in the United States improves our balance of trade and creates considerable domestic employment.

Foreign operations can contribute significantly to a positive balance of trade and foreign profits have provided a needed source of capital for domestic investment. As an example, during 1974 the 30 oil companies in the Chase Manhattan Bank's group made 60 percent of their worldwide capital investment in the United States, although only 41 percent of their profits were earned here.

Because most international firms are U.S. based, the United States is a preferred source of oil field supplies, services, and equipment. Foreign sales of oil field supplies and equipment in 1974 were over $1.4 billion. Foreign sales provide employment for additional U.S. workers, and the foreign market serves as an important proving ground for the development of oil field technology and equipment which might later be used in the domestic search for and development of oil and gas reserves. For example, the techniques and equipment developed for North Sea operations will be applicable in our deep Outer Continental Shelf waters and in the Gulf of Alaska.

Unimpeded expropriation and nationalization obviously hurt the oil companies and their stockholders. But more importantly those actions hurt the American citizens and consumers of petroleum. Witness what has happened to the prices and supplies of petroleum as the OPEC nations took over equity control of crude production. Prices went up and supplies went down. A cartel which was formed several years ago, has substantially more power today and it appears will become stronger rather than weaker in the near future.

Now that the OPEC members have enhanced their equity position in crude, it behooves them to capture a larger share of the downstream activities such as transportation, refining, distribution, and marketing. The reasons are twofold: First, to capture and control a larger share of the market during periods of normalcy; second, to insure effective enforcement during periods of selective embargo. We, as a Nation, should take every reasonable step to prevent this from happening.

As Congress weakens the American international oil companies by eliminating the depletion allowance, increasing taxes on foreign income, rolling back domestic prices, and threatening divestiture of operations, it tells OPEC to expand their production, transportation, refining, distribution and marketing capabilities. Thus, Congress is reducing American energy independence, and increasing our energy dependence on OPEC.

In order to set the stage for their actions, the OPEC countries have successfully capitalized on and fostered hostile U.S. public opinion toward the oil industry, thus simultaneously camouflaging and facilitating their unilateral actions to increase control of crude oil production and pricing decisions. Along almost every step of the way, the majority of Congress has assisted OPEC with this task.

Using the same specious arguments of many U.S. politicians, the OPEC leaders have continually charged American companies with "obscene profits" and unfairness and then, when the politics and economics were ripe, these nations systematically increased their own revenues by increasing their governments' percentage shares while simultaneously increasing prices. The end result has been nearly complete loss by the oil companies of any influence over price and production rate and a reduction in the unit profit. The government takes are becoming so large and the companies' profits so small that it is now financially difficult for some firms to continue their foreign operations in some countries.

This kind of general attitude in the United States and an unstable or unfriendly political climate in some foreign countries cause less domestic and foreign exploration and production. Why?

Capital is prudent. It flows to those areas which promise the best return for the least risk. Several examples prove this point.

U.S. companies were actively exploring the waters off South Vietnam before the Communist take over. I was personally told that this area looked like the North Sea of 10 years ago. After making successful discoveries, most of these companies moved out. Even though several companies did take the risk to become involved in Vietnam in the first place, there were others who did not because of the potentially unstable political situation.

We have seen nearly the same thing in Angola where Gulf was producing oil. Although the production was temporarily shut in, the revenues from future production of crude will benefit a Communist-supported regime. Whether our firms will expand their exploration activities in Angola and other African countries which could experience similar problems is an element of risk our current foreign policy does little or nothing about.

The unequivocal, candid truth is that the United States presently has no foreign policy in Africa.

Because of past changes in their concession agreements and the uncertainties of other action by the governments of the United Kingdom and Norway, several smaller companies operating in the North Sea are being forced out of the area in order to salvage their investments.

There are other countries like Cambodia which have good geological potential but which are not being explored because of a hostile government environment. In still other countries, Australia, Peru, Nigeria, and Columbia for example, exploration and development activities have been curtailed or have been delayed because of uncertain or unfavorable government policies.

At a time when the industrialized world needs additional and geographically expanded crude supplies every potential area for petroleum production should be rapidly explored by many companies.

The U.S. international oil industry is no longer composed of seven or eight giants. Many smaller companies and even some independents have foreign operations. This involvement by small firms is highlighted in an excerpt from Dr. Neil Jacoby's book, "Multi-National Oil":

> In 1953 only twenty-eight U.S. firms and fifteen foreign firms—other than the seven largest—had oil exploration rights outside their own countries, and they held no more than 35 percent of concession areas. By the end of 1972, more than 330 other firms had exploration rights in 122 areas of the world and held 69 percent of concession areas.

If smaller firms leave a country because of financial restrictions or if they choose not to operate in a country because of high political risk, worldwide competition is reduced. U.S. firms, which compete with private and government controlled firms from other nations, enhance world competition.

Congress has specifically impeded progress for maximum development and for lower competitive prices for world petroleum resources by the shortsighted 1975 changes in the foreign tax credit for international oil companies. In the name of consumersism, tax reform, "good" politics and somehow feeling better about our energy dilemma by hurting American oil companies and their stockholders, Congress has injured American citizens and consumers throughout the United States and the world.

Recently, in the Energy Policy and Conservation Act of 1975, Congress endorsed the unworkable concept of having the Federal Government become the sole importer of crude oil in the United States. Besides, from all the managerial, technical, and political snags inherent in such a scheme, it is only a further detraction from the efforts of the petroleum industry to explore for crude throughout the world.

Rather than making the petroleum industry its enemy, Congress should enhance the environment in which it operates. The petroleum companies are vital to the domestic and world supply of petroleum. If our policies force them out of business, we not only harm ourselves but all the free world.

Congress should encourage our industry's participation in all countries as well as in the United States and provide a financial and political environment to enhance this participation. Punitive tax legislation is no way to increase energy supplies.

Congress should denounce unilateral actions by foreign governments which affect our companies and our citizens. Congress should insist on the maintenance of contract sanctity. If a company's assets are nationalized, Congress should denounce the actions and support fair and adequate compensation.

Most important, however, Congress should make this Nation's energy policy a model for other nations to follow.

In formulating this policy, Congress should learn from the examples in other countries. Companies are leaving the North Sea because of unfavorable tax and price policies and the threat of nationalization. Because of high tax rates and low profits in Canada, drilling equipment migrated to the United States and to other more financially attractive locations. As foreign governments gained control over price and production decisions, the price of petroleum increased and the supply decreased.

Congress should also learn from recent events in the United States. Because of petroleum price increases in 1971, domestic drilling activity increased over 60 percent. Following the repeal of percentage depletion in 1975, drilling activity dropped and leveled off. It then increased slightly until the Energy Policy and Conservation Act was enacted in December 1975. Since that time the number of active rigs has dropped by over 280. These two laws had the specific effect of removing from the petroleum companies over $4.5 billion which would have been employed in the search for oil and gas.

Policies which encourage the participation of our industry worldwide are the same that encourage it domestically.

Increased taxes, price controls, the threat of nationalization, and uncertainties about divestiture and the rules of the game, reduce capital investment and consequently the supply of petroleum. Congress can best contribute to Energy independence by developing a good energy policy for the United States. And it has done a miserable job so far.

If our energy policy is successful, and if we support our oil and gas industry abroad, other countries would be less inclined to develop shortsighted and overly nationalistic policies to the detriment of themselves, the world, and the United States.

We Americans should ask ourselves why virtually no American has complained angrily about the expropriation by many foreign countries of American oil properties owned by thousands of American citizens.

There is something wrong in our society that should be corrected—for our own best interests.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

Is there morning business?

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:55 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:55 p.m.

There being no objection, the Senate at 12:36 p.m., recessed until 12:55 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Glenn).

Mr. Moss. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEA TREATY ODDS

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the Record an article from the Seattle Post-Intelligencer by its very able marine editor, Don Page.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Seattle Post-Intelligencer, Mar. 28, 1976]

Sea Treaty Odds Now—"One in 100"

(By Don Page)

Good news, you learn early in this newspaper business, usually is announced fast, in press releases. The bad news seeps out slowly, reluctantly from the people who know it.

The good news for the world's oceans is that another International Law of the Sea Conference opened in New York this month among bright hopes. The bad news is, opening events of that New York conference dimmed those bright hopes down to a feeble glow. The New York conference opened with the same clamorous differences and political oratory that stalled treaties at previous Sea Law conferences in Geneva and Caracas.

The authoritative Ocean Science News, from its ringside seat on the conference and on backstage maneuvering, decided on opening day that "U.S. hopes for a treaty had been smashed" by the stubborn stand of about 100 developing nations against any reasoned approach to mining the estimated $3 trillion trove of common and precious metals that litter the ocean floor.

The "developing nations" are the have-nots, usually smaller countries without the money or ability to mine the deep seas. They're demanding a block to all ocean mining until they, too, develop the technology. And they're demanding that the mining be done by a world super-bureaucracy that will shuttle the proceeds to them.

They've been joined in their blockade on progress by richer nations that are afraid of what ocean mining might do to the value of their landbased metals and minerals.

Uncle Sam has been sympathetic to giving other nations a share of undersea wealth. Uncle has been holding back some eager U.S. entrepreneurs who are eager to sink their money and equipment, into ocean mining.

But the federal government is tired of international "negotiations" that don't progress much beyond the state of vituperation (the state of vituperation, by the way, is not a developing country, although it often is allied with them). Congressmen are looking more and more favorably at following up its 200-mile fisheries legislation with a bill that will free U.S. industry to start mining the seas while the rest of the world talks about it.

The Law of the Sea Conference hasn't gone underground in New York. It's just shifted from its opening public session to closed committee meetings. It probably won't return to open public sessions until mid-April. Eventually, conference friends hope, it will iron out its disagreements over territorial seas, economic zones, marine pollution, fishing and ocean mining and pave the way toward signing of a treaty in a conference next year at Caracas. But Ocean Science News reports pessimistically:

"Chances for this scenario to actually take place: about 100 to one against it, unless there is some major shift in the position of the less developed nations on the seabed issue."

World harmony and law and order are as necessary in the oceans as on land. Eventually we'll gain them. But inside reports from the sea law negotiations make it seem likely the U.S. will have to steer its own course in the oceans for a few years yet until practical developments smooth the chaos out of international negotiations.

REDUCING UNITED STATES-SOVIET TENSIONS

Mr. SPARKMAN. Mr. President, there was a very fine article in the Post of Tuesday, March 30, 1976, by Marquis Childs, entitled "Reducing U.S.-Soviet Tensions." This deals largely with the proposed resolution that the Senator from California (Mr. Cranston) and the Senator from Tennessee (Mr. Baker) and others have worked up. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 30, 1976]

Reducing U.S.-Soviet Tensions

(By Marquis Childs)

In the welter of cries of doom and the resurgence of the old cold war warriors, a little common sense is a welcome antidote. It comes from Sen. Alan Cranston of California who has enlisted a wide range of his fellows, including such conservative Republicans as Sens. John Tower of Texas and Howard Baker of Tennessee, behind a call to get on with negotiations with the Soviet Union to reduce the nuclear arms race and ease tension between the two superpowers.

The Cranston resolution does not belabor the taboo word "detente" nor does it evoke the name of Henry Kissinger. But in the most direct and forthright language it calls for pursuit of the policy of relaxation of tensions that has stirred so much sound and fury in the name of detente and Kissinger.

The heart of the resolution giving the "sense of the Senate" is as follows:

"To launch fresh initiatives on the part of both the United States and the Soviet Union for a commitment, not by rhetoric but by action, to the pursuit of peaceful solutions in present and potential areas of conflict.

"What is at issue is not a semantic debate about the meaning of the word 'detente.' We proceed from a recognition of the simple fact that the United States and the Soviet Union have, and are likely to have for some time, many competitive and conflicting interests, but that it is nevertheless in the interests of both countries to regulate this competition and these conflicts so that they do not lead to war."

The resolution supports efforts "to conclude, at an early date, practically and realistically agreements for the stabilization and reduction of the strategic military competition between the United States and the Soviet Union based not on trust but upon actions."

The resolution goes on to call for elaborating and extending diplomatic, economic, commercial, social, cultural and other initiatives "with a due regard for the balance of risks and advantages of such relations."

The Cranston resolution received little attention. It probably seemed too good to be true; a small candle lighted in the whirlwind of our discontent. But with leaders on both sides of the aisle lending their names to it, the call to reason deserved more notice than it got.

The ivory tower intellectuals have joined in the Kissinger Kamp. They can pronounce detente dead and with it the Secretary of State. It is an easy exercise, because they have a host of allies in Congress and the country whom they would normally scorn.

But they never go as far as saying what should follow the death of detente or, for that matter, the departure, in one form or another, of Kissinger. They are not even sufficiently candid to examine the alternatives. Are we merely to slide into a new cold war with relations declining to the abysmal levels of the cold war and the military budget increasing $5 billion or $10 billion a year?

With both Republican and Democratic leaders subscribing to the Cranston Resolution, the hopes is that a SALT II agreement can be ratified by the present Congress. This has seemed, with Ronald Reagan and Henry Jackson hammering at detente, impossible.

It would be an amazing achievement to come out of this troubled year. It would be a victory not for any individual—although it could mean a graceful exit for Henry Kissinger in November—nor either party but for the commonsense that the Cranston resolution embodies.

Ending the drift both in Washington and in Moscow could conceivably open the way for new initiatives. Allowing the drift to continue for 12 to 18 more months could mean disaster. Moderate elements in the Kremlin would be overtaken by the hardliners and the one-way street, no-concessions view would be likely to prevail here at home.

The time is here and now, and that is one of the virtues of this innocent-sounding resolution which goes as far as any apostle of relaxation of tensions could possibly ask.

The senator from California, who is far more able and influential than anyone could have believed when he came to Washington eight years ago, is modest enough about the authorship of the resolution. It is, if the names of those who subscribe to it have any validity, the sense of the Senate.

To take us out of the morass of the Kissinger war is, in itself, a service. That war, in terms of the enormous stakes in future negotiations with the Soviet Union, is surely a dangerous irrevelance.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. Leahy) laid before the Senate a message from the President of the United States submitting the nomination of Thomas R. Byrne, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plentipotentiary of the United States of America to the Czechoslovak Socialist Republic; which was referred to the Committee on Foreign Relations.

APPROVAL OF BILL

A message from the President of the United States announced that on March 29, 1976, he had approved and signed the enrolled bill (S. 611) for the relief of Southeastern University of the District of Columbia.

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 106) to correct the enrollment of H.R. 200, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 596) directing the Clerk of the House to make certain corrections in the enrollment of the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitation, and for other purposes, in which it requests the concurrence of the Senate.

At 5:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 49) to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves, the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

The message also announced that the House has passed, without amendment the bill (S. 3060) to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal officials, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the enrolled bill (H.R. 200) to provide for the conservation and management of the fisheries, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. LEAHY) laid before the Senate the following letters, which were referred as indicated:

OPINION OF THE COURT OF CLAIMS

A letter from the Chief Commissioner of the U.S. Court of Claims transmitting, pursuant to law, the opinion and findings of the Review Panel in the case of Eriez Magentics Corp against United States (with accompanying papers); to the Committee on Appropriations.

PETITION

The ACTING PRESIDENT pro tempore (Mr. LEAHY) laid before the Senate a petition from a citizen of the State of Florida seeking a redress of grievances, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2286. A bill to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex. (Rept. No. 94–728).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 1466. An act to convey certain federally owned land to the Twenty-nine Palms Park and Recreation District (Rept. No. 94–729).

H.R. 4941. An act for the relief of Oscar H. Barnett (Rept. No. 94–730).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3228. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Carlton Division, Willamette River project, Oregon, and for other purposes. Referred to the Committee on the Interior.

By Mr. MONDALE:

S. 3229. A bill for the relief of Kam Lan Wong. Referred to the Committee on the Judiciary.

By Mr. HASKELL (for himself and Mr. GARY HART):

S. 3230. A bill for the relief of the Jefferson County Mental Health Center, Inc., and 103 individuals. Referred to the Committee on Finance.

By Mr. SPARKMAN (by request):

S. 3231. A bill to amend the Mutual Educational and Cultural Exchange Act of 1961. Referred to the Committee on Foreign Relations.

By Mr. McINTYRE (for himself and Mr. BROCK):

S. 3232. A bill to amend the Tariff Act of 1930 and the Tariff Schedules of the United States to reduce the burden of paperwork involved in the customs entry process for travelers and goods entering the United States. Referred to the Committee on Finance.

By Mr. BARTLETT:

S. 3233. A bill to provide that the first sale of crude oil produced from stripper and marginal wells, from new enhanced recovery projects, and from new fields be exempt from price controls. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HASKELL (for himself and Mr. GARY HART):

S. 3230. A bill for the relief of the Jefferson County Mental Health Center, Inc., and 103 individuals. Referred to the Committee on Finance.

Mr. HASKELL. Mr. President, I am today introducing, for myself and my colleague from Colorado, Mr. GARY HART, a private bill for the relief of the Jefferson County Mental Health Center. The center is a nonprofit hospital in Lakewood, Colo., which provides outstanding service to three of our counties. Unfortunately, the center has become entangled in a series of misunderstandings with the IRS which can only be resolved by legislation. The matter has been reviewed by Commissioner Alexander's office and they have advised me that they have no objection to this remedy.

In brief, the problem centers around the payment of social security taxes by the center. As you may know, nonprofit organizations which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code are not usually covered by the social security program, unless the organization elects to be included. A form SS–15 must be filed with the IRS waiving the exemption from coverage.

The Jefferson County Mental Health Center, and its employees elected to be covered, the form was filed, and FICA taxes were deducted and paid starting in 1963. However, in the course of the IRS program evaluation, it was determined that the waiver form had never been filed.

The center was told by the IRS on February 28, 1975, that it had been improperly withholding the FICA tax, that the amounts so withheld should be returned to the employees, and that the center would be promptly reimbursed by the IRS. The center proceeded to locate the 133 employees involved and reimbursed them out of its own funds for the $74,128 withheld. Shortly after that, however, the center was informed by the IRS that the waiver form had been located and that the IRS would not reimburse the funds. Of course, it was impossible to get the money back from the employees, who had by then spent the money or were no longer employed by the center.

Unfortunately, the IRS cannot remedy what it admits is an unfortunate mistake for all concerned because it does not have the authority to expend funds without a legal obligation to do so or a statutory authorization. The Commissioner has acknowledged the dilemma and has agreed that he will not object to the bill which I am introducing today. The bill provides that the Secretary determine the amounts withheld and subsequently reimbursed and then treat those amounts as overpayments of tax which are then reimbursable to the center. I understand that this is acceptable to all concerned.

An identical bill has been introduced in the House by my colleague, Congressman WIRTH, and is now being studied by the House Judiciary Committee. I am hopeful that the matter can be acted upon very soon, as the center has expended a great deal of money which they desperately need to continue the vital public services to Lakewood and the surrounding areas which it has selflessly provided for many years.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the waiver certificate filed by the Jefferson County Mental Health Center, Inc. (taxpayer identification number 84–047417), under section 3121(k)(1)(A) of the Internal Revenue Code of 1954 (relating to waiver of exemption by organization) shall be deemed not to have been filed with respect to the 103 individuals named in section 6 of this Act with respect to the period from January 1, 1972, through the last day of the calendar quarter in which the date of enactment of this Act occurs.

SEC. 2. The Secretary of the Treasury or his delegate, upon proof reasonably satisfactory to him that repayment has been made to the 103 individuals named in section 6 of this Act by the Jefferson County Mental Health Center, Inc., of sums representing the amount of taxes imposed on such individuals under section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax) and deducted and paid by the Jefferson County Mental Health Center, Inc., under section 3102 of such Code (relating to deduction of tax from wages) during the period specified in the first section of this Act, shall consider such sums paid to such employees as overpayments of tax under section 6413 (b) of such Code (relating to overpayment of certain employment taxes) and shall approve a claim for a refund, credit, or adjustment filed prior to or within 90 days of the date of enactment of this Act by the Jefferson County Mental Health Center, Inc. under sections 6402 of such Code (relating to authority to make credits or refunds) or 6611 (a) or (b) (2) of such Code (relating to interest on overpayments).

SEC. 3. (a) Any period of limitations for filing a claim for credit or refund under section 6511 of the Internal Revenue Code of 1954 (relating to limitations on credit or refund) shall be waived with respect to any claim for refund, credit, or adjustment made by the Jefferson County Mental Health Center, Inc., under section 2 of this Act.

(b) Section 6514 of such Code (relating to credits or refunds after a period of limitation) shall not apply to any such claim.

SEC. 4. (a) (1) A certificate of waiver filed by the Jefferson County Mental Health Center, Inc., under section 3121(k)(1)(A) of the Internal Revenue Code of 1954 shall apply to the 103 individuals named under section 6 of this Act and the Jefferson County Mental Health Center, Inc., after the last day of the quarter in which this Act is enacted.

(2) Notwithstanding the provisions of section 3121(k)(1)(B)(iii) of such Code, the Jefferson County Mental Health Center, Inc., may not elect to have such certificate of waiver apply to any of the 103 individuals named in section 6 of this Act for the period specified in the first section of this Act.

(b) The certificate of waiver filed by the Jefferson County Mental Health Center, Inc., under section 3121(k)(1)(A) of such Code, or any prior corresponding provision of law, shall be inapplicable, under the provisions of this Act, only with respect to the 103 individuals named in section 6 of this Act and only for the period specified in the first section of this Act.

SEC. 5. (a) The period for which any of the 103 individuals named in section 6 of this Act received a repayment of the tax imposed on such individuals under section 3101 of the Internal Revenue Code of 1954 shall not be considered in any determination of eligibility for benefits under the Social Security Act. This subsection shall not apply to the determination of eligibility for benefits under the Social Security Act of any individual named in section 6 of this Act or the family of such an individual if the individual died, became disabled, or reached the age of 62 during such period.

(b) The provisions of this Act shall not be construed to affect the consideration given to any period of employment prior to or after the period specified in the first section of this Act in the determination of eligibility for benefits under the Social Security Act.

SEC. 6. The 103 individuals affected by this Act are as follows:

Name and social security No.:

Assafi, Ines, [redacted].
Bucklew, Beverly, [redacted].
Burr, Janet, [redacted].
Casey, William, [redacted].
Chapman, Stephen, [redacted].
Dunham, Martha, [redacted].
Gilchrist, Kay, [redacted].
Hughes, Mary, [redacted].
Hyatt, Aven, [redacted].
Jones, Alice, [redacted].
Satterfield, William, [redacted].
Moore, Reid, [redacted].
Moriarty, Patrick, [redacted].
Rewey, Helen, [redacted].
Rich, Nancy, [redacted].
Unsell, Margaret, [redacted].
Auten, Cyndi, [redacted].
Blackmore, Merihelen, [redacted].
Braden, Eric, [redacted].
Cranston, Connie, [redacted].
Dines, William, [redacted].
Benz, Ann Charlotte, [redacted].
Hrynkow, Ron, [redacted].
Mansfield, Lorita, [redacted].
Olson, Keith, [redacted].
Persson, Berdell, [redacted].
Porter, William, [redacted].
Sheehan, Daniel, [redacted].
Winters, Billy R., [redacted].
Parker, Ginger Joy, [redacted].
Kempton, Phyllis, [redacted].
Gerali, Virginia, [redacted].
Holmboe, Chris, [redacted].
Hendrix, Carmella, [redacted].
Ridge, Linda, [redacted].
Tobias, Lester, [redacted].
Dawson, Lynn, [redacted].
Dea, Timothy, [redacted].
Graham, Patricia, [redacted].
Means, Zetta, [redacted].
Nicoletti, John, [redacted].
McClain, Rodella, [redacted].
Psenicka, Lee, [redacted].
Nally, Michael, [redacted].
Martin, Sandra, [redacted].
Olson, Roxeen, [redacted].
Mitchell, Vickie, [redacted].
Edwards, Lee, [redacted].
Mansfield, Maura, [redacted].
Martin, Sherry, [redacted].
Gordon, Sharon, [redacted].
Alder, Nancy, [redacted].
Ferney, Nancy, [redacted].
McLean, Anne, [redacted].
Miller, E. Pat, [redacted].
Ramirez, Cathy, [redacted].
Clark, Josephine, [redacted].
Grace, LaRose, [redacted].
Donovan, Carey, [redacted].
Pomerantz, Jay, [redacted].
Shoemaker, James, [redacted].
Neptune, Belmont, [redacted].
Siefkin, Diane, [redacted].
Cornish, Susan, [redacted].
Evans, Chris, [redacted].
Fleming, Glennys, [redacted].
Harris, Virginia, [redacted].
Koback, Patricia, [redacted].
Briggs, Gayle, [redacted].
Vollmer, Betsy, [redacted].
Myrant, John, [redacted].
Peterson, Stephanie, [redacted].
Godfrey, Susan, [redacted].
Thomas, Georgia, [redacted].
Zaranka, Judy, [redacted].
Camp, Gay-Leigh, [redacted].
Igle, Diane, [redacted].
Marshall, George, [redacted].
Turner, Deanne, [redacted].
Meiners, Cathy, [redacted].
Murray, Bonnie, [redacted].
Ferrigno, Bea, [redacted].
Fisher, Nettie, [redacted].
Allen, Dan, [redacted].
Long, John, [redacted].
Dunn, Diane, [redacted].
Mathews, Joan, [redacted].
Butts, Janet, [redacted].
Cavaleri, Joann, [redacted].
Seitz, Anita, [redacted].
Germer, William, [redacted].
Dotsch, Marcella, [redacted].
Lee, Christie, [redacted].
Wolf, Debra, [redacted].
Nelson, Betty, [redacted].
Warner, Richard, [redacted].
Dudden, JoEtta, [redacted].
Munn, Becky, [redacted].
Litzenberger, Judy, [redacted].
Rullman, Alene, [redacted].
Liem, Charles, [redacted].
Gibbens, Gary, [redacted].
Singleton, Vickie, [redacted].

By Mr. SPARKMAN (by request):

S. 3231. A bill to amend the Mutual Educational and Cultural Exchange Act of 1961. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to amend section 106 of Public Law 87–256 as amended—the Mutual Educational and Cultural Exchange Act of 1961, Fulbright-Hays Act.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated March 18, 1976.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(e)(ii) of Public Law 87–256 as amended (the Mutual Educational and Cultural Exchange Act of 1961) is hereby amended to read as follows:

"(ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of the rate specified for GS–18 of the General Schedule under Section 5332 of title 5, United States Code, while performing services for such Board, Commission, Committee, or other committee."

DEPARTMENT OF STATE,
Washington, D.C., March 18, 1976.

Hon. NELSON A. ROCKEFELLER,
President, U.S. Senate
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration is proposed language amending Section 106 of Public Law 87–256 as amended (the Mutual Educational and Cultural Exchange Act of 1961, Fulbright-Hays Act).

Authority for most activities of the Bureau of Educational and Cultural Affairs (CU) derives from this legislation. Specifically, the Board of Foreign Scholarships and the United States Advisory Commission on International Educational and Cultural Affairs, both Presidentially appointed bodies to aid the Bureau in carrying out its programs—were established by the Act. Remuneration to nongovernment members of these groups was set by the Act not to exceed $50 per day while performing services, plus transportation expenses and per diem, for those days away from home in attendance at Board or Commission meetings or other meetings concerned with the Bureau's business.

The Office of the Inspector General, Foreign Service, in an evaluation of CU, verified a belief long held by the Bureau, that the quality of appointments to the Board and Commission could be affected by the decline in relative value of the remuneration (unchanged since passage of the Act), and recommended that the Department attempt to obtain amendment of the Act to increase the $50 per day remuneration.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed amendment to the Congress from the standpoint of the Administration's program.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure as stated.

By Mr. MCINTYRE (for himself and Mr. BROCK):

S. 3232. A bill to amend the Tariff Act of 1930 and the Tariff Schedules of the United States to reduce the burden of paperwork involved in the customs entry process for travelers and goods entering the United States. Referred to the Committee on Finance.

CUSTOMS PAPERWORK REDUCTION ACT OF 1976

Mr. McINTYRE. Mr. President, as most of my colleagues know, for the past 6 years I have been very involved in efforts to eliminate the Federal paperwork burden imposed upon businesses and individuals by the Federal Government. The subcommittee which I have the honor to chair has conducted a wide range of hearings into the various problems affecting the small businesses' ability to comply with Federal reporting and recordkeeping requirements. Out of our hearings have grown many suggestions and legislative concepts. One such piece of legislation, to establish a Commission on Federal Paperwork, was passed by the Congress and signed by the President.

Since the establishment of the Commission on Federal Paperwork on October 3, 1975, I have served as its co-chairman. A major goal of the Commission is to minimize the paperwork burden imposed by Government on the American public, while at the same time to assure that Government's needs for information are met. The Commission on Federal Paperwork during its 2-year life seeks to find immediate solutions to paperwork problems. One such opportunity to eliminate unnecessary paperwork is in the area of international travel. The Commission has prepared legislation which I am introducing today known as the Customs Paperwork Reduction Act of 1976.

This bill proposes a major simplification in procedures for classification of merchandise to be imported for the personal use of international travelers. By changing these procedures, I believe that inordinate amounts of processing time now involved in customs inspections can be greatly reduced. It is clear that, compared to the amount of duty collected in each instance, this processing time presently creates an aggravating bottleneck. It is unnecessary redtape and poses an undue burden on all travelers, especially so with the large number of Bicentennial visitors who will enter the country in 1976.

This proposal will apply a 10 percent flat rate of duty for all personal goods, valued under $500, brought into the country by such international travelers. It will allow an anticipated threefold increase in processing with a minimum increase in inspection personnel. By even the roughest calculation, if this new rate allowed each visitor passing through customs to save an average of 5 minutes processing time, both Bicentennial visitors and Government inspectors would share in an estimated 3 million hour time savings.

The second section of this legislation is also important from the viewpoint of the Paperwork Commission. It would raise the limit of informal entry of commercial shipments into the United States from $250 to $500. The $250 limit was set by congressional action in 1953. This proposed increase is intended to reflect, in an approximate way, the inflationary changes in value of products from 1953 to 1976—a 23-year span without such adjustment.

This portion of the legislation will result in major cost savings for businessmen in America who import small quantities of merchandise. Present laws require formal entry documents to be filed for each shipment over $250. This change will reduce, by at least 200,000 filings per year, the more complicated formal documents—thus eliminating large amounts of paperwork. The resulting savings is estimated to be $6 million annually—$5 million in broker's fees and surety bonds, and $1 million to the Government in simplified processing savings.

As these statistics indicate, this single legislative item serves the immediate needs of both Bicentennial travelers and small businesses.

I urge my colleagues in the Senate to give their immediate attention to this legislation and let us proceed to reduce paperwork where possible. This bill is a positive action which will have a significant impact in reducing unnecessary reporting on our citizens, small businesses and our foreign guests.

Mr. President, I ask unanimous consent that the text of the bill, together with a comparison of existing law and my proposal, and an analysis of the bill be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Paperwork Reduction Act of 1976".

SEC. 2. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by redesignating "Part 6" as "Part 7", changing the phrase "Part 6 headnote" to "Part 7 headnote", and inserting a new Part 6 to read:

" Part 6.—Noncommercial Importations of Limited Value.

Part 6 headnote:

1. For the purposes of this part the rates of duty for articles provided for in this part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles.

Articles for personal or household use, or as bona fide gifts, not imported for sale or for the account of another person:

869.00	Accompanying a person, arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $500 fair retail value in the country of acquisition.	10% of the fair retail value	10% of the fair retail value	"

(b) The amendment made by this section shall take effect with respect to persons and articles arriving in the United States on or after the thirtieth day following the date of enactment.

SEC. 3. Section 498(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(1)), is amended by striking "$250" and inserting in lieu thereof "$500".

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED BILL

TARIFF SCHEDULES OF THE UNITED STATES

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISIONS

* * *

" Part 6.—[Other Special Classification Provisions] Noncommercial Importations of Limited Value.

Part 6 headnote:

1. For the purposes of this part the rates of duty for articles provided for in this part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles.

Articles for personal or household use, or as bona fide gifts, not imported for sale or for the account of another person:

869.00	Accompanying a person arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $500 fair retail value in the country of acquisition.	10% of the fair retail value	10% of the fair retail value	"

Part 7.—Other Special Classification Provisions.

* * *

SEC. 498. ENTRY UNDER REGULATIONS

(a) AUTHORIZED FOR CERTAIN MERCHANDIZE.—The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

(1) Merchandise, imported in the mails or otherwise, when aggregate value of the shipment does not exceed such amount, not greater than [$250] *$500,* as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise of different classes of transactions;

* * * * *

ANALYSIS

Section 2(a) would amend the Tariff Schedules of the United States (19 U.S.C. 1202) by redesignating Part 6 of Schedule 8 as Part 7 and introducing a new Part 6 dealing with noncommercial importations of limited value. The new provision would apply to articles intended for personal or household use and not for resale, and not imported for another person, if valued not over $500 fair retail value and accompanying a person arriving in the United States. In such circumstances, a flat rate of duty of 10 percent of fair retail value would be assessed in lieu of any other rate of duty except a free rate of duty. The flat rate would not apply to commercial entries nor to articles in any shipment not accompanying the person.

The proposed Part 6 contains a controlling headnote and a new rate provision. Headnote 1 to the new part provides that the rate of duty for articles provided for in the part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles. For example, if a returning resident brought in articles worth $700, $200 of which were free of duty as antiques, the flat rate or duty provided in the proposed amendment would apply to articles valued at only $400 ($700 less $100 tourist exemption, less $200 duty-free articles).

The basic prerequisite for classification of imported articles in the part, as stated in the superior heading to the proposed provision, is that such articles are intended for personal or household use and not for sale or other commercial use.

Proposed new item 869.00 provides for a flat rate of duty of 10 percent of the fair retail value of the article accompanying a person arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $500 fair retail value in the country of acquisition. The average rate of duty now assessed on the wholesale value of articles arriving in passengers' baggage is approximately 15 percent. The 10 percent rate of duty on retail value would represent an equivalent rate.

Under existing law, the classification and rate of duty on an imported article is not affected by the commercial or noncommercial nature of its importation with certain minor exceptions, the most notable of which are the personal exemptions for residents and nonresidents, and the provisions granting free entry of unsolicited gifts, the value of which does not exceed $10. A returning resident is entitled to an exemption from duty for articles accompanying him of up to $100 aggregate value ($200 from the insular possessions of the United States). Dutiable articles over the $100 limitation are subject to duty at the rate prescribed in the applicable provisions of the Tariff Schedules of the United States.

The application of tariff classification procedures to merchandise imported by persons arriving into the United States for personal use requires an inordinate amount of processing time, compared to the amount of duty collected, and creates an aggravating bottleneck in the processing of persons entering the country.

The proposed legislation would contribute substantially to the elimination of this bottleneck without adverse effects on customs revenue collections. It would establish a single rate of 10 percent of fair retail value for use in assessing and collecting duty on persons arriving into the United States. Very few passengers fall outside the $500 limitation.

Application of the 10 percent flat rate of duty will enable Customs to process an anticipated threefold increase in dutiable declarations in coming years with a minimum increase in Customs inspectional personnel. The time expended under existing law in determining the classification of such noncommercial importations and in computing the amount of duty owed would be available for more thorough baggage inspections and more effective enforcement of laws prohibiting the importation of narcotics, dangerous drugs, and other contraband.

Section 2(b) sets forth the effective date of the amendment as the 30th day following the date of enactment.

Section 3 would amend section 498(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(1)), to increase from $250 to $500 the maximum aggregate value of a shipment which may, in accordance with rules prescribed by the Secretary, be entered through informal entry procedures.

Informal entry may be made under a simpler procedure than that required for a formal entry. The informal entry document may be filled out by the customs officer for the importer, no bond is required, and there is no formal appraisement of the goods which are evaluated by the customs officer who examines and releases the merchandise to the importer or prepares a mail entry for collection of duties by the U.S. Postal Service. Liquidation is accomplished by the payment of duties by the importer, or the release of the merchandise to the importer by customs or the postmaster when goods are free of duty and internal revenue tax. Information concerning such entries is furnished to the Import Statistics Section, Foreign Trade Division, Bureau of Census.

This section is designated to achieve administrative and operational efficiencies by granting customs officers greater operational flexibility and will contribute substantially to the effort of the U.S. Customs Service to decrease the backlog of unappraised and unliquidated formal entries.

Furthermore, the change will permit significant improvement in the reliability of formal entry data. A reduction in formal entries of approximately 200,000 per year is expected to result from this proposed amendment. While this will result in some loss of statistical data on imports, the estimated savings in time, money and manpower is believed to outweigh the loss.

A change in the value figure from the original figure of $100 to $250 was made by the Customs Simplification Act of 1953 (67 Stat. 157) based on the value of the dollar at the time the informal entry procedure was first specifically authorized by the Congress in 1922. This proposal to increase the value to $500 like the earlier change reflects in an appropriate way the change in the value of the dollar from 1953 to today.

CUSTOMS PAPERWORK REDUCTION ACT OF 1976

Mr. BROCK. Mr. President, I wish to add my support to that of my colleague, the senior Senator from New Hampshire, and urge the passage of the legislation to ease the paperwork burden of the small importer, as well as the international traveler, which we have just introduced. My experiences as a member of the Finance Committee, the Government Operations Committee, and the Select Committee on Small Business have kept me aware of the cost of Government, as well as its impact on business and private citizens. And as a member of the Federal Paperwork Commission, I am very conscious of the impact of the paperwork burden and the efforts being made to alleviate this burden wherever feasible.

The Commission on Federal Paperwork has been looking into paperwork problems resulting from Federal requirements in many different areas. One of these areas of investigation which the Commission undertook shortly after its establishment was the manner in which inflation was eroding the benefits the Congress intended when it passed certain laws. For example, when Congress in 1953 raised to $250 the ceiling on informal entries of goods into the United States, it anticipated a certain degree of benefit to importers without, at the same time, adversely affecting trade statistics. Today the value of those same goods has doubled and the benefits intended by that earlier Congress have all but disappeared.

Likewise, the Congress did not fully anticipate the huge increases in international travel and the long lines at ports of entry that will be forthcoming during the Bicentennial Year.

The Customs Modernization Act, H.R. 9220, which attempts to clean up and modernize existing customs laws—some of which go back to the act of March 2, 1799—will require much careful study and public hearings before it can be enacted into law.

Fortunately, there is some interim action we can take. Two sections of that bill have been extracted and introduced here as separate legislation to help the importer of small quantities of goods and the traveler bringing into the United States goods for his own personal use.

Projections on the number of travelers who will visit the United States during this Bicentennial Year indicate a record number of visitors. Each one of those millions must clear customs, and if he or she has more than the value of goods normally excluded from duty, each additional item must be examined, classified and the appropriate rate of duty assessed. The first provision of the proposed bill would lump all accompanying personal-use items up to the value of $500—less exclusions—at a 10-percent flat rate of duty. I support such an action to relieve the burden on customs to compute the duty at different rates on each item a traveler brings with him, and to alleviate the long, slow lines of visitors being processed at ports of entry.

I also support the provision to increase from $250 to $500 the ceiling on the informal entry of commercial shipments to the United States since 1953, when the $250 limit on informal entries was imposed, the rate of inflation has more than raised the value of those same goods to over $500. Hence, the bill is attempting to keep pace with a very realistic fact, and would still be in keeping with the intent of Congress when it imposed a limit of $250 over 20 years ago. I daresay that a suit of clothes or a dress costs at least twice as much today as it did in 1953.

As a member of the Commission on Federal Paperwork, I attended the public hearings held by the Commission in Knoxville and Nashville, Tenn. I saw the reaction of the public to the paperwork burden being imposed by the Federal Government. Here is an opportunity, as we had earlier this year with the modification of the 941-A form from quarterly to annually, to alleviate some of the burden on Government, business, and the private citizen, and to save considerable money in the process.

I welcome the opportunity to relieve some of the burden and enhance the entry of small shipments, and speed up the processing of the millions of visitors we await during this Bicentennial Year.

Mr. President, I support the passage of the Customs Paperwork Reduction Act of 1976, which is legislation to assess a flat rate of duty of 10 percent on personal-use imports up to the value of $500, and raise the limit upon informal entries from $250 to $500.

By Mr. BARTLETT:

S. 3233. A bill to provide that the first sale of crude oil produced from stripper and marginal wells, from new enhanced recovery projects, and from new fields be exempt from price controls. Referred to the Committee on Interior and Insular Affairs.

Mr. BARTLETT. Mr. President, today I am introducting legislation to amend the crude oil pricing section of the Energy Policy and Conservation Act of 1975—EPCA. These changes in pricing procedure are necessary to prevent the shutting in or premature abandonment of marginal wells and to provide greater incentives to increase domestic reserves and production.

The Energy Policy and Conservation Act established a multi-tier pricing system in which the average price to be received by domestic producers can be no greater than $7.66 per barrel escalating at a maximum rate of 10 percent per year if the rate of inflation is at least 7 percent. There are several major weaknesses in the EPCA approach to crude pricing which must be corrected if we are to maintain crude oil production and stimulate a greater exploration and development effort by domestic producers.

First, because of the current volumes of upper-tier and lower-tier oil and the constraints of the $7.66 per barrel composite price, the price of upper-tier new and stripper oil must be set at less than the world price. Thus, the EPCA does not permit the world price for marginal domestic reserves.

Any price less than the world market price for stripper and other marginal wells causes some of these wells to be unnecessarily shut-in or abandoned with a resultant loss of reserves and production. It is stupid as well as ironic because such lost production must be made up with imported oil at the world price in either event, we would pay the highest price; but in the one, we move toward energy independence, in the other we move toward energy dependence.

Prices controlled under the world price do not maximize the incentives for finding and developing incremental new reserves from new secondary/tertiary projects or from new oilfields.

Second, the statutory constraints of the EPCA composite pricing scheme do not permit the upper-tier and lower-tier prices to remain constant in real terms over the 40-month period of price controls mandated by the bill. In its rulemaking procedures to implement the EPCA, the FEA recently published analytical data which demonstrates this problem. I ask unanimous consent that table A1 of the FEA's rulemaking proposal be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A.1.—CASE A.1: HOW PRICES WOULD INCREASE WITH 7-PERCENT INFLATION ADJUSTMENT APPLIED TO BOTH TIERS, COMPARED TO STATUTORY COMPOSITE PRICE.

February of year—	Upper tier price	Lower tier price	Resulting composite price	Statutory composite price[1]
1976	11.28	5.25	7.66	7.66
1977	12.07	5.62	8.38	8.44
1978	12.86	5.98	9.32	9.26
1979	13.87	6.46	10.66	10.27

[1] Adjusted by 10 percent each year (7-percent inflation adjustment and 3-percent production incentive adjustment). Figures do not exactly total 10 percent added each year. The slight differences (less than 1 percent of totals) are due primarily to computation method used for purposes of these general preliminary projections. A 3-percent compound rate was first applied to $7.66, yielding composite price levels in real dollars. A 7-percent compound rate was then applied to obtain the nominal price levels indicated above.

Mr. BARTLETT. Case A.1 shows that a 7-percent inflation adjustment could be applied to both tier levels in 1976 and 1977 but that in 1978 and 1979 the resulting actual composite price would exceed the statutory composite price adjusted by 10 percent annually. This effect is due to the projected change in the relative proportions of upper and lower crude oil production between 1975 and 1978 (see table 1).

Above is FEA's Table A1 from this rulemaking procedure which shows how upper-tier and lower-tier prices would escalate if a 7-percent inflation adjustment is applied equally to both tiers, presumably to maintain the prices in real dollars, compared to the statutory $7.66 composite price escalated at the maximum-allowed rate of 10 percent per year. As can be seen, it is not possible to escalate the upper-tier and lower-tier prices at the full 7 percent per year rate and still stay within the composite. Thus, these prices cannot be maintained in real terms to compensate fully for 7-percent inflation.

This inability to maintain real prices occurs because of the natural trend for the volume of upper-tier oil relative to the volume of lower-tier oil to increase with time. Two factors contribute to this trend. One, the volume of old oil from existing fields tends to decline as production continues with much of the remaining oil reverting to the stripper, or upper-tier, category. Two, because total oil production is projected to stay constant or increase slightly while old oil declines, the relative volume of upper tier oil would increase.

If we want to maintain our present level of domestic production, or even reduce our current rate of decline, our crude oil pricing procedures must permit an increase, not a decrease, in the real price of existing production over time, and must allow simultaneously the maximum possible price to be received for the incremental reserves which might be developed during the period of controls. This is the purpose of my legislation.

This bill does three things:

First. It allows stripper and marginal production to receive the free market price and also exempts the volume of this stripper and marginal production from the calculation of the composite average price.

In the Emergency Petroleum Allocation Act of 1973—EPAA—Congress voted overwhelmingly to allow stripper production to receive free market prices. The new pricing provisions of the EPCA place stripper and other categories of production under price controls. In this bill the definition of stripper production is expanded to include marginal production other than from wells producing less than 10 barrels per day. This additional marginal well category includes production from high watercut wells, from some deeper and offshore wells producing in excess of 10 BPD, and from marginal fluid injection projects. Wells in these categories generally have high unit operating costs like the traditional stripper wells; and because of this might be shut in or plugged prior to reaching the 10 BPD stripper threshold rate if priced at the lower-tier price. To allow this marginal production an uncontrolled price would greatly encourage continued operation of these wells.

It is necessary to exempt marginal production from the calculation of the composite price to avoid further reductions in the real prices of existing new and old crude oil.

Second. It allows incremental production from new secondary and tertiary recovery projects to receive free market prices and to be exempt from the calculation of the composite average price.

A major fault of the EPCA pricing scheme is that the production of additional upper-tier oil could cause a reduction in the price of all other oil. Further, the controlled upper-tier price might not be high enough to encourage producers to initiate expensive enhanced recovery projects which could be feasible at an uncontrollable price. This provision would permit an uncontrollable price for new production from new enhanced recovery projects, or new expansions of existing projects, but simultaneously would prevent a reduction in the price of existing production because of the additional production from these projects. Because only new, incremental production would be decontrolled, existing oil prices would not increase and consumers would face no price increases unless new oil is produced.

This provision also contains procedures to assure that the enhanced recovery projects to be covered are "bona-fide" projects and that the production to be exempted from price controls is really new production. In this process, the expertise of the State regulatory agencies would be utilized to the maximum degree possible for those fields where the States have jurisdiction. On Federal lands, the technical expertise of the U.S. Geological Survey would be employed.

Third. It allows production from new fields to receive an uncontrolled market price and to be excluded from the composite price calculation.

This provides maximum incentives for new exploratory drilling yet costs the consumer nothing unless new oil is marketed. This section, like the secondary/tertiary section, contains procedures to assure that the production receiving exempt prices is new production. The State regulatory agencies and the USGS are involved in this procedure.

I believe these amendments to the Energy Policy and Conservation Act of 1975 are absolutely essential to increase future production. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(i) (1) Any regulation relating to crude oil prices, to crude oil ceiling prices, or to the weighted average first sale price for crude oil promulgated pursuant to subsection (a) of this section or seection 4 of this Act shall not apply to the first sale of stripper well crude oil produced and sold in the United States. The first sale price and volume of such crude oil shall not be used in the computation of the 'maximum weighted average first sale price' as defined in subsection (a) of this section. Notwithstanding any other provision of this section, if the exemption provided by this subsection would cause a reduction in the ceiling prices of the crude oil produced in the United States not exempted by this subsection below the ceiling prices which would otherwise occur pursuant to the regulation under section 4(a) of this Act, as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, such ceiling prices shall be adjusted so that such reduction shall not occur.

"(2) For the purposes of this subsection, 'stripper well crude oil' is defined as crude oil (including condensate recovered in non-associated production) produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve month period beginning after December 31, 1972, does not exceed 10 barrels. For any consecutive twelve month period beginning twelve months prior to the date of enactment of this subsection, the term 'well' shall mean both producing and injection wells.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate and in accordance with recognized conservation practices, and if injection wells are to be counted to determine the number of wells for a property, the injection wells must be injecting into the crude oil producing reservoir and the injection operations must have been initiated according to sound engineering principles for the purpose of increasing ultimate recovery or the producing rate of crude oil from the property.

"(4) The agency designated by the President under section 5(b) of this Act for establishing and administering petroleum price controls shall, within 30 days of the date of enactment of this subsection, promulgate or cause to be published regulations implementing the provisions of this subsection and is authorized to conduct inspections to insure compliance with this subsection. If injection wells are to be counted to determine the number of wells for a property, such agency shall, to the maximum extent possible, consult with the United States Geological Survey or with the appropriate State regulatory agency to verify whether the injection wells and injection operations meet the requirements of paragraph (3) of this subsection.

"(j)(1) Any regulation relating to crude oil prices, to crude oil ceiling prices, or to the weighted average first sale price for crude oil promulgated under subsection (a) of this section or section 4 of this Act shall not apply to the first sale of marginal well crude oil produced and sold in the United States. The first sale price and volume of such crude oil shall not be used in the computation of the 'maximum weighted average first sale price' as defined in subsection (a) of this section. Notwithstanding any other provision of this section, if the exemption provided by this subsection would cause a reduction in the ceiling prices of the crude oil produced in the United States not exempted by this subsection below the ceiling prices which would otherwise occur pursuant to the regulation under section 4(a) of this Act, as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, such ceiling prices shall be adjusted so that reduction shall not occur.

"(2) For the purposes of this subsection, 'marginal well crude oil' is defined as

"(A) for onshore properties, crude oil (including condensate recovered in non-associated production) produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve month period beginning twelve months prior to the date of enactment of this subsection, qualifies for this exemption according to the following schedule:

For crude oil production from a horizon in the vertical depth range:	The maximum The maximum production is:
Less than 2000 feet	10 barrels
2000–4000 feet	15 barrels
4000–6000 feet	20 barrels
6000–8000 feet	25 barrels
8000 feet or more	35 barrels

"(B) for offshore properties, crude oil (including condensate recovered in non-associated production) produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive twelve month period beginning twelve months prior to the date of enactment of this subsection qualifies for this exemption according to the following schedule:

For crude oil production from a horizon in the vertical depth range:	average daily average daily production is:
Less than 2000 feet	30 barrels
2000–4000 feet	35 barrels
4000–6000 feet	40 barrels
6000–8000 feet	45 barrels
8000 feet or more	55 barrels

"(C) Crude oil (including condensate recovered in nonassociated production) produced from a property which produces at an average water cut of 90 percent or more during any consecutive twelve month period beginning twelve months prior to the date of enactment of this subsection. 'Water cut' is defined as a fraction whose numerator is the average daily volume of water production and whose denominator is the average daily volume of water production plus the average daily volume of crude oil production.

"(D) For the purposes of subparagraphs (A) and (B) of this paragraph, the term 'well' shall mean both producing and injection wells.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate and in accordance with recognized conservation practices, and if injection wells are to be counted to determine the number of wells for a property, the injection wells must be injecting into the crude oil producing reservoir and the injection operations must have been initiated in accordance with sound engineering principles for the purpose of increasing ultimate recovery or the producing rate of crude oil from the property.

"(4) The United States Geological Survey and the agency designated by the President under section 5(b) of this Act for establishing and administering petroleum price controls shall, within 30 days of the date of enactment of this subsection, promulgate or cause to be published regulations implementing the provisions of this subsection and is authorized to conduct inspections to insure compliance with this subsection. If injection wells are to be counted to determine the number of wells for a property, such agency shall, to the maximum extent possible, consult with the United State Geological Survey or with the appropriate State regulatory agency to verify whether the injection wells and injection operations meet the requirements of paragraph (3) of this subsection.

"(k)(1) Any regulation relating to crude oil prices, to crude oil ceiling prices, or to the weighted average first sale price for crude oil promulgated pursuant to subsection (a) of this section or section 4 of this Act shall not apply to the first sale of crude oil produced and sold from a property in the United States which production results from an enhanced recovery operation and which volume of production is in excess of the volume of production which would have been produced from the property in the absence of the enhanced recovery operation. The first sale price and volume of such crude oil shall not be used in the computation of the 'maximum weighted average first sale price' as defined in subsection (a) of this section.

"(2) For the purposes of this subsection, an 'enhanced recovery operation' is defined as an oilfield operation, or the expansion or modification of an existing enhanced recovery operation, which is initiated after February 1, 1976, and which is previously certified as an enhanced recovery operation, pursuant to the procedures specified in paragraph (3) of this subsection, and which, according to prudent engineering principles, is likely to increase the ultimate recovery of crude oil or the producing rate of crude oil from the property by the injection of liquids or gases from the surface including, but not limited to, pressure maintenance, water flooding, gas injection and cycling, miscible fluid injection, chemical flooding, micro-emulsion flooding, in situ combustion, cyclic steam injection, steam flooding, polymer flooding, caustic flooding, or variations of each of these methods or similar such methods, singularly or in combination.

"(3)(A) Prior to the commencement of the enhanced recovery operation to which the exemption provided by this subsection would apply, the producer shall submit his application for certification as an enhanced recovery operation, which application shall include his estimate of the future rate of crude oil production from the property which would occur in the absence of the enhanced recovery operation, and the necessary supporting data and calculations, as required by appropriate Federal or State regulation, to the Federal Energy Administration and

"(i) in the case of a property under State jurisdiction, to the appropriate State regulatory agency, or

"(ii) in the case of a property under Federal jurisdiction, to the United States Geological Survey.

"(B)(1) In the case of a property to which subparagraph (A)(i) applies, the State regulatory agency may act upon the application by granting certification or specifying in what material respects the application should be amended in order to become certifiable. If a State agency does not act on an application within 90 days, the producer may submit the application, estimate, and supporting data and calculations to the United States Geological Survey. The United States Geological Survey shall act upon the application, by granting certification or specifying in what material respects the application should be amended in order to become certifiable, within 60 days, and any failure to act within 60 days shall be conclusively presumed to constitute an approval.

"(ii) In the case of a property to which subparagraph (A)(ii) applies, the United States Geological Survey shall act upon the application by granting certification or specifying in what material respects the application should be amended in order to become certifiable, within 60 days, and any failure to act within 60 days shall be conclusively presumed to constitute an approval.

"(iii) Following receipt of notice by the producer of any United States Geological Survey requirements regarding amendment of the application initially submitted pursuant to either subparagraph (A)(1) or (A)(ii), and submission of required amendments to the United States Geological Survey by the producer, the United States Geological Survey shall act upon the amended application within 30 days. Action shall consist of granting certification without comment or specifying in what material respects the amended application failed to meet the earlier required amendment and then granting a certification which shall include an estimate of the rate, based upon the best judgment of the United States Geological Survey using information available to it, of crude oil production from the property which would occur in the absence of the enhanced recovery operation.

"(C) For the purposes of making the certification pursuant to the procedures specified in subparagraphs (A) and (B), the appropriate State regulatory agency or the United States Geological Survey (as the case may be) shall assure that the estimate of the rate of crude oil production from the property which would occur in the absence of the enhanced recovery operation accompanying the application for certification has been made in accordance with sound engineering and economic principles and using accepted techniques.

"(D) The appropriate State regulatory agency or the United States Geological Survey (as the case may be) shall immediately report its certification to the Federal Energy Administration. The certified estimate of the future rate of crude oil production from the property which would occur in the absence of the enhanced recovery operation shall thereafter be used by the Federal Energy Administration and the producer to determine the volume of crude oil to be exempted pursuant to this subsection.

"(4) The United States Geological Survey and the agency designated by the President under section 5(b) of this Act for establishing and administering petroleum price controls, after consultation with one another and with appropriate State agencies, shall each, within 30 days of the effective date of this subsection, promulgate or cause to be published regulations implementing the provisions of this subsection. Each agency shall be responsible for implementing the matters assigned to it. Each agency shall have the authority to conduct necessary inspections during and succeeding the administrative process associated with granting the certification provided for in this subsection.

"(l)(1) Any regulation relating to crude oil prices, to crude oil ceiling prices, or to the weighted average first sale price for crude oil promulgated pursuant to subsection (a) of this section or section 4 of this Act shall not apply to the first sale of crude oil produced and sold in the United States from a new discovery. The first sale price and volume of such crude oil shall not be used in the computation of the 'maximum weighted average first sale price' as defined in subsection (a) of this section.

"(2) For the purposes of this subsection, a 'new discovery' is defined as a reservoir, or a property, from which crude oil is first produced after January 31, 1976, or a reservoir on a property from which that reservoir had not produced crude oil prior to February 1, 1976, and which is verified as a new discovery pursuant to the procedures specified in paragraph (3) of this subsection.

"(3)(A) After making a new discovery to which the exemption provided by this subsection would apply, the producer shall submit his application for verification as a new discovery and the necessary supporting data, as required by the appropriate State or Federal regulation, to the Federal Energy Administration and

"(i) in the case of a property under State jurisdiction, to the appropriate State regulatory agency, or

"(ii) in the case of a property under Federal jurisdiction to the United States Geological Survey.

"(B)(i) In the case of a property to which subparagraph (A)(i) applies, the State regulatory agency may act upon the application by granting verification or specifying in what material respects the application should be amended in order to become verifiable. If the State agency does not act within 90 days, the producer may submit the application and supporting data to the United States Geological Survey. The United States Geological Survey shall act upon the application, by granting verification or specifying in what material respects the application should be amended in order to become verifiable, within 60 days, and any failure to act in 60 days shall be conclusively presumed to constitute an approval.

"(ii) In the case of a property to which subparagraph (A)(ii) applies, the United States Geological Survey shall act upon the application, by granting verification or specifying in what material respects the application should be amended in order to become verifiable, within 60 days, and any failure to act within 60 days shall be conclusively presumed to constitute approval.

"(iii) Following receipt of notice by the producer of any United States Geological Survey requirements regarding amendment of the application initially submitted pursuant to either subparagraph (A)(i) or (A)(ii), and submission of required amendments to the United States Geological Survey by the producer, the United States Geological Survey shall act upon the amended application within 30 days. Action shall consist of issuing a certificate of verification or specifying why such action fails properly to support the existence of a new discovery.

"(C) The appropriate State regulatory agency or the United States Geological Survey (as the case may be) shall immediately report its verification of the new discovery to the Federal Energy Administration.

"(4) The United States Geological Survey and the agency designated by the President under section 5(b) of this Act for establishing and administering petroleum price controls, after consultation with one another and with appropriate state agencies, shall each, within 30 days of the date of enactment of this subsection, promulgate or cause to be published regulations implementing the provisions of this subsection. Each agency shall be responsible for implementing the matters assigned to it. Each agency shall have the authority to conduct necessary inspections during and succeeding the administrative process associated with granting the verification provided for in this subsection."

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 389

At the request of Mr. Church, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 389, to amend the Internal Revenue Code of 1954.

S. 410

At the request of Mr. Goldwater, the Senator from Oklahoma (Mr. Bartlett) was added as a cosponsor of S. 410, to repeal the earnings limitation of the Social Security Act for all workers age 65 and over.

S. 1126

At the request of Mr. Fong, the Senator from Oklahoma (Mr. Bartlett) was added as a cosponsor of S. 1126, the Hawaii and U.S. Pacific Islands Surface Commerce Act.

S. 2180

At the request of Mr. Abourezk, the Senator from Wyoming (Mr. McGee) was added as a cosponsor of S. 2180, a bill to amend title I of the Housing and Community Development Act of 1974.

S. 2497

At the request of Mr. Mondale, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2497, the Lifelong Learning Act.

S. 2613

At the request of Mr. Morgan, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2613, a bill to amend the Small Business Investment Act of 1958.

S. 2819

At the request of Mr. Nelson, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of S. 2819, to amend the Internal Revenue Code of 1954.

S. 3004—WITHDRAWAL

At the request of Mr. Humphrey, the Senator from Massachusetts (Mr. Brooke) was withdrawn as a cosponsor of S. 3004, to establish a National Commission on Food Costs and Pricing.

S. 3037

At the request of Mr. Muskie, the Senator from Maine (Mr. Hathaway), the Senator from Iowa (Mr. Culver), the Senator from Kentucky (Mr. Huddleston), the Senator from Wyoming (Mr. McGee), and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of S. 3037, to extend certain authorizations under the Federal Water Pollution Control Act, as amended.

S. 3145

At the request of Mr. Metcalf (for Mr. Jackson), the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 3145, the Energy Conservation Research and Development Act of 1976.

S. 3170

At the request of Mr. Stevenson, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of S. 3170, to extend and modify provisions relating to Federal expenditures.

S. 3183

At the request of Mr. Haskell, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 3183, the Black Lung Reform Act of 1976.

S. 3205

At the request of Mr. Talmadge, the Senator from Montana (Mr. Mansfield) was added as a cosponsor of S. 3205, to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and for other purposes.

S. 3215

At the request of Mr. Humphrey, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 3215, the agricultural census bill.

SENATE RESOLUTION 381

At the request of Mr. Cannon, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of Senate Resolution 381, providing recognition for the 50th anniversary of commercial aviation.

SENATE RESOLUTION 413

At the request of Mr. Ribicoff, the Senator from Florida (Mr. Stone) and the Senator from New Jersey (Mr. Williams) were added as cosponsors of Senate Resolution 413, regarding freedom of the press at the Olympic Games.

SENATE JOINT RESOLUTION 76

At the request of Mr. Dole, the Senator from Indiana (Mr. Bayh) and the Senator from New Mexico (Mr. Montoya) were added as cosponsors of Senate Joint Resolution 76, to designate a National Beta Sigma Phi Week.

At his own request, the Senator from West Virginia (Mr. Robert C. Byrd) was added as a cosponsor of Senate Joint Resolution 76 supra.

SENATE RESOLUTION 418—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. HATFIELD submitted the following resolution:

S. Res. 418

Resolved, That the bill entitled "A bill for the relief of Leo Lucas", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 420—SUBMISSION OF A RESOLUTION COMMENDING THE INDIANA UNIVERSITY BASKETBALL CHAMPIONS

(Referred to the Committee on the Judiciary.)

Mr. HARTKE submitted the following resolution:

S. Res. 420

Whereas the Indiana University basketball team on March 29 won the National Collegiate Athletic Association basketball championships thus becoming only the fourth team in history to complete an undefeated season; and

Whereas the Indiana University basketball team has won 63 of its last 64 games, was ranked number one in the nation both last year and this year in the press polls, and has won the Big Ten basketball championship each of the past four years; and

Whereas Kent Bensen and Scott May of the Indiana University basketball team were named all-American this year, and Scott May was chosen the Nation's Most Valuable Player; and

Whereas Bobby Knight, coach of the Indiana University basketball team was chosen Coach of the Year last year and again this year, and is the youngest coach ever to win a national championship; and

Whereas the Indiana University basketball team has consistently demonstrated the highest level of sportsmanship and has served as a brilliant example to young athletes and all those interested in sports competition: Now, therefore, be it

Resolved, that the Senate of the United States hereby offers its congratulations and commendation to Bobby Knight and the entire Indiana University Basketball Team for their victory and for their leadership and sportsmanship.

SENATE CONCURRENT RESOLUTION 107—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF CERTAIN COMMITTEE PRINTS

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH submitted the following concurrent resolution:

S. Con. Res. 107

Resolved by the Senate (the House of Representatives concurring), that there be printed for the use of the Committee on Foreign Relations five thousand copies each of the following hearings and Committee Prints entitled: "Multinational Corporations and U.S. Foreign Policy" (Volumes 1 and 2); "Multinational Oil Corporations and U.S. Foreign Policy, Report Together with Individual Views, January 2, 1975;" "Multinational Corporations In Brazil & Mexico: Structural Sources of Economic & Noneconomic Power, Report to the Subcommittee on Multinational Corporations" by Richard Newfarmer and Willard F. Mueller; "Direct Investment Abroad and the Multinationals: Effects on the United States Economy," prepared for the use of the Subcommittee on Multinational Corporations by Peggy B. Musgrave.

AMENDMENTS SUBMITTED FOR PRINTING

OFFICE OF CONGRESSIONAL LEGAL COUNSEL—S. 2731

AMENDMENT NO. 1547

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. ABOUREZK. Mr. President, today I am submitting an amendment in the nature of a substitute to S. 2731, the bill I introduced on December 2, 1975, to establish an Office of Congressional Legal Counsel. That measure was referred to the Government Operations Committee where it is under consideration in connection with that Committee's deliberations on S. 495, the Watergate Reorganization and Reform Act.

This amendment, based on considerable study by the Separation of Powers Committee, which I chair, significantly refines my earlier proposal. I am looking forward to working with the distinguished Chairman of the Committee on Government Operations, Senator Ribicoff, and the other members of that committee on this legislation.

I ask unanimous consent that my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1547

Strike out all after the enacting clause, and insert in lieu thereof the following:

That this Act may be cited as the "Separation of Powers Revitalization Act of 1976".

FINDINGS OF FACT

Sec. 2. The Congress finds that—

(a) Congress is granted specific powers and responsibilities under article I of the Constitution of the United States;

(b) Congress is in need of representation by professional legal counsel in cases and controversies involving such powers and responsibilities;

(c) presently Congress largely relies on the executive branch of the Government to provide such counsel; and

(d) the executive branch of the Government is unable to represent Congress in cases and controversies involving the powers and responsibilities of Congress and the executive branch in a manner consistent with the constitutional concept of separation of powers.

DECLARATION OF PURPOSE

Sec. 3. It is the purpose of this Act to establish within the Congress an Office of Congressional Legal Counsel to represent the legislative branch of the Government in cases and controversies involving the powers and responsibilities of the legislative branch of the Government to insure the continued equality of the legislative, executive, and judicial branches of the Government.

ESTABLISHMENT

Sec. 4. (a) (1) There is established as an office of the Congress, the Office of Congressional Legal Counsel (hereinafter referred to as the "Office"), which shall be under the direction and control of the Congressional Legal Counsel. The Congressional Legal Counsel shall be appointed jointly, by the President pro tempore of the Senate and the Speaker of the House of Representatives from among recommendations submitted by the majority and minority leaders of the Senate and the House of Representatives. Such appointment shall become effective upon approval, by concurrent resolution, of the Senate and the House of Representatives.

(2) The Congressional Legal Counsel shall be appointed for a term which shall expire at the end of the Congress following the Congress during which such person is appointed except that the Congress may, by concurrent resolution, remove the Congressional Legal Counsel for misconduct, incapacity, or incompetence. The Congressional Legal Counsel may be reappointed at the termination of any term of office.

(3) The Congressional Legal Counsel shall receive compensation at a per annum gross rate equal to the rate of base pay, as in effect from time to time for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) (1) (A) The Congressional Legal Counsel shall appoint and fix the compensation of such Assistant Congressional Legal Counsels as may be necessary to carry out the provisions of this Act. The Congressional Legal Counsel may delegate authority for the performance of any function imposed by this Act to any Assistant Congressional Legal Counsel except any function imposed upon the Congressional Legal Counsel except any function imposed upon the Congressional Legal Counsel under section 8(b) of this Act. Any Assistant Congressional Legal Counsel shall serve at the pleasure of the Congressional Legal Counsel.

(B) The Congressional Legal Counsel shall appoint and fix the compensation of such other personnel as may be necessary to carry out the provisions of this Act and may prescribe the duties and responsibilities of such personnel.

(C) For purposes of pay (other than pay of the Congresional Legal Counsel) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(2) In carrying out the functions of the Office, the Congressional Legal Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72(i)).

(c) Any appointment made under subsection (a) or (b) of this section shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Any person appointed as Congressional Legal Counsel or Assistant Congressional Legal Counsel shall be learned in the law, shall not have been a candidate for or holder of elected local, State, or Federal Government office for five years prior to or at the time of the appointment, and shall not engage in any other business, vocation, or employment during the term of such appointment, nor for a period of five years after such term, engage in any activity requiring such person to register under section 308(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 267(a)).

(d) The Congressional Legal Counsel may make, promulgate, rescind, amend, and shall publish in the Congressional Record such rules and regulations as may be necessary to carry out the provisions of this Act. Such regulations shall take effect after ten calendar days of continuous session of Congress following publication unless the Congress, by concurrent resolution, disapproves, amends, or supplements such rules and regulations. The Congress, by concurrent resolution, may from time to time rescind, amend, or supplement any such rules and regulations.

DEFENDING A HOUSE, COMMITTEE, MEMBER, OFFICER, AGENCY OR EMPLOYEE OF CONGRESS

SEC. 5. (a) The Congressional Legal Counsel, at the direction of Congress or the appropriate House of Congress shall—

(1) defend Congress, a House of Congress, an office or agency of Congress, a committee or subcommittee, or any Member, officer, or employee of a House of Congress made a party defendant in any civil action pending in any court of the United States or political subdivision thereof in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpoena or order, taken by Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency; or

(2) defend Congress, a House of Congress, an office or agency of Congress, a committee or subcommittee, or a Member, officer, or employee of a House of Congress in any civil action pending in any court of the United States or of a State or political subdivision thereof with respect to any subpena or order directed to Congress, such House, committee, subcommittee, Member, officer, employee, office, or agency.

(b) Representation of a Member, officer, or employee under section 5(a) shall be undertaken by the Congressional Legal Counsel only upon the consent of such Member, officer, or employee. The resolution directing the Congressional Legal Counsel to represent a Member, officer, or employee may limit such representation to constitutional issues relating to the power and responsibilities of Congress.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA OF ORDER

SEC. 6. (a) The Congressional Legal Counsel, at the direction of Congress or the appropriate House of Congress shall bring a civil action under any statute conferring jurisdiction on any court of the United States to enforce, or issue a declaratory judgment concerning the validity of, any subpena or order issued by Congress, or a House of Congress, a committee, a subcommittee of the Senate, or a subcommittee of a joint committee of Congress;

(b) nothing in section 6(a) shall limit the discretion of—

(1) the President pro tempore of the Senate or the Speaker of the House of Representatives in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) either House of Congress to hold any individual or entity in contempt of such House of Congress.

INSTITUTING A CIVIL ACTION ON BEHALF OF A HOUSE OR COMMITTEE OF CONGRESS TO REQUIRE AN OFFICER OF THE GOVERNMENT TO PERFORM DUTY

SEC. 7. (a) The Congressional Legal Counsel, at the direction of Congress or either House of Congress shall bring a civil action on behalf of Congress, a House of Congress or any committee of Congress under any statute conferring jurisdiction upon any Court of the United States to require an officer or employee of the United States or any agency thereof to perform a duty prescribed by law.

(b) This section shall not apply to any action arising from a refusal by any officer or employee of the executive branch of the Government to testify or to produce information, records, documents, or other material to a House, committee, or subcommittee of Congress.

INTERVENTION OR APPEARANCE

SEC. 8. (a) The Congressional Legal Counsel, at the direction of Congress or of either House of Congress or pursuant to subsection (b) of this section, shall intervene or appear as amicus curiae in any legal action pending in any court of the United States or of a State or political subdivision thereof in which—

(1) the constitutionality of any law of the United States is challenged, the United States is a party, and the constitutionality of such law is not adequately defended by counsel for the United States;

(2) a Member, officer, or employee of Congress is not represented by the Congressional Legal Counsel under section 5 of this Act; or

(3) the powers and responsibilities of Congress under article I of the Constitution of the United States are placed in issue.

(b) The Congressional Legal Counsel may intervene or appear as amicus curiae in such action upon a determination by the Congressional Legal Counsel that such intervention or appearance is necessary to carry out the functions of the Congressional Legal Counsel under section 8(a) of this Act. The Congressional Legal Counsel shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of any such determination to intervene or appear as amicus curiae on the earliest date possible prior to the filing of any documents necessary to effectuate such intervention or appearance and shall publish in the Congressional Record notice of such determination. The Congressional Legal Counsel may proceed with such intervention or appearance after ten calendar days of continuous session of Congress unless such intervention or appearance is disapproved by concurrent resolution or by resolution if only one House of Congress has an interest in the pending matter. Congress or either House of Congress, as is appropriate, may direct the Congressional Legal Counsel to intervene or appear as amicus curiae within such ten day period. Any determination made by the Congressional Legal Counsel pursuant to this section shall not be reviewable in any court of law, except to the extent provided for in section 15(a).

(c) The Congressional Legal Counsel shall limit any intervention or appearance as amicus curiae in an action involving a Member, officer, or employee of Congress to constitutional issues relating to the powers and responsibilities of Congress.

IMMUNITY PROCEEDING

SEC. 9. The Congressional Legal Counsel, at the direction of the appropriate House of Congress or any committee of Congress shall serve as the duly authorized representative of such House or committee in requesting a United States District Court to issue an order granting immunity pursuant to section 201 (a) of the Organized Crime Control Act of 1970 (18 U.S.C. 6005).

ADVISORY AND OTHER FUNCTIONS

SEC. 10. (a) The Congressional Legal Counsel shall advise, consult, and cooperate—

(1) with and at the direction of the Comptroller General, represent the Comptroller General in any civil action brought pursuant to section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406);

(2) with the United States attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(3) with the Joint Committee on Congressional Operations in identifying any court proceeding or action which is of vital interest to Congress or to either House of Congress under section 402(a)(2) of the Legislative Reorganization Act of 1970 (2 U.S.C. 412(a)(2));

(4) with the Comptroller General, General Accounting Office, the Office of Legislative Counsel of the Senate and House of Representatives, and the Congressional Research Service;

(5) with any Member, officer or employee of Congress not represented under section 5 herein with regard to obtaining private legal counsel for such Member, officer, or employee; and

(6) with the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Parliamentarians of the Senate and House of Representatives regarding any subpoena, order, or request for the withdrawal of papers presented to the Senate and House of Representatives or which raises a question of the privileges of the Senate or House of Representatives.

(b) The Congressional Legal Counsel shall compile and maintain research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. The Attorney General shall cooperate fully with the Congressional Legal Counsel in compiling such research files. Such research files shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate and House of Representatives with respect to the withdrawal of paper presented to the Senate and House of Representatives and the interests of the Congress.

(c) The Congressional Legal Counsel shall perform such other duties as the appropriate House of Congress may direct; provided however, that any such duties shall be consistent with the purposes and limitations of this Act.

DEFENSE OF THE CONSTITUTIONAL POWERS OF CONGRESS

SEC. 11. In performing any function under sections 5 through 9, and in representing the Comptroller General under section 10(a)(1), of this Act, the Congressional Legal Counsel shall defend vigorously when placed in issue—

(a) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under article I, section 6 of the Constitution of the United States;

(b) the constitutionality of statutes enacted by Congress;

(c) the constitutional power of each House of Congress to be judge of the elections, returns and qualifications of its own Members and to punish or expel a Member under article I, section 5 of the Constitution of the United States;

(d) the constitutional power of each

House of Congress to except from publication such parts of its journal as in its judgment may require secrecy;

(e) the constitutional power of each House of Congress to determine the rules of its proceedings;

(f) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any Department or office thereof.

(g) all other constittuional and statutory powers and responsibilities of Congress.

CONFLICT OR INCONSISTENCY

SEC. 12. (a) In the carrying out of the provisions of this Act, the Congressional Legal Counsel shall notify the Congress or the appropriate House of Congress, and any party represented or to be represented pursuant to such provisions of the existence and nature of any conflict or inconsistency between the representation of such party and the carrying out of any other provisions of this Act, or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the Congress by concurrent resolution or the appropriate House by resolution, shall instruct the Congressional Legal Counsel of the action to be taken to avoid or resolve the conflict or inconsistency. If Congress or the appropriate House of Congress does not so instruct the Legal Counsel within fifteen days from receipt of notification, the Legal Counsel shall take such action as may be necessary to resolve the conflict or inconsistency. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

(c) The appropriate House of Congress may by resolution authorize the reimbursement of any Member, officer, or employee who is not represented by the Congressional Legal Counsel under section 12(b) or who declines to be represented pursuant to section 5(b) for costs reasonably incurred in obtaining representation. Such reimbursement shall be from funds appropriated to the contingent fund of the appropriate House.

HOUSE AND SENATE PROCEDURE

SEC. 13. (a) Directives made pursuant to sections 5(a), 6(a), 7(a), 8(a), 9 and 10(a) (1) of this Act shall be made as follows:

(1) directives made by Congress pursuant to sections 5(a) and 6(a) of this Act shall be authorized by a concurrent resolution of Congress;

(2) directives made by either House of Congress pursuant to sections 5(a), 6(a), 7(a), 8(a), and 9 of this Act shall be authorized by passage of a resolution of such House;

(3) directives made by a committee of Congress pursuant to section 9 of this Act shall be in writing and authorized by an affirmative vote of two-thirds of the members of the full committee; and

(4) directives made by the Comptroller General pursuant to section 10(a) (1) of this Act shall be in writing.

(b) (1) A resolution or concurrent resolution introduced pursuant to section 13(a) shall not be referred to a committee, except as incident to section 13(c) (1) and section 13(d) (1). Upon introduction or when reported as provided in section 13(c) (2) and section 13(d) (2), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution or concurrent resolution. A motion to proceed to the consideration of a resolution or concurrent resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of the resolution or concurrent resolution is agreed to, debate thereon shall be limited to not more than two hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution or concurrent resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution or concurrent resolution shall be in order, except an amendment pursuant to section 5(b) to limit representation by the Congressional Legal Counsel to constitutional issues relating to the powers and responsibilities of Congress. No motion to recommit the resolution or concurrent resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution or concurrent resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of the resolution or concurrent resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution or concurrent resolution shall be decided without debate.

(c) It shall not be in order in the Senate or House of Representatives to consider a resolution to direct the Congressional Legal Counsel to bring a civil action pursuant to section 6(a) to enforce, or secure a declaratory judgment concerning the validity of, a subpoena or order issued by a committee, subcommittee of the Senate, or subcommittee of a joint committee unless (1) such resolution is reported by a majority vote of the members of such committee or committee of which such subcommittee is a subcommittee, and (2) the report filed by such committee or subcommittee of which such subcommittee is a subcommittee contains a statement of;

(A) the procedure followed in issuing such subpoena;

(B) the extent to which the party subpoenaed has complied with such subpoena;

(C) any objections or privileges raised by the subpoenaed party; and

(D) the comparative effectiveness of bringing a civil action to enforce the subpoena, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before a House of Congress.

(d) It shall not be in order in the Senate or the House of Representatives to consider a resolution to direct the Congressional Legal Counsel to bring a civil action pursuant to section 7(a) on behalf of a committee to compel an officer or employee of the executive branch to enforce the law unless (1) such resolution is reported by a majority vote of the members of such committee and (2) the report filed by such committee contains a statement of the comparative effectiveness of any alternative means to compel such officer or employee to enforce the law, including enactment of legislation.

(e) The extent to which a report filed pursuant to sections 13(c) (2) and 13(d) (2) contains such statement or statements shall not be reviewable in any court of law.

(f) For purposes of computation of time in section 4(d), section 8(b), and section 12(b):

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period.

(g) For purposes of this Act, when referred to herein the word committee shall include standing, select, special or joint committees established by law or resolution.

(h) The provisions of section 13 are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, they shall be considered as part of the rules of each House, respectively, and such rules shall supersede any other rule of each House only to the extent that such rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(i) Any directive to the Congressional Legal Counsel to bring a civil action pursuant to sections 6(a) and 7(a) of this Act in the name of a committee, joint committee, or subcommittee of Congress shall constitute authorization for such committee, joint committee or subcommittee to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

SEC. 14. (a) Upon receipt of written notice that the Congressional legal Counsel has undertaken pursuant to section 5(a) of this Act to perform any representational service with respect to any designated action or proceeding pending or to be instituted, the Attorney General shall be relieved of any responsibility with respect to such representational service and shall have no authority to perform such service in such action or proceeding except at the request or with the approval of the Congressional Legal Counsel or either House of Congress; upon receipt of such notice the Attorney General shall transfer all materials relevant to such actions or proceedings to the Congressional Legal Counsel.

(b) The Attorney General shall notify the Congressional Legal Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of a statute enacted by Congress within such time as will enable the Congressional Legal Counsel to intervene in such proceeding pursuant to section 8 herein.

PROCEDURAL PROVISIONS

SEC. 15. (a) Permission to intervene as a party or to file a brief amicus curiae under section 8 of this Act shall be of right, without regard to the requirements for standing as set forth in any provision of law, and may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action.

(b) Where an actual case or controversy exists, any party on whose behalf an action is brought pursuant to section 6 and 7 of this Act shall have the right to obtain judicial review of the conduct or matter in question without regard to the requirements for standing as set forth in any statutes, rules, or other requirements of standing.

(c) The Congressional Legal Counsel, or any designated Assistant Congressional Legal Counsel, shall be entitled for the purpose of performing the functions imposed by this Act to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this paragraph shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

(d) Nothing in this Act shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any action, civil or criminal, against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of Congress, or any officer, employee, office, or agency of Congress.

(e) In any civil action brought pursuant to sections 6 or 7 of this Act, the court shall assign the case for hearing at the earliest practicable date and to cause the case in every way to be expedited. Any appeal or petition for review from any order or judgment in such action shall be expedited in the same manner.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 16. (a) Section 3210 of title 39, United States Code, is amended—

(1) by striking out in subsection (b)(1) "and the Legislative Counsels of the House of Representatives and the Senate" and inserting in lieu thereof the following: "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel"; and

(2) by striking out in subsection (b)(2) "or the Legislative Counsel of the House of Representatives or the Senate" and inserting in lieu thereof the following: "the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(b) Section 3216(a)(1)(A) of such title is amended by striking out "and the Legislative Counsels of the House of Representatives and the Senate" and inserting in lieu thereof the following: "the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel".

(c) Section 3219 of such title is amended by striking out "or the Legislative Counsels of the House of Representatives or the Senate" and inserting in lieu thereof the following: "the Legislative Counsels of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(d) Section 8 of the Act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, and for other purposes", approved March 3, 1875, as amended (2 U.S.C. 118), is repealed.

(e) The Standing Order of the Senate "authorizing suits by Senate Committees" (S. Jour. 572, 70–1, May 28, 1928), is rescinded.

(f) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by adding after the word "selection" the following: "including the Congressional Legal Counsel,".

(g) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

(1) "§ 1364. Congressional actions—

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by Congress, a House of Congress, any committee of Congress, any subcommittee of the Senate, or any joint committee of Congress or subcommittee thereof to enforce, or secure a declaration concerning the validity of, any subpena or order issued by Congress, or such House, committee, subcommittee, or joint committee to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof.

"(b) The scope of review by the court shall extend only to whether (1) there is a legislative purpose on behalf of which information is sought, (2) authority has been delegated by Congress for the committee, joint committee or subcommittee issuing the subpena to conduct the inquiry, and (3) the information sought, documentary or testimonial, is pertinent to the subject under inquiry.

"(c) Congress, a House of Congress, or any committee of Congress, any subcommittee of the Senate, or any joint committee of Congress or subcommittee thereof, authorized by Congress to bring suit, in addition to any other available remedies, including but not limited to a criminal proceeding for contempt or a proceeding by a House of Congress for contempt, may commence and prosecute a civil action under subsection (a) of this section in its own name or in its own name and in the name of the United States in the District Court for the District of Columbia to enforce or secure a declaration concerning the validity of any subpena or order issued by Congress, such House, committee, subcommittee, or joint committee against any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or any other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof.

"(d) Congress, or either House of Congress, any committee, subcommittee or joint committee of Congress commencing and prosecuting a civil action under this section may be represented in such action by such attorneys as it may designate.".

(2) "§ 1365. Congressional actions

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action in the nature of mandamus brought by Congress, either House of Congress, any committee of such House, or any joint committee of Congress in its own name or in its own name and in the name of the United States to compel an officer or employee of the United States or any agency thereof, to perform a duty prescribed by law.

"(b) Congress, or either House of Congress, any committee of such House authorized by such House to bring suit, or any joint committee of Congress authorized by Congress to bring suit, in addition to any other available remedies, including but not limited to a criminal proceeding for contempt or a proceeding by a House of Congress for contempt, may commence and prosecute a civil action under subsection (a) of this section in its own name or in its own name and in the name of the United States in the District Court for the District of Columbia to compel an officer or employee of the United States or any agency thereof, to perform a duty prescribed by law.

"(c) Congress, or either House of Congress, any committee of such House, or any joint committee of Congress commencing and prosecuting a civil action under this section may be represented in such action by such attorneys assist may designate."

(3) The analysis of such chapter 85 is amended by adding at the end thereof the following new items:

"1364. Congressional actions 1365: Congressional actions"

(h) Section 2403 of title 28, United States Code, is amended by adding at the end thereof the following:

"Provided however, the Court shall not permit the United States to intervene to challenge the constitutionality of any Act of Congress affecting the public interest."

SEPARABILITY

SEC. 17. If any part of this Act is held invalid, the remainder of the Act shall not be affected thereby. The provisions of any part of this Act, or the application thereof to any person or circumstance if held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Amounts so appropriated shall be disbursed by the Secretary of the Senate upon vouchers signed by the Congressional Legal Counsel, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM—S. 1943

AMENDMENT NO. 1548

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. SPARKMAN. Mr. President, by request I submit for appropriate reference an amendment to S. 1943, a bill to amend title VIII of the Foreign Service Act of 1946, as amended, relating to the Foreign Service Retirement and Disability System, and for other purposes, which is now pending before the Foreign Relations Committee.

The bill and the amendment have been requested by the Department of State and I am now introducing the amendment in order that Members of the Senate and the public may direct their attention and comments to it.

I reserve my right to support or oppose this amendment as well as any other suggested amendments when the bill and the amendment are considered by the Committee on Foreign Relations.

I ask unanimous consent that the amendment be printed in the RECORD, together with the lettter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated March 24, 1976.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1548

On page 28, lines 13 and 14, strike the following: "1 per centum plus".

DEPARTMENT OF STATE,
Washington, D.C., March 24, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate.

DEAR MR. PRESIDENT: In accordance with the President's message of March 24, 1976, we submit for consideration of the Congress, and urge favorable action on the enclosed draft amendment which would eliminate the extra one percent feature in the cost-of-living adjustment formula of the Foreign Service retirement system.

Under the current formula, Foreign Service retirement annuities are adjusted on the first day of the third month that begins after the Consumer Price Index (CPI) has risen at least three percent above the point which triggered the last adjustment, and remained at the higher level for three consecutive months. The annuity increase equals the highest percentage increase in the CPI during the three-month period, plus one percent.

Experience has shown that the one percent feature is operating to overcompensate retirees for increases in the cost of living. This can be seen from the fact that since May, 1970, when the present formula was established for the Foreign Service, annuities have been increased 62 percent whereas the CPI has risen only 48 percent over the period for which these increases were granted.

The extra one percent overcompensates because it is permanently added to the annuity base and is compounded with every subsequent increase. This compounding problem has been exacerbated in recent years by increases being effectuated every 6 months instead of every 12 or 18 months which was the expectation at the time the provision was added.

The elimination of this extra one percent feature from the Foreign Service formula would produce annual savings of approximately $.5 million in fiscal year 1977 progressing to $6 million in fiscal year 1981 from expenditures projected under current law.

The enclosed draft amendment, together with companion measures for the Civil Service, Central Intelligence Agency and military retirement systems, which we understand are being forwarded at this time, would effect the necessary changes in the annuity adjustment provisions of the civilian retirement programs.

S. 1943, a bill "To amend title VIII of the Foreign Service Act of 1946, as amended, relating to the Foreign Service Retirement and Disability System, and for other purposes" is now pending before the Foreign Relations Committee. One purpose of this bill, which we recommended to you on June 2, 1975, is to conform appropriate features of the Foreign Service retirement system with comparable features of the Civil Service retirement system. The cost-of-living adjustment formula is an area where such conformity should be established and maintained. Section 115 of S. 1943, as modified by the enclosed draft amendment, would carry out that purpose. Accordingly, we recommend early action on this Foreign Service retirement legislation in order to implement this necessary change in the cost-of-living adjustment formula and in order to make other desirable changes in the Foreign Service retirement system.

We are informed by the Office of Management and Budget that enactment of this amendment would be in accord with the program of the President.

We are sending a similar letter to the Speaker of the House of Representatives.

Sincerely yours,

ROBERT J. MCCLOSKEY,

Assistant Secretary for Congressional Relations.

NEW RIVER—S. 158

AMENDMENT NO. 1549

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 158) to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the National Wild and Scenic Rivers System.

FOOD STAMP ACT AMENDMENTS OF 1976—S. 3136

AMENDMENT NO. 1550

(Ordered to be printed and to lie on the table.)

ELIMINATING THE FOOD STAMP PURCHASE REQUIREMENT

Mr. DOLE. Mr. President, S. 3136, the National Food Stamp Reform Act of 1976, limits participation in the food stamp program to households with net incomes below the official Government poverty level. The amendment I am introducing today along with Senators McGOVERN, HUMPHREY, HUGH SCOTT, HOLLINGS, STONE, HATFIELD, JAVITS, CASE, LEAHY, CLARK, PHILIP HART, and KENNEDY is designed to insure that those low income persons who remain eligible have a realistic opportunity to participate in the program. Although the committee bill, like the current food stamp law, enables our poorest citizens to qualify for assistance, it does nothing to insure that the poor are actually able to receive food stamp aid.

This gap between qualifying and participating households is largely attributable to one major obstacle: the purchase requirement. Under the committee bill, food stamp recipients will be required to pay 27½ percent of their net income to receive a fixed allotment of food stamps. For many needy families—especially the elderly poor living on fixed incomes—even the current average 24 percent purchase requirement represents an insurmountable burden. The amendment we are promising would, first, eliminate the food stamp purchase requirement, second, increase the benefit reduction ratio from 27½ percent to 30 percent, and third, adjust the poverty line and standard deduction in accordance with increases in the consumer price index.

The key provision of this amendment is elimination of the purchase requirement. Instead of requring a family to pay $100 to receive $166 worth of food stamps, the family would be given $66 worth of food stamps—the difference between the established coupon allotment for its family size and the amount of money which the family would otherwise have had to pay. This will enable many poor families who are presently eligible for assistance to actually participate in the program. For a series of studies—in Mississippi, New York, North Dakota, and other areas—has determined that inability to afford food stamps is the largest single reason why eligible low-income families do not participate in the program.

Elimination of the purchase requirement is the simplest, least costly method of offering impoverished Americans a real opportunity to obtain a nutritionally adequate diet. And it would have other beneficial consequences:

The cost of selling stamps—which runs between 50 cents and $1.10 for every transaction—would be eliminated thus saving State and Federal Governments $50 million or more annually;

Fraud by food stamp vendors, which has already cost the American taxpayer nearly $7 million, would be completely eliminated since there would be no vendors;

Over 35 percent of food stamps in circulation would be eliminated, thus reducing the burden on issuing and redemption agencies;

The black marketing, or discounting, of food stamps would be substantially curtailed since there would be far fewer stamps in circulation.

Opponents of eliminating the purchase requirement raise many objections to this simplification of the food stamp program. It is charged that less money will be spent on food since families will not have to commit the full coupon allotment to food purchases at the beginning of each month. Yet all available evidence indicates that most current recipients will continue to spend a large portion of their incomes on food. Besides, is it the place of government to tell a poor family that it has to spend $166 on food when spending $146 one month might allow it to pay for a heating bill to prevent its heat from being turned off? Moreover, many new families who cannot now afford to participate in the food stamp program would be able to increase their food purchases over the current inadequate levels.

In our view, opposition to eliminating the purchase requirement stems primarily from a fear of increased expenditures on the program. No doubt, elimination of the purchase requirement will decrease the cost savings of the food stamp reform bill, since more poor families will begin receiving assistance. But preliminary estimates by the Congressional Budget Office indicate that $200 million or more can still be trimmed from the 1977 food stamp budget, even if the elimination of the purchase requirement amendment is accepted. As a long time advocate of Federal spending restraint, I, too, would like to reduce food stamp outlays by a greater amount. But I do not feel that raising procedural roadblocks to the participation by needy citizens in government aid programs is a proper way to keep Federal expenditures down.

Moreover, the second provision of the amendment we are proposing will help keep the cost of the amendment down. By increasing the benefit reduction ratio from 27½ percent to 30 percent, the net benefit for each participating household will be decreased slightly. For example, a family of four with $250 net monthly income would receive, without payment, $91 in food stamps. Under the committee bill, which retains the purchase requirement, the same family would pay $69 to obtain a $166 allotment of food stamps, thus receiving a net benefit of $97. While the benefit level under the elimination of the purchase requirement plan is slightly lower, many low income families who cannot now raise the purchase price will be able to participate in the program. In effect, we will be "plowing back" some of the savings attributable to the higher benefit reduction rate into assistance to impoverished families not now able to participate.

The third element of the amendment will insure that the poverty level eligibility standard and the $100 standard deduction keep up with inflation. Without this provision of the amendment, the poverty level cutoff may fall as much as 2 years behind the actual cost-of-living index due to the outdated inflation adjustments by the Office of Management and Budget.

The amendment we are proposing will strike a balanced reform of the food stamp program. By retaining the eligibility standards of the committee bill, marginal recipients with the highest incomes will be eliminated from the program. At the same time, some of the poorest

Americans will be able to receive needed food assistance for the first time. As we view it, elimination of the purchase requirement will insure that the food stamp program accomplishes its statutory mission—to provide low income families with an opportunity to obtain a nutritionally adequate diet. Surely we can all agree on that fundamental goal.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1524

At the request of Mr. Beall, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of amendment No. 1524, intended to be proposed to the bill (S. 3168), the State Department Authorization Act.

SCHEDULE OF HEARINGS TO EXAMINE PROCEDURES AND PRACTICES OF THE INTERNAL REVENUE SERVICE

Mr. MONTOYA. Mr. President, on January 29 I reported to the Senate on the plans of the Appropriations Subcommittee on Treasury, Postal Service, and General Government to hold hearings in the field in April in order to examine procedures and practices of the Internal Revenue Service.

The plans for our hearings are now complete. The dates and locations for the field hearings scheduled are as follows:

New York City, Thursday, April 8, 1976, Federal Building, room 305, 26 Federal Plaza, 10 a.m. and 2 p.m.

Oklahoma City, Thursday, April 15, 1976, Oklahoma Tax Commission Building, 2501 Lincoln Boulevard, 10 a.m. and 2 p.m.

San Francisco, Thursday, April 22, 1976, Federal Building, room 13450, 450 Golden Gate Avenue, 10 a.m. and 2 p.m.

Chicago, Thursday, April 29, 1976, John C. Kluczynski Federal Building, room 347A, 230 South Dearborn Street, 10 a.m. and 2 p.m.

The response to our announcement of these hearings has been gratifying. We have received hundreds of letters, and have been able to develop a witness list which I believe will be of interest to the Congress, and to tax professionals and taxpayers across the country. Our testimony will come from members of the public, tax preparers, tax attorneys, former IRS employees, IRS regional commissioners, citizen tax reform organizations, and professors of law.

In New York City we will receive testimony from Prof. Charles Davenport, Assistant Director for Tax Analysis of the Congressional Budget Office, and the author of the Report to the Administrative Conference of the United States on Administrative Procedures of the Internal Revenue Service. I believe that Professor Davenport's testimony will be very valuable for the committee and the Congress.

In addition, we have asked that a representative of Public Citizen Tax Reform Research Group testify in one of the field hearings, so that the viewpoint of this very knowledgeable and active tax research organization will be a part of the hearing record.

Mr. President, I want to emphasize that the Subcommittee on Treasury, Postal Service and General Government has made every effort to open these hearings to all interested persons, including professionals, IRS officials, and the public. We are very hopeful that the result will be information which will help the Congress to take the necessary legislative action to provide a return to taxpayer confidence in the system of tax collection. Two recent articles have expressed the need for that kind of action, and I ask unanimous consent that the Washington Post article "Tax Reform—or Tax Revolt?" by Louise Brown, and the Public Citizen, Inc. article "Senate IRS Probe Hits the Road," be printed in the Record following my remarks.

I will report to the Senate, as I did in 1974, following our analysis of the information received and testimony taken during our field hearings.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senate IRS Probe Hits the Road

The IRS seized a taxpayer's small bank account for back taxes, even though he was out of work and living on unemployment checks.

The tax agency audited a woman's returns year after year, although they never found any mistakes in them.

IRS agents accused a physician of underreporting his income, but would not explain why. He said the agents threatened him.

Such complaints are typical of the mail piling up in the office of Sen. Joseph M. Montoya (D.-N.M.) since he announced that his treasury appropriations subcommittee would hold IRS hearings in four major cities across the nation in April. The Senator will spend one day each in:

New York City (April 8)
Oklahoma City (April 15)
San Francisco (April 22), and
Chicago (April 29).

He has urged taxpayers in those areas to contact his office with their complaints and suggestions for testimony.

Montoya has been a champion of taxpayer rights since he first held special hearings on the IRS in Washington in 1973. He called the hearings after Public Citizen's Tax Reform Research Group told the Senator in 1972 about taxpayer grievances which had been brought to its attention. Montoya asked the Group to study the grievances and report back to him the following year (1973) and again in 1974. Members of the Tax Reform Research Group staff testified at both hearings.

Average taxpayers who do not have representation do not get the same kind of treatment from the IRS as the affluent or large corporations, Ralph Nader told the subcommittee at the first hearing. He said the IRS does not tell small taxpayers very much about their rights; that it does not guarantee the tax return advice which it gives them, but does guarantee its advice to well represented taxpayers through private rulings; and that small taxpayers do not fare as well in settlements with the agency as the wealthy. The call for reform was supported by the tax experts and professionals who also testified at the hearings.

This testimony laid the groundwork for reforms within the IRS, and also led to a detailed study of the IRS by the Administrative Council of the United States, an independent Federal agency. The conference report, issued last December, validated the points made at the hearings and recommended important changes in IRS procedures.

As a result of the Montoya hearings, the IRS has adopted new procedures and given new instructions to its agents in the field. One purpose of this year's hearing will be to determine how well the new guidelines laid down in the IRS national offices are being carried out around the country, according to the senator's office.

How To Participate

Taxpayers across the country can contact the Montoya subcommittee with complaints and suggestions for testimony at the forthcoming field hearings on the IRS. Write to:

Senator Joseph M. Montoya, Chairman, Appropriations Subcommittee on the Treasury, Postal Service, and General Government, 1406 Dirken Senate Office Building, Washington, D.C. 20510.

Exact times of the hearings, and buildings in which they will be held, will be announced at the beginning of April. That information will be available from the Appropriations Subcommittee at the above address.

Tax Reform—Or Tax Revolt?

(By Louise Brown)

The present tax system works against 85 per cent of all individual taxpayers—those with adjusted gross incomes under $20,000. They get fewer and smaller tax breaks; they pay more of the taxes which the IRS says they owe; they spend hard-earned cash for tax advice which is often wrong; and they get an inferior brand of justice from the Internal Revenue Service.

In a recent speech, Treasury Secretary William Simon indicated that administration officials know the system is not working well; that tax compliance is slipping; and that they are thinking about a truly radical change in the system. The change would strip away every preference, special deduction and credit for all individuals, and impose instead a single progressive income tax with substantially lower rates.

People in the $100,000 income bracket would pay more taxes than they do now, according to Simon. Those with incomes below $20,000 would pay less. Taxes for those in between would increase or decrease, or stay the same, depending on the sources of their income, a Treasury official has stated. The tax rate could be set at 10–12 per cent at the low end and 35–40 per cent at the high end.

While some economists and tax authorities have urged this move for years, it has been rejected by almost everybody else with a stake in the present system, including the vast majority of middle and lower income taxpayers who would benefit the most from the change. They are afraid of losing the miserly deductions they now possess, and they don't trust government promises. Yet, if these taxpayers fully realized how grievously they fare under the present system, they would demand that Congress reform the law.

The present loophole-ridden tax law is certainly no boon to the 85 per cent in the under-$20,000 group. Treasury calculations show that, in Fiscal Year 1974, the other 15 per cent of individual taxpayers with incomes of $20,000 and above received 53 per cent of the tax benefits from loopholes.

Not only are most average taxpayers' tax breaks miserly, but they also actually comply better with the law than others; that is, they pay far more of the money the IRS believes they owe, according to the agency's figures. The reason is that most have to take the standard deduction, while better-off taxpayers can itemize their returns. Itemizing offers attractive possibilities for flim-flam, as well as comfortable interpretations of the complex law in one's own favor. The IRS cannot detect many of these "errors" because its audit coverage is so thin. For example, the agency estimated it lost $6.4 billion on misinterpretations, unverifiable deductions and other non-math errors on 1969 individual returns, and that 86 per cent of this underreported liability was not disclosed or corrected.

A remarkable 76 per cent of the 1969 returns which were itemized had mistakes, according to the IRS study. This was more than double the error rate of returns with standard deductions. As incomes rose, so did the number and size of the errors. Further, the mistakes on itemized returns cost the government twice as much. And the situation is not improving. The study showed that the per cent of incorrect returns rose by 7.4 per cent between 1965 and 1969. An IRS official says that this trend has not stopped. Even so, more and more people in the lower brackets are forced to take the standard deduction, which means they are paying most of the taxes they owe, while high-income itemizers—the 15 per cent—are filing returns riddled with expensive mistakes which the IRS cannot catch.

But average taxpayers have other grievances. Every year they spend millions on commercial preparers, hoping for some tax breaks. Most have incomes under $20,000, according to a 1974 survey by H&R Block, which prepares 94 per cent of returns done by national tax companies last year. The Block survey indicated that 82 per cent of its customers had incomes under $15,000, and that 24 per cent of them were in the under-$5,000 class, yet these low-income taxpayers may get little for their money except a visit from the IRS later on. The IRS estimated that national tax firms made errors on 37 per cent of the standard deduction returns and 82 per cent of itemized returns in the under-$10,000 class in 1972.

But this is not the end of average taxpayers' woes. If they have to defend their returns without professional representation in IRS audits and appeals, (and few have such assistance) they may get substantially less favorable treatment than those who can afford counsel, according to a recent report. The report, issued by the Administrative Conference of the United States, said that most taxpayers do not know the law or what the IRS will accept as proof of their claims.

IRS agents expect to find errors on returns and are pressured to move cases quickly in order to fulfill production goals. These pressures may lead them to select lower income returns which can be reviewed quickly, and to claim questionable tax liabilities which will probably not be contested. Unrepresented taxpayers have little or no protection against such arbitrary practices.

The report also concluded that IRS appeals procedures do not work well for the unskilled and unrepresented. It said that the agency's settlement procedures were designed by and for professionals, like tax attorneys and accountants. IRS officials have admitted that most of the 1.7 million individuals audited in 1974 did not have professional representation and did not appeal. Skilled tax professionals, like skilled doctors, are expensive. Their fees generally rule out a fight over the tax liabilities (they averaged about $200 in 1972) of the under-$20,000 group.

It is remarkable that taxpayers have not yet subverted the system in a substantial way, considering how badly most of them are treated. Probably that is because most simply do not know how unfair the system really is. But the vast body of the taxpaying public is a sleeping tiger, and Secretary Simon knows it.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on April 7 and 8, the Subcommittee on Immigration and Naturalization will continue hearings on S. 3074, a bill to amend the Immigration and Nationality Act.

The hearings will be held in room 2228 of the Dirksen Senate Office Building, beginning at 10:30 a.m.

ANNOUNCEMENT OF HEARINGS

Mr. HASKELL. Mr. President, I wish to announce for the benefit of the Members of the Senate and the public legislative oversight hearings of the Subcommittee on the Environment and Land Resources concerning the development of the East River Unit plan in the Gunnison National Forest, Colo., and a proposal by the Crested Butte Development Corp. to develop a new ski resort on national forest land within that unit. The hearings will be held on April 7, 8, and 9, in room 3110 of the Dirksen Senate Office Building, beginning at 10 a.m.

I have termed this hearing a "legislative oversight hearing" for two reasons. First, the subcommittee will perform the oversight function by reviewing the controversy surrounding the development of the unit plan and the corporation's resort proposal to determine the adequacy of both the substance and procedures of Forest Service and Department of Agriculture decisionmaking. Second, the subcommittee will relate this controversy to a specific legislative proposal. On July 16, 1975, I introduced S. 2525, a bill to reform the policies and procedures for the issuance and administration of permits for commercial outdoor recreation activities and facilities on national forest lands.

Last year the Subcommittee on the Environment and Land Resources held 3 days of hearings on the proposal in Aspen and Denver, Colo., and Washington, D.C. If the bill is to be enacted this Congress, it must be brought promptly before the full committee for markup purposes. The implications of the controversy over the East River Unit plan, however, are sufficiently serious to require the committee's attention prior to any such markup. The provisions of S. 2525 concerning the issuance of permits for commercial ski activities and facilities may require reworking as a result of what we learn during the April 7, 8, and 9 hearings.

If there are questions concerning the hearing, please contact Steven P. Quarles, counsel to the subcommittee, at 224-9894.

NOTICE OF HEARINGS

Mr. NELSON. Mr. President, the Senate Labor and Public Welfare Subcommittee on Employment, Poverty, and Migratory Labor will hold hearings April 7 and 8 on "Changing Patterns of Work in America."

These hearings will cover a broad range of topics including part-time and flexible hours employment, job sharing, phased retirement, alternative work arrangements, and other related concerns.

The hearings will be held in room 6202, Dirksen Senate Office Building, beginning at 10 a.m. on both days.

Persons interested in submitting testimony should contact Scott Ginsburg of the subcommittee staff at 202-224-3968.

ANNOUNCEMENT OF HEARINGS

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission, Task Force No. 10, on the terminated and nonfederally recognized Indians, announces public hearings to be held April 9 and 10, 1976, at the Executive Dining Room, JFK Federal Building, Government Center, Boston, Mass., beginning at 9 a.m.

Persons interested in submitting testimony should contact Gregory Buesing at 616-223-4022 or Jo Jo Hunt at 202-225-2235, or write attention: Task Force No. 10, the American Indian Policy Review Commission, HOB Annex No. 2, Second and D Streets SW., Washington, D.C. 20515.

ANNOUNCEMENT OF HEARINGS

Mr. HASKELL. Mr. President, I wish to announce that the Senate Subcommittee on the Environment and Land Resources of the Committee on Interior and Insular Affairs has scheduled a hearing on S. 3071, a bill to provide for the determination of fees for the grazing of domestic livestock on public land, for Friday, April 30, 1976. The hearing will be held in room 3110, Dirksen Senate Office Building, and will begin at 10 a.m.

Any person wishing to testify or submit a statement should contact Mr. Steven P. Quarles, counsel, at 224-9894.

ANNOUNCEMENT OF HEARINGS

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission, task force No. 10 on the terminated and nonfederally recognized Indians, announces public hearings to be held April 16 and 17, at Moore Hall Auditorium, Pembroke State University, Pembroke, N.C., from 9 a.m. to 5 p.m. Persons interested in submitting testimony should contact Alton Hunt, 919-521-9761, 919-739-5893 or Jo Jo Hunt at 202-225-2235 or write her at the American Indian Policy Review Commission, HOB Annex No. 2, 2d and D Streets SW., Washington, D.C. 20515.

BLACK LUNG HEARINGS: ROOM CHANGE

Mr. RANDOLPH. Mr. President, on Friday, April 2, the Subcommittee on Labor will conduct its third day of hearings on H.R. 10760 and S. 3183, to amend title IV—the Black Lung Benefits title—of the Federal Coal Mine Health and Safety Act.

Witnesses will include the National Coal Association, the Commissioner of Internal Revenue, the National Independent Coal Operators Association, the American Insurance Association, and United States Steel Corp.

Due to scheduling difficulties, the hearing will be held in room 1318 in the Dirksen Office Building rather than in room 4232, as previously announced. Commencement of the hearing will be at 10 a.m.

ADDITIONAL STATEMENTS

THE PRICE OF CATTLE

Mr. CHURCH. Mr. President, for the past 2 years the livestock industry in the United States has been severely depressed. All of us in the Senate with an interest in agriculture have been aware of this situation. I have received numerous letters from my own State of Idaho which graphically detail the plight of the cattle rancher and the hog farmer. However, no letter more vividly describes the present realities and historical perspectives of this situation than the letter I recently received from Ray Hussa of Cataldo, Idaho.

Mr. Hussa writes:

> SENATOR CHURCH: The reason we Idaho farmers do not have our fair share of economic power is demonstrated by the factual accounts enclosed.
>
> The first photocopied receipt represents the final sales of my grandfather's cattle in 1948, the same year that I was born. The second receipt accounts for the sale of livestock by my mother and me in October, 1975. We actually received less for our cattle than my grandfather received twenty-seven years ago! Please notice that commissions and feed are higher costs today, as is the $45 trucking fee which we paid directly to the trucker, thus giving us a net of $1435 for 10 head of cattle compared to $1465 for 8 head of my grandfather's cattle.
>
> My grandfather could have used his fourteen hundred dollars to purchase a new tractor, plow, and harrow outright. Today, $1400 would not even be an acceptable down payment on a new tractor.
>
> Mr. Nixon once commented that farmers "never had it so good," but you know it is Safeway showing record profits, not farmers.
>
> In the future, America's ability to grow food, not weapons, will be her primary strength in the world marketplace. We could provide employment on farms for 10 percent of Americans who cannot find work, because nearly every farm could use more manpower if economics would permit.
>
> I can envision the day, and it is soon, when the family farm has been completely replaced by huge corporate interests demanding fewer employees, bigger machinery, and much higher prices than we can imagine.
>
> Sincerely,
>
> RAY A. HUSSA.

Mr. President, one point which Mr. Hussa failed to emphasize is that his grandfather received more for eight head of cattle sold in 1948 than he received for 10 head in 1975. During this same period of time the cost of living increased over 130 percent.

The sales receipts Mr. Hussa enclosed with his letter tell the story of the western cattle rancher more eloquently than any statement possibly can. Therefore, I ask unanimous consent that these receipts be printed in the RECORD.

There being no objection, the receipts were ordered to be printed in the RECORD, as follows:

GREAT FALLS LIVESTOCK COMMISSION CO., SEPT. 14, 1948

Ticket (number), description	Price	Weight	Amount
36329 (1) Whiteface heifer	$24.60	670	$164.82
36330 (1) Whiteface heifer	23.10	1,085	250.63
36331 (1) Whiteface cow	18.10	1,180	213.58
36332 (1) Whiteface heifer	24.70	880	217.36
36333 (2) Whiteface cows	17.50	2,345	410.37
36334 (1) Whiteface steer	27.60	555	153.18
36335 (1) Whiteface heifer	27.10	375	101.62
Total			1,511.56
Truck or freight			29.81
Feed			2.65
Commission			13.60
Total			46.06
Net proceeds			1,465.50

STOCKLAND LIVESTOCK EXCHANGE, INC., OCT. 13, 1975

Ticket (number), description	Price	Weight	Amount
419 (1) Whiteface heifer	$20.00	745	$149.00
415 (1) Whiteface heifer	21.50	500	107.50
416 (1) Whiteface cow	18.00	850	153.00
422 (1) Black cow	17.10	780	133.38
421 (1) Black cow	16.25	1,000	162.50
423 (1) Black cow	17.50	970	169.75
418 (1) Black cow	19.30	1,090	210.37
424 (1) Whiteface cow	22.00	1,065	234.30
417 (1) Whiteface steer	26.50	470	124.55
420 (1) Whiteface heifer	22.75	455	101.23
Total			1,545.58
Truck [paid directly]			45.00
Commissions			47.12
Veterinary charge			1.00
Brand inspection			5.00
Feed			10.00
Yardage			2.00
Total			110.12
Net proceeds			1,435.46

LABOR UNIONS: THE REAL BEEF RIPOFF

Mr. TOWER. Mr. President, it appears that the Soviet Union may be back in the market for additional purchases of American grain. Considering the lackluster performance by the Socialist agricultural system in that country last year, and the increasing prospects for a winter wheat failure this year, this is not surprising.

Many feel that added sales to the Soviet Union will drive up the cost of feeding the American family and that such sales ought to be prohibited. Mr. President, this not only would threaten the well-being of our Nation's grain farmers, but it also ignores the primary reasons food prices have risen so rapidly within the last 3 years.

This country's farming sector cannot be viable without exporting its products in excess of domestic needs. Restrictions on export sales, like all interferences with a free economy, place artificial restraints on commerce which are counterproductive to our capitalist system.

Mr. President, I am fully aware that many have taken to blaming our farmers for food costs. It has become fashionable to do so. Similarly, it is fashionable to attack export sales as detrimental to reasonable prices at the supermarket.

I want every Member of this body, and every American, to know the facts about rising food costs. I want them to know what happens to food prices from time food leaves the farm until it reaches their grocers' shelves.

In the last quarter of 1975, for instance, farmers received 7 percent less for their product than the previous quarter. But while farm prices have been moving lower, retailed prices declined little, if any.

What increased dramatically, however, was the spread between farm and retail prices—the costs of preparing and packaging food for the American housewife.

During the same period that farm prices declined, labor costs increased 9 percent, on top of a 10-percent increase for 1974.

Energy costs jumped 46 percent over 1974; packaging costs were up 23 percent; and rail shipping costs increased 16 percent. It would be bad enough if the American housewife just had to pay the extra cost of supporting big labor's wage demands. Worse still, our food-buyers must contend with union practices which promise even higher costs, less service, and more power to deny consumer needs.

In the January issue of Beef magazine, Mr. Bill Fleming has written an amazing expose of labor practices that impact on both the consumer and the food producer. It is but one example of the power of big labor to increase costs to consumers, and it is illustrative of the power of big labor to prevent a more efficient food distribution system.

Mr. President, I ask unanimous consent that a copy of "Labor Unions: The Real Beef Rip-Off!" be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TOWER. Mr. President, as long as practices such as are detailed by Mr. Fleming are allowed to continue, both the farming sector and the consumer will pay through the nose. Until the power of the labor unions is brought under control, union bosses will continue to be able to push up the cost of living and then blame it on the American farmer and rancher.

Mr. President, each of us is concerned about maintaining food prices at reasonable levels. Each of us is—or ought to be—concerned about eliminating rip-offs of the American consumer. But I am also concerned that we act with the proper facts.

As long as we fall prey to the smokescreens that are erected about farm exports to the Soviet Union, we are never going to get to the heart of the problem. I hope that the article will be instructive and helpful in blowing away the smoke. And I hope it will perhaps light a fire under consumer groups to demand answers from their would-be labor benefactors.

EXHIBIT 1

[From Beef magazine, January 1976]

LABOR UNIONS: THE REAL BEEF RIP-OFF

(By Bill Fleming)

In every Chicago supermarket, at 6 p.m. a union butcher pulls a cover over the fresh beef case.

And the hapless shopper who walks in at 6:20 finds he can't even buy a pound of hamburger. He's stuck with cold cuts!

Why no beef? Simply because union butchers in Chicago have a contract that forbids stores from selling fresh meat—unless a union butcher is on duty.

And union butchers refuse to work after 6 p.m.—or on Sunday or holidays. They've turned beef into strictly a weekday, 9-to-5 business, in Chicago.

That labor contract is one of the most dramatic examples of a problem that's causing growing concern among beef industry leaders.

They feel that organized labor, by blocking every effort at streamlining the beef business has been creating a giant "rip-off in the beef business.

It hits both sides—with consumers paying needlessly high prices and cattlemen being cheated out of fair profits—simply because labor unions won't allow beef to be handled and sold in the most efficient way.

Union leaders defend the Chicago contract. In a recent appearance before a Congressional committee, they were quick to point out that beef prices in Chicago are actually lower than in many comparable cities—and that Chicago retailers had a better profit return from beef than those in many other areas.

But they neglected to talk demand. And it's obvious that many beef sales are lost in Chicago every day—simply because the late shopper must settle for Spam instead of steak!

And economists agree that such a cut in demand, eventually gets reflected back to the cattleman—in terms of a little less money for the beef he produces.

The key union in the problem is the Amalgamated Meat Cutter and Butcher Workman—an AFL–CIO affiliate that represents some 500,000 packinghouse workers and retail meat cutters. It's important to recognize that the packinghouse workers are in the minority—the real union power is in the hands of those retail meat cutters.

The Chicago situation is only one example of the apparent mis-use of union power. Consider these other examples, turned up by BEEF editors in talks with beef industry leaders:

In St. Louis and Chicago, union contracts require all beef to be cut and packaged in the individual retail stores. That requirement effectively chains those retailers to a 100-year-old swinging beef system—with no hope of modernizing.

In areas where unions haven't been able to force such rules, most large supermarket chains have already moved into some form of central cutting—with one installation doing the beef cutting and packaging for the entire chain.

The advantages of central cutting are many. There is better utilization of bones, fat and other "waste" products. The cutting is likely to be more uniform and can be done faster and more effectively in a specialized, high volume operation. And it also makes for a higher quality product in the meat case, in many instances.

But in several major cities, including the two mentioned above—cutting must still be done in the back end of the store.

In Kansas City, Denver and Minneapolis, union contracts will allow some central cutting. But they forbid retailers buying beef that has been cut up by an outside firm.

Those rules are aimed specifically at keeping out "boxed beef" which has been prefabricated by the packer, vacuum packed and shipped to the retailer in boxes.

Like central cutting—the advantages of the system have been pretty well proven in recent years.

But in the cities mentioned—no dice! In Minneapolis, for example, even house-brand beef, such as Wilson's "Certified" must come into the retail store as swinging beef. A retail store employee cuts Wilson carcasses and puts them in Wilson wrappers.

In Milwaukee, retailers can use central cutting or boxed beef. Except that the retailer who switches must continue to hire his entire butcher force. And when a man quits or retires—he must be replaced. That single rule hasn't stopped boxed beef entirely in that market, but it has added a cost that must be passed along to either the consumer—or back to the cattleman.

Other instances of union "featherbedding" can be found across the entire country. For example, consider the frustration of an East Coast supermarket operator, who was running out of beef for a weekend special.

A hurried call to the central cutting unit got the needed beef on the first truck—which happened to be a produce truck headed for the same store.

But when the truck arrived—the store manager soon was informed that neither his meat cutters nor the produce truck driver could unload that beef.

The truck stood idle for two hours, while a member of the "right" union could be taken off another job and driven 40 miles to the store, for a 15-minute unloading job.

In August, 1974, a special USDA Task Force did a detailed study on the spread between fed cattle and retail beef prices.

In their formal report, the Task Force commented, "We estimate a minimum of five cents per retail pound could be saved by complete adoption of box beef and central cutting, conversion to frozen beef, the elimination of trucks returning empty, and changes in labor-management obstacles."

What kind of labor-management problems? The Task Force noted, "Some labor contracts require a minimum number of personnel per retail outlet and the contracts so narrowly define tasks that efficiency cannot be gained by flexible use of labor."

The report went on, "Productivity in transporting meat is hindered by labor contract restrictions on loading and unloading trucks and contract terms which limit number of stops and number of drivers."

Of growing concern to beef industry leaders has been the tendency in recent months for the Meat Cutter union to flex its political muscle—again trying to block any effort at progress in the beef industry.

For example, when cattlemen and USDA wanted to change grade standards—the Amalgamated was right there at the hearings, sounding more like a consumer organization than part of the beef industry. They fought the grade changes on the grounds it was a "rip-off" of consumers.

The Meat Cutters were on the same side when the Beef Development Task Force took their case into Congressional hearings. The Amalgamated was on hand to fight the proposed enabling acts which would allow setting up a beef research and promotion fund.

The union legislative representative, Arnold Mayer, told Congressmen his group didn't want any research in the beef industry.

He justified the position by arguing that the Meat Cutters had "suffered" because of negative research in the past, especially that done by USDA.

Here's one of his comments about that bill:

"The research of this bill would permit—in the name of increasing efficiency in the production and distribution system—an interference in the collective bargaining process, efforts to destroy wages and working conditions of employees, attempts to turn cattle raisers and consumers against workers, etc."

He summed up his views on the proposal this way: "It (the bill) is unlikely to increase the sale of meat, nor is it likely to raise the income of any part of the meat industry. It is a mirage in this respect. Parts of the bill, however, will create deep suspicions and will potentially increase conflicts in the industry."

In both hearings, the Meat Cutters lined up squarely with the consumer activists—and against the beef industry. The Union-Consumer link was so complete that Mayer actually testified in favor of putting consumers on the Beef Board.

That cozy relationship between the Meat Cutters and consumer activists is more than coincidence. Mayer, for example, is a member of the executive committee of the Consumer Federation of America—one of the more powerful voices among consumer groups in Washington.

The presence of a union lobbyist on the Federation committee would seem to indicate strong backing by his Union of the consumer group.

Washington observers say the Federation is a bit unique. Like most consumer groups, the Federation won't take money from corporations—claiming they have a vested interest to protect. Yet, the Federation seems to have ample funds—in contrast to many consumer groups that operate on a shoestring.

At a recent meeting with agricultural magazine editors in Chicago, Carol Foreman, head of the Federation, admitted there are 26 labor unions in her Federation.

Thus, it wasn't too surprising that Foreman refused, during that meeting, to acknowledge that labor restrictions were causing any consumer problems.

Instead, she defended recent labor contract settlements as "necessary" and flatly declared that such innovations as central cutting and boxed beef could not be more efficient than the old swinging beef system.

Leaders in both national cattle organizations agree that the whole picture of union efforts—both in Washington and in local stores—has become a serious question for cattlemen.

Ron Michieli, of the Washington staff of ANCA, told *Beef* that in the past, cattlemen, generally, have been reluctant to get into organized labor problems.

"But," he noted, "In view of recent union political efforts against the beef cattle industry, it is time for a full accounting by organized labor as to just where they stand."

Don Magdanz, of National Livestock Feeders Association, says the unions efforts have a dollars and cents effect on cattlemen.

He told *Beef*, "Anything that interferes with the movement of perishable products becomes costly to the industry in one way or another. And those costs are either born by the feeder or the consumer. The man in between, the processor or retailer, has ways of recovering extra costs. Which means either the feeder or the consumer must pay."

Currier Holman, chairman of the Board at Iowa Beef Processors, says the problem of union restrictions is much more widespread than most Americans realize.

Holman told *Beef*, "The areas where boxed beef is currently prohibited by union rule, cover about 16 percent of our total U.S. population. There are about 33 million people affected."

What does that mean in dollars? Holman observed that IBP experts can easily document a savings of $30 to $50 per carcass for the store that switches from swinging carcasses to boxed beef. (Note: *Beef* checked that figure with some disinterested retailers. They agree.)

Holman commented, "With the average American consuming 116 pounds of beef—that's a dollar savings of $180 to $325 million that would be available if those cities were not closed to boxed beef."

We mentioned some closed areas in our examples. Where is boxed beef prohibited? Here's a partial list, supplied by IBP executives:

Areas requiring all fabrication be done in the retail meat department: St. Louis and Chicago.

Areas permitting retailers to do some fabricating in their own central breaking plants, but prohibiting purchase by a retailer of prefabricated meat from others: Kansas City, Omaha, Northern California, Houston, St. Paul, Minneapolis and Denver.

Areas where union rules are aimed specifically at keeping retail butcher jobs. They don't prohibit central cutting or boxed beef—but do attempt to nullify the economic advantages: Milwaukee and upstate Wisconsin; Madison, Wis.; Joplin and Springfield, Mo.; and southern California.

The unions say their rules are a negotiable part of the contract. But industry leaders say in fact the unions demand such a high price for removal of those rules that it becomes impractical for the retailer to change.

Iowa Beef has found by experience that when unions do negotiate on those restrictions—they demand a high price. As one of the leaders in boxed beef, that firm has been locked in a bitter struggle with union leaders for several years.

Here's where the makeup of the Amalgamated Meat Cutters and Butcher Workmen is important. The union represents both packinghouse workers and retail meat cutters. Understandably, the union wants to protect the jobs held by members.

Over-all boxed beef shouldn't have much effect on the total number of jobs—though it probably would create some labor efficiency and a mild reduction in that number.

But boxed beef changes the location of those jobs. Instead of needing a man in a store in the Bronx—he's needed on a job in Dakota City, Neb., where the breaking is done.

But retail meat cutters, located in the big population centers are the real power group in the union. And they don't want those jobs moved out of the retail stores. As a result—the union fights every effort toward boxed beef.

Central cutting also moves people out of the store—at least in theory. But usually the central cutting facility is close enough that local unions still control as many jobs in their specific area. As a result—union leaders have been more willing to compromise on the issue of central cutting than on boxed beef.

Iowa Beef has found out that tackling the unions on this issue can be a hard, dirty fight. Company executives don't talk about the problem. But outsiders say the IBP move into boxed beef has been at the roots of a least part of the labor problems in that company.

IBP's big troubles hit when they tried to crack the New York City market with boxed beef.

Holman himself wound up in a New York court, charged with conspiring to bribe. Some outsiders say they feel he was "set up" in an effort to discouraged boxed beef.

Here's what happened:

To sell boxed beef in New York City, IBP chose to work through a separate sales agency—C P Sales. That company was initially headed by a Moe Steinman, who was also a New York retail store official.

In court, the prosecution charged that IBP and Steinman conspired to "pay off" meat buyers and union leaders.

Holman has vigorously denied the charge—insisting the payment to C P Sales were normal commissions for selling boxed beef and servicing nearly 6,000 retail outlets.

Holman was convicted but drew an unconditional release from Judge Burton Roberts, who obviously sympathized with the businessman. And Judge Roberts, in his final sentencing, emphasized that there was absolutely no evidence to prove that any bribe ever did actually take place. And he noted he was "sorely tempted to dismiss the case or acquit Mr. Holman in the interest of justice."

Steinman, in a later trial, pleaded guilty to both income tax evasion and conspiracy charges. He is currently serving a one-year sentence in jail.

Steinman's reputation, as uncovered during the trial, was that of a meat racketeer, with possible Mafia connections.

That's the case some outsiders feel was "set up" to discredit IBP and their boxed beef program.

Outsiders emphasize one fact. To sell boxed beef in New York City, IBP had to get around union objections. And the men who controlled those objections apparently weren't all high-reputation businessmen.

Can the union restrictions be changed? Some industry leaders contacted by *Beef* say it is doubtful—but they emphasize the need to keep trying.

Holman himself believes publicity is the best weapon in fighting unfair union rules. He told *Beef*, "If the problem is exposed in the right way—the union arguments won't hold water. I don't think public opinion would allow it to continue and the unions would have to back off."

Other leaders aren't too sure. Several mention the Chicago restrictions, which got a lot of newspaper and TV attention a couple of years ago. But in a "public-be-damned" attitude, the union forced retailers to put the same rule back in a new contract.

One Chicagoan told *Beef*, "I was amazed. After all the heat, I didn't think the unions would dare keep that rule. But it didn't stop them."

An attempt, during the same period, to outlaw the rule by legislation also failed in the Illinois legislature.

Consumer groups—as we outlined before—ignore the issue. Their cozy relationship with the union leaders almost guarantees a sudden case of "deaf, dumb and blind" when the ridiculous union rules are mentioned.

Ironically, IBP's latest upset didn't have much to do with the union problem—but it may wind up putting the whole meat distribution chain under a public microscope.

That latest flap came in early December, when Iowa Beef announced the appointment of Walter Bodenstein as corporate vice-president in charge of processing.

Bodenstein is Moe Steinman's son-in-law and took over the operation of C P Sales when Steinman left that company.

According to IBP executives, Bodenstein was an executive with a "helluva good track record," in selling boxed beef.

But to outsiders, Bodenstein's link—by marriage—to the reputed underworld figures hinted at some kind of racketeer takeover at IBP. For several days, IBP stock traded "limit down" each day—and trading was finally suspended amid a cloud of rumors.

But the flap may have positive results. At least three members of Congress—Charles Thone of Nebraska, Berkley Bedell of Iowa and John Melcher of Montana—are now calling for a thorough investigation.

And Thone has emphasized he wants an investigation that looks past IBP and that would look into the whole subject of "graft and corruption in the meat distribution system."

IBP has welcomed that investigation. In fact, they telegraphed several Congressmen to "insist that you or your designate conduct such an investigation into our affairs and those of our sales agents, including the affairs of those who manage the corporation."

Such a full-scale investigation is bound to put the unfair union restrictions in a big public spotlight. And with the combined heat of public and Congressional opinion, it is entirely possible the unions could be forced to back off.

There is only one other alternative, Holman told *Beef*. "It is our opinion, supported by legal council, that these union rules are in restraint of trade. I think if they were taken to court—the rules would be removed."

He went on to observe, "A court fight, with appeals and delaying tactics would last longer than we would like. But that may be where we have to go."

And the IBP executive made it clear—if it comes to a court fight, he'd like to have cattlemen in the battle alongside him.

THE RABBINICAL COLLEGE OF NEW JERSEY

Mr. WILLIAMS. Mr. President, the Rabbinical College of New Jersey is celebrating its 20th anniversary. For two decades this outstanding institution has played an important role in training Jewish spiritual leaders in New Jersey. It has served as an important center of higher learning and has earned widespread respect and admiration. With the support and guidance of many dedicated New Jersey residents, the school has flourished, and I join its many friends in wishing it continued growth and progress in the future. Recently, an article appeared in The Jewish News of East Orange, which depicted very well the unique character of this school. In order to salute the Rabbinical College of New Jersey on its twentieth anniversary, and bring its accomplishments to the attention of the Senate, I ask that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Jewish News, Mar. 11, 1976]

Rabbinical College a Leavener of Judaism

(By Edith K. Schapiro)

Nestled in the same Morristown hills where George Washington headquartered some 200 years ago, the Rabbinical College of America will be the scene next week of a "freedom of religion" celebration reminiscent of the Purims of the Jews of 18th Century Europe.

When the students—about 280 young men—throng about their dean, Rabbi Moshe Herson, as he reads the Megillah, some will be wielding beautiful large groggers that have been handed down from generation to generation.

This is just a tangible example of the fact that these scholars and their teachers are the spiritual descendants of the Hasidim who were revitalizing Judaism for the people of the shtetl simultaneous with those days of philosophical and political revolution.

Just as then, one of the aims of the college and the world-wide Lubavitch movement with which it is affiliated is to reach out into the lives of the larger community of Jews.

PUTTING IN 'HEART'

Open to the growing population of Jews in the Morristown area—and to all interested people from the entire metropolitan community—the Purim celebration at the college will, as in previous years, be a noisy, joyful one reaching a pitch of fervor reflecting heartfelt enthusiasm. It will be replete with young children in costume, Hasidic dancing, hamantashen and beverages.

The influence of the college will be far more pervasive than its effect on those who join in the festivities at the campus, however. These Lubavitchers will have prepared and distributed approximately 40,000 "kits" with the essentials for observing the holiday to day schools, youth groups, homes for the elderly and other centers of assembly of Jews of all ages and backgrounds.

Other projects, like the college's joining with the Women's Division of the United Jewish Federation of Morris/Sussex counties to welcome new Jewish families in the area by supplying mezuzahs, "the universal symbol of the Jewish home," carry its message beyond its 15-acre campus.

FOUNDED IN 1956

But the primary aim of the institution, first known as the Rabbinical College of New Jersey and housed in a converted private home on Grumman Avenue, Newark, is to meet the need for "trained, dedicated spiritual leadership" for the American-Jewish community.

It was founded 20 years ago this fall with a student body of 10 and has expanded to 180 full-time and 100 part-time students and a faculty of seven rabbis as well as five visiting professors.

In addition to its seminary for the ordination of rabbis and the education of teachers and communal leaders, for which the college also has certification from the state board of higher education as well as the Board of Religious Education for Orthodox Jewry, the college has programs to educate "responsible, conscientious" lay members of the community.

Its "New Direction" program has attracted students from across the nation, Canada and South America. Most are college students who, Rabbi Herson explains, "have secular backgrounds but have felt a yearning to return to Judaism and the desire to identify with the traditions of their people."

As conversations with young men in this program reveal, many who had responded intellectually but not emotionally to the education on other campuses, or who had turned to drugs, other religions or radical politics to fill a void they felt in their lives, find fulfillment in the individualized study at Morristown.

Their days are crammed from early morning through evening with study, prayer, service to the community and some recreational activities on the campus, which is equipped with an athletic field, tennis courts, an outdoor pool and a large gymnasium.

The college's home since summer, 1971, the complex in Morristown is a combination of beautiful, old buildings which are being restored, and new facilities being erected. It includes classrooms, lecture halls, dormitories, administrative offices, library, dining halls and facilities for public worship.

Women are invited to the college—many who are the wives of students live on campus—but their "places of prayer" are separated, as Rabbi Herson explains. They join with the men in community service, in teaching the ways of the Lubavitch and, to quote married students, in appreciating "the understanding and experience of religion."

WIDE INFLUENCE

These Lubavitchers, through their visits to various groups and agencies of the community, such as the YM-YWHAs, youth groups and the Daughters of Israel Pleasant Valley Home, have become an integral and increasingly well-known part of the community.

The college's board of directors, of which David T. Chase is chairman and for whom the campus has been named, includes many who themselves are not Hasidim but for whom "the why of religion is answered here," according to Rabbi Herson.

Rabbi Herson believes that there has been a "sharp turn in the last 20 years in the knowledge and practice of Judaism." For him, Yiddishkeit and Judaism are interchangeable.

"BOTTOMED OUT"

From his experiences, he judges that "the waning of observance has bottomed out." The young people he meets are generally more observant than their parents, he said.

Such programs as the Hasidic Song Festival the college is presenting April 4 at Livingston High School and which will star Jan Peerce, an enthusiastic supporter of the Lubavitch movement, emphasize the joyous aspect of Hasidism.

Its ultimate aim, according to a recent statement, is the "continuity within modern contexts . . . of the true values of our great Judaic tradition."

UNIONIZATION OF THE ARMED FORCES

Mr. GOLDWATER. Mr. President, one of the more ominous projects that has come to my recent attention was that calling for increased efforts to unionize the Armed Forces of the United States. I suggest that this is one of the last stands our Nation's defense system needs at a time when it is in danger of falling behind the Soviet Union in total military strength. In fact, I feel so strongly on this subject that I have cosponsored legislation with Senator Thurmond of South Carolina to prohibit unionization of military personnel.

Mr. President, one of the staunchest supporters of this legislation is the Fleet Reserve Association, representing 128,542 members. Mr. President, in order to give the Members a better idea of the arguments against the unionization of the Armed Forces, I ask unanimous consent to have printed in the Record a brochure outlining the Fleet Reserve Association's position, together with two press releases bearing on the same subject.

There being no objection, the brochure and press releases were ordered to be printed in the Record, as follows:

Do Military Personnel Need a Union?

FRA NATIONAL CONVENTION BUDGETS $112,000 TO OPPOSE MILITARY UNIONISM

The 405 delegates to the Fleet Reserve Association's 48th National Convention in St. Louis, Missouri, September 7–13, 1975 unanimously adopted a strongly worded resolution opposing the unionization of military personnel. The delegates, representing more than 126,000 career enlisted personnel of the U.S. Navy, Marine Corps and Coast Guard, then unanimously approved of three decisive proposals that put teeth into the anti-military union resolution; they:

Amended the FRA's membership eligibility rules extending membership to every enlisted person serving on active duty in the U.S. Navy, Marine Corps or Coast Guard from the day they take the enlistment oath; and

Increased FRA's annual dues from $10 to $12 effective November 1, 1975 to provide an estimated $96,000 in additional annual revenue; and

Appropriated a sum of $112,000 to finance their opposition to military unionism by "all responsible means."

Shipmate National President Joseph D. Morin of Imperial Beach Branch 289, Imperial Beach, California appointed a special national committee on 22 July 1975 to study ways and means to oppose the unionization of military personnel. The committee's report was the first order of convention business after the convention formally convened on 8 September.

The Special National Committee, chaired by then-National Vice President Mervin F. Harris of Oakland-San Leandro Branch 10, Hayward, California, reported the following findings:

1. The Shipmates of the FRA fully recognize and appreciate the special relationship between the civilian employee and his employer which requires organized labor to represent the civilian employee. Indeed, a great many FRA members are ardent union members in the pursuit of their second careers following retirement from the Armed Forces.

2. The concept of unionism for the active duty personnel of our Armed Forces is foreign and prejudicial to military discipline, good order and the command structure of the United States Armed Forces.

3. The defense of our nation and individual freedom from tyranny demand that our nation be able to respond instantaneously to any threat from any quarter. If this capability is not maintained, neither the American employee or employer will survive to enjoy the blessings of freedom.

4. The relationships between the military "employee" and his employer, who in reality is the American public, is a unique relationship that is not akin to the relationship between the civilian employee and his employer.

5. For the past fifty years the Fleet Reserve Association has, in effect, provided the benefits and services of à union to the personnel of the Armed Forces without the threat of eroding or harming the military command structure.

6. Be assured that the American Federation of Government Employees is doing more than "considering" the establishment of a union," Morin explained. The U.S.S. *Oriskany*, the constitutionality of a military union. Their lawyers have researched various past court decisions which the union feels justifies the legality of unionizing military personnel. They have also researched past legal decisions which provide the union the opportunity for union organizing on and off military bases.

The FRA Committee also charged the American Federation of Government Employees with the primary responsibility of supporting the enactment of the inequitable Dual Compensation Act (Public Law 88–448) and steadfastly opposing its amendment to permit equitable treatment of retired personnel as Federal employees with regard to veterans' preference and forfeiture of military retired pay. The civilian Federal employees union is also largely responsible for the Department of Defense's policy of civilianization of military positions thereby acerbating the U.S. Navy's most serious personnel retention problem of providing equitable tours of shore duty for its sailors. The FRA Committee's report stated, ". . . we failed to see how the AFGE in pursuing the mandates of its civilian membership can provide effective and beneficial representative services to military personnel. A leopard cannot change its spots overnight. This committee contends that the interests of the civilian and military federal employees are diametrically opposed and that one servant cannot effectively and honestly serve two masters!"

The delegates also mandated the Association's National Committee on Legislative Service to pursue the feasibility of amending Presidential Order Number 11491 of 29 October 1969 to exclude the unionization of the Armed Services in the same manner as this order excludes the employees of the Federal Bureau of Investigation, the Central Intelligence Agency and other federal departments and agencies involved in national security from joining a union.

A second mandate to the Committee calls for the Association to pursue all legislative goals and beneficial personnel policies with decisive action and extra vigor to demonstrate to all military personnel there is no need for a military union.

The Special National Committee to oppose the unionization of military personnel was re-appointed for another year. Its responsibilities are to monitor and coordinate the FRA's opposition to the unionization of military personnel. A major goal of the Committee is to publicize the role of the Fleet Reserve Association in the successful congressional representation during the past fifty years. The FRA has long been recognized as the "voice of enlisted personnel" in Washington, D.C. Its history of providing individual career services to its members and their families is an enviable one. The Association's leaders feel that an effective public relations campaign and the monetary difference in FRA's dues and a proposed union's dues, $12 versus approximately $72 annually, will thwart the threat of a military union. By its positive action, the Fleet Reserve Association is setting the pace for all organizations representing military personnel and calls upon them to join in opposition to the unionization of military personnel.

January 30, 1976.

F.R.A. Tells Congress There Is Strong Union Support Amongst Career Navy Personnel

Testifying before the House Armed Services Investigations Subcommittee on Monday, 26 January, FRA spokesman, Robert W. Nolan, told of the FRA's survey regarding military unionism. Subcommittee Counsel, Mr. William A. Hogan, asked, "Mr. Nolan, I understand you did a recent survey on the question of unionism in the Services. Could you give us a brief description of the result of your survey?"

Mr. Nolan replied, "Yes, sir, Mr. Hogan. The Fleet Reserve Association has taken a strong position against a union within the military and to support that position, we have recently conducted a study. The National President and I went on a two-week trip. I went to San Diego, where the National President resides. We talked with active duty personnel there. Then, we went to Honolulu for the December 7, Pearl Harbor Day ceremonies. We talked with senior military commanders from Commander-in-Chief, Pacific on down. We talked with commanding officers, from say, Captains, on down. We talked to active duty groups there. Coming back, we went to the San Francisco Bay area and talked with commanding officers and active duty personnel there.

"Very frankly, before I went on this trip I thought that the idea of a union would probably be more popular with the first termers than with our career personnel. As you know, I'm a retired Chief Petty Officer myself, and I really couldn't envision people who were really career designated, let's say, with more than ten years in, looking favorably at a union. To my shock and surprise, I found out that a very large segment of those that we talked to do favor a union. They're saying just what Congressman Dickinson said a few minutes ago. They feel that the Department of Defense is not acting as their spokesman. They feel that their good friends on this committee are going to be, not 'helpless', if you will, but 'unsuccessful' in fighting for their rights and benefits and the protection of their future benefits, and they're saying 'Why not join the union, if that's the way we've got to go to make our voice heard and maintain our benefits, it's all right with us.' "

U.S. Representative Dickinson (D-Ala.) asked Mr. Hogan, "Would you yield on that?" Mr. Hogan replied, "Yes."

Congressman Dickinson then asked Mr. Nolan, "Would you say that as a result of what they feel is a breach of faith in the denial of, or the erosion of, what has always been considered the rights of the serviceman, what they have a right to look forward to, because of the attack made on the System and the erosion that arises, this makes them want to form and have a union within the Services?"

Mr. Nolan answered, "Yes, sir. Our response to them was that if they would belong to the military associations that are now viable there would be no need for it. In fact, if our military associations had the support of the total enlisted force we would be able to do a better job even than the union in representing them without any of the evils or risks of union involvement in our military."

Congressman Dickinson stated, "I spoke before the War College just this last week, and this was one of the questions that was asked me, and I told them that I didn't think there was any way that we were going to have a union within the military, but I suppose I was really talking too fast."

Mr. Nolan replied, "Sir, my honest and candid opinion is, unless something very dramatic happens, we're going to have the inroads initially. I don't think the union's going to want to move in and come to arbitrary bargaining rights and everything at first.

"For example, the senior military officials that we talked to last October when our National President first took office, are against a military union. At that time we spoke with everybody from the Secretary of the Navy on down, and they all, of course, are opposed to the idea of a military union.

"During my trip out to the West Coast I talked with some officers of senior rank, say, Captain in the Navy. The reaction was kind of mixed between two views. Nobody was in favor of it. A few said, 'Well, it's not going to happen on my watch. I'm retiring next year.' Others said, 'Well, it just couldn't happen.' It was just such a foreign thing, and they are positive Congress would enact legislation to prevent this.

"I'm not so sure that in this Congress, in this era today, the Congress would be able to enact such legislation."

Congressman Dickinson queried, "And the career people you talked with, are you talking about the senior enlisted that were in favor of it, more in favor of a union? Were you talking about senior officers or senior enlisted?"

Mr. Nolan replied, "Senior enlisted personnel, sir."

The House Armed Services Investigations Subcommittee hearings were called to investigate the need for the Selective Service System and its funding in fiscal year 1977. The Fleet Reserve Association testified in behalf of a continuing and viable Selective Service System.

The Fleet Reserve Association is the largest enlisted personnel association, 128,500 members, in the United States. FRA provides career services, and legislative representation to enlisted personnel of the U.S. Navy, Marine Corps and Coast Guard. For further information contact Robert W. Nolan, National Executive Secretary, (202) 785-2768.

March 5, 1976.

Military Enlisted Association Supports Senator Thurmond's Bill to Prohibit Military Unions

"The Fleet Reserve Association applauds and pledges its full support to U.S. Senator Thurmond's bill, S-3079, to prohibit military unions. The Association has been on record since our national convention last September when the delegates unanimously voted to oppose military unionism and budgeted $112,000 to do so," retired Master Chief Petty Officer oJoseph D. Morin, FRA's National President, stated today.

"Senator Thurmond and his 24 co-sponsors recognize the impracticality of military unionism and the sure danger it poses to our national defense. They are to be commended for their wise and courageous action in an election year!" the Association leader said emphatically.

The proposed legislation prohibits a union or its members from soliciting members of the Armed Forces to join a union. Unions convicted of doing so would be fined "not less than $25,000 or more than $50,000."

Individuals soliciting military union membership or military members joining a union could be imprisoned for a period of five years under the proposed law.

The following Senators joined Thurmond as co-sponsors of his bill: Sam Nunn (D-Ga.), Milton Young (R-N.D.), Frank Moss (D-Utah), Carl Curtis (R-Neb.), Paul Fannin (R-Ariz.), Herman Talmadge (D-Ga.), John Tower (R-Tex.), Roman Hruska (R-Neb.), John McClellan (D-Ark.), Pete Domenici (R-N. Mex.), James O. Eastland (D-Miss.), Barry Goldwater (R-Ariz.), James McClure (R-Idaho), Jake Garn (R-Utah), Paul Laxalt (R-Nev.), James Allen (D-Ala.), Clifford Hansen (R-Wyo.), Jesse Helms (R-N.C.) William Scott (R-Va.), Dewey Bartlett (R-Okla.), Robert Taft (R-Ohio), Lawton Chiles (D-Fla.), Robert Morgan (D-N.C.), and Bill Brock (R-Tenn.).

Master Chief Morin is a veteran of 30 years of active Navy service. Prior to his retirement in 1974, he served almost three years as the Master Chief Petty Officer of the Cruiser-Destroyer Command in the Pacific.

"I have just completed a week's cruise on the U.S.S. *Oriskany* and talked with the crew at length regarding military unionism. The majority of these Sailors feel their pay and benefits are being eroded and if a union can stop this erosion, then they must join a union", Morin explained. The U.S.S. *Oriskany*, an aircraft carrier, was returning from a Far East deployment.

Morin added, "I sincerely believe if military personnel would join and support the national military associations, we could provide them with the same pay and benefits protection as a union, yet, not jeopardize the military chain of command and our nation's defense."

The Fleet Reserve Association is composed of over 128,500 Navy, Marine Corps and Coast Guard enlisted personnel, active duty and retired. FRA has been a leading spokesman for military personnel for over 50 years.

For further information contact: Robert W. Nolan, National Executive Secretary, Fleet Reserve Association, 1303 New Hampshire Avenue, N.W., Washington, D.C. 20036. (202) 785-2768.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record the two notifications I have just received.

There being no objection, the notifications were ordered to be printed in the Record, as follows:

Office of the Director, Defense
Security Assistance Agency
and Deputy Assistant Secretary
(Security Assistance), OASD/
ISA,
Washington, D.C., March 29, 1976.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76-48, concerning the Department of the Army's proposed Letter of Offer to Iran for an amendment of $98.4 million to a Helicopter Logistics Support Program. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76-48, NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. *Prospective Purchaser:* Iran.

b. *Total Estimated Value:* $98.4M amendment increase.*

c. *Description of Articles or Services Offered:* An amendment to contractor establishment of a Helicopter Logistics Support Program. This program provides for the establishment, organization of a logistics system, and the training of personnel to operate this program.

d. *Military Department:* Army.

e. *Date Report Delivered to Congress:* March 29, 1976.

*Case signed in 1974 called for $126.4 million.

OFFICE OF THE DIRECTOR, DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., March 29, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76-49, concerning the Department of the Army's proposed Letter of Offer to Iran for an amendment of $66.8 million to a Helicopter Training Program. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76-49, NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. *Prospective Purchaser:* Iran.

b. *Total Estimated Value:* $66.8M amendment increase.*

c. *Description of Articles or Services Offered:* An amendment to contractor establishment of a Helicopter Training Program. This program includes establishing and operating a training center, flight, and technical training, and training personnel to operate the program.

d. *Military Department:* Army.

e. *Date Report Delivered to Congress:* March 29, 1976.

* Case signed in 1974 called for $133.0 million.

CONTROVERSY OVER SAFETY OF NUCLEAR POWER

Mr. FANNIN. Mr. President, because of the continuing controversy over the safety of nuclear power development, I would like to share an excellent article on this subject with my colleagues.

In the March 27, 1976, issue of Human Events an article entitled "Atomic Power Is Safe Power" appeared under the name of M. Stanton Evans. Mr. Evans makes the point that the comparative safety of nuclear to other energy sources is far more favorable than we are led to believe by the instigators of State moratorium referendums to block nuclear development in this country.

A noted authority on nuclear energy, Dr. Edward Teller, is quoted within this short statement about our growing paranoia over the utilization of this particular resource. It seems the only way to combat this trend is to educate ourselves to the real, and not imagined, dangers of nuclear use and to carefully weigh the alternatives.

I ask unanimous consent that Mr. Evans' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATOMIC POWER IS SAFE POWER

(By M. Stanton Evans)

It's a pretty good rule of thumb that no important issue can be discussed productively in an atmosphere of panic.

That rule is being amply proven in the current debate about the siting and safety of nuclear reactors. The American public, or at least a sizable segment of it, has been so badly psyched on the subject of anything atomic that reasoned discussion of the issue has gone out the window. The resulting panic could bring the peaceful development of atomic energy to a sudden halt.

Exhibit A: The state of California, where a referendum to be conducted this June could well begin an anti-nuclear stampede. The initiative would force a halt to nuclear plant construction and a cutback of existing facilities unless the power companies using them waive limitations imposed by Congress and accept unlimited liability for potential accidents.

The outlook that has prompted the initiative is summarized by the Washington Post: "A growing number of Californians . . . believe that the proliferation of atomic-powered generating plants inevitably will lead to an accident or sabotage that could cause huge life and property loss." Such misgivings are constantly promoted, of course, by environmentalists, some elements of the media, and certain people in government.

In part, this fear is understandable. The subject is highly technical and scientific, a total mystery to the layman, so whatever is said with certainty, however far afield from truth, can gain acceptance. Add the fact that "nuclear" conjures up thoughts of deadly mushroom clouds and the unseen hazards of radiation, and you have a package tailor-made for vendors of hysteria.

All of which makes it difficult to get over the essential point: That by every standard available to us, nuclear power is not only safe, but considerably safer than the alternatives. Peaceful nuclear reactors will not and cannot "blow up," since an atomic explosion is a carefully contrived event that such reactors cannot imitate. And they are loaded with safety devices to prevent radiation emissions from normal operation or any kind of accident.

The safety record of civilian reactor is exemplary. After 675 plant years of operation around the world, no radiation deaths have been recorded. The Navy has 106 atomic vessels with more than 1,000 reactor years of experience, with no fatalities. In 20 years of global operation, there have been perhaps seven deaths connected in one fashion or another with nuclear technology—a period in which there were thousands of deaths associated with other forms of energy, from cave-ins to explosions.

A striking comparison in this respect has been drawn by Richard Wilson, professor of physics at Harvard. As reported by the monthly newsletter, *Access to Energy*, Wilson's calculations of deaths per billion megawatt hours of produced electricity shows that "for coal mining, the number of deaths is 1,000 by black lung, plus 60 deaths by accidents; for uranium mining, the number of deaths (incidence of cancer among miners) is 20 for orthodox fission, and 0.07 if the fuel is used to produce the same amount of power in a breeder."

Concerning the general characteristics of nuclear plants vs. other forms of energy production, *Access to Energy* observes: "A nuclear plant produces less than 1 per cent of the radioactivity that every member of the Environmental Defense Fund gets from Mother Nature and medical equipment anyway; and its stacks produce no air pollution—it has no stacks. Wastes? If the entire U.S. electric capacity were nuclear, the volume of nuclear wastes per U.S. consumer per year would amount to that of an aspirin tablet."

Most of the controversy of late has focused, of course, on the possibility of accident. The point of fixation is that, despite precautions, nobody in authority can say flatly that there will never, ever be an accident at a nuclear reactor, and that unless much assurance can be given the whole affair should be shut down. But this is an impossible standard which would put an end to every form of energy production, and thus to modern society itself.

A University of California study, reported by *Fortune*, compared the public-health risks from accident at nuclear plants and those that rely on oil. The study concluded that a major release of radioactivity from a nuclear plant might occur once in 100 million plant years (compared to some 60 plants that are currently in operation). It also found "the risk of health from routine operation of nuclear plants is 10 to 100 times smaller than in oil-fired operations."

From either form of energy production, the study concluded the nation faces risks "in the range of the very low hazards to which the public is exposed by uncontrollable events in nature, such as being struck by lightning or being bitten by a venomous animal or insect." That works out, according to *Fortune*, to about one death per year per million of population.

Dr. Edward Teller, pre-eminent authority on nuclear power, observes that nuclear reactors "would not blow up, even under the most extreme conditions . . . No industrial nuclear reactor has killed anyone yet. Nuclear reactors are safe . . . I think reactors can be built, must be built, and I am confident they will be built."

Teller notes that dams (required for the generation of hydroelectric power) have collapsed and killed many hundreds of people, that railroad cars carrying butadiene have exploded, and the ships carrying liquefied natural gas could blow up as well. "You have right there," Teller told an audience at Hillsdale College, "enough energy to supply five Hiroshimas. I don't know whether it can happen, but it can happen much more easily than a malfunction of a nuclear reactor."

The point: All forms of human endeavor involve some risk. The important nuclear power involves some risk, but how large that risk is compared to something else. Measured in that fashion, atomic power is very safe indeed.

BYELORUSSIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, on March 25, 1976, Americans of Byelorussian descent commemorated the 58th anniversary of the establishment of the Byelorussian Democratic Republic. On this date in 1918, the Byelorussian people declared their independence and set about the task of building a free nation dedicated to democratic principles. But their dreams of a society free to grow and develop according to its own wishes lasted only a brief moment. Within a year, the Byelorussian people were overwhelmed by Soviet aggression.

The Byelorussians resisted Soviet domination, staging armed uprisings in

1920 and in 1922. In 1944, the Byelorussians again proclaimed their independence, but again they were conquered by Soviet forces.

Despite their tragic loss of freedom, and Soviet attempts to stamp out their cultural identity, the Byelorussians have retained their fierce determination to be free. Their commitment to personal liberty and national independence while living under harsh Soviet rule, serves as an example to all freedom-loving people. As we celebrate the 200th anniversary of American independence, it is highly appropriate that Americans of all backgrounds join with those of Byelorussian heritage to salute the free spirit of a brave and proud people, and to share their hope that they will soon live free of foreign tyranny.

A CLOSET CAPITALIST CONFESSES

Mr. BROCK. Mr. President, Michael Novak has written an article, published in the Washington Post, which I found most intriguing. I ask unanimous consent that his article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Closet Capitalist Confesses

(By Michael Novak)

The day I heard Michael Harrington say that most liberals are "closet socialists," I knew by my revulsion that I had to face an ugly truth about myself. For years, I had tried to hide, even from myself, my unconscious convictions. In the intellectual circles I frequent, persons with inclinations like my own are mocked, considered to be compromised, held at arm's length as security risks. We are easily intimidated.

The truth is there are probably millions of us. Who knows? Your brother or sister may be one of us. The fellow teaching in the class next to yours; the columnist for the rival paper; even the famous liberated poetess—our kind, hiding their convictions out of fear of retribution, lurk everywhere. Even now we may be corrupting your children.

We are the closet capitalists. Now, at last, our time has come. The whole world is going socialist. Nearly 118 out of 142 nations of the world are socialist tyrannies. A bare 24 are free-economy democracies. We are the world's newest, least understood and little loved minority. It is time for us to begin, everywhere, organizing cells of the Capitalist Liberation Front.

I first realized I was a capitalist when all my friends began publicly declaring that they were socialists, Harrington and John Kenneth Galbraith having called the signal. How I wished I could be as left as they: Night after night I tried to persuade myself of the coherence of their logic; I did my best to go straight. I held up in the privacy of my room pictures of every socialist land known to me: North Korea, Albania, Czechoslovakia (land of my grandparents) and even Sweden. Nothing worked.

When I quizzed my socialist intellectual friends, I found they didn't like socialist countries, either. They all said to me: "We want socialism, but not like Eastern Europe." I said: "Cuba?" No suggestion won their assent. They didn't want to be identified with China (except that the streets seemed clean). Nor with Tanzania. They loved the *idea* of socialism.

"But what is it about this particular idea you like?" I asked. "Government control? Will we have a Pentagon of heavy industry?" Not exactly. Nor did they think my suggestion witty, that under socialism everything would function like the Post Office. When they began to speak of "planning," I asked, who would police the planners? They had enormous faith in politicians, bureaucrats and experts. Especially in experts.

"Will Mayor Daley have 'clout' over the planners?" I asked, seeking a little comfort. "Or congressmen from Mississippi?" My friends thought liberal-minded persons would make the key decisions. Knowing the nation, I can't feel so sure. Knowing the liberal-minded, I'm not so comforted.

Since they have argued that oil companies are now too large, I couldn't see how an HEW that included Oil would be smaller. My modest proposal was that they encourage monopoly in every industry and then make each surviving corporation head a cabinet officer.

Practical discussions seemed beside the point. Finally, I realized that socialism is not a *political* proposal, not an *economic* plan. Socialism is the residue of Judaeo-Christian faith, without religion. It is a belief in community, the goodness of the human race and paradise on earth.

That's when I discovered I was an incurable and inveterate, as well as secret, sinner. I believe in sin. I'm for capitalism, modified and made intelligent and public-spirited, because it makes the world free for sinners. It allows human beings to do pretty much what they will. Socialism is a system built on belief in human goodness; so it never works. Capitalism is a system built on belief in human selfishness; given checks and balances, it is nearly always a smashing, scandalous success. Check Taiwan, Japan, West Germany, Hong Kong and (one of the newest nations in one of the recently most underdeveloped sectors of the world) these United States. Two hundred years ago, there was a China, and also a Russia. The United States was only a gleam in Patrick Henry's eye.

Wherever you go in the world, sin thrives better under capitalism. It's presumptuous to believe that God is on any human's side. (Actually, if capitalism were godless and socialism were deeply religious, the roles of many spokesmen in America would be reversed in fascinating ways.) But God did make human beings free. Free to sin. God's heart may have been socialist; his design was capitalist as hell. There is an innate tendency in socialism toward authoritarianism. Left to themselves, all human beings won't be good; most must be concerned. Capitalism, accepting human sinfulness, rubs sinner against sinner, making even dry wood yield a spark of grace.

Capitalism has given the planet its present impetus for liberation. Everywhere else they are hawking capitalist ideas: growth, liberation, democracy, investments, banking, industry, technology. Millions are alive, and living longer, because of medicine developed under capitalism. Without our enormous psychic energy, productivity and inventions, oil would still be lying under Saudi Arabia, undiscovered, unpumped and useless. Coffee, bananas, tin, sugar and other items of trade would have no markets. Capitalism has made the world rich, inventing riches other populations didn't know they had. And yielding sinful pleasures for the millions.

Six per cent of the world's population consumes, they say, 40 per cent of the world's goods. The same 6 per cent produces more than 50 per cent; far more than it can consume. No other system can make such a statement, even in lands more populous, older and richer than our own. As everybody knows, hedonism requires excess.

Look out, world! The closet capitalists are coming out. You don't have to love us. We don't need your love. If we can help you out, we'll be glad to. A system built on sin is built on very solid ground indeed. The saintliness of socialism will not feed the poor. The United States may be, as many of you say, the worthless and despicable prodigal son among the nations. Just wait and see who gets the fatted calf.

FINANCIAL INSTITUTIONS REFORM

Mr. McINTYRE. Mr. President, I invite the Senate's attention to an article appearing in the April 3 issue of the New Republic by Robert Samuelson entitled "Regulating Banks." Mr. Samuelson's article is one of the best descriptions I have seen relating to the many and varied issues surrounding much of the current controversy over financial institutions reform legislation.

As Senators may recall, the Senate, in December, passed S. 1267, the Financial Institutions Act of 1975, by a vote of 79 to 14. Since that time, this legislation has come up against tremendous lobbying pressure in the House, most of which, in my opinion, is misdirected, misguided, and, for the most part, contrary to the public interest.

Nevertheless, it appears that Mr. Samuelson may, indeed, be correct when he asserts we are witnessing a "lobbying Donnybrook" which may eventually scuttle the most comprehensive financial reform legislation in 40 years.

In contrast to all the purely special interest gibberish which we hear daily from the respective financial lobbies, I submit Mr. Samuelson's article as a thoughtful analysis of the issues which should guide us as legislators in carrying out our responsibilities to the public.

Mr. President, I ask unanimous consent that Mr. Samuelson's article, subtitled "Freeing Money To Do Things for People," be printed in its entirety in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Freeing Money To Do Things for People—Regulating Banks

(By Robert Samuelson)

The most remarkable thing about the latest fuss over the banking system is what was missed. The press riveted its attention on increases in bank loan losses and the lavish style in which US Comptroller James Smith goes about regulating national banks. These stories were good copy, but they left false impressions that the banking system is in danger of imminent collapse (which it isn't) and that there are dramatic opportunities to improve bank regulation (which there aren't).

Meanwhile, probably the most significant financial legislation since the depression has been bouncing around Congress almost unnoticed. Ultimately, the legislation could affect the flow of credit into housing, the interest rates paid on consumer savings deposits, the payment of interest on checking accounts, and competition between banks and savings associations for consumer business. Passage is not assured. The legislation threatens long established enclaves of economic privilege. Banks now have a monopoly on checking accounts. Savings associations—by government fiat—can pay slightly higher interest rates on savings accounts than banks. Each wants what the other has without surrendering its own exclusive power. *Voici*, the ingredients of a lobbying Donnybrook, with banks and savings associations clawing at each other unmercifully. When it's over the legislation may have been watered down to the point of inconsequence or scuttled.

To understand the struggle, one needs some background: the nation's system of banking institutions is an inelegant patchwork, the product of historic accident and geographic custom. First we have the 14,600 commercial banks, with more than $900 billion in assets.

By law, they can offer checking accounts and savings accounts and, in addition, can raise money in more esoteric ways (for example, by selling so-called certificates of deposit—$100,000 or more—to wealthy individuals and businessmen, or by borrowing overseas). Next we have the 5000 savings and loan associations with more than $330 billion in assets. Unlike banks, they can't offer checking accounts, and, unlike the banks—which can make almost any kind of loan or investment (purchasing corporate stock is a conspicuous exception)—the savings associations have traditionally been heavily committed to residential mortgages. At the end of 1975, 82 percent of their assets were in mortgages. Finally we have mutual savings banks ($120 billion in assets) heavily concentrated in New England and the Northeast, and credit unions ($35 billion).

If this system once made sense, it doesn't now. Correcting the mess is what the banking legislation is all about, and, as a practical matter, the biggest part of the mess is the vast difference between banks and savings associations. At first, the job seems simple. Give the savings associations the powers they lack. That is what Congress set out to do last year. The Senate passed legislation that would allow savings associations to provide most normal consumer financial services—checking accounts, personal loans, trust accounts and credit cards. The change would go a long way toward enhancing the savings associations' ability to attract deposits. No longer would savings associations bear the burden of not offering the convenience of having a savings account and a checking account at the same place.

Technology also seems to impel the melting of artificial differences between banks and savings associations. Increasingly, money is being transferred electronically. The government—and a few large corporations—offer employees the convenience of having paychecks credited directly to their accounts. The Treasury is now in the process of giving more than 40 million beneficiaries of government retirement and veterans programs, including Social Security, the same choice. Likewise, some firms (particularly utilities and insurance companies) have plans whereby monthly bills are automatically deducted from a customer's bank or savings account. A number of large retail stores have computer terminals at checkout counters; buyers can pay by having the computer transfer funds to the store's account.

Such changes blur the traditional distinction between checking and savings accounts. If you can pay for your groceries with an automatic deduction from your savings account, you may keep less money in your checking account. That helps savings associations. On the other hand, the need for paper checks isn't about to disappear. People tend to put most of their salary into checking accounts, and, as electronic depositing of wage and beneficiary payments increases, banks could win most of the business. The Treasury's initial experience with Social Security payments confirms this; nearly 90 percent of the participants elected to have their checks deposited at a bank. In short, technology threatens to make an already-confusing financial system still more confused. Competition for funds—already distorted by historic and legal anomalies—threatens to become more distorted.

If you think Congress can easily make everything right, however, you are likely wrong. Aside from sheer inconvenience, the system has more fundamental problems. During periods of rapidly-rising interest rates, the savings associations tend to lose large volumes of deposits, because they can't increase the rates on their accounts as quickly as rates elsewhere rise. Consequently, large savers withdraw their money and put it in more lucrative investments, such as government securities. Hit by huge withdrawals, savings associations—the single largest source of mortgage credit—can't make new loans. Without credit, the housing industry goes into a tailspin. In the last decade, the cycle of interest rate rise and housing collapse has occurred three times (1966, 1969 and 1974).

And when it does happen, there is another victim: the small saver. Although large depositors can shift their money, small savers often can't. Either they need the ready cash provided by a savings account or they simply haven't got enough money to pay for the minimum denomination of government or corporate securities (sometimes $1000, but often $5000 or $10,000).

Both problems stem from savings associations' overwhelming investment in long term mortgages at fixed interest rates. The reason that savings associations can't raise interest rates quickly on their accounts is that the return from their portfolios of mortgages doesn't increase rapidly. Right now, new mortgages are being made around nine percent. The average rate has consistently exceeded eight percent since 1973, and, in some places passed 10 percent at the peak. Yet, the average return on mortgages held by associations is now only 7.6 percent, reflecting the impact of thousands of mortgages made years ago when rates were lower. Obviously, savings associations can't afford to pay savers an average of more than 7.6 percent. In fact, they must pay less (the average is 6.3 percent) to cover overhead expenses and profits.

Contrast that with commercial banks. They have diversified loan and investment portfolios; mortgages, for example, account for only about 15 percent of their assets. The average loan and investment has a much shorter maturity than a 25 or 30-year mortgage; as interest rates rise, loans are made at higher rates. Moreover most business loans are tied to the "prime rate" and increase automatically. Thus, far more than savings associations, banks can adjust.

The inequality between banks and savings associations has spawned another quirk of the present system: interest rate ceilings. To protect the savings associations from massive deposit losses to banks, the government limits the permissible interest rates on savings accounts at banks and associations. Indeed, the savings associations receive a small advantage. On a normal passbook savings account, the savings association can now pay 5.25 percent; the banks, 5 percent. On a savings certificate with more than a year's deposit requirements, the associations can pay 6.5 percent; the banks, 6 percent.

There is no avoiding the logic of this situation. Ultimately, if savings associations are to insulate themselves against massive outflows of funds, they must be weaned from their exclusive dependence on mortgages at fixed interest rates. Only two practical ways exist to do this: either the savings associations have to shift an increasingly large portion of the portfolios to short-term loans or investments; or, new mortgages have to be written with variable interest rates (that is, rates that can rise or fall with general fluctuations). Or both. But, without these kinds of shifts, the cosmetic changes made in granting new checking and lending powers will be relatively meaningless. A spurt of high interest rates will still cause outflows; housing will still be hurt, and the small saver will still be trapped.

And that is the prospect. Congress is recoiling from the basic logic, mostly because the logic isn't superficially popular. Variable interest rate mortgages have acquired the reputation of a consumer rip-off. When Sen. Thomas McIntyre, chairman of the subcommittee on financial institutions, held hearings last year, labor unions and consumer groups objected vociferously. That apparently killed any chance of including variable rate authority in the present legislation. The Federal Home Loan Bank Board (which regulates federally chartered associations) had proposed regulations to permit variable rate mortgages, but withdrew them after loud screams from Congress.

But, as McIntyre himself remarked, "the variable rate mortgage may not be quite the danger that consumer groups and labor unions see it to be." The spectre of mortgage payments jumping $50 to $100, month in and month out is, indeed, a horror. In practice, the variable rate loans would not work such hardship. Adjustments can be restricted to once every six months or a year, with maximum increases in any one step. The Bank Board suggested one-half-of-one percent, which, on a $35,000 25-year mortgage, would be about $12 a month. The maximum allowable increase over the life of the mortgage would have been 2.5 percent. A 45-day prenotification requirement would have been mandatory. Rate increases would have been tied to an independent index of outside interest rates, and decreases indicated by the index would also have been required. Finally, the homeowner would have had the choice of postponing the maturity of his loan rather than increasing his monthly payment.

"Consumer protection" is a beguiling phrase often hurled in opposition to the variable mortgages. But consumers who are new homeowners are solidly middle class. The assertion that they cannot understand the mortgage's uncertainties and obligations insults their intelligence. During a highly inflationary period, virtually everything goes up—food prices, utility rates, wages, taxes and interest rates. Exempting mortgages is not "consumer protection" so much as economic privilege. In effect, it means that the small saver often subsidizes his economic better, the homeowner.

If Congress is unwilling to tiptoe toward variable mortgages, it is almost as reluctant to prod savings associations to diversify their loan activities. The Senate bill requires that associations keep 70 percent of their assets in mortgages. The legislation now before the House Banking Committee effectively sets the requirement at 80 percent (this restriction, however, is not quite as rigid as it seems; included in the total are a number of other types of investments, such as government securities). Making more personal and consumer loans would aid the associations, because the loans have higher rates and shorter maturities. But, in effect, Congress is saying: we give you new powers to make consumer loans, but we don't want you to use them too much.

Behind this ambivalent message is more politics and misguided economics. Consumer groups and labor representatives worried that savings associations, even though they may be able to attract more deposits, would desert housing mortgages; these groups had to be mollified. Actually, some savings executives are so lethargic that they don't do anything rapidly except breathe; the restrictions encourage the industry's most standpatish tendencies. Many (though not all) associations simply want the added drawing power of checking privileges without being forced to compete directly with banks in providing consumer credit. Life would be so much easier if they had both checking powers *and* the continued protection of the interest rate differential on savings accounts. And that is what Congress has, so far, given them. The House bill mandates the continuation of the savings associations' one-quarter point advantage for at least five-and-a-half years; the Senate bill fudges the issue, but basically orders the federal banking agencies to do the same thing. (The thrift associations' lust for checking powers has been somewhat obscured by the confusion between checking accounts and so-called NOW accounts—Negotiated Orders of Withdrawal—which have been legalized in New

England. Some thrifts say they want NOW, but not checking accounts. Though legal distinctions exist between the two, the practical difference is virtually meaningless. The House bill would even obliterate the legal distinction.)

A political compromise of this sort—done in the name of housing—will probably not help housing and may have damaged the legislation's ultimate chances of passage. A case can be made out of the requirements for mortgage lending (the 80 and 70 percent in the House and Senate bills) could actually hurt the economics of savings associations. During periods when they have large amounts of funds, they will be induced to push extra money out in mortgages. That will tend to lower mortgage rates; if interest rates later rise, associations will then be more vulnerable to outflows. More important, the artificial stimulation of mortgage lending raises questions of soundness: will savings associations be induced to make unnecessarily risky loans, or subtly encouraged to finance speculative "overbuilding"? Both problems are ever-present in real estate lending. These mortgage-lending provisions represent another attempt by Congress to force-feed the housing market. Such efforts have not worked well in the past; the section 235 program spawned scandal and more technical approaches—creating federal agencies to borrow and re-lend for housing—have probably only exacerbated interest rate fluctuations by stimulating credit demand.

Politically, however, the effective freezing of the interest rate differential has made bankers livid, and, in the process, given them a semi-legitimate debating point to use to kill the bill altogether. In practical terms, the importance of the quarter point differential has probably been exaggerated by both bankers and savings associations. The real protection for the savings associations is the existence of interest rate ceilings—which prevent banks from exploiting a natural advantage—not the puny differential. Virtually no one believes that the ceilings (as opposed to the differential) can be eliminated immediately without a devastating impact on thrift associations. The hope simply is to be able to raise the ceilings, which, of course, depends on what savings associations are allowed to do with their money.

But the differential allows bankers to cry, with some cause, that they've been treated unfairly. Opinions differ on the bankers' real motives, reflecting genuine disagreement among banks of different sizes. Many of the bigger, best-known banks (such as the large New York banks) are probably least concerned with the legislation, because their funds derive more heavily from corporate accounts and large certificates-of-deposit; these CDs, issued in amounts of $100,000 or more, are not covered by interest rate restrictions. The American Bankers Association says it's for genuinely equal competition, but strenuously protests the provision that would permit interest payments on checking accounts. And many officials suspect that the opposition of large numbers of bankers goes much deeper; they just don't want to lose their monopoly over checking accounts.

Legislation like this is settled less by public opinion than by the fervor, persuasiveness and clout of rival interest groups. The bankers have mounted a massive lobbying campaign to convince the House of the legislation's undesirability. The essence of the campaign is simply to have local bankers write, phone and visit their congressmen. This is what's known as "heat," a process all the more effective during an election year when campaign support—financial and otherwise—is so important. The financial legislation contains a great many other provisions, including changes in federal bank regulatory agencies and the structure of the Federal Reserve System, but the significance of these proposals has probably been exaggerated. The effectiveness of monetary policy and bank regulatory policies (that is, bank examination, approvals and mergers) probably reflects the political and intellectual climate more than organizational changes. The gut issue remains the relative powers of financial institutions, and the outcome now seems to hinge on the lobbying talents of the adversaries.

Almost any genuine reform takes years to show results. To think that even the best financial reform would instantly cure long-standing problems is naive. Over the next few decades, the spread of electronic money-shuffling may homogenize the financial system anyway, but the preservation of ancient legal fences would slow and confuse the process. Meanwhile, unless we are lucky enough to escape a new round of inflation, wide interest rate fluctuations are likely to recur with their disastrous effects on housing and small savers. There may be no instant cure, but medicine to relieve the pain is better than nothing at all.

FEDERAL REGULATION

Mr. GRIFFIN. Mr. President, the Economic Club of Detroit provides one of the Nation's outstanding forums for the discussion of national issues by leading American figures in Government, industry, and labor. Recently, Edgar B. Speer, chairman of the United States Steel Corp., spoke there on the subject of regulatory agencies. I ask that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ARE THE REGULATORY AGENCIES CHANGING OUR GOVERNMENT?

(By Edgar B. Speer)

Mr. Swaney, Members and Guests of the Economic Club of Detroit:

I recall that one of the first things I learned in the steel business was to be nice to anyone from Detroit. And I certainly thank John Riccardo for making it a two-way street.

At the risk of making the understatement of the year, I want to say that I'm delighted to be here in Detroit. Inviting a steelman to your City, when our order books are somewhat less than full, is like asking a politician to address his party's national convention—during the prime-time television hours.

Of course, an invitation to speak to this Economic Club is an honor that I'm sure very few could refuse. From the list of past speakers that was sent along to me, I noted that you have heard from princes and cardinals . . . philosophers and scientists . . . presidents and would-be presidents . . . world leaders . . . and advisors to the lovelorn.

I'm not sure that I fit among all of those distinguished and interesting individuals. But if there is a category for speakers who look upon Detroit as a most vital part of America's economic machinery, you can count me among them.

I realize, however, that your businesses and your people are equally well known for their innovative ideas that have had great impact upon American life. Just the other day I saw a cartoon that showed two men of the cloth watching the construction of an ultra-modern church. And one of them was saying, "It's very nice. But do you think the congregation is ready for bucket pews?"

Now, believe me, I hesitated to come up here to Detroit and confront you with something to be glum about, just when you're starting to smile once again. But when Mr. Swaney asked me to be your guest for today, he suggested that I talk about something that would, in his words, "present the greatest challenge to the leaders of the automotive and related industries operating here in the heart of 'decision America'."

Well, that's no small challenge in itself. I suspect there isn't a single business or economic subject that hasn't already been placed before this Club by past speakers, in one form or another. And some, I'm sure, have no doubt been discussed many times.

But lately, I have come to the conclusion that there is really only one great challenge facing all of us in industry . . . in banking . . . in transportation . . . in labor . . . in the professions . . . in the press . . . in fact, throughout our personal lives. And that is the challenge of government.

More directly, it is the *change* that's occurring in the government of these United States—a change that is slowly, almost imperceptibly taking away the decision-making rights of every citizen and every business, and placing them in the hands of a growing group of individuals who are totally out of the mainstream of our political election system.

This change has already reached such proportions that the Federal government is no longer what many Americans think it is. Most of our people, I'm sure, believe that our government continues to be composed of the traditional three branches: the executive, legislative and judicial. Most Americans believe that by going to the polls on the first Tuesday in November they are electing a government of individuals that will act and serve in their best interests.

But for many years, and with increasing speed today, the Federal government has been sprouting a fourth branch that is potentially as powerful as the Presidency, the Congress and the courts. This fourth branch of government is the vast and growing group of agencies, commissions, administrations and bureaus that has been created by legislative action, and placed within the Executive branch.

Their directors and administrators are appointed, usually for periods longer than those who are elected to office. The Federal budget chief, James T. Lynn, who spoke to this Club not long ago, has said that "neither the President nor Congress—not even together—can get rid of those people . . . they cannot be removed from office except for reasons specified by law. Disagreement with the President or Congress on matters of regulatory policy is not one of those reasons." They are, in effect, answerable to no one. Their staff members are protected, and perpetuated, by civil service.

Primarily, this fourth branch is carrying out various mandates from Congress. A real, or potential, or politically explosive problem arises. The Congress draws up broad prescriptions to approach it. Then, Congress establishes an agency or commission with the authority to spell out the details of that prescription—and granting broad powers to enforce its dictates on the offending parties.

Before his resignation as Secretary of Labor, John Dunlop said that the number of regulatory programs administered by his Department had grown from forty in 1960 to last year's total of 134. In the final major speech that Caspar Weinberger made as Secretary of HEW, he pointed out that the tremendous growth in the Federal government and Federal spending just in the four and a half years that he has been in Washington had created what he called "an edifice of law and regulation that is clumsy, inefficient and inequitable."

You may have read in the Detroit News in recent days of how the regulatory agencies have grown in number, size and complexity, just in the past few decades. The Environmental Protection Agency, for example, is less than ten years old, but has become one of the largest, with about eleven thousand people.

The Federal Energy Administration was created in 1973 as a temporary operation to help deal with the energy crisis following the oil embargo. Yet as The Wall Street Journal pointed out just a week ago, it has grown into an agency of almost 35 hundred people and a budget of $142 million a year. It has one of the largest press offices in Washington: 112 people who are spending over three million tax dollars a year in what the Journal calls "self-promotion."

Last year, the FEA spent an additional seventeen million of the taxpayers' dollars on more than 150 studies which a top FEA official called "one of the biggest wastes"—implying that there are other wastes as well. Secretary Simon, who was the first FEA administrator, calls the agency, "a potential monster" which he would abolish, if he had the authority to do so. Yet the Administration would like to extend its life for three more years, triple its budget and expand its staff.

How has all of this happened? Well, the answer is simple. The Congress has passed legislation that has given Federal bureaus and agencies "blank checks" of authority and power. Senator Humphrey remarked last year, "We pass a law and let it go. It's a little like fathering a child and turning him over to the neighbors to raise, and not bothering to wonder how he's growing up." And his views are reflected in the concern of a growing number of Senators and Congressmen.

Yet the Congress is finding that the problem of control is more easily discussed than confronted. The Congress itself is bogged down in a system that functions through forty major Senate and House committees, with almost three hundred subcommittees. With jurisdictional lines difficult to follow, it is an easy matter for the members of Congress to avoid the responsibility for overseeing the jungle of agencies and bureaus it has created.

The current Administration has given indications lately that it intends to approach the problem through "deregulation." But students of regulatory power point out that Presidential concern about regulation has been on the scene since the days of Teddy Roosevelt. And that was less than two decades after the creation of the first regulatory body, the Interstate Commerce Commission.

Through many other Administrations—through Hoover Commissions, the Landis Report of the 1960's, and the report less than five years ago of the Advisory Council on Executive Organization set up by President Nixon, very little, if anything, has ever been accomplished.

And let's face it. With the possible exception of the Environmental Protection Agency, I doubt that you would find very many companies or industries that could agree on what should be deregulated, to what extent and how.

But, gentlemen, if the private sector of America is to survive—if business is to function independently and maintain control of its own destiny—an answer must be found to this fourth branch of government that is imposing controls of one sort or another on every citizen and every element of the economy.

Where we once looked to the executive or legislative branches for redress and relief from oppressive government, today there is little to be found. We ask who's in charge of the fourth branch of government, and we find that no one is really in charge and no one is accountable. The executive and legislative branches have fragmented responsibility into a hodge-podge of agency units, and no one group is willing to admit responsibility for what is done or the results of what is done.

The concept upon which our unique system of government was built two hundred years ago was one of checks and balances, and for a good reason. The designers of our Constitution wanted to prevent one segment of government from gaining excessive power over the others, and particularly over the people who are governed. That concept is being destroyed.

We once spoke proudly that ours was a government of laws, not of men. That is no longer true. Government today is increasingly becoming a government by decrees and decisions issued by individuals who are, in effect accountable to no one.

The dictates of the regulatory agencies flow out from Washington like the Mississippi River at flood stage. In 1973, the Federal Register required thirty-five thousand, five hundred and ninety-one pages in order to publish all of that year's new decrees and bureaucratic decisions. Last year, the number of pages had risen to sixty thousand, two hundred and twenty-one—a seventy per cent increase in two years.

We used to shudder at the thought of the government providing cradle-to-the grave security. Yet today, we have cradle-to-grave regulation. The moment a new American is born, the Consumer Product Safety Commission dictates the design of the bed he sleeps in, the composition of the clothes he wears and the toys he plays with. And when he dies, his funeral director must be certain to follow the regulations set down by the Consumer Protection Bureau of the Federal Trade Commission.

During the intervening years, of course, many of the decisions that his parents and grandparents once made for themselves will be made, in whole or in part, by individuals in government who have never had to campaign for his vote and support.

The Departments of Labor and of Health, Education and Welfare may well decide whether the company he wants to work for can place him on its payroll. When he is employed, the security of his job will depend not only on his skills, training, and productivity, but on whether the Occupational Health and Safety Administration and the Environmental Protection Agency will allow his company to keep operating.

If his company is a defense contractor, this new, young American may find that his company can no longer do business with the government, because the thirteen separate compliance agencies that rule on affirmative action programs cannot agree on the conflicting regulations that determine compliance.

And heaven protect him, should he work for a company, such as the small toy firm in Wisconsin that was almost forced out of business when the Consumer Product Safety Commission mistakenly included its products on the Commission's list of banned toys. And, incidentally, that was a firm that hired handicapped people.

Of course, he could well suffer the same fate working for U.S. Steel, as some of our people at Gary Works discovered at the end of last year. We wanted to operate two older coke batteries at Gary, since two new batteries were not quite ready—although one was in the break-in stage and the other would have been fully operational by late this year.

We already had several thousand people off work at the plant due to lack of steel demand. Neither U.S. Steel nor local and state officials wanted to make it any tougher on our employees or the economy in and around Gary. Moreover, coke was in short supply, and without sufficient coke, we believed that there could be an unnecessary delay in recalling laid-off employees once steel demand picked up. Also, we were concerned about losing coke-oven gas that we use as fuel, since it was the daily equivalent of more than seventy-two thousand gallons of fuel oil.

So we approached and reached agreement with the Indiana State Pollution Control Board. They said we could operate two of the older batteries for a temporary period beyond the end of last December. The question was not air pollution levels, since there has been a seventy per cent reduction in air pollution over the City of Gary since 1958. In fact, the actual measurement in August had been less than three micrograms over the goals set by the Clean Air Act of 1970.

But the EPA people and the Justice Department in Washington weren't interested in human and practical business problems. They weren't interested in energy conservation. They weren't interested in the hundreds of additional jobs of coal miners and railroaders that would be lost. They threatened criminal charges against us, unless the coke batteries were shut down on schedule. And so they were.

Few regulatory agencies have been as arrogant in the use and abuse of powers as the EPA. Yet a story in the Los Angeles Times a few weeks ago suggested foul play in the scientific data EPA used to set limits on sulphur pollution—limits that could ultimately cost the electric utilities and American consumers billions of dollars.

The question, of course, is not whether the public should be protected from hazards over which it has little or no control. No one disputes this. Every member of business is concerned about the health and safety of employees, and the customers who buy the products and services of business. Industrial managers breathe the same air and drink the same water as the rest of the nation, and are equally concerned about their purity.

But what is happening in America is something that is foreign to the American way of life: a government presuming to know what is best for its people, at the expense of the people's freedom to make their own decisions.

Moreover, it is doubly wrong when appointed officials exercise life-or-death power over the source of people's jobs and income, without being held accountable for what happens when that power is used indiscriminately or unwisely.

This has always been the nub of the problem with regulatory agencies. Who has paid the price for the poor decisions and judgments of the Interstate Commerce Commission? The Commission members, or the customers and stockholders of America's railroads—and the taxpayers who are paying for Conrail?

Who is paying for two decades of price controls, administered by the Federal Power Commission, that has caused the steady reduction in natural gas reserves and today's shortages of this clean-burning fuel? And who will pay tomorrow, after the Federal Energy Administration inflicts the same heavy-handed treatment on the nation's oil companies?

Study after study, by some of the best minds in the country, have shown that whatever the presumed benefits of regulations, they are far outweighed by the ultimate costs, whether those costs are measured in lost freedoms, destroyed investments, higher taxes or higher prices for the consumer.

The Ford Administration estimates that the current cost of useless and wasteful regulation by Federal agencies is now up to $130 billion a year—the equivalent of two thousand dollars annually for every American family.

The price of submitting thousands of reports and tons of information to government agencies is said to be costing American business a minimum of $18 billion a year—a cost that must be covered in prices of the products and services of business. And down in Washington, they spend another $15 billion of the taxpayers' money to process all of that data.

You people in the auto industry know the impact of Federal regulations on the prices of your products—and the effect those higher costs have had upon your sales. I saw an estimate not long ago that government regulation will cost General Motors at least $1.3 billion during 1976. In the steel industry, we figure that for every dollar we spend on pollution control equipment, twelve to fifteen cents is added to our annual operating costs—and we're spending an average of about a hundred dollars a year on pollution control equipment just in U.S. Steel alone.

Yet higher prices are not the only "cost" consumers pay for Federal regulation. Not only has the American citizen lost his right to elect the individuals who decide the course of his personal and economic life, but as a consumer, he has lost most of his "voting rights" in the marketplace. No longer does he really decide the design and style of a product, by his right to buy or not to buy what industrial experts design to fit his needs and his desires.

Once, Detroit's automobile industry matched the design of the American car to the measured wants and needs of the auto buyer. But more and more, standards set in Washington determine what the automobile must be in size and weight . . . how the engine must perform . . . and even what kind of gasoline can be used in it.

And this situation may get worse. Tom Murphy pointed this out a few months ago in a talk that he gave to some steel people in Pittsburgh. Talking about the mandated fuel economy standards established by the Energy Policy and Conservation Act of 1975, he said that unless those counter-productive standards are removed, "the American public will have a severely limited range of cars to choose from" in 1985.

Like him, I'm concerned about what impact this might have on auto sales . . . and steel sales . . . and the jobs and incomes of a great many Americans. And I share the entire auto industry's concern for the penalties they will be required to pay, should they fail to meet the standards—five dollars per car for each tenth of a mile per gallon below the prescribed standards. Multiply that times the number of cars that may be produced, and you wonder whether the purpose is to save energy or put the auto companies out of business.

Saving energy is a critical need. But so is saving the free market system under which this country of ours grew and prospered. Our industries created plentiful supplies of low-cost items that gave Americans the highest standard of living in the world. We created jobs for millions of people in our work force by allowing producers and consumers alike to decide how the nation's needs should be met.

Those who believe we'll be better off following the arbitrary decisions of Washington, rather than the judgments of the American consumer—not to mention the American voter—should spend some time living in one of those dull, inefficient, problem-ridden societies overseas that are already trying that approach.

And if it is social goals they wish to achieve, they might remember that it is the natural flow of money and technology and human effort through our free market system that generates the private and government funds that underwrite social programs. Competitive enterprise—not government regulations—is the Golden Goose that makes social and economic progress possible.

Frankly, I have great confidence in the American system. I have great confidence in the American people to make sound decisions. I have confidence that business, and labor, and all the other elements of our economy can solve our national problems and meet our national goals, whether they involve conservation of resources, better safety and control of pollution, or the generation of capital to create new jobs.

We cannot do these things, however, if we allow ever more power and authority to center in Washington. And I admit that reversing this situation will not be an easy job.

When Adlai Stevenson was campaigning for governor of Illinois, he was told by one of his supporters that he would certainly have the vote of every thinking person in the state. "Trouble is," Mr. Stevenson replied, "I'll need a majority."

Getting back to our traditional form of government—and returning the decision-making rights of Americans—will require a "thinking majority" all across the land. Certainly a first step must be letting every single citizen know how extensive the control by Washington has already become, and what our people stand to lose if the situation is not reversed.

Some members of Congress are already trying to stem the tide. Suggestions have been made that every law that creates an agency or program should contain a termination date for that agency or program. Others believe a system of "zero-budgeting" could help, with every agency required to justify every penny it requests every year. Cost-benefit analyses are a critical need in the environmental area, for scarce capital dollars are already being wasted by industry in efforts to achieve standards that have yet to be proved necessary, or even sound.

In reality, the list of ideas and possibilities is almost as long as the need for action is great. But I repeat: a first step must be a concerted effort by all of us to alert every consumer, every voter to the danger we face.

In his first inaugural address exactly one hundred seventy-five years ago this month, President Thomas Jefferson described the kind of government he had helped to create and which he hoped later generations would perpetuate. He called it: "A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

As we begin our third century in these United States, we would do well to put our nation back on such a course. If we don't, the government we inherited from men like Jefferson may well pass from the face of this earth.

KOSCIUSZKO—FRIEND OF THE REVOLUTION

Mr. **MUSKIE**. Mr. President, Polish-Americans take special pride in this Bicentennial Year in remembering the career of Tadeusz Kosciuszko.

A brilliant engineer, Koscuiszko helped the American armies defend West Point and Charleston. He served in the American forces almost without pay and was known among Revolutionary leaders for his qualities of humanity, gentleness, and patience. His will directed that his estate be used to create a fund to buy freedom and homesteads for Negro slaves.

Americans remember Tadeusz Kosciuszko as a man who practiced the ideals in which he believed. He was a friend of our country and, as Jefferson observed, "a son of liberty."

Mr. President, I ask unanimous consent that a recent article about Tadeusz Kosciuszko, published in the Reader's Digest, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Kosciuszko—Hero of Two Worlds

(By Thomas Fleming)

A BICENTENNIAL FEATURE

At 4 a.m. early in May 1798, a covered coach carrying the Vice President of the United States, Thomas Jefferson, pulled up to a stop before a Philadelphia rooming house. A slight, gaunt man in a military cloak emerged from the darkened doorway, hobbled on crutches to the carriage and climbed into the seat beside Jefferson. The effort brought rasps of pain to the crippled man's lips. The coach rumbled off into the night.

Poland's Tadeusz Kosciuszko was once more in the service of his "second country"—the United States of America. For six years, without a single furlough, he had fought for America's independence. Now, Jefferson was sending him to Paris as an envoy to help the infant United States avoid a ruinous war with revolutionary France. Jefferson was convinced that only an envoy of considerable stature could keep the peace. Kosciuszko was that man.

Most contemporary Americans recognize Kosciuszko's name. But outside the Polish-American community only a handful of scholars know of the remarkable and romantic role Kosciuszko (Kôs-chŏŏsh'ko) played in the winning of America's independence. For this gallant, tragic figure was passionately devoted to the cause of freedom, both here and in his native Poland. "He is," Jefferson once remarked, "as pure a son of liberty as I have ever known."

Battling Engineer

Kosciuszko was 30 when he came to America in the summer of 1776. His own country had been crushed by Russia and had lost one-third of its territory to Russia, Prussia and Austria. Kosciuszko had studied military engineering and artillery in France and, since America's revolutionary army badly needed engineers, Congress gave him a colonel's commission and $60 a month. Maj. Gen. Horatio Gates sent him north to strengthen Fort Ticonderoga, guarding the "invasion highway" from Canada. But the over-confident Americans at the fort ignored Kosciuszko's repeated advice to fortify Mount Defiance, which overlooked Ticonderoga.

Kosciuszko's gentle temperament and the fact that he was a foreigner made it difficult for him to deal with the brash Americans. When they scoffed at his recommendation, he dropped it. "I love peace and to be on good terms with all the world if possible," he told Gates. Rather than get his way by quarreling, he would "return home and plant cabbages." Scarcely more than a month later, the British hauled cannon to the top of Mount Defiance, and Ticonderoga's defenders had no alternative but humiliating retreat.

Instead of blaming them, Kosciuszko worked feverishly to keep the British army at bay. He and his men filled creeks with debris to make them unnavigable, broke down bridges, felled hundreds of trees to slow the British advance. When Horatio Gates became supreme commander of the Northern Army, he ordered Kosciuszko to select a position where they could make a stand. The young Pole soon had 1,000 men toiling on fortifications along the Hudson near Saratoga. The British army, commanded bp Gen. John Burgoyne, smashed itself to ruins on Kosciuszko's fortifications and surrendered to Gates on October 17, 1977. It was the turning point of the American Revolution.

Impregnable Point

Kosciuszko's next assignment was West Point, that huge ridge of rock and earth jutting into the Hudson River in the heart of New York's highlands. George Washington called it the most important post in America, and ordered Kosciuszko to make it impregnable. For more than two years, Kosciuszko laid out a series of redoubts and forts—a system depending upon depth, mutual support and use of terrain that was 100 years ahead of its time. The result was "the American Gibraltar," a fortress so strong that the British never even dared to attack it.

Kosciuszko next became chief engineer of the American Army of the South, commanded by the fighting Quaker, Nathanael Greene. He selected encampments and battlefield sites, and supervised the construction of a fleet of boats which enabled Greene's retreating army to escape the hotly pursuing enemy. When the British finally fell back to Charleston, Kosciuszko turned cavalry commander and fought a number of ferocious battles with British patrols outside the city. In one of the clashes, Kosciuszko led a head-long charge against some 300 British infantry backed by cannon. When the fight ended, he found four bullet holes in his coat.

In spite of his remarkable record, Kosciuszko did not receive a promotion from the Continental Congress until after the war. The reason was politics. When the French finally decided to aid the Americans, they sent a group of engineers, who arrived in 1777, led by an abrasive character named Louis le Bègue de Presle Duportail. He demanded and got from a frightened Congress, over the objection of General Washington, the rank of brigadier general and command of the Continental Army's engineers.

Kosciuszko's friends were outraged and began protesting to Congress. Washington himself wrote a letter in which he called Kosciuszko "deserving of notice too." Kosciuszko put a stop to the quarrel with a single letter to Congress. "If you see that my promotion will make a great many Jealous," he wrote in his disarming prose, "tell the General that I will not accept of one because I prefer peace more than the greatest Rank in the World."

The good-natured patience with which Kosciuszko bore such Gallic intrigue and his refusal to seek a promotion made him one of the most popular officers in the American Army. Although he himself was the son of a minor Polish noble, he detested aristocratic pretensions. To him, aristocracy was synonymous with the exploitation and corruption which had destroyed Poland. Years later, his will would leave all the money he had received as back pay from Congress—he served throughout the entire war without drawing more than a few months' salary—to the creation of a fund to purchase the freedom of Negro slaves, educate them and give them 100 acres of land and equipment to farm it. Unfortunately, the will was broken by avaricious relatives. But it remains a monument to his conviction that all men are born equal.

Act of insurrection

After the American Revolution, Kosciuszko returned to Europe with a fierce desire to restore Poland as an independent nation and to create within it the free society he had experienced in America. "We must all unite for one purpose," he wrote to a friend. "To free our country from the domination of foreigners, from the abasement and destruction of the very name of Pole." The Poles began reforming their nation, and he was appointed to a major general in a revived Polish army. In 1792, the Russians invaded Poland, determined to crush these stirrings of independence. The division commanded by Kosciuszko distinguished itself repeatedly on the battlefield, but the Poles had no hope of victory over the huge Russian army. When the Polish king surrendered, Kosciuszko fled to Leipzig and organized a resistance movement.

In 1794, Kosciuszko and a small band of followers re-entered Poland and proclaimed his "Act of Insurrection," based in part on the American Declaration of Independence. It denounced the tyranny which made Poland's revolt a necessity and declared as its goals "the re-establishment of national liberties and the independence of the Republic." Finally, it outlined a future government for Poland which strongly resembled that of America. Kosciuszko was named military commander in chief to direct the war against the Russians. For his uniform he chose a Polish peasant's white cloak.

Revolutionary France, the one nation that could have helped Poland, refused to come to Kosciuszko's aid. Both Russia and Prussia sent immense armies into Poland. For a while the Poles held their own, but when Austria joined the war with a third army, Poland's doom was sealed. Kosciuszko's forces were crushed in the savage battle of Maciejowice. As charging Cossacks overwhelmed his lines, Kosciuszko rode to meet them, sword in hand. A cavalry saber slashed open his head. A lance was driven deep into his hip. More dead than alive, he was carried off to a Russian prison, as were 10,000 compatriots.

Despite this defeat, Polish historians agree that Poland as a nation was reborn in Kosciuszko's act of insurrection. "Out of nonentity," one wrote, "he extracted an immense force; he demonstrated what the nation, even without foreign help, can accomplish. From a leader of a lost insurrection, he became forever a symbol of national resurrection."

Living Link

Two years later, a new tsar offered Kosciuszko his freedom if he would swear allegiance. To free his fellow Poles suffering in Siberian prison camps, Kosciuszko agreed. Returning to America, he found dozens of old Army friends begging him to settle in their neighborhoods. The lance thrust in his hip had damaged nerves which forced him to use crutches most of the time. But he responded to Jefferson's plea and returned to Europe in 1798, becoming in the words of one observer, "the first link" in the eventual rapprochement between France and America.

Kosciuszko remained in Europe, hoping that the turmoil created by Napoleon Bonaparte would enable him to strike another blow for Poland. Friends in America, particularly Thomas Jefferson, pleaded with him to return. "My dear friend," Jefferson wrote. "Close a life of liberty in a land of liberty. Come and lay your bones with mine in the cemetery of Monticello." But Kosciuszko refused. Even after Napoleon's defeat, when the great powers brushed aside Kosciuszko's pleas on behalf of Poland, he kept a lonely exile's vigil on behalf of his betrayed country. To the end of his life, he never refused a plea for help from the unfortunate. People said that his horse learned to stop at the sight of a beggar, even before Kosciuszko tugged on the reins.

For two centuries, Kosciuszko's name has remained a living link between the United States and Poland. After World War I, when the Russian communists invaded Poland, a group of American airmen volunteered to help the Poles defend their freedom. They were led by Capt. Merian C. Cooper, a direct descendant of a colonial family at whose house Kosciuszko lived for a time while campaigning in South Carolina. Cooper and his friends called themselves the Kosciuszko Squadron, and they played a dynamic role in the series of little-known but enormously violent battles in which the Poles drove the Russians out of their country, securing for Poland nearly 20 precious years of independence.

"The title of 'an American' will always be sacred to me," Kosciuszko once said. It is abundantly clear that the name Kosciuszko should remain equally sacred to Americans.

MAJOR HEW MEDICAID INVESTIGATION UNIT TO BE HEADED BY JOHN WALSH

Mr. PERCY. Mr. President, the Department of Health, Education, and Welfare has announced the formation of a new Office of Investigations in a major effort to reduce losses due to fraud and other abuses in the medicaid program. As a result of a nationwide search conducted by Secretary David Mathews, John J. Walsh was chosen to head this new unit.

I wish to commend the Secretary on his outstanding choice. John Walsh has been a senior investigator with the Permanent Subcommittee on Investigations since 1963. As the ranking minority member of that subcommittee, I have observed John's work in many investigations. It has been uniformly excellent.

John Walsh is a thorough and meticulous worker. He is an ideal person to put in such a sensitive and responsible position where nonpartisan professionalism is absolutely essential. He has supervised staff work on such investigations as those involving frauds and abuses associated with CHAMPUS—the Civilian Health and Medical Program of the Uniform Services—and the Federal Student Loan Program. In this last investigation, he was instrumental in turning up instances of mismanagement and possible corruption which cost taxpayers millions of dollars annually.

Prior to these recent cases, John Walsh did valuable work in investigations involving the TFX controversy, federally insured banks, and many others.

It is only appropriate that John Walsh be chosen for this new post, for much of the work done by him on behalf of the subcommittee has played an important part in bringing about the formation of this Office of Investigations.

We will miss having John on our staff. Nonetheless, I congratulate him on his appointment, and extend our heartfelt best wishes to him in his new job. I am certain he will continue to render outstanding service and dedication to the public interest and to his country.

I ask unanimous consent that a March 27, 1976, Washington Post article, "HEW Secretary Unveils Plan To Slow Medicaid Deception" which describes the new Office of Investigations, be printed in the RECORD. In addition, I ask unanimous consent that the Department's press announcement concerning Mr. Walsh also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEW SECRETARY UNVEILS PLAN TO SLOW MEDICAID DECEPTION

(By Alice Bonner)

Secretary of Health, Education, and Welfare David Mathews announced a major effort yesterday to clean up an estimated $750 million in losses through fraud and abuse of the $15 billion annual Medicaid program.

Targets of the new investigation are to be doctors, nursing homes, pharmacies and clinical laboratories that submit a large number of Medicaid bills to the government, HEW officials said. An effort to remove ineligible recipients from Medicaid rolls was launched in July.

Teams of HEW investigators, working with state employees, are to begin examining the programs in Massachusetts next month and in Ohio in June, Mathews said. Those states are among the 10 biggest users of the Medicaid program in the country.

Medicaid, a program to provide health services to the poor, benefits some 23 million persons, most of them receiving welfare benefits through Aid to Families with Dependent Children (AFDC) or the Supplemental Security Income program for the aged, blind and disabled.

The maximum income for Medicaid eligibility varies among states, but the standard national poverty threshold is $5,038 in annual income for a nonfarm family of four, according to the U.S. Census Bureau.

The annual cost of Medicaid has tripled since 1970, from $4.9 billion to approximately $15 billion this year, with more than half the total paid by the federal government.

The largest share of Medicaid payments, 28 per cent, goes to general hospitals, while nursing homes receive 20 per cent and physicians 10 per cent.

Mathews said at a news conference that the estimated 5 per cent loss to fraud and abuse "cannot be permitted to continue unattended." HEW defines fraud as a false claim made with the intent of obtaining undeserved gain and abuse as the claim to payment for ineligible services. Overcharges, overuse and distortion of claims are considered abuse.

A newly formed Medicaid fraud and abuse unit of 108 investigators is to help states identify corruption, proceed with prosecution and establish better management systems, Mathews said. The federal government had only one part-time person doing such work as of last May and has five now, officials said.

Mathews said more than 1,500 HEW staffers will be available for the investigation, including the 74-person HEW criminal investigations arm established in December. Former FBI agent John J. Walsh was named yesterday as the first director of that branch, the Office of Investigations.

Misuses of the system to be targeted include billing for services more expensive than those provided, gross overuse of services (known as "ping-ponging") and billing for nonauthorized services.

Those who treat large numbers of the medically indigent are to have their medical records audited and institutions are to be examined.

Irregularities have flourished because of weak management controls and inadequate deterrence, a HEW fact sheet said.

In addition to the investigatory teams, the department has set up a computerized management information system to help in claims processing. The computer is to ferret out abuses such as claims for unneeded hearing equipment and for home visits to patients who are hospitalized, spokesmen said. Five states are reportedly using the system and 28 others are expected to join it.

Massachusetts Lt. Gov. Thomas P. O'Neill III, who attended the news conference, said his state saved $366,000 of its $400 million annual Medicaid payments in the last 18 months with only two persons investigating fraud. He said 21 state investigators will be added this year.

Mathews said Ohio and Massachusetts will be joined by three other large Medicaid spending states in the next 12 months' Among such states are New York, Illinois, Pennsylvania, and Michigan.

He said some states have "aggressive" anti-abuse programs. California, New Jersey and Michigan monitor Medicaid so well that the federal government is adopting their techniques, he said.

JOHN J. WALSH HEADS NEW OFFICE OF INVESTIGATIONS OF HEW

John J. Walsh, 59, presently serving as a senior investigator for the U.S. Senate Permanent Subcommittee on Investigations, will head HEW's new Office of Investigations effective April 19, HEW Under Secretary Marjorie Lynch announced today.

The Office of Investigations was established December 5, 1975. Walsh, a former FBI agent, will direct a staff of 74 in the conduct of criminal investigations involving HEW programs.

Walsh will report directly to Under Secretary Lynch.

"Secretary Mathews announced at the time he established the Office of Investigations that he would conduct a nationwide search for a highly qualified individual to fill this position," the Under Secretary said. "John Walsh's achievements in highly sensitive, key posts in the investigative field make him the ideal selection for this vital role. He will join HEW as a career civil servant."

A native of Des Moines, Iowa, Walsh was graduated in 1940 from Southeastern University in Washington, D.C. with a degree in accounting.

As a senior investigator with the Senate Subcommittee on Investigations from 1963 to the present he supervised investigations and prepared cases for public hearings before the Subcommittee. From 1958 to 1963, Walsh served as the Administrator of Major Subcontracts with the Radio Corporation of America at Moorestown, New Jersey. Prior to that time he was Material Control Manager with the Bendix Corporation in Baltimore, Maryland.

As a Special Agent with the Federal Bureau of Investigation from 1940 to 1953, he performed various types of investigations including general criminal investigations, accounting investigations, espionage and internal security investigations. He served in the FBI Special Intelligence Service during World War II.

As Director of HEW's Office of Investigations, Walsh will serve as the principal advisor to the Under Secretary and the Secretary in the development and implementation of the Department's investigative activities.

He will have full authority to initiate investigations of alleged criminal fraud in any HEW activity to determine the scope and course of the inquiry or when to conclude the investigation. In exercising this authority, he may make inquiry into any program or administrative activity of the Department. In addition, Walsh will help the Under Secretary to develop and implement guidelines and policies for the prevention and detection of fraud in the administration of Department activities.

He will serve as the Department's liaison for matters involving investigations between HEW and other Federal departments and agencies, Congressional committees, and other executive and legislative organizations as well as state governments and various state agencies.

THE IRMA, COLONEL CODY'S PRIDE AND JOY

Mr. McGEE. Mr. President, my distinguished colleague CLIFF HANSEN would argue that the greatest party organized in Wyoming was his. But Zeke Scher of the Denver Post's Empire magazine, a publication well attuned to the history of Wyoming and Colorado, says the greatest party in Wyoming was held at Buffalo Bill Cody's Irma Motel in Cody, Wyo.

Scher's historical account of the Irma Hotel and Buffalo Bill Cody's role in its founding—warts and all—is a colorful mini-Western novel I know my colleagues will enjoy reading.

I would remind my good friends from Colorado, Senators HASKELL and HART, that while they have the body of Buffalo Bill, we still have his history and the Irma Hotel.

I ask unanimous consent that the article, "The Irma, Colonel Cody's Pride and Joy," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE IRMA: COLONEL CODY'S PRIDE AND JOY

(By Zeke Scher)

Wyoming's greatest party, according to old scouts who were there, took place on the night of Nov. 18, 1902, at the grand opening of the Irma Hotel in Cody, Wyo. The scene was described as brilliant with gaslight, fragrant with rare flowers and resonant with sweet music and the sweeter voices of fair women and merry children.

The host, Col. William Frederick Cody—Buffalo Bill himself—was in white tie and tails. Everybody else in northwestern Wyoming's Big Horn County—all 1,000 of them—was there for the big event.

Greenhouse flowers and an orchestra both came in by train from Lincoln, Neb. Some guests traveled much farther (one came from Boston, Mass.).

At age 56, Colonel Cody, who had just returned from Europe, was at a peak of popularity, a friend of presidents and royalty, the hero of countless dime novels, the star of Buffalo Bill's Wild West. The capital of his dream world, however, was "his" town and TE Ranch in the Shoshone River Valley.

Since 1895 he had plunged his money into the region generally known as the Big Horn Basin. It began with construction of the Cody Irrigation Canal by his Shoshone Land & Irrigation Co. to attract settlers. Millions of fans saw an ad in the Wild West show programs in which company president W. F. Cody offered homes for sale in Wyoming.

Associates of the president insisted on naming the townsite for him and in August 1896 a post office was established with Ed Goodman as postmaster (son of Cody's sister, Julia). The colonel moved cattle from his Scouts Rest Ranch at North Platte, Neb., to the TE southwest of the town of Cody (he left his wife Louisa there; it was a period of bitter squabbling).

He persuaded the Burlington Railroad to extend track to the town. With help from a friend in the White House (Theodore Roosevelt), a 50-mile road was built from Cody to create an east entrance to Yellowstone National Park and a huge dam was constructed on the Shoshone River west of town. His business interests were many, including newspapers and hunting resorts. He planned a Cody Military College and an International Academy of Rough Riders.

He envisioned tourism as a major industry, and he broke ground in the winter of 1901 for a big hotel to accommodate the visitors. So a party was arranged upon completion of The Irma, "Colonel Cody's New $80,000 Hotel," as it was advertised. He named it for his youngest daughter.

"Here all animosities were forgotten and the guests vied with each other in showing their appreciation for the host who has done more to bring this great section of the state to the front in a material, moral and social sense than any other one man," reported his Cody Enterprise four days after the party.

"Governors, ranchmen, military characters, frontiersmen, mayors and sheep herders crowded together in one jolly mass of humanity, bent on enjoying the great occasion to the utmost. Ladies in the most elaborate toilettes were everywhere, and the scene was one of the greatest animation."

Early in the evening, Mayor George T. Beck (a Cody partner) presented the colonel with "a magnificent solid silver loving cup . . . as a constant reminder of the esteem and appreciation entertained by his fellow citizens for the great frontiersman."

In response, Cody spoke "most interestingly" about his reasons for establishing the city and other developments that "will shortly make the Big Horn Basin the richest country in the West."

He said it all began in 1870 when he met Prof. Othniel Charles Marsh of Yale University on a fossil expedition to northern

Wyoming. The 24-year-old cowboy and scout was impressed by paleontologist Marsh's predictions of mineral wealth in the area. Cody said subsequent travels made him all the more impressed with the region.

Donning rimless spectacles to read a dedicatory speech, Cody concluded by thanking everyone and then added:

"Ladies and gentlemen, I have a surprise for you—one that is dearer to my heart than a thousand hotels, no matter how magnificent they may be. I desire to announce to you the engagement of my youngest daughter, Irma, to Lt. Clarence A. Scott of the United States Army."

Irma, then 19, was a bright spot in a generally unhappy married life for Buffalo Bill. He married Louisa Frederici in St. Louis, Mo., on March 6, 1866, a week after his 20th birthday.

His only son, Kit Carson Cody, died at 5 of scarlet fever. A daughter, Orra Maude, died at 11, and another daughter, Arta, died in 1905 at 38, leaving only Irma as a surviving child. The ex-Pony Express rider kept roving after marriage, and his wife's temperament didn't promote domestic tranquility.

But back to the happy evening of Nov. 18, 1902.

The Lincoln orchestra struck up a grand march and hundreds fell in line—some to the beautiful dining room, others to the spacious porch where dancing began (and continued to daylight). Dining tables were arranged in the form of the letters TE. Large ornamental stands were filled with bouquets of roses, carnations and chrysanthemums. Fern leaves and smilax were arranged in flat designs over the table cloths and also hung from any place they could be attached.

Buffalo Bill treated his guests to a "trail" dinner they talked about for years: Scalloped oysters, shrimp and tomato salads, roast turkey, boiled ham, sliced tongue, spring chicken, fresh fruit, sugared dates, nuts, cakes and raspberry and pineapple sherbet. And in case the exotic wasn't to their taste, the old scouts could fall back on the boiled antelope and roast elk.

The two-story building was heated by steam and lighted by gas and had "the best sewage system money could procure." Walls were covered with paintings and sketches of Western scenes. The office, billiard room, bar and dining room were furnished with velvet draperies and expensive furniture, and the bedrooms had an elegance "found in no other hostelry anywhere in this section of the West."

Probably the most interesting conversation piece—then and now— was the huge cherrywood backbar with ornate carvings including the head of a buffalo at the top center. For three generations the story has been passed on that the backbar was a gift from Queen Victoria in appreciation for Cody's command performance. Value of the backbar was placed at $100,000.

Dick Frost, the Cody expert at the Buffalo Bill Historical Center, says that Queen Victoria, a teetotaler, wasn't about to encourage boozing with a backbar. Frost says his research shows Cody ordered the backbar made in France and paid for it himself, about $5,000. Even without the British monarch's blessing, the backbar continues to a be a historic landmark in Cody.

The hotel, during Buffalo Bill's lifetime, was a financial loser—for good reason.

Three of his sisters were widows when The Irma opened—Helen, May and Julia—and they were among the non-paying semi-permanent guests. Three of Julia's children were living with her (two others were Ed the postmaster and Henry the TE cowboy). Some guests stayed on after the party, like a Boston writer who remained for a year.

Cody's daughter, Arta, recently widowed also, was there with her two children, Clara and William Cody Boal. In all, about two-thirds of the 20 rooms were occupied by freeloaders. And Buffalo Bill's sisters "agreed" that no gambling would be permitted on the premises. There was no way The Irma could break even, much less show a profit. One conservative estimate put the colonel's monthly loss at $500.

The day after the party, Buffalo Bill took a group of friends into the mountains for a two-week hunting trip marked more by poker than hunting. In early December he left The Irma in the charge of his relatives and headed back to Europe for a London show opening the night after Christmas. An extended European tour permitted him to visit home only briefly the next several years.

Louisa—most called her Lulu—wasn't at the big party; she wasn't invited. This was another period of bitter estrangement. It culminated in a 1905 divorce suit filed against her by Cody. Voluminous depositions carried charges and countercharges ranging from attempted murder to chronic drunkenness. The judge was convinced that, contrary to the dime novels, Buffalo Bill wasn't all good. The divorce suit was dismissed and Cody was ordered to pay $318 in court costs.

Cody always was generous with his relatives and the financial drain of The Irma was ignored as long as possible. When times got harder after 1910, he mortgaged the property. It remained in family ownership until he and Louisa died.

Irma was married in February 1903 to Lieutenant Stott. He died four years later of pneumonia, leaving no children. Irma joined her father for part of a European tour, returning in 1908 to marry Frederick H. Garlow at North Platte. Their two sons, Fred and Bill, provide Cody, Wyo., with a living link to Buffalo Bill in 1976. A daughter, Jane, resides in California.

The Garlows lived at Scouts Rest Ranch and all three children were born there—Jane in 1909, Fred in 1911 and Bill in 1913. A few months after Bill was born, the family moved to Cody and, naturally, into The Irma.

A building has been constructed behind the hotel to house employes. Few chose to live in the barracks-type conditions. So the Garlows fixed it up as a permanent home for them and later Louisa, too. Four years ago "the old Cody house," as townsfolk called it, was bought by dairyman Walter Gail and moved south of town for use as apartments.

Despite failing health, the colonel's financial problems—and his ego—pushed him through a season of performances at age 70. After his last show—at Portsmouth, Va., on Nov. 11, 1916—Cody returned West, stopping first in Denver. He was suffering from a bad cold when he arrived at his sister May's home at 2932 Lafayette St.

She tried to persuade him to see a doctor friend and rest in Denver. But he insisted on going on to Cody where friends planned a testimonial dinner at The Irma. He stayed only a short time with the family in Cody, returning to Denver to seek medical attention.

A trip to Glenwood Springs and its hot mineral waters didn't help. He collapsed there on Jan. 5, 1917, and was brought to Denver and May's house in critical condition. Shortly after noon on Jan. 11 he died with most of the immediate family present, including the Garlows and Louisa.

Controversy still surrounds the choice of Lookout Mountain west of Denver for Buffalo Bill's resting place. He had specified Cedar Mountain overlooking Cody in a will. But the hard times—and no financial assistance from people in Cody—dictated Denver's offer of a major ceremony and burial for free.

In a 1973 biography (*Buffalo Bill, The Noblest Whiteskin*), author John Burke wrote:

"His wishes were circumvented by Louisa Cody and Harry Tammen (co-founder of *The Denver Post* and a former business associate of Cody). The widow produced a later will, a brief document leaving his entire estate to her. It didn't mention a burial place. After conferring with Tammen, Louisa announced that he would be buried in a place and manner of *The Denver Post's* choosing.

"The report circulated that she was paid $10,000 by Tammen for the privilege of selecting the burial site; it was disbelieved only by those who could not imagine the tightfisted Tammen paying that much for anything."

Bill Hosokawa, *Denver Post* associate editor and author of a new history of the newspaper (*Thunder in the Rockies*), also wrote on the matter:

"Among the legends attached to this chapter of history is a story that Tammen and (co-founder Frederick G.) Bonfils gave Louisa Cody $10,000 to agree to her husband's burial on Lookout Mountain. Fred Garlow says he is positive no such offer was made and no payment received.

"Those who knew Bonfils and Tammen well would be inclined to agree. The *Post* was prospering in 1917, but such largesse was completely out of character for its proprietors."

Fred Garlow told me: "I don't believe a damn word of it. I remember when the story first came up after the funeral, Louisa was furious over the report. Denver paid all the expenses of the funeral and that's all."

The Irma is still headquarters for contemporaries of Buffalo Bill, and two of them—Vern Spencer and Simon Snyder—support Garlow's position. Born in Telluride, Colo., in 1899, Spencer was brought to Cody in 1902 when his father, Isaac Clayton Spencer, was hired to do interior work on The Irma. The father settled in Cody, got a house a block from the hotel and during tourist season ran a shooting gallery.

Young Vern worked as a bellhop at The Irma, but preferred shooting—at pa's gallery or anywhere else. He and Buffalo Bill would go to the edge of town to pick off prairie dogs.

"There were millions of 'em out there," says Spencer. "The colonel said I was the best shot in the world. He said I was better than Annie Oakley. I could hit pennies tossed in the air. The colonel was awfully good to me."

After Cody's death, Spencer continued working at The Irma for Louisa.

"Mrs. Cody was the saddest looking woman I ever saw. I never got her to smile. I thought the world of her. And I don't think she got anything for burying the colonel in Denver. She wasn't that kind of person."

Spencer can't hit pennies in the air anymore because he can't see them. At 77 his eyesight is gone.

Inside The Irma on a corridor just off the bar, a small sign hangs over an old upholstered chair: "Office of Simon Snyder, Retired." The executive here is an old wrangler once called Shanks. Snyder was 91 on Jan. 4. He was a young man at the turn of the century when drought drove him from his native Benkelman, Neb., and to the South Fork of the Shoshone near Cody. He had been a farmer in Nebraska and that's what he intended to do on his homestead.

But he took a temporary job: Cowboy on Buffalo Bill's TE Ranch.

Snyder says that Buffalo Bill liked whiskey, and it was Reckless Davis' job to take care of him when he had too much, "which was pretty often." He describes Cody as "very congenial when he was drinking, not like Badland Jack or Two-Dog Johnson or Hoolie what's-his-name."

Snyder ranched, handled dudes and raised horses and cattle for the Army for 50 years before moving into town. His daughter, son or one of his eight grandchildren provide daily transportation to and from his Irma "office."

As for the possible $10,000 payoff to Mrs. Cody, Snyder says his logic tells him it wasn't so "because if it was, I'd'a known about it."

In October 1918, the year after Buffalo Bill's death, Irma and husband Fred Garlow were stricken in the flu epidemic. Louisa nursed her daughter and son-in-law, but the young couple died three days apart—Oct. 12 and 15, 1918, according to the family Bible possessed by son Fred.

A double funeral was held at Cody, and Vern Spencer recalls it was "a sad thing." Louisa adopted the three Garlow children and continued operating The Irma. She died Oct. 21, 1921, and an aunt, Mrs. Geneva Garlow Walliker (sister of Fred Garlow), moved from Billings, Mont., into the house behind the hotel and became guardian of the orphans.

The hotel was sold out of Louisa's estate to H. T. (Kid) Newell and his wife, Pearl (Mother) Newell. They operated it for 40 years. Mike Coley ran it for nine years—until 19—when he suggested to a comparative newcomer to town, Robert E. Dohse, that "you ought to run To Irma."

Why? There were some reasons.

Dohse (pronounced dough-see) had a lot in common with Buffalo Bill. They were born in Iowa (Sioux City for Dohse, LeClaire for Cody). They were travelers (Dohse did it—years as a Navy chief warrant officer) and they were cowboys (ranching brought Dohse to Wyoming in 1958).

Both were promoters, developers and showmen (Dohse's credit around Cody include Four Winds Supper Club, Wapiti Valley Inn, Eagle Valley Guest Ranch and The Green Gables Inn). And both had marital troubles because of their life-styles.

"She wouldn't live in Wyoming and I wouldn't leave," Dohse says referring to his divorce after—years of marriage.

Unlike Buffalo Bill, Dohse is a good businessman. So why would he be interested in a 74-year-old hotel. He's still a sentimentalist, like Buffalo Bill.

"When I came to Cody I was attracted to The Irma because of its age, character and historic significance," says Dohse. "I liked it as a landmark, and I was interested in buying it in early 1960 but I didn't have the right opportunity."

At that time he envisioned extending The Irma porch to the sidewalk and displaying his collection of old saddles around the hotel corner.

The population of Cody is more than 5,000, five times when The Irma opened, and that figure multiplied during the tourist season. In recent years many new motels have opened, some making up a "strip" west of town. The Irma has competition.

But when Coley offered The Irma to Dohse, he was receptive enough to check with Cody accountant Oliver Dawson. "Can I buy The Irma for what Coley wants and make it pay?" Coley wanted $425,000. Dawson replied, "Yes."

"I told him to draw up the papers, and I went hunting for two weeks," says Dohse.

That was November 1971. Dohse started scrounging old fixtures and period furnishings to remodel all Irma guest rooms into suites in the Victorian style that even Buffalo Bill would have envied. The 20 rooms of the 1902 hotel were made into 15 colorful, different suites.

Dohse reviewed his Wyoming history (Cody's Park County was chopped out of Big Horn County in 1909) and picked 15 appropriate names for the suites—The Vern Spencer, The Simon Snyder, The Colonel Cody and The Buffalo Bill. Others, worth a separate story each, are The Ned Frost, Jake Schwoob, Phonograph Jones, Jimmy Tuff, Max Wilde, Henry Dahlem, Paul Stock, Frank Blackburn, Caroline Lockhart and Agnes Chamberlin.

A fabulous silver saddle in Dohse's collection has been turned into the central feature of a new Irma cocktail lounge. How Dohse got the 70-pound saddle, valued at $10,000 and not for sale, is as strange as any other tale around Cody.

When Dohse opened a gift shop at Green Gables Inn in 1965, he was collecting saddles and met an Indian trader living in Colorado Springs named Lee Trimble. The trader described a silver saddle he had, reportedly made in 1921 for a Louisville, Ky., woman for $4,500—a full-sized saddle with all trimming in silver.

In mid-summer 1969, Trimble, who was ailing and whose wife had recently died, telephoned Dohse from Colorado Springs:

"I want you to have that silver saddle," he said.

"I can't afford it," Dohse replied.

"If you will pay my cab fare up there and back, you can have it—and you can't afford to turn that down," Trimble said.

"Call the cab," said Dohse.

Trimble arrived several days later, delivered the saddle, relaxed a few days in Cody and went back to Colorado. He died six months later.

Dohse has constructed a glass-windowed "safe" for the saddle. Spectators can see it at the Silver Saddle Lounge of The Irma—through iron bars.

Dohse remarried eight years ago; his wife, Ruth, is from Burlington, just east of Cody. She is "wagon boss" at Green Gables, competing directly with the restaurant at The Irma. Green Gables is one of the busiest places in Cody (even Bob Dohse eats there . . . sometimes).

A few blocks away in the huge Buffalo Bill Historical Center museum is encased an old gold engraved invitation "requesting your presence" at Buffalo Bill's party for The Irma opening. The town still dates its history from construction of the hotel. Two of the center's prized sketches were made there by Frederic Remington.

One sketch was entitled *Irma going to the Irma* which is self-explanatory. The other was entitled *Big things in life*. It shows a read-end view of Remington himself dancing with Irma Cody. A fair description is that both dancers are healthily plump.

As was noted earlier, everybody was at the greatest party Wyoming ever had.

FOREIGN INTELLIGENCE SURVEILLANCE

Mr. HUGH SCOTT. Mr. President, last week Senator KENNEDY, for myself and six other Senators, introduced the Foreign Intelligence Surveillance Act of 1976, S. 3197, with bipartisan support and an accompanying message of approval from the administration. In my view, this bill reconciles the often competing needs of the collection of foreign intelligence data for national security purposes and the protection of our citizens from impermissable electronic intrusion by government in their private conversations and communications. The Foreign Intelligence Surveillance Act of 1976 reflects the balanced and reasonable administration position on this issue and is the fulfillment of an earlier administration promise to work with Congress to define more clearly broad areas of Presidential prerogatives in national security data collection. While reserving my right to advance perfecting amendments, I wish to announce my support of this historic effort to establish alternate avenues of protection for both the private and the national interest.

Past abuses are all too fresh in our memories for anyone to suggest seriously that this bill is a spurious or an unwarranted legislative encroachment of Presidential power in the area of national security. While it is altogether proper that Congress advance appropriate measures to insure the most vigorous protection of the privacy of our citizens, those past improprieties should not lead us to move overzealously into issues with such conspicuous constitutional dimensions.

It is for precisely this reason that I favor this legislative initiative which provides for a compatible and complimentary Government policy on all electronic surveillance. This legislation is compatible with present policy in that it merely extends the vehicle for court-approved wiretaps to foreign agents, and complimentary in that it provides for the protection of privacy in areas of foreign intelligence now procedurally advanced in domestic intelligence. The Foreign Intelligence Surveillance Act does not disarm the President or prevent his expeditious action in areas of national security, nor does it attempt to define the full breath of his constitutional privilege. It does, however, offer procedural safeguards to prevent indiscriminate and unjustifiable invasion of the privacy of our citizens.

Mr. President, I wish to commend all parties for their constructive cooperation in this important area. I also wish to express my hope that some mutually agreeable and constitutionally sound legislation will be forthcoming shortly.

INTERGOVERNMENTAL PERSONNEL ACT GRANTS A REVIEW

Mr. MUSKIE. Mr. President, a panel of the National Academy of Public Administration recently completed a 7-month evaluation of the Intergovernmental Personnel Act grant program. In issuing 26 specific recommendations about the future size and thrust of this program, the panel has provided Congress, the Civil Service Commission whose Bureau of Intergovernmental personnel programs administers IPA grants, and the Office of Management and Budget with much food for thought. I ask unanimous consent that the report's introduction and a summary of its recommendations be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I do not agree with all of the recommendations. I take particular issue with the panel's conclusion that "it would be a serious mistake to award grants to public employee organizations for training in adversarial collective bargaining." The Subcommittee on Intergovernmental Relations has completed action on amendments to the Intergovernmental Personnel Act. Among other things, they would permit the Civil Service Commission to award grants to employee organizations for training programs in collective bargaining if the applications for such training programs have the specific approval of appropriate chief executive officers of States or local jurisdictions. The House of Representatives has already adopted a related, though not identical, amendment, and I hope the Government Operations Committee will act on the Senate bill later this spring.

Nevertheless, I was pleased that the panel awarded generally high marks to the IPA grant program, and I was encouraged by the overall thrust of its recommendations. I call special attention to the panel's recommendation that fiscal year 1977 IPA appropriations be increased to between $20 and $25 million. The President's budget request calls for $10 million for the IPA program, a $5 million cut from this year. I am convinced that the $10 million figure is too low, both in terms of current needs as well as the program's proven success.

Another recommendation which particularly interests me concerns the important question of capacity building at the State and local level. A majority of the panel recommended that the IPA be amended to "replace its primary focus on personnel administration with the central objective of strengthening the general management capacity of State and local governments." This is an issue to which all of us interested in the future of IPA should begin to address themselves.

Exhibit 1

Improving Personnel Management in State and Local Government

INTRODUCTION

In August 1975, the National Academy of Public Administration agreed to convene a panel to examine the Intergovernmental Personnel Act grant program administered by the U.S. Civil Service Commission and to recommend any change that might be desirable in its administration, objectives, policies, and funding, and its relationship to other federal grant programs. (The portions of the act that are concerned with technical assistance to state and local governments and with the mobility or temporary assignment of personnel between federal, state, and local governments were excluded from the panel's charge.) The following report presents the panel's conclusions and recommendations.

The full panel met on five occasions for a total of 11 days; subgroups met on three other occasions. Six members undertook interviews with over 30 state and local officials, regional Commission staff, and knowledgeable observers in a dozen states. The panel discussed the IPA program with Commission Chairman Robert E. Hampton; Executive Director Raymond Jacobson; Deputy Executive Director Edward A. Dunton; staff of the Office of Management and Budget; and spokesmen for the National Association of Counties, the National League of Cities, and the International City Management Association. At a special meeting in December, three panel members and representatives of 11 federal agencies administering or monitoring grants to state and local governments discussed the problems these governments encounter in managing federal funds. At a panel meeting held in Anaheim, California, to coincide with the annual meeting of the International Personnel Management Association, the panel was briefed by designees and representatives of IPA programs in 13 states, and members were able to discuss the program informally with other state and local officials and personnel directors. Staff participated in four regional conferences of consultants and state coordinators convened by the Commission's Chicago, Philadelphia, New York, and Boston offices to discuss the findings of the Commission's summer 1975 evaluation of some 384 IPA projects. Findings of this summer evaluation are referred to frequently in this report. The panel's comments on the methodology employed and suggestions for additional analyses have been conveyed to the Commission in a separate paper. Panel members and staff received a great deal of information and assistance from the headquarters and regional staff of the Bureau of Intergovernmental Personnel Programs, which is responsible for administering the IPA program. The panel wishes, in particular, to thank the Bureau's Director Joseph M. Robertson and Allan D. Heuerman and Nancy Kingsbury of the Bureau staff for their helpfulness.

As the findings of the Commission's summer evaluation of IPA projects and numerous other program evaluations, reports, and statistics were made available to the panel, no effort was made to distribute additional questionnaires, to undertake independent research into the effects or effectiveness of IPA grants, or to duplicate the emphasis of preceding studies. Thus, the present report draws upon available information, individual inquiries, and the panel's collective judgment and experience to present the panel's conclusions and recommendations about the future goals and administration of the IPA program.

The panel was assisted in its work by several consultants. Frank H. Trinkl and Gerald I. Weber of Berkeley, and John E. Keller of Walnut Creek, California, provided technical advice on the evaluation of the IPA program; Leigh E. Grosenick of Virginia Commonwealth University helped to arrange the panel's Anaheim interviews with state IPA representatives and to prepare draft material for an interim report; Enid Beaumont of New York University helped to draft portions of the final report. Harold Orlans of the Academy staff served as project director. The members of the panel, listed on the following page, take responsibility for the report's content and recommendations. The Academy is indebted to them for the time and thought they have devoted to this work.

Roy W. Crawley,
Executive Director, National Academy of Public Administration.

Members of the Panel for the Review of the IPA Grant Program

Dea Henry Cohen, Center for New York City Affairs, New York School for Social Research, New York, N.Y.

Mr. William G. Colman, Consultant, Government Affairs and Federal-State-Local Relations, Potomac, Maryland.

Dr. Martha Derthick, Senior Fellow, The Brookings Institution, Washington, D.C.

Professor William O. Farber, Department of Government, University of South Dakota, Vermillion, South Dakota.

Mr. Larry Margolis, Executive Director, Citizens Conference on State Legislatures, Englewood. Colorado.

Dr. Selma Mushkin (Chairman), Director, Public Services Laboratory, Georgetown University, Washington, D.C.

Mr. Neal R. Peirce, Contributing Editor, National Journal, Washington, D.C.

Mr. Donald Cleveland, Executive Director, Iowa State Association of Counties, Des Moines, Iowa, served as a member of the panel from September 1975 through mid-February 1976, when he resigned to avoid a conflict of interest upon the receipt by the Iowa State Association of Counties of an IPA grant. Before leaving the panel, Mr. Cleveland concurred with the views presented in this report.

Summary of Recommendations

PROGRAM ADMINISTRATION

1. The IPA grant program is administered with an understanding of and responsiveness to the widely diverse conditions and needs of the states and localities that is highly unusual in federal grant programs. The Office of Management and Budget and administrators of similar grant programs should examine this aspect of the IPA experience to see what lessons may be derived from it that are applicable to their programs.

2. The Commission should adopt, and urge upon the states for their adoption, simplified preapplication procedures to lessen time and paperwork. Preapplication consultation should be encouraged, especially for jurisdictions with a record of previous rejections, to reduce the frustrations involved in repeated, fruitless applications. The Commission should urge that formal legislative and executive approvals by local governments be obtained only for those proposals with a high likelihood of funding. Simplified application and reporting procedures should be developed for: (a) small projects and (b) projects administered by jurisdictions of previously demonstrated competence.

3. The practice in some regional offices of providing technical and training assistance to state and local governments to be reimbursed out of IPA grant awards should be discontinued.

4. Every effort should be made to keep the IPA staff as lean as possible, consistent with the new leadership roles proposed in this report.

5. The statute should be amended to authorize the Commission to vary the ratio of matching from one-fourth or less federal funds to a maximum of three-fourths federal funds, depending on the nature of the projects.

6. In the view of a majority of panel members, the IPA appropriation for fiscal year 1977 should be raised to between $20 and $25 million.

7. Machinery for the allocation of IPA funds reserved for a state's localities should be developed jointly by the governor and eligible local governments or their representatives.

PROGRAM EMPHASIS AND DIRECTION

The panel concludes that the IPA program should: (a) encompass a significant demonstration component; (b) place more emphasis on the dissemination to, and utilization of project results by, other jurisdictions; and (c) be broadened by statute to embrace "general" management as well as personnel management.*

Demonstration projects and the dissemination of results

8. A portion of IPA resources should be utilized for explicit demonstrations to promote the best new personnel and management practices; to help state and local governments deal with the new realities of collective bargaining, financial stress, and public accountability; and to help them develop the capacity and the flexibility to respond effectively to new and continuing problems. The ultimate goal of the demonstrations should be to help states and localities utilize better the $60 billion they now receive in federal grants and the $160 billion obtained from their own revenue sources.

9. IPA staff should exercise increased initiative, both in Washington and the field, in: (a) consulting with the administrators of large federal categorical grant programs to identify those personnel and management problems in state and local government that appear to be impeding effective program planning and administration; and (b) fashioning IPA programs and procedures in such a way as to be most helpful to state and local officials in dealing with these problems.

10. IPA staff should assume a more active role in providing consultative assistance to

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*Martha Derthick and William Farber do not concur with this last conclusion.

states and localities in assessing their management needs and in developing projects likely to meet them; such projects could be financed either from national discretionary funds or from the state-local allocation.

11. In general, the focus of demonstrations should not be on the intricacies and detailed procedures of personnel management, but instead on the public products and consequences of personnel systems, i.e., the resultant character, quality, and cost of public services and the responsiveness of government personnel to the citizenry and to changing conditions. To encourage such projects, the Commission should make available examples of successful measures taken by various jurisdictions to improve the productivity of employees including top managers, the quality of public services, and the responsiveness of public officials.

12. IPA staff in Washington and the regions should make a concerted effort to use discretionary grants to fund demonstration projects that promise significant progress in dealing with critical managerial and personnel problems of the states and localities. Contrariwise, scarce discretionary funds should not be used for routine purposes.

13. The Commission should adopt a policy that no project will normally be funded for more than three years. IPA should emphasize innovation, demonstration, and the stimulation of personnel and management improvements, rather than the permanent support of ongoing activities.

14. The policy of emphasizing projects involving groups and consortia of governments rather than single jurisdictions is sound and should be continued and strengthened; multi-state projects involving close cooperation among state officials with similar duties—such as the Midwest Intergovernmental Personnel Council—should also be encouraged.

15. The Commission should identify significant developments of wider applicability and bring them to the attention of other jurisdictions by special communications, consultations, conferences, and, when appropriate, the use of discretionary grants.

16. Information about projects that are of special public significance should be disseminated by special publications which should be: (a) issued only when warranted, (b) prepared with special care and authority, (c) confined to a management problem of special importance, (d) directed to a defined audience, and (e) calculated to receive special attention.

17. IPA projects should include joint labor-management training in improving productivity and the quality of employee work life. The act should be amended to make leaders of organizations representing employees eligible to participate in this training, and IPA should be receptive to university, government, or joint government-union projects in these fields. Applications should be subject to review, but not necessarily to approval, by state and local chief executives. However, it would be a serious mistake to award grants to public employee organizations for training in adversarial collective bargaining.

EXTENSION TO GENERAL MANAGEMENT

18. The Commission should: (a) expand contact and consultation with general, as well as personnel, managers in defining and implementing the varied purposes and uses of IPA grants; (b) use IPA training funds to strengthen the skills and capabilities of central management and policy officials in state and local government; and (c) give increased emphasis to training and technical assistance to legislators and other elected officials and their staffs.

19. The Intergovernmental Personnel Act should be amended to replace its present primary focus on personnel administration with the central objective of strengthening the general management capacity of state and local governments.*

20. A committee should be established to advise the Bureau of Intergovernmental Personnel Programs on the formulation, administration, implementation, and evaluation of the IPA program and its broadened application as recommended in this report; its members should be officials of or authorities on local, state, and federal government, employee organizations, public and personnel management, and program evaluation.

21. The Commission should prepare a periodic (perhaps a biennial) comprehensive report on the status of public manpower.

22. The Office of Management and Budget or the Commission, with the participation of other appropriate agencies, should arrange for (a) the conduct of studies and reports to identify the strengths and weaknesses of state and local government management that enhance or handicap their effective use of federal funds; and (b) the issuance of a handbook identifying the federal programs that can be used by states and localities to improve their management capacities, including information about the amount and kinds of assistance available for such purposes.

23. The Executive Office of the President, through the Office of Management and Budget and other appropriate means, should demonstrate greater interest in, and exercise increased oversight and coordination of, the various federal programs for the improvement of central management capabilities of state and local governments. There is a clear need to reduce the overlap and to delineate respective responsibilities among these programs through the initiation of appropriate budget directives, executive orders, and statutory changes.

PROGRAM EVALUATION

24. Though continued planning for future IPA evaluation is needed, comprehensive or repetitive field studies should be deferred for two years.

25. Future IPA evaluation activity should comprise separate, selected inquiries into comparable projects and activities, alternating at four to five year intervals with a comprehensive evaluation of the entire program.

26. Evaluation expenditures should be commensurate with the size of the IPA program, staff resources of the Bureau of Intergovernmental Personnel Programs and recipient jurisdictions, and the probable utility of findings. A reasonable evaluation budget, on an annual average, might be 2 percent of the first $15 million plus 1 percent of additional appropriations.

PATRIOTISM: THE BEDROCK OF LIBERTY

Mr. GOLDWATER. Mr. President, on Tuesday night of this week it was my honor to appear before the Fairfax-Lee Chapter of the Association of the U.S. Army. This gave me an excellent opportunity to discuss a matter that has been bothering me and I imagine bothering many people for years. In a broad sense the subject is whether or not this country has the will to stand up to its rightful place in the world. I ask unanimous consent that this speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR GOLDWATER

You are not embarrassed to be called patriots. You are not afraid to say that you love your country. You are not ashamed to offer yourselves to protect and defend this nation.

You have fought for America, and you are ready to sacrifice your time and your energies again to preserve freedom.

Such men and women are out of style in some circles in America today. Love of our country is cynically viewed as old-fashioned. It is disdained as unworthy of intellectuals who have been educated in today's advanced universities. Detractors of patriotism have forgotten our history. Their opinions are based on a smug conviction of their advanced state over their unsophisticated ancestors.

This attitude shows a tragic arrogance without value—an arrogance of ignorance, even of stupidity.

Then there are those who feel the free enterprise system has wronged them. They want to reorder the structure of our society, with themselves as the Robin Hoods who take from the rich in order to give to the poor.

It is said that good judgment comes from experience, and experience comes from bad judgment.

In my mind, those who downgrade devotion to our country are surely undergoing a dangerous experience based on bad judgment.

We live in a country—and a world—of ordinary human beings—the same sort of men and women who lived here 200 years ago. Humanity has not changed all that much despite the fact that we are alive, and they are dead.

Our colonial forefathers, many of them, were highly educated for their time. Among them were the brilliant as well as the dull, the kind and the cruel, the thoughtful and the thoughtless, the generous and the selfish, the brave and the fainthearted, the devoted and the uncaring.

These were the men who devised the Constitution of the United States. That document came not entirely from their brilliance, but from their conflicts. They argued constantly with one another, and made concessions because failure to agree would end their dreams of a country where liberty was paramount.

Probably not one of the signers would agree with everything in the Constitution.

Yet that document turned out to be the miracle pilot for self-government—greater even than the Magna Carta.

It is that Constitution that has enabled the native born and the immigrants to build the United States into the greatest country on Earth, and to keep us free. We are a great people, but we have the same frailties of mankind that destroyed the hopes of other peoples in past centuries.

The Constitution *is* the United States of America.

Underlying every phrase is a determination to achieve freedom, especially from Government. The people of the new nation were so apprehensive of the kind of oppressive government they had experienced from England, and which existed in Europe, that every compromise still rejected any danger of overpowering central authority.

Perhaps freedom wasn't everything to them, but they believed deeply that without freedom, all else was nothing.

Through our Constitution, this Nation quickly became the hallmark of freedom throughout the world. In our Bicentennial Year, it still is.

I cannot say forcefully enough, or loud enough, or often enough, that without our country, under its constitution, there is little hope for the future of free men anywhere.

Patriotism, then, is not a childish belief of the unsophisticated. Or an archaic attribute only useful two centuries ago.

Today, patriotism is still the bedrock of liberty.

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* Martha Derthick and William Farber do not agree with this recommendation.

That is why I am sick and tired of those who downgrade our country.

Sick and tired of those who are afraid to take risks for freedom.

Sick and tired of those weak-kneed people who would bow to slavery through ignorance, through their arrogance, or through their fear.

We have our faults. Still, we are the best governed nation on the globe. As a people, we still have the final word—as lackadaisical as we are about speaking it.

We have the most freedom—as careless as we are about giving it up to an ever-growing government.

Nearly 150 years ago, a famous Frenchman—Alexis de Tocqueville—traveled in the United States, and wrote his famous classic, *Democracy in America*. He pointed out the weaknesses in our fabric. But he also drew this fundamental conclusion:

"No political form has hitherto been discovered that is equally favorable to the prosperity and development of all the classes into which society is divided."

From another spectrum of society, in our time, came a similar conclusion.

Eldridge Cleaver, the black panther leader who hated our democratic system, fled our shores in 1968 to escape criminal prosecution. After spending seven years in radical circles in Europe and leftist Algeria, Cleaver returned last year to stand trial. His experience changed his mind. Cleaver urged the United States to have a military force sufficient to awe Soviet Russia. He told Americans that life in the United States may seem hard to some at times. But life here is a "helluva lot better" than in any other country he knows about.

Not exactly the splendid prose of De Tocqueville, of course. But Cleaver learned the lessons some of our fellow Americans should learn.

Another rudimentary testimonial to the United States comes from the number of illegal aliens in this country. I have seen estimates as high as ten or eleven million men and women who have slipped over our borders in an anguished effort to find freedom and opportunity among us. They give us a grave problem that we don't quite know how to handle. But underlying our immigration problem is their testimonial to the hallowed borders of hope and liberty in America.

Elsewhere in the world, freedom has declined. India became independent with great idealism and hope after World War II; now its government has become oppressive. The British economy is faltering as class fights class. Italy is tottering, and inclining toward Communism. Half of Germany, and all of Eastern Europe disappeared behind the Iron Curtain. Lebanon is suicidal. The once promising new African nations quickly found democracy and freedom unacceptable to their leaders.

Here in America we still are free.

The tragedy of Watergate unleased a diarrhea of investigations and self-flagellation that are the wonder of an astonished world. Our enemies in Communist nations are gloating over the revelations. Our friends who know they depend upon us for their freedom must be horrified at what seems to be our passion to self-destruct.

Yet Watergate, illegal wiretapping, political bribery, influence peddling, and other lesser and major scandals do not signal the deterioration of America. Instaed, their exposure reinforces the magnificence of our constitutional system.

These transgressions signify that we are still humans, subject to greed and dishonesty as well as generosity and truth. The checks and balances of the Constitution still are essential.

Our education, our advancement in science and technology, and our trips to the moon have not altered the need for the principles as well as the cautions that our forefathers gave us.

Love of country is not obsolete. It is as vital as ever. We need the dedication to liberty, the fear of oppressive government, and the patriotism that gives us the urgent desire to sacrifice to protect the United States.

Instead of whipsawing our system because of the spate of upheavals, we should recognize that our constitution has kept us going in the right direction, even though the course may waiver from time to time.

The system is working.

I am not disheartened. I may be irritated with some of my colleagues, at other doomsayers in the press, and a handful of the social reformers who see so clearly the way to heaven on earth. But I am confident in America.

We need to recall our history accurately and vividly. In this bicentennial year, we should try to recreate in our hearts and minds the sense of oppression that existed two centuries ago. We must perceive the intensity as well as the reasons that the Franklins, Washingtons, Jeffersons, Madisons and the others put together the constitution.

Few today realize that these men rejected many of the schemes that have been increasingly in vogue during the past 40 years. Madison proposed to the Philadelphia convention the Federal chartering of corporations, a scheme touted today by Ralph Nader.

From Randolph, Morris, Hamilton, and even Franklin came suggestions to give the new government broad powers over the economy and the people. In England and France two hundred years ago, authoritarian practices were common, and were debated in the constitutional convention nearly 190 years ago. Common in those times was government price fixing, limitations on wages and interest rates, regulation of the quality of goods, licensing of labor, granting of monopolies, government operated enterprises, and even controls of personal extravagance and waste.

All were rejected. Many of these 18th century practices have returned as modern solutions to ageless human problems. They are being discovered among the ivy of our great universities, and have emerged upon us as the new deal, fair deal, new frontier, great society, and even the new Federalism.

Facing us in the Congress are such rectifying miracles as central government economic planning, Federal land use laws, and Federal consumer agencies to police consumer agencies.

Through the patriotism of men and women such as you, the trend in America seems to be turning toward freedom. I see encouraging signs in the Congress, in the executive branch, and in the Supreme Court. Government regulation is beginning to be on the defensive. Politicians are campaigning against the large and powerful bureaucracy. Even the liberals are calling for decentralization.

With the wonder of mass communications, we have permitted a multitude of special interests to twist our legislators around their fingers. Groups have located the throttle on the politician—his fear of an aroused special interest group unbalanced by the attention of his constituents.

Rather than seeking the common good, many of us have sought special favors or special legislation—for consumers, the military, the environment, our business and social interests, our states, our cities, or for whatever particular bent we have. For our efforts, we have taxpayers providing subsidies for the arts for art lovers, public television for those who don't like commercial programs, housing for the construction industry, minimum wages for the unions, banking for bankers, shipping for shippers, and a host of other special pleaders who ought to make it on their own.

Our constitution was not framed to subsidize special segments of society. It was designed to enable a free people to create a democratic system hampered as little as possible by government, and to defend it from within and from without.

The real test of laws is what they do to promote freedom.

That means my country—not Arizona, the economy, the military, the environment, or birds.

With prophetic vision, Patrick Henry declared on the eve of the revolution:

"I am not a Virginian, but an American."

If we echo Patrick Henry's patriotic sentiment today, our country and freedom will remain on this Earth.

FORTY-SIX THOUSAND HOURS OF VOLUNTEER TIME

Mr. CHURCH. Mr. President, one of the major benefits arising from Federal efforts on behalf of older Americans has been a surge in volunteer activity associated with those programs.

Volunteers, for example, are making important contributions to the success of the title VII program under the Older Americans Act, often as members of the RSVP—retired senior volunteer program. Volunteers in senior centers throughout the Nation are busy at a multitude of tasks. In addition, many older persons simply pitch in wherever they see a need.

It is refreshing—at a time when so many Federal programs become tangled in paperwork and in the building of bureaucracies—to see individual initiative at work, with satisfying results.

One of the most vivid descriptions of an involved older person ran recently in the Idaho Statesman. It tells how a Mr. John McDonald of Twin Falls helps other people and derives genuine and lasting pleasure from his tasks. Some idea of the value of this activity is provided in the same article by the estimate that approximately 46,000 hours of volunteer community service will be donated by Magic Valley seniors in the year ending this May 1.

I commend Mr. McDonald and all his associates, not only in Idaho but throughout our Nation. I ask unanimous consent to have the Statesman article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Mac" Enjoys Helping Elderly; At 76, There Is Plenty to Do

(By Annette Jenkins)

Twin Falls.—If John McDonald's mood ring is any indication of his inner feelings, he thoroughly enjoys being a senior citizen and helping others.

His ring, which he says he is never without, was a deep warm blue this week as he helped elderly persons with chores, delivered hot meals to them and made small talk.

Being a senior citizen isn't as bad as it might have seemed just five years ago. Federal and state legislation has provided funds for programs to occupy the aged and keep them productive and active citizens.

"Mac," as he prefers to be called, said, "They didn't have anything like this when my father was my age. It is sure too bad they didn't do it sooner." Mac just turned 76.

He said before retiring from the glass manufacturing industry in California he had little time for community service.

When asked if he is busy now he replied. "It's worse than ever." The smile indicates "worse" actually means "better than ever."

He does odd jobs around the Twin Falls Senior Citizen Center—repair and maintenance and even washes dishes sometimes. Each day he delivers about 25 meals to elderly persons, some of them shut-ins and stops to chat. For some it is the only visitor they see in days.

On Friday Frances Osborn had to show him her blossoming hyacinth; another woman, barely managed to edge her walker to the door to ask about his health, and still another wanted to talk about his life in Canada.

Last week Mac drove Senior citizens to the Magic Valley Country Music Association concert at the College of Southern Idaho and was up until midnight taking them home.

He was active in securing the house where the Twin Falls Senior Citizen Center is located and his most recent project has been the production of a Bicentennial play.

"It will be ready in a month or six weeks and then we will tour around at the various senior citizen centers and try to raise a little money putting it on," he said. Mac modestly said, "I just suggested it and kind of got it going."

Some of the benefits of being a senior citizen in the Magic Valley area include half-price rates at a local bowling alley. There are more than 100 senior bowlers up to the age of 90 and they will host the U.S. Senior Olympic Bowling in Twin Falls June 5–6. Hundreds of bowlers are expected from throughout the country.

Other benefits include "gold cards" offered at CSI, which allow holders to attend all college events at student rates. They can also enroll at classes there tuition free. More than 1,000 cards have been issued. Many other special events offer discount rates to those over 60.

Each of the 10 senior citizen centers in Magic Valley has its own realm of activities and the seniors determine them. They include dances, music by old-time fiddlers, special lunches, card and bingo playing, teaching quilting and arts and crafts and trips and tours.

Some have scheduled chartered bus trips to Disneyland. The Twin Falls group charters a bus to visit Jackpot, Nev., about once a month.

Nearly every center has some form of transportation, usually a van, to hold shopping tours about once a week. Transportation is one of the major problems of the aged.

Volunteer work in the Retired Senior Volunteer Program (RSVP) is a part of the lives of many of the elderly like McDonald. Chris Peterson, area RSVP director, said there are any number of activities where senior citizen experience and expertise is needed.

Many visit nursing homes, assist in blood pressure and similar medical clinics, transport elders to doctor's offices, teach quilting to young girls, assist with carpentry and remodeling of civic buildings, and provide telephone reassurance for shut-ins.

Peterson said about 46,000 hours of volunteer community service will be donated by the Magic Valley seniors during the period from May 1, 1975, to April 30, 1976. The volunteer can work on a short-term project of less than three months or a long term one and the schedules are fitted to the volunteer's own time and abilities.

McDonald said, "I really haven't had any trouble with retirement, but some people do. I have plenty to do." He said helping the less fortunate elderly makes him appreciate his own good health. "Any way I can help these people is a pleasure to me," he said.

HOW THE DAVIS-BACON ACT HURTS OUR ECONOMY

Mr. FANNIN. Mr. President, for years I have been urging the Congress to repeal the Davis-Bacon Act. In my opinion, by requiring prevailing, that is, union scale, wage rates on Federal construction projects, the law is hurting our economy, especially the ailing construction industry. It is creating vast unemployment, particularly in the building trades.

For my own part, I have introduced and supported legislation in every Congress since my election to the Senate. Last year I was pleased to sponsor S. 276 to repeal the Davis-Bacon Act. Support for change in the law is widespread. Such respected economists as the liberal Walter Heller have condemned the inflationary impact that Davis-Bacon has on our economy. Unfortunately, for reasons incomprehensible and known only to the members, the Senate Labor and Public Welfare Committee has refused thus far to hold hearings on my proposal for repeal.

Recently, the case against the Davis-Bacon Act was documented by Allan Brownfeld in an excellent article which appeared in Human Events. As he points out, no one who claims to be a true friend of labor, a fighter against inflation, or an advocate of a free economy can seriously oppose repeal of the Davis-Bacon Act.

Mr. President, I ask unanimous consent that Mr. Brownfeld's article, "Davis-Bacon Act Wastes Billions," be printed in the RECORD as it appeared in the February 14, 1976, issue of Human Events.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DAVIS-BACON ACT WASTES BILLIONS

(By Allan C. Brownfeld)

In 1931 Congress passed a law without understanding what its long-run effects would be. The Davis-Bacon Act establishes wage rates and other conditions on construction projects with more than $2,000 of federal funds involved.

At the time of its passage—with the support—then and now—of the large labor unions, one of its stated purposes was to exclude black workers from competing with white workers in construction training and employment. The waste and discrimination which resulted has had a serious—and negative—effect on the economy as well as on the advancement of black workers.

The law requires *minimum* wages of as much as $100 a day in the 4.5-million employe construction industry, the nation's largest. The President's Council of Economic Advisers has put itself on record as having "long favored the removal of such restrictions as the Davis-Bacon Act."

Arthur F. Burns, chairman of the Federal Reserve System, has said that "It is my intention to use such influence as I have to encourage repeal of this act."

Economist Walter Heller, hardly a conservative, argues that "A government that is dead serious about fighting inflation ought also, at long last . . . to put an end to the laws, regulations and practices that make government an accomplice in many cost and price-propping actions, running from overregulation of transportation rates and under enforcement of anti-trust laws to fair trade laws and the Davis-Bacon Act . . . Such actions will step on the toes of . . . well-heeled pressure groups . . . but now is the time to take those political risks."

The Davis-Bacon Act directs the secretary of labor to set minimum-pay rates at the level of prevailing wages in the immediate area. Before a contractor can bid on a government job, he is told by Washington what he must pay. These minimums have skyrocketed over the years to the point where they no longer represent *average* rates but are simply *union scales*, imported from great distances.

Consider several examples:

In Pittsburgh, a 500-unit housing project, 40 per cent federally financed, was halted when Washington in 1972 ruled that union wage rates had to be paid. In that area, 90 per cent of all residential construction was open-shop, at 40 per cent below union rates. This added $9,000 to the cost of each unit.

In a remote non-union section of Georgia, the Army Corps of Engineers estimated it would cost $40.6 million for the Carters Dam Flood Control Project. Government rulings raised pay scales as much as 82 per cent in 22 months. After completion, the project cost $106 million—a cost overrun of 157 per cent.

In Chittendon County, Vermont, roofers make $4 an hour and there is not one union roofer in the county. Yet, the Labor Department imposed a $9.25-an-hour minimum on local contractors bidding for public-housing jobs. In Albany, N.Y., local electricians charge $5.96 an hour, but Washington insisted that contractors pay them $8.52. In one typical case, the cost of a government-financed project soared from $36,000 to $82,000.

According to the General Accounting Office, with federally financed construction now running at about $40 billion a year, the Davis-Bacon Act is costing taxpayers at least $1.5 billion annually. Congress has expanded the law no less than 63 times—now including a variety of projects that are only partly financed by government.

The evils of Davis-Bacon spread rapidly to non-government construction. In addition, the Act discriminates against minorities and veterans by limiting the number of trainees allowed, enforcing rigid age and educational standards, and excluding the use of helpers in major trades.

This reduces job opportunities and community benefits and, as the National Association of Minority Contractors recently declared, ". . . unemployment among black males in cities with populations over 100,000 is 19.7 per cent. In these same cities, construction requirements are not being met . . . the large pool of idle labor cannot be used and/or trained because of the restrictions of the Davis-Bacon Act. Welfare is inflationary. Recommendation: suspension of Davis-Bacon Act requirements."

Why, if it is so clear that the Davis-Bacon Act is inflationary, that it is costing taxpayers billions of dollars, discriminating against minorities, and having adverse effects on private construction—isn't it repealed? The fact that it is supported by the AFL–CIO which hopes, in the long run, to eliminate all non-union employment in the construction industry and which has received encouragement by a Democratic Congress which is afraid to act contrary to the wishes of labor, as evidenced by the recently passed common situs picketing bill, long a goal of labor leaders.

Even so strong a friend of labor as the New York *Times* commented that "It is a measure of distorted priorities that Congress has seen fit this year to push through a long-disputed bill making it easy for building trade unions to shut down an entire construction site when any single union has a dispute with even one subcontractor. Such vast expansion of the right to picket . . . was not demanded by the rank and file . . . Rather, the pressure originated with the leaders of the building trades unions who increasingly have seen their monopolistic control over construction workers slip away . . . It is no contribution to either union democracy or union responsibility to give succor to these unions by increasing their ability to coerce non-union workers . . ."

The Davis-Bacon Act should be repealed. No legislator—and no Administration—which pursues contradictory policies can claim to be against inflation and in favor of a stable and free economy.

AMENDING THE COMMUNITY DEVELOPMENT ACT

Mr. ABOUREZK. Mr. President, we are now in the second year of operation of the community development bloc grant program initiated by title I of the 1974 Housing and Community Development Act. It is my understanding that some time during this Congress, the Committee on Banking, Housing and Urban Affairs will be holding some oversight and review hearings on the program to see how it is working. I sincerely hope that one of the things they will consider is the question of equity in the present allocation of funds between metropolitan and nonmetropolitan areas.

Last year, I introduced S. 2180 to amend the present allocation arrangement because I feel that it discriminates against nonmetropolitan areas and States that have a substantial portion of their population living in such areas. I have several cosponsors on this bill and I would welcome others.

While the Department of Housing and Urban Development opposes enactment of my bill at this time, Secretary Hills concedes that application of the needs formula that is already in the 1974 act would mean giving nonmetropolitan areas 35 percent of the funding instead of the 20 percent they now receive. I think other Senators might find of interest the exchange of correspondence which I have had with HUD regarding my bill. I ask unanimous consent that the letters be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. Mr. President, the exchange begins with the official comments of the Department on S. 2180, a copy of which Chairman PROXMIRE was good enough to send along to me.

Mr. President, other Senators may also find of interest, a table I had my staff prepare comparing the distribution of community development bloc grants under present law and under my proposed legislation. I shall have printed a copy of that table at the end of these remarks. I should stress that the table was prepared assuming two things: that the "hold harmless" arrangement which is still in effect had phased out and the funding allocation was on the basis it will be on at that time; and that the level of funding would be the same whether divided under present law or under S. 2180. It should be noted that while my bill would change the relative shares of total funding going to metro and nonmetro areas, it would also make it possible for Congress to appropriate sufficient funds so that metro areas could continue to get the same dollar level of funding as under present law.

In closing, I repeat that this legislative proposal is based on two issues. One is that meeting the needs of Indian tribes and groups for community development grants should be a national responsibility and, to handle it in that spirit, the bill provides for a specific national setaside of funds for eligible Indian applicants. The other is that the present allocation of 80 percent of the funds to metro areas and only 20 percent to nonmetro areas is inequitable and is in fact, inconsistent with the entitlement measures which are themselves a part of the present law.

I intend to continue to raise these issues as I have in the bill and in my letters to Secretary Hills. I hope that the Senate, acting through the Banking Committee, will also find them worth consideration. As I have indicated to Secretary Hills, I have no wish to be rigid about the specific language of S. 2180. I do feel that the issues it attempts to deal with are issues that need to be dealt with and I hope that the Senate will do so.

EXHIBIT 1

WASHINGTON, D.C., *December 18, 1975.*

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Subject: S. 2180, 94th Congress (Abourezk).

DEAR MR. CHAIRMAN: This is in further response to your request for the views of this Department on S. 2180, a bill "To amend title I of the Housing and Community Development Act of 1974 to revise the allocation formula for assistance under such title, and to provide increased authorizations to carry out programs under such title."

Section 106 of the Housing and Community Development Act of 1974 presently prvoides that, after funds from appropriations are set aside for hold-harmless and discretionary grants in metropolitan areas (SMSAs) and for the Secretary's Discretionary Fund pursuant to sections 103(a)(2) and 107 of the Act, respectively, 80 percent of the remainder is available for grants within SMSAs and 20 percent for nonmetropolitan areas (non-SMSAs).

S. 2180 would increase the non-SMSA allocation to 30 percent and correspondingly reduce the SMSA share to 70 percent. Additionally, the proposal would require that 3⅓ percent of the non-SMSA share be set aside for Indians and would increase the three-year authorization ceiling contained in section 103(a)(1) of the Act by $425 million, to an aggregate $8.825 billion.

This Department has serious objection to S. 2180 and, accordingly, would not favor its enactment.

S. 2180 is designed to assure a larger allocation of community development bloc grant funds for non-SMSAs by increasing the percentage share to which such areas would be entitled. At the same time, the measure would attempt to mitigate the corresponding reduction of funds available for SMSAs by increasing authorization levels by $425 million for fiscal year 1977.

Initially, we oppose S. 2180 because of its budgetary implications: the contemplated increase in authorizations for fiscal year 1977 is far in excess of that which the Administration proposes to commit for the title I program.

Moreover, we believe it is premature to seek adjustments to the basic allocation formula at this time. Any decrease in amounts allocated to SMSAs would be unwise since the anticipated phase-in to full formula entitlement of most urban counties and many metropolitan cities over the next two years will substantially increase the demands on the SMSA allocation. Further, the current 80–20 percent allocation for SMSAs and non-SMSAs, respectively, was arrived at by the Congress after careful consideration. We do not have sufficient experience with title I at this time to determine whether a change in the SMSA/non-SMSA breakdown would be desirable and would further the purposes of the program. Similarly, we have not at this time had an adequate opportunity to assess the desirability of setting aside bloc grant funds for Indians.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT R. ELLIOTT.

WASHINGTON, D.C.,
February 2, 1976.

Hon. CARLA HILLS,
Secretary, U.S. Department of Housing and Urban Development, Washington, D.C.

DEAR SECRETARY HILLS: Chairman Proxmire of the Senate Banking Committee courteously provided me with a copy of the December 18th letter from your General Counsel, Mr. Elliott, providing your Department's comments on my bill, S. 2180, to revise the allocation formula for distributing funds under Title I of the Community Development Act of 1974. I was disappointed in those comments—not so much because the Department opposed enactment of S. 2180, which I had fully expected, but because they fail to deal with the issues involved. To say that the "current 80–20 percent allocation for SMSAs and non-SMSAs, respectively, was arrived at by Congress after careful consideration" is hardly a comment on the merits of that allocation. It is the merits of the current allocation formula that I challenge, and it seems to me that your Department has a responsibility to speak to those merits and to give the Congress the benefit of informed comment on them—comment informed by the experience in community development which your agency presumably has.

Moreover, to argue that a change in allocation is "unwise since the anticipated phase in to full formula entitlement of most urban counties and many metropolitan cities . . . will substantially increase the demands on the SMSA allocation" ignores completely the fact that the demands on *both* the SMSA and the non-SMSA allocations *already* outrun those allocations. And, if my state of South Dakota is any example, the "demand" exceeds the allocation far more for the non-SMSA portion than for the SMSA portion.

The issues which S. 2180 raises implicitly and which were set out explicity in my statement at the time I introduced the bill are twofold: Does the present 80/20 split favoring metropolitan areas provide an equitable distribution of resources according to need and sound public policy? Similarly, does not the failure to provide a specific set-aside of funds for eligible Indian communities shift what is essentially a national responsibility too much onto the shoulders of those few states where the Indian population is concentrated and at the same time fail to give appropriate assurance of adequate funding for that aspect of national responsibility?

In hopes of securing some meaningful discussion of these issues, I would like to ask you and your staff to provide me with some information which it seems to me is clearly relevant.

1. Your own "First Annual Report" on the Community Development Bloc Grant Program notes that "The CDBG *needs formula* is based on population, amount of overcrowded housing, and the extent of poverty (weighed twice)." If that "needs formula" is applied to the allocation of CDBG funds between metropolitan areas, what would the result be?

2. Similarly, what would be the result if the same "CDBG needs formula" were to be applied to the allocation of funds between eligible Indian applicants and non-Indian governments?

3. What was the actual share of funding which went to eligible Indian applicants during the first year of funding under CDBG?

4. In the Executive Summary of the First Annual Report on the CDBG Program, on page 15, the information presented indicates that in non-metropolitan areas the applications for discretionary funds outran the available allocation by 2.4-to-1, and that in the case of metropolitan discretionary funds, the ratio was 2.3-to-1. Statistics provided my staff last year with regard to South Dakota indicated that applications for metropolitan discretionary funding ran at a ratio of about 7-to-1 in relationship to available money and those for non-metro discretionary funds outran the available money by a factor of 14-to-1. Can you explain that apparently very large deviation from the national average? Is it possible to provide me with either state or regional data on this aspect of funding request vs. funding allocations for both metropolitan and non-metropolitan discretionary money?

5. Date at pages 5–7 of the Executive Summary indicate that of some 1,179 non-metro communities approved for discretionary funding, 739 "had not participated in any of the categorical programs." This means that some 440 non-metropolitan communities *had* participated in the categorical programs but apparently did not qualify for "hold harmless" status. Was this because their prior participation was in programs other than those regarded as "continuing programs"? Could you give me comparable data on metropolitan communities which had participated in the categorical programs but did not receive "hold harmless" status?

I will appreciate an early response on the above points and would certainly welcome any additional comments HUD may wish to make on my bill, S. 2180, and the issues which it raises.

With best regards.

Sincerely,

JAMES ABOUREZK,
U.S. Senate.

WASHINGTON, D.C., *March 1, 1976.*

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: I am writing in response to your letter of February 2, 1976, raising five specific questions concerning fund allocations made under Title I of the 1974 Housing and Community Development Act. As I said in my December 18, 1975, letter to Senator Proxmire, we still lack sufficient operating experience under the statute to make affirmative recommendations as to how to improve the fund allocation provisions set forth in Section 106 and Section 107 of the Act. By March 31, 1977, as required by law, we will have completed our study of the several policy issues involved and will submit our recommendations to Congress.

The decision of Congress to stipulate an 80 percent Metro/20 percent Non-Metro funding split did introduce a funding preference for cities and other jurisdictions within Standard Metropolitan Statistical Areas (SMSAs), but it was, I believe, a calculated preference. Congress knew that there were already in existence other Federal assistance programs that provided significant levels of funding for rural America, programs which did not reach urban centers. In fixing the Non-Metropolitan share at 20 percent, Congress picked a level commensurate with the historical funding flows into such areas.

While it is true that over half of the Indian population is concentrated in 11 States, this does not necessarily impose on those States a disproportionate burden for meeting Indian bloc grant funding needs. Because a State's share of Non-Metropolitan funding is increased by poverty in excess of the national average and by housing overcrowding in excess of the national average, the presence in the State of Indians who suffer from these problems increases the State's share of Non-Metropolitan funding.

The following responds to your specific questions in the order in which they were posed:

1. A straight application of the Section 106 allocation formula, based on National 1970 Census data, would yield the following fund-ratio: Metropolitan Areas, 65 percent; Non-Metropolitan Areas, 35 percent.

2. 1970 Census demographic data does not provide us with a precise basis for making the computation you suggest. In the aggregate, total Indian population amounts to about 37/100ths of one percent of total U.S. population. Total Indian funding for CDBG came to 4/10ths of one percent of the total appropriation. For the Non-Metro portion of the fund (and for Non-Metro tribes) approximately 4 percent of the available funds went to Indian applicants. When one takes into account that approximately half of all Indians are not reservation residents, and that there is no feasible way of tracing funding benefits directly to any one ethnic minority living within SMSAs, you can understand the difficulties involved in attempting any type of "formula" allocation of bloc grant funds, even on theoretical grounds.

3. Indian applicants were funded in F.Y. 1975 at the level of $9,815,000.

4. The difference you cite in ratios of funds applied for to funds available are based on your staff's use of pre-application information, whereas the Annual Progress Report uses final application figures. In South Dakota 134 Non-Metro pre-applications were received, requesting $26,991,000, or 13.5 times the available funds. 9 Metro pre-applications were received for $370,000, or 9.5 times the available funds. 18 final Non-Metro applications were received requesting $2,533,000, or 1.3 times the available funds. One final Metro application was coincided with the available funding.

5. Many of the 440 Non-Metropolitan communities had past funding experience, but did not achieve "hold harmless" status because they had not been participants in the "continuing" or threshold programs and could not meet the basic hold harmless eligibility requirement. However, some of the 440 communities having prior program experience did qualify for hold harmless status and received some additional discretionary funds. We have not yet collected comparable information concerning Metropolitan communities, but intend to make such an analysis in preparing the Second Annual Progress Report.

I appreciate your interest in the bloc grant program, but I continue to believe that the allocation formula should not be changed until we have additional experience under the program.

Sincerely,

CARLA A. HILLS.

WASHINGTON, D.C., *March 15, 1976.*

Hon. CARLA HILLS,
Secretary, U.S. Department of Housing and Urban Development, Washington, D.C.

DEAR SECRETARY HILLS: I am very appreciative of your letter of March 1st in response to my comments and inquiries concerning the Community Development Bloc Grant program and my proposed legislation, S. 2180, to change the funding allocations for that program. I welcome your confirmation that the present allocation does "introduce a funding preference for cities and other jurisdictions within Standard Metropolitan Statistical Areas." I also welcome your willingness to debate the issues which this preference raises.

I would be interested in your indication of the specific "other Federal assistance programs" which you mention as providing "significant levels of funding for rural America, programs which did not reach urban centers." Most frequently cited on this point, at least as far as I can determine, is the Rural Development Act. But my own reading of the Budget indicates that the maximum grant funds we have made available under this Act are the current year's $250 million in rural water and sewer grants, less than $12 million for general rural development grants, and $3.5 million for rural fire protection grants. The most recently available Annual Report on Government Services to Rural America indicates that a little over 14% of such grants go to metro areas, anyway. The remaining $228.5 million would take us less than halfway to equity in comparison with your own figures on the present "preference." (You concede that a "straight application" of the Section 106 formula would mean 15% more of the funds for nonmetro areas and at the funding level proposed by the President for next year, that 15% means something over $463 million as far as I can see.)

With regard to the proposed Indian set-aside, it seems to me that your point fails to deal with a basic argument of mine. Certainly, an effect of Indian poverty and bad housing is to make those statistics worse in the states in which poverty and bad housing is to make those statistics worse in the states in which they are located and thereby to "raise" the rating of such states on the needs formula. But this ignores the fact that Indians and non-Indians within those states still have to compete for the same relatively scarce funds. If we are to regard assistance to Indian governments as a *national* responsibility, as I believe we should, then it seems to me we should provide a separate funding allocation from the *national* fund for those governments. That is what my legislation would try to do.

I was sorry that your staff did not feel able to analyze the basis for applying the needs formula to eligible Indian applicants. My own set-aside proposal is admittedly a rough approximation. It is based on statistics indicating that the non-metropolitan Indian population represents 23% of the nation's population, .78% of its poverty population, and .81% of its crowded housing. The "needs formula" application of those figures produce a weighted average of .65% and I decided to round up to 1% in recognition of the high concentration of poverty and housing need among Indians—especially those who would be served by applicants eligible for CDBG funds. (My use of nonmetro statistics was in recognition that virtually all such eligible Indian applicants would be in nonmetro areas.)

I was also disappointed in the response to my fourth specific question. While your letter does explain the difference between my staff's figures on the ratio of requests to available funding and those in the First Annual Report, it does not provide the data which I had hoped for on states other than South Dakota. It does seem to me that pre-applications are the more useful measure of basic demand for CDBG funds, since the final applications are largely limited to communities with a high probability of final approval. I would, therefore, appreciate having the data—at least for the nation as a whole, if not on a regional or state-by-state basis—indicating the amount of funding requested in pre-applications compared to the available discretionary funds, for both non-metro and metro discretionary money.

I realize that all of this sounds necessarily argumentative. I do not mean it in that sense. I am not rigidly wedded to the specifics of S. 2180 and I am sincere in saying that I welcome a discussion of the issues with you. I do feel that the present division of funds—which I will readily concede is not only based on "historical funding flows," but actually does somewhat better by nonmetro areas—nonetheless continues to perpetuate a pattern of discrimination. I think that this raises basic questions not only of equity but of national growth policy, since Congress has repeatedly endorsed the principle of "balanced growth" and it seems to me that any "funding preference for cities" is at least initially suspect as being in conflict with that principle.

I will continue to welcome your comments on this and I will continue to seek its discussion within the legislative process.

With best regards.

Sincerely,

JAMES ABOUREZK,
U.S. Senate.

COMPARISON OF DISTRIBUTION OF COMMUNITY DEVELOPMENT BLOC GRANT FUNDS UNDER PRESENT LAW AND UNDER PROPOSED S. 2180

[Based on period following phase out of hold harmless provision]

State	Funding under present law [1] (millions of dollars)			Funding under S. 2180 provisions [2] (millions of dollars)				Difference	
	Metro	Nonmetro	Total	Metro	Nonmetro	Indian	Total	Millions of dollars	Percent
Wyoming		2.6	2.6		3.8	0.2	4.0	+1.4	+54
South Dakota	1.4	5.6	7.0	1.2	7.9	1.6	10.7	+3.7	+52
Vermont		3.2	3.2		4.8		4.8	+1.5	+48
Alaska	1.7	2.1	3.8	1.6	2.9	1.1	5.6	+1.7	+46
North Dakota	1.0	4.9	5.9	.9	7.0	.6	8.6	+2.6	+45
New Mexico	7.2	9.0	16 2	6 3	11.8	4.8	22.9	+6.8	+42
Montana	2.6	4.6	7.3	2.3	6.5	1.3	10.1	+2.8	+39
Idaho	1.6	5.2	6.7	1.4	7.6	.3	9.2	+2.5	+37
Mississippi	11.6	28.3	39.9	10.2	41.8	.2	52.2	+12.3	+31
Maine	3.5	6.2	9.7	3.1	9.1		12.2	+2.6	+26
West Virginia	12.1	12.8	25.0	10.6	19.0		29.6	+4.7	+19
New Hampshire	3.4	3.2	6.5	2.9	4.7		7.6	+1.1	+17
Arkansas	17.2	16.2	33.4	14.9	23.9	.1	38.9	+5.5	+17
North Carolina	40.8	32.5	73.3	35.7	47.4	2.3	85.4	+12.1	+17
Kentucky	26.2	22.9	49.2	23.0	33.9		56.9	+7.8	+16
Iowa	14.4	12.8	27.2	12.6	19.0		31.6	+4.4	+16
Nebraska	8.6	6.9	15.5	7.5	10.2	.2	17.9	+2.4	+16
Oklahoma	26 3	11.7	38.0	23.0	15.9	4.7	43.6	+5.6	+15
Kansas	13.2	10.0	23.2	11.6	14.7	.3	26.6	+3.3	+14
Arizona	23.1	6 1	29.2	20.2	7.4	5.2	37.8	+3.6	+12
South Carolina	26.0	17.8	43.8	22.8	26.3	.1	49.2	+5.3	+12
Georgia	48.4	25.3	73.6	42.4	37.0	.1	79.5	+5.8	+8
Wisconsin	33.1	13.6	46.7	29.0	20.0	.5	49 5	+2.8	+6
Minnesota	30.3	11.8	42.1	26.6	17.3	.6	44.4	+2.2	+5
Oregon	17.2	6.3	23.6	15.1	9.3	.4	24.7	+1.2	+5
Tennessee	48.7	19.0	67.7	42.6	28.1	.1	70.8	+3.1	+5
Louisiana	55.3	20.8	76.2	48.4	30.7	.3	79.5	+3.3	+4
Virginia	45.6	17.1	62.6	39.9	25.2	.1	65.2	+2.6	+4
Missouri	46.9	16.7	63.6	41.0	24.7	.1	65.8	+2.3	+4
Alabama	50.1	18.1	68.1	43.8	26.7	.1	70.6	+2.5	+4
Delaware	4.6	1.4	6.0	4.0	2.0		6.1	+.1	+1
Indiana	47.5	13.4	60.9	41.6	19.8	.1	61.5	+.6	+1
Puerto Rico	71.3	37.2	108.5	62.4	47.0		109.4	+.8	+1
Colorado	21.9	5.8	27.7	19.2	8.5	.2	27.9	+.2	+1
Washington	31.7	6.9	38.6	27.7	9.9	.8	38.5	−.1	(³)
Utah	12.8	2.1	14.9	11.2	3.0	.4	14.6	−.3	−2
Nevada	5.6	.8	6.4	4.9	1.1	.3	6.3	−.1	−2
Texas	172.4	32.9	205.3	150.0	48.7	.2	198.8	−6.5	−3
Ohio	114.3	15.4	129.8	100.0	22.9		123.0	−6.8	−5
Pennsylvania	126.5	16.7	143.2	110.8	24.7		135.5	−7.7	−5
Illinois	127.4	16.6	144.0	111.5	24.6	.1	136.2	−7.8	−5
Florida	107.4	12.2	119.5	94.0	18.0	.2	112.1	−7.4	−6
Michigan	97.9	11.9	109.9	85.7	17.6	.3	103.6	−6.3	−6
Maryland	43.0	4.8	47.9	37.7	7.1	.1	44.9	−3.0	−6
Hawaii	11.3	1.4	12.8	9.9	1.8	.1	11.8	−.9	−7
Massachusetts	62.0	4.4	66.4	54.3	6.6		60.9	−5.6	−8
New York	248.5	13.6	262.2	217.6	20.1	.2	237.9	−24.3	−9
Connecticut	31.6	1.9	33.6	27.7	2.9		30.6	−3.0	−9
Rhode Island	12.3	.5	12.8	10.8	.8		11.6	−1.3	−10
California	284.9	12.0	297.0	249.4	17.4	1.1	268.0	−28.9	−10
New Jersey	82.7	2.5	85.3	72.4	3.7		76.2	−9.1	−11
District of Columbia	16.4		16.4	14.4			14.4	−2.1	−13
Total	2,352.0	588.0	2,940.0	2,058.0	852.6	29.4	2,940.0		

[1] House Banking Committee Print September 1974, "Directory of Recipients, Housing and Community Development Act of 1974".

[2] Applying same distribution to changed metro and nonmetro shares with adjustment for Indian set aside allocated largely on basis of distribution of nonmetro Indian population.

[3] Less than 0.5 percent.

Note: Components do not always add to totals because of rounding.

BEVERLY SILLS: A SOLUTION TO THE MONEY CRISIS IN THE ARTS

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the remarks of Beverly Sills, in an article from Opera News published by the Metropolitan Opera Guild, New York, concerning a solution to the money crisis in the arts be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SOLUTION TO THE MONEY CRISIS IN THE ARTS

(By Beverly Sills)

When I was a child growing up in Brooklyn many years ago, my family moved a great deal. My father worked for the Metropolitan Life Insurance Company, and depending on our financial status—well, we moved a great deal. The first cardboard carton that got packed when we were leaving the old apartment, and the first that got unpacked when we moved into the new apartment, was a box simply labeled "Mama's paintings and records." Before the furniture was in place, she was putting up her thumbtacks for her pictures and Galli-Curci was heard at the top of her lungs throughout the apartment.

There is a need in all of us that draws us together in one common bond—the need for a little beauty in our lives. When we want to express our deepest emotions, we talk about dancing for joy or our hearts singing. Our earliest efforts are creative ones. As babies we fingerpaint or pick up crayons and mark white paper with bright colors. My little girl took my lipstick one day and put it all over the bathroom wall, and when I asked her, "Why did you do such a naughty thing?" she said, "I wanted to make the wall beautiful." Whether we live out in the great western plain or within a taxi ride of the Metropolitan Opera, we all do have this great need in our lives, the need to surround ourselves with a little beauty.

And today is a birthday celebration because on September 29, 1965, President Lyndon Johnson signed a bill that brought a little beauty into our lives. It gave birth to the National Endowment for the Arts and its companion agency, the National Endowment for the Humanities. Now, President Johnson was one of those men who did not live within a taxi ride of the Metropolitan Opera. But he was a man of generous spirit, and he understood when friends he respected told him the arts were an essential part of the soul and aspirations of the American public. He was also very fortunate in having a lady by his side with keen perception and great determination. Mrs. Johnson is a lady who knows what beauty is. She possesses a great deal of it herself. And these days, if you're asked what Mrs. Johnson is doing with her spare time, I think you could say, "She beautifies," which is not so bad.

The arts are flourishing in this country. There is no crisis in the arts. There is a money crisis—a big difference. In 1965 the

National Endowment for the Arts functioned with a two-and-a-half-million-dollar budget. Ten years later we have a 75-million-dollar budget. It's a big leap, and sure, we can be very proud of it. What we cannot be is complacent or satisfied, because there are a great many cities in this country that don't give one nickel toward their own cultural institutions: the arts are still considered a dispensable luxury.

I'm bad at statistics, and frankly they bore me, but I've tried to pull out a few numbers that meant something to me, going on the basis that if I could understand them anybody could. I found a survey by the National Research Center of the Arts, which is an affiliate of the Louis Harris Associates, of the famous Poll. Mr. Harris found that 64 percent, or 93 million Americans, would be willing to pay five dollars more than their federal income tax, provided the money went toward the support and maintenance of a cultural organization. I wonder, if the same 93 million Americans were asked if they would give five dollars over their federal income tax toward the support of the next war, whether we would get the same response. I rather doubt it, and that's 465 million dollars.

There's one other little statistic that fascinated me: the Vienna State Opera gets 77.5 percent of its budget from the government and has to raise only 22.5 percent from the box office, while the New York City Opera gets 17 percent from the government and has to raise 65 percent from the box office and then go out and beg for private contributions to the tune of 18 percent. I gave that statistic to my husband, and he said, "Yeah, but who ever heard of the Austrian army?"

Now, why are we so loath to change our priorities? Why are wars never underfinanced and museums are closing their doors? Why does a war never go out of business for lack of funds, but the Metropolitan Opera may have to do that in a very little while? I find that all very distressing. Just to finish off the statistics—and I hate to be hung up so much on this war business, but having lived through so many of them in my own lifetime, I really feel I'd like to move on to other things. The defense budget is 103 billion dollars; would the U.S. collapse on its backside with only 100 billion? I'd suggest a billion to help wipe out some of the killer diseases, and another billion for new medical schools—there's a terrible shortage of doctors. Then a billion for the arts. The unemployment created by the defense cut would be balanced by employment created in these other fields, so I'm bored with unemployment statistics.

Over the past two years the going has gotten rough for the arts. We've had inflation and recession, and that has cut down the big foundations' portfolios enormously. Two of the major foundations have greatly reduced their funding of the arts, and when profits decline, the big corporations get a little bit less philanthropic. The biggest and hardest-hit are the individual donors. Universities, which are the principal sponsors of recitalists and dance companies, have their own deficits to cope with. Meanwhile, in Washington, the rate of growth in appropriations for the endowment has been cut in half. So much for our priorities. Yet everywhere I go to sing there are opera companies springing up, symphonies, dance companies, theater companies. It would seem that the creative need in the people is at last stronger than the destructive need, and perhaps we should start listening to the voices of the people.

Therefore, what should the role of government—federal, state and municipal—be in the support of the arts over the next ten years? And here is a set of statistics I really do not understand, which I must confess I got from Michael Straight, deputy chairman of the National Endowment for the Arts. I understand them only insofar as they seem so pathetically little as to hardly seem worth mentioning, but considering the growth we've had in these ten years, I'd like to tell you what they have been and what I feel they should be. I like my original statistic of five dollars a head. That sort of appeals to me. But since that's probably unrealistic I'd like to say that the endowment provides seven cents on the dollar in costs of a hundred major and metropolitan symphonies, and provides eight cents on the dollar in the cost of forty professional opera companies, and one enormous penny to operate 1,800 leading museums. As I say, I don't fully understand each statistic, but a penny out of a dollar seems sort of ludicrous to me. I would say maybe ten cents on the dollar would be a more respectable figure to talk about. I'm not sure what that means either, but I like ten cents better than a penny. And if I can't have five dollars a head, well, we can split it and say how about $2.50 a head in annual expenditures for every American. Then I would suggest that the states and cities and towns get off their backsides and contribute to their own cultural organizations, or they're going to be dead towns, cities and states in no time at all.

If we want culture, we should be willing to pay for it. Those of us who are more fortunate may have to bear the bigger burden of it, but that's as life should be. If we've been blessed with a great deal of beauty in our lives, we should be able to share it with others not so blessed.

Last, I'd like to talk about the American artist, because I am one, and obviously everything I see is through the eyes of the American artist. The American artist is part of our national heritage. Unlike our other natural resources, this one will continue as long as civilization exists, and it doesn't cause any air pollution. As recently as twenty-five years ago, if the artist's name was unpronounceable he was automatically considered great. Today plenty of us with pronounceable names are doing just fine, and the snobbish stupidity that if it comes from Europe of course it's better is, thank God, a dead issue. We can, should and must take pride in what we have given birth to, raised and cultivated—the American artist. Our artists, our singers, our dancers are among the best in the world today, and they are our greatest strength. They can give us the world of peace and beauty we dream of, because art is the signature of a civilization.

WARMING HOMES, WARMING HEARTS

Mr. CHURCH. Mr. President, home heating costs have soared during the past 3 years.

Home heating fuel oil costs, for example, have nearly doubled since February 1973, increasing by 96 percent.

The price of natural gas has also risen sharply. During the past 3 years, the cost of residential heating gas has jumped 63 percent.

And the price of coal has increased significantly. Inadequately insulated homes can, of course, waste substantial quantities of fuel, driving up heating costs at the same time.

The Federal Energy Administration estimates that nearly 5 million homes occupied by low-income persons are insufficiently insulated.

Hearings conducted by the Committee on Aging—of which I am chairman—have made it abundantly clear that many older Americans live in homes which need to be weatherized.

Quite frequently, this condition can cause or intensify health problems for the elderly, particularly the infirm and frail.

During the past year Congress has taken a number of steps to make winterization assistance more readily available for the aged and others.

One example is the older Americans amendments of 1975 which continue and expand the title IX senior services corps. Under the green thumb program, which is funded with title IX funds, older workers help to weatherize the homes of the rural elderly.

In addition, the 1975 Older Americans Act Amendments made residential repairs a priority service for funding under the title III State and community programs on aging.

On March 9 the Senate approved the Energy Conservation and Insulation in Buildings Act, H.R. 8650. This legislation would authorize the Federal Energy Administration to make grants to States to finance residential insulation improvements for low-income persons.

H.R. 8650 also gives priority attention to the needs of low-income elderly and handicapped persons.

These measures can help to complement efforts already begun under the Comprehensive Employment and Training Act and the green thumb program.

The effectiveness of these projects has been amply demonstrated. One noteworthy example is the West CAP program in northwestern Wisconsin. With the help of CETA employees, West CAP has winterized nearly 220 homes. And it expects to complete another 305 this season.

A recent account by Gloria Stevenson in the February edition of Worklife describes these activities in detail.

Mr. President, I ask unanimous consent that this article, entitled "Winterization Is Warming Homes, Warming Hearts," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Winterization Is Warming Homes, Warming Hearts

(By Gloria Stevenson)

> ". . . we who remain shall grow old,
> We shall know the cold
> Of cheerless winter
> And the rain of autumn and the sting
> Of poverty."
>
> Ford Maddox Ford.

Eighty-seven-year-old Mollie Hall is a good deal more fortunate than many other older Americans. She lives in her own home—a white frame structure that her father built in 1904—and because her late husband worked for the railroads, her pension of $232 a month is higher than the income of many other senior citizens.

Mrs. Hall is bright-eyed, alert, and in good health. (Her left foot was so swollen for awhile that she could wear only a slipper, but she considers that a minor problem.) And Mollie Hall is rich in spirit. She believes that "the Lord gives you 70 years and anything after that is extra," and she is very grateful for her last 17 "extra" years.

Still, Mollie Hall has also known the cold of winter and the rain of autumn and the sting of poverty.

She lives in Hagerstown, a small city in the mountains of western Maryland where winters are snowy and cold. Last year, she shivered in drafts from ill-fitting windows and cracks around her home's foundation. Cold air came in through holes in cellar doors and seeped upstairs through uninsulated walls. A crack in the side of the house let rain and snow and cold air into the kitchen.

Mrs. Hall could not afford to buy enough heating oil to wage a full-scale battle against the cold, nor could she make the repairs that would render her house warmer. And with costs of all necessities going up, she could not even consider renewing her home's peeling exterior paint.

Then Mrs. Hall heard about a local project to repair the homes of needy senior citizens and to make them easier to heat. The program offered free winterization and repair work to homeowners who could manage to buy the materials needed for repairs. Mrs. Hall took advantage of the program, and her house has been repaired, insulated, and painted—by men hired through the Comprehensive Employment and Training Act (CETA).

AID FOR ELDERLY AND POOR

The Hagerstown project is part of a nationwide effort to winterize homes owned by the elderly and by the poor, and the emphasis is on assisting those who are both elderly *and* poor. Winterization—sometimes called weatherization—includes insulating attics and basements, applying caulking around windows and weatherstripping around doors, repairing roofs or windows, installing storm windows, banking foundations, or adjusting and cleaning furnaces. Such improvements make houses less costly to heat and more energy efficient. They also help reduce the Nation's overall fuel consumption. Repair work of the kind provided Mrs. Hall is a spinoff of winterization efforts, and will be described later in this article.

The winterization program relies on cooperation from a variety of government agencies, nonprofit organizations, businesses, and individuals. Disadvantaged workers hired through CETA are taking part—and learning carpentry, home repair, and other skills in the process. Unemployed older persons enrolled in the Green Thumb Program are also earning sorely needed incomes while they winterize homes of their peers.

Getting the work done depends upon the old-fashioned principle of neighbor helping neighbor—often in unsophisticated, homely ways. And by giving direct, tangible help to needy people who appreciate the assistance, the program is warming hearts as well as homes.

The Community Services Administration (CSA), formerly called the Office of Economic Opportunity, coordinates winterization efforts. In 1973, this agency began to search for ways to lessen the impact of energy shortages on the poor and the elderly. One program result was to fund local efforts to winterize homes owned by the target groups.

CSA funded pilot Project FUEL in Maine in the winter of 1973–74 and then made additional weatherization funds available to State economic opportunity agencies, CSA's local Community Action Agencies (CAA's), and nonprofit organizations serving the poor. Today, about half the States operate statewide programs, and over 80 percent of the Nation's 865 CAA's run local efforts, but few programs have been undertaken by other agencies. CSA funds total about $22 million for the winter of 1975–76, and some States have provided matching grants.

CSA is currently developing a reporting system that will indicate how many homes are being winterized nationally with this money. A spot check shows at least 100 for each local project, and some areas have significantly more.

National guidelines have been established, but individual operations may set variations based on local needs. One basic stipulation, however, is that CSA funds may be used only for materials and administration, not for labor. Thus, planners have had to find ways to get workers for the projects. While some localities are using volunteers from service organizations and church groups, many are depending heavily on disadvantaged workers taking part in CETA and Green Thumb programs.

No national statistics on CETA winterization efforts are currently available, so it is impossible to estimate the total number of employees or the total amount of CETA funds involved. However, these data will be gathered through the nationwide reporting system now being developed by CSA. Some local projects hire as few as three or four CETA workers, while State programs may employ hundreds. This winter, for example, about 200 CETA workers are engaged in Michigan projects, and about 70 are working in Vermont.

CETA PLAYS A ROLE

The West Central Wisconsin Community Action Agency (West CAP), which serves a seven-county rural area at the cold northwestern edge of the State, operates one local project staffed by CETA employees. This is the second year of operation for West CAP's program, and some 20 CETA participants—unemployed persons with previous experience in carpentry and home repair as well as workers who are learning these skills on the job—are currently employed.

CETA workers include persons who visit homes to see what type of winterization is needed, a secretary, a woodstove specialist, a heating unit repairer, a crew of carpenters, two crew supervisors, and an assistant crew supervisor. Salaries range from $2.10 to about $4 an hour.

Community outreach workers regularly employed by West CAP start winterization operations by surveying the area to find poverty-level families that might need assistance. West CAP gets additional referrals from oil companies, ministers, and local social service agencies. Then, CETA public service employees working as energy specialists visit the homes to find out exactly what kind of help is needed and to make sure the homeowners meet poverty-level guidelines.

The energy specialists interview the families and take income statements. They inspect windows and doors for leaks, climb into attics to measure insulation, and check to see whether the furnace needs to be cleaned or repaired. They figure out what materials are needed at each home and set up appointments with the carpentry crews.

Most crew members are young men enrolled in an adult work training program funded under title I of CETA, but the crew includes one woman. These workers load insulation and other materials into pickup trucks and drive around the 5,225-square-mile area to handle two to four projects a day. They weatherstrip doors, caulk windows, install plastic storm windows, and put 6-inch insulation—the type needed to withstand Wisconsin winters—in attics. Using special equipment purchased for the project, they blow loose insulation into homes with no attic access. When needed, the heating unit repairer cleans, adjusts, and makes minor repairs on furnaces.

West CAP plans to winterize 306 homes this season. Last year, the agency worked on about 220 homes, and of these, about a third belonged to elderly and disabled owners, over a fourth were owned by persons receiving Aid to Families with Dependent Children, and 28 percent belong to unemployed residents. Fourteen CETA employees participated and CETA funding totaled $19,654.

The physics department of the University of Wisconsin at River Falls is studying the impact of last winter's insulation program on heat loss and fuel costs, and preliminary estimates are that heating costs for each insulated home will be about $100 lower this winter than last. The average cost for materials was $77 per home.

Besides helping the poor and elderly cut heating bills, the project has also helped CETA winterization workers move into other jobs. Carl Saureressig, West CAP's housing and energy director, reports that 6 of last winter's 14 CETA participants have moved into permanent employment—most in fields related to their winterization work—or into educational programs. One crew member, for example, is now working for a private lumber operation, and another was hired by a construction company. The project's secretary has found another secretarial job, and an energy specialist is now Saureressig's administrative assistant.

As well as winterizing homes, the CETA participants employed at West CAP recently began to repair homes for low-income persons who are unable to do the work themselves. This program variation—the kind of effort that helped Hagerstown's Mollie Hall—has been undertaken in several localities. Repairs are often designed to eliminate health or safety hazards.

Neither CSA nor CETA funds may be used to purchase materials for home repair projects, however, so program administrators must get funds or supplies elsewhere. In some areas, homeowners must provide their own materials or the money to pay for them, and low-income persons may often get loans or grants for supplies through several Federal programs (see box). In addition, some programs use materials donated by local businesses, individuals, and service or charitable organizations.

Mrs. Hall was able to get the paint and other materials at the lowest possible price because Tim Light, the director of the Hagerstown project, makes the purchases for program clients and is able to buy construction supplies wholesale.

Mrs. Hall puttered around her house, digging out old souvenirs and Civil War relics to contribute to a local Bicentennial celebration, while the five-man CETA winterization crew painted her house, installed insulation around the foundation, repaired doors to the cellar, and put a large piece of aluminum over the crack that let rain and wind blow into the kitchen.

Mrs. Hall was delighted. "I'm glad to get the work done," she said. "After this, the house won't need any more work for the rest of my life."

Hagerstown's CETA winterization workers have also installed a wheelchair ramp in an older woman's home and rebuilt a fire escape in a three-story house owned by another elderly woman. In addition, they have done painting and repair work on several community projects.

Program Director Light explains how the crew got started in repair work: "At first, the request for winterization was really slight. We put ads on the radio about the program and set up a display at a big shopping mall, but we didn't get much response. I guess people were afraid this was some kind of rip-off."

Then, Washington County, in which Hagerstown is situated, asked the crew to work on public projects. For example, the workers painted interior walls, fixed plumbing, installed kitchen appliances, and cleaned up the grounds at a long-vacant schoolhouse that was being turned into a day school for mentally retarded adults. The crew also painted and did carpentry work at a day-care center serving working mothers from a low-income housing project.

Meanwhile, program personnel asked the local senior citizens group to inform people of the winterization program, and requests for help began to come in faster than the crew can now handle them.

PROGRAM SHARPENS SKILLS

Light, who used to work for an engineering and construction company, believes that crew members are getting good training in carpentry, painting, and other home repair skills through the program. "The work they do is really good quality," he says. "It's work they can see and be proud of when they travel around the community, and it's work they can show employers as examples when they're looking for other jobs.

Like many winterization workers, Hagerstown crew members are learning skills on the job. A program in Nassau County, N.Y., however, has provided more formal training for disadvantaged workers—many of them aged 55 and over—who make up a "home handyman corps" to serve the elderly.

The corps, established under the Senior Citizenes Home Winterization and Maintenance Project, is made up of 12 workers who have been trained under title I of CETA. A local skill training center provided them 3 weeks of instruction; including 12 hours of training in masonry, 52 hours in carpentry and related activities, and 16 hours in painting. Completing the program in October, graduates got home handyman certificates from the Nassau County consumer affairs office, and started work at $3.25 an hour.

The crew expects to repair and winterize between 350 and 700 homes before the project ends in October 1976. They will patch steps, repair crumbing walls, and make other needed repairs. Federal funding for this effort includes $83,000 from CETA and $50,000 from title III of the Older Americans Act. Property owners will pay sliding-scale fees for the repairs.

In parts of the country where wood is still used extensively for heating, CETA workers are learning woodcutting as well as carpentry skills. In Vermont, for example, where over 2,000 homes were made wintertight last year, a few of the 70 CETA employees are cutting firewood for low-income families. In some cases, the wood is donated by woodlot owners or farmers who want to have their lands cleared or thinned. The State Department of Forests and Parks is also cooperating; county foresters have marked trees that may be cut from certain State forests, and Vermont charges winterization programs $2 a cord for the wood.

"ENERGY LOANS" HELP

After being cut, the wood is sold to low-income families for about $20 a cord, far less than the going rate of between $45 and $60. Those who cannot afford to pay even $20 may take out "energy loans" and pay for the wood whenever they can. In extreme cases, the wood is simply given to the needy.

A similar project is in operation on Michigan's upper peninsula, where heavy snows usually start in November and stay through April or May. There, the wood is cut from State forests and delivered to poor families free of charge.

Last winter, Vermont came up with an innovative way to provide low-income residents the opportunity to save on fuel costs by buying inexpensive wood-burning stoves and firewood. CAA's in several parts of the State hired CETA workers to convert oil drums into simple wood-burning stoves which sold for $30, the cost of materials. Purchasers bought their own stovepipe, and CETA workers helped with installation.

In some States, winterization efforts are providing job opportunities for disadvantaged older workers hired through the Green Thumb Program as well as for CETA participants. Green Thumb, which operates mainly in rural areas, provides part-time jobs in community service activities for disadvantaged persons aged 55 and above. The program is run by Green Thumb, Inc., a subsidiary of the National Farmers Union, under a Department of Labor contract. The program is authorized by title IX of the Older Americans Act.

Green Thumb workers are winterizing homes in North Dakota, Arkansas, and a number of other States. The strongest program is probably in Indiana, where 50 of the State's total 385 Green Thumb workers are taking part. Most of the workers are aged 60 or above, and they earn the Federal minimum wage.

An Indiana law has been interpreted to mean that CETA public service employees there may not work for certain not-for-profit agencies, including the CAA's that run winterization efforts. Attempts are being made to change the law, but in the meantime, Indiana programs are depending heavily on Green Thumb workers.

GREEN THUMBS UP

Indiana's Green Thumb Program has working agreements with the State's five local winterization projects, all of which give top priority to serving low-income, elderly homeowners. The largest project is headquartered in Vincennes and serves a four-county, rural area in southwestern Indiana. Last fall, Green Thumb crews there were weatherizing an average of 1.5 homes a day, and by winter's end, they expect to complete at least 300 homes using $56,000 in CSA and State funds.

The Vincennes area program, operated by the Economic Opportunity Committee (EOC) of Daviess, Greene, Knox, and Sullivan Counties, is a multifaceted example of disadvantaged people helping others in need. Besides employing older Green Thumb workers, the program has contracted with the New Hope Sheltered Workshop, a local facility for mentally retarded adults, to make removable storm windows of redwood strips and heavy plastic. Green Thumb crews are putting them up and will take them down in the spring.

Some 50 windows a day are being manufactured at the New Hope Sheltered Workshop. Workers in sheltered facilities are paid for their efforts, but receive less than minimum wages.

The Vincennes program relies heavily on donated materials. Program personnel have asked local businesses and individuals to contribute supplies, and according to Gary Smith, EOC's executive director, "The project has generated a lot of community support."

Last fall, a coal company donated an acetylene torch, and individuals and businesses contributed between 60 to 70 aluminum storm windows and about a dozen storm doors. A house scheduled for demolition was donated, and Green Thumb workers removed the lumber and plumbing for use in home repair jobs. The city of Vincennes has donated an old school building which will be recycled the same way.

WIDOW GETS AID

One of the people aided through this program is Mrs. Elizabeth Murdock, an 86-year-old homemaker and a widow for 55 years, who lives in Linton, a small mining town northeast of Vincennes. Last winter, when bitter winds brought the chill down to the equivalent of 20 degrees below zero, Mrs. Murdock did her best to stay warm in a ramshackle house with gaping holes in the roof, a half dozen windows missing glass panes, and poor insulation. The house was hazardous as well as cold. Both the front and back porches were rotting, and, for want of a handrail, Mrs. Murdock had to negotiate her dilapidated front steps by gripping a long nail stuck in the side of the house. With a supplemental services income of only $157 a month, she could not afford repairs.

To her rescue came Green Thumb workers who repaired the roof, replaced window panes, and rebuilt the porches. They built new front steps, installed a handrail, and applied plastic storm windows, weatherstripping, and caulking to make the house easier to heat.

EOC now wants to expand its program to include major home rehabilitation for the elderly and is looking for appropriate funding sources. For example, the Vincennes city council has applied to use $25,000 of a block community development grant from the Department of Housing and Urban Development for EOC housing rehabilitation. Says Gary Smith, the agency's executive director, "We had no idea how bad some of these houses were until we got into the program. The more we learn about the homes in this area, the more we see the need."

The need is not in Indiana alone. The 1970 Census of Housing counted more than 12 million heads of households aged 60 and above who lived in homes that they owned, and the median income for these homeowners was only $3,300. Nearly 3 million of the homes were valued at less than $10,000, and these are likely candidates for winterization. In addition, millions of homes owned by younger persons with poverty-level incomes also need insulation and repairs.

It is perhaps because the need is so great that persons involved in cold-resisting and repair projects often find their work extremely gratifying.

Pat Reuter, for example, a CETA employee who is the assistant supervisor of the carpentry crew at Wisconsin's West CAP project, says, "I can see a great deal of need for this project, and I'm happy to do anything I can to help people who really need it." Reuter made the comment while working on a home owned by a young widow with several children. The home lacked a back door, several windows, and a solid foundation. "That family really needs a home and I'm happy I can build it," Reuter says.

In Battle Creek, the head of the Michigan office of economic opportunity also finds satisfaction in the program. "The project has been very gratifying," he says. "I don't know how many times we've heard the program praised by old people who have had storm windows put on or homes insulated."

And in Hagerstown, winterization Director Tim Light looks at the old house his crew has just painted and says, "Lots of old people don't have anybody to do work for them. It gives you a warm feeling inside to know you're doing something to help."

A FEW THINGS PRIME SPONSORS MAY HAVE ALWAYS WANTED TO KNOW ABOUT WINTERIZATION

The Employment and Training Administration has encouraged prime sponsors to become involved in home winterization and repair projects that provide unemployed and underemployed workers with on-the-job training, work experience, or public service employment under titles I, II, and VI of CETA. However, such projects must not violate local laws or codes, interfere with the rights of union members, or, in the case of public service or work-experience programs, provide primary benefit to any profitmaking organization.

Home repair projects should be limited to dwellings of low-income persons that are privately owned and owner occupied, housing privately owned by a nonprofit organization, and public housing.

Low-income homeowners who need grants or loans for home improvement may be eligible for several Federal programs, including those authorized by the following:

Title IV of the Social Security Act, which provides grants to States for repairing homes of welfare recipients. State and county welfare offices have further information.

Section 504 of the Housing Act of 1949, which provides home improvement loans of up to $3,500 at 1-percent interest for 10 years. These are available through the Farmers Home Administration to eligible rural residents. Recipients need not be farmers.

Section 309 of the Housing and Community Development Act of 1974, which includes 12-year loans for energy-conserving improvements. The money is issued as part of block grants made by regional offices of the Department of Housing and Urban Development.

The Community Services Administration has published several pamphlets that may be useful to prime sponsors exploring or participating in winterization programs. These include "Energy and the Poor: A Continuing Crisis," which briefly describes winterization and related programs, and "A Community Planning Guide to Weatherization," which gives detailed information for designing projects. These are available free from the Office of Public Affairs, Community Services Administration, 1200 19th Street, NW, Washington, D.C. 20506.

WASHINGTON'S REACH: NEWSPAPER SERIES ON GOVERNMENT OVERREGULATION

Mr. FANNIN. Mr. President, recently the Casa Grande Dispatch of Casa Grande, Ariz., published a series of articles exploring the problems of Government regulation. The four articles, written by Associated Press reporters Brooks Jackson and Evans Witt, document many instances of regulatory overkill affecting the Nation's economy and attest to the tremendous power wielded by a faceless army of unelected Federal bureaucrats.

Casa Grande Valley Newspapers, Inc., has performed a valuable service by publishing this informative series. Taxpayers are becoming increasingly aware of the impact of Government regulation on their lives and businesses. As my colleagues are well aware, there has been a lot of talk of late in the Congress and on the campaign trail denouncing Government overregulation and calling for change. Let us hope that all this regulatory rhetoric becomes meaningful regulatory reform. Only through public pressure will the Congress take positive action on specific measures to improve the Federal regulatory system.

The Casa Grande Dispatch, by running this series on "Washington's Reach," is doing its job to alert the citizens of one small town in Arizona to the problems of bureaucratic redtape.

Mr. President, I ask unanimous consent that the text of the articles in the Casa Grande Dispatch of March 15 and 16 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Casa Grande Dispatch, Mar. 15, 1976]

THE REGULATORS: THEY CALL THE SHOTS FOR YOU, EVERY DAY, AND THEY DON'T NEED YOUR VOTE TO SURVIVE

(By Brooks Jackson and Evans Witt)

WASHINGTON.—They decide that factory stairways must be at least 22 inches wide, and they protect bank depositors from losing billions of dollars in savings.

They won't allow cut-rate, $135-a-person airline service between New York and London, and they make commercial radio and television broadcasting feasible.

They bungle, and drive a toymaker to the edge of bankruptcy. They succeed, and save motorists' lives.

They have a voice in what Americans eat, breathe, wear and drive.

"They" are the unelected federal regulators, a growing band that now makes more rules directly affecting the people than do the elected members of Congress.

In the past decade, three presidents and Congress have vastly increased the regulators' reach and power. The number of major regulatory agencies has doubled to 24 since 1965, and they now employ 105,000 persons, up from 58,455. The cost to America's taxpayer has more than doubled.

Nobody in the federal government keeps track of all the forms that departments and agencies send out to people and businesses. An Associated Press survey turned up more than 9,800 forms the government sends out to the public. An estimated 556 million responses are sent back every year, with hundreds of millions of hours needed to gather the data and complete the forms.

This explosion in federal regulation has created a reaction.

President Ford accuses the regulators of "petty tyranny," joining other presidential candidates in seeming to attack the very government they seek to lead. Republican hopeful Ronald Reagan says business and government bureaucrats share a "warm cocoon" in regulation that protects both. Democrat Jimmy Carter pledges to consolidate many government agencies into simpler, more responsive ones. Even Ralph Nader, who inspired much of the new safety regulation, wants to get rid of regulators he says are wasteful.

The drive for change has taken on a name: "regulatory reform."

Are the criticisms justified? Will Congress reverse its decade-long trend toward centralized regulation?

The answer to both questions is yes. And no.

BIG AND GETTING BIGGER

Regulation does cost money, and it also produces benefits.

Examples of delays, bungles, overzealous regulation and conflicting rules are easy enough to find. Yet much federal regulation is carried on without complaint or with strong support of the persons being regulated or with calls for more regulation.

It is true that, in sheer bulk, Washington's body of regulations is big and getting bigger. The Code of Federal Regulations, containing only the basic, standing rules set down by the bureaucracy, already packs a shelf 15 feet long with 60,000 book-size pages of fine print.

The number of pages has grown 20 per cent a year for the past several years.

These regulators—appointed officials and civil servants—now make more rules than the elected members of Congress.

A Library of Congress study found that during 1974, Congress passed 404 laws while the federal bureaucracy churned our 7,496 in new or amended regulations. That's 18 regulations for every law.

Most of the regulations carry the force of law, meaning violators could be subject to fines or jail.

The budgets and number of employes of the regulators have soared in the last decade. In 1965, the 12 major agencies spent $860 million, employing 58,455 people.

President Ford's proposed budget for this coming fiscal year lists $3.8 billion for the 24 major agencies and 105,000 employes.

That means the cost of regulation has gone from $4.43 per American to about $10.36, adjusted for inflation.

THE SPREADING IMPACT

This growth came as Washington answered demands for cleaner air and water, for less job discrimination against blacks, browns, women and the elderly, for safer autos, workplaces and consumer products, and for more honest elections.

The result is a sea of alphabet soup. EPA, OSHA, NHTSA.

That's the Environmental Protection Agency, the Occupational Safety and Health Administration and the National Highway Traffic Safety Administration. Then there's the FEA, FEC and EEOC. The list goes on and on.

Regulators still make up a tiny minority within the federal government. The current $3.8 billion for the 24 major agencies is less than one percent of Ford's proposed budget. Yet their impact, once confined to a few industries—transportation, communications, agriculture, finance and drugs—now has spread to many unaccustomed areas.

Federal job safety inspectors can fine a New York girdle maker $500 for locking his emergency fire doors. It happened recently to Anita Foundations, Inc.

Auto safety officials press California, Utah and Illinois to force motorcyclists to wear approved crash helmets.

Pollution officials are moving to outlaw traditional marine toilets on even the smallest cruising boats, requiring either waste-treatment devices costing $400 and up or inexpensive but inconvenient tanks that hold waste on board.

REGULATIONS' COST

How much does all this regulation cost? There is simply no accurate way to measure regulation's total impact on the nation, although many are willing to try.

President Ford's aides in the Office of Management and Budget estimated regulation's cost at $130 billion a year in artificially inflated prices, additional costs to business and lost productivity. This estimate—totaling about $2,000 for each family—is based on a mishmash of economic assumptions, projections and guesses.

In one instance, the OMB counted the costs of foreign trade restrictions that no longer exist.

The administration study also said Americans spend $40 to $60 billion a year to meet federal pollution standards. Yet the congressional General Accounting Office, in a report critical of the OMB study, said Ford's aides have misquoted the original source for the figure, which had put anti-pollution costs at $33 billion.

THE BENEFITS

Does the regulation do any good? Frequently, yes.

The 3,451 people with accounts at a Houston bank didn't lose their savings when the bank collapsed. The Federal Deposit Insurance Corp. paid them $12,259,733. Of course, some say there should be more federal regulation of banks to prevent such failures.

Not all governmental nitpicking is needless. Late last year, the Food and Drug Administration got a court order to seize imported boar-bristle brushes from a Los Angeles importer because the brushes were contaminated with nits.

Nits are lice eggs.

Even the auto manufacturers concede that federal auto safety regulations save motorists' lives, probably by the thousands.

America's air is measurably cleaner since EPA began work.

Whatever the cost of cleaner air or prolonged lives, their worth can't be measured in dollars. This makes comparison of cost and benefit essentially a matter of personal opinion.

"HORROR STORIES"

Often the benefits of regulation are hard to see, while the defects are all too apparent.

There is little question that government can take years to reach a seemingly simple decision, as when the FDA went through nine years of hearings, proposals and comment periods before deciding that anything labeled "peanut butter" must contain at least 90 per cent peanuts.

Outright mistakes are made. And sometimes even admitted.

In 1973, the fledgling Consumer Product Safety Commission erroneously banned as unsafe a toy plastic ball manufactured by the Marlin Toy Products, Inc., of Horicon, Wis. The commission later admitted the boner, but the company says the mistake cost it $1.2 million in cancelled orders and forced the layoff of all but 10 of its 85 employes. Congress has authorized payment of damages to Marlin, with the amount to be set by a claims court.

There are cases where the regulators strain the law. A federal job-safety inspector wanted changes in an allegedly unsafe hydraulic log-cutting machine clearing land in California's Napa Valley in 1972. Although the wood was sold entirely within California, the Labor Department insisted the land being cleared was for planting grapes, and that grapes were for making wine sold across state lines, and that this made it a federal case. A review commission sided with the logger by a 2-to-1 vote last year and threw out his $600 fine.

Sometimes one agency's rules collide with those of another.

Job safety rules call for a protective railing around blood pits in meatpacking plants, but Agriculture Department inspectors disapprove of the railings because they become encrusted with gore and are unsanitary. So OSHA compromised by allowing employes to use safety harnesses to prevent their falling into the pits.

Evidence suggests that some agencies, principally the older ones, help limit free competition and keep prices high in the industries they regulate.

The Civil Aeronautics Board refused to allow a British firm, Laker Airways, to fly regular New York-to-London flights for $270 a round trip. Existing airlines fly the same route for $626 for a roundtrip economy-class ticket.

The burden of government paperwork is a frequent complaint by businessmen.

For example, Maryland automobile dealers have to fill out 31 federal forms and 51 state forms. Eighteen of the federal forms deal with taxes and payrolls, 11 with pensions and one each with job safety and nondiscrimination.

THE PROSPECTS

There is movement aimed at limiting the regulators' powers in this year of the 200th anniversary of the American Revolution.

But the regulators have powerful defenders—usually the industries they oversee—who are fighting this new revolt in Washington.

Many proposed changes require legislation, and Congress often moves at least as slowly as the regulators.

[From the Casa Grande Dispatch, Mar. 16, 1976]

Your Family's Life Is Shaped by the Regulators

(By Brooks Jackson and Evans Witt)

Allentown, Pa.—At 7:45 a.m., Nancy Ruddell sits down for her first cup of morning coffee, adding an artificial sweetener containing saccharin.

"Contains no cyclamate" reads the little packet of Shop Rite Superior Quality Sweetener. Cyclamate lacks saccharin's bitter after-taste, but it cannot be sold for human consumption because of a U.S. Food and Drug Administration (FDA) ruling in 1969.

This day that started at 6:15 a.m. is a mostly unexceptional one for Tom and Nancy Ruddell. They take their two children to school; Tom goes to work at Pennsylvania Power and Light; Nancy makes two shopping trips; and they give a small party.

But throughout this day, and every other day, the Ruddells' lives—and those of every American—are shaped by federal regulations.

The effects of most regulations slip by unnoticed—like U.S. Department of Agriculture's fat content for the choice beef sold at the local supermarket.

Others are not so hidden—like the required seat belt ignition interlock on Nancy's red Volvo 165 station wagon which she calls "a constant pain in the neck."

The extent to which federal regulations touch the Ruddell family is not unusual. Every family in this town—where the Liberty Bell was hidden from British troops in 1777 is the Zion Reformed Church—and every family in this country is affected by the rules made in Washington, D.C.

For most Americans, the federal role in their personal lives is largely ignored.

This, then, is a look at the regulations in a day in the life of one American family in this city of 109,000 in the rolling hills of eastern Pennsylvania.

6:15 a.m.—A burst from the alarm clock rouses the family. The clock reads that particular time because Congress decreed Daylight Savings Time ended when October did.

6:25 a.m.—Geoffrey, age 5, slips out of his pajamas that are flame retardant because the Consumer Product Safety Commission requires sleepwear for children to be so treated.

6:50 a.m.—Three quarts of Abbotts homogenized milk deposited earlier in the morning outside the back door are brought in by Geoffrey. Nancy makes a mix of the milk and reconstituted Shop Rite Instant Non-Fat Dry Milk, cutting the drink's calories and cholesterol. But the resulting mixture is also cheaper than ordinary skim milk because the U.S. Department of Agriculture sets a higher support price for skim milk than whole milk.

7:73 a.m.—Jennifer, 10, and Geoffrey take the Hess's brand of Fruit Flavored Chewable Multiple Vitamins. A bit later, Tom and Nancy both take a multivitamin made by the Treasury Drug Co. for the J. C. Penney Co.

The manufacture and labeling of vitamins are now regulated by the Food and Drug Administration, but Sen. William Proxmire, D-Wis., is sponsoring a bill to prohibit the FDA from regulating the potency of such diet supplements. This would mean consumers would be able to buy massive doses of various vitamins, whether or not the FDA concludes such doses have a medical benefit.

7:50 a.m.—Tom starts for work. The federally mandated seat belt alarm on his Audi sedan doesn't make a shrill buzz when he turns the ignition key. It's been disconnected. "It's my way of protesting the system," he says.

7:55 a.m.—Driving to work, Tom recalls the story of how a federal safety inspector ordered the wearing of hardhats and installation of guardrails at the workshop of the Trolley Museum in Kennebunkport, Maine. During the family's summer vacations, Tom spends much of his time working as a volunteer in restoring old trolley cars.

"They probably did us a favor, but, my Lord, it makes you think. They've even gotten to trolley museums," he says.

8:14 a.m.—Nancy backs her Volvo station wagon out of the garage on the way to take Jennifer to school. She pulls a small greyish box out of the glove compartment, presses its button and the garage door closes.

The box is a low-powered radio transmitter, a Wickes model 116-56, which was built according to Federal Communications Commission standards.

But FCC rules are just not something Nancy thinks about. She notices the label on the back of the transmitter for the first time: "This label is required by FCC rules. Do not remove."

8:19 a.m.—Jennifer carries her homemade lunch of a ham-and-tomato sandwich into the Union Terrace School. Many other students at Jennifer's public school will eat a lunch prepared at the school cafeteria, federally subsidized at about 23 cents for each lunch.

The U.S. Department of Agriculture requires that, to qualify for the subsidy, the school must serve a "Type A" lunch, which the department specifies must contain 2 ounces of meat or a meat substitute, ¾ cup of at least two vegetables or fruits, bread, butter and a half pint of milk.

8:35 a.m.—The federal government is constantly looking over Nancy's shoulder as she buys the family groceries at the big, brilliantly illuminated Shop Rite supermarket.

Nancy picks up a two-pound jar of Skippy peanut butter, which the FDA says can be called peanut butter because it is 90 per cent peanuts. Any less, the FDA says, it must be called "peanut spread."

The label on the can of sliced peaches lists the vitamins, minerals and calories that each serving of the fruit contains. The FDA is again responsible.

The Department of Agriculture set the standard which determines that the eye-of-the-round roast Nancy buys is "choice" rather than "prime." And it inspected the farm which was home for the cow that was the source for the $1.87-a-pound beef.

These regulations are not on Nancy's mind as she shops.

"I'm looking for food that I think is nutritional. I don't care what the government says is right," she explains. "I don't listen to Ralph Nader either."

12:17 p.m.—As if to underline her statements, Nancy makes her second shopping stop of the day at the Allentown Farmers Market, where mostly Pennsylvania grown produce is sold in stalls in the open-air market, largely free from federal control.

Nancy buys apples and cheese.

Both are sold by farmers under federal agricultural marketing orders, which are designed to control supply and allocate income among producers. The federal government also props up the price of cheese by keeping foreign cheese out of the country and by buying quantities of American cheese when prices fall.

Much of the produce available at the market avoids much federal regulation, for it is produced and sold inside Pennsylvania. For example, there is meat on sale that is not USDA inspected, because it is not shipped across state lines and thus is not in interstate commerce.

1:10 p.m.—Tom goes over a report at his office. It shows, based on a poll of the company's supervisory officers, that 23 federal bodies either receive reports from Pennsylvania Power and Light or affect its business in some way. The Agriculture Department loans money for rural electric service, the Environmental Protection Agency controls smokestack pollutants at generating stations, the Federal Power Commission controls wholesale prices on interstate sales of electricity to other utilities, the Equal Employment Opportunity Commission wants to know about PP&L's minority-group employes . . . the list goes on.

So numerous are the government connections that PP&L has launched a project, in which Tom is involved, to consider whether to set up a new company department to handle all contacts with federal and state authorities.

1:25 p.m.—Nancy sits in the family room talking to a visitor about the EPA's ban on the insecticide DDT, which she blames for a plague of mosquitoes at their rented vacation home for the past few summers. "They don't spray at the beach anymore," she says.

The bites particularly bother her daughter. "Jennifer's eyes have been swollen shut."

8:30 p.m.—Friends begin to arrive for a small holiday gathering. The children watch a Christmas special on television, the ads for which would be screened for misleading statements under proposed Federal Trade Commission regulations. Tom pours drinks. The alcohol is measured and taxed by the Treasury Department.

Throughout this day and every day the Ruddells, like any other family in America, are affected by federal regulations when they sleep, eat, work, drive, shop or play.

HOW MANY FEDERAL FORMS? NO ONE REALLY KNOWS

Washington.—The federal government buries the public each year in more than 500 million forms asking about everything from income taxes to critiques of the "Discover America Pow Wow and Trade Mart."

The Commerce Department wants to hear how many contracts 600 businesses signed at its annual travel show, while the Internal Revenue Service expects every taxpayer in America to fill out one of its 86 million tax returns.

The Agriculture Department's weekly report of red tart cherries gets only about 706 replies a year, and the Tennessee Valley Authority wants data from 21 commercial fish and mussel dealers.

From taxes to cherries, the federal government has a form asking individuals and businesses for information on just about everything.

Business men contend they cannot afford to answer many of the forms feeding the government's need to know and that the cost of answering the inquiries is passed on to the consumer as higher prices.

Some consumer groups, on the other hand, say many government decisions are based on incomplete or biased information. For example, the agencies dealing with energy often use industry-supplied data that critics see as self-serving and unreliable.

Making a count

No one in the federal government keeps track of all the forms that department and agencies send out to individuals and businesses.

An Associated Press survey, however, turned up more than 9,800 separate forms the federal bureaucracy sends out to the public. An estimated 556 million responses are returned each year, with hundreds of millions of hours needed to gather data and complete the forms.

"The question is how much information do we need to run the government," said a congressional aide who studies the paperwork burden. "We may have gone too far."

Thousands of the forms are needed by government programs requested by business—agricultural marketing orders, government contracts and economic development loans.

For example, travel companies and red tart cherry processors get a direct benefit from government forms.

The travel companies come to the Commerce "Pow Wow" each year to sign contracts to bring foreign tourists to this country. On the Commerce forms, the companies say how many contracts were signed and how much they were worth. Because the companies say each year they sign tens of million of dollars in contracts at the meeting, Commerce continues to hold the "Pow Wow."

The weekly cherry production forms are a crucial part of the federal marketing order that helps keep cherry prices up by controlling the supplies that reach the market.

A service station owner may think a Census Bureau form is just a burden, but officials say the data he supplies—added to that from others—may encourage the construction of a new shopping center or factory that would boost his gasoline sales.

The forms race

The IRS leads one part of the federal forms race with 3,500 forms that elicit about 122 million responses a year from the general public.

The latest figures available from the IRS show about 3,500 forms sent out to the public for tax purposes, down from 5,000 in 1968.

The Department of Health, Education, and Welfare only has 957 forms listed with the Office of Management and Budget, but an estimated 176 million replies are received each year. HEW also leads—excluding IRS—with the largest total of manhours required to fill out the forms, 43.2 million.

Other departments and their repeatedly used forms include Labor, 270 forms and 42.19 million replies; Treasury, excluding IRS and scattered other forms, 133 forms and 37.4 million replies; Agriculture, 795 forms and 30.98 million replies; Commerce, 571 forms and 22.6 million replies; Transportation, 285 forms and 18.28 million replies; Justice, 167 forms and 16.7 million replies; and the Civil Service Commission, 150 forms and 16.39 million replies.

THE TOBACCO INDUSTRY

Mr. MORGAN. Mr. President, I recently saw an article in the Richmond Times-Dispatch, which makes the point that the tobacco industry has been the target of undeserved and ill-considered attacks.

I agree with the author, Mr. Colin Stokes, chairman of the board of R. J. Reynolds Industries, that the industry has been found guilty without due process.

To some degree, many American industries are depicted as moral bankrupts who take a "public be damned" attitude, even though such name-calling is entirely inappropriate.

It seems to me that the tobacco industry has too long served as such a whipping boy for such attacks. It almost seems sometimes that we always have to have some institution or group which must bear the onus of all that is wrong, which will serve to play the role of the source of all evil.

What the psychological mechanism is that requires such scapegoats, I do not pretend to know. But I think Mr. Stokes' defense against this kind of thing is justified and accurate. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record as follows:

[From the Richmond (Va.) Times-Dispatch, Mar. 14, 1976]

Tobacco Industry, a Southern Mainstay, Has Been Subjected to Unfair Suffering

(By Colin Stokes)

The tobacco industry, a mainstay of the Southern economy, has in the past decade become one of the most maligned industries in the history of American business. Despite the fact that these attacks too often have been based either directly or indirectly on scientifically unconfirmed allegations regarding smoking and health, the industry has found few friends willing to stand in its defense. If this situation is allowed to continue, not only the tobacco industry, but our entire region, stands to lose.

Tobacco has been a vital part of the South's economy since the Jamestown settlement. Through the years, it has provided the foundation of some of the region's most successful companies and provided a livelihood for millions of its people.

Today, tobacco products are manufactured in over 170 factories in 24 states. However, the nation's largest manufacturers—R. J. Reynolds Tobacco, Philip Morris, Liggett & Myers, American Tobacco, Brown & Williamson and P. Lorillard—all have their major operations in the South. Tobacco manufacturers employ more than 75,000 people, representing hundreds of millions of payroll dollars.

During 1974, tobacco was grown on more than 400,000 farms, the majority located in the South. The value of the year's crop was approximately $2.1 billion. Of this total, more than $1.9 billion flowed into seven Southern states—North Carolina, Kentucky, South Carolina, Georgia, Tennessee, Virginia and Florida.

Any severe damage to the tobacco industry would obviously harm a great many people engaged in tobacco growing and manufacturing, but the impact in these two areas would spread rapidly throughout other segments of the Southern economy.

Americans spent almost $14.5 billion for tobacco products, an all-time record, in 1974. Federal, state, and local governments collected a total of almost $6 billion in direct taxes on these products—revenue any branch of government would have difficulty replacing in these uncertain times.

Looking at tobacco's total contribution, it is noteworthy that the United States is the largest exporter and third-largest importer of tobacco. Last year alone, exports of tobacco leaf and products totaled some $1.2 billion, a record, while imports came to approximately $215 million. This represents a net contribution by tobacco and tobacco products of nearly $1 billion to the U.S. balance of trade.

An additional point of importance when considering tobacco exports is that Norfolk, Va., Wilmington, N.C., and New Orleans, La., are the first, second and fourth leading ports respectively in the shipment of tobacco.

Other allied industries would also be deeply affected by serious sales losses in the tobacco industry. In today's economic climate, I must believe such industries as factory machinery, plastics, paper, foil, cardboard and printing, trucking, shipping and advertising, almost all of which are important to the South, would suffer without the business provided by the tobacco industry. Also to be considered are the 1.5 million retail outlets across the nation distributing tobacco products.

It seems almost inconceivable that an industry of this magnitude could be vulnerable to innuendo and oft-repeated assumptions, but that is exactly the case with tobacco. The industry's reputation has suffered greatly through an almost classic example of how sensational headlines, coupled with claims generally unsupported by good science, can create a false public image.

It is amazing that a major television network now presents shows stating that the case against marijuana, an illegal drug, is an open question. Yet the same network, on its regular newscasts, speaks without qualification to the alleged dangers of smoking cigarettes, a legal product.

The plain truth of the matter is that any relationship between smoking and disease is still an open question. Many scientists who have taken time to look behind the claims of anti-smoking forces have found the "studies" they are so fond of citing are at best questionable. They have found that the finger of guilt has been pointed squarely at the tobacco industry despite the fact that the so-called case against smoking is based largely on inferences drawn from statistics. The simple fact is that no element found in cigarette smoke has been singled out as the cause of any disease.

The tobacco industry, perhaps more than any other single agency, is determined to find conclusive answers to the questions of smoking and health. Since 1954, the members of the industry have provided hundreds of totally independent research grants for study of matters related to smoking and health to scientists at institutions such as Harvard Medical School, the University of California at Los Angeles and Washington University at St. Louis. The tobacco industry's total contribution to such projects now amount to more than $54 million, and such contributions will continue until every smoking and health issue is clearly decided.

It would seem that with such a state of affairs, the tobacco industry would be considered innocent until proven guilty. This, however, has not been the case. In a move which represents a clear danger to the free enterprise system, tobacco manufacturers have been forced to discontinue television and radio advertising for a legal product. In many states, cigarettes are taxed at exorbitant rates because legislators feel that few people will complain about tobacco tax increases since cigarettes are considered harmful. In addition, the anti-smoking forces have begun campaigns to outlaw smoking in many public places, and in turn to make smoking socially unacceptable.

The tobacco industry has, to this point, been able to hold its own against such attacks. While total sales have not risen at the rate they might, they have continued to hold steady or increase slowly. But the assaults on the industry are unrelenting, and if tobacco is to continue to aid in the growth and progress of the South, it must have support from government and business in its region. Unless others are willing to stand up for the industry, to help give it the chance to find answers, one of the South's major building blocks will continue to suffer unfairly.

UNIONIZING THE MILITARY

Mr. GOLDWATER. Mr. President, Adm. John S. McCain, Jr., who retired from active service in 1972 after 45 years, is one of the most outstanding and intelligent commanders ever produced by the armed services. In every assignment he was given, he served with uncommon excellence including his post as Commander in Chief, Pacific, U.S. Navy, from 1968 until just prior to retirement.

Because of my great respect for Admiral McCain, I took a special interest in reading an article of his which he said dealt with the silliest, most dangerous idea he had ever heard in his time in the military. Admiral McCain's reference was to the proposal by the American Federation of Government Employees and the National Maritime Union to "unionize" our Nation's military services. His views were published in the March issue of the publication "Forewarned" and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Forewarned (publication), March 1976]

Military Unionization "Would Lead to Defeat of Our Way of Life"

(By Adm. John S. McCain, Jr., USN, retired)

During my 45 years of service in the United States Navy you can bet that I have heard many—thousands even—ideas and propositions that could be called silly. But the most ridiculous and dangerous idea to come along in all my years is the proposal by the American Federation of Government Employees and the National Maritime Union to "unionize" our nation's military services.

The nation has seen first hand over the past few years the damage that can be done to a community and its people when policemen, firemen, teachers and other unionized public sector employees strike against the taxpayer. In most cases these strikes have been of an illegal nature—meaning that the strikes, sick-outs, etc., were against the law of the state or the locality. But labor union bosses believe that they are outside the law, so they continue to shut down the cities, and keep the children from learning as during the recent two month strike by Pittsburgh teachers.

During the fireman's strike in Kansas City, Missouri late last year, firefighters from surrounding communities would not cross the so-called "picket lines" of the striking Kansas City firemen. The situation became so dangerous to the citizens that the National Guard was called in to help quell the raging fires throughout that city. If the military is unionized this would also mean the National Guard. Would they, under unionization, eschew as firemen in areas surrounding Kansas City, the moral law of helping a neighbor, and not cross the so-called "picket lines"? The American people must be alert to the strength and power of these unions. Many Members of Congress are, I am sorry to say, beholden to union treasuries and personnel for campaign assistance. We could wake up one morning and find that legislation to empower the "unionization" of our armed forces men and women had passed Congress in the late hours before. Stranger things have happened in those hallowed halls.

Throughout the history of our great nation we have been able to maintain a nonpolitical military cadre of officers and men. This is not, as all Americans know, the same in the case of our nation's unions. They are, and have become, great social and political forces in our nation. Their leaders constantly proclaim their political clout on the national and local levels. Does our nation want and need a politicized military? The answer is a resounding no.

The National Maritime Union claims in dangerous innocence that it is "reasonable" that armed forces members have union representation. They say that service people have grievances and economic problems that only a union, in its eminence, could arbitrate. They also feel that the military forces should and must have collective bargaining to get a "fair shake" on benefits.

The American people might be in a quandary thinking that our military is underpaid, and underprivileged, if they were to listen to the bleating of the union bosses. However, the Senate Appropriations Committee studied the pay and fringe scales of our military late last year and reported that such pay had more than doubled in the past decade. And, for the edification of these self-same union bosses, and especially those bosses of government unions, the Senate study says that the military personnel are better paid than their civilian counterparts who work for the federal government. Men and women who, in most instances, are members of the AFGE or other public sector government unions.

For two centuries dedicated men and women have served our nation and fought for our hard earned freedoms—which include the freedom of these unions to make such silly proposals. The good Lord only knows how many of these men and women have given their lives in pursuit of retaining these freedoms. They were not nine-to-five sailors and soldiers. And they were led by dedicated offivers and non-commissioned officers, men and women devoted and trained to the defense of our nation—highly honed and with those qualities of leadership and dedication which come only from high discipline.

Historically our military has been run by the President, the service secretaries and the Department of Defense and the Congress of the United States. Such as pay, benefits, etc., have been handled in the Congress, with the approval of the President. It has worked over the years to the benefit of those millions of men and women in our armed forces. Their grievances are handled within the chain of command, as they should be, but often grievances reach Members of Congress. This is all as it should be.

As a life-long military man, and more lately a Commander responsible for the lives and well-being of hundreds of thousands of our nation's finest young people, I cannot see how a union boss, especially as most of them are not career military, could hope to untangle the problems which face military people. A union boss would have a detrimental effect of the highest order on the necessary discipline which faces military people. The unionization of our armed forces would complicate the defense of this nation to the point where it would lead to defeat of our way of life.

The estimable President of the AFL-CIO, Mr. George Meany, has for many, many years been one of our nation's staunchest advocates of a strong defense posture. He knows that our nation cannot lower our defenses for there are forces in the world waiting in the wings for such to occur, and then they would jump upon us. Mr. Meany knows, probably more than many of the union bosses below him, that the military needs so much higher discipline than, say, teachers, or garbagemen, or even police and firemen. He also is cognizant of those within the labor movement, which he so ably leads, whose aim is to weaken our nation.

Mr. Meany should and must speak out publicly against these proposals to unionize the military forces of the United States. If he does not, it could be too late.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

Mr. PROXMIRE. Mr. President, I call the attention of my colleagues to a communication I have received from the Export-Import Bank pursuant to section 2 (b)(3) of the Export-Import Bank Act notifying the Congress of a pending Eximbank loan and guarantee application relating to the construction of a high voltage electrical transmission line in Zaire. Section 2(b)(3) of the act requires the Bank to notify both Houses of Congress of any proposed loan, financial guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, the Bank proposes to extend a direct credit in the amount of $34,263,000 and a guarantee of loans by private lenders in an equal amount to Societe Nationale d'Electricate, a wholly owned corporation of the Republic of Zaire to assist in the completion of the Inga-Shaba high voltage electrical transmission line which will carry power from the Inga hydroelectric generating facilities in western Zaire to the Shaba copperbelt in southeastern Zaire, a distance of approximately 1,100 miles. This would be in addition to earlier assistance from the Bank for the same project. In 1973, Eximbank authorized a direct loan in the amount of $102,240,000 and a guarantee of $136,240,000 for the project, but, according to the Bank, inflation, design changes, and construction and transportation problems now necessitate increased financing. Eximbank's total participation, including previously provided financing, would cover approximately 62 percent of the total cost of the project. The loan will bear interest at the rate of 9½ percent per annum repayable over a 15-year period beginning August 10, 1978.

As of February 29, 1975, approximately $9.2 million of payments on other Eximbank loans in Zaire were delinquent 30 days or more of which $2.5 million represents delinquent payments of principal and $6.7 million represents delinquent payments of interests. Of the total, $1.3 million represents delinquent interest on the earlier Eximbank loan with respect to this project.

Mr. President, I ask unanimous consent that the letter from the Eximbank be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Export-Import Bank
of the United States,
Washington, D.C., March 10, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. Description of Transaction:

1. Purpose—

Eximbank is prepared to extend a direct credit of $34,263,000 to Societe Nationale d'Electricite (Borrower) and to guarantee loans to the Borrower in the amount of $34,263,000 made by private financial institutions. The purpose of the Eximbank financing is to facilitate the Borrower's purchase from the United States of goods and services necessary for completion of the Inga-Shaba Extra High Voltage Direct Current transmission line (Project). The Project will carry power from the Inga hydroelectric generating facilities in western Zaire to the Shaba copperbelt in the southeastern part of the country, a distance of about 1,100 miles.

On November 21, 1973, Eximbank authorized a direct credit of $102,240,000 to the Borrower and guarantees on loans to the Borrower in the amount of $136,240,000 by private financial institutions. Due to general world-wide inflation since Project cost estimates were made in early 1973, certain design changes, as well as unanticipated construction and transport problems, the estimated total costs of the Project have increased from $343,804,000 to $478,804,000, of which the United States costs have increased from $227,200,000 to $303,340,000 It is estimated that the Project will be completed in early 1978. The equipment and material which is to be financed by Eximbank and the private financial institutions patricipating with Eximbank will be manufactured in the United States and the related services will be performed by United States firms.

2. Identity of the Parties—

Societe Nationale d'Electricite was established in 1970 as the national electric utility of Zaire and is wholly owned by the Republic of Zaire (Republic). Its obligations will be guaranteed by the Republic.

3. Nature and Use of Goods and Services—

The principal goods to be exported from the United States for use in completing construction of the Project will consist of earth moving equipment, steel transmission line towers, and conductor cable. In addition, United States firms will and are performing various related construction and technical services in connection with the Project. The prime contractor is Constructeurs Inga-Shaba, a joint venture firm comprised of Morrison-Knudsen International Co., International Engineering Co., and Fischbach and Moore International Corp. In addition, there are many other United States suppliers across the nation.

B. Explanation of Eximbank Financing:

1. Reasons—

Completion of the Project is essential if Zaire is to attain a projected increase in copper production from 510,000 metric tons per annum at present to 910,000 metric tons per annum by 1982. Copper is Zaire's principal export, accounting for about ⅔ of export earnings. In view of the large amounts involved in this transaction and the repayment term which is required, Eximbank's loan and guarantee are necessary to complete the Project and effectuate these sales of goods and services for United States manufacturers. The export of these goods and services will have a favorable impact on the United States economy in terms of the United States balance of payments and domestic employment, especially in industries presently operating substantailly below capacity.

Accordingly, Eximbank's participation in this major export implements the Congressional mandate to aid in financing and to facilitate United States exports.

2. The Financing Plan—

The total cost of the United States goods and services necessary to complete the Project to be purchased by the Borrower is $76,140,000. The Borrower will make a 10 percent cash payment and the balance of the increased United States costs will be financed by Eximbank and private financial institutions as follows:

[Dollars in thousands]

Percent of U.S. costs

Cash payment	$7,614	10
Eximbank direct credit at 9½ percent	34,263	45
Private financing with Eximbank guarantee at 1½ percent fee	34,263	45
Total	76,140	100

(a) Eximbank Charges—

The Eximbank credit will bear interest at the rate of 9½% per annum, payable semiannually. A commitment fee of ½% per annum will also be charged on the undisbursed portion of the Eximbank credit. The private financial institutions being guaranteed by Eximbank will pay a guarantee fee to Eximbank of 1½% per annum on the amounts they disburse to the Borrower. Also a commitment fee of ⅛ of 1% per annum will be charged on the undisbursed portion of the private financing guaranteed by Eximbank.

(b) Repayment Terms—

The increased financing will be repaid in 30 semiannual installments beginning August 10, 1978, about six months after estimated completion of the Project. The private financing guaranteed by Eximbank will be repaid from the first 15 installments and the Eximbank direct credit will be repaid from the last 15 installments.

(c) Security—

Eximbank intends to require that the Borrower establish a trust account outside Zaire into which payments for power from the largest consumer of Inga power, Gecamines (a copper mine owned by the Republic), will be made in foreign exchange in amounts sufficient to repay Eximbank's existing exposure as well as the increase in that exposure which is necessary to complete the Project.

Sincerely yours,
Stephen M. DuBrul, Jr.

THE RETIREMENT OF CONGRESSMAN ROY TAYLOR

Mr. MORGAN. Mr. President, it seems that the 94th Congress is going to be one in which the people lose the services of some of their best servants. It is a bit sad to see that among those who have announced their retirements, there are so many who have earned the unqualified respect of their colleagues and constituents and will be missed so keenly.

Now one of my friends in the North Carolina delegation, Congressman Roy Taylor of the 11th District, has announced that he will retire, saying with his usual grace that he thinks it in the country's interest that its Congressmen retire early rather than late.

He has decided to return to the beautiful mountains of North Carolina, whose people he has served for 16 years. Knowing, as I do, what kind of people, and what kind of landscape he will return to, I cannot say I blame him for wanting to go home.

I have a feeling that those people and that landscape have had much to do with his performance as a Congressman, shaping his statesmanship in positive ways. He is one man for whom the word "conservative" has had a very positive and specific meaning. No one who grew up in the highlands of North Carolina could possibly fail to understand that the conservative element of environmental protection is the major element. The land in Congressman Taylor's district is so magnificent, and so far above the human scale, that it demands to be protected and conserved. One would no more want to foul that landscape than to desecrate the uplands of Heaven.

The people in Mr. Taylor's district are also rather special. Mountain folks are self-sufficient and charitable, strongly moral and yet tolerant. They are likely to want to strike a balance on vexed issues, and to respect the contrary opinions of people whose integrity they trust. For these reasons they chose Roy Taylor to represent them.

With such a background, it is understandable that Congressman Taylor has achieved a reputation among his colleagues and among his constituents for being forthright and utterly dependable. Especially, as chairman of the House Interior Subcommittee on Parks and Recreation, has he gained the respect of environmentalists and industrialists alike, for his ability to be evenhanded and fairminded when confronted with the conflicting needs people have—to make a living, and yet not foul our nest. Opposing groups may fight tooth and toenail, but they both trust Roy Taylor.

Mr. President, I want to make sure that my colleagues here in the Senate know what I am saying is not just rhetoric. I wanted to insert in the Record three editorials, from the Asheville Citizen, the Asheville Times, and the Winston-Salem Journal. These are the biggest papers in Roy Taylor's district, and have, therefore, been the people's watchdogs for western North Carolina. They are independent papers, so I think you can take their eulogies of Roy Taylor as being very indicative of the high regard in which he is held in his home district.

Mr. President, I ask unanimous consent that the editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Asheville Citizen, Feb. 26, 1976]

Taylor's Career Marked by Trust and Integrity

All worthy public servants have two characteristics in common: They trust the public. They have integrity. Trust and integrity.

Without them, no number of other sterling qualities will suffice. Without them, no number of self-promotions can spare an official from ultimate ruin.

The simplicity of it is lost on too many officeholders, but Rep. Roy A. Taylor, who announced Tuesday that he will not seek reelection, is not among them. Even his announcement reflected his trust and integrity: "It is better for the country that congressmen retire too early than too late."

When he first went to Congress in the summer of 1960, he carried with him an abiding belief in the wisdom of his constituents in Western North Carolina. Through the years as a county and state official, in rural courthouses, country stores, and on town and city streets across the mountain counties, Roy Taylor had acquired a respect for people. He had seen Western North Carolinians during good times and bad. He came to appreciate their judgment, their keen sense of right and wrong, their charity, and their dogged independence.

During almost 16 years in the House, he has reflected such values not because they are popular, which sometimes they are not, but because they are bedded into his heart and mind. In that, he was in 1960 and is today a reflection of much that was and is right about the region and the nation.

The country was entering a period of enormous change when Democrat Taylor took his seat in Congress. Some public officials were changing too—and in the wrong direction. Too many of them forgot that public office is a public trust. They sold out. In the process, they brought shame to themselves and lowered the people's confidence in their government.

Taylor, to his lasting credit, sought a higher standard. In an era when "politician" is unfortunately a word of scorn, Taylor has brought it honor.

While he came to love Congress as an institution, his affection has not made him overlook its faults. He found ways to minimize some of the system's weaknesses in the interest of his constituents. His finances are an open book. He often ignores congressional holidays and recesses. He sparingly uses the franking and travel privileges accorded lawmakers. He has repeatedly voted against congressional pay increases. The higher he has climbed in seniority the harder he has worked.

Unlike so many of his colleagues, he has never felt that all the answers are in Washington.

He has been a true conservative, not a reactionary. He has sought to conserve the nation's environment, its treasure, its liberty. His service on the House Interior Committee, of which he has served as acting chairman, and as chairman of the panel's subcommittee on National Parks and Recreation has rightly earned him national respect.

Taylor's successor will have large shoes to fill. Above all else, his successor should trust the people and have integrity. Citizens should insist on no less.

[From the Winston-Salem Journal, Feb. 28, 1976]

TAYLOR'S RETIREMENT

Retirement does not come easily, especially for a politician who has a winning style and who has become accustomed to the power and prestige of office. Few of them, indeed, find they can be persuaded to put it all aside, short of a verdict at the polls.

Rep. Roy A. Taylor, the senior member of the North Carolina delegation in Congress, announced his exit a few days ago with rare grace and candor. The Democrat who has represented the 11th District since 1960 said he will not run this year for another term. Age and politics had little to do with it. Taylor is 66, not old for an incumbent with a good campaign track record. Taylor has that. He has won reelection the past few times by impressive margins.

Taylor said the timing is right. He is at the stage and in the mood '"to seek a more relaxed way of life," he said. "I desire to come home to western North Carolina while my wife and I are still young enough to enjoy life at a less strenuous pace."

Along with personal reasons, Rep. Taylor showed consideration for his constituents in reaching the decision to retire. An ear infection left him with a substantial hearing impairment, a handicap to his performance. "It is not right that I occupy a seat in Congress without exerting my best efforts," he said. He extended that to a rule others in Congress should take to heart. It is better for the country, he said, "that congressmen retire too early than too late."

That is a political insight worth noting by both congressmen and the voters. Of course, it contradicts what citizens usually hear from a member of Congress. The common practice is for an incumbent to preach the value to his constituents of what he gains from experience. The sermon is repeated at every election as long as the voters accept it, until the officeholder is decrepit.

There is a hard glint of truth in what Rep. Taylor says, and he shows candor in applying it to himself. A congressman, whether a freshman or a veteran, should be judged on his performance and the exertion of his best powers in the discharge of the duties of office. Voters would do well to take the incumbency argument with a grain of salt, and look at the record in deciding whether a congressman is ready for retirement or merits a longer stay in office.

Taylor is the second North Carolina member of the House to elect retirement rather than a race in this year's campaign. A few months ago, Rep. David N. Henderson, also a Democrat, announced he is ending his tenure in the Third District. The open seats will set the stage for spirited contests to pick their successors.

As he gained seniority, Rep. Taylor rose to a position of influence in Congress. He is the second-ranked Democrat on the House Interior Committee, an important spot for his mountain district as well as North Carolina. His retirement will mean the loss of that leverage.

Still, he deserves the enjoyment of the more relaxed way of life he looks forward to back home away from the pressures and the hectic pace of Washington. The voters who kept him in office for 16 years certainly must have thought he looked after their interests well. He showed consideration for them in reaching the decision to step aside without waiting for age or political defeat to end his useful career.

[From the Asheville Times, Feb. 27, 1976]

TAYLOR'S RECORD MEASURED IN TRUST

Roy Taylor's decision to retire from Congress at the end of this term was made gracefully, and it will be accepted by his constituents the same way. But the announcement comes with deep regret.

During the 16 years he has represented Western North Carolina, tens of thousands of people here have come to respect Taylor personally and to value his performance in office. He is an uncommon man, and he has an uncommon record as a congressman.

Strictly in terms of legislation, Taylor's greatest contributions have come from his position on the House Interior Committee. He is chairman of the Parks and Recreation subcommittee, whose affairs have a direct impact on WNC's role as a travel and tourism center.

The completion of the Blue Ridge Parkway, the development of the Great Smoky Mountains as a national park capable of supporting the heavy visitor demands placed on it, the preservation of large areas here and elsewhere in the country as wilderness and, overall, the effort to establish outdoor recreation as a national priority, can be traced in part to Taylor's concern for the country's natural resources and his influence in shaping legislation.

A congressman's true worth, however, is not measured by whether he plays a key role in matters of nationwide significance. More important is the way he serves his district.

This is where Taylor really excells. He has maintained a close and personal relationship with people here, and he long ago earned a reputation for honesty and fairness in representing their views.

Just as noteworthy is his personal conduct in office. It is above reproach. Taylor has consistently avoided all the temptations that many congressmen fall victim to—conflicts of interest, excessive travel at taxpayer expense, abuse of the free-mailing privilege and other perquisites of the office.

Few congressmen can match Taylor's record of attendance on committee and floor votes or the amount of time he spends (sometimes during vacations) at his congressional duties.

Taylor's performance is reflected in his high regard at home. Simply stated, people trust Roy Taylor. There isn't any criterion of a person's worth that is more valid.

We only hope that among the people who step forward to seek his seat, there will be someone who is equally deserving of the public's confidence.

THE CONSTITUTION AND THE COMPUTER

Mr. MATHIAS. Mr. President, the Bicentennial is being properly commemorated in Kentucky in a series of events sponsored by the Kentucky Civil Liberties Union, the Kentucky Education Association, and Systems Science Center at the University of Louisville, and in cooperation with the College of Law and School of Journalism, University of Kentucky, the School of Law and Systems Science Center, University of Louisville, the Criminal Justice Center, Eastern Kentucky University, and the Academic Computing and Research Services, Western Kentucky University.

The program includes conferences on:

March 27 at Western Kentucky University in Bowling Green.

April 10 at the Belknap Campus of the University of Louisville.

April 10 at the College of Law, University of Kentucky, Lexington.

April 24 at Eastern Kentucky University in Richmond.

At the first conference, which I had the pleasure of attending on Saturday, March 27 in Bowling Green I did not observe a powdered wig, a tricorn hat or a flint lock musket. In spite of that, it was certainly one of the finest Bicentennial events held in America in 1976. I have every confidence that the program will develop strength and attract participation and support as the series of conferences continues.

The reason I think it is a great Bicentennial observance is that it is actually conserving and continuing the achievement of the American Revolution. It is, in fact, the continuing revolution.

The series purposes to examine the impact of modern technology on the Constitution and to explore ways to make the utilization of technology compatible with Constitutional principles.

The questions being raised and discussed in Kentucky in the next few weeks are the same issues upon which Congress will have to pass judgment very soon. The summary of the conference discussions can be of great national value in considering the use of computers in storing data, electronic surveillance and other activities that can result in intrusions into personal privacy in violation of the spirit of the fourth amendment.

The prospectus for the conference describes it in greater detail and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the prospectus was ordered to be printed in the RECORD, as follows:

1776–1984: THE CONSTITUTION AND THE COMPUTER

THE CHALLENGE OF DATABANKS TO A FREE SOCIETY

A series of four Saturday conference programs on *personal information privacy and data surveillance* by government, industry, researchers, social planners, and policymakers. The purpose of these programs is to inform and educate citizens of the Commonwealth of Kentucky concerning the practices of large, public and private institutions in gathering personal information on the lives of ordinary Kentuckians. The conference is free, and open to the public.

Privacy and freedom in 1976

Must We the People of the United States now after 200 years as a free society begin to discipline ourselves to accept restrictions of personal freedom and civil liberties? Must we allow the needs of a technological society for information and data in both public and private sectors to impose on the privacy of the individual?

What are legitimate government requirements of personal data and information for maintaining national security, law enforcement, and social order at the national, state and local levels? What are the reasonable needs of industry, financial institutions, service agencies, social scientists and other data users? And how can we provide for the requirements and needs of government, industry and social planners and still maintain our democratic heritage of individual privacy and personal autonomy?

Should we narrow the right of privacy to facilitate law enforcement and social planning, or should we broaden it to enlarge areas of private choice and curtail or restrict specific uses and users of personal data? Is privacy, a precious and fragile resource and "the right most highly valued by civilized men" (Justice Louis Brandeis), in danger of erosion by the expanding utilization of computer databanks and other personal data recordkeeping systems?

These conference programs will consist of speaker presentations, panel discussions, workshops on specific issues relative to personal information privacy, and an exhibit of actual working data terminals to provide conference participants hands-on learning experience of what these information recording and processing instruments are and what they are capable of doing. Films and other demonstrations are also planned.

Registration opens 9 a.m. on the day of the conference. Programs are expected to conclude at 4:30 in the afternoon.

COMPUTERS, DOSSIERS, AND THE RIGHTS OF CITIZENS

Issues to be discussed in these programs include those relative to retail credit reports, bank and tax records, student educational and teacher personnel records, the polygraph as an employment screening tool, medical and psychiatric files, military records, arrest records and computerized criminal histories, Census Bureau practices, credit cards, automated banking devices, mailing lists, motor vehicle registrations and drivers' licenses, social security numbers as standard universal identifers, automated lodging and transportation reservation systems, military domestic surveillance and intelligence gathering, political surveillance by the FBI and other law enforcement agencies, domestic spying on American citizens by the CIA and National Security Agency, wiretapping and eavesdropping, mail covers, and personal information practices of social service and human welfare agencies, as well as academic researchers, policymakers and social planners. Discussion of the Constitutional right of privacy, the Freedom of Information Act, the Privacy Act of 1974 (as amended), the Fair Credit Reporting Act, the Bank Secrecy Act, and other recent and proposed legislation will also be included in the programs.

"Privacy . . . It's nobody's business but yours."

THE SCHORR CASE: THE REAL DANGERS

Mr. ABOUREZK. Mr. President, it hardly seems useful to talk about the source of leaks at this stage, whether or not they spring from Congress or the administration itself, but a remarkable new insight has been provided by I. F. Stone on the House Intelligence Committee report. I ask unanimous consent that his article, "The Schorr Case: The Real Dangers," which appeared in the New York Review of Books of April 1, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SCHORR CASE: THE REAL DANGERS

(By I. F. Stone)

I

One of the first steps in solving a crime is to determine who benefited by it. The chief beneficiaries in the leak of the Pike committee report on intelligence were the intelligence agencies themselves. The report turned up on the CBS evening news Sunday, January 25, and in the first editions that same evening of The New York Times for Monday, January 26. When the House of Representatives met in Washington at noon next day the minority on the Pike committee launched the attack which led three days later to the vote against release of the report.

Logic, probabilities, and the circumstantial are not proof. Folly can never be excluded. But an examination of the strange circumstances in which the report was suppressed may put newspapermen on their guard and show the public what we are all up against in dealing with secret agencies. The Pike committee voted nine to four on the afternoon of Friday, January 23, to release its report. Everything was ready for publication after months of hard work and agonizing hassles with the intelligence agencies and the executive branch. The majority of the committee and the staff were triumphant. The last hurdles to publication seemed to have been safely cleared.

Yet that very weekend someone leaked a copy of the report to The New York Times and to Daniel Schorr of CBS, giving the intelligence agencies their chance to discredit the committee and block release of the report.

This leak was not, repeat *not*, a leak to thwart censorship. Under the rules of the House and the resolution establishing its Select Committee on Intelligence (the Pike committee), that nine to four vote on Friday afternoon, January 23, was all that was needed to release the report. The committee did not have to go to the Rules Committee for permission, nor did it need a vote of the House to make the report public. The report would have been released automatically as soon as copies came back from the printer. It was the leak that did the committee in.

At the time of the leak, The New York Times and CBS were not giving the public information that would otherwise have been suppressed. They were merely getting the report in advance of their competitors. At that point, their news stories were a beat, not a public service. Indeed, as soon became clear, it was a public disservice to jump the gun by a few days on official release of the report at the cost of giving its enemies—and the enemies of the press—just the opportunity they were looking for.

The leak fit beautifully with a well-synchronized attack by the enemies of the report. On Monday morning, January 26, Daniel Schorr showed his copy of the Pike report on CBS morning news and The New York Times arrived in Washington with extensive stories on what the report contained. This coincided—whether by accident or design—with plans which seem to have been already made for an onslaught that very day on the floor of the House.

When the Pike committee met at 10 AM that morning, Congressman McClory of Illinois, the ranking Republican on the Pike committee, sprang a surprise on his colleagues. He revealed that he had asked for and been granted special permission to address the House that day and charge security violations in the report. That gave the committee majority very little time to prepare a reply. The committee adjourned after 11 AM and when McClory took the floor in the House soon after it met at noon, it became clear that he and his supporters were well prepared.

When the majority spokesman of the committee asked for a delay to await the arrival of Chairman Pike, who had been held up in New York by stormy flying weather, McClory said he could not wait because other congressmen were alerted to speak in his support. McClory said he would be "very happy" to have Pike present but he could not wait for him because "I have made these plans and there are a number of others who want to participate." But he assured his colleagues of the Pike committee, "I am not intending to attack anybody or anything like that." He added, "Now really, this doesn't have anything to do with the question of leaks." But the leaks to The New York Times and CBS were brought up over and over again by McClory's supporters on the House floor. The leaks provided an ideal backdrop for the one-sided "debate" which followed.[1]

McClory's speech charged that the report violated an agreement to give the White House final power to veto any committee revelations, subject only to a later appeal to the courts. But the main emphasis of the debate was on the leaks. The final speaker, the Republican minority leader, Rhodes of Arizona, summed it all up by saying that the executive branch "charged with our national security" could not be expected "to confide in a Congress that is a direct conduit to the public press and rushes to the media to divulge every particle of information it receives." In a phrase worthy of the best on Madison Avenue, Rhodes said the public's right to know did not give Congress "the Right to Blab." Even soap has never been sold more skillfully.

This is the theme song of the counterattack orchestrated by the intelligence agencies—the newspeak of the CIA and FBI. Congressional control is to be stigmatized as a "blabber-mouth" operation. Attention is to be focused not on the abuses of secret government but on those who criticize and expose them. And if there isn't enough "blab-

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Footnotes at end of article.

bing" from Congress we may expect the intelligence agencies to do the blabbing themselves and blame it on Congress and the press.

The government itself has always been the foremost leaker. The chief value of the classification system is the wide leeway it gives the government for manipulating the public mind by selective declassification. But this is only one of its many uses.

One way to undercut a congressional investigation is to beat it to the punch by leaking part of the story in advance. It makes the later official revelation sound like old hat news. It leaves the congressional report, when and if it comes, to be greeted by "ho hum, so what's new?" If you leak a report and then block the official report, as has been done with the Pike report, then the revelations never have official status. If the full text or part of it appears in peripheral offbeat publications like the Village Voice, the damage is limited by its limited circulation. It is hard to get outside New York, and other publications do not give the text the study and review it would otherwise get as a public document. Congress doesn't see the considered reasoning and recommendations of one of its own committees; it only gets the "headline stuff" creamed off by a few favored papers.

A lot of the "leaks," as many newspapermen know, have come from the executive branch and the intelligence agencies themselves. One of the biggest "leaks," which hurt the Pike committee last November, was the leak to Schorr at CBS and to The New York Times and The Christian Science Monitor of the tragic story of how the CIA sold the poor Kurds, down the river, first giving them secret support against Iraq and then cutting it off when that suited the Shah of Iran's power politics. Pike committee sources claim that there were hitherto unknown details in the New York Times and the Christian Science Monitor reports of the Kurd story which were new even to its own investigators, details which led them to suspect that the leaks must have come from an intelligence agency.

Schorr broke the Kurdish story on CBS news on the Saturday night before it appeared in The New York Times and The Christian Science Monitor. Mitchell Rogovin, special counsel to the CIA, phoned a Pike committee staff official that Saturday morning and asked him to stop Schorr from telling the story on TV that night. The Pike committee official, who had not been aware that the Kurdish story had leaked, asked himself whether that telephone call was a cute way to divert suspicion from the CIA as the source. That is the kind of question naturally bred by the CIA's capacity for murky and labyrinthine manipulations. The CIA was aware that nothing had so angered the Pike committee as the Kurdish tragedy—this was a subject on which there was no minority—and some Pike committee members believe that the intelligence agencies leaked it in advance to defuse the coming committee report.

The Kurdish story leaked the very weekend in November that Colby was fired by Ford. The New York Times in publishing it gave "a senior intelligence official" as its source. While the leak was later used to smear the Pike committee, the target of the intelligence official in leaking it was Kissinger, who was Nixon's willing accomplice in this tragic bit of "realpolitik."

II

The executive branch and the intelligence agencies had a motive, and the intelligence agencies had ample means, to leak the Pike report in advance. There were several versions of the Pike committee report as it went through repeated and prolonged revision in hassles with the various executive and intelligence agencies involved. There were close to two thousand copies of various versions circulating in the White House and the federal agencies for the purpose of pinpointing security matters and arguing for various kinds of deletions. Copies were even sent to many embassies abroad. Chairman Pike told the House bitterly on January 27 that the mistake he made was in suppying a copy of the final version of his report to the CIA as soon as his committee voted approval on the 23rd. So the CIA got the final version the day before the leak.

Those committee members who sided with the intelligence agencies kept in close touch with them in the prolonged negotiations over security deletions. In the battle over deletions copies had to be furnished to intelligence officials far down on the totem pole to deal with highly technical security problems. A leak could easily have been arranged in those quarters and been far harder to trace than a leak inside the Pike committee, where there were only enough copies for each of the thirteen members and perhaps a half-dozen copies for staff use. Yet a staff leak cannot be excluded.

This brings us to a new problem, of which the public has not been aware, and that is the problem of "detailees." The word "detailee" is a new word I don't believe anybody ever heard used publicly until the Pike committee report. The word seems to have been added to the lexicon by the CIA. It is a bureaucratic euphemism for a certain kind of infiltrator, an intelligence agent who is slipped into other branches of the government, sometimes openly, sometimes covertly. Sometimes he is semicovert—his identity being disclosed only to the head of the department or office to which he has been "detailed."

There is no way of being certain whether any, and if so how many, intelligence "detailees" have infiltrated Capitol Hill. A secret agency might well be tempted to "detail" one or more of its own to watch any committee investigating it. Such "detailees" would be ideally placed for "leaks" with which to discredit the committee they had infiltrated. It would be naive not to take this possibility into account.

This problem of infiltration is muted in the Pike report. It appears in column one of page eighty-nine in the twenty-four page supplement on the Pike report in *The Village Voice* for February 16. But it is serious enough to have called forth corrective proposals from both the majority and the minority in the final recommendations submitted to the House by the Pike committee on February 11.

Like others, I have often wondered what could happen to the government if it were secretly infiltrated by the intelligence network, which could then pull the strings from behind the scenes. But the first public mention of such infiltration I have ever come across was at the public session held by the Pike committee on February 4, almost two weeks before the *Village Voice* text appeared.

At that hearing, the Pike committee staff director, A. Searle Field, explained that "detailees was one of the subjects of the initial [CIA] Inspector General's report of 1973, which looked into internal CIA abuses."

The Pike hearings and the Pike report do not disclose what the CIA inspector general found out or what he recommended be done about it. But it would seem to be a practice which should wisely be scotched in the early stages. A network of gumshoe agents within the government, working as civil servants but subject to agency command, might sound like a plot for a new James Bond thriller. But if the abuses implicit in this practice are real enough to be investigated by the CIA's inspector general, and to be the subject of legislation recommended by the Pike committee, it is not wise to dismiss them lightly.

The Pike report says CIA "detailees" sit on interagency panels unbeknownst to their colleagues, that "some of them work in positions involving evaluation of CIA's work product and proposals," and that some of these covert operatives prepare covert action proposals for the National Security Council in the White House without revealing their identity to the Council.

Another example of such infiltration was given by Mr. Field at the February 4 meeting of the Pike committee. He told a five-man government body set up to deal with new amendments to the Freedom of Information Act. One member was an overtly assigned CIA man while a second member was a covert "detailee" from the CIA.

The only sensible way to deal with an abuse so difficult to check is simply to make it unlawful for the CIA to put "detailees" into public agencies. The practice can be doubly subversive of good government. To judge by the report, the White House itself often arrange for CIA "detailees" for purposes of its own, such as "to circumvent Congressional budget ceilings." The Pike report does not say so but the Watergate revelations show that this can be one way for an unscrupulous president to use the intelligence agencies against his own political opponents.

At pages 1590 to 1592 in Part 5 of the Pike committee's published hearings, we get a glimpse of the kind of dubious White House relationships which drew the CIA inspector general's attention. The ranking Republican on the committee, McClory of Illinois, asked William E. Colby at a hearing last November 6 about the case of Chester L. Cooper, an assistant CIA director for policy support who was assigned to the staff of Lyndon Johnson's assistant for national security affairs, McGeorge Bundy, as an expert on Vietnam and China.

Cooper went to the White House in July 1964, remaining on the CIA payroll until the end of the year, and then continued to be carried on agency rolls as on leave without pay until he resigned from the CIA in April 1968. He worked first in the White House, then in the Institute for Defense Analyses, a think tank for the Joint Chiefs of Staff, and then in the State Department. There is no evidence that these were covert operations. But it is clear from a memorandum which Colby provided for the record at Congressman McClory's request that Cooper's service in the White House led to his being used by Lyndon Johnson in his campaign against Goldwater.

According to the memorandum, Cooper was questioned by a member of the CIA inspector general's staff on December 21, 1973, "on the political nature of his activities while on the NSC staff" at the White House. "At that time," the memo said, "the press carried reports that CIA spied on Senator Goldwater."

Cooper said he simply had received advance copies of Senator Goldwater's speeches. The memo says advance press copies of the speeches "were picked up by a female Domestic Operations Division employee" of the CIA and Cooper "would then critique them." The Colby memo admitted there was "no question that Mr. Cooper was serving the White House in the political campaign while on the CIA payroll and that he was assisted in part" by a woman agent of the CIA's "Domestic Operations Division." McClory's cross-examination of Colby was noteworthy for its meagerness. He did not ask Colby what other chores that woman operative may have performed for Johnson at Goldwater headquarters. It seems an unnecessarily expensive and roundabout way to get advance press copies of Goldwater speeches. McClory wasn't very inquisitive.

It is hard to believe that so power-hungry an operator as LBJ, and one so innocent of scruples, would be so restrained in his use of the CIA.

But the majority of the Pike committee

did not recommend that "detailing" be made unlawful. It only recommended "that intelligence agencies disclose the affiliation of employees on detail to other government agencies or departments to all immediate colleagues and superiors." That is toothless.

McClory in his recommendations as ranking member of the Republican minority would water this down further. He recommended that "detailees not be placed in any position in which an actual or apparent conflict of interest might exist." Full disclosure is the best way to prevent this but McClory's recommendation would require disclosure of the CIA man's identity only to the head of the agency to which he was "detailed." What if the head of the agency wanted an intelligence man, to help him keep an eye on his other employees, his rivals, or his critics? Such feeble safeguards merely give respectability to the abuses exposed.

Were there "detailees" operating covertly on the Pike committee staff, or in the federal agencies that had access to the report, and did they have any part in leaking it? Schorr and the New York Times reporters may well have been unaware of the real affiliation, or hidden loyalties, of their secret "source." I'm sure they would not have lent themselves knowingly to a leak which had been set up by the CIA to undermine the committee and thwart the public interest.

III

The suppression of the Pike report was a swift and well-planned operation, marked by trickery and misrepresentation, in which the Republican minority, the White House, and the intelligence agencies had the collaboration of the Speaker and the Democratic House leadership. The trap that placed the Pike report at the mercy of the Rules Committee was sprung on January 27, the day after Pike's committee was attacked for "leaks" on the floor of the House.

The majority of the Pike committee had promised the minority to ask for a five-day extension before the report was filed in order to give the minority time to have its views published along with the report. This extension, usually a mere formality, required the unanimous consent of the House. At the committee hearing on the morning of the 27th, as the public committee record shows, Chairman Pike asked McClory, as the ranking Republican on the committee, if he had any indication that unanimous consent would not be agreed to. McClory said no, and added that he would recommend it. This was taken by the committee majority to mean the House Republicans would go along.

But when Chairman Pike went to the floor as soon as the House convened that day and asked unanimous consent, a Republican, Robert Bauman of Maryland, objected, saying that "some of us had hoped, when this report was formally presented to the House, to have a chance to consider some parliamentary method so that those portions of the report which might be detrimental to the interests of this country could be excluded from publication."

The failure to get unanimous consent meant that Pike either had to withdraw his request or to put his neck in the noose by going to the Rules Committee for the five-day extension. He could have told the minority that he had fulfilled his obligation to them by asking for unanimous consent, and that since this had been denied, he would have to go ahead and release the report and leave the minority views to be published later, in a separate House pamphlet, as often happens in such cases. There were those on the committee who favored this procedure, but Pike felt that he was honor bound to go to the Rules Committee. The Rules Committee met next day, January 28, and voted out a murky resolution, ostensibly granting the extension of time but at the cost of stopping publication altogether.

The trap was now clearly visible. The Democratic House leadership, had it chosen, could have withdrawn the Rules Committee resolution. Indeed this is what Bauman and the Republicans feared. Bauman took the floor first thing on January 29 to say that he hoped the majority leadership would not "withdraw this resolution from consideration." Only by a vote of the House, Bauman said, "can the American people know where each of us stands on the issue of destroying our intelligence capability." This demagogic hyperbole, equating a vote to release the report with a vote to destroy "our intelligence capability," was absurd but politically chilling.

Even so the resolution could be sold to the House only on the basis of misrepresentation. Dale Milford of Texas, the one Democrat on the Pike committee who was a member of the minority of four in favor of withholding the report,[2] sent a "dear Colleague" letter to every member of the House before it met on January 29 marked "urgent" and saying—all emphases in the original—

If you vote for the resolution, you will be able to get a copy of the report, read it, and decide for yourself whether or not it should be made public. This resolution does not "gag" the committee. It does prevent the Select Committee on Intelligence from unilaterally releasing classified information and very sensitive matters unless the full House shall approve such a move by a later resolution.

When the Rules Committee resolution came before the House later that afternoon, the members voted 246 to 124 for the resolution. Many members voted for it on the assurance, several times repeated during the debate, that they were only holding up the report temporarily so they could read it for themselves and judge whether it contained information so dangerous to security or proper intelligence activities as to warrant additional deletions or suppression.

But after the vote, when members began to ask the office of Speaker Carl Albert when they would get copies of the report, they were told that there was only one copy available and it had not been cleared for release to the members of the House! The precise form this double-talk took in various telephone communications to members has gone unrecorded. But no doubt it reflected the extraordinarily confused and confusing wording of the Rules resolution itself.

The part of the resolution dealing with the disposal of the Pike report contained two clauses. It said first that the Select Committee on Intelligence "shall not release any report containing materials, information, data, or subjects that presently bear security classification, unless and until such reports are published with appropriate security markings and distributed only to persons authorized to receive such classified information."

But under the Constitution and the laws all members of Congress are automatically given "top secret" clearance to all classified information. Otherwise the Executive could stop the wheels of Congress and destroy its supervisory power over the government by wholesale wielding of classification stamps.

Theoretically any member of Congress was authorized to ask for and read a copy of the Pike report. But the Speaker kept the gag on for more than two weeks. Then on February 16 he announced that he was sending five copies each to five committees of the House—Armed Services, International Relations, Judiciary, Rules, and Appropriations—and that members who wished to read the report could do so in any of these committee rooms.

But strict conditions were imposed. Members who wished to see the report had to sign a promise to keep its contents secret. They were forbidden to take notes, and they could only read the report under the watchful eye of a committee staff member or security guard.

The circumstances were discouraging and intimidating. The report was 338 pages long, and could not be read in the privacy of a member's office amid other chores. A reading might require several or more visits to the committee room. It was difficult to make a considered judgment without taking notes, and there was the danger that after reading so voluminous a study a member might forget where he had learned a certain fact and inadvertently disclose classified information, subjecting himself to the threat of censure in the House or even prosecution.

Apparently few members had the temerity to avail themselves of this risky privilege. When I began working on this story March 3, two weeks after the Speaker's announcement, I tried to phone the counsel of each of the five committees to ask how many members had come around to read the report in that committee's rooms.

At Armed Services, the most forbidding of the committees for liberal members because its staff is pro-Pentagon, I was told quite simply "none." At House International Relations I couldn't get past the switchboard, but after a stormy afternoon, still directly in contact only with the telephone operator, the answer was reluctantly relayed to me, "two."

At House Judiciary, two days of effort were altogether fruitless. And at Appropriations and Rules I was told by the counsels' offices that the chairmen of these two committees, George H. Mahon of Texas and Ray J. Madden of Indiana respectively, had forbidden them to tell me. The bureaucracy on the Hill can be as secretive and arrogant as the agencies themselves.

The other clause of the resolution said, "Or until the report has been certified by the President as not containing information which would adversely affect the intelligence activities of the CIA in foreign countries or the intelligence activities in foreign countries of any other department or agency of the federal government."

This clause led many newspapermen and House members to believe that the report was being held up until the White House could state just what passages or sections of the report it objected to and then allow House members to judge these objections for themselves. Even so careful a research service as Congressional Quarterly reported (p. 419, February 21) that the House had voted to hold up the report until there was certification from the White House.

What helped to create this impression is that McClory and the Republican minority claimed that information had been given the Pike committee on the understanding that if there were unresolved conflicts between the intelligence agencies and the committee, these would be submitted to the White House so that the president could specify just what portions he objected to, and presumably why, and then the committee would either accept the White House opinion or challenge it in the courts.

Since McClory and the minority claimed that the report breached this understanding, and the Speaker himself took part in the White House conference last fall from which it derived, many assumed the Rules resolution was an effort to reinstate this agreement. But for the Speaker to send the report to the White House without a strict time limit and a demand for precisely specified objections would only get the Republicans off the hook and bury the report.

The submission of disputed material to the White House, with a request for pinpointed objections and a deadline within which the White House must answer or lose by default, is a provision of the bill for a Senate intelligence oversight committee just reported out by the Senate Government Op-

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Footnotes at end of article.

erations Committee. This procedure could put the White House in exactly the same uncomfortable spot it occupied during the government's attempt to enjoin publication of the Pentagon Papers.

The crucial point in that case came when Judge Gesell held a hearing in camera and asked the government to specify exactly what portions of the Pentagon Papers might endanger national security. The government's inability to meet that challenge ultimately cost it the whole case.

I naively assumed that the Speaker might have sent the Pike report to Ford requesting specific comments. But when I phoned the White House to ask when there would be a communication to the House of Representatives about the Pike report, I was told that there had been no request for such a communication. When I asked why not, I was told the report had never been sent to the White House.

When I called the Speaker's office to ask why the report had not been sent to the White House with a request to specify objections so members of the House would have a basis for judging the Pike report, I was told that the Speaker read the Rules resolution as giving him the option either of sending the report to the White House or of letting members read it and judge it for themselves. He chose the latter route.

At this point I was ready to burn a candle to the soul of Kafka.

IV

Whatever the origins or motives of those who leaked the report, once the House voted for suppression, Daniel Schorr and The Village Voice performed a public service. They acted to print the text only after the House voted to suppress, when there was clearly a duty to make the text available.

It is characteristic that the target of the House investigation now is one isolated and suspended newsman. If secrets were given away, then CBS and The New York Times reached far more people with them than The Village Voice ever will, but the House leadership, like bullies everywhere, prefers to focus on the weakest possible victim.

Their efforts have been abetted by *The New York Times and The Washington Post,* which have sanctimoniously attacked Schorr on the utterly preposterous charge that he somehow was making money out of what he did by suggesting that *The Village Voice* make a contribution to the Newspaperman's Committee for a Free Press.

Coming from two papers which profited by printing the Pentagon Papers, this editorial position can only be characterized as insufferably hypocritical. And I must add a scowl for the freedom of the press committee. Its statement on the Schorr case was (if I may be pardoned the mixed metaphor) as firm as jelly and as evasively verbose as a standard-model politician. With such champions, the freedom of the press is certainly in danger.

There are two dangerous precedents for newsmen in the Schorr case. The first lies in Schorr's suspension by CBS on the ground that he has put himself in an adversary position with the government. A newsman was *intended*—shades of Jefferson!—to be in an adversary position to government. To let Schorr's suspension go unchallenged is to give corporate media employers an excuse to get rid of reporters who get in wrong with the powers that be. I do not understand why *The Washington Post* and *The New York Times* do not see this. If they had acted like CBS, the former would have suspended Woodward and Bernstein and the latter Seymour Hersh. Why shouldn't Schorr be able to fight back as a reporter for, and on, CBS and expose the evils of secrecy in government instead of being placed on the defensive and put in isolation as "controversial"?

The other dangerous precedent lies in the sanctions which the House witchhunters hope to apply. The House does not have a legal leg to stand on if it tries to prosecute Schorr. The power to classify rests on shaky grounds in the executive branch; there are no grounds at all for classification in Congress. The only way the House can punish Schorr is to take away his credentials as a correspondent and thus his job. This is exactly the punishment sought in the investigation by that House Ethics Committee which was originally set up to police congressmen, not newspapermen, and which in almost a decade of existence has never before even bothered to obtain subpoena power or hire a full staff.

The punitive intent was clear in the speech made by the conservative Democrat Samuel Stratton of New York in his speech on February 19 introducing the resolution to have the Ethics Committee investigate the Schorr case. The basic premise of that speech was that covering the proceedings of the Congress is a privilege and not a right.

In his speech Stratton said Schorr had been "granted the privilege of serving as a correspondent in the House." He said Schorr was guilty of "a contemptuous action" on the part of "someone to whom we have extended the facilities of the radio and television gallery," and recommended to the Ethics Committee "that we should withdraw from him the privileges of membership in that gallery" (page 3914 of the *Congressional Record* for February 19).

The new ethics of journalism as outlined by Stratton show unsuspected gifts for humor. Stratton told the House in his speech attacking Schorr that "if a reporter objects to the classification label on a document, then that reporter has an obligation to call it to the attention of the people who set up our legally classified information." For a man who has been around Washington as long as Stratton has and who claims to have been a newsman himself once, that is quite a suggestion, especially since there are no fewer than 15,644 federal employees authorized to wield secrecy stamps. Last year they added 3,500,000 pieces to the classified pile.

If covering Congress is a privilege, not a right—if the price of a newsman's job is acquiescing in arbitrary congressional censorship—then the Congress and the intelligence agencies operating through Congress have another way to draw the press itself into the conspiracy of silence and to intimidate newsmen.

There was a time when parliamentary proceedings were privileged. Before 1771 reporters and printers could be punished for reporting the proceedings of the House of Commons without its permission. In this bicentennial year it is worth recalling that John Wilkes, the best friend the rebellious American colonists had in the House of Commons, established the right to cover parliamentary proceedings. As Sheriff of London, he successfully prevented the arrest of a printer the House charged with publishing its debates. That "lawlessness" in defense of a free press was one of the great moments of English history. Stratton says reporters must obey the law. Of course they must. But there may be times when the public interest imposes on them a duty to risk breaking secrecy rules.

Stratton kept talking of Rule X of the House. He said that under it "the privileges of the House concern the integrity of our proceedings." The Constitution says Congress shall make no law abridging freedom of the press. Which is to prevail, a rule of the House or the First Amendment? If the secrecy miasma is to spread from the executive branch into the legislative, where does the duty of a free press lie? In submitting, and letting free government go down the drain?

The heart of the evil lies in the "dirty tricks" in which the CIA has specialized and which other intelligence agencies, especially the FBI, have also practiced. A government cannot carry on lawless activity in public. If it is going to use assassination, burglary, bribery, corruption of elections, agents provocateurs, covert slander, it can only do so in secret. There is no way for Congress to "oversee" such activities without revealing them and opposing them. To allow "dirty tricks" is not only to make real oversight impossible but to make Congress an accomplice in lawlessness. That is the rock bottom issue which has to be faced in the debate over the intelligence agencies, and very few are facing it.

The great investigations are ending in anticlimax. The net effect has been to accustom the public mind to the evils exposed and to institutionalize and legalize them by systems of congressional "oversight." These will only draw the "overseers" into the conspiracy of silence, as they have done in the past.

On the Pike committee only Ronald V. Dellums of California, James P. Johnson of Colorado, and William Lehman of Florida were for outlawing "covert activities" altogether. The furthest the committee went in its final recommendations was to outlaw assassinations "and all paramilitary activities except in time of war." An effort to broaden this somewhat to forbid, in peacetime, "secretly providing arms or financing to individuals or groups in attempts to sustain or overthrow any government," as in Chile, was defeated five to six by the one vote of Les Aspin of Wisconsin. He, like Senator Church, would leave the door open for "dirty tricks." The new "oversight" bill just reported out of the Senate Government Operations Committee goes no further than to instruct a new oversight committee to study the problem. The highest ranking ex-CIA man who is opposed to "dirty tricks," Herbert Scoville, Jr., a former deputy director, was not even called to testify by any of these committees.

We have been talking of a newspaperman's privilege. Now we come to the privileges of a member of Congress. Perhaps the most fundamental one lies in the clause of the Constitution which says a member cannot be prosecuted for anything he says in speech or debate on the floor of the Congress. This basic guarantee is also threatened by the secrecy miasma. Except in a few remarks by Javits at one hearing, no attention has been paid to the problems which "oversight" raises for the "speech and debate" clause of the Constitution.

What if a member of the House should now read the Pike report into the *Congressional Record*, as Senator Gravel did with the Pentagon Papers? Can he be arrested for violating "national security" as embodied in security classifications? The Constitution says no, and the Supreme Court says no. But pending legislation for "oversight" in both House and Senate would get around this guarantee by providing that he be censured or expelled.

What if during the secret Cambodian war, a war carried on in violation of the Constitution, a member took the floor and broke "national security" by telling the country what was going on? The free speech and debate clause originated in the struggle against Stuart oppression in seventeenth-century England, when members were arrested for what they said in the House of Commons. So ancient are the liberties which the current secrecy miasma threatens. The executive and the intelligence agencies, backed by a compliant, bigoted, or intimidated majority in either house, could do what English kings have been unable to do for three centuries. How can free government survive without free debate in Congress? How many members will be willing to do as Congressman Michael Harrington did and risk expulsion? How many will be willing to follow the example of John Wilkes, who was four times expelled by the House of Commons in his fight for liberty and a free press? And could reporters be threatened with loss of their credentials and expulsion from the press galleries if they reported what a new Wilkes said on the floor in violation of "security"?

How Nixon must wish he could have done four years ago what the White House and the intelligence agencies are doing now. How he must wish to could have changed the subject then from the abuses of "national security" to "leaks." The Schorr case is an effort to put the press into the pillory, and to create a new immunity for "dirty tricks."

The simple truth is that the Congress is now showing the same fear of the CIA that it once had of J. Edgar Hoover. The same House which voted overwhelmingly to block secret war in Angola does not have the courage to stand up for a committee which first alerted it to what was going on.

The House does not want to be drawn into new wars abroad by CIA and State Department machinations, but its members are afraid they may be accused of "spilling secrets" and "destroying our intelligence apparatus." In a final appeal to the House March 9, Chairman Pike said Mitchell Rogovin, the special counsel the CIA has enlisted from left-liberal ranks, told his staff director after the committee voted to release its report:

> Pike will pay for this, you wait and see. Any political ambition Pike has in New York is through. We will destroy him for this.

Rogovin denies he ever said this. If he made that threat, the CIA should be forced to fire him. There is not a member who voted for the report who did not fear just such retaliation when he next comes up for election. Hoover's power rested on congressional fear of what he might have in his well-packed dossiers and on the FBI's success in self-glorifying publicity. Hoover made himself almost entirely immune to criticism in Congress and the press. The same processes are at work now for the CIA, and will be given momentum if Schorr can be made an object lesson.

Let us listen to the despairing summary Pike gave on the House floor that day. He said neither "sources" nor "methods" nor "national security" were jeopardized by his committee's cautiously worded and heavily sanitized report. What the agencies fear, he said, is embarrassment and shame. "The basic thrust," he declared,

"of our report is that despite the billions of dollars we expended on it, despite the genius of the scientists who work in our intelligence community and the dedication and occasional bravery of the men working within our intelligence community, despite its occasional small successes, in every single instance in which we compared what our intelligence community was predicting with what really happened, our intelligence community failed."

This is the truth the report would officially establish, and this is why it must be kept from official release.

FOOTNOTES

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[1] McClory's speech was billed in the Congressional Record as "A Serious Question Relating to the Authority and Reputation of the House Select Committee on Intelligence and to this House of Representatives as an Institution." The discussion begins at page 876 of the Record for January 26 and runs through page 889.

[2] The committee had four Republicans, but the fourth, James P. (Jim) Johnson of Colorado, voted consistently with the Democratic majority, and was one of the only three members (along with Dellums of California and Lehman of Florida) who were for outlawing "dirty tricks" altogether.

CAPT. JAMES E. DALY, JR.

Mr. MATHIAS. Mr. President, the Washington Cathedral was the center of community spirit and sympathy this morning during the funeral service for Capt. James E. Daly, Jr., who was killed in the performance of his duty as a member of the Montgomery County Police Department. A spontaneous and emotional outpouring of the people of the entire area and police representatives from across the Nation attended the service. Both Mrs. Mathias and I were deeply moved by the genuine sense of kinship and commitment that pervaded the largest congregation we have seen in the Cathedral since the completion of the nave earlier this year.

Anger and disbelief at the enormity of the crime that robbed Captain Daly of his life were muted by recognition and appreciation of the sacrifice Captain Daly made for the people he was sworn to protect. Mrs. Mathias and I want to express our gratitude for Captain Daly's example and his devotion to duty.

Mrs. Daly and her children, Steve, Kathleen, and Eileen, all deserve the support and sympathy of the entire community, for every one of us stands in their debt.

The words of committal were pronounced by the Very Reverend Francis Sayre, dean of the Cathedral. The sermon was preached by the Reverend William R. Wooten, Jr., the rector of Captain Daly's own parish, Grace Episcopal Church in Silver Spring, Md.

I ask unanimous consent that Mr. Wooten's sermon be printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

SERMON BY REV. WILLIAM R. WOOTEN, JR.

DOES OUR LIFE MAKE A DIFFERENCE?

Text: I John 3:16. By this we know love, that he (Jesus) laid down his life for us; and we ought to lay down our lives for the brethren.

Whenever something unbelievable, or tragic, or unexplainable occurs, it is a normal human tendency to search our minds; to search our libraries or to search whatever source of knowledge is available for some explanation. For those in the Community of the Christian Faith, it is natural that we also search the Holy Scriptures for our comfort and strength.

My search for meaning today has led me to these words from the 16th verse of the 3rd Chapter of the First Letter of John: "By this we know love, that he laid down his life for us; and we ought to lay down our lives for the brethren." Let us discover together why these words can have such a special meaning at this time.

I am reminded that Henry Ward Beecher must have felt this human dilemma in a keen way. It is reported that he said once:

"Sometimes in dark caves, men have gone to the edge of unspeaking precipices and, wondering what was in the depth, have cast down fragments of rock and listened for the report of their fall that they might judge how deep that blackness was, and listening, still listening, no sound returns, no sudden splash, no clinking stroke of rock against rock—nothing but silence, utter silence! And so I stand upon the precipice of life. I sound the depth of the other world with curious inquiries. But from it comes no echo and no answer to my questions. No analogies can grapple and bring up from the depths of darkness of the lost world the probable truths. No philosophy has line and plummet long enough to sound the depths. There remains for us only the few authoritative and solemn words of God."

So many of us may stand at the edge of the precipice, the edge of life, at this very moment. We plumb the depths of our agony, grief and despair for any meaning, any words, which will make sense of what happened to Captain James Edward Daly, Jr.

For some people there may be only silence. No authoritative words are heard to give any meaning to what has happened in one violent moment.

For other people, especially Captain Daly's family; his wife Frances and his children Steve, Kathleen and Eileen, it appears that the authoritative and supporting words of faith in God are known to them in these difficult days. This faith has sustained them, given them strength, and will continue to do so.

But what I hear coming back to me in this situation comes from the life of Captain Daly himself. It seemed to us who knew him well that there was a very special way in which he followed in the footsteps of his Lord. We too must be ready as he was to lay down our lives for the sake of our brethren. Our Saviour Christ set this example in His lifetime on earth. Those of us who believe strongly in the Christian Faith know that Jesus was concerned with this frail and feeble world. His own death was always before Him as he steadfastly set his face toward Jerusalem. There He would suffer and die, before opening up the possibilities of new life. There was no turning aside, no shirking of duty, no retreat from the higher calling of painful sacrifice.

Jim Daly learned that lesson well and showed it to all as a man of faith in God and loyalty in his earthly duties. He set his sights on the paths of service to others no matter what the cost of personal sacrifice. As his Rector, I knew him to be loyal to his Church. His was a quiet participation without fanfare or shouting. Many times in his early days in the Montgomery County Police Department, he would come to worship in Grace Episcopal Church, Silver Spring, wearing his uniform. He was just going to work or just finishing his tour of duty. He would apologize to the Clergy sometimes if his attire was distracting to others. We assured him it was not; that it was important he was present. That's what made the difference!

That's the very special word about life that Jim Daly would leave us in his death. Wherever he went, it made a difference because he was there. And isnt' that the true test of anyones' worth? Does it really matter to anyone that you are alive; that you are there? It made a difference that Captain James Edward Daly, Jr. was alive. Two church communities—one Episcopal where he was a member; and one Baptist where his wife and children are members; know that his life made a difference.

Many police officers, both present and past, know he made a difference in their lives. The training center which he developed leaves a lasting impact to make them different people than before.

Many other people owe so much to him in less direct ways—as one who upheld law and maintained public safety in his community for 19 years.

Yes, it did make a difference that he lived on this earth during these 43 years, perhaps in ways which you and I can't even begin to realize. Only God knows!

But maybe, just maybe, this service and tribute today will cause you to think more about life and death as you think about Jim Daly. For he did both things well.

He knew how to live for his God and his fellow human beings, bringing a personal radiance wherever he went.

He knew how to die for them, too, following the example of our Lord and Saviour by being willing to lay down his life for his brethren.

These are the strengthening, reassuring words of God, that come bouncing back to me out of the depths of this moment in time.

I hope and pray that you can hear them clearly too!

REMARKABLE ACHIEVEMENT OF BOB LOEFFLER, EQUITY FUNDING TRUSTEE

Mr. MONDALE. Mr. President, today marks the culmination of a virtual miracle which has been performed in American business. I speak of the remarkable effort of a distinguished Minnesotan, Robert Loeffler, in successfully completing the chapter 10 proceeding in the Equity Funding case. The scandal of Equity Funding Corp. of America is well known. Thousands of individuals and corporations were in danger of losing hundreds of millions of dollars as a result of Equity Funding's fraudulent practices.

In 1973, Bob Loeffler was appointed trustee under the Bankruptcy Act to oversee an attempt at salvaging something from the tragic situation. Moving against tremendous odds, he has been remarkably successful in his reorganization effort. Perhaps even more creditable is his completion of the task in only 3 years.

It is in no way surprising, Mr. President, that Robert Loeffler would serve with distinction in a difficult assignment. Before accepting the court's appointment he was the highly respected senior vice president and general counsel of Investors Diversified Services, Inc. He had an outstanding reputation in the business community not only of Minnesota but throughout the Nation. Yet the extreme complexity of the Equity Funding case and the dispatch and effectiveness with which Robert Loeffler has handled it substantiate that today he is deserving of very special recognition.

Today's edition of the Wall Street Journal details Mr. Loeffler's achievement and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 31, 1976]

SALVAGE JOB: HOW EQUITY FUNDING ESCAPED LIQUIDATION, AGAINST ALL THE ODDS—JUDGE, TRUSTEE AND OTHERS SUCCEED IN 3-YEAR EFFORT TO REORGANIZE COMPANY—FRAUD JUST ONE OF PROBLEMS

(By William E. Blundell)

LOS ANGELES.—There is a party here tonight and you probably aren't invited. The guests are an elite group—people who have spent the past three years striving to salvage something worthwhile and enduring from the hulk of Equity Funding Corp. of America.

The party celebrates their success. Earlier today the Los Angeles company whose name became synonymous with one of the biggest of all frauds will have been transmuted into a new concern, Orion Capital Corp., in a successful reorganization under Chapter 10 of the federal Bankruptcy Act. After that, Equity Funding will be nothing but a bad memory.

An army of defrauded stockholders, banks, noteholders and others will get back varying fractions of their claimed losses, but little cash is involved; most of the estimated $380 million in claims against Equity Funding will be settled by issuing its victims notes and stock in Orion, which will start with assets of about $115 million and a favorable profit outlook.

CLOSE TO REMARKABLE

Almost everyone swindled by Equity Funding had to accept some loss in order to make the reorganization possible. That isn't unusual. It is more noteworthy that Equity Funding could be reorganized at all, much less in three years. Given the glacial pace of most Chapter 10s, the grave financial condition of the company and the circumstances surrounding its collapse, reorganization comes not only as a relief but also as a pleasant surprise to many.

"Some of the problems seemed absolutely insuperable," says a New York bankruptcy lawyer familiar with the case. "Getting a good reorganization was a real achievement; getting it in three years is close to remarkable."

Reorganization of stricken companies into viable businesses is, of course, the purpose of Chapter 10. But a high percentage of these cases result not in reorganization but in outright liquidation. Too often creditors litigate their competing claims for years; it's unusual for a Chapter 10, particularly a major one, to be conducted in under four years. Some take seven to 10 years.

While the creditors bicker the business decays, and the legal expenses of the debtor concern further bleed it of remaining assets. Often the struggle comes to an end when the court-appointed trustee, seeing that reorganization is impossible or unlikely, sells the last tatters of the company at bargain-basement prices. There may be little left for anybody then.

COMPLICATED BY FRAUD

This could easily have been the story at Equity Funding, where the ordinary problems of reorganization were immensely complicated by fraud. A look at how the company was salvaged after all is a look at how a Chapter 10 proceeding is supposed to work.

Equity Funding blew up on April 2, 1973, upon disclosure that its principal insurance unit, Equity Funding Life Insurance Co. (EFLIC), had claimed assets that didn't exist and had sold huge amounts of fictitious insurance policies to reinsurers. The news led to seizure of the company's assets, and a rain of lawsuits pelted down on the parent company from courts across the country. A desperate attempt to keep it running failed in a day; Chapter 10 protection was the only alternative. On April 4, Rodney Loeb, general counsel then and now, helped draft the petition. Then he went home, sat on the edge of his bed, and wept.

The company entered Chapter 10 the next day under Federal District Judge Harry Pregerson, who had never handled a Chapter 10 before and who was determined that his first one wasn't going to result in a liquidation. For his trustee he tapped another tyro at Chapter 10. He was Robert Loeffler, senior vice president and general counsel of Investors Diversified Services Inc. of Minneapolis. The request caught Mr. Loeffler at a vulnerable time. He was soon to be 50.

"YOU NEED THIS JOB"

"I said to myself, 'What do you need this grief for?' " Mr. Loeffler recalls, "and as soon as that crossed my mind I said, 'Hold on, Loeffler. If you're in that much of a rut at 50, you *need* this job.' " So he quit IDS and on April 11 came to Equity Funding, where he found "complete anarchy."

There were no top executives on hand to help because they had all been fired. The few remaining middle-echelon officials were still suspect: Mr. Loeffler remembers someone pushing a financial man into his office and saying, "He's new. He's clean. You can use him." Bank creditors stuck for $50 million in loans seized Equity Funding deposits held by them. Company paychecks couldn't be cashed; banks didn't want to honor paper signed by Stanley Goldblum, the ousted Equity Funding chief. New Jersey insurance regulators seized a healthy subsidiary and wouldn't let go. "Back there, they thought that I was Goldblum's alter ego and that Judge Pregerson was some slick L.A. lawyer," Mr. Loeffler says.

With the aid of lawyers from O'Melveny & Myers, the big law firm chosen as trustee's counsel, Mr. Loeffler found a Texas bank with $1 million of Equity Funding money in it and no loans outstanding to the company. He grabbed it. To solve the problem of the bouncing checks, a courier had to be sent on an emergency flight to the Middle West, to the plant of the firm that provided signature slugs for Equity Funding's checkwriting machine, to get a new slug made bearing Mr. Loeffler's name.

Beset by emergencies, Mr. Loeffler didn't always have the time to follow some of the legal niceties prescribed under Chapter 10. These call for a trustee to seek, in writing, a court order authorizing important actions he wants to take.

For example, Mr. Loeffler needed to use the data processing center, but it was closed and under armed guard while investigators worked. His lawyers and accountants advised him to go through the formality of seeking permission to open it and then putting an independent service in charge of it. "Nobody wanted the responsibility," Mr. Loeffler says. Reasoning that this would take too long, he opened it on his own responsibility and put in charge a data-processing manager he knew had had a peripheral and reluctant role in the fraud. There was no one else. "Screw up, and you're going to wind up on the bottom of the ocean," the trustee told the manager. He didn't screw up.

Downstairs at stricken Equity Funding Life, there was similar havoc. About 80% of its assets were found to be nonexistent, and so were two-thirds of its claimed policyholders. The reinsurers who had bought the phony business were screaming for restitution. The flesh-and-blood policyholders, about 30,000, were deluging EFLIC with calls and letters.

The Illinois Insurance Department, which had regulatory authority because Equity Funding Life was chartered in Illinois, named a special deputy to run the unit. He was J. Carl Osborne, a 57-year-old semiretired insurance executive who calls himself "just an old alligator fighter." A rangy Idahoan with a face that appears carved out of saddle leather with a hatchet, Mr. Osborne came to EFLIC in early May. To conserve cash, he cut the work force from 126 to 50 in one stroke and set about saving the policyholders whose equity values in their policies were severely jeopardized.

IMPACT OF CANCELLATIONS

In a way, they had to be induced to save themselves, by sticking with the company and paying their premiums. Every canceled policy removed future premium payments that would beef up EFLIC's assets to the benefit of remaining policyholders. EFLIC couldn't pay requests for cash value on surrendered policies, but it did pay all death claims—sweating out, for three years, a $1 million policy on a single individual for which the company had full liability. "We sure were anxious about his health," Mr. Osborne says.

Mr. Osborne ordered that every policyholder letter be answered within 48 hours and that every phone caller be given straight answers. He and his aides sent out hang-in-there mailings in plain English; Bill Raff, EFLIC's counsel, says his drafts were frequently rejected by Mr. Osborne, who would say, "Not folksy enough."

The Osborne group projected calmness and certainty without feeling much of it themselves at the beginning. When he first came to EFLIC Mr. Osborne said: "Boys, if we can hang on to 30% of the real business we've got now, I'm going on a six-week drunk." In the end, they saved almost 60% of it, and not a single policyholder suffered a loss of equity in his policy.

At the parent company, Mr. Loeffler was exuding the same kind of calm optimism about reorganization, and Judge Pregerson told creditors that he was presiding not over the funeral but over the rebirth of Equity Funding. This air of confident determination is psychologically important in Chapter 10 proceedings, experts say. If the people running the company seem at all dubious, a smell of death begins to rise from the debtor concern and creditors dig in their heels and fight bitterly for every penny due them, rather than compromise.

Mr. Loeffler remained publicly confident even after a fraud audit by Touche, Ross & Co. revealed that Equity Funding, which claimed a net worth of $143 million, actually had liabilities outweighing assets by $42 million. "When we found out what the company's true condition was, the outlook was really pretty bleak," says Gerald Boltz, Western regional chief of the Securities and Exchange Commission.

SOUND SUBSIDIARIES

But the trustee had two sound insurance subsidiaries unmarked by the fraud, Bankers National Life Insurance Co. in New Jersey and Northern Life Insurance Co. in Seattle. He resolved to build the new company around them and sell nearly everything else. In 1974 he began hard bargaining with the creditors, a process that resulted in more than a year of head-knocking negotiation.

An ordinary Chapter 10 case proceeds by the rule of absolute priority, which defines various classes of creditors and their rank in settlement of claims. Under the rule, no creditor in a given class can get anything toward his claim until all creditors in the class above have been satisfied as fully as possible. Under this system, shareholders are at the bottom of the ladder and usually get nothing.

In Equity Funding's case, however, the shareholders, along with everyone else, had been completely defrauded by the company; in that sense, practically everybody involved had equally valid legal claims for a piece of the action.

Mr. Loeffler decided on a compromise plan that would give something to everybody but follow the general precedent of absolute priority—namely, secured creditors would get a large return and stockholders (treated as fraud claimants) the least. At first the going was tough.

"We went to New York one day and had about six meetings with creditor groups," says A. Robert Pisano of O'Melveny & Myers, a principal aide to the trustee. "Everybody told Bob he was nuts and they'd never buy it. When we got back to the hotel at night I laughed and said, 'Well, do we throw in the sponge?' "

Mr. Loeffler finally wore everybody down. "Bob has the capacity to just sit there and take all sorts of guff," Mr. Pisano says. "Then he begins to talk; he gives all the legal arguments for the other creditor groups; he gives them ad nauseam. Finally the people he's talking to get convinced or just worn out."

FIRST IN THE FOLD

The primary secured creditors, the four-member bank group headed by First National City Bank of New York (which has since changed its name to Citibank), were first in the fold. Finally convinced that the new company envisioned by Mr. Loeffler would have a future, they agreed to waive interest and fees of $15 million due them on a debt of $50 million if they could recover the principal. They already held some Equity Funding cash that they would keep; the rest of the debt would be discharged by issuing them notes in the new company. The other major groups of creditors generally were offered stock in the new company; gradually they began to fall into line.

The defrauded shareholders, however, balked at an offer of new stock that would have given them about six cents per dollar of claimed loss. "The trustee's position was, in effect, that six cents was better than nothing and that if we litigated, nothing might be what we'd finish with," says Marshall Grossman, lead attorney for the stockholder group. "Our position was that six cents was so close to nothing that we might as well litigate anyway." They began to do so.

Mr. Grossman and another attorney, Jack Corinblit, also threw a monkey wrench into a settlement that Mr. Osborne had hammered out with the defrauded reinsurers, who had agreed to settle on terms favorable to EFLIC and swallow several million dollars in losses. The attorneys argued that the interests of the parent company's stockholders and bondholders were ignored in the settlement, and they challenged it in an Illinois court. After a struggle, Mr. Osborne and Mr. Loeffler agreed to a revised settlement that, among other things, gave the Grossman group $2 million for legal expenses in pressing a big civil damage suit against auditors and others involved in the Equity Funding scandal.

The Grossman group, still unhappy with its six-cent offer from the trustee, was moving separately against Equity Funding's healthy but unprotected insurance subsidiaries when in April 1975 Judge Pregerson issued an order forcing all such actions into his Chapter 10 proceeding. This key ruling helped pave the way for a final settlement with the stockholders, who now will get stock in the new company worth an average of 12 cents per dollar of loss claimed.

SHARING A SUIT

The major inducement to the stockholders, however, was Mr. Loeffler's agreement to let them in on a major suit he had filed as trustee against Equity Funding's and EFLIC's auditors. The stockholders were suing them too, meaning that both parties were competing for the same pot. Mr. Loeffler and the stockholders agreed to join in one action, splitting equally whatever damages they get until the trustee recovers $2.4 million; the stockholders get everything beyond that.

Mr. Loeffler also had to deal with the claims of former owners of Bankers National Life stock who had exchanged it for Equity Funding stock when Equity Funding acquired Bankers National. He sweetened their pot a bit, too. Finally, everyone was in line. Creditor groups overwhelmingly approved the plan in February and Judge Pregerson set March 31 as the date when Orion would rise from Equity Funding's ashes.

Down at EFLIC, everything is winding down. All the policyholders have been transferred to Northern Life, their rights and equities in their policies intact. Mr. Osborne will send about $3 million upstairs to Mr. Loeffler soon, for use in cleaning up the last expenses of the estate of Equity Funding. Mr. Osborne and his counsel, Bill Raff, have enjoyed being hired guns; they say they'd like to do it again, if the right company came along.

Trustee Loeffler isn't sure what he'll do next. He does know that he is going back home to Minnesota for a while. For the past three years he has been living here alone in a hotel room and, recently, an apartment, seeing his wife and family on occasional weekends. He does say, however, that he too might be interested in another corporate rescue—if the right company came along.

INNOVATIVE MODEL IN HEALTH CARE SERVICES

Mr. MATHIAS. Mr. President, with the emergence of health care as a national issue, I am pleased to bring to the attention of the Senate a pioneering effort underway in Maryland in the delivery of health care services. It is the work of the Health and Education Council, Inc., an organization in the Baltimore community that is gaining national recognition as an innovative model in the provision of health care services. The Baltimore Sun, in its February 15 issue, contained an article on the activities of the Health and Education Council that I think deserves broader attention, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREE-PRONGED ATTACK ON SICKNESS

(By Gerri Kobren)

There isn't anything particularly new about women's cancer screening clinics, or about offers of free hypertension and gonorrhea testing. What is exciting about the program beginning February 23 at Baltimore county's Eastern Regional Health Center on Franklin Square drive—and continuing every Monday morning and Tuesday afternoon through April 27—is not what's going on, but who is doing it.

With students in the allied health career programs at Essex Community College doing the actual examinations and tests and patients with abnormal findings being referred to physicians at Franklin Square Hospital, this attempt to provide primary medical care to the community is being coordinated, publicized and budgeted by the 2½-year-old Health and Education Council, with funds filtered from the federal government through the state and county.

This is the kind of thing for which the council was created in 1973 by the three participating institutions: the hospital, the college and the county health department. David Sapadin, director of HEC admits such consortiums aren't new in the health field; this one, he claims, is unusual because it integrates the staff, facilities and programs of three separate institutions which share a campus, its board of directors includes the two top executives of each of the participating units, and the thrust is multiphasic. Health care delivery is only part of it. Council efforts are directed at career, consumer and continuing education as well.

GREW FROM INFORMAL LIAISON

The Health and Education Council grew out of a less formal liaison between hospital, college and health department in the talking stage since the late Fifties. The two-year college, operating from scattered rooms and trailers, but planning a building complex in this part of eastern Baltimore county, approached the hospital with the suggestion of a cooperative venture; hospital and school brought the health department into it.

"Everyone said it couldn't be done," recalls Sanford Kotzen, executive director of the hospital.

Yet according to Dr. Vernon Wanty, president of the college, this integration of public resources is entirely logical: "We have a common goal—to serve the public."

And apparently it has been working. Essex provides career-oriented curricula in a variety of medical subjects, graduating nurses, physicians' assistants, dental hygienists, mental health associates, laboratory, X-ray and nuclear medicine technicians with the kind of clinical experiences an isolated community college could not provide. The chiefs of every medical service represented in the hospital also serve on the school's faculty.

Franklin Square, an easy walks from the school's buildings, benefits from the free labor of the students, who work in the hospital on an education "practicum," and from the pool of new graduates in medical backup professions. The school's physical facilities—its auditoriums, classrooms, audio-visual equipment and extensive food-service capability—are also available to the hospital, which saves an enormous amount of money by not having to pay for its own.

Moreover, while the Essex students are rotating through the hospital, hospital residents are gaining community experience in the clinics at the nearby health department. The health department, in turn, has the services of the young doctors and the Essex students and can call on the established physicians at the hospital and the instructors at the college when outside expertise is needed.

With the council coordinating and integrating the services, programs and projects, the three institutions hope to do all these things more efficiently, cutting out duplication and mounting quick responses to the needs of this particular area, which has the fastest growing population in Baltimore county along with one of the lowest physician-patient ratics in the state.

The establishment of the council has brought another benefit to its constituent organizations: money. Each of the three contributes to HEC's support, providing the kind of permanent, reliable "seed money" that attracts outside financing. There has been a large financial return to the three on a relatively small investment by each, said Dr. Donald Roop, director of the Eastern Health Center.

The most recent, and the largest, is a three-year grant of $401,154 awarded by the W. K. Kellogg Foundation, of Battle Creek, Mich., for the development of programs of continuing education for health workers at all levels. This grant would not have been made to any of the institutions alone, Mr. Kotzen said. Staff is being recruited; courses will be offered, by and for doctors and for holders of the two-year associate degree, starting this summer.

Also geared to continuing education for health workers is a phone-in project developed with $14,180 from the American Lung Association. Using the college's dial-access system, registrants can call at any time of the day or night for a 15-minute taped lecture on occupational lung disease, 2 a week for 10 weeks. Those who listen to all 20, in their own homes and at their own most convenient times, and answer the accompanying questions will earn a credit in fulfillment of continuing education requirements.

FOCUSES ON PRIMARY CARE

Approaching the Kellogg grant in size, but focusing directly on delivery of primary care, is a three-year grant of $261,503 from the Robert Wood Johnson (of Bandaid fame) Foundation. This will enable the council to coordinate care for patients who use the health department clinics. Hospital staffers, bound by hospital quality control, will see them there for diagnosis and provide continuity of care should they have to be hospitalized, avoiding the kind of fragmentation that occurs when people move from the public to the private sector for medical care.

Working in reverse as well, this will provide follow-up and supervision for the patient who no longer needs in-patient care—the stroke victim, for instance, who might need speech therapy—in one smooth, continuous operation.

In addition, a computerized, joint access records system will be developed to provide immediate information to workers at the hospital or the county clinics for any patient who has been treated or received medication at either place in the past.

The council is looking at programs of community education as well, planning to begin a series for heart patients and their families, teaching cardio-pulmonary resuscitation, diet, exercise and stress reduction. It is also considering education programs directed at people who operate restaurants and nursing homes and must meet health department requirements for licensure.

With all of this there is both a snowball and feedback effect. As physicians attend professional-level programs in the college building and interact both professionally and informally with members of the college community, they begin to see the school as an appropriate education resource. At the same time, the general public, also invited for courses and lectures presented by physicians at the college, begin to look to these institutions as a health center for their own community.

The council, getting input from its constituent agencies, has an overview as well which should enable it to assess current needs more accurately and project for the future. Coordinating activities under the Johnson grant, Mr. Sapadin hopes to learn why some patients go to health department clinics while others use the hospital's. HEC should then be able to eliminate duplication, plug the gaps where no appropriate services exist and place new services in the situation where they will do most good.

Staffing the programs with people who are already on the joint campus—doctors, Essex graduates and students—the council can also determine areas in which there is an over- or under-supply, urge modifications of the curriculum at the college accordingly. At the same time, the allied health workers prove by their employment in HEC programs, their value in extending professional medical capacity, presumably leading to increased demand for their services elsewhere.

"Our ability to interact is almost unique," said Louis Albert, chairman of the division of allied health at the college and member of HEC's board of directors. "Too often education is separate from health care delivery, but in this situation we can modify curriculum to meet needs experienced directly in the community."

SOLAR ENERGY ACT OF 1976

Mr. MONTOYA. Mr. President, recently, I was pleased to join Senator Humphrey and others in introducing the Solar Energy Act of 1976.

Basically, this legislation is designed to restore a large part of the funding requests for solar energy development that were significantly reduced by the Office of Management and Budget from the fiscal year 1977 Energy Research and Development Administration's budget. It is indeed alarming to see that the administration has chosen to reduce the funding in this increasingly important area.

During these times of growing energy awareness and needs, the trend should be for a greater effort in exploring all avenues of energy alternatives. Solar energy, the most environmentally sound energy resource, must be explored to discover if, in the future, solar energy will be an economically viable energy source. I believe the time is now for a strong effort in the research and development of solar energy. By laying the groundwork today with these increased solar energy demonstration projects, we may be assuring ourselves of a constant and abundant energy resource in the future.

The Solar Energy Act of 1976 is the vehicle by which we can assure continued steady progress into this essential energy alternative.

PRICE STABILIZATION POLICY ALTERNATIVES FOR THE UNITED STATES

Mr. HUMPHREY. Mr. President, one of the most highly respected U.S. agricultural economists, Prof. Kenneth L. Robinson of Cornell University, was invited to address the Canadian Agricultural Economics Society earlier this month on "Price Stabilization Policy Alternatives for the United States."

In his excellent address he makes it clear that this administration's advocacy of the "free market" approach has not prevented it from manipulating and controlling exports to hold down prices when political pressures developed. He finds that the administration's "ad hocery" approach to price stabilization has created a new element of uncertainty in commodity markets.

Professor Robinson believes that we should build up grain stocks over the next 2 or 3 years by putting an effective floor under prices 40 to 50 percent above current levels with minimum resale prices not less than 50 percent above the loan rates.

He concludes that if export controls are likely to be a political necessity in a period of sharply rising domestic prices, then the rules should be worked out ahead of time rather than relying on ad hoc decisions of the Secretary of State, the Secretary of the Treasury, or some other Cabinet member.

Professor Robinson's address covers many vital aspects of a national food policy for dealing with the uncertainties of the years ahead. Mr. President, I ask unanimous consent that the text of this speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Price Stabilization Policy Alternatives for the United States

Agricultural price stabilization is now largely an academic issue rather than a political issue in the United States. Interest in this topic, which your attendance at this conference suggests is relatively high in Canada, simply is not shared by those in policy-making positions in Washington. None of the Presidential candidates have given the issue prominence, nor does it rank high on the policy agenda of those in Congress who are most concerned with agricultural issues. One of the reasons for this is that the term "price stabilization" suffers from a poor image, at least among grain producers. It implies a return to policies prevailing in the 1960s which produced stable, but very low prices. Farmers would like to have higher floors under prices, but strongly resent any attempt to impose upper limits. They have been especially critical of decisions which they believe have had the effect of dampening down export demand, such as the export embargo imposed last summer on grain exports to the Soviet Union.

On the other side, consumers are not strongly organized or united behind any particular proposal that might have the effect of stabilizing prices. Consumer advocates obviously are opposed to high food prices, and want to hold down the rate of inflation, but they have done little more than enunciate support for some kind of "reserve policy" and denounce middlemen, corporate farming, and the Secretary of Agriculture. Under these circumstances, one should not be surprised to find the status quo emerging as the most viable policy alternative. Conditions simply are not propitious in the United States at present for the adoption of new or innovative policies.

EXISTING POLICIES

The current mix of policies in the United States permits prices to fluctuate over a wide range. Except for marketing orders which apply to a limited number of fruit and vegetable crops and to fluid milk, there are no price stabilization measures in effect at present for perishable commodities, i.e. for eggs, poultry, pork and beef. Support prices are still in effect for manufacturing milk, grains, cotton, tobacco and oilseeds, but these commodities account for only about half the total cash receipts of farmers. Furthermore, support levels are now so low in relation to market prices for most of these commodities that they are largely irrelevant. Dairy products have been an important exception at times during the past year although recently prices have fluctuated above the minimum support level.

The government will not acquire any storage stocks or reserves of grain unless prices fall to the loan rate. This rate establishes the floor under market prices, but 1976 loan rates for wheat, corn and soybeans are only about half the actual market prices received by farmers last December (when prices were close to seasonal lows) (table 1). Prospective prices next December, based on current futures quotations, are slightly higher than those prevailing during the 1975 harvest season. Such prices also are well above 1976 target prices. These are the prices which trigger payments to farmers. If the average market price during the first five months of the marketing season falls below the target price, the government is committed to making up the difference by direct payments to producers (subject to a limitation of $20,000 to any individual producer).

TABLE 1.—U.S. GOVERNMENT SUPPORT AND ESTIMATED MARKET PRICES FOR WHEAT, CORN, AND SOYBEANS

[Dollars per bushel]

	1976 support prices		Average farm prices	
	Loan rate	Target price	December 1975	Estimated December 1976 [1]
Wheat	1.50	2.29	3.41	3.90
Corn	1.25	1.57	2.37	2.50
Soybeans	2.50	----------	4.28	5.00

[1] Based on recent futures quotations at Chicago.

Sources: "USDA News Release," Feb. 27, 1976, and "Agricultural Prices," Dec. 15, 1975.

The legislative authority for the existing support program expires in 1977. Thus, within the next 18 months, Congress will have to decide whether to extend the existing support program or modify it, but no action is likely until elections are over and a new Congress convenes in January.

The present Secretary of Agriculture is a strong advocate of a "free-market" approach to pricing. He has succeeded in blocking attempts by Congress to force substantial increases in support levels and has opposed any new legislation which might lead to rebuilding government-held inventories. But his commitment to the "free market approach" has not prevented the executive branch from attempting to manipulate or control exports so as to hold down prices when speculation was intense and inflationary pressures threatened to push prices above politically acceptable levels. Temporary export restrictions, such as the embargo on soybean exports in 1973 and on exports of grain to the Soviet Union in 1975, have become an important policy instrument. No guidelines have been established by Congress or the executive branch as to when or under what circumstances export restrictions will be imposed. Decisions have been made on an "ad hoc" basis, which has given rise to the term "ad hocery" to describe the Administration's approach to price stabilization. The effect of such decisions has been to create a new element of uncertainty in commodity markets. As Roger Gray points out, futures markets can accommodate risk management only if the rules of the game are spelled out and adhered to. The failure to do so has resulted in substantial losses to holders of long contracts at certain times. U.S. export restrictions also have been condemned by grain producers, grain exporters and importing countries who obviously can be seriously hurt if the option to purchase additional supplies is suddenly cut off.

The Administration's apparent preference for employing indirect methods in an attempt to influence prices extends to food aid (P.L. 480) shipments as well. Appropriations for P.L. 480 were curtailed in 1974 when grain supplies were tight and then liberalized again in 1975 when it became apparent the U.S. would harvest record crops of wheat and rice. The overall effect of manipulating food aid contracts has been extremely modest, however, for the simple reason that P.L. 480 shipments now account for less than 6 per cent of the value of all U.S. farm exports, and only about 3 per cent of total U.S. grain production.

The Administration has made substantial efforts to reduce potential variability in exports by negotiating bilateral agreements with selected countries. At the same time, they have taken a very skeptical attitude towards international commodity agreements designed to fix or index prices. The Soviet grain agreement has been hailed by the Administration as a potential stabilizing device. Under the agreement, which takes effect in October of this year and runs for 5 years, the Soviet government is committed to purchase between 6 and 8 million tons of wheat and corn per year. Other grains such as barley, sorghum and rice are not covered under the agreement, and hence total shipments of grain could exceed the upper limit of 8 million tons by a substantial margin if the Soviet Union chose to purchase these non-agreement commodities. The U.S. also has reached an agreement with Japan committing the U.S. to supply 14 million tons of wheat, feed grains and soybeans during each of the next 3 years (8 million tons each of wheat and soybeans and 8 million tons of feed grains). Intentions to purchase agreements also have been negotiated with Poland and Israel.

These bilateral agreements again reflect the preference of the Administration for using indirect methods in an attempt to stabilize demand and prices. We have yet to see whether these instruments of policy will, in fact, serve to reduce instability, but their approach is likely to be extended if it proves successful. This could have important implications for other suppliers since a world in which a substantial proportion of grain shipments are fixed under long-term contracts would provide a greatly modified trading environment from what we have experienced in the recent past.

PRICE STABILIZATION ALTERNATIVES

In theory one can envision a wide array of policies, including storage, trade restrictions, export licensing, price ceilings and rationing which might help to stabilize the prices of agricultural commodities, but in practice, the discussion of policy alternatives in the United States has been limited to a small number of policy instruments and only a few commodities. Most of the discussion of agricultural stabilization policies in the United States now centers around grains and oilseeds. Very little thought has been given to what might be done to reduce price instability for such commodities as fruits, vegetables, poultry, eggs, beef and pork, except indirectly through stabilization of grain prices.

Only marginal changes from the existing mix of farm policies are likely to be considered seriously by Congress even if the White House has a new occupant next January. Agricultural policy-makers will be dealing with the same questions that have occupied their attention in the recent past, namely what to do about price-support levels for grains, how much and what kind of reserves should the government attempt to maintain, and under what circumstances should export controls or licensing be authorized. At some future date, the Administration might be forced to give serious consideration to international stabilization schemes or reserve policies, especially if present bilateral agreements break down and prices on world markets continue to move erratically. For a brief period last year there was even some discussion of creating a monopoly selling organization for grains comparable to the Australian and Canadian wheat boards. Among the arguments advanced for creating such a new institution was that it would enable the U.S. to bargain more effectively with large-scale government buyers such as the Soviet Union and China and to exercise more effective control over exports without resorting to embargoes or export licensing. There is still interest, at least in academic circles, in practicing international price discrimination which would be much more feasible if the U.S., too, had a monopoly selling organization. A bill to permit the government-owned Commodity Credit Corporation to become a major purchaser and seller of wheat was introduced in Congress last year. Hearings were held on the bill, but it failed to generate sufficient support to emerge from the House Committee.

STORAGE OR RESERVE POLICIES

There is now widespread agreement that the world needs larger reserves of grain than we have had in the past 3 years, but how large they should be, how much should be held by the government, and the conditions under which stocks should be acquired and sold remain as unsettled issues. Total U.S. carryover stocks of grain (including those held privately as well as by the government) have ranged from a high of over 100 million tons in the early 1960s to a low of 22 million tons in 1975 (table 2). Ownership of such stocks also has changed dramatically over the past decade. At one time, nearly 90 per cent was held by the government. Now, of course all of the stocks are in the hands of farmers, private traders, exporters or processors; consequently the government has no leverage to influence prices, and must buy on commercial markets even to fulfill food aid commitments.

TABLE 2.—U.S. CARRYOVER STOCKS OF WHEAT AND FEED GRAINS; SELECTED YEARS

[Million metric tons]

Year	Wheat	Feed grains	Total	Percent held by Government
1961	38	77	115	90
1967	12	34	46	49
1972	24	45	69	71
1975	9	14	23	0
1976 (est.)	12	20	32	----------

Sources: USDA, Foreign Agriculture Circular FG 16-75, Dec. 22, 1975, Wheat Situation, February 1976, and Feed Grain Situation, February 1976.

Under current legislation, the government will not acquire any carryover stocks or reserves unless prices fall to the loan rate. A recent simulation analysis conducted by Ray and Tweeten indicates there is only a small probability that the government will acquire any stocks between now and 1979 if provisions of the Agriculture and Consumer Protection Act of 1973 are maintained over the next three years. Thus, the law will have to be changed if the government is to acquire any stocks. In general, consumer advocates, those who want to increase food aid commitments and academicians would feel more comfortable if the government had the authority to purchase or acquire stocks, but many farmers and the Secretary of Agriculture are strongly opposed to getting the government back in the storage business. Opponents argue that the presence of large stocks in the hands of the government tends to depress prices. They would prefer to see stocks held privately, not only to permit more upward flexibility in prices but also to avoid the possibility of incurring high government costs.

Carryover stocks will be slightly larger at the end of the current marketing season than they were in 1975. Most stocks are now held by farmers. Whether farmers will add to stocks if we have another good harvest in 1976 remains to be seen. There also is the possibility that the stocks they hold could be managed so as to increase the amplitude of price fluctuations rather than to moderate them, i.e. in a period of rising prices, farmers might tend to hold on to stocks, and to unload them if prices decline.

A total carryover of 60 million tons of grain is frequently suggested as a reasonable target. Stocks of this size would enable the United States to hold prices within a relatively narrow range unless the world experienced an exceptional run of disastrous crop years. Empirical analysis based on experience gained over the past decade indicates that it was only when stocks of feed grains fell below 30 to 40 million metric tons, and wheat below 500 to 600 million bushels that substantial inflation in grain prices began to occur (Tweeten; Rojko). A total stock of 60 million tons of grain would be expensive to maintain, however; annual carrying costs associated with a reserve of this magnitude could approach $1 billion annually.

D. Gale Johnson is among those who question the need for such large reserves. He argues that greater price flexibility in importing countries combined with the elimination of restrictions on trade would enable the world to balance supply and demand with much smaller reserve stocks and less price instability than we have experienced recently. Importing countries, most notably the Soviet Union and those associated with the European Community, have contributed to price instability in exporting countries by attempting to maintain stable prices. By relying on imports to balance supply and demand at stable prices, they have shifted all of the instability on to exporting nations. If all prices were linked together under a system of free trade, adjustments in consumption would be more widely distributed, thus reducing the need for large carryover stocks or precipitous changes in prices to balance residual supplies and demand.

Johnson and his colleagues have concluded that it would seldom pay to maintain emergency reserves (over and above working stocks) of more than 10 million tons. In most years, the marginal cost of holding stocks would exceed the expected increase in price, assuming the change in price was based solely on variations in total world supply relative to demand. If the probability distribution of yields remains similar to that prevailing over the past 25 years, their analysis indicates that it would be profitable to maintain excess reserves (above normal working stocks) in only one year out of five and that in only one year out of 20 would it pay to keep reserves of more than 10 million tons. Their analysis is based entirely on variations in output and hence does not take account of possible variations in demand, however, it is not unreasonable to assume that aggregate demand grows at a relatively uniform rate each year and consequently is not a major contributor to instability.

My own view is that we should begin to build up stocks over the next two or three years, either publicly or privately, as crop conditions permit and not attempt to set a specific target for reserves at this point in time. Optimum carryover levels obviously may change as we learn more about world weather conditions and the policies being pursued by other countries. For this reason, I suggest a flexible policy in which we decide each year on the basis of current information whether additional stocks are required. Certainly, it would not be unreasonable on the basis of past experience to accumulate as much as 50 or 60 million tons of grain as a reserve. If or when we do build up reserves to this point, we can then decide on the basis of experience over the intervening years and perhaps somewhat better forecasts whether any additional accumulation would be worth the incremental cost. Whenever reserves threaten to become excessive, a land retirement scheme something like that in operation during the 1960s might be reinstituted.

It is more important at the moment to decide on a set of policies that will encourage stock accumulation than to try to fix a specific target for reserves. Agricultural economists can perform a useful function by developing and analyzing the consequences of alternative decision rules for the acquisition and release of carryover stocks. Such rules can be based either on prices or quantities. On pragmatic grounds, I prefer decision rules based on prices. A price rule similar to that employed in the United States under the support programs in effect in the 1960s works automatically. Farmers can be offered the opportunity to store commodities and obtain a price support loan. This puts an effective floor under prices. Resale prices can be fixed either in absolute values, or as a percentage of the floor price. Alternatively, the government could make a commitment to purchase certain quantities at a specific price and to resell commodities at another price.

Quantity rules also can be made automatic, but implementation is likely to be more difficult than with price rules. A quantity rule, for example, might specify that the government would purchase and store some fraction of the difference between actual production and a trend value whenever actual production exceeded the trend value. In parallel fashion, stocks might be released whenever production fell below the recent 5-year average, or the projected trend in output. With quantity rules, however, decisions regarding acquisition or sales would have to be delayed until after the harvest was known. Furthermore, it would be difficult to take into account changes in demand. An acquisition rule based solely on deviations from trend in output might result in purchasing stocks in a year of high prices if demand also was significantly above trend at that time. Alternatively, one might simply offer to subsidize on-farm storage costs up to some maximum percentage of average grain production on each farm (e.g. 20 percent), and let each farmer decide when and how much to sell.

No one would deny that there are risks involved in making government acquisition of grain stocks a function of prices announced in advance (either as price-support loan rates or purchase prices). If the acquisition price is significantly above the long-run equilibrium price, the government will accumulate large stocks and costs will rise. The U.S. could find itself once again propping up world grain prices unless it chose to subsidize exports. Concern over the possible loss of markets to competitors is one of the principal reasons why Congress has been conservative in raising loan rates. In recent years, the majority in Congress has voted to keep loan rates relatively low. Agricultural Committee members, in general, would prefer to raise target prices if necessary to provide production incentives and to use deficiency payments rather than high support prices to maintain the incomes of farmers.

I believe it is possible to establish price rules for acquisition and resale of commodities that would not run serious risks of excess accumulation or high government cost. Furthermore, if the spread between acquisition and resale prices were made sufficiently wide, farmers and private traders would be encouraged to hold stocks, thus making it unnecessary for the government to do so. The trick is to make the rules of the game consistent with social objectives. To provide a reasonable floor under prices, I have proposed that loan rates for corn be raised 40 to 50 per cent from current levels (Robinson). Annual adjustments in loan rates should then be made on the basis of increments in nonland costs of production. Loan rates for other grains and soybeans should be linked to corn, taking account of relative profitability and substitutability in use. Since annual costs of storing grain now fall between 10 and 15 per cent of the proposed loan rate for corn, I would suggest a resale price which is at least 50 per cent above the loan rate, thus making it profitable to hold stocks for at least three years. This is a much wider spread between loan rates and resale prices than prevailed in the United States in the 1960s when the Commodity Credit Corporation was authorized to sell commodities at 15 per cent over the loan rates. By tripling this margin, there would be more scope for prices to rise in short-crop years and reward those willing to store commodities. In addition, it would permit prices to perform the important function of rationing consumption in short-crop years which, in turn, would make it less necessary to hold large reserve stocks.

TRADE RESTRICTIONS

In the absence of reserves, U.S. and Canadian grain prices obviously will remain extremely vulnerable to changes in export demands. If the U.S. again experiences a sharp rise in prices it will be difficult to withstand public pressure to take some kind of action, including the reimposition of export controls or selective embargoes. My own preference would be to avoid the use of such devices because I believe the short-run adverse effects of higher prices on livestock feeders and consumers are less serious than the potential long-run effects on export earnings. Our reputation as a reliable supplier has already been jeopardized. Further use of export restrictions undoubtedly would lead to even greater efforts on the part of food deficit countries to reduce dependence on imports.

But it is not at all clear that those elected to public office will be willing to sacrifice the short-run interests of consumers for potential long-run gains. If one accepts the premise that export controls are a political necessity in a period of sharply rising domestic prices, then it can be argued persuasively that it would be preferable to have rules worked out in advance rather than to rely on ad hoc decisions of the Secretary of State or the Secretary of Agriculture.

A number of thoughtful individuals are now pressing for the establishment of guidelines to govern the imposition of export restrictions so that traders, farmers and importing countries would know in advance what to expect. This is clearly a "second best" solution, but it would represent an improvement over what has been done in the recent past. Decision rules based on market price again have an advantage over quantitative rules. If traders and importing countries were warned in advance that a given price increase (e.g. an increase of 100 per cent above the current loan rate) would result in the imposition of export controls, it might have a moderating effect both on commodity markets and the actions of importing countries. The latter might decide to stretch out or defer imports, or possibly even store larger quantities following favorable crop years as a precautionary move, thus reducing still further the need for exporting countries to carry large reserve stocks.

CONCLUSIONS

The foregoing review of both the politics and economics of agricultural stabilization policies in the United States leads inescapably to the conclusion that there is neither a vast supply of innovative ideas waiting to be exploited nor a great demand for new programs. In this respect there may be a significant difference between the two countries. Just why farmers should exhibit a somewhat greater tolerance for price instability south of the border is not at all clear to me, but it may be due to the fact that thus far, price fluctuations have been more up than down which is a welcome change from the situation prevailing prior to 1972. While price instability has resulted in a temporary squeeze on the incomes of livestock feeders and dairymen, it has brought prosperity to grain producers. For many other farmers, the economic environment has not changed appreciably since the recent boom has been confined mainly to export crops. Instability is still a problem for producers of fruits, vegetables, poultry and eggs, but no one has been devoting much attention to programs for these commodities. Farmers obviously would like to stabilize prices at a high level, but given the choice between stable prices at a low level as in the 1960s and fluctuating prices such as they have experienced recently, the majority would opt for the latter alternative.

Among agricultural economists, there is a substantial measure of agreement that action should be taken to moderate price fluctuations (Brandow; Cochrane; Houck; Tweeten). Most analysts concentrate on price polices for grains and emphasize the need for an adequate reserve scheme. In addition, Cochrane advocates negotiating sales agreements, both as to volume and prices, with state trading nations and preserving the option of instituting export controls as a second line of defense against price increases if reserves are inadequate. Supply management programs are suggested as a second line of defense against price decreases after reserve stocks have been built up to a reasonable level.

Some moderation in price fluctuations clearly is desirable to avoid overcommitments for resources, inflation in land values, and possible cobweb effects. But I believe there is danger in overemphasizing price stability as an objective. In general, grain prices in the United States were held within limits which were too narrow in the 1960s. There was no incentive for private traders or importing countries to store grain, and consequently a disproportionate share of the costs of maintaining reserves were absorbed by the U.S. government. A somewhat greater hand of flexibility than prevailed in the previous decade would be more appropriate under present world conditions. In my view a reasonable compromise between too much and to little instability can be achieved with only modest changes in existing U.S. policies for grains and soybeans. The principal changes required are: first, to raise price-support loan rates for grains to more realistic levels so as to encourage production and some accumulation of reserve stocks; and second, to widen the spread between loan rates and resale prices so as to provide incentives for farmers, private traders and importing countries to acquire and hold reserves. In my view, a spread of around 50 per cent between acquisition and resale prices would be sufficient for this purpose. Such a range would permit prices to perform the essential function of rationing use in short-crop years, and encouraging additional production if needed, and still keep prices within the bounds of political acceptability.

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THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been many years since Harry S. Truman first asked the U.S. Senate to give its advice and consent to the Genocide Convention. It has been too many years, but none of us who support the Convention are about to give up the struggle which he began. There is nothing that we can do to remedy or cover up our failure in the past to ratify the Convention. What we can do and what we must do now is recognize the merits of the Convention and ratify it as soon as possible.

Some people say that we should not ratify the Convention because of their skepticism that the course of world events would not have been any different if we had signed in the past. I do not think any of us can answer the question of whether world events would have been any different, but this should not be a prime consideration in the debate over ratification now.

What we have to consider is how our ratification will affect us in 1976 and the future. Signing the Genocide Convention will not stop all the injustice and wrongdoing in the world. It may not have enormous consequences in the near future. Ratifying the Convention will, however, show the world that the United States still is bound to the principles upon which the Nation itself was founded 200 years ago. It will remind the United States and the entire world of the necessity to protect the basic rights of all people.

Mr. President, only a short time ago the American Bar Association's House of Delegates endorsed the Genocide Convention which they had for so many years opposed. They acknowledged that the time is right for us to recognize the good which the Genocide Convention can do the United States and the world in general. Perhaps the ABA approval will help convince some of my colleagues that we should end the long fight on behalf of the Genocide Convention by ratifying this treaty immediately.

THE END OF THE AMERICAN DREAM

Mr. ABOUREZK. Mr. President, one of the best essays I have seen with respect to what is in store for America's future has recently been written by Jeff Greenfield in the April 1966 issue of Penthouse, entitled "The End of the American Dream." I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE END OF THE AMERICAN DREAM

(By Jeff Greenfield)

Something is happening to America—something that has never happened before; something that may change our country's government and society beyond recognition and accomplish what no enemy nation, no army, no domestic tyrant or subversive ever managed to do: eradicate the freedom and liberty of American citizens.

The first evidence is already around us—the persistent joblessness, the cost of food and fuel, the steadily eroding real value of the dollar, the sporadic shortages at the supermarket, and the continuing uneasiness about the availability of gasoline and other fuels. But we are still probably a few years away from the day when, for the first time in our history, Americans begin to realize that this "land of plenty," is running out of riches, that until a new source of energy can be found we will be living in an Age of Scarcity. And the most chilling consequence of this scarcity will not be unemployment and longer gasoline lines, it will be the most serious threat to our *political* and *social freedom* that we have ever faced.

Traditionally, Americans have believed in and valued freedom above all else and assumed its continuity largely because the very wealth of the land made government control—whether of our property, our work, or our thoughts—absurd. But now that scarcity may well become a pervasive characteristic of our national life, we had better try to discover—and quickly—how our ideas about freedom can survive in a less plentiful, less bountiful country. The alternative to learning how to keep our freedom will be the loss of that freedom.

The idea of abundance, more than the idea of freedom or individualism, has long dominated both the world's vision of America and America's vision of itself. The sweep of the continent, the riches of the earth, the bounty of the frontier, the power of the machine—these qualities have written our history and shaped our present.

Columbus's 1493 letter from Hispaniola tells of an "earthly paradise" in the Western hemisphere. An English joint-stock company in 1609 beckoned Londoners to a land where "they shall have meat, drink, clothing, with a horse, orchard, and garden for the meanest family [and] one hundred acres for every man that hath a trade." As one social critic has written, "From the Spanish quest of El Dorado to the Twentieth-Century folklore of Sicilian and Slavic villages, the myth persisted of America as the land of untold riches, where everyone dressed in finery and the paving blocks were of gold." The most remarkable thing about this myth is the amount of truth it has contained for five hundred years.

Of course the history of America is also checkered with privation, suffering, and outrages—the destruction of the Indian civilizations, starvation in the early settlements, death on the frontier, the sweatshops and slums in our cities, the hard lot of sharecroppers and migrant workers, the persistent exclusion of blacks, browns, and women from full rights, and the inequitable distribution of wealth that endures to this very day.

Yet the reality of the Golden Myth remains: America is a society abundant above all others. Moreover, this wealth has endowed not just a tiny elite, but the great mass of Americans, first with land and the fruits of that land, then later with a share of our incredible industrial production. More than a hundred years ago, John Calhoun said that a "kind providence has cast our lot on a portion of the globe sufficiently vast to satisfy the most grasping ambition, and abounding in resources beyond all others, which only require to be fully developed to make us the greatest and most prosperous people on earth."

In the decades since, the story of gold in the Klondike, silver in Colorado, oil in Oklahoma, and coal in Appalachia has made Calhoun seem a modest forecaster. By the beginning of this century, Henry Adams could describe our country as the "child of incalculable coal power, chemical power, electric power, and radiating energy"—sufficient to make America into "a sort of God compared with any former creature of nature." And it is this image—and this reality—that runs like a river through our history, irrigating every element of our experience. We have so much, we consume so much, even our poor are, in comparison, so endowed (Harlem by itself would be one of the world's ten richest nations) that we cannot understand the threat posed by scarcity until we see just how the idea of abundance forms the bedrock for our most basic beliefs.

Every idea brought here from Europe was transformed by the richness of the American landscape. The philosopher George Santayana once wrote that American life "seems to neutralize every intellectual element, however tough and alien it may be, and to fuse in it the native good will, complacency, thoughtlessness, and optimism." And looking at the impact of abundance on our most basic ideas, this description seems exactly right.

God Himself was recreated in the image of America the Plentiful. Why believe in the sinfulness of luxury when the earth has brought forth such treasure? Instead of the biblical doctrine that "it is easier for a camel to go through the eye of a needle than for a rich man to enter into the kingdom of God." American religion favored the notion of the Elect: the sense that God favored with worldly success those destined for Paradise. From Cotton Mather on down through Dwight Moody, Billy Sunday, Billy Graham, and Norman Vincent Peale, a major strain in our religious activity has been the comforting of the comfortable. It reached a peak of some sort when ad man Bruce Barton wrote *The Man Nobody Knows*, in which he described Jesus Christ as the "Great Salesman" and the Apostles as the first board of directors.

Our belief in individualism seemed to have resulted from the wealth of the continent. The early settlements in Jamestown and Plymouth, which emphasized collective effort, collapsed in large measure because there was simply too much fertile land for the taking. There was no need for men to work together when it was not too difficult for each man to enrich himself separately; nor was there any need for a powerful, intrusive government. "Here in America," Carl Schurz said, "you can see every day how little a people need to be governed. . . . Here you witness the *productiveness of freedom*." Indeed, our American Revolution was born as much out of impatience with Britain's economic policies as her political policies. Samuel Eliot Morison argues that "Boston became the hub of the American revolution largely because the policy of George III threatened her maritime interests."

The doctrine of "natural rights"—so central to the Founding Fathers—became through the first century of our history the unfettered right of the powerful to enrich themselves as they wished, without state interference. Those who didn't like it could pack up and carve out a new slice of our endless continent for themselves. Our corporate growth, manifest destiny, isolationism—all these reflect a sense of America as a self-sufficient, infinitely self-sustaining entity. Whether this idea of Abundance has been *good* for us is a matter of doubt. What is beyond all doubt is the enormous influence the idea has had on our character, on our most definitive traits as a people and a culture. In his classic essay on the closing of the frontier, Frederick Jackson Turner summarized the impact of abundance on the American people. It had produced, he said, "that coarseness and strength combined with acuteness and inquisitiveness; that practical, inventive turn of mind, quick to find expedients; that masterful grasp of material things, lacking in the artistic but powerful to effect great ends; that restless, nervous energy; that dominant individualism, working for good ends and for evil; and withal that buoyancy and exuberance which comes from freedom. . . .

We can find this influence everywhere. Look at our newspapers and magazines—the startling use of white space, graphics, photographs. Look at the blaze of neon in Times Square and Las Vegas. Look at the way we live—in housing thirty miles from our jobs and five miles from a food store. Look at our pattern of typically uprooting ourselves more often in a ten-year period than most of the world's peoples do in a lifetime.

Listen to our political and cultural debates, and see how the concept of abundance bridges the widest-seeming gaps between Americans. Economic conservatives point to our material standard of living and argue that our system works for all who are willing to work. Liberals point to this same wealth and argue that in so rich a land, privation exists only by a conscious decision ("if we can put a man on the moon. . . ."). Our counterculture, with its professed distaste for the values of growth and acquisition, has been based on the capacity of the huge middle class to pay for the lifestyle of its disaffected children.

But there is something else that the pervasive idea of abundance has brought to our country. In America, growth has not been just a value, but the reason to be; possession is not just a means to happiness, but happiness itself. What has happened in America is that, as abundance came to dominate our thinking and living, it came to replace other, more traditional, sources of gratification. We made a kind of cosmic bargain—trading roots, community stability, and craftsmanship for the dizzying excitement of growth, plenty, and power. Now, forces seemingly beyond our control are making that bargain obsolete. Instead of vast riches, we may be facing a sharp decline in our basic material expectations and that may produce an incalculable alteration in our traditional sense of possibilities.

"A new civilization found new ways of holding men together—less and less by creed or belief, by tradition, or by place, more and more by common effort and common experience, by the apparatus of daily life. . . . Americans were held together less by their hopes than by their wants, by what they made and what they bought."—Daniel Boorstein, The Democratic Experience.

To some critics, this "bargain," this exchange of stability for consumption, has produced the American capacity to solve problems and improve our lot. To others, ranging from Thorsten Veblen to Paul Goodman and Charles Reich, it has produced a corrosive loneliness—even as we possess more, we wonder more at our lack of satisfaction. But while thinkers debate the worth of the bargain, the fact that we are living within that bargain is clear.

To survey familiar ground once again: we travel in shiny cars along eight-lane highways to see America, and what we see are more eight-lane highways and Holiday Inns and McDonald's that we left behind at home. We relax in comfort before color-television sets, but we are remote from tangible experience and personal participation. There is no corner bar or grocery store to find companionship in—often there is not even a corner, no center of existence where we casually cross paths with neighbors. Because we live so far from our needs, we power 3,000-pound machines to carry a 150-pound man for a loaf of bread. The work we do seems less and less to be either productive or useful, so we take our satisfaction not in what we *do*, but in what we can buy with our labor. In fact, what we have *is*, for millions of us at least, what we do. The vacations, the snowmobile, the home—these are the ways we measure our lives.

This is not necessarily a losing bargain; affluence can be as gratifying as more traditional values. In the words of Max Lerner, "The loss of a sense of independence in the productive process has been replaced by a feeling of well-being in consumption and living standards. The values of income, consumption, status . . . are values, not emptiness of formlessness."

These words were written before the explosion of the 1960's; that decade taught us that prosperity without purpose may not be enough. But now we face a more basic question—one we have never had to ask before: what happens once we have exchanged the rewards of community, craft, and identity for mobile affluence—and *then* find our mobility and affluence draining away? What happens, in a society taught to measure happiness by the things we have, when we find we have less? The conclusion is frighteningly easy to suggest. If we have less, our lives must be less.

And the fact is that for the rest of this century, Americans *will* have less. Whatever happens to employment and the value of the dollar, our five hundred-year link with cheap energy, cheap food, and cheap raw materials, is ending. Certainly, the current picture is grim enough. Our industrial capacity is one-third idle, and eight million are jobless. Yet the cost of living rises at a faster pace than at any time since World War II, propelled by a combination of shortages, the near-monopoly control of much of our economy, and skyrocketing state and local taxes (the average American works four months a year just to pay the tax collector).

So great is the continuing rise in the cost of living that a family that earned $12,626 in 1967 will need $16,000 just to stay where it is in 1976. In fact, the typical family has now lost every penny of the real buying power it had gained since 1964. Pessimism runs rampant. According to a *Wall Street Journal* survey, businessmen and economists believe that a savage new round of inflation will trigger a major economic collapse sometime in 1977 or 1978—"future fear" the *Journal* calls it. A noted economist says that the "prospects for improvement in the American standard of life are much less than they have been." And Edward Donnell, chairman of the board of Montgomery Ward, says, "The age of conspicuous consumption is over."

Thus, after living through all of the social upheaval of the last decade, from domestic riots and a divisive, debilitating war to the murder of our leaders and wholesale corruption within the White House itself—after all of this—the single remaining consolation, the conviction that materially at least things will continue to get better, is also turning to dust. No wonder pollsters unanimously report the most pervasive national pessimism in measurable memory.

The foreseeable future holds no solace. In recent years, our abundance has been rooted essentially in the existence of cheap fuel on which to base our industrial machine and personal living habits. But now the era of cheap fuel is over. The foreign oil cartel will by 1980 have accumulated some $460 billion of cash reserves—virtually all of it drained away from the United States and Western Europe. And to avoid paying higher prices abroad we will have to pay hundreds of billions of dollars at home—there will be higher prices for light, heat, and gas, and more expensive tax-supported subsidies. Even then we may well lose the battle. The National Academy of Sciences says it is all but impossible for the United States to achieve energy independence within the next twenty years, and the United States Geological Survey recently found that we have less than half the oil reserves we once thought. One government official predicts that "we should expect to run dry [of domestic petroleum] around the year 2000." The Atomic Energy Commission, a zealous advocate of nuclear power, now admits enormous problems with the "breeder reactors" of the future.

The energy shortage of two winters ago demonstrated in a small way what will happen if America runs short of fuel. But if we must pay far more for fuel, the consequences will go far beyond car pools and chilly buildings. Cheap fuel is—*literally*—the motive power of an auto-based economy and lifestyle. If automobile production, sales, and use sag, then so does the vast web of our industrial life: steel, rubber, service stations, fast-food franchises, shopping centers, amusement parks, domestic tourism—all will flourish or atrophy on the mobility of the car.

And there is much more. Fuel powers the tractors and combines of our agricultural life. Fuel powers the machines that nurture the fruits in the vast orchards of California and Florida. Fuel powers the trucks that abridge space and season to put fresh vegetables on wintry tables thousands of miles away. Inflate the price of fuel and you inflate the price of food. Mix this fact with the growing worldwide demand for our bounty to see that the Secretary of Agriculture is obviously right when he says. "The era of cheap food is over."

And more Oil is the core of petrochemical products. Jack up the cost of oil, and the price goes up for plastics, synthetic fibers, records, pipe, packaging, furniture, etc. Moreover, Japan and other industrialized nations compete more strongly for our wool, cotton, and wood. The price of clothing soars. Paper shortages cut the size and circulation of newspapers and magazines.

In sum, abundance as we have known it—abundance in the sense of an unlimited source of sustenance for ourselves, our machines, our way of life—is over.

What happens to a society where freedom has been equated with abundance? Well, if we have less, then perhaps we shall be less free. Once a society has to make hard choices about who gets what, then the political process becomes much more ominous and threatening.

America has always professed to believe in self-reliance to feel, in President Ford's phrase, that a "government big enough to give us everything we want is big enough to take it all away from us." Even after the New Deal, the New Frontier, and wartime controls, we have managed to retain a healthy skepticism about what Washington should be doing for us and to us. Yet, virtually unnoticed during the energy shortage of 1973–74 was the incredible, unchallenged expansion of government power into every area of our lives. The federal government became our thermostat adjuster, our highway patrol, our wage negotiator, our price-setter, our custodial engineer. We were told that we might have Christmas lights on our tree but not on our shrubs. We were told that we could buy gasoline on Saturday but not on Sunday. Prospective homeowners had to petition local boards for emergency fuel supplies if they wanted to move.

If this is how the federal government intends to respond to future energy shortages—with detailed, case-by-case power over local and personal choice—then the federal power implied is total. In extreme form, it suggests the power to shut down television stations to conserve energy, the power to allocate newsprint, the power to decide that the Indianapolis 500 will take place but not some rock concert, the power to permit college basketball games to be played but not professional ones.

And if scarcity results in this kind of government control over energy, what will happen if other shortages take place—shortages of food, lumber, wool, cotton? Will we have a federal agency allocating newsprint? Will government boards send fruits and vegetables to different parts of America, based on their conception of regional tastes? If the sounds impossible, remember that a hundred years ago the idea of a government zoning land would have been just as laughable in many parts of America. Then, as urban centers grew more crowded, the idea that every landowner had full control over his property was replaced by tighter and tighter controls. We now face—with no preparation and with little recognition that it can happen—the possibility of government "zoning" fuel and other scarce commodities.

Moreover, a stronger government with control over our lives means that there is a greater potential for bitter national division. All of us know that in influencing government, some citizens are more "equal" than others. But when government decides who will drive, who will work, who will suffer, and who will prosper, then political and economic power obviously become much more consequential. Truckers can shut down a city by blockades or by strikes that sever the chain of food supply. Farmers can dump milk and slaughter livestock to maximize prices in a food-shortage economy. Oil companies can cut production to force prices to climb even higher. And the rest of us can watch and wait for the government to tell us whether we shall work, whether and what we shall eat, whether we shall be cold. . . .

Once before within recent memory America faced substantial shortages—during World War II. And some observers say optimistically that the experience brought us closer together, made us a more united people. From Rosie the Riveter to dollar-a-year bureaucrats, our work had a purpose, a common goal. And that, of course, is exactly what we do *not* have now. We aren't fighting for our survival as a free nation, we don't have Tojo, Mussolini, and Hitler to revile, we don't have magazines and newsreels promising us better days just ahead. Furthermore, World War II was actually a time of providential prosperity compared with the preceding Depression—indeed, it was war that ended the Depression. Meatless Tuesdays were not that much of a hardship for families that had lived through foodless Tuesdays a few years earlier. Today, scarcity will come only after more than two decades of feverish consumption by people who have literally never known the meaning of hardship. Finally, we are more *apart* from each other now. We live neither in cities nor on self-sufficient farms, but increasingly in far-flung suburbs, unreachable by public transportation. We are neither accustomed to nor organized for cooperative sacrifice, and this will make scarcity far harder to cope with.

What then can we do? Without some very hard, very fundamental changes, a leaner existence will mean for millions of us a lesser existence. Since we have cashed in so many other sources of gratification for possessions, since we have chosen to cast our lots separately instead of together, we have created a vicious cycle: increasingly dependent on consumption for gratification, we have become a society that is built to consume wastefully. And since we have shaped our political ideas of freedom from our material bounty, we face a future in which we will see ourselves as less free because we will have less chance to evade limits to our impulses.

The first step toward a solution is the clear recognition by our political leadership that we can no longer afford to consume without acknowledging the consequences. Nearly a century ago the closing of the frontier meant that we could no longer swallow up virgin land, drain it of its nutrients, and move on westward. And what is ending now is the age of "frontier consumption." As a society, America is facing the terrible lesson that individuals learn when they pass from youth to middle age. To personalize it: America can no longer stay up all night and drink and devour all it can, certain that it will be replenished in a new day. Our country has provided a kind of fountain of youth, but now we face childhood's ends.

Many of the critical decisions will indeed restrict our freedom—if we continue to define "freedom" as the right to a lifestyle independent of the real costs, what economists call "externalities." The right to clog city streets with automobiles carrying one passenger; the right to drive snowmobiles instead of sleds; the right of federally subsidized housing and highways to suburbanize all America—all of these "rights" create enormous costs. And an energy-scarce America will not be able to afford them.

The question is whether our political leadership, traditionally so cowardly in the face of powerful forces that profit by existing conditions, will use its power at the source of these problems or whether it will impose massive restrictions on the living habits of individual Americans. If Washington has to choose between requiring automakers to produce only fuel-efficient engines and banning Sunday driving, the choice must be made to impose efficiency at the top. If Washington has to choose between drawing more families to the suburbs or inducing them to return to more efficient urban living, this choice, too, is clear. If building codes can be changed to require more adequate insulation, isn't that better than banning Christmas lights? But the problem is that all these choices require a government with the guts to go after powerful economic interests; and we have seen precious little of that from government in recent years.

An energy-scarce age also requires some strong action by consumers themselves. The central message of Ralph Nader's activity is that there is no direction given to manufacturers by consumers—no seeking, for example, for an organized channel through which to check the wasteful growth of petrochemical packaging, a hundred different kinds of deodorants, and other production forms that waste precious fuel. The idea that some companies may shut down because others are gorging themselves on fuel products is unconscionable, but consumers have no mechanism for protecting jobs and energy sources.

This may, in fact, become a new kind of lifestyle for a nation no longer able to pay the costs of indulgence. It's true that we don't have a dangerous visible foreign enemy to fight—a Hitler or a Tojo. But a country whose people can no longer indulge every private source of leisure may well find a new source of purpose in the organized attempt to make the products they buy, the air they breathe, and the water they drink safer and more rational.

Across a whole spectrum of our lives, we have become atomized—separate from each other in the way we live, travel, and play. Now conditions seem to be forcing us to adopt Benjamin Franklin's classic toast on the eve of the signing of the Declaration: "We must all hang together, or assuredly we shall all hang separately."

In New York—a city that will be struggling to save itself for years to come—a new ethic seems to be emerging, an understanding that we cannot pay for all of our public needs, that some of them must be supplied by citizens recognizing obligations. In the coming months, we may well see New Yorkers giving of their time to staff libraries, day-care centers, hospitals, and parks which cannot be supported by tax-dollars that are just no longer there.

In a national sense, this may be an encouraging wave of the future. Just as government must redirect our energy to more efficient uses—to mass transportation instead of the automobile, and public parks instead of private retreats—so citizens may have to redirect their energies toward greater common effort to keep us whole during the inevitable age of scarcity. This is not state socialism, but rather a spirit of cooperative, voluntary effort symbolizing much we have forgotten about our own past—from the Mayflower compact to barn-raisings and rural cooperatives.

All this can be done. What we do not yet know is whether our political process born out of an optimistic belief in an abundant land, can adjust to this new condition. The European democracies have long maintained freedom in their personal and political lives while applying strict limits to the ambitions of private power. To do the same, America must learn for itself the fact that civil liberty and the license to run roughshod over fragile resources are not the same thing.

Well before the coming of the age of scarcity—in fact, all through the post-World War II boom, as our incomes swelled with our doubts—we had begun to feel that we had lost all control over our lives, that we were being dragged without consenting into an ominous future. We seemed to have shifted from a sense of purpose to a sense of compulsion, or, as Daniel Boorstein put it, from a sense of mission to momentum.

No, there is no choice but to choose. To do nothing is to surrender to a fate no one desires. We do not have what Americans have always *believed* we have: all the time in the world, all the land, all the wealth, all the power, all the energy. We will either face the age of scarcity squarely, or we will fulfill the darkest fears of our bankrupt leadership and America will indeed become a pitiful, helpless giant.

FOREST MANAGEMENT HEARINGS

Mr. HUMPHREY. Mr. President, I wish to share with the Senate statements at our recent forestry hearings by Prof. David E. White, chairman and professor of forestry economics at West Virginia University and Prof. Lee M. James, chairman of the Department of Forestry at Michigan State University.

These two distinguished professors participated in the March 22 hearing on forestry legislation pending before the Committees on Agriculture and Forestry and Interior and Insular Affairs.

In his statement Professor White dealt with both the Humphrey and the Randolph bills offering suggestions and reactions to both of these bills.

He suggested three main principles in terms of developing new legislation in this area. And, I might say, he pointed out "that remedial legislation is necessary if our national forests are to be used at a level anywhere near their potential."

His first important requirement was that remedial legislation provide for effective multiple use forestry. By this he meant that in the past many groups had used this language to hide behind an operational bias which favored one particular use. He especially cited the role of Congress and the Office of Management and Budget in not providing adequate funds for a balanced multiple use.

His second main recommendation was that remedial legislation must include adequate flexibility. Here Professor White was thinking particularly of the development of new scientific knowledge and techniques.

His third and final recommendation concerned investments in timber management and standards of efficiency. He particularly questioned whether timber harvesting should be undertaken on those sites where the productivity was so low as to make the long term costs of timber management higher than the potential returns.

In conclusion, he suggested that the debate, and particularly the Randolph bill, has focused too much over means and not ends. He suggested focusing our attention on the ends, leaving open various technical options for achieving the objectives.

Professor James in his statement pointed out the great complexity of the forest system and the fact that a forest represents a complex ecological unit.

He also indicated the great importance of the timber which is harvested from the national forest but represents only one important element of a balanced resource system.

He indicated that management planning on the national forests must reconcile conflicting goals.

He indicated that the Congress should consciously face and realize the implicaitons of whatever policy it develops regarding the management of our forests. In placing restrictions on the harvesting of timber, we are thereby giving it a lower priority than other uses.

He suggested that the Randolph bill, S. 2926, leaves no room for professional judgment to determine the best management practices under a great variety of ecological and economic conditions.

These will be some of the major issues we will be grappling with in the weeks ahead in attempting to develop legislative remedies appropriate for our present situation and also meets the needs of the future.

Mr. President, I ask unanimous consent that these two statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID E. WHITE

Mr. Chairman and members of the Committee, I am David E. White, Chairman and Professor of Forestry Economics in the Division of Forestry, West Virginia University. My academic training was in the State University of New York. I have been at West Virginia University for the past 12 years, holding the position of head of the school for the past ten years. As you might expect, I have been a close and interested observer of the controversy over forest management on the Monongahela National Forest.

My invitation from the Chairman, while pointing out the specific purposes of this hearing, requested that I broaden my comments to discuss the issue of timber and the environment. In order to comply with this request, and yet be mindful of the available time, my statement will consist of a brief comment on the need for remedial forest management legislation, three provisions which I think should be incorporated in the legislation, and an assesment of the Randolph bill (S. 2926) and the Humphrey bill (S. 3091) using the three provisions as criteria.

The interpretation of the Organic Act of 1897 in *Izaak Walton League* v. *Butz* has the effect of rendering unusable much of our accumulated forestry knowledge and thereby reducing severely the nation's stock of forest resources. There can be little argument that remedial legislation is necessary if our National Forest resources are to be used at a level anywhere near their potential. The question of what kinds of trees are to be sold from the National Forests and the processes through which sales are to occur deserves the earnest attention of Congress.

One of the more important requirements of remedial legislation is that it provides for effective multiple use forestry. I emphasize the term "effective" because multiple use has been, to a great extent, a convenient conceptual cover behind which all of us have been free to wield our biases operationally. We're all guilty of this—professional resource managers, conservation organizations, forestry schools, and even the Congress. I would like to dwell for a moment on the culpability and responsibility of Congress in this matter. The Congress and the Office of Management and Budget have repeatedly failed to honor Forest Service requests for funds in support of non-timber activities to the same extent as they have honored requests relating to timber management. In spite of the stated purpose of the Multiple Use-Sustained Yield Act of 1960, the Congress hasn't given much evidence, in budget allocations at least, that it believes in balanced multiple use. Part of the distrust of the Forest Service which developed in West Virginia, and which led ultimately to the court decision and to these hearings, can be traced to the discrepancy in signals forest managers were getting from their clientele on the one hand and from Washington in the form of budget allocations on the other. This is not meant to leave the foresters blameless, for the unbalanced budget allocations reinforced traditional timber biases. Whatever remedial legislation results from these hearings, it ought not, when taken together with existing legislation, promise more in the way of multiple use forestry than is likely to be supported in appropriations.

A second way in which Congress can promote effective multiple use management is to encourage the intensive use of economic analysis in multiple use planning. Multiple use planning has been too disjointed, hardly more than a collection of single use plans. The timber management people think of a wilderness area as "unproductive land." If authentic multiple use planning is to take place, the interrelatedness of the various uses must be analyzed with some degree of rigor, and where the uses conflict there must be recognition and measurement of the trade-offs.

The Forest Service has been criticized for not placing enough emphasis on economic analysis, especially in the National Forest system and particularly when it comes to non-timber uses. The often heard defense is that most non-timber values can't be measured, aesthetics for example, and that economic analysis is therefore a waste of time. A large number of economists are unwilling to accept this. They point out that the difficulty in measuring the value of these goods and services arises not by virtue of the character of the products themselves but because they do not pass through an ordinary market. Such markets can be simulated, however, and prices and costs can be imputed. To say that a value can't be placed on the non-marketed goods and services of forests is to say that decisions about public resources are not subject to analysis nor to accountability and that a rational approach to multiple use forest management is impossible. And under these conditions the on-the-ground forest manager, faced with choices between a use that has a demonstrable social value, such as timber, and one that does not, such as aesthetics, will tend to favor the former. As Marion Clawson pointed out in a recent article, a resource that is "valueless" is likely to be treated as such.

Turning now to assessment of the two bills on the matter of provisions for effective multiple use management, the Randolph bill, with its emphasis on prescriptions for timber management in eastern hardwoods, seems to do very little for the promotion of multiple use forestry. Indeed, it is guilty of the same disjointed single use approach which has characterized our planning.

Further, the Randolph bill does not seem to relate to existing legislation nor is it internally consistent. For example, it calls for the preservation of the existing eastern mixed hardwood forest and yet establishes silvicultural constraints that would make such preservation difficult if not impossible. The Humphrey bill, while it does not explicitly provide solutions to the problems mentioned here, it does refine and expand the planning, reporting and public involvement obligations of the Forest Service so as to provide an open and comprehensive flow of information which can result in effective multiple use management.

The second provision which should be incorporated in remedial legislation is flexibility. It is esssential that multiple use forestry legislation be sufficiently flexible to enable the Forest Service to take advantage of new scientific knowledge and techniques. The one thing that most distinquishes forestry of the time of the Organic Act is the fund of knowledge we have acquired. The Congress has, of course, played a big part in building this fund through its support of research in the Forest Service and the McIntyre-Stennis Act. If we are to continue to benefit from scientific advances in forestry, it is essential that the dictates to professional managers consist primarily of clear statements of goals and rules for accountability and minimize prescriptions for on-the-ground management.

Remedial legislation should also be flexible enough to provide for sensitivity to changes in use and changes in the preferences of users. A freezing of forest management practices based on an end product mix existing at one point in time would be just as unwise and detrimental to the public interest as a technological freeze. An affirmative step toward assuring sensitivity to the wishes of clientele is to provide for more meaningful public involvement in the planning process.

My final point on flexibility is that there should be recognition of the differences that exist among the National Forests, and even among ranger districts, their resources and their local political, demographic, and sociological factors, all of which will have an influence on the Multiple-use management plan.

The Humphrey bill is greatly superior to the Randolph bill on the matter of the flexibility provided for management. The Humphrey bill gives explicit recognition to the complexity of forest resources and to the decisions regarding their use. It recognizes that the demand for and supply of the various resources change over time, and rather than relying on detailed prescriptions for management, it concentrates on making the agency accountable to the Congress and to the public on a regular basis through extension of the Multiple Use Sustained Yield Act and the Forest and Rangeland Renewable Resources Planning Act. The Randolph bill, on the other hand, presents some severe technical constraints, it points eastern hardwood management irrevocably toward a one market (sawtimber) goal and discriminates against other products such as pulpwood. One of the the axioms of forestry is that forest land managed and harvested for a number of different products, making use of various sizes of trees, leaves the forest in better condition. The Randolph bill, with its constraints on clearcutting, will preclude management efforts to remedy past misuse of the land. For example, one of the most easily justified uses of clearcutting in Appalachian hardwoods is in those stands which have an undesirable species mix and poor form. In such cases, and providing that non-timber uses do not dictate otherwise, the most sound forest management practice may be to remove the stand and start over.

The third and final provision which should be incorporated in remedial legislation concerns investments in timber management and standards of efficiency. It is highly questionable whether timber cutting should be undertaken on those sites whose productivity is so low as to make the long term costs of timber mangement higher than the potential returns. The available analyses suggest that total timber output can be increased by intensifying the investments in high site forest land and leaving the low site land untouched. An obvious added advantage of this practice would be the enhancement of the low site lands for uses that are incompatible with timber harvesting. Complicating this issue of efficiency is the question of the agency's responsibility to local economies. Legislation which addresses itself to the matter of efficiency and accountability in timber management should also consider the matter of subsidization of local communities.

In my judgment the language of the Randolph bill is preferable to that of the Humphrey bill on this point. In my reading of the Humphrey bill I see nothing that will insure efficient timber management investments beyond what is called for in the Forest and Rangeland Renewable Resources Planning Act. That Act calls for "specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government." The Randolph bill goes further and calls for a "cost accounting system for furnishing itemized and cumulative direct and indirect costs for administering and managing the growth, sale and reforestation of timber . . ."

Mr. Chairman, much of the Monongahela controversy has been a debate over appropriate silvicultural systems and as such is a debate over means and not ends. One of the proposed pieces of legislation resulting from the controversy, the Randolph bill, reflects this obsession with means. I suggest that the debate has been on too narrow grounds, that we should first focus our attention on the ends, so as to be able to make better judgment of the means. Legislation to guide the management of the National Forests should emphasize society's objectives, and should make them as clear as possible and yet leave open the various technical options for achieving the objectives. Forestry agencies, given a clear statement of purpose, adequately supported, and made accountable to the public for its actions, can give the people any kind of forestry they want.

Statement of Lee M. James

Mr. Chairman and members of the Committees, I am Lee M. James, Chairman and Professor, Department of Forestry, Michigan State University. I appreciate the invitation received from Senator Talmadge, Chairman of the Senate Subcommittee on Environment, Soil Conservation and Forestry, to appear at this hearing. I am one of the five forestry school heads who were retained as consultants in 1971 by the President's Council on Environmental Quality to prepare reports on the issue of clearcutting on the National Forests.

The Multiple Use and Sustained Yield Act of 1960 directed the Forest Service to conduct multiple-use sustained-yield management of the National Forests. It states specifically that management is to be directed to outdoor recreation, range, timber, watershed, wildlife, and fish resources—a charge clearly indicating the multiple and interrelated objectives expected of public forestry. The Act does not place one use above the others, but it calls for combinations of uses that will best meet the needs of the American people, without impairment of the productivity of the land, and with consideration being given to the relative values of the various uses.

The Forest and Rangeland Renewable Resources Planning Act of 1974 expands on the Multiple Use and Sustained Yield Act. The Resources Planning Act is a milestone Act calling for long-range planning to insure that Forest Service programs make appropriate contributions to meet the Nation's future as well as current needs. The Resources Planning Act requires the Forest Service to periodically prepare a Renewable Resources Assessment and to present a series of long-range programs that are responsive to changing needs. The first Assessment and Program have just been transmitted to the Congress. The Program sets out a range of output goals over time for each major forest use and estimates the costs involved in meeting these output goals.

The Congress now has a document which provides a basis for establishing goals, in response to public needs, and gauging the costs of meeting the goals selected. All major forest uses are recognized. No one goal can be pursued to a point of maximum supply on the National Forests since such a procedure would unduly diminish opportunities to meet other use goals. Management planning on the National Forests must reconcile conflicting goals as much as possible. Under the multiple-use concept, some specific land dedications such as wilderness natural areas, wildlife habitats, scenic corridors, and critical watersheds are desirable, but each use demand cannot get all the land that its proponents feel is deserved without infringing on other use demands. Moreover, management planning must be flexible enough to permit adjustment to shifting use demands over time.

In its task of providing guidelines and goals for National Forest Management, the Congress is cognizant of a great many legitimate forest use demands. In the appraisal of these demands, it is my hope that timber output will not be relegated to a minor role through unintended restraints imposed by legislation adopted to replace the Organic Act of 1897. Timber is a major product of forests and a necessary major product of National Forests.

The timber industries are a significant portion of the industrial economy. They account directly for about 5 percent of the Gross National Product and 5 percent of total civilian employment in the United States. Some 13 billion cubic feet of wood were produced in the United States in 1974. The tonnage of this volume of wood raw material exceeds the combined total for steel, cement, plastics, aluminum and copper. Lumber accounts for 46 percent and pulp and paper products 37 percent of the total wood consumption.

Goals for future timber output need to recognize timber's great versatility in use and the possibility of the development of new major uses including wood as a source of energy. In comparison with other major raw materials, timber is uniquely renewable, it requires lesser amounts of energy to process, and it is generally environmentally cleaner than its substitutes. National policy may place much greater emphasis on timber in the future than it does now.

Although the National Forests contain 18 percent of the nation's commercial timberland (92 million acres), a long history of strong protection efforts and conservative management has made the public timber invetnory increasingly important in relative volume terms. The National Forests now contain 34 percent of the timber growing stock and 42 percent of the Nation's sawtimber resource. Demand for National Forest timber has increased steadily to the point where National Forests now supply about one-fourth of the Nation's current timber harvest.

The increasingly important role the National Forests have assumed in timber supply is a reflection of lagging supply from other forest lands in relation to timber demand. Forest industry practices the most intensive timber management. It holds 13 percent of the timberland and supplies about 28 percent of the harvest. Nonindustrial private landowners, however, generally practice the poorest forest management. Holding 60 percent of the Nation's commercial timberland, the nonindustrial private landowners hold 41 percent of the timber growing stock and now supply less than half of the total timber harvest. The difficulty of sustaining timber supply from private forest lands is reflected in the record of timber prices. Relative to all commodities, lumber prices have risen at the rate of 1½ percent per year for the past century, and stumpage prices have risen even more rapidly.

The Forest Service's projections of future timber supply and demand reflect a continuing problem of maintaining supply in the face of increasing demand. Its projections from 1970 to the year 2000 indicate that supply will be sufficient to meet demand only if timber products prices continue to rise relative to other commodity prices as they have in the past—i.e., about 1.5 percent per year for lumber, 1.0 percent for plywood and miscellaneous products, and 0.5 percent for paper and board. The Forest Service projections have been made carefully. The agency's analysis represents a very commendable objective effort. If a criticism is to be made, it is simply that in the attempt to be objective, the Forest Service has been overly conservative in its projections—future demand has been underestimated and supply overestimated, with the result that larger price increases than those projected will be necessary in order to balance reduced demand and increased supply.

It is important to note also that the Forest Service's projections of supply and demand point to a balance under conditions which assume sustained timber output from the National Forests. The Forest Service projections assume sustained yield from the National Forests—with timber supply increasing gradually from 2.0 billion cubic feet in 1970 to 2.9 billion cubic feet in the year 2000. There is no inherent difficulty with this assumption. A larger timber output goal would be entirely feasible if the goal was implemented by appropriate budgets sufficient to achieve the intensification of timber management needed.

The future timber production role assumed for the National Forests by the Forest Service is quite modest. By comparison, the role assigned to nonindustrial private lands is substantial—roughly a doubling of output is projected. There is good reason to question the assumption that private nonindustrial lands which contribute to timber supply will be able to double their output and still remain on a sustained-yield production basis. Past history throws considerable doubt on the prospect of private nonindustrial landowners making the timber management investments necessary to meet the timber output goals under sustained yield which are assumed in the Forest Service projections.

If the Congress decides to lessen timber output from the National Forests through legislation and/or budgeting, the economic consequences could be severe. Large reductions in timber output such as might result from enactment of the Randolph Bill (S. 2926) would have severe economic consequences. Enactment of S. 2926 could easily reduce timber output on the National Forests by 50 percent or more. This would translate into a reduction of national timber output of 12 to 15 percent and an increase in timber product prices of 35 to 45 percent. Local industries and employment dependent on National Forest timber would be directly affected, and federal support for local schools and roads based on timber revenues would drop.

Sustaining recent levels of timber output from the National Forests is not a goal that seriously interferes with other forest use goals. With the conspicuous exception of wilderness use, timber harvest is at least reasonably compatible with other forest uses, and in numerous instances, timber harvest can be adapted to enhance other forest uses. Even under the current modest levels of intensity in timber management applied to National Forests, only 1½ percent of the commercial timberland in the National Forests is subjected to cutting in a given year. The key to timber production in a multiple-use framework is to substitute intensive management on the most productive lands for extensive management over larger areas. The 1970 Report of the Public Land Law Review Commission concluded that if the Forest Service could practice intensive forest management, employing the most productive techniques available from research and experience, its normal level of output could be sustained from about 25 percent of the commercial timberland in the National Forests.

Forests are highly complex ecological communities involving an intricate interrelationship of trees, shrubs, other plants, animal life, soil, subsoil, atmosphere, and water. Each tree species has its own special requirements and adaptations for growth and development. Some trees require direct sunlight throughout their life cycle; others will not grow in direct sunlight at all. Some require acid soils; others require alkaline soils. The special requirements and adaptations extend through an infinite variety of soil, water, and temperature conditions. Forest trees affect each other and are in turn affected by other plants and animals in the forest.

Silviculture is the phase of forestry concerned with the control of forest establishment, composition and growth. The emphasis is on harvesting commercial timber, and through the pattern of harvest, to insure adequate reproduction, to stimulate subsequent stand development in accord with ecological requirements and human objectives, and to maintain or improve the productivity of the site. Harvest systems used in silviculture and dictated by ecological requirements of species and sites range from individual tree selection to clear cutting.

Only one harvest system—selection—applies to unevenaged stands. The mature timber is removed either as single scattered trees or in small groups at relatively short intervals (cutting cycles), commonly 5 to 20 years, repeated indefinitely. The system seeks the continuous establishment of natural reproduction and maintenance of a many-aged stand. Evenaged stands may be produced under a number of silvicultural systems—clearcutting, seed tree, and shelterwood. The seed tree and shelterwood systems may be viewed as intermediate in the spectrum between selection and clearcutting, but they do result in evenaged stands. Clearcutting refers to the removal of an entire stand of trees in one cut. The cutting may be combined with reproduction attained through direct seeding or planting or by natural regeneration obtained by seeding in from trees at the margin of the cut or from trees felled in the harvest operation. Each stand represents a single age class, but the clearcutting system requires that all age classes from stand establishment to rotation age be represented in the management unit.

Evenaged management is not contrary to nature's methods. Most forest stands in the United States, when first viewed by European settlers, were evenaged stands. They were the product of local catastrophes—fire, storm, insects, and disease.

Logging costs and administration costs are usually lower where evenaged management is applied, but the prime incentive to evenaged management is the fact that the most valuable commercial species in all regions are frequently relativly intolerant trees growing in evenaged stands. All pines, western larch, and Douglas fir are prime examples of intolerant softwoods that respond best in reproduction and development under evenaged management. Similar examples of hardwood species are black walnut, yellow birch, yellow poplar, and black cherry. If not managed under an evenaged system, the valuable, intolerant species tend to be followed in ecological succession by slower-growing, more tolerant species.

There are other advantages in evenaged management specifically applicable to clearcutting. If trees are to be planted, making use of genetically superior planting stock, clearcutting is generally the only suitable silvicultural system to use. Fire hazard reduction from slash and logging debris following logging can be accomplished by slash disposal in clearcut areas. Salvage of timber following insect and disease outbreaks and storm and fire destruction simulates clearcutting. Such cutting is not merely a matter of salvage; it is often needed to prevent further losses in adjoining stands. When increased streamflow is judged to be an important objective, clearcutting will contribute to increased water yields. Wildlife populations are frequently aided by openings in forests which stimulate the development of shrub and herbaceous growth suitable for wildlife food supply.

A detailed analysis of clearcutting, including many illustrations of where it may be appropriate and where it may not be appropriate, was developed by the forestry school heads who served as consultants to the President's Council on Environmental Quality. The reports prepared by the consultants were subsequently edited and condensed, with the authors' approval, into a privately printed book.

Mr. Chairman, I request that the printed condensation of the reports on clearcutting by the five forestry school heads who served as consultants to the President's Council on Environmental Quality—a book edited by Eleanor Horowitz and published in 1974 by Acropolis Books, Washington, D.C., under the title Clearcutting: A View from the Top—be entered into the record of these hearings as a basic reference on clearcutting.

The point I am stressing is not the inherent superiority of clearcutting over other methods of harvest, but the need to avoid legislative constraints against forest practices which forestry professionals find to be useful under different conditions. The choice of harvest systems in a manged forest is determined both by ecological and economic considerations. All systems may have application in different parts of a forest. Choices may be made on the basis of species composition, age of trees, condition of stands, soils, topography, microclimate, economics of harvesting, and objectives of management.

All harvest systems are subject to misapplication, but inherently, all methods are consistent with concepts of sustained-yield production, multiple use, and environmental acceptability.

S. 2926, which was introduced by Senator Randolph, does not conform with the spirit and intention of the Multiple Use and Sustained Yield Act of 1960 or the Forest and Rangelands Renewable Resources Planning Act of 1974. It does not recognize timber production as a use of National Forests deserving equal consideration with other forest use demands. Its provisions are aimed only at restricting timber production and make no reference to restrictions on other use demands. Its specific stipulations regarding tree harvest, particularly the requirement of unevenaged management in eastern hardwood forests, leaves no room for professional judgment to determine the best management practices under a great variety of ecological and economic conditions. S. 2926, in fact, would legislate poor ecology, and it leaves no room for forestry professionals to modify their forest management in accordance with new findings developed through scientific management. S. 2926 would cause a large reduction in the timber output of the National Forests and make it impossible for the National Forests to contribute adequately to reasonable national goals for timber production.

In contrast, S. 3091, introduced by Senator Humphrey, is a commendable bill. It upholds the principles of the Multiple Use and Sustained Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974. It recognizes timber production of National Forests deserving equal consideration with other National Forest uses. It places responsibility for management planning under sustained-yield and ecologically sound principles on the Secretary of Agriculture; it provides for a continuous process of public participation in the development and revision of land management plans for the National Forests; and it provides for the setting of national goals and continuing review of National Forest policies by the Congress.

A FOOD-AGRICULTURE POLICY

Mr. BAYH. Mr. President, every man, woman, and child in America is a consumer of food. The importance of an adequate diet to our health and well-being is so obvious that it is rarely even mentioned.

Americans spend some $165 billion a year on food—17 percent of their income. Consumers have suffered from a 50-percent increase in food prices since 1972. For 2 years in a row—1973 and 1974—food prices increased by an incredible 14½ percent a year, taking an ever-growing chunk out of the family budget. That increase far exceeds the average rate of inflation.

In 1975, retail food prices averaged 8 to 9 percent above the previous year. While the administration considers this "slowdown" a victory, I do not. With food prices projected to increase during the coming year at least as fast a pace as last year, I see no relief in sight for the consumer.

The essentials for a decent life are being priced out of reach of the average family. Only one-fifth of the families in this country today have sufficient income to qualify for a conventional mortgage on a median-priced new home. The cost of medical care increased by 13 percent in 1975; of gas and electricity, by 16 percent. Another 10-percent increase in the price of food is no victory.

It is shocking that we have not had a national food policy. Fortunately, Mr. President, the Congress is taking steps to remedy that situation. I would like to take this opportunity to comment on the interface between food and agricultural policy.

America has not had a meaningful agricultural policy for the past 8 years. The so-called agricultural policy of the Nixon-Ford-Butz era has been an inconsistent patchwork which pits farmer against consumer—to the detriment of both and the benefit of only a few special interests.

Consumers have been led to believe that they pay higher prices because farmers are getting rich. That is not where the blame lies.

In fact, only about 40 cents out of the consumer food dollar goes to the farmer. For many common grocery items, the farmer receives an even smaller proportion. For example, the farmer receives less than 5 cents for the wheat contained in a 35-cent loaf of bread; less than 8 cents for the corn contained in a package of breakfast food that costs some 40 cent for one brand, more than 60 cents for another; less than 15 cents for the oranges in a 50-cent can of orange juice.

This is only part of the story. Farmers risk the uncertainties of whether and spiraling production costs—and then have to face the uncertainties of erratic Government policy which calls for all-out production—and then slaps on an embargo, as it did in 1973 with soybeans, in 1974 with feed grains, and in 1975 with all grains.

Farmers' production costs have grown by leaps and bounds without comparable increases in income. Gross income to farmers in 1975 was about the same as in 1974. But farm production expenses climbed by $3 billion in 1975 alone. The price of fertilizer reflects the quadrupling of oil prices since 1972; the cost of fuel to run tractors and farm equipment has skyrocketed; interest rates for money needed to finance farm improvement and modernization are beyond the resources of many farmers; equipment prices are so high that a large tractor now costs in excess of $35,000.

Many farmers—and particularly the family farmer who is the backbone of American agriculture—can barely make ends meet. For example, an informal poll of a dairy region indicated that the average farm family put in a total of 140 hours of work a week—that is the farmer, his wife, and children. Their net income after taxes was about $5,000, or 70 cents an hour—hardly a living wage. The result is that small farmers are forced to cut production or are forced out of business altogether.

This means fewer family farms; fewer producers and reduced competition; increased domination of agricultural production by agribusiness.

It is time to end an agricultural non-policy of boom-or-bust and outrageous consumer prices. It is time to recognize that every American is a consumer who pays at the checkout counter for the lack of a consistent food-agricultural policy.

The country needs a national food-agriculture policy. The bedrock of that policy will be the fact that the interests of the American consumer and American farmer are mutual, and not adversarial. Consumer interests will no longer be ignored in the formulation of that policy. The needs of famine-threatened peoples, and of a healthy export trade, will be considered in the formulation of a coherent, long-range plan, and not be superimposed on an ad hoc basis. The farmer will be assured that the costs of production will be covered, and a reasonable profit beyond that.

The first element in a national food-agriculture policy is a national food budget which assumes full production on the "income" side of the ledger, and careful estimates of the following items on the "outflow" side:

First. Requirements of the domestic market which will assure adequate food and nutrition to consumers at reasonable cost.

Two. Foreign aid commitments and the needs of famine-threatened regions of the world.

Three. Commercial exports.

A policy of full production benefits both farmers and consumers, provided that farmers are not suddenly shut off from access to markets, and provided that domestic needs are not sacrificed to ad hoc foreign commitments.

The second element is long-range planning, which involves coordination of economic policy, foreign policy, and agricultural policy to assure that producers can meet the national food budget. This means that when farmers are encouraged to reach full capacity, they can do so knowing that export markets will not be closed to them. It means that fuel and fuel-related products such as fertilizer, will be available to them—on a priority basis if necessary—at reasonable costs. It means preservation of railroads serving rural areas. It means adjustment of agricultural price supports to reflect real increases in farmers' costs of production. It means a money supply which guarantees availability of bank loans to farmers at affordable rates.

The goal of long-range planning will be to use all public policy tools to shape a food and agricultural policy conducive to good health, reasonable prices, and efficient use of resources.

By tailoring all our policies in a specific direction, we can eliminate the cross currents in policy which cause shortages, inflation, and poor diet. We will set the market to work encouraging those food policies which make the most sense for domestic consumers and world survival. The key to the program is to use Government influence over private market behavior to good result rather than resort to direct intervention or surrender to total laissez-faire.

The third element is reduction of economic concentration in the agricultural sector. This includes enactment of an agribusiness divestiture bill—such as the one I have cosponsored mandating that any company with more than $3 million in nonfarm assets be required to divest its farming operation. It means enactment of the Family Farm Inheritance Act, which I coauthored, to raise the estate tax exclusion on a family farm to $200,000 so that families will not be forced to sell part of their property when the head of the family dies. It includes revision of the income tax code so wealthy nonfarmers cannot use farm income as tax shelters and create artificial competition with full-time farmers.

It includes a thorough investigation into possible monopoly practices in food processing and marketing. We have not had such a study since the 1966 Report by the National Commission on Food Marketing—and that report indicated a lack of price competition. We know that concentration has increased since then. In addition to a broad-based investigation, I want to see a careful monitoring of competition in the food industries.

The fourth element is establishment of a strategic grain reserve, with strict safeguards to insure against dumping which would hurt farmers. The main purpose of a strategic reserve is to stabilize prices—protecting farmers from income-depressing surpluses, and protecting consumers from shortages which push prices out of reach.

Establishment of a reserve is essential to maintaining and "balancing" our national food budget. Since production cannot be maintained with certainty because of yield variability, a reserve policy will keep grain available for smoothing out variations in production.

Reserves are analogous to a "national food savings account." During surplus periods, excess production will be accumulated and saved for a rainy day when producers are unable to meet the requirements of the national food budget.

The fifth element is a full-scale review of, and research into, the technologies of producing, processing and distributing food with the complementary goals of adequate nutrition and an adequate food supply at lower real costs. This element focuses on the fact that by far the largest proportion of the farm-retail spread—the difference between what the farmer gets and what the consumer pays—is accounted for by processing and marketing. In many cases, a nutrition-rich farm product is processed, packaged, advertised, and retailed to the point where it costs 5 to 25 times as much as the original product—and yet has very little food value remaining. The consumer pays more, but gets less.

We can also expect that, with a restoration of true competition in the food production industry, there will be more price competition and less emphasis on nonprice competition such as advertising and gimmicky produce differentiation which results in higher prices but no increase in food value.

The sixth element is increased research into and dissemination of consumer information—on nutrition, on the relationship between diet and disease, on food values. We know too little about the relationship between diet and killers such as cancer. Funding for basic research of this type should be increased. What we do know about the impact of diet on pregnant mothers and young children, on diabetics and those with heart conditions must be communicated much more widely. The Government must foster a massive educational program as well as press for greater disclosure through labeling and advertising.

The seventh element is to step up agricultural research programs. We know that American farmers today are the most efficient in the world, that good quality food is produced on our farms and that the supply will be adequate tomorrow. But the ability of farmers to meet the growing demands of an exploding world population in years to come depends on their ability to increase yield per acre.

The current U.S. investment in agricultural research is clearly inadequate and is inefficiently allocated. The Agricultural Research Service has consistently spent more to fund tobacco and cotton research than soybean research—and soybeans are an important source of protein. As a result, between 1968 and 1973, soybean yields increased not at all—because the technology remained stagnant. Those yields must be increased, and that means more research now. The green revolution has not been completed—only begun. Additional production per acre is possible, and will substantially benefit consumers and farmers as resources are used more efficiently.

Side by side with the effort to increase productivity must be greater attention to conserving precious natural resources. Yet the current administration cut back severely on our agricultural resources conservation program in 1976, and the fiscal 1977 budget reveals a total lack of planning and construction starts in this area. The Federal Government should be redoubling its conservation efforts, under every available program, to prevent erosion disasters.

The eighth element is that the United States once again become a force for fostering international cooperation in world food policy; that we not alienate nations or penalize American farmers or consumers as a result of bilateral agreements entered into by officials isolated from, and insensitive to, domestic needs.

I endorse the principles of the Food Conference held in Rome last year under the sponsorship of the United Nations. I fully support an American commitment to international cooperation to avert famine through food assistance; to assist developing countries in increasing their own food production; to share information and coordinate an international approach for a world food strategy.

Our world food policy, like our domestic policy, must above all be coordinated, coherent, and humane. It must reflect the compassion of the American people for those less fortunate. And it must serve the interests of all Americans, rather than serving a few special interests.

SENSIBLE AFRICAN POLICY

Mr. CLARK. Mr. President, another crisis looms in Africa. Or perhaps more accurately, two or three new crises are looming there. Rhodesia, Namibia, and ultimately South Africa are swatches of distant geography which are likely to become objects of everyday conversation in months ahead—just as Angola did late last year. It is time we began thinking seriously about these countries in southern Africa, because they could have a huge impact on our lives. And that impact could be highly negative unless the United States immediately begins to devise an intelligent policy toward Africa. In my view, that policy must be based both on compassion for the Africans and on a clear perception of our interests in that part of the world. I do not believe that we can simply turn our backs on southern Africa as though it did not exist; nor do I think we should become involved in military or clandestine political activities there. We can play a modest role in promoting peaceful settlement, in encouraging economic development and racial justice. But we cannot—and should not—behave as though the United States were somehow empowered to veto developments in every part of the world.

An intelligent African policy must be just that—an African policy. It cannot be simply a different colored chessboard for competing with the Soviet Union. Unfortunately, it appears unlikely that we can have an intelligent African policy until we have adopted a more sensible global policy. Only after we quit looking at the problems of the developing world through the Red-colored glasses of cold war anticommunism, only after we accept the fact that it is not our duty—nor even in our interest—to respond to every Soviet initiative throughout the world, only then can we really have a policy which is good for America and good for Africa.

It now appears that the next problem area in southern Africa will be Rhodesia. And it appears that the administration is determined—somehow or another—to repeat the mistakes of Angola. I hope that the Members of the Congress will turn their attention to Africa and to the crises which are arising there. The March 27 issue of the Economist contains two excellent articles which bear directly on the Rhodesian question. I commend them to the Members of this body and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Economist, Mar. 27, 1976]

AFRICAN POLICY STARTS IN HAVANA

Once again, on Monday night in a speech in Dallas, Mr. Henry Kissinger returned to the subject of Cuban intervention in Angola and warned the Castro government against repeating it elsewhere. "Angola," said the secretary of state, "has set no precedent . . . the United States will not accept further Cuban military interventions abroad." Had he used the word "permit" instead of the word "accept," everybody would have known what he meant. Since the United States is not in the least likely to send its forces to fight Cubans in Africa, it would have meant that a further Cuban adventure would bring direct retaliation against Cuba itself, there where it sits so temptingly close to the Florida keys.

Perhaps it does mean that. Senator Richard Clark of Iowa, the chairman of a senate subcommittee on African affairs who played a leading part in frustrating Mr. Kissinger's desire to do more for the non-Marxist side in Angola, thinks it does: "This is no idle threat," he said on Monday, adding: "If it comes, it will be action against Cuba itself." Senator Clark himself does not approve of the United States taking the Cubans on, whether in Africa or in the Caribbean, because of any Cuban meddling that might occur in Rhodesia, Namibia, or (some way down the road) South Africa, since he thinks that would put the United States in the position of fighting for wrong, and losing, causes. He was stating his impression of Mr. Kissinger's intentions, before Mr. Kissinger's Dallas speech, but after a long breakfast with the secretary of state last week.

What the United States would actually do against Cuba, should the Cuban troops with their Soviet armaments reappear in another African country, is naturally not being officially said. The fact that the various possibilities have been studied, as it is reasonable to infer that they have, does not mean that choices have been made or decisions taken for what is, after all, only a hypothetical contingency. The diplomatic reporters are being left to draw their own inferences, beginning with the most obvious inference, that if anything were to be attempted against Cuba it would not take the form of some long-range African expedition, but would be against Cuba itself.

Administration sources are being quoted for a list of possibilities: a reimposition of economic and political quarantine; a naval blockade; a sortie from the American base that still exists on the island; an outright invasion—all are being mentioned, and no official will give confirmation to any. "America remains capable of forthright and decisive action," said Mr. Kissinger at Dallas, and that is undoubtedly true; but he went on to say that action "cannot be rammed down the throats of an unwilling congress or public."

What might be done would depend on what the Cubans did, and where, on the mood of the public and of congress at the time, and doubtless also on the political strength of the Ford administration. For Mr. Kissinger's purposes it may be enough to convey to the Cubans and, no doubt, to the Soviet government (which is regarded as the real principal in the matter) that they cannot rely on the United States remaining passive. So, while speculation about American action against Cuba is being carefully restrained, it is also being deliberately fostered within limits, no doubt in the hope that, if the message penetrates to Moscow and Havana, the next Cuban feat of arms in Africa will not occur.

Where, or how, the Cubans might pop up next is almost as uncertain as the nature of the American reaction if they do. Without doubt, both the planners in the defense department and the policymaking group that is close to the secretary of state have been paying more attention to the map of Africa than has been their custom, but that is not the same as evolving an African policy on the basis of African studies, a need so long neglected.

Rhodesia is being presumed to offer a temptation to the sizable Cuban force that seems to have settled itself in Angola, but how are the Cubans going to get from Angola to Rhodesia? The new black regime in Mozambique is thought to be managing quite well without Cuban aid; it has some Chinese and some Tanzanian helpers who are not believed likely to welcome any Cubans or Russians. It is believed capable of harassing the white regime in Rhodesia, by economic measures and by harbouring and training guerrillas, on its own. Bishop Muzorewa of Rhodesia has said that in some circumstances he would not mind seeing Cubans helping the Rhodesian guerrillas. While black guerrillas from Mozambique or Angola have some prospect of harassing the Smith regime, a Cuban force attacking Rhodesia from the west could expect to be seen off by the South Africans.

On this analysis, which comes from the students of African affairs in Washington and not from the exponents of global strategy, a showdown with Cuba is considerably less urgent than a diplomatic exercise designed to get some sense, and an early agreement with a view to majority rule, out of the Smith regime.

As is familiar, the United States is not the power best positioned to pursue that necessary change. Not only has congress unfortunately (and against the administration's wishes) caved in to pressure from the metallurgical industries to keep open a broad loophole for Rhodesian chrome and other metals through the United Nations sanctions. The administration carries the burden of its past erroneous expectation, enshrined in a national security council memorandum of 1969, that the colonial and other white regimes in southern Africa were there to stay for an indefinite period. (This error is the subject of severe comment in the current issue of the quartely Foreign Affairs by Professor John Marcum of the University of California at Santa Cruz.) When Mr. Kissinger reorganised the national security council at the beginning of the Nixon administration he established an imposing system for study and advice, and between them they got it wrong.

In his Dallas speech the secretary of state went out of his way to praise the proposals of the British foreign secretary (Mr. James Callaghan, at the present time). He also used words designed to put the United States firmly on the side of majority rule: "Rapid change is required," he said, and "the opportunity for neogtiated solutions must be seized."

But a dilemma persists. The administration intends to do what it can to stop the Soviet Union and Cuba jumping in to make strategic and political capital out of the southern African events. But, to confine the question to Rhodesia alone, it has yet to work out how it can stop the Cubans harassing Mr. Ian Smith without also becoming the agent that saves the Smith regime from ruin. Events may rescue Mr. Kissinger from that dilemma, but, if so, an element of luck will be involved.

[From the Economist, Mar. 27, 1975]

NOT RHODESIA AGAIN?

It was 10 to 1 on that Mr. Ian Smith would turn down Mr. Callaghan's terms for a British re-entry into the negotiations about Rhodesia; as he duly did on Tuesday. But things are gaining momentum in southern Africa now. Neither Mr. Smith nor his white electorate yet seems to have grasped how much their prospects have worsened this month, with the closing of Mozambique's border on March 3rd and the collapse of Mr. Smith's talks with Mr. Nkomo on March 19th. The guerrillas now organising themselves in Mozambique are unlikely to walk straight through Rhodesia's efficient defence forces. But they can strike where they like across that long border, and Rhodesian counter-strikes at their Mozambique bases are liable to get increasingly difficult; they are almost certainly getting new Russian weapons; and Bishop Muzorewa has talked loosely of Cuban help for them, if Cuba has not been put off America by Henry Kissinger. Mr. Smith's rejection of the Callaghan terms has not closed the matter. It was therefore necessary for a near-consensus of the house of commons on Monday to make it clear that Britain will not do by way of re-entangling itself in the problem; what it might do, in certain circumstances; and why it would do it.

What Britain will not do is to give Mr. Smith yet another opportunity to waste time by pretending to negotiate. This is probably what he had in mind when he invited Britain to "come in by the front door": the front door would have led to yet another table, this time with British delegates sitting between white and black Rhodesians, from which once again no agreement would have emerged. Neither the British government, nor the great majority of the opposition in Westminster, wants any part in such an operation, in which the British presence would inevitably become the lightning-conductor diverting black frustration from Mr. Smith's head to Britain's.

If Britain is ever again to involve itself in the Rhodesian dialogue, it will do so only to work out the details of a transfer of power already accepted in principle by Mr. Smith or Mr. Smith's successor as the while Rhodesians' spokesman. This means acceptance of the concept of majority rule (which does not necessarily imply the idea of one-man-one-vote, but does imply at least the sort of qualified franchise that would produce a black majority in the Rhodesian parliament). It also means that Mr. Smith, or his replacement, has to accept a time limit within which majority rule will be brought into operation; otherwise the debate will return to the quicksands of next year versus the next century.

It probably means, further, that this white Rhodesian acceptance of majority rule will have to be accompanied by a formal renunciation of Rhodesia's 1965 unilateral declaration of independence. It is hard to imagine British negotiators sitting alongside men still claiming to be in rebellion against the British government.

But if those terms were accepted—and events are going to push the whites off their present nonchalance—Britain might be able to have some marginal effect on the outcome of the talks it could then join.

It would have something to say on the scope of the franchise, which will help to decide what sort of men will lead the first majority-rule government. It may be able to negotiate a slightly longer transition period to that first majority-rule government than would otherwise be possible. Its presence at the talks might also have an important psychological effect on both the whites and the blacks in Rhodesia. If the whites believed that the British could moderate, even slightly, the impact of the change to majority rule, more of them might be prepared to stay on and work under the new government, which in turn might encourage the new government's moderation. And if the blacks believed that a British presence at the talks would guarantee them against a white attempt to go back on the promise of majority rule, they might be readier to offer terms a white minority could live with. The British presence probably would provide such a guarantee. The abandonment of UDI would presumably mean the return of a British in turn might encourage the new government took its legal independence; the governor would no doubt be able to place a number of British officers in the Rhodesian security forces for the same period; and Britain could at least try to scrape up a battalion of its own troops to put into Salisbury as a deterrent to a white reversal of promises. The effect of a British re-entry into the negotiations would not be large; but even that much would be better than nothing.

BUT WHY BOTHER AT ALL?

It should be made clear to Rhodesia's white minority, however, why Britain might be willing to make even this very limited intervention. It is not out of any confident belief that the British, or anybody else, can ensure that "majority rule" will mean a democratic or libertarian Rhodesia for very long. The political statistics of Africa—there are only three multi-party states left among the 47 members of the Organisation of African Unity—are evidence against that. The high probability is that majority rule in Rhodesia will sooner or later mean authoritarian rule by one small group of black men replaced by coup from time to time by another small group. But it may still not be too late to make that later rather than sooner, and the four African presidents who have been talking about Rhodesia this week—Kaunda, Seretse Khama, Nyerere and Machel—have their own interest in hoping it will be later.

The first reason why Britain might rejoin the negotiations, even at this eleventh hour, would be the hope of helping the negotiations to produce a relatively moderate first majority-rule government: a government that would give the white minority enough time and toleration either to come to terms with its new rulers, or to pack up and leave in a planned and civilised manner. A relatively moderate government would not necessarily be a Nkomo or Muzorewa one; it may well be led by someone few whites yet know. But the difference between, say, a Kenneth Kaunda and a Samora Machel would be a very large difference for Rhodesia's next 10 years; and if it is not already too late for Britain to influence the outcome, the attempt is worth making.

SOUTH AFRICA IS DIFFERENT

The second reason is that a relatively moderate black government in Rhodesia would leave more time to try to tackle the really important question in southern Africa. The reluctance of the west to question what "majority rule" means in Rhodesia—or Mozambique or Angola—is not due to innocense about the evident course of African politics; it comes from the realisation that the forces making for some sort of black rule in those countries are too strong to oppose, because the white minorities there are too small in number—and for the most part too recent in their settlement—to make any alternative justifiable. But that is not true of South Africa. There may be an alternative there, and the west should now be trying to define what it is.

South Africa is different from the rest of the continent because it contains enough whites, most of whose ancestors settled there long enough ago, to constitute what amounts to a white African tribe. It is a well-armed, well-organised, well-policed tribe which could probably hold out in a laager for 15 years against all comers. But its longer-term chances of survival against the larger black tribes it lives among (and the others pressing down on it from the north) depend on its willingness to make some very radical changes in its present policies. Those changes involve either an easing of the restrictions under which black South Africans live, or a redrawing of white South Africa's frontiers into a narrower compass, or both.

It may already be too late to hope for changes of that magnitude. But even if it is not too late, the hope of change in South Africa presupposes a willingness on the part of the black governments along its northern border to give it the chance to change. A periphery of Kaundas and Seretse Khamas might allow it that chance; a periphery of militants, anxious to try the argument of force and backed by a Russia pursuing its own non-libertarian interests, would not. After the debacle in Angola, that is why there is still a case for trying to preserve the forces of relative moderation in south-central Africa. And why a speedy transition in Rhodesia is what South Africa now needs.

BARBARA BOSCHERT: MASSACHUSETTS TEACHER OF THE YEAR

Mr. KENNEDY. Mr. President, this month the Massachusetts State Department of Education proclaimed Miss Barbara Boschert "Massachusetts Teacher of the Year" for her outstanding dedication and service to the students of Worcester's Roosevelt Public School.

Last June, Miss Boschert was selected Worcester Public School's 1975 "Teacher of the Year," and as a result of this latest award for her teaching excellence, Miss Boschert automatically becomes a candidate for the "National Teacher of the Year Award."

Reports from students, teachers, and parents all unanimously confirmed that this prestigious Massachusetts State award is well-deserved. All have lauded Barbara Boschert's dedication and sensitivity to the individual needs of her students, and such initiative and achievement warrants the commendation of Congress and concerned Americans who are vitally interested in the standards public school education affords the majority of our Nation's children.

Because of Miss Boschert's imaginative abilities—students in schools across my home State of Massachusetts, and throughout the Nation will soon benefit from her teaching experience.

I join the people of Massachusetts in congratulating Barbara Boschert for a job well done, and I ask unanimous consent that the newsletter of the Worcester Public School System saluting Barbara Boschert as "Massachusetts Teacher of the Year" be printed in the RECORD.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

BARBARA BOSCHERT NAMED MASSACHUSETTS TEACHER OF THE YEAR

Miss Barbara A. Boschert, the "Massachusetts Teacher of the Year" termed "communication with fellow staff members and parents as absolutely vital" and "working as a team" the key ingredients to the success of a teacher.

Worcester's first "State Teacher of the Year" said she was "overwhelmed upon the honor bestowed upon her." She was officially proclaimed as the "Massachusetts Teacher of the Year" at a special assembly program held at Roosevelt School on January 20.

Miss Boschert is a kindergarten teacher at Roosevelt School, a school she said is "very progressive" and citing a progressive administration "which allowed me to try modern trends which I felt might be valuable in the classroom . . . and we always evaluated our changes together."

NATIONAL CANDIDATE

Last June Miss Boschert was chosen as the Worcester Public Schools' 1975 "Teacher of the Year." Her name was subsequently submitted to the State Department of Education for the statewide competition. According to state department officials she automatically became a candidate for the "National Teacher of the Year" award.

John A. Collins, regional coordinator for the Department of Education presented Miss Boschert with a plaque at the assembly which read: "1976 State Teacher of the Year—Barbara A. Boschert of Massachusetts is recognized for outstanding achievement in teaching and dedicated service to the youth and schools of the nation as a nominee for the National Teacher of the Year Award." The plaque was signed by the president of Encyclopedia Brittanica, the editor of Ladies Home Journal and the president of the Council of Chief State School Officers.

Schools Superintendent Dr. John Connor pointed to Miss Boschert's "outstanding contributions to curriculum revision and internal committees within the system, including staff development, testify to her excellence as a teacher. I consider her human qualities of warmth, understanding and affection to be the essential elements of a teacher of the very young."

Parents emphasized the fact that Miss Boschert is "a very hard working and involved teacher who knows each and every one of her students' strengths, weaknesses and potentials. She is what is meant by dedicated, going far beyond what is required of her."

Knowing the neighborhood is essential, according to Miss Boschert. "Now I know some of the three year olds who will be entering my class in a few years and I know about the ins and outs of families which enables me to zero in on individuals rather than like my first year of teaching when there was a mass before me," she said.

Miss Evelyn Adams, principal of Roosevelt School when Miss Boschert began her teaching career, said "Miss Boschert has the ability to create the most structured of unstructured environments that sought out the interests of each child and created his or her own personal learning situation," adding "the most fascinating thing about her classroom was her children were motivated to learn through the unique combination of environment and people."

Miss Boschert's kindergarten class has centers for listening, a comfortable reading corner with rocking chairs, and an exciting reading loft which can be transformed into a staging for instance play acting. The room also contains an alphabet corner with sandpaper letters, puzzles, and an overhead projectional to improve letter formation and writing names. Miss Adams indicated all these products were of Miss Boschert's own creativity, engineering, developing and construction.

Returning to the point of working together, Miss Boschert said "I do not look at myself as "the" teacher, but rather as a teacher who is a member of a team—all of whom are vitally interested in the child." You can't take me and put me in a one-room building . . . I don't think I could be the person I am. It's administration, principal, parents, fellow classroom teachers, resource teachers, school health personnel, paraprofessionals, secretary, custodian, community resource persons. I cannot do my job if I don't have backup from these people."

Miss Boschert received her bachelor and masters degrees from Worcester State College.

TRUE CHAMPIONS

Mr. BAYH. Mr. President, if my colleagues would indulge my Hoosier pride, I would like to say a few words about the outstanding success of Indiana University's basketball team in winning the NCAA championship in Philadelphia on Monday night.

As the No. 1 basketball team in the Nation, the "Hurryin' Hoosiers" have reached the peak of two brilliant seasons of victory. Under the direction of Coach Bobby Knight, Indiana has won 63 out of its past 64 games, completing the 1976 season without a defeat. I would like to take the time to mention and congratulate several players on this championship team.

Two all-American players led the starting roster, Kent Benson and Scott May. Benson, a 6-foot-11, 245-pound junior center is known as the Aircraft Carrier for his dominating presence on the court. He epitomizes the new thinking in basketball that strength can accompany quickness and agility. For this excellent play he was named the most valuable player of the NCAA tournament. Scott May, one of the Hoosiers' cocaptains, has completed what may be the most brilliant basketball career of an Indiana University player in history. He has been picked as player of the year for 1976 by every sports organizational poll, and is one of the few players in college basketball to be named to the All-American team for 2 consecutive years. He is a natural shooter, and a versatile, coolheaded player who can handle any situation on the court.

There is Quinn Buckner, the other cocaptain and a brilliant all-around athlete. A starter since his freshman year, "The Mighty Quinn" was also a member of the varsity football squad during his first 2 years at Indiana. He has played for the U.S. team at almost every U.S. world basketball championship since he entered college, and has provided strong leadership for the other team members. Bob Wilkerson is another senior starter and a native of Anderson, Ind. Among his outstanding talents is his jumping ability. He is the only guard in the country to jump center for his team; many basketball experts have wondered whether he has a set of springs in his legs. He is also known as Spiderman because of his defensive ability to be all over an opposing player. Unfortunately, Bob was accidentally knocked unconscious during the first few minutes of Monday night's game. His injury was not serious, and it will have no longlasting effects. We are assured that he will be fine, and in excellent condition to pursue what promises to be a brilliant professional career.

Tom Abernathy from South Bend, gained a starting position for the first time this year. He has been the team's unsung hero. This year he was named to the all-NCAA tournament team in a fitting tribute to a player who has performed exceptionally well all season. Jimmy Crews is another senior on the team, who started as a freshman. He has unquestionably displayed his value as the sixth member of the team. Many people consider him to be one of the best shooters on the team.

As for the rest of the bench, they will all be back playing next year. These players include Wayne Radford, Jim Wisman, Bob Bender, Scott Eells, Mark Haymore, Rich Valavicius, and Jim Roberson. With their experience from working in daily scrimmages with the Nations No. 1 team, they will be in an excellent position to lead Indiana to another NCAA championship.

Bobby Knight himself must be congratulated on the extraordinary job he has done coaching his team from one victory to another during the past 2 years. At 35 he is the youngest coach ever to win the NCAA championship. Coach John Wooden of UCLA was 53 before he won his first championship and went on to build the UCLA basketball dynasty. Bobby Knight was named NCAA Coach of the Year, in 1975 and this year was honored as Big Ten and Associated Press Coach of the Year. He is widely respected as the dominant influence in college basketball today with his tenacious, sagging man-to-man defense, and his passing offense. The man is typified by his own philosophy that if one always strives to perform to the fullest of his abilities he will never regret his performance.

The people of Indiana are proud of Bobby Knight, his assistant coaches, and the outstanding young men who have won this year's NCAA championship. The team's victories typify the best tenacious never-quit attitude of young American athletes. As an alumnus of Indiana University Law School, I am particularly proud of Indiana's basketball players.

The Indianapolis News has printed an editorial on the "Hurryin' Hoosiers" that sums up the way we in Indiana feel about this fine team. Mr. President, I ask unanimous consent that the article entitled "True Champions" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Indianapolis News]

TRUE CHAMPIONS

The team that wouldn't be beaten wasn't beaten.

Indiana University's magnificent Hoosiers have won the national college basketball championship, completing an unbeaten season. They did it last night in Philadelphia before a screaming crowd and millions of television watchers in a game that was filled with drama, heroics and superb basketball. Michigan was the loser, 86–68.

Within the first three minutes, one of I.U.'s starters, Bobby Wilkerson, was knocked unconscious. This loss, coupled with brilliant play by Michigan, left Indiana behind at the end of the first half.

But in the second half the tremendous play of the Hoosiers proved once and for all that here was one of the great college teams of all time. These young men by their victory, had attained the goal they had narrowly missed only a year ago and had compiled a record of 64 victories in 65 games.

In doing so, they have done a great deal more. They have given their watchers tremendous pleasure in watching basketball as it should be played. They have revived the public's belief in the old-fashioned precept that hard work is an essential to success. They have shown that the impossible dream is not impossible.

The starters, Kent Benson, Scott May, Tom Abernethy, Quinn Buckner and Wilkerson are quick to give Coach Bobby Knight all the credit for the discipline and hard work that brought them success. He, in turn, credits their dedication as well as the substitutes who filled in so ably when needed.

Some players on this team have been singled out as All-Americans, which they should be. But in our book they are all All-Americans.

NATURAL GAS LEGISLATION

Mr. MONTOYA. Mr. President, last October the Senate acted wisely, I believe, by passing S. 2310, the Emergency Gas Act of 1975. The bill, as it was passed here in the Senate, provided for phasing out the regulation of offshore natural gas over a 5-year period, and immediately deregulating onshore natural gas. I supported passage of the bill because I believed that it represented both long- and short-term response to our energy needs as they relate to natural gas, and because I believed it to be a sensible and workable compromise between the two extremes of continued regulation or sudden deregulation.

The House, however, passed H.R. 9464 as a substitute for the Senate bill. The House bill increases the regulation of natural gas to include intrastate as well as interstate markets, and seems to me to be a shortsighted and dangerous response to our energy problems. I believe the Senate must consider the bill carefully, and understand the implications of the action which would be mandated by the House version of this legislation.

Proponents of regulation see Government intervention and ceiling prices as an answer to the problems of our natural gas shortage. They believe that increased regulation would provide emergency relief to interstate pipelines with overcommitted reserves and, therefore, reduce natural gas shortages in those regions of the country that are natural gas deficient.

This is a short-term response to an immediate need. It ignores the long-term problem of total energy shortages, and it guarantees, I believe, the creation of future natural gas shortages in the years ahead.

Of course, we are all concerned about the natural gas shortage currently faced by this Nation. We have had a mild winter, and the shortage has not meant sharp suffering this year. In addition, the mildness of this winter means that the curtailments for 1975–76 will not come anywhere near the 1.3 tcf originally estimated by the Federal Power Commission. The emergency, in other words, has abated. For the time being, at least, the extreme pressure is off.

That gives us time to consider responsible and farsighted legislation, rather than rushing through a short-term cosmetic remedy.

It seems clear that the sensible legislation, in view of the facts I have mentioned, would be a bill which aims at providing deregulation over a reasonable period, with protections for consumers and incentives for producers. Prices must be allowed to fluctuate enough for gas producers to maintain at least the current level of production. They should also provide incentives for exploration, and encourage sufficient production so that we add to our reserves. When natural gas is more plentiful it will naturally flow toward regions where shortages are most acute.

There has been some talk that the gas industry is not competitive. The truth is, however, that the gas industry is highly competitive. That fact is illustrated in several ways. First, concentration is minimal in this industry. There are 10,000 producers in operation, and the top 10 producers control less than 50 percent of the production. Very few industries have that kind of competitive enterprise in operation today.

Second, there is almost no verticle integration in the natural gas industry. This is partly because very little processing is needed to bring natural gas to the consumer. Production, transportation, and distribution are the only phases involved. In most cases these three operations are handled by separately owned companies.

High natural gas prices are not caused by lack of competition, but rather by shortages of natural gas. This shortage is often exacerbated by the Government ceiling prices. Regulated prices have not kept up with increased costs of exploration and development. In addition, the ceiling price has kept natural gas prices so low that they are now much less expensive than other fuels, and this factor encourages excess use.

With gradual deregulation, prices would rise somewhat initially to catch up with increased costs. These new prices would eliminate interstate and intrastate price inequities, which would increase the flow of natural gas to interstate pipelines. More realistic prices would also postpone the closing of wells, and would bring some shut-in wells back into operation, thus increasing our energy resources immediately.

Because the price raise would be effective only in the production phase of the industry, prices for the consumer should not rise to any great degree. Actual production costs are only a small portion of the consumers final price.

If we are going to address our long-term energy needs, and particularly the long-range shortages of natural gas, it is important that we give consideration to establishing reserves, and encouraging the natural gas industry to develop greater capabilities and do more intensive exploration. With the increased regulation of prices which the House bill would mandate, the industry will not be encouraged to do either of these things. On the contrary, they will be forced to further pull back from development and exploration.

If that happens, we will be forced to rely more heavily on foreign gas. This seems to me to be a particularly foolhardy choice. Canada's policy is to shortly phase out exports of natural gas to the United States. This would force us to turn to other nations. We would be open to victimization through exorbitant cartel prices, as we are for oil today.

Significant reserve increases must come from new domestic finds, not from increased imports. The greatest prospect for a major addition to U.S. natural gas supplies is from the fields at Prudhoe Bay on the North Slope of Alaska. We have there the possibility for domestic self-sufficienty in natural gas. The decision we make on this bill will probably be the deciding factor in the decision as to further development of those fields.

In my own State of New Mexico, 8,000 employees are engaged in producing over $390 million worth of natural gas per year. If the State's industry were regulated, as the House bill would do, the resulting ceiling price would force lower levels of production. That would mean less natural gas produced at a time when we need more—and it would mean people out of work when we already have high unemployment.

The question we have to decide is if we want to encourage production, encourage exploration, and increase our reserves? If we do want to do these things—now—then we are going to have to act responsibly now. We are going to have to refuse to pass the House bill. We are going to have to ask the House of Representatives to consider the Senate bill already passed. We are going to have to act decisively to let our colleagues in the House of Representatives know that the time for makeshift emergency measures is past, and that the Senate will insist on permanent and sensible long term solutions.

Mr. President, I am hopeful that the Senate will soon be bringing H.R. 9464 up for a vote. Only by soundly defeating this House bill will we be able to display to the House the Senate's intent in dealing with long-term natural gas legislation. Once this is done, the House will have no choice but to consider the Senate-passed S. 2310.

TOWARD A WAGE SUPPLEMENT FOR THE HANDICAPPED

Mr. HUMPHREY. Mr. President, the Subcommittee on the Handicapped, chaired by the distinguished Senator from West Virginia (Mr. RANDOLPH) has been holding oversight hearings on the Rehabilitation Act of 1973.

Among the topics under consideration is a review of the Greenleigh Study on Sheltered Workshops, undertaken through the Department of Health, Education, and Welfare in accordance with the Rehabilitation Act Amendments of 1974. I am pleased that this study reinforces almost 10 years of support for the concept of wage subsidies for severely disabled people in workshops and recommends that the feasibility and impact of this approach should be demonstrated through pilot projects.

As many of my colleagues know, I have introduced S. 2019, the Wage Supplements for Handicapped Individuals Act, which would implement this recommendation. I greatly appreciated the opportunity the subcommittee gave me to submit a statement of my views on the need for such a program.

Mr. President, I ask unanimous consent that the prepared text of my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Thank you, Mr. Chairman, for giving me this opportunity to submit a statement to the Committee. I am gratified that the committee is conducting oversight hearings on the Rehabilitation Act of 1973, and I appreciate the opportunity to present my views on a program to provide wage supplements to handicapped individuals in sheltered workshops.

As you and distinguished members of the Subcommittee know, I have reintroduced an **amendment to the Rehabilitation Act of 1973** which authorizes the Secretary of the Department of Health, Education and Welfare to conduct demonstration projects with public or private non-profit agencies or organizations to determine the feasibility of paying wage supplements to handicapped indiviudals employed on a long term basis in sheltered workshops or work activity centers.

It has been nearly 10 years since the concept of wage subsidies for severely disabled people in workshops was first articulated and documented legislatively. In 1967, the Secretary of Labor recommended that in order to achieve the goal of a minimum wage for clients in sheltered workshops, wage supplements should be considered. Again, in 1969 and 1972 this concept was endorsed by the President's Committee on Employment of the Handicapped and the Council of State Administrators of Vocational Rehabilitation.

I am very pleased that the Greenleigh Study, undertaken through the Department of Health, Education and Welfare in accordance with the Rehabilitation Act Amendments of 1974, has reinforced these views and concluded that a demonstration of the impact of wage supplements or subsidies should be undertaken through pilot projects.

For a long time our country has done little to aid handicapped individuals to achieve that measure of self-fulfillment of which they are capable. There has been a hidden assumption that the handicapped worker is a total invalid, that he cannot help himself, or that he must be protected from society or vice versa.

This is a costly conception both in terms of the human toll it takes on handicapped persons and their families, and in terms of the financial burdens it unnecessarily imposes on society.

The human dimension is paramount. One of the great political principles of our national life is that every person shall have an opportunity to achieve whatever degree of self-reliance and self-fulfillment of which he or she is capable.

People in workshops are highly motivated and already partially self-supporting. There is ample precedent for subsidy programs in this country. The question is why not a wage subsidy for disabled people who are working, but who cannot earn a decent living because of their handicap?

The other cost of failing to recognize the rights and opportunities for the handicapped is a social and financial cost. The work-related needs of approximately 140,000 severely handicapped persons are currently being served in over 2,700 workshops and work activity centers in the United States. Without those workshops, many severely handicapped individuals, unable to compete in the labor market, yet fully capable of performing in sheltered employment, would have to return to institutions where the average cost to care for that person is $40 to $60 per day, or become unproductive burdens on their families.

In this day and age, with increasing emphasis on alleviating poverty and discrimination in our country, it is time to rearrange our rehabilitation priorities to meet the very basic economic requirements of the handicapped working poor.

Subsidizing workers in a workshop helps make it possible for handicapped individuals to remain in the community and work. Workshop employment is more economical than institutionalization, and it is better for retarded persons than institutional life.

The Department of Health, Education, and Welfare, in transmitting the Sheltered Workshop Final Report to the Congress, agrees that in addition to potential economic benefits to workshop employment which are almost impossible to measure but may be fundamentally as important. For many severely handicapped individuals, sheltered workshops provide the only means availalbe for them to join the working community, irrespective of the level of their capabilities.

Such accomplishments may open a whole new life for many handicapped individuals and form the basis for self-respect and dignity. HEW thus rejected the Study recommendation that individuals less than 30 percent productive should be placed in a non-work-oriented institution.

What my proposal provides for is a series of pilot programs to study the advantages of a system of wage supplements which simultaneously provide an incentive to the worker to increase his productivity and a means to become self-sustaining.

Specifically, S. 2019 would provide the following mechanisms for wage supplements:

Every handicapped worker in a sheltered workshop would be provided with a wage supplement of $1 per hour in addition to his wage, up to and including the point where his wage reaches 50 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages, with the entire wage supplement to be eliminated for any wage in excess of 100 percent of the minimum wage.

The great advantage of this formula is that there is no sudden cutoff point for the wage supplement, so that there is continuous incentive for the handicapped worker to increase his productivity. This incentive may well encourage him to achieve a level of productivity where he no longer requires the support of a sheltered workshop.

Mr. Chairman, it is important to understand that my proposal, as expressed by S. 2019, is merely one to determine the feasibility of a wage supplements program. It is not intended to supplant efforts to broaden the supplemental security income program or other income support programs. Neither is it intended to contribute to unfair competitive practices nor destroy the incentive of the handicapped worker.

We need to explore all possible avenues of assisting handicapped workers who are already employed and who need a further supplement to meet the economic needs of daily living.

Because of the long standing support for the concept of wage supplements in sheltered workshop employment and the widespread endorsement among various organizations serving the needs of the handicapped—the Council of State Administrators of Vocational Rehabilitation, the Association of Rehabilitation Facilities, the National Rehabilitation Association, Goodwill Industries, and United Cerebral Palsy, to name a few—I am hopeful that the members of this distinguished committee will give favorable consideration to S. 2019, my proposal to provide for such a program.

Thank you again for giving me this opportunity to appear before your committee today.

CONTROLLING TAX EXPENDITURES IN THE FIRST CONCURRENT BUDGET RESOLUTION

Mr. KENNEDY. Mr. President, as the Budget Committee continues its markup sessions on the First Concurrent Budget Resolution for Fiscal Year 1977, I wish to call the attention of the Senate to the importance of including in the resolution a provision for an overall net reduction of at least $2 billion in tax expenditures for the fiscal year. By "overall net reduction," I refer to the net result of the elimination of some of the current tax expenditures, the modification of others, and the addition of new tax expenditures.

It is encouraging that the House Budget Committee has already tentatively decided to include a $2 billion reduction in tax expenditures in the House Concurrent Resolution, and I urge the Senate committee to include the same figure in its version of the forthcoming resolution.

From a budget standpoint, it is imperative that Congress begin to gain control over the soaring level of tax expenditures, which are the only area of the Federal budget that is still immune from the discipline of the Budget Reform Act.

Recently issued data by the Congressional Budget Office demonstrates the reason for concern over the runaway growth in tax expenditures. In fiscal 1977, according to the Congressional Budget Office, tax expenditures are expected to reach $106 billion or more than $60 billion higher than a decade ago. By 1981, if current tax spending remains unchecked—even if no new tax expenditures are added—the CBO estimates that total tax expenditures will exceed $148 billion.

Spending through the tax system at these levels obviously calls for immediate and firm control. If the Budget Reform Act is to be meaningful and effective, the time has come for Congress to apply the same strict controls to tax spending as it has already applied to direct spending. We have been properly concerned over the runaway growth in direct spending in the past decade, and the budget process has worked admirably to bring it under control. Now, we must show equal concern for the equally rapid increase in tax spending. It makes no sense for Congress to wring the last drop out of vital Federal spending in areas like homes and schools and jobs and health, yet refuse to plug the open drain through which flow vast billions of dollars in Federal spending through the Internal Revenue Code. The Federal Treasury can bleed to death as easily through the tax laws as it can through the appropriations process. It is time for each Member of the Senate to make clear that we intend to exercise the same degree of fiscal responsibility over both major avenues of spending used by Congress—tax spending and direct spending.

I am confident that if Congress uses the same microscope to analyze tax expenditures as it now uses for appropriations, we shall see many areas where savings can be achieved and waste can be eliminated. As the Boston Globe stated in a recent editorial—

> With large Federal deficits ahead of us, there is considerable argument for closing loopholes for the simple purpose of saving money.

I believe that a $2 billion saving for fiscal year 1977 is a sensible and achievable target. I have submitted proposals to the Senate Finance Committee and to the Budget Committee, which, if enacted, would produce a net overall reduction in tax expenditures for fiscal 1977 of well over $2 billion. The following table provides the estimated 1977 and 1981 fiscal year revenue effect of the principal recommendations I have proposed.

Item Minimum tax reform	1977 ($ Billions)	1981
Individuals	$2.587	$3.772
Corporations	.527	.691
Repeal of maximum tax	.665	1.205
Capital gains at death	.010	.350
Limitations on tax shelters	1.810	1.958
Restrictions on expense account living	.100	.637
Refundable child care credit	— .365	— .470
Earned income credit	*	— .815
Investment credit reform/ADR repeal	*	— 4.500
Oil and gas operations	.280	2.720
Multinational corporations	1.564	2.065
Estate tax revision for farm operations	— .050	— .190

The above package produces a net reduction in tax expenditures for fiscal 1977 of over $7 billion. Obviously, not every Senator will agree on every item in this set of proposals. Nonetheless, the list does suggest that the much more modest goal of a net reduction of $2 billion can be achieved.

Some concern has been expressed over whether the $2 billion target can be met in fiscal 1977 because, for example, many of the effective dates in the House-passed bill (H.R. 10612) were set for January 1, 1976.

It is reasonable, in light of historical precedents, to expect the Senate to retain most of the effective dates set by the House. A study of the Senate actions on effective dates in the Tax Reform Act of 1969, the Revenue Act of 1971, and the Tax Reduction Act of 1975 supports this conclusion. In these three bills, there were 120 provisions contained in both the House and the Senate versions of the legislation. The Senate retained the House effective date in 75 provisions, actually set the effective date even earlier in 9 provisions, and deferred the effective date in only 36 provisions. Thus, in 70 percent of the provisions analyzed, the Senate either retained the House effective date or moved it back to a time earlier than that set by the House.

A further breakdown of these data is also illuminating. Of the 120 provisions analyzed, 52 involved revenue increases. Of these 52 revenue increasing provisions, the Senate held, or accelerated, the effective date in 29 instances; it deferred the effective date in 23 provisions. Of the 27 provisions that produced revenue losses, the Senate held or accelerated the House effective dates in 24 instances and deferred the effective dates in 3.

Thus, where revenue increasing measures have passed both House and Senate, this analysis indicates that in a majority of cases the Senate will hold—or even move back—the House-passed effective date.

Moreover, the Senate has held House-passed effective dates even where major revenue items are involved. For example:

In the 1969 act, the tax expenditures for banks were cut back. The Senate passed the bill on December 11, but held a July 11, 1969 effective date for the bank provisions to insure a $295 million revenue gain in 1970.

Similarly, a House-passed April 18, 1969, effective date for repeal of the investment credit was held by the Senate—the resulting revenue increase for 1970 was $1.35 billion.

The House provided an effective date of July 11, 1969, for stricter rules on recapture of accelerated depreciation on real estate, and the Senate held this effective date also.

In several instances in the 1969 act, the Senate provided for an effective date prior to the date it passed the bill. Thus, the reduction in percentage depletion for oil and gas from 27½ percent to 22 percent, and the repeal of the tax preference for oil and gas production payments, were both made effective October 9, 1969, over a month before the Senate passed the bill.

In 1975, the effective date for repeal of percentage depletion for major oil and gas producers was set at January 1, 1975, by the House. The Senate held this effective date when it passed the measure on March 22, 1975.

The overall record of the Senate in dealing with House-passed effective dates makes it reasonable to expect the Senate to accept most of the effective dates passed by the House. By contrast, in the case of new provisions that the Senate adds to the bill, an effective date of June 30, 1976, or January 1, 1977, is more likely.

The estimate for fiscal year 1977 contained in the table above reflect these judgments. Thus, where the House bill contains a provision that I believe should be strengthened—as in the case of the minimum tax and the limitations on tax-shelter abuses—the Senate should retain the effective date in the House bill. Where the House bill does not contain a measure similar to my proposal—as in the case of the investment tax credit and repeal of certain tax preferences for multinational corporations—I have generally used an effective date of January 1, 1977.

It thus seems clear that the Senate can begin to bring tax spending under control in fiscal 1977. A $2 billion net reduction is easily within our grasp if we are serious about controlling these expenditures.

Finally, we cannot forget that the battle to bring tax expenditures under control is also a battle to insure a more equitable tax system for all Americans. The tax expenditure budget is the agenda for tax reform.

Let me add, however, contrary to what some critics assert, that my views on tax expenditures do not mean that I regard all tax expenditures as necessarily bad. Quite the contrary. I strongly believe that we must provide Federal financial assistance for low-income housing, pollution control, unemployment, retirement income, capital investment, and child care, to name a few worthwhile areas of current tax expenditures.

But establishing a need for Federal assistance does not establish the case for tax expenditures as they are structured at present. That is, we can agree that a Federal spending program is needed. We may also agree that a tax expenditure approach is better than a direct expenditure approach, at the present time. But neither of these propositions requires us to accept tax expenditures that are wasteful and unfair.

We can eliminate the inequity and inefficiency in tax expenditures, just as we constantly strive to do in direct expenditure programs. And that is the goal of my tax reform-tax expenditure control package. In some instances I recommend the elimination of a tax expenditure, because there is no need for a Federal tax subsidy in the market—the DISC expenditure, for example.

But in other cases, my proposals are designed not to terminate the tax expenditure program, but to remove the fat and the inequities from it. Why should we have a tax expenditure program for housing that make millionaires out of doctors, dentists, and corporate executives? Why should we have a tax expenditure program for child care that excludes the group that needs the help the most—poverty-level working parents? We can reform these and other tax expenditure programs to produce both a fairer—if not ideal—tax system and a more efficient and more equitable Federal spending structure.

In the past 6 years, Congress has talked too much and produced too little tax reform for the American people. The task is admittedly difficult and complex. The pressures are great to retain the status quo—no one likes to have his particular tax subsidy questioned. But that pressure has to yield to the overriding pressure of priorities and the budget.

The First Concurrent Budget Resolution presents the Senate with the opportunity to assure the average citizen that we are serious about controlling wasteful spending. The clearest signal we can give is to write into the resolution a mandatory $2 billion overall net reduction in the present $100 billion tax expenditure program.

Mr. President, I ask unanimous consent that a table of projected tax expenditures recently published by the Congressional Budget Office be printed in the RECORD. I also ask unanimous consent that the Boston Globe editorial to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUM OF TAX EXPENDITURES BY TYPE OF TAXPAYER AND FISCAL YEAR

[Millions of dollars]

Fiscal year	Corporations and individuals	Corporations	Individuals
1977	105,970	28,680	77,290
1978	115,600	30,950	84,650
1979	125,475	33,315	92,160
1980	136,250	35,790	100,460
1981	148,160	38,485	109,675

Source: Report of the Congressional Budget Office, Budget Options for Fiscal Year 1977: A Report to the Senate and the House Committees on the Budget, March 15, 1976.

[From The Boston Globe, Mar. 28, 1976]

SPENDING WITH A TAX BREAK

It is a paradox of the Federal income tax structure that its various tax preferences become disproportionally valuable as the taxpayer's income rises. The higher the income, the more worthwhile any given deduction becomes.

The rationale for this paradox has been at least partly based by Congress on the need to encourage certain kinds of activity. Housing has been given a boost by making both real estate taxes and mortgage interest payments deductible from taxable income. Medical costs—above a certain minimum—have been granted similar status. So have charitable contributions.

At the same time, Congress has given special breaks to oil and other mineral developers, to corporations engaged in international trade. All these have achieved some notoriety as tax shelters, or loopholes, and have cried out for reform.

Congress has made assorted, almost half-hearted attempts to reduce or eliminate the worst aspects of a tax system that is often exploited by knowledgeable and determined persons with large incomes and good advisers to minimize tax liabilities. The oil depletion allowance, target of tax reformers for years, finally fell in 1974, thanks to the Arab oil embargo and skyrocketing oil prices.

This election year the House has passed one modest revision of some tax loopholes. Sen. Edward M. Kennedy (D-Mass.) has proposed another set and the dynamics of the situation—a Democratic Congress facing a Republican President who wants four more years in the White House—suggest strongly that some kind of bill will pass. And will probably be vetoed.

The bulk of the Kennedy bill is directed at personal income tax provisions that make it easier for higher income persons to avoid payments. The bill would repeal the 50 percent ceiling on earned income taxes, making it subject to the same 70 percent maximum as on unearned income. He asks for application of the capital gains taxes on estates at death. He would forbid deductions for losses in capital transactions where borrowed money is involved. He would limit business expenses deductions for air travel to tourist fares and treat company reimbursement for first class travel as taxable income.

From a conceptual point of view, the Kennedy bill does its most innovative work by expanding a provision of the House bill, supported by Senate Finance Committee Chairman Russell Long (D-La.). This calls for creating earned income credits of 10 percent for all taxpayers, phasing to zero at $8000, in order to eliminate the regressive implications of Social Security tax collections. The Kennedy bill would also provide direct payments to households when the tax obligation falls below zero.

The essential principle behind all these moves is to open examination of the whole idea of subsidy through tax deduction. A serious study of this question has been going on for years. In the early 1970s, for example, the Congressional Joint Economic Committee conducted several reviews, with Treasury help, of these subsidies. That committee recommended a much more direct approach to subsidies, calling on Congress to identify areas of need and to appropriate funds in the regular spending fashion.

Much more might be achieved along these lines than either the House-passed or the Kennedy bill attempts. Parts of such additional programs are already proposed in individual bills. There is, for instance, an attempt to get away from subsidies to state and local governments through income tax exemption for interest on their borrowings. That subsidy has two flaws. First, it is most useful to those in upper income brackets. Second, it is not a very efficient form of subsidy. The Treasury gives up about $3 in revenue for every $2 states and localities save in interest costs on their borrowings.

In the field of housing, it is appropriate to ask whether there should not be ceilings on the amount of real estate and interest payments that may be deducted from taxable income. There is no social purpose served in allowing such deductions for vacation homes, for instance—but existing law makes no such distinction.

In medical care, as Sen. Kennedy and others have pointed out, there is a cruel element in having deductions be proportionally more valuable to wealthy persons at exactly a time when society would ideally prefer to help those in greatest need, persons suffering from both medical problems and lower incomes. This translates, of course, to implementation of a national health plan coupled with an end to the deductibility of medical expenses—but existence of the deductibility now strongly militates against support for such action, at least among persons with higher incomes. That is a matter of some political consequence.

One objective of all such revisions in tax policy is to make the system more fair. The broad success of the American tax system is voluntary compliance by the vast majority of citizens. It is crucial to the continued success of that system that people believe that the system is functioning even-handedly within the context of a progressive income tax structure—that those better able to pay pick up a larger part of the tax burden. Widespread loopholes for the well-to-do are a severe cloud on that sense of basic fairness.

Beyond the fairness issue, there is the matter of revenue. Deductions from taxable income, no matter how well justified they may be, are a sacrifice of tax income for the Federal government. It is estimated that the sum of all tax concessions is now more than $100 billion—an amount that Sen. Kennedy notes just matches the size of the defense budget.

With large Federal deficits ahead of us, there is considerable argument for closing loopholes for the simple purpose of saving money. No one expects Congress to halt all tax preferences overnight, but it has been suggested by Sen. Kennedy that a broad objective of $2 billion in increased revenues from closing loopholes would be appropriate for this Congress. That is certainly a realistic goal.

Taxes are complex. There is virtually no tax preference that lacks any element of justification. But times are changing. And Congress must stop stalling on the difficult job of making taxes fairer.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the previous order the Senate will now proceed to the consideration of S. 354, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

Mr. MOSS. Mr. President, there have been some constitutional questions that have been raised concerning the bill that is now before us. The committee has given very careful attention to those issues. We are convinced that there is no remaining constitutional question regarding this bill.

In the 93d Congress, S. 354, as reported by the Committee on Commerce—reported No. 93–382—was subsequently rereferred to the Committee on the Judiciary for consideration of various questions as to the constitutionality of the bill. The constitutional questions were extensively discussed in both the report of that committee and in published minority views—report No. 93–757. The majority found the bill to be constitutional in all aspects, and the minority found it constitutional except as to the title III mechanism which, in the opinion of seven Senators, was "of doubtful constitutional validity."

The committee continues to believe that the title III mechanism, as included in S. 354 as passed by the Senate in the 93d Congress, is constitutional. Nevertheless, the committee has taken cognizance of the views of the Judiciary Committee minority and modified the bill to eliminate the asserted unconstitutional aspects of the title III mechanism.

The Judiciary Committee minority summarized their view as follows:

> The approach adopted by S. 354 is of doubtful constitutional validity. By compelling the States to create agencies and to staff and fund them to administer a Federal law, S. 354 forces the States to become agents of the Federal government. Few more powerful instruments for the centralization of the government could be devised. Such an approach interfers with, indeed violates, the sovereignty of the States as manifested in the Tenth Amendment. (27)

They concluded that—

> It is doubtful that the Congress possess the power to force unwilling States to take any affirmative action in administering a federally-imposed no-fault plan.

The committee has adopted a major amendment to preclude this possibility. In section 202(g), S. 354 specifically provides that the Secretary of Transportation will administer a title III plan in a State in which it is in effect unless the chief executive of such State certifies to the Secretary that such State has enacted legislation authorizing the assumption of these functions.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MOSS. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I had a series of questions on this bill. If this would be an appropriate time, I would now like to pose those questions. If the Senator would like to finish his statement——

Mr. MOSS. I can finish shortly and then I would be happy to respond to questions.

Mr. JOHNSTON. I thank the Senator.

Mr. MOSS. The new provision was drafted and submitted to the committee by Attroney General Levi, who stated in his letter of transmittal that the amendment "would remove the serious constitutional questions raised by the provisions of the bill because of the imposition of affirmative duties on the States to administer an alternative State no-fault plan."

The effect of the letter sets this forth in full, and I ask unanimous consent to have the letter from the Attorney General printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Attorney General,
Washington, D.C., June 10, 1975.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As you will recall, during my testimony on S. 354, I was requested by Senator Stevens to suggest an amendment to amendment No. 497 which would remove the serious constitutional questions raised by the provisions of the bill because of the imposition of affirmative duties on the States to administer an alternative State no-fault plan.

I would suggest that the following be inserted in lieu of subsection (g) of section 202 of the amendment:

"(g) State Option.—The alternative Federal no-fault plan for motor vehicle insurance that is applicable or in effect in a State shall be implemented, administered, operated, and maintained exclusively by the Secretary, unless the chief executive officer of the State certifies to the Secretary that the State has enacted legislation authorizing the assumption of these functions. Upon such certification, the State shall implement, administer, operate, and maintain the alternative State no-fault plan. However, if a State repeals the legislation assuming these functions, then the Secretary, upon notice in writing, shall perform these functions. The Secretary is authorized to promulgate regulations providing for the orderly transfer from a State to the Secretary or from the Secretary to a State of the functions involved in implementing, administering, operating, and maintaining an alternative State no-fault plan when such a transfer is required under this section. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out any duties imposed on him under this subsection."

While I believe that this suggested amendment would answer the major constitutional question of the bill, as I viewed it, I know you realize that other constitutional challenges are made—as for example the discrimination imposed by the differences between titles II and III. There remains also the legislative question as to the wisdom of the measure from the standpoint of federalism.

Sincerely,

EDWARD H. LEVI,
Attorney General.

Mr. MOSS. Mr. President, Attorney General Levi, in testimony before the committee, and in response to detailed questioning by Senator BUCKLEY, reviewed all of the other claims of unconstitutionality that have been made against the bill and concluded that each was incorrect or insubstantial.

Mr. President, I would be happy to respond to any questions of the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator for yielding.

It is a well-established rule of statutory construction that a statute in derogation of the common law shall be strictly construed. Would the Senator expect that rule of statutory construction to be applied to State statutes enacted pursuant to this law?

Mr. MOSS. Yes; that is the general rule and I would think it would apply.

Mr. JOHNSTON. Very well.

Under the Federal law in diversity cases we have what we call the doctrine of Erie against Tompkins, where the Federal courts apply the law of the State in determining negligence actions. I am wondering whether the State will be free to interpret its own law, or whether there will be some Federal common law to be the rule and guide for interpretation of these statutes.

Mr. MOSS. No. Each State will specifically interpret and enforce its own law. The only oversight that there will be is this periodic review by the Secretary of Transportation to see whether or not the State law remains in conformity with the general guidelines that were laid down in the Federal statute.

Mr. JOHNSTON. When the Senator says remains in conformity, the Review Board, as I understand it, is obligated to certify the State statute, unless there is substantial evidence that it is not in conformity. What would be this substantial evidence? In other words, what does the review consist of? What is the evidence that they look for? Is it simply a review of the provisions of the statutes or do they look at cost?

Mr. MOSS. It would be a review of the statute of the State.

Mr. JOHNSTON. In other words, if a State passes an act and it is the law of that State, then imterpretations by the court cannot make that statute then become ineligible or inoperative. Is that correct?

Mr. MOSS. That is correct, if it is presented to a court for a court ruling.

Mr. JOHNSTON. In other words, once there is a statute which, on its face, passes muster and passes review, is there any act which that State can do or fail to do so long as it is a valid State statute, has not been amended, that will make it ineligible?

Mr. MOSS. If it has not been amended and there has not been an administrative action taken by the State to modify or change it in any way. I do not see how it would be thrown out by the Secretary of Transportation.

Mr. JOHNSTON. Very well. In other words, the substantial evidence that you would look for in those provisions providing for review by the Board of Review, means substantial evidence of a change in the statute or substantial evidence of some administrative ruling by the State that has the effect of changing the statute?

Mr. MOSS. That is right; some change in the regulatory mechanism that is made, that changes the thrust of the act.

Mr. JOHNSTON. Very well. Now, if the Senator will turn to section 206(a) (5) (B), which is the so-called threshold provision, as I understand, a person remains liable—first of all, "threshold provision, as I understand, a person any new liability whatever, so liability under State law remains intact; is that correct?

Mr. MOSS. That is correct.

Mr. JOHNSTON. A person remains liable for what we might call pain and suffering if the victim suffers more than 90 continuous days of total disability, and, as used in this subparagraph, total disability means "medically determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute his usual and customary daily activities."

Now, we have established, first, that the State is free to interpret these provisions, and second, that a State cannot be disqualified because of the way its courts interpret these provisions. I am right so far; is that correct?

Mr. MOSS. That is correct.

Mr. JOHNSTON. In Louisiana, in our workmen's compensation statute, we have a provision calling for a definition of total and permanent disability which is the trigger for maximum benefits, and our courts have interpreted the phrase "total and permanent disability to perform work of any reasonable character" to mean that a person is totally and permanently disabled if he cannot perform precisely the same job, or if he cannot perform precisely the same job without having pain. In other words, if a man was a piano player and loses a finger, and can and does go to being a trumpet player, but he cannot play the piano, he is totally and permanently disabled under the Louisiana statute.

Louisiana courts would be free to follow that kind of interpretation; would they not?

Mr. MOSS. Yes. It is a question of fact for the court.

Mr. JOHNSTON. For the State court?

Mr. MOSS. Yes. If the State court makes that ruling, then that would be the law within Louisiana.

Mr. JOHNSTON. Right. So what you would probably have here, in effect, is very little national standard at all, because the phrase here "material acts and duties" is rather vague and ambiguous; is it not?

Mr. MOSS. There is no national standard for a State court's interpretation of its law. I would think it is likely there would be variations of judicial interpretation on these State statutes that are passed to be in conformance with this Federal guidelines law.

That does not disturb me; that is for the States to decide.

Mr. JOHNSTON. What is meant by "material acts and duties"? Does that have any relationship to employment, the word "material"?

Mr. MOSS. It relates not only to employment. It would include the case of a housewife whose duties are to care for the house.

Mr. JOHNSTON. I mean it does not have anything to do with employment or earning a wage, does it? Or does it?

Mr. MOSS. It includes employment, but it is not confined to it. It is broader.

Mr. JOHNSTON. What does it mean? Give me an example of what a "material act or duty" might be, and what is immaterial. Is eating lunch a "material act or duty"?

Mr. MOSS. This would be for the courts to decide.

"Material" is rather broad. It is an impairment that comes to that person by reason of his injury that is of substantial enough nature.

Mr. JOHNSTON. Substantial to what?

Mr. MOSS. That is a matter of fact to go before the court.

Mr. JOHNSTON. Well, if you were going to go before that jury, and you were the judge to instruct the jury on what "material" meant, what would you tell them it meant?

Mr. MOSS. I would have to have the factual situation before me. But, as the Senator knows, a musician could suffer a material impairment simply by having his finger injured or loss of a finger.

Mr. JOHNSTON. Well, I think that would be clear if we defined an injury which was material, but here we are defining acts and duties which are material. What is a material act?

Mr. MOSS. That is carrying on one's normal life functions that he normally has around his premises and the kind of life style that he lives.

Mr. JOHNSTON. George Wallace is paralyzed from his shoulders down, and he says he has always made his living from the neck up. I realize he would be disabled under subparagraph (A), but would he be disabled under subparagraph (B)? Would he be prevented from performing all or substantially all of the material acts and duties which constitute his usual and customary daily activities?

Mr. MOSS. Yes; he could qualify under either one of those subparagraphs. I think a person such as George Wallace, who has lost the function of his legs, certainly is prevented from performing all or substantially all the material acts and duties which constitute his usual and customary daily activities. Before his injury, certainly, one of his daily activities was to walk around. Now he cannot walk around; he has to go in a wheelchair.

Mr. JOHNSTON. All right. In other words, we are not talking about—a person can be totally disabled when he is able to perform his usual work and his usual employment; that is not the test here?

Mr. MOSS. Well, of course, there are two paragraphs here we are dealing with. One is serious permanent injury, which I would think would be the case with George Wallace.

Mr. JOHNSTON. Right.

Mr. MOSS. Then we have a broader one, where we are trying to provide for those who do not have a permanent injury. Take the musician who lost a finger or had a finger impaired. That probably would not bother a lawyer. He can still write, talk, and read, and he is not impaired in any way. So after that time of injury is maintained, he does not have anything to impair him.

Mr. JOHNSTON. Total disability is "that impairment which prevents the victim from performing all or substantially all of the material acts and duties," et cetera.

Under that section a person is totally disabled if he is prevented from performing all or substantially all of his material acts and duties.

If a person does 100 things during the day, thus, let us say, 100 things constitute all of his acts and duties, and let us say 90 of those things constitute substantially all. If he can do only 80 of those things he is able to do less than substantially all. He would be totally disabled under this definition; would he not?

Mr. MOSS. We are back to a question of fact that comes before the State court. The State court, having all of the facts, would make a judgment whether the person had total disability for more than 90 continuous days.

Mr. JOHNSTON. I am trying to get at what the wording of this section means.

From what the words say, when it says he is prevented from doing all or he is prevented from doing substantially all, then the disability, I take it, must prevent the performance of all or each of those things.

Mr. MOSS. I am not going to be able to give the Senator a precise definition. I am not the trier of the fact. That has to come before the court, and the court has to decide under the facts that are presented to it whether there has been determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute his usual customary daily activities.

It is similar to being in law school and trying to define what is the reasonable prudent man. One can spend a whole law course on that. What is a reasonable prudent man under all of the circumstances? Each one finally comes down to a set of facts that the trier of the fact has to determine whether or not that individual act is as a reasonably prudent man would act under those circumstances. We cannot be more precise here than that.

Mr. JOHNSTON. Could the Senator give me any guide at all as to what a serious and permanent injury is?

Mr. MOSS. Yes, I could. I could go back to my musician. Maybe this is a violinist. Maybe he just lost the end digit of one finger. That is permanent. If a violinist has lost the end digit of his little finger, I would think he had a permanent injury. It is serious, too, because of his profession. But suppose he is a lawyer and he loses the digit of his left little finger. I do not think that is permanent. I think once the soreness is gone and the healing takes place, he is just fully as capable of performing his business duties, his profession and earning as much money as he ever was, and I do not think he has any permanent injury.

Mr. JOHNSTON. All a lawyer would have to do to get his case before the jury would be to allege serious and permanent disability, would he not? Then it would be pretty well up to the jury to determine.

Mr. MOSS. Yes, that is true. He can get it before the trier of the fact.

Mr. JOHNSTON. So in the traditional whiplash injury, which has been the subject of such abuse in insurance cases, all the lawyer would have to do is allege that his client is suffering from serious and permanent injury which would restrict the motion of his neck, and that sort of thing. If he has some evidence to support that, then he would be able to let the jury decide on that case as it does at the present time.

Mr. MOSS. That is true. Of course, there are genuine whiplash injuries. We all know that. We all know it has been abused, as the Senator suggests, but it has been abused, I think, in the settlement procedures that we have under the fault-type insurance. If an allegation is made of whiplash, it is very difficult to diagnose and to verify medically. This gives the lawyer leverage. The insurance company may have a tendency to settle because they are up against a very difficult fact situation.

Mr. JOHNSTON. I think the Senator from New Hampshire wished to interrupt a moment.

Mr. MOSS. Yes. I am happy to yield to the Senator from New Hampshire.

CORRECTION IN ENROLLMENT OF H.R. 200

Mr. DURKIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 106.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate the amendments of the House of Representatives to the concurrent resolution (S. Con. Res. 106) to correct the enrollment of H.R. 200, as follows:

After line 7, insert:

SEC. 3. In section 205(d) of the bill strike out "DEFINITION.—" and insert "DEFINITIONS.—."

SEC. 4. In section 305 of the bill—

(1) strike out "(d) EMERGENCY ACTIONS.—" and insert (e) EMERGENCY ACTIONS.—;

(2) strike out "(e) ANNUAL REPORT.—" and insert (f) ANNUAL REPORT.—; and

(3) strike out "(f) RESPONSIBILITY OF THE SECRETARY.—" and insert (g) RESPONSIBILITY OF THE SECRETARY.—.

Line 8, strike out "SEC. 3." and insert SEC. 5.

Line 11, strike out "SEC. 4." and insert SEC. 6.

Mr. DURKIN. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. MOSS. I am happy to yield to the Senator from New Hampshire.

I point out the Senator from Louisiana knows that the Senator from New Hampshire was the insurance commissioner of his State before he came to the Senate, and he may be in a better position than I to answer some of the questions that are being propounded.

Mr. DURKIN. I thank the Senator.

Mr. JOHNSTON. Excuse me. Did the Senator want to say something?

Mr. MOSS. He may direct his questions either to me or to the Senator.

Mr. JOHNSTON. Very well, I shall direct my questions to either one of the Senators.

Mr. DURKIN. Mr. President, if the Senator will yield, I point out that under the present system it is the slightly injured who are overcompensated.

Mr. JOHNSTON. I think that is a very valid concern. But I believe that the questions we have just asked show that that will not be eliminated by this bill, because the bill has to be strictly construed according to the ordinary rules of statutory construction, strictly construed in favor of the claimant and against the insurance company; and the State is free to construe that act as it wishes. There is no overall Federal review of statutory construction. All a claimant has to do to get before a jury is to allege serious and permanent injury or allege total disability.

What does that mean—material acts and duties? I suppose it is left to each court to find its way as to what is a material act. But he can get his case to the jury, and the jury would be free to render a verdict in his favor.

So I think we are just compounding the expense of this bill rather than reducing the rates of policies.

Mr. DURKIN. In most jurisdictions, it takes more than a bare allegation to get one's case to the jury.

Mr. JOHNSTON. I agree with that. Certainly, you have to have some evidence.

Mr. DURKIN. There is too much "extortion."

It is easier to settle and overpay those small ones.

Mr. JOHNSTON. I agree with that. It is a valid concern. But this bill does not do away with the extortion.

Mr. DURKIN. The duty of the act is that it eliminates the threat of the frivolous suit.

Mr. JOHNSTON. I should like to ask another question while we are on this subject, if the Senator will yield.

This coverage will be mandatory, and the tort suit is not eliminated, where you have total or serious permanent injury. Does the bill also require that the policies provide liability insurance for those instances in which tort liability remains?

Mr. DURKIN. The companies have to offer additional tort liability coverage, but a person is not required by S. 354 to buy it.

Mr. JOHNSTON. Does not the Senator think that what is going to happen with this bill is that people are going to think they are insured, think there is no tort liability, and many of them are going to end up with a lawsuit? First of all, they have to pay the expenses of the lawsuit to defend against this claim. Second, they might have to end up paying for tort liability and be misled into thinking they were protected.

In other words, they would have to buy that coverage and pay an extra premium in order to get liability insurance to cover those kinds of claims that we have been discussing.

Mr. DURKIN. Above the threshold claims?

Mr. JOHNSTON. That is right.

Mr. DURKIN. Yes, that still would be a liability coverage.

Mr. JOHNSTON. As I understand it, the National Association of Insurance Commissioners, of which the Senator from New Hampshire used to be a member, opposes no-fault. Is it because of the disappointing results on cost that they oppose it, or does the Senator know why they oppose it?

Mr. DURKIN. When I was an active member of NAIC, the NAIC was a moving force in setting up and urging Milliman and Robertson to set up the costing study.

Mr. JOHNSTON. They did not say why they oppose it?

Mr. DURKIN. No.

Back in 1973, I testified before the Committee on Commerce on S. 354, and I believe that the commissioner from Michigan also testified. My testimony was not authorized or directed by the NAIC, but no one in NAIC ever disagreed with the testimony.

I point out that there were some justifiable concerns with the draft at that time, and the bill that has been reported, includes most of the recommendations adopted in response to the observations made in that testimony.

Mr. JOHNSTON. Let me ask the Senator from New Hampshire a question with respect to the Review Board. I ask the Senator to follow me through the provisions.

First, I want to see that I understand this correctly. A State may at any time enact no-fault. The chief executive of that State shall certify that to the Review Board and then, within 90 days, the Review Board shall review and in effect render a decision of that State's plan. They can either render that decision initially, or they can render the decision after it has already become effective on an annual review to disqualify that plan. But within 90 days after the Review Board is given the plan to review, they must make a decision and say whether it qualifies or does not qualify.

I am interested in the situation where the Review Board rules that it does not qualify. There can be judicial review of that decision in the court of appeals.

What happens, first of all, with respect to an accident that happens under a policy which was written prior to the time the Review Board renders its decision? Is that policy in full force and effect, or does the person who owns that policy become an uninsured person? Is it an unsecured vehicle? Is that policy still in effect?

Mr. DURKIN. Yes. The policy is still in effect.

Mr. JOHNSTON. Let me rephrase the question, then.

On July 1, there was an accident. At the time there is an accident, there is supposedly a no-fault plan which, apparently, they thought met national standards—they thought it met national standards. That is in effect and he has an insurance policy. The wreck happens on July 1. On August 1, the Review Board rules that the plan did not meet national standards. Is the policy still in effect?

Mr. DURKIN. Yes.

Mr. JOHNSTON. The answer to that is, yes, the policy is still in effect, and the law applicable would be the State law applicable at that time, even though it did meet the national standards?

Mr. DURKIN. That is correct.

Mr. JOHNSTON. The first accident happened on July 1, and the Board ruled on August 1 that it did not qualify. Now, assume that the Board rules on August 1 that the plan does not qalify and the accident happens on September 1. On the September 1 accident, the Board has already ruled that the State plan did not qualify. What is the situation then? Is the State law in effect?

Mr. DURKIN. The State law is in effect until the Federal plan comes in.

The direct answer to the Senator's question is that the State law is still in effect on September 1 or 2.

Mr. JOHNSTON. Then let us assume that, after the Review Board rules, there is a 90-day period and, even though an appeal is taken during that 90-day period, the decision of the Review Board throwing out the State law becomes effective 90 days later, is that correct?

Mr. DURKIN. Title III becomes applicable 90 days after the decision of the Review Board.

Mr. JOHNSTON. Very well. Let us say the accident happens on the 91st day after the Review Board has ruled. Is State law at that time in effect?

Mr. DURKIN. State law is in effect until title III is administered in the State.

Mr. JOHNSTON. It is on the 91st day. The Review Board has declared the State law not to qualify.

Mr. DURKIN. The State law would still be the controlling law and the State law would be the controlling law until the program, in accordance with S. 354, is in effect.

Mr. JOHNSTON. I thought that the Federal plan came in 90 days after the decision of the Review Board.

Mr. DURKIN. The Federal plan becomes "applicable" 90 days after the Review Board rules that the State plan is not in compliance. But there is no hiatus, no set of slats that an accident victim could fall between.

Mr. JOHNSTON. Ninety days after the Review Board rules, the State law goes out and the Federal law comes in. Is that correct?

Mr. DURKIN. On page 70 of the bill, it states that title III becomes "applicable" 90 days after the adverse decision of the Review Board, but it does not go into effect in the State in which it is applicable until 270 days after it becomes applicable. In that interim, State law still controls. There is no circumstance in which an accident victim could fall into a gap and not be covered.

Mr. JOHNSTON. Now, you say it becomes applicable in a State 90 days after the Review Board decision, but it goes into effect in 270 days. Will the Senator tell me what "becomes applicable" means?

Mr. DURKIN. The provision "becomes applicable" puts States on notice that within 270 days, the Federal plan will be put into effect. It gives them the opportunity to enact a plan that is in accordance with national standards.

Mr. JOHNSTON. Well, does the phrase "become applicable" have any real meaning? I mean—what is the difference between being applicable and not being applicable?

Mr. DURKIN. The bill is designed to take into consideration the needs of the States.

Mr. JOHNSTON. I understand.

Mr. DURKIN. It gives them a chance to move so that they do not have a Federal plan run by Federal officials. It takes into consideration the sensitivities of the States, but nonetheless, sets up a machinery to protect the accident victim.

Mr. JOHNSTON. The State was put on notice by the Review Board's decision. I think the answer to my question is that the phrase "becomes applicable" has no juridical or other meaning whatsoever under this act. Is that not really correct?

Mr. DURKIN. It was constructed to take into consideration and eliminate any appearance that the Federal Government is ramming something down the throats of the citizens of a particular State. It takes into consideration the realities of life in the State capitals, and it does so in such a way to make sure that the accident victim does not get into the situation of getting caught between laws. We just went through that in New Hampshire, with the Coast Guard and State officials, over whether Lake Winnipesaukee was navigable or not. We want to make sure he knows, when there is a jurisdictional contest or what-have-you between the States and the Feds, that no accident victim falls between the slats.

This is a very well thought out, very comprehensive procedure to make sure that there are no innocent victims who are jeopardized and who lose benefits because there is a contest between the State and Federal officials. It takes into consideration the real political problems in the State capitals.

Mr. JOHNSTON. On page 87, subparagraph 6—that is section 206(a)(6)—it states that a person or government remains liable if such injury is caused in whole or in part by an act or omission not connected with the maintenance or use of a motor vehicle on the part of such person or government.

Mr. DURKIN. Excuse me, did the Senator say page 87?

Mr. JOHNSTON. Page 87, subparagraph 6.

Mr. DURKIN. I thank the Senator.

Mr. JOHNSTON. We have already established that this act has got to be strictly construed in favor of the claimant and against the insurance company.

Mr. DURKIN. I question that assumption. In New Hampshire, the last I knew, the Supreme Court had stated it was one of the few States where the policy was not construed against the person who wrote the contract. In some States the presumption is against the insurance company. It is a question of State law and again taking into account the differences.

Mr. JOHNSTON. It is a general common law rule that a statute in derogation of the common law is strictly construed against the restriction. First of all, it is a general rule applicable most everywhere.

Another rule, of course, is that the writer of a contract—the insurance contracts are construed against those who write the contracts.

Mr. DURKIN. "Strictly construed" generally evokes thoughts of the criminal law. But again I think you have to recognize there is a variance in the States, and this act does not change the court decisions or the State tort law in any respect. In some States you construe it against the company and in some States you do not. Which is the majority or the minority I am not sure.

Mr. JOHNSTON. All right.

My question is this: Let us suppose a man goes out and gets drunk. He has no idea that he is going to be driving an automobile later on. Later on he gets in that car and because of his drunk driving he has an accident. Would the drinking of that alcohol not be an act unconnected with the maintenance or use of the motor vehicle?

Mr. DURKIN. No. If he is driving under the influence of alcohol or drugs, he is involved in the maintenance or use of a motor vehicle.

Mr. JOHNSTON. A State would be free to strictly construe this statute in such way, would it not, as to construe it against the insurance company?

Mr. DURKIN. Again I have to question the assumption that seems to be implicit in the Senator's question that there will be a wholesale review of State case law on the effective date of this act. I cannot agree with the assumption that appears to be implied within the Senator's question.

Mr. JOHNSTON. Very well.

The words "act or omission" there in that section (6), they do not refer to a negligent act or an omission; it is "any act or omission," is it not?

Mr. DURKIN. It is an act or omission for which there may be liability under the negligence law as construed by the highest court in that particular State. It would not alter the State common law or case law.

Mr. JOHNSTON. In other words, if there is an act or omission, even though that act or omission is not negligent, then the person remains liable if he would otherwise be liable under the State law.

Mr. DURKIN. Excuse me. I did not hear the question.

Mr. JOHNSTON. In other words, what I am trying to get at here is the phrase "act or omission" need not include a negligent act or omission; it includes any act or omission. So if there is any act or omission, whether negligent or not, which causes an injury then the person remains liable, and you go to the State law to determine whether or not then they are liable under the negligence law.

Mr. DURKIN. The act or omission referred to relates to an act or omission which, under State law, may or may not lead to an allegation of negligence or other liability. It is not a meaningless act or omission. It is not an innocent act or omission. It is an act or omission to which liability may attach itself. It is liability for negligence that may attach as a result of the State law.

Mr. JOHNSTON. Well, let us suppose a man performs two acts or omissions——

Mr. DURKIN. I think, in further answer to the Senator's initial question or the Senator's prior question, there are acts that can occur along a highway. For example, someone negligently parks a vehicle, as was the case in New Hampshire where an attorney sued the public service for putting the telephone pole too close to the highway. His man ran off the road and hit the telephone pole, and they recovered against the public service.

Mr. JOHNSTON. I understand that. But where in this statute does it say anything about that act or omission required to be negligent?

The Senator says it is required to be a negligent act and, I submit to the Senator, that it is very clear, it says "by an act or omission not connected with the maintenance or use of a motor vehicle."

Mr. DURKIN. What this section does is state that instances involving an act or omission not connected with the maintenance or use of a motor vehicle—and again realizing that "maintenance or use" can turn on the interpretation in the State—do not come under this act. They come under the tort law in the particular State, and that tort law in that State remains unchanged. It is not affected in any way by the enactment of S. 354.

Mr. MOSS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JOHNSTON. Yes.

UNANIMOUS-CONSENT REQUEST

Mr. MOSS. Mr. President, this matter has been discussed with the minority side and with the majority leader. There is to be a motion made today to recommit this bill. My unanimous-consent request is that the vote on recommittal, which will be offered by the senior Senator from Nebraska (Mr. HRUSKA), come at the hour of 3:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Is it in order to make the motion now or should I await the time at a later time?

The PRESIDING OFFICER. The Senator can make the motion now.

Mr. HRUSKA. Mr. President, I move that the pending bill, S. 354, be recommitted to the Committee on Commerce.

The PRESIDING OFFICER. Without objection, the vote will occur at 3:30.

Mr. MOSS. 3:30. I thank the Chair.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1509

Mr. FORD. Mr. President, I call up my amendment No. 1509 to S. 354.

The PRESIDING OFFICER. Until the committee amendments and the motion to recommit have been called up, no floor amendments will be in order without unanimous consent.

Mr. FORD. Mr. President, I ask unanimous consent that my amendment No 1509 be considered at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 14, strike out "or".

On page 45, line 18, strike out "." and insert in lieu thereof "; or".

On page 45, between lines 18 and 19, insert the following new subparagraph:

"(F) benefits for allowable expense have been provided for such victim by the applicable restoration obligor in an aggregate total amount of $250,000.".

On page 47, strike out line 3 and insert in lieu thereof: "assigned claims plan, in order to provide for the timely and efficient payment of basic restoration benefits in the circumstances described in subsection (a). Such restoration obligors may adopt rules for the operation of such plan and bureau, including rules for pooling and periodic review in cases under subsection (a)(1)(F), for the monitoring of such State's system and procedures for assuring compliance with section 104(a), and".

On page 47, line 12, strike out "State." and insert in lieu thereof "State, including the cost of reimbursing assignee participating insurers for claims paid by such insurers pursuant to paragraph (2)(A).".

On page 47, line 13, at the end thereof, insert the following: "Notwithstanding the foregoing, with respect to cases under subsection (a)(1)(F), such assessment of costs, pooling, and participation in cost shall not apply to a restoration obligor which obligates itself by contract or other agreement to provide for each victim basic restoration benefits for allowable expense without limitation on the total amount thereof.".

On page 58, between lines 13 and 14, insert the following new subsection:

"(e) LIMITATION OF LIABILITY.—A State no-fault plan for motor vehicle insurance in accordance with national standards or title III shall limit the statutory obligation of the applicable restoration obligor to provide basic restoration benefits for allowable expense to an aggregate total amount of $250,000 for any particular victim.".

Mr. FORD. Mr. President, I offer an amendment to S. 354, the National Standards for No-Fault Insurance Act, which would correct a problem that has bothered me for some time.

The problem has to do with the competitive position of small insurance companies which write automobile insurance policies. Judged by the large number of companies writing automobile insurance and by the low barriers to entry, the casualty insurance industry in the United States is among the most competitive in the Nation.

S. 354 sets national standards to assure that State no-fault laws guarantee that all Americans will be protected in the event of a traffic accident anywhere in the United States.

It would be a sorry thing if the price of nationwide no-fault reform leads to a reduction in competition in the casualty insurance industry. If S. 354 gives a competitive advantage to large insurance companies, as some have said, it could have most unfortunate consequences.

My amendment would assure that all insurance companies will be able to compete on a fair and equitable basis without regard to the volume of annual premiums or the extent of capital reserves. Of course, capital reserves will be important under the no-fault system as they are under the present system. Neither this bill nor any bill should ever protect the shortsighted, the inefficient, or the imprudent producer. But all companies—large and small—should be placed on the same footing.

The amendment accomplishes this goal by limiting the statutory obligation of an insurer to provide no-fault benefits for medical and rehabilitation expenses to a maximum of $250,000 for any one victim. One or two cases in which a policyholder suffers severe brain damage or spinal cord injury could exhaust all of a small company's premium earnings in a particular area if there were no limit on its statutory obligation to provide medical benefits. By limiting the statutory obligation to $250,000, the small company can accurately, through the use of actuarial science, calculate its risk and loss exposure without danger of unexpected losses. If necessary, such a company can reinsure all or part of the risk up to $250,000 at competitive rates. The Reinsurance Association of America informs me that adequate reinsurance at reasonable rates is available up to such limits.

This amendment protects small business without harming the consumer and the seriously injured auto accident victim. If a particular victim suffers an especially grave injury, he will receive $250,000 in medical benefits that are provided by his no-fault insurer. If any additional medical and rehabilitation benefits are required, they will be paid by the assigned claims fund, which will in turn be reimbursed through assessment and pooling of costs among all of the restoration obligors in the State who limit their obligation in this way.

I believe the amendment will be a valuable improvement to the bill.

I have no other comments, Mr. President. If the floor manager or the Senator from New Hampshire has any comments, I will be glad to try to answer them.

Mr. MOSS. Mr. President, I think the amendment offered by the Senator from Kentucky is a good amendment, and I do not offer any objection to it. I think my colleague from New Hampshire, who is very interested in this insurance matter and knows a great deal about it, might have a few remarks to make. I am glad to yield to him at this time.

Mr. DURKIN. I thank the chairman.

Mr. President, my comments will be very brief. I think it is a good amendment. It takes into consideration the problems of the smaller companies.

In New Hampshire and New England, we have the mutual companies. In fact, the mutual concept started there. Many of these are small companies.

The bill insures that every accident victim has unlimited recovery for his injuries. The amendment takes into consideration the effects of unlimited recovery, with respect to the reinsurance problems, capacity problems for the smaller mutual companies and the new stock companies—not only in New England, but all across the country.

Mr. FORD. It is important that we make it clear that we are not saying that small insurance companies are not financially sound. What we are saying is that if they have an unlimited amount they have to pay, there is no way they can calculate their premium, with actuarial stability.

So, if we put a maximum, they can then do it with actuarial soundness, calculate their premiums, and continue to operate on a sound financial basis.

I think we can also say this applies to larger companies. If it is an open-ended thing for larger companies, they have to speculate on their premiums and they may be in some problem, too.

I think we are not only protecting small companies, but also the large companies, and ultimately the consumer who will not have a large premium.

Mr. DURKIN. That is true, I think, as the Senator says, the amendment takes into consideration what it will cost on an actuarial basis. There should be no implication in my remarks that smallness of any——

Mr. FORD. I did not indicate that. I thought it might be indicated from the reason I am introducing the amendment, and I wanted to make that point.

Mr. DURKIN. No.

Would that every governmental unit was in as good financial shape as many of the smaller, especially the smaller, mutual companies which are in excellent financial shape.

This amendment assures that the accident victim will receive the unlimited medical and rehabilitation benefits without jeopardizing the financial stability of the insurance companies.

Mr. FORD. And we are still providing a method where those—hopefully, a very small percentage of cases—would go beyond the $250,000 limit. They would go to the so-called assigned pool and would draw from that. Then all companies would pay their proportion into this pool, and that accident victim would still be protected.

It gives us an opportunity not only to put the smaller companies in a better stance, but at the same time, it protects the consumer, who is the victim of the accident.

Mr. DURKIN. Yes, it is a possible problem and, again, without any diminution in the protection provided or value received. After all, the primary concern in the whole bill is the accident victim. For that reason, I would support the amendment.

Mr. FORD. It is my understanding that the floor manager of the bill may want to ask for the yeas and nays on this amendment. I have no objection to that, if he wants to do it. I do not know, as far as passage of the amendment is concerned. I have not heard any objections to it. I do not believe there is a sufficient number in the Chamber at the present time.

Mr. MOSS. Mr. President, I do intend to ask for the yeas and nays. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PERCY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOSS. Mr. President, I do not know anyone else who wants to speak on this amendment.

Mr. FORD. Mr. President, is there a time limitation on the amendment?

Mr. MOSS. We could not very well get a time limit without notifying in advance.

ORDER FOR VOTE ON RECOMMITAL OF S. 354 TO OCCUR AT 3:20 P.M.

Mr. MOSS. Mr. President, I do have another unanimous-consent request to make.

The Senator from Illinois must leave this afternoon. On his behalf, I ask unanimous consent that the vote on the motion to recommit, which has now been set for 3:30 by unanimous consent, commence at 3:30 p.m., but that it run until 3:45, which would be its normal time to expire. In that way, I believe we can accommodate both those who must leave early and those who are at the White House at a meeting and cannot get back until after 3:30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), the Senator from California (Mr. Tunney), and the Senator from Massachusetts (Mr. Kennedy), are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield), and the Senator from New Mexico (Mr. Montoya), are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from New Mexico (Mr. Domenici), the Senator from Utah (Mr. Garn), the Senator from Wyoming (Mr. Hansen), and the Senator from Nevada (Mr. Laxalt), are necessarily absent.

The result was announced—yeas 84, nays 2, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—84

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Eastland
Fannin
Ford
Glenn
Goldwater
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Leahy
Long
Magnuson
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—2

Curtis
Hruska

ANSWERED "PRESENT"—1

Fong

NOT VOTING—13

Brooke
Domenici
Garn
Gravel
Hansen
Hart, Philip A.
Jackson
Kennedy
Laxalt
Mansfield
McClellan
Montoya
Tunney

So Mr. Ford's amendment (No. 1509) was agreed to.

VISIT TO THE SENATE BY KING HUSSEIN OF JORDAN

Mr. HUGH SCOTT. Mr. President, I am about to propose a unanimous consent request, noting first, however, that it is our distinguished honor and great pleasure to have in our midst a chief of state, a friend of the United States, His Majesty King Hussein.

[Applause.]

RECESS

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes in order that we may note King Hussein's presence and have an opportunity to speak with him.

There being no objection, the Senate, at 2:36 p.m., recessed until 2:41 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Brock).

TIME LIMITATION AGREEMENT—HATCH ACT CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the vote on the motion to recommit, if the motion is agreed to, that there be a 1-hour time limitation on the conference report on the Hatch Act, the time to be equally divided between Mr. McGee and Mr. Fong.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. It is my understanding that a motion to recommit has been made and that there is a unanimous-consent agreement that the rollcall vote will start at 3:20. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. Mr. President, I should like to make some remarks on the matter of recommittal, and the Senator from New Hampshire has indicated that he has some remarks. I yield to the Senator from New Hampshire, and then I will seek recognition.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DURKIN. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Colber King be allowed the privilege of the floor during the debate on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, if the Senator will yield, I ask for the yeas and nays on the motion to recommit.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, will the Senator from New Hampshire yield to me for a unanimous-consent request?

Mr. DURKIN. I yield.

Mr. FORD. Mr. President, I ask unanimous consent that Jim Fleming and Frank Barton, of my staff, Herbert Jolovitz, of Senator Leahy's staff, and Lyle Morris, of Senator Glenn's staff be granted the privilege of the floor during the debate and vote on S. 354.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I make note of the endorsement of S. 354 by the National Association of Mutual Insurance Agents and their New England group, the Independent Mutual Agents of New England. I ask unanimous consent to have printed in the Record their statement on S. 354 and their argument against recommittal of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Association of
Mutual Insurance Agents,
Washington, D.C., March 31, 1976.

Dear Senator: After considerable study and discussion, the National Association of Mutual Insurance Agents has concluded that minimum Federal no-fault automobile insurance standards should be enacted now. We urge you to vote for S. 354 and against any motion to recommit. NAMIA is a national association of more than 23,000 independent property and casualty insurance agents, with members in all 50 states, Canada, Puerto Rico and the Virgin Islands, and with headquarters in Washington, D.C.

Evidence of the unsatisfactory operation of the present automobile liability system is everywhere to be seen. Overpayment of those not seriously injured, underpayment of those seriously and permanently harmed, and low payout ratios are only a few of the major deficiencies of the current system. The conclusion of the Department of Transportation's study of the automobile insurance business as presently constituted was unequivocal:

"In summary, the existing system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and legal system. Both on the record of its performance and on the logic of its operation, it does little if anything to minimize crash losses."

The states have been given adequate time for debate. To date, only 14 states have responded by passing compulsory, meaningful no-fault laws—laws which provide adequate percent of all the premiums go someplace other than to the person who paid them. I do not suggest there should not be some administrative costs. There will be some, but not 50 cents on the dollar, and only a "long shot" at that. How can you justify that.

This is one of the most important consumer bills we have had in the Senate for a long, long time, and we have had many out of our committee, as the Senator from Kentucky knows.

Mr. FORD. Mr. President, will the Senator yield?

Mr. MAGNUSON. I only have a little time here, and I have not said much on this except yesterday when I filed what I though was a good statement.

I ask unanimous consent that a letter from the Washington Star be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MAGNUSON. It is something whose time has come. Even Nixon said that no-fault insurance is a thing whose time has come, but leave it up to the States.

We have gone through this for almost 5 long years. If we had not proceeded at the Federal level, there would hardly be any no-fault bills in any State any place, do you know that? There would not be.

I know a State legislature and, I suppose, there are others, where the chairman of the insurance committee is usually a trial lawyer. No-fault does not have much chance in the State legislature.

I do not see how the trial lawyers can justify their position. Here is a poor fellow who is injured very badly, and I have known cases—the Senator said a year, did he not, a year, year-and-a-half?

Mr. MOSS. Yes.

Mr. MAGNUSON. I have known of cases that have taken 5 years.

If you have property damage, they pay it right away. Most of the claims that are paid are paid on property damage. The personal injury cases are the ones that drag along. If you were for workmen's compensation which, I think, everybody in the Senate now favors, that is what this is about.

You may argue about the ceilings or what they call the threshold—is that not what we call it, the threshold?

Mr. MOSS. Yes.

Mr. MAGNUSON. You can argue about the threshold amount, but we are doing something for the people who are hurt the worst, and it is not going to cost anybody anything more.

Why should you pay 6 percent? You say 6 percent, is somebody going to complain about that? That is just one estimate. I do not know what the insurance companies in my State, because we have no no-fault in my State, will charge to get this extra thing if you drive down to the State of Oregon over through Montana, where they may charge you 15 percent, and when you give them a dollar, that would put it down to about 35 cents that you have a chance at.

To send it back to the committee is merely a stalling proposition, mainly instigated by the trial lawyers. I belong to their association. I have belonged for years. I was not much of a trial lawyer, but I would not drag out a case with some poor sucker who is injured almost beyond repair for 5 long years. I had a little more ethics than that.

They think that the person who is injured, and whom they represent, can get more when they sue under any tort law. We do not completely abolish any tort laws in this bill. They are there; they are part of the common law of the United States and part of every State law.

I know that some people think this is a bad thing. I do not know why they want to gyp the American people out of 50 cents of every dollar they pay in premiums.

Mr. FORD. Mr. President, will the Senator from Washington let me make a point here? Will he yield? When he talks about people getting gypped 50 cents out of every dollar, I hope when I pay my insurance premium that I never have to collect because that means I never have had an accident and nobody in my family is injured if I do not have to obtain that.

Mr. MAGNUSON. I only have that much time.

Mr. FORD. But the cost goes up in those five States.

Mr. MAGNUSON. Wait a minute, let me finish.

Mr. FORD. I am holding no brief for the trial lawyers. I am looking after the consumers.

Mr. MAGNUSON. I have no feeling, I do not weep any crocodile tears, for the trial lawyers.

Mr. FORD. I do not either.

Mr. MAGNUSON. They raised a fund to fight this bill. But I hope we are not just overcome by that. I do not know what they are going to do with it. It runs into a half-million dollars just for this particular bill in the last 4 or 5 months.

I am willing to have this voted up or down. This is a consumer bill. This is doing justice to people who get injured. I know the way it is now. You can stand four people on a corner, at an intersection, and have an accident, and there will be four different versions of who was at fault. Does the Senator know that? There will be four different versions, depending on how they looked at it. In the meantime, the guy is lying in the hospital and he is getting nothing, and most lawyers have a big contingent fee involved.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MOSS. I have an answer.

Mr. MAGNUSON. I yield the floor, but I just wanted to express my opinion about sending this back to committee. It serves no purpose at all. It is merely a stalling operation to take care of some of the people who are benefiting the most by the system the way it is. I will stand by that in front of any bar association in the United States.

[From the Washington Star, Mar. 30, 1976]

EXHIBIT 1

AN 11TH-HOUR PITCH FOR NO-FAULT

(By Ralph J. Marlatt)

As the Senate prepares to debate no-fault automobile insurance, it seems appropriate to answer the well-financed critics of this much-needed reform in automobile reparations.

Fourteen states have enacted no-fault laws that restrict lawsuits, bringing down heavy criticism from the trial lawyers, who say that individual rights are being denied. The fact of the matter is that the trial lawyer is not getting his 40 percent off the top. The basic purpose of no-fault—to pay more of the insurance premium dollar to accident victims and to do it more fairly and promptly—is a solid success. A justifiable criticism of these state laws is that the lawsuit restriction (dollar level under which one cannot sue) is grossly inadequate.

Every no-fault law, including the federal proposal, allows an individual the right to sue for permanent serious disfigurement, etc. Under the present system, the seriously injured is undercompensated and the slightly injured is overpaid by the insurance company. No-fault remedies this situation.

Another criticism leveled against no-fault is that it has not reduced the cost of automobile insurance. In passing no-fault laws, state legislation mandated rate reductions which were not justified due to the already weak restrictions on lawsuits. These rate reductions, coupled with the rising cost of medical treatment and replacement parts for the automobile, have given the critics a false platform to build their opposition.

No-fault automobile insurance is an idea "whose time has come." Since 1970, this has been said by former President Richard M. Nixon, three secretaries of transportation (John Volpe, Claude Brinegar and William Coleman), as well as present Secretary of Health, Education and Welfare Carla Hills.

The National Association of Mutual Insurance Agents has also said this since 1970, and has worked actively to seek passage of meaningful no-fault laws at the state level during the intervening period. In state after state, we encountered the opposition of trial lawyers and certain segments of the insurance industry to this much-needed consumer legislation.

Frustrated at the state level, we took our battle to the Congress and have attempted to seek a modified version of national no-fault. We believe that a uniform national minimum standard law will benefit the consumer in many ways. Automobile accident victims will receive a more equitable payment for their injuries in a much more efficient manner—within 30 days in most instances—rather than the normal five years of litigation.

In addition, the patchwork of laws which now exist in all 50 states will be brought into conformity.

Mr. MOSS. I appreciate the comments of the chairman of the Commerce Committee. He has worked on this through the years. This is the third time we are coming up through the Senate with the same bill.

In answer to the question that was posed by the Senator from Kentucky about the cost, I now have the figures at hand. New York is one of the States the Senator asked about.

New York's no-fault law went into effect on February 1, 1974, with a mandated reduction of 15 percent and actual rate decreases which averaged more than 19 percent. In a report issued in January, the New York Insurance Department notes that, "the loss experience of 1973 (the last year under 'fault') would, in itself, have supported approximately a 20-percent rate increase in 1974 had the no-fault law not been enacted."

Thus, the insurers actually got rates decreased 39 percent, if we take what would have been the increase that the loss experience would have posted and add to it the decrease of 15 percent which was mandated, but which actually averaged out to 19 percent, since insurance companies decreased their rates by a greater amount.

So we see that automobile insurance does cost less in the States in which no-fault is in effect.

Mr. President, I yield for a unanimous consent request.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Irene Margolis be granted privilege of the floor during the debate and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I am happy to yield to the Senator from New Hampshire. Then I will yield to the Senator from Alabama.

Mr. DURKIN. I thank the Senator.

I think we should clarify the record by looking at insurance programs which are called "no-fault," but which are not no-fault. These laws should be called what they are. They are trial lawyers' relief acts.

One of the problems today is that accident victims have no voice in the political process. If all the victims of all of the automobile accidents that will occur in 1 month in this country could be here in the hall today, this bill would pass on a voice vote.

The only real no-fault auto insurance law in the United States, the only one which has a high threshold and which provides decent benefits for victims is the Michigan law.

Let me review briefly the Michigan experience.

Recent premium increases in Michigan have taken place only in the property damage portion of the premium. No-fault insurance cannot affect the cost of property damage insurance because it has no relation to property damage. That is a Michigan problem. That is a problem which results from the design of the automobile.

But with respect to the bodily injury premiums in Michigan, they have actually decreased under no-fault. The only increase in rates has occurred in the property damage of the premium, the portion not associated with personal injury.

These figures are borne out by five of the major insurance companies operating in Michigan. These figures also show, I should point out, that the senior citizens, the old folks, the retired people, have benefited enormously from no-fault.

Insurance rates for a 70-year-old, retired person living in the Detroit metropolitan area have decreased 45 percent for bodily injury coverage, even though property damage rates have increased 125 percent.

Bodily injury rates have also decreased in rural areas.

Mr. MORGAN. Mr. President, a point of order.

Who has the floor?

The PRESIDING OFFICER. The Senator from Washington was the last Senator recognized.

Mr. MORGAN. Mr. President, I ask for recognition.

The PRESIDING OFFICER. Has the Senator from Washington yielded the floor?

Mr. MOSS. He yielded to me and then I yielded.

Mr. MAGNUSON. I yielded and the Senator from Utah immediately stood up and yielded to the Senator from New Hampshire.

The PRESIDING OFFICER. A Senator may only yield for a question.

Mr. MOSS. I will reclaim the floor and then ask——

Mr. MORGAN. A point of order.

I do not believe he can reclaim it once he has yielded it.

Mr. MOSS. Well, I yielded for a question.

Mr. DURKIN. I can ask if anyone agrees with this at the end, and it is a question.

Mr. MOSS. Certainly.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MORGAN addressed the Chair.

Mr. DURKIN. I can frame this in the form of a question.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I am reluctant to rise to a point of order, but the time for the vote was approaching and it seemed that only those who were for the bill were getting any recognition.

I simply say, Mr. President, at this time, that this is a question I think should be handled by the States. I think some rather reckless statements have been made with regard to facts and figures which I think should not go unrefuted on the floor of the Senate. Time will not permit it at this time.

Mr. President, I understand Senator ALLEN has a resolution which I would be glad to ask unanimous consent——

Mr. MOSS. I object to unanimous consents.

Mr. MORGAN. Mr. President, I will continue to talk on to 3:20 then.

Mr. MOSS. The Senator has another few minutes and he can go ahead.

Mr. MORGAN. Some people in this Congress and in the Senate think they know best what is good and what is right for the people of this country and that they are the only ones who know what is good and what is best for the country.

I do not know whether no-fault is good for the people or not. But I know this: the Congress of the United States has more to do than it can do. We are trying to debate and run every facet of human life here in Washington.

Last week at the Democratic Caucus——

Mr. President, I will conclude my remarks later.

The PRESIDING OFFICER. The Senator from Alabama.

SENATE RESOLUTION 419—A RESOLUTION CONDEMNING CERTAIN CONDUCT AGAINST PRESIDENTIAL CANDIDATES IN WISCONSIN

Mr. ALLEN. Mr. President, I have a resolution at the desk and I ask unanimous consent that it may be in order to be considered at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, the resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 419

Resolved that the Senate deplores and condemns the cruel and reprehensible conduct of a group of common thugs toward Governor George C. Wallace of Alabama and Senator Henry Jackson of Washington as reported in the news media today.

Be it further resolved that such conduct, wherever it might occur, is un-American and undemocratic, and that it violates principles of free speech and fair play that are so much a part of America.

Be it further resolved that any loyal and patriotic citizen should have the right to seek the high office of President of the U.S. and should have the right to present his views to the American people without fear of harassment or of bodily harm.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask that my name be added as a cosponsor.

Mr. ALLEN. I thank the Senator.

Mr. DURKIN. Mr. President, I ask that I be added as a cosponsor.

Mr. ALLEN. Mr. President, may we have action on the resolution and then I will get the additional cosponsors later?

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution—Senate Resolution 419—was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina (Mr. MORGAN), the distinguished Senator from New Hampshire (Mr. DURKIN) and the distinguished Senator from Vermont (Mr. LEAHY) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that Mr. SPARKMAN, Mr. GARY HART, Mr. ROBERT C. BYRD, Mr. HELMS, Mr. FORD, Mr. MOSS, Mr. BAKER, Mr. WEICKER, Mr. THURMOND, Mr. NUNN, Mr. RIBICOFF, and Mr. CHILES be added as cosponsors, and that all Senators be given an opportunity to add their names as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL STANDARDS FOR NO-FAULT INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

Mr. MOSS. Mr. President, we are just about at the time when we must vote on the motion to recommit.

Mr. President, I rise to oppose the motion to recommit the bill. I think it would be a tragedy if, at this point, we recommitted this measure. I think it first-party benefits and restrict tort to some degree.

We find the insurance buyer today is a much more articulate consumer today. He will not tolerate arbitrary cancellations and insurance he can't afford to buy. He views his insurance premiums as part of the cost of getting a new license plate. He does not want to feel that in buying car insurance he has merely purchased the capability to handle a lawsuit should one come his way. He is willing to accept the responsibility of protecting the other driver, but he feels his insurance should give him the same first-party coverage as does his fire and health insurance.

A national minimum guidelines bill should include the following four provisions:

1. that automobile insurance remain the primary source of recovery in automobile accidents;

2. a benefits ceiling which would pay the medical expenses and lost wages of a very high percentage of automobile accident victims to avoid the higher premium cost we believe will accompany unlimited benefits;

3. a verbal threshold for pain, suffering and inconvenience;

4. a provision allowing for inter-company subrogation.

A minimum standards bill would not create an undue hardship on the states, and they would offer the possibility of lower premium rates for most drivers, broader coverage for most victims, and quicker, more equitable payment to those less seriously injured. The minimum standards approach would give the states a framework within which to reform their automobile reparations mechanism.

With kind regards,

Sincerely yours,

RALPH J. MARLATT,
Vice President, Government Affairs.

Mr. DURKIN. I point out that in all the years I served as insurance commissioner in the State of New Hampshire—and we had many, many battles on behalf of the insurance-buying public—the insurance companies did not join in support on the side of the consumer; but one organization, no matter what the battle was, realized that what was good for the consumer ultimately would be good for their business, and that was the Independent Mutual Agents of New England and their parent organization, the National Association of Mutual Insurance Agents.

I publicly commend them once again for their years of support in very tough proconsumer battles in the New Hampshire State Legislature. I publicly commend them for their thought-provoking and very enlightened statement in support of S. 354 and their argument against the motion to recommit. Once again, they restore faith in that they never, as an industry group, have supported a position that was not in the best interests of the consumer. To my knowledge, every piece of proconsumer insurance legislation has been supported by the Mutual Agents and the Independent Mutual Agents of New England, and I publicly commend them.

Mr. MOSS. Mr. President, I commend the Senator from New Hampshire for calling to our attention the support of this bill by the Mutual Insurance Agents. I think that speaks for the consumer very well.

I also commend the Senator from New Hampshire for his contribution to the bill before the Senate. The Senator was not a Member of the Senate when we considered essentially the same bill earlier, but he has brought to the Senate a great background and knowledge about insurance and its regulation in the States.

In fact, he was the insurance commissioner for the State of New Hampshire before he came to the Senate. Other Members of this body are experienced in this matter, but he probably has the greatest experience, having been that State officer in his own State. He knows whereof he speaks when he talks about the needs for the bill, when he points out that this bill will leave with the States all the administration of insurance, the application of the regulations and all the powers the States now exert. Cases will be tried in the State courts, because the act excludes jurisdiction from the Federal courts, unless it is under a broader provision, not concerned with this bill at all. So it is expected that the States will continue to operate the no-fault insurance.

The one advantage we will have, however, is that there will be a degree of unanimity by the States, so that people who drive automobiles or who are affected by travel of automobiles can expect the kind of protection that is mandated by this bill, no matter where they are in our country.

The bill provides that each State legislature will have a certain time in which they can adopt the guidelines, and thereafter they will not in any way be directed or inhibited by the Federal Government. I think that is an ingenious way to get a degree of unanimity and still preserve the independent prerogatives of the several States.

For that reason, I urge strongly that the bill not be recommitted and that we proceed to final passage of the bill.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. PASTORE. Mr. President, it would be a very sorrowful situation for the Senate to send this bill back to committee.

The trouble here is that when we speak about these important pieces of legislation, the floor of the Senate is practically barren. The people are not here to listen to what we are up against.

For the longest time, I have been trying to find an answer to something, and I cannot find the answer. Massachusetts has no-fault insurance. New York has no-fault insurance. New Jersey has no-fault insurance. I start out from the State of Rhode Island. I have to go through New York and New Jersey in order to get to Washington.

I have been told that unless you buy special insurance, if you have an accident in any one of these no-fault States and you come from a State that does not have that law, your chances of recovery are very nebulous. You cannot even sue. What state of affairs is this?

The point is that unless we make this universal, unless we get all the States on the ball, I am afraid that we are going to have a crazy quilt. That is exactly what we are up against. For the life of me, why this matter cannot come to a vote is beyond me.

Now, if you go to a particular State where they are fighting no-fault, they are fighting the trial lawyers. The trial lawyers are fighting it because they say, well, this takes a certain amount of work away from us. There is a certain amount of justification in that argument. But what about the public interest? What about the people?

Everybody knows that in the States where they have no-fault, the settlements have been quick to come by, cases have been settled rather expeditiously, people have been paid, the benefits are very adequate. For the life of me, I do not see why we have to send this bill back to committee, after we have sweated it out, year in and year out. We brought the bill out last time and there was not time to act upon it. Now, here we are; we are up against it again.

I hope that the pressures from the outside, of the vested interests, are not of the magnitude that they are going to defeat the public interest. I hope that once and for all we will get this matter settled, so that when people are driving their cars and come from a State that does not have no-fault insurance and meet with an accident in a State that does have it, they will not be precluded from recovery, regardless of the situation.

I say very frankly, it would be a sorrowful day for the Senate of the United States to repudiate the work of the committee without having a vote up or down. If the Senate does not want this bill, let us have a vote on it. But this idea that we can camouflage our actions and satisfy the pressure groups by sending it back to committee—that, to me, is legislation in reverse; it is negation at its best, and I hope it does not happen.

Mr. FORD. Will the Senator yield for a question?

Mr. PASTORE. Yes; I will yield. I do not have the floor, but I shall yield.

Mr. FORD. The Senator still has it. He does a good job of keeping it.

Mr. PASTORE. I always do, I say to my colleague.

Mr. FORD. Let me ask the Senator a question. He seems to be very knowledgeable about the insurance. Being insured in Rhode Island and going through New York and New Jersey and so forth, he would be in trouble. I wonder if it is not possible for him to get some sort of endorsement on his policy, like "uninsured motorist," for from $4 to $6, that might protect him wherever he might go, regardless of no-fault. Is that not true?

Mr. PASTORE. It is not $4 to $6. In some places, it might be that. But why does somebody have to buy extra insurance? Why? Why cannot we have a system that takes care of the injured people, takes care of the victims of an accident and gives satisfaction expeditiously, without having to go out and buy it all over again?

Mr. FORD. Has the Senator from

Rhode Island talked with the Senator from New Jersey about how no-fault is working there?

Mr. PASTORE. I did not talk to him, but my records show that wherever we have had it, the rates have come down and the results have been very satisfactory. Will the Senator dispute that statement?

Mr. FORD. Some material has come to my attention that the rates have gone up in Florida and some other States.

Mr. PASTORE. I shall let the manager of the bill give the facts.

Mr. MOSS. I should like to respond to that. Insurance rates have gone up generally because we are in a severe inflationary period. As the Senator knows, we have been holding some hearings in the Committee on Commerce on the cost of crash parts in automobiles. They have gone up more than the cost of living by two or three times over. Of course, insurance rates have gone up.

Mr. FORD. Mr. President, will the speaker allow me one comment?

He is talking about material damage now and no-fault does not get into the material damage field. It gets into bodily injury, not material damage.

Mr. MOSS. This bill does not deal with economic damage, property damage; it deals with personal injury.

Mr. FORD. That is true, but the Senator was referring to crash parts.

Mr. MOSS. Yes; but if the Senator will let me respond, the States cover all kinds of damage. They have it within their tort law. I was trying to point out that insurance rates have gone up generally and insurance rates for personal injury have gone up. The costs of hospitalization, doctors' fees, everything we look at, has gone up; so I do not want to say there has not been an upward trend.

What I do say is that the cost of insurance in States with no-fault has gone up less than it has in other States. In some instances, it has even gone down a little bit.

Now, no-fault insurance, obviously, returns to the premium payer more in benefits than the fault system. With aboult $18 billion a year that is paid in premiums by consumers in this country, over half of that money is spent in overhead. That means insurance adjusters, lawyers and lawsuits to determine who is at fault or who got into the intersection 2 inches ahead of the other fellow.

If the States adopt the guidelines of this bill, all of that will be eliminated except in the extreme cases. If a person has 90 days' disability, total disability, or permanent or serious disfiguring injury, or in case of death, then the tort law applies. Below that level, a person is not compensated for pain and suffering. But he is paid, and he is paid immediately, for all of his hospital expenses, his doctors' expenses, rehabilitation, necessary retraining, expenses of his household if a person has to maintain a household. All of these things are paid for, and at once, by his own insurance company. Therefore, we do not waste time or delay trying to find out who was at fault and whether the other fellow was contributorily negligent. We do not require all this bargaining back and forth.

As the cases show, under our present system if you have just a little injury, you will get overpaid. If you have a big injury, you will get underpaid. The reason for this is that a fellow with a nuisance value in the kind of injury can get a settlement just to get rid of him. On the other hand a fellow who has a big injury will be held up. It may be a year or longer before he is paid. He will not be paid until his case has been litigated and settled.

Mr. FORD. Will the Senator yield for a point?

Mr. MOSS. I yield for a point.

Mr. FORD. Will the Senator agree that the five States of Connecticut, Florida, New Jersey, Nevada, and New York would be five of the more mature States in the no-fault field, since they were the earlier ones to pass a no-fault insurance law?

Mr. MOSS. Well, I do not know about "mature." They may have been in there early. There are some 18 or 19 States that have something called no-fault.

Mr. FORD. I understand that, but I am talking about the larger States. If we take Nevada, it does not have the large population of New York, Connecticut, or Florida, but it is one of the earlier States to pass a no-fault insurance law, and I believe it could be called one of the more mature States.

Mr. MOSS. I do not know how to answer that.

Mr. FORD. The point I want to make is that in those five States, during 1974, they paid out $112.70 for every $100 they took in in 1974, but in the other States, the companies paid out only $100.90 for every $100 they took in. So the loss was more significant in the so-called no-fault States than it was in the States that have not yet passed the no-fault insurance.

Mr. MAGNUSON. Will the Senator yield to me?

Mr. MOSS. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I want to say that I have listened to what the Senator from Kentucky has intimated about rates. In the State of New Jersey, all of the officials involved will tell you, and I am sure the two Senators from New Jersey understand this, that there has been no increase in rates in New Jersey, for instance, due to no-fault. It has been for other reasons. I think we ought to understand that a lot of these insurance companies issue a policy, and it will be for no-fault, but it will also include property and theft and other things that happen to an automobile.

Mr. FORD. I think the Senator makes an excellent point here, because I think the general public is under the impression that we are covering all phases of an accident, but we are limiting the no-fault to bodily injury. I think the Senator is making an excellent point.

Mr. MAGNUSON. We are talking about personal injuries.

Now, the basis of this bill is similar to workmen's compensation bills. The Congress of the United States and pretty nearly every State in the Union have adopted workmen's compensation over the past two decades. That is all it amounts to. But in an automobile accident there is always an argument about what happened. I remember workmen's compensation. I introduced the bill in the State legislature in 1933 in my State because an argument always ensued over who was at fault when the crate fell down from the crane and somebody lost a leg. We made a set figure to avoid that argument.

Now, this does not stop the trial lawyers from suing if they do not like the settlement. I know what they are talking about. But this country cannot go on in this way.

How can you justify—and now even a majority of the insurance companies have endorsed this bill which they were reluctant to endorse 2 years ago—how can you justify—"You are in good hands with Allstate." "Come and join our happy family. We are glad to invite you to join us. Have you got a dollar for a premium?"

Yes, the guy gives him a dollar, he puts that in this pocket. Now he says, "You are going to be treated fine."

But the truth of the matter is that the guy who gives a dollar has only got a chance, just a chance, at 50 cents of that dollar—52 cents, to be liberal about it. What kind of business is this?

You get better odds at Las Vegas.

That is all this bill is about. To send it back to the committee would serve absolutely no purpose whatsoever. Commerce Committee has been at this thing I do not know how many months, but it has been some years. We have heard every bit of testimony pro and con it is possible to hear. We even at one time, at the behest of the insurance commissioners, had them come in as a legislative committee—naturally, they appointed a State of Washington insurance commissioner on it because they thought that might influence me on it—and they said, "Wait a while and let the States handle this." This would be fine if all the 50 States had some kind of uniformity.

But as the Senator from Rhode Island points out, it just is not happening that way. It does not prohibit any State from exceeding national standards, if it wishes. Some of them have done it. I understand the State of Michigan has a fine no-fault program that this bill would not preempt at all.

I just do not understand the purpose of having this go back to committee. We will just sit there in the Commerce Committee and listen over and over and over again to things we have listened to for 3½ years.

We went into this cost factor at great length and in great detail. We were ready to pass the bill out four of five times. Some members of the committee said, "We have got to go into the cost feature of it." We had all the experts in. The only group at that time that testified this may cost more was a group set up by the insurance companies. They paid them. Now they have come around, they have repented. They see the light because they would rather have a uniform law than to deal, you know, with 50 State laws. I can understand that, because all the States would probably be different.

There is no purpose in going back to the committee. I cannot justify that 50 would be much better if we go on and vote the bill up or down, even if that should have the very unhappy result of our voting it down. I think it makes no sense at all to recommit the bill.

So I appeal to the commonsense and wisdom of the Members of the Senate to reject the motion to recommit the bill (S. 354) to the Committe on Commerce for further study of its cost implications in view of the amendments adopted by the Senate.

I, of course, oppose this motion because I am in favor of passage of the bill. But much more fundamentally, I oppose this motion because the people of the United States expect us to make decisions—yes or no—and they do not seem to have much patience with endless studying and parliamentary tricks to avoid making decisions. This bill is ready, more ready than most bills we vote up or down, to be decided on the merits. It has been the subject of voluminous hearings. It and its predecessor in the 92d Congress have been the subject of months of hearings and committee executive sessions and almost 2 weeks of floor debate. It has been talked at, picked at, lobbied about, and ducked for years.

The time has finally come to take a stand on the merits. I appeal to opponents as well as supporters to reject the motion to recommit.

Let us review the record of Senate activity on national no-fault. In the 92d Congress, the Committee on Commerce held 16 days of public hearings—March 10, 18; May 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 28; June 16; and October 13, 14 in 1971—on the predecessor bill. S. 945 in the 92d Congress, and many days of executive session before reporting a bill to the Senate floor by a committee vote of 13 to 4. After it had been reported, the full membership of the Senate debated that bill for a number of days in the summer of 1972 and then voted—on August 8. 1972—to re-refer the bill to the Commitee on the Judiciary. That was a close vote, 49 to 46, as I remember.

In the 93d Congress, the committee held an additional 10 days of public hearings on the new bill, S. 354—February 1, 6, 7; April 4, 10, 11, 12; May 23, 24; and June 7 in 1973—and then we had days of executive sessions before reporting the bill to the Senate floor by a committee vote of 15 to 3.

On May 1, 1974, after a week of debate by the entire Senate, S. 354 was passed by the Senate, by a vote of 53 to 42. Hearings on the Senate-passed bill, and other no-fault proposals, were held by the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce, but the 93d Congress adjourned sine die before action could be taken by the House.

In the 94th Congress, S. 354, as passed by the Senate in the 93d Congress, was reintroduced by Chairman MAGNUSON and cosponsored by myself, HART, STEVENS, and STEVENSON. After a period for submission of written comments, the committee held 5 days of hearings. On June 27, 1975, the Senate Committee on Commerce ordered S. 354, the National Standards for No-Fault Insurance Act, reported favorably. It was reported on a voice vote with but three Members dissenting.

I might interject at this point that the Commerce Committee is composed of members of the bar. I think there is only one non-lawyer on that committee. So it had scrutiny both from its constitutional point of view and as to the legality of the bill, as well as the provisions that have to do with insurance, premiums, and consumer matters.

Mr. President, it seems to me that if at this point we in the Senate simply recommit the bill, we have gone back around the track that we have been running on now for about 7 years, for it was 7 years ago that the Committee on Commerce initiated the action that was taken by the Secretary of Transportation to make a study of this whole problem of motor vehicle insurance.

We all know that it has become a scandal in many places in our country. Not only do we pay in premiums more than twice the amount that claimants ever get back from their insurance policies, but in fact the study found that a claimant who recovers on his insurance or the insurance of someone who has injured him can expect to get back only 44 cents out of every dollar that was paid in to the insurance companies to cover injury by automobile accidents. So he only has a chance of getting half of it back, and his chances, of course, are cut in half by the fact that in most areas—perhaps not most now, but in a large part of our country—the doctrine of negligence and contributory negligence is such that only one person out of two would be able to recover, because of the showing of negligence of some sort on the claimant's part.

Having been a trial lawyer myself, and tried a number of these cases, I know the great refinements that are utilized to determine what is negligence and what is not negligence. In the meantime, many people are injured, have hospital bills, miss days of work, and have other damages that flow out of automobile accidents, and they have no way of paying those expenses until the decision has been made by the insurance adjusters and by negotiation between the insurers on subrogation back and forth, or by piling up litigation—no way of getting that money until a decision is made, which may come 6 months or a year later or in some extreme cases, even a matter of several years. In the meantime, these people have no way to pay their medical expenses, which is one reason the study found that those who have a high incidence of injury coming out of an accident could only expect to get one-half of the real damages back, let alone anything for pain and suffering. This is one reason the fees are high. They are problematical. Many lawyers take cases on a contingent fee basis so that maybe one-third of the amount recovered, or as much as one-half, is retained by the lawyer rather than going to the injured party.

So in cases where we have direct physical damage to a person and medical expenses, he should be able to expect to get that at once, so that he can have medical attention and rehabilitative services and not have to wait for the problem to be straightened out by adjusters and litigation.

That is what this bill does. It says that anyone who is hurt in an accident will get his medical expenses forthwith from his own insurance company, and only those who have suffered great damage or have been incapacitated for longer than 90 days will be able to bring a tort suit.

The idea of whether a person has been deprived of his rights by not being able to bring a tort suit for any kind of injury is in some way unconstitutional or unlawful is a mistaken point of view. We have already crossed that bridge by enacting workmen's compensation laws where the right to sue was suspended and there was an absolute liability to pay workmen's compensation for anyone injured on the job involved in interstate commerce. This has been to the Supreme Court. It has been upheld. We are not doing any violence to law. As a matter of fact, we are following that as a general pattern.

Then we come to other cases where there is absolute liability without relying on a tort showing of negligence in order to recover. In this case, it is to be said that anyone injured in an automobile accident shall get his medical and rehabilitative expenses on his own insurance at once, up to the threshold limit beyond which he may bring an action if he has injuries that go beyond that point.

Another point often made against the bill, which we discussed a little earlier in one of the amendments, is that somehow or other this is a big Federal takeover in this field. As a matter of fact, it is not a Federal takeover. The bill provides that each State shall develop and perfect and put into effect by its State legislature, in its own area, its own no-fault compensation law for automobile accidents. The Federal Government has only the one function of determining whether that plan reaches the floor, the minimum standards, or higher, and if it does, then it becomes approved as the no-fault law.

It seems to me that the greatest effort has been made to have the control of insurance and the control of traffic, and the rehabilitation in case of persons, remain at the State level. I think this is a total answer to those who say, as did the President, that no-fault is an idea whose time has come but then simply add "Do not let the Federal Government do anything about it. Just leave it to the States." We have been leaving it to the States for years and years. In fact, for a matter of 5 years, it has been said by the Department of Transportation to the States that, "We will defer now and let the next session of the State legislature have their chance." Then we defer again and defer again.

The States are not doing the job of providing every auto accident victim with prompt and complete restoration at a reasonable cost. Only 24 States have enacted any kind of reform law to benefit motor vehicle accident victims, and the number of States enacting such laws has declined in each of the last 3 years, from 6 in 1973, to 4 in 1974, and to 1 in 1975.

IN STATES WHICH HAVE ENACTED SOUND NO-FAULT LAWS, NO-FAULT IS WORKING

More benefits are being paid to more people, faster than ever before. More of the premium dollar is being returned to victims for economic losses, and less is spent on intangible losses, attorneys' fees, and haggling. Fewer auto insurance cases are entering the judicial system and the number of liability claims of driver against driver are decreasing, in some cases dramatically.

All States—fault or no-fault—have experienced recent rate increases in insurance premiums. Inflation is chiefly to blame. However, the rates of the country's largest automobile insurer, State Farm, have increased more in fault States than in no-fault States. Most insurance cost increases have occurred in the property damage portions of the premium—portions not affected by no-fault.

The two largest insurance companies in America, one an opponent and the other a supporter, both predict a premium savings nationwide of between 9 and 10 percent, when similar assumptions are made about State behavior in enacting plans to comply with Federal standards.

NO-FAULT IS WORKING IN NEW YORK

New York's no-fault law went into effect on February 1, 1974, with a mandated reduction of 15 percent and actual rate decreases which averaged more than 19 percent. In a report issued in January, the New York Insurance Department notes:

> The loss experience of 1973 (the last year under "fault") would, in itself, have supported approximately a 20% rate increase in 1974 had the no-fault law not been enacted.

Thus, insurers actually were decreasing rates by 39 percent from 1973 experience levels.

Until the last half of 1975, no rate increases were approved for bodily injury liability and no-fault insurance coverages. Then, the New York Insurance Department approved rate increases for bodily injury coverages which, on a statewide basis, averaged 20 percent. That is 20 percent above the reduced rate that accompanied the introduction of no-fault.

The New York plan is a good example of a no-fault plan that is working. Bodily injury premiums are at approximately the levels in effect in January 1973, and more benefits are being paid to more people. Legislators are discovering that the $500 tort threshold is too low, and that some people are inflating their claims to beat it. A move is now underway in the State legislature to increase it.

MICHIGAN'S NO-FAULT PLAN SHOWS THAT FEDERAL STANDARDS WILL WORK

Michigan's no-fault plan comes closest to meeting Federal standards, and exceeds them in many instances. The experience in Michigan shows that unlimited medical, hospital, and rehabilitation benefits and generous wage loss protection can be provided to all accident victims without regard to fault, and without increasing bodily injury insurance premiums, so long as auto accident lawsuits are confined to the most serious cases. Like the Federal standards, Michigan has no dollar threshold.

There have been recent rate increases in the total premium paid by Michigan motorists, but bodily injury premiums have actually decreased. The rate decreases have been particularly large for retired persons; and rate decreases have taken place in rural as well as urban areas. According to the figures of five major insurance companies in the State, the rise in rates has taken place only in the property damage portion of the premium, a portion not associated with no-fault under S. 354.

S. 354 SHOULD NOT BE RE-REFERRED TO THE JUDICIARY COMMITTEE

The Judiciary Committee has considered national standards for no-fault on two separate occasions—in the 92d and 93d Congresses. The bill had been sent to the Judiciary Committee solely because it was argued by some that certain provisions in earlier drafts of the bill might be unconstitutional. The Judiciary Committee reported the bill favorably during the 93d Congress.

S. 354 has been completely rewritten to meet the constitutional objections that had been raised to the bill. In correspondence with the Commerce Committee, dated June 10, 1975, Attorney General Edward Levi—who had earlier questioned the bill's constitutionality—indicated that he is satisfied that an amendment to the bill, subsequently adopted by the Commerce Committee removed the major constitutional question.

There is simply no reason to rerefer the bill to the Judiciary Committee. The constitutional question that was raised earlier has been cured. The Judiciary Committee has not requested re-referral; nor has it indicated in any way that it wishes to reexamine the bill.

I say to my colleagues in these last few moments that to recommit the bill is a futile act at this point. We certainly ought to vote the bill either up or down.

This is the third time through in the Senate. Recommitting would defeat the bill. I urge Members to vote against that.

ADDITIONAL STATEMENTS SUBMITTED ON S. 354

Mr. HOLLINGS. Mr. President, it is my belief that S. 354, the Federal no-fault automobile insurance legislation, cannot be justified at this time.

As a member of the Commerce Committee, I have had the opportunity to study the question of Federal no-fault legislation over the last few years. When the issue was first raised, I voiced by opposition to it. Since that time the legislation has been revised numerous times and the committee hearings have been reopened to take additional testimony on many of these revisions. However, nothing in the hearing records or in the revised bill has removed my objections. Consequently, I am opposed to enactment of S. 354.

The issue of greatest concern to me is the concept of federalism. Insurance regulation has traditionally been a State function. As early as 1968, the Supreme Court held in Paul against Virginia that the business of insurance was not "commerce" in the meaning of the commerce clause and hence it was not subject to Federal regulation. Under the protection of this ruling, the States developed their own systems of insurance taxation and regulation. Then in 1944, the Supreme Court held in the United States against South-Eastern Underwriters' Association that the business of insurance was interstate commerce and subject to Federal antitrust laws.

This ruling caused widespread concern over the posed threat to the State regulatory systems that had developed under Paul against Virginia. The McCarran-Ferguson Act was enacted in response to this concern and in order to preserve the State systems. The legislative history of the act clearly reveals a congressional finding that the States were in a better position to regulate the insurance industry because of their proximity to local industry problems and because of their experience and expertise in regulating this business.

Previous experience has demonstrated the States' ability to respond to problems that occur. During the 91st Congress the question of insurance company insolvency arose, and a national insurance insolvency guarantee bill was proposed. The argument for Federal legislation was that States would not act. Even though the Federal bill was not enacted, 48 States responded to this need by enacting insolvency legislation.

While the concept of no-fault insurance is not new, it has been only recently that the concept began to be embodied in tangible proposals. Many criticize the States for moving slowly but almost half of the States have reviewed their insurance systems and instituted some form of no-fault auto reparations system. This has taken place within the relatively short period of 5 years.

I do not feel that Congress should now attempt to extend Federal authority through the commerce clause into the business of insurance. Anything short of national uniformity should not be considered to be an impediment to interstate commerce which requires Federal regulation. Federalism increases liberty, encourages diversity and promotes creative experimentation and responsive self-government. Anyone who believes that there is some correlation between these values and the decentralization of governmental power will conclude that the issue of federalism is not a legalistic obstruction on governmental responses to pressing social issues. The importance of protecting and promoting these values should be a compelling consideration in determining whether a Federal uniform automobile insurance law is desirable. No compelling national need has been demonstrated and this legislation is a premature Federal preemption of a field in which we still have a great deal to learn. Just as the problems vary from State to State, so too the solution will not be identical and we should not be overly concerned with uniformity.

When Attorney General Levi submitted draft language to the committee to provide for administration by the Federal Government of a no-fault law in those States which are unable to adopt a State no-fault law meeting the standards of title II, he stated that other constitutional challenges remain with regard to the discrimination imposed by the differences between titles II and III. This raises the second major issue that concerns me. The differences between the rights accorded individuals under title II and title III include differences in the right of recovery for work loss and in the restrictions that are placed on tort action. Unlike title II, title III does not contain a limitation on total work loss recoverable. Also, title II includes six instances in which tort rights are retained, whereas title III includes only the first three of them. These discriminations raise serious questions of equal protection.

Some argue that these differences are justified as providing incentives to the States to enact and administer their own no-fault plans under title II. But what this means is that, if a State fails within the allotted time period to enact a no-fault plan that complies with title II standards, the individuals in that State would have more restrictions placed upon their right to tort action to recover damages sustained in an automobile accident. This violates the principle of equal protection under the law. Some of the proponents have referred to title III provisions as more onerous than those in title II, but argue that they must be in order to provide incentives for the States to comply with title II. I find the discrimination against individuals under the more onerous provisions of title III to be harsh and unwarranted.

The usual incentive for States to adopt and administer Federal standards is the possibility of their losing Federal funds in some area for noncompliance. However, the more limited retention of tort rights under title III is not an incentive to comply, but rather a penalty for noncompliance. And this penalty is not imposed upon the State, but rather upon the individuals within that State. Such discrimination is certainly too harsh a method by which to encourage compliance.

Since this bill in effect preempts the State tort law, if it were found to be unconstitutional, the possibility arises that an individual could be involved in an accident and then find himself in a legal no-man's land in regard to his ability to sue for damages.

Finally, I am concerned over the actual cost of insurance under this proposal. Because of the lower costs expected from no-fault at the outset, the legislatures of seven States—Connecticut, Florida, Massachusetts, Nevada, New Jersey, New York, and Pennsylvania—had required insurers to lower their personal injury protection rates initially by 10 to 15 percent. But insurance firms found their costs did not go down nearly that much in most States, and this has put a squeeze on their profits.

If a rate reduction does not produce appropriate income for the companies, then you have got a problem. Although personal-injury insurance rates were rolled back 15 percent when Florida's no-fault program became effective in January 1972, since that time the rates have increased by 27 to 30 percent.

Nationwide Insurance Co. estimates that in the 3 years before the Florida law became effective it was paying out 70 percent of the premium income roughly comparable to no-fault in claims settlements, before taking into account the other expenses of doing business. Since no-fault, the company says, it has paid out an average of 81 percent of its premium income despite the rate increases. In Connecticut, this so-called loss ratio for Nationwide jumped from 54 to 63 percent; in New York, it went from 56 to 71 percent; and in New Jersey, where rate increases have been particularly hard to get approved, the ratio soared from 76 to 112 percent.

A Nationwide spokesman says the increased loss ratios are partly due to the generally rising costs of medical care. But also, he says, the new no-fault laws often require insurers to provide broader protection, including such things as loss of income and medical rehabilitation. Finally, he adds, conventional insurance typically had a ceiling on the insurer's liability. But Michigan's no-fault law, for instance, requires insurers to pay all reasonable medical expenses, without any ceiling.

While it is true the system does yield prompt settlements and keeps a good many accident cases out of court, such benefits come excessively high. By decreeing "thresholds" in medical bills beneath which victims cannot sue, no-fault has spawned an epidemic of inflated and fraudulent claims. Far from lowering insurance premiums, a point on which proponents vastly oversold the public, no-fault has led directly to their rapid climb. Together with the spiralling cost of goods and services, no-fault has weakened casualty insurance finances and, to judge by GEICO's current problems, put major firms in jeopardy.

Due to the automatic coverage under no-fault, the number of claims has declined. However, the size of each claim, and the total dollar volume, have ballooned way past the point of no return. Allstate Insurance Co. told the Senate Commerce Committee that both New York State and New Jersey have experienced a 40-percent decline in claims, but a 50-percent increase in "severities." Ratios look even worse in Connecticut and Maryland. As to Florida, they experienced an approximate 65-percent decrease in the frequency level of bodily injury claims. However, at the same time they experienced an approximate 230-percent increase in the severity of such claims. Thus, in Florida their payouts for third-party bodily injury liability claims in the no-fault system, including attorneys' fees, are somewhat higher now than they were previous to implementation of that plan.

Proponents are now citing Massachusetts as being an effective and successful program. Robert Keeton, a Harvard Law School professor, says bodily injury premiums at the end of 1975 were 45 percent below the premiums for equivalent coverage before no-fault. Although the State insurance industry is seeking an increase beyond the 2 percent or so granted earlier this year, most insurance companies feel their loss experience on bodily injury no-fault has not been particularly bad in Massachusetts.

However, Professor Keeton further states that even no-fault's most fervent early supporters were surprised by these results, and he now believes they had missed the importance of certain special factors in the State. He notes that back in 1927, Massachusetts was the first State to require all motorists to carry bodily injury liability insurance, but it did not require coverage for property damage.

Professor Keeton surmised:

> I think no-fault's supporters all underestimated the extent to which unjustified bodily-injury claims were used to get cars repaired.

Thus, the reduction in bodily injury claims may very well be due to the availability of property damage coverage. This may be evidenced by the fact that overall premiums in Massachusetts have become the costliest in the country. A motorist living in Boston, driving a new car and carrying collision, fire, theft, and liability coverage, pays roughly 50 percent more than he did in 1970, just prior to the State's enactment of no-fault.

Mr. President, I think it is clear that no one is certain what the impact of S. 354 would be. None of the testimony elicited in the many days of hearings was able to remove this cloud of uncertainty. While some reform in the automobile insurance system may be needed, the reform should be tailored to the individual needs of each State. One national standard cannot do this, but rather it increases both the chances for errors and their impact. To experiment at the Federal level with a bill that would change a fundamental principle of jurisprudence poses risks that are as extreme as they are unnecessary.

Mr. FONG. Mr. President, I will vote "present" on rollcall votes during consideration of S. 354, the National Standards for No-Fault Insurance Act, on which debate begins today. I was similarly recorded throughout consideration of the present bill's predecessor, the National No-Fault Motor Vehicle Insurance Act, also denominated S. 354, which was before the Senate in April 1974.

I serve as chairman of the Board of Directors of Finance Factors, Ltd., a Hawaii corporation which has a division which writes automobile insurance. Because this business association raises the question of a conflict of interest were I to vote affirmatively or negatively on national no-fault motor vehicle insurance, I have concluded that the honorable thing to do, and the action which my constituents have a right to expect, is to abstain.

Mr. BUCKLEY. Mr. President, we are told by the proponents of S. 354 that a national system of no-fault automobile insurance is long overdue. We are told that the States have had sufficient time to enact workable reforms, and that since all of the States have not enacted some sort of no-fault automobile insurance legislation which meets the approval of the Congress, they must therefore be forced to meet federally enacted standards.

To date, some 24 of the States, representing more than 50 percent of the national population, have adopted some form of no-fault system. This has happened in the relatively short period of 6 years—not a bad track record for a concept that is still to be fully tested.

The opponents of Federal standards for automobile insurance have argued that the States should be allowed to experiment with their various plans. The information collected from these various experiments would help all other States determine the best approach to reforming their auto reparations system to best meet the needs of their own citizens.

Data has just recently begun to flow in from those States who were leaders in enacting the no-fault approach. This evidence has illustrated serious problems with several of the State plans. This only goes to show the wisdom of those who advocated State experimentation at the beginning of the debate on no-fault. Some States, such as New Jersey, are already working on revisions of their plans. This trial and error process is healthy and necessary. For if there was one overwhelming theme that emerged from the hearings on S. 354, it was that State legislatures can better determine for their citizens the unique auto reparations system that serves their needs than can the Congress.

The citizens of different States face very different needs for automobile insurance. The citizens of New York will not necessarily be served by a plan geared to the needs of the people in Kansas. Because of the diversity of the States, there can be no unique plan which optimally serves the needs of the individuals in all 50 States. And it should be noted here that although the proponents of S. 354 argue that it merely sets minimum standards from which the States can develop their own unique plans, the standards established in S. 354 would be met by very few of the States which have already enacted no-fault plans. The standards set in S. 354 are much too stringent to be considered "minimum."

But what disturbs me the most about S. 354 is its violation of the concept of federalism. Historically, regulation of auto insurance has been left to the States. But too often today, anything short of nationwide uniformity is considered to require intervention of the Federal Government through the commerce clause of the Constitution. I believe that the framers intended that this provision be used only in those instances where it was required to remove an obstacle to commerce. It was not their intention to transform our Nation into a unitary state. No such impediment to commerce exists under our present arrangement of automobile insurance, yet the alleged need for uniformity is again being used to promote national standards for automobile insurance.

My State, New York, has adopted the no-fault approach. My insurance, however provides me with adequate protection as I travel through States that adhere to the traditional arrangement. My passage from State to State is not impeded; and although I prefer our arrangement, I see no reason why I should impose it on States that do not.

I believe that no compelling need has been demonstrated for Federal standards. Quite the contrary, recent experience in the States has illustrated the benefits that derive to our society from a diversity of approaches to a problem by the States. Certainly Federal action at this time would, at the very least, be premature.

There remain many serious questions about the provisions of S. 354 which have not been resolved. Constitutional challenges can be made to various provisions of S. 354 in regard to equal protection, due process of law, the right to trial by jury, and the ninth amendment. It is impossible to know whether any constitutional challenge to S. 354 would be successful. But if a Federal law were enacted and subsequently declared unconstitutional, the situation could become chaotic and confused. This has happened already in a few States where State no-fault laws have been found unconstitutional. In addition, the motorists in these States have incurred millions of dollars of additional cost for their automobile insurance because of the confusion. I fear that since S. 354 preempts the State tort laws, if it were found to be unconstitutional, an individual could find himself in a real legal mess involving his ability to collect or sue for damages resulting from an automobile accident. Yet in spite of this possibility, S. 354 contains no provision anticipating such a possibility.

The impact S. 354 would have on the cost of auto insurance premiums has also been a matter of substantial controversy. Different theoretical projections made by some of the major insurance companies show widely varying results, some claiming that costs would be reduced, others showing that costs would increase in most States. An examination of the assumptions upon which these studies are based is enlightening, but I think an examination of the evidence collected from States which have had no-fault systems in effect for some time is a more appropriate way in which to discover how a no-fault system actually affects the cost of auto insurance.

The cost experience in most of the States with no-fault plans has raised serious questions as to whether claimed reductions can in fact be achieved.

The experience in Florida has been one of the worst. During 1974, almost all of the automobile insurers operating there implemented rate increases in the range of 30 percent or more. Although proponents of no-fault attribute these increases to the effects of inflation, similar increases were not experienced in the adjoining States of Georgia and Alabama. A report of the Florida Association of Insurance Agents showed that the loss ratios for private passenger automobiles for 1974 was 85.4 percent as opposed to a national loss ratio of 69.2 percent, and insurers indicate that 1975 loss ratios were higher than those for 1974.

The flaw in the Florida law appears to be the $1,000 medical threshold. In many cases, auto accident victims work to get their medical costs to exceed the threshold so that they can sue the other driver and his liability insurance company. Doctors and hospitals cooperate by providing overly cautious and extensive care and by charging higher than normal fees.

Similar cost problems seem to be resulting from the thesholds in the New Jersey and New York laws. Evidence from States such as Michigan that have unlimited medical benefits shows that costs will be much higher than anticipated. A study by the National Association of Independent Insurers shows that the cost of paying and settling claims in five no-fault States—Florida, Connecticut, New Jersey, Nevada, and New York—went up almost twice as much as in other States during 1974. The NAII study shows that costs have gone up disproportionately in no-fault States, and thus all of the cost increases cannot be blamed on inflation. And indeed, losses for some companies have been so bad in no-fault States that they have threatened to discontinue coverage in those States unless granted substantial rate increases.

Much of the evidence from State plans is not in yet. But that data that is available raises serious doubts about the claims that no-fault will reduce auto insurance premiums. The American people should not be led to believe that enactment of S. 354 will result in lower auto insurance premiums for them. Indeed, quite the contrary seems to be likely given the experience in several no-fault States.

Finally, I would like to point out a few of the other problems with S. 354. There is much anticipation among small insurance companies that S. 354 will significantly raise reinsurance costs for them, because of its requirement for unlimited medical and rehabilitation benefits, and thus force many of them out of the automobile insurance business. If these fears are well-founded, this will result in greater concentration in the auto insurance industry, with only a few large companies left to provide coverage to motorists. Legislation producing such concentration is contrary to the spirit of our antitrust laws, and should be discouraged.

In addition, S. 354 will change the entire basis for the computation of automobile insurance rate structures. Rates will no longer be based on an individual's probability of causing an accident, but rather on the probability of his incurring large medical and work loss claims as a result of an accident. Several witnesses at the hearings on S. 354 commented on this possibility. Mr. Paul Brock, representing the Defense Research Institute, stated in response to a question on this matter:

> I would assume that the rating would be done basically the same way that your accident and health policies are rated. So that a person with a preexisting injury or a preexisting illness which might be aggravated by a collision of any sort, regardless of his care as a driver, would carry a higher rate, and would pay a greater premium than would, for example, a very healthy, 6 foot 4 inches specimen who barrels down the highway in an armored tank and who is impervious to injury, although he might crush a few people on the way. And there seems to us to be a basic inequity in that setup.

I agree with Mr. Brock that a law which would promote or result in that sort of a rating system would be inequitable. The statement of the Virginia State Bar also elaborated on this point:

> Older, retired citizens will be placed in the worst possible situation. They will receive no payments for work loss, as they are retired. Their injuries are already covered by Medicare, so they will receive no medical benefits . . . However, they will be required to pay no-fault premiums for the rare case in which they would receive any benefits at all.
>
> Paradoxically, those more responsible motorists who now are accorded the better insurance premium rates will likely see a shift in such rate preferences under S. 354. Employed people in their 40's and 50's presently have the lowest auto insurance rates because they are the best risks under actual insurance experience. Now the unemployed in their teens, or in their 20's, have the highest insurance rates because, under experience, they are the worst risks. No-fault will exactly reverse this situation. The employed people in their 40's and 50's will become the worst risks because, when fault is no longer a factor, the important considerations will be their greatest wage losses and slowest rate of recovery from injuries. The teenagers and young adults who are not working will have no wage losses, will be less prone to serious injury in an auto accident, and will recover more quickly, so that they will be the best risks and have the lowest rates.

I, therefore, fear that enactment of S. 354 will result in an unjust and inequitable readjustment of insurance rate structures.

For these reasons, I oppose S. 354 and urge my colleagues to vote against its enactment.

Mr. BENTSEN. Mr. President, I strongly oppose Federal no-fault motor vehicle insurance, S. 354, because this is an issue which has traditionally been handled at the State level and there is no compelling reason for Federal involvement at this time. State regulation of automobile insurance can take account of the wide diversity in geography and economic conditions among the 50 States. Federal no-fault conflicts with the concept of federalism which is embodied in the 10th amendment of our Constitution.

The explosive growth in Federal programs over the past decade, many of which have proved to be ineffective, must be reversed. Past experience demonstrates that Washington simply does not have the answer to all of the problems facing our country. We must be very cautious about creating vast new Federal regulatory schemes unless there is very convincing evidence that State and local governments have been unable to provide meaningful solutions.

Federal no-fault legislation, S. 354, would establish a single national standard for compensating persons injured in motor vehicle accidents. Despite wide diversity between States, every State would be required to enact a no-fault insurance plan that meets or exceeds this single Federal standard.

However, insurance regulation has traditionally been a State matter as was clearly expressed in the McCarran-Ferguson Act which was enacted by Congress in 1945. In addition, issues concerning civil law suits and the right to sue for personal injury have always been within the jurisdiction of States. This policy was perhaps best explained by Alexander Hamilton in Federalist Paper No. 17 which was written in 1787:

> There is one transcendent advantage belonging to the province of the State governments. . . . I mean the ordinary administration of criminal and civil justice. This of all others is the most . . . attractive source of popular obedience and attachment.

Under S. 354 State officials would be acting as unwilling agents of the Federal Government, enforcing a policy unauthorized by the States they serve. I believe this would establish a precedent, which is unjustified at this time, for even greater Federal encroachment into the regulation of insurance and the formulation of our basic civil law principles.

In recent years my own State of Texas has enacted several reforms with respect to automobile accident compensation. In addition, insurance rates on automobile personal injury coverage in Texas have been substantially reduced since 1967. This contrasts to insurance rate increases which reportedly have occurred in several States that have enacted no-fault programs.

It is important that States continue to have the flexibility to adjust to changing conditions within the State and to be able to respond to local needs with respect to this issue. Today there is no justification for a single uniform no-fault program which would serve under the remote control of yet another Federal bureaucracy and take decisionmaking away from the grassroots and the people served.

Mr. GOLDWATER. Mr. President, I rise to oppose S. 354, which might fairly be called the Small Insurance Company Confiscation Act. Or perhaps it could be labeled the "Phase I—National Health Insurance Act."

Mr. President, this bill is being sold as the No-Fault Act, but there is no statute like it in any of the States which now have no-fault laws. Oh, it takes an idea from this State and another idea from that State and mixes them together with a lot of academic schemes, but not one State law is exactly like the proposed national standards contained in S. 354.

One feature that the Senate bill calls for and that now exists in only the laws of two States, New Jersey and Michigan, is unlimited medical expense coverage for each injury victim. This provision, in particular, gives concern to the small insurance companies about their very survival.

We can examine how it operates in practice and you can see why these companies are worried. For example, under New Jersey's no-fault law, anyone injured in any way as a result of an automobile accident is covered for personal injuries—whether it be as a driver, pedestrian, or in any other manner. In addition, no-fault covers every member of the family to the same extent.

This plan, which amounts to national health insurance in all driving-related accidents, means that insurance companies must always maintain a special reserve fund just for the type of case where a person becomes seriously disabled as a result of an auto accident. It does not take many such cases to occur before private insurance companies are forced to tie up giant portions of their reserves in these special funds. In fact, 30 companies who were surveyed regarding massive injury cases that they are already paying for under the New Jersey law reported that they had reserved $12.1 million for 300 accident cases, because of the unlimited medical payment portion of no-fault. Since the law requires unlimited payments for personal injuries, insurance companies can never know how much the claim will eventually cost so long as the injured victim survives.

One of these cases involves a 24-year-old accident victim who has already cost his company more than $300,000. Even though the young man was drunk, even though the accident was his own fault and no other vehicle was involved, the company has to keep paying for the medical treatments of this individual for the rest of his life. Under the old liability system, an insurer would have been liable for a maximum of $2,000 and then only if the policyholder had medical payments coverage in his policy.

There is another case in New Jersey that likely will cost an insurance company over half a million dollars and which under the old system would have cost $30,000 maximum. This incident involved two men in a car who struck a telephone pole. Both were drunk. The passenger did not even possess auto insurance, but the driver's company, under no-fault, must automatically cover such passengers.

Unfortunately, the passenger suffered brain injuries which left him paralyzed. The company pays $6,500 a year for a woman to take care of him, and will pay another $10,000 a year for his medical needs.

These kinds of cases are not all that unusual in automobile accidents. There is no question but that insurance companies will have several cases in which they must establish reserves for six-figure accounts. Nor is there any question that the reserves required for these catastrophic injuries can seriously affect a company's surplus and its ability to grow and furnish competition in the free enterprise insurance market.

Now, I know that the committee answers that small companies can obtain reinsurance, but they have to pay for it; and this cost for reinsurance will increase substantially making it much more difficult for them to compete with the large companies. Also, the committee offers the soothing advice to small insurance companies that the committee believes that Congress will, in due course, enact a National Health Insurance Act. This prospect is supposed to relieve small companies from their problems.

Mr. President, this statement by the committee, which equates national health insurance with the unlimited medical and rehabilitation benefits requirement of the national no-fault bill, acknowledges the fact that the committee bill is a form of universal health insurance for anyone whose injuries can be traced even remotely to an automobile. The only difference is that the committee bill forces private industry to bear the entire cost.

Mr. President, there is another important reason why I must oppose S. 354, and this is my belief that the bill violates the spirit of federalism. I will define federalism as being the principle that the several States should retain jurisdiction over some important areas of concern to citizens in their everyday lives. I would emphasize that federalism is not an afterthought which followed the creation of the Constitution, but rather is an integral part of our system of self-government purposefully implanted in our governmental system by the Founding Fathers.

The basic reason that S. 354 runs headlong into the principle of federalism is that it does not give the States a fair opportunity to continue legislating their own remedies in the area of automobile insurance reform. The States are already working actively in this field. Twenty-four States have passed no-fault auto insurance laws. But the system is still at the experimental stage; no two of these laws are alike. Yet, the Federal Government asserts itself as an all-knowing Big Brother who proposes to step in and dictate a single untried law for all 50 States.

Mr. President, I must ask what are the States for, if not experimental workshops in living democracy? Must the Federal Government enter into every aspect of human affairs, especially when an idea which the central government wants to foist onto the States has not been proven in practice among them?

The committee bill will require the States to adopt an automobile insurance system untried in any of them. It proposes to establish national standards before the States themselves have learned very much about the operation of the 24 reform laws which they have already adopted.

It is my strong belief that the States must be given further time for experimentation and development of a range of answers to the public's need for motor vehicle insurance reform. If we are to pay more than lipservice to the idea of federalism, we must not curb continued research and experimentation by the States in the automobile insurance area by imposing an entirely unproven system upon them. If we are to uphold the continued health of federalism as a living feature of America's political system, we must not abrogate systems presently in existence in virtually every State.

The proponents have simply not made the case that no-fault along the lines of the committee bill is so overwhelmingly superior to all the plans now in effect throughout the States that we should compel each and every one of the 50 States to amend their laws. Premiums are shooting up today in no-fault States as well as in other States.

New Jersey has increased its rate by 18.3 percent since the first year of no-fault; New York has permitted some insurers to increase premiums by 20 percent since no-fault went into effect and forecasts further substantial increases; in Pennsylvania one large insurer was granted a 16.2-percent rate increase after only 6 months experience with no-fault.

In Delaware, where no-fault became effective in 1972, State Farm announced it would increase rates by 20 percent this year. Only 10 months ago it had raised its rates by 16.4 percent. Also in Delaware, the Insurance Services Office, a company which represents about 40 percent of Delaware's insurers has increased rates by 40 percent.

If we take account of huge rate increase cases which are still pending in no-fault States and must be granted unless many companies are to go out of business, the premiums will be rising even higher in no-fault States. Remember that much of the savings claimed for no-fault is the result of action by State governments who mistakenly ordered unrealistic rate reductions when no-fault was first introduced in these States. But statistics compiled by several insurance companies who have suffered many millions of dollars of losses in no-fault States prove that no-fault costs are far higher than its proponents allege.

For example, Farmers Insurance Group, which is the third largest writer of automobile insurance in the United States, suffered a $7.6 million loss in six no-fault States. Of special significance is the fact that the closer the State no-fault plan got to the standards required in S. 354, the higher the losses of the insurer got. Minnesota and Michigan accounted for 72 percent of this company's deficit. In contrast, the same company had a slight profit in six States without no-fault.

Mr. President, I do not oppose testing no-fault at the State level. It might be wise to experiment with laws that restrict the enormous number of accident claims that are flooding the courts. But this can be accomplished in the States. It does not need to be mandated by the central Government in one version for the entire country.

Mr. President, I will close my remarks by saying that I am not unmindful of actuarial studies that show S. 354 will result in increased premiums to Arizonans of 17.5 percent. This is the average increase in the insurance rate of private passenger car operators; and in the numerous suburban and rural areas of my State, the likely premium increase will be 55 percent under the committee bill.

Mr. President, I urge the rejection of S. 354.

Mr. **BEALL.** Mr. President, I will vote to recommit S. 354, the National Standards for No-Fault Insurance Act.

I was among the majority of Senators who supported the no-fault legislation which passed the Senate on May 1, 1974, during the second session of the 93d Congress. However, my vote in 1974 was by no means a clear-cut decision for me, for even then I had serious reservations concerning the wisdom of forcing a single untried no-fault automobile insurance system onto all our 50 States.

However, I have generally favored, and continue to favor, the no-fault concept. Under our present system of liability, an accident victim receives no benefits unless he can prove that the negligence of another driver caused his injuries. This automatically excludes drivers who themselves were solely at fault and those who are injured in an accident where fault cannot be determined or is shared equally by both drivers. Ideally then, no-fault insurance is designed to compensate these victims by removing automobile reparations from the legal fault system and placing them under a first-party insurance system similar to health or fire insurance.

At the same time, however, I also believe that regulation of automobile insurance should, as much as possible, be left to the States and that Congress should move very cautiously before extending its commerce clause authority into still another area which has traditionally been preserved for State regulation. When the Senate acted on no-fault during the 93d Congress, the bill's proponents argued that States were not acting and that Federal legislation was therefore unavoidable. At that time, 15 States had adopted some form of no-fault legislation. Since then, an additional 9 States have acted, for a total of 24 States which have now moved toward a no-fault insurance program during a short 5-year period. The proponents of S. 354 now claim that the State-by-State conversion process is taking too long. However, it seems to me that the 5 years since the enactment of the first State no-fault legislation is not an unreasonable length of time considering the vast number of man-hours that must be invested by State legislatures on this intricate and controversial issue. I do not believe that every major issue demands an immediate decision in Washington, especially in view of the present clear and continuing momentum for State action.

Indeed, we should be encouraged because the State experience is providing valuable experimentation with the no-fault concept and is answering many questions about how no-fault laws actually respond to the needs of the people in each State. The Nation is developing a diversity of no-fault plans which, as data is accumulated, will allow us to more accurately pinpoint the most desirable approach to an effective no-fault system. As with so much sweeping

Federal legislation, we can only speculate what S. 354's effect will be on benefits coverage, administrative feasibility, premiums, and so on. We have a great deal to learn about no-fault auto insurance and to supplant current State efforts with an untried national system would be both inappropriate and unwarranted. I realize that a similar argument was made by no-fault opponents when the bill was considered in the 93d Congress. However, State action in the recent past gives this argument considerably more credibility in my mind for it is now unquestionably clear that States are in fact making a genuine effort to move in a no-fault direction They are also developing experience that raises serious questions about the viability of the Federal plan.

Mr. President, I am aware of the so-called consumer support for a national system of no-fault automobile insurance. However, I cannot help but believe that this support is heavily predicated upon a popular misconception that the implementation of national no-fault standards will substantially lower automobile insurance costs. A few years ago, when no-fault was an issue which was even more misunderstood than it is today, no-fault advocates seized upon the pricing issue as a means of generating public support. I must admit, I was influenced by this argument. However, information which has recently become available certainly does not suggest that S. 354 will substantially lower insurance premiums and most no-fault advocates now make a point of avoiding the pricing issue.

A costing study of S. 354 conducted by the Allstate Insurance Co. concludes that this bill will raise—not lower—insurance costs. The cost issue is of course controversial and has been for some time. Indeed, other experts in the insurance area have predicted with equal sincerity that S. 354 will bring about lower premiums. However, as the various States begin to move toward no-fault, Allstate's costing study takes on a new dignity as State experience provides a practical illumination of the pricing issue.

For example, Michigan's approach to no-fault automobile insurance is perhaps the most consistent of any State's with the standards set forth in S. 354. Yet Michigan's experience over the past 2½ years has not been the highly touted success story which no-fault advocates had predicted. Allstate has approximately 14 percent of the Michigan automobile insurance market, insuring 315,800 passenger vehicles. Allstate has found, based on selected examples of Michigan premium rates, that bodily injury coverage has increased as a result of the passage of Michigan no-fault. Furthermore, total premiums, including all coverage components, also increased for each class of driver and rating territory involved.

The Michigan Appeals Court has ruled on the constitutionality of the State's no-fault program. In a concurring opinion, Judge T. M. Burns wrote:

> It has been suggested that not only have lower premiums not developed, but even higher premiums are now the rule. In short, what sounds so grand in theory may not be so in reality.

Even further, the Journal of Commerce has reported that a recent poll concludes the majority of people in Michigan are now opposed to the no-fault automobile insurance system. Practical experience is making it increasingly apparent that the initial enthusiasm for no-fault may not only be unwarranted, but that we should move very cautiously before thrusting a comprehensive no-fault system onto every automobile driver in the country. There are other studies, Mr. President, that show increased costs of claims in no-fault States are running substantially ahead of those in tort States.

Furthermore, Mr. President, I have become increasingly concerned over the growth and size of the Federal Government with its constant encroachment on the affairs of our citizens. The terms of S. 354 provide that if any State fails to enact a no-fault plan which meets or exceeds the Federal standards, an alternative Federal no-fault plan, which is set forth in title III of S. 354, becomes operational in that State. A similar provision was contained in the 1974 no-fault bill with one major difference from the measure before us today. Specifically, the legislation passed by the Senate in the 93d Congress would have allowed the affected States themselves to administer title III. However, the present version of S. 354 directs the Secretary of Transportation to implement and operate title III within a State, forcing regional and local governments to accept the dictates of a federally imposed and administered no-fault program. This is clearly counter to the spirit of the commerce clause of the U.S. Constitution. It is indeed not the function of the U.S. Congress to substitute itself for State legislatures nor is it our function to enact laws that purport to be State laws for the supposed benefit of local citizens.

S. 354 will not only intimately inject the Federal Government into an area which has traditionally been preserved for State regulation, but it will also raise many unanswered questions as to how insurance premiums will be affected by the imposition of an untried no-fault national insurance system. It is my firm conviction that the U.S. Congress should allow the State no-fault experience to solidify and bring some of the problems associated with no-fault more clearly into focus before imposing a totally new and untried national automobile insurance system onto the citizens of every State in the Union. I accordingly will vote to recommit S. 354 and urge my colleagues to do likewise.

Mr. BAKER. Mr. President, once again, the Senate has come to the consideration of a federally mandated program on no-fault insurance. Regardless of the terms in which this program is couched, regardless of whether we speak of national standards or national requirements, it is, nevertheless, still an intrusion by the Federal Government into those ever-diminishing areas of responsibility allocated to the several States; and I am, therefore, constrained once again to oppose it.

Mr. President, the inadequacies of the traditional system of compensation for automobile accident victims have been long apparent; and it would be indeed beneficial if but by a stroke of the Federal pen, we could, with no attendant costs, remedy the inadequacies of the accident compensation system. My concern, Mr. President, which, incidentally, I expressed in offering minority views to the committee's report to this bill in the 93d Congress, is that I believe we have proceeded in our deliberations on no-fault with our vision too narrowly restricted to the potential good without also considering and balancing the inherent and potential detriments.

My first concern is that no-fault has been touted as a measure offering great potential savings to the insurance-consuming public. The rise of premium rates in many of the present no-fault States and the difficulties encountered by automobile insurance companies in recent months, attributable, in large part, to existing no-fault systems, indicate that the advertised savings to the premium payer may be illusory and misleading. There is a very good likelihood that insurance premium rates which have soared under State no-fault legislation will become under the pending Federal legislation even more burdensome to the consuming public.

The problem of cost alone should be sufficient to give us pause, but that is a problem that possibly could be rectified by technical adjustments to the legislation itself. But technical adjustments cannot cure the most serious flaw in this legislation; and that is that this legislation would abrogate and undermine one of the fundamental tenets of the Federal system of government. It is frequently said that State power is at its least when the Congress has expressly preempted a particular field of responsibility. In this instance, there is the expressed will of the Congress that the regulation of insurance should be the exclusive domain of the State governments. It seems somewhat of a paradox then that the Congress would now intrude so thoroughly with so restrictive a piece of legislation into the area of insurance regulation traditionally considered subject to the regulation of States.

It is argued frequently in support of this legislation that it has become necessary because the large majority of the States have thus far either declined to enact no-fault legislation, or have enacted a system of no-fault that does not satisfy the ideals embraced by the supporters of this legislation. In my mind, the failure of some States to take a desired course of action should not trigger an all-encompassing Federal response unless, as was the case with the civil rights of 1964, the goal is to insure and protect the fundamental rights guaranteed by the Constitution to all citizens of the United States.

State no-fault legislation has been successful in a number of States; in others, it has been less successful. A large number have not enacted any no-fault legislation at all. Good programs, bad programs, or none at all—I do not believe that it is consistent with the federal system of government to substitute the wisdom of the Congress for the wisdom of the State legislatures who must cope with this problem on a local level.

This is no time for congressional modesty or dissembling language. What this legislation says, in no uncertain terms, is that in an area traditionally within the purview of the States, we, the Congress, deem the States unwise and we would, therefore, correct their shortcomings.

That is what this bill says. By the onerous disparities between the national standards of title II and the provisions of the Federal plan in title III, we would coerce the States to take action that they, in their collective wisdom, have heretofore considered inappropriate for their particular jurisdiction. I am simply not willing to be so presumptuous.

Therefore, Mr. President, I urge that my colleagues consider seriously the ramifications for our federal system of government involved in this legislation. If and when the need becomes apparent to the several States to correct the accident reparations process, then I am confident they will do so; I do not believe that the Congress should presume to do it for them.

SEND NO-FAULT BACK TO COMMITTEE

Mr. ALLEN. Mr. President, I must vote against this bill because it is destructive of two principles that I have defended over and over again during the many years that I have represented the people of Alabama on this floor.

Those two principles are: the right of State government to determine the needs and desires of its people and the right of the small businessman to compete effectively in the open marketplace.

This bill would take away a State's right to determine what automobile insurance system its people will live with and it would put the small insurance company at a distinct disadvantage as compared to its larger competitors.

As to the first principle—that of States' rights—let me say that I believe the Constitution is very clear on this point. The States are vested with the right to deal with their internal affairs in the manner which best suits the needs of their citizens. The auto insurance plan that best suits the State of New York is not necessarily the best plan for the State of Alabama. Yet, this is what this bill is telling us: there will be one auto insurance system in all States—and it will be the no-fault system.

Mr. President, I strongly object to anyone telling my State how to deal with its internal affairs. The people of Alabama, as represented by their State legislators, have not opted for the no-fault system; it has been proposed in the State legislature and it has been voted down.

But now, this Federal legislation comes along and presumes to tell the people of Alabama that they must have no-fault because it is in their best interest. What right does the Federal Government have to tell the people of Alabama what is in their best interest? Do the sponsors of this bill think that the people of Alabama cannot determine their best interest? I hope not.

As to the second principle that this bill violates—that is, the right of the small businessman to compete effectively—I am convinced that this legislation would harm these people, people who are the backbone and the strength of this country.

Our free enterprise economy has made us the strongest Nation on Earth because we have always protected the right of the individual—the little guy—to compete with the giants of industry. Because of this healthy competition, we have made many innovations and attained a level of efficiency that most other countries can only dream of.

In my home State of Alabama, we have many small insurance companies—companies who offer the best in product and service to their policyholders. Some of these companies, who have up to now competed successfully in the marketplace, could be swept away if this bill becomes law.

The small businessman, whose professionalism and competitive spirit had held him in good stead up to now, could perish in the unfair climate that would be created under this legislation.

Mr. President, S. 354, because of its unlimited medical benefits feature, would greatly increase the cost of reinsurance for the small insurance company. The largest companies would not suffer greatly under this setup, but many of the small and innovative companies would die. They would die because they had been legislated out of business, not because they were incapable of competing.

The small company lacks the vast financial and manpower resources to make an easy transition to Federal requirements. The intricate and manifold reporting necessary to satisfy Federal overseers would be costly and draining for a small company. In addition, when it encountered some problem that now can be solved easily through the State regulatory system, the small company would have no voice at all in Washington.

The case against unlimited medical benefits is compelling. The big company could survive and prosper despite the number of catastrophic losses that chance sent its way. Huge reserves, subsidiaries, and financial holdings would all help absorb the shock of heavy unlimited claims.

But the small insurer has no such resources to cushion it against the mammoth claims it would receive.

Of course, no company, large or small, would bear the risk of catastrophic losses alone. Sound management would provide reinsurance backup for such contingencies. Here also the big company has the advantage. Its resources permit it to accept a higher or more frequent loss before reinsurance protection has to be used. Being used less often, that reinsurance would be lower in price.

But the small company would have to ask its reinsurer to take on a much greater burden; so its reinsurance costs would be high. Furthermore, it is questionable whether small companies could even get reinsurance against completely unlimited liability.

There is one more cost aspect to the issue of unlimited benefits. Unforeseeable catastrophic losses will predictably mean rate increases for any insurer, large and small alike. The big company, with large resources and a countrywide spread of risks, could distribute its price increases thinly across hundreds of thousands or millions of policyholders. The small company, on the other hand, with limited resources and a spread of risks that may be no greater than a single county or State, will be forced to pass on disproportionately higher increases to its customers. Thus, its competitive position would be crippled at the same time its internal expenses were rising in the attempt to satisfy Federal requirements and obtain necessary reinsurance.

Some might say that this is the nature of competition in the United States, but I do not think so. The ultimate loser in this squeeze will be the public as competition dwindles and more and more policyholders find themselves compelled to do business with an entrenched monopoly. Once the big companies have a stranglehold on the market, they will be in a position to dictate just what price and just what level of service they will offer the consumer.

I have touched on another aspect of this bill that deeply bothers me, and I would like to address myself to it briefly, Mr. President. That is the aspect of increased cost to the public.

There have been many arguments on this subject ever since the bill was first introduced in the Congress. However, it seems to me that the most compelling arguments have been made by those who believe that this bill will substantially increase insurance costs to the motoring public.

I will not go into the elaborate and complicated mechanism used by various parties to come up with cost estimates on this bill, but I would like to say that, from all the evidence I have seen, this bill will cost the public millions.

More specifically, it will increase auto insurance premiums in Alabama more than 18 percent. This is all the more shocking, Mr. President, when you consider that the people of Alabama are being saddled with this costly no-fault system not by their State legislators—but by the Congress of the United States.

This same trend will be found in most other States. The most reliable cost estimates that I have seen, done by Allstate Insurance Co., show that S. 354 will increase auto insurance costs in 38 States, with an average countrywide increase of 4.4 percent. Only 12 States and the District of Columbia show a decrease in premiums under S. 354.

In addition, the greatest burden of these increases will fall unfairly upon the careful driver, the rural resident, and the low-income earner.

Mr. President, I have many other objections to this bill, but the ones that I have mentioned today are sufficient for me to urge my fellow Senators not to adopt S. 354 or any other legislation which would establish a Federal automobile no-fault system or impose no-fault standards upon the States. Such legislation runs counter to the American way of life and it would hurt many more people than it would help.

I urge my colleagues to commit this bill to committee.

Mr. KENNEDY. Mr. President, for the third time in as many Congresses the Senate is taking up legislation designed to bring about no-fault automobile insurance coverage for all Americans, in all States. This bill is long overdue.

Massachusetts was first to enact a State no-fault plan, and since it went into effect in 1970 it has been an enormous success. More automobile accident victims are being compensated than were compensated under the old system, and these victims are being paid more money with less delay. Our plan has also reduced nuisance claims, reduced bodily injury premiums, and cut down considerably the number of auto injury cases which so congest the State court system.

When the full Senate first took up no-fault legislation in 1972, many of the bill's opponents argued that the States should be allowed to enact their own systems without Federal intervention. Some even pointed to the Massachusetts example of what States might do if left to their own devices. Now, 4 years later, there has been little progress on this front. Not only have few States moved to no-fault automobile insurance over the past couple of years, but many of the plans adopted have been no-fault in name only. Thus the opponents of Federal no-fault have been given their hearings, their legislative deliberations, their opportunities at the State level. It is time for Congress to act.

Without no-fault, accident victims do not get effective insurance coverage; they get lottery tickets. The most seriously injured victims do not know if they will collect anything, when they will collect, or how much they will collect. And the chances are that they will collect nothing. Studies have shown that in some States nearly two-thirds of accident victims suffering economic loss receive nothing from the traditional tort system.

Even when a seriously injured person does collect, data reveal that the amount of compensation received is inadequate to cover economic loss. On the average, victims whose total economic loss is $25,000 or more recover at best 30 percent of their economic loss.

The tort system also produces long and unnecessary delays. This means that if the victim is a wage-earner put out of work because of an automobile accident injury, his or her family must manage without any support until payment is forthcoming, usually in the distant future. Early rehabilitation for seriously injured victims will likely not take place because of the uncertainty of their ever receiving reimbursement for it.

At precisely the time when the victim's efforts should be directed toward recovery, he or she is forced to undertake the time and energy-consuming process of getting a lawyer and bringing a lawsuit. This provides little solace for the victim, who must fall into the long waiting line in already incredibly overcrowded judicial systems.

The present tort system is chock full of incentives toward lengthy and complex litigation, and equally loaded with obstacles to timely and effective rehabilitation for the traffic victim. One Department of Transportation study concluded that:

> The traditional settlement environment for third-party auto bodily injury claims offers nothing to encourage and much to preclude the early introduction of rehabilitation. . . . (C)onsiderable time, energy, and expense must be devoted to controversy just when rehabilitation measures might most benefit the victim.

Another DOT study found that no rehabilitation program at all was suggested to 88.6 percent of seriously injured victims.

Under S. 354, there will be established in each State a no-fault plan for motor vehicle insurance that pays all reasonable charges for all reasonably needed and used products, services, and accommodations for emergency medical services and medical and vocational rehabilitation services.

For the first time, every victim of a motor vehicle accident will have the financial resources to pay for the best emergency transportation and medical services available.

For the first time also, each victim of a motor vehicle accident will be able to afford, and will be encouraged by his insurer and the State vocational rehabilitation agency, to take advantage of medical and vocational rehabilitation services.

These measures will work to reduce the human waste that results when victims remain totally or partially disabled rather than being sufficiently rehabilitated so as to resume rewarding and productive lives.

The tort system not only provides disincentives toward rehabilitation, but it also contributes toward undercutting the quality of emergency services and ultimately leads to needless deaths for accident victims. A recent study by the Department of Transportation of highway fatalities in the rural State of Vermont found that 23 percent died of probably survivable injuries due to problems throughout the emergency care system and that almost half of those who were taken from the scene of the accident alive but died afterward—died of injuries that were either definitely or possibly survivable.

Today, 58 percent of all auto accident victims treated through emergency medical services never recover in a tort lawsuit because they are unable to prove fault or freedom from contributory negligence or because the defendant was insolvent or only one car was involved in the accident. The providers of such emergency health services may, as a result, never get paid at all for their work, or they may in any event have to wait a long time before the case is settled or litigated. As a consequence of such inadequate payment, there are serious deficiencies in the quality of emergency services.

Under no-fault on the other hand, every private hospital and ambulance service will be assured of timely and full payment from all accident victims, rather than only from those who have independent means or who are eventually found eligible for compensation under the negligence systems. So not only the victim, but also the emergency health care system, can reap benefits from a no-fault plan.

Mr. President, I would like to make the point that, in light of the Massachusetts experience, S. 354 holds great promise for all Americans. But there has been some confusion over the Massachusetts situation which I would like to take the opportunity to clarify.

In Massachusetts bodily injury premiums have been going down, while more people are receiving more compensation for injuries. For example, bodily injury insurance rates in Boston for over-25 drivers having no adverse rating characteristics have fallen from $117 in 1970—just before the law went into effect—to $45 in 1975. Rates in suburban and rural areas have fallen less sharply but, even in the most rural area, the drop was 32 percent. Governor Dukakis has described the State's no-fault bodily injury laws as "an unqualified success."

But the property damage laws in Massachusetts have been far less beneficial to the State's consumers. Our law compensates property damage on a no-fault basis, and rates have steadily risen since 1970. Increases from 40 to 70 percent were sought on the property damage lines for the 1976 policy year.

Two points should be made on this issue. First, the basic problems lie not with the no-fault aspects of the property damage laws but with other peculiarities of the system. Massachusetts is perhaps unique in having no form of merit rating, no meaningful competition among carriers, and a highly restrictive set of laws governing claims practices. These features of the law are being reexamined at present by a special commission in the State. In addition, as everyone knows, the costs of automobile crash parts has skyrocketed in recent years, helping to account for premium increases.

Second, and more relevant to our consideration of this legislation, is the fact that S. 354 does not compel coverage of property damage on a no-fault basis. So if other States find that they want to experiment with different approaches to property coverage, including a tort-system approach, they are perfectly free to do so under this legislation.

So, Mr. President, the Massachusetts example supports our moving forward on S. 354. The statistics from numerous States on insurance costs and compensation gaps support our enactment of the bill. And notions of efficiency and efficacy, as well as compassion and justice, point inevitably to the need for a Federal law setting national standards for no-fault automobile insurance.

Mr. THURMOND. Mr. President, I rise in opposition to S. 354, and support the motion to recommit the Federal no-fault insurance bill. In my opinion, this bill totally disregards the fact that the individual States have historically had jurisdiction over the regulation of insurance. Congress recognized the propriety of State regulation in this field in Public Law 79–15, also known as the McCarran-Ferguson Act of 1945, and this concept was recognized by the Supreme Court as early as 1868 in the case of *Paul* v. *Virginia*, 75 U.S. 168.

I do not feel it would be wise for Congress to force the States to enact minimum standards for no-fault insurance. The 10th amendment to the Constitution states very simply that—

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Mr. Chief Justice Stone, speaking of the 10th amendment in *New York* v. *United States*, 326 U.S., at page 587, stated:

> The National Government may not interfere unduly with the State's performance of its sovereign functions of government.

Justices Black and Douglas in the same case, at page 594, stated:

> The notion that the sovereign position of the States must find its protection in the bill of a transient majority of Congress is foreign to and a negation of our constitutional system. There will often be vital regional interests represented by no majority in Congress. The Constitution was designed to keep the balance between the states and the Nation outside the field of legislative controversy.

Passage of S. 354 will place the concept of sovereignty in great jeopardy, and will open the door to passage of even more disastrous laws relegating the States to a position of impotency.

Before voting on this bill, I urge my colleagues to reflect on the words of the late Mr. Justice Black, who in the case of *Younger* v. *Harris*, 401 U.S., at page 44, described the concept of Federalism as requiring:

> A proper respect for state functions, a recognition of the fact that the entire country is made up of a Union of separate state governments, and a continuance of the belief that the National Government will fare best if the states and their institutions are left free to perform their separate functions in their separate ways.

I feel S. 354 would forsake this belief.

Mr. President, I feel S. 354 may be constitutionally deficient because of the differences in the rights accorded individuals in title II and title III. Examples of this are differences in the right of recovery for work loss and limitations placed on tort action. Essentially, this means that if a State does not enact a no-fault plan which complies with the title II guidelines, the individuals in that State will have heavier restrictions placed on their right of tort recovery, by virtue of the more stringent, mandatory provisions of title III. This situation, in my opinion, violates the principle of equal protection under the law.

Mr. President, since I have been in the Senate, I have witnessed the Senate going into one new field after another, many times without constitutional authority. This is another such example. I find no constitutional authority for Congress to mandate minimum standards for State no-fault insurance systems. Indeed the word "insurance" is not mentioned in the Constitution. Thus the field of insurance has never been delegated to the Federal Government.

Since the enactment of the first no-fault insurance bill in Massachusetts, 24 States, including my home State, South Carolina, have adopted some form of no-fault insurance. I submit it would be far wiser to allow the various States to design whatever insurance plans meet their various needs, than for Congress to preempt another area of State prerogative.

Mr. President, I hope the Senate will defeat S. 354 by recommitting it to the Commerce Committee.

NO-FAULT AUTOMOBILE INSURANCE

Mr. CHURCH. Mr. President, I have consistently emphasized that I have no objection to the concept of no-fault automobile insurance during the years that the Senate has debated it. I have had a number of reservations over the actual legislation that the Senate has considered, but my major concern has been to give the States sufficient opportunity to act on their own initiative, and I have voted to defer legislative action at the congressional level. I have now concluded, Mr. President, that the time for congressional action has come.

The years that Congress has debated no-fault have given the States plenty of time to consider programs on their own. In addition, S. 354, the no-fault legislation that is presently before the Senate, provides 3 more years after its enactment for the States to act. And most significantly, Mr. President, the guidelines that S. 354 provides for the States are broad enough for the States to meet. The reservations I felt toward previous bills have been satisfied by the pending legislation.

Chief among these reservations has been the cost of no-fault to policyholders. Adherents and opponents of no-fault have prepared widely disparate estimates of this cost impact. Although the conflict remains, the Senate Commerce Committee has shed considerable light on the varying assumptions that cause this disagreement. I am convinced that prudent State action under S. 354's guidelines will reduce costs. In this regard, I am very pleased that S. 354 contains a provision as added by an amendment I supported during the Senate's 1974 no-fault debate, to allow wide State options for the exclusion of motorcycles. Appropriate State action under this provision alone will significantly reduce the cost impact.

It is important to note, Mr. President, that State actions which limit cost impact can be taken without impairing no-fault's benefits. Cost estimates cannot be considered without attention to these benefits, and the problems that no-fault alleviates. We cannot continue to tolerate the inordinate amount of time required for settlement of injury claims under the present automobile insurance system, and the fact that insurance rates reflect far too heavily this delay in settlements instead of the insurability of policyholders.

All of us pay the price of contested claims, no matter what the merit of the contest. But it is the maimed and killed and their loved ones who pay the biggest price, especially in the traumatic consequences of not knowing when or if their losses will be compensated.

No-fault's prompt settlement of claims, together with the health and economic benefits mandated under S. 354, are certainly compelling arguments for institution of the no-fault concept. But in addition, S. 354 will permit insurance policies to reflect, to a far greater degree, the insurability of policyholders. For example, the medicare coverage of the elderly and disabled would be reflected in lower rates. As chairman of the Senate Aging Committee, I am particularly aware of the problems senior citizens have in obtaining and affording automobile insurance, which is often crucial to their mobility and health care. This is a primary reason why I have supported the no-fault concept.

Although S. 354 provides that medicare and other Federal programs will furnish coverage when they and no-fault both apply on a given claim, the question of no-fault's relationship to other insurance companies remains, and is complicated by possible congressional action on national health insurance. Traditionally, this question of primacy of insurance coverage has been left to the States and insurance companies themselves, and S. 354 would preserve that responsibility. How no-fault may be viewed in conjunction with any proposal for national health insurance will be a matter for the Congress to review as that debate continues, and should not present any impediment for prompt action on no-fault itself.

The time has come to enact Federal legislation. For years, the Senate has been debating this subject. With passage of this bill, the States would still have 3 more years to act. With the wide latitude of S. 354's guidelines, the time for providing the benefits and meeting the problems that State programs of no-fault automobile insurance will accomplish has come, and so I will support Senate passage of S. 354.

Mr. HANSEN. Mr. President, the reasons I vote to recommit S. 354 can be summarized as:

First. S. 354 is a Federal encroachment of a State's regulation of insurance for automobile drivers.

Second. The Wyoming Legislature has not enacted a no-fault law, and if S. 354 becomes law, Wyoming and other States will be mandated to adopt and administer the Federal law.

Third. S. 354 will result in higher insurance rates for Wyoming drivers.

I feel that the present system of State regulation of auto insurance is adequate. I am quite aware that the authority to regulate in this area is within the province of the Federal Government. However, the McCarran-Ferguson Act of 1945, delegated to the States the primary responsibility for the control and administration of insurance. I agree with the philosophy of that act, and therefore the Federal Government should "stay its hands," and the States should control, administer, and supervise automobile insurance.

Mr. President, our Constitution contains a delicate balance between the Federal and State governments. There is a philosophy in this Congress that the Federal Government can legislate in many problem areas and provide just solutions. As time goes on, the citizens of this great country find themselves subject to an increasing quantum of Federal laws, rules, and regulations. Often, I submit, the best action by the Federal Government is no action at all. Specifically, States have been competently supervising automobile insurance, and, in my opinion, should be left to do so now. It would seem logical that, given the nature of the problem this legislation attempts to correct, it is best left to the States to resolve.

Mr. President, the Wyoming Legislature has not passed a no-fault law. In my opinion, this is a matter for the representatives of the Wyoming Legislature to decide. S. 354 should not be forced upon the State of Wyoming.

Mr. President, there are 24 States which have adopted no-fault laws. It is interesting to note that a recent study showed that in five no-fault States insurance companies paid out $112.70 for every $100 they took in during 1974. Proponents of the bill argue that S. 354 will reduce costs.

Mr. President, my point is that the Wyoming Legislature should do what it thinks best. The State legislature should not be compelled to pass the provisions of the Federal law. S. 354 gives States 4 years to adopt and implement a no-fault system consistent with the bill. If the State does not, the Federal law is forced on the State, which is then required to administer the Federal law; or if there is no State authorization, the Secretary of the Department of Transportation administers the program in the State.

I feel this is unwarranted and unjustified in Wyoming. It is unconscionable.

Mr. President, in October of 1975, 17 Senators including myself, wrote the President about no-fault. We said:

> It seems preposterous to contend that the wisdom of Congress is so great as to contrive a single plan out of the host of available plans, and come up with a result which is reliable and of assured workability and benefit.

Each State differs in geographical area, population, et cetera, and it should be the various State legislatures who respond to the needs of its citizens on the matter of automobile insurance.

Mr. President, numerous people have written me opposing this Federal no-fault bill. The Insurance Commissioner of the State of Wyoming opposes the bill. An independent insurance agent wrote:

> The independent insurance agent is part of the free enterprise system and my livelihood. We feel we are doing an excellent job in taking care of our people and the companies which we represent have a very positive attitude on the problems that exist.

Another agent wrote:

> You represent a State full of people who believe that a man must stand up and admit he is wrong when he is. No-fault does away with this to some extent.

Mr. President, how will Wyoming insured drivers be affected by S. 354? Insurance premiums are going to increase. One major insurance company study predicts increased costs of 31 percent to Wyoming drivers.

In sum, I shall vote to recommit S. 354 because this is a matter which should be left to the State. S. 354, if passed, is going to force States to adopt the Federal program when States have not seen the alleged wisdom of no-fault. Finally, the bill will increase the cost of insurance to drive a vehicle in Wyoming.

The PRESIDING OFFICER (Mr. Hatfield). The hour of 3:20 p.m. having arrived, the question is on recommittal of the bill to the Committee on Commerce. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HELMS. Regular order, Mr. President.

Mr. ALLEN. Regular order.

The PRESIDING OFFICER. The time for the vote is not up.

The rollcall was concluded.

Mr. FONG (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), and the Senator from California (Mr. Tunney) are necessarily absent.

On this vote, the Senator from Washington (Mr. Jackson) is paired with the Senator from Arkansas (Mr. McClellan). If present and voting, the Senator from Washington would vote "nay" and the Senator from Arkansas would vote "yea."

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke) is necessarily absent.

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—49

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Goldwater
Hansen
Hartke
Hathaway
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Mathias
McClure
Montoya
Morgan
Moss
Nunn
Packwood
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—45

Abourezk
Bayh
Biden
Brock
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Humphrey
Inouye
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stevens
Stevenson
Weicker
Williams

VOTING PRESENT—1

Fong

NOT VOTING—5

Brooke
Gravel
Jackson
McClellan
Tunney

So the motion to recommit was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ALLEN. Mr. President, I move to lay that motion on the table and ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is not in order. If Senators will take their seats, the clerk may proceed with the rollcall. The Senate is not in order.

The clerk may proceed.

The second assistant legislative clerk resumed and concluded to the call of the roll.

Mr. FONG (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), and the Senator from California (Mr. Tunney) are necessarily absent.

On this vote, the Senator from Washington (Mr. Jackson) is paired with the Senator from Arkansas (Mr. McClellan). If present and voting, the Senator from Washington would vote "nay" and the Senator from Arkansas would vote "yea."

I further announce that if present and voting, the Senator from Alaska (Mr. Gravel) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Massachusetts (Mr. Brooke), and the Senator from Illinois (Mr. Percy) are necessarily absent.

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—47

Allen
Bartlett
Beall
Bellmon
Bentsen
Buckley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Garn
Goldwater
Hansen
Hartke
Hathaway
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
Mathias
McClure
Montoya
Morgan
Nunn
Packwood
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—45

Abourezk
Bayh
Biden
Brock
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Ford
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Humphrey
Inouye
Javits
Kennedy
Leahy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stevens
Stevenson
Weicker
Williams

ANSWERED "PRESENT"—1

Fong

NOT VOTING—7

Baker
Brooke
Gravel
Jackson
McClellan
Percy
Tunney

So the motion to lay on the table was agreed to.

FEDERAL EMPLOYEES POLITICAL ACTIVITIES ACT OF 1975—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate a report of the committee of conference on H.R. 8617, which will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of March 23, 1976, beginning at page 7647.)

Mr. ROBERT C. BYRD. Mr. President, is there a time agreement on the conference report?

The PRESIDING OFFICER. There is a time agreement of 1 hour, equally divided between the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. FONG).

Mr. ROBERT C. BYRD. Mr. President, while awaiting Mr. MCGEE's arrival from the cloakroom, I ask unanimous consent to proceed for 2 minutes without the time being charged to either side on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHING A TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 691, Senate Resolution 109, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 109) to establish a temporary select committee to study the Senate committee system.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 4, line 6, strike "February 28, 1976," and insert "February 28, 1977,";

On page 4, line 8, strike "$900,000," and insert "$275,000."

On page 4, line 18, strike "Fabruary 28, 1976." and insert "February 28, 1977.";

So as to make the resolution read:

Resolved, That (a) there is established a temporary select committee of the Senate to conduct a study of the Senate committee system.

(b) The select committee shall be composed of twelve Members of the Senate, six from the majority party and six from the minority party, to be appointed by the President of the Senate upon the recommendation of the majority leader and the minority leader.

(c) The select committee shall select a chairman from among its majority members and a cochairman from among its minority members.

(d) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee may adopt rules of procedures not inconsistent with this resolution and rules of the Senate governing standing committees of the Senate.

(e) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

SEC. 2. It shall be the function of the select committee to conduct a thorough study of the Senate committee system, the structure, jurisdiction, number, and optimum size of Senate committees, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing and other committee facilities, and to make recommendations which promote optimum utilization of Senators' time, optimum effectiveness of committees in the creation and oversight of Federal programs, clear and consistent procedures for the referral of legislation falling within the jurisdiction of two or more committees, and workable methods for the regular review and revision of committee jurisdictions.

SEC. 3. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee shall preside over meetings of the select committee, except that in his absence any other member of the select committee designated by the chairman may preside.

(c) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(d) Subpenas authorized by the select committee may be issued over the signature of the chairman, or any other member designated by the chairman, and may be served by any person designated by the chairman or member signing the subpena.

SEC. 4. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed $275,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 5. The select committee may submit interim reports on its activities, together with such recommendations as it deems advisable. The select committee shall submit to the Senate a final report of its findings, together with such recommendations as it deems advisable, at the earliest practicable date, but not later than February 28, 1977. The select committee may also submit to the Senate such supplementary reports on the issues treated in its initial report as it considers appropriate. The select committee shall cease to exist upon the expiration of sixty days following submission of its final report.

SEC. 6. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, I commend the distinguished chairman of the Committee on Rules and also the Senator from West Virginia (Mr. ROBERT C. BYRD) for bringing this resolution to the floor. This resolution will create a special committee of the Senate to study the committee structure and to make recommendations for its approval. Senator ROBERT C. BYRD, Senator CANNON, the distinguished minority leader, and others have recognized, and the many sponsors of this resolution—more than half of the members—have recognized that the time has come for the Senate to review its committee jurisdictions.

The Senate is operating under a committee system established 30 years ago in the Legislative Reorganization Act of 1946. It is a testament to the foresight of the authors of that legislation that the system has worked as well as it has these past 30 years. But much has changed during those years.

The number of standing committees has remained almost constant, increasing from the 15 established in 1946 to 18 in this session. The number of subcommittees, special select, and ad hoc subcommittees, has grown from 58 in 1946 to 130 today. The jurisdictions spelled out in 1946 do not always fit the issues of 1976. As a result, we often end up like the pleaders in early English common law trying to weave into our legislation the magic phrase that will get us in "the right court"—or the right committee.

Energy is one example with 14 standing committees as well as 1 select committee operating through 38 subcommittees which dealt with some aspects of energy legislation. Food policy and the whole range of international economic issues are other examples.

The Senate has adjusted to changes in many ways: more joint referrals, more special studies, more ad hoc joint hearings, more subcommittees. But these improvisations have not afforded adequate staff resources for continuous and comprehensive attention to all the new issues by all the Senators. We sometimes end up reinventing the wheel simultaneously in different subcommittees. And we often end up dealing with parts of an issue with no mechanism to put the parts together.

Not only have the issues changed during the past 30 years, but the structure of the executive branch has changed. The House of Representatives has changed its structure. A new congressional budgetary process has been established.

All of this change and much more has taken place without any concomitant change in the organization of the Senate.

The nature of our responsibilities has also undergone change. The people rightly expect their Congress not alone to enact laws but to review the laws and look ahead and anticipate problems before they explode—to make sure in other words that the Government is working. The oversight function is an important duty of the Congress, and one I admit to believing it is ill-equipped to handle. There are some 183 provisions mandating some type of congressional review, and the trend is increasing. During the last 5½ years, Congress has enacted at least 47 laws requiring either legislative review of, or consent for, administrative actions in at least 87 separate situations or contingencies. Nearly all these provisions require some form of notification, report, or consultation with committees of the Senate. Yet, we have done precious little to adjust our committee system to this new dimension.

Mr. President, I cannot offer nor can any other Member offer preconceived notions as to what is the proper realinement of jurisdictions or the best structure of committees or subcommittees. I do not feel we need radical surgery, just a continuation of the process begun in 1946. It will be up to the Select Committee, representing all the Members and all the jurisdictional interests in the Senate, to make recommendations to the Senate. It will not have legislative jurisdiction. No perfect realinement of committees will produce perfect legislation, but a Committee on Committees can help us create a sensible committee system which will enable us to better serve our country.

Mr. President, this committee, if approved, will face a delicate and difficult task. It will represent all the Members as no standing committee can, and I feel confident that the committee, if approved by the Senate, will consult with all the Members, with the members of all the standing committees of the Senate and with the secretaries for the minority and the majority who are intimately familiar with the committee ratios and the intricacies which govern the committee structure, all with a view to impartially and diligently recommending that a time for action in the next Congress, a reform improvement of the committee structure, which is the heart of the legislative process, is at hand.

So, Mr. President, I urge my colleagues to approve this resolution.

Mr. GRIFFIN. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. I gladly yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. As a member of the Rules Committee, along with the rest of the committee, I voted to report this resolution to the floor. I certainly strongly support the effort that is being made by the Senator from Illinois and the Senator from Tennessee (Mr. BROCK) to undertake this long overdue study.

I would like to raise a couple of questions that either of the Senators may wish to comment on, either of the cosponsors.

I notice, for example, that the time for reporting is, by amendment of the committee, changed to February 28, 1977. That would be a very short period following the organization of the Senate in January of 1977 after the November 1976 elections.

Maybe it is too early to answer this question, but I wonder if the cosponsors of the resolution have in mind that their recommendations would have any impact on the organization of the Senate in January of 1977 or do they hope that that will be the case?

Mr. BROCK. Mr. President, if the Senator will yield, I would be delighted to respond.

It is my very strong feeling that this committee will be a wasted effort this year if it does not report prior to the end of this Congress so that we can consider the proposed changes, if there are any—and I desperately hope there will be—in the next session; otherwise you could wait for an additional 2 years. It has already been more than 3 years since we originally introduced this resolution.

If the members of this committee will bend themselves to their task, if they are supported adequately by their colleagues and by the staff of the Senate as an institution, there is, I think, every reason to hope and believe that we can accomplish this task prior to the end of the year so that we can have a full formal report for our colleagues by the 1st of January for their consideration and for implementation in the next Congress.

Mr. GRIFFIN. Then, it would seem to me, the work of the committee would have to be compressed a good deal.

Mr. BROCK. I think it would.

Mr. GRIFFIN. You would have a much shorter period of time than might appear in the resolution because, obviously, in order for your recommendations to be effective and have some impact in January of 1977 it would take action by the Senate——

The PRESIDING OFFICER. The 2 minutes requested for this resolution have expired.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wyoming yield 2 minutes from his time?

Mr. McGEE. I would be glad to yield.

Mr. ROBERT C. BYRD. Yield that to the Senator from Michigan.

Mr. GRIFFIN. I know you will agree this is an important matter and, I hope, we can take a reasonable period of time.

In fact, I think it would require an amendment to the Legislative Reorganization Act, perhaps——

Mr. BROCK. That is correct.

Mr. GRIFFIN. Which would involve action of both Houses.

Mr. BROCK. That is correct.

Mr. GRIFFIN. In order to have any impact.

Mr. BROCK. Maybe the Senator from Illinois would disagree, but I very much hope, and I think he shares this hope, that the Committee on Committees can complete its work prior to the end of the year, if at all possible.

Mr. STEVENSON. Mr. President, I want to be realistic but also expeditious, and if it is possible certainly for this committee to complete its diligent deliberations within a year, which we all of us must recognize will be a truncated legislative year, and in time to result in the implementation of its recommendation before the organization of the next Congress, well and good. But to be realistic I cannot be very optimistic about such a possibility. I do think it is desirable to place an early date for a report on this committee in order to keep this committee's feet on the fire.

It is the feeling of some of us that the February date itself might be pressing things a bit. But if the committee can complete its work and make recommendations, perhaps interim recommendations, and in time for action before the organization of the next Congress, that is fine. But I think we would be unrealistic to count on it.

Mr. GRIFFIN. If the Senator from Illinois will allow me, and then I will sit down because I think the Senator from Tennessee wants to say something. At the present time the Rules Committee has before it a resolution to create another committee of the Senate, the Committee on Intelligence. That resolution provides the realinement of jurisdiction in a rather significant way affecting the Armed Services Committee, the Judiciary Committee, which are two, and——

Mr. BROCK. The Foreign Relations Committee.

Mr. GRIFFIN. The Foreign Relations Committee.

Mr. BROCK. Right.

Mr. GRIFFIN. One of the questions, I guess, that I wonder about as a member of the Rules Committee is should we go ahead now and create another committee and do this or is this something, if your committee is going to make an overall study of what the jurisdiction of Senate committees should be, and so on, would it be wise for us to mark time a little bit to give your committee the opportunity to look at the overall picture?

You may not want to respond to that, but I just want to indicate that that is a consideration right now in considering the recommendation of the so-called Church committee.

Mr. BROCK. For myself I will respond to the Senator by saying I would hold that off, that particular one, for a while.

Mr. ROBERT C. BYRD. Mr. President will the Senator yield 1 minute to me?

Mr. McGEE. I would be glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

I would like to inquire from the distinguished Senator from Illinois (Mr. STEVENSON) and/or the distinguished Senator from Tennessee (Mr. BROCK) as to whether or not in their judgment the Secretary for the Majority and the Secretary for the Minority would be sought out for advice by the committee which is being established, inasmuch as those two Senate officers have the most thorough knowledge of the committee ratios, committee memberships, and so on, and such advice, I should think, would be very helpful to the committee which is being established.

Mr. STEVENSON. Mr. President, this committee would represent all Members of this body as no standing committee could. I feel confident that in the exercise of its delicate responsibilities it would not only consult all the Members, the Members representing all the standing committees, but certainly the Secretary for the Majority and also the Secretary for the Minority because they, as the distinguished majority whip mentioned, as the distinguished majority whip has indicated, are intimately acquainted with the committee ratios and with the procedures which govern the conduct of the U.S. Senate.

So it would certainly be my expectation that this committee would not only consult, but rely very heavily on the advice of both those gentlemen for their help in the conduct of what will be an extremely delicate, difficult, and important thing.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. Mr. President, would the Senator yield me just 2 minutes?

Mr. McGEE. I am glad to yield 2 minutes to the Senator.

Mr. BROCK. He has been most gracious. I am very grateful.

First, I would like to respond to the Senator from West Virginia.

Of course, the answer is "Yes."

Very specifically and concisely, we desperately are going to need the best advice we can get on this committee. Whoever serves on it, we will need people of the quality the Senator mentioned, and others, who will be able to better advise the Senators than, sometimes, the Senators themselves, because they see the total operation of the Senate better than those of us who are probably caught in the trees.

I think it would be essential to have the constant participation, advice and support of the two that were mentioned by the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from Tennessee.

I believe Mr. Kimmitt and Mr. Hildenbrand, the secretaries for the majority and minority, respectively, will have a good deal of information that would serve to make a fine contribution to the efforts of the committee.

Mr. BROCK. I have no question about that in my mind.

Mr. President, in brief, I have worked for some 3 years on this resolution. I am proud of its authorship and very grateful for the response of the Rules Committee, particularly, the Senator from West Virginia, for according us an opportunity to evaluate the Senate in its continuing function of service to the American people.

There are 100 Members of this body. They are good people, they are decent, they are concerned, they care, they believe, but they are not working together very well. The system is not working very well because of the structure itself which impedes our logical operation to arrive at a consensus of what is best for the people of this Nation.

That is why the Budget Reform Act which passed last year—that I authored over 3 years ago—was so desperately needed and is such a major step forward.

This could be an equally important step forward, perhaps even more so, because the Senate does not work well today despite the best efforts of 100 very fine, very concerned human beings.

We can improve that. We can make it more responsive. We must do so if the American people are to be served as they will be served in the next 100 years.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROCK. I appreciate the support this resolution haas received from old and young, Republican and Democrat alike.

Mr. MOSS. Mr. President, several years ago the Senate was attacked as being run by an autocratic clique responsible to no one. Today the criticism is of lack of leadership in solving the Nation's problems. According to conventional wisdom, when the Congress is efficient, it is unrepresentative; and when it is representative, it is incapable of action. I do not agree that accountability and productivity are incompatible; the effectiveness of Congress depends on both. Changes are needed, however, to improve Congress public standing and its organizational machinery.

While the Senate has experienced no revolts as dramatic as those in the House, we have began to take steps to restore public confidence in the institution. From now on committee chairman will be elected in the Democratic caucus by secret ballot. Last March the Senate finally voted to modify its notorious filibuster rule. Later in the session we moved to open committe proceedings routinely to the public, and we established an independent commission to study the operations of the Senate.

It has been nearly 30 years, on the other hand, since the Senate accomplished committee realignments and procedural changes comparable to those considered by the House 2 years ago. Since World War II we have experienced an enormous expansion of Federal activity in education, health, environmental and consumer protection, housing and urban development, and other areas; but the Senate has adjusted only in a piecemeal fashion to the times. Each new issue has been an excuse to create new jurisdictions and to fragment responsibility. The number of Senate subcommittees increased from 54 in 1947 to 131 last year; 15 of the 18 standing committees have jurisdiction over energy matters; 26 subcommittees held hearings or markup sessions on energy legislation during the first session of the 93d Congress. This dispersal of responsibility has frustrated the Senate in developing a sound national energy policy, let alone in accommodating differences with the House.

There are disparities in legislative workload among committees, gaps in oversight of excutive agencies, and inequities in the distribution of staff resources. Since the legislative work of Congress is primarily the product of its committees, reorganization should have the highest priority among efforts to enhance the effectiveness of the Senate. For too long we have merely toyed with the idea of creating a temporary bipartisan committee to investigate all aspects of the committee system and to recommend changes to the Senate. I am delighted that the time for action has finally come, and I urge all of my colleagues to support Senate resolution 109.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask that the committee amendments be adopted en bloc.

The amendments were agreed to, en bloc.

The resolution (S. Res. 109), as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL EMPLOYEES POLITICAL ACTIVITIES ACT OF 1975—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8617), to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

Mr. McGEE. Mr. President, what is the pending issue before the Senate?

The PRESIDING OFFICER. The conference report on H.R. 8617.

Mr. McGEE. Mr. President, I ask unanimous consent for the yeas and nays on the pending measure, the conference report on H.R. 8617.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, the conference report on H.R. 8617 represents a fair compromise between the Senate and House of Representatives on the proposed amendments to the Hatch Act. It retains many of the significant amendments which resulted from the debate here in the Senate. The major exception to that statement concerns the two Senate floor amendments affecting the subject of pay adjustments for Members of Congress.

In conference, the managers on the part of the House were quick to point out that the Allen amendment, which I personally had supported here on the floor, and the Taft amendment were not germane to the subject at hand, which was the restoration to Federal civilian and Postal Service employees of their right to participate voluntarily in the political processes of the Nation. Because of the nongermaneness of those two amendments, our colleagues from the House would not and could not accept them. Consequently, and with considerable reluctance, especially because of the significant Senate vote in favor of the Senator from Alabama's (Mr. Allen's) proposal to provide for a separate vote on any annual pay adjustment for Members, the Senate's conferees agreed to recede and strike title II from the bill as passed by the Senate.

Many of the numbered Senate amendments involve technical or clerical matters, so in explaining the agreement reached by the conferees I shall address the issues as they were considered on the floor of the Senate earlier this month.

The House recedes to the Senate position with regard to the amendment by the Senator from Massachusetts (Mr. Brooke) specifically including the provision of personal services within the definition of a political contribution for purposes of the act, in the joint explanatory statement of the committee of conference the conferees state our understanding that the amendment does not prohibit an employee from voluntarily contributing his personal services, except to the same extent that political contributions are otherwise prohibited. Nor is it the understanding of the conferees that this amendment would require the placing of a dollar value on a contribution in the form of personal services freely and voluntarily rendered. The amendment to the Senate amendment agreed upon by the conferees simply corrects a typographical error in the engrossed bill.

On the floor, Senators will recall, an amendment by the Senator from Maine (Mr. Hathaway) was adopted, though a substantial portion of it was later deleted from the bill by further amendment. The remaining portion of the Hathaway amendment, requiring that the Civil Service Commission annually advise employees of their rights and prohibitions with regard to political activity 120 days before the earliest primary or general election in the State where they are employed instead of 60 days before an election, as was provided in the House bill, remains in the bill. The House recedes, as it does in the case of the Senate committee amendment providing that nothing in section 7323 of the bill shall be construed as authorizing any employee to use any information coming to him in the course of his employment or official duties for any purpose where otherwise prohibited by law. In the case of that amendment, the House recedes with a clarifying amendment which in no way changes the substance.

The House also recedes with an amendment from its disagreement with the amendment proposed by the Senator from Iowa (Mr. Clark). The amendment adds to the proviso that nothing in section 7325 shall be construed to authorize White House employees to engage in political activity. The added words are "otherwise prohibited by or under law." Thus, the bill would provide that these individuals who are exempted from the prohibitions of section 7325 cannot thereby be construed as authorized to engage in political activity prohibited by or under other laws.

The numbered amendments 12 and 15 derive from the floor amendment to the bill sponsored by the Senator from Kansas (Mr. Dole), which as it passed the Senate would have maintained the prohibitions of current law for employees of the Department of Justice, the Central Intelligence Agency, and the Internal Revenue Service. Again, the House has agreed to recede with an amendment which narrows the scope of the Senate amendment somewhat and retains the present Hatch Act proscriptions for a smaller number of employees.

Employees of the agencies named, under the provisions of the conference committee's agreement, would remain under the present Hatch Act restrictions unless they met one of three conditions, in which case their rights to political activity would be those provided for in the bill. The broader rights of political participation would be available to: First, employees who are not in sensitive positions; second, employees who, though in sensitive positions, occupy positions which the head of the agency has determined by regulation can be subject to the provisions of H.R. 8617 because political activity by an individual in that job would not adversely affect the integrity of the Government or the public's confidence in the integrity of the Government; or third, individuals appointed by the President, by and with the advice and consent of the Senate, who determine policies to be determined in the nationwide administration of Federal laws.

The amendment further provides that the regulations called for must be prescribed not later than 90 days after the effective date of the legislation, that any revision of such regulations shall be prescribed not later than March 1 of the year in which they are to take effect, and that the regulations shall become effective the first day after the close of the first period of 30 calendar days of continuous session of Congress after they are transmitted to both Houses of Congress, unless the Congress adopts a concurrent resolution of disapproval.

Plainly, the managers for the Senate and the House have compromised on this issue, but, speaking for the Senate conferees, I believe it to be a good compromise which retains the intent of the Senate amendment to further restrict employees with sensitive positions in these particular agencies.

Our understanding of the word "sensitive" is that it covers those positions which the head of the agency is required to designate as sensitive under section 3(b) of Executive Order No. 10450, as amended, or any Federal statute or Executive order which might supersede Executive Order No. 10450. Further, the conferees understand that subchapter I-3 of chapter 732 of the Federal Personnel Manual requires those positions to be designated sensitive that require fiduciary, public contact, or other duties that demand the highest degree of public trust.

The House recedes as well on the amendment proposed by the Senator from Wisconsin (Mr. Nelson) and adopted by the Senate which deletes from the bill those provisions which would require that an employee who becomes a candidate for elective office be placed on leave-without-pay for that purpose not later than 90 days before an election in which he is a candidate. The amendment leaves standing that provision which requires that an employee who is a candidate shall, upon request, be granted accrued annual leave for the purpose of pursuing his candidacy.

While technically the House recedes from the Senate amendment No. 22, which is the Senator from Hawaii's (Mr. Fong's) amendment to do away with the independent Board on Political Activities of Federal Employees and provide that the Civil Service Commission remain responsible for adjudicating violations of the act, that is not the case in fact. The House, for technical reasons, recedes with an amendment, agreed to by the managers on the part of the Senate, which restores the independent Board. Under this amendment, the Civil Service Commission retains investigatory, educational and enforcement authority, but the separate Board composed of three employees appointed by the President, by and with the advice and consent of the Senate, would be the adjudicatory authority.

For all practical purposes, then, the Senate recedes to the House position, strongly held by its conferees, that the prosecutorial and adjudicatory functions should be separated.

Under the House bill, the Board would have had complete discretion in imposing penalties for violations of the act. Two Senate amendments would have provided for mandatory penalties. Senate amendment No. 65, which was sponsored by the Senator from Florida (Mr. Stone) called for a mandatory 90-day suspension for an employee found to have violated the restrictions on misuse of official authority or influence, as covered in section 7323 of the bill. On this amendment, the House has agreed to recede with an amendment which retains the mandatory penalty provision but reduces the minimum penalty that can be imposed for violating this section to 30 days.

The Senate's managers agreed to recede on the other mandatory penalty provision which appears as Senate amendment No. 66. That is the Senator from Kansas' (Mr. Dole's) amendment to require that an employee who has been found to have violated sections 7323, 7324, or 7325 on two occasions be removed from employment and thereafter barred from Federal employment.

The Senate conferees also agreed to recede from the Senate position on a committee amendment which slightly altered the terms for notices of alleged violations required by the bill to be served on individual employees charged with violations of the act.

Of considerably more significance, the House recedes from its disagreement over the effective date of the bill. Originally, the House had provided for an effective date 90 days after the date of enactment, while the Senate provisions, added by an amendment by the Senator from Kansas (Mr. DOLE) provides that the amendments made by the bill shall not take effect until January 1, 1977. This concession by the House was important in the mind of the Senate conferees because it provides for more orderly drafting of required regulations, insures that employees can be fully informed of both their rights and prohibitions before they become involved, and serves to somewhat isolate the issue of the rights of these employees from current political considerations.

The action of the House conferees in agreeing to the Senate's provision on this amendment is but one example, but a good one, of their reasonableness and willingness to consider the position of the Senate in those areas where they were free to do so. The managers on the part of the Senate, including Senators BURDICK, FONG, and STEVENS, are to be commended for their constructive approach to the resolution of the differences between the Houses on this measure. Both sides contributed to a full and free conference, resulting in an agreement that I hope the Senate will now endorse and approve. It is accompanied by concurrent resolution authorizing the Clerk of the House of Representatives to make certain technical corrections in the enrollment of the bill.

Mr. FONG. Mr. President, I rise to urge rejection of the conference report on H.R. 8617, the proposed Federal Employees' Political Activities Act.

As a conferee on this bill, I participated in the conference between the managers of the Senate and the House. Among the several Senate amendments at issue was one I had sponsored. My amendment would retain the Civil Service Commission in its present role as the agency to adjudicate complaint cases under the Hatch Act. I felt strongly that the Commission should not be replaced by a three-member Board of Political Activities of Federal Employees, as proposed in H.R. 8617. I argued for retention of the Civil Service Commission when the bill was debated in the Senate—and my amendment prevailed. By an overwhelming margin of 73 yeas to 17 nays, the Senate approved my amendment.

In conference, I spoke for my amendment. I explained why it would be wasteful and unnecessary to create another Board to hear and decide complaint cases filed under the Hatch Act—a responsibility which is now being carried out effectively and fairly by the Civil Service Commission. But my position did not prevail in conference, and the House managers rejected my amendment.

Because of this and other decisions in the conference which I could not accept because of various provisions in the bill, I declined to sign the conference report.

Four House managers also refused to sign the conference report. They took their fight to the House floor. On Tuesday this week, the conference report was adopted by the House by a narrow margin of only 241 yeas to 164 nays. The "nay" votes are 19 more than the number needed to sustain the expected Presidential veto even if every one of the 435 Members voted on the veto question.

The White House has reported that the President will veto this bill, so we actually are going through a very useless act by adopting this conference report. By comparison, the House vote on final passage of the bill last October 21 was 288 to 119—17 votes short of the total needed as of that date to sustain the anticipated veto. So, obviously, the proponents of H.R. 8617 have been losing ground, and the opponents are gaining strength.

As passed by both the House and the Senate, H.R. 8617 is a misnomer. Its proponents call it a bill to promote "political freedom" for the Federal employee. They claim that it is legislation wanted by the Federal workers so they can engage in political campaigning and political management.

I contend that the situation is just the opposite. As far as the rank and file Federal employees are concerned, most of them do not want the Hatch Act scuttled. They need and want the protection from political pressures which are provided them by the Hatch Act.

Poll after poll, survey after survey, shows clearly Federal employees prefer to retain the Hatch Act.

Every Senator from Maryland and Virginia—the States with the largest concentration of Federal employees—voted against H.R. 8617.

For example, the junior Senator from Maryland (Mr. BEALL) reports that of about 120,000 responses to a questionnaire among the people of Maryland, 70 percent said they do not favor liberalization of the Hatch Act, while 30 percent said they do.

Within Montgomery County and Prince Georges County—both of which have a very heavy percentage of Federal employees— 62 percent of the responses from Montgomery County and 66 percent from Prince Georges County expressed opposition to changing the Hatch Act.

Congressman JOSEPH FISHER, whose district in Virginia has the heaviest concentration of Federal employees outside of Washington, D.C., says 69 percent of the 20,000 constituents who responded to his questionnaire, do not want the Hatch Act changed. His mail indicated that those who want the status quo outnumbered others 8 or 10 to 1.

Congressman GILBERT GUDE of Maryland, whose district has the next highest concentration of Federal employees, says:

> I think his [Congressman Fisher's] poll clearly shows what I felt was the case in my district and what I think is the case generally with Civil Service employees across the country.

Congresswoman ELIZABETH HOLTZMAN of New York says the response to her questionnaire showed 2 to 1 against weakening the Hatch Act.

Only 2 out of 3,000 members of the National Federal Executive Institute Alumni Association said they favor legislation to change the Hatch Act.

A congressionally-created Commission on Political Activity of Government Personnel in 1967 authorized the most extensive survey ever undertaken of employee attitudes on political activities. The University of Michigan Survey Research Center, which conducted the survey, reported that of 14 categories of responses concerning their attitudes toward changes in the Hatch Act, the one with the highest response was: "The Hatch Act should remain as is." Only 3 percent of the respondents in that survey said they favored repeal of the Hatch Act.

The most revealing expression of opposition to changing the Hatch Act came from the widely-respected National Federation of Federal Employees, the largest independent union of Federal career employees, representing 136,000 workers. Its president, Nathan T. Wolkomir, testified that 89 percent of the members polled registered strong support for continuing the Hatch Act as is.

If any other union conducted a similar poll of its members on this question, no such data were offered at the Senate committee hearings.

So, it is clear that the vast majority of Federal employees do not want the Hatch Act scuttled.

Numerous Government agencies and nongovernment groups knowledgeable about the subject have expressed their strong objections to H.R. 8617. To name a few of them:

The U.S. Civil Service Commission, Comptroller General, Office of Management and Budget, Internal Revenue Service, the U.S. Postal Service, National Civil Service League, Federal Executive Institute Alumni Association, National Federation of Federal Employees, Organization of Professional Employees of the U.S. Department of Agriculture, and the Standing Committee on Public Management and Machinery of Government of the National Academy of Public Administration.

The mass media of this country are overwhelmingly opposed to proposals for overhauling or repealing the Hatch Act. Numerous editorials have appeared in newspapers and news magazines across the country to call attention to the dangers of removing the protection of the Hatch Act from Federal employees and thereby opening the door to all-out partisan politics and the revival of the old "spoils system."

I do not think it necessary at this point to review all the many flaws and defects in H.R. 8617. These were enumerated in detail during the Senate debate this month.

But I do wish to underscore the vital point of my argument: that H.R. 8617, if enacted, would cut out the heart of the Hatch Act. I shall not quibble over the rebuttal by proponents of the bill that H.R. 8617 would not repeal the Hatch Act, that it only amends the Hatch Act. Yes, H.R. 8617 would not repeal the Hatch Act in toto. It would not repeal the Hatch Act technically but, in substance, it would cut out the heart of the Hatch Act; it would scuttle the Hatch Act; it would emasculate the Hatch Act.

I say this because the bill would, in fact, eliminate virtually all the restrictions in the current Hatch Act dealing with political management and political campaigns—what I call the heart of the Hatch Act. These are the specific prohibitions on political activities contained in the Code of Federal Regulations—activities such as serving as an officer of a political party; taking part in partisan fundraising; managing a political campaign of a partisan candidate; running as a partisan candidate; soliciting votes for or against a partisan candidate; acting as a poll watcher for a political party or partisan candidate; and other specified activities of a partisan nature.

Wipe out these political activities from the prohibited list and you invite widespread abuses in the Federal Government. It would open the door to weakening the civil service system—a system based on merit in performance and not on favoritism based on partisan politics.

As we celebrate our Nation's Bicentennial, we should be mindful of the historic fact that our Presidents, starting from George Washington, have been concerned about the politicking of Government personnel. Many tried to set proper limits to participation in politics by Federal officials and employees.

One long step in the right direction was taken in 1883, following the shocking assassination of President Garfield by a disgruntled officeseeker, when Congress enacted the first civil service law, establishing the Civil Service Commission and placing restrictions on political activities of Federal personnel.

Another milestone was reached in 1907 when President Teddy Roosevelt issued an Executive order which specifically banned Federal employees from taking part in political management and campaigning.

Still another milestone came with the passage of the Hatch Act in 1939, in the wake of political scandals involving solicitation of funds from WPA workers under coercion from the bosses during the Great Depression of the 1930's.

As the historic record shows, the evolution of the Hatch Act was a long and arduous struggle for clean government. In providing protection for Federal employees from partisan political pressures, the Hatch Act assured, for the public, the administration of their National Government in an impartial and efficient manner.

It would be a cruel mockery to remove Hatch Act protection from the Federal employee, on one hand, and, on the other, pretend to give them "political freedom" without that protection. For, in time, the political freedom will be eroded through abuse of liberalized political activities.

And the public, whose tax dollars finance the public payroll, would be shortchanged by the politicization of the Federal personnel and the undermining of an impartial, efficient public service.

In summary, to allow Federal employees virtually unlimited partisan political activity by the passage of H.R. 8617 would:

First, be a great disservice to the 2.8 million Federal civil service employees;

Second, inevitably introduce partisan considerations into the administration of Federal programs;

Third, seriously undermine public confidence in the integrity of Government operations;

Fourth, compromise, in the public's eye, Federal employees who actively participate in partisan politics;

Fifth, detract from the efficient administration of the public business;

Sixth, make employees vulnerable to indirect and subtle influences and coercion to support political parties or individuals;

Seventh, inject political considerations in promotions, decisions, job assignments, and similar actions;

Eighth, adversely affect employee morale and efficiency;

Ninth, step backward 70 years to 1907 before President Roosevelt barred political management and campaigning of Federal employees;

Tenth, eventually emasculate the Hatch Act;

Eleventh, eventually return to the spoils system; and

Twelfth, ultimately destroy the merit system in the Federal Government.

For all these reasons, Mr. President, I urge the rejection of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I yield myself 1 minute for two comments not contained in the opening remarks I made.

The first is my personal petition to the President to reassess his announced decision to veto this compromise on the updating of the Hatch Act. I say that, Mr. President, because the President's early decision was reached before the Senate had worked its will on many significant compromises, and before the House of Representatives had likewise reached a more moderate position. I believe the President of the United States would find this to be the kind of compromise that would be in tune with the times, that would be responsible in representative government and still maintain in even firmer ways the key, basic principles in the Hatch Act itself.

Second, Mr. President, the conference report makes this measure easier to put into effect because it does not become operable until January 1 of next year, so it would be in no way involved in the affairs going on in the political arena at this time.

Furthermore, it retains the advantage of advice from the floor of the Senate that we put limitations on sensitive personnel in several of the departments of the Government, and it likewise tightens the enforcement procedures for preserving the basic concepts of the act.

Mr. President, I am willing to yield back the remainder of my time.

Mr. FONG. I yield back the remainder of my time.

ADDITIONAL STATEMENTS SUBMITTED ON CONFERENCE REPORT ON 8617

Mr. DOLE. Mr. President, the Senate-House conference committee on H.R. 8617 has completed its work. The discrepancies between the House and Senate versions of H.R. 8617 have been resolved, and the measure has been sent back to both Houses for final consideration. In reviewing the conference committee's work on this legislation, I can find no reason to change my opposition to the bill and its provisions.

PROVISIONS UNACCEPTABLE

Despite the several minor changes made in the bill by the conferees, I find that my major concern about this legislation still exists. It remains my conviction that those who support this bill must bear the responsibility for demonstrating the need to revise the longstanding Hatch Act, with its protections from political coercion for Federal employees. Our 35 years of experience with the Hatch Act indicate that it is not a perfect solution to the problem of political abuse in our Federal employment system, but there can be little doubt that it has substantially curtailed and prevented improper political pressures on Federal employees. Both experience and commonsense, then, demonstrate that elimination of traditional Hatch Act safeguards against unethical practices should not be undertaken lightly, nor without substantial basis for the change. If there are weaknesses or loopholes that exist under the current Hatch Act, Congress should take steps to do away with them and not with the act itself.

Throughout all the discussions and debate on this issue, I have heard no sound justification for retiring the Hatch Act or its principal provisions. Far from being barred by law from engaging in politics, the Government employee today enjoys the right to express political opinions, contribute money to political campaigns, run for office as an independent, and vote. Surveys taken among Federal employees themselves fail to indicate any widespread support for changes in the Hatch Act. A number of Federal agencies and departments—including the Office of Management and Budget, the General Accounting Office, the Departments of Treasury and Justice, and the U.S. Postal Service—all oppose the provisions contained in H.R. 8617.

Based on these factors, I cannot find that the proponents of this bill have demonstrated a real need for making these changes in the Hatch Act.

STATUS OF DOLE AMENDMENTS

During the process of ironing out the differences between the two House versions of this legislation, the committee members discarded an amendment which I sponsored to mandate the suspension of any Federal employee from the Federal service who, on two occasions, would violate any prohibited activities as outlined in H.R. 8617. This amendment was approved by the Senate on March 11 by a vote of 53 to 38.

Also, the committee saw fit to make a major change in a second amendment which I sponsored—to retain current Hatch Act restrictions on political activities by employees of the Justice Department, the Central Intelligence Agency, and the Internal Revenue Service. That amendment had passed the Senate on an overwhelming vote of 68 to 23 in the form in which I had originally proposed it. Several members of the Senate Select Committee on Intelligence had given their support to the amendment at that time. Yet, the conferees altered the amendment to give administrative heads of those three agencies the authority to designate which employees should be covered, according to certain criteria including the "sensitive" nature of the Federal employee's particular job.

A third amendment I sponsored, to establish an effective date of January 1, 1977, for H.R. 8617, was accepted by the conferees.

SHOULD KEEP PROTECTIONS

As a "nonpartisan" regulation by nature, the Hatch Act safeguards have applied to members of both major political parties and have provided continuity of personnel throughout the three and a half decades regardless of the changes in administrations. The rank-and-file Federal employee has been protected from both the obvious and not-so-obvious partisan pressures that would otherwise inevitably flow downward from the administrative and supervisory levels in the civil service system. A variety of opportunities would exist in the course of daily activities to extract political favors and assistance from the Federal labor force should that capability be thrust upon the Government employee, and its use would be limited only by the imagination of the craftiest supervisory bureaucrat who may now or in the future have authority over a portion of the civil service sector.

This very real possibility was cited a few months ago by Civil Service Commission Chairman Robert E. Hampton, who advised Congress that—

> If the opportunity to assert partisan political influence or power is available, it will be exercised. . . . Whatever political activity is permitted to Federal employees will quickly become that which is required of them.

After carefully reviewing all the components of H.R. 8617, I feel strongly that its supposed deterrents to political abuse are simply not adequate to the task. Commissioner Donald C. Alexander of the Internal Revenue Service has testified that it is difficult enough to enforce current Hatch Act restrictions against undue political coercion or influence within his Agency, even though restrictions are extensive and penalties are "pretty severe." If violations of current Hatch Act restrictions are that difficult to prove and adjudicate, how much more difficult would it be to protect the rank-and-file Federal employee from illegal coercion under the loose restrictions mandated by H.R. 8617?

Mr. President, this legislation may pass the Senate again today by a small margin of support, but I continue to feel that this Congress has no real mandate to alter the status quo protections of the Hatch Act. Instead of promoting partisan political involvement in the civil service, we should be concentrating on reducing instances of abuse within the present Federal system. Until there is strong and evident support among rank-and-file Federal employees themselves, it is presumptuous and it is premature for us to initiate major relaxation of Hatch Act protections.

Mr. TAFT. Mr. President, during the recent consideration of the Hatch Act in the Senate, I offered an amendment to prevent Members of Congress from receiving a pay increase during the session in which it is enacted. This provision is similar to the laws in over 25 States. My amendment was permitted a vote and passed the Senate, 43 to 40. However, it was knocked out of the bill in the conference, because the House felt it was nongermane.

My colleague in the House, CHARLES MOSHER, the original sponsor of the proposal, stated yesterday, that the nongermaneness ruling was puzzling, because the conferees did not seem to mind last year when they included the congressional pay raise provision in a bill dealing with Postal Service personnel policies.

While I think it is a shame that the amendment did not survive the conference, I do believe we have made an important first step in admitting to the public that the present system of raising congressional salaries is fraught with conflicts of interest. The amendment is pending as a bill in the Senate Post Office and Civil Service Committee with several cosponsors, and Congressman MOSHER has an identical bill pending in the House with over 90 cosponsors. I hope they will see action soon.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from California (Mr. TUNNEY), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Idaho (Mr. CHURCH), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from New York would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—54

Abourezk
Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Johnston
Kennedy
Leahy
Magnuson
Mansfield
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Randolph
Schweiker
Stevens
Stevenson
Stone
Symington
Talmadge
Williams

NAYS—36

Allen
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd,
  Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
Laxalt
Long
Mathias
Packwood
Pearson
Proxmire
Ribicoff
Roth
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—10

Baker
Brooke
Church
Goldwater
Gravel
Jackson
Javits
McClellan
Percy
Tunney

So the conference report was agreed to.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE CONCURRENT RESOLUTION 596

Mr. McGEE. Mr. President, I ask for immediate consideration of House Concurrent Resolution 596, directing the Clerk of the House to make certain corrections in the enrollment of H.R. 8617, an act to restore the Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 596) was considered and agreed to.

OMNIBUS DISTRICT JUDGESHIP BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 379, S. 287.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 287) to provide for the appointment of additional district court judges and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

> That (a) the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the middle district of Ala-

bama, one additional district judge for the district of Arizona, one additional district judge for the eastern district of Arkansas, one additional district judge for the central district of California, two additional district judges for the eastern district of California, two additional district judges for the southern district of California, one additional district judge for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the middle district of Florida, one additional district judge for the southern district of Florida, two additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, one additional district judge for the northern district of Indiana, one additional district judge for the eastern district of Kentucky, two additional district judges for the eastern district of Louisiana, one additional district judge for the district of Massachusetts, one additional district judge for the eastern district of Michigan, one additional district judge for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the western district of Missouri, one additional district judge for the district of New Hampshire, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle and western districts of North Carolina, one additional district judge for the eastern and western districts of Oklahoma, one additional district judge for the district of Oregon, one additional district judge for the district of Puerto Rico, one additional district judge for the district of South Carolina, one additional district judge for the eastern and middle districts of Tennessee, one additional district judge for the eastern district of Texas, one additional district judge for the northern district of Texas, two additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the eastern district of Virginia, one additional district judge for the western district of Virginia, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, and one additional district judge for the western district of Wisconsin.

(b) Upon the effective date of this Act the most senior of the two judges presently assigned to more than one district in Oklahoma shall serve only in the western district, and the most junior of such two judges shall serve only in the northern district. The additional judgeship created in section 1(a) of this Act shall be commissioned to serve in both the western and eastern districts of Oklahoma.

SEC. 2. The existing district judgeship for the middle district of Pennsylvania created by subsection (b) of section 2 of Public Law 91-272, June 7, 1970 (84 Stat. 296), shall be a permanent judgeship and the present incumbent of such judgeship shall henceforth hold his office under section 133 of title 28, United States Code, as amended by this Act. Subsection (b) of section 2 of Public Law 91-272, June 7, 1970 (84 Stat. 296), is hereby repealed.

SEC. 3. In order that the table contained in section 133 of title 28, United States Code, will reflect the changes in the numbers of permanent judgeships made by sections 1 and 2 of this Act, such table is amended to read as follows with respect to each such district:

"Districts	Judges
Alabama:	
Northern	5
Middle	3
* * * * *	
Arizona	6
Arkansas:	
Eastern	2
* * * * *	
California:	
* * * * *	
Eastern	5
Central	17
Southern	7
Colorado	5
Connecticut	5
* * * * *	
Florida:	
* * * * *	
Middle	7
Southern	8
Georgia:	
Northern	8
* * * * *	
Southern	3
* * * * *	
Indiana:	
Northern	4
* * * * *	
Kentucky:	
Eastern	3
* * * * *	
Louisiana:	
Eastern	12
* * * * *	
Massachusetts	7
Michigan:	
Eastern	11
Western	3
Minnesota	5
* * * * *	
Missouri:	
* * * * *	
Western	4
* * * * *	
New Hampshire	2
* * * * *	
New York:	
* * * * *	
Eastern	10
North Carolina:	
Eastern	3
* * * * *	
Middle and Western	1
Oklahoma:	
Northern	2
Eastern	1
Western	3
Eastern and Western	1
Oregon	4
Pennsylvania:	
* * * * *	
Middle	4
* * * * *	
Puerto Rico	4
* * * * *	
South Carolina	6
* * * * *	
Tennessee:	
* * * * *	
Eastern and Middle	1
Texas:	
Northern	7
Southern	10
Eastern	4
Western	6
* * * * *	
Virginia:	
Eastern	7
Western	3
* * * * *	
Washington:	
* * * * *	
Western	4
* * * * *	
West Virginia:	
* * * * *	
Southern	3
* * * * *	
Wisconsin:	
* * * * *	
Western	2".

"SEC. 4. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.".

Mr. BURDICK. Mr. President, I ask unanimous consent that William Westphal and William Weller have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. BURDICK. Mr. President, the bill now under consideration, S. 287, the omnibus district court judgeship bill, contains the recommendation of the Judiciary Committee that 45 new district judgeships be created in 40 judicial districts, located in 28 States and the Commonwealth of Puerto Rico. While this seems like a large number of new judgeships, it is, in fact, some 16 judgeships less than were created 7 years ago, in 1969, when the last judgeship bill was passed.

But the importance of this legislation lies not in the number of new judgeships, but rather in the method employed by the Judiciary Committee in arriving at its recommendations.

Mr. President, some explanation of my last statement is in order. Let me begin by quoting from a report of the Judiciary Committee in 1967 when the Senate was asked to create the Federal Judicial Center. In 1967, we said:

> The number of federal judges has almost doubled since 1941. * * * [in a] five year period from 1959 to 1964 * * * a 25% increase in the number of Federal district judges, resulted in but only a 3% increase in the number of civil and criminal dispositions.

Moving on to the year 1969, in the committee report on the omnibus district judgeship bill, which was under consideration at that time, the committee noted:

> Since 1959 there has been a 40% increase in the number of federal district court judges, but only a 9% increase in the number of civil and criminal dispositions.

I now move on to the year 1974, and as a result of the statistics made by the Subcommittee on Improvements in Judicial Machinery, which I am privileged to chair, we have now arrived at this comparison:

> In 1952, our district court system, with only 215 judges, was able to terminate cases at an average rate of 423 per judge per year. Also, in 1974, with a total of 400 district judges, the average rate of terminations was only 348 per judge per year.

It is because of these statistical comparisons, Mr. President, that indicate a definite inverse ratio between the number of judges and the average rate of terminations per judge, that I made the statement that S. 287 is a piece of legislation that has greater importance than the mere number of new judgeships which would be created by this proposal. I think one is justified in drawing the conclusion from these comparative statistics which I have just recited, that in the past the Congress has been asked to create judgeships without having either an adequate factual support for its action or without having in mind a long-range goal for improving the efficiency of our Federal court system.

In the past we were asked to create new judgeships in districts where a backlog of cases existed. One need pause only one moment to see that a backlog of cases can exist in a particular court for several reasons. For example, a backlog may exist because neither the lawyers retained in these cases nor the judges which we have commissioned to preside over the work of that court are applying themselves diligently to their responsibilities. Thus, if the backlog exists for this reason, I submit that the mere existence of the backlog does not justify the creation of new judgeships. On the other hand, a backlog may exist because the new cases filed in that court are far in excess of the workload which even the most diligent judge, working with the cooperation of the attorneys, can reasonably be expected to handle in a year's time. If the latter be the reason why the backlog exists, then I submit that we should give serious consideration to the need of the court for additional judgeships. When the Subcommittee on Improvements in Judicial Machinery embarked on this study back in January of 1973, the distinction which I just made became readily apparent to the members of the subcommittee. Therefore, the task of the subcommittee became one of determining whether the bench and the bar of a particular court were working in a diligent fashion to handle the judicial business of the court. It became the task of the subcommittee to determine what is the reasonable capacity which could be handled by a diligent judge.

In devoting itself to this task, the subcommittee conducted 17 days of hearings, most of them in the early months of 1973. During these hearings, the subcommittee received the testimony of the chief judges of 45 judicial districts. This in itself was somewhat of a novelty because in the years past it had been the practice merely to receive the testimony from the chief judge of a circuit concerning the needs of the districts within his circuit for additional manpower. The advantage of having the chief judge of the trial court appear before the subcommittee was that it afforded the subcommittee an opportunity to explore in some detail the workings of the particular court. During the hearings, we developed evidence not only as to the number of cases filed in a particular court but also the types of cases; whether they were simple cases or were complex cases that required lengthy trials. We explored the number of cases that were settled without a trial; we explored the number of cases that were settled after a pretrial conference but before a trial. On the criminal side we explored the number of cases in which the defendant pled guilty and was sentenced without the necessity of a trial. We also examined the reports which are customarily filed with the Administrative Office of the U.S. Courts which account for the number of days that the judges are actually engaged in trial work and the number of days that the judges are not actually engaged in open court activities, such as arraignments, sentencing, arguments of pre-trial motions and similar activities. As a result of these hearings, the committee came to the conclusion that a fair evaluation of the amount of judicial business in a particular court could not be based simply upon the number of cases which were filed in that court. The committee recognizes that it must make a distinction between the caseload of the judge and the workload of the judge. After making this distinction, the committee evolved the three-part statistical standard to measure the workload on a per judge basis. Each of the three parts of this standard was either recommended or expressly approved by the Judicial Conference of the United States through the witnesses who appeared at our hearings.

The first standard required that the new case filings in a court must equal or exceed 400 per judge per year. This standard of 400 filings was recommended by the Judicial Conference.

The second standard adopted to assess workload was that the judges of the court be able to dispose of cases equal to or in excess of the national average of 358 cases terminated per judge. This standard was adopted as one of the indicia of workload because it afforded a yardstick to measure whether the judges of the court were performing up to the national average as far as the terminations were concerned. As a matter of fact, it is a very fair standard, because our studies disclosed that in one-third of the 94 judicial districts, the rate of terminations exceeded 400 cases per judge. On the other hand, one-third of the districts were not able to terminate as many as 358 cases per judge.

The third standard adopted by the committee as an indicia of the workload required that the judges of the court spend approximately 110 days or more per year actually on the bench as distinguished from working in chambers. If you exclude Saturdays, Sundays, vacation time, and holidays, there are approximately 220 working days in a year. Again, the witnesses representing the Judicial Conference conceded that 110 days, or half of the available working days, was a fair standard or a fair yardstick for the committee to adopt. Under this standard, the judge would still have one-half of his time available for work in chambers, including research, study, writing opinions, and so forth.

A fourth standard adopted by the committee was not a numerical standard—rather it simply is a standard which says that the district in question must make efficient use of existing judges, supporting personnel, and procedural devices in order to cope with its existing workload.

Having adopted this three-part standard, the committee applied the standard to all the districts in an objective fashion and the report which has been filed with the Senate recommends additional judgeships in those districts which meet all or most of the standards and rejects any additional judgeships in the districts which fall below the standards adopted by the committee.

Mr. President, I have previously stated that this method employed by the committee in assessing the need for additional judgeships was a very important aspect of this legislation. In the first place, it is important because, if approved by the Senate and if the House of Representatives concurs, this method of determining judgeship needs will establish a basic congressional policy for determining judgeship needs. Our action will say to the Judicial Branch of Government that new judgeships will not be created on partisan political grounds. Our action will say that such a question will not be decided on the basis of friendship, squeaking wheel or any other terminology we might want to use. In the report which we have filed with the Senate, we recommend that the basic policy for determination of the manpower requirements of our Federal Court System should be:

> Before additional judgeships will be created by Congress, a district court of the United States must demonstrate that the workload of that court exceeds the workload which the public has a right to expect that an efficient bench of a given size can reasonably handle.

Approval of this legislation will mark a significant advance in the oversight of the judicial branch of Government.

We will be saying to each of the 500 or more Federal judges that the Congress expects them to maintain a reasonable level of productive work, in an efficient manner. We will be saying that the courts must use the supporting personnel and procedure which the statutes and the rules of the court have made available to them. We will also be saying that the chief judges, the judicial councils, the judicial conference, the circuit executives and others charged with the responsibility of overseeing efficiency in the judicial branch of Government must exercise the authority which Congress has previously given, to equalize the workload among all Federal judges by assigning underworked judges to overworked courts.

Mr. President, before I yield I would like to comment upon the length of time that the committee has studied this legislation.

The Judicial Conference of the United States made its recommendations based upon the 1972 Quadrennial Survey in October of 1972, at the tail end of the 92d Congress. At the outset of the 93d Congress, we held the 1st of 17 days of hearings on January 23, 1973. In these hearings, we considered the judicial statistics for fiscal year 1972 and for four prior years going back to 1968, the time of the last judgeship bill. By the time the subcommittee reached markup stage, the statistics for fiscal year 1973 were available and were studied by the subcommittee. A bill was reported to the full committee in September of 1973, but further action in the 93d Congress was impossible because the time of the Judiciary Committees of both houses was preempted by Watergate-related matters.

In the current Congress, we reintroduced this measure on January 21, 1975. Since the judicial statistics for fiscal year 1974 were then available, the four-part standard evolved by the subcommittee was applied to each of the 94 judicial districts. The subcommittee then filed its report with the full Judiciary Committee on April 18, 1975. Before the matter was considered in executive session, the judicial statistics for fiscal year 1975 became available during the August recess. Again, each of the 94 judicial districts was reexamined in the light of the most recent statistics.

As I have stated, S. 287, which was reported by the Judiciary Committee on September 23, 1975, recommends the creation of 44 new judgeships and the conversion of one temporary judgeship to a permanent basis.

Mr. HRUSKA. Mr. President, it is with great pleasure that I rise in support of S. 287, the bill to create 45 new Federal district judgeships.

This legislation, which the courts have long awaited, has been pending in the Senate since early 1973. At the beginning of the 93d Congress I also cosponsored S. 587, introduced by my esteemed colleague from North Dakota (Mr. Burdick), the predecessor to the bill before us today. Both bills are based upon the recommendations of the needs of the Judicial Conference of the United States.

Mr. President, beginning with the omnibus judgeship bill of 1961, and until 1970, it was the practice of the Congress to review the ever-increasing workload of the Federal courts and to authorize new judgeships approximately every 4 years.

In order to facilitate this procedure, the Judicial Conference, in 1964, initiated a policy of conducting a survey of judicial needs every 4 years and of transmitting to Congress a recommendation, based on such survey, for the creation of new judgeships. Subsequently, legislation based upon this recommendation was enacted, providing for 36 new judgeships in 1966. In 1968, the Conference again made its quadrennial recommendation and 61 new judgeships were authorized by Congress.

The 1972 recommendation of the Judicial Conference, as I have mentioned, was embodied in S. 587. During early 1973, the Subcommittee on Improvements in Judicial Machinery, under the able and diligent chairmanship of Senator Burdick, conducted 15 days of thorough hearings over a 9-week period on this legislation. Testimony was received from a number of judicial experts, including 42 chief district judges. Detailed inquiry was made pertaining to the extent of the workload, including the nature of the cases, days spent on the bench, the use of magistrates, the use of various court procedures, and the extent of visiting judge time received in individual districts.

The result of these hearings and lengthy subcommittee markup was a bill which attempted to fairly and objectively provide for new judgeships in those districts where a demonstrated genuine need was shown.

S. 587 was reported in timely fashion to the full Committee on the Judiciary in September 1973. Unfortunately, this bill was not acted upon further during the remainder of the 93d Congress because of the press of other business growing largely out of the Watergate matter.

The sad result was, however, that the judicial workloads which existed in 1973, and which continued to rise thereafter, were not provided relief.

After the legislation was reintroduced at the beginning of the 94th Congress as S. 287, additional hearings were held by the subcommittee. It came as no surprise that the testimony and evidence received at these hearings indicated that the workload of the district courts had increased substantially since the previous set of hearings. The bill was revised to reflect the changes in the various districts and was reported unanimously by the Judiciary Committee to the Senate in September 1975. It has remained on the calendar since that time.

Mr. President, beginning with the omnibus judgeship bill of 1961, it became apparent that, with the rapidly increasing business of the Federal courts, it was incumbent upon Congress to review the requirements of these courts on a regular basis. The practice of authorizing new judicial positions on a regular basis, every 4 years, was followed until 1970.

The bill before us today has been on the Senate Calendar since September of last year. A recent editorial appeared in the Washington Post, which commented on this sad state of affairs. I ask unanimous consent, Mr. President, that a copy of this editorial be placed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Although we have had a long delay in the consideration of this proposal, I am pleased that the attention of the Senate is now being directed toward S. 287.

In view of the fact that no new judgeships have been created in 6 years, it is my hope that the measure before us will receive speedy consideration.

Exhibit 1

Playing Politics With Judgeships

In a speech a couple of weeks ago, Chief Justice Warren E. Burger caused some eyebrows to go up by daring to suggest there may be a connection between this year's presidential election and the delay in Congress on the creation of new federal judgeships. Why his remark should have caused any surprise is beyond us. Of course, there is a connection. Federal judgeships, despite the complaints of sitting judges about the stinginess of their salaries, are still regarded as political plums. So the odds are pretty good that the judiciary, despite its needs, is going to get relatively little help until next year when the Democrats, who control Congress, hope to have a Democrat in the White House to nominate the new judges.

Such a situation is not ideal, and it may even approach being intolerable, as the Chief Justice suggested it is, but it is a simple fact of political life. Ever since John Adams tried to load the bench with Federalists in March 1801 (an action that produced the first great Supreme Court decision, *Marbury* v. *Madison*), new judgeships have been political footballs. It is not without cause that the major additions to the federal bench since World War II came in 1949, 1954, 1961, 1966 and 1970—none of them later than mid-way in a presidential term.

This time, however, the dallying by Congress on proposals to add more judges has lasted longer than usual. The Judicial Conference requested 51 new district court judgeships late in 1972. Hearings were held on the request in 1973 and a subcommittee reported a bill containing most of them to the Senate Judiciary Committee that September. The bill sat there throughout the remaining 16 months of the 93rd Congress. It was reintroduced in January 1975—now providing for 45 new district judges—and sent on to the Senate floor by the full Judiciary Committee nine months later. It has now been awaiting Senate action for five months.

We have no doubt that the federal courts need these new judges. Judicial business has increased sharply in recent years and much of that increase has been brought about by new legislation; the spate of environmental legislation, for example, has created a whole new category of litigation. Thus, as Congress dallied, and as it now awaits a presidential election, the delays in the courtrooms grow longer.

There is no obvious solution to the current problem. A Democratic Congress is not likely to be persuaded to let a Republican President fill 45 judgeships just before a presidential election, although it may pass the bill at this session to clear the way for a round of appointments next January. But the situation does raise, once again, the question of whether purely political considerations should be allowed to intrude as deeply as they do into the creation of judgeships and the selection of those persons who fill them. The Chief Justice's remarks were useful in reminding all of us that court congestion is the result of political gamesmanship as well as of judicial administration.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Proxmire). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIMINATION OF DISCRIMINATORY TRADE PRACTICES OF THE EUROPEAN ECONOMIC COMMUNITY

Mr. DOLE. I send a concurrent resolution to the desk and ask for its immediate consideration. Let me say it has been cleared with the distinguished majority leader, the distinguished majority whip, the distinguished minority leader and minority whip, the chairman of the Committee on Finance (Mr. Long), and the ranking minority member (Mr. Curtis).

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 108), seeking to eliminate discriminatory trade practices of the European Economic Community.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, I rise, as I have indicated, to ask for the immediate consideration of this concurrent resolution, which would condemn regulations by the European Economic Community that discriminate against our exports of soybean meal to the EEC.

I am pleased to be joined in introducing this resolution by Senators Humphrey, Curtis, Clark, Talmadge, Thurmond, Eastland, Hansen, Hollings, Bayh, Hruska, Long, Percy, McClure, Johnston, Mondale, Helms, Stevenson, and Morgan.

EFFECT OF RESOLUTION

The purpose of this resolution is simple. It is to achieve the immediate elimination of the discriminatory regulations of the EEC concerning oilseed meal, or retaliation against them. The resolution expresses the sense of the Congress that the President take steps in this direction. It is the understanding of this Senator that the administration is already starting consultations with the European economic community to get the regulations repealed. This is good and hopefully the consultations will be successful.

The resolution further states that in the event the negotiations with the EEC should fail, then the President shall obtain full compensation for the discriminatory regulations under article XXIII of the general agreement on tariffs and trade.

Mr. President, the Senator from Kansas feels strongly that this matter is of such importance, that the violation of GATT is so gross and so flagrant, that if the elimination of the regulations is not accomplished, then the President should take even stronger action than is specifically stated in this resolution. As this Senator understands, it would be within the scope of the President's authority to take retaliatory action against the Europeans on other products, such as wine and automobiles, that they export to this country. Such action would be completely warranted, in view of the way the European economic community is trying to shift a severe problem of their own making onto the backs of American soybean producers and processors.

DISCRIMINATORY EFFECT OF REGULATIONS

The European Economic Community recently created regulations that would seriously damage our export market for oilseed products, especially the export market for American soybean and cottonseed meal. These regulations are scheduled to go into effect on April 1, 1976. The Community's action clearly violates the general agreement on tariffs and trade, which calls for no tariff on oilseeds at all.

The new regulations require that all animal feed mixed in the EEC must contain at least 5 percent nonfat dry milk, of which the Community currently has a tremendous surplus. This dry milk would roughly displace an equal amount of oilseed meal, which is imported chiefly from the United States.

The EEC regulations would also require that importers post a surety deposit on imported oilseed products. For soybean meal, this deposit would amount to approximately $34 per ton. Because of the technicalities of the situation, it appears that importers would probably end up paying all or most of this $34 per ton for soybean meal imports. So the net effect would be an additional expense of $34 per ton on soybean meal imports from this country.

The surety charge is an unfair discrimination, since it is only required for oilseed products and not for other protein supplements, such as fish meal or meat meal. In other words, anchovy imports from Peru would probably increase at the expense of American soybean growers. Our American soybean growers have already suffered a great deal from competition with fish meal from Peruvian anchovies.

It appears very likely to this Senator that the action by the European Community will be a permanent one. On the face of it, the regulations are only to last for a period of 7 months, until the first of November 1976.

However, the Senator from Kansas understands that the EEC plans to consume about 400,000 tons of dried milk as feed for livestock under these regulations. The total surplus of dried milk in the EEC this year is about 1.3 million tons. Last year the surplus was about 500,000 tons, which as this Senator understands, is generally accepted as a manageable surplus.

So if the EEC feeds 400,000 tons this year, it will leave a surplus of about 900,000 tons, which is a great deal more than the manageable amount of 500,000 tons. At the same time the EEC is raising their subsidy for the price of milk, so that the surplus situation will become even worse.

At the end of this 7-month period there will be a tremendous push to extend the feed-mix regulations that discriminate against oilseed products. Unless we take strong and definite action at this point, we can expect to have continuous problems indefinitely down the road.

EEC CREATED PROBLEM

Mr. President, the most objectionable aspect of this whole situation is that the European Economic Community created the entire problem by their own policies. The tremendous surplus of dried milk in the EEC came as a direct result of their extremely high subsidies for milk production. They have now come to the point of some of the dried milk facing spoilage unless it can be used for livestock feed.

The solution they have come up with is simply to shift the cost of the entire solution over to American soybean producers.

The Senator from Kansas can well understand the political problem faced by the leaders of the European Community. There is always a strong desire to assist the dairy producers in your own country. We have the same situation here, but we have not shifted the problem of our surpluses onto producers in other countries.

It is wrong for any other country to shift the burden of their own mistakes onto our soybean producers. This is why strong and immediate action by our Government is necessary and appropriate.

STEADY CUSTOMERS

In recent years we have frequently seen difficulties arise in meeting the demands of importing countries for grain and protein supplements such as soybeans and soybean meal. Th soybean situation became so tight in 1973 that our Government went to the point of imposing an embargo on soybean exports. And this was, in my opinion, a great mistake.

But the point is that we have to realize that our customers need to have faith in the United States as a steady supplier of the grain and agricultural products they need. But there is another side.

We have also come to realize that a reliable supplier must have a reliable customer, in order to be able to provide every year the amount of products that are needed.

That is why the American Government negotiated a grain sale agreement with the Soviet Union. The purpose of this agreement, as this Senator understands, is to establish the Soviet Union as a regular customer of our grain. In this way American farmers will be able to anticipate and satisfy the demand of the Soviet Union every year.

Judging from the regulations the EEC seems to have missed the entire point. They are now contemplating simply shutting off our export sales of soybean meal to them. The result would be disastrous. The market drop would be severe and American soybean producers simply could not afford to stay in the business of growing soybeans with a market uncertainty like this.

The figures will establish and support the case.

The EEC has depended heavily in the past on the United States for its supply of soybean meal. In crop year 1974–75 the Europeans imported 3.023 million tons of soybean meal from this country. That was 65 percent of their total consumption of soybean meal.

By the same token the 3 million tons of soybean meal we sold to the Europeans was vitally important to us. It amounted to 70.3 percent of our total exports of soybean meal.

So the soybean meal trade has been vitally important to both parties.

Now the EEC proposes to cut back on soybean meal consumption by about 380,000 to 400,000 tons. Because of the export policies in Brazil and other exporting countries, it is anticipated by the Department of Agriculture that nearly all of this reduction in soybean meal consumption would fall on American soybean meal exports.

In other words, Europeans are contemplating cutting back our soybean meal export sales to them by about 12.5 percent. That would mean a total reduction in our export sales of soybean meals of 8.8 percent.

It would mean an increase in our total carryout of soybeans of about 18 million bushels.

Mr. President, the addition of 18 million bushels of soybeans to our total carryout would be disastrous to the soybean market and to the soybean industry in this country. The Senator from Kansas would just add that the soybean industry is vitally important in a great many areas. As I understand, soybeans are the No. 1 cash crop in Arkansas, Louisiana, Missouri, Ohio, and Tennessee. Soybeans are the No. 2 cash crop in

Alabama, Illinois, Indiana, Mississippi, and South Carolina. Soybeans are only the fourth ranking crop in Kansas, but the outcome of the EEC regulations will affect the prices of corn, feed grains, and other crops in Kansas and other States.

LAST STRAW

Mr. President, soybean producers and processors in the United States were already in serious trouble prior to this EEC action. Prices have declined steadily since the all-time high was reached in June 1973.

Some specific figures might be useful. In February 1974 the average cash price received by farmers for soybeans was $6.07. In February 1975 the average cash price was $5.72 per bushel. In February 1976 the average cash price was $4.50 per bushel.

So obviously cash prices for soybeans have been on a downward slide for several years. Prices for soybeans have now reached the point where it is difficult to stay in production. Many soybean producers are expected in fact this year to shift from soybeans to cotton or corn production.

At the same time prices have been sliding downward, the expenses for soybean producers have been going up and up, just as for all farmers. The prices of fuel and equipment have soared. The cost of land has doubled and tripled. The EEC regulations can be ill afforded at this point.

A major reason for the price decline has been the increased competition in oilseed exports in the world market.

U.S. soybean meal exports dropped about 20 percent in the last marketing year. A further reduction is expected in 1975–76. Much of this reduction is the result of continued expansion in Brazilian soybean production, which the United States itself has aided with our own foreign assistance programs.

Palm oil imports into the United States, which compete with soybean products, are expected to exceed 1 billion pounds this year. In 1975, imports were 400,000 tons. This more than doubled the 1974 volume.

This latest action by the EEC is just one more factor that is certain to have its impact on soybean prices. We cannot afford further price declines.

FIRM RESPONSE NEEDED

Mr. President, soybean producers in the United States cannot afford further disastrous price declines which would result from the EEC regulations. It is extremely unfair to expect American producers to pay the cost of unsound economic policies in other countries.

Furthermore it is illegal for the EEC to implement these regulations under the General Agreement on Tariffs and Trade which provides for no tariff on oilseeds.

What is needed at this point is strong and decisive action by the Congress and the executive branch to get these regulations eliminated.

This resolution has received good support in the Senate as indicated by my colleagues who are sponsoring this resolution with me. The similar version that is being introduced in the House of Representatives already has, as I understand, about 40 cosponsors.

It is my hope that the Congress will act quickly on this measure now to express our displeasure with the EEC action and to get a firm and definite response to that action by the administration.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Con. Res. 108), together with its preamble, is as follows:

Whereas the Council of the European Economic Community approved a procedure to require a surety deposit and certification system applicable to all imported vegetable protein products; and,

Whereas imported oilseeds, oilseed cake and meal, corn gluten feed, certain other feeds, and dehydrated forage will be subject to surety deposits; and

Whereas the surety deposit imposes a substantial duty on such imports; and

Whereas the Council of the European Economic Community's actions are inconsistent with the Community's obligation under GATT and violate bindings of zero duty on soybeans, soybean cake and meal, cottonseeds and several additional products; and,

Whereas the estimated damage to U.S. oilseed exports would exceed $136 million for the duration of the regulation; and

Whereas the regulation discriminates against imported vegetable protein in favor of imported animal protein, adding additional monetary damage to our exports; and

Whereas the United States has begun consultations with the European Economic Community to seek redress of these actions: Now therefore, be it

Resolved, That it is the sense of the Congress that the President of the United States shall seek immediate elimination of these discriminatory trade practices of the European Economic Community; in the event of failure of the European Economic Community to eliminate such practice the President shall obtain full compensation for such actions under Article XXIII of the General Agreement on Tariffs and Trade.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, that there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m. with statements limited therein to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET ON APRIL 1 AT 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, the Senate Interior and Insular Affairs Committee has scheduled a full committee meeting to mark up several bills, one of which is S. 1776, to establish the Valley Forge National Historical Park in Pennsylvania, on Thursday, April 1 at 2 p.m. in room 3110, Dirksen Senate Office Building.

Mr. President, in view of the long agenda of legislation to be considered at this meeting, I ask unanimous consent, on behalf of Mr. METCALF, that the Committee on Interior and Insular Affairs be allowed to meet on April 1 at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 287 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate resume consideration of the then unfinished business, S. 287, a bill to provide for the appointment of additional district court judges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be rollcall votes on motions and amendments in relation to S. 287 tomorrow, and it is hoped that the Senate will complete action on that bill even if the Senate has to stay late to get that done.

ORDER FOR THE RECOGNITION OF SENATOR BEALL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow under the standing order, and prior to the period for the transaction of routine morning business, Mr. BEALL be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon tomorrow. After the two leaders or their designees have been recognized under the standing order, the Senator from Maryland (Mr. BEALL) will be recognized for not to exceed 15 minutes; after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with statements limited therein to 10 minutes each; after which the Senate will resume consideration of the then unfinished business, S. 287, a bill to provide for the appointment of additional district court judges.

Mr. President, looking down the road, after the disposition of the judgeship bill, the following measures will be taken up, not necessarily in the order listed, and the program will not necessarily be limited to the consideration of the measures enumerated: Calendar Order No. 665, S. 3136, a bill to reform the Food Stamp Act of 1964; Calendar Order No. 682, S. 2853, a bill to amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors; Calendar Order No. 679,

S. 3201, a bill to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes; Calendar Order No. 650, S. 2484, a bill to amend Public Law 566, Watershed Protection and Flood Prevention Act, to remove the limitation on any single loan or advancement for watershed works of improvement; Calendar Order No. 662, H.R. 71, an act to amend title 38, United States Code, to provide hospital and medical care to certain members of the Armed Forces; Calendar Order No. 686, an act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management; Calendar Order No. 684, S. 532, a bill to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954; Calendar Order No. 501, Senate Resolution 268, a resolution to amend rule XXII of the Standing Rules, U.S. Senate, to provide for the consideration of amendments submitted to the Presiding Officer prior to a cloture vote—and I would hope that that measure could be disposed of tomorrow; and Calendar Order No. 685, S. 3219, a bill to amend the Clean Air Act. As of now I would say that the likelihood would be that that measure would go over until after the recess.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:30 p.m., the Senate adjourned until tomorrow, Thursday, April 1, 1976, at 12 meridian.

NOMINATION

Executive nomination received by the Senate March 31, 1976:

DIPLOMATIC AND FOREIGN SERVICE

Thomas R. Byrne, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

HOUSE OF REPRESENTATIVES—*Wednesday, March 31, 1976*

The House met at 12 o'clock noon.

Rev. Kenneth Beachboard, Trinity Lutheran Church, Bowie, Md., offered the following prayer:

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3: 5, 6.

O God of glory and life, who hast made of one blood all nations of men to dwell upon the face of this Earth as Thy children, make our hearts sanctuaries of Thy love and our minds shrines of Thy truth. In these difficult days, may our saving faith in Thee and a devoted faithfulness to our country reveal the blessings of our way of life.

Deliver us from the tribulations of this world, its wars and oppressions, its fightings and calamities, its bloodshed and pain. Grant that, as the days which Thou hast appointed us are few and troubled, we may apply our hearts unto wisdom, abide under the shadow of Thy love and power, acknowledge Thee in all things, and receive Thy divine direction.

In this land we love, may we live in and by Thy spirit, through Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9721. An act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana, in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

The message also announced that the Senate has passed bills of the following titles, in which the concurrence of the House is requested:

S. 3060. An act to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes; and

S. 3168. An act to authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

The message also announced that the Vice President, pursuant to section 4355 (a) of title 10, United States Code, appointed Mr. MATHIAS to the Board of Visitors to the U.S. Military Academy in lieu of Mr. BELLMON, resigned.

PERSONAL EXPLANATION

(Mr. LEGGETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, I wish to point out for the RECORD that I was incorrectly recorded on March 3, 1976, when the House passed H.R. 11963, the security assistance authorization bill. I am recorded as for an amendment to prohibit aid to Chile, against an amendment which would have struck a section providing for trade with Vietnam, and for the bill itself, which passed by a vote of 240 to 169. I spoke on this bill, as follows:

Mr. LEGGETT. Mr. Chairman, I said last September when we considered H.R. 9005, the economic and food aid bill, that we should give the closest scrutiny to the proposed security assistance program when it came before us. That bill firmly established the reforms which we instituted in food and economic assistance in 1973. The security assistance legislation before us today, H.R. 11963, undertakes reforms that are equally important.

I do not support every provision of this legislation. I am still concerned that the $9 billion ceiling it sets on the aggregate value of all foreign military sales is too high. It is, however, a lot lower than the $12 billion we sold in 1974, and it is certainly better than no ceiling. Moreover, I am much less convinced than our committee of the value of military education and training and the need to continue this type of assistance as grant aid.

Despite these reservations, I do believe H.R. 9005 institutes a number of needed reforms. It places important new controls, in addition to the ceiling, on the conduct of foreign military sales. It establishes the principle that we will phase out grant material assistance at the end of fiscal year 1977, unless we subsequently authorize specific amounts for specific countries. And it provides for termination of all military assistance advisory groups, or other organizations performing similar duties, effective October 1, 1977, unless we specifically authorize them.

The new provisions which the bill institutes for foreign military sales would plug a big loophole in our current control mechanism. That gap involves commercial sales of defense articles and services. These sales are now subject to license, but are not really under effective accounting and control.

H.R. 11963 would restrict sales of major defense equipment to government-to-government transactions. Export licenses for sales of over $25 million would be prohibited if they involved items meeting the definition of "major defense equipment," which includes those with R. & D. costs of over $50 million and production costs of over $200 million. All sales of this type would thus be brought under the congressional veto procedure which now applies to our government-to-government credit sales. This will bring all major sales under the type of scrutiny which we have been giving to major FMS credit sales.

The provisions of the bill terminating grant material aid in fiscal year 1978, unless it is authorized on a specific case-by-case basis, have been long discussed, and in my view they are long overdue. For too long we have had grant programs that were neither needed nor effective, and which have served only to prop up repressive and unpopular regimes. Moreover, more and more of the recipients of our grants are in the financial position to provide for their legitimate military needs.

In cases where it can be demonstrated that material grants would serve a truly vital security interest, and that the country in question clearly lacks the resources to support the needed force, we can make a specific authorization for the grants needed. But such instances should become the exception, rather than the rule, as is now the case.

As I indicated, I am much less convinced than our committee that military training is "an effective and productive form of security assistance and should be continued under separate authority." Does U.S. military training really inculcate an American influence or a "democratic orientation," as many proponents allege? That we train our clients well in military skills I have no doubt, but where is the evidence that we turn them into pro-American democrats? From Pakistan to Greece and Turkey, from Korea to Chile and Argentina, I look in vain for such evidence. Furthermore, our committee appears to recognize the tenuousness of its distinction with its assertion that "wherever feasible, military education and training should be on a reimbursable basis." It appears to me that we ought to follow the logical dictate of the committee's proposal on material grants, and terminate the regular grant training program as well.

The issue of the MAAG's and military groups is not unrelated. Do they really provide an effective and needed influence with recipient governments, or are they more likely to strengthen the political role of the host military? Our experience in countries like Greece and Pakistan hardly suggests the untruth of the latter. Again, let us authorize the really neded advisory group as an exception, rather than continue the current rule of military business as usual overseas.

I have dwelled on the broader reforms incorporated in the bill, not because they are the only provisions of import, but because in many respects they are the most far-reaching. Obviously, the funds authorized, as well as the specific provisions on such countries as Angola, Chile and Korea, are of prime concern to us.

I am not prepared to say that every dollar of grants and credits authorized by this bill is really essential. The bulk of the funds are, of course, for the Middle East aid package. I think most of us will be quick to support funding that is clearly needed to support the understandings of the executive branch with the governments of the Middle East.

The level of support to be provided Israel—about $2.3 billion—should be sufficient to enable the Israeli defense forces to maintain a substantial margin of military superiority over those of its Arab neighbors. This is not an approach without risks, but it should have the benefit of enhancing the Israelis' sense of confidence and security. I am hopeful that we will see evidence of the impact of our support on the Israelis in the form of greater willingness on their part to pursue new avenues of negotiation in areas unmentioned in our committee's report, such as the Palestinian question.

Let me reiterate that I emphasize the broader reform aspects of H.R. 11963, not to the exclusion of other provisions, but because of the long-term benefits which these reforms can have. In short, they can basically alter our approach to security assistance, a reorientation which in my estimation is long overdue and has been delayed by the Vietnam war. It is primarily on this basis that I urge my colleagues to support the bill before us.

Mr. Speaker, on March 4, the House passed H.R. 12203, the foreign aid appropriations bill, by a vote of 214 to 152. I am incorrectly recorded as against the bill. On other votes on this bill, I was recorded as follows:

For an amendment to bar funds for foreign political activity;

Against one barring funds for countries which are delinquent in debt repayment;

For one to add $9 million for private relief programs;

Against one to strike $85 million for the UNDP;

Against one which sought to reduce military aid to Israel by $200 million.

CONGRESSMAN F. EDWARD HÉBERT ANNOUNCES HE WILL NOT SEEK REELECTION

(Mr. HÉBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HÉBERT. Mr. Speaker and Members of the House. I will not seek reelection to the U.S. House of Representatives in the 95th Congress.

At high noon on January 3, 1977, I will have served 36 consecutive years as the Representative of the people of the First Congressional District of Louisiana. This is the longest number of years any individual in the history of Louisiana has served in the Congress, including both the House and the Senate.

I will leave Congress ranking fourth in seniority among the 435 Members of the House. In history, on the occasion of the celebration of the 200th anniversary of the founding of the United States, more than 9,000 individuals have been elected to Congress. I will rank in the top 20 when I depart.

At the time of my retirement, I shall be 75 years of age, my diamond jubilee year of life, which is 10 years beyond the generally accepted age of retirement.

My decision to retire has been most difficult. This statement is, perhaps, the hardest I have been called upon to formulate, but in fairness to those who may aspire to the high office which I have been privileged to hold, and in the interest of the State and Nation, I am under the compulsion to make this announcement at this time.

Thus, there will be ample opportunity for all aspirants to make their plans and survey the situation as related to their chances of victory. I hasten to say that I shall not inject myself into the campaign for the selection of my successor. The voters of the First Congressional District have been most generous and kind to me in the more than three decades I have served them, and I am deeply appreciative. I have always attempted to express their wishes in Congress, and I shall accept their decision as to my successor.

In that connection, my years of experience, my effective connections, which have brought so much to my district, and the services of my office staffs, both in New Orleans and in Washington, shall be placed at the disposal of my successor immediately upon election so there will be no gap in the continuity of effective representation.

Few men have been privileged to have lived the life I have. I have been working since I was a boy 14 years old, then an usher at the old Tulane Theatre. I have had the unique distinction of few men—two successful careers in one lifetime. The first career was as a newspaperman which began at the age of 18 on the old Times-Picayune, and ended at the age of 36 as the city editor of the New Orleans States. In that position, I was able, with the help, assistance, and dedication of real gut, talented, fearless colleagues, to direct the breaking of the so-called Louisiana scandals, winning for that paper the coveted Sigma Delta Chi Award for courage in journalism.

It is a strange quirk of fate that I never had any intention of entering politics, and when I decided to run for Congress, as a result of my success as a newspaperman, it was to stay in Congress only 2 years in order to become a better reporter.

I was elected to Congress before I was 40 years of age. Truly, life for me began at 40.

As I look back over that span of 36 years since coming to Congress, it is with great satisfaction that I note some of my accomplishments on the national level. Among them are the establishment of the junior ROTC program, the Uniformed Services University of the Health Sciences, the statutory separation of the Reserves and National Guard, the expansion of the senior ROTC program, to include all branches of the Armed Forces, the consolidation of Naval Reserve training, the unification and equalization of the Army, Navy, and Air Force Academies, far-reaching elimination of waste in military spending as a result of hearings I held more than 20 years ago when I chaired the Investigations Subcommittee, the establishment of proper guidelines to avoid conflicts of interest between the military and civilians, and many other activities so numerous that space limits their recital.

I have had the privilege of serving for 4 years as chairman of the House Armed Services Committee. Previously, I served under such great Americans as Ham Andrews, Dewey Short, Carl Vinson, Mendel Rivers, Philip Philbin, and now Melvin Price. While chairman, I did my job to the best of my ability, and I believe I made some significant contributions to our national defense posture.

And as I look back, I would be less than honest if I did not admit having pride in what I have been able to bring to the people of the First Congressional District.

Throughout my career in public office, I have been tempted with many diversions, and there was a time when I thought I would retire when I had completed 25 years in Congress, having set a record at that time.

I could not in fairness to those thousands of people who had faith in me quit at a time when I stood on the threshold of accomplishments which will continue in the community long after I am gone. Never having been seriously challenged for reelection, I was compelled to remain in office until the innovations which had been started were firmly entrenched.

There were many ups and downs and hills and valleys during the period, but now I can look back with satisfaction.

When I first took office, the Algiers Naval Station was a shambles. View it today. Despite an attempt to close its gates, there rises a $14 million naval medical center of 250 beds. Dedicated last year was the Navy lodge, an innovation for transient Navy families. Under construction now are new homes for personnel. A new gate has been erected and the Eighth Naval District has become permanent under statute. It cannot be closed nor can its boundaries be changed.

Remember the old port of embarkation? Look at it today where stands the F. Edward Hébert defense complex, housing the entire Naval Reserve Headquarters of the United States, in addition to other defense agencies—truly a great complex.

Go to Alvin Callender Field, built from the ground up as the first joint Reserve training center in the United States. Under construction is a $22 million personnel building. Eventually there will be 3,000 permanent personnel located there.

By the end of 1977, the area will have an annual naval payroll of more than $100 million. This payroll affects thousands of nonmilitary people throughout the parishes of Orleans, Plaquemines, St. Bernard, and St. Tammany.

I am certain the pride I have in these accomplishments can be understood as I wait to hand their supervision over to my successor.

So many other things I would like to say at this time, but I do realize the limitations. However, I must recall when I outlined the plan for Lafayette Square to be a Federal square, which it is today; how I prevented the destruction of the beautiful old post office and had it turned into the Federal circuit court; how I prevented the destruction of the customhouse and arranged for the old mint to be turned over to the State free of charge.

And the acres of land which I obtained without cost to the State of Louisiana in Plaquemines Parish to build a school for the trainable mentally retarded, and the arrangements for Plaquemines Parish to purchase over 500 acres at a small cost for a beautiful development, and, too, the land which I obtained for Tulane University's new campus for which my alma mater has honored me by naming the site the F. Edward Hébert Center.

Again, I realize and recognize the limitations which contain me at the moment. Nobody could review 36 years of public life in such a short space, but I have attempted to hit some of the highlights.

I have served my country with all the zeal and fervor that I have packed into my body. There has never been any secret about my position on national defense and the security of this Nation. I accepted the responsibility of defending that position without hesitation. I only wish I could have done more. I have fought in public life and public office for a strong national defense, and in retirement I shall not change that position. National defense cannot be measured in dollars and cents. It can only be measured in requirement and in what is necessary to keep America No. 1 on land, on sea, and in the air.

There is no "place" and "show" in national defense and security. There is only a winner and a loser, and if America is to survive the cradle of its birth, it must be prepared to win.

Yes; I am sad because I have decided to retire, but the end must come to all of us, and I want to be able to stand up to take that last curtain call while still of sound mind and body. I want to be able to open my arms and crush to my heart, in spirit, those wonderful people who have stood at my side throughout the years. I could not have accomplished what I have accomplished without their understanding and confidence. There have been times of disagreement, I know, but I have never lost my respect for the other fellow's opinion, and I hope they have respected mine.

I have always answered questions and stated positions directly and positively, and I have never resorted to subtlety or subversion.

I know this announcement will bring many calls urging me to reconsider. I recognize the validity of such persuasion, but weighed on the scale of what is best at this time for my people and my country, this decision is final.

My one remaining hope is that when the date of retirement comes, I will be able to face the people of the First Congressional District of Louisiana eyeball to eyeball and hear them say: "Well done, thou good and faithful servant."

I hope that is not asking too much.

Mr. LEGGETT. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Speaker, I would like to say that the gentleman has done a tremendous job representing the State of Louisiana and the United States.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I just want to say that I regret the decision of my good friend, the gentleman from Louisiana to retire. The gentleman is a most valuable Member of the House. He will be sorely missed. I am certainly cheered by the suggestion which the gentleman made that he will be available for whatever tasks that the people of Louisiana and the people of this House may have for him, as the gentleman always has. The gentleman from Louisiana is a great American in every sense of the word. I am sorry he is leaving; but I wish him only the best of everything in the future.

Mr. HÉBERT. I thank the gentleman, and I want to say to him that I will be as vocal and loudmouthed and ornery as ever.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, I am sorry that the gentleman from Louisiana has decided to retire. He is a great American. He has made immense contributions to the welfare of the entire United States and the defense of the free world for 36 years. We are going to miss him.

Mr. HÉBERT. I thank the gentleman from California.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Speaker, I do regret that the distinguished gentleman from Louisiana is retiring. He has done an outstanding job here. He has been an able and great legislator. He is a great American, and it is regrettable that he has determined that he must leave us.

Mr. Speaker, I wish the gentleman from Louisiana well in his retirement.

Mr. HÉBERT. I thank my friend from Florida.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to my colleague from Georgia.

Mr. FLYNT. Mr. Speaker, I regret the decision which the gentleman from Louisiana has just announced. On the other hand, I respect that decision. I have served with him very closely during the years I have been here with him.

He has represented his district and his State well. He has been a great representative of his district and State and a great American. ED HÉBERT has contributed much to the strength of the United States of America. We shall miss him very much.

Mr. HÉBERT. I thank the gentleman from Georgia.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, I want to say that I echo the sentiments of nearly every Member who has spoken. The gentleman from Louisiana has made a great contribution, and I think all of us regret seeing him go. But, I think he should be confident, as I will be when I make the same announcement, that there is a time to stay and a time to go. The gentleman has made the decision on his own, and he controlled his own destiny. I think he can be proud of that.

I know his constituents are not going to forget, in the generations to come, the service he has rendered for his district and his Nation.

Mr. HÉBERT. I thank the gentleman from Ohio.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the distinguished chairman of my committee.

Mr. PRICE. Mr. Speaker, I cannot begin to say to the gentleman or to the House how deeply sorry I am that he would have chosen this course. I understand the motivation and I recognize that he has given over 34 years of dedicated service to the people of his district and this country.

He has chosen to retire, but I cannot help expressing the hope he might give thought to reconsideration.

I have had the honor of serving with the gentleman from Louisiana (Mr. HÉBERT) for 30 years on the House Armed Services Committee. I never had a closer friend or a more experienced adviser than he has been.

I have admired his great work, in his

effort to maintain an adequate national defense, his work in the field of Reserves, what he has done for junior ROTC, what he has done for the medical services in the Armed Services. There are many monuments to his contributions.

Mr. Speaker, it is with real, genuine regret that I accept the gentleman's decision. I wish it were not so.

Mr. HÉBERT. I thank my chairman for his kind remarks.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Speaker, to a really great American, a splendid legislator, one who has made great contributions to the defense structure of this Nation, and one who has worked hard toward the illusive goal of world peace, and to one whose candor and integrity make him stand out among Members of this House of Representatives, one with whom I have been privileged to serve, let me say that I regret to see the House of Representatives lose the quality of his leadership, the benefit of his perceptive thinking, but nevertheless say to him, "Welcome to the society."

Mr. HÉBERT. Mr. Speaker, I thank the gentleman.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentlewoman from Maryland (Mrs. Holt).

Mrs. HOLT. I thank the gentleman for yielding.

Mr. Speaker, I just want to say that this is a very sad day for the House of Representatives and for our country. I have only known the gentleman for the 3 years that I have been here, but I have found his wise leadership to be invaluable, and I know the strength and wisdom and courage that he has displayed in providing for the defense of this country that he loves so well. We certainly regret to see him make this decision. I wish him many years of happiness in his retirement.

Mr. HÉBERT. I thank the gentlewoman from Maryland very much.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. HEBERT. I yield to the distinguished Speaker, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. I thank the gentleman for yielding.

Mr. Speaker, the departure of the gentleman from Louisiana (Mr. Hébert) is the departure not only of a friend, certainly a personal friend of mine, but the departure of an extraordinary man and an extraordinary legislator from these Halls, one of the strong men whose will is built of steel, whose determination is inflexible.

It is a sad day for the House of Representatives. The gentleman from Louisiana is one of the really great legislators, one who understands things, one whose mind is penetrating, and whose voice superbly articulates his penetrating thoughts.

Mr. Speaker, may the gentleman have a lengthy, fruitful and pleasant retirement.

Mr. HÉBERT. I certainly am indebted to the distinguished Speaker, and I thank him very, very much for his remarks.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Louisiana (Mr. Waggonner).

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Speaker, this distinguished gentleman in the well, Mr. Hébert, is the dean of my delegation, the Louisiana delegation. For me to stand here and reiterate everything that has to this point been said about him would to a point be redundant. But I would like to make it clear that not enough can be said in a creditable way for this great man.

Eddie Hébert is beyond any shadow of a doubt one of the greatest Americans I have ever known. Eddie Hébert is beyond any shadow of a doubt one of the greatest public servants this Congress ever had. He has served his country unselfishly and he has as well served his constituency unselfishly.

Eddie, to you, I cannot express my personal affection and appreciation sufficiently enough for what you have done for me; but I can say that I understand your decision and I can say I do not like it. You have been my mentor and I will forever be grateful. God bless you and thank you for your friendship and service.

Mr. HÉBERT. I thank the gentleman very much for his remarks.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from South Carolina (Mr. Davis).

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Speaker, I join my colleagues in expressing regret that we have heard the news today announcing the retirement of this great American. Mr. Speaker, we have had our little special association, and when I needed help on a particular campaign 5 years ago, I turned to this great body, and he came to my aid. He has been a friend to me, a friend to my people, a friend to everyone in this great country. We have to accept his decision because it is his own. But in accepting it, Mr. Speaker, we say, deeply and sincerely, "Thank you for what you have given, what you have done, and we wish to you and Miss Gladys, Godspeed and happiness."

Mr. HÉBERT. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, this is my first term in Congress, but I join my colleagues in expressing appreciation and admiration for the gentleman in the well, the honorable F. Edward Hébert of Louisiana, who for 36 years has been a Member of Congress and who for the past several years has been chairman of the distinguished Committee on Armed Services of the House.

Recently it was my privilege to attend the National Convention of the Veterans of Foreign Wars held here in Washington, and I witnessed the proceedings of that organization in honoring Congressman Hébert as the Man of the Year for 1976. I congratulate this outstanding American upon his many years in Congress, for his achievements through those years, and for his effective work for a better United States of America and indeed a better Congress.

I would conclude by saying that I know, as a first-term Congressman and as one who had the chance last year to be chairman of the freshmen Democrats in the first 6 months of 1975, that all the freshmen Democrats of this House, though they might have differed with Congressman Hébert on some few issues, indeed respect you, admire you, and wish you Godspeed in the years ahead.

Mr. HÉBERT. Mr. Speaker, I thank the gentleman very much.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

The announcement made by the gentleman from Louisiana (Mr. Hébert) a few moments ago signifies a distinct loss to the people of Louisiana and a distinct loss to the people of this Nation, as well as to his colleagues here in the House of Representatives.

I have had the honor to serve with the gentleman during the last 18 of his 36 years in the House of Representatives. It has been a great honor for me, and I have cherished the relationship.

Further, I would like to point out to our colleagues that when the gentleman was honored a week or so ago at the Sheraton Park by the Veterans of Foreign Wars by being named the Man of the Year and given a distinguished service award, he was honored by the President of the United States who came personally and said some very fine things, all of which are well deserved by the gentleman.

I wish you the very best of everything in the future.

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Speaker, I thank the gentleman for yielding.

This is indeed a sad day for me as a member of the Louisiana delegation to learn of the departure at the end of this term of my good and dear friend, Eddie Hébert.

When I came here a little over 3 years ago, I was somewhat of an intruder in the all-Democratic delegation that had been here since the turn of the century, but I was received by the dean of our delegation with a genuine hospitality and generous warmth far beyond the usual courtesies that one might expect a freshman to receive from the dean of his delegation. He helped me in countless ways, and never did the fact that we belonged to different parties matter one iota to him. I am saddened also as a Member of this House to realize that at the end of this year we will see the departure of one of the really historic figures of this Congress.

Having been a resident of metropolitan New Orleans for many years, I can attest to the fact that his service to his district is outstanding, and no one will ever be able to fill his shoes in that respect. He is invincible in politics, and I am sure he could stay here as long as God was willing for him to do so.

Congressman HÉBERT has set a Louisiana record for longevity in Congress, both in the House and the Senate, with his 36 years of service.

His most significant work here, of course, has been building the structure of peace through a strong national defense.

There is a lot more I could say, Mr. Speaker, but I know that others can say it with far greater knowledge because they have been here a lot longer than I have, and I am sure they can say it with a great deal more eloquence.

Mr. Speaker, I will simply conclude by saying:

Thank you, EDDIE HÉBERT, for making the cause of freedom and liberty in this country as strong as it is today; and thank you for what you have done to enhance the prospect that my children and my grandchildren will enjoy that same liberty and freedom.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my fine colleague, the gentleman from Louisiana (Mr. HÉBERT), yielding.

It has already been expressed in many, many ways how disappointing it is to many of us that the gentleman (Mr. HÉBERT) has chosen to withdraw at the end of this session, from the House of Representatives.

All the highly favorable comments that have been made are not only well deserved, but I hope will be properly broadcast and noted across this land. In saying thanks and expressing our appreciation for the total service the gentleman has given to this House and our country, the Members here today are indeed grateful to the former chairman of the Committee on Armed Services who presided with commendable dedication at a time when our military and defense establishment was under an unfair and unreasonable attack.

Mr. Speaker, when the people in our country were divided because of a war that was undeclared, the gentleman from Louisiana (Mr. HÉBERT) made sure that his committee, and this House retained a proper and substantial miltary posture and he did not allow us to fall into the trap of irrational disarmament. He presided over that committee at probably a no more difficult time in our history. There were noisy and carping "cat calls" from almost every corner to drastically cut our military system. But our sturdy chairman, Mr. HÉBERT, was not stampeded by such misguided rabble-rousers.

Mr. Speaker, we were all very much impressed during that whole disruptive experience when he was chairman of the Committee on Armed Services and when on this very floor he himself was under vicious attack by people from that well orchestrated minority. Mr. HÉBERT retained his composure. He treated Members on this floor with great fairness and genuine equanimity. Even though some were attacking him personally or attacking the things that he was trying to do, he still was most fair in handling the equal time that either side of the issue was given on the floor. Even those who attacked most viciously still had adequate time to express their divergent views.

Mr. Speaker, I was terribly impressed, as one Member, by the fact that he was able to keep that polite composure, gentlemanly demeanor under the most active "verbal combat" being delivered by others.

We are grateful to you, Mr. HÉBERT. You have provided a magnificent service to the defense of this country; and as my colleague, the gentleman from Louisiana (Mr. TREEN), said, you have had a sense of "true" peace for this country by insisting on a reliable and strong defense. We are extremely grateful for your fine service.

Mr. HÉBERT. Mr. Speaker, I thank the gentleman from California for his kind comments.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Louisiana (Mr. TREEN) and the gentleman from California (Mr. ROUSSELOT) have just expressed ably the very thoughts I wanted to express myself.

I will add only my personal regret at your decision and my personal appreciation for the many kindnesses and considerations that you have extended to me over the past 16 years.

Mr. HÉBERT. Mr. Speaker, I thank the gentleman from Illinois (Mr. FINDLEY).

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from yielding.

Last night, just before I went to bed, I heard on the radio of the retirement of the gentleman from Louisiana (Mr. HÉBERT).

I, too, want to say that I am sorry because of your departure from the House of Representatives. I know of your fine service to the people of the United States, even though I am only a freshman Member of this Congress.

However, in talking about your retirement, I think it is a sad situation this year that we have had so many of the senior Members of Congress retire. You are just one of those senior Members of Congress who is retiring, and you are entitled to your retirement if you want it. Nonetheless, I think it is bad that we have so many Members who have such a good perspective of the American tradition retiring at the same time. Therefore, above and beyond your own retirement, I am sorry to see so many people who have worked so long and hard to make this country the great country it is retire during the same session in which you are also retiring. I am sorry to see you go, but additionally I am sorry to see so many who have worked so hard and who know so much leave simultaneously.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I would like to say that my good friend, the gentleman from California (Mr. ROUSSELOT) said very well that which I was about to say. That is, that when I first came to this body in 1971 the distinguished gentleman now in the well, Mr. HÉBERT, was the chairman of the Committee on Armed Services. Those were the days, as the gentleman I am sure well remembers, of great tension and division in the House and also of great passion regarding the issue of Vietnam.

The gentleman from Louisiana and I have entirely different opinions about how that war should have been prosecuted. But, the gentleman might recall a conversation I had with him in 1971 or 1972. I inquired of the gentleman as to how he was able in floor debate to keep his composure and his affability and his genuine good nature toward Members of Congress who were, of course, very strongly opposed to his views on Vietnam.

And the gentleman told me then that it was easy to be courteous and restrained when you have the votes. But the gentleman said that with a smile that was so customarily on his face.

We have all seen Members on far less taxing issues who had the votes, but who did not possess the sense of humor and the courtesy that the gentleman from Louisiana possesses.

And, I for one, while I have disagreed with the gentleman from time to time, wish to thank him very, very much for his distinguished service to the House and to wish him the best of health in his retirement.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I am delighted to yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, I want to echo the sentiments that have been expressed by the Members of the House and the kind things that have been said concerning the distinguished gentleman from Louisiana (Mr. HÉBERT).

I would like to add that I have known EDDIE HÉBERT since I came here and I have treasured his friendship and admired his legislative skills for years.

Louisiana can be proud that it has sent EDDIE HÉBERT to Congress for 36 years, the longest term of any Louisianan. He came here with a distinguished record in the field of journalism and he stayed in the Congress until he built a solid record of achievement.

The Armed Forces of this great Nation owe a debt of gratitude to EDDIE HÉBERT. He has been their champion and our defenses are strong today because of his dedication and fervor. He is a compassionate man, too. When I think of EDDIE

HÉBERT I think of the medical school that he instituted for members of the Armed Forces. They are building that school right now out at the U.S. Naval Hospital in Bethesda. Without HÉBERT it would not be a reality. He worked on it for years, nursing it through the legislative process and into law and final implementation by the President.

We will all miss EDDIE HÉBERT. But we all hope he will visit us often.

Mr. TREEN. Mr. Speaker, this morning one of the giants in the history of this House announced his retirement. F. EDWARD HÉBERT, elected to Congress 36 years ago, and dean of the Louisiana delegation for the last 15 years, will not seek reelection this fall.

The news of EDDIE HÉBERT's departure from the House at the end of this term saddens me in a very personal way. I have only been a Member of the Congress for a little over 3 years, but my acquaintanceship with EDDIE HÉBERT goes back quite a few years prior to my coming to Washington. And, of course, as a resident of metropolitan New Orleans, I have been aware of his activities on behalf of his district, his State, and his country since his coming here in January of 1941.

The personal sadness occurs to me because of my great affection for the dean of our delegation. Mr. Speaker, when I came here and took the oath in January of 1973, I was an intruder. Our Louisiana delegation had not had a Republican member for almost 100 years. Nevertheless, I was received with genuine warmth and generous hospitality by the head of our delegation. He went out of his way to assist me in numerous instances. His help amounted to much more than the usual courtesies which one might expect. The fact that we belonged to different political parties never once influenced his attitude toward me.

So, I am personally saddened that the privilege of serving in the Congress of the United States with EDDIE HÉBERT will, for me, be limited to just 4 years. I hate to see my friend retire, but my greater despair arises from the realization that at the end of this year we will see the departure from the Congress of the United States one of its towering figures. I realize that the passage of time inexorably works changes—that is part of life and we must accept it. But that does not alter the fact that the retirement of F. EDWARD HÉBERT means a great loss to the Congress of the United States.

Mr. Speaker, that loss is easier to bear when one reflects on the great contributions which Congressman HÉBERT has made to this body and to the United States of America. I know that many in this House, especially those of you who have served with Congressman HÉBERT for many years, can speak much more knowledgeably, competently, and eloquently about the contributions which he has made. You can attest to them far better than I.

But there is another aspect of the character of this man to which I can attest, because I was an intimate witness. At the beginning of this Congress the Democratic Caucus decided not to elect Congressman HÉBERT to the chairmanship of the Armed Services Committee, a position which he had occupied since February of 1971. This is not the place to discourse on the wisdom or lack of wisdom of that decision. The merits of that action are not particularly pertinent to the point I make. Mr. HÉBERT could have fought that decision on the floor of the House. He had enough support on the Republican side and among the minority on the Democratic side to give him a fighting chance to retain the chairmanship of his committee.

When these events occurred EDDIE HÉBERT took me into his confidence, along with a few others. Of course he was hurt and disappointed by the decision of the Democratic Caucus. His close friends were outraged. And, as you all know, EDDIE HÉBERT never flinched from a fight. But, he made the decision against carrying his cause to the floor of the House for the simple and noble reason that he did not want to cause difficulty and embarrassment for his friends who, in their support of him, might have thereby brought retribution upon themselves. He put the interests of his friends ahead of his own interest. He did this despite the urgings of those who anguished with him about these events and who wanted him to carry the fight to the floor of the House.

Mr. Speaker, there is more to the story. Mr. HÉBERT had been demoted. But did he sulk, did he avoid attending committee meetings, did he let the events diminish his ardor for his work on the Armed Services Committee? No, absolutely not. He came to those meetings with the same regularity as when he had been chairman, sitting at the right hand of the new chairman and giving him 100 percent support. On the Subcommittee on Manpower, on which I have the honor to be the ranking Republican, he attended as frequently as his schedule would permit despite the fact that he had become the lowest ranking Democrat on that subcommittee. That made him the last to have the opportunity to question witnesses. He waited with patience and with dignity. He performed like a statesman as the lowest ranking member of that subcommittee just as he had done previously as the chairman ex officio.

EDDIE HÉBERT has long been an inspiration to me. It was because of him, in large part, that I sought a position on the Armed Services Committee when I came to Congress. But, he inspired me even more after he was deposed as chairman of the committee because of the great dignity and nobility which he has demonstrated every single day that has elapsed since he lost his position as chairman.

I know not how long or short my privilege of service in this House will be, but I shall count it as one of the great experiences of my life that I was able to serve with Congressman HÉBERT and under him for at least 4 years.

Mr. Speaker, it would be presumptuous of me, a very junior member of this body, to try to speak for other members. I know that many will do this in their own way and in their own time. For myself, there is a lot more that I could say. But I will conclude by saying simply this: Thank you, F. EDWARD HÉBERT, for all that you have so generously contributed to the cause of liberty and freedom and for all that you have done to enhance the prospect that my children and my grandchildren will also enjoy that same freedom and liberty.

Mrs. BOGGS. Mr. Speaker, it is with great regret that I rise today to salute my dear friend EDDIE HÉBERT on the announcement of his decision to retire after 36 years of service in this House.

Hale and EDDIE worked together on the States newspaper in New Orleans, and they came together to Washington as freshmen Congressmen in 1941. With pride and affection, Hale and I watched EDDIE's rise to leadership.

EDDIE is a dedicated patriot and a walking depository of important data essential to the defense of the United States and to the promotion of our democratic system of government. He used positively his handicap of poor eyesight to become a forceful speaker, and to develop the talent for listening carefully to the views of others and pertinent information offered for problem solving and for positive national programs. He has been especially kind and helpful to me since I became a Member of Congress.

The social graces and abundant hospitality that EDDIE and Gladys have afforded to Louisianians and to official Washington have honored our State and our delegation. I will miss them sorely.

Mr. VAN DEERLIN. Mr. Speaker, the news that Mr. HÉBERT is leaving this body, after 36 years of devoted service, has come as a shock to all of us.

My first contact with Mr. HÉBERT came in the late 1930's when as a young newspaperman I sought employment at the New Orleans Times-Picayune. The editor who turned me down was none other than EDDIE HÉBERT. That, of course, was a lamentable decision on his part, and journalism in New Orleans no doubt suffered as a result.

Actually, of course, Mr. HÉBERT and the New Orleans press managed to do quite well without me. Our colleague was properly honored for his work in exposing the local political machine, and the papers prospered.

During his many years in the House, he has continued to be a force for integrity and stability in an often unsteady world.

There are few among us who can rival the accomplishments of Mr. HÉBERT. I join our colleagues in wishing him all the best in his richly earned retirement.

Mr. WHITEHURST. Mr. Speaker, permit me to take this occasion to extend to my dear and valued colleague, EDDIE HÉBERT, congratulations on his long and distinguished career. When I learned that he had chosen to retire at the end of this session, I had mixed feelings. I am pleased, of course, that he will be able to put down the heavy burden, but as one who has worked closely with him on the Armed Services Committee during my tenure here, I know that his departure will leave us and the Nation poorer.

I have had the privilege of serving with Congressman HÉBERT during the period when he was chairman of the Armed

Services Committee. On innumerable occasions, he was helpful to me, and I will be forever in his debt for his guidance and assistance; but in a larger view, I will recall always his unflinching devotion to this Republic and his uncompromising insistence on a strong national defense. Time and again, I have heard him warn the committee and the House against shortchanging the defense of the Nation. As a patriot, there is no person in either body who can surpass F. EDWARD HÉBERT, and few equal his dedication to the preservation of freedom. He is an inspiration to every American.

As he returns to his beloved New Orleans, I wish him many more years of good health and happiness. May God bless him always.

Mr. BOB WILSON. Mr. Speaker, I somewhat reluctantly join my colleagues in saying "hail and farewell" to EDDIE HÉBERT, the last of the Titans.

The news that he has decided to retire came as a shocker to my wife, Shirley, and myself. We had assumed, I suppose, that like Ol' Man River he'd just keep rollin' along. But today it is apparent that the warrior really means to hang up his sword and go down home to his beautiful country place near New Orleans. He, like no man before him, has fought for a stronger America and he has, many times over earned a gracious retirement.

EDDIE HÉBERT's imprint on our defense posture will stand for all time. His most notable accomplishment, the new Uniformed Services University of the Health Sciences will turn out thousands of physicians for our services in the decades ahead, and the myriad of other policies laid down by Chairman HÉBERT will continue as long as Americans demand the best possible defense for our country.

I will miss him as a strong and forthright colleague. Shirley and I will always hold EDDIE and his much-loved wife, Gladys, close to our hearts and happy in our memories.

Mr. MORGAN. Mr. Speaker, I join his many friends and colleagues in paying tribute today to the Honorable F. EDWARD HÉBERT, one of Louisiana's most distinguished sons.

Most of us are happy to have had one successful career. EDDIE HÉBERT has had at least two. First, he was a distinguished Louisiana journalist and editor with a reputation as for honesty and accuracy that spread far beyond his native State.

Second, in the role we know him, he has served with distinction the people of his district and this Nation in the House of Representatives for the past 35 years.

As a Congressman, he has attracted notice almost from the outset of his career as a national legislator, both for his ability in the lawmaking process and for his capacity for inquiry into the working of the National Government.

He has stood for many years as a bulwark for strong national defense. In three national conflicts he has helped to provide our Armed Forces with the equipment, the support, and manpower needed to insure success.

We shall miss EDDIE HÉBERT, but we know he has richly deserved the fruits of retirement. Our best wishes go to him, his wife, and family on this occasion.

Mr. HÉBERT. Mr. Speaker, I thank the Members of the House who have been so kind to me this morning, and in particular the members of my own Louisiana delegation. I deeply appreciate all of the kind remarks and I hope I shall always command the respect of the Members.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the retirement of the distinguished gentleman from Louisiana (Mr. HÉBERT).

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT DURING 5-MINUTE RULE TODAY

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that the subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce may be permitted to sit during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT DURING THE 5-MINUTE RULE TODAY

Mr. FLYNT. Mr. Speaker, I ask unanimouse consent that the Committee on Standards of Official Conduct may be permitted to sit this afternoon during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TODAY

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary may sit during the 5-minute rule this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

WHY SILENCE ABOUT LEBANON?

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I rise today because there has been too much silence on the tragedy that is unfolding on the eastern shore of the Mediterranean and that is the destruction of the ancient Christian community of Lebanon.

Day after day as we hear the sad news reports and read sickening accounts in the papers and see the bloody photographs of destruction and death. We see the tragedy of a Christian community that has been there for years living in peace, harmony, and prospering, now being reduced to ashes by terrorism and by brute force.

When any group of people, no matter how small in number, is being attacked persecuted and oppressed, no other group is safe for long, no matter how large their number. We are, indeed, our brothers' keepers. Loss of the right to survive as a free person anywhere is a loss for each of us anywhere. We cannot be silent. For evil to prevail, Burke said, it requires only that good men do nothing, or remain silent.

I think the people of the world, particularly the people of the Western World have been silent far too long on this point. I think the time has come for us to speak out, to be heard and to give voice to the great anguish we feel for what is unfolding there.

Why has this Nation done nothing to save the lives and religious security of the hapless Christian community in Lebanon? Why have our leaders been quiet?

The destruction of Lebanon and the jeopardy of its Christian community by terrorists armed by radical Arab States is a blight on the conscience of the world. I cannot be silent about this. Can you?

CONGRESSMAN PEPPER HAS SUCCESSFUL HEART SURGERY

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, as you know, our distinguished colleague, CLAUDE PEPPER, has successfully undergone an operation for repair of a valve of his heart.

His physician, Dr. Thomas O. Gentsch, of the Miami Heart Institute, has pronounced the operation "a complete success," and I am pleased to report that CLAUDE is upon his feet and expects to be out of the Miami Heart Institute by the end of the week.

The operation, last Wednesday, corrected a deficiency in the valve between the left ventricle and the aorta, the main artery that carries blood from the heart to the rest of the body. A slight malformation in the valve apparently had existed from birth and was first detected in 1952 as a mild heart murmur. Due to the malformation, the flow of the blood gradually built up a deposit on the valve opening which restricted its size.

The operation enlarged the opening and replaced the deficient valve with an artificial heart valve. The operation was a relatively simple "repair job" which is routinely performed by heart surgeons throughout the world.

Dr. Gentsch said CLAUDE's heart muscle and arterial system are in good condition and the operation has eliminated the strain which has gradually been building up on the heart muscle over the last few years.

I am sure you all know how active CLAUDE has always been. He wanted to get this restriction eliminated so he would not have to curtail his active schedule or risk a heart attack at some time in the future. He chose to undergo the operation and we all are very pleased that it has been so successful.

After he leaves the hospital he will gradually rebuild his strength, as is necessary in these cases. He expects to be back on a full schedule by the end of April and will be back with us here on the floor in his usually good form and good health.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 146]

Alexander
Ambro
Andrews, N.C.
Archer
Ashley
Barrett
Biester
Boggs
Breckinridge
Chisholm
Clausen, Don H.
Clay
Conyers
Diggs
Dingell
Dodd
Drinan
Giaimo
Guyer
Harsha
Hayes, Ind.
Heckler, Mass.
Henderson
Hinshaw
Holland
Jarman
Jenrette
Johnson, Pa.
Jones, Ala.
LaFalce
Lundine
McKinney
Macdonald
Moffett
Moorhead, Pa.
Nix
Pepper
Rangel
Rees
Riegle
Rodino
Sarbanes
Scheuer
Stratton
Symington
Thompson
Traxler
Udall
Ullman
White
Wydler

The SPEAKER. On this rollcall 381 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12406, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, March 30, 1976, all time for general debate on the bill had expired. The bill is considered as having been read for amendment.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

AMENDMENTS OFFERED BY MR. HAYS OF OHIO

Mr. HAYS of Ohio. Mr. Chairman, as I advised on yesterday, I offer a group of technical amendments to this bill, on which I believe there is no controversy.

The Clerk read as follows:

Amendments offered by Mr. HAYS of Ohio: Page 9, line 22, insert "and inserting in lieu thereof a semicolon" immediately after "end thereof".

Page 12, line 15, strike out the period immediately after "candidate" and insert in lieu thereof "; and".

Page 14, line 21, insert a semicolon immediately after "Code".

Page 14, line 23, insert "; and " immediately after "1954".

Page 31, line 10, strike out "prescribed" and insert in lieu thereof "provided".

Page 32, line 8, strike out "campaign" and insert in lieu thereof "authorized political".

Page 32, line 20, strike out "President of the" the first place it appears therein.

Page 33, line 21, insert a comma immediately before "in the case of".

Page 38, line 6, strike out the comma immediately after "convention".

Page 38, line 21, strike out "contributions" and insert in lieu thereof "conditions".

Page 39, line 5, strike out "officers" and insert in lieu thereof "offices".

Page 39, line 11, strike out the semicolon and insert in lieu thereof a comma.

Page 40, line 12, strike out "calendar year," and insert in lieu thereof "calendar year),".

Page 41, line 22, strike out "makes" and insert in lieu thereof "to make".

Page 41, line 23, strike out "promises" and insert in lieu thereof "to promise".

Page 44, line 21, strike out "exceeds" and insert in lieu thereof "exceed".

Page 47, line 6, strike out "302(f)" and insert in lieu thereof "302(e) (1)".

Page 47, line 7, strike out "(f)) is amended" and insert in lieu thereof "(e) (1)), as so redesignated by section 103, is amended".

Page 48, line 6, strike out "on" and insert in lieu thereof "at the close of".

Page 49, line 15, insert a comma immediately after "United States Code".

Page 58, line 2, insert a comma immediately after "1971".

Page 58, line 8, strike out the comma immediately after "Code".

Page 58, line 13, strike out "305(a)" and insert in lieu thereof "306(a)".

Page 58, line 14, strike out the comma immediately after "Code".

Mr. HAYS of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, I ask unanimous consent that these amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, these amendments are strictly technical amendments. As I am sure the House is aware, once the bill was approved it was a matter of urgency in getting it rewritten and before the House so that we could move on it. I would say that these technical amendments are concurred in, or were written jointly by the minority counsel and committee council.

I believe there is no objection on the minority side to these technical amendments, such as including a comma where one should be, including a semicolon where one was not or putting in an "and" where we did not have one, and so on and so forth.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, the gentleman is correct. The technical amendments have been cleared by the minority. We agree to the technical amendments and urge their adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HAYS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 15, beginning line 19, strike section 108 in its entirety.

Mr. FRENZEL. Mr. Chairman, the section to be stricken by this amendment is the section on advisory opinions, beginning on page 15 and going through pages 16 and 17.

This section of the bill is central to the weakening of the independence of the Federal Elections Commission. The section does a number of things to the independence of the Commission by mandating that all advisory opinions must be approved by Congress.

Mr. Chairman, advisory opinions heretofore have been the only source of guidance for candidates, committees, parties and political participants. Congress has not yet approved any single regulation submitted to it by the Federal Elections Commission and, therefore, this particular section of the bill, which forces advisory opinions to later be put into the form of regulations which are subject to veto, means that we will have no guidance until we can get those advisories into the regulation form.

So far, the Federal Elections Commission has rendered about 140 advisory opinions. Some of them are very simple, and very specific. Others, however, are of a broad nature and involve as many as 2 dozen complex questions.

This section of the bill requires that the FEC put all opinions into regulation form and submit them to Congress.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman aware of the Long amendment which will be made in order if this amendment is defeated?

Mr. FRENZEL. I am aware of that.

Mr. HAYS of Ohio. If the gentleman will yield further, would this cure any of the gentleman's troubles? I am disposed, if this amendment is defeated, to accept the Long amendment, because I realize that there are advisory opinions which could cover a specific matter which might not be of general applicability.

As the gentleman knows, the Long amendment would, on page 17, where it says, "The Commission shall, no later than 30 days after rendering an advisory opinion," insert the words, "of general applicability."

I wonder if that would make any difference to the gentleman?

Mr. FRENZEL. Mr. Chairman, I do intend to support the Long amendment if this one fails. But it does not cure all of the problems that I see with this section.

I thank the chairman, the gentleman from Ohio (Mr. Hays) for his interest.

Mr. Chairman, there has not been any controversy about any advisory opinion of which I am aware, with the exception of an advisory opinion No. 23, the SUNPAC decision.

In this bill, in another section, the SUNPAC decision is laid to rest anyway. So it seems to me that this particular section is a sort of overkill. It is an attempt to kill SUNPAC the second time and, in so doing, limit the ability of the Commission to render necessary guidance to participants in the political process. I think it is simply another way in which the Commission becomes subservient to Congress. It cannot take any significant action until it clears it with Congress.

The worst of it is that the congressional track record is so bad. We have disapproved two regulations, but we have not approved any of the other regulations that are before us, so everybody in the game of politics is traveling exclusively now on advisory opinions.

Mr. Chairman, this bill also provides that the advisory opinions must be made in the form of regulations and presented to Congress in 30 days. I think those of us who are familiar with the administrative procedures understand that that is impossible. The Commission must develop its advisory opinion. Having done so, it must then publish it in the Federal Register. At that point it has to schedule it for public hearings, hold the public hearings, and then rewrite the regulation. Then if it is satisfied, the Commission confirms it and sends it to Congress.

In my judgment, it is not reasonably possible for the Commission to do a good job of regulation-writing within the period required by this particular bill.

So, Mr. Chairman, it seems to me that if we really believe in an independent elections commission with the ability to make some determinations which, no matter whether they are general or specific, are probably going to have to stand for 60 to 90 days at least, we ought to eliminate this section and vote for this amendment.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Frenzel) has expired.

(By unanimous consent, Mr. Frenzel was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, the problem here is that the Commission must make some regulations while we get waiting for Congress to approve them, and people have to be able to bank on them.

The advisory opinion section of the 1974 law was one that turned out to be particularly fortuitous. I did not vote for it, but it has been very helpful because we have had so much trouble putting these regulations in good form and getting approval by the Congress.

I would like to state further that the Senate has eliminated this provision from its bill. The Senate understood the controversy and understood the challenge to the Commission's independence. We must remember there are practically no independent commissions and practically no agencies of Government that must bring their regulations back to Congress for a veto.

I believe we would do ourselves and the general public a favor if we would vote for the amendment and strike this section on advisory opinions.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think there is one misconception that the gentleman from Minnesota (Mr. Frenzel) left, although I am sure he did not mean to, and that is that, as he said, the Congress has a terribly bad track record on approving the regulations of this Commission and that they have already disapproved two and none is in existence.

Now, this is not the way it is. We disapproved two, and that was the judgment of the Congress. Anybody who wants to can criticize our judgment, but the fact remains that all the other regulations that have laid over the necessary 30 days and on which Congress took no action automatically became approved. In other words, what Congress has to do in order to disapprove a regulation is to take action itself. If it fails to do that within 30 legislative days, the regulation becomes effective.

Mr. Chairman, I do not think that any Member, when he understands this, really wants to give a commission the power to rewrite the law, either with an understanding of the legislative intent or without it. And I am unable to determine whether they understood the legislative intent or whether they just did not care. However, I do not think that we ought to subject ourselves, with the tradition of the division of powers, totally to a commission appointed by the Executive, who has unlimited ability to rewrite the laws by the form of regulation.

I am perfectly aware that this bill is not perfect, and I think we perhaps went a little too far on page 17 when we said that every advisory opinion should be rendered under the form of a regulation and sent up here.

The gentleman from Louisiana (Mr. Long) has an amendment which has been made in order and which he will offer if this amendment is defeated, as I think it should be, and which, on page 17, line 4, will put in the words "of general applicability" after the words "advisory opinion." Therefore, if they issue an advisory opinion, it could only have effect in one district or in one area. They do not have to send it up.

Then he would strike the language on lines 9 through 14, which says:

> In any such case in which the Commission receives more than one request * * * the Commission may not render more than one advisory opinion.

Mr. Chairman, that troubles me a little bit, but maybe it is better to accept the amendment of the gentleman from Louisiana (Mr. Long) than not to. I am convinced that it is. I am convinced that we should have this section 108 in there because I think somebody ought to have the right, if it becomes a flagrant thing, of vetoing these regulations.

Mr. Chairman, neither the House nor the Senate will undertake lightly to veto a regulation. It has to be a regulation that is so onerous that one could easily convince a majority of one body or the other to do away with it.

In this Committee on House Administration, we only brought one regulation here before the Members to ask them to veto it, and the vote was pretty overwhelming to veto it.

Mr. Chairman, I think the Members of Congress who face the electorate every 2 years for judgment on their actions are far more competent to say whether a regulation is sensible or not, not a Commission which is appointed and which never goes to the electorate for any approval of any action it takes.

Mr. Chairman, I could stand here all afternoon and talk about commissions. I think the concept of handling the power of the President and the power of the Congress to a commission is what has gotten us into a lot of the trouble we are in. I think the fact that these commissions issue regulations which then have the force and effect of law is one of the reasons that the people of this country are fed up with Washington, because they are encompassed in such a torrent of redtape that in order to conduct the day-to-day business of a one-man operation, the man has to have an attorney and an accountant to advise him what to do.

Mr. Chairman, I am not talking about just the Federal Election Commission. I am talking about the entire plethora of commissions.

Somebody mentioned the Public Utilities Commission here yesterday.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Hays) has expired.

(By unanimous consent, Mr. Hays of Ohio was allowed to proceed for 2 additional minutes.)

Mr. HAYS of Ohio. Mr. Chairman, I am trying to keep this debate short. I do not intend to ask for a lot of extra time.

As I was saying, somebody mentioned the Public Utilities Commission. We have a public utilities commission in the State of Ohio. They call it the PUCO, the Public Utilities Commission of Ohio.

I have said repeatedly that if I am ever Governor of Ohio, the first act I am going to ask the legislature to pass is one changing the name to the "Utilities Commission of Ohio" and taking the word "Public" out of it, because the utilities have owned it ever since it was created. The public interest is never considered, and that has been true under Democratic Governors and Republican Governors. Those are the only two kinds we have had. I think we had a Whig Governor at one time, but I do not think they had the PUCO at that time.

Mr. Chairman, I say to the Members that this Government, both State and National, is just commission ridden.

Mr. Chairman, all we are asking to do in section 108 is to have them submit their regulations of general applicability, if the Long amendment prevails, so that the Congress can have a final review on it.

Mr. Chairman, I ask that the Frenzel amendment be defeated.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, we all understand that a bill regulating the conduct of elections is a very partisan-prone activity. Yet, Chamber that the bill which we write should reflect the public interest rather than one which reflects a jockeying for partisan advantage.

Mr. Chairman, if the Members agree with that statement, I will want to speak for a moment about where the public interest lies with respect to the amendment offered by the gentleman from Minnesota (Mr. FRENZEL). The public interest, I think, demands that there be a statute which regulates the conduct of Federal elections. The public interest, I believe, requires that we create a body which is given the duty of supervising the day-to-day requirements of the law.

The public interest will be served if that body is independent and not dominated by any partisan interest. The public interest is served if the independent election commission is given authority to devise rules necessary to implement the act. Clearly, Members of the House, the rules which are promulgated should be fair, they should be objective and they should not reflect any partisan bias.

I hope at this point there has been no disagreement in this Chamber with what I have said. Assuming the Members agree, however, this is what this bill does to the agreed public interest: The independent commission cannot make a rule which has any force and effect at all unless this Congress ratifies it. Well, who amongst us will stand up and say that this Congress is a nonpartisan, nonobjective body? It is not, it is a very partisan institution. So when my friend speaks of the independence of the commission, understand that the procedure in the bill giving this Congress the right to veto rules and regulations or any part thereof is utterly destructive of the independence of the commission. When we vote on the Frenzel amendment, we will have an opportunity to stand up and be counted, yes or no, as to whether we support an independent commission.

It has been said that it is improper for any regulatory commission around this town to rewrite the law and I agree; but we all know or should know that no rule written by any regulatory commission is of any force or effect if it contravenes the law. All rules by the Federal Election Commission must be consistent with the statute which we pass or they are a nullity.

Let me pass for a moment from the public interest and speak to our narrower interests as candidates for reelection to the Congress. Unless this section is stricken, all advisory opinions heretofore rendered will be a nullity. Have any of the Members relied upon an opinion of the FEC? If they have, then I assure them that they can no longer rely upon the opinions rendered if this bill is passed because they are all nullified.

Can we as candidates for public office get any guidance whatsoever from the Commission unless we strike this section?

Let me tell the Members the way we would expect it to work. If we in our campaigns between now and November have a question about the propriety of certain acts which we may contemplate undertaking, the most logical thing in the world for us to do is to get on the phone and call the FEC and ask them for guidance. The purpose of this of course is to avoid violation of the law. Heretofore the FEC has responded to such requests or invitations by opinions of counsel. They have been very helpful. They have been helpful to me and I am sure they have been helpful to other Members in this Chamber.

If, however, this section is not stricken, what happens to the whole procedure of giving informal advice that candidates who seek to comply with the law have requested? I will tell the Members what will happen. Let me read to the Members from the committee report on page 3. It says as follows:

> In any case in which the Commission desires that an opinion of counsel shall have any operative effect on any person, the Commission must propose a regulation based on the opinion of counsel.

Let me tell the Members what that means.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. If one has an opinion of counsel, I can tell the Members right now that he cannot rely upon it because the Commission must propose that opinion in regulation form.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Is the gentleman saying now that we are going to narrow this down beyond the Commission and have some counsel that they appoint render opinions which have the force of law? The gentleman says if this is stricken, such things will be in order; if it is not, they will not.

On page 16 we say in the part the gentleman is seeking to strike at line 21:

> Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar . . .

And I will not read the rest of it. So we broaden it out.

Mr. WIGGINS. I agree that is the language of the bill, but I still ask my colleague to consider the practical effect. If one has an immediate problem in his campaign, it is not his purpose to seek a formal adivsory opinion from the Commission, which requires briefs and requires hearings and requires an affirmative vote of four members of the Commission. What he wants is an immediate answer to the problem, and I am telling the gentleman that under this procedure he cannot get it.

Even if, Mr. Chairman, the Commission takes one's request under advisement and renders an advisory opinion, should one rely upon that opinion, knowing full-well that it must be sent to Congress and it is capable of being rejected within 30 days?

Elections, Mr. Chairman, are very dynamic activities. One simply cannot wait 30 to 60 to 90 days to get an answer. Present procedure reflects one's personal interest as a candidate, I might say, and in my humble opinion reflects the public interest as well.

Mr. HAYS of Ohio. Will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

But there is language in the bill, I will say to my friend, that if one gets an advisory opinion which is later put into regulation and overturned, he is still protected as though it had never been overturned if he relied upon it. So that really square proposition does not lie; does it?

Mr. WIGGINS. In my opinion the Federal Election Commission will understand the clear mandate of the bill to be that they should not issue an advisory opinion which shall be relied upon unless Congress has exercised its right to ratify it.

Mr. HAYS of Ohio. If the gentleman will yield further, if the Long amendment is adopted, I do not think there will be any such interpretation by the Commission and, as I said earlier, I intend to support the Long amendment. So I think a lot of the arguments the gentleman is making will not lie if the amendment of the gentleman from Minnesota (Mr. FRENZEL) is rejected and the amendment of the gentleman from Maryland (Mr. LONG) is accepted.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

We put into the bill that if an opinion is given, one can rely upon that, and even if it is overturned, if one in good faith relied upon that opinion, he is covered. So really what the gentleman is saying is not on all fours with the bill as it was recommended.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Wiggins was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. We have very carefully restricted the application of the advisory opinions to the individual to whom it was directed or to those who have substantially similar activities. When we are dealing as we are with a statute which is fraught wiht civil and criminal penalties, few amongst us are going to be so brave as to rely upon opinions directed to others.

In the remaining seconds of my time, Mr. Chairman, I want to discuss a final practical problem. We have had 140 or thereabouts advisory opinions heretofore rendered. If the same pace continues in the future—and there is every reason to believe that the pace would increase—140 rules are going to find their way to the Committee on House Administration where we are going to be forced to hold some sort of review and exercise judgment. Whatever that judgment may be, the regulation is going to come here for final resolution.

I will tell the Members, Mr. Chairman, that the House is not equipped to sit as an appellate court for the Federal Election Commission and conduct its normal legislative responsibility as well. The Frenzel amendment is a responsible amendment and should be supported.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to point out that this section of the bill cancels all of the existing advisory opinions. And even if the Long amendment is adopted, those advisory opinions are gone and we will have to start all over, so instead of 140 advisories to review, we will actually have probably 280 to review in the committee.

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield to me for the purpose of an announcement?

Mr. BRADEMAS. I yield to the gentleman from Ohio, the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, after clearing with the Speaker and the leadership I would like to advise the House that we hope to make all the progress we can today on this bill, but I will move that the Committee rise at 4:30, at which time there will be brought up the petroleum reserves on some public lands, a conference report, and I guess that would be the end of business due to the reception which the King of Jordan is giving tonight, but we would continue on this bill until 4:30.

Mr. BRADEMAS. Mr. Chairman, I am strongly opposed to the gentleman's amendment and strongly support the views expressed by the distinguished chairman of the committee.

Why did we have in the original statute a provision for review by Congress and possible veto of rules and regulations issued by the Commission? One of the reasons, I suggest, among others, is that we want to be sure that in the framing of rules and regulations, the Commission complied with the intent of Congress.

Members will recall that one of the original regulations which was vetoed was the so-called point-of-entry regulation which had to do with the appropriate place at which candidates and their committees would file their reports in connection with their campaigns. I had no particular quarrel in substance with the proposal of the Federal Election Commission that the reports should be initially filed with the Commission but my reason for strongly opposing that particular point-of-entry regulation had to do with the fact that the Commission openly and clearly defined the express intent of Congress in the statute. Now the Federal Election Commission ought not to be writing laws. That is a responsibility which the Constitution assigns to Congress.

In like fashion, Mr. Chairman, we saw in the Sun Oil opinion, how the Federal Election Commission resorted to the device of an advisory opinion to set forth what in effect was a rule and regulation of great consequence affecting the Federal electoral process, and the Commission did so by using the advisory opinion procedure in order to circumvent review and possible veto by either the House or the Senate.

So, I think that in just those two instances we have ample justification for insisting that advisory opinions of general applicability be submitted like rules or regulations for review and possible veto. I will strongly support, as will the chairman, the gentleman from Ohio (Mr. Hays), as he has indicated, the amendment to be offered by the gentleman from Louisiana (Mr. Long) in that will have the effect of making clear that advisory opinions of general applicability will be the only advisory opinions that will be submitted for review and possible veto.

I am also supporting another provision of the amendment to be offered by the gentleman from Louisiana (Mr. Long) to remove language in the bill which says that an advisory opinion on a given subject may be issued only once.

I would simply make two other points before I yield to my colleague, the gentleman from California (Mr. Phillip Burton), and say that as I listened to the gentleman from California (Mr. Wiggins) I asked myself: Is there any other Federal regulatory agency which does what I hear the gentleman says he wants the Federal Election Commission to do, that is, ask for an informal telephone response to a question and then allow the questioner to rely on that response as a defense? It seems to me that we should realize that what the amendment offered by the gentleman from Minnesota (Mr. Frenzel) would do would be to put an immense power in the hands of a little group, to paraphrase the famous words, "of a little group of possibly willful men and women."

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. Brademas was allowed to proceed for an additional 2 minutes.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to commend our colleague in the well and associate myself with the gentleman's remarks and join with the gentleman in urging our colleagues to reject this proposal before us, so we can get to the proposal of the gentleman from Louisiana (Mr. Long), which deserves our support.

Mr. BRADEMAS. Mr. Chairman, I yield to my colleague, the gentleman from California (Mr. John L. Burton), a member of the Committee on House Administration.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman has hit the point. By use of an advisory opinion, which is outside of any regulation of the Federal Election Commission enacting a change in the law, that really supersedes provisions that go back to the Corrupt Practices Act when we prohibited from the giving of corporate funds and union election funds to Federal elections. The reason we included advisory opinions is because they have used it in place of regulations.

Mr. BRADEMAS. The gentleman is correct.

Mr. JOHN L. BURTON. And gives them the full force and effect of law and no one who voted the last time thought they were voting to permit someone to allow corporate funds or union treasury funds to be used in Federal elections.

Last, the point the gentleman makes that the arguments of the gentleman from California (Mr. Wiggins) were not on all fours is that someone can, if an opinion of general applicability is issued, rely on that in good faith and if subsequently that is vetoed, they have a defense if they stop the action they were taking, as they relied in good faith on the opinion.

So I say we should vote down the Frenzel amendment and adopt the Long amendment and we will have something that is good for the public and it will be good for us, because we are still Members of the public and I do not think we have to view it from a narrow self-interest base.

Mr. BRADEMAS. Mr. Chairman, I yield to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Chairman, I associate myself with the gentleman's remarks and I commend the gentleman for focusing attention on the very threat that this Commission presents. What it does, really, and the House should alert itself, not only in this instance, but in every instance where we pass legislation, the intent of which is invariably subverted by the objective. I would suggest that the Members henceforth be mindful of that subversion, because the will of the people is thwarted.

Mr. MATHIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I shall not take the full 5 minutes, because 5 minutes is not necessary.

Mr. Chairman, I would like to point out what the gentlemen from California, Mr. John L. Burton and Mr. Phil Burton, and the gentleman from Indiana (Mr. Brademas) were saying, we are not giving to Congress the authority to veto any advisory opinion. We are reserving to this body the authority to veto any rule or regulation associated with that advisory opinion. If this section is stricken, we would also take out the subsection that provides additional protection to Members of Congress who are seeking election again or to candidates for public office.

We say here, if they act in good faith in accordance with the provisions and shall not as a result of any such act be subject to any sanctions provided by this act.

Mr. Chairman, I think that provision alone would make it worthwhile to support the committee provision and leave this section in the bill.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, that is a salutary change in the law, but it is effectively undermined by a later section of the law, which I will call to the attention of my colleagues. On page 28 of the bill it says that no advisory opinion shall be used against any person as having the force of law.

Accordingly, if one acts in good faith, one is morally secure, but one's attorney is not going to be able to inform the court of that moral security.

Mr. MATHIS. I would say to the gentleman from California that I am not sure I read that section on page 28 in that way, but, if so, I will certainly support an amendment at that time to clarify that particular position.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. The gentleman will not have that opportunity because, under the rule, he will not be able to offer that amendment.

Mr. MATHIS. I am delighted to hear that, I would say to the gentleman from Minnesota.

Mr. ALLEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I would just like to point out that the language on page 28 that was the subject of the discussion a moment ago says that the opinion cannot be used against a person. The language does not say that the opinion cannot be used as a defense.

Mr. ALLEN. Mr. Chairman, I rise in opposition to the amendment. I am somewhat puzzled by the distinguished gentleman from California who supports this amendment when he indicates that rules and regulations, if they were in violation of the clear provisions of the act, could be stricken down by the courts.

Obviously, if the law is clear, there is no purpose for any rules and regulations. The only time that the Commission would have occasion to pass any rules and regulations would be where the law is not clear. Otherwise, there would be no need. If the law is silent, then obviously this body wants to be in a position to be advised as to what ruling or regulation has been made by the Commission where the law is silent on the subject, and have the opportunity to review it for a period of 30 days. If we then feel that it is inconsistent with the intent of Congress, then either House could veto it.

I know that when I was running for Congress just last year, I received a $2,500 contribution from the Democratic Party Telethon Committee, in front of television cameras and the public there attending. The day before the election, it was challenged by my distinguished Republican opponent who claimed the law limited such contributions to $1,000. I wrote to the Election Commission asking for an advisory opinion. It took about 3 months to get it. In the meantime, I return the $1,500 by which the $2,500 exceeded what my distinguished opponent said was the maximum that I could accept, but eventually we received an advisory that said that I could receive $1,000 of it for the primary election, $1,000 of it for the general election, and the other $500 to help pay off my debt left from the general election.

Well now, this was an advisory opinion. But if they pass rules and regulations, it will only be because, and would only be necessitated because, the law is silent on the subject. If the law is silent on the subject and the Commission passes regulations, certainly this body should be in a position to review any regulation adopted by the Commission, on which the Congress has been silent.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I would say that the gentleman made a good argument, but let me just advise the gentleman and the House that the law does not necessarily have to be silent. The law was specific on the point of entry, and they made a regulation totally contrary to what the law says. So, it even goes beyond what the gentleman is saying, and that is why this is here, to protect the House and the public.

Mr. ALLEN. I am in agreement with the way the bill is presently written, and I am opposed to the amendment that would permit the Election Commission without review by the Congress to adopt any kind of rules and regulations it sees fit, whether the law is silent or not.

Mr. HAYS of Ohio. Mr. Chairman, I do not want to cut anybody off from speaking, but I am curious to know how Members want to speak on this amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment end in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from Kentucky (Mr. Snyder).

Mr. SNYDER. I rise, Mr. Chairman, in opposition to the amendment. I would just like to make the point to Members, particularly on my side of the aisle, that many of us are cosponsors of H.R. 9801 and similar legislation, which would establish a procedure very similar to what is in this bill for promulgated regulations of all the executive agencies.

Mr. Chairman, I think that one of the problems that we have in this country today is that we are being governed by regulations that are issued by agencies that are not at all in accordance with the intent of the laws as we have passed them in the Congress. Every day in our mail we get complaints from our constituents, who write in and say, "This regulation has been issued and that regulation has been issued, in regard to OSHA and all of the rest, and you know and we know that that is not what Congress meant." And, quite frankly, if there were some way to require this kind of a proposition be put into effect in regard to all of the agencies and all of the regulations, and make them all come back down here to the appropriate committee and have the Congress take a look at them to see if they were in accordance with the intent of what we meant when we passed the law, I think the country would be running a lot better. It would certainly minimize the "rule by regulation" that is causing all our people so much trouble and grief.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I favor the Frenzel amendment. It eliminates the so-called congressional veto where an advisory opinion of the Commission is concerned. If it were possible under the rule, I would eliminate the congressional veto of any Commission rule. I think we have improvidently delegated too much power to the Commission in permitting it, by an interpretation of law given to a candidate, to in effect nullify positive provisions of law. By the overly restrictive rule which we adopted on this bill, that flaw cannot be corrected here today. It was for this reason primarily that I voted against the rule.

But the way to correct the flaw would properly have been to delineate carefully the Commission's authority—not to tie that authority to a yo-yo string so we can pull it back. The former process of discreet, final delegation is always the proper principle. I deplore the growth of the congressional veto technique because it always encourages loose delegation upon the assumption that the legislation can be pulled back for later revision.

But the legislative veto technique is particularly abhorrent in legislation which has peculiar application to the very persons who hold the veto power, the two Houses of Congress. It is as if securities legislation, making certain conduct of brokers, dealers and specialists criminal, were subject to veto by the New York Stock Exchange. Indeed, we have given members of exchanges certain self-governance, but not to this extent. Under the bill before us we can veto a general interpretation of law applicable to us and thus impel the Commission to follow another course in a matter in which we have a direct interest.

Whenever we retain in ourselves authority to review post-enactment application of legislation we tend to move from our legislative role toward an adjudicatory role. I oppose this trend generally but I oppose it particularly and vehemently when the adjudication is in our own case.

The flaw is an ugly deformity in an otherwise attractive bill—a deformity so gross that it will make me part company with my friends, the bill's supporters, unless the bill is improved by offsetting amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 22, noes 51.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 269, not voting 29, as follows:

[Roll No. 147]

AYES—134

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Aspin
Bafalis
Beard, Tenn.
Bell
Bennett
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Butler
Carter
Cederberg
Clausen, Don H.
Cochran
Cohen
Conable
Conlan
Conte
Coughlin
Dickinson
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Foley
Forsythe
Frenzel
Frey
Gilman
Goodling
Gradison
Grassley
Gude
Hagedorn
Hamilton
Hammerschmidt
Harsha
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hutchinson
Hyde
Jeffords
Kasten
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
Maguire
Mann
Martin
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mosher
Motti
Myers, Pa.
O'Brien
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rogers
Roush
Ruppe
Sarasin
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Simon
Smith, Nebr.
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Studds
Talcott
Thone
Treen
Vander Jagt
Vander Veen
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—269

Abzug
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashbrook
Ashley
AuCoin
Badillo
Baldus
Baucus
Bauman
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Clancy
Clawson, Del
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Green
Haley
Hall
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hays, Ohio
Hefner
Helstoski
Hicks
Hightower
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Keys
Koch
Krebs
Krueger
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McDonald
McFall
McHugh
McKay
Madden
Mahon
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Risenhoover
Roberts
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Satterfield
Scheuer
Schroeder
Seiberling
Shipley
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stuckey
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waxman
Weaver
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—29

Adams
Alexander
Barrett
Beard, R.I.
Biester
Breckinridge
Chisholm
Goldwater
Guyer
Hayes, Ind.
Hébert
Henderson
Hinshaw
Holland
Ichord
Jenrette
Johnson, Pa.
LaFalce
Macdonald
Madigan
Nix
Pepper
Riegle
Rodino
Sarbanes
Stratton
Symington
Udall
White

Mr. MOAKLEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. LONG of Louisiana: On page 17, line 4, after the word "opinion" insert "of general applicability" and on page 17, line 9 strike out all after the word "Commission." through line 14.

Mr. LONG of Louisiana. Mr. Chairman, the purpose of my amendment in very simple language is to guarantee that if the Federal Election Commission issues an advisory opinion that has any general applicability, it has to put it in the form of a regulation and let the Congress review it.

My amendment is in two parts. The first part would allow individual candidates to still ask the FEC a specific question, to get advice from the FEC without their having to submit that advice to Congress for review. However, the Commission would still be required to submit all advisory opinions of any general applicability at all to Congress for review. This will allow a candidate in the middle of a campaign to get the information he needs without having to wait the 60 days that might be required for congressional review and at the same time reserve the right of Congress to review the proposed regulations in whatever form they might appear.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

May I say that I am prepared, as manager of the bill, to accept the gentleman's amendment, but I would like to make a little legislative history about the part he is striking out. The reason that was put in there—that language on line 14 through line 19—was because we have instances such as one which the gentleman from Illinois (Mr. ROSTENKOWSKI) can detail where he asked for an advisory opinion and got an opinion, and 3 weeks later I believe it was the gentleman from Oregon, (Mr. ULLMAN) who asked the same question and got a totally contrary advisory opinion. So what we were trying to do was to keep them from issuing contradictory advisory opinions.

Will the gentleman say that if they issue two opinions on the same subject directly contravening each other, that that would be considered of general applicability?

Mr. LONG of Louisiana. I do not think, Mr. Chairman, that in any way that could be considered as other than of general nature; that is, the second one, if it is in conflict with one that has been issued prior to that time. I would agree with the gentleman's statement that it would be one of general nature and subject to regulation and submission to the Congress for its review.

Mr. HAYS of Ohio. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, the minority side agrees with the Long amendment. I would like to state parenthetically, however, that the gentleman's amendment is a good one in that it improves the bill.

It does not, however, do nearly enough. It only means that the flaws that have been in this section have had a Band-Aid applied to them, but they have been by no means cured.

Mr. LONG of Louisiana. Mr. Chairman, my amendment seeks to make a couple of technical but very important changes in the committee bill.

It would allow the FEC to continue its rulemaking authority—it will allow Congress to continue to review FEC regulations in whatever form they might appear—and it will allow candidates out in the huskings to continue to get timely answers to their individual questions on an as-needed basis.

Many unanticipated problems have arisen with regard to so called advisory opinions. Under the present law the FEC is required to submit all proposel regulations to Congress for review. In order to circumvent this review procedure the FEC has resorted to issuing so-called advisory opinions in lieu of regulations, since those opinions do not presently require congressional review. Clearly this kind of activity is in direct contradiction of the intent of Congress.

In response to this practice the committee has rightfully asserted congressional review over these kinds of advisory opinions. I commend the chairman and the members of the House Administration Committee for recognizing this problem and seeking to solve it—and I support them in this effort.

However, in attempting to solve the larger problem, we have created yet another one. Suppose a candidate who is actively involved in a heated campaign needs the benefit of FEC expertise and advice on a particular question. Under the committee bill the candidate's request would go unanswered until the FEC formulated their response and submitted it to Congress for review. This process would take up to 60 days and the campaign might be over and the question moot. Under my amendment this type of individual specific request will be answered by the FEC without delay.

Another practical consideration is that the House of Representatives docs not have the time—and should not take the time—to review these kinds of individual inquiries. Since the FEC was formed it has issued 520 advisory opinions, and 127 of these were issued since the first of this year. Our time is too limited to devout it to this kind of activity.

In fact, this amendment will in effect spell out the law as we have all believed it to be all along—my amendment would permit the FEC to provide timely advisory opinions to specific inquiries but would at the same time put a stop to issuing what are actually regulations in the form of advisory opinions for the sole purpose of circumventing the will of Congress.

Along the same lines, the second part of my amendment would permit the FEC to give the same answers to the same questions from several individuals. What I mean by this is if a candidate in Louisiana and a candidate in Iowa ask the FEC what is basically the same question, the Commission can answer both inquiries on an individual basis.

In summary: I believe that my amendment strikes a reasonable balance:

It allows the FEC to continue its rulemaking authority;

It will allow Congress to continue to review FEC regulations in whatever form they might appear; and

It will allow the candidates out in the huskings to continue to get timely answers to their individual questions.

I urge my colleagues to support my amendment.

Further explanation of the second part of the amendment—the portion which strikes the prohibition against multiple opinions on the same subject.

Under the committee bill every opinion would have to be reviewed. This necessitated a procedure to limit the total number of opinions because otherwise the Congress would spend all its time reviewing them. The committee's solution was to allow only 1 opinion on a subject.

Since the Long amendment would make only the generally applicable opinions reviewable, this limitation sufficiently cuts down the workload of the Congress and there is no longer a necessity to limit the number of opinions.

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I favor this amendment because it narrows the area for the process which has ordinarily been described as the congressional veto.

I am against congressional veto as a general proposition. I think it invites too much delegation of authority and I think particularly the bill delegates too much authority in making an advisory opinion altogether insulate against prosecution, presuming one has received a favorable opinion. I think that is the real evil and I think it ought to be cured, but this may not be cured by amendment under the rule.

But at least the amendment offered by the gentleman from Louisiana (Mr. LONG) does knock out the provision by which Members of Congress may in effect veto a negative limited advisory opinion affecting their question. The only type of veto that may be had, as I understand it, under the Long amendment is, a general advisory opinion and not a specific one. Therefore I think the Long amendment improves the bill.

I may say I voted for the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) but I do not think there is any conflict in a vote for the Frenzel amendment and also for the Long amendment, the Frenzel amendment have been more sweeping and having been defeated.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I congratulate the gentleman from Louisiana on a very constructive amendment and hope that it is agreed to with strong support on both sides of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LONG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 18, line 17, strike out "Notwithstanding any other provision of this".

Page 18, strike out line 18 through line 25.

Mr. FRENZEL. Mr. Chairman, by agreement of the distinguished committee chairman we are attempting roughly to take the amendments made in order by the rule in the order that they appeared in the rule, but also including some when they apply to the same section, as we took the Long amendment. I hope that might help some of the Members follow the action here.

This particular amendment strikes language on page 18 which is known as the Mathis amendment, after its author, the distinguished gentleman from Georgia. This amendment deletes that language.

The language of the bill would prohibit the Federal Election Commission from investigating employees of any Member of Congress whether the Federal staff member is engaged in improper conduct, improper campaign activities, or for any reason without first consulting the office holder. If, after consultation, the office holder provides an affidavit for the Election Commission and says: "This employee is performing his regularly assigned duties," then the Federal Election Commission is obliged not to continue with its investigation. As a matter of fact the language says that:

> An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

And that investigation to begin with covers any of the utilization or activities of any staff employee of any person holding Federal office.

Therefore, if somebody on a Member's staff is under investigation by the Federal Election Commission for any purpose, under the broad language of this bill, and I assume this purpose could be receiving cash above the limits of the bill, perhaps receiving corporate money, then the Federal Election Commission must notify the Member. The Member provides the affidavit. The investigation must stop.

Now, there was a time in this Congress, and there will be times in the future, when we have been worried about executive privilege by Members in the other branch; but here is a case where we have granted the congressional privilege to all our employees to do whatever they favor without fear of investigation, as long as we swear that they are a full-time employee of ours.

Now, our affidavit does not have to say that the person was not doing anything wrong. It just has to say that that person is an employee performing regularly assigned duties.

Now I believe the amendment originally was intended to take care of a problem that Members were concerned if their staff were involved in their spare time or in their own time on political work, that they would be subject to investigation. As a matter of fact, I do not know of any law on the books that says our staff cannot work in volunteer political activity. Nobody working under any congressional Member is Hatched that I know of.

Therefore, this amendment is absolutely unnecessary. It simply looks to the public as though we are being self-serving and absolutely isolating all of our employees from any kind of investigation whatsoever. In my judgment, it is not necessary. It does not improve the bill. The protection that is given is not something that is needed. Because of the quite obvious interpretation that it will be self-serving, I think it should be eliminated.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding. I will vote for the gentleman's amendment. We voted, I think, alike in the committee on this issue. I would just associate myself with the remarks of the gentleman as they pertain to documents and amendments.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for that contribution. I hope the amendment will be adopted.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it is fair to say that the gentleman from Minnesota in the gentleman's zeal to be righteous has slightly misconstrued what this amendment does. First, it does not restrict itself to employees and Members of Congress. The thing came about because the Federal Election Commission announced that it was going to have an investigation of Mr. Rogers Morton as to how he was spending his time. It does not have anything to do and it was not intended to have anything to do with any criminal activities. That is reserved for the Department of Justice, and no affidavit permitting Members is going to prevent any member of his staff from taking corporate bonds or cash or whatever.

Let me tell this House what we were trying to do. Everyone has a district office, or if they do not, they have a Washington office. Next September somebody calls a Member's office and the girl picks up the phone and this person says, "Where do I get some literature on Mr. Jones for Congress?"

Now, unless she hangs up the phone without opening her mouth, she could be subject to an investigation by the Federal Election Commission. Now, they have 142 employees, by last count. They are growing every day.

Mr. Chairman, there is an article in the paper today that says, "Election Panel Still Operating":

> Those who thought the Federal Election Commission might dissolve when the Supreme Court ruled that it was constituted illegally thought wrong.

It says further:

> Although the Commission lost some of its powers when a court delay of its ruling ran out March 22, it is continuing to function in a broad area and is continuing to grow.

It is continuing to grow. When the Chairman of the Commission said that he sent the investigators in to Mr. ROSE's district—you know, this town is as leaky as a sieve—the next morning one of his own staff came up to my office and said:

> This is not true, and I will lose my job if it is known I talked to you, but the chairman did order those people down into Mr. ROSE's district.

I said, "Why?" He said, "Because we have so many people down there we did not have anything for them to do and we thought this was useful make-work for them."

Now, it that staff member is telling me the truth—and I have not brought either he or the Chairman in and put them under oath; perhaps I should—if what he said is true, they are way overstaffed and you can just bet that your opponent is going to have somebody call your office and ask where he can get some literature. If the girl tells him, he is going to file a complaint with the Federal Election Commission and they are going to be in there.

You know, the challenger has it all on his side. I have three fellows running against me. Two of them are circulating literature, not a piece of which has any identification on it as to where it came from. It is a direct violation of this law. I am not going to file any charges against them because it would only draw attention to them, but you can bet that if it were I who was doing it, there would be charges filed and the Commission would have me in headlines in every paper in my district.

There is nothing in this that says you can exempt employees from a criminal violation. What it says, in effect, is that the Commission cannot come into your office and inquire of every one of your employees, "how many hours did you work today? Did you do any political work? Did you answer the phone and answer a political question?" And so on and so on and so on.

I do not think many Members of Congress—and I know the President does not because he got pretty worked up when his staff was subject to an investigation as to how they are spending every minute of the day—I do not think there is a Member in this House who would say that his staff does not work overtime every day, and to make a certification that they are putting in full time, which is a 40-hour week, would be something that any Member in this Congress could do because I doubt if any of us have any staff who are not putting in 50 hours a week. If they want to go to a county fair in the evening and hand out literature to help their bosses get reelected because their jobs hinge on it, I do not think that some high-paid, $30,000 per year investigator, because he does not have anything else to do, should be coming around to Members' offices trying to find out what the staff is doing.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. HAYS of Ohio was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, is it not a fact on which to state that this is a matter which deserves serious attention, but which properly belongs, in fact, under the rules of the House and under the existing law, in either the Committee on Standards of Official Conduct or in the Department of Justice where, if there is an abuse, it can be corrected?

Mr. HAYS of Ohio. No question about it. If there is a criminal violation it belongs in the Department of Justice, and nothing in this paragraph prohibits the Department from making an investigation.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, frankly, I have mixed emotions about the amendment. As explained by the chairman, the language in the bill performs a useful function. I am sure that it was the intention of our colleague from Georgia (Mr. MATHIS) when he offered the amendment in the committee. The difficulty, however, is that the language itself is rather sweeping. Perhaps even if the amendment is defeated, we can narrow its scope by legislative history, which the chairman has offered and which I shall offer.

As I understand the word "activities" on line 19, page 18 of the bill, the activities to which the bill is referring relates to conduct by a staff member which might have some beneficial effect in the campaign but which does not interfere with that staff member's performance of his regularly assigned duties.

I am sure the chairman agrees with me.

Mr. HAYS of Ohio. If the gentleman will yield, yes, I completely agree with that interpretation.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Mr. Chairman, I would like some direction and advice.

Suppose a Member—and I think we all probably have had this occur—receives a piece of mail from a constituent which talks about four or five legislative issues, and then all of a sudden they will say, "I sure support the President," or "I sure do not support the President," or, "I hope you get elected," or, "I hope you do not get elected." But it is all part of the overall letter. Either they are asking for help in a case before a Federal agency or they are talking about their position on legislation, or even asking a question. What do we do? Do we have to throw that letter in the wastebasket because it makes some reference to a political matter?

Mr. WIGGINS. May I say to the gentleman that the answer to that question is no. One does not have to throw the letter in the wastebasket. And the same answer, I believe, would be given if the letter were devoted entirely to the constituent's support of the gentleman's campaign. I would think if the letter is entirely in support of a Member's campaign, it ought to be answered by the campaign committee, rather than the gentleman's staff, but a response to a constituent on any subject by official staff is not illegal.

What we are getting at is the possible misuse of staff which might be employed for the purpose of making telephone calls on behalf of the officeholder.

Conduct of that sort is not insulated. But if a staff member were employed and performs his or her congressional duties, there is certainly no indication intended that that staff member also could not be supportive of a Member's campaign, on his or her own time.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I would say that I concur again with the gentleman completely, and I would go further and point out that the Member must make an affidavit to that effect. An affidavit falls into the perjury laws. As I understand it—I depend on the gentleman from California (Mr. WIGGINS) for my legal advice—but all the Member is saying is that that staff member in this affidavit worked full time, which I define to mean 40 hours a week. And if he wants to go out and campaign on Saturday and Sunday—because that is the day in my district that the ethnic groups have their political meetings—he can do it, and the Elections Commission cannot come in and subpena him in or subject him to an investigation. But the member has to say he has worked full time. And I again say that means 40 hours a week. That is more than most of the bureaucrats downtown work. Most of our people work a good deal more than that.

Mr. WIGGINS. Mr. Chairman, the reason I am supporting the amendment, notwithstanding this clarifying legislative history, is that the affidavit procedure on lines 22 through 25 is truly inartfully drafted. The affidavit simply must declare that the employee is performing regularly assigned duties. The affidavit in a more perfect statute ought to negate the charge. It ought to state that his employee is not engaged in the political activities which form the basis of the charge. A response that an employee is regularly employed may not be at all responsive to the charge against the employee. Because of this imperfection, I support the amendment.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. I thank the gentleman for yielding.

Mr. Chairman, I note the gentleman used the words "working full time." That is not the provision in the bill.

Mr. WIGGINS. Let me clarify that.

Mr. NEDZI. There are such things as part-time employees, and I just feel that the legislative history should make that clear.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, I am grateful to the gentleman from Michigan (Mr. NEDZI) for raising that point.

The Mathis amendment as originally proposed did use the words "40 hours per week," and it was amended in committee to use the language "regularly assigned duties."

Therefore, a part-time employee would not be barred from participation in political activities in his off-time.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, it has been my understanding that by "full time" we do not mean regular hours. Congressional employees are simply responsible for working full time in the sense they put in 40 hours a week, but this would not necessarily mean within the period from 9 to 5.

They are committed to all sorts of irregular hours, and sometimes they work at night. My employees work at night, they work all kinds of crazy hours, and that would enable them to have time during the day to engage in political activities.

Mr. WIGGINS. The words, "full time," do not appear in the statute.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the chairman of the full committee, the distinguished gentleman from Ohio (Mr. HAYS), has expressed it succinctly. Recently there arose a question about the participation of a member of a staff of the House in a Presidential primary. A question arose, and the question was referred to the Committee on Standards of Official Conduct, which gave an opinion to our colleague to the effect that, as the chairman of the committee has stated, very few of us have any employees who work fewer than 40 hours a week. As a matter of fact, the great majority of them work longer than that.

There is one thing implicit in the rules, and that is that theoretically at least there is no such thing as part-time employees. A member of any Member's staff, notwithstanding the amount of pay, is considered to be an employee of the House.

The Committee on Standards of Official Conduct in a carefully worded opinion stated that it was a matter of discretion as to whether an employee of a Member's staff was working full time or not. There was no reference to the number of hours. Presumably, full time, as the gentleman from Ohio (Mr. HAYS), said, is 40 hours, and they are allowed to take vacations. A staff person should not be inhibited from the exercise of his or her right on his or her own time to devote time to political activity, including time on behalf of his or her employer, once the full-time work for the Government is completed. Whether it is or is not as election year, incidentally, is irrelevant.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, the gentleman has brought up the full-time matter, and perhaps the remarks I made about a 40-hour week were a little misleading because many Members, I am sure, employ people on a half-day basis. Ever since I have been here I have had college students on my staff or on the committee staff who worked a half-day and who were paid about half as much as a person who worked all day.

So that is why the language was changed in committee to state that this staff employee is performing his regularly assigned duties. While the law itself and the rules of the House make no provision for half-time or part-time employees, there are a lot of them here, and as long as they are putting in the time for which they are hired, they are protected if the employer says they are performing their assigned duties.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, am I correct in assuming that what this means is that as long as an employee is performing his regularly assigned duties for the pay involved—"for the pay involved" is implied and assumed—and he is doing what he does all the time, whether it is half time, full time, or otherwise, for the money he would have received but for the election being in progress, then he is insulated from engaging in whatever activity he wants to engage in because he would have made the money anyway for the duties he is performing for his principal; is that correct?

Mr. THOMPSON. My response would be yes, that it is correct.

Mr. ECKHARDT. We cannot leave out the full-time provision because if I pay somebody for halftime and he does all his halftime work and he gets that money when an election is not going on and then he works the other halftime without getting any more money from the Government for me as a candidate, or if he helps me fill out my report forms or does anything else without taking any governmental pay, that is how it will work out; is that correct?

Mr. THOMPSON. We cannot work requirements out in halftime, I will assure the gentleman.

Mr. ECKHARDT. However, as long as he is performing the duties for the pay involved and those duties continue to occupy him in the same manner as if the election were not going on, he is all right; is that not correct?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio (Mr. HAYS), the chairman.

Mr. HAYS of Ohio. Mr. Chairman, I would say that I concur totally in the gentleman's interpretation. That is what the amendment is all about.

Mr. ECKHARDT. I thank the chairman.

Mr. THOMPSON. Mr. Chairman, the fact is that whether this amendment is or is not adopted, it would confer on the Federal Election Commission no additional jurisdiction. The fact of the matter is that any abuse should properly be referred to the Committee on Standards of Official Conduct; and if there is a violation of law, to the Department of Justice.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Georgia.

Mr. MATHIS. As the author of the amendment, Mr. Chairman, I would like to apologize to members of this committee for the fact that the language is not perfect; but I do think that what the gentleman from New Jersey (Mr. THOMPSON), has said, what the distinguished chairman, the gentleman from Ohio (Mr. HAYS), has said, and what our friend, the gentleman from Texas (Mr. ECKHARDT), has said should clarify that we are talking about employees who perform their duties in a regularly prescribed manner, whether it is 40 hours a week, 60 hours a week, or 10 hours a week.

We are doing this, Mr. Chairman, to keep the harassment from occurring that has occurred and, obviously, will occur again during an election year. This does provide, I say very frankly, some protection for others.

Mr. THOMPSON. This gentleman will state that the addition of the requirement of an affidavit I might be willing to subscribe to, but I consider it to be obnoxious.

Mr. MATHIS. If the gentleman will yield further, I would say to the gentleman that I apologize for that provision's being obnoxious to him.

Mr. THOMPSON. I did not mean that the gentleman's amendment was obnoxious. The gentleman simply meant to tighten the rule.

Mr. MATHIS. If the gentleman will yield further, that is exactly right.

I would point out to the members of the committee, Mr. Chairman, that the staff member is not signing the affidavit; the Federal officeholder is signing it and is subjecting himself to perjury laws if, in fact, he perjures himself in the affidavit.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, just let me say again that this is a provision that will never be aimed at anybody but incumbents by the Federal Election Commission.

I have an independent opponent. He went to file the other day 20 miles away. He is the mayor of a city. He was driven there in a city car, and four city employees accompanied him.

Does anyone think the Federal Election Commission is going out to check on that? Oh, no; and I am not going to ask them to because the more he travels around in city cars, the better it is for me.

I am just pointing out that the only people who will ever be investigated or harassed are the incumbent Members of Congress, and one has to go out on a limb if they do it.

Mr. THOMPSON. Mr. Chairman, I would like to ask a question: In the gentleman's judgment, whether or not this amendment is agreed to, is it not so that we are conferring no additional authority on the Federal Election Commission?

Mr. HAYS. I agree with the gentleman, but let me say that we do not have to confer it. They have already assumed it and started this practice which the language in the bill seeks to stop.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the chairman of the committee, the gentleman from Ohio (Mr. HAYS) that the Federal Election Commission probably has too many people on its staff, but that is probably true with every other agency of the Government. I also agree with the gentleman that there is nothing wrong with a member of a Congressman's staff, on his own time, working in any political endeavor since as he is not subject to the Hatch Act. I also feel very strongly that no member of my staff or the staff of any other Member of Congress should be using the Government's time, or not on his own time, to further the reelection of whoever he happens to be working for. The taxpayers who are paying the taxes for the money that is used for hiring these people did not do so to help continue people in public office.

But, Mr. Chairman, that has nothing to do with the amendment at hand. The amendment at hand simply gives Members of Congress or anybody holding Federal office a special protection that nobody else has. The first part of this particular section gives us all the protection anybody needs. I agree with the section requiring a formal sworn complaint before any investigation is undertaken but, if you are holding Federal office, you have additional protection. All a Federal official has to do is sign an affidavit and that stops the investigation right there dead in the water. Nobody else has got that kind of protection but us.

It seems to me that yesterday on the floor of the House in the general debate on this bill we heard a lot of talk about Watergate and coverups. This is without a doubt a coverup provision which is put in the law. It allows somebody to file a false affidavit or an affidavit based on incorrect information and suddenly it stops an investigation and covers up a possible election irregularity. This cannot be construed in any manner as election reform.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, can the gentleman from Louisiana conceive of a responsible person, be he an incumbent in office, or the President of the United States, or, with all due respect to our former distinguished colleague, Rogers Morton, signing a false affidavit or signing a faulty affidavit on penalty of perjury?

I know in the case of Mr. Calloway that the President did not have to sign an affidavit saying that he has complete and absolute trust in him. I would not say that of Mr. Morton, but I would say it of Mr. Calloway. Does the gentleman think that anybody here with any sense of reason would put their name, sign a false affidavit, in order to free a staff person to work on their political campaign?

I would suggest to the gentleman from Louisiana that that is patently ridiculous since the person signing the affidavit, the mere fact of signing it under the law subjects that person to perjury.

Mr. MOORE. If that is true, then we have no need for this protection.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, let me say to the gentleman from Louisiana that I think the gentleman may have made a misstatement and I do not believe he really wants to stand on that statement when he understands it. This does not stop any further inquiry or investigation by anybody but the Federal Election Commission. If the person is really violating the law and the person who brought the charges had any evidence, then that person has the authority to go to the Department of Justice and they have every right and authority in the world not only to continue the investigation about the employee, but also to investigate the fellow who signed the affidavit if he so falsely swore. All we are talking about here are the 142 employees downtown who do not have enough to do and are looking for make work.

Mr. MOORE. I agree with the chairman's analysis of the law but I do stand on my statement that Congress has given the Federal Election Commission, rightly or wrongly, the authority to look into violations of the Federal election law. If that is going to be the case and if they can investigate complaints of anybody else, then they certainly ought to be able to investigate complaints against persons in Federal office.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I was trying to clear a point the chairman made a moment ago. I suppose it was implied that after the word "involved" should be added "by Federal Election Commission." It does not in any way insulate further inquiry or investigation of the employee or of his principal by any other agency with respect to the question of whether or not the affidavit was falsely signed.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the chairman, the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

I will say to the gentleman that the language would be better if those words were in there, and I will say to him for legislative history that the section should be interpreted as though after "involved" it says "by the Federal Election Commission." It does not bar any investigation by any branch of Government which has criminal authority or otherwise.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I would just like to point out that our challengers will be people who are employed by corporations who may be involved with unions. Each of them will have friends.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MOORE was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. If the gentleman will yield further, those people who are challengers do not have the same immunity from investigation by the Federal Election Commission, and therein lies the problem. We have given ourselves a carte blanche immunity from the investigation of the Commission, when we ourselves have been told to investigate election irregularities. But every person who runs against us does not have that same insulation and, therefore, the amendment should be adopted.

Mr. MOORE. Mr. Chairman, I conclude by saying that this is a very harmful provision that is going to subject every Member of this House of Representatives who votes against this amendment to justifiable criticism of building in a coverup procedure. I do not think that was the intention of the gentleman who offered the provision in committee and I do not think that is the intention of the chairman or any member of the committee, but that is exactly the way it is going to be interpreted, so I urge its rejection and passage of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MATHIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Just let me say to the gentleman who just spoke in favor of the amendment that I happen to know of a case in a neighboring State where the campaign is already underway, and one Member of this House has a prosecuting attorney running against him who has 37 employees, and every one of them is engaged in his campaign right now. The Federal Election Commission cannot go into that State and say "boo" because they have no jurisdiction over State or county employees. But if his secretary picks up a phone and answers a question as to where one can get some of his literature, these people have already arrogated unto themselves the right to come into your office and hold an investigation and query your employees.

What I am saying to the gentleman is—and he can answer it any way he wants to—if he wants a double standard, one for incumbents and one for nonincumbents, I mean a double standard against incumbents, that is what we are going to have unless this language stays in the bill.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

Naturally, I will agree with the gentleman that one using his State employees to campaign is wrong. It should not be done. I do not think that is the issue before us.

I would agree that I do not see anything wrong with an employee answering a question—we brought this up in committee—for someone who calls, as long as he puts in a day's work for a day's pay and expects it to come from the public.

This is a coverup procedure that is going to subject this House to unnecessary criticism.

Mr. MATHIS. Mr. Chairman, I am just more than a little bit resentful of my amendment being called a coverup procedure, because it was never in any way intended to be a coverup procedure. It is intended, Mr. Chairman, to be a device by which we can avoid harassment by the people downtown and the Federal Election Commission which, as every Member of this House ought to know by now, has evolved into a head-hunting organization, and the heads they are hunting are not the challengers, they are after the heads of the incumbent Members of Congress. I think it is time that we wake up and realize what is going on downtown and vote down the Frenzel amendment and keep this very important provision in this bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Frenzel amendment.

Mr. Chairman, I think the chairman of the commitee has already limited the language that has been used in this bill, and I think much of the objection to it is taken out by the construction that he gives the language.

If I understand that, this section 313 in every place it deals with the subject matter talks about the Commission and what the Commission will do and what the Commission's powers are, so it does not, as the chairman has indicated, in its general sweep, deal with anything but the enforcement powers and investigatory powers of the Commission. I think that should be made clear.

And in that respect the clear implication would be as if the last sentence read, "An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties"—and as I understand it we might read in at that point "for the pay involved"—"shall be a complete bar to any further inquiry or investigation of the matter involved." That is, investigation by the Commission.

I understand that is the intent of it. Is that correct?

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, I would say that is the intent of the language perfectly described, that it would bar investigation by the Commission and it would be for regularly assigned duties if the person involved was performing those regularly assigned duties.

Mr. ECKHARDT. Under that construction I do not believe the chairman or the framer of this language can be accused of having been overly biased in favor of the incumbent, because a Congressman is peculiarly subject to the risk in the first place, not a challenger. Another person would be less likely to be subject to the risk, and this would be only a confining of the Commission's review authority to the only person who would commonly be subject to the review authority in the first place.

Mr. HAYS of Ohio. That is correct. And if the gentleman will yield further, let me say unless some protective language is in this bill, if the challenger will use this device to file charges against his incumbent, be they true or false, and mostly they will probably be false, and the Commission in its eagerness will come in, then there will be an eight-column heading: "Congressman So-and-So Investigated by Federal Election Commission," and in the minds of half the people that is just the same as if he is convicted.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I would go one step further and say when we file the affidavit to stop the investigation then we will have gone through the complete turnabout, and the other half of the public would be of the other opinion and then you have the same situation.

Mr. ECKHARDT. I am sorry this is under such a confined rule, but it is impossible to amend the bill in a way that would be wholly palatable to me and I think to much of the public because of the rule, but I shall vote for the amendment striking the language because I think most of the construction we have described here would be in effect even if the language were stricken.

The thing that does worry me about this section is the absolute acceptance of the Member's statement as irrefutable, that his employee was acting properly. I do not think that is necessary. I think that generally the Member's statement will be accepted, and if the Member can come up with reasonable proof, and he has the control of most of the evidence, supporting his position, I do not think he needs this special protection, and I would hope that the amendment would be passed, but at the same time I do not attack the language as an extensively unfair or partisan provision.

I would ask for an "aye" vote on the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I just wish to observe that Members of Congress are not the only ones who have risks. For example, a corporate executive can be a candidate for Congress. It can be alleged his secretary is working on his campaign and he, of course, is not given the opportunity to refute that allegation by filing the affidavit. Accordingly it is a protection only for incumbents in that regard.

Mr. ECKHARDT. But it would be very difficult for his employee to be attacked under this act.

Mr. WIGGINS. A corporate employee, of course, if paid by a corporation could not contribute that time to a candidacy. It would be illegal, and a challenger might very well be a corporate executive.

Mr. ECKHARDT. Let me say to the gentleman I am in favor of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 42, noes 40.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: On Page 45, line 2, strike out the "." and insert in lieu thereof ", imprisonment for not more than one year, or both."

Mr. JOHN L. BURTON. Mr. Chairman, this is a technical amendment. When we adopted the amendment in the committee that I proposed, it stated the criminal liabilities and liabilities as far as gifts of moneys and cash to a candidate for public office, the fines were put in, but there was an omission of the fact that there could also be an imprisonment term for more than 1 year.

Mr. Chairman, I believe the amendment is acceptable to both sides, because it was the intent of the committee when we adopted my amendment, but the draftsmanship was not perfect. It is a stringent reform. It puts people in jail.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for that statement. I do concur. We have made, under this title of the bill, criminal penalties in line only for willful violations that involve more than $5,000. The gentleman is simply providing a criminal penalty for this particular crime or violation of the law, which would be a contribution of more cash than allowed under the law. I think it is a good amendment and should be voted favorably.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I support the gentleman's amendment, but I must say it is a classic example of the hyprocrisy that pervades so much of the bill before Congress. It is a crime to make cash gifts in excess of the limits, but it is not a crime to receive the cash. The poor donor, who is likely to be completely ignorant with respect to the statute, runs the risk of going to jail and the candidate who has every reason to know the provision of the law goes off scot free. I think that is somewhat unfair; but however, even given the unfairness of the situation, I do support the amendment.

Mr. JOHN L. BURTON. Well, the gentleman could have offered an amendment in the markup and got support for it.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, let me say, we accept the gentleman's amendment, but I do not really feel so strongly about the poor donor who is just giving $150,000 in a black bag. I think he knew what he was doing and I think he knew what the law said and I think he knew he was violating it. Some of them have thrown themselves on the mercy of the court. I do not know of any of them in jail yet. Just the receivers have gone to jail. So I am not going to shed any crocodile tears for anyone that has $150,000 in a black bag and can deliver it to anybody. I suppose in fairness the taker ought to get a sentence, too; but I do not think we ought to let the donor off scot free.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr JOHN L. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 44, line 21, strike out "$250" and insert in lieu thereof "$100".

Mr. CLEVELAND. Mr. Chairman, this is probably one of the most simple and easily understood of the amendments that will be offered today. The present law limits the amount of a cash donation to $100, and for some reason the committee, after a rather short discussion, adopted an amendment to raise that to $250.

Actually I was an original supporter of a proposal to limit the amount of cash for a contribution to $50. There were quite a few of us who felt that way 2 years ago when we enacted the basic legislation but $100 is what was agreed to by most of the members of the committee and by the Committee of the Whole. I am not at this time attempting to go back to my original position of limiting the amount of cash to $50.

My amendment simply will return the limitation on a cash contribution back to where it is now, which is $100. I think one might almost call this an "incumbent's protection measure," because—if that is good or bad I do not know following some of this debate—but it seems to me that a lot of the trouble people get into in campaigns comes about through the use of cash.

I think it is bad when somebody gives to a campaign and does not feel that he can write a check and be on the record although I do know there are some people who deal in cash and do not have a checking account.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Georgia.

Mr. MATHIS. Is it the gentleman's understanding that if there is a $250 cash contribution given to his own campaign, that it also has to be reported?

Mr. CLEVELAND. The law requires that it be reported.

Mr. MATHIS. Is it a violation of the law if it not be reported?

Mr. CLEVELAND. The temptation remains. The temptation is there not to record it. I am sure the gentleman understands that there are mortals who sometimes fall subject to temptation. He may be so fortunate as not to be one of those mortals. The use of cash introduces an element of uncertainty. In fact, if we want to look at it another way, there are some people who might send a couple of hundred dollars over to the gentleman's campaign, because they want to support him and the fine record he has compiled here in Congress, and the courier might be light-fingered and perhaps only $100 would arrive. The temptations are all the way along the line with excessive use of cash.

I think anything we do to reduce these areas of temptations is constructive. I think that is why the House a year ago did adopt the $100 limitation. I think we should return to it now.

Mr. MATHIS. If the gentleman will

yield further, I think the gentleman knows the reason why this amendment was offered in the first place, and that is because there are a number of Members who have said that they have fund raisers which call for tickets to sell for $100. If someone came in and wanted one ticket for himself and one for his wife, he would violate the law if he paid cash. There is no attempt to do anything underhanded, to subvert the law. I do not think there is any intent to do that.

Mr. CLEVELAND. If the gentleman will bear with me for a moment, if he buys a ticket for $100 and turns to his wife and hands her $100 and she buys the ticket——

Mr. MATHIS. I think the gentleman knows that there is a provision in the law that provides for criminal penalties for using another as a conduit for funds. One cannot give money for another.

Mr. CLEVELAND. I did not say he would do that. The spouse can then in turn purchase the ticket.

Mr. MATHIS. Mr. Chairman, I give up.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as manager of the bill, I guess one is obligated to try to preserve the integrity of the bill against amendments. I am just going to throw this one out to the House. The Members can do what they like about it. I am not going to shed much blood over it. In fact, none at all. I will give the history of it.

Mr. Chairman, somebody in the committee offered an amendment to raise it from $100 to $200, and they explained their amendment. I do not remember who it was now. But the person made the statement, among other things, that one-third of the people of the United States, as I said yesterday, do not have a checking account. And he said he had a personal experience in which he had a dinner for $100 a plate and he lost $200 because he would not take $200 for 2 tickets, which he would have duly reported, from this man. And he said to the man, "I cannot take $200. Write me a check." And he said, "Well, I am not going to write a check, because I have a joint checking account with my wife, and I do not want her to know who I am taking to dinner," or maybe it was, "I do not want her to know I am not taking her to dinner."

Somebody said something about $250. I do not know where the extra $50 came from, but the original idea was to make it possible to allow a person to take a person to dinner with cash. I understand they do things more frugally in New Hampshire. When I was in New Hampshire I was charged $10 for a meal that should not have cost over $2.50. But be that as it may, this is what the amendment is all about, and the Members can do whatever they like with it.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to pose a practical problem. Let us suppose a Member of this body sponsors a fund-raising dinner and the price per ticket is fixed at $150. Let us suppose that a Member mails out his invitations using whatever mailing list he has available to him, and he receives in response to his solicitation an answer in the mail requesting two tickets and three crisp $100 bills—$300. What is the Member's obligation under the circumstances?

First of all, the Member should understand that he is exposed to no criminal liability for accepting the cash. But anyone who is willing to make that kind of contribution to the Member and his candidacy is entitled, I think, to be protected by the Member.

I would think the Member would owe an obligation to get on the phone and find out whether or not the donor is purchasing a ticket for himself and his wife. If the answer is that he is using common funds belonging to himself and his wife, it would be fair to conclude that both the wife and the husband are making a separate and individual contribution of $150, and neither the husband nor wife is exposed to a risk under the statute.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I just listened to the last part of that explanation, because someone was talking over here. Is the gentleman trying to make legislative history that if someone writes a check for $200 out of a joint account and he does take his wife, then he is not exposed to any prosecution?

Mr. WIGGINS. He writes a check?

Mr. HAYS of Ohio. Or pays cash, either one.

Mr. WIGGINS. If he pays cash, $200, or $300 if the bill is unamended, for himself and his wife, in my opinion that is not a violation.

Mr. HAYS of Ohio. He could not pay cash for more than $200, could he, if this language is stricken out?

Mr. WIGGINS. The bill prohibits an individual contribution of more than $250 in cash.

Mr. HAYS of Ohio. That is right.

Mr. WIGGINS. The legislative history I am trying to make is that a contribution of $500 in cash by a husband and wife can be viewed as a contribution of $250 from each of them.

Mr. Chairman, I hope the gentleman will agree with that.

Mr. HAYS of Ohio. Mr. Chairman, I will agree with that, and by the same token, if the amendment prevails, a contribution of $200 by a husband and wife would be construed as a contribution of $100 from each of them.

Mr. WIGGINS. The gentleman is correct.

Now, Mr. Chairman, let us take the tough case, the one posed by the gentleman from Ohio. In that case, it is apparent the man is not taking his wife, but he is buying two tickets, one for himself and one for a friend. In that event, I believe the person who purchased the tickets and who paid the cash should be advised that his cash contribution is illegal. It would not be any more appropriate for a person to buy an extra ticket for someone else, if the aggregate amount of the purchase is in excess of the cash limitation, than it would be for him to buy a whole table and pay cash.

In other words, I think Members owe it to the people who come to their dinners to save them from possible criminal liability by advising them of the cash limitation and the possibility of a joint contribution by husband and wife, which right does not attach to strangers.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to reinforce what the chairman of the committee said as to how this amendment got into the law. What happened was that I had the previous amendment to put in the criminal penalty for $100, and the gentleman from California raised the issue about this: What do we do when somebody comes up and peels off two $100 bills to get tickets for a fundraiser?

That started the process moving toward this: that in effect somebody could pay cash for tickets for husband and wife, and they figured, well, now, dinners cost $125 and, therefore, $250 will cover a husband and wife.

However, if the gentleman who raised the issue in the committee and got the price changed from $100 to $250 feels he made a mistake in raising the issue, I think I was right at that time in believing it was a mistake to raise the issue. Apparently the gentleman thinks the gentleman from New Hampshire (Mr. CLEVELAND) has offered a good amendment, and I am glad the other gentleman from California realizes he made a mistake when he raised the issue in the first place that resulted in increasing the amount from $100 to $250.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wish to thank the chairman of the committee, the very distinguished gentleman from Ohio (Mr. HAYS), for recognizing the frugality with which we conduct our affairs in the State of New Hampshire, and I hope that when he is dumping money into my opponent's campaign, he will be equally frugal.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, perhaps the gentleman from New Hampshire (Mr. CLEVELAND) does not understand the kind of frugality I am talking about. There are two different kinds up in New Hampshire, and maybe the gentleman missed my point.

There is one kind of frugality in New Hampshire that they practice on themselves and among themselves, but then they drop that when they are practicing on outsiders. What I was pointing out is that their prices are not so frugal when it comes to tourists.

I made that point, and I will try to be frugal, I will say to the gentleman, when it comes to campaign time and when I find that they charge me four times as much as a meal is worth.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 27, strike out line 7 through line 21.

And redesignate the following subsection accordingly.

Page 53, strike out line 8 and all that follows through page 54, line 15.

And redesignate the following sections accordingly.

Page 58, line 13, strike out "305" and insert in lieu thereof "304".

Mr. FRENZEL. Mr. Chairman, this is rule No. (5), as made in order under the rule.

It strikes from the bill that section which has come to be called the "item veto." It deletes language which allows, under this bill, the House or the Senate, either one, by resolution, to veto regulations, in whole or in part.

Under the existing law, either House of Congress, by resolution, can disapprove any regulation sent to us under the law by the Federal Election Commission.

That procedure has not worked terribly well because, I think we should frankly say, partly because of the failure of the Commission and perhaps partly because of a failure of our own. Nevertheless, it is generally conceded that this disapproval process for regulations, at least until we develop some experience, ought to be maintained.

However, Mr. Chairman, this bill before us goes a good deal further. Instead of simply saying that we can veto a regulation or disapprove a regulation, this bill says that we can veto a regulation in whole or in part. Here, again, is another death blow at the independence of the Federal Election Commission because this bill gives the Congress the ability to take any part of a regulation and strike it down.

Under our Constitution we do not allow our Federal Executive an item veto of acts of Congress. Many States do not allow that kind of item veto. In almost no cases do we have a veto of regulations of independent commissions. In almost no cases do we have a veto of regulations which we allow the agencies to write.

My goodness, we are giving the Department of Health, Education, and Welfare carte blanche authority to write regulations. We let OSHA run around and regulate us without veto, but in this one, because it affects us, we have given ourselves not only the veto, but in this particular bill before us we have given ourselves an item veto. That means that anything we find that conflicts with our interest in any regulation can be stricken, and that matter can be disapproved while the rest of the regulation can be approved.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, first I would like to note that the committee report is perfectly clear.

It states, on page 8, the fourth item, as follows:

4. The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

Mr. Chairman, I would like to submit to the gentleman that he is straining at a gnat. The Commission only has to come in with individual self-contained regulations, and this section then would have no application. It is only if the Commission comes in with a omnibus proposal, with 18 good provisions and 3 bad ones or 18 bad provisions and 3 good ones, no matter how one chooses to describe it. We are preventing omnibus take-it-all or leave-it-all kind of confrontations. If the Commission comes in, as the committee report makes absolutely clear, with a single, separate, self-contained regulation, this particular provision would have no applicability at all, because the problem the provision is designed to avoid, abuse by the Commission, will have been treated with by the Commission.

Mr. Chairman, following the commonsense thought that they are not going to get us in a position where we must swallow—or reject—everything.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I appreciate the gentleman's yielding.

I only wish to say that I share the interpretation and the observations of the gentleman from California (Mr. PHILLIP BURTON), and I hope that the gentleman's amendment is not passed.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I am merely asking here for information.

Why does the gentleman strike lines 11 through 21? It would seem to me that that just has to do with facilitating the process of any veto, or does the gentleman find that the general veto is covered somewhere else? That has not been made clear.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. ECKHARDT. I am simply asking about (2). It seems to me that it only provides a shorthand procedure for the veto resolution; and I am not sure that that would not apply to both the item veto and the veto of the entire submission, but I just want to find out whether the gentleman knows whether (2) should not stay in as necessary machinery with respect to the full veto. I do not know the answer to that.

Mr. FRENZEL. Mr. Chairman, I have the same opinion as the gentleman from Texas has that (2) applies to both the item veto and a full disapproval. The reason that my amendment seeks to strike it is that it was written by the Committee on House Administration and in my judgment whatever basis we have for disapproval or vetoes in this House should be a uniform one and should be drawn by the Committee on Rules, and become a part of the permanent rules of the House. But I think if we start putting these kind of rules all around we will scatter them far and wide apart and they simply do not belong there. We have had no trouble bringing these kind of resolutions to the floor of the House in the past. Therefore I thought it was extraneous in the Election Commission bill.

Mr. ECKHARDT. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, if I may proceed, I will try to be as brief as possible because I think in view of the startling lack of success I had with my amendment on the advisory provisions I am not completely sure that the committee will sustain this amendment.

I must say nevertheless, Mr. Chairman, that notwithstanding the language in the committee report, it will be quite easy for the committees of the House or the Senate to pick out subdivisions of the rules which are considered to be not in the interest of the Members. In my judgment this weakens the rule making authority of the Election Commission and is a vital part to its independence and, even though it does not allow the House to rewrite a single word or a number, as long as it applies to subdivisions and to separate sections I think it should be stricken from the bill.

I hope the committee will sustain my amendment.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

Mr. Chairman, the gentleman from Minnesota (Mr. FRENZEL) has more amendments to this bill than all the rest of the Members of the House put together. I do not know exactly what motivates the gentleman, and I am not going to try to speculate, but he has now not only become the conscience of the committee, he has also become the conscience of the Committee on Rules. He is saying that we are usurping the power of the Committee on Rules.

Mr. Chairman, this bill was before the Committtee on Rules and they granted it a rule. If they had wanted to have stricken this out, they could have done it right there and then.

There is a reason for this procedure being in this bill. It is not in there without a reason. The gentleman from California (Mr. PHILIP BURTON) has just explained what it does and has described the extremely proscribed language in the report.

Why do we have this provision in about presenting it as a privileged, you might say, resolution? I will tell the Members why. On one of the regulations which we had been debating bringing up here for a veto, I thought that I had reached an agreement with the chairman of the Election Commission and that they would rewrite the resolution. I went home for the weekend and the chairman of the Election Committee delivered a letter to the Speaker saying that they would not rewrite it. We had until Tuesday in which to bring it up. So we had to go to the Committee on Rules in a Monday afternoon session, which was unusual, and get a rule and come here on Tuesday morning.

I just do not want the committee to be foreclosed from what the law says it can do by any trickery from downtown. I have found the Committee on Rules to be very cooperative. I have no objection to going before them. I do not believe I have ever been before them on anything that they have not granted me a rule on. But they did not find any objection to this, and it seems more than passing strange to me why the gentleman from Minnesota wants to deliver this Congress handcuffed and shackled to the Federal Election Commission. I do not know whether he envisions defeat and wants to be a member of it, or what is going on with him.

But I thought when we got four ex-members of Congress on that commission, we would have some understanding, and I have now about decided that what we have is kind of a love-hate relationship. They left the House. They got beat, so now they hate it. Maybe I am misreading it, but that is the way it appears to me in my dealings with them.

All we are trying to do here is take some precautions. As the gentleman from California (Mr. Phillip Burton) said, if they come in with a regulation that encompasses 21 different items, and 19 of them are good, we do not have to veto the whole 19 to get at the 2. What I prefer having them do, and maybe we should have written language that way, is bring in a regulation that deals with one item. But we did not do that. We do not intend to rewrite the things here on the floor. We do not intend to take out a sentence. The language in the report speaks for itself. It is only when it deals with a different subject that we can veto one subject and let the other one go through.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California (Mr. Phillip Burton) the elder, I think explained very succinctly what the in-whole-or-in-part provision does. It really lets us expedite approval of the actions or regulations. If they come up with a compound triple issue regulation, and one of those regulations may be without the purview of their authority, the whole regulation does not have to be vetoed and sent back if two of the regulations can be approved forthwith. So the whole procedure here is not to be able to say candidates for public office shall not be able to make cash in the amount of $2 million; strike out "not" and say that Members of Congress shall be able to take cash. For anybody to figure out that that is what this does, does not make much sense or have much logic. It merely permits us to deal in a logical and expeditious way with regulations if they come up in a multi-issued source.

As far as the previous resolution, it is the same thing. It allows expedition to the floor of the House so the House can work its will on that amendment. That is all it does. God knows if the Committee on Rules did not think they were being circumvented—and we know they are fairly generous with their prerogatives, but occasionally they like to keep a tight rein—I do not think the House can feel that this provision of the law does something other than expedite the handling of that. If I thought that this language would permit us to take "shall not" and make it "shall," I could not support it. I do not know anyone who could.

This does not let us rewrite anything; it does not even let us change a complex sentence or even a compound sentence; but if there are three or four or five subsections that are different issues dealing with different subject matters, it allows the expeditious approval of those that are approved and the expeditious disapproval of those disapproved. Again, it just allows the House to work its will expeditiously.

The chairman of the committee or the members of the committee cannot sit in the room and start writing things out. The majority of the House can work its will, but this allows us to do it in an expeditious manner and in a manner that is consistent with even what the Federal Election Commission, I believe, understands the process should be.

So, I strongly oppose the amendment, because it does not do what my good friend, the gentleman from Minnesota, says. It does not let us rewrite anything; it merely lets the House work its will in an expeditious manner so that amendments that can be accepted can be accepted and those rejected, rejected. We do not have to reject the whole package if it is tied up like one of the Christmas trees that the other body sends over every time when we are dealing with a little matter of tax reform.

Mr. Chairman, I yield back the remainder of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the chairman of the committee, the gentleman from Ohio, page 8 of the report deals specifically with the issue which is the subject of the Frenzel amendment.

Paragraph 4 on page 8 states the following:

> The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

I am aware, of course, that the chairman signed the majority report, but I can ask the chairman now if that remains his intention?

Mr. HAYS of Ohio. If the gentleman will yield. Absolutely. The gentleman from California (Mr. Phillip Burton) perhaps—and he stepped out now—read that same section and in my speech I said I agreed, or thought I did, or thought I made clear, that paragraph 4 on page 8 is the intent of the committee.

If we need legislative history in this colloquy, to cement it down, the gentleman from California has my 100-percent endorsement that is exactly what we meant.

Mr. WIGGINS. As interpreted by legislative history, by agreement of the majority with which I also agree, I think that the problem to which our friend, the gentleman from Minnesota, spoke are largely diffused. There is clearly the need to deal with single regulations which may become compound and involve several subjects. This language would permit the excising of separate discrete provisions and, accordingly, I cannot support the gentleman's amendment in view of this explanation.

But I want to take just a moment to say that all of us should now be aware that we are dealing with a very complicated statute and a very complicated bill. It takes a special dedication, I think, Mr. Chairman, to have and to maintain an interest in legislation of this sort. I want to compliment the gentleman from Minnesota for his energy and his knowledge of this subject. We all recall that he played a major role in fashioning the bill in 1974, I believe it was, and he happens to be one of the few Members in this House who can speak from a background of knowledge. For that reason I think his contributions to the committee and to the House should not be, and I am sure were not intended to be, diminished by the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, of course I did not mean to cast any reflections on the gentleman at all. I agree the gentleman knows a great deal about the subject and contributed a great deal in the committee. I think the gentleman, under my tutelage and the tutelage of the gentleman from California, has matured a lot and this time instead of having 150 amendments he had only 25. The gentleman is coming along. I like him and maybe now, if he has listened to our colloquy—I am not optimistic about this—but I hope that he might even want to withdraw his amendment.

Mr. MIKVA. Mr. Chairman, I move to strike the last word and I rise in mild support of the amendment.

Mr. Chairman, I rise in mild support of the amendment and strong support of the amendment's sponsor, because while I have heard the colloquy and I am reassured, I still hope the conferees will find a different way to accomplish this end than is now in the bill; for this reason I take the floor at this time for a minute.

Mr. HAYS of Ohio. If the gentleman will yield, if the gentleman's amendment prevails the conferees will not have any chance to be in favor of anything, so in my judgment the gentleman in the well ought to be in mild disapproval of the amendment.

Mr. MIKVA. Maybe when I am finished with this colloquy I might be.

I would say this to the chairman as well as to the members of the committee. I read the committee report and it is very clear, and I read the bill and it is very clear, and the bill very clearly says: "in whole or in part."

As I have understood the use of legislative history, and I admit I have been out of law school for a long time, we do not get to look at the committee report if the language of the bill is clear. I can only say to my colleagues at this point that I am glad we have this consensus of what we mean. That is not what we are saying. Unfortunately, the courts traditionally have said, "We look at what you say before we look at what you intended to say."

Mr. Chairman, I strongly support the purpose of what I understand this provision was intended to do. I think being multifarious in regulation drafting is an unfair thing to do.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, if the amendment fails, I will attempt in conference, along with the gentleman from California (Mr. WIGGINS) and others who will be in the conference committee, to write the language more clearly; but I have always understood that if there is any doubt about what the law says, the courts always look at the legislative intent.

Now, what we intend is only if there are substantial areas of difference. They sent up a regulation of disclosure which had 41 different areas. We might have agreed with 39 of them, but under the way the law is made, we had to turn the whole thing down or swallow the whole thing and the report was separate and distinct in the areas covered. What we are trying to say is that if the regulation is 95 percent good, we do not have to veto it in order to get rid of the bad parts.

Mr. MIKVA. Mr. Chairman, let me say, in the efforts to clean up the language by this amendment, I do withdraw my support, but I do hope we do it better in the conference than currently in the bill.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I do thank the gentleman for this temporary mild support and I thank the gentleman from Ohio and the gentleman from California for their kind words.

Mr. ECKHARDT. Mr. Chairman I move to strike the requisite number of words. I rise in opposition to the amendment. I shall not take the 5 minutes.

Mr. Chairman, I think it would be very mischievous to adopt an amendment that strikes item two. As much as I despise and abhor the legislative veto procedure, if we are going to it, we ought not to kill it by making it impossible. The thing is, if we are going to have only 30 days to veto these acts, we cannot depend upon a waiver from the Committee on Rules, or else we delegate total authority to the Committee on Rules to veto it or permit it. I think what we have pointed out is the bad part of offering this thing under such a limited rule. I would have preferred to have voted in favor of the first part of the amendment striking lines 7 through 10, but when we put in the package the striking of the only practical procedure by which the veto process can be worked, it seems to me that we are rolling into a single amendment two very different subject matters.

Mr. Chairman, I would recommend a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 45, line 19, strike "$50000" and insert in lieu thereof "$2500".

Mr. WIGGINS. Mr. Chairman, this is an amendment to the section dealing with penalties for violation of the act. The new section contained in the bill represents a positive advance over current law, since it requires that violations be knowing and willful before penalties attach to those violations; however, it contains another provision which I think is unconscionable and ought to be amended.

On page 45, line 19—the Members have the bill before them—they will observe that the violation must exceed $5,000 before the possibility of any jail time accrues to the violator. If the violation is in an amount less than $5,000, there is the possibility of fines only. Now, this classification of violations of less than $5,000 and more than $5,000 is, in my opinion, an irrational one which is capable of mischief.

For example, the Members all know that it is illegal to accept a contribution from a corporation, and they all know that it is illegal to accept a contribution from a labor union. If one violates that proscription knowingly and willfully, but the amount of the violation is $4,500, one violates no penal—that is, one risks no jail time as the result of that violation.

I would think, members of the Committee, that there are certain egregious actions which fall beneath the $5,000 limitation which ought to expose the violator to the possibility of going to jail. Members should be assured that we are not talking about mandatory sentencing here.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, we discussed this amendment, as the gentleman knows, in the committee. We had quite a discussion on it, and there was not a unanimous position taken.

So far as I am concerned—and the chairman himself takes the same position—we have no objection to the amendment.

Mr. WIGGINS. I am pleased to hear that. I will simply wrap up my last sentence by saying that these are discretionary penalties only; they are not mandatory jail sentences. A court should not be denied the discretion of dealing harshly with a particularly egregious case.

AMENDMENT OFFERED BY MR. FRENZEL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WIGGINS

Mr. FRENZEL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL as a substitute for the amendment offered by Mr. WIGGINS: Page 45, line 19, strike out "$5,000" and insert in lieu thereof "$1,000".

PARLIAMENTARY INQUIRY

Mr. THOMPSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMPSON. Mr. Chairman, I would just like the prospective amendment reread. My attention was diverted for a moment, and I am not certain of the line to which the amendment refers.

The CHAIRMAN. Without objection, the Clerk will rereport the substitute amendment.

There was no objection.

The Clerk reread the substitute amendment.

Mr. THOMPSON. I thank the chair.

Mr. FRENZEL. Mr. Chairman, the rationale presented by the distinguished gentleman from California (Mr. WIGGINS) in support of his amendment applies likewise to my own. Under this section of the bill, in order to qualify for a criminal penalty, an offense has to be committed in a willful and knowing manner and be over $5,000, or, as seems likely, the Wiggins amendment will be adopted and it must be over $2,500.

Now, what that means, of course, is that if one contributes $2,400 over the contribution limit, one will not be subjected to a criminal penalty. One would be subjected only to some kind of a civil penalty. A corporation, as I understand this section of the law, may contribute $2,400 to a campaign and not be subject to criminal penalties, but only subject to civil penalties.

It seems to me that it was a good thing in this bill to set up both a civil and criminal procedure. It was a good thing to set up a conciliation procedure, because our aim in this kind of a law is to encourage people to get into politics, not to be so afraid that they will stay out.

On the other hand, once we establish an offense or violation, it has to be a willful or knowing one. And once we establish a limitation, it should be a reasonable limitation. We should not say to Stuart Mott, for instance,

"If you want to contribute $2,400 or $4,900 more than you are allowed to under the law, we will only let you off with a civil penalty, there will be no danger of a criminal penalty."

This amendment offered by the gentleman from California is not severe at all. It is simply a matter of degree. His amendment is a good one. I think my amendment is a better one.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

Mr. Chairman, to eliminate any misconception or any political ambiguity, I am going to vote and urge my colleagues to vote for the gentleman's amendment.

Mr. FRENZEL. I thank the gentleman for his support.

The CHAIRMAN pro tempore (Mr. Bingham). The question is on the amendment offered by the gentleman from Minnesota (Mr. Frenzel) as a substitute for the amendment offered by the gentleman from California (Mr. Wiggins).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Wiggins), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Frenzel: On page 29, line 7, strike the word "by" and strike all of line 8.

Mr. FRENZEL. Mr. Chairman, this amendment simply strikes the first part of section 112. That section has eliminated from the current law the provision that candidates for Federal office or for Congress must file their disclosure reports with their local secretaries of state. It strikes the first part of section 112 referring only to the secretaries of state.

That portion was put in the bill in an attempt to reduce unnecessary paperwork. However, it is felt by many people that the local press and local observers of the political scene find it much easier to get this information within the State than they do to pick it up from Washington or to have to come out here or to pick it up from an expensive wire service. So while I think the intention of this particular provision was pretty good, I think we are doing the concept of disclosure a disservice. Therefore we should pass this amendment which to reinstate this disclosure provision with the secretaries of state.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey (Mr. Thompson).

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, without expressing an opinion for or against the amendment, is it not so that if this legislation becomes law, the laws of the several States relating to elections are preempted with respect to Federal elections by this law? Is that the gentleman's understanding?

Mr. FRENZEL. No. As I understand it, the law now provides for preemption of State law by the existing Federal elections law.

Mr. THOMPSON. If the gentleman will yield further, to put it another way, the existing law, as amended by what we are proposing here, does in fact preempt the State laws?

Mr. FRENZEL. The gentleman is correct.

Mr. THOMPSON. So the effect of this amendment would be perhaps that it provides availability of information on the local level, especially in the smaller States, and copies of our reports to the Federal Election Commission would be filed with the secretaries of state of the respective States?

Mr. FRENZEL. Yes, if this amendment is agreed to.

Mr. THOMPSON. If this amendment is agreed to. And it serves no purpose other than that, the secretaries of state not having any control at all over this?

Mr. FRENZEL. The gentleman is correct. The disclosure or the filing is informational in nature only.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Minnesota (Mr. Frenzel), not because I am interested in generating extra paperwork—I am not—but because I feel that as long as we are required to file as much detail as we are here with the Federal Election Commission and with the Clerk of the House, et cetera, it is just as helpful to file with the Secretary of State.

In many cases we are required to file some kind of a report with the county registrar of voters. That is true in California.

This merely is a duplication. This procedure will mean that we just duplicate what we file here. It also eliminates the belief that we are in any way trying to withhold information on a local level.

The State of California has a fair practice commission. They have recommended that those of us from California support the amendment offered by my colleague, the gentleman from Minnesota (Mr. Frenzel), and I favor his amendment because I think it is merely a duplication of what we are already filing anyway.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

The CHAIRMAN pro tempore. (Mr. Bingham). The time of the gentleman from Minnesota (Mr. Frenzel) has expired.

(By unanimous consent, Mr. Frenzel was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I simply want to commend the gentleman for offering his amendment.

I found that the logistical problems involved in finding the reports that were filed in Washington were difficult for me the first time I ran, even though I am from a nearby State. I am sure the problem is intensified for those who are from States farther away than New Jersey.

Mr. Chairman, I support the gentleman's amendment, and I wish to commend him on the variety of the amendments he has offered, many of which I support. I think the gentleman is doing an excellent job in attempting to improve the bill.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his support.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have not opposed every amendment the gentleman from Minnesota (Mr. Frenzel) has offered. I oppose this one strictly on the basis of an experience that happened to the gentleman from Ohio (Mr. Devine) and myself as the result of filing with the Secretary of State.

I have talked with some secretaries of state about this, and they say that this is a bad thing. They have no procedure in the State law for handling it. I do not know how they file it. I suppose in some States they file it in file 13 because there is nothing in the law that says they have to preserve it.

At one time I was the victim of a press conference held by a certain individual representing an organization. That organization or at least the president of it, I should say, likes to compare himself to the Almighty. He went to Columbus, Ohio, and held a press conference, and he said that the chairman of the committee and the ranking member of the committee had failed on the first test to comply with the law.

I am not blaming the secretary of state for this, although he is no friend of mine or has not been in the past. I think he is a friend of the gentleman from Ohio (Mr. Devine); at least he is from the same political party.

What happened apparently was that whoever received those reports did not know what to do with them. Whatever they should have done, they did not do it, and they did not have them there.

We got an ocean of bad publicity when the reports were there all the time.

The secretary later said that mine arrived a day late. With the U.S. mail the way it is, the U.S. Postal Corporation, I am happy it did not arrive a week late; but the papers the gentleman from Ohio (Mr. Devine) also got stuffed under some papers or dropped in the corner or something.

Mr. Chairman, this is just duplication. We talk about accessibility. There is not a daily newspaper in the United States that I know of, and I have quite a number of them in my district, some having a circulation of as little as 5,000, that do not subscribe to the AP or the UPI. At filing time either the AP or the

UPI can get a copy of anybody's report, a xeroxed copy. If the paper out there requests it, they will put it on the wire. It is usually, perhaps, a lot more accurate, because it is a copy of the original, that is what they are going to get from the secretary of state.

Mr. Chairman, I do not think it is a matter of life or death with the Congress, but we just keep adding regulations which generate more paper.

Mr. Chairman, I had predicted, as the chairman of the Select Committee on Excess Paperwork, which former Speaker McCormack insisted I assume, after my futile experience with that in butting my head against the stonewall of bureaucracies, that if this country or this democracy is ever destroyed, it will not be by revolution. It will be drowned in a sea of reports and papers.

Mr. Chairman, this is just one little effort to cut down on a little bit of it in the 50 States.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, is there any place in this bill where we attempt to impose duties on State legislatures or State officials by virtue of the Federal law?

Mr. HAYS of Ohio. No.

Mr. FORD of Michigan. Generally when a person such as a secretary of state or comparable counterpart in other States has a duty to receive something for filing, that duty carries with it the obligation for safekeeping, for making copies, for making them available for public inspection, for doing all sorts of things.

It seems to me that if we are going to simply send some paper to a secretary of state, such as in my State of Michigan, and not call upon him to perform any duties with respect to safekeeping or public display or public access or other requirements, it is a vain and useless act.

It would seem to me that if, on the other hand, this amendment is intended to imply that the secretary of state in Michigan has the duty for safekeeping, the duty for filing, the duty for copying, and so forth, that that is an unconstitutional infringement on the power of the State legislature. I do not understand what it is. It is either a vain and useless act or it is a clear invasion of the province of the State constitutional authority, both in its constitution and in its legislative body.

Mr. HAYS of Ohio. It is probably both, I will say to the gentleman; and it would probably be just as useful to put in here that we send a Christmas greeting.

The CHAIRMAN pro tempore (Mr. BINGHAM). The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 293, noes 111, not voting 28, as follows:

[Roll No. 148]

AYES—293

Abdnor
Abzug
Adams
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conlan
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Dellums
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Gradison
Grassley
Gude
Hagedorn
Haley
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Hillis
Horton
Howard
Howe
Hubbard
Hughes
Jacobs
Jarman
Jeffords
Johnson, Colo.
Jones, Okla.
Kasten
Kastenmeier
Kelly
Kemp
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Latta
Leggett
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pike
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rosenthal
Roush
Rousselot
Runnels
Russo
Santini
Sarasin
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Zeferetti

NOES—111

Addabbo
Ambro
Annunzio
Ashley
AuCoin
Bevill
Biaggi
Bolling
Brademas
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Clay
Collins, Ill.
Collins, Tex.
Corman
Crane
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Diggs
Dingell
Duncan, Oreg.
Eckhardt
Evans, Ind.
Evins, Tenn.
Fary
Flynt
Ford, Mich.
Ford, Tenn.
Gaydos
Giaimo
Gibbons
Gonzalez
Goodling
Hall
Harsha
Hawkins
Hays, Ohio
Helstoski
Hightower
Holt
Holtzman
Hungate
Hutchinson
Hyde
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Ketchum
Landrum
Lehman
McFall
Madden
Mahon
Mathis
Milford
Mills
Minish
Mollohan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nichols
Passman
Patten, N.J.
Pickle
Poage
Price
Rooney
Rose
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Seiberling
Shipley
Sikes
Sisk
Slack
Spellman
Steed
Stokes
Sullivan
Teague
Thompson
Ullman
Vigorito
Waggonner
Weaver
Whitten
Young, Alaska
Young, Tex.
Zablocki

NOT VOTING—28

Barrett
Biester
Breckinridge
Chisholm
Clancy
Dodd
Eshleman
Green
Guyer
Hayes, Ind.
Hébert
Henderson
Hinshaw
Holland
Jenrette
Johnson, Pa.
Karth
LaFalce
Macdonald
Nix
Pepper
Riegle
Rodino
Sarbanes
Stratton
Udall
White
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Stratton for, with Mr. Rodino against.

Mr. Nix for, with Mr. Pepper against.

Mrs. Chisholm for, with Mr. Hébert against.

Mr. POAGE changed his vote from "aye" to "no."

Messrs. CARR, STUCKEY, and SKUBITZ changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON. Mr. Chairman, during general debate yesterday I addressed myself, on the basis of personal knowledge and intent, to the question of corporate and union contributions to candidates and political committees, and I stated that I would expand upon those remarks. My purpose here is to establish legislative history which is so clear that it cannot again be misinterpreted by the Federal Election Commission.

The Federal Election Campaign Act Amendments of 1976, H.R. 12406, specifically corrects the FEC's erroneous interpretation as set forth in advisory opinion No. 23, commonly referred to as

SUNPAC. What follows is a background explanation, and appended matters relating directly to it. The material demonstrates the need for the proposed statutory correction of the FEC's mistake.

During debate on the amendment to the United States Code section, upon which section the FEC based its erroneous decision in SUNPAC, I stated the following:

> What the gentleman's amendment will do is simple. It, in effect, incorporates the case law into existing statutory law, and would allow within a very limited area, already existing in the Law, the expenditure of certain treasury moneys, or corporate moneys, for the sole purpose of reaching either union members, or stockholders in the corporation . . . (93 Record 43385).

The case law to which I refer in the above quotation is typified by *United States* v. *U.A.W.*, 352 U.S. 567 (1957).

Innumerable other references during the debate on November 30, 1971, made it clear that business entities were to be allowed to solicit their stockholders using corporate treasury funds in order to create parity with unions, who by reason of the Supreme Court decision in U.S. against UAW cited above, were allowed to solicit their membership using union treasury funds.

The SUNPAC decision (A.O.–23) by the Federal Election Commission changed that law, and allowed business entities to solicit employees in addition to stockholders. By means of an advisory opinion, this independent, nonelected, six-member body usurped the legislative function of the Congress in general, and the House in particular. This unaccountable group of six persons drastically modified the equitable balance which had been the national policy established during the 92d Congress.

The Commission's misinterpretation of existing law has many undesirable facets. But the two most glaring problems created by the erroneous decision are: First, the proliferation of political action committees—PAC's; and second, the coercion inherent in the solicitation of employees by employers.

First, with respect to proliferation, the CONGRESSIONAL RECORD of March 29, 1976, lists the most recent PAC's, and shows the exponential growth in political action committees funded by both the business community and labor unions. It is true that PAC's provide an opportunity for some form of passive participation in the electoral process by contributors. It is a fact, however, that there were a multitude of such committees through which moneys were "laundered" during the Watergate affair, and that the sheer number of such committees provided the opportunity for nonaccountability, and the occasion for the abuses.

The exponential growth of corporate PAC's was occasioned by the SUNPAC advisory opinion, which purportedly legitimized extensive solicitation by the PAC's of corporate employees. Unions reacted to the corporate PAC proliferation by encouraging locals to set up PAC's, and we are now witnessing the seesaw effect of the wholly unnecessary and unjustifiable imbalance created by the Federal Election Commission.

Second, with respect to employee coercion, it is simply a fact that solicitations by an employer, no matter for what purpose, and no matter how well-intentioned, are psychologically coercive. The employee is going to be intimidated and coerced, because the entity soliciting the funds is, for all practical purposes, the same as, or closely related to the one which also gives the salary raises and promotions. This fundamental principle was a major reason for the particular balance established by section 610 in 1971, which the SUNPAC advisory opinion so drastically altered in 1975.

This bill corrects these two Commission-created problems. First, it reestablishes the congressionally determined balance between the interests of the business community and its stockholders, and the interests of the labor community and its membership. And I must say here that it seems ludicrous for the Congress to have to reestablish existing law just because an unelected six-member panel decided to "repeal" the law. Second, it places some rational organizational framework on the proliferation of PAC's by both business and labor, thus avoiding the anonymity of multi-PAC's, and lessening the chances for Watergate-type laundering and other abuses. This reaffirmation of congressional policy provides not only a means of correcting the Commission's most glaring mistake, but produces several affirmative and salutary results.

First, it allows an opportunity for reasonable oversight by the Commission—if there are too many PAC's and not enough investigators, then there is likely to be selective or no enforcement.

Second, it in no way limits the class of contributors, but only the class which may be solicited. This should have the effect of encouraging grassroots level participation by those who wish to participate, while protecting from coercion those who do not wish to participate.

Third, it does not limit the number of PAC's which a corporate or union entity—or its divisions, subdivision, subsidies, or locals—may establish, but only the amount which those PAC's, considered collectively, may contribute to a candidate or an earmarked political committee.

There is another area which needs substantial clarification. That is the significance of "dicta" in the Buckley against Valeo decision. I address the point because, on March 1, 1976, the Chamber of Commerce of the United States issued a memorandum which addressed itself to the Buckley against Valeo decision, and to the substance of this bill. The chamber took dicta, contained in explanatory footnotes of the Supreme Court decision, and elevated that dicta to a constitutional pronouncement of the right of corporations to solicit not only shareholders, but also employees.

First of all, dicta are merely, and I quote from Black's Law Dictionary, "opinions of a judge which do not embody the resolution or determination of the court, and are made without argument, or full consideration of the point, and are not the professed deliberate determinations of the judge himself." Second, the question of corporate solicitation of employees was not even before the Court.

The chamber's memorandum substantially misrepresents the Supreme Court's decision in Buckley. For example, the memorandum at page 2 states that certain provisions of the pending bill "are absolutely contrary to the Supreme Court's interpretation of the law to mean that corporate political action committees may solicit not only their shareholders, but also their employees." This is grossly misleading. The Court, in its discussion of limitations on political contributions by individuals, observed in a footnote that—

> Corporate and union resources . . . may be employed . . . to solicit contributions from employees, stockholders, and union members.

However this random comment is an example of dicta. It cannot by any stretch of the imagination be regarded as a decision of the Court with respect to solicitation rights of either corporations or unions, for such issues were not even before the Court in Buckley.

This kind of misleading analysis is repeated by the Chamber's memorandum in its discussion of multiple political committees sponsored by the same corporation or labor union. On page 4 of the memorandum, following a description of language in the pending legislation which the memorandum says would "prohibit companies from establishing separate PAC's for subsidiaries or divisions," the following statement appears:

> This is contrary to the Supreme Court's decision in *Buckley* v. *Valeo*, which held that corporations and labor organizations may establish multiple political committees . . .

It is true that the Court in the cited footnote observed that—

> The Act places no limit on the number of funds that may be formed through the use of subsidiaries or divisions of corporations. . . .

But this statement by no means constituted a decision of the Court, and again amounted only to an expository statement of the kind familiar to any reader of appellate court opinions.

It is the Sun Oil advisory opinion itself which gave rise to the current controversy over corporate solicitation. In that advisory opinion the FEC indicated its agreement with an interpretation of section 610 advanced by the Sun Oil Co., which interpretation many Members of the Congress regard as flatly contrary to the intent of the original legislation. In any event, neither the FEC's advisory opinion in Sun Oil, nor the Court's dicta in Buckley, can be stretched to the magnitude of a constitutional pronouncement. Both Sun Oil and, a fortiori, the dicta, involved statutory construction.

The Chamber thus first misreads the dicta to be decisions of the Court, and then misreads the alleged decisions to address a subject not even contemplated by the Court.

The following material relates to my statements above, and should be considered by the House for the purposes of debate of H.R. 12406:

[Common Cause, Mar. 10, 1976]

SPECIAL INTEREST GROUPS ACCUMULATE $16.4 MILLION FOR 1976 POLITICAL CAMPAIGNS, UP MORE THAN FORTY PERCENT OVER SIMILAR PERIOD IN 1974, COMMON CAUSE STUDY REVEALS

Special interest groups have accumulated $16.4 million for the 1976 political campaigns, according to a new study released by Common Cause. The $16.4 million political warchest—cash on hand as of January 1976—represents an increase of more than 40 percent over the $11.7 million held by interest groups at a similar early stage of the 1974 elections (February 28, 1974), the study revealed.

"The $16.4 million figure doesn't even begin to tell the story," according to Fred Wertheimer, Common Cause Vice President and Director of its Campaign Finance Monitoring Project. "In one of the most significant developments since the passage of the 1974 campaign finance law, 242 new political giving committees have been established by special interest groups during the past year." (See Appendix A for complete list.) "Most of these new interest group committees have just begun their drive to accumulate funds for the 1976 elections. This means that many millions of additional political dollars will be raised by the new committees in the months ahead," Wertheimer said.

According to the study, the 242 new committees now constitute thirty percent of all interest group committees registered under the federal law. The cash, the new committees have accumulated at this stage, however, amounts to only six percent of the $16.4 million total funds accumulated by all interest group committees.

The new committees so far have raised only $978,000 with $496,000 accumulated by just one group, a new committee connected with the American Trial Lawyers Association.

The study notes that the huge difference between funds available for old committees and those available for new committees will change dramatically over the course of 1976, as the new committees carry out their initial fundraising drives.

BUSINESS-RELATED COMMITTEES

Almost 75 percent of the 242 new committees have been formed by business-related interests, according to the study. One hundred and seven corporations and 22 banks have established new political committees in the last year, more than doubling the number of corporations and banks with registered committees prior to the 1974 elections. Seventeen oil companies have registered political action committees for the first time, including Atlantic Richfied Co., Cities Service Co., Standard Oil of California, Standard Oil of Ohio, Sun Oil Co. and Texaco. Prior to the 1974 elections, only one oil company, Union Oil of California, had registered a political committee.

Eight steel companies have registered funds for the first time, including ARMCO Steel Co., Lykes-Youngstown, National Steel Corp., Republic Steel Corp. and U.S. Steel.

Four major aerospace corporations—Grumman Corp., Lockheed Aircraft Corp., McDonnell Douglas Corp. and United Technologies (formerly United Aircraft) have also registered committees for the first time.

Other major corporations registering new political committees include American Express Co., Bristol-Myers Co., Continental Can Co., Dow Chemical Co., Litton Industries, Montgomery Ward & Co., Pan American Airlines, Pepsico Inc., R. J. Reynolds Industries and Sears, Roebuck & Co.

The remaining 25 percent of the new committees registering were sponsored by labor organizations and miscellaneous groups. Most of the 36 newly registered labor-related political committees represent additional committees formed by labor unions which already had one or more political committees prior to the 1974 elections. The Communication Workers of America, for example, registered 12 additional committees, and the Machinists registered four additional committees.

"Comprehensive public financing for the 1976 Presidential elections assures that the great bulk of all interest group contributions in 1976—new or old, business or labor, medical or dairy—are destined for the Congressional races," Wertheimer said. "These developments present one of the most compelling cases yet made on the need for Congressional public financing."

"They also demonstrate that it is essential for Congress to make clear that an organization cannot set up a number of political committees and thereby render meaningless the $5,000 limit on what an organization's political committee can give to a candidate. The need for this 'antiproliferation' legislation is strikingly demonstrated by just two cases," Wertheimer said. "During the period from October–December 1975, Dow Chemical Co. registered seven new political committees. During the period from August–December 1975 the Communication Workers of America registered 12 new committees. "The bills to reconstitute the Federal Election Commision pending in the House and Senate contain clear 'anti-proliferation' provisions," Wertheimer said.

Mr. GAYDOS. Mr. Chairman, I rise in support of H.R. 12406, the Federal Election Campaign Act Amendments of 1976.

Even before the Supreme Court handed down its opinion on January 30 of this year, the self-styled election law experts were busily creating certain hypothetical findings of the court and how Congress would respond, and criticizing Congress no matter what they would do. So it is not surprising to hear the cacophony of voices that followed approval of H.R. 12406 by the Committee on House Administration:

"It's an incumbent protection law."

"It creates a labyrinthine plan with so many snares as to discourage individuals from seeking elective office."

"It changes the rules in the middle of the game."

"It makes the Federal Election Commission a mere subcommittee of Congress."

"Congress should only reconstitute the Commission at this time to meet the objections of the Supreme Court."

"We should extend public financing to all congressional elections."

These are examples of just some of the rhetoric currently in vogue.

If we had the luxury of debating and amending this bill for the next year, there would still be some critics who would be dissatisfied. But Congress must take action expeditiously or else chaos will result. The Committee on House Administration has spent much time and effort in drafting the legislation before us. The purpose of the bill is threefold: First, to reconstitute the Commission to meet the objections of the Supreme Court; second, to remedy the actions of the Commission which run counter to the intent of Congress; that is, the SUNPAC advisory opinion; and third, to amend the existing law to provide a more effective procedure of regulating Federal elections.

Notwithstanding what certain critics are saying, this bill represents the work product of the entire Committee on House Administration. Chairman HAYS has been unjustly criticized as having steamrollered his bill through the committee. This just is not so. Every member of the committee had a full opportunity to debate the bill and offer amendments. The bill before us today reflects the compromises reached on the many issues debated during the markup.

In the final analysis, the bill before us seeks to amend existing law to provide a procedure whereby maximum disclosure of the sources of funds and expenditures of a political campaign is available to the electorate. The purpose of the law should not be to establish a game where the candidate who unwittingly may deviate from the rules goes to jail. Instead, the thrust of the law should be to provide the voter with the maximum information about the respective candidates. The bill seeks to accomplish this by repealing certain sections of the criminal law and instead granting the Commission jurisdiction over all aspects of the electoral process, rather than dividing the jurisdiction between the Commission and the Department of Justice. The bill does provide for criminal sanctions for "knowing and willful violations," but, absent these instances, the main purpose of the bill is to seek to remedy any violations by conciliation, with a civil fine where deemed necessary by the Commission. In this manner the candidate whose negligence leads to a violation of the act is given an opportunity to rectify such error without the possibility of facing criminal proceedings. With such a system, how can it honestly be argued that the bill seeks to discourage challengers to the existing incumbents?

In striking down the limitations for both campaign expenditures as well as the so-called independent expenditures, the Supreme Court has limited the manner of regulating Federal elections. Absent complete Federal funding of elections, the only effective way ot regulating election behavior relies on a full disclosure of the financial activities of the candidates. At the same time, in invalidating the limitations on "independent expenditures" the Court may have unwittingly created a very serious loophole. Accordingly, the bill does amend existing law to set forth certain requirements to assure that an "independent expenditure" is just that and not merely a subterfuge to get around the contribution limitations.

The action of the Commission in rendering its advisory opinion in the SUNPAC case necessitates two changes: First, an amendment which clearly spells out the congressional intent that Congress never intended the creation of corporation political action committees to pressure their employees to contribute, nor to allow the proliferation of such committees; and second, to provide a method where future actions of the Commission in rendering advisory opinions would be subject to congressional review.

The legislative history of the 1971 and 1974 laws is clear that Congress never intended to allow the SUNPAC situation. Therefore, the bill seeks to establish a balance between the activities of union and corporate political action committees by providing that contributions by a committee of a subsidiary of a union or corporation shall, for the purpose of the $5,000 limitation, be considered as having been given by the committee of the parent. Additionally, the bill provides that unions may only solicit their members and that corporations may only solicit their stockholders, executive officers and their families, an executive officer being defined as, "an individual employed by a corporation who is paid on a salary rather than an hourly basis and who has policymaking or supervisory responsibilities."

Furthermore, to prevent the Commission from going off on its own and rendering future advisory opinions not in accord with the intent of Congress, the bill provides that all future advisory opinions will have to be included in regulations and submitted for congressional review. This provision seems to have attracted much criticism, but as a practical matter it will only serve to require the Commission to consider issuing advisory opinions only with a certain degree of circumspection. And this is only proper, as advisory opinions should only be given when properly justified. Also, since such opinions should reflect the intent of Congress why should they not be published as a regulation to guide others who may be faced with a similar situation? The fact that congressional disapproval may come after the person seeking the opinion has already acted on it does not prejudice him as he is protected if he acted in good faith.

It may be argued that the number of advisory opinions will be limited, but to this I say that it is the job of Congress to legislate in as specific manner as possible and obviate the need for Commission regulations as much as possible. I do not think anyone wants to see the Federal Elections Commission compete with the Internal Revenue Service in issuing regulations and orders. If such were so, then I would agree with those who content the election law is loaded with traps so as to discourage challengers to the existing officeholders.

As far as the contention that the Commission is a mere subcommittee of the Congress, it must be admitted by such critics that, absent the provision on the review of advisory opinions, the Commission is subject to judicial and not congressional review with respect to its actions. But in the case of advisory opinions, it is certainly the right of Congress to prevent the usurpation of its legislative power by a congressionally created commission. A review of the regulations issued by such Commission is the only safeguard available to prevent such usurpation.

While some critics have suggested merely reconstituting the Commission, other have urged the extension of public financing to all congressional elections. For some the bill goes too far, while for others, the bill does not go far enough. To the latter, I say that to provide for an extension of public financing to congressional elections, without a review of the experience with this year's Presidential election would be premature. The possibility of a one issue candidate in House and Senate campaigns is indeed greater than in the Presidential election. And at this time we do not know how significant a problem we face in the Presidential election.

To those who argue for merely reconstituting the Commission, the amendments contained in the bill before us are necessary to carry out the intent of Congress and provide a procedure for full disclosure of a candidate's financial activities while at the same time preventing the usurpation of the legislative power of Congress by the Federal Election Commission.

I urge my colleagues to give their full support to this bill.

Mr. MAGUIRE. Mr. Chairman, the primary objective of regulating campaign practices should be to insure the public interest, to remove corruption and special interest influence, and to enable candidates to compete more equitably for public office.

The Federal Election Campaign Acts of 1971 and 1974, as initial steps, provided much needed focus on the problem of developing an equitable means for the regulation of campaign procedures. And I think that most people agree that the Federal Election Commission has been a significant and valuable innovation in regulating the electoral process. But the January 30, 1976, Supreme Court decision in BUCKLEY against Valeo—regarding unconstitutional expenditure limitations and the violation of the separation of powers doctrine in the appointment of members of the Federal Election Commission—has renewed interest in altering Federal election law. The new bill, H.R. 12406, from the Committee on House Administration, contains many constructive changes. But it also contains numerous regressive measures which would reduce the independence of the Federal Election Commission and impede its very ability to function.

A provision of H.R. 12406 which provides the most obvious reduction in the independent authority of the Federal Election Commission is the clause concerning the advisory opinion process. Under this section, all advisory opinions issued by the Commission would have to be converted into regulations within 30 days and sent to Congress, where either House would have an additional 30 days to disapprove, and thus nullify, the opinion. Not only could either House nullify an opinion, but either could nullify a regulation in "whole or in part." Thus, if I read the provision correctly, item vetoes of sections or even words are allowed. Through a process of selective editing, Congress could write its own regulations or reverse the Commission's intent.

Several other provisions of the proposed amendments in H.R. 12406 also inhibit the Federal Election Commission from making its own decisions on investigating possible violations of the elections law. One provision removes the Commission's authority to "inquire into or investigate the activities or staff employees of Federal officeholders" without consulting the officeholder. The Commission could then be barred from any further injury if the officeholder signed an affadavit that the staff person is performing "regularly assigned duties." This is an invitation for abuse. The analogy of the fox guarding the henhouse comes to mind. This provision grants virtual "exclusive privilege" to Members of Congress.

Other provisions which represent a serious retreat from reform include: An increase in the threshold for criminal penalties for a knowing and willful violation from $1,000 to $5,000; the removal of a jail penalty for a knowing and willful violation of the limits on cash contributions; an increase in the allowable cash contributions from $100 to $250; the removal of the present requirement for disclosure filings with secretaries of State—a provision local press depends upon to inform the public; and the provision allowing for one-House termination of the Federal Elections Commission. Each of these constitutes renewed opportunity for the corrupt, the practitioners of the expedient, and self-serving special interests to do their own thing.

A major point of controversy with respect to H.R. 12406 lies in the section concerning the prohibition of corporate political action committees from soliciting contributions from nonmanagement employees of corporations. The bill permits corporations to solicit contributions from stockholders, executives and their families. Many contend that corporations should be allowed to solicit their employees in the same manner that labor organizations can solicit all of their members. On the surface, the arguments seem valid and equitable. However, upon closer inspection, it is clear that the owners of the firm, its stockholders—which, of course, include employees who own stock—are those who have a direct interest in the firm's political activities, just as employees who are union members have an interest in the political activities of their union.

Nor, interestingly enough, does this corporation/stockholders union/employees parity give numerical advantage to representatives of employees. American Telephone & Telegraph, for example, has some 2.9 million stockholders, but only 999,796 employees. The New York Stock Exchange Review of 1974 further reveals that there are some 31 million stockholders in the United States today and that the ratio among major corporate concerns with respect to volume of stockholders versus employees is approximately 3 to 2. All in all, the provision now in the bill appears equitable and symmetrical with respect to the rights and privileges of solicitation for funds by corporations and unions.

In sum, if Congress ties the hands of the Federal Election Commission so that it cannot provide quick, understandable answers to candidates and the public respecting compliance with the law, or if the vital oversight and investigatory responsibilities of the Commission are circumscribed by procedures weighted in favor of incumbents, then the American public can come to no other conclusion than that Congress has no intention of creating a commission that can adequately enforce the law and serve the public interest.

We must reform the political process. Congress must take the initiative to restore public confidence in the electoral process. H.R. 12406 is an essential piece of legislation, but it needs some important improvements to safeguard the independence of the Commission and to strengthen the financial, reporting, investigatory, and penalties provisions of the bill.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Frenzel: Page 39, line 6 strike out everything after the comma beginning with the words "but shall not" up to and including the words "except that" on line 15 and insert in lieu thereof the following: "but shall not include—
>
> "(A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;
>
> "(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;
>
> "(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: 'except that'."

POINT OF ORDER

Mr. HAYS of Ohio. Mr. Chairman, I make a point of order against the amendment because there is language read in that was not in the rule. I had agreed not to make this point of order, but I cannot depend on who is going to offer an amendment with the messages I get from the other side.

Therefore, in order to teach them a lesson, I intend to make a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio makes a point of order that the amendment as read by the Clerk includes language that was not in the rule.

Mr. FRENZEL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRENZEL. Mr. Chairman, the chairman of the committee is correct that there is an extra phrase put into the amendment that was read by the Clerk that was not in the printed rule. It was my opinion that the Committee on Rules intended to print this amendment, my amendment, as was read.

But, in view of the point of order being raised by the chairman of the committee—and I am sorry that he has done this—I ask unanimous consent to withdraw the amendment. I would like to present the amendment again, and the Clerk has it in the form in which it appeared in the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, in order that we can clear up what is going on, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks and to include extraneous matter on the bill, H.R. 12406, Federal Election Campaign Act Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDING CHAPTER 33 OF TITLE 44, UNITED STATES CODE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3060) to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I am not going to object, but I take the time only to ask the gentleman from Indiana (Mr. Brademas) to explain the bill, which the minority does concur in.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Indiana (Mr. Brademas).

Mr. BRADEMAS. Mr. Speaker, the bill as amended was approved by the Subcommittee on Printing on March 11, 1976, by a vote of 3 to 0—one Member voting present—and by the Committee on House Administration on March 25, 1976, by voice vote.

The bill provides for a 1-year extension of the National Study Commission on Records and Documents of Federal Officials—hereinafter referred to as the "Public Documents Commission"—from March 31, 1976, to March 31, 1977.

Title II of the Presidential Recordings and Materials Preservation Act, which became law on December 19, 1974, established the Public Documents Commission. The Commission was charged with the responsibility of studying the problems involved in the ownership and disposition of records and documents of all Federal officials and recommending appropriate legislation and rules.

The membership of the Commission includes two Members of the House of Representatives; two Senators; three appointees of the President, selected from the public on a bipartisan basis; the Librarian of Congress; one appointee each of the Chief Justice of the United States, the White House, the Secretary of State, the Secretary of Defense, the Attorney General and the Administrator of General Services; and three other representatives, one each, appointed by the American Historical Association, the Society of American Archivists, and the Organization of American Historians.

The first meeting of the Commission was held on December 15, 1975, at the call of the Chairman, Herbert Brownell, the former Attorney General of the United States.

The extension of time is necessitated by the fact that substantial delays occurred in the appointment of the Commission members. The three Commissioners chosen by the President by and with advice and consent of the Senate—including Chairman Brownell—were not confirmed by the Senate until early November 1975. Once confirmed and designated Chairman, Mr. Brownell moved quickly to convene the Commission and to begin the search for a staff director but the statutory deadline was scarcely 5 months away and, obviously, no longer realistic.

Chairman Brownell requested that the Subcommittee on Printing consider two amendments to the bill. The first amendment involves a change in a way one of the members of the Commission is to be chosen. At present, the Commission is to include "one Justice of the Supreme Court, appointed by the Chief Justice." Since the Commission is charged with studying the problems relating to the disposition of the papers of members of the Federal judiciary, a Justice of the Supreme Court was included as a member of the Commission. However, Chief Justice Burger advised the Commission that because of the likelihood that litigation concerning the constitutionality of the Presidential Recordings and Materials Preservation Act would reach the Supreme Court the appointment of a Supreme Court Justice to sit on the Commission would be improper.

The Chief Justice suggested to the Commission that he would prefer to be authorized to appoint another member of the Federal judiciary to the Commission, if that would be acceptable to the Congress. It is the consensus of the Commission that the judiciary should be represented, as Congress intended, and that the Chief Justice's suggestion is sound. Consequently, the amendment suggested by Chairman Brownell would amend the relevant subsection to include on the Commission "one member of the Federal judiciary appointed by the Chief Justice of the United States." The possible candidates would include all circuit or district judges, inactive or senior status.

The second amendment is of a technical nature. At present the act provides that:

> While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code.

Because of a 1975 amendment, the provision governing travel expenses for a person employed intermittently in Government service as an expert or consultant is now section 5703 rather than section 5703(b). Accordingly, this amendment would simply substitute "5703" for 5703(b) in the proper subsection of the Presidential Recordings and Materials Preservation Act.

Mr. Speaker, I have tried to explain what the bill does, and I am grateful to the gentleman from Minnesota (Mr. FRENZEL) for allowing me to do so.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

Could my colleague, the gentleman from Indiana (Mr. BRADEMAS), tell us how much the annualized cost of this authorization is?

Mr. BRADEMAS. Mr. Speaker, if the gentleman from California will yield, there is no additional authorization provided for in this bill. However, a sum of $110,000 has been advanced to the Commission from the White House Unanticipated Needs Fund. The bill simply allows the Commission to have 1 more year in which to complete its work because it has not been able to do any work before this time.

Mr. ROUSSELOT. I appreciate that, but what is the annualized cost of this Commission?

Mr. BRADEMAS. Mr. Speaker, the total estimated cost of the entire work of the Commission through September 30, 1976 is $350,000.

Mr. Speaker, let me also refer the gentleman to that part of the bill which reads as follows:

> While away from their homes or regular places of business in performance of services for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses. Under section 5703(b) of title 5, U.S. Code, except for per diem, subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's answer. It is nice to know this is not a budget busting commission.

Mr. Speaker, if my colleague, the gentleman from Minnesota (Mr. FRENZEL) will yield further, are there any nongermane amendments in this bill that is now before us?

Mr. BRADEMAS. No.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's direct answers.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to point out, as the gentleman from Indiana (Mr. BRADEMAS) has already explained to us, that this legislation was unanimously requested by the Commission itself after it discovered they had very little time to carry out their activities in light of the fact that the Supreme Court has not decided on a very basic issue involved with regard to the Nixon papers.

Mr. MEZVINSKY. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Iowa.

Mr. MEZVINSKY. Mr. Speaker, I wish to express my support of the bill. I think this is a reasonable step to take.

The Commission has work to do, and really what we are trying to say here is that it will not cost any more money but it will allow the Commission to go on and do the job it has to do.

Mr. Speaker, I am very glad I can support the bill, and I appreciate the gentleman's yielding.

Mr. FRENZEL. Mr. Speaker, I thank all the Members, especially the gentleman from Indiana (Mr. BRADEMAS), for their contributions, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3060

An act to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 33 of title 44, United States Code, is amended as follows:

(a) Section 3318 of chapter 33 is amended—

(1) by deleting subsection (a)(1)(E) in its entirety and submitting in lieu thereof the following:

"(E) one member of the Federal judiciary appointed by the Chief Justice of the United States."; and

(2) by deleting "section 5703(b) of title 5, United States Code" from subsection (e)(2), and substituting in lieu thereof "section 5703 of title 5, United States Code".

(b) Section 3322 of chapter 33 is amended by deleting "March 31, 1976" and substituting in lieu thereof "March 31, 1977".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11628) was laid on the table.

AUTHORIZING AND DIRECTING AD HOC SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF TO TRANSMIT FINDINGS AND REPORT TO THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1121) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1121

Resolved, That, notwithstanding section 4(a) of House Resolution 412 of the 94th Congress, adopted April 22, 1975, and House Resolution 977 of the 94th Congress, adopted January 26, 1976, the ad hoc Select Committee on the Outer Continental Shelf is authorized and directed to transmit its findings and report to the House on such matter as may have been referred to it and on which it has acted as soon as practicable, but not later than May 4, 1976.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE—SOCIALIST WORKERS 1974 NATIONAL CAMPAIGN COMMITTEE, ET AL., VERSUS HON. W. PAT JENNINGS, ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 24, 1976.

Hon. CARL ALBERT,
The Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: I have, in the case of Socialist Workers 1974 National Committee and others, against Edmund L. Henshaw, the Clerk of the House of Representatives and others, (Civil Action No. 74–1338), been served with Plaintiffs Second Interrogatories to Federal Defendants and Plaintiffs' Request for Production of Documents, said pleadings requesting the Clerk of the House of Representatives to answer such interrogatories in writing and to produce certain documents in the possession and under the control of the House of Representatives.

House Resolution #9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The Plaintiffs' Second Interrogatories and Request for Production are attached herewith, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am
Sincerely,
EDMUND L. HENSHAW, JR.,
Clerk, U.S. House of Representatives.

The SPEAKER. Without objection, the interrogatories will be printed.

There was no objection.

The interrogatories are as follows:

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., March 4, 1976.

Re: Socialist workers 1974 National Campaign Committee, et al. v. Hon. W. Pat Jennings, et al., (three judge court), Civil Action No. 74–1338.

Hon. JAMES F. DAVEY,
Clerk, U.S. District Court for the District of Columbia, U.S. Courthouse, Washington, D.C.

DEAR MR. DAVEY: Enclosed for filing please find the original and four copies of (1) Plaintiffs' Second Interrogatories to Defendant, W. Pat Jennings, (2) Plaintiffs' Request for Production of Documents, directed to that Defendant, (3) Plaintiffs' Second Interrogatories to Defendant, Francis R. Valeo, (4) Plaintiffs's Request for Production of Documents, directed to that Defendant, and (5) Plaintiffs' Second Interrogatories to Defendant, Elmer B. Staats. Certificates of Service are attached.

Thank you for your consideration.

Sincerely yours,

JOEL M. GORA,
Attorney for Plantiffs.

[In the U.S. District Court for the District of Columbia, Civil Action No. 74–1338]

PLAINTIFFS' SECOND INTERROGATORIES TO DEFENDANT, W. PAT JENNINGS, CLERK OF THE HOUSE OF REPRESENTATIVES

Socialist Workers 1974 National Campaign Committee, *et al.*, Plaintiffs, v. Hon. W. Pat Jennings, Clerk, House of Representatives, *et al.*,

The following interrogatories are served upon you pursuant to Rule 33, Federal Rules of Civil Procedure. They are to be answered fully and separately in writing under oath within thirty days. Where knowledge or information of the defendant is requested, such request includes knowledge of the defendant's agents, employees, servants, representatives, attorneys, successors, and those acting under his control or direction or at his request. These interrogatories are continuing in character so as to require you to file supplementary answers if you obtain further or different information before trial.

1. State whether you or your agents and employees have had any contact, communication, conversation, correspondence or inquiries by or with officials or agents of the Federal Bureau of Investigation, the Central Intelligence Agency or the Secret Service concerning the plaintiff committees or any Socialist Workers Party candidate, committee, or contributor.

6. With respect to Answer No. 25 of your Answers and Objections to Plaintiffs' First Interrogatories to Federal Defendants, describe all steps taken or inquiries made to support your information and belief that campaign finance information concerning candidates, committees, or campaign organization affiliated with the Socialist Workers Party has not been requested by any government agency.

7. With respect to Answer No. 31 of your Answers and Objections to Plaintiff's First Interrogatories to Federal Defendants, please list and describe each such "non-public" record or document, relating to the plaintiffs or any previous Socialist Workers Party committee, candidate or official, maintained by you, your predecessors or your successors, and state (a) the date of such document or record, (b) the nature of such document or record, and (c) the person initiating or preparing such document or record.

8. The June 2, 1975 issue of Campaign Practices Reports (Volume 1, Number 23), in discussing arrangements for the transfer of "non-public" documents to the Federal Election Commission, contains the following statement:

"Clerk of the House W. Pat Jennings said no similar arrangement was possible with regard to House documents. "I have a problem with letting the CIA, FBI, or anyone else in here (to look at the documents)," Jennings told the Commission. Because the material is considered a House document, he explained, he could not let Murphy, or anyone else, look at the material without a House resolution."

Please state (a) whether you made such a statement about the FBI or the CIA, and (b) whether the statement was made in or reduced to writing. Please append to your Answers to these Interrogatories copies of any writing or document embodying or referring to such statement.

JOEL M. GORA,
Attorney for Plaintiffs.

March 4, 1976.

CERTIFICATE OF SERVICE

I, Joel M. Gora, hereby certify that service of the foregoing Plaintiffs' Second Interrogatories to Defendant W. Pat Jennings, Clerk of the House of Representatives, has been made upon the defendants and the defendant-intervenor by mailing a copy thereof, postage prepaid and by certified mail, on this 4th day of March, 1976, as follows:

Dennis G. Linder, Esq. Ellen Kandoian, Esq. U.S. Department of Justice 10th & Constitution Ave., NW Washington, DC 20530

Kenneth J. Guido, Esq. Common Cause 2030 M Street, NW Washington, DC 20036

JOEL M. GORA,
Attorney for Plaintiffs.

In the U.S. District Court for the District of Columbia, Civil Action No. 74–1338

PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS

Socialist Workers 1974 National Campaign Committee, *et al.*, Plaintiffs, v. Hon. W. Pat Jennings, Clerk, House of Representatives, *et al.*, Defendants.

Plaintiffs hereby request the defendant, W. Pat Jennings, Clerk of the House of Representatives, pursuant to Rule 34, Federal Rules of Procedure, to produce at the office of Plaintiffs' counsel, Joel M. Gora, c/o American Civil Liberities Union, 410 First Street, S.E., Washington, D.C. within thirty days of the date of this request, and permit the Plaintiffs to inspect and copy the documents, records, statements, letters, correspondence and other writings and materials described in the attachment to this request.

JOEL M. GORA,
Attorney for Plaintiffs.

March 4, 1976.

ATTACHMENT

1. All letters or correspondence from the Attorney General or his designees, as referred to in Answer No. 23 of your Answers and Objections to Plaintiffs' First Interrogatories to Federal Defendants, which concern or relate to any candidate, committee or contributor of or associated with the Socialist Workers Party.

2. All non-public records or documents, referred to in Answer No. 31 of your Answers and Objections to Plaintiffs First Interrogatories to Federal Defendants, which relate to the Plaintffs or any previous committee, candidate or official associated with the Socialist Workers Party.

CERTIFICATE OF SERVICE

I, Joel M. Gora, hereby certify that service of the foregoing Plaintiffs' Request for Production of Documents has been made upon the defendants and the defendant-intervenor by mailing a copy thereof, postage prepaid and by certified mail, on this 4th day of March, 1976, as follows:

Dennis G. Linder, Esq., Ellen Kandoian, Esq., U.S. Department of Justice, 10th & Constitution Ave., N.W., Washington, D.C. 20530.

Kenneth J. Guido, Esq., Common Cause, 2030 M Street N.W., Washington, D.C. 20036.

JOEL M. GORA,
Attorney for Plaintiffs.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1122) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1122

Whereas in the case of Socialist Workers 1974 National Committee and others, again Edmund L. Henshaw, Jr., Clerk of the House of Representatives, and others (civil action numbered 74–1338) pending in the United States District Court for the District of Columbia, a second series of interrogatories and a request for the production of certain documents were propounded by the plaintiffs and served upon Edmund L. Henshaw, Jr., Clerk of the House of Representatives, requesting him to answer such interrogatories in writing, under oath, and to provide in response to such interrogatories and in response to such request certain documents in the possession and under the control of the House of Representatives, and to serve the answers and documents on counsel for plaintiff in such proceedings: Therefore be it

Resolved, That information secured by officers and employees of this House pursuant to their official duties may not be compelled by the mandate of process of the ordinary courts of justice but by the permission of this House; be it further

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That the Clerk of the House is authorized to answer said interrogatories in a manner consistent with the privileges of this House; be it further

Resolved, That when the said court determines upon the materiality and relevancy of those documents requested in interrogatory numbered 7 and in the request for production of documents and described as "non-public" records or documents maintained by the Clerk of the House concerning the Socialist Workers Party and its affiliated organizations, then the said court, through any of its officers or agents, be authorized to attend with all proper parties to the preceeding and then always at any place under the orders and control of the House, and to take copies of those requested documents herein specified which are in the possession or control of the said Clerk; and the Clerk is authorized to supply copies of said documents, so as, however, the possession of said documents by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; be it further

Resolved, That a copy of these regulations be submitted to the said court.

[Mr. O'NEILL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 49, DEVELOPMENT OF CERTAIN NATIONAL PETROLEUM RESERVES

Mr. MELCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 49) to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 23, 1976.)

Mr. MELCHER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the conference committee on H.R. 49, I am pleased to bring to the floor of the House a bill that I think nearly everyone can agree upon. And I am especially pleased to say that this legislation, when implemented, will result in some new production of petroleum which should benefit the people of this Nation.

Before I get into the details of the conference report, Mr. Speaker, I want to commend my colleagues on the committee who made a real and constructive contribution to our final recommendation. The chairman of the Armed Services Committee, Mr. PRICE, and his able colleague—Mr. HÉBERT, Mr. DICKINSON, and Mr. BENNETT—have been most cooperative in working out the solution to the complicated problems which confronted us.

Likewise my colleagues on the Interior and Insulate Affairs Committee—Mr. HAROLD JOHNSON, Mr. PHILLIP BURTON, Mr. SEIBERLING, Mr. STEIGER, Mr. SKUBITZ, Mr. DON YOUNG, Mr. MILLER, and Mr. RUNNELS—came to the conference in the spirit of compromise. Because we all worked together, we have been able to secure Senate agreement to a reasonable and effective measure which will assure the protection of the national interest in the naval petroleum reserves and, at the same time, make available a new source of oil to help our energy needs.

I do want the House to understand that this bill is a compromise. H.R. 49 as we approved it was significantly different than the proposal recommended by the conference. While it is different, this recommendation is sound and it is constructive and it deserves the support of the Members of this body.

Briefly, the conference committee recommendation provides that Naval Petroleum Reserve No. 4 in Alaska will be transferred to the Interior Department on June 1, 1977. This will allow a reasonable period of time for the Secretary of Navy to make an orderly transfer of jurisdiction and it will allow the Interior Department to work side-by-side with Navy for a full season. The proposal assures the protection of the area against activities which would unduly disrupt environmental, fish and wildlife, historic or scenic values in the reserve. In particular, it specifies that exploration in areas containing significant natural, cultural, historic, or scenic values—especially the Utukok River area and the Teshekpuk Lake area—must be conducted in a manner which will protect such values.

Mr. Speaker, I wish to direct the attention of my colleagues more specifically to certain sections of the bill dealing with Pet 4 which will be transferred from the Navy to the Department of the Interior. Located on the north slope of Alaska, the oil and gas potential of this huge 22 million acre reserve has been explored by the Navy during the past 50 years, but exploration has been sporadic and precise estimates are largely unknown at this point in time.

Section 104 of the bill authorizes the Secretary of the Interior to conduct an exploration program to determine the extent of petroleum reserves, but makes it absolutely clear that exploration only is authorized. Congress will authorize production of petroleum from the reserve after reviewing the report and recommendations of the Secretary and more precise petroleum potentials are known.

In addition, because of its large size and remote location, nationally important surface values and other potential values and uses are largely undocumented. Thus, section 104 also makes it clear that the Secretary will identify and designate qualified areas having important values and uses which should be protected during the oil and gas exploration period. Areas of land or water having significant Native subsistence uses, and historical, recreational, archaeological, scenic, or fish and wildlife habitat and use values, are to be identified and designated so that special precautions can be designed and implemented to control exploration activities which could disrupt them. For example, two such areas already have been identified by the State of Alaska as being essential to Native subsistence utilization of fish and wildlife—the Utukok caribou calving area and Teshekpuk Lake, a critical waterfowl use area. In both of these important areas, and similar areas to be designated by the Secretary, it is our intent that exploration methods be designed to minimize disturbance to fish and wildlife habitat and exploration activities be planned so that interference with fish and wildlife populations during critical use seasons is curtailed. The Utukok area, 6 to 8 million acres in size and located along the headwaters of the Utukok, Colville, Ketik, and Meade Rivers, is the major calving grounds of the Arctic caribou herd, presently estimated to contain over 250,000 animals. Because caribou migrate south of the Brooks Range in winter, exploration activities immediately before, during and after the caribou calving season could have profound and lasting effect on Native subsistence on caribou over a much larger area than the calving ground itself, or for that matter, the North Slope. Spring movement toward the calving grounds from wintering sites south of the Brooks Range usually begins in March, continuing until all parturient females reach the calving grounds. Animals are widely scattered during the calving period which extends from about May 25 to June 25 with the peak about June 5. In late June, animals join together into increasingly larger herds and begin to move from the calving grounds in circular movement with a tendency to move north onto the Arctic coastal plain. It is during this period, when caribou are widely distributed prior to migration to wintering areas in late August, that Native utilization of caribou for food purposes on the North Slope is at its peak.

At Teshekpuk Lake, the season of prime use by waterfowl for both nesting and molting purposes of this 2 million acre area, usually occurs from late May or early June to mid- to late-August, depending on ice breakup in the spring and appearance of hard frosts in late summer. In addition to waterfowl nesting, Teshekpuk Lake is used quite extensively in midsummer by large numbers of molting—flightless—geese which, later in the fall, furnish sport to hunters in all major flyways in the "lower 48." Thus, exploration activities at the wrong time could have an impact over a much wider area than the lake ecosystem itself. The Teshekpuk Lake area and adjacent lands and waters are used heavily by Natives for subsistence fishing and food gathering purposes and exploration activities have to be designed so as to not interfere with this important human need.

As an additional means to assure that national public values of Pet 4 are identified, section 105 also directs the Secretary of the Interior to establish a task force to conduct a thorough investigation of the reserve and report to the Congress his findings. The task force, composed of Arctic Slope Natives, the State of Alaska, and various bureaus and agencies in the Department of the Interior, is charged with the responsibility to determine and develop recommendations on the values and best uses of Federal land in the reserve including, but not limited to, Native subsistence use, wilderness, scenic, historical, recreational, fish and wildlife and minerals other than oil and gas. Once again, the Congress will have the final say on ultimate dedication and use of these areas, with initial recommendations required of the Secretary.

In summary, Mr. Speaker, the intent of the bill as related to Pet 4 in Alaska, is to carefully explore and determine the petroleum potential of the reserve while simultaneously identifying and protecting other important resources values and uses. The Congress will then decide, based on recommendations of the Secretary, how best to develop known petroleum resources and deliver them to market while still preserving the many other values of this large federally owner reserve, still essentially in a wilderness condition.

When transferred on June 1, 1977, this

area is to be redesignated as the National Petroleum Reserve in Alaska. It will continue to be explored to determine what resource values exist—hopefully this exploration will be accelerated with the change in administration. Special studies will also be made. FEA is now making a general review of Petroleum 4. This bill will not hamper the completion of that study, but H.R. 49, as recommended, calls for an in-depth study under the direction of the President. This study—which I have been told by the White House will probably be done through the Interior Department and FEA—will not only concentrate on what the petroleum prospects are, but will also look into detailed alternatives for their development, production, and transportation. Furthermore, a task force will review other values in the reserve and submit its recommendations. All of these studies will be subject to the scrutiny of the Committees on Interior and Insular Affairs of the House and Senate. No development leading to production in this reserve will take place unless specifically authorized by a future Congress after all of the facts are in.

Title II of the proposal recommended by the conference provides for the production of the petroleum resources of the other three naval petroleum reserves—Elk Hills, Buena Vista, and Teapot Dome. This production will be done by the Secretary of Navy or under contract for a period of 6 years. After that, continued production for 3-year periods will proceed if the President makes certain studies and finds such production to be in the national interest, unless rejected by a resolution approved either by the House or Senate.

Mr. Speaker, this title of the bill will assure the production of petroleum in the United States to help meet our domestic needs. Under the bill, the President may place all or part of it in the strategic storage facilities or it will be sold on a competitive basis to the highest qualified bidder. These sales must be made in a manner which will give small refiners an opportunity to participate.

Mr. Speaker, the conference committee made a special effort to protect competition for this resource. Like the House bill, this legislation includes strong antitrust safeguards and contains provisions which will assure the flow of naval petroleum reserve oil through present and future pipelines at reasonable rates and without discrimination.

In this connection, the proposed legislation provides for a set aside of up to 25 percent of the production for small refiners and it prohibits any person or entity from obtaining more than 20 percent of the estimated Federal share of production in any year.

Revenues derived from the sale of petroleum from the naval reserves are to be credited to a special account in the Treasury to offset other costs which will be incurred as we proceed with exploration of the national petroleum reserve in Alaska, development and production of the naval petroleum reserves, and construction of facilities for, and procurement of petroleum for, the strategic petroleum reserve.

The petroleum produced at these reserves is to be used in the United States and the proposal expressly prohibits the exportation of it except in compliance with the Export Administration Act—and then only if the President finds that such exports are in the national interest and will not adversely affect supply of petroleum in the United States.

Mr. Speaker, at each critical point, the proposed legislation attempts to assure congressional review of any actions taken either in the national petroleum reserve in Alaska or at the naval petroleum reserves. In the former case, reports are to be made to the Committees on Interior and Insular Affairs; in the latter, the reports will be made to the Committees on Armed Services. We feel that we have protected congressional oversight in every possible way.

I am pleased, after many months of negotiations between everyone involved, that we are able to bring to the House a measure which all of the conferees have been able to support and I urge the adoption of the conference report.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Illinois, the chairman of the Committee on Armed Services, Mr. PRICE.

Mr. PRICE. Mr. Speaker, first I want to commend the fine job that the chairman of the conference committee performed in bringing the different views together. There were many different views on this between the conferees and several different committees on both sides of the Capitol.

The gentleman from Montana (Mr. MELCHER) did a splendid job, and I want to commend him for his direction of the committee.

Mr. Speaker, I urge adoption of the conference report on H.R. 49. I believe the conferees have produced a bill which will contribute to both short- and long-term petroleum requirements of the Nation.

For the short term the bill provides a 6-year period of production of the Naval Petroleum Reserves at the maximum efficient rate of production. That could amount to as much as 300,000 barrels of petroleum per day. While that quantity might appear insignificant when compared with the Nation's daily consumption, it would reduce imports, thereby easing balance of payments.

The long-term aspects of the legislation are much more important. The bill provides that the proceeds from the sale of petroleum from the Naval Petroleum Reserves will be used to establish a special fund. That fund will be available, subject to congressional appropriation, for completion of the program for exploration and development of the Naval Petroleum Reserves. Completion of that program is essential if the reserves are to fulfill their national defense purposes. Over many years the Department of Defense chose to defer the expenditures necessary for full development of the reserves. The result is that the reserves are not in a state of readiness to respond to a national defense emergency.

With the funds available from the 6-year production period, however, exploration and development can be completed, and the pipelines necessary to transport the production to refineries can be constructed or acquired. Then, by and only then, will the reserves be in a standby condition ready to produce whenever national defense requirements dictate.

The proceeds from sales will also be available for exploration of the Alaskan Reserve. That research is largely unexplored. While it has been estimated that it contains as much as 33 billion barrels of oil, no firm figure can be established until the reserve is fully explored. Since this might be the largest oil field in the United States, it should be explored.

Over the long term the bill also authorizes the President, in his discretion, to direct that all, or any part, of the production from the Naval Petroleum Reserves authorized by this bill can be placed in strategic storage facilities, thus providing an additional standby reserve of petroleum for immediate use in the event of a national emergency.

In summary, I view the bill developed by the conferees as a compromise which not only addresses the immediate requirements of the national economy, but also significantly improves the national defense posture by providing petroleum in strategic storage and placing the Naval Petroleum Reserves in standby condition.

Mr. MELCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. STEIGER), the ranking member of the subcommittee.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

Mr. Speaker, I would like to concur in the remarks of the gentleman from Illinois (Mr. PRICE) and the gentleman from Montana (Mr. MELCHER).

I now yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ) the ranking member of our committee.

Mr. SKUBITZ. Mr. Speaker, I rise in support of the conference report on H.R. 49. Although it is only a small step toward energy independence, it is the first step Congress will have taken to directly increase the supply of domestic crude oil.

This conference report is the result of many negotiating sessions. As a conferee, I know that neither the House nor the Senate got all it wanted, but this final agreement is a good compromise. I can advise you it has the administration's support.

Briefly, this conference report would leave control of the petroleum reserves 1, 2, and 3 with the Secretary of the Navy. The Secretary would be required to bring the three reserves into production within 90 days at the maximum efficient rate for 6 years, with renewable 3-year extensions being permitted thereafter. At his discretion, the Secretary is urged to make sales of petroleum from the three reserves to the highest qualified bidder for not more than 1 year. Equal opportunity is given to all companies, and no one company can purchase more than 20 percent from the estimated Federal share of petroleum from the Elk Hills Reserve. Small refiners are protected as the Secretary is to reserve up to 25 percent of the estimated Federal share for sale to them. This set-aside for small refiners may be prorated.

The Navy's jurisdiction over reserve No. 4 would be abolished. This Alaskan Reserve is transferred to the Secretary of the Interior. No development of this area would be allowed, pending completion of exploration studies and further congressional authorization.

An important part of the bill requires the Secretary to have available within 3 years adequate pipeline capacity to accommodate at least 350,000 barrels of petroleum per day from the Elk Hills Reserve. There are also provisions for antitrust protection, common carrier status, a strategic reserve, a special account for the proceeds of sales, and congressional oversight.

Mr. Speaker, passage of this conference will make available at least 350,000 barrels of petroleum per day for civilian consumption. When compared with our national daily consumption of 17.8 million barrels per day, it is a drop in the bucket. But it is a first step—and we should take it. I urge my colleagues to support this conference report.

Mr. STEIGER of Arizona. Mr. Speaker, I now yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), a member of the conference committee.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of this conference report and compliment the chairman of the full committee and the ranking member.

Mr. STEIGER or Arizona. Mr. Speaker, I now yield such time as he may consume to the gentleman from California (Mr. KETCHUM), in whose district lies Elk Hills.

Mr. KETCHUM. Mr. Speaker, I am delighted and relieved to support this conference report. I have been waiting to cast this vote in favor of opening Elk Hills for more than 2½ years, and I frankly admit that there were times when I did not think I would ever have this opportunity.

As the Members of this House know, I have the privilege to represent the Elk Hills area in Congress. I have visited the naval petroleum reserve many times, and have been astounded by the extent to which the field has been allowed to deteriorate. I am thoroughly familiar with both its capacity and its operations.

On September 19, 1973, I introduced my first bill concerning the opening of Elk Hills. That was a limited measure, designed to assist the independent refiners in the west coast States who were having their crude oil supply cut off by the majors at that time. It opened the reserve for a limited number of years at the reduced rate of drilling of 60,000 barrels a day.

On November 30, 1973, at the height of the Arab oil embargo, I introduced House Joint Resolution 838 and similar bills, which authorized the complete opening of Elk Hills in the light of the then-existing national emergency. Over 125 Members of this House cosponsored that resolution with me, but unfortunately it was not permitted to come to the House floor.

Although the embargo and the resultant shortage of petroleum products created much of the interest in opening Elk Hills, we are here today, nearly 3 years later, because we question whether it makes sense to maintain the field as it presently exists.

I believe there is now widespread agreement that the Elk Hills Reserve is in such a state of neglect and unreadiness that it would prove virtually useless in the event we needed it for a conventional war. As I have said many times in this Chamber, in an emergency we could not turn on the taps for the oil, since there are no taps to turn on. The American people have been lulled into thinking that the reserve is available for immediate use. They are not aware that it would take 60 days to begin producing 100,000 barrels a day, or that only 12,000 barrels a day can be transported via existing pipelines. During hearings held on the Elk Hills opening, the Navy Department virtually admitted that by the time Elk Hills oil could be brought into line, any conventional war now likely would be over.

If we are going to have naval petroleum reserves, let us have ones that are going to be of some use. Through this legislation, we can develop the Elk Hills field to the point where it would be of some use in an emergency situation.

The Elk Hills Reserve is among the five largest known oil reservoirs in the United States, and is the largest field in the State of California. An estimated 1.3 billion barrels of oil were contained therein, although some experts state that only about half of the 17 miles by 5 miles wide preserve has been explored and developed. At full production, Elk Hills could bring 350,000 barrels a day into the domestic market, assuming sufficient pipeline capacity existed.

Two and a half years ago, almost every Member of this House vowed to do his part to increase domestic petroleum drilling and exploration. Since that time, the Congress has not taken one single step in that direction, with the exception of the bill before us. In fact, our dependence upon foreign sources of petroleum is worse today than at the time of the embargo.

I believe it makes sense, from a military, economic, and international point of view, to stop sitting on 1.3 billion barrels of oil, and to bring it into the market. As I have said, this conference report is the first piece of legislation which will definitely bring more American petroleum to American producers. It will not, in any way, harm us militarily.

Two and a half years is a long time to wait, but the wait is alleviated when presented with this admirable conference report. I congratulate all those responsible for arriving at this solution and commend their work to my colleagues.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague, the gentleman from California, yielding. I know he has been a major advocate of this legislation not just because the Elk Hills Reserve happens to be in his district but because he knows it will be a substantial benefit to the whole Western area of our United States. Consumers who face short supplies of oil products will be the beneficiaries of his positive action.

This legislation is long overdue. I know, even though the members of the full committee and the chairman of the subcommittee are to be congratulated for their substantial effort, in no small means the bill is the direct result of the diligence and dogged determination of my friend, the gentleman from California (Mr. KETCHUM), whose persistence has resulted in this final legislation today. I compliment the gentleman. Californians and our Western citizens are grateful.

Mr. KETCHUM. I thank the gentleman for his fine comments.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I compliment the gentleman on his championship of this issue.

I rise in support of the conference report on H.R. 49, petroleum reserves. It is going on 3 years now since I joined with a number of my colleagues from California to secure release of the Navy's surplus oil holdings in Elk Hills. At the time we started, southern California was experiencing severe shortages of oil from the Arab embargo. Although the situation has eased somewhat from that crucial time, the fact remains we are no less dependent upon foreign oil today than in 1973–74—in fact, we are importing more than ever.

The controversy over this bill has been long and difficult, but it did not ever involve the question of the public's right to share in the reserves they own. Rather the dispute was over the method and safeguards to be applied to such development.

That dispute has now been settled to the apparent satisfaction of the parties involved. This bill contains, as it should, safeguards against control of the supply by any one company. It guarantees small and independent oil companies access to the reserves. And it guarantees that oil will flow. In fact, within 90 days of enactment, the first barrels will be produced, eventually reaching as much as 350,000 barrels a day, or the equivalent of several tanker loads a day which will not have to be imported from overseas.

I will not take up the time of the House any longer in discussing the implications of such an event. It is apparent that the benefits will be many. A better balance of payments, less dependence on a foreign cartel, and lower prices at the pump for motorists in southern California. Mr. Speaker, in any bill passed by this House, you cannot ask for much more than that. I urge an "aye" vote.

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. BELL. Mr. Speaker, I urge my colleagues' wholehearted support in approving the conference report for H.R. 49, which is, in my estimation. The most significant energy legislation yet to come out of the 94th Congress.

As you know, I have been closely involved with this legislative effort since its inception back in 1973.

Consequently, there is a great deal of personal satisfaction for me in seeing it reach this point, and I commend my friend and distinguished colleague, the gentleman from Montana (Mr. MELCHER) for the fine work he has done on the bill.

Also I compliment the gentleman from California, Mr. BILL KETCHUM, for the great job he did in helping support and get this bill through.

Elk Hills is the only major new source of petroleum we have in this country that can be produced quickly and economically.

Production from that reserve will mean a multibillion dollar boost to our economy.

I estimate up to 5 billion barrels of oil there, which would make the black gold in the ground at Elk Hills more valuable than all the yellow gold at Fort Knox.

Elk Hills will eventually produce more than a third of a million barrels of oil per day, which will offset costly imports and which, in turn, will save the United States more than $1 billion each year in our balance of payments.

This very day, the President is frantically negotiating with the Soviets for 200,000 barrels per day of petroleum; when at full production, Elk Hills may provide us double that amount right here at home.

In addition, approval of this bill will provide numerous other benefits to the Nation, including:

First. Many badly needed new jobs to help offset current unemployment;

Second. Virtually self-sufficiency in petroleum for my State of California;

Third. Badly needed additional domestic petroleum production of approximately 160,000 barrels per day within 90 days, and eventual production in excess of 300,000 barrels per day; and

Fourth. Significantly less dependence as a result on Arab and OPEC oil imports.

Also, of course, this bill will allow for a long-overdue plan for exploration of the enormous reserve in Alaska, Petroleum 4, so we will finally know how much oil we have up there.

This will be done, as it should be, by the Department of the Interior.

Approval of this conference report will thereby represent the single most significant step yet taken by this Nation toward U.S. energy self-sufficiency.

I urge my colleagues' support.

Mr. MELCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PHILIP BURTON), the distinguished Democratic Caucus leader.

Mr. PHILLIP BURTON. Mr. Speaker, first in point of some consideration of protocol, I would like to commend our distinguished chairman of the subcommittee, the gentleman from Montana (Mr. MELCHER), for the leadership he gave and the inherent contribution he made to our total bill, but I think more emphatically I would like to commend the efforts of our colleague, the gentleman from California (Mr. KETCHUM), whose doggedness and determination penetrated even the craniums of some of us who were quite resistant to this notion when it was first proposed.

I think our State and our country owe a debt to the distinguished gentleman from California for his legislative skill and determination.

Mr. KETCHUM. That is what is called democracy in action. That is an excess of democracy.

Mr. Speaker, I have no further requests for time.

Mr. MELCHER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Florida (Mr. HALEY).

Mr. HALEY. Mr. Speaker, I thank the gentleman from Montana for yielding.

I just want to say this, that the gentleman from Montana and the conference committee have worked out a bill which I believe almost all of us can live with. They have done a splendid job. I hope this conference report is adopted by a substantially majority.

Mr. SEIBERLING. Mr. Speaker, H.R. 49 is indeed landmark energy legislation. Releasing oil locked up in the naval petroleum reserves is clearly in the public interest, and the bill contains numerous provisions to safeguard that public interest. As a result of H.R. 49, major energy resources in the United States will be developed and produced in a deliberate and careful manner, and these resources will not be held hostage by the giant oil and gas companies.

In the debate last summer over how best to develop the naval petroleum reserves at Elk Hills, the House of Representatives was very concerned about the antitrust implications of any new development and production of federally owned energy resources. We, therefore, included a series of antitrust protections. Although the Senate version contained few such protections, the Senate conferees accepted most of the provisions from the House version.

These provisions, I should note, are patterned after the antitrust protections in the Atomic Energy Act and in the Federal Nonnuclear Energy Research and Development Act of 1974. However, H.R. 49 is the first time that they will appear in an act providing for the disposal of federally owned energy resources. I believe that these protections will establish a significant precedent for future energy legislation. Similar provisions are contained in the coal leasing amendments (H.R. 6721) already passed by the House. And the ad hoc Special Committee on the Outer Continental Shelf has adopted some of the protections in the OSC legislation it is marking up.

The specific antitrust provisions in H.R. 49 include a requirement that the Attorney General participate in the formulation of rules and regulations concerning the development, production, and sale of petroleum from the naval petroleum reserves. The Attorney General would also be empowered to veto any proposed contract concerning such petroleum if he finds it would be anticompetitive. H.R. 49 also specifies that it shall not be deemed to confer any antitrust immunity or defense to any party. While all of these provisions apply to the naval petroleum reserves, they would also apply in the event a future Congress authorizes development leading to production in the national petroleum reserve in Alaska—formerly known as Naval Petroleum Reserve No. 4.

H.R. 49 also requires that the Attorney General submit reports to Congress on the anticipated effects upon competition of certain plans for the development of the reserves. These antitrust reports will assist us in performing our oversight responsibilities.

The conferees also agreed to include a provision requiring that any pipeline carrying petroleum produced from Elk Hills or Teapot Dome operate as a common carrier for purposes of carrying any other petroleum produced from such reserves.

Together, the common carrier provision and the provision giving the Attorney General a veto power over proposed contracts should create a much more competitive petroleum market in California. They will help the independent producers and refiners enter the market and compete effectively in that market, thus alleviating some of the non-competitive conditions that have existed in the area for many years.

Other provisions which are expected to assist the independents and small companies include the authorization for a portion of the petroleum to be set aside for them.

The American people can be grateful for the hard work, the patience, the determination, and the deep concern for the public interest which the gentleman from Montana(Mr. MELCHER), the manager of this bill, has shown throughout the deliberations on the Naval Petroleum Reserves Production Act of 1976.

Mr. JEFFORDS. Mr. Speaker, I would commend the conference committee on a job well done, I will vote for this conference report because I think it helps meet the energy needs of the Nation in a responsible way. It goes a long way to meeting the objections I and others had to the original Elk Hills legislation.

It was reported this week that, for the first time in our history, the volume of imported crude and product together exceeded the volume of crude produced domestically. We are producing about 8 million barrels per day, but now importing 5¾ million barrels of crude per day and almost 2½ million barrels per day of product. Certainly the maximum efficiency rate of 350,000 barrels per day, within 3 years, coming out of Elk Hills, which is required by this legislation, will not by itself solve this problem. It only would replace about 6 percent of our crude oil imports. But it is a start in reducing our vulnerability. Further, this legislation allows the President to place the oil in strategic storage which will allow us to cushion the impact of another embargo.

The report also is satisfying in the way it splits managerial oversight between the Navy and the Department of the Interior. I had objected to shifting management of the reserves in the lower 48 from Navy to Interior because I felt that the Navy had the expertise and experience necessary to continue this role. It is, also, appropriate that Interior be given oversight over the development of Alaska as this is a relatively new operation.

Concerning leasing, the final bill also has eliminated any of the aspects of regional favoritism which was so present in the first House Elk Hills bill. I felt it unfair that the vast bulk of the proceeds of lease sales at Elk Hills would go, by law, under the Mineral Leasing Act and Reclamation Act to 17 Western States. By retaining the Navy as the developer and producer and having Navy contract out to civilian firms for drilling and the other necessary operations, we have eliminated the problem of lease proceeds. These proceeds now will go to the Nation to further develop the resources.

It is gratifying as well that the conference has retained congressional oversight authority over the future of the reserves. Congress must approve further production in the lower 48 after 6 years. Thus, if we do not have storage capacity at that time in which to place additional oil, we may want to reduce the production rate from the NPR's 1, 2, and 3. Thus is particularly relevant in light of the fact that within 2 years Prudhoe Bay oil may be putting 1½ million barrels per day on the west coast and we may need to slow down Elk Hills production.

Regarding Alaska, I am also pleased that we will not produce any oil until Congress mandates it. I believe that it would be desirable to arrange a new production sharing system whereby we no longer lease lands out for speculation, allowing companies to make windfall profits. Instead companies should get a certain portion of the oil, constituting a fair return on investment. We are dealing here with public lands in Alaska, with a potential of 30 billion barrels of oil in the ground. This oil is a national resource which should be considered as a public trust, a resource which we should get maximum mileage out of both in terms of usage for our energy needs, and in terms of a fair return on investment which should be high enough to stimulate the proper amount of private interest in exploration, development and production. This is a concept I hope to introduce into the upcoming debate on how best to utilize this immense reserve of oil, and I think the committee appropriately considered Alaskan production to be the proper subject of an entirely separate piece of legislation.

Thus on the important items of strategic storage, managerial split, leasing, congressional oversight and Alaskan production, I am in agreement with this measure and I fully support its passage. The Congress had a long and difficult struggle with this one, but its passage does demonstrate that we can legislate responsibly in the energy area.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the committee of conference report on H.R. 49, the "Naval Petroleum Reserves Production Act of 1976."

The report was signed by all the conferees of the House and Senate. On March 24 the Senate approved this compromise bill.

Mr. Speaker, the total reserve for the Elk Hills field is estimated to be 1 billion barrels of oil. Per day, Elk Hills is expected to yield 350,000 barrels. The reserve located west of Point Barrow, Alaska, so-called Naval Petroleum Reserve No. 4, is reported to contain as much as 33 billion barrels of oil. Domestic production of this domestic oil is a significant step that this Congress can take toward energy self-sufficiency for the United States.

I might point out to my colleagues that, among other provisions of the bill, no more than 20 percent of the Federal share of petroleum produced from Elk Hills can be acquired by a single buyer. In addition, the Secretary has the authority to set aside up to 25 percent of the estimated Federal production for small refiners not having an adequate supply of petroleum of their own.

Mr. Speaker, I urge an "Aye" vote on this bill. The crippling effects of an oil embargo must never again be experienced.

Mr. MOSS. Mr. Speaker, the conference report on H.R. 49 seeks to place final approval of the House on commercial exploitation of Navy's oil reserves in the lower 48 States, while handing over jurisdiction of Navy's Alaska oil reserve to the Interior Department. Navy would retain control over the Elk Hills, Calif., Buena Vista Hills, Calif., and Teapot Dome, Wyo., reserves, under condition that commercial exploitation takes place, especially at Elk Hills. Certain antitrust provisions, which I originally recommended, have been incorporated in the measure, providing that no bidder may command more than 20 percent of petroleum offered at an auction and that pipelines transporting Navy oil be considered common carriers when used for that purpose.

Here is a perfect example of the wrong policy being pursued by well-intentioned people. Elk Hills is our last remaining, easily exploited oil reserve. Once it is gone, produced rapidly at maximum rate as called for in this legislation it will be gone forever.

Few knowledgeable people doubt for a moment that the overwhelming percentage of any Navy oil will eventually fall into the hands of these same few major energy giants who presently control the domestic oil industry.

What is especially saddening to me is that Elk Hills will begin to produce its maximum of several hundred thousand barrels of oil daily, making it available to the market at approximately the same time 2 million barrels of oil daily begin to flow from Alaska's North Slope to market through the Alyeska Pipeline. Transshipped from the Valdez, Alaska, end of the line by tanker, this oil will then enter our west coast market, the sole area of the Nation relatively self-sufficient in energy. California, Oregon, and Washington States will receive the benefits of about 2,250,000 barrels of new oil daily, while they have relatively little need for such an infusion of fresh supplies.

Those areas of the Nation, notably the Midwest and East, desperately energy-poor, which could eagerly utilize all these new supplies, will not gain access to them because the Alyeska pipeline was built from the North Slope to Valdez, Alaska, rather than across Canada to our Midwest. Herein lies the real tragedy, for investment capital has been laid out, the line is being built, resources are being tapped, and the results will be delivered to the wrong place.

It is more than likely that much North Slope and Elk Hills oil, by tradeoffs and similar devices, will end by being transshipped to the Orient for commercial use at premium prices to overseas buyers, while our East and Midwest will continue to import more high-priced OPEC oil, paying top dollar as they become evermore dependent upon these unreliable, expensive supply sources.

For these reasons, opening up Elk Hills to full commercial production and exploitation is an exercise in futility, will not aid consumers in terms of more or cheaper energy, and drains our last remaining oil reserve presently saved for military use. If a naval emergency dawns, and well it might, we would confront a growing Soviet fleet around the world. Should Arab oil suppliers turn off sources of oil as was done during the Yom Kippur war, and if oil companies carry out their dictates, U.S. Navy units would have no resupply available abroad. Only a reserve such as Elk Hills would be the alternative. Under the terms of H.R. 49, as embodied in the conference report, that reserve would soon be gone, because in addition to the 3-year openup provision, there is also provision for further exploitation, guaranteeing total drainage of the property. Therefore, while the intent of those who voted for the legislation has been good, the effect of this proposed legislation will be to drain the reserve, hand over most of its oil to the majors and not really offer the public anything in the way of more or cheaper energy.

I oppose this measure and will vote against adoption of the conference report on H.R. 49.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the conference report on H.R. 49—the bill dealing with the use and production of the naval petroleum reserves. As everyone knows, many of us have been interested in this matter for many years. Active consideration of the subject has not come quickly or easily. For the last three years, at least, an intensive effort to enact legislation to permit the development and production of these domestic sources of petroleum has been under consideration.

Now, our efforts are about to be rewarded. The gentleman from Montana (Mr. MELCHER) has done an excellent job in steering this legislation through the Congress, and our colleague from Illinois, the chairman of the Armed Services Committee (Mr. PRICE) has been very helpful and constructive during the conference proceedings.

Needless to say, the action which the House will take today represents a major step forward on the energy independence mission. With its enactment, petroleum can be produced which has been shut in since the early part of this century. While no one suggests that H.R. 49 will solve our energy problems, I think everyone must agree that it is a step in the right direction.

Before I close, I want to make one other comment, Mr. Speaker. As everyone in this House will recall, there has been a great concern that opening up these reserves might result in some scandal. To avoid this possibility—at least insofar as we can—the conference committee carefully wrote safeguards into the legislation. First, we included strong antitrust provisions in the proposed language. Second, we included provisions assuring small refiners an opportunity to be participants in the sale of petroleum.

Under the terms of this legislation, no person may acquire control, either directly or indirectly, over more than 20 percent of the Federal share of production annually. In addition, the legislation requires all sales to be so structured as to allow all interested persons to have an opportunity to bid on the petroleum offered. Furthermore, if the Secretary of the Navy, after consultation with the Secretary of the Interior, determines that the public interests will be served by the sale of petroleum to small refiners otherwise not able to secure an adequate source of supply, he is required to set aside up to 25 percent of the Federal share of production for such small refiners. This should assist small refineries and at the same time encourage competition in the marketplace for refined products.

Taken together with all of the other carefully considered provisions of this proposal, Mr. Speaker, this conference report represents a constructive contribution to the efforts of Congress to resolve our energy dilemma. As one of the members of the conference committee, I am pleased to recommend the approval of the report and I urge its approval by the Members of the House.

Mr. MELCHER. Mr. Speaker, I have no further requests for time.

The **SPEAKER.** Without objection, the previous question is ordered on the conference report.

There was no objection.

The **SPEAKER.** The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 5, not voting 37, as follows:

[Roll No. 149]

YEAS—390

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Sarasin
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Conyers
Moss
Myers, Pa.
Pike
Rees

NOT VOTING—37

Barrett
Biester
Breckinridge
Chisholm
Clancy
Clay
Esch
Eshleman
Evins, Tenn.
Green
Guyer
Hayes, Ind.
Henderson
Hinshaw
Holland
Jenrette
Johnson, Pa.
Karth
LaFalce
McDade
Macdonald
Nix
Nowak
Pepper
Peyser
Riegle
Rodino
Ryan
Santini
Sarbanes
Stanton, James V.
Steed
Stratton
Sullivan
Teague
Udall
White

The Clerk announced the following pairs:

Mr. Rodino with Mr. Biester.

Mr. Barrett with Mr. Johnson of Pennsylvania.

Mr. Nix with Mr. Guyer.

Mr. Teague with Mr. Clancy.

Mr. Stratton with Mr. White.

Mr. Sarbanes with Mrs. Sullivan.

Mr. Jenrette with Mr. Eshleman.

Mrs. Chisholm with Mr. McDade.

Mr. Breckinridge with Mr. Pepper.

Mr. Macdonald of Massachusetts with Mr. Steed.

Mr. LaFalce with Mr. Peyser.

Mr. Karth with Mr. Ryan.

Mr. Riegle with Mr. Esch.

Mr. Santini with Mr. Evins of Tennessee.

Mr. Henderson with Mr. Holland.

Mr. Green with Mr. Nowak.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a concurrent resolution of the Senate of the following title:

S. Con. Res. 106. Concurrent resolution to correct the enrollment of H.R. 200.

PERSONAL EXPLANATION

Mr. McDADE. Mr. Speaker, at the time of the vote that just occurred on the conference report on H.R. 49, I was in the House Recording Studio. Unfortunately, I did not hear the bells, and I missed the vote.

Had I been present, I would have voted "yea."

SOUTH KOREA: "DISSENT HAS TO BE LOYAL AND LAW-ABIDING"

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am pleased to note in the letters section of the Washington Post of March 30, 1976, a response by Ambassador Pyong-choon Hahm, of the Republic of South Korea, to the Post's poorly conceived editorial attack on South Korea's Government on March 19.

I urge my colleagues to read Ambassador Hahm's letter to the Post, which I am herewith including with my remarks today, and I ask my colleagues to give serious consideration to what the Ambassador says.

In many instances, Ambassador Hahm's views regarding the situation in South Korea echo my own. The government of President Park of the ROK is not so stern that it deserves to be singled out for such an unbridled attack, and certainly not so when one considers the vast number of much more oppressive governments elsewhere in the world.

When one puts this observation together with the fact that South Korea is one of our staunchest friends, and a much-needed ally in Asia, one can only wonder at the source of all of this anti-ROK propaganda that is suddenly bursting forth.

The chief beneficiary of these unfortunate attacks on the ROK is North Korea, whose tyrannical government is such that it makes the elements of martial law installed by President Park in South Korea seem mild indeed. Yet nowhere in the Post do we read about the suppression of liberties in North Korea.

As a point of fact, the arrests of those accused of being North Korean agents and/or dissidents intent on the overthrow of the South Korean Government are done so openly in South Korea that they are reported in the press there. Compare that with the arrests made in the Communist world, arrests that come in the dark of the night, and which result in secret trials.

The Post, and certain of my colleagues, have lately taken to making dire warnings about the fact that the South Korean Government has arrested, and in some cases, executed Communist spies. I remind my colleagues that South Korea is on a warlike footing, faced daily with hostility of an armed, dangerous, and aggressive enemy.

I also remind my colleagues that this country, the United States, has also arrested and executed Communist spies, and we were not even at war then. Are we now so perfect that we can forget all about our execution of the A-bomb spies and now start criticizing a government like South Korea, that is desperately trying to prevent itself from being swallowed by the tide of communism now sweeping Asia?

There is much, much more to be said on this subject, of course, but in the interest of conserving time and space, I call my colleagues' attention to my earlier remarks on South Korea, which appeared in the CONGRESSIONAL RECORD of March 24, 1976.

I regret that the Washington Post has not yet seen fit to reprint my own rebuttal to its anti-ROK editorial. However, to give credit where it is due, I compliment the Post on its fairness in giving equal space to the views expressed in rebuttal by the ROK's esteemed Ambassador, remarks which I now include:

SOUTH KOREA: "DISSENT HAS TO BE LOYAL AND LAW-ABIDING"

Your editorial of March 19 attacking the Korean Government in most intemperate terms was not only incompatible with the prestige of The Washington Post but also made one wonder what was the intention of such an emotional outburst concerning a foreign country. Was it The Post's intention to take a black-and-white approach to Korea's complex internal political process? Surely the task of securing the survival of the non-Communist experiment in the southern half of the Korean peninsula in the face of overwhelming challenges and difficulties, not to mention the clear and present danger posed by the Communist military threat, should have been included as an important dimension in the consideration of the Korean political situation.

The March 1 incident was a deliberate attempt by a few dissidents who not only used the names of Christian leaders without their consent, but were intentionally abusing the freedom of religion in order to create the appearance of conflict between church and state by conducting political activities in a cathedral without the prior knowledge of the presiding bishop.

Your editorial accused President Park of damaging Korea's stability and security. But is not his success precisely in these matters most clearly recognized, even by his bitterest domestic critics? It is under this leadership that the Republic of Korea has increased its defense capabilities so as to lessen the U.S. taxpayers' burden with respect to Korea's defense and economic survival. Economic grant aid was terminated some years ago and we are spending more than $620 million of our own funds to purchase U.S. military equipment in FY'76 alone; military grant aid would be completely phased out at the end of the same fiscal year. In the economic field, Korea has been a success story in spite of the oil crisis and worldwide inflation and recession. South Korea's per capita GNP grew from $87 in 1962 to $531 in 1975.

It may be difficult for The Post to appreciate the difficulties and challenges the Republic of Korea faces in terms of military threat from the north, disadvantageous resource endowment and rapid social and economic changes. But surely it is not impossible for you to appreciate the need for an effective government as essential for the survival of the Republic of Korea. Nowhere in world history was a nation able to survive without internal discipline and effective government, especially if such a nation faces a dangerous enemy only 25 miles from its capital.

Your own experience in times of war best illustrates how democracy can survive only if opposition and dissent moderate their partisan politics for the sake of unity in the face of external threat. Dissent has no monopoly on democracy. Dissent has to be loyal and law-abiding. Respect for the law is essential for democracy and no citizen may claim a special privilege to violate the law without the prescribed legal consequences. Has The Post ever paused to contemplate the possibility that its editorial is in fact encouraging the violation of law in a foreign country in the name of democracy?

It is incredible that The Post deliberately confuses convicted Communist espionage agents with dissidents. President Park has never put his political opponents to death. Communist guerrillas and espionage agents have been subjected to capital punishment under the law promulgated long before President Park's tenure.

Those who were involved in the March 1 incident are under investigation. No indictment has been filed against them. The Post's statement, "if convicted, they could be executed," should neither help them nor the government. The maximum penalty permitted under the law is 15 years of imprisonment.

A more freewheeling democracy will come when North Korea is compelled to abandon its warlike commitment to communize the entire Korean peninsula. But such a pattern of peaceful coexistence on the Korean peninsula will be possible only if the Republic of Korea manages not only to deter war but also to continue the momentum of current economic development under an effective government.

PYONG-CHOON HAHM,
Ambassador of Korea.

THE SPEKTOR FAMILY

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

At this time I would like to bring to

the Members' attention the situation of the Spektor family.

Mr. and Mrs. David Spektor, the parents of Kopel Spektor, are today citizens of Israel, and live in Haifa. Their son Kopel, who is 21 years old, has spent the last years of his life attempting to rejoin his parents—and paying for his attempt.

Last March I was privileged to "adopt" Kopel Spektor as "my" Soviet Jewish prisoner. Since then, my unsuccessful attempts to obtain Kopel's release have brought me into frequent letter contact with his parents. The letters I have received from the Spektors are both painful—to me, and, I trust, to you as well—and eloquent. Excerpts from them fully convey the tragedy of the divided family, and relate the special injustices that routinely smash Soviet Jewish families.

In one recent letter the Spektors reviewed the events that followed Kopel's arrest for attempting to leave Russia:

> When our son was taken to court for repudiating his Soviet citizenship, he was sentenced to two years, with the condition that if he would behave and work well he would be released earlier, that is after 10 months.
>
> My son Kopel Spektor wrote us that in ten months he did not receive a single reprimand.
>
> The time had come for his release, so they tricked him into going with a certain person to the town of Chernovitsky, and on that day they arrested him and accused him of being drunk. But the other person was not taken, this was especially arranged.
>
> My son was sent to a camp at Sekuryan 67 for hard labor, to work at a stone quarry, with the two-year sentence reinstated.
>
> But in the Soviet Union the sentence for being drunk is 15 days.
>
> My son has never been drunk in his life, and never drank.
>
> My son had been operated for a double hernia and appendicitis. I suffer greatly for his being sentenced to hard labor. . . .

Kopel's sufferings will go unrecorded until he is finally released. The suffering that his sentence causes his parents, daily, need not be imagined:

> The first Hitler annihilated our relatives, and now the Soviet Union (Hitler No. 2) took away our only son. We have no strength to bear this anymore. Each day I look in the mail box to see if there is a letter from him.
>
> Each time they cheat us about letting him out; they said it would be the 28th day of July, and now it is already August and he is still not here.
>
> I have no more tears left to cry with. I ask you kindly, not to forget us and to act, so that they will release him.

One letter concluded with a P.S.:

> If only I could be at the Assembly to heap disgrace on the Soviet system before the whole world.

The facts about the disgrace of Soviet justice speak for themselves. Whether our speaking them here, before the Congress and the Nation, will have any tangible effect, is problematic; it falls, I am afraid, into the Spektors' "If only" category of prayer. But regardless of effect, we have a continuing obligation not to forget: To record and document the unjust sufferings of divided Russian families. I hope that our vigil here will help, to some extent, to fulfill that solemn obligation.

FINANCIAL REFORM ACT OF 1976

(Mr. FOUNTAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FOUNTAIN. Mr. Speaker, Mr. James B. Powers of Rocky Mount, N.C., one of North Carolina's leading citizens, recently delivered remarks relating to the proposed Financial Reform Act of 1976—legislation now pending in committee.

Mr. Powers, president of the Planters National Bank of Rocky Mount, is also president of the North Carolina Bankers Association. He is a man with an extensive background and broad knowledge in the field of finance.

Mr. Powers' cogent comments upon the Financial Reform Act merit consideration by each Member before this legislation is debated by the House. For that reason, I would like to call my colleagues' attention to his remarks, which were as follows:

REMARKS OF JAMES B. POWERS

The proposed Financial Reform Act of 1976 is an extremely complex package of legislation with far-reaching implications that are difficult to assess. A convincing and factual case has not been developed nor presented to support the contention that the Act is in the best interests of the public or the financial institutions affected. In acting without sufficient evidence that the proposed reform is needed, the Congress runs a substantial risk of seriously and permanently damaging the financial system that has served this country so well for so many years.

Revisions in the financial institutions system arising out of the problems of the early thirties provided certain safeguards intended to prevent a repeat of that unpleasant experience. That reform was motivated by the unsatisfactory functioning in previous years of a financial system that had some disquieting similarities to the kind of system that would be encouraged by the reform now being proposed and which would remove some of the constraints and safeguards of the existing structure. The perspective of history does not support the changes under consideration, and the lessons of the 1920's and early 1930's should not be forgotten so soon.

While the present financial structure lacks perfection, it is not clear that the revisions proposed would correct its deficiencies or cause a more effective serving of public interest. The record of history over the last four decades offers proof that the existing system has not only accommodated but fostered unparalleled economic and social prosperity. Advocates of reform rely heavily upon the well-publicized problems of financial institutions in the first half of the 1970's to justify change, ignoring the remarkable and effective functioning of the system for many previous years. A real and valid question is whether or not any system would have functioned better in recent years, given the highly erratic and dramatic swings in the economy and money markets.

The more basic and fundamental problem seems to lie in the country's fiscal policy which has resulted in increasing federal budget deficits over the last ten years. Creation of new money to monetize the growing federal debt, escalating price inflation, and roller coaster economics have been the major results. Although at times captivated along with consumers and businesses with the supergrowth psychology, the financial institutions have been more victims than perpetrators of these problems.

In fact, the country's financial system has shown amazing resiliency and staying power throughout the worst economic and money market conditions since the 1930's, proving the wisdom of the structure that has remained basically intact since then. The priority goal of the Congress should be to foster more stable economic and money market conditions, thus avoiding the kind of shocks perpetrated on so many people, businesses, and local governments in recent years. Under more stable conditions, the present system of financial institutions can again, and even more effectively, serve its desired purposes and objectives.

Considering the fact that federal budget deficits will approach a new record $200 billion in the three years 1975–77, there appears to be a substantial risk of recurring instability in the near term. It is, therefore, extremely important at this time that the financial system of the country be strengthened, not weakened. It appears that the reforms being proposed would on balance have the effect of creating a period of upheaval and uncertainty in banking and its regulation and in the nature of thrift institutions at a time when such developments could carry more than a normal degree of risk. Such substantial revision is especially untimely and should not be hastily considered, enacted, and implemented.

The people, businesses and financial institutions of the country are still in various stages of progress in repairing the damage of recent years. While the process is complete or advanced for many, there are others that will require a much longer period of recovery and stability to be in a position of strength to again weather similar or worse adversities. It appears evident that the reforms under discussion would delay or prolong this process for some financial institutions and potentially impair their soundness, profitability and viability.

The proposals contain provisions which place the banking industry and its customers at severe disadvantages to other competing financial institutions. The banking system remains the primary artery through which flows the transactional activity of American people, businesses and governments. Banks also serve as a primary media for assimilation, protection and distribution of capital in the shorter term financial markets. The banking system is highly competitive within itself and with many other regulated and non-regulated financial intermediaries. All the banking industry has a right to expect is fair and evenhanded treatment compared to its competition on taxation, reserves, interest rate controls, regulation, permissible activities and other relevant factors. The proposed Act clearly does not afford such treatment to banking.

Officials of banks and thrift institutions who oppose the Financial Reform Act of 1976 may be suspected of being obstructionists and protective of the self interest of their institutions. However, the greatest consideration should be the benefits to the American people; and the Act as presently written is clearly in opposition to the public interest. It tries to accomplish more in one piece of legislation than is ether realstic, practical, or desirable. In certain areas such as housing finance it is likely to do more harm than good. It places the financial services industry, especially banking, under more direct legislative control at a time when the operation of natural market forces is needed to a greater degree. Before serious and meaningful debate can take place, a more in-depth, rational, and factually based study should be made of the Act's potentially adverse impact on the economic and social welfare of the American people.

CHAIRMAN JAMES A. BURKE, DEMOCRAT OF MASSACHUSETTS, SUBCOMMITTEE ON SOCIAL SECURITY, COMMITTEE ON WAYS AND MEANS, ANNOUNCES PUBLIC HEARINGS TO BEGIN ON MONDAY, APRIL 26, 1976, ON COVERAGE AND TERMINATION OF COVERAGE OF GOVERNMENTAL AND NONPROFIT ORGANIZATION EMPLOYEES UNDER THE SOCIAL SECURITY SYSTEM

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I wish to take this time to announce that the Subcommittee on Social Security of the Committee on Ways and Means has scheduled hearings to begin on Monday, April 26, 1976, to be held in the main committee hearing room at 10 a.m. on problems that have arisen with respect to the exclusions from social security coverage and coverage which is available to employees at the option of the employing entity; that is, State and local employment and employment by nonprofit organizations. These hearings are now scheduled for both April 26 and 27, 1976, but if an additional day of hearings is deemed necessary, it will be scheduled at a later date. A press release issued on March 26, 1976, regarding these hearings and containing pertinent data for those interested in testifying follows:

Coverage and Termination of Coverage of Governmental and Non-Profit Organization Employees Under the Social Security System

The Honorable James A. Burke (D., Mass.), Chairman of the Subcommittee on Social Security, House Committee on Ways and Means, announced today that the Subcommittee on Social Security will hold hearings on problems that have arisen with respect to exclusions from social security coverage and coverage which is available to employees at the option of the employing entity, i.e., state and local employment and employment by non-profit organizations. The Subcommittee has scheduled these hearings for April 26 and 27, 1976, to be held at 10 A.M. in the Main Committee Hearing Room. If an additional day of hearings is required, it will be scheduled at a later date.

Mr. Burke stated that he is particularly concerned over the action initiated March 22, 1976 by New York City in taking the first step to deprive its City employees of vital retirement, survivor, disability, and health insurance protection under the social security program. Since the law requires two years' advance notice of intention to terminate coverage for a group of state or local employees, coverage of New York City employees would not terminate until March 31, 1978.

The Chairman of the Subcommittee noted that the Advisory Council on Social Security in its report in March 1975 stated:

"While about 9 out of 10 jobs are now covered under social security, a few major areas of employment still are not covered, either because the law specifically excludes the employment from coverage or because the law provides for coverage of the employment on a group-voluntary basis and coverage has not been elected for all groups. The Council urges that the Congress move as expeditiously as possible to extend compulsory coverage to these areas of employment."

The scope of the Subcommittee's hearings, therefore, will include the present procedures for terminating coverage for employees of state and local governments and non-profit organizations and problems relating to extending social security coverage mandatorily to employees of the federal government, state and local governments, and non-profit organizations.

Mr. Burke emphasized, however, that the hearings will be limited solely to consideration of the issues and problems noted above and will not cover extraneous issues such as the reporting of social security wage credits or the depositing of social security taxes or the special coverage provisions that apply to certain occupations (i.e., clergymen, domestic employees, etc.).

The first witness will be a representative of the Department of Health, Education, and Welfare. Following the Administration testimony, interested individuals and organizations from the general public who have requested to be heard will be afforded an opportunity to testify during the remainder of the Subcommittee's hearings.

The limited time available to the Committee in which to conduct this hearing requires that all interested persons and organizations designate one spokesman to represent them where they have a common interest. Any interested individual or organization may file a written statement for the Committee's consideration and for inclusion in the printed record of the hearing instead of appearing in person.

The cutoff date for requests to be heard is the close of business Friday, April 9, 1976. The request should be addressed to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515 (telephone: (202) 225-3625, indicating (1) the name of the witness, address and organization the witness is representing; and (2) the precise aspect of the hearing to which he wishes to direct his testimony. Notification to those requesting to be heard will be made at the first opportunity of the Committee after the cutoff date).

It is requested that persons scheduled to appear submit 50 copies of their prepared statement to the Committee Office, Room 1102 Longworth House Office Building by Friday, April 23, 1976. Persons submitting a written statement in lieu of a personal appearance should submit at least five copies of their statement by the close of business April 27, 1976. If those filing for the record want copies of their statement distributed to the members of the Committee, the press and interested public, additional copies may be furnished for this purpose if submitted in time for distribution on April 26 or 27. All statements should be delivered or mailed to John M. Martin, Jr., Committee on Ways and Means, 1102 Longworth House Office Building, Washington, D.C. 20515.

CUSTOMS PAPERWORK REDUCTION ACT OF 1976

The SPEAKER pro tempore (Mr. Danielson). Under a previous order of the House, the gentleman from New York (Mr. Horton) is recognized for 30 minutes.

Mr. HORTON. Mr. Speaker, today I am introducing legislation called the Customs Paperwork Reduction Act of 1976. This proposal will substantially relieve paperwork and redtape burdens on international travelers coming to the United States for the celebration of our Bicentennial. Further, it will result in major paperwork reductions, as well as time and cost savings, for small businessmen who import goods.

I am introducing this legislation to implement a recommendation of the Commission on Federal Paperwork. This commission was created by Congress to investigate redtape and paperwork excesses and to recommend solutions. I have the privilege of serving as the commission's chairman.

The Paperwork Commission, as a part of its general paperwork reduction investigations, has looked into current procedures for U.S. entry of Bicentennial visitors, as well as other laws that affect the importation of small values of commercial products. The commission believes that positive actions can be taken immediately, with little controversy, that will result in obvious and direct redtape and paperwork reduction benefits.

For example, we have all seen the long lines of visitors awaiting inspection at U.S. ports of entry. The lines will get even longer with the increase of international travelers expected during the Bicentennial celebration. Some 17 million are expected to pass through our major airports alone. Imagine the frustrations resulting from long, slow-moving inspection lines at Dulles International Airport, outside our Nation's capital, as Bicentennial travelers flood the area. Another 3 million visitors will arrive by ship, and another 180 million will cross our borders by train, bus, and automobile.

The legislation I am introducing today poposes a major simplification in procedures for classification of merchandise to be imported for the personal use of these travelers. By doing so, the Commission on Federal Paperwork believes that the inordinate amounts of processing time now involved in these inspections can be greatly reduced. It is clear that, compared to the amount of duty collected in each instance, this processing time presently creates an aggravating bottleneck. It is unnecessary redtape and poses an undue burden on all travelers, particularly the large numbers of Bicentennial visitors who will enter the country in 1976.

This proposal will apply a 10-percent flat rate of duty for all goods, within a reasonable limit, brought into the country by such international travelers. It will allow an anticipated threefold increase in processing with a minimum increase in inspection personnel. By even the roughest calculation, if this new rate allowed each visitor passing through customs to save an average of 5 minutes processing time, both Bicentennial visitors and Government inspectors would share in an estimated 3 million hour time savings.

The second section of this legislation is also important from the viewpoint of the Paperwork Commission. It would raise the limit of informal entry of commercial shipments into the United States from $250 to $500. The $250 limit was set by congressional action in 1953. This proposed increase is intended to reflect, in an approximate way, the inflationary changes in value of products from 1953 to 1976—a 23-year span without such adjustment.

This portion of the legislation will result in major cost savings for businessmen in America who import small quantities of merchandise. Present laws require formal entry documents to be filed for each shipment over $250. This change will reduce, by at least 200,000 filings per year, the more complicated formal documents—thus eliminating large amounts of paperwork. The resulting savings is estimated to be $6 million annually—$5 million in broker's fees and surety bonds, and $1 million to the Government in simplified processings savings.

As these statistics indicate, this single legislative item serves the immediate needs of both Bicentennial travelers and small businessmen.

Thus, today, I am urging my colleagues to take prompt, positive action on the Customs Paperwork Reduction Act of 1976. It is the second formal recommendation to the Congress for reduction of paperwork and redtape from the Commission on Federal Paperwork. The first was the proposal, enacted into law just a few months ago, which provided for annualized social security wage reporting. The Commission believes it will have a dramatic and productive impact on the operating efficiency of border inspectors. And, it will simplify entry by international travelers for our Bicentennial and processing of small amounts of commercial goods—in both instances making the process much less complicated, costly, time consuming, and burdensome.

An analysis and comparison of the proposed bill to existing law follow:

Analysis of the Customs Paperwork Reduction Act of 1976

Section 2(a) would amend the Tariff Schedules of the United States (19 U.S.C. 1202) by redesignating Part 6 of Schedule 8 as Part 7 and introducing a new Part 6 dealing with noncommercial importations of limited value. The new provision would apply to articles intended for personal or household use and not for resale, and not imported for another person, if valued not over $500 fair retail value and accompanying a person arriving in the United States. In such circumstances, a flat rate of duty of 10 percent of fair retail value would be assessed in lieu of any other rate of duty except a free rate of duty. The flat rate would not apply to commercial entries nor to articles in any shipment not accompanying the person.

The proposed Part 6 contains a controlling headnote and a new rate provision. Headnote 1 to the new part provides that the rate of duty for articles provided for in the part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles. For example, if a returning resident brought in articles worth $700, $200 of which were free of duty as antiques, the flat rate of duty provided in the proposed amendment would apply to articles valued at only $400 ($700 less $100 tourist exemption, less $200 duty-free articles).

The basic prerequisite for classification of imported articles in the part, as stated in the superior heading to the proposed provision, is that such articles are intended for personal or household use and not for sale or other commercial use.

Proposed new item 869.00 provides for a flat rate of duty of 10 percent of the fair retail value of the article accompanying a person arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $500 fair retail value in the country of acquisition. The average rate of duty now assessed on the wholesale value of articles arriving in passengers' baggage is approximately 15 percent. The 10 percent rate of duty on retail value would represent an equivalent rate.

Under existing law, the classification and rate of duty on an imported article is not affected by the commercial or noncommercial nature of its importation with certain minor exceptions, the most notable of which are the personal exemptions for residents and nonresidents, and the provisions granting free entry of unsolicited gifts, the value of which does not exceed $10. A returning resident is entitled to an exemption from duty for articles accompanying him of up to $100 aggregate value ($200 from the insular possessions of the United States). Dutiable articles over the $100 limitation are subject to duty at the rate prescribed in the applicable provisions of the Tariff Schedules of the United States.

The application of tariff classification procedures to merchandise imported by persons arriving into the United States for personal use requires an inordinate amount of processing time, compared to the amount of duty collected, and creates an aggravating bottleneck in the processing of persons entering the country.

The proposed legislation would contribute substantially to the elimination of this bottleneck without adverse effects on customs revenue collections. It would establish a single rate of 10 percent of fair retail value for use in assessing and collecting duty on persons arriving into the United States. Very few passengers fall outside the $500 limitation.

Application of the 10 percent flat rate of duty will enable Customs to process an anticipated threefold increase in dutiable declarations in coming years with a minimum increase in Customs inspectional personnel. The time expended under existing law in determining the classification of such noncommercial importations and in computing the amount of duty owed would be available for more thorough baggage inspections and more effective enforcement of laws prohibiting the importation of narcotics, dangerous drugs, and other contraband.

Section 2(b) sets forth the effective date of the amendment as the 30th day following the date of enactment.

Section 3 would amend section 498(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(1)), to increase from $250 to $500 the maximum aggregate value of a shipment which may, in accordance with rules prescribed by the Secretary, be entered through informal entry procedures.

Informal entry may be made under a simpler procedure than that required for a formal entry. The informal entry document may be filled out by the customs officer for the importer, no bond is required, and there is no formal appraisement of the goods which are evaluated by the customs officer who examines and releases the merchandise to the importer or prepares a mail entry for collection of duties by the U.S. Postal Service. Liquidation is accomplished by the payment of duties by the importer, or the release of the merchandise to the importer by customs or the postmaster when goods are free of duty and internal revenue tax. Information concerning such entries is furnished to the Import Statistics Section, Foreign Trade Division, Bureau of Census.

This section is designated to achieve administrative and operational efficiencies by granting customs officers greater operational flexibility and will contribute substantially to the effort of the U.S. Customs Service to decrease the backlog of unappraised and unliquidated formal entries.

Furthermore, the change will permit significant improvement in the reliability of formal entry data. A reduction in formal entries of approximately 200,000 per year is expected to result from this proposed amendment. While this will result in some loss of statistical data on imports, the estimated savings in time, money and manpower is believed to outweigh the loss.

A change in the value figure from the original figure of $100 to $250 was made by the Customs Simplification Act of 1953 (67 Stat. 157) based on the value of the dollar at the time the informal entry procedure was first specifically authorized by the Congress in 1922. This proposal to increase the value to $500 like the earlier change reflects in an appropriate way the change in the value of the dollar from 1953 to today.

Comparative Type Showing Changes in Existing Law Made by the Proposed Bill

TARIFF SCHEDULES OF THE UNITED STATES

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISIONS

* * * * *

* * *

"	Part 6.—[Other Special Classification Provisions] Noncommercial Importations of Limited Value.			
	Part 6 headnote: 1. For the purposes of this part the rates of duty for articles provided for in this part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles.			
	Articles for personal or household use, or as bona fide gifts, not imported for sale or for the account of another person:			
869.00	Accompanying a person arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $500 fair retail value in the country of acquisition.	10% of the fair retail value	10% of the fair retail value	"
	Part 7.—Other Special Classification Provisions.			

* * *

* * * * *

Sec. 498. Entry Under Regulations.

(a) Authorized for Certain Merchandise.—The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

(1) Merchandise, imported in the mails or otherwise, when aggregate value of the shipment does not exceed such amount, not greater than [$250] *$500*, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions;

Mr. STEED. Mr. Speaker, I wish to add my support to that of my colleague by urging the passage of the Customs Paperwork Reduction Act of 1976 just introduced. As chairman of the Subcommittee of Appropriations which reviews the Customs Service budget, I have been aware of their persistent administrative efforts over the last few years to eliminate much of the recordkeeping and paperwork which accompanies the importing of goods and the welcoming of visitors into our country. Customs should certainly be commended on their actions to ease the administrative burden on those who cross our borders, but they have run into a stone wall on this item because the ceiling on informal entries is fixed by statute at $250 while the rate of inflation has continued to rise. The $250 ceiling which was imposed in the 1950's is now requiring a lot of unnecessary paperwork because those items which used to be admitted without formal entry must now be recorded in detail. We all know the effect that inflation can have on the dollar in just 1 or 2 years. Here we are talking about two decades since any adjustment has been made, and the people who are being snagged are the small import businesses. I think the time has come to readjust the $250 ceiling to affect the shipments that Congress originally intended to monitor when it first imposed the concept of formal entries. For this reason I support the new $500 ceiling as proposed.

I also support the concept of a flat duty rate of 10 percent for personal-use imports up to $500 in value. As a member of the Commission on Federal Paperwork, I am constantly confronted with situation after situation where reporting requirements are more complicated than they need be. The Commission's first recommendation, which was signed into law over the Christmas holidays, eliminated quarterly detailed wage information on IRS form 941 in favor of yearly wage reporting system on W-2 forms. This simplification measure alone will save the Government and small business in excess of $250 million annually. We have a similar opportunity here because present Customs rates of duty are so diverse that there is a great deal of work involved in the classification and computation of different rates for different types of goods crossing our borders. The flat 10-percent rate of duty for all personal goods accompanying the traveler under $500 in value would drastically reduce the time necessary to process individual travelers. When this savings is multiplied by the 250 million people who have been projected to cross our borders in 1976, we have before us the potential to solve a mountain of problems.

I hope that the entire bill H.R. 9220 will be given careful consideration. I am very much aware of the need to simplify and modernize other Customs procedures so as to benefit the importer as well as the traveler. Yet, at the same time I am conscious of the need to insure that no one else suffers as the result of the proposed changes. It is my firm conviction that the proposed Customs Paperwork Reduction Act of 1976 is sound and should be enacted without waiting for solutions to the problems that may arise in the consideration of the other provisions of the Customs Modernization Act.

Mr. Speaker, I support the passage of this legislation to raise the ceiling on informal entries to $500, and to assess a flat rate of duty of 10 percent on personal-use imports up to the value of $500 and urge its speedy consideration and swift passage.

PROTEST EEC DUTY ON OILSEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, today 41 of my colleagues have joined me in introducing a resolution urging the President of the United States to seek immediate elimination of discriminatory trade practices recently imposed by the European Economic Community against imported vegetable protein products.

The European Community has promulgated regulations effective April 1 and lasting seven months that will severely damage markets of American oilseed producers, especially soybean and cottonseed. The regulations require that all animal feed mixed in the Community contain 5 percent nonfat dry milk of which the Community has an oversupply. This dry milk will displace an equal amount of oilseed products which currently are imported chiefly from the United States.

The Community's action clearly violates the General Agreement on Tariffs and Trade. By requiring importers to post a surety deposit on imported oilseed products, the Community has effectively imposed a tariff on these products in direct contravention of its written obligation under GATT not to do so.

A U.S. Treasury official estimated that U.S. farmers will lose over $100 million in sales of oilseed and vegetable protein meal as a result. Depressed market prices resulting from lower total demand will undoubtedly reduce farm income even further.

It is extremely gratifying to me that Ambassador Clayton Yeutter, Office of the Special Trade Representative, left today to represent the United States in the upcoming negotiations with the Community. Ambassador Yeutter understands the importance of agricultural exports to this country, and will vigorously oppose the new policies. He took with him the text of the resolution and a list of sponsors. Farm exports are perhaps the key to whether the United States will continue to sustain foreign trade surpluses in the months ahead.

The resolution disapproving the Community's action is being introduced with broad bipartisan support. The list of cosponsors is headed by W. R. POAGE and WILLIAM WAMPLER, ranking members of the House Agriculture Committee. Sixty-five percent of the committee members have already cosponsored.

I am attaching a list of cosponsors and the text of the resolution:

COSPONSORS OF THE CONCURRENT RESOLUTION INTRODUCED MARCH 31, 1976

James Abdnor, South Dakota.
Berkley Bedell, Iowa.
Tom Bevill, Alabama.
Bill Burlison, Missouri.
John Dent, Pennsylvania.
Joseph Gaydos, Pennsylvania.
Edward Derwinski, Illinois.
Charles Grassley, Iowa.
Tom Hagedorn, Minnesota.
John Jenrette, South Carolina.
Walter Jones, North Carolina.
Thomas Kindness, Ohio.
Delbert Latta, Ohio.
Robert McClory, Illinois.
Henson Moore, Louisiana.
James Oberstar, Minnesota.
Albert Quie, Minnesota.
Tom Railsback, Illinois.
Keith Sebelius, Kansas.
George Shipley, Illinois.
Paul Simon, Illinois.
Charles Thone, Nebraska.
Paul Findley, Illinois.
Bob Bergland, Minnesota.
Ray Thornton, Arkansas.
Matthew McHugh, New York.
Tom Harkin, Iowa.
Floyd Fithian, Indiana.
Ed Jones, Tennessee.
W. R. Poage, Texas.
Jim Johnson, Colorado.
Jack Hightower, Texas.
Alvin Baldus, Wisconsin.
David Bowen, Mississippi.
Jerry Litton, Missouri.
John Krebs, California.
Steven Symms, Idaho.
Richard Kelly, Florida.
John McCollister, Nebraska.
Joe Skubitz, Kansas.
William C. Wampler, Virginia.
Glenn English, Oklahoma.

H. CON. RES. 600

Whereas the Council of the European Economic Community approved a procedure to require a surety deposit and certification system applicable to all imported vegetable protein products; and

Whereas imported oilseeds, oilseed cake and meal, corn gluten feed, certain other feeds, and dehydrated forage will be subject to surety deposits; and

Whereas the surety deposit imposes a substantial duty on such imports; and

Whereas the Council of the European Economic Community's actions are inconsistent with the Community's obligation under GATT and violate bindings of zero duty on soybeans, soybean cake and meal, cottonseeds and several additional products; and

Whereas the estimated damage to U.S. oilseed exports would exceed $136 million for the duration of the regulation; and

Whereas the regulation discriminates against imported vegetable protein in favor of imported animal protein, adding additional monetary damage to our exports; and

Whereas the United States has begun consultations with the European Economic Community to seek redress of these actions: Now therefore, be it

Resolved, That it is the sense of the Congress that the President of the United States shall seek immediate elimination of these discriminatory trade practices of the European Economic Community and in the event of failure of the European Economic Community to eliminate such practice the President shall obtain full compensation for such actions under Article XXIII of the General Agreement on Tariffs and Trade.

LEGISLATION TO AMEND FORMULA FOR COST-OF-LIVING ADJUSTMENTS UNDER CIVIL SERVICE RETIREMENT SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, in adhering to the axiom that the best things frequently come in the smallest packages, I have introduced a 15-line bill today which would shut off an unjustified drain on the civil service retirement fund. In the process, it would result in savings of approximately $2 billion in the next 5 years. My legislation would amend the formula for cost-of-living adjustments under the civil service retirement system by eliminating the so-called 1-percent kicker. It is one of President Ford's proposals for controlling bloated Federal personnel costs and it has been recommended by the chairman of the House Budget Committee.

As you know, whenever retired civil service employees receive a cost-of-living increase equal to the advance in the Consumer Price Index, they also receive an additional 1 percent. Each and every one of the many cost-of-living increases since October 1969, has included the 1-percent kicker. This add-on originally was conceived as a moderately priced device to cushion annuitants from the impact of lost purchasing power during the time lag between an increase in the CPI and the actual adjustment in annuities. At the same time, it was immediately acknowledged that the add-ons eventually would result in annuitants receiving increases considerably in excess of amounts needed to maintain their purchasing power. Unfortunately, no one seemed too concerned about either short- or long-term consequences, since inflation then was running at the comparatively modest level of 3 percent, and annuity adjustments figured to be only annual occurrences. But time and inflation have dictated dramatic changes in that script. In the past 2 years, cost-of-living increases have been larger and have been coming at approximately 6-month intervals.

The cumulative effect now looks like this: Since the 1-percent formula became operative in 1969, the CPI has increased by 50 percent, but the annuity adjustments have totaled 63 percent. The gap occurred because the 1-percent add-ons are permanent and become part of the annuity base for the next cost-of-living adjustment. Of the $23 billion added to the unfunded liability of the civil service retirement system by cost-of-living increases since 1969, $4.2 billion of that total is directly traceable to the 1-percent kicker.

In a November 14, 1975, appearance before the Retirement and Employee Benefits Subcommittee of the Post Office and Civil Service Committee, one of our former colleagues, Hastings Keith, clearly and forthrightly focused on the dimensions of the add-ons which he said were contributing to and compounding the inflation problem. Keith told the subcommittee his annuity was going up so fast that it was "becoming scandalous." At the time of his retirement on March 31, 1973, Keith said his annuity was $1,560 a month. In 2½ years, he said it increased by $535 to $2,095. He said $152 of that increase resulted from the 1 percent add-on.

As Keith pointed out, the original purpose of the annuity law was to provide an adequate income for retired Federal employees. The commendable objective is not at issue, but there is genuine cause for concern about an escalation plan which becomes counter productive by encouraging early retirements.

When compared with the retirement programs of other employees, the plan for civil service annuitants is in a class by itself in terms of benefits paid. The few private plans that have automatic cost-of-living adjustments generally place an annual limit on the increase which can be granted. The Tennessee Valley Authority limits cost-of-living adjustments to 5 percent a year.

My bill would have no effect on add-ons already in place, but it would result in savings of $69 million for fiscal 1977 and total savings of nearly $2 billion through fiscal 1981. It is also well to keep in mind that employees retiring today are receiving considerably higher annuities than those who retired in the past.

As long as the 1-percent kicker remains in place, it will preempt more and more of civil service retirement funds. The add-ons already have placed an extraordinary strain on the fund. The time has come to say "enough."

"DIRTY DOZEN" LIST: MORE COMMENTS ON THE RATING RACKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, a source of continuing interest which I derive from serving the Second District of New Hampshire is the broad diversity of editorial viewpoint expressed by the newspapers reporting—and commenting—on my activities as a Member.

Given this diversity, I found it particularly gratifying to see such publications as Mr. Loeb's Manchester Union Leader and the Keene Sentinel in virtual unanimity in their reaction to my designation as a member of the Dirty Dozen.

On yesterday, I inserted in the RECORD at 8594–8595 an article from the third publication, the Lowell (Mass.) Sun, exposing as a cheap political hatchet job my designation to the Dirty Dozen.

Without the benefit of that reporting, both the Union Leader and the Sentinel independently and instinctively came to the same conclusion. If the national news media were less inclined to suspend their customary journalistic judgment in reporting on such matters, outfits like Environmental Action, Inc. would become targets of political pollution abatement, and soon mercifully extinct.

The editorials follow:

[From the Keene (N.H.) Sentinel, Mar. 29, 1976]

DOING DIRTY

We've disagreed with Congressman James Cleveland on a good many occasions over the years, including some of his positions on environmental legislation. Some of them may even have been positions for which he has been skewered by "The Dirty Dozen Campaign," a political lobbying arm of Environmental Action Inc.

We have no use, however, for the technique used by this organization, and others, which sets up self-serving rating systems, assigning scores to a legislator, based on how many times he votes the way the organization thinks he ought to.

The Americans for Conservative Action assign low marks to congressmen whose positions seem too liberal, or even only moderate.

The Americans for Democratic Action assign low marks to those whose positions seem to be too conservative.

The "Dirty Dozen" people have carried the technique a step lower by giving their organization a title which, when the ratings are announced, they obviously hope will attach the word, dirty, to the recipient of a low mark.

It could be applied just as well to their own tactics.

[From the Manchester Union Leader, Mar. 26, 1976]

CLEVELAND'S DIRTY OPPONENTS

The pretensions of Environmental Action, Incorporated, in naming Congressman James Cleveland to its "Dirty Dozen" list of congressmen marked for political extinction for not voting as instructed by the Washington-based group on 14 environmental issues in 1975, are almost amusing.

The Dirty Dozen Campaign Committee, a political committee of Environmental Action, boasts of being "non-partisan," while threatening to "send a full-time organizer into each of the 12 districts to rally local environmentalists' support for the effort."

But just how "non-partisan" these characters are can be seen in the following excerpt from their March 25th press release:

"The quality of each incumbent's opposition, his power and seniority on key environmental committees, and the interest of local groups in his defeat were all factors in the selection of this year's Dirty Dozen. . . . A likely opponent for Cleveland is Joseph Grandmaison of Nashua."

How non-partisan can you get?

ON THE NEED TO REFORM ELECTRIC UTILITY RATE REGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, over the next 2 weeks the House Interstate and Foreign Commerce Subcommittee on Energy and Power will be conducting hearings on several bills dealing with the reform of electric utility rate regulation. The issues before the subcommittee are extremely important as statutes pertaining to electric rate regulation by the Federal Power Commission have remained essentially unchanged since the Federal Power Act was enacted in 1935, despite dramatic changes in electric energy generation, transmission, distribution, and especially, changes in the needs of the consumer.

The problems in electric ratemaking first came to my attention a few months ago when I became involved—ultimately as an intervenor—in an electric rate increase case which is pending before the Federal Power Commission. I was appalled by the inequities which are allowed and fostered by current rate regulations, and for this reason, I have introduced legislation which is designed to improve ratemaking procedures before the Federal Power Commission to assure that our energy resources, as well as our generating and transmission facilities, are being used in the most efficient manner possible, and to assure that electric energy is being provided to customers at the lowest possible cost.

Mr. Speaker, I will insert this bill in the Record for the consideration of my colleagues, and I would like to take this opportunity to explain the problems as they currently exist, and how this legislation relates to these problems.

Mr. Speaker, at present there are more than 150 electric rate increase cases pending before the Federal Power Commission. This represents over a half a billion dollars annually in electric rates which are in effect, which customers already are paying, but for which a final decision on lawfulness has not been rendered. The legislation I propose is directed at expediting electric rate proceedings, minimizing the possibility of a questionable rate being levied against customers, and assuring that the criteria used in determing the lawfulness of proposed rates reflects the actual costs of generating and transmitting electric power.

Current provisions of the Federal Power Act allow up to a 5-month suspension on new rates, if the Commission so orders, and give the Commission authority to order rebates if and when the decision comes after the rate has gone into effect and the rate is determined to be excessive. I understand that congressional intent underlying this portion of the Federal Power Act, some 41 years ago, was that the 5-month suspension period would allow the Commission to conduct and to complete proceedings on a new rate filing and determine its lawfulness before permitting it to be charged to customers.

At present, however, an average rate proceeding before the Commission consumes well over a year from the date of filing to the date of the final decision by the presiding administrative law judge. Many rate schedule filings require 2, 3, or more years to complete, and during most of that time, even if the full 5-month suspension has been ordered—which is atypical—the rate is in effect and customers are required to pay the questionable charge.

The process whereby rebates may be ordered is problematic, as well. Although a public utility may find it quite easy to keep records on their wholesale buyers and issue refunds on an excessive rate if the Commission so orders, it is often very difficult for the electric company to pass these refunds along to their retail customers—the ultimate consumers—since, because of the lengthy proceedings on the case, many may be deceased, unable to be located, or otherwise unable to be recompensated.

The present rate making procedure, by allowing any rate to go into effect 5 months or less after filing, also acts as an incentive for the petitioning utility to intentionally file one or more inflated rate proposals, knowing they can collect the excessive rate for years even if it is unlawful. This procedure also provides incentive for the petitioning utility to attempt to delay Commission proceedings on their rate filings if there is any question as to what the final holding will be, in order to keep the high rate in effect for as long as possible. Clearly, it is in the public utility's interest to delay a possible negative decision on one of their rate proposals—they are already collecting the rate—but it is very contrary to the interests of the purchasers.

I am an intervenor in an electric rate increase proposal which was filed by Connecticut Light and Power Co. on December 2, 1975, and which is in its preliminary stages of hearing. This is the most recent of three rate increase proposals by Connecticut Light and Power, all of which are still pending final decision. The first of these was filed on June 16, 1972, and has been charged to customers since January 16, 1973. Despite the more than three years of elapsed time—an unconscionable delay for the customers to bear, to my way of thinking—there has been no final decision on the lawfulness of the rate. In addition, Commission regulations have permitted Connecticut Light and Power Co. to file and begin collecting on the two more recent rate increase proposals. I think it is interesting to note that the profit rate enjoyed by Connecticut Light and Power has increased dramatically over this same period.

Section 7 of the bill I have introduced would resolve this problem by eliminating incentive for public utilities to file inflated rate proposals by requiring suspension of new rate proposals until such time as a final decision is rendered, and this decision holds the proposed schedule as being lawful. The provisions of section 8 of this bill complement section 7, by disallowing the filing of a new rate increase proposal while another one, filed by the same company, is still pending final decision. This "antipancaking" measure would provide incentive for the petitioning utility to dispose of rate filings promptly, and in conjunction with section 7, it would eliminate incentive for the petitioning utility to attempt to delay Commission proceedings. In addition, this measure would enable the Commission to complete action on rate filings more promptly, since each case would be reduced in complexity, and the total number of cases pending before the Commission would, in all probability, be substantially diminished.

Alone, however, these measures will not resolve the problem entirely. These revisions, by themselves, might in fact provide incentive for intervenors to employ delaying tactics in order to prevent a proposed rate from going into effect. To overcome this problem, section 7 of the bill I am offering authorizes the Commission to order interim rate increases or decreases after 5 months have elapsed since the filing date, if records on file with the Commission demonstrate the need for such a change in the rate schedule. The interim rate could be a portion or the whole of the proposed rate change, and would be in effect until the time of the final decision on the rate filing, but subject to rebates.

Thus, this measure is intended to provide incentive for intervenors who feel the proposed rate to be excessive to attempt to expedite Commission proceedings so that they may be concluded before the 5-month suspension on interim rates is over. The interim rate provision also allows the Commission, in the event of a lengthy proceeding, to order increases or decreases appropriate to the financial solvency of the petitioning utility.

There are a number of other essential revisions to the Federal Power Act which I have included in this bill, and which I would like to explain briefly:

Sections 4 and 5 of this bill mandate that public utilities utilize energy resources, and generating and transmitting facilities, in the most efficient ways possible, by requiring that they share facilities, and engage in joint and cooperative efforts whenever this will accomplish that goal. Section 13 insures that such cooperative efforts be undertaken in the interest of conserving energy resources and distributing electric power at the lowest possible cost, and that they be in full compliance with the antitrust policies and laws of the United States.

The bill further prohibits selective distribution of electric power, and, in the event of a power shortage, requires a public utility unable to meet the demands of all of its customers to accommodate both wholesale and retail customers in a manner which is proportionate, equitable, and nondiscriminatory.

Sections 6, 9, and 10 assure that the Commission will give adequate notice of new rate filings, and that affected customers will have sufficient time to respond; and limit the use of automatic adjustment clauses, including the fuel adjustment clauses, and the inclusion of construction work in progress—CWIP—in the rate base.

Finally, Mr. Speaker, this legislation would correct another problem which I have become aware of as a result of my involvement in a rate proceeding: that, by filing for an excessive rate proposal before the Commission, a public utility may be able to keep its retail rates lower than its wholesale rates—which are usually charged to relatively small municipal utilities and electric companies—thereby attempting to squeeze the wholesale purchasers out of the market. By requiring the Commission to take into account the financial impact of a proposed rate increase on each wholesale purchaser, as section 11 and 12 of the bill do, this problem is effectively eliminated.

Mr. Speaker, the reform of electric rate regulation is long overdue. The amendments which I propose in this bill will be very effective, I think, in assuring conservation of energy, reasonable and appropriate regulation of rates, and the provision of electric power to all customers at the lowest possible cost. I am confident that the Subcommittee on Energy and Power, which is chaired by my distinguished colleague from Michigan (Mr. Dingell) will take prompt action on this bill, and the other related bills which are now pending their consideration, and that the reported bill will establish regulations to assure an equitable system of electric rate regulation, consistent with the Nation's present needs—and one which will truly serve the public interest.

The text of the bill follows:

H.R. 12872

A bill to amend the Federal Power Act to provide for the reform of electric utility rate regulation by the Federal Power Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric Rate Regulatory Reform Act of 1976".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the continued generation and transmission of an adequate supply of electrical energy at reasonable rates is critical to the Nation's defense, a sound and stable economy, and the general health and welfare of the people of the United States;

(2) rates for electric energy increased dramatically during each of the years 1971 through 1975;

(3) current ratemaking provisions of the Federal Power Act often place the full burden of unproven rates on wholesale customers and subsequently on the ultimate consumer;

(4) these ratemaking provisions provide incentive for public utilities to file inflated increases and delay Federal Power Commission proceedings on such filings, knowing that these rates may be collected during such proceedings;

(5) the system whereby rebates may be ordered by the Federal Power Commission in the event that, at the decision of the presiding Administrative Law Judge, the rate is determined to be excessive, is imperfect as the delay in proceedings makes it impossible to locate and recompensate all persons who had been paying the excessive rate;

(6) that lengthy delays in Commission electric rate proceedings create a "price squeeze" situation whereby the supplier may be able, simply by filing one or more unproven rates, to keep his retail rates lower than those charged to wholesale purchasers;

(7) the construction of unnecessary generating capacity by the electric utility industry would create burdens on electric consumers;

(8) shortages and unreliable supplies of electric energy would jeopardize the normal flow of interstate and foreign commerce by creating severe economic dislocation, including loss of jobs, closing of factories and businesses, and curtailments of vital public services; and

(9) increased competition among electric utilities for wholesale and industrial sales can complement existing regulation in providing protection for consumers of electric energy.

PURPOSES

SEC. 3. The purposes of this Act are—

(1) to make more equitable the structure of electric utility rate schedules in this Nation, while leaving unaffected the overall rate of return of such utilities;

(2) to promote more efficient use of scarce capital and energy resources by electric utilities;

(3) to institute rate reform, in order to prevent or minimize increases in rates of electric energy, and to assure that these rates are administered in a fair and equitable manner, and based on actual costs of generating and transmitting;

(4) to eliminate any incentive for any party to a rate proceeding before the Federal Power Commission to delay such proceeding;

(5) to encourage maximum efficient and economical use of electric generating and transmission facilities through interconnections, joint planning and ventures, sharing of facilities, and other means;

(6) that any such cooperative efforts be undertaken in the interest of minimizing costs to customers and conserving our scarce energy resources, and that they be undertaken in full compliance with the antitrust policies and laws of the United States;

(7) to increase the period of notice for new filings before the Federal Power Commission, to allow adequate time for the affected customers to be informed and to respond; and

(8) to foster increased use of competition as a complement to existing regulation.

ACCESS TO TRANSMISSION CAPACITY

SEC. 4. (a) Section 202(a) of the Federal Power Act is amended—

(1) by striking out "voluntary" in the first sentence;

(2) by inserting "with the maximum competitive opportunities for the purchase and sale of electric energy at wholesale and" after "United States" in the first sentence; and

(3) by inserting "for the purpose of assuring the goals set forth in this part and to assure maximum competitive opportunities for the purchase and sale of electric energy at wholesale at the lowest possible cost" immediately after "districts" in the third sentence.

(b) The portion of the first sentence of section 202(b) of the Federal Power Act prior to the colon preceding the proviso is amended to read as follows: "Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest, it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to, transmit energy for, provide transmission services or wheeling for, exchange energy with, provide pooling services for, or coordinate with such persons".

CONTINUANCE OF SERVICE

SEC. 5. Section 202(c) of the Federal Power Act is amended to read as follows:

"(c) During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such connections of facilities and such generation, delivery, interchange, transmission of electric energy, pooling, coordination, wheeling, or other transmission service as in its judgment will best meet the emergency and serve the public interest. The Commission shall require, in order to insure continuity of service to wholesale customers, each public utility to report promptly any anticipated deficiency of power which would affect the utility's capability of serving its wholesale customers, and may (1) require by order the utility to accommodate such deficiency in a manner which affects the retail customers of the utility and the retail customers of the utility's wholesale customers in a proportionate, equitable, and nondiscriminatory manner, and (2) require by order such connections of facilities and such generation, delivery, interchange, transmission of electric energy, pooling, wheeling, or other transmission service as in its judgment will best serve the public interest. If the parties affected by any such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.".

TIMELY NOTICE OF RATE CHANGES

SEC. 6. Section 205(d) of the Federal Power Act is amended—

(1) by striking out "thirty" and inserting in lieu thereof "sixty"; and

(2) by striking out the last sentence thereof.

INTERIM RATE SCHEDULE

SEC. 7. (a) The first sentence of section 205(e) of the Federal Power Act is amended by striking out "delivering to the public" down through the end of such sentence and inserting in lieu thereof "shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service until such schedule and any such rate, charge, classification, or service is determined to be lawful."

(b) The second sentence of section 205(e) of the Federal Power Act is amended by striking out "such five months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period," and inserting in lieu thereof "five months after the date of filing of such new schedule and the Commission has made a determination, after a preliminary hearing with respect to such new schedule, that all or part of the schedule is likely to be held lawful, the Commission may order an interim rate schedule to take effect,".

PROHIBITION ON PENDENCY OF CUMULATIVE RATE APPLICATIONS

SEC. 8. Section 205(e) of the Federal Power Act is amended by adding at the end thereof the following: "A public utility may not file a schedule which seeks to increase a rate or charge so long as the Commission has pending before it for final determination any schedule previously filed by such public utility.".

FUEL ADJUSTMENT CLAUSE

SEC. 9. Section 205 of the Federal Power Act (16 U.S.C. 824a) is amended by adding thereto the following:

"(f)(1) Except as otherwise provided in subsection (e) or in paragraph (2) of this subsection, the Commission may not allow to go into effect any increase in any rate of any public utility unless opportunity for consideration of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect.

"(2) Paragraph (1) shall not apply to a rate increase made pursuant to an automatic adjustment clause of a rate schedule which has been approved by the Commission in an evidentiary hearing and which provides that rates may be increased by not more than 85 percent of the amount by which (A) the amount of actual covered expenses exceeds (B) 105 percent of the amount of base period covered expenses. The Commission may not approve any automatic adjustment clause which includes, as actual covered expenses, the expenses of goods or services purchased by a public utility from any person who controls, is controlled by, or is under common control with, such utility.

"(3) As used in this subsection—

"(A) The term 'automatic adjustment clause' means a provision of a rate schedule which permits, without affording an opportunity for prior evidentiary hearing, a public utility's rates to increase in order to reflect a change in the actual amount of one or more types of operating expenses.

"(B) The term 'base period covered expenses' means the amount, established for purposes of setting rates after affording an opportunity for evidentiary hearing, of operating expenses to which an automatic adjustment clause applies.

"(C) The term 'actual covered expenses' means the amount of operating expenses which were actually incurred and to which an automatic adjustment clause applies.

"(4) If a rate schedule of a public utility contains an automatic adjustment clause, such schedule shall be reviewed by the Commission in an evidentiary hearing not less often than annually to insure the maximum economics in those operations and purchases which affect such rates. In making such review, the Commission shall review and audit the fuel acquisition practices of such public utility. Each public utility shall provide reports on fuel acquisition practices as required by the Commission, which shall be made available to the public, and shall contain such information as the Commission may require to implement the purposes of this section. On its own motion, or upon complaint, the Commission shall, after affording an opportunity for evidentiary hearing, direct a public utility to cease any fuel acquisition practice which is unreasonably discriminatory or anticompetitive in nature, which does not lead to the use of fuel at the lowest possible cost, or which in any way inhibits or precludes the use of acquisition of the least expensive fuel by such utility.".

CONSTRUCTION WORK IN PROGRESS

Sec. 10. Section 205 of the Federal Power Act (as amended by this Act) is further amended by adding at the end thereof the following:

"(g) The Commission may not, in determining a public utility's rate base for purposes of fixing, approving, or allowing any rate to go into effect, include any portion of construction work in progress (or other similar capital prepayment or accelerated charge provision) in the rate base.".

UNFAIR METHODS OF COMPETITION

Sec. 11. Section 205 of the Federal Power Act (as amended by this Act) is further amended by adding at the end thereof the following:

"(h) Whenever the Commission determines on its own initiative or upon complaint, after affording an opportunity for evidentiary hearing, that a public utility is engaging in any unfair method of competition, or that a public utility has filed any contract, agreement, tariff, or schedule which would result in an unfair method of competition, it shall issue an order prohibiting any such unfair method of competition, or reject such a filing.".

FINANCIAL IMPACT OF RATE INCREASES

Sec. 12. Section 205 of the Federal Power Act (as amended by this Act) is further amended by adding at the end thereof the following:

"(i) (1) The Commission, in making determinations with respect to any new schedule filed with the Commission by a public utility under subsection (d), shall take into account the financial impact of any proposed increased rate or charge on each electric utility which buys electric energy from such public utility for resale to electric consumers.

"(2) As used in this subsection—

"(A) The term 'electric consumer' means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

"(B) The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.

"(C) The term 'Federal agency' means any agency or instrumentality of the United States, but does not include the District of Columbia.

"(D) The term 'State agency' means a State, political subdivision thereof, or any agency or instrumentality of either.

APPLICABILITY OF ANTITRUST LAWS

Sec. 13. Nothing contained in this Act or the amendments made thereby shall (1) relieve any person or electric utility from the operation or enforcement of the antitrust laws of the United States, including the Sherman Act (15 U.S.C. 1 et seq.), Clayton Act (15 U.S.C. 12 et seq.), and the Federal Trade Commission Act (15 U.S.C. 41 et seq.), or (2) restrict any authority the Commission may have under the Federal Power Act to regulate unfair methods of competition.

ZERO BASE BUDGETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Neal) is recognized for 10 minutes.

Mr. NEAL. Mr. Speaker, I have introduced a bill which would require zero-based budgeting by the Congress. My bill is identical to the bill which has been introduced in the Senate by Senator Edmund Muskie, whose Senate Budget Committee has already commenced hearings on the proposed legislation. A few days ago I was privileged to testify before the Senate committee to support their effort. Mr. Speaker, zero-based budgeting, in my opinion, is a concept whose time has arrived at the Federal level. I believe many of my colleagues will support this concept and I would like to enter my testimony in the Record at this point for their consideration:

Mr. Chairman, I want to thank the committee for the opportunity to appear here to voice my support of S–2925. I also want to congratulate the chairman for his distinguished work in writing the bill, and the committee for its expeditious consideration of the zero-base budget concept. It is a concept which I have been working on for more than a year, having first learned about Jimmy Carter's use of it while he was still governor of Georgia. For the past several months, I have been working on a bill which embodied the concepts as practiced successfully in Georgia, seeking to apply them at the federal level. When S–2925 was introduced in the Senate, I determined that its concepts and purposes were nearly identical to my own. Therefore, I introduced an identical bill in the House of Representatives, hoping to avoid a possible conflict between different versions, and avert needless delay in writing these concepts into law. Meanwhile, other Members of Congress were proceeding in the same direction. Several of us have unified our efforts, and one purpose of my being here is to inform the committee that we support the concepts of S–2925 and will work together to gain the support of our colleagues in the House.

Mr. Chairman, zero-base budgeting, in my opinion, is a concept whose time has arrived at the federal level. Together with our implementation of the Budget Impoundment and Control Act of 1974, it offers new hope that the Congress can get a firm grasp on the nation's fiscal affairs. While I believe that additional steps must be taken to achieve and maintain a balanced budget, I also think the public would find reasonable short-term deficits more palatable if assured its tax dollars are not being wasted.

While we have only recently begun to talk about zero-base budgeting at the federal level, it is not an untried idea. It has been found to work in business and industry, and in government was practiced with laudable success in the State of Georgia while Jimmy Carter was governor. Because the concepts practiced in Georgia generally apply to those proposed in S. 2925, I would like to recite what zero-base budgeting entailed when the program was started in Georgia in 1971:

Zero-base budgeting required each agency to analyze and justify its entire appropriations request in detail—current activities as well as new activities.

The first step required the preparation of a "decision package" for each function or activity. The package contained an analysis of the cost, purpose, alternative courses of action, measures of performance, consequences of not performing the activity, and benefits derived from the activity. The second step required that each decision package be ranked in order of importance against other current and proposed activities. During the first year, the state government analyzed about 10,000 such "decision packages."

The decision packages were developed by managers throughout all levels of state government because they were experts in their activities, and their recommendations and analyses were important. Additionally, the state wanted them to become familiar with the budgeting process and to evaluate their own cost effectiveness.

Different ways of performing each activity were identified, such as centralized versus decentralized operations, or evaluating the economy of state-run print shops versus commercial printers. Alternatives for different levels for performing each activity also were identified. Managers were required to identify a minimum level of spending—often as low as 75 per cent of current spending levels, and then identify in separate decision packages the costs and benefits of additional levels of spending for their activity.

The requirement of alternative spending levels forced every manager to consider and evaluate a level of spending lower than his or her current operating level. It also gave each manager the alternative of eliminating a function, or choosing from several levels of effort.

In order to fund some of the important new programs which were proposed, some programs of lesser importance were reduced or eliminated. Therefore, each decision package was considered on its own merits, disregarding the fact that it was either a current or new activity.

Zero-base budgeting was linked with a Goals for Georgia and a reorganization program in a unified attempt to improve state government. In the long term, the most significant impact is expected to occur in the middle levels of agency management, where managers will have to evaluate in detail their planning, operations, efficiency, and cost effectiveness on a continuous basis.

Mr. Chairman, I think zero-base budgeting is a sound fiscal tool which has proven itself in business and state government. If it works profitably for business and state government, it can work profitably for federal government.

It might be said that profit is not the motive of the federal government. My answer to that is that debt is not its motive, either; and I think it would be a good thing if we began setting surpluses as our goal. We might then leave our children a better fiscal heritage than a half-trillion-dollar mortgage on their economic future.

Mr. Chairman, I have not doubt that zero-base budgeting would serve as a mechanism for greater economy and efficiency in the federal government. Because every agency and activity would receive zero-base evaluation at least once every four years—and knowing that they would have to be productive and cost-effective to justify their continuance—every activity of government would be placed on a "shape up or ship out" status. Existing programs which fail the requirements of productivity, economy and efficiency would be eliminated or greatly reduced. Duplicative programs would be combined. New programs—such as health insurance, for instance—could be brought on line by using the nonproductive funds previously alloted to ineffective or unneeded programs and/or agencies.

Mr. Chairman, if there is one area in which the Congress has failed to live up to its responsibilities, it is the area of oversight. It is amazing to me that the legislative branch of this government functioned for almost 200 years without the procedures finally established in the Budget Impoundment and Control Act. Even more amazing, I think, has been the tendency of the Congress to appropriate vast sums of money with a seeming lack of concern for where the money comes from, or what it is producing once it is appropriated. The history of the Congress seems to have been to permit bureaucratic waste and inefficiency until there was a public outcry against it, then to conduct investigations which were more or less unproductive.

The founding fathers clearly intended, and the Constitution requires, that the Congress be the guardian of the nation's pursestrings. We have not only the responsibility of authorizing and appropriating funds, but the additional duty of seeing that tax dollars are spent wisely and for productive purposes.

I think the Congress may have sent the goat to guard the cabbage patch when in 1921 it relinquished, by and large, the budget making process to the executive branch. We have reclaimed a portion of our authority, and have rededicated ourselves to our responsibility, by enacting and implementing the Budget Impoundment and Control Act. I believe we will come even closer to fulfilling our responsibility by enacting S-2925. Its concepts have my full support.

U.S. CANAL ZONE AND PANAMA CANAL: INDISPENSABLE FOR SURVIVAL OF UNITED STATES AS AN INDEPENDENT NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 30 minutes.

Mr. FLOOD. Mr. Speaker, the history of the Isthmus of Panama shows that it has always been a place of challenge. Overcoming its difficulties has at times made leaders but it has also broken others.

During the current diplomatic negotiations with Panama for a new canal treaty, the U.S. Department of State, through ignorance or design and without authorization by the Congress, has engaged in activities that have inevitably resulted in the harassment of employees of the Panama Canal enterprise in connection with a massive propaganda drive at the U.S. taxpayers' expense to bring about the adoption of the proposed treaty. This agreement would surrender U.S. sovereignty over the U.S. owned Canal Zone, and eventually the canal itself, to Panama, a small, unstable, weak and technologically primitive country.

As a consequence, there has been a lowering of the morale among canal employees to such a degree as to impair the operating efficiency of the interoceanic link and to jeopardize its future.

Unable to attract proper attention from the executive branch of our Government, these employees, after much discussion and holding mass meetings, engaged in a "slowdown" of transit traffic in mid-March that caused the accumulation of some 175 vessels outside the canal entrances waiting for transit.

Mr. Speaker, while neither I nor anyone else can entirely condone such procedure, I would stress that these employees are dedicated workers and loyal U.S. citizens acting in what they consider the best interests of the United States.

They have observed at first hand a steady and needless deterioration of our position in the Canal Zone, thoroughly understand the current situation, and cannot be hoodwinked by specious State Department propaganda and sophistries, however plausible.

The regrettable incident of the "slowdown," which was of relatively short duration, must have been a direct result of the extreme frustration caused by a series of actions only two of which will be mentioned.

One was the campaign of the State Department, through the U.S. Embassy, in Panama, to brainwash the residents of the Canal Zone into a docile acceptance of the projected surrender to Panama of U.S. sovereignty over the zone. Another was a recent invasion by Panamanian police of the Canal Zone without any reason or right and in the face of objections stated to them by Canal Zone Police. So far as known, this invasion was not protested by our State Department.

As has been stated by me on many previous occasions, the questions involved in the control of the Canal Zone and Panama Canal are not local matters. Instead, they are questions of world importance.

Upon the continued undiluted sovereign control of the canal and its indispensable protective frame of the zone depends the fate of the Caribbean and upon that depends the security of the United States as a free and independent nation. Thus, the entity of the Canal Zone and canal has become an indispensable bastion for U.S. survival in the current struggle for world power. Anyone familiar with the history of the canal during World War II, the Korean, and Vietnam wars realizes the strategic value of this water passage.

During the period March 11-14, 1976, while the "slowdown" sentiment was building among canal employees, the Honorable Harry G. Wiles, national commander of the American Legion, visited the Isthmus, received VIP treatment at the U.S. Embassy in Panama, conferred with many leaders in the Canal Zone, and gained a deep insight into what has been taking place. He returned to his headquarters in Washington, D.C., more determined than ever to resist the unfortunate State Department importunities in the situation and to oppose any surrenders. Despite his opposition to relinquishing and U.S. sovereignty and control, Commander Wiles does take a positive and constructive approach to the situation and I commend his recommendations.

In a letter on March 24, 1976, addressed to the President of the United States about his Isthmian visit, he suggested that a viable solution of the current canal problem is the resumption of the suspended major modernization of the existing canal under existing treaty provisions. He also urged the reestablishment of the Navy's pre-World War II Special Service Squadron with home base in the Canal Zone as a symbol of the stability and strength of the United States.

Paradoxically, on the same day, March 24, the Washington Post, in an editorial on "American Irresponsibility in Panama," seized upon the canal "slowdown" as giving a "jog" to the current treaty negotiations, criticized President Theodore Roosevelt, and called upon President Ford to make the necessary adjustments to enable a new treaty to be completed in a reasonable time.

Reflecting oft repeated assertions of State Department propagandists, the editorial missed the crucial issues involved: retention by the United States of its undiluted sovereignty over the Canal Zone, the major modernization of the existing canal under current treaty provisions, and authorization for U.S. citizens residing in the Canal Zone to elect a nonvoting delegate in the Congress as have Guam, the Virgin Islands, and the District of Columbia.

Mr. Speaker, because of the transcendent importance of the canal situation for United States and hemispheric security, I would emphasize again that the problems are not merely local ones but that they have global significance. As well understood by competent students of the subject, including some of our Nation's leading strategists, the Panama Canal is the crucial target for the conquest of the Caribbean by the U.S.S.R., which is far advanced. Upon the way the challenge at Panama is met will depend not only the control of the strategic interoceanic link but as well the destiny of the Caribbean Basin and with that the continuance of the United States as an independent Nation.

Mr. Speaker, in order that the Congress and the Nation at large may be informed in the premises, I quote as part of my remarks the indicated letter of Commander Wiles of the American Legion, a recent syndicated article by Colonel Robert Allen, distinguished Washington columnist and authority on geopolitics, and the cited Washington Post editorial as parts of my remarks:

MARCH 24, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Having just returned from a visit to the Panama Canal Zone, I am deeply concerned about the trend toward a gradual withdrawal of United States responsibility and interest in the Caribbean area, and especially the Canal Zone itself. I am likewise concerned about continuing advocacy by members of the Department of State to relinquish United States sovereignty in the Canal Zone which would symbolize a growing U.S. weakness and lack of national will to protect our vital interests.

I well understand the dilemma in which some of your predecessors and associates have placed the Presidency at this time. However, I see no alternative to facing the proposition that the Canal Zone is part and parcel of U.S. territory and cannot be given away, unless and until the people of the United States, and their representatives in Congress feel it is in their interest to do so. In the final analysis, it is the people who paid for the Canal and who have borne the burden of its construction, maintenance and protection for the past 72 years.

I strongly urge you, Mr. President, to reevaluate the administration's policy on the Panama Canal with a view to finding a viable alternative to present attitudes and trends. One prospect is to resume the immediate major modernization of the Canal which would give employment, improve the earnings and standards of the entire area, and improve relations between Panama and the United States.

As you know, we have already spent more than $170.0 million on such a modernization program. More to the point, resumption of the modernization effort would meet the growing demands of Canal users at a time which the average size of vessels using the Canal is increasing, and this suggestion would square off with Canal pilots who strongly recommend such action. Moreover, such a modernization is authorized under existing treaty provisions and does not require negotiations or treaty changes

Another suggestion which I believe has merit is the re-establishment of the Navy's Special Service Squadron which was home-based in the Canal Zone for two decades prior to World War II. This token naval force was most effective during those years and now it would symbolize a continuing U.S. interest in the area. Such a small force would not be provocative and yet it would reassure United States citizens living there as well as those within our own boundaries. It would serve as a symbol of stability and strength in many ways.

Mr. President, The American Legion is mandated to retain U.S. sovereignty of the Canal Zone and Canal. It is my judgment that this mandate, representing grass roots sentiment, will not change in the foreseeable future because the sovereignty in the Canal Zone continues in our national interest. This fact is reinforced by the Soviet Union's continued efforts to penetrate the Western Hemisphere and in light of recent Soviet-Cuban collaboration in Africa.

I urge you in behalf of the 2.7 million members of The American Legion to take a firm stand on this smouldering Canal Zone situation. I believe the general public would be inspired by your initiative and give you their support.

Sincerely yours,

HARRY G. WILES,
National Commander.

FIELD NEWSPAPER SYNDICATE,
National Press Building,
Washington, D.C.

(By Robert S. Allen)

WASHINGTON, March 20, 1976.—Russia's latest sinister tactic of using Cuban mercenaries for aggression in other countries bars any tampering with U.S. sovereignty over the Panama Canal.

That's the forceful warning of Senator Harry Byrd, Ind-Va., influential member of the Armed Services and Finance Committees.

Citing the grim fate of Angola, Byrd in a stern letter to Secretary Kissinger flatly calls for halting the secrecy-shrouded negotiations to turn over control of the strategic waterway to the pro-Castro regime of Panama dictator Omar Torrijos.

"If Cuba's Soviet-outfitted military forces are allowed to continue their activities, as events would indicate they plan to," declares Byrd, "it is only a matter of time before they strike in our own hemisphere. . . . The United States can no longer afford to turn its sovereignty over the Panama Canal and the Canal Zone to the government of Panama."

There is a direct and ominous relation, Byrd holds, between the Kremlin's crafty intervention in Angola and a similar menace confronting the U.S. in the Panama Canal.

SPELLING IT OUT

Mincing no words, the Virginian points out:

"It is evermore apparent that Soviet leaders, using Cuba as their weapon, believe they have found a new level of conflict that can be pursued without damaging the overall relations between the U S. and Russia. Such a situation is intolerable."

Hammering home that point, Byrd notes that Kissinger himself has stressed the vital need for the U.S. to retain unlimited scope to safeguard the Panama Canal. Kissinger did that, Byrd recalls, in a speech last September at the Southern Governors Conference, saying:

"The United States must maintain the right, unilaterally, to defend the Panama Canal for an indefinite future."

Heartily agreeing, Byrd bluntly calls on Kissinger to make good on that.

"Should the U.S. relinquish its sovereign rights over the Panama Canal and the Canal Zone," says Byrd, "our government would have no meaningful recourse if the government of Panama attempted to evict the U.S. from what would then be that country's sovereign territory. This is a matter of the utmost importance, and I hope that you too will now agree that the U.S. can no longer afford to turn its sovereignty over the Panama Canal and the Canal Zone to the government of Panama."

Kissinger's response remains to be seen.

REARMING CASTRO

There is menacing evidence of what Moscow is doing.

It is definitely known that since the first of the year the Soviet is extensively upgrading Cuban armaments with late-model MIG–23 jet fighter-bombers, T–34 tanks with 120mm cannon, and ground-to-ground and ground-to-air missiles of the powerful SAM type.

Significantly, the Cuban mercenary force of around 15,000 transported and maintained in Angola by Russia was equipped with ground weapons of this type. It was these superior weapons that crushed the anti-communist Angolans.

It is also positively known that Cuba is now training Panamanians in guerrilla warfare.

This is highly revealing in the light of strongman Torrijos' recent bellicose announcement in a radio interview in Bogota, Colombia, that if the protracted negotiations with the U.S. over the Panama Canal prove unsatisfactory, "We will have to resort to the violent stage."

"There are no armed forces in the world that can occupy a country if that country doesn't want to be occupied," thundered Torrijos. "There is no power capable of preventing the new generation of Panamanians, together with our national guard, from recovering the U.S.-occupied enclave little by little."

It is of interest to note that the Panamanian dictator did this tough talking three days after Kissinger, reporting on his trip to five Latin countries, warned Cuba not to take U.S. inaction in Angola as a guide to this country's response to any future Cuban intervention in the Western Hemisphere.

It would appear that Torrijos was not impressed.

Addendum: Representative John Murphy, D–NY., former chairman of the Panama Canal Subcommittee, is flatly charging the State Department with "spearheading a major campaign of deceptive propaganda in support of a new Panama Canal treaty. This projected agreement, without prior authorization of Congress, would surrender U.S. sovereign control over the U.S.-owned Canal zone and eventually the Panama Canal itself."

[From the Washington Post, Mar. 25, 1976]

AMERICAN IRRESPONSIBILITY IN PANAMA

The recent wildcat strike or "sickout" of 700 American employees of the Panama Canal provided, unintentionally, a major boost to the lagging effort to negotiate a new United States-Panama Canal treaty. This job action showed the irresponsibility of the American "Zonians" who insist that they and they alone can run the canal right. This widely trumpeted claim has had wide acceptance until now among the Zonians, the 15,000 privileged Americans who profit personally from maintenance of the status quo. It has also been accepted by those other Americans who equate the 73-year American presence in Panama with the natural order of the universe and who accept, uncritically, Zonian propaganda to the effect that Panamanians are a lesser breed unfit to tend to the canal.

Yet here were 700 of the zone's elite, acting in apparent violation of American laws prohibiting strikes by U.S. government personnel and thereby creating what the secretary of the Army (the responsible official) called "a serious disruption of international trade." Some 170 ships in transit were tied up at one point—the most massive backlog in the history of the waterway. Moreover, almost all of the 700 were holders of "security positions." Key canal jobs are open only to American citizens, the theory being that Panamanians can't be relied on to keep the canal operating.

The 700 seem to have been protesting, among other things, a proposal to eliminate the 15 per cent "tropical differential" paid to American civilians in the well airconditioned zone. In currently difficult world economic conditions, the unbusiness-like manner in which the U.S. Corps of Engineers has administered the canal has aggravated its financial problems to the point where even some of the privileged Zonians are complaining. In this little pocket of social backwardness, there was also opposition to a fresh legal demand for racial integration of housing and schools. Some of the 700 also appeared intent on resisting the attempt by American diplomats to draft a modern treaty.

If the striking Zonians did not understand how they were undermining the case for continued American control of the canal, the U.S. government did. The secretary of the Army ordered 35 military people to perform harbor, transit and tug pilot tasks. This evidently helped persuade the strikers to return to work, and it let the U.S. government assert that it is indeed "committed to maintaining the efficient operation of the waterway for the benefit of world shipping." But the point of Zonian irresponsibility had already been made. This is not to say that Panamanians, if they controlled the canal, would always be more responsible; but it is to say that the pretense of greater American reliability can no longer be maintained. During the strike we note, Panamanian leader Gen. Omar Torrijos publicly urged Panamanian employees of the canal to stay on the job. They did.

Perhaps this episode will give a much needed jog to the negotiations for a new treaty to replace the patently one-sided one that Teddy Roosevelt imposed upon a supine Panama in 1903. That old arrangement has since become an embarrassment to U.S. hemispheric diplomacy and, in its offensive provocation to Panama, a real threat to the great American interest in a smooth-running canal. The negotiations were proceeding fairly well last year until American politics intervened. Ronald Reagan, happening to discover the emotional grip which the canal still has on many older and conservative Americans, began attacking the talks as a "sell-out." President Ford unfortunately responded in a way that undermined his own diplomats.

Meanwhile, Gen. Torrijos has again disappointed those Americans who hope that, by demonstrating radicalism, he will thereby discredit the Panamanian case for control of the canal. The general visited Havana last January and returned with Fidel Castro's ringing endorsements of his own policy of patient negotiations. He has used the Castro imprimatur to face down Panamanian leftists who contend that violent struggle is the only way Panama can win the canal. Statesmanship and good politics alike now dictate that Mr. Ford make the adjustments in the American bargaining position that will allow a new treaty with Panama to be completed in a reasonable time.

THE HUMAN COST OF CANCER: TRAUMA FOR THE SURVIVORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 10 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, there is a lot of discussion today about the rising incidence of cancer in this Nation. This year, 365,000 Americans will die of cancer. One in four Americans will contract some form of the disease during their lifetime.

Scientists at the National Cancer Institute have produced evidence linking 60 to 90 percent of these cancer cases to environmental causes—including exposure to toxic substances.

Those of us who support toxic substances control legislation have been able to demonstrate the economic costs of cancer. Hospitalization costs alone for cancer patients exceed $18 billion per year. But economic costs of hospitalization and treatment for cancer victims, as significant as they are, represent just one component of the overall national cost of this tragic disease. Survivors, too, pay a tragic price. They suffer physical and emotional trauma as they watch their family member or friend die before their very eyes. They suffer also the crushing burden of guilt and depression that follows the death of the victim. Families are torn apart, and productive lives are ruined as a result of their terrible experience.

When we weigh the cost of cancer against the cost of toxic substances control, we must take into account these additional costs—both economic and human—that are paid by the cancer victim's family and friends.

Mr. Speaker, in order that my colleagues may better understand the dimensions of this problem, I will include at the end of my remarks an article from today's Washington Post, which describes some of the effects I have already mentioned. As the article points out, at least one member of 95 percent of families of cancer victims later becomes ill. Almost 88 percent of the affected families have at least one member incapacitated from morbid grief reactions. Thirty-five percent of the affected families have members who require follow-up psychiatric care as a result of their experience with the cancer victim. Additionally, 40 percent of the families of cancer victims report the development of a serious drinking problem within the family.

Mr. Speaker, since this House will soon be taking up legislation that will help to stem this national cancer epidemic, I believe it is essential for my colleagues to be aware that cancer costs include far more factors than hospital and doctor bills. They include human costs that are appalling. When these costs are weighed against the modest costs of pre-market screening of toxic substances, it is obvious that we can no longer afford delay in implementing effective toxic substances control. In this case, the old truism about an ounce of prevention being worth a pound of cure has never been more compelling.

I am well aware of the fact that the American chemical industry denies the inter-relationship between toxic chemicals and cancer. However, I do not believe one needs a degree in toxicology to see that the rising incidence of cancer has been accompanied by a rising amount of production of chemicals, many of them hazardous to both human health and the environment.

I believe the burden of proof as to the safety of a chemical substance should rest on the industry that profits from its production.

Why should the taxpayers of America pay the cost of environmental cleanup necessitated by chemical contamination of our air, soil, and water? Why should American taxpayers pay for disaster relief to farmers and ranchers whose livestock has been killed or made nonmarketable by pesticide or other chemical contamination of animal feed? Why should American taxpayers have to pay for multimillion-dollar research programs to find cures for cancer caused by toxic substances produced by the American chemical industry?

Why should 365,000 Americans die this year from a disease that is environmentally induced?

Mr. Speaker, I would like to hear the answers that the chemical industry has to these questions.

In the interim, I would like to share with my colleagues the article from the Washington Post on cancer survivors costs, and I include it at this point in my remarks:

CANCER HITS SURVIVORS HARD, TOO

(By Stuart Auerbach)

ST. PETERSBURG BEACH, FLA. March 30.—"I'm so jittery and shaky I can't even get a job. It's a life of hell. Liquor is the best answer," wrote a Mid-western housewife whose husband and 18-year-old son died of cancer within two years.

Her letter to a Stanford University social worker, released here today, illustrates a problem that is receiving an increasing amount of attention from cancer specialists: the psychological stress dying cancer patients put on friends and relatives.

The Midwestern woman said she is still "a nervous wreck" one year after her husband died. A New England lawyer said the experience of watching his 10-year-old daughter die of leukemia is still "vivid and unreal" four years later.

"I still lie awake nights thinking about her and have fits of depression which are obvious around the holidays. My wife and I have ulcers as a result of the one year of waiting and watching—nothing serious."

A study at Stanford University Medical Center shows that the reactions of the Midwestern housewife and the New England attorney are typical, Dr. David M. Kaplan, an expert in psychiatric social work, told an American Cancer Society seminar for science writers.

He said the Stanford study of 40 families shortly after the death of a leukemic child uncovered massive emotional and physical health problems.

Physically, at least one member of 95 per cent of the families later became ill. Almost as many—88 per cent—reported that some members suffered from "morbid grief reactions": they had problems working, going to school and taking care of the house. In 35 percent of the families, one member was in psychiatric treatment after the death, and 40 per cent of the families reported that someone in the family had developed a serious drinking problem.

The deaths also hurt parents' relations with their other children, and, in 70 per cent of the families, aggravated marital problems. Divorces or separations were blamed on deaths in nine families.

New treatment methods that keep cancer patients alive longer often exacerbate the emotional problems that they and their families face.

"The multiple crisis in cancer exhausts the parents emotionally," said Kaplan, "and often leads to the feeling that they wish the child would die."

Kaplan said treatment for the emotional problems of cancer patients and their families are offered rarely.

But detecting these emotional problems early is as important to their successful treatment, he added.

"We need to care for the families of patients who have cancer," said Dr. La Salle D. Lefall, a surgeon from Howard University School of Medicine in Washington.

The attitudes of family and friends are important to the cancer patient's well-being, said Orville E. Kelly, 45, a former Illinois newspaperman who is suffering from cancer.

He formed an organization two years ago called Make Today Count for advanced cancer patients and their families. It now has 54 chapters around the country.

"I always thought that cancer happened to somebody else, so I wasn't very well prepared," said Kelly, who was told in June, 1973, that he had lymphoma, a cancer of the lymph glands. He said he expected to die within six months, but under drug treatments his cancer has been in remission for the past nine months.

"Following my hospitalization," he said, "I went home to await my first chemotherapy (drug) treatment, and I began to discover fear and depression are terrible things to live with. I gave up. I went to bed to await the inevitable. I even considered suicide as an easy way out.

"I discovered the attitudes of family, friends and relatives had changed. Old friends were uneasy around me, afraid they would say something wrong. Actually, there was little they could say I hadn't already thought of several times."

He said he spoke little about his problems because he didn't want to worry his family. His wife slept in another room because she didn't want him to hear her crying.

INCREASED FUNDING FOR ELDERLY AND HANDICAPPED LOAN PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, I am today introducing legislation to increase the aggregate funding authority for the elderly and handicapped loan program.

Although the section 202 loan program has been in existence since 1959, there have been multiple problems with its funding which have caused the program to be less than effective in meeting the housing needs of our Nation's senior citizens. In the Housing and Community Development Act of 1974, which I cosponsored, we sought to reverse this process, but again the administration has refused to back this program adequately.

In fiscal year 1976, HUD received 1,527 requests for elderly housing loans, amounting to a total demand of $6 billion. If all of these applications had been approved, 231,623 new housing units for our elderly and handicapped citizens would have received funding. Actually, only about 3.4 percent of the applications filed will be approved.

In my own State of New Jersey, it is estimated that only 3 of 82 applications will be approved and only 443 of 13,039 units will be funded. Obviously, there is a great need to expand this program.

The legislation I am submitting today will increase the authorizing level of 202 housing for the elderly and handicapped from $800 to $3.3 billion. This increase, if implemented, would allow construction of housing units to better keep pace with need. In addition, it would creat much-needed jobs in the housing construction industry, thus aiding in the solution of the dual problems of unemployment and elderly housing.

Mr. Speaker, the Congress must assign the highest priority to the needs of our senior citizens who desperately require more and better housing at reasonable rates. Passage of this legislation will help insure that senior citizens will be able to secure safe, decent, sanitary, and economic housing.

OVERSIGHT HEARING—NONIMMIGRANT VISAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will receive testimony on Wednesday, April 7, from officials of the Department of State and on Thursday, April 8, from officials of the Immigration and Naturalization Service as part of the committee's oversight responsibility on procedure and policy relative to the issuance of nonimmigrant visas.

The hearings will be held in room 2237, Rayburn House Office Building, and will commence at 10 a.m.

THE "VICIOUS ATTACK" ON JIMMY CARTER BY THE SECRETARY OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. MATHIS) is recognized for 5 minutes.

Mr. MATHIS. Mr. Speaker, in the last few days an announced Democratic Presidential candidate, Gov. Jimmy Carter, has come under a vicious attack by the Secretary of Agriculture for quote "growing fat from Federal peanut subsidies."

No one knows any better than I, the Secretary's position on all farm programs, but to inject something this petty into Presidential politics and to make false accusations is to me completely in error. Yes, Mr. Carter and his family are in the peanut business. They are there just like many others who have participated in an industry that has directly and indirectly affected the State of Georgia in the neighborhood of $500 million a year.

The Secretary said that it was time for Mr. Carter to get income from the public marketplace and not on the public tap as a drain on the American taxpayer. Mr. Speaker, according to Department figures themselves, Mr. Carter's farming operations have received only $2,728 total in Government payments since 1970. I wish the Secretary would explain to me how this small payment constitutes "growing fat from Federal peanut subsidies."

I am sure that the Secretary of Agriculture has more important duties than to engage in politics with a candidate who has not even been nominated by his party. When Mr. Carter wins the Democratic nomination, then I can understand the entire administration taking every possible political advantage but I feel that singling out a candidate at this stage is somewhat below the dignity of what is expected of a member of the President's Cabinet. The Secretary is well aware of the negotiations between all segments of the peanut industry for the past 3 years to lower the costs of the peanut program, and he is also aware that the fruition of these long and hard negotiations is close at hand. So, Mr. Speaker, I feel that the attacks on Mr. Carter, and the callous statements that were made, was an attempt to focus unfavorable publicity on a farm program as well as Mr. Carter. As chairman of the Agriculture Subcommittee that has jurisdiction over peanut legislation, I can only say that political attacks of this type do a disservice to the many people who have labored diligently for the past 3 years to reach a consensus on legislation which would make some meaningful changes in the program.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, I thank my distinguished friend, the gentleman from Georgia (Mr. MATHIS) for yielding to me.

Mr. Speaker, the gentleman from Georgia is widely known as the foremost expert on peanuts in the United States and thereby he is the foremost expert on peanuts in the entire U.S. Congress and consequently I applaud the gentleman. Peanuts is a great industry in Alabama as well as in the gentleman's own State of Georgia.

Mr. Speaker, I would ask the gentleman from Georgia, do I take it that the gentleman is offering his support now to the Presidential candidacy of former Governor Carter, or what is the gentleman's position?

Mr. MATHIS. Mr. Speaker, the gentleman from Alabama (Mr. FLOWERS) is a very intelligent and astute politician and, as such, I will be quick to say that I think the gentleman can make his own judgment, but the gentleman from Alabama certainly can state that the gentleman from Georgia has taken strong opposition to the remarks of Secretary of Agriculture Butz.

Mr. FLOWERS. Mr. Speaker, I would reply to the gentleman from Georgia by saying that we in Alabama had hopes the gentleman from Georgia would extend his support to our Governor who is also running for the Presidency.

Mr. MATHIS. Mr. Speaker, I would say to the gentleman from Alabama that after next Tuesday in the primaries in New York and Wisconsin that the Governor from Alabama probably will not be in the race.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MATHIS. I am delighted to yield to the distinguished gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I regret to say that I was absent from the floor and missed the historic remarks of the gentleman from Georgia. I was wondering if the gentleman could start over again so that I could have the benefit of his views?

Mr. MATHIS. I would much prefer that the gentleman read my remarks in the CONGRESSIONAL RECORD tomorrow.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. MATHIS. Of course I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I was wondering whether the gentleman from Georgia was talking of boiled peanuts or dried peanuts.

Mr. MATHIS. Mr. Speaker, I think it is entirely possible that it may be peanuts that are located inside the head of a certain bureaucrat downtown, I would say to the gentleman from Missouri.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. MATHIS. I am delighted to yield to my colleague, the gentleman from South Carolina.

Mr. DAVIS. Mr. Speaker, I would ask the gentleman from Georgia if the gentleman thinks that this might be a combined effort on the part of the Secretary of State taking off on various other candidates for discussing foreign policy and détente and the Secretary of Agriculture Butz taking off on the most distinguished and most able of all of the candidates, Mr. Carter of Georgia? I would further ask him whether the gentleman is talking about a certain pattern that we now see coming out of the administration or if the gentleman is just saying nuts to Butz?

Mr. MATHIS. Mr. Speaker, I would say to my distinguished friend, the gentleman from South Carolina (Mr. DAVIS) that I probably am saying both in that we have seen a pattern set on behalf of the administration in first attacking a distinguished Senator and now in attacking the distinguished gentleman from Georgia, Mr. Carter. But I think the fact of the matter is that the attack now has shifted from Senator JACKSON to Mr. Carter and that this indicates that the Ford administration knows that they are in real trouble with the former Governor of Georgia.

Mr. FLOWERS. Mr. Speaker, would the gentleman yield further?

Mr. MATHIS. I am happy to yield further to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. MATHIS. Mr. Speaker, I yield back the balance of my time.

THE FEDERAL RESERVE REFORM ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, I am joining today with Representatives FERNAND J. ST GERMAIN, chairman of the Subcommittee on Financial Institutions; WILLIAM S. MOORHEAD, chairman of the Democratic caucus of the House Banking, Currency and Housing Committee; and STEPHEN L. NEAL, chairman of the Domestic Monetary Policy Subcommittee, in introducing H.R. 12934, the Federal Reserve Reform Act of 1976.

The bill helps assure that monetary policy plays its proper role in achieving national economic goals. It would bring a greater element of public responsibility to the conduct of monetary policy—which now, too often, works against the intent of both the Congress and the administration.

The conduct of our monetary policy needs improvement.

At times it has been unduly inflationary. In early 1972, for example, the Fed unnecessarily opened the monetary floodgates. From an annual rate of 1.7 percent between August and December 1971, money growth—M_1—ballooned to 13.8 percent in February 1972; 11.6 percent in March; 7.5 percent in April; and an average rate of 8.2 percent for the period January 1972–July 1973. The results were the reelection of Richard Nixon, the candidate supported by the great majority of bankers, and the catastrophic inflation which followed.

At other times, monetary policy has been unduly recession-inducing. For example, the Fed sharply contracted the money growth rate to only 0.9 percent for the August 1974–January 1975 period. This sharp overreaction to past excesses brought record interest rates, and exacerbated the recession of 1974–75.

In May–June 1975, as interest rates were declining amid early signs of recovery, Congress passed a much-needed tax reduction act to help things along. The Fed countered this action by deliberately raising the Federal funds interest rate. The Shadow Open Market Committee, an eminent group of monetarist economists, has concluded that—

> Federal Reserve authorities . . . were . . . responsible for the subsequent retardation in the second half of 1975.

We need a better balanced monetary policy. H.R. 12934 would achieve that by providing that the privilege of voting on the Federal Open Market Committee, which makes monetary policy, is restricted to Presidentially appointed public officials; that the boards of directors of the 12 Federal Reserve Boards must be more democratically constituted; and that the monetary authorities must follow national economic policy guidelines.

Here is what H.R. 12934 would accomplish:

First. The term of Chairman. The term of the Chairman of the Federal Reserve Board would be changed to coincide with that of the President of the United States, with a 6-month lag. Today, the Chairman's 4-year term may expire at midpoint during the President's term. Since the responsibilities of the Chairman are so closely enmeshed with those of the President' other economic advisers, there is a strong case for providing that a new President be given the opportunity, within 6 months after his inaugural, to appoint a new Chairman of the Fed.

Second. Making the Open Market Committee independent of the commercial banks. The bill provides that the presidents of the 12 regional Reserve Banks be appointed by the President and confirmed by the Senate. Instead of the present 5-year terms, all of which expire at the same time, they would serve staggered 6-year terms, beginning in 1981, when the present terms expire.

Today, these bank presidents are nominated by the 12 Banks' boards of directors. Two-thirds of these boards of directors are selected by the member commercial banks. Five of these bank presidents—in rotation—serve on the 12-member Federal Open Market Committee, along with the seven members of the Board of Governors. Thus these essentially private people have a critical voice in the determination of monetary policy.

The 12 Reserve Bank presidents ought to be appointed by the President and confirmed by the Senate, rather than being chosen primarily by bankers. The Federal Reserve should be independent—not only of the President, but of the commercial banks.

The bill provides that upon enactment, votes on the Federal Open Market Committee will be limited to presidentially appointed members. This means that until the present terms of bank presidents expire, and Presidential appointments are made, the Reserve bank presidents will not have a vote on the Federal Open Market Committee. They will, however, continue to serve on the committee and to have a full voice in those deliberations.

Third. The boards of directors. The bill makes changes in selection of the boards of directors of the Reserve banks. Today, the directors are too narrowly representative of the banking and business interests of the community; other segments of the community who have just as vital a stake in monetary policy are largely unrepresented.

The influence of the Reserve bank boards on monetary policy is enormous. For example, the Reserve banks set discount rates for their region. These discount rates are one of the three key instruments of monetary policy, along with reserve requirements and open market operations. Their input into the Washington deliberations of the Board of Governors is enormous. Thus, it is important that all interests of the community, and not just financial interests, are represented on the 12 boards of directors.

Today, there are nine directors of each Reserve bank. The three class A directors are bankers chosen by the national banks and State member banks of that region. The three class B directors are also chosen by these banks from among persons actively engaged in "commerce, agriculture, or some other industrial pursuit" in their district. Only the three class C directors, who are designated by the Board of Governors, can aspire to a wider scope of interest.

Under this legislation, the Board of Directors would be expanded to 12 members. The three class A and three class B directors would be chosen as they are now. But the six class C directors, who would be chosen by the Board of Governors, would be public members, chosen "without discrimination on the basis of race, sex, or national origin, and with due consideration to the interests of labor, education, and consumers."

This would offer opportunities for appointment of women and minorities, who have been badly discriminated against through the entire history of the Federal Reserve. Since the Fed was established in 1913, there have been 1,042 persons appointed to these boards of directors—and never a woman anywhere. There have only been four blacks.

Such discrimination is inexcusable. The boards of directors must become more representative of the American public they serve.

Fourth. Employment Act goals. The Federal Reserve will be required by the bill to pursue the objectives of the Employment Act of 1946—"maximum employment, maximum production, and maximum purchasing power—defined as maximum price stability." From the recent history of record-high unemployment and record-high inflation, the Fed clearly needs these objectives constantly before it.

Fifth. Congressional oversight. The bill will make permanent House Concurrent Resolution 133, adopted in March 1975, requiring the Chairman of the Federal Reserve to testify before the Banking Committees of Congress every 3 months as to the Fed's objectives and projections for monetary policy for the ensuing year.

These projections, of course, would be imprecise. Circumstances the Fed cannot foresee or control affect the outcome. There would be no intent to hold the Fed to its projections, or lock it into the pursuit of announced targets.

Nevertheless, the Fed's up-to-date information on economic conditions and policies would be extremely useful to the Congress and to the public.

Objection has been raised that making such objectives public would help speculators. But this argument must be rejected. If information is made public for one and all to see, speculators who now thrive on inside information would lose their advantage.

The requirement that the Fed make an accounting to Congress every 3 months has proved entirely beneficial. It has offered an unprecedented and healthy dialog between Congress and the Federal Reserve. Continuation of the practice, which expires at the end of the

94th Congress, would be in the public interest.

There is a long tradition of independence of the Federal Reserve. Under this legislation, the Fed would continue to have all the independence from political pressures that is needed. But it would also help to make the Fed more independent in another way—more independent of the narrow interests of bankers who now exercise too much control over the Fed. The late, great chairman of the House Banking Committee, Wright Patman, used to say: "The Fed is a wholly owned subsidiary of the commercial banks." It is time that the Fed be restructured to give adequate voice to the public interest.

The text of H.R. 12934 follows:

H.R. 12934

A bill to promote the independence and responsibility of the Federal Reserve System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

§ 1. Short title

The short title of this Act shall be the "Federal Reserve Reform Act."

§ 2. Terms of chairman and vice chairman of Board of Governors

(a) The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking the third sentence thereof and inserting in lieu thereof the following: "Of the persons thus appointed, the President, by and with the advice and consent of the Senate, shall appoint one as chairman of the Board. The President shall designate one of the other members as vice chairman of the Board. The term of each shall expire upon the expiration of his term as a member of the Board, or six months after the term of the President appointing him is scheduled to expire, or six months after the person appointing him ceases to be the President, whichever first occurs.".

(b) The amendment made by subsection (a) of this section shall apply only with respect to appointments and designations made after the date of enactment of this Act.

§ 3. Responsibility of Federal Reserve bank presidents and voting rights on Federal Open Market Committee

(a) The subparagraph headed "Fifth." of the fourth paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended to read as follows:

"Fifth. To appoint by its board of directors vice presidents and such officers and employees as are not otherwise provided for in this Act, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The first vice president of the bank shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years, and shall, in the absence or disability of the president or during a vacancy in the office of the president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the first vice president, it shall be filled in the manner provided for original appointments, and the person so appointed shall hold office until the expiration of the term of his predecessor.".

(b) Section 4 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Each Federal Reserve bank shall have a president who shall be the chief executive officer of the bank and shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and all other executive officers and all employees of the bank shall be directly responsible to him. Under the appointments initially made pursuant to this paragraph, the terms of office of the presidents of the Federal Reserve banks shall expire as follows: New York, San Francisco, Minneapolis and Boston on June 30, 1982; Cleveland, Dallas, Philadelphia and Kansas City on June 30, 1984; Chicago, Atlanta, St. Louis and Richmond on June 30, 1986. Upon the expiration of the foregoing initial terms, each term of office of a Federal Reserve bank president shall expire six years after the expiration of the previous term for the president of that bank, and any person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the unexpired portion of such term.".

(c) The amendments made by subsections (a) and (b) of this section shall be effective with respect to appointments made on and after the date of enactment of this Act, but shall not affect the term of office under any appointment made prior to such date.

(d) Section 12A(a) of the Federal Reserve Act is amended to read as follows:

"(a) The Federal Open Market Committee (hereinafter in this section referred to as the 'Committee') shall meet in Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee. The Committee shall consist of the members of the Board of Governors of the Federal Reserve System, the president of the Federal Reserve Bank of New York, and four of the presidents of the other Federal Reserve banks who shall be designated by the Board of Governors so that the president of the Federal Reserve Bank of Cleveland and the president of the Federal Reserve Bank of Chicago are alternately members for twelve-month periods beginning on March 1, and the president of each of the remaining Federal Reserve banks is a member of the Committee for one twelve-month period (commencing March 1) out of every three. The first vice president of any Federal Reserve bank may serve as a member of the Committee at any time when the president of that bank is absent from a meeting of the Committee or is otherwise unable to serve. No member of the Committee may vote unless his membership on the Committee is by virtue of an office to which he has been appointed by the President by and with the advice and consent of the Senate."

§ 4. Boards of directors of Federal Reserve banks

(a) The ninth paragraph of section 4 of the Federal Reserve Act is amended by changing "nine" to read "twelve".

(b) The first sentence of the twelfth paragraph of section 4 of the Federal Reserve Act is amended by changing "three" to read "six".

(c) (1) The first sentence of the twentieth paragraph of section 4 of the Federal Reserve Act is amended by inserting immediately before the period at the end thereof the following: "without discrimination on the basis of race, sex, or national origin, and with due consideration to the interests of labor, education, and consumers".

(2) The last sentence of such paragraph is amended by changing "third class C director" to read "class C director designated by the chairman".

§ 5. Congressional hearings and monetary policy

(a) Section 2 of the Federal Reserve Act is amended to read as follows:

"SECTION 2. GENERAL POLICY; CONGRESSIONAL REVIEW

"(a) The formulation and implementation of monetary policy under this Act shall be governed by the national policy to promote maximum employment, production, and purchasing power (price stability).

"(b) At quarterly hearings conducted alternately by the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Currency and Housing of the House of Representatives, the Chairman of the Board of Governors of the Federal Reserve System, on behalf of the Board, the Federal Open Market Committee, and the Federal Reserve banks, shall inform the Congress of any changes in monetary policy which have been made since the most recent hearings pursuant to this subsection; of the ranges within which the levels or rates of change in monetary aggregates and interest rates are intended or expected to vary over the succeeding twelve-month period; and of the expected effects of monetary policy in such twelve-month period on statistical measures of employment, production, and purchasing power (price stability). The Chairman shall include any other information bearing upon monetary policy that he believes will be of value to the Congress.".

(b) The amendment made by subsection (a) of this section shall not affect the validity or effectiveness of any action taken under section 2 of the Federal Reserve Act prior to such amendment.

§ 6. References to Federal Reserve Act paragraphs

References in this Act to paragraphs of the Federal Reserve Act refer to the paragraphs as designated in the compilation of the Federal Reserve Act as amended through 1974, compiled under the direction of the Board of Governors of the Federal Reserve System in its Legal Division.

SPECIAL ORDER ON ESTABLISHING A SELECT COMMITTEE TO INVESTIGATE THE KING AND KENNEDY ASSASSINATIONS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I regret that a meeting of the Energy and Power Subcommittee last Thursday afternoon prevented me from being present during Congressman Tom Downing's special order on establishing a select committee to investigate the assassinations of John and Robert Kennedy and Dr. Martin Luther King, Jr. I want to commend my friend and colleague from Virginia, and also Congressman Henry Gonzalez, for arranging this time so that the House could discuss a matter of extreme importance—the political assassinations of the 1960's.

I was most distressed to learn that the Rules Committee 3 weeks ago decided not to consider the resolutions which more than 125 Members of Congress, including myself, have cosponsored. These resolutions would provide for the only means currently available for discovering the truth about these infamous crimes—an independent congressional examination of the facts.

I joined Mr. Downing and Mr. Gonzalez as a cosponsor of their resolutions, not because I had any preconceived notions about who committed the King and Kennedy's assassinations, or whether a conspiracy was involved in any or all of them, but because I was interested in settling the doubts and conflicting claims about these distressing issues once and for all. It is not healthy for the American people, the vast majority of who clearly do not believe the conclusions of the Warren Commission report, to be denied a full investigation of inconsistencies that have since come to light. Unfortunately, it now appears that these uncertainties will continue.

I hope that the members of the Rules Committee, and especially the distinguished chairman of the committee, Congressman RAY MADDEN, will be impressed, after the many statements on this issue offered during the special order, with the great urgency of this matter and will move soon to reconsider their initial decision.

The American people want to know the truth; they deserve the truth. Congress, as their representative, must take the lead in ascertaining it.

GUATEMALAN RELIEF BILL

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I rise in support of H.R. 12046 and commend the Committee on International Relations for its work on this bill to provide $25 million in disaster relief for Guatemala. In so doing, the committee and the Congress have the opportunity to demonstrate once again our Nation's humanitarian concern for people in need throughout the world.

I especially want to thank the committee for devoting its attention to allegations of improper diversion of relief supplies away from the poor victims of the earthquakes who most needed our assistance. In a letter to the distinguished chairman of the committee, Congressman MORGAN, and to Secretary of State Kissinger, I suggested that this problem be dealt with by channeling our aid through voluntary relief organizations experienced in this type of effort, rather than on a government-to-government basis. The committee saw fit to amend H.R. 12046 to provide for the involvement of such agencies and I want to thank and commend the members for that action.

This morning, I received a copy of a State Department cable from the U.S. Embassy in Guatemala in response to the concerns expressed in my letter to Secretary Kissinger and to the allegations contained in an article which I inserted in the CONGRESSIONAL RECORD on March 2. The State Department says it is not aware of any improper diversions of aid, and that the charges carried by the Associated Press story have been essentially refuted. I would point out that the article dealt with the situation in one specific area and that people I have spoken to personally have observed firsthand what they considered to be improprieties taking place. Hopefully, through ongoing scrutiny by our Embassy in Guatemala and the inclusion of section 6 in this legislation, those incidents will be held to an absolute minimum.

For the benefit of my colleagues, and in the interest of fairness, I am inserting the text of the Embassy cable at this point:

DEPARTMENT OF STATE TELEGRAM

1. Summary: Ref article also published in the Guatemalan daily newspaper, "La Nacion" on February 12 but was subsequently recanted in same newspaper on February 13 and February 15. Latter two articles described excellent efforts on part of Mayor Elias and Alvarado family in emergency rescue work being carried out, and are being pouched ARA/CEN March 16.

Ref article contained a number of half truths which bear little resembence to true picture as witnessed by US aid official working during this same period directly with Mayor Abelardo Elias and members of Alvarado family. Specific ref food items were not, repeat not, those provided through U.S. disaster relief efforts—nor were ref food items misused as reported.

Furthermore, it is the opinion of those members of the U.S. mission who visited there (ref B) and later, that San Martin, itself cut off for ten days after the earthquake except by helicopter, was and is now a shining example for rest of affected population, and Guatemala as a whole, of coordination and willingness to do all it can to pull itself by its boot straps.

Summary: San Martin: Population 5,000 (75 percent Indian); dead 490; injured 3,500 (approx.).

Greater area—(12 Aldeas): Population 33,000 (90 percent Indian); dead 287; injured 19,000 (approx.). End summary.

Following is a brief report by US aid education advisor (and former PCV) who was helicoptered into San Martin at CARE's request on seven February where he remained through late February sixteenth to coordinate emergency relief efforts of PVO's with community leaders.

Upon arrival February seven, found four members Alvarado family constructing temporary shelters supplied by Catholic Relief Services (CRS) to facilitate efforts of team of doctors from Roosevelt Hospital, Guatemala City, and Mexican Red Cross medical unit. Coordination activities of Alvarados allowed all medical personnel to spend 100 percent of their time on treatment of fractures, lacerations, vaccinations and organization of urgent medical treatment problems, including supplies helicoptered in. Alvarados organized town people, Boy Scouts, Caritas, San Carlos University sudents, etc. so that by February eighth noon, medical unit included temporary reception facility, medicine classification tent, three large shelters for injured needing prolonged treatment, observation, med evac, etc., plus sleeping quarters for 45 medical and backup personnel. Also installed were electric light and public address systems.

All of these people had to be fed, several Guatemala City wholesalers had sent canned food and some 250 fresh eggs. US aid advisor witnessed preparation of several 40-egg tortillas by Caritas nuns which they served to all patients and most personnel present, foodstuffs were at a premium. Convalescing patients received three meals per day though for the duration of the emergency; all other personnel ate only twice a day and only as they had time.

Evening of February seventh Mayor Elias stated to USAID advisor that he was personally satisfied to leave the organization of the medical unit to doctors and Alvarados. Elias then proceeded to obtain voluntary services of men and two trucks to go for Care PL–480 commodities being trucked to within eight miles of San Martin as road was impassable because of large landslides. Under auspices of Care caravan of private vehicles (including U.S. citizens) transported over six tons of food and 240 gallons of cooking oil to the landslide. Mayor Elias had approximately 280 farmers and Indians make an average of three trips over three kms. of landslides mostly up hill. By noon on February eighth commodities were being distributed in town square under his supervision, by members of the town council, auxiliary mayors and seven public school teachers. By sundown more than 7,000 adults had been given a choice of one of three commodities (seven lb. ration) available plus eight ounces cooking oil.

As Care and private citizens brought more food to the landslide, farmers and Indians continued the Herculean task of carrying it to the town center and surrounding villages for distribution on an every other day basis. Close to 17 tons (including four from national emergency committee and CRS) arrived on the backs of these people.

Distribution of relief commodities to 12 aldeas (26,000 people) was effected by careful planning with the Mayor, local emergency committee, medical personnel, local Coop Reps and World Neighbors Personnel (Ref B) plus Guatemalan Air Force and U.S. Army. Each evening, starting at 18:00 . . . ending 24:00 planning meetings (around several bonfires) organized the following day's activities including use of much appreciated U.S. Army Hueys for food drops and medical evacuations to difficult and inaccessible areas. Mayor and Alvarado brothers cooperated together in these long sessions. 100 percent commitment was observed throughout reporting officer's presence in San Martin.

Furthermore, GOG Army arrival was coordinated part of overall assistance to isolated areas. Army brought in CRS PL–480 commodities for hospital unit over back road from next county seat February eighth. Group which included Quiche speaking Captain was extremely helpful in transporting injured, providing backstop to Care potable water technician, transporting food to Aldeas, moving water tanks brought in by Chinooks and med evocations. No police action or control by military authorities was required in San Martin.

2. Conclusion: It should be noted that per "La Nacion" recants of February 13 and February, Cotera committed grave injustices to Mayor Elias and Alvarado family by his inaccurate statements. There is no evidence that U.S. Disaster Relief Committees were misused or diverted from their intended use. In fact, if other communities could count on having a Mayor Elias and a group such as the Alvarado family available during emergency relief efforts, whole process would be much smoother with less suffering experienced. San Martin is an excellent example of what self-help efforts can achieve. Disaster Relief Commodities of Care, CRS/Cartias were exceptionally well handled in San Martin.

3. Comment: We are distressed that Congressman Ottinger should use such sensationalist press coverage which press investigated and disavowed here on following day, as background for legislative actions. The reconstruction tasks facing Guatemala are sufficiently large as to strain the capabilities of all concerned. Restricting the use of U.S. resources solely through U.S. volags will exceed their capacities for planning and management and delay receipt of assistance by those most in need.

HON. WRIGHT PATMAN OF TEXAS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the recent death of the dean of the House, Congressman Wright Patman of Texas, is a loss deeply felt both here in the House and throughout the Nation, especially among the average wage earners, the poor, and the underprivileged whom he championed throughout his long and illustrious career.

While it is well known that I was an

opponent of Wright Patman on more than one occasion, I always had a great admiration for his steadfast fight for the welfare of the common man. And I deeply respected his formidable efforts to make the banking interests of this Nation, as well as the Federal Reserve Bank, respond to the wider public interest.

Wright Patman's dedication to the betterment of the small farmer, the small businessman, the veteran, the wage earner, the average income family, the poor and the underprivileged is amply proven by such legislative milestones as the Social Security Act, the Robinson-Patman Act, the Full Employment Act, the Truth in Lending Act, the Fair Credit Reporting Act and many others that bear his legislative imprint.

Wright Patman's 47 years as the Representative of the First District of Texas were in great part devoted to doing battle with those he deemed responsible for denying the average American the opportunity to enjoy a better life. Aside from his eloquent outrage at undue privilege and the abuse of power, the quality for which I admired him most was his unwavering upholding of the principles for which he stood and the fact that he was both generous in victory and gracious in defeat.

I wish to extend my heartfelt sympathy to the Patman family in their time of sorrow and to commend the record of service of Wright Patman as an inspiration to us all.

TRADING IN DOOM

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, last Friday, March 26, Senator Ribicoff had an extraordinarily thoughtful article on the "op-ed" page of the New York Times entitled, "Trading in Doom." In it he details some of the most troubling aspects of the current trend of export—by the United States and several other nations—of nuclear technology and equipment around the world, including to countries which are not signatories to the Nonproliferation Treaty and which may not have agreed to submit all their nuclear facilities to inspection and safeguarding by the International Atomic Energy Agency.

What Senator Ribicoff is talking about has concerned me greatly of late: By continuing exports of nuclear equipment and technology, we are systematically laying the groundwork for increasing the "nuclear club" of nations with nuclear weapons or the capability of making them.

The Ribicoff article sets forth extremely well what the underlying issues are, and I recommend that my colleagues give it their full consideration:

Trading in Doom

(By Abraham A. Ribicoff)

Washington.—Thirty years ago, when Hiroshima and Nagasaki were freshly imprinted on the mind of a war-weary world, Bernard Baruch presented the United Nations with our nation's plan for peacefully harnessing the atom. "We are here to make a choice between the quick and the dead," he admonished. "That is our business."

That is still our business today. The potential for a holocaust-producing showdown between the superpowers is the most immediate nuclear danger, but the greater danger may lie in the spread of nuclear weapons to many nations, even to terrorists, through the export of civilian nuclear technology.

In 1946, the Soviet Union's refusal to restrict its own development of atomic weapons prevented the United Nations from placing all dangerous nuclear activities and stockpiles under international ownership and control. Today, the refusal of France and West Germany to restrict their civilian nuclear exports poses the greatest obstacle to curbing dangerous nuclear trade.

The French and Germans, seeking to pull multibillion-dollar reactor sales away from the United States, offer an option that we do not—the facilities needed by a nation to produce and process its own reactor fuel. The problem is that these facilities—uranium-enrichment and plutonium-reprocessing plants—produce material suitable for making atomic bombs as well as reactor fuel. Therefore, they constitute the essential component of any nuclear-weapons-development program. Furthermore, these facilities are much harder to safeguard against theft than reactors, and they cannot be operated economically except in industrial nations with very large reactor programs.

For all of these reasons, the United States exports reactors and fuel that is unsuitable for weapons-making—but not fuel facilities capable of producing weapons-grade material.

The French and Germans have rejected our proposals for banning the export of nuclear-fuel facilities.

They also have blocked diplomatic efforts to bar nuclear sales to nations that refuse to ratify the treaty for the nonproliferation of nuclear weapons or that refuse to agree to place all their nuclear activities under the safeguards of the International Atomic Energy Agency.

The French and Germans suspect that our warnings about weapon's proliferation are a smokescreen for protecting our pre-eminent nuclear industry. The Germans approved the export of enrichment and reprocessing plants to Brazil as part of a major reactor deal over strong United States objections. But this action came shortly after the West German Government learned that an American company was trying to sell Brazil an enrichment plant—and this at the very time our diplomats in Bonn were saying that policy prohibits such sales.

Similarly, the French are not prepared to forfeit their technological lead in plutonium reprocessing because the United States objects to the export of these plants. France is going ahead with the shipment of such a plant to Pakistan despite our objections.

These exports are particularly dangerous because Brazil and Pakistan, which refuse to ratify the nonproliferation treaty, are free to have unsafeguarded nuclear activities and set off nuclear explosions.

Unfortunately, the United States, as exporter of 70 percent of the free-world civilian nuclear technology is also the biggest supplier of nations that are not treaty signatories. Thirteen of the 29 countries to which we make nuclear sales refused to ratify the treaty—not a good example for the French and Germans to follow. Moreover, our current and planned nuclear exports extend to most countries suspected of having atomic-weapon intentions, among them India, South Korea, Taiwan, South Africa, Brazil, Argentina, Iran, Israel and Egypt.

Our explanation for exporting to non-treaty nations and to otherwise suspect nuclear customers is the same as that of France and Germany: "If we don't, they will." The difference is that we will not export fuel facilities—only reactors.

The United States must persuade France and West Germany not to engage in a dangerous nuclear trade. We should set a nonproliferation example they can follow, and we should remind them that they still depend heavily on us for the technology, components, and particularly the fuel used in their own ambitious nuclear programs.

Our greatest, and perhaps last, opportunity for persuasion is immediately at hand. For at least the next four years, the United States and the Soviet Union will be the sole sources of enriched-uranium fuel for France and West Germany. Furthermore, the Russians seem to be as concerned as we are about the spread of nuclear weapons—the one issue on which the two superpowers have a strong identity of interest. It provides an excellent opportunity, therefore, to breathe new life into détente.

However, Secretary of State Henry S. Kissinger refuses to approach the Russians on jointly applying pressure on France and West Germany through the denial of nuclear fuel. I agree with Mr. Kissinger that this would be drastic action—even blackmail—but I also believe that drastic action will not be necessary once it is clear that the United States is prepared to act to stop the spread of nuclear weapons.

Therefore, I propose the following steps for the United States.

1. We should immediately explore with the Russians whether a common position can be reached in support of a ban on the export of nuclear fuel facilities to nonnuclear-weapons countries, and on all nuclear exports to non-treaty nations.

2. If a common position can be reached, it should be announced at the next meeting of the nuclear supplier nations, in June, and France and West Germany should be asked to announce their positions.

3. At the same meeting, we should demonstrate our good faith by offering to enter into a cooperative arrangement with the other suppliers, including France and West Germany, that will guarantee each supplier a minimum number of reactor sales a year. A "market share" arrangement among the suppliers may be our best hope for eliminating cut-throat competition in the sale of reactors and for promoting fuel arrangements that will discourage production and stockpiling of weapons-grade materials outside the supplier nations.

4. If agreement on strict export controls and market-share arrangements cannot be reached, the United States should announce that future supply of enriched-uranium fuel and of all other nuclear assistance will be made only to nations that join in meeting these nonproliferation objectives.

If all else fails, the United States should stop supplying reactor fuel to the Germans and French. This would make them wholly dependent on the Soviet Union. I do not believe that France and Germany are prepared to rely solely on the Russians.

NUCLEAR EXPORT TO INDIA

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I received in my office last Friday, March 26, a copy of an order from the Nuclear Regulatory Commission related to the State Department's affidavits and oral presentations regarding the proposal to license the shipment of 40,000 pounds of enriched uranium to India.

The State Department's initial argument was that there is need to consider the two licenses separately, so that the first shipment can be sent without delay "which could cause serious damage to the Tarapur project as a whole." Tarapur, is the location in India of two General Electric reactors for which the fuel export license is being sought. According to the order of the NRC, the State Department has somewhat modified that argument.

The NRC order is interesting in that, while it appears to slap the State Department's wrist for claiming the need for expeditious resolution of the license issue, it does not indicate yet any real feeling that NRC might itself decide against issuing any export license. This is not, I must say, explicit, but the tenor of the order suggests that NRC is, ultimately, interested in assuring supply of fuel to India.

My continuing concern in this question is to see to it that NRC conducts a full adjudicatory proceeding, with liberal admission of intervenors. In my view the only responsible course for consideration of this or any other export license is such a hearing, the development of a complete record on which to base a decision which, it is hoped, would not have been reached prior to commencement of hearings.

In the instant case, of export to India of enough enriched uranium to create 10 Hiroshima-sized bombs—with the receiving country not a signer of the Nonproliferation Treaty, not willing to submit all her nuclear facilities to the inspection and safeguards of the IAEA and which did explode a nuclear bomb, a full adjudicatory proceeding is the least we should be able to expect from the NRC. The order from the Nuclear Regulatory Commission, dated March 25, follows:

[Before the United States Nuclear Regulatory Commission, Washington, D.C. 20555]

COMMISSIONERS

Marcus A. Rowden, Acting Chairman
Edward A. Mason
Victor Gilinsky
Richard T. Kennedy

ORDER

(In the Matter of Edlow International Co., as Agent for the Government of India, to Export Special Nuclear Material)

[Docket Nos. XSNM-805 (70-2071) XSNM-845 (70-2121)]

On March 2, 1976, the United States Nuclear Regulatory Commission received petitions for leave to intervene and for a public hearing in two separate license application proceedings for the export of special nuclear material to India. In license No. XSNM-805, the Edlow International Company had filed an application on July 29, 1975 to export 3055.20 kilograms of low enriched special nuclear material; application No. XSNM-845, for 18371.4 kilograms of low enriched special nuclear material was filed on October 21, 1975. The petitions to intervene were filed by the Natural Resources Defense Council, Inc. and the Sierra Club on their own behalf and as representative of their membership, and by the Union of Concerned Scientists, a corporation.

On March 5, 1976, the Nuclear Regulatory Commission requested that the petitioners, applicant, NRC staff and the Department of State submit written statements concerning the preliminary issues arising from these petitions, which are the first petitions requesting intervention and hearing in a nuclear export license proceeding ever received by the NRC, or its predecessor agency, the Atomic Energy Commission. At the same time that the Commission requested written submissions, it also scheduled an oral hearing on preliminary issues to be convened on March 17, 1976.

On March 12, five days prior to the oral hearing, the Department of State petitioned the Commission to treat separately and expeditiously license XSNM-805, basing its petition in part on the grounds that the material covered by that license was urgently needed in India. In an accompanying affidavit, Dixon B. Hoyle of the Department of State, stated—on the basis of information then available to the Department—that "unless slightly enriched uranium is received at the [Indian] fabrication plant by March 31, 1976, operations at this plant will be disrupted" and that "even a marginal delay beyond the March 31 date will entail considerable hardship and irreparable interruption in the refueling cycle which could cause serious damage to the Tarapur project as a whole." On March 16, 1976, Mr. Hoyle filed a second affidavit informing the Commission that, based on further inquiries by the Department of State, the impact of further delay in the issuance of license XSNM-805 may have been overstated.

During the oral hearing, Mr. Irwin Goldbloom of the Department of Justice, appearing on behalf of the Department of State, reiterated the Executive Branch's view that time was of the essence with respect to XSNM-805, and that efforts were being made to ascertain precisely what the facts were. (Transcript, p. 40). Earlier in the hearing, the participants were advised that:

"(i)n view of the assertion that failure to proceed with dispatch on that application [XSNM-805] could have serious and irreparable consequences for India, for bilateral U.S./Indian relations, and for U.S. nuclear foreign policy, the Commission intends to resolve the question of severance on an expedited basis." (Statement of Acting Chairman Rowden, Transcript, p. 7).

The results of the further inquiries into this matter by the Department of State were set forth in an affidavit filed by Mr. Hoyle on March 18, 1976. Responses to that affidavit were filed on March 22 by the Petitioners and the NRC staff.

The information provided by Mr. Hoyle on March 18 and the Commission's own analysis suggest that the following factors are relevant to assessing the urgency of the need for the 3055 kg material covered by XSNM-805:

India currently has on hand at the fabrication facility 41,000 kgs of uranium, including 5,000 kgs of scrap and 30 finished fuel elements.

The 41,000 kg of uranium on hand at the fabrication facility will allow the preparation of approximately 260 fuel elements.

Each reloading of one of the Tarapur reactors nominally requires 70 fuel elements. According to Mr. Hoyle's March 18 affidavit, the actual number of fuel elements requiring replacement at a single previous reloading has been as high as 118.

Reloading of each reactor is nominally expected to occur at intervals of about 10-12 months.

On the basis of the parameters the State Department has supplied and existing Indian uranium supplies, the following schedule of reactor fuel availability may be derived:

Fuel elements remaining after refueling

	Assumed nominal use per refueling (70)	Assumed maximum use per refueling (118)
Refueling date:		
Current supply	260	260
July/August 1976	190	142
January 1977	120	24
June/July 1977	50	(deficit) (94)

Thus, it is reasonable to take July 1, 1977 as the earliest date on which the uranium now on hand in India might not be sufficient to refuel the Tarapur reactors. In that event, allowing six months for fabrication of elements from uranium hexafluoride[1] additional uranium supplies will be required at the conversion/fabrication facility by January 1, 1977. Counting back three months for sea shipment, the uranium would not have to leave the United States earlier than October 1, 1976. (Air shipment would move this date to Mid-December 1976). Since the October 1 date is derived from the highest reported fuel usage and the design basis refueling interval—which would be extended by lowered capacity figures or unplanned down-times—that date is conservative, and adequately allows for foreseeable contingencies so far as the fuel supply for the Tarapur reactor is concerned. It might be added that the amount of fuel represented by this license, less than ten percent of the material on hand and enough only for about 20 elements, also casts doubts on the claim that it involves special urgency.[2]

We agree with the Petitioners that the claimed urgency of action has not been established, but reach that conclusion for the reasons stated in the analysis above.

Two other factors cited in Mr. Hoyle's March 18 affidavit merit comment: the postulated power cut-back at the Tarapur reactor in anticipation of a fuel shortage, and the necessity to commence scrap recovery operations after uranium hexafluoride supplies at the Indian fabrication facility are exhausted at the end of this month.

With regard to a power cut-back, it would appear that the operator of the Tarapur Station would not require recourse to such a measure earlier than four months before any anticipated fuel shortage (i.e., a September power cut-back in response to an anticipated January shortage). Thus, if a fuel shortage were anticipated in July 1977, power would not need to be cut back prior to March 1977. While any such event would be most serious, uranium needed for the July 1977 refueling would have to leave the United States in October, or at the latest in December 1976. Hence, the critical factor in considering the urgency of uranium shipment from this country would appear to be the need for timely arrival of the uranium at the conversion/fabrication facility rather than a precautionary power cut-back by the reactor operator.

Concerning the use of scrap at the fabrication plant, it would appear—on the basis of information now available—that the Indian plant has on hand a large amount of fresh unfabricated uranium (enough to produce some 200 additional elements), 5,000 kg of scrap (enough to produce some 30 additional elements), as well as the 30 existing elements. Hence, the use of scrap will apparently be unnecessary for some time in the future. (Given the 140 elements per year capacity suggested by Mr. Hoyle's March 18 affidavit, the non-scrap uranium would suffice for over a year of "normal" operation). Moreover, the recycling of scrap is itself a normal operation. For example, U.S. fabricators count on recycling anual scrap production equivalent to about 10% of through-put. Hence, refabrication of scrap is normally and regularly undertaken at fabrication facilities and would presumably be carried out at some time in the operation of the Indian facility, irrespective of the continued availability of "fresh" uranium hexafluoride.

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[1] While we accept this figure for purposes of our analysis, normally this period would be that required for a full core reload.

[2] Petitioners' affidavit of March 22 presents a somewhat different analysis of the State Department affidavits than our own, but avers no new facts of substance. Use of affidavits to convey analysis rather than asserted fact is a frequent enough practice, but we would prefer receiving argument in the more usual briefing format.

We are, of course, cognizant of the consideration advanced at the oral hearing on this petition that the United States' obligations under its Agreement for Cooperation with India surpass the provision of n barely adequate supply. Absent amore precise explanation than we have yet received of the Department of State's interpretation of this aspect of the Agreement, we are unable to find in the assertion that stocks of fresh uranium hexafluoride may soon be exhausted, any adequate basis for the urgency claim.

As we understand it, the Agreement addresses the supply of fuel for the reactor, not of feedstock for the fabrication plant. And, for the reasons stated, that supply at the present time and on our present understanding belies any claim of imminent shortage or, correspondingly, urgency.

Based upon our analysis of information contained in affidavits submitted in this proceeding we are unable to conclude, at this time, that considerations flowing from a delay in issuing license No. XSNM–805 compel separate treatment of these two applications. Indeed, given the much larger size of the second of the proposed shipments, we believe that the time pressures for decision on the two applications are essentially the same.

We wish to make clear, however, that we intend to decide the other issues herein and act on both license applications as promptly as we can reasonably do so. With this in view, final written submissions in these matters are now scheduled for March 26, 1976. After receiving those submissions, the Commission intends to proceed immediately to a decision on the questions of Petitioners' right to intervene and to demand a hearing under § 189 of the Atomic Energy Act, and to a decision on the matters dealt with in our Order dated March 5, 1976, including the issue of timeliness of the petitions to intervene. Beyond this, we would expect to act on the license application in a timely fashion.

Given the nature of this matter, the Commission is, of course, prepared to consider additional information concerning the effects of delay on either or both of these license applications. However, at this time, the Motion of the Department of State for separate and expedited consideration of the petition to intervene in license application No. XSNM–805 is denied.

SOUTH KOREA: A REASONABLE APPROACH

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, I would like to refer my colleagues to this morning's Washington Post editorial page, in which the Ambassador from Korea, the Honorable Pyong-Choon Hahm, outlines most effectively the progress of the South Korean Government in recent years in the face of both the massive military threat in the north and the insidious internal dissent of a few radical dissidents.

The Washington Post's March 19 editorial, attacking the Korean Government's handling of it's own internal political affairs was a most misguided and misinformed approach to an immensely more complex problem.

I commend to my colleagues Ambassador Pyong-Choon Hahm's reasoned approach to an irrational editorial attack. The South Korean Government should be commended for its progress in the face of difficult problems, rather than castigated for solving those problems in a manner consistent with its economy, culture, history, and democratic needs.

South Korea: "Dissent Has to Be Loyal and Law-Abiding"

Your editorial of March 19 attacking the Korean Government in most intemperate terms was not only incompatible with the prestige of The Washington Post but also made one wonder what was the intention of such an emotional outburst concerning a foreign country. Was it The Post's intention to take a black-and-white approach to Korea's complex internal political process? Surely the task of securing the survival of the non-Communist experiment in the southern half of the Korean peninsula in the face of overwhelming challenges and difficulties, not to mention the clear and present danger posed by the Communist military threat, should have been included as an important dimension in the consideration of the Korean political situation.

The March 1 incident was a deliberate attempt by a few dissidents who not only used the names of Christian leaders without their consent, but were intentionally abusing the freedom of religion in order to create the appearance of conflict between church and state by conducting political activities in a cathedral without the prior knowledge of the presiding bishop.

Your editorial accused President Park of damaging Korea's stability and security. But is not his success precisely in these matters most clearly recognized, even by his bitterest domestic critics? It is under his leadership that the Republic of Korea has increased its defense capabilities so as to lessen the U.S. taxpayers' burden with respect to Korea's defense and economic survival. Economic grant aid was terminated some years ago and we are spending more than $620 million of our own funds to purchase U.S. military equipment in FY '76 alone; military grant aid would be completely phased out at the end of the same fiscal year. In the economic field, Korea has been a success story in spite of the oil crisis and world-wide inflation and recession. South Korea's per capita GNP grew from $87 in 1962 to $531 in 1975.

It may be difficult for The Post to appreciate the difficulties and challenges the Republic of Korea faces in terms of military threat from the north, disadvantageous resource endowment, and rapid social and economic changes. But surely it is not impossible for you to appreciate the need for an effective government as essential for the survival of the Republic of Korea. Nowhere in world history was a nation able to survive without internal discipline and effective government, especially if such a nation faces a dangerous enemy only 25 miles from its capital.

Your own experience in times of war best illustrates how democracy can survive only if opposition and dissent moderate their partisan politics for the sake of unity in the face of external threat. Dissent has no monopoly on democracy. Dissent has to be loyal and law-abiding. Respect for the law is essential for democracy and no citizen may claim a special privilege to violate the law without the prescribed legal consequences. Has The Post ever paused to contemplate the possibility that its editorial is in fact encouraging the violation of law in a foreign country in the name of democracy?

It is incredible that The Post deliberately confuses convicted Communist espionage agents with dissidents. President Park has never put his political opponents to death. Communist guerrillas and espionage agents have been subjected to capital punishment under the law promulgated long before President Park's tenure.

Those who were involved in the March 1 incident are under investigation. No indictment has been filed against them. The Post's statement, "if convicted, they could be executed," should neither help them nor the government. The maximum penalty permitted under the law is 15 years of imprisonment.

A more freewheeling democracy will come when North Korea is compelled to abandon its warlike commitment to communize the entire Korean peninsula. But such a pattern of peaceful coexistence on the Korean peninsula will be possible only if the Republic of Korea manages not only to deter war but also to continue the momentum of current economic development under an effective government.

Pyong-Choon Hahm,
Ambassador of Korea.

Washington.

A MATCHING SYSTEM

(Mr. PHILLIP BURTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PHILLIP BURTON. Mr. Speaker, today's New York Times editorial should be of interest to the Members:

A Matching System

When Congress set to work to deal with the consequences of the Supreme Court's complex decision on the constitutionality of the Federal Election campaign act, it decided to reconsider most of the major issues. President Ford insisted, however, that Congress confine itself to the narrow question of reconstituting the Federal Election Commission.

The legislative bargaining has thus far produced a Senate-passed bill that in some ways is a better measure than the 1974 law. For example, it includes new language requiring corporations and unions to disclose how much of their own money they spend trying to influence stockholders and union members in political campaigns. It also contains a sensible bipartisan compromise on the much-disputed question of the extent to which corporations and unions may solicit political contributions.

The House of Representatives votes today upon its own version of the legislation. This version, although generally sound, has some objectionable secondary features. There is no good reason why Congress should limit the election commission's power to investigate the campaign activities of Congressional employees. The House bill strengthens the election commission's civil enforcement powers, but would set too high a financial threshold before criminal sanctions could be imposed.

By two provisions in the bill, the House would arrogate excessive power to itself. One section would permit either branch of Congress to terminate the election commission if it so voted early next year. Another section would, in effect, give the House an item veto over the language of any commission regulation, thereby giving the Democratic-controlled Congress too much power over the commission.

A major issue before the House today concerns the extension of public financing to all Federal elections.

When it decided that limits on political expenditures were unconstitutional, the Supreme Court seriously weakened Congress's effort to prevent the distorting effects of private money on the nation's politics.

The constitutional way to contain this corrupting flood of private money is to establish a matching system of public and private contributions for campaigns for the House and Senate, such as has already been introduced this year at the Presidential level. The Supreme Court ruled that in providing public money for campaigns, Congress could condition acceptance of such money on a candidate's agreeing to limit his outlays.

The House of Representatives has an opportunity to put this fundamental reform into effect with an amendment to provide that each contribution of up to $100 would be matched with public funds derived from the voluntary dollar checkoff on personal income tax returns.

When public financing of Congressional campaigns was voted upon two years ago, it twice won approval in the Senate but was defeated in the House, 228 to 187. The composition of the House has changed markedly since that vote was taken. Approximately 220 members from both parties are on record as sponsors of various public financing bills. If they make good on their pledges, the nation's political life can yet move out of the financial swamp in which it has been mired for too long.

RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 12774

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on March 30, 1976, the Committee on Ways and Means ordered favorably reported H.R. 12774 with amendments. This bill would amend the Internal Revenue Code of 1954 to provide an election under which State and local governments may issue taxable obligations and receive a Federal subsidy of 35 percent of the interest yield on such obligations.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of H.R. 12774 on the floor of the House.

The committee instructed me to request the Committee on Rules to grant a closed rule for consideration of H.R. 12774 which would provide for committee amendments which would not be subject to amendment and which would provide for 2 hours of general debate to be equally divided, and which would provide for the usual motion to recommit.

We intend to file the committee report on H.R. 12774 by midnight, Wednesday, April 7, 1976.

INTRODUCTION OF BILL IMPLEMENTING CONVENTION TO PREVENT AND PUNISH ACTS OF TERRORISM AND CONVENTION ON PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS

(Mr. WIGGINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WIGGINS. Mr. Speaker, today I am introducing, at the request of the Attorney General and the Secretary of State a bill to amend title 18 of the United States Code to implement the "Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance," and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents." The Senate advised and consented to ratification of the first-named convention (Senate Executive D, 92d Cong., 1st Sess.) on June 12, 1972. The second of the two conventions was transmitted to the Senate on November 13, 1974 (Senate Executive L, 93d Cong., 2d Sess.).

The primary purpose of this bill is to amend the Federal criminal law to give the U.S. Government the authority to prosecute those who commit, or attempt or conspire to commit, a crime of violence against a representative of a foreign government. The prosecution of such crimes is normally the responsibility of the States. However, these persons, and their well-being, are an important element in carrying on our foreign affairs. The Federal Government must assume the responsibility of affording to foreign officers certain consideration not afforded to our own citizens. This bill will complement and supplement existing Federal laws in this area.

However, I am constrained to say, that several sections of this bill as presently drafted are troubling to me. The bill goes beyond the proscription of violent crimes, to make criminal, in the broadest terms, "harassing" these foreign representatives. It makes criminal what amounts to the harassing of a building, all or part of which is used by them.

The Constitution guarantees to all citizens the right to speak and the right to assemble. When this bill is considered in committee, the spirit, the letter, and the meaning of the first amendment must be clearly and firmly held in mind. Any law which, under certain circumstances, makes the utterance of a word, the posting of a handbill, or the carrying of a sign a Federal criminal offense, must be drafted with care, with caution, and with the greatest circumspection.

Following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS—MURDER OR MANSLAUGHTER OF FOREIGN OFFICIALS, OFFICIAL GUESTS, OR INTERNATIONALLY PROTECTED PERSONS

Section 2 revises section 1116 of title 18, United States Code, to conform with the United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the Organization of American States Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance.

Subsection (a) of section 1116 prohibits the killing or attempted killing of foreign officials, official guests, or internationally protected persons. The penalty provisions of sections 1111, 1112 and 1113 are made applicable except that the penalty for first degree murder is imprisonment for life, thus conforming with *Furman* v. *Georgia*, 408 U.S. 238 (1972). The penalty for attempted murder, not more than twenty years, parallels that for assault with intent to commit murder (18 U.S.C. 113) as being more appropriate than the three years otherwise applicable under 18 U.S.C. 1113.

Subsection (b) of section 1116 defines terms used in the section.

Paragraph (1) of subsection (b) defines "family" in the same manner as the existing 18 U.S.C. 1116(c)(3) except that the term internationally protected person is added. The conventions do not define this term, but the understanding of the United States of its convention obligations for family members must be taken as reflective of the term in existing law.

Paragraph (2) of subsection (b) defines "foreign government" precisely as the existing 18 U.S.C. 1116(c)(1) defines the term.

Paragraph (3) of subsection (b) defines the term "foreign official" the same way as 18 U.S.C. 1116(b) now defines the term. Note that the definition includes chief executive officers of an international organization as well as persons who have previously served in such capacity and any member of their families. Since United States citizens can serve in such capacities, both they and their families can fall within the technical definition of "foreign official."

The issue has been raised in the appeal of *United States* v. *Spirn*, No. 74–2490 (2d Cir.), whether the foreign official must be personally present within the United States at the time of damage to his personal property, 18 U.S.C. 970 (incorporating the definition of "foreign official" by reference), or attack on members of his family, 18 U.S.C. §§ 1116, 1201 and 112. We believe that the intent of Congress is clear in this respect; that once the person has been duly notified to the United States as an officer or employee of a foreign government or international organization, short sojourns in other countries for vacations, conferences, etc., do not vitiate the protection afforded his family or property remaining in the United States. Consequently, an amendment is unnecessary.

Paragraph (4) of subsection (b) defines "internationally protected person" as a Chief of State or the political equivalent, a Head of Government, or a Foreign Minister outside of his own country, as well as any member of his family accompanying him. The definition also encompasses any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who is entitled pursuant to international law to special protection as well as members of his family then forming part of his household. The difference in protection of family members is a result of the difference in protection under the United Nations Convention.

The definition is meant to parallel that found in the United Nations Convention definition of "internationally protected person." There the term was defined as:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household. . . .

The term "internationally protected person" overlaps significantly with the term "foreign official." In essence, the former term is needed only to define that class of persons in whose favor operate the extra-territorial jurisdiction provisions of this statute.

The offender's knowledge of the status of the victim is not required, *Cf. United States* v. *Marcello,* 423 F.2d 993 (5th Cir.), cert. denied, 398 U.S. 959 (1870). Any uncertainty whether a particular victim is afforded special protective status under international law relates to jurisdiction only; it does not raise due process questions of notice or vagueness. *Cf. United States* v. *Irick,* 497 F.2d 1369 (5th Cir. 1974). The substantive crimes are defined in traditional terms which afford the requisite fair warning of the conduct prohibited. *Cf. Bouie* v. *City of Columbia,* 378 U.S. 347, 350–51 (1964).

Paragraph (5) of subsection (b) defines "International Organization" the same way as the extant 18 U.S.C. 1116(c)(2).

Paragraph (6) of subsection (b) defines "Official Guest" the same as the existing 18 U.S.C. 1116(c)(4).

Subsection (c) of section 1116 provides that if the murder or attempted murder was against an internationally protected person, then the United States may exercise jurisdiction if the alleged offender is present within the United States regardless of the place where the offense was committed or the nationality of the victim or the alleged offender. The subsection is intended to establish jurisdiction in the cases enumerated in Article III of the United Nations Convention:

"1. Each State Party shall take such measures is may be necessary to establish its jurisdiction . . . in the following cases:

"(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

"(b) when the alleged offender is a national of that State;

"(c) when the crime is committed against an internationally protected person as defined in article I who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

"2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him . . . to any of the States mentioned in paragraph I of this article."

The United States for the purposes of subsection (c) includes all areas under the jurisdiction of the United States including the places within 18 U.S.C. 5 and 7 as well as 49 U.S.C. 1301(34). Thus a person is present within the United States if he is, for example, on board a ship belonging to the United States, or present elsewhere in territory under the jurisdiction of the United States. The word "present" is used to capture those cases in which an offender is discovered in a foreign jurisdiction and then compelled to enter the jurisdiction of the United States.

As to jurisdiction wherever the offense is committed when the offender or victim is a United States national, the question of its application is, of course, one of construction, not of legislative power. See *Blackmer* v. *United States,* 284 U.S. 421, 437 (1932); *United States* v. *Bowman,* 260 U.S. 94, 96–102 (1922). Also see *United States* v. *Erdos,* 474 F. 2d 157 (4th Cir.), cert. denied, 414 U.S. 876 (1973). Moreover, the assertion of jurisdiction in this instance as well as when the offender is present in the United States, wherever he may have committed his offense, is in proper discharge of duly adopted international obligations of the United States under the conventions and is further supportable as an exercise of the power "[t]o define and punish . . . offenses against the law of nations." U.S. Const. Art. I, sec. 8, cl. 10. Precedent for exercise of such jurisdiction is 18 U.S.C. 1651 (piracy) and Pub. L. 93–366 (aircraft piracy).

Nothing in the subsection is meant to prevent the orderly extradition of offenders.

Subsection (d) of section 1116 is a response to the recognition that exigent circumstances involved in a terrorist takeover of an embassy, for example, may require the Federal Bureau of Investigation, through the Attorney General or his designated Assistant, to request assistance from other Federal, State, or local agencies, as well as the Departments of the Army, Navy or Air Force. The potential consequences of an attack in the United States upon a foreign official or official guest are sufficiently grave to warrant inclusion of this provision which parallels similar provisions (18 U.S.C. 351(g) and 1751 (i)) relating to attacks upon Members of Congress, the President, or Vice President. See also Pub. L. 90–331, June 6, 1968, 82 Stat. 170, § 2.

Section 3 makes the necessary amendment to the chapter analysis of Chapter 51 of Title 18 to reflect the inclusion of the term "internationally protected person" in the section.

KIDNAPPING

Section 4 includes the class of internationally protected persons within the purview of section 1201 of title 18 and provides the convention-required extension of jurisdiction over extra-territorial kidnappings and attempted kidnappings.

Subsection (a)(4) of section 1201 is amended by adding the term internationally protected person. Neither the UN nor the OAS Convention explicitly excludes the abduction of a minor child by his parent. The United States, however, understands the generic term "kidnapping" to exclude such an abduction. Consequently the usual exception is applicable when the victim is an internationally protected person, foreign official, or official guest.

Subsection (d) of section 1201 is new. It makes attempted kidnapping a crime. This is necessary because, first, the United Nations Convention requires that attempted kidnappings of internationally protected persons be made criminal. Second, and perhaps more importantly, attempted kidnappings of any person should be made criminal if the attempted act falls within the purview of subsection (a). The penalty of not more than twenty years for attempts is consistent with the like provision for attempted murder.

Subsection (e) of section 1201 provides for jurisdiction over extra-territorial kidnappings or attempts. The subsection is the equivalent of section 1116(c) and required by the United Nations Convention.

Subsection (f) of section 1201 provides that in the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate that subsection, the Attorney General may request assistance from any Federal, State or local agency. The subsection is the equivalent of section 1116(d).

PROTECTION OF FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS

Section 5 amends section 112 of title 18, United States Code, to include internationally protected persons within the purview of that section.

Subsection (a) of section 112 adds internationally protected persons to the persons covered by the subsection. Although probably already included in the concept of assault, section 5 adds to existing provisions the UN Convention language relating to attempts and violent attacks upon the premises, private accommodation, or means of transport of an internationally protected person, foreign official, or official guest likely to endanger his person or liberty. The inclusion of the word "imprisons" in this subsection and the word "confines" in section 1201(a) produces a degree of overlap between sections 112 and 1201. This assures coverage of all forms of unlawful interference with liberty while at the same time affording the prosecutor a reasonable amount of discretion to charge a particular interference under the section which best reflects the gravity of the interference.

Subsection (b) of section 112 remains unchanged. Neither the UN nor the OAS Convention requires criminal sanctions for intimidation, coercion, or harassment of internationally protected persons at least until such activity rises to the level of an assault (18 U.S.C. § 112(a)) or threat (18 U.S.C. § 878(a)).

Subsection (c) of section 112 is unchanged except for omission of the requirement that the prohibited act be done publicly. On a number of occasions demonstrators have occupied the office of a foreign official and engaged in various forms of obnoxious conduct. In terms of 18 U.S.C. 112(c), this raised the problem whether such actions had the requisite quality of being done "publicly."

The hundred foot zone is measured from the outside perimeter of the building. Thus, if prohibited activities take place on the grounds within one hundred feet of the building, the proscriptions become active even though the foreign official or his office is more than one hundred feet from the ground in the upper stories of the building. Similarly, the proscriptions of the section are meant to become active if the demonstration occurs within the building.

Subsection (d) of section 112 adopts the appropriate definitions from section 1116(b).

Subsection (e) of section 112 is an express disclaimer of first amendment infringement. There is no change from the present law.

Subsection (f) of section 112 provides for jurisdiction of crimes committed extra-territorially if the offender commits a crime under subsection (a) and if he is later present within the United States. The provision is the same as that found in sections 1116(c) and 1201(e).

Subsection (g) provides that in the enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate that subsection, the Attorney General may seek assistance from any Federal, State, or local agency. The provision is the same as that found in sections 1116(d) and 1201(f).

Section 6 amends the analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 112 to include internationally protected persons.

PROTECTION OF PROPERTY OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Section 7 amends section 970 of title 18, United States Code, by inserting a new subsection protecting the integrity of buildings used by foreign governments or international organizations.

Subsection (c) of section 970 incorporates the appropriate definitions found in section 1116(b).

Subsection (b) of section 970 is new. It prohibits forcibly thrusting an object or oneself within or upon any building or premises occupied by a foreign government, an international organization, a foreign official, or an official guest. The subsection is a logical extension of protection afforded property of foreign persons, organizations, and governments.

Subsection (b)(2) of section 970 penalizes the refusal to depart from any building or premises described in subsection (b)(1) when requested by an employee of the foreign government, the international organization, or by the foreign official or a member of his staff, or by any person present having law enforcement powers.

THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS, OFFICIAL GUESTS, OR INTERNATIONALLY PROTECTED PERSONS

Section 8 amends chapter 41 of title 18, United States Code, by adding a new section 878 prohibiting threats and extortion against foreign officials, official guests, or internationally protected persons.

Subsection (a) of section 878 prohibits the knowing and willful threat to kill, kidnap, or assault a foreign official, official guest, or internationally protected person on pain of not more than $5,000 fine or imprisonment for not more than five years, or both, except that imprisonment for threatened assault shall not exceed three years. The three year limitation is consistent with the punishment for actual assault.

Subsection (b) of section 878 prohibits extortionate demands in connection with the killing, 'kidnapping, or assaulting as well as threats to kill, kidnap, or assault a foreign official, official guest, or internationally protected person.

Subsection (c) of section 878 incorporates the appropriate definitions of section 1116(b).

Subsection (d) of section 878 provides for the exercise of United States jurisdiction over a violation of subsection (a) committed extra-territorially against an internationally protected person if the offender is present within the United States. The subsection is the equivalent of sections 1116(c), 1201(e), and 112(f).

Section 9 amends the analysis of chapter 41 of title 18 to include the new section on threats and extortion against foreign officials, official guests, and internationally protected persons.

Section 10 indicates that nothing in this Act is intended to preempt the laws of any State, Commonwealth, territory, possession, or the District of Columbia on the same subject matter.

Section 11 amends section 11 of title 18, United States Code, to ensure that the limited definition of "foreign government" in 18 U.S.C. § 1116(2) is applied to sections 112, 878, 970, 1116 and 1201.

THE LATE HONORABLE WRIGHT PATMAN

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on March 7, 1976, the Nation lost one of the greatest Americans in this century, our colleague, Wright Patman. He was a champion of the people, dedicated to his country, the House of Representatives, and to the State of Texas. There have been many tributes paid to Wright Patman, but few so impressive and moving as those given by his colleagues and friends at his funeral services at the First Baptist Church in Texarkana, Tex., on March 10. I am pleased to insert these beautiful tributes so that all may have the opportunity to read them.

Transcript of the Funeral Service for the Honorable Wright Patman, Representative in Congress From the First District of Texas From 1928 to 1976

(First Baptist Church, Texarkana, Tex., March 19, 1976)

DR. LORY HILDRETH (PASTOR, FIRST BAPTIST CHURCH)

Reading from Psalm 93 and also a portion of the 95th Psalm. The Lord reigns, He is clothed with majesty. The Lord has clothed and girded himself with strength. Indeed the world is firmly established. It will not be moved. Thy throne is established from old. Thou art from everlasting. The floods have lifted up, O Lord. The floods have lifted up their voice. The floods lift up their pounding waves, Lord, of the sounds of many waters. The Lord on high is mighty. The testimonies are fully confirmed. Holiness befits Thy house, O Lord, forevermore. O come let us sing for joy to the Lord, let us shout joyfully to the rock of our salvation. Let us come before His presence with thanksgiving. Let us shout joyfully to Him with psalms for the Lord is a great God and a great King above all Gods in whose hands are the depths of the Earth; the peaks of the mountains are His also. The sea is His, for it was He who made it and his hands formed the dry land. Come, let us worship and bow down, let us kneel before the Lord our Maker for He is our God and we are the people of His pasture and the sheep of His land. Today, if you would hear His voice harden not your heart. May we pray:

Our Father, Thou are a great God and greatly to be praised. How excellent is Thy name in all the Earth from everlasting unto everlasting. Thou art God and beside Thee there is no other. We in disposition of mind and heart today would so commit ourselves in this situation of grief to Thee. That in relationship to the loved ones, in relationship to honored associates, in relationship to thoughtful friends that we would know Thy presence, we would hear Thy voice, we would know the sustaining of Thy grace, we would experience the undergirding of everlasting arms. And as this experience becomes a real experience of worship, may all the high and holy motivations that would stir us today be not forgotten in the moments that shall be followed but in new commitment in all we have and are, we shall give ourselves unsinningly to leading our nation and the people within the realm of influence of our lives to recognize that blessed is the nation whose God is Jehovah. Through Jesus Christ our living Lord and for His glory, Amen.

REPRESENTATIVE MAHON

There being no formal introduction, perhaps I should first identify myself. I am George Mahon, Representative in Congress, from Lubbock, Texas. And I stand at this lecturn in this holy place because I have served longer in the Congress of the U.S. with our departed friend than any Member of the present Congress. And so I speak to you in that capacity. And I am sad with you over our loss and I rejoice with you over Wright Patman's service to our nation. When our plane landed from Washington I observed the bright day and I thought to myself that today's shining sun must undoubtedly be a blessing and a benediction from Heaven upon the services to humanity of one Wright Patman.

So I rise to pay tribute to the memory of this departed friend, who at the time of his death in point of service in Congress had been Dean of the Texas Delegation in Washington for 15 years. He had been Dean of the House of Representatives and Dean of the entire Congress for nearly 4 years. He had served this District Number One in Texas for 47 years, the length of his service having only been exceeded by three other men in the history of the House of Representatives: Carl Vinson of Georgia, Emmanuel Cellar of New York, and the great Speaker Sam Rayburn.

Wright Patman not only served long, more importantly my friends, he served well. He wrote a record of legislative achievement as Chairman of the Banking and Currency Committee of the House, as Chairman of the Small Business Committee, as Chairman of the Joint Economic Committee and in other capacities which rivals the record of any Member of the House in this century or in any period of our history. He was the warm and trusted friend of the little farmer, of the small businessman, of the veteran, and of all the little people of this land. Indeed, I expand that statement, he was a friend of man, rich and poor alike—a man of compassion who loved his family, who loved the Congress, who loved this Country. The body of this fearless man was flown last Sunday night to his beloved Texarkana and the First District of Texas. We, of the Congress, and other friends, headed by Speaker Albert, have come to Texarkana today on the wings of the morning to join in honoring the memory of a great legislator and a great personal friend. So I have spoken to you for the Texas Delegation, for the Speaker and for the entire Congress, humbly in my new capacity as the Dean of the House of Representatives. Speaking from the standpoint of the House of Representatives on this occasion, let me say to the friends of Wright Patman in this Congressional District that we revered your fearless hero—and he was your hero—your effective and beloved Wright Patman from Patman's Switch, as he often was wont to say; and we join in mourning the passing of this great man and in rejoicing over his superb accomplishments through a long, distinguished period of service. A personal note if you please: I shall sorely miss my warm friend of more than 40 years. Mrs. Patman, you and your family have our love and sympathy.

May God extend His mercy, His blessings and His benediction upon all of us today. Thank you.

It is now my pleasure to present the eloquent and distinguished Representative Jim Wright of Fort Worth, who will deliver a eulogy in regard to the work and life of our departed friend. Mr. Wright.

CONGRESSMAN JIM WRIGHT

We come not only to mourn Wright Patman's death but in a larger sense to celebrate his life. The grief we feel at the loss of our friend must be swallowed up in exaltation when we ponder how perfectly Wright Patman today could declare that apostolic affirmation:

I am now ready to be offered,
And the time of my departure is at hand.
I have fought a good fight,
I have finished my course,
I have kept the faith.

Few if any of our time or of our memory have followed their convictions so undeviatingly as Wright Patman.

Few so unflinchingly have fought their fight and kept their faith.

Few if any have served the humblest of their fellow creatures so untiringly.

Few have given of themselves so unsparingly.

Few have dreamed the imposible dream so determinedly, resisted invincible foes so joyously, handled life's disappointments so gracefully and preserved their basic ideals so uncompromisingly throughout a lifetime.

Early in life Wright Patman determined to be a People's Man—a servant of the public. And thus began a lifelong love affair with the plain and simple, unpretentious average men and women of this land who sensed with some unerring instinct that here was a man whom they could trust.

And trust him they could. When he talked with crowds, he kept his virtue. When he walked with kings, he kept the common touch. He often comforted the afflicted. And sometimes he afflicted the comfortable. Wright Patman pandered to neither the avarice of the rich nor the prejudice of the poor.

It took rare courage in the 1920's for a first term congressman to assault the bastions of the nation's economic power and to file a resolution of impeachment against the Secretary of the Treasury, Andrew Mellon. And it took rare courage in 1920 for a young man to oppose the Ku Klux Klan in the rural south. Wright Patman did both.

A full half century later, in the 1970's, still unimpressed by wealth, still unawed by power, unchanged by the tinselled trappings of the Washintgon scene, his ideals untarnished and his vision of duty still unblurred, Wright Patman still was waging the same courageous—and sometimes lonely—battles.

If there be those who seriously question that individual integrity can survive in the political environment, let them look at Wright Patman's public years—and marvel at the incorruptibility of his dream.

Because of his life labors, the nation is richer and literally millions of our fellow Americans have found it easier to overcome life's barriers—easier for thousands of war veterans and their families to weather the depression of the 1930's—easier for thousands to borrow money for the crises of life—easier for families of modest means to own a home—easier for many small businesses to stay alive in the predatory economic jungle—easier for millions to find jobs.

Be ours the continuing legacy to think of him when the cynic scoffs that one man cannot make a difference.

And who can know the countless thousands of unsung dramas, privy only to him and his humble petitioners, enacted here in the piney woods and red clay hills and little towns of northeast Texas, for people who for half a century have come to Wright Patman as their intercessor and have not been turned away empty.

He was not always successful. He did not always win the day. The foes that he chose were formidable. The nation's largest banks and the most pervasively powerful unelected entity of government, the Federal Reserve, combined against his plans. Too few would join him in his persistent and frequently frustrated endeavors to bring down interest rates. But none ever doubted his sincerity.

And he never let failure breed bitterness. With courtly good manners, Wright Patman assumed pure motives on the part of those who disagreed with him. His spirit was too sweet for rancor. Bombarded by sometimes vicious criticism, he always had the dignity to answer in a soft voice, and usually with a smile. In the divisive and polarizing stridency of our times, there is a quiet treasure to hold to.

Do the values by which Wright Patman lived have relevancy for our day?

It may seem quaint—when our very language has been so jaded by excess that it has lost its capacity to shock—that a man would keep for 60 years a promise made to his mother, never to utter the name of the Lord in vain. Yes, quaint, perhaps.

And yet how empty are our lives—poor clever, sophisticated creatures that we are—if we have no comparable commitments by which we live.

And so, Pauline and Bill, Connor, Harold and the grandchildren who will miss the twinkling eyes and cherubic smile and never failing good humor, may it be some comfort that there are many who will share your sense of loss—and many too for whom Wright's memory will be a lasting inspiration.

This, then, is a time not only for sorrow but also for thankfulness. We celebrate a life triumphantly lived.

So, Wright, old friend, your race is run; your battle done; your victory won. And from the eternal skies we know you hear the words, "Well done."

DR. WILLIAM E. SHIELDS

(Singing: "Battle Hymn of the Republic.")

Mine eyes have seen the glory of the coming of the Lord,
He is trampling out a vintage where the grapes of wrath are stored,
He hath loosed the fateful lightning of His terrible swift sword,
His truth is marching on.
Glory, glory, hallelujah, Glory, glory, hallelujah,
Glory, glory, hallelujah, His truth is marching on.
I have seen Him in the watchfires of a hundred circling camps,
They have builded Him an altar in the evening dews and damps.
I can read His righteous sentence in the dim and flaring lamps,
His day is marching on.

(Chorus)

In the beauty of the lillies, Christ was born across the sea,
Where the glory in His bosom that transfigures you and me,
As He died to make men holy, let us die to make men free,
While God is marching on.

(Chorus)

Amen, amen.

DR. LORY HILDRETH

I direct your attention to an ancient setting, where another tremendous leader of the people of the nation had died. This is recorded for us in the 6th chapter of the ancient prophesy of Isaiah. In the year of King Uzziah's death, I saw the Lord, sitting on a throne lofty and exalted with a train of his robe filling the temple. The seraphins stood above him each having six wings with two He covered His face, with two He covered His feet and with two He flew. And one called out to another and said, "Holy, holy, holy, is the Lord of Hosts. The whole Earth is full of His glory." And the foundations of the thresholds trembled at the voice of Him who called out, while the temple was filled with smoke, then I said, "Woe is me for I am ruined because I am a man of unclean lips and I live among a people of unclean lips for mine eyes have seen the King, the Lord of Hosts." Then one of the seraphins flew to me with a burning coal in his hands which he had taken off of the altar with palms. And he touched my mouth with it and said, "Behold this has touched your lips, your inequity is taken away and your sin is forgiven." Then I heard the voice of the Lord saying, "Whom shall I send and who will go for us?" Then I said, "Here am I, Lord, send me."

You and I are met here today to pay our tribute of respect and affection for one who has walked among us with dignity and integrity, for these many years. Well-deserved and eloquent tribute has already been paid to his public life, but I wish to recognize his faith and its meaning for his life as well as for ours. Blessed by the fortune of good ancestry, Mr. Patman gave to his inheritance, the benefits of his own tremendous mind and spirit. It were as if he had made a gentlemen's agreement with life, because he worked diligently to give back to it more than he had received from it. Not only what he did, but how he did it will always linger in our memories. With a rare combination of true maturity and clear purpose, he always moved toward well-defined objectives, yet there was always with him an understanding of others, and an appreciation for their differences that represented for him a true capacity for the acceptance of others. What does his life as well as his death say to you and to me? To find an answer to that question, I direct your attention to this ancient setting for a moment. The time is described in these words: "In the year that the King Uzziah died."

That statement is more than a date of description. It's more than a detail of chronology, it is a designation of spiritual circumstance. Lord Byron, the rebel against convention, said, "It's a fearful thing to see the human soul take wings in any shape, in any mood." Yes, death is always impressive; it becomes terribly impressive, however, when its victim is a person of unusual prominence, a person widely known, a person greatly loved. Such a person was King Uzziah; but such a person was Mr. Wright Patman.

The prophet Isaiah, as he confronted death, this great man writes, in essence, "In the unforgettable year of the death of a great leader, I was in the icy grip of grief. My mind was confused, my faith was reeling, it was a time of crisis and confusion and change. But out of the darkness came light; I saw the Lord."

He saw God towering above all else. The true King to him. God reigns. He is in control. He is the living Lord of nature, but also the living Lord of history. In the year that Mr. Patman died, our need is also a fresh awareness that God reigns. For many God is nothing but a lovely myth, an oblong blur, a faded reality. But in Isaiah's experience, do you see what happened? The man stopped thinking of himself, and he started praising God. You see he has fastened on to something other than himself. How unlike our day, self-confidence, self-mastery is the religion of the present. But a religion of human will and a religion of human effort divorced from God keeps us from focusing our attention on God. A modern version of this famous passage from Isaiah could read like this: "In the year King Uzziah died, I was resolved that I would only think positive thoughts and so to come to believe in myself. Suddenly I saw myself sitting on a throne, high and lifted up and I knew my own strength and my own power and I said, 'I will stamp on my mind a mental image of myself as succeeding; and when I said who would help me, the Lord said, Here I am, use me.' "

The more you and I analyze ourselves, the more we think we're manufacturing our own little gods to do something for us. But you see, when we do that, we're starting backwards. True religious faith puts God first, and ourselves second. God must not ever be a new gimmick by which we get a psychological tune-up. God must ever remain Creator, Lord, Judge. In the year that King Uzziah died, or in the year John F. Kennedy died, or in the year Mr. Wright Patman died, as Isaiah, you and I go into a temple of worship, or we hide our face in our little padded temples of our own hands and a voice will be heard to say: "Whom shall I send into the pain of the world, where people die?" Man's life has heard all sorts of voices calling to him in all sorts of directions. But the danger is that there are so many voices and they all in their way sound so promising. Everybody knows this; we need no one to tell it to us. Yet in another way, we always need to be told because there is always the temptation to believe that we have all the time in the world, whereas the truth is we do not. We have only a life, and the choice of how we're going to live it must be our own choice, not one that we will let the world make for us.

Every experience of God whether in life or in death, demands something of us. When God confronts a man, it is not to startle like a ghost, it's for a purpose. No man, whatever his capacities, can expect to have a sense of call if he's using these for evil purposes. It would be a mockery approaching blasphemy to say that a burglar or a dope peddler could have a sense of call. Given, however, a legitimate work, serving the welfare of others, there still remains for the man of Christian faith the question of how in his environment he can relate his skills or his knowledge to the service of God. It's only when he is consciously using his situation and its opportunities for the good of others, that he can know the peace of answering God's call.

Mr. Patman, facing the opportunity for honest labor in a great profession, was ready to hear a divine summons both in life and in death and to answer in life and in death, "Here am I." So we come to this moment, not overborne by tragedy, but rather with a feeling confronted by God and the life and death of a great man, that our existence takes on a heightened meaning as we perceive the quality of faith, the sense of vocation, and the sense of renewed relation that leads us to see God, that leads us to see ourselves, that leads us to see our world. And I find myself praying, with an improvising of the model prayer of our Lord:

Our Father, God, we're so busy thinking about ourselves, help us to turn now to you, in an hour of turbulence and in an hour of grief, in quietness and confidence, how easily, dear God, we forget Thy goodness, as we compliment ourselves on our own intelligence, help us to pray, Thine is the glory. How readily we feed our own desires, sacrificing time and energy to satisfy the whims of selfishness. Help us to pray, Thy will be done. How eager we are to be well thought of, to be popular, to be approved of for our own goodness. Help us to pray, Hallowed be Thy name. How expectant we become at each new scheme for men to live together in peace, how anxious we are to pat ourselves on the back. Help us to pray, Thy kingdom come. How desperately we need forgiveness, and how slow we are to forgive. Help us to remember, Thou wilt forgive us our debts only as we forgive our debtors. How proud we are of the production of our industry and of our farms, yet we know it is Thou who gives us our daily bread. How confident we are in our own strength. Yet indeed searching honestly we pray, lead us not into temptation, O Father, hear us as we pray from humble hearts in the words and spirit of Jesus Christ, our Lord.

Let us continue to pray. (Silence.)

SINGING: "OUR FATHER"

Our Father, who art in heaven, hallowed be
Thy name,
Thy kingdom come, Thy will be done on
Earth as it is in Heaven,
Give us this day, our daily bread, and forgive us our debts as we forgive our
debtors,
And lead us not into temptation, but deliver
us from evil,
For Thine is the kingdom and the power and
the glory forever, Amen.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Burke of Massachusetts (at the request of Mr. O'Neill), for April 1 and 2, on account of illness.

Mr. Henderson (at the request of Mr. O'Neill), from today through April 10, on account of illness.

Mrs. Chisholm (at the request of Mr. O'Neill), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Alaska), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Horton, for 30 minutes, today.
Mr. Ashbrook, for 60 minutes, today.
Mr. Findley, for 10 minutes, today.
Mr. Derwinski, for 5 minutes, today.
Mr. Talcott, for 5 minutes, today.
Mr. Jeffords, for 10 minutes, today.
Mr. Cleveland, for 10 minutes, today.

(The following Members (at the request of Mr. Fary) to revise and extend their remarks and include extraneous material:)

Mr. Dodd, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Neal, for 10 minutes, today.
Mr. Flood, for 30 minutes, today.
Mr. Dominick V. Daniels, for 10 minutes, today.
Mr. Minish, for 5 minutes, today.
Mr. Eilberg, for 5 minutes, today.
Mr. Mathis, for 5 minutes, today.
Mr. Reuss, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Albert (at the request of Mr. Fary), and to include extraneous material.

Mr. Seiberling in connection with debate on conference report on Elks Hill bill, and to include extraneous material.

Mr. Nedzi in two instances, and to include extraneous matter.

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous matter:)

Mr. Bell.
Mr. Ketchum.
Mr. Crane.
Mr. Lent in two instances.
Mr. Bob Wilson.
Mr. Sarasin in two instances.
Mr. Whitehurst.
Mr. Wylie.
Mr. Ashbrook in three instances.
Mr. O'Brien.
Mr. Peyser in 10 instances.
Mr. Lagomarsino in two instances.
Mr. du Pont.
Mr. Rousselot in three instances.
Mr. Brown of Ohio in two instances.
Mr. Gilman.

(The following Members (at the request of Mr. Fary) and to include extraneous matter:)

Mr. Ottinger.
Mr. Rangel.
Mr. St Germain.
Mr. Carr in two instances.
Mr. Wolff in two instances.
Mr. Eilberg.
Mr. Brodhead.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Edgar.
Mr. Vander Veen.
Mr. Breckinridge.
Mr. Lehman.
Ms. Abzug.
Mr. Neal.
Mr. Addabbo.
Mr. Mottl.
Mr. Hall in two instances.
Mr. Zeferetti.
Mr. Roush in three instances.
Mr. Dominick V. Daniels.
Mr. Matsunaga.
Mr. Chappell.
Mr. Moorhead of Pennsylvania in two instances.
Mrs. Chisholm in two instances.
Mr. Carney in two instances.
Mr. Koch in two instances.
Mr. Roe.
Mr. Maguire in four instances.
Mr. Russo.
Mr. Dellums.
Mr. Downey of New York in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3168. An act to authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title which was thereupon signed by the Speaker:

H.R. 200. An act to provide for the conservation and management of the fisheries, and for other purposes.

ADJOURNMENT

Mr. FARY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Thursday, April 1, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2933. A letter from the President of the United States, transmitting a proposed increase in the loan limitation for the Department of Housing and Urban Development's Housing for the Elderly or Handicapped Fund for fiscal year 1976 and the transition quarter (H. Doc. No. 94–431); to the Committee on Appropriations and ordered to be printed.

2934. A letter from the Deputy Assistant Secretary of the Interior, transmitting certification that an adequate soil survey and land classification has been made of the lands in the O'Neill unit, Lower Niobrara division, Pick-Sloan Missouri Basin program, and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 83–172; to the Committee on Appropriations.

2935. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal section 309 of title 37, United States Code, relating to additional pay for performance of administrative duty by members of the Reserve and National Guard; to the Committee on Armed Services.

2936. A letter from the Executive Secretary, Public Service Commission of the District of Columbia, transmitting the 62d annual report of the Commission, covering calendar year 1974, pursuant to section 8 of the act of March 4, 1913; to the Committee on the District of Columbia.

2937. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations contained in the second interim report of the National Advisory Council on Equality of Educational Opportunity, dated January 1975, and actions taken thereon, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2938. A letter from the Chairman, Federal Election Commission, transmitting the annual report of the Commission for calendar year 1975, pursuant to section 312 of the Federal Election Campaign Act of 1971, as amended [2 U.S.C. 437e]; to the Committee on House Administration.

2939. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador Thomas R. Byrne and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2940. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of February 1976, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2941. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the laws relating to the qualification and certification of able seamen and qualified members of the engine department, to encourage young persons to choose a maritime career by increasing and enhancing the employment opportunities in that career, and to help meet the needs of the maritime industry for qualified persons; to the Committee on Merchant Marine and Fisheries.

2942. A letter from the Chairman, U.S Nuclear Regulatory Commission, transmitting the first annual report of the Commission, covering calendar year 1975, pursuant to section 307(c) of the Energy Reorganization Act of 1974 and section 251 of the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

RECEIVED FROM THE COMPTROLLER GENERAL

2943. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of advertising for military recruiting; jointly, to the Committees on Government Operations, and Armed Services.

2944. A letter from the Comptroller General of the United States, transmitting a report on the Small Business Administration's local development company loan program, pursuant to section 13 of Public Law 93-386, jointly, to the Committees on Government Operations, and Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 10374. A bill to amend section 2301 of title 44 United States Code, to change the membership of the National Archives Trust Fund Board (Rept. No. 94-988). Referred to the House Calendar.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11670. A bill to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes; with amendment (Rept. No. 94-989). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 12915. A bill to amend title XIX of the Social Security Act to repeal the recently added requirement that each State's approved medicaid plan include the State's consent to certain suits; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California (for himself and Mr. Rogers):

H.R. 12916. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. BAUCUS (for himself, Mr. Andrews of North Dakota, Mr. Aspin, Mr. Breckinridge, Mr. Derrick, Mr. Fithian, Mr. Hubbard, Mr. Jenrette, Ms. Keys, Mr. Murphy of New York, Mr. Pressler, Mr. Preyer, Mr. Richmond, Mr. Smith of Iowa, Mr. Traxler, Mr. Weaver, and Mr. White):

H.R. 12917. A bill to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations; to the Committee on Agriculture.

By Mr. BURLESON of Texas:

H.R. 12918. A bill to amend the Internal Revenue Code of 1954 to clarify the tax status of certain industrial development bonds issued to provide facilities for the furnishing of water used to cool thermal generating plants or to generate hydroelectric energy; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 12919. A bill to amend title 10, United States Code, to provide a new Assistant Secretary of Defense for Reserve Affairs and to change the existing position of Assistant Secretary of Defense for Manpower and Reserve Affairs to Assistant Secretary of Defense for Manpower; to the Committee on Armed Services.

By Mr. CLANCY:

H.R. 12920. A bill to amend the Internal Revenue Code of 1954 to permit tax-free rollovers of distributions from employee retirement plans in the event of plan termination; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 12921. A bill to amend the formula for cost-of-living adjustments of annuities under the civil service retirement system; to the Committee on Post Office and Civil Service.

By Mr. du Pont:

H.R. 12922. A bill to suspend until the close of June 30, 1977, the duty on certain doxorubicin hydrochloride antibiotics and for other purposes; to the Committee on Ways and Means.

By Mr. ESHLEMAN:

H.R. 12923. A bill to amend chapter 44 (relating to firearms) of title 18 of the United States Code to exclude penguns from the definition of firearms used for the purposes of that chapter; to the Committee on the Judiciary.

By Mr. EVINS of Tennessee (by request):

H.R. 12924. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FOUNTAIN:

H.R. 12925. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period; to the Committee on Veterans' Affairs.

By Mr. GILMAN:

H.R. 12926. A bill to amend the Internal Revenue Code of 1954 to allow certain low- and middle-income individuals a refundable tax credit for a certain portion of the property taxes paid by them on their principal residences or of the rent they pay for their principal residences; to the Committee on Ways and Means.

By Mr. GINN (for himself, Mr. Stephens, Mr. Levitas, Mr. Brinkley, Mr. McDonald of Georgia, Mr. Mathis, Mr. Young of Georgia, Mr. Stuckey, and Mr. Flynt):

H.R. 12927. A bill to designate a Federal building and U.S. Post Office in Jasper, Ga., as the Phil M. Landrum Federal Building and Post Office; to the Committee on Public Works and Transportation.

By Mr. GUDE (for himself, Mr. Fisher, Mr. Butler, Ms. Spellman, Mr. Steelman, Mr. Rodino, Mr. Benitez, Ms. Abzug, Mr. Thompson, Mr. Rosenthal, Mr. Koch, Mr. Stark, Mr. Scheuer, Mr. Bedell, Mr. Simon, Mr. Rees, Mr. Van Deerlin, Mr. Waxman, Mr. McCloskey, Mr. Badillo, Mr. Moakley, Mr. Melcher, Mr. Mazzoli, Mr. Edwards of California, and Mr. Drinan):

H.R. 12928. A bill to establish the Potomac National River in the States of Maryland, Virginia, and West Virginia, and in the District of Columbia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUDE (for himself, Mr. Fisher, Mr. Moorhead of Pennsylvania, Mr. Harrington, Mr. Murphy of New York, and Ms. Chisholm):

H.R. 12929. A bill to establish the Potomac National River in the States of Maryland, Virginia, and West Virginia, and in the District of Columbia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. HOLT:

H.R. 12930. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

By Mr. HORTON (for himself and Mr. Steed):

H.R. 12931. A bill to amend the Tariff Act of 1930 and the Tariff Schedules of the United States to reduce the burden of paperwork involved in the customs entry process for travelers and goods entering the United States; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 12932. A bill to increase the aggregate authority for long-term direct loans to nonprofit sponsors for the construction of housing for the elderly and handicapped; to the Committee on Banking, Currency and Housing.

By Mr. OBERSTAR:

H.R. 12933. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 3-year period and for other purposes; to the Committee on Public Works and Transportation.

By Mr. REUSS (for himself, Mr. St Germain, Mr. Moorhead of Pennsylvania, and Mr. Neal):

H.R. 12934. A bill to promote the independence and responsibility of the Federal Reserve System; to the Committee on Banking, Currency and Housing.

By Mr. RISENHOOVER:

H.R. 12935. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under the supervision of a registered dietitian; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 12936. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under the supervision of a registered dietitian; to the Committee on Ways and Means.

By Mr. SCHEUER:

H.R. 12937. A bill to establish a national system of maternal and child health care; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. SOLARZ:

H.R. 12938. A bill to amend the Solid Waste Disposal Act to provide for loans to municipalities for energy and resource recovery facility construction and to encourage research, development, and implementation of energy and resource recovery from solid waste, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mrs. SULLIVAN (for herself, Mr. Ruppe, Mr. Biaggi and Mr. du Pont):

H.R. 12939. A bill to amend certain laws affecting personnel of the Coast Guard, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 12940. A bill to revise the laws relating to the Coast Guard Reserve; to the Committee on Merchant Marine and Fisheries.

By Mr. WALSH (for himself, Mr. Heinz, and Mr. Wampler):

H.R. 12941. A bill to provide that the Committee on Mental Health and Illness of the Elderly (established by Public Law 94–63) shall have an additional year in which to carry out its duties; to the Committee on Interstate and Foreign Commerce.

By Mr. WIGGINS:

H.R. 12942. A bill to amend title 18, United States Code, to implement the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance; and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, and for other purposes; to the Committee on the Judiciary.

By Mr. MAHON:

H.J. Res. 890. Joint resolution making emergency supplemental appropriations for preventive health services for the fiscal year ending June 30, 1976, and for other purposes; to the Committee on Appropriations.

By Mr. ROE:

H.J. Res. 891. Joint resolution to designate the month of April 1976 as Columbian Squires Month; to the Committee on Post Office and Civil Service.

By Mr. ROGERS (for himself, Mr. Preyer, Mr. Symington, Mr. Scheuer, Mr. Waxman, Mr. Florio, Mr. Carney, Mr. Maguire, Mr. Carter, Mr. Broyhill, Mr. Heinz, and Mr. Madigan):

H.J. Res. 892. Joint resolution authorizing and requesting the President to issue a proclamation designating the first week of May of each year as Clean Air Week; to the Committee on Post Office and Civil Service.

By Mr. ST GERMAIN:

H.J. Res. 893. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself, Ms. Abzug, Mr. Badillo, Mr. Dominick V. Daniels, Mr. Dodd, Mr. Drinan, Mr. Fascell, Mr. Gilman, Mr. Harrington, Mrs. Heckler of Massachusetts, Mr. Howe, Mr. Koch, Mr. Lehman, and Mr. McHugh):

H.J. Res. 894. Joint resolution to designate April 15 of each year as Holocaust Remembrance Day; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. Mazzoli, Mr. Mikva, Mr. Neal, Mr. Ottinger, Mr. Rees, Mr. Richmond, Mr. Rosenthal, Mr. Sisk, Mr. Waxman, Mr. Whitehurst, Mr. Winn, Mr. Wolff, and Mr. Zeferetti):

H.J. Res. 895. Joint resolution to designate April 15 of each year as Holocaust Remembrance Day; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY (for himself, Mr. Poage, Mr. Abdnor, Mr. Bedell, Mr. Bevill, Mr. Burlison of Missouri, Mr. Dent, Mr. Gaydos, Mr. Derwinski, Mr. Grassley, Mr. Hagedorn, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Kindness, Mr. Latta, Mr. McClory, Mr. Moore, Mr. Oberstar, Mr. Quie, Mr. Railsback, Mr. Sebelius, Mr. Shipley, Mr. Simon, and Mr. Thone):

H. Con. Res. 600. Concurrent resolution to protest European duties on oil seeds and oil seed meal; to the Committee on Ways and Means.

By Mr. FINDLEY (for himself, Mr. Wampler, Mr. Bergland, Mr. Thornton, Mr. McHugh, Mr. Harkin, Mr. Fithian, Mr. Jones of Tennessee, Mr. Johnson of Colorado, Mr. Hightower, Mr. Baldus, Mr. Bowen, Mr. Litton, Mr. Krebs, Mr. Symms, Mr. Kelly, Mr. McCollister, Mr. Skubitz, and Mr. English):

H. Con. Res. 601. Concurrent resolution to protest European duties on oil seeds and oil seed meal; to the Committee on Ways and Means.

By Mr. KETCHUM:

H. Res. 1123. Resolution to amend the Rules of the House of Representatives to transfer jurisdiction over Federal impact aid programs from the Committee on Education and Labor to the Committee on Ways and Means; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XX.

Mr. CLAY introduced a bill (H.R. 12943) for the relief of Fanny N. Kittay, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

435. The SPEAKER presented a petition of Joseph F. Ada, Speaker, 13th Guam Legislature, relative to the phasing out of the ship repair facility on Guam, which was referred to the Committee on Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12384

By Mr. RICHMOND:

Page 37, after line 17, insert the following:

"Sec. 607. (a) Prior to the construction, conversion, or rehabilitation of any building, the Secretary of the military department concerned or the Director of the defense agency concerned shall consult with the Administrator of the Energy Research and Development Administration and the Administrator of the Federal Energy Administration to determine the most practicable energy source for such building. Such a determination shall take into consideration the feasibility of solar energy as an energy source for such building and shall include a life cycle costing analysis for each energy source evaluated."

Page 37, line 18, strike out "Sec. 607." and insert in lieu thereof "(b)".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of March 30, 1976 page 8617.

HOUSE BILLS

H.R. 12389. March 9, 1976. Science and Technology; Atomic Energy. Authorizes appropriations to the Energy Research and Development Administration for fiscal year 1977 for nonnuclear, nuclear, and environmental research programs.

H.R. 12390. March 9, 1976. Education and Labor. Amends the National Domestic Volunteer Service Act of 1973 to create a program to provide voluntary service by persons with business experience in solving human, social, and environmental problems. Extends appropriations for programs under the Act through fiscal year 1979.

H.R. 12391. March 9, 1976. Interstate and Foreign Commerce. Provides for additional regulation of drug labeling and drug-related recordkeeping under the Federal Food, Drug, and Cosmetic Act.

Establishes a Food and Drug Administration within the Department of Health, Education, and Welfare.

H.R. 12392. March 9, 1976. Banking, Currency and Housing. Directs the Secretary of Housing and Urban Development to implement immediately the program authorizing emergency mortgage relief payments under the Emergency Homeowners Relief Act.

H.R. 12393. March 9, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act by allowing State medicare and medicaid plans to require (1) that physicians be paid in full according to a uniform fee schedule; and (2) that any coinsurance or deductibles be paid by the patient to the State rather than to the physician.

H.R. 12394. March 9, 1976. Interstate and Foreign Commerce; Interior and Insular Affairs; Public Works and Transportation. Directs the Secretary of the Interior and the Federal Power Commission to issue appropriate permits and authorizations for United States participation in the construction of the Alaskan natural gas pipeline system through Canada.

Suspends administrative procedure requirements with respect to obtaining rights-of-way for such pipeline. Exempts requirements of the Mineral Leasing Act of 1920 concerning environmental protection, technical and financial capacity, public hearings, and licensing of applicants.

Imposes limitations on judicial review of administrative actions taken pursuant to this Act, including challenges based on the National Environmental Policy Act of 1969.

H.R. 12395. March 9, 1976. Interstate and Foreign Commerce; Interior and Insular Affairs; Public Works and Transportation. Directs the Secretary of the Interior and the Federal Power Commission to issue appropriate permits and authorizations for United States participation in the construction of the Alaskan natural gas pipeline system through Canada.

Suspends administrative procedure requirements with respect to obtaining rights-of-way for such pipeline. Exempts requirements of the Mineral Leasing Act of 1920 concerning environmental protection, technical and financial capacity, public hearings, and licensing of applicants.

Imposes limitations on judicial review of administrative actions taken pursuant to this Act, including challenges based on the National Environmental Policy Act of 1969.

H.R. 12396. March 9, 1976. Education and Labor. Stipulates that the term "migrant worker" under the Farm Labor Contractor Act of 1963 shall not include any individual whose primary employment is in custom cutting or combine operations in connection with the harvesting of grains.

H.R. 12397. March 9, 1976. Post Office and Civil Service; Agriculture. Terminates the duty of the Secretary of Commerce to take agricultural, drainage, and irrigation censuses. Directs the Secretary to continue the statistical classification of farms which was in effect on January 1, 1975, until June 30, 1976.

Directs the Secretary of Agriculture to collect comparable information on agriculture, drainage and irrigation on a sample basis.

H.R. 12398. March 9, 1976. Banking, Currency and Housing; Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to direct the Federal Energy Administrator to establish a voluntary standards and certification program for products designed to conserve energy in buildings.

Authorizes the Administrator to provide financial assistance in the form of loan guarantees, interest subsidies, or grants for the implementation of eligible State energy conservation programs. Establishes eligibility criteria for such energy conservation programs.

Establishes limits on the amount of Federal loan guarantees under this Act. Authorizes appropriations for grants and subsidies through fiscal year 1980.

H.R. 12399. March 9, 1976. Veterans' Affairs. Provides that, without prejudice to any other cause of disability, the anatomical or loss of use of both kidneys, or the surgical transplant of the heart or kidney, shall be deemed total disability for veterans' insurance purposes.

H.R. 12400. March 9, 1976. Veterans' Affairs. Exempts from the calculation of the gross value of an estate for Federal estate tax purposes the proceeds of any policy of United States Government Life Insurance and National Service Life Insurance.

H.R. 12401. March 9, 1976. International Relations. Suspends United States participation in the activities of the United Nations General Assembly pending Congressional approval of renewal of such participation.

Directs the President to reduce any payments made by the United States to the United Nations by the amount he determines would be used to support activities of the General Assembly.

H.R. 12402. March 9, 1976. Banking, Currency and Housing. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 12403. March 9, 1976. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to add the names of Alaska and Hawaii to the existing list of names of the 48 States inscribed on the walls of the Lincoln National Memorial.

H.R. 12404. March 9, 1976. Judiciary. Authorizes and directs the Secretary of the Interior to add the names of Alaska and Hawaii to the existing list of names of the 48 States inscribed on the walls of the Lincoln National Memorial.

H.R. 12405. March 9, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 12406. March 11, 1976. House Administration. Amends the Federal Election Campaign Act of 1971 to establish in the Executive branch the Federal Election Commission whose members shall be the Secretary of the Senate (ex officio), the Clerk of the House (ex officio), and six members appointed by the President with the advice and consent of the Senate.

Confers upon the Commission primary and exclusive jurisdiction with respect to civil enforcement of the provisions of the Internal Revenue Code dealing with election law.

Sets limitations on campaign contributions and expenditures. Provides criminal penalties for violation of specified provisions of this Act.

H.R. 12407. March 11, 1976. Ways and Means. Prohibits the filing of joint returns, under the Internal Revenue Code, unless each spouse verifies, by oath or affirmation, that such spouse has equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership.

H.R. 12408. March 11, 1976. Government Operations; Rules. Requires the President to report to the Congress yearly to make suggestions for the reform of independent regulatory bodies in order to decrease their inflationary effects and to increase competition.

H.R. 12409. March 11, 1976. Post Office and Civil Service. Prohibits the closing of a post office serving a rural area or small town solely on the basis that such post office is operating at a deficit unless (1) the Postal Service determines that equivalent or improved services will be provided either by a city, rural, or Star route carrier or by another postal facility; and (2) a survey of persons using the post office which the Postal Service proposes to close indicates that a majority of the persons responding do not oppose such closing.

H.R. 12410. March 11, 1976. Ways and Means. Increases, under the Social Security Act and the Internal Revenue Code, the ceiling on the amount of earnings which may be counted for social security benefit and tax purposes.

H.R. 12411. March 11, 1976. Ways and Means. Amends the estate tax provisions of the Internal Revenue Code to allow a limited deduction from the gross estate of the value of the decedents' interest in a family farming operation which passes to an individual related to him or his spouse.

H.R. 12412. March 11, 1976. Judiciary. Incorporates the Gold Star Wives of America.

H.R. 12413. March 11, 1976. District of Columbia. Exempts Congressional employees from jury service in the Superior Court of the District of Columbia upon the filing with such court of a notice of disapproval by the individual with the authority to appoint such employees.

Permits Congressional employees to receive compensation for service as jurors in a court of the District of Columbia. Reduces the salaries of such employees during such service by the amount of any such compensation.

H.R. 12414. March 11, 1976. Ways and Means. Allows a limited tax credit, under the Internal Revenue Code, for a percentage of the part-time employment expenses incurred by the taxpayer with respect to any qualified part-time employee.

H.R. 12415. March 11, 1976. Ways and Means. Amends the Internal Revenue Code to revise the amount of a contribution of ordinary income property which may be deducted from gross income, where the contribution is used by the tax-exempt donee in a function which is related to its basis as a tax-exempt organization.

H.R. 12416. March 11, 1976. Education and Labor; Veterans' Affairs. Extends the veterans' cost-of-instruction payments program under the Higher Education Act of 1965. Establishes new reporting requirements for institutions receiving payments in connection with such program.

H.R. 12417. March 11, 1976. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize the Secretary of Transportation to provide financial assistance to institutions of higher learning for rail transportation research, education, and training programs.

H.R. 12418. March 11, 1976. Merchant Marine and Fisheries. Provides for a Secretary of the Coast Guard in the Department of Transportation appointed by the President by and with the advice and consent of the Senate. Requires the Secretary of Transportation (or the Secretary of the Navy whenever the Coast Guard operates as part of the Navy) to carry out all the functions, powers, and duties relating to the Coast Guard through the Secretary of the Coast Guard.

H.R. 12419. March 11, 1976. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to prohibit a pipeline company engaged in the transportation of oil from transporting any oil through its pipelines if that company has an interest in such oil.

H.R. 12420. March 11, 1976. Interstate and Foreign Commerce. Declares Lake Minnetonka, Minnesota, to be a nonnavigable water of the United States.

H.R. 12421. March 11, 1976. Public Works and Transportation. Amends the Act of March 3, 1899 to provide that the prohibition against the creation of any obstruction to the navigable waters of the United States shall not apply to any waters of the United States which the Secretary of the Army, acting through the Chief of Engineers, determines are not being used for commerce at the time of such determination and are not likely to be used for such purpose in the foreseeable future.

H.R. 12422. March 11, 1976. Public Works and Transportation. Authorizes the Secretary of the Army to delegate authority to States with respect to planning and location of structures, excavation, dredging, or filling of the waters of the United States where the Federal interest is minimal.

H.R. 12423. March 11, 1976. Ways and Means. Imposes a tax, under the Internal Revenue Code, as an alternative to the income tax, minimum tax, and the capital gains tax, equal to 14 percent of the amount by which the taxpayer's economic income for the taxable year exceeds $40,000, but only if such alternative tax is greater than the tax liability under the income tax, minimum tax, and capital gains tax.

H.R. 12424. March 11, 1976. Ways and Means. Amends the Internal Revenue Code to increase the estate tax exemption, and to increase the estate tax marital deduction.

Permits the executor of an estate to elect an alternate valuation of qualified real property used for farming, woodland, or scenic open space.

States that a spouse's services shall be taken into account in determining the consideration furnished to purchase jointly owned property for purposes of the Federal estate tax.

H.R. 12425. March 11, 1976. Interstate and Foreign Commerce. Stipulates that the possession of not more than one ounce of marijuana for private use, or the transfer of not more than one ounce of marijuana without profit for private use, shall not constitute a crime against the United States.

H.R. 12426. March 11, 1976. Ways and Means. Amends the Internal Revenue Code to permit a charitable contribution of any literary, musical, or artistic composition or similar property to be deducted at its fair market value.

H.R. 12427. March 11, 1976. Ways and Means. Amends the Internal Revenue Code to allow a deduction for donations of blood to charitable organizations in an amount equal to $25 for each pint donated.

H.R. 12428. March 11, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to study and recommend remedial measures for bank stabilization of the Illinois River near Hardin, Ill.

H.R. 12429. March 11, 1976. Government Operations. Requires the President to transmit to the Congress copies of each Presidential proclamation and Executive order no later than 2 days after issuance, to be referred to the appropriate committees of each House.

H.R. 12430. March 11, 1976. Government Operations. Requires that all funds distributed to States under the State and Local Fiscal Assistance Act of 1972 be distributed to local governments. Extends the revenue sharing program until October 1, 1982.

EXTENSIONS OF REMARKS

SHAPP LETTER NOTES IMPORTANCE OF REVENUE SHARING

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. EDGAR. Mr. Speaker, I received a letter this week from the Honorable Milton Shapp, Governor of Pennsylvania, expressing his concerns about the status of revenue sharing. The Subcommittee on Intergovernmental Relations and Human Resources is currently marking up H.R. 6558, and I believe the timely comments of the Governor merit the attention of my colleagues:

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
Harrisburg, March 26, 1976.

Hon. ROBERT W. EDGAR,
117 Cannon House Office Building,
Washington, D.C.

DEAR BOB: As you are aware, the Commonwealth is confronted with a tight fiscal budget, which, under our Constitution, must be in balance. As part of our effort to balance the state budget while meeting the needs of our people, we must obtain our fair portion of revenue sharing money.

Revenue sharing was presented to the states and localities as a program with few strings and as an almost guaranteed source of income. We, at the state level, have complied fully with those requirements that Congress imposed upon us. At the same time, we have had no choice but to view our portion of the revenue sharing money as an integral part of state funding. This money now is included in our fiscal 1977 budget, and its loss could create a fiscal crisis in the Commonwealth.

Our revenue sharing funds, amounting to some $119 million, are passed through to our local governments to meet needs essential to the welfare of the Commonwealth. The largest share, some $54 million, goes to provide special education for retarded and emotionally disturbed children as mandated by the courts; $24 million has been budgeted to upgrade our county courts; $26 million will go for pupil transportation; $12 million has been budgeted for local sewage systems and $3.6 million is for our local health departments.

It is our understanding that significant changes in the nature of the Revenue Sharing Act are being structured into the measure being marked up in the House Government Operations Subcommittee on Intergovernmental Relations. We are much concerned with the rejection by the subcommittee of mechanisms to provide for regular annual allocations of funds, advance funding or guaranteed funding as an entitlement program. Failure of the measure that finally emerges to assure the Commonwealth of a known share of funds will make it exceedingly difficult to prepare and submit our budget to the legislature and to permit the legislature to approve a final budget. I am sure you will find this situation is true for all states, not just Pennsylvania.

As Governor, I am pleased to learn that the subcommittee has voted unanimously to maintain the present one-third, two-thirds allocation to the states and localities. I would point out, however, that the formula for distributing Revenue sharing funds strictly on a per-capita basis ignores the unemployment problems and the increasing concentrations of poverty within the urban states, such as Pennsylvania. Certainly, in the distribution of funds to the states and localities, a formula that takes into consideration the absolute numbers of the poor and the disadvantaged truly is merited.

It is my understanding that the subcommittee is considering a requirement that would impose upon the states the burden of paying local government costs of administering the SSI program to receive their one-third share and a requirement that the states shall audit and report on all local expenditures of revenue sharing funds. These requirements would be both costly and administratively difficult. It is our view that the federal government should either administer these requirements or, at the least, provide to the states the funds needed to administer them, if they are included in the final bill.

My Administration has no problem with the strengthening of antidiscrimination and citizen participation requirements, and it is my hope that these do not become major issues that would hold up enactment of a new revenue sharing authorization. In view of the needs of the Commonwealth and the need for strong state and local government within the federal system, I am hopeful that the Congress will enact a workable measure with minimum delay.

Sincerely,

MILTON J. SHAPP,
Governor.

CONGRATULATIONS FOR GEN. SAM JASKILKA

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. SARASIN. Mr. Speaker, on Monday evening, March 29, 1976, a native of my Fifth Congressional District from Ansonia, Conn., received a promotion in rank in recognition of his outstanding abilities and as reward for his 34 years of loyal service to the U.S. Marine Corps.

The fact that this generally administrative action took place would not normally have been a special occasion had the man being honored not been my good friend Samuel Jaskilka, and had not the promotion been from lieutenant general to general.

Sam Jaskilka was born in Ansonia in 1919, attended local schools and later matriculated to the University of Connecticut, my alma mater, where he graduated in May 1942, with a degree in business administration.

In September of 1942, General Jaskilka began his career in the corps, attended Reserve officers' class and later served in the Pacific theater during World War II—seeing action in such battles as the Marshall Islands and Leyte operations. Serving as battalion executive officer and commanding officer of Company E, 2d Battalion, Fight Marines during the Korean conflict, General Jaskilka was the recipient of two awards of the Silver Star and a Bronze Star Medal with a combat "V" for heroism.

This was not the end of Sam Jaskilka's service to the Marine Corps nor was it the end of the awards he would earn for his meritorious devotion and service to the corps. Sam Jaskilka was further honored for his contribution during the conflict in Vietnam and received the Distinguished Service Medal.

On July 1, 1975, General Samuel Jaskilka became Assistant Commandant of the Marine Corps and was advanced to the rank of general on March 4, 1976.

During his term of service, General Jaskilka earned the following personal decorations: the Distinguished Service Medal, the Silver Star Medal with one gold star in lieu of a second award, the Legion of Merit, the Bronze Star Medal with combat "V," the Joint Service Commendation Medal with one oak leaf cluster in lieu of a second award, the National Order of Vietnam and the Vietnamese Army Distinguished Service Order, First Class.

Mr. Speaker, I am pleased to have a truly great man such as General Sam Jaskilka as a constituent and friend, and I know that I speak for all of the citizens of Connecticut's Fifth Congressional District when I say: "Congratulations and a job well done to General Samuel Jaskilka."

MR. PHILIP W. PORTER, OUTSTANDING JOURNALIST

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BROWN of Ohio. Mr. Speaker, Mr. Philip W. Porter is unquestionably one of the most respected journalists in Cleveland, in Ohio, or in the United States. After a long and most distinguished career as a reporter and editor, Mr. Porter continues to share his views with an appreciative public through the columns of the Sun-Press newspapers. His column of March 18, 1976, carries a message that I feel will be useful and interesting to all of my colleagues, and I insert it in the RECORD:

LEAK OF SECRET REPORT IS DEPLORED

(By Philip W. Porter)

Several friends have aksed recently what I think about TV reporter Daniel Schorr's performance in handing over a copy of a secret report prepared by the House of Representatives intelligence committee, which had been leaked to him, to the Village Voice in New York, which published it in full.

That's easy. His action was unethical, reprehensible and deserving of punishment. CBS has already relieved him of his reporting responsibility. It should go all the way; fire him and make him furnish his own lawyer. Congress should take away his press gallery accreditation, and should cite him for contempt.

This has nothing to do with freedom of the press. It is simply a case where one news man's ego and self-importance went out of bounds. The full House had already decided, by a good-sized vote, not to release the report for publication. President Ford had asked them to withhold it for security reasons. But Schorr decided to overrule the House and the President. His conscience made him do it, he said. Nonsense. This is carrying journalistic presumptiousness too far.

Most of the veteran newsmen in Washington believe they know more about how to run the government than the elected officials. Perhaps they do, but they have no authority to act. Comment and complain, yes, but only from the sidelines. They exert great influence on decisions but they are not elected to make them. They should firmly resist the temptation to get into the act themselves. Schorr didn't. He may have believed that he was a priviledged character because he had once been on Nixon's enemies list, and thus immune. It's hard to believe that a man's head could swell to such an extent that he feels qualified to play god.

This points up again the need for a strong journalistic committee of professional ethics, with authority to disbar flagrant offenders. There is none today, because professional societies such as Sigma Delta Chi and the American Society of Newspaper Editors have not been able in 50 years to define exactly what is unethical. Unfortunately this is not easy to define, because there is really no such things as "the press;" every newspaper or TV station has its own standards, or lack of them.

I've spent all my adult life as a journalist, and I'd like to feel proud of the craft or profession, or whatever it is. But today, I have increasing qualms. Too many things are being done by the practitioners which I take a dim view of and cannot defend. The Schorr incident is only the latest. Some recent examples of journalistic malpractice have had shocking repercussions. For instance:

An Athens (Greece) newspaper published the names and addresses of men said to work for the American CIA, and next day the station chief, Richard Welch, was murdered in front of his home.

A newspaper in Dallas published the fact that an American engineer who worked for oil companies had been a double agent, giving American information to Russians and Russian information to Americans. He asked the newspaper not to publish this, but it went ahead. The next day he killed himself.

Then there is the matter of quoting "sources." This came into fashion during the Watergate investigation and the grand jury inquiry into the strange case of Spiro Agnew. In those instances, the "sources" had the cold dope, and justice ultimately was done. Since then, it has become common practice for our big city newspapers to publish findings of investigative reporters without disclosing from whom they get the information.

This can be and is abused, particularly by public officials who have an ax to grind but don't have the guts to identify themselves. Staffs of congressional committees are notable for this kind of leaking. It is possible for a reporter who is an advocate of some cause to be his own anonymous "reliable sources." If he stoops to such fakery, who can prove it?

All this contributes to the obvious public disenchantment with all news media. In their own self-interest, they ought to shape up. A few papers, knowing the need for self-criticism, have established their own ombudsmen. More should, to regain public confidence.

The ombudsmen could also try to do something about bad manners. Much animosity against news men has resulted from the pestiferousness of TV and radio reporters who pursue the principals in a big news story down a street or a corridor, shoving mikes in their faces, and in their sarcastic treatment of persons who won't answer questions. I am no great admirer of Woody Hayes, but I believe he or anyone else has the right to refuse to talk if he feels like it without having his silence represented as a great miscarriage of justice.

I dislike the arrogance of TV reporters who convey their opinion through sneers or elevated eyebrows. And I do not consider the New York Times or the Washington Post (or Daniel Schorr) as higher powers than the United States government.

This is an abrasive age, and being snooty is common. But I believe fairness, good manners and common sense pay off in the long run.

INTRODUCTION OF A BILL TO EXTEND THE TIME FOR THE COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY TO CARRY OUT ITS DUTIES

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. WALSH. Mr. Speaker, today, on behalf of myself, Mr. HEINZ, and Mr. WAMPLER, I am introducing a bill amending title VI of Public Law 94–63—Public Health Services Act Amendments. This public law was enacted on July 29, 1975. Title VI provides for a Committee on Mental Health and Illness of the Elderly, to be appointed by the Secretary of Health, Education, and Welfare, to study and make recommendations relative to the following:

The future needs for mental health facilities, manpower, research, and training to meet the mental health care of elderly persons.

The appropriate care of elderly persons who are in mental institutions or who have been discharged from such institutions.

Proposals for implementing the recommendations of the 1971 White House Conference on Aging pertinent to the mental health needs of the elderly.

Section 603 of title VI, part B, requires the Secretary to report the committee's findings to the Senate Committee on Labor and Public Welfare and the House Committee Interstate and Foreign Commerce, within 1 year of enactment of Public Law 94–63, which would be July 29, 1976. The bill which we are introducing today will extend the time in which the Committee on Mental Health and Illness of the Elderly has to report to Congress until no later than July 29, 1977.

The Select Committee on Aging, of which I am a member, held a hearing on March 3d on "Education and Training in Aging." It was noted in the testimony that the Committee on Mental Health and Illness of the Elderly will study the projected needs pertinent to mental health research, manpower, training and services. The committee's endeavors, in collaboration with the Center for Studies of the Mental Health of the Aging, should complement current efforts in the identification of new directions to improve mental health of our Nation's elderly.

Due to the delay in initiating the actual activities of this committee, additional time is needed for the preparation of a responsible final report to the Congress. I feel that additional time for a careful analysis of the mental health needs of the elderly is warranted in view of current innovations in research and the recent national attention given to appraising mental health services for the elderly.

MRS. DOLLY MARIA FRANCISCA DE KEMPPAINEN HELPS BRING BETTER RELATIONS WITH OTHER COUNTRIES

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CARR. Mr. Speaker, I rise to make note of a very significant individual accomplishment by a citizen in my district, Mrs. Dolly Maria Francisca de Kamppainen. Last October, Mrs. Kemppainen brought the Colombian Ballet to the United States. The ballet performed in several cities including Lansing, Mich., in my district and here in the District of Columbia at the John F. Kennedy Center for the Performing Arts.

Mr. Speaker, I truly believe that such individual initiative greatly enhances our relations with other countries. It is proof that we do not always need high level State Department officials to communicate with other nations. Indeed, some very useful objectives are accomplished without Government involvement.

In addition, one of the best ways to establish sound relationships with foreign countries is through the use of cultural exchanges. I again commend Mrs. Kemppainen and request that the accompanying resolution, introduced by my good friend State Representative H. Lynn Jondahl and passed by the Michigan Legislature, be inserted here:

HOUSE CONCURRENT RESOLUTION NO. 432

A Concurrent Resolution of Tribute to Dolly Maria Francisca de Kemppainen

Whereas, It is most appropriate that official recognition be extended Maria Kemppainen for her tireless efforts in bringing the Ballet de Colombia to the people of Michigan. Truly, it may be said that she has increased the level of understanding between these great nations of North and South America through her good works; and

Whereas, Maria Kemppainen has long had a deep interest in music, art, and cultural activities. Indeed, she met her husband John Kemppainen, who was a Peace Corps volunteer in her home town, Cali, Colombia, while she was involved in the production of a show to raise money for an orphanage. She and her husband were married in 1966, and presently live in Okemos, Michigan; and

Whereas, Mrs. Kemppainen's work to share the cultural achievements of Colombia with the people of the United States began many years ago and culminated with the United States tour of Ballet de Colombia, directed and choreographed by Sonia Osorio. The colorful Ballet was presented at Michigan State University on October 3, 1975, and was attended by a record-size audience; and

Whereas, In addition to her work on behalf of the Ballet de Colombia, Maria Kemppainen is a four point student at Michigan State University's Honors College, a loving wife and mother, and a most worthy personification of the spirit of International Women's Year; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature offer a unanimous accolade of tribute to Dolly Maria Francisca de Kemppainen in recognition of her tireless efforts in bringing the Ballet de Colombia to the people of Michigan; and be it further

Resolved, That a copy of this tribute be transmitted to Mrs. Kemppainen as an enduring testimony to the high esteem in which she is held by the members of the Michigan Legislature.

IN MEMORIAM TO THE HONORABLE RUTH ABEL O'BYRNE SPERNOW, DISTINGUISHED CITIZEN, COMMUNITY LEADER, AND GREAT LADY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ROE. Mr. Speaker, on March 2, 1976, the residents of my congressional district, State of New Jersey received the shocking news that one of our most distinguished citizens, public official, good neighbor, and friend, the Honorable Ruth Abel O'Byrne Spernow of Paterson, N.J., had suffered a heart attack and passed away aboard the Holland American cruise ship *Veendam* while on a Caribbean vacation with her husband, the Honorable Hugh C. Spernow, retired judge of the Juvenile and Domestic Relations Court of Passaic County; her sons, the Honorable Edward J. O'Byrne, director of the Board of Chosen Freeholders of the County of Passaic; and the Honorable William J. O'Byrne, of the Office of the Public Defender, County of Burlington, N.J.; and her sister, Mrs. Robert (Marion) Neilly of Passaic, N.J.

Ruth was born in the city of Clifton, N.J. where she attended local elementary and secondary schools. She is a graduate of Paterson State College.

Prior to her marriage to the late Honorable Edward J. O'Byrne, mayor of the city of Paterson, she applied her standards of excellence as a teacher in the city of Clifton's public school system. She was also an esteemed member of the faculty of Rutgers, the State university extension division. Her former students, many of whom remained in the hometown area to achieve success in their chosen careers recall the richness of her wisdom and teachings as an inspiration throughout their lifetime.

As the first lady of the city of Paterson, she was most active in community development and civic affairs and her deep concern for the health and well being of the families in our community and unselfish devotion and dedication in working toward improving their standards of living have truly enriched our community, State, and Nation.

In 1960 she was appointed receiver of taxes for the city of Paterson and was widely acclaimed for the excellence of her achievements. It is significant to note that she was the first woman to have held this high office of public trust.

The quality of her leadership was manifested in her many affiliations with organizations dedicated to helping others in healing the sick, educating the young, aiding the handicapped, nourishing the poverty stricken and caring for the disadvantaged. She served as Treasurer of St. Joseph's Hospital Auxiliary, president of St. Brendan's School Auxiliary, the March of Dimes, the Cancer Society, Day Nursery, United Fund Drive and annual chairman of the city of Paterson Mother's Day program.

In 1972 Ruth was honored by residents of my congressional district, State of New Jersey as "Woman of the Year" by the Charles J. Alfano Association.

Mr. Speaker, I insert at this point in our historical journal of Congress the resolution adopted by the general assembly of the State of New Jersey in tribute to Ruth's lifetime of service in developing and enhancing the civic, cultural and religious heritage of our veople. The resolution is, as follows:

ASSEMBLY RESOLUTION

Whereas, It has pleased Almighty God to call from this life Ruth O'Byrne Spernow, wife of the Honorable Hugh C. Spernow, retired Judge of the Juvenile and Domestic Relations Court of Passaic County, widow of the late Edward J. O'Byrne, Mayor of the City of Paterson, and mother of the Honorable Edward G. O'Byrne, Director of the Board of Chosen Freeholders of the County of Passaic, and William J. O'Byrne of the Office of the Public Defender in the County of Burlington; and,

Whereas, She was born Ruth Abel in the City of Clifton, where she attended public schools, graduating from Paterson State College and remaining in Clifton as a teacher in the public school system until her marriage; and,

Whereas, In 1960 Ruth O'Byrne Spernow became the first woman Receiver of Taxes in the City of Paterson, gaining recognition of her expertise in the field as a teacher for the Rutgers University Extension Division; and,

Whereas, Ruth O'Byrne Spernow was an active leader over many years in the civic, social and religious concerns of the City of Paterson, having served as Treasurer of St. Joseph's Hospital Auxiliary, President of St. Brendan's School Auxiliary, the March of Dimes, the Cancer Society, Day Nursery, United Fund Drive and Annual Chairman of the City of Paterson Mother's Day Program; and.

Whereas, On November 5, 1972 hundreds of friends and admirers attended a dinner in her honor, given by the Charles J. Alfano Association, at which men and women from all walks of life expressed appreciation and gratitude for her service to the community, a service born of true respect and love of her fellowman or woman regardless of his or her station in life; now, therefore,

Be It Resolved by the General Assembly of the State of New Jersey:

That this House joins with her family and friends and the good citizens of the City of Paterson and surrounding communities in mourning the loss of Ruth O'Byrne Spernow, and pays tribute to her devotion and long service in the cause of civic, cultural and religious betterment of the people she so dearly loved; and,

Be It Further Resolved, That duly authenticated copies of this resolution, signed by the Speaker and attested by the Clerk, be transmitted to her husband, the Honorable Hugh C. Spernow, to her sons the Honorable Edward G. O'Byrne and William J. O'Byrne; to her sister, Mrs. Robert Neilly, and to the Honorable Lawrence F. Kramer, Mayor of the City of Paterson.

Mr. Speaker, during this Bicentennial Year as we reflect upon the history of our great Nation and the exemplary achievements of our people throughout the past 200 years, I am pleased and privileged to seek this national recognition of Ruth Abel O'Byrne Spernow and all of her good works. I know that you will want to join with me now for a moment of silent prayer in mourning the passing of a lovely lady who has made an indelible mark of faith, hope and charity in our community because she cared and walked with us for a little while in our continuing quest for quality in the American way of life for all of our people. I trust that her husband, Judge Spernow, her sons and other family members will soon find abiding comfort in the faith that God has given them and in the knowledge that our beloved Ruth is now under His eternal care. May she rest in peace.

U.S. FUEL IMPORTS JUMP

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, 1976 is a year of national rededication, and this summer, conceivably more so than during any recent season, Americans can be expected to take to the road. As they do, it would be well that we bear in mind the significance of a recent turning point we have reached, centering on a little-noted statistic, but one of extreme importance to all of us. A few weeks ago, for the first time in my knowledge, this country imported more petroleum than it produced domestically.

What this means is not yet clear to many of those who continually monitor such schedules. It is, however, a warning sign of more to come and another argument in the growing list of reasons why this Nation must develop a synthetic-fuels-from-coal effort and why it must begin that effort now, not tomorrow or the next day.

The Federal Energy Administration regularly publishes "demand" figures for all petroleum products. The March 16, 1976, release indicates we continue to hold our "stocks" increasingly through the device of imports. I think the most recent FEA calculations will be of great interest to my colleagues. The March 16, 1976, release follows:

FEA DEMAND WATCH

Demand for all petroleum products for the four weeks ending March 5 averaged 17.54 million barrels per day, 0.4 percent above the same period in 1975, the Federal Energy Administration announced today. This was 3.8 percent above the 1974 level during the oil embargo, but 2.9 percent below the 1973 level.

Motor gasoline demand was 0.4 percent above the 1975 level, 11.4 percent above the 1974 level, and 5.4 percent above the 1973 level, before the embargo.

Residual fuel oil demand was down 0.4 percent from 1975, up 5.3 percent from 1974, but down 15.1 percent from 1973. Demand for distillate was down 6.5 percent from 1975, 5.9 percent from 1974 and 7.9 percent from 1973.

DEMAND FOR PETROLEUM PRODUCTS

[Thousands of barrels per day]

Product	4 weeks ending				Percent change—		
	Mar. 5, 1976	Mar. 7, 1975	Mar. 8, 1974 (Embargo)	Mar. 9, 1973	1976/75	1976/74	1976/73
Total demand	17,536	17,458	16,898	17,912	+0.4	+3.8	−2.9
Motor gasoline	6,543	6,276	5,875	6,206	+.4	+11.4	+5.4
Residual	2,882	2,893	2,736	3,393	−.4	+5.3	−15.1
Distillate	3,512	3,756	3,734	3,814	−6.5	−5.9	−7.9
Other products	4,599	4,533	4,553	4,499	+1 4	+1.0	+2.2

Note: FEA defines "demand" as "disappearance from primary supply." This is output from refineries plus net imports (imports minus exports) plus or minus changes in primary stocks. Primary stocks include storage facilities over 50,000 bbl. FEA calculations are based on weekly data from API, which are later validated by comparison with FEA monthly data.

TRIBUTE TO MAYOR ERNEST J. CASSEN

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CHAPPELL. Mr. Speaker, as so often is the case in this wonderful Nation of ours, one of our most outstanding citizens, typical of those Americans who have made our country the greatest nation in this world, will quietly leave public life for that well-earned retirement and a time in his life when he can enjoy the fruits of his labors. On many occasions we do not pay proper tribute to these wonderful people, mainly because they have not enjoyed national recognition during their lifetime. Mayor Ernest J. Cassen of Ormond Beach, Fla., in my congressional district, is one of these great Americans. I would like to share with my colleagues a few of the highlights of Mayor Cassen's accomplishments during his many long years of service to his fellow man and to his community. Mayor Cassen was commissioner for 10 years. Then, in 1960, he became mayor-commissioner and served in that capacity until his retirement early this year. During his tenure we saw the first fluoridation of the city's water supply, the opening of the Ormond Beach Hospital in 1965, the establishment of a pension plan for city employees, the adoption of a commission-city manager form of government, the acquisition of lands for park areas, construction of public safety and recreational facilities, a sanitary sewer program in 1960, development of an effective civil defense program, establishment of a sanitary landfill within the community, the development of the Ormond Beach Municipal Airport, and many other such projects and programs, too voluminous to cite here. Each had its substantial impact on the everyday life of every citizen in the community of Ormond Beach. He made it possible for his community of Ormond Beach to grow and progress while retaining its friendly and pleasant environment. Mayor Cassen's steady influence and inspired leadership were major factors in the orderly development of his community for over the last 26 years. He leaves for all Americans a shining example of dedication and loyal service to his fellow man. Today I pay tribute to Mayor Ernest J. Cassen of Ormond Beach, Fla., great American, loyal patriot, and an honorable public servant.

THE CREATION OF A FEDERAL ETHICS COMMISSION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. WOLFF. Mr. Speaker, Mr. S. Stanley Kreutzer, counsel for the New York City Board of Ethics, recently gave a speech at Occidental College in Los Angeles, in which he proposed the creation of a Federal Ethics Commission. Events of recent years, in particular Watergate, have served to undermine the public's trust in Government and in the integrity of their elected leaders. Mr. Kreutzer correctly points out that loss of public trust in Government threatens the very viability of Government.

I would like to share with my colleagues Mr. Kreutzer's remarks proposing a Federal Ethics Commission, as he addresses himself to a problem which should concern us all.

Mr. Kreutzer's speech follows:

HOW CAN WE SECURE THE PUBLIC TRUST? A FEDERAL ETHICS COMMISSION

(By S. Stanley Kreutzer)

President Gilman and Distinguished Guests: The subject of this talk is born out of the Watergate. But the signposts of danger were there long before Watergate. Nations since ancient days have suffered because those entrusted with power have used their positions to achieve corrupt and unethical objectives. In our nation, too, scandal and history have sounded the alarm. It took the shock of Watergate, however, to awaken us to the fact that those who were guardians of our public trust had poisoned our wells.

We were astounded at first when word began to get out about the involvement of government officials in Watergate. Then, we suffered through those tortuous days when the Vice-President of the United States pleaded guilty to a crime and resigned. When the impeachment proceedings began against the President himself, anger began to grip most Americans, that such things could happen here. Because those involved held the highest offices within the power of the American people and with criminal involvement of so many high officials in and out of the White House, many Americans felt that our whole government was falling apart.

As Americans, we are judged, both here and abroad by the high and delicate standards that stem from world leadership. Being an American today is itself a moral condition. Every scandal, every impropriety, every Watergate, weakens our moral fibre and impairs the confidence of the people in our government. We must aim for a public service that is ethically sound and morally strong, because without public confidence our system cannot succeed. It is the keystone of our public trust.

The problem is not new. 2,500 years ago Pindar pondered "whether the race of men on earth mounteth a loftier tower by justice or by crooked wiles." The founders of our Republic worried about it. Thomas Jefferson in a letter to Elias Shipman wrote "Of the various executive abilities, no one excited more anxious concern than that of placing the interests of our fellow-citizens in the hands of honest men." . . . "Where a man assumes a public trust he should consider himself as public property." This principle was later to be echoed by Henry Clay and many other Americans during time of ethical crises. And never was it more forcefully manifested than during this past year. In an excellent book on the Life of John Marshall by Leonard Baker, the story is told how the Chief Justice agonized over the fact that he owned some Bank of United States stock at the time when that bank's case came before the Supreme Court over which he presided. On another occasion, when Congress was embroiled in a bitter struggle over renewal of the Charter for the Bank of the United States, Daniel Webster asked the bank to refresh his $30,000 retainer before he would agree to commit himself to vote in favor of the Charter's renewal. On still another occasion, Webster sought to borrow some money from a national bank which required an endorser on his promissory note. He went to his friend Henry Clay. Clay refused to endorse the note unless Webster agreed to double his request. This Webster did. When he received the proceeds, they were divided equally with Henry Clay. It may interest you to know that the note was displayed annually by the Riggs National Bank in Washington—still containing these two famous signatures—and still unpaid to this day.

Our standards have changed over the years. Even in our day, the ethics of our public officials are different—pre-Watergate and post-Watergate. As our nation grew and investigations revealed scandal after scandal, the violators of our public trust seem to have been clothed with a strange insulation against being penalized. Although many were prosecuted criminally, a good many of the violators were rewarded by their party and re-elected regularly—because a scandal, which failed to send the violator to jail, just as often failed to dissuade his party from returning him to the public office he had dishonored. The political power of the political machines so diffused the power of government, that, short of prosecution for a crime, no sanctions were applied against the violator. The practices, procedures and lessons learned by one administration were disdainfully discarded or deliberately disregarded by another. There was no discipline to be applied, no precedent, no effective method to deal with conflicts of interest or the commission of unethical acts by public officials. That is not to say that there was a dearth of support for principles of ethics to be applied to the processes of government. The greatest violators were as loud as any in making their support known. It is no different today. Whether it is ethics or taxes or campaign reforms—everyone favors it—as long as it is applied to the other fellow. Nevertheless, it is true that the Congress and many agencies have dealt with this subject—and in some cases quite effectively—with laws, rules and regulations. But the unalterable fact remains that there does not exist today any federal body charged with the responsibility in the field of conflicts of interest. Government has grown tremendously; its powers and influence touch every aspect of our economy and of our society; every campaign for public office is sensitive to this subject. Time after time, this vexing problem has surfaced; charge and counter charge have developed uncertainty, confusion and inconsistency within the federal service, among candidates for election, all of which fall within the domain of public discussion and debate. Yet, there is no commission available to the average employee, where he can get advice and help in what is a thicket of complexity and confusion to most people. In law, medicine, engineering, in accounting, advertising and even trades and businesses, there are ethics committees to give guidance to the perplexed.

In my own City of New York, we adopted the first municipal code of ethics which establishes penalties for violations on the part of any employee, including the Mayor, the President of the Council and all other elected city officials. Other cities and states have done likewise. We have a Board of Ethics to which anyone of our 400,000 employees may come for an opinion concerning potential conflicts—whether it involves receipt of a gift from one engaged in business dealings with the City, whether it involves an investment, outside employment or any other possible conflict with official duties. Our Board consists of some of New York's leading citizens and is headed by Francis T. P. Plimpton, one of our most distinguished Americans. Many of you may recall Ambassador Plimpton as Deputy to Adlai Stevenson in the United Nations, or you may know him by virtue of his work in the Bar Association. His predecessor, Cloyd Laporte, was a law partner of Governor Dewey and served as our Chairman for ten years. His contributions in elevating judicial standards were no less significant than his efforts on behalf of higher ethical standards in government. It is because of the character, dedication and stature of these men, who serve without compensation, that the stamp of integrity is placed on our work by a public that trusts us.

We did something else in New York which may interest you. By Executive Order, Mayor Beame initiated and established the most careful screening procedure for appointees in all of our municipal history. Before any person may be appointed as Administrator, Commissioner, Deputy or any other position in the managerial or executive class, he or she must be carefully screened by the Department of Investigation and Counsel to the Board of Ethics. The Investigation Commissioner reports after a thorough background check of the prospective appointee and the Counsel to the Board of Ethics reports concerning any actual or potential conflicts of interest. Not until the Commissioner of Investigation and I report "approval" to the Budget Director is the appointment authorized. The adoption of the New York Code and the Board of Ethics resulted from recommendations made by me, when I was Counsel to the City Council and conducted an investigation and trial involving two Councilmen who were second and third in the line of succession to the mayoralty.

In the light of our national history, I believe we should establish a Federal Ethics Commission to be composed of our most prestigious citizens; two members to be appointed from each House of the Congress; two by the Chief Justice of the United States and five public members to be selected by the President from a panel consisting of former officials, the professions, education, labor, industry and so on. The Attorney General and the head of our Civil Service Commission would serve as ex officio members. You might ask, how could we thus secure the public trust? Consider, if you will, the worthwhile service which such a commission could render, if it were empowered with the duty of "screening" potential candidates for President and Vice President and filing its report with the National Committees of our political parties *before* the balloting takes place. The findings of this commission would be in the hands of the Convention delegates and it would enable them to know something about the candidates that they did not know before. As they prepare to vote, the background check and the report on conflicts of interest, would be of inestimable value to the entire country in judging the candidates with more sharpened vision.

How much, after all, did delegates to these national conventions know about the candidates in years past. Yet, we have been made painfully aware and history has emphatically reminded us that vice presidents are no more than a shot or a heartbeat away from the presidency itself.

Or take the case of candidates who are unjustly attacked. They, too would have a forum to which to take their case. The views of a Commission composed of men of stature would invite public confidence and would be accepted as objective and fair. It would be better received than the denials of the candidate.

THE FEDERAL ETHICS COMMISSION

Now you may ask what would the function of the Commission be?

It would have investigatory powers with respect to conflicts of interest and the right to initiate such inquiries. It would be authorized to refer to Congress or to the Attorney General or to the Civil Service Commission any violation of the public trust. In addition, the Commission would be empowered to render opinions concerning conflicts of interest to the following:

To the National Chairmen of our political parties with respect to candidates and potential candidates for the office of President and Vice President of the United States.

To the President-elect and Vice President-elect with respect to prospective appointees who are not subject to the "advice and consent" of the Senate and who are not otherwise required to appear before Committees of the Congress.

When requested, to the Vice President, the Majority or Minority Leaders of the Senate and the Speaker, Majority or Minority Leaders of the House of Representatives on matters within their official responsibilities.

II

To all federal employees concerning conflicts of interest in relation to their official duties.

To the President with respect to anyone in the federal service.

To cabinet officers and heads of agencies with respect to anyone under their supervision within the scope of their official duties.

To any agency or official of government with respect to any person or matter concerning their official duties or within their supervisory jurisdiction.

I wish to underscore the fact that it is not intended for this Commission to interfere with any of the powers and authority vested in the Congress or any of its Committees. Nor is it intended that the Commission's duties should permit it to compete with other government agencies. Its responsibilities should be limited to conflicts of interest and related matters of ethics.

Muse with me a moment while I turn back the capsule of time. Let us suppose we had a Federal Ethics Commission a few years ago and let us suppose, further, that among its members were persons of the statute of Chief Justice Warren, Ambassador Plimpton, Senator Ervin, Peter Rodino and Archibald Cox. Don't you think that there is a good likelihood that in the course of screening, some facts might have been revealed about some of the candidates; is it not likely that somewhere or some time during the screening process some important facts would have surfaced before the nominations for President and Vice President were voted "by acclamation."

That is one agony that our nation might have been spared.

Let us take a moment longer. You will remember, I am sure, the "dirty tricks" and the terrible slanders committed against Senators Humphrey, Jackson and Muskie. Do you not agree with me that a ringing denunciation of the "dirty tricks" and the tricksters in the midst of the campaign by the Federal Ethics Commission would have been far more effective, more meaningful and more acceptable to the American people, than were the denials from the candidates themselves in the heat of the campaign? And don't you think that an investigation of these "dirty tricks" might have been initiated a whole lot sooner if we had a Federal Ethics Commission. I would go even further, to suggest the possibility that this Commission might have been informed or appealed to by some of the Watergate "conspirators" or by some who were involved but may not have been "conspirators." How much remorse and agony might have been avoided, if we had been fortunate enough to have a commission whose prestige and integrity would have commanded public confidence.

I hope with you that there will be a realization of "noble purposes brought to reality because they commanded the intellectual respect as well as the loyalties of good men." That is the beautiful aspiration which Professor Andrew Rolle alluded to concerning Occidental in his fine book relating your first 75 years. It is a principle to which we can all repair. On the occasion of President Arthur Coons' 10th anniversary, the late Stuart Chevalier emphasized the insistence on the highest standards, no matter how established a college is. And when I read of the spirit with which President Remsen Bird stoutly defended academic freedom, I was thrilled. He said "No fear exists for the consideration of whatever (view) may be honestly held with reference to the facts or opinions of the world . . . . that all matters . . . . shall be given fair representation. . . ." That offer of immunity I gleefully accept and that is why I was encouraged to undertake the advocacy of a federal ethics commission.

We have made mistakes in our nation and we will make more. Our forefathers gave us a Republic. They did not give us an assurance of perfection with the Constitution and the heritage they transmitted to our care.

They had to fight 200 years ago, to establish and protect our geographical frontiers. One hundred years ago, the raids on the federal, state and local treasuries required us to look to our fiscal frontiers. Today it is up to us to protect and preserve America's ethical frontiers. Once again, we must not fail to heed the alarm.

Our system requires vigilance; Democracy is a "do it yourself" system and like the four words on non-disposable soda pop bottles "No deposit, no return." In the final analysis, there is no substitute for plain, unvarnished integrity. That is where the real strength and character of our nation lies—not in mouthing noble words like faith, truth, honor and fidelity.

Dr. Edward Mill authored a splendid book entitled "American Government in the Twentieth Century." In it he wrote "In democratic nations there is no sharp division between government and the citizenry as the source of political activity." He also makes reference to Tammany Leader "Boss" Tweed, who looted New York City's treasury and arrogantly challenged the people with "What are you going to do about it?" The people did do something about it. They sent him to jail and stripped him of his power.

The place to cure corruption is in the voting booth. Laws will not secure us, but vigilance will. The thing to remember is, that we, all of us, are part and parcel of this democracy; that every act of corruption, every impropriety, every violation of ethics tarnishes the image of our Republic. And that hurts you and me. Although the start of an idea may be no more than a dim light on the horizon's ledge, we, as Americans, must never cease to be vigilant; we must never cease to be aware; we must never cease trying to improve the processes of our government.

"911" HOT LINE FOR EMERGENCIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ROUSH. Mr. Speaker, I am adding several States to my list of those which have communities which have adopted the "911" emergency telephone number. I have heard from Members of Congress, as a result of the publication of these lists, and they are pleased to know which cities in their States now have or plan to have the "911" emergency telephone facility:

AMERICAN TELEPHONE & TELEGRAPH

[In thousands]

	In service	Service scheduled	Population served
NEVADA			
Hawthorne	June 1974		3.0
Winnemucca	June 1971		5.0
NEW HAMPSHIRE			
Dover	July 1972		26.0
OKLAHOMA			
Altus	May 1973		23.0
Alva	December 1968		7.0
Duncan	May 1972		22.0
Fairview	November 1970		3.0
Lawton	December 1970		73.0
Shawnee	July 1974		30.0
Woodward	September 1970		8.0
OREGON			
Florence	January 1973		6.1
Hermiston	May 1972		14.4
John Day	February 1975		3.0
Medford	June 1975		35.0
Milton-Freewater	February 1973		8.4
Prineville	November 1972		4.3
Seaside	January 1972		10.6
The Dalles	July 1974		19.0
Toledo	September 1971		4.2
Woodburn	June 1975		7.5

INDEPENDENT TELEPHONE COMPANIES

	In service	Service scheduled	Population served
NEVADA			
Tonopah	1971		2.0
Yerington	1971		4.5
Boulder City	1972		5.0
OKLAHOMA			
Broken Arrow	June 1972		11.0
Waynoka	June 1972		1.4

SUPREME COURT RULING ON HOMOSEXUAL CONDUCT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Ms. ABZUG. Mr. Speaker, the decision by the Supreme Court on March 29, summarily affirming a ruling by a three-judge court upholding the constitutionality of a Virginia statute which makes homosexual acts between consenting adults a crime is a blow to the civil liberties of all Americans. I am disappointed that the Court did not continue its tradition of vindicating the rights of minority groups in this instance.

Laws prohibiting private acts between consenting adults are being repealed in many States and where they are still on the books, they are rarely enforced. Medical and psychiatric communities are revising their practices, policies and definitions regarding homosexuals and recognizing their rightful place in our society. These developments are due to a fuller understanding of homosexuals and the changing views of the American people, which contrast sharply with the decision of the Supreme Court. Their ruling perpetuates outmoded stereotypes, irrational fears and unenforceable laws.

In the last 20 years the Supreme Court has often played an active role in advancing the principles of equal rights and equal justice for women, blacks, and other minorities and it has generally affirmed an individual's right to privacy. I am shocked that the Court did not order a full hearing on the issues presented by this case, particularly since its decision constitutes an invasion of the privacy of millions of Americans and is blind to reality. It is difficult to accept the Court's willingness to allow the imposition of criminal penalties for private affectional preferences among consenting adults.

Although yesterday's ruling is a setback to the struggle of gay people, I urge that litigation efforts continue and that we continue to press for another ruling by the Supreme Court with a full and complete hearing. Efforts must continue to educate the public on this issue and create a climate more conducive to a favorable decision by the Court.

In the meantime, activity in the local and State legislatures must be pursued, and we in the Congress must do our share. I would like to remind my colleagues of my bill, the Civil Rights Act of 1975, which would comprehensively prohibit discriminatory practices due to affectional preferences at the Federal level. I call upon Members of the House to support H.R. 5452, which already has 24 cosponsors, and which bars discrimination in such areas as employment, educational opportunity, and public accommodations.

Significant contributions have been made by homosexuals to our society. These contributions should not be repaid with the threat of a criminal prosecution. Moreover, it is absurd to apply a criminal label to more than 20 million Americans. In the struggles for equality by women, blacks, and other minorities, there were many setbacks on the road to victory.

The fairmindedness of the American people and their concern for human rights must be called upon to reverse this decision.

THE SHELL GAME: AN OVERVIEW OF THE PEANUT PROGRAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. PEYSER. Mr. Speaker, the present peanut program is one of the most outrageous and costly Government subsidy programs in existence. According to the USDA, this program will cost the American taxpayer $961 million between now and 1980. So, now is the time to end this outdated Government ripoff.

Here is how it works:

The Government restricts the amount of peanuts that can be grown in the United States through a program of acreage allotments. Anyone who owns or leases an allotment and who grows peanuts is guaranteed a profit by the Government. Under the guise of loans to peanut farmers, the Government actually buys all the peanuts produced on alloted land at 75 percent of parity, a price much higher than what could be obtained on the free market with open production. The Government then tries to sell the peanuts, but since it allots over 600,000 more acres than is actually needed to supply market demand, the Government and we the taxpayers are stuck every year with increasing numbers of unsellable peanuts. At the present time there are over 1 billion pounds of peanuts and over 200 million pounds of peanut oil in storage.

Despite a GAO warning in 1973, taxpayers shelled out $121 million in 1975, $212 million in 1976, and in 1977 will spend another $145 million on this Government giveaway. This waste, which continues to rise yearly, stems from the fact that the program is geared to 1940 allotment figures of 1.6 million acres, and a 1910 parity level of 75 percent. The program does not reflect the fact that new farm technology has increased production from an average yield of 940 pounds to 2,577 pounds per acre. The result: over 40 percent of the peanuts grown in the United States today are in excess of the market demand and must be purchased and stored by the Government with the taxpayers' hard earned dollars. The national average support price this year is $411 per ton.

Moreover, the peanut program is wasteful of our valuable farmlands since it ties up well over 600,000 acres which could be used to produce soybeans, cotton, potatoes, and almost any vegetable crop. These acres are locked into producing peanuts due to the fact that the present program does not allow allotments to be transferred to other crops.

Disguised as protection for the peanut farmer, a near feudal system has been allowed to exist and flourish, reaping unbelievable profits for its benefactors. Young farmers, on the other hand, are prohibited and even penalized for growing peanuts without an allotment. In addition, the artificially high prices paid for peanuts by the subsidy program have resulted in forcing up land rental prices and land values.

The arguments against the current peanut program are overwhelming. Even the USDA and peanut processors themselves are convinced that this program has become absurd and must be curtailed.

The Peanut Reform Act of 1976 is a fair program which phases out the program over a 5-year period, while establishing a target price and cutting back on acreage allotments. This bill will save taxpayers over $804 million by 1980. Is not it about time that the peanut fraud be uncovered and the open market allowed to function?

THE GI BILL IN HUMAN TERMS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. DOWNEY of New York. Mr. Speaker, on March 15, 60 of my colleagues joined me and Representatives Bob Edgar and Robert Cornell in urging the Education and Training Subcommittee of the Veterans' Affairs Committee to hold hearings on proposals which seek to extend veterans education benefits due to expire on May 31, 1976.

The career plans of many veterans will be seriously altered if a legislative remedy to this expiration problem is not promptly considered and passed. I have received dozens of letters from my constituents expressing this sentiment. These letters frame the problem of limited Veterans educational benefits in human terms. I present two of them as examples:

Hon. Thomas J. Downey,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Tom Downey: I am writing to you in hopes that you will support bills HR 7586 and HR 7221 for the increase in time student-veterans can continue to receive V.A. educational benefits. My husband was discharged March 30, 1961, so his benefits end May 30, 1976. My husband has only a year and a half left to finish his four year college education. But without the V.A. Benefits he cannot possibly continue his education. My husband is an A–B average student and has made the Dean's List. My husband and so many vets are truly serious about their education, the passing of these two bills in my opinion is money well spent. So please support these bills. Any help you can give this matter will be greatly appreciated.

Best Regards,

——— ———.

Hon. Thomas J. Downey,
U.S. House of Representatives,
Washington, D.C.

Dear Sir: My husband is currently going to school on the G.I. Bill. He has been going for three years—six semesters and has 36 credits. He has five years left in which to complete his education under the present limit. As things stand, he will be unable to complete his degree, yet he tries.

If the time limit is lifted, the U.S. of A. will have one very good and capable certified accountant.

Therefore, I urge you to please support the bill for the unlimited extension of educational benefits for Korean and Vietnam veterans.

MEANS TEST UNDER TITLE XX, SOCIAL SERVICES, OF THE SOCIAL SECURITY ACT IS BURDEN ON SENIOR CITIZENS

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. MATSUNAGA. Mr. Speaker, 2 weeks ago the House passed unanimously, with my strong support, H.R. 12455, a bill to extend for 6 months more the principle of group eligibility of the elderly and certain others for programs funded under title XX—social services—of the Social Security Act.

Under H.R. 12455, regulations issued by the Department of Health, Education, and Welfare would be extended through October 1, to permit senior citizens attending centers to continue participating without supplying individual proof of their low income.

Although I supported this stopgap measure, I must also state that basic problems remain in applying the "means test" to older Americans receiving services funded by title XX.

As chairman of the Subcommittee on Federal, State, and Community Service of the Select Committee on Aging, I am convinced that a more general solution is necessary. In field hearings I have held in Hawaii and elsewhere, and in hearings before other subcommittees of the select committee, senior citizens have consistently protested the imposition of an income eligibility test applied to each individual.

For one thing, it is a waste of money. One survey in New York City estimated that 97 percent of the people using senior centers would be eligible under the State's title XX income and a means test would save nothing. In fact, it was determined that the cost of individual determination of income eligibility would run sky high. In one rural area of Pennsylvania, it has been estimated that for every $2 of title XX money received, $1 would have to be spent on associated paperwork to comply with the means test.

Another matter which deserves weighty consideration is the indignity to which the means test would subject the older person. If we should require the elderly to certify themselves as being poor before they are permitted to visit a senior center, a high proportion would refuse to visit the center—even if they are poor.

Mr. Speaker, the Older Americans Act is certainly aimed at helping those senior citizens most in need. But this targeting is to be accomplished by such means as locating a hot-meal site in a lower income neighborhood. In fact, means tests are specifically prohibited in the nutrition program under title VII of the act. How can we expect to develop coordinated, comprehensive service systems for the elderly if we continue to demand contradictory requirements in the programs which are supposed to be coordinated?

This is a major problem and I commend the gentleman from California (Mr. Corman) for his dedicated efforts, as chairman of the Public Assistance Subcommittee, to develop rational solutions. I know he will continue these efforts during the interim period to be provided by H.R. 12455, and I pledge my fullest cooperation in developing a solution that will enable Congress to make sure that social services go to those most in need of them, without subjecting senior citizens to the demeaning process of proving themselves to be poor.

Insofar as the elderly are concerned, the "means test" is no more than a "mean test" which should be eliminated.

TO INSURE THE CONTINUING OPERATION OF FORT DEVENS IN THE COMMONWEALTH OF MASSACHUSETTS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ST GERMAIN. Mr. Speaker, many of the 2,000 civilian employees of the Department of the Army at Fort Devens are residents of the State of Rhode Island. Any further loss of military and civilian jobs in Rhode Island will exaggerate the number of unemployed in a

State which is already suffering one of the highest unemployment rates in the Nation.

The members of the house of representatives of the Rhode Island General Assembly are also keenly aware of the devastating affect which the closing of Fort Devens would have and, on March 9, passed a resolution asking Congress to insure the continuing operation of this important base.

The resolution follows:

HOUSE RESOLUTION

House resolution memorializing Congress to make necessary appropriations in the defense budget to insure the continuing operation of Fort Devens in the Commonwealth of Massachusetts

Whereas, Fort Devens has been operating as a reception and training center for nearly 60 years; and

Whereas, Washington officials are speculating that there will be large scale Army base closings, amongst which will be Fort Devens; and

Whereas, A shutdown of Fort Devens would result in the loss of nearly 2,000 civilian jobs along with $130 million in military and civilian payrolls; and

Whereas, Fort Devens is the only substantial installation left in New England; now, therefore be it

Resolved, That this house of representatives of the State of Rhode Island hereby respectfully requests the Congress of the United States to make necessary appropriations in the defense budget to insure the continuing operation of Fort Devens Army Base in the Commonwealth of Massachusetts; and be it further

Resolved, That the secretary of state be and he is hereby authorized and directed to transmit duly certified copies of this resolution to the members of Congress from Rhode Island.

AMA CHIEF ON "THE ROLE OF REASON"

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. O'BRIEN. Mr. Speaker, Dr. Max H. Parrott, president of the American Medical Association, recently addressed the Chicago Rotary Club.

His topic was "The Role of Reason."

Dr. Parrott expressed "the hope that reason and realism should play a greater role in our dialog on medicine." He said:

American medicine needs change and improvement. But it does not need radical restructuring.

What I strongly urge our lawmakers to do is soberly reappraise the realities of the institution we call American medicine. And I would further urge our lawmakers to measure the current realities of medical care in this country against the doomsday demands that they so frequently hear.

Dr. Parrott examined some of those realities in his talk, the text of which follows:

THE ROLE OF REASON

Now I want to say some things about medicine and its future as they will affect you—first as patients and then as individuals who run business, pay taxes and, through your vote, exercise at least some degree of control over government.

Let me start by sketching briefly the backdrop against which current medical issues must be seen. It requires neither a feat of crystal-ball gazing nor a scientific medical diagnosis to perceive that all around us is a climate of disturbing social discontent. We are a country in a period of severe doubt. Our institutions are being questioned. Nobody seems particularly happy about anything. This is a time of troubles.

In one recent book, sociologist Daniel Bell maintains that what he calls "modernism" is the villain. "Modernism," he says, rejects the old and the traditional. Modernism creates an unreasoning rage for the new. We lack the sense of established values which provide restraint, he says, and we have become a nation of people who are elbowing each other aside to push our rights and privileges to the extreme.

In another recent book, "The New American Ideology," George C. Lodge, Henry Cabot Lodge's son, makes much the same point. "The United States is in the midst of a great transformation," he writes. "The old ideas and assumptions are being eroded. They are slipping away in the face of a changing reality, being replaced by different ideas as yet ill-formed, contradictory and unsettling."

The sort of consuming discontent that Mr. Bell and Mr. Lodge refer to is also reflected in the public opinion polls. Listen to this from Burns Roper, chairman of the Roper organization, writing in the January issue of the Public Relations Journal.

"Opinion polls have shown business to be in its lowest repute since modern opinion polls first began. This isolated fact, however, lacks perspective, for it suggests that public criticism is focused on business. The fact of the matter is that practically all institutions in our society are in bad repute, or are the subject of criticism. The reputation of government, of labor, and even academia is also in poor shape." So says Mr. Roper.

Two hundred years ago, our government and our system of lawmaking were predicated on the interaction of responsible individuals. Today that has changed. We now have, to large extent, the interaction of groups, each of which has formed in self-interest. And from their interaction legislation evolves. Rapidly the land of opportunity is turning into the arena of entitlement.

Misfortune seems to have gone from our lexicon, leaving only the concept of injustice. Society, in short, is called upon to do more, and more, and more, even though society's instrument for social change—the government—seems to be regarded with the same sort of distrust that is focused on all our institutions.

I suppose it all has to do with rising expectations, and with the anger that accompanies the disappointment of those expectations. It is not my intention to analyze the phenomenon or try to explain it. But I do want to emphasize that it is there and that it pervades our thinking.

Plainly and simply, we live in an angry society. And the anger is addressed—irrationally, I think—at things the way they are. This is not to say everything is all right as it is. Many things do need change or modification, but an atmosphere of anger and frustration is not a climate conducive to logical, reasonable and constructive change.

What we have is a predisposition to tear down, a predisposition to criticize simply because "It is there." Mindless criticism.

Let me give you another illustration of this point. A few weeks ago on the Mike Wallace program, Morley Safer was interviewing a man in his late forties who had just been retired from the CIA. Like many of his colleagues, this man—I think his name was Phillips—spoke to a booking agent in New York about earning some income on the lecture circuit. To his wonderment, Phillips learned from the agent that he might earn only 7 to 10 thousand dollars a year by giving pro-CIA lectures. But he could easily command 60 to 70 thousand dollars by attacking the CIA. I think that experience reflects the mood of the country today. And I think, further, that the consequences may be devastating.

I have, of course, no intention to pass judgment on the CIA. That is a long way from my area of expertise. My only point is that people today are not interested in hearing what may be right about something.

But they are hell-bent to hear what may be wrong.

What is particularly bothersome is that the same people who want to hear what's wrong are the same people who elect our governmental officials. And candidates for office—a distressing number of them anyway—tend to tailor campaigns which drape the contours of public discontent.

It may be useful, therefore, to ask for a pause so that we can measure the reality of the issues which confront us against the popular perceptions of them. And in the hopes that you can join me in such a pause, I would like to underscore some of the realities of American medicine today.

Over and over again Washington emphasizes the need for a constructive dialogue in respect to health care legislation. To that the AMA says "Amen". There are changes and improvements that legitimately should be made in American medicine. American medicine needs change and improvement. But it does not need radical restructing.

What I strongly urge our lawmakers to do is soberly reappraise the realities of the institution we call American medicine. And I would further urge our lawmakers to measure the current realities of medical care in this country against the doomsday demands that they so frequently hear.

To counter these demands, I am going to offer you and our lawmakers what you might call a Consumer Health Satisfaction Index. This index consists of hard data which indicates that American medicine, as an institution, not only works but also retains as much or more public faith than other visible, important institutions—education, business and government itself, to mention three.

The first element in this Consumer Satisfaction Index is the availability of medical care.

Now, this element of the index is important because there is frequent criticism that barriers of one sort or another separate people from our medical system. Among the barriers most often mentioned are the economic ones and the sparse population of physicians in urban ghettos and the remoter rural areas. Let me acknowledge that these constitute weaknesses in our system. As we will see later in this talk, these are areas where change and improvement can and should be made.

What I think merits attention, however, is the scope of the problem, or the reality of it. We do not have in this country a universe of people wandering around fruitlessly in search of medical care.

Quite the contrary:

Two million, eight hundred thousand doctor-patient consultations take place every day in this country, and that does not include visits to patients in hospitals or nursing homes.

Some 86% of the people say yes, we have a family doctor we can call upon.

Six out of every ten Americans have seen their doctor at least once in the last six months. Three quarters of Americans have seen their doctor in the last year, and roughly 90% of them have seen a doctor within the last two years.

Lest you think I am trying to hoke up some figures, let me give you the source for the ones I have just read. The source is not the AMA. One figure comes from a Roper poll. The others all come from the U.S. Public Health Service, a part of HEW.

The second element in my Consumer

Health Satisfaction Index quite logically relates to public reaction to the type of care people are given. I have made the point that a surprising percentage of the population sees a physician frequently. What do these people say about the quality of the service they received?

The Roper organization finds that 8 out of 10 are either "very satisfied" or "well satisfied" with their medical care.

In asking people whether they were satisfied or not, the Roper questioners asked, "are you satisfied with your medical services in terms of availability, quality, cost and provisions for paying those costs?" So the response to this question covers a broad range of factors. It should be noted further that the Roper satisfaction figures, both for quality and availability, have increased five points in the last two years.

A study by the University of Michigan's Institute for Social Research finds 7 out of 10 "very satisfied."

The late "Life" magazine asked its readers how they felt, and 89% wrote in to say they rated their care "excellent," "good" or "fair."

The Washington Post conducted a survey of the capital area and found 86% of their sample considered their medical care either "very good" or "pretty good."

A recent study by the First National City Bank of New York reports three people out of four in their sample rated their medical care "good to excellent."

To avoid a loading of the dice, let me state the contrary position. No index is complete without a measurement of negatives. Here are some dissatisfaction figures.

About five years ago the Center for Health Administration of the University of Chicago did such a study. That study included breakdowns by age, race and income with considerable variations. Non-white, non-poor people over 65 were least dissatisfied. Non-white, non-poor people under 65 were most dissatisfied. But taken altogether, on a nationwide basis, only 10% of the sample said they were "unsatisfied" or "very unsatisfied."

I would offer, finally, one other indication—this from Virginia Knauer's Office of Consumer Affairs in HEW. That federal office made a compilation of consumer complaints received in 1974—over automobiles, furniture, TV repairs, and so on. Twentieth on this list of complaints were complaints labeled "medical," a category which included not only doctors and hospitals but complaints about dentists, podiatrists, nursing homes and other medically allied services.

Well, that is quite a helping of statistics. But they are interesting to anyone who seeks an objective view, and they are necessary to give authority to the sort of Consumer Health Satisfaction Index I think should be entered into our national dialogue on health care.

In offering this Satisfaction Index, I want you to understand that its purpose is to provide perspective. It is offered as a counterweight of reason to balance some of the unreasonable arguments on the other side. I do not claim infallibility for the American physician. Nor do I regard medical care in this country with smug satisfaction. Change and improvement are needed.

Earlier in this speech I expressed the hope that reason and realism should play a greater role in our dialogue on medicine. Let's see how that might apply to four issues under current discussion, with emphasis again on reasonable and rational approaches versus approaches that emerge from the mindless discontent which calls for irrational change.

First and foremost is the issue of national health insurance. Our present system, based largely on private, employee-employer-paid insurance with Medicaid support for the poor and Medicare for the old, provides coverage for most of the population. But there are gaps in the system which need closing and there are needs for better insurance at the high-expense end of the scale—coverage against the financially catastrophic medical bill.

There are two basic approaches. One approach is to concentrate on the financing of care, largely through private means and methods, without a major overhaul of the present health-care system, without a massive federal intervention. This is the path favored by the AMA, which has its own insurance bill before Congress.

The other, better publicized, approach would have the federal government sharply alter or even control the system of care—not just its financing but the ways in which care is provided. In its extreme form, this approach would give us something much like a British-style National Health Service. I know you've seen accounts of how the British system is capsizing under its load of stodgy bureaucracy, bloated costs, patient pileups, surgical backlogs and bad morale.

So why the big shove toward the same thing?

The rationale is that not enough people are getting enough adequate care from our privately-oriented system, and that government is the logical source of rescue. But what is the evidence that the public is not getting enough? Why, the people are saying so, according to the advocates of federal intervention. The more intervention these advocates want, the louder they are in saying the people demand it.

But what do the people themselves say? I refer you back to my Consumer Health Satisfaction Index. I would refer you also to a very recent poll done by CBS and the New York Times, neither of which is exactly a bastion of conservative thought. And what do the people say in the Times-CBS poll? An overwhelming majority say that such federal health programs as now exist would be better run if they were taken away from the federal government and turned over to the states. That is the reality of what people say.

Another poll, this one commissioned by the Wall Street Journal, shows that the public is even opposed to national health insurance by ratio of 46 to 41.

What does reason suggest in the face of all of this? Reason suggests to me that any national health insurance program should focus on the financial need of those who want it and should keep the federal role to a minimum, both financially and administratively. And that is the focus of the AMA proposal for national health insurance.

Next on my legislative agenda would be the matter of health manpower. There are those on Capitol Hill who want medical graduates to do a stint of service wherever the government pleases and who want hospital residency programs started and terminated wherever and however a bureaucracy decides. The rationale for these proposals is that they are the only way to get more doctors into the primary-care fields (such as family practice, pediatrics, internal medicine, and my own field of obstetrics and gynecology), and into the rural and urban areas that need such practitioners.

But what does reason say about this?

Reason tells me that the forced-service idea is unconstitutional, and that it would set a grisly precedent for conscription in other walks of life. It tells me that any political distribution of medical care will be dangerous to care, and that, furthermore, it isn't necessary.

A quiet revolution occurring in the medical schools has already put primary care at the top. Last year 58 per cent of the new medical school graduates entered the primary-care fields. That percentage becomes all the more significant when you consider that the total number of graduates has been jumping. Through the sometimes joint efforts of medical schools, the government's own National Health Service Corps, the AMA and its component societies, and other institutions, the geographical gaps in care are steadily being filled.

I remind you too of the poll figures quoted earlier which tell me, at least, that what problems we may have in medical manpower do not add up to a widespread crisis. Does the government have to jump into and take over the locomotive of a train that is already on the go?

As a good instance of unreasoning action, let me cite the recent complaint filed by the Federal Trade Commission over physician advertising, or rather physician non-advertising. The FTC complains that the AMA's long-standing taboo on ads by physicians is in restraint of trade. Its rationale is that if doctors would only publicize their services and charges, competition would increase, and consumers could choose a doctor more suitably. What does reason say? Reason tells me that medicine is not simply the merchandising of technical knowledge and skill, but the judgment, the creativity, the reasoning needed to adapt that knowledge and skill to the individuality of the patient. So let me now ask: How can those attributes be advertised? How can quality of care be advertised or assured by an ad? If they can't be, which they can't, then any advertising of fees amounts to hucksterism. The FTC complaint is a good illustration of how regulatory agencies put their thumbs on the clay of law and shape it as they please.

Doctors may—and do—make their services known. A physician may advertise many things. He can announce the opening of his office, state his office hours, describe his practice by medical specialty, and state his availability for house calls. He can advertise in a community newspaper a new office location, the joining of a group practice, or his separation from one. He can list himself in the Yellow Pages, and he can have his availability listed with the county medical society or his hospital for people who call and ask for the name of a doctor. So-called physician directories—several including fee information—are not forbidden by the AMA.

To go beyond those ethical guidelines can quickly take physician advertising into hucksterism—into the promise of painless treatments and miracles. Such things existed not too long ago. And to protect the public, 41 state legislatures passed statutes forbidding such practices. But now the FTC in its wisdom would rule out the lessons of experience. It would reinstate what the public has firmly rejected in the past.

The FTC argument assumes a universe of physicians without patients and another universe of people totally frustrated in efforts to locate medical attention.

I have to ask how serious a problem this is. I direct you back to my index and those two million, eight hundred thousand physician-patient contacts every day of the year.

And I have to ask again are we dealing here with reason? Or are we dealing with something else, something that arises from unreasoning discontent?

Earlier I asked you to join me in a pause, a pause during which we could apply reality to the frantic pressures we are receiving to throw out the babies with the bathwater. I suggest it is high time we re-introduce common sense to our discussions of the issues of the day, and not just the medical issues either but issue that may be more immediate to you.

Otherwise, as Santayana once said, "those who do not study history are condemned to repeat it."

PROBATE JUDGE REED S. BATTIN OF WARREN, OHIO, IS HONORED FOR OUTSTANDING SERVICE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CARNEY. Mr. Speaker, it gives me great pleasure in calling the attention of my colleagues in the U.S. Congress to the fact that the Honorable Reed S. Battin has recently been honored as the outstanding probate judge in the State of Ohio. Among those honoring Judge Battin were: the Ohio House of Representatives and the Ohio Senate, the city council and the mayor of Warren, Ohio, and the city council and the mayor of Girard, Ohio.

In addition, Judge Battin was presented an award by the Honorable C. William O'Neill, chief justice of the Supreme Court of Ohio, for his exceptional service. The award was presented in recognition of Judge Reed S. Battin's excellent record in keeping his court's caseload up-to-date for the entire 10 years he has served on the bench.

Judge Battin is now serving his second term as probate judge in Trumbull County, Ohio. Through the use of microfilming, flat files, and the operation of his court on a cash basis only, Judge Battin has maintained one of the most efficient courts in the United States today. It was for this distinguished service that he was named the outstanding probate judge of the State of Ohio for the year 1975.

Before becoming a probate judge, Judge Battin was a practicing attorney in the city of Warren for over 25 years. He also served four terms as city solicitor of Girard as well as a former president of the board of education.

In addition to his official duties, Judge Reed S. Battin is a member of the Trumbull County Bar Association, the Ohio State Bar Association, the National College of Probate Judges, and the American Judicature Society.

Mr. Speaker, I am very proud to count Judge Reed S. Battin as one of my friends and constituents. I want to personally extend to him my sincere appreciation for his great contribution to the rule of law and justice in these troubled times. His work in the community makes all of Trumbull County a much better place in which to live and raise a family. I am sure all of my colleagues in the House and the Senate will join me in commending Judge Reed S. Battin for his exemplary service, and in wishing him continued success in his career.

THE NEED TO ASSIST THE HANDICAPPED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. RANGEL. Mr. Speaker, in our fight against discrimination in this country, we have addressed ourselves primarily to those forms of discrimination which are the result of one's race or national origin. I am sure that we all realize that the fight against this type of discrimination is by no means won, although we have made considerable advances in the area. I am certain that if we continue our struggle we will eventually win out over the forces of discrimination as it relates to race, religion, sex, or national origin.

However, in our struggle against discrimination we tend often to overlook other examples of discrimination which are no less reprehensible but somewhat less visible. One type of discrimination that comes quickly to mind is that which the physically handicapped must face on a daily basis.

An important move on the part of Congress was made in this area with the passage in November 1975 of Public Law 94–142, the Education for All Handicapped Children Act of 1975. I commend all of my colleagues who, like myself, voted for the passage of this bill, as well as the other vocational training for the handicapped bills that have come before us. Unfortunately, important as these bills are, they do not address themselves to the discrimination problem.

The problem of employers discriminating against the hiring of the handicapped is, like most forms of discrimination, caused by ignorance. In this case it is probably ignorance of how effective handicapped workers can be, as well as misconceptions covering the four factors of quality, quantity, attendance, and punctuality. These false notions, probably more than any conscious attempt, are largely responsible for this discrimination.

It is for this reason that the Joint Handicapped Council, a nonprofit organization for promoting programs for the handicapped, undertook a study to compare the performance rating of handicapped employees to that of the nonhandicapped. The results of that study are important, and I would like to include parts of the study in the Congressional Record at this time. By publicizing the truth regarding the employability of the handicapped, it is my hope, and that of the Joint Handicapped Council, that we can attack the false ideas and ignorance regarding the handicapped and thus allow them to take a more active and meaningful role which has, for too long, been denied to them. I would like to include at this time some of the important parts of this study for my colleagues' review:

A Message from the President: On behalf of the board of directors of the Joint Handicapped Council, I wish to extend thanks to the Muscular Dystrophy Association of America, Inc., for the financial grant given the "Council" enabling us to conduct this statewide survey. Mr. Ronald Schenkenberger, Director of Community Services of MDA, shared our enthusiasm about the survey and this of course helped.

On behalf of the board, I also extend thanks to the corporations and companies, listed on the New York Stock Exchange, for responding to our survey, whose findings are analyzed and summarized in this report.

Officers and committee members of the Joint Handicapped Council (all volunteers) have served faithfully and well rate the gratitude and thanks of the community. Special tribute must be paid to our volunteer officers—Mr. Wieder, Mr. Beer and Mr. Lupkin—for creating and developing this limited but far reaching survey. They have devoted themselves far beyond the mere duties outlined in their position. Mrs. Martha M. Montor's talents, as always, are extremely helpful to the Council. Her refreshing views are always welcome and appreciated.

PAST, PRESENT AND FUTURE

The Joint Handicapped Council was formed in 1957 due to the need for an organization by and of the handicapped who are gainfully employed, in order to help, without compensation, the other disabled to live a better social and economic life. There was a need, by such handicapped volunteers, through their own organization, to fight for the every-day needs of the handicapped through legislative action, immediate help, referral and guidance in the field of employment, fight against discrimination in employment, in both civil service and private industry, overcoming architectual barriers, better and improved education for the handicapped, special transportation needs, etc. . . .

Over a period of years, the Council took up the cudgels of the handicapped in several parts of the country. For example: Addressing itself to the City election officials of Chicago regarding the rights of the handicapped in voting; intervened on behalf of the handicapped of the City of Los Angeles in their fight against discrimination in employment; intervened on behalf of a handicapped person in Maryland who was denied her Social Security benefits due to certain technicalities, etc. . . . The Council testified on behalf of the handicapped of our nation on many occasions, at hearings before the House Ways and Means Committee and the United States Finance Committee in Washington; also in Albany and New York City, before the State Legislature and City Council.

The Joint Handicapped Council was active on the Task Force of the Department of Education, State of New York, Division of Vocational Rehabilitation from 1967–1969; active on the Task Force and/or Advocacy Committees on Consumer Affairs, Human Rights, Employment, Transportation, Rehabilitation and Legislation of the Mayor's Office for the Handicapped in New York City. The Joint Handicapped Council is also a member of the Congress of People with Disabilities of New York and recently joined the American Coalition of Citizens with Disabilities, Inc.

After 17 years experience in dealing with, and understanding the needs of the handicapped, we felt a further need to expand our work. This survey was the beginning of a new activity for the Council.

We are looking forward to expand this survey, covering American Industry on a National level. With a little effort, determination and financial assistance from reputable and well established foundations and/or organizations, our future goals and achievements will be accomplished.

Sincerely,

MAURICE WARD,
President, Chairman of the Board.

PERFORMANCE RATING OF HANDICAPPED EMPLOYEES AS COMPARED WITH THE NON-HANDICAPPED TAKEN FROM FIRMS LISTED ON THE NEW YORK STOCK EXCHANGE

(By Sol Weider* Edwin Beer** and Max Lupkin***)

Qualified handicapped workers know that when treated fairly and given an equal chance in employment, they will prove to be competitive and dependable employees. Often, the handicapped will outperform their non-handicapped co-workers, both in quality and quantity.

A comprehensive study by Thomas R. Shworles, M.A., and Irene G. Tamagna, M.D., of the George Washington University concludes that putting substantial work opportunities into the hands of former homebound severely disabled people resulted in many changing their dependency status by graduating out of the home, getting married, buying cars, earning citations and awards for accomplishments.[1]

The files of Handy-Cap Advancement[2], People to People Program[3] and the President's Committee on Employment of the Handicapped[4] are full of success stories of people overcoming severe disabilities and achieving high recognition in the business world or becoming leaders in their professional field.

While above facts are gratifying, people with disabilities as a group have nevertheless historically experienced and continue to meet substantial employment discrimination. To change the trend of under-employment of qualified handicapped people, it is helpful to know the views expressed by the business community. After all, it is they who can open or close the gates of employment to the community of people with disabilities. We at the Joint Handicapped Council felt a need to know first hand from the business leaders, how they rate the handicapped employee as compared with the non-handicapped. Who is in a better position to rate and compare them? Frankly, we were a little apprehensive about the survey at first and for understandable reasons, as results may have turned out to be negative. The results of this limited survey were indeed positive and far beyond our expectations. The findings in our judgment will be beneficial to both the handicapped community who yearn for an equal break as well as American Industry who certainly can take advantage of adding qualified, productive and loyal employees to their ranks—people with disabilities.

SCOPE OF THE SURVEY

720 firms listed on the New York Stock Exchange with home offices in New York State were surveyed. A total of 94 firms responded to our questionnaire. The 94 responding firms maintain a work force of approximately 235,000 people. Of those responding, 63.8 percent employed 1,000 or more workers and 84.0 percent maintained branches also in other states. Although the responding firms cover a cross section of American Industry, nearly half (48.9%) came from the manufacturing field.

SUMMARY OF SURVEY RESULTS

Four factors that usually pop into an employer's mind when he hires a handicapped person are quality, quantity, attendance and punctuality. Will the employer have to make allowances for the fact that the person has a disability or will he be able to hold his own?

Our "Performance Rating Survey" shows that of 92.3 percent who thought they were the "same or better", 42.9 percent rated the handicapped better than his non-handicapped coworkers in punctuality. No employer rated them worse in punctuality.

As far as attendance is concerned, again out of 90.9 percent favorable response, 40.3 percent rated them better with only 1.3 percent worse.

Out of 85.4 percent who rated the handicapped "same or better" in quantity, 10.7 percent rated them better than non-handicapped employees.

Quality is an essential part of any responsible job. Of the 94.9 percent favorable responses, 32.1 percent regarded the handicapped employees better than their co-workers.

In the other factors, each individual factor rated a minimum of 81.4 percent favorable responses, except for leadership where 57.9 percent rated the handicapped favorably. The low rating for "leadership" may be attributed to the fact that handicapped employees do not participate in non-work "employee" related activities, or are deliberately excluded from activities, or employee functions held in places which are not accessible. To understand our definition of "leadership", please refer to "Rating Factors Explanatory Notes."

Since people with disabilities in general have a history of being eager to get employment, be productive and self supporting, factors like dependability and cooperativeness rated them a "better than" response of 46.1 percent and 41.8 percent respectfully out of 93.5 percent and 91.2 percent favorable responses.

CONCLUSION

Given the right conditions and equal employment opportunities, in general, people with disabilities are able to compete with the non-disabled. According to firms listed on the New York Stock Exchange who participated in our limited survey, the handicapped employees excelled 31.5 percent of the time and performed in the same manner as their non-handicapped co-workers 59.4 percent of the time in areas that count and cost the most . . . namely: quantity, quality, attendance and punctuality—an outstanding record indeed!

FOOTNOTES

*Director of Statistical Operations, Health Insurance Plan of Greater New York, Vice President and Board Member of Joint Handicapped Council.

**Administrator I, New York City Civil Court, Vice President and Board Member of Joint Handicapped Council.

***Fiscal Control Aide, New York City Department of Correction, Executive Secretary and Board Member of Joint Handicapped Council.

IMPORTANT.—All officers and directors of the Joint Handicapped Council serve on a voluntary basis and without compensation.

[1] Final Report: Development of Modern Vocational Objectives for Severely Disabled Homebound Persons by George Washington University, Rehabilitation and Training Center #9, 2300 Eye Street, N.W., Washington, D.C. 20037

[2] Handy-Cap Advancement, a publication dedicated to the advancement of the handicapped people. 28 Brighton 7th Court, Brooklyn, N.Y. 11235

[3] People to People Program (Success stories from around the world) 1028 Connecticut Avenue, N.W., Washington, D.C. 20036, Suite 610

[4] President's Committee on Employment of the Handicapped, Washington, D.C. 20210

STREAM APPRECIATION MONTH

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CARR. Mr. Speaker, the State of Michigan and the Grand River Watershed Council, a regional governmental entity of our State serving counties, cities, villages and townships on water resource management programs, has designated May 1976 as Stream Appreciation Month to encourage the development of programs for creating greater public awareness and appreciation for our water resources.

The Michigan Grand River Watershed Council is sponsoring a basinwide public action event called "CC-76" to promote Stream Appreciation Month. "CC-76" is a certified Bicentennial public involvement program centered around a 217-mile canoe trip from Jackson to Grand Haven and coordinated canoe parties traveling along 230 miles of tributary streams. The name "CC-76" is derived from "CC" the Roman numerals for 200, and "76" being the year of the event.

Through their promotional effort, the Watershed Council is encouraging local organizations to sponsor programs, such as: stream cleanup; boating, trips and excursions; streamside park development; fish planting, fishing contests; conservation projects; special studies—academic; and the river in community drama.

While this particular promotional effort is oriented toward a specific watershed in Michigan's Sixth District, the concern which they have so enthusiastically expressed is one affecting all of us, and I therefore want to share the plan of the Grand River Watershed Council with my colleagues. Mr. John H. Kennaugh, executive secretary of the Michigan Grand River Watershed Council, 3322 West Michigan Avenue, Lansing, Mich. 48917, would be most happy to advise interested persons as to the operational details of "CC-76." I commend the Grand River Watershed Council for its timely and significant program for this creative public awareness program, and intend to further endorse it by participating in part of the canoeing trip.

LUCIEN A. DiMEO, A MAN DEVOTED TO PUBLIC SERVICE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. SARASIN. Mr. Speaker, during our Bicentennial Year, it is important for us to reflect on that which has made our Nation great, on what has enabled us to combine progress and compassion into such an effective whole.

The secret to our independence is found in the history of our Nation 200 years ago. The reason we have continued to grow and develop is discernible throughout the years of our existence, and it is found in our people. Americans, from our Founding Fathers through today's leaders, have been able to transcend the close bonds of family and friends, sharing their interests, talents, and concerns with their communities. Because of their selfless devotion to the world around them, all of us have benefited from their efforts, as will the generations to follow.

One such individual is the Honorable

Lucien A. DiMeo, mayor of Hamden, Conn., who is being honored on Saturday, April 3, by Boys Town of Italy. Mr. DiMeo will be presented with the Man of the Year Award by this organization, an award he richly deserves. His activities and involvements are numerous, ranging from the Rotary International and the chamber of commerce to the YMCA, Knights of Columbus, and the Elks Club.

Government has always been a primary interest of Mayor DiMeo, evidenced by his election to the Connecticut General Assembly where I had the pleasure of serving with him, and his participation in the Connecticut Conference of Mayors and Municipalities, the Regional Council of Elected Officials, the Hamden Retirement Board, Sewer Commission, and the Board of Education. To further improve delivery of necessary services to the people he serves, he is the director of the visiting nurses association and New Haven Health Care, Inc.

While this would be an impressive list of accomplishments and interests for any individual, Mayor DiMeo's involvement in helping others is indefatigable. In addition to all his other achievements, he is also vice chairman of the Greater New Haven Transit District, a member of the Advisory Council on Community Affairs, a position he achieved through appointment by former Governor Meskill, and he actively participates in the Hamden Historical Society, Unitas, the Connecticut Agriculture Experiment Station, and the Association for Retarded Children of Greater New Haven, Inc.

Mayor DiMeo's dedication to his community is well known throughout Hamden, the city in which he grew up, attended schools, insured the religious life for his family through their membership in the Blessed Sacrament Church, and developed into the fine public servant being honored by Boys Town of Italy.

The residents of Hamden, and indeed of the entire State of Connecticut, are privileged to claim Mayor DiMeo as their friend, and I join with the members of Boys Town in congratulating and thanking him for his devotion to the welfare of his community.

REPRESENTATIVE STANLEY LUNDINE FROM THE 39TH DISTRICT OF NEW YORK

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. VANDER VEEN. Mr. Speaker, as the first Democrat from the Fifth District of Michigan in 62 years it gives me particular pleasure to take special notice of the arrival of our colleague, Representative STANLEY LUNDINE from the 39th Congressional District of New York. Representative LUNDINE is the first Democrat to capture this district in 102 years, thus acquiring the First-Since-When title which I have held.

It is truly phenomenal that a voting habit of such long standing be now overturned in the 39th District of New York and I am sure all of us would like to know the factors which operated to do this.

Representative LUNDINE has shed some light on this question in his testimony before the Senate Finance Committee March 25 in support of H.R. 10612, the tax reform bill. He states the people elected him in part to work for and achieve the reform of our tax laws. I share this goal with him and am pleased to present his testimony for the RECORD:

TESTIMONY SUBMITTED BY CONGRESSMAN STANLEY N. LUNDINE, DEMOCRAT, NEW YORK

Mr. Chairman and Members of the Committee, I appreciate having this opportunity to address the subcommittee as it conducts these vital hearings on tax reform. As the newest member of Congress, I'd like to share with you some of the feelings and sentiments I received from the people in New York's 39th Congressional District during the recent special election.

I made a promise to the people in my district: I promised to come before this committee and represent them—the individual taxpayers whose voice is too often not heard when Congress considers tax reform. The corporate industries are heard. The large trade and professional associations are heard. The traditional lobbyist interests are heard. But for too long, the people have not been heard and the people have something to say.

As I traversed the part of New York we call the Southern Tier during my campaign, I quickly discovered that "tax reform" was not simply an "issue" with the people; they have gone beyond that stage. The people are demanding that their elected representatives take strong, specific initiatives to bring about reform and they are keeping a close watch on our Congressional performance. They are very serious about this and I whole-heartedly support their actions and involvement.

They want basic changes in the Internal Revenue Code and they want changes now! They are upset because the federal tax structure has remained substantially unchanged since the enactment of the Tax Reform Act of 1969. Payroll taxes have been increased, income taxes have been reduced, and the investment tax credit has been suspended, reinstated, and then increased. But the basic structure of the income and payroll taxes, which now account for over 90% of federal tax revenue, has not been altered.

That the tax structure has been relatively stable does not mean that it enjoys general public approval. Many taxpayers, including both liberals and conservatives, Democrats, Republicans and Independents, regard it as unfair. The 1969 legislation, which was enacted in response to public pressure, was expected to be a first step in reforming the tax system, but no further steps have yet been enacted. Despite the legislative impasse of the past several years, interest in tax reform has not abated, but rather has increased to a new, militant level.

Tax reform is urged not only for economic and equity reasons, but because the tax system has become extremely complicated. Congress has repeatedly added new provisions to the tax laws in its effort to balance the competing demands of various groups. The result is an Internal Revenue Code well-nigh impenetrable to all but a few experts.

In response to this increasing pressure from the taxpayers, the House, late last year, passed it's version of the bill now before this committee. Although perhaps not comprehensive by everyone's definition, the House bill does make important progress toward an ultimate comprehensive reform by providing for greater tax equity by simplifying I.R.C. provisions and administration, by eliminating some of the most abused tax shelters and by beefing up the minimum tax. The bill passed by the House does not represent a satisfactory answer to the taxpayers' rightful demands for reform, but it is an important beginning.

While some people view any tax as an unwarranted and onerous burden, I found that most people recognize the need for the government to levy taxes to raise revenues necessary to pay for government functions. Most people also recognize that taxes play an important stabilizing role in the economy and, if properly designed, can help to promote economic growth. However, the individual taxpayer will only support an equitable system where he or she knows that everyone, individuals and corporations alike, is paying his fair share. The people are protesting now not against federal taxes, but against the incredible and obvious inequity in our current tax system.

The people are protesting this unfair system and they are cheating on their own tax returns. I bring that up because it tells us something important. Until recently the taxpayers in this country had an extremely high compliance rate on their returns. Nobody enjoyed paying taxes, but everyone did pay, and pay their full share.

The growth of loopholes and preferential treatment made available to wealthy individuals and corporations and the refusal by Congress to do anything about it left a justifiably bitter taste with the individual middle income taxpayer. Today the I.R.S. estimates that approximately 70% of all tax returns are not in full compliance. These aren't big, fraudulent cheaters, these are people so frustrated and annoyed by an unfair tax system that they rebel in one of the only ways they can. I am not condoning or supporting cheating by any taxpayer, but I believe we should realize what is happening, why it is happening and that we in Congress, by restoring faith and fairness in the tax system can end it.

Many see the major drawback of the present tax system in its violation of two basic principles of tax equity:

First, the principle of progressive taxation—that the share of an individual's income taken by taxes should increase as income rises; commonly referred to as vertical equity.

Second, the principle of horizontal equity which states that taxpayers in similar economic circumstances should pay roughly the same taxes, regardless of income sources.

The current U.S. tax structure, including federal, state and local taxes has substantial redistributive effects in favor of the affluent. In 1973, 24 individuals with adjusted gross incomes of over $1,000,000 did not pay any taxes. The tax shelters and preference almost exclusively used by the wealthy—depreciation speed up, investment credit, artificial deductions on tax shelters in real estate, farming operations, certain oil and gas wells, and equipment cases—will cost the Treasury and the nation's taxpapers over $8 billion for the year ending June 30, 1976. Perhaps the major innovation in the 1969 Tax Reform Act was the enactment of a tax on preference items previously excluded under individual and corporate income taxes. Under this minimum wage tax, an individual was to have been taxed at the rate of 10% on the sum of his income from tax preferences less a $30,000 exemption. It appeared that a small, but positive, step toward tax equity had been taken. However, as a result of the loopholes in the minimum tax, 92,000 individuals reporting tax preference income totaling $3.1 billion paid no minimum tax at all. Similarly, 75,000 corporations, with tax preference income of $1.6 billion paid no minimum tax at all.

These figures do not, of course, tell the whole story, they merely represent the tip of the iceberg. But they should be enough to tell us that reform is desperately needed. The average American taxpayer already knows it. That average taxpayer may not be knowledgeable in the use of sophisticated devices such as capital gains, accelerated depreciation and the investment tax credit, but he or she is very much aware that the middle income groups are enduring a bigger share of the tax burden as in years past and they will not tolerate this byzantine construction of an "equitable" tax system any longer.

Economics is not a simple subject, but our tax law is needlessly shrouded in dense complex language that obscures its meaning and hides its effects on public and private decision making. With 1,890 pages of the Internal Revenue Code and with 4,526 pages of accompanying regulations, even sophisticated analysts must struggle to comprehend the implications of tax policy. The code should be drastically shortened and simplified.

The present tax system works against 85% of all individuals—those with adjusted gross incomes of under $20,000. They get fewer and smaller tax breaks; they pay more of the taxes which the I.R.S. says they owe; they spend millions of dollars on commercial preparers for tax advice that is often wrong; and they get an inferior brand of justice from I.R.S. when differences do arise.

I believe that many of these problems could be effectively resolved with a basic, radical change in the system. All special preferences and credits in the tax law—loopholes—should be cast aside. In their place, we should impose a single progressive income tax with substantially lower rates, leaving the individual's income tax to rise as his or her income rises. The basic result of such a change would be that people in income brackets above $100,000 per year would pay more taxes than they do now and those with incomes below $20,000 would pay less.

Although there are some middle and lower income taxpayers who are afraid of losing the miserly deductions they now enjoy, I am convinced that if they truly believed that we in Congress were preparing a fair and comprehensive tax reform package of this type and if they were honestly shown how grievously they fared under the present system, they would not only support this type of change they would demand it.

This simplification approach would have the desirable dual effect of eliminating thousands of ambiguous regulations and loopholes from the Internal Revenue Code and of providing a clear and fair understanding of each individuals tax obligation. By this one change we could remove the veil of confusion which currently exists as the norm and basis for every encounter with the code by every individual taxpayer and ensure that the "average" taxpayer could prepare his or her return competently and completely without professional assistance.

Another major equity problem for the low and middle income taxpayer is the payroll tax—especially the social security tax. The payroll tax combines two regressive features. It takes a flat percentage of covered earnings and sets an earning ceiling so that those incomes above the ceiling are not subject to additional tax payments.

Recent I.R.S. figures show that at least one-half of all American income earners pay a higher social security tax than income tax. Viewed with this insight it is obvious that "tax reform" proposals—such as President Ford's—which contemplate a slight reduction in income taxes and a higher social security tax represent regressive reform which will increase the heavy burden of the low and middle income worker and will, by robbing Peter to pay Paul, have no substantive effect on the total tax dollars collected.

Between 1969 and 1974, receipts from individual income taxes rose by $32 billion or 36%. In the same period federal social security insurance taxes and contributions rose by $30 billion or 75%. (Corporate income taxes in the same period rose by $2 billion or only 5%). The figures are clear and their impact obvious—those who can least afford it are being asked to increase their already burdensome tax payment.

I believe the payroll tax should be revised to apply only to earnings above a fixed minimum per capita, that there should be a standard deduction of $2,000 and that the maximum taxable earnings limit should be raised substantially.

It is also time that the tax laws be viewed as line items in the national budget. Economically, it makes little difference whether the Federal Government provides subsidies through direct grants and Treasury checks or by failing to tax someone who would otherwise be taxed. Procedurally, however the two methods of being on the Federal take are vastly different. Appropriations are reviewed each year by the Congress in an effort to determine whether a given program merits further funding. Tax expenditures (loopholes and preferences), in contrast, are rarely, if ever reviewed. In the appropriations process, Congress must act affirmatively to open the Treasury "tap"; but Federal dollars "spent" under the tax laws continue to be spent until the Congress acts to turn the tap off. As a result, tax expenditures are self-perpetuating, remaining on the books long after their original justification has disappeared.

Congress should be required to review Federal tax expenditures annually and to act affirmatively if it wishes to continue any one of them.

If active approval is not given, the benefits should lapse. In this way, the burden of justifying the spending of public money would be shifted where it belongs.

Past disappointments with tax reform may be due in large part to a failure on the part of elected officials and tax "experts" to convey a message to the general public. The key to action on tax reform is both a broader public agreement on the proper distributional, or equity, goals of society and a deeper public understanding of the contributions that a better tax system can make to the achievement of the best and most efficient use of the society's available resources.

Constructed as it must be from a complex set of trade-offs whose dimensions are uncertain and whose ingredients inspire sharply differing individual evaluations, a good tax system is a delicate, ever changing work of political and economic artisanship. At one and the same time it must be:

Simple enough to be widely understood but complex enough to deal effectively with economic reality;

Equitable in its allocation of burdens between rich and poor but sensitive to the potential disincentive effects of high tax rates;

Frugal in its commitment of resources to administration and compliance but generous in applying them in the pursuit of fairness and justice;

Evenhanded in its treatment of similarly situated taxpayers but alert to the social benefits attainable with well-designed tax incentives.

Obviously, tax reform is a difficult and complex issue. I do not come before you today with all the answers to the questions, but I do have two specific points on which to conclude. The individual taxpayers who represent the backbone of the tax system and in fact our entire governmental process know an equitable tax system when they see one. He or she may not be able to write all the components of such a system, but they know one when it is put before them. The current tax system fails miserably to provide these taxpayers with the security of an equitable and acceptable system.

My final point is that neither I nor any individual in the country—be he a Congressman, Senator, economist, or private taxpayer—should feel precluded from discussing tax reform simply because he does not know all the answers. I have outlined today some of my major concerns for comprehensive tax reform. I have offered the types of solutions which I support. But I am not asking this committee to take all of my suggestions and incorporate them, and only them, into the legislation you are now considering. Nor is the individual taxpayer asking that all of his ideas be accepted in a new, comprehensive tax reform package.

What I am asking for and what the individual taxpayer is properly demanding is that this committee, as the appropriate body of the Senate of the United States, not shirk from its responsibility to the people. The people know that it is time now to begin a sincere and committed discussion of comprehensive tax reform. You, like I, have been elected to serve the people and we will only continue to serve and hold their trust as long as they believe that we are acting in their best interest. This committee, along with the House Committee on Ways and Means, has the resources—in your own membership, in your staff, and in your ability to call expert witnesses—to ensure a forum for discussing and drafting vitally needed tax reform legislation. I for one believe it is a duty which the people deserve to have fulfilled.

POSTCARD REGISTRATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial "Postcard Registration" from the Lompoc Record. I know many of my colleagues agree with it.

The Voter Registration Act (H.R. 11552) is a bad piece of legislation. Not only will it cost the taxpayers an exorbitant amount of money, but also open the door to fraudulent registration.

The article follows:

POSTCARD REGISTRATION

The "Voter Registration Act," or H.R. 11552 will soon be reported to the House floor for consideration seeking to establish a federal system of voter registration using postcards.

The legislation is based on the premise that low voter participation in the United States is caused by cumbersome voter-registration procedures which, if simplified, would automatically yield higher election day turnouts.

We doubt seriously if voters stay away from the polls because they find it too cumbersome to register. We believe that voters are staying away from the polls because they suspect political institution and candidates associated with them and it is doubtful that a major revamping of voter-registration procedures, costing more than $50 million annually, will do away with this attitude. Texas has had postcard registration for years. The state has one of the lowest registration and voting rates in the United States.

Furthermore, as the measure is being presented, the postcards would be so complicated and would require so much information that the citizens at whom the system is aimed—those who do not participate in the political process—are the ones likely to have the most difficulty completing the complex forms accurately. Postcard registration would be dependent on the U.S. mail system. Some people would be disenfranchised because their cards would be lost or arrive too late to be processed by the bureaucratic machine.

One of the greatest dangers, however, lies in the fact that any political faction could pick up from the post office hundreds of thousands of postcards to be used for large-scale fraudulent registration which would then be voted by absentee on election day.

The whole thing is a bad piece of legislation.

RESOLUTION ON BEHALF OF DR. SEMYON GLUZMAN, ANOTHER VICTIM OF SOVIET REPRESSION

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. KOCH. Mr. Speaker, I would like to bring to the attention of my colleagues the plight of Dr. Semyon Gluzman. Dr. Gluzman is a 28-year-old Soviet psychiatrist imprisoned in the Soviet Union. He has been sentenced for a total of 10 years in a labor camp and in exile on the charges of "anti-Soviet agitation and Zionist propaganda." What he has actually done is to conduct a courageous campaign for human rights. He openly challenged the Soviet's use of psychiatry in the so-called treatment of activists and dissidents and he published materials denouncing psychiatric abuses in the Soviet Union. The Soviet Union repeatedly attempts to repress the voices of its citizens crying out for basic civil liberties. The U.S.S.R. continues these practices in spite of it being a signatory nation of the Helsinki Accord.

The New York Medical Committee on Soviet Jewry has prepared a resolution on behalf of Dr. Semyon Gluzman. This resolution is being circulated at local, State, national, and international meetings in the psychiatric, social work psychological, and other mental health professional fields. I wholeheartedly support this resolution and am entering it in the CONGRESSIONAL RECORD so that my colleagues may become aware of the case of Dr. Semyon Gluzman:

RESOLUTION CONCERNING SUPPORT FOR DR. SEMYON GLUZMAN

Whereas, Dr. Semyon Gluzman, a 28 year old Soviet psychiatrist, is currently imprisoned in the Soviet Union, sentenced to a total of 10 years in a labor camp and in exile, on the charge of "anti-Soviet agitation and Zionist propaganda," and

Whereas, these charges were brought against Dr. Gluzman because he courageously challenged the Soviets' use of psychiatry in "treating' activists and dissidents and published materials denouncing psychiatric abuses in the Soviet Union. Further, he refused an assignment by Soviet authorities to work in the Dnepropetrovsk Special Psychiatric Hospital where he knew political dissidents to be languishing, because to accept such a post would have meant becoming a collaborator in similar corrupt acts; and

Whereas, Semyon Gluzman has continued his courageous campaign for human rights even while confined to a labor camp, clandestinely coauthoring A Manual of Psychiatry for Political Dissidents, which has been published in the West by Amnesty International; and

Whereas, Dr. Gluzman, in punishment of his acts of defiance has recently been transferred to the harshest and most infamous of all Soviet prisons, Vladmir; and

Whereas, we, as mental health professionals, must share the responsibility for the threat which the abuse of our profession represents to the freedom of individuals throughout the world;

Now, therefore, be it resolved,

That the (insert name of organization) affirms its support for Dr. Semyon Gluzman, a colleague who is suffering physically and emotionally because of his unwillingness to subvert his professional standards of conduct, even under the most extreme life-threatening conditions; and be it further

Resolved, That the (organization name) demands the immediate release of Dr. Gluzman from prison; and be it further

Resolved, That a copy of this Resolution of Support be forwarded to the President of the United States, representatives of the Soviet Union, both here in the United States and in the Soviet Union, and to Dr. Semyon Gluzman, as well as to other local state, national and international organizations in the field of mental health.

CURBING ADMINISTRATIVE RULEMAKING

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ZEFERETTI. Mr. Speaker, most Americans are deeply concerned over the unresponsiveness of Government and how Federal rules are made without permission of the people or their representatives. In fact, many such rules are made without even the knowledge of most affected parties.

Now, because of a rising volume of public protest and discontent, Congress has isolated and identified one of the main causes of Government abuse of power in the form of the administrative rulemaking process. A Federal agency or department can decide that it wants to do things in a certain way. Rather than ask Congress for permission to act, and usually without ascertaining what effect an action will have, the Federal entity simply publishes a proposed rule. Any such rule merely must be published in the Federal Register, a little-known listing of administrative actions taken by the executive branch of Government. Once that proposed rule is published and adopted by the Federal agency, it has the force of law. Neither Congress or the public will have had any input in the decision which often can and does have the farthest reaching consequence.

Here is a question with profound implications. Who has ultimate responsibility of lawmaking under our form of government? Is it the elected representatives of the people or an unelected bureaucracy? As this flow of rules continues to roll out from Washington, affecting and often harming many millions of Americans, it is clear that Congress must get some kind of handle and control over this strategic process.

Congress is taking initial important steps to bring administrative rulemaking under closer scrutiny and control. A bill has been introduced, commanding wide bipartisan support, which would, once enacted, subject all proposed administrative rulemaking to strict congressional review. Once it passed, Congress could disapprove proposed rules and could also require reconsideration of any of them, especially if any are found to be unnecessary, abusive of the public interest, or clearly outside the intent of Congress. I believe this is an absolutely vital piece of legislation, especially because of the impact, number, and lack of control over these actions.

Growth of this body of rules and the vast leeway Government now has in making them constitutes a significant erosion of our personal liberties. There are many ways of taking away the rights and freedoms of any people in any society. Sometimes it has been done at the point of a gun, and other times it comes in the form of a flood of paperwork, creating new rules under which people are required to live. Either way, we are less free. It is my fervent hope that the Administrative Rulemaking Reform Act of 1976 is passed by the Congress.

C. R. SMITH: GIANT IN THE AVIATION INDUSTRY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. PICKLE. Mr. Speaker, when we think of the luminaries in the field of aviation, naturally the first names which come to mind are those of Lindbergh, Mitchell, the Wrights and so forth. But knowledgeable sources in the industry will tell you that the name of C. R. Smith, former president of American Airlines belongs right up there with the other pioneers.

I am proud that C. R. Smith is a native of Austin, Tex., and attended the University of Texas. He served ably as Secretary of Commerce under President Lyndon B. Johnson. And after serving many years as a national leader in the airline industry, C. R. Smith was called back to assist the industry as president of American Airlines at a critical time. This call came at a time when many have adjourned to the rocking chair.

C. R. Smith was profiled in the American Airlines magazine recently. I would like to share this informative interview with my colleagues:

C. R. SMITH: REFLECTIONS

(By John Minahan)

This month marks the 50th anniversary of the first regularly scheduled flight of an American Airlines predecessor company.

On April 15, 1926, a twenty-four-year-old aviator named Charles A. Lindbergh stowed a bag of mail aboard a little De Haviland DH-4 biplane in St. Louis and took off for Chicago. Two other pilots made the same trip that day.

These were the first regularly scheduled flights of one of the companies that would become American Airlines.

At that time, Lindbergh was chief pilot for Robertson Aircraft Corporation of Missouri, holder of the second air mail contract the government had awarded to private operators. A year later in May, 1927—Lindbergh made the first solo nonstop flight across the Atlantic.

Robertson Aircraft was one of many

companies that eventually formed American Airlines. The consolidation began early in 1939 when a holding company, the Aviation Corporation, began acquiring small aviation companies. Along with some of the airline came bus lines, radio stations and airport construction companies.

The acquisitions gave the Aviation Corporation a hodgepodge of routes that did not quite fit together, a fleet that included virtually every type of transport airplane then in existence, and local managements that were reluctant to give up control.

One airline that was involved in the complicated acquisitions was Texas Air Transport, a small air mail carrier operating from Dallas and Fort Worth to Brownsville and Houston. This was the company that launched the aviation career of C. R. Smith, the man who was later responsible for building American Airlines into a leader in the industry.

Mr. Smith joined Texas Air Transport as treasurer in 1928. When Southern Air Transport was organized as a holding unit for Texas Air and affiliated companies, he became treasurer of the new firm, and later vice president.

In 1929, Southern Air Transport sold a large share of its stock to the Aviation Corporation and became a division of this nationwide system. Smith played a key role in the development of a southern transcontinental route that linked Atlanta with California, via Birmingham, Jackson, Shreveport, Dallas, Fort Worth, El Paso, Tucson, Phoenix and Los Angeles.

American Airways, Inc., predecessor of the present company, came into existence in January, 1930, organized by the Aviation Corporation as a means of bringing its several major operating units into one coordinated system. Smith became vice president of the new company in June, 1931, and was placed in charge of its southern division. Under his leadership, this division flourished into one of the most efficient airline units in the world, blanketing the entire South, from Georgia to the West Coast, until the industry-wide cancellation of all air mail contracts by the government, in February, 1934. forced a drastic reorganization of the entire air map, and brought American Airlines, Inc., into the picture as successor to the old company.

Smith was elected president of American Airlines in October, 1934, at the age of thirty-five. Over the next five years, he consolidated the company's crazy-quilt routes into a smooth, sensible network, standardized its heterogeneous collection of planes with a new fleet of DC-3s, initiated the first comprehensive seat-selling campaign in aviation history, and raised American to leadership in the industry.

At the start of World War II, Smith resigned to become second-in-command of the Army's giant Air Transport Command. For his work in the organization and operation of ATC, Smith was awarded the Distinguished Service Medal and the Legion of Merit. His old boss, Lieutenant General Harold L. George, gave him "the principal credit" for ATC's success.

Finishing with the rank of major general, Smith returned to American as chairman in 1945 and served as chief executive officer until early 1968, when he was appointed Secretary of Commerce by President Lyndon B. Johnson. He was a member of the Cabinet during the last year of Mr. Johnson's administration.

Smith returned to American as interim chairman from September, 1973, until early 1947. He was succeeded by Albert V. Casey, who was elected chairman, president and chief executive officer.

The recipient of many honors in civilian aviation, including the Wright Brothers Memorial Award and the Billy Mitchell Award, Smith was named to the Travel Hall of Fame in 1973, the Aviation Hall of Fame in 1974, the Hall of Fame for Business Leadership in January of this year, and received the Tony Jannus Award this month.

In describing him as "a living legend in U.S. aviation" some years ago, *Time* magazine summed it up: "With the shrewd calculations of a gambler, the financial sagacity of a banker and the dedication of a monk, he has propelled American Airlines into first place in the industry—and in the process, has done more than any other man to improve the service and standards of U.S. airlines."

Smith now lives in Washington, D.C., where he is active in business and civic affairs. I talked with him at his home.

Minahan: What interested you in the airline business in the early days?

Smith: I went from the University of Texas to the public accounting firm of Peat, Marwick and Mitchell, in Dallas, a splendid business experience. One of our clients was the Texas-Louisiana Power Company, Fort Worth. It offered me a job as assistant treasurer, and I served there for two years.

Texas-Louisiana Power was headed by Mr. A. P. Barrett. He believed there was a future for aviation, and he purchased control of a small air mail line, Texas Air Transport. He asked if I'd be willing to take over the operation. Well, I told him I had little ambition to be an aviator, but I'd take the job while he looked for a replacement.

But, after getting acquainted with the people in the airline, I had great respect and affection for them; they were pioneers, reminding me of the people who took the big wagons West in earlier days. I formed the conclusion that I'd like to stay in aviation and share its future.

Minahan: Barrett merged Texas Air Transport into Southern Air Transport, which was later acquired by the Aviation Corporation?

Smith: Yes, he kept his investment in his original companies for a couple of years and then traded it for stock. The Aviation Corporation, New York, was formed soon after Lindbergh's flight, with the intention of buying up existing small airlines, hoping to put them together, ending up with a national system.

We did well until the Roosevelt Democrats came into office. They made the accusation that the airlines had been playing "footsie" with the former Republican Postmaster General in seeking mail contracts. All air mail contracts in the industry were canceled. This resulted, for the time, being, in the disruption of the entire airline industry, because most airline revenue came from carrying the mail.

While the airlines believed they had a good case, it was never tried in court. The difficulty was that in order to get back into aviation, new contracts would have to be secured from the new Postmaster General, and it didn't appear to be good judgment to be suing him.

In due time, the Administration concluded that the country didn't want to do without air mail service, and new bids for contracts were solicited for newly authorized routes. American lost many routes that it had pioneered, and lost much of its local investment. But, overall, American came out of the bidding with a more sensible system than it had had before.

Minahan: In the meantime, the many small companies controlled by the Aviation Corporation had merged into one company?

Smith: Yes, at that time there were forty or more of these small companies, and these were merged into American Airways. But among the bidding requirements for new contracts was one that required a different corporation to make bids, and American Airlines was then organized, taking over the properties of American Airways.

Minahan: When did you begin operating passenger planes in your system?

Smith: Well, like many others, we didn't want to be entirely dependent on air mail revenues. If the time-saving ability of the airplane was useful for the transportation of mail and express, certainly it should have great utility for passengers. Accordingly, we had pioneered many new air mail *and* passenger services, even prior to the air mail cancellations. The Post Office Department didn't want to be burdened indefinitely with subsidizing the carriage of mail, and insisted on the inauguration of passenger services as part of the new air mail contracts. Our passenger services, already well established in many parts of the country, were further augmented under the banner of American Airlines.

Minahan: You learned to fly in nineteen twenty-eight. Did you have any ambitions to become a regular airline pilot?

Smith: No. I very much enjoyed piloting a plane, and secured a transport license, which I kept active for a number of years. But my flying was a part of learning the business.

Minahan: I've heard that in nineteen thirty-four, when you became president of the newly formed American Airlines, you actually knew most of your associates on a first-name basis.

Smith: By then, I'd come to know most of the people in the southern division, our territory for operation. I also knew many of the people in other divisions, but, on a percentage basis, fewer. After I became president, I traveled much and became acquainted with more people. I could never say I knew all of the people, but I did know a reasonably high percentage of them.

Minahan: In those days, how important was the philosophy of long-range planning?

Smith: We did the best we could, but the principal chore was getting the most out of what we had. Long-range planning became more widespread after we had done much to standardize the types of airplanes we had for operation. And standardization didn't come early or easily. The forty-odd companies we put together were found to own nearly every type of aircraft used for airline service. Our best opportunity for standardization came after the Douglas DC-3 became available.

Minahan: Some of the stories in the industry indicated that American had "invented" the DC-3. Is that true?

Smith: No, the DC-3 was a joint effort between Douglas and American. We believed that an airplane better than the DC-2 could be developed, and encouraged Douglas to accept suggestions about how it could be done. A fine airplane was produced and American purchased the first twenty-five DC-3s from Douglas.

Minahan: During World War Two, you were the number two officer in the Air Transport Command. How much impact did ATC have on civilian airline operation after the war?

Smith: ATC was the world's largest airline. At the end of the war, more than two hundred thousand people were serving ATC. It operated services to and from all theaters of the war, carrying millions of passengers. Also, for the first time in military history, wounded were flown back from abroad for recuperation in hospitals in the United States. In addition to passengers, ATC planes transported military supplies, often in very large quantities.

On a percentage basis, relatively few Americans had flown before the war. After the war, millions had used air transportation and become acquainted with it. Thus, ATC very much broadened the market for air transportation in the postwar period, benefiting all airlines, and, ultimately, airplane manufacturers.

Minahan: For the industry in general, was that experience a quantum leap, from the standpoint of technology?

Smith: Wartime requirements clearly speeded the development of airplanes capable of long-distance flight with large loads. To get this done, it was necessary to have larger, more efficient power plants, well beyond the capability of piston-engined sources of power.

Obviously, this centered on development of the jet engine, discovered in relatively primitive form during the war, but refined to everyday usefulness in the postwar period. Most of the cost of developing efficient jet engines and airplanes was borne by the military services, in search of more efficient fighters and bombers, resulting in substantial additions to aviation technology. Later, these advances were translated into jet airplanes for commercial use.

Minahan: One of the key points of your business philosophy is that the airplane is a tool and must be replaced when a more efficient tool has been developed. Where do you see the industry going after the 747 and DC-10?

Smith: Historically, there have been few departures from the basic rule that better tools will be used and will crowd out older tools. And we were well on the way to developing a better airpane, the supersonic, when the program was canceled. The program got little support from the military services, and the total cost was too high for civilian financing. The airplane we intended should not be confused with the Concorde; ours was to be not only larger and faster, but also more economical to operate on a unit cost basis.

The 747 and DC-10 have given us a substantial step forward in the use of comfortable, efficient, long-range airplanes. Both will be in use for a long time. The supersonic will have to wait for a broader and larger market. But I continue to believe that the supersonic, well within our technical ability, will take its place in air transportation before the century is out.

Minahan: You've always contended that personal service and courtesy are of primary importance. With the advent of jet airplanes, with less time in the air and larger carrying capacity, along with the complexities of modern air terminals, are personal service and courtesy less evident to you, industry-wide?

Smith: Personal service and courtesy are more needed than ever before, because, when you find them, they stand out sharply and are so gratefully received. As a nation, we're less and less courteous; we appear to be in too much of a hurry. But any company or industry that can establish a reputation for outstanding service and courtesy, and live up to expectations, has an unusual opportunity for competitive success.

After all, it doesn't often take more time to be courteous than discourteous, and both the recipient and giver of service and courtesy benefit by having a happier day.

Minahan: Looking back, who are the people who probably exerted the greatest influence on your life and career?

Smith: First, my mother. My father and his family parted company quite early, leaving my mother to support seven children. She did her job with superb courage and understanding. She taught the children to be ambitious and to have the will to do their various jobs well.

Second, the University of Texas admitted me on a trial basis, because necessary admission qualifications were insufficient. Without this aid, I would have had little formal education.

Minahan: Did you work your way through school?

Smith: Yes, I worked my way through both high school and college.

Minahan: When you started in the airline industry, were there any individuals who were particularly helpful in teaching you the business?

Smith: I began working in aviation with nearly no knowledge about the facets and requirements of the business. I learned the business from my fellow employees, who were both patient and generous.

To single out an individual, I should name E. L. Cord, who controlled American for a number of years, and who was responsible for my election as president of the company. He was a generous friend and a brilliant businessman. I learned much from him.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The March 1976 list includes:

Assessment of the National Grain Inspection System. RED-76-71.

The Small Business Administration Needs to Improve Its 7(a) Loan Program. GGD-76-24.

Improved Controls Needed over Private Pilot Licensing. RED-76-65.

Action is Needed Now to Protect Our Fishery Resources. GGD-76-34.

Eisenhower Memorial Tunnel. PSAD-76-85.

Public Service Employment in Delaware Under Title VI of the Comprehensive Employment and Training Act. MWD-76-61.

Status and Progress toward Implementing a National Supply System. LCD-75-232.

Policy of Paying Cost-of-Living Allowances to Federal Employees in Non-foreign Areas Should Be Changed.

Impact of Shortages of Processed Materials on Programs of Vital National Interest. PSAD-76-14.

Financial Status of Major Acquisitions. PSAD-76-72.

Postal Service Acquisition of Land in Hamilton Township, New Jersey. GGD-76-44.

Use of Consultant Services and Related Procurement Activities. OSP-75-8.

Sources and Types of Procurement Data Available in the Federal Government. PSAD-76-12.

Seasat Project. PSAD-76-76.

History of the Rising Costs of the Medicare and Medicaid Programs and Attempts to Control These Costs: 1966-1975. MWD-76-93.

Hepatitis from Blood Transfusions: Evaluation of Methods to Reduce the Problem. MWD-75-82.

Examination of Allegations Concerning Administration of the Black Lung Benefits Program. MWD-76-72.

The Government's Role in East-West Trade—Problems and Issues. ID-76-13A.

U.S. International Nuclear Safeguards Rights—Are They Being Effectively Exercised? ID-76-21.

System to Warn U.S. Mariners of Potential Political/Military Hazards: S.S. Mayaguez, a Case Study. ID-76-33.

Stopping U.S. Assistance to Foreign Police and Prisons. ID-76-5.

U.S. Assistance to Pakistan Should be Reassessed. ID-76-36.

FBI Domestic Intelligence Operations—Their Purpose and Scope: Issues That Need to Be Resolved. GGD-76-50.

The Program to Develop Improved Law Enforcement Equipment Needs to Be Better Managed. GGD-76-45.

Improvements Needed in Determining Skill-Training Requirements. FPCD-76-28.

Better Management of Government-Furnished Material Could Decrease Cost of Base Maintenance Contracts. PSAD-76-79.

An Assessment of All-Volunteer Army Recruits. FPCD-75-170.

Effectiveness and Morale of the Colorado Wing of the Civil Air Patrol. LCD-76-416.

Automated Support of Depot Operations Could Be Improved. LCD-76-108.

Implementing the National Water Pollution Control Permit Program: Progress and Problems. RED-76-60.

Management of the Licensing of Users of Radioactive Materials Should Be Improved. RED-76-62.

Trans-Alaska Oil Pipeline—Progress of Construction through November 1975. RED-76-69.

Additionally, letter reports are summarized including:

Comments on deferrals and proposed rescissions that would reduce the fiscal year 1976 budget by $99.8 million. ACG-76-17.

GAO comments on the President's deferrals and proposed rescissions of $9.5 million of budget authority for the Departments of Agriculture and Interior. ACG-76-18.

Actions by employees of the Geological Survey to divest themselves of conflicting interests. FPCD-76-37.

Plans to consolidate the Los Angeles and San Francisco offices of the Defense Contract Administration Services, located in the Federal Office Building at Laguna Niguel. LCD-76-321.

Problems have impeded urban renewal in the District of Columbia's 14th Street riot corridor. GGD-76-47.

Plans of the Military Traffic Management Command to rely on commercial industry for ocean terminal work at the Oakland, California, Army Base. LCD-76-216.

Department of Defense refusal to reimburse the Army for $5.7 million of defense equipment, which was not surplus, transferred to Thailand violates the Foreign Assistance Act. ID-76-47.

Potential impact of the Congressional Budget and Impoundment Control Act on congressional authorizing committees and on GAO. OPA-76-3.

How the Alcohol Drug Abuse, and Mental Health Administration uses advisory committees for initial review of grant applications. MWD-76-79.

Use of private shippers to transport commodities for the United Nations World Food Program. ID-76-40.

Did the Farmers Home Administration discourage self-help housing projects in Lowndes County, Alabama? RED-76-61.

Decision to locate a coal liquefication plant in Catlettsburg, Kentucky. RED-75-394.

Reasons for delays by the Department of Agriculture in reimbursing Cleveland schools for participating in the school lunch program. LCD-75-114.

Army's decision to cancel procurement of aircraft battery-locking devices from ASK-OM, Inc. PSAD-75-78.

How the Bureau of Indian Affairs uses its planning and budgeting system to determine funding levels needed to educate Indian children in public schools under the Johnson-O'Malley program. RED-75-353.

Department of Housing and Urban Development's procedures for allocating housing units to developers under the sections 235 and 236 subsidized housing mortgage insurance programs. RED-75-339.

Information on chauffeur-driven luxury cars. LCD-75-220.

Farmers Home Administration's practices concerning credit reports for mortgage and agricultural loans. B-114873.

Allegations about the Farmers Home Administration's management of the Farm Labor Housing Program. B-177486.

Can the Veterans Administration rely on the internal controls in its computer-based Compensation and Pension benefits payment system. MWD-76-90.

Potential savings to the Government if

contractors were not permitted to allocate General and Administrative expenses to travel costs charged directly to Government contracts. PSAD–76–81.

The Government is losing considerable royalty revenue because many potash, phosphate, and sodium leases have minimum royalties based on rental rates, instead of minimum production levels. RED–76–70.

Survey of Federal employees working in State and local governments or educational institutions under the Intergovernmental Personnel Act mobility program. FPCD–76–32.

The Department of Defense is taking action to change its policy on rent and utility charges for privately owned mobile homes on military installations. LCD–75–347.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, room 4522, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 275–6241.

Summaries of significant legal decisions and advisory opinions of the Comptroller General issued in December 1975, are also available as follows:

Nuclear Regulatory Commission: Financing Costs of Intervenors. B–92288.

Delinquent Payment of Mobile Home Loan Insurance Premiums. B–183784.

Agency Must Examine Potential Labor Unrest in Evaluating Proposal. B–184606.

Significance of Notice Requirement in SBA 7(a) Loan Program. B–181432.

Foreign Military Sales Procurements Not Subject to Protest Jurisdiction. B–183670.

Mistaken Bid May Be Withdrawn But Not Corrected. B–185498.

Increase in Retired Pay Based upon Heroism. B–162852.

Payments for Family Members' Help May Not Be Reimbursed. B–183951.

Employee Reimbursed for Use of Boat on Basis of Equity. B–184716.

Forfeited Annual Leave Restored to Injured Park Policeman. B–182608.

Military Personnel's Travel on Retirement. B–182487 and B–184507.

Retroactive Promotion With Award of Back Pay. B–181223.

Small Business Set-Aside May Be Withdrawn. B–184543.

Survivor Annuity for Admiral's Widow. B–181694.

Defective Bid Opening Time No Excuse for Late Bid. B–185248.

If you need further information regarding these or other decisions, please call (202) 275–5028 or write to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

H.R. 200

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. LENT. Mr. Speaker, I rise to commend the actions of my colleagues both here in the House of Representatives and in the other Chamber, in approving the final conference report on the bill H.R. 200.

As a member of the committee which developed the current legislation during the past year, and as one who has introduced and worked for this type of legislation during the course of the past 5 years, I am delighted with this happy event. The work of the Congress in the Merchant Marine and Fisheries Committee—the hearings, meetings, negotiations, and mark-up of legislation—has taken place against a backdrop of statistics and conflicting charges about the need for this legislation. But in my observations at the Law of the Sea Conference last May, and in the chilling tales my constituents have told me of attacks on American vessels, of fishing areas now picked bare by foreign fleets and of incessantly rising prices for what was once a staple of the American diet, I am convinced that our actions are justified and necessary.

The United States has long been a seafaring Nation and has always acted in strength and wisdom to preserve the relationship of our people and the seas. The current legislation lives up to this tradition in both the assertion of American strength, and in the commitment of American effort to act with moderation for the benefit not only of our own people, but for the benefit of the world.

As our Nation and the nations of the world come to realize the full potential of the seas, and the need to protect the resources of the sea from irresponsible exploitation, this day will stand out as one which marked the first firm step committing our Nation to the enhancement of a resource far too precious to waste through mismanagement.

"THE GRAND JUNKET"

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial "The Grand Junket" from the Lompoc Record. I know many of my colleagues agree with it.

I, as well as the other 97 Members of Congress who twice voted against the legislation to end a delegation to London to accept a loan of the Magna Carta, can well appreciate the editorial, "The Grand Junket."

The editorial follows:

THE GRAND JUNKET

If there was ever any more concrete evidence that members of Congress show little regard for the hardworking taxpayer, it is in their recent reverse decision to send a delegation of 25 members plus their spouses and staff to London to accept a loan of the Magna Carta.

They put on a good show with this decision. There was tumultuous debate. There was a strong effort to avoid a recorded vote in this election year. But in the end, it was a foregone conclusion.

It is difficult to say how much this grand junket is going to cost the U.S. taxpayer because their action called for "open end funding" for the trip. Rest assured it will be in the thousands of dollars. Nobody is going to go second class.

And what will they bring back? The Magna Carta, a basic document in the establishment of individual freedom in Great Britain.

The vote for the junket was 294 to 98. Previously the House had rejected the trip, 219 to 96 but then the games were played by House Speaker Albert, the Democrat from Oklahoma. One can easily suspect what arm-twisting games they were to authorize the grand junket.

Adding insult to injury for the taxpayer was the move to stop a recorded vote. Without a recorded vote, the taxpayer would never have known whether or not their representative approved or disapproved of this ripoff. Fortunately, the vote was recorded and it is sincerely hoped that those who gave their stamp of approval to this showboating will be strongly remembered by the voter in this election year.

INTERNATIONAL WARINESS OF U.S. POLICY DIRECTIONS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BELL. Mr. Speaker, I call to the attention of my colleagues a very provocative article by Francis B. Kent which was published recently in the Los Angeles Times.

The article discusses international reaction to recent U.S. foreign policy directions.

The complete text of the article follows:

FRIENDS, FOES ABROAD WARY OF U.S. POLICIES

(By Francis B. Kent)

Tarnished by Vietnam and Watergate and further stained by disclosures of CIA meddling and corporate corruption, the American image has become a global dartboard.

Once staunch allies are asking themselves whether they can continue to rely on America and, increasingly, they are concluding that they can not.

Many are persuaded that the withdrawal from Vietnam, coupled with Congress' hands-off attitude toward Angola, signal a U.S. retreat from the world scene. Even West Germany and Japan have expressed a fear that the old "Fortress America" concept is being revived in this country.

Others see in Washington's agonizing over Watergate and the CIA and the payment of huge business bribes an indication that the United States is too caught up in its own problems to be aware of what is happening elsewhere.

In much of the world, clearly, the disenchantment with the United States is based on ignorance, a misunderstanding of its political process and a mistaken view of election-year rhetoric.

Yet, with few exceptions, nations assessed by The Times' foreign staff—in Europe, the Middle East, Asia, Africa and Latin America—criticized Washington's policies and suggested major changes.

Again with few exceptions, the proposed changes would be decidedly in the interest of the nation proposing change.

U.S. prestige in the world community appears to have suffered most severe in connection with reliability. In West Germany, for example, Hamburg's influential weekly Die Zeit commented recently that the United States had suffered "another humiliation" in Angola, and added:

"For the first time, the United States has refrained from countering a Soviet political challenge by making a powerful demonstration of its own. As a result, U.S. prestige and world power have declined, and there is growing doubt among friends and allies about America's will to prevent the Soviets from obtaining unilateral advantages."

A British intellectual monthly, Encounter, commented in a similar vein, referring to the "confusion and dismay" evident in the world today, and adding:

"The reason is not hard to find. It lies in the inability or unwillingness of the United States to discharge the responsibilities she has hitherto assumed as the leader of the Free World, and in the knowledge that in a presidential election year she is not likely to recover the will and determination which such responsibility demands."

In Italy, Greece and Turkey, many described U.S. policies since the latter stages of the Vietnam war as vacillating. They questioned just how reliable the United States might be in a crunch.

In Vienna, a high Austrian government official said the American image right now is "simply awful, terrible." The average Austrian, he went on, is mystified and confused by America's behavior.

In Spain, an army general said he thought that Americans hold national interests above all others and "will keep their promises only so long as it suits them."

In Jerusalem, a mood of wariness toward the United States was described as a basic assumption of Israel's current foreign policy.

"The United States is highly reluctant to become involved directly in any situation, even under the most extreme circumstances," a senior Israeli minister observed not long ago.

He added, however, that because of Israel's isolation it has no choice but to deepen its relations with Washington, "even if Washington's implementation of its promises is lukewarm."

The Philippines' president, Ferdinand E. Marcos, has spoken out publicly of the need for greater national self-reliance, and influential Brazilians have remarked that while the Western World looks to Washington for political and economic guidance, the United States concentrates almost exclusively on domestic issues.

Ironically, perhaps, positive reaction appears to be limited to the Communist capitals. China's leaders discern a decline in U.S. power and resolution, but they continue to regard the United States as a counterweight to the Soviet Union. They see no alternative to reliance on U.S. power in this respect. And while they were disillusioned by the U.S. failure to respond to Soviet advances in Angola, they hope at least that the United States will act if pushed to the wall.

Just as ironic is the attitude in Moscow, which is described as no more trusting of the United States than vice versa. Oddly, there have been no charges in the Soviet press—however justified such charges might appear to be—that the United States has not acted in good faith in negotiating with the Soviet Union.

In another time the Soviet press might have made much of the fact that President Nixon promised in 1972 to grant the Soviet Union most-favored-nation trading status with no strings attached, only to have Congress impose conditions related to Jewish emigration.

In some parts of the world and on some subjects, the United States simply can't win. Washington is damned if it does and damned if it doesn't.

For example, when Washington decided it would take no steps to forestall Turkey's invasion of Cyprus, it was acclaimed in Turkey and condemned in Greece. Later, when Congress canceled military aid to Turkey, the United States received little effective thanks from Greece but the deep enmity of Turkey.

Obviously, not all foreigners understand the separation of powers which enables the U.S. Congress to alter or reverse a White House foreign policy initiative.

As in the United States, opinion in other countries is not always uniform. In Britain, while some complain that Washington treats London shabbily in foreign affairs, others grouse that London doesn't seem to mind.

In Brazil, an army general conceded that the United States continues to be "a great country, powerful and with an open society." But he added:

"It is always more interested in itself than the rest of the world. After Vietnam it has become even more isolationist and is no longer determined enough to meet the dangers it faces. I do not think it sees or understands them."

America's problems—most world problems, for that matter—are of little concern in the underdeveloped countries. The great majority of Indians, for example, perceive the United States dimly if at all.

West Germans were almost unanimously upset by the dismissal of James R. Schlesinger as secretary of defense. They looked on him as a positive force for strengthening the North Atlantic Treaty Organization.

Much of the Western World—and Peking as well—is reported to be annoyed with Secretary of State Henry A. Kissinger, who they think is pursuing a will-o'-the-wisp in his search for detente. They feel he has conceded too much to the Soviet Union while getting too little in return.

A high British official criticized Kissinger on another score:

"We are every bit as concerned about Angola as the Americans, but the way Kissinger has been playing the hand has made it very difficult. We will not and cannot separate ourselves from the Americans or fail to support them, but by making Angola—or seeming to make Angola—a great power problem instead of dealing with it as an African problem simply complicates it all . . .

"There are endless tribal and emotional and political factors there in Africa, so complicated you can't even describe or define them all, which can be brought into play if the problem is to be dealt with in an African framework rather than as a great power conflict."

A senior Norwegian government official, suggesting that Norwegians are closer to the United States than most other European people, because "practically every family in Norway has some relative or friend living in America," told an interviewer:

"I would say that Norwegians are simply sad and confused. But my worry from the standpoint of the future and the government is that if all these scandals and political troubles and this feeling of setbacks in the world—if all this leads to a prolonged vacuum or absence of American interest and sense of will and power, then for us in Norway it will be very serious indeed, because our defense rests on the United States and our people know it."

In Southeast Asia, a diplomat remarked that "America doesn't need to modify its foreign policy. It just needs to form a foreign policy and pursue it consistently."

Latin-Americans, as they have historically, considered themselves neglected by Washington. But a hard-headed, much traveled Argentine businessman said the trouble with the United States could be summed up in a single word—naivete.

"The fact that you're asking these questions proves it," he said.

The Russians think there should be increased consultation between Moscow and Washington, to head off problems in the bud. One Soviet source complained that the hot line had not been used since October, 1973, during the last Mideast war. He interpreted the silence as a measure of reduced contact, but others thought it could reflect a degree of reduced tension.

Arab leaders describe the U.S. position on Palestine as unreasonable and unjust, and they believe for the most part that Washington's Mideast policies are dictated in Israel.

A recent editorial in Cario's Al Akhbar, a publication that generally reflects official opinion, commented that "Zionist influence still has the upper hand in the United States."

Feelings in Israel are not much warmer. Yuval Neeman, a nuclear physicist and former adviser to the Israeli defense minister, said recently that Israel had been hoodwinked in the Kissinger-sponsored interim agreement with Egypt.

He described the understandings as not worth the paper they were written on. All Kissinger did, he added, "was pull off a piece of truly Oriental trickery."

Despite all this, if foreign officials fail to agree with the course of U.S. policy there are some at least who understand the reasons for it. In Southeast Asia it was made clear that perhaps most government officials realize that the United States has been overextended and that the pendulum must now swing the other way.

On the subject of the enormous bribes handed out to foreign officials by U.S. corporations, the reaction has been almost predictable, varying from country to country and from sector to sector within a given country.

Corruption of this sort is common to much of the world. Scandals are taken casually. The only surprise expressed in some countries was at the fact that anyone could be surprised.

In many underdeveloped countries, moreover, the great American-based multinational corporations can be forgiven such lapses because they are a major source of jobs and government revenues and expensive technology.

The outpouring of criticism notwithstanding, America's basic international relationships remain largely unchanged.

West Germany clings to the "special relationship" that this country once extended to Britain, even though, as a German government spokesman put it, "We never say that, of course." West Germany's three national political parties continue to follow a pro-American line, and there is little resentment over the 200,000 American troops stationed in West Germany.

"I go to sleep every night feeling safe because the (U.S.) 8th Division is located just down the road," a retired German diplomat observed recently.

Although some Britons look down, as always, on all things American as loutish and barely civilized, there are many others who are almost embarrassing in their admiration of this country and what it represents. And virtually all over the world there are long lines of people in front of U.S. consulates, people willing to give almost anything for permission to live in the United States.

All over the world, too, much that is wholly American continues to be admired and emulated—the hamburger, supermarkets and superhighways, jeans, jazz and technology.

And while much of the world expresses shock and disapproval at Vietnam and Watergate and the misdeeds of the CIA and a handful of big corporations, there are some who see good in all this.

They admire a country where wrongdoing can be exposed and punished.

CONGRESSMAN JIM HALEY, STATESMAN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1976

Mr. BENNETT. Mr. Speaker, I join with my colleagues from Florida in cosponsoring a bill to name the new hospital for veterans at Tampa the "James A. Haley Veterans' Administration Hospital." As an active member of the Veterans' Affairs Committee of the House of Representatives which has produced much good legislation for veterans, and as a veteran of World War I himself, certainly he has had an outstanding career of service to his country and to the veterans of our country. I am delighted to join in the request to Congress to name this fine facility for him, a well-deserved honor.

In recent years Congressman HALEY has chaired the House Interior and Insular Affairs Committee and has done an excellent job in that as he does in everything. He is truly a great American, a man of conscience, of courage, of perseverance, and a man whom we all dearly love as a friend. His name on this hospital will speak for America's pride in his statesmanship and in the fine qualities he represents by his leadership in the U.S. Congress and in all facets of his life.

RAILROADS AND ARTHUR D. LEWIS

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ROONEY. Mr. Speaker, tonight at 11:59 p.m., when most of the Members of the Chamber are asleep, the properties of the old Penn Central Railroad will be officially transferred to ConRail. It is not an event anyone should lose sleep over; however, the results of such transfer may cause sleepless nights in the future if the corporation is not efficiently managed. This statement is not a premonition, it is only an observation of the obvious.

One can look at ConRail as a definite failure or as a definite success, but that is only speculation determined by computer statistics that can be developed to prove any position. Further, computers cannot gage the personal efforts that individuals will make for ConRail's success. And, in the area of ConRail's creation and future success, there are several persons whose individual and personal contributions and sacrifices brought about its fruition and future efforts such as past efforts will bring about its success.

The reorganization of the bankrupt railroads was undertaken by the U.S. Railway Association, whose board chairman was Arthur D. Lewis. Mr. Lewis developed the staff to reorganize ConRail in less than 1 year. The personnel chosen by Mr. Lewis were individuals of high ability who were unselfishly willing to sacrifice their time, effort, and outside employment to work to restructure the bankrupt railroads. Their ability is not only a credit to them, but also to Mr. Lewis, demonstrating his ability to put together a top level staff that can achieve its goal in a limited period of time. That trait alone is rare in the bureaucratic world of Washington.

Other personal attributes of Mr. Lewis that were significant in the creation of ConRail were that he personally worked not only with his staff, but also with the congressional staff, so as to resolve problems and not widen problems for partisan purposes.

Another person on the USRA Board of Directors who should be singled out for his tremendous personal effort is William W. Scranton, now the U.S. Ambassador to the United Nations.

Mr. Scranton first became interested in the railroad problem as the chairman of the Northeastern Pennsylvania Railroad Task Force. In that position, he worked to solve many of the problems confronting Pennsylvania and the communities and the businesses in that area.

Mr. Scranton was nominated to the USRA Board by the National Governors Conference. He brought to the Board the same high and necessary attributes he brought to this Congress, the governorship of Pennsylvania, and to the United Nations—that of ability, personal effort and a sincere attitude to solve the problems that confront this Nation.

Last, but not least, the development and future of ConRail will rest with Mr. Edward Jordan, ConRail's first president.

Mr. Jordan served as the first president of USRA, bringing to that corporation the same qualities he will be taking to ConRail—first-rate experience in business and first-rate business judgment.

Mr. Jordan, as president of USRA, managed the day-to-day operations of the corporation and was one of the key individuals responsible for USRA's accomplishing its task within the time required by the Congress.

It is individuals like Messrs. Lewis, Scranton, and Jordan that will insure ConRail's operation in the private sector. It is because of these individuals that I reject the pronouncements of ConRail's demise. Further, many of the experts that USRA assembled will undertake duties with ConRail in order to make the projections of the final system plan a reality.

The qualities that Messrs. Lewis, Scranton, and Jordan and their staff brought with them to USRA will continue at ConRail. As stated the qualities of hard work and personal concern cannot be placed into a computer, and it is because of these qualities that I believe ConRail's future is hopeful. Until given a chances to prove themselves, this Congress should give these individuals an opportunity to again prove themselves by operating ConRail on an income-producing basis.

Congress should have some doubts about ConRail's future, however, it is this doubt that will keep the responsible committee's watching its progress. Hopefully, that progress will be efficient rail service and I am sure that the responsible individuals will do all that can be done to make our hopes a reality.

BYELORUSSIAN INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. ADDABBO. Mr. Speaker, this week Congress and others throughout the world observe the 58th anniversary of the independence of the Byelorussian Democratic Republic. I am pleased to join with my colleagues in commemorating this important event. At this time in our own Bicentennial Year, it is appropriate that we consider the precious nature of freedom and the millions of people who live in captive nations.

On March 25, 1918 Byelorussia announced its independence, but just 10 months later the people of that nation were deprived of their liberty as the result of Bolshevic expansionism. Each year Americans of Byelorussian descent and people in all corners of the world stop to remember the historic events which led to the brief period of freedom for Byelorussians and the subsequent oppression of those courageous people.

While we debate the meaning of détente we must not forget that the Soviet Union has adopted a most unfortunate policy of spiritual and cultural genocide in other lands and they have tried to stamp out the hope for freedom in captive nations. The Soviets have been unsuccessful however, because the desire for freedom is too strong to be extinguished so long as there is moral support from the free world.

The participation of Congress in these ceremonies is a reminder that freedom once obtained must be retained with every bit of energy at our command. That is the lesson for Americans as we express our sympathies and support for the people of Byelorussia.

THE BALANCE(S) OF POWER: II—A PANORAMIC PERSPECTIVE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BRECKINRIDGE. Mr. Speaker, 15 years ago there was little question in the minds of U.S. leaders, or among the American people, that international communism as controlled by Moscow was on the march. Khrushchev, then in charge of the Kremlin, was bellicose. His Deputy Foreign Minister V. V. Kuznetsov said immediately after the Cuban missile crisis in 1962:

> This is the last time you Americans will be able to do this to me.

The United States kept its guard up.

Moscow and Peking split in the early 1960's. Khrushchev's comeuppance during the Cuban missile crisis in due time caused him to calm down. Since then, Soviet threats to the United States have stressed subtle strategies that accent political, economic, and psychological warfare instead of armed confrontation. Connivance at conference tables has been more malevolent than military competition. Proxy forces, such as those from Castro's Cuba, substitute for Soviet firepower in Third World conflicts. Even Brezhnev's alleged threat to intervene in the Middle East two autumns ago was low key compared with Communist problems a decade before.

Consequent ambiguities complicate threat assessments. America's defense architects and responsible critics, liberals and conservatives alike, generally concede that the Soviets are acquiring or have acquired capabilities that could impinge seriously on U.S. security interests. However, conclusions concerning intentions are contentious, because various authorities read identical indications differently.

At one pole are wishful thinkers who see no problem. Their opposites see no peace. I support pragmatists in between, who take Brezhnev at his word when he describes détente as "an ever sharper form of the confrontation" between free world and Soviet systems.

Does that mean détente is doomed? Not necessarily. Détente is a legitimate aspiration, in accord with U.S. national interests that concern our survival, physical security, international credibility, and strategic freedom of action. In the real world today, not the world we might wish it to be, U.S. officials are obligated to minimize the likelihood that accidents, miscalculations, or misunderstandings might trigger a nuclear war. Beyond that, it behooves us to strive for better relations across the full spectrum of potential contact, aid the interchange of ideas, and sponsor an atmosphere conducive to sensible compromise when United States and Soviet policies collide.

Those long-term goals demand a consistent strategy. Ad hoc solutions, predicated on changing perceptions of Soviet plans, are inappropriate. The rules should be moderate and meaningful. Too hard a line could be just as unproductive as excessive leniency. Such extremes would encourage incontinent U.S. costs on one hand and Soviet aggression on the other. I propose a middle ground that credibly mixes "carrots" and "sticks" in our inventory of incentives until the opposition exhibits an interest in mutual constraint, which is not now in evidence.

Let us look at the record.

More than a decade ago, the United States voluntarily decided to limit its strategic nuclear delivery systems, in expanse and in performance. Parity—presently called essential equivalence—replaced superiority as our force structure standard. U.S. leaders deliberately disregarded systems designed to destroy hard targets. Five years before the SALT I agreements were signed, we froze our land- and sea-based ballistic missile launchers at 1054 and 656 respectively. They have stayed there ever since. Long-range bombers declined by a third during the same period.

Responses to our restraint have been disturbing. The opposition soon outdistanced this country in total delivery vehicles and, because the Soviets stress size plus precision, Moscow also took the lead in missile payload capacity and warhead yields. The U.S.S.R. now plots a course to outclass America in total reentry vehicles, by challenging us to a MIRV competition we cannot win without building bigger missiles. In short, as our intelligence community describes it, the breadth, depth, and momentum of Soviet strategic programs is breathtaking.

In the realm of general purpose forces, unilateral U.S. disarmament has been dramatic in recent years. Active Army manpower literally has been sliced in half since 1968. Other services have dwindled by 30 to 40 percent. During that process, we dismissed three active divisions. A third of our aircraft carriers and several Air Force fighter squadrons disappeared. Amphibious assault assets dropped like a stone. Admiral Zumwalt, when Chief of Naval Operations, wryly announced that he and Admiral Moorer had "sunk" more U.S. ships than any enemy admiral in history. A degree of modernization compensates in part for general purpose losses, but the net result has degraded our capabilities.

Reciprocal reductions by the U.S.S.R. have not materialized. On the contrary, the Soviets have acquired new capabilities at an impressive rate in recent years. They routinely maintain more than twice as many men under arms as this country. Forces are constantly upgraded. The proliferation of Soviet sea power in particular is altering global equations.

If perpetuating these military trends, settling for unequal economic exchanges, and suffering psychological setbacks in consequence were the inevitable cost of continued détente, the price would prove too high, but sensible approaches to problem-solving should open up alternatives.

No matter what we do, we can hardly anticipate uninterrupted success. Henry Kissinger summed up that problem nicely when he was still a professor. His words are worth repeating:

> There have been at least five periods of peaceful coexistence since the Bolshevik seizure of power, one in each decade of the Soviet state. Each was hailed in the West as ushering in a new era of reconciliation and as signifying the long awaited final change in Soviet purposes.
>
> Each ended abruptly with a new period of intransigence, which was generally ascribed to a victory of Soviet hard-liners rather than to . . . the system.

Well said.

The mission, therefore, is to avoid exaggerated expectations, and prepare for a very long haul. At its best, détente is no panacea, but even at its worst proffers better prospects for continued peace than any known option.

Subsequent coverage in this series will address particular problems as indicated in CONGRESSIONAL RECORD, volume 122, No. 38.

TRIBUTE TO J. P. MAGUIRE

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. KETCHUM. Mr. Speaker, it is with great pride that I call to the attention of my colleagues the accomplishments of my friend and constituent, John Patrick Maguire. Jack has recently retired from the position of president of Continental Telephone Corp. I know that all of Kern County, Calif. joins with me in this tribute to Jack Maguire, whose dedication and service have contributed heavily to the county's progress and economic growth. Jack can truly be called a "communications pioneer," and his 40 years with the communications industry will not be forgotten by those he has served so well.

Upon his graduation from Stanford University in 1935, Jack began his career with the telephone industry, joining Kern Mutual Telephone Co. of California. That company is now a subsidiary of Continental. In 1954, Jack formed a holding company, Central Western, and served as its president until 1961, when Central Western was merged with Continental. Prior to assuming the duties of president, Mr. Maguire served as senior vice president, director, and member of the executive committee. His efforts were of key importance to the development and growth of Continental and, as the company grew, so did the area's economy.

From 1957 until 1960, Mr. Maguire gave his knowledgeable service as a member of the advisory committee to the Rural Electrification Administration. From the very outset of his career, Jack has been a member of the California Independent Telephone Association. He served as director of that organization from 1954 through 1962, and also served as president for 1 year. Jack Maguire is a past director of the United States Independent Telephone Association. In 1960, he became a member of the Independent Telephone Pioneer Association—I find the title of that organization especially fitting for Jack Maguire.

His contributions to his chosen profession speak for themselves, but they are by no means his only efforts for community progress. As general chairman of the Mercy Hospital Building Fund Campaign, Jack has rallied a remarkable community response. To date, $1.25 million has been contributed. He is the recipient of the Greater Bakersfield Chamber of Commerce Headliner Award for outstanding achievement in the international communications industry, and has been honored with the Taft, Calif. Elks' Club "Man of the Year" for exceptional community service. Among his many other tributes, he holds the Distinguished Service Award: Over and over again, community residents have recognized Jack's dedication, and his achievements.

He is a privileged member of the Kiwanis, of which he has been a member since 1942. Further, he continues to lend his support to his alma mater in many capacities; among them, he serves as chairman of the Stanford Major Gifts Committee for the Southern San Joaquin Valley.

Mr. Speaker, I could continue to list Jack Maguire's selfless and continuing contributions to the community for many pages. Certainly, he represents an American success story of which we can all be proud, and he has helped to make possible a standard of progress which has benefited all around him in every facet of his life.

On May 8, the Kern County Board of Trade and the Greater Bakersfield Chamber of Commerce are cosponsoring a testimonial dinner to honor Jack Maguire. It is an honor he has more than earned, and I know that my colleagues in this House will join with me in saying congratulations to Jack, and his family, on a job well done.

REPRESENTATIVE PAUL SIMON

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. RUSSO. Mr. Speaker, today I am pleased to share with my colleagues a fine news article written about a fellow Member. The Farmland News, in a story by Jay Richter, draws a picture of the Member as hard-working, concientious, involved and highly respected. I surely agree with this view of Rep. Paul Simon. I count it an honor to be a member of the Illinois delegation along with this master legislator, who in 14 years in the Illinois legislature was seven times voted best legislator. And at the risk of belaboring the obvious to those privileged to work with him, I might just point out the appropriateness of the article's title: "Freshman on Hill Sets Torrid Pace."

I commend this article to my colleagues' attention:

[From the Farmland News, Jan. 31, 1976]

FRESHMAN ON HILL SETS TORRID PACE

(By Jay Richter)

The Congress member considered by colleagues to be one of the best of 92 freshmen who arrived on Capitol Hill a year ago rose to his feet on the floor of the House of Representatives.

"I suggested that the Postmaster General ought to take a month off, carry mail for five days, carry rural mail for two days, talk to postmasters for three days, and in similar ways fill out the month," he said.

"I made this suggestion on Oct. 29 (a note of irony in his voice). I sent it to him by mail and so far he has not responded. Maybe the mail hasn't arrived there yet."

Rep. Paul Simon of Illinois practices what he was preaching: hard down-home effort to solve public problems. Assigned by congressional leaders to serve on the House Post Office and Civil Service committee, the Democrat startled Washington by making unannounced visits to those agencies to talk with government employees about their ideas and beefs, and observe them working—or as it sometimes turned out—dawdling.

Simon was the first congressman to visit his agency in 14 years, said one federal official, aside from a few lawmakers who had come around to make speeches. "The average member of Congress," wrote a local government-affairs reporter, "knows as much about the top of Mt. Everest as he does about the inside of federal agencies he is supposed to supervise, as keeper of the purse."

A day at work in Washington with Paul Simon wears you down.

My day with him began with an informal breakfast meeting at 8:30 a.m. of a group Simon got together soon after coming to Congress to keep watch on world food and population problems, and try to do something about them. The people there were from private and semi-public organizations, such as the Freedom from Hunger Foundation the Women's League of Voters, the National Academy of Sciences, and from Congress.

Up for discussion this particular morning is a proposed House resolution that would pledge 1 percent of the U.S. gross national product to assist poor countries of the world, a commitment Simon believes should be made by every well-to-do nation. ". . . Nations help each other through development," he wrote in The Politics of World Hunger, a book authored with his brother, Arthur Simon, Lutheran clergyman in a New York City ghetto. ". . . . The cost of assisting in global development must be measured against the eventual cost of not doing so—in wars and in a limping world economy (not to mention human suffering or our own dehumanization)."

Consensus of the breakfast group appears to be that congressional approval of the 1 percent U.S. pledge is a while off, but can be achieved in time through hard work.

A representative of the Academy of Sciences talks of the need for "a united international effort in the agricultural research area"—scientists should get right down to the farm through a coordinated research effort . . . priorities are needed, establishing specific goals, one to "fix" more nitrogen in grains, another to increase world yields and protein content of corn . . . the key to adequate future food supply is increasing yields which need to rise 2½ percent annually in the poor countries to avert hunger and starvation.

Father Robert F. Drinan, Congress member from Massachusetts, "radical" target of the Nixon administration, asks, with a hint of the Irish in his English, "Can't we institutionalize this ad hoc group? Is it time? Will it fly? Let's go to Phase 2 and organize this thing, maybe a select committee. We mustn't tread on the Agriculture Committee, but we need a blueprint: what should Congress do in the next five years?

"Let's have this group get up a 'bill of rights' for the hungry of the earth," Drinan goes on, gesticulating and excited, apparently caught up for the moment in an unearthly vision of a world without want. Then, half apologetically, "What we need is some outside bread (funding) to get this job done. Drinan then refers to a person, apparently from a northern state, who has an "igloo full of money." You gather that this particular igloo is the place where the touch of a warm hand might thaw out some frozen assets for use in the campaign against hunger.

There are approving noises from around the table, and Father Drinan is congratulated for his understanding of agriculture. "I'm a city kid," he responds, "just hungry, that's all."

Simon names a "subcommittee" of those present to blueprint future plans for the group—"to get up a package," as Drinan expresses it, "in which we should put somebody from the agriculture committee so they won't feel invaded."

The breakfast meeting ends. It is 9:30 a.m., and Simon, looking at the day's schedule that a secretary has typed out, says, "Too late for this one (a meeting on U.S. census procedures). I hate to miss that, but we have these overlaps all the time."

We proceed to a scheduled session of the House Education and Labor committee, of which Simon is a member. There, the task is to continue "marking up" legislation that, Simon says, "would make black lung benefits automatic for coal miners employed a specified number of years."

The borders of the district Simon represents embrace Illinois' 22 southernmost counties where coal mining is second only to farming, and he is a strong supporter of the black lung bill. As Simon turns away to talk with the committee chairman, his legislative aide, John Samuels, says, "We have 12,000 miners in the district, or about 28,000 or 29,000 people altogether in miner families, and 1,000 of them are widows. This black lung bill has been in the works for two years, and we hope to get it through next October. Then we'll probably get a veto which would be good timing . . ."

Samuels' point was that Congress is more likely to override the veto of such a bill just before an election than at other times.

As Simon returns, the committee clerk is calling the role for the second time. "Mr. chairman," she intones, "Only 18 members are present." The roll is called a third time, and a fourth, with the same result, and the chairman, Rep. Carl Perkins of Kentucky, says, "We are going to stay until we get out a bill." He asks for another rollcall.

"It takes 21 for a quorum to get on with the markup," Simon explains. A buzzer sounds three times, indicating that all congressmen should go to the floor of the House.

"There is a general debate on the floor," says Chairman Perkins. "We will recess 10 minutes. Go to the floor and bring back some more bodies to make a quorum on this committee."

Simon says, as he prepares to leave, "The trouble is, we'll get some more members of this committee off the floor and bring them here, but in the meantime some of those who are here now won't come back. This is how you spend part of the day, waiting around for a quorum."

Returning about 10 minutes later, Simon takes his seat with a few others at the long, curving, three-tiered rostrum reserved for committee members. A quorum is not yet present, and Simon works on a foot-high pile of papers that a girl from his office has brought to the hearing room.

Rep. Phillip Burton of California is saying, "We need a quorum here. All too often our Republican friends are missing." Other important matters await the members elsewhere, Burton goes on, and suggests proxy voting by committee members.

"I don't like proxies," Simon says later. "They may go against you. We should be on fewer committees instead."

Chairman Perkins asks for a rollcall, and the clerk calls out the names of the members, in order of their seniority on the committee. "Twenty members present, Mr. Chairman," announces the clerk. "I think we've got a quorum here," Perkins protests, asking for still another count.

Her voice rising following the rollcall, the clerk sings out, "Mr. Chairman, 21 members!"

The committee turns to the black lung bill, and a member moves to strike Section 8. Simon, who has been away from his seat in a corner of the room, talking with two representatives of Illinois miners, hurries to the table where his legislative aide is sitting. "What's happening? he asks.

Samuels replies, "Erlenborn (Rep. John Erlenborn of Illinois) has moved to strike 8." Simon hastens to his seat to vote against the Erlenborn motion which fails to carry, and Chairman Perkins says, "Let us go to Section 9."

"Mr. Chairman," says Erlenborn, "I move that a quorum of 21 members is no longer present, and ask that the roll be called.

The roll is called, and the clerk announces, "Mr. Chairman, 19 members have answered to their names."

"Well," says Chairman Perkins, "let us try to get a quorum back here."

Samuels says in a stage whisper, "We've been on this markup one week and got through seven pages of this bill which has 40 pages. It chews up everybody's time, including congressional staff time."

Simon again leaves his seat while the clerk is once more taking the roll to greet two young women in the audience from Illinois. "How are things in Springfield?" he asks. He talks briefly with a chic woman lobbyist for the United Mine Workers Union, then two representatives of the Illinois Railway Association.

"Mr. Chairman," the clerk is saying, "19 again."

"Now we'll go into night sessions," says Simon.

The clerk calls the roll twice more, turning up 19 members, then 18. Chairman Perkins announces in stern tones, "Right after the House goes on special order this afternoon, we will come back. If we do not finish then, we will meet tomorrow at 9 a.m. if we do not finish tonight."

Another legislative aide turns to Samuels to say, "See you tonight. Got your sleeping bag?"

It is almost noon, and Simon explains he must go to a closed luncheon meeting, "Something about the Middle East," with former Undersecretary of State George Ball. The buzzer sounds three times, and Simon starts off for the floor again, taking with him the *Congressional Record* of the previous day. "I check through it while listening with one ear," he says.

Most lawmakers think it is useless to spend hours listening to floor debate which changes few final votes. "But it's the amendments," explains Simon. "If you aren't on the floor, you don't know what the amendments are all about.

"Today, we've got Inter-American bank funding and New York City funding, and I am for both, so may not bother to hear the debate, but if natural gas comes up I certainly want to be around. I don't know yet where I stand on deregulation."

ARMS SALES TO EGYPT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. LENT. Mr. Speaker, I want to take this opportunity to express my strong opposition to the administration's plan to institute arms sales to Egypt.

Ostensibly, Egypt's renunciation of its treaty of friendship and cooperation with the Soviet Union is calculated to make the sale of six C–130 transport planes to Egypt palatable to the American Congress. It is clear to me that we would only be deluding ourselves if we accepted this assumption at face value. For example, there are still Soviet technicians at work at Egypt's SAM missile defenses; the Soviets continue to play a major role in a number of nonmilitary projects; and their Navy still has access to the Suez Canal and port facilities at Alexandria.

Further, Egypt is certainly not wanting where the international arms market is concerned. Britain and France appear to be willing suppliers, and these new purchases will undoubtedly be paid for by Arab oil sheiks, particularly in Saudi Arabia.

Mr. Speaker, if the United States starts selling arms to Egypt—and it is an absolute certainty that this sale would not be the last—we threaten to destroy the relative balance of miliary power we have worked so hard to establish. If anyone is powerful in the Middle East, it is the Arab states, not Israel. I do not see why the United States should fuel the antagonistic aims of any state in the Middle East.

This Congress recently voted to give Egypt more than $1 billion in economic assistance, and I voted for that legislation. This type of assistance, which will help to revitalize Egypt's economy, is in the best tradition of U.S. foreign assistance. It gives Egypt the means to achieve peace and prosperity. If indeed President Sadat is interested in peace—and I applaud his gestures of friendship toward the United States—this is the type of assistance he should want.

YEAR 2000 COULD BE TROUBLE

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. du PONT. Mr. Speaker, the immediate problems which daily press Congress for solutions rarely permit individual Members of this body to take a long-range look at policy demands and needs. Yet, there are problems which, if left untended, will reach crisis proportions. One of these is certainly world-wide hunger which, though tragic in its consequences today, has not yet reached the monumental dimensions it potentially could.

Although there has been a growing awareness in Congress of the hunger and malnutrition which has ravaged and weakened nations around the globe, Members of Congress have yet to come to grips with the most effective means to combat this terrible problem. I would like, therefore, to submit for the Record, Mr. Speaker, a recent Wall Street Journal article in which there is portrayed a grim scenario for the year 2000 should no steps be taken to alleviate the problem of world hunger. The United States, as the world's greatest food producer, will have to shoulder a major portion of the responsibility for the resolution of global malnutrition.

I would like my colleagues to keep in mind as they peruse this article the fact that the House of Representatives recently passed a foreign military assistance program for fiscal year 1976 with a new obligational authority of $3.5 billion while the House approved only $1.5 billion in new obligational authority for fiscal year 1976 for humanitarian aid, economic development and food assistance.

The article follows:

The Future Revised: By 2000, Prevention Of Starvation May Be Chief Global Concern—Food Production May Fall Short as Energy Costs Climb, Climate Changes Bleak Future for the Hog?

(By Joseph M. Winski)

Washington, D.C.—It is late September 2000. Another subfreezing morning, the U.S. Secretary of Food Policy notes as he boards an Ottawa-bound flight with his subordinates, the Secretary of Agriculture and the Secretary of State.

Again, the monsoon rains have failed in Asia. The U.S. corn harvest looks good by year-2000 standards. But why, the Secretary asks himself, can't somebody develop a 90-day corn that would yield the way 120-day corn did back in the 1970s? If it weren't for frosts nearly every May and September, he muses, the high-yielding long-season corn would still mature. And wouldn't it be nice to pile on the chemical fertilizer?

In Ottawa, the entourage is met by its Canadian counterparts. After perfunctory greetings, the delegations get down to the grim, yearly task before them: rationing the food produced by their nations to the rest of the world.

Far-fetched? Not nearly so as it would have seemed 10 years ago. The U.S. and Canada today produce about 80% of all the world's export grain. By 2000, some agricultural experts say, they may be the only two countries in the world that produce more grain than they consume. And they may well decide, in OPEC fashion, who gets how much and at what price. Grain is the key foodstuff. Directly or indirectly (after being fed to animals) it accounts for 70% of what the world eats.

ENERGY AND WEATHER

Ten years ago, world hunger was discussed only by the most foresighted, and largely in us-against-them terms. But it will touch the lives of Americans. It may create a major change in the American diet and in the structure of American agriculture. Food may be the most powerful force in international politics and domestic economics, and the "food issue" may be the leading one in the presidential election of 2000.

Two developments since 1966 have affected all projections about food. One is the energy crisis. The other is the weather. The experts and seers consulted by this newspaper in 1966 implicitly assumed that cheap energy and favorable weather were here to stay.

It now appears that they were not.

There was a major nondevelopment, too. Though Americans have done their share, the world as a whole has made little progress in reducing the rate of population growth. By 2000, the present world population of 3.9 billion will have grown to nearly 7 billion. Before 2050, it will double to 14 billion.

That means, according to studies by the United Nations and others, that food production will have to grow by an average of 3.6% to 4% a year if all those people are to be fed. These growth rates are impossibly high, many analysts believe. They say the world will be hard-pressed to match its recent food-growth rate at less than 3% a year, a rate that still leaves anywhere from 500 million to 1.5 billion people underfed.

"GREEN REVOLUTION" WILTS

The high cost of petroleum threatens the efficiency of America as a food-producing machine. David Pimentel, a food scientist at Cornell University, estimates that the 240% increase in U.S. corn yields between 1946 and 1970 was accompanied by a 310% increase in the energy used to produce that corn.

That increase was at the farming level. Other links in the food production chain, from the tractor factory to the food processor to the supermarket, consume perhaps four times as much energy as the nation's farms. John Steinhart, food and energy analyst at the University of Wisconsin, says that the U.S. food system now uses about 10 calories of fuel for every calorie of food consumed. Higher fuel costs, then, at the very least, mean higher food prices, and one study suggests that a tripling of fuel costs ultimately doubles food prices.

At some point, too, no increase in the price of food will increase its supply "Modern agriculture . . . is an energy consumer of a magnitude that raises profound doubts as to its ability . . . to prevent wholesale starvation," a special report on food by the National Science Foundation said last year.

Most spectacularly in India, but also throughout the rest of the world, the heralded "green revolution" in farm productivity appears to have ground to a halt because of the high cost and scarcity of energy.

At the same time, the weather has taken a sharp turn for the worse, perhaps as part of a long-term cycle. Some weather experts believe that the U.S. farm belt is in the early stage of a long drought. Some think temperatures in the northern temperate zones are cooling, and that the trend will produce frequent frosts and shorter growing seasons. And some suspect that monsoon rain failures in Asia are increasing. Only one such failure occurred in the 1960s. So far in the 1970s, there have been two.

Even if the current weather is "normal," experts say, Mother Nature was unusually bountiful during the 1960s, when there were no major weather-caused crop failures in the world. Weather historians quote the odds against such a decade at 10,000 to 1. "Each good year now just increases the probability of bad ones in the future," a weatherman says.

It is a statement of fact, rather than a prediction, to say that food is going to cost substantially more in the year 2000. Only 10 years ago, U.S. food prices were rising less than 3% a year, and this newspaper was able to talk of "quite possible cheaper" food in 2000. Now food economists think that the family spending $50 a week for food today may be spending $150 a week (in today's dollars) in the year 2000.

Americans will eat less food, probably, and certain less of some kinds of food. Marbled, grain-fed beef, a mainstay of many diets for generations, apparently is becoming a luxury. The steer is an inefficient converter of grain to meat, and Kenneth Monfort, co-chairman of Monfort of Colorado Inc., the country's largest feedlot operator, says beef consumption "will drop dramatically."

Economics aside, some people are challenging the desirability of pouring more grain into beef when people elsewhere in the world have too little grain. Many people in the meat industry dispute the assumptions underlying this view, but the sentiment still appears to be growing. "The amount of grain put into animal production in this country is a national disgrace," says Georg Borgstrom, a food scientist at Michigan State University. "We've had this enormous banquet at a time when the world was rapidly moving to the edge of the precipice."

None of this means an end to the beef business. "It certainly will mean a significant shift in the way we manage the beef animal," says Robert Bray, animal scientist at the University of Wisconsin. In the past few years, grain became so expensive that many cattle were turned out to graze the open range, just as they did in pioneering days when grain also was relatively dear. Grazing animals accounted for about half of all beef produced in the U.S. last year, and they may account for as much as 90%, some analysts believe, by the year 2000.

The steer's relative efficiency in converting grass, corn stalks and other cheap forage into beef assures the critter's survival. But today, some analysts say, there isn't enough forage land to support the cattle population, and there will be even less in 2000, so total beef output, they say, will fall.

The hog may have a bleaker future, because it isn't a grazing ruminant, and the pork chop might become a greater luxury than the steak in 2000. "I fear what might happen to pork production in this country," Mr. Bray says.

To some people it is a disturbing paradox that the Soviet Union and Japan, along with rich OPEC countries, are trying to consume more meat. Russia's big recent grain purchases didn't go to make bread to stave off hunger, but to increase livestock feeding and produce, inefficiently, more meat protein.

Research into meat substitutes will become more urgent. "If we can develop a palatable substitute for meat," says Jean Mayer, professor of nutrition at Harvard University and newly named president of Tufts University, "we'll have made a great advance in the fight against hunger."

Soybean-based meat "analogs" are on the market, though some people think their taste leaves a bit to be desired. At the moment, the question is academic because analogs cost more than the real thing. Toward the year 2000, as they become relatively cheap, some analysts think that perhaps half the "fresh meat" in a typical supermarket will consist of soybean, wheat gluten or some other nonmeat protein.

Ten years ago, food experts talked of "methodically harvesting the oceans" for a big part of the food supply in 2000. That prospect has dimmed because of pollution, overfishing and international squabbling over fishing rights. After rising steadily from 1950 to 1970, the world fish catch has fallen in three of the past five years. And some people believe the ocean already is contributing as much as it can to the food supply.

RESISTANCE TO DIET CHANGES

So, much research is directed toward developing look-alike, taste-alike substitutes for today's standard foods because even in underfed nations, resistance to dietary changes is strong. "The bulk of our effort is to make sure the product doesn't change much," says John Luck, technical director at General Mills Inc. "I don't believe that in the year 2000, we'll be living on exotic foods"—such as krill, algae or singlecell organisms.

But a few surprises could be in store. "What's difficult to estimate is the impact of triticale (a wheat-rye cross) and other results of genetic manipulation," says Prof. Mayer of Harvard. "We may have a food supply quite different from today's."

To maintain or increase yields of crops people already eat, scientists are spending a lot of time studying photosynthesis. This is the intriguing, awesome but inefficient process by which plants use light to turn carbon dioxide and water into carbohydrates. All food ultimately derives from the process. Researchers are trying such things as breeding plants with more leaf surface exposed to light, and trapping higher levels of carbon dioxide in manmade environments, to make photosynthesis more productive.

All plants require nitrogen. Most of them fail to get enough to fully realize their growth potential without large quantities of nitrogen fertilizer. Some plants, however, especially legumes like alfalfa and soybeans, obtain nitrogen from the air through the work of "nitrogen fixing" bacteria. Scientists wonder whether they can breed bacteria to do the same thing for other plants, like corn. Success would constitute a major breakthrough.

"Theoretically," a researcher says, "you could take these bacteria, throw them on a field of corn and fertilize it—and win 15 Nobel Prizes all at once."

But it's all theoretical. "For the immediate future," concludes a report on agriculture by the National Academy of Sciences, "there will be continued advances in technology for both plants and livestock, but no startling breakthroughs that could place production on a new level."

So sober a view would have been heretical 10 years ago, when this newspaper concluded that "in the not too distant future" it might be possible "to produce close to 500 bushels of corn an acre." The average last year in Illinois, the top corn-producing state, was 116 bushels. "There is increasing evidence that yields are plateauing," says Glenn Pound, dean of the college of agriculture at the University of Wisconsin. "There is no way we can expect yields to continue to increase in the next 35 years as they have in the past 35." Moreover, he and others observe, there isn't enough additional acreage to counteract a stagnation in yield.

WILL MULES COME BACK?

Farmers will work their land somewhat differently. They won't manage their fields from "towers containing television scanners to keep an eye on robot tractors," as one observer expected 10 years ago. "That's an exciting thing to draw pictures of, but it costs too much," says R. E. Baumheckel, product research manager at International Harvester Co. But Mr. Baumheckel does foresee "larger and far more sophisticated" farm machines, and almost every farmer will use borrowed computer time to plan planting, capital-equipment purchases and other strategic activities.

At the same time, a worsening of the energy crisis might return older farming technology and production arrangements to favor. Farmers might, for example, use less chemical fertilizer and pesticide, more animal manure and nature pest killers. Farmers might resume crop rotation to preserve soil nutrients. They might buy smaller, less energy-consuming gear, and farms might become smaller; with energy a scarce commodity, bigness wouldn't necessarily create economies of scale. Agriculture might become more labor-intensive, and some people even see a return to draft animals for certain farm work.

Mr. Steinhart, the food and energy analyst at the University of Wisconsin, thinks home gardening and even subsistence farming will make "not insignificant contributions to future food supplies."

"REQUIRED DAILY ALLOTMENT"

The waste of food, almost certainly, will disappear, most experts say, and food generally will be more carefully considered in terms of health and nutrition. Authoritative "food efficacy committees" may pass on the merits of foods, Howard Bauman, vice president of science and technology for Pillsbury Co., thinks, and new professions may combine medicine and food science. Some day, Mr. Bauman says, it will be possible to perform biochemical tests on a new-born child that will "determine what his diet should be throughout his life."

For some people, that is an Orwellian prospect. Paul Khan, director of food protection at ITT Continental Baking Co., asks: "Is RDA—recommended daily allowance—going to mean required daily allotment?"

But an even greater nightmare is the prospect that North America will be forced to decide who will be fed and who won't in 2000.

North America's 80% share of world grain exports represents a striking change. As recently as the 1930s, observes Lester R. Brown, president of Worldwatch Institute, a research group in Washington, D.C., the world outside Western Europe was a net exporter of grain. North America was exporting five million tons a year, compared with the 96 million tons projected for this fiscal year, and even Latin America and Asia exported it.

Already, the U.S. has made selective allocations of foodstuffs. In 1973, it halted soybean shipments to Japan. Last summer it stopped grain exports to Russia and Poland. "We told these countries, 'No, you can't have any food, at least for the time being.' " Mr. Brown says. By 2000, he says, this selective allocation may give way to "a systematic allocation on a country-by-country basis."

Another observer thinks this would require "horrifying, excruciating" decisions that would be greatly complicated by the vagaries of weather. If the monsoons fail repeatedly, and if North America and the Soviet Union suffer major crop failures at the same time, the "gigantic, inevitable famine" that Malthus predicted in 1798 may become real.

LITHUANIAN AMERICANS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mrs. CHISHOLM. Mr. Speaker, the Bicentennial Year is an appropriate time for all Americans to celebrate the diversity of our people. New York City, as the gateway to the Nation, has served as the home of every major ethnic, religious, and racial group in this country. Lithuanian Americans are one group who have contributed to the cultural diversity of the New York experience and to the quality of life as well.

If we look through the history of Lithuanian Americans, we find citizens who have achieved in all walks of life. Mr. Speaker, I would like to tell my colleagues in the House about some of these interesting Lithuanian Americans of the recent past: Mikas Petrauskas, a composer of Lithuanian songs and operettas, was the first musically trained Lithuanian to work in America; Mr. Petrauskas composed 20 Lithuanian operettas and one Lithuanian opera. Anna Kaska, a contralto, was the first singer to be chosen from radio auditions for the Metropolitan Opera in New York. Dr. M. J. Vinikas, former secretary of the Lithuanian Alliance of America, was the author of several works concerning the economic and diplomatic relations of Lithuania. Athletes also figure among prominent Lithuanian Americans; in this profession we find Jack Sharkey—Juovas Zukauskas—the former world heavyweight champion and Billie Burke—Vincas Burkauskas—the golfer. Another prominen Lithuanian American is a war heroine, Anna Bernatitus. Miss Bernatitus served during the Second World War on Bataan and Corregidor as a Navy nurse. She was the first person in the U.S. naval service, in 1942, to receive the Legion of Merit Award.

At this time, Mr. Speaker, I would like to salute the Lithuanian American community for their contribution to American society. Recently the Lithuanian Council of New York, a chapter of the Lithuanian American Council, met in Brooklyn and passed a resolution which I would like to insert into the RECORD:

RESOLUTION

We, Lithuanian-Americans of Metropolitan New York convened at the Lithuanian Cultural Center, 361 Highland Boulevard, Brooklyn, N.Y. this 15th of February, in the year of the Bicentennial Anniversary of the United States of America, to Commemorate the Fifty-Eighth Anniversary of the Declaration of Lithuania's Independence and establishment of the Republic of Lithuania, which, unfortunately, has been forcefully and illegally annexed by the Soviet Union in 1940, unanimously adopt this resolution.

It is great honor and pleasure to accept the compliments and the wishes from the Honorable Hugh L. Carey, Governor and the Honorable Abraham Beame, Mayor of the City of New York, expressed in their proclamations. We respect and appreciate the State's Senate and Assembly for their joint resolution which lends us great support in our efforts to restore independence to the Lithuanian people.

In the presence of distinguished guests: the Honorable Bella Abzug, Congresswoman; the Honorable Mary Ann Krupsak, Lieutenant Governor of New York; the Honorable Martin J. Knott, State Senator; the Honorable Thomas Bortasiewicz, State Senator; A. Fredrich Meyerson, State Senator; the Honorable John T. Flack, Assemblyman; the Honorable Peter G. Mirto, Assemblyman; the Honorable Alfred Delli Bovi, Assemblyman; the Honorable Fredrich D. Schmidt, Assemblyman; the Honorable Walter Ward, Councilman; the Honorable Anicetas Simutis, Consul General of the Republic of Lithuania, Mr. Victor Robles, Congressional Aid to Shirley Chisholm, we solemnly pledge our lives and our work to a free, democratic, prosperous and strong United States forever and we declare our determination to do all possible and make every sacrifice to restore freedom and independence to our native land Lithuania.

Today, we are looking back on the glorious seven hundred years of Lithuania's history and the gallant fight of the Lithuanian people to preserve freedom and national heritage and to shield Europe from invasion of elements from Asia. Many of us are eyewitnesses to the unprecedented reconstruction and development of Lithuania during the short-lived period of independence (1918–1940) which followed a century of oppression by the Imperial Russia. During that period Lithuania rapidly advanced and became fit to successfully compete with other European nations, until, suddenly in 1940, she and two other Baltic States, Estonia and Latvia, were invaded and occupied by the Soviet armed forces. Subsequently, they were illegally and brutally annexed to the Soviet Union.

We are well informed of the bloody resistance which followed the occupation. First, 1941, in the general uprising which took place in the wake of the retreating Russian army, and later, after the German defeat, in a decade of guerrilla warfare against the Russian occupants. The resistance which cost 50,000 Lithuanian lives, was broken. The Soviet Union forcibly deported half a million Lithuanians to Siberia, but the Lithuanian people were never defeated and their will to live free never squelched. The fight goes on. It takes various forms. Petitions and protests are signed at great risks and sent to the Soviet government; appeals for help are smuggled to the Free World and to the United Nations; a samizdat, the Chronicle of the Catholic Church in Lithuania is published underground, and much more.

For a free nation, the disadvantage of being incorporated into the Soviet Union is the unconditional surrender of its natural and human resources to the mercy of a totalitarian Russian communism. Lithuania today is nothing but a colony of imperialist Russia. Contrary to the Soviet constitution and despite the Declaration of Human Rights, the Declaration of Principles in the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki last July, the Soviet Union not only deines freedom and self-determination to the Lithuanian people, but also through programs of resettlement, intensive Russification, flagrant denial of human rights and political persecutions, continues to change the ethnic character of Lithuania.

The spirit of Lithuanian freedom and independence erupted in 1972, when young Lithuanians, born into and educated in communist schools, staged a mass protest in the streets of Kaunas. They demanded: freedom for Lithuania. To heed the pleas of those suffering in Lithuania, the Lithuanian youths, born and educated in the Free World, convened in Sao Paulo, Brazil, last December and set the goal of a free and independent Lithuania. To achieve this goal none of the peaceful ways and means should be spared, they decided. We commend and endorse the decisions of Lithuanian youth.

In this country, we are most happy to find a full understanding of the tragic situation of the Lithuanian people. There is agreement on this matter among the American people, its elected representatives, the Government and the press. In 1940 President Roosevelt initiated a policy of non-recognition of the illegal annexation of the Baltic States into the Soviet Union. This official policy of the United States has been continued to this day. July 25, 1975, President Ford assured the leaders of the Captive Nations that this policy will not be affected by the results of the European Security Conference at Helsinki. November 2, 1975, the House of Representatives unanimously adopted a resolution (H. Res. 864) which expresses the sense of Congress that: ". . . it will continue to be the policy of the United States not to recognise in any way the annexation of the Baltic nations by the Soviet Union. "A similar resolution has been introduced in the Senate. We urge the Senate to adopt the resolution as soon as possible.

We express our respect to the President Ford, the Government and the Congress for their just interpretation of the political status of the Baltic States. We trust that the United States policy of non-recognition of annexation by the Soviet Union is firm and will never be compromised. We urge the President and the Secretary of State to activate the principle of non-recognition of annexation by proposing at every opportunity the decolonization and restoration of independence to the Baltic nations as the only just and sensible solution to the problem.

We demand the Soviet Union cease colonization and national genocide in Lithuania and other Baltic States; immediately release all Lithuanians presently imprisoned or deported to Siberia for political reasons; stop harrassment of religious believers and dissidents; restore freedom and independence to the Lithuanian people.

The resolution has been adopted unanimously.

CONGRESSIONAL RECEPTION OF CAP

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. WOLFF. Mr. Speaker, on March 17 the Civil Air Patrol held its annual Congressional reception on the occasion of the presentation of its annual report to the Congress.

As I am sure many of my colleagues are well aware, the CAP came into existence in 1941 as a stop gap force to bolster our Nation's defenses. In the ensuing 35 years, the CAP has grown to an organization of 62,000 members that is dedicated to furthering aerospace education, providing emergency services and, perhaps most important, conducting search and rescue missions. Last year alone, the CAP flew 24,500 hours, was credited with 304 "finds" and saving the lives of 57. As commander of the Congressional Squadron of the CAP, I am proud to be a member of this humanitarian organization.

I would like to thank the large number of my colleagues who stopped by the reception. I am sure that they enjoyed as much as I did the company of the CAP wing commanders from all 50 States and the District of Columbia as well as the

CAP's National Commander, Brig. Gen. William M. Patterson, CAP, and Executive Director, Brig. Gen. Carl S. Miller, USAF. Other distinguished representatives of the Air Force present included Chief of Staff, Gen. David C. Jones; the commander of the Air University, Lt. Gen. Raymond B. Furlong, and Headquarters Command chief Maj. Gen. William C. Norris.

The activities of the CAP have been of great benefit to the people of the United States, at only token cost to the taxpayers. This organization has long enjoyed the support of the Congress and I am sure that my colleagues agree that it is worthy of continued support.

THE ALTERNATIVES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CRANE. Mr. Speaker, Dr. Francis A. Davis of Oklahoma, the publisher of Private Practice, the journal of socioeconomic medicine, has written a brief, but cogent, essay outlining the deficiencies of socialized medicine. Pointing to the successes of free enterprise medicine, Dr. Davis stated:

> Despite example after example of the dismal failure of governmental medical care in our own and other countries, the socializers do not learn the lesson.

Dr. Davis has been in the forefront of the efforts to guarantee the continuation of the private practice of medicine and to fight nationalized health care. He concludes his essay with the observation:

> Politics and medicine don't mix. If socialized medicine is forced upon this nation, patients will suffer. Unfortunately, all of us will eventually be patients.

Mr. Speaker, I would like to share Dr. Davis' essay with my colleagues in the Congress.

[From Private Practice, March 1976]

THE ALTERNATIVES

(By Francis A. Davis, M.D.)

Can the American free enterprise system supply our country's medical needs? Are patients capable of determining which doctor, hospital, or drug is best for them?

Those who believe in the American way of providing medical care answer both questions Yes. Those who believe in socialized medicine say No to both.

Advocates of socialized medicine believe only the government is capable of providing adequate medical care and that patients are unable intelligently to select their own doctor and hospital.

Despite example after example of the dismal failure of governmental medical care in our own and other countries, the socializers do not learn the lesson.

Today the government is intruding into every single area of business. When one planning program fails, the government starts another on top of it. In medicine, we have had Kerr Mills, Medicaid, Medicare, HMOs, and many other programs. As each one starts to falter, a new program is initiated.

Studies show that for each dollar the government takes from a patient in taxes for the purpose of providing him medical care, the patient receives about twenty-five cents' worth. In the free market, he would have had a dollar's worth.

We all know of governmental clinics where the average cost for each patient seen is over $40.00.

The free market is efficient, while government by its nature is pathetically inefficient.

Can patients know which doctor, hospital, or medicine is best for them? Those who promote socialized medicine do not believe that the individual patient is smart enough to make the correct decision on these questions. In other words, they do not believe that the free market works. Those of us who believe in the American way also believe that patients in the free market are best qualified to make the proper decisions.

How do patients make the correct decision in choosing a doctor in a free market? First, we must have a system where the government is not involved, or patients will not have a free market choice. For example, in my home town up until 1965, all patients could be seen by all doctors. But not so now. Many doctors rightly will not become involved in third-party payment of fees and the paperwork that goes with it. The government has distorted the market place as far as these patients are concerned.

A new patient in town will choose a doctor just as he chooses any other service or product. The patient talks to his employer, neighbors, or other new friends, and from these discussions, he decides on the doctor of his choice. Needless to say, once he sees the doctor of his choice, he may change doctors, if he wishes, for any reason. Not so if he is in a governmental program.

How does he choose his hospital and his medicine? In picking his doctor, he chooses a person with many years of professional training, and the patient leaves these other two choices up to his doctor. Once again, if he is not satisfied, he may change doctors.

This is no different than when you buy a new car. You leave to the professionals who made the car, the choice of the type of starter, radiator, etc.

Under a nationalized medical system, the governmental bureaucrat chooses your doctor, and the bureaucrat also chooses the hospital and the medicines you take.

Politics and medicine do not mix. If socialized medicine is forced upon this nation, patients will suffer. Unfortunately, all of us will eventually be patients.

OPPOSES BLACKMAIL BY TURKEY

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. MOTTL. Mr. Speaker, I would like to express my emphatic opposition to any attempts to blackmail the United States in the field of foreign affairs.

In this connection, I would like to call the attention of every Member of this House to a letter I have written today to Secretary of State Henry Kissinger. This letter expresses my opposition to the proposed agreement Dr. Kissinger has negotiated with Turkey.

My letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 31, 1976.

Dr. HENRY KISSINGER,
Secretary of State, State Department,
Washington, D.C.

DEAR DR. KISSINGER: Please be advised that I intend to oppose approval of your proposed new agreement with Turkey.

It seems to me that your proposed treaty would give Turkey a billion dollar bonus for attempting to bully and blackmail this country.

Turkey obviously violated a previous agreement with this country by using American military equipment to invade and subjugate the Island of Crete.

They then closed down our observation posts in Turkey in retaliation against us when we cut off further arms supply.

We cannot depend for our future security on the collaboration of such undependable allies. We cannot tolerate blackmail by friends or foes.

I suggest that those with the responsibility for charting American foreign policy plan a course in which we will place no reliance on Turkey.

Sincerely,

RONALD M. MOTTL,
Member of Congress.

BRITAIN SLASHES SPENDING ON SOCIAL-WELFARE ITEMS

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. WYLIE. Mr. Speaker, the United States is a wealthy nation. Its people are generous. Our Federal social welfare programs are well intentioned if not always well programed or administered. However, the people of this country and we, their Congress, must make the crucial decision of just how much taxation and federally controlled redistribution of wealth the Nation can afford. In this regard I found Peter T. Kilborn's article in the New York Times about the British Labor Government's "White Paper" on public spending interesting reading. I commend it to my colleagues' attention.

Mr. Speaker, the text of Mr. Kilborn's article follows:

BRITAIN SLASHES SPENDING ON SOCIAL-WELFARE ITEMS

(By Peter T. Kilborn)

LONDON, February 19.—Prime Minister Harold Wilson's Labor Government, conceding that the cost of Britain's ambitious social-welfare programs was crippling the economy, today announced vast cuts in its public-spending plans.

Public spending, said the Chanceller of the Exchequer, Denis Healey, was rising to the point where the taxes needed to cover it would "corrode the will to work."

Following publication of a long-awaited white paper on public expenditure, Mr. Healey told a news conference that a British worker receiving the average weekly wage of $125 now pays a quarter of it to the Government. Fifteen years ago, he paid a tenth, and if spending continues at present rates, in three years he would pay one-half.

Other consequences of soaring public spending, the Government said, has been disruption of the country's balance of payments, sagging economic growth, and unprecedented budget deficits.

Mr. Healey said the Government planned to chop $3.6 billion from spending it had scheduled for 1977–78 and $6 billion from plans for 1978–79. Current spending is being maintained, Mr. Healey said, to carry the economy through the recession, which is showing early signs of ending here.

The expenditure programs that were ordered cut today had been announced only one year ago, reflecting a new awareness that has been sweeping through the Government that its traditional economic policies no longer work.

Significantly, only one of 16 sectors that receive aid will be allocated substantial increases under the new plan. The sector is not schools, medical care, or housing—major beneficiaries of 30 years of public-spending growth—but private industry.

Industry, which is to receive a $1 billion increase under the new plan, has been shrinking in manpower and growth, eroding the country's ability to compete in foreign markets and to fend off better-made imported goods.

"If we want to regenerate manufacturing industry," Mr. Healey said, "then we must leave enough resources free from public expenditure."

Mr. Healey's white paper is likely to set the tone of economic policy for at least the next three or four years. Because of the about-face it represents in spending policy, it is seen here as even more important to Britain and the taxpayer than the annual budget that Mr. Healey will announce in April.

The new program has already aroused furious opposition from the left wing of Mr. Healey's Labor Party and from interest groups to be affected by the cuts.

The leftists' group in Parliament issued a statement calling it "a document of shame." One member said the white paper "represented the Labor Party's final betrayal of social justice." Said another leftist M.P., Brian Sedgemore, "these cuts represent a fundamental shift in wealth and power away from working people and their families."

THE ECONOMICS OF BEDLAM

The head of the National Union of Teachers called the cuts "catastrophic, the economics of bedlam," and the Royal Automobile Club, reacting to reductions in the rate of new road building, saw the plan as "another spoke in the wheel toward bringing Britain to a standstill."

Since July, however, when Mr. Healey and Mr. Wilson began an assault on the country's 25 percent inflation rate with an annual freeze of $12 on weekly wage increases, the left and various interest groups have reacted similarly.

But so far the Government has been able to isolate its dissenters. The reason is that the trade union leadership, which helped bring down the last Conservative Government, accepts the Government's diagnosis of the economy and is backing its efforts to rebuild.

The reason seems to be the taxes union members are now paying to underwrite the services that many demanded for decades. Taxes now, said Mr. Healey, "enlarge the poverty trap—people are often better off out of work than working."

He added that he could not look to the rich for help. Wealthy Britons pay some of the highest taxes in the world—up to 83 percent on earned income and 97 percent on unearned income. To tax away all income over $10,000, he said, would yield the Government only $800 million.

Public spending, Mr. Healey said, had leaped to $100 billion, or 60 percent of the country's gross national product, last year, from 50 percent just three years ago and 42 percent 15 years ago.

The spending was not much higher than that of other major developed countries. The rub for Britain was that its total output, growing less than 3 percent over the last decade, didn't keep pace with the spending growth. Something had to give, and what gave was taxes, industrial expansion and the national debt.

The debt has soared from $8 billion in 1970 to an estimated $25 billion currently, and the cost of supporting it represents a hefty chunk of total public spending.

ACTUAL SPENDING TO RISE

Actual spending through 1979 is scheduled to rise, by 6 percent, but the Government expects the economy to grow over the period by 3.5 percent annually, so the net effect is a decline in the economy's share of public spending.

What is more important about the program announced today is the reversal in the growth trend. Previously projected growth for defense, agriculture, nationalized industries, road building, housing, health care, education, libraries and many other services is being cut. Social security and foreign aid are being preserved at projected levels, and some minor public services are being maintained at the levels projected last year.

Obvious victims of the new plan will be Britain's local governments—where spending has often run even further out of control than it has in the central Government—and the renowned British Civil Service, which has been building up staff at an unprecedented rate and winning pay increases exceeding some of those realized by the country's most militant unions.

"For the average person," Mr. Healey promised, "there will be no deterioration of services." However, he added, "there will be no improvement."

REAL ESTATE PROPERTY TAX RELIEF

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. GILMAN. Mr. Speaker, today I am introducing real property tax relief legislation providing a "circuit-breaker" for low- and middle-income homeowners and for renters who are caught in the economic web of unbearable real estate taxes and of accelerating residential rentals.

In order to alleviate these burdens, my proposals will entitle a property owner to a tax credit of not more than $500, if the taxes paid on his real estate exceed 5 percent of his adjusted gross income—AGI—or if his rent payments for principal residence exceed 5 percent of his AGI. During the taxable year 1976, the AGI maximum would be $10,000; in 1977 the AGI limitation would be $15,000; and in 1977 and thereafter, the AGI limitation would be $20,000. For example, if a homeowner's adjusted gross income in 1976 is $8,000 and the amount paid in property taxes is $700, then he would qualify for a $300 Federal income tax credit, since the $300 is the amount above and beyond the 5-percent tax limitation of $400—5 percent of $8,000 equals $400.

Accordingly, the taxpayer, having paid the local real estate tax of $700, thereafter is entitled to a Federal income tax credit of $300—representing the property tax "overload".

Only that portion of the taxpayer's real property that is maintained as a principal residence would qualify for a Federal income tax credit. Four acres is the maximum farm acreage that can be included as part of a principal residence. A tax credit for joint ownership, joint rentals, and cooperative housing is also included in my bill.

Mr. Speaker, the plight of real property taxpayers is underscored by some of the taxes imposed in my region. The property taxes for Newburgh, which is located in my congressional district in New York State, has rocketed from $2,205,063 in 1970 to $4,621,522 in 1977, an increase that has more than doubled in 5 years. For the town of Wallkill, there has been an increase from $733,389 to $2,186,865; and in the last 5 years, Orange County taxes soared from $49,923,043 to $90,072,806. Moreover, I am told that in Orange County, N.Y., 1,932 parcels of land were put up for the tax sale in 1975 by the county for nonpayment of property taxes, as compared to 906 parcels in 1974. Although local taxes have doubled and tripled in some areas of the county, the county's annual population growth was only 2.4 to 12 percent during the last 5 years.

Mr. Speaker, it is not uncommon for some taxpayers in my congressional district to pay a real estate tax of $2,500 on a $55,000 home, or for a taxpayer in a $40,000 home assessed in 1968 at 50 percent valuation to pay a property tax of $1,584 and in 1975 to pay on the same home—revalued at nearly $80,000 and reassessed at 100 percent—taxes of $3,200. With mortgage rates climbing above 9 percent and the "average" new home selling for $42,600 in 1975—over the 1965 "average" of $22,900—the combined effect of increased mortgage rates and home purchase prices has excluded more than one-half of all American families from the housing market. Added to this grim picture are the increased costs of running our governmental institutions. Citizen demand for Government service and performance, fed by an inflationary economy, has resulted in staggering costs of governmental programs: schools, fire and police protection, public works, and social services all are expensive programs causing us to approach property tax limits beyond which taxpayers cannot meet.

Mr. Speaker, similar tax burdens exist in other parts of the Nation, where the taxpayer is being crushed by double-digit inflation, alarming high unemployment, and staggering Federal, State, and local taxes. The picture is clear, the point does not need to be belabored— low- and middle-income taxpayers require relief from these crushing taxes.

In the interest of alleviating these tax burdens, I urge my colleagues to support this "circuit-breaker" tax legislation, and I insert the full text of my bill at this point in the RECORD:

H.R. 12926

A bill to amend the Internal Revenue Code of 1954 to allow certain low and middle income individuals a refundable tax credit for a certain portion of the property taxes paid by them on their principal residence or of the rent they pay for their principal residences

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44 the following new section:

"SEC. 44A. RESIDENTIAL REAL PROPERTY TAXES OR RENT PAID BY CERTAIN LOW AND MIDDLE INCOME INDIVIDUALS.

"(a) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the amount of real property taxes paid or accrued by him during the taxable year which were imposed by a State or political subdivision thereof on property owned and used by him as his principal residence during the taxable year, and

"(2) the amount of rent paid or incurred by him during the taxable year with respect to property used by him as his principal residence during the taxable year.

"(b) Eligible Individual.—For purposes of this section, an individual shall be treated as an eligible individual for any taxable year if—

"(1) the sum of—

"(A) the real property taxes referred to in subsection (a)(1) which are paid or accrued by the individual during the taxable year, plus

"(B) the rent referred to in subsection (a)(2) which is paid or incurred by the individual during the taxable year,

exceeds

"(2) 5 percent of the individual's adjusted gross income for the taxable year.

"(c) Limitations.—

"(1) In General.—The amount allowable as a credit under subsection (a) for any taxable year shall not exceed $500 ($250 in the case of a separate return by a married individual).

"(2) Income Limitation.—

"(A) In General.—The amount allowable as a credit under subsection (a) for any taxable year (determined after the application of paragraph (1) and without regard to this paragraph) shall be further reduced (but not below zero) by an amount equal to 5 percent of the excess (if any) of the adjusted gross income of the taxpayer over the applicable limitation (one-half of the applicable limitation in the case of a separate return by a married individual).

"(B) Applicable Limitation.—For purposes of subparagraph (A), the term 'applicable limtiation' means—

"(i) in the case of taxable years beginning in 1976, $10,000;

"(ii) in the case of taxable years beginning in 1977, $15,000; and

"(iii) in the case of taxable years beginning after December 31, 1977, $20,000.

"(3) Joint Ownership.—In the case of any property owned jointly, and used as a principal residence during any calendar year, by two or more taxpayers, the total amount allowable to all such taxpayers as a credit under subsection (a)(1) with respect to such property for taxable years of such taxpayers beginning in such calendar year—

"(A) shall not exceed $500, and

"(B) shall be apportioned among such taxpayers ratably on the basis of the relative amounts of such taxes paid by each such taxpayer during such calendar year.

"(3) Joint rentals.—In the case of any property rented and used as a principal residence during any calendar year by two or more taxpayers, the total amount allowable to all such taxpayers as a credit under subsection (a)(2) with respect to such property for taxable years of such taxpayers beginning in such calendar year—

"(A) shall not exceed $500, and

"(B) shall be apportioned among such taxpayers ratably on the basis of the relative amounts of rent paid by each taxpayer on such property during such calendar year.

"(d) Definitions and Special Rules.—

"(1) Determination of status.—For purposes of this section, the determination of whether an individual is married shall be made in the manner prescribed by section 143.

"(2) Property used in part as principal residence.—In the case of property, only a portion of which is used by the taxpayer as his principal residence, there shall be taken into account, for purposes of subsection (a), so much of the real property taxes or rent paid by him on such property as is determined, under regulations prescribed by the Secretary or his delegate, to be attributable to the portion of such property used by him as his principal residence. For purposes of this paragraph, in the case of a principal residence located on a farm, so much of the land comprising such farm as does not exceed 4 acres shall be treated as part of such residence.

"(3) Real property tax on cooperative housing.—For purposes of subsection (a)(1), an individual who is a tenant-stockholder in a cooperative housing corporation (as defined in section 216(b))—

"(A) shall be treated as owning the house or apartment which he is entitled to occupy by reason of his ownership of stock in such corporation, and

"(B) shall be treated as having paid real property taxes during the taxable year equal to his proportionate share, as determined under section 216(a)(1), of such taxes paid or incurred by such corporation.

"(4) Change of principal residence.—If during a taxable year a taxpayer changes his principal residence, subsection (a) shall apply only to that portion of the real property taxes or rent paid by him with respect to each such principal residence as is properly allocable to the period during which it is used by him as his principal residence.

"(5) Real property tax in case of sale or purchase of principal residence.—If during a taxable year a taxpayer sells or purchases property used by him as his principal residence, subsection (a)(1) shall apply only to the portion of the real property taxes with respect to such property as is treated as imposed on him under section 164(d), and, for purposes of subsection (a)(1), the taxpayer shall be treated as having paid such taxes as are treated as paid by him under such section.

"(6) Rent.—For purposes of this section, the term 'rent' means any amount paid or incurred for the right to occupy property, exclusive of any charges for utilities or services (other than incidental services) furnished by the landlord as a part of the rental agreement (whether expressly set forth in the agreement or not).

"(e) Adjustments for Refunds.—

"(1) In general.—The amount of real property taxes paid by an individual during any taxable year shall be reduced by the amount of any refund of such taxes, whether or not received during the taxable year.

"(2) Interest.—In the case of an underpayment of the tax imposed by this chapter for a taxable year resulting from the application of paragraph (1) of this subsection, no interest shall be assessed or collected on such underpayment for any period before the sixtieth day after the date on which the taxpayer receives the refund of real property taxes which caused such underpayment."

(b) The table of sections for subpart A of part IV of subchapter A of such Code is amended by inserting after the item relating to section 44 the following new item:

"Sec. 44A. Residential real property taxes or rent paid by certain low and middle income individuals."

(c) Section 6401(b) of such Code (relating to treatment of excessive credits as overpayments) is amended by inserting ", 44A (relating to residential real property taxes or rent paid by certain low and middle income individuals)," before "and 667(b)", and by striking out "and 43" and inserting in lieu thereof "43, and 44A".

Sec. 2. The amendments made by the first section of this Act shall apply to taxable year beginning after December 31, 1975.

DANGER

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BRODHEAD. Mr. Speaker, H.R. 10318, the Toxic Substances Control Act, is currently pending in the House Interstate Foreign Commerce Committee. As one bit of evidence of the need for this legislation, I wish to recommend to my colleagues this article from the Detroit News.

The article follows:

[From the Detroit News, Mar. 14, 1976]

Danger

(By Rachel Scott)

In Kansas City, a man bought a gas-burning fireplace system from a local company.

He had a choice between two kinds of fake logs—one that looked like driftwood and another, "emberized," which would glow like a real burning log.

When the workmen arrived at his home, they ran a gas line into the fireplace, then filled the pit with chunks of volcanic rock.

Next they spread a layer of sand over the square metal pan which would hold the logs, then poured a sackfull of white fibrous material over the sand.

The white material, they explained, was "fake ashes" made of asbestos. More asbestos, attached to the logs, was what gave the logs their "emberized" effect.

The customer was shocked. The asbestos, which the workmen handled so blithely, is a highly potent cancer-causing agent.

By refusing to accept the false ashes, he joined a growing number of Americans who more and more are questioning the products that daily are being introduced into their lives whether at work or at home—products many scientists are labeling as dangerous to health.

A spokesman for the fireplace company argued that the asbestos was safe, explaining: "The only time its going to hurt you is in a manufacturing facility."

Such fireplace sets are sold by the thousands across the nation. Most are "emberized" with asbestos and other elements. Yet, asbestos is so hazardous that at least one out of five asbestos workers dies of lung cancer, and one of every 10 dies of mesothelioma, a cancer of the body lining.

Once inhaled in the lungs, asbestos is indestructable. It can cause asbestosis, a lung disease, by scarring the lung tissue.

As one researcher explained, when an asbestos fiber invades the lung, the body tries to destroy the invader.

A special scavenger cell surrounds the fiber but, unable to destroy it, the cell dies instead, causing scar tissue to form.

Researchers don't know how much exposure is necessary to cause cancer. Alarmingly, cases of mesothelioma—which affects only one in 10,000 in the general population—have been reported among people who only lived near an asbestos mine, as well as relatives of asbestos workers.

They don't know what danger if any exists from home chimneys emitting asbestos fibers in smoke.

Much of the work in this country on health effects of asbestos has been done at Mount Sinai Hospital in New York by a group of researchers.

Dr. Arthur Rohl, a mineralogist at Mount Sinai, was asked to comment on the advisability of using asbestos as fake ash for fireplaces.

He explained that asbestos fiber, lying in a fireplace, would continually disintegrate, causing airborne exposure.

It's the nature of asbestos to break down into small fibers that can't be seen even with a light microscope. Exposure from fireplace asbestos "could be very high," he said. "It should be prohibited by law."

Unfortunately, no federal agency—except the ineffectual Consumer Product Safety Commission—has jurisdiction over environmental problems in the home.

Dr. Kenneth Bridbord, a medical officer for the National Institute for Occupational Safety and Health, is concerned. His special interest is "indoor pollution." He has discovered for instance, that a leaded candle, burning on a dining room table, could produce dangerous amounts of lead vapor.

He also has studied aerosol spray exposures and has discovered that in a closed area, such as a bathroom or a laundry room, concentrations of halogenated hydrocarbons could easily reach potentially dangerous levels.

Halogenated hydrocarbons are used as propellants in such home aerosol products as vaporizers, hair sprays, deodorants, personal hygiene sprays and bronchodilator drugs.

The propellants have been implicated as a cause of heart palpitations, and have caused sudden death from heart attack in children who abuse them for kicks.

Some spray cans carry the names of ingredients. They often include kepone, vinyl chloride, trichlorethylene, bischloromethylether, methyl ketone, halogenated hydrocarbons.

And these are just a few of the chemicals on the lengthening list of man-made poisons that threaten cancer, nerve disease or other disabilities.

Most of these chemicals have been around for a decade or more, and are widely used in industrial processes and in commercial products for business and the home. Whether you work in a factory, an artists' studio, an office or at home, you are almost certainly exposed to some of these chemicals, or to others equally dangerous.

The Public Health Service has estimated that as many as 100,000 toxic chemicals are in commercial use, yet only 500 of these are regulated under the Occupational Safety and Health Act of 1970.

What of the other 99,000 chemicals? No one knows much about them. No law requires pre-testing of dangerous chemicals before they are marketed. No law requires that new chemicals be registered with any government agency before they are sold commercially.

Even though 40 percent of the labor force—33 million workers—are women, Dr. Hunt believes hazards of women workers are largely ignored, especially pregnant women.

"For the most part, the woman worker has not had a health advocate for a quarter of a century," she says.

A recent survey of corporation and union medical directors found that research on hazards to pregnant workers was considered the single most important need.

A number of toxic materials, including lead, carbon monoxide, tobacco, benzene, carbon disulfide and nitrobenzene, have been known since the 1930's to endanger pregnancy.

Among the suspect agents are some widely used solvents—benzene, xylene and toluene—as well as mercury, formaldehyde, diazo dyes and some pesticides.

Consider Mary Wilson, an artist who lives in Peru, Ind. She used to scoff at the other women in her fabric painting workshops when they complained of headaches from paint solvent fumes.

"I thought, 'Why, you big sissies,' because it didn't bother me at all," she recalls.

It didn't that is, until one day last March when she was painting at home.

Mrs. Wilson had developed her own technique of fabric painting, which involved diluting embroidery paint with a solvent to make a wash. She applied the wash to fabric with a swab—a process she had used for 10 years.

"I had been working on and off with it all day and that's the last thing I remember."

The next two weeks are a blank in her memory. When she regained her senses, she found herself lying in a hospital bed, her right arm and leg paralyzed, suffering from partial amnesia and liver disease.

Doctors were mystified by her symptoms until her husband brought a sample of the solvent—which contains xylene—to the hospital.

Nine months—and $5,000 worth of hospital bills—later, Mrs. Wilson feels lucky.

"The doctors say it's a miracle I'm doing so well," she says. "I still have to do my therapy every day, and I still lose my balance pretty easily."

Mary Wilson's story is an increasingly common one as more and more people take up such hobbies as antiquing and decoupage. The average artist's workshop is a chemical jungle of solvents, cleaners, aerosol sprays, paints, inks and fixatives.

While some are considered only mildly toxic, like turpentine or acetone, other commonly used products are toxic nerve poisons—like xylene.

Some, like benzene and possibly trichlorethylene (also solvents) may cause cancer as well. Carbon disulfide, another solvent, can cause personality changes and even psychosis.

In spite of their toxicity, many art chemicals carry no warning or ingredient labeling, while others carry at best, a mild warning such as: "Caution, vapor harmful. Use in a well-ventilated area."

Most people, unfortunately, ignore such warnings. They assume the products they use must be relatively harmless, or else they wouldn't be on the market.

Dr. Bertram Carnow, director of occupational and environmental medicine at the University of Illinois in Chicago, says city air pollution and smoking must also be considered.

"If we add to all of these pollutants exposure to toxic dusts, solvents, glues, volatile plastics and other materials which can affect the lungs, even though any one of these environmental insulting agents might not be enough to cause serious disability, the total burden imposed may be very great indeed."

THE BOUNDS OF EARTH

HON. TIM L. HALL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. HALL. Mr. Speaker, just a few days ago the population of the world was recorded at 4 billion. As the world's population continues to increase more than 200,000 a day, it is absolutely essential for us to base our actions on the fact that our natural resources are not infinite and we must preciously conserve them as well as find new alternatives.

Mr. Speaker, the Rotarian, published monthly by the Rotary, recently ran a most interesting article by Dr. Arthur Doerr in which the immenseness of our potential crisis is stated in a clear and informative manner. I commend it to the attention of our colleagues. The article follows:

THE BOUNDS OF EARTH

(By Arthur H. Doerr)

The world's population currently is just under four billion people. The net increase per day is about 212,000—which means, of course, that the annual growth in the world's population is more than 77 million persons. The current annual growth rate of the world's population hovers about two percent. At this rate the world's population will double in 33 years. In underdeveloped countries the growth rate is as high as 3.5 percent a year. The population-doubling time for such countries is 20 years. The specter of a rapidly rising world population haunts governments, planners, and economists because of the obvious impact upon available resources and the environment.

Suppose global humanity were compressed into a single city of 1,000 people. In this imaginary city, 945 of the 1,000 people would represent all the nations of the world except the United States, which accounts for the remaining 55 inhabitants. Of the 945 people, 215 would be citizens of the Peoples Republic of China. The 55 U.S. citizens would receive more than 40 percent of the town's income. These 55 people, representing 5.5 percent of the population, would consume about 15 percent of the town's food supply; use, on a per capita basis, 10 times as much oil, 40 times as much steel, and 40 times as much general equipment.

Among the 1,000 people in the town, fewer than 300 would be Christian, and more than 700 would have some other religion or no religion at all. Of the population, about 300 would be white and 700 nonwhite. The 55 U.S. inhabitants and their European counterparts would have a life expectancy of 70 years, compared to 45 years for the other citizens of the town.

Although in the past most of the citizens of the world have accepted their lot, this has ceased to be so. This has become an era of rising expectation. Everyone seeks his share of the "good life."

Central to any consideration of a good life is an adequate, available, and dependable food supply. Two-thirds of the world's peoples are currently undernourished or malnourished. Although the "Green Revolution" has beeen pointed to by some as a solution to the world's hunger, it should be recognized that greatly improved yields add demands for irrigation and fertilizer that cause a host of environmental and energy problems.

Furthermore, it should be recognized that the mere satisfaction of caloric needs will not satisfy the omnipresent protein hunger, because the natural resources of every country are limited.

Many have pointed to the sea as a bountiful new source of protein. The world fish-catch more than doubled from 1950 to 1968. It should be recognized, however, that beginning with 1969 there has been no additional expansion of the catch (in fact there has been a modest decline), despite greatly increased efforts and costs. Overfishing has resulted in destruction of many of the world's most productive fishing grounds, and some biologists fear that we are on the brink of causing catastrophic declines in the catch of certain species.

If we are to preserve the sea as a major source of food . . . if we are to expand the extraction of minerals from ocean waters, the lands beneath the seas, and the sea floors . . . and if we are to manage carefully the dumping of wastes in the sea, we must have international cooperation in the use of the seas. Just as nations have always recognized the right of transit on the open seas, so must the sea's resources be husbanded for all of mankind. [See The Sea We Would Like to See, THE ROTARIAN, May, 1975]. As men must have food so must they have energy. Since the 19th century, civilization has depended upon the use of fossil fuels. Best estimates suggest that, with current recovery techniques and projected demands, the world's coal supplies will last to about the year 3000 . . . its oil to about 2050 . . . and its natural gas to about 2025. And, although atomic reactors are pointed to as a solution to the power problem, it is expected that the fissionable materials will last only to about the year 2000.

Obviously, other sources of power are available for expansion or development. But stress should be laid on the expansion of energy sources consonant with the maintenance of environmental quality. It is a reasonable prediction, however, that the days of cheap, abundant energy availability are over forever. Energy may again become abundant, but at a price.

In our concern for energy, we must not neglect environmental quality. Indeed the ecological consciousness that has become widespread is a salutary phenomenon which must be nurtured and preserved.

We must accept the fact that resources are finite and that conservation is an inevitable answer to the world's principal dilemmas. The ethic of conservation has two fundamental commandments:

Thou shalt maintain energy flow.

Thou shalt not sacrifice the eternal or the continuing to the temporal or the expedient.

Each of us must recognize the ecological law that, within any dynamic structure, a change in any variable will change all variables dependent upon it as well as all variables dependent on the affected variables. In our development of "the affluent society," the age of creature comforts, and the growth syndrome, technological man has become the greatest modifier of the environment in the history of the world.

Consider the resource use and environmental impact of these figures from the U.S. alone:

We are currently destroying agricultural land at the rate of 3 million acres a year.

Each year we discharge into the environment:

87 billion cans

40 billion bottles

8 million junked automobiles

18 million metric tons (19.8 million U.S. tons) of atmosphere-polluting particulates

86 million metric tons (94.8 million U.S. tons) of carbon monoxide

28 million metric tons (30.9 million U.S. tons) of hydrocarbon gases

20 million metric tons (22 million U.S. tons) of nitrogen oxide

In the U.S., each person uses daily four gallons of oil, 300 cubic feet of natural gas, 15 pounds of coal, and smaller amounts of energy from other sources— eight times the world average.

Environmental impact or technological prospects are succinctly set forth in these two anonymous poems:

A CONSERVATIONIST'S LAMENT

The world is finite, resources scarce
Things are bad and will be worse.
Coal is burned and gas exploded,
Forests cut and soils eroded.
Wells are dry, and air's polluted
Dust is blowing, trees uprooted
Oil is going, ores depleted
Drains receive what is excreted
Land is sinking, seas are rising—
Man is far too enterprising.
Fire will rage with man to fan it
Soon we'll have a plundered planet.
People breed like fertile rabbits
People have disgusting habits.
Moral:
The evolutionary plan
Went astray by evolving man.

THE TECHNOLOGIST'S REPLY

Man's potential is quite terrific;
You can't go back to the Neolithic,
The cream is here for us to skim it—
Knowledge is power, the sky's the limit.
Every mouth has hands to feed it,
Food is found where people need it.
All we need is found in granite
Once we have the men to plan it.
Yeast and algae give us meat
Soil is almost obsolete
Man can grow to pastures greener
Our future looks more lush than leaner.
Morale:
Man's a nuisance, man's a crackpot,
But only man can hit the jackpot.

Fundamental to all our thinking must be the sobering fact that we are on this fragile planet alone. There are no other intelligent living creatures in our solar system. We share the air, the water, the resources, and the energy with our fellow human beings and living creatures on this planet—alone.

As John Donne put it, "No man is an island entire of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as if a manor of thy friends or thine own were; any man's death diminishes me, because I am involved in mankind, and therefore never send to know for whom the bell tolls; it tolls for thee."

Perhaps at last, at this time, if we really realize the dimensions of our problems . . . if we really care about the world's peoples . . . if we really act responsibly, we—as members of the world community—can face up to the crisis of unparalleled proportions. We can wring our hands and sink into miasma of despair, or we can recognize that a crisis is a threatening opportunity.

I recommend, therefore, that each country initiate a national program with temporal priorities, with a level of funding and a measure of commitment comparable, within its means, to the Manhattan Project that led to the production of the atomic bomb in World War II; or to the Apollo Project that culminated in a space adventure bringing Neil Armstrong's words from the surface of the moon, "That's one small step for a man—one giant leap for mankind."

To repeat, a project with the broadest possible authority, coordinated with comparable national projects elsewhere, and merged into an international undertaking with all the world's people contributing, should be undertaken now to assure world economic opportunity, to provide adequate energy resources, and to conserve the world environment.

The programs now in existence are too restricted and xenophobic in character to meet the challenge to all the world's peoples.

We owe our Creator, fellowmen, nation, state, and community one last adventurous try to save the world and to provide for the posterity of all man.

For it is written, "Where there is no vision the people perish."

(Dr. Arthur H. Doerr is vice president for academic affairs at the University of West Florida, in Pensacola.)

INVESTIGATING THE INVESTIGATORS: NEWSPAPER UNION BUSTING

HON. JOHN CONYERS, JR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. CONYERS. Mr. Speaker, "union busting" is not a pretty phrase; it conjures up images of 19th century Pinkerton armies invading the picket lines of striking workers. Unfortunately, it is not an isolated thing; indeed, we can observe it right here in this city today. The Washington Post has hired nonunion replacements to fill the jobs of the paper's union pressmen, who have been on strike for the past 6 months. Over recent years pressmen's unions have been broken in one city after another.

Seen against this pattern, what has happened at the Post is not primarily the consequence of a few vandals damaging the newspaper's presses, but rather another step in the ongoing drive by newspaper publishers to weaken the unions. This pattern of action against newspaper unions has not yet come to public attention, and thus raises an interesting question. While we depend on newspapers to investigate and expose wrongdoing in public life, who is going to investigate newspapers that may have been involved in wrongdoing themselves?

Last February News and Views, a monthly publication of the International Printing and Graphic Communications Union, contained a comprehensive survey by Roy Reck of the antiunion strategies that have been adopted across the country by publishers. This matter warrants the attention of every one of the members.

The article follows:

MEANS CHANGE, GOALS THE SAME IN NEWSPAPER STRIKEBREAKING

Throughout the long strike at the Washington Post there has been a deliberate attempt by the paper and its apologists to divert public attention from two basic issues, the Post's failure to bargain in good faith and its determination to break the striking unions.

For those who are aware of the pattern of union-busting in the newspaper industry, the intent of the Post has been obvious from the outset. But for many it has been inconceivable that one of the nation's leading newspapers could be guilty of denying its employees the right of union representation.

That this should be so is understandable. It is difficult to accept. Such action might be expected of a conservative like William Loeb, publisher of the Manchester Union-Leader, but certainly not from the liberal Post of Watergate fame.

The fact remains that Loeb has no problem in negotiating with his union employees. The Post, on the other hand, appears unwilling to accept the presence of a strong independent union in its plant.

The Post strike is not an isolated instance of a breakdown in collective bargaining. Rather, it is but one in a long series of such strikes provoked by publishers intent on either diminishing or destroying effective trade unionism.

Professional strikebreaking in North America is as old as organized labor. Perhaps the best-known source for strikebreakers has been the notorious Pinkerton Detective Agency but there have been many others.

In the newspaper industry it was Herbert W. Flagg who, in the 1920's, first opened an agency in Philadelphia under the name of H. W. Flagg, Open Shop Division, and operated as an adjunct of the publishers association. His agency supplied strikebreakers for 17 years to newspapers where a strike existed or appeared imminent.

When Flagg retired in 1939 the agency was acquired by Lawrence Braun who continued its operation until 1947, although no longer under the auspices of the publishers association. Braun then took a job with the California Newspaper Publishers Association where he poured strikebreakers into the state in anticipation of any difficulty that might develop for the publishers.

In an appearance before the New York

State Catherwood Committee in 1959, Braun, who by then had left the strikebreaking business, stated his agency provided transportation, hotel, food and other expenses for the strikebreakers he supplied. Wages were in excess of scale and paid even when the men were on standby in anticipation of a strike. The strikebreakers' income was augmented further by considerable amounts of overtime.

After a strike had been in progress for sometime and local help had been trained, the experienced strikebreakers would then move to another struck plant or to a non-union shop. There they would wait until called to another strike situation.

During a mid-40's strike in Massachusetts Braun met Bloor Schleppey who was the publishers counsel. Subsequently, the two worked together on a number of strikebreaking jobs. When Braun quit, Schleppey took over the agency. Soon thereafter he was joined by Shirley Klein. The two remained active until the early 60's when Schleppey retired.

Throughout their partnership Schleppey and Klein were closely associated with members of the American Newspaper Publishers Association and were in frequent contact with George M. Dale of Chicago, chairman of the ANPA Special Standing Committee.

Jobs were frequently funneled through Dale to Schleppey and Klein who then moved into a possible strike situation as the publisher's labor consultant or industrial relations director. In that capacity they could, as Klein admitted to strikebreaker Gerald Gish, force a strike by posting new office rules which were known to be unacceptable to union men.

On another occasion, according to Gish's testimony before the Catherwood Committee, Klein described the Macy Chain strike in New York's Westchester County as a testing ground for the ANPA. "If we can break this strike we can break any major newspaper strike in the country," she is reported to have said.

Recruitment of strikebreakers

Gish testified that he had been recruited by the superintendent of the Daily Oklahoman in August 1955 while a student at Oklahoma Printing School, a part of Oklahoma A & M Tech in Okmulgee. He also stated that the Oklahoma Publishers Association provided scholarships for students and placed them in jobs at the completion of their training.

On reporting to Oklahoma City Gish was interviewed by Robert Spahn, production manager for the paper. It was then that Gish learned the paper's mailers had been locked out and that a strike by the printers was anticipated. Nevertheless he accepted, was placed on standby and then sent to two other newspapers for additional training.

He was called back to Oklahoma City in October when the printers were locked out. Following an argument with the paper's foreman, L. R. McCoy, Gish joined Schleppey's agency which was supplying men to the struck paper.

Gish also revealed that where there were insufficient professional strikebreakers available, as at the Daily Oklahoman, it was customary to bring people in from other non-union papers including those in Texarkana, Miami, and St. Petersburg. It was understood that if payment of overtime became necessary at the papers supplying such help, the ANPA would pay all overtime costs.

The ANPA representative in charge of strikebreaking activities at Oklahoma City was Robert Spahn, Gish said.

MANAGERIAL CADRE REPLACES PROS

School for strikebreakers

One of the reasons Braun gave for getting out of the strikebreaking business in 1947 was that the Taft-Hartley Act was in the process of being passed. In his view enactment of the legislation would make it easier for publishers to operate. As a consequence, "a real strikebreaking organization would not be needed to a great extent."

Apparently Robert Spahn agreed. In 1951 Spahn founded the Southwestern Production Program, Inc. Its purpose, according to the SPPI's articles of incorporation, was the improvement of the production of newspapers through "sound economical methods" and the use of "efficient equipment" and also to assist members in the production of their newspapers "in cases of any emergency when normal means of production have failed or are unavailable." This language was dropped in 1954 when the name was changed to Southern Production Program Inc.

Formation of the Newspaper Production and Research Center came in 1967. Currently the facility, a 15,000 square foot one-story brick building, simulates a fully-equipped newspaper plant and is equipped with a four-unit Goss straight line press.

The Center is financed by approximately 200 publishers and 300 affiliate members who, in 1974, paid $2 a month per thousand daily circulation up to a maximum of $100 per month. Members may be billed as much as a half year's dues to help defray the cost of operating the school.

An application for membership consists of three sections: strike history, union relationships, and a third section on local attitudes (regarding unions). To date, no applicant has been turned down.

Since 1967 approximately 2,900 newspaper executives, supervisors and other personnel from member newspapers in 43 states and Canada have undertaken training at the center. Cities from which they have come include Kansas City, Dallas, New York, Baltimore and Washington, D.C. Training fees range from $40 for a two-day introductory course in computer science to $500 for an offset press course.

Full-time instructors are said to have extensive experience in newspaper production. They are assisted by part-time teachers employed in the composing and pressrooms of the Oklahoma Publishing Company which prints the Daily Oklahoman and The Times.

As SPPI President, Spahn measures the Center's contribution to the industry in terms of training and acceptance of new technology. He contends the SPPI has prevented far many more strikes than it has caused.

In addition to his post as president, Spahn continues as vice president and production manager at the Daily Oklahoman. A charter member of the National Right-To-Work Committee, he also serves on the ANPA Supervisory Training Committee and has been active in the Oklahoma Newspaper Publishers Association.

Spahn's associates at the Center have records which also reveal a strong anti-union bias. Assistant to the President, L. R. McCoy, was suspended from the ITU in 1946. His involvement in strikebreaking goes back to the 1948 strike in Charleston, W. Va., and touches almost every major strike or lockout since including those in Las Vegas, Oklahoma City, Grand Junction, Portland, Lawrence, Dallas, Savannah and Tucson.

McCoy's contributions to the industry include preparation and publication of a top-secret emergency plan for publishers with instructions on how to replace union employees, break unions, and steps to be taken to stay clear of the NLRB and the courts. Strike preparations outlined in detail include recommendations for the hiring of goon squads as guards, the erection of chain-link fences, use of spotlights and closed-circuit TV.

The Center's General Manager, J. D. Stucky, has a history of strikebreaking in Oklahoma City, Savannah, Lakeland, Tucson, Janesville and Columbia, S.C. Training Director B. F. Hoffman began his association with McCoy as a strikebreaker in Charles City, Ia.

Strikebreaking refined

A new era in strikebreaking began on Oct. 17, 1955 when a representative of the Oklahoma City Publishing Company notified the ITU negotiating committee that effective at 1 p.m. the paper's composing room would be operated as an open shop. No union conditions would exist and workers unwilling to accept the ultimatum would be replaced.

One member of the replacement crew on standby was Gerald Gish. The company representative who delivered the ultimatum was Robert Spahn, the same man who had hired Gish two months before.

The printers were out. The pressmen's turn came later in 1958 when they too were locked out and replaced. Despite picket lines the paper continued to publish and remains non-union to this day.

The same format was repeated a year later in Portland, when on Nov. 10, 1959, the stereotypers struck after failing to make any headway in negotiations. All the other unions observed the picket lines. One by one, as their contracts expired, the pressmen, paper handlers and the Guild took official strike action.

From the pressmen who went out on Jan. 2, 1960, the publisher demanded a completely open shop, elimination of press manning schedules, removal of the foremen and assistant foremen from the bargaining unit and priority for the strikebreakers working in the plant. Neither the pressmen nor any of the other unions could accept such a proposal.

The paper continued to publish with equipment manned by professional strikebreakers and, for the first time, managerial personnel trained in Oklahoma City. Their training costs and those of the new employees were covered by strike insurance which provided up to $10,000 daily for a 50-day period.

At one point in the strike Web Local 17 President Jack Ryan asked: "How many parts of your body can you afford to chop off until it gets to your heart?" A number of publishers set out to find an answer.

The next city was Miami where the pressmen at the Herald struck after working 40 days without a contract and following 29 unsuccessful meetings with management. They had been preceded by the photoengravers who had been forced out in 1947 and the printers in 1960.

The publisher's demands had a familiar ring: a 40% reduction in manning, elimination of premium pay, full control over all work assignments, a reversal of standard hiring practices and no international arbitration agreement. Once again professional strikebreakers were on hand to assist Herald executives trained in Oklahoma City. And, the day after the strike began reinforements were flown in from Portland and Oklahoma City.

The pattern was similar in Los Angeles where the Newspaper Guild struck the Herald-Examiner on Dec. 15, 1967. Within hours the craft unions were forced out of the plant by guards who threatened arrest for trespassing.

Once again the publisher was fully prepared. Non-union truckers had been hired to haul newsprint and ink; windows were covered with wire mesh; air conditioning installed; cots, foodstuffs, blankets and personal supplies trucked in; and armed Pinkerton guards were stationed throughout the building and around the property. Strikebreakers from Portland, Oklahoma City and Miami were bedded down in hotels within minutes of the plant.

The company maintained a pretense of negotiating while holding to totally unacceptable positions on the key issues of wages and manning. And, it continued to do so for the five years picket lines were maintained around the building.

Two years ago came the strike in Dallas. After 24 meetings with Dallas publishers, the pressmen struck on May 2, 1974 when new work rules were posted unilaterally and their efforts to arrive at a compromise rebuffed.

Professional strikebreakers were on standby as was a management cadre which had been trained in Oklahoma City. Not one issue was missed.

The Oklahoma City connection was closer than in some other strikes since Richard Blum, senior vice president at the Daily News, is a trustee of the Newspaper Production and Research Center and Robert Spahn's son, Richard, is production manager for the Times-Herald.

At the Star in Kansas City preparations followed the by now all too familiar pattern. Management personnel had been trained in Oklahoma City and at the Star, professional strikebreakers were housed nearby and armed guards were on the premises when the pressmen's contract expired Sept. 30, 1973.

Company demands included a reduction in manning, abolishment of bidding for press positions, staggered starting times, and five straight-time shifts for situation holders and subs.

A strike was averted when the International Union joined in the negotiations. Acceptable terms were agreed upon and the contract ratified on November 24.

The Post strike

All the strikebreaking techniques developed over the last 20 years were available to The Washington Post when it decided well over two years ago to take on its pressmen. And all have been utilized.

To this formidable array have been added the farming out of printing—first to six area non-union newspapers and later to plants in other states—and the use of helicopters to ferry copy and negatives. The same helicopters have been used to transport support crews as back-up for 130 cross-trained managerial personnel who manned Post equipment during the first weeks of the strike.

The chief difference has been the secondary role played by the professionals. Although 37 are currently working in the pressroom, their function appears to be that of readying the presses prior to the run. Their numbers have been augmented by men on loan from other papers and trainees hired to replace the union members.

Basic to the Post situation and the other instances of union-busting in the industry is the right of workers to belong to a union. Even though the Post and others have maintained they are not anti-union, their claim is negated when they refuse to negotiate realistically with their employees. Without good-faith bargaining the right to belong has little meaning.

STOPPING THE PAYOLA WON'T PAY FOR UNITED STATES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Chicago Tribune, Mar. 29, 1976]

Stopping the Payola Won't Pay for United States

(By Eliot Janeway)

NEW YORK.—"Anytime a competitor speaks well of me, I fire my sales manager first and check our order book afterwards." The late Ernie Weir, the selfmade steel tycoon who won his MBA by meeting a payroll, explained this first principle of competitive survival during the Depression when he was taking on the old-line steel establishment.

Weir's rule is relevant to the present hue and cry over the payola American corporations have been handing out abroad. America's foreign competitors are speaking well of her government for cracking down on successful American exporters.

The lineup of confessed corruptors of foreign innocence in high places reads like the social register of American business.

Corporations that don't earn a reprimand from the Securities and Exchange Commission for admitting to having sinned abroad are as conspicuous as dropouts from the Fortune 500. The original instinct to cover up payola for export business is now working in reverse.

The SEC has stretched the limits of absurdity by proposing a procedure for disclosing future improprieties. The entire business establishment has taken to bragging about paying off while promising not to do it again.

The pleas being copped echo the old Cole Porter tune: "Birds do it, bees do it, even educated fleas do it."

America's unlamented noble experiment with Prohibition in the 1920s made more sense than this new crackdown. Back then, the do-good arguments for banning booze worked out as a bonanza for crime, corruption, and conspiracy.

Now, the SEC's new experiment in righteousness is about to backfire too. It will register more laughter than sales.

Washington's cleanup code for corporations under pressure to pay off abroad is reducing America to the role of "a pitiful, helpless giant"—not in world affairs, as Nixon threatened, but in world markets. There's no way to compete for foreign business without being prepared to pay off to get it.

Mainland China is the only exception to the traditional custom of payola. But Russia is as conspicuously corrupt as China is not.

Everyone who has ever closed a sale with the affluent generation of Russian buyers in the world's mercantile and industrial capitals reckons on heavy price padding to cover the cost of "entertainment." Even Romania has turned up on the payoff list.

An American government which requires America's exporting corporations to practice abroad what America preaches at home is whistling in the wind. It is assuming responsibility for a retreat into a new economic isolationism.

But America is not ready to retreat into a new economic model of Fortress America. Nor are her customer countries ready to adopt her model of morality.

The Italian market focuses on the dilemma for America export business. One American corporation with lots of money-good debt, and even more bad publicity for foreign payola, has just shipped a cargo of perishables into an Italian port.

It ran into a payoff demand for $35,000 from the local Communist-controlled union. But this company boasts a respectable new management, and moreover, the SEC is breathing down the throats of its members.

How does a company handle this routine shakedown opportunity being handed it?

How does a company handle this routine shakedown in a foreign port? It can pay off and not report it, risking a crackdown by the SEC. It can pay off and report it, guaranteeing censure for indiscretion by the State Department or the Central Intelligence Agency. Or it can write off the cargo, inviting the wrath of its creditors and stockholders, and forfeiting the market to foreign producers. This is the lesser evil that it chose.

Examples abound. Foreign airlines are all government owned. All of them pay rebates to their customers. These same governments that are commending Washington's Boy Scouts for cracking down on America's culprits are busily handing out kickbacks themselves.

The British government needs export business too desperately to extend its exchange control to ban payola; "custom of the country" is the only explanation a British exporter need furnish to get permission to send a necessary payoff with the desired payoff.

For the duration of this high-toned farce, the only hope America can have of not sermonizing herself out of the export business is that her competitors will be too busy laughing at Washington to take advantage of the opportunity being handed them.

SLOW DEATH IN THE MINES: THE PHILADELPHIA INQUIRER REPORT ON SILICOSIS IN LEADVILLE, COLO.

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, I commend to the attention of my colleagues the fourth in a series of articles by the Philadelphia Inquirer on occupational disease.

This particular article concerns the incidence of silicosis among molybdenum miners in Leadville, Colo. As my colleagues may know, silicosis is the oldest occupational disease known to man. It killed Egyptian slaves who built the pyramids, and today it is killing miners in our country. It is an insidious, progressive disease for which there is no known cure.

I am sure my colleagues will be interested in this article, for it points out the inequities of our workmen's compensation laws; the way in which the mining industry evades its responsibility for the illness and death of its miners; and the human dimensions of this very real and tragic problem.

Mr. Speaker, the article from the Philadelphia Inquirer is included at this point in my remarks:

[From the Philadelphia Inquirer, Mar. 17, 1976]

How a Miner's Health Was Ruined on the Job

(By Susan O. Stranahan)

Twelve years ago, hardrock miner Loyd Fairchild of Leadville, Colo., was told by the company doctor that he had silicosis, the oldest occupational disease known to man.

At the time of the diagnosis, Fairchild—then age 35—was working as a "hang-up man," handling explosives inside the mine, a highly skilled job that pays well. He had worked in the mine for about 12 years. It was the only job he knew.

Today he is a crane swamper—"a sort of picky job" as a crane operator's helper, he explains.

His employer, the Climax Molybdenum Co., gave Fairchild two options that have faced countless other miners with silicosis: transfer to an above-ground job or quit.

In Leadville, says one ex-resident, "you either work for the mine or you leave Leadville." Fairchild went above-ground.

Loyd Fairchild, 20th century worker, has the same occupational disease that struck down ancient Egyptians building the Pyramids and may have even afflicted cavemen scratching the earth for flint.

Today, according to the federal government, 1.2 million workers in this country are exposed daily to conditions that cause silicosis. No statistics are maintained on how many workers die of the disease—or even how many persons contract silicosis.

Some of those with the disease are miners like Fairchild; others work in foundries and in the manufacture of stone, clay and glass products.

Despite its long existence and massive number of potential targets, silicosis has not been eradicated.

It could be that nobody has made a concerted effort to get rid of silicosis, a sort of slow paralysis of the lungs caused by long-term-exposure to silica dust.

It could be that other things—like higher profits and higher wages—are more important to companies and unions.

"Safety is like motherhood and apple pie," says Climax public relations manager Nelson Fugate. "Everybody is for it, but the question is, How much safety is really necessary?"

Part of the problem is the nature of silicosis itself.

It is not a readily diagnosed disease and frequently is mistaken for something else.

"The big problem is interpreting the X-ray," says Dr. Harvey W. Phelps, a chest specialist from Pueblo, Colo., who has examined thousands of coal and hardrock miners.

Unless a doctor knows that a man has been exposed to silica, the X-ray is difficult to read, according to Dr. Phelps.

DISABLING DISEASE

"The miners at Climax get silicosis—pure and simple. And it is terribly disabling," he says.

Everybody talks about doing something about silicosis—and indeed, some improvements have been made in mining techniques, including those used at Climax, which is generally considered safer than most mines.

But in actual fact, the disease rates top priority only for miners like Loyd Fairchild.

The situation that exists in Leadville illustrates a number of problems that confront unions, workers and companies throughout the United States.

The Worker:

Should he risk his life to continue his job?

Should he admit he is ill and risk losing his livelihood from this job and others—since few employers will hire a sick man?

Should he set in motion the long and often fruitless process of workman's compensation?

The Union:

Should health and safety issues be negotiated at the bargaining table, or demanded as a moral and legal right?

Should the union allow a highly skilled worker to be transferred to a lower-paying job to protect his health?

Should a union take an active, independent role in determining the healthfulness of the workplace, or rely on company assurances that it is safe?

The Company:

Should it admit that hazardous conditions exist in the workplace, perhaps making itself liable for legal claims?

Should it relinquish control over health and safety matters to unions and regulatory agencies?

Should it make available to the worker all the health records compiled, during company-sponsored medical exams?

INHALED PARTICLES

All of these issues have come up at the Climax mine. Some have been resolved. Others have not.

Silicosis occurs when crystallized silica particles are inhaled and retained in the lungs, causing scar tissue to form. The inelastic scars force the lungs to work harder to provide an adequate air supply. They also block the transfer of oxygen to the blood.

It is a progressive disease, which may move quickly or slowly, depending on additional exposure to silica dust.

There is no cure.

The disease's first outward signs are shortness of breath and coughing. The first internal sign is a shadow on the lungs, determined by X-rays.

Lord Fairchild did cough a little at first, but that is not unusual for a cigaret smoker. And if he occasionally was a little short of breath, that wasn't unusual either, for he was overweight and lived in Leadville, the "Cloud City"—elevation 10,152 feet—where a brisk walk can leave even a physically fit person winded.

His medical check-ups by the company doctor every several years revealed nothing.

"Every time, they told me I was good, good," recalls Fairchild.

And then came a casual remark by a supervisor.

"Some guy told me I couldn't go back on the (mine) grounds. He had a letter on his desk saying that I couldn't go back in. The next day I went to the (company) hospital. There was a letter there from a doctor in Denver (who had seen Fairchild's X-rays) who said that the last several years this guy has been getting worse and worse.

"But all those years they told me I was doin' good, doin' good."

Although Fairchild was transferred to a menial job by the company, Climax continued to pay him his former hourly wage as a hangup man—something the workers and the union admit is unusual. Most transfers mean a substantial pay cut because skills vital inside the mine rarely are in demand outside.

"I was one of the lucky ones," says Fairchild. "They told me when I came out if I kept my mouth shut I could keep my same rate of pay."

But when word leaked out to other miners, they said "a lot of hell." Many of them, according to Fairchild, were angry because they too had been transferred but had been required to take substantial pay cuts.

"I took it for 10 years and then it got too tough."

Last year—in part due to the pressures from other union members and in part because he wanted to work only on the day shift—Fairchild took a $200-a-month cut in pay.

Officials at the Climax mine—a subsidiary of AMAX, Inc., an international mining and smelting conglomerate with sales of over $1 billion last year—admit that dust in the mining operation "is the number one problem."

In response, the company says it has installed new ventilation and dust-reduction equipment "at the most adverse areas of the mine."

Members of the Climax safety and health department willingly discuss the company's first aid training, the mine rescue team, monthly safety meetings, installation of roll-over bars on heavy equipment and noise-abatement efforts.

But when questions about silica dust levels in the mine and the incidence of silicosis among workers are raised, Climax safety director Fred Fowler grows irritated and tells a reporter: "I thought you were here to talk about health and safety programs."

Referring to the union's requests for a safer working environment, safety engineer Thomas M. Leonard says: "They push for and want more—maybe it's out of a lack of education."

Officials of the Oil, Chemical and Atomic Workers International Union (OCAW), which represents the Leadville miners, advised local union leaders not to discuss the Climax mine situation at length with a reporter.

A union international vice president in Denver told The Inquirer that OCAW would prefer handling health and safety matters over the bargaining table.

Above all, the OCAW official said, "the union wants to avoid being "antagonistic" about this issue.

Leadville and mining have always been synonymous. The city's 110-odd years of history have been brilliantly colored by various mining operations and the wild assortment of characters and events that accompany such boom-or-bust enterprises.

The city of 4,300 people once boasted a population of as many as 60,000 (nobody really bothered to take an actual count; they were too busy looking for silver).

The Climax mine, so named because it straddles the peak of an old railroad grade over the 11,318-foot high Continental Divide, produces 35 percent of the world's share of molybdenum, extracted from silica-bearing rock. Demand for the ore currently is high, and production at the mine continues seven days a week, 24 hours a day.

LONG FIGHT

Representing 1,800 of the 2,570 employes of the Climax mine is OCAW Local 2–24410. The union is about equally divided among long-time miners, young men with college degrees (there are two men with Ph. D.'s working as miners) and Spanish-Americans. All are lured to the Climax mine by paychecks of over $10,000 a year—a good living in this section of Colorado.

The Leadville local is a strong union, according to its president, Howard D. McCoy. Members live in 16 counties and many commute to work from Denver, 90 miles away, or Salida, Colo., 75 miles away.

McCoy, whose Oklahoma drawl persists after 18 years at the Climax mine, has wrestled for a long time with the problems of silicosis among the membership.

Nobody, not even McCoy, is willing to make an estimate on how many workers at the Climax mine have silicosis. A safety engineer at the mine estimates less than 1 percent of the 2,500 employes have it. A union official thinks the rate is probably higher but won't fix a percentage.

No one is sure, either, of the number of deaths from silicosis among miners. Most often, silicosis is listed as a contributing cause of death.

Death certificates filed at the Lake County Courthouse in Leadville attest to the rugged lives of hardrock miners. Fatalities on the job include instances of decapitation from a gas explosion, a skull fracture from a 200-foot fall, and heart failure after the worker was buried in a snowslide. Deaths due to alcoholism and suicide are not uncommon.

However, it is the problems of the living that concern Howard McCoy—and one of the most pressing is what to do about the transfer of workers with silicosis.

"It's our position that if a man has to be moved from a dusty area, he should maintain his rate of pay at that time," says McCoy.

But in most cases the company does not accept that position, he says.

The union is thus put in the untenable position of insisting that a member transfer to another job to protect his health—and thereby taking a pay cut—or staying in the hazardous job and ultimately becoming seriously ill.

McCoy changes the subject when that topic is raised.

"The company is reluctant to even use the word silicosis," says McCoy, sitting in his second-floor office at the Leadville Labor Center.

"They are real helpful if there's a change in man's lung. They'll move him right out (of the mine). But they won't tell you why. They'll just tell you there's a change in your lung pattern."

"They'll say it's emphysema—that's their favorite word for silicosis."

Thirteen miles north, on Colorado Route 91, which at shift change resembles an urban thoroughfare at rush hour, Climax mine officials unintentionally confirm McCoy's assessment of the problem.

"There are people here with a runny nose and a hacking cough," says safety director Fred Fowler. "Most of these people are chronic smokers and they'd like to blame it on the dust."

When asked how many miners have silicosis, Climax public relations manager Nelson Fugate says: "The big problem is emphysema."

Regardless of whether it is emphysema or silicosis, the company transfer workers out of dusty surroundings when the first sign of trouble appears on a chest X-ray, part of the physical given miners by Climax every two or three years.

CONSERVATIVE POLICY

Asked about the policy, Fowler says Climax adheres to it because "we're so damn conservative."

"(It's) for a moral principal," adds safety engineer Tom Leonard.

Likely, however, it is also to avoid liability in future claims under workmen's compensation laws.

Colorado law provides that if a worker has been exposed to silica within the past 10 years and develops silicosis, the employer is liable. Therefore, once the lightest change in a chest X-ray is noted, a miner is moved to a cleaner environment in hopes that the condition will not worsen.

Today the chances of a miner being compensated for a case of silicosis are "lousy," according to one expert. And it may take four or five years.

In a cruel irony of this nation's workmen's compensation laws, a man who files a disability claim for an occupational disease, in effect, precludes himself from ever working at his trade again.

No one—mine operator, plant manager or factory owner—wants to hire a sick man.

Most workers first learn that they have silicosis from a company doctor such as the one who informed Loyd Fairchild that he had the disease.

"I don't even recall that doctor's name," says Fairchild. "Climax changes doctors just like we change (ore) cars. He was real nice about it, though."

Although the company doctor showed Fairchild the letter from the Denver specialist employed by Climax confirming the diagnosis of silicosis, the letter was returned to Fairchild's medical file at the mine.

"They won't give you nothing like that," says Fairchild about the letter.

If a miner is skeptical about the diagnosis he receives from the Climax physician, it is probably due to the fact that many Climax workers question the doctor's loyalties.

"He's hired to protect the company," says McCoy.

Even the local hospital in Leadville was founded with the assistance of Climax, according to Fugate.

But times have changed and so have attitudes of the miners toward the conditions in which they work.

In an unusual move for a union to take, the Leadville OCAW local last year negotiated as part of its contract with Climax the right to enter the mine and take air samples. The local wanted to learn for itself the effects of daily exposure to silica and molybdenum.

That touched off a controversy with the company that is not over yet and is, in part, responsible for the union's unwillingness to discuss the silicosis problem.

The OSAW testing project was not the first such survey in the mine. In the late 1950s the U.S. Public Health Service and the Bureau of Mines conducted a major evaluation of silica dust hazards in 50 mines, including Climax.

But this time, the miners will know what the results of the survey are.

Although the federal study found that Climax miners had silicosis, none of the miners was informed. In exchange for being allowed into the mines, the two federal agencies had guaranteed secrecy to participating companies.

MAY BE BLOCKED

The results of the union survey have not yet been compiled and the union is concerned that Climax officials will attempt to block publication of the data.

If the new sampling project does find high levels of hazardous dust in the mine, it will come as little surprise.

The U.S. Bureau of Mines has measured high dust levels during annual inspections for many years.

The state of Colorado, one of only six in the nation with its own mine safety inspection program, also has found high levels of dust.

Unlike the five million workplaces in the United States, mines—including coal, metal and nonmetallic mines—do not fall under the control of the Occupational Safety and Health Administration (OSHA) of the Department of Labor. Instead, they are overseen by the Bureau of Mines, part of the Department of the Interior, which, critics say, is reluctant to do anything that would cripple more production at a time of heightened energy needs.

Officials at Climax are happy with that arrangement and worry about increasing talk in Congress of putting all mines under the control of the Labor Department and a newly created Federal Mine Health and Safety Administration.

"People back East don't understand mining," says Climax safety director Fred Fowler. Tom Leonard and Fowler repeatedly stress that mining is and always has been a high-risk occupation, not readily adaptable to something like OSHA, with its numerous regulations.

"You can't control the environment (in a mine) as you can in a manufacturing operation," says Leonard. "Mining equipment is bigger and the margin for error is smaller. You are working with equipment that is always at war with rock."

VIOLENT ACCIDENTS

Various accident reports from Climax on file with Bureau of Mines' Mine Enforcement and Safety Administration (MESA) detail gruesome, violent accidents: a miner killed July 24 when the upraised bed of a piece of mining equipment collapsed and crushed him; a miner killed in October 1973 when he fell into an unprotected pit full of scalding water; a miner who died in March 1974 from brain damage after being too close to a blasting site.

Federal law requires that Mine Enforcement and Safety Administration inspectors visit mines in their jurisdiction once a year. According to Climax officials, the inspectors usually give them one or two days' notice of their arrival.

The report of a safety inspection made over a period of several days last spring by two federal inspectors and a state inspector, cites Climax for 95 violations of federal regulations. Among the violations listed were an excessive amount of silica dust in certain portions of the mining operation.

The federal mine safety and health bill, or OCAW's air sampling project, or more company mine safety lectures are not going to have much effect on men like Loyd Fairchild who must deal daily with a disease they got because of their jobs.

When Fairchild—fresh out of the Army and looking for work—started his career at Climax in 1952, he never thought about the danger of contracting silicosis.

His father, who had moved to Leadville from Louisiana, worked in the mines, as did many of his friends. Although his father was a miner for 19 years without contracting silicosis, some of Fairchild's friends were not as lucky.

GRIM OUTLOOK

"Part of them's dead that had it," says Fairchild.

Few miners ever think they will be stricken with silicosis when they start working.

"We figure there would be no more hazards working in the mine than working in this building," says OCAW local president Howard McCoy, sitting at his desk at the union office. "But once you work there, you know it's not so.

"Silicosis: it's the slow process of murder."

REGRESSIVE AND DISCRIMINATORY TAX

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. NEAL. Mr. Speaker, there has been introduced in the Senate a bill which would levy an additional Federal tax on cigarettes. The rate of taxation would be determined by the tar and nicotine content of the individual brands, with the revenues providing a Federal trust to be used in health research. It is estimated that the tax would generate more than $9 billion by 1980.

While no such legislation has yet been introduced in the House, I believe my colleagues should be alerted to the regressive and discriminatory nature of the proposed tax. A few days ago, I addressed those issues in testimony before the Health Subcommittee of the Senate Committee on Labor and Public Works. I would like to share my comments with my colleagues:

TESTIMONY BY HON. STEPHEN L. NEAL

Mr. Chairman, I wish to join my colleagues and others who have testified before this subcommittee in opposition to S-2902, the National Health Research and Development Act, which would place a highly discriminatory and regressive tax on cigarettes, the rate of taxation depending on the tar and nicotine content of the individual brands of cigarettes.

I am neither qualified nor disposed to argue the merits of the Surgeon General's several reports dealing with the effects of smoking cigarettes. I am aware that medical experts outside the Surgeon General's office contend the evidence is inconclusive and overstated. That, however, is not my point. Even if I should accept without question the Surgeon General's findings, I do not believe that excessive and regressive taxation is a reasonable and equitable way to discourage cigarette smoking, or to deal with the problems which may arise therefrom.

My opposition to S-2902 arises from a basic repugnance to governmental interference in the exercise, within the law, of individual free choice. The facts, Mr. Chairman, are that some 60 million Americans choose to smoke cigarettes. They do so without violating any law of the land; nor is it against the law to grow, sell, buy, manufacture, or possess tobacco or any tobacco product.

If the intent of S-2902 is to discourage the use of cigarettes by pricing them beyond the reach of many smokers, I think there is little chance that it would achieve its intended purpose. The price of cigarettes has doubled, more or less, since the first Surgeon General's report on smoking; yet the consumption of cigarettes has not been lessened substantially. I know a great many people who have stopped smoking, to be sure, but none who quit because the price of cigarettes had become prohibitive. The result of a burdensome tax, I'm afraid, would be that people who choose to smoke would continue to do so, even if it deprived them of other sustenance.

If the intent of S-2902 is to encourage the development of tobacco containing less tar and nicotine—as the chairman has suggested in comments reported earlier—the subcommittee needs to consider the following:

If a high concentration of tar and nicotine is harmful, a lower concentration is less harmful only if one does not smoke a correspondingly larger number of "reduced tar and nicotine" cigarettes. My non-scientific observation is that many smokers who switch from high tar-nicotine brands to those of lower concentrations find the latter less than satisfying to whatever desire compels them to smoke. Those well-known "tobacco substitutes" which many of us smoked when we were youngsters do not contain tar and nicotine, as far as I know. Yet those youngsters never returned to those substances once they "graduated" to smoking genuine tobacco. If all tar and nicotine is removed from tobacco, it no longer is tobacco, because those two elements are among the many components which constitute the substance.

If the sole intent of S-2902 is to levy a tax to provide for medical research, I applaud the goal, but not the methodology. We are committed to a progressive tax policy in this nation and surely such a tax would be among the most regressive ever imposed upon the American people. Cigarette smokers represent every socio-economic strata in our society. To the pauper, a dime has greater value than to the millionaire. Further, it cannot be said that all cancer, coronary disease, cerebral-vascular ailments, and other pathological problems are caused by cigarette smoke—yet they would benefit from the tax. The cigarette smoker, then, would bear the entire burden of a program from which all of society would benefit.

Thus, if the intent of S-2902 is to extract from cigarette smokers a tribute for the harm tobacco allegedly causes, it is highly discriminatory. Butter, bacon and eggs are high in cholesterol content, and cholesterol is considered a greater coronary culprit than tobacco. Alcohol in its many beverage forms contributes to a major national health problem. One can expose oneself to too much sunshine, but we do not tax sunbathers. Lack of exercise is a poor health habit, but we don't tax the sedentary. Obesity is considered harmful to the health, but we don't place a special tax on the obese. And Dr. Edward F. Luongo of the U.C.L.A. School of Medicine declares that "anyone who jogs along Connecticut Avenue or any other well traveled thoroughfare is taking an infinitely greater risk of lung cancer (whether he be a smoker or non-smoker) than a person who smokes cigarettes and limits his outdoor exercise to work in his garden." The cancer cause, according to Dr. Luongo, is asbestos particles shorn from automobile brake linings in heavy traffic, and he concludes that "the cumulative dose of asbestos fibers necessary to induce lung cancer may be infinitely smaller than the large doses of tars required to cause lung cancer in laboratory animals and human beings." And, again, we place no special tax on asbestos brake linings or other substances suspected of being carcinogenic.

Finally, let me say once more that I do not oppose the research aspects of this legislation. I do object to its discriminatory and regressive aspects, just as I have opposed regressive taxes on gasoline as a means of requiring conservation. We would do better, I think, to derive the necessary research funds from other sources of revenue.

In summary, this tax idea is anti-consumer, regressive, discriminatory, inflationary, and if enacted would create more unemployment and contribute to recession. It goes against the grain of a free society, because it places an economic sanction against free choice. For these reasons, I think it is altogether a poor idea.

DR. ANTIN RUDNYTSKY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. EILBERG. Mr. Speaker, Dr. Antin Rudnytsky, founder and president of the World Federation of Ukrainian Professional Musicians, passed away recently. His death was a shock and a great loss to the Ukrainian-American community.

In the words of his friend, Dr. Andrij Szul, secretary-general of the Federation, Dr. Rudnytsky was a—

Conductor, musicologist, educator, and music critic par excellence. In addition, he was a sterling Humanist. His life's work was dedicated to exacting the highest professional standards in musical artistry.

Maria Ezerman Drake, former director of the Philadelphia Conservatory of Music, described Dr. Rudnytsky as a:

Ukrainian composer of note, esteemed choral and orchestral conductor, pianist, teacher and devoted family man.

His dynamic leadership, solid musicianship and warm-hearted enthusiasm won him a special place in the hearts of fellow musicians, friends, and students.

A strong personality, Dr. Rudnytsky was able to organize with vision and imagination memorable performances of Ukrainian and American compositions, including many "firsts". And an especially valuable contribution to society was high principles and abiding loyalty.

Finally, Mr. Speaker, Dr. Rudnytsky was honored by a resolution of the Pennsylvania State Senate. At this time, I enter into the RECORD a copy of the resolution:

CONDOLENCES

Whereas, Dr. Antin Rudnytsky, noted Ukrainian composer, conductor and professor of music, died November 30, 1975, at the age of seventy-three; and

Whereas, Born on February 7, 1902 in the village of Luka, near Sambir in Western Ukraine, Dr. Rudnytsky acquired his education from the Lviw Conservatory of Music, the Graduate School of Music in Berlin and from the university there with the degree of doctor of philosophy in musicology; and

Whereas, His career began as a concert pianist but in 1927 he also became the conductor in the State Opera Theatres in Kharkiv, Kiev and Lviw, and also became a faculty member at the State Conservatories of Music in these Ukrainian cities. Dr. Rudnytsky later was a faculty member of the Academy of Vocal Arts in Philadelphia as well as the Conservatory of Music and the Musical Academy there. He composed two grand operas, a ballet, three symphonies and a number of other major orchestral, piano, solo vocal and choral works. He was the founder-director of the Ukrainian mixed choir "Kobzar" in Philadelphia, and was the author of the 400-page musicological treatise titled "Ukrainian Music: A History and Critical Outline"; and

Whereas, A distinguished member of the Shevchenko Scientific Society and numerous professional societies, Dr. Rudnytsky is survived by his wife, Maria, a former lyric prima donna of the opera; two sons, Roman, internationally renowned concert pianist and professor of music at the Youngstown University Dana School of Music in Ohio; Dorian, concert cellist and prominent professional musician; a brother, Ivan; a sister, Milena; and three grandchildren; now therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania pauses in its deliberations to note with sadness the passing of this distinguished musician, cultural statesman and founding president of the World Federation of Ukrainian Professional Musicians, and extends its heartfelt condolences to his wife, Maria, his sons, Roman and Dorian, his brother, sister and grandchildren; and be it further

Resolved, That a copy of this document, sponsored by Senator Jeanette F. Reibman, be delivered to Dr. Andrij V. Szul, General Secretary of the World Federation of Ukrainian Professional Musicians, to be read at a public meeting and then presented personally to Mrs. Maria Rudnytsky, Toms River, New Jersey.

CONGRESS SEEKS ALTERNATIVES TO BUSING

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mrs. CHISHOLM. Mr. Speaker, the efforts of this body to address the issue of equal educational opportunity and school desegregation have taken numerous forms. These include various amendments to educational bills, and a plethora of bills designed to create legislative alternatives for school systems which seek to avoid court-ordered school busing plans. In addition, the Democratic caucus has considered—and rejected—a proposal to force a constitutional amendment prohibiting busing for school desegregation to the House floor.

A former staff member of mine who now works for the House Rules Committee, Patricia S. Fleming, has written a most informative article and analysis of one such approach, a bill introduced by Congressman RICHARDSON PREYER. I would like to insert her article, which appeared recently in the Capitol Hill Forum, for the review of other Members of the House:

[From the Capitol Hill Forum, Jan. 16, 1976]

CONGRESS SEEKS ALTERNATIVES TO BUSING

(By Patricia S. Fleming)

On October 9 of last year, Rep. Richardson Preyer, (D-N.C.), introduced a new version of H.R. 10146, his school desegregation bill. The National Educational Opportunities Act first surfaced in 1973 as a creation of the late Professor Alexander Bickel, an expert in constitutional law at Yale Law School. Congressional reaction to the bill at that time was limited. The House Education and Labor Committee did not hold a hearing, it was not introduced in the Senate. The new version, with modifications based on suggestions from Dr. James Coleman and Rep. John Anderson, (R-Ill.) has, however, attracted considerable interest in the House, more because of current political considerations than any changes made in the substance of the bill.

In articles published in two issues of *The New Republic* in September 1972, Professor Bickel laid out the rational basis for the provisions in the Preyer bill. Because he believes that busing is objectionable for a variety of reasons, Bickel's purpose is to find a way to avoid the use of buses to desegregate the public schools.

Bickel points out that while the decision in *Brown* v. *Board of Education* dealt only with *de jure* segregation, holding that "the state may not classify the population along racial lines, except . . . for obviously remedial purposes," there was another aspect to the decision. This aspect was the Supreme Court's additional concern with education. "The Court declared that separate schools are inherently unequal," he states, "they provide an inherently unequal education. This inequality is heightened, but merely heightened, when the separation has the sanction of law." In other words, Bickel says that implicit in the *Brown* decision is the notion that separate schools, no matter what the cause, are unconstitutional because "the function of the public school cannot be successfully performed unless children of all groups are taught in it together."

Bickel then turns to the *Swann* v. *Charlotte-Mecklenburg Board of Education* decision. While the distinction between *de jure* and *de facto* segregation is not abandoned in *Swann*, Bickel points out, the court did put forth a new objective that must be achieved in the dismantling of formerly dual school systems: "school boards and district judges must 'make every effort to achieve the greatest possible degree of actual desegregation'."

To carry out objectives which clearly go beyond the mere elimination of legally enforced segregation, the courts have had to order desegregation decrees that require busing—for in many school districts there is no other way to do it. At the time of his article, Bickel saw this trend continuing in the Supreme Court, to be reinforced later in the Denver decision and others. He asserts that the Congress, within its constitutional authority, cannot eliminate a remedy for a constitutional violation that the courts have decided is the only remedy.

Congress cannot tell the courts not to order busing as it attempted to do in the Esch amendment to the Education Amendments of 1974. Bickel asserts, because the courts have said that busing is the only and the essential remedy. Since this is so, Bickel suggests that the only alternative open to Congress and to the President is to "try to change the reality on which the courts have been acting, rather than trying to alter the decisions the courts have been making."

Bickel reports the school district confronting a district judge is a desegregation suit is usually "a wasteland; a school district deteriorating in every way, sinking deeper and deeper into racial isolation and doing nothing about it." So the judge orders desegregation through busing. As the case moves to the Supreme Court, the "doctrinal pull" of the *Brown* decision exerts its force and the decision is upheld.

The closing lines of his second article contain Bickel's surprisingly naive final point.

"But if the Congress and the President instead of fighting the courts, try to get school districts to fight the reality to which the courts have been reacting, and; manage to present courts in the future with school districts embarked on concentrated long-range reforms, then, without needing to renege on prior decisions and without accepting any impairment of the general function of judicial review, courts will be able to say that they are now faced with new facts, with a new reality, which no longer calls for the old remedies. And the Supreme Court will agree. Or so—candor compels one to add—so one would expect."

The National Educational Opportunities Act was Bickel's vehicle for changing the reality of the public schools to which the courts would respond. The version that Rep. Preyer introduced last October has the same premise, rationale and objectives as the original.

H.R. 10146 requires the states to produce a five-year plan that would carry out the purposes of the Act. That is, to establish a national policy on equal educational opportunity; to provide a viable mechanism for states to implement this policy; to improve the results achieved by education and to reduce academic disparities between students from different racial and socio-economic backgrounds; to facilitate, where possible, a reduction in the concentration of minority and low-income children; and to minimize educational ill-effects from such concentrations where they persist. (There is already a national policy on equal educational opportunity set forth in *Brown* and subsequent decisions. The "viable mechanism" for its implementation is self-evident; it is the elimination of mechanisms and policies of segregation and discrimination against children on the basis of race.)

In his introductory remarks on the House floor Preyer said, "The heart of the bill lies in gradual integration, without federal coercion, through the use of alternatives to busing." The bill does not prohibit busing, and while it does not appear to violate the fifth and fourteenth amendments to the Constitution, neither does it extend the opportunity for educational equality to America's children to any greater degree than they now enjoy.

Were this bill to be enacted, it is questionable whether it would serve the purpose of its original author and Rep. Preyer. That is, to reduce or eliminate court-ordered busing. The new reality Bickel writes of is an unlikely outcome, for almost no school desegregation is actually mandated. In other words, a school district could meet the minimum requirements of the bill in its present form without desegregating any schools. A court when examining a school district in the process of complying with this legislation, could find a district reorganization plan which does not desegregate, a right to transfer plan which few students are volunteering for, and a compensatory education program that helps minority students in the schools where they are concentrated. If the court finds the school district to be *de jure* segregated, the court would have the responsibility for requiring desegregation to remedy constitutional violations. This might well require busing.

The inability of this legislation to prevent busing by providing alternatives would sorely disappoint the antibusing forces in school districts across the country. Any wrath would be aimed directly at the courts and major dissonance between the Congress and the judiciary branch could be created.

Rep. Preyer says, "there is every reason to believe that school districts in the process of charting their own educational course will be viewed differently by federal judges who so often in the past have had only a choice of either issuing a busing decree or seeing nothing done." Whether or not the bill would create Bickel's new reality, the chances of federal judges viewing school districts differently are slim.

The bill establishes as a minimum requirement for state plans that they "contribute annually to achieving substantially comparable levels of achievement by all students regardless of race, color, or national origin, or that they insure such comparable levels of educational achievement as a result of the plan." If this is all that is actually required of states in their educational opportunity plans, what does it have to do with school desegregation? Comparable levels of educational achievement are worthwhile goals, but do not deal with concentrations of minority and low-income students in any way. Title I of the act lists provisions which together comprise a national policy of equal educational opportunity. One of the bill's purposes is to provide a viable mechanism for the implementation of such a policy. But nowhere in the bill is a school district required to implement the policy or to end segregation and discrimination.

One cannot assume that states or school districts will voluntarily develop and carry out plans to end segregation in their schools. If they were going to, they would have done so by now, rather than using their authority to create and maintain segregated systems. They have known that they were required to desegregate for 21 years.

There are really only two remedies to segregation specifically described in H.R. 10146. The first is the transfer of students from schools in which they are in the racial majority to schools in which they are in the racial minority. Experience with this remedy as a technique for voluntary desegregation has been notably unsuccessful. At best, the majority to minority arrangement has resulted in the transfer of a few black students to predominately white schools where they frequently met hostility and resistance.

Only rarely did white students take advantage of the opportunity to transfer to predominately black schools. There is no evidence to indicate that anything better would happen under the provisions of H.R. 10146.

It is interesting to note the provision for "special or compensatory services" for children who are being transfered. The act seems to recognize that those children would be from minority group families and assumes that they would need such special help.

The second remedy to segregation would be school district reorganization. This could include redrawing zone boundaries, pairing, establishing magnet schools and other devices. But nowhere is there a requirement that these techniques actually result in any change in the racial composition of the schools. A school district could receive a substantial grant to construct a new school without any requirement that the school be situated so that it would automatically be a desegregated school.

H.R. 10146 authorizes the expenditure of $2.2 billion during the six years of the Act. Part of this money is to be allotted among the states based on the number of minority children in the state. Nevertheless, predominately white school districts and predominately white schools would have a better opportunity to get funding than predominately minority school districts and schools. In the majority to minority transfer plan, for example, only the school district receiving the transfering students would be eligible for a grant for each student. Similarly, only schools that have fewer than ten percent minority or low-income students enrolled are eligible for the "open communities educational resources compensation program."

It seems clear that the introduction of H.R. 10146 was motivated by Rep. Preyer's desire to head off the enactment of legislation which would attempt to prevent all busing and by a commitment to equal educational opportunity. Rep. Preyer would like to give members of Congress who support the end of segregated schools the chance to vote for a bill that offers alternatives to busing. His staff is now working on a new draft which may correct some of the problems mentioned here. But it is clear that no matter how meritorious any school desegregation bill may be, when it gets to the House floor it will be faced with restrictive amendments that may undermine any positive effect it would have had on school desegregation.

One day of hearings has been held on H.R. 10146. No further action has been scheduled at this time.

EASTERN GAS AND OIL SHALE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, a major announcement with broad energy implications for many States, including Pennsylvania, was made last night by the Department of the Interior.

A new $5 million study will be conducted by the U.S. Geological Survey of natural gas potentials in the black shales of the Appalachian Basin. The project will be done in cooperation with the States, industry, and universities. The 5-year study will be conducted on behalf of the U.S. Energy Research and Development Administration.

I am especially delighted to inform the House of this development because this energy resource has been long overlooked. The Conservation, Energy, and Natural Resources Subcommittee, which I have the honor of serving as chairman, first focused national attention on the energy potentialities of the eastern gas and oil shales at hearings last spring.

Last night's announcement is the first major step required to speed development of natural gas and possibly even oil from shale located right under the industrial heartland of America. The States affected include Pennsylvania, Ohio, West Virginia, Kentucky, New York, and neighboring States.

There may be more than 149 trillion cubic feet of natural gas in the Appalachian area which can be tapped as new technology to release the gas from the rock develops. Thousands of new jobs will be created if this technology is successful.

I wish to commend both the Department of the Interior and ERDA for this long overdue action which could help to alleviate future natural gas shortages until this Nation has a viable synthetic fuels industry.

The text of the announcement follows:

DEPARTMENT OF THE INTERIOR,
March 31, 1976.

NEW LOOK AT OLD GAS DEPOSITS IN APPALACHIA

Shale formation throughout the Appalachian basin which once produced natural gas, and which may still yield significant additional supplies, will be the targets for detailed studies by a team of specialists from the U.S. Geological Survey, Department of the Interior.

The five-year program, spurred by the gas shortage in the eastern United States, and aimed at assessing the gas potential of black shales of Devonian age (about 350 million years old) that underlie an area of more than 160,000 square miles in the Appalachian basin, will be carried out by the USGS on behalf of the Energy Research and Development Administration (ERDA) under terms of a recently signed agreement.

Wallace de Witt, Jr., program chief at the Survey's National Center, Reston, Va., said that there is a large volume of natural gas locked in the black shales. He said, however, that "as yet, geologists and engineers don't have the key to free this gas. The problem is to develop methods for well stimulation and enhanced gas production that will economically recover even a modest percent of the total volume of gas locked in these shales."

The black Devonian shales underlie an area largely covered by the Appalachian Mountains and the Appalachian Plateaus. The shales are a sequence of fine-grained black, brown, and dark-gray organic-rich bituminous rocks which range in thickness from less than 25 feet in parts of Alabama and Georgia to more than 1,500 feet in parts of Pennsylvania.

"Recent studies," de Witt said, "indicate that these shales have a volume of more than 12,600 cubic miles, and weigh about $150x10^{14}$ tons. Similarly, large volumes and tonnage of black Devonian shale are known to occur in the Michigan basin and in the Central Interior basin underlying the southern parts of Indiana and Illinois, and the western part of Kentucky.

"The potential volume of natural gas in the black shale is great, and the volume of black shale available in the Appalachians is also very large," de Witt said, emphasizing, however, that "much must be learned about promising areas where the black shales may be most amenable to new techniques for release of the gas by the use of heat, chemicals, or combinations of both."

The USGS scientist said that the past history of gas production in the Appalachian basin provides some interesting clues to potential of the future. He noted that the first well drilled specifically for natural gas in the United States was located at Fredonia, Chautauqua County, New York, in 1821. This well, and many others drilled in the vicinity, produced gas from the black Devonian shales of western New York.

Between 1821 and 1880, de Witt said, much natural gas was produced from shallow-low-pressure wells in a belt along Lake Erie from Dunkirk, N.Y., to Sandusky, Ohio. Most of these wells were eventually abandoned, not so much because the supply of gas was completely exhausted, but because much larger volumes of gas could be produced at less cost from sandstone reservoir rocks in the oil and gas fields of western New York, western Pennsylvania, eastern Ohio, and West Virginia.

During the 1920's, de Witt noted, gas was found in the black Devonian shales of eastern Kentucky, and during the next 25 to 30 years, the huge Big Sandy gas field was developed in an area of about 2,150 square miles of southeastern Kentucky.

The Big Sandy gas field, de Witt said, contains about 200 cubic miles of gas-productive black shale. Individual wells in the field have an initial open flow of as much as 5 million cubic feet, and at least one well has produced 7 billion cubic feet of gas during its 35-year life. "Although many noncommercial wells—called dry holes by the well drillers—were drilled in the Big Sandy field, the productive wells average about 350 to 390 million cubic feet of gas before reaching the present limit of economic recovery," de Witt said, adding that "to date, the Big Sandy field has produced more than 2 trillion cubic feet of gas—about 1/15th of the total volume of gas produced in the Appalachian basin.

"Production data from wells in the Big Sandy field," de Witt said, "show that the black shale has produced slightly more than 1 cubic foot of gas per ton of shale where the operators are using the present method of well stimulation and production. Lab tests, however, indicate that by heating chips of the black shale in a retort to about 500° C the complex organic compounds in the shale can be broken down, and as much as 1,000 to 2,000 cubic feet of gas per ton of shale can be released by this process, called pyrolysis.

"If the 126,000 cubic miles of black shales in the Appalachians could be made productive at the same volumetric rate as the 200 cubic miles of black shale in the Big Sandy field, an additional 149 trillion cubic feet of gas could be available in the Appalachian area," de Witt said.

The USGS/ERDA program, to cost nearly $5 million, will involve as many as 20 USGS experts in stratigraphy, petroleum geology, structural geology, geochemistry, geophysics, and paleontology in the study of the black shales throughout the Appalachian basin in cooperation with geologists from State Geological Surveys, universities, and industry.

The USGS and other cooperators in the study expect to develop a series of criteria which will enable ERDA and the natural-gas industry to delineate targets of black shale that would be most likely to yield significant amounts of gas under more sophisticated techniques of extraction.

An important goal of the USGS effort is to generate a definitive set of resource appraisal figures for the gas potential of the black shales in the Appalachian basin, and, if at a later date sufficient interest exists, the work may be extended into the Michigan and Central Interior basins. The results of the Appalachian basin black-shale study will be published as a series of maps, charts, and technical reports either by ERDA or by the USGS.